

14 FEBRUARY 2013

NOTICE OF MEETING

You are advised of the following meeting:

TUESDAY 19 FEBRUARY 2013.

Planning and Environment Committee Meeting No. 2/13

Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde - 4.00pm

Meeting Date: Tuesday 19 February 2013
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 4.00pm

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1 CONFIRMATION OF MINUTES - Meeting held on 5 February 2013

Report prepared by: Acting Section Manager - Governance**File No.:** CLM/13/1/3/2 - BP13/86

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 1/13, held on Tuesday 5 February 2013, be confirmed.

ATTACHMENTS

- 1 Minutes - Planning and Environment Committee - 5 February 2013

ITEM 1 (continued)

ATTACHMENT 1

Planning and Environment Committee
MINUTES OF MEETING NO. 1/13

Meeting Date: Tuesday 5 February 2013

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

Time: 4.07pm

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

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

Apologies: Councillor Salvestro-Martin.

Leave of Absence: Councillor Simon.

Staff Present: Group Manager – Environment and Planning, Service Unit Manager – Assessment, Service Unit Manager – Environmental Health and Building, Service Unit Manager – Governance, Team Leader – Assessment, Senior Town Planner, Assessment Officer – Town Planner, Team Leader – Development Engineers, Executive Building Surveyor, Business Support Coordinator – Environment and Planning and Councillor Support Coordinator.

DISCLOSURES OF INTEREST

Councillor Maggio disclosed a Significant Non-Pecuniary Interest in Item 2 – 1106 Victoria Road, West Ryde – LDA2012/0251 for the reason that he knows the owners of the property.

Councillor Chung disclosed a Significant Non-Pecuniary Interest in Item 2 – 1106 Victoria Road, West Ryde – LDA2012/0251 for the reason that he had a prior close affiliation with the applicant.

1 CONFIRMATION OF MINUTES - Meeting held on 4 December 2012

RESOLUTION: (Moved by Councillors Maggio and Yedelian OAM)

That the Minutes of the Planning and Environment Committee 14/12, held on Tuesday 4 December 2012, be confirmed.

Record of Voting:

For the Motion: Unanimous

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

ITEM 1 (continued)

ATTACHMENT 1

2 1106 VICTORIA ROAD, WEST RYDE. LOT C DP 389182. Local Development Application for the change of use from a single dwelling to an attached dual occupancy. LDA2012/0251.

Note: Councillor Maggio disclosed a Significant Non-Pecuniary Interest in this Item for the reason that he knows the owners of the property.

Note: Councillor Chung disclosed a Significant Non-Pecuniary Interest in this Item for the reason that he had a prior close affiliation with the applicant.

Note: Councillor Chung left the meeting at 4.46pm and did not participate in the debate or voting on this Item.

Note: A Memorandum dated 4 February 2013 from the Group Manager – Environment and Planning was tabled in relation to this Item and a copy is ON FILE.

Note: Jaclyn Woods (on behalf of the applicant) addressed the Committee in relation to this Item.

RECOMMENDATION: (Moved by Councillors Yedelian OAM and Maggio.)

That Local Development Application No. LDA2012/0251 at 1106 Victoria Road, West Ryde be approved as a Deferred Commencement Consent subject to the **ATTACHED** conditions (Attachment 2), with condition 10 (Section 94 Contribution) to be removed.

Record of Voting:

For the Motion: Councillors Maggio and Yedelian OAM

Against the Motion: Councillor Pendleton

Note: This matter will be dealt with at the Council Meeting to be held on **12 FEBRUARY 2013** as dissenting votes were recorded and substantive changes were made to the published recommendation

3 13 SMITH STREET RYDE. LOT 13 DP 5558. Local Development Application for demolition, construction of a part 4/part 5 storey residential flat building with 16 apartments and basement car parking for 18 vehicles, and strata subdivision. LDA2012/0185.

Report: The Committee inspected the property at 13 Smith Street, Ryde.

Note: Councillor Chung returned to the meeting at 5.01pm.

Note: A Memorandum dated 4 February 2013 from the Group Manager – Environment and Planning was tabled in relation to this Item and a copy is ON FILE.

ITEM 1 (continued)

ATTACHMENT 1

Note: Anthony Vaccaro (objector) and Adam Byrnes (on behalf of the applicant) addressed the Committee in relation to this Item.

RESOLUTION: (Moved by Councillors Maggio and Chung)

(a) That Local Development Application No. LDA2012/0185 at 13 Smith Street Ryde being LOT 13 DP 5558 be approved subject to the **ATTACHED** conditions (Attachment 1) with condition 28 to be amended to read as follows:

28. **Section 94.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of any **Construction Certificate:**

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$35,953.87
Open Space & Recreation Facilities	\$88,510.93
Civic & Urban Improvements	\$30,104.47
Roads & Traffic Management Facilities	\$4,106.60
Cycleways	\$2,564.98
Stormwater Management Facilities	\$8,153.43
Plan Administration	\$691.64
The total contribution is	\$170,085.93

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

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

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

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

Record of Voting:

For the Motion: Unanimous

ITEM 1 (continued)

ATTACHMENT 1

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

4 10 RIVER AVENUE, CHATSWOOD WEST. LOT 53 DP 16042. Local Development Application for the erection of an outbuilding at the rear. LDA2012/0269.

Note: A Memorandum dated 5 February 2013 from the Group Manager – Environment and Planning was tabled in relation to this Item and a copy is ON FILE.

RESOLUTION: (Moved by Councillors Maggio and Chung)

That Local Development Application No. 2012/0269 at 10 River Road, Chatswood West, being LOT 53 DP 16042 be approved subject to the conditions in **Attachment 2** and the following condition as included in the circulated memorandum:

31A **Safe site access** Safe and suitable access shall be provided between the rear of the dwelling and the approved cabana structure.

Record of Voting:

For the Motion: Unanimous

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

5 16 PUNT ROAD, GLADESVILLE. LOT 502 DP 732745. Local Development Application for alterations and additions to seniors housing (residential care facility): additional facilities including new office, meeting room, change room, and laundry. LDA2012/0015.

Note: Geraldine Killalea (objector) and John Stuart and Robert Pufflett (on behalf of the owner and applicant) addressed the Committee in relation to this Item.

RESOLUTION: (Moved by Councillors Maggio and Yedelian OAM)

- (a) That Local Development Application No. 2012/0015 for 16 Punt Road, Gladesville, be approved subject to the **ATTACHED** conditions (Attachment 1).
- (b) That the persons who made submissions be advised of Council's decision.
- (c) That the staff involved be congratulated.

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

The meeting closed at 5.20 pm.

CONFIRMED THIS 19TH DAY OF FEBRUARY 2013.

Chairperson

- 2 12 FARNELL STREET, WEST RYDE. LOT 13 DP 28953. Local Development Application for a multi dwelling housing (attached) development containing 3 villa homes (2 x 3 and 1 x 2 bedroom), Two storey at front and single storey at rear. LDA2012/0049.**

INSPECTION: 4.15pm

INTERVIEW: 5.00pm

Report prepared by: Team Leader - Assessment

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

Report dated: 5 February 2013

File Number: grp/12/5/5/3 - BP13/193

1. Report Summary

Applicant: Buildcorp Partners Pty Ltd.

Owner: M Chidiac.

Date lodged: 16 February 2012 (amended plans received 28 June and 28 August 2012).

This report considers a proposal for a multi-dwelling housing development containing three villas (2 x 3 bedroom and 1 x 2 bedroom). The front villa is two storeys in height and the two villas to the rear are single storey. The development proposes a driveway serving the villa units along the southern boundary, and the courtyards of the villas generally along the northern boundary to maximise solar access and to provide separation between the villas and the neighbouring properties.

The site is currently vacant (the former dwelling was demolished as part of a previous approval for a new two storey dwelling which never commenced), and has a significant slope (cross-fall) from north to south due to the topography in this location.

The proposal has been assessed using the controls in Ryde Development Control Plan (DCP) 2010, and there are a number of areas of non-compliance which mostly result from the slope of the site including overall height (of the front two storey villa), site cross fall; cut and fill outside the building envelope; retaining walls; and a requirement that private open space should be generally at natural ground level. There are also non-compliances regarding solar access to private open space (courtyards of villas 1 and 2 are overshadowed by the adjoining dwelling to the north), and fencing. As discussed in the body of the report, these issues of concern are considered to be acceptable in the context of the development and would not justify refusal or design amendments regarding the DA, and can be resolved via conditions of consent.

ITEM 2 (continued)

The DA has been advertised and notified to neighbours and **5 submissions** have been received, raising issues including streetscape and front setbacks; traffic, parking and vehicle safety; noise from the driveway; overshadowing; view impacts; privacy impacts from attics and dormers (in the original proposal, since deleted); and fencing issues (in particular impacts on vehicle sight lines).

Overall, most of the issues of concern raised in the submissions and the DCP non-compliances would be considered as acceptable in the context of the development and could be resolved via standard conditions of consent. However, the issues of concern regarding the height of the development and the resulting impact on views (from the property to the north, No 10 Farnell) are more substantial. It is considered that the application should be amended to address this issue. In particular, the front (two storey) villa should be amended to comply with the 8m maximum overall height in DCP 2010 (presently 8.65m). In relation to the rear (single storey) villas, although these comply with the DCP, they should be amended so that they do not exceed the height of the balcony railing of the dwelling on the adjoining property (which is RL83.2) so that views are reasonably preserved. Presently the villas are proposed to have an overall ridge height of up to RL83.6.

The reason why the height of the balcony railing is important is that the previously approved two storey dwelling was designed (in consultation with Council officers and the adjoining owner) to not exceed this level – in order to preserve views for the neighbour.

It is recommended that a Deferred Commencement consent be issued requiring the following reductions in height:

- a. Amendments to the height of villa 1 (front two storey villa) to ensure that it does not exceed 8m in overall (ridge) height when measured at any location on the ridge.
- b. Amendments to the height of villas 2 and 3 at the rear, to ensure that the ridge height of these villas does not exceed RL83.2 at any point.

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

Public Submissions:

- Original notification: Three (3) submissions, including a petition containing 28 signatures, were received objecting to the development.
- Amended Plan notification: Two (2) further submissions objecting to the development.

ITEM 2 (continued)

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

Value of works? \$600,000.00

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

RECOMMENDATION:

(a) That Council approves Local Development Application No. 2012/49 at 12 Farnell Street West Ryde being Lot 13 in DP 28593, via a Deferred Commencement consent subject to the conditions listed in **Attachment 2**.

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

ATTACHMENTS

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

Report Prepared By:

Chris Young
Team Leader - Assessment

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 2 (continued)

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

Address : 12 Farnell St West Ryde

Site Area : 937m² (approximately)
Frontage. 20.91m
Depth. 45.8m

Topography and Vegetation : The site slopes from the rear corner to the corner diagonally opposite at the front and has a change in level of 4-5m. The crossfall at the front is about 3m. There are a number of trees on the northern side of the property.

Existing Buildings : The site is vacant

Planning Controls

Zoning : R2 Low Density Residential in Ryde LEP 2010
Other : DCP 2010
: Part 3.5 Multi Dwelling Housing (attached) (for Low Density Residential Zone).
: Part 8.2 Stormwater Management

ITEM 2 (continued)



ITEM 2 (continued)



3. Councillor Representations

Name of Councillor: Councillor Perram

Nature of the representation: Request that the application be referred to the Planning & Environment Committee for determination.

Date: 26 March 2012

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

On behalf of applicant or objectors? Objector

Any other persons (e.g. consultants) involved in or part of the representation: Not known

4. Political Donations or Gifts

None disclosed.

ITEM 2 (continued)**5. Proposal**

The development proposes the erection of a new multi-dwelling housing (“villa”) development containing 3 villas. The development has a two storey villa at the front (3 bedroom) and 2 x single-storey villas behind (villa 2 has two bedrooms and villa 3 has three bedrooms). The development has a double garage for both 3 bedroom villas and a single garage for the 2 bedroom villa (ie total 5 resident parking spaces) and 1 visitor space, with the driveway located on the southern side of the site. Strata subdivision of the development is also proposed.

6. BackgroundSubject Site

On 10 September 2002, consent was granted by Council to demolish the former dwelling and erect a new two storey dwelling at this site (LDA2001/1026). The former dwelling was demolished (and some earthworks appear to have been undertaken to make the site more level than it was previously), however construction did not commence on the new dwelling approved under that consent. The site remains vacant.

It is particularly important to note that, in the approval of this two storey dwelling, as an outcome of negotiations between the applicant for that DA, Council staff and the neighbouring property owner of No 10 (uphill/to the north), the height of the dwelling was designed so that it did not exceed the height of the balcony railing on the upper level of the house on No 10, which is approximately RL83.2.

Proposed Development – LDA2012/49

The DA was lodged 16 February 2012. Shortly afterwards it underwent a preliminary check and referral to other Council officers.

On 28 February 2012, a compliance check had been finalised and further information was sought from applicant on a number of non-compliances – amount of cut and fill, rear setback, private open space not at ground level, concerns that the room identified as “storage” over garage could become a bedroom, height of retaining walls, overshadowing of the subject development caused by the dwelling at No. 10 to the north, elevations marked incorrectly on plans, and details of strata sub-division.

On 6 March 2012, the DA was advertised and notified to the neighbouring properties (closing date for submissions = 28 March 2012). Three (3) submissions were received as discussed in the Submissions section of this report.

ITEM 2 (continued)

On 8 March 2012, comments were received from Council's Consultant Structural Engineer requiring a geotechnical assessment and clarification of cut and fill, retaining walls and drainage. The applicant was requested to provide this technical information by letter dated 13 March 2012.

On 10 May 2012, following assessment of the proposal by Council's Development Engineer, additional information was requested from the applicant to clarify various aspects of the development, including:

- amount of cut and fill (in particular to ensure that the drainage plans were correct and consistent with architectural plans);
- widen the driveway to 5.5m, and have regard to the location of the power pole at the front of the site;
- clarify the levels shown on the drainage plans and ensure consistency with architectural plans;
- increase the volume of the OSD tank;
- clarify and correct the finished floor level of the garage (unit 2);
- provide a driveway long-section;
- clarify the height of the garage where the internal stair to the storage (above) was to be located.

On 26 June 2012, amended plans regarding the previous additional information request, and a Geotechnical assessment, was received from the applicant. This was referred to Council's Geotechnical Consultant for assessment.

On 17 July 2012, comments were received from Council's Consultant Structural Engineer, that the submitted information was still unsatisfactory and requesting further amendment and/or additional information. Then on 24 July 2012, following further assessment of the proposal, the applicant was advised that further amended plans were required to address change in levels from driveway to entrance to the dwellings, location of garbage bins and access from the courtyard the driveway.

On 28 August 2012, amended plans and a further amended Geotechnical assessment was received from the applicant. This was referred back to the Council's Consultant Structural Engineer for further assessment. Advice was received that the development is satisfactory subject to conditions.

On 14 September 2012, the applicant was requested to provide further details and clarification regarding the proposed strata plan for this development, and an amended plan was provided in this matter on 7 October 2012. Amendments were then re-notified to neighbours and a further two submissions received.

ITEM 2 (continued)**7. Submissions**

The proposal was advertised and notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. The application was advertised on 7 March 2012. Notification of the proposal was from 6 March to 28 March 2012.

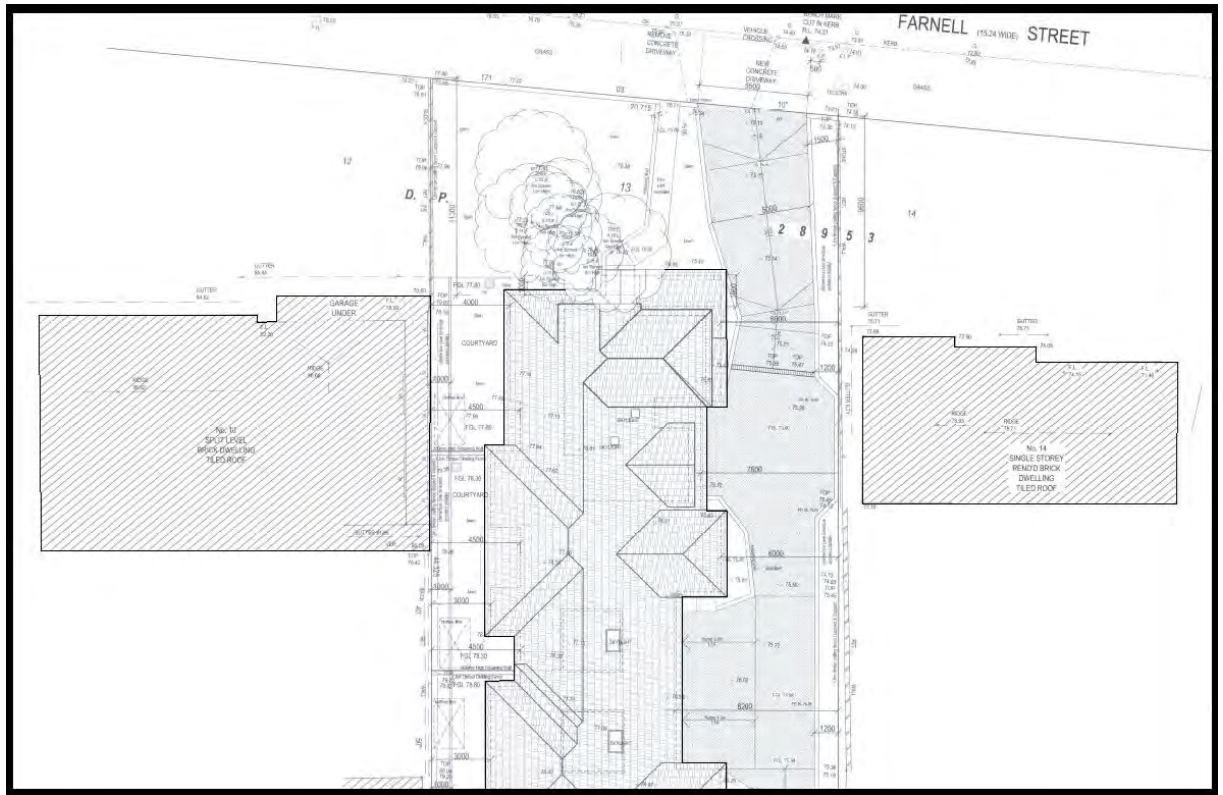
The amended proposal (incorporating the amendments described above) was re-notified to the neighbours and previous objectors for the period 14 December 2012 to 18 January 2013 (extended period applied due to the holiday period).

Three (3) submissions (one of which was a petition signed by 28 local residents) were received to the original notification. When the proposal was re-notified, a further two (2) submissions were received. The issues raised in the submissions are summarised and discussed as follows:

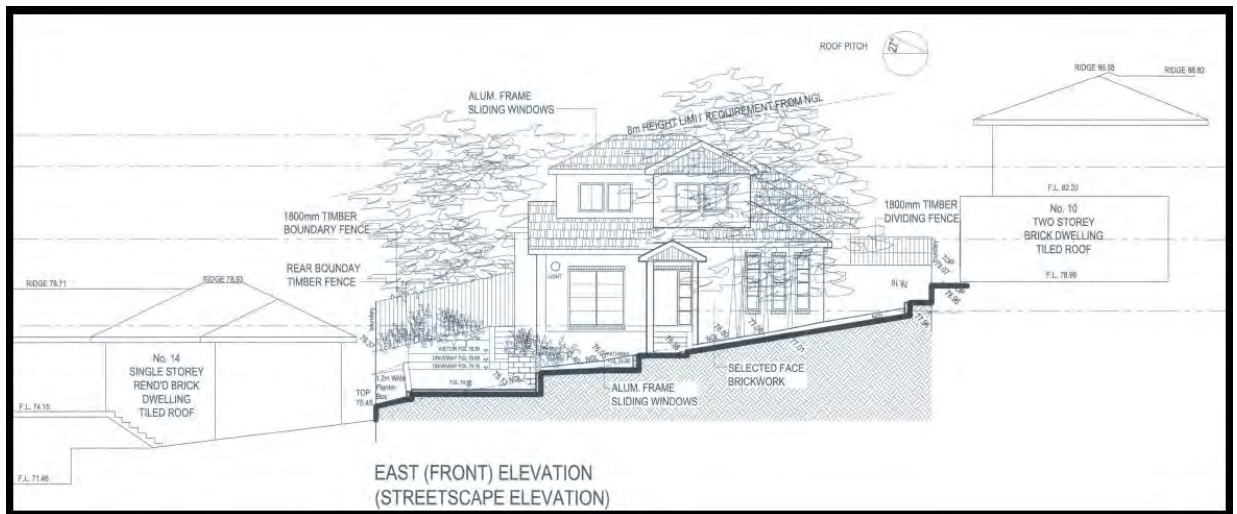
A. Streetscape and front setbacks. *Concerns are raised that the proposal is not setback the same as adjoining properties and will change the character of the street, and that the proposal encroaches on the building line (an 11m setback is insufficient when the adjoining houses are setback a further 2 – 3m. Should be setback 12m).*

Comment: The front wall of the development is to have a setback ranging from 9.6m to 11m (minimum 8.6m to the porch), which is generally in line with the front of the garage of No 10 to the north. The site is within the “West Ryde Character Area” as referenced in Ryde DCP 2010 – where there is no minimum setback specified but the DCP indicates that front setbacks of up to 12m may be required to ensure setbacks are consistent with the existing/adjoining developments. The control requires the setback to “be similar to that adjoining”. It is considered that the front setback of the proposal will be similar to the adjoining dwellings and therefore will meet the intent of these controls. The following is a site plan with the surveyed position of the neighbouring dwellings showing the position of the proposed front setback relative to the neighbouring dwellings:

ITEM 2 (continued)



The building will present as two storeys to the street and will therefore provide an element similar to other two storey dwellings in the street. It is considered that the front setback and the development's presentation to Farnell Street is acceptable and will not adversely impact on the character of the street. The following is a montage showing the development's presentation to Farnell Street with the neighbouring dwellings included:



ITEM 2 (continued)

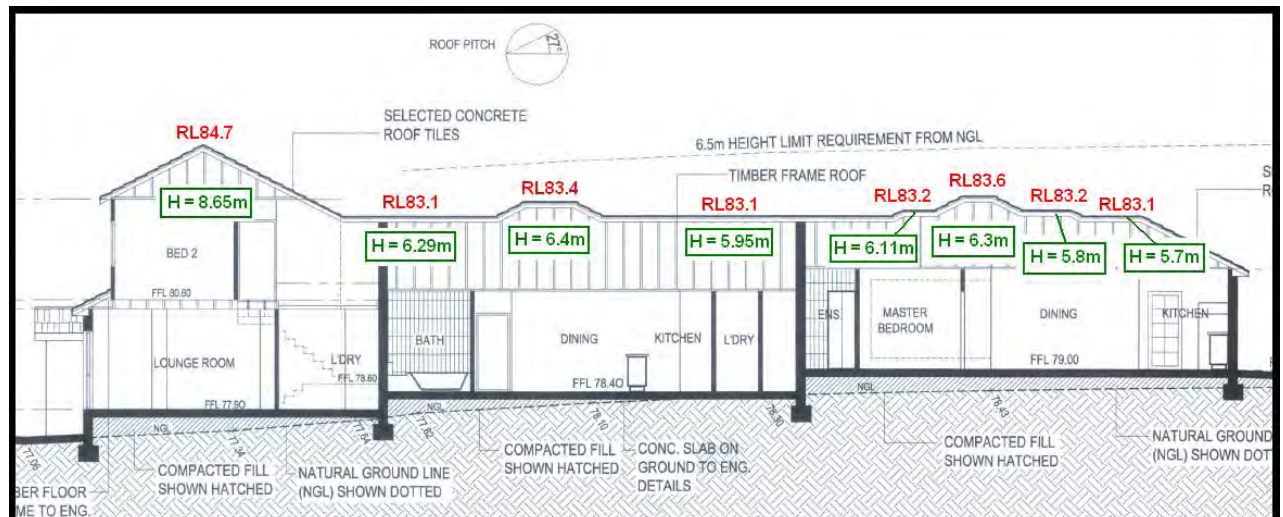
B. Height of villas/View Impacts. Concerns are raised by the objector at No 10 (to the north) that the previous approval for a 2 storey dwelling house required the top of the house to not exceed the balcony railing on No 10 – and in order to preserve views to the south, the maximum height of the villas should not exceed this previously-approved height.

Comment: The design of the previously-approved dwelling (LDA2001/1026) ensured that views were reasonably preserved for the neighbour by limiting it's height to be no higher than the neighbour's balcony railing – which is approximately RL83.2 based on the survey information provided in the DA documentation (ie the floor level of the balcony is RL82.2 and then allowing for a 1m high railing on top).

Although the previously approved dwelling was two storeys in height (above a basement garage), the main reason it was able to be built lower than the neighbour's balcony railing was that a flat roof design was chosen. The current villa proposal is designed with a pitched roof.

The overall height (measured at the highest point of the ridge which runs along the length of the villas) varies as summarised (and shown in the drawing) below:

- Villa 1 (two storeys) = RL84.7 – for a maximum height of 8.65m
- Villas 2-3 (single storey) = varies from RL83.1 to RL83.6 – for a maximum height ranging from 5.7m to 6.4m.



The front (two storey) villa (RL84.7) would not only be considerably higher than the neighbour's balcony railing (RL83.2), but it's overall height measured above natural ground level below (8.65m at the highest point) would be higher than the 8m maximum prescribed in the DCP. Whilst it is noted that it would be almost impossible for a two storey villa with a pitched roof to be designed lower than the

ITEM 2 (continued)

level of the neighbour's balcony railing, it is considered that the height of this front villa should at least be reduced to fully comply with the DCP.

In regard to the rear two (single storey) villas, the maximum height will be up to 400mm above the neighbour's balcony railing. Although this height (5.7m to 6.4m measured along the length of the ridge) does comply with the 6.5m DCP maximum, it is considered that the height should be reduced to the same level as the previously approved 2 storey dwelling, to ensure the neighbour's views are reasonably protected. There are several options available to achieve this, including lowering the roof pitch and/or lowering floor to ceiling heights.

Assessment Regarding View Impacts:

The Land and Environment Court has considered view sharing/view impacts in development proposals and has established a *Planning Principle* to assist in the consideration and assessment of these issues. This is known as the *Tenacity* principle following the Court's consideration of *Tenacity vs Warringah Council (2004)*.

The following is an assessment of the subject proposal using the four *Planning Principles* laid down in *Tenacity*:

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, I have adopted a four-step assessment.

*The **first step** is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

Comment: The property to the north of this site (No 10 Farnell) enjoys extensive district views towards the south, of Sydney Olympic Park and beyond. Although these are "land" views not "water" views (except for a "glimpse" of the Parramatta River), they are still highly valued by property owners in this location, and as such careful consideration should be given in development proposals to ensure that these views are preserved as much as possible.

An example of the views (taken from the dining room window of No 10 Farnell) is shown in the following photo, showing the views are currently available to the south/south-west:

ITEM 2 (continued)



*The **second step** is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

Comment: The views at No 10 Farnell are currently available from the lounge room and dining room (and adjoining balcony) at first floor level, and also from the rear yard and its outdoor sitting area which is at ground level. These are available from a sitting position in the first floor level of the house, and mostly only a standing position at ground level.

These views are available across the side (southern) boundary between No 10 and No 12 Farnell, which are noted in *Tenacity* as being more difficult/unrealistic to protect, however this is the only direction in which the views are available at this site.

ITEM 2 (continued)

*The **third step** is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

Comment: The extent of the impact on views from No 10 Farnell, from the design as currently proposed, would be a complete removal of the view by the two storey (front) villa. The rear (single storey) villas 2 and 3 would also significantly impact on the available views as the roof would generally be higher (by up to 400mm) than the level of the balcony railing at the neighbour's property.

Overall, it is considered that the view loss would be a "moderate to severe" impact to use the terms referred to in *Tenacity*.

*The **fourth step** is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

Comment: It is generally considered that a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbour.

In relation to the front villa, as noted previously, it is considered that whilst it would be almost impossible for a two storey villa with a pitched roof to be designed lower than the level of the neighbour's balcony railing, the height of this front villa should be reduced to at least fully comply with the DCP.

Although the rear two villas do comply with the maximum height prescribed in the DCP, this maximum height will be higher than the neighbour's balcony railing, as discussed above.

Such adjustments to height could be achieved by a reduction in the roof pitch (say from 27° currently proposed to 22°) and/or adjustment to the finished floor levels. The applicant has indicated that he would be agreeable to such modifications.

ITEM 2 (continued)

Conclusion re View Impacts: Impacts on views available for the property to the north (No 10 Farnell) will always be difficult to protect – given that they are across a side boundary, however it is considered that there are design options available to at least bring the height of the villas back to be consistent with the two storey dwelling previously approved at the subject site.

- C. *Traffic/parking issues.*** *Concerns are raised regarding safety issues from additional cars parked in the street. In particular, it is stated that on-street parking will cause a narrow traffic lane, which could be dangerous as vehicles often speed down the hill. Concerns are also raised that visitor parking is insufficient which will cause more cars parked on the street.*

Comment: The development attempts to minimise the need for on-street parking by fully complying with on-site parking requirements in Council's DCP. The development provides 5 resident and 1 visitor parking spaces within the site. As with any residential property, on occasions there may be some overflow parking onto the street. This matter has been discussed with Council's Traffic Engineers who advise that vehicles parked on the street often act as a deterrent to speeding traffic and can be an informal form of traffic calming.

From observation (site inspection and also refer to the air photo earlier in this report), this street appears to have very low traffic volumes and is the same width for its entire length. Therefore any additional on-street parking that may result would have minimal adverse safety impacts.

- D. *Driveway noise/privacy issues.*** *Concerns are raised that the driveway running along the southern side of the property will cause noise and privacy issues for the adjoining property.*

Comment: These issues should be considered in the context of the amount of traffic likely to be generated in this form of development. According to the (former) *Roads and Traffic Authority's Guidelines for Traffic Generating Developments*, medium density housing developments (of 3 or more bedrooms such as the subject proposal) generate an average of between 5 and 6.5 vehicle trips per dwelling (0.5 – 0.65 in each peak hour), and therefore this development could generate between 15 and 19.5 trips per day (1.5 to 1.95 in each peak hour).

Compared to what a single dwelling would generate (an average of 9 vehicle trips per day or 0.9 in each peak hour according to the (former) RTA Guidelines above), this development would therefore only generate a small increase of around 6 – 10.5 additional trips per day compared to what a single dwelling would generate.

ITEM 2 (continued)

Given that the traffic generation (according to the Guidelines of the former RTA as above) would be relatively low from this development, it follows that the impacts of such traffic (ie noise and privacy) would be minimal, and would only occur infrequently as the residents enter and leave the site or when they go to/from their vehicle. In addition, the adjoining dwelling house is down slope and will benefit from the dividing fence that will reduce noise and overlooking opportunities. The proposed villas are setback 6m from the boundary which will mitigate overlooking from within and will be assisted by the 1.2m wide landscaping strip along the boundary.

E. Overshadowing. *Concerns are raised that the development will cause overshadowing to the bedrooms and rear yard and entertaining area of the adjoining dwelling to the south.*

Comment: Council's DCP for Multi Dwelling Housing (Section 3.9 of Part 3.5 DCP 2010) contains the following requirements for Overshadowing and Access to Sunlight in regard to **neighbouring properties**:

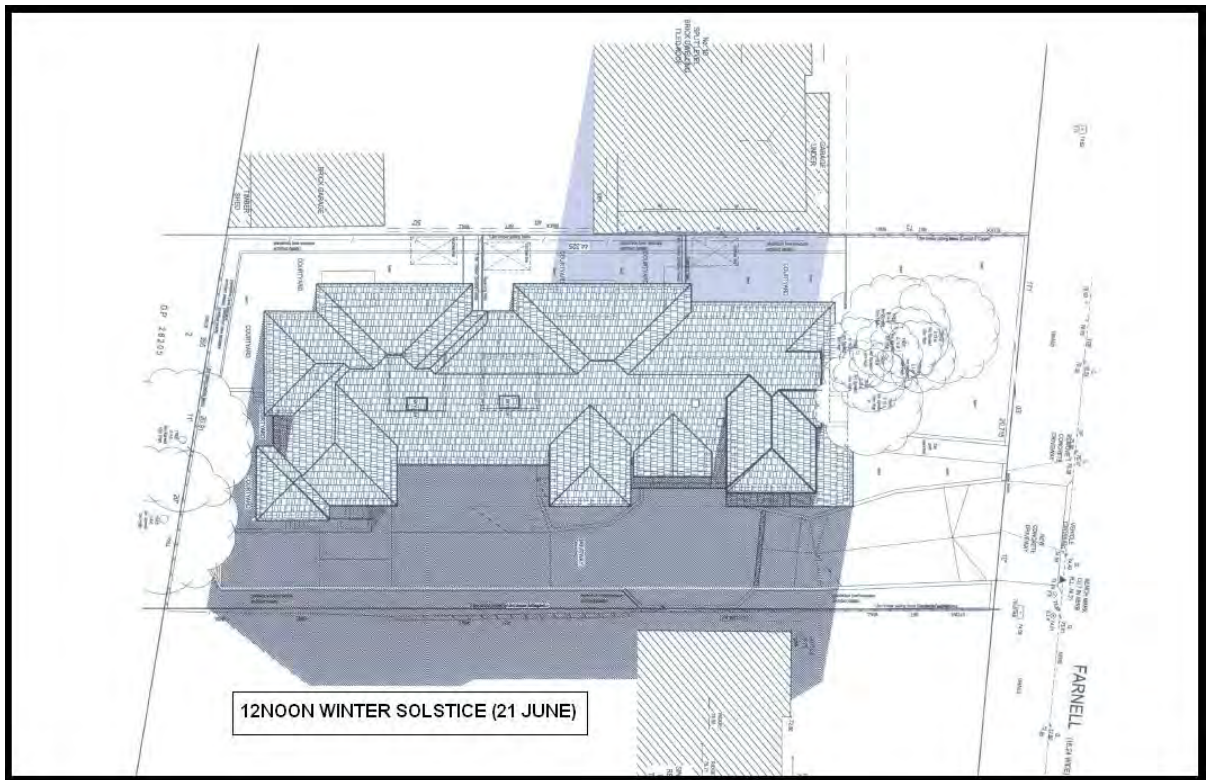
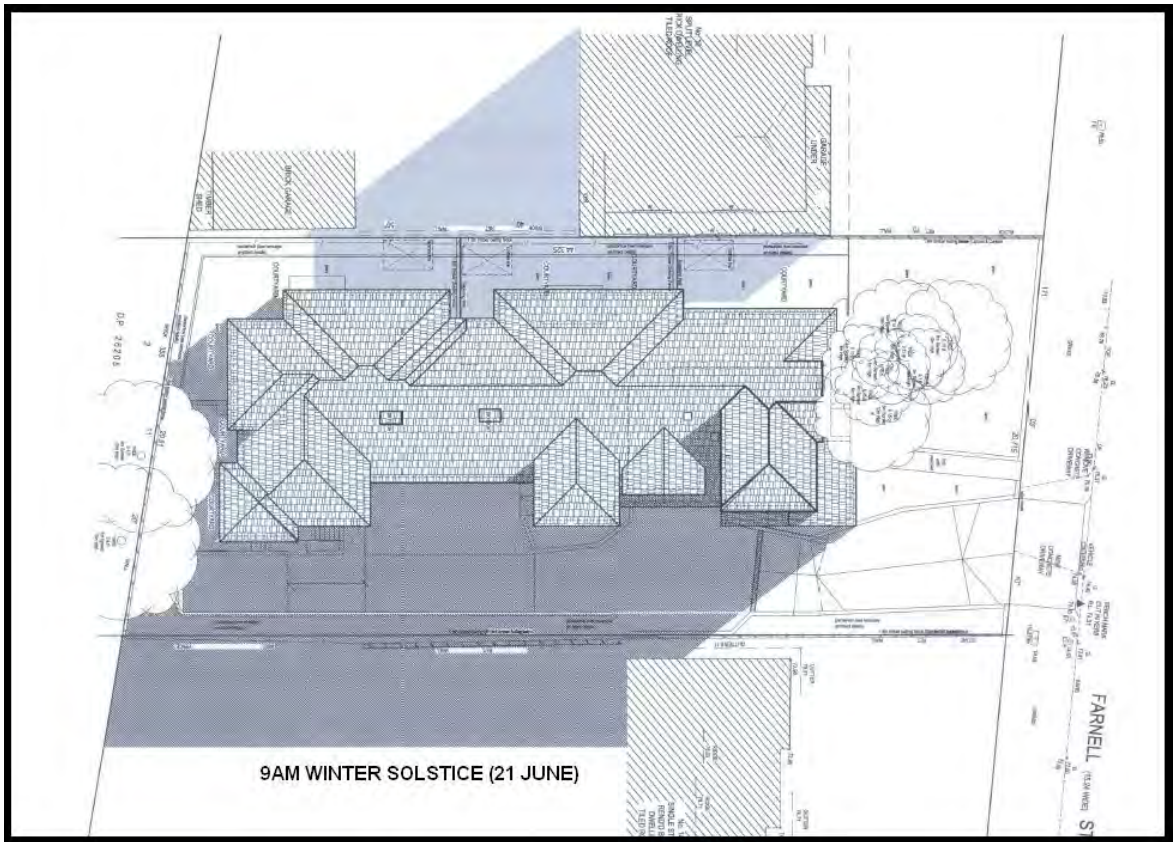
Sunlight to at least 50% of each courtyard within the development and the principal area of ground level private open space of adjacent properties must not be reduced to less than two hours between 9am and 3pm on June 21.

Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight must not be further reduced by more than 20%.

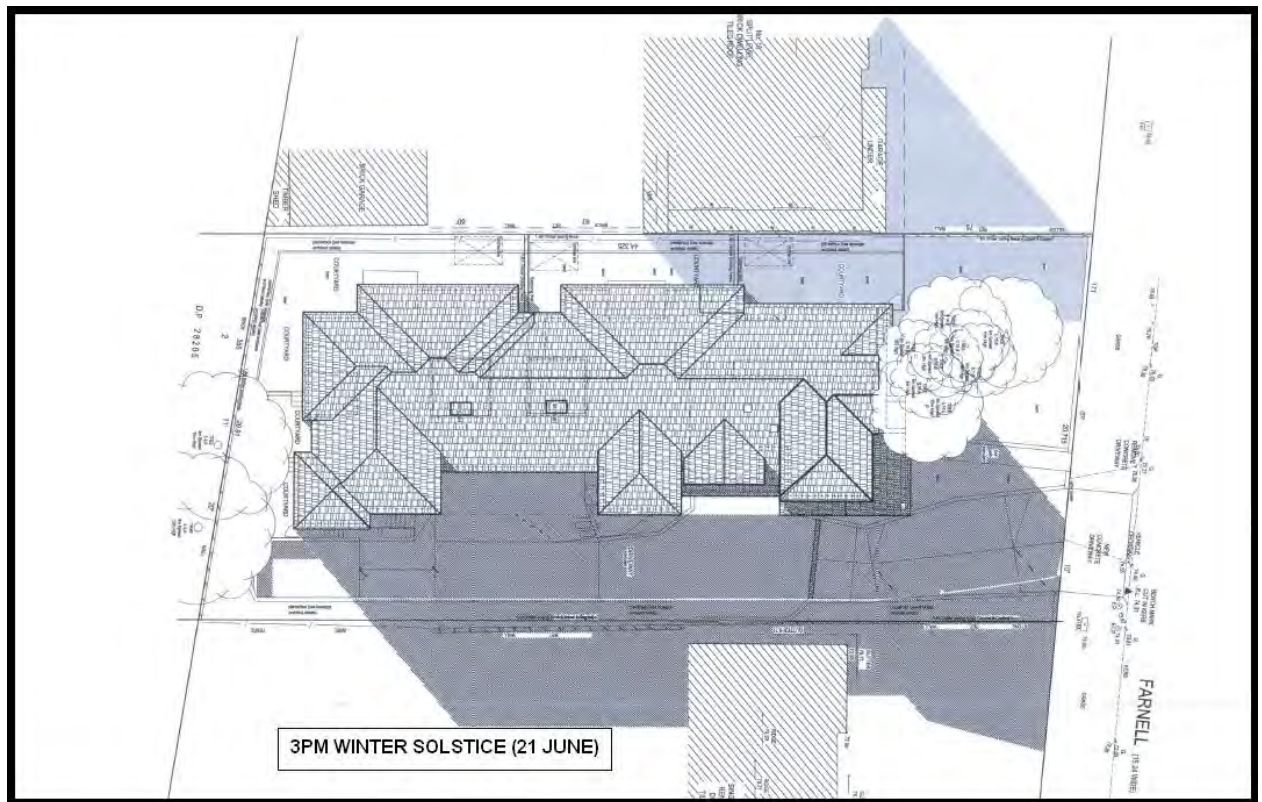
The shadow diagrams for the proposed development (at the winter solstice 21 June) are produced below. These show that whilst the development would cause some overshadowing to the property to the south, the private open space for this adjoining dwelling would receive sunlight to more than 50% of its area, which complies with the DCP requirement.

The orientation of the allotments (east-west) makes it inevitable that overshadowing is caused to the site on the southern side. In this case, the adjoining property to the south is also at a lower level, which makes overshadowing worse. The northern side of the adjoining property to the south is affected between 9am – 3pm, however this affectation is restricted to about the first 3 – 4m of the property which is a relatively minor when compared to the width of the allotment. Overshadowing impact from the proposed development has been minimised due to the location of the driveway on the southern part of the site thus setting the building 6m from the boundary.

ITEM 2 (continued)



ITEM 2 (continued)



F. Concerns re attic/dormer windows. Concerns are raised that the attic windows (one on the south elevation and two on the north elevation) would cause privacy/overlooking concerns.

Comment: The attics were originally proposed for storage but were altered in the amended plans so not to make them capable of becoming habitable rooms. The attics have been reduced in area and height and will have light and ventilation by skylights that are flush with the roof that will prevent overlooking.

G. Sight distances for adjoining residences. Concerns are raised that a 1.8m high fence on top of a retaining wall will obstruct the sight lines of adjoining residents when reversing out of their garage.

Comment: The retaining walls do not project above natural ground level on the boundary. The 1.8m boundary fence will effectively be at natural ground level viewed from the neighbour's side, although it is shown as extending forward of the building line. Return fences (from the front fence to the building) line should be no higher than the front fence and should be of similar materials. The front fence is shown as 1m high masonry. Condition 1(c) has been included requiring the return fence to be not more than 1m high.

ITEM 2 (continued)

H. Slope Instability/Landslip. Concerns are raised that following the demolition of the former house and removal of retaining walls, there has been increase movement (cracking) in the neighbour's concrete slab.

Comment: The subject site and locality of this area are affected by slope instability. This site constraint has been fully considered by Council's Consultant Structural Engineer as discussed in the Referrals section of this report. If approved, this development would require replacement retaining walls to ensure safety of the courtyards along the northern boundary, which would also help to ensure the structural integrity of this neighbouring property.

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

Not required.

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

R2 Low Density Residential. The proposed villa development is permissible with Council's Development Consent.

Mandatory Requirements

Ryde LEP 2010	Proposal	Compliance
4.3(2A) Height <ul style="list-style-type: none"> 8m fronting the street 6.5m other 	8.65m at highest point Varies between 4.5m to 6.4m due to variations in roof profile and the slope of the site.	No Yes
4.5A Density <ul style="list-style-type: none"> 300m² per 1,2,3br dwg (= 900m²) Total required = 900m ²	929.6m ²	Yes

(b) Relevant SEPPs/REPs
SREP (Sydney Harbour Catchment) 2005

From 1 July 2009 this plan is taken to be a State Environmental Planning Policy (see clause 120 of Schedule 6 to the Environmental Planning and Assessment Act 1979).

ITEM 2 (continued)

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above SREP. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The objective of improved water quality is satisfied through compliance with the provisions of section 8.1 (Construction Activities) of DCP 2010 and related conditions of consent. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the SREP.

(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 on public exhibition and a report on the submissions received following the exhibition has been prepared for Council's consideration. 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.

(d) The provisions of any Development Control Plan applying to the landRyde DCP 2010:

A full assessment of the proposal under DCP 2010 is illustrated in the compliance table held at **Attachment 1**. The Non-compliances identified in the table are assessed below.

Non-Compliances:

Cut & Fill: DCP 2010 prescribes a maximum 300mm. In this development, there is proposed to be up to 720mm of cut along the northern side (villa courtyards) and also the southern side (driveway). The applicant indicates that there is evidence of some site works carried out previously as a result of the demolition of the former dwelling house that left a number of high crests as the land was not levelled properly. The photo below shows the significant change in level. The cut is also shown on the extract of the plan in the matter dealing with the courtyards below. Given that the non-compliance is limited to a relatively small part of the site it is considered acceptable.

ITEM 2 (continued)

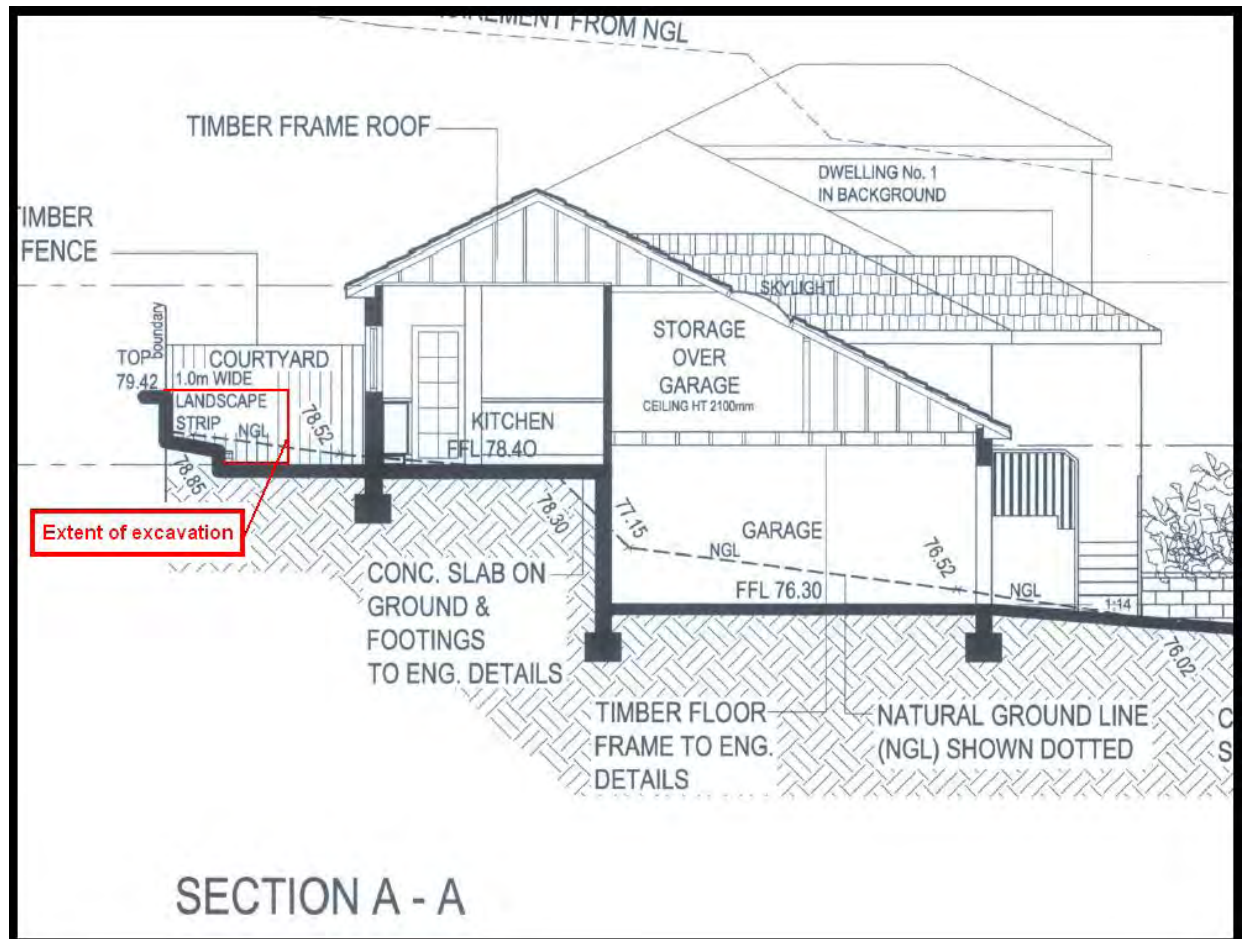


Retaining walls and Private Open Space: DCP 2010 contains requirements that the retaining walls in villa developments are to be minimised, and also that private open space is to be generally at natural ground level.

These two areas of non-compliance are inter-related as the retaining walls are to be provided subsequent to the site excavation required to provide level courtyards. The site slopes both to the front and more significantly to the side thus making it difficult to provide a useable courtyard. The cut allows a functional courtyard and at a lower level to minimise overlooking into the adjoining property. In the circumstances it is considered that these non-compliances are acceptable.

ITEM 2 (continued)

The following drawing (section AA) shows the height of the retaining walls proposed for the courtyards.



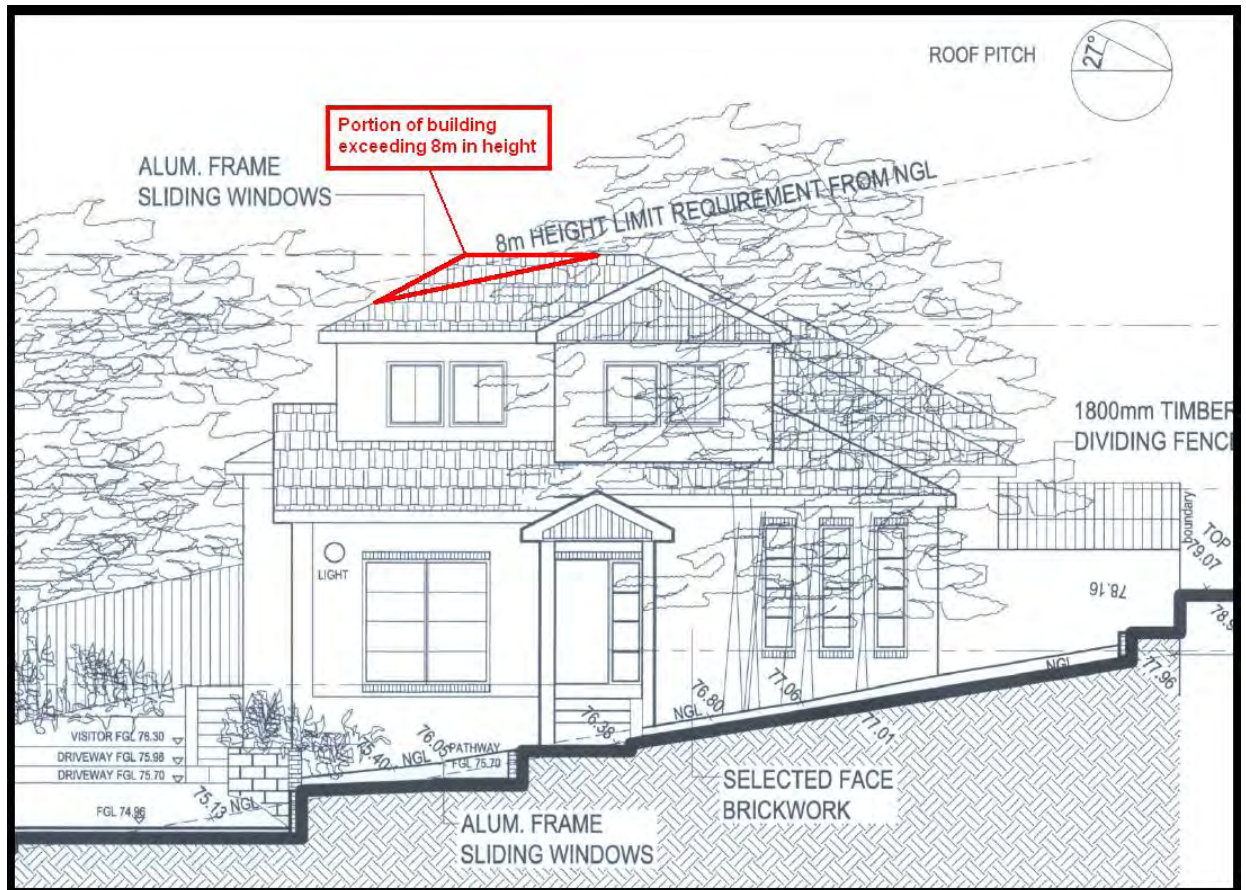
Solar access to courtyard 1: DCP 2010 requires that there be at least 2 hours sunlight to 50% of the courtyard. The two storey dwelling adjoining to the north is at a higher level than the subject site, extends to the boundary and this coupled with the site works to make reasonably level courtyards contributes to the non-compliance. The courtyards are to the south of the adjoining allotment thus making it difficult to achieve good solar access. Having regard to the adjacent two storey dwelling house, the topography of the site and its east west orientation the non-compliance with the solar access requirements is acceptable.

Issues Resolved via Conditions:

Height: As noted in the Compliance Table, the front (two storey) villa has a height of up to 8.65m when measured at the highest point. The extent of the non-compliance is shown in the following drawing.

ITEM 2 (continued)

As discussed in the assessment in terms of view impacts (in the submissions section of this report), it is recommended that the height of this villa be reduced via a Deferred Commencement condition to at least ensure compliance with the 8m maximum prescribed in the DCP.



Return Fence. As indicated in the Submissions section of this report, condition 1(c) has been recommended to be included requiring the return fence to be similar height to the front fence.

(e) Section 94 Contributions Plan 2007 (as amended):

Council's current Section 94 Development Contributions Plan 2007 (2010 Amendment) (adopted 16 March 2011) requires a contribution for the provision of various additional services required as a result of increased development density/ floor area. The contribution is based on the number of additional dwellings there are in the development proposal.

ITEM 2 (continued)

The contributions that are payable with respect to the additional dwellings (being for residential uses outside the Macquarie Park area) are as follows:

A	B
Community & Cultural Facilities	\$4,934.85
Open Space & Recreation Facilities	\$12,148.56
Civic & Urban Improvements	\$4,132.09
Roads & Traffic Management Facilities	\$563.75
Cycleways	\$352.06
Stormwater Management Facilities	\$1,119.40
Plan Administration	\$94.92
The total contribution is	\$23,345.62

NOTES:

- The above calculation has been reviewed and checked by two Assessment Officers. A copy of rates & calculation spreadsheet is on file.
- A credit has been applied for the former dwelling house on the site.
- The most recent CPI rates (December 2012) have been applied to the development.
- Condition 16 has been included in the draft consent.

10. Likely impacts of the Development

(a) Built Environment

All relevant issues have been addressed either under the DCP or Submissions headings.

(b) Natural Environment

A landscape plan has been submitted and is considered to be acceptable. The site contains a number of trees that are mainly in three locations. There are two single trees on the northern side of the site (towards the rear) and a clump of 4 – 6 trees in the front part of the site. The proposal is to remove the two single trees towards the rear and to retain the 4-6 trees towards the front.

One tree to be removed is adjacent to the southern side of No. 10 Farnell Street and presently obstructs their view to the south. This tree if it was to remain would be affected by the construction of Dwelling 1. The tree will be within 3m off the building and would be eligible for removal.

The second tree to be removed is towards the rear of the site and is affected by the construction of Dwelling 3. The tree would be 3m off building works and would be eligible for removal.

ITEM 2 (continued)

While the proposal is to remove two trees from the site the trees at the front are to remain. The retention of these trees will be beneficial to the streetscape as they will help to enhance the visual presentation of the proposed villas.

11. Suitability of the site for the development

A review of Council's map of Environmentally Sensitive Areas indicates that the site is affected by the following constraints:

Landslip/Slope Instability: Refer to the comments from Council's Consultant Structural Engineer (see "Referrals" section of this report).

12. The public interest

Having regard to the assessment contained in this report, it is considered that approval of the development would not be contrary to the public interest, subject to some further amendments as detailed in the recommendations of this report.

13. Consultation – Internal and ExternalInternal Referrals

Development Engineer: Memo 3 September 2012: *The amended drainage details submitted for the development are satisfactory subject to minor amendments. The driveway width has been changed to 5.5m. Council's Structural Engineer Cardno has requested that application can be approved subject to conditions. The conditions from Cardno should be included in the consent conditions.*

The driveway gradients can be achieved to comply with Australian standard AS 2890.1.

The impervious areas marked on the drainage plan are different to what is shown on the landscape & architectural plans. A note has been made and a condition imposed in this regard to amend the drainage plan deleting the excess paved areas.

The vehicle manoeuvring in and out of the garages are satisfactory subject to minor amendment marked on the architectural plan DA02 issue C.

The BASIX report requires a single 2500litre water tank with 150m² of roof area connected into it. The drainage plan shows three 4000 litre water tanks which is different to the BASIX report, but still complies.

ITEM 2 (continued)

From drainage perspective, no objections are raised to the approval of the application subject to the attached conditions and minor amendments marked in red on the drainage plan.

The conditions have been included in the conditions at Attachment 2 under their appropriate headings.

Consultant Structural Engineer (Cardno Pty Ltd): Letter 31 August 2012:
Should Council decide to approve this application then Cardno recommend that the approval be conditioned on the following – See conditions 51-55 at Attachment 2.

External Referrals

None were required.

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

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

16. Other Options

Should the Councillors not be convinced of the changes proposed to reduce the height of the villas as specified in the Deferred Commencement conditions (Part 1 condition 1 of the consent), which have been agreed by the applicant, a further option would be to require the entire first floor of Villa 1 to be deleted and for this villa to be single storey only.

This option would require the submission of amended plans which would then need to be re-notified to the neighbours.

17. Conclusion

The proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning & Assessment Act 1979 and is generally considered to be satisfactory for approval subject to a reduction in height of the proposed villas.

ITEM 2 (continued)

Overall, most of the issues of concern raised in the submissions and the DCP non-compliances would be considered as acceptable in the context of the development and could be resolved via standard conditions of consent. However, the issue of concern regarding impact on views (from the property to the north, No 10 Farnell) is more substantial, and is directly related to the height of the development. It is considered that the application should be amended via a Deferred Commencement Consent condition to address this issue. In particular, the front (two storey) villa should be amended to comply with the 8m maximum overall height in DCP 2010 (presently 8.65m at the highest point). In relation to the rear (single storey) villas, although these comply with the DCP, they should be amended so that they do not exceed the height of the balcony railing of the dwelling on the adjoining property (which is RL83.2) so that views are reasonably preserved. Presently the villas are proposed to have an overall ridge height of up to RL83.6.

ITEM 2 (continued)

ATTACHMENT 1

COMPLIANCE TABLE

DCP 2010	Proposed	Compliance
2.1 Site Analysis		
<ul style="list-style-type: none"> ○ Must have a SA ○ SA should relate dwgs to surrounds + minimise amenity impacts 	Site analysis submitted	Yes
2.2 Minimum allotment size		
Area: (not <600m ²)	929.6m ²	Yes
Primary Frontage: (not <20m)	20.715	Yes
Not hatchet shaped	Regular shaped	Yes
2.3 Non-Preferred Locations		
Is the proposed development within a non-preferred location?	No	Yes
2.4 Linear Separation		
Is there any approved Villa, Duplex or Urban Housing development within double the frontage (or proposed frontage)?	None within prescribed distance	Yes
2.6 Density		
As per clause 4.5A RLEP2010 – which state: (a) Site Area: ○ 300m ² per 1,2,3br dwg (3x300 = 900m ²)	929.6m ²	
(b) Each dwg has its own POS and sep access to that space from unbuilt portion of site	Entrance from driveway or front yard, all have courtyards	Yes
2.7 Number of Dwellings		
Not more than 12 Dwellings	3 dwellings	Yes
2.8 Type of Dwellings		
If 4 or more dwellings on site, <75% with same number of bedrooms (rounded down) e.g. 6d= 4x3B + 2x2B	3 dwellings	NA
3.1 Slope of Site		
At least one dwelling must present to the street	Dwelling 1 faces street	Yes
Slope must be <1:6 either up or down from street frontage	Minimal fall from rear towards street frontage, gradient less than 1:6	Yes
Cross-fall >1:14	1:5	No
3.2 Altering the Levels of the Site		
No imported Fill	None shown	Yes
<300mm Cut or Fill outside building envelope.	Up to 720mm cut for driveway & courtyards	No

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
No basement garages, minimal steps, minimal retaining walls	No basement garages, minimal steps , retaining walls proposed	No – retaining walls used for landscaping
POS generally at NGL.	Excavation for courtyards	No
3.3 Storey and Height		
3.3.1 Storeys		
Dwg with frontage to street can be 2 storeys provided: ○ 2 st dwg not attached to any other 2 st dwg ○ 2 st dwg is suitable re streetscape	2 storeys on street frontage not attached to another 2 storey	Yes
3.3.2 Height		
As per Clause 4.3(2a) – which state the maximum height is: (a) for dwgs in bldg with no frontage to street – 6.5m	Villas 2-3 (rear villas with no street frontage) varies due to changes in roof profile over the length of the building. Varies from 4.5m to 6.4m	Yes
(b) for dwgs with a frontage to street, if adj lots have dwgs that are <9.5m high – 8m	Villa 1 (front villa): Ridge level RL84.7 NGL below is RL76.05 to RL76.8 Maximum height = 7.9m to 8.65m	No
3.4 Site Coverage		
Site coverage < 40%	35%	Yes
Pervious area > 35%	41%	Yes
3.5 Setbacks		
3.5.1 Front Setbacks		
<u>Front Setbacks:</u> Similar to adjoining buildings - same as adjoining if <2m (in West Ryde Character Area where should be similar to adjoining)	9.6 -11m – similar to adjoining	Yes
Setback of 1m less than the above std for not more than 50% of the front elevation for interest in the streetscape	70mm variation	Yes
Council may vary this requirement if streetscape is likely to change: >7.5m for 50% of frontage, >6.5m for 50% of frontage.	These setbacks are not appropriate given site's location in West Ryde Character Area, any change in streetscape would be required to be similar to adjoining buildings as noted above.	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
3.5.4 Side and Rear Setbacks		
Min 4.5m unless vehicular access is included in this area, then min 6m. To promote variation & interest up to 50% may be not less than 3m	<ul style="list-style-type: none"> • South – 6m driveway • North – 4.5m except for 43% at 3- 3.5m • West – 4.5m except for 35% at 3-4m 	Yes Yes Yes
Must provide appropriate solar access.	Courtyards & living areas face north	Yes
Ensure existing substantial trees not within proposed courtyard areas.	None shown on plans as tree to be removed, other trees within front setback	Yes
3.5.5 Internal Setbacks		
Habitable room windows don't overlook	No overlooking	Yes
9m separation between facing dwellings habitable room windows?	No facing windows	NA
3.6 Private Outdoor Space		
Min 30m ² for 2B Min 35m ² for 3+B	2B = 53m ² 3b = 43m ² and 80m ²	Yes
Min dimension 4m and generally at NGL	Dimensions comply, courtyards excavated	No
Solar access: 50% for ≥2hrs	Courtyards 1&2 overshadowed by No 10	No
Do not contain ex'g big trees	None shown	Yes
Access to courtyard other than through dwg?	Through garage	Yes
Securely enclosed (not roofed) + visible from liv rms	Living areas face courtyards	Yes
Not within front setback	Behind building line	Yes
3.7 Landscaping		
Extent of landscaping, existing trees retained in common areas?	Existing trees in front setback area	Yes
If landscaping used for privacy: <ul style="list-style-type: none"> • ≥1.2m landscaped strip • Shrub mature height 3-4m, if possible small trees mature height 5-m in combination with screen planting 	Not used for privacy	NA
1m strip between driveway and wall of dwgs	1m provided	Yes
Nature Strips: Street trees retained and protected?	No street affected	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
3.8 Car Parking, Manoeuvrability and Driveway Crossings		
Car Parking		
Number of Parking Spaces 1 space per 1 or 2 B dwelling 2 spaces per 3+B dwelling 1 visitor space per 4 dwgs (at least 1 space per dwg must be lockable garage) Total No of spaces req'd: 6 5 resident spaces 1 visitor space.	5 resident 1 visitor	Yes
Garage location: - Not between dwelling and street frontage - No tandem parking in front of garage - Conveniently located for occupants - Located so they separate dwellings.	Behind building line Tandem behind garage Near dwelling Between dwellings	Yes Yes Yes Yes
Manoeuvrability: Enter and leave garage/parking area with single 3pt turn, in a forward direction (unless safe to reverse - corner allotment only).	On site turning provided	Yes
Driveways Suitably paved, extent minimised, to avoid excessive amounts of hard paving.	Paved, extent minimised	Yes
Driveway Crossings Width: <10 spaces, min 4m >10 spaces, max 6m Driveways <30% of frontage	5.5m <30%	Yes Yes
3.9 Overshadowing and Access to Sunlight		
Habitable room windows face courtyard or other outdoor space open to the sky, no closer than 1.5m to facing wall.	Face courtyards or driveway	Yes
Sunlight to at least 50% of each courtyard, and principal ground level open space >2hrs between 9am and 3pm on June 21 or	Overshadowing by fence & no.10 impacts on courtyards 1&2	No
Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight	Overshadowing to adjoining minimal due to slope of site	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
must not be further reduced by more than 20%		
Shadow diagrams must indicate extent of shadowing within development and adjoining properties.	Shadow plans provided	Yes
3.10 Visual and Acoustic Privacy		
Min 9m separation between facing habitable room windows	No facing windows	NA
No direct views between living area windows or adjacent dwellings (otherwise screening or obscuring necessary)	No direct views due to slope of site	Yes
Direct views from living areas to private open space of other dwellings should be screened or obscured within privacy sensitive zone of 12m radius.	No direct views due to slope of site	Yes
No balconies.	No balconies	Yes
Elevated landings (or similar associated with stairs into courtyard) max 1m wide	No elevated landings	NA
Living and sleeping areas protected from high levels of external noise?	No high noise levels nearby	NA
Noise levels of air con pool pumps etc must not exceed background noise level by more than 5dB(A)	None shown on plans	NA
3.11 Accessibility		
3.11.1 Pedestrian Access		
Pedestrian access provided, separate to vehicle access where possible.	Separate access to front dwelling, others off driveway	Yes
4.1 Appearance		
Complement streetscape	Complementary	Yes
Includes pitched roof, eaves, vertically oriented windows, verandahs, rendered and face brick	Elements provided	Yes
At least 1 dwg must face street	Dwelling 1 faces street	Yes
4.2 Ceiling Height		
Floor to Ceiling min 2.7m	3.1m & 2.m	Yes
4.3 Roofscape and Roof Materials		
Pitch 22-30° (35° where 2 nd floor is within roof)	27-30 ⁰	Yes
Min 300mm eaves overhang for roofs & verandas	300mm min	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
Gables to street frontage?	Gable to entry portico	Yes
Variation to roof line?		
Roof materials consistent with traditional ones in the street?	Tile	Yes
4.4 Building materials for Walls		
In keeping with the traditional materials for the locality. Detailing to break up large areas of wall adding interest and individuality	Face brick	Yes
Proportion of windows and other openings consistent with character of locality. (windows generally 2:1 and 3:1 vertical proportion)	Consistent	Yes
4.5 Fences		
4.5.1 Front fence		
Max ht 1m, and 70% visually permeable, return to be similar to front fence	Front: 1m Return: 1.8m lapped & capped	Yes No
Materials compliment dwelling e.g. wooden pickets, masonry with infill panels, wrought iron or similar etc	Face brick	Yes
4.5.3 Other boundary fences		
Min ht 1.8m	1.8m	Yes
Lapped and capped timber	Lapped & capped timber	Yes
4.6 Clotheslines and drying area		
External clotheslines (not visible from adjoining properties or public areas)	In courtyards	Yes
Each dwelling must have its own laundry	Laundries provided	Yes
4.7 Lighting		
Front yard lighting and lighting for the front of dwellings is to be provided	Bollard lights	Yes
Location of external lighting must not have adverse effect on adjoining properties.	Bollard lights	Yes
4.8 Garbage bin enclosures		
For developments up to 5 dwellings on sites that are not steeply sloping and which have a wide road frontage: - Each dwelling must be provided with a storage area for Council's standard rubbish and recycling bins.	In courtyard of each dwelling	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
- Storage area should be behind the dwelling, not visible from public spaces, common areas and habitable room windows		
Drainage		
Refer to Part 8.2 Storm water Management DCP 2010	See Development Engineers comments	Yes

BASIX	Proposal	Compliance
All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans BASIX Cert 208715S dated 17/7/2012		
• RWT 2500L	4000L underground	Yes
• Thermal Comfort Commitments: - Insulation as per schedule - Windows & glazing as per schedule - Construction as per schedule - TCC – Glazing as per schedule.	Shown on plans Shown on plans Shown on plans Shown on plans	Yes Yes Yes Yes
• Fixtures - 3 star taps & showerheads - Toilets \$! flush or 3 star	Shown on plans Shown on plans	Yes Yes
• Lighting - 40% LED	Shown on plans	Yes
Water Target 40	Water: 40	Yes
Energy Target 40	Energy: 43	Yes
Correct description of property/proposal on 1 st page of Certificate.	Correct details shown	Yes

ITEM 2 (continued)

ATTACHMENT 2

PROPOSED CONDITIONS OF CONSENT

DEFERRED COMMENCEMENT

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

1. **Plan amendments.** The submission of amended plans for Council's approval which provide the following plan amendments:
 - (a) Amendments to the height of villa 1 (front two storey villa) to ensure that it does not exceed 8m in overall (ridge) height when measured at any location on the ridge.
 - (b) Amendments to the height of villas 2 and 3 at the rear, to ensure that the ridge height of these villas does not exceed RL83.2 at any point.

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 Council.

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 – in particular the Deferred Commencement requirements above, 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 & Ground Floor Plan	Aug 2012	DA02C
Site & First Floor Plan	Aug 2012	DA03C
Site & Roof Floor Plan	Aug 2012	DA04C
Floor Plans (Dimensioned)	Aug 2012	DA05C
North & East Elevations	June 2012	DA07B
South & West Elevations	June 2012	DA08B
Section & Streetscape Elevation	June 2012	DA09B
External Finishes	October 2011	DA11A
Sections & Garage Storage Area	July 2012	DA12C
Sections through Garages indicating Cut & Fill	Aug 2012	DA13C
East (Front) Streetscape Elevation	November 2012	DA14C
Plan of Subdivision of Lot 13 DP 28953 (3 sheets)	November 2012	Issue A
Landscape Plan	June 2012	01/2012B

ITEM 2 (continued)

ATTACHMENT 2

Prior to the issue of a **Construction Certificate**, the following amendments shall be made:

- (a) The drainage plan shall be amended to reflect the correct impervious areas as shown on the landscape and architectural plans
- (b) All plans shall be amended to realign the kerb adjoining visitor parking space to facilitate manoeuvring in and out of the garage of unit 3 as marked in red on the architectural plan Dwg DA02 issue C.
- (c) The returns (both sides) of the front fence shall be not more than 1m high.

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 208175S, dated 17 January 2012.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Hoardings.**
 - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
7. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
8. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.

ITEM 2 (continued)

ATTACHMENT 2

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

General Engineering Conditions

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

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.

ITEM 2 (continued)

ATTACHMENT 2

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

16. **Section 94.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of any **Construction Certificate**:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$4,934.85
Open Space & Recreation Facilities	\$12,148.56
Civic & Urban Improvements	\$4,132.09
Roads & Traffic Management Facilities	\$563.75
Cycleways	\$352.06
Stormwater Management Facilities	\$1,119.40
Plan Administration	\$94.92
The total contribution is	\$23,345.62

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

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

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

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

ITEM 2 (continued)

ATTACHMENT 2

20. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
- (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
21. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
22. **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 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.

23. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.
24. The geotechnical engineering details/plans required by condition 51 shall be submitted prior to issue of the **Construction Certificate**

Engineering Conditions to be complied with Prior To Construction Certificate

25. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.
26. **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

ITEM 2 (continued)

ATTACHMENT 2

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.

27. **Existing Power Pole.** The driveway shall be located minimum of 500mm from the existing power pole on the footpath in Farnell Street.
28. **On-Site Stormwater Detention.** Stormwater runoff from all impervious areas shall be collected and piped by gravity flow to a suitable on-site detention system in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. The minimum capacity of the piped drainage system shall be equivalent to the collected runoff from a 20 year average recurrence interval storm event. Overland flow paths are to be provided to convey runoff when the capacity of the piped drainage system is exceeded up to the 100 year average recurrence interval and direct this to the on-site detention system. Runoff which enters the site from upstream properties should not be redirected in a manner which adversely affects adjoining properties.
29. **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.
30. **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 2 (continued)

ATTACHMENT 2

31. 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.

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

33. 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).

34. 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.

ITEM 2 (continued)

ATTACHMENT 2

35. Safety fencing. The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

Engineering Conditions to be complied with Prior to Commencement of Construction

36. 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.

37. 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

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

DURING CONSTRUCTION

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

39. 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*.

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

41. 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.

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

ITEM 2 (continued)

ATTACHMENT 2

43. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- (c) Fill is allowed under this consent;
 - (d) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (e) the material is reused only to the extent that fill is allowed by the consent.
44. **Construction materials.** All materials associated with construction must be retained within the site.
45. **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.
46. **Site maintenance**
The applicant must ensure that:
- (f) approved sediment and erosion control measures are installed and maintained during the construction period;
 - (g) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
 - (h) the site is clear of waste and debris at the completion of the works.
47. **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".
48. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or otherwise necessary as a result of construction works approved by this consent. The two trees marked 77.34 & 77.70 on the Survey Plan prepared by ATS Land & Engineering Surveyor Pty Ltd dated 13 October 2011 may be removed.
49. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.
50. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

Geotechnical Conditions

51. All works shall be carried out in accordance with the general recommendations as contained in the Aargus report No. GS4944/1-B dated 16 August 2012, titled "Geotechnical Investigation Report 12 Farnell Street West Ryde NSW"

ITEM 2 (continued)

ATTACHMENT 2

52. All building foundations are to either be embedded or piered 300mm into weathered shale with a maximum safe bearing value of 500kPa.
53. All cuts and fills are to be supported by engineer-designed retaining walls and the suspect single brick retaining wall along the southern boundary is to be replaced with an engineer designed retaining wall. All retaining walls are to be designed in accordance with the parameters recommended in the Aargus report.
54. All filling under buildings and driveways is to be placed in layers not exceeding 200mm in compacted thickness, and shall be compacted to 96% minimum Standard Maximum Dry Density at optimum moisture content of + 2%.
55. Backfilling behind retaining walls shall incorporate a drainage layer of coarse granular material wrapped in a geotextile fabric above a slotted rigid PVC subsoil drainage line connected via a backflow prevention pit to the stormwater system.

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.

56. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 208175S, dated 17 January 2012.
57. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of the **Occupation Certificate**.
58. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

ITEM 2 (continued)

ATTACHMENT 2

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

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

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

Engineering Conditions to be complied with Prior to Occupation Certificate

60. **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.
61. **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 level is **to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA.
62. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Job No C-2011--1 issue 4 dated 13/6/12 prepared by Kozarovski & Partners & as amended in red by Council.
63. **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.
 - 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.

ITEM 2 (continued)

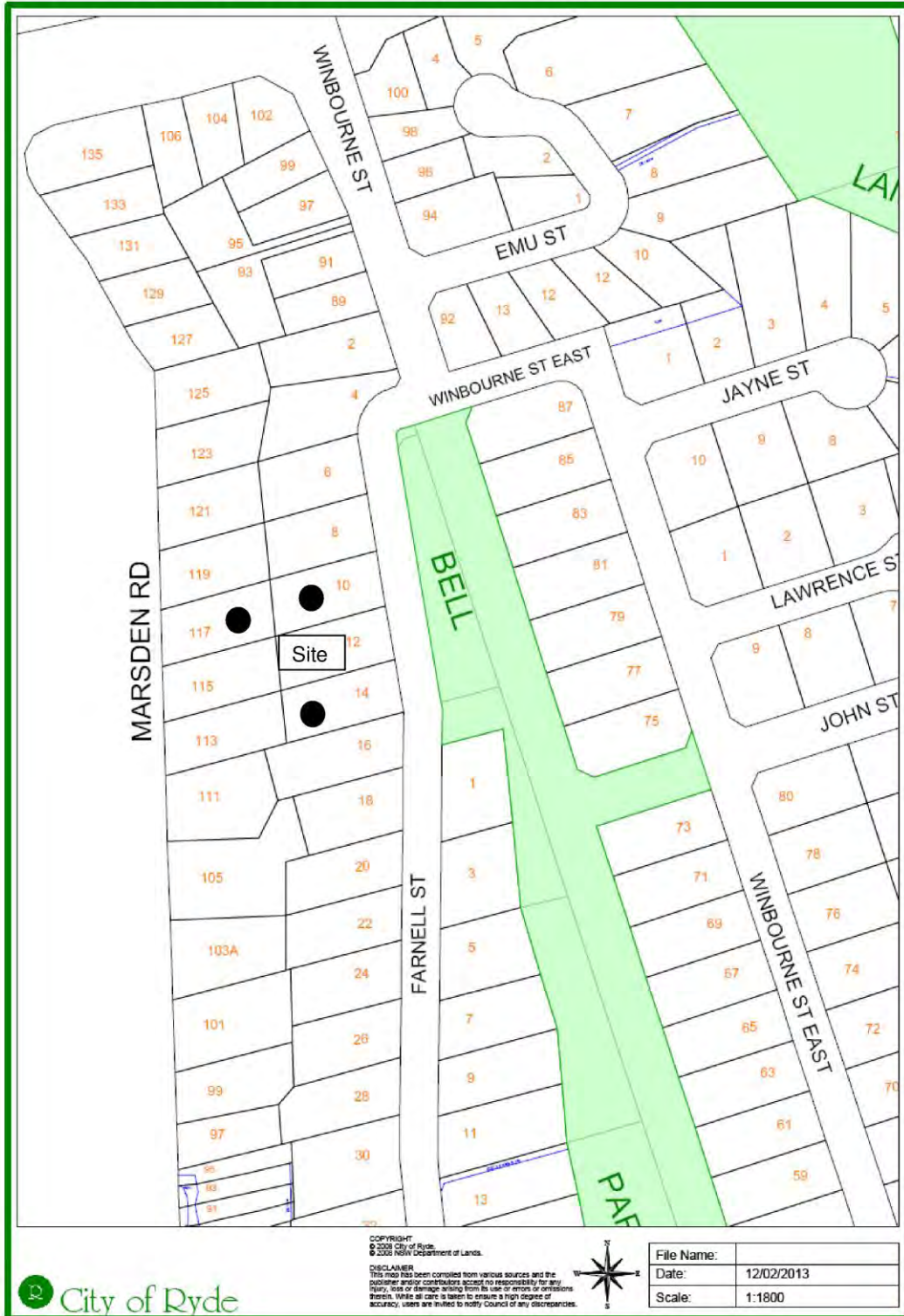
ATTACHMENT 2

64. **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.

ITEM 2 (continued)

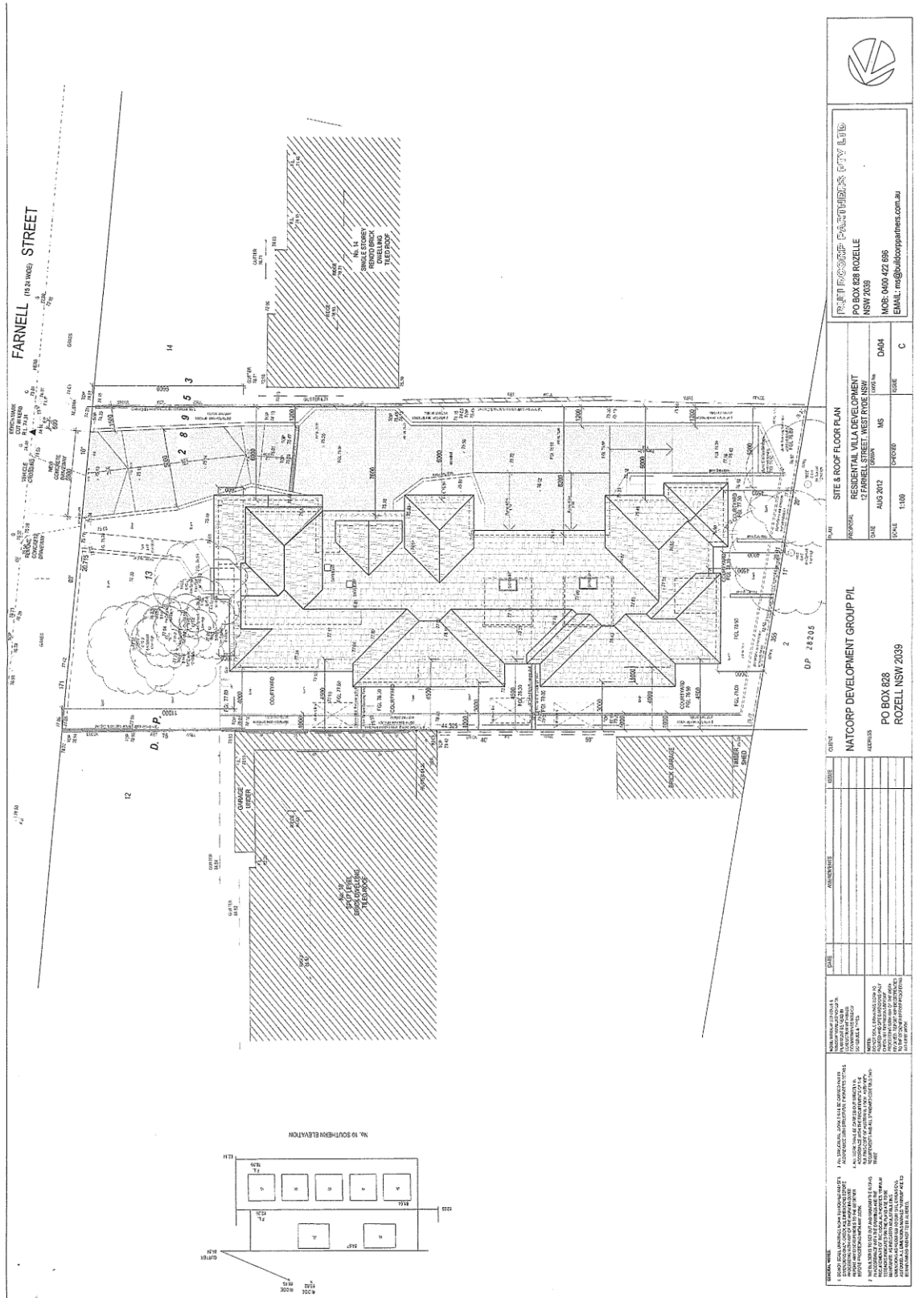
ATTACHMENT 3


● Indicates submissions received (petition also received)



ITEM 2 (continued)

ATTACHMENT 4



	
PROJECT: RESIDENTIAL DEVELOPMENT PO BOX 828 ROZELLE NSW 2038 MOB: 0400 422 896 EMAIL: ms@subtoppartners.com.au	
CLIENT: NATCORP DEVELOPMENT GROUP P/L ADDRESS: PO BOX 828 ROZELLE NSW 2039	SITE & ROOF FLOOR PLAN RESIDENTIAL DEVELOPMENT 12 FARNELL STREET WEST ROZELLE NSW DATE: AUG 2012 SCALE: 1:100
DATE: 11/08/12 DRAWN: MS CHECKED: C ISSUE: D004	SUBTOP PARTNERS 12 FARNELL STREET WEST ROZELLE NSW 2038 PH: 0400 422 896 EMAIL: ms@subtoppartners.com.au

ITEM 2 (continued)

ATTACHMENT 4

EAST (FRONT) ELEVATION (STREETSCAPE ELEVATION)

NORTH (SIDE) ELEVATION

Architectural details include: No. 14 Single Storey Single Brick Dwelling with Tiled Roof; No. 15 Two Storey Brick Dwelling with Tiled Roof; No. 16 Two Storey Brick Dwelling with Tiled Roof; No. 17 Two Storey Brick Dwelling with Tiled Roof; No. 18 Two Storey Brick Dwelling with Tiled Roof; No. 19 Two Storey Brick Dwelling with Tiled Roof; No. 20 Two Storey Brick Dwelling with Tiled Roof; No. 21 Two Storey Brick Dwelling with Tiled Roof; No. 22 Two Storey Brick Dwelling with Tiled Roof; No. 23 Two Storey Brick Dwelling with Tiled Roof; No. 24 Two Storey Brick Dwelling with Tiled Roof; No. 25 Two Storey Brick Dwelling with Tiled Roof; No. 26 Two Storey Brick Dwelling with Tiled Roof; No. 27 Two Storey Brick Dwelling with Tiled Roof; No. 28 Two Storey Brick Dwelling with Tiled Roof; No. 29 Two Storey Brick Dwelling with Tiled Roof; No. 30 Two Storey Brick Dwelling with Tiled Roof; No. 31 Two Storey Brick Dwelling with Tiled Roof; No. 32 Two Storey Brick Dwelling with Tiled Roof; No. 33 Two Storey Brick Dwelling with Tiled Roof; No. 34 Two Storey Brick Dwelling with Tiled Roof; No. 35 Two Storey Brick Dwelling with Tiled Roof; No. 36 Two Storey Brick Dwelling with Tiled Roof; No. 37 Two Storey Brick Dwelling with Tiled Roof; No. 38 Two Storey Brick Dwelling with Tiled Roof; No. 39 Two Storey Brick Dwelling with Tiled Roof; No. 40 Two Storey Brick Dwelling with Tiled Roof; No. 41 Two Storey Brick Dwelling with Tiled Roof; No. 42 Two Storey Brick Dwelling with Tiled Roof; No. 43 Two Storey Brick Dwelling with Tiled Roof; No. 44 Two Storey Brick Dwelling with Tiled Roof; No. 45 Two Storey Brick Dwelling with Tiled Roof; No. 46 Two Storey Brick Dwelling with Tiled Roof; No. 47 Two Storey Brick Dwelling with Tiled Roof; No. 48 Two Storey Brick Dwelling with Tiled Roof; No. 49 Two Storey Brick Dwelling with Tiled Roof; No. 50 Two Storey Brick Dwelling with Tiled Roof; No. 51 Two Storey Brick Dwelling with Tiled Roof; No. 52 Two Storey Brick Dwelling with Tiled Roof; No. 53 Two Storey Brick Dwelling with Tiled Roof; No. 54 Two Storey Brick Dwelling with Tiled Roof; No. 55 Two Storey Brick Dwelling with Tiled Roof; No. 56 Two Storey Brick Dwelling with Tiled Roof; No. 57 Two Storey Brick Dwelling with Tiled Roof; No. 58 Two Storey Brick Dwelling with Tiled Roof; No. 59 Two Storey Brick Dwelling with Tiled Roof; No. 60 Two Storey Brick Dwelling with Tiled Roof; No. 61 Two Storey Brick Dwelling with Tiled Roof; No. 62 Two Storey Brick Dwelling with Tiled Roof; No. 63 Two Storey Brick Dwelling with Tiled Roof; No. 64 Two Storey Brick Dwelling with Tiled Roof; No. 65 Two Storey Brick Dwelling with Tiled Roof; No. 66 Two Storey Brick Dwelling with Tiled Roof; No. 67 Two Storey Brick Dwelling with Tiled Roof; No. 68 Two Storey Brick Dwelling with Tiled Roof; No. 69 Two Storey Brick Dwelling with Tiled Roof; No. 70 Two Storey Brick Dwelling with Tiled Roof; No. 71 Two Storey Brick Dwelling with Tiled Roof; No. 72 Two Storey Brick Dwelling with Tiled Roof; No. 73 Two Storey Brick Dwelling with Tiled Roof; No. 74 Two Storey Brick Dwelling with Tiled Roof; No. 75 Two Storey Brick Dwelling with Tiled Roof; No. 76 Two Storey Brick Dwelling with Tiled Roof; No. 77 Two Storey Brick Dwelling with Tiled Roof; No. 78 Two Storey Brick Dwelling with Tiled Roof; No. 79 Two Storey Brick Dwelling with Tiled Roof; No. 80 Two Storey Brick Dwelling with Tiled Roof; No. 81 Two Storey Brick Dwelling with Tiled Roof; No. 82 Two Storey Brick Dwelling with Tiled Roof; No. 83 Two Storey Brick Dwelling with Tiled Roof; No. 84 Two Storey Brick Dwelling with Tiled Roof; No. 85 Two Storey Brick Dwelling with Tiled Roof; No. 86 Two Storey Brick Dwelling with Tiled Roof; No. 87 Two Storey Brick Dwelling with Tiled Roof; No. 88 Two Storey Brick Dwelling with Tiled Roof; No. 89 Two Storey Brick Dwelling with Tiled Roof; No. 90 Two Storey Brick Dwelling with Tiled Roof; No. 91 Two Storey Brick Dwelling with Tiled Roof; No. 92 Two Storey Brick Dwelling with Tiled Roof; No. 93 Two Storey Brick Dwelling with Tiled Roof; No. 94 Two Storey Brick Dwelling with Tiled Roof; No. 95 Two Storey Brick Dwelling with Tiled Roof; No. 96 Two Storey Brick Dwelling with Tiled Roof; No. 97 Two Storey Brick Dwelling with Tiled Roof; No. 98 Two Storey Brick Dwelling with Tiled Roof; No. 99 Two Storey Brick Dwelling with Tiled Roof; No. 100 Two Storey Brick Dwelling with Tiled Roof.

ITEM 2 (continued)

ATTACHMENT 4

SECTION A - A

SECTION B - B

EAST (FRONT) ELEVATION (STREET-SCAPE ELEVATION)

DATE	REVISIONS	ISSUE	CHART
11/06/12	1	ISSUE	1
11/06/12	2	ISSUE	1
11/06/12	3	ISSUE	1
11/06/12	4	ISSUE	1
11/06/12	5	ISSUE	1
11/06/12	6	ISSUE	1
11/06/12	7	ISSUE	1
11/06/12	8	ISSUE	1
11/06/12	9	ISSUE	1
11/06/12	10	ISSUE	1
11/06/12	11	ISSUE	1
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11/06/12	99	ISSUE	1
11/06/12	100	ISSUE	1

PROJECT INFORMATION:

CLIENT: NATCORP DEVELOPMENT GROUP PTY LTD

ADDRESS: PO BOX 828 ROZELLE NSW 2039

SECTION & STREET SCAPE ELEVATION

PROJECT: RESIDENTIAL VILLA DEVELOPMENT

DATE: 11/06/12

SCALE: 1:100

ISSUE: B

ARCHITECT: BUILDCORP PARTNERS PTY LTD

PO BOX 828 ROZELLE NSW 2039

MOB: 0400 422 686

EMAIL: ms@buildcorppartners.com.au

ITEM 2 (continued)

ATTACHMENT 4

9AM 21 JUNE WINTER SOLSTICE

12PM 21 JUNE WINTER SOLSTICE

3PM 21 JUNE WINTER SOLSTICE

GENERAL NOTES

1. FOR ALL CHANGES TO BE MADE TO THIS DRAWING, CHECK ALL DIMENSIONS BEFORE PROCEEDING WITH ANY WORK.
2. THE DRAWING IS TO BE USED FOR INFORMATION ONLY AND DOES NOT REPRESENT A CONTRACT. ANY WORK TO BE CARRIED OUT MUST BE IN ACCORDANCE WITH THE RELEVANT REGULATIONS AND STANDARDS.
3. ALL DIMENSIONS ARE TO BE TAKEN FROM THE FACE UNLESS OTHERWISE SPECIFIED.
4. ALL WORK IS TO BE CARRIED OUT IN ACCORDANCE WITH THE RELEVANT REGULATIONS AND STANDARDS.

NOTES

1. THIS DRAWING IS TO BE USED FOR INFORMATION ONLY AND DOES NOT REPRESENT A CONTRACT. ANY WORK TO BE CARRIED OUT MUST BE IN ACCORDANCE WITH THE RELEVANT REGULATIONS AND STANDARDS.
2. THE DRAWING IS TO BE USED FOR INFORMATION ONLY AND DOES NOT REPRESENT A CONTRACT. ANY WORK TO BE CARRIED OUT MUST BE IN ACCORDANCE WITH THE RELEVANT REGULATIONS AND STANDARDS.

DATE	DESCRIPTION	BY	CHECKED	SCALE	DATE	BY	CHECKED
JUNE 2012	ISSUE	MS	MS	1:200	DA11		B

PROJECT INFORMATION

PROJECT: RESIDENTIAL DEVELOPMENT
ADDRESS: 12 FARNELL STREET, WEST RYDE NSW

CLIENT: MATCORP DEVELOPMENT GROUP P/L
ADDRESS: PO BOX 828 ROZELLE NSW 2039

DESIGNER INFORMATION

COMPANY: BUILDGROUP PARTNERS PTY LTD
ADDRESS: PO BOX 828 ROZELLE NSW 2039
PHONE: 0400 422 896
EMAIL: ms@buildgroup.com.au

3 33 RYEDALE ROAD, WEST RYDE. LOT 5 SEC 1 DP 2085. Local Development Application for the change of use for the rear of the existing shop from commercial to residential. LDA2012/0416.

INSPECTION: 4.30pm

INTERVIEW: 5.05pm

Report prepared by: Assessment Officer

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

Report dated: 5 February 2013

File Number: grp/12/5/5/3 - BP13/194

1. Report Summary

Applicant: A Wang.

Owner: Gisher Pty Ltd.

Date lodged: 2 November 2012

This report considers a proposal for the change of use of the rear of the existing shop to a residential unit containing a kitchen, bathroom, two bedrooms and a store room. Currently the site is known as No. 31- No. 33 Ryedale Road and consists of two tenancies one of which (No. 33) is the subject of this DA. No. 33 Ryedale Road has access to 1 car space at the rear and a shared loading zone car space.

The subject DA was lodged following enforcement action by Council in the period June – October 2012 including orders under the Environmental Planning and Assessment Act 1979, advising the occupier of the premises to cease using the premises for the purpose of ‘mixed use development’.

The Development Application (DA) was publicly exhibited between 7 November 2012 and 22 November 2012. During this time, one submission in the form of a petition was received from the local residents objecting to the development.

The main concerns raised are regarding the suitability of the change of use, fire safety and noise (ie the proposed residential use would be affected by noise from adjoining businesses).

The development on the site is defined as a form of “shop top housing’ which is permitted on the site under Ryde Local Environmental Plan 2010 (LEP 2010) The proposed change of use complies with Council’s DCP 2010 controls.

The current proposal does not demonstrate compliance with the Building Code of Australia regarding Section F - Health and Amenity. However this is a technical matter and can be resolved via standard conditions of consent.

Reason for Referral to Planning and Environment Committee: Requested by Group Manager Environment & Planning due to a petition received.

Public Submissions: One submission in the form of a petition was received objecting to the development containing 50 signatures.

ITEM 3 (continued)

Clause 4.6 RLEP 2010 objection not required.

Value of works \$8,000 (estimate)

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

RECOMMENDATION:

- (a) That Local Development Application No. LDA2012/0416 at 33 Ryedale Road being Part lot 5 DP 2085 Sec 1 be approved subject to the ATTACHED conditions.
- (b) That the persons who made submissions be advised of Council's decision.
- (c) That the matter be referred to Council's Manager Environmental Health & Building to ensure that appropriate enforcement action is taken to ensure compliance with the requirement to obtain an Occupation Certificate in relation to the approved development.

ATTACHMENTS

- 1 Proposed Conditions
- 2 Compliance Table
- 3 Map
- 4 A4 Plans
- 5 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Jane Tompsett
Assessment Officer

Report Approved By:

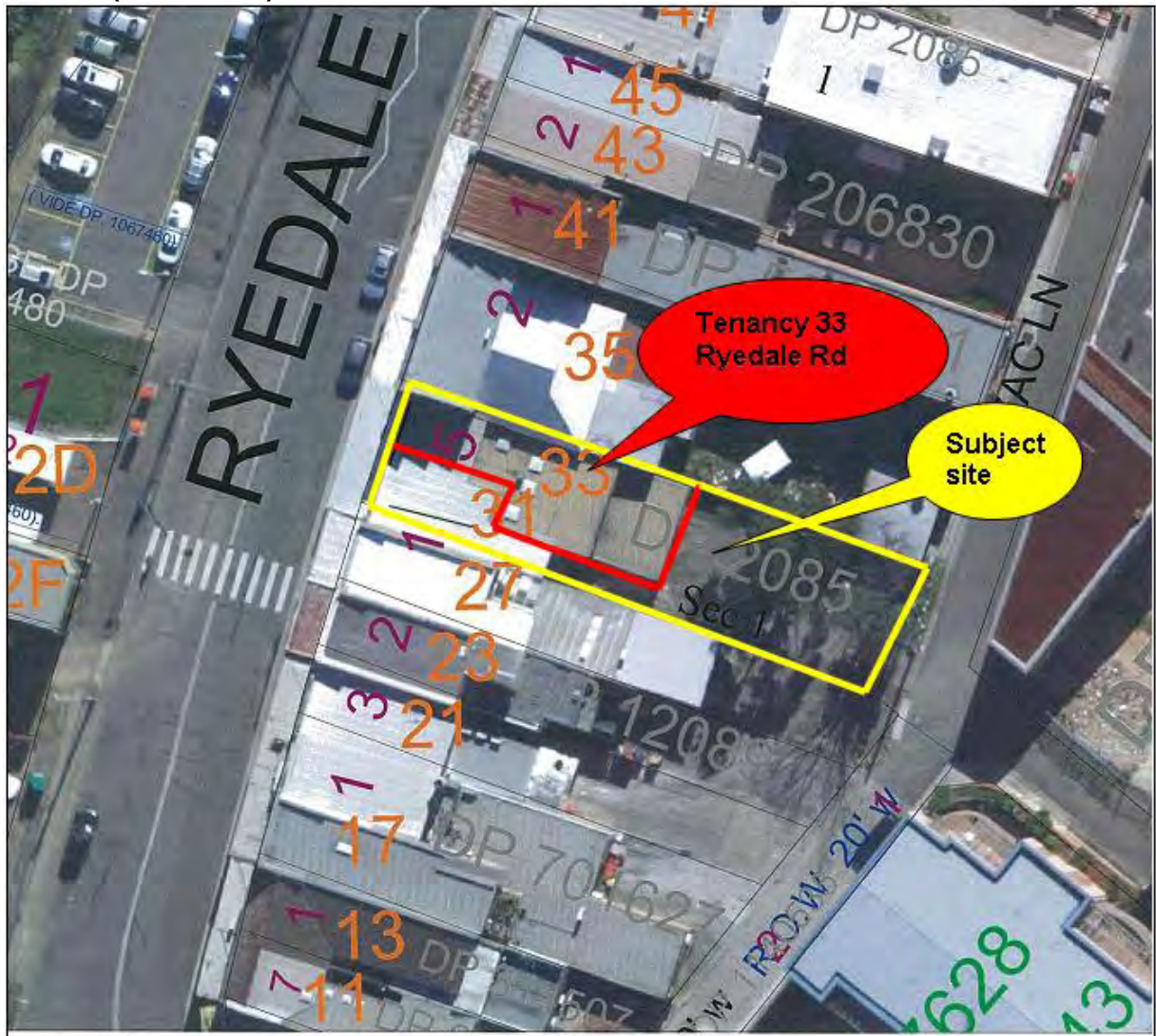
Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 3 (continued)**2. Site** (*Refer to attached map.*)

Address	:	33 Ryedale Rd West Ryde Part Lot 5 DP 2085 Sec 1
Site Area	:	31-33 Ryedale Road 449m ² Frontage 5.7 metres Depth 42.7 metres
Topography and Vegetation	:	The site is one lot consisting of two tenancies - No. 31 and No. 33 Ryedale Road. The two shop fronts are on Ryedale Road. There is a gentle slope to the rear of the site and Anzac Lane.
Existing Buildings	:	Two attached single storey tenancies with an attached carport at the rear. The carport contains two car spaces and a loading zone car space.
Planning Controls Zoning	:	B4 Mixed Use
Other	:	LEP 2010 Heritage Conservation Area DCP 2010 Part 4.3 West Ryde Urban Village

ITEM 3 (continued)



3. Councillor Representations

Nil.

4. Political Donations or Gifts

Any political donations or gifts disclosed? None

5. Proposal

The development proposes a change of use of the rear of the existing shop into a residential unit containing a kitchen, bathroom, two bedrooms and a store room.

ITEM 3 (continued)**6. Background**

In the period June – October 2012, Council became aware that the subject development had commenced without approval, and undertook enforcement action including issuing orders under the Environmental Planning and Assessment Act 1979 advising the occupier of the premises to cease using the premises for the purpose of ‘mixed use development’.

DA was lodged on 2 November 2012

During the notification period one submission in the form of a petition was received as discussed in the following section.

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 7 November 2012 until 22 November 2012.

One submission in the form of a petition with 50 signatures was received from the neighbour at 31 Ryedale Road. The issues raised in the submission were;

1. Suitability of the change of use

Concerns are raised regarding the suitability of the change of use for residential. The room sizes are not adequate for a family of 3-4 people. There is an increased risk of fire from cooking in the kitchen. The adjoining shops are full of very flammable material including newspapers, magazines and paper recycling bins located at the rear of the shops.

Officer’s Comment:

The change of use to residential is permitted with consent in accordance with Council’s Local Environment Plan 2010 – Zoning B4 Mixed Use. There is no minimum size requirement for dwelling rooms in Council’s controls or the Building Code of Australia. The health and amenity of the rooms are requirements in the Building Code of Australia. To ensure adequate health and amenity, conditions will be imposed. (see conditions 1 (a), (b) and (c) in Attachment 1)

2. Noise

The newsagency next door carries out newspaper deliveries in the early morning, the wrapping of the newspapers is done by a machine which is very loud and takes a substantial amount of time. The newsagent starts work on this

ITEM 3 (continued)

at 3:00am and it takes about 3-4 hours. The newsagent wouldn't want to wake up a whole family, especially the children who have to attend school. Perhaps the resident will complain about the noise and as a business, operations must continue and as much as the newsagent would like to give peace this is not possible. The decision to work long hours at No. 33 Ryedale Road should not have such a negative impact on the newsagent's business.

Officer's Comment:

The use of all premises (including the newsagency) must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*. The controls in the Act are as follows:

The operation of any plant or machinery 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 the most affected noise sensitive location in the vicinity. 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

If Council receives a noise complaint it will be investigated and Council will require compliance with legislation.

8. Clause 4.6 RLEP 2010 objection not required.

No

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

B4 Mixed Use

The proposal is a form of "shop top housing" which is permitted with Council's consent.

ITEM 3 (continued)

“*Shop top housing*” is defined as “one or more dwellings located above (or otherwise attached to) ground floor retail premises or business premises”.

Mandatory Requirements**Zone B4 Mixed Use****1 Objectives of zone**

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To create vibrant, active and safe communities and economically sound employment centres.
- To create safe and attractive environments for pedestrians.
- To recognise topography, landscape setting and unique location in design and land-use.

The aims and objectives of the Zone B4 Mixed Use includes residential as integrated with other uses including shops. The proposed change of use for the dwelling at the rear of the premises is considered satisfactory as a mixed use to compliment the shop use.

Clause 4.3 Height of building: permits a maximum building height 15.5m. The overall maximum height of the building remains unchanged at 6m.

Clause 4.4 Floor Space Ratio: The site is in an area that permits a maximum FSR of 1.25:1. The existing building comprises a total GFA of 88.6m² which equates to a FSR of 0.2:1.

Clause 4.4C West Ryde Urban Village – floor space ratio: allows the consent authority to permit development that results in a FSR in excess of the FSR shown for that land on the FSR Map, provided that certain development criteria are fulfilled.

This clause is not applicable in this case as the FSR does not change.

Clause 5.10 Heritage Conservation: requires the submission of a DA for any works to a building within a heritage conservation area and requires Council to request the submission of a heritage impact assessment to determine the impact upon the heritage significance of the building.

ITEM 3 (continued)

Council's Heritage Officer has made the following comments:

The plans demonstrate that the skylights will be hidden behind the front façade and will not be visible from the street. Therefore this application will have no adverse impact on the Conservation Area.

The proposal complies with the provisions of this clause.

Clause 6.5 Eastwood Urban Village and West Ryde Urban Village: When considering an application to which this clause applies, Council must take into consideration the following objectives:

- (a) *to create a safe and attractive environment for pedestrians,*
- (b) *to create a mixed use precinct with emphasis on uses that promote pedestrian activity and safety at ground level (existing),*
- (c) *to create a precinct that contains opportunities and facilities for living, working, commerce, leisure, culture, community services, education and public worship,*
- (d) *to increase the number of people living within walking distance of high frequency public transport services,*
- (e) *to increase the use of public transport.*

The proposed development is considered to satisfy the above objectives for development within the West Ryde Urban Village.

(b) Relevant SEPPs

There are no SEPPs applicable to this proposal

(c) Relevant REPs

There are no REPs applicable to this proposal.

(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 B4 Mixed Use. 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)**(e) Any DCP (e.g. dwelling house, villa)****Ryde Development Control Plan (DCP) 2010:**

The property is located within the West Ryde Urban Village – Anzac Park Precinct.

Section 2.1 – West Ryde Urban Village Master Plan – states that: *All developments should be consistent with the Master Plan formulated for the West Ryde Centre.*

The development proposes a change of use of the existing retail building to residential use at the rear of the shop.

The proposed development complies with the above objectives of West Ryde Urban Village DCP.

The compliance of the proposed development with the following parts of this DCP is shown in the table below. (Attachment 2)

Part 9.2 – Access for People with Disabilities

The requirements for access for people with disability are set out by the above part in relation to existing buildings, change of use or alterations and additions.

The development does not propose to change the existing access to the shop and the building works are only for internal modifications. Accordingly, the proposed development complies with the provisions of access for people with disabilities of Council DCP 2010.

Part 9.3 – Car Parking

The existing retail shop (approximately 90m²) would require 4 parking spaces under DCP 2010 (1 space per 25m²). The current proposal for a residential use at the rear would require 1 parking space under DCP 2010 – however in this case, no additional parking is required because it is a conversion of existing floor space.

Section 94 – Development Contributions Plan - 2007

Council's current Section 94 Development Contributions Plan 2007 (2010 Amendment) (adopted 16 March 2011) requires a contribution for the provision of various additional services required as a result of increased development density. The contribution is based on the proposed change of use to residential.

ITEM 3 (continued)

The contribution that is payable with respect to the increased commercial floor area on the subject site (*being for development outside the Macquarie Park Area*) is as follows:

Contribution Type	Total \$
Community & Cultural Facilities	\$1,374.37
Open Space & Recreation Facilities	\$6,247.83
Civic & Urban Improvements	\$274.23
Roads & Traffic Management Facilities	0.00
Transport & Accessibility Facilities	0.00
Cycleway	\$23.25
Stormwater Management Facilities	0.00
Plan Administration	\$6.64
Parking	0.00
Total payable Contribution	\$7,926.32

NOTE:

The above calculation has been reviewed by the Team Leader Assessment. A copy of the rates and calculation spreadsheet is on the file.

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

All relevant issues regarding the likely impacts of the development have been discussed throughout this report. It is considered that the development is acceptable and suitable for approval subject to the conditions listed in **ATTACHMENT 1**.

(b) Natural Environment

The proposed development will have no significant impacts on the natural environment.

The proposed use is permitted in the zoning and is compatible with the other surrounding uses; therefore the development is considered satisfactory in terms of environmental impacts.

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

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

Heritage Conservation Area: See Heritage Officer's referral below.

12. The Public Interest

The proposed development is considered to be in the public interest as it provides for a mixed use of the premises in accordance with the zoning objectives. The change of use to a dwelling is required to be upgraded to comply with the Building Code of Australia and this will provide adequate amenity to the convenience store tenancy.

13. Consultation – Internal and ExternalInternal Referrals

Building Surveyor, 23 January 2013: A review of the application revealed the following concerns in relation to the requirements of the BCA.

- Clothes washing facilities are not shown
- Clothes drying facilities are not shown
- Ventilation of internal rooms does not appear to comply with AS1668.2-1991. There should be supply of outside air.

THE PROPOSAL

The proposal is a change of use of the rear part of the existing mixed business premises to residential use. It includes converting two existing rooms into bedrooms and using the existing bathroom, kitchen and storage room.

STATUTORY PROVISIONS:**Environmental Planning and Assessment Regulation:****Clause 93 Fire safety and other considerations**

- (1) This clause applies to a development application for a change of building use for an existing building where the applicant does not seek the rebuilding, alteration, enlargement or extension of a building.
- (2) In determining the development application, the consent authority is to take into consideration whether the fire protection and structural capacity of the building will be appropriate to the building's proposed use.

ITEM 3 (continued)

- (3) Consent to the change of building use sought by a development application to which this clause applies must not be granted unless the consent authority is satisfied that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.

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

- (4) Subclause (3) does not apply to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4).
- (5) The matters prescribed by this clause are prescribed for the purposes of section 79C (1) (a) (iv) of the Act.

Officer's Comment:

The following matters will need to be addressed:

1. The wall between the shop and proposed residence is to have a Fire Resistance Level (FRL) of not less than 60/60/60 and comply with Spec. C1.8,
2. The doorway in the dividing wall is to be protected by a self-closing solid core door not less than 35mm thick.

The following condition will be placed on the consent:

- The dwelling is to be fire separated from the shop in accordance with performance requirement CP2 of the Building Code of Australia.

Clause 94 Consent authority may require buildings to be upgraded

- (1) This clause applies to a development application for development involving the rebuilding, alteration, enlargement or extension of an existing building where:
- (a) the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, as it was before any such work was commenced, measured over its roof and external walls, or
 - (b) the measures contained in the building are inadequate:
 - (i) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or
 - (ii) to restrict the spread of fire from the building to other buildings nearby.
 - (c) (Repealed)

ITEM 3 (continued)

- (2) In determining a development application to which this clause applies, a consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the *Building Code of Australia*.

Fire hazard**Officer's Comment:**

There are no abnormal fire hazards associated with the proposal.

It is recommended that the following conditions be included as part of the Development Consent:-

- 1 Laundering facilities are to be provided in accordance with performance requirement FP2.2 of the Building Code of Australia.
- 2 Ventilation of internal rooms is to comply with performance requirement FP4.3 of the Building Code of Australia.
- 3 The dwelling is to be fire separated from the shop in accordance with performance requirement CP2 of the Building Code of Australia.
- 4 An **Occupation Certificate** must be obtained prior to commencement of occupation or use of the dwelling.

It should be noted that the details provided do not allow a thorough BCA assessment. This will be carried out during the assessment of the CC when construction drawings are submitted.

Officer's Comment:

The matters discussed in the Building Surveyor's referral above are critical matters regarding safety and amenity for the building's occupants. In order to ensure that these are complied with, and within a reasonable timeframe, it is recommended that a condition be imposed requiring submission of an Occupation Certificate within 3 months (see condition 26).

Council's Heritage Officer, 17 January 2013: A review of the plans demonstrates that the skylights will be hidden behind the front façade and will not be visible from the street. Therefore there is no adverse impact this DA could have on the Conservation Area.

External Referrals

None

ITEM 3 (continued)**14. Critical Dates**

There are no specific deadlines required for Council in relation to assessment or determination of this DA.

15. Financial Impact

N/A

16. Other Options

N/A

17. Conclusion

After consideration of the development against section 79C of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is considered suitable for the site. The issues raised in the submission have been addressed.

Therefore, it is recommended that the application be approved subject to conditions of consent.

ITEM 3 (continued)

ATTACHMENT 1

Consent conditions

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	2/11/2012	Drawing Number 00, 01, 02, 03, 04

Prior to the issue of a **Construction Certificate**, the following amendments shall be made.

- (a) Laundering facilities are to be provided in accordance with performance requirement FP2.2 of the Building Code of Australia.
- (b) Ventilation of internal rooms is to comply with performance requirement FP4.3 of the Building Code of Australia.
- (c) The dwelling is to be fire separated from the shop in accordance with performance requirement CP2 of the Building Code of Australia.

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. **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.
4. **Fire Safety Matters/Changes in building use**
 - (a) A building in respect of which there is a change of building use must comply with the Category 1 fire safety provisions applicable to the proposed new use.

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

ITEM 3 (continued)

ATTACHMENT 1

- (b) This clause does not apply to the extent to which an exemption is in force under clause 187 and 188 in the Environmental Planning and Assessment Regulations 2000.
 - (c) In this case clause, "Category 1 fire safety provision" has the same meaning as it has in Clause 3 in the Environmental Planning and Assessment Regulations 2000 subject to any terms of any condition or requirement referred to in Clause 187(6) or 188(4).
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. **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.
 7. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
 8. **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.
 9. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

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 3 (continued)

ATTACHMENT 1

10. **Section 94.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of any **Construction Certificate**:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$1,374.37
Open Space & Recreation Facilities	\$6,247.83
Civic & Urban Improvements	\$274.23
Roads & Traffic Management Facilities	0
Transport & Accessibility Facilities	0.00
Cycleway	\$23.25
Stormwater Management Facilities	0
Plan Administration	\$6.64
Parking	0.00
Total payable Contribution	\$7,926.32

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

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

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

11. **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**.
12. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.

ITEM 3 (continued)

ATTACHMENT 1

13. **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 building with no delivery of bricks or concrete or machine excavation)
14. **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

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.

15. **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.
16. **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.

ITEM 3 (continued)

ATTACHMENT 1

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).

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.

17. **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*.
18. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
19. **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.
20. **Construction materials.** All materials associated with construction must be retained within the site.
21. **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.
22. **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.

ITEM 3 (continued)

ATTACHMENT 1

23. **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.

24. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

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

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

25. The dwelling is only to be occupied in conjunction with the use of the tenancy at No. 33 Ryedale Road.

POST OCCUPATION CERTIFICATE

26. The submission to Council of a copy of the Final Occupation Certificate in respect of the approved development within 3 months of the date of this consent. If there is no Final Occupation Certificate issued within this time period, Council will re-commence enforcement action to ensure compliance with this consent.

ITEM 3 (continued)

ATTACHMENT 2

DCP 2010 Part 4.3 West Ryde Urban Village Compliance Table

Part 4.3 – West Ryde Urban Village	Proposal	Compliance
2.1 West Ryde Urban Village Master Plan		
All development should be consistent with the Master Plan formulated the West Ryde Centre.	The development will result in maintaining the existing built environment consistent with the DCP.	Yes
Mixed Land Use Development	The development is another permissible use and compliments the existing use of the building being retail.	Yes
Corner allotment to address the intersection it faces	The subject site is not a corner allotment.	N/A
Building Height & Bulk to be in accordance with Master Plan: Maximum height in Anzac Park Precinct = 3 - 4 storey Maximum FSR =1.25:1	Existing is single storey. Maximum FSR = 0.2:1	Yes Yes
Car Parking Residential dwelling (involving adaptive re-use of existing floor space only) Requirement Nil	Existing car parking = 1 and a shared loading zone.	Yes
Awnings & Colonnades All weather access is to be provided for pedestrian in the form of awnings & colonnades.	The development will retain the existing awning.	Yes
Pedestrian Access & Amenity Must provide safe and convenient access	Existing retail premises; no changes to the shop front. No change to the rear access	Yes
Signage Comply with Part 9.1 of DCP	There is no change to the existing signage in relation to the residential use.	Yes
Stormwater Runoff Management As per Part 8.2 of DCP	The existing drainage system.	Yes
Landscaping & Street Trees Improve public domain areas Create footpath and plant street trees	Existing, unchanged.	Yes

ITEM 3 (continued)

ATTACHMENT 2

Part 4.3 – West Ryde Urban Village	Proposal	Compliance
Street Furniture Provide where necessary	No street furniture is required in this location.	N/A
Colours Colour scheme to promote harmony with appearance of surrounding building	There will be no changes to the existing colour scheme.	Yes
Solar Access: <ul style="list-style-type: none"> • Open Space to receive a minimum of 50% sunlight on ground plane for at least 2 hours • Roof designed to allow photovoltaic cells • North facing windows of proposed building to receive at least 3hrs of sunlight between 9am and 5pm on 21 June. • N-facing living area windows of neighbouring dwellings should not have sunlight reduced to less than 3 hours on 21 June. 	The development does not alter the bulk and size of the existing building. Existing roof design – no changes. Solar access is provided via existing skylights that have direct access to the sun.	Yes N/A Yes
Noise Attenuation: <ul style="list-style-type: none"> • Walls, windows, roof designed to reduce intrusive noise levels. • Balconies located and treated to minimise infiltration and reflection of noise into the façade. • New residential buildings Dwellings to comply with AS3671 – Traffic Noise & AS2107 – Building Interiors 	Existing building and no alteration the floor areato the existing use and bulk of the premises has been proposed. No balconies Existing building no new floor area	N/A Yes N/A
3.2 Anzac Park Precinct		
Vehicular Access points to be minimised and must have least impact on pedestrian links. Vehicles to enter and leave in forward direction	The existing vehicular access from the rear of the site and the development does not propose to alter this access. It would be possible to enter and exit the site in forward direction	Yes Yes
Heritage Items Preserve and enhance the heritage items	The site is not listed as a heritage item.	N/A

ITEM 3 (continued)

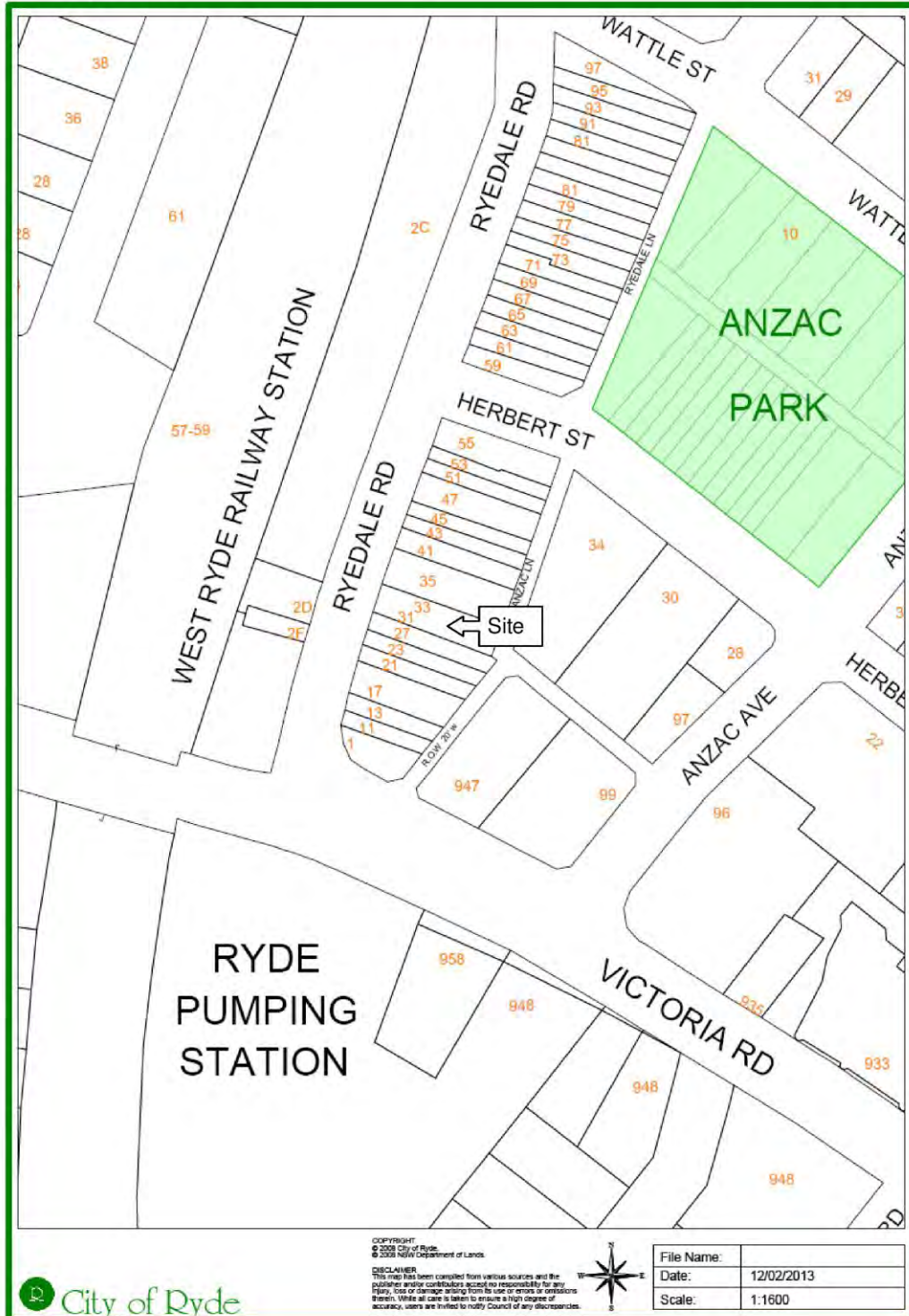
ATTACHMENT 2

Part 4.3 – West Ryde Urban Village	Proposal	Compliance
<p>Development Incentives: Notwithstanding the FSR of 1.25:1 Council may allow development of up to 4 levels (including ground level) where:</p> <ul style="list-style-type: none"> Commercial activities are confined to ground level. 	<p>Existing single storey</p> <p>No new development/building proposed. .</p>	<p>N/A</p> <p>N/A</p>
<p>Upper level deck, balcony to address the park</p>	<p>The existing ground floor and the new first floor rear balconies will address Anzac Park to the rear of the site.</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 3

Petition received.



ITEM 3 (continued)

ATTACHMENT 4

DEVELOPMENT APPLICATION
Proposed Shop Rear Housing
At No.33 Ryedale Road, West Ryde
NSW 2114
LING KWOK



PROPOSED SITE
At No.33 Ryedale Road,
West Ryde NSW 2114



SITE VIEW

DRAWING LIST

00	COVER SHEET AND LOCATION PLAN
01	SITE PLAN
02	EXISTING FLOOR PLAN
03	PROPOSED FLOOR PLAN
04	EXISTING & PROPOSED SECTIONS
05	APPROVAL DA No.101/2008 FLOOR PLAN



SITE AND GENERAL NOTES 1. THIS DRAWING IS THE PROPERTY OF THE CLIENT. 2. THE CLIENT IS RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED. 3. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS. 4. THE CLIENT IS RESPONSIBLE FOR THE COST OF THE DEVELOPMENT. 5. THE CLIENT IS RESPONSIBLE FOR THE COST OF THE DRAWING. 6. THE CLIENT IS RESPONSIBLE FOR THE COST OF THE DEVELOPMENT. 7. THE CLIENT IS RESPONSIBLE FOR THE COST OF THE DRAWING. 8. THE CLIENT IS RESPONSIBLE FOR THE COST OF THE DEVELOPMENT. 9. THE CLIENT IS RESPONSIBLE FOR THE COST OF THE DRAWING. 10. THE CLIENT IS RESPONSIBLE FOR THE COST OF THE DEVELOPMENT.	ISSUE 01 ISSUE FOR DA	Amendment: ISSUE FOR DA	Date: 02/11/12	Clients: Ling Kwok	Project Title: Proposed Shop Rear Housing At No.33 Ryedale Road West Ryde NSW 2114	Drawing Title: COVER SHEET AND LOCATION PLAN Draw By: AW Check By: TW Date: 13/07/2012	Drawing Number: 00 Job No.: Scale:
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- 4 219 BLAXLAND ROAD, RYDE. LOTS 1, 2, 3 and 4 in DP 456020 and LOT 2 in DP548825. Section 96(1A) Application to amend the approved development for a mixed use building containing commercial/retail and residential development. MOD2012/0155.**

INSPECTION: 4.45pm

INTERVIEW: 5.10pm

Report prepared by: Team Leader - Major Development Team

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

Report dated: 5 February 2013

File Number: grp/12/5/5/3 - BP13/195

1. Report Summary

Applicant: Mosca Pserras Architects Pty Ltd.

Owner: Blaxland House Pty Limited.

Date lodged: 16 October 2012

This report considers a Section 96 application in respect of an approved development for the construction of a part six and part seven storey mixed use development containing retail/commercial floor space, 97 residential apartments and parking for 152 vehicles. The development application was approved by the Joint Regional Planning Panel (JRPP) on 2 November 2011. As the current Section 96 application involves amendments under Section 96(1A) of the Environmental Planning and Assessment Act, 1979, Council is the consent authority rather than the JRPP.

The predominant changes as part of this Section 96(1A) application include changes to the car parking levels with the deletion of one basement level, reconfiguration of the residential apartments, reconfiguration of the ground level to incorporate a second retail tenancy and additional residential units, repositioning of the southern lift core and the deletion of part of the circulation gallery. The Section 96 application involves no changes to the overall height of the development and minimal changes to the building envelope.

The Section 96 application complies with the relevant planning controls and satisfies the provisions of Section 96(1A) of the Environmental Planning and Assessment Act, 1979. During the notification period one submission was received. This submission was similar to the letter of objection in respect of the original development application and raised many issues that are not applicable to this application.

The Section 96 application is recommended for approval.

Reason for Referral to Planning and Environment Committee: At the request of Councillor Pendleton.

ITEM 4 (continued)

Public Submissions: One submission was received objecting to the development.

Clause 4.6 RLEP 2010 objection required? No.

Value of works? Not stated.

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

RECOMMENDATION:

(a) That the Section 96 application to modify Local Development Application No. 2011/0303 at 219 Blaxland Rd Ryde being Lots 1, 2 3 and 4 in DP456020 and Lot 2 in DP548825 be approved subject to the following:

1. Conditions 1, 7, 33, 34, 40, 42, 57, 60, 138, 149 and 150 be amended to read as follows:

1. Development is to be carried out in accordance with the following plans and support information submitted to Council:

Plan Number	Title	Drawn by	Issue	Date
DA-A-020	Demolition Plan	Quattro Design Pty Ltd	A	07.06.11
12020 AP01	Cover	Mosca Pserras Architects	A	6/9/12
12020AP02	Data	Mosca Pserras Architects	A	6/9/12
12020AP03	Site Plan	Mosca Pserras Architects	A	6/9/12
12020AP04	Basement 2	Mosca Pserras Architects	A	6/9/12
12020AP05	Basement 1	Mosca Pserras Architects	A	6/9/12
12020AP06	Ground Floor	Mosca Pserras Architects	B	21/1/13
12020AP07	Level 1	Mosca Pserras Architects	A	6/9/12
12020AP08	Level 2	Mosca Pserras Architects	A	6/9/12
12020AP09	Level 3	Mosca Pserras Architects	A	6/9/12

ITEM 4 (continued)

12020AP10	Level 4	Mosca Pserras Architects	A	6/9/12
12020AP11	Level 5	Mosca Pserras Architects	A	6/9/12
12020AP12	Level 6	Mosca Pserras Architects	A	6/9/12
12020AP13	Roof	Mosca Pserras Architects	A	6/9/12
12020AP14	Elevations	Mosca Pserras Architects	A	6/9/12
12020AP15	Elevations	Mosca Pserras Architects	A	6/9/12
12020AP16	Sections	Mosca Pserras Architects	A	6/9/12
12020AP17	Sections	Mosca Pserras Architects	A	6/9/12
12020AP18	Adaptable Unit Details	Mosca Pserras Architects	A	6/9/12
12347-LCD 01 -2	Landscape Concept Plan	NBRS + Partners		10/10/12
12347-LCD 02-2	Landscape Sections and Plant Species List	MBRS + Partners		10/10/12

7. Road Traffic Noise

- a. The proposed development is to include materials that satisfy the requirements for habitable rooms under Clause 102, Subdivision 3 of State Environmental Planning Policy (Infrastructure) 2007.
 - b. The residential units must be designed and constructed so that the road traffic noise levels inside the buildings comply with the satisfactory design sound levels recommended in Australian/New Zealand Standard *AS/NZS 2107:2000 Acoustics – Recommended design sound levels and reverberation times for building interiors*, when the windows and doors are closed. The recommendations outlined in the report from consultant Acoustic Logic, dated 22.03.2011 as amended by the Acoustic Glazing Review, prepared by Vipac Engineers and Scientists Limited and dated 2 October 2012 are to be implemented.
33. **Strata Subdivision Plan** – A strata subdivision plan in accordance with the approved architectural drawings is to be prepared and submitted to Council for approval prior to the issue of a **Occupation Certificate**.

ITEM 4 (continued)

34. **Section 94 Contribution** – A contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of the **Construction Certificate**.

A	B
Community and cultural Facilities	\$216,406.86
Open Space and Recreation Facilities	\$520,999.65
Civic and Urban Improvements	\$184,791.36
Roads and Traffic Management Facilities	\$25,240.88
Cycleways	\$15,743.70
Stormwater Management Facilities	\$49,468.67
Plan Administration	\$4,245.68
The total contribution is	\$1,016,896.81

This contribution is a contribution under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in the Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 11/12/2007.

The above amount, if not paid within the quarter that the consent is granted, shall be adjusted for inflation by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) on the basis of contribution rates that are applicable at the time of payment.

40. **BASIX Commitments** – The development is to incorporate the requirements and commitments provided in BASIX Certificate No 447714M dated 5 October 2012. The **Construction Certificate** plans and specifications are to detail all of the 'CC plan' commitments of the BASIX Certificate.
42. **Detailed Landscape Plan** – A detailed Landscape Plan is to be submitted and approved by Council in accordance with the approved Landscape Plan (Plan No 12347-LCD01 and 12347-LCD02, prepared by NBRSP+Partners dated 10/10/12) prior to the issue of a **Construction Certificate**. The detailed Landscape Plan must also incorporate the following:
- (a) **Street tree planting** – Trees planted along Blaxland Road and Pope Street are to be frangible species.

ITEM 4 (continued)

- (b) **Soil depth over structures** – Where planting is proposed over a structure, the development is to achieve the minimum standards for soil provision suitable to the proposed planting, as contained within the Residential Flat Design Code. Information verifying that the development complies with these requirements is to be provided on the **Construction Certificate** plans.
 - (c) **Outdoor furniture** – Outdoor furniture and fixtures such as bench seating, tables and bicycle racks (or the like) are to be incorporated into the outdoor court communal open space areas to allow passive recreational use of this space. Such furnishings should be shown on the detailed landscape Plan.
 - (d) **Stormwater and drainage tank screening** – Any underground stormwater tank which projects above the ground floor level at the street frontage is to be screened from view by plantings or other suitable treatment.
57. **Internal Car Parking** – To ensure safe and satisfactory access to the proposed development all internal driveways, vehicle turning areas, garage opening widths, parking spaces dimensions, safe sight distances and gradients etc shall be designed and constructed in accordance with relevant sections of Australian Standards AS 2890. The design shall ensure all vehicles using the site can enter and exit in a forward direction and that safe sight distances are available to all vehicles using the site.
- Amended plans including engineering certification from a traffic engineer indicating compliance with this condition are to be submitted with the **Construction Certificate** application.
60. **Site stormwater system** – To ensure satisfactory stormwater disposal and minimise downstream stormwater impacts, stormwater runoff from the site shall be collected and piped by gravity flow to Council's existing underground stormwater system located in Blaxland Road via on-site stormwater detention system. Accordingly, the site concept stormwater drainage plans are to be revised by a chartered civil engineer for construction in accordance with City of Ryde, Development Control Plan 2010 – Part 8.2 – Stormwater Management and shall also incorporate but not limited to the following matters:
- (a) Clear unobstructed overland flow paths shall be provided where required to convey surcharge flow from the site to the public road.
 - (b) Apart from seepage flows and flows generated from the access driveway and loading dock area, under no circumstances shall flows from other areas of the site be piped to the basement car park drainage system.

ITEM 4 (continued)

Detailed engineering plans, including certification prepared by a chartered civil engineer with NPER registration with Engineers Australia, indicating compliance with this condition are to be submitted with the Construction Certificate application.

138. **Drainage Construction** – To ensure satisfactory stormwater disposal, the site stormwater drainage system shall be constructed in accordance with the construction certificate version of the following approved concept drainage plans prepared by Australian Consulting Engineers: 09AH399-D00 Rev A, 11AH019-D01-3 Rev A, 11AH019-D04 Rev E, 11AH019-D05 Rev B, 11AH019-D06 Rev D, 11AH019-D07 Rev A and 11AH019-D08 Rev A.

149. **Bicycle Parking**– A minimum 12 bicycle parking rails or lockers designed and installed in accordance with Australian Standard AS 2890.3, must be provided in a suitable location for the convenience of employees and visitors to the site. Suitable change facilities for cyclists must also be provided within the development.

150. **Car parking spaces** – 113 off-street car parking spaces being in accordance with the submitted plans. Such spaces are to be paved, line marked and made freely available at all times during business hours of the site for staff and visitors. These spaces are to be allocated as follows:
- i. 91 spaces for the residents
 - ii. 18 residential visitor spaces
 - iii. 4 commercial car parking spaces.

2. That conditions 18 and 21 be retained on the consent.

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

ATTACHMENTS

- 1 Consent for LDA2011/0303
- 2 A4 Section 96 Plans
- 3 Map
- 4 A3 Section 96 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

ITEM 4 (continued)

Report Prepared By:

Sandra Bailey
Team Leader - Major Development Team

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 4 (continued)**2. Site** (*Refer to attached map.*)

- Address** : 219 Blaxland Rd, Ryde
- Site Area** : 2520m²
Frontage 46.5m to Blaxland Road and 35.919m to Pope Street.
- Topography and Vegetation** : There is a gentle downward slope of approximately 1 metre from the southwest corner of the site to the northeast corner. There are several trees located along the northeastern and northwestern boundary. These trees will be removed as part of the approved development. The approved development also included sufficient new planting that would provide a replication of the existing canopy cover on the site.
- Existing Buildings** : The site currently comprises a three storey brick commercial building with at grade parking provided.
- Planning Controls Zoning** : B4 Mixed Uses.
- Other** : Ryde Local Environmental Plan 2012
State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
State Environmental Planning Policy (Building Sustainability Index BASIX)
Ryde Development Control Plan 2010

3. Councillor Representations:

Name of Councillor: Councillor Pendleton

Nature of the representation: Call up of the application to the Planning and Environment Committee Meeting.

Date: 6 November 2012

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

On behalf of applicant or objectors? Not stated

ITEM 4 (continued)

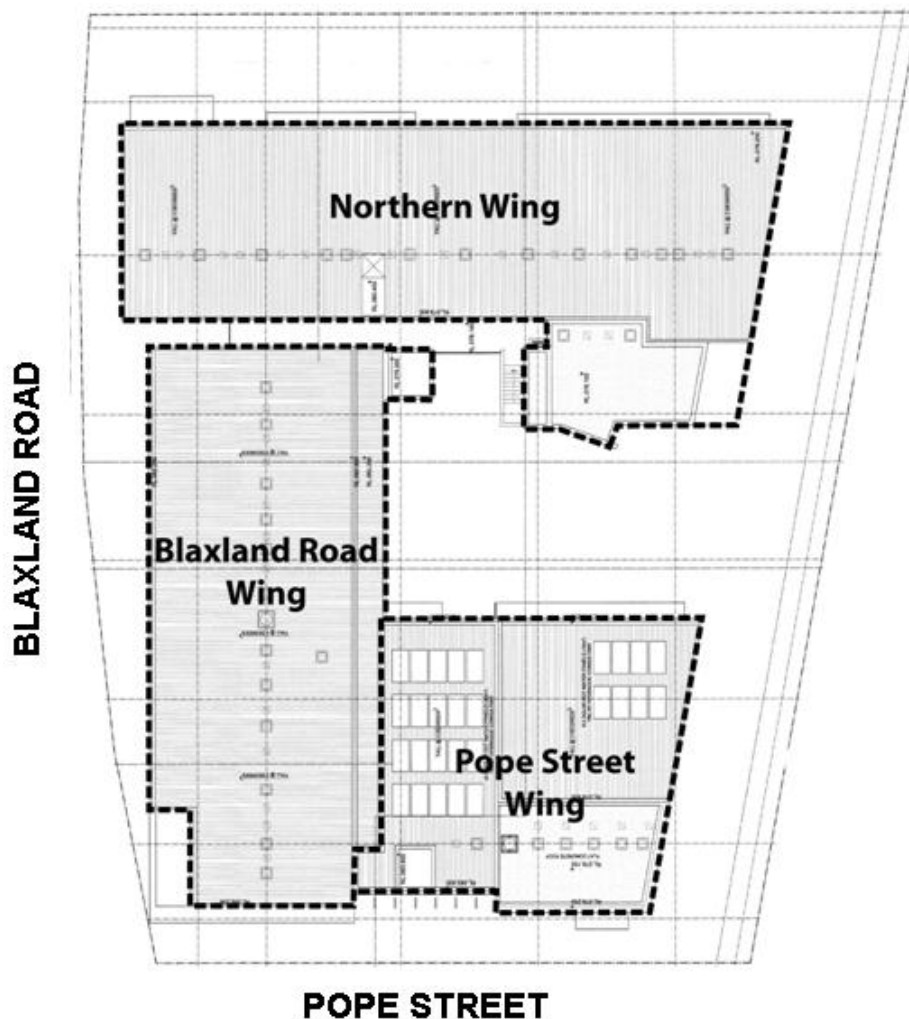
Any other persons (e.g. consultants) involved in or part of the representation: Not stated

4. Political Donations or Gifts

Any political donations or gifts disclosed? No.

5. Proposal

The approved development application involved the demolition of all existing buildings and the construction of a part six and part seven storey mixed use development containing retail/commercial floor space at the ground floor level; 97 residential apartments and parking for 152 motor vehicles over three basement levels. In plan the approved building can be described as being designed into three wings. This is illustrated in the following diagram.



ITEM 4 (continued)

The predominant changes as part of this Section 96(1A) application include changes to the car parking levels with the deletion of one basement level, reconfiguration of the residential apartments, reconfiguration of the ground level to incorporate a second retail tenancy and additional residential units, repositioning of the southern lift core and the deletion of part of the circulation gallery. These changes are discussed in greater detail below.

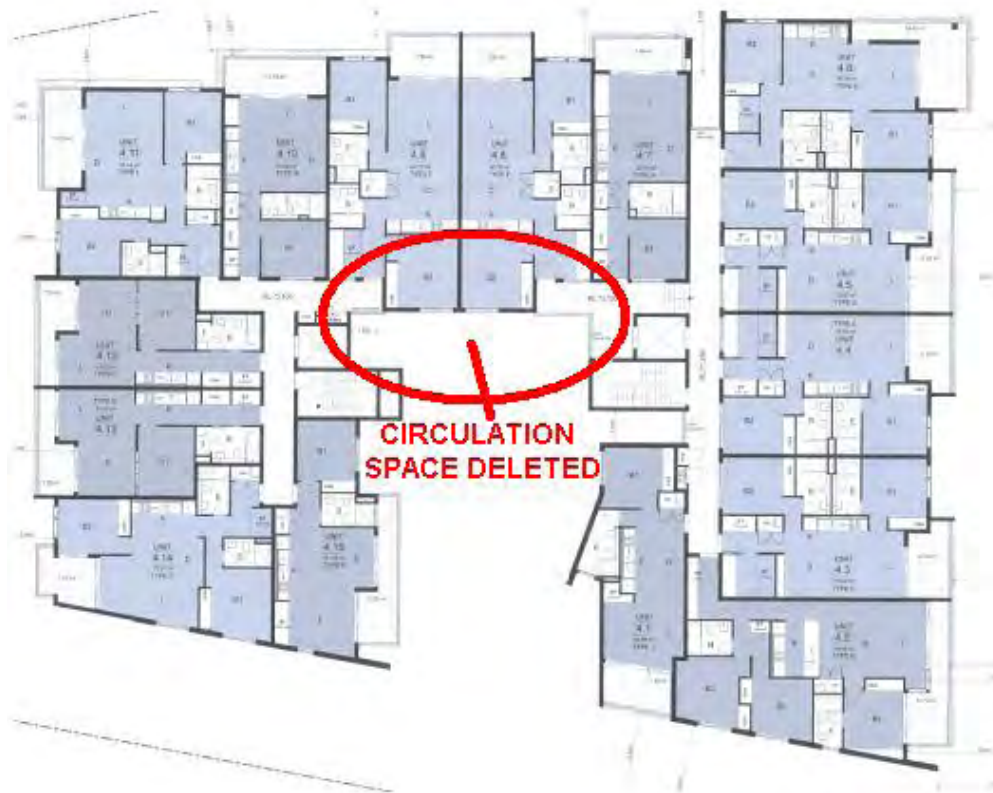
- The approved development proposed three basement car parking levels containing 152 car parking spaces. It is proposed to delete level three which previously proposed 56 car parking spaces. Basement levels one and two are proposed to be reconfigured in terms of the layout of the car parking and the residential storage and the southern lift core and fire stairs will be repositioned. The repositioning of the southern lift core will affect each level of the building. A total of 113 car parking spaces are now proposed. Basement level two will contain 61 spaces (previously 53 spaces) and basement level 1 will contain 52 spaces (previously 43 spaces).
- The commercial/retail area on the ground floor is to be reconfigured. As approved, the development contained 1 tenancy at the corner of Pope Street and Blaxland Road. This has been reduced in size and 3x1 bedroom apartments added. A second tenancy has been added to the Pope Street elevation. This has resulted in the fire stairs and plant room adjacent to Pope Street being relocated to accommodate the second tenancy. This amendment has resulted in the total commercial/retail space being reduced from 201.9m² to 128.69m².
- The approved development included a circulation gallery to allow access to the Blaxland Road wing. This is proposed to be deleted and converted to floor space on levels 1 to 6 of the building. This is demonstrated on the following plans;

ITEM 4 (continued)



Typical floor plan of the proposed development.

ITEM 4 (continued)



Typical floor plan of the Section 96 development.

- The unit mix on each floor is proposed to be amended. As approved the development contained 97 apartments. The amended development will contain 87 apartments. This mix is demonstrated in the following table:

	Approved	Proposed
Studio/1 bedroom	74	30
2 bedroom	22	52
3 bedroom	1	5
Total	97	87

- Modifications are proposed to the screening on the south eastern elevation. As approved, screening was proposed on all levels of the building for all windows on this elevation. The amended development proposes to retain this screening for levels 1 and 2 but delete the screening for levels 3, 4 and 5. This will affect 3 units on each level. This amendment is shown as 1 on the attached Section 96 plans.

ITEM 4 (continued)

- The approved development has a non-uniform setback for each level of the building with parts of the approved building being expressed as either recessed or protruding elements. (This does not occur on the southeast elevation). The amended development proposes to maintain the stepped building form but the building will be changed where it steps in and out. There will however be no changes to the approved minimum setbacks. This amendment is shown as 2 on the attached Section 96 plans.
- The amended development proposes to provide one dual keyed apartment. This will be located on the ground floor (apartment G1). The apartment will operate as either a 3 bedroom apartment or as a studio apartment and a two bedroom apartment. The dual key apartment will be registered on the strata plan as a single apartment. This amendment is shown as 3 on the attached Section 96 plans.
- It is proposed to delete the groove lines around the approved development and replace the metal cladding on the top roof feature band and blade wall with render and paint. This amendment is shown as 4 on the attached plans.

The following table gives a comparison of some of the key statistics for the approved development and current Section 96 application.

Key Development Parameter	Approved	Amended
Land use mix	Commercial/ retail and residential	Commercial/ retail and residential
Gross Floor Area	6462m ² or 2.56:1	6447.22m ² or 2.55:1
Number of Storeys	Blaxland Road Wing – 7 storeys Northern Wing – 6 storeys Pope Street wing – 6 storeys	No change
Maximum height of the building	Blaxland Road Wing – 23 to 24.2m Northern Wing – 18.5 to 20.4m Pope Street wing – 18.9 to 19.8m	No Change
Car parking	152 car spaces	113 car spaces
Unit mix	Studio/1 bedroom – 74 2 bedroom – 22 3 bedroom – 1 Total - 97	Studio/1 bedroom – 30 2 bedroom – 52 3 bedroom – 5 Total - 87
Landscaped area	632m ²	No change

ITEM 4 (continued)

In addition to the above design changes, the applicant has requested changes or deletion to the following conditions of consent. The change to the conditions as requested by the applicant are shown in either strike through or italics.

Condition Number	Proposed Wording of the condition
1 To be amended	Approved plans. This condition is to be amended to reflect the current plans.
18 To be deleted	Provision for installation of kitchen exhaust systems – Adequate provision must be made for the possible future installation of kitchen exhaust systems to the proposed commercial occupancy.
21 To be deleted	Installation of a Grease Trap – A grease trap must be installed if required by Sydney Water Corporation. The grease trap must be located outside the building or in a specially constructed grease trap room and be readily accessible for servicing.
33 To be amended	Stratum Strata Subdivision Plan – A stratum <i>strata</i> subdivision plan in accordance with the approved architectural drawings is to be prepared and submitted to Council for approval prior to the issue of a Occupation Certificate .
34 To be amended	Section 94 Contribution. This condition is to be amended to reflect the current section 94 contribution as required by the amended development.

6. Background

The development application was submitted to Council on 8 June 2011. During the original notification period, 1 submission was received on behalf of the adjoining property owners at 2 Pope Street. Following a preliminary review of the application a letter was sent to the applicant on 4 August 2011 and 26 August 2011 requiring various issues to be addressed. Briefly, these issues included;

- Height - As the development exceeded the 18.5m height control the applicant was required to delete one storey from the northern wing and the eastern portion of the Pope Street wing. This allowed the development to provide a transition in scale between the Top Ryde City Shopping Centre to the south and the adjacent development to the north and east. As a result of this amendment the approved development resulted in the Blaxland Road wing being 7 storeys in height, Pope Street wing as 6 storeys and the Northern Wing as 6 storeys.
- Setbacks - The original plans proposed setbacks of 1.98m to 4m to 2 Pope Street. This was amended to increase the minimum side setback to 2 Pope Street to 6.5m.
- Active street frontage - The ground floor level where the commercial/retail tenancy was proposed was raised so that it is at footpath level with the streets.

ITEM 4 (continued)

- Apartment amenity - The design was amended to ensure the apartments achieved adequate amenity in respect of SEPP 65.
- Potential isolation of 2 Pope Street - Information was provided by the applicant in respect of the history and communication between the then property owner of the subject site and the owners of 2 Pope Street. Based on this information it was concluded that the owners of 2 Pope Street did not wish to consolidate their site into the development site.
- Fencing to the adjoining property at 2 Pope Street - The original plans proposed a solid masonry wall for part of the eastern boundary with 2 Pope Street. This was reduced in height to 1.8 metres.

The amended plans were renotified and Council received no objections to the development.

As the capital investment value of the development exceeded \$10 million, the development was considered to be of regional significance (at the time of lodgement) under Clause 13B of SEPP (Major Developments) 2005. The consent authority for the purposes of determining the development application was the Sydney East Region Joint Regional Planning Panel (JRPP). The development application was approved by the JRPP on 2 November 2011.

The current Section 96 application was submitted to Council on 16 October 2012. As the application is a Section 96(1A) application, it can be determined by Council rather than the JRPP.

7. Policy Implications**Matters for consideration pursuant to Section 96(1A) Environmental Planning and Assessment Act, 1979:**

The provisions of Section 96(1A) of the Environmental Planning and Assessment Act, 1979 allow a consent authority to modify the consent where the application meets the following criteria: -

- (a) The proposed development is of minimally environmental impact.
- (b) The development to which the consent as modified relates is substantially the same development.
- (c) The application has been notified in accordance with the regulations.
- (d) Submissions made during the prescribed notification period have been considered.

ITEM 4 (continued)

These issues are discussed below:

(a) The proposed development is of minimally environmental impact.

The amended development will result in a similar building envelope to the approved development and there will be no changes to the uses within the building. In these circumstances, the amended development will result in minimal environmental impact.

(b) The development to which the consent as modified relates is substantially the same development.

Under Section 96(1A)(b) Council must be satisfied that the development as modified is substantially the same as was approved in the original consent. In arriving at this determination there should be no consideration of the merits of the proposal but rather a straight before and after comparison. If it is determined to be substantially the same then the proposed modifications need to be assessed on their merits having regard to submissions received and any relevant council planning controls.

There have been a number of decisions in the Land and Environment Court that have addressed the issue of whether a development is substantially the same development as previously approved. In Vacik Pty Limited v Penrith City Council (1992 NSWLEC 8 (24 February 1992) Stein J said:

“In my opinion ‘substantially’ when used in this section means essentially or materially or having the same essence.”

In Moto Projects (no 2) Pty Limited v North Sydney Council (1999) 106 LGERA 298, Bignold J made the following observations:

“The relevant satisfaction required by s96(2)(a) to be found to exist in order that the modification power be available involves an ultimate finding of fact based upon the primary facts found. I must be satisfied that the modified development is substantially the same as the originally approved development.

The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is ‘essentially or materially’ the same as the approved development.

The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where the comparative exercise is undertaken in some type of sterile vacuum. Rather the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)because the requirements of s96(2)(a) calls for an ultimate factual finding on the primary facts of the case, only illustrative assistance is to be gained from consideration of other cases involving their own factual

ITEM 4 (continued)

findings on relevant satisfaction required by s96(2)(a). References to those cases indicates that environmental impacts of proposed modifications to approved developments are relevant to the ultimate factual finding.”

In determining if a development application is substantially the same as the approved development, the question is whether such changes result in it being able to be said that the modified development is essentially or materially the same as the approved development. The Land and Environment Court has also found that the more substantial or complex the original development, the more likely it is that a larger degree of change will be permitted.

In quantitative terms the amended development will have the same height and generally the same setbacks and floor space as the originally approved development. In addition the amended development still maintains the same land use as the approved development. There are no changes to the pedestrian and vehicular access arrangements and the amended development retains the courtyard apartment layout with the residential uses wrapped around the communal open space in a ‘C’ configuration.

A comparison of the resulting elevations by reference to the approved and proposed plans indicates a substantial degree of similarity. This is based on the overall design, scale and form of the development not being substantially altered by the development.

The major change in terms of the amended development compared to the approved development relates to the number of units and car parking spaces. The number of units will be reduced from 97 apartments to 87 apartments and car parking reduced from 152 car spaces to 113 car spaces. Despite this change, the essential elements of the development will not be changed.

Based on the above the amended development is considered to be substantially the same development as the approved development.

(c) Advertising and Submissions

The Section 96 application was advertised in accordance with Council’s notification requirements for a period of 14 days between 14 November 2012 and 28 November 2012. During this time, one submission was received. This objection letter was on behalf of the owners of the adjoining property at 2 Pope Street and the letter of objection is similar to the letter of objection in respect of the original development application. Many of the issues raised in this letter of objection made reference to the original DA scheme rather than what was approved by the JRPP or the current Section 96 application.

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The issues raised in this letter included the following:

- *The proposal is deficient in terms of information required. No public art plan, energy efficiency performance report, details of fencing or mechanical ventilation plant has been provided.*

Comment: This is not a relevant matter for the current Section 96 application. These matters were addressed in the original DA assessment. The public art plan and details of the mechanical ventilation plant were required to be provided as conditions of consent. These conditions will not be amended as a result of the Section 96 application. The requirements of BASIX override the requirement for an energy efficiency report for the proposed development. Fencing details adjoining 2 Pope Street were provided on the amended plans that ultimately were readvertised and approved by the JRPP. This application proposes no changes to these aspects of the development.

- *Height is excessive and fails to relate to the context of the site. It also fails to comply with the maximum building height in LEP 2010.*

Comment: The height of the development will not be amended by the Section 96 application. During the assessment of the original application the height of the Northern Wing and the Pope Street Wing were reduced by one storey. This resulted in the development providing an acceptable transition in scale between Top Ryde City Shopping Centre to the south and the adjacent developments to the north and the east. As the height is not being changed, this is not a relevant issue for the Section 96 application.

- *Due to the height of the development, it will adversely impact on the amenity of 2 Pope Street in terms of overshadowing and privacy.*

Comment: As the height of the development is not being amended, there will be no further overshadowing to the adjoining property. The setback to 2 Pope Street also is not being amended so the development will retain adequate separation and privacy.

- *The development fails to provide adequate natural ventilation to the apartments as many apartments are single aspect with no cross flow ventilation.*

Comment: 90% of the apartments in the amended layout will be cross ventilated. This significantly exceeds the SEPP 65 requirement of 60%. Only nine apartments or 10% have a southerly aspect. This complies with the SEPP 65 requirements.

ITEM 4 (continued)

- *The development is inconsistent with the zone objectives.*

Comment: The objector has stated in their objection letter that the development is inconsistent with the zone objectives due to height, setbacks, and building form and that the development will not create a safe pedestrian environment due to the vehicular access. These aspects are not proposed to be changed as a result of the Section 96 application. This is not a relevant issue to the current Section 96 application.

- *The development will isolate 2 Pope Street rendering it undevelopable.*

Comment: This objection related to the original development application rather than the current Section 96 application. During the assessment of the original development application, the side boundary setback from 2 Pope Street was increased to a minimum of 6.5m. This will allow future building separation between the site and future development of the adjoining property, allowing for sufficient development opportunity of 2 Pope Street. In addition, during the original assessment of the DA, information was provided by the applicant which demonstrated the history and communication between the then property owner of the subject site and the owners of 2 Pope Street. Based on this information, it was concluded that the owners of 2 Pope Street did not wish to consolidate their site into the development site.

- *No details have been provided in terms of lighting to be installed within the building and parking areas. As proposed the development does not enhance the safety and security of common spaces.*

Comment: Conditions of consent were imposed to require under awning lighting, basement lighting as well as lighting in the common areas. These conditions are not proposed to be amended as a result of the Section 96 application.

- *The layout of apartments is poorly designed and will be difficult in terms of furniture layout.*

Comment: The layout of the apartments in the amended design will comply with the SEPP 65 requirements.

- *The development proposes a 3 m setback adjacent to 2 Pope Street for a 7 storey building. This is inappropriate and the height should be reduced and setback increased.*

Comment: This issue refers to the originally exhibited plans. As part of the DA assessment this setback was amended to 6.5 metres. The current Section 96 application does not propose to amend the approved setbacks.

ITEM 4 (continued)

- *Concerned that the loading dock is located adjacent to 2 Pope Street. Conditions should be imposed limiting the use of the dock to 7.30am to 7pm Monday to Friday.*

Comment: The location of the loading dock is not proposed to be amended. Given the size of the commercial/retail spaces, the development is unlikely to result in excessive use of the loading dock. No conditions of consent restricting the hours of operation of the loading dock were proposed in the original application. As the amount of commercial/retail floor space will be reduced as part of the Section 96 application, it is not intended to impose any restrictions on the use of the loading dock.

- *Development fails to comply with the housing mix required in the DCP.*

Comment: This concern related to the original approval. The amended development complies with the housing mix required by the DCP.

- *The development needs to provide more car parking spaces in order to comply with the DCP requirements.*

Comment: The amended development complies with Council's DCP requirements in respect of car parking.

Relevant Provisions of Environmental Planning Instruments etc:**Ryde Local Environmental Plan 2010****Clause 2.3 Zone Objectives and Land Use Table**

The site is zoned B4 Mixed Uses under the provisions of the LEP. The amended development is a permitted form of development in this zoning.

The objectives of the B4 Mixed Use Zone are as follows:

- To provide a mixture of compatible land uses;
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximize public transport patronage and encourage walking and cycling;
- To create vibrant, active and safe communities and economically sound employment centres.
- To create safe and attractive environments for pedestrians.
- To recognize topography, landscape setting and unique location in design and land use.

ITEM 4 (continued)

The amended development will satisfy the above zone objectives. The amended development still proposes a mixed use development consisting of commercial/retail and residential uses which is appropriate for the site being located in a town centre. The provision of the second commercial/retail tenancy along Pope Street is an improvement from the approved development as it will provide greater activation and safety for pedestrians.

Clause 4.3 Heights of Buildings

The maximum height permitted under the RLEP 2010 is 18.5 metres. During the assessment of the original development application, height was an issue, and the applicant was requested to reduce the height of the Northern wing and the eastern portion of the Pope Street wing in order to provide a transition in scale between Top Ryde City Shopping Centre to the south and the adjacent developments to the north and the east. The building height ranged from 18.5m to 24.2m and the applicant submitted a Clause 4.6 variation to the height standard. The following diagrams demonstrate the height non-compliance.



North-west elevation (Blaxland Road) showing the approved non compliance with maximum 18.5 metre height control.

ITEM 4 (continued)



South-west elevation (Pope Street) showing the approved non compliance with the maximum 18.5 metre height control.

The variation to the height control was approved by the JRPP.

The height of the building will not be modified as a result of this Section 96 application.

Clause 6.7 Planning Controls for Ryde Town Centre

Development consent must not be granted for development on land in a precinct shown on the Ryde Town Centre Precincts Map unless the consent authority is satisfied that the development complies with the planning controls for the precinct set out in Schedule 6. No specific controls are provided for the ‘Commercial Edge North’ Precinct 6.

Relevant SEPPs

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development

SEPP 65 relates to the design quality of residential flat developments. The SEPP includes 10 design quality principles that are applicable to residential flat buildings. Due to the nature of the proposed amended development some of these design principles are not applicable. The relevant principles are discussed in the following table.

Planning Principle	Comment	Comply
<p>Resource, energy and water efficiency Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the</p>	<p>The applicant has provided a BASIX Certificate (No. 447714M dated 5 October 2012) which indicates that the amended residential component of the building will meet the energy and water use targets set by the BASIX SEPP.</p>	<p>Yes</p>

ITEM 4 (continued)

Planning Principle	Comment	Comply
design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.	The amended design has also ensured the development will comply with the passive solar design principles, soil depth, cross ventilation and reuse of water as provided in the Residential Flat Design Code.	
Amenity Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.	The amended design and orientation of the units allows for sufficient levels of amenity for the occupants of the proposed building and the adjoining developments. Units are practically laid out to provide for solar access, private open space, storage space and to minimise overlooking and noise impacts. The development complies with the controls contained in the Residential Flat Design Code in respect to apartment sizes, access to sunlight, ventilation, visual and acoustic privacy, storage and access requirements.	Yes
Social Dimensions and Housing Affordability Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community. New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of	The development will include the following housing mix: <ul style="list-style-type: none"> • 30 x studio/1 bedroom apartments; • 52 x 2 bedroom apartments; • 5 x 3 bedroom apartments. The amended mix is more diversified than the approved mix. This mix will result in an affordable range of housing which should attract single, couples and possibly family occupants alike into an area which is highly accessible to public transport and local shopping. In this regard, as a guide the Housing NSW Centre for Affordable Housing suggests 1 and 2 bedroom apartments contribute	Yes

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Planning Principle	Comment	Comply
housing types to cater for different budgets and housing needs.	towards achieving housing affordability.	

The SEPP also requires the Council to take into consideration the requirements of the Residential Flat Design Code. The following matters are relevant to the Section 96 application.

Primary Development Control and Guidelines	Comments	Comply
Part 01 – Local Context		
Building Depth In general, an apartment building depth of 10-18 metres is appropriate.	The amended layout complies with the building depth of between 10 to 18 metres.	Yes
Building Separation Building separation for buildings up to 4 storeys should be: -12m between habitable rooms / balconies -9m between habitable / balconies and non-habitable rooms -6m between non-habitable rooms. Developments that propose less distance must demonstrate that adequate daylight access, urban form and visual and acoustic privacy has been achieved.	Internally, there will be no change to the approved building separation between the Northern Wing and the Pope Street Wing. The amended development has also retained the 6.5m separation distance to the eastern boundary. There are some minor modifications to the footprint of the building along the northern elevation which will affect where the building steps in and out. There will however be no changes to the approved minimum setback. The amended development will still retain adequate building separation with the residential flat buildings to the north of the site. The development will be separated 16.85m from the RFB at 2 Curzon Street, 13.85m from the RFB at 4 Curzon Street and 9.85m from the RFB at 6 Curzon Street. 6 Curzon Street contains no windows in the building elevation closest to the site, so there will be no adverse impacts as a consequence of the building separation.	Yes
Street Setbacks Identify the desired streetscape character. In general, no part of	The DCP requires a 3m setback for the ground floor for the Pope Street and Blaxland Road elevation. The	Yes

ITEM 4 (continued)

Primary Development Control and Guidelines	Comments	Comply
the building should encroach into a setback area.	development complies with this requirement. The DCP does not specify a setback for the upper levels of the building. Along Pope Street the amended development has been set back between 3m and 4.3m. Several balconies encroach this setback to 2m. This is reasonably consistent with the approved development. The amended development also reflects the approved setback along Blaxland Road.	
Side and Rear Setbacks Relate side setbacks to existing streetscape patterns. These controls should be developed in conjunction with building separation, open space and deep soil zone controls. In general, no part of the building should encroach into a setback area.	The minimum side setback under the Ryde DCP to the northern boundary is 3m. The amended development exceeds this requirement. There is no setback requirement to the eastern boundary. The amended development has however retained the approved 6.5m setback to the eastern boundary.	Yes
Part 02 – Site Design		
Deep Soil Zones A minimum of 25% of the open space area of a site should be deep soil zone.	The amended development will not affect the approved deep soil zones.	Yes
Orientation Optimise solar access to living areas and associated private open spaces by orientating them to the north.	The amended development will still achieve solar access to the private open spaces and living areas to 68 of the 87 apartments (78%), achieving adequate solar access.	Yes
Pedestrian Access Provide high quality accessible routes to public and semi-public areas of the building and the site. Maximise the number of accessible, visitable and adaptable apartments in the building.	The amended development has retained the same pedestrian access to the development as the approved development. The number of adaptable apartments within the development is 9 which is consistent with the Council's DCP requirements.	Yes
Part 03 – Building Design		
Apartment Layout Single aspect apartments should be limited in depth to 8m from a window.	The amended layout will still ensure all of the apartments exceed the minimum sizes. Apartments 1.12 and 1.13 (and both of these apartments on	Yes

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Primary Development Control and Guidelines	Comments	Comply
The minimum sizes of the apartments should achieve the following; 1 bedroom – 50m ² 2 bedroom – 70m ² 3 bedroom – 95m ²	the levels above) are both single aspect apartments. These apartments have a maximum depth of 11m. That part of the apartment which exceeds the 8m depth from a window is occupied by a bathroom and storage area. This is unlikely to affect the amenity of the apartments.	
Apartment Mix The development should provide a variety of types.	The amended development has provided a greater mix of apartments than the approved development. The number of 1 bed/studio apartments has been reduced and more 2 bedroom apartments proposed. The mix is consistent with Council's requirements.	Yes
Ground Floor Apartments Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	The approved development proposed 6 ground floor apartments. The amended development proposes 8 ground floor apartments. As with the approved development all of these apartments are accessed from the communal open space area rather than directly from the street. This is consistent with the character of the area as surrounding residential flat buildings are accessed from the common areas rather than directly from the street.	Yes
Internal Circulation In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.	The development provides two separate circulation spaces. The maximum number of apartments accessed from either of these spaces is eight.	Yes
Storage In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: • studio apartments - 6.0m ³ • one-bedroom apartments - 6.0m ³ • two-bedroom apartments - 8.0m ³	The amended layout complies with the storage requirements. In most cases adequate storage is provided within the apartment. For those apartments that do not provide the required storage inside the apartment, space has been provided within the basement.	Yes

ITEM 4 (continued)

Primary Development Control and Guidelines	Comments	Comply
<ul style="list-style-type: none"> • three plus bedroom apartments - 10m³ 50% of the above areas may allocated within each respective apartment while the remaining 50% is to be located within the car parking area.		
Acoustic Privacy Apartments within a development are to be arranged to minimise noise transitions.	The approved development required the development to comply with the recommendations contained in an acoustic report prepared by Acoustic Logic Consultancy (Condition 7). This report has been amended to reflect the proposed layout. Minimum glazing requirements will be required to achieve the recommended internal sound levels. Condition 7 will be amended to include reference to the amended Acoustic Glazing Report.	Yes
Daylight Access Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9.00am and 3.00pm in mid winter. Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed.	68 apartments will achieve the minimum of three hours direct sunlight. This equates to 78%. Only 10% or 9 apartments have a southerly aspect. The development complies with these requirements.	Yes
Natural Ventilation Building depths which support natural ventilation typically range from 10 to 18 metres. 60% of residential units should be naturally cross ventilated. 25% of kitchens should have access to natural ventilation.	The apartment depths range from 9.4m to 12m. 90% of the apartments are cross ventilated. 40% of the kitchens are naturally ventilated. The development complies with these requirements.	Yes
Facades Facades are to be of appropriate scale, rhythm and proportion which responds to the building's use and the desired contextual character.	The facades are similar to the approved development. The non-uniform setback with the use of recessed and protruding elements adds interest in the elevations. The amended development proposes to	Yes

ITEM 4 (continued)

Primary Development Control and Guidelines	Comments	Comply
	delete the groove lines around the approved building and replace the metal cladding on the top roof features band and blade wall with render and paint. This will not significantly alter the facades of the building and the facades will still respond to the building's use and the character of the area.	

State Environmental Planning Policy (Building Sustainability Index: BASIX)

The applicant has provided a new Basix Certificate in respect of the amended development which demonstrates that the development will have a satisfactory target rating.

Condition 40 will be required to be amended to reflect the new Basix Certificate.

Relevant REPs

There are none that affect this application

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 B4 Mixed Use. The amended development is permissible with consent within this zoning under the Draft LEP, and it is considered that the amended development is not contrary to the objectives of the Draft LEP or those of the proposed zoning.

Any DCP
Part 4.4 of RDCP 2010 - Ryde Town Centre Control

This Part of the DCP aims to facilitate the revitalisation of Ryde Town Centre as a vibrant, attractive and safe urban environment with a diverse mix of retail, commercial, and leisure opportunities. Many of the requirements of the DCP are not applicable as the development involves a Section 96 application. The following table demonstrates the relevant provisions of the DCP and the proposals compliance with these requirements.

ITEM 4 (continued)

Ryde DCP 2010	Comments	Comply
<p>3.2 Environmental management and the public domain</p> <ul style="list-style-type: none"> • Provide solar access to no less than 80% of the ground floor plane for at least 2 hours between 10am and 2pm on 21 June to identified public domain areas, plazas and squares. • Building is to minimise adverse wind effects on public open spaces. The orientation, height and form of a development are to be designed to promote public safety and comfort at ground level. Awnings and galleria are to be provided if necessary for pedestrian comfort. Council may require an assessment of wind impacts and a statement of commitment regarding wind mitigation measures. • Building design should ensure that summer breezes are not blocked to private open space as well as the public domain. 	<p>The building envelope will not be significantly amended as a result of the Section 96 application. In addition the overall height of the building will not be changed. The amended development will not result in any additional overshadowing to the public domain areas including the Top Ryde City Piazza.</p> <p>The amended development will not result in any further wind impacts on the public open spaces.</p> <p>The amended development will still provide weather protection for the commercial/retail tenancy as well as to the residential building entrance.</p>	<p>Yes</p>
<p>3.3 Active frontage</p> <ul style="list-style-type: none"> • Provide ground level active uses where indicated on the Active Frontage Control Drawing. • Active uses contribute to personal safety in the public domain and comprise: <ul style="list-style-type: none"> - Community and civic uses facilities 	<p>The Active Frontage Control Drawing requires an active frontage along Pope Street and Blaxland Road. The approved development provided the active frontage for half of Blaxland Road and Pope Street. The amended development aims to improve the active frontage along Pope Street by the provision of the second commercial/retail tenancy. The size of the commercial tenancy on the corner</p>	<p>Yes</p>

ITEM 4 (continued)

Ryde DCP 2010	Comments	Comply
<ul style="list-style-type: none"> - Recreation and leisure - Shops - Commercial premises - Residential uses, however these should not occupy more than 20% of the total length of each street frontage. • Where required, active uses must comprises the street frontage for a depth of at least 10 metres. • Vehicle access points may be permitted where Active Frontage is required if there is no practicable alternatives. • Ground level shop fronts may incorporate security grills provide light falls onto the footpath and the interior of the shop is visible. Blank roller shutter type doors are not permitted. 	<p>of Blaxland Road and Pope Street has been reduced with three residential apartments being provided along the Blaxland Road frontage. This tenancy however will still address both street frontages. Activation of Pope Street is considered more important than the activation of Blaxland Road. The amended development will improve the activation of Pope Street and this amendment is supported.</p> <p>The new commercial tenancy has a depth of 5m rather than 10m. As the tenancy is setback 4m from Pope Street there is the opportunity for the tenancy to open onto an outdoor court which would complement and enhance the future tenancy. The depth is adequate to ensure the tenancy can still be utilised.</p>	
<p>3.4 Awnings and entry canopies</p> <ul style="list-style-type: none"> • Awning height is to be generally a minimum of 3 metres from the pavement and set back 600mm from the Kerb Edge. • Design awnings to protect from the sun and rain. 	<p>The development has proposed two entry canopies over the residential entries to the building. In addition an awning is proposed along most of the Pope Street elevation. This awning is set back 1.5m from the Pope Street boundary. These features will ensure that the future occupants of the building will be adequately protected from sun and rain.</p>	Yes
<p>3.5 Access and the public domain</p> <ul style="list-style-type: none"> • If required by Council, footpath improvements in accordance with the Ryde Town Centre Public Domain 	<p>The development consent already includes conditions in respect to the upgrading of the public domain. These conditions will not be changed as a result of the current application.</p>	Yes



ITEM 4 (continued)

Ryde DCP 2010	Comments	Comply
<p>Plan are to be implemented by the Developer.</p> <ul style="list-style-type: none"> All development must comply with Australian Standards 1428 and Part 9.2 of the DCP with respect to accessibility. Vehicular traffic must be separated from pedestrians and vehicular access points clearly identified with paving, signage and the like. Loading docks must be located so that vehicles do not stand on any public road, footway, laneway or service road and vehicles entering and leaving the site move in a forward direction. 	<p>A condition has been imposed on the consent to ensure that prior to the issue of a Construction Certificate, a report is provided from an appropriately qualified person to confirm that the development complies with AS1428 and Part 9.2 of the DCP. This is not proposed to be changed as a result of the section 96 application.</p> <p>No changes are proposed to the vehicular access or loading dock location.</p>	
<p>4.3 Setbacks and Built-to Lines</p> <ul style="list-style-type: none"> Building setbacks at the ground level must comply with the Setbacks Control Drawing, which stipulates 3 metres from the Pope Street and Blaxland Road boundaries, and 3 metres from the northern boundary. There is no setback control to the eastern boundary. 	<p>This control relates to the ground level of the building only. The amended development complies with the minimum setbacks. The ground floor does not significantly change from the approved development.</p>	Yes
<p>4.3 Building depths</p> <ul style="list-style-type: none"> All occupied points on a commercial floor shall not be more than 15 metres from a source of daylight. The preferred maximum depth of office buildings with openings on one side is 15 metres. 	<p>The commercial tenancies have a depth of 7.7m or 5m. This is less than the maximum 15m recommended and is therefore considered acceptable with respect to natural daylight penetration.</p> <p>The amended layout complies with the building depth of between 10 to 18 metres.</p>	Yes

ITEM 4 (continued)

Ryde DCP 2010	Comments	Comply
<ul style="list-style-type: none"> The maximum overall depth of residential buildings is 18 metres unless design excellence can be demonstrated and natural ventilation is achieved. 		
<p>4.4 Architectural and design quality</p> <ul style="list-style-type: none"> Development on corners must address all street frontages. Entries, windows and other architectural elements should be placed to reinforce the corner. Provide building articulation elements including awnings, verandahs, decks, loggias, pergolas, bay windows and recessed doors. Windows and entries shall be placed to overlook public spaces and streets to provide surveillance opportunities. Balconies may not be continuous along the whole length of building facades. Provide solar protection, including awnings, recessed windows, roof overhangs, external shutters and screens to the western and northern elevations of buildings. The material quality of all buildings and structures shall be to the satisfaction of the Council. In the opinion of Council building materials, external cladding and glazing shall not result in glare that causes discomfort 	<p>The amended development addresses Blaxland Road as well as Pope Street with a separate pedestrian entry on each elevation. The development adequately addresses both street frontages.</p> <p>The amended development still provides adequate building articulation elements by the use of varied setbacks, balconies and the awning. The balconies are not continuous along the length of the building.</p> <p>The development will still provide solar protection to the balconies and apartments on the north eastern and north western elevation of the building.</p> <p>The Section 96 proposes a minor amendment to the materials and finishes. This involves deleting the groove lines around the approved development and replacing the metal cladding on the top feature band and blade wall with render and paint. This change will not result in any unreasonable glare. The following diagram demonstrates the external appearance of the building as viewed from Blaxland Road.</p>	<p>Yes</p>


ITEM 4 (continued)

Ryde DCP 2010	Comments	Comply
<p>or threatens the safety of pedestrians or motorists.</p>	 <p>Approved development.</p>  <p>Amended development.</p> <p>The amended development has been assessed against the provisions of SEPP 65 and the RFDC and is provided earlier in this report. The amended proposal is considered acceptable against SEPP 65 Design Principles and RFDC Guidelines.</p>	
<p>6.1 Environmental management</p> <ul style="list-style-type: none"> Development is to comply with Part 7.1 Energy Smart Water Wise of this DCP. 	<p>The amended development is consistent with the BASIX SEPP. A new BASIX Certificate has been submitted which demonstrates that the amended development will achieve the requirements for water, thermal comfort and energy.</p>	<p>Yes</p>
<p>Clause 6.5 Alternatives to Private Vehicle Transport</p> <ul style="list-style-type: none"> Provide secure bicycle parking in every building with on-site parking equal in area to 1 car-space for every 100 car-spaces or part thereof. Council may 	<p>Based on 113 car parking spaces, an area equivalent to one car parking space for bicycles has been provided. This will accommodate 12 bicycles. The development complies with Council's requirements. Condition 149 required the provision of 14 bicycle parking rails or lockers. As a result of</p>	<p>Yes</p>

ITEM 4 (continued)

Ryde DCP 2010	Comments	Comply
<p>consider a lesser rate for retail and commercial development exceeding 10,000sqm, subject to the bicycle parking being suitably located and designed within the development.</p> <ul style="list-style-type: none"> • Provide secure bicycle storage in all residential development. 	<p>the reduced car parking numbers, it will be necessary to amend this condition to require the provision of 12 bicycle rails or lockers.</p>	
<p>Fences</p> <ul style="list-style-type: none"> • Front fencing may only occur in the Precincts 4 and 6 where front setbacks are required. • The maximum height of front fences is 1.0 metres above the footpath level. • Fences should: <ul style="list-style-type: none"> - Be integrated with the building and landscape design through the use of materials and detailing. - Highlight building entrances, and allow for outlook and street surveillance. - Conform with the predominant character of fences in the street. • Fences should be integrated with the building and landscape design through the use of materials and detailing. • Fences may be solid or transparent but may not be constructed of sheet metal, Colorbond Trimdeck and the like. 	<p>The site is located in Precinct 6. Fences are proposed within the front setback along Blaxland Road. This fencing has a height of 1.5m which exceeds the control. The fence however has been setback from Blaxland Road by 0.8m and landscaping is proposed in front of the wall. This will soften the appearance of the wall while providing privacy for the apartment. The materials proposed for the fencing are also integrated with the building. This is an acceptable solution.</p>	<p>Yes</p>

ITEM 4 (continued)

Ryde DCP 2010	Comments	Comply
<p>7.3 Visual privacy</p> <ul style="list-style-type: none"> Ground floor residential development may be permitted provided that the floor level is elevated 600mm to 1200mm above street level/ground level and no bedrooms are located along the street frontage. Direct overlooking of rooms and private outdoor space of on-site or neighbouring housing, including housing within the same development is to be minimised through: <ul style="list-style-type: none"> - Building layout. - Location and design of windows and balconies. 	<p>The approved development only provided 1 residential apartment on the ground floor which faced Blaxland Road. This will be increased to 4 apartments as part of the amended development. Of these apartments, only one bedroom window will face Blaxland Road. Landscaping is proposed at the front of the window to ensure that the privacy will be retained. This is demonstrated in the following diagram.</p>  <p>The amended development proposes to delete the screening to the windows on the south eastern elevation on levels 3, 4 and 5. The screening at the lower levels is proposed to be retained in order to ensure adequate privacy between the proposed development and the adjoining development on 2 Pope Street. The deletion of the screening from the higher levels will not result in overlooking to 2 Pope Street due to the difference in the height of the two buildings. No objection is raised to this amendment.</p>	<p>Yes</p>
<p>7.6 House choice</p> <ul style="list-style-type: none"> Development should provide a diverse mix of dwellings, generally within the following ranges. <ul style="list-style-type: none"> 3 bedroom: 5-35% 2 bedroom: 40-80% 	<p>The approved development failed to comply with the required mix with the majority of apartments being 1 bedroom. The unit mix will be amended as part of the Section 96 application. The amended development provides the following housing mix:</p>	<p>Yes</p>

ITEM 4 (continued)

Ryde DCP 2010	Comments	Comply
1 bedroom and studio: 5-35%	1 bedroom / studio: 30 (34.5%) 2 bedroom: 52 (59.7%) 3 bedroom: 5 (5.8%) This unit mix is consistent with the DCP requirements.	
8.6 Precinct 6 – Commercial Edge North The objectives of this precinct are: <ul style="list-style-type: none"> • To create an appropriate transition between the Ryde Town Centre and adjoining residential areas. • To encourage appropriate development on Devlin Street. • To create a vibrant, active and safe pedestrian environment in Pope and Smith Streets. 	The amended development is still consistent with the objectives of the precinct. The built form will still provide an appropriate transition between the Top Ryde Shopping Centre to the south and adjoining residential flats to the north. The approved heights provides a scale of transition from south to north. The amended development incorporates additional active street frontage to Pope Street by the provision of an additional commercial tenancy. This will encourage Pope Street to become more vibrant, active and safer for pedestrians.	Yes

Part 9.3 of DCP 2010 Car Parking

The DA was approved by the JRPP on 2 November 2011. At this time car parking was determined based on the previous DCP requirements. The DCP requirements were amended by Council on 22 November 2011. These amendments reduced the amount of car parking required for the development. As part of the section 96 application car parking is to be reduced to reflect the current DCP requirements. Council's current rates are as follows:

Commercial – 1 space per 40sqm gross floor area

Residential:

- 1 bedroom – 0.6 space to 1 space per dwelling
- 2 bedroom – 0.9 space to 1.2 spaces per dwelling
- 3 bedroom – 1.4 spaces to 1.6 spaces per dwelling
- Visitors – 1 space per 4 dwellings

The minimum car parking required for the residential component is 72 spaces and 18 visitor spaces. The maximum car parking would be 101 resident spaces and 18 visitor spaces.

ITEM 4 (continued)

The commercial tenancies would require 4 car parking spaces.

Combining this results in the minimum car parking required being 94 car parking spaces and the maximum car parking required being 123 spaces. As the development proposes a total of 113 off street parking spaces, it satisfies Council's requirements.

Condition 150 on the development consent required 152 off street car parking spaces. This condition is proposed to be amended to read as follows:

150. 113 off street car spaces being provided in accordance with the submitted plans. Such spaces are to be paved, line marked and made freely available at all times during business hours of the site for staff and visitors. These spaces are to be allocated as follows:

- i. 91 spaces for the residents
- ii. 18 residential visitor spaces
- iii. 4 commercial car parking spaces.

Section 94 Development Contributions Plan 2007 (Amendment 2010)

Development Contributions Plan 2007 (2010 Amendment) allows Council to impose a monetary contributions on developments that will contribute to increased demand for services as a result of increased development density / floor area.

Condition 34 on the development consent required the payment of Section 94 Contributions. As a result of the Section 96 application, the Section 94 is required to be amended. The amended development requires the following Section 94 contributions:

Contribution Plan	Contributions	Total
Community and Cultural Facilities	\$216,406.86	
Open Space and Recreation Facilities	\$520,999.65	
Civic and Urban Improvements	\$184,791.36	
Roads and Traffic Management Facilities	\$25,240.88	
Cycleways	\$15,743.70	
Stormwater Management Facilities	\$49,468.67	
Plan Administration	\$4,245.68	
Grand Total		\$1,016,896.81

It is proposed to amend Condition 34 to reflect the above amounts.

ITEM 4 (continued)**8. Likely impacts of the Development****(a) Built Environment**

The Section 96 application will not result in any further impacts to the built environment.

(b) Natural Environment

The proposed modifications do not impact on the landscaping and other measures included in the original consent.

9. Suitability of the site for the development

The site is considered suitable for the amended development.

10. The Public Interest

The amended development is considered to be in the public interest.

11. Proposed Amendments to the Conditions of Consent

As part of the Section 96(1a) application the applicant has requested variations or the deletion of certain conditions on the consent. In addition, as a result of the Section 96 certain other conditions are required to be amended. These conditions are discussed below:

Condition 1 Approved Plans

It is proposed to amend this condition to reflect the current plans. This amendment is supported.

Condition 7 Road Traffic Noise

Condition 7 required the development to comply with the Australian Standard for acoustic levels for developments adjacent to major roads as well as the acoustic report submitted by the applicant for the original development. Due to the amended layout the acoustic report has been updated. Condition 7 will be amended to reflect the revised report.

Condition 18 Provision for installation of kitchen exhaust systems

At this stage the intended use of the commercial/retail tenancy is not known. In the past it has been impossible or difficult to retrofit a building to provide for a kitchen exhaust system if the use requires it. For this reason, the condition of consent was imposed. Unless the use of the tenancies is known, this condition will remain on the consent. The applicant has been advised of this situation and has agreed to the retention of the condition.

ITEM 4 (continued)**Condition 21 Installation of a grease trap**

As detailed above, if the intended use of the building requires a grease trap it can be impossible to provide after the building has been built. Unless the use of the tenancies is known, this condition will remain on the consent. The applicant has been advised of this situation and has agreed to the retention of the condition.

Condition 33 Stratum Subdivision Plan

The original condition of consent referred to the submission of a stratum subdivision plan. This should have read strata rather than stratum. The amendment to this condition will correct this error.

Condition 34 Section 94 Contributions

Condition 34 related to the required Section 94 Contributions to be paid for the development. The figures in this condition are to be amended to reflect the proposed amended development.

Condition 40 BASIX Commitments

As part of the amended development, the applicant has submitted a revised BASIX Certificate. It is proposed to amend the wording of this condition to update the appropriate BASIX Certificate number.

Condition 42 Detailed Landscape Plan

This condition of consent required the provision of a detailed landscaped plan which was to be in accordance with the landscaping plan submitted with the development application. Due to the slight changes in the building envelope the applicant has submitted a revised plan. It is proposed to amend the condition to include the reference to the new landscaping plan.

Condition 57 Internal Car Parking

Condition 57 required that the internal car park comply with AS2890. It also required that in order to facilitate safe distance for vehicles exiting the loading dock and those entering the driveway off Pope Street, the plant room wall on the original plans was to be relocated 2.5m to the northwest. This effectively reduced the size of the plant room. The amended plans have incorporated this requirement. For this reason it is proposed to delete this part of the requirement from the condition.

Condition 60 Site Stormwater System

The condition of consent requires that stormwater runoff from the site is to be collected and piped by gravity flow to Council's stormwater pipeline located in Blaxland Road via an on-site stormwater detention system. This condition included reference to a particular plan number. As a result of the amendments, the engineering plan has been required to be amended. Council's Development Engineer has requested that the condition be amended to delete this reference.

ITEM 4 (continued)**Condition 138 Drainage Construction**

The approved plan included reference to all of the drainage plans approved. It is proposed to amend this condition to reflect the current plans.

Condition 149 Bicycle Parking

The original development was conditioned to require the provision of 14 bicycle parking spaces. The bicycle parking is based on the number of required car parking spaces for a development. As the number of car parking spaces will be reduced to 113, only an area equivalent to 1 car parking space is required for bicycle parking. This will accommodate 12 bicycle parking spaces. The condition will be amended to reflect 12 rather than 14 bicycle parking spaces.

Condition 150 Car Parking Spaces

This condition will be amended to reflect the car parking required for each use within the development as identified earlier in the report.

12. Consultation – Internal and ExternalInternal Referrals

Development Engineer: No objection to the development subject to the amendment of condition 60 and 138 to reflect the approved plans. These matters have been discussed above and it is proposed to include the required amendments.

Environmental Health Officer: Conditions 18 and 21 should be retained on the consent. These matters have been discussed above and it is proposed to retain these requirements.

13. Conclusion:

The Section 96 application complies with the relevant planning controls as well as satisfying the provisions of Section 96 of the Environmental Planning and Assessment Act. During the advertising period, one submission was received. This submission raised issues in relation to the original approval rather than the current application. This Section 96 application is recommended for approval.

ITEM 4 (continued)

ATTACHMENT 1

City of Ryde
Civic Centre, Devlin Street, Ryde
Locked Bag 2069, North Ryde NSW 1670
DX 8403, Ryde
Facsimile 9952 8070
Telephone 9952 8222



Development Consent

Applicant: Blaxland House Pty Limited
Unit 12/7 Inglewood place
Baulkham Hills NSW 2153

Consent No: LDA2011/0303

Consent Date: 2 November 2011 **Valid until:** 2 November 2016

The City of Ryde, as the consent authority under the provisions of the Environmental Planning and Assessment Act, 1979 hereby consents to the development as follows:

Property: 219 Blaxland Rd Ryde Lots 1, 2 3 and 4 DP 456020, Lot
2 DP 548825.


Development: Demolition of existing structures and the construction of a 7 storey mixed use commercial/retail and residential development containing 97 residential apartments, 152 car parking spaces and 200sqm of commercial/retail space. Strata subdivision is also proposed.

subject to the conditions 1 to 151 specified in this consent.

You are advised that failure to observe any condition of approval set out in the consent is an offence and legal proceedings may be instituted by Council.

This Consent does not guarantee compliance with the Disability Discrimination Act and you should, therefore, investigate your liability under the Act.

You are advised of your right of appeal to the Land and Environment Court under Section 97 of the Environmental Planning & Assessment Act and your right to request a review of the determination to Council under Section 82A of the Environmental Planning & Assessment Act within 6 months after you have received the Consent.


Sandra Bailey
Team Leader Major Developments

The fees quoted at the time of issue of this Consent may be subject to variation. Council's annual fees and charges are published in the Management Plan. To confirm fees please contact Customer Service on 9952-8222.

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

GENERAL CONDITIONS

1. Development is to be carried out in accordance with the following plans and support information submitted to Council:

Plan Number	Title	Drawn by	Issue	Date
DA-A-000	Cover Sheet	Quattro Design Pty Ltd	C	21.09.11
DA-A-020	Demolition Plan	Quattro Design Pty Ltd	A	07.06.11
DA-A-060	Shadow Diagrams Proposed Scheme	Quattro Design Pty Ltd	B	30.08.11
DA-A-070	SEPP 65 Diagrams	Quattro Design Pty Ltd	C	21.09.11
DA-A-075	Project Schedules	Quattro Design Pty Ltd	C	21.09.11
DA-A-100	Proposed Level 3 Basement Plan	Quattro Design Pty Ltd	B	25.08.11
DA-A-101	Proposed Basement Level 2 Plan	Quattro Design Pty Ltd	B	25.08.11
DA-A-102	Proposed Basement Level 1 Plan	Quattro Design Pty Ltd	C	21.09.11
DA-A-103	Proposed Ground Floor Plan	Quattro Design Pty Ltd	C	21.09.11
DA-A-104	Proposed Level 1 Plan	Quattro Design Pty Ltd	C	21.09.11
DA-A-105	Proposed Typical Level 2-5 Plans	Quattro Design Pty Ltd	C	21.09.11
DA-A-109	Proposed Level 6 Plan	Quattro Design Pty Ltd	C	21.09.11
DA-A-110	Proposed Roof Plan	Quattro Design Pty Ltd	C	21.09.11
DA-A-150	Detail Unit Plans – Adaptable	Quattro Design Pty Ltd	C	21.09.11
DA-A-200	Elevations	Quattro Design Pty Ltd	C	21.09.11
DA-A-201	Elevations	Quattro Design Pty Ltd	C	21.09.11
DA-A-250	Sections	Quattro Design Pty Ltd	C	21.09.11
DA-A-251	Sections	Quattro Design Pty Ltd	C	21.09.11
DA-A-260	BASIX	Quattro Design Pty Ltd	B	21.09.11

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

Plan Number	Title	Drawn by	Issue	Date
H-04	Ground and Lower Level (Hydraulic Services)	JHA Consulting Engineers	C	21.09.11
H-09	Detail Sheet 2 Detention Tank	JHA Consulting Engineers	C	21.09.11
LP01	Landscape Concept Plan	Leuchars Partners	B	25.08.11

2. **Building Code of Australia** - All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.
3. **Lapse of development consent** – The term of this Consent is limited to a period of five (5) years from the date of approval. The consent will lapse if the development does not commence within this time.
4. **Construction Certificate** – Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Amendment Act 1997 are to be complied with:
 - a. A **Construction Certificate** is to be obtained in accordance with Section 81A (2) (a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A (2) (b) of the Act and Form 7 of Schedule 1 to the Regulations.
 - c. Council is to be notified at least two (2) days prior to the intention to commence building works in accordance with Section 81A (2) (c) of the Act and Form 7 of Schedule 1 to the Regulations.
5. **Accredited Certifier** – The applicant may apply to the Council or an accredited certifier for issuing of a **Construction Certificate** and to Council or an accredited certifier to monitor compliance with the approval and issue any relevant documentary evidence and/or certificate/s.
6. **Section 73 Certificate** – A Section 73 Compliance Certificate under Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building, Development and Plumbing section of the website at www.sydneywater.com.au then refer to the "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be building and charges to be paid. Please make early contact with the Coordinator, as it may take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

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

7. Road traffic noise

- a. The proposed development is to include materials that satisfy the requirements for habitable rooms under Clause 102, Subdivision 3 of State Environmental Planning Policy (Infrastructure) 2007.
- b. The residential units must be designed and constructed so that the road traffic noise levels inside the buildings comply with the satisfactory design sound levels recommended in Australian/New Zealand Standard *AS/NZS 2107:2000 Acoustics – Recommended design sound levels and reverberation times for building interiors*, when the windows and doors are closed. The recommendations outlined in the report from consultant Acoustic Logic, dated 22.03.2011 are to be implemented.

8. Building identification signage – Building identification signage is to comply with Council's Development Control Plan.

9. Glazing reflectivity – All external glazing is to have a maximum reflectivity of 20%. Prior to the issue of an Occupation Certificate, details are to be submitted to the Private Certifier to demonstrate compliance.

10. Garbage and recycling storage – The storage areas for garbage and recycling carts must be provided on the premises in accordance with Council's *Standard Requirements for the Construction of Garbage and Recycling Cart Storage Areas*. All garbage rooms must be constructed in accordance with the following requirements:

- a. The floor must be constructed of concrete finished to a smooth even surface, coved to a 25mm radius at the intersections with the walls and any exposed plinths, and graded to a floor waste connected to the sewerage system.
- b. The floor waste must be provided with a fixed screening in accordance with the requirements of Sydney Water Corporation.
- c. The walls must be constructed of brick, concrete blocks or similar solid material cement rendered to a smooth even surface and painted with a light coloured washable paint.
- d. The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with light coloured washable paint.
- e. The doors must be of adequate dimensions to allow easy access for servicing purposes and must be finished on the internal face with a smooth-faced impervious material.
- f. Any fixed equipment must be located clear of the walls and supported on a concrete plinth at least 75mm high or non-corrosive metal legs at least 150mm high.

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

- g. The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation.
- h. The room must be provided with adequate artificial lighting.
- i. A hose cock must be provided in or adjacent to the room to facilitate cleaning.

Details of the garbage rooms must be submitted to Council or an accredited private certifier with the application for the **Construction Certificate**. Such details must include:

- a. The specifications and layout of the garbage room and all proposed waste containers and equipment; and
 - b. The access to the collection point.
11. **Layout of car parking** – The layout of car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements and parking bay dimensions) is to be in accordance with AS 2890.-2004. Details to demonstrate compliance are to be submitted on the Construction Certificate plans.
 12. **Sight lines** – The required sight lines to pedestrians and other vehicles in or around the car park or entrances are not to be compromised by landscaping, signage, fencing or display materials.
 13. **No stopping zones** – The existing 'No Stopping' restrictions along the northern side of Pope Street shall remain.
 14. **No cost to RTA** – All works associated with the development shall be at no cost to the RTA.
 15. **Commercial/retail tenancy shop front** – No metal or roller shutter doors are to be installed to the shop front of the commercial/retail tenancy. The shop front may incorporate see-through security grills or translucent barriers to ensure maximum light is transmitted to footpath areas.
 16. **Ventilation of rooms** – Every habitable room, sanitary compartment or other room occupied by a person for any purpose must be provided with adequate natural ventilation or an approved system of mechanical ventilation.
 17. **Ventilation of car park** – The basement car park must be provided with an adequate system of permanent ventilation or an approved system of mechanical ventilation. Details of the proposed method of ventilating the basement car park must be submitted to Council or an accredited private certifier for approval with the application for the **Construction Certificate**.
 18. **Provision for installation of kitchen exhaust systems** – Adequate provision must be made for the possible future installation of kitchen exhaust systems to the proposed commercial occupancy.

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

19. **Car park exhaust vent** – The car park exhaust vent must be located at least 3 metres above ground level or any pedestrian thoroughfare and at least 6 metres from any fresh air intake vent, natural ventilation opening or neighbouring property boundary.

Details of all proposed mechanical ventilation systems, must be submitted to Council or an accredited private certifier for approval with the application for the **Construction Certificate**. Such details must include:

- a. Certified plans of the proposed work, with an alterations coloured to distinguish between new and existing work;
 - b. A site survey showing the location of all proposed air intakes and exhaust outlets on the site, and any existing cooling towers, air intakes, exhaust outlets and natural ventilation openings in the vicinity;
 - c. A completed Mechanical Services Design Certificate (Form M1), together with a copy of the certifier's curriculum vitae; and
 - d. Documentary evidence in support of any departures from the deemed-to-satisfy provisions of the *Building Code of Australia*.
20. **Plumbing and drainage work** – All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation.
21. **Installation of a grease trap** – A grease trap must be installed if required by Sydney Water Corporation. The grease trap must be located outside the building or in a specially constructed grease trap room and be readily accessible for servicing.
22. **Access through food areas** – Access through areas where exposed food is handled or stored or food contact equipment or packaging materials are handled or stored is not permitted.
23. **Under-awning lighting** – Lighting is to be provided to the underside of building entry awnings. Details are to be submitted on the Construction Certificate plans.
24. **Basement lighting** – Basement car park lighting is to comply with Australian Standards AS 1680.2.1 and 2890.1:2004. Prior to the issue of an Occupation Certificate, details are to be submitted to the Private Certifier demonstrating compliance.
25. **Fire Safety Statement** – A six-monthly Fire Safety Statement (Form 15A under the Environmental Planning and Assessment Regulation 1994) must be given to Council and the NSW Fire Brigade commencing within 6 months after the date on which Council receives the initial Fire Safety Certificate.
26. **Telephone installations** – Advice should be obtained from the local telecommunications office regarding any telephone lines to be installed in concrete floors. Prior to the issue of an Occupation Certificate details are to be submitted to the Private Certifier to demonstrate compliance.

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

27. **Australia Post** – Approval for the site and sizes of proposed household mailboxes must be obtained from Australia Post. Prior to the issue of an Occupation Certificate details are to be submitted to the Private Certifier to demonstrate compliance.
28. **Glazing safety** – Glass doors and fixed panels so located in relation to other parts of the building as to be capable of being mistaken as a doorway of unimpeded path of travel shall be provided with a Grade "A" Safety Glazing in accordance with AS 2208 Safety Glazing Materials for use in buildings (Human Impact Consideration). All other glazing shall be installed in accordance with the Table 1A Appendix "A" or AS 1288 Glass Installation Code.

General Engineering Conditions

29. **Design and Construction Standards** – To ensure the development will be completed satisfactorily, all engineering designs and construction shall be carried out in accordance with the requirements as outlined within Council's publication, *Environmental Standards Development Criteria* and relevant Development Control Plans, except as amended by other conditions in this consent.
30. **Service alterations** – To protect existing public utility services, all public utilities which require adjustments shall be approved by the relevant public authority and all costs associated with the adjustments are to be borne by the applicant. Written approval and sign off at completion from the relevant Public Authority shall be submitted to Council.
31. **Restoration** – To ensure public areas will be safely maintained at all times and all disturbed areas satisfactorily restored. All restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council or Council approved contractors subject to lodgement of a Road Opening Permit application to Council with payment of appropriate fees, prior to commencement of works. Repairs of damage to any public infrastructure including the removal and replacement of redundant vehicular crossing with kerb and gutter will be carried out by Council following receipt of payment for the works.
32. **Road Opening Permit** – To ensure all works within the public road reserve will be completed and restored satisfactorily, the applicant shall apply for a Road Opening Permit where a new pipeline is proposed to be constructed within or across the footpath and/or where there are proposed connections to public utility services (e.g. telephone, electricity, sewer, water or gas) within the road reserve. No works shall be carried out on the road reserve without this permit being paid and a copy kept on site.

PRIOR TO CONSTRUCTION CERTIFICATE

33. **Stratum Subdivision Plan** – A stratum subdivision plan in accordance with the approved architectural drawings is to be prepared and submitted to Council for approval prior to the issue of a **Occupation Certificate**.
34. **Section 94 Contribution** – A contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of the **Construction Certificate**.

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

A	B
Community and cultural Facilities	\$217,752.52
Open Space and Recreation Facilities	\$518,065.82
Civic and Urban Improvements	\$187,828.31
Roads and Traffic Management Facilities	\$25,673.13
Cycleways	\$16,001.76
Stormwater Management Facilities	\$49,984.10
Plan Administration	\$4,315.69
The total contribution is	\$1,019,621.32

This contribution is a contribution under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in the Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 11/12/2007.

The above amount, if not paid within the quarter that the consent is granted, shall be adjusted for inflation by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) on the basis of contribution rates that are applicable at the time of payment.

35. **Security deposit** – A security deposit (category: other buildings with delivery of bricks, concrete or machine excavation) is to be paid to Council (Public Works and Services Group) as well as the Infrastructure Restoration and Administration Fee. Please refer to Council's Management Plan for the current fee amounts.
36. **Enforcement Levy** – An enforcement levy is to be paid to Council on lodgement of the **Construction Certificate** application in accordance with the requirements of Council's Management Plan (scheduled fees).
37. **Long Service Levy** – Documentary Evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Levy Payments Act 1986 is to be received prior to the issuing of the **Construction Certificate**.
38. **Fees** – 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**.
Documentary evidence of compliance with Conditions **35** to **37** to the satisfaction of Council or an accredited certifier is to be submitted to the Council prior to the issuing of a **Construction Certificate**.
39. **Stage II Detailed Site Investigation** – A further, targeted site investigation is to be carried out to determine the presence or otherwise of an underground storage tank (UST) – possibly identified on site in the initial report. The Stage II Detailed Site Investigation is to be submitted to Council or the accredited private certifier with the application for the **Construction Certificate**.
40. **BASIX Commitments** – The development is to incorporate the requirements and commitments provided in BASIX Certificate No 374195M dated 21 September 2011.

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The **Construction Certificate** plans and specifications are to detail all of the 'CC plan' commitments of the BASIX Certificate.

41. **Arts and Cultural Plan** – Prior to the issue of a **Construction Certificate**, a site specific Public Arts Plan is to be submitted for approval by Council. This plan is to be prepared by an arts and cultural planner and will be required to address the following:
 - a. Identify opportunities for the integration of public art in the proposed development;
 - b. Identify themes for public art;
 - c. Durability, robustness and longevity of the public art; and
 - d. Demonstrate how public art is incorporated in the site and built form design.

42. **Detailed Landscape Plan** – A detailed Landscape Plan is to be submitted and approved by Council in accordance with the approved Landscape Plan (Plan No LP 01 Issue B, prepared by Leuchars Partners dated 25.08.11) prior to the issue of a **Construction Certificate**. The detailed Landscape Plan must also incorporate the following:
 - a. **Street tree planting** – Trees planted along Blaxland Road and Pope Street are to be frangible species.
 - b. **Soil depth over structures** – Where planting is proposed over a structure, the development is to achieve the minimum standards for soil provision suitable to the proposed planting, as contained within the Residential Flat Design Code. Information verifying that the development complies with these requirements is to be provided on the **Construction Certificate** plans.
 - c. **Outdoor furniture** – Outdoor furniture and fixtures such as bench seating, tables and bicycle racks (or the like) are to be incorporated into the outdoor court communal open space areas to allow passive recreational use of this space. Such furnishings should be shown on the detailed landscape Plan.
 - d. **Stormwater and drainage tank screening** – Any underground stormwater tank which projects above the ground floor level at the street frontage is to be screened from view by plantings or other suitable treatment.

43. **Ryde Town Centre public domain** – All hard landscaping, paving, soft landscaping including species selection, street furniture and the like within the public domain shall be in accordance with the Ryde Town Centre Public Domain Plan. Full details, including samples, schedules and plans are to be submitted and approved by Council prior to the issue of any **Construction Certificate**.

Where soft landscaping is proposed, including species selection, the applicant must ensure that species health is guaranteed for a minimum of two (2) years to ensure the character and appearance of the streetscape is established and maintained. Any species that die within two (2) years of planting must be replaced by the applicant with a specimen of a similar size and maturity.

44. **Loading Dock Management Plan** – A loading dock management plan will be required outlining safe operation of the loading dock and minimising potential conflict between

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use of the loading dock and vehicles entering and exiting the site. The Loading Dock Management Plan is to include the following details:

- a. Operation hours of the loading dock.
- b. Signals or other means of managing vehicles using the driveway whilst service and delivery vehicles are entering or exiting the loading dock.
- c. Maximum sized vehicle permitted to use the loading dock.
- d. Any necessary measures required to maintain appropriate levels of amenity to surrounding residences both on the subject site and adjacent properties.

The loading dock management plan is to be submitted for approval by Council prior to the issue of the Construction Certificate.

45. **Waste Management Plan** – A Waste Management Plan is to be prepared by the applicant in accordance with the requirement of Part 7.2 of the Ryde DCP 2010. The Waste Management Plan must also be consistent with any other conditions contained in this consent and prioritise the re-use, recycling, avoidance and minimisation of waste during demolition, construction and operation. The revised waste management plan is to be submitted to Council with the construction Certificate.
46. **Acoustical consultant's report** – A report from a qualified acoustical consultant detailing the measures required to comply with the relevant noise and vibration criteria (Australian Standards, BCA, any guidelines and relevant planning controls) must be submitted to Council or an accredited private certifier with the application for the **Construction Certificate**.
47. **Disabled access** – Prior to the issue of a **Construction Certificate**, a report is to be provided from a suitably qualified access consultant to verify that the Construction Certificate Drawings fully comply with Development Control Plan 2010 – Access for People with Disabilities. The report is to be provided to the PCA and Council (if Council is not the PCA).
48. **Engineering detail** – The applicant is to submit to and have approved by Council or an accredited certifier engineer's details for all concrete work and structural steel work prior to the issue of a **Construction Certificate**.
49. **Geotechnical requirements** – All footings, slabs and structural members are to be designed taking into account the recommendations stipulated by a Geotechnical Engineer.
50. **Design verification** – Prior to a Construction Certificate being issued with respect to this development, the Principle Certifying Authority is to be provided with a written Design Verification from a qualified designer. This statement must include verification from the designer that the plans and specification achieve or improve the design quality of the development to which this consent relates, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development*. This condition is imposed in accordance with Clause 143 of the *Environmental Planning and Assessment Regulation 2000*.

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51. **Essential fire services** – A “Fire Safety Schedule” must be provided prior to issue of the **Construction Certificate**; specifying the fire safety measures (both current and proposed) to be implemented in the building premises in accordance with Clause 168 of the *Environmental Planning and Assessment Regulation 2000*.
52. **Site works plan** – A site works indicating compliance with the Ryde DCP 2010, Part 8.1 – Construction Activity, in relation to:
 - a. Sediment and pollution controls;
 - b. Security fencing;
 - c. Builder’s identification signage and demolition in progress signage; and
 - d. Provision of site toilets,to the satisfaction of Council or an accredited certifier is to be submitted to Council with the **Construction Certificate**.
53. **Service infrastructure/utilities** – All service infrastructure/utilities including electrical substations, fire hydrants, gas meters and the like shall be located within the building envelope. Where this is not possible and subject to Council approval such infrastructure shall be located on the subject site and appropriately screened from view. Details of all service infrastructure/utilities are to be approved prior to the issue of the **Construction Certificate**.

Engineering Conditions prior to issue of Construction Certificate

54. **Boundary Levels** – To ensure smooth transition between external and internal site works, street alignment levels shall be obtained from Council. These levels shall be incorporated into the design of the internal works e.g. driveway, car parking areas, landscaping, stormwater drainage etc and shall be clearly shown on plans submitted with the **Construction Certificate** application.
55. **Dilapidation Report** – To determine the extent of restoration works that may be required, the applicant shall submit to Council a pre and post construction dilapidation report on the status of existing public infrastructures in the vicinity of the proposed development. The report is to include photographic records, description and location of any existing observable defects of the following infrastructure and others where applicable:
 - a. Road pavement.
 - b. Kerb and gutter.
 - c. Constructed footpath.
 - d. Drainage pits.
 - e. Traffic signs.
 - f. Any other relevant infrastructure.

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These reports shall be submitted to Council, prior to the issue of the **Construction and Occupation Certificate**. The report shall be used by Council as Roads Authority under the Roads Act to assess whether restoration works are required prior to the issue of the Occupation Certificate. All restoration works deemed necessary by Council's engineer are to be completed to Council satisfaction prior to the issue of **Occupation Certificate**.

56. **Driveway Grades** – To ensure satisfactory and safe access to the proposed development the proposed driveway access and gradients shall be designed and constructed in accordance with Australian Standards AS 2890.1-2004 and City of Ryde Environmental Standards – Development Criteria Section 1 – Driveways. 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 including longitudinal and cross-sections from the centreline of the public road to the proposed garage floor and/or parking space shall be submitted to and approved by the Principal Certifying Authority prior to the issue of **Construction Certificate**.

57. **Internal Car Parking** – To ensure safe and satisfactory access to the proposed development all internal driveways, vehicle turning areas, garage opening widths, parking spaces dimensions, safe sight distances and gradients etc shall be designed and constructed in accordance with relevant sections of Australian Standards AS 2890. The design shall ensure all vehicles using the site can enter and exit in a forward direction and that safe sight distances are available to all vehicles using the site.

Accordingly, to facilitate safe sight distance for vehicles exiting the loading dock and those entering the driveway off Pope Street, **the plant room south eastern wall shall be relocated further northwest by a minimum 2.5 m as marked in red architectural plan No. DA-A-103 C Revision C dated 21/9/11 prepared by Quattro.**

Amended plans including engineering certification from a traffic engineer indicating compliance with this condition are to be submitted with the **Construction Certificate** application.

58. **Excavation** – To ensure the proposed site excavation will not impact on the adjoining property structures foundations and services. The applicant shall submit to the Principal Certifying Authority for approval a geotechnical report prepared and certified by a chartered practicing geotechnical/structural engineer addressing, but not be limited to the following items:

- a. The likely impacts of the proposed excavations will have on structures and services of adjoining properties;
- b. Detail what measures are to be taken to protect the structures and services of adjoining properties from structural damage and undermining during construction; and
- c. A copy of the report including geotechnical/structural engineer certification should be submitted to Council.

The above matters shall be completed prior to the issue of the **Construction Certificate** and all recommendations of the Geotechnical Engineer are to be carried out during the course of the excavation. The applicant must give at least seven (7)

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days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

59. **Council Inspections** – To ensure all proposed stormwater connections to Council's drainage system will be completed satisfactorily, a Council's engineer must inspect stormwater connection(s) to Council's existing stormwater system prior to backfilling. Council shall be notified when the collar connection has been completed to Council's pipeline in accordance with standard details shown in City of Ryde, Development Control Plan 2010 - Part 8.2 - Stormwater Management and an inspection must be made before the property service line is connected to the collar. Inspection fee(s) in accordance with Council's Management Plan of \$150 shall be paid to Council prior to issue of **Construction Certificate**.
60. **Site stormwater system** – To ensure satisfactory stormwater disposal and minimise downstream stormwater impacts, stormwater runoff from the site shall be collected and piped by gravity flow Council's stormwater pipeline located in Blaxland Road via an on-site stormwater detention system. Accordingly, the site stormwater drainage plans are to be prepared by a chartered civil engineer in accordance with City of Ryde, Development Control Plan 2010 - Part 8.2 - Stormwater Management and shall incorporate but not limited to amendments as marked in red on approved revision C concept plans prepared by JHA dated 20/9/11.
- Engineering plans, including certification prepared by a chartered civil engineer with NPER registration with Engineers Australia, indicating compliance with this condition are to be submitted with the **Construction Certificate** application.
61. **Pump System** – To ensure safe and satisfactory drainage disposal, the wet well and pumps shall be designed and constructed in accordance with section 7.3 of Australian Standards AS 3500.3.
- Direct connection of the pumps rising main into the kerb will not be permitted. The rising main is to be connected to the on-site detention tank where possible or to a silting pit prior to discharging via gravity to the kerb and gutter.
62. **Water Tank & First Flush** – A minimum 30m³ rainwater shall be provided to collect runoff from at least 60% of the site roof area with water collected being connected for internal reuse at a minimum for use in the toilet, laundry and garden irrigation. Additionally, to screen the water tanks from gross pollutants 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.
63. **Erosion and Sediment Control Plan** – To ensure existing environment will be adequately protected an Erosion and Sediment Control Plan (ESCP) shall be prepared by a suitably qualified person in accordance with the guidelines set out in the Department of Housing Manual "*Managing Urban Stormwater, Soils and Construction*" and submitted to the Principal Certifying Authority for approval prior to issue of **Construction Certificate**. These devices shall be installed prior to **commencement of construction** and maintained at all times during construction.

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

- a. Existing and final contours

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- 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.
64. **Traffic Management Plan** – To ensure safe construction traffic flow on site a Traffic Management Plan (TMP) and report shall be prepared by an appropriately accredited person and submitted to for approval with the **Construction Certificate** application.
- The TMP shall be prepared in accordance with Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, the RTA’s Manual – “*Traffic Control at Work Sites*” and City of Ryde, Development Control Plan 2006: - Part 8.1 - Construction Activities where applicable. The TMP is to address but not be limited to the loss of on-street parking, construction vehicles travel routes, safety of the public, materials storage, handling and deliveries including construction traffic parking.
- Additionally, all traffic controllers on site must be RTA accredited traffic controllers and a minimum of seven (7) days notice shall be given to residents if their access will be affected by proposed construction activities.

PRIOR TO COMMENCEMENT

65. **Hazardous Materials Audit/Survey** – A Hazardous Materials Audit/Survey should be undertaken prior to the demolition of the building present on the site and a report prepared and submitted to Council or an accredited private certifier.
- Australian Standard 2601 Demolition of Structures requires that before commencement of any stripping or demolition, the site structures should be examined to determine the presence of hazardous materials including asbestos, lead in paint, lead in dust, synthetic mineral fibre (SMF) and polychlorinated biphenyls (PCB5).
66. **‘Dial 1100 Before You Dig** – Underground pipes and cables may exist in the area. In your own interest and for safety, telephone 1100 before excavating or erecting structures. Information on the location of underground pipes and cables can be obtained by fax on 1300 652 077 or through the following website

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www.dialbeforeyoudig.com.au.

If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development Consent (or a new development application) may be necessary. Council's Assessment Officer should be consulted prior to the lodgement of an application for a **Construction Certificate** if this is the case.

67. **Security deposit for demolition only** – A security deposit (Category: demolition) is to be paid to Council (Public Works and Services Group) **prior to the commencement** of any demolition works. Please refer to Council's Management Plan for the applicable fee amount.
68. **Minimising impacts on trees to be retained** – Tree 8 (as identified by the Arboricultural Development Impact Assessment for 219 Blaxland Road Ryde, prepared by Urban Forestry Australia and dated August 2011) on the adjoining property, 4 Curzon Street, is to be retained and protected in accordance with the following:
- a. **Prior to any works commencing** on the site, the project arboriculturist and the principal site contractor must meet on site to discuss appropriate tree protection devices, and the location of those devices.
 - b. **Prior to any works commencing** on the site, including demolition of trees to be removed, the tree to be retained is to be provided with the appropriate tree protection devices.
 - c. The tree protection devices cannot be removed, altered or relocated without the project Arborist or Council approval.
 - d. At the point where the Tree Protection Zone protection devices are to be removed to allow works to the boundary, an Australian Qualification Framework Level 5 (AQF5) arboriculturist is to be present to supervise the works within the Tree Protection Zone.
 - e. Any roots that must be severed must be cut cleanly with a sharp handsaw. Tearing of roots is not acceptable.
 - f. The exposed soil at the boundary and within the Tree Protection Zone radius must be kept moist to prevent drying out. This may be achieved by carefully pinning layers of hessian against the cut face and regular light watering as advised by the project arboriculturist.
69. **Tree Protection Zones** – The Tree Protection Zone (TPZ) of Tree 8 (as identified by the Arboricultural Development Impact Assessment for 219 Blaxland Road Ryde, prepared by Urban Forestry Australia and dated August 2011) is to be established in accordance with the following **prior to the commencement of works**:
- a. Any recommendations of the project arboriculturist provided at the initial pre-demolition site meeting with the project manager/principal site contractor.
 - b. The most appropriate fencing for tree protection is 1.8 metre chainlink with 50mm metal pole supports. During installation, care must be taken to avoid

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- damage to significant roots. The practicality of providing this fencing on this site must be addressed by the arboriculturist.
- c. Locate any large primary roots by careful removal of soil within the fencing area. Do not drive any posts or pickets into tree roots. Replace soil back over tree roots.
 - d. Tree protection devices must be in place prior to any site works commencing, including demolition or grading.
 - e. Any areas of the TPZ outside fenced protection areas must, where practicable, be covered in thick, coarse mulch to a depth of 100mm to reduce soil compaction and soil moisture losses.
 - f. Construction traffic areas (including foot traffic) within the TPZ are to be protected by wide timber planks over the mulch, or similar means of providing access whilst avoiding soil compaction.
 - g. Nothing should occur inside the TPZ, so therefore all access to personnel and machinery, storage of fuel, chemicals, cement or site sheds is prohibited.
 - h. No washing or rinsing of tools is to be carried out within 5 metres of the tree.
 - i. Signage should explain exclusions from the area defined by TPZ and carry a contact name for access or advice.

Engineering conditions prior to commencement of works

- 70. **Sediment and Erosion Control** – To protect the existing environment from pollutants runoff arising from proposed on site construction activities, the applicant shall install sediment and erosion control devices in accordance with an approved plan **prior to commencement of construction** on the site. These devices shall be maintained during the construction period and replaced when and where considered necessary to maintain them in operable condition at all times.
- 71. **Compliance Certificate** – To ensure satisfactory sediment and erosion control has been implemented, a certification should be obtained from an appropriately qualified person to confirm that the erosion and sediment control measures installed comply with the approved plan and City of Ryde, Development Control Plan 2006: - Part 8.1 - Construction Activities.
- 72. **Vehicle footpath crossings** – To facilitate safe access to and from the site, new concrete layback and apron crossings are to be constructed at locations as indicated on the approved plan. The width, design and construction shall conform to Ryde City Council's *Environmental Standards Development Criteria – Section 1-Driveways-1999*. *Additionally*, crossings are to be constructed in plain reinforced concrete with finished levels comply with property alignment levels issued by Council's Public Works Division. Kerbs shall not be returned to the property boundary alignment and Bridge and pipe crossings will not be permitted. Accordingly, an application shall be made to and approved by Council, **prior to commencement of the works**.

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DURING DEMOLITION AND CONSTRUCTION

73. **Demolition works** – In relation to demolition, all work is to be carried out in accordance with the requirements of AS 2601 (*The Demolition of Structures*).
74. **Stormwater quality** – Only unpolluted water is to be discharged to Council's stormwater drainage system.
75. **Noise** – The L₁₀ noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.
76. **Noise** – Noise must be minimised by the selection of appropriate methods and equipment and the use of screening or barriers where practical.
77. **Recyclable wastes** – All wastes nominated for recycling or re-use in the approved waste management plan must be segregated from other wastes and be transported to a place or facility where they will be recycled or re-used.
78. **Asbestos work** – All work involving asbestos products and materials, including asbestos-cement sheeting (i.e. fibro) must be carried out in accordance with the guidelines for asbestos works published by WorkCover New South Wales.
79. **Storage of asbestos wastes** – All asbestos wastes must be stored separately from other wastes in a secure area and be removed from the site as soon as practicable:
Friable asbestos waste must be sealed in heavy-duty (200um) plastic bags marked with the words 'CAUTION ASBESTOS' in lettering at least 40mm high which complies with Australian Standard AS 1319-1994 *Safety Signs for the Occupational Environment*.
All bags of asbestos waste must be placed in a leak-proof contained marked with the words 'DANGER – ASBESTOS WASTE ONLY – AVOID CREATING DUST' in lettering at least 50mm high, which complies with Australian Standard AS 1319, and be covered with a close fitting list to prevent escape of the waste.
Bonded asbestos waste must be wetted with a fine water sprat and wrapped in heavy-duty (200um) plastic sheeting to prevent the emission of dust.
80. **Demolition waste** –
- Demolition wastes must not be placed on public roads, footpaths or reserves, or be allowed to enter any street gutter, stormwater drain, or waterway.
 - The burning of demolition waste is prohibited under the *Protection of the Environment Operations (Clean Air) Regulations 2002*.
 - All demolition waste must be stored in an environmentally acceptable manner and be removed from the site at such intervals as may be necessary to ensure that no nuisance or danger to health, safety or the environment is created.
81. **Transportation of wastes** – All wastes must be transported in an environmentally safe manner to a facility or place that can lawfully be used as a waste facility in for those wastes. Copies of the disposal dockets must be kept by the applicant for at least 3 years and be submitted to Council on request.

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82. **Disposal of asbestos wastes** – All asbestos wastes, including uses asbestos-cement sheeting (i.e. fibro) must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive asbestos waste.
83. **Demolition and construction vehicles** – All demolition and construction vehicles should be contained wholly within the site and vehicles must enter the site before stopping. A works zone on Devlin Street or Lane Cove Road or Blaxland Road is not permitted.
Construction vehicles may not queue along Blaxland Road, or interfere with general traffic along Blaxland Road.
84. **Hoardings** – Where the site adjoins a public thoroughfare, the common boundary must be fenced with a hoarding, unless the horizontal distance between the boundary and the structure being demolished is more than twice the height of the structure. All hoardings must be constructed of solid materials and be at least 1.8 metres high. Hoarding should also comply with the requirements of Part 4.4, provision 3.10 – Hoardings of the Ryde DCP 2010.
85. **Protection of Public Places** –
- a. If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.
 - b. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - c. The work site must be kept lit if it is likely to be hazardous to persons in the public place.
 - d. Any such hoarding, fence or awning is to be removed when the work has been completed.
86. **Overhead protection** – Where the site adjoins a public thoroughfare with a footpath alongside the common boundary, the footpath must be provided with overhead protection in accordance with the requirements of Australian Standard 2601-1991 *The Demolition of Structures*, unless:
- a. The vertical height of the structure being demolished is less than 4 metres above the footpath; or
 - b. The horizontal distance between the boundary and the structure being demolished is more than half the height of the structure.
87. **Security fencing** – Security fencing shall be provided around the perimeter of the building/demolition site and precautionary measures taken to prevent unauthorised entries of the site at all times during demolition/construction.
88. **Site signage** – The following signage is to be installed on the subject site:

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- a. A rigid, durable sign showing the demolition contractors name, address and telephone contact details must be displayed in a prominent position on the site so that they can be read by anyone in any public road or other public place adjacent to the site.
 - b. Notices lettered in accordance with Australian Standard AS 1319-1994 *Safety Signs for the Occupational Environment* and displaying the words '**DANGER! DEMOLITION WORK IN PROGRESS**' must be fixed to the security fencing/hoardings at appropriate intervals to warn the public.
 - c. Where the work involves the demolition or removal of asbestos products and materials, including asbestos-cement sheeting (i.e. fibro), notices lettered in accordance with Australian Standard AS 1319-1994 *Safety Signs for the Occupational Environment* and displaying the words '**WARNING! ASBESTOS REMOVAL IN PROGRESS**' must be fixed to the security fencing/hoardings at appropriate intervals to warn the public.
 - d. During the entire construction phase, signage shall be fixed to the site identifying the PCA and principle contractor (the coordinator of the building work), and providing phone numbers.
89. **Toilet facilities** – Toilet and hand washing facilities must be provided for workers in accordance with the Code of Practice: Amenities for Construction Work (WorkCover, 1996). Where practicable, the toilets must be standard flushing toilets connected to the sewerage system.
90. **Protection of underground services** – Before work commences the location of any underground services (e.g. gas, water, electricity, telecommunications cables, etc.) must be identified and appropriate measures taken to protect those services.
91. **Demolition work** – All demolition work must be carried out in accordance with the requirements of Australian Standard AS 2601-1991 *The Demolition of Structures*.
92. **Licences contractor to carry out work** – All demolition work must be carried out by an appropriately licensed contractor.
93. **Building and demolition material** – No building or demolition material is to be placed on any public road, footpath, park or any Council owned land.
94. **Dust control** – Appropriate measures must be undertaken to control the generation of dust during demolition work:
- a. Any existing accumulations of dust (e.g. in ceiling voids and wall cavities) must be removed using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter.
 - b. Any materials that are likely to generate dust during demolition or removal must be wetted down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system.

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- c. All stockpiles of materials that are likely to generate dust must be kept dam or covered.
- d. Demolition work must not be carried out during high winds, which may cause dust to spread beyond the boundaries of the site.
- 95. **Hours of work** – All demolition and construction work must be restricted to between the hours of 7.00am and 7.00pm Mondays to Fridays (inclusive) and 8.00am to 4.00pm on Saturdays. No work is to be carried out on Sundays or public holidays.
- 96. **Contaminated soil** – All potentially contaminated soil excavation soil excavated during demolition work must be stockpiled in a secure area and be assessed and classified in accordance with the *Environmental Guidelines: Assessment Classification and Management of Liquid and Non-Liquid Wastes* (EPA, 1999) before being transported from the site.
- 97. **Surplus excavated material** – All surplus excavated material must be disposed of at a licensed landfill facility, unless Council approves an alternative disposal site. No fill is to be placed above the natural ground level, unless approved by this consent.
- 98. **Covering of loads** – All vehicles transport demolition materials from the site must have their loads covered.
- 99. **Mud and debris from vehicles** – All practicable measures must be taken to ensure that vehicles leaving the site do not deposit mud or debris on the road.
- 100. **Removal of mud and debris from roadway** – Any mud or debris deposited on the road must be cleaned up immediately in a manner that does not pollute waters (i.e. by sweeping or vacuuming).
- 101. **Concrete waste** – Concrete wastes must be collected, stored and treated in accordance with the *Concrete Wastes* guide published by the Environment Protection Authority.
- 102. **Discovery of additional information** – Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable if any information is discovered during demolition or construction work that has the potential to alter previous conclusions about site contamination.
- 103. **Further contamination requirements** – If any additional information is discovered above site contamination, the proposed must comply with any reasonable requirements of Council.
- 104. **Site security** – A sensor projector light should be installed during the undertaking of works so that the site is illuminated at night to deter crime. Such lighting should not be of a level or direction so as to cause nuisance to any adjoining residential properties. A security company is to be engaged to monitor the site during the undertaking of works outside of working hours.
- 105. **Work within a 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

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around the work site. Traffic control devices shall satisfy the minimum standards outlined in AS 1742.3-1996 "Traffic Control Devices for Work on Roads".

106. **Essential services** – Essential services must be provided within the development to the requirements of the Building Code of Australia, the Environmental Planning and Assessment Act 1979, and the Regulations.

107. **Excavation and backfilling** –

- a. All excavation and backfill associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- b. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life and property.

108. **Retaining walls and drainage** – If the soil conditions require it:

- a. Retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided.
- b. Adequate provision must be made for drainage.

109. **Support for neighbouring buildings** – If the soil conditions require it:

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

110. **Inspections** – The occasions on which building work must be inspected are:

- a. After excavation for, and before the placement of, any footings, and
- b. Prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

- c. Prior to covering any stormwater drainage connections, and
- d. After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

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

- 111. **Additional inspection** – In addition to the above stated inspections, the Principal Certifying Authority is required to ensure that adequate provision is made for the following measures at each stage of construction, to ensure compliance with the approval and City of Ryde's DCP 2010, Part 8.1 – "Construction Activities":
 - a. Sediment control measures;
 - b. Tree preservation and protection measures;
 - c. Security fencing;
 - d. Materials or waste containers upon the footway or road; and
 - e. PCA and principle contractor (the coordinator of the building work) signage and site toilets.
- 112. **Surveyor Check of the Building** – Council recommends that a Registered Surveyor check survey certificate be submitted to the Principle Certifying Authority (*and Council if Council is not the PCA*) detailing compliance with Council's approval at the following stages:
 - a. Prior to construction of the first completed floor/floor slab showing the area of the land, proposed building and the boundary setbacks.
 - b. Prior to the construction of the first completed floor/floor slab showing the area of the land, proposed building and the boundary setbacks and verifying that the proposed building is being constructed to the approved levels.
 - c. Prior to construction of each floor showing the area of the land, proposed building and the boundary setbacks and verifying that the proposed building is being constructed to the approved levels.
 - d. On completion of the proposed building showing the area of the land, completed building and the boundary setbacks.

PRIOR TO OCCUPATION CERTIFICATE

- 113. **Occupation Certificate required** – An **Occupation Certificate** must be obtained from the Principle Certifying Authority (PCA) and a copy furnished to Council in accordance

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

with Clause 151 of the *Environmental Planning and Assessment Regulation 2000* prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

114. **Fire Safety Certificate** – A Fire Safety Certificate (form 15 under the Environmental Planning and Assessment Amendment Regulation 1998) must be furnished to the Principal Certifying Authority (PCA) (Council in this instance) for all items listed in the Fire Safety Schedule forming part of this approval for prior to any consent for occupancy/partial occupancy being granted.
115. **BASIX Commitments** – Prior to the issue of the **Occupation Certificate**, the Principle Certifying Authority is to ensure that the BASIX commitments have been implemented in accordance with the approved BASIX Certificate. Note: Certificates from suitably qualified persons are to be submitted to the Principle Certifying Authority (if Council is the PCA) verifying that all BASIX commitments listed have been fulfilled in accordance with the BASIX Certificate.
116. **Design Verification** – Prior to an **Occupation Certificate** being issued to authorise a person to commence occupation or use of a residential flat building, the Principal Certifying Authority (PCA) is to be provided with a Design Verification from a qualified designer. The statement must include verification from a qualified designer that the residential flat development achieves the design quality of the development shown on plans and specifications in respect to any Construction Certificate issued, having regard to the design quality principles set out in Part 2 of the State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development. This condition is imposed in accordance with Clause 154 of the *Environmental Planning and Assessment Regulations 2000*.
117. **Certification of mechanical ventilation work** – A Mechanical Services Completion and Performance Certificate (Form M2) must be submitted to the Principal Certifying Authority on completion and commissioning of all mechanical ventilation work approved under this consent and before the issue of an **Occupation Certificate**.
118. **Lot consolidation** – All land titles within the site must be consolidated into one allotment. A plan of consolidation in a form capable of registration shall be lodged with the Land Titles Office prior to the issue of an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
119. **Security mirrors** – Convex mirrors are to be installed at Basement Car Park Level 1 to alert residents to unauthorised people attempting to follow residents into car park when they are leaving or entering the secured residential car park via the roller door and around the driveway ramp leading from the ground floor down to the basement parking levels.
120. **CCTV** – CCTV cameras are to be installed to monitor:
 - a. Pope Street ground floor commercial and residential lobby.
 - b. Outside the Pope Street entrance to monitor the entrance doors and footpath.
 - c. The public outdoor court area.

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

- d. The Blaxland Road entrance off the public outdoor court area.
- e. All lift lobbies and circulation galleries on the ground floor and all residential levels.
- f. The car park entry/exit point on Pope Street and the Basement Car Park Level 1 roller shutter door.
- g. Throughout all basement car parking levels including commercial parking, residential visitor's parking and residential parking areas. These cameras should be strategically placed to provide as much surveillance as practicable in these areas.

Note: Installation of such equipment should ensure that the requirements of any relevant privacy and surveillance legislation are adhered to.

121. CCTV cameras and recording – Appropriate cameras and image recording is required, as follows:

- a. Digital technology is to be installed to record images from the cameras.
- b. Recording equipment is to be stored in a secure area to avoid tampering.
- c. Installed surveillance equipment must be able to zoom in on a person without loss of focus.
- d. Any surveillance system is to be manufactured and installed by a qualified and reputable company and regularly function tested.

122. Landscape Maintenance Plan – A Landscape Maintenance Plan is required is required prior to the issue of an Occupation Certificate. The Landscape Maintenance Plan should include the following requirements:

- a. Regular maintenance and trimming of shrubs and plantings.
- b. Shrubs and plantings be appropriately maintained to allow for clear lines of sight over the shrubs from pathways and pedestrians areas, and to avoid any plantings being used as a natural ladder to gain access to any higher parts of the building.
- c. Mature shrubs along pathways, surrounding the public outdoor court and around the Blaxland Road entrance are to be no more than 1 metre in height.
- d. Trees along the Blaxland Road boundary are to be appropriately pruned, trimmed and maintained so that surveillance between the public outdoor court and the public domain is not compromised and there is no opportunity for climbing of these trees to gain access to balconies.
- e. Trees within the internal courtyard are to be appropriately pruned, trimmed and maintained so that passive surveillance from units to the internal courtyard is not compromised and there is no opportunity for climbing of these trees to gain access to any balconies or units.

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

- f. All other trees on the site are to be appropriately pruned, trimmed and maintained so that passive surveillance is not compromised and there is no opportunity for climbing of trees to gain access to balconies or units.
123. **Lighting** – All lighting is to comply with the following requirements:
- a. Lighting is to be designed and installed in accordance with the relevant Australian and New Zealand Lighting Standards.
 - b. A Lighting Maintenance Policy is required to outline the maintenance, monitoring and operation of lighting.
 - c. To reduce power consumption and comply with the relevant Australian and New Zealand Standards for Lighting, car park walls and ceilings are to be painted a light colour.
 - d. Lighting is to be provided to all common areas including all car parking levels, stairs and access corridors, the public outdoor court and communal gardens.
 - e. Lighting is to be automatically controlled by time clocks and where appropriate, sensors for energy efficiency and a controlled environment for residents.
124. **Safety and warning signage** – The following safety and warning signs are to be installed prior to the issue of an Occupation Certificate:
- a. *'Warning: These premises are under constant surveillance'* and *'Warning: Trespassers will be prosecuted'* signs are to be displayed the building entrances.
 - b. Signage (if required) outlining any applicable restrictions in private communal or semi-private communal spaces.
 - c. Way finding signage in basement car parking levels to locations including residential parking, residential visitor's parking, commercial parking, lifts and exits.
 - d. *'These doors are to be used for emergency purposes only'* on fire exit doors.
125. **Site Maintenance Plan** – A Site Maintenance Plan is required to ensure regular maintenance and monitoring of security devices (including CCTV cameras, security communications devices, card readers) and lighting, lighting and signage.
126. **Fire exit doors** – Fire exit doors are to be fitted with single cylinder locksets (Australian and New Zealand Standard – Lock Sets) to restrict unauthorised access to the development. Fire exit doors directly accessible from the public domain are to be fitted with metal covering plates to prevent forced entry and manipulation of locks.
127. **Balcony doors to units** – Balcony doors to units are to be fitted with single cylinder locksets (Australian and New Zealand Standard – Lock Sets) to restrict unauthorised access to units.
128. **Unit windows** – The windows to individual units are to be fitted with key operated locksets (Australian and New Zealand Standard – Lock Sets) to restrict unauthorised access to units.

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

129. **Video intercom** – A video intercom system providing remote door operation is to be installed at the residential building entrances including the Pope Street entrance, the Pope Street foyer entrance into the circulation gallery and the Blaxland Road entrance. The video intercom system is to include night time lighting and should allow electronic access control, which allows residents to allow access from units. Residents should be able to communicate and identify persons prior to admitting them into the development.
130. **Lift access and security** – Electronic access controls are to be installed on the lift. The equipment should include card readers to restrict access to the level a resident resides on, to the car parking levels and to the Ground Floor.
131. **Car parking security** – Vehicular entry to residential parking and visitor's parking areas is to be through a secured roller shutter with an intercom system for visitor's access. The doors are to be controlled by locksets such as remote or card operating electronic lock sets. The phasing of the roller door needs to minimise the opportunity for unauthorised pedestrian access after a vehicle enters/exits the car park.
132. **BASIX completion** – Within 2 days of issuing a final Occupation Certificate, the Principle Certifying Authority (PCA) is required to generate a BASIX Completion Receipt in accordance with the provisions of the EP&A Regulation 2000. The PCA is to refer to the BASIX Completion Receipt tool at www.basix.nsw.gov.au/administration/login.jsp in order to generate the BASIX Completion Receipt and a printed copy of the receipt is to be placed on the PCA file.

Engineering conditions prior to issue of Occupation Certificate

133. **Compliance Certificates – Engineering** – To ensure the development will be completed in accordance with approved plans, current specifications and applicable Australian and Council's standards the Principal Certifying Authority shall ensure the following will be met:
 - a. Compliance Certificate should be obtained from an accredited certifier 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*.
 - b. Compliance Certificate should be obtained from an accredited certifier 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
 - c. Compliance Certificate should be obtained to confirm 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.
 - d. Compliance Certificate shall be obtained from Council 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*.

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

- e. Compliance Certificate shall be obtained from Council confirming that the driveway is constructed in accordance with the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria – 1999*
- f. Compliance Certificate shall be obtained from Council confirming that the connection of the site drainage system to the trunk drainage system complies with Section 4.7 of *AS 3500.3 - 1990* (National Plumbing and Drainage Code).
- g. Compliance Certificate shall be obtained from Council confirming that all external works within the public road reserve including all restoration works have been completed to Council's satisfaction.

Please be advised that all Compliance Certificates issued by Council is subject to the payment of an inspection fee in accordance with Council's schedule of fees if Council is not the appointed Principal Certifying Authority (PCA).

134. **Works-as-Executed Plan** – To ensure stormwater drainage works are completed in accordance with approved plans, a Work-as-Executed plan for the site drainage system certified by a registered surveyor is to be submitted to the Principal certifying Authority and Council (If Council is not the appointed PCA) prior to issue of **Occupation Certificate**.

The Work-as-Executed plans is to note all departures clearly in red on a copy of the approved Construction Certificate plans and certification from a qualified and experienced civil engineer should be submitted to support all variations from approved plan

135. **On-Site Stormwater Detention System - Marker Plate** – To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. The plate may be purchased from Council's Customer Service Centre at Civic Centre, Devlin Street, Ryde.

136. **Positive Covenant, OSD** – To ensure the constructed On-site detention system will be maintained in operable condition a Positive Covenant under Section 88 E of the *Conveyancing Act 1919*, shall be created and registered on the subject land requiring the proprietor of the land to maintain the stormwater detention system on the property.

The terms of the 88 E instruments are to be generally in accordance with the Council's draft terms for Maintenance of Stormwater Detention Systems as specified in City of Ryde, Development Control Plan 2010: - Part 8.2 - Stormwater Management and to the satisfaction of Council.

137. **Positive Covenant, Pumps** – To ensure the stormwater pump-out system will be maintained in operable condition a Positive Covenant under Section 88 E of the *Conveyancing Act 1919*, shall be created and registered on the subject land requiring the proprietor of the land to maintain the pump-out system on the property.

The terms of the 88 E instruments are to be generally in accordance with the Council's draft terms for Maintenance of stormwater pump-out systems as specified in City of Ryde, Development Control Plan 2010 - Part 8.2 - Stormwater Management and to the satisfaction of Council.

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

138. **Drainage Construction** – To ensure satisfactory stormwater disposal, the site stormwater drainage system shall be constructed in accordance with the construction certificate version of approved concept plan Job No. 2568 – H04 & H09, Revision C, prepared by JHA, dated 20/9/11 as amended in red.

OPERATIONAL REQUIREMENTS

139. **Noise and vibration from plant** – Unless otherwise required by any other condition of 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.
140. **Storage and disposal of wastes** – All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.
141. **Cleanliness of garbage containers** – The occupier of the premises must keep all garbage containers as clean as practicable (having regard to their use).
142. **Maintenance of waste storage areas** – All waste storage areas must be maintained in a clean and tidy condition at all times.
143. **Vehicular entry and exit** – All vehicles shall enter and leave the site in a forward direction.
144. **Vehicular entry** – All vehicles should be wholly contained on site before being required to stop.
145. **CCTV maintenance** – CCTV equipment is to be maintained in working order and regularly tested. Staff should be trained in the correct use of the system.
146. **Use of study rooms** – No areas identified on the approved architectural drawings as 'study rooms' are to be used as bedrooms.
147. **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*.
148. **Lighting** – The lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads. All proposed lights shall comply with the Australia Standard AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting.

ITEM 4 (continued)

ATTACHMENT 1

Conditions of Consent LDA2011/0303:-

149. **Bicycle parking** – A minimum 14 bicycle parking rails or lockers designed and installed in accordance with Australian Standard AS 2890.3, must be provided in a suitable location for the convenience of employees and visitors to the site. Suitable change facilities for cyclists must also be provided within the development.
150. **Car parking spaces** – 152 off-street car parking spaces being in accordance with the submitted plans.
151. **Loading and unloading** – All loading and unloading in relation to the premises is to take place wholly within the property.

END OF CONSENT

ITEM 4 (continued)

ATTACHMENT 1

ATTACHMENT M1

MECHANICAL SERVICES DESIGN CERTIFICATE
Mechanical Ventilation, Fire Precautions, Smoke Hazard Management,
Microbial Control

Address:

Development Application No.:

Construction Certificate No.:

Pursuant to the Provisions of Section 93 of the Local Government Act 1993⁽ⁱ⁾, I hereby certify that the design of the new/altered mechanical services complies with the current requirements of the Building Code of Australia ⁽ⁱⁱ⁾ and the Public Health Act 1991 and in particular are design in accordance with the following:

- (a) The approved architectural plans (see attached drawing list)
- (b) AS 1668.1, AS 1168.2 and the NSW Code of Practice for the Control of Legionnaires' Disease
- (c) Any recommendations of the NSW Fire Brigade

I am an appropriately qualified and competent person to certify that the design and performance of mechanical services complies with the requirements of the Building Code of Australia and Public Health Act 1991.

I possess the indemnity insurance to the satisfaction of the building owner or my principal.

Full name of Certifier:

Qualifications and Experience ⁽ⁱⁱⁱ⁾:

Address of Certifier:

Phone numbers: Business: Mobile: Fax:

Signature:

Name of employer (Self or Company):

Certified Mechanical Drawing numbers and revision list (attach a separate list if necessary):

Notes:

- (i) The Local Government Act 1993 exempts Council from liability by relying on this certificate.
- (ii) Departures from the deemed-to-satisfy provision must be justified in writing and validated when the Completion and Performance Certificate (Attachment M2) is submitted.
- (iii) Please attach Curriculum Vitae.

ITEM 4 (continued)

ATTACHMENT 2

- Notes**
- 1. All dimensions are in metres unless otherwise stated.
 - 2. All dimensions are to the centre of the road unless otherwise stated.
 - 3. All dimensions are to the face of the wall unless otherwise stated.
 - 4. All dimensions are to the face of the wall unless otherwise stated.
 - 5. All dimensions are to the face of the wall unless otherwise stated.
 - 6. All dimensions are to the face of the wall unless otherwise stated.

Notes



1	PROPOSED RESIDENTIAL DEVELOPMENT	21/12/11	1/12/11	1/12/11	1/12/11
2	PROPOSED RESIDENTIAL DEVELOPMENT	21/12/11	1/12/11	1/12/11	1/12/11
3	PROPOSED RESIDENTIAL DEVELOPMENT	21/12/11	1/12/11	1/12/11	1/12/11
4	PROPOSED RESIDENTIAL DEVELOPMENT	21/12/11	1/12/11	1/12/11	1/12/11
5	PROPOSED RESIDENTIAL DEVELOPMENT	21/12/11	1/12/11	1/12/11	1/12/11
6	PROPOSED RESIDENTIAL DEVELOPMENT	21/12/11	1/12/11	1/12/11	1/12/11

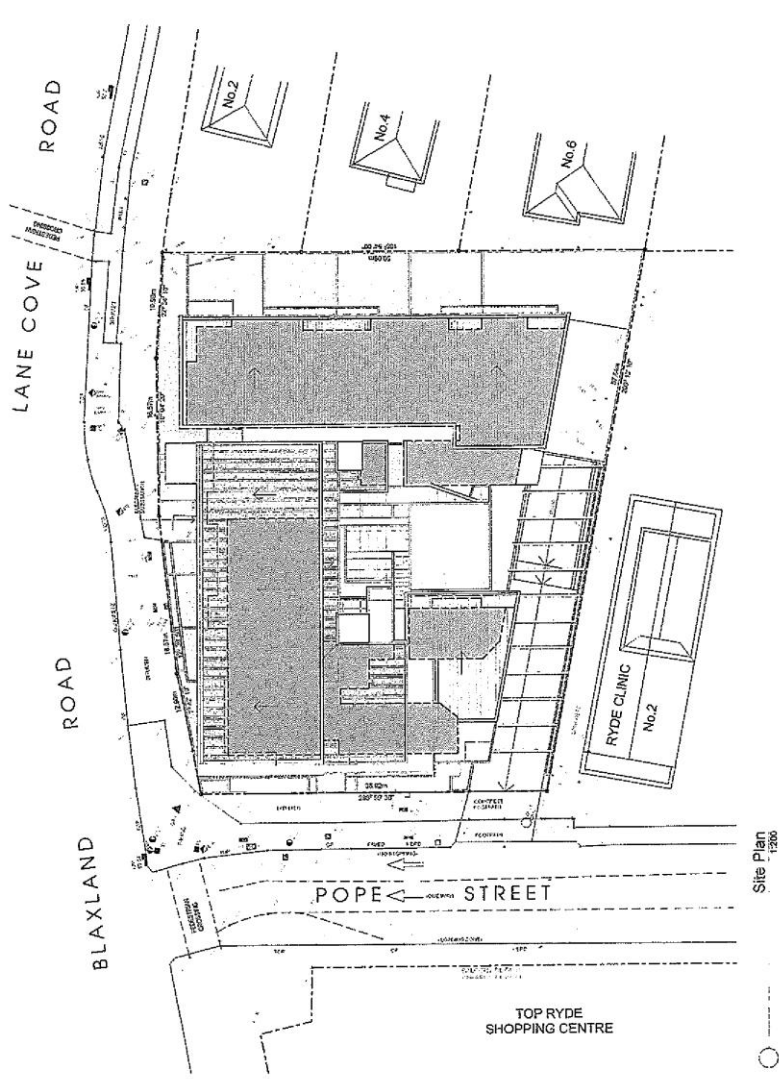
PROPOSED RESIDENTIAL DEVELOPMENT

218 Blaxland Road

RYDE
Top Ryde Developments P/L
Site Plan

DATE	PREPARED BY	DESIGNED BY	SCALE
12/02/13	AF103	A	

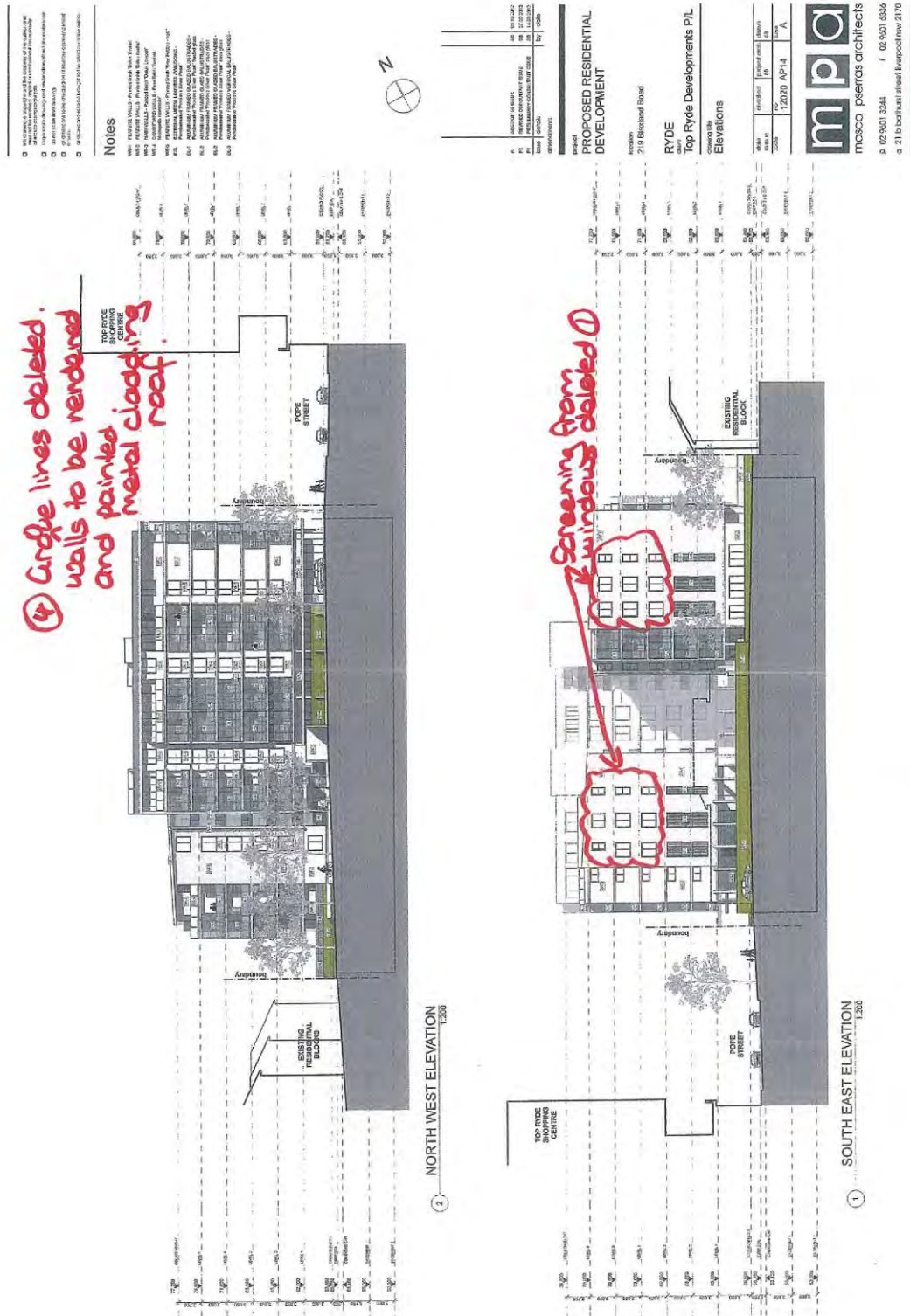
m p d
mosca peiros architects
p 02 9601 3244 f 02 9601 3336
e 21 to behurst street Newport NSW 2170



Site Plan 1:200

ITEM 4 (continued)

ATTACHMENT 2



ITEM 4 (continued)

ATTACHMENT 3

● Indicates submission received

