ITEM 12


GROUP MANAGER ENVIRONMENTAL PLANNING REPORTS 23 SEPTEMBER 2004

File No. LDA02/4-02

SUMMARY
This report considers a request for an extension of time to a consent for villas at 72 Anthony Road, Denistone, which will lapse on the 25 July 2005. It is recommended that the consent not be extended; as restricting villa home consents to two years was introduced to ensure all development would be undertaken in accordance with the most up to date policies and that sites were not sterilized from development by inactive consents.

REPORT

BACKGROUND
On 25 July 2003 Council granted consent for five three-bedroom villa homes at 72 Anthony Road, Denistone which is a battleaxe allotment. The consent was to lapse on 25 July 2005. The development application attracted a number of submissions objecting to the development. The previous report is ATTACHED.

Following the approval of the development the objector who owns an adjoining battleaxe allotment contacted Council officers concerned about the decision to approve the development and concerned that the development would have significant impacts upon their privacy and amenity. They had also been approached by the developer of 72 Anthony Road regarding the potential to consolidate their land at 70A Anthony Road with 72 Anthony Road to prepare a consolidated development.

At meetings with officers it was explained that Council had now adopted a policy opposing villa development on battleaxe allotment and therefore such a future development of their land would be contrary to Council policy. However, it was acknowledged that development of their land in conjunction with the adjoining property would clearly be the best outcome for the owners of 70A Anthony Road. An application was lodged for 70A Anthony Road on 8 June 2004 for 4 villa homes.
ITEM 12 (Continued)

The applicant for the consent at 72 Anthony Road has written to Council requesting an extension be given to the consent for another 2 years (ie it would lapse on 25 July 2007). In support of this request the applicant has stated:

“We are a local family building company with my son, Raymond, as our apprentice who has another year and a half to complete his building license course at TAFE, therefore works a four-day week. This is a project which will give Raymond a great deal of experience with all aspects of building industry therefore it’s necessary for him to work 5 days a week.

Also we have applied to Council for stage 2 of this development at number 70A Anthony Road, Denistone so if there was any changes to stage 1 it would be easier if stage 1 has not commenced.”

With the adoption of Council’s policy to restrict consents for villa homes to two years no extension of time has been given for these developments. There were two reasons for introducing the 2 year time limit for such development consents. Firstly, it was a policy introduced to be fair to all, as a person may “sit” on development consent for 5 years thus sterilizing other sites for a potential villa homes development as they would not comply with the linear separation controls. Secondly, with proposals to constantly review the villa homes DCP, restricting consents to 2 years was an attempt to ensure that new development would, as far as possible, comply with a most up to date planning controls.

There seems no compelling reason to extend the consent as requested by the applicant. There is still some ten months for the applicant to commence construction. There is also no guarantee that the development at 70A Anthony Road will be approved and therefore an argument about the coordination of the building works cannot be supported.

RECOMMENDATION:
That the request to extend the time of development consent number 4/2002 for villa homes at 72 Anthony Road not be granted.

Sue Weatherley
Group Manager
Environmental Planning
ITEM 12 (Continued)

CITY OF RYDE

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ITEM 2


Manager Environmental Assessment reports 10 January 2003.

FILE NO: LDA02/4

EXECUTIVE SUMMARY

This report considers an application to construct five (5) three (3) bedroom villas, with vehicle accommodation under, to be erected on a battle axe allotment.

The proposed development generally complies with the Villa Homes DCP. Variations are proposed to the height and rear setbacks.

Four (4) objections were received.

Drainage will be through the adjoining Darvall Park.

It is recommended that the application be approved as a deferred commencement consent.

Reason for Referral to Development Committee: Deemed Refusal – An Appeal has been lodged by the Applicant in the Land and Environment Court – Hearing dates have been set down for 14 and 15 April 2003.

SITE: (Refer to attached map.)

Address: 72 Anthony Road, Denistone

Site Area: 1827m²

  Frontage: 4.875 metres
  Depth: 110.515 metres
  (battle axe shaped allotment)
ITEM 2 (Continued)

Topography and Vegetation:
- The site slopes from the street to the rear, with an internal cross fall of 6.0m from the north east to the south west. The site contains retaining walls that show evidence of previous cut and fill.

Existing Buildings:
- A dwelling house, swimming pool, shed and cubby house.

PLANNING CONTROLS:

Zoning:
- Residential A

Other:
- Ryde Planning Scheme Ordinance, DCP 41 -- Stormwater, Villa Homes DCP.

DEVELOPMENT PROPOSAL SUMMARY:

The application proposes the erection of five (5) villas with basement carparking, each with its own courtyard. The site is to be accessed via an access handle from Anthony Road.

The letter boxes will be located on the northern side of the access handle adjoining the Anthony Road alignment. The garbage bins will be stored in each of the garages, and are to be moved up to the kerb on a weekly basis. The site is to be adequately landscaped in the private and common areas of the development.

HISTORY:

The application was lodged with Council on 3 January 2002, proposing the erection of five (5) three (3) bedroom villas with vehicle accommodation under. The application was assessed in accordance with the Villa Homes DCP, which revealed that the design of the development did not meet with Council’s controls. The applicants were advised on 4 March 2002, of the deficiencies of their proposal. A meeting was conducted with the applicant on 26 March 2002, where it was resolved that the applicant would submit amended plans. The amended plans were received 28 March 2002. The amended plans were not required to be re-notified, as the amendments did not result in additional impacts onto the allotments adjoining. The plans showed an increased paved area to the rear of the courtyards, the widening of the garage openings, along with support information relating to the fencing materials and clothes drying facilities. In addition support information was submitted regarding compliance with Council’s controls, and a SEPP No.1 objection was lodged to height under the provisions of the Ryde Planning Scheme Ordinance.
ITEM 2 (Continued)

Council's Manager of Stormwater Facilities and Services raised no objections to the laying of a stormwater line and the construction of a head wall in Darvall Park subject to conditions.

Council's Landscape Services Department advised that drainage through Darvall Park would only be supported provided the necessary pipes could be bored from the development to the Creek without above ground disturbance to the park, and that the treatment of the head wall to the creek will need detailed assessment. The three (3) large Eucalyptus saligna (Sydney Blue Gum) behind the property are significant and must be protected.

The Manager of Property Services was required to commission an independent valuator to place a value on the cost of the proposed easement and its future maintenance, the cost of which is to be borne by the developer.

Council's Development Engineers advised that the proposed drainage design was unacceptable and the garage openings and the driveway grades did not comply with Council standards.

On 28 June 2002 the applicant lodged an appeal (deemed refusal) with the Land and Environment Court of NSW, as the matter had not been resolved within the 40 days of lodgement. The matter was referred to Council's Solicitors on 29 July 2002.

A Statement of Issues was prepared 13 August 2002, the issues raised were:

1  
   a) Darvall Park is zoned open space 6(a) recreation existing and the proposal to drain through the park is a prohibited use within that zoning.  
   b) Council has not agreed to the granting of a drainage easement through Darvall Park  

2 Whether approval of the proposal is in the public interest.

On 6 September 2002, further comments were received from the Manager of Urban Landscape Services, advising that from a physical perspective access over community land for stormwater purposes was considered acceptable subject to the imposition of conditions of consent.

On 13 September 2002, further comments were received from Council's Manager of Urban Landscape Services advising of conditions to be placed on any consent issued by Council, which include a contribution for the easement across the reserve.
ITEM 2 (Continued)

With the introduction of the Bushfire Legislation, the application was referred to Council's Bushfire Consultant and also to the NSW Rural Fire Brigade on 26 September 2002. Council received comments from the NSW Rural Fire Brigade on 8 October 2002 raising no objections or special considerations in relation to bushfire matters.

Comments were received from Council's Development Engineers 18 October 2002, granting approval to the easement across the reserve. The pipe was approved to be constructed as Council infrastructure, with the full cost of the construction and ongoing maintenance to be paid as a one (1) off contribution by the applicant.

REFERRALS:

Development Engineer, 18 October 2002: Approval has been given to construct a pipeline through the adjoining reserve. The pipeline will become Council infrastructure with the full cost of the construction and ongoing maintenance costs being paid for by the applicant.

Landscape Architect, 14 January 2003: The site has been inspected, and contains a suburban garden, and adjoins Darvill Park, which contains remnants of a Blue Gum Forest. The site itself contains 2 Blue Gums, which are only saplings and are not considered significant or worthy of retention in a development context. The garden contains many established shrubs such as Azalea, Camelias and Murrayas, many of which could be used or transplanted into the new development.

The application is considered satisfactory subject to the imposition of conditions requiring as many of the existing site species to be retained and a detailed landscape plan being submitted, showing as many existing species to be retained, including the established Camelias and Murrayas in the present position or their transplanted location. Screen planting to be placed along the boundary alignment adjoining the driveway, and the species of planting to be placed along the boundary adjoining Darvill Park.

Drainage Team, 26 February 2002 and 18 October 2002 (with the Development Engineers Comments): Approval has been given to construct a pipeline through the adjoining reserve. The pipeline will become Council infrastructure with the full cost of the construction and ongoing maintenance costs being paid for by the applicant.

Urban Landscape Services, 6 September 2002: The application is considered to be acceptable subject to the imposition of conditions.

NSW Rural Fire Brigade, 8 October 2002: The NSW Rural Fire Services raises no objections or special consideration in relation to bushfire matters.
ITEM 2 (Continued)

OFFICER’S ASSESSMENT:

The assessment contained in this report is a summary of the matters deemed relevant to this development proposal and matters contained in the Planning NSW Guide to Section 79C – Potential Matters for Consideration.

1. Relevant Provisions of the Environmental Planning Instrument:

(a) Zoning. Residential A

2. Relevant Development Control Plan/Code against which the development is to be assessed.

Villa Homes DCP

The proposal complies with the above plan as illustrated below:

<table>
<thead>
<tr>
<th>Proposed</th>
<th>Council’s Code</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Site Area</strong></td>
<td>600m² (300m² for each villa and a minimum of 2 dwellings attached is required to achieve the definition of a villa home)</td>
<td>Yes</td>
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<tr>
<td><strong>Height</strong></td>
<td></td>
<td></td>
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<tr>
<td>Dwelling 1 – 3.9m</td>
<td></td>
<td></td>
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<tr>
<td>Dwelling 2 – 4.0m</td>
<td></td>
<td></td>
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<tr>
<td>Dwelling 3 – 4.5m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling 4 – 3.860m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling 5 – 4.3m</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Density</strong></td>
<td>1 dwelling per 300m²</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Site Coverage</strong></td>
<td>40% of the site</td>
<td>Yes</td>
</tr>
</tbody>
</table>
ITEM 2 (Continued)

<table>
<thead>
<tr>
<th>Linear Separation</th>
<th>A development comprising three (3) or more villas must not be constructed unless:</th>
</tr>
</thead>
<tbody>
<tr>
<td>This site is not located within the specified distances of another existing or approved villa development.</td>
<td>a) the subject allotment is located at a distance greater than twice the frontage of any other allotment on which any villas exist, or</td>
</tr>
<tr>
<td></td>
<td>b) the allotment is located at a distance not less than twice the frontage of the allotment which the development I proposed from any allotment on which villa homes exist;</td>
</tr>
<tr>
<td></td>
<td>Whichever distance is the greatest measured along the alignment of the street boundary. The existence of villa homes is also a reference to where consent for such a development has been granted, but not yet secured.</td>
</tr>
<tr>
<td>Landscaped Area</td>
<td>Yes</td>
</tr>
<tr>
<td>655.99m², 131.198m² per dwelling</td>
<td>120m² per dwelling</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>Setbacks</td>
<td>4.5m, there is a minimum setback of 3.0m as long as this does not exceed 50% of the total length of the wall adjacent to the side and rear boundaries.</td>
</tr>
<tr>
<td>Front: not applicable in this instance as the site is a battle axe allotment.</td>
<td>Where vehicular access is provided within the setback area then the building shall be set back 7.0m</td>
</tr>
<tr>
<td>Side:</td>
<td>No with the exception of the western elevation facing the Park. *</td>
</tr>
<tr>
<td>Northern:</td>
<td></td>
</tr>
<tr>
<td>Dwelling 1 – 4m to 5.450m</td>
<td></td>
</tr>
<tr>
<td>Dwelling 2 – 4m to 5.450m</td>
<td></td>
</tr>
<tr>
<td>Dwelling 3 – 4m to 5.450m</td>
<td></td>
</tr>
<tr>
<td>Dwelling 4 – 3.3m to 4.5m</td>
<td></td>
</tr>
<tr>
<td>Dwelling 5 – 3.0m to 4.5m</td>
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</tbody>
</table>
ITEM 2 (Continued)

<table>
<thead>
<tr>
<th>Setbacks (continued)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Side:</td>
<td></td>
</tr>
<tr>
<td>Southern:</td>
<td></td>
</tr>
<tr>
<td>Dwelling 1 - 6.0m to</td>
<td></td>
</tr>
<tr>
<td>the garden bed and</td>
<td></td>
</tr>
<tr>
<td>7.0m to</td>
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<tr>
<td>fence line.</td>
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<tr>
<td>Dwelling 2 - 6.0m to</td>
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<tr>
<td>the garden bed and</td>
<td></td>
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<tr>
<td>7.0m to</td>
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<tr>
<td>fence line.</td>
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<tr>
<td>Dwelling 3 - 6.0m to</td>
<td></td>
</tr>
<tr>
<td>the garden bed and</td>
<td></td>
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<tr>
<td>7.0m to</td>
<td></td>
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<tr>
<td>fence line.</td>
<td></td>
</tr>
<tr>
<td>Dwelling 4 - 6.0m to</td>
<td></td>
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<tr>
<td>the garden bed and</td>
<td></td>
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<tr>
<td>7.0m to</td>
<td></td>
</tr>
<tr>
<td>fence line.</td>
<td></td>
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<tr>
<td>Dwelling 5 - 6.0m to</td>
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<tr>
<td>the garden bed and</td>
<td></td>
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<tr>
<td>7.0m to</td>
<td></td>
</tr>
<tr>
<td>fence line.</td>
<td></td>
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<tr>
<td>West</td>
<td></td>
</tr>
<tr>
<td>Dwelling 5 - between</td>
<td></td>
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<tr>
<td>3m and 6.5m.</td>
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<td></td>
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<tr>
<td>Car Parking</td>
<td></td>
</tr>
<tr>
<td>5 villas by 2 (3 bedrooms) =10 and</td>
<td>2 Spaces per 3 bedroom dwelling and 1 visitors space for every 4 villas</td>
</tr>
<tr>
<td>5 villas = 2 visitor spaces.</td>
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<td></td>
<td></td>
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<tr>
<td>Courtyards</td>
<td></td>
</tr>
<tr>
<td>Dwelling 1 - 108.42m²</td>
<td></td>
</tr>
<tr>
<td>Dwelling 2 - 55.36m²</td>
<td></td>
</tr>
<tr>
<td>Dwelling 3 - 63.96m²</td>
<td></td>
</tr>
<tr>
<td>Dwelling 4 - 44.7m²</td>
<td></td>
</tr>
<tr>
<td>Dwelling 5 - 68.5m²</td>
<td></td>
</tr>
<tr>
<td>Each dwelling is to have a courtyard of a minimum of 30m²</td>
<td>Yes</td>
</tr>
</tbody>
</table>
ITEM 2 (Continued)

<table>
<thead>
<tr>
<th>Dwelling Size</th>
<th>Each dwelling is to be a minimum area of 80m²</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling 1 - 136.6m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling 2 - 129.5m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling 3 - 131.6m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling 4 - 129.5m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling 5 - 127.3m²</td>
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<td></td>
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</tbody>
</table>

* See the main body of the report for full assessment of the setback requirements.

3 Matters for consideration pursuant to Section 79C EPAA 1997:

a) Environmental Planning Instruments

Ryde Planning Scheme Ordinance

Zoning

The subject site is zoned Residential 2(a) under the provisions of the Ryde Planning Scheme Ordinance. The application proposes the erection of five (5) three (3) bedrooms villas with vehicle accommodation under, which is permissible with the consent of Council.

Mandatory Requirements

Clause 56A.

(3) A person shall not erect or use villa homes on land within Zone No.2(a), unless –

(a) the site area for each dwelling in the building is not less than 300m²; and
(b) there is provided, in respect of each such dwelling, a landscaped area of not less than 120m².

(4) A person shall not erect or use villa homes on land within Zone No.2(a), unless –

(a) each separate dwelling in the building contains not more than 1 storey; and
(b) the height of the building does not exceed 4 metres.
ITEM 2 (Continued)

(6) Villa homes shall not be erected or used on any site unless provision is made within the site for—
   (a) parking spaces, in accordance with the following rates:
       (i) 1.6 parking spaces for each (3) or more bedroom dwellings in the building; and
       (ii) 1 space for visitor parking for each 4 dwellings in the building.
   (b) vehicle access to those parking spaces, which is satisfactory to the Council.

The application has met the requirements of the Planning Scheme Ordinance, with the exception of height. A SEPP No.1 objection has been lodged, arguing that the breach of the height requirements does not result in an adverse impact, therefore Council’s controls are unnecessary and unreasonable and requests Council approve the application in its current form.

Under the provision of Section 56C of the Planning Scheme Ordinance the development of villas requires a contribution in accordance with the S94 plan.

Under the provisions of 56D villas shall not be erected until it can be established that water and sewer can be provided to the site. This will require the lodgement of a Section 73 Certificate.

b) Draft Environmental Planning Instruments

Draft LEP has been prepared in order to modify the Ryde Planning Scheme Ordinance regarding villa controls. A Section 65 certificate was issued 29 May 2002, the document was advertised 5 June 2002. The document has yet to be gazetted by the Minister for Planning.

c) Other matters prescribed by the regulations

There are no relevant matters prescribed by the regulations in relation to fire safety or demolition other than those detailed in this report.

4 The likely impacts of the development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality:
ITEM 2 (Continued)

Built Environment

Height

The height of the development has been raised by objectors as being of concern. The site has a 6m cross fall from the north east to the south west of the site. It is noted that over time the site has been cut and filled, there is evidence of retaining walls and a level batter within the site. The height calculation has been undertaken using the existing fall of the land and the levels given by survey. This will ascertain the impact the proposed development will have on the immediate locality.

The development is five (5) villas containing vehicle accommodation below. The dwellings are classified as single storey, as the basement area contains only vehicle accommodation required to meet Council’s controls and a storage area.

Dwellings 2, 3 and 5 fail to meet the 4m height limit of Council’s DCP controls, and also fail to meet the numeric requirements of Council’s Planning Scheme Ordinance. Height is a control that regulates the bulk and scale of a development and the impact on the adjoining allotments. The breach in the height is of concern to the adjoining allotments.

The height of the dwellings under the Planning Scheme are calculated as follows:

Dwelling 1 – 3.9m with the cut being 1.3m of the overall height.
Dwelling 2 – 4.2m with the cut being 1.6m of the overall height.
Dwelling 3 – 4.5m with the cut being 1.9m of the overall height.
Dwelling 4 – 3.860 with the cut being 1.260m of the overall height.
Dwelling 5 – 4.3m with the cut being 1.7m of the overall height.

The Planning Scheme Ordinance details the following regarding height:

“height” in relation to a building means the distance measured vertically on any external wall of the building from any point on such wall, which is 3 metres above the level of the topmost floor to natural ground level the wall immediately below that point;

Clause 50A (4) (b) states in part:

the height of the building does not exceed 4 metres.
ITEM 12 (Continued)

The interpretation of this clause is that the external wall height of the dwelling is to be no greater than 3.0m and the overall height of the building being no greater than 4m, that would include any cut and fill on the site.

The application exceeds the height limit due to the additional cut that is required to accommodate the basement carparking. The floor to ceiling height of the dwellings is less than the 3m specified in the Planning Scheme.

To achieve compliance with the controls it is suggested that the dwellings floor to ceiling height be reduced from the 2.550m proposed to 2.4m, and the floor to ceiling heights of the garages be reduced by 230mm to be a maximum of 2.2m. This would result in the overall heights of the dwellings being reduced to:

Dwelling 1 – 3.520m
Dwelling 2 – 3.820m
Dwelling 3 – 4.120m
Dwelling 4 – 3.480m
Dwelling 5 – 3.920m

Dwellings 4 and 5 would then comply with the requirements of the Planning Scheme. With regard to dwelling 3, it would breach the requirements of Council’s Controls by 120mm. This matter requires the submission of an objection to Council’s Statutory Controls under the provisions of State Environmental Planning Policy No.1 (SEPP No.1). The applicant has lodged a SEPP 1 objection to the height requirements of the Planning Scheme Ordinance. The applicant has argued that:

The objective of the height restriction is to ensure the bulk and scale of the new development protects reasonable neighbourhood amenity and maintains appropriate residential character. To allow adequate daylight, sunlight and ventilation to the living areas and private open spaces of the new and neighbouring dwellings. To encourage the sharing of views. Whilst not restricting the reasonable development of the site. Applications proposing garages to be built beneath the floor level where the natural fall of the land is such to permit garages to be positioned below without adversely affecting the amenity of the adjoining properties.

Achievement of Planning Objectives – We have lowered the building to such a level which over 95% complies with the floor area of the building and where the encroachment of height is due to retaining walls existing around pools changing natural falls to ground levels, which would make these units comply or at unit No.5 for approximately 1 metre of the corner of the block. So to excavate extra into the land would be a numerical adjustment only, not for the good of the development.
**ITEM 12 (Continued)**

**PREVIOUS REPORT**

**ITEM 2 (Continued)**

Is Strict Compliance Unreasonable and Unnecessary? – Yes, otherwise the development with sensible heights will possibly not be achieved.

The SEPP No.1 objection is able to be supported only with the lowering of the floor to ceiling heights of the dwellings and the basement carparking. This will result in a minor non compliance with Council’s Controls, namely 120mm in the area of dwelling number 3. It is noted that this dwelling is opposite the allotment which has submitted an objection to the development.

The development will have an impact on the allotments adjoining as the dwellings extend almost the entire length of the allotment. Therefore there will be additional overlooking, privacy impacts and overshadowing. However the additional impacts do not result in a detrimental impact on the allotment adjoining. Achieving the numeric height requirements of the Planning Scheme will not result in a substantial improvement to the adjoining allotments. The nature of the impacts on the adjoining allotment relates predominantly to the topography, namely the 6.0m cross fall. In this particular instance the SEPP No.1 objection is able to be supported with the modified floor to ceiling heights.

The height under the DCP has also been breached in relation to a 3m height limit above the natural ground level of the site. The application has been conditioned to lower the ceiling height of the dwelling to 2.4m and the garage by 230mm, giving an overall reduction of 380mm, this results in the dwellings, with the exception of dwelling number 5 complying with 3.0m height limit. The breach of 120mm of dwelling 5 will not result in an adverse impact on the amenity of the allotments adjoining. (see Deferred Commencement Condition 2)

**Bulk and Scale**

The bulk and scale of the development on the allotment will be increased as a result of the proposed development. There will be five (5) three (3) bedroom villas as opposed to a single residence. The additional bulk and scale results in the greatest impact on the allotment to the south. The bulk is not considered to be excessive, once the floor to ceiling heights of the development are lowered, in accordance with Deferred Commencement Condition 2. The roof pitch of the dwellings are not considered excessive and the dwellings are located between 7 and 8.850m from the adjoining allotment boundary to the south. There is a considerable physical distance between the development and the adjoining allotment. Screen planting is proposed along the southern boundary, this will reduce the impact of the development on the allotment adjoining.
ITEM 12 (Continued)

ITEM 2 (Continued)

The northern neighbours will also experience additional bulk resulting from the development. On this particular side of the allotment the dwellings will read as single storey, with the land levels remaining predominantly unaltered. The bulk of the dwelling will not result in an adverse impact on the amenity of the adjoining allotments with regard to height, overlooking, scale and overshadowing.

Privacy

Privacy has been raised as a concern by adjoining neighbours. The development will result in the level of privacy being reduced, however, this reduction is not considered so excessive to warrant refusal of the application.

The southern side of the development contains a mixture of bedrooms and living rooms. Bedrooms are considered to be locations where people do not reside for extensive periods of time and are not considered entertainment areas. The impact on privacy resulting from these rooms is not considered detrimental.

The other rooms in this elevation are living rooms. These rooms, given the floor plan appear to be areas that are “formal” in the room arrangement. The family, kitchen and meal areas are located towards the northern side of the allotment, and have access to the rear courtyard areas. It is considered that the living areas will not result in a detrimental impact on the privacy of the allotments adjoining.

The patios at the top of the access stairs to the dwelling are considered to result in an area where the occupants of the dwellings can overlook the southern allotment. It is considered that the patios of dwellings 2 and 3 need to be fitted with a privacy screen to their southern side to prevent overlooking. (see Deferred Commencement Condition 6) The screening shall be a minimum of 1.8m in height from the finished level of the patio, it shall be constructed of a dense lattice material finished in a colour that blends with the external finishes of the dwellings.

Overshadowing

The erection of 5 villas on the allotment will result in additional shadow onto the allotment adjoining. Shadow diagrams have been lodged with the application showing the impact the proposed development will have on the locality, at the time periods of 9.00am, 12 noon and 3.00pm mid winter. The following is noted:
ITEM 2 (Continued)

9.00am – The shadow at this time of the day falls within the subject allotment and onto Darvall Park at the rear. The shadow cast during this time of the day will not result in an adverse impact on solar access or amenity to the adjoining allotments.

12 noon – At this time of the day the shadow falls predominantly within the confines of the subject site. The shadow is beginning to move towards the allotment to the south of the site. However, at this time of the day there is no adverse impact on the allotment adjoining.

3.00pm – At this time of the day the shadow cast from the subject allotment will overshadow the dwelling house on the allotment to the south, a large portion of the north facing windows in this dwelling will be overshadowed.

In conclusion the shadow cast from the development will result in a reduction of the natural light afforded to the southern allotment. However the loss of sunlight to the northern windows of this dwelling does not occur until mid afternoon. The proposed development does not result in an adverse impact on the solar access of the allotment adjoining.

**Streetscape**

The development is proposed on a battle axe allotment. The development will not be visible from the street. However, there will be vegetation strips down either side of the driveway and letter boxes on the street alignment. It is considered that the access to the development does not result in an adverse impact on the amenity of the site.

**Natural Environment**

**Landscaping:**

The development proposes the removal of substantial vegetation from the site. The application was considered by Council’s Landscape Architect who commented:

> The site has been inspected, and contains a suburban garden, and adjoining Darvall reserve, which contains remnants of a Blue Gum Forest. The site itself contains 2 Blue Gums, which are only saplings and are not considered significant or worthy of retention in a development context. The garden contains many established shrubs such as Azalea, Camellia and Murraya, many of which could be used or transplanted into the new development.
ITEM 2 (Continued)

It is recommended that the landscape plan is to utilise as many existing garden shrubs as is possible including the many established Camellias and Murrays, either by being retained on their present location or transplanting to more appropriate locations to provide screening functions. The landscape plan is to outline a schedule for the management of transplanted specimens.

The landscape plan is to provide continuous screen planting along the southern boundary adjacent to the driveway. Suggested species such as:

Orange Jessamine (Murraya paniculata)
Sweet Viburnum (Viburnum odosatinum)
Camellia (Camellia sasanqua)

Would be appropriate for fulfilling the required screening function.

Screen planting to the Darvall Park boundary shall be carried out with species appropriate with the Blue Gum High Forest community.

(See Deferred Commencement Conditions 3, 4 and 5)

The calculations of the site have been undertaken regarding landscaped area. The Villa Homes DCP requires that a minimum of 120m² of landscaping per dwelling. The landscaped area of the site contains 131,198m² of landscaping per dwelling.

Stormwater

The application proposed the stormwater drainage to be disposed via an easement through Darvall Park at the rear of the site. The Plan of Management allows for stormwater from a private development to be disposed through public land with the consent of Council. However the zoning of Darvall Park "6a open space" does not permit private infrastructure to be erected in this location. It was therefore resolved that Council construct the infrastructure, which will then become Council infrastructure, with the full cost of the construction and ongoing maintenance costs being paid by the applicant in a contribution to Council. (See Deferred Commencement Condition 7) Council's Development Engineers and Drainage Team considered the application satisfactory subject to conditions of consent.
ITEM 2 (Continued)

5 **Suitability of the site for development:**

The site is not classified as a heritage item nor is subject to any natural constraints such as flooding or subsidence. The proposal is considered to be suitable for the site in terms of the impact on both the existing natural and built environment.

6 **Public submissions:**

a) The proposal was advertised in accordance with Council’s Development Control Plan for Notification for a 21 day period from 30 January 2002 to 21 February 2002. During this period 4 submissions were received. Amended plans were received 28 March 2002 providing documentary information relating to Council’s controls, clarification of the fencing materials, courtyard paving, and clothes drying facilities. A SEPP No.1 objection was received regarding height under the Ryde Planning Scheme Ordinance. These matters were not required to be re-notified, as the additional information does not result in additional impacts onto the adjoining allotments.

- The applicant has “chopped” the canopy of the Japanese Maple back to the fence line. This tells me the existing trees are of no value to the developer.

Lopping of the maple is unable to be rectified, Council has imposed conditions requiring the retention of existing landscaping. *(See Deferred Commencement Condition 3)*

- There is not enough room on the site to accommodate 5 dwellings, there is only enough room to accommodate 2 or 3 without devastating the stands of trees currently on the block.

Vegetation is proposed to be removed as a result of the proposed redevelopment of the site. However, it should be noted that Council has density controls restricting over development. The application meets with these controls. The matter with regard to the removal of vegetation from the site has been referred to Council’s Landscape Architect, who has required, where possible, the existing landscaping to be retained. *(See Deferred Commencement Condition 3)*

- The development fails to comply with Council’s DCP.

Portions of the development do not meet the numeric requirements of Council’s DCP. These items have been discussed in great detail throughout this report.
ITEM 2 (Continued)

- The allotment being a battle axe allotment does not meet with the minimum width of the allotment.

The internal width of the allotment exceeds Council’s 20m requirement, and the battle axe handle allows for 2 vehicles to pass, and the driveway arrangement allows for vehicles to leave in a forward direction.

- There is insufficient kerbside area for the garbage bins to be stored for collection.

The kerbside is Council land. Consultation was undertaken with Council’s Waste Services Officer who advised that the garbage and recycling bins need to be aligned parallel to the roadway. The location of the proposed bins are considered acceptable and in accordance with Council’s requirements.

- The site traditionally has been occupied by a single residence and was subdivided for this purpose, the proposed development will result in significant traffic volumes along a narrow driveway.

It is noted that the site contains a single dwelling, however the Planning Scheme Ordinance and Development Control plan have permitted this form of development on this site. The carparking spaces proposed are required to comply with the Planning Scheme Ordinance and Development Control Plan.

- The setback of the buildings is greater than the average of the setbacks of the adjoining buildings at 70A and 74A Anthony Road, the difference between the setbacks is greater than 2m. The discretionary powers in Council’s DCP are not sufficient enough to approve such a breach.

The clause that is being quoted relates to the street setback and the streetscape alignment. The site is a battle axe allotment, this clause is not relevant as part of this assessment. The setback in a battle axe allotment is:

“Buildings must be sited so that vehicles can enter and leave the site in a forward direction."

The development satisfies this control.
ITEM 2 (Continued)

- The setbacks of the dwellings to the side and rear boundary of the allotment fail to meet with the 4.5m requirements. Dwelling number 5 fails to meet the 3.0m for 50% of the wall as the patios are an extension of the dwelling and therefore are to be included within the setback calculation.

The distance of the setback is measured from the boundary alignment to the external wall of the dwelling. It is noted that not all the walls along the northern side of the allotment meet this control, however the dwellings meet with the 3.0m controls for up to 50% of the wall. The development meets the setback controls.

The external wall of the western elevation fails to meet the 4.5m setback and 3.0m for 50% of the external wall. It is however noted that this elevation faces Darwall Park at the rear of the site. There will be no adverse impact on the amenity of the land to the rear, as a result of the breach of the setback requirement in this location.

- Height under clause 10.2 of the DCP. The development proposes garaging under the dwellings, this results in a breach of height of the dwellings, result in a breach of privacy. It is noted that “Council will only consider applications proposing garages to be built underneath the floor level where the natural fall of the land is such to permit garages to be positioned below without adversely affecting the amenity of the adjoining properties”.

Comments have been made that the site has been filled and leveled at some point in time as there are retaining walls and a level batter present on the site. What the applicant is calling natural ground level is in fact a miss-representation of the site, and results in an advantage to the applicant and a disadvantage to the adjoining allotments. That in fact in the assessment was conducted using the true ground line of the site the development would fail to meet the requirements of Council’s height controls.

An inspection of the site revealed that what the objector has stated with regard to a level batters and retained areas is true, and this is shown by the contour lines on the survey plan. It is however difficult to ascertain what the true ground level of the site was unless there was a Geotechnical report.

When assessing an application regarding height it is noted that the natural ground level of the site as existing forms the ground level to which height is measured. The height control regulates the impact the proposed development will have on the allotments adjoining. It is therefore relevant to use the existing site constraints and assess the impact that results from the proposal. This has been discussed in great detail in the main body of the report.
ITEM 2 (Continued)

- That the proposed development is profit driven.

Not a planning consideration.

- The driveways do not meet with the minimum driveway openings of 6.5m.

The plans have been amended since the application was notified. The openings were widened to meet the requirements of Council's Controls and are considered acceptable in this regard.

- The landscaping plan is considered deficient with regard to the use of planting to provide privacy to the adjoining dwellings from the subject development. That much of the vegetation existing will be removed to accommodate the development, in addition deciduous trees along the boundary for sun/ shade control. This does not satisfy our privacy requirements. We require screening or evergreen plants to ensure all year round coverage.

Council's Landscape Architect has assessed the application and has no objections, subject to the imposition of conditions to retain as much of the vegetation existing on the site and the requirement to transplant some specimens. In addition it has been recommended that the deciduous trees proposed along the southern allotment boundary by replaced by evergreen dense landscaping as suggested by the objector to provide an adequate vegetative screen between the 2 allotments. (see Deferred Commencement Conditions 4 and 5)

- Privacy is a concern in relation to height, setbacks and parking.

The concerns of the objection have been assessed in the main body of the report.

- Overshadowing and sunlight

This has been discussed in the report.

- Drainage

The drainage information has been assessed by Council's Urban Landscape Services, Drainage Engineers and Development Engineers, the application is considered acceptable as the pipe within the reserve is to be constructed by Council at the cost of the applicant. (see Deferred Commencement Condition 7)
ITEM 2 (Continued)

- The statement of environmental effects displays gross inaccuracies regarding building height, setbacks, landscaped area, drainage, garbage facilities, building design, sunlight, fencing, social and economic effects, bulk/shape and character, adjoining residences and conclusions.

A majority of these matters have been discussed in the report, however the issue relating to the fencing separating the site has been clarified by the applicant. The fencing of the yards will be of a timber lattice fence with a post and rail along the driveway.

An issue was raised by the adjoining allotment owner regarding the demographic group, to which this development has been aimed. The applicant has stated that it would be suitable for retirees or young professional people with a need to live close to public transport. An objector has stated that it is improbable that older retirees would require 3 bedrooms and 2 undercover garage spaces.

In response to the comments made, if a three bedroom dwelling is proposed it is required to have 2 carparking spaces by Council's DCP, the applicant has proposed a development that would be suitable for a wide percentage of the population.

- Increased traffic movements.

The removal of a single dwelling and its replacement with 5 dwellings will result in additional traffic movements, however it is considered that the additional vehicle flows will not result in a detrimental impact on the surrounding locality.

- Bulk, shape and character.

This has been discussed in the report.

- Adjoining residences – loss of amenity.

This matter has been discussed in the main body of the report in the areas of height, bulk and scale, privacy and overshadowing.

- Concerns about the process of demolition.

The applicant has not made application for the demolition of the existing structures on the site. A separate application will need to be lodged, this will include the need for a demolition plan. (see standard condition 5)
ITEM 2 (Continued)

- The northern neighbour has raised an issue regarding the distance the proposed development is from the boundary and the impact the proposed courtyards will have on their privacy and natural light, and loss of privacy, as well as being able to view the clothes hanging on the line.

One of the sites to the north of the development was a disused Scout Hall. This however was purchased and is now in private ownership. Council has approved an application to demolish the structure and has yet to receive an application for the new development.

The proposed development is single storey, therefore the visual overlooking is not considered to result in a detrimental impact onto the northern allotment. There will be no overshadowing from the subject site to the north, and the clothes drying facilities have been proposed internally to the development via a combined washer/dryer.

The courtyard areas will result in noise, as it is an active use area, however it is considered that the noise arising from this area will be residential noise and is considered not to result in an adverse impact on the amenity of the surrounding locality.

- Concern raised regarding impact on the canopy of the trees in Darwall Park.

The trees in the Park are not proposed to be topped. This area is a remnant Blue Gum Forest. Council’s Urban Landscape Services department has made comment that the trees in the Park are to be preserved and no approval will be granted for their removal.

7 Submissions from Public Authorities and the Public Interest:

None required for this application.

8 Section 94 Contribution

The S94 contribution has been calculated by granting a "concession" for the existing 3 bedroom dwelling. The contribution for the five villas will be calculated less the 3 bedroom dwelling.

- 3 bedroom dwelling: $8,493
- Villas: $31,135 (5 x $6,227)

$31,135 - $8,493 = $22,642
ITEM 2 (Continued)

Conclusion:

The application has been assessed having regard to the provisions of the Villa Homes Development Control Plan, The Stormwater Management Development Control Plan the Ryde Planning Scheme Ordinance and Draft Local Environmental Plan 129 and the Environmental Planning and Assessment Act 1979. The application is considered to be acceptable with regard to compliance with the relevant clauses of the assessment criteria. The application is recommended to be determined as a deferred commencement consent subject to the imposition of deferred commencement conditions and standards conditions of consent.

Recommendation:

(a) That LDA No. 4/2002 to erect five (5) three (3) bedroom Villas with basement carparking at 72 Anthony Road be approved as a Deferred Commencement Consent pursuant to section 80(3) of the Environmental Planning and Assessment Act 1979. The consent does not become operative until the matters referred to in Part 1 have been submitted to and approved by Council. The information required in Part 1 shall be submitted to Council within 60 days from the date of this Notice.

Part 1 – Conditions relating to a Deferred Commencement Consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979.

1. An amended plan is to be lodged showing the lowering of the height of the garages from 2.430m to 2.2m and the floor to ceiling height of the dwellings being reduced from 2.550m to 2.4m in order to achieve the height requirements of Council’s Planning Scheme Ordinance. A SEPP No.1 objection will be required to be accepted by Council for villa number three (3) with respect to the 120mm breach of the height controls under Council’s Planning Scheme Ordinance.

2. A Landscape Plan is to be submitted showing the utilisation of as many existing garden shrubs as is possible, this shall include the many established Camellias and Murrayas. They are required to either be retained in their present location or transplanted to more appropriate locations to provide screening functions. The Landscape Plan is to outline a schedule for the management of transplanted specimens.
ITEM 2 (Continued)

3 The landscape plan is to provide continuous evergreen screen planting along the southern boundary adjacent to the driveway. Suggested species such as:
   - Orange Jessamine (Murraya paniculata)
   - Sweet Viburnum (Viburnum odoratissimum)
   - Camellia (Camellia sasanqua)

4 Screen planting to the Darvall Park boundary shall be of species appropriate with the Blue Gum High Forest community, details are to be included on the landscape plans.

5 The privacy screening to be erected to the southern portion of the patios of dwellings 2 and 3 shall be a minimum of 1.8m in height from the finished level of the patio, they shall be constructed of a dense lattice material finished in a colour that blends with the external finishes of the dwellings. Details are to be submitted to Council.

6 **Drainage Construction.** A payment of $14,000 is to be made to Council for the construction and ongoing maintenance of the pipeline through the adjoining reserve.

Part 2 – General Conditions of Consent.

1 Development is to be carried out substantially in accordance with the Plans No. Architectural Plans prepared by A and N Design Pty Ltd plans numbered A11550 sheets 1 to 5 inclusive dated 7 December 2001 and received by Council 28 March 2002, Drainage Plans prepared by Greg Timewell and Associates numbered CW 1220-2 dated December 2001 and support information submitted to Council.

2 All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.

3 Fencing is to be lapped timber fence to the villas to a height of 1.8m and a post and rail along the driveway to a height of 1.2m. These fences are to be constructed at the cost of the developer. Details are to be lodged with the Construction Certificate.

4 The term of this Consent is limited to a period of two (2) years from the date of approval. The consent will lapse if the development does not commence within this time.
CITY OF RYDE

Development Committee Agenda No. 14/04

ITEM 2 (Continued)

5 An application for demolition is required to be lodged prior to any demolition works being undertaken on the site.

6 The building works are to be inspected during construction, by the Principal Certifying Authority (or other suitably qualified person on behalf of the applicant) to monitor compliance with Council’s approval and the relevant standards of construction encompassing the following stages of construction (as applicable):

- Excavation works
- Foundations/footings
- Amp-proof course
- Steel reinforcement
- Waterproofing walls
- Floor, wall and roof timbers
- Steel beams, columns or framing
- Waterproofing of wet areas
- Fire resisting construction systems
- Installation of smoke detection and alarm systems
- Stormwater drainage

Documentary evidence of compliance with Council’s approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the Principal Certifying Authority and be made available to Council officers upon request.

7 In addition to the above-stated inspections, Council or an accredited certifier is required to ensure that adequate provisions are made for the following measures at each stage of construction, to ensure compliance with the approval and Council’s Development Control Plan 42 for “Construction Activities”:

i) Sediment control measures
ii) Tree Protection and preservation measures
iii) Security fencing
iv) Materials or waste containers upon the footway or road.

v) Builders signage and site toilets

8. In issuing this approval, Council has relied on the information provided by you about the siting of the building/structure on the allotment. If this information is incorrect, it is your responsibility to correct the errors. It may be advisable to undertake a land survey prior to commencing any works.
ITEM 2 (Continued)

9. A certificate from a suitably qualified person is to be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) that the method of Termite Protection has been provided in accordance with Part 3.1.3 of the Building Code of Australia and the requirements of the Australian Standard 3660.1.

10. A certificate from a suitably qualified person is to be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) that the method of waterproofing wet areas has been provided in accordance with Part 3.8.1 of the Building Code of Australia and the requirements of the Australian Standard 3740 prior to wall tiling.

11. A certificate from a suitably qualified person is to be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) that Fire and Smoke Alarms have been provided in accordance with Part 3.7.2 of the Building Code. Location details are to be submitted and approved by Council or an accredited certifier prior to the release of the Construction Certificate.

12. A Registered Surveyor's check survey certificate, or compliance certificate, is to be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) detailing compliance with Council's approval at the following stages:-

   a) After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, proposed building and boundary setbacks.

   b) On completion of the proposed building showing the area of the land, completed building and the boundary setbacks.

13. All excavated material must be removed from the site. No fill is to be placed above the natural ground level.

14. The applicant is to submit to and have approved by Council or an accredited certifier engineer's details for all concrete work and structural steelwork prior to the issue of the Construction Certificate.

15. All retaining walls where required by Council to be completed at the earliest possible stage and prior to the erection of the timber and masonry frame work. Details are to be submitted to and approved by Council or an accredited certifier prior to the issue of the Construction Certificate.

16. The wall separating the dwelling to have an F.R.L. not less than 60/60/60 extending to the underside of the roof cladding.
ITEM 2 (Continued)

17. Treads, risers and balustrades to comply with the Building Code of Australia Part 3.9.1 and Part 3.9.2. Balustrading is to be a minimum 1.0 metre high and any openings are not to exceed 125mm.

18. All timber framing is to comply with Part 3.4.3 – Timber Framing of the Building Code of Australia, 1996.

19. Continuous balustrades shall be provided along the side/s of any stairway or ramp, any corridor, hallway, balcony, access bridge or the like, any path of access to a building if:-

   i) it is not bounded by a wall; and,
   ii) the change in level is more than one (1) meter, or five (5) risers in the case of a stairway, from the floor or ground surface beneath except where specific exemptions are provided in the BCA

Balustrades shall prevent as far as practicable:

   i) children climbing over or through it;
   ii) persons accidentally falling from the floor; and
   iii) objects which might strike a person at a lower level falling from the floor surface

Balustrade heights and designs shall comply with the BCA Clause D2.16, AS 1170 Part 1. Height above nosings of stair treads, landing, corridors and the like shall generally be not less than 865mm, except in the case of particular locations and specific classes of buildings. Applicants shall check building regulations and ensure compliance.

20. Suitable handrails shall be provided where necessary to assist and provide stability to persons using the ramp or stairways, located and designed in accordance with the BCA Clause D2.17.

21. Glass doors and fixed panels so located in relation to other parts of the building as to be capable of being mistaken as a doorway of unimpeached path or travel shall be provided with a Grade “A” Safety Glazing in accordance with AS 2008, Safety Glazing Materials for use in buildings (Human Impact Consideration). All other glazing shall be installed in accordance with Table 1A Appendix “A” of AS 1288 Glass Installation Code.
ITEM 2 (Continued)

Panels and doors in paths of travel shall be provided with a midrail, motifs or other approved permanent means of making the panels clearly distinguishable. Safety glass installations that are not carrying permanent safety glass markings in accordance with AS 2208, Safety Glazing Materials for Use in Buildings, shall be either legibly labeled, or a certificate furnished to Council or an accredited certifier and in each case the following information shall be given:

i) Distributor’s or installer’s name.
ii) Details of the original panel from which the piece was cut.
iii) The original sheet bore permanent “safety glass” markings in accordance with AS 2208.

22. A contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of the Construction Certificate.

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Space</td>
<td>5 Villas @ $5,125 per villa = $25,625</td>
</tr>
<tr>
<td>Stormwater Drainage</td>
<td>5 villas @ $1,025 per villa = $5,125</td>
</tr>
<tr>
<td>Administration</td>
<td>5 Villas @ $77 per villa = $385</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$31,135</strong></td>
</tr>
<tr>
<td>Less a 3 bedroom dwelling existing on the site</td>
<td>$8,493</td>
</tr>
</tbody>
</table>

**The total contribution is $22,642**

This contribution is a contribution under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Contribution Plan No. 1 (2001 Amendment) adopted by Ryde City Council on 9/10/01.

The above amount, if not paid within one calendar year of the date of this consent, shall be adjusted for inflation by reference to the “Implicit Price Deflator – Gross Fixed Capital Expenditure – Total Public” index published by the Australian Bureau of Statistics (Catalogue No 5206.0) on an annual basis in accordance until such time as the contribution is paid.

23. A security deposit is to be paid to Council (Public Facilities and Services Group) in accordance with the requirements of Council’s Management Plan (scheduled fees) being a deposit of $4,000 as well as the infrastructure inspection fee of $102.00.
ITEM 2 (Continued)

24. **Enforcement levy** is to be paid to Council on lodgement of the **Construction Certificate** application in accordance with the requirements of Council’s Management Plan (scheduled fees).

25. Documentary evidence of compliance with Conditions 3, 11, 14, 15, 22, 23, 24, 26, 29, 45, 46, 47, 48, 49 & 50 to the satisfaction of Council or an accredited certifier is to be submitted to the Council prior to the issuing of the **Construction Certificate**.

26. Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be received prior to the issuing of the **Construction Certificate**.

27. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92.**

   Following application a “Notice of Requirements” will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

   The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the plan/occupation of the development.

28. Please contact Energy Australia’s Local Customer Service Office to obtain documentary evidence that Energy Australia has been consulted and that their requirements have been met.

   Energy Australia  
   Building No. 2 Bridge Road (near Sherbrook Road) Hornsby  
   Telephone: 9477 8201  
   Facsimile: 9477 8295  
   Postal Address: GPO Box 4009, Sydney, NSW 2001  
   Website Address: www.energy.com.au

   This information is to be submitted to Council prior to the release of the **Subdivision Certificate/Occupation Certificate**.
ITEM 2 (Continued)

29. The applicant is to submit an application and pay the required fee of $155.00 to Council prior to the issue of the Construction Certificate for street alignment levels.

30. Site toilets shall be provided in accordance with the WorkCover Code of Practice entitled "Amenities for Construction Work".

31. All demolition and all construction and associated work is to be restricted to between the hours of 7.00am and 7.00pm Mondays to Fridays and between 8.00am and 4.00pm on Saturday. No work is to be carried out on Sunday or Public Holidays.

32. No spoil, stockpiles, building or demolition material is to be placed on any public road, footpath, park or Council owned land.

33. Only unpolluted water is to be discharged to Council's stormwater drainage system.

34. The L10 noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.

IMPORTED FILL

35. All imported fill must be validated by an experienced environmental consultant to ensure that the material is virgin excavated natural material (eg. clay, gravel, sand, soil and rock) that is not mixed with any other waste and:

(a) has been excavated from areas that are not contaminated, as a result of industrial, commercial, mining or agricultural activities, with manufactured chemicals and that does not contain sulphidic ores or soils; or

(b) consists of excavated natural materials that meet such criteria as may be approved by the NSW Environment Protection Authority.

36. A copy of the validation report must be submitted to the Principal Certifying Authority (and Council, if Council is not the Principal Certifying Authority) at least seven (7) days before the fill is imported onto the site.

37. Each load of imported fill must be accompanied by a delivery docket from the supplier including the description and source of the fill.

38. A responsible person must be on site to receive each load of imported fill and must examine the delivery docket and load to ensure that only virgin excavated natural material that has been validated for use on the site is accepted.
ITEM 2 (Continued)

39. The delivery docket must be forwarded to the Principal Certifying Authority within seven (7) days of receipt of the fill and must be produced to any authorised officer who demands to see them.

40. All the premises must be connected to the sewer by gravity flow and documentary evidence of compliance must be submitted to Council or an accredited certifier before the issue of an Occupation Certificate.

Engineering Conditions
General

41. Design and Construction Standards. All engineering plans and work shall be carried out in accordance with the requirements as outlined within Council's publication Environmental Standards Development Criteria except as amended by other conditions.

42. Service Alterations. All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.

43. Restoration. Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment.

44. Engineering Compliance Certificates. Engineering Compliance Certificates must be obtained for the following works at the specified stage (if Council is appointed the PCA then the appropriate inspection fee is to be paid to Council) and submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate:

- Prior to backfilling of pipelines in which Council has an interest.
- Prior to backfilling of drainage connections to pipelines or channels in which Council has an interest.
- Prior to casting of pits and other concrete structures in which Council has an interest including kerb & gutter, accessways, aprons, pathways, vehicular crossings, dish crossings and pathway steps.
NOTE: Council has an interest in all pipelines which drain public reserves and public road reserves, and in all structures located within public road reserves.

All Engineering Compliance certificates are to contain the following declarations:

a) his certificate is supplied in relation to <<address of property>>.

b) <name of engineer and company >> have been responsible for the supervision of all the work nominated in (a) above.

c) have carried out all tests and inspections necessary to declare that the work nominated in (a) above has been carried out in accordance with the approved plans, specifications, and the conditions of the development consent.

d) have kept a signed record of all inspections and tests undertaken during the works, and can supply the Principal Certifying Authority [PCA] with a copy of such records and test results if and when required.

Engineering Conditions to be met prior to Construction Certificate

45. Driveway Grades. The maximum grade of all internal driveways and vehicular ramps shall be 1 in 5. The maximum change of grade permitted is 1 in 8 and any transition grades shall have a minimum length of 2.5m. The driveway design is to incorporate Council's issued footpath and gutter crossing levels where they are required as a condition of consent. A driveway plan, longitudinal section from the centroid of the public road to the garage floor, and any necessary cross-sections clearly demonstrating that the driveway complies with the above details, and that vehicles may safely manoeuvre within the site without scraping is to be submitted to and approved by the Consent Authority.

46. Drainage Plans. Plans of the proposed drainage system including piping to the watercourse in the adjacent reserve, the on-site detention system and details addressing any overland flow from upslope properties in accordance with Council's stormwater management criteria, are to be prepared by a suitably qualified and experienced engineer. The engineer is to prepare a certification stating that the landscaping plans have been checked in conjunction with the drainage plans and are compatible. The drainage plans and certification are to be submitted to and approved by the Consent Authority prior to issuing of the Construction Certificate.

Any drainage pit within a road reserve, a Council easement, or that may be placed under Councils' control in the future, is to be constructed of caste in situ concrete. Details are to be submitted with the Construction Certificate application plans.
ITEM 2 (Continued)

47. **On-Site Stormwater Detention.** Stormwater runoff from all impervious areas shall be collected and piped by gravity flow to a suitable on-site detention system in accordance with Ryde City Council’s Stormwater Management DCP. The minimum capacity of the piped drainage system shall be equivalent to the collected runoff from a 20 year average recurrence interval storm event. Overland flow paths are to be provided to convey runoff when the capacity of the piped drainage system is exceeded up to the 100 year average recurrence interval and direct this to the on-site detention system. Runoff, which enters the site from upstream properties, should not be redirected in a manner, which adversely affects adjoining properties.

The on-site detention system shall be designed to ensure peak flowrates at any point within the downstream drainage system do not increase as a result of the development during storms from the 5 year to the 100 year average recurrence interval of all durations. Outflow from the basin shall be piped to a point of discharge in accordance with Council’s Development Control Plan 41 “Stormwater Management”

The correct outlet control and sediment collection sump details are to be shown on the drainage plan as in accordance with Council’s Stormwater Management Policy, DCP41.

The system is to be cleaned regularly and maintained to the satisfaction of Ryde City Council.

48. **On site stormwater detention Tank.** All access grates to the on site stormwater detention tank are to be hinged and fitted with a locking bolt. Any tank greater than 1.2 metres in depth must be fitted with step irons.

49. **Erosion and Sediment Control Plan.** An Erosion and Sediment Control Plan (ESCP) is to be prepared by a suitably qualified consultant in accordance with the guidelines set out in the manual “Managing Urban Stormwater, Soils and Construction” prepared by the Department of Housing. This is to be submitted to and approved by the Consent Authority. These devices shall be maintained during the construction works and replaced where considered necessary.

The following details are to be included in drawings, which are to accompany the Erosion and Sediment Control Plan

(a) existing and final contours
(b) the location of all earthworks, including roads, areas of cut and fill
(c) location of all impervious areas
(d) location and design criteria of erosion and sediment control structures,
ITEM 2 (Continued)

(e) location and description of existing vegetation
(f) site access point/s and means of limiting material leaving the site
(g) location of proposed vegetated buffer strips
(h) location of critical areas (drainage lines, water bodies and unstable slopes)
(i) location of stockpiles
(j) means of diversion of uncontaminated upper catchment around disturbed areas
(k) procedures for maintenance of erosion and sediment controls
(l) details for any staging of works
(m) details and procedures for dust control.

50. Car Parking Area. The plans are to be in accordance with Council’s Environmental Standards Development Criteria - Driveways and with the AS 2890.1 Section 5.4.

Engineering Conditions to be met prior to Commencement of Construction

51. Sediment and Erosion Control. The applicant shall install appropriate sediment control devices in accordance with the approved plan prior to any earthworks being carried out on the site. These devices shall be maintained during the construction period and replaced where considered necessary. Suitable erosion control management procedures will need to be practiced. This condition is imposed in order to protect downstream properties, Council's drainage system and natural watercourses from sediment buildup transferred by stormwater runoff from the site.

52. Compliance Certificate. A Compliance Certificate must be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and Ryde City Council's Development Control Plan 42 "Construction Activities". If Council is appointed the Principal Certifying Authority (PCA) then the appropriate inspection fee is to be paid to Council. The Compliance Certificate must be submitted to the Principal Certifying Authority.

53. Vehicle Footpath Crossings. Concrete footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The location, design and construction shall conform to the requirements of Council. Crossings are to be constructed in plain reinforced concrete and finished levels shall conform with property alignment levels issued by Council's Engineering Division – Public Service Section. Kerbs are not be returned to the alignment line. Bridge and pipe crossings will not be permitted.
ITEM 2 (Continued)

**Engineering Conditions to be met prior to Occupation Certificate**

54. **Compliance Certificates – Engineering.** Compliance Certificates must be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and **submitted to the PCA:**
   - Confirming that all vehicular footway and gutter (layback) crossings are constructed in accordance with the construction plan requirements and Ryde City Council’s *Environmental Standards Development Criteria - 1999.*
   - Confirming that the constructed driveway is constructed in accordance with the construction plan requirements and Ryde City Council’s *Environmental Standards Development Criteria - 1999.*
   - Confirming that the constructed internal car park and associated drainage complies with the construction plan requirements and Ryde City Council’s *Environmental Standards Development Criteria - 1999.*
   - Confirming that the constructed interallocation drainage system complies with the construction plan requirements and Ryde City Council’s *Development Control Plan 41, "Stormwater Management"*
   - Confirming that the on-site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and Ryde City Council’s *Development Control Plan 41, "Stormwater Management"*
   - Confirming that the on-site detention system will function hydraulically in accordance with the approved design.
   - Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.

55. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated in a satisfactory manner.

56. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor (clearly showing the surveyor’s name and the date) clearly showing the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels built in accordance with the approved plan **is to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA. If there are proposed interallocation drainage easements on the subject property, a **Certificate from a Registered Surveyor is to be submitted to the PCA** certifying that the subject drainage line(s) and pits servicing those lines lie wholly within the proposed easements.
ITEM 2 (Continued)

57. **On-Site Stormwater Detention System - Marker Plate.** Each on-site detention system basin shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface. The wording on the marker plate is described in Council's Stormwater Management DCP. An approved plate may be purchased from Council's Customer Service Centre on presentation of a completed Ryde City Council OSD certification form.

**ADVISORY CONDITIONS**

1. **Compliance with Building Code of Australia**

   1) All building work (other than work relating to the temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date of the application for the relevant construction certificate or complying development certificate was made).

   2) This clause does not apply to the extent to which an exemption is in force under clause 187 or 188, in the Environmental Planning and Assessment Regulations 2000, subject to any terms of any condition or requirement referred to in Clause 187(6) or 188(4).

2. **Changes in building use**

   1) A building in respect of which there is a change of building use must comply with the Category 1 fire safety provisions applicable to the proposed new use.

   NOTE: The obligation under this clause to comply with Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in the relevant development consent.

   2) This clause does not apply to the extent to which an exemption is in force under clause 187 and 188 in the Environmental Planning and Assessment Regulations 2000.

   3) In this case clause, "Category 1 fire safety provision" has the same meaning as it has in Clause 3 in the Environmental Planning and Assessment Regulations 2000 subject to any terms of any condition or requirement referred to in Clause 187(6) or 188(4).
ITEM 2 (Continued)

3. Residential Building Work

1) Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:

   a) in the case of work to be done under the Act:
      i) has been informed in writing of the licensee’s name and contractor licence number, and
      ii) is satisfied that the licensee had complied with the requirements of Part 6 of the Act; or

   b) in the case of work to be done by any other person:
      i) has been informed in writing of the persons name and owner-builder permit number; or
      ii) has been given and declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of “owner builder work” in Section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

2) A certificate purporting to be used by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purpose of this clause, sufficient evidence that the person has complied with the requirements of that Part.

4. Excavations and backfilling

1) All excavations and backfill associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
ITEM 12 (Continued)

PREVIOUS REPORT

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ITEM 2 (Continued)

5 Retaining walls and drainage
   If the soil conditions require it:
   a) retaining walls associated with the erection or demolition of a building or
      other approved methods of preventing movement of the soil must be
      provided, and
   b) adequate provision must be made for drainage

6 Support for neighbouring buildings
   If the soil conditions require it:

   1) If an excavation associated with the erection or demolition of a building
      extends below the level of the base of the footings of a building on an
      adjoining allotment of and, the person causing the excavation to be made:
      a) must preserve and protect the building from damage, and
      b) if necessary, must underpin and support the building in an approved
         manner, and
      c) must, at least 7 days before excavating below the level of the base of the
         footings of a building on an adjoining allotment of land, give notice of
         intention to do so to the owner of the adjoining allotment of land and
         furnish particulars of the excavation to the owner of the building being
         erected or demolished.
   2) The owner of the adjoining allotment of land is not liable for any part of the
      cost of work carried out for the purposes of this clause, whether carried out on
      the allotment of land being excavated or on an adjoining allotment of land.
   3) In this clause, "allotment of land" includes a public road and any other public
      place.

7 Protection of Public Places

   1) If the work involved in the erection or demolition of a building:
      a) is likely to cause pedestrian or vehicular traffic in a public place to be
         obstructed or rendered inconvenient, or
   2) if necessary, an awning is to be erected, sufficient to prevent any substance
      from, or in connection with, the work falling into the public place.
   3) The work site must be kept lit between sunset and sunrise if it is likely to be
      hazardous to persons in the public place.
   4) Any such hoarding, fence or awning is to be removed when the work has been
      completed.

8 Prior to commencing any construction works, the following provisions of the
   Environmental Planning and Assessment Amendment Act, 1997 are to be
   complied with:-
ITEM 12 (Continued)

PREVIOUS REPORT

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ITEM 2 (Continued)

i) A Construction Certificate is to be obtained in accordance with Section 81A (2)(a) of the Act.

ii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A (2)(b) of the Act and Form 7 of Schedule 1 to the Regulations.

iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 81A (2)(c) of the Act and Form 7 of Schedule 1 to the Regulations.

9 The applicant may apply to the Council or an accredited certifier for the issuing of a Construction Certificate and to be Council or an accredited certifier to monitor compliance with the approval and issue any relevant documentary evidence or certificate/s.

Council Officers can provide these services and further information can be obtained from Council by telephoning 9952 8222 (Customer Service).

10 The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.

11 Ryde City Council will not accept the Construction Certificate without evidence of Home Owners Warranty / Owner Builder’s Permit being submitted to Council.

12 Council advises that the Building Code of Australia Classification for the proposal is: 1a dwelling house.

13 Ryde City Council will not accept the Construction Certificate without evidence of Home Owners Warranty / Owner Builder’s Permit being submitted to Council.

14 Sydney Water

These building plans must be submitted to any Customer Service Centre of Sydney Water at least 14 days prior to commencement of work.

Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in demolition of the work at the builder’s expense.

15 Energy Australia

Underground and overhead electric cables may exist in this area. In your own interest and for safety, telephone Energy Australia on 13 1325 before excavating or erecting structures.
ITEM 2 (Continued)

16 Telephone Installations

Conduits with draw in wires should be laid in concrete floors to the points where telephone services are required. Consult the local Telecommunications Sales Office for advice.

17 Australia Post

Approval for the site and size of proposed household mail boxes must be obtained from Australia Post.

(b) That Council's Solicitors be authorised to issue the Development Consent 4/2002 when they are in receipt of the paperwork from the New South Wales Land and Environment Court documenting the discontinuance of the appeal.

(c) That those persons who made submissions be advised of Council's decision.

Liz Coad
Manager Environmental Assessment

Nicole Askew
Senior Environmental Assessment Officer
ITEM 2 (Continued)
ITEM 13


Manager Environmental Assessment Reports 16 September 2004

FILE NO: LDA04/37

EXECUTIVE SUMMARY

This report considers an application to construct an inground concrete swimming pool in the rear yard of the premises. The development does not comply with the requirements of Council's Development Control Plan for Dwelling Houses and Duplex Buildings in relation to swimming pools, in regard to the finished levels of the coping due to the slope of the land.

One submission was received following notification of the proposal.

It is recommended that the application be approved subject to conditions.

Reason for Referral to Development Committee: Non-compliance with Development Control Plan No 17A.

SITE: (Refer to attached map.)

Address : 14 Fifth Avenue, Denistone

Site Area : 1152.52 m²

Topography and Vegetation : The site slopes severely from front to rear and contains a variety of tree and shrub vegetation.

Existing Buildings : Two storey dwelling and garage.

PLANNING CONTROLS:

Zoning : Residential 'A'

Other : Ryde Planning Scheme Ordinance

Dwelling House and Duplex Buildings DCP No: 17A.
ITEM 13 (Continued)

DEVELOPMENT PROPOSAL SUMMARY:

The application proposes the construction of a concrete inground swimming pool in the rear yard of the premises. Due to site instability and slope the pool will be constructed on piers and will protrude approximately 2.0m above natural ground level at the rear of the pool.

PROPOSAL:

Construct an inground concrete swimming pool in rear yard of premises.

REFERRALS:

Development Engineer: No objection to development. Conditions provided for inclusion in any development consent. (Condition Nos: 34-43)

Landscape Architect: No objection to development subject to compliance with tree protection measures in accordance with a submitted arborist’s report. (Condition No: 19).

OFFICER’S ASSESSMENT:

The assessment contained in this report is a summary of the matters deemed relevant to this development proposal and matters contained in the Department of Infrastructure, Planning and Natural Resources' Guide to Section 79C – Potential Matters for Consideration.

1. Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Planning Scheme Ordinance.

(i) Zoning

The subject site is zoned Residential ‘2A’ under the Ryde Planning Scheme Ordinance. The proposed use is permissible with the consent of Council.
ITEM 13 (Continued)

(b) Statutory Requirements

The development satisfies the statutory requirements of Clause 46 (1) of the Ryde Planning Scheme Ordinance. This clause requires that a dwelling house is not to be erected on an allotment of land unless the allotment satisfies the following:-

1. It has an area of not less than 580m²
2. It has a frontage to a road of not less than 10 metres
3. It has a width of not less than 15m at a distance of 7.5m from the alignment of the road.

(c) Draft Environmental Planning Instruments

There are no draft Environmental Planning Instruments applicable to the subject property.

(d) Other Matters Prescribed by the Regulations.

There are no relevant matters prescribed by the regulations in relation to fire safety or demolition other than those detailed in this report.

2 Relevant Development Control Plan/Council Code against which the development has been assessed.

Dwelling House and Duplex Buildings Development Control Plan No: 17A

The proposed development does not comply with the Development Control Plan in the following respect: Finished Coping Level.

The finished coping level of the proposed pool will be approximately 2.0m above ground level at the rear of the pool in lieu of a DCP requirement that the finished coping level must not exceed 500mm above natural ground level.

3 The Likely Impacts of the Development

Built Environment

The subject property is located in a landslip area and the proposed pool will be constructed on a land slope of approximately 25° resulting in the under pool area and supporting concrete piers being exposed at the rear and part sides of the pool. A 3.5m wide area on the western end of the pool between the pool and the western side boundary will be filled and retained to provide a flat area for recreational use.
ITEM 13 (Continued)

This area will be screened from adjacent premises at 16 Fifth Avenue by the relocation of two established palm trees. The owner of 16 Fifth Avenue, by letter of 26/6/2004, has no objection to this proposal. The exposed pool and piers at the rear and eastern side of the pool will be screened by the mounding and landscaping of pool spoil. It is proposed to request by consent condition the erection of a 1.8m high privacy screen at the eastern end of the pool to screen vehicular and pedestrian access to adjacent premises at 10A & 12 Fifth Avenue. (See Condition No: 20). The alternative to the above proposal would be extensive excavation and retention of the rear yard to recess the pool into the sloping site. This however would require the construction of considerable retaining walls and steps and not permit comfortable access to the pool area.

It is considered that the proposed development will, if suitably screened and landscaped, not have any adverse impacts on the existing built environment or the amenity of the surrounding area.

Natural Environment

It is proposed to remove one Jacaranda tree in the rear yard and construct the pool approximately 3m from an established Sydney Blue Gum tree. Council's Landscape Architect has no objection to the removal of the tree and location of the pool subject to tree protection measures being carried out during construction of the pool in accordance with an arborist’s report submitted with the application. A condition will be included in this regard (Condition No: 19)

4 Suitability of the site for the development

The proposal is considered to be suitable for the site in terms of the impact on both the existing natural and built environments.

5 Public Submissions

The proposal was advertised in accordance with Council's Notification DCP for a 14 day period ending on 13/2/2004. During this period one submission was received from the owner of the adjoining premises at 12 Fifth Avenue, Denistone with the following concerns:

1. Privacy

No privacy screening is shown on the submitted plans. Concerns as to the proposal being an eyesore in appearance.
ITEM 13 (Continued)

Comment:

Currently there is no boundary fence between the properties and the proposed pool structure will be directly visible from the adjoining properties when entering and exiting the premises and from the rear. It is proposed that the underside and rear of the structure will be screened by pool spoil and suitably landscape planted. A condition will also be included in the consent requiring the erection of a suitable 1.8m high screen barrier between the pool and the side boundary to screen persons using the pool from vehicular and pedestrian access to 10A & 12 Fifth Avenue. Landscape screening from the rear is considered acceptable.

2. Location of pool filter

Concern is expressed that the location of the pool filter will cause noise nuisance to their premises.

Comment:

The proposed location of the pool filter is at the rear of the pool adjacent to the eastern side boundary. Although there is a standard condition placed on all swimming pool consents that the pool pump/filter be enclosed in an approved acoustic enclosure, it would be appropriate in this instance for the pool pump/filter to be placed on the other side of the pool where a noise nuisance is less likely to occur and a condition will be included on the consent in this regard. (See Condition No: 7).

CONCLUSION:

The proposed development does not comply with the swimming pool provisions of Council's DCP for Dwelling Houses and Duplex Buildings as previously discussed, however due to the severe slope of the site it is considered that variance to the DCP requirements is warranted in this instance and the application is appropriate for approval subject to conditions.

RECOMMENDATION:

(a) That Local Development Application No.37/2004 at 14 Fifth Avenue, Denistone, being LOT: 87 DP: 12367 be approved subject to the following conditions;

1. Development is to be carried out in accordance with the Plans No. 04/1, 04/2, 11813TV1 and support information submitted to Council.
ITEM 13 (Continued)

2. All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.

3. The following mandatory inspections are to be complied with in the case of a Class 1 or 10 building:

   (i) at the commencement of the building work
   (ii) after excavation for, and prior to the placement of, any footings
   (iii) prior to pouring any in-situ reinforced concrete building element
   (iv) prior to covering the framework for any floor, wall, roof or other building element
   (v) prior to covering waterproofing in any wet areas
   (vi) prior to covering any stormwater drainage connections
   (vii) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
   (viii) pool fencing

Documentary evidence of compliance with Council’s approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the Principal Certifying Authority and be made available to Council officers upon request.

Prior to occupation of the building, an occupation certificate must be obtained. Prior to the issue of the occupation certificate, **the mandatory inspections must be carried out.**

4. In addition to the abovestated inspections, Council or an accredited certifier is required to ensure that adequate provisions are made for the following measures at each stage of construction, to ensure compliance with the approval and Council’s Development Control Plan 42 for “Construction Activities”:-

   (i) Sediment control measures
   (ii) Tree Preservation and protection measures
   (iii) Security fencing
   (iv) Materials or waste containers upon the footway or road.
   (v) Builders signage and site toilets

5. In issuing this approval, Council has relied on the information provided by you about the siting of the building/structure on the allotment. If this information is incorrect, it is your responsibility to correct the errors. It may be advisable to undertake a land survey prior to commencing any works.
ITEM 13 (Continued)

6. The applicant is to submit to and have approved by Council or an accredited certifier engineers details for all concrete work and structural steelwork prior to the issue of the Construction Certificate.

7. The pool pump/filter is to be enclosed in an approved acoustic enclosure, which will ensure that the noise emitted therefrom does not exceed 5dB(A) above the background noise level when measured at the nearest source of annoyance. Pool/pump filter shall be located at western end of pool.

8. All excavated material must be removed from the site. No fill is to be placed above the natural ground level.

9. The pool pump is not to be operated between 8pm and 7am Mondays to Fridays and between 8pm and 8am on Saturdays, Sundays and public holidays.

10. A suitable method of water proofing is to be used in the construction of the pool.

11. Lighting if installed is to be arranged in such a manner as not to interfere with the comfort and enjoyment of the neighbourhood.

12. The pool is to be kerbed and/or drained to prevent surface water gaining within and at each end of the swimming pool.

13. Provide resuscitation chart containing warning “YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL” located in the immediate vicinity of the pool area so as to be visible from all areas of the pool.

14. The fence is to be erected around the perimeter of the swimming pool having an effective height of at least 1.2 metres at any point along its length on the outside of the fencing and is to be constructed in accordance with the provisions of the Swimming Pools Act, 1992 and Swimming Pools Regulation 1998, fitted with self-closing and locking gate, the latch of which is to be placed on the inner face in such a position as to be out of reach of small children.

15. Outside edge of pool coping shall be set back a minimum of 900mm from the property boundary to allow sufficient space for amenity screen planting.

16. The swimming pool shall be connected to the Sydney Water sewer for discharge of waste water.
ITEM 13 (Continued)

GEOTECHNICAL REQUIREMENTS.

17. The subject site is located within an area of slope instability and therefore you are required to obtain a Geotechnical Report from a qualified Geotechnical Engineer which is to be submitted prior to the issue of the Construction Certificate.

18. All footings, slabs and structural members are to be designed taking into account the recommendations stipulated by the Geotechnical Engineer.

19. Tree protection measures during building operations as contained in the Arborist’s Report from ‘Arborcraft Tree Care and Consultancy’ dated 23/6/2004 shall be complied with.

20. A 1.8m high privacy screen shall be erected at the eastern end of the swimming pool to screen the pool area from pedestrian and vehicular access to adjacent premises at 10A & 12 Fifth Avenue, Denistone. Details to be submitted with the Construction Certificate.

21. A security deposit is to be paid to Council (Public Facilities and Services Group) being a deposit of $1 000.00 as well as the infrastructure inspection fee in accordance with the requirements of Council’s Management Plan (scheduled fees).

22. Enforcement levy is to be paid to Council on lodgement of the Construction Certificate application in accordance with the requirements of Council’s Management Plan (scheduled fees).

23. Documentary evidence of compliance with Conditions 21 & 22 to the satisfaction of Council or an accredited certifier is to be submitted to the Council prior to the issuing of the Construction Certificate.

24. Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be received prior to the issuing of the Construction Certificate.
ITEM 13 (Continued)

25. Sydney Water

    The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the website www.sydneywater.com.au, see Your Business then see Building & Developing then Building & Renovating or telephone 13 20 92.

    The consent authority or a private accredited certifier must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before the issue of any Construction Certificate.

26. Security fencing shall be provided around the perimeter of the building/demolition site and precautionary measures taken to prevent unauthorized entries of the site at all times during demolition and construction.

27. Signage is to be provided on the site as follows:-

    a) During the entire construction phase signage shall be fixed on site identifying the PCA and principal contractor (the coordinator of the building work), and providing phone numbers.

28. Site toilets shall be provided in accordance with the WorkCover Code of Practice entitled “Amenities for Construction Work”.

29. All demolition and all construction and associated work is to be restricted to between the hours of 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No work is to be carried out on Sunday or public holidays.

30. No spoil, stockpiles, building or demolition material is to be placed on any public road, footpath, park or Council owned land.

31. Adequate precautions must be taken to control the emission of dust from the site during demolition and construction work. These precautions could include minimizing soil disturbance, use of water sprays, erecting screens and not carrying out dusty work during windy conditions.

32. Only unpolluted water is to be discharged to Council’s stormwater drainage system.
ITEM 13 (Continued)

33. The $L_{10}$ noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.

General Engineering Conditions

34. **Design and Construction Standards.** All engineering plans and work shall be carried out in accordance with the requirements as outlined within Council’s publication *Environmental Standards Development Criteria* and relevant Development Control Plans except as amended by other conditions.

35. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant’s expense.

36. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment.

37. **Engineering Compliance Certificates.** Engineering Compliance Certificates must be obtained for the following works at the specified stage (If Council is appointed the PCA then the appropriate inspection fee is to be paid to Council) and submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate:

- Prior to backfilling of pipelines in which Council has an interest.
- Prior to backfilling of drainage connections to pipelines or channels in which Council has an interest.
- Prior to casting of pits and other concrete structures in which Council has an interest including kerb & gutter, accessways, aprons, pathways, vehicular crossings, dish crossings and pathway steps.

*NOTE:* Council has an interest in all pipelines which drain public reserves and public road reserves, and in all structures located within public road reserves.

All Engineering Compliance certificates are to contain the following declarations:
ITEM 13 (Continued)

a) This certificate is supplied in relation to <<address of property>>.
b) <<name of engineer and company >> have been responsible for the supervision of all the work nominated in (a) above.
c) I have carried out all tests and inspections necessary to declare that the work nominated in (a) above has been carried out in accordance with the approved plans, specifications, and the conditions of the development consent.
d) I have kept a signed record of all inspections and tests undertaken during the works, and can supply the Principal Certifying Authority [PCA] with a copy of such records and test results if and when required.

Engineering Conditions to be complied with Prior To Construction Certificate

38. Drainage Plans. Connect the new impervious areas into the existing drainage system to discharge into the drainage easement at the rear of the property in accordance with Council's Development Control Plan 41.

39. Erosion and Sediment Control Plan. An Erosion and Sediment Control Plan (ESCP) shall be prepared by a suitably qualified consultant in accordance with the guidelines set out in the manual “Managing Urban Stormwater, Soils and Construction” prepared by the Department of Housing. These devices shall be maintained during the construction works and replaced where considered necessary.

The following details are to be included in drawings accompanying the Erosion and Sediment Control Plan

(a) Existing and final contours
(b) The location of all earthworks, including roads, areas of cut and fill
(c) Location of all impervious areas
(d) **Location and design criteria of erosion and sediment control structures,**
(e) Location and description of existing vegetation
(f) Site access point/s and means of limiting material leaving the site
(g) Location of proposed vegetated buffer strips
(h) Location of critical areas (drainage lines, water bodies and unstable slopes)
(i) Location of stockpiles
(j) Means of diversion of uncontaminated upper catchment around disturbed areas
(k) Procedures for maintenance of erosion and sediment controls
(l) Details for any staging of works
(m) Details and procedures for dust control.
ITEM 13 (Continued)

40. **Geotechnical Report** A geotechnical report is to be prepared and the pool footings and retaining wall designed in accordance with the report. The design details are to be submitted with the construction certificate.

Engineering Conditions to be complied with Prior to Commencement of Construction

41. **Sediment and Erosion Control.** The applicant shall install appropriate sediment control devices in accordance with an approved plan prior to any earthworks being carried out on the site. These devices shall be maintained during the construction period and replaced where considered necessary. Suitable erosion control management procedures shall be practiced. This condition is imposed in order to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

42. **Compliance Certificate.** A Compliance Certificate must be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and Ryde City Council’s Development Control Plan for Construction Activities “DCP 42”

Engineering Conditions to be complied with Prior to Occupation Certificate

43. **Compliance Certificates – Engineering.** Compliance Certificates must be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and submitted to the PCA:
   - Confirming that the site drainage system servicing the development complies with the construction plan requirements and Ryde City Council’s Stormwater Management Development Control Plan “DCP 41”

ADVISORY CONDITIONS

1. **Compliance with Building Code of Australia**

   1) All building work (other than work relating to the temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date of the application for the relevant construction certificate or complying development certificate was made).

   2) This clause does not apply to the extent to which an exemption is in force under clause 187 or 188, in the Environmental Planning and Assessment Regulations 2000, subject to any terms of any condition or requirement referred to in Clause 187(6) or 188(4).
ITEM 13 (Continued)

2. Residential Building Work

1) Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:

a) in the case of work to be done under the Act:
   i) has been informed in writing of the licensee’s name and contractor licence number, and
   ii) is satisfied that the licensee had complied with the requirements of Part 6 of the Act; or

b) in the case of work to be done by any other person:
   i) has been informed in writing of the person's name and owner-builder permit number; or
   ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of “owner builder work” in Section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

3) A certificate purporting to be used by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purpose of this clause, sufficient evidence that the person has complied with the requirements of that Part.

3. Excavations and backfilling

1) All excavations and backfill associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
ITEM 13 (Continued)

4. Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Amendment Act, 1997 are to be complied with:-

1) A Construction Certificate is to be obtained in accordance with Section 81A (2)(a) of the Act.
2) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A (2)(b) of the Act and Form 7 of Schedule 1 to the Regulations.
3) Council is to be notified at least two (2) days prior to the intention to commence building works, in accordance with Section 81A (2)(c) of the Act and Form 7 of Schedule 1 to the Regulations.

5. The applicant may apply to the Council or an accredited certifier for the issuing of a Construction Certificate and to Council or an accredited certifier to monitor compliance with the approval and issue any relevant documentary evidence or certificate/s.

Council Officers can provide these services and further information can be obtained from Council by telephoning 9952 8222 (Customer Service).


7. Energy Australia

Underground and overhead electric cables may exist in this area. In your own interest and for safety, telephone Energy Australia on 13 1525 before excavating or erecting structures.

(b) That the person who made a submission be advised of the decision.

Liz Coad  Richard Curtis
Manager Environmental Assessment  Environmental Assessment Officer
ITEM 13 (Continued)  • Indicates submission received
ITEM 13 (Continued)

SITE PLAN
1:300
ITEM 13 (Continued)