

**Meeting Date:** Tuesday 16 July 2013  
**Location:** Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde  
**Time:** 5.00pm

**NOTICE OF BUSINESS**

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**1 CONFIRMATION OF MINUTES - Meeting held on 18 June 2013**

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**Report prepared by:** Section Manager - Governance  
**File No.:** CLM/13/1/3/2 - BP13/95

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**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 10/13, held on Tuesday 18 June 2013, be confirmed.

**ATTACHMENTS**

- 1 Minutes - Planning and Environment Committee - 18 June 2013

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Planning and Environment Committee  
MINUTES OF MEETING NO. 10/13**

**Meeting Date:** Tuesday 18 June 2013

**Location:** Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde

**Time:** 5.00pm

**Councillors Present:** Councillors Pendleton (Chairperson), Chung and Maggio.

**Apologies:** Councillor Salvestro-Martin.

**Leave of Absence:** Councillor Yedelian OAM.

**Absent:** Councillor Simon.

In the absence of Councillor Simon, the Deputy Chairperson – Councillor Pendleton chaired the meeting.

**Staff Present:** Group Manager – Environment and Planning, Service Unit Manager – Assessment, Service Unit Manager – Environmental Health and Building, Business Support Coordinator – Environment and Planning, Team Leader – Fast Track Team, Team Leader – Assessment, Assessment Officer – Town Planner, Consultant Town Planner (Creative Planning Solutions) and Manager – Customer Service and Governance.

**DISCLOSURES OF INTEREST**

There were no disclosures of interest.

**1 CONFIRMATION OF MINUTES - Meeting held on 4 June 2013**

**RESOLUTION:** (Moved by Councillors Chung and Pendleton)

That the Minutes of the Planning and Environment Committee 9/13, held on Tuesday 4 June 2013, be confirmed, noting Council's resolution of 11 June 2013 which noted that Councillor Salvestro-Martin had declared a Less than Significant Non-Pecuniary Interest in Item 2 – 29 Vimiera Road, Eastwood – LOT 10 DP 4574 – BC2013/0003, for the reason that a speaker on the matter is known to him.

**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 29 SHEPHERD STREET, RYDE. LOT C DP 327043. Local Development Application for new two storey attached dual occupancy and inground swimming pools. LDA2013/0001.**

Note: Anthony Good (objector) and Peter Hall (applicant's architect) addressed the Committee in relation to this Item.

**RESOLUTION:** (Moved by Councillors Chung and Maggio)

- (a) That Council defer consideration of Local Development Application No. LDA2013/0001 at 29 Shepherd Street Ryde being LOT C DP 327043 to enable the Group Manager Environment and Planning to undertake a mediation with the applicant and objectors to consider the issues of:

- Setbacks
- Privacy

- (b) That the amended plans be submitted following mediation and re-notified to the neighbouring properties and previous objectors to the original DA.

If the amended plans do not attract any further submissions then the application may be determined by the Group Manager Environment & Planning under delegated authority. Otherwise, a further report shall be presented to the Planning & Environment Committee for determination.

- (c) 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.

**3 18 SHEPHERD STREET, RYDE. LOT 70 DP 5887. Local Development Application for new two storey attached dual occupancy. LDA2012/144.**

Note: Garry Haddad (objector on behalf of John Moses), Janet Tse (objector) and Peter Hall (applicant's architect) and Raymond El Hazouri (applicant) addressed the Committee in relation to this Item.

Note: A Memorandum from the Group Manager, Environment and Planning was circulated in relation to this matter and a copy is ON FILE.

**RECOMMENDATION:** (Moved by Councillors Maggio and Chung)

- (a) That Council defer consideration of Local Development Application No. 2012/144 at 18 Shepherd Street being LOT 70 DP5887 to enable the Group Manager Environment and Planning to undertake a mediation with the applicant and objectors to consider the issues of:

**ITEM 1 (continued)**

**ATTACHMENT 1**

- Bulk – limiting the height of the rear dwelling to single storey
- Privacy
- Overshadowing
- Design of open space for front dwelling to be increased

- (b) That the amended plans be submitted following mediation and re-notified to the neighbouring properties and previous objectors to the original DA.

If the amended plans do not attract any further submissions then the application may be determined by the Group Manager Environment & Planning under delegated authority. Otherwise, a further report shall be presented to the Planning & Environment Committee for determination.

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

**Record of Voting:**

For the Motion: Councillors Chung and Maggio

Against the Motion: Councillor Pendleton

Note: This matter will be dealt with at the Council Meeting to be held on **25 JUNE 2013** as dissenting votes were recorded and substantive changes were made to the published recommendation.

**4 68 CHAMPION ROAD, TENNYSON POINT - LOT 21 DP 233234. Local Development Application for extension of boundary fencing within foreshore building line. LDA2013/0080.**

Note: Eric Camp (objector) and Deborah Alexiou (applicant) addressed the Committee in relation to this Item.

**RECOMMENDATION:** (Moved by Councillors Pendleton and Chung)

- (a) That LDA2013/0080 at 68 Champion Road, Tennyson Point being LOT 21 DP 233234 be refused for the following reasons:

1. The proposed works to the boundary fence do not comply with the controls set out within the Ryde DCP 2010 or the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005.
2. The proposed works to the boundary fence within the foreshore building line would result in a structure which is considered to be inconsistent with the desired future character for the R2 Low Density Residential zone, and in particular the character of waterfront development in the Tennyson Point area, and wider waterfront area of the Ryde local government area.

**ITEM 1 (continued)**

**ATTACHMENT 1**

3. The proposed fence being of a solid construction does not comply with the Ryde DCP 2010 control in relation to fences forward of the foreshore building line being of an open and permeable construction, and will impede views to and from the waterfront of Glades Bay.
4. In the circumstances of the case, approval of the development is considered not to be in the public interest.

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

**Record of Voting:**

For the Motion: Councillors Chung and Pendleton

Against the Motion: Councillor Maggio

Note: This matter will be dealt with at the Council Meeting to be held on **25 JUNE 2013** as dissenting votes were recorded.

The meeting closed at 6.19pm.

CONFIRMED THIS 16TH DAY OF JULY 2013.

Chairperson

**2      4 MAXIM STREET, WEST RYDE. LOT 5 SEC 3 DP 3646. Local Development Application for alterations and additions to the existing church. LDA2013/0096.**

***INTERVIEW: 5.00pm***

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**Report prepared by:** Senior Town Planner

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

**Report dated:** 1/07/2013

**File Number:** grp/09/5/6/2 - BP13/969

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**1. Report Summary**

**Applicant:** Ken Dyer Design Pty Ltd.

**Owner:** West Ryde Christadelphian

**Date lodged:** 2 April 2013.

This report considers a proposal for alterations and additions to the West Ryde Christadelphian Church.

The subject site is zoned SP 2 Infrastructure (Church) under the Ryde LEP 2010. Existing on site is a single storey brick building currently being used as a church. The use as a church is defined as a “place of public worship” and is permissible with consent, within the SP2 Infrastructure (Church) zoning.

It is proposed to carry out alterations and additions to the existing church including the following works:

- Demolish the front entrance, toilet area and the rear kitchen section
- Construct a new side addition measuring 23m x 4m along the southern elevation to comprise of a multi-purpose room, new toilet facilities and kitchen
- Construct a new rear addition measuring 7m x 8.9m for use as a supper room
- Construct a new side garden, courtyard and foyer area along the northern elevation
- Provide eight off street parking spaces within the front setback area. Seven of the parking spaces will be provided on turf cell grass reinforcement pavers with the central driveway and the accessible parking space constructed out of concrete pavers.

A pre-lodgement meeting was held on 15 November 2012 where the proponent was advised by Council’s Officers that the use of grass cells for parking spaces would not be supported, as grass cells are not appropriate for long term parking and maintenance purposes. Concerns were also raised about the conversion of the current landscaped front setback into a formalised parking area due to its adverse impacts on the streetscape. It was recommended the proponent explore the possibility of locating the parking area at the rear of the site, with the open play areas within the front setback. The applicant has indicated that this option is inappropriate as the play area should be located where there is surveillance and away from the general public thoroughfare.

**ITEM 2 (continued)**

The current design of the car park with eight spaces does not satisfy the objectives of Part 9.3 – Car Parking of Development Control Plan 2010 resulting in non-compliances to AS2890.6, AS2890.1 and the development having an adverse impact on the streetscape. In addition Council's Development Engineer does not support the use of Atlantis cell pavers for parking areas. Atlantis turf cell pavers are not acceptable for long term parking areas due to maintenance issues as they tend to break up and collect sediment in the drainage system.

The development also involves building works to the front façade of the building by demolishing the front section. The proposed new front wall does not contain any windows or fenestration details resulting in a poor streetscape presentation. The front façade design issue can be addressed with conditions of consent to provide fenestration details to the front wall.

With regard to the non-compliances with AS2890.6 and AS2890.1, the layout of the car park can be amended by deleting two car parking spaces. The deletion of two car spaces, one on either side of the front driveway will provide sufficient space to comply with the required width for the accessible car parking bay and to provide landscaping to screen the car parking area. With the provision of on-site landscaping to minimise the visual impact of the car park, the car park can be fully paved and the turf cells deleted. These amendments can be addressed by a deferred commencement condition requiring the applicant to amend the car parking design to provide for a maximum of six car parking spaces and for the car park and the accessible car parking bay to comply with AS2890.6 and AS2890.1. On-site landscaping is also to be provided to screen and soften the development from the public domain.

The application was advertised and notified between 17 April 2013 to 1 May 2013 in accordance with Council's Notification DCP (Part 2.1 of DCP 2010). No submissions were received.

The application is recommended for approval, subject to deferred commencement conditions to amend the front car park layout and driveway.

**Reason for Referral to Planning and Environment Committee:** Called up by Councillor Laxale & Councillor Etmekdjian.

Public Submissions: No submissions were received.

Clause 4.6 RLEP 2010 objection required? No

Value of works? \$660,000

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



**ITEM 2 (continued)****RECOMMENDATION:**

(a) That Local Development Application No. 2013/96 for alterations and additions to the existing church at 4 Maxim Street, Ryde be approved subject to the **ATTACHED** conditions.

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

**ATTACHMENTS**

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

Report Prepared By:

**Sandra McCarry**  
**Senior Town Planner**

Report Approved By:

**Liz Coad**  
**Manager Assessment**

**Dominic Johnson**  
**Group Manager - Environment & Planning**

## ITEM 2 (continued)

### 2. Site (*Refer to attached map.*)

**Address** : 4 Maxim St West Ryde

**Site Area** : 910.4m<sup>2</sup>  
Frontage 20.14metres  
Depth 45.19metres

**Topography and Vegetation** : Slight fall from the rear to the front with no significant trees on site.

**Existing Buildings** : Single storey brick building currently being used for the West Ryde Christadelphian Church.



Front of existing church.

**Planning Controls**  
**Zoning** : SP2 Infrastructure (Church) under Ryde Local Environmental Plan 2010

**Other** : Development Control Plan 2010

- Part 9.3 Car Parking
- Part 7.1 Energy Smart, Water Wise
- Part 7.2 Waste Minimisation and Management

**ITEM 2 (continued)**



Figure 1: Site Plan - The aerial photograph identifies the subject site and adjoining buildings. Note: informal parking for more than eight vehicles located at the rear of the site.

**3. Councillor Representations**

Name of Councillor(s): Call up by Councillor Laxale.

Date: 31 May 2013.

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

On behalf of applicant or objectors? On behalf of the proponent.

Any other persons (e.g. consultants) involved in or part of the representation: No

Name of Councillor: Call up by Councillor Etmekdjian

Date: 31 May 2013.

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

On behalf of applicant or objectors? On behalf of the proponent.

Any other persons (e.g. consultants) involved in or part of the representation: No

## ITEM 2 (continued)

### 4. Political Donations or Gifts

Any political donations or gifts disclosed? No

### 5. Proposal

The development proposes alterations and additions to the existing church comprising of the following works:

- Demolition of the front portion of the existing building to provide a greater setback to the street;
- The reconfiguring of the internal layout of the church by relocating bathroom amenities away from the front of the site to the southern side of the site,
- Extension of the building to the south to accommodate bathroom amenities, a multi-purpose room and kitchen;
- Extension of the building to the east (rear) to provide a supper room that connects to the kitchen and rear outdoor open space areas, including a covered verandah to the east and north;
- Extension to the north to provide a side entrance/foyer located behind a side courtyard area, and
- Provision of a formalised parking area at the front of the site that makes provision for 8 car parking spaces including an accessible space.

The site currently has two driveways and access points from Maxim Street. It is proposed to remove the two driveways and provide a centralised driveway for access to the front car parking area.



Figure 2: Front elevation with new side extensions and ramps.

**ITEM 2 (continued)****6. Background**

- A Pre-lodgement Meeting was held on 15 November 2012 to discuss the proposal. The advice given at the pre-lodgement meeting was that Atlantis turf cell for driving/parking areas would not be supported by Council's Officers due to maintenance issues. Council's Officers also raised concerns about the conversion of the current front landscaped area into a formalised parking area. It was recommended that consideration be given to relocating the car parking area to the rear of the site.
- The subject Local Development Application was lodged on 2 April 2013.
- In accordance with Council's Notification Policy, the proposal was advertised and adjoining property owners notified and given between 17 April 2013 and 1 May 2013 to make a submission. No submissions were received.
- A letter was sent to the applicant on 28 May 2013 advising that the proposed application, in its current form cannot be supported by Council Officers. The following non compliances were identified:
  - i. The car park layout did not comply with AS2890.1 and the accessible parking bay did not comply with AS2890.6.
  - ii. Car parking within the front setback does not comply with Clause 3.2 (i) &(j) of Council's DCP 2010.
  - iii. The use of Atlantis cell turf for long term parking area is not supported by Council Officers as they collect sediment within the drainage system.
  - iv. The proposal does not comply with the requirements of Part 8.2 – Stormwater Management of DCP 2010.
  - v. The design of the front angle driveway is not supported. Driveway should be provided at 90 degree to the kerb to provide safe access to the car parking area, as required under Part 8.3 of DCP 2010.
  - vi. The proposal will not be sympathetic to the character of the Conservation Area and the heritage listed church located opposite.
  - vii. The use of the front setback as a car park would create an uncharacteristic streetscape and set a precedent within the street which is not acceptable in a Conservation Area and opposite a Heritage Item.

**7. Submissions**

The proposal was advertised and notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. Notification of the proposal was from 17 April 2013 until 1 May 2013. No submissions were received.

**8. Clause 4.6 RLEP 2010 objection required? No**



## **ITEM 2 (continued)**

### **9. Policy Implications**

#### **Relevant Provisions of Environmental Planning Instruments etc:**

##### **(a) Ryde Local Environmental Plan 2010 (RLEP):**

##### **Zoning**

The subject site is zoned SP2 Infrastructure (Church). The site is currently being used for the purpose of a church.

The development is defined as “place of public worship” under the RLEP and is a permissible form of development, with consent, within the SP2 Infrastructure (Church) zoning.

##### **Mandatory Requirements:**

##### Objectives for development in the SP2 Infrastructure zone are:

- To provide for infrastructure and related uses.*
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- To ensure the orderly development of the land.*
- To ensure that development does not have an adverse effect on adjoining land.*

The proposed development provides for infrastructure (church) works. The proposed car park in its current form will not result in an orderly development of the land due to its adverse impact on the streetscape and adjoining land. However, with the requirement to amend the design of the car park so landscaping can be provided on site and compliance with AS2890, the proposal would result in an orderly development of the land and would not have an adverse effect on adjoining properties. It is considered that the proposal is able to satisfy the objectives for development in the SP2 Infrastructure zone subject to the recommended conditions of consent.

The RLEP does not contain any height, or floor space ratio controls, relevant to the subject site.

##### **(i) Any proposed instrument (Draft LEP etc)**

A Section 65 Certificate enabling the formal exhibition of Draft Local Environmental Plan 2011 was issued by the Department of Planning and Infrastructure on 23 April 2012. The Draft Plan was publicly exhibited between 30 May 2012 and 13 July 2012 and finally adopted by Council on 12 March 2013 and is waiting gazettal by the

**ITEM 2 (continued)**

Department of Planning and Infrastructure; as such LEP 2011 can be considered certain and imminent.

Under this Draft LEP, the zoning of the property remains unchanged however under the draft LEP the subject site will no longer be part of the Maxim Street Conservation Area. The review of the Maxim Street Heritage Conservation Area has resulted in the northern section (the area within the subject site) being removed from the Maxim Street Conservation Area as the northern section of the conservation area has insufficient heritage values to warrant inclusion. The reasons for this are that the northern section is dominated by residential flat buildings and single detached houses built mainly in the 1960s. The part of the conservation area proposed to be retained is characterised by pre-dominantly single storey Californian bungalow style houses built in the 1920s.

**(ii) Any development control plan****Ryde DCP 2010:****Part 9.3 - Car Parking**

Clause 1.1 Objectives of this Part are:

- 1. To minimise traffic congestion and ensure adequate traffic safety and management.*
- 2. To ensure an adequate environmental quality of parking areas (including both safety and amenity).*
- 3. To minimise car dependency for commuting and recreational transport use, and to promote alternative means of transport - public transport, bicycling, and walking.*
- 4. To provide adequate car parking for building users and visitors, depending on building use and proximity to public transport.*
- 5. To minimise the visual impact of car parking when viewed from the public domain and adjoining sites.*
- 6. To maximise opportunities for consolidated areas of deep soil planting and landscaping.*

**Streetscape**

The proposed development will provide car parking for eight vehicles within the front setback area with seven of the parking spaces to be constructed out of grass crete / turf cells. The central driveway and accessible parking bay will be concrete.

The applicant contends that the use of the turf cells will minimise the visual impact of the car parking area within the front setback, together with the fact that the parking area will not be in constant use, as the church operation hours are limited with its peak use occurring on Sundays.

**ITEM 2 (continued)**

It is acknowledged that the car park may not be in frequent use during the week and that the peak use will be generally on Sundays. Nevertheless the current proposal does not provide any landscaping on site to screen the car park, relying on landscaping on Council's land to screen the development. Furthermore, the use of turf cells for a car park area is not appropriate and Council's Development Engineer does not support the use of turf cells for long term car parking areas. Whilst the intention of the turf cells are to create a green space in an otherwise concrete car park, the cells often breaks up and disintegrate to plastic cellular turf pavers. In addition the cells collect sediment within the drainage system resulting in a maintenance issue.

An alternative to the turf cells is to pave the entire front car park area. This will eliminate the concerns about the disintegration of the cells and maintenance issue. The issue of adverse visual impact of a fully paved car park within the front setback can be addressed by the provision of on-site landscaping to screen and soften the development from the public domain. However, in order to acquire the space to provide the required landscaping, two car spaces would need to be deleted. This would result in a shortfall of two spaces (full discussion of the shortfall in car parking is discussed in detail below). The provision of on-site landscaping will provide for a greater benefit in terms of minimising the negative impact to the streetscape. As such it is recommended that the car park layout be amended to delete the two car parking spaces adjacent to the front boundary and for this area to be suitable landscaped.

**Required Car Parking**

For "Places of Public Worship / Assembly" Council's Development Control Plan requires car parking to be provided at the following rate for:

*1 space / 10 seats*

*or*

*1 space / 10m<sup>2</sup> GFA (including ancillary spaces such as kitchens, facilities management offices, foyers and the like), whichever is the greater.*

The existing church has a gross floor area of 210m<sup>2</sup> which based on the above rate, would require 21 car spaces. The proposed addition will result in a gross floor area of 360m<sup>2</sup>, which would require 36 car spaces. There are no formal parking spaces provided on the site and currently there are two driveways leading to the rear yard area. The rear yard is approximately 15m x 20m, grassed and is being used as an informal parking area for between six to eight vehicles (as seen on the aerial site photo Figure 1 above).



**ITEM 2 (continued)**

The applicant contends that the car parking calculation should be based on the number of seats and states in their Statement of Environmental Effects that there will be no increase in the patronage of the church as a result of this redevelopment. The following information regarding to the number of patrons has been provided by the applicant:

*Church Membership and Congregational Numbers*

*The existing church membership comprises 70 members. A membership of 70 - 80 persons has been the static standard for this church for over 50 years. A survey of church attendance that occurs every Sunday and an analysis of these figures confirm that the average Sunday attendance of members comprises 58%.*

*Taking into account the average attendance figure (of members) and the average attendance of members' children, the total number of persons (adults + children) in attendance on a Sunday comprises 65-70 persons.*

*The church hall currently provides 80 seats. The proposal does not seek to increase the capacity of the church hall or seek to increase the congregation size.*

A Traffic & Parking Assessment Report prepared by McLaren Traffic Engineering has been submitted with the application. The Traffic & Parking Report states that as the proposal will not increase the patronage of the church, the parking calculation should be based on the number of seats. The justifications provided by their Traffic Consultant are as follows:

- *The existing floor space of 210.11m<sup>2</sup> does not have formal on-site parking, despite the DCP requirement of 21 car spaces. Therefore a historical deficiency is present for this development and needs to be considered.*
- *The site is merely updated facilities to relevant building standards with an increase in total GFA however the congregation will not expand beyond what currently operates. Parking calculations for the site should be based on the number of seats given the current operation will continue and the provision of formal on-site parking will alleviate parking stress in the nearby street/s.*
- *The site is well serviced by public transport. It is located within 250m of the West Ryde Railway Station on the Northern Line, which receives one train in each direction every 30 minutes. On Sundays the station also receives buses every 30 minutes to and from Town Hall (Sydney Buses Route 501) and every two hours to and from Parramatta (Routes 523 & 524).*

## ITEM 2 (continued)

The proposal was referred to Council's Traffic Engineer who has advised via memo dated 7 June 2013:

### Parking Demand

*DCP Part 9.3 specifies a parking rate of 1 space / 10 seats or 1 space / 10m<sup>2</sup> GFA (whichever is greater). The proposed development includes 80 seats and 360.14m<sup>2</sup> GFA which would equate to a parking demand of 36 spaces. However, given that the church is existing, it is considered reasonable to divert away from the DCP so long as the applicant provides sufficient spaces to cater for the existing parking demand plus the additional parking demand only.*

*It can reasonably be accepted that the kitchen, supper room and toilets will provide additional facilities for existing patrons and that they will not generate any parking demand on their own. However, it is reasonably considered that the newly proposed multipurpose room can be used concurrently with the rest of the church and is likely to generate an additional parking demand. The increase in parking demand and supply is indicated in the table below. (Currently the rear yard can accommodate informal parking for 6-8 vehicles)*

		Parking				
	GFA	Demand	On-Site Supply	Shortfall		
	(m <sup>2</sup> )	(spaces)	(spaces)	(spaces)		
Existing	210.1	21	6	15		
Proposed	232 <sup>a</sup>	23	8	15		
a: assumed increase includes multipurpose room only estimated from pdf drawing						

*In light of the above, it is considered reasonable that a parking supply of 8 spaces will be sufficient to ensure that there will not be any significant adverse impact in terms of parking supply.*

Council's Traffic Engineer has concluded that the provision of eight spaces will be sufficient to cater for the proposed addition and use. The applicant states that the proposed addition "will not result in any increase in the number of seats or seek to increase worshipper capacity, will not result in a greater church attendance but is intended to meet the needs of the existing congregation with improved and modernised facilities".

The development proposes eight car parking spaces including one accessible car parking bay. However to address the issue of non-compliance with AS2890.6 (insufficient width for the accessible car parking bay) and no on-site landscaping, it is considered appropriate to delete two car spaces. The deletion of the car spaces will enable the accessible car parking bay to be widened to comply with AS2890.6 and to

**ITEM 2 (continued)**

provide landscaping adjacent to the front boundary. The provision of landscaping within the front setback would also enable the deletion of the turf cells, which are not supported by Council's Development Engineer.

However, with the deletion of the two car spaces, there will be a shortfall of on-site parking by two spaces. In this instance, given that there will be no increase in the patronage/membership to the church and that the proposal will provide for six formal parking spaces where currently there are none, the provision of six spaces is considered satisfactory. Furthermore, perusal of the site area, indicates that even if the car park were to be relocated to the rear yard area, there is only room for six vehicles to be parked within the rear yard area. Therefore the provision of six car spaces is considered reasonable and sufficient to cater for the proposed use. This matter has been discussed with Council's Traffic Engineer who has raised no issues with the provision of six car parking spaces. However, to ensure that the use does not extend beyond what is currently operating condition 3 has been imposed to restrict the maximum number of seats and church meeting/functions to a maximum of 80 seats and people at any one time.

**Car Park Layout**

Clause 3.2 (a), (i) &(j) – Design of Parking Areas states that

- a. All parking areas shall be designed in accordance with Australian Standards AS2890.1, AS2890.2 and AS2890.6*
- i. Parking areas must not be located within the front building setbacks including for sites located along Victoria Road, Epping Road and Lane Cove Road. Refer also Part 4 Urban Centres for setbacks.*
- j. Parking areas are to be screened from view from the street, public domain and communal open space areas, using site planning and appropriate screen planting or structures.*

It is proposed to provide eight car parking spaces within the front setback with a centralised driveway, as shown in Figure 2 below. An accessible parking bay is located at the south-west end of the proposed car park area.

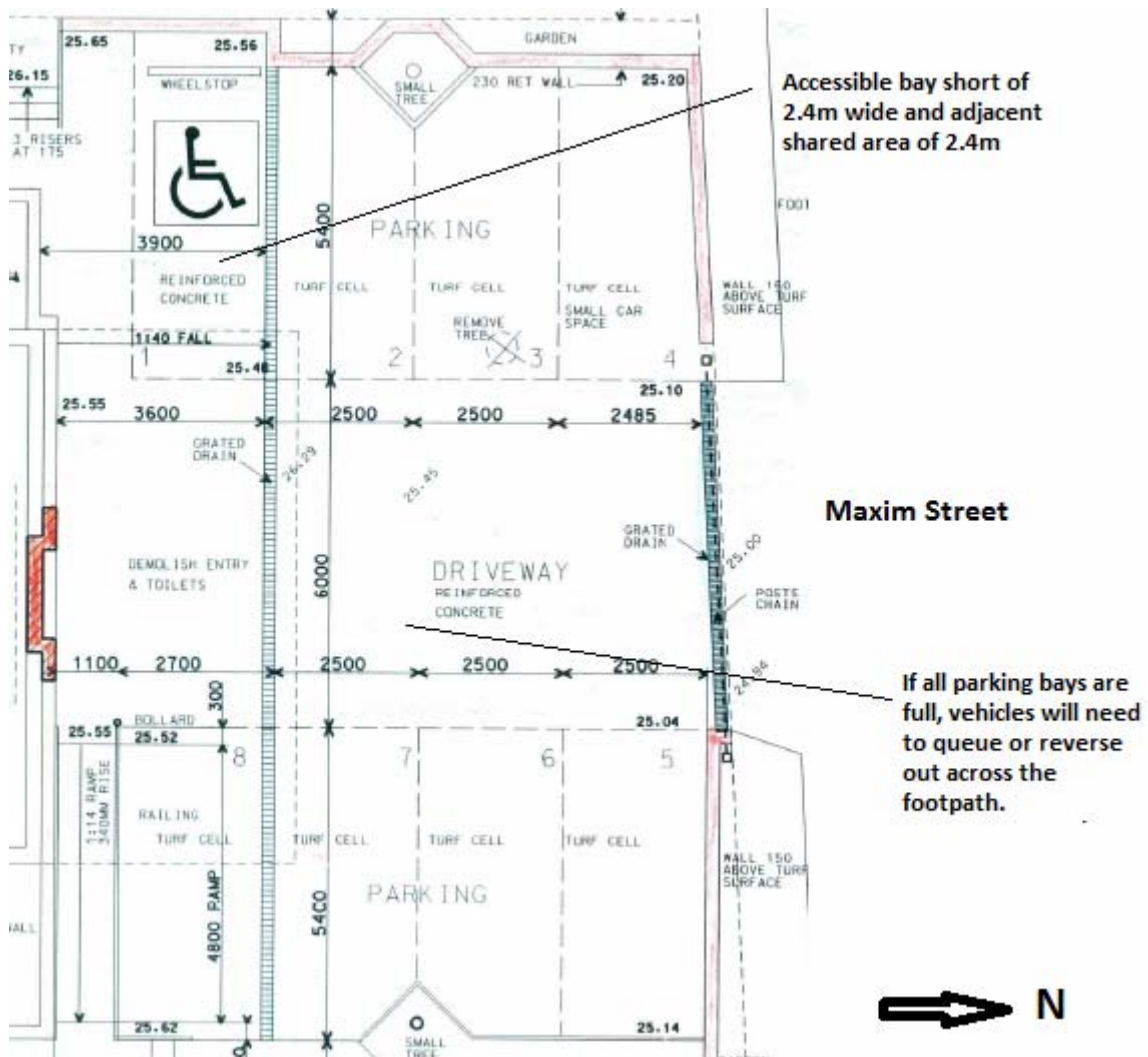
**ITEM 2 (continued)**

Figure 2: Proposed car park within the front setback – non compliant with AS2890.6 and AS2890.1

Council's Traffic Engineer has reviewed the layout and has advised that the proposed accessible parking bay has not been designed in accordance with AS2890.6. The parking bay must be a minimum width of 2.4m with an adjacent shared area of 2.4m. The proposed accessible parking bay is only 2.3m wide with the shared area being between 1.2m to 1.6m therefore the accessible parking bay is short of the required width by 900mm to 1.3m.

In addition the proposed car park layout does not comply with AS2890.1 Section 3.4 which stipulates that:

*"the queuing area to be provided between the vehicular control point and the property boundary shall be sufficient to allow a free influx of traffic which will not adversely affect traffic or pedestrian flow in the frontage road".*

**ITEM 2 (continued)**

Council's Traffic Engineer has advised that the car park should be designed to prevent any queuing or reversing across the footpath. The current car park design does not satisfy the above requirement in that should a vehicle need to queue while another vehicle is manoeuvring out of a parking bay or should all parking bays be filled then a motorist will need to queue or reverse across the footpath. The current proposal does not comply with Clause 3.2 (a) of the DCP and will result in an unsafe situation which is not supported by Council's Traffic Engineer. However with the deletion of the two car spaces, it is possible to maximise the vehicular control point for queuing on entry to the site which will help to minimise queuing across the footpath. Council's Traffic Engineer was advised of the requirement to delete two car spaces and is satisfied that an amended design will be able to provide a control point to minimise queuing across the footpath. Deferred commencement condition 1 requires the redesign of the car park to take into consideration the queuing area between the vehicular control point and the property boundary so as to minimise queuing across the footpath.

The proposed car park does not comply with above points (i) & (j) of the DCP. With the deferred commencement condition to amend the car park to enable on site landscaping to screen and soften the front car park, the proposal will satisfy point (j). With regard to point (i), recent changes made on 1 March 2013 to the *Environmental Planning and Assessment Act 1979* reinforced that, the provisions contained in a DCP are not statutory requirements and are for guidance purposes only. Whilst the car park will be located within the front building setback, the amended car park will provide for on-site landscaping, sufficient width for the accessible car park bay, and remove the use of turf cells. These amendments will provide for a sensible planning outcome and satisfy the objectives of the zone, as such the proposed variation to Clause 3.2 (i) could be supported by Council.

**Part 7.1 – Energy Smart, Water Wise:**

The objectives for this type of development with regards to energy and water efficiency are as follows:

***Objectives***

1. *Maximizing solar access to rooms and areas that are used most (living areas, family rooms and kitchens) through orientating rooms to the north, preferably within a range of 30° east and 20° west of true north.  
Note: the 30° east and 20° west range for 'north-facing' elements represents the limits to energy efficient orientation. Any further variance to these angles will have a significant impact on energy consumption or comfort levels.*
2. *Managing solar access to windows through the use of either vertical or horizontal shading devices such as pergolas, verandas, blinds or shutters to control the penetration of sunlight.*



**ITEM 2 (continued)**

3. *Preserving solar access to north facing windows, solar panels and clothes drying facilities in adjacent residential development.*
4. *Reducing the consumption of water, electricity and gas.*

The proposal generally satisfies the above objectives in that solar access to windows are managed by a verandah along the northern and eastern elevations. Due to the nature of the building, there are no main living areas requiring north facing orientation. A condition will be imposed requiring the fittings, fixtures and materials installed in association with the development (including but not limited to hot water systems, ceiling/roof insulation, shower heads, toilet cisterns and the like) to comply with the requirements of Council's DCP 2010. (See condition 5).

**Part 7.2 – Waste Minimisation and Management**

A waste plan has been submitted with the application and is considered satisfactory.

**Part 9.2 – Access for People with Disabilities**

The proposed addition and existing church is classified as a Class 9 Building under the Building Code of Building. Council's DCP states that new development for Class 9 buildings must comply with the following:

*The ground floor must comply with all applicable provisions of this Part and in developments with two or more storeys, where the aggregate floor area of all storeys above the ground storey is 400m<sup>2</sup> or more, all storeys must comply with all applicable provisions of this Part. In particular, lift access is to be provided to the upper storey or storeys.*

As it is proposed to do alterations and additions to the existing church, disabled access and facilities to the church building is required to be provided under Council's DCP and also pursuant to Clause F2.4 of the BCA. The building is single storey with a ramp up to the entrance at the side of the building, disabled access is provided to the building via the ramp and disabled toilet facilities have been provided.

**Section 94 Development Contributions Plan 2007 (2010 Amendment)**

The Section 94 Contributions Plan – 2007 allows Council to impose a monetary contribution on developments that will contribute to increased demand for services as a result of increased development density/ floor area.

The proposed development, being alterations and additions to an existing church do not fall within any of the development types listed in Section 2.14 of the Section 94 Development Contribution Plan. The S94 Contribution Plan states that if the development does not fall within the development type listed, the contribution will be

**ITEM 2 (continued)**

based on an assessment of the expected demand for public facilities that the development generates.

The new kitchen and toilet facilities will replace the existing kitchen and toilet facilities. The applicant states that there will be no increase in the patronage of the church with the new supper and multi-purpose room to cater for the existing members. As such the proposal will not result in an increased demand for public facilities. Therefore a S94 contribution is not applicable in this instance.

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

The site is situated just outside the West Ryde Urban Village. The area is characterised by a mixture of commercial and residential development, with the sites closer to Victoria Road containing commercial uses. However the prevailing character in the immediate locality is residential flat buildings of mixed age and diverse styles. A medical centre and another Church (Ryde Uniting Church) are located nearby.

The proposed addition to the church itself, from a streetscape perspective, would not greatly alter the bulk and scale of the church. The proposed alterations to the front of the church will be single storey and a condition has been imposed to provide additional architectural details to the front to improve the fenestration of the building.

The visual impact of the proposed front car park can be adequately addressed by a deferred commencement condition to amend the layout of the car park to delete two car spaces and to provide on- site landscaping. The provision of landscaping will minimise the visual impact of parked vehicles within the front setback. The condition will also stipulate that any landscaping proposed is not to block pedestrian and vehicle sightlines.

As the church adjoins residential properties, conditions 3, 4 & 51 have been imposed to ensure that the operation of the church would not adversely impact on adjoining properties.

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

The development application, with amendments to the front car park, can be considered suitable for the site. The church is existing and the proposed alterations and additions will modernise and update existing facilities. The site is not bushfire prone or within overland flow. The site is within a Conservation Area, however under the draft LEP the subject site will no longer be part of the Maxim Street Conservation Area. In this regard, the proposal is considered to be suitable for the site in terms of the impact on the existing built environment of the site.

**ITEM 2 (continued)****12. The Public Interest**

The development will provide improved facilities to the existing church and can be considered to be in the public interest. With amendments to the front car parking area, the proposal generally complies with the objectives and controls of Part 9.3 of Council's DCP 2010 (accept for the shortfall in car parking spaces). The proposal, subject to conditions, can be considered to be in the public interest.

**14. Consultation – Internal and External**Internal Referrals

**Development Engineer: 2 May 2013:** Council's Development Engineer has provided the following comments:

*Proposed alterations to the existing church increases the total site impervious areas at site ~ 80%. Eight parking spaces are proposed at front with access from a new driveway.*

*An underground OSD tank is proposed on the northern side of the building.*

*Car park at front is proposed to be partially paved with Atlantis turf cell pavers. These are not acceptable for long term parking areas and collects sediment within the drainage system.*

*Following issues are to be addressed:*

- 1) Provision of Atlantis cell pavers is not supported for the parking areas. Car park should be fully paved.*
- 2) The angle driveway as proposed is not supported. It is suggested that a 5.5m driveway is provided across the footpath at 90 degree angle to the kerb.*
- 3) The down pipes from the southern side of the building should be connected to the OSD tank directly and not to the DCP.*
- 4) OSD tank and the DCP should be provided with grated pits for ventilation, visual inspections and easy maintenance.*
- 5) Landscaping within Council's footpath is not supported.*

Note: Many of the above engineering issues have been addressed via conditions of consent, including re-design of the angle driveway so that it is perpendicular to the entrance of the driveway.



**ITEM 2 (continued)**

**Traffic Engineer: 7 June 2013:** The proposed development was referred to Council's Traffic Engineer who has advised that the following:

*The proposed development with the current proposed car park layout is not supported for the following reasons:*

- *The applicant is to provide a car park layout that complies with AS2890.1 by providing sufficient queuing space between the control point and the pedestrian footpath to allow 1 vehicle to queue; and*
- *The parking bay for people with disabilities is to be designed to comply with AS2890.6.*

Note: Deferred commencement condition 1 requires the car park to be redesigned to delete two car spaces. This will enable the accessible car parking bay to be increased in width and the layout designed to provide sufficient queuing space. Council's Traffic Engineer was advised of this requirement and is satisfied that an amended design can satisfy the above requirements. No objections to the proposal development subject to conditions.

**Heritage Officer: 1 May 2013:** The subject site is located opposite a heritage listed item and is within the Maxim Street Conservation Area. The following comments were made by the Heritage Officer:

*The proposed architectural DA plans as submitted do not address the concerns raised in the pre-lodgement meeting dated 15 November 2012.*

*The subject site is located directly across the road from the Uniting Church heritage item (No. 169) and the site is currently included in the Maxim Street Conservation Area under the RLEP 2010.*

*Although it is noted that once the Draft Ryde Local Environment Plan 2011 is adopted the Church will no longer be located in the Maxim Street Conservation Area, the subject site currently remains within the designated Conservation Area. Therefore consideration to the streetscape, the Conservation Area and the heritage item must be investigated.*

*The single storey extension to both side boundaries is incongruous and does not provide a sound urban design solution to the proposed car parking requirements for the Church's operations and future operations.*

*Although a formal car parking layout has never been provided at the rear of the church evidence from years of operation, the absence of landscaping and the aerial pictures confirm the rear garden has been used as a car parking facility. The current configuration is working and the relocation into the front*

**ITEM 2 (continued)**

*garden (proposed as turf cell) is not considered appropriate and would adversely impact the streetscape and the surrounding built form in the front setback.*

*The existing 1940's bungalow has been substantially reconfigured and re-designed. As part of the proposed works the front façade and enclosed porch addition is to be removed and replaced with ramps / car parking, however the proposed front façade contains no windows and no fenestration details. This is considered inadequate and does not reinforce a positive streetscape urban design solution and does not take into account the relationship the heritage listed church across the road.*

*The SEE provided does not specify how the proposed works impact or not impact on the heritage listing of the United Church.*

**Recommendation:**

*The following information needs to be revised in their documentation:*

- *The submitted plans should contain an existing elevation plan;*
- *The proposed elevation plans incorrectly show windows addressing the street (DA-02); this is not shown on the ground floor plan (DA01) which shows a solid masonry wall addressing the entire street frontage.*
- *The plans do not show the existing power pole located in the council reserve, where the new driveway is proposed;*
- *Landscaping must be improved in the front garden and must be located within the subject site;*
- *That the SEE address the relationship of the proposed works and the heritage item located across the road.*

*The front garden should be landscaped and not used as a car park this would create an uncharacteristic streetscape and set a negative precedence for the surrounding unit blocks to adopt a similar principle, which is unacceptable in a Conservation Area and opposite a heritage item.*

*As per the pre-lodgement meeting notes the Council should not support the turf cell car parking.*

Note: The development will be removed from the Conservation Area under the Draft LEP 2011, which is certain and imminent. The concern about streetscape is addressed by deferred commencement condition 1 which requires landscaping within the front to screen the development from the public domain.

**ITEM 2 (continued)****Environmental Health Officer: 20 June 2013:**

*Preparation of food is for use of the congregation activities only and is not currently notified to the NSW Food Authority. For clarity preparation of 'food for sale', which would include activities like meals on wheels, should be prohibited as they can be classed as 'high risk' and would be regulated.*

*Nonetheless, food preparation for the congregation will still involve serving a relatively larger number of people. So the construction of the new kitchen would benefit by incorporating construction details used in commercial kitchens. This includes the use of separate hand basins to facilitate good hygiene. As this aspect will at present remain unregulated at these premises advisory conditions have been included to bring this to the attention of the applicant.*

*Noise issues can arise in these situations, particularly as activities change. Standard conditions have been included for this contingency.*

*The Assessment Officer has advised that standard conditions for design and installation of mechanical ventilation services have been incorporated into the consent.*

**Recommendation:**

*That the Manager Assessment be advised the proposal will be satisfactory subject to conditions.*

**14. Critical Dates**

There are no critical dates or deadlines to be met.

**15. Financial Impact**

Adoption of the option outlined in this report will have no financial impact.

**16. Other Options:**

It is considered that there are three options available in the consideration and determination of this application:

**A. Deferred Commencement**

The preferred option is to for deferred commencement conditions requiring the applicant to submit amended car parking plans. The car park is to be amended to delete two car spaces, the use of turf cells, for on-site landscaping to be provided and for the angle driveway to be amended.

**ITEM 2 (continued)****B     Refusal of the application**

The option of refusing the application is available but not recommended as the issue of streetscape and compliant with AS2809 can be address by redesign of the car parking area.

**C.     Approving the application as is**

The option of approving the proposal as it stands is not recommended as the issue of streetscape and non- compliance with AS2809 will not be resolved. The proposal will result in an adverse streetscape and non-compliances with Council's Development Control Plan 2010.

**14 Conclusion**

The proposed development has been assessed using the heads of consideration listed in Section 79 of the Environmental Planning & Assessment Act 1979. It is considered that generally the bulk and scale of the proposed addition is not out of character with the surrounding development. The location of the car park within the front setback, whilst not ideal, is the only appropriate location on the site.

The issue of visual impact of the car park can be minimised by the provision of on-site landscaping to screen the car park from the public domain.

The proposed development complies with the objectives of the zoning. On this basis, the proposal is considered acceptable and is recommended for approval subject to conditions.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**PART 1** - The following are the Deferred Commencement condition(s) imposed pursuant to Section 80(3) of the Environmental Planning & Assessment Act 1979.

1. **Car Park.** The front car park is to be amended to delete the use of turf cells and two car parking spaces. The two car spaces on either side of the front driveway are to be deleted and the car park amended to comply with AS2890.6. The amended design is to maximise the storage space/control point for queuing on entry to the site so as to minimise queuing across the footpath. The amended car park should provide deep soil planting and landscaping to minimise and screen the visual impact of the car park from the public domain. A Landscaping Plan with details of the front fence, type/schedule of planting proposed is to be submitted. The proposed planting are not to restrict sightlines for pedestrian and vehicles entering/exiting the site. Details of the amended car park/layout and the landscaping plan are to be submitted and approved by Group Manager Environment and Planning.
2. **Driveway** - The driveway is to be amended to be provided at 90 degree to the kerb to provide for safe access to the car parking area, as required under Part 8.3 of DCP 2010. The amendment to the driveway would necessitate the relocation of the existing street tree. Details of the amended driveway, relocation of the street tree and planting of another street adjacent to the side of the driveway, are to be submitted and approved by Group Manager Environment and Planning.

**PART 2** - The conditions in the following sections of this consent shall apply upon satisfactory compliance with the above requirements and receipt of appropriate written confirmation from Group Manager Environment and Planning.

1. **Approved Plans/Documents.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the stamped plans (stamped approved by Council) and support documents, except where amended by the following conditions. Prior to the issue of a **Construction Certificate**, the following amendments shall be made:
  - (a) **Front Façade** - The proposed front façade is to be amended to contain some fenestration details so as to provide architectural interest to the streetscape. Details of the amendments are to be shown on the plans for the Construction Certificate.

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

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

**ITEM 2 (continued)**

**ATTACHMENT 1**

3. **Maximum number of seats/persons.** The number of seats within the church hall is to be restricted to maximum 80 seats with the maximum capacity of any functions/meetings held on the site restricted to 80 persons.
4. **Sound system.** A public address system or sound amplifying equipment shall not, without the consent of Council, be installed in or upon the premises so as to cause or permit the emission of sound onto any public place or residential area.
5. **Energy Efficiency.** The fittings, fixtures and materials installed in association with the development (including but not limited to hot water systems, ceiling/roof insulation, shower heads, toilet cisterns and the like) shall comply with the requirements of Council's DCP. Details are to be noted on the plans submitted with the Construction Certificate.
6. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (a) Protect and support the adjoining premises from possible damage from the excavation, and
  - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
7. **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.
8. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
9. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
10. **Car Parking.** Six off street car parking space is to be provided for the use with the car spaces clearly line marked. The accessible car parking bay is to be clearly signposted.
11. **Signage – not approved unless shown on plans.** This consent does not authorise the erection of any signs or advertising structures not indicated on the approved plans. Separate approval must be obtained from Council for any signs, unless such signage is "exempt development".
12. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).



**ITEM 2 (continued)**

**ATTACHMENT 1**

13. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.
14. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
15. **Waste Management Plan.** Demolition material must be managed in accordance with the approved waste management plan.
16. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.
17. **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.
18. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
19. **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.

**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 2 (continued)**

**ATTACHMENT 1**

20. **Lighting.** Lighting shall be provided to the car parking area and entrance to the building. The lighting within the development shall be designed, installed and maintained to Australian and New Zealand Lighting Standards. The lights should be projected outwards towards pathways and gates, not towards windows and doors and is not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads. Details of lighting for internal driveways and parking areas 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.
21. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
22. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the Environmental Planning and Assessment Act 1979 in a sum determined by reference to Council's Management Plan prior to the release of the Construction Certificate. (category: other buildings with delivery of bricks or concrete or machine excavation)
23. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the Construction Certificate:
- a) Infrastructure Restoration and Administration Fee
  - b) Enforcement Levy
24. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the Construction Certificate, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building, Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water assets - see Building, Development and Plumbing then Building and Renovating.

Or telephone 13 20 92.

25. **Alignment Levels.** 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**.



**ITEM 2 (continued)**

**ATTACHMENT 1**

26. **Fencing.** 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**.
27. **Mechanical Ventilation.** Details of all proposed mechanical ventilation systems, and alterations to any existing systems, must be submitted to Council or an accredited private certifier with the application for the **Construction Certificate**. Such details must include:
- (a) Plans (coloured to distinguish between new and existing work) and specifications of the mechanical ventilation systems;
  - (b) A site survey plan showing the location of all proposed air intakes exhaust outlets and cooling towers, and any existing cooling towers, air intakes, exhaust outlets and natural ventilation openings in the vicinity; and
  - (c) A certificate from a professional mechanical services engineer certifying that the mechanical ventilation systems will comply with the *Building Code of Australia* and setting out the basis on which the certificate is given and the extent to which the certifier has relied upon relevant specifications, rules, codes of practice or other publications
28. **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.
29. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
30. **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.
31. **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.

**ITEM 2 (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.

**32. Site Sign**

A sign must be erected in a prominent position on site, prior to the commencement of construction:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
- (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**33. 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.

**34. 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.

**35. 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 to 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**

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.

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- 36. 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.
- 37. Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
- 38. Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
- 39. Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- a) Fill is allowed under this consent;
  - b) The material constitutes Virgin Excavated Natural Material as defined in the Protection of the Environment Operations Act 1997;
  - c) the material is reused only to the extent that fill is allowed by the consent.
- 40. Construction materials.** All materials associated with construction must be retained within the site.
- 41. Site maintenance.** The applicant must ensure that:
- a) approved sediment and erosion control measures are installed and maintained during the construction period;
  - b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
  - c) the site is clear of waste and debris at the completion of the works.

**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.

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**ATTACHMENT 1**

42. **Landscaping.** All landscaping works approved by the Deferred Commencement condition are to be completed prior to the issue of the final **Occupation Certificate**.
43. **Mechanical Ventilation.** Where any mechanical ventilation systems have been installed or altered, a certificate from a professional mechanical services engineer certifying that the systems comply with the approved plans and specifications must be submitted to the Principal Certifying Authority before the issue of an **Occupation Certificate**.
44. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
45. **Footpath Paving.** Any damaged or displaced footpath paving along the frontage of the property shall be reconstructed at no cost to Council.
46. **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.
47. **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 **are to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA.
48. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Drawing No 13006 H01 Revision B dated March 2013 prepared by Asquared Pty Ltd and as amended in red by Council and conditions of consent.
49. **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.

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## ATTACHMENT 1

- Confirming that the constructed internal car park and associated drainage complies with AS 2890, the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria – 1999 section 4 and Development Control Plan 2010*: - Part 8.2; Stormwater Management
- 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*

50. **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. **The applicant shall submit the works as executed drawing and the compliance certificate for drainage from the hydraulic engineer to Council with the documents for the Positive Covenant.**

## OPERATIONAL CONDITIONS

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

51. **Hours of operation.** The opening hours and activities conducted on the site is to be generally restricted to 7.00am to 9.00pm Mondays to Sundays (inclusive).
52. **Offensive noise.** The use of the premises must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.
53. **Signage – English language.** All advertising signs are to be displayed in the English language but may include a translation into another language using letters or characters that are no larger than the English language letters or characters.

Any translated message must be accurate and complete.

No amendment to the size of a sign will be permitted to allow for both the English and translated language to be displayed.



**ITEM 2 (continued)**

**ATTACHMENT 1**

54. **Sale of Food.** No preparation of food for sale is permitted on the premises.
55. **Storage and disposal of wastes.** All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner and waste storage areas must be maintained in a clean and tidy condition at all times.
56. **Offensive noise.** The use of the premises must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.
57. **Noise and vibration from plant and equipment.** Unless otherwise provided in this consent, the operation of any plant or equipment installed on the premises must not cause:
- (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).
  - (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
  - (c) The transmission of vibration to any place of different occupancy.
58. **Council may require acoustical consultant's report.** Council may require the submission of a report from an appropriately qualified acoustical consultant demonstrating compliance with the relevant noise and vibration criteria.

**ADVISORY NOTES**

**Construction and fit-out of food preparation areas** - The construction and fitout of new food preparation areas, and renovations or alterations to existing food areas should, where possible, meet with the requirements of:

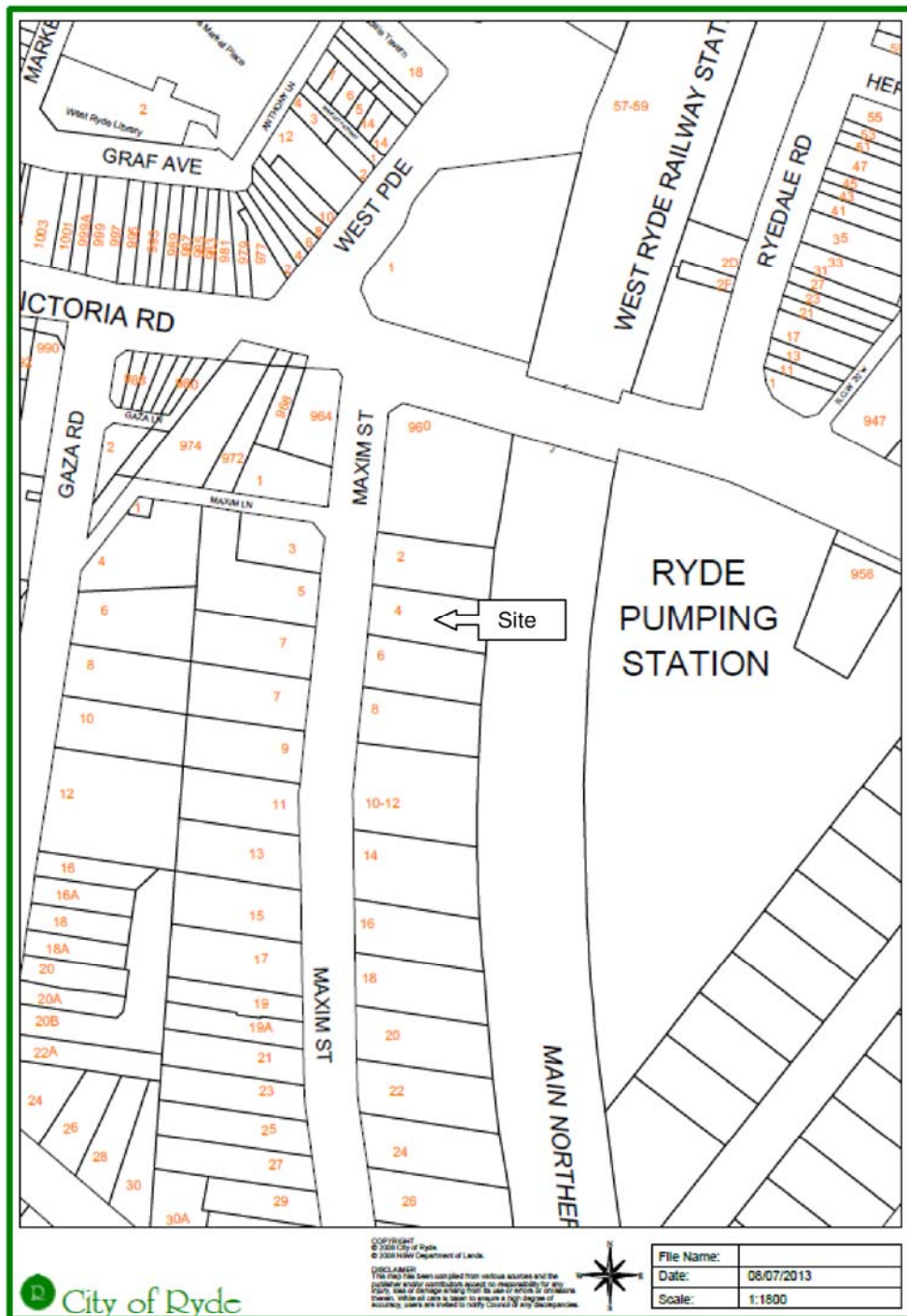
- (a) Food Safety Standard 3.2.3 *Food Premises and Equipment*; and
- (b) Australian Standard AS 4674 - 2004 *Design, construction and fit-out of food premises*.

**Separate hand washing facilities** – To facilitate good hygiene, separate hand basin(s) should be provided where exposed food is handled, in equipment washing areas and in or adjacent to toilet cubicles. The hand basins should be readily accessible, of a size that allows easy and effective hand washing, and fitted with hands-free taps and a common spout for the supply warm running water.

**ITEM 2 (continued)**

**ATTACHMENT 2**

No submissions received.



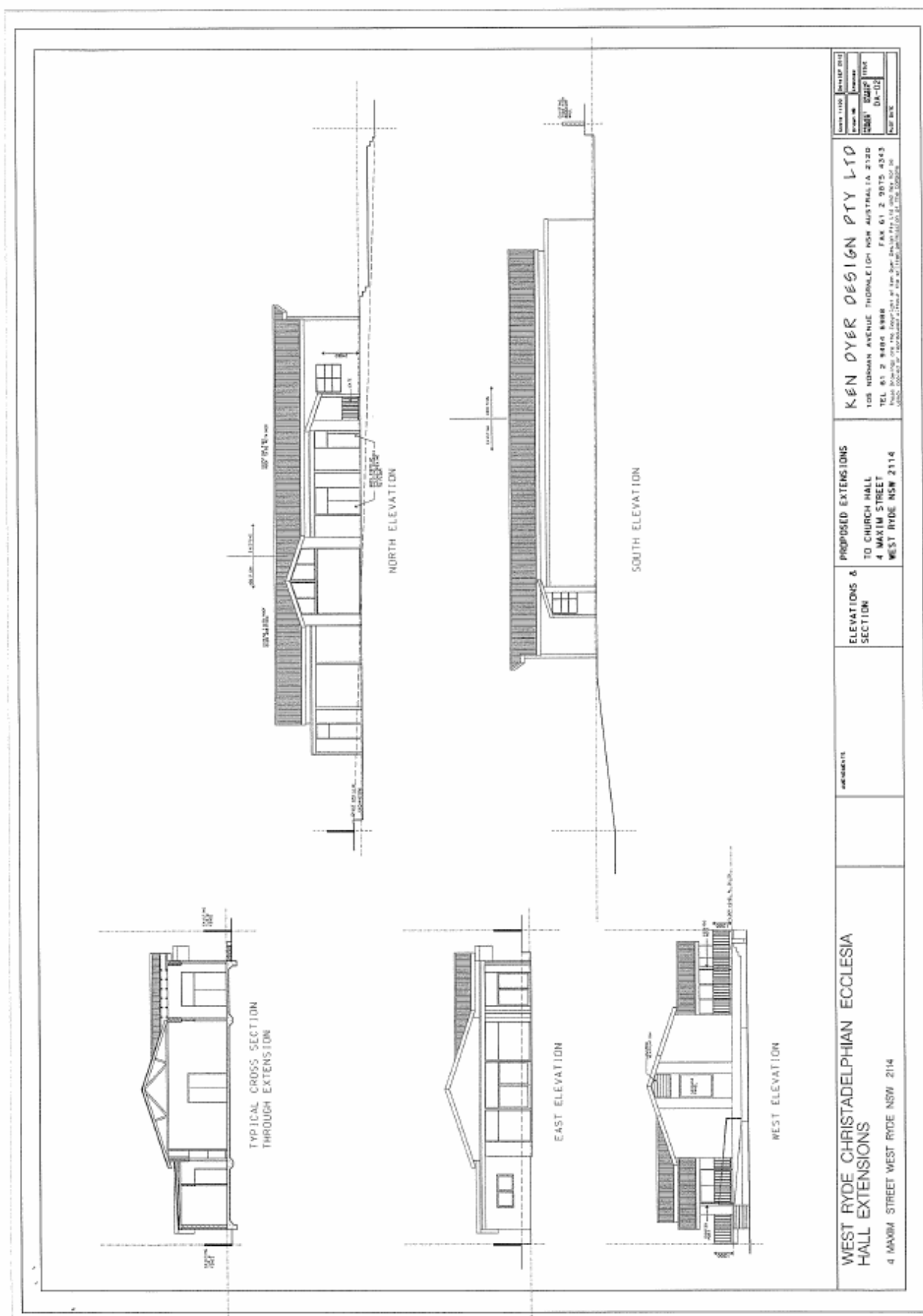
## ATTACHMENT 3





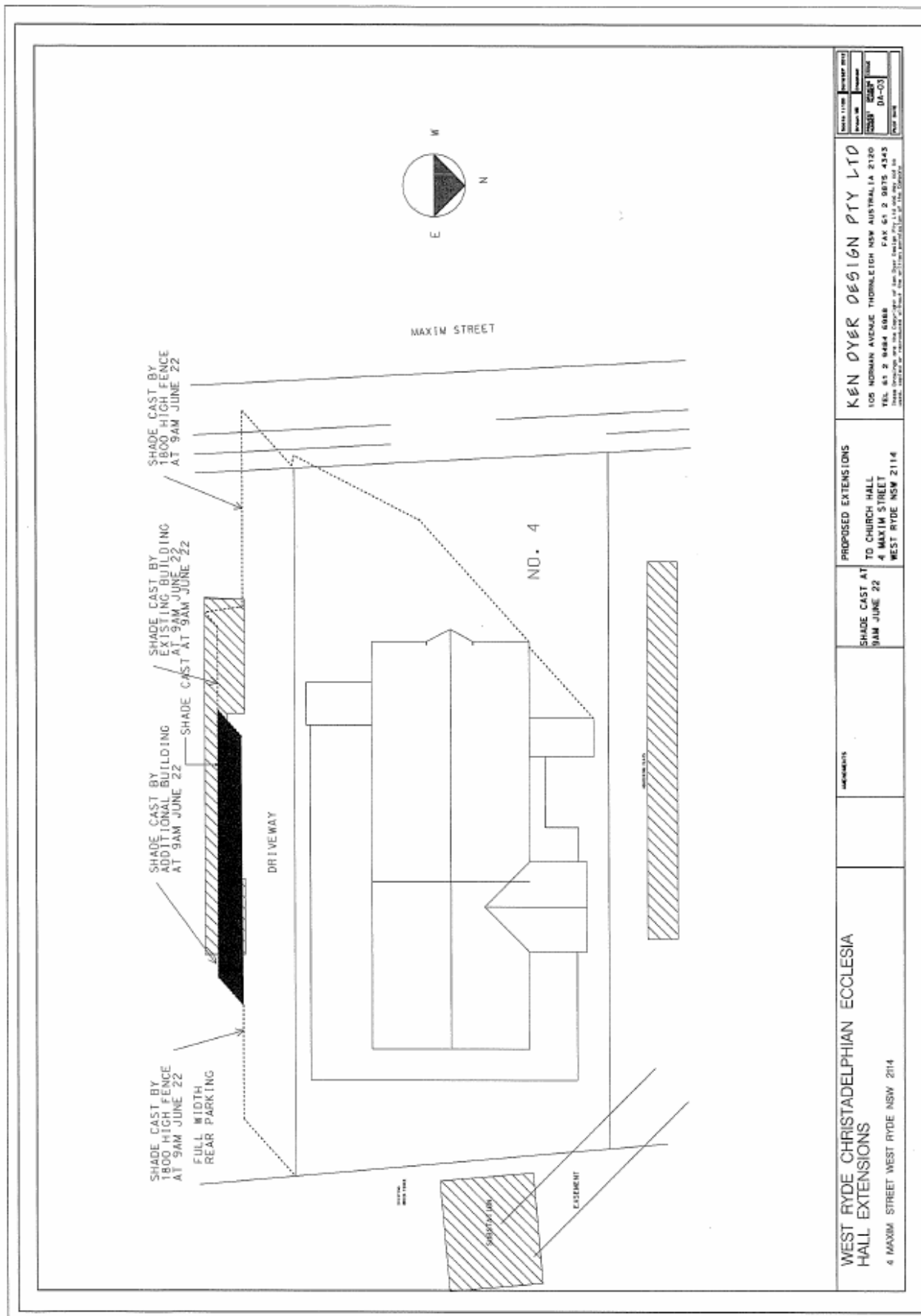
ITEM 2 (continued)

ATTACHMENT 3



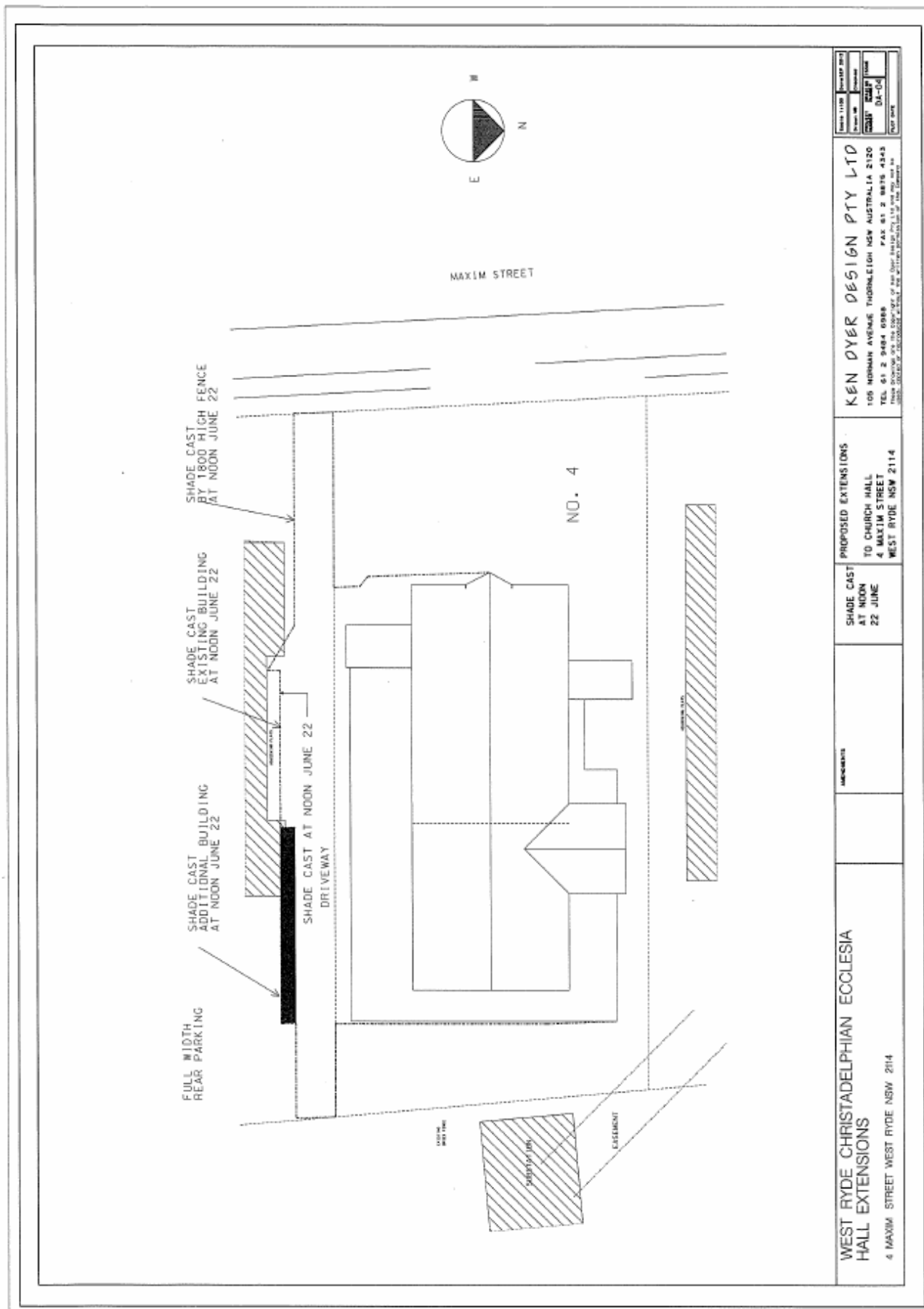
**ITEM 2 (continued)**

## ATTACHMENT 3

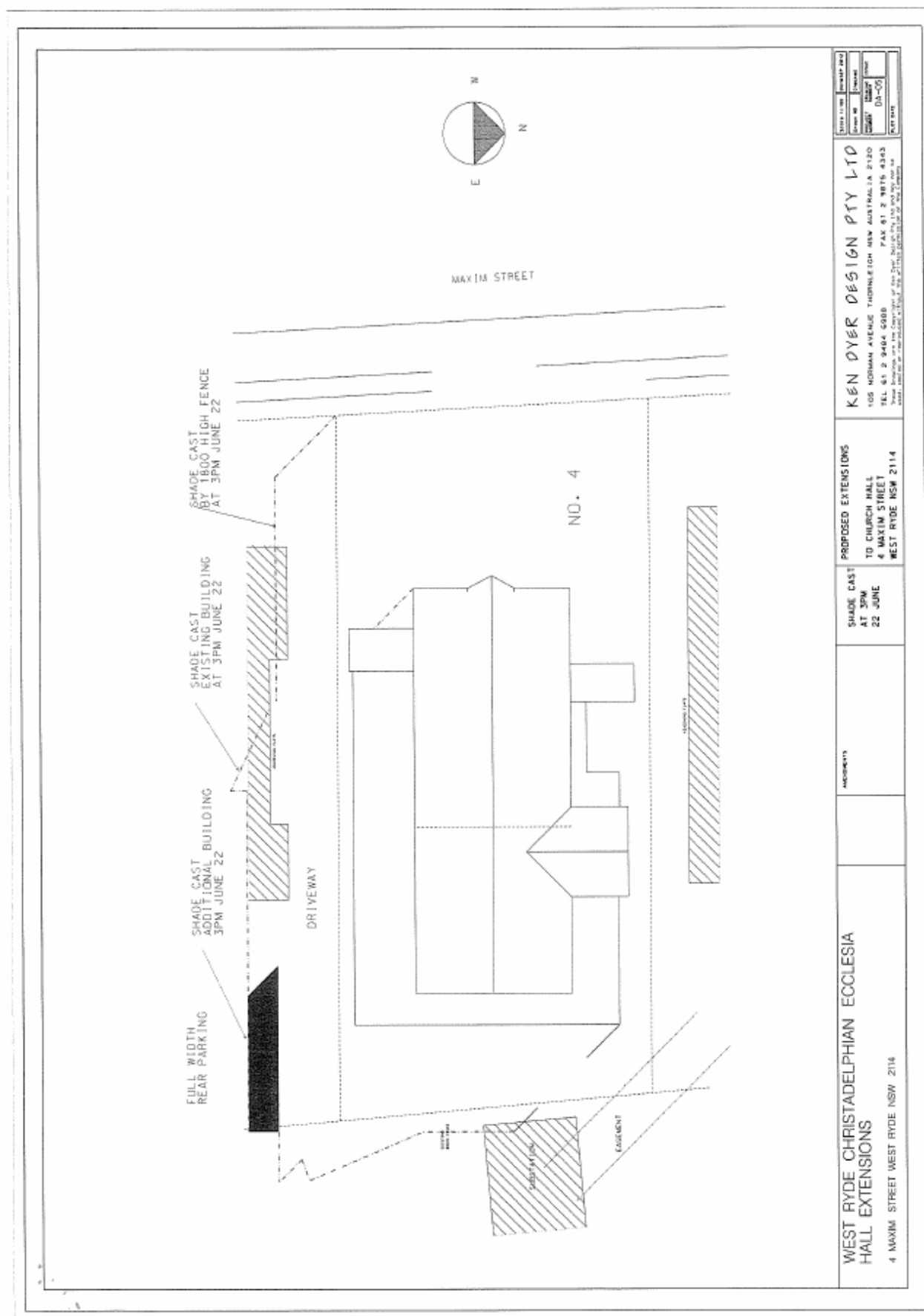


**ITEM 2 (continued)**

## ATTACHMENT 3



## ATTACHMENT 3



- 3      461-495 VICTORIA ROAD, GLADESVILLE. Local Development**  
**Application for the construction of a new vehicular crossing at the**  
**intersection of Victoria Road & Tennyson Road, demolition of an**  
**industrial building & construction of a new ramp. LDA2012/0412.**

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**INTERVIEW**

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**Report prepared by:** Team Leader - Major Development Team

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

**Report dated:** 3/07/2013

**File Number:** grp/09/5/6/2 - BP13/984

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**1. Report Summary**

**Applicant:** Bunnings Properties Pty Ltd.

**Owner:** Bunnings Group Limited.

**Date lodged:** 2 November 2012.

This report considers a proposal for the construction of a new vehicular crossing at a signalised intersection of Victoria Road and Tennyson Road. It is also proposed to construct a new vehicle access ramp from the Victoria Road level to the ground level of the site.

The site is subject to a planning proposal which would permit a Bunnings development. This however is not a relevant consideration for the current development. The development application has been submitted based on the existing development on the site rather than any future possible Bunnings development.

The development complies with the requirements of the relevant planning instruments. In addition, Roads and Maritime Services (RMS) has supported the development application.

During the notification period, Council received 13 submissions objecting to the development. These objections raised issues in relation to future traffic impacts from a future Bunnings development and the impact that the development would have on buses along Victoria Road. The issues have all been addressed in the body of the report.

The development application is recommended for approval subject to conditions of consent.

**Reason for Referral to Planning and Environment Committee:** Number of submissions received and called up by Councillor Chung.

Public Submissions: 13 submissions were received objecting to the development.

SEPP 1 (or clause 4.6 RLEP 2010) objection required? No.

**ITEM 3 (continued)**

Value of works? \$2,853,000

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. 2012/0412 at 461-495 Victoria Road, Gladesville being LOT 1 DP739556 and LOT 3 DP388518 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 Legal Advice - CIRCULATED UNDER SEPARATE COVER - CONFIDENTIAL
- 5 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**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.*)

<b>Address</b>	: 461-495 Victoria Rd, Gladesville
<b>Site Area</b>	: 3.8 hectares. Frontage 242.76m to Victoria Road 142.315m to Frank Street 272.45m to College Street
<b>Topography and Vegetation</b>	: The site has a gentle slope from west to east and has a ground level which is generally lower than the surrounding roadways as a result of previous excavation of the site. The site contains numerous trees mostly which are located adjacent to the roadways.
<b>Existing Buildings</b>	: The site contains numerous industrial and commercial buildings.
<b>Planning Controls Zoning</b>	: IN2 Light Industrial and SP2 Infrastructure (Classified Road) under RLEP 2010
<b>Other</b>	: State Environmental Planning Policy (Infrastructure) 2007 Deemed State Environmental Planning Policy Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Ryde Development Control Plan 2010

**ITEM 3 (continued)**

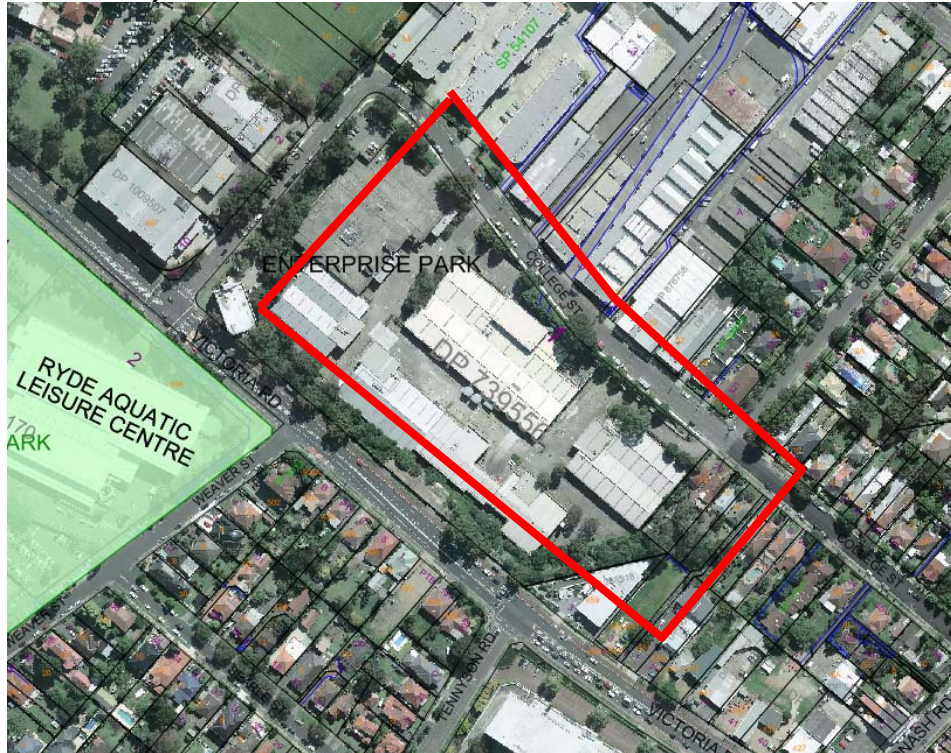


Figure 1. Aerial photograph of the site.

**3. Councillor Representations**

Name of Councillor: Councillor Chung.

Date: 15 May 2013.

Form of representation (e.g. via email, meeting, phone call): Councillor Helpdesk.

On behalf of applicant or objectors? Not stated.

Any other person (e.g. consultants) involved in or part of the representation: No.

**4. Political Donations or Gifts**

Any political donations or gifts disclosed? If yes, provide details.

**5. Proposal**

The development proposes the construction of a new vehicle crossing onto the subject site at the signalised intersection of Victoria Road and Tennyson Road. The signalised intersection will provide the following:

- Left turn slip lane onto the site from east bound Victoria Road carriageway.

### ITEM 3 (continued)

- Two lanes from the intersection onto the vehicle ramp.
- One right turn and one left turn lane from the subject site into Victoria Road.

It is also proposed to construct a vehicle access ramp from the Victoria Road level to the ground level of the site. The vehicle ramp will comprise the following:

- The ramp will form a spiral connection from Victoria Road to the surface level.
- Retention of the existing embankment.
- Ramp carriageway with width from 8m to 11.4m.
- Carriageway gradient of up to 1:10.

The location of the intersection upgrading and the ramp is shown on the following plan.

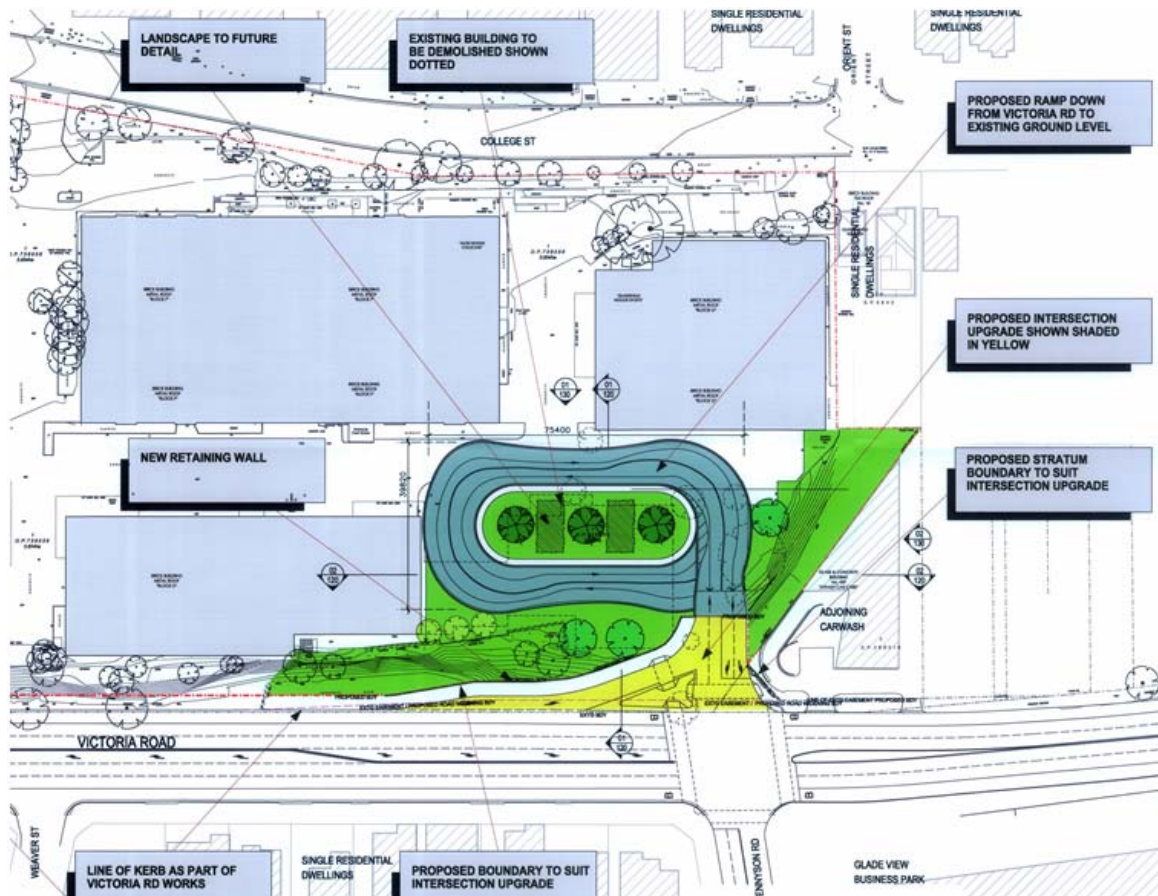


Figure 2. Location of the intersection upgrade and ramp.

To accommodate the proposed ramp, it will be necessary to demolish one of the existing industrial buildings and remove 8 trees.



### ITEM 3 (continued)

The proposed intersection upgrade will include works over a small portion of 459 Victoria Road, being the adjoining land to the immediate east of the site. As part of the basement level extends below the area of the site of the intersection upgrade works, it is proposed to stratum subdivide this portion of the site. This will permit separate ownership of the land at the Victoria Road ground level and the basement level below. This is demonstrated in Figure 2.

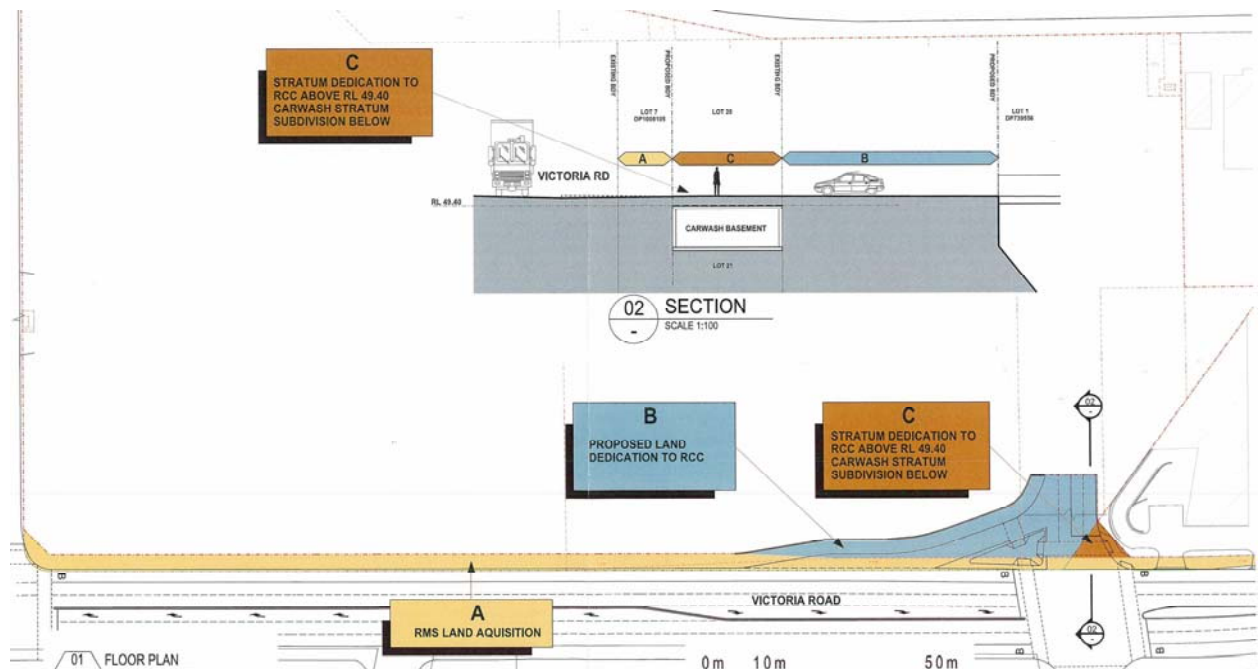


Figure 3. Plan showing the area to be affected by a stratum subdivision and the area to be dedicated to Council.

It is proposed to include a re-alignment of the property boundary to suit the intersection upgrade. This is also demonstrated in Figure 2. This area of the site will be dedicated to City of Ryde as it will become part of Victoria Road reserve / carriageway. As a result, the intersection will be located wholly on public land and the internal access ramp will be located wholly within the subject site.

The development is to be staged into 2 stages. The first stage will be the intersection upgrade works (this area is shaded yellow in Figure 1). It is intended that this work occurs concurrently with the RMS Victoria Road upgrade works. The second stage will involve the works associated with the demolition of the industrial building and the construction of the vehicular ramp.

## 6. Background

The development application was lodged on 2 November 2012.

**ITEM 3 (continued)**

Following a preliminary assessment, the applicant was requested to provide the following additional information on 10 December 2012:

- The site is located within a major overland flowpath and it will be necessary to submit a flood impact assessment and hydrology report.
- The site is also located within a slope instability risk area and a geotechnical assessment was required.

A meeting occurred on 22 January 2013 to discuss these issues. At this meeting the applicant was also requested to provide an Arborist Report and clarification in respect to whether the development proposed to close the eastern most access to College Street.

Information was provided to Council on 13 and 18 February 2013.

Upon review of the Overland Flow / Flood Impact Assessment Report, the applicant was advised on 7 March 2013 that the road near the bottom of the vehicular ramp would be inundated by ponding water. The ponding depth will be 645mm during the 1 in 100 year ARI storm event. There is a risk of damage to vehicles driving through this area. In addition, there is the potential for ingress vehicles to queue up on the ramp, slip lane and as well as on Victoria Road increasing disruption of traffic due to ponding within the property. The applicant was advised that it would be necessary to take measures to eliminate the ponding for the safety of their customers.

Further information in respect of this aspect was provided to Council on 27 and 28 March 2013.

Council's Traffic Engineer requested further information in respect of the accessibility of the ramp to various sized service vehicles. On 26<sup>th</sup> April 2013 amended plans were provided which increased the width of the ramp. In addition, an amended Traffic Report was provided which included details of all turning paths. This information however failed to adequately address the issue so a further letter was sent on 13 May 2013. Further information was submitted on 24 May 2013.

**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 12 December 2012. Notification of the proposal was from 11 December 2012 until 11 February 2013.

**ITEM 3 (continued)**

During this time, 13 submissions were received. The issues raised in the submissions were;

- *The development will result in conflict with bus traffic at a time when an extra bus lane is being added.*

**Comment:** The issue of bus traffic and the operation of bus services is a matter for RMS rather than Council. RMS have raised no objection to the development application subject to the imposition of 3 conditions of consent. This cannot be used as a valid reason for refusal.

- *The development proposes to close off College Street and have all access from Victoria Road. This will further disrupt the bus services.*

**Comment:** The original plans showed no changes to the access points in College Street however the original Statement of Environmental Effects stated that the eastern most access in College Street would be closed. This has been clarified with the applicant who has provided an amended Statement of Environmental Effects to address this issue. The development does not propose any changes to the access in College Street. Access will still be available from College Street. As detailed in the point above, the operation of the bus service is a matter for RMS to consider rather than Council.

- *The application does not provide a trade area analysis or retail economic analysis for the existing businesses on site and therefore has limited estimation of traffic effects of surrounding streets. The analysis provided in terms of traffic movements is speculative and not grounded in facts.*

**Comment:** The development proposes the demolition of one building used for warehousing. Other than this there is no change to the existing uses on the site. No other retail or economic activity is proposed. For this reason it is not necessary for the applicant to complete a trade area analysis or retail economic impact assessment based on the existing uses.

The applicant has provided a Traffic and Parking Assessment Report which has identified traffic generation rates based on RMS figures. This report has estimated that the existing development would generate 330 vehicle trips per hour. The development will not generate any additional traffic. The report has also assumed the following origins/destinations for the generated traffic:

Victoria Road (west) 35%  
Victoria Road (east) 35%  
Monash Road (north) 15%  
Tennyson Road (south) 5%  
College Street 10%



**ITEM 3 (continued)**

This has been checked by Council's Consultant Traffic Engineer who agrees with these findings.

- *There is nothing put forward as to this application meeting any obvious need other than the developer's desire to obtain main road access and prominence to a large commercially valuable site. The owner will gain property value to the cost of the community with slowed bus activity, more vehicles on Victoria Road and rat runs created in the back streets in order to approach the site from the left turn in on Victoria Road.*

**Comment:** The owner of the site has a right to develop the site in accordance with the relevant planning controls. There is nothing in these controls to prevent access from Victoria road. It is anticipated that the proposed new access on Victoria Road will reduce traffic on College Street and surrounding local streets.

- *Concerned that the point of access from Victoria Road is inadequate for the intended traffic. The runoff is only 45m in length before reaching a pedestrian crossing. This crossing and traffic entering the site could impede the flow of vehicles turning left off Victoria Road. This could cause major traffic interference on Victoria Road. This problem could be further compounded with trucks entering the site.*

**Comment:** The management of Victoria Road is a RMS issue rather than Council. As part of the DA assessment, the application was referred to RMS who have raised no objections to the proposed development.

- *Not sure who the applicant is and Council should clarify this. Bunnings Properties Pty Ltd is a satellite company of parent Bunnings Management Services Pty Ltd and Bunnings Warehouse Property (BWP) Trust is an ASX listed company which owns more than 50 Bunnings warehouses.*

**Comment:** A Certificate of Title has been provided which demonstrates that Bunnings Properties Pty Limited is the registered owner of the site as well as being the applicant for the current DA. There is no need to further investigate this aspect.

- *There is a clear intention to develop a Bunnings warehouse on site and the traffic issues generated by the application is seriously underestimated by simply using the current tenants as the generators of traffic levels to be considered. What is unacceptable based on the existing traffic figures is grossly inappropriate if the real long term nature of the application is revealed to be a major retailing activity on the site.*

**ITEM 3 (continued)**

**Comment:** The site is subject to a planning proposal which would rezone the site to permit a Bunnings development. A report in respect of this matter was considered by Council at its meeting held on 9 April 2013. At this meeting Council resolved to proceed to community consultation and public exhibition of the planning proposal. The public exhibition period is between 11 June 2013 and 11 July 2013 and the community consultation in the form of a public meeting occurred on 12 June 2013. At this stage, Council can only determine the development application currently before it. Any future development application for a Bunnings development would be the subject of traffic reports that directly related to the proposed development. There is no intention with this development application to use the existing traffic generation rates for a new DA for a possible Bunnings store. Any new development application for a Bunnings would be required to adequately demonstrate that suitable access is available to the site.

- *The public interest is not served by this application.*

**Comment:** The public interest is to ensure that development applications comply with the applicable planning controls for that site. In this instance there are no controls preventing vehicular access from Victoria Road. Also, no objection was raised by RMS.

- *Concerned about the suggested arrangements for the land swap. It is not clear what procedures Council should follow in respect of the land swap. Is it crown land? Does the State Government have to OK the process? The disposal of Crown land has proper guidelines for the process and there is nothing from the Council in the application which makes clear exactly what process will apply.*

**Comment:** The development does not propose a land swap. As part of the development application, it is proposed to include a boundary re-alignment to suit the intersection upgrade. This will include the dedication of the intersection to Council. (This is demonstrated in Figure 2). The intent of the dedication is to ensure that the intersection is located wholly on public land and the internal access ramp will be located wholly within the subject site. The development has also identified land that is to be acquired by RMS. The land to be acquired by the RMS currently belongs to the applicant rather than being Crown land. Other than the RMS, the State Government is not required to be included in this proposal.

- *The application fails to mention the removal of the bus stop at Victoria Road and Tennyson Street. This impact for the community is not addressed.*

**Comment:** The applicant has advised that it is not proposed to remove the bus stop. The existing bus stop however will need to be relocated as it would be located within the slip lane. The following figure demonstrates the location of the bus stop. The issue of the location of bus stops along Victoria Road is a matter for RMS to address in consultation with STA. This is not a Council issue. It is proposed to include a

### ITEM 3 (continued)

condition on the consent to require the applicant to seek the agreement of RMS if the bus stop is required to be relocated. (See condition number 10).

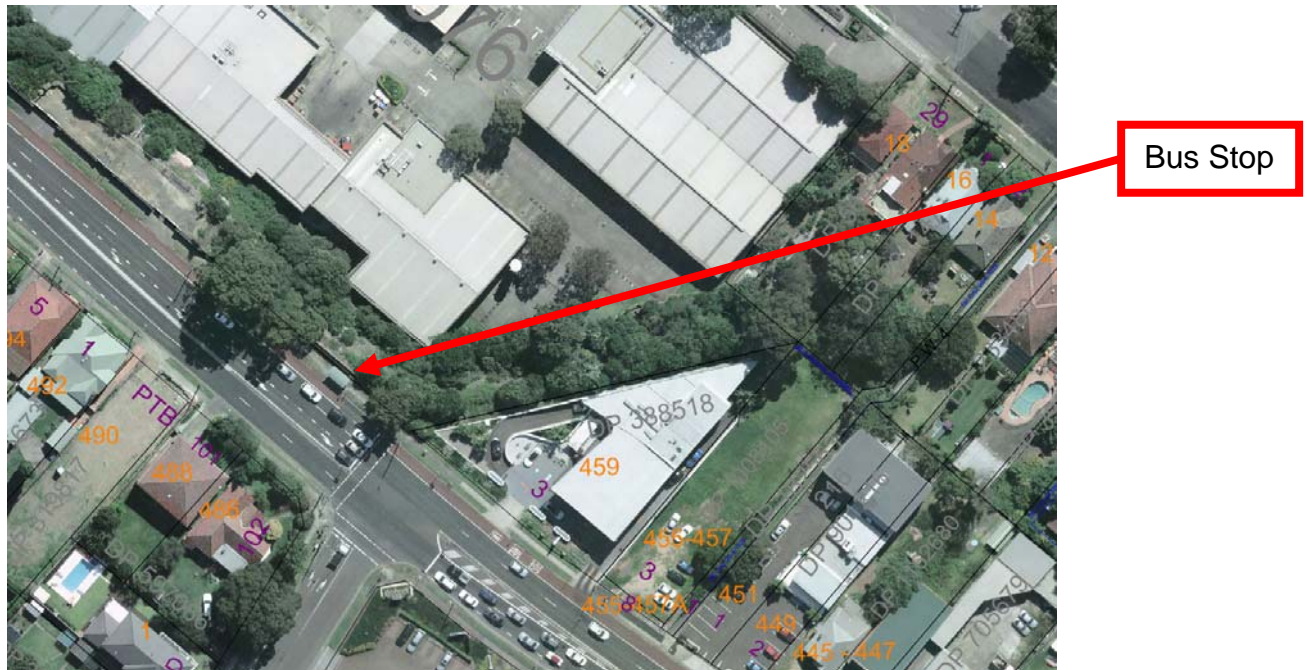


Figure 4. Location of the bus stop on Victoria Road.

- *The closure of College Street will not reduce local traffic as suggested by the applicant. It will create a situation whereby cars and trucks have to work their way through local streets to get to a position so they can enter Victoria Road and obtain a position facing the appropriate way to make a left turn into the site.*

**Comment:** The development does not propose to close College Street.

- *In the area of land to be transferred there is a 10m easement for public and services. In the documentation there is no mention of who the easement will be made in favour of, who has legal rights stemming from the granting of the easement. The community has been locked out of this process and denied natural justice.*

**Comment:** The area of land to be dedicated to Council as road widening is shown in Figure 3 as areas B and C. The DP for the site is demonstrated in Figure 3. As can be seen from this DP, there is no 10m wide easement in the area to be dedicated to Council. The plan does contain a 10 in the vicinity of the area to be dedicated to Council, but this relates to a reference mark only.

### ITEM 3 (continued)

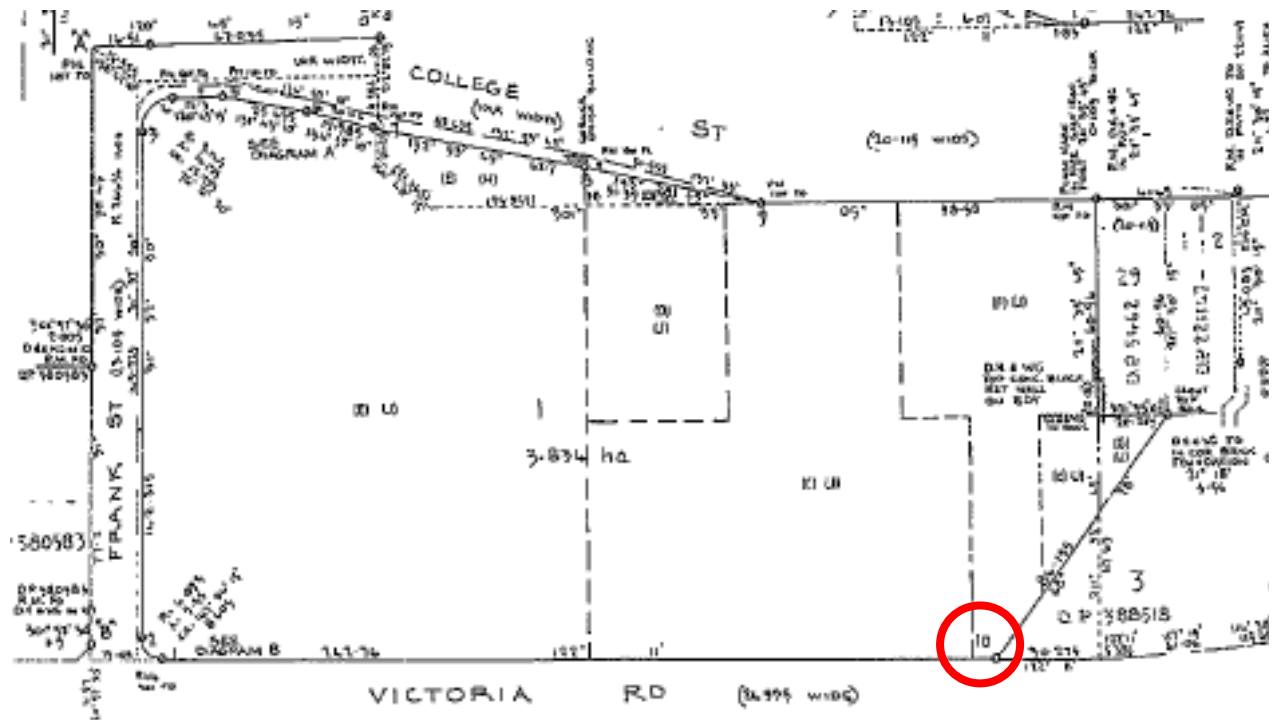


Figure 5. DP of the site.

- *The development proposes the removal of 8 trees but fails to identify which trees and what species.*

**Comment:** The applicant subsequently provided an Arborist Report in respect of these trees. The trees to be removed are all in the vicinity of the proposed development. These trees include 2 She Oak, 2 Grey Gums, 2 Broadleaved Paperbark, 1 Coral Tree and 1 Privet. These trees are not considered to be significant or threatened and none of the trees are part of an Endangered Ecological Community. The trees do not contribute to the streetscape as they are screened from view by the existing buildings on the site. In these circumstances, no objection is raised to the removal of the trees.

- *Wish to draw Council's attention to a Bunnings recently approved in Gympie. This site had a turn in lane off a major road into Bunnings of 145 metres. It also had a second entrance off a side road. The turn in lane here is insufficient to accommodate the expected traffic.*

**Comment:** The current DA is not for a Bunnings development. When this development application was submitted to Council, Council's Officers sought legal advice in respect of the development application and whether it was a permitted development on the site. The following response was provided:



**ITEM 3 (continued)**

*"The construction of the signalised intersection with Victoria Road and Tennyson Road (with the SP2 Zone), the demolition of Building E and the stratum subdivision (within IN2 Zone) are permissible with Council's consent.*

*The construction and use of the ramp is not within the nominated permissible use within the IN2 Zone. Such a use, however, would be permissible if the use was ancillary to a permissible use on the property.*

*We understand the buildings that are erected on the property are capable of being used for a permissible purpose (light industries, warehouses, distribution centres).*

*We are of the opinion that a ramp to provide access from Victoria Road to the property would be an ancillary use to these buildings and therefore the ramp is permissible with consent. Council therefore has the power to determine the Development Application on its merits.*

*The fact that Bunnings owns the property and may lodge a Development Application with Council to use one or all of the buildings for a prohibited use, does not allow Council to refuse this Application for the ramp on the basis that it is prohibited."*

If a future Development Application is submitted for a Bunnings store, the applicant would be required to demonstrate that the access to the site is sufficient. If the deceleration lane was required to be increased, this would be a matter that would be addressed as conditions of consent for any future application.

- *If the site is to be used at any time for bulky goods or other retailing, then the proposal is inadequate and will not cope with shopper and delivery traffic.*

**Comment:** Before this occurs, it would be necessary for the site to be rezoned. Following this, it would be necessary for a detailed traffic report to be submitted with the DA that demonstrated adequate vehicular access to the site.

- *Council should compare other Bunnings store and the length of their turn off lanes and queuing allowed for exiting such stores. The Mackay Bunnings has a turn in lane 90m and queue in excess of 100m.*

**Comment:** The current DA is not for a Bunnings development. As confirmed in the legal advice detailed above, Council can only assess the development application on the information at hand. As the development is a permitted use in the zoning, it must be determined on its merits. If at a later stage, Bunnings wish to lodge a development application, the issue of access will need to be addressed. If the deceleration lane was determined to be too short to enable access, it would be necessary for this to be increased. This could be addressed as conditions of consent for any future development application.

**ITEM 3 (continued)**

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

No.

**9. Policy Implications**

**Relevant Provisions of Environmental Planning Instruments etc:**

**(a) Ryde Local Environmental Plan 2010**

**Zoning and Zone Objectives**

The site is zoned IN2 Light Industrial and SP2 Infrastructure (Classified Road). The majority of the development will be constructed on the IN2 zoned land. The following diagram demonstrates the location of the SP2 Infrastructure zoned land.



Figure 6. Area of the SP2 zoned land.

The construction of the signalised intersection with Victoria Road and Tennyson Road (within the SP2 Zone), the demolition of Building E and the stratum subdivision (within IN2 Zone) are permissible with Council's consent. The construction and use of the ramp is not however within the nominated permissible uses within the IN2 Zone. Such a use, however, would be permissible if the use was ancillary to a permissible use on the property. The ramp to provide access from Victoria Road to the property would be an ancillary use to the existing buildings on the site and is therefore permissible with consent.



**ITEM 3 (continued)**

The objectives of the IN2 zone are as follows:

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To enhance the amenity of local areas through better building design, reduced hard-paved surfaces and landscaping.

The objectives of the SP2 zone are as follows:

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To ensure the orderly development of the land.
- To ensure that development does not have an adverse effect on adjoining land.

The proposed development is ancillary development to the existing development on the site. The development is not inconsistent with any of the above objectives for either zone.

**Clause 5.1 Relevant Acquisition Authority**

The objective of this clause is to identify the relevant State authority that will be the authority to acquire land reserved for certain public purposes. Part of the site is identified for land acquisition being zoned Classified Road SP2. RMS is the relevant acquisition authority.

**Clause 5.1A Development on Land Intended to be Acquired for a Public Purpose**

The objective of this Clause is to limit development on certain lands intended to be acquired for a public purpose. This clause affects the SP2 zoned land.

Development consent must not be granted to any development on land to which this clause applies other than development for the purpose of a road. The development proposes a new vehicular crossing within the Victoria Road carriageway. The development is defined for the purposes of a road.

### ITEM 3 (continued)

#### Clause 5.9 Preservation of Trees or Vegetation

Clause 5.9 requires either development consent or a permit granted by Council for the removal of any trees. As part of this development application, consent is sought for the removal of eight trees from the site as they are located within the footprint of the development. The locations of these trees are shown on the following plan. The trees to be removed include 2 She Oak, 2 Grey Gums, 2 Broadleaved Paperbark, 1 Coral Tree and 1 Privet.

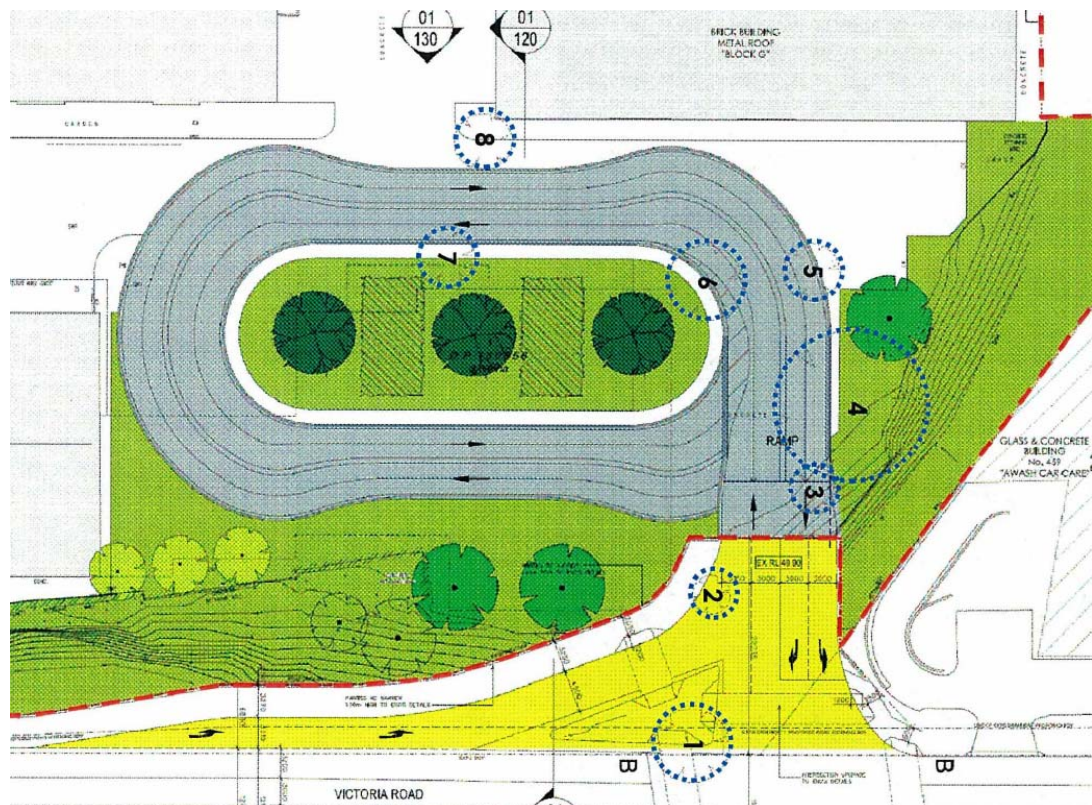


Figure 7. Locations of the trees to be removed.

These trees are not considered to be significant or threatened and none of the trees are part of an Endangered Ecological Community. The trees generally do not contribute to the streetscape as they are screened from view by the existing buildings on the site. In these circumstances, no objection is raised to the removal of the trees.

#### Clause 5.10 Heritage Conservation

The site does not contain any heritage items nor is it located in a Heritage Conservation Area. The site is however in the vicinity of a heritage items being The Great North Road (Victoria Road). The development application has been reviewed by Council's Heritage Officer who has raised no objection to the development application.

**ITEM 3 (continued)****Clause 6.1 Earthworks**

Development consent is required for the earthworks associated with the development. Before granting consent for earthworks the consent authority must consider the following matters:

- The likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality.
- The effect of the proposed development on the likely future use or redevelopment of the land.
- The quality of the fill or the soil to be excavated, or both.
- The effect of the proposed development on the existing and likely amenity of adjoining properties.
- The source of any fill material and the destination of any excavated material.
- The likelihood of disturbing relics.
- Proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

Council's Development Engineer requires that a number of conditions be included in the consent to address engineering issues such as a sediment and erosion control plan to be submitted prior to the issue of a construction certificate.

The site is not known to contain any relics or any other item of heritage significance.

The development is considered satisfactory in respect of this clause.

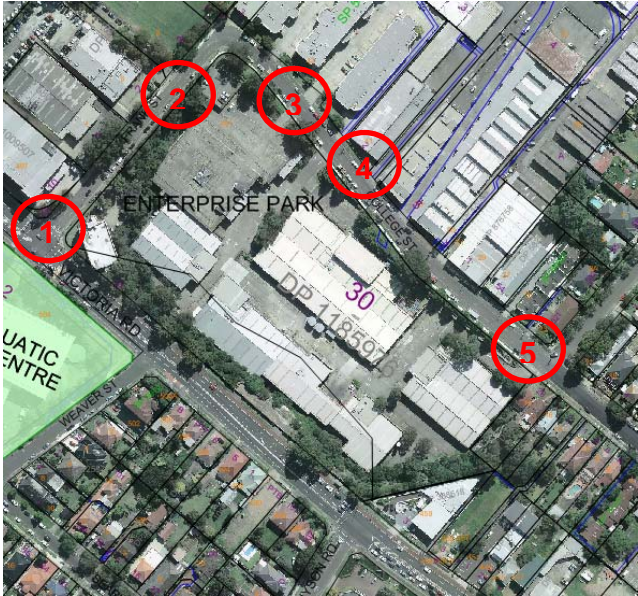
**(b) Relevant SEPPs****SEPP (Infrastructure) 2007****Clause 101 – Development with frontage to classified road**

Victoria Road is a classified road and therefore the provisions of Clause 101 apply to the proposed development. The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied of the following:

Provision	Compliance
Where practicable, vehicular access to the land is provided by a road other than the classified road.	Currently the site has 5 vehicular crossings to enable access. These crossings are as follows: <ul style="list-style-type: none"><li>• Vehicular crossing from Frank Street at the western corner of the site providing access to the western most commercial</li></ul>



**ITEM 3 (continued)**

Provision	Compliance
	<p>building. (See point 1).</p> <ul style="list-style-type: none"> <li>• Vehicular crossing from Frank Street in the northern most corner of the site providing access to the top level car park of the northern industrial building. (See point 2.)</li> <li>• Vehicular crossing from the northern end of College Street onto the roof car parking level of the northern industrial building. (See point 3).</li> <li>• Vehicular crossing from College Street into the subject site located mid-way along the north east property boundary. (See point 4).</li> <li>• Vehicular crossing from College Street into the subject site located at the eastern most corner of the site. (See point 5).</li> </ul> <p>The location of the access points to demonstrated in the following figure. Access has been provided to the site from the surrounding road network. This will be an additional access point. As the RMS have raised no objection to the development, it is considered that the development satisfies the requirements of this clause.</p>  <p>Figure 8 showing the location of the access points.</p>

**ITEM 3 (continued)**

Provision	Compliance
The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of the vehicular access, or the emission of smoke or dust from the development or the nature, volume or frequency of vehicles using the classified road to gain access to the land.	The development proposes the new vehicular crossing as part of an existing signalised intersection. RMS requires that the new crossing is to be designed in accordance with Austroads, RMS's Traffic Signal Design Manual and other Australian Standards. This should ensure that safety and efficiency and the ongoing operation of Victoria Road will not be affected.
The development is of a type that is not sensitive to traffic noise or vehicle emissions.	The development is not sensitive to traffic noise or vehicle emissions.

**Deemed State Environmental Planning Policy Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

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

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above planning instrument. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the proposed development. The objective of improved water quality is satisfied through compliance with the provisions of Part 8.2 of DCP 2010. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the planning instrument.

**(c) Relevant REPs**

There are no applicable Regional Environmental Plans that affect the site.

**(d) Any draft LEPs**

A Section 65 Certificate enabling the formal exhibition of Draft Local Environmental Plan 2011 was issued by the Department of Planning and Infrastructure on 23 April 2012. The Draft Plan has been placed on public exhibition between 30 May 2012 and 13 July 2012. Under this Draft LEP, the zoning of the property is IN2 Light Industrial and SP2 Classified Road. The proposed development is permissible with consent within this zoning under the Draft LEP, and it is considered that the proposal is not contrary to the objectives of the Draft LEP or those of the proposed zoning.

**ITEM 3 (continued)**

Draft LEP 2011 was adopted by Council on 12 March 2013 and is waiting gazettal by the Department of Planning and Infrastructure; as such LEP 2011 can be considered certain and imminent.

Council on two previous occasions has considered a report in respect of a planning proposal to rezone 461-495 Victoria Road, Gladesville to permit a Bunnings development. At its meeting held on 9 April 2013, Council resolved as follows:

- a) That Council endorse amendments to the planning proposal to for 461-496 Victoria Road, Gladesville to change the zone of land from IN2 Light Industrial to B5 Business Development and to delete Clause 4 Schedule 1 *Additional Permitted Uses* relating to the use of Building H (on the site) for business and office premises under Ryde Local Environmental Plan 2010.
- b) That Council proceed to community consultation and public exhibition of the planning proposal in accordance with the gateway determination issued 1 March 2013 and the communication plan identified in this report.
- c) That Council advise the Department of Planning and Infrastructure of its decision in response to the gateway determination issued 1 March 2013 for 461-495 Victoria Road, Gladesville.

The above resolution has no impact on the current development application and the planning proposal is proceeding as a separate application to be determined by Council.

**(e) Any DCP**

All relevant DCP matters have been addressed in the report.

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

The likely impacts to the built environment as a result of the proposed development have already been discussed in the report.

**(b) Natural Environment**

The development will result in the removal of eight trees. These trees do not contribute to the streetscape and are not significant or threatened species. No objection is raised to the loss of these trees. There will be no other impact to the natural environment as a result of this development.



**ITEM 3 (continued)****11. Suitability of the site for the development**

The site is located in an area that is subject to landslip. A report has been provided by a Geotechnical Engineer which has identified slope stabilisation measures to be implemented during construction. This report has been reviewed by Council's Consultant Geotechnical Engineer who has agreed with the findings of this report. Any approval would be conditioned to include compliance with these recommendations. (See condition numbers 12 and 39).

The site is also subject to flooding. The existing road near the bottom of the vehicular access ramp would be inundated by ponding water. The depth of this water would be 645mm during the 1 in 100 year ARI storm event. There is a risk of damage to vehicles if they were to drive through this water. To address this issue, the applicant has proposed a number of evacuation options including signage which has been considered satisfactory to Council's Drainage Engineer. This has been imposed as a condition on the consent. (See condition numbers 40 and 51).

**12. The Public Interest**

In terms of the public interest, the development is considered to be satisfactory.

**13. Consultation – Internal and External**Internal Referrals

Development Engineer: No objections to the development.

Landscape Architect: No objections are raised to the development application.

Traffic Engineer: No objections to the development subject to conditions of consent. (See condition numbers 13, 49 and 50).

Drainage Team: No objections to the development.

Heritage Officer: No objections are raised to the development application.

External Referrals

**Roads and Maritime Services:** The development application was referred to RMS for concurrence under Section 138 of the Roads Act, 1993. The following response was received from RMS:

**ITEM 3 (continued)**

*RMS have reviewed the development application and grants concurrence to the proposed access road on Victoria Road under Section 138 of the Roads Act 1993, subject to Council's approval and the following requirements being included in the development consent:*

- 1. The proposed signalised intersections shall be designed in accordance with Austroads, RMS's supplements, RMS's Traffic Signal Design Manual and other Australian Standards and endorsed by a suitably qualified chartered Engineer (i.e. who is registered with the Institute of Engineers, Australia).*

*The certified copies of traffic signal design and civil design plans as well as swept path analyses shall be submitted to RMS for consideration and approval prior to the release of the Construction Certificate by the Principal Certifying Authority (PCA) and commencement of any road works.*

*RMS fees for administration, plan checking, signal works inspection and project management shall be paid by the developer prior to the commencement of works.*

*The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned traffic signal and civil works. The Works Authorisation Deed (WAD) will need to be executed prior to RMS assessment of the detailed traffic signal design plans. The Construction Certificate shall not be released by the Principal Certifying Authority (PCA) until such time that the WAD is executed.*

*Note: This drawing is indicative only and subject to further refinement at the detailed design stage. In this regard, RMS has reviewed the latest submitted concept drawing and provides comment on this submitted design in Attachment A, which shall be satisfactorily addressed at the detailed design stage. (See condition number 11).*

- 2. The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to council for approval, which shows that the proposed development complies with this requirement. Note: It is not proposed to include this as a condition of consent. During the assessment of the development application, the applicant has provided this information. The access ramp will allow for 12.5m long Heavy Rigid Vehicles to access the ramp. It is proposed to include sign posting at the entry to the left turn deceleration lane on Victoria Road and at the bottom of the ramp advising "No entry for vehicles over 12.5m long".*
- 3. All traffic control during construction must be carried out by accredited RMS approved traffic controllers. (See condition number 21).*
- 4. All works/regulatory signposting associated with the proposed development are to be at no cost to RMS. (See condition number 5).*

**ITEM 3 (continued)**

**Cardno (NSW/ACT) Pty Ltd:** The site is located within a landslip area and the application was referred to Council's Consultant Geotechnical Engineers. The following comments were provided:

1. Indicated on Council's maps is that the excavated surfaces that form the perimeter of the old quarry that originally occupied the subject site are potentially unstable.
2. The Development Application currently before Council involves the proposed widening of Victoria Road, the demolition of an existing building and the construction of a vehicle ramp from the Victoria Road and Tennyson Road intersection down into the subject site.
3. Submitted with architectural drawings for the project is a Flood Impact Assessment prepared by C&M Consulting Engineers dated 8 February 2013 and a Geotechnical Pavement Investigation and Slope Instability Risk Assessment dated 25 September 2012 prepared by J K Geotechnics.

The former concludes *"In summary, we confirm that the proposed development has no additional flooding impact on the existing site or neighbouring properties and complies with the Planning and Development Controls set out in Council's Draft Floodplain Management DCP provisions."*

The latter with respect to slope instability issues concludes *"For the current site conditions, our assessed risk for each of the hazards identified above are provided in the 'Slope Risk Analysis Summary'. The highest assessed risk is ARL4 which we would regard as 'acceptable' and 'Our assessed risk for each of the hazards identified above are provided in the 'Slope Risk Analysis Summary' forms for the proposed road widening between Chainage 194m and Chainage 350m and between Chainage 350 and Chainage 420, i.e. no slope stabilisation measures implemented between Chainage 194m and Chainage 350m, the highest assessed risk is ARL 4 which we would regard as 'acceptable'."*

*Between Chainage 350 and Chainage 420m the highest assessed risk is ARL 1 which we would regard as 'unacceptable', but typically ranges between ARL3 and ARL5 which we would regard as 'tolerable' and 'acceptable' respectively.*

*Assuming no slope stabilisation measures are implemented but the road widening works are completed, the risk levels over the eastern portion of the site increase to 'unacceptable' levels for rock falls affecting the proposed road widening. Hence slope stabilisation measures will be required as part of the design of the proposed new structures supporting the northern side of the road where it extends close to, or over, the crest of the rock slope. The purpose of the additional risk assessments was to highlight the need for slope stabilisation measures to*

**ITEM 3 (continued)**

*improve assessed risk levels affecting the proposed road widening and the existing and proposed buildings within the site below.*

*We envisage that the slope stabilisation measures will be incorporated into the retention systems required to support the northern side of the proposed road widening and this is discussed further in section 7.2.”*

As the J K Geotechnics report assesses slope instability risks both pre and post development and recommends ways by which the assessed risks can be appropriately managed, Cardno assesses that the report satisfies Council's normal requirements for reports on sites potentially at risk of slope instability.

4. If Council decides to approve this application, then Cardno recommends that the approval be conditioned requiring all works on site to be carried out in strict compliance with the recommendations contained in J K Geotechnics report dated 25 September 2012. (See condition numbers 12 and 39).

**17. Conclusion**

The development is proposed to be constructed in two stages. Stage 1 involves the intersection upgrade works and Stage 2 being the construction of the vehicular ramp. For this reason, the draft conditions of consent in Annexure 1 have been divided into 2 stages.

The development will provide the site with vehicular access from Victoria Road. Many of the submissions were concerned with the impacts this access could have on the operation of Victoria Road including the impact on bus movements. These matters however, are matters that are controlled by RMS rather than Council and RMS have raised no objections to the development application.

Other concerns raised in the submissions are that the access is intended for a future Bunnings development and will not be adequate for this development. This is a matter that cannot be considered by Council in the determination of this DA. The applicant has submitted the DA on the basis of the existing uses rather than a future possible use. Any future DA for a Bunnings will need to be able to demonstrate adequate access and traffic impacts at the time that a DA is submitted.

The development application is recommended for approval subject to appropriate conditions of consent.

**ITEM 3 (continued)**

**ATTACHMENT 1**

**CONDITIONS OF CONSENT**

**Stage 1 Intersection upgrade works**

**GENERAL**

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

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

Document Description	Date	Plan No/Reference
Site plan/roof plan	23/4/13	030 Amd No. P6
Floor Plan	23/4/13	100 Amd No. P6
Sections	23/4/13	120 Amd No. P5
Floor plan Victoria Road Level	23/4/13	101 Amd No. P3
Elevations	23/4/13	130 Amd No. P2

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **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.
4. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
5. **Cost of Works.** All works/regulatory signposting associated with the proposed development are to be at no cost the RMS or Council.

**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.

**ITEM 3 (continued)**

**ATTACHMENT 1**

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.

6. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation).
7. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
  - (a) Infrastructure Restoration and Administration Fee
  - (b) Enforcement Levy
8. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
9. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building, Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water assets - see Building, Development and Plumbing then Building and Renovating.

Or telephone 13 20 92.

10. **Bus Stop.** Prior to the issue of any Construction Certificate, confirmation is to be provided to the PCA that RMS have been consulted in respect of the location of the existing bus stop. If this bus stop is required to be relocated, this is to be done at the applicant's expense and to the RMS's requirements.
11. **RMS.** The proposed signalised intersections shall be designed in accordance with Austroads, RMS's supplements, RMS's Traffic Signal Design Manual and other Australian Standards and endorsed by a suitably qualified chartered Engineer (i.e. who is registered with the Institute of Engineers, Australia).



### ITEM 3 (continued)

### ATTACHMENT 1

The certified copies of traffic signal design and civil design plans as well as swept path analyses shall be submitted to RMS for consideration and approval prior to the release of the Construction Certificate by the Principal Certifying Authority (PCA) and commencement of any road works.

RMS fees for administration, plan checking, signal works inspection and project management shall be paid by the developer prior to the commencement of works.

The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned traffic signal and civil works. The Works Authorisation Deed (WAD) will need to be executed prior to RMS assessment of the detailed traffic signal design plans. The Construction Certificate shall not be released by the Principal Certifying Authority (PCA) until such time that the WAD is executed.

Note: This drawing is indicative only and subject to further refinement at the detailed design stage. In this regard, RMS has reviewed the latest submitted concept drawing and provides comment on this submitted design in Attachment A, which shall be satisfactorily addressed at the detailed design stage.

12. **Geotechnical Report.** All works are to be carried out in strict compliance with the recommendations contained in J K Geotechnics report dated 25 September 2012. Where appropriate, these recommendations are to be demonstrated on the approved Construction Certificate plans.
13. **Intersection Plan.** The applicant is to provide to Council the final approved TSC plan (RMS stamped plan) of the 4-way intersection that will encompass Victoria Road/Tennyson Road and the new access road (includes the fourth leg of the intersection). This is to clearly demonstrate (validated analytically taking into consideration surveyed journey times) that vehicles will predominantly utilise the Victoria Road access to enter/leave the site. This is to be provided prior to the issue of any Construction Certificate.

### 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.

14. **Site Sign**
  - (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
    - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
    - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
    - (iii) stating that unauthorised entry to the work site is prohibited.

**ITEM 3 (continued)**

**ATTACHMENT 1**

- (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.

15. **Sediment Control.** Prior to the commencement of construction, adequate sediment control devices are to be installed on the site. These devices shall be maintained during the construction period and replaced where considered necessary.

**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.

16. **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*.
17. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
18. **Construction materials.** All materials associated with construction must be retained within the site.
19. **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.
20. **Site maintenance**  
The applicant must ensure that:
  - (a) approved sediment and erosion control measures are installed and maintained during the construction period;
  - (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
  - (c) the site is clear of waste and debris at the completion of the works.
21. **Traffic Control.** All traffic control during construction must be carried out by accredited RMS approved traffic controllers.

## ITEM 3 (continued)

## ATTACHMENT 1

### 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.

### Stage 2 Works associated with the demolition of the industrial building and the construction of the vehicular ramp.

#### GENERAL

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

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

Document Description	Date	Plan No/Reference
Site plan/roof plan	23/4/13	030 Amd No. P6
Floor Plan	23/4/13	100 Amd No. P6
Sections	23/4/13	120 Amd No. P5
Floor plan Victoria Road Level	23/4/13	101 Amd No. P3
Elevations	23/4/13	130 Amd No. P2

23. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
24. **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.
25. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

### ITEM 3 (continued)

### ATTACHMENT 1

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

### DEMOLITION CONDITIONS

The following conditions are imposed to ensure compliance with relevant legislation and Australian Standards, and to ensure that the amenity of the neighbourhood is protected.

A Construction Certificate is not required for Demolition.

27. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:
- (a) Council must be notified of the following particulars:
    - (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
    - (ii) The date the work is due to commence and the expected completion date
  - (b) A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.
28. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
29. **Excavation**
- (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.
  - (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with the Work Cover Authority, in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.
30. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.
31. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
32. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.

**ITEM 3 (continued)**

**ATTACHMENT 1**

**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.

33. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
34. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
35. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (other buildings with delivery of bricks or concrete or machine excavation)
36. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
  - (a) Infrastructure Restoration and Administration Fee
  - (b) Enforcement Levy
37. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
38. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.



### ITEM 3 (continued)

### ATTACHMENT 1

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building, Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water assets - see Building, Development and Plumbing then Building and Renovating.

Or telephone 13 20 92.

39. **Geotechnical Report.** All works are to be carried out in strict compliance with the recommendations contained in J K Geotechnics report dated 25 September 2012. Where appropriate, these recommendations are to be demonstrated on the approved Construction Certificate plans.
40. **Directional Flood Evacuation Plan.** Prior to the issue of any Construction Certificate, a Directional Flood Evacuation Plan (DFAP) must be submitted to the PCA. The DFAP is to direct vehicles to the safest exit location from the flood inundation area of the site.

### 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.

41. **Site Sign**
- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
  - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
42. **Sediment Control.** Prior to the commencement of construction, adequate sediment control devices are to be installed on the site. These devices shall be maintained during the construction period and replaced where considered necessary.

## ITEM 3 (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.

43. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
44. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
45. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
  - (a) Fill is allowed under this consent;
  - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
  - (c) the material is reused only to the extent that fill is allowed by the consent.
46. **Construction materials.** All materials associated with construction must be retained within the site.
47. **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.
48. **Site maintenance**  
The applicant must ensure that:
  - (a) approved sediment and erosion control measures are installed and maintained during the construction period;
  - (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
  - (c) the site is clear of waste and debris at the completion of the works.

### 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 3 (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.

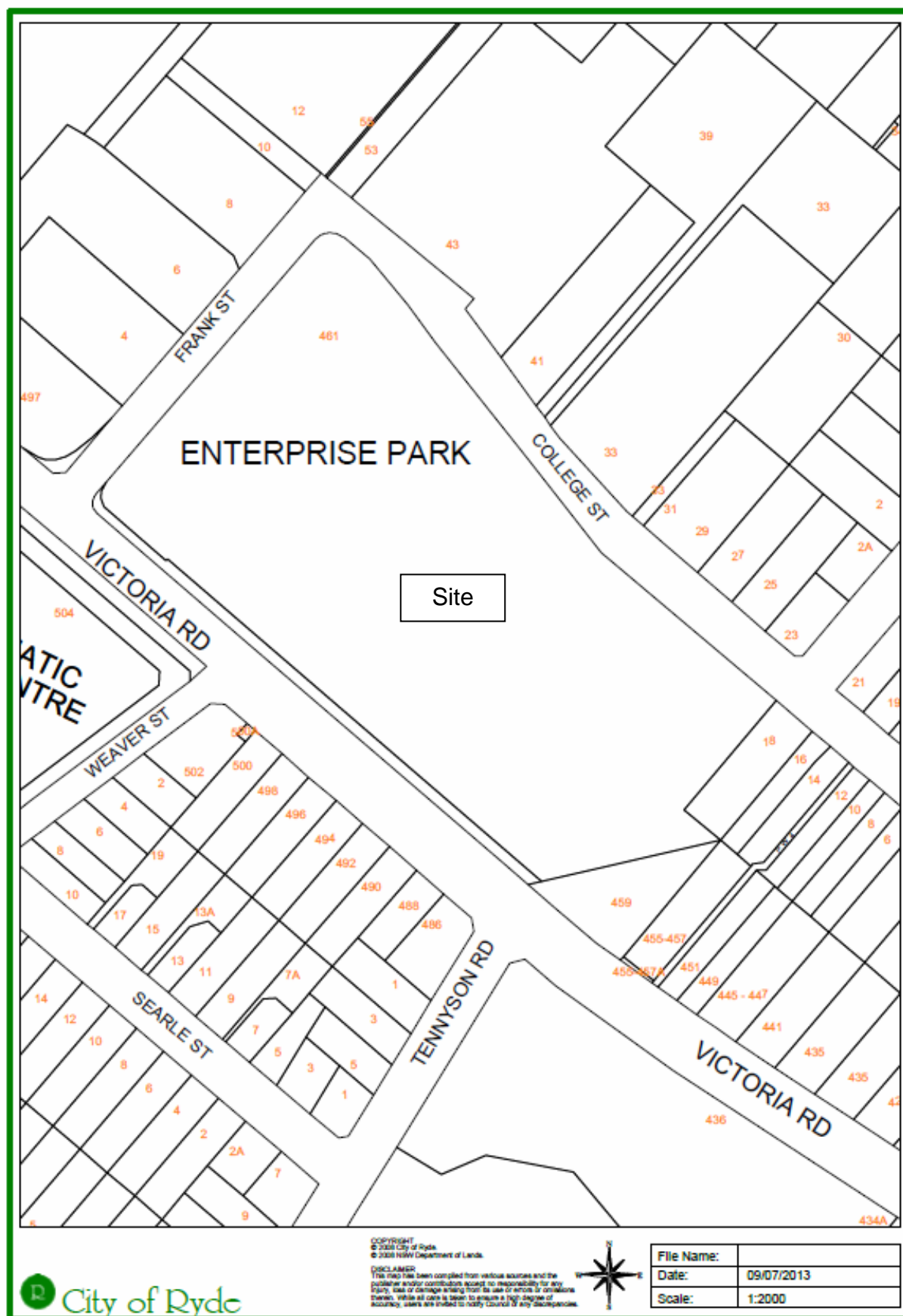
Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or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

49. **Intersection to be operational.** Prior to the issue of any Occupational Certificate, the access to and from Victoria Road via the new TCS access (at Victoria Road, Fourth intersection leg opposite Tennyson Road) is to operational in its final configuration and fully accessible to the public (vehicle wise) to move seamlessly to/from the development site.
50. **Traffic operational plan.** Prior to the issue of any Occupational Certificate, a detailed Traffic Operations Plan for the site is to be developed and referred to the Ryde Traffic Committee for concurrence. This plan is to incorporate all traffic within the site including delivery trucks, which must as a minimum include:
- a) An “internal vehicle access and load limit signage scheme” covering illuminated signage at the foot of the ramp (and top of ramp) to Council’s satisfaction indicating that vehicles larger than 12.5m in length are not to use the ramp as well as indicating the corresponding gross load and speed limit.
  - b) Time of operation for each access location (access may be restricted) and shall be managed via a boom gate or similar.
  - c) Sufficient queue length upon entry to the site to ensure that motorists do not queue or reverse across the driveway.
51. **Warning Signage.** Prior to the issue of any Occupation Certificate, warning signage indicating “Do Not Drive Through Water” must be provided on the sides of the internal road near the ponding area. This signage plus any directional signage must have the level of “reflectivity” for night time viewing in accordance with the relevant Australian Standards.

**ITEM 3 (continued)**

**ATTACHMENT 2**

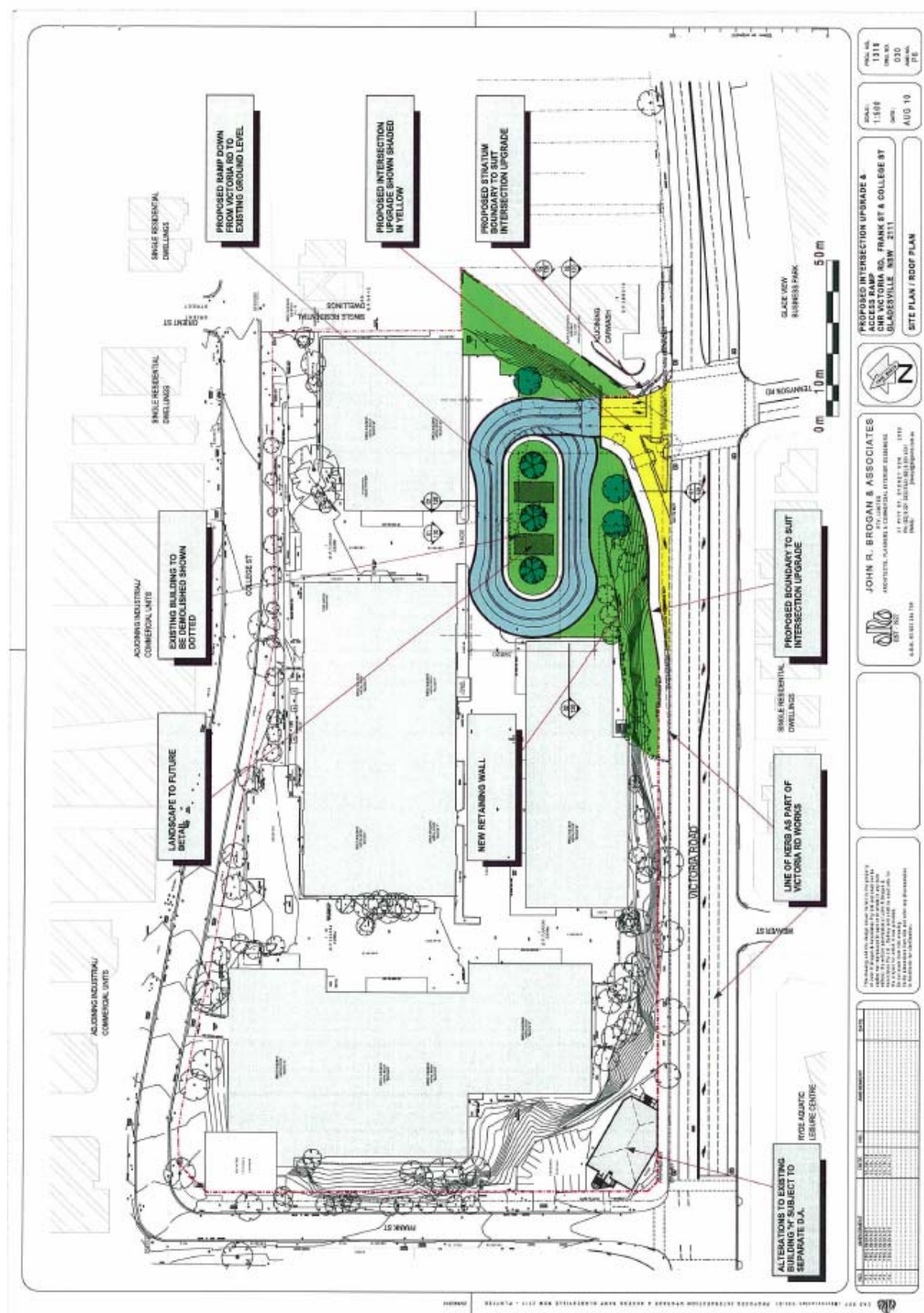
Submissions received outside map area.





**ITEM 3 (continued)**

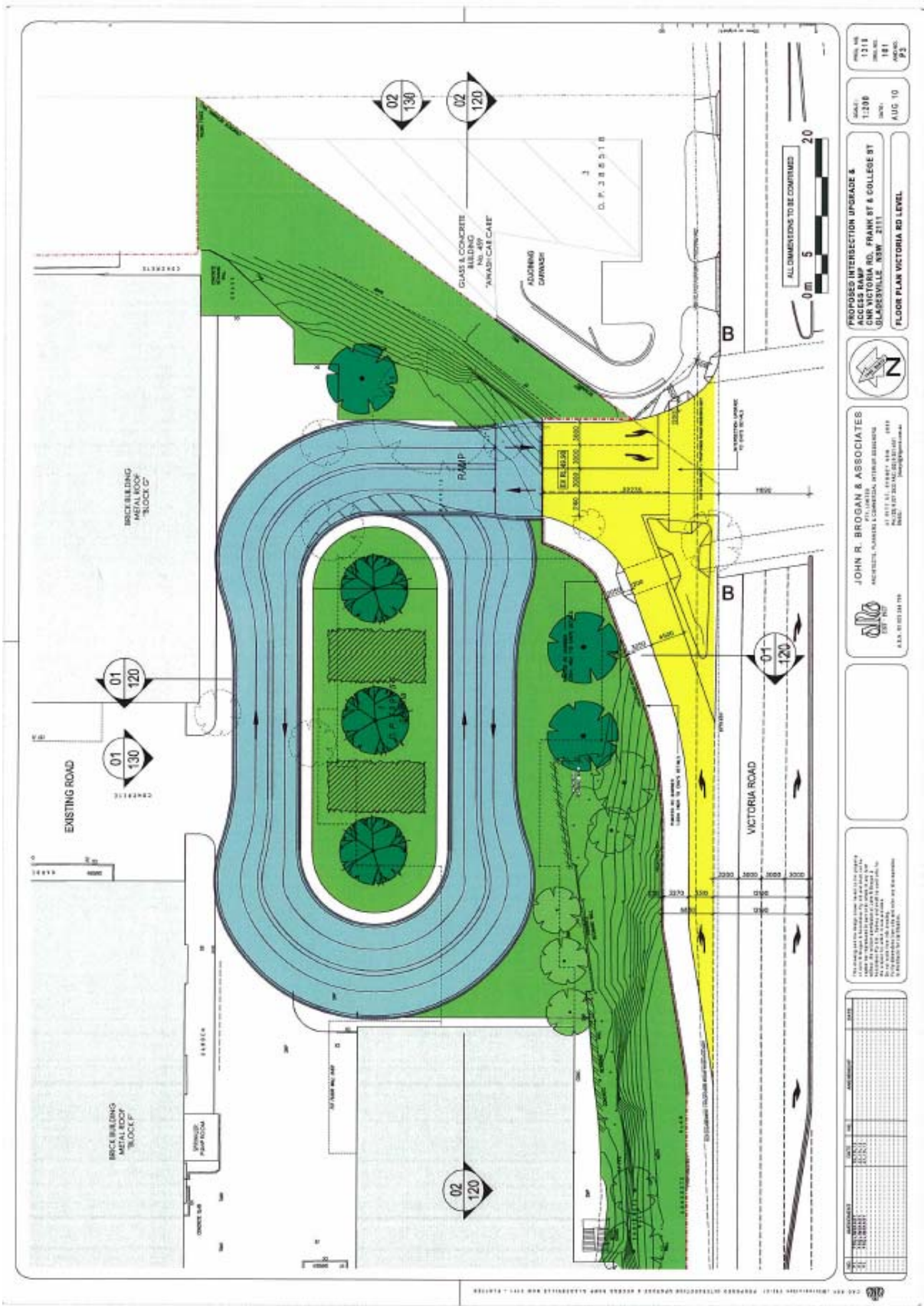
**ATTACHMENT 3**





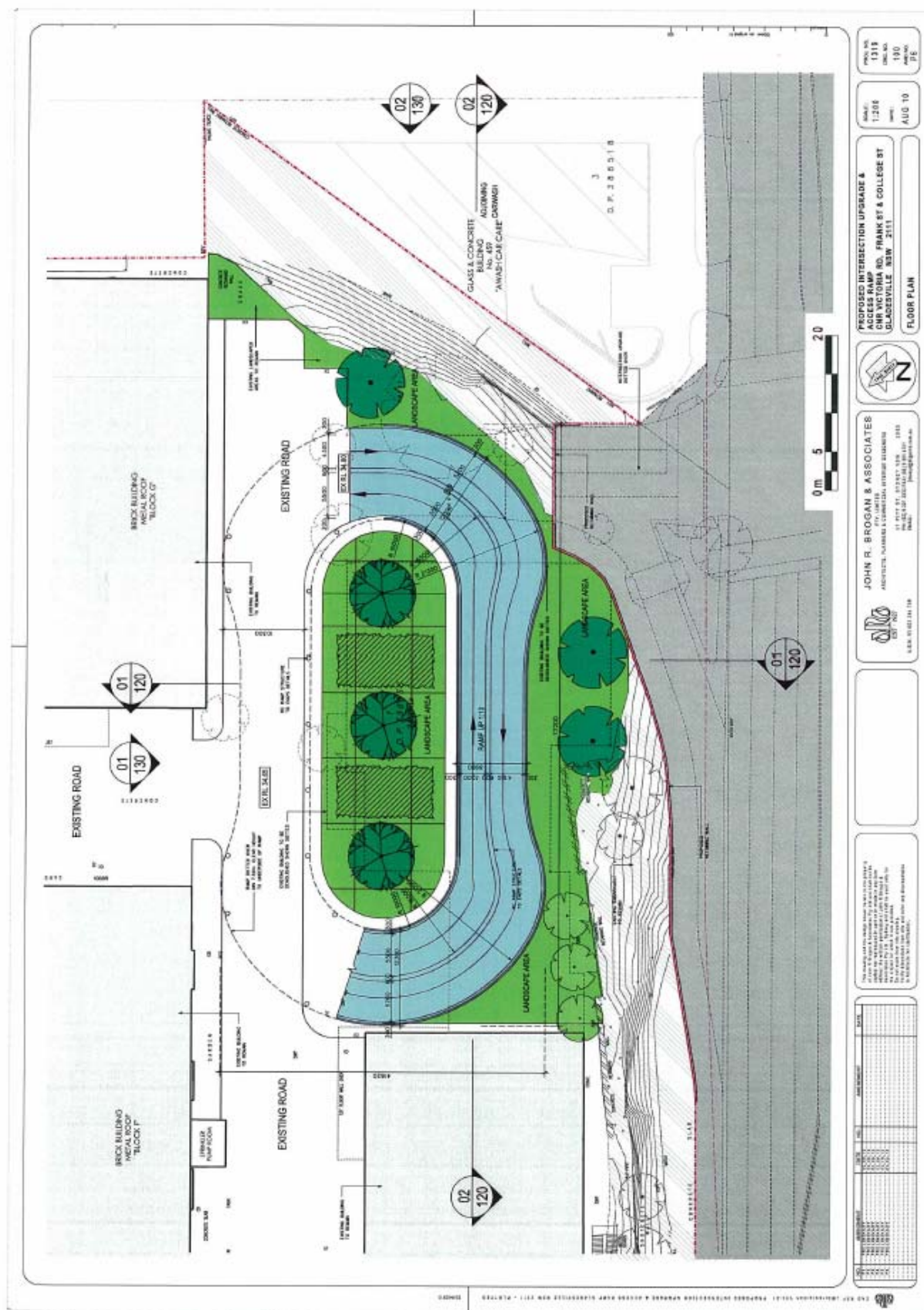
### ITEM 3 (continued)

## ATTACHMENT 3



**ITEM 3 (continued)**

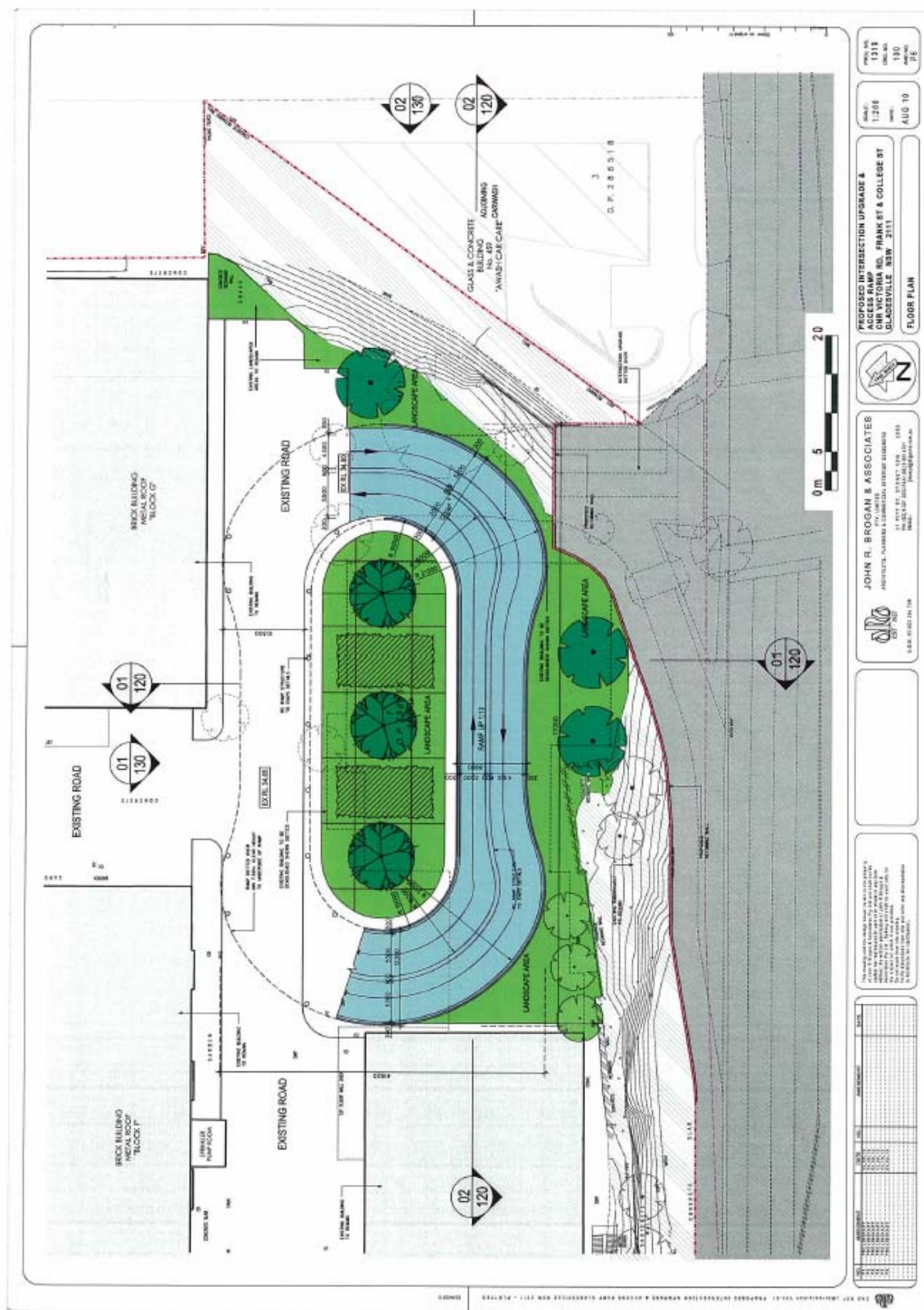
**ATTACHMENT 3**





**ITEM 3 (continued)**

**ATTACHMENT 3**



## ATTACHMENT 3



**4      52 DARVALL ROAD, EASTWOOD. LOT 10 DP 13514. Local Development Application for the use of existing building as a secondary dwelling and outbuilding. LDA2013/100.**

**INTERVIEW**

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**Report prepared by:** Team Leader - Assessment

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

**Report dated:** 3/07/2013

**Previous Items:** 4 - 52 DARVALL ROAD, EASTWOOD. LOT 10 DP 13514.

Local Development Application for the use of existing building as a secondary dwelling and an outbuilding. LDA2013/0100. - Planning and Environment Committee - 4 June 2013

**File Number:** grp/09/5/6/2 - BP13/983

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**1. Report Summary**

**Applicant:** J Lin

**Owner:** W You, J Lin

**Date lodged:** 3 April 2013

This report has been prepared to enable Council's further consideration of a development application (DA) for the use of an existing building at the rear of the subject property as a secondary dwelling and outbuilding/garage.

At the Council's Ordinary Meeting of 11 June 2013, Council resolved as follows:

- (a) That the Group Manager Environment and Planning write to the Building Professionals Board expressing Council's concern regarding this matter and to request an urgent response to the complaint.*
- (b) That upon receipt of advice from the Building Professionals Board, the Group Manager Planning and Environment provide a report to the Planning and Environment Committee detailing the nature of the response and suggesting measures to ensure that the outbuilding does not provide for permanent habitation.*

Following Council's resolution above, the Group Manager Environment & Planning has written to the Building Professionals Board, and a response has been received. The response advised Council that the Board has noted Council's resolution and concerns, and also noted that in May 2013, the Board's Disciplinary Committee resolved to reprimand the accredited certifier involved in issuing the original complying development certificate, to issue a fine of \$20,000 and issue a condition



**ITEM 4 (continued)**

on his accreditation restricting him from issuing complying development certificates for a period of two (2) years (from 3 June 2013 to 3 June 2015).

The body of the report also provides details on possible measures to prevent the outbuilding portion of the existing building from being used for habitation.

The proposal is recommended for approval subject to conditions.

**Reason for Referral to Planning and Environment Committee:** Requested by Councillor Perram; previously considered by the Planning and Environment Committee.

**RECOMMENDATION:**

- (a) That LDA2013/0100 at 52 Darvall Road Eastwood, being LOT 10 DP 13514 be approved subject to the **ATTACHED** conditions (Attachment 3).
- (b) That Council's Health & Building Enforcement Team inspect the property on at least two (2) occasions over 24 months to ensure compliance with the consent.
- (c) That the persons who made submissions be advised of Council's decision.

**ATTACHMENTS**

- 1 Letter to Building Professionals Board - 18 June 2013
- 2 Response from Building Professionals Board - 25 June 2013
- 3 Proposed Conditions of Consent
- 4 Previous Report

Report Prepared By:

**Chris Young**  
**Team Leader - Assessment**

Report Approved By:

**Liz Coad**  
**Manager Assessment**

**Dominic Johnson**  
**Group Manager - Environment & Planning**

**ITEM 4 (continued)****2. Background**

The previous report to Planning & Environment Committee 4 June 2013 contains an assessment of the proposal, and details of the background to the development application up until that point in time.

At that meeting, the Committee recommended:

- (a) That Local Development Application No. LDA2013/0100 at 52 Darvall Road Eastwood be approved subject to the **ATTACHED** conditions (Attachment 3 to the Committee report).*
- (b) That Council inspect the property on at least two occasions over 24 months to ensure compliance with the consent.*
- (c) That the Group Manager Environment and Planning write to the Building Professionals Board expressing Council's concern regarding this matter and to request an urgent response to the complaint.*
- (d) That the persons who made submissions be advised of Council's decision.*

This DA was then considered at Council's Ordinary Meeting of 11 June 2013, where Council resolved:

- (a) That the Group Manager Environment and Planning write to the Building Professionals Board expressing Council's concern regarding this matter and to request an urgent response to the complaint.*
- (b) That upon receipt of advice from the Building Professionals Board, the Group Manager Planning and Environment provide a report to the Planning and Environment Committee detailing the nature of the response and suggesting measures to ensure that the outbuilding does not provide for permanent habitation.*

**3. Report**Contact with Building Professionals Board

In regard to part (a) of Council's resolution (above), the Group Manager Environment & Planning wrote to the Building Professionals Board on 18 June 2013 – see copy of letter at **Attachment 1**.

**ITEM 4 (continued)**

The Building Professionals Board provided a response on 25 June 2013 – see **Attachment 2**. In particular, the Board has noted Council's resolution (as above), and in relation to the accreditation of this Private Certifier, the Board has advised:

*"... that on 23 May 2013, the Board's Disciplinary Committee resolved to reprimand accredited certifier Mr Ting ("Tony") Qiu, fine him \$20,000 and impose a condition on his accreditation restricting him from issuing complying development certificates (CDC's) for the period between 3 June 2013 to 3 June 2015 inclusive."*

Measures to prevent use of outbuilding for permanent habitation

Following the written communication between Council and the Building Professionals Board (as detailed in Attachments 1 and 2), this report is prepared to enable Council to further consider and determine this DA.

As requested in part (b) of Council's resolution (above), the following are some suggested measures to ensure that the outbuilding is not used for habitation:

**1. Restrict via condition of consent.**

The proposed draft conditions (which were Attachment 3 to the previous Committee Report) included the following condition regarding the use of the Outbuilding. It should be noted that breach of a condition of consent is an offence under the provisions of the Environmental Planning & Assessment Act 1979, and Council has enforcement powers under the Act to ensure compliance with this condition.

**48. Outbuilding.** *The outbuilding is an ancillary use for the occupants of the principal dwelling at the front of the property only. The outbuilding is not to be used or adapted for use as a separate domicile or a boarding house.*

**2. Enforcement Inspections.**

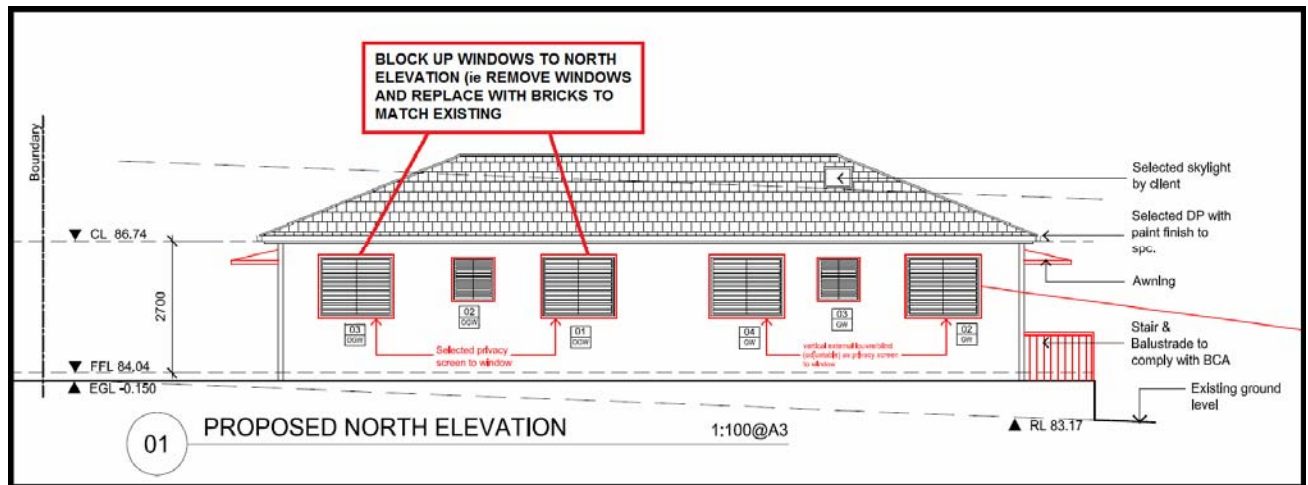
Council officers can inspect the subject outbuilding to ensure compliance. The Planning and Environment Committee previously recommended to have the property inspected on two occasions over 24 months. See part (b) of the Recommendation.

**3. Remedial Work to the Outbuilding.**

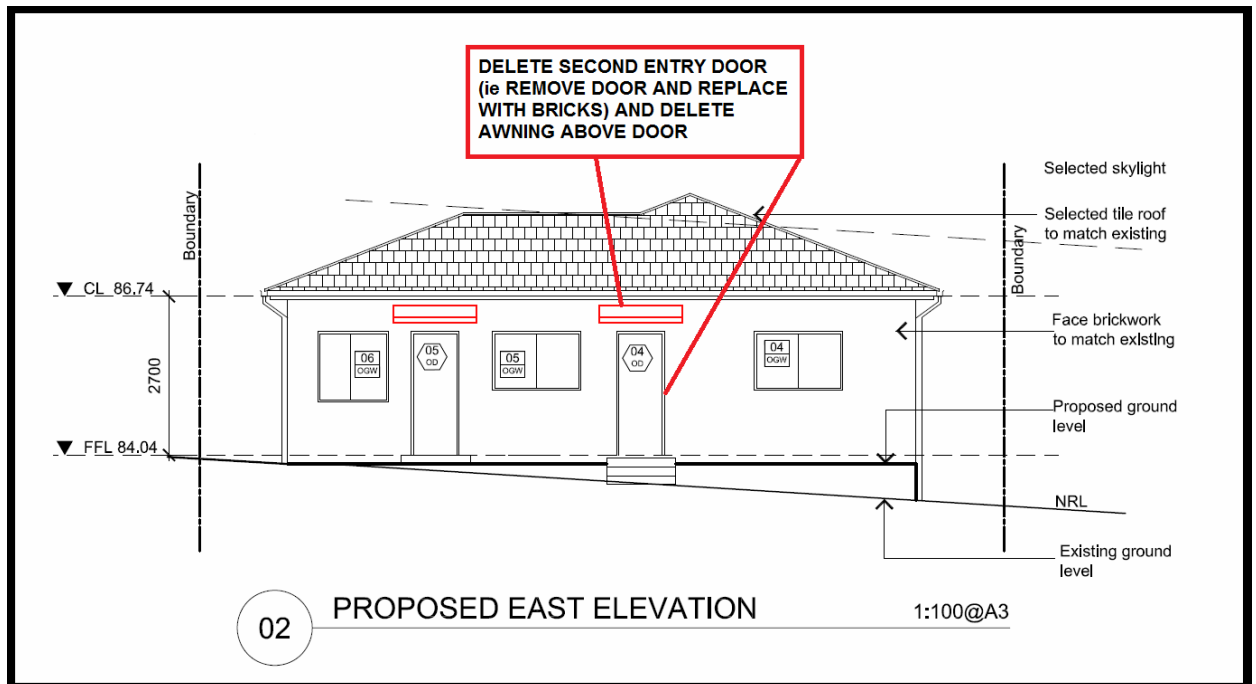
The following are suggested works to the outbuilding to ensure it is not capable of habitation:

- Block up the windows to the north elevation (i.e. remove windows and replace with bricks to match the existing bricks), noting that the outbuilding already has two other windows to the eastern side. See condition 1(c) in Attachment 3. See also diagram below:

**ITEM 4 (continued)**



- Block up and remove the second entry door to the eastern side (i.e. remove door and replace with bricks, delete awning above this door), noting that the outbuilding already has an entry door on the southern side. See condition 1(d) in Attachment 3. See also diagram below:



**ITEM 4 (continued)****4. Conclusion**

As noted in the previous assessment report to the Planning & Environment Committee (4 June 2013), the proposed use of the existing building as an outbuilding and secondary dwelling complies with the relevant planning controls (contained in the Affordable Rental Housing SEPP and the Exempt and Complying Development SEPP) and is considered to be satisfactory for approval subject to conditions.

Following the resolution of Council's Ordinary Meeting on 11 June 2013, Council has written to the Building Professionals Board to express its concerns. In response, the Board has noted Council's concerns and advised of the disciplinary action that has been taken against the accredited certifier.

This application is therefore referred back to the Planning & Environment Committee for determination. It is recommended that the DA be approved subject to conditions (see Attachment 3). These conditions are the same as those attached to the previous Committee report, with amendments and additional conditions as indicated in Section 3 of this report (above) restricting the outbuilding from being used for habitation.



**ITEM 4 (continued)**

**ATTACHMENT 1**

Mr W Oslan  
Building Professionals Board  
PO Box 3720  
PARRAMATTA NSW 2124

18 June 2013

Dear Mr Oslan,

**Re: 52 Darvall Road, Eastwood. Private Certifier Mr Tony Qiu**  
**Our Ref: LDA2013/100**

Council is currently considering a development application (DA) lodged by the owners of the subject property, for the use of the existing building as a secondary dwelling and outbuilding.

The lodgement of a DA became necessary because the original approval (a complying development certificate) was issued in error by a Private Certifier (Mr Tony Qiu of Ace Building Certifiers). Council has previously written to you regarding this error (by letter dated 13 December 2012).

Council considered this matter at the Planning & Environment Committee meeting of 4 June 2013 and then at Council's Ordinary Meeting of 11 June 2013, and resolved as follows:

- (a) That the Group Manager Environment and Planning write to the Building Professionals Board expressing Council's concern regarding this matter and to request an urgent response to the complaint.*
- (b) That upon receipt of advice from the Building Professionals Board, the Group Manager Planning and Environment provide a report to the Planning and Environment Committee detailing the nature of the response and suggesting measures to ensure that the outbuilding does not provide for permanent habitation.*

The purpose of this letter is to express Council's concern regarding this matter, and to request your urgent response. Council is concerned that this situation has caused and is continuing to cause costs, delays and frustration for the property owners. To assist in the timely resolution of this matter, you are requested to provide an urgent response to this complaint. Your response is required to enable a further report to be prepared for the consideration of Council's Planning & Environment Committee.

**ITEM 4 (continued)**

**ATTACHMENT 1**

Your urgent response would be most appreciated. Please contact Mr Chris Young – Council's Team Leader Assessment on 9952 8237 if you wish to discuss further.

Yours faithfully

**SIGNED**

**Dominic Johnson**  
**Group Manager Environment & Planning**

**ITEM 4 (continued)**

**ATTACHMENT 2**

Page 1 of 3

**E-mail Message**

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**From:** [Matthew Wunsch \[SMTP:Matthew.Wunsch@bpb.nsw.gov.au\]](mailto:Matthew.Wunsch@bpb.nsw.gov.au)  
**To:** [Chris Young \[EX:/O=COREX/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=92CD24F9-416EE4A-CA256F94-3684D3\]](#)  
**Cc:** [William Oslan \[SMTP:William.Oslan@bpb.nsw.gov.au\]](mailto:William.Oslan@bpb.nsw.gov.au)  
**Sent:** 25/6/2013 at 10:56 AM  
**Received:** 25/6/2013 at 10:58 AM  
**Subject:** Fwd: 52 Darvall Road, Eastwood

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**Attachments:** img-624155301-0001.pdf  
Darvall Road 52, Eastwood. Letter to Building Professionals Board re  
Cou.....doc  
ATT526784.txt  
ATT526785.htm  
ATT526783.gif

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Dear Chris Young

I refer to your letter dated 18 June 2013, and your telephone conversation with myself and Mr William Oslan of the Building Professionals Board (Board) on Friday 21 June 2013 regarding the subject development.

I note that Council's resolution as articulated in Council's correspondence to the Board dated 18 June 2013, is unclear as no formal complaint has been lodged with the Board.

I confirm that on 23 May 2013, the Boards Disciplinary Committee resolved to reprimand accredited certifier Mr Ting ("Tony") Qiu, fine him \$20,000 and impose a condition on his accreditation restricting him from issuing complying development certificates (CDC's) for the period between 3 June 2013 to 3 June 2015 inclusive.

Further details regarding the disciplinary decision are available on the Boards website at: <http://www.bpb.nsw.gov.au>

For further information regarding this matter, please contact Mr Oslan on telephone (02) 9873 5943.

Yours Sincerely

Matthew Wunsch

Team Leader Investigations

Building Professionals Board  
Department of Planning

E-mail: [HYPERLINK](#)

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**ITEM 4 (continued)**

**ATTACHMENT 2**

Page 2 of 3

"mailto:matthew.wunsch@bpb.nsw.gov.au"matthew.wunsch@bpb.nsw.gov.au

Phone: (02) 9873 8542

Fax: (02) 9873 8512

Postal Address:

Building Professionals Board

PO Box 3720

Parramatta, NSW 2124

To find out more about the Building Professionals Board, visit [HYPERLINK](#)

"<http://www.bpb.nsw.gov.au/>"[www.bpb.nsw.gov.au](http://www.bpb.nsw.gov.au/) or [HYPERLINK](#)

"<http://www.vision6.com.au/forms/s/7f2ef54/26240/245854/56362.html>"subscribe to the BPBulletin.

>>> "Chris Young" 16:03 24/06/2013 >>>

Hi Bill,

Thank you both (ie you and your colleague whose name I do not recall!) for contacting me last week regarding the above development, in particular Councils letter dated 18 June 2013 (see copy attached).

As requested also attached is a copy of the Complying Development Certificate and Plans dated 4 May 2012, issued by Ace Building Approvals (Tony Qiu).

I would greatly appreciate your response regarding this matter, as requested in our letter dated 18 June 2013. In particular, it would be great if you could advise of any disciplinary action that has been taken against this Private Certifier regarding this matter.

Thanks very much for your help.

My contact details are provided below in case you have any further queries.

Regards,

Chris Young | Team Leader - Assessment

P: (02) 9952 8237 (direct line) | E: [HYPERLINK](#)

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**ITEM 4 (continued)**

**ATTACHMENT 2**

Page 3 of 3

"mailto:cyoung@ryde.nsw.gov.au" cyoung@ryde.nsw.gov.au | W: HYPERLINK  
"http://www.ryde.nsw.gov.au/" www.ryde.nsw.gov.au

cid:image001.gif@01CE0EBE.E37F7800

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## ITEM 4 (continued)

## ATTACHMENT 3

### GENERAL

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

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

Document Description	Date	Plan No/Reference
Architectural Plans	10/10/2012 10/12/2012 21/05/2013 21/05/2013 10/10/2012 21/05/2013 10/12/2012	Drawing No. DA-00, DA-01 (issue 01), DA-02 (issue 04), DA-03 (issue 05), DA-04 (issue 01), DA-05 (Issue 05), DA-06 (issue 01, as amended in red) & DA-07 (issue 01)
Stormwater Concept Plans	4/03/2013	REF: 2012038 S1, Sheet 1 (as amended in red)

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

- (a) The screen planting adjacent to the northern side boundary is to be 2.7m high as amended in red.
- (b) The three (3) privacy screens required to the bedroom windows of the secondary dwelling are to be in accordance with privacy screen detail on Drawing No. DA-06 and as amended in red and meet the following minimum standards. A privacy screen means a screen that
  - (i) Faces the boundary
  - (ii) Is 1.5m in height above floor level
  - (iii) Has no individual opening more than 30mm wide
  - (iv) The total area of all openings is less than 30 per cent of the surface area of the screen when viewed in elevation.
- (c) The two (2) windows to the northern boundary of the outbuilding shall be blocked up (i.e. remove windows and replace with bricks to match the existing bricks);
- (d) The door to the eastern side of the outbuilding shall be blocked up (i.e. remove door and replace with bricks), and the awning above this previous door shall also be removed.

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

**ITEM 4 (continued)**

**ATTACHMENT 3**

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 418424S\_03, dated 24 March 2013.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (a) Protect and support the adjoining premises from possible damage from the excavation, and
  - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Hoardings.**
  - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
  - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
7. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
8. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
9. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
10. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

## ITEM 4 (continued)

## ATTACHMENT 3

### Engineering Conditions

11. **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.
12. **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.
13. **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.
14. **Vehicle Manoeuvring Area.** All vehicles enter and exit in a forward direction to the street. The vehicle manoeuvring area within the central court yard area shall not be used as a parking space. This area shall be marked and sign posted as a vehicle manoeuvring area.

### 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 (e.g. 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.

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

**ITEM 4 (continued)**

**ATTACHMENT 3**

16. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
17. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (dwelling houses with delivery of bricks or concrete or machine excavation)
18. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
  - (a) Infrastructure Restoration and Administration Fee
  - (b) Enforcement Levy
19. **Long Service Levy. (If applicable based on the value of cost of works)** 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**.

**Engineering Conditions to be complied with Prior To Construction Certificate**

20. **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.
21. **On-Site Stormwater Detention.** Stormwater runoff from the existing dwelling at front and the secondary dwelling at rear including all other 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 100 year average recurrence interval 5 minutes storm event. Runoff which enters the site from upstream properties should not be redirected in a manner which adversely affects adjoining properties.
22. **Excavations Adjoining Existing Dwelling.** The proposed development will result in substantial excavation that has the potential to affect the foundations of the existing dwelling to the front.

**ITEM 4 (continued)**

**ATTACHMENT 3**

The applicant shall:-

- a) *Seek independent advice from a Geotechnical/Structural Engineer on the impact of the proposed excavations on the dwelling*
- b) *Detail what measures are to be taken to protect the dwelling during construction*
- c) *Provide PCA with a certificate from the engineer on the necessity and adequacy of support for the dwelling.*

The above matters shall be completed prior to the issue of the Construction Certificate.

23. **Design of the OSD tank.** The walls of the detention tank adjoining the existing dwelling at front shall be designed to withstand the loads imposed by the adjoining dwelling on to the tank walls. Structural details of the tank designed by a suitably qualified structural Engineer with the certification shall be submitted to the PCA prior to issue of a Construction Certificate.
24. **Permeable Paving.** The manoeuvring area for vehicles within the central courtyard area shall be constructed of permeable paving which is to be strictly in accordance with the manufacturer's specification requirements. Certification shall be provided by the manufacturer stating that the proposed construction of the permeable paving is to their requirements prior to issuing the Construction Certificate.
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 3**

**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.

**27. Site Sign**

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

**28. Residential building work – insurance. If applicable based on the value of the work.**

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

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

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

**ITEM 4 (continued)**

**ATTACHMENT 3**

**30. 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 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.

**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

**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.

- 33. 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*.
- 34. Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
- 35. Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.

## ITEM 4 (continued)

## ATTACHMENT 3

36. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- (a) Fill is allowed under this consent;
  - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
  - (c) the material is reused only to the extent that fill is allowed by the consent.
37. **Construction materials.** All materials associated with construction must be retained within the site.
38. **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.
39. **Site maintenance**  
The applicant must ensure that:
- (a) approved sediment and erosion control measures are installed and maintained during the construction period;
  - (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
  - (c) the site is clear of waste and debris at the completion of the works.
40. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

## 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 (e.g. 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.

41. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s).
42. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.

**ITEM 4 (continued)**

**ATTACHMENT 3**

**Engineering Conditions to be complied with Prior to Occupation Certificate**

43. **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.
44. **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.
45. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Ref No 2012038 S1Rev D dated 4/3/13 prepared by MBC Engineering Ltd and as amended in red by Council.
46. **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 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.
47. **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.

**OPERATIONAL CONDITIONS**

48. **Outbuilding.** The outbuilding is an ancillary use for the occupants of the principal dwelling at the front of the property only. The outbuilding is not to be used or adapted for use as a separate domicile or a boarding house.

ITEM 4 (continued)

ATTACHMENT 4

- 4     **52 DARVALL ROAD, EASTWOOD. LOT 10 DP 13514. Local Development Application for the use of existing building as a secondary dwelling and an outbuilding. LDA2013/0100.**

**INTERVIEW**

**Report prepared by:** Assessment Officer

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

**Report dated:** 22/05/2013

**File Number:** grp/09/5/6/2 - BP13/766

**1. Report Summary**

**Applicant:** J Lin.

**Owner:** W You, J Lin.

**Date lodged:** 3 April 2013

This report considers a development application (DA) for the use of an existing building at the rear of the subject property as a secondary dwelling and outbuilding/garage.

The subject building was originally approved via a Complying Development Certificate (CDC) by a private certifier (Ace Building Approvals), in May 2012. However it became apparent that the CDC was issued in error – because a CDC cannot be issued for this type of development on allotments less than 15m wide (the allotment is 13.715m wide). Council's Health and Building Compliance Team reported this error to the Building Professionals Board in December 2012.

The property owners have ceased work on the building as requested by Council, upon being made aware of the error of their Private Certifier. To rectify this situation, the property owners have lodged two applications to Council for approval of the construction and use of the building:

1. The subject DA for the use of the building as a secondary dwelling and outbuilding/garage, and for completion of work to the building (and site) still to be undertaken (including stormwater drainage, driveway, retaining walls, privacy screens and landscaping).
2. A separate Building Certificate application for the works undertaken to date (noting that a DA cannot give retrospective approval for building works already undertaken). This application is being processed separately by Council's Health and Building Compliance Team and will be determined after Council has determined the current subject DA for the use of the building.

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Agenda of the Planning and Environment Committee Report No. 9/13, dated Tuesday 4 June 2013.



**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**

The proposal has been assessed against the controls for secondary dwellings in State Environmental Planning Policy (Affordable Rental Housing) 2009, and there are two minor areas of non-compliance in terms of allotment width (15m required; 13.715m provided) and rear setback (5m required; 4.98m provided). The actual building has also been assessed according to the controls in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 for the various controls regarding size, height, setbacks etc for "outbuildings", and the building complies with these controls.

Council's DCP (Ryde DCP 2010) contains various controls for outbuildings and garages including floor area, height, setbacks etc, and whilst there are some areas of non-compliance as detailed in the report (namely floor area and height), the provisions of the SEPP override the controls in Council's DCP.

Adjoining owners have been notified of the subject DA in accordance with Part 2.1 DCP 2010 and 4 submissions were received, raising concerns that the development is illegal/does not comply with the Affordable Housing SEPP, privacy impacts, concerns regarding the size of the building, and potential use of the area designated as "outbuilding" as another dwelling. These issues of concern do not warrant refusal of the application and can be addressed via conditions of consent.

It is recommended that the subject DA be approved subject to standard conditions, and specific conditions relating to privacy screens to living room windows, landscape screening, and the outbuilding/garage component not being used or adapted for use as a separate domicile.

**Reason for Referral to Planning and Environment Committee:** Requested by Councillor Perram.

Public Submissions: 4 submissions were received objecting to the development.

SEPP 1 (or clause 4.6 RLEP 2010) objection required? No

Value of works. \$180,000 (original value as constructed)

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. LDA2013/0100 at 52 Darvall Road Eastwood be approved subject to the **ATTACHED** conditions (Attachment 3).
- (b) That the persons who made submissions be advised of Council's decision.

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**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**

**ATTACHMENTS**

- 1 Compliance Table - SEPP (Affordable Rental Housing) 2009
- 2 Compliance Table - Ryde DCP 2010
- 3 Proposed Conditions
- 4 A4 Plans
- 5 Map
- 6 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**Jane Tompsett**  
**Assessment Officer**

Report Approved By:

**Liz Coad**  
**Manager Assessment**

**Dominic Johnson**  
**Group Manager - Environment & Planning**

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Agenda of the Planning and Environment Committee Report No. 9/13, dated  
Tuesday 4 June 2013.

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Agenda of the Planning and Environment Committee Report No. 11/13, dated  
Tuesday 16 July 2013.

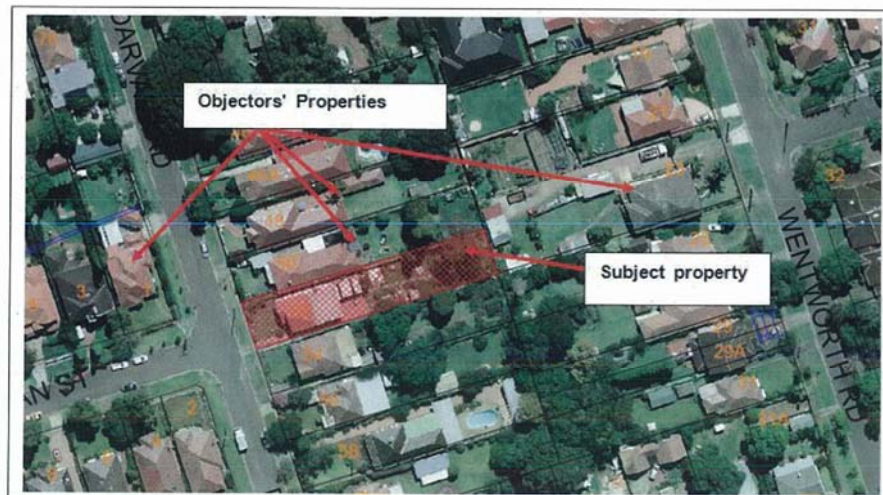
**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**

**2. Site (Refer to attached map.)**

<b>Address</b>	: 52 Darvall Road, Eastwood
<b>Site Area</b>	: 965.67m <sup>2</sup> Frontage 13.715 metres Depth 70.410 metres
<b>Topography and Vegetation</b>	: The site is located on the eastern side of Darvall Road, and has a gentle slope of 2m from the rear boundary to the front boundary. The site also has a cross fall of approximately 1m from the south eastern side boundary to the north western side boundary. There is no significant vegetation on the site
<b>Existing Buildings</b>	: The principal dwelling is single storey. In the rear yard there is a single storey structure containing a secondary dwelling, ancillary storage games room for the principal dwelling and attached garage.
<b>Planning Controls</b>	: State Environmental Planning Policy (Affordable Rental Housing) 2009 Ryde LEP 2010
<b>Zoning</b>	: R2 Low Density Residential
<b>Other</b>	: Ryde DCP 2010 City of Ryde Section 94 Development Contributions Plan 2007



**Figure 1: Locality Map**

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**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**

**3. Councillor Representations**

Name of Councillor: Councillor Perram

Nature of the representation: Call-up of the Building Certificate application (BC2012/0042) to Planning & Environment Committee, Via and email, to Councillor Help Desk, dated 18 November 2012. (The Building Certificate Application has been deferred pending the outcome of the current DA.)

On behalf of applicant or objectors: On behalf of objectors at No. 50 Darvall Street (adjoining neighbours to the north western side of the subject property).

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

**4. Political Donations or Gifts**

Any political donations or gifts disclosed? None disclosed in applicant's DA submission or in any submission received.

**5. Proposal**

The proposal is for the use of existing building in the rear yard, for a secondary dwelling and an outbuilding consisting of storage/family room (ancillary to principal dwelling at the front of the property) and garage. The proposal also involves minor works required for completion of work to the building (and site), including rainwater tank, stormwater drainage, driveway including turning bay, retaining walls, landscaping and privacy screens.

The subject building, as constructed, has a total floor area of 133.7m<sup>2</sup>, and this DA proposes to use part of the building as a secondary dwelling (53.73m<sup>2</sup>), and the remainder as an outbuilding/storage area and garage which has a total area of 80.04m<sup>2</sup>.

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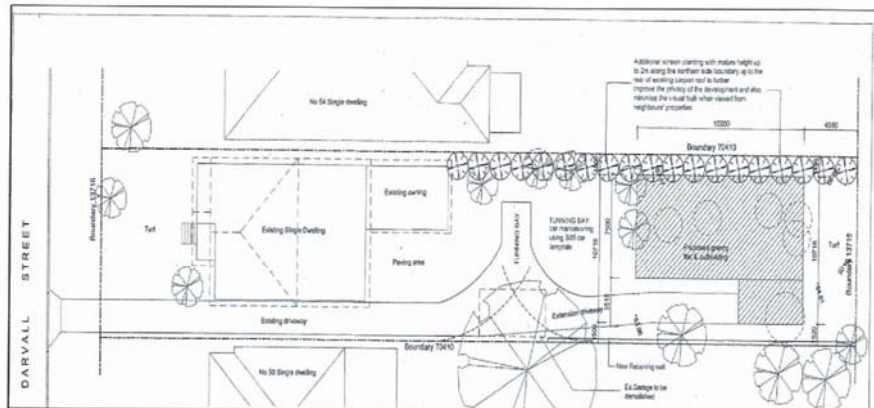
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Agenda of the Planning and Environment Committee Report No. 11/13, dated Tuesday 16 July 2013.

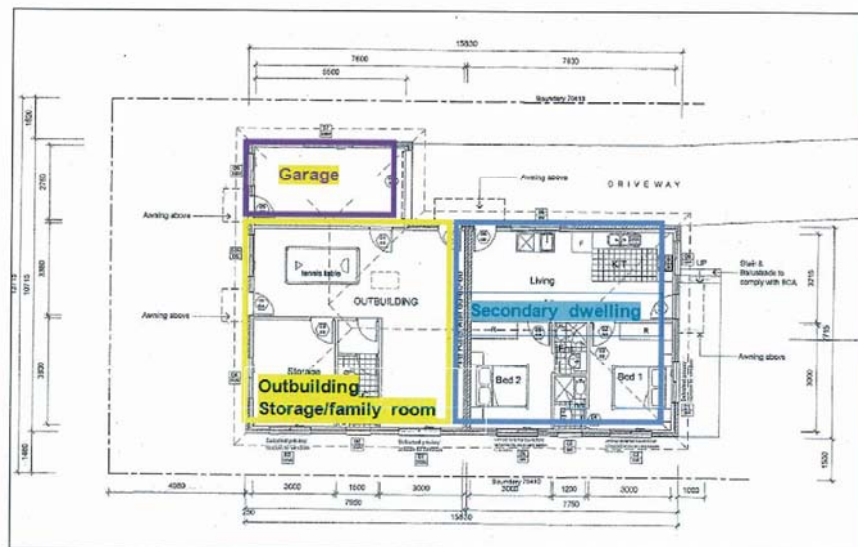
**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**



**Figure 2 - Site Plan**



**Figure 3 Floor Plan**

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**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**



**Figure 4 – Eastern (front) Elevation (note Privacy Screen to window 01)**



**Figure 5 – View looking towards the secondary dwelling outbuilding and garage from the rear of the principal dwelling.**

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**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**

**6. Background**

Approval of Complying Development Certificate by Private Certifier

On 4 May 2012 a Complying Development Certificate (CDC) was issued by private certifier (Ace Building Approvals) for a granny flat, garage and outbuilding in rear yard. The Section 94 Contributions applicable were paid on 10 May 2012 receipt No. 2081730.

On 29 October 2012 the certifier from Ace Building Approvals advised Council that *"the construction was progressed up to lock-up stage. I realised there was an error in the CDC assessment which the lot has less than 15m width. After discussing with the owners, the owners have stopped work on site and lodged an application for Building Certificate for completed works and Development Application for the remaining works."*

On 30 October 2012, the owners lodged a Building Certificate (BC) for the works as constructed under the approved CDC. The BC was notified to adjoining neighbours' on 12 November 2012, for a period of fourteen days. Four (4) submissions were received objecting to the Building Certificate.

In addition to the written notification, Council's Building Surveyor Compliance held a meeting with the following adjoining residents.

1. 48 Darvall Road
2. 50 Darvall Road
3. 23 Wentworth Road

Council's Officer at the meeting has made the following notes:

*"During the meeting the residents were informed that the submitted Building Certificate Application was for the building works that have been constructed to date, and not for the use of the building. The owner would need to lodge a formal Development Application and seek approval for the use of the building as secondary dwelling."*

*The privacy in relation to the windows along the Northern side of the structure was discussed and the residents agreed that the windows should be replaced with obscured glass, or the sill height be raised to 1500mm from the floor level or, screen planting on the side with mature plants that would overcome the privacy issues."*

Council's Health and Building Compliance Team has reported the Private Certifier's error in issuing the CDC to the Building Professionals Board in December 2012.

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**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**

Subject Development – LDA2013/100

In addition to the Building Certificate application noted above, the applicant has lodged a DA for the use of the building as a secondary dwelling, with an adjoining outbuilding/storage area, and garage. The DA was lodged on 3 April 2013.

On 9 April 2013, the DA was notified to adjoining owners (closing date 24 April 2013), and four submissions were received as discussed in the Submissions section of this report (below).

Advice from Council's General Counsel

A question of law arises regarding the status of the Complying Development Certificate (CDC) as issued by Ace Building Approvals for the existing building.

Council's General Counsel has confirmed that the CDC remains valid (and able to be acted upon) until declared invalid by a Court of law (ie normally the Land and Environment Court for building and development matters).

However, as the Private Certifier has stated that the CDC was issued in error and therefore he will not be able to issue an Occupation Certificate for the building. The property owners have subsequently lodged a Building Certificate and Development Application as described above, to seek to rectify this situation.

**7. Submissions**

The proposal was notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. Notification of the proposal was from 9 April 2013 until 24 April 2013.

Four (4) submissions were received. The issues raised in the submissions were;

- *Non-Compliance with the State Environmental Planning Policies. The neighbours have raised the issue that: the proposal is non-compliant with the State Environmental Planning Policies and therefore is an illegal structure which should not be allowed to remain.*

Officer's Comment:

As noted previously (see Background Section above), construction of this development progressed to substantial completion when it became apparent that the original approval (Complying Development Certificate issued by Ace Building Approvals) was issued in error. The owners have ceased work on the building as requested by Council upon being made aware of the error by their private certifier.

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ITEM 4 (continued)

ATTACHMENT 4

ITEM 4 (continued)

Council's Health and Building Compliance Team has notified the Building Professionals Board of this error by the private certifier.

The subject application is a DA for use of the building as a secondary dwelling with outbuilding and storage, and a separate Building Certificate has also been lodged but deferred pending the outcome of the DA. The provisions of the Environmental Planning and Assessment Act (Section 149A) allow a person to lodge a Building Certificate application for determination in regard to unauthorised works, although it is noted that this is often a source of frustration for neighbours.

In terms of compliance with the relevant State Environmental Planning Policies, the development fully complies with the requirements for "outbuildings" in SEPP (Exempt and Complying Development Codes) 2008, and there are only very minor non-compliances in terms of the requirements for "secondary dwellings" in SEPP (Affordable Rental Housing) 2009. These non-compliances relate to the width of the allotment (15m required, 13.715m provided) and the rear setback (5m required, 4.98m provided), which are considered to be minor in the context of the development.

The development's compliance with the particular controls regarding "outbuildings" under SEPP (Exempt and Complying Development Codes) 2008 are shown as follows:

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 requires an outbuilding:

- (a) To have a maximum floor area of 100m<sup>2</sup> if the lot is >900m<sup>2</sup>  
**Existing floor area for the outbuilding component is 80.04m<sup>2</sup>**
- (b) Maximum height outbuildings on a lot must not be more than 4.8m above ground level (existing).  
**Existing height of the outbuilding is maximum of 4.8m**
- (c) Setbacks of outbuildings from rear boundaries:  
if the lot has an area of at least 900m<sup>2</sup>, but less than 1500m<sup>2</sup>:
  - (i) for any part of the outbuilding with a height of up to 3.8m—1.5m,

**The rear setback is 4.98m.**

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ITEM 4 (continued)

ATTACHMENT 4

ITEM 4 (continued)

- *Privacy: the neighbours at 50 Darvall Road have raised the issue of privacy, and in particular that the windows will allow overlooking into their property.*

Officer's Comment:

Due to the topography of the area 50 Darvall Road is on the low side of the subject property. The privacy in relation to the existing windows along the northern side of the structure was discussed and the residents agreed that the windows should be replaced with obscured glass, or the sill height be raised to 1500mm from the floor level or, screen planting on the side with mature plants would overcome the privacy issues.

The applicants have proposed privacy screens and screen planting 2.7m high to address the neighbour's concerns. The privacy screens are to be in accordance with State Environment Planning Policy controls and the screen planting is to be a maximum of 2.7m in height in accordance Council's DCP 2010 as marked on the plans see below. These additional measures will maintain privacy for 50 Darvall Road and the existing structure.



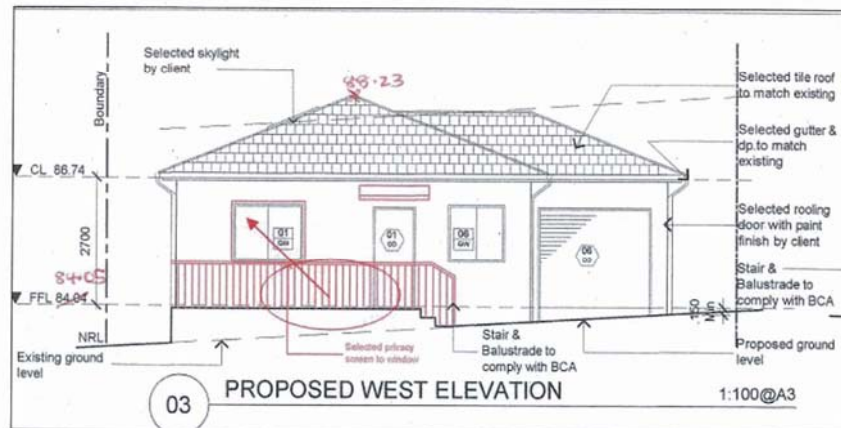
**Figure 4 –**  
***The view looking towards***  
***50 Darvall Road, from the***  
***bedroom on the western***  
***elevation. A privacy***  
***screen and screen***  
***planting 2.7m high are***  
***proposed.***



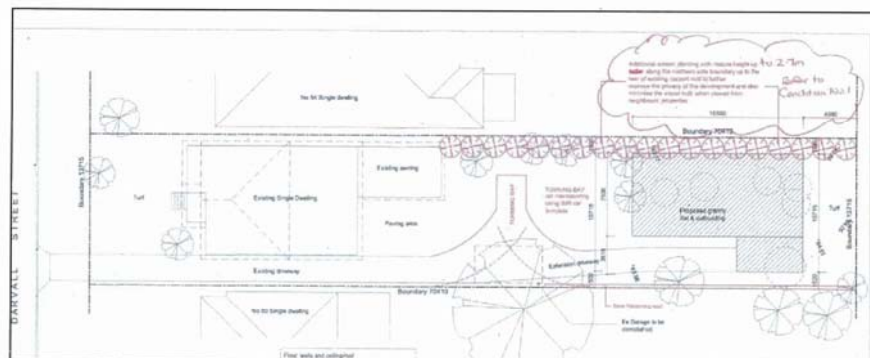
**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**



**Figure 5 – West Elevation indicates privacy screen**



**Figure 6 – Proposed screen planting 2.7m high privacy screen**

**ITEM 4 (continued)**

**ATTACHMENT 4**

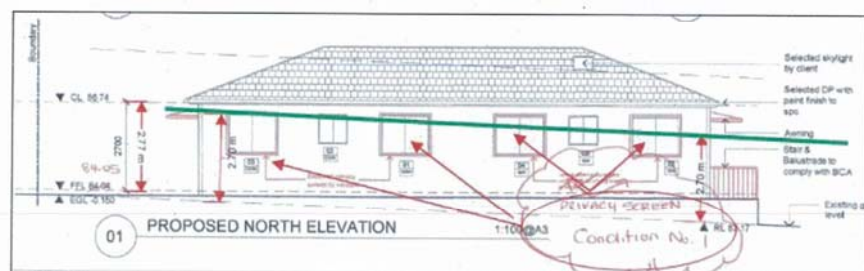
**ITEM 4 (continued)**



**Figure 7 –**  
The view looking towards 50 & 48 Darvall Road, from the 2<sup>nd</sup> bedroom on the northern elevation. A privacy screen and screen planting 2.7m high are proposed.



**Figure 8 –**  
The view looking towards 50 & 48 Darvall Road, from the outbuilding on the northern elevation proposes a privacy screen and screen planting 2.7m high.



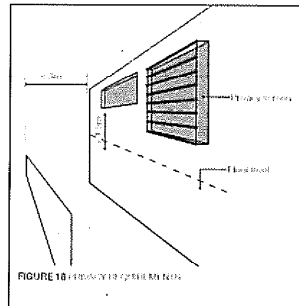
**Figure 9 –** The Northern Elevation has privacy screens proposed on the four larger windows. The green line is the height of 2.7m screen planting proposed. (See Condition 1).

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ITEM 4 (continued)

ATTACHMENT 4

ITEM 4 (continued)



A privacy screen means a screen that:

- faces the boundary
- is 1.5m in height above floor level
- has no individual opening more than 30mm wide,
- the total area of all openings is less than 30 per cent of the surface area of the screen when viewed in elevation.

**Figure 10 - Privacy screens are to be in accordance SEPP Exempt and Complying 2008 as condition of consent. (See Condition 1).**

- Use of the proposed outbuilding. The proposed outbuilding could be used as another dwelling or a boarding house.

Officer's Comment:

In regard to the outbuilding, the applicant has provided a statement of intended use as follows:

*"The proposed outbuilding is designed to be used as an informal family room where family and guests gather for group recreation such as chatting, bible reading, watching movies playing snooker/table tennis and other entertainment activities, as well as providing additional storage space to meet the needs of the multiple family members from three generations residing on the subject property and to compensate for the lack of sufficient living space within the principal dwelling at the front of the site. It should be noted that the proposed outbuilding only contains a bathroom and cannot be occupied as a separate dwelling."*

The existing dwelling at the front of the property is single storey and has floor space of only 149.34m<sup>2</sup>. It is not unreasonable for the owners to require additional living area for the extended family. The principal dwelling floor space will be 211.39m<sup>2</sup> including the floor area of the outbuilding in the rear yard. The overall floor space (FSR) is 0.28:1 which is well below Council's maximum allowable FSR of 0.50:1. The additional floor space is considered satisfactory for the amenity of the occupants.

ITEM 4 (continued)

ATTACHMENT 4

ITEM 4 (continued)

Council will impose the following condition of consent to ensure that the outbuilding is not used as a separate domicile.

**Outbuilding.** The outbuilding is an ancillary use for the occupants of the principal dwelling at the front of the property only. The outbuilding is not to be used or adapted for use as separate domicile or a boarding house.  
(See Condition 48)

- *Size of the structure. Concern is raised that the structure is too big and does not comply with size, floor area and height requirements,*

Officer's Comment: The existing building complies with the size requirements in the relevant SEPPs, which are summarised as follows:

- **Outbuilding component:** State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 prescribes a maximum area of 100m<sup>2</sup> for outbuildings on allotments greater than 900m<sup>2</sup>. The Survey Report dated 9 August 2012, confirms the maximum height of the outbuilding is less than 4.8m and the floor level is a minor 10mm higher than the approved plans. The outbuilding component of this building is 80.04m<sup>2</sup> (including the garage), which complies.
- **Secondary Dwelling component:** State Environmental Planning Policy (Affordable Rental Housing) 2009 prescribes a maximum area of 60m<sup>2</sup> for secondary dwellings. The secondary dwelling component of this building is 53.73m<sup>2</sup>, which complies.

Council's DCP does also contain requirements for outbuildings (maximum area 20m<sup>2</sup>) and detached garages (maximum area 36m<sup>2</sup>) – and the development does not comply with these requirements. However, the provisions of State Environmental Planning Policies over-ride the provisions of Council's DCP.

- *Devaluation of property*

There are concerns that the property values will drop because of the secondary dwelling and outbuilding.

Officer's Comment:

The applicants have a right, under the Act, to the orderly and economic use and development of land, and that possible decreases in surrounding property values do not constitute a reasonable ground for refusal. Secondary dwellings and outbuildings are permissible under State Planning Policies as detailed above.

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**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**

**8. SEPP1 (or clause 4.6 RLEP 2010) objection required?** Not required.

**9. Policy Implications**

**Relevant Provisions of Environmental Planning Instruments etc:**

**(a) Ryde LEP 2010**

**Zoning**

R2 Low Density Residential

**Mandatory Requirements**

The following mandatory provisions under Ryde LEP 2010 apply to the development.

Clause 4.3 – Height of buildings. Sub-clause (2) of this clause states that “the height of a building on any land is not to exceed the maximum height for the land shown for the land on the height of buildings map”. In this case, the maximum height is 9.5m. The maximum height of the existing buildings on the site, are less than 9.5m and comply with Ryde’s LEP 2010.

Clause 4.4 - Floor Space Ratio. This clause prescribes a maximum floor space ratio (FSR) of 0.5:1. The FSR for the proposed development has been calculated to be 0.28:1, which complies with Ryde’s LEP 2010.

**(b) Relevant State Environmental Planning Policies (SEPPs)**

State and Sydney Regional Environmental Planning Policies

**State Environmental Planning Policy (Affordable Rental Housing) 2009**

**Mandatory Requirements**

The following mandatory provisions under SEPP (Affordable Rental Housing) 2009 apply to the development.

**Division 2 Secondary dwellings**

Requirements	Proposal	Compliance
<b>cl. 20 - Permissibility</b> <ul style="list-style-type: none"><li>Applies to land where a dwelling house is permissible</li></ul>	R2 Low Density Residential in RLEP 2010	Yes

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Requirements	Proposal	Compliance
<b>cl. 22 - Development may be carried out with consent</b>		
(2) Must not consent if the development would result in any dwelling other than the principal dwelling and the secondary dwelling.	Principal & secondary only	Yes
(3) Must not consent unless:		
(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument (RLEP 2010), and	The total floor area of both dwelling is 265.12m <sup>2</sup> .  FSR 0.28:1	Yes
(b) the total floor area of the secondary dwelling is no more than 60m <sup>2</sup> or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another EPI, that greater floor area.	The proposed floor area of the secondary dwelling portion is 53.73m <sup>2</sup> .	Yes
<b>(4) A consent authority must not refuse consent on either of the following grounds:</b>		
a. site area, if:		
(i) the secondary dwelling is located within, or is attached to, the principal dwelling, or		N/A
(ii) the site area is at least 450m <sup>2</sup> .	Site is 965.57m <sup>2</sup>	Yes
b. parking, if no additional parking is to be provided on the site.		N/A
<b>cl. 24 - No subdivision</b>		
No consent to a development application that would result in any subdivision of a lot on a secondary dwelling has been carried out.	No application for subdivision	Yes

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**ITEM 4 (continued)**

(a) Discretionary Matters

There are no prescribed standards applying to secondary dwellings that require development consent. The development standards in the compliance table at **Attachment 1** apply to complying development and are used as a basis to assess whether the proposal is satisfactory in terms of its likely impact. The Non-compliances identified in the table are assessed below.

1. *Width of the lot measured at the building line.*

SEPP (Affordable Rental Housing) 2009 states:  
*Development for the purposes of a secondary dwelling may only be carried out on a lot that: if it is not a battle-axe lot, has a boundary with a primary road, measured at the building line, of at least the following: 15m if the lot is 900 – 1500m<sup>2</sup>*

Officers Comment:

The width of the lot measured at the building line is 13.715m which does not comply with this requirement. The purpose of the minimum width requirement is to ensure sufficient space for open space for the amenity of residents, as well as car parking. The DA plans show that these matters are satisfactory despite the numerical non-compliance.

2. *Setback from rear boundaries*

SEPP (Affordable Rental Housing) 2009 states:  
*A new building or a new part of an existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building having a setback from a rear boundary of less than the following: 5m if the lot is 900 - 1500m<sup>2</sup>,*

Officers Comment:

The existing setback is 4.98m and is a minor encroachment of 20mm. The rear setback is considered satisfactory for the amenity of the proposal and maintaining the amenity of the rear neighbours as shown in the photos below due to the separation (approximately 43.83m), the slope of the land and the existing dividing fence.

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**ITEM 4 (continued)**



**Figure 11** – The distance from the rear wall of the outbuilding at 52 Darvall Road to the rear wall of the dwelling of 23 Wentworth Road is approximately 43.83m



**Figure 12** – The view from the rear window in the store room looking towards 23 Wentworth Road.

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***Figure 13*** – The view from the screen door at the rear of the outbuilding.



***Figure 14*** – The view from the rear window in the garage.

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

A compliant BASIX Certificate has been submitted with the DA.

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

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The subject site has a history of residential use and as such, it is unlikely to contain any contamination and further investigation is not warranted

**State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

The following mandatory provisions under SEPP (Exempt and Complying Development Codes) 2008 apply to the development.

Part 3 Division 2 Subdivision 2 Clause 3.11 states:

*3.11 Maximum floor area for outbuildings  
(d) 100m<sup>2</sup>, if the lot has an area of at least 900m<sup>2</sup>.*

The outbuilding is 80.04m<sup>2</sup> and complies with the provisions of the SEPP.

Part 3 Division 2 Subdivision 3 Clause 3.13 states:

*3.13 Maximum height of dwelling houses and outbuildings  
(2) The height of an outbuilding or the alterations and additions to an existing outbuilding on a lot must not be more than 4.8m above ground level (existing).*

The outbuilding has a maximum height of 4.8m and complies with the provisions of the SEPP.

Part 3 Division 2 Subdivision 3 Clause 3.18

*3.18 Setbacks of outbuildings from rear boundaries  
(1) This clause applies to a new outbuilding, or alterations and additions to an existing outbuilding (an outbuilding).  
  
(c) if the lot has an area of at least 900m<sup>2</sup>, but less than 1500m<sup>2</sup>:  
(i) for any part of the outbuilding with a height of up to 3.8m—1.5m, or  
(ii) for any part of the outbuilding with a height greater than 3.8m—1.5m plus one-quarter of the height of the outbuilding above 3.8m,*

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The outbuilding has a rear setback of 4.98m and complies with the SEPP.

**(c) Any draft LEPs**

A Section 65 Certificate enabling the formal exhibition of Draft Local Environmental Plan 2011 was issued by the Department of Planning and Infrastructure on 23 April 2012. The Draft Plan has been placed on public exhibition between 30 May 2012 and 13 July 2012. Under this Draft LEP, the zoning of the property is R2 Low Density Residential. The proposed development is permissible with consent within this zoning under the Draft LEP, and it is considered that the proposal is not contrary to the objectives of the Draft LEP or those of the proposed zoning.

Draft LEP 2011 was adopted by Council on 12 March 2013 and is waiting gazettal by the Department of Planning and Infrastructure; as such LEP 2011 can be considered certain and imminent.

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

**Relevant Development Control Plan/Council Code against which development has been assessed:**

**Ryde Development Control Plan (DCP) 2010.**

The proposal has been assessed using the development controls contained in Ryde DCP 2010. The DCP compliance table for this development proposal is held at **Attachment 2**.

The non-compliances identified in the Compliance Table are discussed below:

**1. Outbuilding**

Council's DCP 2010 Part 3.3 Dwelling House and Dual Occupancy attached states:

- *Outbuildings, including garages and carports are to have a:*
- *Maximum building height 4.5 metres*
- *Maximum wall plate height 2.7 metres*
- *The total area for all outbuildings is not to exceed 20m<sup>2</sup>.*
- *Free standing garages are to have a maximum gross floor area of 36m<sup>2</sup>.*

The floor area for the outbuilding is broken up of as follows: 80.04m<sup>2</sup> in total (this includes the garage that has a floor area of 16.5m<sup>2</sup>). The overall height of the existing building is 4.8m.

Council's DCP 2010 states: a maximum floor area for an outbuilding of 20m<sup>2</sup> and overall height of 4.5m.

**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**

Council's DCP 2010 states: a maximum floor area for a detached garage of 36m<sup>2</sup> and overall height of 4.5m.

Council's DCP permits 56m<sup>2</sup> for a detached garage and outbuilding. The existing floor area is 24.04m<sup>2</sup> greater than Council's control for a detached garage and outbuilding. The height is 300mm over Council's control.

The outbuilding was approved under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, which permits a maximum floor of 100m<sup>2</sup>, if the lot has an area of at least 900m<sup>2</sup> and maximum overall height of 4.8m.

The floor space ratio (FSR) for the site is 0.28:1, this is well below Council's Maximum, for FSR of 0.50:1. The deep soil area requirements are a minimum of 35% of the site and the existing deep soil area is 46% which is greater than required.

**City of Ryde Section 94 Contribution Plan 2007**

The development for secondary dwelling will require Section 94 contributions in accordance with Council's current Section 94 Contributions Plan. In this instance the Section 94 Contributions were paid 10 May 2012.

**10. Likely impacts of the Development**

**(a) Built Environment**

Issues regarding impacts on the built environment are discussed throughout this report (in particular the sections discussing submissions from neighbours and DCP compliance). In summary, the proposal is considered satisfactory for approval in terms of impacts on the built environment subject to the recommended conditions of consent.

**(b) Natural Environment**

The proposal for the change of use and minor works will have minimal impact in terms of the natural environment. Matters regarding soil erosion/sediment control etc could be addressed via standard conditions on any consent if Council decides to approve the DA

**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (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 constraints affecting the subject property of concern regarding the proposed development.

**12. The Public Interest**

The development complies with the relevant State Environmental Planning Policies as discussed earlier in this report. Subject to conditions which address neighbours' concerns regarding privacy impacts, and also a condition which prevents the use of the outbuilding component of the building as a separate domicile, it is considered that approval of the development would be in the public interest. It is acknowledged, however, that the process whereby this situation has occurred is of concern. An application was approved in error by a Private Certifier as a CDC which required a development application and construction certificate before the commencement of work. Following the correct process would have allowed proper and appropriate consultation with neighbours on the design and form of the development before construction and would have prevented the owners of the property from being in this position where they are incurring substantial additional costs and delays.

**13. Consultation – Internal and External**

Internal Referrals:

**Council's Development Engineer, 20 April 2013.** Council's Development Engineer has advised that the drainage details submitted are satisfactory subject to minor amendments.

The proposed detention basin is very close to the foundations of the existing dwelling. The excavation works should be carried out with the supervision of a Structural Engineer. All shoring work to support the foundations should be designed by the structural engineer. I have provided conditions in this regard see below. This particular matter is addressed via Condition 22. Other standard conditions provided by Council's Development Engineer are also included in the Draft Conditions at Attachment 3.

**Council's Building Surveyor,** Council's Building Surveyor involved in processing the Building Certificate application has provided comments on the subject DA. The Building Certificate application includes appropriate certification that the building has been constructed in accordance with the Building Code of Australia, and hence there would be no reason to refuse the Building Certificate on technical grounds. However it is recommended that the Building Certificate be issued after satisfactory compliance with the development consent.

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**ITEM 4 (continued)**

External Referrals

None required

**14. Critical Dates**

There are no critical dates or deadlines to be met.

**15. Financial Impact**

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

**16. Other Options**

An alternative would be to impose a demolition order on the structure, however this is not recommended for the following reasons:

- The development complies with the Exempt and Complying Development Codes SEPP which takes precedence over Council's Development Control Plan 2010.
- The existing structure generally complies with Council's floor space ratio, site coverage, setbacks, streetscape and height.
- The owners have an approval granted for a Complying Development prior to commencement.
- Section 94 Contributions were paid to Council.
- The construction was carried out in accordance with the Building Code of Australia.
- The owners have taken the comments of the neighbours on board and satisfactorily addressed the issues of privacy by agreeing to privacy screens and additional landscaping.

**17. Conclusion**

The proposed development has been assessed using the heads of consideration listed in Section 79 of the Environmental Planning & Assessment Act 1979 and is considered to be satisfactory for approval subject to conditions of consent. Although objections have been received from neighbours regarding the size of the building, potential privacy impacts, and the fact that the original Complying Development Approval was issued in error, these would not form reasonable grounds for refusal. The size of the development complies with the SEPP requirements for outbuildings and the only minor non-compliances relate to the width of the block and rear setback. Concerns regarding privacy are resolved via conditions for privacy screens to the windows and landscaping along the boundary.

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**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**

**ATTACHMENT 1**

**Compliance Table**

**State Environmental Planning Policy (Affordable Rental Housing) 2009**

Schedule 1 – Development standards for secondary dwellings for Complying Applications.

The following development standards apply to complying development and are used as a basis to assess whether the proposal is satisfactory in terms of its likely impact.

Development standards	Proposal	Satisfied
<b>Part 2 - Site Requirements</b>		
<b>2. Lot requirements</b>		
(1) Development for the purposes of a secondary dwelling may only be carried out on a lot that:		
(a) at the completion of the development will have only one principal dwelling and one secondary dwelling, and	Principal dwelling, one secondary dwelling, ancillary storage and games room and single car garage.	Yes
(b) if it is not a battle-axe lot, has a boundary with a primary road, measured at the building line, of at least the following:		
• 15m if the lot is 900 – 1500m <sup>2</sup> ,	13.715m Merit based assessment for DA would support this non compliance in accordance with DCP 2010	No(1)
(2) Has lawful access to a public road.		Yes
<b>3. Maximum site coverage of all development</b>		
(1) The site coverage of the principal dwelling, secondary dwelling and all ancillary development on a lot must not be more than the following:		
• 40% if the lot is 900 - 1500m <sup>2</sup> ,	357.96m <sup>2</sup> 37%	Yes
<b>4. Maximum floor area for principal and secondary</b>	53.73m <sup>2</sup> .	

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**ITEM 4 (continued)**

**ATTACHMENT 4**

ITEM 4 (continued)		ATTACHMENT 1
Development standards	Proposal	Satisfied
<b>dwelling</b> – already calculated under Division 2		Yes
<b>5. Maximum floor area for balconies, decks, patios, pergolas, terraces and verandahs</b> (1) Max for balcony, deck, patio, pergola, terrace or verandah attached to a principal dwelling or secondary dwelling with a floor level of more than 3m above ground level (existing) is 12m <sup>2</sup> .		N/A
<b>Part 3 - Building height &amp; Setbacks</b>		
<b>6. Building Height</b> A new building or a new part of an existing building must not be more than 8.5m above existing ground level.	4.8m	Yes
<b>7. Setbacks from roads, other than classified roads</b> (1) The new secondary dwelling or new part of an existing building must be set back from a <u>primary road</u> (frontage of site) at least: (2) The new secondary dwelling or new part of an existing building must be set back from a <u>secondary road</u> (side road if corner site) at least: (3) The new secondary dwelling or new part of an existing building must be set back from a <u>parallel road</u> (not frontage or side road) at least:		N/A   N/A  N/A
<b>8. Setbacks from classified roads</b> The new building or new part of an existing building must be setback from a boundary with a classified road of:		N/A
<b>9. Setbacks from side boundaries</b> (1) A new building or a new part of an existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or		

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**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)** **ATTACHMENT 1**

Development standards	Proposal	Satisfied
<p>verandah that is attached to such a building must be set back</p> <ul style="list-style-type: none"> <li>1.5m if the lot is 900 - 1500m<sup>2</sup>,</li> </ul> <p>(2) A new building or additions to an existing building where the new or existing building will, at the end of the development, have a building height at any part of more than 3.8m, must not result in the new building or any new part of the existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building, having a setback from a side boundary of less than the sum of:</p> <ul style="list-style-type: none"> <li>the amount of the setback specified for the relevant sized lot in subclause (1), and</li> <li>an amount that is equal to one-quarter of the additional building height above 3.8m.</li> </ul>	<p>1.5m Merit based assessment would support side setbacks in accordance with DCP 2010</p> <p>3.5m wall plate height</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>
<p><b>10. Setback from rear boundaries</b></p> <p>(1) A new building or a new part of an existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building having a setback from a rear boundary of less than the following:</p> <ul style="list-style-type: none"> <li>5m if the lot is 900 - 1500m<sup>2</sup>,</li> </ul>	<p>4.98m Merit based assessment would support rear setback for single storey in</p>	<p>No(2)</p> <p>Minor 20mm encroachment</p>

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**ITEM 4 (continued)**

## ATTACHMENT 4

**ITEM 4 (continued)**

## ATTACHMENT 1

<b>Development standards</b>	<b>Proposal</b>	<b>Satisfied</b>
(2) A new building or additions to an existing building where the new or existing building will, at the end of the development, have a building height at any part of more than 3.8m must not result in the new building or any new part of the existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building, having a setback from a rear boundary of less than the sum of: <ul style="list-style-type: none"> <li>• 3m plus an amount that is equal to three times the additional building height above 3.8m, up to a maximum setback of 8m, if the lot is 450 - 900m<sup>2</sup>, or</li> <li>• 5m plus an amount that is equal to three times the additional building height above 3.8m, up to a maximum setback of 12m, if the lot is 900 - 1500m<sup>2</sup>, or</li> </ul> (3) Despite subclauses (1) and (2), a dwelling on a lot that has a rear boundary with a laneway may have a building line that abuts that boundary for up to 50% of the length of that boundary.	accordance with DCO 2010 for outbuilding garage  8m setback for ridge required  8.98m provided	Yes       N/A
<b>11. Exceptions to side and rear setbacks</b> Despite any other clause:		N/A
<b>12. Calculating setbacks deleted</b>		
<b>13. Articulation zone</b>		N/A
<b>14. Building elements within the articulation zone</b>		N/A
<b>15. Privacy</b> (1) A new window in the principal or secondary dwelling must	Not required see below	

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ATTACHMENT 4

ITEM 4 (continued)		ATTACHMENT 1
Development standards	Proposal	Satisfied
have a privacy screen if: (a) it is a window in a habitable room, other than a bedroom, that has a floor level of more than 1m above ground level (existing), and (b) the wall in which the window is located has a setback of less than 3m from a side or rear boundary, and (c) the window has a sill height of less than 1.5m.	No habitable room >1m	N/A
(2) Development for the purposes of a secondary dwelling must not result in a new or altered balcony, deck, patio, pergola, terrace or verandah without a privacy screen if it: (a) has a setback of less than 3m from a side or rear boundary, and (b) has a floor area more than 3m <sup>2</sup> , and (c) has a floor level more than 1m above ground level (existing).		N/A
(3) A new or altered detached deck, patio, pergola or terrace must not have a floor level more than 0.6m above ground level (existing).	Not more than 1m above ground level	Yes
(4) In this clause <b>alter</b> includes making additions to <b>privacy screen</b> means a screen that: (a) faces the boundary identified in subclause (2) (a), and (b) is 1.5m high, measured from the floor level, and (c) has no individual opening more than 30mm wide, and has a total of all openings less than 30% of the surface area of the screen.		N/A

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**ITEM 4 (continued)**

**ATTACHMENT 4**

ITEM 4 (continued)		ATTACHMENT 1
Development standards	Proposal	Satisfied
<b>Part 4 - Landscaping</b>		
<b>16. Landscaped area</b> (1) Must have a landscaped area of at least the following: (a) 35% 900 -1500m <sup>2</sup> (2) Minimum 50 % must be located behind the building line to the primary road boundary. (3) Must be at least 2.5m wide.	>35%	Yes  Yes Yes
<b>17. Principal private open space</b> (1) Minimum 24m <sup>2</sup> (2) principal private open space is: (a) an area that is directly accessible from, and adjacent to, a habitable room, other than a bedroom, and (b) is at least 4m wide (c) is not steeper than 1:50 gradient.	Minimum 24m <sup>2</sup>  Kitchen living area  Min 4m <1:50	Yes  Yes  Yes Yes
<b>Part 5 - Earthworks &amp; Drainage</b>		
<b>18. Excavation of sloping sites</b> (1) Excavation must (a) be not more than 1m below ground level (existing) (b) be constructed using a retaining wall or unprotected embankment that meets the standards of subclause (2) or (3) (2) A retaining wall must not extend more than 1m horizontally beyond the external wall of the principal or secondary dwelling. (3) An unprotected embankment must not extend more than 1m horizontally beyond the external wall of the principal or secondary dwelling.	800mm at the rear of the site  Batter back embankment   No retaining wall  Comply with the BCA	Yes  Yes  Yes  Yes
<b>19. Fill of sloping sites</b> (1) Fill must be contained wholly within the external walls of the principal or secondary dwelling. (2) Despite subclause (1), exposed fill may be constructed using an unprotected embankment if the	Drop edge beam	Yes  N/A

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**ATTACHMENT 4**

<b>ITEM 4 (continued)</b>		<b>ATTACHMENT 1</b>
<b>Development standards</b>	<b>Proposal</b>	<b>Satisfied</b>
<p>principal or secondary dwelling has a setback of more than 2m from a side or rear boundary, if:</p> <ul style="list-style-type: none"> <li>(a) the fill is not more than 600mm above ground level (existing), and</li> <li>(b) the fill (but not the embankment) does not extend more than 1m beyond an external wall of the dwelling, and</li> <li>(c) the toe of the unprotected embankment has a setback of at least 400mm from a side or rear boundary.</li> </ul>		
<p><b>20. Run-off and erosion controls</b> Must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:</p> <ul style="list-style-type: none"> <li>(a) diverting uncontaminated run-off around cleared or disturbed areas, and</li> <li>(b) erecting a silt fence to prevent debris escaping into drainage systems and waterways, and</li> <li>(c) preventing tracking of sediment by vehicles onto roads, and</li> <li>(d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.</li> </ul>	During CC for the retaining walls	Yes
<p><b>21. Drainage</b> (1) All stormwater collecting as a result of the development must be conveyed by a gravity fed or charged system to:</p> <ul style="list-style-type: none"> <li>(a) a public drainage system, or</li> <li>(b) an inter-allotment drainage system, or</li> <li>(c) an on-site disposal system.</li> </ul>		Yes

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**ATTACHMENT 4**

**ITEM 4 (continued)**

**ATTACHMENT 1**

<b>Development standards</b>	<b>Proposal</b>	<b>Satisfied</b>
<p>(2) All stormwater drainage systems within a lot and the connection to a public or an inter-allotment drainage system must:</p> <p>(a) if an approval is required under s68 of the <u>LGA 1993</u>, be approved under that Act, or</p> <p>(b) if an approval is not required under s68 of the LGA 1993, comply with any requirements for the disposal of stormwater drainage contained in a DCP that is applicable to the land.</p>	<p>Complies with Ryde DCP 2010 Part 8.2 Stormwater</p>	<p>Yes</p>

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**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**

**ATTACHMENT 2**

**Compliance Table**

**Compliance Check - Quality Certification**

**Assessment of a Dual Occupancy (attached), Single Dwelling House, Alterations & Additions to a Dwelling House and ancillary development.**

<b>LDA No:</b>	LDA2013/0100	<b>Date Plans Rec'd:</b> 3 April 2013
<b>Address:</b>	52 Darvall Rd Eastwood	
<b>Proposal:</b>	Use of existing building as a secondary dwelling and an outbuilding.	
<b>Constraints Identified:</b>	None	

**COMPLIANCE CHECK**

Ryde LEP 2010	Proposal	Compliance
<b>4.3(2) Height</b>		
9.5m	4.8m	Yes
<b>4.4(2) &amp; 4.4A(1) FSR</b>		
0.5:1	0.28:1	Yes

DCP 2010	Proposed	Compliance
<b>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</b>		
<b>Public Domain Amenity</b>		
<b>Streetscape</b> <ul style="list-style-type: none"> <li>- Front doors and windows are to face the street. Side entries to be clearly apparent.</li> <li>- Single storey entrance porticos.</li> <li>- Articulated street facades.</li> </ul>	Existing dwelling unchanged.	Yes
<b>Public Views and Vistas</b> <ul style="list-style-type: none"> <li>- A view corridor is to be provided along at least one side allotment boundary</li> </ul>		N/A

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**ATTACHMENT 4**

**ITEM 4 (continued)**

**ATTACHMENT 2**

DCP 2010	Proposed	Compliance
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.		
<b>Pedestrian &amp; Vehicle Safety</b> <ul style="list-style-type: none"> <li>- Car parking located to accommodate sightlines to footpath &amp; road in accordance with relevant Australian Standard.</li> <li>- Fencing that blocks sight lines is to be splayed.</li> </ul>	<ul style="list-style-type: none"> <li>-</li> <li>-</li> <li>- Car parking is located to accommodate sightlines to footpath &amp; road in accordance with relevant Australian Standard.</li> <li>- Fencing does not block sight lines.</li> </ul>	<p>Yes</p> <p>Yes</p>
<b>Site Configuration</b>		
<b>Deep Soil Areas</b> <ul style="list-style-type: none"> <li>- 35% of site area min.</li> <li>- Min 8x8m deep soil area in backyard.</li> <li>- Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls).</li> </ul>	<p>Permeable (deep soil) area: 452.59m<sup>2</sup> approx (46% of site area).</p> <p>Rear DSA dimensions: 8m x 8m provided.</p> <p>Existing unchanged</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>Topography &amp; Excavation</b> <p>Within building footprint:</p> <ul style="list-style-type: none"> <li>- Max cut: 1.2m</li> <li>- Max fill: 900mm</li> </ul> <p>Outside building footprint:</p> <ul style="list-style-type: none"> <li>- Max cut: 900mm</li> <li>- Max fill: 500mm</li> <li>- No fill between side of building and boundary or close to rear boundary</li> <li>- Max ht retaining wall 900mm</li> </ul>	<p>Within BF</p> <p>Max cut: 760mm</p> <p>Max fill: 880mm</p> <p>Outside BF</p> <p>Max cut: 800mm approx</p> <p>Max fill: None</p> <p>No fill</p> <p>800mm</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

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**ITEM 4 (continued)**

**ATTACHMENT 4**

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**ATTACHMENT 2**

DCP 2010	Proposed	Compliance
<b>Floor Space Ratio</b>		
Ground floor	149.35m <sup>2</sup> existing dwelling	
Detached secondary dwelling	53.73m <sup>2</sup>	
Outbuildings including garage	80.04m <sup>2</sup>	
Total (Gross Floor Area)	283.12m <sup>2</sup>	
Less 36m <sup>2</sup> (double) or 18m <sup>2</sup> (single) allowance for parking	265.12m <sup>2</sup>	
<b>FSR (max 0.5:1)</b> Note: Excludes wall thicknesses; lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas.	<b>0.28:1</b>	Yes
<b>Outbuildings/Garage</b>		
Not within front setback.	In the rear yard	Yes
Max area – 20m <sup>2</sup>	Area: 80.04m <sup>2</sup> outbuilding and garage area Less 16.5m <sup>2</sup> for the garage 63.54m <sup>2</sup>	No(1)
Max wall plate (ceiling) height 2.7m	Ceiling height =3.4m for one point of the storage and games room	No(1)
Max O/A height 4.5m – Ridge to EGL	Overall height =4.8m	No(1)
To be single storey.	Single storey	Yes
Windows not less than 900mm from boundary.	Setback: north side 1480mm Rear 4.98mm South side 1500mm	Yes
Concrete dish drain if setback less than 900mm.		N/A
Design to complement new dwelling.	Materials: Brick and tile Roof Design: hip roof	Yes Yes
<b>Car Parking &amp; Access</b>		
<b>General</b>		
- Dwelling: 2 spaces max, 1	Number/location of car	Yes

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**ITEM 4 (continued)**

**ATTACHMENT 4**

**ITEM 4 (continued)**

**ATTACHMENT 2**

<b>DCP 2010</b>	<b>Proposed</b>	<b>Compliance</b>
space min.	spaces: 1	
- Where possible access off secondary street frontages or laneways is preferable.	Access from: Darvall Road	Yes
- Max 6m wide or 50% of frontage, whichever is less.	External width: <6m	Yes
- Behind building façade.	Behind building facade	Yes
<b>Garages</b>		
- Garages setback 1m from façade.	Existing Setback from façade:	Yes
- Total width of garage doors visible from public space must not exceed 5.7m and be setback not more than 300mm behind the outside face of the building element immediately above.	>1m Width of opening: <5.7m	Yes
- Garage windows are to be at least 900mm away from boundary.	Door setback: <300mm	Yes
	Windows: 1 Setback: 1.5m	Yes Yes
<b>Driveways</b> Extent of driveways minimised	Minimised and turning bay provided	Yes
<b>Part 8.2 - Stormwater Management</b>		
<b>Stormwater</b>		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	Drainage is to be piped in accordance with Part 8.2 - Stormwater Management	Yes
<b>Part 9.4 – Fencing</b>	<b>existing unchanged</b>	
<b>Part 9.6 – Tree Preservation</b>	<b>existing unchanged</b>	

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**ITEM 4 (continued)**

**ATTACHMENT 4**

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**ATTACHMENT 3**

**GENERAL**

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

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

Document Description	Date	Plan No/Reference
Architectural Plans	10/10/2012	Drawing No. DA-00,
	10/12/2012	DA-01 (issue 01),
	21/05/2013	DA-02 (issue 04),
	21/05/2013	DA-03 (issue 05),
	10/10/2012	DA-04 (issue 01),
	21/05/2013	DA-05 (issue 05),
	10/12/2012	DA-06 (issue 01, as amended in red) & DA-07 (issue 01)
Stormwater Concept Plans	4/03/2013	REF: 2012038 S1, Sheet 1 (as amended in red)

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

- (a) The screen planting adjacent to the northern side boundary is to be 2.7m high as amended in red.
- (b) All five privacy screens are to be in accordance with privacy screen detail on Drawing No. DA-06 and as amended in red and meet the following minimum standards. A privacy screen means a screen that
  - (i) Faces the boundary
  - (ii) Is 1.5m in height above floor level
  - (iii) Has no individual opening more than 30mm wide,
  - (iv) The total area of all openings is less than 30 per cent of the surface area of the screen when viewed in elevation.

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

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 418424S\_03, dated 24 March 2013.

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**ITEM 4 (continued)**

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4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (a) Protect and support the adjoining premises from possible damage from the excavation, and
  - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Hoardings.**
  - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
  - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
7. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
8. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
9. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
10. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

**Engineering Conditions**

11. **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.

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12. **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.
13. **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.
14. **Vehicle Manoeuvring Area.** All vehicles enter and exit in a forward direction to the street. The vehicle manoeuvring area within the central court yard area shall not be used as a parking space. This area shall be marked and sign posted as a vehicle manoeuvring area.

**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.

15. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
16. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
17. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (dwelling houses with delivery of bricks or concrete or machine excavation)

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18. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
- (a) Infrastructure Restoration and Administration Fee
  - (b) Enforcement Levy
19. **Long Service Levy. (If applicable based on the value of cost of works)** 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**.

**Engineering Conditions to be complied with Prior To Construction Certificate**

20. **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.
21. **On-Site Stormwater Detention.** Stormwater runoff from the existing dwelling at front and the secondary dwelling at rear including all other 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 100 year average recurrence interval 5 minutes storm event. Runoff which enters the site from upstream properties should not be redirected in a manner which adversely affects adjoining properties.
22. **Excavations Adjoining Existing Dwelling.** The proposed development will result in substantial excavation that has the potential to affect the foundations of the existing dwelling to the front.

The applicant shall:-

- a) *Seek independent advice from a Geotechnical/Structural Engineer on the impact of the proposed excavations on the dwelling*
- b) *Detail what measures are to be taken to protect the dwelling during construction*
- c) *Provide PCA with a certificate from the engineer on the necessity and adequacy of support for the dwelling.*

The above matters shall be completed prior to the issue of the Construction Certificate.

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23. **Design of the OSD tank.** The walls of the detention tank adjoining the existing dwelling at front shall be designed to withstand the loads imposed by the adjoining dwelling on to the tank walls. Structural details of the tank designed by a suitably qualified structural Engineer with the certification shall be submitted to the PCA prior to issue of a Construction Certificate.
24. **Permeable Paving.** The manoeuvring area for vehicles within the central courtyard area shall be constructed of permeable paving which is to be strictly in accordance with the manufacturer's specification requirements. Certification shall be provided by the manufacturer stating that the proposed construction of the permeable paving is to their requirements prior to issuing the Construction Certificate.
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.

**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.

**ITEM 4 (continued)**

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**27. Site Sign**

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

**28. Residential building work – insurance. If applicable based on the value of the work.** 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 – provision of information.** Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA has given the Council written notice of the following information:

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

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

**30. 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 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.

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- (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.
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

**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.

33. **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*.
34. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
35. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
36. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- (a) Fill is allowed under this consent;
  - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
  - (c) the material is reused only to the extent that fill is allowed by the consent.
37. **Construction materials.** All materials associated with construction must be retained within the site.

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**ITEM 4 (continued)**

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**38. 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.

**39. Site maintenance**

The applicant must ensure that:

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

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

**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.

- 41. BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s).
- 42. Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.

**Engineering Conditions to be complied with Prior to Occupation Certificate**

- 43. 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

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purchased from Council's Customer Service Centre on presentation of a completed City of Ryde OSD certification form.

44. **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.
45. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Ref No 2012038 S1Rev D dated 4/3/13 prepared by MBC Engineering Ltd and as amended in red by Council.
46. **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 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.
47. **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.

OPERATIONAL CONDITIONS

48. **Outbuilding.** The outbuilding is an ancillary use for the occupants of the principal dwelling at the front of the property only. The outbuilding is not to be used or adapted for use as a separate domicile or a boarding house.

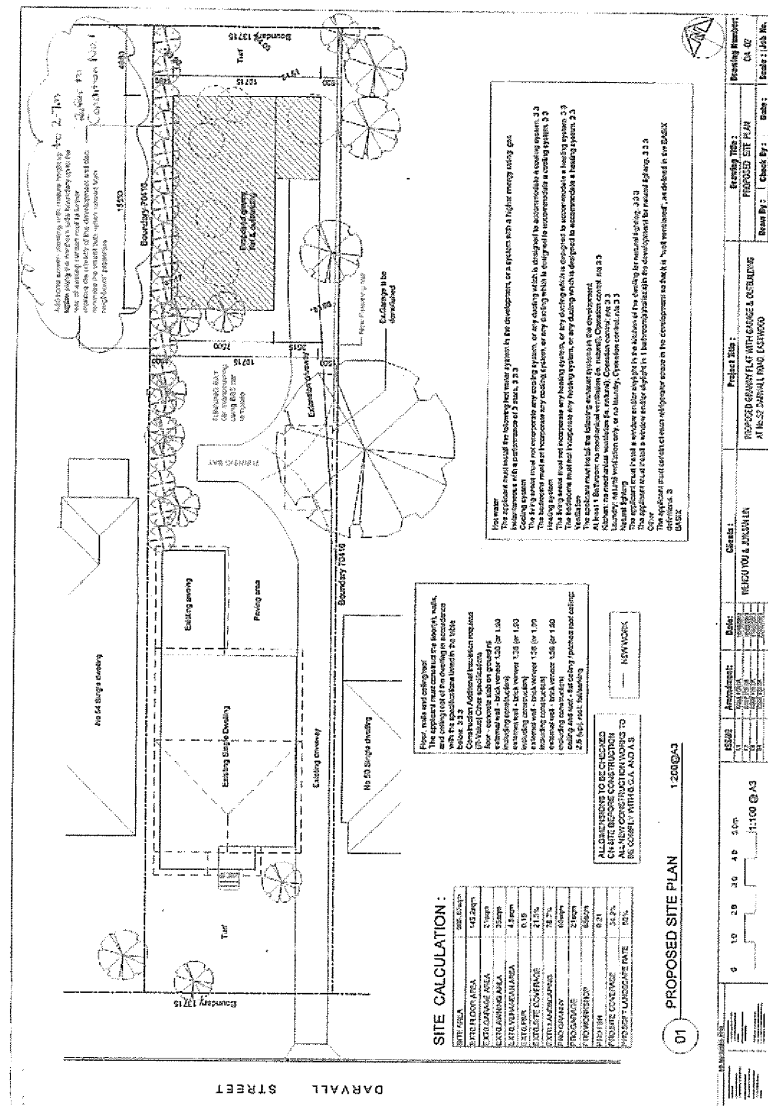


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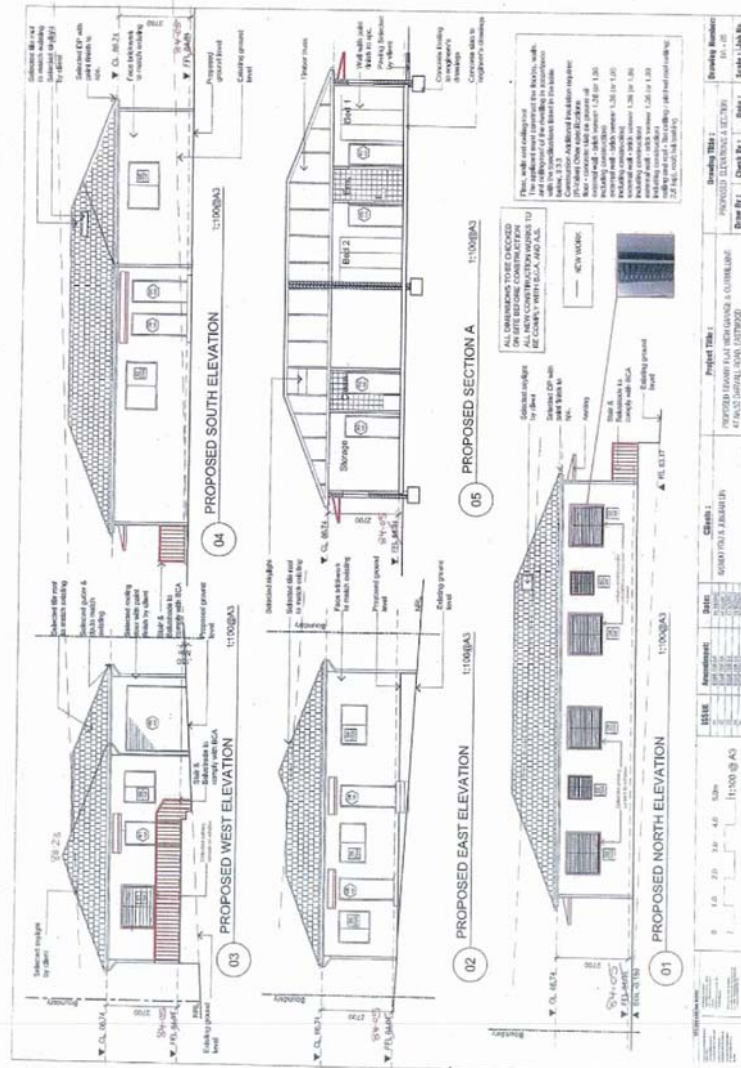
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**ATTACHMENT 5**



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