

Meeting Date: Tuesday 3 April 2012
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 4.00pm

NOTICE OF BUSINESS

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1 CONFIRMATION OF MINUTES - Meeting held on 6 March 2012

Report prepared by: Meeting Support Coordinator**Report dated:** 8/03/2012**File No.:** CLM/12/1/3/2 - BP12/242

REPORT SUMMARY

In accordance with Council's Code of Meeting Practice, a motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.

RECOMMENDATION:

That the Minutes of the Planning and Environment Committee 3/12, held on Tuesday 6 March 2012, be confirmed.

ATTACHMENTS

- 1 Minutes - Planning and Environment Committee - 6 March 2012

ITEM 1 (continued)

ATTACHMENT 1

Planning and Environment Committee
MINUTES OF MEETING NO. 3/12

Meeting Date: Tuesday 6 March 2012
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 4.04pm

Councillors Present: The Mayor, Councillor Etmekdjian and Councillors Yedelian OAM (Chairperson), O'Donnell and Pickering.

In the absence of Councillor Pickering, the Deputy Chairperson – Councillor Yedelian OAM chaired the meeting.

Councillor Pickering arrived at 5.21pm during discussion of Item 2 and was not present for consideration of Item 1 or inspections.

Apologies: Councillors Butterworth and Salvestro-Martin.

Staff Present: Group Manager – Environment & Planning, Manager Assessment, Manager Environmental Health & Building, Business Support Coordinator – Environment & Planning, Team Leader – Major Development Team, Consultant Town Planner and Acting Manager – Governance.

DISCLOSURES OF INTEREST

There were no disclosures of interest.

1 CONFIRMATION OF MINUTES - Meeting held on 21 February 2012

Note: Councillor Pickering was not present for consideration of this Item.

RESOLUTION: (Moved by Councillors O'Donnell and Yedelian OAM)

That the Minutes of the Planning and Environment Committee 2/12, held on Tuesday 21 February 2012, be confirmed.

Record of Voting:

For the Motion: Unanimous

Note: This is now a resolution of Council in accordance with the Committee's delegated powers.

ITEM 1 (continued)

ATTACHMENT 1

2 83 CHAMPION ROAD, TENNYSON POINT. LOT D DP 18203. Local Development Application for alterations and additions to existing dwelling and swimming pool. LDA2011/0444.

Report: The Committee inspected the property at 83 Champion Road, Tennyson Point.

Note: A Memorandum from the Group Manager – Environment and Planning dated 5 March 2012 together with attachments was tabled in relation to this Item and a copy is ON FILE.

Note: Mr Edward O’Loughlin (objector) and Mr John Koprivnjak (owner) addressed the Committee in relation to this Item.

RESOLUTION: (Moved by Councillors O’Donnell and The Mayor, Councillor Etmekdjian)

- (a) That Local Development Application No.2011/444 at 83 Champion Road, Tennyson Point being LOT D DP 18203 be approved subject to the **ATTACHED** conditions (Attachment 1) with a slight amendment to Condition (b) to read as follows:-
- (b) To ensure privacy to the adjoining properties, a side privacy screen is to be provided along the northern side elevation of the rear alfresco deck area. The fixed privacy screen is to have a minimum height of 1.6m above the deck level, as shown in red on the approved plans. The required privacy screen shall be constructed of complimentary materials and shall not allow greater than 50% visible transparency to the adjoining northern property.
- Along the southern south elevation the full height privacy screen on the pool wall is to be of **frosted** glass up to a minimum height of 2.5m from pool level. Details of the privacy screen and glass screen shall be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

(b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

Note: This is now a resolution of Council in accordance with the Committee’s delegated powers.

ITEM 1 (continued)

ATTACHMENT 1

**3 51-75 BUFFALO ROAD & 43A HIGGINBOTHAM ROAD, GLADESVILLE.
LOT 12 DP83596. Section 96 application under the Environmental
Planning & Assessment Act, 1979, to amend the secondary access
arrangements to the Ryde Bus Depot. LDA2006/335 / MOD2011/143.**

Report: The Committee inspected the property at 51-75 Buffalo Road & 43A Higginbotham Road, Gladesville.

Note: Mr John Crow (applicant) addressed the Committee in relation to this Item.

RESOLUTION: (Moved by Councillors O'Donnell and Pickering)

(a) That the Section 96 application MOD2011/143 to modify Local Development Application No. 2006/335 relating to the Ryde Bus Depot at 43A Higginbotham Road and 51-75 Buffalo Road, Ryde, being Lot 12 in DP 83596, be approved and the consent be amended by replacing condition 1 with the following:

1. Development is to be carried out in accordance with the Plans No. DA02 (Rev B) as amended by plan DA02 A1 Issue C dated 21/9/11, TDA02 (Rev C), DA03 (Rev B), TDA03 (Rev C), DA04 (Rev B), TDA04 (Rev B), DA05 (Rev B) and TDA05 (Rev B), LA 01-02 and support information submitted to Council

(b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

Note: This is now a resolution of Council in accordance with the Committee's delegated powers.

The meeting closed at 5.30pm.

CONFIRMED THIS 3RD DAY OF APRIL 2012.

Chairperson

- 2 **28 GERARD STREET, GLADESVILLE. LOT 40 DP 10598. Local Development Application for the erection of a 2 storey dual occupancy (attached). LDA2011/0328.**

INSPECTION: 4.20pm

INTERVIEW: 5.00pm

Report prepared by: Consultant Town Planner; Team Leader - Assessment

Report approved by: Manager Assessment; Group Manager - Environment & Planning

Report dated: 19 March 2012

File Number: grp/12/5/5/3 - BP12/301

1. Report Summary

Applicant: Mayfair Design Consultants P/L.

Owner: S Ho, S Y C Chan, D C C Lau, L Lim.

Date lodged: 24 June 2011.

This report considers a proposal to erect a 2-storey attached dual occupancy development. Each dwelling will contain two bedrooms and a bathroom on the ground floor and three bedrooms and two bathrooms on the first floor. Each dwelling will contain a single garage.

The proposal has areas of non-compliance with controls detailed in Part 3.3 of DCP 2010, namely fill beyond the maximum 900mm under a portion of the western dwelling (up to a maximum of 1.57m of fill); and the use of colourbond metal sheeting for dividing fences (DCP 2010 requires use of lapped and capped timber fencing). These issues are addressed in detail in this report.

The application was notified to neighbours and advertised in accordance with Council's DCP (Part 2.1 – Notification). In response **3 submissions** were received, raising various issues of concern including the height, bulk and scale of the development, overshadowing (of both No 26 and No 30 Gerard St), privacy impacts on No 30 (to the west) and alleged inaccuracies on the DA plans. The issues of concern are generally considered to be reasonable, though they do not warrant refusal of the DA or any amendments the design.

The application is **recommended for approval**.

Reason for Referral to Planning and Environment Committee: At the request of Councillor Petch, Councillor O'Donnell, Councillor Maggio and Councillor Tagg.

Public Submissions: **three submissions** were received objecting to the development.

SEPP 1 (or clause 4.6 RLEP 2010) objection required? Not required.

ITEM 2 (continued)

Value of works? \$900,000.

A full set of the plans is **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors - subject to copyright provisions.

RECOMMENDATION:

- (a) That Local Development Application No. LDA2011/328 at No 28 Gerard Street Gladesville being Lot 40 DP10598 be approved subject to the **ATTACHED** conditions (Attachment 1).
- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Proposed Conditions of Consent
- 2 Map
- 3 A4 Plans
- 4 A3 Plans - subject to copyright provisions - **CIRCULATED UNDER SEPARATE COVER**

Report Prepared By:

Bob Tillott
Consultant Town Planner

Chris Young
Team Leader - Assessment

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 2 (continued)

2. Site (Refer to attached map.)

Address	:	28 Gerard Street, Gladesville
Site Area	:	Site area: 1009.7m ² Frontage 15.24 metres Irregular shaped allotment with depth varying between 47.40 metres and 42.78 metres.
Topography and Vegetation	:	<p>The subject site is located on the southern side of Gerard Street, opposite the intersection of Gerard Street and Evan Street, Gladesville. The site is relatively level, except for the area near the western boundary, or rear yard of existing dwelling, where the site has a valley approximately 1 metre deep.</p> <p>There are three trees growing within the site and located near the rear boundary. In addition, there are a further three trees growing in adjoining properties that overhang the subject site. All trees are proposed to be retained.</p> <p>The proposal involves the removal of two large shrubs growing approximately in the middle of the site.</p>
Existing Buildings	:	A single level free-standing dwelling-house presently occupies the subject site.
Planning Controls	:	
Zoning	:	R2 – Low Density Residential under Ryde Local Environmental Plan 2010.
Other	:	(a) Environmental Planning & Assessment Act 1979 (b) State Environmental Planning Policy – Building Sustainability Index (BASIX) 2004 (c) City of Ryde Development Control Plan 2010

ITEM 2 (continued)



3. Councillor Representations

Name of Councillor: Councillor Petch

Nature of the representation: Request the application be considered by Planning & Environment Committee.

Date: 18 August 2011

Form of the representation (e.g. via email, meeting, phone call): Telephone call.

On behalf of applicant or objectors? Not known.

Any other persons (e.g. consultants) involved in or part of the representation: Nil

ITEM 2 (continued)

Name of Councillor: Councillor O'Donnell

Nature of the representation: Request the application be considered by Planning & Environment Committee.

Date: 2 March 2012

Form of the representation (e.g. via email, meeting, phone call): E-mail.

On behalf of applicant or objectors? Not known.

Any other persons (e.g. consultants) involved in or part of the representation: Nil

Name of Councillor: Councillor Maggio

Nature of the representation: Request the application be considered by Planning & Environment Committee.

Date: 3 March 2012

Form of the representation (e.g. via email, meeting, phone call): E-mail.

On behalf of applicant or objectors? Not known.

Any other persons (e.g. consultants) involved in or part of the representation: Nil

Name of Councillor: Councillor Tagg

Nature of the representation: Request the application be considered by Planning & Environment Committee.

Date: 3 March 2012

Form of the representation (e.g. via email, meeting, phone call): E-mail.

On behalf of applicant or objectors? Not known.

Any other persons (e.g. consultants) involved in or part of the representation: Nil

ITEM 2 (continued)

4. Political Donations or Gifts

Any political donations or gifts disclosed? None disclosed.

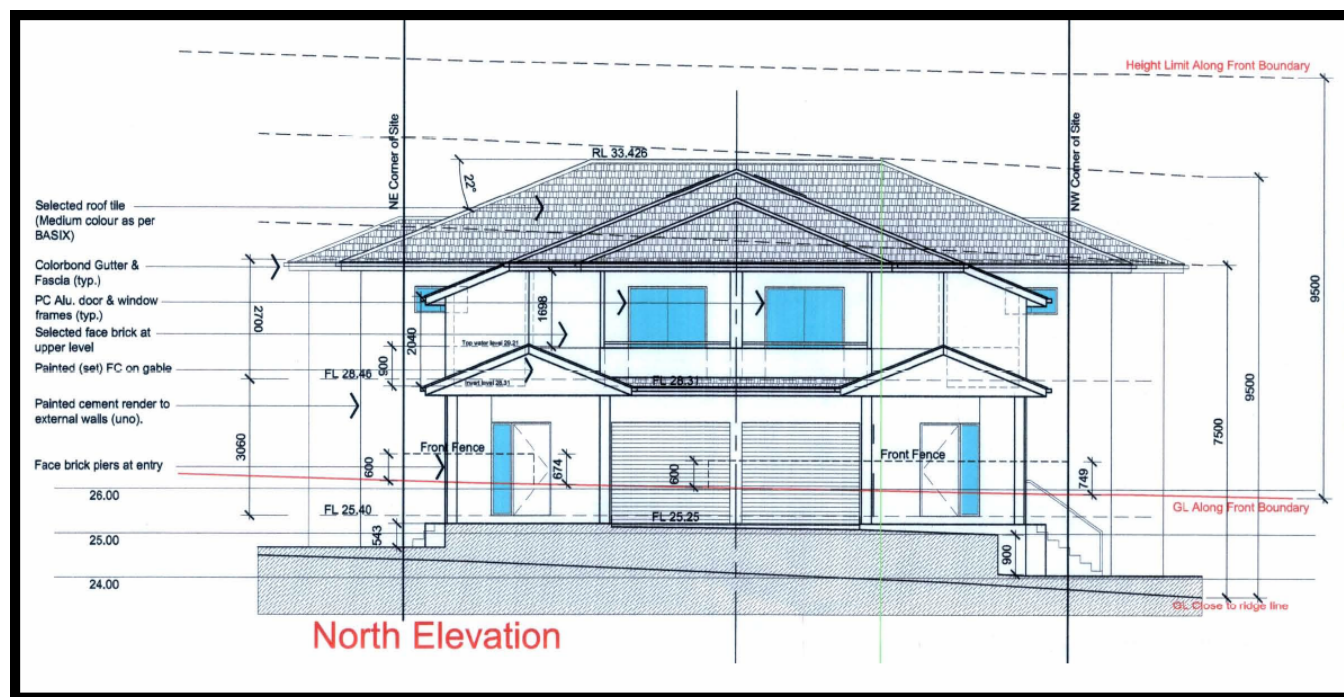
5. Proposal

Erection of a 2 storey dual occupancy (attached) development. Each dwelling will contain two levels with the following on each floor:

Ground floor: Two bedrooms, one bathroom, kitchen, laundry, living area and a single car garage.

First floor: Three bedrooms, two bathrooms and a family/rumpus area.

The following is the north (front) elevation of the development, showing its presentation to Gerard Street:



6. Background

The DA was lodged on 24 June 2011. Shortly thereafter, it underwent a preliminary review (29 June 2011), referral to other officers within and outside Council, and neighbour notification/advertising (25 July 2011, closing date for submissions was 18 August 2011).

ITEM 2 (continued)

On 18 August 2011, the DA was called-up to the Planning & Environment Committee by Councillor Petch (refer to the “Councillor Representations” section of this report for further details of Councillor call-ups).

On 25 August 2011, the three submissions that were received to the DA were referred to the applicant for their review and comment. A response was received from the applicant on 2 September 2011.

On 7 October 2011, following receipt of comments from Council’s Development Engineer, an email was sent to the applicant to request amended drainage details – the drainage plan as submitted was unsatisfactory, and also the flood report was incomplete and needed amendment in terms of technical detail (orifice sizes etc).

On 28 November 2011, Council’s Development Engineer advised that the development is satisfactory, following discussions between Council’s Development Engineer and the applicant’s Drainage Engineer regarding the previously outstanding technical matters.

On 18 January 2012, Council’s Consultant Landscape Architect provided comments that the development is satisfactory in terms of impacts on trees from the development.

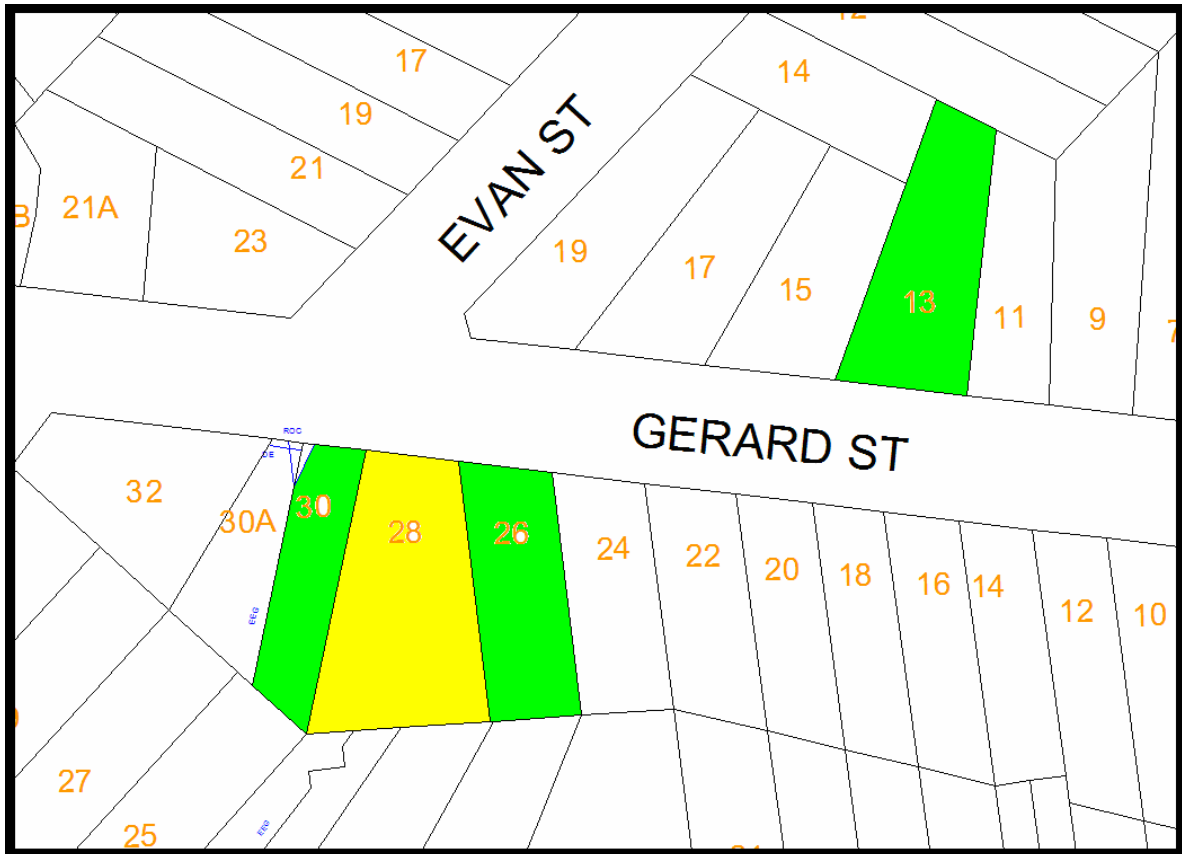
In early March 2012, there were further call-ups to Planning & Environment Committee from Councillor O’Donnell, Councillor Maggio and Councillor Tagg as discussed in the “Councillor Representations” section of this report.

7. Submissions

The proposal was advertised and notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. The application was advertised on 3 August 2011. Notification of the proposal was from 25 July 2011 until 18 August 2011. In response, three submissions were received.

ITEM 2 (continued)

Following is a map which identifies the subject site shaded yellow, and the location of the objector's properties shaded green:



The issues raised in the submissions are summarised and discussed as follows:

1. The development is too high.

Comment: As has been detailed in consideration of the proposal against the LEP and DCP provisions, the proposal complies with the relevant controls. Specifically, the LEP 2010 permits an overall height of 9.5m and the proposal has an overall height of 9.45m. The DCP 2010 limits the development to that of two storeys, and the proposal complies with this control.

Both the LEP and DCP limit the floor space ratio of the development to 0.5:1. The proposal has a floor space ratio of 0.48:1. Whilst floor space ratio is used to control the bulk and scale of development, it also has an impact upon the height of developments.

ITEM 2 (continued)

Given that the proposal complies with both the overall height and floor space ratio controls, from a planning point of view the height of the building aligns with the desired future building form for the locality. The height of the development relates partly to the site's affectation by overland flow which requires minimum floor levels to be achieved in the development. The overall height of the building has still been able to comply with the maximum overall height prescribed in the DCP (9.5m) even with minimum floor levels being required.

2. *The subject site adjoins an existing duplex development and as such the linear separation provisions of the DCP apply.*

Comment: The adjoining development (Nos 30 and 30A Gerard Street) was erected as a dual occupancy in 1995 under the provisions of the then Sydney Regional Environmental Plan 12 (which is now defunct as it has since been repealed). The dual occupancy was subsequently subdivided into two allotments. Accordingly, the site presently exists as two allotments, each containing a dwelling. On this basis the provisions of linear separation do not apply to this application.

This matter has been clarified by Council's General Counsel, who has provided the following advice:

"linear separation controls are not activated in circumstances where the adjoining development is a dwelling on a separate parcel of land identified by a distinctive Lot and Deposited Plan number."

3. *Adverse impact upon No. 26 Gerard Street, mostly through loss of sunlight into the living rooms.*

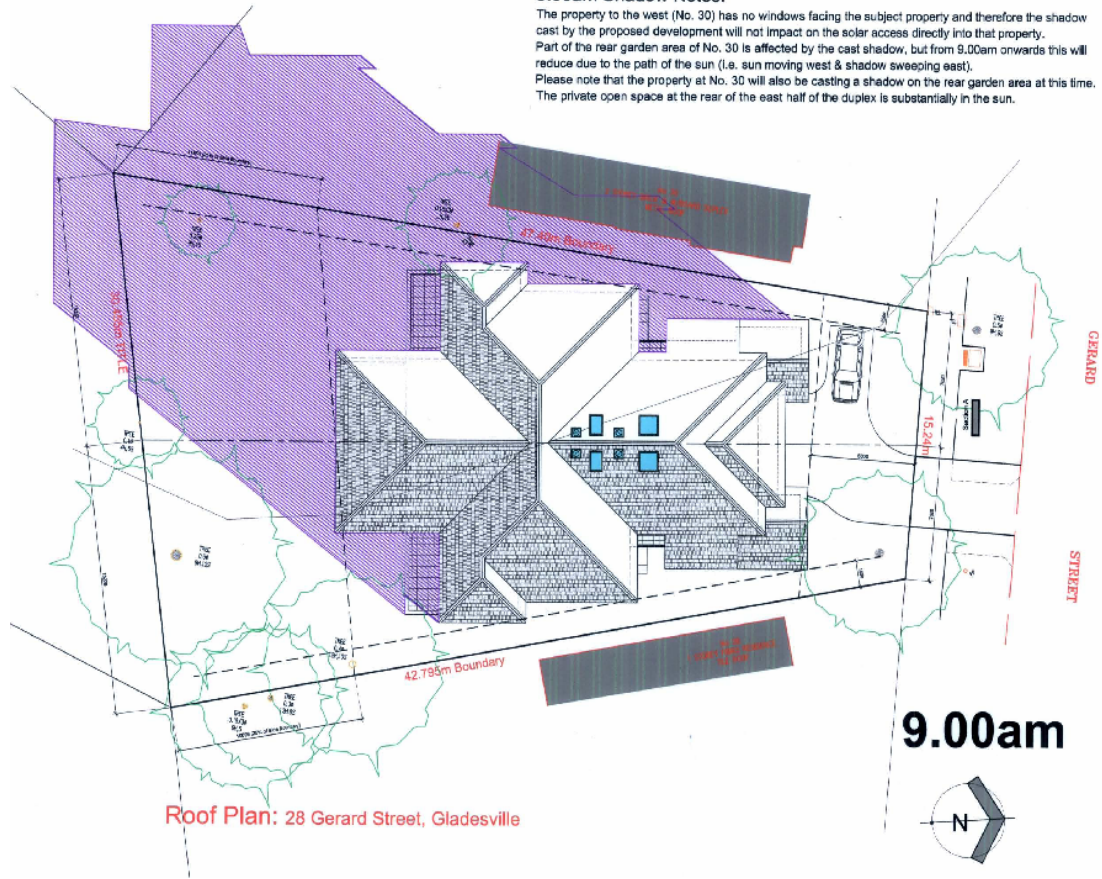
Comment: The submitted Shadow Drawings show, in respect of No. 26 Gerard Street, that the likely shadow impact from the proposed development will not impact upon No. 26 Gerard Street until approximately 1.00pm at mid-winter, and after this time the shadow will impact firstly on the private open space area and then the dwelling. The living rooms in No. 26 Gerard Street are not likely to be impacted upon by mid-winter shadows until approximately 1.30pm. At this time No. 26 Gerard Street would have enjoyed at least 4.0 to 4.5 hours of mid-winter solar access. This exceeds the DCP requirement.

Following are three mid-winter shadow drawings, detailing the shadow situation at 9.00am, 12.00noon and 3.00pm. These drawings detail the quick moving nature of the mid-winter shadow, due to the north-south orientation of the site. In these drawings No. 26 Gerard is at the bottom of the drawing and No. 30 Gerard Street is to the top.

ITEM 2 (continued)

9.00am Shadow Notes:

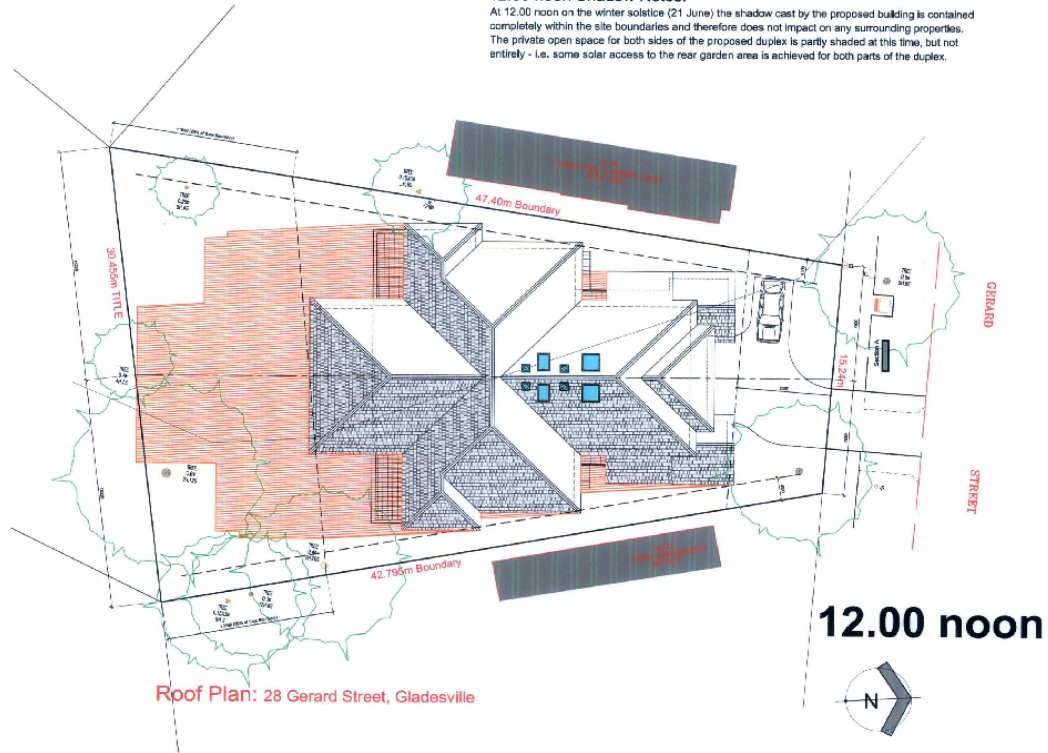
The property to the west (No. 30) has no windows facing the subject property and therefore the shadow cast by the proposed development will not impact on the solar access directly into that property. Part of the rear garden area of No. 30 is affected by the cast shadow, but from 9.00am onwards this will reduce due to the path of the sun (i.e. sun moving west & shadow sweeping east). Please note that the property at No. 30 will also be casting a shadow on the rear garden area at this time. The private open space at the rear of the east half of the duplex is substantially in the sun.



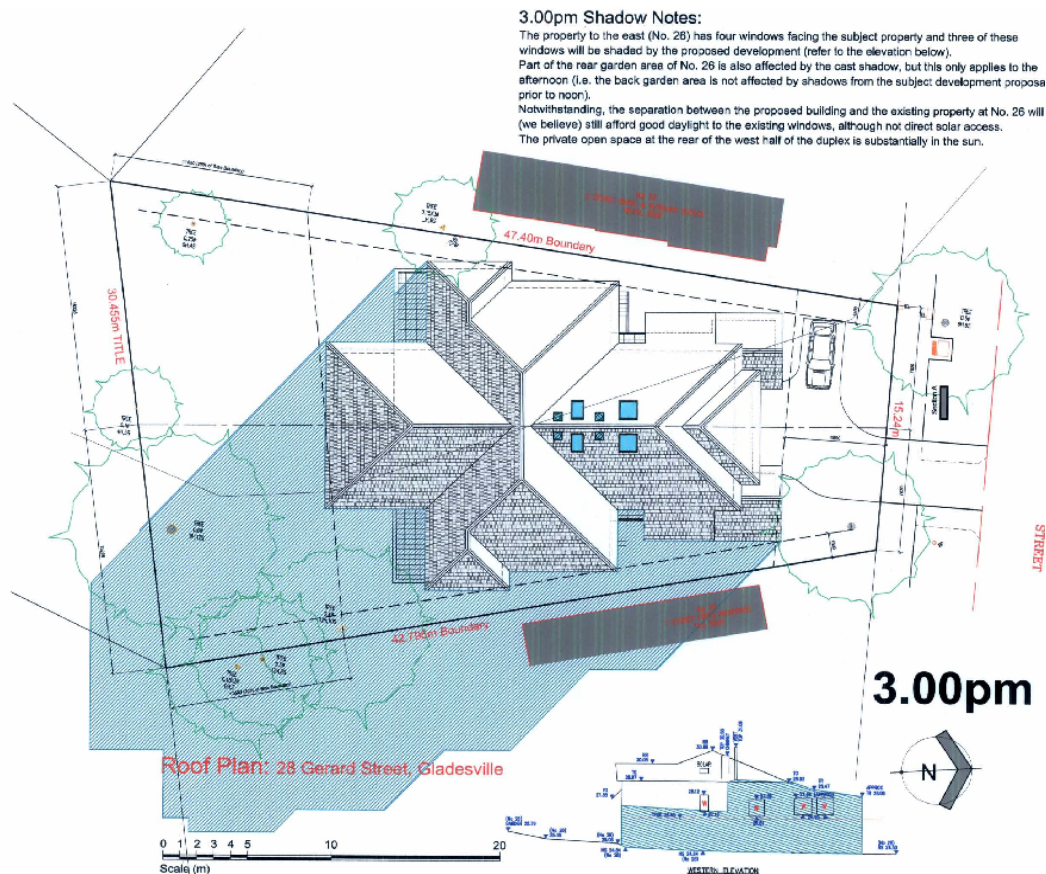
ITEM 2 (continued)

12.00 noon Shadow Notes:

At 12.00 noon on the winter solstice (21 June) the shadow cast by the proposed building is contained completely within the site boundaries and therefore does not impact on any surrounding properties. The private open space for both sides of the proposed duplex is partly shaded at this time, but not entirely - i.e. some solar access to the rear garden area is achieved for both parts of the duplex.



ITEM 2 (continued)



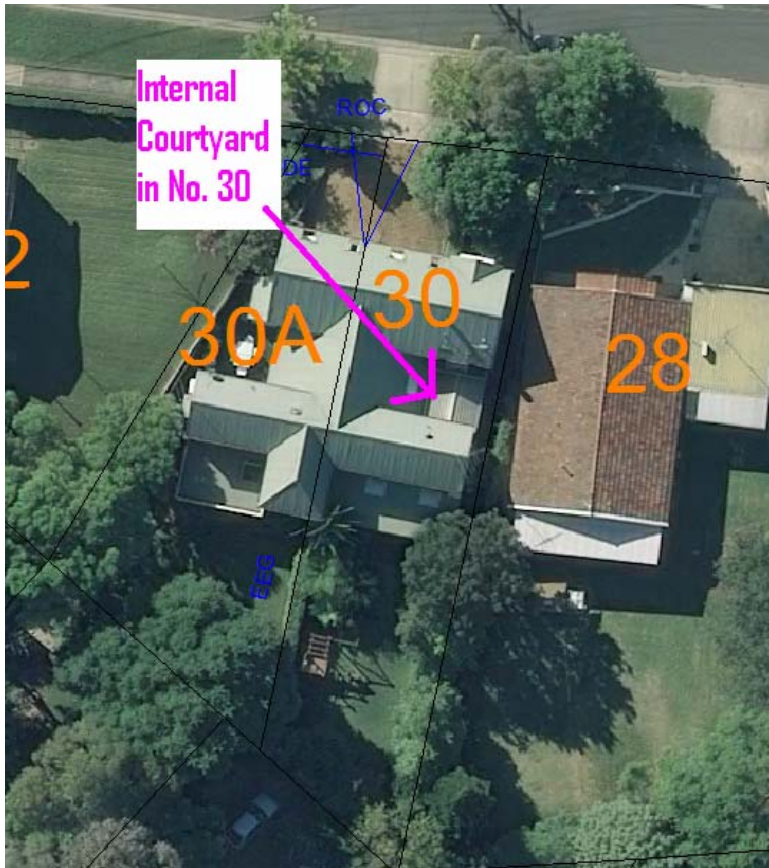
4. Loss of solar access in respect of No. 30 Gerard Street.

Comment: As has been detailed in consideration of the submission by No. 26, the north-south orientation of the subject site creates a quick moving winter shadow impact. Reference is made to the above shadow drawings and it is noted from approximately 11.30 at mid-winter the shadow will move away from No. 30 Gerard Street (located at top of the drawings), and for all of the mid-winter afternoon No. 30 Gerard Street will enjoy solar access.

The submission identifies concerns about loss of solar access to their courtyard which is located mid-way along the side of their dwelling. The submission notes that once the shadow from the proposed development leaves No. 30 at approximately 11.30am, their nominated central courtyard will then mostly be impacted by their own shadow, with the consequential impact of no mid-winter solar access to their courtyard.

ITEM 2 (continued)

The following aerial photograph of No. 30 Gerard Street clearly shows the location of the central courtyard.



DCP 2010 at Part 3.3 (Section 2.13.1) provides controls relevant to Daylight and Sunlight access to adjoining properties and states:

- e. For neighbouring properties ensure:
 - i. sunlight to at least 50% of the principal area of ground level private open space of adjacent properties is not reduced to less than two hours between 9am and 3pm on June 21, and
 - ii. windows to north-facing living areas of neighbouring dwellings receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their surface, where this can be reasonably maintained given the orientation topography of the subject and neighbouring sites.

ITEM 2 (continued)

Whilst the ground floor courtyard that provides daylight to adjoining rooms is a form of private open space, it is not the **principal area of private open space** in respect of the dwelling at No. 30 Gerard Street. The principal area of open space is at the rear of the dwelling and as shown in the above shadow diagrams, the proposed development will not create any shadow impact upon the rear yard private open space.

Further, the window in the north facing living area in the dwelling at No. 30 Gerard Street is not impacted upon by the shadow cast by the proposed development at any mid-winter time.

It is acknowledged that the DCP does not address the unusual situations of mid-building courtyards as exists in No. 30 Gerard Street. However, as suggested in the submission from No. 30 Gerard Street, the only identifiable answer is to reduce the front of the proposed development to single storey, which is unreasonable and inequitable given that the DCP allows 2 storey developments.

5. *Some inaccuracies in description of adjoining dwelling.*

Comment: The application includes a survey plan of the subject site and adjoining dwellings. This survey plan details the outline of the adjoining dwellings, configuration of the roof heights and description of out-buildings. To go beyond the externally visible portions of the dwelling could be taken as an invasion of privacy. Council staff can make assessment of likely impact upon specific components of the adjoining dwellings if specific issues are raised.

Adequate information was submitted by the applicant to make full and proper assessment of the proposed development.

6. *Bulk and Scale concerns.*

Comment: The submission raises concerns as to setback from street and side boundaries, overall height, ceiling height, no ground floor windows facing the street, excessive driveway through the turning area which may cause headlight impact on adjoining dwelling.

As is detailed in assessment of the proposal against the relevant controls in DCP 2010 the proposed development achieves full compliance in respect of setback from all boundaries, overall height, floor to ceiling height and front setback deep soil area. The Landscape Plan details significant screen planting at the end of both turning areas in front of the dwellings. To protect the adjoining residents from headlight intrusion, particularly during the landscape growing period, it is proposed that a 1.8m high privacy type screen be erected adjacent to the fence opposite the end of the turning bays. (Condition 25(b) relates).

ITEM 2 (continued)
7. Privacy.

Comment: The submission from No. 30 Gerard Street requests the proposed 1.65m high privacy screen on the end of the rear facing first floor balconies be increased in height. The applicant has raised no objection to increasing the privacy screens that face both Nos. 26 and 30 Gerard Street to 1.8m in height. The applicant requested a condition of consent be imposed rather than the existing drawings being revised. Condition No. 23 relates.

The submission also raises the possible need for any pruning of the existing "claret red ash" tree that provides privacy for the existing dwelling at No. 30 Gerard Street. The request is for any pruning to be carried out after consultation with a qualified Arborist. This tree is growing adjacent to the footpath in Gerard Street. As this street tree is growing outside the subject site, the need to prune the tree, as part of this development, does not arise.

8. SEPP1 (or clause 4.6 RLEP 2010) objection required?

Not applicable.

9. Policy Implications
Relevant Provisions of Environmental Planning Instruments etc:
(a) Ryde Planning Scheme Ordinance
Zoning

R2 Low Density Residential under RLEP 2010.

The proposed development is a permissible form of development, with consent, within the R2 Low Density Residential zoning.

Mandatory Requirements

Ryde LEP 2010	Proposal	Compliance
4.3(2) Height		
9.5m	9.45m	Yes
4.4(2) & 4.4A(1) FSR		
0.5:1	Ground floor: 287.4m ² Second floor: 237.8m ² Less 36m ² (2 x single garage allowance for parking)	Yes

ITEM 2 (continued)

Ryde LEP 2010	Proposal	Compliance
	Total (Gross Floor Area): 489.2m ² FSR: 0.48:1	

Aims and objectives for residential zones:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provides facilities or services to meet the day to day needs of residents.
- To ensure that the general low density nature of the zone is retained and that development for the purposes of dual occupancy (attached) and multi dwelling housing (attached) do not significantly alter the character of a location or neighbourhood.
- To ensure that new development complements or enhances the local streetscape.
- To maintain on sites with varying topography the two storey pitched roof form character of dwelling houses and dual occupancy (attached) developments.
- To ensure that land uses are compatible with the character of the area and responsive to community needs.

The proposed development is considered to satisfy the objectives for residential developments.

(b) Relevant SEPPs (including REPs which are “Deemed SEPPs”)

A compliant BASIX Certificate (No. 381093M dated 15 June 2011) has been submitted with the DA. A standard condition requiring compliance with this BASIX certificate has been included in the recommended conditions of consent. (Condition 3 relates)

(c) Any draft LEPs

No draft plans apply to the subject site.

(d) Any DCP (e.g. dwelling house, villa)

Ryde Development Control Plan 2010 (Part 3.3 – Dwelling Houses and Dual Occupancy (attached) applies.

ITEM 2 (continued)

An assessment of the proposal against the provisions of the DCP follows:

DCP 2010	PROPOSED	COMPLIANCE
Part 3.3 – Dwelling Houses and Dual Occupancy (attached)		
Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is consistent with the desired future character of the low density residential area as detailed further in this table.	Yes
Dwelling Houses		
<ul style="list-style-type: none"> - To have a landscaped setting which includes significant deep soil areas at front and rear. - Maximum 2 storeys. - Dwellings to address street - Garage/carports not visually prominent features. 	Front and rear gardens proposed. Two storeys Dwelling presents to street. Integrated into dwelling.	Yes Yes Yes Yes
Dual Occupancy – Linear Separation		
<ul style="list-style-type: none"> - Any urban housing, multi dwelling (attached), villa homes, duplex, dual occupancy (attached) within double the main frontage of the subject site or existing villa/dual occupancy site? 	No existing or approvals within distance. Although the site immediately adjoins a development previously approved as a “dual occupancy”, advice has been received from Council’s General Counsel that the linear separation controls do not apply where the adjoining development is a dwelling on a separate parcel identified as a distinctive Lot and Deposited Plan number.	Yes
Public Domain Amenity		
<ul style="list-style-type: none"> • Streetscape - Front doors and windows are to face the street. Side entries to be clearly apparent. - Single storey entrance porticos. 	Front door & windows face street for both dwellings. Single entrance porticos.	Yes Yes

ITEM 2 (continued)

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Articulated street facades. - Corner buildings to address both frontages 	Articulated street facade. Not on corner.	Yes N/A
<ul style="list-style-type: none"> • Public Views and Vistas - A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views. - Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. - Fence 70% open where height is >900mm 	No water views. No view corridor. No front fence proposed.	N/A N/A N/A
<ul style="list-style-type: none"> • Pedestrian & Vehicle Safety - Car parking located to accommodate sightlines to footpath & road. - Fencing that blocks sight line is to be splayed. 	Integrated garage No front fence proposed.	Yes N/A
Site Configuration		
<ul style="list-style-type: none"> • Deep Soil Areas - 35% of site area min. (353.4m²) - Min 8x8m deep soil area in backyard. - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). - Dual occupancy developments only need 1 of 8 x 8m area (doesn't have to be shared equally). 	513.8m ² approx (50.8% of site area). 8m x 8m provided (each dwelling) Front yard is deep soil area except for driveway. Hard surface areas have been kept to a minimum. 8m x 8m provided (each dwelling)	Yes Yes Yes Yes

ITEM 2 (continued)

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> • Topography & Excavation Within building footprint: <ul style="list-style-type: none"> - Max cut: 1.2m - Max fill: 900mm Outside building footprint: <ul style="list-style-type: none"> - Max cut: 900mm - Max fill: 500mm - No fill between side of building and boundary or close to rear boundary - No fill in overland flow path - Max ht retaining wall 900mm 	Max cut: 700mm Max fill: 1.57m Max cut: <200mm Max fill: <500mm (under driveway) None shown None proposed Maximum retaining wall height is 900mm.	Yes No (See Note 1) Yes Yes Yes Yes Yes
Floor Space Ratio		
<ul style="list-style-type: none"> - Ground floor - First floor - Detached car parking structures - Outbuildings (incl covered pergolas, sheds etc) - Total (Gross Floor Area) - Less 36m² allowance for 2 x single car parking garages FSR (max 0.5:1) Note: Excludes wall thicknesses, lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas.	287.4m ² 237.8m ² None None 525.2m ² 489.2m ² 0.48:1	Yes
Height		
<ul style="list-style-type: none"> - 2 storeys maximum (storey) incl basement elevated greater than 1.2m above EGL). 	2 storeys	Yes

ITEM 2 (continued)

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - 1 storey maximum above attached garage incl semi-basement or at-grade garages. Wall plate (Ceiling Height) - 7.5m max above FGL or - 8m max to top of parapet. NB: <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> <i>FGL = Finished Ground Level</i> - 9.5m Overall Height <i>NB: EGL – Existing ground Level</i> 	1 storey TOW RL: 31.16 FGL below (lowest point): RL:23.68 FGL below (highest point): RL: 24.57 TOW Height (min)= 7.48m TOW Height (max)= 6.59m Max point of dwelling RL:33.42 EGL below ridge (lowest point) RL: 23.96 EGL below ridge (highest point): RL:24.24 Overall Height (min)= 9.45m Overall Height (max)= 9.18m	Yes Yes Yes
<ul style="list-style-type: none"> - Habitable rooms to have 2.4m floor to ceiling height (min). 	2.7m min room height	Yes
Setbacks		
<ul style="list-style-type: none"> • Side ○ Single storey dwelling - 900mm to wall, includes balconies etc. ○ Two storey dwelling - 1500mm to wall, includes balconies etc. • Front - 6m to façade (generally) - Garage setback 1m from the dwelling facade - Wall above is to align with outside face of garage below. - Front setback free of ancillary elements e.g. RWT,A/C 	N/A To wall min 1.57mm 6.0m Both set back 1.26m No wall above None proposed	N/A Yes Yes Yes N/A Yes

ITEM 2 (continued)

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> • Rear - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. Note: 10.7m is 25% of site length. 	10.70m	Yes
Outbuildings	None proposed	N/A
Car Parking & Access		
<ul style="list-style-type: none"> • General - Dual Occupancy (attached): 1 space max per dwelling. - Where possible access off secondary street frontages or laneways is preferable. - Garage or carport may be in front. If no other suitable position, no vehicular access to side or rear. - Max 6m wide or 50% of frontage, whichever is less. - Behind building façade. • Garages - Garages set back 1m from façade. - Total width of garage doors visible from public space must not exceed 5.7m and be set back not more than 300mm behind the outside face of the building element immediately above. - Garage windows are to be at least 900mm away from boundary. - Solid doors required - Materials in keeping or complementary to dwelling. 	<ul style="list-style-type: none"> 1 space each None available Integrated External width: each 3.97m Behind facade Setback from façade: 1.26m Width of opening: 2.7m Door setback: 230mm No external windows Solid proposed Part of dwelling 	<ul style="list-style-type: none"> Yes N/A N/A Yes Yes Yes Yes N/A Yes Yes

ITEM 2 (continued)

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> • Driveways - Extent of driveways minimised 	Driveway minimised	Yes
Landscaping		
<ul style="list-style-type: none"> • Trees & Landscaping - Major trees retained where practicable. - If bushland adjoining use native indigenous species for 10m from boundary - Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL e.g. stairs, terraces. - Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access). - Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy. - Backyard to have at least 1 tree with mature ht of 15m min and a spreading canopy. - Hedging or screen planting on boundary mature plants reaching no more than 2.7m. - OSD generally not to be located in front setback unless under driveway. - Landscaped front garden, with max 40% hard paving. 	Council's Landscape Architect has recommended conditions to protect existing trees. Condition 58 relates. No adjoining bushland. At ground level Access provided on both sides Tree proposed in front garden Existing 12m tree in rear yard Minor hedge on part of boundary for privacy. Max mature height of 2.7m OSD not in driveway. Hard Paving: 34.43%	Yes Yes N/A Yes Yes Yes Yes Yes
Dwelling Amenity		
<ul style="list-style-type: none"> • Daylight and Sunlight Access - Living areas to face north where orientation makes 	Due to north/south orientation of subject site, living areas face	Yes

ITEM 2 (continued)

DCP 2010	PROPOSED	COMPLIANCE
this possible. - 4m side setback for side living areas where north is to the side allotment boundary.	south. North to front of building.	N/A
<u>Subject Dwelling:</u> - Subject dwelling north facing windows are to receive at least 3 hrs of sunlight to a portion of their surface between 9am and 3pm on June 21. - Private Open Space (POS) of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21.	North facing windows comply POS: Plans indicate compliance for both dwellings.	Yes Yes
<u>Neighbouring properties are to receive:</u>		
- 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21.	Due to north/south orientation of the site, shadows are fast moving and a minimum 2 hours of sunlight to adjoining principal open space will be achieved.	Yes
- At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21.	As detailed above, the north/south orientation of the site will ensure at least 3 hours of sunlight to adjoining living area windows.	Yes
<ul style="list-style-type: none"> • Visual Privacy 		
- Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling.	Design complies	Yes
- Windows of living, dining, family etc. placed so there are no close or direct views to adjoining dwelling or open space.	Screened by dividing fence	Yes
- Side windows offset from adjoining windows.	Adjoining buildings set back from boundary & minimise direct views	Yes

ITEM 2 (continued)

DCP 2010	PROPOSED	COMPLIANCE
- Terraces, balconies etc. are not to overlook neighbouring dwellings/private open space.	First floor balconies allow overlooking. However, 1.65m high privacy screens are proposed. They are considered to be adequate.	Yes
<ul style="list-style-type: none"> • Acoustic Privacy - Layouts of rooms in dual occupancies (attached) are to minimise noise impacts between dwellings e.g.: place adjoining living areas near each other and adjoining bedrooms near each other. 	Design complies.	Yes
<ul style="list-style-type: none"> • View Sharing - The siting of development is to provide for view sharing. 	No significant views from site.	Yes
<ul style="list-style-type: none"> • Cross Ventilation - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation. 	Optimised given dual occupancy design.	Yes
External Building Elements		
<ul style="list-style-type: none"> • Roof 		
- Articulated.	Articulated with gables, hips and valleys.	Yes
- 450mm eaves overhang minimum for pitched roof.	Eaves have 450mm overhang.	Yes
- Not to be trafficable Terrace.	None provided.	Yes
- Skylights to be minimised and placed symmetrically.	Skylights are proposed, however, they are arranged symmetrically and eliminate the need for windows.	Yes
- Front roof plane is not to have both dormer windows and skylights.	None proposed.	Yes
- Attic to be within roof space	None proposed.	N/A
- Attics may be in garage if garage next to dwelling & not within front or rear setback	None proposed.	N/A

ITEM 2 (continued)

DCP 2010	PROPOSED	COMPLIANCE
Fencing		
<ul style="list-style-type: none"> • Front: <ul style="list-style-type: none"> - To reflect design of dwelling. - To reflect character and height of neighbouring fences. - Max 900mm high for solid (picket can be 1m). - Retaining walls on front building max 900mm. - No colourbond or paling - Max pier width 350mm. • Return <ul style="list-style-type: none"> - 1.m high - Lapped & capped timber • Side/rear fencing: <ul style="list-style-type: none"> - 1.8m max o/a height. - Lapped & capped timber 	Design complies Design complies Front: 750mm None proposed Cement rendered No piers 900mm Masonry to match front Height: 1.8m Colorbond.	Yes Yes Yes N/A Yes N/A Yes No (See Note 2) Yes Yes
Part 7.2 – Waste Minimisation & Management		
Submission of a Waste Management Plan	The applicant has submitted a Waste Management Plan	Yes
Part 8.2 – Stormwater Management		
• Stormwater		
- Drainage is to be piped in accordance with Part 8.2 – Stormwater Management.	Council's Development Engineer has raised no objection to the stormwater design.	Yes
Part 9.2 – Access for People with Disabilities		
Accessible path required from the street to the front door, where the level of land permits.	Slope of site does not permit	N/A
Part 9.6 – Tree Preservation		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate	The proposal does not involve the removal of any substantial tree. Council's Landscape Architect has recommended conditions relevant to protection of existing trees.	Yes

ITEM 2 (continued)

DCP 2010	PROPOSED	COMPLIANCE
clearance between the tree(s) and the proposed building and the driveway.		

BASIX	PROPOSAL	COMPLIANCE
All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans (list) BASIX Cert 381093M dated 15/6/2011		
• RWT 2600L per dwelling	5000L each per dwelling	Yes
• Thermal Comfort Commitments: - Construction floors & walls - In slab heating or cooling	Shown on plans Shown on plans	Yes Yes
• HWS Gas Instantaneous 3.0 star.	Shown on plans	Yes
• Natural Lighting - kitchen - all bathrooms/toilets	All have windows All have windows	Yes Yes
Water Target 40	Water: 40	Yes
Energy Target 40	Energy: 41	Yes
Correct description of property/proposal on 1 st page of Certificate.	Correct details shown	Yes

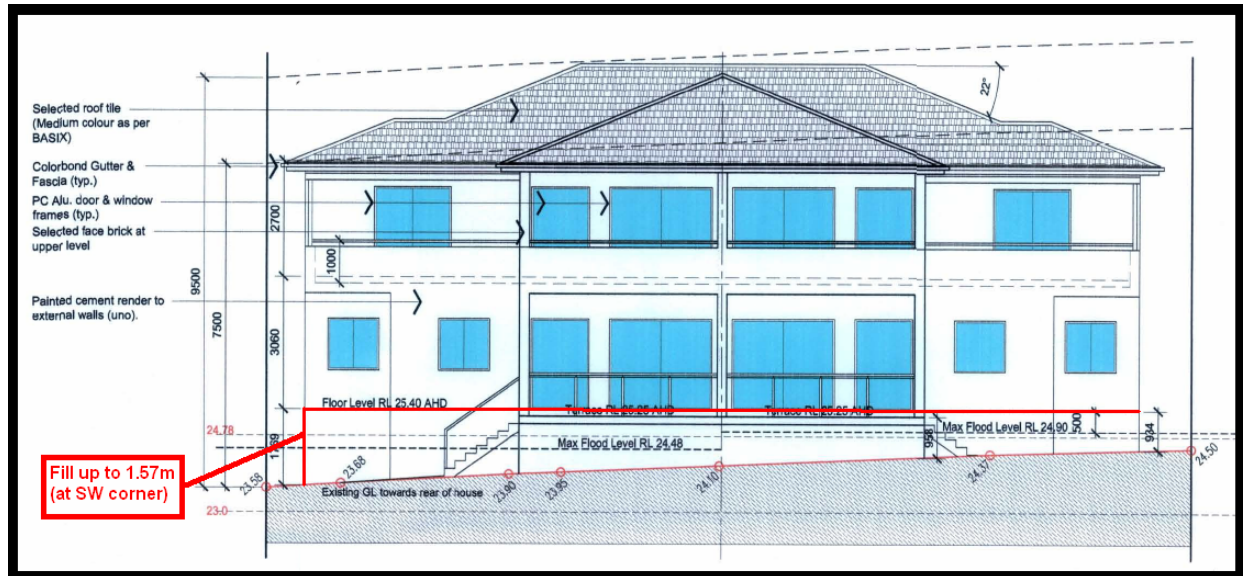
Non-Compliances:

Note 1: *Fill within building footprint.*

The proposal involves up to 1.57m of fill under the rear of the western dwelling. This is generally the lowest portion of the site, and requires the floor level of the ground floor to be RL 25.40 to achieve the required 500mm of freeboard above the overland flow level. The natural ground level in this area is RL23.83 and it requires 1.57m of fill to achieve the ground floor level of 25.40. In view of the limited area of fill, and the engineering necessity for the fill, the proposal is considered to be reasonable.

ITEM 2 (continued)

The following is the rear (south) elevation drawing, showing the height and extent of the fill proposed, which is at the highest at the south-west corner of the development:



Note 2: Construction of side fencing.

The DCP requires the use of lapped and capped timber in the construction of dividing fences. The proposal involves the use of Colorbond metal fencing. The majority of dividing fences in the locality are constructed in Colorbond sheet metal. Accordingly, the proposed use of Colorbond materials for the dividing fences is considered reasonable.

Section 94 Contributions Plan

The proposed development will result in the increase in demand for Council's facilities and services. Accordingly, contributions under Council's Section 94 Contributions Plan will be required as follows:

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

A	B (\$)
Community & Cultural Facilities	3,989.16
Open Space & Recreation Facilities	9,820.47
Civic & Urban Improvements	3,340.03
Roads & Traffic Management Facilities	455.51
Cycleway	284.59

ITEM 2 (continued)

A	B (\$)
Stormwater Management Facilities	904.24
Plan Administration	76.74
Total	\$ 18,870.73

This contribution has been calculated on the basis of the contribution rates current for the most recent quarter being December 2011.

Recommended Condition 17 relates to the payment of the above contributions.

10. Likely impacts of the Development
(a) Built Environment

Other than one matter relating to the amount of fill needed to overcome the small valley in the rear portion of the site, the proposed development involving the erection of a two-storey attached dual occupancy, fully complies with the relevant DCP provisions. The development presents to the public domain of Gerard Street as a large two-storey dwelling which is not out of character with many dwellings in the locality.

As a result of the subdivision pattern in Gerard Street, most allotments do not have a 90° orientation to the street. This has resulted in a staggered appearance for many dwellings, some of which were erected in the 1920's. The proposed development, like most of the newer dwellings in the area, directly address the street and present an articulated built form that will create visual interest and improve the urban design qualities of the locality.

(b) Natural Environment

The proposed development is not likely to have significant impacts upon the natural environment. It is noted that the proposal involves the retention of all three trees growing on the site.

11. Suitability of the site for the development

A review of Council's map of Environmentally Sensitive Areas (held on file) identifies the following constraints affecting the subject property:

Overland Flow: Refer to Development Engineer's comments shown below.

ITEM 2 (continued)

The design of the proposed development specifically addresses the constraints flowing from the likely impact of overland flow. Whilst the proposed development has been raised in height to satisfy the need to achieve necessary freeboard provisions relevant to overland flow, the proposal still complies with the overall height controls in the LEP.

Overall, the proposed development is considered to be a suitable form of development for the subject site, and approval is recommended, subject to conditions of consent.

12. The Public Interest

Having regard to the assessment contained in this report, it is considered that approval of the development is in the public interest, particularly as it will increase housing choice in the locality.

13. Consultation – Internal and ExternalInternal Referrals

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

The amended drainage plan submitted shows that minimum head to the gutter from the top of inlet pipe is about 900mm. The volume in the OSD tank has been reduced with the increase in the volume of the water tank to 5m³ each. The outlet pipe from the water tank which is located at ground level has been directed to the street via a gravity line through garden beds on the side of each dwelling. The driveway and the turning area have been directed into an absorption trench in the rear yard.

Council's Catchments & Assets branch is satisfied with the overland flow report submitted for the development.

No objections are raised to the approval subject to the attached conditions.

Landscape Officer: Council's Landscape Architect has provided the following comments:

The site was accessed and inspected on 17 January, 2012. In addition I have reviewed a landscape plan prepared by Mayfair Design Consultants dated June 2011. The site contains:

ITEM 2 (continued)

1 Jacaranda:



1 Norfolk Pine:



ITEM 2 (continued)

1 Neighbouring Chinese Hackberry (Celtis sp):



*There is also an Ash (**Fraxinus sp**) growing at 30 Gerard close to the common boundary.*

Construction impacts on significant trees can be suitably managed with the attached conditions of consent.

With regard to bushland status there are no local endemic species from the Sydney Turpentine Ironbark Forest association occurring on the site, however, the landscape plan should be amended to substitute the nominated Claret Ash with an indigenous specimen tree as Claret Ash generally perform poorly in the Sydney region

Conclusion

No objections to the development subject to the following condition.

Conditions

*A root protection zone is to be established around the root zone of the neighbouring Hackberry (**Celtis sp**), growing on No. 26 Gerard Street (where the root zone occurs on the development site), and the Jacaranda (**Jacaranda mimosifolia**) at the rear of No. 28. The root protection zone shall be a minimum of 4m as measured from the trunk of the tree, and equivalent to temporary chainwire panels. A project arborist is to supervise the installation of root protection zones, and is to provide construction management advice in relation to minimising impacts upon the neighbouring Ash (**Fraxinus sp**) growing at No. 30.*

ITEM 2 (continued)

*The Claret Ash on the landscape plan within the front setback is to be substituted with a native indigenous tree equivalent to: Blueberry Ash (**Elaeocarpus reticulatus**), Smooth-bark Apple (**Angophora costata**); or, Turpentine (**Syncarpia glomulifera**)*

Condition 60 relates to the modification of the Landscape Plan by deletion of the Claret Ash and replacement with one of the above nominated trees.

External Referrals

The subject site is in proximity to the Shell Crude Oil Pipeline. Accordingly, the comments of the Shell Company of Australia were sought.

By e-mail dated 24 July 2011 the NSW Pipelines Coordinator advised that the pipeline was on the opposite side of Gerard Street, and more detail would be made available when the applicant made a "Dial Before You Dig" enquiry.

Condition 39(d) applies for a "Dial Before You Dig" enquiry to be made prior to construction.

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

Adoption of the recommendation of this report will have no financial impact.

16. Other Options

Not applicable.

17. Conclusion

After consideration of the development against Section 79C of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is suitable for the site and is in the public interest. Therefore, it is recommended that the application be approved.

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ATTACHMENT 1

DRAFT CONDITIONS OF CONSENT

GENERAL

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

Approved Plans

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

Document Description	Date	Plan No/Reference
Architectural Drawings prepared by Mayfair Design Consultants	June 2011	GS-03, GS-04, GS-05, GS-06, GS-07 and GS-08.
Stormwater Concept Plans prepared by Kazarovski & Partners Pty Ltd	6/11/2011 and 19/11/2011	C-1795-01
Landscaping Plan prepared by Mayfair Design Consultants	June 2011	GS-L1
Statement of Environmental Effects prepared by Mayfair Design Consultants	June 2011	

Prescribed Conditions

2. All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. Compliance with all commitments listed in BASIX Certificate(s) numbered 381093, dated 15 June 2011.
4. If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.

Protection of Adjoining and Public Land

5. Hours of work
 Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and

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4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.

6. Hoardings:

- (a) A hoarding or fence must be erected between the work site and any adjoining public place.
- (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

- 7. Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 8. The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
- 9. The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
- 10. The submission of documentary evidence (permit/approval) of compliance with the requirements of the Shell Corporation with respect to all works being carried out in proximity of the Shell Crude Pipeline – including use of heavy machinery, excavations, and backfilling.

Works on Public Road

- 11. The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.

General Engineering Conditions

- 12. **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 1999 and City of Ryde Development Control Plan 2010 Section 8* except as amended by other conditions.
- 13. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
- 14. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.

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15. Road Opening Permit. The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No drainage work shall be carried out on the footpath without this permit being paid and a copy kept on the site.

Imported Fill

16. All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.

PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

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

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

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$ 3,989.16
Open Space & Recreation Facilities	\$ 9,820.47
Civic & Urban Improvements	\$ 3,340.03
Roads & Traffic Management Facilities	\$ 455.51
Cycleways	\$ 284.59
Stormwater Management Facilities	\$ 904.24
Plan Administration	\$ 76.74
The total contribution is	\$ 18,870.73

These are contributions under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 16 March 2011.

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

A copy of the Section 94 Development Contributions Plan may be inspected at the Ryde Planning and Business Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

18. The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Structural certification

19. The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements.
20. The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan (**category: dwelling houses with delivery of bricks or concrete or machine excavation**)
21. The following fees must be paid to Council in accordance with Council's Management Plan:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
22. Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
23. The proposed privacy screens on either end of the rear facing first floor balconies, shall be increased in height to 1.8m. Full details shall be included in the Construction Certificate application.

Road Opening Permit

24. The Council must be provided with evidence that there has been compliance with all matters that are required by the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993 to be complied with prior to issue of the **Construction Certificate**.

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Fencing

25. (a) Fencing is to be in accordance with Council's Development Control Plan and details of compliance are to be provided in the plans for the **Construction Certificate**.
- (b) An additional 1.8m high privacy type fence shall be erected adjacent to the side boundary fence and opposite the end of the vehicle turning bay. The privacy fence shall be located as to preclude car headlight intrusion into the adjoining property. The privacy screen is to be detailed on the submitted **Construction Certificate** drawings.

Lighting of Common Areas (driveways etc)

26. Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.

Engineering Conditions to be complied with Prior To Construction Certificate

27. **Council Inspections.** A Council engineer must inspect the stormwater connection to the existing Council stormwater pipeline. Council shall be notified when the collar connection has been made to the pipe and an inspection must be made **before** the property service line is connected to the collar. The property service line must not be connected directly to Council's pipeline. An inspection fee of \$140.00 shall be paid to Council prior to the issue of the Construction Certificate.
28. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.
29. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. 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 centreline 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 shall be submitted with the Construction Certificate application.**
30. **Driveway Location.** The driveway shall be located minimum of 300mm away from the lintel of the existing stormwater pit on the street.

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31. **Permeable Paving.** The vehicle turning area at front shall be constructed using permeable pavers or similar.
32. **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 City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. 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.
33. **On-site Stormwater Disposal.** Stormwater runoff from the impervious areas as indicated shall be collected and piped by gravity flow to an absorption trench system to Council's requirements. The absorption trench storage volume shall be designed in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. Earthworks are to be detailed to demonstrate that the ground downstream of the trenches will be permeable to allow seepage from the trenches. A level spreader shall be placed downstream of the trenches to prevent erosion and an adverse impact on downstream properties.
34. **Water Tank First Flush.** A first flush mechanism is to be designed and constructed with the water tank system. Details of the first flush system are to be submitted with the construction certificate application.
35. **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 Landcom. 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.

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PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

Prescribed Conditions

36. Site Sign

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

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

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

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

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

39. Excavation adjacent to adjoining land

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from

ITEM 2 (continued)

ATTACHMENT 1

- the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
 - (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
 - (d) 'Dial 1100 Before You Dig'
 - (i) Underground pipes and cables may exist in the area. In your own interest and for safety, telephone 1100 before excavating or erecting structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website www.dialbeforeyoudig.com.au.
 - (ii) If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the Development Consent (or a new development application) may be necessary.

Safety Fencing

40. The site must be fenced throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

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 should be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and City of Ryde, Development Control Plan 2010: - Part 8.1; Construction Activities
43. **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 Public Works Division. Kerbs shall not be returned to the alignment line. Bridge and pipe crossings will not be permitted.

ITEM 2 (continued)

ATTACHMENT 1

DURING CONSTRUCTION

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

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

Noise and vibration

45. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations.
46. 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.

Survey of footings and walls

47. All footings and walls within one metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
48. No sediment, dust, soil or similar material shall leave the site during construction work.
49. Excavated material must not be reused on the property except as follows:
- (a) Fill is allowed under this consent;
 - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (c) the material is reused only to the extent that fill is allowed by the consent.
50. All materials associated with construction must be retained within the site.

51. Site Facilities

The following facilities must be provided on the site:

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

ITEM 2 (continued)

ATTACHMENT 1

52. Site maintenance

The applicant must ensure that:

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

53. At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

Tree Protection

54. This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or otherwise necessary as a result of construction works approved by this consent.

55. Trees that are shown on the approved plans as being retained must be protected against damage during construction.

56. Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.

57. A Consultant Arborist must be appointed to oversee all works, including demolition and construction, in relation to the trees identified for retention on the site.

58. Council is to be notified, in writing, of the name, contact details and qualifications of the Consultant Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.

59. A root protection zone is to be established around the root zone of the neighbouring Hackberry (*Celtis sp*), growing on No. 26 Gerard St (where the root zone occurs on the development site), and the Jacaranda (*Jacaranda mimosifolia*) at the rear of No. 28. The root protection zone shall be a minimum of 4m as measured from the trunk of the tree, and equivalent to temporary chainwire panels. A project arborist is to supervise the installation of root protection zones, and is to provide construction management advice in relation to minimising impacts upon the neighbouring Ash (*Fraxinus sp*) growing at No. 30. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

60. The Claret Ash on the landscape plan within the front setback is to be substituted with a native indigenous tree equivalent to: Blueberry Ash (*Elaeocarpus reticulatus*), Smooth-bark Apple (*Angophora costata*); or, Turpentine (*Syncarpia glomulifera*) Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

ITEM 2 (continued)

ATTACHMENT 1

61. Street trees that are to be retained, whilst not requiring exclusion fencing, will be recognised to have Tree Protection Zones established around them. All restrictions applicable to areas within fenced Tree Protection Zones will apply to street trees. Existing driveways and footpaths that fall within any unfenced Street Tree Protection Zone, may be utilized for the specific purposed for which it was designed.

Drop-edge Beams

62. Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

Prescribed Condition

63. The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate numbered 381093, dated 15 June 2011.
64. All landscaping works approved by condition 1 are to be completed.
65. The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent.

Sydney Water

66. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

ITEM 2 (continued)

ATTACHMENT 1

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

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Interim/Final Occupation Certificate.

Letterboxes and street/house numbering

67. All letterboxes are to be designed and constructed to be accessible from the public way. Council must be contacted in relation to any specific requirements for street numbering.

Engineering Conditions to be complied with prior to Occupation Certificate

68. **Disused Gutter Crossing.** All disused gutter and footpath crossings in Gerard Street shall be removed and the kerb and footpath reinstated to the satisfaction of Council.

69. **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 or access grate. The wording on the marker plate is described in City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. An approved plate may be purchased from Council's Customer Service Centre on presentation of a completed City of Ryde OSD certification form.

70. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed with all invert levels of pipes, tank levels, sizes and finished ground levels, is **to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA.

71. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Job No C-1795-01 issue 6 dated 19/11/11 prepared by Kazarovski & Partners Pty Ltd

72. **Compliance Certificates – Engineering.** Compliance Certificates should 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 section 4.*
- Confirming that the driveway is constructed in accordance with the construction plan requirements and Ryde City Development Control Plan 2010: - Part 8.3; Driveways.

ITEM 2 (continued)

ATTACHMENT 1

- Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management
- Confirmation from Council that connection to the Council's pipe system has been carried out to the satisfaction of Council.
- 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.
- Confirming that the vehicular crossing has been removed and the kerb and gutter have been constructed in accordance with Council's *Environmental Standards Development Criteria -1999 section 4*

73. **Positive Covenant, OSD.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Stormwater Detention Systems and to the satisfaction of Council.

74. **Positive Covenant, Charged.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the charged drainage system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Charged Drainage Systems and to the satisfaction of Council.

75. **Positive Covenant, Dispersal.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater dispersal system. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of On- site Dispersal Systems and to the satisfaction of Council.

End of consent

ITEM 2 (continued)

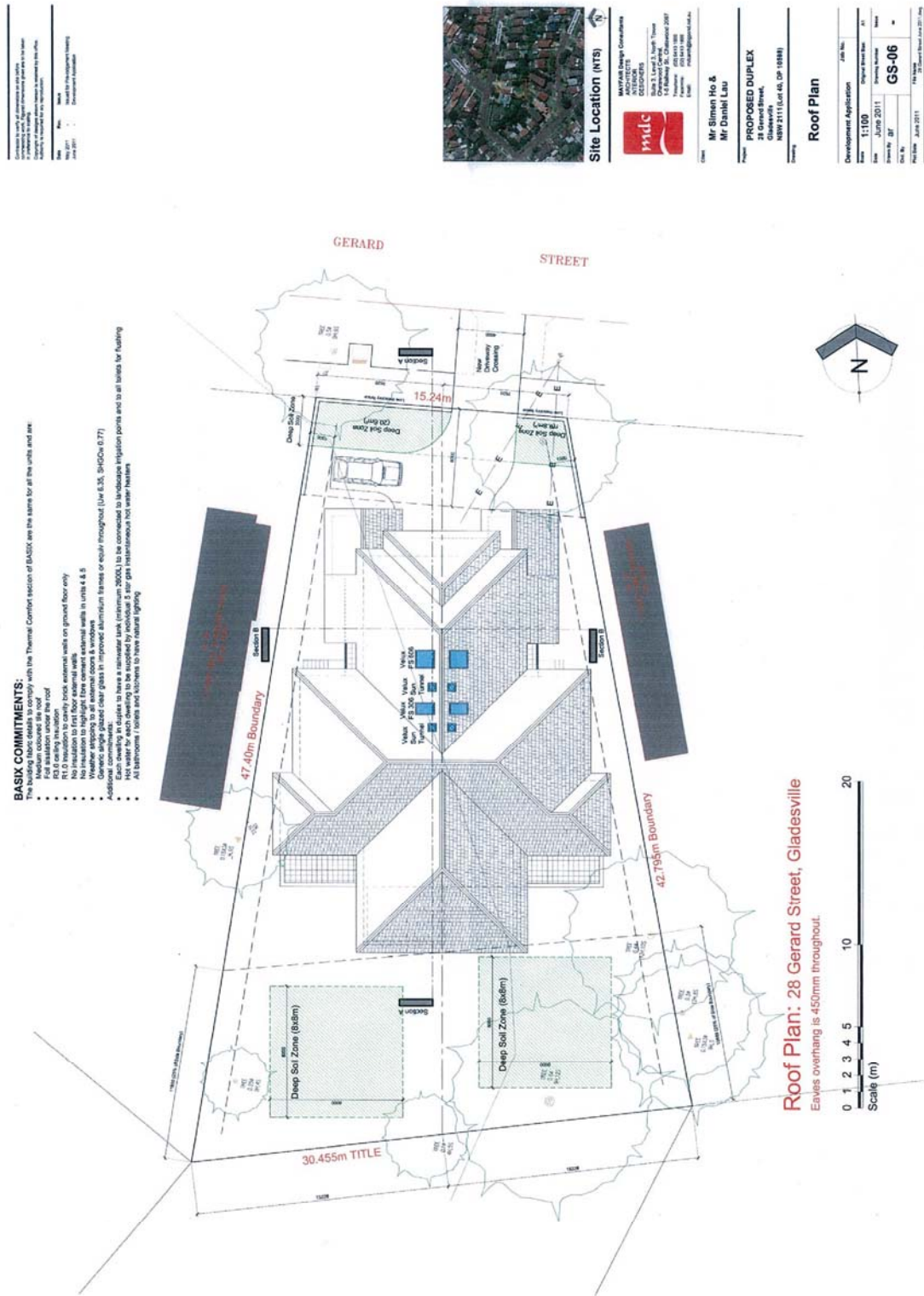
ATTACHMENT 2

 Indicates submissions received



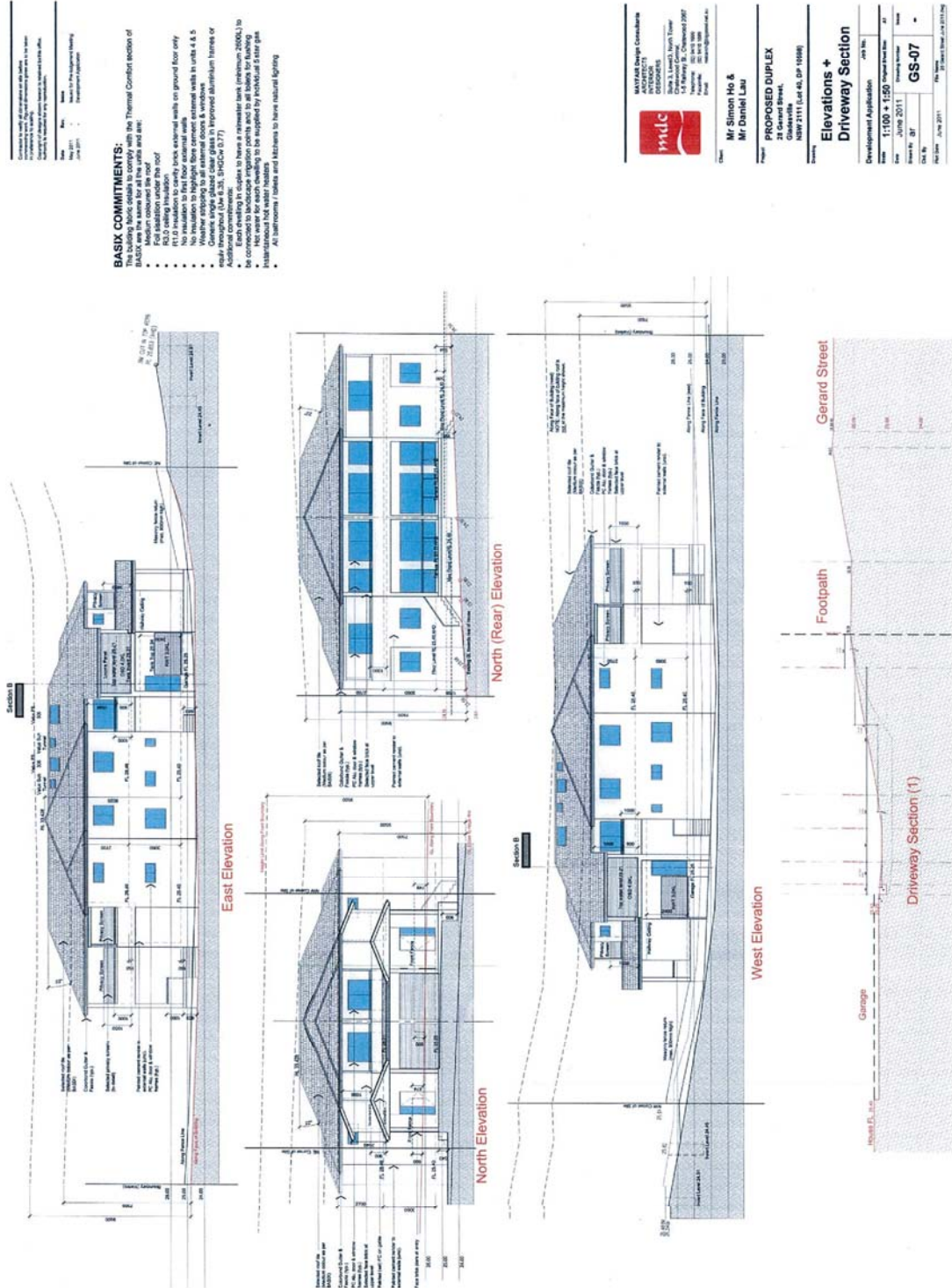
ITEM 2 (continued)

ATTACHMENT 3



ITEM 2 (continued)

ATTACHMENT 3



- 3 33 LOVELL ROAD, DENISTONE EAST. LOT 24 DP 6182. Local Development Application for multi dwelling (attached) development containing 3 villa homes (1 x 3 bedroom two storey villa at the front, 2 x 3 bedroom villas at the rear). LDA2011/0505.**

INSPECTION: 4.40pm

INTERVIEW: 5.05pm

Report prepared by: Consultant Town Planner; Team Leader - Major Development Team

Report approved by: Manager Assessment; Group Manager - Environment & Planning

Report dated: 16/03/2012 **File Number:** grp/12/5/5/3 - BP12/289

1. Report Summary

Applicant: Grander Properties Pty Ltd.

Owner: Grander Properties Pty Ltd.

Date lodged: 21 September 2011.

This report considers a proposed development to erect multi dwelling housing (attached) containing 3 dwellings on the subject site. The dwellings will consist of a two-storey, 3 bedroom dwelling at the front and 2 x 3 bedroom single storey dwellings at the rear.

The proposal has the following areas of non-compliance with controls in Part 3.5 of DCP 2010, namely:

- Linear separation controls.
- Side boundary setback on the eastern side of the allotment.
- Rear boundary setback distance.
- Front boundary setback distance.

These issues are addressed in detail in this report.

The application was advertised in the Ryde City View insert in the Northern District Times dated 26 October 2011 and owners of surrounding properties were given notice of the application, with submissions closing 16 November 2011. In response **two submissions** were received. One submission objected to the proposal on the grounds of non-compliance with the linear separation provisions of the DCP. The other submission listed concerns as to loss of amenity in an adjoining dwelling, and identification of a potential problem from the existing poultry kept in the adjoining property. The submission sought the imposition of specific conditions. Comments on the submissions are provided in this report.

The application is **recommended for refusal** on the basis of non-compliance with the linear separation provisions of DCP 2010, however, options in respect of determination of the application are provided for Council's consideration.

ITEM 3 (continued)

Reason for Referral to Planning and Environment Committee: Nature of application and identified areas of non-compliance with DCP 2010.

Public Submissions: Two submissions were received objecting to the development.

SEPP 1 (or clause 4.6 RLEP 2010) objection required? Not required.

Value of works? \$700,000

A full set of the plans are **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors - subject to copyright provisions.

RECOMMENDATION:

- (a) That Local Development Application No. 2011/505 at No. 33 Lovell Road, Denistone East, being Lot 24, DP 6182, be refused for the following reasons:
- (i) The proposed development does not comply with the provisions of Ryde Development Control Plan 2010 (DCP) in respect of linear separation. (Control 2.4 of Part 3.5 of the DCP relates)
 - (ii) Consent to the application would not be in the public interest.
- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Draft Conditions of Consent
- 2 Map
- 3 A4 Plans
- 4 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Bob Tillott
Consultant Town Planner

Sandra Bailey
Team Leader - Major Development Team

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 3 (continued)

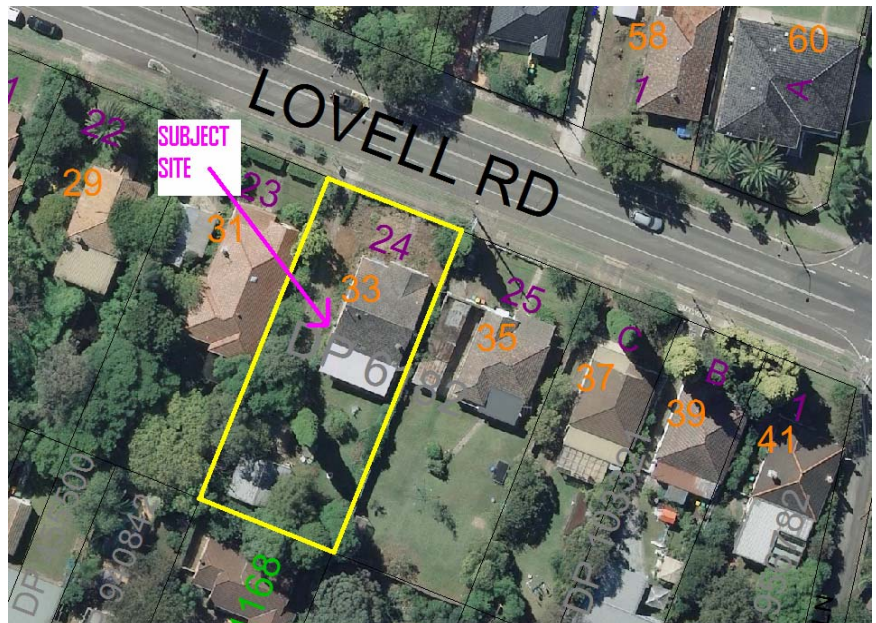
2. Site (Refer to attached map.)

Address : 33 Lovell Road, Denistone East

Site Area : 981.0m²
Frontage 20.11 metres
Depth 48.77 metres

Topography and Vegetation : The subject site is located on the southern side of Lovell Road, just west of the intersection of Lovell Road and Grove Street. There is a fall from the rear boundary to the street. This fall is 1.15m over 48m. There is 1.61m crossfall over 20.1m.

Existing Buildings : A single storey dwelling-house and free-standing garage occupy the subject site. The following aerial photograph details the subject site:



Planning Controls Zoning : R2 - Low Density Residential under Ryde Local Environmental Plan 2010

Other : (a) Environmental Planning & Assessment Act 1979
(b) State Environmental Planning Policy - Building Sustainability Index (BASIX) 2004
(c) City of Ryde Development Control Plan 2010

ITEM 3 (continued)**3. Councillor Representations**

Nil.

4. Political Donations or Gifts

Any political donations or gifts disclosed? No

5. Proposal

Erection of a multi dwelling (attached) development containing 3 dwellings. These dwellings will consist of a two-storey, 3 bedroom dwelling at the front and 2 x 3 bedroom single storey dwellings at the rear.

Dwelling 1 will contain a double garage. Dwellings 2 and 3 will contain a single garage with a car space behind the respective garage.

The combined vehicular access and driveway is located on the eastern side of the property. This permits the designing of courtyards along the western boundary of the site.

6. Background

On 30 September 2010 an application for the erection of 5 x 3 bedroom affordable housing units was lodged with Council (LDA2010/0502). Each unit was of two-storey construction and the development extended over most of the site. During the notification of this application Council received 38 submissions objecting to the development.

On 27 April 2011, prior to the matter being considered by Council, the applicant lodged an appeal with the Land & Environment Court. A Section 34 Conference was held on 31 May 2011. The Section 34 Conference was attended by Council staff as well as 9 residents who objected to the development.

During the Section 34 Conference the parties made representations about the interpretations of the savings and transitional provisions contained in the State Environmental Planning Policy (Affordable Rental Housing) Amendment 2011. The interpretation was critical as it brings into consideration the requirement to conduct a local character compatibility test, which in Council's Officers' view caused this application to fail. Given the difference of opinion in respect to the above point of law as well as the differences between the parties as to the merits of the proposal, in particular as it relates to height, bulk and scale, the Section 34 Conference was terminated. Prior to the termination of the Section 34 Conference, the concerns of the objectors were heard and neighbouring properties viewed. Discussions also occurred in respect to the submission of a future development application that would be in

ITEM 3 (continued)

accordance with the Council's requirements for multi-dwelling housing. This was seen as being preferable by the residents and Council's staff to the development application being presented at the time.

Two days after the Conference on 3 June 2011, the Applicant's solicitor forwarded a Notice of Discontinuance in respect of the Appeal. On 23 June 2011, the affordable housing Development Application was withdrawn from Council.

The current development application was lodged with Council on 21 September 2011.

7. Submissions

The proposal was advertised and notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. The application was advertised on 26 October 2011. Notification of the proposal was from 18 October until 16 November 2011.

Two (2) submissions were received. The issues raised in the submissions were;

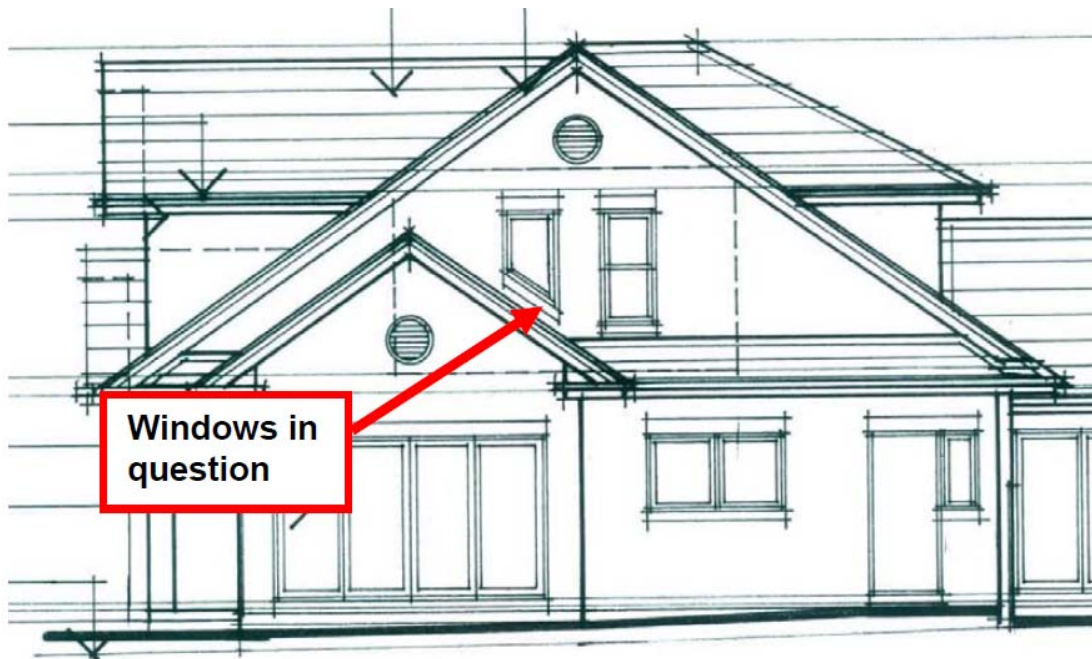
1. *Request for external shutters on the first floor windows that face No. 31 Lovell Street.*

Comment:

The only first floor windows are proposed in Villa 1 which fronts Lovell Road. The East Elevation has two windows which serve a bedroom.

The proposed location of Villa 1 is generally in line with the adjoining dwelling-house, and as such if overlooking was to take place from the first floor bedroom, in most cases it would be observing the roof of the adjoining dwelling, and unlikely to extend to the rear yard private open space area. Accordingly, it would be unreasonable to require the affixing of external shutters to the first floor bedroom window in the situation so described. The following diagram shows the windows on the first floor.

ITEM 3 (continued)



2. *Request for construction of a 300mm high lattice work on top of the existing fence on the common boundary with No. 31 Lovell Street.*

Comment:

The submitted Landscape Plan indicates that a lapped and capped timber fence will be erected around on the side and rear boundaries. The applicant confirms that the fence will be 1.8m high. Given that the rear two villas are single storey in height, and the site has minimal crossfall, there is not likely to be overlooking possibilities that could adversely impact upon the amenity of adjoining properties. However the applicant's Landscape Architect has advised that no objections are raised to a condition that would require an additional 300mm lattice on top of the fence to protect the residential amenity. Draft condition 18 in the approval option relates.

3. *General comments that the rear villa units will be in close proximity to existing chicken pens located at the rear of No. 31 Lovell Street, and there may be odour issues in wet weather.*

Comment:

It appears that the adjoining property has about 5 chickens. This is not a matter for consideration in the determination of the subject application. There are no design changes possible that could counter the likely impact from the poultry. Council's Environmental Health Officer advises that it is not possible to regulate domestic chicken numbers, although if there is a problem with odours and/or noise, then orders can be served upon the owner.

ITEM 3 (continued)

4. *Non-compliance with linear separation provisions of DCP.*

Comment:

The matter of non-compliance with the linear separation provisions of DCP 2010 are discussed in detail later in this report. In summary, a similar application has been lodged for the adjoining site at No. 35 Lovell Road (LDA2011/0504), and as such the proposal does not comply with the linear separation provisions of the DCP. Due to this non-compliance the application is recommended for refusal.

8. SEPP1 (or clause 4.6 RLEP 2010) objection required?

Not required.

9. Policy Implications
Relevant Provisions of Environmental Planning Instruments etc:
(a) Ryde Local Environmental Plan 2010
Zoning

R2 – Low Density Residential under Ryde Local Environmental Plan 2010.

The proposed development is a permissible form of development, with consent, within the R2 Low Density Residential zoning.

Mandatory Requirements

Ryde LEP 2010	Proposal	Compliance
4.3(2) Height		
9.5m	7.4m (Two-storey dwelling)	Yes
4.5A Density		
• 300m ² per 1,2,3br dwelling		
• 365m ² per 4+br dwelling		
Total required (3 x 300 = 900m ²)	981.0m ²	Yes

Aims and objectives for residential zones:

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

ITEM 3 (continued)

- To ensure that the general low density nature of the zone is retained and that development for the purposes of dual occupancy (attached) and multi dwelling housing (attached) do not significantly alter the character of a location or neighbourhood.
- To ensure that new development complements or enhances the local streetscape.
- To maintain on sites with varying topography the two storey pitched roof form character of dwelling houses and dual occupancy (attached) developments.
- To ensure that land uses are compatible with the character of the area and responsive to community needs.

Particularly relevant is the third last objective which requires a new development to complement or enhance the local streetscape.

The streetscape immediately surrounding the subject site is mostly characterised by well maintained dwelling houses that were, in the main, erected before World War II or shortly thereafter. However, there are some recently erected villa developments on the northern side of Lovell Road in proximity of the subject site.

Notwithstanding the number of free-standing dwelling-houses that were erected in the second half of last century, the proposed development with one, two-storey dwelling addressing the public domain, is considered to compliment the existing local streetscape.

From an urban design point of view, it is considered that the proposed development should enhance the existing, as well as the likely future streetscape of the locality.

Overall, the proposed development is considered to comply with the zone objectives.

(b) Relevant SEPPs

A compliant BASIX Certificate (No. 394822M dated 6 September 2011) has been submitted with the DA.

(c) Relevant REPs

No relevant plans.

(d) Any draft LEPs

No draft plans apply to the subject site.

ITEM 3 (continued)
(e) Any DCP (e.g. dwelling house, villa)

Ryde Development Control Plan 2010 (Part 3.5 - Multi Dwelling Houses) applies.

An assessment of the proposal against the provisions of the DCP follows:

DCP 2010	Proposed	Compliance
PART 2.0 – Site Analysis, Location Number and Type of Dwelling		
2.1 Site Analysis (SA)		
<ul style="list-style-type: none"> ○ Must have a SA ○ SA should relate dwellings (dwg) to surrounds + minimise amenity impacts 	Site analysis plan submitted	Yes
2.2 Minimum allotment size		
Area: (not <600m ²)	981.0m ²	Yes
Primary Frontage: (not <20m)	20.11m	Yes
Not hatchet shaped	Regular	Yes
2.3 Non-Preferred Locations		
Is the proposed development within a non-preferred location?	No	Yes
2.4 Linear Separation		
Is there any approved Villa, Duplex or Urban Housing development within double the frontage (or proposed frontage)?	Concurrent with the submission of the subject application, a similar application for multi dwelling development was lodged at No. 35 Lovell Road. This creates the potential of two adjoining multi dwelling developments.	No (See Note 1)
2.5 Retention of Existing Dwellings		
Retention of existing dwelling as part of a MDH will not be approved	Not to be retained	Yes
Exception may occur if heritage significant building or contributing item. Does it comply with Clause 2.5.1?	Not applicable	N/A
2.6 Density		
As per clause 4.5A RLEP2010 – which states: (a) Site Area: <ul style="list-style-type: none"> ○ 300m² per 1,2,3br dwg ○ 365m² per 4+br dwg 	3 x 3B: 900m ² Total required: 900m ² Site Area = 981.0m ²	Yes

ITEM 3 (continued)

DCP 2010	Proposed	Compliance
(b) Each dwg has its own POS and sep access to that space from unbuilt portion of site	Each dwelling has a private open space area that is accessible from both within the dwelling and from other portions of the site.	Yes
2.7 Number of Dwellings		
Not more than 12 Dwellings	3 dwellings proposed	Yes
2.8 Type of Dwellings		
If 4 or more dwellings on site, <75% with same number of bedrooms (rounded down) e.g. 6d= 4x3B + 2x2B	N/A	N/A
PART 3.0 Site Planning		
3.1 Slope of Site		
At least one dwelling must present to the street	Villa 1 presents to street	Yes
Slope must be <1:6 either up or down from street frontage	<1:6 slope The site has minimal fall to street (Approx 1%)	Yes
Cross-fall <1:14	<1:19 cross fall 1:30m max cross fall	Yes
3.2 Altering the Levels of the Site		
No imported Fill	None shown	Yes
<300mm Cut or Fill outside building envelope.	No identifiable areas of cut or fill outside of building footprint	Yes
No basement garages, minimal steps, minimal retaining walls	No basement garage	Yes
POS generally at NGL.	Private open space areas are at ground level	Yes
3.3 Storey and Height		
3.3.1 Storeys		
A MDH must be within single storey bldg.	Dwelling 1 is two-storey (Refer to next control). Dwellings 2 and 3 are single storey.	Yes
Dwg with frontage to street can be 2 storeys provided: <ul style="list-style-type: none"> o 2 st dwg not attached to any other 2 st dwg o 2 st dwg is suitable re streetscape 	Dwelling 1 is not attached to other two-storey dwelling and accordingly a two-storey development is permissible. Streetscape impact is acceptable.	Yes

ITEM 3 (continued)

DCP 2010	Proposed	Compliance
3.3.2 Height		
As per LEP Clause 4.3(2a) – which state the maximum height is: (a) for dwgs in bldg with no frontage to street – 6.5m	Villas 2 and 3 are located to the rear of the site. The overall height of these villas is 5.2m	Yes
(b) for dwgs with a frontage to street, if adj lots have dwgs that are <9.5m high – 8m	Ridge RL: 96.60 NGL below (min): RL: 89.20 Max height: 7.4m	Yes
3.4 Site Coverage		
Site coverage < 40% (753.44m ²)	37.0% (363.0m ²)	Yes
Pervious area > 35% (343.35m ²)	38.1% pervious area. (Planted & permeable paving area = 373.7m ²)	Yes
3.5 Setbacks		
3.5.1 Front Setbacks		
<u>Front Setbacks:</u> Similar to adjoining buildings - same as adjoining if <2m - Average if >2m	Proposed front setback: 7.5m - 7.74m Adjoining dwelling setback are: No. 31 = 8.3m No. 35 = 8.5m It is noted that a Development Application (LDA2011/0504) has been submitted concurrent with the subject application providing for redevelopment of No. 35 Lovell Road and providing for setback of 7.5m from the street.	No (See Note 4)
3.5.4 Side and Rear Setbacks		
Min 4.5m unless vehicular access is included in this area, then min 6m. Allow variation between 3-6m for less than 50% for visual interest	West side: 3.0m – 4.5m (45% setback less than 4.5m, but not less than 3.0m.) East side: 3.025m – 6.85m (15.0% setback less than 4.5m) Note: In areas where the driveway is proposed, the	Yes No (See Note 2)

ITEM 3 (continued)

DCP 2010	Proposed	Compliance
	setback is mostly a minimum of 6.25m which complies with this control. One small section of Dwelling 2 is setback 5.65m from the side boundary. This will not affect the useability of the driveway or detract from the appearance of the development. Rear boundary: 3.06m – 4.5m (59.4% setback less than 4.5m but not less than 3.0m)	No (See Note 3)
Must provide appropriate solar access.	Appropriate given site orientation	Yes
Ensure existing substantial trees not within proposed courtyard areas.	There are 8 trees presently growing on the subject site. The proposal involves retention of 3 trees. The 5 trees to be removed are various non-native, including Cyprus Trees and New Zealand Christmas Bush For further discussion on the existing trees please refer to comment upon Natural Environment later in this report.	Yes
3.5.5 Internal Setbacks		
Habitable room windows don't overlook	No close direct overlooking	Yes
9m separation between facing dwellings habitable room windows?	No facing windows.	Yes
3.6 Private Outdoor Space		
Min 30m ² for 2B Min 35m ² for 3+B	Villa 1: 39.35m ² Villa 2: 43.10m ² Villa 3: 108.65m ²	Yes
Min dimension 4m and generally at NGL	4m dimension provided.	Yes
Solar access: 50% for ≥2hrs	Due to the north-south orientation of the allotment, all private open space areas will receive a minimum of three	Yes

ITEM 3 (continued)

DCP 2010	Proposed	Compliance
	hours mid-winter solar access during the period 12.00noon to 3.00pm.	
Do not contain ex'g big trees	The private open space associated with Unit 3 contains an existing large Jacaranda tree. This tree, after removal of the adjacent Cypress, should remain healthy for a reasonable period of time. This tree will provide amenity benefits to the residents of the dwelling and as such the proposed retention is supported.	Yes
Access to courtyard other than through dwg?	Second access point to private courtyards provided either through the garage, the subject unit or gate to courtyard.	Yes
Securely enclosed (not roofed) + visible from living rooms	Securely enclosed – no roofing.	Yes
Not within front setback	At side or rear.	Yes
≥1.2m landscape strip between courtyard and adjoining property	The provided landscape strip varies in width between 1.0 and 1.2m. A condition of consent to require a 1.2m wide strip would be appropriate. See Condition 20 in the approval option.	Yes
3.7 Landscaping		
Landscaping plan required, existing trees retained in common areas?	A Landscape Plan has been submitted. There are 8 trees presently growing on the subject site. The proposal involves retention of 3 trees. The 5 trees to be removed are various non-native, including Cyprus Trees and New Zealand Christmas Bush For further discussion on the existing trees please refer to comment upon Natural	Yes

ITEM 3 (continued)

DCP 2010	Proposed	Compliance
only).	2890.1:2004	
Driveways Suitably paved, extent minimised, to avoid excessive amounts of hard paving.	Concrete driveway. Extent minimised.	Yes
Driveway Crossings Width: >10 spaces, max 6m Driveways <30% of frontage	<10 spaces. 5.5m wide driveway crossing. Driveway is 27.7% of frontage.	Yes Yes
3.9 Overshadowing and Access to Sunlight		
Habitable room windows face courtyard or other outdoor space open to the sky, no closer than 1.5m to facing wall.	All habitable room windows face outdoor space open to sky or courtyard. All windows are no closer than 1.5m to facing walls.	Yes
Sunlight to at least 50% of each courtyard, and principal ground level open space >2hrs between 9am and 3pm on June 21 or	All units will achieve at least 3 hrs of sunlight to 50% POS between 9am and 3pm. (Solar access will be between 12.00 noon and 3.00pm).	Yes
Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight must not be further reduced by more than 20%	Not applicable. Existing dwelling is single storey.	N/A
Shadow diagrams must indicate extent of shadowing within development and adjoining properties.	Shadow diagram indicates shadowing extent within development and over adjoining properties.	Yes
3.10 Visual and Acoustic Privacy		
Min 9m separation between facing habitable room windows	No facing habitable windows.	Yes
No direct views between living area windows or adjacent dwellings (otherwise screening or obscuring necessary)	No direct views between living area windows or adjacent dwellings.	Yes
Direct views from living areas to private open space of other dwellings should be screened or obscured within privacy sensitive zone of 12m radius.	No direct overlooking of adjoining private open space areas is possible. The side boundary landscaping comprises a mixture of shrubs	Yes






















ITEM 3 (continued)

DCP 2010	Proposed	Compliance
	with a mature height up to 3.0m. This, combined with the single level construction of the two rear units, should reasonably preclude any opportunity for overlooking of adjoining private open space areas.	
<ul style="list-style-type: none"> • No balconies. • Elevated landings (or similar associated with stairs into courtyard) max 1m wide 	None proposed. No elevated landings proposed.	Yes Yes
Living and sleeping areas protected from high levels of external noise?	No high levels of external noise exposure.	Yes
Noise levels of air con, pool pumps etc must not exceed background noise level by more than 5dB(A)	None shown on plans.	N/A
3.11 Accessibility		
3.11.1 Pedestrian Access		
Pedestrian access provided, separate to vehicle access where possible.	Appropriate pedestrian access provided. A separate path is provided from Lovell Road to Unit 1.	Yes
3.11.2 Access for People with Disabilities – Dev of 6 or more dwellings		
6 or more dwelling developments have min 35% of dwellings provide access to all indoor areas and outdoor living areas for people with disabilities (street, car parking and common areas accessed in one continuous path of travel)	Not applicable. (Less than 6 dwellings proposed)	N/A
Dwgs designed as per AS4299 must be able to access street, car parking and common areas using continuous path of travel.	Not applicable.	N/A
3.11.3 Access Audits		
For above such developments, an access audit must be submitted	Not applicable as development has less than 6 dwellings.	N/A

ITEM 3 (continued)

DCP 2010	Proposed	Compliance
PART 4.0 Building Form		
4.1 Appearance		
Complement streetscape	The proposed development is considered to complement the existing streetscape of Lovell Road.	Yes
Includes pitched roof, eaves, vertically oriented windows, verandahs, rendered and face brick	A variety of roof forms is proposed and there is articulation in the various elevations.	Yes
At least 1 dwg must face street	Unit 1 faces Lovell Road.	Yes
4.2 Ceiling Height		
Floor to Ceiling min 2.7m	All dwellings have a floor to ceiling height of 2.72m.	Yes
4.3 Roofscape and Roof Materials		
Pitch 22-30° (35° where 2 nd floor is within roof)	Unit 1 has a roof pitch of 35°. Units 2 and 3 have a roof pitch of 25°.	Yes
Min 300mm eaves overhang for roofs & verandas	A minimum 500mm eave overhang is proposed.	Yes
Gables to street frontage?	Gable design element included in roof design facing street.	Yes
Variation to roof line?	Variation to roof line.	Yes
Roof materials consistent with traditional ones in the street?	Monier Waverley "Barrumundi" colour concrete roof tiles are consistent with traditional style of street. Refer to circulated Schedule of External Finishes for colour details.	Yes
4.4 Building materials for Walls		
In keeping with the traditional materials for the locality. Detailing to break up large areas of wall adding interest and individuality	The external walls will be finished with cement rendering and painted the colour "Napa" which is a slightly deeper off white. The windows and window frames will be finished in "Anodic Off White".	Yes

ITEM 3 (continued)

DCP 2010	Proposed	Compliance																					
	<p>The external finishes are as follows:</p> <table border="1" data-bbox="759 477 1193 987"> <tr> <td data-bbox="759 477 916 551">RENDERED MAIN WALLS (PAINTED)</td> <td data-bbox="916 477 1072 551">Resene "Napa"</td> <td data-bbox="1072 477 1193 551"></td> </tr> <tr> <td data-bbox="759 551 916 624">WINDOW AND WINDOW FRAMES</td> <td data-bbox="916 551 1072 624">Airlite "Anodic Off White"</td> <td data-bbox="1072 551 1193 624"></td> </tr> <tr> <td data-bbox="759 624 916 698">ROOF TILES</td> <td data-bbox="916 624 1072 698">Monier Traditional "Barrumundi"</td> <td data-bbox="1072 624 1193 698"></td> </tr> <tr> <td data-bbox="759 698 916 772">GARAGE DOORS</td> <td data-bbox="916 698 1072 772">Colorbond "Evening Haze"</td> <td data-bbox="1072 698 1193 772"></td> </tr> <tr> <td data-bbox="759 772 916 846">GUTTERS</td> <td data-bbox="916 772 1072 846">Colorbond "Monument"</td> <td data-bbox="1072 772 1193 846"></td> </tr> <tr> <td data-bbox="759 846 916 920">EAVES</td> <td data-bbox="916 846 1072 920">Resene "Eighth Napa"</td> <td data-bbox="1072 846 1193 920"></td> </tr> <tr> <td data-bbox="759 920 916 994">TIMBER BARGEBOARDS, AND FASCIA</td> <td data-bbox="916 920 1072 994">Resene "Triple Napa"</td> <td data-bbox="1072 920 1193 994"></td> </tr> </table> <p>The proposed finishes are considered to be reasonable, and are likely to add interest to the local streetscape.</p>	RENDERED MAIN WALLS (PAINTED)	Resene "Napa"		WINDOW AND WINDOW FRAMES	Airlite "Anodic Off White"		ROOF TILES	Monier Traditional "Barrumundi"		GARAGE DOORS	Colorbond "Evening Haze"		GUTTERS	Colorbond "Monument"		EAVES	Resene "Eighth Napa"		TIMBER BARGEBOARDS, AND FASCIA	Resene "Triple Napa"		
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GUTTERS	Colorbond "Monument"																						
EAVES	Resene "Eighth Napa"																						
TIMBER BARGEBOARDS, AND FASCIA	Resene "Triple Napa"																						
Proportion of windows and other openings consistent with character of locality (windows generally 2:1 and 3:1 vertical proportion).	Window proportions consistent with character of locality.	Yes																					
4.5 Fences																							
4.5.1 Front fence																							
Max ht 1m, and 70% visually permeable	No front fence is proposed.	N/A																					
Materials compliment dwelling e.g. wooden pickets, masonry with infill panels, wrought iron or similar etc	(As above)	(As above)																					
4.5.3 Other boundary fences																							
Min ht 1.8m	1.8m	Yes																					
Lapped and capped timber	New timber lapped and capped fences are proposed.	Yes																					
4.6 Clotheslines and drying area																							
External clotheslines (not visible from adjoining properties or public areas)	External clotheslines are within the private courtyards and are not visible from adjoining properties or public	Yes																					

ITEM 3 (continued)

DCP 2010	Proposed	Compliance
	areas.	
Each dwelling must have its own laundry	Separate laundry provided for each dwelling.	Yes
4.7 Lighting		
Front yard lighting and lighting for the front of dwellings is to be provided	Not indicated on plans. A condition of consent would be appropriate. (See Condition 19 in the approval option.)	Yes
Location of external lighting must not have adverse affect on adjoining properties.	Not indicated on plans. A condition of consent would be appropriate. (See Condition 19 in the approval option.)	Yes
4.8 Garbage bin enclosures		
<ul style="list-style-type: none"> - For developments of 6 or more dwellings or where sites are steeply sloping or have a narrow street frontage a central garbage bin enclosure shall be provided behind the building line and suitably screened by landscaping. A plan indicating the design and location of the garbage bin enclosure must be submitted with the DA. 	<p>Each dwelling has an area suitable for storage of waste bins.</p> <p>The location of the bin storage areas within the private open space areas is considered acceptable, notwithstanding the need to take Dwelling 2's bins through the garage for collection.</p>	<p>Yes</p> <p>Yes</p>
PART 5.0 – Engineering		
Drainage		
Refer to Part 8.2 Storm water Management DCP 2010	Refer to Development engineers comments.	Yes
Part 9.6 – Tree Preservation		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway.	There are 8 trees presently growing on the subject site. The proposal involves retention of 3 trees. The 5 trees to be removed are various non-native, including Cyprus Trees and New Zealand Christmas Bush For further discussion on the existing trees please refer to comment upon Natural Environment later in this report.	Yes

ITEM 3 (continued)**Note 1:** *Linear separation*

The adjoining site (No. 35 Lovell Road) is the subject of a development very similar to the proposal. In the assessment of the subject application, relevant to linear separation, RDPC requires Council to take into consideration the effect of the proposed development of No. 35 Lovell Street. The adjoining development introduces non-compliance with the linear separation provisions of the DCP.

Ryde Development Control Plan 2010 at clause 2.4 provides objectives and controls relevant to separation of medium density developments in the following manner:

Objectives

1. *To ensure the dispersal of Multi dwelling housing (attached) development throughout the City of Ryde and that the general low density character of the Low Density Residential zone is retained;*
2. *To ensure that Multi dwelling housing (attached) developments are not the dominant form of development in an area and do not dramatically change the character of a location or neighbourhood.*

Controls

- a. *Multi dwelling housing (attached) developments in the Low Density Residential zone must be separated from other Multi dwelling housing (attached), Villa Homes, Urban housing, Duplex Building and Dual Occupancy (attached) developments in accordance with the following:*
- b. *If a Multi dwelling housing (attached) development, Villa Home, Urban housing Duplex Building or Dual Occupancy (attached) is erected, or is permitted by a development consent, on an allotment with a frontage to a street or road within the Low Density Residential zone, the Council will not consent to another Multi dwelling housing (attached) development on another allotment with frontage to that same street or road, in the same street block unless the two allotments are separated by a distance of at least:*
 - i. *Twice the distance of the frontage to the street of the existing or approved urban housing, villa, duplex, dual occupancy (attached) or multi dwelling housing (attached) development, **or***
 - ii. *Twice the distance of the frontage to the street of the proposed multi dwelling housing (attached) development*

whichever is the greater distance.

With the proposed development at No. 35 Lovell Road being described as a “multi dwelling housing” application of the controls in clause 2.4 (Linear Separation) of the DCP are triggered.

ITEM 3 (continued)

As the subject site is less than the minimum separation distances with respect to No. 35 Lovell Road, the proposed development fails to comply with the Linear Separation provisions of DCP 2010.

The applicant has submitted that application of the DCP's Linear Separation provisions are not reasonably justified in this case for the following reason:

It is submitted that such a provision is legally unenforceable as it seeks to override the provisions of Council's LEP which identify that multi-unit housing is permissible upon the site. In this regard the provisions of the LEP prevail in so far as any inconsistency.

The applicant is essentially saying that the *Environmental Planning and Assessment Act 1979* does not permit a development control plan to contain provisions that are:

- inconsistent with the provisions of an LEP.
- would prevent compliance with provisions of an LEP.

Whilst this may be a clinical understanding of the nominated part of Section 79C of the EP&A Act, the situation remains that the linear separation provisions of the DCP have been in force for a number of years and have been consistently applied by the Council.

It is acknowledged that under the forthcoming draft DCP 2011, it is likely to be recommended that the linear separation control be deleted. However, DCP 2011 will not come into force until draft LEP 2011 becomes effective. As there are a number of statutory steps that have to be undertaken before LEP 2011 becomes effective, it is reasonable to say that commencement of either LEP 2011 or DCP 2011 is not currently imminent.

On this basis, continued application of the linear separation provisions of DCP 2010, is proposed, with a resulting recommendation of refusal. However, if Council was to form the view that application of the linear separation provisions in respect of the proposed development was not warranted, a set of appropriate conditions of consent are provided as an option for Council in determination of the application.

As previously indicated, submitted concurrently with the subject application was an almost identical application for the adjoining site at No. 35 Lovell Road (LDA2011/0504). It was noted if the two sites were to be amalgamated, it should be possible to still achieve a development containing six dwellings, being three for each site, and at the same time overcome the current problem with linear separation. This option was raised with the applicant who responded in the following manner:

ITEM 3 (continued)

The answer to that question is twofold.

The first is that the properties are owned by two separate entities and the second is that we have legal advice to the effect that the Council's requirement is not enforceable.

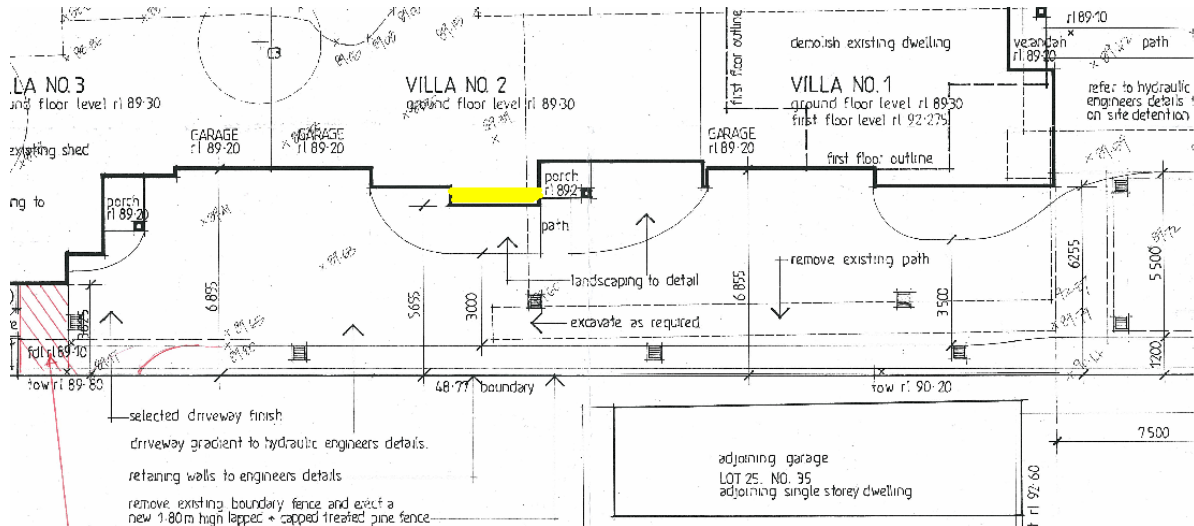
Hoping that this assists.

In view of this comment, the site amalgamation option was not further pursued with the applicant.

Note 2: Side boundary setback

The only departure from the DCP standard is where the driveway is proposed along the eastern side boundary. The proposed setback is mostly a minimum of 6.25m which complies with the minimum of 6.0m as contained in the DCP. However, one small section of Dwelling 2 is setback 5.65m from the side boundary.

The small section that is less than the required 6.0m is shown by yellow colour in the following diagram:

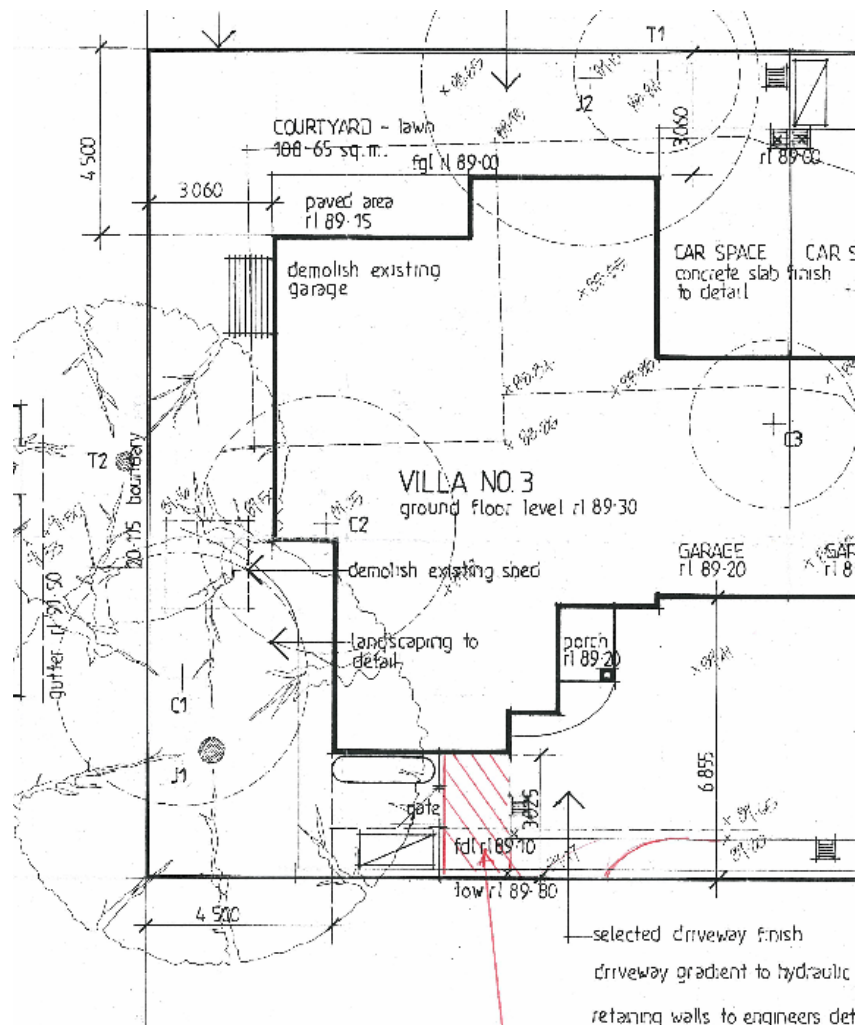


Given that the portion of the driveway that is less than 6.0m wide is quite short, and is not likely to adversely affect the functionality of the overall driveway, amending the design of the building so as to achieve the 6.0m driveway width is considered not necessary.

Note 3: Rear boundary setback

The proposed rear boundary setback is, as shown on the following diagram, between 3.06m and 4.5m.

ITEM 3 (continued)



The DCP control permits a maximum 50% of the rear boundary setback to be between 3.0m and 4.5m. However, 59.4% of the setback is between 3.0m and 4.5m. The degree of design modification required to achieve compliance with the DCP control is small, but from a practical point of view would have no identifiable change to the visual impact of the rear elevation, and may affect the functionality of Villa 3. Accordingly, it is recommended that this minor departure from the DCP controls be accepted.

Note 4: *Front setback distance*

DCP 2010 requires the front setback distance to be an average of the adjoining setback distances, which in this case are 8.3m and 8.5m.

The proposed front setback distance is 7.5m.

ITEM 3 (continued)

Section 3.5.1(c) of DCP 2010 provides Council with the ability to vary the front setback requirements in certain circumstances, notably when there is a likely change to the streetscape. The control states:

c. Council may vary this standard if it is satisfied that the existing streetscape is likely to change. In this situation the setback must be not less than 7.5m for 50% of the frontage and not less than 6.5m for 50% of the frontage.

Within the immediate locality there are recent developments as follows:

- No. 50 Lovell Road: Villa development with front setback in part 7.5m;
- No. 56 Lovell Road: Villa development with front setback being 7.5m;
- No. 70 Lovell Road: Dual occupancy development with front setback of 7.0m;
- No. 36 Lovell Road: Villa development with front setback distance being 8.0m; and
- No. 23 Lovell Road: Villa development with front setback distance of 7.5m.

Accordingly, there is a continual change to the existing streetscape whereby the front setback distance of 7.5m is becoming the preferred setback distance. The proposed development is following this streetscape trend and utilization of the provisions of part (c) of the DCP control is considered to be fair and reasonable.

Section 94 Contributions

The proposed development will result in the increase from one to three in the number of dwellings on the site. Whilst the application is recommended for refusal, if Council was to take up the option detailed in paragraph 16, and determine the application by way of approval, a condition of consent would be imposed under Council's Section 94 Contributions Plan as follows:

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

A	B (\$)
Community & Cultural Facilities	5,502.29
Open Space & Recreation Facilities	13,545.48
Civic & Urban Improvements	4,607.20
Roads & Traffic Management Facilities	628.56
Cycleway	392.54
Stormwater Management Facilities	1,248.06
Plan Administration	105.83
Total	\$ 26,029.97

ITEM 3 (continued)

This contribution has been calculated on the basis of the contribution rates current for December 2011.

Condition 11 in the approval option, relates to the payment of the above contributions.

10. Likely impacts of the Development

(a) Built Environment

Other than non-compliance with side, rear and front boundary setbacks, which have been identified as minor and not likely to affect the functionality of the development, the only other identified area of non-compliance with the RDCP 2010 is the matter of linear separation.

The proposed development, is not likely to have any unacceptable impacts on the existing built environment or the amenity of the surrounding area. The development presents to the public domain of Lovell Road as a two-storey dwelling and this is consistent with the likely future character of the locality.

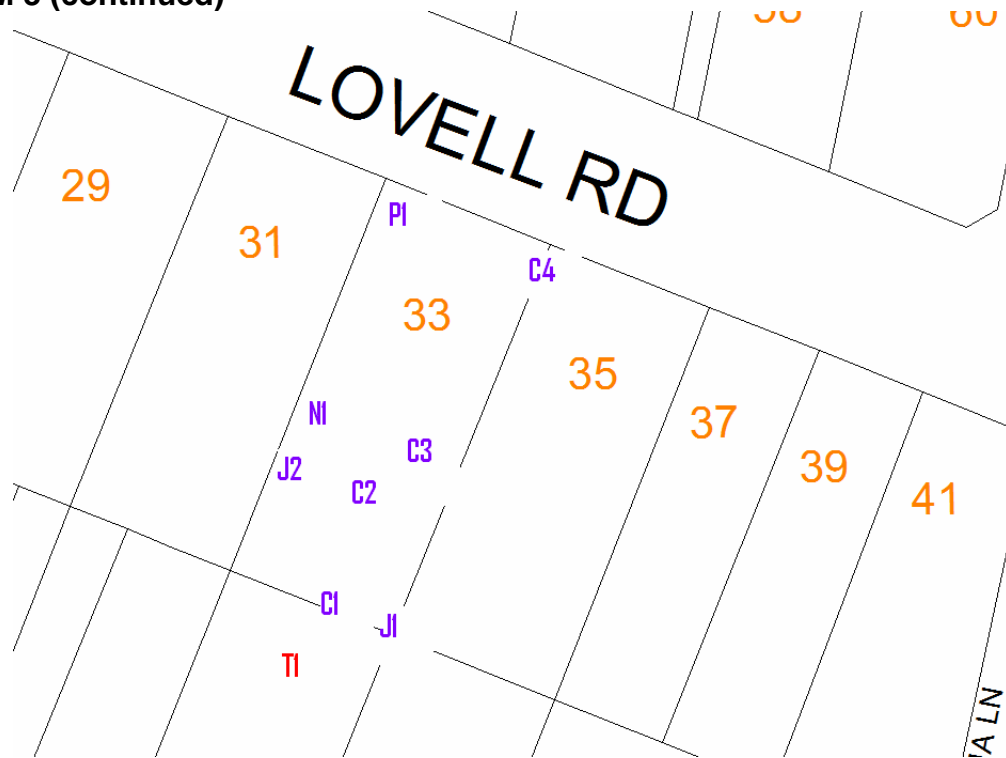
Other than for the proposed villa development on the adjoining site at No. 35 Lovell Road, the streetscape surrounding the subject site is generally characterised by free-standing dwelling-houses, many being erected before World War II. Whilst the free-standing dwelling-house will remain into the future as the dominant, but not exclusive, form of development in the locality, the existing and proposed multi-dwelling housing developments represent a widening of housing options available to the local community, whilst, subject to conditions of consent, still preserving the amenity of nearby residents.

Although the proposal will provide increased housing choice in the neighbourhood, in view of non-compliance with the linear separation provision of DCP 2010, the application is recommended for refusal.

(b) Natural Environment

There are 8 trees presently growing on the subject site. The proposal involves retention of 3 trees. (Trees J1, P1 and C4) The following drawing locates the trees:

ITEM 3 (continued)



An Arborist's Report addressing all trees forms part of the application.

The following table addresses each tree and draws on the information provided within the Arborist's Report.

Tree No.	Species	Height	Remove/Retain	Comments
J1	Jacaranda (<i>Jacaranda mimosifolia</i>)	10m	Retain	The tree is semi mature and canopy appears green and in good condition. The specimen is multi-trunked and has a lean towards neighbouring property. A Bougainvillea vine is growing up the trunk and in the canopy. The Cypress located behind the Jacaranda is affecting its growth by preventing sunlight reaching its foliage. With removal of the Cypress tree, the Jacaranda tree should reasonably survive.
C1	Butan Cypress (<i>Cupressus torulosa</i>)	10m	Remove	The cypress canopy is thinning and doesn't appear to be in full vigour. Vine can be seen growing within two sections of the canopy.

ITEM 3 (continued)

Tree No.	Species	Height	Remove/Retain	Comments
				The trunk branches into three main leaders at approximately three metres in height. It is a possibility that structural weakness could be present within this section.
C2	Butan Cypress (<i>Cupressus torulosa</i>)	10m	Remove	This cypress has been pruned previously to prevent damage to existing garage. Deadwood and stubs are present in the lower sections of the trunk. Bougainvillea vine is growing also within the lower sections of the canopy. The trunk has a lean and is located within 3m of the development.
J2	Jacaranda (<i>Jacaranda mimosifolia</i>)	8m	Remove	Jacaranda is semi mature and appears to be in reasonable health. The canopy hangs over the fence towards the neighbouring house. The trunk has a considerable lean and in the event of failure would cause damage to neighbouring house.
C3	Butan Cypress (<i>Cupressus torulosa</i>)	9m	Remove	Is located in middle of site and affected by proposal.
N1	New Zealand Christmas Bush (<i>Metrosideros thomasi</i>)	5m	Remove	Is affected by the proposed development.
P1	Pine (<i>pinus spp</i>)	5m	Retain	
C4	Butan Cypress (<i>Cupressus torulosa</i>)	12m	Retain	

In addition there is a tree growing near the rear boundary, but in adjoining property. This tree is a Tallwood (*Eucalyptus microcorys*). The tree appears to be in good health and vigour. Its trunk is located greater than 3m from the foundations of the proposed development and will not be adversely affected by the building process.

The removal of the identified trees is considered acceptable and will not adversely affect the amenity of the locality.

ITEM 3 (continued)

11. Suitability of the site for the development

A review of Council's map of Environmentally Sensitive Areas (held on file) identifies that there are no environmental constraints affecting the subject property.

12. The Public Interest

The proposed development is considered likely to adversely impact upon the public interest, due to non-compliance with the linear separation provisions of DCP 2010.

13. Consultation – Internal and External

Internal Referrals

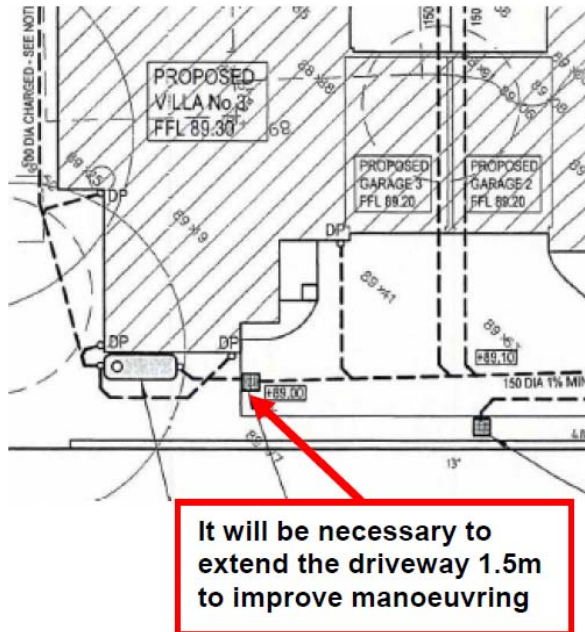
Development Engineer (20 October 2011): The Development Engineer has provided the following comments:

The subject property has gradient falling towards north western corner of the site.

The drainage plan indicates an underground concrete OSD tank which is draining to Lovell Road. Details provided are satisfactory subject to minor amendment marked in red.

The manoeuvring of vehicles out of the garage of unit 3 will have some problems. The architectural plans have been amended to reduce the landscaping strip opposite the garage of unit 3 and increase the driveway towards the proposed water tank of unit 3, so that vehicles have more area to manoeuvre and exit in a forward direction. This part of the driveway can be provided with grass-crete or similar porous paving. This is demonstrated on the following diagram.

ITEM 3 (continued)



The BASIX report requires 2000 litre water tanks for each unit with 85m² (unit 3) and 70m² (units 1 & 2) of roof areas connected to each. This has been provided.

A 5.5m wide driveway off Lovell Road has been provided for the development. The driveway gradients proposed are satisfactory and comply with Australian Standards AS 2890.1. There will be cut (~700mm) along the eastern boundary.

No objections are raised to the approval of the DA subject to the attached conditions and amendments marked in red.

External Referrals

Nil

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

Adoption of the recommendation contained in this report will have no financial impact.

ITEM 3 (continued)

16. Other Options

As previously detailed, the application does not comply with the linear separation provisions of DCP 2010, and accordingly the application is recommended for refusal.

If the linear separation provisions were, for the moment, put to one side, the only other remaining areas of non-compliance with DCP 2010 controls are:

- Slight departure from required rear boundary setback distance.
- Slight departure from required eastern side boundary setback distance.
- Slight departure from required front boundary setback distance.

These issues have previously been discussed, and on their own, either singularly or collectively, are considered not to be such as to cause the application to fail.

The likely future exclusion of linear separation controls within DCP 2011 has previously been discussed, however, the future content of DCP 2011 is not finalised, and implementation of DCP 2011 is not imminent.

However, the option of approval of the application is made available to Council, and to this end a draft set of conditions relevant to this option are contained in Attachment 1.

17. Conclusion

The proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning and Assessment Act, 1979. The proposal has some areas of non-compliance with controls detailed in Part 3.5 of DCP 2010, namely:

- Slight departure from required rear boundary setback distance.
- Slight departure from required eastern side boundary controls.
- Slight departure from required front boundary setback distance.
- Linear separation controls.

It is noted that the design responds, in a positive manner, to the constraints of the site.

The application was advertised and two (2) submissions were received. The issues raised in the submissions have been discussed and relevant comments provided.

Based upon non-compliance with the linear separation provisions of DCP 2010, the application is recommended for refusal. The other variations to the DCP are minor and should not result in any adverse impacts.

ITEM 3 (continued)

ATTACHMENT 1

GENERAL

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

Approved Plans

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

Document Description	Date	Plan No/Reference
Architectural Plans prepared by G & A Draftline	14 August 2011	1011/11-1-4 to 1011/11-4-4 (incl)
Stormwater Concept Plans prepared by Storm Civil	2 September 2011	D1 to D4 (Issue A)
Landscaping Plan prepared by Peta Gillard Landscape Design	12 August 2011	L001(A)
Arborist's Report prepared by Vic's Tree Service	18 May 2011	

Prescribed Conditions

2. All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. Compliance with all commitments listed in BASIX Certificate(s) numbered 394822M, dated 6 September 2011.

Protection of Adjoining and Public Land

4. Hours of work
Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
5. The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.

Stormwater

6. **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 1999 and City of Ryde Development Control Plan 2010 Section 8* except as amended by other conditions.

ITEM 3 (continued)

ATTACHMENT 1

7. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
8. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
9. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No drainage work shall be carried out on the footpath without this permit being paid and a copy kept on the site.

Imported fill

10. All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.

PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

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

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

ITEM 3 (continued)

ATTACHMENT 1

A – Contribution Type	B – Contribution Amount (\$)
Community & Cultural Facilities	5,502.29
Open Space & Recreation Facilities	13,545.48
Civic & Urban Improvements	4,607.20
Roads & Traffic Management Facilities	628.56
Cycleways	392.54
Stormwater Management Facilities	1,248.06
Plan Administration	105.83
The total contribution is	26,029.97

These are contributions under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 16 March 2011.

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

A copy of the Section 94 Development Contributions Plan may be inspected at the Ryde Planning and Business Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

12. The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
13. The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan (**category: other buildings with delivery of bricks or concrete or machine excavation**)
14. The following fees must be paid to Council in accordance with Council's Management Plan:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy

ITEM 3 (continued)

ATTACHMENT 1

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

Road Opening Permit

16. The Council must be provided with evidence that there has been compliance with all matters that are required by the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993 to be complied with prior to issue of the **Construction Certificate**.
17. The development must be acoustically designed and constructed to meet the relevant provisions of Australian Standard AS 2107:2000 *Recommended design sound levels and reverberation times for building interiors*. Written endorsement of compliance with these requirements must be obtained from a suitably qualified person.

Fencing

18. Fencing is to be in accordance with Council's Development Control Plan and details of compliance are to be provided in the plans for the **Construction Certificate**. The side boundary fence between the subject site and No. 31 Lovell Street shall be a minimum of 1.8m high shall contain an additional 300mm high lattice on top of the fence. Details are to be shown on the Construction Certificate drawings, and shall be at no cost to the adjoining owner.

Lighting of Common Areas (driveways etc)

19. Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.
20. The width of the landscape strip along the eastern and southern boundary within each courtyard is to be increased to 1.2m wide. Details are to be submitted on the Construction Certificate plans.
21. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.
22. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. 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 centreline of the public road to the garage floor, and any necessary cross-sections clearly demonstrating that the driveway complies

ITEM 3 (continued)

ATTACHMENT 1

with the above details, and that vehicles may safely manoeuvre within the site without scraping shall be submitted with the Construction Certificate application.

23. **Manoeuvring Area.** The southern end of the driveway near unit 3 shall be extended by 1.5m to the south to provide additional room for vehicles to manoeuvre and exit in a forward direction. This area shall be paved with grass crete or similar porous paving. The landscaping area adjoining shall be reduced as amended in red on the architectural plan Job No 1010/11>1>4 dated 27 July 2011 prepared by G + A Draftline. Prior to issue of the Construction Certificate, all plans shall be amended to reflect these amendments.
24. **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 City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management.

Accordingly, revised engineering plans prepared by a qualified engineer shall be submitted with the construction certificate application, addressing, but not be limited to the following:

- a. Design the orifice size using the correct head within the detention basin.

The pipes, down pipes and gutters are to be designed to carry the 100 year ARI 5 minute storm flow from roof areas to the detention basin. Runoff which enters the site from upstream properties should not be redirected in a manner which adversely affects adjoining properties.

25. **Water Tank First Flush.** A first flush mechanism is to be designed and constructed with the water tank system. Details of the first flush system are to be submitted with the construction certificate application.
26. **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 Landcom. 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

ITEM 3 (continued)

ATTACHMENT 1

- (k) Procedures for maintenance of erosion and sediment controls
- (l) Details for any staging of works
- (m) Details and procedures for dust control.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

Prescribed Conditions

27. Site Sign

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

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

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

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

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

ITEM 3 (continued)

ATTACHMENT 1

Safety Fencing

30. The site must be fenced throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.
31. **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.
32. **Compliance Certificate.** A Compliance Certificate should be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and City of Ryde, Development Control Plan 2010: - Part 8.1; Construction Activities
33. **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 Public Works Division. Kerbs shall not be returned to the alignment line. Bridge and pipe crossings will not be permitted.

DURING CONSTRUCTION

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

Critical stage inspections

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

Noise and vibration

35. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations.
36. 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.

ITEM 3 (continued)

ATTACHMENT 1

Survey of footings and walls

37. All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
38. No sediment, dust, soil or similar material shall leave the site during construction work.
39. Excavated material must not be reused on the property except as follows:
 - (a) Fill is allowed under this consent;
 - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (c) the material is reused only to the extent that fill is allowed by the consent.
40. All materials associated with construction must be retained within the site.

41. Site Facilities

The following facilities must be provided on the site:

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

42. Site maintenance

The applicant must ensure that:

- (a) approved sediment and erosion control measures are installed and maintained during the construction period;
 - (b) building materials and equivalent are stored wholly within the work site unless an approval to store them elsewhere is held;
 - (c) the site is clear of waste and debris at the completion of the works.
43. At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

Tree Protection

44. This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or otherwise necessary as a result of construction works approved by this consent.
45. Trees that are shown on the approved plans as being retained must be protected against damage during construction.
46. Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.

ITEM 3 (continued)

ATTACHMENT 1

47. A Consultant Arborist must be appointed to oversee all works, including demolition and construction, in relation to the trees identified for retention on the site.
48. Council is to be notified, in writing, of the name, contact details and qualifications of the Consultant Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.

Drop-edge Beams

49. Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

Prescribed Condition

50. The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 392311, dated 1 September 2011.
51. All landscaping works approved by condition 1 are to be completed.
52. The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent.

Sydney Water

53. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

ITEM 3 (continued)

ATTACHMENT 1

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

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Interim/Final Occupation Certificate.

54. An **Occupation Certificate** must be obtained from the Principal Certifying Authority (PCA) and a copy furnished to Council in accordance with Clause 151 of the Environmental Planning and Assessment Regulation 2000 prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

Letterboxes and street/house numbering

55. All letterboxes are to be designed and constructed to be accessible from the public way. Council must be contacted in relation to any specific requirements for street numbering.
56. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
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 or access grate. The wording on the marker plate is described in City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. An approved plate may be purchased from Council's Customer Service Centre on presentation of a completed City of Ryde OSD certification form.
58. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels **is to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA.
59. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Job No 107033 Drawing D1 to D4 dated 18/8/11 Issue A prepared by Storm civil engineering Solutions.
60. **Footpath Paving Construction.** The applicant shall, at no cost to Council, replace any damaged concrete path paving across the frontage of the property.

ITEM 3 (continued)

ATTACHMENT 1

61. **Compliance Certificates – Engineering.** Compliance Certificates should 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 driveway is constructed in accordance with the construction plan requirements and Ryde City Development Control Plan 2010: - Part 8.3; Driveways.
 - Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management
 - 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.
 - Confirming that the vehicular crossing has been removed and the kerb and gutter have been constructed in accordance with Council's *Environmental Standards Development Criteria -1999 section 4*
 - Confirming that damaged footpath paving has been reconstructed in accordance with Council's *Environmental Standards Development Criteria -1999 section 4*
62. **Positive Covenant, OSD.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Stormwater Detention Systems and to the satisfaction of Council.

POST OCCUPATION CERTIFICATE

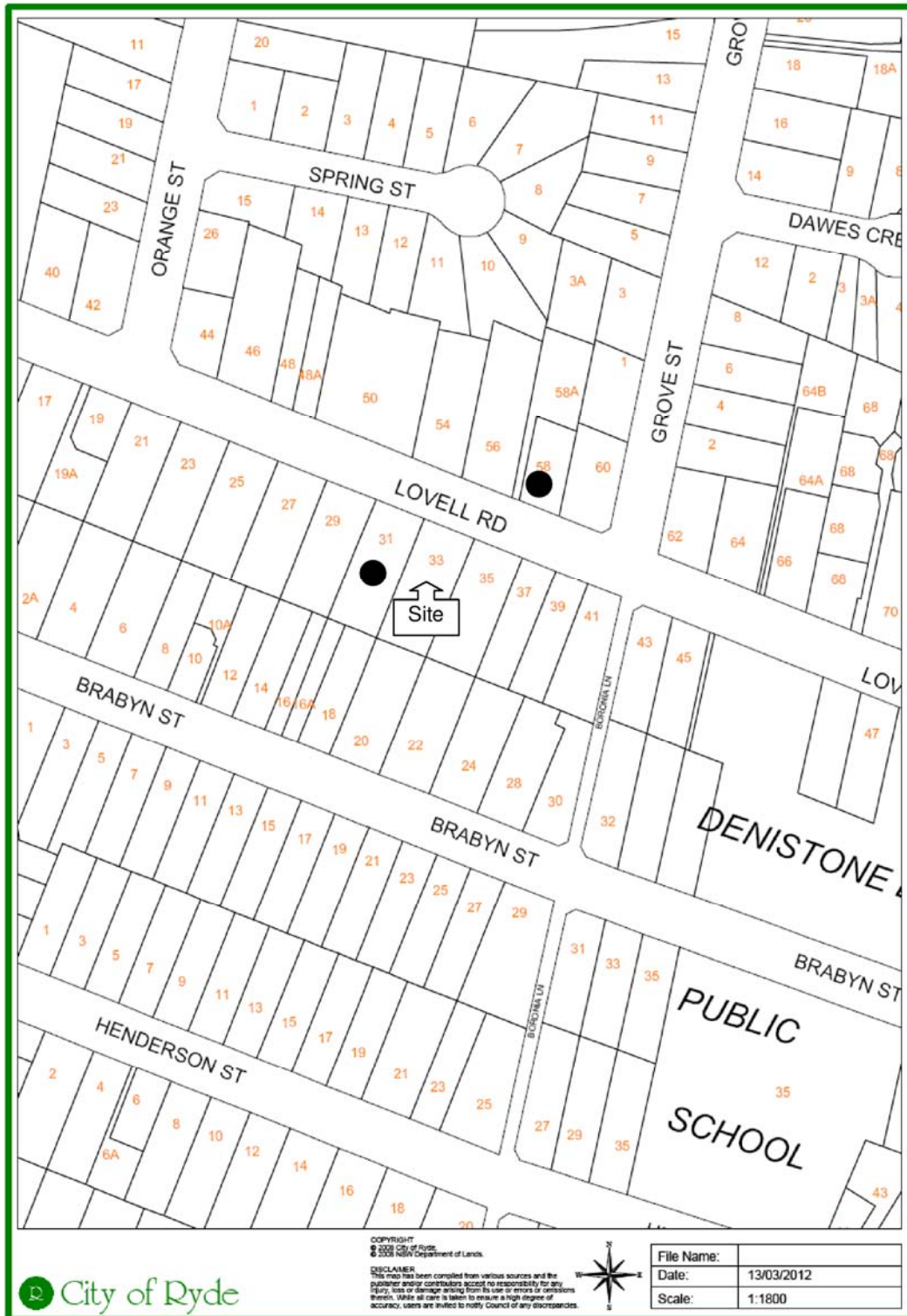
63. Within 2 days of issuing a final Occupation Certificate, the Principal Certifying Authority (PCA) is required to generate a BASIX Completion Receipt in accordance with the provisions of the EP & A Regulation 2000. The PCA is to refer to the BASIX Completion Receipt tool at www.basix.nsw.gov.au/administration/login.jsp in order to generate the BASIX Completion Receipt and a printed copy of the receipt is to be placed on the PCA file.

End of consent

ITEM 3 (continued)

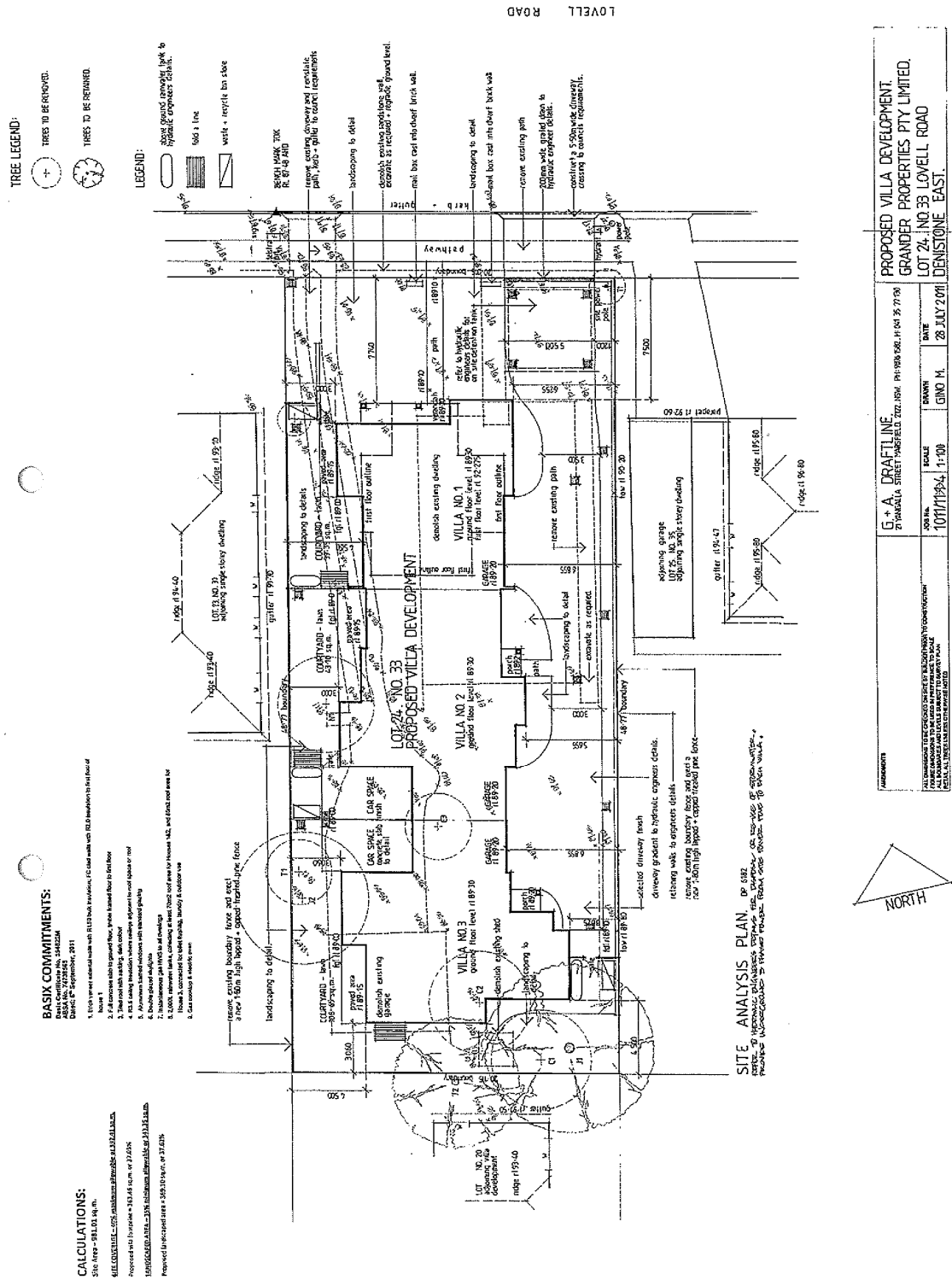
ATTACHMENT 2

 Indicates submissions received



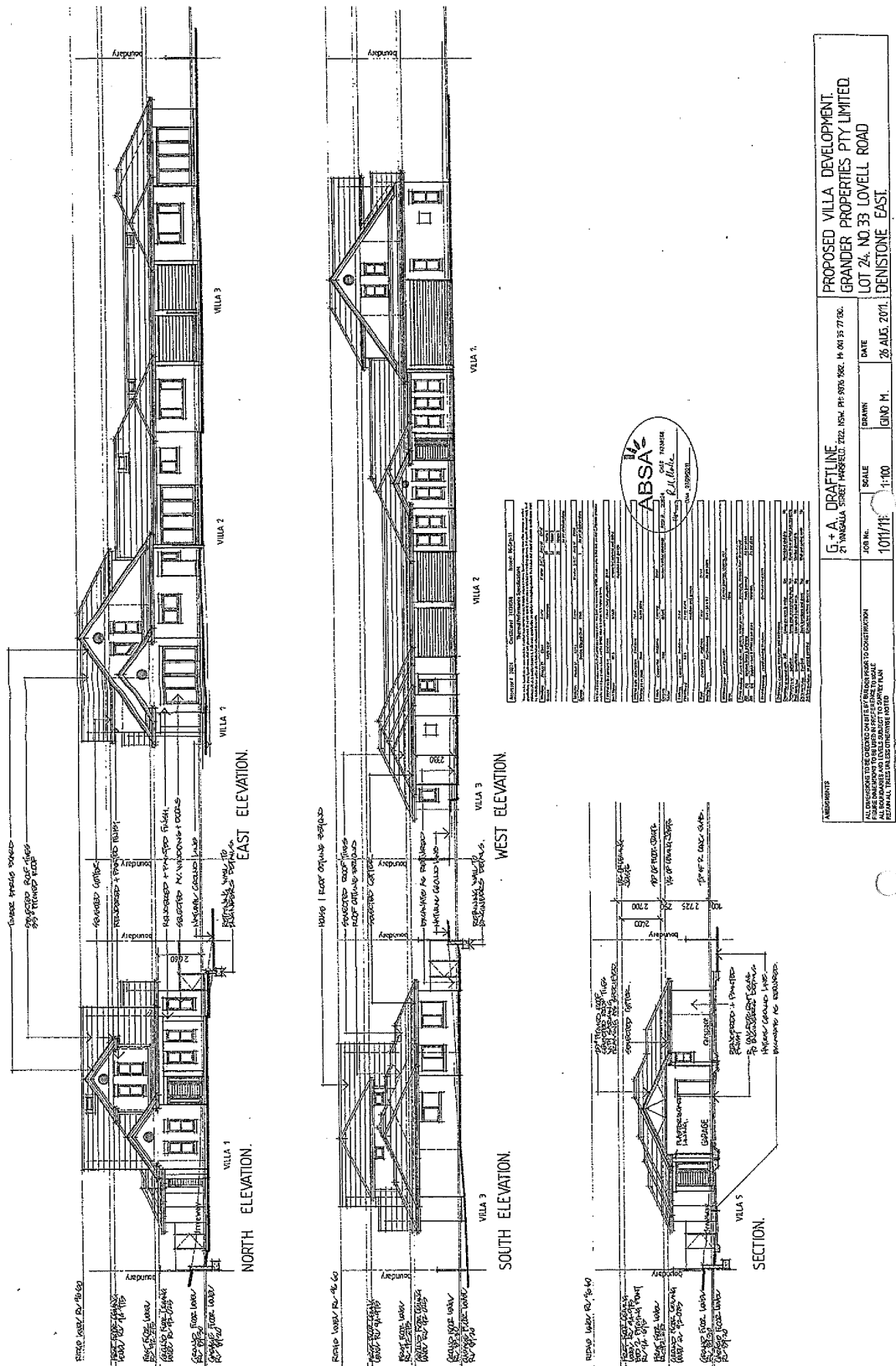
ITEM 3 (continued)

ATTACHMENT 3



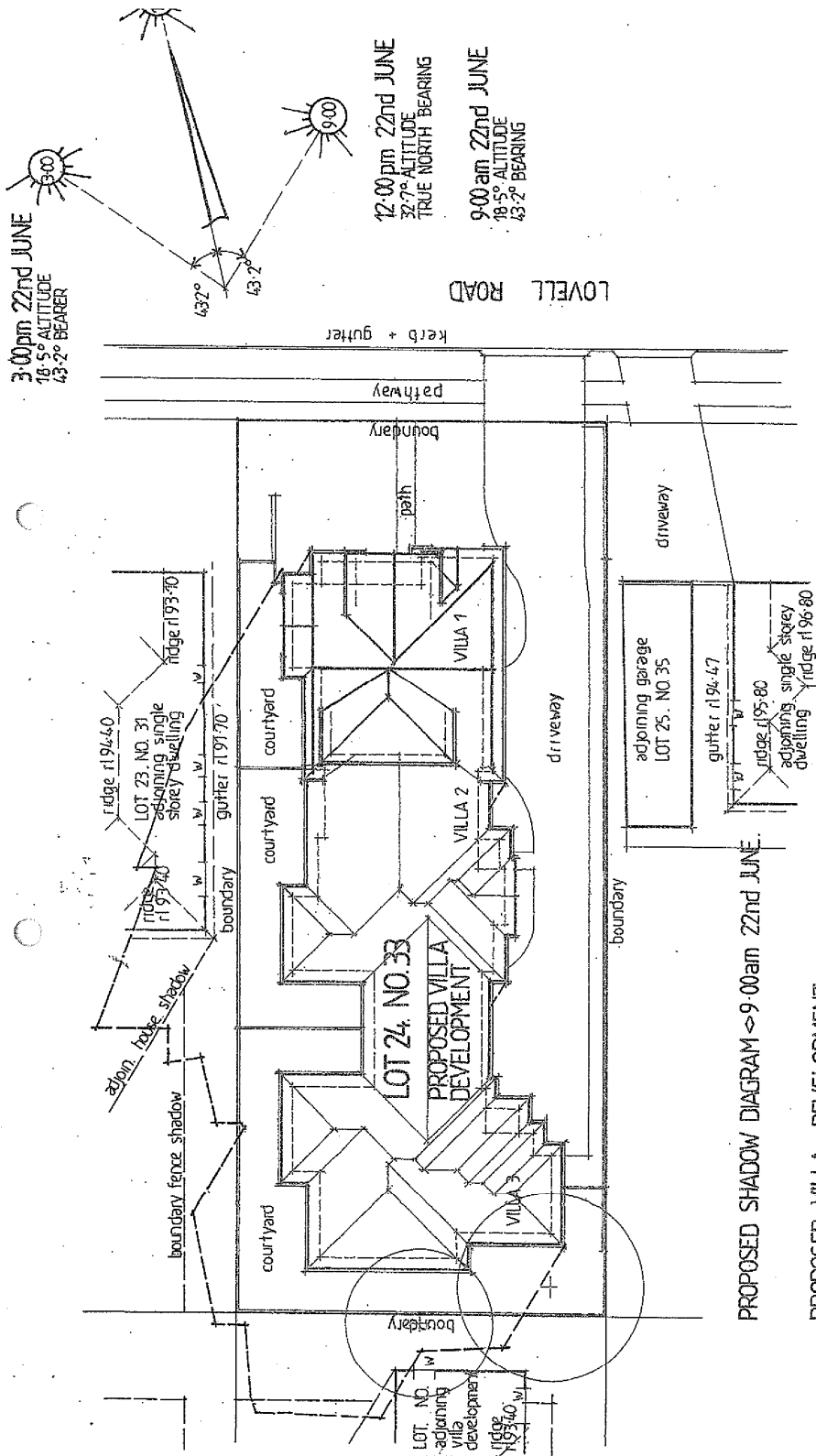
ITEM 3 (continued)

ATTACHMENT 3



ITEM 3 (continued)

ATTACHMENT 3



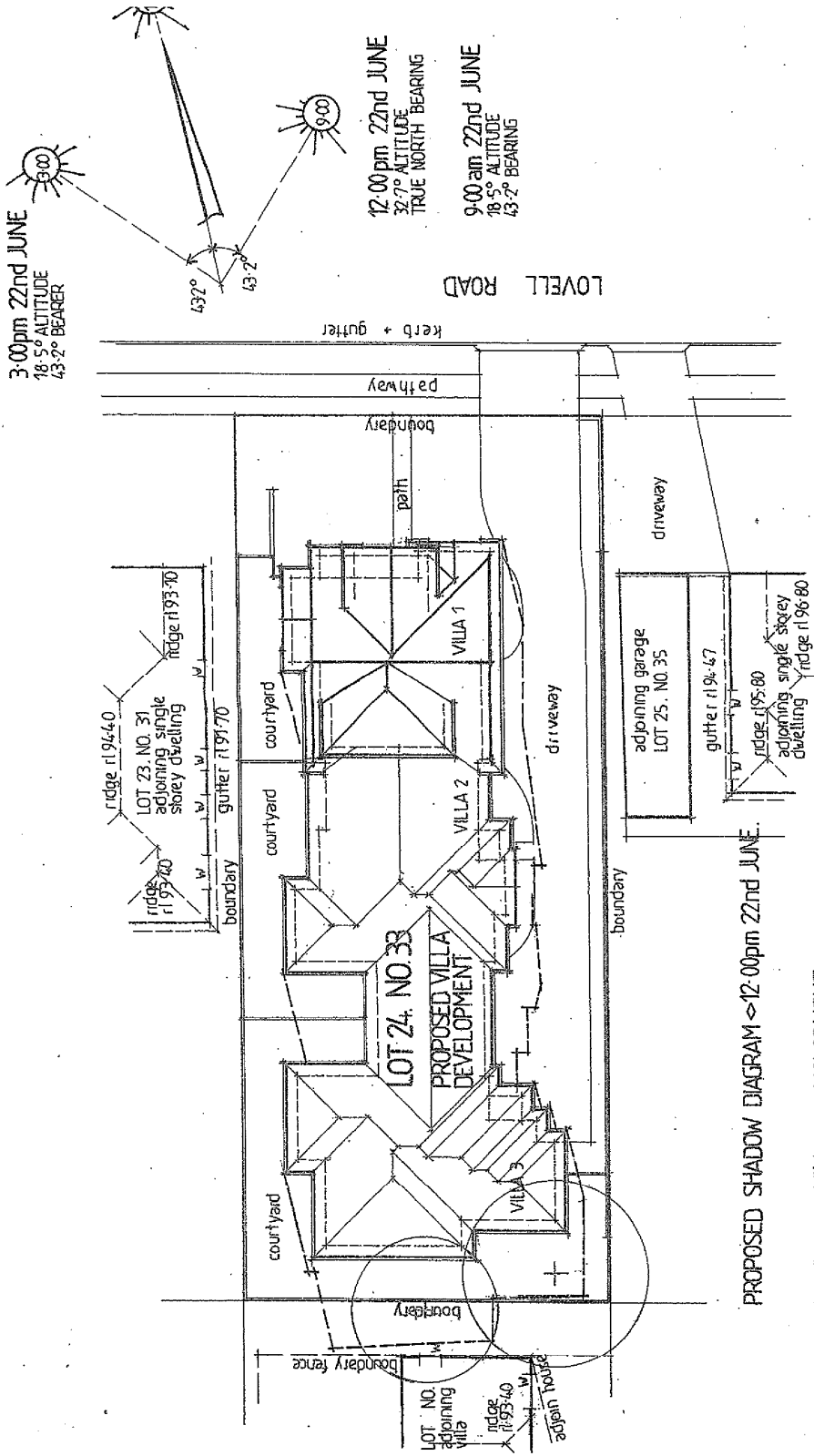
PROPOSED SHADOW DIAGRAM @ 9:00am 22nd JUNE.

PROPOSED VILLA DEVELOPMENT.
GRANDER PROPERTIES PTY LTD.
LOT 24, NO. 33 LOVELL ROAD DENISTONE EAST.

G. + A. DRAFTERLINE,
21 YANGALLA STREET MARSFIELD, 2122. NSW. PH: 9876 1582. M: 041 35 77 150.
scale 1:200 date 30 AUG. 2011 drawn by: GINO M. job no. 1011/11 → 1 → 3

ITEM 3 (continued)

ATTACHMENT 3

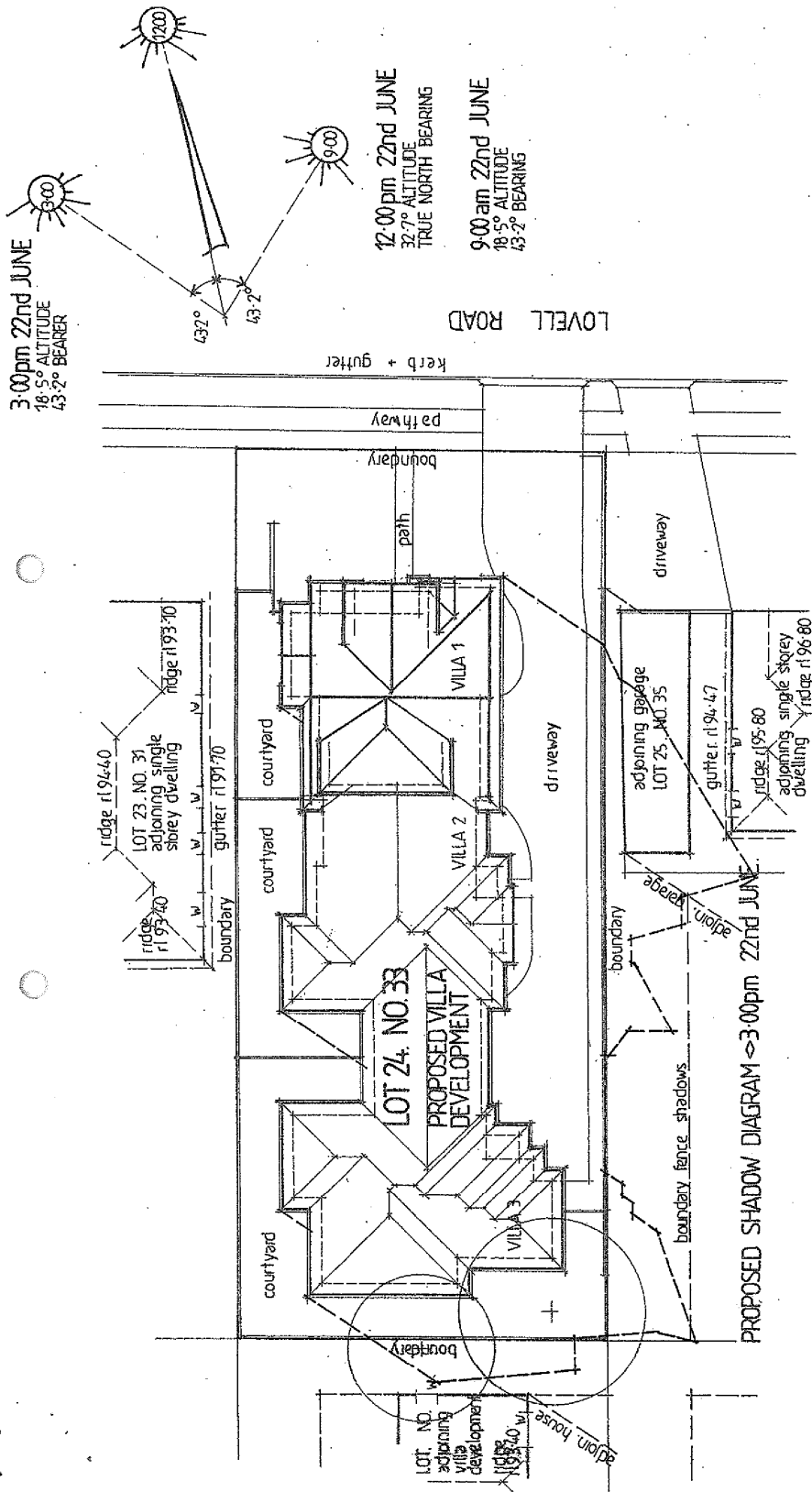


PROPOSED SHADOW DIAGRAM \approx 12:00pm 22nd JUNE.
 PROPOSED VILLA DEVELOPMENT
 GRANDER PROPERTIES PTY LTD.
 LOT 24, NO. 33 LOVELL ROAD DENISTONE EAST.

G. + A. DRAFTLINE.
 21 YANGALLA STREET MARSFIELD, 2122, NSW, PH: 9676 1582, M: 041 35 77 190.
 scale 1:200 date 30.AUG.2011 drawn by: GINO M. job no. 1011/11 >2 >3

ITEM 3 (continued)

ATTACHMENT 3



PROPOSED VILLA DEVELOPMENT.
GRANDER PROPERTIES PTY LTD
LOT 24, NO. 33 LOVELL ROAD DENISTONE EAST.

G. + A. DRAFTLINE
21 YANGALLA STREET MARSFIELD, 2122, NSW, PH: 9876 1582, M: 04 35 77 150.

scale 1:200 date 30 AUG. 2011 drawn by: GINO M. job no. 1011/11 → 3 → 3

- 4 **35 LOVELL ROAD, DENISTONE EAST. LOT 25 DP 6182. Local Development Application for multi dwelling (attached) development containing three villa homes (1 X 3 bedroom two storey villa at the front, 2 X 3 bedroom villas at the rear). LDA2011/0504.**

INSPECTION: 4.40pm

INTERVIEW: 5.10pm

Report prepared by: Consultant Town Planner; Team Leader - Major Development Team

Report approved by: Manager Assessment; Group Manager - Environment & Planning

Report dated: 12/03/2012 **File Number:** GRP/12/5/5/3 - BP12/260

1. Report Summary

Applicant: Emperor Consultant P/L.

Owner: J A L Carlino, S J Carlino.

Date lodged: 21 September 2011.

This report considers a proposed development to erect multi dwelling housing (attached) containing 3 dwellings on the subject site. The dwellings will consist of a two-storey, 3 bedroom dwelling at the front and 2 x 3 bedroom single storey dwellings at the rear.

The proposal has the following areas of non-compliance with controls in Part 3.5 of DCP 2010, namely:

- Linear separation controls;
- Side boundary setback on the eastern side of the allotment; and
- Rear boundary setback distance.

These issues are addressed in detail in this report.

The application was advertised in the Ryde City View insert in the Northern District Times dated 26 October 2011 and owners of surrounding properties were given notice of the application. In response **two submissions** were received. One submission objected to the proposal on the grounds of non-compliance with the linear separation provisions of the DCP. The other submission listed concerns as to loss of amenity in an adjoining dwelling, and sought the imposition of conditions that required the construction of a number of noise mitigation works. Comments on the submissions are provided in this report.

The application is **recommended for refusal** on the basis of non-compliance with the linear separation provisions of DCP 2010, however, options in respect of determination of the application are provided for Council's consideration.

ITEM 4 (continued)

Reason for Referral to Planning and Environment Committee: Nature of application and identified areas of non-compliance with DCP 2010.

Public Submissions: Two (2) submissions were received objecting to the development.

SEPP 1 (or clause 4.6 RLEP 2010) objection required? Not Applicable.

Value of works? \$700,000

A full set of the plans is **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors - subject to copyright provisions.

RECOMMENDATION:

- (a) That Local Development Application No. 2011/504 at No. 35 Lovell Road, Denistone East, being Lot 25, DP 6182, be refused for the following reasons;
 - (i) The proposed development does not comply with the provisions of Ryde Development Control Plan 2010 (DCP) in respect of linear separation. (Control 2.4 of Part 3.5 of the DCP relates)
 - (ii) Consent to the application would not be in the public interest.

- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Draft Conditions of Consent
- 2 Map
- 3 A4 Plans
- 4 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Bob Tillott
Consultant Town Planner

Sandra Bailey
Team Leader - Major Development Team

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 4 (continued)

2. Site (Refer to attached map.)

Address : 35 Lovell Road, Denistone East

Site Area : Site area: 981.0m²
Frontage 20.11 metres
Depth 48.77 metres

Topography and Vegetation : The subject site is located on the southern side of Lovell Road, just west of the intersection of Lovell Road and Grove Street. There is a fall from the rear boundary to the street. The fall is approximately 0.9m over 48.7m. There is minimal crossfall.

There are nine (9) trees presently growing on the site. All trees are noxious and introduced species. The trees include Mulberry, Olive, Privet, Oleander, Pine and Crepe Myrtle. The proposed development involves removal of all existing trees.

Existing Buildings : A single storey dwelling-house together with small outbuilding. The following aerial photograph details the subject site:



ITEM 4 (continued)**Planning Controls**

- Zoning** : R2 – Low Density Residential under Ryde Local Environmental Plan 2010.
- Other** : (a) Environmental Planning & Assessment Act 1979
(b) State Environmental Planning Policy - Building Sustainability Index (BASIX) 2004
(c) City of Ryde Development Control Plan 2010

3. Councillor Representations

Nil.

4. Political Donations or Gifts

Any political donations or gifts disclosed? No

5. Proposal

Erection of a multi dwelling (attached) development containing 3 dwellings. These dwellings will consist of a two-storey, 3 bedroom dwelling at the front and 2 x 3 bedroom single storey dwellings at the rear.

Dwelling 1 will contain a double garage. Dwellings 2 and 3 will contain a single garage with a car space behind the respective garage.

The combined vehicular access and driveway is located on the eastern side of the property. This permits the designing of courtyards along the western boundary of the site.

6. Background

On 14 March 2011 an application for erection of 5 x 3 bedroom affordable housing units was lodged with Council (LDA2011/0114). Each dwelling was of two-storey construction and the development extended over most of the site.

The assessment of this development application was delayed pending the outcome of an appeal to the Land and Environment Court on the adjoining site at 33 Lovell Road for an identical development.

This development application was withdrawn on 23 June 2011.

ITEM 4 (continued)**7. Submissions**

The proposal was advertised and notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. The application was advertised on 26 October 2011. Notification of the proposal was from 18 October until 16 November 2011.

Two (2) submissions were received. The issues raised in the submissions, together with relevant comment follows:

1. *Non-compliance with linear separation provision of DCP.*

Comment:

The matter of non-compliance with the linear separation provisions of DCP 2010 are discussed in detail later in this report. In summary, a similar application has been lodged for the adjoining site at No. 33 Lovell Road (LDA2011/0505) and as such the proposal does not comply with the linear separation provisions of the DCP. Due to this non-compliance the application is recommended for refusal.

2. *Request for erection of high wall/fence/hedge between the subject site and No. 37 Lovell Road to protect the amenity of the residents in No. 37 Lovell Road.*

Comment:

The erection of a 1.8m high side boundary fence together with 300mm lattice on top, should afford reasonable protection of the amenity of No. 37. The applicant's Landscape Architect has advised that no objections are raised to a condition requiring the 300mm lattice. (Condition 18 in the approval option relates)

8. SEPP1 (or clause 4.6 RLEP 2010) objection required?

Not required.

9. Policy Implications**Relevant Provisions of Environmental Planning Instruments etc:****(a) Ryde Local Environmental Plan 2010 (RLEP)****Zoning**

R2 Low Density Residential under RLEP.

The proposed development is a permissible form of development, with consent, within the R2 Low Density Residential zoning.

ITEM 4 (continued)
Mandatory Requirements

Ryde LEP 2010	Proposal	Compliance
4.3(2) Height		
9.5m	6.96m (Two-storey dwelling)	Yes
4.5A Density		
• 300m ² per 1,2,3br dwelling		
• 365m ² per 4+br dwelling		
Total required (3 x 300 = 900m ²)	981.0m ²	Yes

Aims and objectives for residential zones:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provides facilities or services to meet the day to day needs of residents.
- To ensure that the general low density nature of the zone is retained and that development for the purposes of dual occupancy (attached) and multi dwelling housing (attached) do not significantly alter the character of a location or neighbourhood.
- To ensure that new development complements or enhances the local streetscape.
- To maintain on sites with varying topography the two storey pitched roof form character of dwelling houses and dual occupancy (attached) developments.
- To ensure that land uses are compatible with the character of the area and responsive to community needs.

Particularly relevant is the third last objective which requires a new development to complement or enhance the local streetscape.

The streetscape surrounding the subject site is mostly characterised by well maintained dwelling houses that were, in the main, erected before World War II or shortly thereafter.

Notwithstanding the number of free-standing dwelling-houses that were erected in the second half of last century, the proposed development with one two-storey dwelling addressing the public domain, is considered to compliment the existing local streetscape.

ITEM 4 (continued)

It is considered that, from an urban design point of view, the proposed development should enhance the existing, as well as the likely future streetscape of the locality.

Overall, the proposed development is considered to comply with the zone objectives.

(b) Relevant SEPPs

A compliant BASIX Certificate (No. 392311M dated 1 September 2011) has been submitted with the DA.

(c) Relevant REPs

No relevant plans.

(d) Any draft LEPs

No draft plans apply to the subject site.

(e) Any DCP (e.g. dwelling house, villa)

Ryde Development Control Plan 2010 (Part 3.5 - Multi Dwelling Houses) applies.

An assessment of the proposal against the provisions of the DCP follows:

DCP 2010	Proposed	Compliance
PART 2.0 – Site Analysis, Location Number and Type of Dwelling		
2.1 Site Analysis (SA)		
<ul style="list-style-type: none"> ○ Must have a SA ○ SA should relate dwgs to surrounds + minimise amenity impacts 	Site analysis plan submitted	Yes
2.2 Minimum allotment size		
Area: (not <600m ²)	981.0m ²	Yes
Primary Frontage: (not <20m)	20.11m	Yes
Not hatchet shaped	Regular	Yes
2.3 Non-Preferred Locations		
Is the proposed development within a non-preferred location?	No	Yes
2.4 Linear Separation		
Is there any approved Villa, Duplex or Urban Housing development within double the	Concurrent with the submission of the subject application, a similar	No (See Note 1)

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
frontage (or proposed frontage)?	application for multi dwelling development was lodged at No. 33 Lovell Road (LDA2011/0505). This creates the potential of two adjoining multi dwelling developments.	
2.5 Retention of Existing Dwellings		
Retention of existing dwg as part of a multi-dwelling housing development (MDH) will not be approved	Not to be retained	Yes
Exception may occur if heritage significant bldg or contributing item. Does it comply with Clause 2.5.1?	Not applicable	n/a
2.6 Density		
As per clause 4.5A RLEP2010 – which state: (a) Site Area: o 300m ² per 1,2,3br dwg o 365m ² per 4+br dwg	3 x 3B: 900m ² Total required: 900m ² Site Area = 981.0m ²	Yes
(b) Each dwg has its own POS and sep access to that space from unbuilt portion of site	Each dwelling has a private open space (POS) area that is accessible from both within the dwelling and from other portions of the site.	Yes
2.7 Number of Dwellings		
Not more than 12 Dwellings	3 dwellings proposed	Yes
2.8 Type of Dwellings		
If 4 or more dwellings on site, <75% with same number of bedrooms (rounded down) e.g. 6d= 4x3B + 2x2B	n/a	n/a
PART 3.0 Site Planning		
3.1 Slope of Site		
At least one dwelling must present to the street	Villa 1 presents to street	Yes
Slope must be <1:6 either up or down from street frontage	<1:6 slope The site has minimal fall to street (Approx 1%)	Yes
Cross-fall <1:14	<1:14 cross fall 1:47m max cross fall	Yes

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
3.2 Altering the Levels of the Site		
No imported Fill	None shown	Yes
<300mm Cut or Fill outside building envelope.	No identifiable areas of cut or fill outside of building footprint	Yes
No basement garages, minimal steps, minimal retaining walls	No basement garage	Yes
POS generally at NGL.	Private open space areas are at ground level	Yes
3.3 Storey and Height		
3.3.1 Storeys		
A MDH must be within single storey bldg.	Dwelling 1 is two-storey (Refer to next control). Dwellings 2 and 3 are single storey.	Yes
Dwg with frontage to street can be 2 storeys provided: <ul style="list-style-type: none"> o 2 st dwg not attached to any other 2 st dwg o 2 st dwg is suitable re streetscape 	Dwelling 1 is not attached to other two-storey dwelling and accordingly a two-storey development is permissible. Streetscape impact is acceptable.	Yes
3.3.2 Height		
As per Clause 4.3(2a) – which state the maximum height is: (a) for dwgs in bldg with no frontage to street – 6.5m	Villas 2 and 3 are located to the rear of the site. The overall height of these villas is 5.3m	Yes
(b) for dwgs with a frontage to street, if adj lots have dwgs that are <9.5m high – 8m	Ridge RL: 97.20 NGL below (min): RL: 90.24 Max height: 6.96m	Yes
3.4 Site Coverage		
Site coverage < 40% (753.44m ²)	37.3% (365.9m ²)	Yes
Pervious area > 35% (343.35m ²)	39.1% pervious area. (Planted & permeable paving area = 362.9m ²)	Yes
3.5 Setbacks		
3.5.1 Front Setbacks		
<u>Front Setbacks:</u> Similar to adjoining buildings - same as adjoining if <2m - Average if >2m	Proposed front setback: 7.5m Adjoining dwelling setbacks are: No. 33 = 7.7m No. 37 = 7.6m	No (See Note 4)

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
	It is noted that a Development Application has been submitted concurrent with the subject application providing for redevelopment of No. 33 Lovell Road (LDA2011/0505) and providing for setback of 7.5m from the street.	
3.5.4 Side and Rear Setbacks		
Min 4.5m unless vehicular access is included in this area, then min 6m. Allow variation between 3-6m for less than 50% for visual interest	West side: 3.0m – 4.5m (45% setback less than 4.5m, but not less than 3.0m.) East side: 3.025m – 6.85m (15.0% setback less than 4.5m) Note: In areas where the driveway is proposed, the setback is mostly a minimum of 6.25m which complies with this control. One small section of Dwelling 2 is set back 5.65m from the side boundary. Rear boundary: 3.06m – 4.5m (59.4% setback less than 4.5m but not less than 3.0m)	Yes No (See Note 2) No (See Note 3)
Must provide appropriate solar access.	Appropriate given site orientation	Yes
Ensure existing substantial trees not within proposed courtyard areas.	No substantial trees exist on the site. There are 9 non-native trees growing on the site. All are to be removed. Discussion relevant to removal of trees is provided in consideration of impacts upon the natural environment.	Yes
3.5.5 Internal Setbacks		
Habitable room windows don't overlook	No close direct overlooking	Yes
9m separation between facing dwellings habitable room windows?	No facing windows.	Yes

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
3.6 Private Outdoor Space		
Min 30m ² for 2B Min 35m ² for 3+B	Villa 1: 39.35m ² Villa 2: 43.10m ² Villa 3: 108.65m ²	Yes
Min dimension 4m and generally at NGL	4m dimension provided.	Yes
Solar access: 50% for ≥2hrs	Due to the north-south orientation of the allotment, all private open space areas will receive a minimum of three hours mid-winter solar access during the period 12.00noon to 3.00pm.	Yes
Do not contain existing big trees	There are no big trees growing on the site.	Yes
Access to courtyard other than through dwg?	Second access point to private courtyards provided either through the garage, the subject unit or gate to courtyard.	Yes
Securely enclosed (not roofed) + visible from living rooms	Securely enclosed – no roofing.	Yes
Not within front setback	At side or rear.	Yes
≥1.2m landscape strip between courtyard and adjoining property	The provided landscape strip varies in width between 1.0 and 1.2m. A condition of consent to require a 1.2m wide strip would be appropriate. See Condition 20 in the approval option.	Yes
3.7 Landscaping		
Landscaping plan required, existing trees retained in common areas?	A Landscape Plan has been submitted. There are no trees growing upon the site that are to be retained.	Yes
Privacy Planting <ul style="list-style-type: none"> • ≥1.2m landscaped strip between driveway & adjoining property. Shrubs in this strip 3-4m & small trees 5-6m mature 	The required 1.2m wide landscaping strip along the boundaries is proposed (subject to Condition 20). Required privacy planting provided along the sides of	Yes

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
<ul style="list-style-type: none"> 1m strip between driveway and wall of dwgs 	the driveway.	Yes
Lawn areas edged or kerbed?	Edged lawn areas proposed.	Yes
Nature Strips: Street trees retained and protected?	No street trees exist.	Yes
3.8 Car Parking, Manoeuvrability and Driveway Crossings		
Car Parking		
Number of Parking Spaces (at least 1 space per dwg must be lockable garage) <ul style="list-style-type: none"> 1 space per 1 or 2 B dwelling 2 spaces per 3+B dwelling 1 visitor space per 4 dwgs Total No of spaces req'd: 6 resident spaces Nil visitor spaces.	Villa 1: Double garage. Villa 2: 1 car garage + 1 car space. Villa 3: 1 car garage + 1 car space. Total of 6 spaces are proposed.	Yes
Garage location: <ul style="list-style-type: none"> - Not between dwelling and street frontage - No tandem parking in front of garage - Conveniently located for occupants - Located so they separate dwellings. 	Not between dwelling and street frontage. No tandem parking is proposed. Conveniently located for occupants. Located to separate dwellings where appropriate.	Yes
Manoeuvrability: Enter and leave garage/parking area with single 3pt turn, in a forward direction (unless safe to reverse - corner allotment only).	Council's Development Engineer has advised that the car manoeuvrability complies with Australian Standard 2890.1:2004	Yes
Driveways Suitably paved, extent minimised, to avoid excessive amounts of hard paving.	Concrete driveway. Extent minimised.	Yes
Driveway Crossings Width: >10 spaces, max 6m Driveways <30% of frontage	<10 spaces. 5.5m wide driveway crossing. Driveway is 27.7% of frontage.	Yes Yes

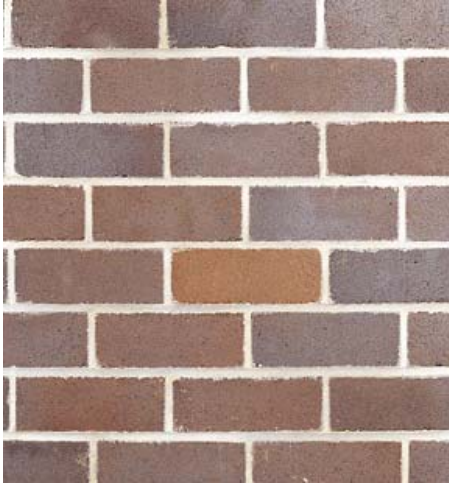
ITEM 4 (continued)

DCP 2010	Proposed	Compliance
3.9 Overshadowing and Access to Sunlight		
Habitable room windows face courtyard or other outdoor space open to the sky, no closer than 1.5m to facing wall.	All habitable room windows face outdoor space open to sky or courtyard. All windows are no closer than 1.5m to facing walls.	Yes
Sunlight to at least 50% of each courtyard, and principal ground level open space >2hrs between 9am and 3pm on June 21 or	All units will achieve at least 3 hrs of sunlight to 50% POS between 9am and 3pm. (Solar access will be between 12.00noon and 3.00pm).	Yes
Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight must not be further reduced by more than 20%	Not applicable. Existing dwelling is single storey.	n/a
Shadow diagrams must indicate extent of shadowing within development and adjoining properties.	Shadow diagram indicates shadowing extent within development and over adjoining properties.	Yes
3.10 Visual and Acoustic Privacy		
Min 9m separation between facing habitable room windows	No facing habitable windows.	Yes
No direct views between living area windows or adjacent dwellings (otherwise screening or obscuring necessary)	No direct views between living area windows or adjacent dwellings.	Yes
Direct views from living areas to private open space of other dwellings should be screened or obscured within privacy sensitive zone of 12m radius.	No direct overlooking of adjoining private open space areas is possible. The side boundary landscaping comprises a mixture of shrubs with a mature height up to 3.0m. This, combined with the single level construction of the two rear units, should reasonably preclude any opportunity for overlooking of adjoining private open space areas.	Yes
<ul style="list-style-type: none"> • No balconies. • Elevated landings (or similar associated with 	None proposed. No elevated landings proposed.	Yes Yes

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
stairs into courtyard) max 1m wide		
Living and sleeping areas protected from high levels of external noise?	No high levels of external noise exposure.	Yes
Noise levels of air con pool pumps etc must not exceed background noise level by more than 5dB(A)	None shown on plans.	n/a
3.11 Accessibility		
3.11.1 Pedestrian Access		
Pedestrian access provided, separate to vehicle access where possible.	Appropriate pedestrian access provided. A separate path is provided from Lovell Road to Unit 1.	Yes
3.11.2 Access for People with Disabilities – Dev of 6 or more dwellings		
6 or more dwelling developments have min 35% of dwellings provide access to all indoor areas and outdoor living areas for people with disabilities (street, car parking and common areas accessed in one continuous path of travel)	Not applicable. (Less than 6 dwellings proposed)	n/a
Dwgs designed as per AS4299 must be able to access street, car parking and common areas using continuous path of travel.	Not applicable.	n/a
3.11.3 Access Audits		
For above such developments, an access audit must be submitted	Not applicable as development has less than 6 dwellings.	n/a
PART 4.0 Building Form		
4.1 Appearance		
Complement streetscape	The proposed development is considered to complement the existing streetscape of Lovell Road.	Yes
Includes pitched roof, eaves, vertically oriented windows, verandahs, rendered and face brick	A variety of roof forms is proposed and there is articulation in the various elevations.	Yes

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
At least 1 dwg must face street	Unit 1 faces Lovell Road.	Yes
4.2 Ceiling Height		
Floor to Ceiling min 2.7m	All dwellings have a floor to ceiling height of 2.72m.	Yes
4.3 Roofscape and Roof Materials		
Pitch 22-30° (35° where 2 nd floor is within roof)	Unit 1 has a roof pitch of 35°. Units 2 and 3 have a roof pitch of 25°.	Yes
Min 300mm eaves overhang for roofs & verandas	A minimum 500mm eave overhang is proposed.	Yes
Gables to street frontage?	Gable design element included in roof design facing street.	Yes
Variation to roof line?	Variation to roof line.	Yes
Roof materials consistent with traditional ones in the street?	Monier Waverley "Barrumundi" colour concrete roof tiles are consistent with traditional style of street. Refer to circulated Schedule of External Finishes for colour details.	Yes
4.4 Building Materials for Walls		
In keeping with the traditional materials for the locality. Detailing to break up large areas of wall adding interest and individuality	The external walls will be constructed from Austral Gertrudis Brown face brick, as follows:  The proposed brick finish is considered to be reasonable.	Yes

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
Proportion of windows and other openings consistent with character of locality. (windows generally 2:1 and 3:1 vertical proportion)	Window proportions consistent with character of locality.	Yes
4.5 Fences		
4.5.1 Front fence		
Max ht 1m, and 70% visually permeable	No front fence is proposed.	N/A
Materials compliment dwelling e.g. wooden pickets, masonry with infill panels, wrought iron or similar etc	(As above)	(As above)
4.5.3 Other boundary fences		
Min ht 1.8m	1.8m	Yes
Lapped and capped timber	New timber lapped and capped fences are proposed.	Yes
4.6 Clotheslines and drying area		
External clotheslines (not visible from adjoining properties or public areas)	External clotheslines are within the private courtyards and are not visible from adjoining properties or public areas.	Yes
Each dwelling must have its own laundry	Separate laundry provided for each dwelling.	Yes
4.7 Lighting		
Front yard lighting and lighting for the front of dwellings is to be provided	Not indicated on plans. A condition of consent would be appropriate. See Condition 19 in the approval option.	Yes
Location of external lighting must not have adverse affect on adjoining properties.	Not indicated on plans. A condition of consent would be appropriate. See Condition 19 in the approval option.	Yes
4.8 Garbage bin enclosures		
- For developments of 6 or more dwellings or where sites are steeply sloping or have a narrow street frontage, a central garbage bin enclosure shall be provided behind the building line and suitably screened by landscaping. A plan	Each dwelling has an area suitable for storage of waste bins.	Yes
	The location of the bin storage areas within the private open space areas is considered acceptable, notwithstanding	Yes

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
indicating the design and location of the garbage bin enclosure must be submitted with the DA.	the need to take Dwelling 2's bins through the garage for collection.	
PART 5.0 – Engineering		
Drainage		
Refer to Part 8.2 Storm water Management DCP 2010	Refer to Development engineers comments.	Yes
Part 9.6 – Tree Preservation		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway.	There are no substantial trees presently growing upon the subject site.	Yes

Note 1: *Linear separation*

The adjoining site (No. 33 Lovell Road) is the subject of a development very similar to the proposal. In the assessment of the subject application, relevant to linear separation, RDCP requires Council to take into consideration the effect of the proposed development of No. 33 Lovell Street. The adjoining development introduces non-compliance with the linear separation provisions of the DCP.

Ryde Development Control Plan 2010 at clause 2.4 provides objectives and controls relevant to separation of medium density developments in the following manner:

Objectives

1. *To ensure the dispersal of Multi dwelling housing (attached) development throughout the City of Ryde and that the general low density character of the Low Density Residential zone is retained;*
2. *To ensure that Multi dwelling housing (attached) developments are not the dominant form of development in an area and do not dramatically change the character of a location or neighbourhood.*

ITEM 4 (continued)**Controls**

- a. *Multi dwelling housing (attached) developments in the Low Density Residential zone must be separated from other Multi dwelling housing (attached), Villa Homes, Urban housing, Duplex Building and Dual Occupancy (attached) developments in accordance with the following:*
- b. *If a Multi dwelling housing (attached) development, Villa Home, Urban housing Duplex Building or Dual Occupancy (attached) is erected, or is permitted by a development consent, on an allotment with a frontage to a street or road within the Low Density Residential zone, the Council will not consent to another Multi dwelling housing (attached) development on another allotment with frontage to that same street or road, in the same street block unless the two allotments are separated by a distance of at least:*
 - i. *Twice the distance of the frontage to the street of the existing or approved urban housing, villa, duplex, dual occupancy (attached) or multi dwelling housing (attached) development, or*
 - ii. *Twice the distance of the frontage to the street of the proposed multi dwelling housing (attached) development*

whichever is the greater distance.

With the proposed development at No. 33 Lovell Road (LDA2011/0505) being described as a “multi dwelling housing” application of the controls in clause 2.4 (Linear Separation) of the DCP are triggered.

As the subject site is less than the minimum separation distance with respect to No. 33 Lovell Road, the proposed development fails to comply with the Linear Separation provisions of DCP 2010.

The applicant has submitted that application of the DCP’s Linear Separation provisions are not reasonably justified in this case for the following reason:

It is submitted that such a provision is legally unenforceable as it seeks to override the provisions of Council’s LEP and which identify that multi-unit housing is permissible upon the site. In this regard the provisions of the LEP prevail in so far as any inconsistency.

The applicant is essentially saying that the *Environmental Planning and Assessment Act 1979* does not permit a development control plan to contain provisions that are:

- inconsistent with the provisions of an LEP; or
- would prevent compliance with provisions of an LEP.

ITEM 4 (continued)

Whilst this may be a clinical understanding of the nominated part of Section 79C of the EP&A Act, the situation remains that the linear separation provisions of the DCP have been in force for a number of years and have been consistently applied by the Council.

It is acknowledged that under the forthcoming draft DCP 2011, it is likely to be recommended that the linear separation control be deleted. However, DCP 2011 will not come into force until draft LEP 2011 becomes effective. As there are a number of statutory steps that have to be undertaken before LEP 2011 becomes effective, it is reasonable to say that commencement of either LEP 2011 or DCP 2011 is not currently imminent.

On this basis, continued application of the linear separation provisions of DCP 2010, is proposed, with a resulting recommendation of refusal. However, if Council was to form the view that application of the linear separation provisions in respect of the proposed development was not warranted, a set of appropriate conditions of consent are provided as an option for Council in determination of the application.

As previously indicated, submitted concurrently with the subject application was an almost identical application for the adjoining site at No. 33 Lovell Road (LDA2011/0505). It was noted if the two sites were to be amalgamated, it should be possible to still achieve a development containing six dwellings, being three for each site, and at the same time overcome the current problem with linear separation. This option was raised with the applicant who responded in the following manner:

The answer to that question is twofold.

The first is that the properties are owned by two separate entities and the second is that we have legal advice to the effect that the Council's requirement is not enforceable.

Hoping that this assists.

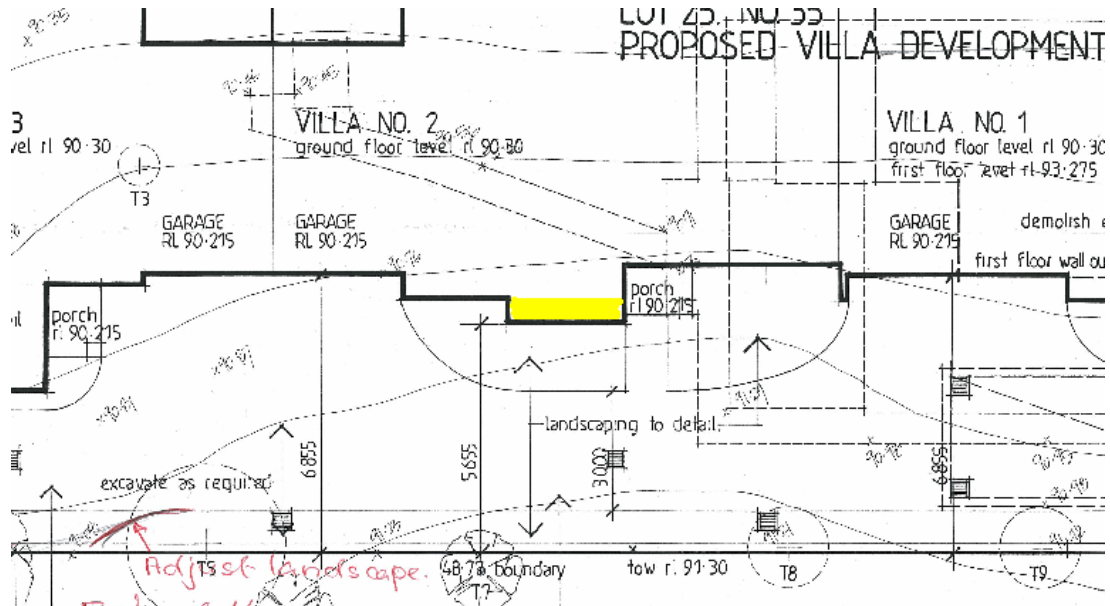
In view of this comment, the site amalgamation option was not further pursued with the applicant.

Note 2: *Side boundary setback*

The only departure from the DCP standard is where the driveway is proposed along the eastern side boundary. The proposed setback is mostly a minimum of 6.25m which complies with the minimum of 6.0m as contained in the DCP. However, one small section of Dwelling 2 is set back 5.65m from the side boundary.

ITEM 4 (continued)

A small section that is less than the required 6.0m is shown by yellow colour in the following diagram:

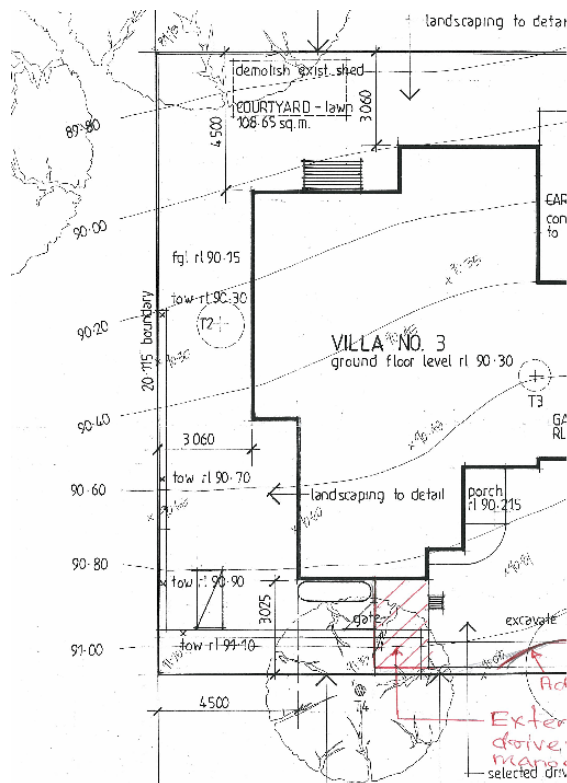


Given that the portion of the driveway that is less than 6.0m wide is quite short, and is not likely to adversely affect the functionality of the overall driveway, amending the design of the building so as to achieve the 6.0m driveway width is considered not necessary.

Note 3: *Rear boundary setback*

The proposed rear boundary setback, as shown on the following diagram is between 3.06m and 4.5m.

ITEM 4 (continued)



The DCP control permits a maximum 50% of the rear boundary setback to be between 3.0m and 4.5m. However, 59.4% of the setback is between 3.0m and 4.5m. The degree of design modification required to achieve compliance with the DCP control is small, but from a practical point of view would have no identifiable change to the visual impact of the rear elevation, and may affect the functionality of Villa 3. Accordingly, it is recommended that this minor departure from the DCP controls be accepted.

Note 4: *Front setback distance*

DCP 2010 requires the front setback distance to be an average of the adjoining setback distances, which in this case are 7.7m and 7.6m.

The proposed front setback distance is 7.5m.

Section 3.5.1(c) of DCP 2010 provides Council with the ability to vary the front setback requirements in certain circumstances, notably when there is a likely change to the streetscape. The control states:

c. Council may vary this standard if it is satisfied that the existing streetscape is likely to change. In this situation the setback must be not less than 7.5m for 50% of the frontage and not less than 6.5m for 50% of the frontage.

ITEM 4 (continued)

Within the immediate locality there are recent developments as follows:

- No. 50 Lovell Road: Villa development with front setback in part 7.5m;
- No. 56 Lovell Road: Villa development with front setback being 7.5m;
- No. 70 Lovell Road: Dual occupancy development with front setback of 7.0m;
- No. 36 Lovell Road: Villa development with front setback distance being 8.0m;
and
- No 23 Lovell Road: Villa development with front setback distance of 7.5m.

Accordingly, there is a continual change to the existing streetscape whereby the front setback distance of 7.5m is becoming the preferred setback distance. The proposed development is following this streetscape trend and utilization of the provisions of part (c) of the DCP control is considered to be fair and reasonable.

Section 94 Contributions

The proposed development will result in the increase from one to three in the number of dwellings on the site. Whilst the application is recommended for refusal, if Council was to take up the option detailed in paragraph 16, and determine the application by way of approval, a condition of consent would be imposed under Council's Section 94 Contributions Plan as follows:

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

A	B (\$)
Community & Cultural Facilities	5,502.29
Open Space & Recreation Facilities	13,545.48
Civic & Urban Improvements	4,607.20
Roads & Traffic Management Facilities	628.56
Cycleway	392.54
Stormwater Management Facilities	1,248.06
Plan Administration	105.83
Total	\$ 26,029.97

This contribution has been calculated on the basis of the contribution rates current for December 2011.

Condition 11 in the approval option, relates to the payment of the above contributions.

ITEM 4 (continued)**10. Likely impacts of the Development****(a) Built Environment**

Other than non-compliances with side and rear boundary setbacks, which have been identified as minor and not likely to affect the functionality of the development, the only other identified area of non-compliance with the RDCP 2010 is the matter of linear separation.

The proposed development is not likely to have any unacceptable impacts on the existing built environment or the amenity of the surrounding area. The development presents to the public domain of Lovell Road as a two-storey dwelling and this is consistent with the likely future character of the locality.

Other than for the proposed villa development on the adjoining site at No. 33 Lovell Road, the streetscape surrounding the subject site is generally characterised by free-standing dwelling-houses, many being erected before World War II. Whilst the free-standing dwelling-house will remain into the future as the dominant, but not exclusive, form of development in the locality, the existing and proposed multi-dwelling housing developments represent a widening of housing options available to the local community, whilst, subject to conditions of consent, still preserving the amenity of nearby residents.

Although the proposal will provide increased housing choice in the neighbourhood, in view of non-compliance with the linear separation provision of DCP 2010, the application is recommended for refusal.

(b) Natural Environment

There are nine (9) trees or shrubs presently growing upon the subject site.

These trees include mulberry, olive, privet, oleander, cotoneaster, pine and crepe myrtle. These trees are all either noxious species or introduced species. The trees are all less than 5 metres in height and do not significantly contribute to the streetscape.

All of the trees will be removed. Replacement planting will occur with native species. No objection is raised to the removal of these trees.

11. Suitability of the site for the development

A review of Council's map of Environmentally Sensitive Areas (held on file) identifies that there are no environmental constraints affecting the subject property.

ITEM 4 (continued)

12. The Public Interest

The proposed development is considered likely to adversely impact upon the public interest, due to non-compliance with the linear separation provisions of DCP 2010.

13. Consultation – Internal and External

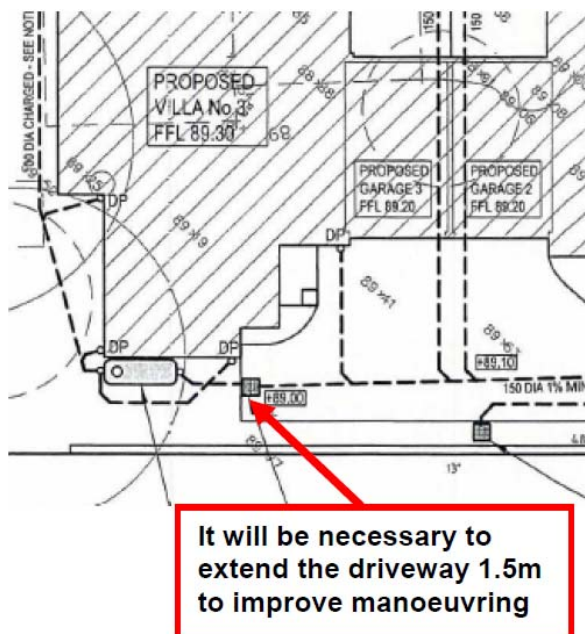
Internal Referrals

Development Engineer (20 October 2011): Council's Development Engineer has provided the following comments:

The subject property has gradient falling towards north western corner of the site.

The drainage plan indicates an underground concrete OSD tank which is draining to Lovell Road. Details provided are satisfactory.

The manoeuvring of vehicles out of the garage of unit 3 will have some problems. The architectural plans have been amended to reduce the landscaping strip opposite the garage of unit 3 and increase the driveway towards the proposed water tank of unit 3, so that vehicles have more area to manoeuvre and exit in a forward direction. This part of the driveway can be provided with grass create or similar to have a softer effect. The following diagram illustrates this amendment.



The driveway gradients proposed are satisfactory and complies with Australian Standards. There will be cut (~1.0m) along the eastern boundary.

ITEM 4 (continued)

No objections are raised to the approval of the DA subject to the attached conditions and amendments marked in red.

External Referrals

Nil

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

Adoption of the recommendation of this report will have no financial impact.

16. Other Options

As previously detailed, the application does not comply with the linear separation provisions of DCP 2010, and accordingly the application is recommended for refusal.

If the linear separation provisions were, for the moment, put to one side, the only other remaining areas of non-compliance with DCP 2010 controls are:

- Slight departure from required rear boundary setback distance; and
- Slight departure from required eastern side boundary setback distance;

These issues have previously been discussed, and on their own, either singularly or collectively, are considered not to be such as to cause the application to fail.

The likely future exclusion of linear separation controls within DCP 2011 has previously been discussed, however, the future content of DCP 2011 is not finalized, and implementation of DCP 2011 is not imminent.

However, the option of approval of the application is made available to Council, and to this end a draft set of conditions relevant to this option is contained in Attachment 1.

17. Conclusion

The proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning and Assessment Act, 1979. The proposal has some areas of non-compliance with controls detailed in Part 3.5 of DCP 2010, namely:

ITEM 4 (continued)

- Slight departure from required rear boundary setback distance;
- Slight departure from required eastern side boundary controls; and
- Linear separation controls;

It is noted that the design responds, in a positive manner, to the constraints of the site.

The application was advertised and two (2) submissions were received. The issues raised in the submissions have been discussed and relevant comments provided.

Based upon non-compliance with the linear separation provisions of DCP 2010, the application is recommended for refusal. The other variations to the DCP are minor and should not result in any adverse impacts.

ITEM 4 (continued)

ATTACHMENT 1

GENERAL

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

Approved Plans

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

Document Description	Date	Plan No/Reference
Architectural Plans prepared by G & A Draftline	7 August 2011	1010/11-1 to 1010/11-4 (incl)
Stormwater Concept Plans prepared by Storm Civil	18 August 2011	D1 to D4 (Issue A)
Landscaping Plan prepared by Peta Gillard Landscape Design	12 August 2011	L001(A)
Arborist's Report prepared by Vic's Tree Service	7 August 2011	

Prescribed Conditions

2. All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. Compliance with all commitments listed in BASIX Certificate(s) numbered 392311M, dated 1 September 2011.

Protection of Adjoining and Public Land

4. Hours of work
Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
5. The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.

ITEM 4 (continued)

ATTACHMENT 1

Stormwater

6. **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 1999 and City of Ryde Development Control Plan 2010 Section 8* except as amended by other conditions.
7. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
8. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
9. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No drainage work shall be carried out on the footpath without this permit being paid and a copy kept on the site.

Imported fill

10. All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.

PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

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

ITEM 4 (continued)

ATTACHMENT 1

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

A – Contribution Type	B – Contribution Amount (\$)
Community & Cultural Facilities	5,502.29
Open Space & Recreation Facilities	13,545.48
Civic & Urban Improvements	4,607.20
Roads & Traffic Management Facilities	628.56
Cycleways	392.54
Stormwater Management Facilities	1,248.06
Plan Administration	105.83
The total contribution is	26,029.97

These are contributions under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 16 March 2011.

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

A copy of the Section 94 Development Contributions Plan may be inspected at the Ryde Planning and Business Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

12. The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
13. The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan (category: other buildings with delivery of bricks or concrete or machine excavation)
14. The following fees must be paid to Council in accordance with Council's Management Plan:
- (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy

ITEM 4 (continued)

ATTACHMENT 1

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

Road Opening Permit

16. The Council must be provided with evidence that there has been compliance with all matters that are required by the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993 to be complied with prior to issue of the **Construction Certificate**.
17. The development must be acoustically designed and constructed to meet the relevant provisions of Australian Standard AS 2107:2000 *Recommended design sound levels and reverberation times for building interiors*. Written endorsement of compliance with these requirements must be obtained from a suitably qualified person.

Fencing

18. Fencing is to be in accordance with Council's Development Control Plan and details of compliance are to be provided in the plans for the **Construction Certificate**. The side boundary fence between the subject site and No. 37 Lovell Street shall be a minimum of 1.8m high shall contain an additional 300mm high lattice on top of the fence. Details are to be shown on the Construction Certificate drawings, and shall be at no cost to the adjoining property owner.

Lighting of Common Areas (driveways etc)

19. Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.
20. The width of the landscape strip along the eastern and southern boundary within each courtyard is to be increased to 1.2m wide. Details are to be submitted on the Construction Certificate plans.
21. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.
22. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. 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 centreline of the public road to the garage floor, and any necessary cross-sections clearly demonstrating that the driveway complies

ITEM 4 (continued)

ATTACHMENT 1

with the above details, and that vehicles may safely manoeuvre within the site without scraping shall be submitted with the Construction Certificate application.

23. **Manoeuvring Area.** The southern end of the driveway near unit 3 shall be extended by 1.5m to the south to provide additional room for vehicles to manoeuvre and exit in a forward direction. This area shall be paved with grass crete or similar porous paving. The landscaping area adjoining shall be reduced as amended in red on the architectural plan Job No 1010/11>1>4 dated 27 July 2011 prepared by G + A Draftline. Prior to issue of the Construction Certificate, all plans shall be amended to reflect these amendments.
24. **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 City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. Runoff which enters the site from upstream properties should not be redirected in a manner which adversely affects adjoining properties. The pipes, down pipes and gutters are to be designed to carry the 100 year ARI 5 minute storm flow from roof areas to the detention basin.
25. **Water Tank First Flush.** A first flush mechanism is to be designed and constructed with the water tank system. Details of the first flush system are to be submitted with the construction certificate application.
26. **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 Landcom. 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 4 (continued)

ATTACHMENT 1

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

Prescribed Conditions

27. Site Sign

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

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

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

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

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

ITEM 4 (continued)

ATTACHMENT 1

Safety Fencing

30. The site must be fenced throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.
31. **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.
32. **Compliance Certificate.** A Compliance Certificate should be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and City of Ryde, Development Control Plan 2010: - Part 8.1; Construction Activities
33. **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 Public Works Division. Kerbs shall not be returned to the alignment line. Bridge and pipe crossings will not be permitted.

DURING CONSTRUCTION

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

Critical stage inspections

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

Noise and vibration

35. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations.
36. 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.

ITEM 4 (continued)

ATTACHMENT 1

Survey of footings and walls

37. All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
38. No sediment, dust, soil or similar material shall leave the site during construction work.
39. Excavated material must not be reused on the property except as follows:
 - (a) Fill is allowed under this consent;
 - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (c) the material is reused only to the extent that fill is allowed by the consent.
40. All materials associated with construction must be retained within the site.

41. Site Facilities

The following facilities must be provided on the site:

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

42. Site maintenance

The applicant must ensure that:

- (a) approved sediment and erosion control measures are installed and maintained during the construction period;
 - (b) building materials and equivalent are stored wholly within the work site unless an approval to store them elsewhere is held;
 - (c) the site is clear of waste and debris at the completion of the works.
43. At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

Drop-edge Beams

44. Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

PRIOR TO OCCUPATION CERTIFICATE

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

ITEM 4 (continued)

ATTACHMENT 1

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

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

Prescribed Condition

45. The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 392311, dated 1 September 2011.
46. All landscaping works approved by condition 1 are to be completed.
47. The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent.

Sydney Water

48. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Interim/Final Occupation Certificate.

49. An **Occupation Certificate** must be obtained from the Principal Certifying Authority (PCA) and a copy furnished to Council in accordance with Clause 151 of the Environmental Planning and Assessment Regulation 2000 prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

Letterboxes and street/house numbering

50. All letterboxes are to be designed and constructed to be accessible from the public way. Council must be contacted in relation to any specific requirements for street numbering.

ITEM 4 (continued)

ATTACHMENT 1

51. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
52. **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 or access grate. The wording on the marker plate is described in City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. An approved plate may be purchased from Council's Customer Service Centre on presentation of a completed City of Ryde OSD certification form.
53. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels **is to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA.
54. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Job No 107034 Drawing D1 to D4 dated 18/8/11 Issue A prepared by Storm civil engineering Solutions.
55. **Footpath Paving Construction.** The applicant shall, at no cost to Council, replace any damaged concrete path paving across the frontage of the property.
56. **Compliance Certificates – Engineering.** Compliance Certificates should 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 driveway is constructed in accordance with the construction plan requirements and Ryde City Development Control Plan 2010: - Part 8.3; Driveways.
 - Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management
 - 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.
 - Confirming that the vehicular crossing has been removed and the kerb and gutter have been constructed in accordance with Council's *Environmental Standards Development Criteria -1999 section 4*
 - Confirming that damaged footpath paving has been reconstructed in accordance with Council's *Environmental Standards Development Criteria -1999 section 4*

ITEM 4 (continued)

ATTACHMENT 1

57. **Positive Covenant, OSD.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Stormwater Detention Systems and to the satisfaction of Council.

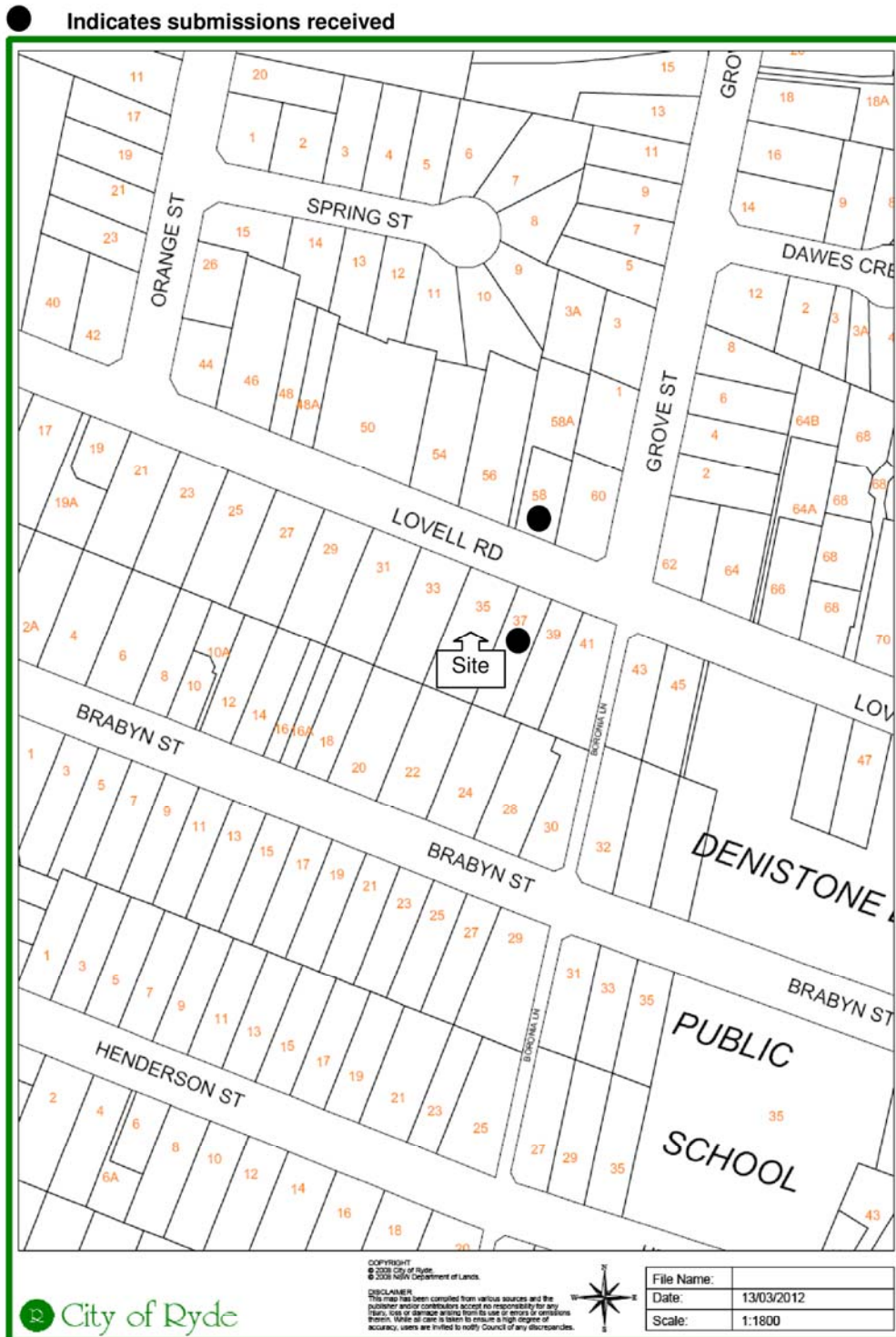
POST OCCUPATION CERTIFICATE

58. Within 2 days of issuing a final Occupation Certificate, the Principal Certifying Authority (PCA) is required to generate a BASIX Completion Receipt in accordance with the provisions of the EP & A Regulation 2000. The PCA is to refer to the BASIX Completion Receipt tool at www.basix.nsw.gov.au/administration/login.jsp in order to generate the BASIX Completion Receipt and a printed copy of the receipt is to be placed on the PCA file.

End of consent

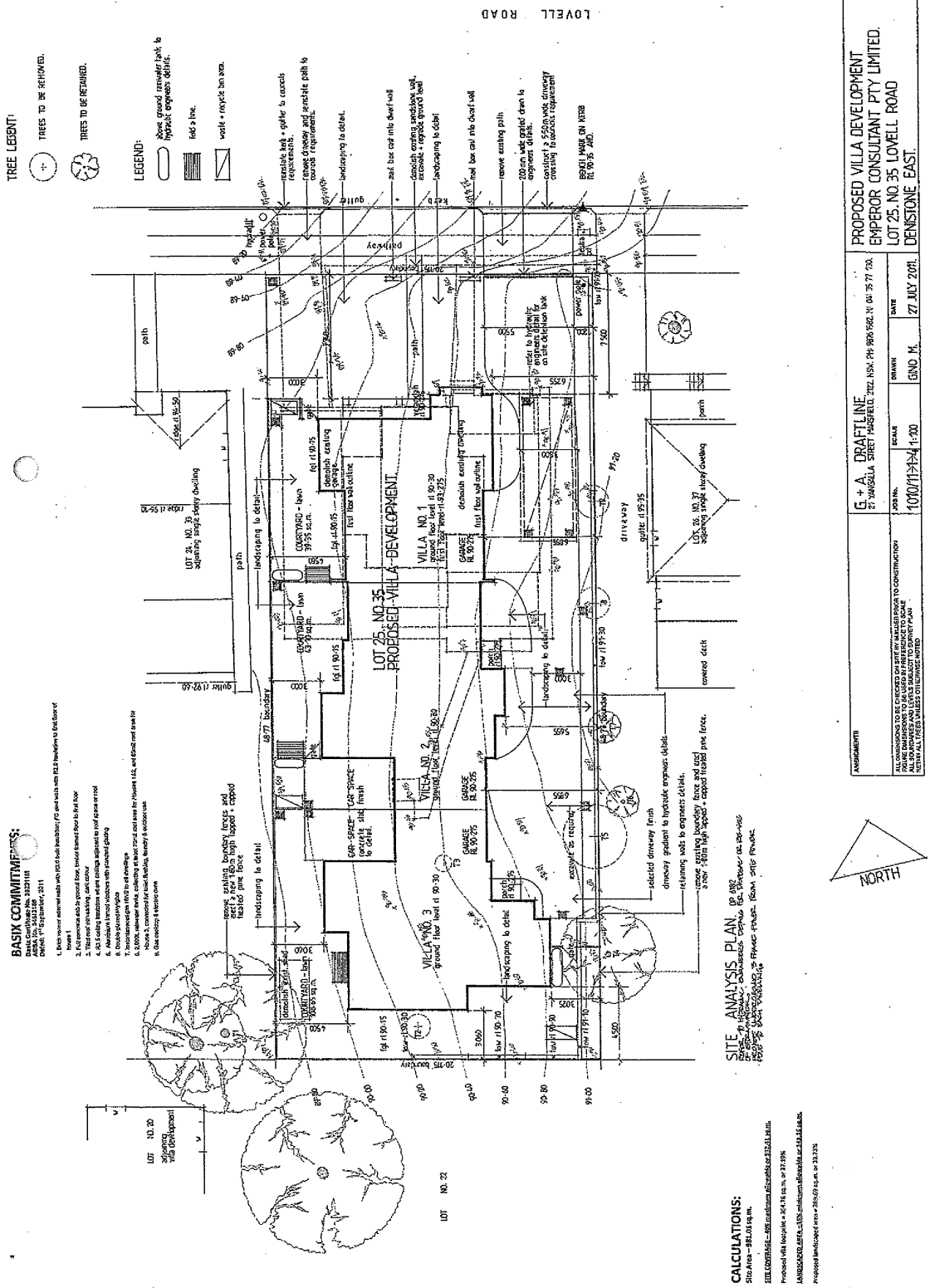
ITEM 4 (continued)

ATTACHMENT 2



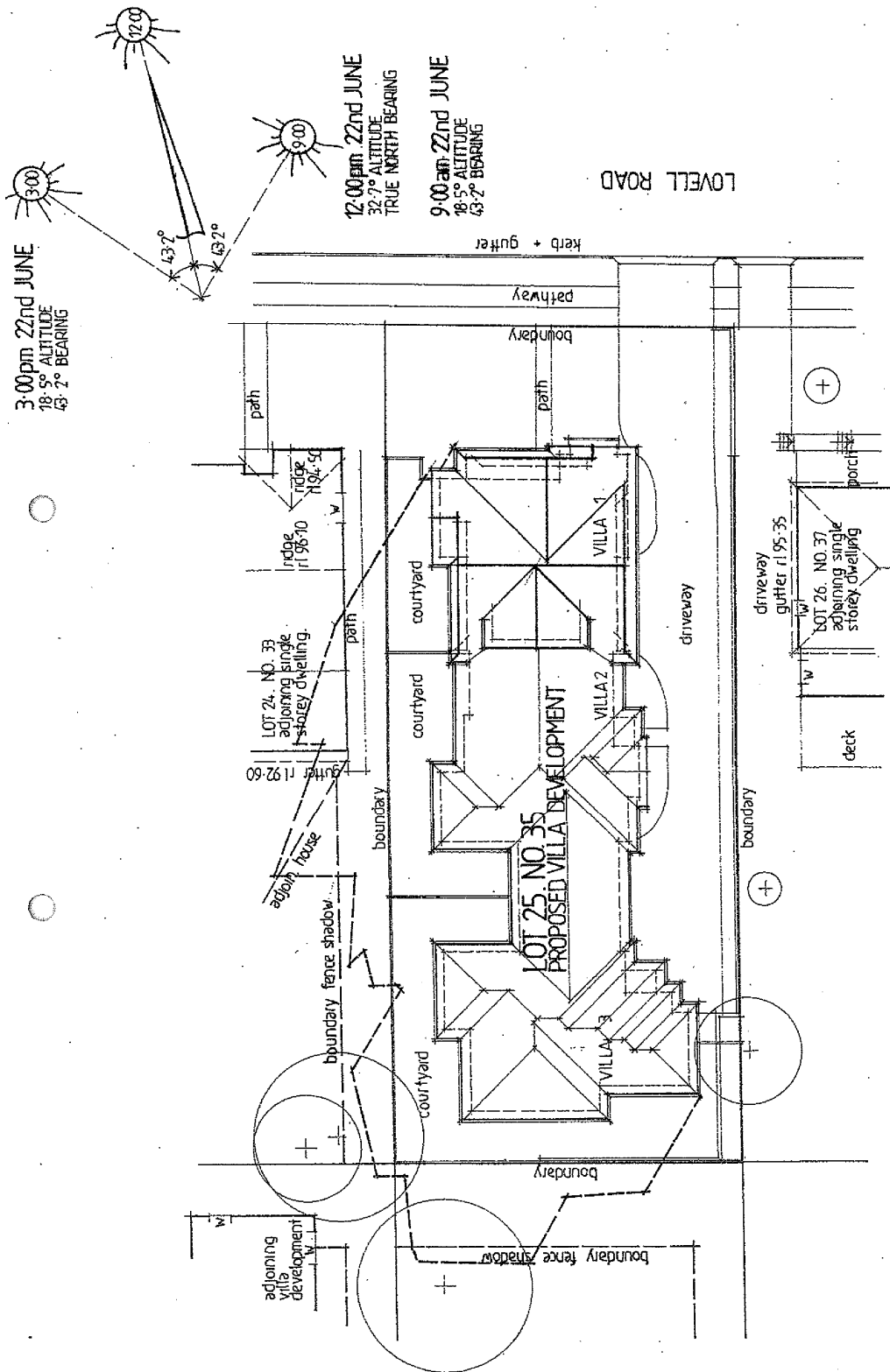
ITEM 4 (continued)

ATTACHMENT 3



ITEM 4 (continued)

ATTACHMENT 3



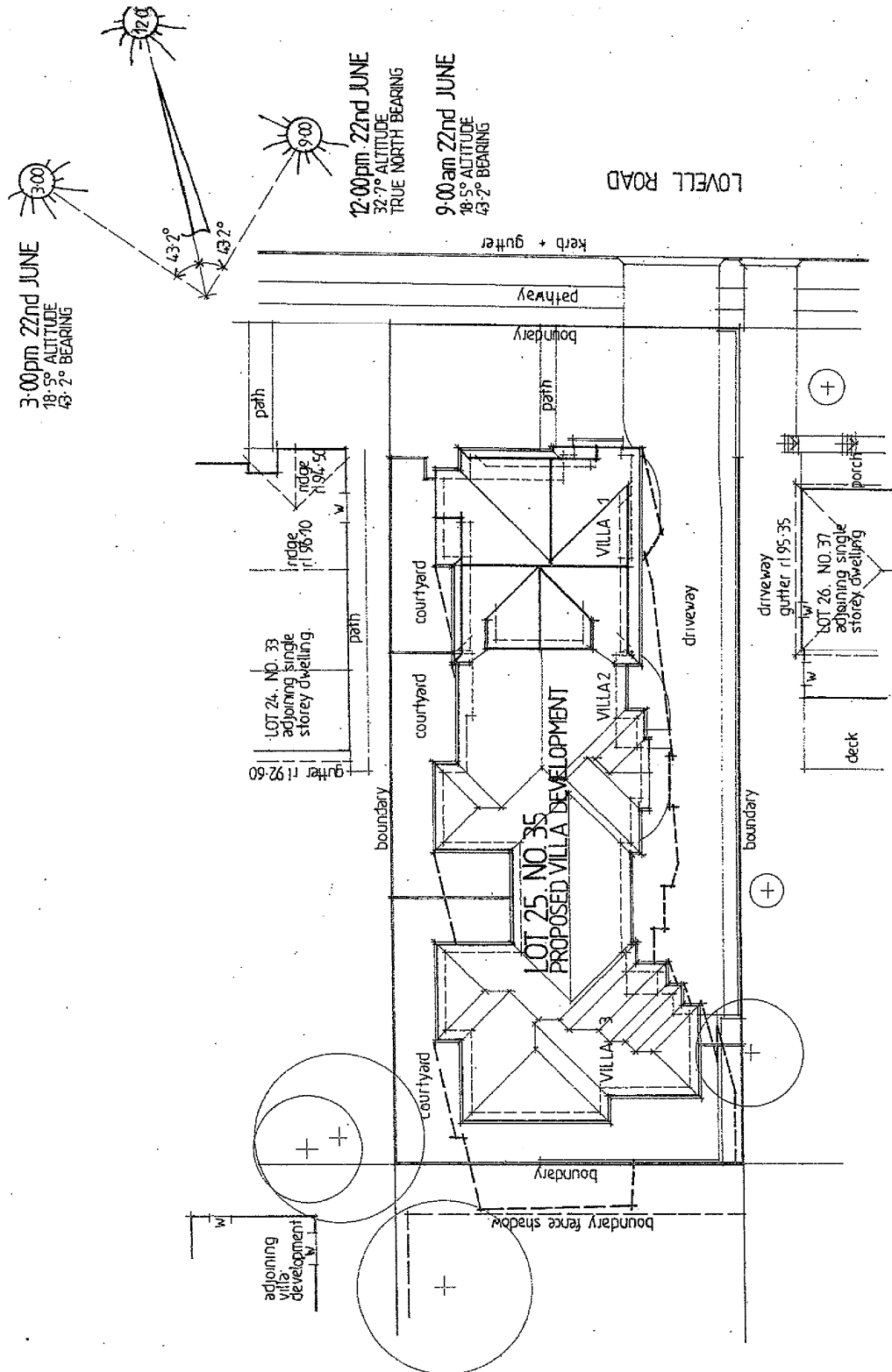
PROPOSED SHADOW DIAGRAM < 9:00am - 22nd JUNE.

PROPOSED VILLA DEVELOPMENT
EMPEROR CONSULTANT PTY LTD - LOT 25, NO. 35 LOVELL ROAD DENISTONE EAST.

G. + A. DRAFTLINE 21 YANGALLA STREET MANSFIELD, VIC. 3088. PH: 9876 5582. M: 04135 77130. scale 1:200 date 30 AUG. 2011 job no. 1070/11 → 1 → 3

ITEM 4 (continued)

ATTACHMENT 3



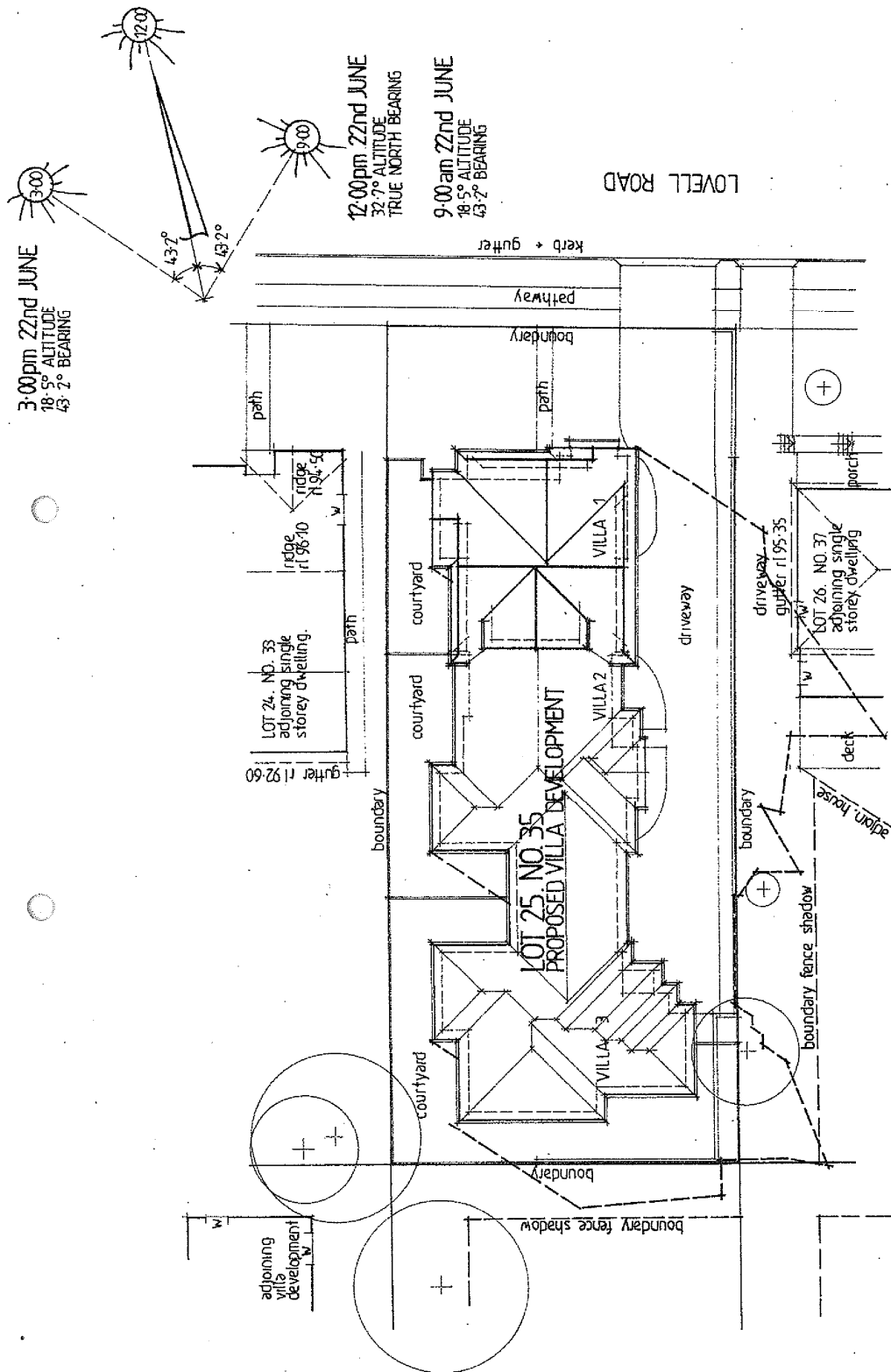
PROPOSED SHADOW DIAGRAM < 12:00pm 22nd JUNE.

PROPOSED VILLA DEVELOPMENT
EMPEROR CONSULTANT PTY LTD - LOT 25, NO. 35 LOVELL ROAD DENISTONE EAST.

G. + A. DRAFTLINE 21 YANGALLA STREET, MARSFIELD, 2122, NSW. PH: 9876 1582. M: 04135 77150. scale 1:200 date 30 AUG. 2011 job no. 1090/111 → 2 → 3

ITEM 4 (continued)

ATTACHMENT 3



PROPOSED SHADOW DIAGRAM @ 3:00pm 22nd JUNE.

PROPOSED VILLA DEVELOPMENT
EMPEROR CONSULTANT PTY LTD - LOT 25, NO. 35 LOVELL ROAD DENISTONE EAST.

G. + A. DRAFTLINE 21 YANGALLA STREET MARSFIELD. 2122. NSW. PH: 9876 1582. M: 04135 7170. scale 1:200 date 30 AUG. 2011 job no. 1070/11 → 3 → 3