

14 NOVEMBER 2013

NOTICE OF MEETING

You are advised of the following meeting:

TUESDAY 19 NOVEMBER 2013.

Planning and Environment Committee Meeting No. 17/13

Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde - 5.00pm

Meeting Date: Tuesday 19 November 2013
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 5.00pm

NOTICE OF BUSINESS

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1 CONFIRMATION OF MINUTES - Meeting held on 5 November 2013

Report prepared by: Meeting Support Coordinator**File No.:** CLM/13/1/3/2 - BP13/1561

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 16/13, held on Tuesday, 5 November 2013, be confirmed.

ATTACHMENTS

- 1** Minutes - Planning and Environment Committee - 5 November 2013

ITEM 1 (continued)

ATTACHMENT 1

**Planning and Environment Committee
MINUTES OF MEETING NO. 16/13**

Meeting Date: Tuesday 5 November 2013

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

Time: 5.02pm

Councillors Present: Councillor Etmekdjian (Chairperson), The Mayor, Councillor Maggio and Councillors Laxale, Pickering and Yedelian OAM.

Apologies: Councillor Chung.

Absent: Councillor Salvestro-Martin.

Staff Present: Acting Group Manager – Environment and Planning, Service Unit Manager – Assessment, Team Leader – Assessment, Consultant Town Planner, Consultant Landscape Architect, Senior Development Engineer, Business Support Coordinator – Environment and Planning and Section Manager - Governance.

DISCLOSURES OF INTEREST

The Mayor, Councillor Maggio disclosed a Less than Significant Non-Pecuniary interest in Item 2 – 6 Yarwood Street, Marsfield for the reason that he is familiar with the objector, Lindsay Mar.

The Mayor, Councillor Maggio disclosed a Less than Significant Non-Pecuniary Interest in Item 3 – 51 Bayview Street, Tennyson Point for the reason that he is familiar with the applicant through community volunteering commitments.

1 CONFIRMATION OF MINUTES - Meeting held on 15 October 2013

Note: This Item was considered later in the meeting as set out in these Minutes.

**2 6 YARWOOD STREET, MARSFIELD - LOT 10 DP 234293
Development Application for demolition and new dual occupancy
(attached). LDA2013/0073.**

Note: Lindsay Mar (objector), Ronald Chin (objector) and John Khoury (applicant) addressed the Committee in relation to this Item.

Note: The Mayor, Councillor Maggio disclosed a Less than Significant Non-Pecuniary interest in this Item for the reason that he is familiar with the objector, Lindsay Mar.

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

ITEM 1 (continued)

ATTACHMENT 1

RESOLUTION: (Moved by Councillors Yedelian OAM and Pickering)

- (a) That Local Development Application No. LDA2013/0073 at 6 Yarwood Street, Marsfield being LOT 10 DP 234293 be approved subject to the Deferred Commencement conditions contained in **Attachment 1** with and additional condition to relocate the air conditioning heat pump to the southern side of the building and an amendment to condition 24 to read as follows:

24. 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
<i>Community & Cultural Facilities</i>	<i>\$4,168.81</i>
<i>Open Space & Recreation Facilities</i>	<i>\$10,262.74</i>
<i>Civic & Urban Improvements</i>	<i>\$3,490.45</i>
<i>Roads & Traffic Management Facilities</i>	<i>\$476.02</i>
<i>Cycleways</i>	<i>\$297.40</i>
<i>Stormwater Management Facilities</i>	<i>\$944.96</i>
<i>Plan Administration</i>	<i>\$80.19</i>
<i>The total contribution is</i>	<i>\$19,720.58</i>

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.
- (c) That separate to the Development Application, Council encourages the applicants and their neighbours to undertake their own discussions to see if they can come to an arrangement to improve the solar access to the panels on the property located at 8 Yarwood Street, Marsfield to their mutual agreed outcome.

ITEM 1 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: Unanimous

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

3 51 BAYVIEW STREET, TENNYSON POINT - LOT 2 in a Subdivision of LOT 103 DP 1003228. Development application for two storey dual occupancy (attached) including two swimming pools. LDA2012/0478.

Note: John Chetham (on behalf of Leila Hogan) (objector), Robert Hecek (objector) and Tanya Allen, Nicole Porter, Jackie Foristal and Belinda Foristal (applicants) addressed the Committee in relation to this Item.

Note: The Mayor, Councillor Maggio disclosed a Less than Significant Non-Pecuniary Interest in this Item for the reason that he is familiar with the applicant through community volunteering commitments.

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

Note: Documentation provided by the applicant was tabled in relation to this Item and a copy is ON FILE.

RESOLUTION: (Moved by Councillors Laxale and Pickering)

- (a) That LDA2012/0478 at 51 Bayview Street, Tennyson Point being LOT 2 in a Subdivision of LOT 103 DP 10003228 be approved via a Deferred Commencement consent subject to the conditions contained within **Attachment 1** with and an amendment to condition 20 to read as follows:

20. 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
<i>Community & Cultural Facilities</i>	<i>\$4,168.81</i>
<i>Open Space & Recreation Facilities</i>	<i>\$10,262.74</i>
<i>Civic & Urban Improvements</i>	<i>\$3,490.45</i>
<i>Roads & Traffic Management Facilities</i>	<i>\$476.02</i>
<i>Cycleways</i>	<i>\$297.40</i>
<i>Stormwater Management Facilities</i>	<i>\$944.96</i>
<i>Plan Administration</i>	<i>\$80.19</i>
<i>The total contribution is</i>	<i>\$19,720.58</i>

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.

ITEM 1 (continued)

ATTACHMENT 1

*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

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

1 CONFIRMATION OF MINUTES - Meeting held on 15 October 2013

RESOLUTION: (Moved by Councillors Pickering and Yedelian OAM)

That the Minutes of the Planning and Environment Committee 15/13, held on Tuesday 15 October 2013, 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.

The meeting closed at 6.02pm.

CONFIRMED THIS 19TH DAY OF NOVEMBER 2013.

Chairperson

-
- 2 684 - 686 VICTORIA ROAD, RYDE. LOTS 71 and 72 DP 633178. Local development application for the construction of a 3 storey residential flat building containing 18 apartments, basement parking for 22 vehicles and subdivision. LDA2013/0179.**
-

Report prepared by: Team Leader - Major Development Team

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

Report dated: 4/11/2013

File Number: GRP/09/5/6/2 - BP13/1612

1. Report Summary

Applicant: Earlcure Pty Limited.

Owner: Earlcure Pty Limited.

Date lodged: 3 June 2013

This report considers a proposal for the erection of a three storey residential flat building containing 18 apartments and a basement car park for 22 cars.

The site is zoned R4 High Density Residential and the development complies with the zone objectives. The applicable controls in the Ryde Local Environmental Plan 2010 are height and density. The development complies with the height control however significantly exceeds the density control. The density control is based on a site area requirement for one, two and three bedroom apartments. This results in the development requiring a site area of 2500m² whereas the site area is 1578m². This density control is proposed to be replaced in Draft Ryde Local Environmental Plan 2013 with a floor space ratio control. As Council would be aware, draft RLEP 2013 is certain and imminent and is likely to be gazetted by the end of 2013. The FSR identified for the site is 1:1. The development has proposed a FSR of 1.02:1. This represents a minor breach in the control equivalent to 32.55m². Significant concerns were raised by the adjoining and nearby neighbours in respect of the development. For this reason, it is considered appropriate to require the development to respect the new planning requirement and comply with the FSR of 1:1. Given that draft RLEP 2013 is certain and imminent, Council can put considerable weight upon the draft RLEP and resolve to approve the development application despite the non-compliance with the density control.

The development has been supported by Council's Urban Design Review Panel (UDRP) and predominantly complies with the Residential Flat Design Code (RFDC). The variation to the RFDC relates to the number of single aspect southerly aspect apartments. This variation is acceptable given that the southerly aspect apartments enjoy district views.

During the notification period, Council received 11 submissions objecting to the development. These objections raised concerns in terms of the impact of the development on the adjoining dwelling houses and compliance issues with the planning controls. The impacts of this development are not considered sufficient to warrant the refusal of the application.

ITEM 2 (continued)

The development application is recommended for approval subject to a deferred commencement condition to ensure compliance with the FSR proposed in draft RLEP 2013 and other appropriate conditions of consent.

Reason for Referral to Planning and Environment Committee: Number of submissions received and requested by Councillor Pendleton and the Mayor, Councillor Maggio.

Public Submissions: 11 submissions were received objecting to the development.

Clause 4.6 RLEP 2010 required? Yes. The development does not comply with the density provisions contained in RLEP 2010. Based on the number of apartments, the development is required to provide a site area of 2500m². The development has a site area of 1578m².

Value of works: \$2,937,005.

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

RECOMMENDATION:

- (a) That Local Development Application No. 2013/0179 at 684 to 686 Victoria Road, Ryde being LOTS 71 and 72 DP633178 be approved subject to deferred commencement in accordance with Section 80(3) of the EP&A Act and subject to the **ATTACHED** conditions (Attachment 1).
- (b) The following deferred commencement condition will be imposed on the application:
 - Part 1
 - 1. The Applicant is to reduce the floor space of the development by 32.55m² so that the development complies with a FSR of 1:1. Full details demonstrating how this reduction has been achieved is to be submitted to Council for approval of the Group Manager Environment and Planning.
- (c) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

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

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

Address	: 684 – 686 Victoria Rd Ryde
Site Area	: 1578m ² Frontage 43.505 metres to Victoria Road Depth 42.67 metres along the western side boundary and 54.765 metres along the eastern side boundary.
Topography and Vegetation	: The site is relatively flat however there is a gentle slope to the rear of the site. The site contains a total of 9 trees. None of these trees are significant.
Existing Buildings	: The site contains two single storey dwelling houses and various out buildings.
Planning Controls Zoning	: R4 High Density Residential under Ryde Local Environmental Plan 2010.
Other	: State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Developments State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Infrastructure) 2007 Draft Local Environmental Plan 2013 Development Control Plan 2010.

3. Councillor Representations

Name of Councillor: Councillor Pendleton.

Nature of the representation: Call up to the Planning and Environment Committee.
Date: 28/6/13.

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

On behalf of applicant or objectors? Objectors.

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

ITEM 2 (continued)

Name of Councillor: The Mayor, Councillor Maggio

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

Date: 15/7/13.

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

On behalf of applicant or objectors? Not stated.

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

4. Political Donations or Gifts

Any political donations or gifts disclosed? No.

5. Proposal

Development consent is sought for the construction of a three storey residential flat building with basement level car parking. The development is proposing 18 apartments, six apartments on each level of the building. The apartment mix will consist of 4x1 bedroom apartments and 14x2 bedroom apartments.

The basement car park will contain parking for 22 vehicles. 18 of these spaces will be for the residents and 4 spaces for visitors. Access to the basement will be via Victoria Road. The basement will also contain storage areas for the apartments as well as the waste areas.

Pedestrian access to the development is via Victoria Road. The development contains a lift as well as stairs which will access each level of the building.

The ground floor apartments are provided with a terrace areas while the apartments on the first and second floor are provided with balconies. There is also a communal open space area located on the ground floor in the rear south western corner of the site.

The development also proposes to strata subdivide the development.

ITEM 2 (continued)

The following is a photomontage of the development as viewed from Victoria Road.



Figure 1. Photomontage of the development.

6. Background

The development application was lodged on 3 June 2013 following two prelodgement meetings.

A letter was sent to the applicant on 8 July 2013 requesting the following information to be provided:

- The Arborist report was required to be amended to address a tree on the adjoining property that was shown as being removed. The applicant was advised to submit consent from the adjoining property owners or amend the report to retain the tree and include appropriate tree protection measures.
- Clarification was sought in respect of the rear setback. The ground floor showed 6m while the first and second floor showed 5.865m.
- Details of fencing on the site was requested.
- The applicant was requested to address privacy issues from a living room window adjacent to the communal open space.
- Further information was requested in respect of the storage and daylight access provisions of the Residential Flat Design Code.

Further information was received by 11 July 2013.

7. Submissions

The proposal was advertised and notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. The application was advertised on 12 June 2013. Notification of the proposal was from 19 June 2013 until 10 July 2013.

ITEM 2 (continued)

During this time, 11 submissions were received. The issues raised in the submissions were:

- *The development is inconsistent with the density control contained in Clause 4.5B of RLEP 2010 and the applicant has not provided adequate justification to amend this control. The applicant relies on the draft LEP 2013 FSR control to justify the non compliance. The draft LEP is not determinative and to place too significant weight upon the draft LEP would be inappropriate.*

Comment: The density control contained in Clause 4.5B of RLEP 2010 originally existed in the Ryde Planning Scheme Ordinance. A more appropriate tool for controlling the massing and bulk and scale of development is a floor space ratio control. As such draft RLEP 2013 has proposed to delete the density control and only contains a floor space ratio requirement. As Council would be aware, draft LEP 2013 has been adopted by Council and is currently waiting gazettal by the Department of Planning and Infrastructure. In these circumstances, LEP 2013 can be considered as certain and imminent and Council can put considerable weight on the planning instrument.

Draft RLEP 2013 proposes a FSR of 1:1. The development results in a FSR of 1.02:1. As proposed the development exceeds the control by 32.55m². To ensure that the development complies with the new control it is proposed to include a deferred commencement condition to ensure compliance with the FSR control of 1:1.

This issue has been addressed further in the report under the heading Ryde Local Environmental Plan 2010.

- *The development exceeds the maximum 2 storeys control contained in the DCP by proposing 3 storeys. Given the sensitive interface particularly to the south, the development should be limited to 2 storeys in scale.*

Comment: The height control for the site in RLEP 2010 is 9.5m and the development complies with this control. In this instance the DCP control (based on storeys) conflicts with the height provision of RLEP 2010 (based on metres). The DCP provision has no effect to the extent that it is "inconsistent or incompatible with" Council's RLEP 2010 pursuant to Clause 74C(5) of the Environmental Planning and Assessment Act, 1979. It should also be noted that the height of this building is compatible with the heights of other RFB's along this part of Victoria Road. This is demonstrated in the following photographs.

ITEM 2 (continued)



Photograph 1. The adjoining residential flat building at 688 Victoria Road as viewed from Victoria Road.



Photograph 2. The residential flat building at 688 and 690 Victoria road. Both of these buildings are three storeys in height.

The site does adjoin a residential property along the southern rear boundary and eastern side boundary. This site however is not considered to be a zone interface as the immediate adjoining properties are also zoned R4. The development has respected the property to the south and east by complying with the required rear and side setback, providing privacy measures to the balcony and incorporating landscaping within the rear setback.

- *The landscaping along the side and rear boundary will be incapable of achieving any softening effect upon the building when viewed from 35-37 and 39 Princes Street.*

Comment: The following figure illustrates the location of the above properties and the subject site.

ITEM 2 (continued)

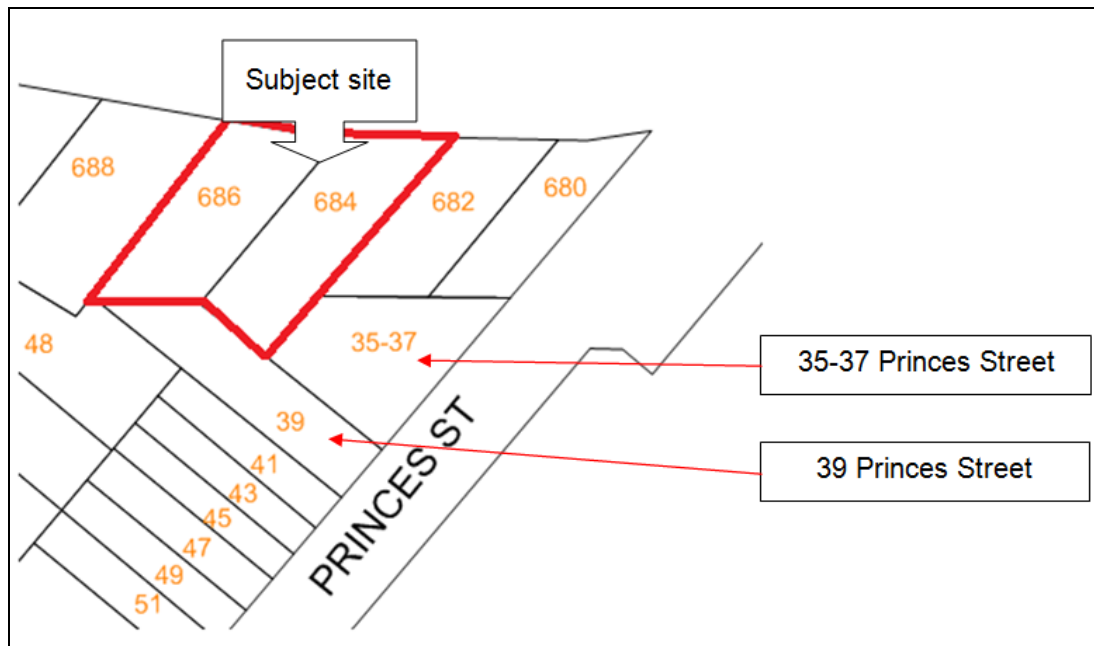


Figure 2. Plan showing the location of the site and neighbouring properties.

Along the rear boundary adjacent to 39 Princes Street, the development has been set back a minimum of 6 metres with the exception of a small corner of the building that encroaches the 6m setback by 1 metre. A deep soil zone with a minimum width of 4.534m exists within this setback. Adjacent to 35-37 Princes Street, the development is set back either 4.5m or 6m with a deep soil zone of 3.1m and 5.9m wide within this setback. The landscape plan has proposed the use of large canopy plants along the boundaries. These canopy trees consist of Blueberry ash, Bull bay magnolia, Prickly paperbark and Mauchurian pear. When mature, these canopy trees will range in height from 6m to 12m. In addition to providing amenity to the occupants of the development, these trees will also soften the impact of the development as viewed from the adjoining properties.

- *The development is not in harmony or scale with adjoining development. This is due to the development breaching the density and height controls, provides minimum setbacks and creates a stark contrast in scale from the north to the low density residential neighbourhood to the immediate south.*

Comment: The following is an extract from Council's zoning map. Although the properties to the south and east are currently dwelling houses, the immediate adjoining properties are zoned for high density residential development. The site is not considered to be a zone interface between the R4 zoned land and the R2 zoned land. Given this zoning, it is possible that these sites could be redeveloped for a higher residential development at some stage in the future. Residential flat buildings currently adjoin the site to the west and this development is compatible in terms of the built form with these developments.

ITEM 2 (continued)

The proposed development complies with the required setbacks along the rear and eastern boundary as well as the height control. The development does breach the density control however as detailed above this breach is satisfactory given the existence of a FSR control in the draft RLEP 2011. The bulk and scale and massing of the development is consistent with the adjoining flat building along Victoria Road. The proposed development is consistent with the desired future character of the area.

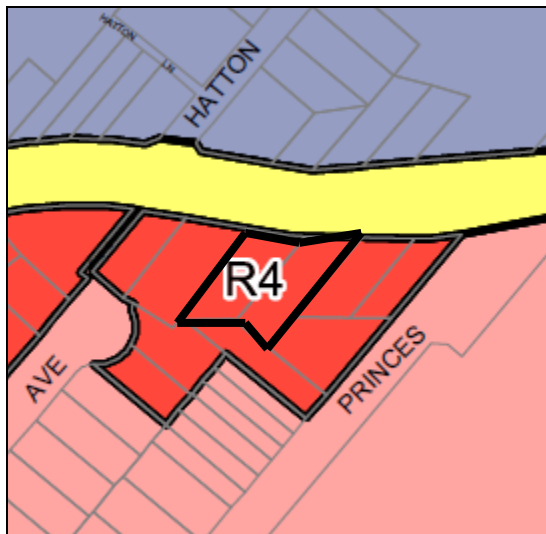


Figure 3. Zoning extract demonstrating that all of the adjoining properties are zoned R4 High Density Residential.

- *The impact on 39 Princes Street will be significant. The rear garden of the property will be surrounded by 3 storey development (consisting of this LDA, the existing RFB at 682 Victoria Road and the proposed RFB at 46 to 48 Gladstone Avenue). This will result in significant visual bulk, loss of sunlight and considerable overlooking.*

Comment: Given the zoning of the above properties, residential flat buildings are permitted. These developments will have a greater impact on surrounding developments than if the existing dwelling houses were to be retained. It is not intended to discuss the LDA at 46-48 Gladstone Avenue as this matter will be addressed in a separate report to the Planning and Environment Committee. At the time of writing this report the applicant for Gladstone Avenue has received a letter from Council Officer's identifying non-compliances with Council Policy and has been given the opportunity to address those. In the circumstances this application will not be reported to Council until 2014 if not withdrawn.

The impact to 39 Princes Street has been mitigated by the development complying with the height and setback controls and providing adequate landscaping at the rear of the site. As detailed later in the report, the development is satisfactory in terms of overshadowing and overlooking. Given the zoning of the site, the impact to 39 Princes Street is not sufficient to warrant the refusal of the development.

ITEM 2 (continued)

- *The development will result in loss of privacy to the rear gardens of 39, 41 and 43 Princes Street. This is due to the development orientating primary windows and balconies to the south.*

Comment: On each level of the building, the development has orientated three units with living areas and balconies to the south that could potentially overlook the rear yards of 39, 41 and 43 Princes Street. Overlooking will not occur from the ground floor units due to the erection of a 1.8m high boundary fence. The applicant has proposed the balustrades on the balconies on the first and second floor to be obscure glazing. This will prevent overlooking when people are sitting on the balcony or standing at the window adjacent to the balcony. This is demonstrated in the following figure.



Figure 4. Section through the building showing sight lines from the development looking towards 39 Princes Street.

Overlooking is still possible from two of the living room windows in two of the apartments on the first and second floor as well as somebody standing on the balcony. The development has tried to maximise visual privacy between the development and adjoining sites by providing adequate building separation in respect of the rear setback as well as obscure glazing and the use of louvres on the balconies. The location of the louvres is demonstrated on figure 5.

ITEM 2 (continued)

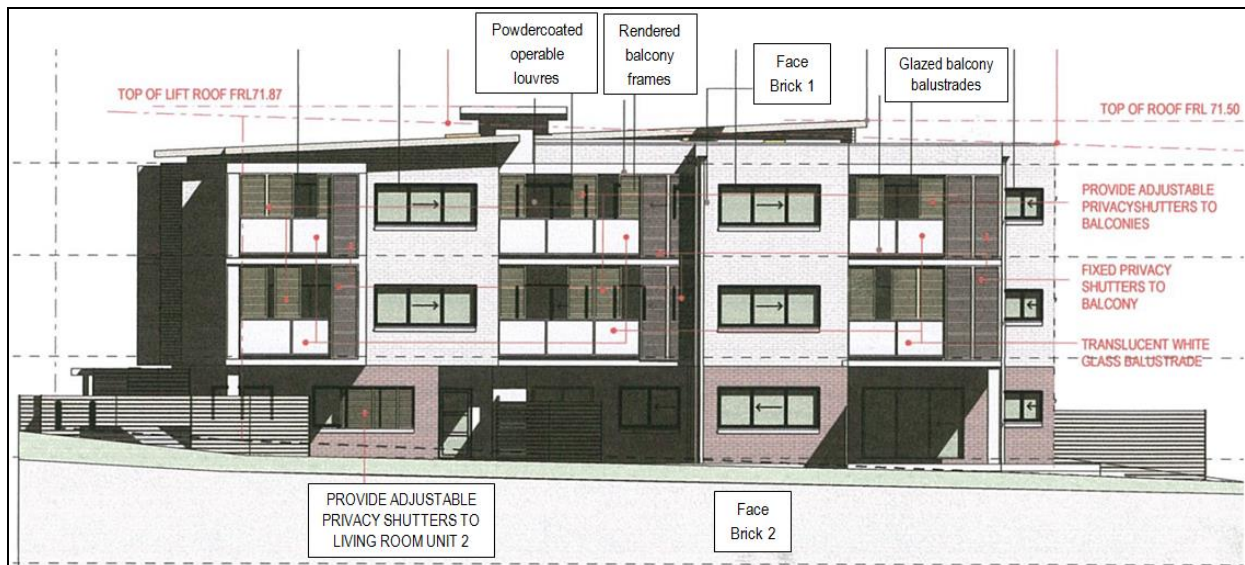


Figure 5. Southern elevation showing louvres and use of obscure glazing.

The impact on overlooking is not considered sufficient grounds to refuse the development.

- *The development will increase the extent of overshadowing to the rear garden areas of adjacent properties. Combining this shadow with the cumulative effects of existing and proposed developments will affect the amenity of 39 Princes Street.*

Comment: There is no quantitative control in either Part 3.4 of DCP 2010 (Residential Flat Developments) or the Residential Flat Design Code regarding solar access to adjoining properties.

Part 3.3 of DCP 2010 (Dwelling Houses and Duplex Buildings) does prescribe the following for neighbouring properties:

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

This control however is assuming the construction of a dwelling house on an adjoining R2 zoned site rather than a RFB in a R4 zoned site. The above criteria is not strictly applicable to the development, however it is intended to be used as a guide to help determine if the extent of overshadowing is appropriate.

ITEM 2 (continued)

The proposed development will not affect the dwelling house on 39 Princes Street until approximately 12 noon in mid winter. However the rear yard will be affected from 9am onwards. At 9am, shadow from the development will extend across approximately 80% of the rear yard. This will be reduced to approximately 60% of the rear yard at 12 noon. By 3pm, the rear yard is affected by the existing development at 688 Victoria Road rather than this development.

The following diagrams demonstrate the overshadowing at 9am, 12noon, 1pm, 2pm and 3pm at mid winter. In addition the overshadowing diagrams for the equinox have also been included.

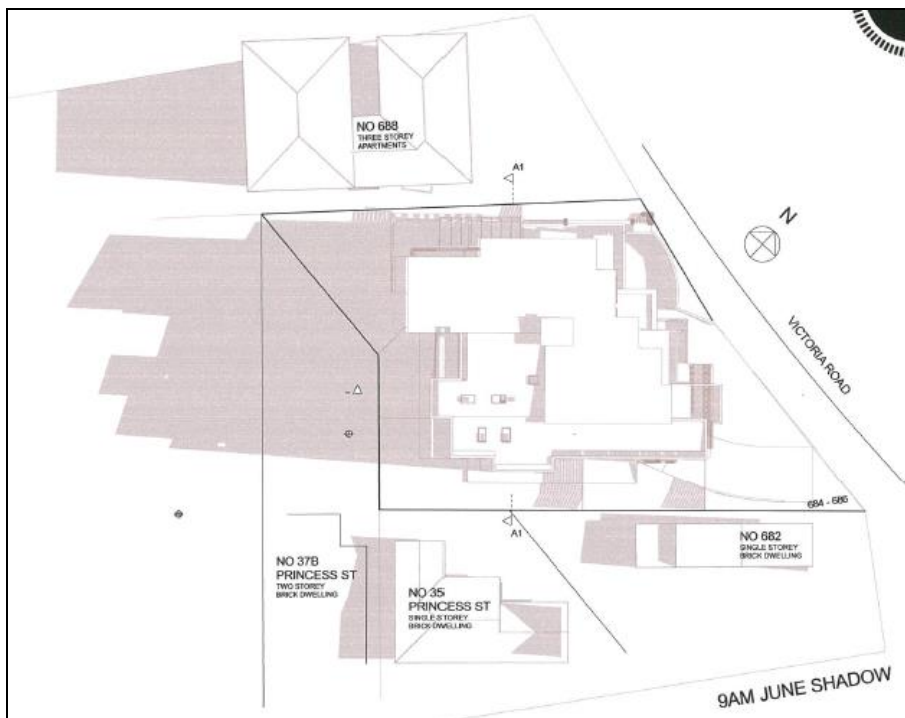


Figure 6. Shadow diagram at 9am mid winter. Approximately 80% of the rear yard of 39 Princes Street will be overshadowed.

ITEM 2 (continued)

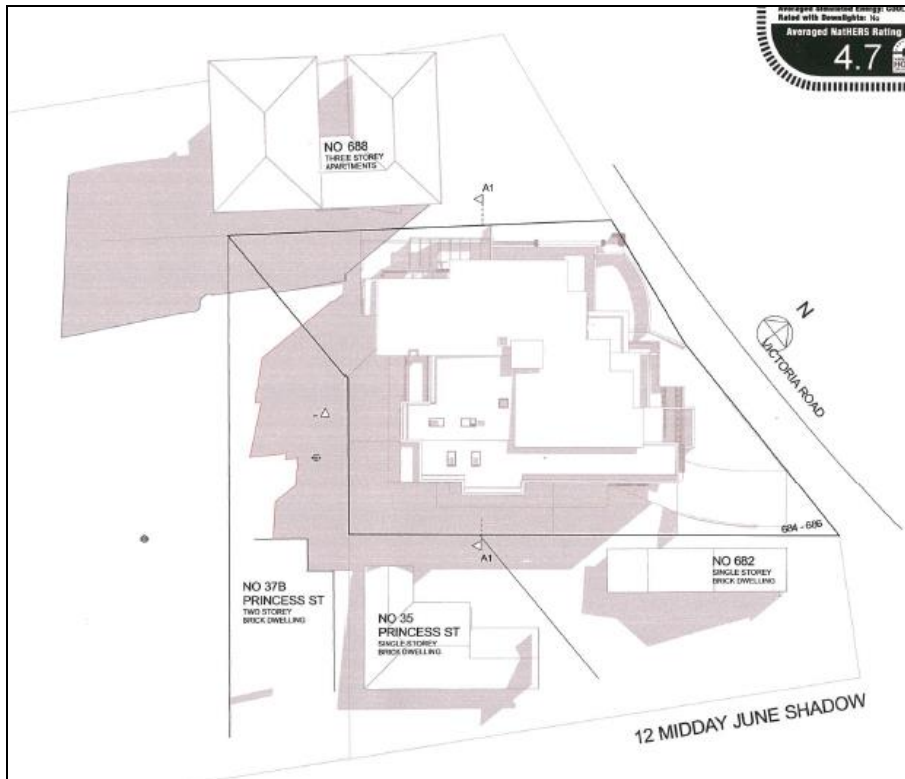


Figure 7. Shadow diagram at 12 noon mid winter. Approximately 60% of the rear yard of 39 Princes Street will be overshadowed.

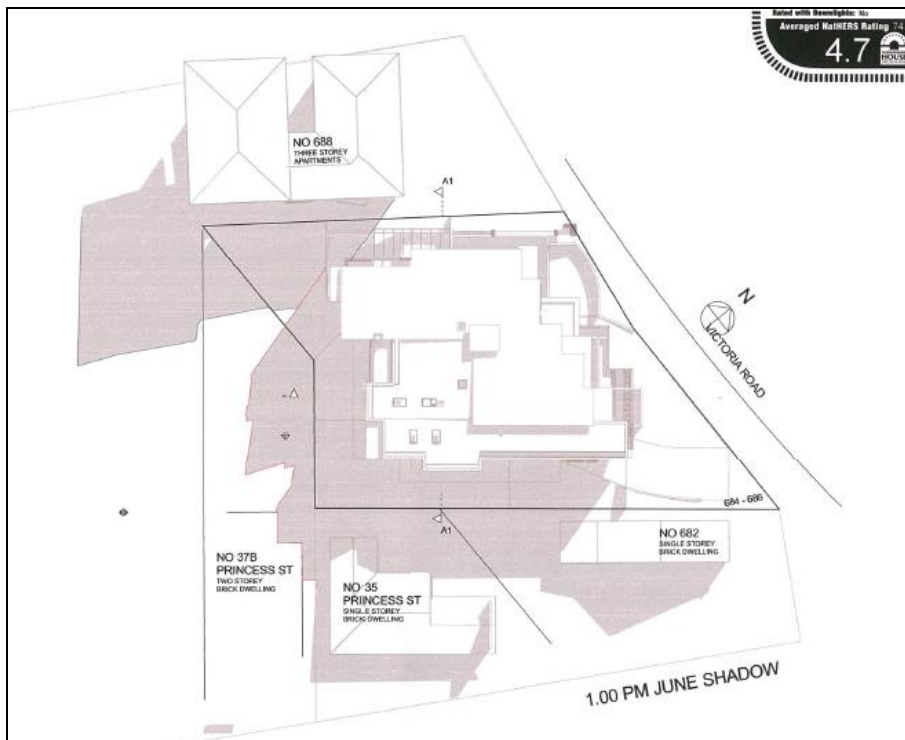


Figure 8. Shadow diagram at 1pm mid winter. Approximately 50% of the rear yard of 39 Princes Street will be overshadowed.

ITEM 2 (continued)

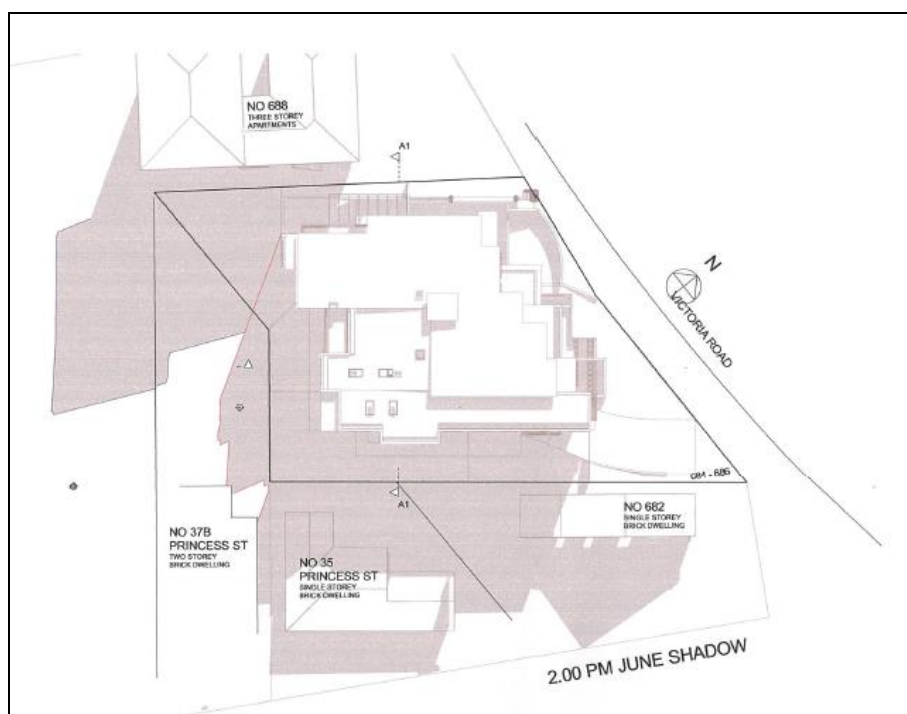


Figure 9. Shadow diagram at 2pm mid winter.

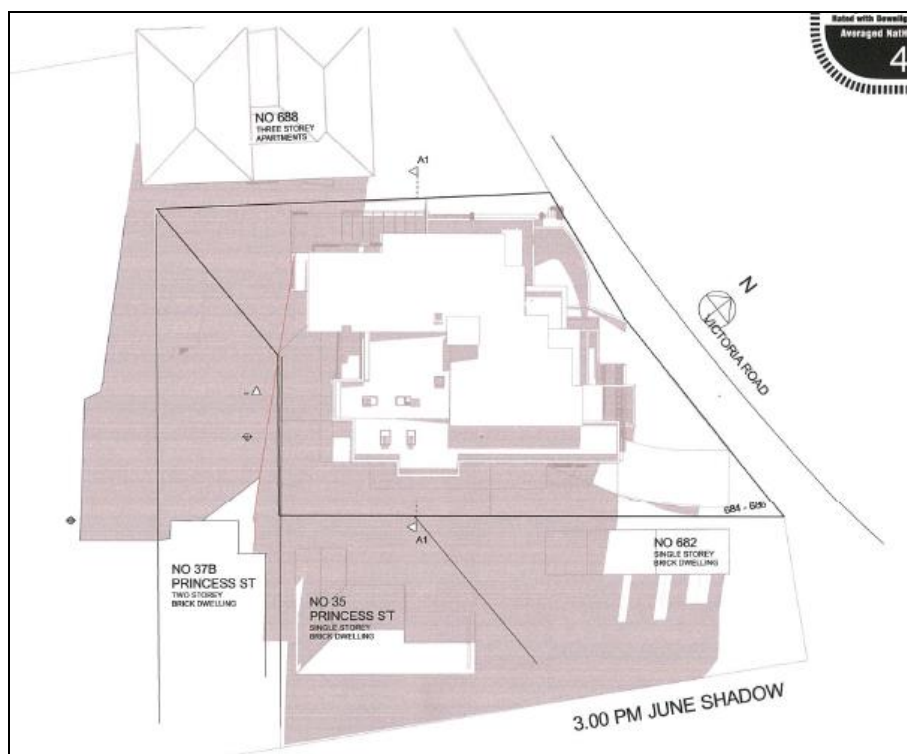


Figure 10. Shadow diagram at 3pm mid winter. The rear yard is affected by the existing development at 688 Victoria Road rather than the proposed development.

ITEM 2 (continued)

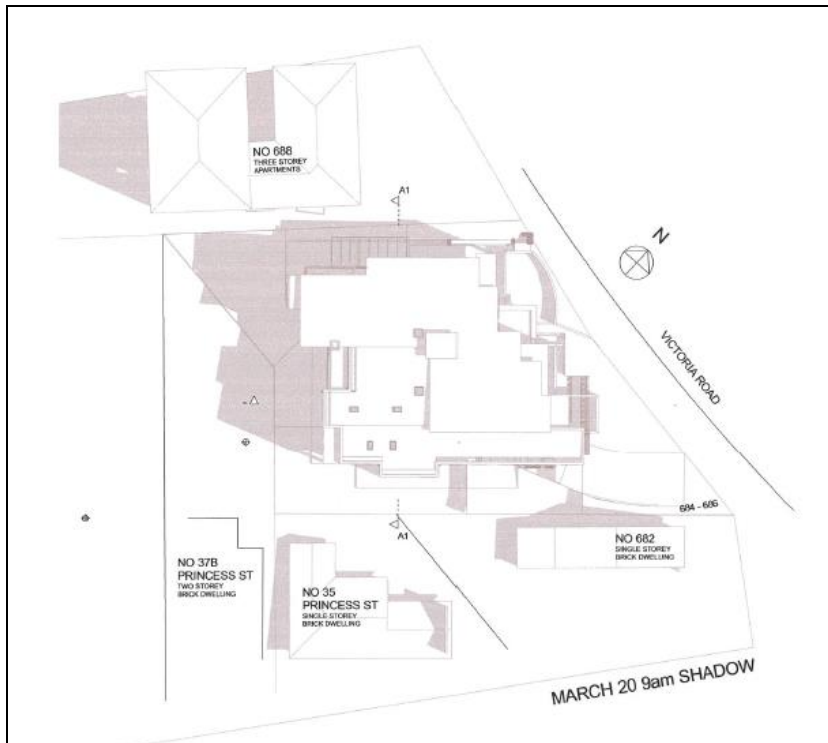


Figure 11. Shadow diagram at 9am during the equinox.

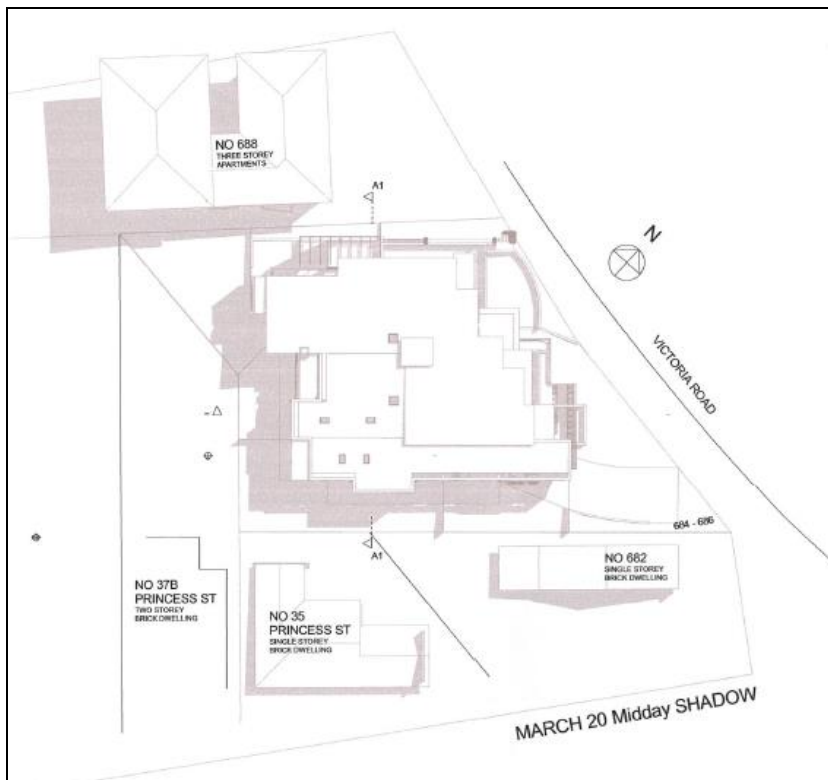


Figure 12. Shadow diagram at 12 noon during the equinox. The rear yard and dwelling at 39 Princes Street is not affected by this development.

ITEM 2 (continued)

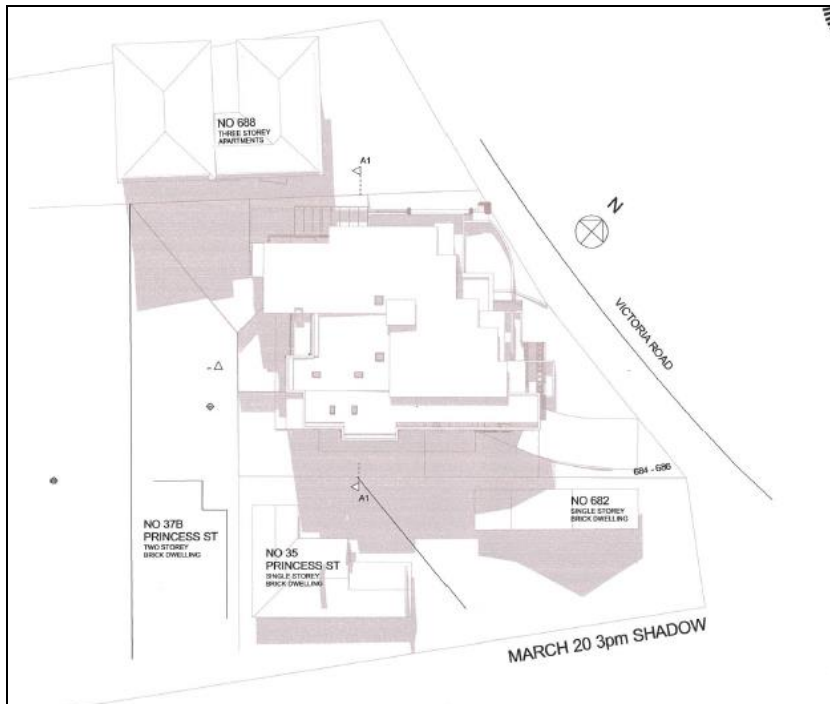


Figure 13. Shadow diagram at 3pm during the equinox.

As can be seen from the above diagrams, the development will overshadow the rear yard of 39 Princes Street. Approximately 40% of the rear yard will receive sunlight during mid winter between 12 noon and 2pm. This extent of overshadowing is unavoidable given that the development is for a RFB and it complies with the height and setback requirements. During the equinox, the rear yard is only affected at 9am.

At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. At higher densities, sunlight is harder to protect and the claim to retain it is not as strong.

On its merits, the impact of overshadowing is considered acceptable.

- *39 and 35-37 Princes Street is currently affected by overland stormwater flows from the site. The application lacks sufficient details as to how drainage will be resolved and how a legal point of discharge will be achieved.*

Comment: The survey plan indicates that the site straddles a ridge and there is a fall to the rear boundary of approximately 2-5% 10 metres from the rear boundary. The submitted concept stormwater design has proposed to regrade the rear yard and provide two inlet pits at the rear of the lot which direct stormwater runoff to the kerb in Victoria Road. As a consequence of the regrading it will be necessary to provide a small retaining wall in the rear south eastern corner of the site. The following diagram shows the location of the retaining wall.

ITEM 2 (continued)

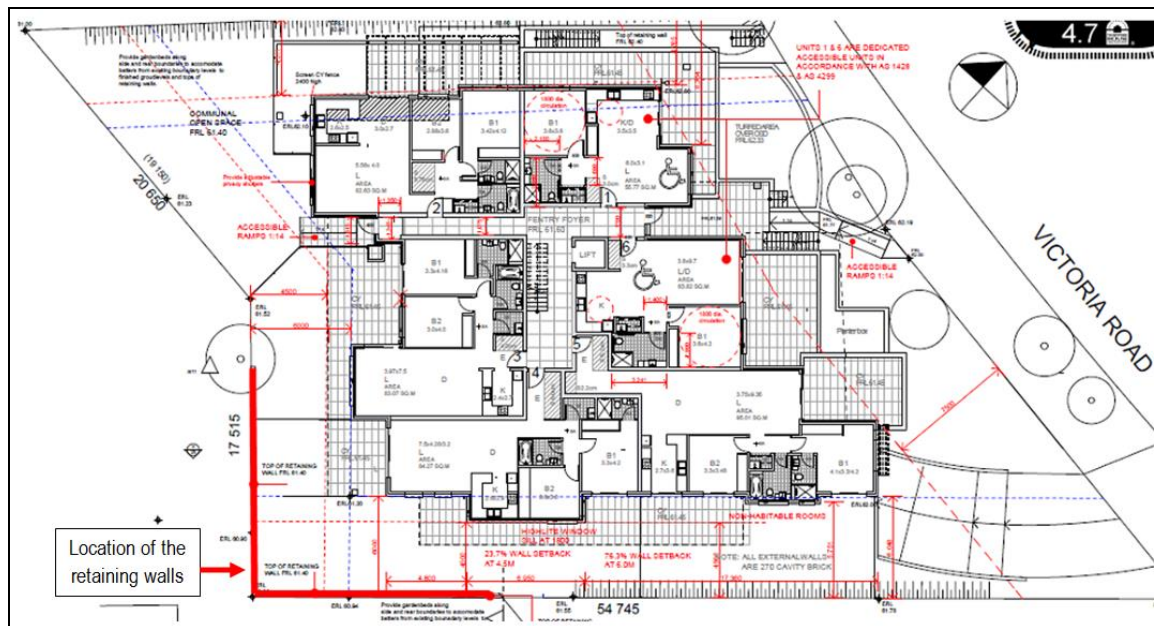


Figure 14. Location of retaining walls. The height of the wall will be a maximum of 0.5m.

This retaining wall would have a maximum height of 0.5m and then a 1.8m high boundary fence would be erected on top of the wall. From the neighbours perspective at 35-37 and 39 Princes Street, this will result in the combined height being a maximum of 2.3m above their natural ground level. This height is not considered excessive and should not materially affect the amenity of these properties.

The stormwater runoff will be to the kerb in Victoria Road. This should address the existing overland flow issue.

- *There is no capacity in Gladstone Avenue to take any more on street car parking. Any approval should not rely on on street car parking in Gladstone Avenue. How will Council ensure parking does not occur in Gladstone Avenue.*

Comment: Council cannot ensure that vehicles do not park within Gladstone Avenue. All that Council can do is require the development to provide on site car parking that satisfies the Council's DCP requirements. In this instance, the development is required to provide between 19 and 25 car parking spaces. The development has proposed a total of 22 car parking spaces. Accordingly, the development complies with Council's requirements.

- Please ensure vehicular access and waste removal is via Victoria Road.

Comment: All vehicular access and waste removal will be via Victoria Road.

- *There is another DA at 46-48 Gladstone Avenue. The cumulative traffic and car parking impacts for both developments should be considered together.*

ITEM 2 (continued)

Comment: The submission fails to identify which street that they are concerned about. In all likelihood, this development will predominantly use Victoria Road and is unlikely to be accessing Gladstone Avenue. For this reason it is not necessary to consider both DA's together in respect of traffic movements.

This development is likely to generate 81 two way vehicle trips per day and 8 two way vehicle trips during weekday peak hour. This increase in traffic will have a minimal to negligible impact on the operation of Victoria Road.

- *Noise impacts during construction would make my apartment unattractive for lease. This could have financial impacts and I may not be able to meet my loan repayments.*

Comment: Standard conditions of consent will be imposed in respect to the issue of noise. These conditions will include restricting construction hours and the requirement that construction noise not exceed background noise levels by more than 20dB(A). These conditions have been used for all development in the City of Ryde. Subject to the development being constructed in accordance with these conditions, there is unlikely to be an adverse impact on the surrounding properties.

- *Concerned that the structural integrity of the adjoining building may be affected.*

Comment: Any approval can be conditioned to require the developer to get a dilapidation report of the nearby adjoining residences prior to works commencing on the site. If structural damage does occur to the adjoining buildings, this would be a matter between the developer and the owner of the affected property. (See condition number 47).

- *Valuation of my investment apartment may be decreased as I may lose views of surrounding areas.*

Comment: The following plan demonstrates the location of the existing RFB where the objection came from and the proposed development. The most significant views would be those to the south of the development and these will not be affected by the development. The development can potentially affect views towards the west of 688 Victoria Road. These views would be better described as an outlook. It is unrealistic to expect that this outlook would be retained. The outlook occurs across the side boundary which is always more difficult than the protection of views or outlooks from the front or rear boundary. In addition, the development complies with the planning controls and it would not be possible to redesign the development to retain the outlook. The impact on views is considered satisfactory.

ITEM 2 (continued)

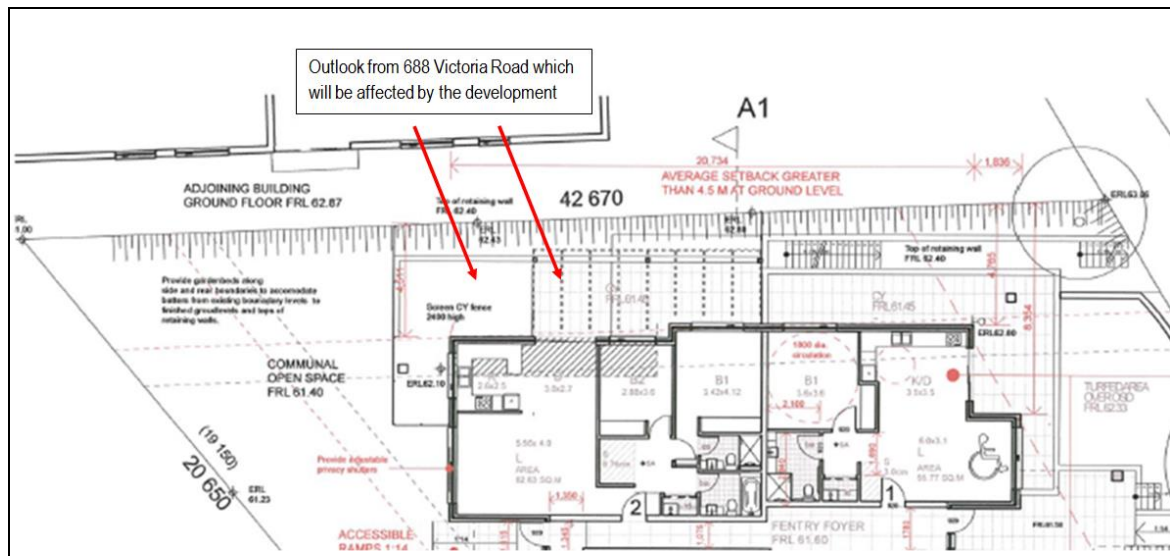


Figure 15. Location of 688 Victoria Road in relationship to the subject site. Views to the south will not be affected by the development.

- *There is already enough unit style dwellings available to suit growth. The loss of a free standing dwelling is making Ryde lose its identity.*

Comment: The site is zoned for higher density development. These dwelling houses have not been listed as a heritage item. Accordingly, there are no controls which would require these two dwellings to be retained.

- *During construction, construction related vehicles should not be able to park in Gladstone Avenue. How will Council prevent this from happening?*

Comment: Council cannot prevent construction vehicles from parking in Gladstone Avenue or Princes Street. Council can require the submission of a Traffic Construction Management Plan which would address parking for construction vehicles. This is likely to suggest that parking on site is only really an option during the latter stages of construction when the basement car park can be utilised. Prior to this, however construction vehicles will be required to utilise existing on street parking which is most likely to involve Gladstone Avenue and Princes Street. (See condition number 32).

- *Gladstone Avenue has become a one way street due to cars parking on both sides of the street. This is particularly dangerous at night. The development will make this more dangerous with cars only having access through Gladstone Avenue.*

Comment: This is not a relevant consideration for this LDA. All vehicular access to this site is via Victoria Road rather than Gladstone Avenue.

ITEM 2 (continued)

- *Waste removal will be more difficult with more bins in the cul-de-sac.*

Comment: Waste removal will be via Victoria Road rather than Gladstone Avenue.

- *How will Council ensure that no construction vehicles will impede access to adjoining sites?*

Comment: Council cannot ensure that vehicles do not impede access to adjoining sites. If this occurs, it will become a police matter.

- *Residents in the area have already had to deal with construction noise due to the redevelopment of 690 Victoria Road and new units on the opposite side of Victoria Road. Noise starting at 7am affects the sleep, amenity and ability to work of nearby residents.*

Comment: As part of Council's policies, construction is able to commence at 7am on Mondays to Saturdays. This has been Council's policy for a long time and aims to find a balance between the need to construct the development and the amenity of neighbours. The fact that nearby developments have recently occurred in the area is not sufficient grounds to warrant the refusal of the development.

- *The development will limit solar access to the roof of 35-37 Princes Street which will limit future installation of solar panels.*

Comment: At this stage solar panels do not exist on the roof of the building. The fact that an owner may wish to erect solar panels on the roof at some stage in the future is not grounds that can be used to justify a refusal of the development. Regardless of this, it should be noted that the roof of 35-37 Princes Street is only likely to be affected from 3pm and onwards in mid winter.

- *The development proposes to use the existing boundary fences and replace them after construction. The existing fence is in poor condition and to keep the existing fences during construction would pose a risk to our children who use the backyard.*

Comment: Noted. It is proposed to include a condition on the consent that will require the boundary fences along the rear and eastern boundary to be replaced prior to any demolition occurring on the site. This would involve the construction of the required retaining wall as well. (See condition number 16).

ITEM 2 (continued)

- *Inadequate on site car parking and there is no parking on Victoria Road and a serious shortfall of parking in Princes Street.*

Comment: The development has provided car parking on site in accordance with Council's DCP requirements. Given that the site provides adequate on site parking, the fact that there is no parking on Victoria Road and a demand for parking in Princes Street should not be an issue that would affect the amenity of the area.

- *The entrance and egress point for vehicles on Victoria Road is dangerous as vehicles are capable of travelling at 60kph.*

Comment: Safe access to Victoria Road will be provided from the development. All vehicles will enter and leave the site in a forward direction and the driveway accommodates good vehicle/vehicle and vehicle/pedestrian sight distances. In addition to this, due to the signalised intersection of Victoria Road and Blaxland Road, vehicles will be able to access the traffic stream on Victoria Road safely.

- *There is no provision for a turning circle to allow residents to be picked up or dropped off by vehicles.*

Comment: Council's controls do not require a turning circle to be provided on the site. Vehicles would be able to use the visitor car parking spaces to allow residents to be picked up and dropped off by vehicles.

- *External lighting could potentially affect our amenity.*

Comment: Any approval would be conditioned to ensure that external lighting would not affect the amenity of adjoining properties. (See condition number 63).

- *There are 8 lots zoned R4. By considering this development, it will render the remaining sites useless for this type of development.*

Comment: The following extract from the zoning map shows the R4 zoned sites located between Princes Street and the walkway from Gladstone Avenue that connects to Victoria Road. There is currently 2 separate RFB's at 688 and 690 Victoria Road. Council has also received a separate development application at 46-48 Gladstone Avenue. Excluding the subject site would result in four remaining properties that are zoned R4. These properties have been highlighted on the following plan. In all likelihood, to construct a RFB on these sites it would be necessary for the remaining sites to be amalgamated. The current development would not prevent this from occurring in the future.

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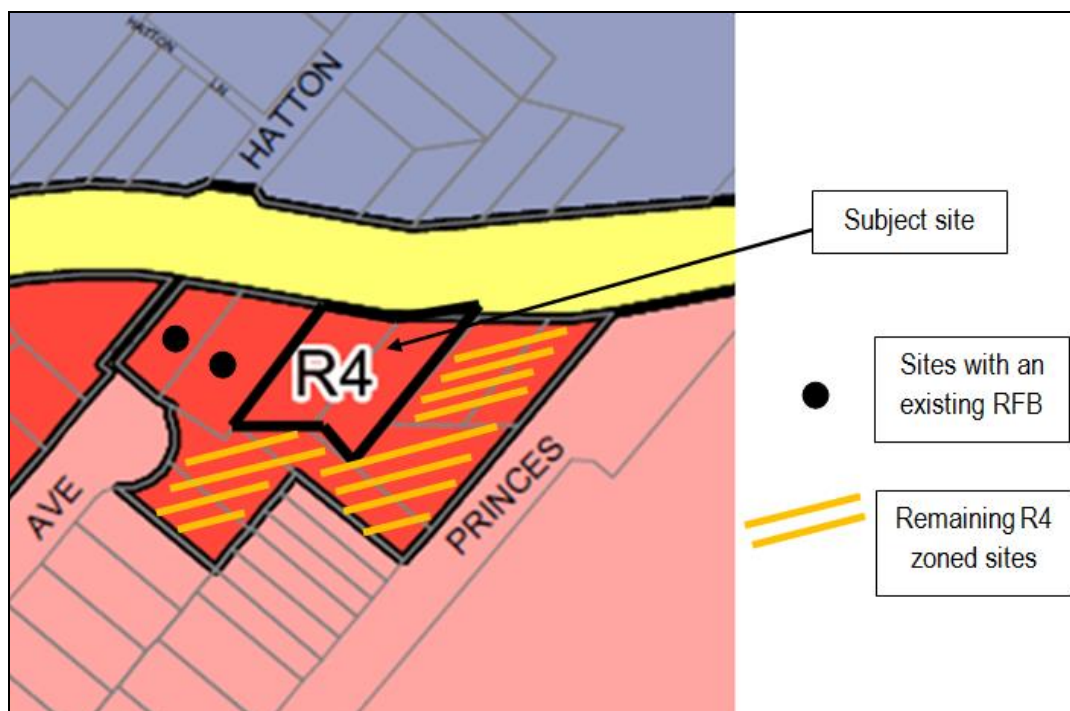


Figure 16. Zoning extract showing existing lots zoned R4.

- *If the development was to be approved, the following matters would need to be addressed:*
 - *Increase the size of the setbacks and reduce the height of the building.*
 - *Install higher windows or external shutters.*
 - *Plant more trees of advanced size.*
 - *Address current stormwater issues and ensure the development will not make this worse.*
 - *Prior to construction, erect a retaining wall within 684 Victoria Road to hold back soil along the existing fence and a new fence along the boundaries.*
 - *Provide a realistic number of parking spaces on the site.*
 - *Provide a turning area for cars entering and exiting the building.*
 - *Ensure external lighting does not affect our amenity.*
 - *Prepare a dilapidation report for all adjoining properties.*
 - *If air conditioning is to be used, locate the units in the garage to eliminate noise.*
 - *Provide a drying area in the landscape design.*
 - *Permit us to locate our clothes line in our front yard.*
 - *Permit planting of gardens and vegetable gardens on the verge as permitted in other Council areas.*

Comment: The first nine issues have already been addressed in the report and the development is considered satisfactory. The remaining four issues are discussed below:

ITEM 2 (continued)

Air conditioning. If air conditioning is provided, the unit will be provided on the balcony rather than within the basement. It is proposed to include a condition on the consent that restricts the emission of noise from any plant or equipment to be installed to not exceed the background noise by more than 5dBA. (See condition number 99).

Drying area in the landscape design. Council's controls require adequate clothes drying facilities to be provided for each dwelling. This can be in the form of either dryers or external clothes lines. In accordance with the BASIX Certificate, it is proposed to provide indoor or sheltered clothes drying lines. On the first and second level this is likely to occur on the balconies. A condition of consent will be imposed to ensure that any clothes drying would not be visible from the adjoining properties. (See condition number 46).

Permit neighbouring properties to locate their clothes line in the front yard. Utility areas are generally contained within the rear yard. The Dwelling House and Duplex DCP does not contain any control restricting the drying area to the rear yard. Locating drying areas to the front setback areas would adversely impact on the streetscape and is not considered appropriate.

Permit planting of gardens and vegetables on the road verge. This is a separate policy matter for Council.

8. Clause 4.6 RLEP 2010 variation required?

Yes. The development does not comply with the density provisions contained in RLEP 2010. The development is required to provide a site area of 2500m² whereas the site area is 1578m².

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

The site is zoned R4 High Density Residential under the provisions of the above LEP. The development is permitted in this zoning.

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within that zone. The objectives for the B4 Mixed Use zone are as follows:

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

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The development complies with this requirement. The development will provide a total of 18 dwellings. The development satisfies this objective.

- *To provide a variety of housing types within a high density residential environment.*

The development will provide a mix of apartments consisting of 4x1 bedroom and 14x2 bedroom apartments. There are also different layouts proposed for the 2 bedroom apartments. The development satisfies this objective.

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

As the development proposes residential, this objective is not applicable.

- *To allow higher density development around transport nodes and commercial and retail centres.*

The development is within easy walking distance to Top Ryde which is a transport node and retail centre. The development complies with this requirement.

- *To allow for revitalisation, rehabilitation and redevelopment of residential areas while ensuring that building design does not adversely affect the amenity of the locality.*

The building design has aimed to protect the amenity of the adjoining properties. However due to the slope of the site, there will be some impacts to the adjoining residential properties in respect of bulk and scale and amenity. To reduce these impacts the proposed development has ensured compliance with the height control and rear and side boundary setbacks. The development has also provided landscaping and the use of obscure balustrading to reduce the impacts of overlooking. As demonstrated in the report, the amenity impacts are considered acceptable. The development complies with this requirement.

Clause 4.3 Height of Buildings

The height of a building on any land is not to exceed the maximum height of 9.5 metres.

Building height is defined in this planning instrument as meaning the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like. The development complies with the maximum height control.

ITEM 2 (continued)**Clause 4.4 Floor Space Ratio**

Clause 4.4(2) specifies that the maximum FRS for a building on any land is not to exceed the FSR shown on the relevant FSR map. The map illustrates a FSR of 0.75:1. This clause however is not applicable to the development due to Clause 4.4A(2) of RLEP 2010. Clause 4.4A(2) specifies that the FSR does not apply to development for the purposes of a residential flat building unless they are part of shop top housing.

Shop top housing is defined as meaning one or more dwellings located above ground floor retail premises or business premises. As the development is not shop top housing, the clause is not applicable.

Clause 4.5B Density Controls for Multi Dwelling Housing and Residential Flat Buildings in Zone R4 High Density Residential

This clause requires that the consent authority must not consent to the erection of a RFB on land in an area specified in Column 1 of the Table unless the area of the land on which that development is to be carried out is not less than the total of the areas specified in column 2 of the Table. The site is located in Area 2. The following table demonstrates the site area required for each type of dwelling.

Area 2	Site size
1 bedroom	100m ²
2 bedroom	150m ²
3 bedroom	220m ²

The development proposes 4x1 bedroom apartments and 14x2 bedroom apartments. This mix would require a site area of 2500m². The site however has an area of 1578m². The development exceeds the density controls as specified by the LEP.

Clause 4.6 of LEP 2010 allows exceptions to development standards. Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. The consent authority must be satisfied that the applicant's written request has satisfied the above criteria and that the proposed development will be in the public interest as it is consistent with the zone objectives as well as the objectives of the particular development standard. In addition, consent cannot be granted unless the concurrence of the Director-General has been obtained.

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The applicant has requested a Clause 4.6 variation in respect of this matter. These matters are discussed as follows.

1. Written request provided by the applicant.

The applicant has provided a written request seeking to justify the variation to the development standard in the Statement of Environmental Effects prepared by Andrew Martin Planning and the addendum submitted to Council on 30 August 2013.

2. Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case.

The above density clause has been deleted from draft RLEP 2013 and replaced with a floor space ratio. The intended FSR for this site is 1:1. The development has proposed a FSR of 1.02:1 which exceeds the control by 32.55m² or 2.06%. Draft RLEP 2013 has been adopted by Council on 12 March 2013 and is waiting gazettal by the Department of Planning and Infrastructure. In all likelihood, this will occur before the end of 2013. In these circumstances, LEP 2013 can be considered certain and imminent.

In these circumstances, it would be reasonable for Council to put greater weight in respect to RLEP 2013 rather than the density control contained in RLEP 2010. It is widely accepted that a FSR control is the appropriate control in respect to controlling the bulk and scale of a development.

For these reasons, compliance with the density control would be unreasonable and unnecessary.

3. Environmental grounds to justifying contravening the development standard.

The applicant has provided the following grounds/reasons for the proposed variation:

"In our opinion there are sufficient planning grounds to justify the departure to the density control. Strict compliance with this particular control would not lead to a better planning outcome and in fact fails to achieve the strategic zoning objectives of the R4 High Density Residential zone. Council will not achieve its targets for housing as required under the Draft Sydney Metropolitan Strategy 2031 if the density provisions are strictly complied with. Council has acknowledged this in the DRLEP 2013 which deletes the density provisions from the local plan along with the 2 storey height controls. As discussed within the statement and within this addendum the proposal maintains suitable amenity to the surrounding residential properties in terms of overshadowing and privacy. The Design Review Panel were comfortable with the site planning and the proposed rear setbacks as well as the height and overall scale and massing

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of the proposal. The updated plans show the required privacy measures which reduce the privacy loss to the residential lands to the south.”

For the purposes of this assessment, the issue of whether Council satisfies its required targets for housing as contained in the Draft Sydney Metropolitan Strategy 2031 is not considered to be a relevant issue.

The breach to the draft RLEP 2013 control is equivalent to 32.55m² or 2.06% above the control. This breach is numerically small. However, given that this is a new control in a new LEP, it is appropriate to respect the control and require compliance. This has been addressed as a deferred commencement condition.

4. Consistent with the zone objectives and objectives of the development standard.

The zone objectives have already been identified in an earlier section of the report. As previously concluded, the development complies with the objectives of the zone.

The objectives of the density control have not been identified in LEP 2010. For the purposes of this assessment however, it has been assumed the objectives of the density control are the same as the floor space ratio control. These objectives are discussed below:

a. *To provide effective control over the bulk of future development.*

The development results in a minor variation to the permitted FSR as proposed in draft RLEP 2013, which is considered to be certain and imminent. However the development can be conditioned to comply with the FSR control. In addition, the development complies with the applicable rear and side boundary setbacks and the height control. The building envelope and massing is consistent with Council's controls. The massing of the building is unlikely to result in a material loss of amenity to the adjoining properties. The bulk and scale of the development will be greater than what currently exists on the site, however as previously stated this is consistent with Council's controls which envisage a different desired future character than the existing development.

Overlooking to the adjoining residential properties will be controlled by the use of landscaping and obscure glazing and louveres for the balconies. While these measures cannot entirely prevent overlooking, this is what would be expected in an area that is zoned for high residential development. The development has also complied with the required setback controls for the side and rear boundaries.

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In terms of overshadowing, the development will cast shadows onto the adjoining properties. Again the extent of overshadowing is what would be envisaged for a development of this massing.

- b. To allow appropriate levels of development for specific areas.*

The R4 zoned land adjacent to Victoria Road extends from Princes Street to Cowell Street. All of these properties with the exception of the subject site and the two properties to the east of the site, contain residential flat buildings. The proposed development will be consistent in terms of its bulk and scale and height as the residential flat buildings located to the west of the site.

Given that the site is within easy walking distance to Top Ryde, which is a transport node and retail centre, the FSR and density of the development is considered appropriate for this area subject to the recommended conditions.

- c. To enable the consent authority to assess and respond appropriately to future infrastructure needs.*

Any approval would be conditioned to require Section 94 contributions to be paid. This will assist Council in providing the required infrastructure in terms of community and cultural facilities, open space and recreation facilities, civic and urban improvements, roads and traffic management facilities, cycleways and stormwater management facilities.

5. Concurrence of the Director General

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

Conclusion

Compliance with the density control is considered to be unreasonable and unnecessary in this particular case. Draft RLEP 2013, which is certain and imminent contains a FSR control rather than the density control and the development is recommended to comply with this control by deferred commencement. In addition, the bulk and scale and massing of the building is consistent with Council's controls in respect to FSR, height and setbacks.

Clause 5.9 Preservation of Trees or Vegetation

Clause 5.9 requires either development consent or a permit granted by Council for the removal of any trees. The applicant has proposed to remove all of the trees on the subject site as well as the two street trees in front of the site. To

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address this issue, an Arborist report has been provided. This report also includes appropriate tree protection measures for the adjoining site.

The two street trees are a bracelet honey myrtle and a wattle species. The applicant has advised that if these trees are removed it is proposed to replace them with three *Pyrus calleryana* capital or any other trees as suggested by Council. The issue of the street trees has been considered by Council's Urban Forest Officer who has advised that the removal of these two trees is appropriate as these trees are inappropriate adjacent to Victoria Road. The replacement planting as suggested by the applicant is also appropriate. A condition of consent has been imposed in respect of the replacement trees as well as requiring a bond to ensure that the trees are established on the site. (See condition number 1b and 79).

The development also proposes to remove 9 trees from the subject site. These trees consist of two privet, a cabbage palm, a loquat, a silky oak, two bracelet honey myrtle, a prickly paperbark and a variegated pittosporum. The two privet are considered weed species and no objection is raised to their removal. All but one of the other trees have been identified as having either a low to medium retention value. The prickly paperbark was identified as having high retention value. None of these trees are identified as being within an endangered community or a tree of any significance to the streetscape or the area. The development proposes significant planting as part of the landscaped plan for the development. This will compensate for the loss of any trees.

Clause 5.10 Heritage Conservation

The site does not contain any heritage items nor is it located in a Heritage Conservation Area. The site is however in the vicinity of The Great North Road (Victoria Road) which is a heritage item. The applicant has submitted a Heritage Impact Statement which assesses the potential impact of the proposal on the significance of this item and potential impact, if any, on the view corridors to and from this item. This document has concluded that the proposal will have little to no impact on the heritage values or significance of the Great Northern Road. This document has been reviewed by the Council's Heritage Officer who agrees with the findings of this report.

Clause 6.1 Earthworks

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

- The likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality.

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

The proposed development includes excavation for a basement car park. Council's Development Engineer requires that a number of conditions be included in the consent to address engineering issues such as a sediment and erosion control plan to be submitted prior to the issue of a construction certificate.

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

The development is considered satisfactory in respect of this clause.

(b) Relevant SEPPs**State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development**

This policy aims to improve the design quality of residential flat development in NSW. It recognises that the design quality of residential flat developments is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.

The proposal has been assessed against the following matters relevant to SEPP 65 for consideration:

- Urban Design Review Panel (prior to lodgement);
- The 10 SEPP 65 Design Quality Principles; and
- The NSW Residential Flat Design Code guidelines.

Urban Design Review Panel

Council's Urban Design Review Panel initially reviewed the preliminary proposal on 12 February 2013. At this meeting the panel raised concerns with the development in respect to the massing and height, setbacks, separation and amenity, the landscape design and the location of the basement in respect to natural ground levels. The Panel recommended that the proposal be amended

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to address all of the issues raised. As a result of this meeting the plans were amended and reconsidered by the UDRP meeting again on 10 April 2013. At this meeting the Panel provided the following comments:

“This is the second time the Panel has reviewed a development proposal for this site.

The site is located in close proximity to Ryde Town Centre. It is a mid-block site with access only to Victoria Road. The height limit for the site is 9.5m. The proposal as amended has an FSR of 0.94:1. This is reasonable relative to Council’s draft control.

The proponents have provided further concept CADD plans with more developed elevations for consideration of the panel prior to the meeting. At the panel meeting the applicant also tabled further drawings that included a connection from the lobby to the communal open space and deleted a setback in the building form to the rear of the building adjacent to the north west boundary.

General and previous issues

The panel notes that the proposal has been substantially amended to address the issues previously raised with the design. The panel commends the applicant for their efforts to resolve the conflicts within the proposal. The issues that were identified with the previous proposal in summary were:

- *The extent to which the basement extended beyond the natural ground level around the site*
- *The privacy impacts of the raised terraces*
- *The poor relationship between the raised terraces on the top of the car park and the remainder of the site and the surrounding communal open space*
- *The extent of site coverage by the basement car park*
- *Excessive massing of the development*
- *Exceedance of the FSR control*
- *Orientation of the building relative to boundaries*
- *Lack of front setback to the western portion of the building*
- *Insufficient side setbacks*
- *Living areas oriented to side boundaries*
- *Insufficient rear setback*
- *Reliance on high light windows for bedrooms*
- *Insufficient separation for balconies to adjoining properties resulting in privacy impacts*
- *Lack of landscape plans and poor communal open space*
- *Poor street address, privacy impacts due to access arrangements and location of garbage bins*
- *Poor roof relationships, lack of eaves and monotony of materials*

ITEM 2 (continued)

The amended proposal has addressed many of these issues successfully. The remaining issues with the amended proposal are discussed below.

Basement and natural ground level

- *The lowering of the basement level is supported. The location of the bin store within the basement is also supported. Care needs to be taken to ensure sufficient head height for the bin store if it exits onto the ramp.*

Comment: The bin store is not proposed to exit onto the driveway ramp. Head heights are sufficient.

- *The lift within the basement is poorly located. Residents entering and leaving the lift will be forced into the path of vehicle traffic entering or leaving the basement. It is suggested that the lift be reorientated.*

Comment: The location of the lift has been amended. Residents and visitors will now be required to access a foyer area outside of the lift. This is a safer option than what was considered by the UDRP.

- *The applicant should ensure that sufficient storage is provided in both the basement and the units to meet the requirements of the Residential Flat Design Code.*

Comment: Information has been provided to confirm that the development complies with the storage requirements.

Massing and height

- *The panel is supportive of the height proposed and the provision of 3 storeys on the site. It is noted that the proposed roof is over the height limit in some locations. The panel considers that this exceedance is not justified and that the roof should be amended to fit within the maximum height allowed on the site.*

Comment: This has been amended to ensure that the roof does not exceed the height requirement.

- *The reduction in the extent of built form in the amended design is resulting in an acceptable massing on the site. The panel considers that the FSR is generally acceptable subject to comments under the setbacks below.*

Comment: Noted.

- *The reorientation of the building achieves an improved relationship to the boundaries of the site and adjoining building forms.*

Comment: Noted.

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Setbacks, separation and amenity

- *Front - The front setbacks vary and now achieve a staggered form that is acceptable in the streetscape given the orientation of adjacent buildings. The side of the building to the north west will be exposed permanently in this location and will need treatment as a main façade given its visibility.
Comment: That part of the western façade which will be highly visible has been treated in a similar manner to the front façade. Both facades will include the use of face brick and ultraclad aluminium weatherboards.*
- *Side - The side setback to the south-east is generally considered to now be sufficient. However the panel does not support the reduced setback along the north west boundary. The panel's first drawing set showed a 6.3m setback, which was reduced to approximately 4.5m in the drawing received prior to the meeting. The panel recommends a 6m minimum setback where living areas are oriented to side boundaries. The connection to the communal open space to the lobby is required and supported but this should not result in expansion of the envelope closer to the side boundary, particularly given this space provides the solar access to the apartment and its courtyard. The ground floor apartment 2 should align with the upper floors and provide the full side setback for the height of the building.*

Comment: The applicant has proposed variations to the western boundary setback. The ground floor is setback between 4.511m and 4.765m. The first and second floors are setback between 4.2m and 6m. The Panel have raised concerns that the development should be setback 6m from the side boundary for each level of the building. This recommendation is not supported.

The following diagram shows the setbacks of the first and second floor of the development in relationship to the adjoining property.

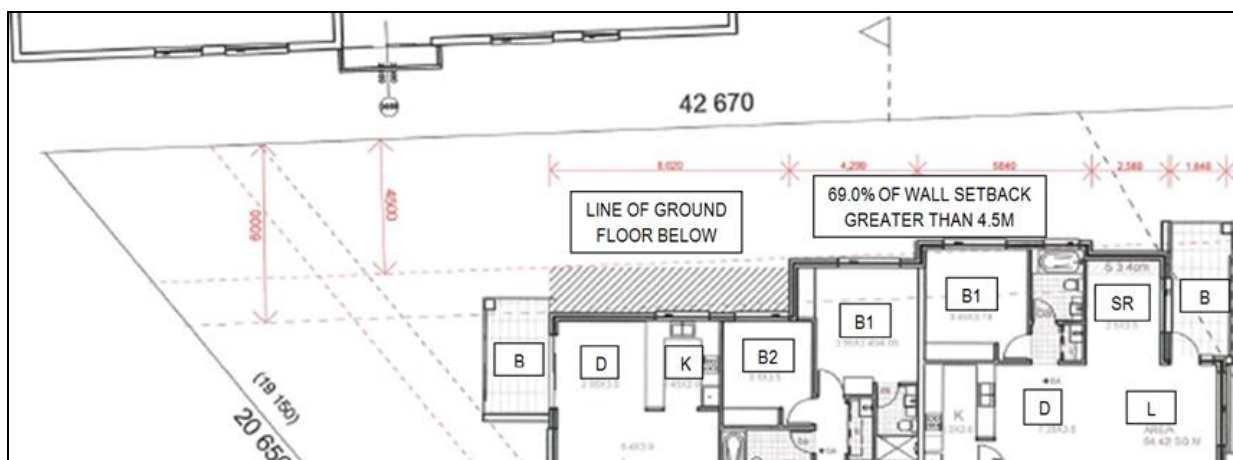


Figure 17. Setbacks of the first and second floor along the western boundary.

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Where the building is set back less than the 6m, the development adjoins the open area car park of the adjoining site. Where the development does line up with the adjoining building, it is setback 6m. In these circumstances, the reduced setback on the upper floors will not adversely impact on the amenity of the adjoining property. The massing of the building will not impact on the streetscape or the adjoining building.

The setback on the ground floor for the northern portion of the building adjoins the car park of the adjoining site. This is considered acceptable for the reasons detailed above. The rear of the building is setback 4.5m. Due to the difference in the levels between this site and the subject site, there will be no loss of privacy to either building. In addition, this portion of the building will not be readily visible.

For these reasons the variation to the setback is acceptable.

- *Rear - The rear setback is considered to be sufficient. The south elevations suggest that the balustrades to the upper floor balconies are either solid or frosted glass. These treatments are encouraged by the panel to reduce the opportunity for downward viewing into the neighbours garden area and private open space. The panel encourages the applicant to provide movable screens to these balconies. Some screens are shown but it is not known if they are fixed for only the extent on the drawings or moveable to be able to fully extend across the balconies for additional privacy.*

Comment: The applicant has provided louvers on the southern balconies. These screens are described on the plans as operable but it is not clear from the plans if they can extend across the entire balcony façade. A condition of consent will be imposed to require the screens to be able to extend across the full frontage of the balcony. (See condition number 1a).

Amenity

- *The amenity of the proposal has been improved. The relationship of the apartments to each other and the neighbouring properties is now reasonable. The internal layouts of a number of the apartments need some further design development to delete awkward relationships between the lift and apartment entries, study areas that have no access to light and are very constrained such as in apartments 4, 10 and 16 and the duct to the car park which compromises the balconies and terraces to Units 3, 9 and 15. Furniture layouts and wardrobes should be included on floor plans to demonstrate functionality of rooms, including kitchens and bathrooms.*

Comment: Concerns were raised by the Panel in respect of the study in apartments 4, 10 and 16 being constrained and having no access to light. This space has been replaced as storage within the apartment. The duct to the car park is adjacent to the balconies of apartments 3, 9 and 15. This is unlikely to

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compromise the use of the balcony as it is located to the side of the balcony and the balcony still achieves an acceptable size. Plans have been submitted which demonstrate furniture locations. The size of the apartments is such that it will be possible to furnish the apartment in several ways.

- *The panel suggests that given the issue with the lift and the basements as well as the unit entries that the lift be relocated closer to the entry at the corner of unit 6 where its kitchen currently is situated. This will allow the lift to exist into the main part of the lobby rather than around the corner.*

Comment: The location of the lift has been amended as suggested by the Panel.

Open Space and Landscape Design

- *A developed landscape design still has not been provided to the panel. The lowering of the basement has improved the relationship between the ground level and terraces for the apartments. The communal open space area is still undefined and there is confusion between the private open space for the units and the communal areas. A landscape plan should ensure that the communal open space is useful and incorporates seating, spaces for gathering, bbq facilities and large tree planting. This space should be designed to provide a pleasant outlook for residential within the site and on the adjoining site.*

Comment: This has been addressed in the current plans.

- *The panel suggests that the ground floor units utilise the full extent of open space from their terraces to the rear and side boundaries for units 3, 4 and 5 as the space left over is token and not useable as communal open space.*

Comment: This has been addressed in the current plans.

- *For Unit 2 the panel suggests that the unit is provided with a terrace and open space 3m wide towards the rear boundary but gains the full extent of that space and beside the apartment along the side boundary up to the party wall with Unit 1. This area should be provided with planter beds and hedging to ensure privacy from the communal open space and adjoining apartments.*

Comment: The current plans have addressed the size of the terrace for apartment 2 in accordance with the above recommendation. Rather than using planter beds and hedging to ensure privacy from the communal open space areas, the applicant has used fencing to a height of 2.4m. This will maintain privacy without adversely impacting on the privacy of the apartment.

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- *The area to the side of Unit 1 is also of questionable use. It is suggested that this area is planted with landscaping to provide privacy to the bedrooms and kitchen from persons using the fire stairs from the basement. The small area of raised planter bed that is currently accessed from the front entry path is not going to be useable. As such the panel suggests that this area forms part of the private open space for Unit 1 and is landscaped to provide a pleasant outlook and some screening from the street. No stairs should be provided to this space from the entry path.*

Comment: In order to comply with the BCA, the development is required to provide exit stairs from the basement. For this reason the stairs have remained in a similar position. The relationship between the stairs and the terrace has however been improved.

Sense of Address, access and garbage

- *The sense of address to the development has also been improved. The two ground floor units – 5 and 6 however should have a direct access to the street via a pathway through the front garden landscape and also a gate into their terrace areas.*

Comment: This has not been incorporated in the current plans. While this approach is normally required, given that this site is adjacent to Victoria road, this is not considered an essential criteria for the development. As proposed the development has incorporated more planting in the front setback areas.

- *Any fences to the front of the development around the terrace areas are to be no higher than 1.0m above the level of the terrace to ensure passive surveillance and also a positive aspect to the street.*

Comment: The height of the front fences ranges from 1m to 1.6m. This will ensure suitable privacy from the street as well as retaining the passive surveillance as suggested by the Panel. Planting will be provided in front of these fences to soften the appearance from the streetscape.

- *The relocation of the garbage bins to the basement is supported and applauded.*

Comment: Noted.

Aesthetics

- *The design of the building has been developed further. The roof forms have been rationalised and improved in their appearance. The brick base to the building is supported and should be extended around all facades of the building and projecting bays.*

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Comment: This has been incorporated into the current plans.

Recommendation

The panel considers that the proposal is generally acceptable subject to the minor amendments set out in this report. The design should be amended prior to formal lodgement of the development application. The panel does not require the proposal to return to a panel meeting if these amendments are undertaken.

SEPP 65 Design Quality Principles

There are 10 design quality principles identified within SEPP 65. The following table provides an assessment of the proposed residential flat building (RFB) against the 10 design principles of the SEPP.

Planning Principle	Comment	Comply
Context Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.	The character of Victoria Road from Princes Street to Cowell Street consists of RFB's which have a height of 3 to 4 storeys as well as single storey dwelling houses which are located closer to Princes Street. The RFB's are generally setback from Victoria Road and provide a pitched roof however the newer RFB's have a flat roof. This development represents an infill development along Victoria Road and is appropriate in terms of the context of RFB's. The development reflects a bulk and scale similar to the adjoining RFB's and is consistent with the future desired character of the area. The proposed development is a desirable use of this site which blends in with the current and transitioning urban context of the area.	Yes
Scale Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate	The scale of the development reflects the existing scale and context of the streetscape of Victoria Road and the adjoining RFB's. The scale of the building was also supported by the Council's Urban Design review Panel. The overall height responds to the height of the adjoining RFB as viewed	Yes

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Planning Principle	Comment	Comply
scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.	from Victoria Road.	
Built Form Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.	The built form is considered appropriate for the site and proposed use. The facades of the building will provide visual interest as well as articulation.	Yes
Density Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.	There is no applicable floor space ratio control for the site in RLEP 2010. However, draft LEP 2013 does contain a FSR control for the site. This control is 1:1. The development has proposed a FSR of 1.02:1. The development exceeds the control by 32.55m ² . This is a minor variation. This can be addressed as a deferred commencement condition. The density is consistent with the desired future character of the area.	Yes
Resource, energy and water efficiency Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.	The applicant has provided a BASIX Certificate for the building (No. 482707M) which indicates that the building will meet the energy and water use targets set by the BASIX SEPP. A waste management plan has been submitted and is considered acceptable	Yes

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Planning Principle	Comment	Comply
<p>Sustainability is integral to the 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.</p>	<p>by Council's Public Works Section.</p> <p>The design also ensures that the development will largely comply with the soil depth, cross ventilation and reuse of water as provided in the Residential Flat Design Code. The development also satisfies the passive solar design principles in the RFDC.</p>	
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.</p> <p>Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.</p>	<p>The landscaping will assist in improving the aesthetics of the building as well as improving the amenity of the future residents and the streetscape.</p> <p>The development is considered satisfactory in terms of this planning principle.</p>	Yes
<p>Amenity</p> <p>Good design provides amenity through the physical, spatial and environmental quality of a development.</p> <p>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</p>	<p>The design and orientation of the apartments allows for a sufficient level of amenity for future occupants and residents of surrounding properties. Apartments are practically laid out to provide for a high level of amenity. The design mitigates potential impacts from overlooking and noise impacts.</p> <p>The development complies with the controls contained in the Residential Flat Design Code in respect to apartment sizes, visual and acoustic privacy, access to sunlight, ventilation, storage</p>	Yes

ITEM 2 (continued)

Planning Principle	Comment	Comply
access for all age groups and degrees of mobility.	and access requirements.	
Safety and Security Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.	The proposal makes a positive contribution with respect to safety and security. Passive surveillance opportunities are provided with terraces, balconies and windows facing Victoria Road. Entrance points are clearly identified and public and private space is clearly delineated through secure entrances and the use of planting and fencing.	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 housing types	The development will include the following housing mix: <ul style="list-style-type: none"> • 4 x 1 bedroom apartments; and • 14 x 2 bedroom apartments. The development predominantly contains 2 bedroom apartments. The proposed range of apartments provides a suitable mix of housing in response to current housing demand and responds to the need for economic housing choice within an area with good public transport access, social and commercial facilities. Adaptable units are also proposed.	Yes

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Planning Principle	Comment	Comply
to cater for different budgets and housing needs.		
Aesthetics Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.	The development includes a range of materials and subtle finishes which are both complimentary and compatible to the architectural design and to the surrounding built environment. The development will be constructed of a range of face brick, rendered brick and aluminium weatherboards. Glazed balustrading and powdercoated operable louvers will be used on the balconies. The aesthetics of the building will ensure that the development will contribute to the desired future character of the area.	Yes

Residential Flat Design Code

The SEPP also requires the Council to take into consideration the requirements of the Residential Flat Design Code with regard to the proposed residential flat building (RFB). These matters have been raised in the following table.

Primary Development Control and Guidelines	Comments	Comply
Part 01 – Local Context		
Building Height Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.	The development complies with the height control contained in RLEP 2010. This planning instrument does not contain a FSR however it does contain a density control based on site area for each dwelling. The development significantly exceeds this control as discussed in detail earlier in the report. Draft RLEP 2013 does however contain a FSR for the site. The FSR envisaged for the site is 1:1. The development proposes a FSR of 1.02:1. This control exceeds the draft requirement by 32.55m ² . Although this is a minor variation, it is important to respect the	Yes

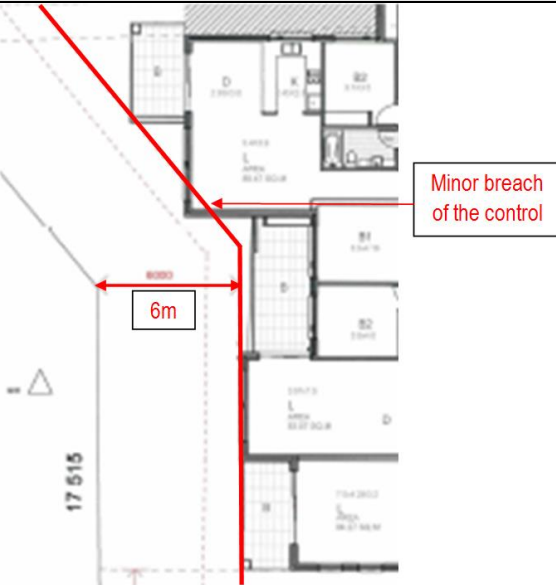
ITEM 2 (continued)

Primary Development Control and Guidelines	Comments	Comply
	new planning requirement and any approval should be conditioned to ensure compliance with the FSR. The bulk and scale of the development is compatible with the adjoining RFB's and what is envisaged on the site by the draft planning controls.	
Building Depth In general, an apartment building depth of 10-18 metres is appropriate. Developments that propose wider than 18m must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	The building depth ranges from 22.5m to a maximum of 30.8m. Due to the shape of the site, it is not possible to achieve the depths as detailed in the RFDC. The development has however provided articulation and ensures that adequate day light and ventilation will be provided.	Yes
Building Separation Building separation for buildings up to 8 storeys or up to 25 metres should be: -18m between habitable rooms/balconies -13m between habitable/balconies and non-habitable rooms -9m 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.	The development is required to be separated by 12m between the development and the buildings on the adjoining sites. This results in a setback requirement of 6metres from the side and rear boundaries. The development has generally maintained these separation distances however there are variations as discussed below. 688 Victoria Road adjoins the site to the west and contains a three storey RFB. This building is setback 3m to the common boundary. In the vicinity of this building, the ground floor of the proposed development is setback 4.5m from the boundary. The first and second floors are setback 6m from the boundary. From the ground floor, there will be no impact in terms of overlooking to 688 Victoria Road as the floor level is significantly lower than the adjoining building. The upper levels have proposed a 6m setback which is consistent with the RFDC requirement. Although the upper levels of these two buildings are separated by 9m rather	Yes

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Primary Development Control and Guidelines	Comments	Comply
	<p>than the 12m, this constraint occurs due to the existing building at 688 Victoria Road. To ensure privacy is retained, windows in the proposed development have been offset to prevent overlooking.</p> <p>682 Victoria Road and 35 Princes Street both adjoin the site to the east. These properties both contain a single storey dwelling. The majority of the eastern elevation has been setback 6m. When the adjoining sites are redeveloped, the new development will also be required to be setback 6m. There are two sections along this elevation where there is a breach to the 6m requirement. The first breach occurs in respect of a bathroom and ensuite on all 3 levels of the building. These rooms are setback 5.751m. Subject to a condition to require obscure glazing in these windows, there will be no overlooking issues. (See condition 1c). The second variation occurs in respect to the rear of the building along the eastern boundary. A kitchen and bedroom on each level have been setback 4.5m from the boundary. This variation occurs for 23.7% of the wall setback. In this area, the development has only proposed a high sill window to the bedroom. This design will ensure that the privacy is maintained to the adjoining properties. This variation can be supported in the circumstances of the case.</p> <p>Along the rear boundary, the majority of the building is setback 6m. There is a minor breach in respect of the living room in unit 8 and 14 on the first and second level of the building. This is demonstrated on the following plan.</p>	

ITEM 2 (continued)

Primary Development Control and Guidelines	Comments	Comply
	 <p>Figure 18. Rear setback.</p> <p>The above breach is minor and will not adversely affect the amenity of the adjoining property.</p>	
<p>Street Setbacks</p> <p>Identify the desired streetscape character. In general, no part of the building should encroach into a setback area.</p>	<p>The majority of the front setback to Victoria Road is 7.5m. However three of the balconies on the upper floor will encroach onto this setback with the minimum setback being 4.6m to Victoria Road. The adjoining buildings have not been constructed parallel to the street and the setbacks vary from 7.5m to a maximum of 18m. The building with a maximum setback of 18m is a significantly older style RFB with car parking provided in the front setback area. The setback as proposed by the development is considered appropriate and will not adversely impact on the streetscape.</p>	<p>Yes</p>
<p>Side and Rear Setbacks</p> <p>Relate side setbacks to existing streetscape patterns. These controls should be developed in conjunction with</p>	<p>The side and rear setbacks range from 4.5m to 6m. These setbacks will ensure adequate privacy with the adjoining properties and will also allow for deep soil planting around the building.</p>	<p>Yes</p>

ITEM 2 (continued)

Primary Development Control and Guidelines	Comments	Comply
building separation, open space and deep soil zone controls. In general, no part of the building should encroach into a setback area.		
Floor Space Ratio Test the desired built form outcome against the proposed floor space ratio to ensure consistency with building height, building footprint, the three dimensional building envelope and open space requirements.	There is currently no FSR control. Draft RLEP 2013 however, proposes a FSR of 1:1. This development has proposed a FSR of 1.02:1. The development exceeds the draft control by 32.55m ² . As previously detailed the development is conditioned to ensure compliance with the control. The built form is consistent with the desired future character of the area.	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. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration.	The development has provided approximately 35.5% of the site area as deep soil zones. This will allow for appropriate plantings to soften the appearance of the building. The development complies with this requirement.	Yes
Fences and Walls Fences and walls are to respond to the identified architectural character for the street and area. They are also to delineate the private and public domain without compromising safety and security.	The development has proposed fencing around the boundaries of the site as well as within the site to differentiate between private courtyard areas. The fencing will not detract from the streetscape or architectural character of the development.	Yes
Landscape Design Landscaping is to improve the amenity of open spaces as well as contribute to the streetscape character.	The landscape design is appropriate for the development proposed and will provide adequate amenity to the open space areas and streetscape.	Yes

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Primary Development Control and Guidelines	Comments	Comply
Open Space The area of communal open space required should generally be at least between 25% and 30% of the site area. Where developments are unable to achieve the recommended communal open space, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.	The development has proposed a communal open space at the rear of the site. This is equivalent to 145m ² and represents approximately 9% of the site area. This communal open space is in addition to each apartment having either a large private ground floor courtyard or balcony off the living area. The applicant has proposed a living room window on the ground floor that adjoins the outdoor communal open space area. To ensure that the amenity of this room will not be adversely affected by persons using the communal open space, the applicant has proposed full length, adjustable louvre screening to this window. This will ensure that privacy to the apartment can be retained.	Yes
Orientation Optimise solar access to living areas and associated private open spaces by orientating them to the north and contribute positively to the streetscape character.	The apartments are generally either orientated to the north or south. The apartments to the north will optimise solar access however they will be affected by road noise. The apartments to the south will be disadvantaged in terms of solar access but will be able to take advantage of the views to the south. The layout has ensured that each apartment will have satisfactory amenity regardless of its orientation.	Yes
Planting on Structures In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes: • Shrubs - minimum soil depths 500 - 600mm	The development has proposed only one planter box over the basement. This planter box is located in the courtyard of one of the ground floor apartments. The planter box will contain a minimum soil depth of 600mm. This planter box will be deep enough to accommodate shrubs. The rest of the landscaping will be accommodated in areas that have deep soil areas.	Yes

ITEM 2 (continued)

Primary Development Control and Guidelines	Comments	Comply
Stormwater Management Reduce the volume impact of stormwater on infrastructure by retaining it on site.	The application has been assessed by Council's Development Engineer and has been found to be satisfactory.	Yes
Safety Optimise the visibility, functionality and safety of building entrances. Improve the opportunities for casual surveillance and minimise opportunities for concealment.	The development has proposed one central pedestrian entry from Victoria Road. Casual surveillance of this entry will occur from the apartments above. The development does not allow for opportunities for concealment. Access to the basement will be via a secured access door.	Yes
Visual Privacy The building separation requirements should be adopted.	As discussed under building separation, the development will provide adequate visual privacy.	Yes
Building Entry Ensure equal access to all. Developments are required to provide safe and secure access. The development should achieve clear lines of transition between the public street and shared private, circulation space and the apartment unit.	The development has provided equal access for all. Access throughout the building is via either a lift or stairs.	Yes
Parking Determine the appropriate car parking numbers. Where possible underground car parking should be provided.	The development provides adequate on site car parking.	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 development has provided adequate pedestrian routes within the development. The development has provided 2 adaptable apartments.	Yes

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Primary Development Control and Guidelines	Comments	Comply
Vehicle Access <p>To ensure that the potential for pedestrian / vehicle conflicts is minimised. The width of driveways should be limited to 6 metres. Vehicular entries should be located away from main pedestrian entries and on secondary streets.</p>	<p>The width of the driveway onto Victoria Road will be 7m rather than the recommended 6m. Given that access is from Victoria Road, the greater width is considered appropriate. Sight lines to the driveway are good so this is unlikely to cause conflicts with pedestrians and vehicles.</p> <p>The vehicular entry is located away from the main pedestrian entry.</p>	Yes
Part 03 – Building Design		
Apartment Layout <p>Single aspect apartments should be limited in depth to 8m from a window.</p> <p>The minimum sizes of the apartments should achieve the following;</p> <p>1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 95m²</p>	<p>The development provides three single aspect apartments. The maximum depth of these apartments is 10 metres. The kitchen is located in the area which exceeds the 8m depth. The amenity of the kitchen is unlikely to be affected as the useable bench space and sink face towards the living room window. This will ensure that any person working in the kitchen will have access to natural light.</p> <p>The one bedroom apartments will range in size from 55.77m² to 64.42m² and the two bedroom apartments will range in size from 82.63m² to 95m². The apartments all significantly exceed the minimum requirements.</p>	Yes
Apartment Mix <p>The development should provide a variety of types.</p>	<p>The development has proposed 4x1 bedroom and 14x2 bedroom apartments. The development also proposes a variety of layouts for the units.</p>	Yes
Balconies <p>Where private open space is not provided, primary balconies with a minimum depth of two metres should be provided.</p>	<p>All balconies will provide a minimum depth of two metres.</p>	Yes

ITEM 2 (continued)

Primary Development Control and Guidelines	Comments	Comply
Ceiling Heights The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level FCL). <ul style="list-style-type: none"> in general, 2.7m minimum for all habitable rooms on all floors, 2.4m is the preferred minimum for all non habitable rooms, however 2.25m is permitted. 	The development has proposed floor to ceiling heights of 2.7m. The development complies with this requirement.	Yes
Flexibility Provide apartment layouts which accommodate the changing use of rooms.	The development complies with this requirement.	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.	None of the ground floor apartments have separate entries. This will not impact on the streetscape as adjoining RFB's are generally walk ups with a single access point.	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 has provided 6 units on each level to be accessed from the lift. The development complies with the requirement.	Yes
Storage In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: <ul style="list-style-type: none"> studio apartments - 6.0m³ 	The development has exceeded the minimum storage area required for one and two bedroom apartments. All but three of the apartments have storage located within the basement as well as within the unit. These 3 apartments have storage just located within the apartment.	Yes

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Primary Development Control and Guidelines	Comments	Comply
<ul style="list-style-type: none"> • one-bedroom apartments - 6.0m³ • two-bedroom apartments - 8.0m³ <p>Options including providing at least 50% within each respective apartment, dedicated storage rooms on each floor or dedicated storage in the basement.</p>		
Acoustic Privacy Apartments within a development are to be arranged to minimise noise transitions.	The development is located adjacent to Victoria Road. An Acoustic Report submitted with the DA demonstrates that the external road traffic noise intrusion into the development can be readily controlled with appropriate building construction.	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 to a maximum of 10% of the total units proposed.	<p>The development will achieve a minimum of 3 hours solar access to 14 out of the 18 apartments. This represents 78% of the apartments which exceeds the RFDC requirement.</p> <p>The development has provided 3 of the apartments with a single aspect southerly aspect. This represents 17% of the apartments. Due to the orientation of the site as well as the dimensions of the site, this non compliance is difficult to avoid. The amenity of the apartments in question will all benefit from the outlook towards Homebush Bay area as well as having large apartments. In these circumstances the minor variation is acceptable.</p>	No. Variation acceptable
Natural Ventilation Building depths which support natural ventilation typically range from 10 to 18 metres. 60% of residential units should	<p>The development will provide cross ventilation to at least 12 of the 18 apartments. This represents 66% compliance.</p> <p>55% of the kitchens will have access to natural ventilation.</p>	Yes

ITEM 2 (continued)

Primary Development Control and Guidelines	Comments	Comply
be naturally cross ventilated. 25% of kitchens should have access to natural ventilation.	The development complies with the requirements.	
Awning Awnings are to encourage pedestrian activity on streets by providing awnings to retail strips.	This is not applicable to the development as no awning is required in this location.	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 scale of the facades respond to the other RFB's along Victoria Road.	Yes
Roof Design Roof design is to relate to the desired built form as well as the size and scale of the building.	The development has incorporated a flat roof as well as a sloping roof. Many of the older RFB's have a traditional pitched roof but the roof proposed is consistent with the newer buildings. No objection is raised to the roof design.	Yes
Maintenance The design of the development is to ensure long life and ease of maintenance.	Much of the ground floor has been incorporated into the ownership of the individual units. This will improve the maintenance of these spaces rather than being held in common ownership. The facades of the building will consist of face brick, rendered brick, aluminium weatherboards and glazing. These finishes are considered appropriate in terms of long life and ease of maintenance.	Yes
Waste Management A waste management plan is to be submitted with the development application.	A waste management plan has been submitted with the DA and is considered satisfactory by Council's Environmental Health Officer.	Yes

ITEM 2 (continued)**State Environmental Planning Policy No 55 – Remediation of Land**

The requirements of State Planning Policy No. 55 – Remediation of Land apply to the subject site. In accordance with Clause 7 of SEPP 55, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The site has previously been used for residential purposes and is unlikely to be contaminated. The site is considered suitable for the intended use.

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

The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building. As such, an amended BASIX Certificate has been prepared (No. 482707M dated 30 May 2013) which provides the development with a satisfactory target rating.

Appropriate conditions will be imposed requiring compliance with the BASIX commitments detailed within the Certificate. (See condition number 3, 80, 86).

State Environmental Planning Policy (Infrastructure) 2007

As the site has a frontage to a classified road, clauses 101 and 102 are applicable. These clauses are discussed below:

Clause 101 Development with frontage to a classified road

Clause 101 requires that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied firstly that where practicable, vehicular access to the land is provided by a road other than the classified road. The site only has a frontage to Victoria Road so there is no alternative to the location of the access. RMS have raised no objections to access from Victoria Road.

Secondly, the consent authority must be satisfied that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of vehicular access to the land, or the emission of smoke or dust from the development or the nature, volume or frequency of vehicles using the classified road to gain access to the land.

RMS has provided a number of suitable recommendations that satisfy the provisions of this clause. These include that all vehicles are to enter and exit the site in a forward direction; that all construction vehicles should be contained wholly within the site; redundant driveways are to be removed; carparking

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layout to comply with the relevant Australian Standard and a construction traffic management plan to be submitted. These matters have all been included as conditions on the consent. (See condition numbers 11,30, 32, 34 and 35).

As the development is for the erection of a RFB, there is unlikely to be the emission of smoke and dust.

In terms of traffic generation, based on the RMS "Guide to Traffic Generating Developments", the development is likely to generate 81 two-way vehicle trips per day and 8 two-way vehicle trips during the weekday peak hour. Vehicle movements to and from the proposed development are restricted to left in and left out in Victoria Road. The traffic generated to and from the development will have a minimal to negligible impact on Victoria Road.

Clause 102 Impact of road noise or vibration on non-road development

Clause 102 requires the consent authority to consider if the development is likely to be adversely affected by road noise or vibration. The consent authority is not to grant consent to the development unless it is satisfied that appropriate measures will be undertaken to ensure that the following LA_{eq} levels are not exceeded:

- a. In any bedroom in the building – 35 dB(A) at any time between 10pm and 7am;
- b. Anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40 dB(A) at any time.

The applicant has submitted an acoustic report. The acoustic report has concluded that the development can meet the above requirements with the selection and installation of appropriate building noise mitigation in respect to windows, external walls, roof/ceiling and the terraces. A condition of consent will be imposed to require the applicant to comply with the findings and recommendations in this report. (See condition numbers 25 and 96).

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

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

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above planning instrument. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the

ITEM 2 (continued)

proposed development. The objective of improved water quality is satisfied through compliance with the provisions of Part 8.2 of DCP 2010. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the planning instrument.

(c) Relevant REPs

There are no applicable Regional Environmental Plans.

(d) Any draft LEPs

A Section 65 Certificate enabling the formal exhibition of Draft Local Environmental Plan 2013 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 R4 High Density Residential. The proposed development is permissible with consent within this zoning under the Draft LEP, and it is considered that the proposal is not contrary to the objectives of the Draft LEP or those of the proposed zoning.

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

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

The following DCP's are applicable for the proposed development.

Part 3.4 of DCP 2010 Residential Flat Buildings and Multi Dwelling Housing (not within the Low Density Residential Zone)

This DCP is applicable for the erection of RFB's. The intent of the DCP is to encourage a high standard of design which is in harmony and scale with adjoining development. The DCP requires that all developments should be in accordance with SEPP 65. Many of the DCP requirements are the same as SEPP 65 so it is not intended to repeat these matters. It should be noted that the DCP also contains car parking rates, however these rates are superseded by Part 9.3 of DCP 2010 which is discussed later in the report. The applicable controls are discussed below:

Control	Comment	Comply
Density The maximum number of dwellings is not to exceed the density requirements contained in RLEP 2010.	This control is the same as what is contained in RLEP 2010. As previously stated the development does not comply with the density	No

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Control	Comment	Comply
	control. This has been discussed in detail in the body of the report.	
Height 2 storeys	3 storeys	No ¹
Setbacks Note- encroachments on setbacks are permitted. Victoria Road 12m – 1.5m encroachment for not more than 50% of the elevation. Side and rear 6m – the permitted encroachment is not to be more than 25% of the specified setback and not to exceed 50% of the length of the wall. (Note – The above setbacks are based on the requirements for a 3 storey building).	Setback to Victoria Road – 7.5m. Setback to western side – Ground floor setback between 4.511m to 4.765m. Upper floors 4.3m to 6m. 60% of elevation less than the required 6m. Setback to eastern side – 4.5m to 6m. 22.6% of elevation setback at 4.5m. Setback to rear boundary – 5m to 6.2m. 6.7% of elevation setback less than 6m.	No ² No ³ Yes Yes
Landscaping 50m ² for each 1 bedroom unit 75m ² for each 2 bedroom unit	The development is required to provide 1250m ² . The development provides approximately 788m ² or 50% of the site area as landscaping.	No ⁴

If there is an inconsistency between this DCP and SEPP 65, the SEPP 65 requirement would take precedence as this is a higher order planning instrument. The variations as detailed in the above table are discussed below.

Height

The development proposes 3 storeys whereas the DCP requires 2 storeys. RLEP 2010 identifies the height control for the site as 9.5m and the proposal complies with this control.

The recent changes to the EP&A Act requires the consent authority to be “flexible” and allow reasonable alternative solutions in applying the DCP provisions. In this instance, the DCP control (based on storeys) conflicts with the height provision of RLEP 2010 (based on metres) and therefore the DCP

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provision has no effect to the extent that it is “inconsistent or incompatible with” Council’s RLEP 2010 pursuant to Clause 74C(5) of the EP&A Act, 1979.

The height control is compatible with the heights of other RFB’s along this part of Victoria Road. In addition, the height of the development is considered appropriate by Council’s Urban Design Review Panel. In these circumstances, the height control is considered appropriate despite the non compliance with the storeys control.

Front Setback

The non compliance with the front setback has been discussed under the Residential Flat Design Code. This variation is supported.

Western Side Setback

The non compliance with the western side setback has been considered in detail under the heading SEPP 65. This variation is considered acceptable.

Landscaping

The landscape control is not considered to be an appropriate control for the R4 High Density Residential Zone. This part of the DCP will be deleted from draft DCP 2011 which becomes effective once draft RLEP 2013 is gazetted. It should be noted that the development complies with the landscaping requirements of the Residential Flat Design Code.

Part 9.2 Access for People with Disabilities

The DCP requires that the development must provide an accessible path of travel to all units as well as the provision of 2 adaptable units. The applicant has not provided an Access Report however has stated that the development will comply with Council’s requirements and information submitted with the Construction Certificate. A condition of consent has been imposed to ensure that the development complies with the appropriate access standards. (See condition number 26).

Part 9.3 Car Parking

Council’s DCP requires car parking to be provided at the following rates for residential developments:

- 1 bedroom: 0.6 to 1 space dwelling
- 2 bedroom: 0.9 to 1.2 spaces per dwelling
- 3 bedroom: 1.4 to 1.6 spaces per dwelling
- 1 visitor’s space per 5 dwellings.

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The minimum car parking required for the residential component is 15 resident spaces and 4 visitor spaces. The maximum car parking would be 21 resident spaces and 4 visitor spaces.

Combining this, results in the minimum car parking required being 19 car parking spaces and the maximum car parking required being 25 spaces. The development provides 22 car parking spaces. 18 of these spaces have been allocated for residents and 4 spaces for visitors. The development complies with Council's requirements.

Section 94 Development Contributions Plan 2007 (Amendment 2010)

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

The contributions that are payable with respect to the increased floor area are based on the following figures being outside Macquarie Park:

Contribution Plan	Contributions	Total
Community and Cultural Facilities	\$36,513.03	
Open Space and Recreation Facilities	\$89,887.46	
Civic and Urban Improvements	\$30,572.78	
Roads and Traffic Management Facilities	\$4,170.58	
Cycleways	\$2,604.88	
Stormwater Management Facilities	\$8,280.62	
Plan Administration	\$702.41	
Grand Total		\$172,731.76

Notes:

- The June 2013 rates have been applied to the development.

Condition 17 requiring the payment of a Section 94 contribution has been included in the recommendation of this report which will further be indexed at the time of payment if not paid in the same quarter. This condition has required the Section 94 Contribution to be paid prior to the issue of any Occupation Certificate for the buildings as this reflects the Statement of Commitments issued with the Concept Plan Approval.

10. Likely impacts of the Development

The likely impacts as a result of this development application have been addressed earlier in the report.

ITEM 2 (continued)**11. Suitability of the site for the development**

The development is not affected by any overland flow or other natural constraint. The site is suitable for the proposed development.

12. The Public Interest

The development application is considered to be in the public interest. This conclusion has been reached given that the development is generally consistent with the Council's planning controls.

13. Consultation – Internal and ExternalInternal Referrals

Development Engineer: No objection subject to appropriate conditions of consent.

Traffic Engineer: No objection subject to appropriate conditions.

Environmental Health Officer: No objection subject to appropriate conditions of consent.

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

Waste Manager: No objection subject to the following two conditions:

1. All bins will need to be taken to the kerbside for collection by the management of the development. (See condition number 100).

The Waste Manager also requested a hard waste storage area to be provided. This is only applicable for developments containing 30 or more dwellings. As this development contains 18 apartments, this requirement cannot be asked for.

External Referrals

RMS The application was referred to RMS in accordance with Section 138 of the Roads Act, 1993. RMS has advised that they will issue concurrence subject to the following conditions being included on the consent:

1. RMS has no approved proposal that requires any part of the subject property for road purposes. All structures and works are to be clear of the Victoria Road reserve (unlimited in height and depth). (See condition number 11).
2. The redundant driveways shall be removed and replaced with kerb and gutter to match existing. The design and construction of the gutter crossing off Victoria Road shall be in accordance with RMS requirements. Details of these

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requirements should be obtained from RMR Project Services Manager, Traffic Projects Section, Parramatta on 8849 2496.

Detailed design plans of the proposed gutter crossing are to be submitted to RMS for approval prior to the issue of a Construction Certificate and commencement of any road works.

It should be noted that a plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by RMS. (See condition number 34).

3. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Victoria Road. (See condition number 69).
4. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS2890.1-2004 and AS2890.2-2002 for heavy vehicle usage. (See condition number 38).

The required sight lines to pedestrians or other vehicles in or around the carpark or entrances are not to be compromised by landscaping, signage, fencing or display materials in accordance with Figure 3.3 Minimum Sight Lines for Pedestrian Safety. (See condition number 36).

5. All vehicles shall enter and exit the site in a forward direction. (See condition number 98).
6. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate. (See condition number 32).

NSW Police: The following comments were provided by NSW Police:

“After reviewing the application it appears that some of the primary factors of Crime Prevention through Environmental Design have been considered in this development, including surveillance, lighting, territorial reinforcement, environmental maintenance, space/activity management. However there is no mention of any access control. This is particularly important in the car park / basement areas of the development. It is also suggested that CCTV be installed to record the entrance points to the car park areas. Also that CCTV be installed to cover the units central

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mailbox area, to reduce the opportunity of mail theft. Overall police are satisfied with the development application and can see no other potential crime issues regarding this application."

Access control to the basement will be via a garage door. Conditions of consent will be imposed to require access control to the basement as well as the building. Conditions will also be imposed in respect of CCTV. (See condition numbers 64 to 68).

14. Other Options

The DA is recommended for approval subject to a deferred commencement condition to require the development to comply with a FSR of 1:1 as identified in Draft RLEP 2013. If Council are of the view that the non compliance with the FSR is not a significant issue with this development application as the variation is minor it would be open to Council to grant approval without the deferred commencement condition. Council Officers are recommending that the strategic interest of LEP 2013 be maintained in the circumstances of this case and the FSR comply.

No other options are considered appropriate in respect of this application.

15. Conclusion

One of the major issues with this development application is the fact that it does not comply with the density control contained in RLEP 2010. This control is being replaced in draft RLEP 2013 with a FSR control imminently. As Council is aware, the draft RLEP 2013 is certain and imminent and is likely to be gazetted by the end of November 2013. The permitted FSR for the site is 1:1 and the development exceeds this control by 32.55m² and proposes a FSR of 1.02:1. Although the variation is numerically minor and the development is consistent with the bulk and scale of other RFB's in the locality, it is important to respect that this control is a new planning requirement and variations should not occur to this control.

The development application has been supported by the Council's UDRP and is generally consistent with the controls contained in State Environmental Planning Policy No 65 and the Residential Flat Design Code.

The development application is recommended for approval subject to a deferred commencement condition which would reduce the FSR to 1:1 and other general conditions of consent.

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CONDITIONS OF CONSENT

DEFERRED COMMENCEMENT CONDITIONS

1. The Applicant is to reduce the floor space of the development by 32.55m² so that the development complies with a floor space ratio of 1:1. Full details demonstrating how this reduction has been achieved is to be submitted to Council.

GENERAL CONDITIONS OF CONSENT

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
Cover Sheet	28/8/13	1
Locality Plan	28/8/13	3
Site Plan	28/8/13	4
Basement	28/8/13	5
Ground	5/9/13	6
First	28/8/13	7
Second	28/8/13	8
Roof Plan	28/8/13	9
Typical Furniture Layout	28/8/13	12
North and east elevation	28/8/13	13
South and west elevation	28/8/13	14
Section AA, Section BB	28/8/13	15
Parking Strata	28/8/13	24
Gnd Strata	28/8/13	25
L1 Strata	28/8/13	26
L2 Strata	28/8/13	27
Landscape Plan	May 2013	13-010
External Colour Selections	Not dated	Not numbered

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

- (a) Louvrves that are capable of extending across the entire frontage of the balconies in apartments 8, 9, 10, 14, 15 and 16 are to be provided on the Construction Certificate. Details demonstrating compliance are to be shown on the Construction Certificate plans.

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- (b) The landscape plan is to be amended to show the removal of the two existing street trees and replacement planting consisting of 3 *Pyrus calleryana* “capital” (Capital Callery Pear). These trees are to be evenly spaced across the front of the site and at the time of planting are to be 75 litre pot size.
- (c) The bathroom and ensuite window in apartment 5, 11 and 17 are to be obscure glazing.

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 482707M dated 30 May 2013.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person’s own expense:
 - a) Protect and support the adjoining premises from possible damage from the excavation, and
 - b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 5.00pm Monday to Friday (other than public holidays). No building activities are to be carried out at any time on a Saturday, 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) An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - c) 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.

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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 installed during construction must not open onto any footpath.
9. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
10. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
11. **RMS Requirement.** RMS has no approved proposal that requires any part of the subject property for road purposes. All structures and works are to be clear of the Victoria Road reserve (unlimited in height and depth).
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.
16. **Construction of Boundary Fencing.** Prior to any demolition or construction commencing on the site, the retaining walls and new fencing is to be provided on the boundary between 39 Princes Street and 35-37 Princes Street and the subject site. This work is to be completed at the applicant expense.

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PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

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

17. **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	\$36,513.03
Open Space & Recreation Facilities	\$89,887.46
Civic & Urban Improvements	\$30,572.78
Roads & Traffic Management Facilities	\$4,170.58
Cycleways	\$2,604.88
Stormwater Management Facilities	\$8,280.62
Plan Administration	\$702.41
The total contribution is	\$172,731.76

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>.

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18. **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.
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)
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. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.

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24. **Bicycle Parking.** A total of 2 **bicycle parking** spaces are to be provided in the basement. These spaces are to be designed in accordance with AS2890.3 Parking Facilities – Bicycle Parking Facilities. Details are to be submitted on the Construction Certificate demonstrating compliance with this Australian Standard.
25. **Compliance with Noise Impact Assessment Report.** The development is to comply with all of the recommendations contained in the Road Traffic Noise Assessment prepared by Acoustic Consulting Engineers dated 14 May 2013. Details of compliance is to be submitted on the Construction Certificate plans.
26. **Disabled Access.** A total of two adaptable apartments and disabled access is to be provided to and within the development in accordance with the requirements of AS1428, the Building Code of Australia and Part 9.2 of DCP 2010. Details indicating compliance with these recommendations are to be submitted to the Principal Certifying Authority (PCA) prior to the Construction Certificate being issued. A suitably qualified access consultant is to certify that the Construction Certificate plans comply. Prior to the occupation of the development, a suitably qualified access consultant is to certify that the development complies with Australian Standard 1428 and the Building Code of Australia.
27. **Design verification** – Prior to a Construction Certificate being issued with respect to the residential component of 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*.
28. **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.
29. **Garbage and Recycling Rooms.** All garbage and recycling rooms must be constructed in accordance with the following requirements:
 - (a) The room must be of adequate dimensions to accommodate all waste containers, and any compaction equipment installed, and allow easy access to the containers and equipment for users and servicing purposes;

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- (b) 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;
- (c) The floor waste must be provided with a fixed screen in accordance with the requirements of Sydney Water Corporation;
- (d) 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;
- (e) The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with a light coloured washable paint;
- (f) 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;
- (g) 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;
- (h) The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation;
- (i) The room must be provided with adequate artificial lighting; and
- (j) a hose with a trigger nozzle must be provided in or adjacent to the room to facilitate cleaning.
- (k) The paving from the waste storage area or garbage and recycling room must be moderately graded so that the waste containers can be safely and easily manoeuvred to the collection point

Details demonstrating compliance with this requirement is to be submitted on the Construction Certificate plans.

30. **Traffic Management.** Traffic management plans must be prepared and procedures must be in place and practised during the construction period to ensure safety and minimise construction traffic conflict on adjoining pedestrian and vehicular traffic movement. These procedures and systems must be in accordance with AS 1742.3 1985, City of Ryde DCP 2010 Part 8.2 Construction Activities and the RMS's Manual – "Traffic Control at Work Sites" where applicable.

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Accordingly, a detailed plan of traffic management prepared by a RMS accredited person is to be submitted to Council for approval prior to the issue of the Construction Certificate. Plan assessment fees are payable in accordance with Council's Management Plan prior to any approval being granted by Council.

31. **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:

- Road pavement.
- Kerb and gutter.
- Constructed footpath.
- Drainage pits.
- Traffic signs.
- Any other relevant infrastructure.

These reports shall be submitted to Council development engineer, 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 development engineer are to be completed to Council satisfaction prior to the issue of Occupation Certificate.

A second dilapidation report shall be prepared by a suitably qualified person at the completion of the works to ascertain if any structural damage has occurred to the items specified in the earlier report. A copy of the report shall be submitted to Ryde Council.

32. **Construction Traffic Management Plan.** A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate. During the entire construction process which includes demolition, excavation and construction, all work is to be completed in accordance with the Construction Traffic Management Plan dated May 2013 (Rev C) prepared by Transport and Traffic Planning Associates. This plan is to include the RMS requirement that all demolition and construction vehicles are to be contained wholly within the site.
33. **Schedule of External Finishes, Materials and Colours.** A detailed schedule of external finishes, materials and colours is to be submitted with the Construction Certificate. The materials and colours used are to be consistent with the plan referred to in condition 1.

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34. **Redundant Driveways.** The redundant driveways shall be removed and replaced with kerb and gutter to match existing. The design and construction of the gutter crossing off Victoria Road shall be in accordance with RMS requirements. Details of these requirements should be obtained from RMR Project Services Manager, Traffic Projects Section, Parramatta on 8849 2496.

Detailed design plans of the proposed gutter crossing are to be submitted to RMS for approval prior to the issue of a Construction Certificate and commencement of any road works.

It should be noted that a plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by RMS.

35. **Car Parking.** The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS2890.1-2004 and AS2890.2-2002 for heavy vehicle usage.
36. **Sight Lines.** The required sight lines to pedestrians or other vehicles in or around the carpark or entrances are not to be compromised by landscaping, signage, fencing or display materials in accordance with Figure 3.3 Minimum Sight Lines for Pedestrian Safety.
37. **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.
38. **Car Parking.** All internal driveways, vehicle turning areas, garage opening widths and parking space dimensions shall comply with AS 2890.
39. **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.
40. **Excavation.** The proposed development will result in substantial excavation that has the potential to affect the foundations of adjoining properties.

The applicant shall:

- a) *seek independent advice from a Geotechnical Engineer on the impact of the proposed excavations on the adjoining properties*

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- b) *detail what measures are to be taken to protect those properties from undermining during construction*
- c) *provide Council with a certificate from the engineer on the necessity and adequacy of support for the adjoining properties.*

The above matters shall be completed prior to the issue of the construction certificate.

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

41. **Soil and Water Management Plan.** A *Soil and Water Management Plan (SWMP)* shall be prepared by a suitably qualified consultant in accordance with the guidelines set out in the manual “*Managing Urban Stormwater, Soils and Construction*” prepared by the Department of Housing. **This is to be submitted to and approved by the Consent Authority prior to the release of the Construction Certificate.** These devices shall be maintained during the construction works and replaced where considered necessary. Suitable erosion control management procedures are to be practiced during the construction period.

The following details are to be included in drawings accompanying the *Soil and Water Management Plan*:

- (a) Existing and final contours
- (b) The location of all earthworks, including roads, areas of cut and fill, and regrading.
- (c) Location of all impervious areas
- (d) **Location and design criteria of erosion and sediment control structures including sediment collection basins**
- (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) Proposed techniques for re-grassing or otherwise permanently stabilising all disturbed ground.
- (l) Procedures for maintenance of erosion and sediment controls
- (m) Details for any staging of works
- (n) Details and procedures for dust control.

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42. **Drainage Plans.** Plans of the proposed drainage system, including the on-site detention system and details addressing any overland flow from upslope properties in accordance with the City of Ryde, Development Control Plan 2006: - Part 8.2; Stormwater Management are to be prepared by a suitably qualified and experienced engineer and are to be generally in accordance with the concept stormwater management plan prepared by iStruct Consulting Engineers (Refer to Project No 130105 Iss. C dated 20 May 2013) subject to the following amendments (marked in red on the plan approved under this Development Consent);

- a) An overflow weir or pipe capable of accommodating 100 ARI stormwater runoff must be provided at the discharge point to the OSD unit. This is to ensure that stormwater runoff is directed to drainage infrastructure in the event of blockage of the OSD system.
- b) An additional stormwater inlet pit is to be provided, collecting stormwater runoff from the permeable area in the southwestern corner of the site. The inlet pit is to discharge to "Pit 2" marked on the approved plan.
- c) Surfaces at the rear of the site must provide a fall to the nearest stormwater inlet pit. This and the above amendment are to ensure that all stormwater runoff from the site is directed to Council's drainage infrastructure.

The engineer is to prepare a certification stating that the landscaping plans have been checked in conjunction with the drainage plans and are compatible. **The drainage plans and certification are to be submitted to and approved by Ryde City Council prior to issuing of the Construction Certificate.**

A works-as-executed survey of any above ground storage basin shall be prepared to demonstrate that adequate storage volume has been provided and **submitted in conjunction with the application for the Occupation Certificate.**

A positive covenant shall be executed and registered against the title of any lot containing an on site detention system to require maintenance of the system in accordance with Council's standard terms.

Any drainage pit within a road reserve, a Council easement, or that may be placed under Councils' control in the future, shall be constructed of cast in situ concrete. Details are to be submitted with the **Construction Certificate** application plans.

43. **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 the City of Ryde, Development Control Plan 2006: - Part 8.2; Stormwater Management. The minimum capacity of the piped drainage system shall be equivalent to the collected runoff from a 20 year

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average recurrence interval storm event. Overland flow paths are to be provided to convey runoff when the capacity of the piped drainage system is exceeded up to the 100 year average recurrence interval and direct this to the on-site detention system. Runoff which enters the site from upstream properties should not be redirected in a manner which adversely affects adjoining properties.

The on-site detention system shall be designed to ensure peak flow rates at any point within the downstream drainage system do not increase as a result of the development during storms from the 5 year to the 100 year average recurrence interval of all durations. Outflow from the basin shall be piped to a point of discharge in accordance with the City of Ryde, Development Control Plan 2006: - Part 8.2; Stormwater Management.

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

44. **Pump System.** The wet well shall be designed and constructed in accordance with section 9.3 of AS 3500.3. The pumps shall be dual submersible and shall be sized and constructed in accordance with section 9.3 of AS 3500.3.

Direct connection of the pumps rising main into the kerb will not be permitted. The rising main is to be connected into the on site detention tank. Details shall be submitted with the Construction Certificate application.

In the event of pump failure, all runoff that otherwise would have been pumped from the property is to be stored on the site for up to the 100 year Average Recurrence Interval 3 hour storm event. A detailed drainage design by a qualified Civil Engineer is to be submitted with the **Construction Certificate application**. The tank volume is to be determined using the ILSAX drainage program or its equivalent. The rational method is not permitted.

45. **Carpark ventilation details.** Details of the proposed method of ventilating the basement carpark must be submitted to Council or an accredited private certifier for approval with the application for the Construction Certificate.
46. **Clothes Lines.** To prevent any clothing that is being dried on the balconies on the first and second floors from being visible, the height of any line is not to exceed the height of the balustrade. Details are to be submitted on the Construction Certificate plans.
47. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties (including any public place) that may be affected by the construction work namely 682 Victoria Road, 688 Victoria Road, 35-37 Princes Street and 39 Princes Street. A copy of the survey is to be submitted to the PCA (*and Council, if Council is not the PCA*) prior to the release of the **Construction Certificate**.

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PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

48. 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.

49. 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.

50. 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.

51. 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.

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52. **Compliance Certificate.** A Compliance Certificate must be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and the City of Ryde, Development Control Plan 2006: - Part 8.1; Construction Activities
53. **Vehicle Footpath Crossings.** Concrete footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The location, design and construction shall conform to the requirements of Council. Crossings are to be constructed in plain reinforced concrete and finished levels shall conform with property alignment levels issued by Council's 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.

54. **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*.
55. **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.
56. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
57. **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.
58. **Construction materials.** All materials associated with construction must be retained within the site.
59. **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.

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60. 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;
the site is clear of waste and debris at the completion of the works.

61. 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".

62. Rubbish removal. During the demolition and construction process, all rubbish is to be stored and contained on site and is to be disposed of in an appropriate manner.

63. 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, and the communal open space areas.
- e. Lighting is to be automatically controlled by time clocks and where appropriate, sensors for energy efficiency and a controlled environment for residents.
- f. Any lighting is not to adversely affect the amenity of the adjoining properties.

64. 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.

65. 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.

66. 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.

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67. **Intercom.** A intercom system providing remote door operation is to be installed at the residential building entrances. The 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.
68. **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.
69. **RMS Requirement.** All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Victoria Road.
70. **Truck Shaker.** A truck shaker grid with a minimum length of 6 metres must be provided at the construction exit point. Fences are to be erected to ensure vehicles cannot bypass them. Sediment tracked onto the public roadway by vehicles leaving the subject site is to be swept up immediately.
71. **Mechanical ventilation of rooms.** If the noise level with windows and doors open exceeds the noise criteria as contained in the above Acoustic Report by more than 10dBA, an approved system of mechanical ventilation must be provided so that the building occupants can leave the windows and doors closed.
72. **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.
73. **Plumbing and Drainage Work.** All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation.
74. **Additional warning notices in relation to asbestos.** 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' must be fixed to the security fencing/hoardings at appropriate intervals to warn the public.
75. **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.

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76. **Further requirements.** If additional information is discovered about site contamination, the proponent must comply with any reasonable requirements of Council
77. **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.
78. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction. The tree protection measures as proposed in the Arboricultural Implication Assessment and Arboricultural Method Statement prepared by Victor John Molyneaux dated 10th July 2013 are to be implemented and maintained throughout the construction period.
79. **Replacement Planting.** The replacement street trees are to be planted by a qualified horticulturalist. These trees are to be maintained for no less than 12 months at the cost to the applicant. At the time of planting the street trees, a bond of \$2000 is to be placed on the trees and is to be paid to Council. This bond will be redeemable 12 months after the issue of the Occupation Certificate. The applicant is to apply to Council's Tree Management Officer for the refund of the bond. The bond will only be returned once the trees have been inspected by Council and Council is satisfied that the conditions have been adhered to. If the conditions are not adhered to, the bond will not be reimbursed.

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.

80. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 482707M, dated 30 May 2013.

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81. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.
82. **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.

83. **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.

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.

84. **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.
85. **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*.

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86. **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.
87. **Off Street Car Parking.** 22 off-street car spaces being provided in accordance with the submitted plans. Such spaces 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:
- 18 spaces for the residents of the residential buildings.
 - 4 residential visitor spaces.
88. **Site Consolidation.** Prior to the issue of any Occupation Certificate, the site is to be consolidated into one allotment.
89. **Compliance Certificates – Engineering.** Compliance Certificates must be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and **submitted to the PCA:**
- Confirming that all vehicular footway and gutter (layback) crossings are constructed in accordance with the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria - 1999*.
 - Confirming that the driveway is constructed in accordance with the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria - 1999*.
 - Confirming that the constructed internal car park and associated drainage complies with AS 2890, the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria - 1999*.
 - Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and the City of Ryde, Development Control Plan 2006: - Part 8.2; Stormwater Management
 - Confirming that the on-site detention system will function hydraulically in accordance with the approved design.
 - Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
 - Confirming that the redundant vehicular crossing has been removed and have been constructed in accordance with Council's *Environmental Standards Development Criteria*

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ATTACHMENT 1

90. **Footpath Paving Construction.** The applicant shall, at no cost to Council, construct standard concrete footpath paving across the frontage of the property. Levels of the footpath paving shall conform with levels issued by Council's Engineering Services Division.
91. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
92. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels **is to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA. If there are proposed interallotment drainage easements on the subject property, **a Certificate from a Registered Surveyor is to be submitted to the PCA** certifying that the subject drainage line/s and pits servicing those lines lie wholly within the proposed easements.
93. **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 the City of Ryde, Development Control Plan 2006: - 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.
94. **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.
95. **Positive Covenant, Pumps.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the pump 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 Pump-out Systems and to the satisfaction of Council.
96. A report from a qualified acoustical consultant demonstrating compliance with the relevant noise criteria as identified in the Road Traffic Noise Assessment prepared by Acoustic Consulting Engineers dated 14 May 2013 must be submitted to the Principal Certifying Authority before the issue of an Occupation Certificate.

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97. **Certify mechanical ventilation.** Where a mechanical ventilation system has been installed, a certificate from a professional mechanical services engineer certifying that the systems comply with the approved plans and specifications must be submitted to the Principal Certifying Authority before the issue of an **Occupation Certificate**.

OPERATIONAL CONDITIONS

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

98. **RMS Requirement.** All vehicles shall enter and exit the site in a forward direction.
99. **Noise and vibration from plant and equipment** - Unless otherwise provided in this consent, the operation of any plant or equipment installed on the premises must not cause:
- (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).
 - (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
 - (c) The transmission of vibration to any place of different occupancy.
100. **Waste containers.** An adequate number of suitable waste containers must be provided on the premises for the storage of all wastes generated on the premises between collections. All waste containers are to be moved to the street frontage for collection and returned to the waste room immediately after collection. This is to be completed by the Management of the building.
101. **Storage and disposal of wastes** - All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.
102. **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*.

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

103. **Film Plan of Subdivision.** The submission of a Film Plan of Subdivision plus 5 copies suitable for endorsement by the General Manager pursuant to Section 109C of the Environmental Planning and Assessment Act 1979.

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ATTACHMENT 1

104. **Existing Easements and Restrictions.** The applicant must acknowledge all existing easements and restrictions of the use of land on the final plan of subdivision.
105. **Certification Documents.** The submission of all certification as required under Local Development Consent LDA 2013/179 prior to the release of the Subdivision Certificate.
106. **Certification of Building Works.** If Council is not the PCA then certification that all building works as detailed in Local Development Consent No LDA 2013/179 have been completed in accordance with that consent is to be submitted with the application for the Subdivision Certificate.
107. **Sydney water Certificate.** The applicant shall submit the Section 73 certificate issued by Sydney water.

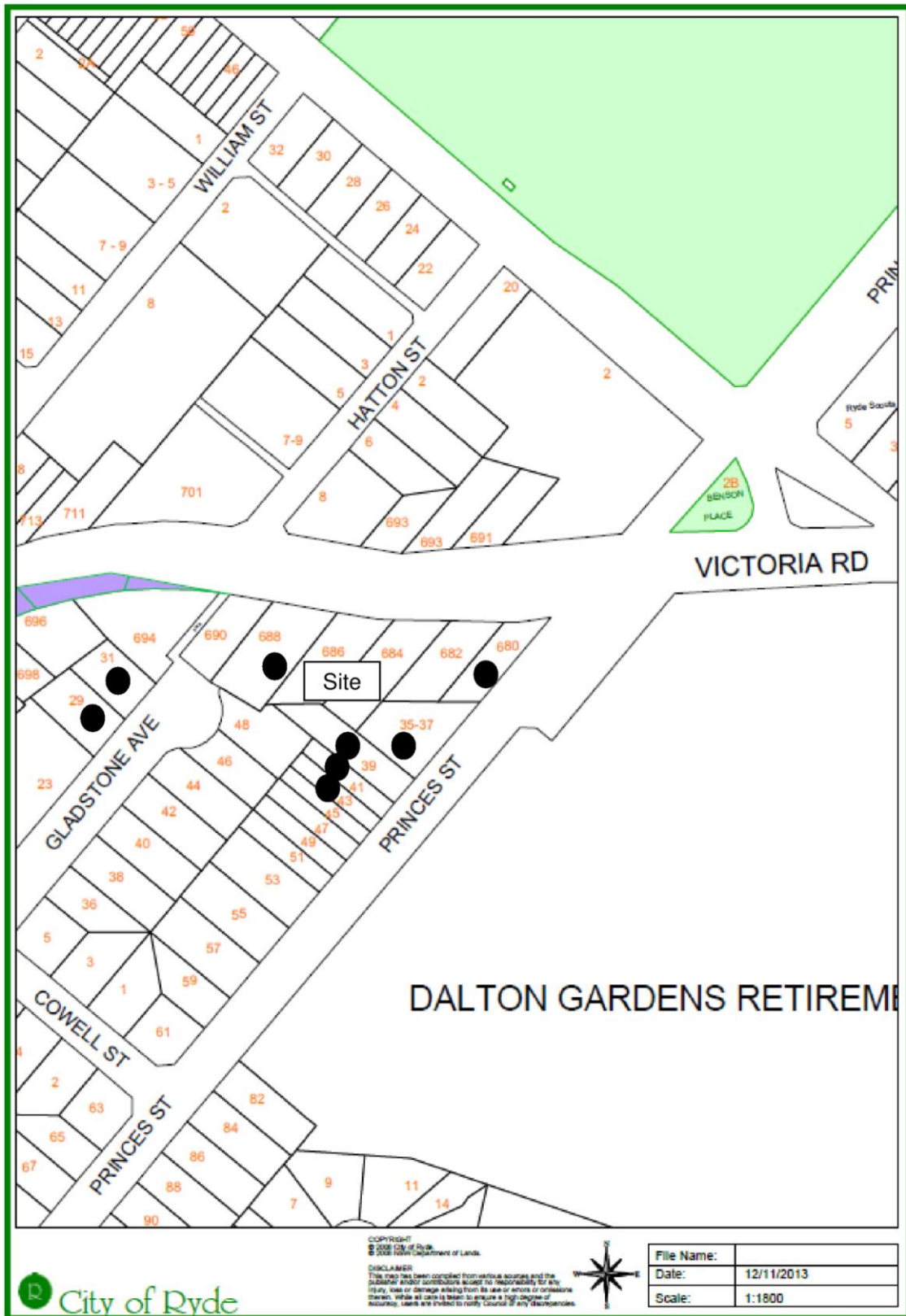
ADVISORY NOTES

1. No approval has been granted for demolition. It will be necessary to submit a new development application to Council.

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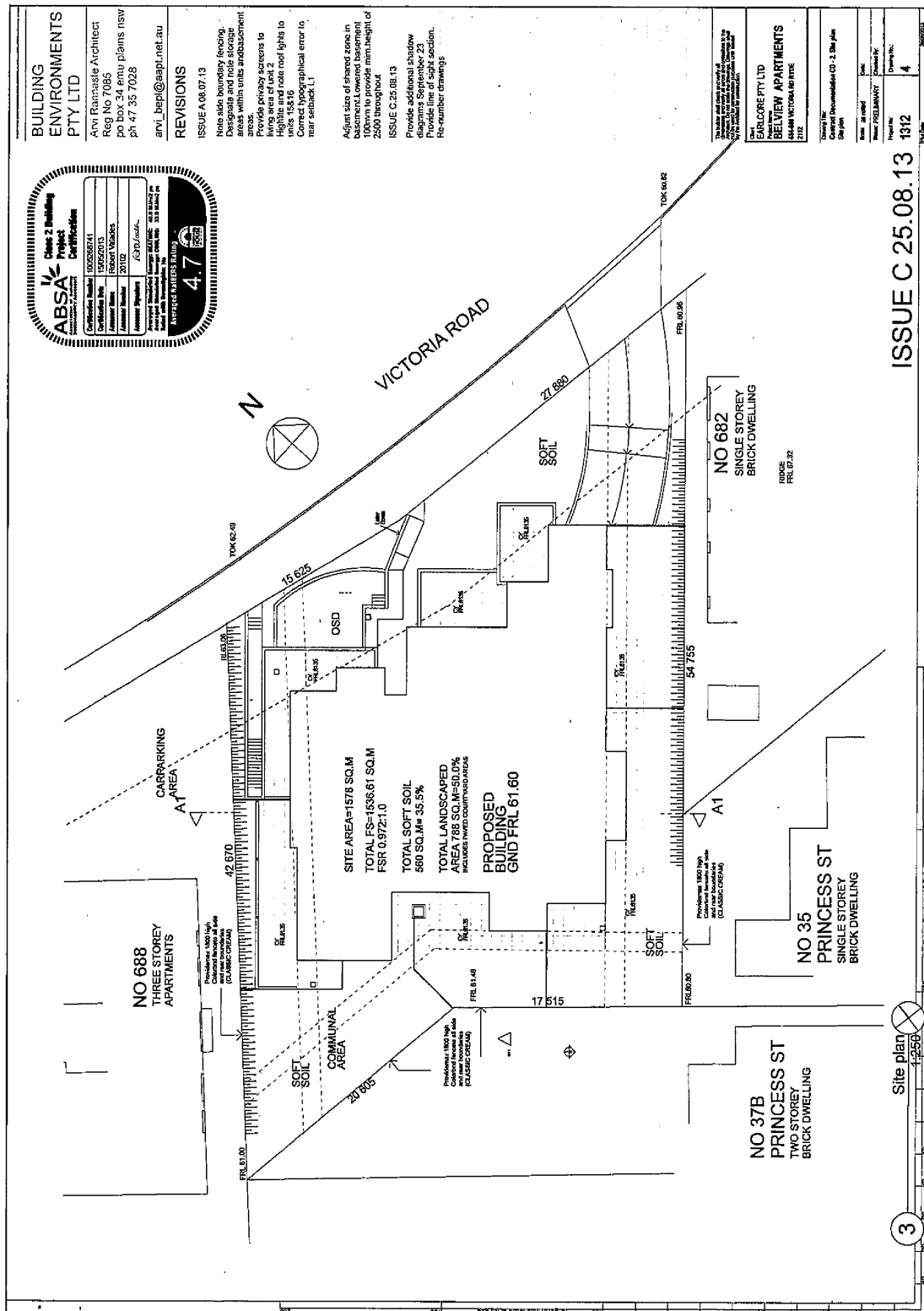
ATTACHMENT 2

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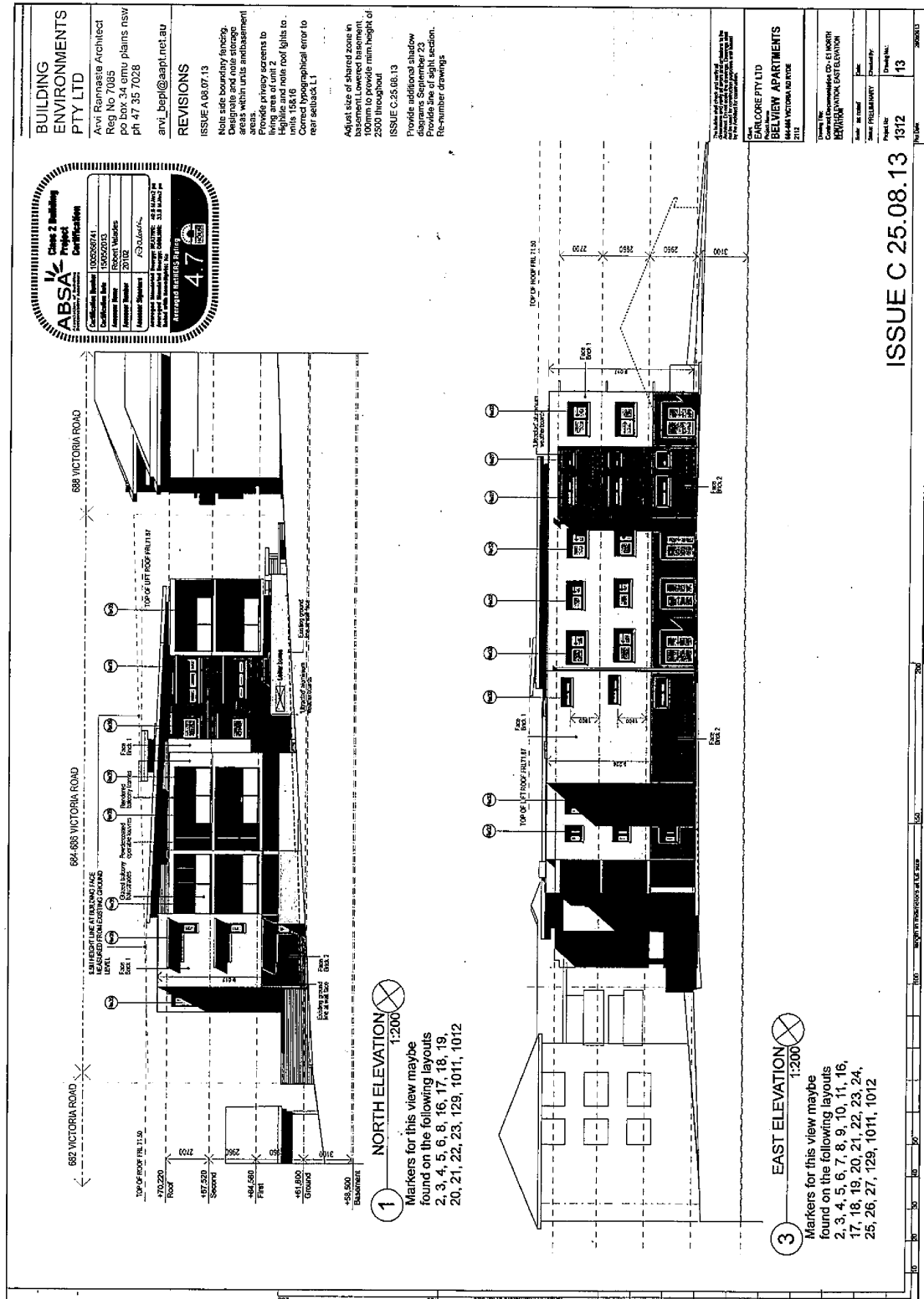
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ATTACHMENT 3



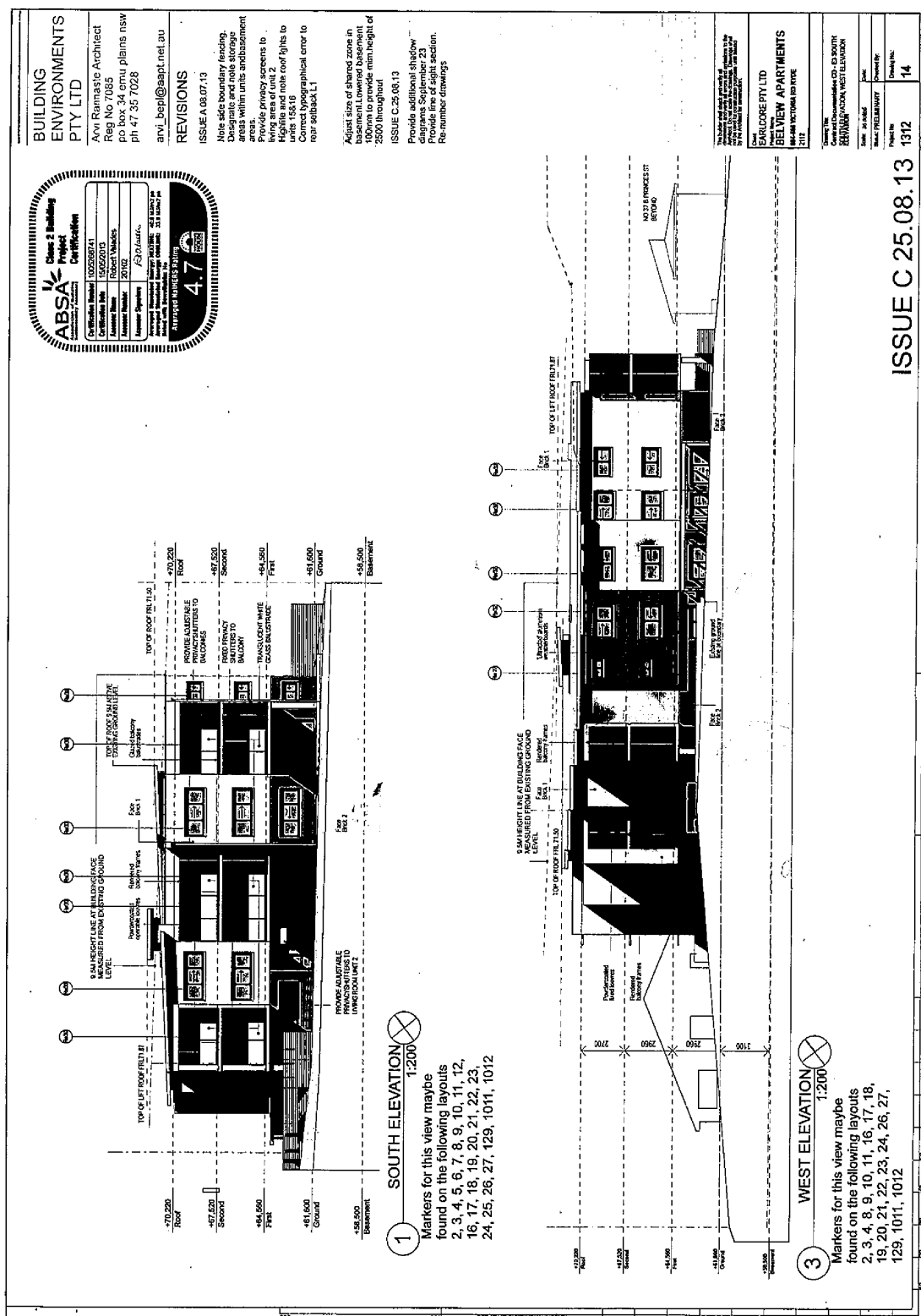
ITEM 2 (continued)

ATTACHMENT 3



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ATTACHMENT 3



3 47 GAZA ROAD, WEST RYDE - LOT 13 SECTION 5 DP 3646
Development Application for construction of a car park and associated
drainage works for St Michael's Catholic Church and School.
LDA2012/0352.

Report prepared by: Team Leader - Assessment; Creative Planning Solutions

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

Report dated: 5/11/2013

File Number: GRP/09/5/6/2 - BP13/1620

1. Report Summary

Applicant: St Michael's Catholic Church

Owner: St Michael's Catholic Church

Date lodged: 21 September 2012

This report considers a development application (DA) for the construction of a car park (32 parking spaces) with associated drainage works for St Michael's Catholic Church and School. The subject site is vacant land (previously occupied by a St Michael's Church and School building), across the road from the current church and school site in Maxim Street.

This development application has been notified to neighbours and five (5) submissions were received from the owners of No 3 Hughes Street (immediately to the north-west), and also 35 Maxim Street (across Gaza Road, to the north), raising a range of concerns including:

- concerns regarding permissibility under Ryde LEP 2010 and the applicant's claim of "existing use rights"
- previous site contamination due to asbestos
- site security (ie existing concerns such as illegal dumping not addressed as the proposal does not include a security fence)
- fencing – existing side boundary fencing in state of disrepair
- car park lighting
- noise and traffic generated from the proposed car park
- privacy/overlooking impacts on adjoining properties from the proposed car park
- concerns that non-delineated car parking areas (such as the on-site detention basin) of the site will be used to park vehicles
- inadequate drainage proposed, which will cause drainage impacts on neighbouring properties.

A petition in support of the application was also lodged by the Church, containing 436 signatures.

The main issue of concern in this application is permissibility of the proposal under Ryde LEP 2010. In particular, the site is zoned "SP2 Infrastructure – School", and this zoning permits "the purpose shown on the Land Zoning Map (ie schools),

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including any development that is ordinarily incidental or ancillary to development for that purpose". To clarify this issue, legal advice has been sought from Council's solicitors – which indicates that the proposal is permissible with development consent because:

- the subject land presently enjoys existing use rights for the purpose of (both) church and school related activities
- the subject DA is a form of alteration to these uses/purposes

The main issues of concern raised by the neighbours relate to amenity issues (ie site security, fencing, lighting, noise, privacy impacts etc) which can be resolved via conditions of consent as discussed in the body of the report.

Reason for Referral to Planning and Environment Committee: Petitions received (petition previously tabled in a Council meeting (8 June 2009) objecting to use of the site as a carpark until development consent had been obtained, and also petition from the Church with signatures from local residents requesting Council to determine the DA), and submissions received.

Public Submissions: Five (5) submissions received.

SEPP 1 (or clause 4.6 RLEP 2010) objection required? None required.

Value of works: \$80,000

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

RECOMMENDATION:

- (a) That LDA2012/0352 at 47 Gaza Road, West Ryde being LOT 13 Section 5 DP 3646 be approved subject to the conditions in **Attachment 1**.
- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1** Draft Conditions of Consent
- 2** Legal Advice - existing use rights - CIRCULATED UNDER SEPARATE COVER – CONFIDENTIAL
- 3** Map
- 4** A4 Plans
- 5** A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER.

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Report Prepared By:

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Team Leader - Assessment**Ben Tesoriero Planning Consultant**
Creative Planning Solutions

Report Approved By:

Liz Coad
Manager Assessment**Dominic Johnson**
Group Manager - Environment & Planning

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2. Site (Refer to attached map overleaf)

Address	: 47 Gaza Road, West Ryde (Lot 13 Section 5 in Deposited Plan 3646)
Site Area	: 1,454.34m ² (Deposited Plan) Site frontage to Gaza Road of 20.12m (Deposited Plan) Rear boundary to Hughes Street of 20.12m (Deposited Plan) North-western side boundary of 72.44m (Deposited Plan) South-eastern side boundary of 72.44m (Deposited Plan)
Topography and Vegetation	: The topography of the local area has a gentle slope, with an approximate fall of 1.72m from the eastern corner of the site at Gaza Road, to the western corner of the site at Hughes Street. The subject site contains 2 large trees, one at the northern end and one at the southern end (both to be retained).
Existing Buildings	: The subject site is currently vacant.
Planning Controls	
Zoning	: SP2 Infrastructure (School) under Ryde LEP 2010 SP2 Infrastructure (Educational Establishment) under draft Ryde LEP 2011
Other	: Ryde DCP 2010



Air photo of subject site, including location of St Michael's Church and School Site, Presbytery Building, and objector's properties

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Subject site, viewed from Gaza Road frontage

3. Councillor Representations

None.

4. Political Donations or Gifts

None disclosed in applicant's DA submission or in any submission received.

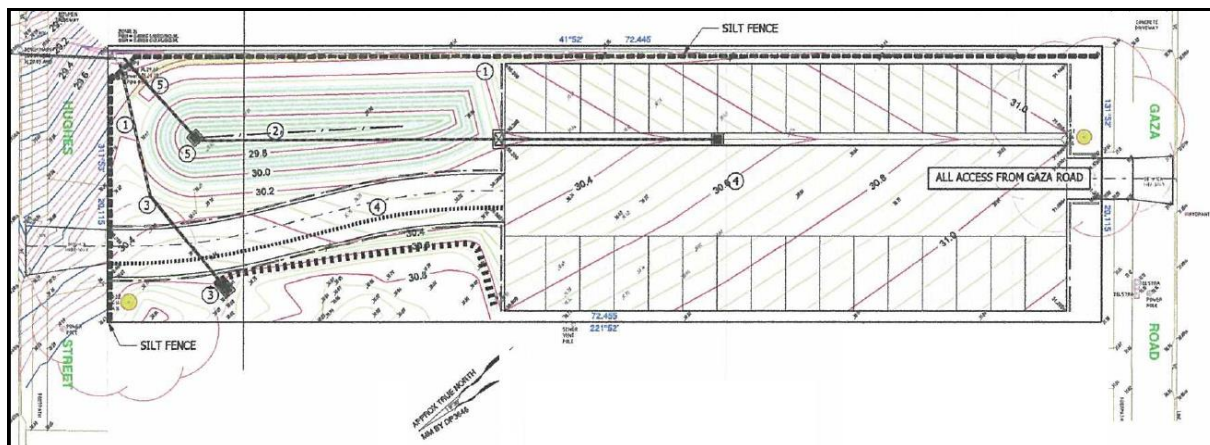
5. Proposal

The following outlines the scope of works for the proposed development at 47 Gaza Road, West Ryde.

- Construct a hard paved (asphalt) thirty-two (32) space car park generally at the northern end (Gaza Road) of the subject site;
- Construct a 3.5m wide one way driveway from Hughes Street to the car park (exit via Gaza Road);
- Construct drainage works and landscaping at the southern end of the site, including an above ground on-site detention (OSD) basin adjacent to the southern boundary (Hughes Street frontage).

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The following is the site plan of the proposed development. (Please note a larger copy is **ATTACHED**.)



6. Background

Subject Site

The applicant has advised that the site previously contained a building that was used as a church, church hall and/or school from 1921 (when it was first constructed) until it was demolished in 2002. The site has been vacant since this time. An informal parking area adjacent to the former building was provided associated with the church/school use of the site.

Throughout the period 2005 to 2012, Council has received, investigated and taken appropriate action regarding a range of complaints about the use and state of the property, including parking of vehicles associated with the church and school, overgrown vegetation (weeds etc), dust, and most importantly the presence of asbestos. Advice from the applicant indicates that the asbestos may have been contained in material illegally dumped on the site without the owner's knowledge or consent (after the demolition of the former church/school building), or the asbestos may have been present in the former building.

Regardless of the origin of the asbestos material, due to the very serious nature of the presence of asbestos, various enforcement action was undertaken by Council, and complied with by the property owners, including serving of Orders (under the Local Government Act 1993), and issuing Directions to Take Clean-Up Action (under the Protection of the Environment Operations Act 1997).

As part of the enforcement actions regarding asbestos contamination, the applicant was required to submit a Remediation Action Plan (RAP) and undertake the works recommended in the RAP. In August 2012, a Validation Report was submitted from the property owner's consultants (Noel Arnold & Associates), confirming that the site was cleared of asbestos (around May 2012) and no longer presents a risk in terms of asbestos contamination. The RAP was assessed by Council's Environmental Health

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Officers as being satisfactory. The RAP also required the site to be restored by landscaping and drainage, and such works are to be undertaken the subject of this DA.

Proposed Development – LDA2012/352:

The following is a brief summary of the subject DA:

- DA lodged on 21 September 2012. Shortly thereafter it was notified to neighbours and referred to other sections of Council (as discussed later in report).
- Additional information request sent to applicant on 13 November 2012 to request that they address concerns raised in the submissions, concerns regarding site security (fences and lockable gates), boundary fencing/privacy and footpath construction at the front of the site.
- A further letter was sent 15 November 2012, requesting the applicant to demonstrate that the site benefits from existing use rights – given that the proposed land use is prohibited in both the current and draft zonings of the site.
- A response from the applicant was received by Council on 1 December 2012 regarding both of the above requests for information.
- Assessment of the applicant's submitted information did not provide clarity about permissibility. For example, the zoning of the site under Ryde LEP 2010 is SP2 Infrastructure – School, and this zoning situation may not allow use of the site for "Church" parking (ie on weekends when the school was not operating).
- Meeting with applicant was held on 14 March 2013 regarding the permissibility of the proposal under the Ryde LEP 2010. At that meeting, the applicant indicated that they felt that they submitted sufficient information to prove existing use rights, and that the use for parking for both school and church purposes was permissible. As a result, Council officers advised that legal advice would be sought from Council's solicitors on the basis of the applicant's information submitted.
- Following detailed investigation, legal advice was received from Council's Solicitors (Planning Law Solutions) on 25 July 2013. A full copy of the legal advice is held at **Attachment 2** (CONFIDENTIAL – circulated under separate cover to Councillors). In summary, the legal advice indicates that the land enjoys existing use rights for the purpose of church and school related activities, and the proposed development is permissible with development consent under Ryde LEP 2010.

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- Following the receipt of this legal advice, an on-site meeting was held with the objectors (as requested in their submissions to Council) on 8 August 2013, where it was noted that a petition was previously tabled at a Council meeting (8 June 2009), objecting to the use of the site as a carpark until the land was appropriately zoned to allow such use in accordance with a valid development consent.
- On 15 October 2013, Council received a petition containing some 436 signatures from the applicant (presumably mostly parishioners) requesting Council to determine the DA.

7. Submissions

The original proposal was notified to adjoining property owners in accordance with Development Control Plan 2010 – Part 2.1, Notification of Development Applications for a period from 15 October 2012 to 31 October 2012.

In response, a total of five (5) submissions were received from the owners of neighbouring properties as shown on the aerial image earlier in this report. The key issues raised in the submissions are summarised and discussed as follows.

Note: Four (4) of the submissions were received from the same adjoining property at 3 Hughes Street, West Ryde, and one (1) submission was received from an adjacent property at 35 Maxim Street, West Ryde details are as follows:

- A. Existing use rights** – *the applicant disputes the proposed development is permissible with consent under existing use rights, or otherwise. The objection regarding existing use rights also raises specific issues including that the previous informal parking area associated with the former church/school building was very small so it would not be possible to approve a carpark over such a larger part of the site.*

The objection also states that the site has been vacant for over 10 years and therefore any previous existing use rights have been “abandoned”

Comment: As noted above, Council has obtained legal advice to ascertain whether the construction of the proposed car park at 47 Gaza Road, West Ryde for the parking of vehicles associated with St Michael’s Catholic Church and the adjacent primary school is permissible with development consent under existing use rights, or otherwise.

The legal advice indicates that the subject land presently enjoys existing use rights for the purpose of church and school related activities and that the proposal is an alteration to that use, and is to be carried out on the land on which the existing use was carried out immediately before the relevant date (being the date of commencement of the former Ryde Planning Scheme

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Ordinance). As such, the legal advice advised that the proposed development was permissible with development consent under the Ryde LEP 2010.

In terms of the issue of “abandonment” of any previous existing use (as a result of the former building being demolished in 2002), the legal advice confirms that “an existing use will not be abandoned if there is evidence of continuation of the use, or evidence that the owner intended to continue the use”. The change in use of the land in 2002 from a building for a church/school to occasional/informal ancillary parking indicates an intention to continue the use as noted in the legal advice.

B. *Site contamination* – concerns are raised over the subject site being contaminated with asbestos and as such requiring remediation.

Comment: As noted in the Background section of this report, the site has had a history of asbestos contamination, but such has been removed from the site in accordance with enforcement action undertaken by Council and complied with by the property owner. Accordingly, the site no longer presents a risk in terms of asbestos contamination.

However, the following standard conditions of consent relating to asbestos will be included to mitigate any potential contamination issues that may arise as a result of further site works associated with the construction of the carpark (see conditions 7-8):

Asbestos. Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.

Asbestos – disposal. All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.

C. *Site security* – current site is a source for illegal activities such as illegal dumping etc, concern is therefore raised the proposal does not include a security fence or lighting.

Comment: As noted in the Background section of this report, Council officers requested the applicant to address potential concerns regarding site security. In response, the applicant advised that the Church will maintain gates and fencing to prevent unauthorised access, and such gates will be locked when the parking area is not in use.

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At present, the site is secured by “temporary” approximately 1800mm high hoarding-style fencing with mesh covering (refer to photo earlier in the report). Such fencing is unattractive in the streetscape (of both street frontages) and should be replaced with more permanent fencing/gates, and be high enough (ie 1800mm) to provide appropriate security. The following conditions are recommended in relation to security fencing – both the type of fencing and the requirement for such fencing to be locked when not in use. See conditions 28 and 55.

- **Site security fencing.** *Site security fencing with lockable gates is to be installed along both the Gaza Road and Hughes Street frontages so as to prevent unauthorised vehicular and pedestrian access to the site. Such fencing is to be a minimum 1800mm high, open-style fencing, and in a dark colour to minimise impact on the streetscape.*

Specific details of the site security fencing and landscaping treatments detailed in a landscape plan which is to be prepared and submitted to Council for approval prior to the issue of a Construction Certificate.

- **Site security.** *The site security fencing referred to in the conditions above is to remain locked when not in use so as to prevent unauthorised access to motor vehicles and pedestrians not associated with St Michael’s Church and School.*

In relation to lighting, there are also no details provided in the DA documentation. If the site is appropriately secured as required in the conditions above, then there should be no need to install security lighting. However if the applicant wishes to install internal lighting, then such lighting should be low-level (eg “bollard” style) to minimise light spillage onto neighbouring residential properties. The following condition is recommended to address internal lighting issues (see condition 56).

- **Internal lighting.** *Any internal lighting provided shall be low-level (“bollard” style) that achieves compliance with the relevant parts of AS 4282-1997 ‘Control of the obtrusive effects of outdoor lighting’. Overhead (“floodlight”) style lighting is not permitted.*

- D. Side boundary fence** - *existing side boundary fencing in state of disrepair, and the fence is of insufficient height to protect adjoining property (No 3 Hughes Street) from privacy/overlooking impacts of proposed development.*

Comment: As noted in the Background section of this report, Council officers requested the applicant to address potential concerns regarding the height and condition of existing boundary fencing.

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In response, the applicant has advised that the height of the fence when viewed from the subject site is lower than a normal residential boundary fence because some previously-excavated soil was placed close to the fence during removal of the asbestos contaminated material. This soil will be utilised in the construction of the carpark and detention basin and will return the levels to those shown on the DA plans.

It is unclear from the DA plans whether the existing boundary fencing will be able to achieve a height of 1.8m (when measured from the subject site side of the fence) after the works are completed. Accordingly, it is recommended that the following condition be imposed to ensure privacy screening is installed on top of the fence to ensure a minimum 1.8m high fence is provided. See condition 44.

Minimum boundary fence height – western boundary. At the completion of the work approved under this consent, the height of the boundary fencing along the western boundary shall ensure a minimum height of 1.8m is achieved when measured on the subject site side of the fence. Privacy screening may be installed along the top of the boundary fence to ensure this minimum height of 1.8m is achieved. Documentary evidence of compliance with this requirement shall be submitted prior to the issue of any **Occupation Certificate**.

In addition to the above, it is noted that the objector's property contains several large shrubs and a detached garage along the boundary with the subject site, which will effectively prevent overlooking into their property. Also, the DA plans show that there will be a detention basin constructed close to the boundary, which would prevent people from being close enough to the boundary to allow overlooking. For these reasons, it is considered that the development is acceptable in terms of privacy and overlooking impacts upon No 3 Hughes Street, subject to the above condition requiring the fencing to be a minimum height of 1.8m measured from the subject site side of the fence.

The photo below shows the existing fence and ground surface levels of the subject site near the boundary with No 3 Hughes Street.

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View of low height boundary fence/wall with 3 Hughes Street from Hughes Street frontage. Note: Significant existing vegetative screening and existing detached garage.

- E. *Light Spillage*** – Concerns are raised regarding possible light spillage from the car park or from headlights of vehicles.

Comment: The applicant has advised that flood-lighting of the car parking area is not proposed as part of the development, and as such light spillage will not be an impact on adjoining development.

It is noted that some minor light spillage may occur from any low-level ("bollard") lighting that may be proposed or as a result of motor vehicles entering and exiting the car parking area in night time hours. However due to the low level of headlights on motor vehicles, it is anticipated that the existing boundary fencing will provide adequate light shielding to minimise the impact of light spillage on adjoining properties.

- F. *Acoustic impact*** - Noise and traffic generated from the proposed car park

Comment: Noise from the car park would only emanate from opening/closing of car doors and engine noise and is expected to be minimal. Furthermore, it is noted that the objector's dwelling (3 Hughes Street) is located between 14m

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and 17.5m from the adjacent driveway/pedestrian path associated with the proposed car park, with the on-site detention area, and the objector's own driveway located in-between.

Also, a condition of consent has been recommended to ensure that the site is secured and locked from motor vehicles and pedestrian access when not in use. This will further limit any noise associated with the use of the car parking area by ensuring the car park does not become a thoroughfare between Gaza Road and Hughes Street, nor a place for loitering.

- G. *Parking of cars outside of prescribed areas*** – *The objector has raised concerns that non-delineated car parking areas of the site such as the drainage detention basin will be used to park vehicles.*

Comment: The objector has raised concern that the proposed use of wooden logs placed horizontally on the ground around the on-site detention basin is an inadequate traffic barrier.

These concerns are considered to be valid, as larger motor-vehicles may cross over the wooden logs and potentially park in the open space area designated for the on-site water detention.

As such, the following condition of consent is to be imposed replacing the horizontally placed wooden logs on the ground with vertical bollards spaced at a distance so as to restrict access of motor-vehicles in the open space area designated for the on-site stormwater detention. See condition 27.

Traffic Parking Control. *The horizontally placed wooden logs surrounding the on-site stormwater detention area and open space areas either side of the Hughes Street vehicular/pedestrian driveway are to be replaced with short vertical posts, or bollards, to restrict motor-vehicle access to these areas. Specific details of the vertical posts or bollards are to be detailed in a landscape plan which is to be prepared and submitted to Council for approval prior to the issue of a **Construction Certificate**.*

- H. *Inadequate drainage*** - *Objectors land at 3 Hughes Street is subject to flooding due to inadequate drainage at 47 Gaza Road, and as a result there are concerns over the adequacy of the proposed drainage.*

Comment: The subject development application has been assessed by Council's Development Engineer as being satisfactory subject to conditions of consent.

In relation to drainage disposal, the development proposes to dispose of water from the carpark surface via an above-ground detention basin into Council's kerb and gutter system in Hughes Street. The detention basin and outlet pipes

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have been designed appropriately to ensure disposal of stormwater without impacting on neighbouring properties.

Additionally it is noted that the proposed development includes a significant increase in drainage infrastructure over that of the current arrangements on the site, and accordingly, it will result in an improvement to the existing drainage conditions on the site.

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

None variations to development standards required.

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

The subject site is currently located within the SP2 Infrastructure – School zone under the provisions of the Ryde LEP 2010. The only purposes that are permitted with development consent within the zone SP2 zone under the RLEP2010 are outlined as:

“The purpose shown on the Land Zoning Map (ie School in this case), including any development that is ordinarily incidental or ancillary to development for that purpose; Recreation areas; Roads”

Accordingly, this zoning would normally only allow parking incidental/ancillary to the school. Legal advice was sought on Council’s ability to approve the development of a carpark associated with both the school and church use. The legal advice indicates that the subject land presently enjoys existing use rights for the purpose of church and school related activities. It was also outlined that the development is an alteration to that use, and is to be carried out on the land on which the existing use was carried out immediately before the relevant date (being the date of commencement of the former Ryde Planning Scheme Ordinance).

As such, the legal advice advised that the proposed development was permissible with development consent under the Ryde LEP 2010.

ITEM 3 (continued)**(b) Relevant State Environmental Planning Policies (SEPPs)**State and Sydney Regional Environmental Planning Policies

None relevant to the proposed development on the subject site.

(c) Any draft LEPs

A Section 65 Certificate enabling the formal exhibition of Draft Local Environmental Plan 2011 was issued by the Department of Planning and Infrastructure on 23 April 2012. The Draft Plan has been placed on public exhibition between 30 May 2012 and 13 July 2012. Under this Draft LEP, the zoning of the property is proposed to be changed to R2 Low Density Residential. It is noted that 'car parks' are also identified as a prohibited use under the provisions of the Draft LEP, however based on the legal advice obtained on 25 July 2013, it is considered that the proposed development remains permissible with development consent.

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

(d) The provisions of any development control plan applying to the landRyde Development Control Plan (DCP) 2010.

The proposal has been assessed using the relevant development controls contained in Part 9.3 of the Ryde DCP 2010, titled 'Car Parking'. It is noted that Part 9.3 of the Ryde DCP 2010 covers car parking rates for different types of land uses, and also other requirements such as the design of parking areas.

Given the nature of the proposed development is specifically for the purposes of a car park only, and not in conjunction with a development application for a new use, the planning assessment of the proposed development against the controls contained in part 9.3 of the Ryde DCP 2010 has focused on Section 3.2 which deals explicitly with the design of parking areas.

One (1) non-compliance has been identified with the relevant planning controls contained within Section 3.2 of Part 9.3 of the Ryde DCP 2010. This is Section 3.2(c) which states:

"Provide safe, (well lit and free of concealment opportunities) and direct 24 hour access between car parking areas and building entries."

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The proposal includes an 'at-grade' car parking area and associated site works only. Accordingly there are no particular concealment opportunities between the car parking area and typical building entries that may be found in more urban areas. Nevertheless, site security is considered a potential issue as no car park area lighting is proposed, and no security fencing to close the car-park after hours is proposed.

As noted in the Submissions section of this report, it is proposed to address issues regarding site security and lighting via conditions of consent.

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

Impacts in terms of the built environment have been addressed in the issues discussed throughout this report. It is generally considered that the impacts associated with the development can be addressed via conditions of consent.

The proposed development is considered to be satisfactory in terms of impacts on the built environment, subject to the imposed conditions of consent.

(b) Natural Environment

Given the nature of the proposed development being for the paving of an existing vacant site that is clear of any significant vegetation, and associated stormwater works, it is considered there will be no significant impact upon the natural environment as a result of the proposal, subject to the imposed conditions of consent.

11. Suitability of the site for the development

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

12. The Public Interest

Based on Council's assessment of the development application, it is considered that approval of this development application would be in the public interest.

13. Consultation – Internal and ExternalInternal Referrals

Development Engineers: Council's Development Engineer has raised no objection to the application subject to twenty (20) conditions of consent.

ITEM 3 (continued)External Referrals

Legal Advice: External legal advice was sought to confirm that the subject land presently enjoys existing use rights for the purpose of a church and school related activities. The legal advice indicates that the development is an alteration to that use, and is to be carried out on the land on which the existing use was carried out. As such, the proposed development is permissible with development consent under the Ryde Local Environmental plan 2010.

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

None relevant.

17. Conclusion

The proposed development has been assessed using the heads of consideration listed in Section 79 of the Environmental Planning & Assessment Act 1979 and is generally considered to be satisfactory for approval.

The main issue of concern relates to permissibility of the use of the site as a carpark under existing use rights. Legal advice received from Council's solicitors indicates that the site has existing use rights and the proposal for an ancillary carpark is permissible subject to development consent.

The submissions received following Council's neighbour notification have raised a range of issues which although valid can be addressed via conditions of consent.

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ATTACHMENT 1

**DRAFT CONDITIONS OF CONSENT
47 GAZA ROAD, WEST RYDE
LDA2012/352**

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
General Layout Plan	16.08.2012	C- 01, Revision D
Pit Details and Sections	16.08.2012	C- 02, Revision D

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

2. **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.

Protection of Adjoining and Public Land

3. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
4. **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.

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5. **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.
6. **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.
7. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.
8. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.

Works on Public Road

9. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
10. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

General Engineering Conditions

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

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14. **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 (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

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

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

ITEM 3 (continued)

ATTACHMENT 1

19. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.
20. **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**.

Engineering Conditions

21. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.
22. **Driveway width.** The driveway from Hughes Street shall be widened to minimum of 3.0m at the boundary. All plans shall be amended showing this.
23. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. The driveway design is to incorporate Council's issued footpath and gutter crossing levels where they are required as a condition of consent. A driveway plan, longitudinal section from the centreline of the public road to the garage floor, and any necessary cross-sections clearly demonstrating that the driveway complies with the above details, and that vehicles may safely manoeuvre within the site without scraping shall be submitted with the Construction Certificate application.
24. **On-Site Stormwater Detention.** Stormwater runoff from all impervious areas shall be collected and piped by gravity flow to a suitable on-site detention system in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. 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.
25. **Water Tank First Flush.** A first flush mechanism is to be designed and constructed with the water tank system. Details of the first flush system are to be submitted with the construction certificate application.

ITEM 3 (continued)

ATTACHMENT 1

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

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

- (a) Existing and final contours
 - (b) The location of all earthworks, including roads, areas of cut and fill
 - (c) Location of all impervious areas
 - (d) **Location and design criteria of erosion and sediment control structures,**
 - (e) Location and description of existing vegetation
 - (f) Site access point/s and means of limiting material leaving the site
 - (g) Location of proposed vegetated buffer strips
 - (h) Location of critical areas (drainage lines, water bodies and unstable slopes)
 - (i) Location of stockpiles
 - (j) Means of diversion of uncontaminated upper catchment around disturbed areas
 - (k) Procedures for maintenance of erosion and sediment controls
 - (l) Details for any staging of works
 - (m) Details and procedures for dust control.
27. **Traffic Parking Control.** The horizontally placed wooden logs surrounding the on-site stormwater detention area and open space areas either side of the Hughes Street vehicular/pedestrian driveway are to be replaced with short vertical posts, or bollards, to restrict motor-vehicle access to these areas. Specific details of the vertical posts or bollards are to be detailed in a landscape plan which is to be prepared and submitted to Council for approval prior to the issue of a **Construction Certificate**.
28. **Site security fencing.** Site security fencing with lockable gates is to be installed along both the Gaza Road and Hughes Street frontages so as to prevent unauthorised vehicular and pedestrian access to the site. Such fencing is to be a minimum 1800mm high, open-style fencing, and in a dark colour to minimise impact on the streetscape.

Specific details of the site security fencing and landscaping treatments detailed in a landscape plan which is to be prepared and submitted to Council for approval prior to the issue of a **Construction Certificate**.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

ITEM 3 (continued)

ATTACHMENT 1

29. 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.

30. Excavation adjacent to adjoining land

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
- (b) The applicant must give at least seven (7) days' notice to the adjoining owner(s) prior to excavating.
- (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

31. 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.

32. 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.

33. 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.

ITEM 3 (continued)

ATTACHMENT 1

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

DURING CONSTRUCTION

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.

35. **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*.
36. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
37. **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.
38. **Construction materials.** All materials associated with construction must be retained within the site.
39. **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.
40. **Site maintenance**

The applicant must ensure that:

- (a) approved sediment and erosion control measures are installed and maintained during the construction period;

ITEM 3 (continued)

ATTACHMENT 1

- (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.
41. **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".
42. **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.

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.

43. **Landscaping.** All landscaping works are to be completed prior to the issue of the final **Occupation Certificate**.
44. **Minimum boundary fence height – western boundary.** At the completion of the work approved under this consent, the height of the boundary fencing along the western boundary shall ensure a minimum height of 1.8m is achieved when measured on the subject site side of the fence. Privacy screening may be installed along the top of the boundary fence to ensure this minimum height of 1.8m is achieved. Documentary evidence of compliance with this requirement shall be submitted prior to the issue of any **Occupation Certificate**.
45. **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**.

ITEM 3 (continued)

ATTACHMENT 1

46. **Public domain – work-as-executed plan.** A works as executed plan for works carried out in the public domain must be provided to and endorsed by Council prior to the issue of the **Occupation Certificate**.
47. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
48. **Footpath Paving Construction.** The applicant shall, at no cost to Council, construct standard concrete footpath paving across the frontage of the property in Hughes Street and Gaza Road. Levels of the footpath paving shall conform to levels issued by Council's Engineering Services Division.
49. **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.
50. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system; if one has been constructed, and finished ground levels **is to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA.
51. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Project No 1118 issue D dated 16/8/12 sheets 1 & 2 prepared by Emerson Associates Pty Ltd and as amended in red by Council.
52. **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 footpath paving in Gaza Road and Hughes Street has been constructed to the satisfaction of Council.

ITEM 3 (continued)

ATTACHMENT 1

- Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management
 - Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
 - Confirming that the vehicular crossing has been removed and the kerb and gutter have been constructed in accordance with Council's *Environmental Standards Development Criteria -1999 section 4*
53. **Positive Covenant, OSD.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Stormwater Detention Systems and to the satisfaction of Council.

OPERATIONAL CONDITIONS

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

54. **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*.
55. **Site security.** The site security fencing referred to in the conditions above is to remain locked when not in use so as to prevent unauthorised access to motor vehicles and pedestrians not associated with St Michael's Church and School.
56. **Internal lighting.** Any internal lighting provided shall be low-level ("bollard" style) that achieves compliance with the relevant parts of AS 4282-1997 'Control of the obtrusive effects of outdoor lighting'. Overhead ("floodlight") style lighting is not permitted.

ITEM 3 (continued)

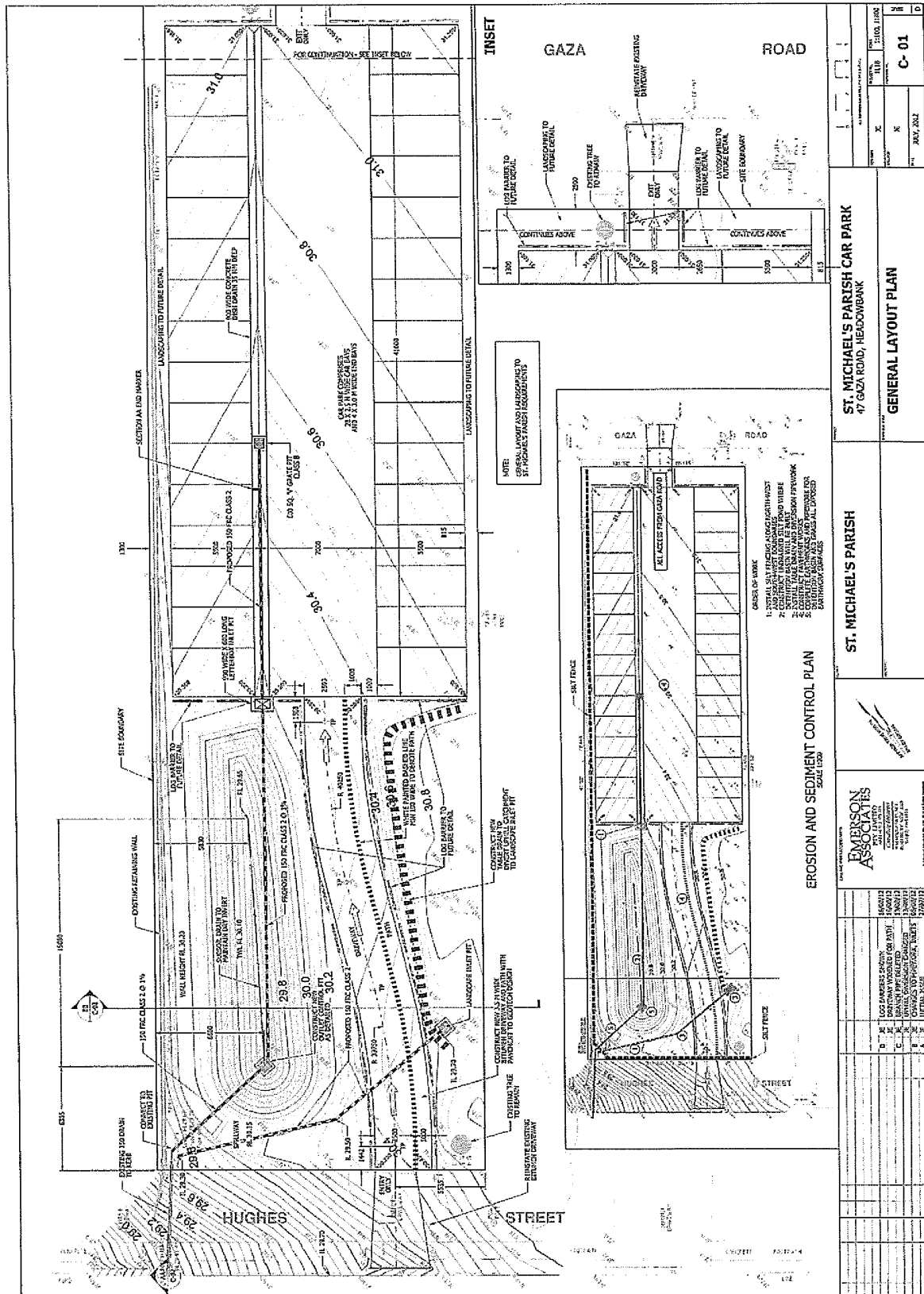
ATTACHMENT 3

● Indicates submissions received (petitions also received)



ITEM 3 (continued)

ATTACHMENT 4



**4 2 BLUE GUM DRIVE, EAST RYDE. LOT 51 DP 810946. Section 96(2)
application to amend the approved alterations and additions to dwelling
and new inground swimming pool (LDA2011/0424 / MOD2013/0125)**

Report prepared by: Team Leader - Fast Track Team

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

Report dated: 6/11/2013

File Number: grp/09/5/6/2 - BP13/1628

1. Report Summary

Applicant: Sheridan – Miller & Associates.

Owner: Anthony Saba.

Date lodged: 26 July 2013.

This report considers a proposal for the modifications to the approved alterations and additions to existing dwelling and new inground swimming pool. The original application (LDA2011/0424) was approved on 15 March 2012. A copy of the original assessment report is **Attachment 1**.

The proposed modifications involve: - internal and external changes to the dwelling and changes to the pool. In particular the pool has changed from fibreglass to concrete, the pool has increased in shape and size, the pool pump has been relocated, the floor level of the lower ground floor has been lowered, privacy screens from the sides of the lower floor level have been deleted, windows to the ground floor level have been altered and landscaping around the rear section of the property has been modified. An assessment of the proposed modifications has been carried out in accordance with Council's DCP 2010: Part 3.3 – Dwelling Houses and Dual Occupancy (attached). The proposed modifications are considered to be substantially the same development in terms of the relevant provisions of the Environmental Planning and Assessment Act, 1979.

The application was notified to the adjoining and surrounding property owners on 1 August 2013. One submission was received from the surrounding property owners at 46 Jeanette Street, East Ryde. Additional information was provided that included: details of the revised pool coping and a 1.8m high masonry wall along the south-eastern edge of pool coping to maintain privacy and prevent any overlooking. The plans were re-notified to the adjoining and surrounding property owners on 11 October 2013. Another submission was received from the surrounding property owners at 46 Jeanette Street, East Ryde. The main concerns raised being:

- Impact from the pool, the extent of cut and fill, deep soil area, potential light spillage and overlooking of the Public Reserve.

All of the concerns raised in the submissions have been addressed in the report. Also, the DCP non-compliances are considered relatively minor and do not warrant refusal of this application or further design amendments.

ITEM 4 (continued)

It is important to note that consent has already been granted for this development which is for alterations and additions to the dwelling and a new inground swimming pool.

When assessing Section 96 Applications to modify a consent Council can only consider the proposed modifications and not revisit the whole application.

The Section 96 Application is considered acceptable and recommended for approval.

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

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

Clause 4.6 - RLEP 2010 (Exceptions to development standards): None required.

Value of works: \$220,000 (Original valuation).

A full set of the plans is **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors - subject to copyright provisions. Both the original plans and the plans associated with the Section 96 modification are circulated.

ITEM 4 (continued)

RECOMMENDATION:

- (a) That the application for modification of Local Development Application No. LDA2009/0129 be modified as follows:

1. a) **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	Reference / Job No.	Sheet / Drawing No.	Issue / Revision	Dated
Architectural Plans:				
▪ Basix Sheet	109	1	F	30.09.2013
▪ Basix Sheet	109	2	F	30.09.2013
▪ Site Plan	109	A100	F	30.09.2013
▪ Lower Ground Floor Plan	109	A101	F	30.09.2013
▪ Ground Floor Plan	109	A102	F	30.09.2013
▪ Ground Floor Plan	109	A103	F	30.09.2013
▪ Ground Floor Plan	109	A104	F	30.09.2013
▪ First Floor Plan	109	A200	F	30.09.2013
▪ Roof Plan	109	A201	F	30.09.2013
▪ South-West Elevations	109	A202	F	30.09.2013
▪ South-East Elevations	109	A203	F	30.09.2013
▪ South-East Elevations	109	A300	F	30.09.2013
▪ South-East Elevations	109	A301	F	30.09.2013
▪ North-East Elevation	2BG/LP	2BG/LP/01/ B	B	30.09.2013
▪ North-West Elevation				
▪ Section A-A				
▪ Pool Section & Plan				
Landscape Plans:				

- b) **Lighting.** Lighting of the rear terraces and deck areas are to be designed and constructed to reduce light spill into the public domain and adjoining private properties so that there will be no offensive glare onto adjoining residents.

3. Compliance with all commitments listed in BASIX Certificate No. A113718_02 dated 24 July 2013.

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

ITEM 4 (continued)**ATTACHMENTS**

- 1** Assessment report for original application LDA2011/0424
- 2** Extract from Australian Standard AS1926.1-2012
- 3** Draft Conditions of Consent
- 4** DCP Compliance Table
- 5** Map
- 6** A4 Plans - Section 96 Application MOD2013/0125
- 7** A3 Plans - original approval LDA2011/0424 - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER
- 8** A3 Plans - Section 96 application MOD2013/0125 - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER
- 9** A3 Plan - Section 96 application MOD2013/0125, marked up elevation - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Colin Murphy
Team Leader - Fast Track Team

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 4 (continued)

2. Site (Refer to attached map.)

Address	: 2 Blue Gum Drive East Ryde
Site Area	: Site area: 714.5m ² Frontage: 15.375m + 5.42m Depth: 34.065m / 39.064m Rear: 20.4m
Topography and Vegetation	: The site has a fall of approximately 5m from the front of the property to the rear boundary. The site consists of rock outcrops with trees and landscaping.
Existing Buildings	: Dwelling and pool (under construction)
Planning Controls	
Zoning	: R2 - Low Density Residential (Ryde LEP 2010)
Other	: Ryde DCP 2010



Figure 1: Locality Map

ITEM 4 (continued)

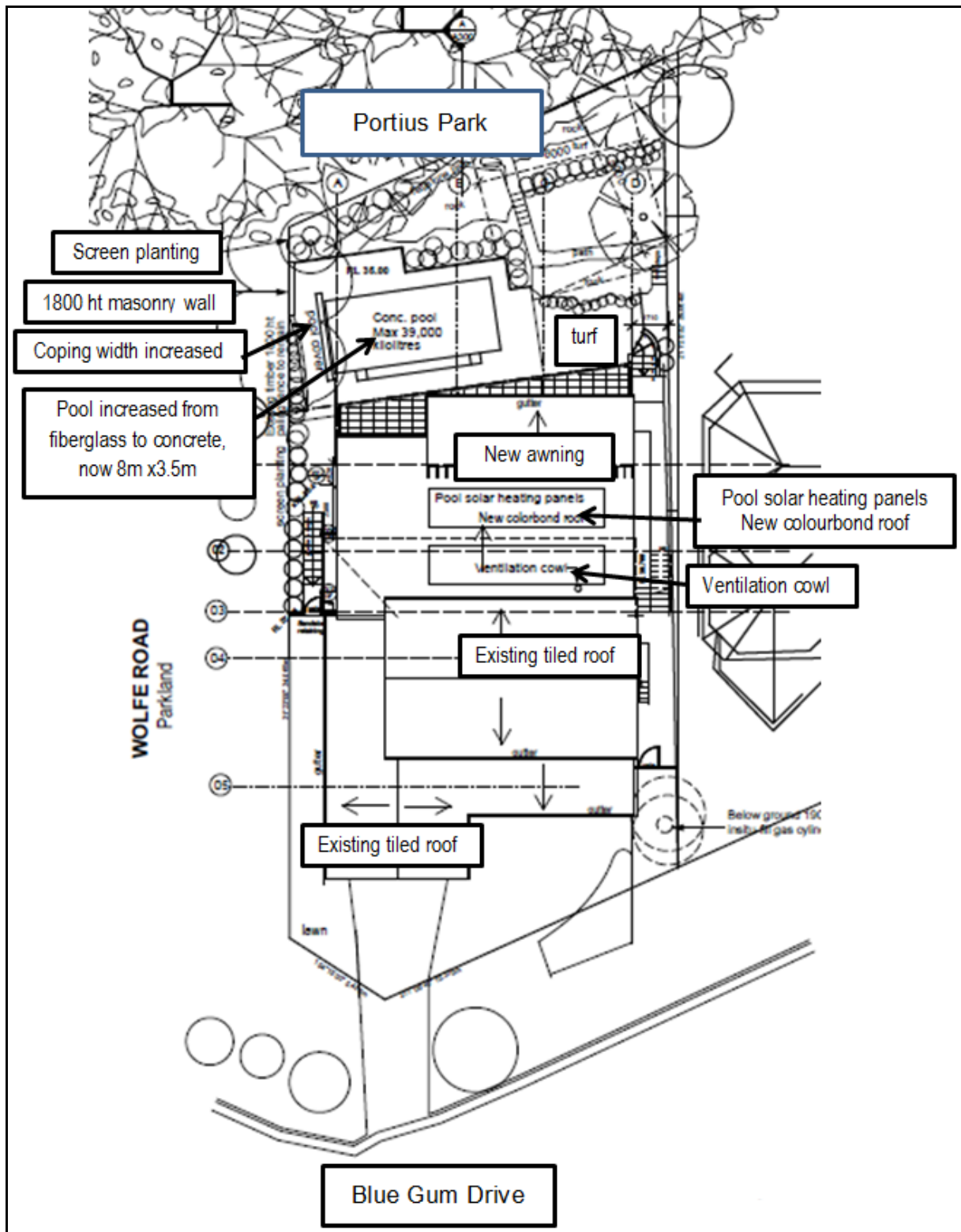


Figure 2: Amended Site Plan

ITEM 4 (continued)



Figure 3: Approved Site Plan

ITEM 4 (continued)**3. Councillor Representations:**

Name of Councillor: Councillor Simon.

Nature of the representation: Call-up to Planning & Environment Committee.

Date: 2 October 2013

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

On behalf of applicant or objectors: On behalf of objectors at No. 46 Jeanette Street, East Ryde (surrounding property owners to the south-eastern side of the subject property).

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

4. Political Donations or Gifts

None disclosed in applicant's submission or in any submission received.

5. Proposal

Modification pursuant to Section 96 (2) of the Environmental Planning and Assessment Act, 1979 of the approved alterations and additions to existing dwelling and new inground pool.

The proposal involves the following modifications: -

Lower Ground Floor

- Fibreglass pool changed to concrete
- Pool shape reconfigured (pool area and coping width increased in size)
- Pool pump enclosure relocated to underside of pool terrace
- Structural floor levels lowered in Rumpus room and lower ground floor terrace
- Deep soil area perimeters adjusted
- New concrete block wall to replace concrete column adjacent to bathroom
- New garden steps added to side path
- Stair from ground floor terrace to lower ground floor relocated
- Storeroom located at lower ground floor terrace deleted
- Privacy screen deleted due to privacy achieved by low level of terrace and boundary fence
- Rear windows revised

ITEM 4 (continued)

Ground Floor

- Rear windows revised
- New highlight window added to kitchen
- WC window replaced
- New underground gas cylinder to be installed, small trees on boundary to be removed
- New walkway past kitchen



Figure 4: view of the rear of the existing dwelling

ITEM 4 (continued)

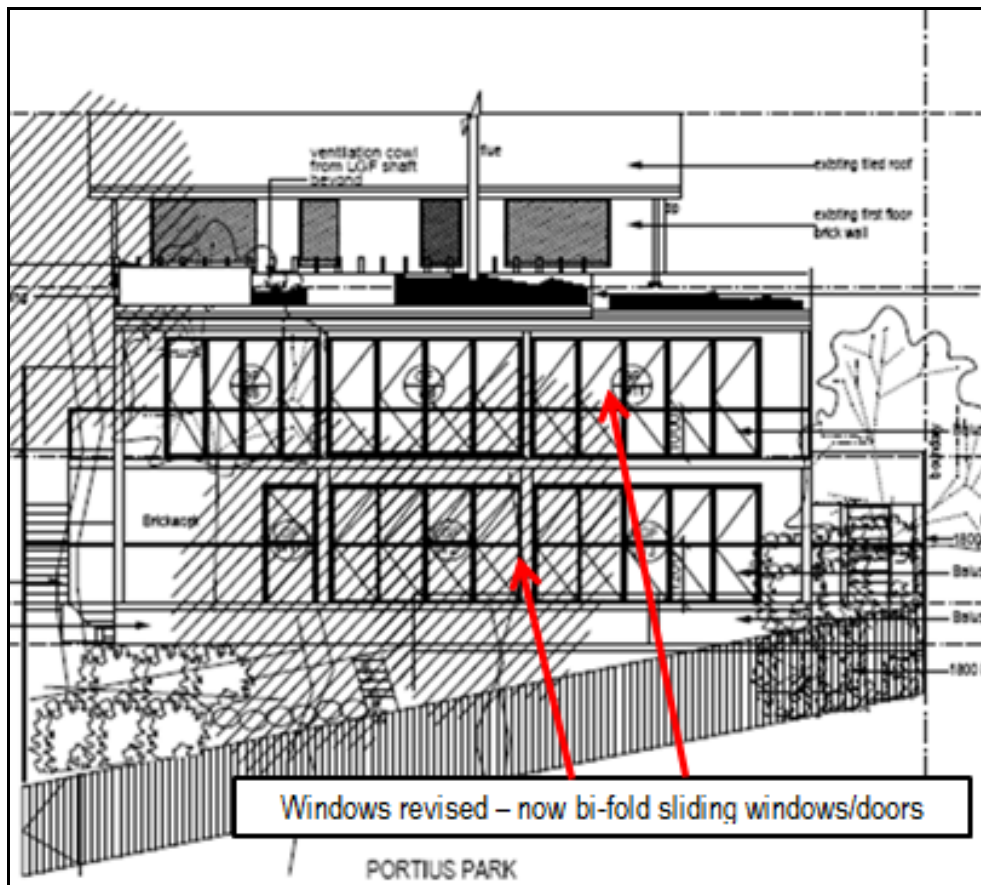


Figure 5: Rear Elevation - Amended Plan

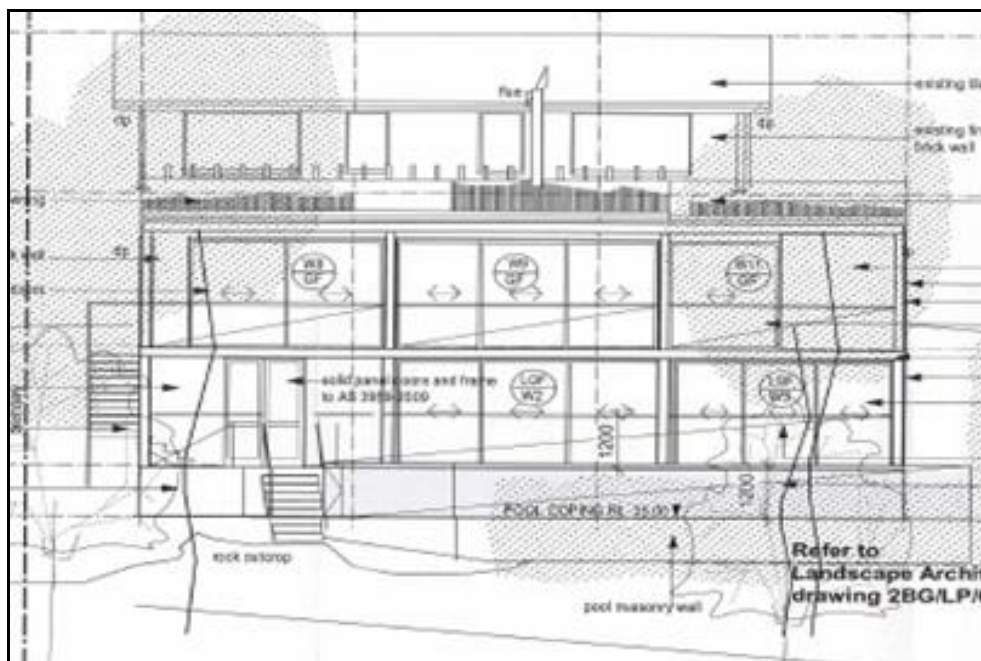


Figure 6: Rear Elevation - Approved Plan

ITEM 4 (continued)

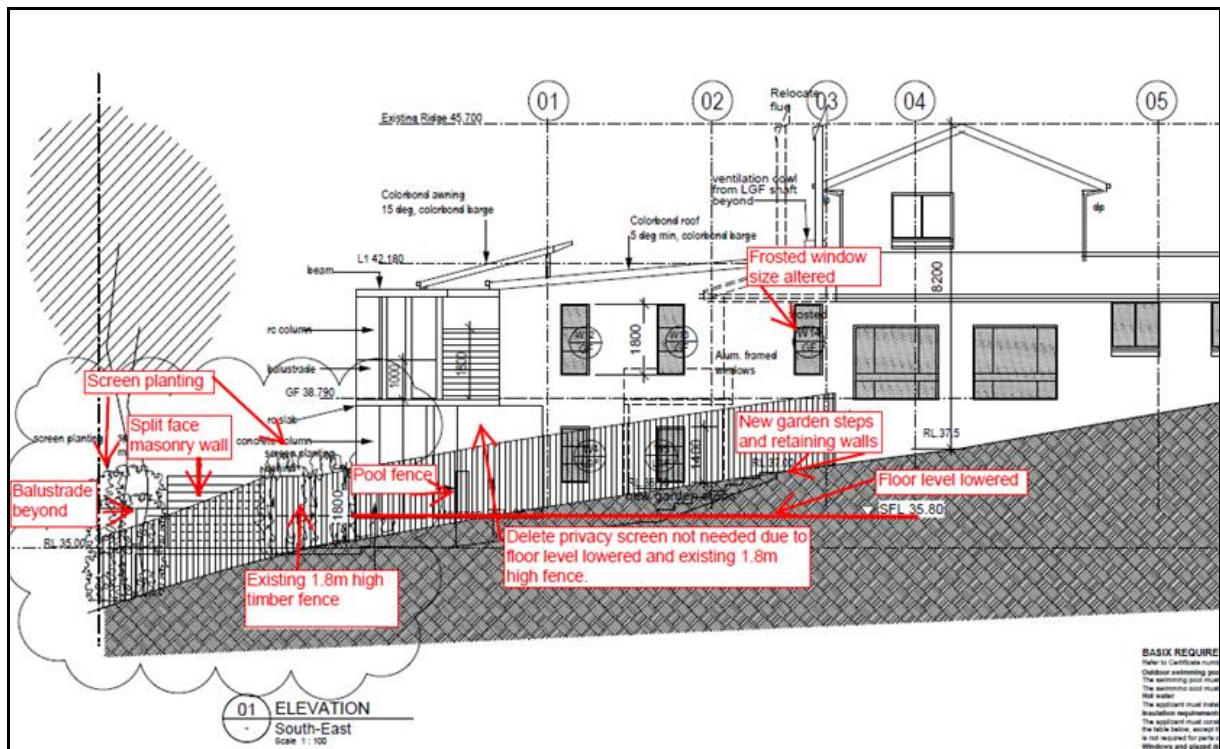


Figure 7: South-Eastern Elevation – Amended Plan

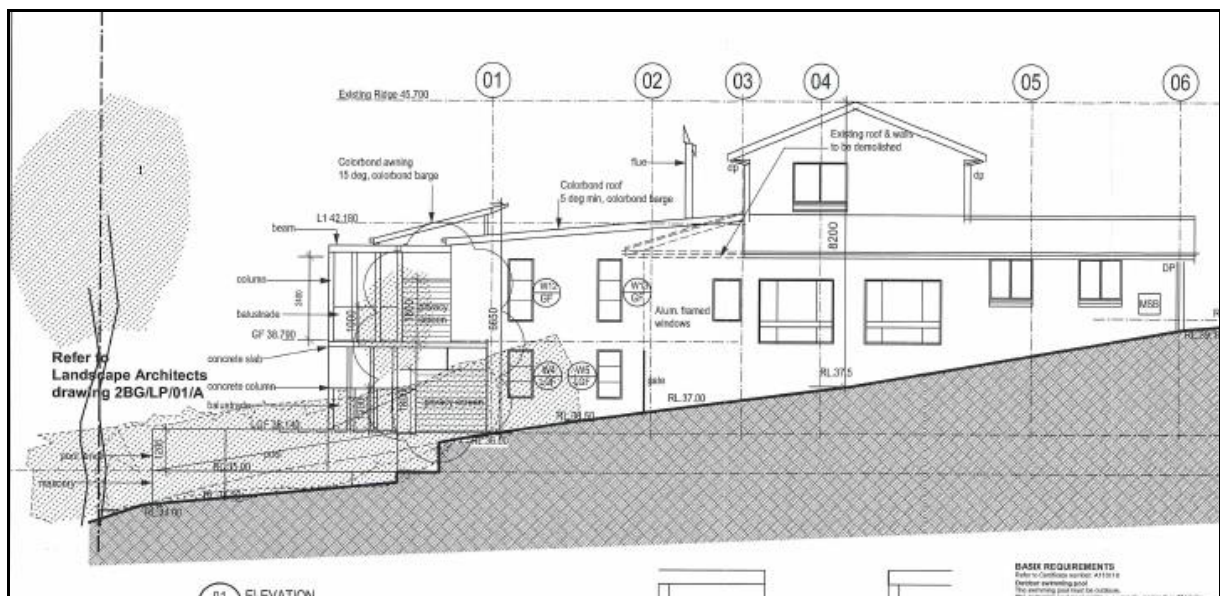


Figure 8: South-Eastern Elevation – Approved Plan

ITEM 4 (continued)**6. Background**

- On 26 July 2013 the Section 96 Application was submitted to Council.
- On 1 August 2013 notification to the surrounding neighbours commenced. (closing date for submissions – 19 August 2013)
- On 9 August 2013 a site inspection was carried out and photographs were taken.
- On 19 August 2013 a submission was received from the surrounding property owners to the south-eastern side of the subject property at No. 46 Jeanette Street, East Ryde.
- On 6 September 2013 a letter was forwarded to the applicant regarding additional information required.
- On 23 September 2013 a meeting was held at the Civic Centre with the applicant to discuss the issues raised in Council's letter dated 6 September 2013.
- On 2 October 2013 the application was called up to the Planning and Environment Committee by Councillor Simon.
- On 8 October 2013 additional information and amended plans were provided from the applicant. (Details including: Revised pool coping and a 1.8m high masonry wall along the south-eastern edge of pool coping to maintain privacy and prevent any overlooking).
- On 11 October 2013 re-notification to the surrounding neighbours commenced. (closing date for submissions – 21 October 2013)
- On 21 October 2013 a second submission was received from the surrounding property owners to the south-eastern side of the subject property at No. 46 Jeanette Street, East Ryde.

7. Submissions

The proposal was notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications from 1 August 2013 until 19 August 2013 (During this period one submission was received from the surrounding property owners at 46 Jeanette Street, East Ryde). Revised amended plans were then re-notified from 1 October 2013 until 21 October 2013 (During this time one further submission was received from the surrounding property owners at 46 Jeanette Street, East Ryde. The issues raised in the submissions being;

- Pool terrace:

The amended plans for the pool terrace do not reduce the distance that the enlarged pool terrace projects above the natural ground level which slopes steeply away from the dwelling towards the eastern and south-western boundaries of the property and the public reserve land beyond. This has the effect of creating a raised platform of a greater area than the original approval by the Council and it substantially increases the overlooking of the public reserve and private open space at 46 Jeanette Street. The latest amended South-East elevations show the location of the extended pool terrace and the proposed masonry wall relative to the existing fence.

ITEM 4 (continued)

The plans also indicate a potential for a significant degree of overlooking of the public domain and the private open space at my property 46 Jeanette Street. It would be appreciated if the Council would condition the pool terrace to reduce these impacts as the applicant has provided a large terrace adjacent to the dwelling. The latest amended plans show the pool terrace is proposed to be re-configured to include a very narrow screen planting bed between the proposed new masonry wall and the fence. This is a less than satisfactory solution as the screen planting will not achieve the height of the plantings of up to 5 metres originally approved by the Council. It is unlikely that any plantings would achieve normal growth in this situation. I would appreciate the Council further reviewing and conditioning any approval to at least maintain the screening provided in the original approval for the full length of the eastern and south-western boundaries.

If approved the amended plans would not address the increased overlooking and severe lack of privacy for people enjoying the public reserve, contrary to the Public Domain provisions of the Ryde DCP. The amended plans would also result in a similar adverse impact on the quiet enjoyment of the private open space on my property. It would be appreciated if the Council would carefully inspect the proposed height and extent of the increased overlooking from the extended above-ground pool terrace. The proposed reconfiguration does not reduce the impacts and Council is requested to condition any approved modification to reduce these impacts, by reducing the area of the pool terrace above natural ground adjacent to the eastern and south-western boundaries, to reduce overlooking.

The amended plans show the level of the pool terrace at the height of the existing boundary fence, with the height of the pool fence extending above the height of the fence. It is considered that reducing the extent of the deck above ground level and ensuring that adequate screening would ameliorate the impacts on the public domain.

The amended plans show a masonry wall proposed to be built parallel to the fence and the screen planting fitted into the area between. It would be appreciated if the Council would address these concerns and condition any consent so as to reduce the potential impacts of overlooking, loss of privacy, noise impacts and potential light spill into the bushland public reserve and nearby properties.

Officer's Comment: Due to the topography of the site the pool coping level at the side and rear of the pool will be elevated above the natural ground level. The applicant has extended the eastern side of the pool closer to the side boundary to provide better access around the pool. To maintain privacy, a 1.8m high masonry wall is proposed along the edge of the coping in lieu of the originally approved screen planting. The Australian Standard for Swimming Pool Fencing (AS 1926.1-2012 – adopted 1 May 2013) now requires the non-climbable zone to be measured from top of boundary fences. Screen planting placed between the edge

ITEM 4 (continued)

of the pool and the boundary fence can create footholds for children to climb into the pool area from the top of the fence.

An extract from AS1926.1-2012 is provided at **Attachment 2**.

The proposed masonry wall, with no screen planting between the pool and the boundary fence, is a more suitable option as it complies with the requirements of AS1926.1- 2012. This will have minimal impact on the objector's property and in effect will be similar in appearance to a 1.8m high boundary fence. (see drawing and photo below)

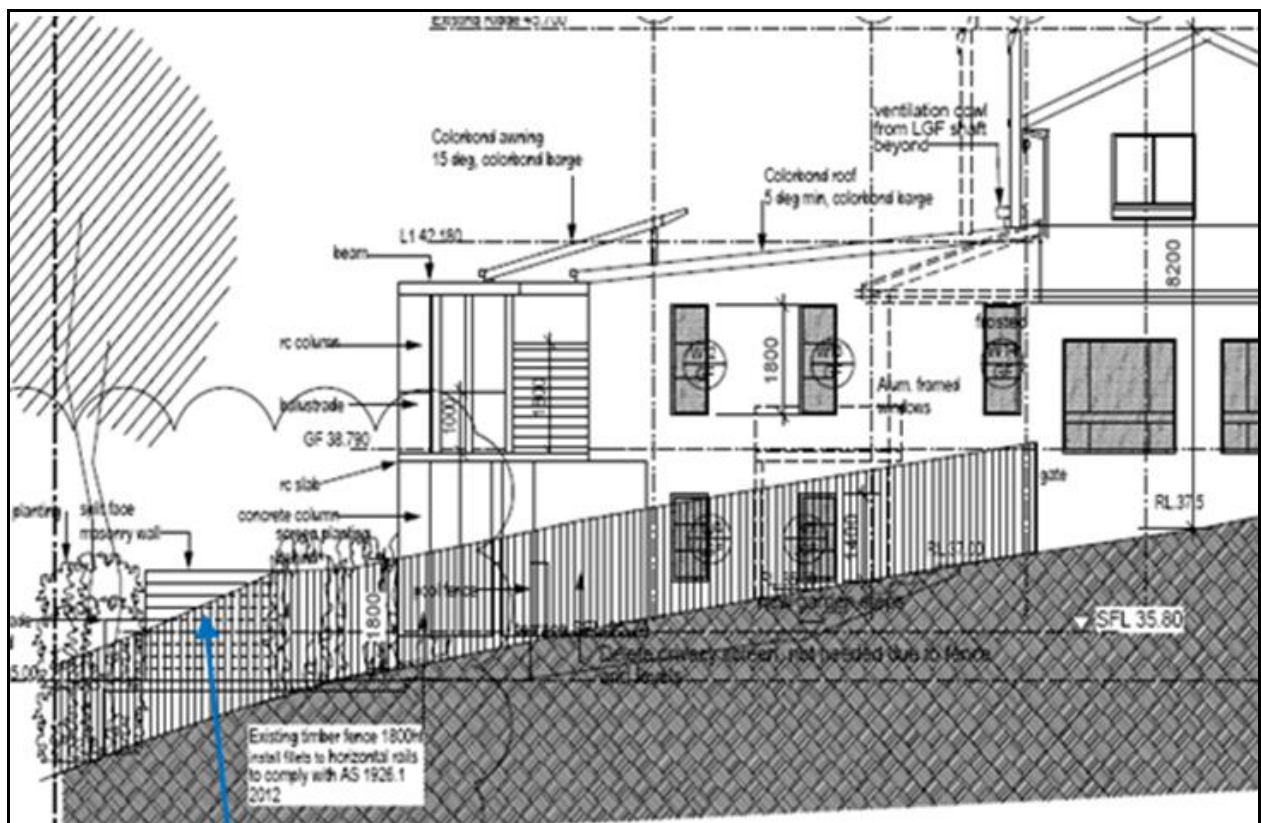


Figure 9: South - Eastern Elevation (showing 1.8m high masonry wall)

ITEM 4 (continued)



Figure 10: South - Eastern Elevation (Site photo)



Figure 11: View from subject property towards South - Eastern Elevation (Site photo)

ITEM 4 (continued)▪ *Height of retaining walls in rear yard:*

It would be appreciated if the Council would ensure that the height of any new or approved retaining walls in the rear yard walls is not increased to ensure that there is no increased overlooking, loss of privacy or increased noise impacts on the public reserve and adjacent private dwellings.

Officer's Comment: The only retaining walls to be constructed are those required to contain the excavated areas at both sides of the dwelling due to the topography of the site. These retaining walls are not excessive in height and are not considered to impact on the adjoining properties.

▪ *The impact of additional excavation, cut and fill on the site:*

Ryde Council DCP states that cut and fill should be minimized in order to retain natural ground level for reasons related to ground water flow, etc. It would be appreciated if the Council could ensure that excavation and reconfiguring of the original ground level on the site does not increase the potential for siltation of the groundwater flowing downslope across the bushland in the public reserve and into Kitty's Creek as may occur during torrential rain.

Officer's Comment: The applicant has designed the proposed additions to minimise the extent of cut and fill. Given that the site is sloping, cut and fill is inevitable. The bottom floor level has been lowered an additional 340mm to provide better amenity for the occupants. The owners have installed sediment control measures at the sides and rear of the property during construction. Groundwaters flowing downslope across the bushland will not alter with the proposed development.

▪ *Increased overlooking of the Public Reserve and private open space:*

1. *Where the Council proposes to approve changes in the walls and fabric of the addition it would be appreciated if the Council would ensure that any new openings be conditioned to prevent overlooking of the public reserve and private dwellings by means of privacy screens.*

Officer's Comment: The proposed development has been designed to minimise any overlooking the impact on the public reserve and surrounding properties.

2. *Where the Council proposes to approve changes in floor levels it would be appreciated if the Council would ensure that there is no increase in the height of the proposed development above the height originally approved by the Council.*

Officer's Comment: There is no increase in the height of the proposed development above the levels approved in the original application.

ITEM 4 (continued)

▪ Privacy screens:

Privacy screens approved as part of the original development consent should be retained in any consent for modification of consent. All privacy screens approved by Council should be conditioned to ensure that the fixed angle of the blades is specified in order to prevent overlooking of the open space public reserve.

Officer's Comment: The Finished Floor Level of the lower floor has been reduced from RL 36.14 to RL 35.80 (340mm) to provide better amenity for the occupants. As a result the proposed privacy screen along the south-eastern side of the lower floor terrace has been deleted as the 1.8m high boundary fence will adequately maintain privacy.

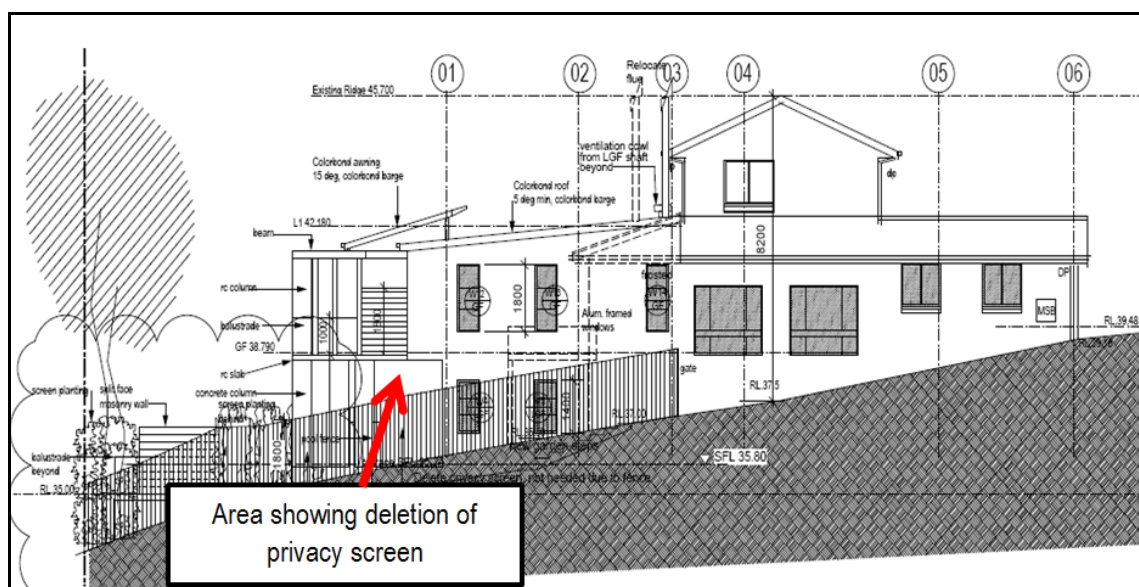


Figure 13: South - East Elevation (Deletion of privacy screen)

▪ Public domain versus private views

The subject property overlooks the public open space reserve from several eastern facing windows. It would be appreciated if the extent of overlooking is not increased as a result of the amended plans. The amended plans of the southern elevation show a reduction in masonry and increased window area. It would be appreciated if the Council would limit the extent of overlooking by ensuring that privacy screens are fitted so as to reduce the overlooking.

Officer's Comment: The size and position of the eastern facing windows will be substantially the same as the windows approved in the original application and considered to have minimal impact on the surrounding properties. Please see figures 7 and 8 previously in the report.

ITEM 4 (continued)

▪ Pool pump enclosure:

Ryde Council conditioned the original approval for the swimming pool to locate the enclosure to a location readily accessible to the property owner for day to day maintenance and a requirement for sound dampening. The enclosure should be relocated away from the public reserve so as to ensure that potential noise impacts will be properly managed and the enjoyment of the public domain will not be impacted by regular noise impacts. It would be appreciated if the Council would ensure that the pump and enclosure are located in a central point in the backyard for easier access for the owner, and to reduce noise impacts on the public reserve in compliance with the aims of the Public Domain provisions of the Ryde DCP.

Officer's Comment: *The applicant has relocated the pool pump/filter to be under the pool coping at the rear of the pool. The surrounding walls are masonry and the pool pump/filter will be enclosed in an acoustic enclosure. The proposed location is considered satisfactory as it will have minimal impact on the surrounding properties.*



Figure 14: Proposed location of pool pump

ITEM 4 (continued)▪ Deep soil zone

The amended plans now show the location of the deep soil zone. However they show the addition of a pathway across this small zone. Ryde Council approved the development with a deep soil zone which was intended to maximise the chances of survival of the remaining mature eucalyptus tree in the backyard. It would be appreciated if the Council would consider whether the pathway could be relocated so as to not impact on the deep soil zone, and also, ensure that if approved the design and construction avoids any adverse impact on the surviving eucalypt. Compliance with the DCP will give the tree the best chance of survival.

Please also condition any consent to ensure that excavated material is not stored on the deep soil zone as it may severely compact the soil in this area.

Officer's Comment: The deep soil area at the rear south-western corner of the property will be suitably landscaped upon completion of the proposed development. The proposed pathway has been included to provide safe access to the rear boundary and will not significantly reduce the amount of deep soil area .

▪ State Environmental Planning Policy No.19 – Bushland in Urban Areas:

The provisions of SEPP 19 – Bushland in Urban Areas regarding the impact of the proposed development on adjoining bushland zoned for open space purposes are relevant to the application for modification of consent. Please refer to Clause 9 of SEPP 19 below.

It would also be appreciated in the Council would ensure that any approval for variation of the original consent should have regard to the Council resolution to manage the regenerating bushland in the reserve along part of the eastern boundary of the subject property. The Council's Manager Bushland is the responsible officer to provide technical advice relevant to the proposed development so as to reduce potential impacts on the bushland areas of the public reserve lands.

The Council is already aware of the drainage line through the public reserve parallel with the eastern boundary of the property at 2 Blue Gum Drive. In the event of the Council considering approval of further excavation and fill on the site it would be appreciated in the Council would review the conditions relating to stormwater flows and drainage from the site into the surrounding bushland reserve to protect the water quality entering the reserve lands below.

Officer's Comment: The aims and objectives of SEPP 19 – Bushland in Urban Areas regarding the impact of the proposed development on adjoining bushland zoned for open space purposes were fully assessed in the approval of the original application.

ITEM 4 (continued)

The current proposal is for modifications to the consent already issued by Council and so a full re-assessment in terms of SEPP 19 is not required. The changes proposed in this Section 96 Application are relatively minor and will have minimal impact on the adjoining reserve (Portius Park).

In summary, the development proposal will be carried out on a private allotment adjoining the urban bushland of “Portius Park” and will have no potential environmental impacts on the existing flora and fauna of the bushland reserve that would warrant modifications to the proposal or refusal.

- The proposed removal of screen planting in the backyard and trees on the boundary to install services.

The proposed modification of the approved plans includes removal of approved screen plantings and trees on the approved plans. If the Council proposes to grant approval to the deletion of the screen planting in the backyard it would be appreciated if consideration of other measures to reduce the overlooking of the public reserve and the private open space at my dwelling could be conditioned to reduce noise impacts and overlooking.

Officer’s Comment: The applicant has provided an amended Landscape Plan which shows that sufficient screen planting (together with the 1.8m high masonry wall) will be provided along the south-eastern side of the property at the rear of the site. Any potential overlooking of the public reserve and the private open space of the surrounding properties is considered to be minimal.

- The impact of lighting spill into the public reserves and adjoining properties.

The proposed variation creates the potential for lighting spill because of the proposed extension of the approve deck south and east. It would be appreciated if conditions be imposed by the Council requiring that the lighting of the rear terraces and deck areas be designed and constructed to reduce light spill into the public domain and adjoining private properties.

Officer’s Comment: Lighting from residential properties is not to create offensive glare onto adjoining residents. A condition will be included in the Section 96 Application that states:

- **Lighting.** Lighting of the rear terraces and deck areas are to be designed and constructed to reduce light spill into the public domain and adjoining private properties so that there will be no offensive glare onto adjoining residents.

8. Clause 4.6 - RLEP 2010 objection required?

None required.

ITEM 4 (continued)**9. Policy Implications****Relevant Provisions of Environmental Planning Instruments etc:****(a) Ryde Local Environmental Plan 2010****Zoning**

The subject property is zoned R2 Low Density Residential. The proposal is permissible with Council's development consent.

Mandatory Requirements

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

Clause 4.3 – Height of buildings. Sub-clause (2) of this clause states that “the height of a building on any land is not to exceed the maximum height for the land shown for the land on the height of buildings map”. In this case, the maximum height is 9.5m. The maximum height of the dwelling is 8.2m, which complies with Ryde's LEP 2010.

Clause 4.4 - Floor Space Ratio. This clause prescribes a maximum floor space ratio (FSR) of 0.50:1. The FSR for the proposed development has been calculated to be 0.46:1, which complies with Ryde's LEP 2010.

(b) Relevant State Environmental Planning Policies (SEPPs)**State And Sydney Regional Environmental Planning Policies**

SEPP BASIX: An amended BASIX Certificate has been submitted with this application.

SEPP 19: The aims and objectives of SEPP 19 – *Bushland in Urban Areas* regarding the impact of the proposed development on adjoining bushland zoned for open space purposes were fully assessed in the approval of the original application.

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

ITEM 4 (continued)**(c) Any draft LEPs**

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

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

(d) The provisions of any development control plan applying to the land**Ryde Development Control Plan (DCP) 2010.**

The proposal has been assessed using the development controls contained in Ryde DCP 2010. The DCP compliance table for this development proposal is held at **Attachment 4**.

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

- **Topography and Excavation** - Council's DCP 2010; Part 3.3 - Dwelling Houses & Dual Occupancy (attached) - Section 2.5.2 '*Topography and Excavation*' states:

The area under the dwelling footprint may be excavated or filled so long as:

- i. the topography of the site requires cut and/or fill in order to reasonably accommodate a dwelling;
- ii. the depth of excavation is limited to 1.2 metres maximum; and
- iii. the maximum height of fill is 900mm.

Areas outside the dwelling footprint may be excavated and/or filled so long as:

- i. the maximum height of retaining walls is no greater than 900mm; and
- ii. the depth of excavation is not more than 900mm; and
- iii. the height of fill is not more than 500mm; and
- iv. the excavated and filled areas do not have an adverse impact on the streetscape; and
- v. the filled areas do not have an adverse impact on the privacy of neighbours; and
- vi. the area between the adjacent side wall of the house and the side boundary is not filled.

- The area under the dwelling footprint may be excavated or filled so long as maximum height of fill is 0.9m.

ITEM 4 (continued)

Officer's Comment: The proposed cut and fill of the site was assessed in the original application. The bottom floor level has been lowered an additional 340mm to provide better amenity for the occupants. Due to the topography of the site the additional level of cut and fill exceeds the maximum cut and fill requirements listed above. As the impact on the adjoining and surrounding properties is minimal, the proposed development in this situation is considered satisfactory.

- **Pool Coping Level** - Council's DCP 2010; Part 3.3 - Dwelling Houses & Dual Occupancy (attached) - Section 2.11 '*Swimming Pools and Spas*' states:
 - The finished coping level of the pool must not be higher than 500mm above the adjacent existing ground level. This maximum height can only be achieved where it will not result in an unreasonably adverse impact on the privacy of neighbours.

Officer's Comment: Due to the topography of the site the pool coping level at the rear will be approximately 900mm above the natural ground level. As the applicant will be providing a 1.8m masonry wall and screen planting on the south-eastern boundary, the increased coping level in this situation is considered satisfactory.



Figure 15: Pool coping level (site photo)

ITEM 4 (continued)

- **Pool Setback** – Council's DCP 2010; Part 3.3 - Dwelling Houses & Dual Occupancy (attached) - Section 2.11 'Swimming Pools and Spas' states:
 - Pools are to be set back a minimum of 900mm from the boundary, measured from the outside edge of pool coping, deck or surrounds to allow sufficient space for amenity screen planting.

Officer's Comment: Due to the topography of the site the pool coping level at the side and rear of the pool will be elevated above the natural ground level. The applicant has extended the eastern side of the pool closer to the side boundary to provide better access around the pool. To maintain privacy, a 1.8m high masonry wall is proposed along the edge of the coping in lieu of the originally approved screen planting. The Australian Standard for Swimming Pool Fencing (AS 1926.1-2012) now requires the non-climbable zone to be measured from top of boundary fences. As screen planting inside the boundary fence will grow within the non-climbable zone and provide footholds into the pool area, the proposed masonry wall is a more suitable option as it complies with the requirements of 1926.1-2012.

(e) Matters for consideration pursuant to Section 96(2) EPAA:

The provisions of Section 96(2) of the Environmental Planning and Assessment Act, 1979 allow a consent authority to modify the consent where the application meets the following criteria:

- (i) The development to which the consent as modified relates is substantially the same development.
- (ii) Any concurrence authority has been consulted and has not objected.
- (iii) The application has been notified in accordance with the regulations.
- (iv) Submissions made during the prescribed notification period have been considered.

Under Section 96 (2) (a) 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.

It is the opinion of Council's Assessing Officer that the modified development is substantially the same as the original and therefore the application can be considered on its merits. Section 96(2) (b) is not relevant to the current application, as concurrence was not required for the original approval. The proposal meets the requirements of 96(2) (c) and 96(2) (d) listed above, with the submissions received being considered in this report.

ITEM 4 (continued)

It should also be noted that when assessing Section 96 Applications, Council can only consider the proposed modifications and not re-visit the whole application.

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

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

(b) Natural Environment

The proposed modifications would have minimal impact in terms of the natural environment. The impacts on the natural environment were fully assessed in the approval of the original application.

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:

Bush Fire Prone

The subject site has been identified within Bush Fire Prone land. NSW Rural Fire Service have been contacted about the proposed modifications and have advised that as the dwelling is not extending further towards the rear boundary, the existing conditions imposed in the original application shall be maintained.

Urban Bushland - Inadequately Conserved

The proposed modifications will have no environmental impacts on the flora and the fauna of the adjoining bushland that were not considered and addressed in the assessment and approval of the original application.

Acid Sulphate Soil

The subject site is identified within class 5 of Acid Sulphate Soils and within 500m buffer zone of a higher class Acid Sulphate Soil environment. Department of Land and Water conservation in its "*Guidelines for the Use of Acid Sulphate Soil Risk Maps*", states that: "...in general, landforms above 10m AHD were classed as having *No Known Occurrence of Acid Sulphate Soil*". The subject site is located above the 10m AHD, therefore it is considered that the proposed development will have no potential environmental impacts such as lowering the water tables of the adjoining lands.

ITEM 4 (continued)**12. The Public Interest**

It is considered that approval of this Section 96 Application would be in the public interest. The modifications are minor changes to an approval for residential works under construction to provide better amenity for the applicant and his family. Potential impacts related to the privacy of residents located some distance away across a Public Reserve have been adequately addressed.

13. Consultation – Internal and External

No referrals required with this application.

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

None relevant.

17. Conclusion

The proposed development has been assessed using the heads of consideration listed in Section 79 of the Environmental Planning & Assessment Act 1979 and is considered to be satisfactory for approval.

The non-compliances with Council's DCP 2010: Part 3.3 Dwelling Houses and Dual Occupancy (attached), relating to cut and fill, pool coping level and pool setback have been addressed in the report. These issues have been assessed on their merits and do not warrant refusal or further design amendments.

Therefore, it is recommended that the Section 96 Application be approved.

ITEM 4 (continued)

ATTACHMENT 1



ASSESSMENT REPORT

Local Development Application No: LDA2011/0424

Report to Manager Assessment: 27 February 2012

EXECUTIVE SUMMARY

Application details

Subject land:	2 Blue Gum Drive East Ryde
Lot and DP Number:	Lot 51, DP 810946
Site Area and dimensions:	714.5m ² , front = 15.375m, depth = 39.065m/ 34.065m & rear = 20.40m
Proposal:	Alterations and additions to existing dwelling and a new inground pool.
Applicant:	A Saba
Owner:	A Saba
Date lodged:	12 August 2011
Value of Works:	\$220,000.00
Submissions:	<u>Original Plans</u> : Three (3) submissions from/on behalf of the property owners at 46 Jeanette Street East Ryde were received. <u>Revised Plans</u> : One (1) further submission from the same property owners at 46 Jeanette Street East Ryde was received.
Zoning:	R2 - Low Density Residential
DCP Non-Compliances:	None
Clause 4.6 RLEP 2010: (Exceptions to Development Standards)	Not required
Section 94 contributions:	Not required
Other relevant legislation:	Not applicable
Integrated development:	Not applicable
Councillor Representations	Councillor Call-up from <ul style="list-style-type: none">• Councillor Petch – Withdrawn• Councillor Salvestro-Martin – Withdrawn
Report Recommendation:	Approval

ITEM 4 (continued)

ATTACHMENT 1

ASSESSMENT REPORT

THE PROPOSAL

The development application LDA2011/0424 proposes alterations and additions to the existing dwelling and a new inground pool. The proposed new works are:

- Extensions of south-west end of the ground floor to accommodate larger open plan living spaces kitchen, laundry and powder room.
- A new terrace adjacent to the living areas.
- A larger formal living room.
- Rumpus room, bathroom and terrace to located at new lower ground level below the new ground floor extension.
- A sympathetic blend of the new extension with the existing house.
- An updated style for the new verandah with extensive use of glass for the living spaces adjacent to verandah/awning.
- Ground Floor terrace to have a covered pergola.
- Installation of a new inground swimming pool.

Note: Development Consent No. 67/91 issued on 12 June 1991 granted consent "to erect 2 attached dwellings for the purpose of dual occupancy" which was constructed under Building Application No. 459/91. However, the dwelling is currently being used as a single occupancy.



The above photos show the views of the existing dwelling on the subject site.

ITEM 4 (continued)

ATTACHMENT 1

Background

- **12 August 2011** Applicant submitted development application LDA2011/0424.
- **19 August 2011** A site inspection was carried out.
- **31 August 2011** Referrals were sent to the following experts:
 - Bushfire Consultant.
 - Development Engineer.
 - Landscape Architect.
- **31 August 2011** The proposal was placed on neighbour notification for a period of 14 day ending on 15 September 2011, during which one informal submission / email was received.
- **12 September 2011** A request made by the concerned residents at No. 46 Jeanette Street East Ryde for a site inspection to discuss their concerns regarding this proposal. Council's Officers informed them that this meeting could not be made until referral reports/comments are received.
- **14 September 2011** Councillor Petch called up this application to Planning and Environment Committee.
- **29 September 2011** Advice received from Council's Bushfire Consultant. A referral was sent to NSW Rural Fire Service.
- **8 November 2011** Comments received from NSW Rural Fire Service.
- **11 November 2011** Councillor Petch withdrew the call up of this application to Planning and Environment Committee.
- **14 November 2011** Councillor Salvestro-Martin called up this application to Planning and Environment Committee.
- **17 November 2011** A site meeting was held at 46 Jeanette Street East Ryde to discuss the neighbours' concerns. Present at this meeting were Ms Jennie Minifie and Mr Noel Plumb (concerned residents) and Council's Officers Mr Vince Galletto, Team Leader Building + Development Advisory Service and Mr Colin Murphy, Team Leader – Assessment.
- **18 November 2011** An email was sent out to the concerned residents advising that a formal submission could be lodged until the close of business on 25 November 2011.
- **25 November 2011** A formal submission was received from "Henningham Law", Solicitors on behalf of the concerned residents at No. 46 Jeanette Street East Ryde.
- **25 November 2011** Two further submissions/emails were received from the concerned residents at No. 46 Jeanette Street East Ryde.

ITEM 4 (continued)

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- **7 December 2011** An email received from the concerned residents at No. 46 Jeanette Street East Ryde; wishing to speak at the Planning and Environment Committee.
- **8 December 2011** A letter was forwarded to the applicant requesting following information:
 - Pool fencing / balustrade.
 - BASIX Commitments.
 - Privacy screen.
 - Screen planting.
 - Shadow diagrams.
 - Submissions.
- **1 February 2012** A meeting was held to meet with the applicant to discuss the concerns regarding this proposal. Applicant's Architect Ms Irene Sheridan-Miller and Council's Officers, Mr Colin Murphy, Team Leader – Assessment and Ms Farideh Derakhshan, Assessment Officer – Town Planner were present.
- **1 February 2012** Applicant submitted amended plans and requested information.
- **3 February 2012** The amended plans were notified to the concerned residents at No. 46 Jeanette Street East Ryde for a period of seven (7) days.
- **13 February 2012** A further submission was received from the concerned residents at No. 46 Jeanette Street East Ryde.
- **21 February 2012** Councillor Salvestro-Martin withdrew the call up of this application to Planning and Environment Committee.

Councillor Representations (Withdrawn)

- **11 November 2011** Councillor: Councillor Petch withdrew the call up dated 14 September 2011.
- **21 February 2012** Councillor: Councillor Salvestro-Martin withdrew the call up dated 14 November 2011.

REFERRALS

Development Engineer: 16 September 2011 - Council's Development Engineer has raised no objection to the application subject to 9 conditions of consent. (See Draft Consent Conditions 16, 17, 37-39, 44, 45, 60, 61)

Bushfire Consultant: 16 September 2011 – Council's Bushfire Consultant has recommended that a referral be sent to the NSW Rural Fire Service as the site is within a Flame Zone.

Consulting Landscape Architect: 31 October 2011 – Council's Consulting Landscape Architect has raised no objection to the application.

NSW Rural Fire Service: 8 November 2011 – NSW Rural Fire Service has raised no objection to the proposed development subject to 5 conditions of consent. (See Draft Consent Conditions 26-30)

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Council's Bushcare Coordinator: 25 February 2012 - Council's Bushcare Coordinator raised the following comment:

The section of Wolfe Road that adjoins the subject site is categorised as a Road Reserve. The Road Reserve is classified in the LEP as E2 – Environmental Conservation. The bushland is in quite good condition. It is classified as Western Sandstone Gully Forest (Biosphere Environmental Consultants 2007) and as Coastal Enriched Sandstone Moist Forest (draft map from Office of Environment and Heritage and Sydney Metropolitan Catchment Management Authority). Either way it is not classed as an endangered ecological community.

Consulting Landscape Architect: 8 March 2012 – Council's Consulting Landscape Architect has raised no objection to the application subject to 1 condition of consent. (See Draft Consent Condition 1(a).)

STATUTORY PROVISIONS

SECTION 79C HEADS OF CONSIDERATION

(a) The provisions of

(i) Environmental Planning Instruments:

(1) State Environmental Planning Policy No. 19 – Bushland in Urban Area

The subject site adjoins the bushland reserve "Portius Park" to the rear. Although the development proposes to carry out alterations and additions on a previously disturbed private allotment, the proposed development was assessed pursuant to the provisions of the above SEPP in regard to potential environmental impacts from the proposed development. Council's assessment of the proposed development against the above SEPP is as follows:

Clause 2 - Aims, objectives etc

(1) *The general aim of this Policy is to protect and preserve bushland within the urban areas referred to in Schedule 1 because of:*

(a) its value to the community as part of the natural heritage,

The proposed development will not damage the value of "Portius Park" to the community.

(b) its aesthetic value, and

The proposed development will have no impact on the aesthetic values of "Portius Park".

(c) its value as a recreational, educational and scientific resource.

The proposed development will not impact on the existing value of "Portius Park" as a recreational bushland.

(2) *The specific aims of this policy are:*

(a) to protect the remnants of plant communities which were once characteristic of land now within an urban area,

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The proposed development will have no environmental impact on the previous and existing plant communities of "Portius Park".

- (b) to retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term,**

The proposed development will have no impact on the size of "Portius Park" and the survival of its flora and fauna.

- (c) to protect rare and endangered flora and fauna species,**

The proposal will have no impact on any rare and endangered species of flora and fauna in "Portius Park".

- (d) to protect habitats for native flora and fauna,**

The proposed development will have no impact on the existing habitats of "Portius Park".

- (e) to protect wildlife corridors and vegetation links with other nearby bushland,**

The proposed development will have no ecological impact in "Portius Park" and the adjoining reserves; "Kittys Creek", "Pryor Park" and "Martin Reserve".

- (f) to protect bushland as a natural stabiliser of the soil surface,**

The proposed development will not destabilise the existing soil surfaces of "Portius Park".

- (g) to protect bushland for its scenic values, and to retain the unique visual identity of the landscape,**

The development will not damage the existing scenic values and unique visual identity of the existing landscape within "Portius Park".

- (h) to protect significant geological features,**

The proposal will have no impact on any significant geological features in "Portius Park".

- (i) to protect existing landforms, such as natural drainage lines, watercourses and foreshores,**

The proposed development was referred to Council's Development Engineer who raised no objection to the proposal subject to 9 conditions of consent including the following condition (see Draft Consent Condition 37):

- Stormwater runoff from all roof areas shall be collected and piped by gravity flow to an absorption trench or a spreader system located at the rear of the site via a 6000 litre water tank in accordance with the Council's Development Control Plan 2010: - Part 8.2; Stormwater Management. *In this regard amended engineering plans incorporating these requirements are to be submitted with the Construction Certificate application.* The design and construction of the absorption / spreader system will need to also comply with a geotechnical engineer's recommendations in relation

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to not exacerbating the site slope instability risks. The water tank shall be connected to the dwelling for reuse of water.

In addition, the backwash and over flow of the new inground pool will be connected to the Sydney Water Sewerage System. Accordingly, the proposed development will have no detrimental environmental impact on the existing landform of the adjoining bushland in "Portius Park".

(j) to protect archaeological relics,

The proposal will have no impact on any archaeological relics in "Portius Park".

(k) to protect the recreational potential of bushland,

The proposed development will have no impact on the existing recreational potential of "Portius Park".

(l) to protect the educational potential of bushland,

The proposed development will have no impact on the potential educational use of "Portius Park", though there is no evidence that this park is being used for educational purposes.

(m) to maintain bushland in locations which are readily accessible to the community, and

The proposed development will not impact on the existing community access to "Portius Park".

(n) to promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.

The proposed development will have no impact on the existing management of the bushland.

Clause 9 - Land adjoining land zoned or reserved for public open space

(1) This clause applies to land which adjoins bushland zoned or reserved for public open space purposes.

(2) Where a public authority:

(a) proposes to carry out development on land to which this clause applies, or

The Council does not propose to carry out any development in "Portius Park". The development proposes to carry out alterations and additions to a dwelling on a private allotment.

(b) proposes to grant approval or development consent in relation to development on land to which this clause applies,

Council does not propose to grant approval or development in "Portius Park".

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The public authority shall not carry out that development or grant the approval or development consent unless it has taken into account:

(c) the need to retain any bushland on the land,

Council has considered that the proposal will not alter the retention of the adjoining bushland "Portius Park"

(d) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and

The stormwater runoff from the proposed development was assessed by Council's Development Engineer who raised no objection to the proposal. In addition the backwash and the over flow from the new inground pool will be connected to the Sydney Water Sewerage System. Accordingly, Council has assessed that the proposed development will have no detrimental environmental impacts on the erosion of soils, the siltation of streams and waterways and the spread of weeds within "Portius Park".

(e) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.

There are no other matters which in the opinion of Council are relevant to the protection and preservation of "Portius Park", as the existing nature of this park will remain the same.



The above aerial photo shows the subject site and adjoining bushland reserves – inadequately conserved

ITEM 4 (continued)

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In summary, a referral was forwarded to Council's Consulting Landscape Architect who raised no objection to the proposed development. The development proposal will be carried out on a private allotment adjoining the urban bushland of "Portius Park" and will have no potential environmental impacts on the existing flora and fauna of the bushland reserve that would warrant modifications to the proposal or refusal.

(2) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX certificate was received as the estimated cost of proposed development is more than \$50,000. The compliance table with the BASIX Certificate is illustrated in Annexure "A" attached to this report.

(3) Ryde Local Environmental Plan (LEP) 2010:

The subject site is within Zone R2 - Low Density Residential. The development proposes alterations and additions to existing dwelling and a new inground pool which is permissible and also complies with the aim and the objectives of Ryde LEP 2010. The proposed development complies with the provisions of the above LEP such as floor space ratio and height limit.

(4) Draft Environmental Planning Instruments

None applicable.

(5) Ryde Development Control Plan (DCP) 2010:

The development complies with the aim and objectives of Part 3.3 – *Dwelling Houses and Dual Occupancy (attached)*. A full assessment of the proposal under Ryde DCP 2010 is illustrated in Annexure "B" - the compliance table is attached to this report.

(b) The likely environmental impacts on both the natural and built environments, and social and economic impacts in the locality

All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report (see DCP 2010 and Submissions sections). The development is considered satisfactory in terms of environmental impacts.

(c) Site suitability

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

Bush Fire Prone

The subject site has been identified within the Bush Fire Prone land and as such the proposal was referred to Council's Bush Fire Consultant and consequently to NSW Rural Fire Service who raised no objection to the proposed development subject to 5 conditions of consent. (See Draft Consent Conditions 26-30.)

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Urban Bushland - Inadequately Conserved

The subject site is also identified within the "Urban Bushland - Inadequately Conserved". The proposed development was referred to Council's Consulting Landscape Architect who raised no objection to the proposal. Accordingly, the proposed development will have no environmental impacts on the flora and the fauna of the adjoining bushland.

Acid Sulphate Soil

The subject site is identified within class 5 of Acid Sulphate Soils and within 500m buffer zone of a higher class Acid Sulphate Soil environment. Department of Land and Water conservation in its "Guidelines for the Use of Acid Sulphate Soil Risk Maps", states that: "...in general, landforms above 10m AHD were classed as having No Known Occurrence of Acid Sulphate Soil". The subject site is located above the 10m AHD, therefore it is considered that the proposed development will have no potential environmental impacts such as lowering the water tables of the adjoining lands.

(d) **Public Participation – consultation and concurrence.**

It was not required to refer the proposal to public authorities and as such no submissions were received.

(e) **Public notification & submission:**

Original Plans

The proposal was notified in accordance with Council's DCP 2010: Part 2.1 - *Notification of Development Applications* for a 14 day period ending on 15 September 2011. During this period three (3) submissions were received from/and on behalf of the property owners at No. 46 Jeanette Street East Ryde objecting to the development. The issues raised in the submissions are summarised and discussed as follows:

CONCERNS REGARDING DEVELOPMENT

• **Previous Tree Removal**

Comment: Objection is raised that the applicant has previously undertaken illegal tree removal and should not be able to benefit from such action in this development proposal. The removal of trees from the subject site has been dealt with as a separate issue in the past and as such is irrelevant to the proposed development. This position has been confirmed in case law established in the Land & Environment Court (*Jonah Pty Limited v Pittwater Council* - 2006) – which established that "The unlawfulness of the past use is not relevant" (Paragraph 39 of the Judgment).

• **Bulk & Scale**

Comment: Concerns on the bulk and scale of the proposed development were considered in the assessment of this application. Council's DCP 2010 – Part 3.3 - *Dwelling Houses and Dual Occupancy (attached)* allows residential dwellings to be of a maximum two storey high and the development proposes alterations and additions to the existing two storey dwelling.

ITEM 4 (continued)

ATTACHMENT 1

In addition, the proposed development complies with the objectives and the required development controls in Council's DCP 2010 – Part 3.3 – *Dwelling Houses and Dual Occupancy (attached)* in particular the allowable side boundary setbacks, height, deep soil areas and floor space ratio.

Therefore, the proposed development being alterations and additions to the existing dwelling and new inground swimming pool will be consistent with the desired future character of the low density residential dwellings in the locality; in particular in relation to its bulk and scale.

- **Planning for Bush Fire Protection**

Comment: As mentioned in your submission, the subject site has been identified within the Bush Fire Prone Area. Council referred the proposed development (as part of the assessment of these types of developments) to Council's Bush Fire Consultant who subsequently requested that this proposal with all the supporting documents be forwarded to the NSW Rural Fire Service for comment.

NSW Rural Fire Service assessed the proposed development and in their letter dated 8 November 2011 recommended 5 conditions to be included in any consent granted.

- **Ecological Sustainable Development**

Case Law: (BGP Properties Pty Limited v Lake Macquarie City Council - 2004)

Comment: In this objection, concerns are raised that the proposal does not consider the impacts of the development on the adjoining bushland – and in particular the principle of "intergenerational equality".

Council has considered the impacts of the development in terms of the adjoining bushland as part of the assessment in terms of SEPP 19 – Bushland in Urban Areas. It is considered that the proposed alterations and additions to the existing dwelling and new inground pool will have minimal impact on the adjoining bushland and such impacts can be addressed via conditions of consent.

- **Overshadowing on the adjoining bushland**

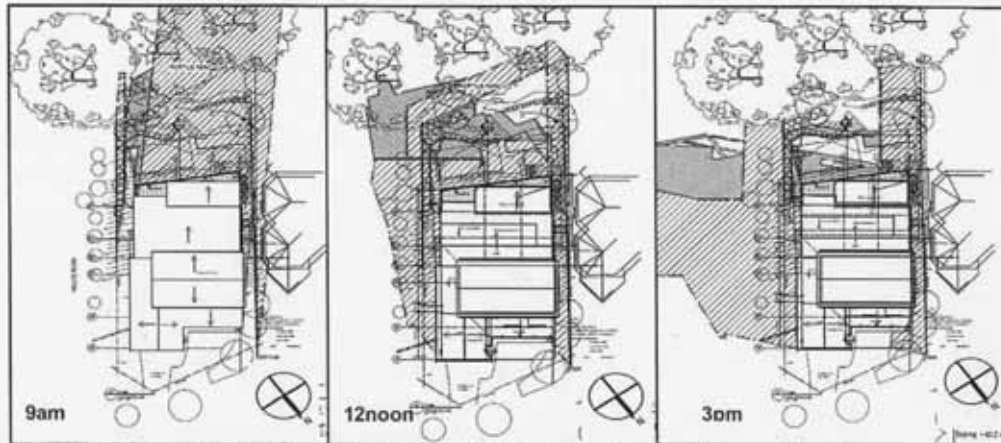
Comment: Council's DCP 2010 – Part 3.3 – *Dwelling House and Dual Occupancy (attached)* – Section 2.13 – *Dwelling amenity* – states the following:

For neighbouring properties ensure:

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

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The above shadow diagram shows existing and proposed extent of shadow casting over the adjoining bushland "Portius Park".

Although Council's development controls are more relevant to the extent of shadows cast over the private properties immediately adjoining a development site, the assessment of these shadow diagrams show that the proposed alteration and addition will not significantly exacerbate the extent of the existing shadows cast over the adjoining bushland (Portius Park) at the rear of the site.

• **Stormwater seepage & inground swimming pool overflow**

Comment: The above concern was considered during the assessment of this proposal. As a result the proposed development was referred to Council's Development Engineer who raised no objection to the proposal subject to 9 conditions of consent including the following condition:

- Stormwater runoff from all roof areas shall be collected and piped by gravity flow to an absorption trench or a spreader system located at the rear of the site via a 6000 litre water tank in accordance with Council's Development Control Plan 2010: - Part 8.2; Stormwater Management. *In this regard amended engineering plans incorporating these requirements are to be submitted with the Construction Certificate application.*
The design and construction of the absorption / spreader system will need to also comply with a geotechnical engineer's recommendations in relation to not exacerbating the site slope instability risks. The water tank shall be connected to the dwelling for reuse of water.

In addition, the backwash and over flow of the new inground pool will be connected to the Sydney Water Sewerage System. Accordingly, the proposed development will have no detrimental environmental impact on the existing landform of the adjoining bushland "Portius Park".

• **Public interest**

Comment: The proposed development has been assessed against the Section 79C of the Environmental and Planning Assessment Act 1979. The proposed development satisfactorily complies with the statutory requirements such as state planning policies and Ryde Local Environmental Plan 2010 and also Ryde

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Development Control Plan 2010. The proposed development complies with the aim and objectives of these planning instruments in particular for dwellings in residential zones and complies with all development standards, such as height and floor space ratio.

- **Referral to Experts**

Comment: The proposed development being alterations and additions to the existing dwelling and new inground pool has been referred to various experts for comment, namely Council's Consultant Landscape Architect, Council's Bushfire Consultant, NSW Rural Fire Service, Council's Development Engineer and Council's Bushcare Coordinator. Due to the nature of the development being residential additions to an existing dwelling - further or additional referrals were not warranted.

- **Potential loss of privacy and overlooking**

Comment: The concern regarding the potential loss of privacy and overlooking from the proposed development was considered during the assessment of the proposal.

As a result the applicant has included the provision of privacy screen on the eastern side of the ground and first floor rear terraces. The development also includes the provision of screen planting along the western (side) and southern (rear) boundaries of the site. In addition, there is an existing separation distance (Wolfe Road) of more than 19 metres between the subject site and the property at No. 46 Jeanette Street. Due to the topography and the land formation of the locality there will be potential privacy and overlooking impacts from the allotments located on the higher level over the properties located on the lower levels.



The above aerial photo shows the relationships between the subject site, adjoining bushlands and the property of the concerned residents at No. 46 Jeanette Street.

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- **Erosion and sediment controls**

Comment: Concern regarding erosion and sediment controls was considered during the assessment of this proposal and as such the following condition will be included in the development consent:

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.*

- **Access through the adjoining bushland reserves**

Comment: Concern regarding the access through the adjoining bushland has been considered during the assessment of this application and as a result the following conditions will be included in the development consent:

Parks/Reserves

- No access to the site, via the reserve/park, is permitted at any time.
- Use of the park/reserve for the storage of materials, stockpiling, siting of work sheds, preparation of mixes, cleaning of tools or equipment, pedestrian or vehicular activity, including parking is not permitted at any time.
- Use of the park/reserve for refuelling and/or maintenance of machinery and equipment, is not permitted at any time.
- Access to the site, via the reserve/park, is subject to an "Access Permit" being issued by Council.

- **Lawful Use**

Comment: Concerns were raised that the development could be used as a "granny flat" or dual occupancy. On 12 June 1991, Council granted development consent for the subject site to erect 2 attached dwellings for the purpose of dual occupancy (Consent No. 67/91). Subsequently, the Building Application BA459/91 was approved on 7 August 1991 after which the proposed dual occupancy was constructed. However, during the site inspection, it was revealed that in spite of the past approval the dwelling at present is not used as a dual occupancy.

- **Air Pollution**

Comment: Council's DCP 2010 has no specific controls on types of fuels burning within internal fire places. However, construction of these structures will have to comply with the requirements of the Building Code of Australia. As a result the following conditions will be included in the development consent:

- The chimney or flue pipe must extend at least 600mm above any higher structure within 3 metres radius. Details are to be submitted and approved by Council or an accredited certifier prior to the release of the Construction Certificate.

ITEM 4 (continued)

ATTACHMENT 1

- The chimney or flue pipe shall be constructed in accordance with the requirements of the Building Code of Australia and the Manufacturer's Instructions. Details are to be submitted and approved by Council or an accredited certifier prior to the release of the Construction Certificate.

- **Colorbond Roofing**

Comment: Concerns were raised regarding the use of the colorbond roofing in an area characterised by tile roofs. Concerns were also raised regarding the use of a clerestory window in a bushfire prone area. NSW Rural Fire Service have recommended that the following conditions regarding the "design and construction" be included in the development consent:

Design and Construction

- *New construction shall comply with section 9 (BAL FZ) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas'. However, any material, element of construction or system when tested to the method described in Australian Standard AS1530.8.2 Methods for fire tests on building materials, components and structures Part 8.2: Tests on elements of construction for buildings exposed to simulated bushfire attack—Large flaming sources shall comply with Clause 13.8 of that Standard except that flaming of the specimen is not permitted.*
- *The existing dwelling on Lot 51 in DP810946 is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.*

As a result the proposed colorbond roofing will have no potential attacks in case of fire as the materials of the proposed development should comply with the above conditions as imposed by the NSW Rural Fire Service. Council's DCP does not restrict use of colorbond roofing.

Addendum to Submission 2

- **Site Analysis (Ryde DCP 2010)**

Comment: Council's DCP 2010 – Part 3.3 – Dwelling House and Dual Occupancy (attached) – Section 1.6 – *Site Analysis* - states the following:

A site analysis is to be submitted with a development application for a new house, dual occupancy (attached) and dwelling additions.

The Site Analysis plan submitted with the Development Application is considered to be satisfactory for type of the development proposed being alterations and additions to an existing dwelling and new inground pool.

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ATTACHMENT 1

Revised Plans

Revised plans were also notified to the property owners at No. 46 Jeanette Street East Ryde for a 7 day period ending on 13 February 2012. During this period one (1) submission was received from the same property owners at No. 46 Jeanette Street East Ryde, objecting to the development. The additional issues raised in this submission are summarised and discussed as follows (note that the issues previously raised have been addressed in the previous discussion and no further comment is made on these items).

CONCERNS REGARDING DEVELOPMENT

Response to submission from the property owners at No. 46 Jeanette Street East Ryde

• **Visual Privacy**

Comment: Concern regarding the visual privacy from the proposed development on the amenity of the dwelling at No. 46 Jeanette Street was considered in the assessment of this proposal. Accordingly the proposed development was assessed pursuant to the following objectives as well as the controls of *Council's DCP 2010 – Part 3.3 – Dwelling Houses and Dual Occupancies (attached)* – Section 2.13.2. – *Visual Privacy*.

Objectives

1. *To provide appropriate levels of visual privacy to internal living spaces and external private open space.*

The development proposes appropriate levels of visual privacy to internal living spaces and also the external private open spaces of the site.

2. *To facilitate outlook and views from principal rooms in dwellings and private open spaces without compromising visual privacy of neighbours.*

The development allows outlook and views from the living rooms in dwelling and its private open space (rear yard) and also incorporating privacy screens on rear terraces in minimising the potential privacy and overlooking impact on the adjoining dwellings.

3. *To provide a level of surveillance over the street.*

The above objective is relevant to design of new dwelling. While the development proposes alterations and additions at the rear of the dwelling the overall design of the dwelling provides surveillance over Blue Gum Drive.

4. *To minimise overlooking of neighbouring dwellings.*

The development incorporates the provisions of privacy screens on the eastern side of the rear terrace.

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Controls

- a. *Orientate the windows of the main internal living spaces such as living rooms, dining rooms, kitchens, family rooms and the like, generally to the front or to the rear of allotments.*

The development proposes to maintain the existing orientation of internal living spaces to the rear of the allotment.

- b. *Orientate terraces, balconies and outdoor living areas to either the front or the rear of allotments, and not to the side boundaries.*

The orientation of the proposed rear terraces are towards the rear of the allotment and "Portius Park".

- c. *Terraces and balconies are not to overlook neighbours living areas and private open space.*

In minimising the potential overlooking and privacy impact from the proposed two new rear terraces the development proposes to include two privacy screens in the eastern side of these terraces.

- d. *Living room and kitchen windows, terraces and balconies are not to allow a direct view into neighbouring dwellings or neighbouring private open space.*

The direct view from the existing living room, kitchen windows and rear terraces are toward the adjoining rear bushland "Portius Park". The provisions of the privacy screens on the eastern side of the rear terrace will minimise the potential direct view to the dwellings located on the lower levels in the locality.

- e. *Side windows are to be offset by distances sufficient to avoid visual connection between windows of the subject dwelling and those of the neighbouring dwelling.*

The windows on the western wall of the dwelling in particular the new windows to the ground floor living room and the first floor rumpus rooms are set back at least 2 metres from the eastern boundary of the site. In addition, there is a separation distance of 19 metres between the subject site and the nearest property to the east at No. 46 Jeanette Street.

- f. *Splayed walls with windows are not to be located above ground level where the windows will provide views into neighbouring allotments.*

The development does not propose any splayed walls with windows and as such the above clause is irrelevant to this proposal.

In summary the proposed development complies with the objectives as well as the development controls of Council's DCP 2010 – Part 3.3 – *Dwelling Houses and Dual Occupancies (attached)* – Section 2.13.2. – *Visual Privacy*.

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ATTACHMENT 1

• Landscaping

Comment: Council's internal report (adopted 13 November 2001) prepared by OCULUS Landscape Architecture Urban Design Environmental Planning identifies the subject site as "Urban Bushland – Inadequately Conserved" Area. However, the method of study for this report was based on aerial photography and soil landscape maps. This report states the following:

The study method involved the preparation of vegetation maps for 1998, 1956 and 1950 based on aerial photography and soil landscape maps.

The mapping process for the 1998 vegetation map involved a set of digital aerial photographs dated 1998 supplied by Ryde Council. Budget limitations meant that site surveys and visits could not be undertaken for the entire LGA. It was agreed that ground-truthing had to be restricted to a few sites to determine the existence and extent of endangered plant communities on smaller sites where the aerial photographs appeared unclear. The previously prepared maps for 1995 were used as a basis for the identification of vegetation communities and conservation status.

The mapping process for the extent of vegetation in 1956 involved digitising vegetation from a digitised black and white photograph. The remnant vegetation shown on the photo was digitised and interpreted based on the known remnants mapped in 1998 and based on an interpretation of soil landscapes and associated ecological communities.

The mapping for the extent of vegetation was based on the soil landscapes mapped for the Sydney region and associated ecological communities (Chapman, G.A. & Murphy, C.L.; 1989; Soil Landscapes of the Sydney Region 1:100,000 sheet). The interpretation was based on the following:

- Lucas Heights Soils Landscape supports Sydney Turpentine Ironbark Forest and Shale Sandstone Transition Forest
- Glenorie Soil supports Sydney Turpentine Ironbark Forest
- Lane Cove Soil supports Estuarine Complex
- Hawkesbury Soil supports Sydney Sandstone Gully Forest
- West Pennant Hill Soil supports Blue Gum High Forest
- Gymea Soil supports Sydney Sandstone Ridgetop Woodland and some Sydney Sandstone Gully Forest

The subject site has been disturbed in the past and several trees have been removed from the site and now the new development, in the landscape plan proposes to include additional trees and vegetation on the subject site.

"Portius Park" at the rear has been zoned E2 – Environmental Conservation under the LEP. The classification of "Portius Park" as "E2" has been recommended in the report prepared by Biosphere Environmental Consultant dated 18 June 2009. However, it states that this study tried to keep the boundaries in public land but, in some case, it was not clear, as some of the boundaries may need to be moved if the cross into the private land.

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ATTACHMENT 1

In addition, Council's Consulting Landscape Architect reviewed the landscape plan prepared by John Chetham of "John Chetham and Associates", dated 1st February, 2012, and has made the following comments:

The site is located near Portius Pk which is typical Sydney Sandstone Gully Complex vegetation association. Although City of Ryde mapping suggests the area maybe "inadequately conserved", I believe this is an incorrect interpretation of the 2001 Oculus report upon which the mapping was based. The report states that only three vegetation associations (or ecological communities) are inadequately conserved in Ryde LGA including: 1) Sydney Turpentine Ironbark Forest 2) Blue Gum High Forest and 3) Shale Sandstone Transition Forest. Sydney Sandstone Gully Forest Complex is well represented across Sydney and COR, therefore the issue of its conservation status is not relevant to the application.

The main issue that the plan needs to address is whether adequate screen planting has been provided for along the Wolfe Rd reservation down to the southern corner of the site adjoining Portius Park.

The designer has specified a screen hedge consisting of 29 Lilly Pilly "Bush Christmas" cultivars, which are to be 200mm pot size at the time of planting. Although larger pot sizes could be specified, it can become problematic planting in sandstone where there are often shallow soil profiles, which do not allow the practical planting of specimens with larger root balls. It is generally accepted horticulturally that it is better in the long term to plant smaller specimens that will be more adaptable the site conditions, and make healthier specimens at maturity. I have made a slight change to the species selection. The mature height of the nominated "Bush Christmas" cultivar is only 2.5m. For more effective screening I have suggested a slightly taller cultivar which should form a taller screen in the 3-4m range.

Condition of consent:

- *Landscaping is to be in accordance with the plan prepared by John Chetham of "John Chetham and Associates", dated 1st February, 2012. In this regard the following amendments are to apply: a) the nominated **Syzygium "Bush Christmas"** are to be substituted with taller hedging plants equivalent to **Syzygium australe "Aussie Compact"** or **Syzygium australe "Southern"** with a mature height of 3.5-4m; and, b) subject to bushfire asset protection criteria, at least one canopy tree selected from the Sydney Sandstone Gully Forest vegetation association is to be planted in the rear yard.*

As the development proposes alterations and additions to existing dwelling and new inground pool on a private allotment; Council in its assessment of the proposed plants considers that proposed landscape plan will have no potential environmental impacts as to destroy, damage or otherwise have an adverse effect on the existing values (animal and plant communities) of the adjoining bushland "Portius Park".

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ATTACHMENT 1

• Height

Comment: Concerns on the bulk and scale of the proposed development was considered in the assessment of this application. Council's DCP 2010 – Part 3.3 - Dwelling Houses and Dual Occupancy (attached) allows *residential dwellings to be of a maximum two storey high* and the development proposes alterations and additions to the existing dwelling and new inground pool.

In addition, the proposed development complies with the objectives and the required development controls in Council's DCP 2010 – Part 3.3 - Dwelling Houses and Dual Occupancy (attached) in particular the allowable side boundary setbacks, deep soil areas, floor space ratio and height.

Therefore, the proposed development being alterations and addition to the existing dwelling and new inground pool will be consistent with the desired future character of the low density residential dwellings in the locality; in particular in relation to its height.

CONCLUSION

After consideration of the development against section 79C of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is suitable for the site and is in the public interest. Also, the proposal has been assessed in terms of the provisions both Ryde LEP 2010 and DCP 2010 and based on a merit assessment of these provisions, the application is considered acceptable for approval under delegated authority subject to conditions.

RECOMMENDATION:

That Development Application No: LDA2011/0424 at 2 Blue Gum Drive East Ryde be approved subject to the conditions in the attached draft consent.



Farideh Derakhshan
Assessment Officer - Town Planner



Colin Murphy
Team Leader - Assessment



Liz Coad
Manager Assessment



Dominic Johnson
Group Manager Environment and Planning

Date of Consent:

15/3/2012

ITEM 4 (continued)

ATTACHMENT 1

Annexure "A"
BASIX COMPLIANCE TABLE

Property: 2 Blue Gum Drive East Ryde – LDA2011/0424

Building Sustainability Index: BASIX 2004 – Certificate No. A113718 dated 7 August 2011.

BASIX	Proposed	Compliance
Hot Water		
Gas storage	Shown on DA Plans	Yes
Pool Volume		
39 Kl	Shown on DA Plans	Yes
Insulation Requirements		
The applicant must construct the new or altered construction (Floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the BASIX Certificate	Shown on DA Plans	Yes
Windows and glazed doors		
The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the BASIX table. For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony or awning must be no less than 450mm above the head of the window or glazed door and no more than 900 mm above the sill.	Shown on DA Plans	Yes
Correct description of property/proposal on 1 st page of Certificate.	Shown on first page of the Certificate.	Yes

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Annexure "B"

COMPLIANCE TABLE CHECK

Property: 2 Blue Gum Drive East Ryde – LDA2011/0424

Compliance with the relevant parts of LEP 2010 & DCP 2010 is illustrated by the development standards below:

Ryde LEP 2010	Proposal	Compliance
Height - Cl. 4.3(2)		
9.5m	8.2m	Yes
Floor Space Ratio - Cl's. 4.4(2) & 4.4A(1)		
0.5:1	0.4683:1	Yes
DCP 2010	Proposed	Compliance
<i>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</i>		
Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	Development will be consistent with the desired future character of the low density residential areas.	Yes
Alterations and Additions		
- Design of finished building appears as integrated whole.	Design of finished building appears as integrated whole.	Yes
- Development to improve amenity and liveability of dwelling and site.	Development will improve amenity and liveability of dwelling and site.	Yes
Public Domain Amenity		
Streetscape	Existing unchanged	Yes
Pedestrian & Vehicle Safety	Existing unchanged	Yes
Site Configuration		
Deep Soil Areas		
- 35% of site area min.	288.96sqm or 40%	Yes
- Min 8x8m deep soil area in backyard.	Minimum = 8m x 8m	Yes
- Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls).	Existing unchanged	Yes
Topography & Excavation		
<u>Within building footprint:</u>		
- Max cut: 1.2m	Max cut: 1.2m	Yes
- Max fill: 900mm	Max fill: No fill proposed	Yes
<u>Outside building footprint:</u>		
- Max cut: 900mm	No cut or fill has been proposed.	Yes

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DCP 2010	Proposed	Compliance
<ul style="list-style-type: none"> - Max fill: 500mm - No fill between side of building and boundary or close to rear boundary - Max ht retaining wall 900mm 	<p>No fill along boundaries of the site.</p> <p>No retaining walls.</p>	<p>Yes</p> <p>Yes</p>
Floor Space Ratio		
Lower Ground floor	97.90m ²	
Ground floor	181.96m ²	
First floor	54.75m ²	
Attached garage	31.67m ²	
Total (Gross Floor Area)	366.28m ²	
Less 36m ² (double) or 18m ² (single) allowance for parking	334.61m ²	
FSR (max 0.5:1)	0.4683:1	Yes
Height		
<ul style="list-style-type: none"> - 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL). 	Maximum 2 storey building	Yes
<ul style="list-style-type: none"> - 1 storey maximum above attached garage incl semi-basement or at-grade garages. 	Maximum 1 storey above attached garage has been proposed	Yes
<ul style="list-style-type: none"> - Wall plate (Ceiling Height) - 7.5m max above FGL or - 8m max to top of parapet 	<p>TOW RL: 42.18</p> <p>FGL below (lowest point): RL: 35.14</p> <p>TOW Height (max)= 7.04m</p>	Yes
9.5m Overall Height	<p>Max point of dwelling RL: 45.70</p> <p>EGL below ridge (lowest point): RL: 37.50</p> <p>Overall Height (max)= 8.2m</p>	Yes
Habitable rooms to have 2.4m floor to ceiling height (min).	2.54 min room height	Yes
Setbacks		
SIDE First floor addition <ul style="list-style-type: none"> - 1500mm to wall - Includes balconies etc 	Setback 1 (eastern)	
	To wall min – 2.195m (existing)	Yes
	To wall max – 2.28m (new addition)	Yes
	Setback 2 (western)	
	To wall min – 2.063m (existing)	Yes
	To wall max – 2.9m (new addition)	Yes
Front		
<ul style="list-style-type: none"> - 6m to façade (generally) 	Existing unchanged	Yes

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DCP 2010	Proposed	Compliance
Rear - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater (in this case = 8.51m to 9.76m)	10.14m	Yes
Car Parking & Access – existing, unchanged.		
Swimming Pools & Spas		
- Must comply with all relevant Acts, Regulations and Australian Standards.	Consent will include condition on this matter.	Yes
- Must at all times be surrounded by a child resistant barrier and located to separate pool from any residential building and/or outbuildings (excl cabanas) and from adjoining land.	Pool fence and gate has been proposed.	Yes
- No openable windows, doors or other openings in a wall that forms part of barrier.	Pool fencing does separate the stairs to deck area.	Yes
- Spa to have lockable lid.	No openable windows, doors or other opening form part of pool barrier.	Yes
- Pools not to be in front setback.	No spa has been proposed. Pool in the rear yard.	Yes Yes
Pool coping height - 500mm maximum above existing ground level <i>(only if no impact on privacy)</i>	Pool coping RL: 35.00 EGL (lowest point below coping): RL: 34.88, EGL (highest point below coping): RL: 35.50 Coping Height (min)= +120mm Coping Height (max)= - 500mm	Yes
Pool Setback - 900mm min from outside edge of pool coping, deck or surrounds to allow sufficient space for amenity screen planting - Screen planting required for pools located within 1500mm, min bed width of 900mm for the length of the pool. Min ht 2m, min spacing 1m - Pool setback 3m+ from tree >5m height on subject or adjacent property - Pool filter located away from neighbouring dwellings, and in an acoustic enclosure	Setback (min): 900mm Screen planting has been proposed. Pool will not be located within 3m of any trees on the site or the trees of the adjoining dwellings. Will be placed in an acoustic enclosure – conditions of the consent.	Yes Yes Yes Yes

ITEM 4 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
Landscaping for lots with Urban Bushland or Overland Flow constraints <ul style="list-style-type: none"> - Where lot is adjoining bushland protect, retain and use only native indigenous vegetation for distance of 10m from bdy adjoining bushland. - No fill allowed in overland flow areas. - Fences in Overland Flow areas must be of open construction so it doesn't impede the flow of water. 	<p>The subject site is listed within Inadequately Conserved Bushland however, the development proposes inclusion of native plants in screen planting; there will be no tree removal.</p> <p>The subject site is not in flood prone area and no fill proposed. Only pool fencing has been proposed.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Dwelling Amenity		
Daylight and Sunlight Access <ul style="list-style-type: none"> - Living areas to face north where orientation makes this possible. 	<p>The first floor retreat area will have north orientation.</p>	<p>Yes</p>
<u>Subject Dwelling:</u> <ul style="list-style-type: none"> - Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21. - Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21. 	<p>North facing windows will receive at least 3 hours of sunlight to a portion of their surface between 9am and 3pm on June 21.</p> <p>Private open space of subject dwelling will receive at least 2 hours sunlight between 9am and 3pm on June 21.</p>	<p>Yes</p> <p>Yes</p>
<u>Neighbouring properties are to receive:</u> <ul style="list-style-type: none"> - 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21. - At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	<p>50% of the adjoining dwelling principal ground level open space will receive at least 2 hours of sunlight between 9am and 3pm on June 21.</p> <p>North facing living windows of the adjoining dwelling will receive at least 3 hours of sunlight between 9am and 3pm on June 21.</p>	<p>Yes</p> <p>Yes</p>
Visual Privacy <ul style="list-style-type: none"> - Orientate windows of living 	<p>Though the development proposes</p>	<p>Yes</p>

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ITEM 4 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
<p>areas, balconies and outdoor living areas to the front and rear of dwelling.</p> <ul style="list-style-type: none"> - Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space. - Side windows offset from adjoining windows. <p>Terraces, balconies etc are not to overlook neighbouring dwellings/private open space.</p>	<p>small side window to the first floor living room and kitchen and the main orientation from these windows are towards the rear of the property.</p> <p>Windows of new living room will have no direct view to the adjoining dwelling open spaces.</p> <p>Side windows are small in size and are offset at least 2m from the adjoining windows.</p> <p>New terrace will be enclosed with privacy screen on the eastern side.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
External Building Elements		
Roof		
<ul style="list-style-type: none"> - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable Terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights. 	<p>Roof lines are articulated.</p> <p>Minimum 450mm eaves overhang have been proposed and also the requirements by BASIX Certificate.</p> <p>No trafficable terrace has been proposed.</p> <p>No attic bedrooms are within roof area and no skylight has been proposed.</p> <p>Front roof plane does not include any dormer windows or skylights.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Part 7.2- Waste Minimisation & Management		
Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	The applicant has submitted a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	Yes
Part 8.2 - Stormwater Management		
Stormwater		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	Drainage is to be piped in accordance with Part 8.2 - Stormwater Management and the conditions of the development consent.	Yes
Part 9.6 – Tree Preservation – no tree removal has been proposed.		

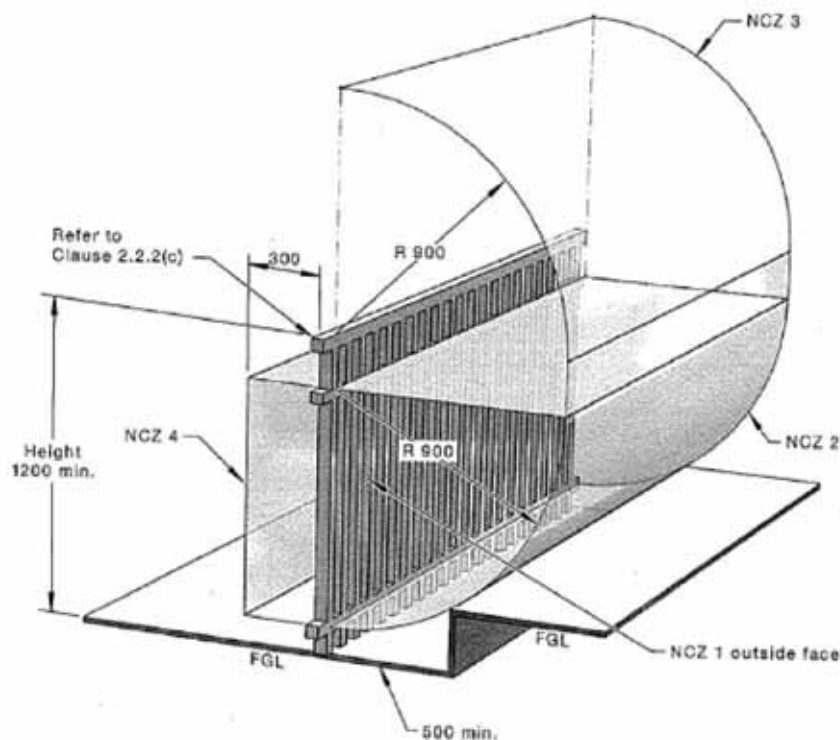
ITEM 4 (continued)

ATTACHMENT 2

Extract from Australian Standard AS1926.1-2012, with relevant sections highlighted in red

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AS 1926.1—2012



(c) 3D view of NCZs

DIMENSIONS IN MILLIMETRES

FIGURE 2.1 (in part) EXAMPLES OF NON-CLIMBABLE ZONES (NCZs)

2.2.3 Barriers not less than 1800 mm in height

Barriers not less than 1800 mm in height shall not require an NCZ and may be climbable on either or both sides.

2.2.4 Boundary barriers

Where a boundary fence acts as a barrier to a pool, it shall have a height not less than 1800 mm on the inside and NCZ 5 formed as a quadrant of 900 mm radius down from the top of the inside of the barrier. See Figure 2.2(a). The following also apply:

- (a) NCZ 5 is not invalidated by the intersection of a compliant internal fence provided the width of the top rail or surface of the intersecting barrier is not more than 50 mm wide at any point within the non-climbable zone and intersects at an angle of between 45 and 135 degrees to the 1800 mm boundary barrier (see Figure 2.2(b)).
- (b) Where the top rail or surface of the internal barrier is greater than 50 mm and is located within the NCZ 5, the height of the lower barrier shall extend to a height not less than 1800 mm and extend not less than 900 mm from the intersection (see Figure 2.2(c)).

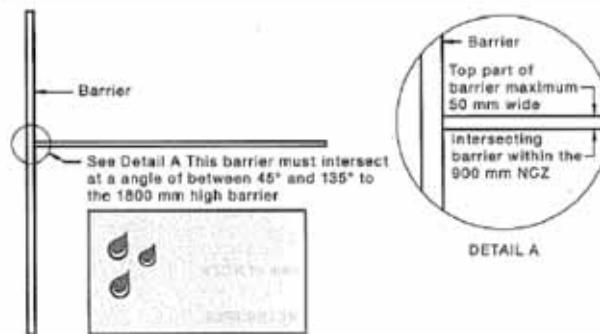
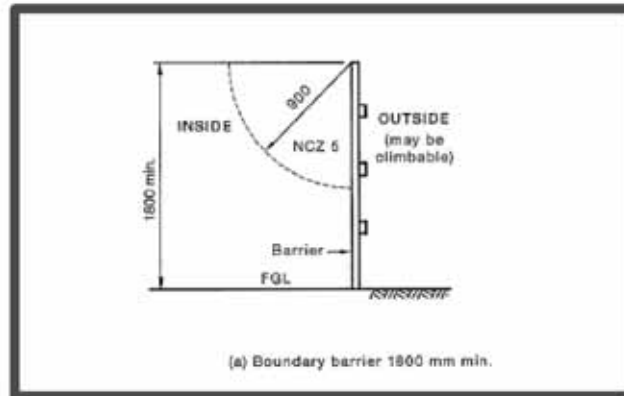
ITEM 4 (continued)

ATTACHMENT 2

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AS 1926.1—2012

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DIMENSIONS IN MILLIMETRES

FIGURE 2.2 (in part) BOUNDARY BARRIERS

ITEM 4 (continued)

ATTACHMENT 3

DRAFT CONDITIONS OF CONSENT

DCP 2010	Proposed	Compliance
<i>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</i>		
Desired Future Character		
- Development is to be consistent with the desired future character of the low density residential areas.	Development will be consistent with the desired future character of the low density residential areas.	Yes
Alterations and Additions		
- Design of finished building appears as integrated whole.	Design of finished building appears as integrated whole.	Yes
- Development to improve amenity and liveability of dwelling and site.	Development will improve amenity and liveability of dwelling and site.	Yes
Public Domain Amenity		
Streetscape	Existing unchanged	Yes
Pedestrian & Vehicle Safety	Existing unchanged	Yes
Site Configuration		
Deep Soil Areas		
- 35% of site area min.	288.96sqm or 40%	Yes
- Min 8x8m deep soil area in backyard.	Minimum = 8m x 8m	Yes
- Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls).	Existing unchanged	Yes
Topography & Excavation		
<u>Within building footprint:</u>		
- Max cut: 1.2m	Max cut: 1.8m	No (1)
- Max fill: 900mm	Max fill: No fill proposed	Yes
<u>Outside building footprint:</u>		
- Max cut: 900mm	Max cut: 1.5m	No (1)
- Max fill: 500mm	Max fill: 500mm	Yes
- No fill between side of building and boundary or close to rear boundary	No fill along boundaries of the site.	Yes
- Max ht retaining wall 900mm	Max height of retaining walls: 1.5m	No (1)

ITEM 4 (continued)

ATTACHMENT 3

DCP 2010	Proposed	Compliance
Floor Space Ratio		
Lower Ground floor	97.90m ²	
Ground floor	181.96m ²	
First floor	54.75m ²	
Attached garage	31.67m ²	
Total (Gross Floor Area)	366.28m ²	
Less 36m ² (double) or 18m ² (single) allowance for parking	334.61m ²	
FSR (max 0.5:1)	0.4683:1	Yes
Height		
- 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL).	Maximum 2 storey building	Yes
- 1 storey maximum above attached garage incl semi-basement or at-grade garages.	Maximum 1 storey above attached garage has been proposes	Yes
Wall plate (Ceiling Height) - 7.5m max above FGL <i>or</i> - 8m max to top of parapet	TOW RL: 42.18 FGL below (lowest point): RL: 35.14 TOW Height (max)= 7.04m	Yes
9.5m Overall Height	Max point of dwelling RL: 45.70 EGL below ridge (lowest point): RL: 37.50 Overall Height (max)= 8.2m	Yes
Habitable rooms to have 2.4m floor to ceiling height (min).	2.54 min room height	Yes
Setbacks		
SIDE First floor addition - 1500mm to wall	Setback 1 (eastern) To wall min – 2.195m (existing) To wall max – 2.28m (new addition)	Yes Yes

ITEM 4 (continued)

ATTACHMENT 3

DCP 2010	Proposed	Compliance
- Includes balconies etc	Setback 2 (western) To wall min – 2.063m (existing) To wall max – 2.9m (new addition)	Yes Yes
Front - 6m to façade (generally)	Existing unchanged	Yes
Rear - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater (in this case = 8.51m to 9.76m)	10.14m	Yes
Car Parking & Access – existing, unchanged.		
Swimming Pools & Spas		
- Must comply with all relevant Acts, Regulations and Australian Standards.	Consent will include condition on this matter.	Yes
- Must at all times be surrounded by a child resistant barrier and located to separate pool from any residential building and/or outbuildings (excl cabanas) and from adjoining land.	Pool fence and gate has been proposed.	Yes
- No openable windows, doors or other openings in a wall that forms part of barrier.	Pool fencing does separate the stairs to deck area.	Yes
- Pools not to be in front setback.	No openable windows, doors or other opening form part of pool barrier.	Yes
	Pool is in the rear yard.	Yes
Pool coping height - 500mm maximum above existing ground level <i>(only if no impact on privacy)</i>	Pool coping RL: 35.00 EGL (lowest point below coping): RL: 34.10 EGL (highest point below coping): RL: 35.50 Coping Height (min)= - 0.5m Coping Height (max) = 0.9m	No (2)
Pool Setback - 900mm min from outside edge of pool coping, deck or surrounds to allow sufficient space for amenity screen planting	Setback (min): South-eastern boundary = 0m	No (3)

ITEM 4 (continued)

ATTACHMENT 3

DCP 2010	Proposed	Compliance
<ul style="list-style-type: none"> - Screen planting required for pools located within 1500mm, min bed width of 900mm for the length of the pool. Min ht 2m, min spacing 1m - Pool setback 3m+ from tree >5m height on subject or adjacent property - Pool filter located away from neighbouring dwellings, and in an acoustic enclosure 	<p>Screen planting partly proposed.</p> <p>Pool will not be located within 3m of any trees on the site or the trees of the adjoining dwellings. Will be placed in an acoustic enclosure – conditions of the consent.</p>	<p>No (3)</p> <p>Yes</p> <p>Yes</p>
<p>Landscaping for lots with Urban Bushland or Overland Flow constraints</p> <ul style="list-style-type: none"> - Where lot is adjoining bushland protect, retain and use only native indigenous vegetation for distance of 10m from bdy adjoining bushland. - No fill allowed in overland flow areas. 	<p>The subject site is listed within Inadequately Conserved Bushland however, the development proposes inclusion of native plants in screen planting; there will be no tree removal.</p> <p>The subject site is not in flood prone area and no fill proposed.</p>	<p>Yes</p> <p>Yes</p>
Dwelling Amenity		
<p>Daylight and Sunlight Access</p> <ul style="list-style-type: none"> - Living areas to face north where orientation makes this possible. <p><u>Subject Dwelling:</u></p> <ul style="list-style-type: none"> - Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21. - Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21. 	<p>The first floor retreat area will have north orientation.</p> <p>North facing windows will receive at least 3 hours of sunlight to a portion of their surface between 9am and 3pm on June 21.</p> <p>Private open space of subject dwelling will receive at least 2 hours sunlight between 9am and 3pm on June 21.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 3

DCP 2010	Proposed	Compliance
<p><u>Neighbouring properties are to receive:</u></p> <ul style="list-style-type: none"> – 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21. – At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	<p>50% of the adjoining dwelling principal ground level open space will receive at least 2 hours of sunlight between 9am and 3pm on June 21. North facing living windows of the adjoining dwelling will receive at least 3 hours of sunlight between 9am and 3pm on June 21.</p>	<p>Yes</p> <p>Yes</p>
<p>Visual Privacy</p> <ul style="list-style-type: none"> - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. - Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space. - Side windows offset from adjoining windows. <p>Terraces, balconies etc are not to overlook neighbouring dwellings/private open space.</p>	<p>Though the development proposes small side window to the first floor living room and kitchen and the main orientation from these windows are towards the rear of the property. Windows of new living room will have no direct view to the adjoining dwelling open spaces.</p> <p>Side windows are small in size and are offset at least 2m from the adjoining windows. New terrace will be enclosed with privacy screen on the eastern side.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
External Building Elements		
<p>Roof</p> <ul style="list-style-type: none"> - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable Terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights. 	<p>Roof lines are articulated. Minimum 450mm eaves overhang have been proposed and also the requirements by BASIX Certificate. No trafficable terrace has been proposed. No attic bedrooms are within roof area and no skylight has been proposed. Front roof plane does not include any dormer windows or skylights.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 3

DCP 2010	Proposed	Compliance
Part 7.2- Waste Minimisation & Management		
Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	The applicant has submitted a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	Yes
Part 8.2 - Stormwater Management		
Stormwater		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	Drainage is to be piped in accordance with Part 8.2 - Stormwater Management and the conditions of the development consent.	Yes
Part 9.6 – Tree Preservation – This application complies with the requirements of Part 9.6 – Tree Preservation.		

ITEM 4 (continued)

ATTACHMENT 4

DCP COMPLIANCE TABLE

DCP 2010	Proposed	Compliance
<i>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</i>		
Desired Future Character		
- Development is to be consistent with the desired future character of the low density residential areas.	Development will be consistent with the desired future character of the low density residential areas.	Yes
Alterations and Additions		
- Design of finished building appears as integrated whole.	Design of finished building appears as integrated whole.	Yes
- Development to improve amenity and liveability of dwelling and site.	Development will improve amenity and liveability of dwelling and site.	Yes
Public Domain Amenity		
Streetscape	Existing unchanged	Yes
Pedestrian & Vehicle Safety	Existing unchanged	Yes
Site Configuration		
Deep Soil Areas		
- 35% of site area min.	288.96sqm or 40%	Yes
- Min 8x8m deep soil area in backyard.	Minimum = 8m x 8m	Yes
- Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls).	Existing unchanged	Yes
Topography & Excavation		
<u>Within building footprint:</u>		
- Max cut: 1.2m	Max cut: 1.8m	No (1)
- Max fill: 900mm	Max fill: No fill proposed	Yes
<u>Outside building footprint:</u>		
- Max cut: 900mm	Max cut: 1.5m	No (1)
- Max fill: 500mm	Max fill: 500mm	Yes
- No fill between side of building and boundary or close to rear boundary	No fill along boundaries of the site.	Yes
- Max ht retaining wall 900mm	Max height of retaining walls: 1.5m	No (1)

ITEM 4 (continued)

ATTACHMENT 4

DCP 2010	Proposed	Compliance
Floor Space Ratio		
Lower Ground floor	97.90m ²	
Ground floor	181.96m ²	
First floor	54.75m ²	
Attached garage	31.67m ²	
Total (Gross Floor Area)	366.28m ²	
Less 36m ² (double) or 18m ² (single) allowance for parking	334.61m ²	
FSR (max 0.5:1)	0.4683:1	Yes
Height		
- 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL).	Maximum 2 storey building	Yes
- 1 storey maximum above attached garage incl semi-basement or at-grade garages.	Maximum 1 storey above attached garage has been proposed	Yes
Wall plate (Ceiling Height) - 7.5m max above FGL <i>or</i> - 8m max to top of parapet	TOW RL: 42.18 FGL below (lowest point): RL: 35.14 TOW Height (max)= 7.04m	Yes
9.5m Overall Height	Max point of dwelling RL: 45.70 EGL below ridge (lowest point): RL: 37.50 Overall Height (max)= 8.2m	Yes
Habitable rooms to have 2.4m floor to ceiling height (min).	2.54 min room height	Yes
Setbacks		
SIDE First floor addition - 1500mm to wall - Includes balconies etc	Setback 1 (eastern) To wall min – 2.195m (existing) To wall max – 2.28m (new addition)	Yes Yes
	Setback 2 (western) To wall min – 2.063m (existing) To wall max – 2.9m (new addition)	Yes Yes
Front - 6m to façade (generally)	Existing unchanged	Yes

ITEM 4 (continued)

ATTACHMENT 4

DCP 2010	Proposed	Compliance
Rear - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater (in this case = 8.51m to 9.76m)	10.14m	Yes
Car Parking & Access – existing, unchanged.		
Swimming Pools & Spas		
- Must comply with all relevant Acts, Regulations and Australian Standards. - Must at all times be surrounded by a child resistant barrier and located to separate pool from any residential building and/or outbuildings (excl cabanas) and from adjoining land. - No openable windows, doors or other openings in a wall that forms part of barrier. - Pools not to be in front setback.	Consent will include condition on this matter. Pool fence and gate has been proposed. Pool fencing does separate the stairs to deck area. No openable windows, doors or other opening form part of pool barrier. Pool is in the rear yard.	Yes Yes Yes Yes Yes
Pool coping height - 500mm maximum above existing ground level <i>(only if no impact on privacy)</i>	Pool coping RL: 35.00 EGL (lowest point below coping): RL: 34.10 EGL (highest point below coping): RL: 35.50 Coping Height (min)= - 0.5m Coping Height (max) = 0.9m	No (2)
Pool Setback - 900mm min from outside edge of pool coping, deck or surrounds to allow sufficient space for amenity screen planting - Screen planting required for pools located within 1500mm, min bed width of 900mm for the length of the pool. Min ht 2m, min spacing 1m - Pool setback 3m+ from tree >5m height on subject or adjacent property	Setback (min): South-eastern boundary = 0m Screen planting partly proposed. Pool will not be located within 3m of any trees on the site or the trees of the adjoining dwellings.	No (3) No (3) Yes

ITEM 4 (continued)

ATTACHMENT 4

DCP 2010	Proposed	Compliance
- Pool filter located away from neighbouring dwellings, and in an acoustic enclosure	Will be placed in an acoustic enclosure – conditions of the consent.	Yes
Landscaping for lots with Urban Bushland or Overland Flow Constraints		
- Where lot is adjoining bushland protect, retain and use only native indigenous vegetation for distance of 10m from bdy adjoining bushland.	The subject site is listed within Inadequately Conserved Bushland however, the development proposes inclusion of native plants in screen planting; there will be no tree removal.	Yes
- No fill allowed in overland flow areas.	The subject site is not in flood prone area and no fill proposed.	Yes
Dwelling Amenity		
Daylight and Sunlight Access		
- Living areas to face north where orientation makes this possible.	The first floor retreat area will have north orientation.	Yes
<u>Subject Dwelling:</u>		
- Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21.	North facing windows will receive at least 3 hours of sunlight to a portion of their surface between 9am and 3pm on June 21.	Yes
- Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21.	Private open space of subject dwelling will receive at least 2 hours sunlight between 9am and 3pm on June 21.	Yes
<u>Neighbouring properties are to receive:</u>		
- 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21.	50% of the adjoining dwelling principal ground level open space will receive at least 2 hours of sunlight between 9am and 3pm on June 21. North facing living windows of the adjoining dwelling will receive at	Yes
		Yes

ITEM 4 (continued)

ATTACHMENT 4

DCP 2010	Proposed	Compliance
<ul style="list-style-type: none"> At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	<p>least 3 hours of sunlight between 9am and 3pm on June 21.</p>	
<p>Visual Privacy</p> <ul style="list-style-type: none"> Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space. Side windows offset from adjoining windows. <p>Terraces, balconies etc are not to overlook neighbouring dwellings/private open space.</p>	<p>Though the development proposes small side window to the first floor living room and kitchen and the main orientation from these windows are towards the rear of the property. Windows of new living room will have no direct view to the adjoining dwelling open spaces.</p> <p>Side windows are small in size and are offset at least 2m from the adjoining windows.</p> <p>New terrace will be enclosed with privacy screen on the eastern side.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
External Building Elements		
<p>Roof</p> <ul style="list-style-type: none"> Articulated. 450mm eaves overhang minimum. Not to be trafficable Terrace. Skylights to be minimised and placed symmetrically. Front roof plane is not to have both dormer windows and skylights. 	<p>Roof lines are articulated.</p> <p>Minimum 450mm eaves overhang have been proposed and also the requirements by BASIX Certificate.</p> <p>No trafficable terrace has been proposed.</p> <p>No attic bedrooms are within roof area and no skylight has been proposed.</p> <p>Front roof plane does not include any dormer windows or skylights.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Part 7.2- Waste Minimisation & Management		
Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	The applicant has submitted a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	Yes

ITEM 4 (continued)

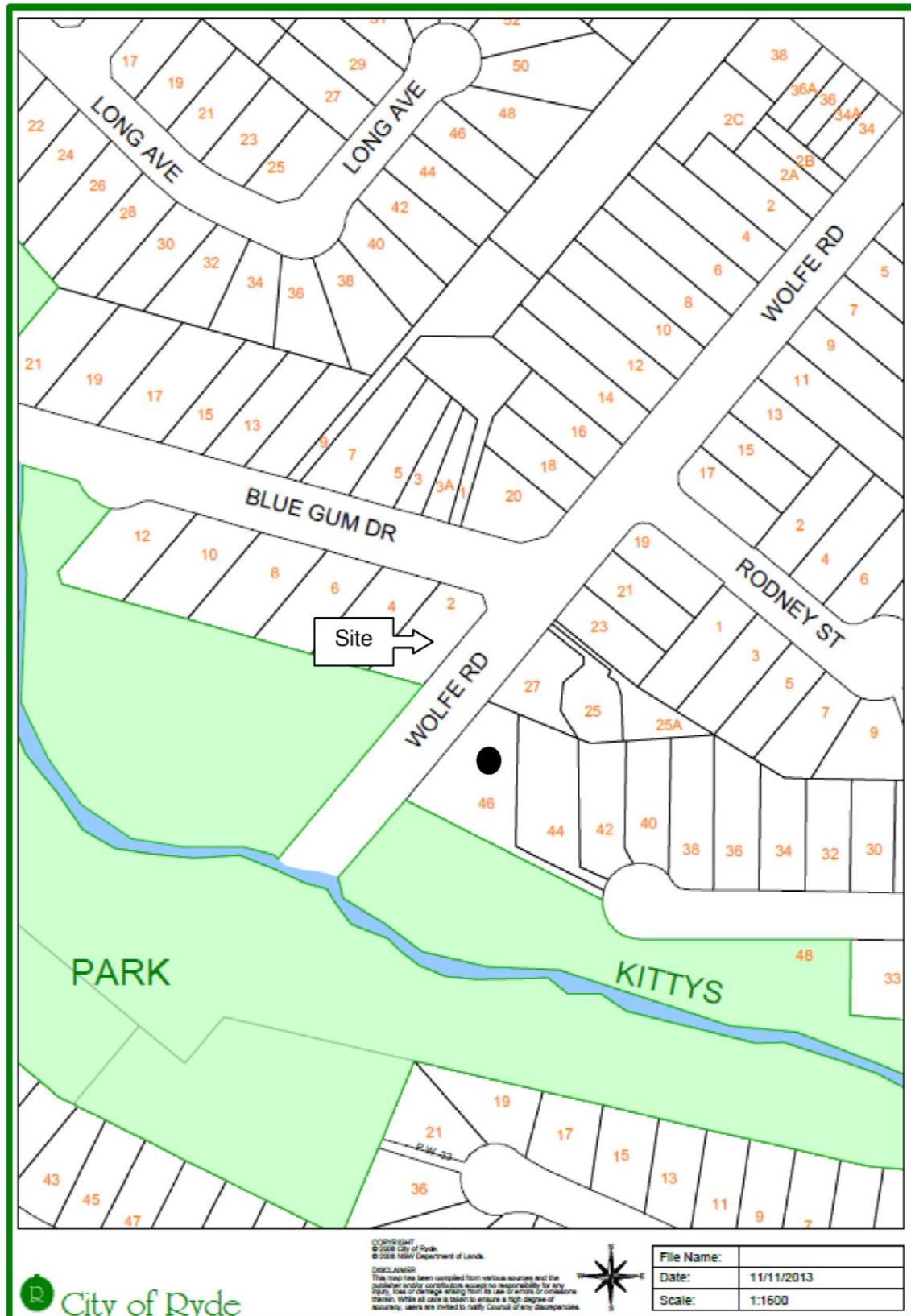
ATTACHMENT 4

DCP 2010	Proposed	Compliance
Part 8.2 - Stormwater Management		
Stormwater		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	Drainage is to be piped in accordance with Part 8.2 - Stormwater Management and the conditions of the development consent.	Yes
Part 9.6 – Tree Preservation – This application complies with the requirements of Part 9.6 – Tree Preservation.		

ITEM 4 (continued)

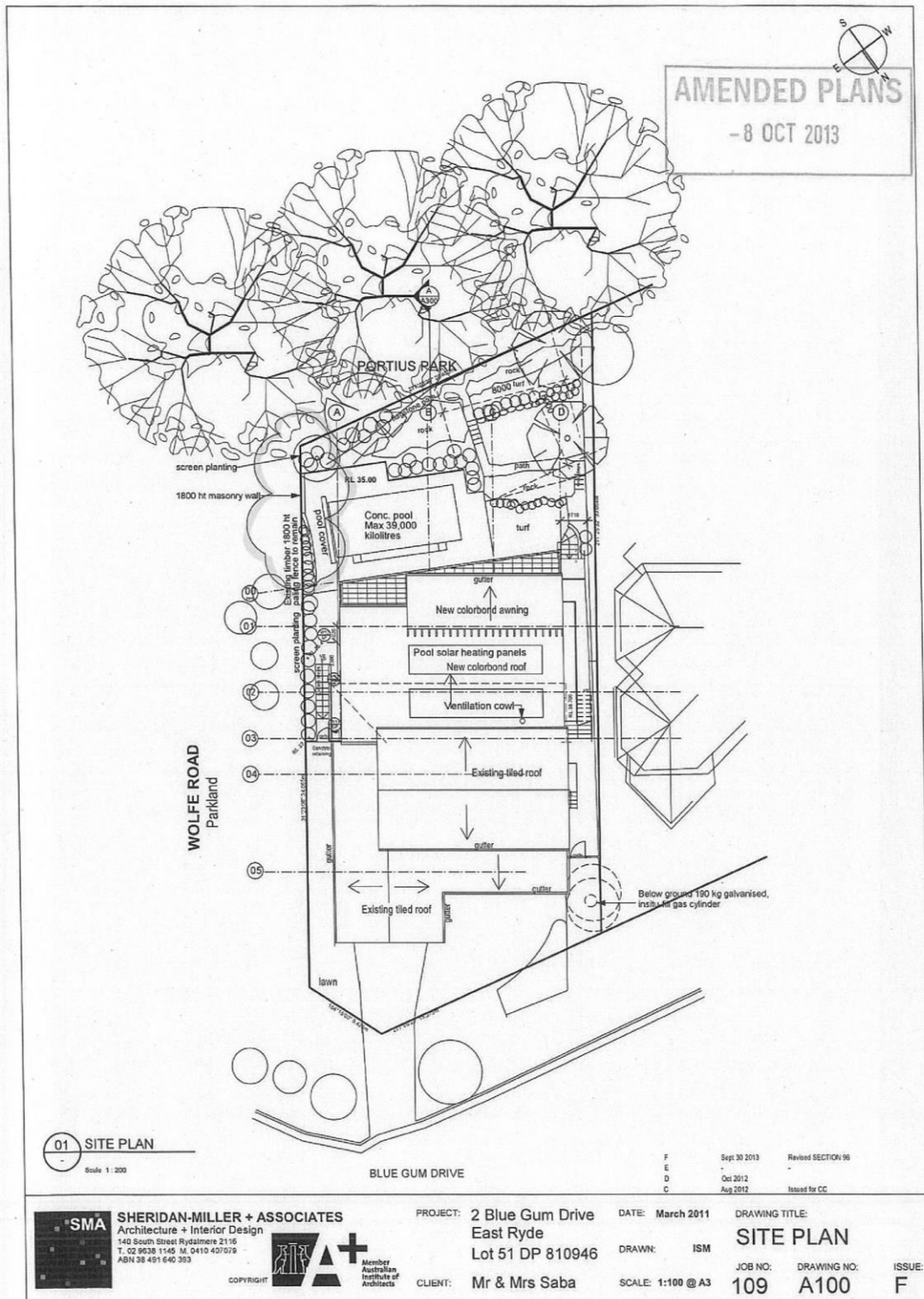
ATTACHMENT 5

● Indicates submissions received



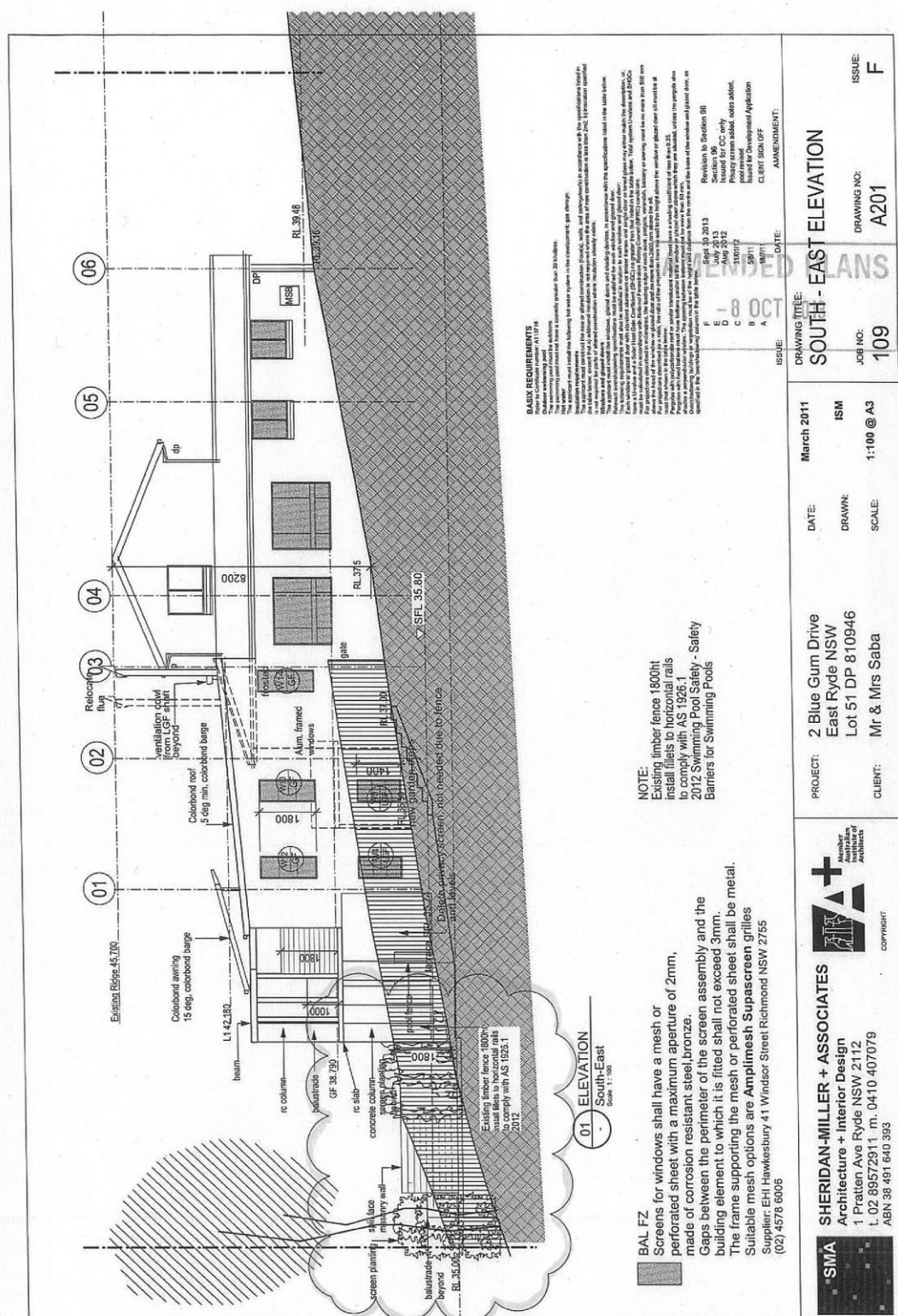
ITEM 4 (continued)

ATTACHMENT 6



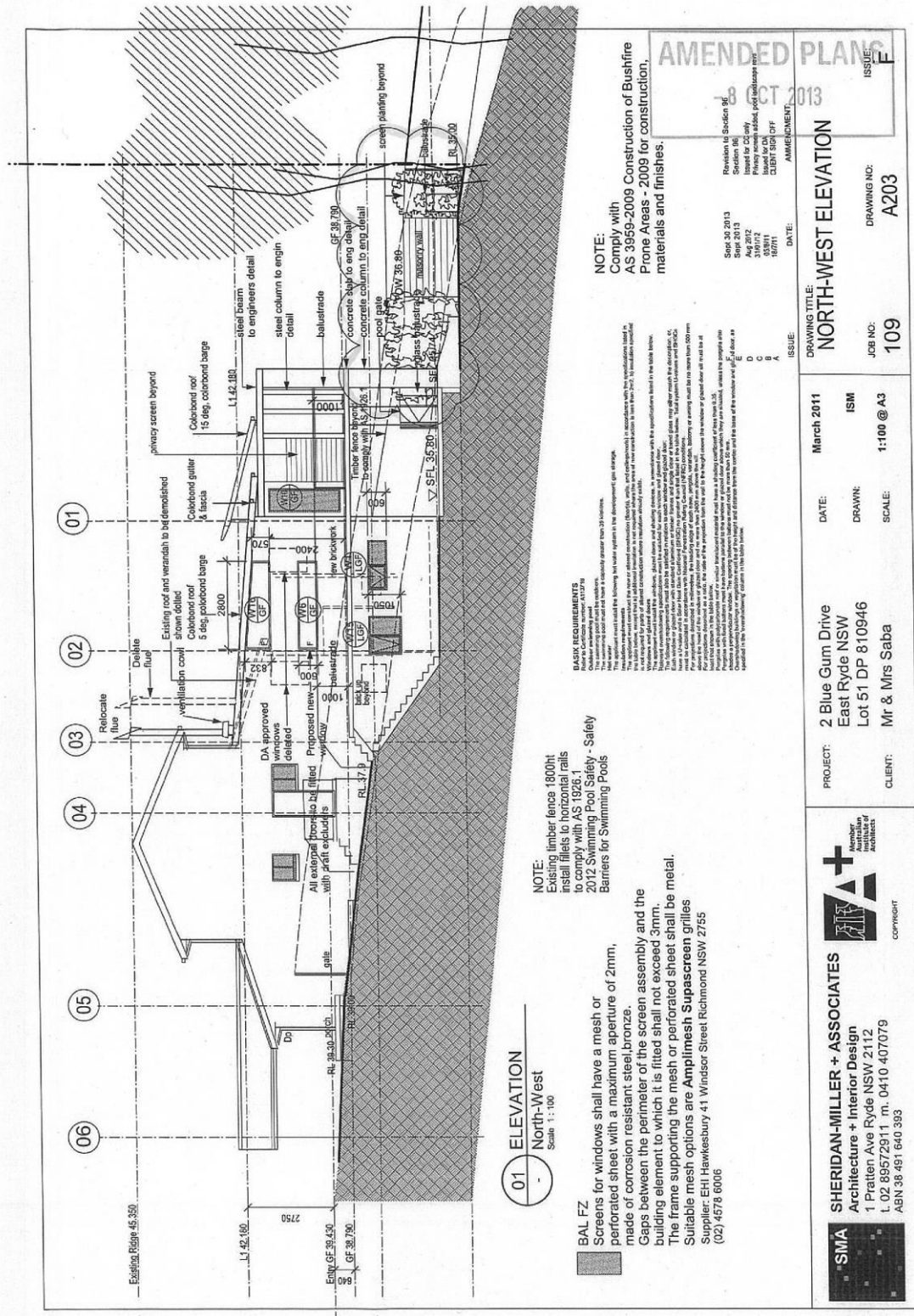
ITEM 4 (continued)

ATTACHMENT 6



ITEM 4 (continued)

ATTACHMENT 6



ATTACHMENT 6

