



3 APRIL 2019

NOTICE OF MEETING

You are advised of the following meeting:

THURSDAY 11 APRIL 2019.

City of Ryde Local Planning Panel Meeting No. 3/19

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 չեք 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 11 April 2019
Location: Council Chambers, Level 1A, 1 Pope Street, Ryde
Time: 5.00pm

NOTICE OF BUSINESS

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2	330 ROWE STREET, EASTWOOD - DEMOLITION OF EXISTING DOUBLE GARAGE, ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING FOR USE AS A CHILDCARE CENTRE FOR 66 CHILDREN WITH BASEMENT CARPARKING FOR 6 VEHICLES AND 3 AT GRADE CAR PARKING SPACES - LDA2019/0018	3
3	34 CLANALPINE STREET, EASTWOOD - CONSTRUCTION OF A MULTI-DWELLING HOUSING DEVELOPMENT CONTAINING FIVE (5) DWELLINGS UNDER THE PROVISIONS OF STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING). 2009 - LDA2018/0392	88

There are no LPP Planning Proposals

DEVELOPMENT APPLICATIONS

- 2 330 ROWE STREET, EASTWOOD - DEMOLITION OF EXISTING DOUBLE GARAGE, ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING FOR USE AS A CHILDCARE CENTRE FOR 66 CHILDREN WITH BASEMENT CARPARKING FOR 6 VEHICLES AND 3 AT GRADE CAR PARKING SPACES - LDA2019/0018**

Report prepared by: Senior Town Planner

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

Report dated: 2/04/2019

City of Ryde Local Planning Panel Report

DA Number	LDA2019/18
Site Address & Ward	330 Rowe Street, Eastwood – West Ward
Zoning	R2 Low Density Residential
Proposal	Demolition of existing double garage, alterations and additions to an existing dwelling for the use of a child care centre for 66 children with basement car parking (6 car spaces) and 3 at-grade car parking space
Property Owner	MPHT Pty Ltd
Applicant	Danny Makdissi
Report Author	Natalie Camilleri – Senior Town Planner
Lodgement Date	9 January 2019
No. of Submissions	Twenty-one (21) submissions + One (1) petition including 124 signatures

ITEM 2 (continued)

Cost of Works	\$493,350.00
Reason for Referral to LPP	Contentious development – is the subject of 10 or more unique submissions by way of objection.
Recommendation	Refusal
Attachments	Attachment 1: Child Care Guidelines Compliance Table; and Attachment 2: A3 Plans

1. Executive Summary

The following report is an assessment of a development application for the proposed demolition, excavation, and alterations and additions to an existing heritage listed dwelling, for the use of a child care centre to accommodate 66 children at 330 Rowe Street, Eastwood.

The overall height of the building is to be part single storey and part two storey, with the two storey component positioned to the rear of site above basement parking. The development will contain staff parking for 6 vehicles in the basement and 3 visitor car parking spaces at grade, within the front setback area. There are 41 trees, together with 1 group of trees on site, and of these the applicant is also seeking approval to remove 29 trees as part of this application.

The dwelling erected upon the site is known as “Kingsley” (now known as “Berrilee”) which was built in 1907. The property was the subject of the City of Ryde Interim Heritage Order under the NSW Heritage Act issued on 28 November 2017, which took effect on 29 November 2017. “Berrilee” is now listed as a Heritage Item in the Ryde Local Environmental Plan 2014 (Amendment No 22) as “Berrilee” (house), Item No. 223, gazetted on 23 November 2018. A detailed discussion regarding the heritage significance of the subject property is provided under the “Referrals” heading in this report.

Twenty-one (21) submissions and one (1) petition which included 124 signatures were received objecting to the application during the notification period, with the most common concerns relating to significant impacts to the heritage item, inadequate parking, subsequent traffic risks and congestion, DCP non-compliances, noise, storm water drainage and concerns that the proposed child care centre is an overdevelopment of the site.

It is considered that the development cannot be supported for the following reasons:

ITEM 2 (continued)

- The proposal will have an adverse impact on the heritage significance of the property. In this regard, the scale, intensity and nature of the use has an adverse impact on “Berrilee” through the loss of significant fabric and loss of its setting due to the substantial alterations to accommodate the proposed child care centre. Furthermore, the structural integrity of the heritage item will be potentially impacted due to the excavation works proposed in such close proximity to the footings of the dwelling.
- The proposed alterations and additions to the existing dwelling will have an unacceptable impact on the character of the local built environment.
- The proposed visitor parking within the front setback area will dominate the streetscape resulting in a loss of existing vegetation and will have an adverse visual impact on the setting, as the existing extensive planting within the front garden is a vital feature of the heritage item.
- As the proposal is located within a low density residential area, smaller scale developments (fewer than 50 child care places) are preferred, however the proposed child care facility is seeking approval for a capacity of 66 child care places, which is considered to be an overdevelopment of the site.
- The proposed development fails to meet all principles of the SEPP (Educational Establishments and Child Care Facilities) 2017.
- The site is incapable of providing the minimum onsite parking required in accordance with Council’s DCP requirements.
- The proposed OSD system within the front setback area has negative impacts on deep soil planting.
- The inability for the development to cater for on-site parking will result in negative traffic impacts on Rowe Street.
- Inadequate information has been submitted which successfully determines that the amenity to neighbouring properties will be maintained in regard to noise and privacy.
- Insufficient information has been submitted by the applicant to satisfy engineering, landscaping and environmental health concerns.

Due to the fundamental concerns raised above the site is considered not to be suitable for the development, and on this basis, the applicant was not requested to amend the design to address these concerns.

The development application is recommended for refusal and the reasons for refusal are included in **Attachment 1**.

2. The Site and Locality

The site is known as 330 Rowe Street, Eastwood and is a single allotment with a legal description of Lot 3 in DP 18275. The site is located on the southern side of Rowe Street, and is at the western end of Rowe Street, closest to the “T” intersection with Darvall Road (see **Figure 1**).

ITEM 2 (continued)

The site is a rectangular shaped allotment with a 24.69m frontage to Rowe Street. The site has a total site area of 1,147.59m² (in accordance with the Survey prepared by C & A Surveyors NSW P/L). The eastern and western side boundaries both have a length of 46.48m and the rear boundary measures 24.69m wide.

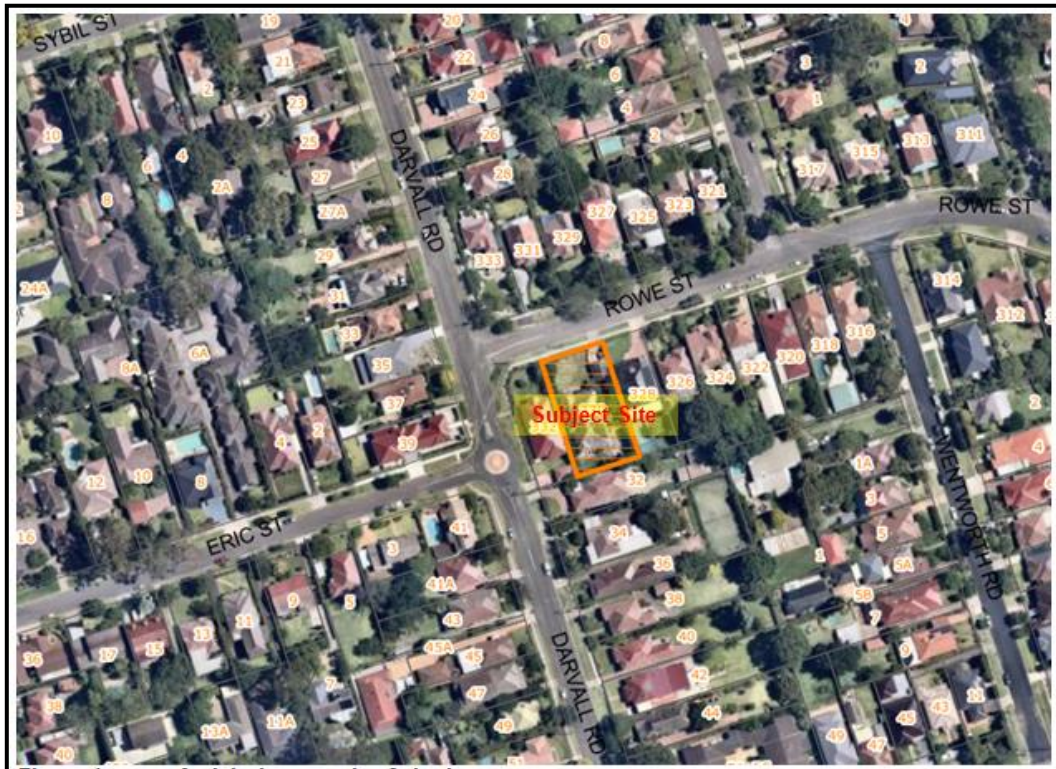


Figure 1: Aerial photograph of site

The site currently consists of a single storey dwelling, known originally as “Kingsley” which was built circa 1907 (see **Figure 2**). The subject property has been identified as a substantially intact Federation style dwelling, in excellent condition and a representative example of the architectural style and work of prominent local architect Charles Robert Summerhayes, because of its high degree of original design integrity.

ITEM 2 (continued)



Figure 2: “Kingsley” built circa 1907 (Source: Form Architects)

Accordingly, due to these factors, the subject site became an item of local heritage significance, listed on Schedule 5 of Ryde LEP 2014 on 23 November 2018. There is also a detached brick garage in the front north-eastern corner and an in-ground swimming pool in the south-eastern rear corner of the site. **Figure 3** shows the existing dwelling as it stands today, now known as “Berrilee”.



Figure 3: The subject property presently known as “Berrilee”

The site has a cross-fall of approximately 2.78m from along its south-western side boundary to its north-eastern corner at the front.

The site sits within a low density residential setting, mainly consisting of single and two storey dwellings. On the north-eastern side (No. 328 Rowe Street) of the subject

ITEM 2 (continued)

site is a two storey brick house, while on the south-western (No. 332 Rowe Street) is a single storey brick dwelling as shown in **Figures 4 and 5**.



Figure 4: Two storey dwelling located at 328 Rowe Street



Figure 5: Single storey dwelling located at 332 Rowe Street

To the rear of the subject property (No. 32 Darvall Road) is a single storey brick dwelling as shown in **Figure 6**.

ITEM 2 (continued)



Figure 6: Single storey dwelling located at 32 Darvall Road (to the rear of the subject site)

On the opposite side of Rowe Street are a mixture single and two storey dwellings, and as such the property sits within the vicinity of typical low density residential development. It is noted that a considerable number of properties located along Rowe Street have generous setbacks with well-established landscaped gardens, setting the character of the local area.

Rowe Street is a local residential road and is approximately 10m wide. Parking is permitted on both sides, and when this occurs the effective carriageway width is reduced to approximately 5m between parked vehicles, as illustrated in **Figure 7**. In this event, the road allows for one car to pass while the driver arriving in opposite direction can pass at a slow speed. Alternatively, one driver can pull in a gap (e.g. near a driveway or vacant kerbside parking space) and wait while the other driver passes. A paved footpath is available on both sides of carriageway.

ITEM 2 (continued)



Figure 7: Reduced effectiveness of Rowe Street carriageway when cars parked on both sides. There are forty-one (41) trees and one (1) group of trees present on the site, with one tree being located on the adjoining property to the rear at No. 32 Darvall Road. Some species include Sasanqua Camellia, Murraya, Japanese Maple and Frangipini.

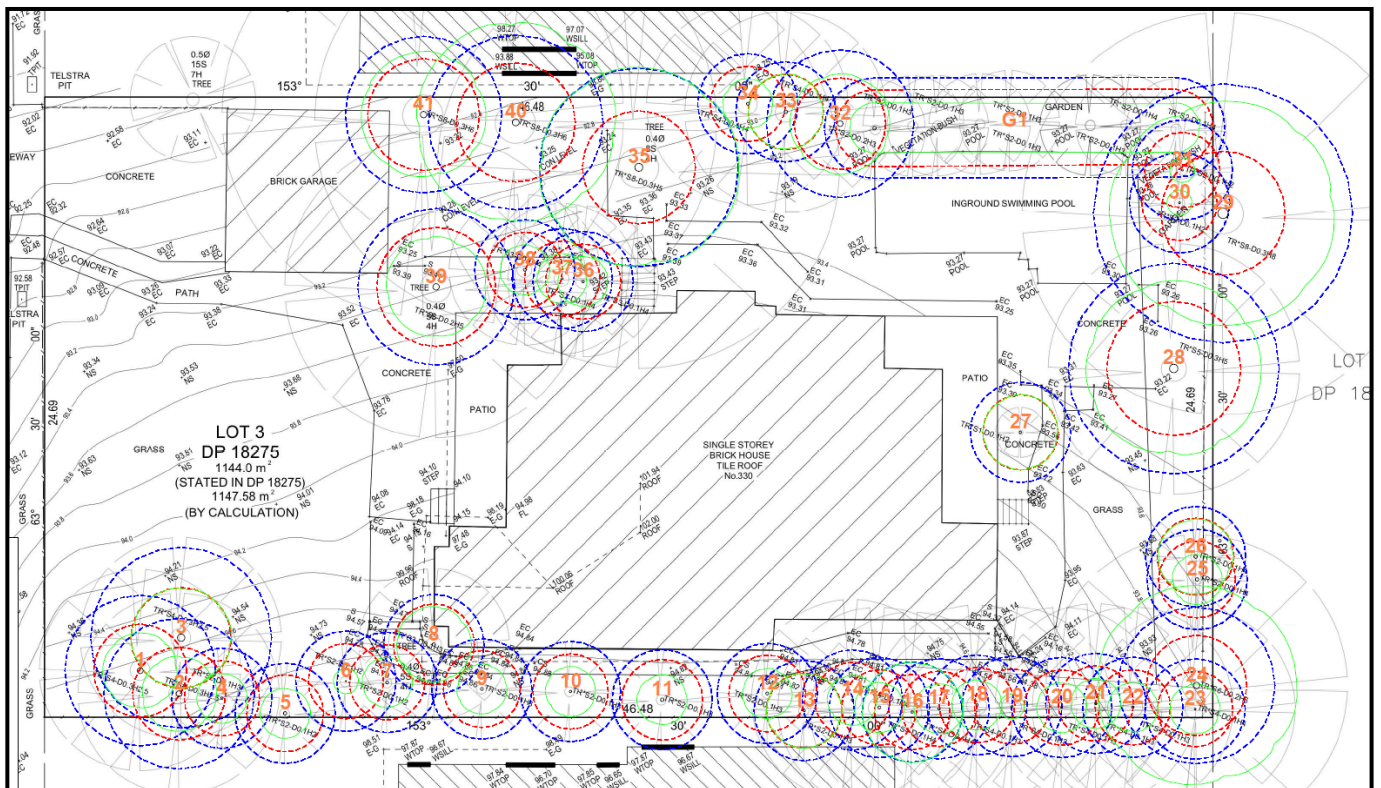


Figure 8: Survey of trees on subject property (Note: T29 is located on adjoining site to the rear).

ITEM 2 (continued)**3. The Proposal**

The proposal seeks approval for:

- Demolition of the existing brick double garage at the front of the site;
- Removal of the existing in-ground pool to allow for proposed basement;
- Removal of 29 trees and 1 group of trees;
- Bulk excavation works to create a basement car park wrapping the eastern and southern sides of the existing dwelling. The basement will allow for 6 car spaces in a tandem configuration;
- Internal and external alterations to the dwelling include restoration works (full details provided below);
- Adaptive reuse of the existing dwelling for the purpose of a 66 place childcare centre for children between the ages of 0 – 5. The number of children consist of:
 - 12 x 0 to 2 years
 - 34 x 2 to 3 years
 - 20 x 3 to 5 years
- Three (3) at grade car spaces within the front setback; and
- Associated landscape and drainage works.

The child care centre is proposed to operate Monday to Friday from 7am to 6pm, and will employ 12 staff members.

The restoration and conservation works include:-

- Removal of internal fabric necessary to connect rooms and to create sight lines for the supervision of children;
- Additions to the rear and eastern side of the house including a basement under the rear addition to accommodate cars parking;
- New walls to subdivide the front room (a former bedroom) will extend to picture rail height or 2.4m, whichever is lowest;
- All external walls and features including verandah tiling, posts and balustrading, windows, doors, brickwork, fascia and barge details, chimneys, roof tiling are to be retained and maintained (it is noted that the architectural plans do not reflect this);
- All existing ceilings, cornices, roses and trims will be retained. Where partition walls are to be constructed they will extend to picture rail height with glazed infill to ceiling level if necessary, to ensure ceiling details and cornices are retained and visible to identify original room size;
- All existing timber floors, window frames and joinery including skirtings, architraves, picture rails and the like will be retained;
- All existing fireplaces including mantelpieces, fireboxes, chimney breasts and thresholds will be retained;

ITEM 2 (continued)

- Openings in existing walls will match the opening heights of existing doorways and retain a 600-minimum length of wall at each side of adjacent walls and/or fireplaces;
- Verandah railing will be retained in entirety with the exception of an opening on the eastern side which will be altered to provide universal access by removal of the minimum railing necessary to retain existing detailing and as necessary to accommodate ingress and egress. This should occur at the location of the eastern steps with the extant steps retained under;
- Alterations to the building will retain as much external fabric as possible, to provide the facilities that they will contain;
- All roofing and chimneys are to be retained; and
- The proposed basement parking does not require intrusion on existing building fabric except to provide structural underpinning where necessary, to maintain the stability of the house.

The proposed child care centre will consist of:

Basement Level (see Figure 9)

- Basement ramp along the north-eastern boundary;
- 6 car parking spaces in a tandem design. These spaces are intended for the use by staff;
- A marked pedestrian walkway is provided around part of the perimeter of the basement car park; and
- Two sets of internal staircases from the basement leading up to the ground floor.

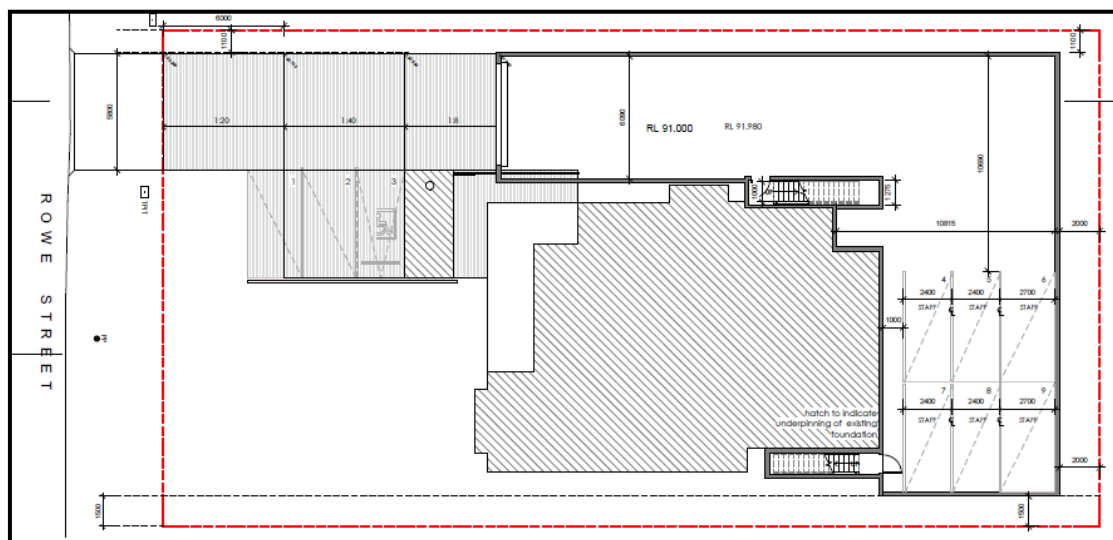


Figure 9: Basement Level (Source: Bains Design)

Ground Floor Level (see Figure 10)

- Office and central hallway;

ITEM 2 (continued)

- Indoor play area for 3-5 year olds (20 children) and associated bathroom;
- Indoor play area for 2-3 year olds (16 children);
- Indoor play area for 2-3 year olds (18 children) and associated bathroom;
- Indoor play area for 0-2 year olds (12 children) and associated bathroom;
- Sleep room with the provision of 5 cots;
- Outdoor stairs from basement and storage room (located beside stairs and accessed from outdoor play area);
- Internal staircase and lift;
- Pathway and accessible ramp off the street (within front setback area) to existing verandah;
- Driveway ramp and 3 visitor car parking spaces including one (1) accessible space within the front setback area; and
- Stairs and chairlift leading up to existing verandah.

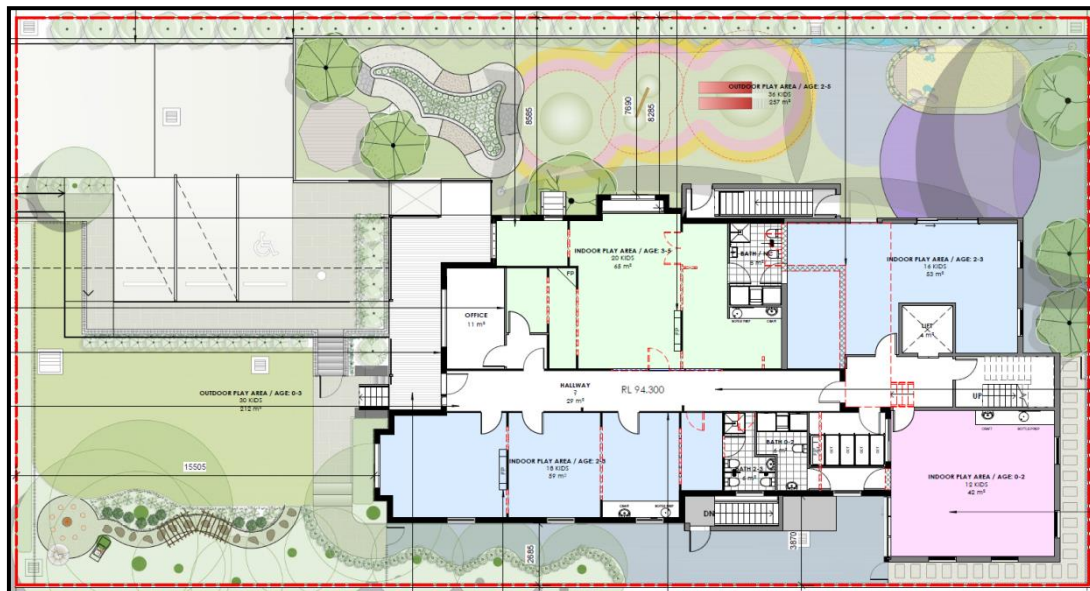


Figure 10: Ground Floor Level (Source: Baini Design)

First Floor Level (see Figure 11)

- Central hallway;
- Meeting room;
- Storage and equipment room;
- Accessible bathroom;
- Separate ambulant toilet;
- Staff room;
- Kitchen and walk-in pantry;
- Laundry; and
- Lift and internal staircase.

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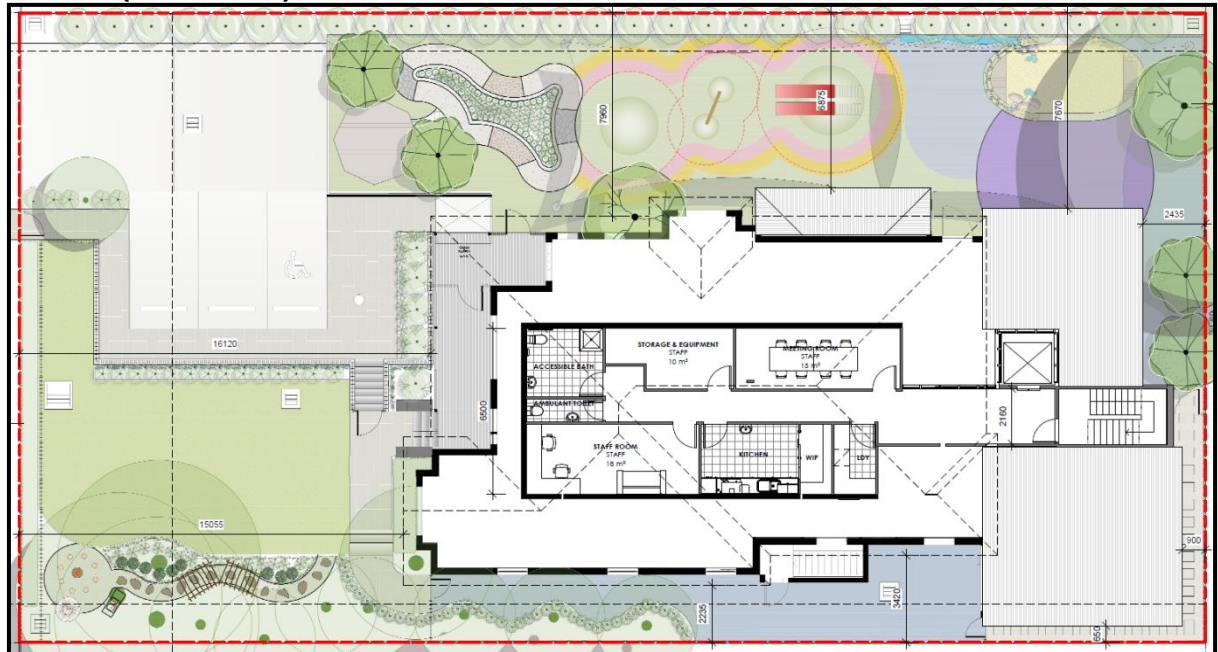


Figure 11: First Floor Level (Source: Baini Design)

Twenty-nine (29) trees and one (1) group of trees (numbered 1, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, and G1 as shown in **Figure 8**) are proposed to be removed. It is noted that the neighbouring tree (T29 – China Doll) is required to be retained and protected. Comments regarding the removal of trees are provided under the heading “Referrals” further along in this report.

4. Application History

The property was purchased by the current owner in April 2017, and in October of the same year a development application was lodged with Council seeking approval for “demolition, construction of new two storey child care centre for 74 children with basement parking, to operate between 7am and 6pm, Monday to Friday” (LDA2017/412).

During the initial assessment of LDA2017/412, Council’s Heritage Advisor was advised of the intent to demolish the existing dwelling, and whilst it was not listed at the time as a heritage item, it was acknowledged that the subject property had been recommended for a local heritage listing in the 2009/2010 Heritage Study conducted by Council. Subsequently, an Interim Heritage Order was made by Council and on 23 November 2018 the Ryde LEP 2014 was amended to include 330 Rowe Street, Eastwood (“Berrilee”) as an item of local heritage significance in Schedule 5.

On 20 February 2018 the applicant advised Council of its intent to withdraw LDA2017/412, and the application was formally withdrawn.

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Prior to the current DA being lodged the applicant met with various Council officers including the Heritage Advisor in an informal meeting on 16 December 2018. The applicant was advised that the proposal was unsatisfactory on many grounds and that they should organise a formal pre-lodgement meeting. The applicant however did not take advantage of the pre-lodgement process and submitted the DA on 8 January 2019.

During the notification period, a number of concerns were raised by local residents. Furthermore, an initial assessment of the application identified critical issues with the proposal, and comments from Council's internal sections revealed there were a number of issues which required attention. Accordingly, it was determined that the application is not supportable in its current form.

5. Planning Assessment**5.1 State Environmental Planning Instruments****State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017**

The *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* makes it easier for child care providers and developers to deliver new early childhood education and care facilities across NSW. The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State by:

- (a) *improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and*
- (b) *simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and*
- (c) *establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and*
- (d) *allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and*

ITEM 2 (continued)

- (e) *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- (f) *aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and*
- (g) *ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and*
- (h) *encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.*

The NSW Government has made changes to the planning system so that a common assessment framework made up of the Child Care Planning Guideline and non-discretionary development standards. The Guideline contains key national requirements and planning and design guidance for child care facilities, which prevail over local development control plans. An assessment against the relevant provisions of the SEPP is provided in the following table:

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Requirement	Proposed	Complies
Part 3 Early education and care facilities – specific development controls		
22 Centre-based child care facility—concurrence of Regulatory Authority required for certain development		
(1) This clause applies to development for the purpose of a centre-based child care facility if: (a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or (b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.	The required indoor unencumbered space under regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations is 214.5m ² . The required outdoor unencumbered space under regulation 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations is 462m ² . Both indoor and outdoor space requirements comply and therefore this clause does not apply.	N/A
23 Centre-based child care facility – matters for consideration by consent authorities		
Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable	Assessments against the applicable provisions of the Child Care Planning Guideline and the National Quality Framework Checklist are provided in	<i>Refer to assessment tables in Attachment 2</i>

ITEM 2 (continued)

Requirement	Proposed	Complies
provisions of the Child Care Planning Guideline, in relation to the proposed development.	Attachment 2. There are a number of controls which have not been met and are discussed in detail after this table.	
25 Centre-based child care facility—non-discretionary development standards		
<p>(1) The object of this clause is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.</p> <p>(2) The following are non-discretionary development standards for the purposes of section 4.15 (2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility:</p> <p>(a) location, (b) indoor or outdoor space (c) site area and site dimensions (d) colour of building materials or shade structures.</p> <p>(3) To remove doubt, this clause does not prevent a consent authority from:</p> <p>(a) refusing a development application in relation to a matter not specified in subclause (2), or (b) granting development consent even though any standard specified in subclause (2) is not complied with.</p>	<p>The non-discretionary development standards are noted and the development complies with all the non-discretionary development standards.</p> <p>However, in accordance with subclause (3)(a), this clause does not prevent the consent authority refusing a development application in relation to a matter not specified in sub clause 2. In this regard, the proposed development is recommended for refusal based on the following:</p> <ul style="list-style-type: none"> - The proposal does not provide the minimum required parking spaces. - The proposed development inadequately addresses landscaping of the site, in particular the front setback area creating a negative impact on the streetscape. - The proposed excavation works, which are likely to have an adverse impact on the structural integrity of the heritage listed dwelling in which the child care centre will be adapted for. - The proposed development fails to meet all principles of the Child Care Planning Guideline called up by the SEPP (Educational Establishments and Child Care Facilities) 2017. - Inadequate information has been submitted which to successfully determine that the amenity to neighbouring properties will be maintained in regard to noise and privacy. 	<p>No</p>

Tables containing an assessment of the Child Care Planning Guidelines and National Quality Framework Assessment Checklist are included in **Attachment 2**. The non-compliances identified in the tables are discussed below:

Part 2 – Design quality principles
1. Principle 1 - Context

Good design responds and contributes to its context, including the key natural and built features of an area, their relationship and the character they create when combined.

ITEM 2 (continued)

It also includes social, economic, health and environmental conditions.

Well-designed child care facilities respond to and enhance the qualities and identity of the area including adjacent sites, streetscapes and neighbourhood.

Well-designed child care facilities take advantage of its context by optimising nearby transport, public facilities and centres, respecting local heritage, and being responsive to the demographic, cultural and socio-economic makeup of the facility users and surrounding communities.

One characteristic of the locality is a landscaped front setback. The development has proposed a large impervious area within the front setback (to accommodate parent/visitor car parking) which will negatively impact on the streetscape. Furthermore, in order to meet acoustic requirements, a 20mm capped and lapped 1.8m high timber fence is required along the eastern and western boundaries of the site within the front setback area. This is also considered to have a negative impact on the character of what is currently an extensively planted front garden area with low fencing. Furthermore, the significance of the local Heritage item, and its value to the local community, will be severely compromised by the proposed development.

The inability of the site to provide the minimum onsite parking makes the site unsuitable for a child care centre. This leads to the potential of parents parking on either side Rowe Street reducing its effective width to one traffic lane in some sections. This will create an unsafe environment, which is not acceptable.

2. Principle 1 – Built Form

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the surrounding area.

Good design achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Good design also uses a variety of materials, colours and textures.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Contemporary facility design can be distinctive and unique to support innovative approaches to teaching and learning, while still achieving a visual appearance that is aesthetically pleasing, complements the surrounding areas, and contributes positively to the public realm.

The proposed basement will project above the existing ground level by between 1.64m and 2.36m along the eastern boundary and between 1.18m and 1.98m along

ITEM 2 (continued)

the southern boundary at the rear. This will result in the finished ground level of the eastern play area to be sitting this much higher above the existing ground levels of the neighbouring properties at No. 328 Rowe Street along eastern boundary and 32 Darvall Road at the rear, along the southern boundary.

In order to minimise noise levels, a 1.8m high acoustic fence will be erected along the top of the basement on the eastern and southern sides. Consequently, the overall height of the basement wall and acoustic fence will be between 3.44m and 4.16m high along the eastern boundary, which is illustrated in **Figure 12**. Considering this structure will be offset from the boundary by only 900mm, it results in excessive bulk, a poor built form, and will be obtrusive on the occupants of the adjoining dwelling at 328 Rowe Street. This is not a desired outcome, is out of character for the area and found to be unacceptable.

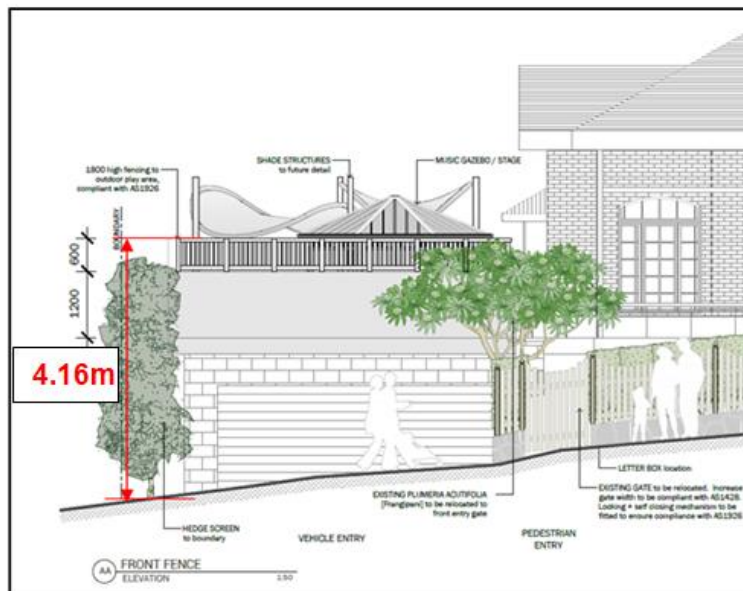


Figure 12: Overall height of basement wall and acoustic fence above, as viewed from Rowe Street.

Similarly, the overall height of the basement wall and acoustic fence will be between 2.98m and 3.78m high along the southern boundary, which is illustrated in **Figure 13**. Considering this structure will have a zero setback, it results in additional shadowing on the occupants of the adjoining dwelling to the rear at 32 Darvall Road. Once again, this is not a desired outcome and found to be unacceptable.

ITEM 2 (continued)

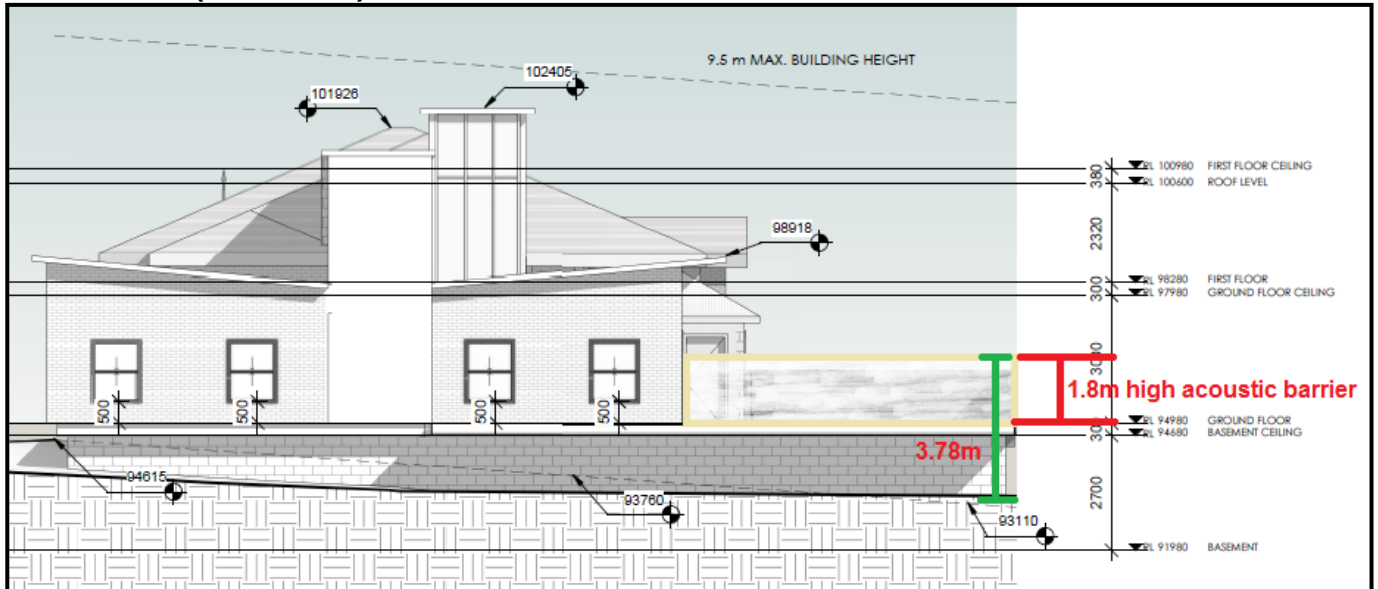


Figure 13: Overall height of basement wall and acoustic fence above, as viewed from the rear.

Furthermore, in order for the building to achieve a satisfactory built form that is appropriate in terms of scale in this instance, the Heritage item must be taken into consideration. In this regard, the new additions at the rear include a lift overrun which protrudes above the roof planes of the existing dwelling which will be highly visible in the backdrop to the item, and will be visually prominent, and is not acceptable.

In terms of architectural form from a heritage perspective, Council’s Heritage Advisor advised that *“Adoption of a contemporary architectural form is acceptable and needs not mimic the detailing of the dwelling, but must provide clear delineation between the ‘new and the old’. The plans do not sufficiently detail the marriage of the new additions into the existing dwelling. Additionally, the proposal seeks to convert the roof void to a first floor containing staff amenities, meeting rooms, storage and kitchen. No sectional details have been provided through this space to clearly indicate how this space will function, particularly given that there are no roof windows or dormer windows proposed. Regardless, the introduction of any roof windows or dormer windows would not be supported on the front or side elevations where they would be visually prominent and alter the existing appearance of the roof form.”*

It is considered that the excessive hardstand area does not achieve a pleasing visual appearance nor does it positively contribute to the streetscape. Furthermore, the proposed 1.8m acoustic fence along the eastern and western boundaries surrounding the play area within the front setback also has the potential to have adverse impacts on the existing streetscape, which results in a negative outcome to the public realm.

3. Principle 4 – Sustainability

Sustainable design combines positive environmental, social and economic outcomes.

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This includes use of natural cross ventilation, sunlight and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and re-use of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.

Well-designed facilities are durable and embed resource efficiency into building and site design, resulting in less energy and water consumption, less generation of waste and air emissions and reduced operational costs.

It is considered that inadequate natural cross ventilation will be achieved as the acoustic report submitted with the application states that in order to achieve acceptable noise levels, interior sound design was assessed with assumption that all sliding doors and windows are closed. Therefore the proposed centre will rely mainly on mechanical ventilation increasing heating and cooling loads and operation costs, which is considered unacceptable.

4. Principle 5 – Landscape

Landscape and buildings should operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Well-designed landscapes make outdoor spaces assets for learning. This includes designing for diversity in function and use, age-appropriateness and amenity.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.

The proposed landscape design does not satisfy the requirements of the Child Care Planning Guideline in that a garden bed with a minimum width of 1 metre has not been provided to the full perimeter of the proposed child care centre which is required to minimise overlooking. In this regard, there is a gap in the garden beds on the southern boundary and eastern boundary adjacent to an adjoining dwelling (No. 332 Rowe Street) as shown in **Figure 14**.

ITEM 2 (continued)

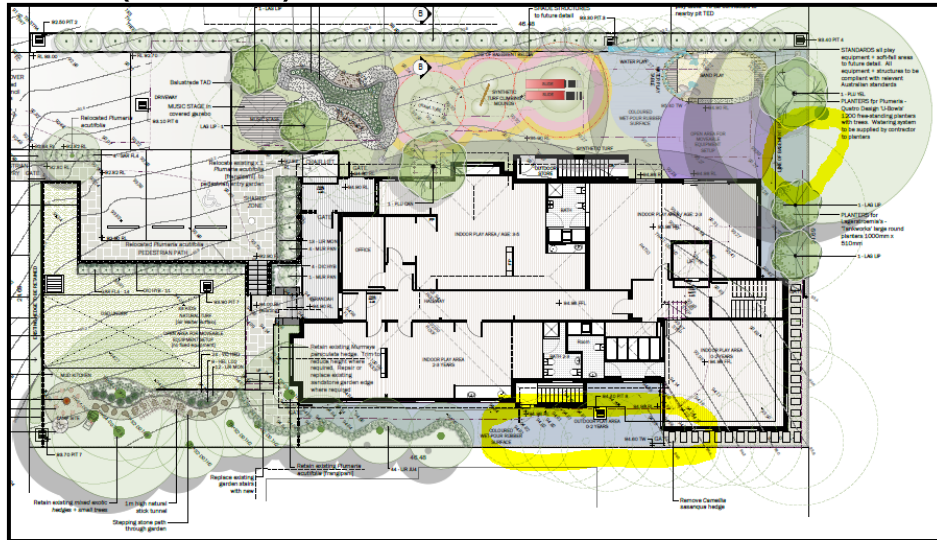


Figure 14: Landscape plan show areas of concern

In addition to the above, the arborist has failed to outline the full impact of the proposed works on all trees to be retained. Council’s Landscape Architect states “Trees 7 to 11 are shown to be retained however the stormwater pipes will have a major encroachment of more than 10% on these trees. The Arborist has not assessed this impact.” Furthermore, in terms of Tree 29 located on the adjoining site at 32 Darvall Road, the Arborist Report recommends root investigations of this tree as it has a total Tree Protection Zone encroachment of 40%. It is considered that this investigation is required to be accessed as part of the DA process, which will make certain that this tree can be retained.

The proposed design does not achieve a landscape outcome which positively contributes to the landscape character of the streetscape and neighbourhood, and fails to preserve the majority of existing trees on the site. In this regard, the development has proposed a predominantly impervious area, associated with the driveway leading to the basement and parent/visitor car parking within the front setback that will negatively impact on the streetscape.

Based on the above, it is considered that the proposal is unable to be supported.

5. Principle 6 – Amenity

Good design positively influences internal and external amenity for children, staff and neighbours. Achieving good amenity contributes to positive learning environments and the well-being of students and staff.

Good amenity combines appropriate and efficient indoor and outdoor learning spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, service areas and ease of access for all age groups and degrees of mobility.

Well-designed child care facilities provide comfortable, diverse and attractive spaces to learn, play and socialise.

ITEM 2 (continued)

Insufficient information has been provided which clearly validates that the acoustic amenity of the neighbouring properties will be maintained. The Acoustic Report states that “*Architectural plan shows the proposed child care centre includes two (2) rooms will be used for indoors playing areas*”. This is incorrect in that the architectural plans show four (4) indoor playing areas, therefore the Acoustic Report needs to validate that the indoor play areas will not alter the noise assessment results.

It is also states that basement parking of nine (9) spaces for child drop off & pickup and staff should be considered as another noise source associated with the operation of the proposal. However the basement will be used for staff only and provides only six (6) spaces. Therefore, the acoustic report needs to also validate that the external parent/visitor parking within the front setback area and on Rowe Street will not alter the noise assessment results.

There are two (2) outdoor play areas as illustrated in **Figure 15**. Area 1 is located within the front setback area and will receive direct sunlight all day on 21 June. However, Area 2 is located along the eastern side of the existing building which will be overshadowed in the morning (due to the neighbouring 2 storey dwelling) and between 1pm and 3pm. The applicant has not submitted hourly shadow diagrams which demonstrate the exact extent of overshadowing to this particular play area.

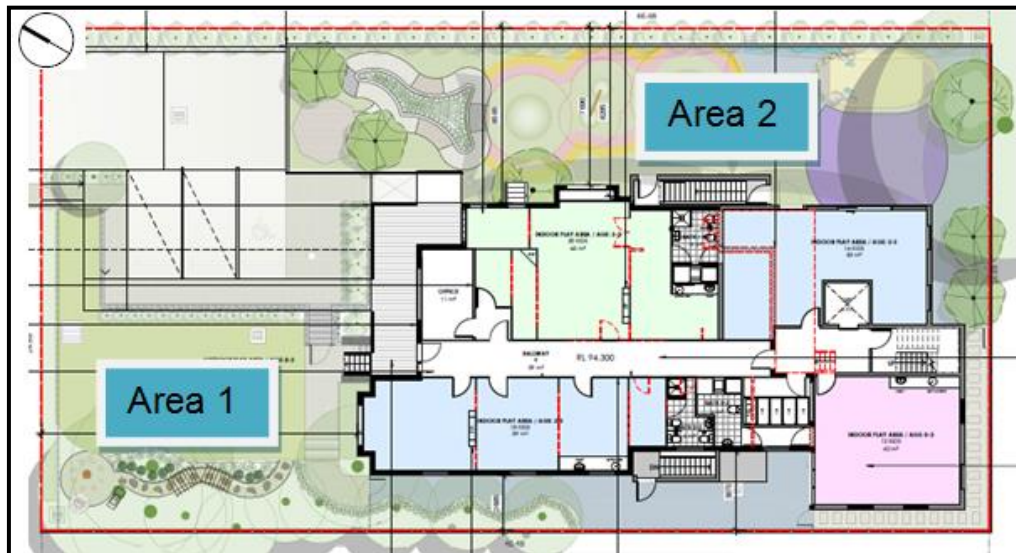


Figure 15: Location of outdoor play areas in relation to the child care centre

Part 3 - Matters for Consideration

6. 3.1 - Site selection and location

C1. For proposed developments in or adjacent to a residential zone, consider:

- The acoustic and privacy impacts of the proposed development on the residential properties
- The setbacks and siting of buildings within the residential context

ITEM 2 (continued)

- *Traffic and parking impacts of the proposal on residential amenity.*

Inadequate information has been submitted by the applicant which satisfactorily demonstrates the acoustic privacy of the adjoining residents will be maintained. In this regard, there are inconsistencies within the acoustic report namely:

- it states that “Architectural plan shows the proposed child care centre includes two (2) rooms will be used for indoor playing areas”. This is incorrect that as the architectural plans show four (4) indoor play areas, therefore the acoustic report needs to validate that all of these indoor play areas have been considered, and if so, ensure that this proposed situation will not alter the noise assessment results.
- it also states that basement parking of (9) spaces for child drop off & pickup and staff should be considered as another noise source associated with the operation of the proposal. However the basement will be used for staff only and provides only six (6) spaces. Therefore, the acoustic report needs to validate that the external parent/visitor parking within the front setback area, and on Rowe Street, has been considered as part of the acoustic testing, and confirm that the noise assessment results will not be altered.

The development is deficient in on-site parking by six (6) spaces, and as a result will have a negative impact on Rowe Street. In this regard, safety concerns arise from parents and visitors having to utilise on street parking on either side of Rowe Street. Consequently, this will reduce the effective width of Rowe Street in this area to one traffic lane. To allow visitors to the child care centre to alight on the side of the road with young children in tow in this situation, where cars are travelling at 50kph is critical and considered unacceptable.

C2. *When selecting a site, ensure that:*

- *the location and surrounding uses are compatible with the proposed development or use*
- *the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards*
- *there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed*
- *the characteristics of the site are suitable for the scale and type of development proposed having regard to:*
 - *size of street frontage, lot configuration, dimensions and overall size number of shared boundaries with residential properties*
 - *the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas*

It is considered that the site is unsuitable for the type of development proposed as there is inadequate, convenient and safe parking for its visitors, resulting in an overdevelopment of the site.

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The proposed at grade parking in the front setback area is not in keeping with the character of Rowe Street, in terms of its generous landscape setting. Presently, the heritage item is situated within an established landscaped garden setting and other dwellings along Rowe Street have generous setbacks with well-established gardens. The landscaped garden setting is linked to the significance of the Heritage item, as well as the character of the existing streetscape.

Furthermore, as discussed above, the scale of the basement projection and associated acoustic barriers is unsuitable in this location and is not compatible with the adjoining residential dwellings.

7. 3.2 – Local character, streetscape and the public domain interfaceC5. The proposed development should:

- *contribute to the local area by being designed in character with the locality and existing streetscape*
- *reflect the predominant form of surrounding land uses, particularly in low density residential areas*
- *recognise predominant streetscape qualities, such as building form, scale, materials and colours*
- *include design and architectural treatments that respond to and integrate with the existing streetscape*
- *use landscaping to positively contribute to the streetscape and neighbouring amenity*
- *integrate car parking into the building and site landscaping design in residential areas.*

The proposed built form does not contribute to the local area and existing streetscape as it is considered that the built form does not recognise predominant streetscape features, such as vastly landscaped front setbacks, nor does it utilise landscaping to positively contribute to the streetscape and neighbouring amenity. This is due to the proposed at grade car park and driveway leading to the basement.

The car parking both at grade and the proposed basement are prominent features of the design, are not considered to be well integrated with the existing heritage building and site's landscaping design.

7. 3.3 – Building, orientation, envelope, building design and accessibilityC11. Orient a development on a site and design the building layout to:

- *ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by:*
 - *facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties*

ITEM 2 (continued)

- *placing play equipment away from common boundaries with residential properties*
- *locating outdoor play areas away from residential dwellings and other sensitive uses*
- *optimise solar access to internal and external play areas*
- *avoid overshadowing of adjoining residential properties*
- *minimise cut and fill*
- *ensure buildings along the street frontage define the street by facing it*
- *ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.*

The eastern play area on top of the basement has been satisfactorily treated to minimise potential noise and overlooking impacts on neighbouring properties, however, the overall height of the basement wall and acoustic fence is excessive and out of character. In this regard, as shown in **Figures 12** and **13**, the overall height of the basement wall and acoustic fence will be between 3.44m and 4.16m high along the eastern boundary, and similarly, between 2.98m and 3.78m high along the southern boundary. Along the southern boundary this structure will have a zero setback, resulting in additional overshadowing of the adjoining dwelling to the rear at 32 Darvall Road.

In terms of the external noise levels, all assumptions have been based on a fence height of 1.8m, which is considered to be out of character for the front play area forward of the building line.

Inadequate information has been submitted which demonstrates that acceptable solar access to the neighbouring residential properties is achieved, in particular 32 Darvall Road, due to the overall height of the basement wall and acoustic fence shown in **Figure 13**. Furthermore, overshadowing to eastern play area has not been properly considered. In this respect, it appears that the shadow cast from the two storey dwelling at 328 Rowe Street hasn't been shown on the shadow diagrams - it only appears to indicate the shadow cast from the 1.8m high acoustic barrier.

C12. *The following matters may be considered to minimise the impacts of the proposal on local character:*

- *building height should be consistent with other buildings in the locality*
- *building height should respond to the scale and character of the street*
- *setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility*
 - *provide adequate access for building maintenance and be consistent with the existing character.*

As noted above, the overall height of the basement wall and acoustic fence along the eastern and southern boundaries is excessive. It is considered that the proposed design is inconsistent with the existing scale and character of the street.

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C14. *On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.*

The eastern outdoor play area sits on top of the basement, and whilst the basement has a rear setback of 2 metres, the ground floor slab above servicing the play area is proposed to have a rear setback of zero along the southern boundary. As mentioned above, the basement wall and acoustic fence will be between 2.98m and 3.78m high along the southern boundary. The height of this structure on the boundary within a residential zone is inconsistent with prevailing setbacks in a residential zone and considered unacceptable.

C15. *The built form of the development should contribute to the character of the local area, including how it:*

- *respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage*
- *retains and reinforces existing built form and vegetation where significant*
- *considers heritage within the local neighbourhood including identified heritage items and conservation areas*
- *responds to its natural environment including local landscape setting and climate*
- *contributes to the identity of place.*

The built form is not considered to contribute to the character of the local area for the following reasons:

- The scale, intensity and nature of the development has an adverse impact on “Berrilee” through the loss of significant fabric and loss of its setting due to the substantial alternations to accommodate the proposed child care centre.
- The proposed alterations and additions to the existing dwelling will have an unacceptable impact on the character of the local built environment. In this regard, it is considered that the excessive hardstand area within the front setback does not achieve a satisfactory visual appearance nor does it positively contribute to the streetscape. Furthermore, the proposed 1.8m acoustic fence along the eastern and western boundaries surrounding the play area within the front setback has the potential to adversely impact on the streetscape.
- The proposed visitor parking within the front setback area will dominate the streetscape resulting in a loss of existing vegetation and will have an adverse visual impact on the setting, as the existing extensive planting within the front garden is a characteristic of Rowe Street, and is a vital feature of the heritage item.

8. 3.4 – Landscaping

C18. *Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space.*

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Use the existing landscape where feasible to provide a high quality landscaped area by:

- *reflecting and reinforcing the local context*
- *incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.*

As stated elsewhere within this report, the Heritage item is situated within an established landscaped garden setting, which is linked to the significance of the item and contains a number of significant plantings. All significant landscaped features and vegetation must be retained to ensure an appropriate setting and curtilage is retained. However, the proposal involves the removal of 36 trees and shrubs, effectively the entirety of the landscaped vegetation. This will strip the site of its established garden setting, which reflects and reinforces the local context.

C19. *Incorporate car parking into the landscape design of the site by:*

- *planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings*
- *taking into account streetscape, local character and context when siting car parking areas within the front setback*
- *using low level landscaping to soften and screen parking areas*

Three (3) at-grade parking spaces together with the driveway leading to the basement carpark are situated within the front setback area, which is not acceptable. It is strongly recommended that retention of all the existing landscaping within the front setback ensures the Heritage item remains within an appropriate setting, and achieves a better contribution to both the streetscape and local context.

9. 3.8 – Traffic, parking and pedestrian circulation

C31. *Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.*

In accordance with the DCP, the parking rates for a child care centre are 1 space per 2 staff (12 staff proposed) and 1 space per 8 children (66 children proposed), therefore the number of parking spaces required for this development is 15. The site accommodates nine (9) spaces, six (6) within the basement and three (3) spaces at grade, which is a shortfall of six (6) spaces. The shortfall in off street car parking is unacceptable and this view is shared by Council's independent Traffic Consultant, who has stated that allowing parents/visitors to utilise on-street parking will create safety and amenity impacts in Rowe Street.

C33. *A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:*

- *the amenity of the surrounding area will not be affected*
- *there will be no impacts on the safe operation of the surrounding road network.*

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A Traffic and Parking Impact Assessment Report prepared by McLaren Traffic Engineering & Road Safety Consultants dated 21 September 2018 was submitted by the applicant with the development application.

Council's Senior Development Engineer has reviewed the report and states that "the development is noted to have failed to satisfy the off-street parking requirements stipulated by Council's DCP and proposed to utilise the on-street parking surrounding the site. Whilst the submitted traffic report has attempted to demonstrate there is on-street parking available, the configuration is at the detriment to the surrounding community and therefore the environmental impacts must be taken into account. It is to be noted that the transfer of pickup / set movements in the public domain presents a compromise to the safety of pedestrian movements."

The report has also been reviewed by an external Traffic Consultant who has concluded that the shortfall in parking is an undesirable outcome and will result in an increase in on street parking on Rowe Street, which will have a negative impact its amenity.

This is considered to be a dangerous situation, therefore on this basis, the site is considered unsuitable for a child care centre.

Part 4 – Applying the National Regulations to development proposals**10. 4.1 – Indoor space requirements**

Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing and calculating the spatial requirements of the facility.

It is recommended that a child care facility provide:

- *a minimum of 0.3m³ per child of external storage space.*
- *a minimum of 0.2m³ per child of internal storage space.*

The amount of external storage required is 19.8m³ (66 x 0.3m³). The plans indicate that outdoor storage is provided, however there are insufficient details available on the plans to determine the size of the outdoor store room.

11. 4.4 – Ventilation and natural light

Good ventilation can be achieved through a mixture of natural cross ventilation and air conditioning. Encouraging natural ventilation is the basis of sustainable design; however, there will be circumstances where mechanical ventilation will be essential to creating ambient temperatures within a facility. To achieve adequate natural ventilation, the design of the child care facilities must address the orientation of the building, the configuration of rooms and the external building envelope, with natural

ITEM 2 (continued)

air flow generally reducing the deeper a building becomes. It is recommended that child care facilities ensure natural ventilation is available to each indoor activity room.

Openable windows will provide natural ventilation to all indoor activity play areas. The Statement of Environmental Effects submitted with the development application states that both windows and sliding doors will promote cross ventilation in the rooms throughout the centre. However, in the acoustic report, the conclusion states that “Interior sound design is assessed based on the assumption that all sliding doors and windows are closed”. Therefore, it is considered that natural ventilation will not be achieved.

12. 4.6 – Nappy change facilities

Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children. Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.

The architectural plans do not indicate any areas to be used for the purpose of nappy changing and bathing facilities.

13. 4.11 – Shade

Controlled exposure to daylight for limited periods is essential as sunlight provides vitamin D which promotes healthy muscles, bones and overall wellbeing. Outdoor play areas should be provided with controlled solar access throughout the year. Outdoor play areas should:

- have year-round solar access to at least 30 per cent of the ground area, with no more than 60 per cent of the outdoor space covered.*
- provide shade in the form of trees or built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area*
- have evenly distributed shade structures over different activity spaces.*

The play area located along the eastern side of the existing building will be overshadowed in the morning and between 12noon and 3pm. The applicant has not submitted hourly shadow diagrams which demonstrate the exact extent of overshadowing to this eastern play area.

14. 4.12 – Fencing

Fencing at child care facilities must provide a secure, safe environment for children and minimise access to dangerous areas. Fencing also needs to positively contribute to the visual amenity of the streetscape and surrounding area. In general, fencing around outdoor spaces should:

- prevent children climbing over, under or through fences*

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- *prevent people outside the facility from gaining access by climbing over, under or through the fence*
- *not create a sense of enclosure.*

The fencing provided is considered secure and will ensure children are kept wholly within the play areas at all times. In respect of the outdoor play area within the front setback however, there are two types of fencing proposed to be utilised. Firstly there will be a 1.2m high metal palisade pool fence to be erected behind the existing front hedge, and secondly there will be a 1.8m high 20mm capped & lapped timber acoustic fence to be erected along east and west boundaries. As stated above, there are concerns that the proposed acoustic fence does not positively contribute to the visual amenity of the streetscape as fences of this height forward of the building line will have adverse visual and physical impacts on the streetscape.

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

The requirements of SEPP 55 have been considered in the assessment of the DA. The site has historically been used for residential use and is not located in close proximity to any known contaminated land.

The proposed development is considered to satisfy the relevant requirements of SEPP 55 on the basis that:

- The child care centre will be wholly contained within an existing dwelling with a history of being used solely for residential purposes.
- Council's Environmental Health Officer has assessed the development and has raised no issue subject to the inclusion of standard conditions which will include 'discovery' requirements for contamination.

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.

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5.2 Ryde LEP 2014Ryde Local Environmental Plan 2014 (RLEP 2014):

RLEP 2014 commenced on 12 September 2014 as the new environmental planning instrument applicable to the City of Ryde.

The subject site is identified as being within the R2 Low Density Residential zone under the provisions of RLEP 2014. Within this zone the proposed child care centre is identified as being permissible with 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 the purposes of a child care centre and does not include any residential accommodation. While the R2 zone permits other supportive land uses such as child care centres, in this instance the site is considered to be unsuitable for the development due to the potential traffic related concerns resulting from an overdevelopment of the site. In this regard, as insufficient parking is provided onsite for parents/visitors to utilise, children and parents/visitors will alight from cars in Rowe Street, causing potential conflicts between pedestrians and vehicles. Parking is permitted on both sides of Rowe Street which is 10m wide, however when this occurs the effective carriageway width is reduced. This will result in the road only allowing for one car to pass while the driver arriving in the opposite direction can pass, and if not safe to do so, find a gap to stop in until the car passes. Having drivers trying to navigate this traffic situation, as well as watching out for pedestrians (including very young children), poses great risk to all concerned.

Whilst the proposed child care centre could meet the day to day needs of residents, the size of the child care centre and its lack of parking make the site unsuitable for a child care centre in this location.

The proposal is not considered to achieve compliance with the aims of the RLEP 2014, in particular, the following aims have not been satisfied:

- 1.2(2)(d) *to identify, conserve and promote Ryde's natural and cultural heritage as the framework for its identity, prosperity, liveability and social development,*
- 1.2(2)(g) *to preserve and improve the existing character, amenity and environmental quality of the land to which this Plan applies,*

ITEM 2 (continued)

The effects of the proposed development on the heritage significance of the item are considered unacceptable for the following reasons:

- The alternations will require the loss of significant fabric to accommodate the new use;
- The proposed car parking within the front setback will adversely impact the heritage from a visual perspective;
- The excavation works are likely to have an adverse impact of the structural adequacy of the heritage item; and
- The existing vegetation which adds to the significance of the heritage item will be extensively altered.

As a consequence, the proposed alterations and additions to the existing building do not achieve a satisfactory built form that is appropriate in terms of bulk and scale and that the proposed built form is not considered to reflect the existing character of the surrounding area, nor does it contribute to the existing streetscape.

It is considered that the excessive hardstand area does not achieve a harmonious visual appearance nor does it positively contribute to the streetscape. Furthermore, the proposed 1.8m acoustic fence along the eastern and western boundaries surrounding the play area within the front setback has the potential to adversely impact on the streetscape.

Other applicable Provisions of Ryde LEP 2014

Clause	Proposal	Compliance
4.3 Height of buildings		
(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map .	Maximum permitted building height = 9.5m The building height of the proposal does not exceed 9.5m which complies with the maximum permitted requirement.	Yes
4.4 Floor space ratio		
(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.	Permitted Floor Space Ratio = 0.5:1 Proposed Floor Space Ratio = 0.38:1 (439sqm)	Yes
5.10 Heritage		
(1) Objectives The objectives of this clause are as follows: (a) to conserve the environmental heritage of Ryde, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	The subject site is listed as a heritage item in the Ryde LEP. The proposal will result in the loss of significant fabric and loss of its setting due to the substantial alternations to accommodate the proposed child care centre.	No

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Clause	Proposal	Compliance
<p>(2) Requirement for consent Development consent is required for any of the following:</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):</p> <p>(i) a heritage item, (ii) an Aboriginal object, (iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</p> <p>(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,</p> <p>(d) disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(e) erecting a building on land:</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,</p> <p>(f) subdividing land:</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.</p>	<p>The proposal includes demolition, excavation, and alterations and additions to “Berrilee”, Item 223 In Schedule 5 of the Ryde LEP 2014, and is the subject of development application LDA2019/18, the assessment of which is contained in this report.</p>	<p>Yes</p>
<p>(4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This sub clause applies regardless of whether a heritage management document is prepared under sub clause (5) or a heritage conservation</p>	<p>The effects of the proposed development on the heritage significance of the item is considered unacceptable for the following reasons:</p> <ul style="list-style-type: none"> • The alterations will require the loss of significant fabric to accommodate the new use; • The proposed car parking within the front setback will adversely impact the heritage from a visual perspective. • The excavation works are likely to 	<p>No</p>

ITEM 2 (continued)

Clause	Proposal	Compliance
management plan is submitted under subclause (6).	have an adverse impact of the structural adequacy on the heritage item; and <ul style="list-style-type: none"> • the existing vegetation which adds to the significance of the heritage item will be extensively altered. Comments regards the heritage aspects of the proposal are provided under the heading "Referral" further along in this report.	
(5) Heritage assessment The consent authority may, before granting consent to any development: <ol style="list-style-type: none"> (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned. 	A Heritage Impact Statement prepared by Form Architects (Aust) Pty Limited has been submitted with the development application.	Yes
6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.	Due to the concerns raised a heritage conservation management plan was not requested from the applicant.	N/A
6.2 Earthworks		
Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters: <ol style="list-style-type: none"> (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, (b) the effect of the development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, 	Insufficient information has been submitted to Council which demonstrates that there are no associated detrimental impacts on the heritage item as a result of the proposed excavation. In this respect, a depth of 3 metres excavation is proposed which extends adjacent to the footprint of the existing dwelling. The site has a history of residential use only and is unlikely to contain contaminated soil. The earthworks associated with the proposed development are unlikely to have any negative amenity impacts on adjoining properties.	No

ITEM 2 (continued)

Clause	Proposal	Compliance
(e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	The Site Waste Minimisation and Management Plan (SWMMP) does not specify a waste facility to be used for excavated materials.	

5.3 Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments for the subject site.

5.4 Development Control Plans
Part 3.2 of Ryde DCP 2014 – Child Care Centres

Clause 26 of the SEPP specifies that a DCP requirement in respect to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility:

- (a) operational or management plans or arrangements (including hours of operation),
- (b) demonstrated need or demand for child care services,
- (c) proximity of facility to other early education and care facilities,
- (d) any matter relating to development for the purpose of a centre-based child care facility contained in:
 - (i) the design principles set out in Part 2 of the Child Care Planning Guideline, or
 - (ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).

As a result of this clause, the majority of Council's DCP controls are not relevant.

The following outlines those aspects of the proposal which have been assessed against the relevant development controls under DCP2014.

ITEM 2 (continued)

Section 1.7 Child Care Centre Design – Section 1.7 of Part 3.2 of DCP2014 outlines requirements for the submission of development applications, in particular:

- *A child care centre development is to be designed and drawn by a person who is an architect within the meaning of the Architects Act 2003 or who is accredited by the Building Designers Association of NSW Inc. in relation to the design of the class of buildings concerned (refer also Clause 16 of the Children's and Young Persons (Care and Protection) Act 1998);*
- *The landscape plan must be designed and specified by a landscape architect with demonstrated experience in designing external spaces for child care centres due to the particular nature of the requirements*

It is considered that Section 1.7 of Part 3.2 of DCP2014 has been satisfied.

Section 2.1.1 Preferred locations – The DCP states that sites in locations where the child care centre sites are located within low density residential areas, preference is given to smaller scale development (under 50 child care places), and it is noted that the proposed child care facility is seeking approval for a capacity of 66 child care places. Furthermore, due to the proposal being unable to provide the minimum required number of on-site parking spaces, this confirms that the scale of the development is too great for the subject site.

In this respect, it is considered that the size of the development is unsuitable in this location and cannot be supported.

The site is required to have a street frontage and width of not less than 20 metres, and is to be regular in shape, having a minimum site area of 800m². The subject site complies with these controls as it has a width of 24.69m and a site area of 1,147.58m².

Part 7.2 of Ryde DCP 2014 – Waste Minimisation and Management

A collection point for waste collection has not been identified on the plans submitted with the development application, therefore it is unable to be determined if the proposed collection point will be conveniently located for users and positioned so that waste collection vehicles does not impede the access to the site or car parking facilities when servicing the bins so that waste can be safely and easily collected. This may also have an impact on the heritage conservation of the existing dwelling.

The SWMMP does not specify a waste facility to be used for excavated materials.

Part 8.2 of the Ryde DCP 2014 – Stormwater and Floodplain Management

ITEM 2 (continued)

Council's Development Engineer has reviewed the stormwater plans and On-site Detention design submitted by the applicant and the comments relating to these matters are set out in Section 10 (Referrals) of this report. It is noted that concerns have been raised in this regard.

Part 9.3 of Ryde DCP 2014 – Parking

In accordance with the DCP, the parking rates for a child care centre are 1 space per 2 staff (12 staff proposed) and 1 space per 8 children (66 children proposed), therefore the number of parking spaces required for this development is 15. The site accommodates nine (9) spaces, six (6) within the basement and three (3) spaces at grade, which is a shortfall of six (6) spaces. As the minimum number of parking spaces required cannot be contained wholly within the site, it is considered that the size of the development is unsuitable in this location and cannot be supported as it results in an overdevelopment of the site. Council's Senior Development Engineer has reviewed the proposal and the relevant parking comments are set out in Section 10 (Referrals) of this report.

Part 9.5 of Ryde DCP 2014 – Tree Preservation

Council's Landscape Architect has reviewed the landscape plan and Arborist Report submitted with the application and the comments relating to these matters are set out in Section 10 (Referrals) of this report. It is noted that concerns have been raised in this regard.

5.5 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)

Council's current Section 94 Development Contributions Plan 2007 (Interim Update (2014) effective 10 December 2014) requires a contribution for the provision of various additional services required. No contributions are applicable to child care centres.

5.6 Any matters prescribed by the regulations

The development application was lodged and assessed in accordance with the relevant sections of the Environmental Planning and Assessment (EPA) Regulation 2000, as amended.

The EPA Regulations 2000 require the consent authority to consider the provisions of the Building Code of Australia (BCA). The assessment of the application has considered these provisions. A Building Code of Australia Compliance Report (dated 13 November 2018) has been submitted with the application and concludes that the building can comply with the BCA without significant changes to the base design, and an alternative solution may be required for the first floor in relation to travel distance.

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6. The likely impacts of the development

The proposed development is considered to adversely impact upon the surrounding neighbourhood as it will have an unacceptable impact on the character of the local built environment for reasons outlined throughout this report.

The inability for the development to cater for on-site parking will also result in adverse traffic implications on Rowe Street. In this regard, most parents/visitors will be required to park on the street resulting potential conflicts between pedestrians and vehicles.

Furthermore, the proposed visitor parking within the front setback area will dominate the streetscape and the subsequent loss of vegetation will have an adverse visual impact on the local character given that the existing extensive planting within the front garden is a contributing feature of the heritage item.

7. Suitability of the site for the development

Given the inability of the proposed child care centre to meet all the principles required under the Education and Child Care SEPP in terms of context, built form, landscaping, amenity and safety, it is considered that the site is not suitable.

8. The Public Interest

The proposed development is not considered to be in the public interest as the site is not suitable for a child care centre. The proposal will have an adverse impact on the heritage significance of the property in that the scale, intensity and nature of the use has an adverse impact on "Berrilee" through the loss of significant fabric and loss of its setting due to the substantial alternations to accommodate the proposed child care centre, including loss of extensive landscaping within the front setback.

Due to the lack of visitor parking within the subject site, the majority of parents/visitors will be required to park on Rowe Street, and the likely scenario will see some of them cross the road with their children to walk back to the southern side of Rowe Street, which is unsafe and can be potentially dangerous, particularly being so close to the T intersection of Rowe Street and Darvall Road. In addition to this, the development fails to comply with the requirements of the Child Care Planning Guidelines that is called up by the SEPP (Educational Establishments and Child Care Facilities) 2017.

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9. Submissions

In accordance with DCP 2014 Part 2.1 Notice of Development Applications, the proposal was advertised in the Northern District Times on 30 January 2019 and adjoining property owners were notified of the application. Submissions about the proposal closed on 20 February 2019.

In response, twenty-one (21) unique submissions and one (1) petition including 124 signatures were received. **Figure 16** illustrates the location of the properties who lodged submissions in relation to the site.



Figure 16: Location of objectors marked with red crosses.

The concerns raised in the submissions are summarised and addressed below.

- **High risk of destroying or creating irreparable damage to the foundations of the property.**

Comment:

Insufficient information has been submitted by the applicant to determine the impacts the proposed works will have on the structural adequacy of the heritage listed dwelling, therefore at this point of time Council is unable to determine what risks to the foundations are likely as a result of the proposed development.

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- ***Openings in some of the rooms of the house permanently alters the architectural design of the home which contradicts the intention of making this building a heritage listing. The LEP states quite clearly that new additions and related new construction should be undertaken in such a way that if they are removed in the future the essential form and integrity of the historic place is unimpaired.***

Comment:

As stated in the comments provided by Council's Heritage Adviser, the proposal involves a substantial loss of internal fabric, with the removal of internal walls and significant landscaping. Together, these matters have an adverse impact on the heritage item resulting in an adaptive re-use that is unacceptable in terms of its scale intensity and nature. Furthermore, it has been determined that the heritage significance of the new use is not compatible with the heritage item, as advocated by the Australia ICOMOS Burra Charter.

- ***Inadequate parking.***

Comment:

It is acknowledged that the proposal provides insufficient parking to accommodate a child care centre of this size. That is, the RDCP 2014 parking controls stipulate that 1 space per 2 staff (12 staff proposed) and 1 space per 8 children (66 children proposed) is required, resulting in 15 parking spaces required. As the minimum number of parking spaces required cannot be accommodated onsite, it is considered that the size of the proposed child care centre is unsuitable in this location and cannot be supported.

- ***Traffic safety concerns.***

Comment:

As stated elsewhere within this report, safety concerns arise due to the applicant proposing that parents/visitors utilise on street parking on either side of Rowe Street. Consequently, this will reduce the effective width of Rowe Street in this area to one traffic lane. To allow visitors to the child care centre to alight on the side of the road with young children in tow in this situation, where cars are travelling at 50kph is critical and considered unacceptable. As such, for this reason as well as others detailed in this report, the application is not supported.

- ***Possible re-sale of the building at a later date.***

Comment:

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Re-sale of the building at a later date is not a relevant consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

- ***Such a land use falls within the ambit of the definition of “Commercial Premises” in the LEP, and cannot be permitted in the R2 zone – out of character with the surrounding area.***

Comment:

In the Ryde LEP 2014, a child care centre is categorised within the definition of a **centre-based child care facility**, which means:

- (a) *a building or place used for the education and care of children that provides any one or more of the following:*
 - (i) *long day care,*
 - (ii) *occasional child care,*
 - (iii) *out-of-school-hours care (including vacation care),*
 - (iv) *preschool care, or*
- (b) *an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),*

Note. *An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.*

but does not include:

- (c) *a building or place used for home-based child care or school-based child care, or*
- (d) *an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or*
- (e) *a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or*
- (f) *a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children’s parents are using the facility, or*
- (g) *a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or*
- (h) *a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.*

The proposed child care centre is permissible within a Low Density Residential (R2) zone. Whilst it may be perceived as a commercial premises due to its ability to be a lucrative business, child care centres,

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when designed to address the specific controls within the Child Care Centre Guidelines referred to in *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, are capable of meeting the R2 zone objective of being able to provide a facility/service to meet the day to day needs of residents.

- ***The proposal is unsafe because of the potential risk that part of the rear yard (i.e. that compromising a heritage garden at present), could be filled with storm water resembling an “unfenced swimming pool”.***

Comment:

Council’s Senior Development Engineer has reviewed the stormwater plans submitted by the applicant and has identified that the provided OSD design calculations are incorrect and its location is unsuitable and should be relocated under the driveway. Furthermore, the location of discharge control pit is considered unsatisfactory, as it should be located as close the boundary frontage alignment and the grades adjusted so as to ensure a fall is achieved from the surface inlet pit directed to Rowe Street. Comments relating to the proposed stormwater design are set out in Section 10 (Referrals) of this report.

- ***The DA proposes storm water management arrangement that is entirely different to the Council’s usual long-standing arrangements. There is no drainage easement or inter allotment drainage in place.***

ITEM 2 (continued)Comment:

Council's Senior Development Engineer has reviewed the stormwater plans submitted by the applicant and the comments relating to the proposed stormwater design are set out in Section 10 (Referrals) of this report. It is acknowledged that there are issues with the proposed stormwater design, however there is no drainage easement required in this instance as water from the property is able to drain directly into Rowe Street.

- ***Setting an undesirable precedent.***

Comment:

Noted. The proposed alterations and additions to the subject heritage listed property have been reviewed by Council's Heritage Adviser, whose comments are set out in Section 10 (Referrals) of this report. It is concluded that the proposal is not supported in its current form, therefore no precedent will be set.

- ***Heritage implications – the new building additions will produce an outcome that severely detracts from the heritage significance of the property.***

Comment:

Noted. The application fails in regard to this matter and as such is not supported.

- ***Traffic Congestion and inadequate parking.***

Comment:

Noted. The application fails in regard to this matter and as such is not supported.

- ***Financial viability of this "Day Care Centre".***

Comment:

The financial viability of the proposed child care centre is not a relevant consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

- ***This new development has a two storey commercial structure running parallel to my property. My family & I will lose all privacy. This long & tall Commercial Structure near my family home will be very unappealing and out of scale with the existing streetscape.***

Comment:

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Noted. As state above, the overall height of the basement wall and acoustic fence above will be between 3.44m and 4.16m high, which is illustrated in **Figure 12**.

Considering this structure will be offset from the boundary by only 900mm, it results in excessive bulk and acceptable built form. Whilst privacy will be maintained, the scale of this wall will be obtrusive on the occupants of the adjoining dwelling at 328 Rowe Street. This is not a desired outcome, is out of character for the area and found to be unacceptable, and as such the application is not supported.

- ***The proposed design will not be purpose built and user friendly.***

Comment:

It is noted that there have been successful attempts of adaptive re-use of heritage items, which ensure that the new use is compatible with the item of heritage significance. In this case however, the design proposed is not acceptable for reasons outlined elsewhere in this report and as such the application is not supported in its current form.

- ***Similar to their previous DA this one also does not blend in the with the Streetscape. Their desperate attempts to just building around the Heritage building with this modern structure will not work as it is out of scale.***

Comment:

Agreed. The proposed alterations and additions to the subject heritage listed property have been reviewed by Council's Consultant Heritage Adviser, whose comments are set out in Section 10 (Referrals) of this report. It is concluded that the proposal is not supported on heritage grounds.

- ***Need for such a large "Duty Care Centre".***

Comment:

The residents' concerns regarding the size of the proposed child care centre are acknowledged and has been considered elsewhere in this report, and as such this proposal is not supported.

- ***The proposed child care centre would create significant increased noise pollution in the immediate area, which will adversely impact on the quiet residential nature of the surrounding area.***

Comment:

Council's Environmental Health Officer has reviewed the application in relation to noise impact, whose comments are set out in Section 10 (Referrals) of this report. It

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was concluded that insufficient evidence has been submitted for Council to determine for certain that acoustic privacy of adjoining properties will be maintained.

- ***The site of this proposed child care centre does not meet key criteria outlined in the DCP regarding site location and site selection.***

Comment:

An assessment of the relevant DCP controls, and associated non-compliances, are detailed above. It is noted that the application fails in this regard, and as such is not supported.

- ***It is noted that Council's DCP suggests that the technical documentation may include a Social Impact Assessment which was not provided.***

Comment:

A Social Impact Assessment is a process for the identification, analysis, assessment, management and monitoring of the potential social impacts of a project, both positive and negative. Such a report is not necessary for a child care centre that is only proposing 66 children.

- ***It is noted that Council's DCP suggests that the technical documentation may include a Market analysis – Supply and Demand.***

Comment:

It is noted that a market analysis has not been submitted with the development application. Given the scale of the development this is not required to be provided.

- ***The provision of child care has turned into a lucrative business rather than being responsive to community needs. 330 Rowe Street is clearly another case of a developer maximizing the value of their site.***

Comment:

As stated above, a child care centre is a permissible use within a R2 Low Density Residential zone and has the capability of responding to the needs of the community. However, the subject proposal has fundamental issues outlined elsewhere in this report and as such is not supported.

- ***There is an inconsistency in the applicant's BCA Compliance document which has provision for 10 educators. This does not meet new national educator-to-child ratios applicable from 1 October 2018.***

Comment:

ITEM 2 (continued)

The inconsistency is noted, however there is a clear intent within the Statement of Environmental Effects that 12 educators will be employed. Any approved child care facility must meet the criteria as set by the Department of Family and Communities and is subject to obtaining the necessary licensing set out in the Children's Services Regulation 2004. This regulation outlines the legal requirements, licensing standards, child numbers and staffing standards for children's services, including child care centres in NSW.

- ***We do not think this development is appropriate for this historically significant and beautiful old home. Rather than partly demolish this house, put in basement parking and turn the front yard into a parking lot the owner should look for a basic property to build the child care centre and this house should be preserved intact.***

Comment:

It is acknowledged that the partial demolition, alterations and additions to the subject heritage item are not supported for the reasons outlined throughout this report.

10. Referrals**Consultant Heritage Advisor:**

The development proposal was referred to Council's Consultant Heritage Advisor for heritage consideration as the subject site is an item of heritage significance, listed on Schedule 5 of Ryde LEP 2014. The following comments were provided:

"Statement of Cultural Significance:

'The house Kingsley, built 1907, and its site are of local historical significance as evidence of the early development of the Eastwood area. The house is of local historical significance as the residence of a prominent Sydney entrepreneur and his family from 1908-1912, and as the work of prominent local architect Charles Robert Summerhayes.

Though the site of the house (originally larger) was subdivided in 1938, the current site size and dimensions, and the orientation of the house (with main elevations to east and north) are of historical significance as evidence of the originally much larger site of the house.

The house has local historical association with James Vinrace Vale, mining engineer and entrepreneur, and his wife Adelaide Selina Vale (the original property owner), who commissioned the design and construction of the house and resided at the property 1908-1912. James Vinrace Vale, prominent early 20th century Sydney mining engineer and entrepreneur, was a partner in the firm Cameron & Vale of Castlereagh Street, Sydney, a

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firm whose activities were frequently reported in newspapers of the time, and he and his wife were later pioneers in the Lake Macquarie district, commemorated in the naming of Vale's Point, Mannering Park.

The house has local historical association with its' designer, prominent local architect Charles Robert Summerhayes (1860-1948). Summerhayes was responsible for the Eastwood Heights Estate subdivision, a number of other local subdivisions, the design and overseeing of the construction of 42 residences in Eastwood in the early 20th century, the design of his own (now heritage listed) house Womerah, at Eastwood, the locally heritage-listed Eastwood Park grandstand, Ryde Park Rotunda, St Phillip's Anglican Church, Eastwood, a group of three shops in Rowe Street Eastwood known as "Summerhayes buildings" (name on parapet), and the (now State heritage listed) Holy Trinity Greek Orthodox Church in Bourke Street, Surry Hills. Summerhayes was also Mayor of Ryde 1911-1912.

The house is of local aesthetic significance as a fine representative architect-designed example of the Federation Queen Anne style, with two main northern and eastern elevations, distinguished by gable ends and verandahs, reflective of the original setting of the house within extensive grounds.

The house retains distinctive characteristics of the style including hipped and gabled slate roof with terracotta ridge capping and tall roughcast stuccoed chimneys with brick strapwork and terracotta chimney pots, polychrome brickwork, timber-framed casement windows with fanlights, flying gables to north and east elevations with elaborate timber fretwork decoration, and a wraparound verandah to north, east and south elevations with elaborate turned timber posts, brackets, freize and balustrading.

The house is locally rare as a house known to have been designed by prominent early 20th century local architect Charles Robert Summerhayes. There is only one other house in the Ryde LGA known to have been designed by Summerhayes, being Summerhayes' own residence, Womerah.'

Consideration of the heritage impacts:

The subject site has previously been subject to a Development Application for the demolition of the existing dwelling. In consequence of the identified heritage values of the property, Council resolved to place an Interim Heritage Order on the property.

The IHO was gazetted and Council then proceeded with a heritage assessment of the property to determine whether or not to heritage list the property. That heritage assessment demonstrated that the property was of high cultural

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significance at the local level and Council resolved to proceed with a Planning Proposal to list the property as an item of local heritage significance on Schedule 5 of the Ryde LEP 2014.

On 23 November 2018, the Ryde LEP 2014 was amended (Amendment No.22) to include 330 Rowe Street, Eastwood, as an item of local heritage significance on Schedule 5.

A Heritage Impact Statement has been submitted with the Development Application. It offers a detailed historical analysis and assessment of significance (which are direct extracts from the heritage assessment report commissioned by Council), together with a cursory assessment of the impacts of the proposal. In summary, the HIS concludes that the proposal has an acceptable heritage impact.

However, I do not concur with the recommendations and findings of the HIS and do not concur that the proposed development has an acceptable heritage impact.

The proposed change of use of the existing dwelling to a childcare centre involves substantial alterations and additions, with the partial demolition of the dwelling, including the removal of a substantial amount of internal fabric, which is considered of high significance and importance.

The adaptive re-use of any place or item of heritage significance must ensure that any new use is compatible with that item or place. The Australia ICOMOS Burra Charter advocates that a place should have a compatible use. A 'compatible use' is defined by the Burra Charter as 'a use which respects the cultural significance of a place. Such a use involves no, or minimal impact on cultural significance'.

In other words, any new use of a heritage item must be designed to conform to the inherent characteristics and identified heritage values and significance of the item, rather than modifying and changing the building to suit the proposed new use. In some instances, some level of change is necessary to permit an adaptive re-use, such as the provision of additional services, or accessibility, for instance, adaptively re-using a former warehouse building for residential accommodation, or in this instance, a dwelling house for a childcare centre. Where a building or its curtilage needs to be significantly changed to accommodate the new use is a clear indication that use, or at least, the scale and intensity of that use, is not compatible with the heritage item.

The proposal involves the substantial loss of significant internal fabric, with the removal of internal walls, together with the associated changes to the landscaped garden setting and curtilage for carparking. This raises the question of 'what fabric is being retained?' rather than 'what fabric is being removed?'

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In this manner, the proposal cannot be considered a compatible use in that the scale, intensity and nature of the proposed use has an adverse impact on the heritage item through the loss of significant fabric and loss of its setting and requires substantial changes to accommodate the use.

The interior of the dwelling has been assessed as having a high degree of design integrity and significance, whereby having low tolerance to changes, particularly changes that will obscure the ability to interpret and appreciate the original room configuration and interior detailing.

Any new use of the heritage item must be able to comfortably fit within the existing space, conforming to the internal layout and spatial arrangement as well as involving only minor changes that do not unreasonably or adversely impact on the significance of the place. It is also necessary to reiterate that the heritage listing of the property applies to the interior as much as the exterior.

Similarly, it is important to recognise that the heritage significance of the property is not merely limited to the 'bricks and mortar' of the dwelling, but also its landscaped setting, forming the curtilage of the dwelling. Presently, the heritage item is situated within an established landscaped garden setting, with the curtilage defined by the allotment boundaries. The landscaped garden setting is inextricably linked to the significance of the item and contains a number of significant plantings. All significant landscaped features and vegetation must be retained to ensure an appropriate setting and curtilage is retained. However, the proposal involves the removal of 36 trees and shrubs, effectively the entirety of the landscaped vegetation. This will denude the site of its established garden setting, having an adverse impact on the curtilage and therefore, the heritage item itself.

While no objection is raised to the proposed demolition of the existing detached garage structure (which is a more recent construction) and the in-ground swimming pool, the proposal involves the excavation of the front garden area for the construction of a carpark and driveway, with further excavation proposed along the eastern side and southern rear elevations of the dwelling for basement level carparking. Carparking within the front setback area is not supported as it will visually impact on the setting and result in the loss of the existing generous landscaped front garden, which is an important feature of the heritage item.

The excavation works will alter the ground levels surrounding the dwelling are likely to have an adverse impact on the structural integrity of the dwelling. No structural engineering assessment or detailed specifications have been supplied that demonstrate that excavation to the extent proposed can in fact occur without impacting on the integrity of the dwelling.

The HIS states that 'There is no proposal to make any changes that would alter the character or detail of the house when viewed from Rowe Street', however the new additions at the rear include a lift overrun which protrudes above the roof

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planes of the existing dwelling and will be highly visible in the backdrop to the item and will be visually prominent.

No objections are raised to accommodating additions to the rear of the dwelling, however these must be scaled in such manner that do not visually dominate the main dwelling. Adoption of a contemporary architectural form is acceptable and needs not mimic the detailing of the dwelling, but must provide clear delineation between the 'new and the old'. The plans do not sufficiently detail the marriage of the new additions into the existing dwelling. Additionally, the proposal seeks to convert the roof void to a first floor containing staff amenities, meeting rooms, storage and kitchen. No sectional details have been provided through this space to clearly indicate how this space will function, particularly given that there are no roof windows or dormer windows proposed. Regardless, the introduction of any roof windows or dormer windows would not be supported on the front or side elevations where they would be visually prominent and alter the existing appearance of the roof form.

Overall, the proposal is considered to have an adverse impact on the heritage significance of the site and is not considered a compatible use for the heritage item, necessitating the removal of significant fabric, a loss of landscaped garden setting and curtilage, and adverse visual and physical impacts.

Consequently, the proposal cannot be supported on heritage grounds.”

City Works (Traffic):

Due to the number of submissions received by Council relating to traffic concerns, an independent traffic assessment was undertaken by Bitzios Consulting on behalf of the Traffic team of Council's City Works Department, and the following conclusions and recommendations were made:

“Conclusions

The development is not expected to introduce any traffic capacity issues and the access location and form is appropriate. The inability for the development to cater for 6 of its 9 required visitor bays on-site means that these cars will be parked on Rowe Street. This is undesirable because:

- The potential to reduce on-site parking requirements does not meet all of the factors for consideration under the Ryde DCP.*
- The potential to reduce on-site parking requirements does not meet all of the factors for consideration under the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.*
- On-street parking for the development will narrow Rowe Street to effectively a single traffic lane when vehicles are parked on both sides of the street.*

ITEM 2 (continued)

- *Some parents will unload children onto the road-side of the vehicle (depending on which side of the car the car seat is located) and adjacent to passing traffic with the open door protruding into the traffic lane in a 50 kph zone.*
- *Parents holding children and bag(s) will cross Rowe Street, potentially between parked cars, to access the centre which introduces safety risks.*
- *Due to the distance some parents may have to park away from the centre, some parents may otherwise choose to park across adjacent driveways closer to the centre, or within the centre's driveway.*
- *A number of parking and u-turning movements will be introduced into a low-density residential street where they would not currently exist introducing amenity impacts.*

Recommendations

It is recommended that Council refuse this application on the grounds that the development:

- *Has grossly insufficient on-site parking for its customers.*
- *Does not meet the grounds to relax almost all of its on-site customer parking provision under either the Ryde DCP or the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.*
- *Will generate on-street parking that will impact the safety of Rowe Street by:*
 - *Reducing the effective width of Rowe Street to one traffic lane in some sections.*
 - *Allowing parents to unload passengers on the road-side of the vehicle on a narrow road and immediately adjacent to traffic travelling at 50 kph.*
 - *Encouraging movements by parents with children typically of a lesser height than a car to walk between parked cars to cross Rowe Street.*
- *Will generate on-street parking that will impact the amenity of Rowe Street by:*
 - *Introducing many more U-turns and parking movements into a local residential street in a low-density environment.*
 - *Encouraging the potential for parents to park across adjacent driveways in the probable case of an absence of proximate on-street parking."*

Landscape Architect:

Council's Landscape Architect has reviewed the proposal and has made the following comments:

"Existing Trees

An Arborist Report has been submitted with the application prepared by Urban Arbor dated 18/12/2018. A summary of the existing trees identified by the Arborist are show in the table below:

ITEM 2 (continued)

Tree No.	Species "Common name"	Proposed recommendation by Arborist	Comment
1	Murraya paniculata Murraya	Remove	Agree
2	Murraya paniculata Murraya	Retain	Agree
3	Rhododendron arboretum Tree Rhododendron	Retain	Agree
4	Camellia sasanqua Sasanqua Camellia	Retain	Agree
5	Camellia sasanqua Sasanqua Camellia	Retain	Agree
6	Laurus nobilis Bay Tree	Retain	Agree
7	Rhododendron spp	Retain See below	Agree
8	Plumeria sp. Frangipini	Retain See below	Agree
9	Citrus spp	Retain See below	Agree
10	Citrus spp	Retain See below	Agree
11	Citrus x sinensis Orange Tree	Retain See below	Agree
12	Citrus spp	Remove	Agree
13	Camellia sasanqua Sasanqua Camellia	Remove	Agree
14	Camellia sasanqua Sasanqua Camellia	Remove	Agree
15	Camellia sasanqua Sasanqua Camellia	Remove	Agree
16	0	Remove	Agree
17	Camellia sasanqua Sasanqua Camellia	Remove	Agree
18	Camellia sasanqua Sasanqua Camellia	Remove	Agree
19	Camellia sasanqua Sasanqua Camellia	Remove	Agree
20	Camellia sasanqua Sasanqua Camellia	Remove	Agree
21	Camellia sasanqua Sasanqua Camellia	Remove	Agree
22	Camellia sasanqua Sasanqua Camellia	Remove	Agree
23	Camellia sasanqua Sasanqua Camellia	Remove	Agree
24	Camellia sasanqua Sasanqua Camellia	Remove	Agree
25	Camellia sasanqua Sasanqua Camellia	Remove	Agree
26	Camellia sasanqua Sasanqua Camellia	Remove	Agree
27	Citrus x limon Lemon Tree	Remove	Agree

ITEM 2 (continued)

Tree No.	Species "Common name"	Proposed recommendation by Arborist	Comment
28	Camellia sasanqua Sasanqua Camellia	Remove	Agree
29	Radermachera sinica China Doll	Retain On adjoining property Root Investigation required	Agree See below
30	Camellia sasanqua Sasanqua Camellia	Remove	Agree
31	Camellia sasanqua Sasanqua Camellia	Remove	Agree
32	Camellia sasanqua Sasanqua Camellia	Remove	Agree
33	Camellia sasanqua Sasanqua Camellia	Remove	Agree
34	Ligustrum lucidum Large Leaved Privet	Remove	Agree
35	Acer palmatum Japanese Maple	Remove	Agree
36	Murraya paniculata Murraya	Remove	Agree
37	Murraya paniculata Murraya	Remove	Agree
38	Citrus spp	Remove	Agree
39	Plumeria sp. Frangipini	Transplant	Agree
40	Prunus spp	Remove	Agree
41	Camellia sasanqua Sasanqua Camellia	Remove	Agree
G1	Murraya paniculata Murraya	Remove	Agree

Refer to Figure 1 for location of trees.

Trees 7 to 11 are shown to be retained however the stormwater pipes will have a major encroachment of more than 10% on these trees. The Arborist has not assessed this impact.

Tree 29. The Arborist Report recommends root investigations of this tree as it has a total Tree Protection Zone encroachment of 40%. This investigation is required with the Development Application to access if the tree can be retained.

ITEM 2 (continued)

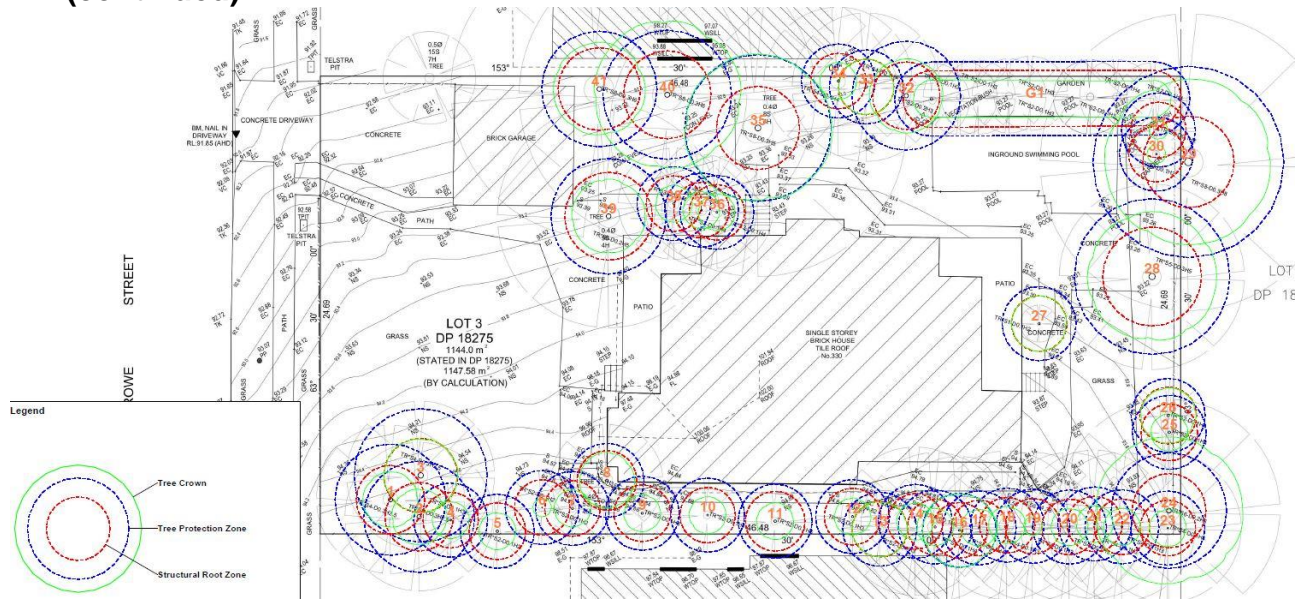


Figure 1



Photo 1. Tree 29 in adjoining property to be retained.

ITEM 2 (continued)



Photo 2. Tree 39 to be transplanted

Landscape Plan

The Landscape Plan has NOT satisfied the following requirements of NSW Planning and Environment document “Child Care Planning Guideline” August 2017:

- **“Planting should be provided along the boundary”**
also **City of Ryde DCP 2014 Part: 3.2 Child Care Centres requires “A landscape buffer is to be provided along the side and rear boundaries of the site for child care centres in residential zones of a minimum width of 1 metre.”**
There is no garden bed along the south-east corner of the site.
- **Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through: landscape design and screening.**
There is a gap in the garden beds on the western boundary adjacent to an adjoining dwelling.

Stormwater Plan

The stormwater pipes are NOT compatible with retention of the existing trees 7 to 11 which are shown to be retained. See above in section 3.

Architecture Plans

The areas of cut will impact the adjoining existing tree 29 which is to be retained. See above in section.3.

ITEM 2 (continued)

Recommendations

1. *The Arborist Report is unsatisfactory; it has not taken into account the impact of the Stormwater Plans. The proposed stormwater will have major impact on trees 7 to 11. An updated Arborist Report is required to assess this impact.*
2. *The Arborist Report recommends root investigations of this tree as it has a total Tree Protection Zone encroachment of 40%. This investigation is required with the Development Application to access if the tree can be retained. Details of the Root Investigations required are located in Appendix 3 section 8 of the Arborist Report prepared by Urban Arbor dated 18/12/2018.*
3. *The Landscape Plan is unsatisfactory. The Landscape Plan has NOT satisfied the following requirements of NSW Planning and Environment document "Child Care Planning Guideline" August 2017:*
 - ***"Planting should be provided along the boundary" also City of Ryde DCP 2014 Part: 3.2 Child Care Centres requires "A landscape buffer is to be provided along the side and rear boundaries of the site for child care centres in residential zones of a minimum width of 1 metre."***
There are no garden beds around the north-east corner boundaries of the site.
 - ***Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through: landscape design and screening.***
There is a gap in the garden beds on the eastern boundary adjacent to an adjoining dwelling.

Therefore the proposal cannot be supported in its current state."

Senior Development Engineer:

Council's Senior Development Engineer has reviewed the proposal and has made the following comments:

"Stormwater Management

The proposed stormwater management system for the development discharges to the kerb in Rowe Street and incorporates an onsite detention system. A review of the plan notes the following matters which are to be addressed;

ITEM 2 (continued)

- *The plan is inconsistent with the submitted architectural plans. This is to be updated to accurately portray the proposed drainage measures.*
- *The extent of hardstand over the site is excessive. The estimated hardstand area is 781.61m² (roof, parking spaces in front setback and pathway) presents 68% of site area. The elevated playground along eastern side of the property is a combination of synthetic turf and “softfall” rubber established over the roof of the basement level. Whilst this surface finish is itself permeable, installation over the basement roof will effectively be hardstand area as there is no opportunity for stormwater runoff to infiltrate into natural soil. Accordingly the area is to be considered as hardstand.*
- *The OSD design calculations appear incorrect as the estimated catchment area does not account for the playground (which is to be considered as hardstand noted above) and that the calculations have utilised the parameters for catchment zone 1 and not the Eastwood area.*
- *The OSD tank is located in the front setback, in a region to be landscaped. This effectively reduces the degree of deep soil landscaping and can present issues with future owners being unaware of the presence of the tank in this location. There is scope that the tank could be relocated under the driveway and therefore this must be undertaken prior to any development consent.*
- *The design proposes a piped failure mode for the OSD tank. This is considered a compromised solution (there is potential with such configurations for the overflow pipe to block). This could be rectified by having the OSD tank relocated under the driveway. The discharge control pit should be located as close the boundary frontage alignment and the grades adjusted so as to ensure a fall is achieved from the surface inlet pit directed to Rowe Street. Note (under comments below) the nominated driveway boundary alignment level appears 500mm greater than those indicated on the survey, suggesting this amendment could readily be implemented).*

These matters will require the amendment to the stormwater management plan prior to development consent.

Vehicle Access and Parking

The parking demand for the development required by the DCP Part 9.3 (Parking Controls) is as follows with the recommended parking allocation taken from the applicant’s traffic report;

	Quantity	DCP Parking Rate	Parking Required	Parking Proposed
Staff	12	1 space per 2 staff	6	8
Parent Pickup / Dropoff	66	1 space per 8 children	8.25 (9)	1

ITEM 2 (continued)

The applicant's Traffic consultant has elected to allocate only 1 of the 9 spaces as parent pickup/ dropoff (being the disabled space at the front of the site) whereas the architectural plans depict these 3 spaces as "Visitor" (parent) parking spaces. In either case, the level of off-street parking is short of that required by the DCP Part 9.3 (Parking Controls).

This is noted to be contrary to the objectives of the DCP Part 9.3 (Parking Controls) and Part 3.2 (Child Care Centres) which seeks to ensure adequate car parking is provided onsite for building users and visitors. In proposing the utilisation of on-street parking, it is advised that this will have an environmental impact to the surrounding community. It will also present a parking configuration which compromises on pedestrian safety (for set down/ pick up of passengers) when compared to a designated off-street parking area. This then needs to be considered in the planning assessment.

Traffic Generation

Notwithstanding Council's Traffic section review of the traffic generation data, the consultant has utilised the RMS traffic generation rates presented in the RMS document "Guidelines for Traffic Generating Development" to present the following traffic generation rates.

	RMS Rate (Peak Veh. Trips / Child)	Proposed	Nominated Trip Movements
Morning (AM) peak	0.8	(52.8) 53 vtpH	27 in/ 26 out
Evening (PM) peak	0.7	(46.2) 47 vtpH	23 in / 24 out

**** vtpH = vehicle trips per hour**

The applicants consultant has distributed this based on the predominant traffic movements relative for the peak hour period and found minimal impact to the surrounding intersections. The technicalities of this analysis should be considered by the Traffic section.

Waste and Service Requirements

No specific service / loading bay has been provided on the site however this could be undertaken from the parent pickup/ dropoff spaces in the front setback outside peak traffic periods.

It is noted the Traffic consultant/ application has proposed waste services be undertaken on street (kerbside collection). This should be verified as being appropriate from the Waste section.

Recommendation

ITEM 2 (continued)

Assessment of the engineering components of the proposed development has identified the several matters associated with the proposed stormwater management system which warrant revision of the plans.

These are;

- The stormwater management plan is inconsistent with the submitted architectural plans. This is to be updated to accurately portray the proposed drainage measures.*
- The OSD design calculations appear incorrect as the estimated catchment area does not account for the playground (which is considered as hardstand area being located over the basement level). The calculations have utilised the parameters for catchment Zone 1 and not the Eastwood area.*
- The OSD tank is located in the front setback, in a region to be landscaped. This effectively reduces the degree of deep soil landscaping and can present issues with future owners being unaware of the presence of the tank in this location. The tank must therefore be relocated under the driveway.*
- The design proposes a piped failure mode for the OSD tank. This is a compromised arrangement which is subject to fail (potential blockage of the overflow pipe). With the OSD tank to be relocated under the driveway, the discharge control pit is to be located adjoining the boundary frontage alignment and the driveway grades adjusted so as to ensure a fall is achieved from the pit to Rowe Street. Note that the nominated driveway boundary level on the architectural appears to be 500mm greater than existing, suggesting this amendment could readily be implemented.*

Note that the extent of hardstand area over the site would appear excessive which is contrary to a planning related development control.

The development is noted to have failed to satisfy the off-street parking requirements stipulated by Council's DCP and proposed to utilise the on-street parking surrounding the site. Whilst the submitted traffic report has attempted to demonstrate there is on-street parking available, the configuration is at the detriment to the surrounding community and therefore the environmental impacts must be taken into account. It is to be noted that the transfer of pickup / set movements in the public domain presents a compromise to the safety of pedestrian movements."

Environmental Health

Council's Environmental Health Officer has reviewed the proposal and has made the following comments:

ITEM 2 (continued)

“With the land having always been used for residential use there is no particular concern for land contamination. Likewise, the site is not in close proximity to main roads or industrial areas that would give rise to concerns about air pollution.

It is proposed to have 2x240L garbage containers and 2x240L recycling containers for waste management. No specific storage area has been nominated other than locating them in the kitchen. This location would not be acceptable. A separate specifically designed room or area would need to be provided in accordance with Council’s DCP. Conditions have been recommended.

Noise impact on the centre is not expected to be significant given the residential location. The impact from the centre in terms of noise from the outdoor play areas, plant and equipment and traffic to and from the centre is the greater concern.

The noise impact report (Far West Consulting Engineers, Ref: 173312; 3 October, 2018) submitted with the application concludes that the proposal will be satisfactory if the outdoor play areas are surrounded on the boundaries with a noise barrier capable of mitigating the noise by 25dB(A), in this case a 1.8m high 20mm lapped/capped timber fence.

The predicted noise levels at the boundaries from the children playing outside were shown to be above the levels set for the proposal. So long as the noise barrier achieves the achieves the 25dB(A) mitigation it will sufficient to comfortably achieve the levels required.

The management of children’s play is crucial to mitigating the noise impact on neighbours. The implementation of a plan of management for this aspect will be necessary and has been included in the noise impact report.

The barrier should also be useful in mitigating noise from ground based plant or equipment such as air conditioning condensers depending on their siting of course.

It should be noted though that the noise barrier also has been recommended for the play area in the front of the house. A fence of this height may not possible in this area. As such, further clarification from the noise consultant should be sought about how the properties to the west will be adequately protected.

Comment in the report regarding traffic noise described vehicle movements into and out of the development by staff accessing the basement carpark, others using the small number of carparking spaces on the front of the property and the small amount of street parking that might occur directly in front no. 330. The report concludes that the level of noise that would be

ITEM 2 (continued)

expected from the vehicles is such that the barriers for the outdoor play areas would also provide a screen the vehicle noise. This is a reasonable assumption.

Given the small amount of parking available on and directly in front of the site it is possible that there may be noise and inconvenience to other premises in the neighbourhood and not just the immediate neighbours. While the frequency of these movements will be restricted to mainly the morning and afternoon drop off and pick up times. The noise impact report does not consider this aspect of traffic movements generally and further clarification from the noise consultation should be sought.

The fitout for the kitchen must comply with the relevant standards and it should be noted, given this is a heritage building, that ducting to the exterior of the building maybe required for exhaust systems.

Recommendation

That the Manager Environmental Assessment be advised the proposal is unsatisfactory for the following reasons:

Insufficient information has been provided which clearly validates that the acoustic amenity of the neighbouring properties will be maintained. In particular, given the small amount of onsite visitor parking that may be protected by the barrier in place for the play area at the front of the property as well as little information about vehicle parking that will occurring in the surrounding streets and the possible impact to those residents. Additionally, the report requires the barrier fence to extend along the boundary of the play are at the front. As this area is in front of the building line it has not been clarified if such a fence is permissible.”

External Referrals**NSW Police:**

NSW Police have reviewed the proposal and have made the following comments:

“The Ryde Crime Prevention Officer has reviewed the development application.

*In the statement of environmental effects, the applicant stated that;
"The design of the centre complies with the standards for Crime Prevention Through Environmental Design. This includes the provision of suitable lighting, CCTV systems, designed to stop hiding places and ensuring clear lines of sight are provided;"*

Crime Prevention Through Environmental Design (CPTED) is a crime prevention strategy that focuses on the planning, design and structure of cities and

ITEM 2 (continued)

neighbourhoods. It reduces opportunities for crime by using design and place management principles that reduce the likelihood of essential crime ingredients from intersecting in time and space.

CPTED employs four key strategies. These are surveillance, access control, territorial re-enforcement and space/activity management. Police recommend that the applicant adhere to the CPTED principles as suggested in the Statement of Environmental Effects.

The following are suggested recommendations:

- The areas around the entrances and communal areas should be well lit and all lighting should be designed to Australian and New Zealand Lighting standards.*
- Sensor lighting should be installed into areas that may be areas of concealment.*
- It is recommended that for security reasons that the basement car parking areas have some type of security gate or security roller shutter that can be closed to prevent people loitering in the car park and to prevent crimes such as malicious damage, stealings, assaults and sexual assaults.*
- All areas should be fitted with doors that comply with Australian Design Standards.*
- The locks fitted to the doors should be of a high quality and meet the Australian design standards.*
- Any glass within these doors should be laminated to enhance the physical security of the doors.*

The New South Wales Police have a vital interest in ensuring the safety of members of the community and their property. By using the recommendations contained in this evaluation, any person who does so acknowledges that:

- 1. It is not possible to make areas evaluated by the NSW Police absolutely safe for members of the community or their property.*
- 2. It is based upon the information provided to the NSW Police at the time the evaluation was made.*
- 3. The evaluation is a confidential document and is for use by the consent authority or organizations referred to on page 1 only.*
- 4. The contents of this evaluation are not to be copied or circulated otherwise than for the purposes of the consent authority or organization referred to on page 1.*

The NSW Police hopes that by using the recommendations contained in this document, criminal activity will be reduced and the safety of members of the community and their property will be increased. However, it does not guarantee that all risks have been identified, or that the area evaluated will be free from criminal activity if its recommendations are followed.”

ITEM 2 (continued)**11. Conclusion**

After consideration of the proposed development against the relevant section of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is considered unsuitable for the site and is not in the public interest.

The development application is recommended for refusal for the following reasons:

1. The proposal is considered to have an adverse impact on the heritage significance of the site and is not considered a compatible use for the heritage item, necessitating the removal of significant fabric, a loss of landscaped garden setting and curtilage, and adverse visual and physical impacts.
2. The proposed alterations and additions to the existing building do not achieve a satisfactory built form that is appropriate in terms of bulk and scale.
3. The proposed built form is not considered to reflect the existing character of the surrounding area, nor does it contribute to the existing streetscape.
4. The proposed development fails to meet all principles of the SEPP (Educational Establishments and Child Care Facilities) 2017.
5. The site is incapable of providing the minimum onsite parking required in accordance with Council's DCP requirements.
6. In accordance with Council's DCP requirements, the size of the proposed child care centre exceeds the preferred small scale (under 50 places) centre within a low residential zone, and is therefore considered to be an overdevelopment of the site.
7. The proposed development will generate on-street parking that will impact the safety of Rowe Street.
8. Inadequate information has been submitted which demonstrates acoustic analysis and measures will address acoustic concerns raised.
9. Insufficient information has been submitted which satisfies Council's On-site Detention and Stormwater Management controls.
10. The applicant's arborist has failed to outline the full impact of the proposed works on all trees to be retained.
11. The proposed design does not achieve a landscape outcome which positively contributes to the landscape character of the streetscape and neighbourhood and fails to preserve the majority of existing trees on the site.
12. Insufficient details have been provided to ensure stormwater pipes and proposed cut will not adversely impact trees.
13. Inadequate information has been submitted which to successfully determine that the amenity to neighbouring properties will be maintained in regard to noise and privacy.

12. Recommendation

That Development Application LDA2019/18 for the demolition of existing double

ITEM 2 (continued)

garage, alterations and additions to an existing dwelling for the use of a child care centre for 66 Children with basement car parking (6 car spaces) and 3 at-grade car parking space at 330 Rowe Street, Eastwood, be refused for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposal fails to meet all of the Design Quality Principles of the Child Care Planning Guideline of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 in particular:

Child Care Guideline - Principle 1 – Context

The development will not contribute positively to its context in that it will adversely impact on the streetscape and traffic safety in the immediate area.

Child Care Guideline Principle 2 – Built Form

The proposed alterations and additions to the existing building do not achieve a satisfactory built form that is appropriate in terms of bulk and scale.

The proposed built form is not considered to reflect the existing character of the surrounding area, nor does it contribute to the existing streetscape.

Child Care Guideline Principle 4 – Sustainability

It is considered that adequate natural and ventilation cannot be achieved as the acoustic report submitted with the application states that in order to achieve acceptable noise levels, all windows and doors are required to remain shut. Therefore the proposed centre will rely on mechanical ventilation increasing heating and cooling loads and operation costs.

Child Care Guideline Principle 5 – Landscape

The proposed design does not achieve a landscape outcome which positively contributes to the landscape character of the streetscape and neighbourhood, and fails to preserve the majority of existing trees on the site. In this regard, insufficient details have been provided to ensure stormwater pipes and proposed excavation will not adversely impact all affected trees.

Child Care Guideline Principle 6 – Amenity

There is insufficient information to satisfy Council that acoustic amenity of the neighbours will be maintained. Furthermore, the applicant has not provided hourly shadow diagrams validating the exact extent of solar access to the eastern play area.

ITEM 2 (continued)

The proposed development also fails to satisfy the following controls in the Child Care Planning Guideline, Part 3, Matters for Consideration:

- 3.1 - Site Section and Location (C1& C2)
- 3.2 – Local Character, streetscape & public domain interface (C5)
- 3.3 – Building Orientation, envelope, building design and accessibility (C11, C12 & 15)
- 3.4 – Landscaping (C18 & C19)
- 3.8 – Traffic, parking & pedestrian circulation (C31 & C32)

The proposed development also fails to satisfy the following controls in the Child Care Planning Guideline, Part 4, Applying the National Regulations to Development Proposals:

- 4.1 - Storage
 - 4.4 – Natural ventilation
 - 4.6 – Nappy change
 - 4.11 – Shade
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposal does not achieve compliance with the aims 1.2(2)(d) and (g) of the RLEP 2014, or compliance with Clause 5.10 of the RLEP 2014. In particular, the proposal is considered to have an adverse impact on the heritage significance of the site and is not a compatible use for the heritage item. Furthermore, the structural integrity of the heritage item will be potentially adversely impacted due to the excavation works proposed in such close proximity to the footings of the dwelling. It is also considered that the development will not contribute positively to its context in that it will adversely impact on the streetscape and road safety in the immediate area.
 3. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposal does not satisfy Section 2.1.1 Preferred locations in Part 3.2 of the Ryde Development Control Plan 2014 as the proposal is located within a low density residential area, therefore smaller scale development (under 50 child care places) are preferred, however the proposed child care facility is seeking approval for a 66 child care place facility, which is considered to be an overdevelopment of the site.
 4. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposal does not satisfy Sections 2.3 and 2.4 in Part 7.2 – Waste Minimisation and Management - of the Ryde Development Control Plan 2014 as the proposal does not indicate a collection point for waste collection on the plans submitted with the development application. Furthermore, a waste disposal facility has not been identified for the disposal of excavated materials within the SWMMP.

ITEM 2 (continued)

5. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposal does not satisfy Sections 2.3 in Part 9.3 – Parking Controls - of the Ryde Development Control Plan 2014 as the proposal fails to provide the minimum number of on-site car parking spaces required.
6. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposal does not satisfy Part 9.5 – Tree Preservation - of the Ryde Development Control Plan 2014 as the proposal fails to maintain the amenity of the area preserved through the preservation of trees and other vegetation. In this regard, the proposed OSD system within the front setback area has a negative impact on deep soil planting. Furthermore, the Arborist Report submitted with the application fails to take into account the impact of the stormwater works and excavation on the trees to be retained, and has failed to provide root investigations of Tree 29 to satisfactorily determine if this tree can be retained.
7. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposal does not satisfy Part 7.2 of the Ryde Development Control Plan 2014 as the proposal does not satisfy the On-site Detention calculation requirements and the piped failure mode for the OSD tank is a compromised arrangement and considered unacceptable.
8. Insufficient evidence has been submitted with the application to demonstrate that an acceptable level protection of acoustic and visual privacy of adjoining properties will be maintained. In particular:
 - Insufficient information has been submitted in relation to the extent of the excavation and its potential impact upon the structural adequacy of the heritage item.
 - Insufficient perimeter planting has been provided along the western boundary adjacent to the adjoining dwelling to ensure direct overlooking is minimized.
 - Insufficient information has been provided which clearly validates that the acoustic amenity of the neighbouring properties will be maintained. The acoustic report states that “Architectural plan shows the proposed child care centre includes two (2) rooms will be used for indoor playing areas”. This is incorrect that as the architectural plans show four (4) indoor play areas, therefore the acoustic report needs to validate that the 4 indoor play areas have been considered in the noise assessment results, and that they will not be altered as a result of the proposed situation.
 - It also states that basement parking of (9) spaces for child drop off & pickup and staff should be considered as another noise source associated with the operation of the proposal. However the basement will be used for staff only and provides only six (6) spaces. Therefore, the acoustic report needs to validate that the external parent/visitor parking within the front setback area, and on Rowe Street, will not alter the noise assessment results.

ITEM 2 (continued)

9. The plans contain inconsistencies and fail to provide the following information:
- The position of the north point on a number of plans is incorrect.
 - The architectural plans do not reflect features on the heritage item such as balustrading on the front verandah and chimneys, which are proposed to be retained and maintained;
 - Air conditioning will be provided, however the air conditioning units are not shown on the architectural plans.
 - An inconsistency between the architectural plan and stormwater plan exists as the architectural plans do not portray the proposed drainage measures.
10. The proposal will have a detrimental impact on both the natural and built environments pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.
11. The site is not suitable for the proposal pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
12. The proposal will have a detrimental effect on the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

- 1 Child Care Planning Guideline and National Quality Standards
- 2 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Natalie Camilleri
Senior Town Planner

Report Approved By:

Tony Collier
Senior Coordinator - Major Development

Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

ITEM 2 (continued) **ATTACHMENT 1**
Child Care Planning Guideline and National Quality Framework Assessment
Checklist

330 Rowe Street, Eastwood (LDA2019/18)

Requirement	Proposed	Complies
Part 2 - Design quality principles		
Principle 1 – Context		
<p>Good design responds and contributes to its context, including the key natural and built features of an area, their relationship and the character they create when combined.</p> <p>It also includes social, economic, health and environmental conditions.</p> <p>Well-designed child care facilities respond to and enhance the qualities and identity of the area including adjacent sites, streetscapes and neighbourhood.</p> <p>Well-designed child care facilities take advantage of its context by optimising nearby transport, public facilities and centres, respecting local heritage, and being responsive to the demographic, cultural and socio-economic makeup of the facility users and surrounding communities.</p>	<p>The proposed child care centre will not contribute positively to its context in that it will adversely impact on the streetscape due to the provision of at grade car parking within the front setback. The insufficient parking results in concerns relating to traffic safety in the immediate area, which isn't responsive to the facility's users and surrounding communities.</p> <p>Furthermore, the proposal does not respect the local heritage item located on the site. In this regard, the scale, intensity and nature of the use has not been appropriately designed to enable the heritage significance of "Berrilee" to be protected.</p>	No
Principle 2 - Built form		

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Requirement	Proposed	Complies
<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the surrounding area.</p> <p>Good design achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Good design also uses a variety of materials, colours and textures.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p> <p>Contemporary facility design can be distinctive and unique to support innovative approaches to teaching and learning, while still achieving a visual appearance that is aesthetically pleasing, complements the surrounding areas, and contributes positively to the public realm.</p>	<p>The proposed height of the alterations to the existing building complies with the maximum height set out in RLEP 2014 and is considered appropriate.</p> <p>The proposed alterations and additions to the existing building do not achieve a satisfactory built form that is appropriate in terms of bulk and scale. This is reflected along the eastern and southern boundary of the site where the car parking structure and use of the roof for outdoor play area will have an adverse impact on the streetscape and amenity of the adjoining properties.</p> <p>The proposed built form is not considered to reflect the existing character of the surrounding area, nor does it contribute to the existing streetscape.</p>	<p>No</p>
Principle 3 – Adaptive learning spaces		
<p>Good facility design delivers high quality learning spaces and achieves a high level of amenity for children and staff, resulting in buildings and associated infrastructure that are fit-for-purpose, enjoyable and easy to use. This is achieved through site layout, building design, and learning spaces fit-out.</p> <p>Good design achieves a mix of inclusive learning spaces to cater for all students and different modes of learning. This includes appropriately designed physical spaces offering a variety of settings, technology and opportunities for interaction.</p>	<p>It is considered that the external learning space is appropriately designed to cater for adaptive learning.</p> <p>There are a mixture of play spaces, such as a mud kitchen, stepping stone path through the garden, sandpit and camp site which allows for sensory experiences and opportunities for interaction in a variety of settings.</p>	<p>Yes</p>
Principle 4 – Sustainability		
<p>Sustainable design combines positive environmental, social and economic outcomes.</p> <p>This includes use of natural cross ventilation, sunlight and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and re-use of materials and waste, use of sustainable materials and</p>	<p>It is considered that inadequate natural ventilation will be achieved as all sliding doors and windows will be closed to achieve noise criteria.</p> <p>It is noted that air conditioning will be provided, however the air conditioning units are not shown on the plans.</p>	<p>No</p>

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Requirement	Proposed	Complies
<p>deep soil zones for groundwater recharge and vegetation.</p> <p>Well-designed facilities are durable and embed resource efficiency into building and site design, resulting in less energy and water consumption, less generation of waste and air emissions and reduced operational costs.</p>		
Principle 5 – Landscape		
<p>Landscape and buildings should operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Well-designed landscapes make outdoor spaces assets for learning. This includes designing for diversity in function and use, age-appropriateness and amenity. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p>	<p>Landscaping comments have been provided by Council's Landscape Architect regarding insufficient perimeter planting and the arborist's failure to outline the full impact of the proposed works on all trees to be retained.</p> <p>The proposed design does not achieve a landscape outcome which positively contributes to the landscape character of the streetscape and neighbourhood and fails to preserve the majority of existing trees on the site.</p> <p>The functionality of the play areas is considered satisfactory in terms of age-appropriateness and amenity.</p> <p>Based on the information before Council at this time, it is considered that the proposal is unable to be supported.</p>	No
Principle 6 – Amenity		
<p>Good design positively influences internal and external amenity for children, staff and neighbours. Achieving good amenity contributes to positive learning environments and the well-being of students and staff.</p> <p>Good amenity combines appropriate and efficient indoor and outdoor learning spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, service areas and ease of access for all age groups and degrees of mobility.</p> <p>Well-designed child care facilities provide comfortable, diverse and attractive spaces to learn, play and socialise.</p>	<p>There is insufficient information to satisfy Council that acoustic amenity of the neighbours will be maintained. Furthermore, the applicant has not provided hourly shadow diagrams validating the exact extent of solar access to the eastern play area.</p> <p>The outdoor play area provides acceptable stimulation and visual interest which results in an acceptable level of amenity for the children.</p>	<p>Insufficient information provided.</p> <p>Yes</p>
Principle 7 - Safety		
<p>Good child care facility design balances safety and security with the need to create a welcoming and accessible environment. It provides for quality public and private spaces that are inviting,</p>	<p>The proposed child care centre satisfactorily incorporates passive surveillance and Crime Prevention Through Environmental Design (CPTED) principles. In this regard, the design of the centre includes the provision of suitable lighting,</p>	Yes

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Requirement	Proposed	Complies
clearly defined and allow controlled access for members of the community. Well-designed child care facilities incorporate passive surveillance and Crime Prevention Through Environmental Design (CPTED).	CCTV, allows clear lines of sight and limits potential hiding places of intruders.	
Part 3 - Matters for consideration		
3.1 Site selection and location		
C1. For proposed developments in or adjacent to a residential zone, consider: <ul style="list-style-type: none"> • the acoustic and privacy impacts of the proposed development on the residential properties • the setbacks and siting of buildings within the residential context • traffic and parking impacts of the proposal on residential amenity. 	Due to potential acoustic impacts on adjoining properties, traffic safety and negative impacts as a result of providing insufficient parking, the proposed development is considered unacceptable.	No
C2. When selecting a site, ensure that: <ul style="list-style-type: none"> • the location and surrounding uses are compatible with the proposed development or use • the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards • there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed • the characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> - size of street frontage, lot configuration, dimensions and overall size - number of shared boundaries with residential properties - the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas 	It is considered that the site is unsuitable for the type of development proposed as there is inadequate, convenient and safe parking for its visitors. Furthermore, the proposed parking within the front setback area dominates the streetscape. The site is considered environmentally safe and is not affected by flooding, land slip, bushfires or coastal hazards. The site has historically been used for residential use and is not located in close proximity to any known contaminated land.	No
C3. A child care facility should be located: <ul style="list-style-type: none"> • near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship • near or within employment areas, town centres, business centres, shops • with access to public transport including rail, buses, ferries • in areas with pedestrian connectivity to the local community, businesses, shops, 	The proposed childcare centre is located within the vicinity of Brush Park Bowling Club, Eastwood Public School, St Phillips Anglican Church Eastwood and Eastwood town centre shopping precinct. The site is also within 500m walk to bus stops located on Terry Street and approximately within 1km from Eastwood Public School and Eastwood Railway Station.	Yes

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Requirement	Proposed	Complies
services and the like.		
<p>C4. A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:</p> <ul style="list-style-type: none"> • proximity to: <ul style="list-style-type: none"> - heavy or hazardous industry, waste transfer depots or landfill sites - LPG tanks or service stations - water cooling and water warming systems - odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses 	<p>The proposed childcare centre is not located nearby land uses which cause adverse environmental conditions that could potentially cause offensive noise or odour.</p>	<p>Yes</p>
3.2 Local character, streetscape and the public domain interface		
<p>C5. The proposed development should:</p> <ul style="list-style-type: none"> • contribute to the local area by being designed in character with the locality and existing streetscape • reflect the predominant form of surrounding land uses, particularly in low density residential areas • recognise predominant streetscape qualities, such as building form, scale, materials and colours • include design and architectural treatments that respond to and integrate with the existing streetscape • use landscaping to positively contribute to the streetscape and neighbouring amenity • integrate car parking into the building and site landscaping design in residential areas. 	<p>The proposed built form is not acceptable because it does not:</p> <ul style="list-style-type: none"> • recognise the predominant streetscape qualities, such as vastly planted pervious front setback areas; • use landscaping to positively contribute to the streetscape and neighbouring amenity; and • integrate car parking into the building and site landscaping design. 	<p>No</p>
<p>C6. Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> • fencing to ensure safety for children entering and leaving the facility • windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community • integrating existing and proposed landscaping with fencing. 	<p>Existing front fencing and hedge will be retained to provide clear transition between public and private areas.</p> <p>Suitable fencing and gates have been integrated into the landscape design to ensure safety for the children entering and exiting the site.</p> <p>Passive surveillance to the street is provided from existing verandah and windows of the dwelling.</p>	<p>Yes</p>
<p>C9. Front fences and walls within the front setback should be constructed of visually permeable materials and treatments.</p> <p>Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be</p>	<p>As the site is listed as a heritage item, the existing front fence and hedge will be retained. The development proposes a 1.2m high metal palisade pool fence to be construction behind the hedge. This fencing is considered appropriate for the Heritage item.</p>	<p>Yes</p>

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Requirement	Proposed	Complies
designed in accordance with local heritage provisions.		
C10. High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary.	A 1.8m high acoustic fence along the eastern and western side boundaries will be provided and screened with landscaping.	Yes
3.3 Building orientation, envelope, building design and accessibility		
C11. Orient a development on a site and design the building layout to: • ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: - facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties - placing play equipment away from common boundaries with residential properties - locating outdoor play areas away from residential dwellings and other sensitive uses • optimise solar access to internal and external play areas • avoid overshadowing of adjoining residential properties • minimise cut and fill • ensure buildings along the street frontage define the street by facing it • ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.	<p>The overall height of the basement wall and acoustic fence along the eastern and southern elevations are excessive and out of character.</p> <p>In terms of the external noise levels, all assumptions have been based on a fence height of 1.8m, which is considered to be out of character for the play area forward of the building line.</p> <p>Acceptable solar access is provided to the neighbouring residential properties, however overshadowing to eastern play area has not been properly considered.</p> <p>The child care facility faces the street and the above basement outdoor play area can accommodate appropriate measures so that it is protected from wind and other climatic conditions.</p>	No
C12. The following matters may be considered to minimise the impacts of the proposal on local character: • building height should be consistent with other buildings in the locality • building height should respond to the scale and character of the street • setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility - provide adequate access for building maintenance and be consistent with the existing character.	As noted above, the overall height of the basement wall and acoustic fence along the eastern and southern boundaries are excessive. It is considered that the proposed design is inconsistent with the existing character.	No
C13. Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.	The existing dwelling is setback from the front boundary by 15.5m (as measured to the existing bedroom 2 window), which is consistent with other dwellings in Rowe Street.	Yes

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Requirement	Proposed	Complies
C14. On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.	Whilst there are no setback provisions that apply to child care centres, it is considered that the rear setback of the eastern play area is not acceptable – see discussion in the main report.	No
C15. The built form of the development should contribute to the character of the local area, including how it: <ul style="list-style-type: none"> • respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage • contributes to the identity of the place • retains and reinforces existing built form and vegetation where significant • considers heritage within the local neighbourhood including identified heritage items and conservation areas • responds to its natural environment including local landscape setting and climate • contributes to the identity of place. 	The built form is not considered to contribute to the character of the local area for reasons outlined in the main report.	No
C16. Entry to the facility should be limited to one secure point which is: <ul style="list-style-type: none"> • located to allow ease of access, particularly for pedestrians • directly accessible from the street where possible • directly visible from the street frontage • easily monitored through natural or camera surveillance • not accessed through an outdoor play area. • in a mixed-use development, clearly defined and separate from entrances to other uses in the building. 	There is one pedestrian access point off Rowe Street. It is located between the visitor car spaces and the front play area, which provides a ramp/stairs leading to the entry door. A chair lift is also proposed. This is considered to be safe and gives direct access from the street. As the entry is raised, it will be visible from the street frontage.	Yes
C17. Accessible design can be achieved by: <ul style="list-style-type: none"> • providing accessibility to and within the building in accordance with all relevant legislation • linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry • providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. 	Accessibility will be provided to the building in accordance with the Premises Standards Access Code. A Building Code of Australia Compliance Report (dated 13 November 2018) has been submitted with the application, prepared by Greenfield Certifiers Pty Ltd. The report concludes that the building can comply with the BCA without significant changes to the base design, and an alternative solution may be required for the first floor in relation to travel distance.	Yes, at CC stage
3.4 Landscaping		
C18. Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by: <ul style="list-style-type: none"> • reflecting and reinforcing the local context • incorporating natural features of the site, 	See landscaping comments above – not considered acceptable.	No

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such as trees, rocky outcrops and vegetation communities into landscaping.		
C19. Incorporate car parking into the landscape design of the site by: <ul style="list-style-type: none"> • planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings • taking into account streetscape, local character and context when siting car parking areas within the front setback • using low level landscaping to soften and screen parking areas 	Three (3) at-grade parking spaces are proposed. As the site is listed as a Heritage item retention of the existing landscaping within the front setback would contribute better to both the streetscape and local context.	No
3.5 Visual and acoustic privacy		
C21. Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through: <ul style="list-style-type: none"> • appropriate site and building layout • suitably locating pathways, windows and doors • permanent screening and landscape design. 	The indoor and outdoor play spaces are not visible from public areas.	Yes
C22. Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through: <ul style="list-style-type: none"> • appropriate site and building layout • suitable location of pathways, windows and doors • landscape design and screening. 	As discussed within the landscape comments, the landscape design fails to minimise overlooking. In this regard, there is a gap in the garden beds along the southern and western boundaries adjacent to adjoining dwellings.	Yes
C23. A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should: <ul style="list-style-type: none"> • provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence). • ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure. 	The acoustic fence recommended by the acoustic consultant is a 20mm 1.8m high lapped and capped fence which extents around the site at east, west and south (rear) boundaries. Details of mechanical plant or equipment have not been provided.	Yes Insufficient information provided.

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Requirement	Proposed	Complies
<p>C24. A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> • identify an appropriate noise level for a child care facility located in residential and other zones • determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use • determine the appropriate height of any acoustic fence to enable the noise criteria to be met. 	<p>An acoustic report has been submitted with the development application. Council's Environmental Health officer has reviewed the report and states that "<i>The noise impact report (Far West Consulting Engineers, Ref: 173312; 3 October, 2018) submitted with the application concludes that the proposal will be satisfactory if the outdoor play areas are surrounded on the boundaries with a noise barrier capable of mitigating the noise by 25dB(A), in this case a 1.8m high 20mm lapped/capped timber fence.</i></p> <p><i>The predicted noise levels at the boundaries from the children playing outside were shown to be above the levels set for the proposal. So long as the noise barrier achieves the achieves the 25dB(A) mitigation it will sufficient to comfortably achieve the levels required.</i></p> <p><i>The management of children's play is crucial to mitigating the noise impact on neighbours. The implementation of a plan of management for this aspect will be necessary and has been included in the noise impact report.</i></p> <p><i>The barrier should also be useful in mitigating noise from ground-based plant or equipment such as air conditioning condensers depending on their siting of course.</i></p> <p><i>It should be noted though that the noise barrier also has been recommended for the play area in the front of the house. If a fence of this height is not possible in this area, then further clarification from the noise consultant should be sought about how the properties to the west will be adequately protected."</i></p> <p>Note: There are inconsistencies in the acoustic report which need to be clarified to validate that the external parent/visitor parking within the front setback area and on Rowe Street, and the number of indoor play areas, will not alter the noise assessment results.</p> <p>On this basis it is considered that insufficient evidence has been submitted for Council to determine for certain that acoustic privacy of adjoining properties will be maintained.</p>	<p>Yes</p>
<p>3.6 Noise and air pollution</p>		
<p>C25. Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> • creating physical separation between buildings and the noise source • orienting the facility perpendicular to the 	<p>Acoustic measures have been recommended in the acoustic report which will minimise the impacts of noise to the proposed child care centre. As stated above, due to inconsistencies in the submitted documentation submitted with</p>	<p>Yes</p>

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Requirement	Proposed	Complies
<p>noise source and where possible buffered by other uses</p> <ul style="list-style-type: none"> • using landscaping to reduce the perception of noise • limiting the number and size of openings facing noise sources • using double or acoustic glazing, acoustic louvres or enclosed balconies (winter-gardens) • using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits • locating cot rooms, sleeping areas and play areas away from external noise sources. 	<p>the development application, it is difficult to determine if noise generated by the proposed child care centre will be sufficiently mitigated.</p>	
<p>C27. Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</p>	<p>The subject site is located where the potential impact of external sources of air pollution such as major roads and industrial development is minimal.</p>	<p>Yes</p>
<p>C28. A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines. The air quality assessment report should evaluate design considerations to minimise air pollution such as:</p> <ul style="list-style-type: none"> • creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution • using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway • incorporating ventilation design into the design of the facility. 	<p>The site is located within a low-density residential area which is not within close proximity to any external sources resulting in sources of air pollution that would impact upon the children attending the proposed child care centre.</p>	<p>Yes</p>
<p>3.7 Hours of Operation</p>		
<p>C29. Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7am to 7pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.</p>	<p>The proposed hours of operation are:-</p> <p>7am to 6pm Monday to Friday for 52 weeks of the year</p> <p>It is intended to be closed on weekends and public holidays.</p>	<p>Yes</p>
<p>3.8 Traffic, parking and pedestrian circulation</p>		

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Requirement	Proposed	Complies
C31. Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.	A total of 9 off street car spaces will be provided which does not comply with Council's DCP requirements. See discussion regarding parking under the Part 9.3 Parking heading in the main report.	No
C33. A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that: <ul style="list-style-type: none"> • the amenity of the surrounding area will not be affected • there will be no impacts on the safe operation of the surrounding road network. 	<p>A Traffic and Parking Study has been submitted. Council's Development Engineer has reviewed the report and confirms that the development has failed to satisfy the off-street parking requirements stipulated by Council's DCP, which could potentially result in road safety concerns, as well as compromise to the safety of pedestrian movements.</p> <p>The report has also been reviewed by an external Traffic Consultant who has raised concerns with the proposal.</p>	No
C36. The following design solutions may be incorporated into a development to help provide a safe pedestrian environment: <ul style="list-style-type: none"> • separate pedestrian access from the car park to the facility • defined pedestrian crossings included within large car parking areas • separate pedestrian and vehicle entries from the street for parents, children and visitors • pedestrian paths that enable two prams to pass each other • delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities • in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas • vehicles can enter and leave the site in a forward direction. 	<p>A lift together with stairs is provided as separate pedestrian access from the basement car park up to the child care centre.</p> <p>A defined pedestrian ramp is included within the front setback area and provides for separate pedestrian and vehicle entries from the street (for parents, children and visitors).</p> <p>The architectural plans illustrate that the entry pedestrian ramp is able to accommodate two prams passing each other.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
C38. Car parking design should: <ul style="list-style-type: none"> • include a child safe fence to separate car parking areas from the building entrance and play areas • provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards • include wheelchair and pram accessible parking. 	<p>The proposed parking area in the front setback area has been designed so that a safety fence separates the building entrance and play areas from the car park.</p> <p>Accessible parking is provided at grade, which is the closest location to the primary entrance.</p>	Yes
Part 4 – Applying the National Regulations to development proposals		
4.1 Indoor space requirements (Regulation 107)		
Regulation 107 Education and Care Services National Regulations Every child being educated and cared for within	<p>Required: 66 children x 3.25m² = 214.5m²</p> <p>Provided = 219m² broken into the following areas:</p>	Yes

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Requirement	Proposed	Complies
a facility must have a minimum of 3.25m ² of unencumbered indoor space.	Indoor play area Age 0-2 = 42m ² Indoor play area Age 2-3 = 53m ² Indoor play area Age 2-3 = 59m ² Indoor play area Age 3-5 = 65m ²	
Storage Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide: • a minimum of 0.3m ³ per child of external storage space • a minimum of 0.2m ³ per child of internal storage space.	External storage required: 66 x 0.3m ³ = 19.8m ³ There is insufficient information to determine the size of the outdoor store room. Internal storage required: 66 x 0.2m ³ = 13.2m ³ Provided =27m ³	Insufficient information provided Yes
4.2 Laundry and hygiene facilities		
Regulation 106 Education and Care Services National Regulations There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children.	A laundry room is provided.	Yes
On site laundry On site laundry facilities should contain: • a washer or washers capable of dealing with the heavy requirements of the facility • a dryer • laundry sinks • adequate storage for soiled items prior to cleaning • an onsite laundry cannot be calculated as usable unencumbered play space for children.	Fit out details are not shown on the plans, the proposed laundry appears to be capable of compliance with this requirement.	Capable of compliance
4.3 Toilet and hygiene facilities		
Regulation 109 Education and Care Services National Regulations A service must ensure that adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.	Details regarding age appropriate toilet facilities are not provided and would be dealt with prior to issue of a Construction Certificate.	CC stage requirement
Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants. Design considerations could include: • junior toilet pans, low level sinks and hand drying facilities for children • a sink and	Details outlining compliance with this requirement would be dealt with prior to issue of a Construction Certificate.	CC stage requirement

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Requirement	Proposed	Complies
<p>handwashing facilities in all bathrooms for adults • direct access from both activity rooms and outdoor play areas • windows into bathrooms and cubicles without doors to allow supervision by staff • external windows in locations that prevent observation from neighbouring properties or from side boundaries.</p>		
4.4 Ventilation and natural light		
<p>Regulation 110 Education and Care Services National Regulations Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children. Child care facilities must comply with the light and ventilation and minimum ceiling height requirements of the <i>National Construction Code</i>. Ceiling height requirements may be affected by the capacity of the facility.</p>	<p>Compliance with the relevant requirements of the NCC would be dealt with prior to issue of a Construction Certificate.</p>	<p>CC stage requirement</p>
<p>Ventilation Good ventilation can be achieved through a mixture of natural cross ventilation and air conditioning. Encouraging natural ventilation is the basis of sustainable design; however, there will be circumstances where mechanical ventilation will be essential to creating ambient temperatures within a facility. To achieve adequate natural ventilation, the design of the child care facilities must address the orientation of the building, the configuration of rooms and the external building envelope, with natural air flow generally reducing the deeper a building becomes. It is recommended that child care facilities ensure natural ventilation is available to each indoor activity room.</p>	<p>Acoustic report states that “<i>Interior sound design is assess with assumption that all sliding doors and windows are closed</i>”. Therefore natural ventilation will not be achieved.</p>	<p>No</p>
<p>Natural light Solar and daylight access reduces reliance on artificial lighting and heating, improves energy efficiency and creates comfortable learning environments through pleasant conditions. Natural light contributes to a sense of well-being, is important to the development of children and improves service outcomes. Daylight and solar access changes with the time of day, seasons and weather conditions. When designing child care facilities consideration should be given to: • providing windows facing different orientations • using skylights as appropriate • ceiling heights.</p>	<p>Windows are provided along each elevation of the proposed centre and will provide satisfactory access to natural light to indoor play areas. An acceptable level of natural light will be provided to achieve compliance with this requirement.</p>	<p>Yes</p>
4.5 Administrative space		

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Requirement	Proposed	Complies
Regulation 111 Education and Care Services National Regulations A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.	An office is provided and located on the ground floor. The meeting room found on the first floor, and can be used for consulting with parents and conducting private conversations.	Yes
4.6 Nappy change facilities		
Regulation 112 Education and Care Services National Regulations Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children. Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the <i>National Construction Code</i> .	A nappy change area is not shown on the plans.	No
4.7 Premises designed to facilitate supervision		
Regulation 115 Education and Care Services National Regulations A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity. Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the <i>National Construction Code</i> .	All rooms and facilities can be closed off and facilitate supervision.	Yes
4.8 Emergency and evacuation procedures		
Regulations 97 and 168 Education and Care Services National Regulations Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including: <ul style="list-style-type: none"> • instructions for what must be done in the event of an emergency • an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit • a risk assessment to identify potential emergencies that are relevant to the service. 	An emergency and evaluation plan has been provided.	Yes
4.9 Outdoor space requirements		
Regulation 108 Education and Care Services National Regulations An	Outdoor spaces, both shaded and unshaded are proposed. The required amount of outdoor space	Yes

ITEM 2 (continued)

ATTACHMENT 1

Requirement	Proposed	Complies
education and care service premises must provide for every child being educated and cared for within the facility to have a minimum 7.0m ² of unencumbered outdoor space.	= 66 x 7sqm = 462m ² , and a total of 469m ² outdoor space is proposed. This is split into two areas (see Figure 15 in main report): Area 1: 212m ² Area 2: 257m ²	
Verandahs as outdoor space Where a covered space such as a verandah is to be included in outdoor space it should: • be open on at least one third of its perimeter • have a clear height of 2.1 metres • have a wall height of less than 1.4 metres where a wall with an opening forms the perimeter • have adequate flooring and roofing • be designed to provide adequate protection from the elements	N/A	N/A
4.10 Natural environment		
Regulation 113 Education and Care Services National Regulations The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.	The species selection within the outdoor play spaces is varied and offers a range of textures, colours and scents for the children's learning experience and sensory richness.	Yes
4.11 Shade		
Solar access Controlled exposure to daylight for limited periods is essential as sunlight provides vitamin D which promotes healthy muscles, bones and overall wellbeing. Outdoor play areas should be provided with controlled solar access throughout the year. Outdoor play areas should: • have year-round solar access to at least 30 per cent of the ground area, with no more than 60 per cent of the outdoor space covered. • provide shade in the form of trees or built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area • have evenly distributed shade structures over different activity spaces.	The play area located along the eastern side of the existing building will be overshadowed by the neighbouring two storey dwelling.	Insufficient information provided
Natural shade Natural shade should be a major element in outdoor play areas. Trees with dense foliage and wide-spreading canopies provide the best protection. Existing stands of trees, particularly in rear setbacks, should be retained to provide shaded play areas. Species that suit local soil and climatic conditions and the character of the environment are recommended.	There are several trees at various locations around the outdoor play areas which will produce natural shade.	Yes
Built shade structures Built structures providing effective shade include: •	Shading is provided using shade sails.	Yes

ITEM 2 (continued)

ATTACHMENT 1

Requirement	Proposed	Complies
permanent structures (pergolas, sails and verandahs) • demountable shade (marquees and tents) • adjustable systems (awnings) • shade sails.		
4.12 Fencing		
Regulation 104 Education and Care Services National Regulations Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age, including a family day care venue where all children are over preschool age.	A 1.8m high solid barrier is proposed along each of the boundaries surrounding the outdoor play areas in accordance with the recommendation set out in the acoustic report.	Yes
Fencing at child care facilities must provide a secure, safe environment for children and minimise access to dangerous areas. Fencing also needs to positively contribute to the visual amenity of the streetscape and surrounding area. In general, fencing around outdoor spaces should: • prevent children climbing over, under or through fences • prevent people outside the facility from gaining access by climbing over, under or through the fence • not create a sense of enclosure.	The proposed fencing is secured, however does not contribute to the visual amenity of the streetscape.	No
Design considerations for side and rear boundary fences could include: • being made from solid prefinished metal, timber or masonry • having a minimum height of 1.8 metres • having no rails or elements for climbing higher than 150mm from the ground. Fencing and gates should be designed to ensure adequate sightlines for vehicles and pedestrian safety in accordance with Australian Standards and Roads and Maritime Services Traffic Management Guidelines. Gates should be designed to prevent children leaving/entering unsupervised by use of childproof locking systems	Side and rear boundary fences are 20mm capped and lapped timber fencing 1.8m high.	Yes
4.13 Soil assessment		
Regulation 25 Education and Care Services National Regulations Subclause (d) of regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval. With every service application one of the following is required: • a soil assessment	A soil assessment for the subject site has not been submitted, however the following statement has been made in the Statement of Environmental Effects: <i>"The site has never been used for any industrial or commercial purpose in the past that would have contaminated the soil."</i>	Yes

ITEM 2 (continued)

ATTACHMENT 1

Requirement	Proposed	Complies
for the site of the proposed education and care service premises • if a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken • a statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.	<p><i>A desk top search confirms the above. Also, Council's planning records do not indicate that the site is contaminated."</i></p> <p>A check of Council's records has confirmed this statement, and therefore it is considered satisfactory.</p>	

National Quality Framework Assessment Checklist		
Regulation	Proposed	Complies (tick or cross)
104. Fencing or barrier that encloses outdoor spaces. Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. Note: This clause does not apply to a centre-based service primarily for children over preschool age or a family day care residence or venue for over preschool age	The submitted plans show that fences are to be provided on all sides of the outdoor plan area.	✓
106. Laundry and hygiene facilities The proposed development includes laundry facilities or access to laundry facilities OR explain the other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage of soiled clothing, nappies and linen prior to their disposal or laundering. Laundry/hygienic facilities are located where they do not pose a risk to children	The proposed development will include its own on-site laundry facilities.	✓
107. Unencumbered indoor space The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child. Refer to regulation 107 of the Education and Care Services National Regulation for further information on calculating indoor space.	<p>Total area required 66 Children: 214.5m²</p> <p>Indoor play area Age 0-2 = 42m² Indoor play area Age 2-3 = 53m² Indoor play area Age 2-3 = 59m² Indoor play area Age 3-5 = 65m²</p> <p>Total area provided –219m²</p>	✓
108. Unencumbered outdoor space The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child. Refer to regulation 108 of the Education and Care Services National Regulation for further	<p>Total area required 66 Children: 462m²</p> <p>Area 1: 212m² Area 2: 257m²</p> <p>Total area provided – 469m²</p>	✓

ITEM 2 (continued)

ATTACHMENT 1

National Quality Framework Assessment Checklist		
Regulation	Proposed	Complies (tick or cross)
information on calculating outdoor space, and for different requirements for out-of-school-hours care services.		
109. Toilet and hygiene facilities The proposed development includes adequate, developmentally and age-appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service. The location and design of the toilet, washing and drying facilities enable safe and convenient use by the children.	Toilets and hand basins indicated on plan	✓
110. Ventilation and natural light The proposed development includes indoor spaces to be used by children that — • will be well ventilated; and • will have adequate natural light; and • can be maintained at a temperature that ensures the safety and well-being of children.	The proposed indoor space will receive adequate natural light and will be mechanically ventilated with no natural ventilation	✗
111. Administrative space The proposed development includes an adequate area or areas for the purposes of conducting the administrative functions of the service; and consulting with parents of children; and conducting private conversations. Note: This space cannot be included in the calculation of unencumbered indoor space – see regulation 107	An office area is provided on the ground floor of the proposed Child Care Centre. A staff room is provided on the first floor away from areas used by children.	✓
112. Nappy change facilities (To be completed only if the proposed development is for a service that will care for children who wear nappies) The proposed development includes an adequate area for construction of appropriate hygienic facilities for nappy changing including at least one properly constructed nappy changing bench and hand cleansing facilities for adults in the immediate vicinity of the nappy change area. The proposed nappy change facilities can be designed and located in a way that prevents unsupervised access by children	Nappy change facilities are not shown on plans	✗
113. Outdoor space—natural environment The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.	Outdoor spaces indicated on landscape plans	✓
114. Outdoor space—shade The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from	Satisfactory shaded areas are provided using shade sails	✓

ITEM 2 (continued)

ATTACHMENT 1

National Quality Framework Assessment Checklist		
Regulation	Proposed	Complies (tick or cross)
the sun.		
115. Premises designed to facilitate supervision The proposed development (including toilets and nappy change facilities) are designed in a way that facilitates supervision of children at all times, having regard to the need to maintain the rights and dignity of the children.	Childcare care designed to facilitate supervision	✓

3 34 CLANALPINE STREET, EASTWOOD - CONSTRUCTION OF A MULTI-DWELLING HOUSING DEVELOPMENT CONTAINING FIVE (5) DWELLINGS UNDER THE PROVISIONS OF STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING). 2009 - LDA2018/0392

Report prepared by: Creative Planning Solutions

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

Report dated: 3 April 2019

**City of Ryde
Local Planning Panel Report**

DA Number	LDA2018/0392
Site Address & Ward	34 Clanalpine Street, Eastwood Lot 2 in Deposited Plan 5132
Zoning	R2 Low Density Residential Zone
Proposal	Construction of a multi-dwelling housing development containing 5 dwellings (1x4 bedroom and 4x2 bedroom dwellings) under the provisions of <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i> .
Lodgement Date	8 October 2018
Property Owner / Applicant	Qing Rong Deng
Report Author	Tyson Ek-Moller – Consultant Town Planner (CPS)
No. of Submission	Twenty-five (25)
Cost of Works	\$1,638,036.00
Reason for Referral to RLPP	Contentious development – (b) in any other case – is the subject of 10 or more unique submissions by way of objection - <i>Schedule 1, Part 2 of Local Planning Panels Direction</i> <i>and</i> Departure from development standards – contravention of the building height development standard by more than 10% -

ITEM 3 (continued)

	<i>Schedule 1, Part 3 of Local Planning Panels Direction</i>
Recommendation	Refusal
Attachments	Attachment 1: Compliance Table Attachment 2: Clause 4.6 variation request in respect to height Attachment 3: A3 Plans

1. Executive Summary

The subject development application (DA No. LDA2018/0392) was lodged on 8 October 2018 and seeks consent for the construction of a multi-dwelling housing development containing five (5) dwellings (1 x four-bedroom dwelling and 4 x two-bedroom dwellings) pursuant to *State Environmental Planning Policy (Affordable Rental Housing) 2009*. Demolition of existing structures on the site is not proposed, neither is subdivision.

The application was advertised in accordance with the provisions of the *Ryde Development Control Plan 2014* (RDCP2014), and twenty-five (25) submissions (containing thirty-three (33) names) were received, all of which objected to the proposed development.

The application was internally referred to Council's Heritage Advisor and Senior Development Engineer, while a Landscaping/Arborist referral was made to an external consultant. The last of these referrals was completed on 17 December 2018.

A detailed planning assessment of the submitted information identified a considerable number of issues with the proposal, including but not limited to significant variations to the building height development standard for multi dwelling housing under the *Ryde Local Environmental Plan 2014*, non-compliances with the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, as well as variations to key development controls contained within the *Ryde Development Control Plan 2014*. The result of the proposal's non-compliances with these controls is an overdevelopment of the site that is incompatible with the character of the local area.

A letter detailing these issues and requesting that the DA be withdrawn was sent to the applicant on 7 January 2019.

ITEM 3 (continued)

On 18 February 2019, Council advised the consultant town planner undertaking the assessment of the subject DA that the applicant was not intending to submit additional information, and to proceed with the preparation of the assessment report for determination by the Ryde Local Planning Panel.

On 28 February 2019 Council was advised that a Class 1 appeal against the deemed refusal of the DA has been lodged with the NSW Land and Environment Court.

Having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act*, it is recommended Development Application No. LDA2018/0392 be REFUSED for the reasons detailed in Section 11 of this assessment report.

2. The Site and Locality

The site is legally described as Lot 2 within Deposited Plan 5132 and is known as 34 Clanalpine Street, Eastwood. The subject site is rectangular in shape with an area of 1,011.4m². The front boundary of the site adjoins the Clanalpine Street road reserve, while all other boundaries adjoin neighbouring residential allotments. The subject site features a north-south orientation and contains a cross fall southeast to northwest (i.e. diagonal) of approximately 3.14 metres.



Figure 1 – Map location of the subject site (identified by the red border) and surrounding area.

Source: <https://maps.six.nsw.gov.au>

ITEM 3 (continued)

Existing development on the subject site consists of a two-storey detached dwelling house; the original dwelling is located towards the northern end of the site and presents to the public domain, while a newer single-storey section has been added to the rear. Other site works include a small shed/garage-type structure that is attached to the dwelling's western elevation and an in-ground swimming pool at the rear of the site. The remainder of the site largely consists of landscaped areas, and vehicular access is obtained via a driveway crossing that is located within the northwest corner of the site.

The subject site is located on the southern side of Clanalpine Street, and is approximately 140 metres south of the Eastwood Town Centre at its nearest point. Development within the surrounding area primarily consists of low-density residential development (i.e. detached dwelling houses, dual occupancies and multi-dwelling housing). Notable exceptions to such development patterns includes St Philips Anglican Church (29 Clanalpine Street; refer to Figure 9), which is located opposite the subject site. Eastwood Public School is also located within the general vicinity, approximately 130m north of the subject site at its nearest point. It should be noted that an uncovered bus stop is located within the public road reserve immediately in front of the subject site (refer to Figure 4).

ITEM 3 (continued)

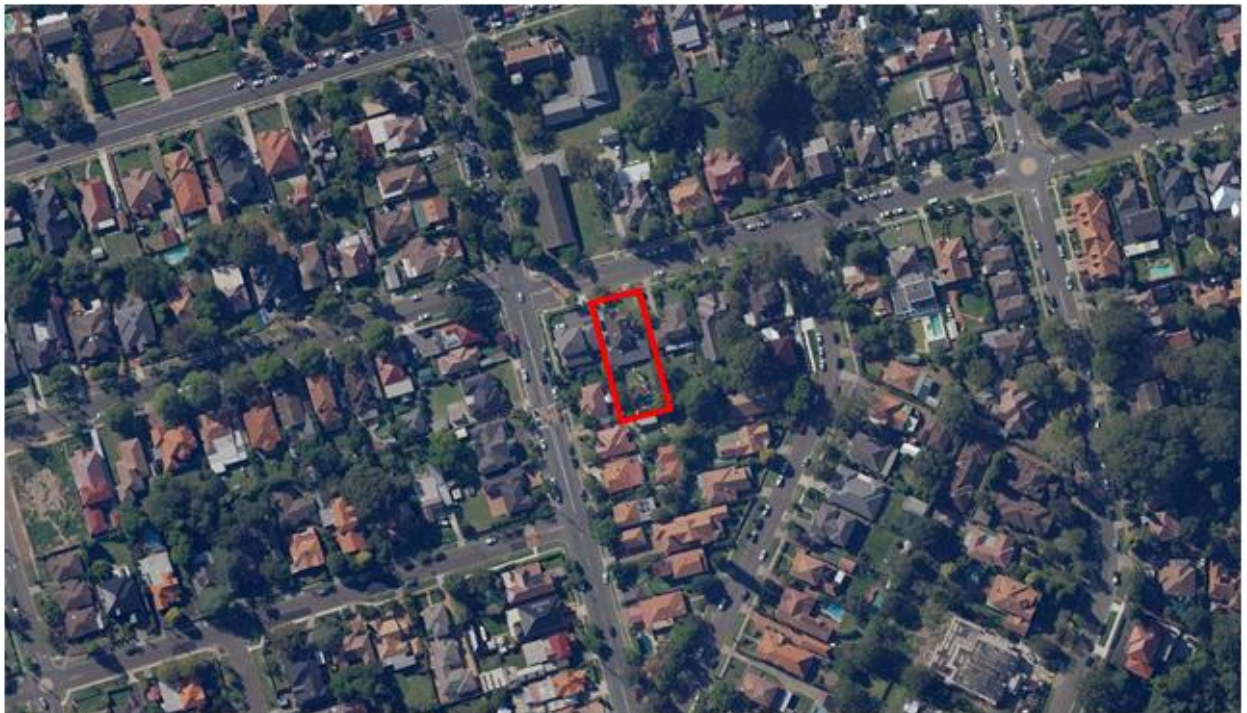


Figure 2 – An aerial photo of the subject site (identified by the red border) and surrounding area.
Source: <https://maps.six.nsw.gov.au>



Figure 3 – A closer aerial photo of the subject site (identified by the red border) and surrounding land.
Source: <https://maps.six.nsw.gov.au>

Due to the subdivision layout of surrounding land, there are four allotments that adjoin the subject site. Development on these sites is outlined as follows:

ITEM 3 (continued)

- 32 Clanalpine Street: This allotment adjoins the eastern boundary of the subject site. Development on this property consists of a two-storey detached dwelling house with an attached garage (refer to Figure 5).
- 26 Clanalpine Street: This allotment adjoins the northern portion of the subject site's western boundary. This is a corner allotment, and contains a modern two-storey dwelling house with an attached single-storey secondary dwelling (refer to Figure 6).
- 135 Shaftsbury Road: This allotment adjoins the southern portion of the subject site's western boundary. Development on this property consists of a single-storey detached dwelling house and a garage (attached to the dwelling's southern elevation and the northern elevation of the garage at 133 Shaftsbury Road) (refer to Figure 7).
- 133 Shaftsbury Road: This allotment adjoins the rear (i.e. southern) boundary of the subject site. Development on this property consists of a single-storey detached dwelling house. Other development includes a garage (attached to both the northern elevation of this dwelling and the southern elevation of the garage at 135 Shaftsbury Road) and a detached shed-like structure on the northern side of the rear setback (refer to Figure 8).



Figure 4 – The subject site, as viewed from the northern side (i.e. opposite side) of Clanalpine Street. Note the bus stop immediately in front of the site.

Source: CPS – Site Inspection, 16 October 2018

ITEM 3 (continued)



Figure 5 – 32 Clanalpine Street, as viewed from the northern (i.e. opposite) side of Clanalpine Street.
Source: CPS – Site Inspection, 16 October 2018



Figure 6 – 36 Clanalpine Street, as viewed from the northern (i.e. opposite) side of Clanalpine Street.
Source: CPS – Site Inspection, 16 October 2018

ITEM 3 (continued)



Figure 7 –135 Shaftsbury Road, as viewed from the adjoining Shaftsbury Road road reserve.
Source: Google – February 2013



Figure 8 – 133 Shaftsbury Road, as viewed from the adjoining Shaftsbury Road road reserve.
Source: Google – February 2013

ITEM 3 (continued)



Figure 9 –St Philip's Anglican Church at 129 Clanalpine Street, as viewed from the adjoining Clanalpine Street road reserve.

Source: Google – February 2013

The subject site and all adjoining land is located within the R2 Low Density Residential zone. The nearest zone boundary is an SP2 Infrastructure (Place of Public Worship) zone, which is approximately 20 metres north of the subject site and incorporates the St Philip's church complex.

The subject site is not affected by any significant environmental hazards or affectations (e.g. flooding, bushfire, or areas of ecological sensitivity, etc.). The subject site does not contain a heritage item nor is it within a heritage conservation area; it is however in close proximity to three (3) heritage items of local heritage significance, which are identified by Schedule 5 of *Ryde Local Environmental Plan 2014* (RLEP 2014) as follows:

- "The Rectory" (house) (Item No. 34), at 25 Clanalpine Street, Eastwood; this is approximately 20 metres north/northeast of the subject site.
- St Philip's (Item No. 35), at 29 Clanalpine Street, Eastwood. This address incorporates the entire church complex and is approximately 20 metres north of the subject site, however the allotment which includes the heritage-listed church is approximately 95 metres north/northwest of the subject site on the corner of Shaftsbury Road and Rutledge Street.

ITEM 3 (continued)

- Dwelling (Item No. 201), at 30 Clanalpine Street, Eastwood; this site is approximately 20 metres north/northwest of the subject site.

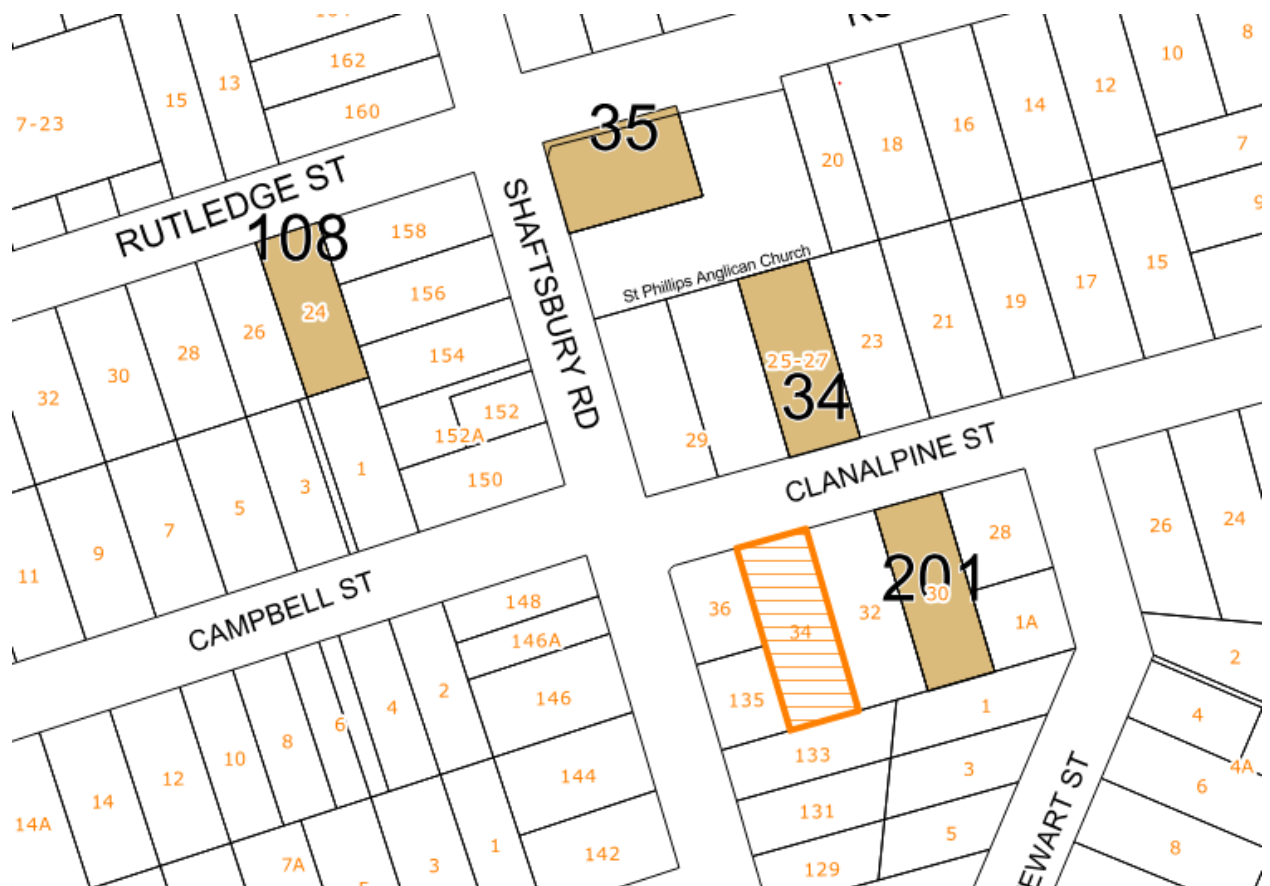


Figure 9A –Map location of subject site in relation to surrounding Heritage Items 34, 35 & 201
Source: Ryde Maps

3. The Proposal

The local development application LDA2018/0392 seeks consent for the construction of a multi-dwelling housing development containing five (5) dwellings (1 x four-bedroom dwelling and 4 x two-bedroom dwellings) pursuant to *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP).

Two (2) of the five dwellings (Units 2 and 3) would be dedicated as ‘affordable housing’ in line with the provisions of clause 17 of the ARHSEPP.

Consent has not been sought for subdivision of the proposed development.

The submitted information does not consistently indicate whether consent is sought for demolition of existing structures on the site; the submitted Statement of Environment Effects (SEE) indicates that demolition of structures is proposed, however the submitted DA form indicates that the subject application does not seek consent for demolition. As demolition fees have not been paid and the application has not been advertised as proposing demolition works, separate consent would

ITEM 3 (continued)

need to be sought for the demolition of structures on the site should the DA be approved.

Details and specifics of the proposal are as follows:

Unit 1

Unit 1 would be a four-bedroom dwelling, the layout of which is detailed as follows:

Ground floor:

The ground floor would contain an office/study, laundry, bathroom and two car garage, the opening of which would address the Clanalpine Street frontage. A large proportion of the ground floor would consist of an open plan kitchen/dining and living room area that would be located on the eastern side of the development. The open plan living area would adjoin a 43.7m² Private Open Space (POS) area within the eastern setback of the site.

First floor:

The first floor would contain four bedrooms; the master bedroom would contain an en-suite bathroom and a walk-in robe (WIR), in addition to a small (i.e. 1480mm x 6005mm) balcony that would overlook the front setback area. The other three bedrooms would each contain a built-in robe (BIR). A family room is proposed within the centre of the first floor in addition to a bathroom on the western side of this level.

Units 2 and 3

Units 2 and 3 would be two-bedroom dwellings, and are both nominated as 'affordable housing'. The internal layouts of these dwellings are mirrored and are detailed together as follows:

Ground floor:

The ground floors would each contain a study area integrated with the entrance area, in addition to a bathroom, laundry cupboard, and a single car garage, the opening of which would address the western boundary. The eastern section of the ground floor would contain of an open plan kitchen/dining and living room area. The open plan living area would adjoin a 30m² POS area within the eastern setback of the site.

First floor:

The first floors would each contain two bedrooms; the master bedroom would contain an en-suite bathroom, while both bedrooms would contain a BIR. A family room is proposed within the centre of the first floor in addition to a bathroom on the western side of both dwellings.

Unit 4

Unit 4 would be a two-bedroom dwelling, the layout of which is detailed as follows:

ITEM 3 (continued)Ground floor:

The ground floor would contain a study area integrated with the entrance area, in addition to a bathroom, laundry cupboard, and a single car garage, the opening of which would address the western boundary. The eastern section of the ground floor would contain of an open plan kitchen/dining and living room area. The open plan living area would adjoin a 30m² POS area within the eastern setback of the site.

First floor:

The first floor would contain two bedrooms; the master bedroom would contain an en-suite bathroom, while both bedrooms would contain a BIR. A family room is proposed within the centre of the first floor in addition to a bathroom on the western side of this level.

Unit 5

Unit 5 would be a two-bedroom dwelling, the layout of which is detailed as follows:

Ground floor:

The ground floor would contain a study area integrated with the entrance area, in addition to a bathroom, laundry cupboard, and a single car garage, the opening of which would address the western boundary. The eastern section of the ground floor would contain an open plan kitchen/dining and living room area. The open plan living area would adjoin a 50.6m² POS area within the eastern and southern (i.e. rear) setback of the site.

First floor:

The first floor would contain two bedrooms; the master bedroom would contain an en-suite bathroom, while both bedrooms would contain a BIR. A family room is proposed within the centre of the first floor in addition to a bathroom on the western side of this level.

In addition to the above, the following is proposed:

- A communal open space area (with an area of approximately 40m²) is proposed within the rear (i.e. southern) setback area.
- A communal bin storage area is proposed between the communal open space area and the southern elevation of Unit 5. This unroofed storage space would be large enough to contain seven (7) bins (three (3) recycle bins and four (4) garbage bins).
- A driveway would run along the western side of the site parallel to the western boundary. This would provide vehicular access to all proposed dwellings.
- Landscaped areas are proposed around the site.
- Five (5) trees, including one (1) street tree are proposed to be removed.
- Stormwater works would collect stormwater runoff and direct it to an OSD tank under the driveway within the northwest corner of the site.
- Earthworks involving cut and fill are proposed throughout the site.

ITEM 3 (continued)

4. Background

The subject DA was lodged with Council on 8 of October 2018.

The proposed development was advertised for twenty-one (21) days from 17 October 2018 until 7 November 2018. Advertising procedures included notification letters being sent to the owners of surrounding properties and an advertisement being placed in the *Northern District Times* on 17 October 2018.

In response to the DA notification, twenty-five (25) submissions containing the names of thirty-three people were received; all submissions objected to the proposed development. Multiple/duplicated submissions from individual addresses were excluded from the overall number of submissions, however all issues raised were considered by the planning assessment. A detailed response to the issues raised in the submissions is outlined in Section 9 of this report.

The preliminary assessment of the DA identified a number of issues that were considered incapable of being addressing via reasonable plan amendments. As such a letter recommending withdrawal of the DA was sent to the applicant on 7 January 2019. The issues outlined in the letter are included below:

- **Height of Buildings** – Council identified that Units 2, 3, 4 and 5 exceed the maximum height limit of 5m for units which do not have a road frontage as prescribed within Clause 4.3(A)2 of RLEP2014.

The clause 4.6 written request submitted to Council as part of the DA was not supported. Council advised the applicant that the written request failed to adequately address why compliance with the development standard is reasonable or necessary in the circumstances of the case and also failed to identify sufficient environmental planning grounds to justify contravening clause 4.3A(2) of RLEP2014. Further, advice to the applicant indicated that the “attics” as described by the applicant were not defined as such by the RLEP2014, and the proposal would constitute a continuous two-storey built form for the entirety of the building length.

- **Type of Dwellings** – Council’s assessment of the DA revealed that more than 75% of dwellings contained the same number of bedrooms which is non-compliant with Section 2.7 of Part 3.4 of RDCP2014. Council advised the applicant that the proposed development does not provide an appropriate mix of dwelling sizes to meet the needs of residents in the community.
- **Site Coverage** – The proposal failed to provide the minimum 35% pervious area across the site. Council’s initial assessment identified a pervious area of 29.96%.

ITEM 3 (continued)

Council's assessment identified the double width driveway and crossover presents a massing of hard landscaping treatments within the front setback which are not supported given its direct relation to the non-compliant pervious area across the site.

- **Ceiling Heights** – Council's assessment revealed that Units 2, 3, 4, and 5 included a noncompliant floor to ceiling height of less than 2.7m as required by Section 4.2 of Part 3.4 of RDCP2014. The applicant was advised that the non-compliance was a direct consequence of the design constraints associated with the pitched roof which had been incorrectly defined as an attic.
- **Front Fencing** – The applicant was advised that insufficient information was submitted in order to undertake an assessment of the front fencing arrangements in accordance with Section 4.5.1 of Part 3.4 of RDCP2014.
- **Landscape Architect Comments** – Council's Consultant Landscape Architect raised concerns in relation to driveway planting, privacy planting, driveway layout, impact to existing trees and the Arboricultural Impact Assessment submitted to Council.
- **Senior Development Engineer Comments** – Council's Senior Development Engineer raised concerns in relation to, visitor parking spaces, the vehicular crossing and swept pathway access.
- **Heritage Advisor Comments** – Council's Heritage Advisor is unsupportive of the proposed multi-dwelling housing development, given issues pertaining to adjoining and nearby heritage items, inconsistency within the streetscape, bulk and scale of the development, the elongated and deep building footprint and preservation of the existing dwelling on the site which contributes to the heritage elements of the streetscape.

On 18 February 2019, Council advised the consultant town planner undertaking the assessment of the subject DA that the applicant was not intending to submit additional information, and to proceed with the preparation of the assessment report for determination by the Ryde Local Planning Panel.

On 28 February 2019 Council was given notice of a Class 1 (Deemed Refusal) appeal which has been lodged with the NSW Land and Environment Court. The plans lodged with the appeal are the same as those originally lodged with the subject DA.

5. Planning Assessment**5.1 State Environmental Planning Instruments****State Environmental Planning Policy No. 55 – Remediation of Land**

ITEM 3 (continued)

Clause 7 of *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55) requires Council to consider whether the site is contaminated, and if so whether it is suitable for the proposed development purpose.

A contamination assessment has not been submitted with this application, however the site history indicates that the land has been used for residential purposes for an extended period of time (i.e. since at least the 1940s). Such a use and associated development are not typically associated with activities that would result in the contamination of the site.

Further to the site review, submitted information did not provide any information which suggests that the site may be contaminated.

With consideration to the above (and assuming that a separate proposal/consent for demolition appropriately dealt with the removal of hazardous materials (if any)), it is unlikely that the site is contaminated and would therefore be suitable for the proposed development.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The subject application has been lodged pursuant to *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP).

A detailed assessment of Part 2, Division 1 (In-fill affordable housing) of the ARHSEPP is contained within the compliance checklist attached to this assessment report. However a summary of how the assessment performs against this environmental planning instrument is covered below:

Clause 10 – Development to which this Division Applies

The proposed development is for multi dwelling housing, which is a form of development that is permissible with consent within the R2 zone under RLEP 2014.

Furthermore, the site does not contain a heritage item as identified by Schedule 5 of RLEP 2014.

The subject site is also located within an accessible area by virtue of the land being within 800m walking distance of Eastwood railway station – see Figure 10 below.

For the above reasons, the proposal is development to which Division 1 of the ARHSEPP applies.

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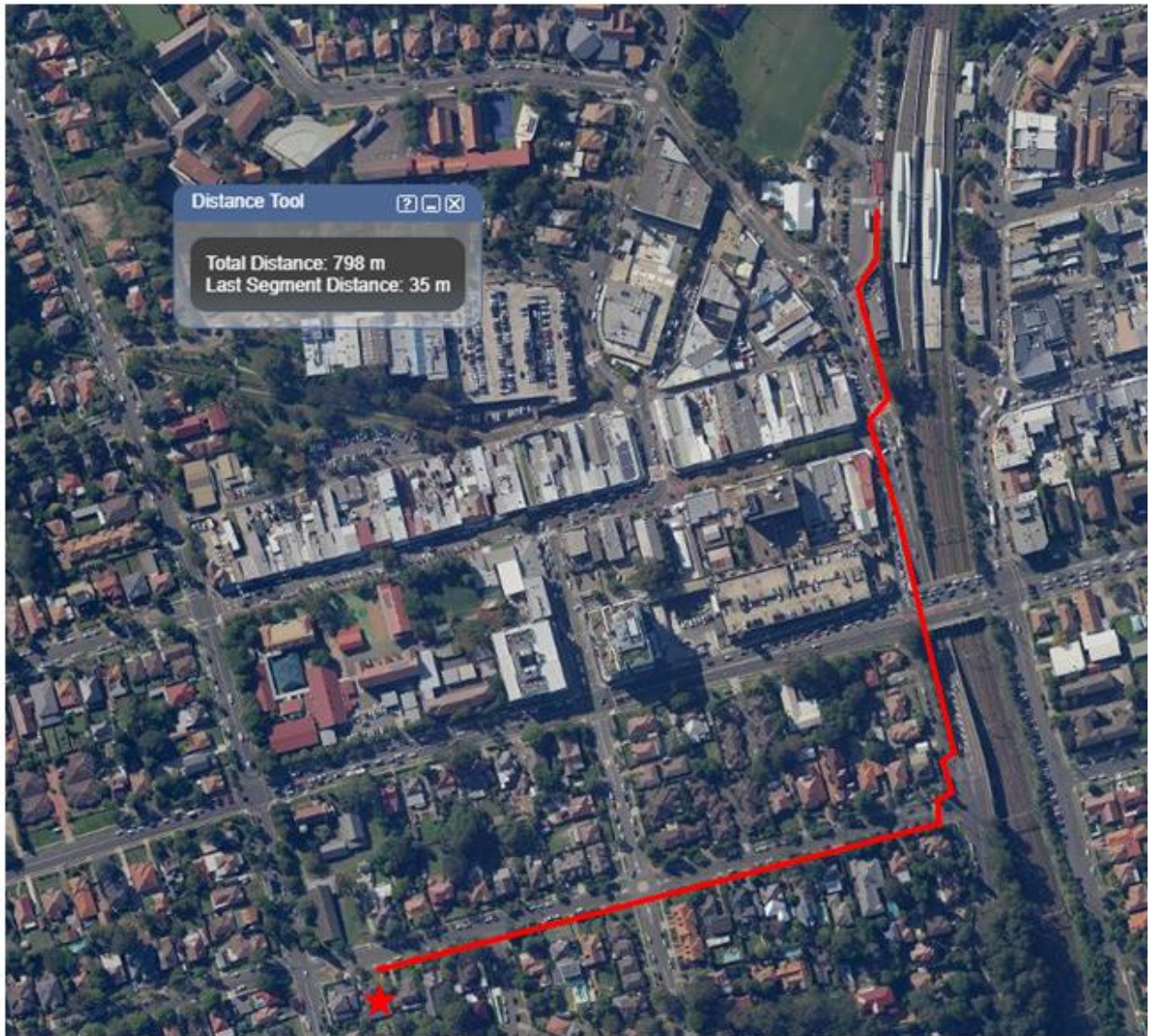


Figure 10 – A map overlay (indicated by the red line) showing the walking distance from the subject site (shown by the red star at the bottom left of the image) to the nearest railway station. The travel path utilises existing footpaths, pedestrian islands and pedestrian crossings.

Source: <https://www.legislation.nsw.gov.au/>

Clause 14 – Standards that cannot be used to refuse consent

Clause 14 of the ARHSEPP provides development standards which cannot be used to refuse consent to a DA proposed under Division 1. This includes development standards relating to site area, landscaped area, deep soil areas, solar access, parking and dwelling size.

With a site area of 1,011.4m², the subject site achieves the minimum 450m² site area standard prescribed by clause 14(1)(b) of the ARHSEPP.

Clause 14(1)(c) of the ARHSEPP outlines a minimum 30% of the site area is to be landscaped. Notably, the ARHSEPP does not specifically define landscape area, and

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as there is no 'landscape' definition contained within the SEPP, reference is made to the Standard Instrument definition of 'landscaped area' within RLEP 2014, which for reference reads as follows:

'means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.'

The landscaped area of the site has been calculated as 27.9% and therefore non-compliant with the above development standard.

It is noted that the proposal includes landscape strips either side of the driveway, which have widths of 500mm. These dimensions would not be suitable for the growth of larger vegetation and/or trees. The RDCP2014 otherwise prescribes that such landscape strips are to be a minimum of 1.2m wide.

Given that the 'landscaped area' definition requires that such areas be used for the growth of "*plants, grasses **and** trees*", such small spaces would be incapable of accommodating trees and as such would not be considered as 'landscape area' by the Standard Instrument definition.

Clause 14(1)(d) covers deep soil area, and a requirement that such areas be a minimum of 15% of the site area, have a minimum dimension of 3m, and if practicable at least two-thirds of the deep soil is to be at the rear of the site.

The proposed deep soil space is approximately 152.8m², or 15.1% of the site area. It should be noted that only 42.8% of deep soil areas would be located within the rear setback. While it is noted that the control indicates two-thirds of the deep soil space be provided within the rear of the site 'where practicable', the subject site does not contain any notable constraints that would otherwise inhibit this from being achieved, therefore the failure to satisfy the two-thirds provision is reflective of the proposal constituting an overdevelopment of the site.

Clause 14(1)(e) of the ARHSEPP provides solar access standards whereby at least 3 hours solar access is needed to living areas and private open space areas between 9am and 3pm at the winter solstice.

There is insufficient information to demonstrate that the development would enable adequate solar access to both POS *and* living areas.

Whilst the submitted shadow plans suggest that POS areas would likely receive adequate solar access, they do not show the impacts associated with:

- The eastern boundary fences atop of the retaining walls (heights of these structures are not indicated, however due to the excavation of the POS areas, the elevation/section plans suggest that these structures would be between 2.73-2.85 metres high); and
- Internal boundary fences.

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Further, there are no plans showing the level of internal solar access that would be obtained. The eastern eaves/overhangs would cover the western part of the POS areas; further, there would be a roof structure covering the POS area adjacent to the eastern elevation of the dwellings; the type of roof proposed has not been detailed, though even a pergola-style roof would likely filter the solar access to the living areas.

The solar access plans also indicate that areas beneath the eaves would already be overshadowed by 12:00pm on June 21, therefore it is unlikely that living areas would receive any solar access at this time and the minimum three hour requirement would not be met. Further, skylights above family rooms on the first-floor area contain an area of approximately 0.35m², and would therefore not provide an adequate amount of solar access to internal living areas on their own.

In summary, there is insufficient information to demonstrate that adequate solar access would be provided to residents of any of the dwellings.

Clause 14(2)(a) provides minimum parking rates, including at least 1 space per 2-bedroom dwelling and 1.5 spaces for dwellings containing 3 or more bedrooms. The proposal includes one four-bedroom dwelling and three two-bedroom dwellings. Therefore a total of 5.5 parking spaces is required, which is rounded up to 6 spaces according to the provisions of the RDCP2014. The proposal includes 6 car parking spaces and is therefore compliant.

Clause 14(2)(b) provides minimum dwelling sizes, including a gross floor area (GFA) minimum of 70m² for two-bedroom dwellings and 95m² for dwellings containing 3 or more bedrooms. An assessment of the GFA for each dwelling reveals that the proposal achieves compliance with this standard. For a detailed breakdown of each dwelling's GFA reference should be made to the attached compliance checklist.

Clause 15 – Design Requirements

Clause 15 of the ARHSEPP covers that a consent authority must not consent to development to which Division 1 applies unless it has taken into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004*.

A detailed assessment of the proposal against these guidelines has been untaken, and is contained within the attached compliance checklist.

As is shown within the aforementioned compliance checklist, the proposed development is largely inconsistent with the design guidelines, particularly with regard to:

- Analysis of neighbourhood character;
- Site Planning and design;

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- Trees, landscaping and deep soil zones;
- Impacts on streetscape; and
- Residential amenity.

Clause 16A – Character of the Local Area

Clause 16A indicates that a consent authority must not consent to development to which Division 1 applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

In response to Clause 16A of the ARHSEPP, the applicant's SEE contains a 'Character Test', detailing why the proposal is considered to be "...consistent with the design, form and scale of development along Clanalpine Street and in the vicinity of the site and the scale of development planned of the locality...". For reference, the SEE's assessment is as follows:

- I. The form and scale of the building – 1 – 2 storeys, the landscape presentation to the street and articulated facade ensures the development proposal is compatible with the form and scale of the existing multi-dwelling housing within the visual catchment of the subject site and recently approved development adjoining the site.*
- II. The development has a front setback that aligns with the adjoining buildings creating a landscaped front setback contributing to the residential character and landscape setting of Clanalpine Street. The proposal includes deep soil landscape areas within the front, side and rear setbacks aiding separation to the adjoining properties.*
- III. The subject site is zoned R2 – Low Density Residential under the Ryde LEP 2014 and multi dwelling housing development is a permissible land use. The planning controls nominate a maximum height of 9.5m for the site, however an additional control nominates a maximum height of 5m for dwellings in a multi dwelling housing development that do not have a road frontage. The building form complies with the maximum height of 9.5m however the dwellings at the rear of the site present a variation to the 5m maximum height noting the upper level has been designed within a roof form. The height across the site is consistent with the building heights of adjoining development.*
- IV. The proposed building setbacks generally comply with the setback controls for multi dwelling housing contained in Ryde DCP providing sufficient landscape corridors between properties consistent with the prevailing character of the low density residential zone.*

Further, the SEE states that:

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“The planning principle in Project Venture Developments Pty Ltd v Pittwater Council can be used as a reference in determining the compatibility of the proposal against the character of the local area. The building form and character of the development is compatible with development under the R2 – Low Density Residential zone. In the Project Venture matter it was accepted that buildings can exist together in harmony without having the same density, scale or appearance. The contemporary 1 – 2 storey building form is acceptable for the low density character/zoning of the locality noting the context of the site and proximity to the Eastwood town centre.”

An assessment of the proposal has found however that the development would not complement the existing streetscape, and be incompatible with the character of the local area.

As with the SEE’s assessment, reference is made to the planning principles associated with *Project Venture Developments v Pittwater Council [2005] NSWLEC 191*, specifically, paragraph 26 reads as follows:

*“For a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment. In some areas, planning instruments or urban design studies have already described the urban character. In others (the majority of cases), the character needs to be defined as part of a proposal’s assessment. The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by **building height, setbacks and landscaping**. In special areas, such as conservation areas, **architectural style and materials** are also contributors to character.”*

Whilst no issue is raised with the maximum height of Unit 1 (which complies with the height requirements of clause 4.3(2) of RLEP 2014), the height of the remainder of the development is excessive and substantially breaches the height standard imposed by clause 4.3A(2) of RLEP 2014 (see below). As assessed below, the significant and non-compliant height, bulk and scale is carried right through the entirety of the building; the length of the non-complying section (excluding protruding elements such as the balcony) equates to 64.8% of the site.

As is reflected by the applicant’s own 3D modelling (see below), the height, bulk and scale of the development is massively inconsistent with existing development on surrounding sites. Due to the significant height and scale that would be carried through the site, Units 2-5 would be clearly visible:

- From Clanalpine Street when the site is viewed from an angle (as shown by the applicant’s 3D modelling below); and
- From the Shaftsbury Road road reserve:
 - Between the dwellings at 36 Clanalpine Street and 135 Shaftsbury Road; and
 - Over the top of the single-storey dwelling at 135 Shaftsbury Road.

ITEM 3 (continued)

Whilst not shown in the applicant's modelling, the character and scale of other development within Clanalpine Street largely reflects that of development on surrounding sites and numerous heritage items within the vicinity of the site (refer to the assessment of Clause 5.10 of RLEP 2014 below).

It is agreed that the front setbacks of the site are consistent with RDCP2014 requirements (see below), however the proposed landscaping treatments are non-compliant, inappropriately dimensioned and do not reflect landscaping layouts on surrounding sites. The proposed layout of the front setback would include a very large (i.e. 71m²) paved area that would present prominently to the public domain. This is exacerbated by the proposed removal of all trees on the site and also a large tree within the road reserve, the latter of which would be as a consequence of the excessively wide driveway crossing and entrance. Contrary to the claims of the applicant's planner, the presence of this expansive paved area would prevent the planting of any large vegetation within the northwest corner of the site that may otherwise assist in screening and filtering the bulky development from Clanalpine Street (as is reflected in the models below). Further, the non-compliant landscaped areas within the side setbacks would prevent the establishment of any trees/larger vegetation that could assist in screening the development from surrounding property; such an issue would be particularly evident on the western side of the site, as the small/non-compliant landscaped areas (which are largely a result of non-complying setbacks on the western elevation) would prevent the establishment of any significant landscaping.

With further regard to the planning principles associated with *Project Vulture v Pittwater*, the architectural style of the development is also inconsistent with the surrounding area and the prevalent architectural style of which consists of early 20th century dwellings. As indicated by Council's Heritage Advisor, the existing dwelling has "*a high contributory value... to the established streetscape character and the heritage items within the vicinity.*" If the dwelling is unable to be retained, then the heritage referral states that "*...it is necessary to consider the suitability of the replacement built form and any new built form must be of a very high design quality, given the sensitivity of the streetscape and the subject site.*"

The proposed built form is considered of an architectural language, form and detailing that is not contextually responsive and is visually discordant with the prevalent housing typology and forms. This is demonstrated through:

- The differing roof pitch, being of a lower pitch to the established pattern in the streetscape.*
- The elongated and deep building footprint which exacerbates the building bulk and scale and prevents visual transparency of the site and a sense of building separation.*
- The double garage door on the front elevation, as it is a visually dominant feature of the streetscape and carparking facilities and structures are consistently subservient features of the sites within the streetscape.*

ITEM 3 (continued)

- *The architectural language of the front elevation incorporates a range of competing features and stylistic influences which adds to the visual ‘busyness’ with insufficient articulation and modulation to reflect the traditional housing forms in the streetscape.”*

It is acknowledged that multi-dwelling housing is permitted with consent in the R2 zone, and given the prevalent character of the area it is considered likely that the design of a multi-dwelling housing development would differ considerably when compared to existing development (i.e. detached dwelling houses). The applicant’s design has not however considered the specific design characteristics of the local area and the adverse visual impacts that would be associated with the proposal. Such impacts would be exacerbated by a highly non-compliant design that is inconsistent with the character of the area and the heritage value of the locality; further, the layout of the site (which includes non-compliant setbacks and insufficiently proportioned landscaped areas) would not enable the highly-prominent visual impact of the development to be reduced from both surrounding sites and the public domain.

As such, the design does not appropriately respond to the character of the local area, and this forms one of the recommended reasons for refusal of the DA.



Figure 11 - A 3D perspective of the proposal, looking down onto the proposed multi-dwelling development from the southeast.

Source: submitted with DA by applicant.

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Figure 12 - A 3D perspective of the proposal, as viewed from the northwest of the site within the Clanalpine Street road reserve. The viewpoint is within the road corridor in front of the adjoining site (i.e. 36 Clanalpine Street, which is visible to the far right of the image).

Source: submitted with DA by applicant.



Figure 13 - A 3D perspective of the proposal, as viewed from the northeast of the site within the Clanalpine Street road reserve. The viewpoint appears to be taken from the northern side of the road reserve in front of the adjoining site (i.e. 34 Clanalpine Street, which is visible to the far left of the image).

Source: submitted with DA by applicant.

Ryde Local Environmental Plan 2014

Permissibility

The subject site is within an R2 Low Density Residential zone under the provisions of the *Ryde Local Environmental Plan 2014* (RLEP2014) – refer to **Figure 14** below. The proposed development is most appropriately defined as ‘residential accommodation’, and more specifically as ‘multi dwelling housing’, which is permitted with consent in the R2 zone pursuant to RLEP 2014.

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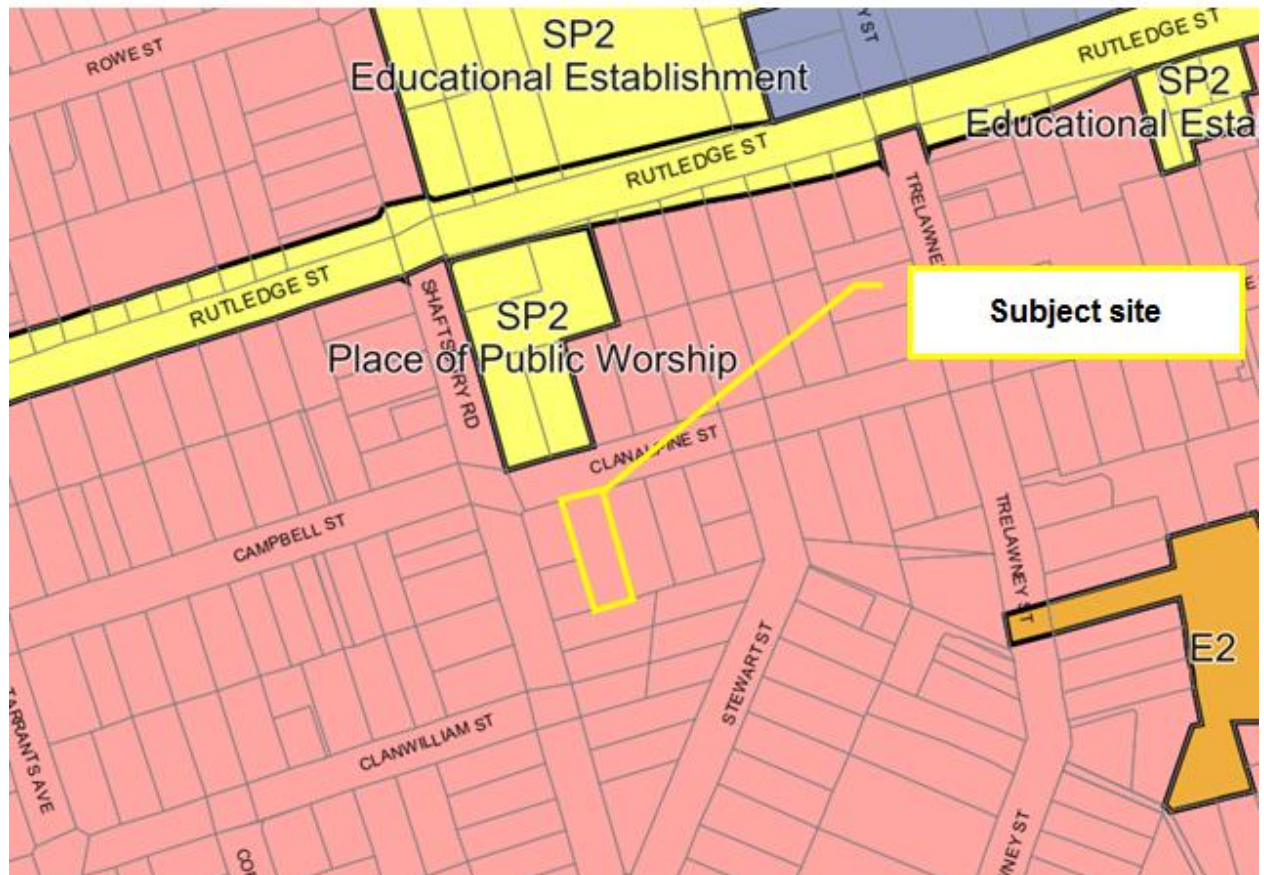


Figure 14 – RLEP2014 Zoning map extract.
Source: <https://www.legislation.nsw.gov.au/>

Objectives of the R2 – Low Density Residential zone:

The objectives of the R2 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.

With regard to the above, the proposed development would satisfy the second and third objectives, as it would be unlikely to affect the ability of surrounding sites to accommodate land uses that could provide facilities or services to meet the day-to-day needs of residents, and would introduce multi dwelling housing to an area that is dominated by dwelling houses.

However, the proposal would not satisfy the first objective of the R2 zone for the following respective reasons:

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- Whilst the proposal would provide for the housing needs of members of the community, the development has not been designed in a manner that is consistent with a low-density residential environment. As a large, bulky development with a contemporary architectural style, the height, bulk and scale of the proposal is significantly greater than that of surrounding development and is subsequently out of character with the local area; which consists predominately of detached dwelling houses that are predominantly of an early-to-mid 20th century character and design.

Part 4 – Principal Development Standards*Clause 4.1B Minimum lot sizes for dual occupancies & multi-dwelling housing*

Clause 4.1B prescribes a minimum lot size of 900m² with a minimum road frontage of 20 metres for multi dwelling housing development in the R2 zone. The site has a lot area of 1,011.4m² and a road frontage of 20.115 metres, and therefore complies with this development standard. It is noted however the provisions of the ARHSEPP prescribe a minimum site area of 450m².

Clauses 4.3 & 4.3A – Height of buildings

Clause 4.3 prescribes a building height control of 9.5m for the subject site. The proposal includes a maximum building height of 9.2 meters (measured from the ridge (RL 87.8) to the respective ground level at the front of the development).

Clause 4.3A prescribes exceptions to the height of buildings standard, specifically that the maximum height of a multi dwelling housing on land in Zone R2 Low Density Residential is 5 metres for any dwelling that does not have a road frontage.

Units 2-5 do not address a road frontage, and as such a five-metre height limit applies to these dwellings; Units 2-5 however all breach this height limit, with a maximum proposed height of 8.46 metres (measured to the parapet; the maximum height to the ridge RL would be 8.43 metres). This equates to a maximum 3.46 metre, or 69.2% variation to the five-metre height standard.

A written request to vary the standard pursuant to Clause 4.6 of RLEP 2014 has been submitted with the subject application, and is considered within the assessment of Clause 4.6 of RLEP 2014 below.

With regard to the building height, the submitted variation request states the following:

“The proposed building has a maximum height of 9.04m measured to the top of roof form of the front dwelling. The dwellings at the rear have a maximum height of 7.88m – 8.13m which present a variation of 2.88m – 3.13m to the maximum height limit for dwellings that do not have a road frontage.”

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Due to the sloped topography of the site and the variable heights of the roof ridges and parapets, the height of the building and the size of the variation is varied. This assessment found that the maximum heights of Units 2-5 vary between 7.83 and 8.46 metres. The applicant did not provide information identifying the location(s) of the largest height breaches; it was found by this assessment that the maximum breaches of the height standard were located:

- Within the northern-most section of Unit 2 (i.e. the roof ridge adjacent to the parapet separating Units 1 and 2); and
- The ridge of the parapet separating Units 2 and 3.

Reference is made to the assessment of the proposal against clause 4.6 of the RLEP2014 below.

Clause 4.4 Floor space ratio

Clause 4.4 of the RLEP2014 includes floor space ratio controls, however clause 4.4A prescribes that the floor space ratio controls under clause 4.4 do not apply to development for multi dwelling housing on land in Zone R2 Low Density Residential.

Clause 4.5A Density control for Zone R2 Low Density Residential

Clause 4.5A of includes density controls for the erection of multi dwelling housing on land in the R2 Low Density Residential zone. When utilising the density provisions under this clause, a site area of 1,565m² is necessitated to achieve compliance with the development standard. However given the site area is 1,011.4m² a non-compliance is evident.

A variation pursuant to Clause 4.6 of RLEP 2014 has not been submitted with the subject application. The applicant's SEE states that:

"As addressed, the development proposal is made under the SEPP (Affordable Rental Housing) 2009 and the FSR clause under the SEPP will prevail in this instance."

As Clause 4.5A is a site area control, and not an FSR control, the applicant's above reasoning is incorrect. With regard to *Bella Ikea Ryde Pty Ltd v City of Ryde Council (No 2) [2018] NSWLEC 204* however, it is noted that one of two questions put before Justice Sheahan is "Whether there is an "inconsistency" between cl 4.5A of the Ryde Local Environmental Plan 2014 ["the Ryde LEP"] and cl 14(1)(b) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (NSW) for the purposes of cl 8 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (NSW)." J Sheahan found that there is an inconsistency between cl 4.5A(a) of the Ryde LEP and cl 14(1)(b) of SEPP (ARH) 2009, and that the SEPP must prevail.

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Accordingly, the provisions of Clause 4.5A(a) of the RLEP 2014 are not applicable to the subject DA.

Assessment of Clause 4.6 (Exceptions to development standards)

As covered above, the subject DA proposes a variation to Clause 4.3A(2) of RLEP 2014. Clause 4.3A(2) permits a maximum height of 5m for any dwelling that does not have a road frontage. The development has proposed a maximum height of between 7.83m and 8.46m. A written request to vary the standard was prepared by the applicant's planner (Chapman Planning Pty Ltd, dated 10 September 2018) and submitted with the DA. A copy of this written request has been attached to the report as Attachment 2.

Is compliance unreasonable or unnecessary in the circumstances of the case?

In accordance with the NSWLEC decision in *Wehbe v Pittwater Council [2007] NSWLEC 827*, a way that strict compliance can be seen to be unreasonable and unnecessary is if it can be demonstrated that the objectives of the standard would be achieved, despite the proposed height non-compliance. Whilst all objectives of the standard have not been individually addressed by the submitted variation request, they have been individually considered in respect of the proposed development as follows:

(a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,

Comment - While the physical frontage (i.e. front elevation) of the development would comply with the relevant height standard and is relatively consistent with development on adjoining sites the bulk and scale of the overall development as viewed from the street frontage is clearly out of proportion with surrounding development and is not compatible with the character of the surrounding area (refer to the detailed assessment of Clause 16A of SEPP (ARH) 2009, above). As shown by the streetscape analysis within the plans, the front of the development is relatively consistent to development on allotments either side of the subject site (i.e. 32 and 36 Clanalpine Street). When viewed from any perspective other than immediately to the front of the proposed building however, the bulk and scale of the development (which is carried right through the site) is clearly not in harmony with smaller-scale residential development on surrounding allotments and within the surrounding area more broadly.

Noting the significant height non-compliance and that the applicant has evidently disregarded section 3.3.1 of RDCP 2014 (which prohibits the erection of two-storey structures behind the dwelling with a frontage to the street), the applicant's plans clearly do not propose a design that is compatible with the height, bulk and scale that is sought for development within the R2 zone.

ITEM 3 (continued)

(b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,

Comment - Whilst the proposal would comply with relevant requirements governing the overshadowing of surrounding sites (i.e. permitting sufficient solar access to the living and POS areas of adjoining allotments for specific periods of time), the proposal would still overshadow adjoining property. It is likely that a more compliant design (i.e. one that is in conformity with the height standard) would likely increase solar access to surrounding property.

(c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,

Comment - The objective is not considered to be of particular relevance in the context of the subject site's location and the type of development being proposed. The height of the development would not have a foreseeable impact on the consolidation pattern of the surrounding area.

(d) to minimise the impact of development on the amenity of surrounding properties,

Comment - In addressing the objectives regarding amenity, the applicant's variation request only makes reference to overshadowing impacts. As has been demonstrated by this planning assessment (see above and below) and as reflected by numerous submissions, the proposed development would have significant adverse impacts on the character of the area and as such, the visual amenity of surrounding sites and the public domain.

(e) to emphasise road frontages along road corridors.

Comment - Other than noting that Unit 1 has been designed to present to the adjoining road frontage, the objective is not considered to be of relevance in the context of the subject site's location and the type of development being proposed.

Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

The objectives of clause 4.6 of RLEP 2014 are to provide an appropriate degree of flexibility in applying certain development standards to particular development, to achieve better outcomes for and from development. It is disagreed that the applicant has provided sufficient and/or identifiable planning grounds to justify the proposed contravention of the development standard.

Noting the applicant's reference to principles associated with *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009*, that decision found that it was not enough for the consent authority to be satisfied that a proposal would be consistent with the objectives of both the development standard and the zone; Clause 4.6(4)(a)(i) requires that the consent authority "...is satisfied that the written request has

ITEM 3 (continued)

adequately addressed the matters required to be demonstrated by cl 4.6(3), namely that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.”

With regard to the above, the environmental planning grounds provided by the applicant and a response to each are as follows:

- *The proposal has been designed with a single storey built form with upper level bedrooms wholly contained within a roof form, consistent with the intent of the 5m height limit noting the rear dwellings have been designed within a ‘room in roof’ design.*

Comment - In attempting to demonstrate that the development is consistent with the ‘intent’ of the five-metre height limit of the RLEP 2014 and the one-storey control in the RDCP2014, the applicant’s planner repeatedly (both within the SEE and the written variation request) refer to Units 2-5 within the development as “single storey” structures. An example of this is quoted from the applicant’s variation request in response the objectives of the standard, and is as follows:

“The proposal has been designed with a single storey built form at the rear with upper level bedrooms wholly contained within a roof form, consistent with the intent of the 5m height limit noting the rear dwellings have been designed within a ‘room in roof’ design.”

Such assertions are incorrect, as RLEP 2014 defines ‘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.”*

For reference, RLEP 2014 defines ‘attic’ as follows:

*“**attic** means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.”*

As is evident within the plans, Units 2, 3, 4 and 5 each contain large dormers that accommodate a significant amount (i.e. approximately 19m²) of floor space. Such significant protrusions are not considered to be ‘minor’ elements, and as such they are not contained wholly within the roof. Further, upper level pitches from a wall that extends above the ceiling below which again demonstrates the two-storey nature of the building as the upper level is not wholly contained within a roof above the ceiling line of the storey immediately below.

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As such, Units 2, 3, 4 and 5 are not considered to be single storey structures.

- *The variation to the height limit for the rear dwellings does not contribute to additional bulk and scale noting the upper level has been designed within a roof form. The building form proposed at the rear of the site is compatible with the character of the locality being a single storey pitched roof form, with dormer windows.*

Comment - It is refuted that the non-complying height of Units 2-5 does not contribute to additional bulk and scale. As discussed above, Units 2-5 are *not* single storey structures, and in the context of surrounding development the proposal is not compatible with the character of the local area.

As is shown the by applicant's own 3D modelling, the proposal would carry significant bulk and scale through the entire length of the development. The building equates to 77% of the entire length of the site. There are no examples of development within the surrounding area that contain bulk and scale like that proposed by the subject application.

- *The additional height does not result in additional privacy or overshadowing impacts to adjoining properties noting the upper level contains bedrooms only, and the portion of the building exceeding the height limit is limited to roof form.*

Comment - Whilst the proposal would technically comply with visual privacy considerations, it only does so because there are no living areas located on the upper floors that address the boundaries of the site. Whilst overlooking from bedrooms would have a lesser impact than overlooking from living areas, there would still be potential for some overlooking from the first floor bedrooms. This would not occur if Units 2-5 were designed in accordance with relevant development controls and standards. A compliant form of development, which would be lower in height, would have a lesser level of impact.

- *The building presents a 2 storey form to Clanalpine Street and the public domain, with the rear dwellings presenting a single storey form to the neighbouring properties and the street.*

Comment - As assessed above, Units 2-5 would contain building heights and a scale that would present to surrounding property and the public domain as two storey structures.

In summary, the applicant has failed to adequately address the matters under clause 4.6(3)(b) given insufficient environmental planning grounds to justify breaching the height standard have been provided. The following is also noted:

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- There are no significant constraints (e.g. significantly slopes, flooding, etc.) that may otherwise necessitate a degree of flexibility being provided to the development standard;
- There is no evidence to demonstrate that the proposed variation would result in a better outcome, noting that the height increase would have significant adverse impacts on the character of the area and local heritage significance, would likely result in additional overlooking and overshadowing of surrounding sites and would not improve the internal residential amenity; and
- There is no existing development within the surrounding area that would either serve as a local development precedent and/or demonstrate that the development standard has been abandoned or destroyed by Council's own actions through the granting of development consents that have departed from that standard.

Is the proposal in the public interest?

A development is generally seen to be in the public's interest if it is consistent with the objectives of the development standard and the zone in which the particular development is carried out. As identified above, the proposed development is not consistent with the objectives of the building height development standard. Further, the proposed development would also be inconsistent with the objectives of the R2 Low Density Residential zone. The objectives of the zone and a response to each are as follows:

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

Comment - Whilst the proposal would provide for the housing needs of the community, such development has not been designed in a manner that is consistent with a low-density residential environment. As a large, bulky development with a highly contemporary style, the height, bulk and scale of the proposal is significantly greater than surrounding development and is subsequently out of character with the local area, which consists predominately of detached dwelling houses that are largely of an early-to-mid 20th century character and design.

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

Comment - The proposed development would be unlikely to affect the ability of surrounding sites to accommodate land uses that could provide facilities or services to meet the day-to-day needs of residents.

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

Comment - Whilst the proposal would provide a greater variety of housing, given the surrounding area comprises mostly of dwelling houses.

ITEM 3 (continued)Summary

Clause 4.6 of the RLEP 2014 is to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development by allowing flexibility in certain circumstances (Clause 4.6(1)(a) and (b)).

The applicant's submitted information is lacking any appropriate or meaningful environmental planning justifications as to why such a significant variation to the height standard should be varied (Clause 4.6(3)(b)) and/or why compliance with the standard is unreasonable or unnecessary (Clause 4.6(3)(a)). The proposed height variation is inconsistent with the objectives of both the standard and the zone (Clause 4.6(4)(a)(ii)), and aside from significantly increasing the dwelling yield and floor space of the site, would not have any discernible benefit for local residents, both within the surrounding area and those that would eventually occupy the proposed development.

The applicant's submission pursuant to clause 4.6 of RLEP 2014 is not considered to be well-founded; as such, the proposed variation to the height standard is not supported.

Part 5 – Miscellaneous Provisions

Clause 5.10 – Heritage conservation

The subject site does not contain a heritage item nor is it within a heritage conservation area; it is however in close proximity to three heritage items of local heritage significance, which are identified by Schedule 5 of RLEP2014 as follows:

- “The Rectory” (house) (Item No. 34), at 25 Clanalpine Street, Eastwood; this is approximately 20 metres north/northeast of the subject site.
- St Philip's (Item No. 35), at 29 Clanalpine Street, Eastwood. This address incorporates the entire church complex and is approximately 20 metres north of the subject site, however the allotment which includes the heritage-listed church is approximately 95 metres north/northwest of the subject site on the corner of Shaftsbury Road and Rutledge Street.
- Dwelling (Item No. 201), at 30 Clanalpine Street, Eastwood; this site is approximately 20 metres north/northwest of the subject site.

The provisions of clause 5.10 therefore apply as Council would need to give consideration to the impact of development on the heritage significance of these heritage items.

A more detailed assessment of the heritage considerations affecting this proposal are contained within the internal referral comments provided by Council's Heritage Advisor. The summary from those comments is as follows:

ITEM 3 (continued)

“...the HIS is considered insufficient as it provides a cursory heritage assessment, insofar as it provides a very basic historical analysis of the subject site, does not provide an assessment of cultural significance to establish the level of significance of the existing dwelling and does not provide an assessment of heritage impact, yet concludes that the proposed development has a negligible heritage impact.”

Further, the assessment states that:

“Given the high contributory value of the dwelling to the established streetscape character and the heritage items within the vicinity, in my opinion, the dwelling should be retained.

If demolition is to be considered, it is necessary to consider the suitability of the replacement built form and any new built form must be of a very high design quality, given the sensitivity of the streetscape and the subject site.

The proposed built form is considered of an architectural language, form and detailing that is not contextually responsive and is visually discordant with the prevalent housing typology and forms.”

With regard to the above, the proposal would fail to satisfy the objectives of clause 5.10, specifically objectives (a) and (b), which for reference are as follows:

- (a) to conserve the environmental heritage of Ryde, and*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.*

As such, such the above considerations will form part of the reasons for refusal of the DA.

5.2 Ryde LEP 2014**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

ITEM 3 (continued)

to contain any contamination and further investigation is not warranted in this case.

5.3 Development Control Plans***Ryde Development Control Plan 2014***

A detailed assessment of the proposal's performance against the relevant provisions of the *Ryde Development Control Plan 2014* (RDCP 2014) is contained in the attached compliance checklist. Below is a summary of the key non-compliances identified with Part 3.4 of the RDCP2014 which specifically covers multi dwelling housing developments.

Section 2.7 (Type of Dwellings) of the RDCP2014 requires that where four or more dwellings are proposed, that no more than 75% of those dwellings have the same number of bedrooms.

Four (4), or 80% of the proposed dwellings would consist of two-bedroom units.

The applicant's SEE acknowledges the variation, with the following justifications:

- 80% of the units would present a 5% departure from the controls.
- The design of the development with a two storey dwelling house containing four bedrooms and 4 x single storey two bedroom dwellings provide a suitable dwelling mix on this small infill development.

It is acknowledged that the numerical variation is relatively small, however the applicant's justifications do not address the objective of the control, which for reference is as follows:

"To ensure Multi dwelling housing developments contain a mix of dwelling sizes to meet the needs of different household groups."

As a result of the non-compliance, the proposal would not be capable of providing a range of dwelling types, and that the inability to provide for a range of dwelling sizes presents as an overdevelopment of the site. For these reasons, the variation is not supported.

Control (b) of Section 2.7 would also require the design of a multi-dwelling housing development to consider whether the development would complement/enhance the existing neighbourhood and whether it would meet the needs of all householders (including older residents and those with disabilities).

The applicant's SEE does not address Part b of Section 2.7. This assessment has found that the proposed development is not complementary to the existing neighbourhood for the following reasons:

ITEM 3 (continued)

- The non-compliant side setbacks would not enable sufficient landscaping planting and would contribute to the non-compliant landscaped areas on the site.
- The non-compliant height, of Units 2-5 would result in unacceptable bulk and scale that would be highly visible from both surrounding property and the public domain, therefore being incompatible with the character of the surrounding area.
- The development would include access non-compliances, in that a separate pedestrian access route is not provided to Units 2-5, and none of the dwellings are considered accessible given all require negotiation of stairs in their layouts. As such, the design of the dwellings would also limit access and use by persons with a disability.

Section 3.2(b) of the RDCP2014 seeks to limit cut and fill outside of the building envelope to a maximum of 300mm. The controls seek for minimal steps and retaining walls across the site, and for POS areas to be located at natural ground level (NGL).

The plans and SEE do not address the control. The submitted plans do not clearly indicate specific levels of cut and fill and whether these would comply with the development controls. The plans suggest that some portions of landscaping within the front setback would exceed 300mm, while section plans indicate that fill under some portions of the driveway would vary between approximately 350-550mm. There may also be as much as 550mm of cut within the rear setback and 810mm of cut within the POS area of Unit 1.

As is discussed below, the elevated level of the driveway and associated dwelling entrances would likely contribute to adverse visual privacy impacts of sites adjoining the western boundary; the change in level between the elevated driveway and the boundary are such that a boundary and landscaping treatments would unlikely screen the adjoining sites from such areas. Further, as the cut in POS areas would require retaining walls adjacent to the property boundary, shadows created by such structures combined with the boundary fence would also have adverse impacts on solar access.

Concern is however raised over the terraced retaining walls on the eastern side of the site; the design of the walls (including terraced walls within the POS areas of Units 1, 3, 4 and 5), which would create landscaped areas only 300-400mm wide, in contravention of landscaping requirements which stipulate that landscaped areas along the periphery of the site be 1.2 metres wide (refer to separate assessment below). There is also no information regarding the placement of retaining walls on the western side of the site, noting the elevation of the driveway in close proximity to the boundary. As a result, the non-compliance is not supported.

As indicated above, the POS areas would be located at levels that would require excavation. The proposal would therefore not technically comply with the controls as the POS areas would not be at NGL. It is unlikely that the ground levels of the POS areas would adversely affect visual privacy of adjoining sites. Further, the proposed

ITEM 3 (continued)

development would enable all POS areas (except for raised planters adjacent to the eastern boundary) to be located at a uniform level. As indicated elsewhere however, excavation of the POS areas would require the construction of retaining walls, which reduces the width of landscaped areas close to the boundary and which could also reduce solar access to POS areas.

Section 3.3.1 (Storeys) of the RDCP2014 requires that a dwelling fronting the street can be a two-storey structure, provided that:

- i. The two-storey dwelling is not attached to any other two storey dwelling; and
- ii. Council is satisfied that a two storey dwelling is suitable in terms of the surrounding streetscape.

Unit 1 would present to Clanalpine Street as a two-storey structure which is permitted. As is indicated with the assessment of clause 4.3A and clause 4.6 of RLEP 2014 (above), Units 2-5 are not considered to be 'single storey' buildings, as has been claimed by the applicant.

Whilst it is acknowledged that there are two-storey structures within the surrounding area, the sustained bulk of the building throughout the site is not compatible with the character of the surrounding area and is therefore not supported.

Section 3.5.1 (Front setbacks) requires the front setback to be the same distance as one of the buildings on an adjoining allotment, if the difference between the setbacks of the building on the two adjoining allotments is not more than 2 metres.

The proposal would satisfy this requirement, however, it would not satisfy a further requirement that limits encroachments into the front setback to one metre for not more than 50% of the front elevation. An entry feature (that would incorporate a balcony for Unit 1) is proposed to encroach on the front setback by 2.05 metres. The 6.7 metre width of this feature would also equate to 59.3% of the building frontage. The SEE does not address this non-compliance (nor a non-compliance that prohibits balconies on multi-dwelling housing; see below).

Whilst most objectives would be satisfied, the non-compliance would not satisfy objective 4, which for reference reads as follows:

"To ensure the development is in keeping with the existing streetscape"

Aside from a design that is not compatible with the character of the surrounding area, Council's Heritage Advisor notes in their referral comments that *"The architectural language of the front elevation incorporates a range of competing features and stylistic influences which adds to the visual 'busyness' with insufficient articulation and modulation to reflect the traditional housing forms in the streetscape."*

ITEM 3 (continued)

A more scaled-down front feature (in correlation with other design changes to better reflect local character) to satisfy control objectives may result in a better outcome, however in its current form, the proposed non-compliance is not supported.

Section 3.5.4 (Side and Rear Setbacks) would require 4.5 metre side and rear setbacks; if however vehicular access is proposed within such setbacks then the setback distance would be increased to 6 metres. Disregarding the waste storage and pergola structures within the POS area, the minimum setbacks to the building lines on these elevations would be 4.5 metres; whilst the rear and east-side setback would comply, the proposal would not satisfy the western side setback requirement of 6 metres; the plans propose a 4.5 metre setback to the building line and 6.1 metres to the garage. The submitted SEE appears to have incorrectly interpreted the control, which requires that “*Where vehicular access is provided within this area, the minimum setback shall be 6 metres.*” The setback distance to the garage doors is calculated at 6.1 metres, however the control requires that the minimum setback to the building wall be a minimum of 6 metres, not just the garages.

As such, the proposal fails to comply with the DCP control, and no justification of the variation has been provided.

As assessed below, the non-complying setback does not enable sufficient space for the placement of the driveway *and* sufficient landscaped areas. As such, the non-compliance would fail to satisfy the following relevant objectives:

1. To allow sufficient separation within the development and from adjoining properties to ensure privacy between dwellings;
2. To allow for substantial landscaping and pervious areas;
4. To ensure the development is in keeping with the existing streetscape; and
5. To allow the retention of existing substantial trees.

For these reasons, the variation is not supported.

To promote variation and design, the RDCP2014 does permit up to 50% of the wall of the building to be 3.0 metres to the boundary. The plans however propose that a substantial proportion (i.e. 65.4-68%) of the western elevation would fail to comply with relevant setback requirements. As indicated above, the proposal would fail to provide adequate landscaping and prevent tree removal, and as such the non-compliance is not supportable.

Section 3.6 (Private Open Space) of the RDCP2014 requires that courtyards be at least 20m² in area for two-bedroom units and 35m² for three-plus bedroom units, in addition to providing minimum space requirements, adequate solar access and not providing roofs within such areas.

The proposal would satisfy some requirements in that all POS areas would be securely enclosed by internal fences. As all POS areas would adjoin living areas, the POS areas would be visible from those internal living areas.

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Despite the above, a portion of each of the POS areas would be covered by a pergola-type structure; the proportions of each area to be covered are as follows:

- Unit 1: 47.6%
- Unit 2: 46.5%
- Unit 3: 46.5%
- Unit 4: 46.5%
- Unit 5: 30.2%

A notable proportion of that area would be covered by roof/eave overhangs; the lengths of these features are not clearly indicated, however the plans suggest that these elements would overhang the POS area by approximately 800-900mm. The remainder of the 'roofed' area appears to be covered by a 'lattice' type roof; the submitted plans detailing the external materials however do not specify this particular material. As indicated elsewhere within this assessment, there is insufficient information to confirm what impact these elements would have on solar access, both to POS areas and internal living areas. Unless it can be demonstrate that adequate solar access can be provided, the variation is not supported.

Section 3.7 (Landscaping) of the RDCP2014 requires that trees be protected and maintained where possible, with setbacks to trees be to an accepted industry standard. Further, the controls contain specific direction regarding the design of landscaping strips around the extremities of the site and around driveways and pathways to maximise visual privacy, specifically:

- 1.2-metre wide landscape strips are to be provide between the driveway and adjoining property boundary. The area should be capable of growing shrubs with heights of 2-2.5 metres, with trees with heights of between 5-6 metres to be planted in combination where possible; and
- A one-metre wide landscaping strip is to be provided between the dwelling and driveway

The applicant proposes to remove all trees from the site in addition to a street tree at the front of the site. Aside from failing to retain any significant trees on the site, Council's consultant arborist has expressed concern that the proposal would adversely affect a tree (Tree 6) on a neighbouring property, as retaining structures are to be built within/close to its Structural Root Zone (SRZ).

With regard to the removal of the street tree (Tree 3: Chinese tallowwood (*Sapium sebiferum*)) from the road reserve to the front of the site; this tree is the most significant of the three trees currently located in front of the site.

The removal of the tree is proposed to accommodate a double width 6.63-metre-wide driveway crossover. As noted by the referral response, "...*the overall presentation to the street of such a significant area of hard paving is considered to be poor and*

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highly out of character with the established landscape character of Clanalpine Street and the surrounding locality. This concern is exacerbated by the proposal to remove an established street tree that currently provides a good level of screening to the front setback in order to facilitate the installation of a new extended-width driveway crossover.”

As a result, the proposed tree removal within Council’s road reserve is not supported.

The plans also propose landscaping strips around the periphery of the site which contain non-compliant widths; the placement of retaining walls adjacent to the eastern boundary would limit landscaping strips to just 300-400mm in width.

As also reflected by the landscaping assessment, the landscape strip between the driveway and western boundary is only 500mm wide. Further, it is noted that the driveway level would be as much as 550mm above EGL; given the very short distance between the driveway and the boundary, it is likely that a retaining structure would be required to support the boundary and associated fill. It is unclear how much such a structure would encroach further onto the 500mm wide landscape strip.

The widths of this landscaped area would therefore be insufficient for growing suitably-sized plants and trees that would assist in maintaining visual privacy.

Given that:

- Non-compliances would likely facilitate adverse visual privacy impacts; and
- Non-compliances on the western elevation are a cumulative impact as a result of the non-compliant western elevation setback.

The proposed variations to the control are not supported.

With regard to landscaping between the driveway and wall of the dwellings, only a tokenistic 3.86 metre x 500mm wide landscape strip is provided between the driveway and Window W012 (Unit 1), no other landscaping is provided between the driveway and the proposed dwellings. Aside from the restricted dimensions of this area, there would be limited opportunities for the establishment of vegetation within this area; the planter is located within an indented section that is covered by the level above and would be enclosed by a full-height privacy screen. It is therefore unclear how plants would be able to become established within this area, and how this area could be accessed for landscape maintenance.

The submitted SEE only addresses the requirements regarding the 1.2 metre strip adjoining the driveway and the one metre strip between the driveway and dwelling. In response to those issues (assessed above), the SEE states that “SEPP ARH prevails, and elaborates on such comments, stating that *“The development proposal presents a variation to the landscaping adjoining driveway under the Ryde DCP 2014. The proposal includes a 500mm landscape strip adjoining the site boundary*

ITEM 3 (continued)

with the hard stand area built to the front façade of the buildings. The development proposal includes landscaping to meet the requirements of the SEPP ARH which prevail in this instance.

The proposed driveway hardstand arrangement is acceptable to the site noting the two storey dwelling located at the front of the site visually recesses the driveway areas and the landscaping has been consolidated within the private space and front and rear setback areas of the proposal.”

The SEE is incorrect in that the ARHSEPP prevails over these specific RDCP2014 controls. It is acknowledged that clause 14 of the ARHSEPP includes standards that cannot be used to refuse consent, which includes landscaping and deep soil zones. Irrespective that the proposal does not satisfy either of those standards, (see above) there are no standards or requirements in the ARHSEPP relating to specific landscape design matters (e.g. size of landscaped areas (other than deep soil zones), tree/plant selection, etc.). As such, the ARHSEPP does not prevail over the specific RDCP2014 controls assessed above.

A merit assessment of the above requirements has found that such variations are not supportable. The SEE has not demonstrated how the driveway would be visually recessed by Unit 1 (noting that all significant trees (including street trees) in/around the driveway would be removed and that there is no/inadequate landscaping between the driveway and the dwellings and western boundary), and the size of landscaped areas (other than turfed spaces) has not been consolidated within POS areas due to their inappropriate dimensions.

As such, the proposal would fail to meet the objectives of the landscaping controls, which for reference are as follow:

1. *To ensure the landscaping of the site within the Multi dwelling housing development complements or enhances the desired future neighbourhood character by:*
 - i. *Providing sufficient open space for planting trees and shrubs;*
 - ii. *Retaining, protecting, or replacing, existing vegetation where possible; and*
 - iii. *Protecting neighbouring trees from damage to their root systems.*

2. *Landscaping designs must seek to:*
 - i. *Ensure that trees and shrubs will have a softening effect on buildings and the overall environment and trees should be planted in sufficient numbers and scale to achieve this aim;*
 - ii. *Screen poor views;*
 - iii. *Give privacy to occupants and neighbouring properties;*
 - iv. *Be easily maintained;*
 - v. *Use native plant material, particularly material indigenous to the area; and*
 - vi. *Provide for sufficient depth of soil to support the long term viability of the landscaping.*

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As such, the proposed variations are not supported and the collective non-compliances shall form a reason for refusal.

Section 3.8 (Car Parking, Manoeuvrability and Driveway Crossings) stipulates parking rates, garage location, vehicle manoeuvring and driveway/crossover design. RDCP2014 parking rates do not apply to the proposal as the provisions of cl. 14(2)(a)(ii) of ARHSEPP take precedence.

Concern is held with the design and width of the driveway. The swept path analysis does not demonstrate that vehicles accessing Unit 1 would be able to enter/leave the site in a forward direction. Further, the garage opening widths are not in accordance with Section 3.8.2 of the RDCP2014.

The proposed driveway layout is not in accordance with the controls, in that excessive amounts of hard paving is proposed, particularly within the front setback. As assessed below, the driveway crossing is excessively wide and the combined communal driveway and garage entrance to Unit 1 would be between 6.63-9.3 metres in width. There would subsequently be a very large (i.e. 71m², not including dwelling access) expanse of paved area within the front setback. The visual impact of this area would also be exacerbated by the removal of the street tree within the road reserve (which is required due to the excessively wide driveway crossover) and landscape strips that are of an insufficient width (refer to the assessment of Section 3.7 above).

Further, the 6.63-metre-wide driveway crossing is in excess of minimum requirements and also breaches the maximum width requirements for larger forms of development. As indicated above, the excessively wide crossover would result in unreasonable tree removal and associated adverse visual impacts.

No evidence has been supported to demonstrate that such a wide driveway crossing and large paved area is required for vehicle manoeuvring. With regard to the adverse impacts that would be associated with the non-compliance, and as the objective of the control is not satisfied, the variations are not supported.

Section 3.10 (Visual and Acoustic Privacy) of the RDCP2014 seeks to prevent direct views from living areas to POS areas and other dwellings on surrounding sites. As the first floor living areas of all units would be situated within the centre of the proposed dwellings, there would subsequently be no overlooking from first floor living areas to surrounding sites. Whilst there would be fewer opportunities for overlooking if the first floor were removed, the control relates specifically to living areas (not bedrooms), therefore overlooking from the first floor will not be discussed further.

There is however concern regarding views from the 'study' areas of Units 2, 3 and 4. Despite being identified as studies, these areas (in addition to the adjoining communal driveway and garages) would be the only point of access to the dwellings (excluding the garages). It is therefore likely that such areas would be subject to frequent movements by residents entering and leaving these dwellings. Such areas

ITEM 3 (continued)

would be as much as 800mm above the existing ground levels of the adjoining sites to the west; due to the sloped topography (and as retaining walls cannot be placed on the boundary), a 1.8 metre high boundary fence on the western boundary would not be of sufficient height to adequately screen the POS and/or living areas on the adjoining properties from the main entry areas to Units 2, 3, and 4. Due to:

- The non-complying widths of landscaping strips adjacent to the western boundary; and
- A lack of landscape screening between the driveway and the aforementioned dwellings,

There would not be an opportunity to implement landscaping screening to preserve the privacy of the adjoining land. There would subsequently be insufficient opportunities to prevent direct views from living areas to private open space of other dwellings. Given that the development's inability to preserve the privacy of adjoining heights stems from the non-compliant western setbacks and landscape treatments around the driveway, the variation (which is not acknowledged by the SEE) is not supported.

It is also noted that a balcony is proposed on the front elevation of Unit 1. Whilst no adverse visual privacy impacts would arise from the placement of this feature, the design of the balcony does not contribute to an appearance that is in keeping with the existing streetscape.

Section 4.5 (Fences) of the RDCP2014 governs the design and presentation of boundary fences. Such requirements stipulate that front fences be a maximum of one metre high and be at least 70% permeable. Further, such fences must be constructed of materials which complement those of dwellings.

The submitted plans lack detail regarding the front fence. The side elevation plans suggest that the front fence would vary between approximately 1.1 to 1.8 metres in height. Further, the submitted 3D models suggest that the fence would not be at least 70% permeable. No reference to the front fence non-compliance is made in the SEE.

Further, there is no detail regarding fence materials. The submitted 3D modelling suggests that the fence would be of masonry (or similar) construction with some infill panels, however the uniform colour of the fence and a lack of landscaping/landscape indents would not enable screening of the fence from public areas.

As the design of the fence is also completely inconsistent with that of surrounding development, the fence would not complement the local area or vicinity heritage items; as such, the design and representation of the fence is not supported.

Summary of Ryde Development Control Plan 2014

ITEM 3 (continued)

In summary, the proposed development is largely non-compliant with applicable controls under RDCP2014. It is acknowledged that pursuant to Section 4.15(3A)(b) of the Act, that the consent authority is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development. Given that the proposed non-compliances:

- Do not satisfy the associated objectives; and
- Would result in significant and cumulative non-compliances that would significantly and adversely affect the character of the area and both the amenity and privacy of surrounding residents,

the proposed variations outlined above are not supported, and shall form part of the recommended reasons for refusal of the DA.

5.4 Planning Agreements OR Draft Planning Agreements

No planning agreements or draft planning agreement exist for this development.

5.5 Any matters prescribed by the regulations

No relevant provisions of the Regulations have been identified as pertinent in the assessment of the proposed development on the subject site.

6. The likely impacts of the development

Likely impacts on the natural and built environment:

Natural Environment Impact

The proposed development would result in adverse impacts to the natural environment.

The submitted arboricultural impact assessment does not include an assessment of existing significant trees located within allotments adjoining the subject site. As such, the full extent of impact to existing trees has not been considered, noting concerns raised within the arboricultural assessment with regard to the unknown impact of proposed works within the Structural Root Zone (SRZ) of a *Melaleuca quinquenervia* on an adjoining property. Further, the proposal would require the removal of a large street tree which at present provides a significant amount of screening of the front of the site.

ITEM 3 (continued)Built Environment Impact

As a result of the number of significant non-compliances with relevant objectives and controls contained within ARHSEP, RLEP 2014 and RDCP 2014, the proposal will have adverse impacts on the built environment.

Likely social and economic impacts of the development:

Social Impact

A portion (40%) of the GFA for the development is to be provided as affordable housing for a minimum period of 10 years. Additionally, four of the five dwellings would consist of two-bedroom apartments, therefore providing housing variety and choice in the local area that is dominated by single dwelling houses. This can be seen as a positive social impact.

However, the layout and design of the development has not considered constraints associated with the site's southern orientation. As such, the design is likely to result in poor internal solar access; the living areas within all two-bedroom dwellings would likely receive less than three hours of meaningful solar access (noting that the first-floor family rooms with their small dimensions and lack of windows) are unlikely to be used as the main living area within those dwellings, and even with a northern aspect, the four-bedroom dwelling has not been designed for optimal internal solar access.

The poor layout and design of the development would also adversely affect the visual privacy of both POS and living areas within adjoining allotments.

While the provision of affordable housing within the locality provides a degree of social benefit, any such benefits would be eliminated through a substandard design that would result in poor residential amenity and living conditions that would remain for the life of the development. Further, the non-compliant design would result in a greater degree of overshadowing and opportunities for overlooking of adjoining sites, thereby impacting upon the amenity of adjoining land.

On balance, the proposal is considered to have a negative social impact.

ITEM 3 (continued)**Economic Impact**

There is no foreseeable positive economic benefit to the community arising from the approval of this development which would outweigh the costs of allowing a non-complying development proposal and therefore setting an undesirable precedent.

7. Suitability of the site for the development

A review of the site has not identified any significant restrictions (e.g. flooding, acid sulphate soils, areas of environmental sensitivity, etc.). The site is however located on a southern oriented allotment within an area of specific architectural character containing numerous heritage items.

The bulk and scale of the building results in a development that significantly varies many of the relevant planning controls. The manifestation is a development that is significantly out of character with the surrounding area and poorly responsive to the allotment's orientation.

Having regard to the above, the proposal in its current form is not suitable for the subject site.

8. The Public Interest

Based on the assessment contained in this report, approval of the development is not in the public interest, and as such shall form a reason for refusal.

9. Submissions

The proposed development was advertised in accordance with the provisions of RDCP 2014.

In response, twenty-five (25) submissions containing the names of thirty-three (33) people were received; all submissions objected to the proposed development. The objections raised in the submissions are outlined below, followed by a comment from the assessing planner:

Figure 15 below demonstrates the location of the submitters' properties in relation to the subject site. Please note that not all objectors have been included due to map scaling and distance from the site.

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Figure 15 –Map location of subject site in relation to objectors’ properties
Source: Ryde Maps

A. The bulk and scale of the proposed development is excessive. The proposed development is out of character (in terms of size and design) with other development within Clanalpine Street. The proposed development does not complement existing development within the streetscape. The proposed development is unsympathetic to the unique heritage items and heritage character of the streetscape. The existing dwelling house on the site is of heritage significance and character and should not be demolished.

Comment - The planning assessment concurs with this issue. The scale and design of the proposed development would be substantial and inconsistent with development in the surrounding area. It is acknowledged that multi-dwelling housing is permissible within the R2 zone, and given the prevalent character of the area it is considered likely that the design of a multi-dwelling housing development would differ considerably when compared to existing development (i.e. detached dwelling houses). The applicant’s design has not however considered the specific design characteristics of this particular area and the adverse visual impacts that would be associated with the proposal.

Further, the heritage assessment found that the existing building should be retained as it has contributory value to heritage items of surrounding sites (though contrary to

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objector's claims, the existing dwelling is not a heritage item). Even if demolition were permitted, any replacement structure would need to be of a very high design quality due to the sensitivity of the streetscape and the subject site. The scale and design of the proposed development is not contextually responsive and is visually discordant with the prevalent housing character of the area, and as such, the proposal is not supported on heritage grounds.

B. Continuous length of a two-storey structure extending the length of the property with minimal articulation is an overdevelopment of the site.

Comment - The planning assessment concurs with this issue. The applicant proposes variations to development controls that seek to restrict the height of dwellings behind the dwelling addressing the primary frontage (i.e. Units 2-5) to one storey and 5m in height. The applicant proposes that Units 2-5 would be one-storey structures with an attic-style level above. This view is not supported as Units 2-5 are all two storey dwellings.

Whilst as many as five dwellings are permitted on the site, it is submitted that the dimensions and restrictions of the site (i.e. with a north-south orientation) are not ideal for the number of dwellings that are proposed. Due to the height and scale of the development, its non-compliant setbacks and landscape areas and disregard for local character and design, it is agreed that the proposal is an overdevelopment of the site.

C. The proposed development creating additional parking and traffic issues. The combined impact of the amount of parking and the location of the bus stop at the front of the site would force residents to park elsewhere within the street, which is already filled with commuters' cars.

Comment - It is acknowledged that the proposed development would not provide sufficient parking in accordance with RDCP 2014. Further, the location of the site is not ideal, in that the existing bus stop would prevent residents from parking in front of the site. Pursuant to cl. 14(2)(a) of AHRSEPP however, given the compliant number of parking spaces proposed, development consent must not be refused on the basis of parking.

D. The design of the proposal is not suitable for elderly or disabled residents.

Comment - The proposed development would not provide access for persons with a disability (i.e. internal elevators, etc.). The proposal has not however been made pursuant to *SEPP (Housing for Seniors or People with a Disability) 2004*, therefore specific access provisions do not need to be provided. If the application were capable of being approved however, the development would need to be undertaken in accordance with applicable Australian Standards and the Building Code of Australia.

ITEM 3 (continued)**E. The proposed development is inconsistent with the R2 Low Density Residential Zone.**

Comment - The planning assessment concurs with this issue. The proposal would not comply with the objectives of the R2 Low Density Residential zone. Refer to Section 5.2 of this report and the associated compliance check, both of which contain detailed assessments regarding consistency with the objectives of the R2 zone.

F. There is concern that the privacy (both for dwellings and private open space areas) of surrounding sites (particularly those to either side) would be adversely affected by first floor windows extending along the length of the site. Particular concern is raised regarding Windows W112, W113, W114, W115 and W116 on the western elevation of the building, which should be obscured.

Comment - The design of the elevated driveway, non-compliant landscape areas and entrances to Units 2-5 would be unlikely to maintain the privacy of allotments that adjoin the western boundary. The lack of sufficiently-wide landscaping beds and the height of the fence would be unlikely to provide sufficient screening of the adjoining sites. Any attempt to increase the height of the boundary fence to mitigate this issue would likely result in adverse solar access and visual impacts for residents of those adjoining sites.

Notwithstanding the above, the design of the upper floor would comply with visual privacy requirements within the RDCP2014. Living areas on the upper floor would be centred within each of the dwellings, therefore only bedrooms would address the side boundaries. Whilst technically compliant, it is however acknowledged the design of the first floor would however enable potential overlooking opportunities, which would not occur if the proposal complied with requirements that restrict rear dwellings as single storey structures.

G. Due to the proposed cost of works/land purchase price and the cost of real estate within the surrounding area, the development is unlikely to be used as affordable housing.

Comment - Whilst the value of the works and the purchase price of the site are acknowledged, the financial viability of the project is not a matter for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The approval of affordable housing would require that restrictions be imposed on title, which would force any landowner to use the nominated affordable housing as such for the statutory period (i.e. ten (10) years).

H. The 10-year requirement for dwellings to be used as affordable housing is not effective and enables developers to maximise financial return. The affordable housing timeframe should be extended to the life of the development.

ITEM 3 (continued)

Comment - Whilst this point is acknowledged, Council cannot force an applicant to provide affordable housing for longer than that stipulated by clause 17(1) of the ARHSEPP.

I. All previous subdivisions on similar blocks of land, developed under the SEPP 5 regulations, imposed restrictions of four dwellings per block.

Comment - Whilst noted, SEPP 5 (Housing for Older People or People with a Disability) is now repealed and is not applicable to the subject application.

J. The proposed development breaches the floor space ratio and is not in the public interest.

Comment - Pursuant to clause 4.4A (Exceptions to floor space ratio) of RLEP 2014, there is no FSR requirement which applies to the site. Regardless, clause 13 of ARHSEPP would take precedence in the event that FSR limits were to apply.

K. The size of the land is not big enough to accommodate the development. Concerns have been raised by objectors regarding the proposed dwelling density would breach standards imposed by RLEP 2014.

Comment - The existing site area of 1,011.4m² would exceed the minimum 450m² pursuant to clause 14(1)(b) of the ARHSEPP. Site density requirements pursuant to clause 4.5A(a) of the RLEP 2014 are not applicable as clause 14(1)(b) takes precedence. Whilst numerically compliant with site area requirements within the ARHSEPP, with regard to the number of non-compliances, issues with bulk and scale and suboptimal residential amenity, it is however considered that the size of the site is inappropriate for both the number/size of the dwellings being proposed.

L. There is concerns regarding the removal of trees. Particular concerns were raised regarding the proposed removal of the street tree due to the impact on the streetscape. Residents of surrounding sites are concerned that the removal of trees would adversely affect views and outlooks from their properties.

Comment - It is agreed that the removal of trees would adversely affect the visual amenity of the area, particularly if the significant street tree were removed. As indicated within the assessment by Council's arboricultural consultant, the information submitted to Council is insufficient and does not address impacts on all trees, therefore a comprehensive assessment of the impacts associated with tree removal is unable to be undertaken.

M. The proposed development would result in flood implications.

Comment - Pursuant to clause 6.3 of RLEP 2014, the subject site has not been identified as a flood-affected allotment. An assessment by Council's Senior

ITEM 3 (continued)

Development Engineer has not identified any significant drainage or stormwater-related issues.

N. The proposed development being non-compliant with Part 3.4 (Multi Dwelling Housing) of Ryde Development Control Plan 2014.

Comment - The planning assessment has identified numerous non-compliances that includes (but is not limited to) housing types, cut and fill, setbacks, the design and layout of private open space areas, landscape space and layout, driveway design, solar access information, visual privacy, consistency with streetscape, ceiling heights, and front fence design. Whilst some non-compliances are minor could be supportable on merit, a significant number of non-compliances are either excessive, inappropriate or insufficiently justified to warrant their support. Furthermore, when considered cumulatively, the number of non-compliances help support the notion that the proposal is an overdevelopment of the site.

O. The 60% variation to the height standard (for dwellings not fronting the street) is excessive and cannot be supported. The proposal breaches the building height objectives under Clause 4.3 of the RLEP 2014.

Comment - The planning assessment concurs that the variation to the height standard is significant and cannot be supported. A written request to vary the standard has been submitted as part of the DA, however the assessment has found that the variation would not satisfy the objectives of the standard or the zone, and as such not be in the public interest. Further, the applicant has not provided sufficient environmental planning grounds to justify supporting the variation.

P. The removal of significant trees will have a negative impact on wildlife.

Comment - The subject site is not within a sensitive biodiversity area or mapped as containing critical habitat. There is also no information to suggest that the trees proposed to be removed serve as a roosting site for threatened fauna.

Q. The height and bulk of the development will adversely affect solar access to surrounding sites, particularly during autumn and winter.

Comment - Whilst the proposed development would technically comply with requirements regarding the overshadowing of adjoining property, the proposal would create some overshadowing at varying times of the day. Despite compliance being achieved, concern is still raised that the non-compliant height of the development would result in additional and unnecessary overshadowing of these adjoining sites by virtue of the non-compliant building heights and setbacks.

R. There is no landscaping at the front, just concrete. Proposed landscaped areas are inadequate for the establishment of large trees. There is no landscaping at the front of the back four (4) townhouses, preventing the growth of any medium sized trees or screen planting for privacy.

ITEM 3 (continued)

Comment - The planning and landscape assessments both concur with resident concerns, and issue is raised regarding the size of the 71m² paved area that is shared between the communal driveway and vehicular access to Unit 1. The non-compliant landscaped areas between the driveway and western boundary would not provide sufficient space for the establishment of any significant vegetation; combined with the proposed removal of the street tree, the layout of the site would be incapable of providing sufficient screening or filtering of the development from the public domain.

S. The front setback distance is inadequate.

Comment - The proposed 8.72 metre set back to the front building line complies with RDCP 2014 requirements and is consistent with the minimum front setbacks of development on adjoining sites. The protrusion of the balcony on the front elevation however disregards a number of RDCP 2014 controls relating to setbacks, encroachment on front setback areas and balconies; for such reasons this structure is not supported.

T. The room sizes of the dwellings are too small, and would reduce the amenity of residents.

Comment - As SEPP 65 - Design Quality of Residential Apartment Development is not applicable to the development, there are no specific controls or standards that govern the minimum size of internal rooms. Whilst solar amenity has been identified as a significant concern, such an issue is inherent to the design and orientation of the development and is not related specifically to room size.

U. The intensity of the development on the allotment will result in noise impacts to adjoining dwelling houses. Specific concern was raised with regard to vehicular movements within the site and the placement/use of the communal waste storage area.

Comment - The placement of a communal driveway adjacent to the boundary of adjoining property would likely increase the acoustic impact (i.e. vehicular noise) on adjoining land. The layout of the site and the elevation of the driveway would likely prevent the erection of any meaningful screening, and any such screening would itself impact the amenity of adjoining land. Despite the above, given the relatively low number of car parking spaces within the site, it is considered unlikely that there would be a significant number of vehicular movements within the site.

V. The proposed development would result in adverse noise and traffic impacts during construction.

Comment - Recommendations for the approval of any proposal would have conditions of consent applied to prevent excessive noise and vibration being

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generated during demolition and construction activities. Despite the above, the subject application is not recommended for approval.

10. Referrals

10.1 External referrals:

None required.

10.2 Internal referrals:

Senior Development Engineer

Stormwater Management

The proposed stormwater management system for the development discharges to the Council's underground drainage infrastructure located within Clanalpine Street and incorporates an onsite detention system complying with Councils requirements.

A review of the plans completed by Alpha Engineering Pty Ltd, drawing number A8289 Cover, SW01 to SW04, revision C, dated 28th September 2018 are generally in accordance with Council's DCP requirements and the standard conditions of consent regarding stormwater will suffice.

Vehicle Access and Parking

The proposed residential development falls under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009, and thus the parking rates found in Section 14.2(a) of Part 2 have been applied.

Space Type	SEPP	Proposed	Compliant
Residential	6	6	Yes
Visitor	N/A	-	-

The provided plans depict car spaces available for the residential component only, and meet the requirement of the SEPP.

At least one car space per dwelling entails a private lock up garage which satisfies Part 3.4 of Council's DCP. All parking dimensions appear to be in accordance with AS2890.1 requirements.

The vehicular crossing measured at the front boundary must be reduced to not exceed 5.5 m in order to reduce the impact to on-street parking.

It is required that for all vehicles utilising the site must enter and exit in a forward

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direction. A swept path analysis in accordance with AS2890.1 is required to be submitted for review, in particularly the double garage serving Unit 1 once the vehicular crossing is reduced in width. Note – B85 vehicles are permitted up to 3 manoeuvres to enter and exit, as stated in B4.8 of AS2890.1

Recommendation

Assessment of the engineering components of the proposed development has revealed the following matters have not been addressed, and thus recommend refusal of the application;

- **Vehicular Crossing** – The vehicular crossing measured at the front boundary line exceeds 5.5 m which is contrary to the requirements of AS2890.1.
- **Forward entry and exit** – It is required under AS2890.1 and Section S4.2.C of Part 8.3 of Council's DCP 2014, that for all vehicles utilising the site must enter and exit in a forward direction. As the width of the vehicular crossing must be amended, it is envisioned that entry and exit from the double garage serving Unit 1 will require additional hardstand area. This will effectively reduce landscaped area within the front setback. No swept path analysis in accordance with AS2890.1 has been provided for review. Note – B85 vehicles are permitted up to 3 manoeuvres to enter and exit, as stated in B4.8 of AS2890.1.

Heritage Advisor**Consideration of the proposal:**

The development proposal seeks Council's approval for the demolition of the existing building on the site and Construction of a multi-dwelling housing development containing 5 dwellings (1x4 bedroom and 4x2 bedroom dwellings) under the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

Reason for the Heritage Referral:

The development proposal has been referred for heritage consideration as the subject site is within the vicinity of the following items of heritage significance listed under Schedule 5 of *Ryde LEP 2014*:

- i) 25-27 Clanalpine Street, Eastwood (Item No.I34)
- ii) 30 Clanalpine Street, Eastwood (Item No.I201)

Consideration of the heritage impacts:

The subject site contains a single storey dwelling house with a later small second

ITEM 3 (continued)

storey addition. The dwelling displays characteristics which attribute it to the Federation Queen Anne architectural style of the early 20th century.

A Heritage Impact Statement has been prepared for this application and has been reviewed.

In summary, the HIS is considered insufficient as it provides a cursory heritage assessment, insofar as it provides a very basic historical analysis of the subject site, does not provide an assessment of cultural significance to establish the level of significance of the existing dwelling and does not provide an assessment of heritage impact, yet concludes that the proposed development has a negligible heritage impact.

The HIS however, does not follow the Heritage Council of NSW recommended methodology for assessing cultural significance, nor guidelines assessing heritage impacts and is not considered a satisfactory heritage management document as it does not provide a reliable or complete assessment.

Clause 5.10(4) & (5) of the Ryde LEP 2014 requires Council to give consideration to the impact of development on the heritage significance 'of the item or area concerned'. In this manner, the subject site is within the vicinity of multiple listed items of local heritage significance and it is necessary that Council gives consideration to the impact on those items.

The submitted HIS does not provide sufficient information to warrant a complete assessment of the proposal and I do not concur with the recommendations and findings of the HIS.

The dwelling on the subject site is attributed to the housing stock of early 20th century dwellings, which is considered the prevalent housing form and typology within the streetscape, and indeed many of the surrounding streets. While the subject site is adjoined on both sides by more contemporary residential dwellings, the existing dwelling is considered to provide an important contribution to the streetscape, reinforcing the prevalent housing typology and characteristics and more directly, having a contributory value to the heritage items within the vicinity of the site. While the curtilages of the heritage items within the vicinity of the site are generally defined by their existing allotment boundaries, the subject site nonetheless contributes to the setting of the heritage items and loss of the dwelling through demolition would erode the streetscape character and negatively impact on the heritage items within the vicinity, particularly The Rectory at 25-27 Clanalpine Street, which is situated directly opposite.

Given the high contributory value of the dwelling to the established streetscape character and the heritage items within the vicinity, in my opinion, the dwelling should be retained.

If demolition is to be considered, it is necessary to consider the suitability of the

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replacement built form and any new built form must be of a very high design quality, given the sensitivity of the streetscape and the subject site.

The proposed built form is considered of an architectural language, form and detailing that is not contextually responsive and is visually discordant with the prevalent housing typology and forms. This is demonstrated through:

- The differing roof pitch, being of a lower pitch to the established pattern in the streetscape.
- The elongated and deep building footprint which exacerbates the building bulk and scale and prevents visual transparency of the site and a sense of building separation.
- The double garage door on the front elevation, as it is a visually dominant feature of the streetscape and carparking facilities and structures are consistently subservient features of the sites within the streetscape.
- The architectural language of the front elevation incorporates a range of competing features and stylistic influences which adds to the visual 'busyness' with insufficient articulation and modulation to reflect the traditional housing forms in the streetscape.

Clause 16A of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* requires the proposed development to be 'compatible with the character of the local area'. In my opinion, the above issues highlight that the proposed built form is not compatible with the character of the local area.

There is opportunity to retain the existing dwelling and incorporate new development / alterations and additions to the rear of the dwelling and rear of the site. This would allow the retention of the dwelling, preserving the streetscape presentation, the contributory value of the dwelling to the heritage items within the vicinity of the site and has the added benefit of relying on the existing building height with the upper storey attic level – to which the current design relies on a clause 4.6 variation to the building height development standard.

Accordingly, the proposed development is not supported in its current form and amended plans / additional information is considered necessary.

Landscape Assessment (External Consultant)

A preliminary assessment has been undertaken of the proposed multi-dwelling housing development at the subject site being 34 Clanalpine Street, Eastwood. As discussed below, concerns have been raised in relation to a range of issues including:

- Insufficient planting areas provided along the length of the driveway;
- Insufficient privacy planting provided to the rear of each of the private open space areas;
- Excessive hard paving within the front setback and subsequent impacts to landscape character;

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- Potential impacts to **Tree 6** *Melaleuca quinquenervia* (Broad-leaved paperbark);
- Lack of information provided within the Arboricultural Impact Assessment regarding trees observed within the neighbouring allotments.

In this regard, content has been provided below to be included in a letter to the applicant requesting design modifications.

Insufficient Planting Bed Width Adjacent Driveway: A review of the plans and documentation submitted has revealed that the planting strip indicated between the driveway and the adjoining property boundary is only 0.5 metres wide and does not meet the minimum control of 1.2 metres as outlined under Part 3.4 *Multi dwelling housing* of Ryde DCP 2014. In addition, as demonstrated in **Figure 1** below a planting strip at least 1 metre wide has not been provided between the driveway and the wall of the dwellings (also not meeting the control under Part 3.4 of Ryde DCP 2014). As a result of the non-compliances in this case, the current design is not considered to provide a suitable level of privacy screening both to and from the proposed driveway.

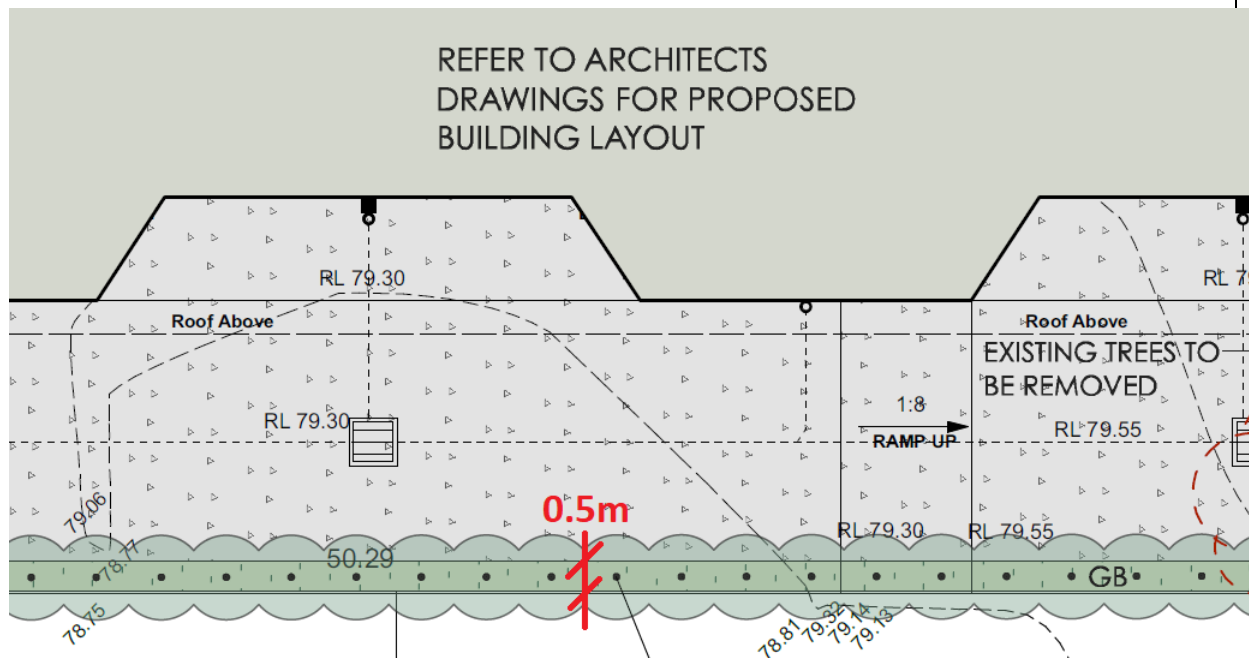


Figure 1: Landscape Plan extract indicating insufficient planting bed width adjacent the driveway and failure to provide any planting between the driveway and dwelling façade.

Insufficient Planting Bed Width Adjacent POS Boundaries: The inclusion of stepped retaining walls along the rear boundary reduces the available width of each planting bed to 0.3-0.4 metres. This does not meet the minimum control of 1.2 metres as outlined under Part 3.4 *Multi dwelling housing* of Ryde DCP 2014 and as such is not considered a suitable outcome as insufficient soil volumes are available for establishment of suitable screen planting.

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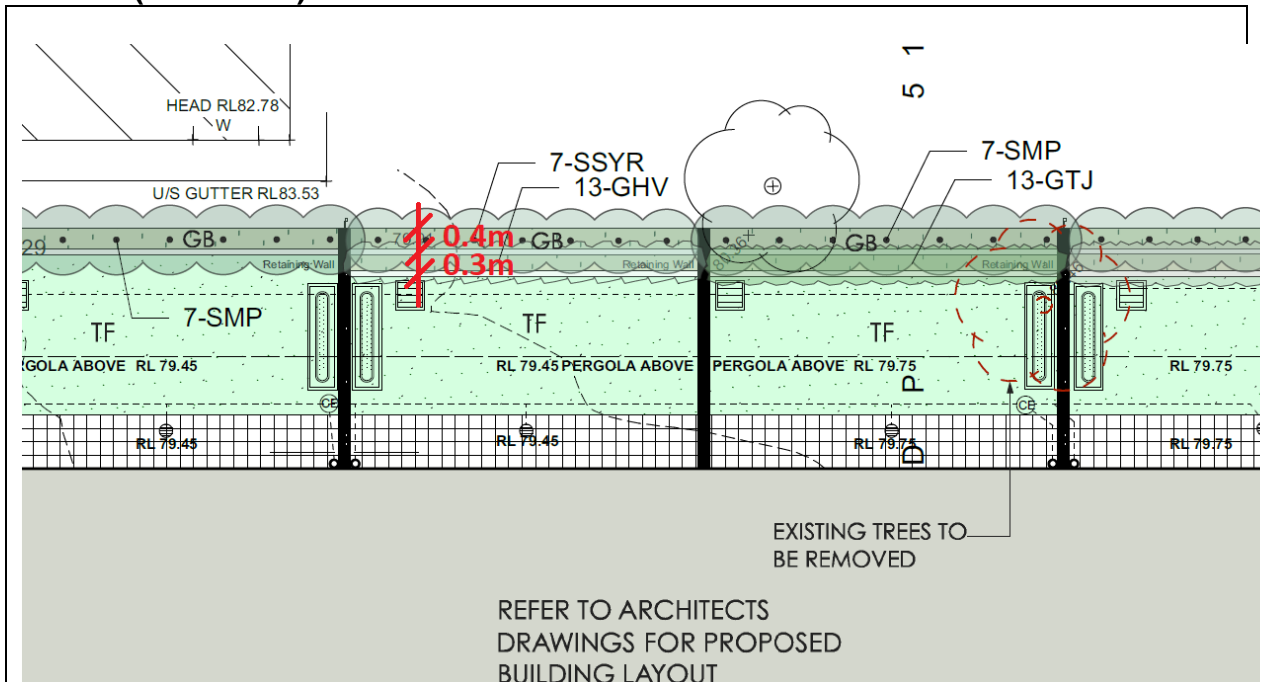


Figure 1: Landscape Plan extract indicating insufficient planting bed width within private open spaces to allow suitable screen planting to be provided

Excessive hard paving within the front setback: The proposal includes a new double width crossover and driveway of 6.63m in width which increases to a maximum of 9.5m at the widest point adjoining the front facing double garage (Refer **Figure 3** below. Given the area of hard paving has been calculated at 71m² (111m² including crossover area) and 45.78% of the front setback area, this is considered excessive and unbalanced with the soft landscaped component as well as limiting opportunities for inclusion canopy trees and planting to screen and soften the development. Whilst it is acknowledged that a specific control governing hard paving within the front setback is not contained within *Part 3.4 Multi Dwelling Housing* of the Ryde DCP 2014, the overall presentation to the street of such a significant area of hard paving is considered to be poor and highly out of character with the established landscape character of Clanalpine Street and the surrounding locality. This concern is exacerbated by the proposal to remove an established street tree that currently provides a good level of screening to the front setback in order to facilitate the installation of a new extended-width driveway crossover.

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Site Calculations: It is noted that the proposed DA in this instance falls under the provisions outlined within the NSW State Environmental Planning Policy: *Affordable Rental Housing* 2009 and as such is bound to specific controls relating to total landscape area and total deep soil area. In this regard, landscape area has been calculated at approximately 30% of the site area whilst deep soil area has been calculated at approximately 15% - both items in this instance meeting the minimum requirement. Despite this, it is noted that site pervious area has been calculated at approximately 30% and does not meet the minimum required amount of 35% as specified under *Part 3.4 Multi Dwelling Housing* of the Ryde DCP 2014. It is considered that, if future modifications to the design and layout of the driveway are made (as requested below), it is likely that site pervious area will be increased to a level that complies with this control.

Accordingly, it is requested the following content be included in a letter to the applicant advising that updated Architectural Plans, Landscape Plans are required in order to support the proposal:

Driveway planting. *A planting strip of minimum 1.2m width has not been provided between the driveway and the adjoining property boundary in accordance with Part 3.4 of the Ryde Development Control Plan 2014. Additionally, no planting beds 1m in width have been provided between the driveway and the wall of the dwellings. In this regard, plans must be updated to reflect the provisions of Part 3.4 of the Ryde Development Control Plan 2014.*

Privacy planting. *The width of planting beds proposed to the eastern side boundary of each private open space area fail to comply with the minimum width of 1.2m required under Part 3.4 of the Ryde Development Control Plan 2014. In order to assist in preserving the privacy of the occupants of dwellings within the development and adjoining properties, planting bed widths must be increased to satisfy this requirement. The provision of retaining walls intersecting these planting strips is not considered a suitable outcome.*

Driveway layout. *The excessive level of hard paving within the front setback area as a result of the new driveway layout is not supported. Design changes are required that reduce the level of hard paving and provide additional soft landscaping in the form of screen planting and canopy tree planting that softens the scale of the development as viewed from the street.*

Impact to existing trees. *Concern is raised in relation to the level of impact to Tree 6 (*Melaleuca quinquenervia*). Specifically, the significant incursions associated with construction of new masonry retaining walls and stormwater services within, and closely adjacent to, the Structural Root Zone (SRZ) of this tree. Design changes addressing these issues are required to ensure the impacts to this tree are reduced and mitigated to a more sustainable level. Consideration should be given to reducing the level of grade change and built structures within the Tree Protection Zone (TPZ) overall.*

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Arboricultural Impact Assessment. *The Arboricultural Impact Assessment prepared by Horticultural Management Services dated 27.08.2018 submitted with the application has failed to provide any assessment of existing significant trees located adjacent to the south-eastern corner of the subject site. As such, the full extent of impact to existing trees has not been considered and requires assessment to determine whether trees located on adjoining allotments are likely to be negatively impacted and are capable of retention. In this regard, an updated Arboricultural Impact Assessment is required to be submitted to Council prepared by a suitably qualified Arborist (AQF5) which meets the requirements of the City of Ryde Tree Management Technical Manual and is compliant with Part 3.4 of the Ryde Development Control Plan 2014.*

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 subject DA is recommended for refusal for the following reasons:

1. The height, bulk, scale, site layout and design of the development are incompatible with the character with the local area. The proposal is therefore inconsistent with the objectives of the R2 Low Density Residential zone under *Ryde Local Environment Plan 2014*. Further, the applicant has not adequately considered the development's compatibility with the character of the local area pursuant to Clause 16A (Character of local area) of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.
2. The significant (i.e. 3.46 metre or 69.2%) contravention of the five (5) metre building height development standard prescribed by Clause 4.3A(2) (Exceptions to height of buildings) of *Ryde Local Environment Plan 2014* would result in bulk and scale that is incompatible with the character of the surrounding low-density residential area. The variation would therefore fail to satisfy the objectives of both the R2 Low Density Residential zone and the building height standard. The submitted variation request is not well founded as it does not adequately provide appropriate environmental planning grounds for justifying the contravention, and the proposal therefore fails to satisfy the objectives of Clause 4.6 (Exceptions to development standards) of *Ryde Local Environment Plan 2014*.
3. The development is of an architectural language, form and detailing that is not contextually responsive to, and would be visually discordant with, the prevalent housing typology and forms of the surrounding area. As it would not conserve the fabric, settings and views of heritage items within the surrounding area, the proposal would fail the objectives of Clause 5.10 (Heritage conservation) of *Ryde Local Environment Plan 2014*.

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4. The submitted information indicates that the development would be incapable of providing suitable solar access to both internal living areas and private open space areas within the site pursuant to Clause 14(1)(e) of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.
5. The dimensions of pervious areas within the western side of the site are not capable of accommodating vegetation in accordance with the standard instrument definition of 'landscape area'. As such, the proposal would not provide adequate landscaping pursuant to Clause 14(1)(c) of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.
6. In addition to a general lack of landscaped area, the development fails to provide adequately-dimensioned landscape areas along either side boundary of the subject site. The non-compliant landscape areas would fail to provide adequate space for sufficient planting to both reduce the visual impact of the development from the surrounding area and assist with visual privacy to residents of surrounding sites. The development would not satisfy the objectives and controls within Section 3.7 (Landscaping) within Part 3.4 (multi dwelling housing) of *Ryde Development Control Plan 2014*.
7. The submitted information has not assessed the development's impact on trees within adjoining allotments. As such, it is not possible to assess what level of impact the development would have upon such trees on adjoining property.
8. The proposed 4.5 metre setbacks of the building's western elevation are a considerable breach of the minimum six metre requirement where vehicular access is to be provided. As a result, the non-compliant setback does not provide sufficient space for landscaping. As a result of the non-compliances, in addition to non-compliant level of fill under the driveway, and a lack of information regarding retaining walls and boundary fencing, the proposal would likely have an adverse impact on the visual privacy of residential allotments that adjoin the site's western boundary. As such, the proposal would not satisfy the controls or related objectives of Section 3.2 (Altering the Levels of the Site), Section 3.5.4 (Side and Rear Setbacks), Section 3.7 (Landscaping) and Section 3.10 (Visual and Acoustic Privacy) within Part 4.3 of *Ryde Development Control Plan 2014*.
9. Insufficient information has been provided for Council to adequately assess the impacts associated with the fence of the primary frontage. The submitted information indicates that the height and design of the wall would both significantly breach applicable development controls and would have a significant and adverse visual impact on the character of the surrounding area. The development would not satisfy the objectives and controls within Section 4.5 (Fences) within Part 3.4 (multi dwelling housing) of *Ryde Development Control Plan 2014*.
10. Despite being located on a relatively unconstrained allotment, the proposal represents a highly non-compliant form of development that would adversely

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impact on the natural and built environment. The proposal would therefore be inconsistent with the both the existing and future desired character of the local area. Given the level of non-compliance and associated cumulative impacts that are proposed, the proposed development is an overdevelopment of the site.

11. The development is not in the public interest.

12. Recommendation

1. That Development Application at No. LDA2018/0392 for construction of a multi-dwelling housing development containing five (5) dwellings (1x4 bedroom and 4x2 bedroom dwellings) under the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009* be refused for the following reasons:
 - a. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal fails to satisfy the requirements of Clause 14 (Standards that cannot be used to refuse consent) within *State Environmental Planning Policy (Affordable Rental Housing) 2009*, as it does not provide adequate landscaped space and sufficient solar access.
 - b. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal fails to satisfy the requirements of clause 16A (Character of local area) of the *State Environmental Planning Policy (Affordable Rental Housing) 2009*, as it does not feature a design that is compatible with the character of the local area.
 - c. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal fails to satisfy the objectives of Clause 4.3A (Exceptions to height of buildings) of *Ryde Local Environmental Plan 2014*, given the lack of consideration to consistency with the local development character, a failure to minimise overshadowing of surrounding areas, and also a failure to minimise impacts on visual amenity.
 - d. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal fails to satisfy the objectives of Clause 4.6(4)(a) (Exceptions to development standards) of *Ryde Local Environmental Plan 2014*. The submitted written request has not adequately addressed the matters required to be demonstrated by clause 4.6(3) of the *Ryde Local Environmental Plan 2014*, and further, the proposed development will not be in the public interest because it is inconsistent with the objectives of Clause 4.3A and the objectives

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for R2 Low Density Residential zone under the of the *Ryde Local Environmental Plan 2014*.

- e. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal fails to satisfy the objectives of Clause 5.10 (Heritage conservation) of *Ryde Local Environmental Plan 2014*, as the submitted information has not considered the adverse effects of the proposed development on the character and significance of surrounding heritage items.
- f. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the controls and objectives of Section 2.7 (Type of Dwellings) within Part 3.4 (Multi dwelling housing) of *Ryde Development Control Plan 2014*, as a suitable variety of dwellings would not be provided.
- g. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the controls of objectives of Section 3.2 (Altering the Levels of the Site) within *Ryde Development Control Plan 2014*. Aside from insufficient information regarding the locations and levels of retaining walls, cut and fill, the plans indicate that cut and fill would exceed 300mm in multiple locations and that private open space areas would not be located at natural ground level.
- h. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the controls of objectives of Section 3.3.1 (Storeys) within Part 3.4 (Multi dwelling housing) of *Ryde Development Control Plan 2014*, as all dwellings would be two-storey structures.
- i. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the controls or objectives of Sections 3.5.1 (Front Setbacks) and Section 3.9 (Overshadowing and Access to Sunlight) within Part 3.4 (Multi dwelling housing) of *Ryde Development Control Plan 2014*. The proposal features a balcony on the front elevation, the dimensions of which breach allowances for encroachments within the front setback area.
- j. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the controls or objectives of Section 3.5.4 (Side and Rear Setbacks) within Part 3.4 (Multi dwelling housing) of *Ryde Development Control Plan 2014*. More than 50% of the western elevation of the proposal would breach the minimum six metre setback, resulting in cumulative landscape non-compliances and

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adverse visual privacy impacts on adjoining sites.

- k. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the controls or objectives of Section 3.7 (Landscaping) within Part 3.4 (Multi dwelling housing) of *Ryde Development Control Plan 2014*. The plans propose insufficiently-dimensioned landscaped areas that would not screen the development from surrounding sites thereby resulting in adverse visual privacy outcomes.
- l. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the controls or objectives of Section 3.8 (Car Parking) within Part 3.4 (Multi dwelling housing) of *Ryde Development Control Plan 2014*. The plans contain insufficient information to demonstrate appropriate internal vehicle manoeuvring; further, the non-compliant width of the driveway and crossover would result in the otherwise unnecessary loss of a significant street tree.
- m. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the controls or objectives of Section 3.9 (Overshadowing and Access to Sunlight) within Part 3.4 (Multi dwelling housing) of *Ryde Development Control Plan 2014*. The solar access plans do not show the impact of all proposed structures on the site, and as such fail to demonstrate that adequate solar access would be provided to the development.
- n. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the controls or objectives of Section 3.10 (Visual and Acoustic Privacy) within Part 3.4 (Multi dwelling housing) of *Ryde Development Control Plan 2014*. The design of dwellings and other cumulative non-compliances related to landscaping, cut and fill and setbacks would compromise the privacy of residential allotments adjoining the subject site.
- o. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the controls or objectives of Section 4.4 (Building Materials for Walls) within Part 3.4 (Multi dwelling housing) of *Ryde Development Control Plan 2014*. The submitted information proposes highly non-compliant fences that would be inconsistent with the character of the surrounding area.
- p. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, on balance the social and economic impacts

ITEM 3 (continued)

resulting from the proposal would be negative.

- q. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the subject site is not considered to be suitable for the proposed development. The height and bulk of the proposed development is inappropriate for the site, and is reflected by a building scale that is significantly inconsistent with surrounding development. Further, the two-storey layout of the development would result in poor residential amenity and both the height and setback non-compliances are directly attributable to the likely adverse impacts on adjoining sites. The site is therefore unsuitable for development of the size being proposed.
- r. Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the application is not in the public interest and will to set an undesirable precedent.

- 2. That those persons making a submission be advised of the decision.

ATTACHMENTS

- 1 Compliance Check
- 2 Clause.4.6 Variation - Height
- 3 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Tyson Ek-Moller - Planning Consultant
Creative Planning Solutions

Report Approved By:

Kimberley Kavwenje
Senior Coordinator - Assessment

Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

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ATTACHMENT 1

Quality Certification

Multi dwelling housing development

LDA No:	LDA2018/0392
Date Plans Rec'd	Lodgement: 08/10/2018
Address:	34 Clanalpine Street, Eastwood (Lot 2 in Deposited Plan 5132)
Proposal:	Construction of a multi-dwelling housing development containing 5 dwellings (1x4 bedroom and 4x2 bedroom dwellings) under the provisions of <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i>

State Environmental Planning Policy No. 55 – Remediation of Land

Clause	Requirement	Proposed	Complies?
7 Contamination and remediation to be considered in determining development application	(1) A consent authority must not consent to the carrying out of any development on land unless: (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	A contamination assessment has not been submitted with this application. Regardless, the site history indicates that the subject site has been used for residential purposes for an extended period of time (i.e. since at least the 1940s). Such a use and associated development are not typically associated with activities that would result in the contamination of the site. Further to the site review, the submitted information did not provide any information which suggests that the site may be contaminated. With consideration to the above (and assuming that a separate proposal/consent for demolition appropriately dealt with the removal of hazardous materials (if any)), it is unlikely that the site is contaminated and would therefore be suitable for the proposed development.	Yes

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ATTACHMENT 1

State Environmental Planning Policy (Affordable Rental Housing) 2009

Clause	Requirement	Proposed	Complies?
Division 1 In-fill affordable housing			
10 Development to which Division applies	(1) This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if: (a) the development concerned is permitted with consent under another environmental planning instrument, and (b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the Heritage Act 1977.	The proposed development is for multi dwelling housing, which is a form of development that is permissible with consent within the R2 zone under RLEP 2014. The site does not contain a heritage item as identified by Schedule 5 of RLEP 2014.	Yes
	(2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area. Planner note: 'Accessible area' as defined by clause 4(1) of the SEPP as land within: (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or (c) 400 metres walking distance of a bus stop used by a regular bus service (within the	The subject site is considered to be in an accessible area, as it is approximately 790 metres walking distance to Eastwood railway station. Whilst a bus stop is located immediately in front of the site, the 843 and 844 bus routes which service this stop do not provide the required number of bus services and as such have not been considered further.	Yes

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Clause	Requirement	Proposed	Complies?
	<i>meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</i>		
	(3) Despite subclause (1), this Division does not apply to development on land that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to any of those zones.	The site is located within the Sydney region.	N/A
13 Floor space ratios	(1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.	Units 2 and 3 are nominated as affordable housing; this equates to two of the proposed five dwellings (i.e. 40%). Proposed GFA: <ul style="list-style-type: none"> • Ground Floor: 264.8m² • First Floor: 331.8m² • TOTAL: 596.6m² Proposed GFA of Units 2 and 3: 209.4m² Proportion of GFA to be used as affordable housing: 35.1%	Yes
	(2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus: (a) if the existing maximum floor space ratio is 2.5:1 or less: (i.) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable	Clause 4.4(2) of RLEP 2014 imposes a 0.5:1 FSR on the site. Notwithstanding the above, Clause 4.4A(2) of the LEP states that " <i>Clause 4.4 does not apply to development for multi dwelling housing on land in Zone R2 Low Density Residential.</i> " As the proposal constitutes multi-dwelling housing within the R2 zone, there is no FSR limit prescribed for the site. For reference, the proposed FSR for the site (based on the calculations within Cl. 13(1) above) would be 0.59:1, based on a GFA of 596.6m ² on a site area of	N/A

ITEM 3 (continued)

ATTACHMENT 1

Clause	Requirement	Proposed	Complies?
	<p>housing is 50 per cent or higher, or</p> <p>(ii.) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:</p> <p>AH is the percentage of the gross floor area of the development that is used for affordable housing. Y = $AH \div 100$</p> <p>or</p> <p>(b) if the existing maximum floor space ratio is greater than 2.5:1:</p> <p>(i.) 20 per cent of the existing maximum floor space ratio—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</p> <p>(ii.) Z per cent of the existing maximum floor space ratio—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:</p> <p>AH is the percentage of the gross floor area of the development that is used for affordable housing. Z = $AH \div 2.5$</p>	1011.4m ² .	
	(3) In this clause, gross floor area does not include any car parking (including any area used for car parking).	Noted. The calculation of GFA has been undertaken in accordance with the definition contained within the standard instrument.	-
14 Standards that cannot be used to refuse	(1) Site and solar access requirements A consent authority must not	An assessment of the relevant provisions is as follows: (b) The area of the site is 1011.4m ²	No

ITEM 3 (continued)

ATTACHMENT 1

Clause	Requirement	Proposed	Complies?
<p>consent</p>	<p>refuse consent to development to which this Division applies on any of the following grounds:</p> <p>(a) (Repealed)</p> <p>(b) site area if the site area on which it is proposed to carry out the development is at least 450 square metres,</p> <p>(c) landscaped area if:</p> <p>(i.) in the case of a development application made by a social housing provider—at least 35 square metres of landscaped area per dwelling is provided, or</p> <p>(ii.) in any other case—at least 30 per cent of the site area is to be landscaped,</p> <p>(d) deep soil zones if, in relation to that part of the site area (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed:</p> <p>(i.) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the deep soil zone), and</p> <p>(ii.) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and</p> <p>(iii.) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</p> <p>(e) solar access</p>	<p>(c) While 30% of the site would consist of soft/pervious area, it is questioned whether such areas could be considered as 'landscaped' area. The SEPP does not define landscape area, and as there is no 'landscape' definition contained the <i>Interpretation Act 1987</i>, reference is made to the standard instrument definition of 'landscaped area' within RLEP 2014, which for reference reads as follows: <i>'means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.'</i> The aforementioned 'landscaped' area includes landscape strips either side of the driveway, which have widths 500mm (refer to respective DCP assessments below, which raise issues regarding such dimensions); these dimensions would not be suitable for the growth of larger vegetation and/or trees. Given that the 'landscaped area' definition requires that such areas be used for the growth of "plants, grasses and trees", such small spaces would be incapable of accommodating trees and as such would not be considered as 'landscape area' by the standard instrument definition. If these narrow strips were removed, only 27.9% of the site would consist of "landscaped" area. The submitted SEE does not discuss this issue.</p> <p>(d) Proposed deep soil space: approximately 152.8m², or 15.1% of the site area. It should be noted that only 42.8% of deep soil areas would be located within the rear setback. While it is noted that the control indicates two-thirds of the deep soil space be provided within the rear of the site 'where practicable'. The subject site does not contain any notable constraints, therefore the failure to satisfy such a requirement is reflective of the largely noncompliant nature of the proposal, and is not considered to be an appropriate outcome. The submitted SEE does not discuss this issue.</p> <p>(e) There is insufficient information to</p>	

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ATTACHMENT 1

Clause	Requirement	Proposed	Complies?
	<p>if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</p>	<p>demonstrate that the development would enable sufficient solar access to both Private Open Space ('POS') and living areas.</p> <p>Whilst the submitted shadow plans suggest that POS areas would likely receive adequate solar access, they do not show the impacts associated with:</p> <ul style="list-style-type: none"> • The eastern boundary fences atop of the retaining walls (heights of these structures are not indicated, however due to the excavation of the POS areas, the elevation/section plans suggest that these structures would be between 2.73-2.85 metres high); and • Internal boundary fences. <p>Further, there are no plans showing the level of internal solar access that would be obtained. The eastern eaves/overhangs would cover the western part of the POS areas; further, there would be a roof structure covering the POS area adjacent to the eastern elevation of the dwellings; the type of roof proposed has not been detailed, though even a pergola-style roof would likely filter the solar access to the living areas.</p> <p>The solar access plans also indicate that areas beneath the eaves would already be overshadowed by 12:00pm on June 21, therefore it is unlikely that living areas would receive any solar access at this time and the minimum three hour requirement would not be met. Further, skylights above family rooms on the first-floor area contain an area of approximately 0.35m², and would therefore not provide an adequate amount of solar access to internal living areas on their own.</p> <p>In summary, there is an inadequate amount of information to demonstrate that adequate solar access would be provided to residents of any of the dwellings. Aside from the SEE indicating that</p>	

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Clause	Requirement	Proposed	Complies?
		<p>compliance is obtained (without any evidence to support such claims), this issue has not been considered further by the applicant.</p>	
	<p>(2) General A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p>(a) Parking if:</p> <p>(i.) in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms, or</p> <p>(ii.) in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,</p> <p>(b) dwelling size if each dwelling has a gross floor area of at least:</p> <p>(i.) 35 square metres in the case of a bedsitter or studio, or</p> <p>(ii.) 50 square metres in the case of a dwelling having 1 bedroom, or</p> <p>(iii.) 70 square metres in</p>	<p>An assessment of the relevant provisions is as follows:</p> <p>(a) Required parking rates:</p> <ul style="list-style-type: none"> • Unit 1: 1.5 spaces • Unit 2: 1 space • Unit 3: 1 space • Unit 4: 1 space • Unit 5: 1 space <p>Proposed parking rates:</p> <ul style="list-style-type: none"> • Unit 1: 2 spaces • Unit 2: 1 space • Unit 3: 1 space • Unit 4: 1 space • Unit 5: 1 space <p>(b) Required dwelling sizes:</p> <ul style="list-style-type: none"> • Unit 1: 95m² • Unit 2: 70m² • Unit 3: 70m² • Unit 4: 70m² • Unit 5: 70m² <p>Proposed dwelling sizes:</p> <ul style="list-style-type: none"> • Unit 1: 169.9m² • Unit 2: 102.3m² • Unit 3: 102.3m² • Unit 4: 102.3m² • Unit 5: 102.3m² <p>Note: The above areas exclude garages.</p>	<p>Yes</p>

ITEM 3 (continued)

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Clause	Requirement	Proposed	Complies?
	the case of a dwelling having 2 bedrooms, or (iv.) 95 square metres in the case of a dwelling having 3 or more bedrooms.		
	(3) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	Noted.	-
15 Design requirements	(1) A consent authority must not consent to development to which this Division applies unless it has taken into consideration the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004, to the extent that those provisions are consistent with this Policy.	A detailed assessment of <i>Seniors Living Policy: Urban Design Guidelines for Infill Development</i> has been undertaken. As is shown within that assessment, the proposed development is largely inconsistent with the design guidelines of that document. Numerous inconsistencies were noted with regard to: <ul style="list-style-type: none"> • Analysis of neighbourhood character; • Site Planning and design; • Trees, landscaping and deep soil zones; • Impacts on streetscape; and • Residential amenity. Refer to the table below for issues associated with this assessment.	No
	(2) This clause does not apply to development to which clause 4 of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development applies.	Noted. SEPP 65 is not applicable to the proposal.	-
16 Continued application of SEPP 65	Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development to any development to which this Division applies.	Noted. SEPP 65 is not applicable to the proposal.	-

ITEM 3 (continued)

ATTACHMENT 1

Clause	Requirement	Proposed	Complies?
16A Character of local area	A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	Refer to the detailed assessment contained within the assessment report.	No
17 Must be used for affordable housing for 10 years	(1)A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that: (a) for 10 years from the date of the issue of the occupation certificate: (i.) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and (ii.) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and (b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.	Noted. In the event of an approval, a condition could be applied requiring compliance with Clause 17.	Yes
	(2)Subclause (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by, or on behalf of, a public authority.	Noted	-
18 Subdivision	Land on which development has been carried out under this Division may be subdivided with	Noted. Subdivision of the development is not proposed.	N/A

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Clause	Requirement	Proposed	Complies?
	the consent of the consent authority.		

Seniors Living Policy: Urban Design Guidelines for Infill Development

Design Issues / Design Principals and Better Practices	Comments	Complies?
1. Responding to Context		
Responding to context - Analysis of neighbourhood character		
<p>The key elements that contribute to neighbourhood character and therefore should be considered in the planning and design of new development are:</p> <p>Street layout and hierarchy – has the surrounding pattern and hierarchy of the existing streets been taken into consideration? (eg scale and character of the built form, patterns of street planting, front setbacks, buildings heights)</p>	<p>It is acknowledged that the primary frontage of the building complies with front setback requirements (see below) and would present as a two-storey dwelling to the primary frontage. The remainder of the building is however substantially out of character in terms of bulk and scale and architectural design, as is reflected by the applicant's submitted 3D modelling. Such bulk and scale as a result noncompliances would be clearly visible from the primary frontage when viewed from an angle (as shown by the applicant's submitted 3D models and montages), the Shaftsbury Road road reserve and surrounding sites. Further, due to the significant and noncomplying heights of Units 2-5, the structure would also be visible from Shaftsbury Road. The submitted SEE incorrectly refers to Units 2-5 as a single storey element (see below), and as is noted by Council's Heritage advisor, the design character of the development is not compatible with the prevalent orchestral character of surrounding development and heritage items.</p> <p>Refer to the detailed assessments in response to provisions within SEPP (ARH) 2009 (above) and RDCP 2014 (below).</p>	No
<p>Block and lots – does the analysis of the surrounding block and lot layout take into consideration local compatibility and development suitability? (e.g. lot size, shape, orientation)</p>	<p>The analysis does not take the development layouts on surrounding sites into account.</p> <p>The RLEP 2014 has well established controls regarding the number of dwellings on the allotment (refer to the assessment of Clause 4.5A of RLEP 2014 below) to limit dwelling densities on development sites. While the RLEP 2014 would only permit a maximum of three dwellings on the site, the subject application proposes five dwellings.</p>	No

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Design Issues / Design Principals and Better Practices	Comments	Complies?
	<p>As the proposal has been lodged pursuant to SEPP(ARH) 2009 (which takes precedence over the LEP with regard to site area), the proposal technically complies with dwelling density requirements, however the analysis of the site has not taken local compatibility and development suitability into account.</p> <p>This is reflected by a building bulk, scale and design that is inconsistent and therefore inappropriate for the area. Further, the east/west orientation of the attached dwellings on a site with a north/south orientation is not ideal for solar access, as is reflected by the relevant assessment above, which shows that both POS areas and internal living areas are unlikely to receive solar access in accordance with the solar access provisions within the SEPP.</p>	
<p>Built environment – has a compatibility check been undertaken to determine if the proposed development is consistent with the neighbourhoods built form? (e.g. scale, massing, etc.). Should particular streetscapes or building types be further developed or discouraged?</p>	<p>A detailed compatibility test has not been provided. The submitted SEE does however contain a discussion of character (refer to separate assessments above and below).</p> <p>As addressed above, the height, bulk and scale of the development to the rear of Unit 1 is inappropriate and not consistent with the neighbourhood's built form. While it is acknowledged that multi-dwelling housing developments are likely to be larger than detached dwellings (i.e. the prevalent form of development within the surrounding area), a more compliant form of development (in terms of height, bulk and scale) would likely be less evident when viewed from surrounding sites and the public domain, and would therefore be more consistent with the neighbourhood's built form.</p>	No
<p>Trees – do trees and planting in the proposed development reflect trees and landscapes in the neighbourhood or street?</p>	<p>The subject application proposes to remove all trees from the site in addition to a street tree within the adjoining road reserve. The layout of the site would not enable substantial tree planting within the western half of the front setback or within either side setback. This is considered to be inconsistent with the typical landscaping regime within the surrounding area.</p>	No

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Design Issues / Design Principals and Better Practices	Comments	Complies?
Policy environment – has Council's own LEP and DCP been considered to identify key elements that contribute to an areas character? Does the proposed development respond this?	Detailed assessments of relevant provisions within RLEP 2014 and RDCP 2014 have been considered when identifying key elements of the locality's character.	Yes
Does the site analysis include: Existing streetscape elements and the existing pattern of development as perceived from the street	Existing streetscape elements and development patterns are shown in the site analysis (albeit only parts of surrounding sites).	Yes
Patterns of driveways and vehicular crossings	Vehicular crossings of 32 and 36 Clanalpine Streets are shown.	Yes
Existing vegetation and natural features on the site	Existing trees and the slope of the site are shown.	Yes
Existing pattern of buildings and open space on adjoining lots	Only portions of the dwellings and POS areas within of 32 and 36 Clanalpine Streets are shown.	No
Potential impact on privacy for, or overshadowing of, existing adjacent dwellings.	Potential impacts of overshadowing are included.	Yes
2. Site Planning and Design		
General		
Does the site planning and design: Optimise internal amenity and minimise impacts on neighbours?	The design and orientation of the dwellings do not demonstrate that adequate solar access would be provided to internal living and/or POS areas. The proposal would not however excessively overshadow surrounding sites. The design of the ground floor of Units 2-5 and the noncompliant design of the western setbacks would likely result in adverse visual privacy impacts. Whilst they are also technically compliant with visual privacy provisions within the DCP, the noncompliant nature of the secondary storey of Units 2-5 would result in potential visual privacy impacts on surrounding sites, which would not occur if the dwellings were single storey structures.	No
Provide a mix of dwelling sizes and dwellings both with and without carparking?	One four-bedroom and four two-bedroom apartments would be proposed. Whilst noncompliant with DCP requirements (see below), this control does not specify a dwelling mix that is to be provided.	Yes
Built form		
Does the site planning and design: Locate the bulk of development towards the front of the site to maximise the number of dwellings with frontage to the public street?	The design limitations of the site (i.e. orientation and width) would not enable more than one dwelling to present to the street.	Yes

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ATTACHMENT 1

Design Issues / Design Principals and Better Practices	Comments	Complies?
Have parts of developments towards the rear of the site been reduced in scale to limit impacts on adjoining neighbours?	Unit 1 has a different design on the basis that it presents to the public domain. Built form considerations require that " <i>Parts of the development towards the rear of the site should be more modest in scale to limit the impacts on adjoining properties.</i> " As indicated above, the proposal has not been designed to minimise massing and scale at the rear of the site.	No
Orientate dwellings to maximise solar access to living areas and private open space, and locate dwellings to buffer quiet areas within the development from noise?	As assessed above and below, massing towards the end of the site has not been reduced in accordance with relevant development standards, nor has the orientation or design of dwellings sought to maximise internal solar access.	No
Trees, landscaping and deep soil zones		
Does the site planning and design: Retain trees and planting on the street and in front setbacks to minimise the impact of new development on the streetscape?	All existing trees on the site and a tree within the road reserve are proposed to be removed. The layout of the front setback would not enable deep soil planting to minimise the visual impact of the proposed development, particularly from the northwest.	No
Retain trees and planting at the rear of the lot to minimise the impact of new development on neighbours and maintain the pattern of mid block deep-soil planting?	Existing trees towards the rear of the site would be removed.	No
Retain large or otherwise significant trees on other parts of the site through sensitive site planning?	All existing trees on the site and a tree within the road reserve are proposed to be removed. The largest street tree at the front of the site within the road reserve would be removed.	No
Where not possible to retain existing trees, replace with new mature or semi-mature trees?	Deep soil planting is proposed within the front and rear setback, and large tree planting is proposed. The layout of the front setback would not however enable trees to be planted within a large section of this area.	No
Increase the width of landscaped areas between driveways and boundary fences and between driveways and new dwellings?	The plans propose significant noncompliances to DCP controls that govern the width of landscaped areas. Justifications provided by the applicant for such noncompliances are not supported.	No
Provide pedestrian paths?	It is proposed for the driveway to be used for internal pedestrian circulation	Yes

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Design Issues / Design Principals and Better Practices	Comments	Complies?
Reduce the width of driveways?	The driveway (particularly the crossing and area within the front setback) contain excessive (i.e. 6.63-9.3 metre) widths.	No
Provide additional private open space above the minimum requirements?	Units 1 and 5 would contain POS areas that are larger than minimum requirements.	Yes
Provide communal open space?	Communal open space is provided, however the location of such space is to the south of Unit 5, therefore a significant proportion of this area would be in perpetual shade and as such would be subject to poor amenity.	No
Increase front, rear and/or side setbacks?	Noncompliant side setbacks are proposed on the western elevation, thereby limiting opportunities to increase landscaped space within this area.	No
Provide small landscaped areas between garages, dwellings entries, pedestrian paths, driveways etc.	Except for a small indented landscape area between the driveway and Unit 1 (which is considered to be insufficient for any substantial landscaping), landscaped areas have not been provided in such areas.	No
Provide at least 10% of the site area, at the rear of the site, for deep soils zones to create a mid-block corridor of trees within the neighbourhood?	Whilst not providing two-thirds of deep soil space within the rear setback as covered by SEPP (ARH)2009, more than 10% of the rear setback area would contain deep soil area.	Yes
Replicate an existing pattern of deep soil planting on the front of the site?	The excessively wide driveway would not replicate the predominant pattern of deep soil space within the front setback of residential sites along Clanalpine Street.	No
Use semi-pervious materials for driveways, paths and other paved areas?	Semi-pervious pavers have been used for the waste storage and paved areas of POS areas.	Yes
Use on-site detention to retain stormwater on site for re-use?	An OSD system and individual rainwater tanks are proposed.	Yes
Parking, garaging and vehicular circulation		
Does the site planning and design: Consider centralised parking in car courts to reduce the amount of space occupied by driveways, garages and approaches to garages?	Individual car parking proposed.	Yes
Maintain, where possible, existing crossings and driveway locations on the street?	Whilst the existing crossing is to be maintained, it is proposed to widen this feature to a noncomplying width.	Yes

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Design Issues / Design Principals and Better Practices	Comments	Complies?
3. Impacts on Streetscape		
General		
Does the site planning and design: Sympathise with the building and existing streetscape patterns? (i.e. siting, height, separation, driveways locations, pedestrian entries etc.)	As assessed above and below, the proposed development does not sympathise with existing development on surrounding sites and predominant streetscape patterns.	No
Provide a front setback that relates to adjoining development?	The proposed front setback is consistent with DCP requirements; refer to the relevant assessment below.	Yes
Built form		
Does the site planning and design: Break up the building massing and articulate building facades?	The building design would not break up building massing. Whilst parapets and slightly varying ridge lines are proposed for Units 2-5, such design measures would not be discernible from the streetscape; this is clearly evident in the applicant's submitted 3D modelling.	No
Allow breaks in rows of attached dwellings?	No breaks are proposed in the line of attached dwellings.	No
Use a variation in materials, colours and openings to order building facades with scale and proportions that respond to the desired contextual character?	A variety of materials and colours are proposed, however the design is not responsive to the predominant character of the surrounding area. With regard to the specified requirements, Council's heritage advisor's comments indicate that the proposal is not contextually responsive for the following reasons: <ul style="list-style-type: none"> - <i>The double garage door on the front elevation, as it is a visually dominant feature of the streetscape and carparking facilities and structures are consistently subservient features of the sites within the streetscape.</i> - <i>The architectural language of the front elevation incorporates a range of competing features and stylistic influences which adds to the visual 'busyness' with insufficient articulation and modulation to reflect the traditional housing forms in the streetscape.</i> 	No
Set back upper levels behind the front building façade?	The upper level has not been set back behind the front façade. Further, the plans propose to project a large first-floor balcony feature forward of the building line.	No

ITEM 3 (continued)

ATTACHMENT 1

Design Issues / Design Principals and Better Practices	Comments	Complies?
Where it is common practice in the streetscape, locating second storeys within the roof space and using dormer windows to match the appearance of existing dwelling houses?	A second storey has been located in the roof of Units 2-5 with dormer-style windows being proposed. Whilst consistent with this requirement, the proposed secondary storey is not compliant with the requirements of Clause 4.3A of RLEP 2014; refer to the separate assessment of this issue below. The proposed arrangement would also not be consistent with the definition for an attic as contained within the RLEP 2014/Standard Instrument.	No
Reduce the apparent bulk and visual impact of the building by breaking down the roof into smaller roof elements?	The roof form of Unit 1 is different to that (in terms of pitch and height) of Units 2-5. Parapets are proposed between the roofs of Units 2-5, and Units 2 and 3 have slightly reduced ridge RLs. As the ridges of Units 4 and 5 are higher than those of Units 2 and 3 however, such design features have little (if any) effectiveness in reducing the apparent bulk and scale of the roof.	No
Use a roof pitch sympathetic to that of existing buildings in the street?	The roof pitches of Unit 1 (the most prominent element of the development) are not consistent with the requirements of the DCP nor those of surrounding development.	No
Avoid uninterrupted building facades including large areas of painted render?	Large uninterrupted building facades are not proposed.	Yes
Trees, landscaping and deep soil zones		
Does the site planning and design: Use new planting in the front setback and road reserve where it is not possible or not desirable to retain existing trees/planting?	It would not be possible to implement new planting within the western part of the northern setback area or road reserve in front of this area.	No
Plant in front of front fences to reduce their impact and improve the quality of the public domain?	Specific details regarding the front fence design have not been provided, however the submitted 3D modelling indicates that planting in front of the fence is not proposed.	No
Residential amenity		
Does the site planning and design: Clearly design open space in the front setback as either private or communal open space?	The open space in the front setback has not been allocated as private or communal open space.	No
Define the threshold between public and private space by level change, change in materials, fencing, planting and/or signage?	The threshold would be delineated through boundary fencing and landscaping treatments.	Yes
Design dwellings at the front of the site to address the street?	Unit 1 would address the street frontage.	Yes

ITEM 3 (continued)

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Design Issues / Design Principals and Better Practices	Comments	Complies?
Design pedestrian entries, where possible, directly off the street?	Pedestrian access would be via the driveway.	Yes
Provide a pedestrian entry for rear residents that is separate from vehicular entries?	Separate dwelling and garage entrances proposed.	Yes
Design front fences that provide privacy where necessary, but also allow for surveillance of the street?	Whilst specific details are not provided, the 3D modelling suggests that they would permit surveillance of the street from within the site.	Yes
Ensure that new front fences have a consistent character with front fences in the street?	The submitted 3D modelling suggests that the fences would not be consistent with those on surrounding sites.	No
Orientate mailboxes obliquely to the street to reduce visual clutter and the perception of multiple dwellings?	The mailboxes would present to the communal driveway and not the street.	Yes
Locate and treat garbage storage areas and switchboards so that their visual impact on the public domain is minimised?	The communal waste storage area would be located within the rear setback, preventing such facilities from being visible from the public domain.	Yes
Parking, garaging and vehicular circulation		
Does the site planning and design: Vary the alignment of driveways to avoid a 'gun barrel' effect?	A straight 'gunbarrel' type driveway is proposed.	No
Set back garages behind the predominant building line to reduce their visibility from the street?	The garage for Unit 1 would not be set back behind the building line; comments from Council's heritage advisor indicates that this would be a prominent feature when viewed from the streetscape.	No
Consider alternative site designs that avoid driveways running the length of the site?	An alternative site design has not been discussed.	No
Terminate vistas with trees, vegetation, open space or a dwelling rather than garages or parking?	Deep soil planting is proposed at the end of the driveway.	Yes
Use planting to soften driveway edges?	Noncompliant landscaped areas would provide insufficient opportunities to soften driveway edges.	No
Vary the driveway surface material to break it up into a series of smaller spaces? (eg to delineate individual dwellings)	Varying surface materials are not proposed.	No
Limit driveway widths on narrow sites to single carriage with passing points?	The width of the driveway is in excess of relevant requirements under the RDCP 2014.	No
Provide gates at the head of driveways to	No gates are proposed.	N/A

ITEM 3 (continued)

ATTACHMENT 1

Design Issues / Design Principals and Better Practices	Comments	Complies?
minimise visual 'pull' of the driveway?		
Reduce the width where possible to single width driveways at the entry to basement carparking rather than double?	Basement carparking is not proposed.	N/A
Locate the driveway entry to basement carparking to one side rather than the centre where it is visually prominent?	Basement carparking is not proposed.	N/A
Recess the driveway entry to basement car parking from the main building façade?	Basement carparking is not proposed.	N/A
Where a development has a secondary street frontage, provide vehicular access to basement car parking from the secondary street?	The site does not contain a secondary frontage.	N/A
Provide security doors to basement carparking to avoid the appearance of a 'black hole' in the streetscape?	Basement carparking is not proposed.	N/A
Return façade material into the visible area of the basement car park entry?	Basement carparking is not proposed.	N/A
Locate or screen all parking to minimise visibility from the street?	All onsite parking would be contained within individual garages.	Yes
4. Impacts on Neighbours		
Built form		
Does the site planning and design: Where possible, maintain the existing orientation of dwelling 'fronts' and 'backs'?	Minimum front at rear setbacks would comply with DCP requirements, however the rear setback would vary significantly to that of surrounding development. It is however acknowledged that a multi-dwelling housing development would likely contain a smaller rear setback than a detached dwelling house.	No
Be particularly sensitive to privacy impacts where dwellings must be oriented at 90 degrees to the existing pattern of development?	The orientation of the dwellings has not given sufficient consideration to the visual privacy of adjoining sites to the west of the subject site; refer to the separate assessment below.	No
Set upper storeys back behind the side or rear building line?	The first floor of Unit 1 has not been set back behind the minimum side building lines.	No
Reduce the visual bulk of roof forms by breaking down the roof into smaller elements rather than having a single uninterrupted roof structure?	The roof form of Unit 1 is different to that (in terms of pitch and height) of Units 2-5. Parapets are proposed between the roofs of Units 2-5, and Units 2 and 3 have slightly reduced ridge RLs. As the ridges of Units 4	No

ITEM 3 (continued)

ATTACHMENT 1

Design Issues / Design Principals and Better Practices	Comments	Complies?
	and 5 are higher than those of Units 2 and 3 however, such design features have little (if any) effectiveness in reducing the apparent bulk and scale of the roof when viewed from surrounding sites and the public domain (both within Clanalpine Street and Shaftsbury Road).	
Incorporate second stories within the roof space and provide dormer windows?	The design of Unit 1 would not incorporate the secondary storey into the roof space. Units 2-5 feature dormer windows. The proposed arrangement does not meet the definition for an 'attic' under the RLEP2014/Standard Instrument.	No
Offset openings from existing neighbouring windows or doors?	Windows on both floors would be generally offset from those within dwellings on adjoining sites.	Yes
Reduce the impact of unrelieved walls on narrow side and rear setbacks by limiting the length of the walls built to these setbacks?	The design generally avoids large expanses of unrelieved walls through a range of architectural measures.	Yes
Trees, landscaping and deep soil zones		
Does the site planning and design: Use vegetation and mature planting to provide a buffer between new and existing dwellings?	Whilst deep soil space would be provided within the rear setback, the side setbacks would contain insufficiently-sized landscaping areas to provide sufficient buffers alongside boundaries.	No
Locate deep soil zones where they will provide privacy and shade for adjacent dwellings?	Deep soil areas have been provided within the front and rear setbacks. Such areas would not contribute significantly to maintaining visual privacy but are in accordance with SEPP (ARH) 2009).	Yes
Plant in side and rear setbacks for privacy and shade for adjoining dwellings?	Whilst deep soil space would be provided within the rear setback, the side setbacks would contain insufficiently-sized landscaping areas to provide suitable landscape screening along the side boundaries.	No
Use species that are characteristic to the local area for new planting?	Additional landscape information is required, however compliance could be addressed via conditions imposed by Council.	Yes
Residential amenity		
Does the site planning and design: Protect sun access and ventilation to living areas and private open space of neighbouring dwellings by ensuring	The orientation of the site would enable sufficient and complying solar access to surrounding sites.	Yes

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Design Issues / Design Principals and Better Practices	Comments	Complies?
adequate building separation?		
Design dwellings so that they do not directly overlook neighbours' private open space or look into existing dwellings?	The submitted information indicates that the layout of the western setback would not prevent overlooking of adjoining sites.	No
Locate private open space in front setbacks where possible to minimise negative impacts on neighbours?	Private open space is not located within the front setback, however such a requirement would be contrary to DCP requirements.	No
Ensure private open space is not adjacent to quiet neighbouring uses, e.g. bedrooms?	Proposed POS areas would mostly address POS areas on surrounding sites.	Yes
Design dwellings around internal courtyards?	Living areas within all units would be designed to adjoin POS areas.	Yes
Provide adequate screening for private open space areas?	The proposed boundary/internal fencing should provide adequate visual privacy of such areas.	Yes
Use side setbacks which are large enough to provide usable private open space to achieve privacy and soften the visual impact of new development by using screen planting?	The width of landscaped areas along the side boundaries would be insufficient for the planting of appropriate landscape screening.	No
Parking, garaging and vehicular circulation		
Does the site planning and design: Provide planting and trees between driveways and side fences to screen noise and reduce visual impacts?	The noncompliant side setbacks and subsequently noncompliant landscaped areas would not provide sufficient space for landscaping to mitigate the visual impacts of the development.	No
Position driveways so as to be a buffer between new and existing adjacent dwellings?	The location of the driveway would form a buffer between the development and dwellings with frontages to Shaftsbury Road.	Yes
5. Internal Site Amenity		
Built form		
Does the site planning and design: Maximise solar access to living areas and private open space areas of the dwelling?	The design and orientation of the development would not enable sufficient solar access to both internal living areas and POS areas.	No
Provide dwellings with a sense of identity through building articulation, roof form and other architectural elements?	Whilst Unit 1 would be set apart, Units 2 and 5 are effectively mirrored designs that do not promote a sense of identity.	No
Provide buffer spaces and/or barriers between the dwellings and driveways or between dwellings and communal areas for villa or townhouse style developments?	Internal barriers would enable separation of private and communal open spaces areas.	Yes

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Design Issues / Design Principals and Better Practices	Comments	Complies?
Use trees, vegetation, fences, or screening devices to establish curtilages for individual dwellings in villa or townhouse style developments?	Internal fencing and party walls would establish curtilages for individual dwellings.	No
Have dwelling entries that are clear and identifiable from the street or driveway?	The entry to Unit 1 would present clearly to the public domain. The entrances of Units 2-5 would open directly onto the driveway.	Yes
Provide a buffer between public/communal open space and private dwellings?	Internal boundary fences would provide a buffer between communal open space and private dwellings.	Yes
Provide a sense of address for each dwelling?	Whilst Unit 1 would be set apart, Units 2 and 5 are effectively mirrored designs that would not promote an identifiable sense of identity.	No
Orientate dwelling entries to not look directly into other dwellings?	The location and orientations of the entrances to Units 2-5 would likely have a line of sight into allotments adjoining the western boundary due to their elevated height and insufficient screening along the western boundary.	No
Parking, garaging and vehicular circulation		
Does the site planning and design: Locate habitable rooms, particularly bedrooms, away from driveways, parking areas and pedestrian paths, or where this is not possible use physical separation, planting, screening devices or louvers to achieve adequate privacy?	Aside from studies, habitable rooms including living areas would not adjoin the communal driveway.	Yes
Avoid large uninterrupted areas of hard surface?	The combined communal driveway and driveway to Unit 1 would result in the creation of a very large (i.e. 71m ² and uninterrupted paved area within and the front setback.	No
Screen parking from views and outlooks from dwellings?	Parking spaces would be enclosed within onsite garages.	Yes
Reduce the dominance of areas for vehicular circulation and parking by: <ul style="list-style-type: none"> • Considering single rather than double width driveways. • Use communal car courts rather than individual garages. • Single rather than double garages. • Tandem parking or a single garage with single car port in tandem. 	The design and layout of parking facilities has not been undertaken in accordance with the design principles. Notable issues include: <ul style="list-style-type: none"> • An excessively wide driveway and driveway crossover; • An excessively large expanse of paved area within the front setback area; • A large double garage on the primary 	No

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Design Issues / Design Principals and Better Practices	Comments	Complies?
<ul style="list-style-type: none"> Providing some dwellings without any car parking for residents without cars. 	frontage of Unit 1.	
Residential amenity		
Does the site planning and design: Provide distinct and separate pedestrian and vehicular circulation on the site where possible, where not possible shared access should be wide enough to allow a vehicle and a wheelchair to pass safely?	Distinct/separate pedestrian circulation has not been proposed. There is insufficient information to demonstrate that safe pedestrian access is provided to Units 2-5.	No
Provide pedestrian routes to all public and semi-public areas?	Dedicated pedestrian circulation has not been proposed.	No
Avoid ambiguous spaces in building and dwelling entries that are not obviously designated as public or private?	Suitable delineation between private and communal areas would be provided.	Yes
Minimise opportunities for concealment by avoiding blind or dark spaces between buildings, near lifts and foyers and at the entrance to or within indoor car parks?	The layout of the driveway and entrances would minimise opportunities for concealment near building entrances.	Yes
Clearly define thresholds between public and private spaces?	Delineation between public and private spaces would be provided using fences and landscaping.	Yes
Provide private open space that is generous in proportion and adjacent to the main living areas of the dwelling?	POS areas would extend from main living areas within respective dwellings.	Yes
Provide private open space area that are orientated predominantly to the north, east or west to provide solar access?	POS areas are oriented towards the east. As indicated within the DCP assessment however, insufficient information has been provided to demonstrate that adequate solar access would be obtainable to such areas.	Yes
Provide private open space areas that comprise multiple spaces for larger dwellings?	Multiple POS spaces not provided nor required.	N/A
Provide private open space areas that use screening for privacy but also allow casual surveillance when located adjacent to public or communal areas?	POS areas would be enclosed by sufficient screening for internal privacy, however the dimensions of landscaping screening areas would be inadequate to provide sufficient landscaping screening.	No
Provide private open space areas that are both paved and planted when located at ground level?	POS areas would be paved and planted at ground level.	Yes
Provide private open space areas that retain existing vegetation where practical?	Existing trees/vegetation would not be retained.	No
Provide private open space areas that use	Pervious pavers is proposed within paved	Yes

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Design Issues / Design Principals and Better Practices	Comments	Complies?
pervious pavers where private open space is predominantly hard surfaced to allow for water percolation and reduced run-off?	areas in the POS areas.	
Provide communal open space that is clearly and easily accessible to all residents and easy to maintain and includes shared facilities, such as seating and barbeques to permit resident interaction?	The communal open space area would be easily accessible at the rear of the site.	Yes
Site and/or treat common service facilities such as garbage collection areas and switchboards to reduce their visual prominence to the street or to any private or communal open space?	The communal waste storage area would be located within the rear setback, and as such would not be visible from the public domain.	Yes

Ryde Local Environment Plan 2014

Clause	Proposal	Complies?						
2.6 Subdivision—consent requirements								
(1) Land to which this Plan applies may be subdivided, but only with development consent.	No subdivision is proposed.	N/A						
4.1B Minimum lot size								
(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.	Existing lot area: 1,011.4m ² (survey, based on title) Existing lot frontage: 20.115m	Yes						
<table border="1"> <thead> <tr> <th>Column 1</th> <th>Column 2</th> </tr> </thead> <tbody> <tr> <td>Dual occupancy (attached)</td> <td>580m²</td> </tr> <tr> <td>Multi dwelling housing</td> <td>900m²</td> </tr> </tbody> </table>	Column 1	Column 2	Dual occupancy (attached)	580m ²	Multi dwelling housing	900m ²		
Column 1	Column 2							
Dual occupancy (attached)	580m ²							
Multi dwelling housing	900m ²							
4.3 Height of buildings								
(2) The height of a building on any land is not to exceed the maximum height shown for the	Maximum permitted height: 9.5 metres Maximum proposed height: 9.2 metres (measured	Yes						

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land on the Height of Buildings Map.	to the RL 87.8 ridge to the respective ground level at the front of the development).	
4.3A Exceptions to height of buildings		
(2) Despite clause 4.3, the maximum height of a dual occupancy (attached) and a multi dwelling housing on land in Zone R2 Low Density Residential is 5 metres for any dwelling that does not have a road frontage.	Maximum permitted height: 5 metres Maximum proposed height: 8.17-8.4 metres (measured from the parapet RLs of 87.68 at 87.96 to respective ground levels beneath) Refer to the detailed assessment below for an assessment of Clauses 4.3A and 4.6 of the LEP.	No
4.4 Floor space ratio		
(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.	Not applicable, as the provisions of SEPP (ARH) 2009 take precedence. Regardless, an FSR does not apply to the site pursuant to Clause 4.4A (see below).	N/A
4.4A Exceptions to floor space ratio		
(2) Clause 4.4 does not apply to development for multi dwelling housing on land in Zone R2 Low Density Residential.	Noted.	N/A
4.5A Density controls for Zone R2 Low Density Residential		
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.	Required site area: <ul style="list-style-type: none"> • Unit 1: 365m² • Unit 2: 300m² • Unit 2: 300m² • Unit 2: 300m² • Unit 2: 300m² Total: 1,565m² Existing site area: 1,011.4m ² A variation pursuant to Clause 4.6 of RLEP 2014 has not been submitted with the subject application. The applicant's SEE states that: <i>"As addressed, the development proposal is made under the SEPP (Affordable Rental Housing) 2009 and the FSR clause under the SEPP will prevail in this instance."</i> As Clause 4.5A is a site area control, and not an FSR control, the applicant's above reasoning is incorrect. With regard to <i>Bella Ikea Ryde Pty Ltd v City of Ryde Council (No 2) [2018] NSWLEC 204</i> however, it is noted that one of two questions put before Justice Sheahan is "Whether there is an inconsistency" between cl 4.5A of the Ryde Local Environmental Plan 2014 ["the Ryde LEP"] and cl 14(1)(b) of the State Environmental Planning Policy	N/A

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	<p><i>(Affordable Rental Housing) 2009 (NSW) for the purposes of cl 8 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (NSW).</i> J Sheahan found that there is an inconsistency between cl 4.5A(a) of the Ryde LEP and cl 14(1)(b) of SEPP (ARH) 2009, and that the SEPP must prevail.</p> <p>In summary, the provisions of Clause 4.5A(a) of the LEP are not applicable to the subject application. The proposal would however satisfy cl. 4.5A(b), as each of the proposed dwellings would have a contiguous POS area.</p>	
<p>4.6 Exceptions to development standards</p>		
<p>(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.</p>	<p>Refer to the assessment below regarding the proposed height noncompliance.</p>	<p>No</p>
<p>5.10 Heritage conservation</p>		
<p>(2) Requirement for consent Development consent is required for any of the following:</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):</p> <p>(i) a heritage item, (ii) an Aboriginal object, (iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management</p>	<p>The subject site does not contain a heritage item nor is it within a heritage conservation area; it is however in close proximity to three heritage items of local heritage significance, which are identified by Schedule 5 of Ryde Local Environmental Plan (RLEP) 2014 as follows:</p> <ul style="list-style-type: none"> • "The Rectory" (house) (Item No. 34), at 25 Clanalpine Street, Eastwood; this is approximately 20 metres north/northeast of the subject site. • St Philip's (Item No. 35), at 29 Clanalpine Street, Eastwood. This address incorporates the entire church complex and is approximately 20 metres north of the subject site, however the allotment which includes the heritage-listed church is approximately 95 metres north/northwest of the subject site on the corner of Shaftsbury Road and Rutledge Street. • Dwelling (Item No. 201), at 30 Clanalpine Street, Eastwood; this site is approximately 20 metres north/northwest of the subject site. <p>As such, the provisions of cl. 5.10 would apply, as Council, would need to give consideration to the impact of development on the heritage significance of these heritage items.</p>	<p>No</p>

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<p>document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p>	<p>A more detailed assessment of the heritage considerations affecting this proposal are contained within the internal referral comments provided by Council's Heritage Officer (refer to the assessment report). The summary from those comments is however as follows:</p> <p><i>"...the HIS is considered insufficient as it provides a cursory heritage assessment, insofar as it provides a very basic historical analysis of the subject site, does not provide an assessment of cultural significance to establish the level of significance of the existing dwelling and does not provide an assessment of heritage impact, yet concludes that the proposed development has a negligible heritage impact."</i></p> <p>Further, the assessment states that: <i>"Given the high contributory value of the dwelling to the established streetscape character and the heritage items within the vicinity, in my opinion, the dwelling should be retained."</i></p> <p><i>If demolition is to be considered, it is necessary to consider the suitability of the replacement built form and any new built form must be of a very high design quality, given the sensitivity of the streetscape and the subject site.</i></p> <p><i>The proposed built form is considered of an architectural language, form and detailing that is not contextually responsive and is visually discordant with the prevalent housing typology and forms."</i></p> <p>With regard to the above, the proposal would fail to satisfy the objectives of cl. 5.10, specifically objectives (a) and (b), which for reference are as follows:</p> <p>(a) <i>to conserve the environmental heritage of Ryde, and</i> (b) <i>to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.</i></p> <p>As such, such considerations will form part of the reasons for refusal of the application.</p>	
<p>6.2 Earthworks (2) Development consent is required for earthworks unless: (a) the earthworks are exempt development under this Plan or another applicable environmental planning</p>	<p>A more detailed assessment of cut and fill is contained within the DCP assessment below.</p> <p>With regard to cl. 6.2(3), the development is unlikely to result in disruption to local drainage patterns. Comments from Council's development engineer</p>	<p>Yes</p>

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<p>instrument, or</p> <p>(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.</p> <p>(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>(refer to the detailed comments) have not identified any significant impacts that would adversely affect the amenity of adjoining properties. If the application were capable of being approved, it is also considered likely that the submitted engineering plans could be conditioned to ensure that any retaining structures are of an appropriate standard to both support the development avoid impacts to surrounding sites.</p>	
<p>6.4 Stormwater management</p>		
<p>(2) This clause applies to all land in residential, business and industrial zones.</p> <p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having</p>	<p>Comments from Council's development engineer (refer to the detailed comments) have indicated that "The proposed stormwater management system for the development discharges to the Council's underground drainage infrastructure located within Clanalpine Street and incorporates an onsite detention system complying with Councils requirements."</p> <p>The proposal includes onsite retention of stormwater (both within tanks collecting roof water</p>	<p>Yes</p>

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<p>regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</p> <p>(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.</p>	<p>and an OSD tank under the driveway), and there is no information to suggest that the stormwater system would result in runoff and/or other impacts that would adversely affect surrounding properties.</p>	
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Ryde Development Control Plan 2014

Ryde DCP 2014	Proposed	Complies?
PART 3.4		
2.1 Site Analysis		
<ul style="list-style-type: none"> ○ Must have a SA ○ SA should relate dwgs to surrounds + minimise amenity impacts 	<p>A site analyses plan is included within Sheet A001.</p> <p>Whilst not all information within the Site Analysis is technically in accordance with Schedule 1 of Part 3.4 of the DCP, the information in accordance with other plans/views on Sheet A001 (and other information) is sufficient to enable an assessment of impacts on surrounding sites.</p>	Yes
2.2 Minimum allotment size		
Area: (not <900m ²)	Existing site area: 1,011.4m ² (survey plan, area based on title).	Yes
Primary Frontage: (not <20m)	Existing frontage width of the site: 20.115m.	Yes
Not hatchet shaped	The site is not a hatchet-shaped allotment.	Yes
2.3 Non-Preferred Locations		
Is the proposed development within a non-preferred location?	The site is not within a non-preferred location, as identified by Schedule 2.	Yes
2.4 Retention of existing dwellings		
Retention of an existing dwelling as part of a	The submitted information does not	Yes

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Ryde DCP 2014	Proposed	Complies?
new Multi dwelling housing development will not be approved.	clearly indicate whether consent is sought for demolition works. Demolition of structures is proposed within the SEE, however the application form indicates that the application does not propose demolition. Regardless, the plans indicate that the existing dwelling would be demolished and would not form part of the proposed multi dwelling housing.	
2.5 Density		
Refer to cl. 4.5A of RLEP2014 The area of the access handle is not to be included when calculating site area.	The provisions of SEPP (ARH) 2014 take precedence; refer to the assessment of cl. 4.5A of RLEP 2014 (above).	N/A
2.6 Number of Dwellings		
No development shall contain more than 12 Dwellings.	Five (5) dwellings are proposed.	Yes
2.7 Type of Dwellings		
If 4 or more dwellings on site, <75% with same number of bedrooms (rounded down) e.g. 6d= 4x3B + 2x2B	80% of the dwellings would consist of two-bedroom units. The applicant's SEE acknowledges the variation, with reasons justifying it summarised as follows: <ul style="list-style-type: none"> • 80% of the units would present a 5% departure from the controls. • The design of the development with a two storey dwelling house containing four bedrooms and 4 x single storey two bedroom dwellings provide a suitable dwelling mix on this small infill development. It is acknowledged that the numerical variation is relatively small, however the applicant's justifications do not address the objective of the control, which for reference is as follows: <i>"To ensure Multi dwelling housing developments contain a mix of dwelling sizes to meet the needs of different household groups."</i>	No
In any proposed Multi dwelling housing development, the slope of the site, proposed levels, height of dwellings, site coverage, landscaping, setbacks, accessibility and	The applicant's SEE also does not address Part b of the controls. This assessment finds that the proposed development is not complementary to	No

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Ryde DCP 2014	Proposed	Complies?
<p>overshadowing must be considered when assessing:</p> <ul style="list-style-type: none"> i. Whether the development will complement and enhance the existing neighbourhood; and ii. Whether the development meets the needs of all householders including older persons and persons with disabilities. 	<p>the existing neighbourhood for the following reasons:</p> <ul style="list-style-type: none"> • The noncompliant side setbacks would not enable sufficient landscaping planting and would contribute to the noncompliant landscaped areas on the site. • The noncompliant height, of Units 2-5 would result in unacceptable bulk and scale that would be highly visible from both surrounding sites and the public domain and which would be inconsistent with the surrounding area. • The development would include access noncompliances, in that a separate pedestrian access route is not provided to Units 2-5. 	
3.1 Slope of Site		
At least one dwelling must present to the street	Unit 1 presents to Clanalpine Street.	Yes
Slope either up or down from street frontage not more than 1:6	The maximum average slope across the site would be 9.6%, or approximately 1:10.	Yes
Cross-fall not more than 1:14	Maximum cross-fall across the site would be approximately 5.9%, or approximately 1:17.	Yes
3.2 Altering the Levels of the Site		
No imported Fill	It is unclear whether fill may be required. If the application were capable of being approved, a condition to prevent fill being imported onto the site could be imposed to satisfy the control.	Yes
<300mm Cut or Fill outside building envelope.	<p>The submitted SEE does not address the control. The submitted plans do not clearly indicate specific levels of cut and fill and whether these would comply with the development controls.</p> <p>The plans suggest that some portions of landscaping within the front setback would exceed 300mm, while section plans indicate that fill under some sections of the driveway would vary between approximately 350-550mm. There may also be as much as 550mm of cut within the rear setback and 810mm of cut within the POS area of</p>	No

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Ryde DCP 2014	Proposed	Complies?
	<p>Unit 1.</p> <p>As is discussed below, the elevated level of the driveway and associated dwelling entrances would likely contribute to adverse visual privacy impacts of sites adjoining the western boundary; the change in level between the elevated driveway and the boundary are such that a boundary and landscaping treatments would unlikely screen the adjoining sites from such areas.</p> <p>Further, as the cut in POS areas would require retaining walls adjacent to the property boundary, shadows created by such structures combined with the boundary fence would also have adverse impacts on solar access.</p>	
<p>No basement garages, minimal steps, minimal retaining walls</p>	<p>No basement parking is proposed.</p> <p>Concern is however raised over the terraced retaining walls on the eastern side of the site; the design of the walls (including terraced walls within the POS areas of Units 1, 3, 4 and 5), which would create landscaped areas only 300-400mm wide, in contravention of landscaping requirements which stipulate that landscaped areas along the periphery of the site be 1.2 metres wide (refer to separate assessment below).</p>	<p>No</p>
<p>POS generally at NGL.</p>	<p>As indicated above, the POS areas would be located at levels that would require excavation. The proposal would therefore not technically comply with the controls as they would not be at Natural Ground Level.</p> <p>It is unlikely that the ground levels of the POS areas would adversely affect visual privacy. Further, the proposed development would enable all POS areas (except for raised planters adjacent to the eastern boundary) to be located at a uniform level.</p> <p>As indicated elsewhere however, excavation of the POS areas would require the construction of retaining</p>	<p>No</p>

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Ryde DCP 2014	Proposed	Complies?
	walls, which could reduce solar access to POS areas.	
3.3 Storey and Height		
3.3.1 Storeys		
Dwg with frontage to street can be 2 storeys provided: <ul style="list-style-type: none"> 2 st dwg not attached to any other 2 st dwg 	<p>Unit 1 would present to Clanalpine Street as a two-storey structure which is permitted.</p> <p>As is indicated with the assessment of RLEP 2014, Units 2-5 are not considered to be 'single storey' buildings, as has been claimed by the applicant.</p> <p>Whilst it is acknowledged that there are two-storey structures within the surrounding area, the sustained bulk of the building throughout the site is not compatible with the character of the surrounding area and is therefore not supported.</p>	No
3.3.2 Height		
Refer to Clause 4.3 Height of buildings and Clause 4.3A (2) Exceptions to height of buildings in Ryde Local Environmental Plan 2014.	Refer to the assessment of building height under RLEP 2014 and SEPP (ARH) 2009.	N/A
3.4 Site Coverage		
Site coverage < 40%	Proposed site coverage: 389m ² , or 38.5%	Yes
Pervious area > 35%	Proposed impervious area: 657m ² Proposed pervious area: 354.4m ² , or 35%	Yes
3.5 Setbacks		
3.5.1 Front Setbacks		
<u>Front Setbacks:</u> The same distance as one of the buildings on an adjoining allotment, if the difference between the setbacks of the building on the two adjoining allotments is not more than 2 m; or	Proposed front setback: <ul style="list-style-type: none"> To front building line: 8.72 metres To entry feature/balcony: 6.67 metres <p>The submitted information indicates that the existing setbacks on adjoining sites are as follows:</p> <ul style="list-style-type: none"> 36 Clanalpine Street: 8.68m 32 Clanalpine Street: Unclear <p>The submitted survey plan and architectural plans suggest that the front setback of this dwelling would be 17.9 metres, however such information only captures the</p>	Yes

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Ryde DCP 2014	Proposed	Complies?
	<p>western part of this dwelling, not the eastern section which has a front setback that is considerably closer to that site's front boundary. The front setback of this site is estimated to be approximately nine metres.</p> <p>Whilst the submitted information should more clearly demonstrate existing setback patterns, the front setbacks of the adjoining sites would likely be within two metres of each other.</p> <p>The proposed 8.72 metre front setback is therefore considered to be acceptable.</p>	
<p>If the difference between the setback of the adjoining buildings is more than 2 m the development must be setback the average of the front setback of the two adjoining developments.</p>	<p>Not applicable; see above.</p>	<p>N/A</p>
<p>Setback of 1m less than the above standard for not more than 50% of the front elevation for interest in the streetscape.</p>	<p>As indicated above, an entry feature (that would incorporate a balcony for Unit 1) would encroach on the front setback by 2.05 metres. The 6.7 metre width of this feature would also equate to 59.3% of the building frontage.</p> <p>The SEE does not address this noncompliance (nor the noncompliance regarding the balconies on multi-dwelling housing; see below).</p> <p>Whilst most objectives would be satisfied, the noncompliance would not address objective 4, which for reference reads as follows: <i>"To ensure the development is in keeping with the existing streetscape"</i></p> <p>Aside from a design that is not consistent with the character of the surrounding development, Council's Heritage Advisor notes in their referral comments that <i>"The architectural language of the front elevation incorporates a range of competing features and stylistic influences which</i></p>	<p>No</p>

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Ryde DCP 2014	Proposed	Complies?
	<p><i>adds to the visual 'busyness' with insufficient articulation and modulation to reflect the traditional housing forms in the streetscape."</i></p> <p>A more scaled-down front feature (in correlation with other design changes to better reflect local character) to satisfy control objectives may result in a better outcome, however in its current form, the proposed noncompliance is not supported.</p>	
<p>Council may vary this requirement if streetscape is likely to change: >7.5m for 50% of frontage, >6.5m for 50% of frontage.</p>	<p>Not applicable, however a significant variation to the front setback pattern is unlikely due to the existing character of the existing streetscape.</p>	<p>N/A</p>
3.5.2 Front Setback for Hatchet-Shaped Allotment.		
<p>Buildings must be sited so that vehicles can enter and leave the site in a forward movement.</p>	<p>The subject site is not a hatchet-shaped allotment.</p>	<p>N/A</p>
3.5.3 Setback from second street frontage		
<p>Where the site has a second street frontage the walls of all buildings must be setback not less than 4.5m from that boundary.</p>	<p>The subject site does not have a secondary frontage.</p>	<p>N/A</p>
3.5.4 Side and Rear Setbacks		
<p>Min 4.5m unless vehicular access is included in this area, then min 6m. To promote variation & interest up to 50% may be not less than 3m</p>	<p>Side setbacks:</p> <ul style="list-style-type: none"> • Eastern elevation: <ul style="list-style-type: none"> ○ To building line: 4.5 metres ○ To pergola/roof structure: 2.42m metres • Western elevation: 4.5 metres <p>Rear setback:</p> <ul style="list-style-type: none"> • To building line: 4.5 metres • To communal bin storage area: 2.52 metres <p>The submitted SEE appears to have incorrectly interpreted the control, which requires that "<i>Where vehicular access is provided within this area, the minimum setback shall be 6 metres.</i>" The setback distance to the garage doors is calculated at 6.1 metres, however the control requires that the minimum setback to the <u>building wall</u> be a minimum of six metres, not just the garages.</p> <p>As such, the proposal fails to comply</p>	<p>No</p>

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Ryde DCP 2014	Proposed	Complies?
	<p>with the DCP control, and no justification of the variation has been provided.</p> <p>As assessed below, the noncomplying setback does not enable sufficient space for the placement of the driveway <i>and</i> sufficient landscaped areas. As such, the noncompliance would fail to satisfy the following relevant objectives,</p> <ol style="list-style-type: none"> 1. To allow sufficient separation within the development and from adjoining properties to ensure privacy between dwellings; 2. To allow for substantial landscaping and pervious areas; 4. To ensure the development is in keeping with the existing streetscape; and 5. To allow the retention of existing substantial trees. <p>For these reasons, the variation is not supported.</p> <p>Note: These controls refer to the setbacks of building walls, as such the pergola-type structures and bin storage area, whilst considered in setback calculations, have not been considered as a variation to the controls.</p>	
<p>The rear and side setbacks must be adequate to achieve an appropriate level of solar access within all proposed courtyards.</p>	<p>Noting the substantial projection of the roofed structures over the POS areas, the excavation of such areas and a lack of information demonstrating otherwise, it is unclear if the setbacks would facilitate adequate solar access within the proposed POS areas.</p>	<p>No</p>
<p>Ensure existing substantial trees not within proposed courtyard areas.</p>	<p>There are no existing substantial trees located to be retained within the courtyard areas.</p>	<p>Yes</p>
<p>To promote variation and interest in design Council may allow up to 50% of the wall of any multi-dwelling housing dwelling to be not less than 3 metres from the side and rear boundary.</p>	<p>Length of western elevation: 37.12 metres Length of elevation that breaches the minimum setback distance:</p> <ul style="list-style-type: none"> • Ground floor: 24.3m, or 65.4% • First floor: 25.24m, or 68% <p>As indicated above, the submitted</p>	<p>No</p>

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Ryde DCP 2014	Proposed	Complies?
	<p>information has incorrectly interpreted setback requirements that apply to the western elevation and as such a response to the controls has not been provided.</p> <p>As a result, a substantial proportion of the western elevation (i.e. 65.4-68%) would fail to comply with relevant setback requirements. As indicated above, the proposal would fail to provide adequate landscaping and prevent tree removal, and as such the noncompliance is not supportable.</p> <p>Note: This assessment does not include the setbacks of the pergola-type structures and the bin storage area.</p>	
3.5.5 Internal Setbacks		
Habitable room windows don't overlook	Not applicable.	N/A
9m separation between facing dwellings habitable room windows?	Not applicable.	N/A
3.6 Private Outdoor Space		
Min 30m ² for 2B Min 35m ² for 3B+	<p>Proposed POS areas:</p> <ul style="list-style-type: none"> • Unit 1: 43.7m² • Unit 2: 30m² • Unit 3: 30m² • Unit 4: 30m² • Unit 5: 50.6m² 	Yes
Min dimension 4m and generally at NGL	<p>Proposed minimum POS dimensions:</p> <ul style="list-style-type: none"> • Unit 1: 8.66m x 3.55m • Unit 2: 4m x 4.55m • Unit 3: 5.55m x 3.55m • Unit 4: 5.55m x 3.55m • Unit 5: 10.05m x 3.55m 	Yes
Solar access: 50% for ≥2hrs	As assessed above, there is insufficient information to confirm whether there would be sufficient solar access to POS areas. The submitted information has not considered impacts associated with internal/boundary fencing and pergolas within each area.	Yes
Do not contain existing large trees	The POS areas would not contain any large trees.	Yes

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Ryde DCP 2014	Proposed	Complies?
Access to courtyard other than through dwelling?	<p>Access other than through the respective dwelling has not been provided for any of the POS areas.</p> <p>The noncompliance has not been addressed within the submitted SEE.</p>	No
Securely enclosed (not roofed) + visible from living rooms.	<p>All POS areas would be securely enclosed by internal fences. As all POS areas would adjoin living areas all areas would be visible from those internal living areas.</p> <p>Despite the above, a portion of each of the POS areas would be covered by a pergola-type structure; the proportions of each area to be covered are as follows:</p> <ul style="list-style-type: none"> • Unit 1: 47.6% • Unit 2: 46.5% • Unit 3: 46.5% • Unit 4: 46.5% • Unit 5: 30.2% <p>A notable proportion of that area would be covered by roof/eave overhangs; the lengths of these features are not clearly indicated, however the plans suggest that these elements would overhang the POS area by approximately 800-900mm. The remainder of the 'roofed' area appears to be covered by a 'lattice' type roof; the submitted plans detailing the external materials however do not specify this particular material. As indicated elsewhere within this assessment, there is insufficient information to confirm what impact these elements would have on solar access, both to POS areas and internal living areas.</p>	No
Not within front setback	No area of any POS is located within the front setback of the site.	Yes
3.7 Landscaping		
Extent of landscaping, existing trees retained in common areas?	<p>The applicant proposes to remove all trees from the site in addition to a street tree</p> <p>Aside from failing to retain any significant trees on the site, Council's consultant arborist has expressed</p>	No

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Ryde DCP 2014	Proposed	Complies?
	<p>concern that the proposal would adversely affect a tree (Tree 6) on an adjoining site, as retaining structures are to be built within/close to its Structural Root Zone (SRZ).</p> <p>Further, concern was raised by the arborist about the arboricultural assessment's lack of consideration to significant trees within an adjoining site.</p>	
<p>If landscaping used for privacy:</p> <ul style="list-style-type: none"> • ≥1.2m landscaped strip • Shrub mature height 3-4m, if possible small trees mature height 5-m in combination with screen planting 	<p>The plans propose landscaping strips around the periphery of the site which contain noncompliant widths.</p> <p>The placement of retaining walls adjacent to the eastern boundary would limit landscaping strips to 300-400mm in width.</p> <p>As also reflected by the landscaping assessment, the landscape strip between the driveway and western boundary is only 500mm wide. Further, it is noted that the driveway level would be as much as 550mm above EGL; given the very short distance between the driveway and the boundary, it is likely that a retaining structure would be required to support the boundary and associated fill. It is unclear how much such a structure would encroach on the 500mm wide landscape strip.</p> <p>The widths of this landscaped area would be insufficient for growing suitably-sized plants that would assist in maintaining visual privacy.</p> <p>Given that:</p> <ul style="list-style-type: none"> • Noncompliances would likely facilitate adverse visual privacy impacts; and • Noncompliances on the western elevation are a cumulative impact as a result of the noncompliant western elevation, <p>the proposed noncompliances are not supported.</p>	<p>No</p>
<p>1m strip between driveway and wall of dwellings</p>	<p>Aside from a tokenistic 3.86 metre x 500mm wide landscape strip between</p>	<p>No</p>

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Ryde DCP 2014	Proposed	Complies?
	<p>the driveway and Window W012 (Unit 1), no landscaping is provided between the driveway and the proposed dwellings. Aside from the restricted dimensions of this area, there would be limited opportunities for the establishment of vegetation within this area; the planter is located within an indented section that is covered by the level above and would be enclosed by a full-height privacy screen. It is therefore unclear how plants would be able to become established within this area, and how this area could be accessed for landscape maintenance.</p>	
<p>Nature Strips: Street trees retained and protected?</p>	<p>The plans propose to remove a street tree (Tree 3: Chinese tallowwood (<i>Sapium sebiferum</i>)) from the road reserve to the front of the site; this tree is the most significant of the three currently located in front of the site.</p> <p>The removal of the tree is proposed to accommodate a double width 6.63-metre-wide driveway crossover. As noted by the referral, "...the overall presentation to the street of such a significant area of hard paving is considered to be poor and highly out of character with the established landscape character of Clanalpine Street and the surrounding locality. This concern is exacerbated by the proposal to remove an established street tree that currently provides a good level of screening to the front setback in order to facilitate the installation of a new extended-width driveway crossover."</p> <p>As a result, the proposed tree removal within Council's road reserve is not supported.</p>	<p>No</p>
<p>3.8 Car Parking, Manoeuvrability and Driveway Crossings</p>		
<p>Car Parking</p>		
<p>Number of Parking Spaces 1 space per 1 or 2 B dwelling 2 spaces per 3B+ dwelling 1 visitor space per 4 dwgs (at least 1 space per dwg must be lockable garage)</p>	<p>Proposed parking spaces:</p> <ul style="list-style-type: none"> • Unit 1: 2 Spaces • Unit 2: 1 Space • Unit 3: 1 Space • Unit 4: 1 Space • Unit 5: 1 Space • Visitor: None 	<p>-</p>

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Ryde DCP 2014	Proposed	Complies?
Total No of spaces required: 6 spaces	Whilst not compliant with DCP requirements, the proposal satisfies the provisions of Cl. 14(2)(a)(ii). As such, the proposal cannot be refused on parking.	
Garage location: <ul style="list-style-type: none"> - Not between dwelling and street frontage - No tandem parking in front of garage - Conveniently located for occupants - Located so they separate dwellings. 	Requirements assessed as follows: <ul style="list-style-type: none"> - No garages are proposed between the dwellings and the street frontage. - Tandem parking is not proposed. - Each garage is located within the fabric of each dwelling and is internally accessible. - The placement of the garages would separate Units 2-5 when viewed from the driveway (Unit 1 addresses the primary frontage). The location of Unit 1's garage would not separate Units 1 and 2, however it location of the driveway ramp would prevent it from addressing the western elevation of the building.	Yes
Manoeuvrability: Enter and leave garage/parking area with single 3pt turn, in a forward direction (unless safe to reverse - corner allotment only).	The swept path analysis indicates that vehicles would be capable of entering garages within Units 2-5 in a single three-point manoeuvre. There is insufficient information however, in that it does not demonstrate that vehicles accessing Unit 1 would be able to enter/leave the site in a forward direction. Further, the garage opening widths are not in accordance with Section 3.8.2 of the DCP.	No
Driveways Suitably paved, extent minimised, to avoid excessive amounts of hard paving.	The proposed driveway layout is not in accordance with the controls, in that excessive amounts of hard paving is proposed, particularly within the front setback. As assessed below, the driveway crossing is excessively wide and the combined communal driveway and garage entrance to Unit 1 would be between 6.63-9.3 metres in width. There would subsequently be a very large (i.e. 71m ² , not including dwelling access) expanse of paved area within the front setback. The visual impact of this area would also be exacerbated by the removal of the street tree within the road reserve (which is required due to	No

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Ryde DCP 2014	Proposed	Complies?
	the excessively wide driveway crossover. No evidence has been supported to demonstrate that such a large paved area is required for vehicle manoeuvring. With regard to the above and as the objective of the control is not satisfied, the variation is not supported.	
<p>Driveway Crossings Width: <10 spaces, min 4m >10 spaces, max 6m Driveways <30% of frontage</p> <p>Note: 7 spaces are proposed</p>	Six onsite spaces are proposed; therefore the crossing must be a minimum of four metres wide. The applicant proposes a 6.63 metre wide crossing, which is not only well in excess of minimum requirements, but it also breaches the maximum width requirements for larger forms of development. As indicated above, the excessively wide crossover would result in unreasonable tree removal and associated adverse visual impacts. As a result, the variation is not supported.	No
3.9 Overshadowing and Access to Sunlight		
Habitable room windows face courtyard or other outdoor space open to the sky, no closer than 1.5m to facing wall.	All windows would address setback areas.	Yes
Sunlight to at least 50% of each courtyard, and principal ground level open space of adjoining properties >2hrs between 9am and 3pm on June 21 or Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight must not be further reduced by more than 20%.	Clause 14(1)(e) of SEPP (ARH) 2009 would apply to solar access provisions. As indicated above however, the submitted information suggests that the design would not permit adequate solar access to POS areas for at least three hours on June 21 in accordance with SEPP requirements.	-
Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight must not be further reduced by more than 20%.	Noted. See above.	-
Shadow diagrams must indicate extent of shadowing within development and adjoining properties.	The submitted shadow diagrams do not show the impacts of fences and retaining walls on POS areas. Further, there is no information to demonstrate that sufficient solar access would be provided in internal living areas.	No
3.10 Visual and Acoustic Privacy		
Min 9m separation between facing habitable room windows	Habitable room windows do not face habitable room windows of other dwellings.	Yes

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Ryde DCP 2014	Proposed	Complies?
<p>No direct views between living area windows of adjacent dwellings (otherwise screening or obscuring necessary)</p>	<p>The first floor living areas of all units would be situated within the centre of those dwellings. There would subsequently be no overlooking from first floor living areas to surrounding sites. Whilst there would be fewer opportunities for overlooking if the first floor were removed, the control relates specifically to living areas (not bedrooms), therefore overlooking from the first floor will not be discussed further.</p> <p>There is however concern regarding views from the 'study' areas of Units 2, 3 and 4. Despite being identified as studies, these areas (in addition to the adjoining communal driveway and garages) would be the only point of access to the dwellings (excluding the garages). It is therefore likely that such areas would be subject to frequent movements by residents entering and leaving these dwellings. Such areas would be as much as 800mm above the existing ground levels of the adjoining sites to the west, due to the sloped topography (and as retaining walls cannot be placed on the boundary), a 1.8 metre high boundary fence on the western boundary would not be of sufficient height to adequately screen the Private Open Space and/or living areas on the adjoining sites from the main entry areas to Units 2, 3, and 4. Due to:</p> <ul style="list-style-type: none"> • The noncomplying widths of landscaping strips adjacent to the western boundary; and • A lack of landscape screening between the driveway and the aforementioned dwellings, <p>There would not be an opportunity to implement landscaping screening to preserve the privacy of the adjoining site. Given that the development's inability to preserve the privacy of adjoining heights stems from the noncompliant western setbacks and landscape treatments around the driveway, the variation (which is not acknowledged by the SEE) is not supported.</p>	<p>No</p>

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Ryde DCP 2014	Proposed	Complies?
Direct views from living areas to private open space of other dwellings should be screened or obscured within privacy sensitive zone of 12m radius.	Refer to the assessment above.	No
Balconies prohibited on all dwellings Elevated landings (or similar associated with stairs into courtyard) max 1m wide	A balcony is proposed on the front elevation of Unit 1. Whilst no adverse visual privacy impacts would arise from the placement of this feature, the design of the balcony does not contribute to an appearance that is in keeping with the existing streetscape. Aside from a design that is not consistent with the character of the surrounding development, Council's Heritage Advisor notes in their referral comments that <i>"The architectural language of the front elevation incorporates a range of competing features and stylistic influences which adds to the visual 'busyness' with insufficient articulation and modulation to reflect the traditional housing forms in the streetscape."</i> A more scaled-down balcony (in correlation with other design changes to better reflect local character) may result in a better outcome (despite being a noncompliant feature, noting the specific exclusion of balconies), however in its current form, the proposed noncompliance is not supported.	No
Living and sleeping areas protected from high levels of external noise?	The layout of the dwellings would keep living and sleeping areas away from sources of significant noise.	Yes
Noise levels of air con pool pumps etc must not exceed background noise levels by more than 5dB(A)	Air conditioning details are not shown, however in the event of an approval, noise associated with plant equipment could be governed by a condition(s) of consent.	Yes
3.11 Accessibility		
3.11.1 Pedestrian Access		

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Ryde DCP 2014	Proposed	Complies?
<p>All multi dwelling housing developments should be designed and constructed so that they are safe and accessible for pedestrians including children, people with disabilities and older people.</p> <p>Pedestrian access should be provided throughout the development using a continuous path of travel to all dwellings where the level of the land permits. Such access where practicable should be separate from vehicle access.</p>	<p>Access through the site would require pedestrians to utilise the communal driveway.</p>	<p>No</p>
4.1 Appearance		
<p>Complement streetscape</p>	<p>Refer to the detailed assessment above regarding Clause 16A (Character of local area) of SEPP (ARH) 2009. To summarise, the proposal is not considered to be consistent with the character of the area (with regard to height, setbacks, landscaping and architectural design), and would therefore not compliment the streetscape.</p>	<p>No</p>
<p>Includes pitched roof, eaves, vertically oriented windows, verandahs, rendered and face brick</p>	<p>Whilst the design features listed and the external materials are generally consistent with the control, their application within the submitted design is not consistent with the surrounding area (refer to the assessment above).</p>	<p>Yes</p>
<p>At least 1 dwg must face street</p>	<p>Unit 1 would address primary boundary. The design of the dwelling would not however enable causal surveillance from living areas. The only windows on the ground floor that would address the street frontage are two narrow 460mm x 1.57m windows; both windows are located in the corner of the living room and one of these would be heavily obscured by a timber-clad design feature on the primary elevation. While windows on the first floor would overlook the adjoining road reserve, these windows are associated with the Unit 1 master bedroom, and not a living area.</p>	<p>No</p>
4.2 Ceiling Height		
<p>Floor to Ceiling min 2.7m</p>	<p>Minimum ceiling heights:</p> <ul style="list-style-type: none"> • Ground floor: 2.95 metres • First floor: 2.44 metres 	<p>No</p>

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Ryde DCP 2014	Proposed	Complies?
	Note: Minimum first floor ceiling heights vary considerably due to the partial in-roof design (i.e. between 2.44 and 4.15 metres).	
4.3 Roofscape and Roof Materials		
Pitch 22-30° (35° where 2 nd floor is within roof) where visible from public place.	Proposed roof pitches: <ul style="list-style-type: none"> Unit 1: 20° Units 2-5: 29° (roof), 35° (gables) 	No
Min 300mm eaves overhang for roofs & verandas	Minimum 450mm eaves proposed.	Yes
Gables to street frontage?	Unit 1 contains a gabled roof.	Yes
Variation to roof line?	Despite containing noncompliant pitches (see above), the proposal contains varied roof form that would be broken up by gables, varying orientations of gables and parapets. Whilst the variation in height is not significant, the control does not specify what degree of variation would be required.	Yes
Roof materials consistent with traditional materials of the street?	Dark coloured (i.e. black or dark blue) terracotta tiles (or similar) are proposed. In the event of an approval, the materials of the roof could be specifically conditioned to match the character of the area.	Yes
4.4 Building materials for Walls		
In keeping with the traditional materials for the locality. Detailing to break up large areas of wall adding interest and individuality	The materials proposed include render and brickwork. The colours and tones of such materials are generally consistent with the existing dwelling and surrounding area.	Yes
Proportion of windows and other openings consistent with character of locality (windows generally 2:1 and 3:1 vertical proportion)	Windows on the northern frontage addressing Clanalpine Street are of a vertical design. Windows within the side-facing gables on the first floor (which would be visible from the public domain in Shaftsbury Road) are of a more horizontal proportion that is inconsistent with the development control.	No
4.5 Fences		
4.5.1 Front fence		
Max ht 1m, and 70% visually permeable, return to be similar to front fence	The submitted plans lack detail regarding the front fence. The side elevation plans suggest that the front	No

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ATTACHMENT 1

Ryde DCP 2014	Proposed	Complies?
	<p>fence would vary between approximately 1.1-1.8 metres in height. Further, the submitted 3D models suggest that the fence would not be 70%+ permeable. No reference to the front fence is made in the SEE.</p> <p>The design of the fence is not consistent with that of surrounding developments, therefore the design of the front fence is not supported.</p>	
Materials compliment dwelling e.g. wooden pickets, masonry with infill panels, wrought iron or similar etc.	There is no detail regarding materials. The submitted 3D modelling suggests that the fence would be of masonry (or similar) construction with some infill panels, however the uniform colour of the fence and a lack of landscaping/landscape indents would not enable screening of the fence from public areas. The presentation of the fence would not complement the surrounding area or heritage items and is therefore not supported.	No
4.6 Clotheslines and drying area		
Each dwelling must be provided with clothes drying facilities in the form of an external clothesline. These should be located to maximise winter sunshine without being able to be seen from adjoining properties or public areas.	External clothes drying facilities are proposed within each POS area.	Yes
Each dwelling must have its own laundry	Internal laundries proposed within each dwelling.	Yes
4.7 Lighting		
Front yard lighting and lighting for the front of dwellings is to be provided.	Lighting details are not provided. It is considered that such features could be appropriately conditioned in the event of an approval to attain compliance.	Yes
Location of external lighting must not have adverse effect on adjoining properties.	See above.	Yes
4.8 Garbage bin enclosures		
<p>For developments up to 5 dwellings on sites that are not steeply sloping and which have a wide road frontage:</p> <ul style="list-style-type: none"> - Each dwelling must be provided with a storage area for Council's standard rubbish and recycling bins. - Storage area should be behind the dwelling, not visible from public spaces, 	Communal waste storage facilities are proposed; refer to the assessment below.	N/A

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ATTACHMENT 1

Ryde DCP 2014	Proposed	Complies?
common areas and habitable room windows		
<p>For developments of 6 or more dwellings or where sites are steeply sloping or have a narrow road frontage:</p> <ul style="list-style-type: none"> - A central garbage bin enclosure shall be provided. - The garbage bin enclosure is to be located behind the building line and suitably screened by landscaping. A plan indicating the design and location of the garbage bin enclosure must be submitted with the development application. 	<p>The proposed storage would be located within the rear setback of the site, and would not be visible from the public domain. Consideration with the provisions of Schedule 3 is as follows:</p> <ul style="list-style-type: none"> • Masonry/louvred walls are proposed. The height of the screen would be 2.1 metres. Whilst noncompliant, the height of the enclosures could be conditioned to comply in the event of an approval and is therefore not considered to be an issue. • The location of the bin storage area would not enable residents to look down on the area. • Access to the storage area would be via the communal driveway. 	Yes
Drainage		
Refer to Part 8.2 Storm water Management DCP 2010	<p>The subject development application was referred to Council's Development Engineer.</p> <p>An assessment of the submitted stormwater plans indicated that the information was generally in accordance with Council's DCP requirements and the standard conditions of consent regarding stormwater would suffice.</p> <p>Refer to the development engineering referral for further information.</p>	Yes
Tree Removal		
Refer to Part 9.5 Tree Preservation DCP 2010	<p>As was reflected by the assessments above, the contracted arborist raised concerns on a number of issues that related to:</p> <ul style="list-style-type: none"> • Insufficient width of planting beds adjacent to the driveway and POS areas; • Excessive hard paving within the front setback; • Impact to trees; and • Trees not assessed on adjoining land by the submitted arboricultural impact assessment. <p>As such, the application is not supported in its current form.</p>	No

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Ryde DCP 2014	Proposed	Complies?
	Refer to the Landscape referral for further information.	

BASIX	Proposal	Compliance
All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans	BASIX Certificate No. 53849M Dated 20 September 2018	Yes
<ul style="list-style-type: none"> RWT 1500L per dwelling 	1500L rainwater tank provided per dwelling as detailed within floor plans and stormwater plans	Yes
<ul style="list-style-type: none"> Thermal Comfort Commitments: <ul style="list-style-type: none"> Insulation as per schedule Windows & glazing as per schedule Construction as per schedule TCC – Glazing as per schedule. 	Shown on plans	Yes
<ul style="list-style-type: none"> Fixtures <ul style="list-style-type: none"> 3 star taps & shower heads Toilet flush 4 star 	Shown on architectural plans	Yes
<ul style="list-style-type: none"> Lighting <ul style="list-style-type: none"> Fluorescent or LED 	To be shown on CC plans	Yes
Water Target 40	Meets requirement 40	Yes
Energy Target 50	Meets requirement 50	Yes
Correct description of property/proposal on 1 st page of Certificate.	Correct description on certificate cover page (multi-dwelling) BASIX commitments are shown on plans.	Yes

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Chapman Planning Pty Ltd

Suite 5 / 187 Marion Street
LEICHHARDT NSW 2040

Phone: 9560 1718

Facsimile: 9564 5753

www.chapmanplanning.com.au

10 September 2018

Clause 4.6 Variation to Development Standard

Height of Buildings – Clause 4.3A Ryde Local Environmental Plan 2014

Property Description: 34 Clanalpine Street, Eastwood

Development: In-fill Affordable Multi dwelling housing development

Introduction

This is a clause 4.6 variation to support the proposed infill affordable multi dwelling housing development at 34 Clanalpine Street, Eastwood. This clause 4.6 seeks variation to the building height development standard contained in clause 4.3A (2) – Exceptions to Height of Buildings of the Ryde LEP 2014. Clause 4.3A(2) of the LEP states:

(2) Despite clause 4.3m, the maximum height of a dual occupancy (attached) and a multi dwelling housing on land in Zone R2 Low Density Residential is 5m for any dwellings that does not have a road frontage.

The proposed building has a maximum height of 9.04m measured to the top of roof form of the front dwelling. The dwellings at the rear have a maximum height of 7.88m – 8.13m which present a variation of 2.88m – 3.13m to the maximum height limit for dwellings that do not have a road frontage.

The application to vary the development standard – building height incorporates the relevant principles in the following judgements:

1. *Winten Property Group Limited v North Sydney Council (2001) 130 LGERA 79*
2. *Wehbe v Pittwater Council (2007) 156 LGERA 446, and*
3. *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009.*

What are the objectives of Clause 4.6?

The objectives of clause 4.6 – Exceptions to development standards are:

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- (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.*

The proposed variation to the 5m height development standard for dwellings that do not have a road frontage is consistent with the objectives of clause 4.6 as follows:

Objective (a): The portion of the building exceeding the 5m height control is part of the upper level roof form of bedrooms. These dwellings have been designed with an upper level 'room in roof' form to present a single storey form to surrounding properties. In this case a degree of flexibility can be applied to the height development standard.

Objective (b): The variation to the height control ensures a better design outcome is achieved for the development allowing a built form with attic style bedrooms that provides additional amenity to the residential dwellings and allows a open plan ground floor.

The portion of the upper level exceeding the height limit will not be visually dominant when viewed from the public domain or surrounding properties, noting the upper level is restricted to bedrooms only within a 'room in roof' form to reduce their visual impact upon surrounding properties.

For the above reasons the proposed development achieves the objectives of clause 4.6 of the LEP, by:

- Allowing an appropriate degree of flexibility to be applied to the building height control, given the additional height does not contribute to additional amenity impacts to adjoining properties, and is confined to part of the upper level bedrooms roof form only.
- Achieving a suitable built form that is consistent with the anticipated height set by the 5m height control with a single storey form for the dwellings without a road frontage.

Compliance with the development standard is unreasonable or unnecessary in this particular case?

Pursuant to clause 4.6(3)(a) of the LEP the variation to the height of buildings development standard is acceptable in the circumstances of this case and compliance with the development standard is considered unreasonable and unnecessary because it meets the objectives of the building height standard even though it does not strictly comply.

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The objectives of the development standard are at clause 4.3(1) of the Ryde LEP 2014 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 proposed building height is acceptable based on the following assessment:

- The proposal has been designed with a single storey built form at the rear with upper level bedrooms wholly contained within a roof form, consistent with the intent of the 5m height limit noting the rear dwellings have been designed within a 'room in roof' design.
- The additional height does not result in additional amenity impacts to adjoining properties with negligible overshadowing generated by the additional height.
- The upper level does not create additional privacy impacts noting windows are to low activity rooms being upper level bedrooms.
- The upper level bedrooms are contained wholly within a roof form is suitable for the site, with a two storey dwelling presentation to the street and single storey at the rear satisfying the intent of the development standard.

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

Pursuant to clause 4.6(3)(b) of the LEP the environmental planning grounds contained in this application are sufficient to justify the variation to the height of buildings control because:

- The proposal has been designed with a single storey built form with upper level bedrooms wholly contained within a roof form, consistent with the intent of the 5m height limit noting the rear dwellings have been designed within a 'room in roof' design.

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- The variation to the height limit for the rear dwellings does not contribute to additional bulk and scale noting the upper level has been designed within a roof form. The building form proposed at the rear of the site is compatible with the character of the locality being a single storey pitched roof form, with dormer windows.
- The additional height does not result in additional privacy or overshadowing impacts to adjoining properties noting the upper level contains bedrooms only, and the portion of the building exceeding the height limit is limited to roof form.
- The building presents a 2 storey form to Clanalpine Street and the public domain, with the rear dwellings presenting a single storey form to the neighbouring properties and the street.

Is the proposed Development in the public interest?

Clause 4.6(4) of the LEP states:

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.

Clause 4.6(4)(a)(i) of the LEP has been addressed above.

In relation to clause 4.6(a)(ii) of the LEP, the proposed development is in the public interest because it is consistent with the objectives of the applicable height of buildings standard and the objectives for development in the R2 – Low Density Residential zone for the following reasons:

- The building height at the rear being a single storey form with upper level bedrooms within a roof form is consistent with the intent of the height of buildings development standard and the objectives of the R2 – Low Density Residential zone providing additional housing choice with good residential amenity in an accessible area.

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- The building height is consistent with the character of adjoining development in the locality with a single storey 'room in roof' form at the rear and ensures an acceptable form of development with good residential amenity is provided.
- The development proposal is an infill affordable development providing 2 x dwellings as affordable accommodation, aiding housing affordability and choice in an accessible area.

Conclusion

The development proposal has a variation to the 5m building height control contained in Clause 4.3A of the Ryde LEP 2014; notwithstanding, the building has been designed with a single storey built form at the rear with upper level bedrooms within an attic roof, consistent with the intent of the height limit control.

The variation to the building height standard does not attempt to affect the planning outcomes for the broader locality; rather the building design is consistent with the intent of the 5m height control for dwellings that do not have a road frontage, reflecting the scale and form of development planned for the locality.

In my opinion the application to vary the building height development standard is well founded and as addressed the proposed height meets the objectives of the building height development standard and achieves an acceptable development outcome that is in the public interest. In accordance with the environmental planning grounds provided in this clause 4.6 variation the building height can be supported.

Chapman Planning Pty Ltd

There are no LPP Planning Proposals