



7 AUGUST 2014

---

**NOTICE OF MEETING**

---

You are advised of the following meeting:

**TUESDAY 19 AUGUST 2014.**

**Planning and Environment Committee Meeting No. 8/14**

**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، Devlin 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 131 450 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՝ *Բայր Սիվիք Սենթրը, Տելվին փողոց, Բայր, խոսակցելու* Բաղաքապետարանի պաշտօնետաներուն հետ, որոնք թարգմանիչ մը կրնան կարգադրել: Կամ, կրնաք հեռաձայնել Թարգմանութեան Ապասարկութեան՝ 131 450, եւ խնդրել որ թարգմանիչ մը Բաղաքապետարանին հետ կապ հաստատէ ձեզի համար: Բաղաքապետարի հեռաձայնի թիւն է՝ 9952 8222: Բաղաքապետարանի 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 نمی فهمید لطفاً به مرکز شهرداری رايد در Devlin Street مراجعه کنید. کارمندان شهرداری ترتیب استفاده از يك مترجم را براي شما خواهند داد. یا میتوانید به سرویس ترجمه کتبی و شفاهی شماره 131 450 تلفن بزنیید و بخواهید که يك مترجم از جانب شما با شهرداری تماس بگیرد. شماره تلفن شهرداری 9952 8222 و ساعات کار از 8.30 صبح تا 4.30 بعد از ظهر می باشد.

## 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 서비스를 연결해 드릴 것입니다. 아니면 131 450번으로 통번역 서비스(TIS)에 전화하셔서 통역사에게 대신 카운슬에 연락해 주도록 부탁하셔도 됩니다. 카운슬 전화 번호는 9952 8222번입니다. 카운슬의 업무 시간은 오전 8:30부터 오후 4:30, 월요일에서 금요일까지입니다.

**Meeting Date:** Tuesday 19 August 2014  
**Location:** Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde  
**Time:** 5.00pm

**NOTICE OF BUSINESS**

<b>Item</b>		<b>Page</b>
1	CONFIRMATION OF MINUTES - Meeting held on 5 August 2014.....	1
2	157 QUARRY ROAD, RYDE. LOT 9 DP 20764. Local Development Application for new dual occupancy (attached) LDA2014/0128 .....	5
3	62 CONSTITUTION ROAD, MEADOWBANK - LOT C IN DP 27200 Development Application for the construction of a weather shelter structure over the public domain area (in front of 62 Constitution Road). LDA2014/0135 .....	42

## **1 CONFIRMATION OF MINUTES - Meeting held on 5 August 2014**

---

**Report prepared by:** Meeting Support Coordinator  
**File No.:** CLM/14/1/3/2 - BP14/897

---

### **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 7/14, held on Tuesday 5 August 2014, be confirmed.

### **ATTACHMENTS**

- 1 Minutes - Planning and Environment Committee – 5 August 2014

**ITEM 1 (continued)**

**ATTACHMENT 1**

Planning and Environment Committee  
**MINUTES OF MEETING NO. 7/14**

**Meeting Date:** Tuesday 5 August 2014

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

**Time:** 5.00pm

**Councillors Present:** Councillors Etmekdjian (Chairperson), Chung, Laxale, Pickering and Yedelian OAM.

**Apologies:** Nil.

**Absent:** Councillor Salvestro-Martin.

**Staff Present:** Group Manager – Environment and Planning, Service Unit Manager – Assessment, Service Unit Manager – Environmental Health and Building, Team Leader – Assessment, Planning Consultant – Creative Planning Solutions, Senior Development Engineer, Business Support Coordinator – Environment and Planning and Meeting Support Coordinator.

**DISCLOSURES OF INTEREST**

There were no disclosures of interest.

**1 CONFIRMATION OF MINUTES - Meeting held on 15 July 2014**

**RESOLUTION:** (Moved by Councillors Yedelian OAM and Chung)

That the Minutes of the Planning and Environment Committee 6/14, held on Tuesday 15 July 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.

**2 288 ROWE STREET, EASTWOOD - LOT 27 DP 4826 Development  
Application for erection of a new dual occupancy (attached).  
LDA2014/0171.**

Note: Mr Andre Whebe and Mr Simon Naked (objectors) and Ms Nicole Porter (Architect for the applicant) addressed the meeting in relation to this Item.

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

Note: A Memorandum from the Group Manager – Environment and Planning dated 5 August 2014 was tabled in relation to this Item and a copy is ON FILE.

**RESOLUTION:** (Moved by Councillors Yedelian OAM and Laxale)

- (a) That Local Development Application No. LDA2014/0171 at 288 Rowe Street, Eastwood being LOT 27 DP 4826 be approved subject to the **ATTACHED** Deferred Commencement conditions (Attachment 1) and an amendment to Condition 19 to read as follows:-

**19. 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>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$4,227.88
Open Space & Recreation Facilities	\$10,408.16
Civic & Urban Improvements	\$3,539.90
Roads & Traffic Management Facilities	\$482.77
Cycleways	\$301.62
Stormwater Management Facilities	\$958.35
Plan Administration	\$81.32
<b>The total contribution is</b>	<b>\$20,000.00</b>

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

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

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

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

**Record of Voting:**

For the Motion: Unanimous

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

**ITEM 1 (continued)**

**ATTACHMENT 1**

The meeting closed at 5.25pm.

CONFIRMED THIS 19TH DAY OF AUGUST 2014.

Chairperson

---

**2 157 QUARRY ROAD, RYDE. LOT 9 DP 20764. Local Development Application for new dual occupancy (attached) LDA2014/0128.**

---

**Report prepared by:** Assessment Officer - Town Planner**Report approved by:** Manager Assessment; Group Manager - Environment & Planning**Report dated:** 28/07/2014**File Number:** grp/09/5/6/2 - BP14/946

---

**1. Report Summary****Applicant: S Morgan.****Owner: S Morgan.****Date lodged: 7 April 2014**

This report considers a development application (DA) for the erection of a two storey attached dual occupancy.

The DA was notified to neighbours, and a total of eight (8) submissions were received by four (4) adjoining residents (of a multi-dwelling housing development at No 155 Quarry Road). This number includes multiple copies of the same submissions and sent separately to Councillors. The issues of concern raised in these submissions related to:

- Linear separation – existing villa development located adjacent to proposal
- Visual privacy – overlooking and loss of overall privacy from balconies and windows
- Solar access - overshadowing of windows and courtyards
- Building height (no of storeys) – concern is raised in the submissions that the dual occupancy is three storeys
- Acoustic privacy – location of garages and air conditioning units
- Reduced property value – solar access and privacy impacts of proposal will result in a loss in property value

The proposal has been assessed against the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979, the Ryde LEP 2010, and Ryde DCP 2010. The proposal complies with the maximum building height and floor space for residential properties in an R2 Low Density zoning. In regard to concerns that the proposal is three (3) storeys high, the body of the report will explain that the building does not exceed two storeys at any point but the building follows the slope of the site resulting in an appearance of three storeys when viewed from the street.

There are some minor non - compliances with Ryde DCP 2010 regarding topography and excavation (amount of cut), linear separation, front setback (ie outside wall of garage requirement) and garage width. However these are considered to be justifiable given a merit based assessment.



## ITEM 2 (continued)

It is generally considered that the proposal is acceptable when assessed using the objectives and controls of Ryde's DCP 2010 and is generally consistent with modern dual occupancy developments throughout the City of Ryde. It is therefore recommended that the DA be approved.

**Reason for Referral to Planning and Environment Committee:** Requested by the Mayor Councillor Maggio and Councillor Pendleton.

Public Submissions: Eight (8) submissions were received from four (4) adjoining residents, objecting to the development. Three (3) submissions were received to the original notification and a further five (5) submissions were received to the amended plans.

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

Value of works \$650,000.

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

## RECOMMENDATION:

- (a) That Local Development Application No. LDA2014/128 at 157 Quarry Road, Ryde 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 Map
- 3 A4 Plans
- 4 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**Michael Tully**  
**Assessment Officer - Town Planner**

Report Approved By:

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

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

**ITEM 2 (continued)**

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

**Address** : 157 Quarry Road, Ryde.

**Site Area** : 849.8m<sup>2</sup> (DP20764).  
Frontage: 15.915m.  
Depth: 52 – 53.015m.

**Topography and Vegetation** : The site slopes towards the street and contains a number of smaller trees.

**Existing Buildings** : Existing dwelling to be demolished.

**Planning Controls**  
**Zoning** : R2 Low Density Residential under Ryde LEP 2010.  
**Other** : Ryde DCP 2010.  
BASIX.



## **ITEM 2 (continued)**

### **3. Councillor Representations**

Name of Councillor: the Mayor Councillor Maggio.

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

Date: 12 May 2014.

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

On behalf of applicant or objectors? Objector at villa no. 1/155 Quarry Road.

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

\*\*\*

Name of Councillor: Councillor Pendleton.

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

Date: 7 July 2014.

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

On behalf of applicant or objectors? Objector at villa no. 2/155 Quarry Road.

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

### **4. Political Donations or Gifts**

Any political donations or gifts disclosed? No.

### **5. Proposal**

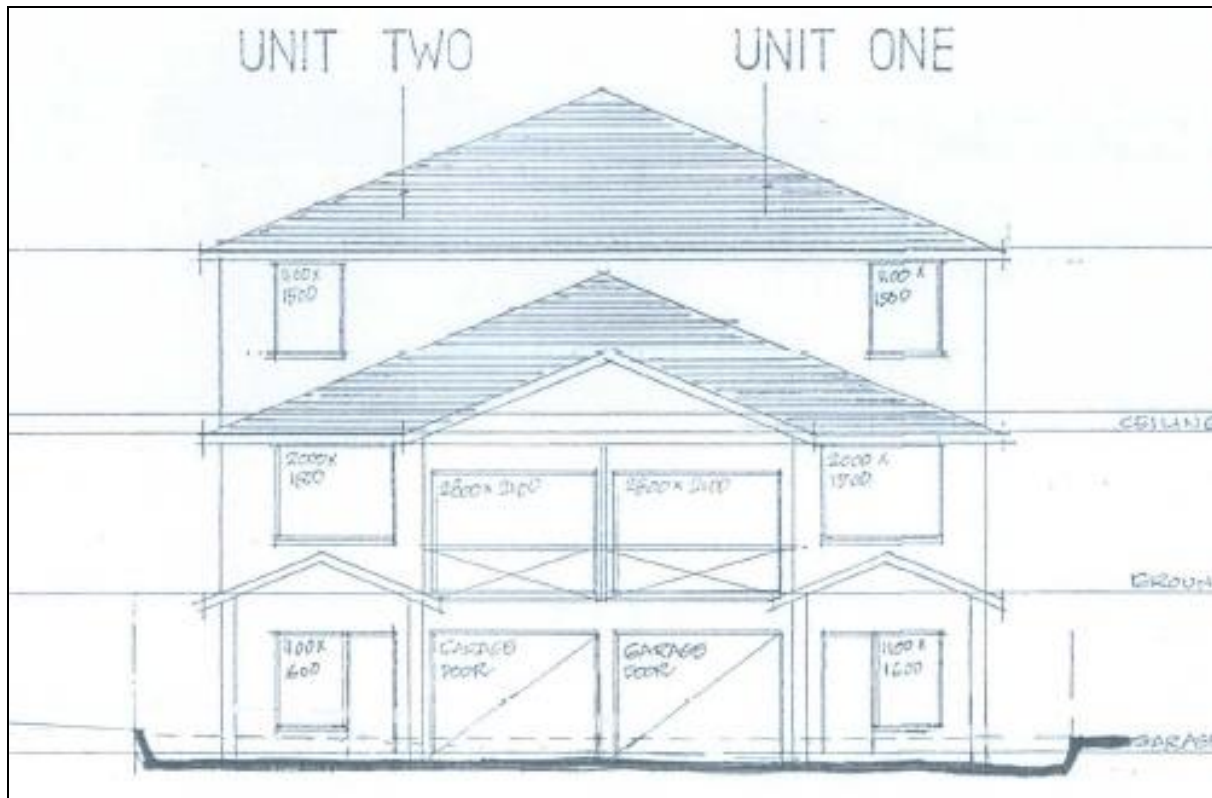
The development proposes erection of a new 2-storey attached dual occupancy. Externally, each dwelling has a rear outdoor deck (ground floor) with steps up to an outdoor area consisting of a turfed area with perimeter landscaping.

The front of the dwellings include covered entrance porticos, open turf and garden area.

Vehicular entry is proposed to be from Quarry Road.

## ITEM 2 (continued)

The following is the front (south) elevation of the proposal, viewed from Quarry Road.



## 6. Background

The following is a brief overview of the development history relating to the proposed attached dual occupancy to be constructed on the subject site:

- DA was lodged on 7 April 2014.
- Following the notification period three (3) submissions were received from the neighbouring villa development at 155 Quarry Road regarding linear separation, privacy (visual and acoustic), solar access (overshadowing of courtyards and windows) and building height.
- Additional information was requested by Council on 8 May 2014 in relation to elevated floor levels, overall building height, wall plate height, privacy and overshadowing.
- Meeting held with applicant on 22 May 2014 to discuss additional information requested by Council on 8 May 2014.
- Amended plans were received by Council on 4 June 2014 addressing the additional information requested by Council 8 May 2014.

**ITEM 2 (continued)**

- Objector at villa no. 1/155 Quarry Road advised via email on 5 June 2014 of the likely date of the Council meeting which the application will be determined.
- Following the re-notification of the amended plans received by Council on 4 June 2014, five (5) further submissions were received objecting to the proposed development from the villas at no. 1/155 and 2/155 Quarry Road. The concerns raised were identical to the issues raised during the initial notification period.
- Amended plans were received by Council on 22 July 2014 which provided greater detail of the retaining walls within the rear setback and reduction in depth of the rear ground floor deck. This detail was not clearly highlighted on the original plans.

**7. Submissions**

The original proposal was notified to adjoining property owners in accordance with Development Control Plan 2010 – Part 2.1, Notification of Development Applications for a period from 9 April to 24 April 2014.

Amended plans were received on 5 June 2014, which were then re-notified to neighbours for a period from 10 to 26 June 2014.

In response to the **original proposal**, three (3) submissions were received from the neighbouring villa development as shown on the air photograph earlier in this report. When the amended plans were received and re-notified to neighbours, a further five (5) submissions were received. This includes multiple copies of the same submissions forwarded via Councillors for assessment as part of the development application. The issues of concern are summarised and discussed as follows:

1. **Linear separation.** *The proposal does not comply with the Linear Separation requirements of DCP 2010 as there is an existing villa development at No 155 Quarry Road and the subject site is within twice the frontage of that site (ie immediately adjoining).*

Comment: As there is an existing multi-dwelling housing development immediately adjoining the site at 155 Quarry Road, this development does not comply with the linear separation controls.

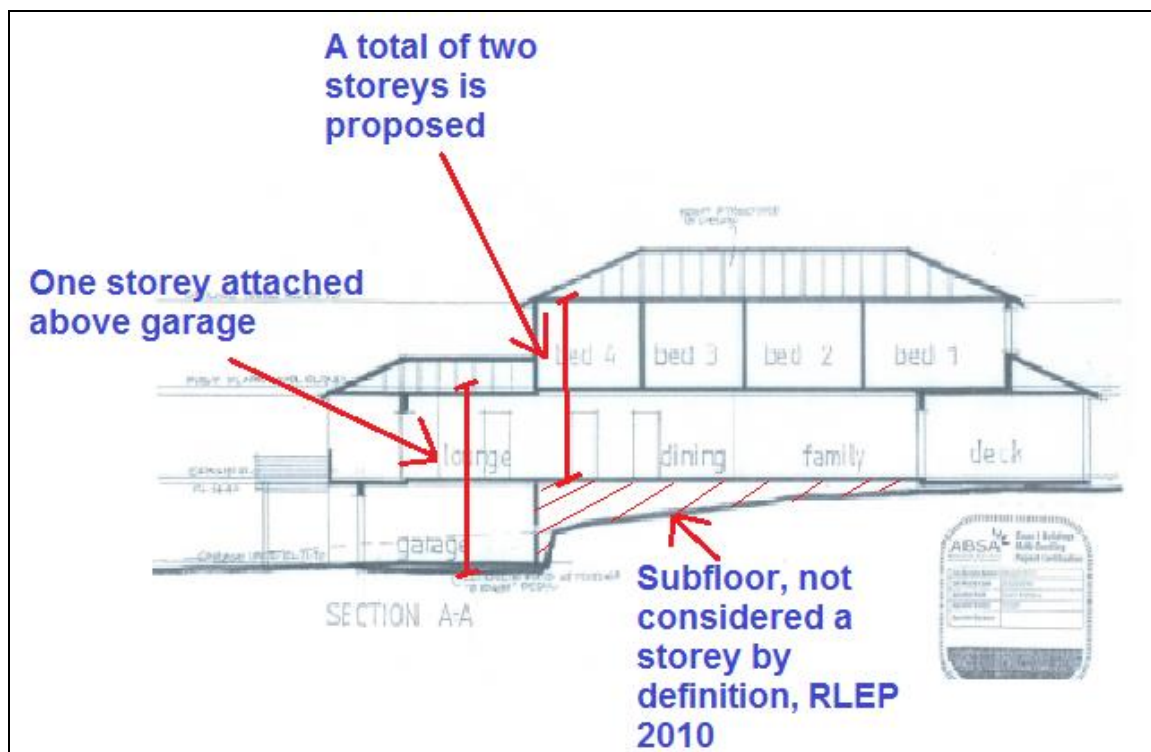
Although the linear separation controls remain in Council's current DCP (Ryde DCP 2010), in March 2013 Council resolved to delete these controls and replace with an allotment width control for villa and dual occupancy developments when Draft LEP 2013 is gazetted. At the time of this report, this Draft 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 comply with these controls, no planning

**ITEM 2 (continued)**

objections are raised to this development given Council's previous resolution to delete the linear separation controls when Draft LEP 2013 is gazetted.

2. **Building height.** Concern is raised that that the proposed building is three (3) storeys in height and exceeds the maximum number of storeys stipulated in part 2.7.1 Ryde DCP 2010, which is a maximum of two stories for dual occupancies.

Comment: The proposed building is a maximum of two storeys in height and only one storey is proposed above the garage. See section A-A below:



Even though the dwelling appears as three storeys when viewed from the front, the section above demonstrates that at no point throughout the dwelling is there a three storey element. A storey is defined in Ryde LEP 2010 as:

**storey** means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic.

The area beneath the ground floor dining/lounge room (red dashed area) is not classified as storey by definition, therefore the proposed dual occupancy is a maximum of two storeys throughout and complies with the DCP control for number of storeys.

## ITEM 2 (continued)

Further, the proposed dual occupancy is a maximum of 8.8 - 9m in height which complies with RLEP 2010 which permits a maximum height of 9.5m.

3. ***Privacy and Overlooking Impacts.*** *Concerns are raised that the proposed development will reduce the level of privacy to the adjoining villa development at No 155 Quarry Road. In particular, concerns are raised that the east and north-facing windows will enable direct overlooking of the courtyard areas and internal living areas (dining rooms, kitchen and bedrooms) of the adjoining villas at No 155 Quarry Road to the east. Concerns are also raised regarding overlooking impacts from the proposed balconies at the rear (1<sup>st</sup> floor) and front (ground floor) of the development.*

Comment: The east-facing windows of the development relate to unit 1 of the development – and is shown in the east elevation drawing below. The DA plans show that the upper storey of the development (first floor level) consists only of (4) bedrooms facing towards the objectors' property. These rooms are used infrequently and predominantly at night and they are not considered to be primary living areas of the dual occupancy unit. As noted in Ryde DCP 2010, overlooking from bedroom windows is less of a concern than overlooking from the windows of other habitable rooms, because of the nature of use of these rooms.

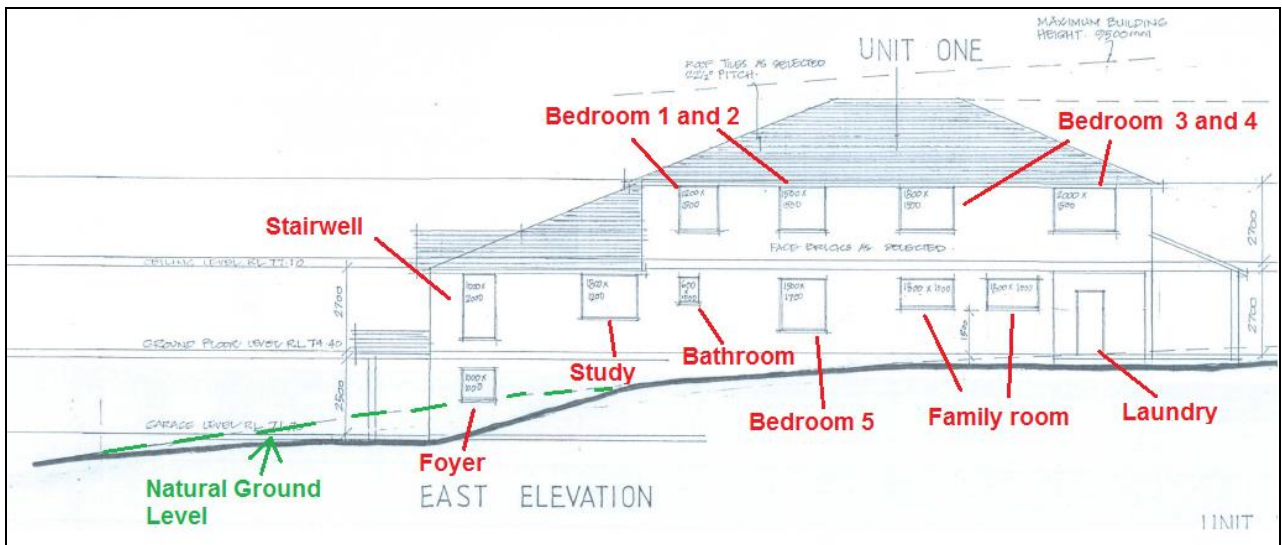
The ground floor of unit 1 has a range of different types of rooms facing the objector's property. As shown on the east elevation drawing below, the rear of the development on the eastern side contains a family room which is to be provided with two "highlight" (1.5m sill height) windows because this room is one of the main living rooms of the development. Although the family room (of both units) is also to be provided with a sliding door window to the northern elevation, direct overlooking of the adjoining villas will be adequately resolved via boundary fencing given that the floor levels of this room are proposed to be at (or slightly below) natural ground level.

The ground floor level also contains bedroom 5 and a WC, and privacy impacts from these rooms are expected to be minimal given the nature of the room and also because the WC will be conditioned to be provided with frosted glass to minimise overlooking. See condition 1(b). Other windows at the ground floor are to the study and to a void area (over a stairwell leading to the lower level foyer). The windows to the void area over the stairwell and lower level foyer are not expected to cause adverse privacy impacts because these are thoroughfares and will be used infrequently.

The ground floor study room could create potential overlooking issues. Given the finished floor level of this room will be substantially higher than existing ground level, it will be possible to overlook the neighbouring properties from this room. It is therefore recommended that this room be provided with highlight windows similar to the family room to prevent possible overlooking of the neighbouring properties. See condition 1(a).

**ITEM 2 (continued)**

Concerns regarding potential privacy impacts from the rear first floor balconies have been addressed via the deletion of these balconies from the amended plans (as noted in the background section of this report). It is noted that the amended plans have retained a small balcony for each unit at the front of the building, however these balconies are small and recessed within the building and enclosed by solid full-height walls to prevent overlooking of any neighbouring property. Also, as they are located at the front, they will allow casual surveillance of the street as well as enhancing the external appearance of the development when viewed from the street.



- Tree removal and privacy.** The northern section of villa 4 is currently afforded privacy through a 8-10 foot hedge, however the plans do not indicate whether this hedge will be retained or removed.

Comment: A site inspection appears to indicate that significant foliage is located within the rear of 1 Arthur Street, which backs onto the rear boundary of villa 4/155 Quarry Road. The proposed building and associated works will not impact the health or require the removal of these trees. Therefore, the existing privacy provided by this hedge/foliage will be maintained.

- Property values.** The impact of the lack of privacy and excessive overshadowing will cause a loss in property value.

Comment: The applicant has a right, under the provisions of the Environmental Planning and Assessment Act, 1979, to apply for developments that achieve the aim of orderly and economic use and development of land. Concerns about possible decreases in surrounding property values do not constitute a reasonable ground for refusal. This position has been reinforced by planning and development decisions in the Land and Environment Court.



**ITEM 2 (continued)**

6. **Overshadowing** – concerns are raised over the proposed development overshadowing the neighbouring villas at 155 Quarry Road and reducing the amount of sunlight to the courtyard and roof top as well as to the internal living areas at the adjoining villas. Specific concerns have been raised that the overshadowing will lead to increased dampness and mould, which will create/worsen health issues such as asthma.

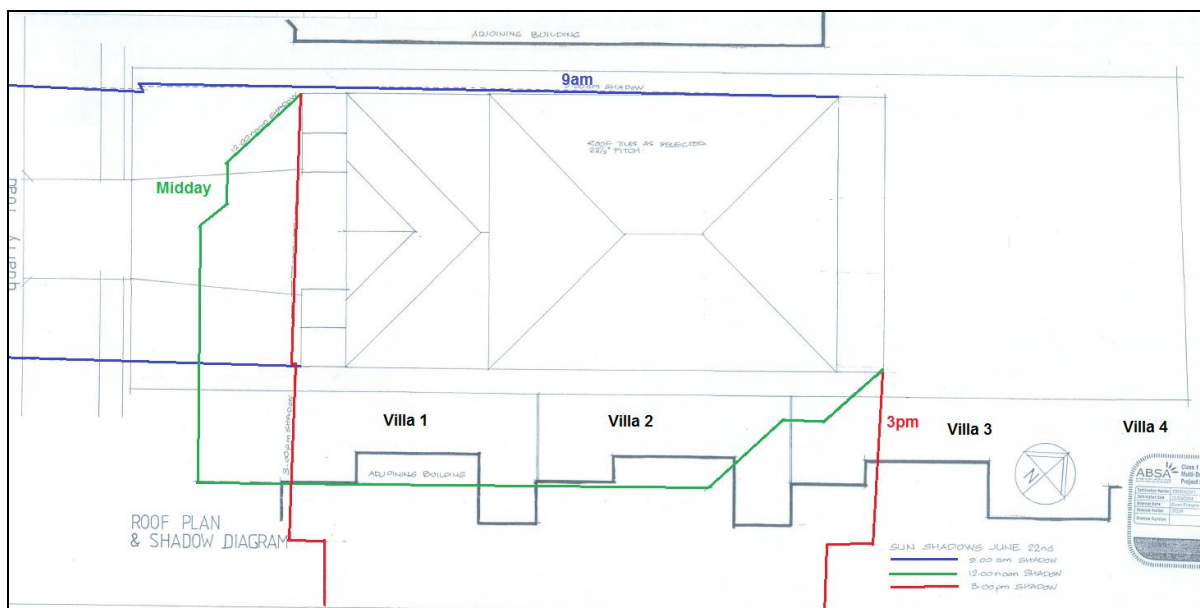
Comment: Ryde DCP 2010 contains the following requirements in terms of overshadowing of neighbouring properties:

*For neighbouring properties ensure:*

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

The applicant submitted amended plans reducing the overall height of the development by 600mm to maximum height of 9m and deleted the first floor rear balconies, reducing the extent of the overshadowing.

As demonstrated in the shadow diagrams submitted as part of the development application (see below), the proposed development will have some overshadowing impacts on the neighbouring villas at No.155 Quarry Road.



**ITEM 2 (continued)**

Villas 3 and 4 will continue to receive sunlight to at least 50% of the principal area of ground level private open space, ie the courtyards for more than two hours between 9am and 3pm on June 21, complying with Ryde DCP 2010.

Villa 1 and 2 will be subject to overshadowing between midday and 3pm on the 21<sup>st</sup> June. However, between 9am and 11am approximately, the principal area of ground level private open space, ie the courtyards of the villas will not be overshadowed and should achieve the minimum two hours sunlight as prescribed in the Ryde DCP 2010.

Although it is acknowledged that the increased height of the proposed dual occupancy over that of the existing single storey dwelling will increase the level of overshadowing, the existing boundary fence (between 155 and 157 Quarry Road) casts a significant shadow over the courtyards due to the difference in levels (as shown in the photos below).



**Photo 1 (above) was taken from within the subject site, looking towards the villa development at no. 155 Quarry Road.**

**ITEM 2 (continued)**



**Photo 2 (above) and photo 3 (below) were taken from the subject site (leaning over the fence) of the courtyard of villa no. 1/155 Quarry Road.**



The boundary fence height relative to the gutter height of the villas would mean a significant portion of sunlight would be prevented from entering the courtyards.

North-facing living areas of villas 3 and 4 will continue to receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their surface, complying with the solar access controls within DCP 2010. However, the north facing living areas of villas 1 and 2 will be overshadowed by the proposed development and will receive less than 3 hours sunlight.

## ITEM 2 (continued)

The overshadowing of villas 1 and 2 is considered acceptable for the following reasons:

- The orientation of the allotment would mean that any two storey dwelling replacing the single storey dwelling on site would cast an increased shadow over villas 1 and 2
- Villas 1 and 2 are heavily cut into the slope of the land and as such are significantly lower than the subject site. When combined with the height of the boundary fence, any overshadowing which may occur is amplified because of this.
- The design of the proposed development has been minimised overshadowing where possible. A further reduction in height or increased setbacks of the proposed development would not significantly increase sunlight to the north facing windows. The proposed dual occupancy development has a maximum height of 9m and minimum side setbacks of 1.5m minimising the extent of overshadowing.

Accordingly, it is considered that the overshadowing impacts of the proposal are acceptable.

7. **Location of air-conditioning units** - *The proposed development does not indicate the location of future air conditioning systems, therefore it is requested they be located on the eastern side of the development.*

Comment: Council cannot restrict or specify the location of future air conditioning units, however, a condition will be imposed to ensure if air conditioners are installed, they must not emit noise that exceeds 5dbA above background noise level when measured at the side/rear boundaries of the property. See condition 68.

8. **Acoustic Privacy** – *The proposed garage of unit 1 will align with the courtyard, living/dining rooms, kitchen and main bedroom of villa 1 within the development at 155 Quarry Road. The noise created by the use of the garage will be audible from the abovementioned rooms and impact upon the amenity of the villas' residents.*

Comment: The proposed single car garage is set back 4.825m from the property boundary and will provide onsite parking for residents of unit 1. The use of the garage would be intermittent and unlikely to generate noise over and above what is to be expected of a resident accessing their property and parking their car within a garage.

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

Not required.

**ITEM 2 (continued)****9. Policy Implications****Relevant Provisions of Environmental Planning Instruments etc:****(a) Ryde Local Environmental Plan 2010****Zoning**

Under the Ryde LEP 2010 the zoning of the subject site is R2 Low Density Residential. The proposed development, being construction of a new attached 'dual occupancy' is permissible with consent under this zoning.

**Mandatory Requirements**

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

Clause 4.3 – Height of buildings.

Sub-clause (2) of this clause states that "the height of a building on any land is not to exceed the maximum height for the land shown for the land on the height of buildings map". In this case, the maximum height is 9.5m. The maximum height of the proposed new dual occupancy is 9m, which complies with Ryde LEP 2010.

Clause 4.4 - Floor Space Ratio.

This clause prescribes a maximum floor space ratio (FSR) of 0.5:1. The FSR for the proposed development has been calculated to be 0.496:1, which complies with this clause.

**(b) Relevant SEPPs**State and Sydney Regional Environmental Planning PoliciesSEPP BASIX:

A compliant BASIX Certificate has been submitted with the DA.

**(c) Any draft LEPS**

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

## ITEM 2 (continued)

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

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

The proposal has been assessed using the development controls contained in Ryde DCP 2010, refer to the Compliance Check Table outlined in **ATTACHMENT 2**. The table identifies some areas of non-compliance that are acceptable on a merit assessment of the proposal, as discussed in the following section.

#### Non-compliances:

##### 1. Linear Separation

The development does not comply with the Linear Separation requirements in DCP 2010 (Part 3.5.2.4). This control requires a separation distance of:

- a) twice the frontage of an existing urban housing, villa, dual occupancy (attached) or multi dwelling housing (attached) development, **or**
- b) twice the frontage of the subject site

It is proposed to construct a two storey attached dual occupancy. Directly adjacent to the subject site at no. 155 Quarry Road is an existing multi-dwelling development (as shown in the air photo earlier in the report), and therefore the development does not comply.

As noted previously, although the linear separation controls still remain part of Council's current DCP controls, Council has resolved to delete these controls and replace with an allotment width control when Draft LEP 2013 is gazetted. At the time of this report, this Draft LEP is currently awaiting gazettal with the Department of Planning and its gazettal is therefore certain and imminent. Accordingly, no planning objections are raised to this proposal despite the non-compliance with the DCP, given Council's previous resolution to delete the linear separation controls.

##### 2. Topography and excavation

Section 2.5.2 of Part 3.3 of the Ryde DCP 2010 prescribes development controls for topography and excavation. Specifically, the Ryde DCP 2010 stipulates that:

- *Areas under the dwelling footprint may be excavated and filled so long as the maximum depth of excavation is limited to 1.2 metres and the height of fill is 900mm;*

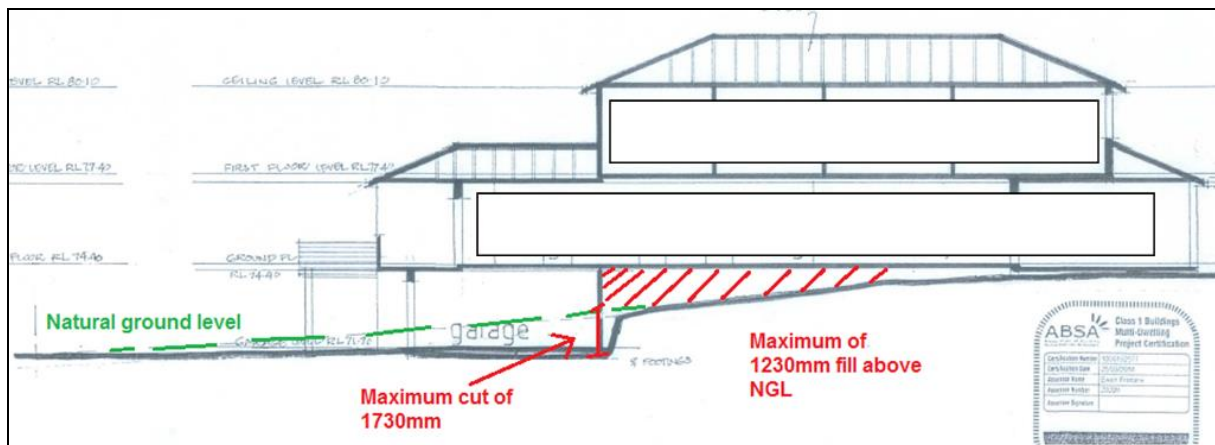
**ITEM 2 (continued)**

- Areas outside the dwelling footprint may be filled so long as the height of fill is not more than 500mm; and
- The maximum height of retaining walls is no greater than 900mm.

**Cut/fill within building footprint:**

- Within the building footprint the maximum level of cut is 1.73m (at the rear of the garages);
- Within the building footprint the maximum level of fill is 1.23m (behind the garage wall, beneath the lounge rooms);

The proposed cut/fill within the building footprint is shown in the following diagram (cross section):



The proposed cut/fill within the building footprint is considered acceptable for the following reasons:

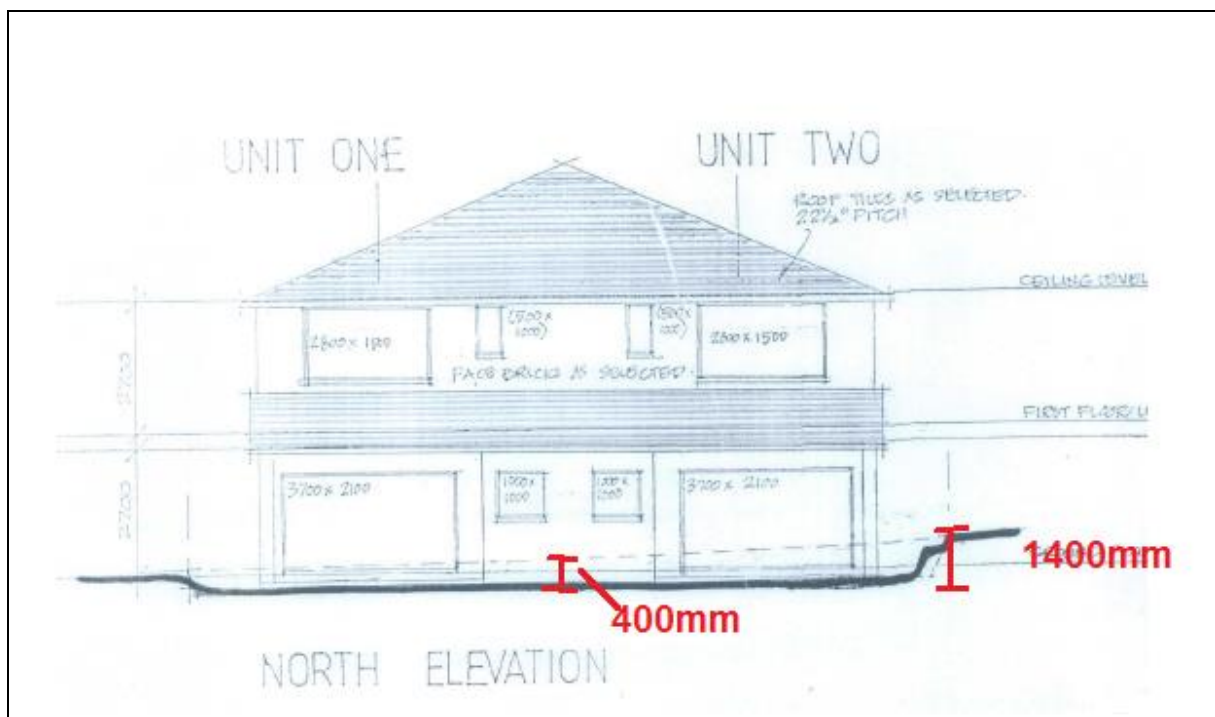
- The cut exceedence within the building footprint is primarily concentrated in the front section of the eastern and western elevation– associated with the proposed single car garages.
- The fill exceedence within the building footprint is limited to a section below the ground floor lounge/study.
- The finished floor level of the ground floor will be lower than that of the existing dwelling on site and is up to 400mm below natural ground level towards the rear of the development, reducing the privacy impacts.
- The level of fill does not create excessive bulk and scale of the dwelling.
- The dwelling has a fully compliant overall building height and wall plate height.

## ITEM 2 (continued)

### Cut/fill outside building footprint

- Outside the building footprint no fill is proposed;
- Outside the building footprint the maximum level of cut and associated retaining walls range between 100 mm and 1400mm (the greatest amount of cut is on the northern side, adjacent to the north western boundary with no. 159 Quarry Road);

The proposed cut/fill outside the building footprint is shown in the following diagram:



The proposed cut outside the building footprint is considered acceptable for the following reasons:

- The cut outside the building envelope is required to provide adequate collection and drainage of stormwater.
- The terraced retaining walls provide an accessible backyard and a connection from the ground floor deck to the entire backyard. The stepping of the backyard will allow for a variety of landscaping, private open space/recreation and minimise the privacy impacts.
- The cut outside the building footprint results in the ground floor terraces (called “decks” on the development application plans) being below existing ground level which will help to ensure minimal privacy impacts on the neighbours.



**ITEM 2 (continued)**

3. Setbacks (front setback)

Section 2.8.1 of the Ryde DCP 2010 states:

*The outside face of a wall built above a garage which faces the street, is to align with the outside face of the garage wall below.*

The proposed ground floor balconies protrude 1m beyond the front wall of the garages below.

The non-compliance is considered worthy of support as it provides further modulation to the street elevation, while the ground floor element reduces the garage dominance by providing an architectural element which matches the entrance portico design, making the garage element appear recessive.

4. External garage width

Section 2.10.1 of the Ryde DCP 2010 states:

*Garages and carports facing the public street are to have a maximum width of 6 metres or 50% of the frontage, whichever is less.*

The proposed garages have a combined external width of 6.25m.

The non-compliance of 250mm is very minor and will not contribute to excessive garage dominance or detract from the prevailing streetscape. The modulated front elevation and cantilevered balconies above will soften the bulk of the garages and make them appear recessive.

Section 94 of the Environmental Planning and Assessment Act 1979

*Council's Section 94 Development Contributions Plan - 2007*

The contribution that are payable with respect to the increase housing density on the subject site (*being for residential development outside the Macquarie Park Area*) are as follows:

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$4,227.88
Open Space & Recreation Facilities	\$10,408.16
Civic & Urban Improvements	\$3,539.90
Roads & Traffic Management Facilities	\$482.77
Cycleways	\$301.62
Stormwater Management Facilities	\$958.35
Plan Administration	\$81.32
<b>The total contribution is</b>	<b>\$20,000.00</b>

**ITEM 2 (continued)**

A condition for the payment of a Section 94 Contribution of \$20,000.00 has been included in the draft conditions of consent (**ATTACHMENT 1**).

Note: The above calculation has been reviewed by two assessment officers. A detailed copy of rates and calculation spreadsheet has been placed on the relevant development application file.

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

A thorough assessment of the impacts of the proposed development on the built environment has been undertaken in terms of DCP compliance, and in terms of the submissions received.

The resultant impacts of the proposed dual occupancy on the built environment are considered to result in a development that is consistent with the desired future character of the low density residential areas, and consistent with the nature of development in Ryde Local Government Area.

As a result, the proposed development is considered to be satisfactory in terms of impacts on the built environment.

**(b) Natural Environment**

Given the nature of the proposed development being for the construction of a new dual occupancy that replaces an existing dwelling on site, and the development includes only minimal excavation and tree removal with compensatory planting, it is considered there will be no significant impact upon the natural environment as a result of the proposal.

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

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

**12. The Public Interest**

It is considered that approval of this DA would be in the public interest.

The development substantially complies with Council's current development controls, and includes a built form that is in keeping with the existing and desired future character of the low density residential area, and maximises housing choice.

**ITEM 2 (continued)****13. Consultation – Internal and External**Internal Referrals

**Development Engineer:** Council's Development Engineer has assessed the proposal and advised that it is satisfactory subject to conditions.

**Landscape officer:** Council's Landscape Officer has assessed the proposal and advised that it is satisfactory subject to conditions.

**14. Critical Dates**

There are no critical dates or deadlines to be met.

**15. Financial Impact**

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

**16. Other Options**

None relevant.

**17. Conclusion**

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

The non-compliances identified in terms of Ryde DCP 2010 regarding, topography and excavation (cut and fill requirements), linear separation and garage width/setback are considered to be justifiable given a merit based assessment or through conditions to be imposed.

The proposal has attracted a number of submissions both to the notification of the original proposal and to the amended plans received. The issues of concern are not considered sufficient to justify refusal or further design amendments.

The proposed development is considered to be consistent with the desired future character of the low density residential areas, which permits both dual occupancy and two-storey residential developments, and consistent with the nature of development in the Ryde Local Government Area.

On the above basis, LDA2014/128 at 157 Quarry Road, Ryde is recommended for approval.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**DRAFT CONDITIONS OF CONSENT  
157 Quarry Road, Ryde  
LDA2014/128**

**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:

<b>Document Description</b>	<b>Date</b>	<b>Plan No/Reference</b>
Site Plan and Floor Plans	14/07/14	D01B
Elevations & Section AA	22/05/14	D02
BASIX & Roof Plan	14/07/14	D03B
Landscape Plan	19/07/14	1 of 2 – issue B
Landscape Plan	19/07/14	2 of 2 – issue B
Stormwater Plans	07/07/14	1 of 3 – issue B
Stormwater Plans	07/07/14	2 of 3 – issue B
Stormwater Plans	07/07/14	3 of 3 – issue B

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

- (a) To preserve the amenity to the adjoining eastern property, the window associated with the study on the ground floor of unit 1, within the eastern elevation is to have a window sill height of 1.5m from the finished first floor (FFL), or translucent glazing to any part of a window less than 1.5m above the FFL.
- (b) To preserve the amenity to the adjoining properties, all bathroom windows of unit 1 and 2 are to compromise obscured glazing.

Details of the amendments are to be incorporated in the construction drawings and submitted to the Principal Certifying Authority prior to the release of the **Construction Certificate**.

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

**ITEM 2 (continued)**

**ATTACHMENT 1**

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 537791M, dated 25<sup>th</sup> March 2014.
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.
9. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

**ITEM 2 (continued)****ATTACHMENT 1****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.
11. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.
12. **Excavation**
  - (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.

**General Engineering Conditions**

13. **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.
14. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
15. **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.
16. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No drainage work shall be carried out on the footpath without this permit being paid and a copy kept on the site.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**PRIOR TO CONSTRUCTION CERTIFICATE**

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

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

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

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

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

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$4,227.88
Open Space & Recreation Facilities	\$10,408.16
Civic & Urban Improvements	\$3,539.90
Roads & Traffic Management Facilities	\$482.77
Cycleways	\$301.62
Stormwater Management Facilities	\$958.35
Plan Administration	\$81.32
<b>The total contribution is</b>	<b>\$20,000.00</b>

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.

**ITEM 2 (continued)****ATTACHMENT 1**

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

18. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
19. **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**.
20. **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: dwelling houses with delivery of bricks or concrete or machine excavation)
21. **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
22. **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**.
23. **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**.
24. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.



**ITEM 2 (continued)**

**ATTACHMENT 1**

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

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

Or telephone 13 20 92.

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

25. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.
26. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. The driveway design is to incorporate Council's issued footpath and gutter crossing levels where they are required as a condition of consent. A driveway plan, longitudinal section from the centreline of the public road to the garage floor, and any necessary cross-sections clearly demonstrating that the driveway complies with the above details, and that vehicles may safely manoeuvre within the site without scraping shall be submitted with the Construction Certificate application.
27. **On-Site Stormwater Detention.** Stormwater runoff from all impervious areas shall be collected and piped by gravity flow to a suitable on-site detention system in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. The minimum capacity of the piped drainage system shall be equivalent to the collected runoff from a 100 year average recurrence interval 5 minute storm event.  
Detailed engineering plans including certification indicating compliance with this condition & DCP 2010 are to be submitted with the Construction Certificate application.
28. **Amended Plans.** Prior to issue of a construction certificate, the concept drainage plan prepared by Storm Civil Engineering Solutions shall be amended to incorporate the new layout of the buildings and retaining walls as shown on the architectural plan D01-issue B dated 14/7/14 prepared by Peter Hall Architects Pty Ltd.

**ITEM 2 (continued)****ATTACHMENT 1**

29. **Water Tank First Flush.** A first flush mechanism is to be designed and constructed with the water tank system. Details of the first flush system are to be submitted with the construction certificate application.
30. **Erosion and Sediment Control Plan.** An *Erosion and Sediment Control Plan (ESCP)* shall be prepared by a suitably qualified consultant in accordance with the guidelines set out in the manual "*Managing Urban Stormwater, Soils and Construction*" prepared by the Landcom. These devices shall be maintained during the construction works and replaced where considered necessary.

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

- (a) Existing and final contours
  - (b) The location of all earthworks, including roads, areas of cut and fill
  - (c) Location of all impervious areas
  - (d) **Location and design criteria of erosion and sediment control structures,**
  - (e) Location and description of existing vegetation
  - (f) Site access point/s and means of limiting material leaving the site
  - (g) Location of proposed vegetated buffer strips
  - (h) Location of critical areas (drainage lines, water bodies and unstable slopes)
  - (i) Location of stockpiles
  - (j) Means of diversion of uncontaminated upper catchment around disturbed areas
  - (k) Procedures for maintenance of erosion and sediment controls
  - (l) Details for any staging of works
  - (m) Details and procedures for dust control
31. **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**.
32. **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**.
33. **Tree planting – rear yard.** One (1) Australian native tree with a minimum size of 35litres to be planted in the rear garden, to reach a height of 15m at maturity. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

**ITEM 2 (continued)**

**ATTACHMENT 1**

34. **Tree planting – front yard.** One (1) Australian native tree with a minimum size of 35litres to be planted in the front garden, to reach a height of 10m at maturity. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**

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

35. **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.

36. **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.

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

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

**ITEM 2 (continued)**

**ATTACHMENT 1**

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

**38. 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.

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

**Engineering Conditions to be complied with Prior to Commencement of Construction**

- 40. 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.
- 41. Compliance Certificate.** A Compliance Certificate should be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and City of Ryde, Development Control Plan 2010: - Part 8.1; Construction Activities.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**DURING CONSTRUCTION**

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

42. **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*.
43. **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.
44. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
45. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- (a) Fill is allowed under this consent;
  - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
  - (c) the material is reused only to the extent that fill is allowed by the consent.
46. **Construction materials.** All materials associated with construction must be retained within the site.
47. **Site Facilities**  
The following facilities must be provided on the site:
- (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
  - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
48. **Site maintenance**  
The applicant must ensure that:
- (a) approved sediment and erosion control measures are installed and maintained during the construction period;
  - (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
  - (c) the site is clear of waste and debris at the completion of the works.

**ITEM 2 (continued)**

**ATTACHMENT 1**

49. **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".
50. **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.
51. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.
52. That tree's 1 – 6 as nominated on the landscape plan be removed in accordance with NSW Workcover Code of Practice (2007) and undertaken by an Arborist with minimum AQF Level 2 qualifications.
53. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
54. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

**PRIOR TO OCCUPATION CERTIFICATE**

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

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

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

55. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate numbered 537791M, dated 25<sup>th</sup> March 2014.
56. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.

**ITEM 2 (continued)****ATTACHMENT 1**

57. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of the **Occupation Certificate**.
58. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://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.

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

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

60. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
61. **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.
62. **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.

**ITEM 2 (continued)****ATTACHMENT 1**

63. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels **is to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA.
64. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Job No 109209 issue B sheets 1 to 3 dated 7/7/14 prepared by Storm Civil Engineering Solutions Pty Ltd and as amended in red by Council and conditions of this consent.
65. **Compliance Certificates – Engineering.** Compliance Certificates should be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and **submitted to the PCA:**
- Confirming that all vehicular footway and gutter (layback) crossings are constructed in accordance with the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria – 1999 section 4*.
  - Confirming that the driveway is constructed in accordance with the construction plan requirements and Ryde City Development Control Plan 2010: - Part 8.3; Driveways.
  - Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management
  - Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
  - 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*
66. **Positive Covenant, OSD.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Stormwater Detention Systems and to the satisfaction of Council.



**ITEM 2 (continued)**

**ATTACHMENT 1**

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

**OPERATIONAL CONDITIONS**

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

67. **Single dwelling only.** The dwellings are not to be used or adapted for use as separate domiciles or a boarding house.
68. Any External Plant air-conditioning system shall not exceed a noise level of 5 dBA above background noise level when measured at the side and rear boundaries of the property.  
**Reason:** To minimise noise impact of mechanical equipment.

ITEM 2 (continued)

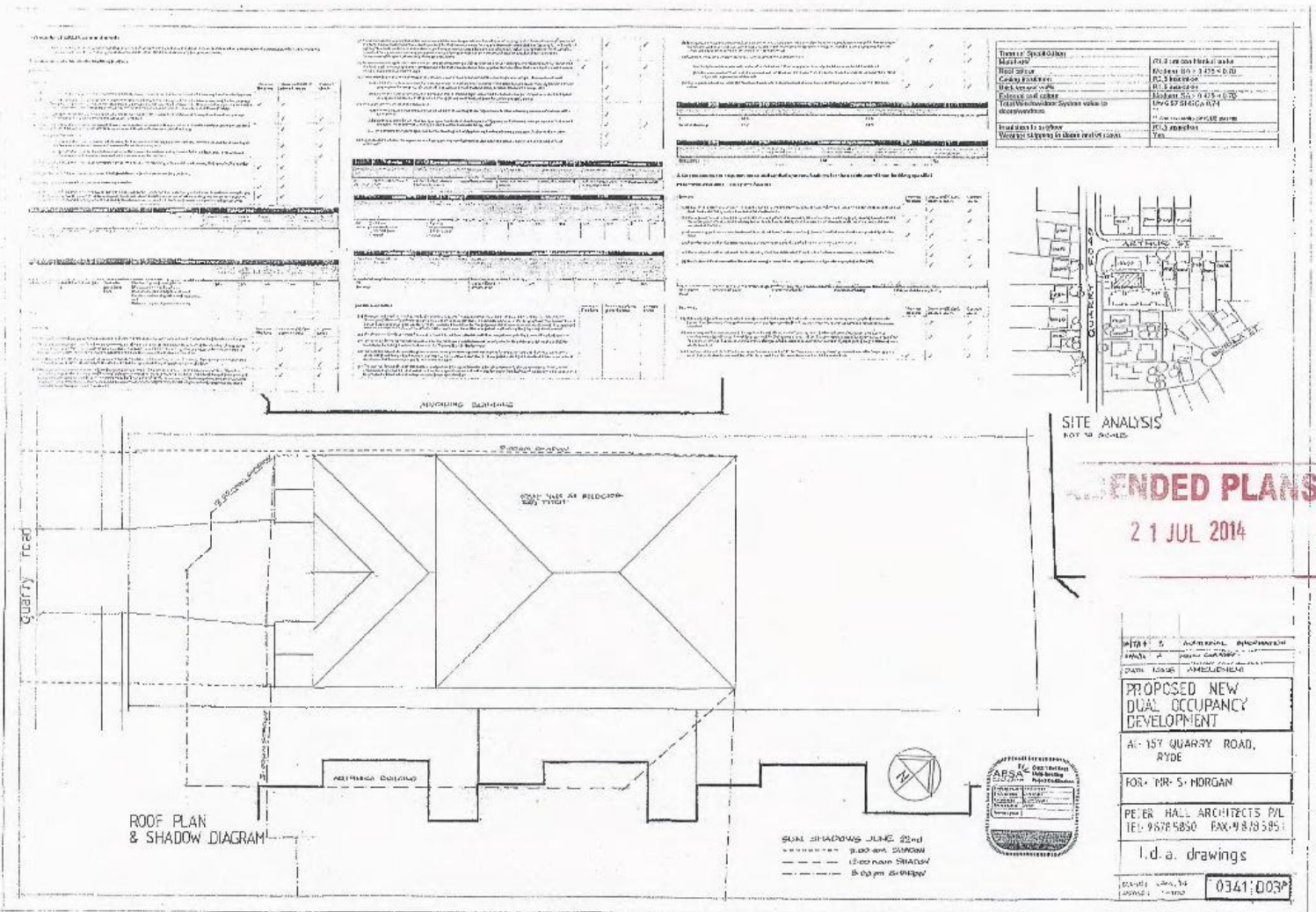
ATTACHMENT 2

● Multiple submissions received from villas at 155 Quarry Road.



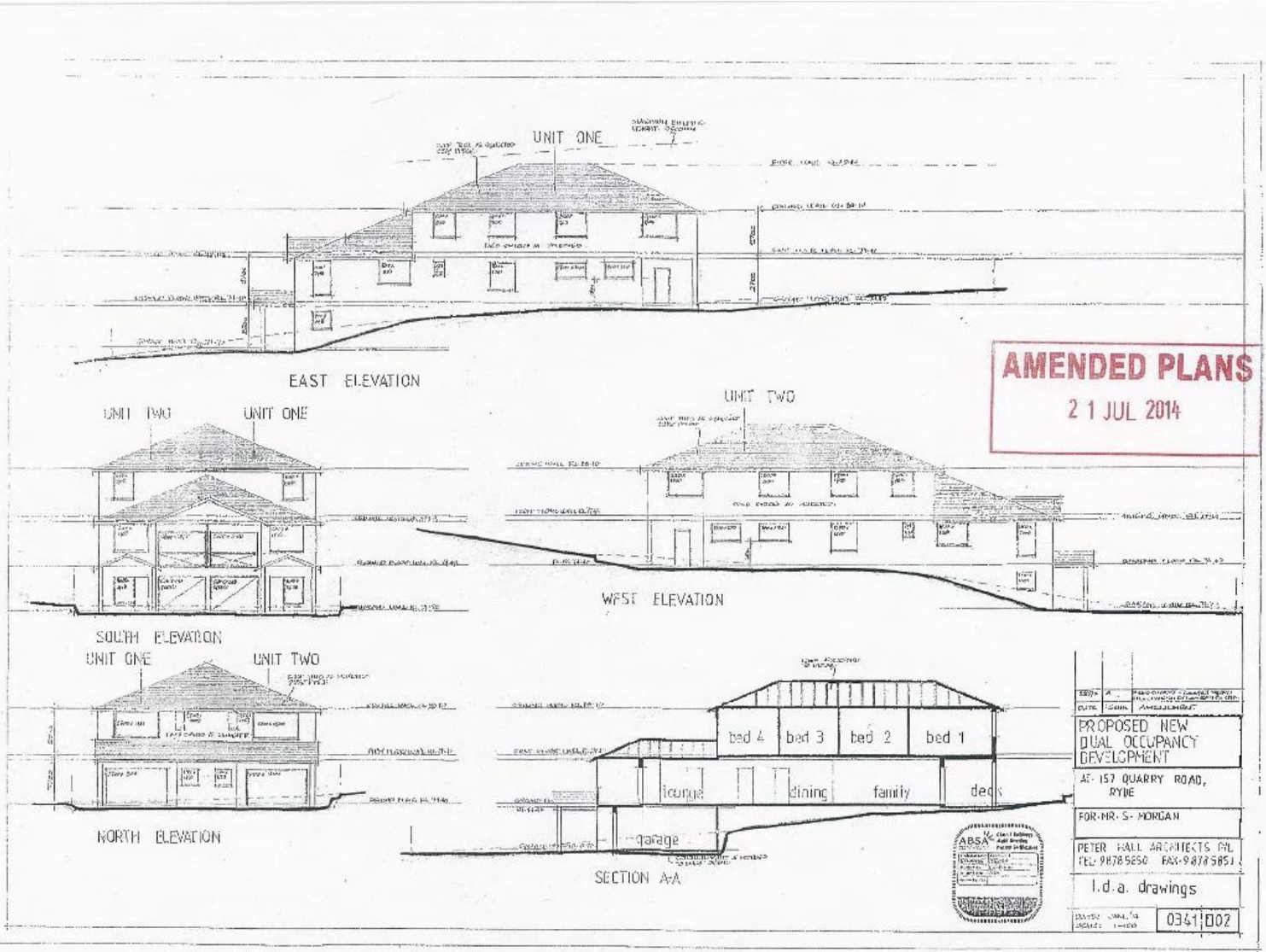
**ITEM 2 (continued)**

**ATTACHMENT 3**



**ITEM 2 (continued)**

**ATTACHMENT 3**



---

**3 62 CONSTITUTION ROAD, MEADOWBANK - LOT C IN DP 27200  
Development Application for the construction of a weather shelter  
structure over the public domain area (in front of 62 Constitution Road).  
LDA2014/0135.**

---

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

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

**Report dated:** 28/07/2014

**File Number:** grp/09/5/6/2 - BP14/945

---

## 1. Report Summary

**Applicant: Anema E Core Pizzeria**

**Owner: City of Ryde Council**

**Date lodged: 11 April 2014**

This report considers a development application (DA) for the construction of a weather shelter structure over the public domain in front No 62 Constitution Road, Meadowbank for the purposes of outdoor dining. The public domain area contains existing delineated outdoor dining infrastructure (ie three (3) raised/level areas with garden beds and low-height open style metal fencing), and the proposal involves erection of a weather shelter over one of these outdoor dining areas.

The structure is proposed to have a total area of 24m<sup>2</sup> (measured to the outside of the fascia), a building height of 3m, and be constructed of a cedar wood frame with Colorbond roof. The body of this report provides a photographic example of the shelter structure proposed by the applicant.

The development application has been notified to adjoining owners in accordance with Section 2.1 'Notification of Development Application' of the Ryde DCP 2010. No submissions were received.

The proposed shelter structure has been assessed against the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979 (the Act), the Ryde Local Environmental Plan 2010 (Ryde LEP 2010), Draft Ryde Local Environmental Plan 2011 (Draft Ryde LEP 2013), Ryde Development Control Plan 2010 (Ryde DCP 2010) and Ryde Outdoor Dining Policy 2010, and there are a number of inconsistencies identified with the aims and objectives of these environmental planning instruments, as discussed in the body of the report.

When assessed against the guidelines of the Ryde Outdoor Dining Policy 2010, the following non-compliances have been identified:

- *a clear unobstructed pedestrian corridor of 2 metres minimum is not maintained adjacent to the seating area for clear passage of pedestrian traffic to allow for continuous accessible paths of travel at all times;*
- *the location of the proposed shelter structure extends beyond the boundaries of the approved outdoor dining area;*

**ITEM 3 (continued)**

- *the shelter structure does not visually relate to and is not physically aligned with streetscape features;*
- *the fixtures that would be required to secure the shelter structure would be required to penetrate the pavement of the pedestrian plaza/outdoor dining area and would damage Council's asset;*
- *the shelter structure would also impact on the public domain lighting.*

In addition, the proposal has been referred to a number of sections of Council, and significant concerns have been raised from Council's Team Leader Design and Development, and Heritage Officer in relation to the design and external appearance of the proposal, and also in relation to its impacts on the heritage items immediately adjoining the area of public domain where the weather shelter is to be erected (ie the group of shops at 58-64 Constitution Road). These issues of concern are discussed more fully in the body of the report, however they are summarised as follows:

- *The proposed development would conflict with the existing light pole in the public domain;*
- *The proposed structure would introduce a discordant element within the plaza as it is not of the same style or quality as other streetscape elements;*
- *That the design is not sympathetic to the heritage significance/ station architecture / contemporary urban domain area.*

During the processing of this DA, discussions were held with various officers of Council (officers from Council's Urban Planning and Properties Teams), both regarding the issues of concern in relation to the design and external appearance of this particular proposal as presented to Council, as well as possible alternative design options to assist the applicant. These alternative design options were being investigated and some suitable alternatives have been illustrated in the body of the report. It was intended to involve the applicant in such discussions on possible alternative designs (after these were investigated).

The current proposal submitted in LDA2014/0135 is unacceptable and is recommended for refusal, however (as a separate part to the recommendation of this report), the applicant can be invited to participate in further discussions on possible alternative design options that would be acceptable to Council having regard to the design and external appearance of this particular public domain area.

**Reason for Referral to Planning and Environment Committee:** Requested by the Mayor, Councillor Maggio and Councillor Simon. Proposal also involves use of Council property (ie public domain area in front of No 62 Constitution Road).

**Public Submissions:** None received.

**ITEM 3 (continued)**

**SEPP 1 (or clause 4.6 RLEP 2010) objection required?** A clause 4.6 written request is not required as the proposed development does not propose to vary any principal development standards under the provisions of any applicable environmental planning instruments.

**Value of works:** \$9,300

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

**RECOMMENDATION:**

- (a) That Local Development Application No. 2014/0135 being in front of land at 62 Constitution Road, Meadowbank (LOT C in DP 27200) be refused for the following reasons:
- (i) The design and external appearance of the proposed development is unsatisfactory. In particular, the design would introduce a discordant element within the plaza as it is not of the same style or quality as other streetscape elements. Further, the design is not sympathetic to the heritage significance/ station architecture / contemporary urban domain area.
  - (ii) The proposed development will have an unacceptable impact on the built environment of the public domain area. In particular, it would conflict with the existing light pole in the outdoor dining area, and also the dimensions of the proposed shelter structure are such that they would extend beyond the existing designated outdoor dining area and into the pedestrian corridor/thoroughfare.
  - (iii) The proposed development is considered to be inconsistent with the aims of the Ryde Local Environmental Plan 2010 and Draft Ryde Local Environmental Plan 2011.
  - (iv) The proposed development is considered to be contrary to the objectives of the B4 Mixed Use zoning of the site under the Ryde Local Environmental Plan 2010 and Draft Ryde Local Environmental Plan 2011
  - (v) The proposed development is inconsistent with the public domain principles and street furniture controls contained within the Section 4.2 of the Ryde Development Control Plan 2010.
  - (vi) The proposed development is inconsistent with the guidelines contained within the Ryde Outdoor Dining Policy 2010.

**ITEM 3 (continued)**

- (vii) In the circumstances of the case, approval of the proposed development is not in the public interest.
  
- (b) That the applicant be invited to participate in further discussions on possible alternative design options that would be acceptable to Council having regard to the design and external appearance of the existing public domain area.

**ATTACHMENTS**

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

Report Prepared By:

**Ben Tesoriero Planning Consultant  
Creative Planning Solutions**

**Chris Young  
Team Leader - Assessment**

Report Approved By:

**Liz Coad  
Manager Assessment**

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



### ITEM 3 (continued)

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

<b>Address</b>	: 62 Constitution Road, Meadowbank (Lot C in Deposited Plan 27200)
	<i>Note: Proposed development is to take place in the public domain adjacent to the aforementioned address- refer to Figure 1 below.</i>
<b>Site Area</b>	: The delineated outdoor dining area and adjacent pedestrian corridor where the proposed development is to occur has an approximate area of 36m <sup>2</sup> .
<b>Topography and Vegetation</b>	: The area of the public domain where the proposed development is to take place is the delineated outdoor dining area and adjacent pedestrian corridor. This delineated area is relatively level. Minimal shrub vegetation is provided in the planter boxes around the perimeter of the outdoor dining area where the structure is proposed.
<b>Existing Buildings</b>	: A purposely formed outdoor dining area and adjacent pedestrian corridor is located in front of the existing commercial building at 62 Constitution Road. The pizzeria premises associated with the proposed development is located within the commercial building at 62 Constitution Road.
<b>Planning Controls Zoning</b>	: B4 – Mixed Use under Ryde LEP 2010 B4 – Mixed Use under draft Ryde LEP 2013
<b>Other</b>	: Ryde DCP 2010

**ITEM 3 (continued)**



**Figure 1: Aerial image of subject site showing the location of the existing pizzeria premises and the existing open-air outdoor dining area in front of each of the premises. The site where the proposed structure is to be constructed is marked 'X'.**

**ITEM 3 (continued)**



**Figure 2: Photograph of subject site taken from the Constitution Road pedestrian plaza showing the location of the existing pizzeria premises and the existing open-air outdoor dining area adjacent to the pizzeria premises. Also noted in this image is the raised planter boxes which help delineate the outdoor dining area and the 2m wide pedestrian thoroughfare corridors that are located adjacent to each outdoor dining area.**

**3. Councillor Representations**

Name of Councillor: The Mayor, Councillor Maggio

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

Date: 10 July 2014

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

On behalf of applicant or objectors? Applicant

Any other persons (e.g. consultants) involved in or part of the representation: None

**ITEM 3 (continued)**

Name of Councillor: Councillor Simon

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

Date: 10 July 2014

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

On behalf of applicant or objectors? Applicant

Any other persons (e.g. consultants) involved in or part of the representation: None

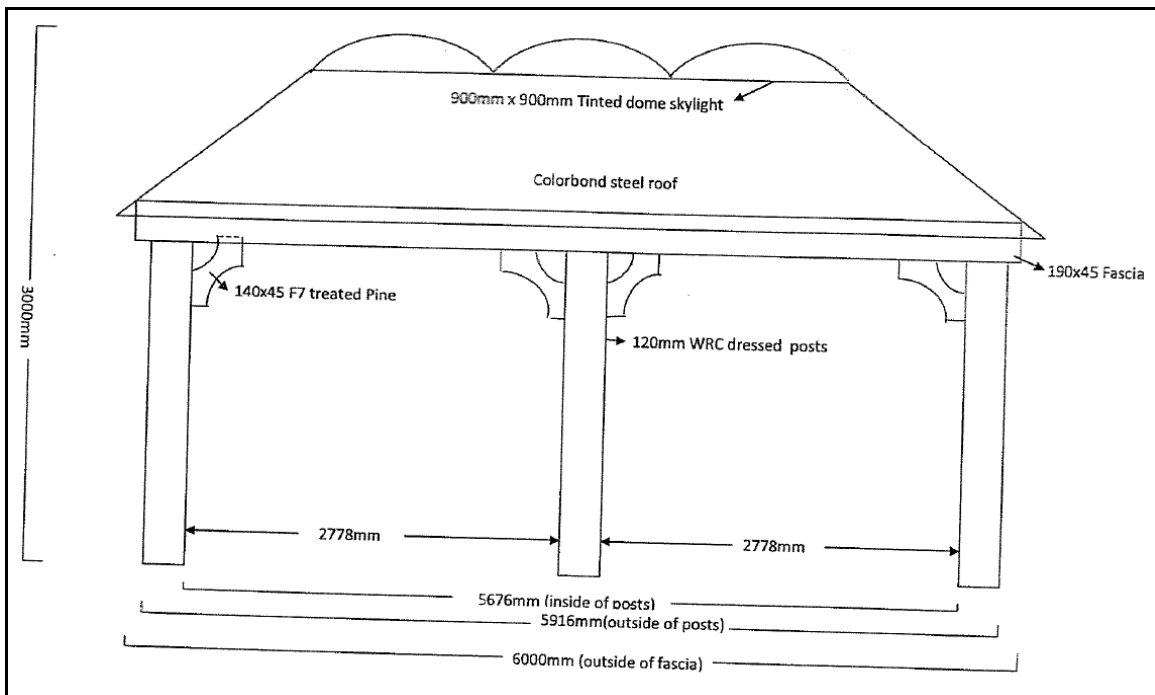
**4. Political Donations or Gifts**

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

**5. Proposal**

The proposal which is the subject of this development application includes the construction of a weather shelter structure over the public domain in front of the Anema E Core Pizzeria premises at 62 Constitution Road, Meadowbank for the purposes of outdoor dining.

The structure is proposed to have an area of 24m<sup>2</sup>, a building height of 3m, and be constructed of a cedar wood frame with Colorbond roof with tinted dome skylights. **Figure 3** below provides the elevational drawing and a photographic example of the shelter structure proposed by the applicant.



**ITEM 3 (continued)**



**Figure 3: Elevational drawing and Photographic image provided by applicant showing an example of the proposed shelter structure to be constructed at the front of the pizzeria premises at 62 Constitution Road, Meadowbank.**

It is noted that existing open-air outdoor dining infrastructure is located in front of the Anema E Core Pizzeria premises. This outdoor dining infrastructure includes the existing outdoor dining area, 2m wide pedestrian thoroughfare corridor, public domain lighting, and raised planter boxes.

**6. Background**

The following is a brief overview of the development history relating to the proposed shelter structure in front of the pizzeria premises at 62 Constitution Road, Meadowbank:

- The subject development application (LDA2014/0135) was lodged on 11 April 2014;
- Following the notification period (23 April 2014 to 13 May 2014) no submissions were received;
- On the 23 April 2014 land owners consent was issued in relation to the proposed development by City of Ryde Council;

**ITEM 3 (continued)**

- An internal meeting of Council officers (attended by officers from Council's Assessment, Urban Planning, Properties and Public Works Teams) was held on 26 June 2014 to discuss the proposed development. It was the general consensus that the proposed development was an inappropriate solution for all weather dining at the outdoor dining area because of its design and external appearance as well as impacts on the existing public domain infrastructure, as discussed further in Section 9 of this report. At this meeting, it was also agreed that other options would be explored by the relevant Council officers (including alternative designs and methods for providing the weather shelter structure);
- On 30 June 2014, these issues of concern were then conveyed to the applicant via telephone conversation with Council's Team Leader Assessment, with an indication that possible alternative design options were being considered by the relevant Council officers, and that further advice would be provided to assist the applicant moving forward.
- On 10 July 2014, The DA was then called-up to the next available Planning & Environment Committee as noted in the Councillor Representations section of this report (above).

**7. Submissions**

In accordance with Part 2.1 'Notice of Development Applications' of the Ryde DCP 2010, the proposal was notified to adjoining property owners. In response, no submissions were received.

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

A clause 4.6 written request not required for the proposed development as the proposal complies with all relevant principal development standards covered under the provisions of the Ryde LEP 2010. It is also noted that the proposed development complies with all relevant development standards under the provisions of the draft Ryde LEP 2013.

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

Clause 1.2(2) of the Ryde LEP 2010 outlines the particular aims of the Ryde LEP 2010. These are as follows:

- to create a broad framework of controls for the future development of all land in Ryde,
- to encourage the management and development of land to provide a range of land uses, employment activities and housing types that respond to the welfare of the citizens of Ryde,

**ITEM 3 (continued)**

- to conserve items and places in Ryde that are of natural, indigenous, cultural, social and historical significance,
- to manage development of Ryde to create a better environment.

The proposed development is considered to be contrary to objectives outlined in bullet-point three and four of the above.

In relation to bullet-point three above, the proposal is considered to unsatisfactorily conserve the historical significance of Meadowbank Shops (Item No. 37 under the Ryde LEP 2010 – group of shops at No 58-64 Constitution Road, Meadowbank). This consideration is discussed in further detail (Referrals Section of this report).

In relation to bullet-point four above, the proposed development is considered to result in a development outcome that fails to create a better environment for the City of Ryde. This consideration is also discussed in further detail (in the Referrals Section of this report).

Given the above, it is considered that the proposed development is contrary to the aims of the Ryde LEP 2010, and as such cannot be supported.

**Zoning**

Part 2 of the Ryde LEP 2010 covers permitted or prohibited development. The proposed development is considered to be development for the purposes of a restaurant or café, which under the provisions of the Ryde LEP 2010 is a type of 'food and drink premises'. Under the B4 Mixed Use zoning of the land where the shelter structure is to be constructed, 'food and drink premises' are a land use which is permissible with development consent.

The objectives of the B4 Mixed Use zone are provided below. In general, concerns are raised in relation to the current proposal for the following reasons:

- *The proposed development would conflict with the existing light pole in the public domain;*
- *The dimensions of the proposed shelter structure are such that they would extend beyond the existing designated outdoor dining area and into the pedestrian corridor/thoroughfare;*
- *The proposed structure would introduce a discordant element within the plaza as it is not of the same style or quality as other streetscape elements;*
- *That the design is not sympathetic to the heritage significance/ station architecture / contemporary urban domain area.*

### ITEM 3 (continued)

Further comments are provided below in terms of the proposal against each of these objectives:

***To provide a mixture of compatible land uses.***

Comment: The proposed development, being for the purposes of a shelter structure over an existing outdoor dining area, is considered to be a land use which is generally compatible with the existing use of the land as an outdoor dining area adjacent to a pizzeria restaurant. However, as demonstrated with the proposed development's inability to satisfactorily comply with the provisions of the Outdoor Dining Policy, it is considered that the proposed modification to the use of the existing outdoor dining area will result in an outcome that is incompatible with the public domain area in which it is to be located.

***To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.***

Comment: Based on the bullet-pointed reasons above, it is considered that the proposed development will result in an outcome that does not integrate well with existing businesses as it will impact on the accessibility of the pedestrian plaza and discourage walking through the pedestrian corridor/thoroughfare area that is to be obstructed by the proposed structure.

***To create vibrant, active and safe communities and economically sound employment centres.***

Comment: It is considered that proposal diminishes the vibrancy and safety of the pedestrian plaza in terms of the general concerns stated above.

***To create safe and attractive environments for pedestrians.***

Comment: It is considered that proposal diminishes the safety and attractiveness of the of the plaza for pedestrians in terms of the general concerns stated above.

***To recognise topography, landscape setting and unique location in design and land-use.***

Comment: The proposed development is not considered to satisfactorily respond to the landscape setting of the pedestrian plaza, or the unique location within the vicinity of heritage items as the design of the shelter structure is considered to introduce a discordant element within the plaza as it is not of the same style or quality as other streetscape elements. Additionally, the shelter structure has been assessed as being unsympathetic to the heritage significance/ station architecture / contemporary urban domain area.

Given the above, the proposed development is considered inconsistent with the objectives of the B4 Mixed Use zone, and as such cannot be supported.



**ITEM 3 (continued)****Principal Development Standards**

Part 4 of the Ryde LEP 2010 covers the principal development standards for development. When assessed against these development standards, the proposed development is considered to satisfactorily comply, particularly those relating to building height which would apply to the proposal.

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

None relevant.

**(c) Any draft LEPs**

A Section 65 Certificate enabling the formal exhibition of Draft Ryde Local Environmental Plan 2011 (Draft Ryde LEP 2013) was issued by the Department of Planning and Environment on 23 April 2012. The Draft Ryde LEP 2013 has been placed on public exhibition between 30 May 2012 and 13 July 2012. Under this Draft Ryde LEP 2013, the zoning of the property remains B4 Mixed Use.

The Draft Ryde LEP 2013 was adopted by Council on 12 March 2013 and is waiting gazettal by the Department of Planning and Environment; as such the Draft Ryde LEP 2013 can be considered certain and imminent. On this basis, the following provides an assessment of the proposed development against the provisions of the Draft Ryde LEP 2013.

Clause 1.2(2) of the Draft Ryde LEP 2013 outlines the particular aims of the Draft Ryde LEP 2013. Those aims which are considered to be of issue in relation to the proposed development are outlined below along with the assessing officer's comments on how the proposal performs against each of these selected aims:

**(d) *to identify, conserve and promote Ryde's natural and cultural heritage as the framework for its identity, prosperity, liveability and social development.***

Comment: It is considered the addition of the proposed structure has failed address the criteria outlined in this aim. The design of the proposed structure indicates that the identity of this precinct of Meadowbank has not been appropriately identified as it does not relate to its immediate context nor provide an addition which can be seen to complement the existing surrounding character. The proposal does not integrate well with either the existing heritage buildings as well as newly upgraded public domain area. Accordingly the proposal has not provided a framework for conserving the identity of this area of Meadowbank.

**ITEM 3 (continued)**

- (e) to improve access to the city, facilitate the maximum use of public transport and encourage walking and cycling.**

*Comment:* Appropriate access to this public domain precinct is not considered to be improved as result of the proposed outdoor structure. As demonstrated in the Compliance Checklists (**ATTACHMENT 1**), the proposal fails to meet the minimum clearances and setbacks required and will significantly obstruct pedestrian accessibility within the associated outdoor dining areas and adjacent thoroughfare. As such, this reduction in access is not considered to facilitate and encourage walking within this precinct.

- (g) to preserve and, where appropriate, improve the existing character, amenity and environmental quality of the land to which this Plan applies.**

*Comment:* The existing character of this area of Meadowbank is not considered to be preserved or enhanced as part of the proposed development. Existing sensitive heritage buildings located adjacent to the development site have not been taken into consideration with regards to the design of the proposed outdoor structure seeing the heritage significance and identity of this precinct put at risk. Furthermore the amenity of the public domain is considered to be negatively impacted due to the significant obstructions and intrusions into the public domain that the proposed structure will cause.

A review of the Draft Ryde LEP 2013 has revealed that the number of objectives for the B4 Mixed Use zone has been scaled back to include only the following objectives:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

Given these objectives form part of the current Ryde LEP 2010 objectives for the B4 Mixed Use zone, reference should be made to the above assessment to illustrate how the proposal remains contrary to the objectives of the proposed B4 Mixed Use zoning.

- (d) The provisions of any development control plan applying to the land**

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

Part 4.2 Meadowbank Employment Area – Master Plan

The proposed development is located within the ‘Station Precinct’ of Part 4.2 of the Ryde DCP 2010 – Meadowbank Employment Area – Master Plan (“Master Plan”).

**ITEM 3 (continued)**

The proposed development has been assessed against the relevant components of the Master Plan, specifically having regard to those principals which are considered to apply to the proposed shelter structure within the public domain.

***Public Domain***

The Master Plan seeks to establish a public domain that maximises accessibility and environmental amenity. In particular, it is a principle of the Master Plan to improve the look of streets and public spaces and reinforce the existing pattern to establish clear hierarchies, pedestrian linkages and focal points. Another key principle seeks to ensure development defines and contributes to the public domain and creates a high quality setting for buildings that is safe and accessible for all.

The proposed shelter structure is considered to be contrary to the above Master Plan principles for the following reasons:

- The proposed structure is not considered to visually enhance the street or public domain, but rather detract from the high quality finish of the newly designed station precinct;
- The design of the proposed structure is not sympathetic with the surrounding public domain precinct layout and the arrangement is considered to conflict with the overall landscape and urban design scheme in terms of materiality and form;
- The proposed structure interrupts with current pedestrian linkages across the public domain and provides unnecessary obstacles which are unsightly, potentially unsafe, and would reduce the accessibility of the pedestrian thoroughfares through the outdoor dining area;
- The proposed structure is considered to disrupt and detract from the existing important focal points within the public domain area, including that of the architecture features of the adjacent heritage listed buildings;
- The proposed structure will conflict with the existing lighting in place and reduce the overall availability of lighting at night, therefore impacting safety.

Furthermore, Council's Team Leader of Design and Development has advised that the proposed structure would introduce a discordant element within the plaza as it is not of the same style or quality as other streetscape elements. Additionally, Council's Heritage Officer has advised that the design is not sympathetic to the heritage significance/ station architecture / contemporary urban domain area.

Accordingly, as demonstrated above, the proposal is not considered to be in accordance with the key public domain principles of the Master Plan and is considered to have a damaging impact to this public domain area of Meadowbank.

**ITEM 3 (continued)*****Street Furniture and Public Art***

The Master Plan also seeks to enhance new and existing public spaces (i.e. open space, streets, footpaths, walkways and the like) in the Meadowbank Employment Area through the incorporation of new street furniture and public artworks. The objective of this is to create visual unity and identity through the design and appearance of public spaces and to use street furniture and public art to define spaces as well as roads, paths and gateways.

A review of the proposal against the above indicates that it fails to meet the intended street furniture objective for the following reasons:

- The existing public space is not considered to be enhanced as a result of the proposed structure but rather the proposed structure would detract from the existing public space;
- The visual appearance of the public domain within this precinct is considered to be negatively impacted due to non-cohesive design of the shelter structure with that of the existing design elements of the pedestrian plaza;
- The identity of the Station Precinct is considered to be compromised as the proposed design and appearance is in stark contrast to that of the existing.

As such, the proposal is not considered to enhance the existing public space nor strengthen the visual unity and identity of the area and therefore fails to meet the key street furniture and public art objectives.

**Ryde Outdoor Dining Policy 2010**

The proposal has been assessed using the guidelines contained in the Ryde Outdoor Dining Policy 2010 and a full assessment is detailed in the Compliance Check table in **ATTACHMENT 1**. The following is a detailed assessment of the non-compliances of the subject development application against the key components of the Ryde Outdoor Dining Policy 2010 that are considered to apply to the development, given the works proposed are for the construction of a new shelter structure within the public domain area.

***Minimum Areas & Clearances***

Section 2.2.2 of the Ryde Outdoor Dining Policy 2010 prescribes minimum clearances for circulation, accessibility, safety and convenience. Specifically, Section 2.2.2 provides numerical setbacks in accordance with the following:

- *A clear unobstructed pedestrian corridor of 2 metres minimum must be maintained adjacent to the seating area or shop frontage (whichever is relevant) for clear passage of pedestrian traffic to allow for continuous accessible paths of travel at all times.*

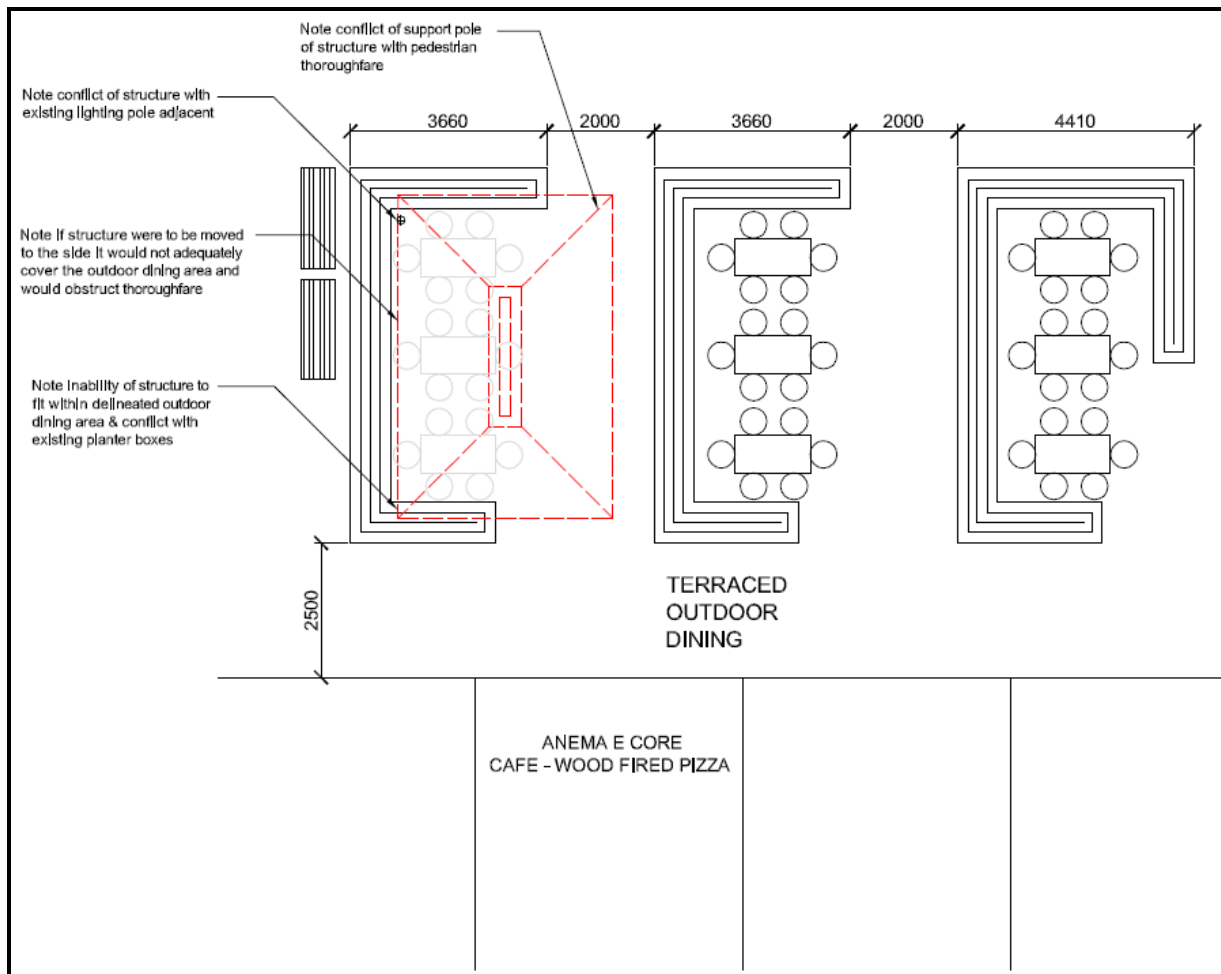
### ITEM 3 (continued)

As demonstrated in **Figure 4** below, the proposed structure extends beyond the designated outdoor dining area into the 2m wide pedestrian thoroughfare, therefore failing to provide the minimum 2 metres clearance as required. As such, this cannot be supported for the following reasons:

- The location of the structure would inhibit the movement of pedestrians through this corridor by virtue of the support posts of the structure;
- The location of the structure would inhibit entry and egress to the associated dining area;
- The obstructions caused by the structure are considered to be a safety hazard in terms of obstructing the public way;
- The location of the structure may cause accessibility issues for those with a disability that would prove a block for wheelchair access etc;
- This structure would also establish an inappropriate precedent for the other designated outdoor dining areas adjoining.

Accordingly, given the proposal's inability to provide the required minimum clearances to allow safe and convenient circulation and equitable access, this non-compliance with the minimum areas and clearances guidelines is not supported.

**ITEM 3 (continued)**



**Figure 4 – Diagram illustrating the proposed shelter structure over the existing outdoor dining area. Demonstrated in this diagram is the conflict the support poles of the proposed structure has with the 2m wide thoroughfare which in turn would provide an obstacle for pedestrians wanting to use this thoroughfare corridor, and create issues of inequitable access as wheelchairs would not be able to negotiate through the corridor. This would also establish an inappropriate precedent for the other designated outdoor dining areas.**

Furniture Layout

Section 3.0 of the Ryde Outdoor Dining Policy 2010 prescribes guidelines in relation to the design requirements of both fixed and removable furniture. Specifically, Section 3.1 provides the following Furniture Layout guidelines:

- *The location of all furniture, barriers and the like, removable and fixed, must not extend beyond the boundaries of the approved outdoor dining area*
- *Whenever possible, an outdoor dining area should visually relate to and be physically aligned with streetscape features.*
- *Boundaries of outdoor dining area to be marked out on site*

**ITEM 3 (continued)**

A review of the plans submitted, and as indicated in **Figure 4** above, has revealed the proposed structure extends significantly beyond the designated outdoor dining area into the 2m wide pedestrian thoroughfare corridor. As noted within the above non-compliance, this is considered to significantly impact the safety, accessibility and circulation of this area of the public domain.

With regards to the visual relation to the existing features, as noted throughout this report, it is considered that the structure would introduce a discordant element within the plaza as it is not of the same style or quality as other streetscape elements. Further, it has again been noted that the dimensions of the proposed structure are such that it is too large to fit within the designated outdoor dining area and conflicts with the pedestrian corridor adjacent.

In relation to the boundaries of the existing outdoor dining area at 62 Constitution Road, these are already considered to be properly delineated by the existing planter boxes and paved area. The proposed structure over the existing outdoor dining area is not considered to impact on the delineation of this outdoor dining area, however it is again noted that the dimensions of the proposed structure are such that it is too large to fit within the designated outdoor dining area and conflicts with the pedestrian corridor adjacent.

Given the inability of the proposed structure to adequately provide an appropriate furniture layout in accordance with the above guidelines, it is considered that it is not suitable for the intended location and therefore cannot be supported.

**Enclosure**

Section 3.4 of the Ryde Outdoor Dining Policy 2010 prescribes guidelines in relation to the design requirements for any form of enclosure. Specifically, the following Enclosure guidelines are listed:

- *Fixtures that penetrate or damage the pavement on Council's footpaths will not be permitted.*
- *Enclosures are not to cause any obstruction to the minimum path clearance required for public access (including access for the disabled);*

A review of the plans submitted as well as product information for the structure supplied by the applicant has revealed that the proposed structure will require multiple penetrative fixtures into Council's paving and concrete substrate which are highly likely to cause damage. Given the size and weight of the structure, it is considered there is unlikely any other way to provide appropriate fixing of the structure as currently proposed. It is in the opinion of the assessing officer that a better more appropriate design that utilised a cantilevered approach may well avoid such damage to the pavement area.

**ITEM 3 (continued)**

In regards to the enclosure causing obstruction to the minimum path clearance required for public access, as noted in the above non-compliances, given the dimensions of the proposed enclosure, intrusion into the 2 metre minimum pathway clearance will occur providing an obstacle for pedestrians and impacting on the equitable access of this corridor thoroughfare.

As demonstrated above, the proposal fails to comply with the guidelines of the Enclosure section of the Outdoor Dining Policy 2010 and therefore cannot be supported.

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

A thorough assessment of the impacts of the proposed development on the built environment has been undertaken as part of the completed assessment of the proposed development. This has included a compliance check against all relevant planning controls contained within the Ryde LEP 2010, Draft Ryde LEP 2013, Ryde DCP 2010 (including Section 4.2 Meadowbank Employment Area – Master Plan), and the Ryde Outdoor Dining Policy 2010.

The impacts of the proposed shelter structure on the built environment are considered to result in a development that:

- is not considered to visually enhance built environment of the street or public domain but rather detract from the high quality finish of the newly designed station precinct;
- is not sympathetic with the surrounding layout and arrangement of the built environment as it is considered to conflict with the overall landscape and urban design scheme in terms of materiality and form;
- interrupts the current pedestrian linkages across the public domain and provides unnecessary obstacles which are unsightly, potentially unsafe, and would reduce the accessibility of the pedestrian thoroughfares through the outdoor dining area, particularly when having regard to the unequitable access that would be presented to the established pedestrian corridors through the outdoor dining area for persons in wheelchairs;
- disrupts and detracts from the existing important focal points within the public domain area, including that of the architecture features of the adjacent heritage listed buildings;
- conflicts with the existing public domain lighting in place and reduces the overall availability of lighting at night, therefore impacting safety.



### **ITEM 3 (continued)**

Furthermore, the proposed structure would introduce a discordant element within the plaza as it is not of the same style or quality as other streetscape elements. Additionally, that the design is not sympathetic to the heritage significance/ station architecture / contemporary urban domain area.

As a result, the proposed development is considered to be unsatisfactory in terms of its impacts on the built environment.

#### **(b) Natural Environment**

Given the nature of the proposed development being for the construction of a shelter structure within an existing outdoor dining area in a pedestrian plaza, it is considered there will be no significant impact upon the natural environment as a result of the proposal. It is noted that the proposed shelter structure may have some impact on the vegetation contained within the raised planter boxes surrounding the outdoor dining area, however given this vegetation only includes small shrubs, the impact is not considered significant.

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

The site where the proposed shelter structure is to be erected includes an existing outdoor dining area, pedestrian thoroughfare corridor, public domain lighting, and raised planter boxes.

As demonstrated in **Figure 4**, the construction of the proposed structure will:

- include support poles which conflict with the pedestrian thoroughfare, such that these obstacles would inhibit pedestrian movement, raise issues of inequitable access for persons with a disability, or for movement of wheelchairs;
- the proposed structure would encourage the use of the outdoor dining area outside of that currently delineated and into the pedestrian corridor;
- visually detract from the street and public domain of the pedestrian plaza which current includes high quality finishes in the newly designed station precinct;
- not be sympathetic with the surrounding layout and arrangement of the built environment as it is considered to conflict with the overall landscape and urban design scheme in terms of materiality and form;
- disrupt and detract from the existing important focal points within the public domain area, including that of the architecture features of the adjacent heritage listed buildings;
- conflict with the existing public domain lighting in place and reduce the overall availability of lighting at night, therefore impacting safety.

### ITEM 3 (continued)

Combined with the proposal's non-compliances with the Ryde LEP 2010, Draft Ryde LEP 2013, Ryde DCP 2010, and Ryde Outdoor Dining Policy 2010 as covered throughout this report, it is evident that the large size and design of the proposed shelter structure is not suitable for the subject site.

### 12. The Public Interest

The assessment of the proposed development has established that the proposed shelter structure would be inconsistent with:

- the aims of the Ryde LEP 2010;
- the aims of the Draft Ryde LEP 2013;
- the objectives of the B4 Mixed Use zone under both the current Ryde LEP 2010 and Draft Ryde LEP 2013;
- key principles and development controls contained within the Meadowbank Employment Area – Master Plan under the Ryde DCP 2010; and
- the guidelines covered within the Ryde Outdoor Dining Policy 2010.

On the basis of the proposal's failure to achieve consistency with the above planning instruments, plans and policies, approval of this development would not be in the public interest.

Furthermore, the proposed development has been demonstrated in this report to have an unacceptable impact on the built environment and be an unsuitable site for the currently proposed development.

As such the proposed shelter structure in its current form cannot be seen to be in the public interest.

### 13. Consultation – Internal and External

#### Internal Referrals

Team Leader Design & Development: Council's Team Leader of Design and Development has provided the following comments in relation to the subject application:

*The proposal is for an outdoor weather shelter to be installed within the terrace that is currently leased to the café at 62 Constitution Road. The shelter is a ready-made timber framed structure with a hipped roof and domed skylights along the ridge. The style and detailing of the structure is pseudo-Federation.*

**ITEM 3 (continued)**

*The plaza in front of the shops and station at Meadowbank is a shared zone that provides access to Railcorp property and a small parking area for Meadowbank TAFE. It is also the primary pedestrian connection between the station, the TAFE and Constitution Road.*

*The plaza was upgraded by Council in 2009/2010. The upgrade utilises a contemporary design with high quality materials and finishes. The recent upgrade of Meadowbank Station is also a contemporary design. The plaza and station complement each other using a similar design language. The recent upgrade can be regarded as a success as it manages to accommodate the movement of vehicles and people, and provides an appropriate setting for the social interaction which occurs within the three stepped terraces in front of the shops.*

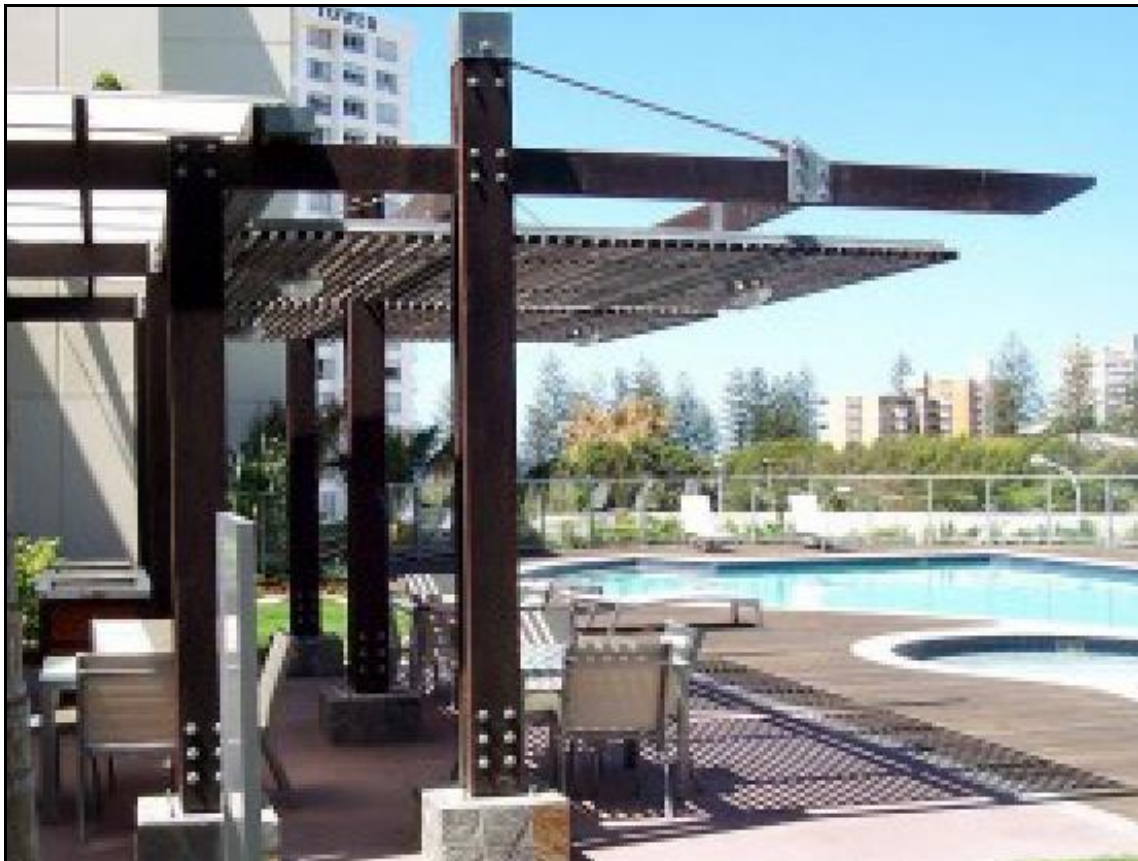
*The proposed structure would introduce a discordant element within the plaza as it is not of the same style or quality as other streetscape elements. Further, the dimensions of the proposed structure are such that it is too large to fit within the terrace area. Hence the proposed structure is not supported.*

*The three stepped terraces are available for lease to the adjacent shops. There is very little shade and no all weather protection available for users of the terraces. It would be appropriate for Council to consider permitting the installation of a suitably designed shelter that could be used on all three terraces. In this regard, the design should be contemporary, similar to the attached example. The shelter would need to be custom designed so as to fit within the dimensions of the three terraces.*

Assessing officer's Comment:

In addition to the comments from Council's Team Leader Design & Development, photographs have been provided of alternative design options that may be acceptable in this particular location. These are provided below.

**ITEM 3 (continued)**



### **ITEM 3 (continued)**

Heritage Officer, 18 July 2014: Council's Heritage officer has provided the following comments in relation to the subject application:

**Proposal:**

*The proposal involves the proposed construction of an external shelter in the public domain situated adjacent to the heritage item.*

**Existing Conditions:**

*The subject site is located in the public domain adjacent to the heritage item and the Meadowbank Railway Bridge.*

**Assessment of Heritage Impact:**

*The proposal as submitted is not sympathetic of an appropriate permanent built form for both the public domain and the setting of the heritage listed items.*

*The public domain is finished in a contemporary style and has recently been upgraded, the area is terraced and tiered and could be replicated in three of the other terraces in this public domain area. There is a major risk if this proposed is not carefully crafted to be suitable with the contemporary public domain and the heritage significance of the group of shops.*

*Meetings have occurred internally between various divisions of Council discussing the deficient in Council Policy in relation to permanent shelter structures in the public domain. It has highlighted that a new document needs to be created detailing specifics for areas in the Public Domain where tenants wish to do these such works.*

*Given the above policy/document is not ready or available, an alternative solution would be for Council to formally approve the design proposed for the use and erection by the tenant. This provides some consistency in design and style that could be replicated in other areas of the public domain and this area adjacent to Meadowbank station.*

**Recommendations:**

*That the DA as submitted is refused for its inappropriate design and that it would detract from the public domain and setting of the heritage listed shops. The proposal is unsuitable for the following reasons:*

- That the design is not sympathetic to the heritage significance/ station architecture / contemporary urban domain area;*
- That a light pole currently exists where the awning is proposed;*
- That the quality of the plans are poor and inaccurate.*

### External Referrals

No external referrals undertaken as part of the assessment of the proposed development.

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

There are no critical dates or deadlines to be met.

**15. Financial Impact**

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

**16. Other Options**

In brief, the recommendation of this report is refusal of the current application (for the reasons specified in the recommendation), and to invite the applicant to participate in further discussions on possible suitable alternative design options that would be acceptable to Council having regard to the design and external appearance of this particular public domain area. It would be intended that such alternative designs would be the subject of a separate future development application (DA) for Council's consideration and assessment.

An alternative option available for Council is to defer consideration of the current DA to enable the applicant to submit amended plans which address the issues of concern discussed throughout this report.

Another alternative available for Council is for approval of the application as currently submitted. However, this is not recommended due to the issues of concern regarding design and external appearance and impacts on the public domain area as discussed throughout this report.

**17. Conclusion**

The proposed shelter structure has been assessed against the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979 (the Act), the Ryde Local Environmental Plan 2010 (Ryde LEP 2010), Draft Ryde Local Environmental Plan 2011 (Draft Ryde LEP 2013), Ryde Development Control Plan 2010 (Ryde DCP 2010) and Ryde Outdoor Dining Policy 2010, and there are a number of inconsistencies identified with the aims and objectives of these environmental planning instruments, as discussed in the body of the report.

When assessed against the guidelines of the Ryde Outdoor Dining Policy 2010, the following non-compliances have been identified:

- *a clear unobstructed pedestrian corridor of 2 metres minimum is not maintained adjacent to the seating area for clear passage of pedestrian traffic to allow for continuous accessible paths of travel at all times;*
- *the location of the proposed shelter structure extends beyond the boundaries of the approved outdoor dining area;*
- *the shelter structure does not visually relate to and is not physically aligned with streetscape features;*

**ITEM 3 (continued)**

- *the boundaries of the existing outdoor dining area on the site are varied as a result of the proposed shelter structure;*
- *the fixtures that would be required to secure the shelter structure would be required to penetrate the pavement of the pedestrian plaza/outdoor dining area and would damage Council's asset;*
- *the shelter structure would cause an obstruction to the minimum path clearance required for public access (including access for the disabled), and would also impact on the public domain lighting.*

In addition, the proposal has been referred to a number of Sections of Council, and significant concerns have been raised from Council's Team Leader Design and Development, and Heritage Officer in relation to the design and external appearance of the proposal, and also in relation to its impacts on the heritage items immediately adjoining the area of public domain where the weather shelter is to be erected (ie the group of shops at 58-64 Constitution Road). These issues of concern are discussed more fully in the body of the report, however they are summarised as follows:

- *The proposed development would conflict with the existing light pole in the public domain;*
- *The dimensions of the proposed shelter structure are such that they would extend beyond the existing designated outdoor dining area and into the pedestrian corridor/thoroughfare;*
- *The proposed structure would introduce a discordant element within the plaza as it is not of the same style or quality as other streetscape elements;*
- *That the design is not sympathetic to the heritage significance/ station architecture / contemporary urban domain area.*

During the processing of this DA, discussions were held with various officers of Council (officers from Council's Urban Planning and Properties Teams), both regarding the issues of concern in relation to the design and external appearance of this particular proposal as presented to Council, as well as possible alternative design options to assist the applicant. These alternative design options were being investigated and some suitable alternatives have been illustrated in the body of the report. It was intended to involve the applicant in such discussions on possible alternative designs (after these were investigated).

The current proposal submitted in LDA2014/0135 is unacceptable and is recommended for refusal, however (as a separate part to the recommendation of this report), the applicant can be invited to participate in further discussions on possible alternative design options that would be acceptable to Council having regard to the design and external appearance of this particular public domain area.

**ITEM 3 (continued)**

**ATTACHMENT 1**

**Quality Certification**

**Assessment against the City of Ryde – Outdoor Dining Policy**

<b>LDA No:</b>	<b>LDA2014/0135</b>
<b>Date Plans Rec'd</b>	<b>11 April 2014</b>
<b>Address:</b>	<b>62 Constitution Road, Meadowbank</b>
<b>Proposal:</b>	Construction of a shelter structure over the public domain in front of the premises at 62 Constitution Road, Meadowbank for the purposes of outdoor dining.
<b>Constraints Identified:</b>	<b>Heritage Item</b> <i>Meadowbank shops are a 'local' heritage item under Ryde LEP 2010</i>

**COMPLIANCE CHECK**

<b>Outdoor Dining Policy 2010</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
<b>Minimum Areas</b>		
Min. outdoor dining area of 4m <sup>2</sup>	The proposal is not an application for a new outdoor dining area, but rather a structure located over an existing approved open-air outdoor dining area.	N/A
<b>Minimum Clearances (Setbacks)</b>		
- Min. 600mm wide clearance from kerb where parking lane is adjacent.	The proposal is not an application for a new outdoor dining area, but rather a structure located over an existing approved open-air outdoor dining area. The proposed structure is not located adjacent from the kerb of a parking lane but rather a pedestrian mall that is in front of the Meadowbank train station.	N/A
- Min. 2m wide pedestrian corridor	The proposal is not an application for a new outdoor dining area, but rather a structure located over an existing approved open-air outdoor dining. As demonstrated in <b>Figure 1</b> in the Attachment to this Compliance Table, the proposed structure extends beyond the designated outdoor dining area into the 2m wide pedestrian thoroughfare corridor and would inhibit the movement of pedestrians through this corridor by virtue of the support posts of the structure.	No



**ITEM 3 (continued)**

**ATTACHMENT 1**

<b>Outdoor Dining Policy 2010</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
<b>Furniture Layout</b>		
<ul style="list-style-type: none"> <li>- Furniture, barriers and the like not to extend beyond boundaries of approved outdoor dining area</li> <li>- Chairs not to be placed with their backs to the kerb</li> </ul>	<p>As demonstrated in <b>Figure 1</b> in the Attachment to this Compliance Table, the proposed structure extends beyond the designated outdoor dining area into the 2m wide pedestrian thoroughfare corridor and would inhibit the movement of pedestrians through this corridor by virtue of the support posts of the structure.</p> <p>The existing approved outdoor dining structure is not located adjacent to a kerb, but rather a pedestrian mall joining Railway Road and Meadowbank train station.</p>	<p>No</p> <p>NA</p>
<ul style="list-style-type: none"> <li>- Outdoor dining area to visually relate to and be physically aligned with streetscape features.</li> </ul>	<p>As part of the assessment of the subject development application, the proposal was referred to Council's Asset, Property, and Heritage teams for comment. The response to the proposal has generally been that the structure would introduce a discordant element within the plaza as it is not of the same style or quality as other streetscape elements. Further, it has again been noted that the dimensions of the proposed structure are such that it is too large to fit within the designated outdoor dining area and conflicts with the pedestrian corridor adjacent.</p>	<p>No</p>
<b>Delineation of Boundaries – Barriers and Markers</b>		
<ul style="list-style-type: none"> <li>- Boundaries of outdoor dining area to be marked out on site</li> </ul>	<p>The boundaries of the existing outdoor dining area at 62 Constitution Road are already considered to be properly delineated by the existing planter boxes and paved area. The proposed structure over the existing outdoor dining area is not considered to impact on the delineation of this outdoor dining area. However it is noted that the</p>	<p>No</p>

**ITEM 3 (continued)**
**ATTACHMENT 1**

<b>Outdoor Dining Policy 2010</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
<ul style="list-style-type: none"> <li>- Barriers and bollards</li> </ul>	<p>dimensions of the proposed structure are such that it is too large to fit within the designated outdoor dining area and conflicts with the pedestrian corridor adjacent. Existing delineation barriers are considered to be sufficient to separate the outdoor dining area which has already been determined by Council. No additional barriers or bollards are proposed as part of the subject development, nor considered necessary from a town planning perspective.</p>	<p>NA</p>
<b>Furniture Style</b>		
<ul style="list-style-type: none"> <li>- Furniture should be strong, sturdy, durable, waterproof and weather resistant and designed for commercial use.</li> <li>- Design of furniture must not contain parts that are likely to cause damage to the pavement</li> <li>- Furniture must be suitable for public safety, comfort and hygiene</li> <li>- All removable furniture must fold or stack for storage</li> <li>- Furniture colour schemes must form part of any application</li> <li>- Surfaces must be non-reflective</li> <li>- Furniture with advertising must be detailed.</li> </ul>	<p>The proposal is not an application for a new outdoor dining area, but rather a structure located over an existing approved open-air outdoor dining area. It is anticipated that existing furniture arrangements for the outdoor dining area will remain.</p>	<p>N/A</p>
<b>Enclosure</b>		
<ul style="list-style-type: none"> <li>- Enclosures not to be permanently down</li> </ul>	<p>The plans submitted for the proposed structure, along with the description of the proposal in the Statement of Environmental Effect indicate that the structure is not to be enclosed on the sides.</p>	<p>Yes</p>

**ITEM 3 (continued)**
**ATTACHMENT 1**

<b>Outdoor Dining Policy 2010</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
<ul style="list-style-type: none"> <li>- No more than two sides of an outdoor dining area to be enclosed</li> </ul>	The plans submitted for the proposed structure, along with the description of the proposal in the Statement of Environmental Effect indicate that the structure is not to be enclosed on the sides, nevertheless it is recommended that a condition is to be imposed which requires only two sides of the proposed outdoor dining area to be enclosed.	Yes – condition to be included if approved
<ul style="list-style-type: none"> <li>- Not to cause obstruction to the minimum path clearances</li> </ul>	As demonstrated in <b>Figure 1</b> in the Attachment to this Compliance Table, the proposed structure extends beyond the designated outdoor dining area into the 2m wide pedestrian thoroughfare corridor and would inhibit the movement of pedestrians through this corridor by virtue of the support posts of the structure.	No
<ul style="list-style-type: none"> <li>- Not to encroach the roadway or approved seating area or be wind affected</li> </ul>	The proposed enclosure does not encroach the roadway or approved seating area and has been described by the applicant in the Statement of Environmental Effects as having a “high wind grade proof of 240km/h.”	Yes
<ul style="list-style-type: none"> <li>- Not to be located near any heating devices</li> </ul>	No heating devices proposed as part of the development application.	Yes
<ul style="list-style-type: none"> <li>- To be securely fitted and installed. Fixtures that penetrate or damage the pavement on Council’s footpaths will not be permitted “and further that they be removed or closed in extremely windy conditions and must be removed when the outdoor seating area is not in use.</li> </ul>	No PVC type roll-up blinds are proposed as part of the development application.	N/A
<ul style="list-style-type: none"> <li>- Not to undermine the strength of the structure which they are fitted</li> </ul>	No roll-up blinds proposed as part of the development application.	Insufficient information
<ul style="list-style-type: none"> <li>- Not to penetrate or damage the pavement</li> </ul>	No details are provided on how the proposed structure is to be anchored to the pavement.	Yes

**ITEM 3 (continued)**
**ATTACHMENT 1**

<b>Outdoor Dining Policy 2010</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
- Not to be used for the display of advertising.	Proposed development does not include any advertising signage displays.	
<b>Setbacks</b>		
<ul style="list-style-type: none"> <li>• <b>Umbrellas must:</b></li> </ul>		
- Be installed to ensure that they are at all times securely fixed to withstand the effects of wind	The proposed development does not include any umbrellas, but rather a shelter structure.	N/A
- Fixtures are not to penetrate or damage the pavement on Council footpaths	The proposed development does not include any umbrellas, but rather a shelter structure.	N/A
- Be removed or closed in extremely windy conditions and must be removed when the outdoor seating area is not in use	The proposed development does not include any umbrellas, but rather a shelter structure.	N/A
- Not encroach on or interfere with pedestrian movement	The proposed development does not include any umbrellas, but rather a shelter structure.	N/A
- Must be at least 2.2m above ground level at the lowest point		
- Be manufactured from fire retardant material if adjacent to a heating device	The proposed development does not include any umbrellas, but rather a shelter structure.	N/A
- Be maintained in sound and aesthetically acceptable condition	The proposed development does not include any umbrellas, but rather a shelter structure.	N/A
- Not have general advertising	The proposed development does not include any umbrellas, but rather a shelter structure.	N/A
<b>Heating Devices</b>		
- Heating devices details must be included with applications	No heating devices proposed as part of the development application.	N/A
<b>Storage Facilities</b>		
- Adequate storage facilities are to be provided for tables, chairs, umbrella, heating devices etc. when not in use.	Existing storage facilities are to remain unchanged as part of the proposed development. The shelter structure will remain in place while the furniture and associated equipment of the existing outdoor dining area will continue to be managed under existing arrangements.	Yes

**ITEM 3 (continued)**
**ATTACHMENT 1**

<b>Outdoor Dining Policy 2010</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
<b>Toilet Facilities</b>		
- Toilet facilities are to be made available to patrons in accordance with requirements of the BCA	Existing toilet facilities are to remain unchanged as part of the proposed development.	N/A
<b>Advertising and Signage</b>		
- The name of the outdoor dining premises, its business name or logo may be placed on outdoor umbrellas and furniture etc. only if it: <ul style="list-style-type: none"> <li>o Identifies the outdoor dining premises</li> <li>o Is in the nature of a corporate logo or identification</li> <li>o Is of a minor and integral element of the furniture design and does not have an excessive impact on the café or streetscape.</li> </ul>	No advertising has been proposed as part of the development application. Therefore these requirements are not considered to apply.	N/A
<b>Lighting</b>		
- Adequate lighting is to be provided for any outdoor café approved to operate outside daylight hours.	No lighting is proposed as part of the proposed development. The proposal is to take place in an existing public domain area which is already considered to be sufficiently illuminated.	N/A

*Non compliances – justifiable*

- Nil

*Non compliances – resolved via conditions:*

- **Enclosure**
  - Not to penetrate or damage the pavement

*Non compliances – not justifiable:*

- **Minimum Clearances (Setbacks)**
  - Min. 2m wide pedestrian corridor

**ITEM 3 (continued)**

**ATTACHMENT 1**

- ***Furniture Layout***
  - Furniture, barriers and the like not to extend beyond boundaries of approved outdoor dining area
  - Outdoor dining area to visually relate to and be physically aligned with streetscape features.
  - Boundaries of outdoor dining area to be marked out on site
  
- ***Enclosure***
  - Not to cause obstruction to the minimum path clearances

**Certification**

I certify that all of the above issues have been accurately and professionally examined by me.

Name: Ben Tesoriero



Signature:

Date: 26 June 2014

ITEM 3 (continued)

ATTACHMENT 1

Attachment

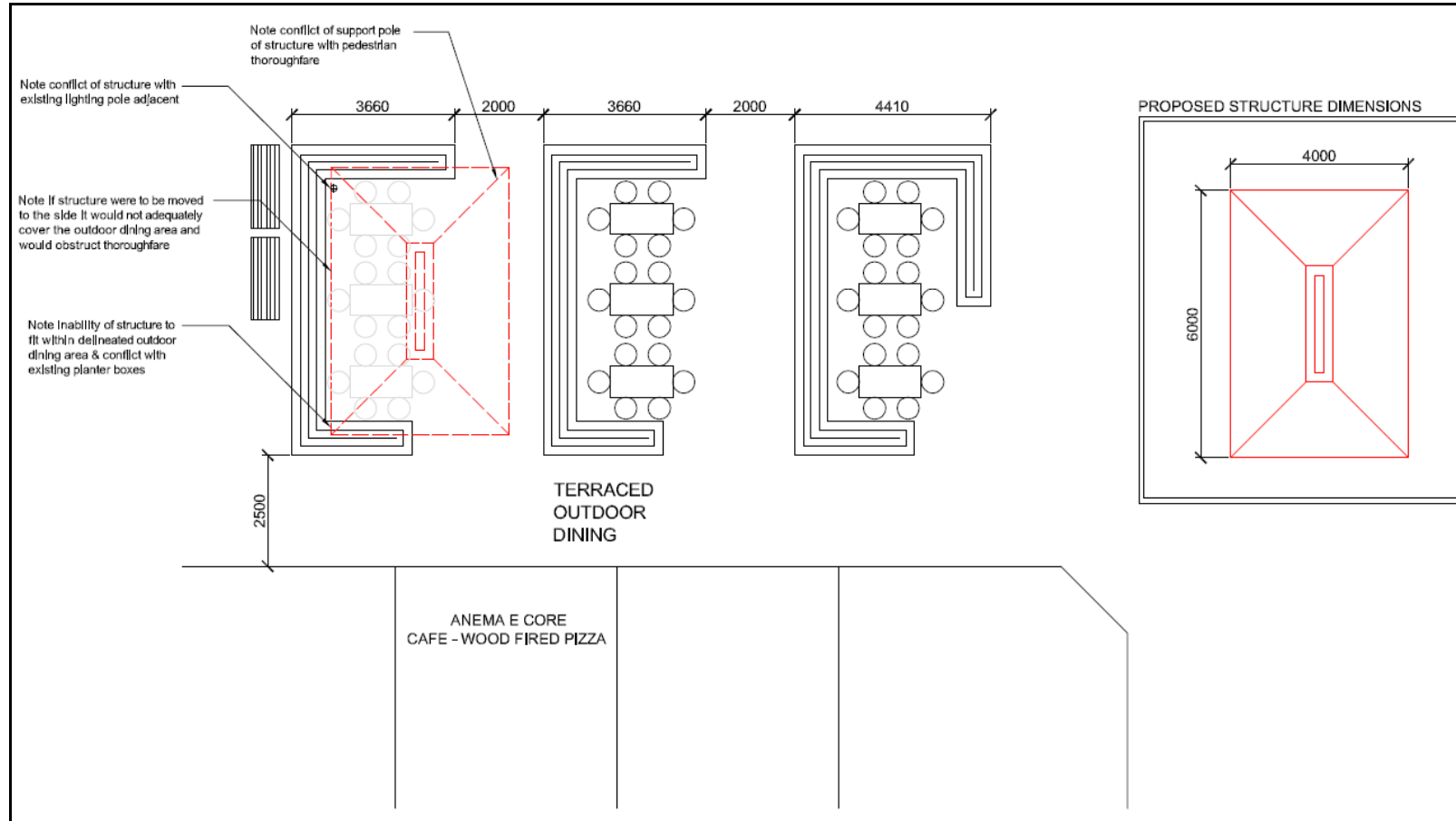
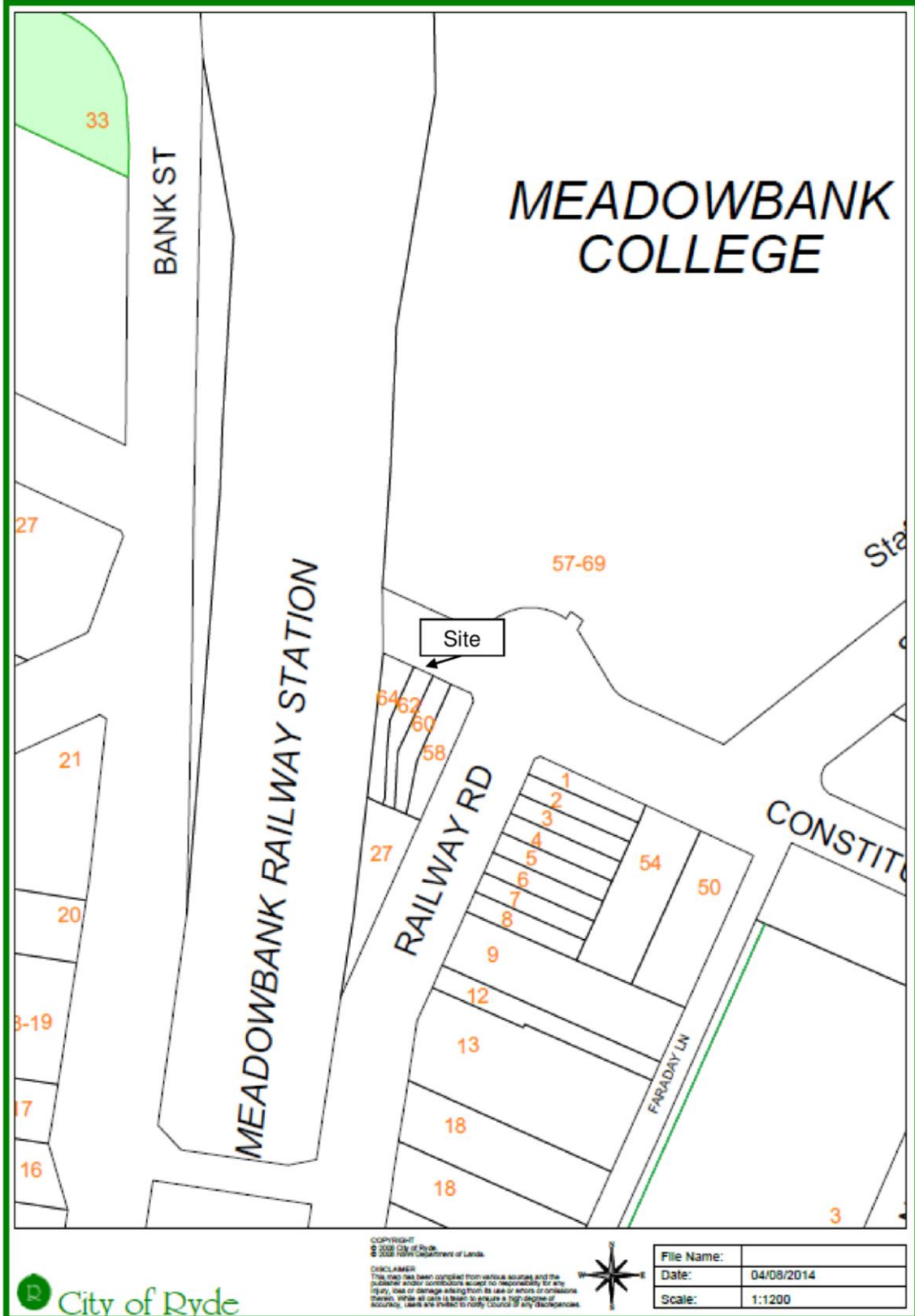


Figure 1 – Diagram illustrating the proposed shelter structure over the existing outdoor dining area. Demonstrated in this diagram is the conflict the support poles of the proposed structure has with the 2m wide thoroughfare, the conflict the support structure has with the existing lighting pole, the inability of the structure to be shifted to the north (to the right) because of the conflict with the thoroughfare, , and furthermore the conflict with the existing planter boxes. Moving the structure northward would only expose the southern end of the designated seating area.

ITEM 3 (continued)

ATTACHMENT 2

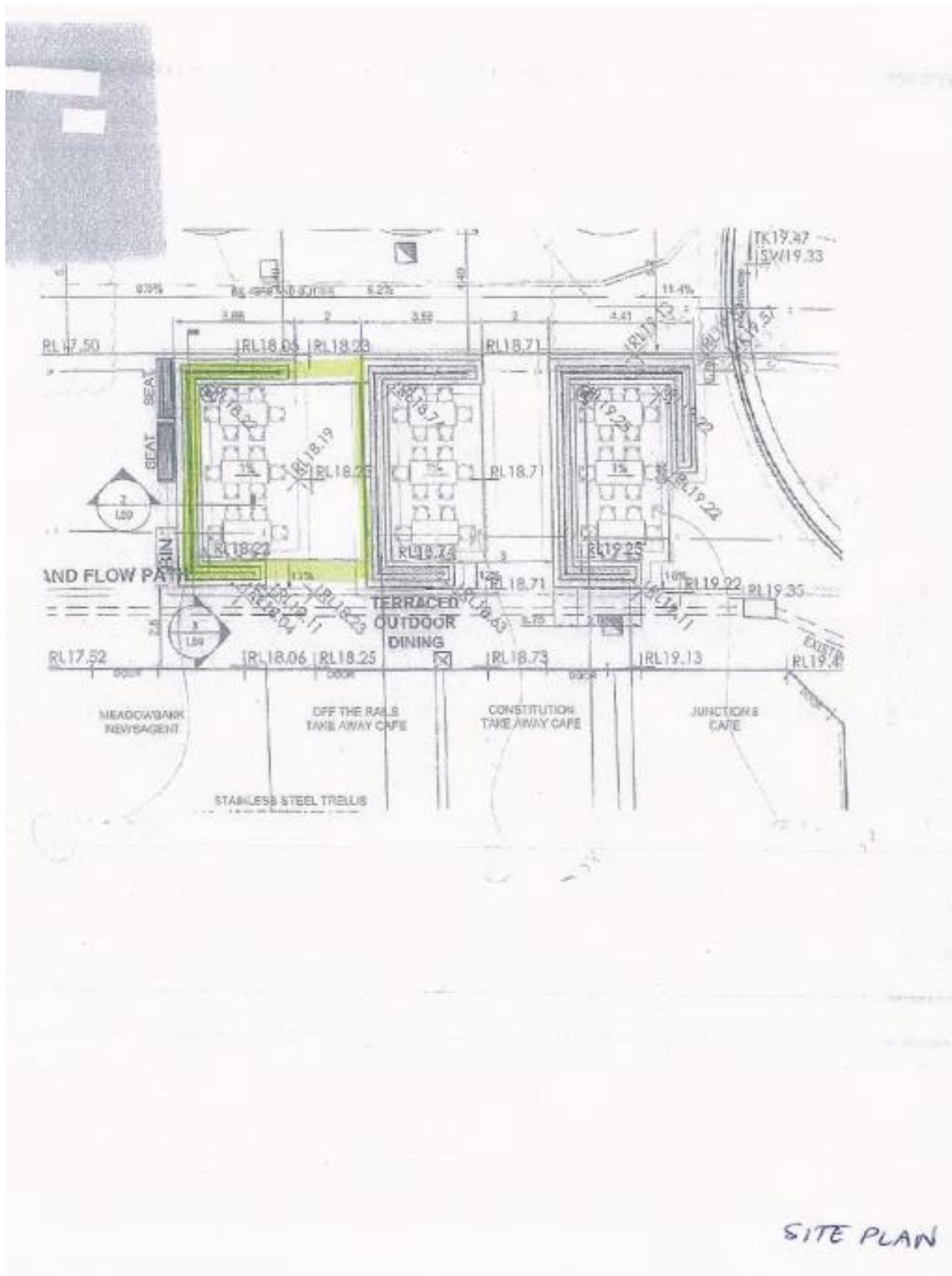
No submissions received.





ITEM 3 (continued)

ATTACHMENT 3



**ITEM 3 (continued)**

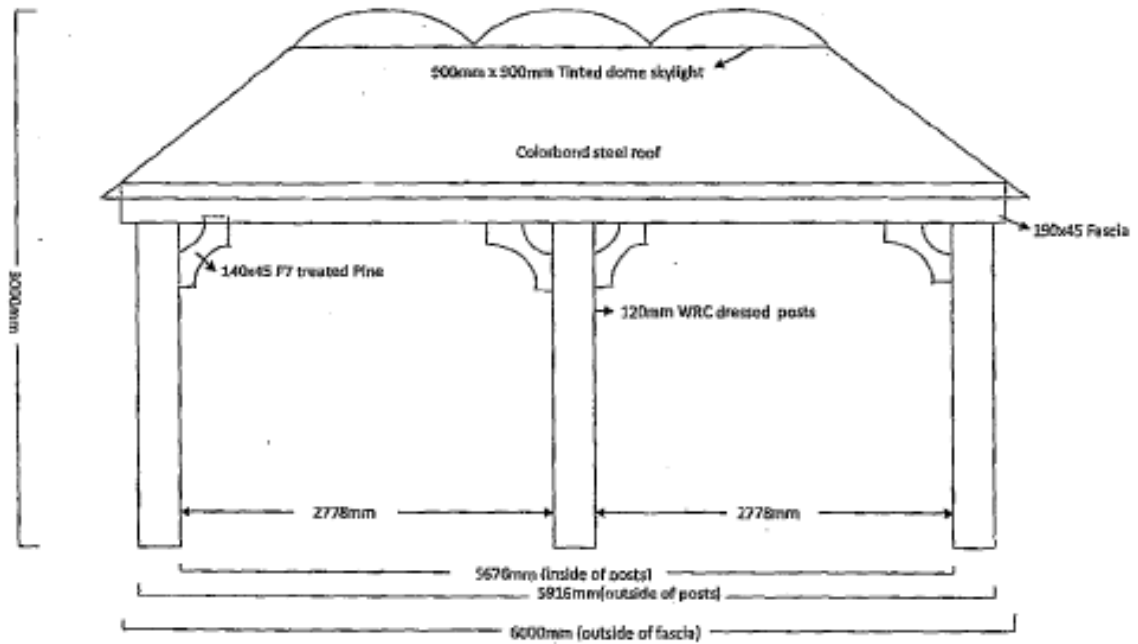
**ATTACHMENT 3**

**WINDOOR FACIENDA**

6M SIDE

- WRC (western Red Cedar)

City of Ryde  
Tel: (02) 9754 1500  
Email: [admin@cityofryde.nsw.gov.au](mailto:admin@cityofryde.nsw.gov.au)  
[www.cityofryde.nsw.gov.au](http://www.cityofryde.nsw.gov.au)  
Fac: 18/19 Conk Hill, Fermeil, Ryde NSW



**ITEM 3 (continued)**

**ATTACHMENT 3**

4m side

Phone: 081 978-4288  
Email: [admin@australianblinds.com.au](mailto:admin@australianblinds.com.au)  
[www.australianblinds.com.au](http://www.australianblinds.com.au)  
Unit 16/17 Cornhill St, Pentreos Quay, 2156

