

3 JULY 2014

NOTICE OF MEETING

You are advised of the following meeting:

TUESDAY 15 JULY 2014.

Planning and Environment Committee Meeting No. 6/14

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

5.00pm

English

If you do not understand this letter, please come to the Ryde Civic Centre, Devlin Street, Ryde, to discuss it with Council staff who will arrange an interpreter service. Or you may ring the Translating & Interpreting Service on 131 450 to ask an interpreter to contact Council for you. Council's phone number is 9952 8222. Council office hours are 8.30am to 4.30pm, Monday to Friday.

Arabic

إذا كنت لا تفهم محتويات هذه الرسالة، فالرجاء الاتصال بمركز مجلس بلدية رايد Ryde Civic Centre، وعنوانه: Ryde
, pevlin Street لمناقشتها مع العاملين في المجلس عن طريق مترجم، يستعين به العاملون لمساعدتك. أو يمكنك، بدلا من ذلك، أن تتصل بمكتب خدمات الترجمة TIS على الرقم 450 131 وأن تطلب من أحد المترجمين أن يتصل بالمجلس نيابة عنك. رقم تليفون المجلس هو 9952 8222، وساعات العمل هناك هي من الساعة 8.30 صباحا إلى 4.30 بعد الظهر من يوم الاثنين إلى يوم الجمعة.

Armenian

Եթէ այս նամակը չէք հասկնար, խնդրեմ եկէք՝ *Րայս Սիվիք Սենթըր, Տելվին* փողոց, Րայս, խօսակցելու Քաղաքապետարանի պաշտօնեաներուն հետ, որոնք թարգմանիչ մը կրնան կարգադրել։ Կամ, կրնաք հեռաձայնել Թարգմանութեան Սպասարկութեան՝ 131 450, եւ խնդրել որ թարգմանիչ մը Քաղաքապետարանին հետ կապ հաստատէ ձեզի համար։ Քաղաքապետարի հեռաձայնի թիւն է՝ 9952 8222։ Քաղաքապետարանի գրասենեակի ժամերն են՝ կ.ա. ժամը 8.30 - կ.ե. ժամը 4.30, Երկուշաբթիէն Ուրբաթ։

Chinese

如果您看不懂這封信,請到位于 Devlin Street, Ryde 的禮特區市府禮堂 (Ryde Civic Centre)與區政廳工作人員討論,他們將會給您安排傳譯員服務。或者您自己打電話給 "翻譯及傳譯服務",電話:131 450,請他們替您與區政廳聯係。區政廳的電話號碼是:9952 8222。 區政廳工作時間是:周一至周五,上午 8.30 到下午 4.30。

Farsi

اگر این نامه را نمي فهمید لطفا به مرکز شهرداري راید در Devlin Street مراجعه کنید. کارمندان شهرداري ترتیب استفاده از یك مترجم را براي شما خواهند داد. یا میتوانید به سرویس ترجمه کتبي و شفاهي شماره 450 131 تلفن بزنید و بخواهید که یك مترجم از جانب شما با شهرداري تماس بگیرد. شماره تلفن شهرداري 8222 9952 و ساعات کار از 8.30 صبح تا 4.30 بعد از ظهر مي داشد

Italian

Le persone che hanno difficoltà a capire la presente lettera, sono pregate di presentarsi al Ryde Civic Centre in Devlin Street, Ryde, e parlarne con gli impiegati municipali che provvederanno a richiedere l'intervento di un interprete. Oppure possono chiamare il Translating & Interpreting Service al 131 450 e chiedere ad uno dei loro interpreti di mettersi in contatto con il comune di Ryde. Il numero del comune è 9952 8222. Gli uffici comunali sono aperti dalle 8.30 alle 16.30, dal lunedì al venerdì.

Korean

이 편지를 이해할 수 없으시면 Ryde의 Devlin Street에 있는 Ryde Civic Centre로 오셔서 카운슬 직원과 상담하여 주십시오. 저희 직원이 통역 써비스를 연결해 드릴 것입니다. 아니면 131 450번으로 통번역 써비스(TIS)에 전화하셔서 통역사에게 대신 카운슬에 연락해 주도록 부탁하셔도 됩니다. 카운슬 전화 번호는 9952 8222번입니다. 카운슬의업무 시간은 오전 8:30부터 오후 4:30, 월요일에서 금요일까지입니다.



Planning and Environment Committee AGENDA NO. 6/14

	ation:	Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, 5.00pm	, Ryde
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1 CONFIRMATION OF MINUTES - Meeting held on 15 April 2014

Report prepared by: Meeting Support Coordinator

File No.: CLM/14/1/3/2 - BP14/149

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 5/14, held on Tuesday, 15 April 2014, be confirmed.

ATTACHMENTS

1 Minutes - Planning and Environment Committee - 15 April 2014



ATTACHMENT 1

Planning and Environment Committee MINUTES OF MEETING NO. 5/14

Meeting Date: Tuesday 15 April 2014

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

Time: 5.00pm

Councillors Present: Councillors Etmekdjian (Chairperson), Chung and Laxale.

Apologies: Councillors Pickering and Yedelian OAM.

Absent: Councillor Salvestro-Martin.

Staff Present: Group Manager – Environment and Planning, Service Unit Manager – Assessment, Team Leader – Assessment, Planning Consultant – Creative Planning Solutions, Business Support Coordinator – Environment and Planning, Section Manager – Governance and Meeting Support Coordinator.

DISCLOSURES OF INTEREST

There were no disclosures of interest.

1 CONFIRMATION OF MINUTES - Meeting held on 18 March 2014

RESOLUTION: (Moved by Councillors Laxale and Chung)

That the Minutes of the Planning and Environment Committee 4/14, held on Tuesday 18 March 2014, 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.



ATTACHMENT 1

9 ERIC STREET, EASTWOOD. LOT 1 DP 511632. Local Development Application for demolition and erection of new dual occupancy (attached). LDA2013/0434.

Note: Eric Armstrong (applicant) addressed the Committee in relation to this Item.

RESOLUTION: (Moved by Councillors Chung and Laxale)

- (a) That Local Development Application No. 2013/434 at 9 Eric Street, Eastwood being LOT 1 DP511632 be approved as a deferred commencement subject to the **ATTACHED** (Attachment 1) conditions.
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

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

The meeting closed at 5.01pm.

CONFIRMED THIS 15TH DAY OF JULY 2014.

Chairperson



2 133 BUFFALO RD AND 6 LAUREL PLACE, RYDE. Lots 5- 6 DP 11807. Local Development Application for construction of a multi dwelling housing development containing 5 units plus strata subdivision. LDA2013/0479.

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

Assessment

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

Planning

Report dated: 23/06/2014 **File Number:** GRP/09/5/6/2 - BP14/813

1. Report Summary

Applicant: S H Yustia Owner: S H Yustia

Date lodged: 25 November 2013 (amended plans received 9 April and 12

May 2014)

This report considers a development application (DA) for the construction of a multi dwelling housing development containing five (5) units – one (1) x four (4) bedroom dwelling and four (4) x three (3) bedroom dwellings plus strata subdivision. Each unit will have parking for two (2) cars, with an additional two (2) visitor's car spaces provided on-site.

The DA has been advertised and notified to neighbours in accordance with Ryde DCP 2010, and three (3) submissions were received, one (1) submission signed by six (6) residents of Laurel Place to the south-east. The submissions oppose the development on the following key grounds:

- Traffic generation
- Traffic hazard to existing drop off / pick up of school students in front of site
- Parking shortfall
- Impact of construction phase on nature strip opposite site

Concerns raised in the submissions primarily relate to traffic and have been reviewed by Council's Senior Development Engineer who advises that the development is satisfactory in terms of the traffic issues raised in submissions, as discussed in the body of the report.

The proposal has been assessed against the controls in Ryde LEP 2010 and DCP 2010 (Part 3.5 Multi-Dwelling Housing (attached), and has minor areas of non-compliance:

- Linear separation of medium density developments
- Lack of variety in dwelling size based on number of bedrooms 1 x 4 bedroom
 4 x 3 bedroom dwellings
- Number of two storey dwellings proposed Unit's 1 & 4
- Front setback distance 6.5m
- Internal setbacks 9m spatial separation between units is not consistently achieved



The subject DA is recommended for approval subject to conditions.

Reason for Referral to Planning and Environment Committee: Number of submissions received (3) and total signatures appearing on submissions (6).

Public Submissions: Three (3) submissions were received objecting to the development.

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

Value of works? \$1,500,000

RECOMMENDATION:

- (a) That Local Development Application No. 20132/479 at 133 Buffalo Road and 6 Laurel Place, Ryde being Lots 5 and 6 DP 11807 be approved subject to the **ATTACHED** (Attachment 1) conditions.
- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Draft conditions of consent.
- **2** Compliance table.
- 3 A4 plans.
- **4** Map.
- **5** A3 plans subject to copyright provisions CIRCULATED UNDER SEPARATE COVER.

Report Prepared By:

Lauren Franks
Assessment Officer - Town Planner

Chris Young Team Leader - Assessment

Report Approved By:

Liz Coad Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning



2. Site (Refer to attached map)

Address : 133 Buffalo Road and 6 Laurel Place, Ryde

(Lots 5 & 6 in DP 11807)

Site Area : 1,617.6m²

Frontage to Laurel Place: 30.48m Frontage to Malvina Street 52.97m Northern Rear Boundary: 30.48m Eastern Side Boundary: 53.18m

Topography and Vegetation

: Slope of 7.51m towards front south-eastern corner adjacent Laurel Place. Unmaintained vegetation

scattered throughout the subject site.

Existing Buildings: Two (2) single storey detached dwelling houses, two

(2) carports and two (2) garden sheds.

Planning Controls : Ryde LEP 2010

Zoning : R2 Low Density Residential

Other : Ryde DCP 2010



Aerial photo of subject site and surrounds









View of subject site - 6 Laurel Place, Ryde.

Agenda of the Planning and Environment Committee Report No. 6/14, dated Tuesday 15 July 2014.



3. Councillor Representations

Nil.

4. Political Donations or Gifts

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

5. Proposal

The proposal is to construct a multi dwelling housing development consisting of five (5) units which are to be strata subdivided. The development proposes two (2) x two-storey units (Unit 1 facing Malvina Street and Unit 4 facing Laurel Place) and three (3) single storey units. Each unit has two (2) parking spaces as either a double garage or two (2) tandem spaces (i.e. total of ten (10) resident spaces), and there are two (2) visitor spaces. Vehicle access is mostly provided via Malvina Street (for Units 1-4), with Unit 5 gaining access via Laurel Place. Strata subdivision of the completed development is also proposed.

The proposal is integrated development under the Environmental Planning and Assessment Act, 1979 as the subject proposal involves a subdivision (strata subdivision) of land within a bushfire zone. The relevant approval body is the NSW Rural Fire Service. Referral of the application to the NSW Rural Fire Service confirms support for the proposed subject to the inclusion of three (3) conditions of consent.

6. Background

The DA was lodged on 25 November 2013. Shortly afterwards, the DA underwent a preliminary check and was referred to other Council officers.

The DA was advertised on 11 December 2013 and underwent neighbour notification with the closing date for submissions being 10 January 2014. It is noted that an extended notification period was imposed due to the Christmas / New Year period.

Three (3) submissions were received, with one (1) submission signed by six (6) residents of Laurel Place to the south-east. A copy of these submissions was given to the applicant to allow them the opportunity to respond to the concerns raised. The content of these submissions is discussed in the Submissions section of this report.

On 26 February 2014, the applicant was advised via a letter of non-compliances with the controls in DCP 2010. Amended plans were submitted to Council on 9 April 2014. Following review of these amended plans, further concern relating to the gradient of the proposed driveway accessible from Laurel Place was raised by Council's Senior Development Engineer. Subsequently, further amendments were required and amended plans were submitted to Council on 12 May 2014.



7. Submissions

As aforementioned, the proposal was advertised and notified in accordance with Development Control Plan 2010 – Part 2.1, Notification of Development Applications. Specifically, the application was advertised on 11 December 2013 and notified from 10 December 2013 to 10 January 2014.

Three (3) submissions were received. The key issues raised in the submissions are summarised and discussed as follows:

A. Visitor Parking

"Visitor parking seems woefully inadequate for the proposed number of residents...only two visitor parking spaces are allocated; this is not adequate for the development."

Assessment Officer's Comment

Clause 3.8.1(a) of Part 3.5 of the Ryde Development Control Plan 2010 stipulates that:

"one (1) visitor parking space must be provided for every 4 dwellings."

The development proposes five (5) dwellings which generates a demand for 1.25 visitor parking spaces. Two (2) visitor parking spaces are proposed, demonstrating that full compliance is achieved.

B. Resident Parking

"Twelve parking places for dwellings numbering twenty bedrooms is not sufficient; given that a number of these parking allocations are garages, which could be used for storage rather than parking, this number becomes even less feasible...in the case of vehicles being parked on Laurel Place, cars belonging to residents entering or leaving would encounter difficulty, resulting in drivers possibly having to reverse onto Malvina Street, at the junction of Buffalo Road, a highly dangerous manoeuver, particularly when school students are walking on the footpath of Malvina Street."

Assessment Officer's Comment

Clause 3.8.1(a) of Part 3.5 of the Ryde Development Control Plan 2010 stipulates that:

"on-site car parking must be provided as:

- i. 1 parking space for each 1 or 2 bedroom dwelling;
- ii. 2 parking spaces for each 3 or more bedroom dwelling."



A total of five (5) dwellings is proposed. Four (4) of the proposed dwellings will have three (3) bedrooms and the remaining dwelling will have four (4) bedrooms. Therefore, a total of twelve (12) parking spaces is required.

Each dwelling within the development will be provided with two (2) parking spaces, and there are two (2) visitor spaces which equates to a total of twelve (12) parking spaces. This complies with the requirements of Council's DCP and therefore it is considered that sufficient on-site parking is provided for this development.

C. Traffic Generation

"The current residents of Laurel Place request that mandatory No Parking / No Stopping regulations would be posted on Laurel Place in front of the proposed unit four (4) and five (5) entry to avoid traffic incidents."

Assessment Officer's Comment

Such a request (ie for provision of No Parking/No Stopping signage in a street) is generally outside the scope of DA assessment, however such a request may be referred to the Local Traffic Committee for consideration as a separate matter.

In terms of traffic impacts in Laurel Place from this particular development, this has been considered by Council's Senior Development Engineer who has advised that the development is satisfactory in terms of traffic impacts. In addition, it is noted that although the development proposes 5 multi-dwelling units, only one unit (unit 5) proposes vehicle access from Laurel Place — therefore the direct traffic impact on this street would be similar to that of a single dwelling.

D. Elimination of school drop off / pick up zone

"As the main drop off / pick up zone for Ryde Secondary College will be eliminated with the creation of the driveway to enter the proposed units, traffic congestion during peak times will be increased. This lack of a safe drop off zone seriously compromises the safety of the students, as does the increased volume of traffic turning in and out of the proposed units, let alone the danger imposed by residents and visitors to the units parking on Malvina Street, due to limited off-road parking."

Assessment Officer's Comment

This is not correct. The development involves re-location of the existing driveway (in Malvina Street) to a position some 10m further south towards the Buffalo Road intersection. The existing No-Parking / Kiss and Ride arrangements would remain in place without being removed by approval of this development. The existing driveway to the site, as well as No-Parking / Kiss and Ride signage is shown in the photos and aerial image below.





Agenda of the Planning and Environment Committee Report No. 6/14, dated Tuesday 15 July 2014.



Council's Senior Development Engineer has reviewed the location of the sign and its content and makes reference to Clause 198(2) of Road Rules 2008 which states:

"A driver must not stop on or across a driveway of other way of access for vehicles travelling to or from adjacent land unless:

- (a) the driver:
 - (i) is dropping off, or picking up, passengers, and
 - (ii) does not leave the vehicle unattended, and
 - (iii) completes the dropping off, or picking up, of the passengers, and drives on, as soon as possible and, in any case, within 2 minutes after stopping."

This clause confirms that it is acceptable for school students to be dropped off or picked up as per their current arrangements along Malvina Street. It is anticipated that students will easily be able to get into or out of a car within the 2 minute timeframe indicated in this clause.

It is also noted that a driveway currently exists from Malvina Street to the subject site. This driveway will be made redundant by the proposal therefore it can be seen that the development will merely result in relocation of an existing driveway by some 10m along the Malvina Street frontage.

Furthermore, the existing sign stipulates that parking is not to occur along the Malvina Street frontage of the subject site between the hours of 8am – 9:30am and 2:30pm – 4pm. These hours are identified as being key drop off and pick up times for students. It is considered that working residents within the multi dwelling housing development would generally travel to and arrive home from work outside these hours, therefore traffic leaving and entering the premises will be minimal between 8am – 9:30am and 2:30pm – 4pm.

Reference is also made to Clause 168 of Road Rules 2008 which stipulates that a no parking sign means:

- "(1) The driver of a vehicle must not stop on a length of road or in an area to which a no parking sign applies, unless the driver:
 - (a) is dropping off, or picking up, passengers or goods, and
 - (b) does not leave the vehicle unattended, and
 - (c) completes the dropping off, or picking up, of the passengers or goods, and drives on, as soon as possible and, in any case, within the required time after stopping.
- (2) For this rule, a driver leaves a vehicle **unattended** if the driver leaves the vehicle so the driver is over 3m from the closest point of the vehicle.



(3) In this rule:

Required time means:

(b) if there is no indicated time – 2minutes."

From this clause it can be seen that approval of the development will not prevent the operation of the "Kiss and Ride" service. This is further reinforced by Council's Senior Development Engineer comment "there is no impact on the Kiss and Ride restrictions."

In regards to the design of vehicle access, parking and pedestrian safety around the vehicle access points, Council's Senior Development Engineer has advised:

"The design of all vehicle access and parking areas complies with the requirements of AS 2890.1 and enables vehicles to enter and exit the site in a forward manner from the Malvina Street access. The provision for clear sight distance to be provided at both vehicle access points is addressed by condition 30 (Pedestrian Sight Lines) and can be readily accommodated in the completed development."

E. Preservation of Natural Bushland

"In front of the proposed unit, on Laurel Place, there is an area of natural bushland. The residents of Laurel Place seek reassurance that this area would be restored after building and maintained by the developer."

Assessment Officer's Comment

The area at the front of the site (referenced in the objection) is technically part of the road reserve between Laurel Place and Buffalo Road, even though it looks like a "reserve" because it is wider than usual and contains a number of significant trees. See air photo below.



This area of land between Laurel Place and Buffalo Road will not be impacted by the proposed development, apart from the laying of a drainage pipe to discharge stormwater from the south-eastern corner of the site to Buffalo Road. In regard to potential impacts on trees in the road reserve, Council's Consultant Landscape Architect has provided specific comment on this issue, as well as recommended conditions of consent, as discussed in the Referrals section of this report (below). Specifically, these conditions are:

- Project Arborist. A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for the existing trees located within the Laurel Park / Buffalo Creek Reserve. All trees are to be monitored to ensure adequate health throughout the construction period is maintained. Details of the Project Arborist are to be submitted to Council prior to the commencement of construction.
- Hold points and certification. The Tree Protection Schedule provides a logical sequence of hold points for the various development stages including pre construction, construction and post construction. It also provides a checklist of various hold points that are to be signed and dated by the Project Arborist. This is to be completed progressively and included as part of the final certification. A copy of the final certification is to be made available to Ryde City Council on completion of the projection.
- Work within Tree Protection Zones. All work within the Tree Protection Zones is to be supervised by a Project Arborist with minimum AQF level 5 qualifications and any excavation is to be undertaken by hand digging tools only.



F. Building Height and Windows

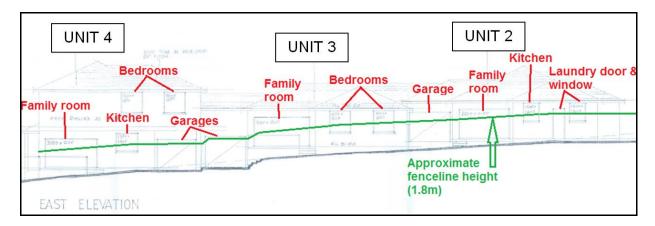
"Request more information on the height of the neighbouring property, windows and doors which face the direction of 5 Laurel Place."

Assessment Officer's Comment

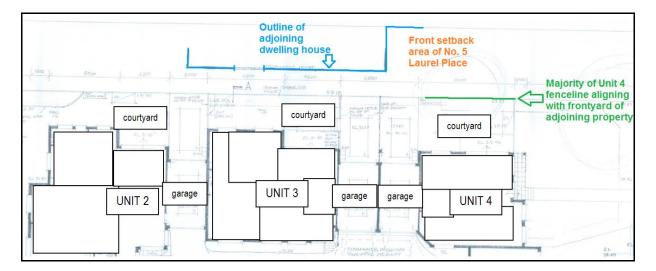
No. 5 Laurel Place adjoins the south-eastern side boundary of the subject site. Along this boundary, the courtyard of three (3) proposed dwellings (Units 2, 3 & 4) will align with this boundary. At its highest point, these dwellings will have an overall height of:

- Unit 2: 5.4m (single storey no street frontage)
- Unit 3: 5.1m (single storey no street frontage)
- Unit 4: 7.9m (two storey fronting Laurel Place)

These building heights achieve compliance with Clause 4.3(2)A Building Height of the Ryde LEP 2010 which allow an overall height of 8m for multi dwelling housing facing the street and 6.5m for multi dwelling housing without a street frontage. In terms of windows directed towards No. 5 Laurel Place, the following plan extract shows the view of the development from this adjoining property with all windows labelled.



On the first floor of Unit 4 are two (2) bedroom windows. These rooms are generally not considered to be occupied for long periods at a time. Further, for the most part this unit is sited adjacent to the frontyard of No. 5 Laurel Place as can be seen in the following plan extract. Therefore, no privacy or overlooking concerns are raised in respect of these first floor bedrooms.



It is recognised that the existing level of privacy enjoyed by No 5 Laurel Place may be reduced as a consequence of the construction of Units 3 and 4 (as shown in the east elevation drawing above). This is considered largely the result of the finished floor levels being elevated above natural ground level, particularly for units 3 and 4. In order to address potential privacy impacts upon No 5 Laurel Place to the east, it is recommended that the following adjustments be made to the finished internal living room floor levels:

- Unit 3 (FFL presently RL31.5) be reduced by 500mm to RL31
- Unit 4 (FFL presently RL30) be reduced by 500mm to RL 29.5.

This has been discussed with Council's Senior Development Engineer who advises that a minor adjustment would need to be made to the drainage plans to ensure consistency with the architectural plans resulting from the reduction in floor levels. This is reflected in the draft conditions of consent (see condition 1(c)).

It is recognised that the existing level of privacy enjoyed by No. 5 Laurel Place may be reduced as a consequence of the construction of Units 2 and 3. Therefore, the following condition is recommended:

• Lattice screening. Provision of a lattice screen 300mm high is to be fitted on top of the side boundary fence shared with No. 5 Laurel Place for the length of Unit 2 and Unit 3. Details of compliance are to be provided in the plans for the Construction Certificate. (See Condition 27).

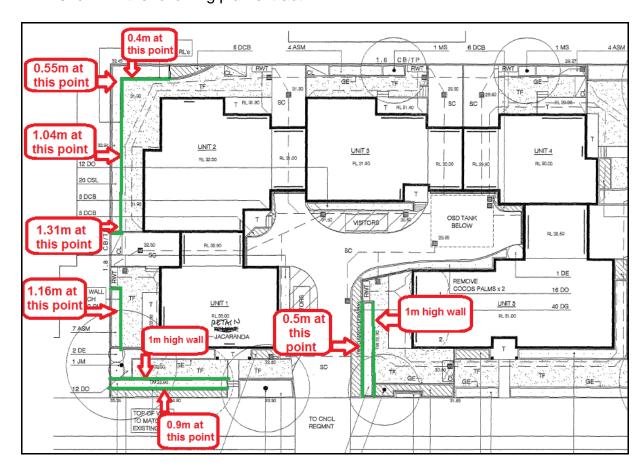


G. Retaining Walls

"If the retaining wall is required, please make it a condition of consent."

Assessment Officer's Comment

The site has a steep topography, resulting in the need for the provision of retaining walls along the north-eastern rear boundary, within the courtyard of Unit 5 and for a portion of the Unit 1's front boundary. These locations are well-distanced from the adjoining property at No. 5 Laurel Place and therefore no adverse impact will be caused to this adjoining property. These locations are shown in the following plan extract:



8. SEPP 1 (or clause 4.6 RLEP 2010) objection required?

No objection required.



9. Policy Implications

Relevant Provisions of Environmental Planning Instruments etc:

Ryde Local Environmental Plan 2010

(a) Ryde Planning Scheme Ordinance

Zoning

The subject site is zoned R2 Low Density Residential. Multi dwelling housing is permissible with consent.

Mandatory Requirements

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

Clause 4.3(2) A Height of Buildings

- (3) Despite subclause (2), the maximum height of multi dwelling housing (attached) in Zone R2 Low Density Residential is:
 - (a) for dwellings in the building that do not have a frontage to the street—6.5 metres, and
 - (b) for dwellings with a frontage to the street, if adjoining lots contain dwelling houses that are less than 9.5 metres high—8 metres."

Assessment Officer's Comment

Each proposed dwelling is identified as having the following heights measured to the ridge:

- Unit 1: 7.8m (two storey)
- Unit 2: 5.4m (single storey)
- Unit 3: 5.1m (single storey)
- Unit 4: 7.9m (two storey)
- Unit 5: 5.2m (single storey)

Compliance is achieved with this development control.



Clause 4.5A Density controls for Zone R2 Low Density Residential

- (1) The consent authority must not consent to the erection of multi dwelling housing (attached) on land in Zone R2 Low Density Residential unless:
 - (a) the site area for the building is not less than:
 - (i) for each 1, 2 or 3 bedroom dwelling 300m², and
 - (ii) for each 4 or more bedroom dwelling 365m².

Assessment Officer's Comment

The subject site is 1,617.6m². The proposal is for the construction of five (5) dwellings consisting of four (4) x three (3) bedroom dwellings and one (1) x four (4) bedroom dwelling. Therefore, an area of 1,565m² is required. Compliance is achieved with this development control.

(b) Relevant SEPPs

N/A

(c) Relevant REPs

N/A

(d) Any draft LEPs

A Section 65 Certificate enabling the formal exhibition of Draft Local Environmental Plan 2013 was issued by 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 2013 was adopted by Council on 12 March 2013 and is waiting gazettal by Planning and Infrastructure; as such LEP 2013 can be considered certain and imminent.

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

Part 3.5 – Multi Dwelling Housing (attached)

An assessment of the proposal in terms of the requirements of this Part of DCP 2010 appears in the DCP Compliance Table **ATTACHED** (Attachment 1). The areas of non-compliance with DCP 2010 are discussed as follows:



Non-Compliances:

1. <u>Separation of Medium Density Developments: Section 2.4(b) states the following:</u>

"If a multi dwelling housing (attached) development, Villa Home, Urban housing Duplex Building or Dual Occupancy (attached) is erected, or is permitted by a development consent, on an allotment with a frontage to a street or road within the Low Density Residential zone, the Council will not consent to another multi dwelling housing (attached) development on another allotment with frontage to that same street or road, in the same street block unless the two allotments are separated by a distance of at least:

- i. Twice the distance of the frontage to the street of the existing or approved urban housing, villa, duplex, dual occupancy (attached) or multi dwelling housing (attached) development, **or**
- ii. Twice the distance of the frontage to the street of the proposed multidwellinghousing (attached) development

whichever is the greater distance."

Assessment Officer's Comment

A multi dwelling housing development at No. 1-3 Malvina Street adjoins the north-eastern boundary of the subject site, as shown in the following photo:





Multi dwelling housing adjoining subject site at 1-3 Malvina Street, Ryde

The intent of this development control is to ensure that multi dwelling housing developments do not dominate an area or dramatically change the character of a neighbourhood. The existing dwelling houses existing on the subject site are dilapidated, with landscaping poorly maintained. The proposed development will be consistent in bulk and scale with the adjoining multi dwelling housing to the rear (1-3 Malvina Street) and on the opposite side of Malvina Street at No. 135 Buffalo Road.



Multi dwelling housing opposite subject site at 135 Buffalo Road, Ryde

Although the linear separation controls remain in Council's current Ryde DCP 2010, in March 2013 Council resolved to delete these controls and replace with an allotment width control for villa and dual occupancy developments when Draft LEP 2013 is gazetted. This Draft LEP is currently awaiting gazettal in the Department of Planning, and so it is considered certain and imminent. When Draft LEP 2013 is formally gazetted, amendments to DCP 2010 will be made which include removal of the linear separation controls. Accordingly, whilst the linear separation controls remain in the DCP, and the DA does not appear to comply with these controls, no planning objections are raised to this development given Council's previous resolution to delete the linear separation controls when Draft LEP 2013 is gazetted.

As noted above, the allotment width requirement will be a minimum of 20m. The subject site has a total width of 30.48m (the combined frontage of 2 existing allotments to Laurel Place), which complies with the minimum width requirement of the Draft LEP.



2. Type of Dwellings: Section 2.8(a) states the following:

"In developments containing 4 or more dwellings not more than 75% of dwellings should have the same number of bedrooms. Where 75% is not a whole number, the number should be rounded down."

Assessment Officer's Comment

The proposal incorporates four (4) dwellings with three (3) bedrooms and one (1) dwelling with four (4) bedrooms. This equates to 80% of the proposed dwellings having three (3) bedrooms which represents a non-compliance of 5%.

The proposal as originally submitted to Council incorporated three (3) dwellings with three (3) bedrooms and two (2) dwellings with four (4) bedrooms which was compliant with this control. However, this arrangement did not comply with the density control appearing in Clause 4.5A of the Ryde LEP 2010, which stipulates that a site area of $300m^2$ is required per three (3) bedroom dwelling and $365m^2$ per four (4) or more bedroom dwelling. As the Ryde LEP 2010 takes precedence over the Ryde DCP 2010, the proposal has been amended to comply with the Ryde LEP 2010.

The aim of this control is to provide a mix of dwelling types and sizes to achieve diverse housing choice across the City. Approval of multi-dwelling housing developments such as this proposal would help achieve housing diversity and choice and so it is not anticipated any adverse impact will occur as a result of this minor non-compliance.

3. Storey Controls: Section 3.3.1(a) and (b) states the following:

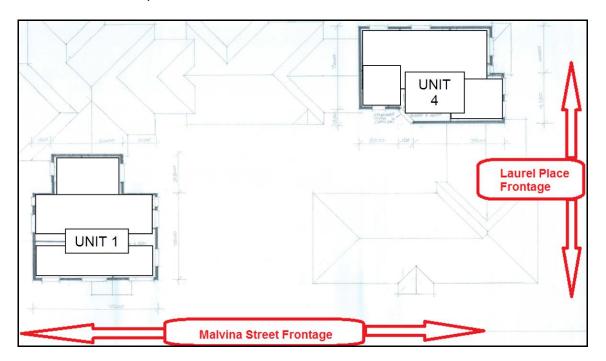
- "(a) A multi dwelling housing (attached) development must be contained within a single storey building. However, a dwelling with frontage to the street can be two storeys provided:
 - The two storey dwelling is not attached to any other two storey dwelling; and
 - ii. Council is satisfied that a two storey dwelling is suitable in terms of the surrounding streetscape.
- (b) For corner allotments only one dwelling within the development can be two storeys that being the dwelling fronting the shortest street frontage. This is usually the street to which the property is rated."

Assessment Officer's Comment

The proposed multi dwelling housing development is located on a corner allotment and incorporates five (5) dwellings which are all attached. Two (2) dwellings are proposed to be two (2) storey in height.



Non-compliance is considered acceptable as each two (2) storey dwelling is positioned in opposing corners of the subject site. This is shown in the following roof and first floor plan extract:



When viewing the development from the Malvina Street frontage, Unit 1's two (2) storey component will be prominent and when viewing the development from Laurel Place, Unit 4's two (2) storey component will be prominent.

The objective of this control is to ensure that villa developments occurring on a single allotment do not have more than one 2 storey development along the block, because in this situation, more than 1 x 2 storey dwelling could adversely impact on neighbouring properties. However, this development site is the amalgamation of 2 existing allotments, and technically unit 4 is not on the corner allotment.

4. Front Setbacks: Section 3.5.1 states the following:

- "a. Buildings must be set back:
 - i. The same distance as one of the buildings on an adjoining allotment, if the difference between the setbacks of the building on the two adjoining allotments is not more than 2m; **or**
 - ii. If the difference between the setbacks of the adjoining buildings is more than 2m the development must be set back the average of the front setback of the two adjoining developments.



- b. Council may approve a setback of 1m less than the above standard for not more than 50% of the front elevation of the building in order to provide an irregular front elevation and to add interest to the streetscape provided that this variation does not adversely affect any adjoining property.
- c. Council may vary this standard if it is satisfied that the existing streetscape is likely to change. In this situation the setback must be not less than 7.5m for 50% of the frontage and not less than 6.5m for 50% of the frontage."

Assessment Officer's Comment

The development's primary street frontage is Laurel Place. The subject site is a corner allotment, therefore only one (1) adjoining property exists (i.e. No. 5 Laurel Place). This property contains a dwelling house with a front setback of 15.9m. Therefore, no compliance with parts a) and b) arises as the proposal at its shortest has a front setback of 6.5m. However, the front setback of this adjoining dwelling is unusually high, and as the dwellings on the adjoining site and the subject site are older-style (i.e. over 40 years) then it is considered that the streetscape is likely to change, and so part (c) above may be applied.

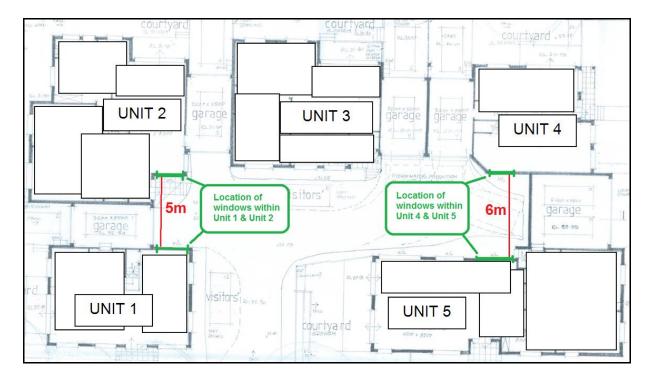
In applying part (c) of this control, the proposal complies as the 6.5m setback exists for a length of 8m (or 26.2%) of the frontage width. From here, the articulation in the building sees the front setback increase to 7.5m for a length of 5.5m (or 18%). Combined, a front setback of both 6.5m and 7.5m account for 44.2% of the frontage width. The parts of the development with these front setback distances apply to Unit 5 only, which is confined to the corner of the site with a dual street frontage therefore minimal impacts will occur to adjoining properties.

5. <u>Internal Setbacks & Visual and Acoustic Privacy: Sections 3.5.5 and 3.10(a) each state the following:</u>

"A minimum of 9m separation should be provided between the windows of habitable rooms of facing dwellings within a multi dwelling housing (attached) development."

Assessment Officer's Comment

Within the proposed development, a 9m separation is not achieved at two (2) locations. These are identified in the following plan extract:



Non-compliance is acceptable as all four (4) windows of concern will have a high sill height to prevent direct overlooking between the respective units. To ensure the sill height of each window is at an acceptable level, the following condition is recommended (see condition 1(d)):

- To ensure direct overlooking between units does not occur, the following windows are to have sill heights no less than 1.6m above the ground level:
 - Unit 1: Living room window facing Unit 2;
 - Unit 2: Window adjacent the front porch facing Unit 1;
 - Unit 4: Living room window facing Unit 5; and
 - Unit 5: Hall window facing Unit 4.

Part 7.2 – Waste Minimisation and Management

A Waste Management Plan has been submitted with the DA. If Council decides to approve this DA, a condition of consent can be imposed to ensure compliance with this Waste Management Plan.

Part 8.2 – Stormwater Management

Council's Senior Development Engineer has advised that the proposal is satisfactory in terms of this Part of DCP 2010, as noted in the Referrals section of this report.



Section 94 Development Contributions Plan 2007 (2010 Amendment)

The contributions that are payable with respect to the increased housing density on the subject site (being for residential development outside Macquarie Park area) are calculated as follows:

Contribution Plan	Contributions
Community & Cultural Facilities	\$10,042.52
Open Space & Recreation Facilities	\$24,722.60
Civic & Urban Improvements	\$8,408.65
Roads and Traffic Management Facilities	\$1,147.01
Cycleways	\$716.44
Stormwater Management	\$2,277.26
Plan Administration	\$193.17
GRAND TOTAL	\$47,507.66

Note: 1. The above calculation has been prepared by the Assessment Officer and reviewed by the Team Leader / Assessment.

A condition requiring the payment of a Section 94 contribution of \$47,507.66 has been included in the recommended conditions (see condition 16).

10. Likely impacts of the Development

(a) Built Environment

Issues regarding impacts on the built environment are discussed through this report (in particular, compliance with the Ryde DCP 2010).

(b) Natural Environment

Given the existing dwelling houses on the site are poorly maintained with overgrown vegetation, it is considered the development's proposed landscaping for the site will assist in softening the built form component of the proposal.

11. Suitability of the site for the development

A review of Council's Map of Environmentally Sensitive Area (held on file) identifies that the subject site is bushfire prone land. Subsequently, referral of the application to Council's Bushfire Consultant and the NSW Rural Fire Service has been undertaken to ensure that the proposal can be undertaken with consideration for bushfire protection measures. Further discussion can be seen in the Consultation – Internal and External section of this report.



12. The Public Interest

Approval of this application is considered to be in the public interest as the development will offer the public a choice in housing with a mix of both three (3) and four (4) bedroom units provided.

Further to this, the design shows consideration for development controls appearing in Part 3.5 Multi Dwelling Housing (attached) of the Ryde DCP 2010 and is substantially compliant.

There will be no detrimental impact to the local amenity which would warrant refusal. Imposition of conditions of consent tailored to this development will mitigate against any potential impact.

13. Consultation – Internal and External

Internal Referrals

Development Engineer: Council's Senior Development Engineer has considered the proposal and provided the following comments:

The amended architectural plan DWG 2531 D01 issue A dated 24/3/14 prepared by Peter Hall now addresses the issues requested in Council's Senior Development Engineer's memo dated 21 January 2014. The layout of the building has been amended to provide more area for vehicles reversing out of parking spaces 5 to 8. The garage of unit 5 has been resized to 5.5x5.4m. The parking space adjoining unit 1 remains at the same location.

The finished garage level of Unit 5 has been lowered to achieve satisfactory driveway gradients to Laurel Place. Additional steps from the garage to the habitable area of Unit 5 have been provided.

OSD has been provided as an underground tank within the central driveway area. An additional pipe independent of the OSD tank has been provided from the central driveway area towards Pit 1 as an emergency overflow pipe. The surface level of pit P9 is lower than tank surface levels and higher than the maximum water level of the tank. This will allow pit P9 which is located within the backyard of Unit 4 to surcharge in the event of the outlet pipe (orifice) blockage. This will reduce the risk of the OSD tank overflowing within the central driveway area.

The outlet drainage pipe from the development is running under Laurel Place and also through Council's public reserve. The application was referred to Council's Public Works Department and Open Space Branch who have provided comments. Conditions have been provided for the applicant to provide a bond and to contact Council for inspections during construction stage.



The BASIX report requires 2000 litre water tanks with 70m² of roof areas connected into each dwelling. This has been provided for the development.

There are two access points to the development proposed. The main access to the development is from Malvina Street and access to the garage of Unit 5 is proposed via Laurel Place. The Malvina Street road frontage of the site is a "Kiss & Ride" zone for the school nearby and has "No Parking" restrictions from 8.00am- 9.30am and 2.30pm-4.0pm. Due to this, vehicles (including vehicles from visitors and occupiers of the subject property) will not be able to park along Malvina Street frontage during peak school hours except vehicles dropping off children. The current driveway from Malvina Street will be relocated further towards the south-westerly direction within Malvina Street frontage. The existing driveway will be redundant and should be removed. A condition has been provided in this regard. The "Kiss & Ride" zone can still operate as before and will not be eliminated as mentioned in one of the submissions to the development.

Adequate manoeuvring area is available within the site for vehicles to exit in a forward direction to Malvina Street safely. A condition has been provided for the applicant to address sight lines as per Australian Standard AS 2890.1.

If Council is to approve No Parking/No stopping signs along Laurel Place as requested in one of the submissions these should be assessed by Council's Traffic Engineers and approved by Council's Traffic Committee.

All construction vehicle access to the development should be via Malvina Street and no vehicles should park in Laurel Place. A Traffic Management Plan should be submitted and approved by Council prior to commencement of works. Conditions have been provided to this effect.

Laurel Place is a bitumen road with no kerb and gutter on either side. The road pavement extends up to the property boundary and a power pole is located within the road pavement. However, this pole is away from the proposed driveway location.

A condition has been provided for the driveway to be a minimum 500mm from the pole.

It is unlikely that proposed development will increase excessive traffic in the area. No objections are raised from an engineering perspective for the development.

Bushfire Consultant: Council's Bushfire Consultant is supportive of the application and has provided the following comments.

The proposed development is integrated development and, as the Rural Fire Services have issued a Bushfire Safety Authority (BSA) Ref DA13/2935 & DA1401209067 PE for the development with respect to bushfire mitigation matters, it should be approved.



We have reviewed the application and the amended BSA and conclude that the applicant's submission and the amended RFS conditions are appropriate and now satisfy Planning for Bush Fire Protection 2006. It is therefore appropriate to include conditions reflective of the BSA in the consent for the development application.

Open Space: Council's Open Space unit is supportive of the application provided that conditions are imposed ensuring protection of the *Eucalyptus saligna* trees in the nature reserve on the opposite side of Laurel Place. Subsequently, Council's Consultant Landscape Architect has inspected the site and tailored conditions to ensure protection of trees within this nature reserve are protected.

Landscape Architect: Council's Consultant Landscape Architect has inspected the site and provided the following comments:

Tree 1 – Located on the other side of Laurel Street within Laurel Park/Buffalo Creek Reserve, this is a mature Eucalyptus saligna of good health and vigour with a height of 14 metres, canopy spread of 9 metres and Diameter at Breast Height (DBH) of approximately 625mm. According to the plans submitted, a new stormwater pipe is to be located approximately 4.8m away from this tree which according to Council's Development Engineer is to be 450mm in diameter and will allow stormwater to connect to the Buffalo Road drainage system.

Based on calculations from the plans submitted, this new pipe is to encroach the Tree Protection Zone of this tree by approximately 4.77m² or 3% (refer to Figure 2 below). Given the level of encroachment is less than 10%, as per the Ryde Urban Forest Technical Manual this is generally considered to be 'Minor' and therefore sustainable by the tree. Additionally, given no works are to occur within the Structural Root Zone (SRZ) of the tree the overall impact is anticipated to be low.

Despite this, there is potential for long-term impact if construction works are not undertaken with caution and large roots encountered are not properly dealt with. Accordingly, it is recommended that the following conditions are imposed to ensure appropriate protection of this tree:

Project Arborist - A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for the existing trees located within the Laurel Park/Buffalo Creek Reserve. All trees are to be monitored to ensure adequate health throughout the construction period is maintained. Details of the Project Arborist are to be submitted to Council prior to the commencement of construction.

Work Within Tree Protection Zones – All work within the Tree Protection Zones is to be supervised by a Project Arborist with minimum AQF level 5 qualifications and any excavation is to be undertaken by hand digging and hand tools only.



Tree 2 – Located on the other side of Laurel Street within Laurel Park/Buffalo Creek Reserve, this is a semi-mature Eucalyptus saligna of good health and vigour with a height of 10 metres, canopy spread of 4 metres and Diameter at Breast Height (DBH) of approximately 340mm. According to the plans submitted, a new stormwater pipe is to be located approximately 9.6m away from this tree which according to Council's Development Engineer is to be 450mm in diameter and will allow stormwater to connect to the Buffalo Road drainage system.

Based on calculations from the plans submitted, this new pipe is to encroach the Tree Protection Zone of this tree by approximately 0.60m² or 1% (refer to Figure 2 below). Given the level of encroachment is less than 10%, as per the Ryde Urban Forest Technical Manual this is generally considered to be 'Minor' and therefore sustainable by the tree. Additionally, given no works are to occur within the Structural Root Zone (SRZ) of the tree the overall impact is anticipated to be low.

Given the extremely low level of encroachment, it is considered that this tree is capable of retention however it is recommended that the conditions for Tree 1 are imposed to ensure adequate protection of this tree also.

Tree 3 – Located on the other side of Laurel Street within Laurel Park/Buffalo Creek Reserve, this is a juvenile Eucalyptus saligna of good health and vigour with a height of 7 metres, canopy spread of 2 metres and Diameter at Breast Height (DBH) of approximately 130mm. According to the plans submitted, a new stormwater pipe is to be located approximately 9.8m away from this tree which according to Council's Development Engineer is to be 450mm in diameter and will allow stormwater to connect to the Buffalo Road drainage system.

Based on calculations from the plans submitted, there is to be no encroachment to the Tree Protection Zone of this tree. Accordingly, it is considered that this tree can be retained with no specific tree protection measures being required to be implemented.

External Referrals

NSW Rural Fire Service: The NSW Rural Fire Service is supportive of the application subject to the imposition of three (3) conditions of consent (see conditions 74, 75 and 77).

14. Critical Dates

There are no critical dates or deadlines to be met.



15. Financial Impact

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

16. Other Options

None relevant.

17. Conclusion

The proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning and Assessment Act 1979.

An assessment of the proposal in terms of the controls contained in DCP 2010 has identified minor areas of non-compliance namely linear separation (considered abandoned by Council), internal setbacks, front setback distance, landscaping and dwelling diversity in terms of number of bedrooms proposed, and number of two (2) storey dwellings. The proposal is considered acceptable in terms of these controls subject to the recommended conditions of consent.

The proposal has been notified and advertised in accordance with DCP 2010 and three (3) submissions have been received. Issues of concern have been raised in the submissions including privacy impacts on neighbouring properties, traffic impacts in particular on the existing drop-off / pick-up area for school children and car parking have been assessed in the body of the report.

On balance, the proposal in its current form is considered acceptable and approval is recommended.

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133 Buffalo Road & 6 Laurel Place, Ryde

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	Reference / Job No.	Drawing / Sheet No.	Dated
Contour Survey of Lots 5 & 6 in D.P.1180	33799	Drawn by: RH (Higgins Surveyors)	29-04-13
 Ground Floor & Site Plan West Elevation & First Floor Plan North, South & East Elevations Roof Plan & Shadow Diagram Section B-B & Site Analysis 	2531	D01B D02B D03B D04A D05A	6/5/14 6/5/14 6/5/14 24/3/14 24/3/14
Landscape Planting Plan	-	LPDA L01/1-K18507	11 Nov 13
 Calculations, Legend, Notes, Details Stormwater Management Plan Typical Details Erosion and Sediment Control Plan 	109042	D1 (Issue A) D2 (Issue B) D3 (Issue A) D4 (Issue A)	09.08.2013 02.05.2014 09.08.2013 09.08.2013

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

- (a) The Landscape Planting Plan is to be amended to show the building footprint of Unit 5's garage located in the same position as the amended Ground Floor & Site Plan.
- (b) A gate is to be provided to the courtyard of Unit 5 to allow access without the need to enter the dwelling. This is to be shown on an amended *Landscape Planting Plan* and *Ground Floor & Site Plan*.
- (c) Unit 3 (FFL presently RL31.5) is to be reduced by 500mm to an RL31 and Unit 4 (FFL presently RL30) be reduced by 500mm to RL 29.5. This is to be shown on amended plans.
- (d) To ensure direct overlooking between units does not occur, the following windows are to have sill heights no less than 1.6m above the ground level:
 Unit 1: Living room window facing Unit 2;



ATTACHMENT 1

- Unit 2: Window adjacent the front porch facing Unit 1;
- Unit 4: Living room window facing Unit 5; and
- Unit 5: Hall window facing Unit 4.

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 numbered 510014M, dated 19 November 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.

Protection of Adjoining and Public Land

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

6. Hoardings

- (a) A hoarding or fence must be erected between the work site and any adjoining public place.
- (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
- 7. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 8. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.



ATTACHMENT 1

 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.

Works on Public Road

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

Conditions imposed by Development Engineer:

- 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.
- 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.
- 15. **Existing Power Pole.** The proposed driveway shall be minimum 500mm from the existing power pole in Laurel Place.



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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.

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

B – Contribution Amount
\$10,042.52
\$24,722.60
\$8,408.65
\$1,147.01
\$716.44
\$2,277.26
\$193.17
\$47,507.66

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.



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

- 17. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
- 18. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
- 19. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate.** (category: other buildings with delivery of bricks or concrete or machine excavation)
- 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. **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.**
- 22. **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**.
- 23. 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.



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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.

- 24. **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**.
- 25. **Fencing.** Fencing is to be in accordance with Council's Development Control Plan and details of compliance are to be provided in the plans for the **Construction Certificate**.
- 26. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.
- 27. Lattice screening. Provision of a lattice screen 300mm high is to be fitted on top of the side boundary fence shared with No. 5 Laurel Place for the length of Unit 2 and Unit 3. Details of compliance are to be provided in the plans for the Construction Certificate.

Conditions imposed by Development Engineer:

- 28. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.
- 29. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. The driveway design is to incorporate Council's issued footpath and gutter crossing levels where they are required as a condition of consent. A driveway plan, longitudinal section from the centreline of the public road to each 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.



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- 30. **Provision of Pedestrian Sight Lines.** Clear pedestrian sight lines in accordance with Figure 3.3 of AS2890.1:2004 Off Street Carparking are to be provided at the driveway entry from Laurel Place and Malvina Street. This requires that there be no boundary/retaining wall, fence or landscaping higher than 900mm within 2.5x2.0 m sight triangle at each entrance. Any walls/fences/landscaping are to be adjusted in order to also comply with this. Full details are to be shown on the architectural and landscaping plans submitted for approval with the Construction Certificate.
- 31. **On-Site Stormwater Detention.** Stormwater runoff from all impervious areas shall be collected and piped by gravity flow to a suitable on-site detention system in accordance with City of Ryde, Development Control Plan 2010: Part 8.2; Stormwater Management.

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

- a. All gutters, downpipes and pipelines conveying stormwater runoff to the OSD tank and the outlet pipes from the central courtyard area towards pit P1are to be designed for minimum of 1 in 100 year, 5 minute duration storm event.
- b. Provision of additional pits over the OSD tank and regarding of the adjoining surface to allow for surface runoff into the tank.
- c. Provision of minimum 450mm cover to the pipe across Laurel Place.
- d. Ensure consistency between the architectural plans & the stormwater plans.
- 32. Council Inspections of External Drainage Works. The inspection of this work must be undertaken by a Council Public Works inspector. Accordingly, a preconstruction meeting shall be organised with Council's inspector prior to commencement of works. Council's Public Works Inspector shall be notified at least 48 hours before the date of any inspection. Prior to issue of a construction certificate, an inspection fee of \$288.00 shall be paid to Council.
- 33. **Maintenance Bond.** To ensure satisfactory construction and performance of the external road and drainage works, a maintenance period of six (6) months shall apply to all external engineering works completed in relation to this application. The performance period shall commence from Council's Compliance Certificate issue date.



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The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification. A bond in the form of a cash deposit or Bank Guarantee of \$10,000 shall be lodged with City of Ryde prior to issue of the Construction Certificate to guarantee this requirement will be met. The bond will only be refunded when the works are determined to be satisfactory to Council after the expiry of the six (6) months maintenance period.

- 34. **Dilapidation Report.** Submit a dilapidation report on existing public infrastructure in the vicinity of the proposed development. The report is to include a description of the location and nature of any existing observable defects to the following infrastructure including a photographic record.
 - a) Road pavement
 - b) Kerb and gutter
 - c) Constructed footpath.
 - d) Drainage pits.
 - e) Traffic signs
 - f) Any other relevant infrastructure.

The report is also to be submitted to Ryde Council, attention development engineer, prior to the issue of the construction 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.

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 City Council.

- 35. **Traffic Management.** Traffic management procedures and systems must be in place and practised during the construction period to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with *AS 1742.3 1985* and City of Ryde, Development Control Plan 2010: Part 8.1; Construction Activities. A plan of traffic management is to be submitted to and approved by the Consent Authority.
- 36. **Construction Access.** The access of all construction vehicles to the site shall be via Malvina Street. No construction vehicles shall be parked in Laurel Place.
- 37. **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.



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38. **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
- (I) Details for any staging of works
- (m) Details and procedures for dust control

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

39. 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.



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- 40. **Residential building work insurance.** In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 41. **Residential building work provision of information.** Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA has given the Council written notice of the following information:
 - (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor; and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act.
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder; and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

42. 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.



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43. **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.

Conditions imposed by Development Engineer:

- 44. **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.
- 45. **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.
- 46. **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.

Conditions imposed by Landscape Architect:

47. **Project Arborist.** A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for the existing trees located within the Laurel Park / Buffalo Creek Reserve. All trees are to be monitored to ensure adequate health throughout the construction period is maintained. Details of the Project Arborist are to be submitted to Council prior to the commencement of construction.

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.



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- 48. **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.*
- 49. **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.
- 50. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
- 51. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
- 52. **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.
- 53. **Construction materials.** All materials associated with construction must be retained within the site.

54. 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.

55. 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.



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- 56. **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".
- 57. **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.
- 58. **Tree protection during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.
- 59. **Tree works Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
- 60. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

Conditions imposed by Landscape Architect:

- 61. Hold points and certification. The Tree Protection Schedule provides a logical sequence of hold points for the various development stages including pre construction, construction and post construction. It also provides a checklist of various hold points that are to be signed and dated by the Project Arborist. This is to be completed progressively and included as part of the final certification. A copy of the final certification is to be made available to Ryde City Council on completion of the projection.
- 62. **Work within Tree Protection Zones.** All work within the Tree Protection Zones is to be supervised by a Project Arborist with minimum AQF level 5 qualifications and any excavation is to be undertaken by hand digging tools only.

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.



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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.

- 63. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate numbered 510014M, dated 19 November 2013.
- 64. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.
- 65. **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**.
- 66. **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.

67. **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.

Conditions imposed by Development Engineer:

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



- 69. **On-Site Stormwater Detention System Marker Plate.** Each on-site detention system basin shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface or access grate. The wording on the marker plate is described in City of Ryde, Development Control Plan 2010: Part 8.2; Stormwater Management. An approved plate may be purchased from Council's Customer Service Centre on presentation of a completed City of Ryde OSD certification form.
- 70. Work-as-Executed Plan. A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed, finished ground levels and external drainage details is to be submitted to the Principal Certifying Authority (PCA) and to Ryde City Council if Council is not the nominated PCA.
- 71. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Job No 109042 sheet D2 issue B dated 2/5/14 and sheets D1, D3 & D4 issue A dated 9/8/13 prepared by Storm Civil Engineering Solutions Pty Ltd and as amended in red by Council and conditions of this consent.
- 72. **Compliance Certificates Engineering.** Compliance Certificates should be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and **submitted to the PCA**:
 - Confirming that all vehicular footway and gutter (layback) crossings are constructed in accordance with the construction plan requirements and Ryde City Council's Environmental Standards Development Criteria – 1999 section 4.
 - Confirming that the driveway is constructed in accordance with the construction plan requirements and Ryde City Development Control Plan 2010: Part 8.3; Driveways.
 - Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2010: -Part 8.2; Stormwater Management
 - Confirmation from Council that all external drainage works through Laurel Place and Council's public reserve have been completed to Council's satisfaction.
 - 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.



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- Confirming that the vehicular crossing has been removed and the kerb and gutter have been constructed in accordance with Council's Environmental Standards Development Criteria -1999 section 4
- 73. Positive Covenant, OSD. The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Stormwater Detention Systems and to the satisfaction of Council. The applicant shall submit the works as executed drawing and the compliance certificate for drainage from the hydraulic engineer to Council with the documents for the Positive Covenant.

Conditions imposed by NSW Rural Fire Service:

- 74. **Design and Construction.** New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
- 75. **Landscaping**. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

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.

76. **Single dwellings only.** Each multi dwelling unit is not to be used or adapted for use as two separate domiciles or a boarding house.

Conditions imposed by NSW Rural Fire Service:

77. **Asset Protection Zone**. At the issue of subdivision certificate and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.



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PRIOR TO SUBDIVISION CERTIFICATE

The following conditions in this Part of the consent apply to the Subdivision component of the development.

All conditions in this Part of the consent must be complied with prior to the issue of a Subdivision Certificate.

Conditions imposed by Development Engineer:

- 78. **Certification Documents.** The submission of all certification as required under this consent prior to the release of the Subdivision Certificate.
- 79. **Film Plan of Subdivision.** The submission of a final plan of subdivision plus three copies suitable for endorsement by the Authorised Officer.
- 80. **Easements & Restrictions**. The final plan of subdivision shall contain details of all existing and/or proposed easements, positive covenants and restrictions of the use of land.
- 81. **Final Occupation Certificate**. A final occupation certificate in relation to this Development Consent must be in force.
- 82. **Sec 73 Certificate.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to issue of the Subdivision Certificate.

End of consent

ATTACHMENT 2

Compliance Check

SECTION 3.5 Multi Dwelling Housing (attached) (for Low Density Residential Zones)

PART 2.0 - Site Analysis, Location Number and Type of Dwelling

DCP 2010	Proposed	Compliance
2.1 Site Analysis		
 Must have a SA SA should relate dwgs to surrounds + minimise amenity impacts 	Site analysis provided.	Y
2.2 Minimum allotment size		
Area: (not <600m ²)	1,617.6m ²	Υ
Primary Frontage: (not <20m)	52.97m & 30.48m	Y
Not hatchet shaped	Lot is not hatchet shaped.	Υ
2.3 Non-Preferred Locations		
Is the proposed development within a non-preferred location?	Development is not within a non-preferred location.	Y
2.4 Linear Separation		
Is there any approved Villa, Duplex or Urban Housing development within double the frontage (or proposed frontage)?	No approved villa, duplex or urban housing development within linear separation distance.	N (variation supported)
2.5 Retention of Existing Dwel	lings	
Retention of existing dwg as part of a MDH will not be approved	No dwellings to be retained.	Y
Exception may occur if heritage significant bldg or contributing item. Does it comply with Clause 2.5.1?	No heritage item exists on the site.	Y
2.6 Density		
As per clause 4.5A RLEP2010 – which state: (a) Site Area: o 300m² per 1, 2, 3br dwg o 365m² per 4+br dwg	Site Area 1,617.6m ² (1,565m ² required)	Y



ATTACHMENT 2

DCP 2010	Proposed	Compliance
(b) Each dwg has its own POS and sep access to that space from unbuilt portion of site.	Complies. Access gained through garage of each unit.	Y
2.7 Number of Dwellings		
Not more than 12 Dwellings	5 dwellings proposed.	Υ
2.8 Type of Dwellings		
If 4 or more dwellings on site, <75% with same number of bedrooms (rounded down) eg. 6d= 4x3B + 2x2B	Site will contain 5 dwellings (4 x 3br dwellings & 1 x 4br dwellings) = 80% of dwellings with 3 bedrooms & 20% of dwellings with 4 bedrooms	N (variation supported)

PART 3.0 Site Planning

DCP 2010	Proposed	Compliance	
3.1 Slope of Site	3.1 Slope of Site		
At least one dwelling must present to the street	2 storey unit 4 dwelling presents to Winbourne St.	Y	
Slope must be <1:6 either up or down from street frontage	Slope upwards from Laurel PI (1:8.7)	Y	
Cross-fall <1:14	Cross-fall is less than 1:14 (1:8 cross-fall)	Y	
3.2 Altering the Levels of the S	Site		
No imported fill	No imported fill proposed.	Y	
<300mm Cut or Fill outside building envelope.	Proposed retaining wall to match existing RL's.	Y	
No basement garages, minimal steps, minimal retaining walls	Garages are at grade with no basement or semi-basement parking proposed.	Y	
POS generally at NGL.	POS to be at NGL.	Y	
3.3 Storey and Height			
3.3.1 Storeys			
A MDH must be within single storey bldg.	2 x 2 storey dwelling located at the front, single storey dwellings located at the rear.	Y	
Dwg with frontage to street can be 2 storeys provided: o 2 st dwg not attached to any other 2 st dwg o 2 st dwg is suitable re streetscape	2 storey dwelling attached to another 2 storey dwelling proposed.	No (variation supported)	



DCP 2010	Proposed	Compliance
CORNER ALLOTMENTS		
Only 1 dwg can be 2 storeys, the dwg on street with shortest frontage.	Site is a corner allotment – 2 dwellings are 2 storey.	No (variation supported)
Corner lots containing a 2 storey dwg must be sensitively designed re topography, dwg size and height.	Site is a corner allotment – design is reflective of allotment shape & topography.	Υ
3.3.2 Height	T	
As per Clause 4.3(2a) – which state the maximum height is: (a) for dwgs in bldg with no frontage to street – 6.5m	Units 2 & 3 do not have a street frontage: These units proposed heights are: Unit 2: 5.4m Unit 3: 5.1m	Y
(b) for dwgs with a frontage to street, if adj lots have dwgs that are <9.5m high – 8m	Units 1, 4 & 5 have a street frontage. These units proposed heights are: Unit 1: 7.8m (two storey) Unit 4: 7.9m (two storey) Unit 5: 5.2m (single storey)	Υ
3.4 Site Coverage		
Site coverage < 40%	34.7%	Υ
Pervious area > 35%	36.7%	Υ
3.5 Setbacks		
3.5.1 Front Setbacks		
Front Setbacks: Similar to adjoining buildings - same as adjoining if <2m - Average if >2m	Adjoining property at no. 5 Laurel Place is setback 20.7m. Unit 4 & 5 front Laurel Place and have setbacks of 9m (Unit 4) and 6.5m (Unit 5).	No (variation supported)
Setback of 1m less than the above std for not more than 50% of the front elevation for interest in the streetscape	1m variation will not result in compliance with front setback. Variation in front façade provided.	No (variation supported)
Council may vary this requirement if streetscape is likely to change: >7.5m for 50% of frontage, >6.5m for 50% of frontage.	6.5m setback accounts for 8m of Laurel Place frontage (=26.2% of frontage).	Υ



DCP 2010	Proposed	Compliance
3.5.2 Hatchet Shaped Allotmer	nt	
For hatchet allotment – bldgs must be sited so that vehicles can enter/leave site in a fwd direction.	N/A	N/A
3.5.3 Second Street Frontage		
Min 4.5m	4.5m secondary street setback from Buffalo Rd.	Y
3.5.4 Side and Rear Setbacks		
Min 4.5m unless vehicular access is included in this area, then min 6m.	3m rear setback (for a length of 24.6% length of elevation) 3m south-eastern side setback (for a length of 23.3% length of elevation)	Υ
Must provide appropriate solar access.	POS located on north-east and south-east side.	Υ
Ensure existing substantial trees not within proposed courtyard areas.	Limited existing vegetation within POS.	Υ
Allow variation between 3-6m for less than 50% for visual interest	Variation acceptable.	Υ
3.5.5 Internal Setbacks		
Habitable room windows don't overlook	Windows don't overlook.	Y
9m separation between facing dwellings habitable room windows?	6m separation provided between Units 4 & 5 habitable rooms and 5.5m separation provided between habitable rooms of Units 1 & 2.	No (variation supported – condition imposed)
3.6 Private Outdoor Space		
Min 30m ² for 2B Min 35m ² for 3+B	Unit 1: 35m ² Unit 2: 94.57m ² Unit 3: 38.92m ² Unit 4: 36.34m ² Unit 5: 75.34m ²	Υ
Min dimension 4m and generally at NGL	4m generally provided.	Υ
Solar access: 50% for ≥2hrs	Proposal achieves compliance.	Y
Do not contain ex'g big trees	No existing large trees within any POS.	Υ
Access to courtyard other than through dwg?	Unit's 1-4 have access without entering dwelling. Unit 5 has the potential to allow direct access	Y (via condition)



DCP 2010	Proposed	Compliance
	to courtyard via common driveway.	
Securely enclosed (not roofed) + visible from liv rms	All POS visible from living rooms.	Y
Not within front setback	Unit 5's POS protrudes into secondary setback. Front setback to Laurel Place is free of development.	Y
≥1.2m landscape strip between courtyard and adjoining property	Min. 1.2m wide strip provided to northern and eastern boundary (except broken only by provision of rainwater tanks). Acceptable.	Y
3.7 Landscaping		
Extent of landscaping, existing trees retained in common areas?	Existing trees retained where they are not within proposed building footprint.	Y
Privacy Planting ≥1.2m landscaped strip 1m strip between driveway and wall of dwgs 3 <h<4m 5<h<6m="" mature="" plants?="" small="" td="" trees?<=""><td>1m strip provided between driveway and dwelling walls on site. Plants will only have a mature height of 1m-1.5m. Driveway will not align adjoining properties.</td><td>Y</td></h<4m>	1m strip provided between driveway and dwelling walls on site. Plants will only have a mature height of 1m-1.5m. Driveway will not align adjoining properties.	Y
Lawn areas edged or kerbed?	Concrete edge.	Υ
Nature Strips: Street trees retained and protected?	Nature strip to remain unchanged.	Y
3.8 Car Parking, Manoeuvrabil	ity and Driveway Crossings	
Car Parking	•	
Number of Parking Spaces 1 space per 1 or 2B dwelling 2 spaces per 3+B dwelling 1 visitor space per 4 dwgs (at least 1 space per dwg must be lockable garage)	2 spaces provided for each dwelling (4 x 3 bedroom & 1 x 4 bedroom). Single lock-up garage provided to 3 x 3 bedroom and 1 x 4 bedroom dwelling with a tandem openhard stand car space. Double	Y
Total no. of spaces req'd: 12 10 resident spaces 2 visitor spaces.	garage provided to Unit 5 (3 bedroom dwelling). 2 visitor spaces provided. Therefore, total of 12 spaces provided.	
For hatchet shaped blocks, 1 extra visitor space per 4 dwellings	N/A	N/A



DCP 2010	Proposed	Compliance
Garage location: - Not between dwelling and	No garage is located between	Υ
street frontageNo tandem parking in front of garage	dwelling and street frontage. Tandem parking provided for Unit's 1, 2, 3 & 4 behind garage.	Y
 Conveniently located for occupants Located so they separate dwellings. 	Garages offer separation between dwellings.	Y
Manoeuvrability: Enter and leave garage/parking area with single 3pt turn, in a forward direction (unless safe to reverse - corner allotment only).	Visitor car spaces will be able to exit site in a forward direction.	Y
Driveways Suitably paved, extent minimised, to avoid excessive amounts of hard paving.	Driveway will be constructed of stencilled concrete (charcoal / gunbarrel).	Y
Driveway Crossings Width: 10 spaces, min 4m >10 spaces, max 6m Driveways <30% of frontage	4m provided to Unit 5 which has its own driveway. 5m provided to Unit's 1, 2, 3 & 4.	Y
3.9 Overshadowing and Acces	s to Sunlight	
Habitable room windows face courtyard or other outdoor space open to the sky, no closer than 1.5m to facing wall.	Habitable rooms face courtyard and are no less than 1.5m distance to a facing wall.	Υ
Sunlight to at least 50% of each courtyard, and principal ground level open space >2hrs between 9am and 3pm on June 21 or	Courtyards are located on north- eastern and south-eastern sides. Each dwelling will receive min. 50% sunlight to courtyard for at least 2hrs. Dwelling adjoining site to the south-east (i.e 5 Laurel Place) and multi dwelling housing adjoining site to the north-east (i.e 1-3 Malvina St) will also achieve compliance.	Y



DCP 2010	Proposed	Compliance
Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight must not be further reduced by more than 20%.	Existing level of overshadowing will remain & will not be increased by greater than 20%.	Υ
Shadow diagrams must indicate extent of shadowing within development and adjoining properties.	Amended shadow diagrams have clarified the extent of shadow cast.	Υ
3.10 Visual and Acoustic Priva		
Min 9m separation between facing habitable room windows	9m separation not achieved – habitable windows face each other.	No (variation supported)
No direct views between living area windows or adjacent dwellings (otherwise screening or obscuring necessary)	No direct views between living area windows or adjacent dwellings achieved.	Υ
Direct views from living areas to private open space of other dwellings should be screened or obscured within privacy sensitive zone of 12m radius.	No direct views achieved from living areas to private open space of other dwellings.	Υ
No balconies. Elevated landings (or similar associated with stairs into courtyard) max 1m wide	No balconies proposed.	Υ
Living and sleeping areas protected from high levels of external noise?	Internal layout conducive for multi-dwelling housing.	Υ
Noise levels of air con pool pumps etc must not exceed background noise level by more than 5dB(A)	N/A – no pool proposed.	N/A
3.11 Accessibility 3.11.1 Pedestrian Access		
Pedestrian access provided, separate to vehicle access where possible.	Separate pedestrian access provided to Unit 1, 4 & 5. Units 2 & 3 will need to walk along driveway to entry of dwelling.	Υ



ATTACHMENT 2

DCP 2010	Proposed	Compliance
3.11.2 Access for People with	Disabilities - Devts of 6 or more	dwellings
6 or more dwelling developments have min 35% of dwellings provide access to all indoor areas and outdoor living areas for people with disabilities (street, car parking and common areas accessed in one continuous path of travel)	N/A – Dev't contains 5 dwellings.	N/A
Dwgs designed as per AS4299 must be able to access street, car pkg and common areas using continuous path of travel. 3.11.3 Access Audits	N/A – Dev't contains 5 dwellings.	N/A
For above such developments, an access audit must be submitted.	N/A – Dev't contains 5 dwellings.	N/A

PART 4.0 Building Form

DCP 2010	Proposed	Compliance
4.1 Appearance		
Complement streetscape	Dev't complements streetscape.	Υ
Includes pitched roof, eaves,		
vertically oriented windows,	Pitched roofs & articulation of	Υ
verandahs, rendered and face	each dwelling's frontage.	'
brick		
At least 1 dwg must face street	Units 1, 4 & 5 each face street.	Υ
4.2 Ceiling Height		
Floor to Ceiling min 2.7m	Min. 2.7m provided.	Υ
4.3 Roofscape and Roof Mater	ials	
Pitch 22-30° (35° where 2 nd	25° roof pitch proposed.	Y
floor is within roof)	23 Tool pitch proposed.	I
Min 300mm eaves overhang	450mm eave overhang.	Υ
for roofs & verandas	430mm eave overnang.	I
Gables to street frontage?	Gabled roof provided.	
Variation to roof line?	Variation to roof line provided.	Υ
Roof materials consistent with	Roof materials consistent with	Υ
traditional ones in the street?	street.	
4.4 Building materials for Walls		
In keeping with the traditional	Walls are well articulated and	Y
materials for the locality.	broken up with varying	



DCP 2010	Proposed	Compliance
Detailing to break up large areas of wall adding interest and individuality	setbacks.	
Proportion of windows and other openings consistent with character of locality. (windows generally 2:1 and 3:1 vertical proportion)	Window proportions appropriate.	Υ
4.5 Fences		
4.5.1 Front fence	No. for all forms and the last of	
Max ht 1m, and 70% visually permeable	No front fence provided (i.e. along Laurel Place)	Υ
Materials compliment dwelling eg wooden pickets, masonry with infill panels, wrought iron or similar etc	No front fence provided (i.e. along Laurel Place)	Υ
4.5.2 Other Boundary Fences		
Similar materials to main front fence.	Wall provided along secondary street frontage (i.e. Malvina St). No front fence proposed.	Υ
Solid fence must have indents for soft landscaping	Solid fence along Malvina St will be indented 300mm for a length of 2.5m.	Υ
4.5.3 Other boundary fences		
Min ht 1.8m	1.8m high rear and south- eastern side boundary fence to be provided.	Υ
Lapped and capped timber	A condition will be imposed requiring a lapped and capped timber paling side and rear fence.	Y (via standard condition imposed)
4.6 Clotheslines and drying ar	ea	
External clotheslines (not visible from adjoining properties or public areas)	Clothes lines provided in the POS of each dwelling.	Υ
Each dwelling must have its own laundry.	Each unit will have a laundry.	Υ
4.7 Lighting		
Front yard lighting and lighting for the front of dwellings is to be provided	No lighting details provided.	Y (via standard condition imposed)
Location of external lighting must not have adverse effect	No lighting details provided.	Y (via standard

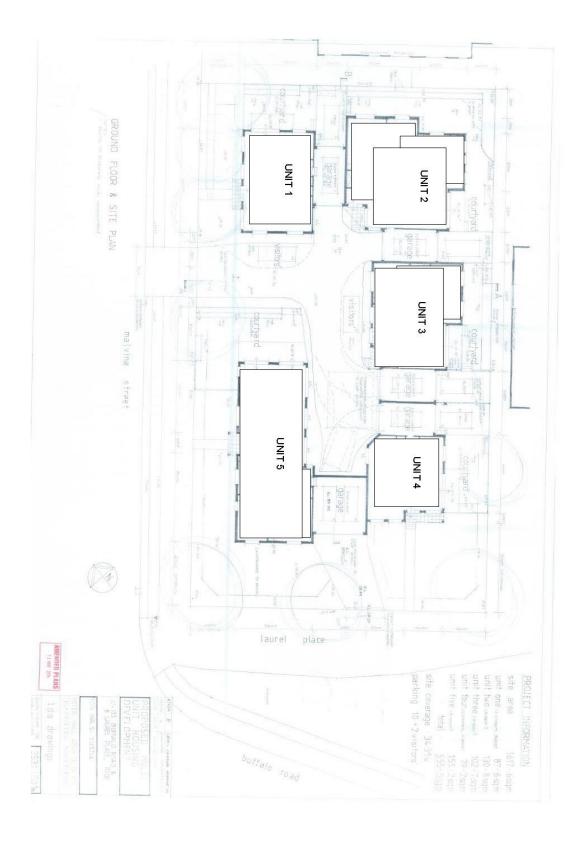


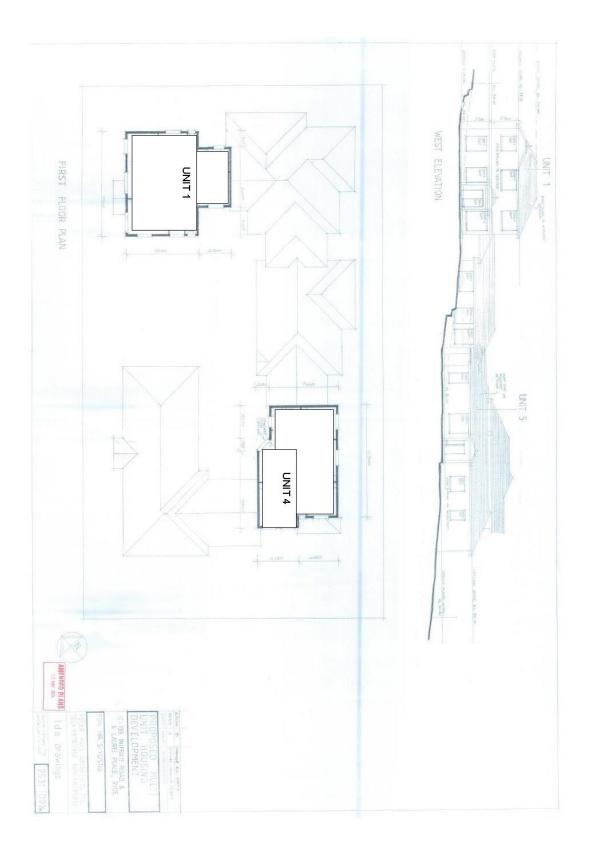
ATTACHMENT 2

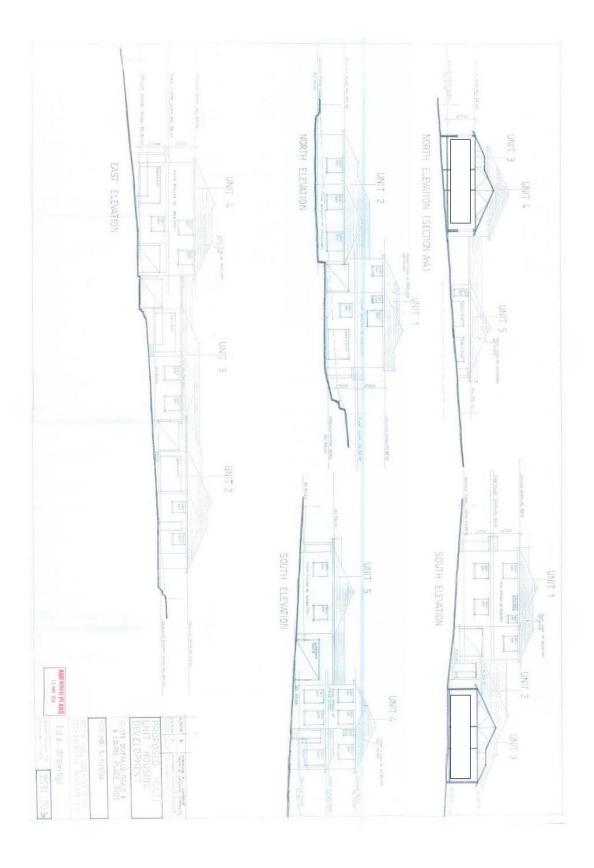
DCP 2010	Proposed	Compliance
on adjoining properties.		condition imposed)
4.8 Garbage bin enclosures		
For developments up to 5 dwellings on sites that are not steeply sloping and which have a wide road frontage: - Each dwelling must be provided with a storage area for Council's standard rubbish and recycling bins Storage area should be behind the dwelling, not visible from public spaces, common areas and habitable room windows	Sufficient garbage bin storage area shown within car parking area for each unit.	Y
For developments of 6 or more dwellings or where sites are steeply sloping or have a narrow street frontage: - A central garbage bin enclosure shall be provided - Behind the building line and suitably screened by landscaping. A plan indicating the design and location of the garbage bin enclosure must be submitted with the DA.	N/A – Development will have 5 dwellings.	N/A

PART 5.0 - Engineering

<u> </u>		
DCP 2010	Proposed	Compliance
Drainage		
Refer to Part 8.2 Storm water	DA referred to Dev. Eng. for	V
Management DCP 2010.	comment – no objections raised.	'









ATTACHMENT 4

Indicates submissions received PED SHAW S) RYDE WATH THE SECONDARY COLLEGE BUFFALORD 135 Site **BUFFA** AUREL PARK BUFFALO RD HARDY PARK BAICHTST 01/07/2014 Date: City of Ryde 1:1800



3 35 AEOLUS AVENUE, RYDE LOT 71 DP 12753 - BUILDING CERTIFICATE APPLICATION BCT2014/19 FOR UNAUTHORISED BRICK RETAINING WALL

Report prepared by: Building Surveyor - Compliance

Report approved by: Manager - Environment, Health & Building; Group Manager -

Environment & Planning

Report dated: 17/06/2014 **File Number:** BCT2014/19 - BP14/786

Report Summary

Street Address 35 Aeolus Avenue, Ryde

Applicant John Turra

Owner John Turra

Date Lodged 29 April 2013

This report considers a Building Certificate application BCT2014/19 for unauthorised building works at 35 Aeolus Avenue, Ryde. The unauthorised building work consists of a brick retaining wall, located adjacent the northern boundary with an effective height of 0.2m at the lower end to an overall height of approx. 1.0m at the highest point.

Subsoil drainage has been provided behind the retaining wall and certification has been received certifying structural adequacy of the wall.

The application was notified and one (1) submission was received from a neighbouring property, raising several issues and objecting to the work as constructed

The issues raised and Council's comments are detailed in the report.

The application has been recommended for Approval as it is considered:

- 1. The change in the natural topography between the subject site and 37 Aeolus Avenue requires a retaining wall to support and stabilise the grounds between the two (2) properties.
- 2. The unauthorised brick retaining wall does not detrimentally affect the amenity of the area
- 3. The construction of the unauthorised brick retaining wall constructed adjacent to the northern boundary is certified by a Professional Engineer from Dynamic Structural Engineering Group Pty Ltd.

Reason for Referral to Planning and Environment Committee:

Called up to the Planning & Environment Committee by Councillor Pendleton.



Public Submissions:

One submission was received objecting to the unauthorised building works.

Issues raised together with Council's comments are detailed in the report.

Value of works:

\$7500 was nominated on the application.

The application and submission received are **CIRCULATED UNDER SEPARATE COVER – CONFIDENTIAL** (Attachment 1) as the information contains private information and also to satisfy specific wishes of the objector.

RECOMMENDATION:

- (a) That Building Certificate Application No. BCT2014/19 for the unauthorised brick retaining wall constructed adjacent to the northern boundary on the property known as at 35 Aeolus Avenue, Ryde, being LOT 71 DP 12753, be approved;
- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Aeolus Avenue 35, Ryde. Building Certificate Application for Section 149A, BCT2014/19, Replace damaged Retaining Wall - CIRCULATED UNDER SEPARATE COVER - CONFIDENTIAL
- 2 Aeolus Avenue 35, Ryde. Complaint regarding construction of unauthorised retaining wall CIRCULATED UNDER SEPARATE COVER CONFIDENTIAL
- 3 Retaining Wall approval CIRCULATED UNDER SEPARATE COVER CONFIDENTIAL

Report Prepared By:

Peter Lupevski Building Surveyor - Compliance

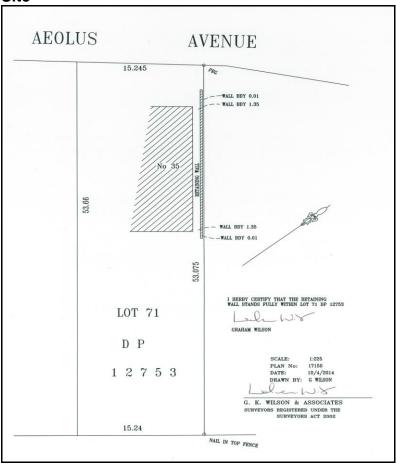
Report Approved By:

Sam Cappelli Manager - Environment, Health & Building

Dominic Johnson
Group Manager - Environment & Planning



Site



Address: 35 Aeolus Avenue, Ryde

Site Area: Area: 818.1 m2 (approx)

Frontage: 15.245 metres Depth: 53.66 metres

Topography

and Vegetation: There is no significant vegetation on the site that needs to

be considered with this application

Existing Buildings: The site known as 35 Aelous Avenue LOT 71 DP 12753

has a two storey brick and tile dwelling that was approved and constructed in 1999 together with any site works required including a retaining wall adjacent to the northern

boundary to support and stabilise the grounds.

Due to the timber log retaining wall being past its use by date it was removed and a brick wall has been constructed in it place together with a concrete path

between the wall and the main dwelling.



Relevant Provisions of Environmental Planning Instruments etc:

Environmental Planning & Assessment Act - 1979 (Act) - Section 149(A) -

The "Act" that allows a person to lodge a Building Certificate Application with the Consent Authority (Council) for determination in relation to unauthorised building works.

The "Act" allows Council 3 (three) options – Approve, Defer, or Refuse.

Given the nature and extent of breaches and taking into consideration the objections raised from neighbouring property, the application has been recommended for Approval

Building Code of Australia (BCA)

The BCA is a uniform set of technical provisions for the design and construction of buildings and other structures throughout Australia. The BCA is the minimum allowable construction standard for all building classifications.

The classification of a building or part of a building is determined by the purpose for which it is designed, constructed or adapted to be used. On this occasion the structure (retaining walls) is considered to be of a Class 10(b)

Class 10(b) - a structure being -

- (i) a fence or
- (ii) mast or
- (iii) antenna or
- (iv) retaining or free standing wall or
- (v) swimming pool or the like

Ryde Local Environmental Plan (RLEP)

Ryde Local Environmental Plan (RLEP) 2010 is a City-wide planning instrument that commenced on 30 June 2010. Under this Plan, the property is zoned R2 Low Density Residential. Retaining Walls are permitted in this zone subject to Council's consent.



Relevant SEPPs

State Environmental; Planning Policy – (Exempt and Complying Development Codes) 2008 – The unauthorised walls as built fails to meet the requirements of the above SEPP and therefore not applicable for this type of construction.

The property owner/s should have lodged a formal Development Application for the approval of the building works, followed by obtaining a Construction Certificate by Council or an Accredited Certifier prior to commencement of work

3. Councillor Representations:

Name of Councillor: Councillor Pendleton.

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

Date: 15 July 2014.

4. Political Donations or Gifts:

None disclosed in applicant's Building Certificate Application or in any submission received.

5. Unauthorised Building Works:

The unauthorised building works consist of a modest brick retaining wall constructed adjacent to the northern boundary and located wholly within the property known as LOT 71 D.P. 12753 35 Aeolus Avenue, Ryde, as depicted in the photos below. A survey plan prepared by registered surveyor from G.K Wilson and Associates dated 10 April 2014 has been submitted to confirm position of the retaining wall up to the boundary.

The brick retaining wall is supported on reinforced concrete footings that have been inspected and certified by a Professional Engineer.

The work includes an agricultural drainage line located immediately behind the wall and backfill material within the adjoining property known as 37 Aeolus Avenu, Ryde.





Photo showing the completed work





Photo showing the brick retaining wall at its highest point



Photo showing the step-down of the brick retaining wall



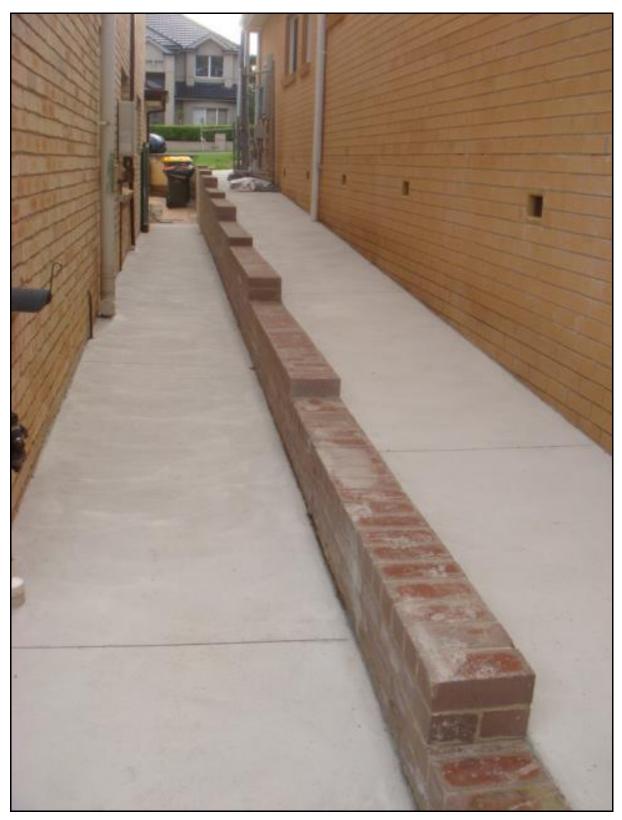


PHOTO showing view of the wall from lowest point to highest



6. Background

History:

- 3 April 2014 Complaint received from 37 Aeolus St that unauthorised retaining wall at 35 Aeolus St was under construction following which same day investigation was carried out by Council's Building Compliance Unit.
- 4 April 2014 Discussions held with owner of 35 Aeolus St concerning unauthorised work and complainant was also advised separately of action proposed to be taken.

Note: It would appear that both owners consented to concrete paving work adjoining both sides of the unauthorised wall to be poured and finished. In addition, owner of 35 Aeolus presented a written agreement between both owners consenting to the construction of the retaining wall now in question.

- 30 April 2014 Building Certificate Application (BCT2014/019) lodged for approval to keep the unauthorised retaining wall.
- 16 May 2014 Objection received outlining number of concerns in relation to application.

Consultation – Community

Building Certificate Application (BCT2014/19) was received on 30 April 2014

The Building Certificate Application (BCT2014/19) was notified from 2 May 2014 till 16 May 2014. The adjoining owner at 37 Aeolus Avenue, Ryde submitted an objection to the application. The owner of this property has been consulted in great length and in detail on several occasions on information concerning the unauthorised work related to this Building Certificate Application.

7. Submission

One (1) submission was received and several issues were raised. Issues have been grouped and each group has been addressed below.

Issue 1:

1. This wall cannot be certified as it unlawfully extends onto the adjoining property.



Comment:

The building works consisting of a brick retaining wall constructed without the approval by the Consent Authority. (Council) However, having regards to this the Environmental Planning & Assessment Act – 1979 – Section 149(A) - "Act" allows a person to lodge a Building Certificate Application with the Consent Authority (Council) for determination in relation to unauthorised building works.

The applicant has provided a survey plan prepared by a registered surveyor confirming that the brick wall is wholly within the subject property. Any encroachment by the footings or the subsoil drainage is considered a private civil matter between the owners.

The applicant has also provided Structural Certificate prepared Consulting Engineers certifying the brick wall and associated footings are structurally adequate and built in accordance with the Australian Standards AS2870 – Residential Slabs and Footings (Construction).

Issue 2:

Further engineering assessment, documentation, dimensioned drawings are needed.

Comment:

A signed engineer's certificate of structural adequacy has been received and the application is supported by a survey report and plans that will enable the application to be determined.

Issue 3:

The owner is fully responsible for the unauthorised retaining wall and the way it has been constructed has cut land which needs to be properly supported. Council are able to research contour plans to ascertain this.

Comments:

This is not a matter for Council and is considered a private civil action to be pursued between the owners.

Interestingly though, investigation has shown that the owner of No 35 and his builder held extensive discussions, negotiations with No 37 and a signed agreement between both owners was entered into prior to the commencement for the construction of the brick retaining wall.

In addition, it appears that the same builder performed concrete pavement work for both property owners (35 and 37 Aeolus Avenue) on both sides of the retaining wall by agreement.



The applicant has provided a copy of the signed agreement (ATTACHMENT 3 – CIRCULATED UNDER SEPARATE COVER – CONFIDENTIAL).

Issue 4:

The effectiveness of the subsoil drainage system behind the wall is called into question and because it encroaches onto No 37 and can be blocked it must be removed.

Comments:

The matter of encroachment is considered a private matter between the owners. A site inspection together with documentations submitted with the application shows that the agricultural drainage line in question is connected and discharging into an approved drainage system. There is no evidence that the subsoil drain have been connected to sewer.

Issue 5:

The construction activities may have affected the structures on No 37 during construction. This combined with a significant rain event during construction, construction traffic above the trenched area and suspect compaction pose a significant subsidence risk to the property at no 37 of which insurance has been advised

Comment:

This is a private matter between the owners and it is agreed that No 37 has taken appropriate action in advising their insurers. This application relates to the completed retaining wall which is supported by a certificate of structural adequacy.

Issue 6:

Geotechnical Report to determine the sub-terrain encroachment and hence dimensions of the footings and actual dimensions relating to the encroachment of the wall onto the property of no 37 should have been required.

Comment:

The unauthorised brick retaining wall is of modest height and property is not subject to an overland flow path. A Geotechnical Engineer is not considered warranted as it is certified by a Professional Engineer.



4 62 DARVALL ROAD, EASTWOOD - LOT 11 DP 6247. BUILDING CERTIFICATE APPLICATION BCT2014/18 FOR UNAUTHORISED TIMBER RETAINING WALL

Report prepared by: Building Surveyor - Compliance

Report approved by: Manager - Environment, Health & Building; Group Manager -

Environment & Planning

Report dated: 17/06/2014 **File Number:** BCT2014/18 - BP14/784

Report Summary

Street Address: 62 Darvall Road EASTWOOD

Applicant: Thu Van

Owner: Thu Van

Date Lodged: 24 April 2014

This report considers a Building Certificate Application BCT2014/18 for unauthorised building works at 62 Darvall Road, Eastwood. The unauthorised building work comprises a timber log retaining wall, located on the uphill side adjacent the northern boundary and extending approx. 33.60m into the site followed by a Sandstone Retaining Wall for approx. 9.0m. The height of the timber log retaining wall is between 1.0m to 1.2m and the sandstone retaining wall height is between 0.6m and 1.0m.

An existing timber retaining wall adjacent to the northern boundary was removed to make way for the unauthorised retaining wall.

Subsoil drainage has been provided behind the wall as shown on the plans prepared by Nasseri Associates -*Civil Hydraulic & Structural Engineers* (**ATTACHMENT 4**). Provision has been made for the agricultural drainage line to be connected to the main stormwater drainage line.

A Certificate of Structural Adequacy was also submitted from a Professional Engineer for the unauthorised wall (ATTACHMENT 3) certifying the structural adequacy of the timber log retaining wall, however the construction of the subject wall is not in accordance with the Australian Standard AS 1604.1, in that the timber support posts are required to be H5 treated timber in lieu of H4 as installed. A survey plan prepared by a Registered Surveyor was also submitted showing the wall as constructed within the property known as 62 Darvall Road, Eastwood – LOT 11 D.P. 6247

The application was notified and one (1) submission was received from a neighbouring property, raising several issues

The issues raised and together with Council's comments are detailed in the report.

The application has been recommended for deferment as it is considered:



- 1. The change in the natural topography between the subject site and 60 Darvall Road requires a retaining wall to support and stabilise the grounds between the two (2) properties.
- 2. The unauthorised Timber Log Retaining Wall does not detrimentally affect the amenity of the area
- 3. The unauthorised Timber Log Retaining Wall adjacent to the northern boundary can be modified and upgraded with the installation of additional H5 posts in accordance with the requirements of the standards and certified by a Professional Engineer from Nasseri Associates Civil Hydraulic & Structural Engineers as being structurally adequate prior to the issue of the building certificate. A separate order will be issued under section 121B of the Environmental Planning and Assessment Act 1979 upon the owner to ensure that this happens.
- 4. The agricultural drainage line located immediately behind the wall is in accordance with the plans prepared by Nasseri & Associates and will be connected to a suitable stormwater disposal system. In the meantime, the agricultural drain discharges onto the construction site.
- 5. Once the unauthorised retaining wall is brought into conformity with the Australian Standard, the building certificate can be issued.

Reason for Referral to Planning and Environment Committee:

Called up to the Planning & Environment Committee by Councillor Laxale

Public Submissions:

One submission was received objecting to the unauthorised building works. The submission is **CIRCULATED UNDER SEPARATE COVER – CONFIDENTIAL** (Attachment 2).

Issues that have been raised together with Council's comments are detailed in the report.

Value of works:

Not shown on the application.

The application and associated plans and notification details are **CIRCULATED UNDER SEPARATE COVER – CONFIDENTIAL** (Attachment 1).



RECOMMENDATION:

- (a) That Building Certificate Application No. BCT2014/18 for the unauthorised Timber Log Retaining Wall constructed adjacent to the northern boundary on the property known as at 62 Darvall Road Eastwood, being LOT 11 DP 6247, be deferred pending the unauthorised retaining wall which is considered to be structurally deficient in its present form being brought into conformity with the AS 1604.1;
- (b) That Notice and Orders be served under section 121B of the Environmental Planning and Assessment Act 1979 requiring the unauthorised timber retaining wall be brought into conformity with AS 1604.1
- (c) That subject to (b) and compliance with any Order to bring the unauthorised timber retaining wall into conformity with the Australian Standards that a building certificate be issued.
- (d) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- Darvall Road 62, Eastwood. Building Certificate Application (Section 149A) for Retaining Wall Construction – CIRCULATED UNDER SEPARATE COVER – CONFIDENTIAL
- 2 Darvall Road 62, Eastwood. Attached Survey Report, Structural certificate, NASSERO Associates Drawing and site photos. Grace M Carlo-Stella – CIRCULATED UNDER SEPARATE COVER – CONFIDENTIAL
- 3 Latest engineers certificate dated 1 April 2014 (REF #2971)
- 4 Agricultural drainage layout plan and connection details

Report Prepared By:

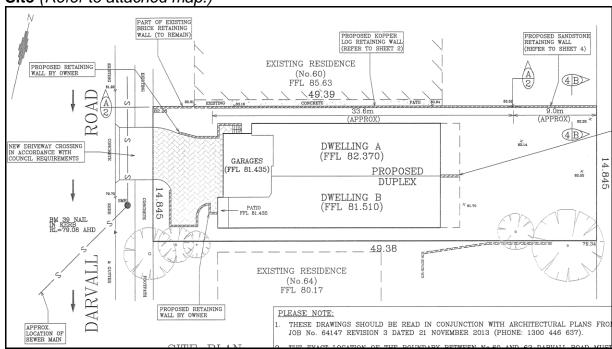
Peter Lupevski
Building Surveyor - Compliance

Report Approved By:

Sam Cappelli Manager - Environment, Health & Building

Dominic Johnson
Group Manager - Environment & Planning

Site (Refer to attached map.)



The plan showing the site and the subject Timber Log Retaining Wall located adjacent to the Northern boundary

Address 62 Darvall Road EASTWOOD

Site Area Area: 733.05 m2 (approx.)

Frontage: 14.845 metres

Depth: 49.38 metres

Topography and Vegetation:

The topography in this location has a very steep slope from north to south, however this site (in the vicinity of the existing house and rear yard) is relatively flat, likely to be the result of previous filling.

Existing Buildings:

The existing single storey dwelling house was demolished under separate approval and the site is currently being prepared for the construction of a two storey brick and tile Dual Occupancy approved under Local Development Application LDA 2011/380.



Relevant Provisions of Environmental Planning Instruments etc:

Environmental Planning & Assessment Act - 1979 (Act)- Section 149(A) -

The "Act" that allows a person to lodge a Building Certificate Application with the Consent Authority (Council) for determination in relation to unauthorised building works.

The "Act" allows Council 3 (three) options – Approve, Defer, or Refuse.

The application of the Building Certificate for the unauthorised wall is a non-action activity where the owner/s of the property seeks Council's approval pursuant to s121 of the Environmental Planning and Assessment Act – 1979 to not take action for a period of seven (7) years.

Given the nature and extent of breaches and taking into consideration the objections raised from neighbouring property, the application has been recommended for deferment until the unauthorised wall is brought into conformity with the minimum Australian Standards.

Building Code of Australia (BCA).

The BCA is a uniform set of technical provisions for the design and construction of buildings and other structures throughout Australia. The BCA is the minimum allowable construction standard for all building classifications.

The classification of a building or part of a building is determined by the purpose for which it is designed, constructed or adapted to be used. On this occasion the structure (retaining walls) is considered to be of a Class 10(b)

Class 10(b) – a structure being –

- (i) a fence or
- (ii) mast or
- (iii)antenna or

(iv)retaining or free standing wall or

(v) swimming pool or the like

Ryde Local Environmental Plan (RLEP)

Ryde Local Environmental Plan ("RLEP") 2010 is a City-wide planning instrument that commenced on 30 June 2010. Under this Plan, the property is zoned R2 Low Density Residential. Retaining Walls are permitted in this zone subject to Council's consent.



Relevant SEPPs

State Environmental; Planning Policy – (Exempt and Complying Development Codes) 2008 – The unauthorised walls as built fails to meet the requirements of the above SEPP and therefore not applicable for this type of construction.

The property owner/s should have lodged a formal Development Application for the approval of the building works, followed by obtaining a Construction Certificate by Council or an Accredited Certifier prior to commencement of work

Any draft LEPs

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.

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.

3. Councillor Representations:

Name of Councillor: Councillor Laxale

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

Date: 15 July 2014.

4. Political Donations or Gifts:

None disclosed in applicant's Building Certificate Application or in any submission received.

5. Unauthorised Building Works:

The unauthorised building works consists of a timber log retaining wall constructed adjacent to the northern boundary and located wholly within the property known as LOT 11 D.P. 6247 62 Darvall Road Eastwood with a varying setback ranging from 100mm at the commencement of the wall to being on the boundary at the 33.60m mark as depicted on the survey plan prepared by registered surveyor from G.K Wilson and Associates dated 30 April 2014.

The current Timber Log Retaining Wall is supported on bored piers that have been inspected and certified by a Professional Engineer from Nasseri & Associates. However the construction has not met the minimum standards in relation to Australian timber preservation standards AS 1604.1. Council will require that the existing wall be upgraded to meet the above standards before any building certificate can be issued.



The work also consisted of placing an agricultural drainage line located immediately behind the wall and backfilled with a granular material as per the engineering specifications.



Photo showing the Timber Log Retaining Wall

6. Background

History:

26 March 2013	Local Development Application LDA 2011/380 was approved
	Council and Consent was granted for a Two storey brick and tile
	Dual Occupancy at the subject premises.

14 April 2014 Complaint received that a retaining wall is under construction at the subject premises. The wall extends from 1.0m to 1.8m in height and is without council consent.

Complainant was concerned with level of cut and risk of damage

to his adjoining house.

15 April 2014 Council visited the site and issued a STOP work notice,



24 April 2014	Building Certificate Application (BCT2014/018) was received on 24 April 2014 and the application was notified to adjoining affected property owners from 28 April 2014 till 12 May 2014.
12 May 2014	Objection to the Building Certificate Application (BCT2014/8) was received from the adjoining property owner (60 Darvall Road Eastwood) outlining number of concerns.
19 June 2014	Discussions were held with the engineer regarding deficiencies with structural adequacy and the engineer advised that the

owner will be instructed on rectification works to bring the

Consultation / Notification

Building Certificate Application (BCT2014/18) was received on 24 April 2014

unauthorised works into conformity.

The Building Certificate Application (BCT2014/18) was notified from 28 April 2014 till 12 May 2014. The most affected Property is 60 Darvall Road Eastwood. The owner/s of both properties 60 and 62 were consulted on several occasions on information concerning the unauthorised work related to the Building Certificate Application.

7. Submission

One (1) submission was received and several issues were raised. Issues have been grouped and each group has been addressed as follows:

Issue 1:

The owners would have been well aware of their requirement to submit the appropriate application to council and gain the necessary approval, prior to the commencement of any work relating to the construction of the subject retaining wall.

Comment:

The Consent for the Local Development Application LDA 2011/380 has no specific conditions relating issues of the site in particular relating to a retaining wall being constructed along the northern boundary with the exception of Condition # 4 that states:

Condition 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.

In any event, it is agreed that the unauthorised retaining wall required Council's consent beforehand.

Issue 2:

The survey3 report ref: 40307, dated 31st March, 2014 submitted with the subject application has made no mention as the Slope Instability Risk Zone M1, as per Coffey Partners International Pty Ltd Report No:S9378/1-AC, May 1991.

Comment:

Certificate of Structural Adequacy (ref. D2971) dated 1 April 2014 has been issued by a Professional Engineer certifying the timber log retaining wall and stating that "the site is within the a zone of moderate risk (M1) and there is no special requirements for any special measures to be incorporated in the proposed new development in regards to slope instability risk"

However as mentioned earlier in this report, there are other structural inadequacies that require attention before an application for a building certificate can be issued.

Issue 3:

The engineers certificate from NASSER ASSOCIATES have made no reference to the M1zoning and that this influence has not been taken into account in the design of their retaining wall footings and materials as well as the required height of the wall in reference to the size of the cut and slope of the site.

Comment:

This is not the case.

Particular mention was made by the Engineer certifying the timber log retaining wall and stating that "the site is within the a zone of moderate risk (M1) and there is no special requirements for any special measures to be incorporated in the proposed new development in regards to slope instability risk"

Issue 4:

An up to date geotechnical report, should have been obtained prior to the design of the retaining wall or at least, supplied with the subject application.



Comment

The application has relied on a Certificate of Structural Adequacy (ref.D2971 dated 1 April 2014) and an updated geotechnical report is not considered necessary.

Issue 5:

The objector questions whether all relevant aspects of structural adequacy were properly considered by the Engineer ie Hazard Class Rating for Posts & Planking, Fixing Details, conformity with plans, staging anomalies, height of walls to slope, the date of the drawing (21st March. 2014) preceded the survey report dated: 31st March, 2014.

Comment:

The structural certification is clear and unambiguous and the survey plan (ref 40307) prepared by a registered surveyor dated 30 April 2014 shows that the retaining walls constructed adjacent to the northern boundary are within the subject property.

A site inspection shows that the posts are H4 and not in accordance with AS 1604.1 that stated timber logs used for a retaining wall that are in-ground should be H5.

Further works will be required to be carried out to upgrade the posts from H4 to H5 to comply with the As 1604.1. The owner and engineer have been advised of this and measures are being taken to bring the substandard construction into conformity.

The Engineer will be required to certify the structural adequacy of the wall upon the works being completed and prior to the issue of the building certificate.

Issue 6:

A majority of the previously existing retaining wall was of brick construction, with a large section consisting of reinforced concrete which was removed and replaced with a treated pine retaining wall, has a shorter life span as compared to brick, stone or concrete retaining walls.

Comment:

The material of construction is considered suitable for a retaining wall and the decision on material type is a matter between the owners.

ATTACHMENT 3

NASSERI ASSOCIATES

CIVIL, HYDRAULIC & STRUCTURAL ENGINEERING Suite 51, No. 14 Narabang Way, Belrose NSW 2085 P.O. Box 714, Balgowlah, NSW. 2093 Phone: (02) 9986 3875 Fax: (02) 9986 3876

Mobile: 0410 308 064

YOUR REFERENCE Mr Chua & Mrs Diep OUR REFERENCE D2971

DATE 1 April 2014

To Whom It May Concern,

REVISED STRUCTURAL CERTIFICATE

(Footing for Retaining Wall)

RE:- Lot 11 (H/No. 62) Darvall Road, Eastwood

This is to certify that the undersigned has inspected the footing for the log and sandstone retaining walls on northern boundary only for the above- mentioned property on 1 April 2014.

All works including the location and size of footings for log retaining wall (500 diameter bore holes and 1.2m deep footings) and footing for the sandstone retaining wall (4-L11 TM top and bottom) have been completed in accordance with the engineer's drawing from Nasseri Associates job no. D2971 dated 21 March 2014 and Ryde City Council's requirements.

Refer also to Geotechnical Report from Davies Geotechnical dated 11 August 2006 and Geotechnical Review dated 4 May 2011. According to the report the site is within a zone of moderate risk (M1) and there is no special requirements for any special measures to be incorporated in the proposed new development in regards to slope instability risk.

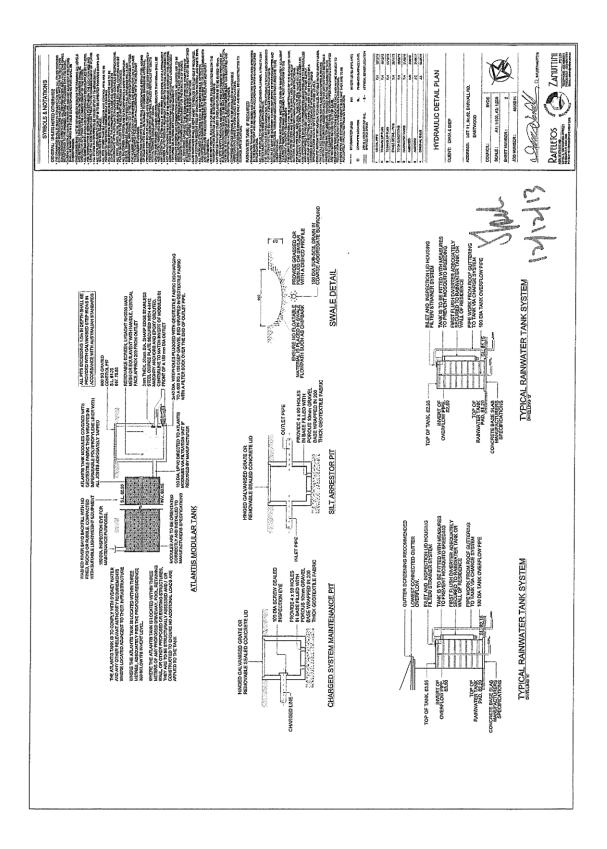
If you require further information in regard to the above issue, please contact us.

Yours faithfully,

J. NASSERI BE, FIEAust. NPER, CPEng.



ATTACHMENT 4





ATTACHMENT 4

