



5 DECEMBER 2019

NOTICE OF MEETING

You are advised of the following meeting:

THURSDAY 12 DECEMBER 2019.

City of Ryde Local Planning Panel Meeting No. 10/19

Council Chambers, Level 1A, 1 Pope Street, Ryde - 5.00pm

English

If you do not understand this letter, please come to the 1 Pope Street, Ryde (within Top Ryde Shopping Centre), 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 you. Council's phone number is 9952 8222. Council office hours are 8:30am to 5:00pm, Monday to Friday.

Arabic

إذا لم تفهم محتوى هذه الرسالة، يرجى الحضور إلى 1 Pope Street، Ryde (في Top Ryde Shopping Centre)، Ryde، لمناقشتها مع موظفي المجلس الذين سوف يرتبون للاستعانة بمترجم شفهي. أو قد يمكنك الاتصال بخدمة الترجمة التحريرية والشفهية على الرقم 131 450 لتتطلب من المترجم الاتصال بك. رقم هاتف المجلس هو 9952 8222. ساعات عمل المجلس هي 8:30 صباحاً حتى 5:00 مساءً، من الاثنين إلى الجمعة.

Armenian

Եթե դուք չեք հասկանում սույն նամակի բովանդակությունը, խնդրում ենք այցելել 1 Pope Street, Ryde (որը գտնվում է Top Ryde Shopping Centre-ի մեջ), Ryde, քննարկելու այն Քաղաքային Խորհրդի անձնակազմի հետ, ովքեր ձեզ համար կապահովեն թարգմանչական ծառայություն: Կամ կարող եք զանգահարել Թարգմանչական Ծառայություն 131 450 հեռախոսահամարով և խնդրել, որ թարգմանիչը ձեզ զանգահարի: Խորհրդի հեռախոսահամարն է 9952 8222: Խորհրդի աշխատանքային ժամերն են առավոտյան ժամը 8:30-ից մինչև երեկոյան ժամը 5:00, երկուշաբթիից մինչև ուրբաթ:

Chinese

如果你不明白这封信的内容，敬请前往1 Pope Street, Ryde（位于Top Ryde Shopping Centre内），向市政府工作人员咨询，他们会为您安排口译服务。此外，您也可以拨打131 450联络翻译和口译服务，要求口译员与您联系。市政府电话号码为9952 8222。市政府办公时间为周一至周五上午8:30至下午5:00。

Farsi

لطفاً اگر نمی توانید مندرجات این نامه را درک کنید، به نشانی 1 Pope Street، Ryde (در Top Ryde Shopping Centre) مراجعه کنید تا با استفاده از یک مترجم در این باره با یکی از کارکنان شورای شهر گفتگو کنید. یا آنکه می توانید با خدمات ترجمه کتبی و شفاهی به شماره 131 450 تماس گرفته و بخواهید که به یک مترجم ارتباط داده شوید. شماره تماس شورای شهر 9952 8222 و ساعات کاری آن از 8:30 صبح تا 5:00 بعد از ظهر روزهای دوشنبه تا جمعه است.

Italian

Se avete difficoltà a comprendere questa lettera, venite in 1 Pope Street, Ryde (dentro al Top Ryde Shopping Centre), Ryde, per discutere con il personale del Comune che organizzerà un servizio di interpretariato. Potete anche contattare il Servizio di Traduzione e Interpretariato al 131 450 per chiedere a un interprete di contattarvi. Il numero di telefono del Comune è il 9952 8222. Gli orari di ufficio del Comune sono dalle 8.30 alle 17 dal lunedì al venerdì.

Korean

이 서신을 이해할 수 없을 경우, 1 Pope Street, Ryde (Top Ryde Shopping Centre 내)에 오셔서 통역사 서비스를 주선할 시의회 직원과 논의하십시오. 혹은 통번역서비스에 131 450으로 전화하셔서 통역사가 여러분에게 연락하도록 요청하십시오. 시의회의 전화번호는 9952 8222입니다. 시의회 사무실 업무시간은 월요일에서 금요일, 오전 8시 30분에서 오후 5시까지입니다.

Meeting Date: Thursday 12 December 2019
Location: Council Chambers, Level 1A, 1 Pope Street, Ryde
Time: 5.00pm

City of Ryde Local Planning Panel Meetings will be recorded on audio tape for minute-taking purposes as authorised by the Local Government Act 1993. City of Ryde Local Planning Panel Meetings will also be webcast.

NOTICE OF BUSINESS

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DECLARATIONS OF INTEREST

DEVELOPMENT APPLICATIONS

1	459, 461 to 495 Victoria Road, Gladesville - Section 4.55 (1A) to modify the approved development for a Bunnings Warehouse, Homemaker Centre containing a childcare centre and 2 levels of car parking, to include the following: • Reduction in floor space of the Homemaker Centre in Stages 2 and 3 by cutting back the north-western wall of the building. Overall the floor space will be reduced by 318m ² . • Provision of a 1.5m wide fire egress footpath from the Bunnings Warehouse to College Street. • Alteration to College Street driveway and internal paths in the car park to permit vehicular access from the College Street driveway to the Bunnings Warehouse. • Delete one traveller, relocation of remaining traveller and lift in the Homemaker Centre • Removal of signage to prevent “No vehicular access” arrangement to the driveway to/from College Street. - MOD2019/108.....	3
2	461 to 495 Victoria Road, Gladesville - Torrens title subdivision of one lot into two lots - LDA2019/211	41
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There are no LPP Planning Proposals

DEVELOPMENT APPLICATIONS

- 1 459, 461 to 495 Victoria Road, Gladesville - Section 4.55 (1A) to modify the approved development for a Bunnings Warehouse, Homemaker Centre containing a childcare centre and 2 levels of car parking, to include the following:**
- **Reduction in floor space of the Homemaker Centre in Stages 2 and 3 by cutting back the north-western wall of the building. Overall the floor space will be reduced by 318m².**
 - **Provision of a 1.5m wide fire egress footpath from the Bunnings Warehouse to College Street.**
 - **Alteration to College Street driveway and internal paths in the car park to permit vehicular access from the College Street driveway to the Bunnings Warehouse.**
 - **Delete one traveller, relocation of remaining traveller and lift in the Homemaker Centre**
 - **Removal of signage to prevent “No vehicular access” arrangement to the driveway to/from College Street. - MOD2019/108**

Report prepared by: Senior Town Planner

Report approved by: Acting Senior Coordinator - Major Development; Manager - Development Assessment; Director - City Planning and Environment

Report dated: 3 December 2019
BP19/1454

File Number: GRP/09/6/12/1/2 -

City of Ryde Local Planning Panel Report

DA Number	MOD2019/108
Site Address & Ward	459, 461 to 495 Victoria Road, Gladesville East Ward
Zoning	B5 Enterprise Park under RLEP 2014
Proposal	<p>Section 4.55 (1A) to modify the approved development for a Bunnings Warehouse, Homemaker Centre containing a childcare centre and 2 levels of car parking, to include the following:</p> <ul style="list-style-type: none"> • Reduction in floor space of the Homemaker Centre in Stages 2 and 3 by cutting back the north-western wall of the building. Overall the floor space will be reduced by 318m². • Provision of a 1.5m wide fire egress footpath from the Bunnings Warehouse to College

ITEM 1 (continued)

	Street. <ul style="list-style-type: none"> • Alteration to College Street driveway and internal paths in the car park to permit vehicular access from the College Street driveway to the Bunnings Warehouse. • Delete one traveller, relocation of remaining traveller and lift in the Homemaker Centre • Removal of signage to prevent “No vehicular access” arrangement to the driveway to/from College Street.
Property Owner	Bunnings Properties Pty Ltd
Applicant	Bunnings Group Pty Ltd
Report Author	Peggy Wong – Senior Town Planner
Lodgement Date	27 June 2019
No. of Submission	23 submissions
Cost of Works	Nil
Reason for Referral to RLPP	Contentious Development <ul style="list-style-type: none"> • More than 10 unique submissions by way of objection
Recommendation	Approval
Attachments	Attachment 1 – Draft Conditions of Consent Attachment 2 – Proposed Plans

1. Executive Summary

This report is an assessment of a Section 4.55(1A) application seeking to modify the development consent (LDA2015/0214) for demolition, bulk earthworks and construction and fit out of a Bunnings Warehouse, construction of a bulky goods Homemaker Centre and childcare centre (no fit out) with 2 levels of car park. The proposal seeks to modify the approved development to adjust part of the approved building to suit a proposed two lot subdivision which is the subject of a concurrent development application (LDA2019/0211).

The proposed modifications sought will reduce the gross floor area for building works in Stages 2 and 3 of the development. The proposal seeks to amend the Section 7.11

ITEM 1 (continued)

Contributions calculations for Stages 2 and 3 to reflect the net reduction in gross floor area as outlined in Conditions 32A and 32B of the consent.

The original development consent LDA2015/0214 was granted on 28 October 2015 by the former Sydney East Joint Regional Planning Panel (JRPP).

The development consent has been subject to four Section 4.55 modifications resulting in amendments to the proposal including reduction in gross floor area, changes to the childcare centre capacity and car parking spaces; changes to building height and signage; reconfiguration of circulation areas within the approved buildings; and minor adjustment to staging of construction works.

This application was lodged on the 27 June 2019 and notified between 10 July 2019 and 29 July 2019.

Twenty-three (23) submissions all objecting to the proposal were received in response to the notification. Issues raised in objection to the proposal include traffic congestion caused by construction works and vehicles, traffic congestion caused by approved driveways, lack of on street car parking, impacts on surrounding businesses and pedestrian safety.

The issues raised objecting to works already approved as part of the original development consent and subsequent modification applications are not relevant to the consideration of the modifications sought in this application. In particular, the proposed modification does not change the approved car parking, vehicular access to the site, use of the premises or staging of construction works.

In accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*, the proposal has been assessed having regard to relevant planning instruments. The proposal is consistent with provisions of the *Ryde Local Environmental Plan 2014* (RLEP 2014) and Part 6.5 of the *Ryde Development Control Plan 2014* (RDCP 2014) and will not result in any adverse amenity impacts on the streetscape or amenity of surrounding properties.

The proposed development satisfies the provisions of Section 4.55 (1A) of the *Environmental Planning & Assessment Act 1979* and is considered to be substantially the same development as that previously considered and approved by the former Sydney East JRPP.

The development is considered minor and does not raise any further issues under Section 4.15 of the EP&A Act.

Given the reasons detailed above, the Section 4.55 application is recommended for approval, subject to appropriate conditions of consent provided in **Attachment 1** of this report.

2. The Site and Locality

ITEM 1 (continued)



Figure 1: Aerial view of the subject site in its context.

The site is located on the northern side of Victoria Road and is bounded by Frank Street to the west and College Street to the north. The site is legally known as Lot 300 in DP 1194688.

The site is irregular in shape and has a site area of 3.709 hectares.

The site was originally occupied by 5 separate light industrial buildings which have been partially demolished and construction works for a Bunnings Warehouse at the northern portion of the site is currently being undertaken.

Figures 2 to 7 shows photographs of the subject site.

ITEM 1 (continued)



Figure 2: Site viewed from Victoria Road.



Figure 3: Site viewed from intersection of Victoria Road and Frank Street.

ITEM 1 (continued)



Figure 4: View into site from intersection of Victoria Road and Tennyson Road.



Figure 5: Looking north-east along Frank Street.

ITEM 1 (continued)



Figure 6: View of Bunnings Warehouse construction works from College Street.



Figure 7: College Street driveway at the boundary of Bunnings Warehouse (stage 1) and Homemaker Centre (Stage 2).

The site is surrounded by a mix of industrial, residential, recreational and educational uses contained within two to four storey buildings. Existing surrounding developments comprises of the Ryde Aquatic Leisure Centre on the southern side of Victoria Road, Kennards Storage at the intersection of Victoria Road and Frank Street, childcare centres to the north and east along Frank Street and College Street, the Holy Cross Catholic College and one to two storey residential dwellings further to the east along College Street.

Figures 8 to 15 shows photographs of the surrounding sites.

ITEM 1 (continued)



Figure 8: View of Ryde Aquatic Leisure Centre from Victoria Road.



Figure 9: Kennards Storage opposite site at the intersection of Victoria Road and Frank Street.

ITEM 1 (continued)



Figure 10: Existing properties on northern side of Frank Street.

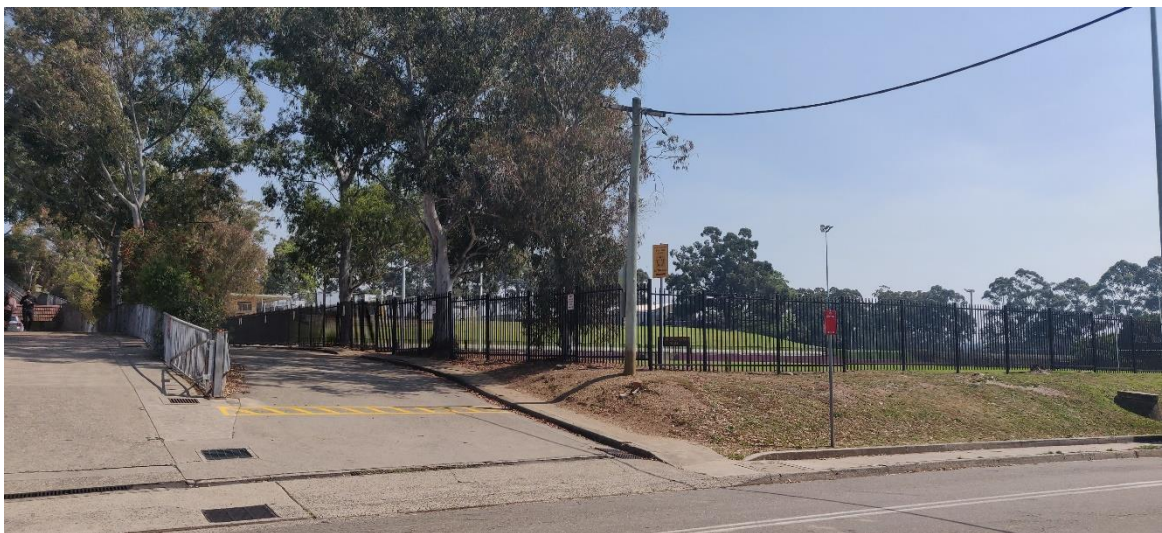


Figure 11: Driveway entrance to Holy Cross College at intersection of Frank Street and College Street.

ITEM 1 (continued)



Figure 12: Light industrial units opposite the site on College Street.



Figure 13: Existing road closure on College Street (near intersection of Orient Street).

ITEM 1 (continued)



Figure 14: Residential developments to the east of the site on College Street.



Figure 15: Residential development immediately adjacent to site on College Street.

3. The Proposal

The application is a Section 4.55(1A) to adjust part of the approved building to suit a proposed two lot subdivision between the Bunnings Warehouse (Stage 1) and Homemaker Centre (Stages 2 and 3).

The purpose of this modification is to accommodate the proposed subdivision of the site into two lots. The subdivision application is being considered as a separate development application. This modification is not dependent upon the subdivision development application being approved.

Specifically, modifications to the layout of Stages 1 to 3 (inclusive) include:

ITEM 1 (continued)Stage 1

- New 1.5m fire egress footpath along the southern boundary of Bunnings Warehouse
- Reduce width of landscaping area adjacent to new fire egress footpath
- Adjust location of College Street driveway to align with the proposed subdivision between Stage 1 and Stage 2 works. The median strip will be reduced in length to allow access from this driveway to Bunnings Warehouse.
- Remove redundant directional traffic signs to and from College Street driveway

Stage 2

- Relocate stairs and ramp on the southern elevation of the Homemaker Centre to the east in response to the proposed subdivision
- Additional landscaping to infill area originally occupied by stairs and ramp
- Delete one traveller
- Relocate lift, traveller and associated void to the north-west
- Reconfiguration of vehicular paths on Level 2 of car park
- Realignment of the north-western wall of the Homemaker Centre to match the proposed subdivision providing a 4.46m separation from the Bunnings Warehouse
- Reduction of 319m² in gross floor area (GFA) to facilitate proposed subdivision

Stage 3

- Realignment of north-western wall of Homemaker Centre to match proposed subdivision boundary
- Net increase of 1m² in GFA given removal of one traveller and realignment of north-western wall

The application also seeks to modify the development consent to allow the release of a Deed of Covenant and Indemnity which relates to existing stormwater infrastructure on the site. It is proposed that the Deed of Covenant and Indemnity be released upon completion of new stormwater drainage works and the issue of Occupation Certificates for Stages 1 and 3.

ITEM 1 (continued)

The proposed modifications are illustrated in **Figures 16 to 20** below.

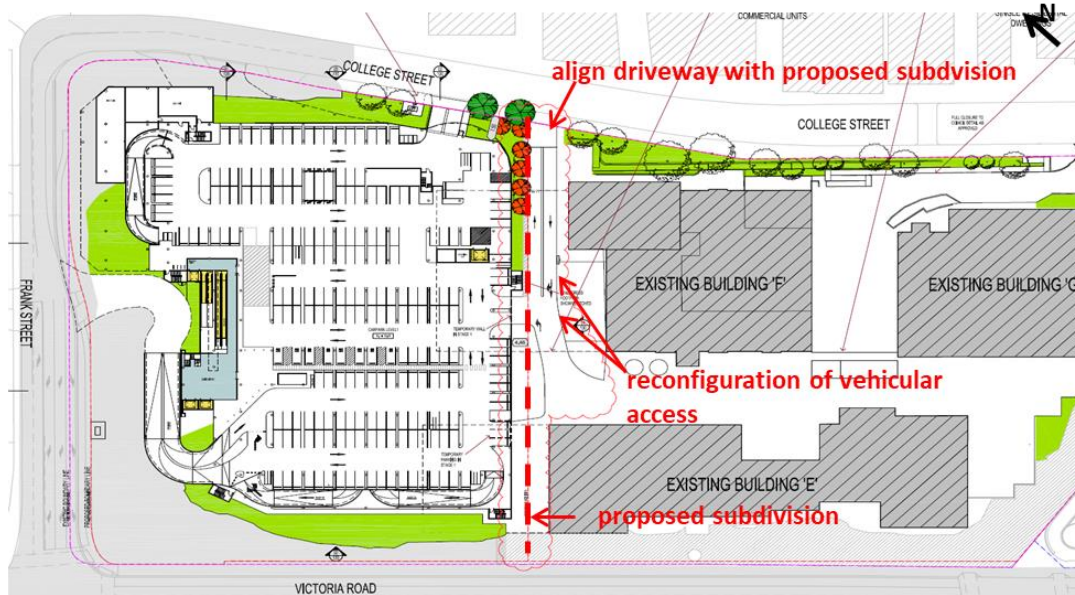


Figure 16: Proposed alterations to Stage 1 Level 1 carpark.



Figure 17: Proposed alterations to Stage 1 Level 2 carpark.

ITEM 1 (continued)



Figure 18: Proposed Stage 2 Level 1 carpark.

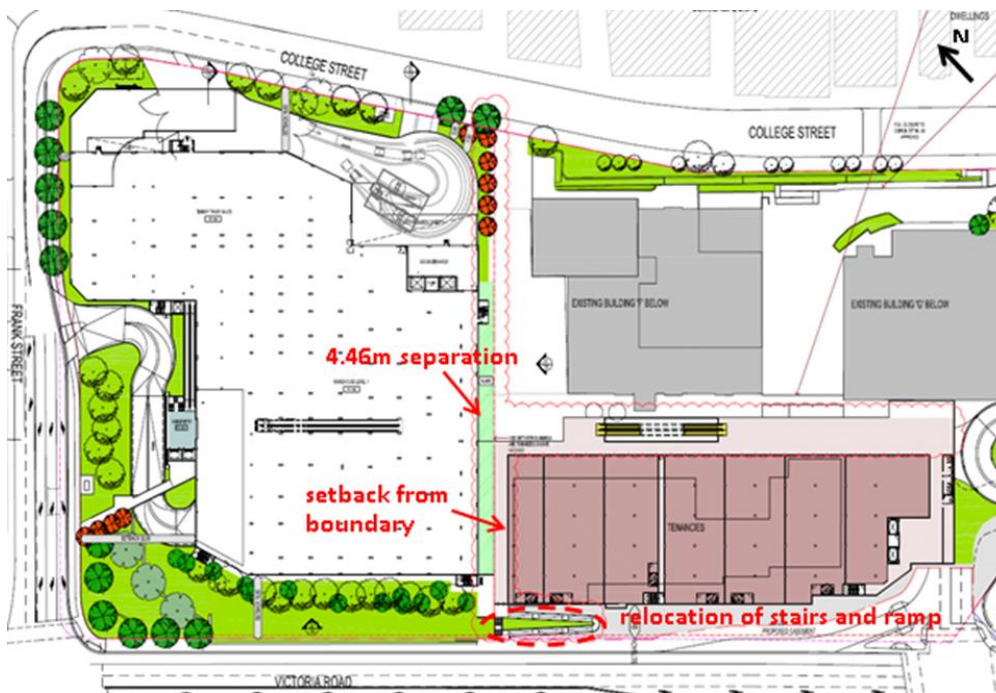


Figure 19: Proposed Stage 2 Level 1 warehouse.

ITEM 1 (continued)

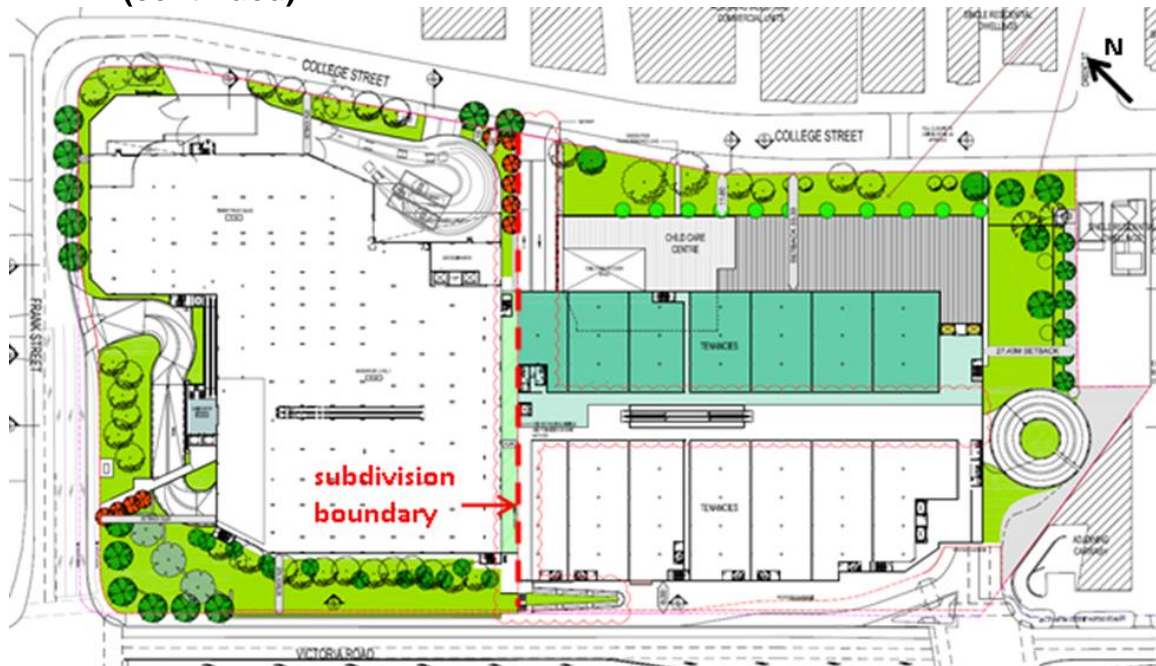


Figure 20: Proposed Stage 3 Level 1 warehouse.

4. Background

Development Application LDA2015/0214

On 28 October 2015, development consent was granted by the former Sydney East Joint Regional Planning Panel for the demolition of existing structures, bulk earthworks and construction and fitout of a Bunnings Warehouse, a bulky goods Homemaker Centre, childcare centres for up to 50 children and 2 levels of car parking containing 900 car parking spaces. To facilitate the development, road works have been approved on Frank Street, Victoria Road and College Street including a trial closure of College Street. The development also includes tree removal, landscaping works, signage and stratum subdivision.

The development was approved to comprise of 3 stages as follows:

- Stage 1: Construction of Bunnings Warehouse
- Stage 2: Construction of Bulky Goods Tenancies (south)
- Stage 3: Construction of Bulky Goods tenancies (north)

The development consent has subsequently been modified by Section 4.55 applications as follows:

ITEM 1 (continued)MOD2016/0056

On 13 December 2016, consent was granted by Council for the modification of the approved building envelopes, reconfiguration of internal layout of Bunnings Warehouse and the Homemaker Centre, alterations to layout of carparking levels, new vehicle access points as follows:

- Delay construction of Tennyson Road intersection access ramp from Stage 1 to Stage 2;
- New entry/exit to Level 1 car park under Bunnings Warehouse at the western end of College Street;
- Amendment to design of Frank Street entry/exit;
- Amend timing of closure of the College Street eastern access ramp within 6 months of the permanent closure of the existing childcare centre;
- Modification to Bunnings Warehouse to provide a roof over the bagged good canopy area, relocate lift, travelator and the mezzanine level;
- Increase length of road widening of Frank Street from 50m to 85m;
- Increase GFA of childcare centre from 940m² to 1,271m², increase capacity from 50 children to 90 children, and increase building height fronting College Street by 1.27m to RL58.25;
- Reconfiguration of Bunnings Warehouse car park to increase car parking spaces from 900 spaces to 909 spaces;
- Amend staging of Section 7.11 contributions to relate to relevant stages of development;
- Delay stratum subdivision of the site from Stage 1 to Stage 2;
- Amend conditions to require a review of the full closure of College Street to be undertaken 12 months after the operation of the Tennyson Road intersection; and
- Amend RMS conditions to clarify when documentation is required to be submitted to RMS.

MOD2017/0078

On 7 August 2017, consent was granted by the Sydney North Planning Panel for the modification of the original development consent (LDA2015/0214) including the following:

- Changes to the building footprint and increase setbacks to the street;
- Relocation of the main entrance of Bunnings Warehouse and new pedestrian ramp fronting Frank Street;
- Reduce GFA of Bunnings Warehouse from 18,100m² to 16,316m² and overall development from 37,088m² to 36,530m²;
- Reduce car parking spaces from 909 spaces to 795 spaces;
- Separation of customer and goods delivery vehicular access ramps from Frank Street;

ITEM 1 (continued)

- Delete driveway on Frank Street near College Street and redesign Level 1 car park entrance on College Street for timber trades and goods delivery;
- Construction of a 5m high acoustic wall adjacent to the goods receiving area;
- Reduce maximum building height from RL62.4 to RL58.4;
- Relocate childcare centre from Warehouse 1 and 2 to car park Levels 1 and 2, and increase GFA for the childcare centre from 1,271m² to 1,137m²;
- Relocate and amend size of approved signs and inclusion of one additional wall sign on the eastern elevation; and
- Modify landscaping associated with amendment to building footprint including removal of 2 additional trees.

MOD2018/162

On 30 July 2018, consent was granted under Council officer's delegated authority to modify the timing for the preparation of a Pedestrian and Road Safety Audit and Management Plan to occur prior to the issue of any Occupation Certificate for Stage 1.

MOD2018/0163

On 26 September 2018, consent was granted by the Sydney North Planning Panel for the modification of the original development consent (LDA2015/214) to delay the construction of the childcare centre from Stage 1 to Stage 3 of the development, amendment to building height, carparking provisions and associated works and signage, as follows:

- Increase building height from RL58.4 (approved under MOD2017/0078) to RL58.7;
- Increase building setback to Frank Street from 20.4m to 32.5m;
- Increase overall GFA for the development from 36,530m² to 36,542m²;
- Reduce car parking spaces from 795 spaces to 758 spaces;
- Adjust car parking levels in Stage 2 and 3 to match the levels of the Bunnings Warehouse car park (Stage 1);
- Modification to the gradient of the College Street driveway to comply with Condition 51 of consent;
- Removal of the central median in Frank Street;
- Modification to signage strategy to reduce overall dimensions of signs; and
- Minor amendments associated with rainwater tank and sprinkler system requirements.

5. Planning Assessment

An assessment of the development in respect to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* is detailed below.

ITEM 1 (continued)

5.1 Section 4.55 – Modification of Consents

In accordance with Section 4.55(1A), Council may consider a modification of development consent provided:

- The proposed modification is of minimal environmental impact;
- The proposed development is substantially the same as the approved;
- The application for modification has been notified in accordance with the regulations; and
- Council has considered any submissions regarding the proposed modification.

The proposed cutback of the Bunnings Warehouse and the Homemaker Centre buildings will increase building separation within the site, reduce GFA by 318m², and does not alter building setbacks to property boundaries. As such, the proposal is considered to be of minimal environmental impact.

In determining if a development application is substantially the same as the approved development, the question is whether such changes result in it the modified development being essentially or materially the same as the approved development.

The proposed modifications do not result in any significant alterations to the exterior or internal configuration of buildings as approved. The proposal does not alter the approved use and operation of the site for bulky goods, retail and a childcare centre.

The proposed application was notified to surrounding properties and twenty-three (23) submissions objecting to the proposal were received. The issues raised in the submissions received are addressed in the report below.

In this regard, the proposed modification satisfies the considerations under Section 4.55(1A) as the proposed development is substantially the same as the approved development.

Section 4.55(3) requires the consent authority to consider relevant matters referred to in Section 4.15(1) in assessing an application for modification of development consent. The consent authority must also consider the reasons given for the grant of the consent that is sought to be modified. In accordance with Section 4.15, an assessment of the proposed modification is detailed in the report below.

5.2 State Environmental Planning Instruments

State Environmental Planning Policy No. 55 – Remediation of Land

In accordance with Clause 7 of the SEPP, a consent authority must consider if the land is contaminated, the extent of the contamination, suitability of the proposed use and remediation to standards to ensure if the proposal is suitable.

ITEM 1 (continued)

The original application was submitted with an Environmental Site Assessment and land contamination was assessed in accordance with the provisions of the SEPP. It was determined that the site is suitable for commercial development including use as a childcare centre, subject to preparation of a Remediation Action Plan and relevant conditions of consent.

The proposal does not alter the approved demolition or excavation works under the original development consent. The proposed modification does not include any additional demolition or excavation works. The proposal is substantially the same as the scope of construction works approved under the original development consent. As such, it is considered that the subject site satisfies the requirements of the SEPP, with the original conditions remaining unchanged under this application.

SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* applies to the whole of the Ryde local government area.

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

The objective of improved water quality is satisfied through compliance with the provisions of the Ryde Development Control Plan 2014 (Part 8.2), with the relevant conditions remaining unchanged under this application. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the SREP.

5.3 Ryde LEP 2014

In March 2012, the applicant submitted a planning proposal (LEP Amendment 5) to amend RLEP 2014 in relation to the zoning, height limits and road widening relating to the subject site.

Land Use Zoning

The planning proposal sought to change the zoning from 'IN2 – Light Industrial' to 'B5 – Business Development' and amend the height limits at the site from the prescribed 10m building height, to specified heights of between RL63, RL52 and RL42 AHD.

On 21 August 2015 the planning proposal was gazetted resulting in the change of zoning, building height and identification of road widening areas. The site is under the B5 – Business Development zone and the proposal is permitted with consent.

The objective of the B5 – Business Development zone reads as follows:

ITEM 1 (continued)

To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and that support the viability of, centres.

The proposed modification does not change the approved uses for the site and remains consistent with the objective of the zone.

Floor Space Ratio

In accordance with Clause 4.4 of the RLEP 2014, the maximum floor space ratio (FSR) permitted for the site is 1:1. The approved and proposed FSR and distribution of gross floor area across Stage 1, 2 and 3 for the site are outlined in **Table 1**.

Table 1. Changes to Gross Floor Area

	Original Approval LDA2015/214	2017 Modification	2018 Modification	Proposed Modification
Stage 1	28,462m ²	26,542m ²	25,423m ²	25,423m ² *1
Stage 2	33,283m ²	31,287m ²	30,168m ²	29,849m ² *2
Stage 3 (Final)	37,090m ²	36,530m ²	36,542m ²	36,224m ² *3
Site Area	37,090m ²	37,090m ²	37,090m ²	37,090m ²
FSR	1:1	0.98:1	0.98:1	0.976:1

Note:

*1: Stage 1 FSR includes floor space from the Bunnings Warehouse and the 3 remaining industrial buildings.

*2: Stage 2 FSR includes the floor space from the Bunnings Warehouse, Homemaker Centre southern tenancies and the 2 remaining industrial buildings.

*3: Stage 3 includes the FSR from the Bunnings Warehouse, the northern and southern tenancies of the Homemaker Centre and the childcare centre.

The overall floor space within the completed development will be 36,224m². This represents a reduction of 318m² from the last approved modified development. The reduction in floor space has occurred from the GFA in Stage 2 being reduced by 319m² due to the north-western wall of the Homemaker Centre being 'cut back' and an additional 1m² gain in the Stage 3 development.

The proposed modification will reduce the FSR for the development from the approved 0.98:1 (under MOD2018/163) to 0.976:1 and remains compliant with the maximum permitted FSR of 1:1 under the RLEP 2014. The proposed modification to the exterior of buildings in Stages 1, 2 and 3 will not have any additional impacts on bulk or scale when viewed from the public domain or surrounding properties. As such, the proposed modifications are considered to have minimal environmental impacts and are consistent with the objectives for floor space ratio.

5.4 Draft Environmental Planning Instruments

There are no draft environmental planning instruments that affect the site.

ITEM 1 (continued)**5.5 Development Control Plans****City of Ryde Development Control Plan 2014 (RDCP 2014)**

On 28 April 2015, a site specific Development Control Plan (Part 6.5 of RDCP 2014) was approved for the subject site in response to LEP Amendment 5 to enable development of a bulky goods development.

The proposed modifications are consistent with the objectives of Part 6.5 of the RDCP 2014 and will not result in any additional amenity impacts on surrounding properties as the general operation and use of the development remains the same as the originally approved development and subsequent Section 4.55 modification approvals.

Building setbacks to align with proposed subdivision

The proposed cut back to the southern side of the Bunnings Warehouse (Stage 1) and the western side of the Homemaker Centre in Stages 2 and 3 will not result in any significant alterations to the appearance of the development when viewed from the public domain.

The proposed subdivision of the site into two lots and increase separation of the Bunnings Warehouse and Homemaker Centre will enable construction and completion of building works without impeding on subsequent stages as approved under the original development consent.

The proposed 4.46m building setback of the Bunnings Warehouse will accommodate fire stairs and fire egress footpath pedestrian access wholly within the Stage 1 boundary. In accordance with Section 2.3 of the RDCP 2014, there are no requirements for building separation between buildings within the subject site. Therefore, the proposed modification to setback the Bunnings Warehouse from the Homemaker Centre is subject to a merit assessment. The proposed subdivision of the site into two lots will have no additional amenity impacts on the public domain or surrounding properties and is consistent with the solar access, visual and acoustic privacy provisions under Sections 2.5, 2.6 and 2.7 of RDCP 2014.

Having regard to the considerations above, the proposed modification to building setbacks will not result in any adverse amenity or environmental impacts and is acceptable.

Landscaping

The proposal seeks to narrow a portion of the landscaped area at the north-eastern corner of Bunnings Warehouse and a new 1.5m wide fire egress footpath along the southern boundary.

ITEM 1 (continued)

Whilst the proposal seeks to narrow a portion of the approved landscaped area, no change is proposed to the total number or species of trees to be planted in the location. As such, the proposal satisfies landscaping provisions under Section 2.4 of the RDCP 2014 and is consistent with relevant conditions of consent.

Vehicular and pedestrian access

The proposal to relocate the College Street vehicular crossing slightly to the east of the originally approved location will result in negligible impact on functionality of the driveway, appearance from public domain or amenity for pedestrians. The relocation of the vehicular crossing responds to the proposed subdivision of the development between Stages 1, and Stages 2 and 3, and accommodates a new 1.5m wide pedestrian path for fire egress. Council's Traffic Engineer and Senior Development Engineer have no objections to the proposal.

The proposed reconfiguration of vehicular access within the carpark levels, particularly the reduction in the length of the median strip from the College Street driveway provide access to and from College Street for Bunnings Warehouse customers.

Council's Traffic Engineer raises no objection to the reconfiguration of vehicular paths in the carpark between the Bunnings Warehouse and the Homemaker Centre as the College Street driveway is adequately separated to the approved driveway to the west. Having regard to the permanent closure of College Street to the east of the site and the availability of driveways along Frank Street and the western end of College Street, the subject driveway is unlikely to be a preferred choice by customers accessing the Bunnings Warehouse carpark. As such, the proposal is not considered to have any adverse traffic impacts along College Street.

The proposed removal of the 'No vehicular access' arrangement and associated signage to and from the College Street driveway will not result in any additional adverse traffic impacts on surrounding streets as the restriction was originally imposed to manage traffic impacts, subject to the closure of College Street. This traffic restriction is no longer required to minimise traffic impacts on surrounding streets as the RMS approved the permanent closure of College Street on 4 September 2019.

The proposal is consistent with the objectives and provisions for vehicular and pedestrian access under Section 4.2 of the RDCP 2014 and will not result in any additional impacts on the public domain or surrounding properties

5.6 Planning Agreements OR Draft Planning Agreements

There are no planning agreements or draft planning agreements for this development.

ITEM 1 (continued)
5.7 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)

Development Contributions Plan – 2007 (2014 Amendment) allows Council to impose a monetary contribution on developments that will contribute to increased demand for services as a result of increased development density / floor area.

Section 7.11 Contributions were required to be paid under Condition 32 of the approved development consent at Stage 1 of the development. The 2016 modification amended Condition 32 to allow the payment of Section 7.11 contributions prior to the Construction Certificate for each development stage, with additional conditions 32A and 32B included on the consent to reflect the payment of contributions according to each stage.

The proposed request to modify Conditions 32A (Stage 2) and 32B (Stage 3) to reflect the proposed net reduction in GFA of 318m² across Stages 2 and 3 has been calculated in accordance with the Section 7.11 Development Contributions Plan 2007.

The Section 7.11 Contributions applicable to this application, in comparison to the 2018 modification (MOD2018/163) are shown in ***bold italics*** as follows:

Stage 2

A – Contribution Type	B – Contribution Amount	
	<u>Previous</u>	<u>Proposed</u>
	<u>Modification</u>	<u>Amendment</u>
	<u>MOD2018/163</u>	
Community & Cultural Facilities	\$113,624.85	<i>\$109,360.77</i>
Open Space & Recreation Facilities	-	-
Civic & Urban Improvements	\$180,628.60	<i>\$173,858.68</i>
Roads & Traffic Management Facilities	\$43,938.70	<i>\$41,869.96</i>
Cycleways	\$15,388.80	<i>\$14,798.71</i>
Stormwater Management Facilities	\$60,736.00	<i>\$57,892.08</i>
Plan Administration	\$4,207.00	<i>\$3,971.27</i>
The total contribution is	\$418,523.95	<i>\$401,751.47</i>

ITEM 1 (continued)
Stage 3

A – Contribution Type	B – Contribution Amount	
	<u>Previous</u>	<u>Proposed</u>
	<u>Modification</u>	<u>Amendment</u>
	<u>MOD2018/163</u>	
Community & Cultural Facilities	\$130,480.41	\$133,341.48
Open Space & Recreation Facilities	-	-
Civic & Urban Improvements	\$207,422.18	\$211,978.32
Roads & Traffic Management Facilities	\$48,550.18	\$49,608.24
Cycleways	\$17,670.80	\$18,041.64
Stormwater Management Facilities	\$67,110.40	\$68,591.52
Plan Administration	\$4,839.08	\$4,838.88
The total contribution is	\$476,073.05	\$486,400.08

Under this proposed modification, the Section 7.11 payment for Stages 2 and 3 are amended in **Conditions 32A and 32B** to reflect the amended GFA across each of the stages.

5.8 Any matters prescribed by the regulations

All matters prescribed by the regulations have been considered in the assessment of the application.

6. The likely impacts of the development

The impacts associated with the proposed development have already been addressed in the report.

The development is considered satisfactory in terms of environmental impacts.

7. Suitability of the site for the development

The proposed development is permissible in the zone and is considered to be suitable for the site.

8. The Public Interest

The development is considered to be in the public interest as it is consistent with the relevant planning controls.

9. Submissions

In accordance with the RDCP 2014 *Part 2.1 Notice of Development Applications*, the owners of surrounding properties were given notice of the application between 10 July 2019 and 29 July 2019.

ITEM 1 (continued)

In response to the public notification period, twenty-three (23) submissions were received all objecting to the proposal.

The properties surrounding the subject site raising objection to the proposal is shown in **Figure 21** below.



Figure 21: Map showing location of objectors within the vicinity (subject site outlined in red)

The submissions raised issues as follows:

- **Traffic congestion on College Street caused by construction works**

Objections were raised to the traffic volumes and congestion resulting from the construction vehicles and works for Bunnings Warehouse. Objectors were concerned that customers of existing surrounding businesses cannot find street parking and delivery vehicles are required to reverse across College Street to gain access to surrounding properties, increasing risk to pedestrians.

Assessment Officer Comment:

The impact of construction traffic is not a relevant matter for consideration for this application. The proposed modifications sought to the carpark levels do not change the number of car parking spaces provided and will not have any additional impacts on the availability of street parking.

ITEM 1 (continued)

- **Use of College Street driveway**

Objection is raised to use of the College Street driveway for permanent vehicle entry and exit from the site as it will increase traffic volumes and impact on truck movements servicing surrounding businesses. The use of the College Street driveway should be restricted to emergency access.

Assessment Officer Comment:

The College Street driveway and traffic impacts were considered as part of the assessment of MOD2018/163. Having regard to the approval for the permanent closure of College Street, the use of the College Street driveway for vehicles to and from the Bunnings Warehouse carpark will not result in adverse congestion in College Street.

Conditions relating to traffic management as approved under Development Consent LDA2015/0214 and subsequent Section 4.55 applications will remain applicable.

- **Construction of Victoria Road driveway**

Objectors have raise that the Victoria Road driveway should be constructed as soon as possible to address traffic congestion impacts on College Street.

Assessment Officer Comment:

The Victoria Road driveway is approved to be constructed as part of Stage 2 of the development. The issue raised is not a relevant matter for consideration in the assessment of this application as no changes are sought to the staging of works associated with the construction of the vehicular access on Victoria Road.

- **Closure of College Street**

The existing closure of College Street has resulted in unacceptable traffic congestion and should be removed.

Assessment Officer Comment:

At its meeting on 30 October 2018, Council resolved to support the permanent closure of College Street. This application does not seek any changes to existing approved traffic management on College Street under the development consent or Council resolution.

- **Completion of Stage 2 and 3 of originally approved development**

Objectors raise concerns that the developer is not honouring the original proposal to complete construction works for the whole site. The proposal to construct

ITEM 1 (continued)

Stages 2 and 3 at an undisclosed time by a third party provides no certainty regarding the Victoria Road driveway and could have ongoing traffic impacts on College Street.

Assessment Officer Comment:

This application does not seek to change the staging of works as originally approved.

The sale of land and completion of construction works associated with a development consent is not restricted under the Environmental Planning and Assessment Act 1979. As such, any future sale of the site and subsequent completion of works associate with development consent LDA2015/0214 by a third party is a relevant consideration for the subject application.

- **Further modifications to originally approved development**

Objection is raised that modifications to the original development consent has resulted in adverse traffic and amenity impacts on surrounding properties and further modifications should not be supported.

Assessment Officer Comment:

Section 4.55 modifications submitted to Council are assessed in accordance with the relevant requirements under the Environmental Planning and Assessment Act 1979. This application has been assessed against relevant planning controls as discussed in the report above, and is not considered to have any additional adverse impacts on the amenity of surrounding properties.

- **Impact on local businesses**

Operators of surrounding businesses object to the proposal as traffic congestion threatens the viability of local businesses.

Assessment Officer Comment:

Traffic volumes and access to and from College Street to the development was considered as part of the original Development Consent and subsequent Section 4.55 approvals. The use of the College Street driveway is not considered to result in adverse traffic congestion, having regard to the closure of College Street.

- **Consolidated development consent**

No consolidated development consent for LDA2015/0214 and subsequent modification applications are available for public viewing.

Assessment Officer Comment:

ITEM 1 (continued)

The original development consent and subsequent modification approvals for the site are publicly available upon request under Section 20 of the Government Information (Public Access) Act 2009 (GIPA Act)

10. ReferralsInternal Referrals**Senior Development Engineer**

The proposal was referred to Council's Senior Development Engineer who raised no objection to the proposed modifications as the proposal will improve the flow of traffic within the site and will not have any additional adverse impacts on traffic in the surrounding area. No additional conditions or modifications to conditions of consent have been recommended.

City Works – Traffic

The proposal was referred to Council's Traffic Engineer who raises no objection to the proposed modifications as no changes are proposed to car parking provisions. The proposal will not result in any additional traffic generation in surrounding streets and as such, no additional conditions or modifications to conditions of consent are recommended.

Council's Traffic Engineer advised that on 4 September 2019 RMS granted approval for an updated Traffic Management Plan in support of the permanent closure of College Street. Council staff have commenced the design process to facilitate construction works for the permanent closure of College Street to the east of the subject site.

City Works – Drainage

Council's Drainage Engineer identified the site is subject to a Deed of Covenant and Indemnity between Council and the owner of the site. The purpose of the Deed of Covenant and Indemnity is to minimise Council's risk in the event of flooding or any blockages or failures of the stormwater system in the event of a large storm.

In response to Council drainage engineer's enquiries, the applicant submits that existing stormwater pipework will be redundant upon installation of new stormwater infrastructure as part of the approved development.

On 22 August 2019, the applicant submitted a request to include a new condition as part of this application to allow the release of the Deed of Covenant and Indemnity in stages, that is, upon the issue of an Occupation Certificate for Stage 1 works and Stage 3 works.

The applicant has requested the following condition be imposed:

ITEM 1 (continued)

“Release of Deed of Covenant and Indemnity. The Deed of Covenant and Indemnity dated 7 March 2019 (or subsequent versions of the Deed that might be executed) may be released in accordance with the terms of the Deed as follows:

- (a) The Deed may be released over that part of the site relating to Stage 1 upon the issue of an Occupation Certificate for Stage 1 of the development.*
- (b) The Deed may be released for the remainder of the development upon the issue of an occupation certificate for Stage 2 of the development.”*

Council’s Drainage Engineer has raised concerns regarding the proposed staged release of the Deed of Covenant and Indemnity as it creates risks regarding the capacity of Council’s stormwater system in the event of any blockages or failures during large storm events. In particular, these risks remain during stages of construction and as such, release of the Deed prior to completion of all proposed works on the site is not supported.

Council may consider an application from the owner to release the Deed upon completion of all proposed works demonstrating compliance with Council’s then existing requirements in accordance with Section 7 of The Deed.

11. Conclusion

Upon consideration of the development against Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other relevant statutory provisions, the proposal is considered to be suitable for the site and is in the public interest.

Therefore the Section 4.55 application, MOD2019/0180, is recommended to be approved for the following reasons:

1. The proposed modifications are consistent with the scope and scale of the originally approved development and satisfy the provisions for Section 4.55 as substantially the same development.
2. The proposal is consistent with relevant provisions of the RLEP 2014 and RDCP 2014.
3. The proposed modifications will not result in any additional amenity or environmental impacts on surrounding properties or the public domain.
4. The issues raised in submissions relating to traffic impacts, pedestrian safety and viability of local businesses have been considered and addressed in the report. The proposal is not considered to have any additional adverse impacts on surrounding properties.

The proposed staged release of the Deed of Covenant and Indemnity associated with Stages 1 and 3 works is not recommended for approval having regard to the risk of blockages or failures to Council’s stormwater system prior to the completion of all proposed works.

ITEM 1 (continued)**12. Recommendation**

Pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, the following is recommended:

- A. That the Local Planning Panel grant consent to the Section 4.55 application No. MOD2019/0108 to modify Local Development Application No. LDA2015/0214 at 461 to 495 Victoria Road, Gladesville, subject to the conditions of consent provided in **Attachment 1** of this report;
- B. The request to impose a condition to release the Deed of Covenant and Indemnity in stages is not supported; and
- C. That those persons making a submission be advised of the decision.

ATTACHMENTS

- 1 Draft conditions of consent
- 2 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Peggy Wong
Senior Town Planner

Report Approved By:

Sandra Mccarry
Acting Senior Coordinator - Major Development

Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

ITEM 1 (continued)
ATTACHMENT 1

ATTACHMENT 1

Proposed Modified Conditions of Consent – 459, 461-495 Victoria Road, Gladesville

MOD2019/0108

That the Section 4.55(2) application No. MOD2018/0163 to modify Local Development Application No. LDA2015/0214 at 459 and 461-495 Victoria Rd Gladesville being Lot 2 DP 1008105 Lot 300 DP 1194688 be approved subject to the following conditions:

(a) That Conditions 1, 32A and 32B are replaced with the following conditions:

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

Architectural Plans – Prepared by Michael Carr Architect			
Document Description	Project No.	Date	Plan No/Reference
Cover Sheet	17102	12.06.18 23.05.19	Drawing No. 001 Amendment J K
Demolition Plan	17102	14.05.18	Drawing No. 005 Revision B
Demolition Plan – Trees to be removed	17102	07.06.16 23.05.19	Drawing No. 006 Revision F G
Site Outline	17102	12.06.18 23.05.19	Drawing No. 010 Revision E F
Stage 1 Floor Plan Carpark Level 2	17102	07.06.18 23.05.19	Drawing No. 030 Revision N P
Stage 1 Floor Plan Bunnings Carpark Level 1	17102	07.06.18 23.05.19	Drawing No. 031 Revision M N
Stage 1 Floor Plan Warehouse Level 2-1	17102	07.06.18 23.05.19	Drawing No. 032 Revision N P
Stage 1 Floor Plan Warehouse Level 1-2	17102	07.06.18 23.05.19	Drawing No. 033 Revision M N
Site Plan/Roof Plan Stage 1 Bunnings/ Homemaker Centre	17102	07.06.18 23.05.19	Drawing No. 034 Revision L M

ITEM 1 (continued)

ATTACHMENT 1

Architectural Plans – Prepared by Michael Carr Architect			
Document Description	Project No.	Date	Plan No/Reference
Stage 1 Elevations	17102	14.06.18 23.05.19	Drawing No. 035 Revision K L
Areas Diagram Stage 1 Warehouse/ Homemaker Centre	17102	07.06.18 23.05.19	Drawing No. 036 Revision J L
Areas Diagram Stage 1 Warehouse/ Homemaker Centre	17102	07.06.18 23.05.19	Drawing No. 037 Revision H J
Stage 2 Floor Plan Carpark Level 2	17102	07.06.18 23.05.19	Drawing No. 040 Revision H J
Stage 2 Floor Plan Carpark Level 1	17102	07.06.18 23.05.19	Drawing No. 041 Revision H J
Stage 2 Floor Plan Warehouse Level 1	17102	07.06.18 23.05.19	Drawing No. 042 Revision H J
Stage 2 Floor Plan Warehouse Level 2	17102	07.06.18 23.05.19	Drawing No. 043 Revision H J
Site Plan/Roof Plan Stage 2 Bunnings/ Homemaker	17102	07.06.18 23.05.19	Drawing No. 044 Revision H J
Stage 2 Elevations	17102	14.06.18 23.05.19	Drawing No. 045 Revision J K
Areas Diagram Stage 2 Warehouse/ Homemaker Centre	17102	07.06.18 23.05.19	Drawing No. 046 Revision J K
Areas Diagram Stage 2 Warehouse/ Homemaker Centre	17102	07.06.18 23.05.19	Drawing No. 047 Revision H J
Site Plan Stage 3 Floor Plan Carpark Parking Level 2	17102	07.06.18 23.05.19	Drawing No. 050 Revision J K
Site Plan/Floor Plan Stage 3 Floor Plan Carpark Level 1	17102	07.06.18 23.05.19	Drawing No. 051 Revision K L
Site Plan/Floor Plan Stage 3 Floor Plan Warehouse Level 1	17102	07.06.18 23.05.19	Drawing No. 052 Revision J K
Site Plan/Floor Plan Stage 3 Floor Plan Warehouse Level 2	17102	07.06.18 23.05.19	Drawing No. 053 Revision J K
Site Plan/ Stage 3 Roof Plan Stage-2	17102	07.06.18 23.05.19	Drawing No. 054 Revision J K

ITEM 1 (continued)

ATTACHMENT 1

Architectural Plans – Prepared by Michael Carr Architect			
Document Description	Project No.	Date	Plan No/Reference
Areas Diagram Stage 3 Warehouse/ Homemaker Centre	17102	07.06.18 23.05.19	Drawing No. 055 Revision J K
Areas Diagram Stage 2-3 Warehouse/ Homemaker Centre	17102	07.06.18 23.05.19	Drawing No. 056 Revision H J
Floor Plan Carpark Level 2	17102	07.06.18 23.05.19	Drawing No. 100 Revision J K
Floor Plan Carpark Level 1	17102	07.06.18 23.05.19	Drawing No. 101 Revision J K
Floor Plan Warehouse Level 1 Plan	17102	07.06.18 23.05.19	Drawing No. 102 Revision J K
Floor Plan Warehouse Level 2 Plan	17102	07.06.18 23.05.19	Drawing No. 103 Revision J K
Floor Plan Foundation Space Level	17102	07.06.18 23.05.19	Drawing No. 104 Revision J K
Floor Plan Homemaker Parking Carpark Level 1 - Tenancy	17102	07.06.18 23.05.19	Drawing No. 105 Revision J K
Floor Plan Homemaker Tenancy Level 1	17102	07.06.18 23.05.19	Drawing No. 106 Revision H J
Floor Plan Homemaker Tenancy Level 2	17102	07.06.18 23.05.19	Drawing No. 107 Revision J K
Floor Plan Bunnings Roof Plan	17102	07.06.18 23.05.19	Drawing No. 110 Revision H J
Floor Plan Homemaker Roof Plan Tenancy	17102	07.06.18 23.05.19	Drawing No. 111 Revision J K
Bunnings Sections Stage 3-1	17102	07.06.18 23.05.19	Drawing No. 120 Revision J K
Homemaker Sections Tenancy	17102	07.06.18 23.05.19	Drawing No. 121 Revision F G
Section Detail (prepared by John Brogan & Associates)	17102	07.05.15	Drawing No. 123 Revision A
Elevation Stage 1	17102	14.06.18	Drawing No. 130 Revision M

ITEM 1 (continued)

ATTACHMENT 1

Architectural Plans – Prepared by Michael Carr Architect			
Document Description	Project No.	Date	Plan No/Reference
Elevation Stage 3	17102	14.06.18 23.05.19	Drawing No. 131 Revision J K
Elevation Stage 1-3	17102	14.06.18 23.05.19	Drawing No. 132 Revision J K
Site Plan Shadow Diagram	17102	26.05.18 23.05.19	Drawing No. 200 Revision G E
Plan Detail Bulky Goods Waste Recycling	17102	14.06.18 23.05.19	Drawing No. 302 Revision B C
Engineering Plans – C & M Consulting Engineers			
Document Description	Drawing No.	Revision	
Cover Sheet, Drawing Index And General Notes	01155_100	Revision 3	
General Arrangement Plan Parking Level 2 Stage 1	01155_211	Revision 4	
General Arrangement Plan Parking Level 1 Stage 1	01155_212	Revision 5	
General Arrangement Plan Warehouse Level 1 – Stage 1	01155_213	Revision 5	
General Arrangement Plan Warehouse Level 2 – Stage 1	01155_214	Revision 4	
General Arrangement Plan – Roof – Stage 1	01155_215	Revision 4	
General Arrangement Plan Parking Level 2 - Stage 2	01155_221	Revision 3	
General Arrangement Plan Parking Level 1 - Stage 1	01155_222	Revision 3	
General Arrangement Plan Warehouse Level 1 – Stage 2	01155_223	Revision 3	
General Arrangement Plan Warehouse Level 2 – Stage 2	01155_224	Revision 3	
General Arrangement Plan – Roof – Stage 2	01155_225	Revision 3	
General Arrangement Plan Parking Level 2 - Stage 3	01155_231	Revision 3	
General Arrangement Plan Parking Level 1 - Stage 3	01155_232	Revision 3	
General Arrangement Plan Warehouse Level 1 – Stage 3	01155_233	Revision 3	
General Arrangement Plan Warehouse Level 2 – Stage 3	01155_234	Revision 3	
General Arrangement Plan – Roof – Stage 3	01155_235	Revision 4	
Ramp Longitudinal Section – Ramp No. 1, 2 and 3	01155_301	Revision 3	

ITEM 1 (continued)

ATTACHMENT 1

Architectural Plans – Prepared by Michael Carr Architect			
Document Description	Project No.	Date	Plan No/Reference
Ramp Longitudinal Section – Ramp No. 4 and 5			01155_302 Revision 4
Ramp Longitudinal Section – Ramp No. 6			01155_303 Revision 1
Typical Sections			01155_351 Revision 3
Typical Sections			01155_352 Revision 1
Stormwater Drainage Catchment Plan			01155_601 Revision 2
Stormwater Drainage OSD Tank No. 1 & General Details			01155_651 Revision 3
Stormwater Drainage OSD Tank No. 2 and 3 Details			01155_652 Revision 1
Sediment & Erosion Control Plan			01155_701 Revision 4
Sediment & Erosion Control Plan			01155_751 Revision 2

Landscape Plan – John Lock & Associates			
Document Description	Drawing No.	Date	Revision
Landscape Plan – Existing Tree Plan	2203 LP-00	06/06/18	Revision M
Landscape Plan – Stage 1	2203 LP-01	06/06/18	Revision M
Landscape Elevations – Stage 2	22-3 LP-02.1	06/06/18	Revision M
Landscape Elevations – Stage 1	22-3 LP-02	06/06/18	Revision M
Landscape Details	22-3 LP-03	06/06/18	Revision M

Road Widening Works			
Cardno			
Document Description	Drawing No.	Date	Issue No.
General Arrangement Plan	DAC001	31/07/18	3
Functional Layout Plan – Sheet 1	DAC002	31/07/18	3
Functional Layout Plan – Sheet 2	DAC003	31/07/18	3
Vehicle Turn Path – Sheet 1	DAC005	31/07/18	3
Vehicle Turn Path – Sheet 2	DAC006	04/05/18	2
AT&L			
Document Description	Drawing No.	Project No.	Issue No.
Functional Layout Plan – Sheet 3	DAC004	11-58	P3

Subdivision Plans – Craig and Rhodes		
Document Description	Drawing No.	Date
Plan of Proposed Subdivision LOT 1 D.P.	191-10G L02 [00] - 001	18.01.12

ITEM 1 (continued)

ATTACHMENT 1

Subdivision Plans – Craig and Rhodes		
Document Description	Drawing No.	Date
739556		
Plan of Proposed (Stratum) Subdivision LOT 3 D.P. 388518	191-10G L01 [00] - 01	20.09.12

List of Consultant Documentation		
Report	Prepared by	Date
Statement of Environmental Effects	DFP Planning Pty Ltd	May 2015
Assessment of Traffic and Parking Implications	Transport and Traffic Planning Associates	May 2015
Stormwater Management Plan Report No. R01155-SWMP Revision C	C&M Consulting Engineers Pty Ltd	April 2015
Flood Risk Assessment	Cardno (NSW/ACT) Pty Ltd	08.05.15
Tree Assessment Report	Abel Ecology	23.03.15
Flora and Fauna Report	Abel Ecology	26.03.15
Statement of Environmental Effects – Section 96(1A) Application to Modify Development Consent No. LDA2015/0214	DFP Planning Pty Ltd	18 March 2016
Assessment of Traffic and Parking Implications – S96 Application	Transport and Traffic Planning Associates	March 2016 Rev D
Statement of Environmental Effects – Section 96(2) Application to Modify Development Consent No. LDA2015/0214	DFP Planning Pty Ltd	24 March 2017
Assessment of Traffic and Parking Implications – S96 Application Ref 16001	Transport and Traffic Planning Associates	March 2017 Rev C
Statement of Environmental Effects – Section 4.55(2) Application to Modify Consent No. LDA2015/0214	DFP Planning Pty Ltd	20.06.18
Statement of Environmental Effects – Section 4.55(1A) Application to Modify Development Consent No. LDA2015/0214	DFP Planning Pty Ltd	24 June 2019

The following conditions refer to the stages of development as detailed in the above approved plans i.e. Stage 1: Construction of Bunnings Warehouse; Stage 2: Construction of Bulky Goods Tenancies (south); and Stage 3: Construction of Bulky Goods Tenancies (north).

ITEM 1 (continued)

ATTACHMENT 1

For Stage 1, the conditions refer to the issuing of Construction Certificates in accordance with the following:

- #1: Excavation, in-ground services/footings and retaining walls;
- #2: car parking levels;
- #3: retail levels and roof; and
- #4: internal fitout.

32A. **Section 7.11 – Stage 2.** 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 for Stage 2:

A – Contribution Type	B – Contribution Amount	
Community & Cultural Facilities	\$113,624.85	\$109,360.77
Open Space & Recreation Facilities		\$-
Civic & Urban Improvements	\$180,628.60	\$173,858.68
Roads & Traffic Management Facilities	\$43,938.70	\$41,869.96
Cycleways	\$15,388.80	\$14,798.71
Stormwater Management Facilities	\$60,736.00	\$57,892.08
Plan Administration	\$4,207.00	\$3,971.27
The total contribution is	\$418,523.95	\$401,751.47

The components of the Section 7.11 levy that fall both within the category of 'Civic – Urban Improvements' and form part of the works required by conditions 47 and 48, may be offset by works-in-kind in accordance with section 2.9 of the Section 94 Contribution Plan.

These are contributions under the provisions of Section 7.11 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~~ 7.11 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>.

ITEM 1 (continued)

ATTACHMENT 1

32B. **Section 7.11 – Stage 3.** 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 for Stage 3:

A – Contribution Type	B – Contribution Amount	
Community & Cultural Facilities	\$130,480.41	\$133,341.48
Open Space & Recreation Facilities		\$-
Civic & Urban Improvements	\$207,422.18	\$211,978.32
Roads & Traffic Management Facilities	\$48,550.18	\$49,608.24
Cycleways	\$17,670.80	\$18,041.64
Stormwater Management Facilities	\$67,110.40	\$68,591.52
Plan Administration	\$4,839.08	\$4,838.88
The total contribution is	\$476,073.05	\$486,400.08

The components of the Section **7.11** levy that fall both within the category of 'Civic – Urban Improvements' and form part of the works required by conditions 47 and 48, may be offset by works-in-kind in accordance with section 2.9 of the Section **94 7.11** Contribution Plan.

These are contributions under the provisions of Section **7.11** 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 7.11** 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>.

2 461 to 495 Victoria Road, Gladesville - Torrens title subdivision of one lot into two lots - LDA2019/211

Report prepared by: Senior Town Planner

Report approved by: Acting Senior Coordinator - Major Development; Manager - Development Assessment; Director - City Planning and Environment

Report dated: 3/12/2019

File Number: GRP/09/6/12/1/2 - BP19/1456

**City of Ryde
Local Planning Panel Report**

DA Number	LDA2019/211
Site Address & Ward	461 to 495 Victoria Road, Gladesville East Ward
Zoning	B5 Enterprise Park under RLEP 2014
Proposal	Torrens title subdivision of one lot into two lots
Property Owner	Bunnings Properties Pty Ltd
Applicant	Bunnings Group Pty Ltd
Report Author	Peggy Wong – Senior Town Planner
Lodgement Date	27 June 2019
No. of Submission	22 submissions
Cost of Works	Nil
Reason for Referral to RLPP	Contentious Development <ul style="list-style-type: none"> • More than 10 unique submissions by way of objection
Recommendation	Approval
Attachments	Attachment 1 – Draft Conditions of Consent Attachment 2 – Clause 4.6 Variation to Clause 4.4 Floor Space Ratio Attachment 3 – Proposed Subdivision Plans

1. Executive Summary

ITEM 2 (continued)

This report is an assessment of a development application for the Torrens Title subdivision of one (1) lot into two (2) lots at No. 461 to 495 Victoria Road, Gladesville.

The application was lodged on the 27 June 2019 and notified between 9 July 2019 and 26 July 2019. Twenty-two (22) submissions all objecting to the proposal were received in response to the notification. The concerns raised in the objections to the proposal include traffic congestion, car parking, construction impacts on surrounding businesses and pedestrian safety. The issues raised relate to the approved development of the site under development consent LDA2015/0214 granted on 28 October 2015 and are not relevant to the proposal for subdivision of the site into two (2) lots.

This proposal involves the subdivision of the existing lot into two (2) lots, one for the Bunnings Warehouse and the other lot for the Homemaker Centre and childcare centre approved under development consent LDA2015/0214.

The proposal seeks to create a lot (Lot 3001) with an area of 1.773 hectares and containing Bunnings Warehouse and associated car park, and a second lot (Lot 3002) with an area of 1.935 hectares containing a Homemaker Centre, childcare centre and associated car park. As the approved development allowed for vehicular access between Bunnings Warehouse and the Homemaker Centre, easements are proposed on Lot 3002 to provide vehicular and pedestrian access for occupants of Lot 3001, particularly to access driveways fronting College Street and Victoria Road.

The proposed Torrens Title subdivision to create Lot 3001 and 3002 will result in a Floor Space Ratio (FSR) of 0.92:1 and 1.028:1, respectively. The maximum FSR under Clause 4.4 of the RLEP 2014 is 1:1. Proposed Lot 3001 complies with the FSR development standard. Proposed Lot 3002 will depart from this standard by 2.8%. The applicant has submitted a Clause 4.6 written variation in respect of the FSR requirement. The submitted Clause 4.6 written variation request to the FSR development standard satisfies the pre-conditions for a consent authority to allow a variation to the standard.

In accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*, the proposal has been assessed having regard to relevant planning instruments. The proposal is consistent with provisions of the *Ryde Local Environmental Plan 2014* (RLEP 2014) as subdivision is permissible with consent and minimum lot sizes are not applicable to the subject site. The proposal will not result in any adverse impacts on the streetscape or amenity of surrounding properties. As such, the proposal is considered to be a suitable development for the site.

Given the reasons detailed above, the development application is recommended for approval subject to appropriate conditions of consent provided in **Attachment 1** of this report.

ITEM 2 (continued)

2. The Site and Locality



Figure 1: Aerial view of the subject site in its context.

The site is located on the northern side of Victoria Road and is bounded by Frank Street to the west and College Street to the north and is also known as 'Enterprise Park'. The site is legally known as Lot 300 in DP 1194688.

The site is irregular in shape and has a site area of 3.709 hectares.

The site was originally occupied by 5 separate light industrial buildings 2 of which have been demolished and construction works are currently being carried out for a Bunnings Warehouse in accordance with development consent LDA2015/214 granted by the former Sydney East Joint Regional Planning Panel on 28 October 2015.

The site is adjacent to various industrial buildings and uses including a Kennard's Hire building on the opposite side of Frank Street and industrial units on College Street. Further to the east of the site on College Street are one and two storey residential dwellings. The Ryde Aquatic Centre is located to the south of the site on Victoria Road.

The site is located within the B5 – Business Development zone and the proposal is permissible with consent.

ITEM 2 (continued)

Figures 2 to 9 show photographs of the subject site and surrounds.



Figure 2: Site viewed from Victoria Road.



Figure 3: Site viewed from Frank Street.

ITEM 2 (continued)



Figure 4: View south-east along College Street.



Figure 4: View south-east along College Street.

ITEM 2 (continued)



Figure 5: Existing properties to the west on Frank Street.



Figure 6: Holy Cross College at the intersection of Frank Street and College Street.

ITEM 2 (continued)



Figure 7: Existing properties along College Street.



Figure 8: Existing dwellings immediately adjacent to site on College Street.

ITEM 2 (continued)



Figure 9: Existing road College Street road closure.

3. The Proposal

<<Detailed description of proposal>>. The application seeks approval for the Torrens Title subdivision of one (1) lot into two (2) lots.

It is proposed that Lot 3001 will have an area of 1.773 hectares and contain the approved Bunnings Warehouse building and associated car parking.

Proposed Lot 3002 will have an area of 1.935 hectares and comprise of a future Homemaker Centre and associated car parking.

The proposed subdivision is illustrated in **Figure 10** below.

ITEM 2 (continued)

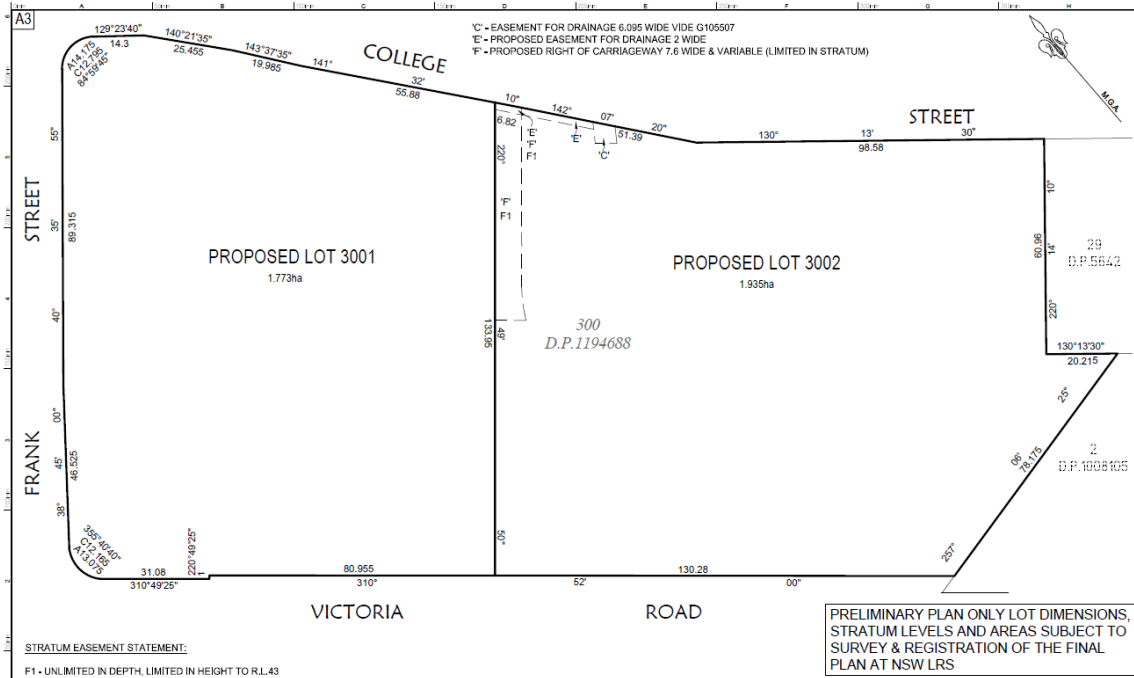


Figure 10: The proposed subdivision (Stage 1) (Source: Craig & Rhodes).

The layout of the Bunnings Warehouse and Homemaker Centre allowed for vehicular access between both buildings. This proposal allows for reciprocal rights of ways and easements to be created over each lot to reflect the approved development. As the approved development is to be constructed in 3 stages, the rights of way are proposed to be introduced in a staged manner to align with the construction staging of the development. See **Figures 11 to 13** below.

ITEM 2 (continued)

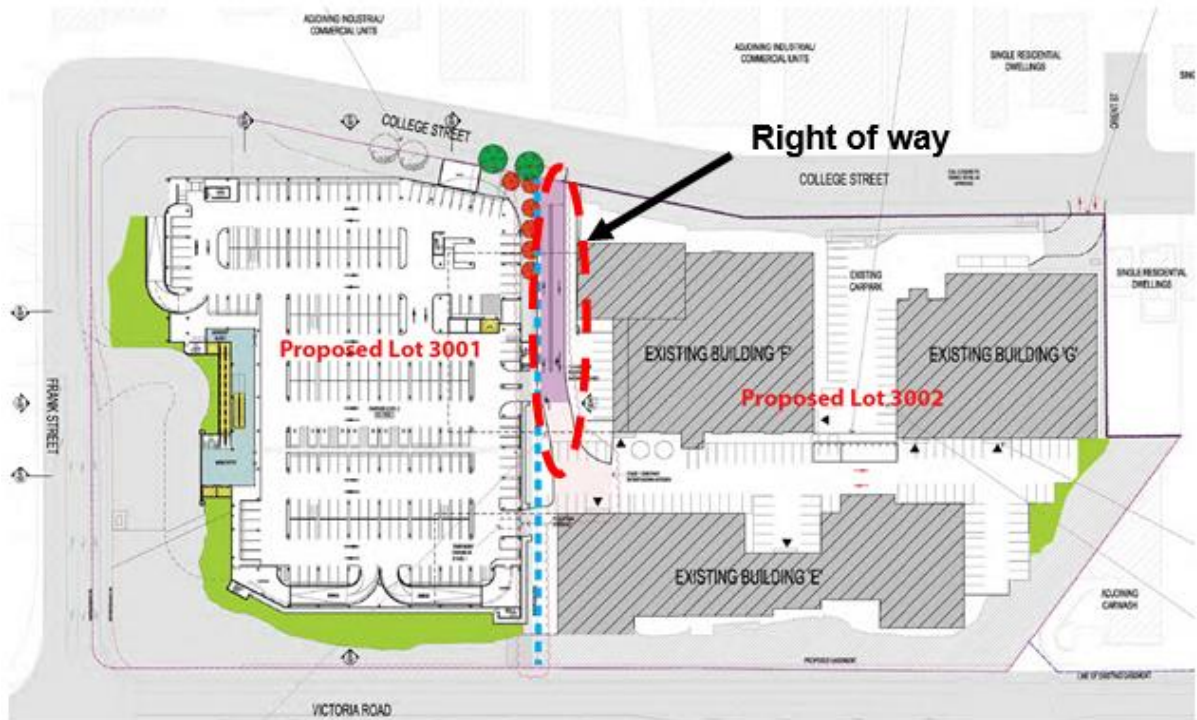


Figure 11: Proposed right of way – Stage 1.

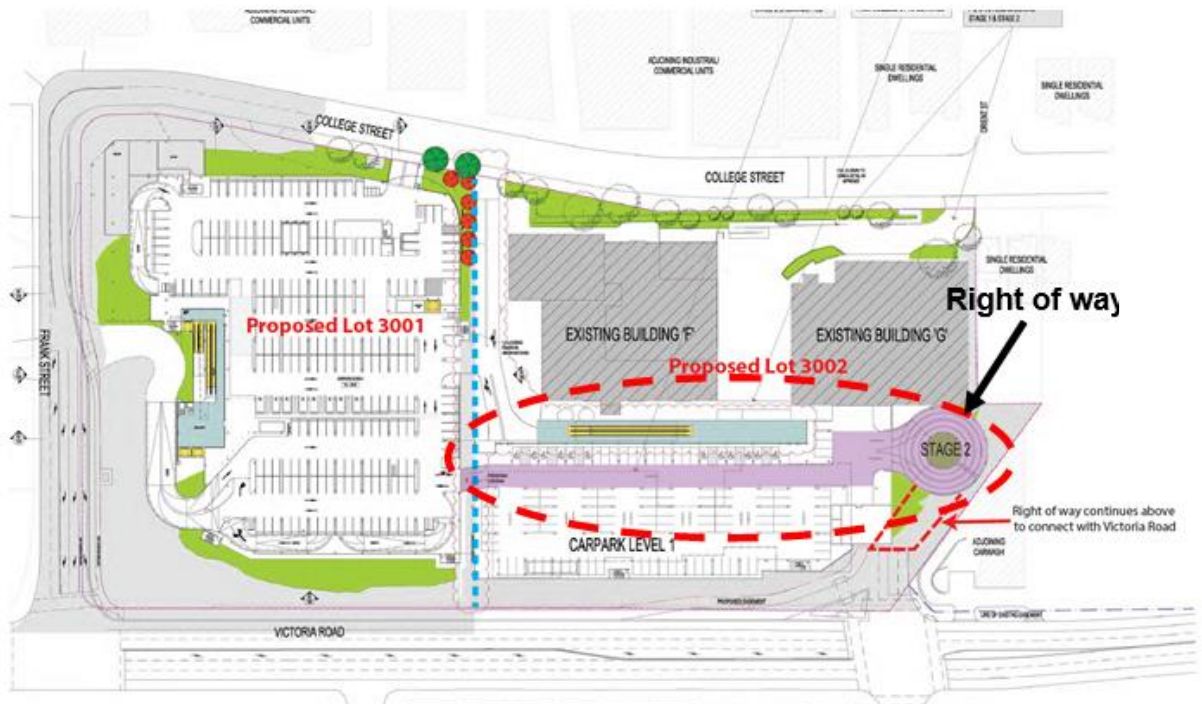


Figure 12: Proposed right of way – Stage 2.

ITEM 2 (continued)

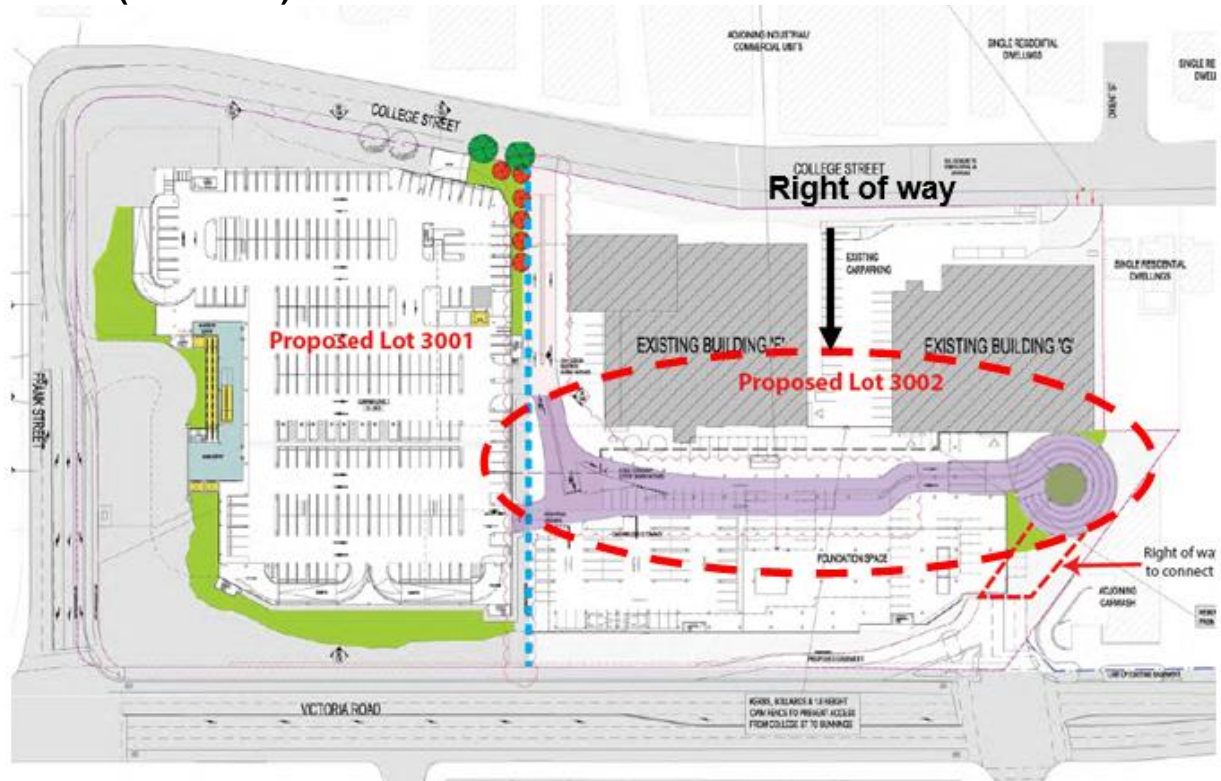


Figure 13: Proposed right of way - Stage 3.

The proposal does not involve any physical works as demolition, site preparation and construction works associated with development of Lots 3001 and 3002 have been approved under LDA2015/214.

4. Background

Site History

Development Application LDA2015/0214

On 28 October 2015 development consent was granted by the former Sydney East Joint Regional Planning Panel (JRPP) for demolition of existing structures, bulk earthworks and construction and fitout of a Bunnings Warehouse, a bulky goods Homemaker Centre, childcare centres for up to 50 children and 2 levels of car parking containing 900 car parking spaces. To facilitate the development, road works have been approved on Frank Street, Victoria Road and College Street including a trial closure of College Street.

The development also includes tree removal, landscaping works, signage and stratum subdivision.

The development was approved to comprise of 3 stages as follows:

- Stage 1: Construction of Bunnings Warehouse;

ITEM 2 (continued)

- Stage 2: Construction of Bulky Goods Tenancies (south); and
- Stage 3: Construction of Bulky Goods tenancies (north).

The development consent has subsequently been modified by the Section 4.55 applications as follows:

MOD2016/0056

On 13 December 2016 consent was granted by Council for the modification of the original development consent (LDA2015/214) to amend the approved building envelopes, reconfiguration of internal and car parking layouts, new vehicle access points and amendment to the staging of Section 7.11 Contributions as follows:

- Change staging of the Tennyson Road intersection access ramp from Stage 1 to Stage 2;
- New entry/exit to level 1 car park under the Bunnings Warehouse at the western end of College Street;
- Amendment to design of Frank Street entry/exit;
- Amend timing of closure of the College Street eastern access ramp within 6 months of the permanent closure of the existing childcare centre;
- Modification of the Bunnings Warehouse building to provide a roof over the bagged good canopy area, relocation of the lift and travelator and mezzanine level;
- Increase length of road widening of Frank Street from 50m to 85m;
- Increase gross floor area (GFA) of childcare centre from 940m² to 1271m², increase capacity from 50 children to 90 children and increase in building height fronting College Street by 1.27m to RL58.25;
- Reconfiguration of Bunnings Warehouse car park to increase car parking spaces from 900 spaces to 909 spaces;
- Amend staging of Section 94 contributions to relate to relevant stages of development;
- Delay stratum subdivision of the site from Stage 1 to Stage 2;
- Amend conditions to require a review of the full closure of College Street to be undertaken 12 months after the operation of the Tennyson Road intersection rather than 12 months after the operation of the Bunnings store; and
- Amend RMS conditions to clarify when documentation is required to be submitted to RMS.

MOD2017/0078

On 7 August 2017 consent was granted by the Sydney North Planning Panel for the modification of the original development consent (LDA2015/214) including the following:

- changes to the building footprint and increase in setbacks to the street;

ITEM 2 (continued)

- relocation of the main entrance of Bunnings Warehouse and new pedestrian ramp fronting Frank Street;
- reduction in GFA of Bunnings Warehouse from 18,100m² to 16,316m² and overall development from 37,088m² to 36,530m²;
- Reduce car parking spaces from 909 spaces to 795 spaces;
- Separation of customer and goods delivery vehicular access ramps from Frank Street;
- Delete driveway on Frank Street near College Street and redesign Level 1 car park entrance on College Street for timber trades and goods delivery;
- Construction of a 5m high acoustic wall adjacent to the goods receiving area;
- Reduce maximum building height from RL62.4 to RL58.4;
- Relocation of childcare centre from Warehouse 1 and 2 to car park Levels 1 and 2, and increase GFA for the childcare centre from 1271m² to 1137m²;
- Relocation and amendment to size of approved signs and one additional wall sign on the eastern elevation; and
- Modification to landscaping associated with amendment to building footprint including removal of 2 additional trees.

MOD2018/162

On 30 July 2018, consent was granted under Council officer's delegated authority to modify the timing for the preparation of a Pedestrian and Road Safety Audit and Management Plan from prior to the issue of a Construction Certificate for Stage 1, to occur prior to the issue of any Occupation Certificate for Stage 1.

MOD2018/0163

On 26 September 2018 consent was granted by the Sydney North Planning Panel for the modification of the original development consent (LDA2015/214) to delay the construction of the childcare centre from Stage 1 to Stage 3 of the development, amendment to building height, carparking provisions and associated works and signage, as follows:

- Increase building height from RL58.4 (approved under MOD2017/0078) to RL58.7;
- Increase building setback to Frank Street from 20.4m to 32.5m;
- Increase overall GFA for the development from 36,530m² to 36,542m²;
- Reduce car parking spaces from 795 spaces to 758 spaces;
- Amend levels of car parking areas in Stage 2 and 3 to match the levels of the Bunnings Warehouse car parking;
- Modification to the gradient of the College Street driveway to comply with Condition 51 of consent;
- Remove the central median in Frank Street;
- Modification to signage strategy to reduce overall dimensions of signs; and
- Minor amendments associated with rainwater tank and sprinkler system requirements.

ITEM 2 (continued)MOD2019/108

On 27 June 2019, the Section 4.55(1A) modification application was submitted seeking consent for minor alterations to the approved Bunnings Warehouse building and Stage 2 and 3 works to align with the subject application for Torrens subdivision of the site into 2 lots.

The modification application is being considered concurrently with the subject application

5. Planning Assessment

An assessment of the development in respect to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* is detailed below.

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

In accordance with Clause 7 of the SEPP, a consent authority must consider if the land is contaminated, the extent of the contamination, suitability of the proposed use and remediation to standards to ensure if the proposal is suitable.

The proposal does not involve any physical works as all demolition, excavation and construction works associated with the development is contained within the development consent LDA2015/214. As such, it is considered that the subject site satisfies the requirements of the SEPP.

SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* applies to the whole of the Ryde local government area.

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

The objective of improved water quality is satisfied through compliance with the provisions of the Ryde Development Control Plan 2014 (Part 8.2).

The proposed development raises no other issues and otherwise satisfies the aims and objectives of the SREP.

ITEM 2 (continued)**5.2 Ryde LEP 2014**

In March 2012, the applicant submitted a planning proposal (LEP Amendment 5) to amend RLEP 2014 in relation to the zoning, height limits and road widening relating to the subject site.

The planning proposal sought to change the zoning from 'IN2 – Light Industrial' to 'B5 – Business Development' and amend the height limits at the site from the prescribed 10m building height, to specified heights of between RL63, RL52 and RL42 AHD.

On 21 August 2015 the planning proposal was gazetted resulting in the change of zoning, building height and identification of road widening areas.

This application for subdivision of the development as approved under LDA2015/214 is permissible with Council's consent.

The following is an assessment of the proposed development against the applicable provisions from the RLEP 2014.

Clause 2.3 - Zone objectives and land use table

The objectives of the B5 Business Development zone include the following:

- *To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and that support the viability of, centres.*

Comment

The development provides a bulky goods warehouse and opportunities for a mix of businesses within the proposed Homemaker centre, and is consistent with the above objective.

Clause 2.6 – Subdivision – consent requirements

Clause 2.6 of RLEP 2014 requires development consent for the subdivision of land. The proposal is permissible with consent.

Clause 4.1 – Minimum subdivision lot size

RLEP 2014 does not have minimum lot size provisions applicable to the subject site.

ITEM 2 (continued)

Clause 4.4 – Floor space ratio

Clause 4.4 of RLEP states the maximum floor space ratio (FSR) of buildings on any land is not to exceed the floor space ratio on the FSR map. The maximum FSR allowed is 1:1.

The approved FSR for the development of Bunnings Warehouse and the Homemaker Centre under LDA2015/0214 and the latest approved modification MOD2018/163 is 0.98:1 which complies with the development standard. The current proposed modification MOD2019/108 seeks consent for a minor reduction in FSR to 0.976:1 and complies with the development standard.

This application relates only to the subdivision of the land and does not result in any alterations to the approved development, despite the subsequent distribution of floor space across proposed Lots 3001 and 3002. Whilst proposed Lot 3001 complies with the development standard, proposed Lot 3002 will result in a 2.8% departure to the development standard. A summary of the proposed site areas, GFA and FSR are in **Table 1** below.

Table 1. Summary of approved and proposed site areas, GFA and FSR.

	Lot 3001	Lot 3002	
	Stage 1	Stage 2	Stage 3
Proposed Site area	1.773ha	1.9635ha	
Gross Floor Area	16,328m ²	13,521m ² & existing buildings	19,896m ²
Floor Space ratio	0.92:1	0.70:1	1.028:1

Clause 4.6 – Exceptions to development standards

The development contravenes Clause 4.4 of RLEP 2014 which establishes the maximum floor space ratio development standard of 1:1. Proposed Lot 3002 has a FSR of 1.028:1 representing a 2.8% variation to the development standard.

In accordance with Clause 4.6 of RLEP 2014, the applicant has submitted a written request seeking variation to the FSR development standard (see **Attachment 3**).

Clause 4.6 of RLEP 2014, states:

(1) *The objectives of this clause are as follows—*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

ITEM 2 (continued)

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless—*
- (a) the consent authority is satisfied that—*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Secretary has been obtained.*

In accordance with Clauses 4.6(3) and (4) of RLEP 2014, the Applicant's submission and Council officer's assessment of the written request is below.

The applicant's justification for seeking a variation to the FSR development standard is as follows:

- *The proposed subdivision is simply a redistribution of the original site between the two components of the approved development and the proposed two lot subdivision does not result in a redistribution of floor space or any additional floor space.*
- *The proposed subdivision does not involve the creation of floor space, and the total gross floor area of the development and the approved buildings' massing and bulk has already been determined as being acceptable in the assessment and approval of LDA/2015/0214. The proposed development is therefore consistent with the FSR.*

ITEM 2 (continued)

- *Objective of controlling the bulk of future development. Therefore, there are no adverse streetscape or visual impacts arising from the proposed variation.*
- *In terms of the zone objectives, the Homemaker Centre is a large floor plate building and the site area and proportions of proposed Lot 3002 upon which the approved Homemaker Centre will be located are sufficient to accommodate the proposed building despite the variation in FSR.*
- *The variation represents 582m² of GFA which represents a 2.8% variation from the development standard.*
- *The variation is minor, and the total floor space has already been approved. The variation does not give rise to any matter of State or regional significance.*
- *The variation is minor, and the total floor space has already been approved and there is no public benefit to be gained by reducing the floor space of the development approved under LDA2015/0214 in order to achieve a compliant FSR to enable the two lot subdivision.*

The submission relies upon the common ways to demonstrate compliance with a development standard is unreasonable or unnecessary in accordance with *Wehbe v Pittwater Council (2007)*.

Compliance with the Development Standard is Unreasonable or Unnecessary

In *Wehbe [2007]*, Preston CJ of the Land and Environment Court provided relevant assistance by identifying five traditional ways in which a variation to a development standard had been shown as unreasonable or unnecessary. The five ways outlined in *Wehbe* include:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Method).*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Method).*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Method).*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Method).*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Method).*

ITEM 2 (continued)

For an objection to be well-founded it is only necessary for an applicant to demonstrate that any one of these five different ways is applicable. The below assessment demonstrates that compliances with the objectives of floor space ratio have been satisfied notwithstanding the non-compliance with the numerical requirements of the development standard (first method).

Applicant's submission:

The proposed FSR departure is consent with the aim of the development standard to control the bulk of future development, as the FSR departure relates to an approved development which has already been assessed as being acceptable in terms of its bulk, scale and massing, and the proposed two lot subdivision does not alter the built form outcome.

A concurrent Section 4.55 Modification accompanies the DA to amend the Homemaker Centre building to suit the subdivision boundary. The modification results in a minor reduction in GFA. However, a further reduction would be required to achieve compliance with the 1:1 FSR control. A further reduction in GFA purely to facilitate a two lot subdivision is unreasonable and the flexibility afforded by clause 4.6 is appropriate in this instance.

Accordingly, requiring strict compliance with the development standard would be inconsistent with the objectives of clause 4.6 which are to provide flexibility in the application of the standard and to achieve better outcomes for and from development through such flexibility.

As discussed above, notwithstanding the non-compliance, the proposed development achieves the objectives of the FSR development standard under clause 4.4 of Ryde LEP and will not adversely impact on adjoining development or the streetscape and therefore, the objection is well founded.

Consistency with Objectives of the Development Standard

In accordance with Clause 4.4 of RLEP 2014, the objectives for floor space ratio are as follows:

- (1) *The objectives of this clause are as follows—*
 - (a) *to provide effective control over the bulk of future development,*
 - (b) *to allow appropriate levels of development for specific areas,*
 - (c) *in relation to land identified as a Centre on the Centres Map to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*

ITEM 2 (continued)**Assessment Officer's Comment:**

The proposal to subdivide the site into two Torrens Title lots does not alter the approved GFA or building bulk approved under Development Consent LDA2015/0214 and the latest approved modification MOD2018/163.

The latest proposed modification which is being considered concurrently with this application, seeks to reduce the net GFA for the site by a further 318m² across Lot 3002, however, there is no change to overall building bulk.

This proposal will not have any additional impacts on building bulk and satisfies the objectives for the FSR development standard.

Consistency with Land Use Zone Objectives

The site is located within a B5 – Business development zone under RLEP 2014. The objectives for the B5 Business Development zone are as follows:

- *To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and that support the viability of, centres*

Assessment Officer's Comment:

The proposed subdivision is permissible with consent in the B5 – Business Development zone. The proposal is consistent with the objectives of the zone as the subdivision does not alter the approved development under LDA2015/0214 for warehouse and retail purposes.

Environmental planning grounds to justify contravening the development standard

The proposal does not alter physical elements or operation of the approved development for a Bunnings Warehouse, Homemaker Centre and a childcare centre. As such, the proposal for subdivision of the land and subsequent contravention of the FSR development standard will not result in any additional environmental impacts on surrounding properties or the public domain.

Public interest – Development consistent with the zone objectives and objectives of the development standard

The proposed development was notified to surrounding properties in accordance with the requirements of RDCP 2014. Issues raised in submissions received have been considered and addressed in the report below. The proposed subdivision of the land is consistent with the objectives of the zone and development standard, and is in the public interest.

Furthermore, subclause 4.6(5) provides that in deciding whether to grant concurrence, the Secretary must consider:

ITEM 2 (continued)

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning,*

The variation is minor, and the total floor space has already been approved. The variation does not give rise to any matter of State or Regional significance.

- (b) *the public benefit of maintaining the development standard,*

The variation is minor, and the total floor space has already been approved and there is no public benefit to be gained by reducing the floor space of the development approved under LDA2015/0214 in order to achieve a compliant FSR to enable the two lot subdivision.

- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.”*

It is considered that there are no other matters of relevance that need to be taken into consideration by the Secretary.

Conclusion

The written request submitted by the applicant demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the development standard, as required by Clause 4.6(3)(b). In particular, the applicant has demonstrated that the proposal is consistent with the objectives of the development standard for FSR and the B5 Business Development zone.

5.3 Draft Environmental Planning Instruments

There are no draft environmental planning instruments that affect the site.

5.4 Development Control Plans**City of Ryde Development Control Plan 2014 (RDCP 2014)**

On 28 April 2015, a site specific Development Control Plan (Part 6.5 of RDCP 2014) was approved for the subject site in response to LEP Amendment 5 to enable development of a bulky goods development.

The proposed subdivision of the site responds to the approved development of the site for Bunnings Warehouse, Homemaker Centre and childcare centre. The proposed development satisfies the objectives under Part 6.5 of the RDCP 2014 and will not have any additional impacts on the amenity of surrounding properties, pedestrians or the public domain.

ITEM 2 (continued)**5.5 Planning Agreements OR Draft Planning Agreements**

There are no planning agreements or draft planning agreements for this development.

5.6 Any matters prescribed by the regulations

All matters prescribed by the regulations have been considered in the assessment of the application.

6. The likely impacts of the development

The impacts associated with the proposed development have already been addressed in the report.

The development is considered satisfactory in terms of environmental impacts.

7. Suitability of the site for the development

The proposed development is permissible in the zone and is considered to be suitable for the site.

8. The Public Interest

The development is considered to be in the public interest as it is consistent with the relevant planning controls.

9. Submissions

In accordance with the RDCP 2014 *Part 2.1 Notice of Development Applications*, the owners of surrounding properties were given notice of the application between 9 July 2019 and 26 July 2019.

In response to the public notification period, twenty-two (22) submissions were received all objecting to the proposal.

ITEM 2 (continued)



Figure 14: Map showing location of objectors within the vicinity (subject site outlined in red)

The submissions raised issues as follows:

- *Traffic congestion on College Street resulting from the construction of the Bunnings Warehouse. Customers and delivery vehicles for surrounding properties are required to reverse across College Street contributing to traffic congestion and risk to pedestrian safety, particularly school children from Holy Cross College and 2 surrounding pre-schools.*

Assessment Officer Comment:

The proposed subdivision will not contribute to any further construction traffic in College Street. This is not a valid reason for refusal.

- *The western driveway on College Street should be restricted to emergency use only, as per the original development consent.*

Assessment Officer Comment:

Having regard to the approved permanent closure of College Street to the east of the site, the use of the College Street driveway for vehicular access to the Bunnings Warehouse is not considered to have adverse impacts on traffic volumes or congestion. It is not considered necessary to limit the use of the approved driveway for emergency only.

ITEM 2 (continued)

- *Construction vehicles and workers are impacting on the daily operation of surrounding businesses by occupying available street parking and private parking spaces.*

Assessment Officer Comment:

During the construction of any development there is impact on the amenity of the surrounding area. This impact is short term while the construction occurs. The proposed subdivision will not contribute to additional construction traffic.

- *The proposal to permit use of the College Street driveway for permanent vehicle entry and exit will increase traffic volumes to a currently congested street and adversely impact the operations of businesses directly opposite the site and along College Street.*

Assessment Officer Comment:

The approved development has always included vehicular access to and from the development from College Street. The subdivision will not change this arrangement.

- *The Victoria Road driveway should be constructed as soon as possible to address traffic congestion impacts on College Street.*

Assessment Officer Comment:

The construction of the Victoria Road driveway is part of Stage 2 of the development. The approved staging of works is not proposed to change as part of this subdivision application.

- *The existing closure of College Street has resulted in unacceptable traffic congestion and should be removed.*

Assessment Officer Comment:

The subdivision application has no impact on the Council's previous decision to close College Street.

- *The developer is not honouring the original proposal to develop the entire site concurrently. The proposal to construct Stages 2 and 3 at an undisclosed time by a third party provides no certainty regarding the Victoria Road driveway and could have ongoing traffic impacts on College Street.*

Assessment Officer Comment:

The original development consent granted by the JRPP on 28 October 2015 approved the development in 3 stages. Stage 1 was the construction of the Bunnings

ITEM 2 (continued)

Warehouse and Stages 2 and 3 for the construction of the Bulky Goods Tenancies. With the original development being staged, there was no commitment to the timing of the construction of Stages 2 and 3.

- *The proposal causes traffic congestion and threatens the viability of local businesses.*

Assessment Officer Comment:

The proposed subdivision will not contribute to traffic congestion. The concern raised is not a relevant matter for consideration in the assessment of this application.

- *Modifications approved for the original development consent has resulted in adverse traffic and amenity impacts on surrounding properties. Therefore no further modifications should be supported.*

Assessment Officer Comment:

Section 4.55 of the Environmental Planning and Assessment Act 1979, permits anybody who is able to act on a consent to submit modifications to the original approval. As part of the assessment of such applications, consideration needs to be given to whether the modifications would result in further traffic and amenity impacts. The legislation does not permit a consent authority from simply not supporting any further modifications.

- *No consolidated development consent for LDA2015/214 and subsequent modification applications are available for public viewing.*

Assessment Officer Comment:

The original development consent and subsequent modification approvals for the site are publicly available upon request under Section 20 of the Government Information (Public Access) Act 2009 (GIPA Act).

10. Referrals**Internal Referrals****Senior Development Engineer**

The proposed development was referred to Council's Senior Development Engineer for consideration. No objection is raised to the proposed development subject to conditions.

The following comments have been provided:

- *"The subdivision application is based on the accompanying MOD being approved. As this application would be subject to the works in the MOD being*

ITEM 2 (continued)

enacted upon, it would be prudent for a condition to be applied to this application requiring the works to be completed, with specific reference to the MOD.

- The original development consent (LDA2015/214) required the registration of a Positive Covenant in relation to ongoing maintenance of the OSD and pump / sump systems in the development. In the event that one of the lots has a portion of catchment discharging to an OSD / pump-sump system on the alternate lot, this will warrant an additional clause to the covenant which clarifies the appropriate level of obligation in maintaining such systems. To clarify this, it is warranted that Works As Executed (WAE) plans be prepared of the drainage system. This will also be warranted to ensure that appropriate easements are registered on the site.*
- The applicant has acknowledged the complexity of subdividing the site whilst in the process of constructing the staged development. In response to this they have proposed to stage the implementation of ROW's / easements in the subdivision. The applicant has propositioned that this consent be configured in a staged manner however this lacks a legal mechanism to bind the alternate lot owner (which may not be Bunnings) to comply with the consent. It is therefore proposed that the required ROW's/ easements be registered on the application for a subdivision certificate and that terms of each incorporate a "Sunrise" clause – meaning the easement is activated on a certain condition – and that there be scope in the terms to redefine the easement definition based on WAE of the completed structure. In this way, any speculative purchaser of the new lot is aware of the easements / ROW's and any new owner cannot delay or resist the registration of such easements which are considered essential for operation of the development in full.*
- ROW's are registered over the Homewares/ Bulky Goods Centre (Lot 3002) but not Lot 3001 (Bunnings). This is contrary to the approved development plans which depict two way vehicle access between the lots at each access point and will warrant a condition enforcing this.*

It is likely Bunnings will absolve themselves from undertaking development works in Stages 2 and 3. As such, Stage 2 works (ie construction of the Tennyson Road access and increased parking) may never proceed under the ownership of a new and separate owner.

It has always been conceived that the parking for the development being equally available between customers of Bunnings and that of Bulk goods/ Homeware Centre. The development has reconfigured the parking allocation over several modifications. MOD2017-78 was approved with a reduced level of parking for the Bunnings component (430 parking spaces) and is slightly less than the parking capacity accommodated in the basement parking levels constructed in Stage 1 (462 spaces – as approved under MOD2018/163). The parking capacity provided by Stages 2 & 3 also correlates with the respective parking demands of this component of the

ITEM 2 (continued)

development. MOD2018/163 removed the childcare centre from the Bunnings building into the Bulk Goods/ Homeware Centre and delayed this to Stage 3. As such, the parking allocation and capacity on the respective lots is proportional and does not warrant great concern.

To ensure orderly development of the land, it is considered warranted that Stage 1 works be completed, thereby warranting the final OC be issued prior to the release of the Subdivision Certificate.

Recommendation

There are no objections to the proposed development with respect to the engineering components, subject to the application of the following conditions being applied to any consent being issued for the proposed subdivision.

NOTE: This application is dependent on MOD2019/108 being enacted upon and would typically warrant the consent be configured as deferred commencement. As the subdivision warrants an Occupation Certificate be issued for Stage 1, this condition references a specific requirement for the works encompassed by MOD2019/108 to be completed.”

Conditions have been imposed under **Conditions 2 to 12**.

11. Conclusion

Upon consideration of the development against Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other relevant statutory provisions, the proposal is considered to be suitable for the site and is in the public interest.

Therefore the development, LDA2019/0211, is recommended to be approved for the following reasons:

1. The proposed subdivision is consistent with the objectives of the relevant provisions of the RLEP 2014 and RDCP 2014, with minimal environmental impacts.
2. The proposed development does not include any physical work and does not alter building works or use as approved under Development Consent LDA2015/214, and subsequent modification approvals.
3. The proposal has been supported by a satisfactory Clause 4.6 variation request which demonstrates that compliance with the Clause 4.4 Floor Space Ratio development standard is unreasonable or unnecessary in the circumstances that no changes are proposed to the approved development under LDA2015/0214 and subsequent modifications. It is considered that the Clause 4.6 variation request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.
4. Issues raised in submissions received in response to this application have been considered and addressed in the report. The proposed subdivision is consistent

ITEM 2 (continued)

with the approved development of the site and will have minimal impact to adjoining properties and the surrounding locality.

12. Recommendation

Pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, the following is recommended:

The Local Planning Panel grant consent to development application LDA2019/0211 for the Torrens Title subdivision of one lot into two lots, subject to conditions of consent provided in **Attachment 1** of this report.

ATTACHMENTS

- 1 Draft conditions of consent
- 2 Clause 4.6 variation
- 3 A3 Plan of subdivision - subject to copyright - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Peggy Wong
Senior Town Planner

Report Approved By:

Sandra Mccarry
Acting Senior Coordinator - Major Development

Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

ITEM 2 (continued)
ATTACHMENT 1

ATTACHMENT 1

**Draft conditions of consent – 459, 461-495 Victoria Road,
Gladesville**

LDA2019/211

GENERAL

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

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

Document Description	Date	Plan No/Reference
Proposed subdivision of Lot 300 D.P.1194688	5 June 2019	191-10G L03 [01] – Stage 1 – Lot Layout
Proposed subdivision of Lot 3002 in proposed subdivision of Lot 300 D.P.1194688	5 June 2019	191-10G L04 [01] – Stage 2 – Car Park L1 and Warehouse L2
Proposed subdivision of Lot 3002 in proposed subdivision of Lot 300 D.P.1194688	5 June 2019	191-10G – L04 [01] – Stage 2 – Car Park L2
Plan of easement over Lot 2 in proposed subdivision of Lot 3002 in proposed subdivision of Lot 300 D.P.1194688	5 June 2019	191-10G L05 [01] – Stage 3 – Lot Layout

PRIOR TO SUBDIVISION CERTIFICATE

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

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

2. **Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing

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all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to www.sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

3. **Occupation Certificate.** The final occupation certificate associated with Stage 1 of the development application LDA2015/214, with the implementation of MOD2019/108 and any related S4.55 applications, must be issued for the development prior to the release of the Subdivision Certificate. This condition is required to ensure the orderly development of the land.
4. **Final Plan of Subdivision.** The submission of a final plan of subdivision plus three copies suitable for endorsement by the Authorised Officer.
5. **Final plan of subdivision - title details.** The final plan of subdivision shall contain detail all existing and/or proposed easements, positive covenants and restrictions of the use of land.
6. **Existing Easements and Restrictions.** The applicant must acknowledge all existing easements and restrictions of the use of land on the final plan of subdivision.
7. **Removal of encroachments.** All structures, services etc. are to be wholly contained within the legal property boundaries of each lot. All existing structures and services etc are either to be demolished, relocated and/or have appropriate easement/s registered over the encroachment to ensure their legal operation.
8. **Registration of easements.** The registration of easements is required to ensure all proposed lots will have legal access to all utility services, drainage and vehicular access.

Those easements / ROW's required to accommodate any future services/ access in following Stages of development works will need to be registered however must contain the following clauses in the terms of each;

- a) A "sunrise" clause is required, allowing the easement/ ROW to be operational on the issue of an Occupation Certificate for works associated in later Stages.
- b) There is to be allowance for redefinition of the easement/ ROW following completion of the works based upon works-as-executed plans of the completed works/ services.

ITEM 2 (continued)

ATTACHMENT 1

- c) The easement/ ROW are not be varied, modified or extinguished without the consent of the *Council of the City of Ryde*.

Any variations to these terms will be subject to consideration by Council.

Prior to release of the Subdivision Certificate, the terms of such easements are to be submitted to Council for review and approval. Certification shall also be obtained from a registered surveyor and submitted to Council confirming the above requirement will be met upon registration of the linen plan at the Land and Property Information.

9. **Easement to Drain Water.** Should the drainage system servicing one lot traverse the alternate lot, an Easement to Drain Water must be created over the respective part(s) of the drainage system. Where the subdivision will result in rainwater storage/ detention tanks straddling the new lot boundaries, a reciprocal drainage easement must be created over the storage, allowing each lot to drain over the alternate lot and warranting shared responsibility in maintenance of the system. The easement width, location and alignment must be in accordance with the Council's DCP Parts 8.2 (*Stormwater and Floodplain Management*) and Part 8.4 (*Title Encumbrances*) and is to be based on recent Works-As-Executed plans of the stormwater system. Plans and documentation complying with this condition must be submitted with the application for a Subdivision Certificate.
10. **88B Instrument.** If required, the submission of an instrument under Section 88B of the Conveyancing Act 1919 with 2 copies, creating any Easements, Positive Covenants and Restrictions on use, the City of Ryde being the authority empowered to release vary or modify the same.
11. **Utility provider – compliance.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc).
12. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention, pump/ sump and WSUD components incorporated on the lots. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the instrument are to be in accordance with the Council's standard terms for such systems, as specified in City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7 and to the satisfaction of Council. In the event that one of the components listed above is servicing both the new lots, the terms of the covenant must be amended (or enforced by other legal mechanism) to ensure that both lot owners have an equal obligation to maintain the system(s).

End of Conditions

ITEM 2 (continued)

ATTACHMENT 1

ITEM 2 (continued)

ATTACHMENT 2



planning consultants

21 June 2019
Our Ref: 7800F.2DK_clause 4.6

**RE: WRITTEN REQUEST FOR EXCEPTION TO A DEVELOPMENT STANDARD
FLOOR SPACE RATION DEVELOPMENT STANDARD
PROPOSED TWO LOT SUBDIVISION
461-495 VICTORIA ROAD, GLADESVILLE**

1.0 Introduction

DFP has been commissioned by Bunnings Group Limited to prepare a request pursuant to clause 4.6 of *Ryde Local Environmental Plan 2014* in respect of the proposed two lot subdivision at 461-495 Victoria Road, Gladesville.

This request for an exception to the floor space ratio (FSR) development standard arises due to a proposed two lot subdivision which will result in the gross floor area (GFA) of the Homemaker Centre component of the development approved under Development Application No. LDA2015/0214 having a FSR of 1.028:1 (2.8% variation) which exceeds the 1:1 FSR development standard under Ryde LEP 2014.

This clause 4.6 variation is justified as the bulk, scale and massing of the approved Homemaker Centre will remain unchanged as a result of the proposed two lot subdivision.

2.0 Ryde Local Environmental Plan 2014

2.1 Subclause 4.6(1) – Flexibility and Better Outcomes

Subclause 4.6(1) of the LEP states the objectives of the clause as follows:

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.”

Our response to these provisions is contained within this submission.

2.2 Subclause 4.6(2) – Consent may be granted

Subclause 4.6(2) provides that:

- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

The FSR development standard is not expressly excluded from the operation of clause 4.6 and accordingly, consent may be granted.

ITEM 2 (continued)

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2.3 Subclause 4.6(3) – Written Request

Subclause 4.6(3) relates to the making of a written request to justify an exception to a development standard and states:

- “(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.”

The proposed development does not comply with the FSR development standard pursuant to clause 4.4 of Ryde LEP 2014 however, strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as justified in this written request.

2.4 Subclause 4.6(4) – Written Request

Subclause 4.6(4) provides that consent must not be granted for development that contravenes a development standard unless:

- “(a) the consent authority is satisfied that:
- (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained.”

Furthermore, subclause 4.6(5) provides that in deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.”

The remainder of this written request for exception to the development standard addresses the matters required under subclauses 4.6(4) and 4.6(5) of the LEP.

2.5 The Nature of the Variation

Clause 4.4 of Ryde LEP 2014 sets out a 1:1 FSR development standard for the site.

The proposed subdivision creates two lots. The FSR of the approved Bunnings Warehouse and Homemaker Centre was approved at 0.98:1 based on the area of Lot 300 DP 1194688.

However, the proposed two lot subdivision will result in each component of the development having a different FSR on their respective lots, as set out in the table on the following page.

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	Lot 3001 (Bunnings)	Lot 3002 (Homemaker)		
	Stage 1	Stage 1	Stage 2	Stage 3
Proposed Site Area	1.773 ha	1.935 ha		
GFA of Proposed Modification	16,328m ²	9,095m ² retained buildings	13,521m ² Stage 2+ retained buildings	19,896m ² - Completed Stage
FSR	0.92:1	0.44:1	0.70:1	1.028:1

Note 1: The site areas have been rounded on the draft subdivision and total 37,080m² whereas the site area is 37,090m². The difference of 10m² is not been added back into the site areas used for the above FSR calculations

The above analysis demonstrates that the Homemaker Centre component of the approved development will result in a FSR of 1.028:1 in Stage 3 being greater than the 1:1 FSR applying to the site. The extent of variation is 582m².

2.6 The Objectives of the Development Standard

Clause 4.4 of the LEP states the objectives of FSR development standard as follows:

- (a) to provide effective control over the bulk of future development,
- (b) to allow appropriate levels of development for specific areas,
- (c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.

The site is not identified as a Centre on the Centres Map.

The 'specific areas' are taken to be the land identified in Areas A to I in clause 4.4A of Ryde LEP.

Therefore, only subclause (a) is relevant to the proposed development.

2.7 The Objectives of the Zone

Clause 2.33 of the LEP states the objectives of the B5 – Business Development Zone as follows:

To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and that support the viability of, centres.

2.8 The Grounds of the Objection

Taking into account the abovementioned objectives and potential environmental impacts, strict compliance is unreasonable and unnecessary for the following reasons:

- The proposed subdivision is simply a redistribution of the original site between the two components of the approved development and the proposed two lot subdivision does not result in a redistribution of floor space or any additional floor space.
- The proposed subdivision does not involve the creation of floor space, and the total gross floor area of the development and the approved buildings' massing and bulk has already been determined as being acceptable in the assessment and approval of LDA/2015/0214. The proposed development is therefore consistent with the FSR

ITEM 2 (continued)

ATTACHMENT 2

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objective of controlling the bulk of future development. Therefore, there are no adverse streetscape or visual impacts arising from the proposed variation.

- In terms of the zone objectives, the Homemaker Centre is a large floor plate building and the site area and proportions of proposed Lot 3002 upon which the approved Homemaker Centre will be located are sufficient to accommodate the proposed building despite the variation in FSR.
- The variation represents 582m² of GFA which represents a 2.8% variation from the development standard.

2.9 Secretary’s Considerations

As indicated above, subclause 4.6(5) of the LEP also requires the Secretary, in deciding whether to grant concurrence, to consider the following:

- “(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning,”

The variation is minor, and the total floor space has already been approved. The variation does not give rise to any matter of State or regional significant.

- “(b) the public benefit of maintaining the development standard,”

The variation is minor, and the total floor space has already been approved and there is no public benefit to be gained by reducing the floor space of the development approved under LDA2015/0214 in order to achieve a compliant FSR to enable the two lot subdivision.

- “(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.”

It is considered that there are no other matters of relevance that need to be taken into consideration by the Secretary.

3.0 Land and Environment Court Principles

The Land and Environment Court of NSW, through the Judgment in *Winten Developments Pty Ltd v North Sydney Council [2001]*, has established a ‘5-part test’ for considering whether strict compliance with a development standard is unreasonable or unnecessary in a particular case. This 5-part test was later supplemented by the Judgment in *Wehbe v Pittwater Council [2007]* where Chief Justice Preston expressed the view that there are 5 different ways in which an objection to a development standard may be assessed as being well founded and that approval of the objection may be consistent with the aims of the policy. The full extent of the judgement in *Wehbe* has not been reproduced in this submission but is referenced to make clear the methodology of assessment. Whilst these Judgments related to variation requests under SEPP 1, the methodology and reasoning expressed in those Judgments continues to be the accepted basis upon which to assess variation requests pursuant to clause 4.6. The 5-part test has been addressed in this submission but is summarised below for clarity.

Test	Comment
1. Is the planning control a development standard?	Yes, the floor space ratio control is a development standard.
2. What is the underlying object or purpose of the standard?	Clause 4.4(1)(a) of Ryde LEP 2014 is the relevant objective of the FSR development standard which has been addressed in this submission.

ITEM 2 (continued)

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Test	Comment
<p>3. Is compliance with the standard consistent with the aims of the policy, and in particular, does compliance with the standard tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the Environmental Planning & Assessment Act 1979?</p>	<p>The proposed FSR departure is consent with the aim of the development standard to control the bulk of future development, as the FSR departure relates to an approved development which has already been assessed as being acceptable in terms of its bulk, scale and massing, and the proposed two lot subdivision does not alter the built form outcome.</p> <p>A concurrent Section 4.55 Modification accompanies the DA to amend the Homemaker Centre building to suit the subdivision boundary. The modification results in a minor reduction in GFA. However, a further reduction would be required to achieve compliance with the 1:1 FSR control. A further reduction in GFA purely to facilitate a two lot subdivision is unreasonable and the flexibility afforded by clause 4.6 is appropriate in this instance.</p> <p>Accordingly, requiring strict compliance with the development standard would be inconsistent with the objectives of clause 4.6 which are to provide flexibility in the application of the standard and to achieve better outcomes for and from development through such flexibility.</p>
<p>4. Is compliance with the development standard unnecessary or unreasonable in the circumstances of the case?</p>	<p>For the reasons expressed in this clause 4.6 variation request, strict compliance with the development standard is unnecessary as the GFA of the development approved under LDA/2015/0214 has already been assessed as being acceptable and the GFA is not increasing because of the two lot subdivision.</p> <p>It is unreasonable to require compliance and further reduce the GFA of the approved (or modified) development solely to enable the two lot subdivision.</p>
<p>5. Is the objection well founded?</p>	<p>This variation request relies upon the first 'way' expressed by Chief Justice Preston in <i>Wehbe v Pittwater Council [2007]</i> as follows:</p> <p><i>"1. The objectives of the standard are achieved notwithstanding non-compliance with the standard."</i></p> <p>As discussed above, notwithstanding the non-compliance, the proposed development achieves the objectives of the FSR development standard under clause 4.4 of Ryde LEP and will not adversely impact on adjoining development or the streetscape and therefore, the objection is well founded.</p>

In addition, *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009* has also established the principle that the consent authority must also be satisfied that there are other "sufficient environmental planning grounds to justify contravening the development standard". In this regard, the variation to the floor space ratio development standard is also considered to have sufficient environmental planning grounds as the proposed two lot subdivision does not give rise to an increase or redistribution of the floor space approved under LDA/2015/0214.

ITEM 2 (continued)

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4.0 Conclusion and Recommendations

We have assessed the proposed two lot subdivision against the relevant statutory provisions of clause 4.6 of Ryde LEP 2014 and prepared this written request which provides justification that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case.

The proposed subdivision does not result in an increase or redistribution of the floor space approved under LDA/2015/0214 and the bulk, scale and massing of the approved development will remain the same with the subdivision of the land. The proposed subdivision will be consistent with the FSR objective of controlling the bulk and scale of development.

Accordingly, the justification within this written request is well founded and a reduction in the floor space approved LDA/2015/0214 to achieve compliance in order to facilitate the two lot subdivision is considered unreasonable and unnecessary.

3 73 Magdala Road, North Ryde - Section 4.55(1A) modification of condition of consent to allow for extended operating hours from 9:30pm Monday to Thursday to 9:30pm Monday to Friday. - MOD2019/0116 to LDA2005/0116

Report prepared by: Creative Planning Solutions

Report approved by: Manager - Development Assessment; Director - City Planning and Environment

Report dated: 3 December 2019

File Number: GRP/09/6/12/1/2 -

BP19/1457

**City of Ryde
Local Planning Panel Report**

DA Number	MOD2019/0116 to LDA2005/0116
Site Address & Ward	73 Magdala Road, North Ryde
Zoning	RE1 Public Recreation Zone
Proposal	Section 4.55(1A) modification of condition of consent to allow for extended operating hours from 9:30pm Monday to Thursday to 9:30pm Monday to Friday.
Property Owner	City of Ryde Council
Applicant	City of Ryde Council
Report Author	Ben Tesoriero – Consultant Planner
Lodgement Date	4 July 2019
No. of Submission	No submissions received
Cost of Works	Nil
Reason for Referral to RLPP	Conflict of Interest – development for which the applicant or land owner is the council. <i>Schedule 1, Part 3 of Local Planning Panels Direction</i>
Recommendation	Approval
Attachments	None

1. Executive Summary

Ryde Local Planning Panel Report No. 10/19, dated Thursday 12 December 2019.

ITEM 3 (continued)

Consent was granted to LDA2005/0116 on 19 April 2005 for the installation of floodlighting on the two (2) sports fields at Magdala Park to enable their use for night training purposes and for late finishing games, subject to conditions. Condition No.3(a) of this consent limited the hours of operation to be no later than 9:30pm Monday to Thursday for both fields.

This report considers a modification to the aforementioned development consent to extend the approved hours of operation from 9:30pm Monday to Thursday, to 9:30pm Monday to Friday – effectively permitting one additional day during the week for illumination of the sports fields. The applicant seeks the additional usage in order to support the growing demand for organised sport participation.

The application to modify LDA2005/0116 was notified in accordance with the provisions of the Ryde Development Control Plan 2014 (DCP2014) and no submissions were received.

The proposal has been assessed against the matters for consideration under Section 4.55 of the Environmental Planning and Assessment Act 1979 (the Act).

The assessment has determined the impacts of the proposal are satisfactory, that the proposal is suitable for the site, and that approval of the modification would be in the public interest.

As a result, this assessment recommends MOD2019/0116 to LDA2005/0116 be APPROVED.

2. The Site and Locality

The sports fields of Magdala Park comprise the following allotments:

- Lot 324 in DP183739
- Lot 325 in DP183739
- Lot 326 in DP183739

Magdala Park has an address of 73 Magdala Road, North Ryde and includes two sporting fields currently used for soccer and baseball sporting activities – refer to Figures 1-3 below.

Vehicular access to the subject site is via a driveway from Magdala Road which connects to the centrally located hard-stand car park – refer to Figure 4 below.

The topography of the subject site, being the sports field and curtilage area, is relatively level with slight undulations around the periphery of the site. The central portion of the site, or the playing field surface itself, is clear of any significant vegetation, and approximately 50m west of the Lane Cove River.

To the immediate south and west of the playing fields is an area of dense significant vegetation zoned E1 National Parks and Nature Reserves – refer to Figures 5-6 below.

ITEM 3 (continued)

To the immediate north-west of the subject site is an area zoned R2 Low Density Residential which includes numerous single and two-storey dwelling houses – refer to Figure 7. Further to the north west of the subject site is a public and private recreation zone which includes the North Ryde RSL Club, and numerous other community facilities, e.g. Fitness First Gym.

An aerial image of the site and surrounds, along with photographs captured at the site inspection are included below.



Figure 1 – Aerial Image of the subject site and surrounds. The location of the Magdala Park Sports Fields which are the subject of MOD2019/0116 are highlighted in red.

Source: maps.au.nearmap.com/

ITEM 3 (continued)



Figure 1 – Image captured from the central area of Magdala Park, looking south toward Sports Field 1.

Source: CPS, 6 November 2019



Figure 2 – Image captured from the central area of Magdala Park, looking north at Sports Field 2.

Source: CPS, 6 November 2019

ITEM 3 (continued)



Figure 3 – Image captured from the southern end of the car park looking north towards the driveway that provides vehicular entry and exit to Magdala Park.

Source: CPS 6 November 2019



Figure 5 – Image captured from the south of Sports Field 1, looking further south at the dense vegetation zoned E1 National Parks and Nature Reserves

Source: CPS, 6 November 2019

ITEM 3 (continued)



Figure 6 – Image captured from the east of Sports Field 1, looking west at the vegetation zoned E1 National Parks and Nature Reserves
Source: CPS, 6 November 2019

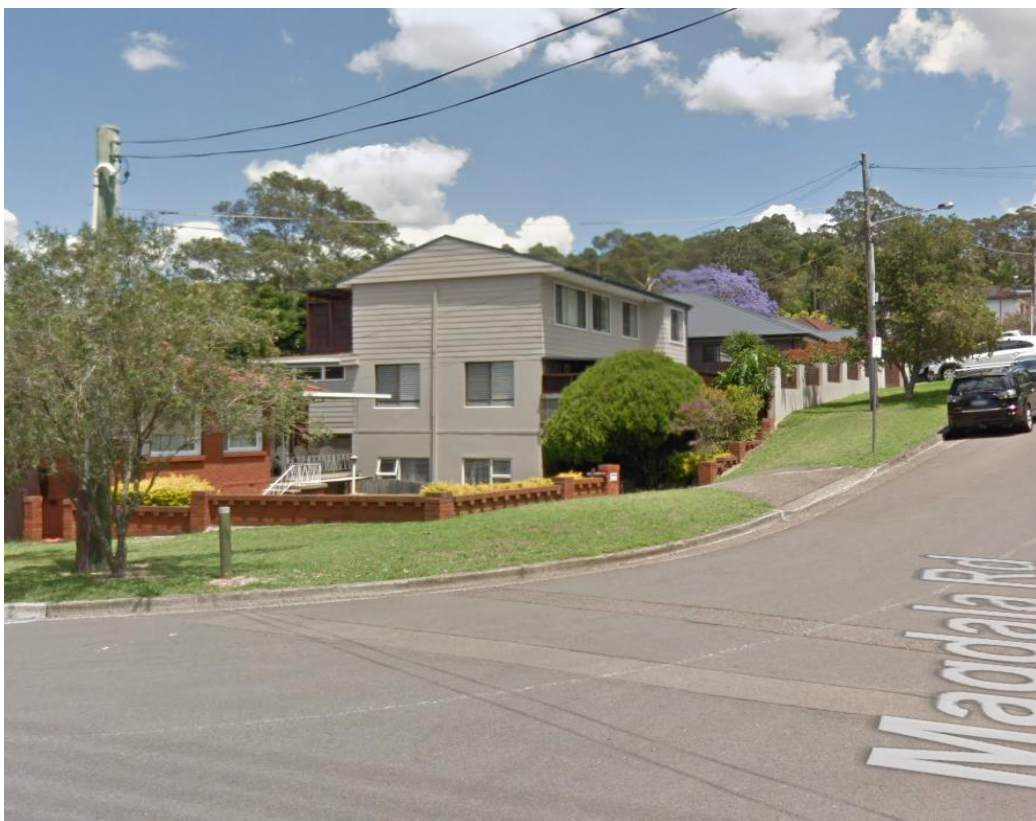


Figure 7 – Image captured from the Magdala Road Cul-de-sac, looking west at the R2 zoned low density residential development to the north of the subject site.
Source: <https://www.google.com/maps/>

ITEM 3 (continued)

As per LDA2005/0116 approved on 19 April 2005, Sports Field 1 includes 4 x 24m galvanized steel floodlight poles and Sports Field 2 includes 2 x 24m galvanized steel floodlight poles – refer to **Figure 8** and **Figure 9** below.



Figure 8 – Image captured from the south western corner of the site, looking north-east at the 24m high light poles approved under LDA2005/0116.
Source: CPS, 6 November 2019

ITEM 3 (continued)



Figure 9 – Image captured from the car park, looking south-east at the 24m high light poles approved under LDA2005/0116.
Source: CPS, 6 November 2019

ITEM 3 (continued)

3. The Proposal

Consent was granted to LDA2005/00116 on 19 April 2005 for the installation of floodlighting on the two (2) sports fields at Magdala Park for lighting and night time use of the sports fields, subject to conditions. Notably, Condition 3 of this development consent limited to the hours of operation and use of the sports fields to no later than 9:30pm Monday to Thursday and no later than 6:00pm Saturday and Sundays.

Notably, the following subsequent modifications to condition 3 of the consent have occurred:

- MOD2012/0142 – approved on 19 November 2012, to upgrade sports field lighting and modify condition 3(b) to enable Saturday usage until 9:30pm on no more than six (6) occasions throughout the winter seasons.
- MOD2014/0006 – approved 2 December 2014 – Section 96(1A) modification application to amend condition 3 to allow use of Field No.1 at Magdala Park for up to ten (10) nights per year on either Tuesday, Wednesday, Thursday or Saturday) for soccer competition games required due to wet weather cancellation.

The current wording of Condition 3 is as follows:

3. *The use of the light to illuminate the fields shall be restricted to no later than:*
 - a. *9:30pm on Monday to Thursday for training on fields 1 & 2.*
 - b. *6:00pm Saturday and Sunday for late finishing games only if light deteriorates to such an extent to make playing unsafe, and 9:30pm on no more than ten (10) separate occasions on either a Tuesday, Wednesday, Thursday or Saturday throughout the winter season (April to September) for soccer competition games.*

MOD2019/0116 seeks to modify the approved hours of operation under Condition 3 by permitting use of the fields no later than 9:30pm Monday to Friday for training on Playing Fields 1 and 2 – therefore effectively permitting the use/illumination of the sports fields for one additional day per week.

The wording of Condition 3, as modified, would be as follows:

3. *The use of lights to illuminate the fields shall be restricted to no later than:*
 - a. *9.30pm on Monday to **Friday** for training on fields 1 & 2.*

ITEM 3 (continued)

- b. *Until 6:00pm on Saturday and Sunday for late finishing games only if light deteriorates to such an extent as to make playing unsafe, and 9:30pm on no more than ten (10) separate occasions on either a Tuesday, Wednesday, Thursday or Saturday through the winter season (April to September) for soccer competition games.*

Emphasis added.

4. Background

The following is a brief overview of the development history relating to the proposed development on the subject site:

A proposal to install field lighting for Magdala Park was considered by the Public Facilities and Services Committee on 15 June 2004, and by the Committee of the Whole on 7 December 2004

LDA478/2003 was approved on 27 June 2003 to subdivide Magdala Park into 2 allotments to enable transfer of part of the land containing bushland to the National Parks and Wildlife Services for incorporation into Lane Cove National Park: LDA2005/0116 related to the retained part of that land which comprised the playing fields, kiosk, amenities and car parking.

On 18 February 2005 LDA2005/0116 was lodged for the installation of floodlighting on the two (2) sports fields at Magdala Park to enable use for night training purposes and for late finishing games. The light poles were 27m high although only 24m were above ground. A total of six (6) light towers were proposed as follows:

- Field No.1 – 4 x 24m galvanised steel poles with 4 x 2,000 watt metal halide lights on each pole. The field to be used for representative soccer (junior and senior) in winter and baseball in summer. The lighting be specifically for night training and late finishing games.
- Field No.2 – 2 x 24m galvanised steel poles with 4 x 2,000 watt metal halide lights on each pole. The field be used for mini soccer in winter, baseball in summer and training for soccer.

The proposed hours for use were 5pm-9:30pm Monday to Thursday for training on Field No.1 and 2 and infrequently on Saturdays and Sundays (about 6pm) on Field No.1, if light deteriorated to such an extent as to make playing conditions unsafe.

Consent was granted to LDA2005/0116 on 19 April 2005 subject to eight (8) conditions of consent. The following are the particular conditions of consent important to the operation of the floodlighting and also relevant to the proposed Section 4.55(1A) Modification detailed below:

Condition No 3 for LDA2005/0116:

ITEM 3 (continued)

The use of lights to illuminate the fields shall be restricted to no later than:

- (a) 9.30pm on Monday to Thursday for training on fields 1 & 2.
- (b) 6.00pm Saturday and Sunday for late finishing games only if light deteriorates to such an extent as to make playing unsafe.

On 19 November 2012, MOD2012/0142 to LDA2005/0116 was approved to upgrade the sports field lighting in Magdala Park to improve light-pole illumination and change the hours of use of the field lighting.

The Section 96(1A) modification application sought to:

- Increase the floodlighting level from 100Lux to 200Lux for the lights servicing Field No.1 (main sports field); and
- Modify condition 3(b) to be Saturdays until 9:30pm on no more than six (6) separate occasions throughout the winter season (April to September) for soccer competition games.

MOD2012/0142 was approved with the following additional condition added to the consent:

- *Condition 5A – Curfew switches are to be installed, along with manual off switches, to each tower set, to ensure that the light use does not extend beyond the approved times of use.*

On 2 December 2014, consent was granted to MOD2014/006 to amend Condition 3(b) of LDA2005/0116 to allow use of Field No.1 at Magdala Park for up to (10) nights per winter season (April to September) on either Tuesday, Wednesday, Thursday or Saturday for 'Make-up' soccer competition games required to be rescheduled due to wet weather cancellation.

On 4 July 2019, the current modification application (MOD2019/0116) was lodged to modify Condition 3(a) of LDA2005/0116 to extend the approved hours of operation to permit the use of training fields 1 & 2 to 9:30pm on Fridays.

The subject section 4.55(1A) application was notified to the owners of surrounding properties and the Lane Cove National Park on 15 July 2019, with the notification period for submissions closing on the 1 August 2019. No submissions were received.

5. Planning Assessment**5.1 Section 4.55 (1A) Modifications involving minimal environmental impact**

Council may consider a modification of development consent under Section 4.55(1A) of the Act, provided the following criteria are met

ITEM 3 (continued)

a) *The proposed modification is of minimal environmental impact.*

The proposed Section 4.55(1A) modification includes an extension to the hours of illumination and use of the playing fields from no later than 9:30pm Monday to Thursday, to no later than 9:30pm Monday to Friday.

As such, the proposal will increase the availability for the use of the playing fields by one additional day during the week. Importantly, the proposal retains the daily hours of operation imposed as part of Condition 3(a) whereby the illumination of the sports fields is not permitted any later than 9:30pm.

The modifications will not change the size of the approved light poles, nor increase the intensity of their illumination from the 200 LUX level lighting array approved under MOD2012/0142. Additionally, all existing conditions of consent that were imposed to ameliorate the impacts of the development are proposed to remain in place, including those relating to:

- Compliance with *Australian Standard AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting*.
- Adoption of a Noise Management Policy;
- Installation of light shields to minimise stray light on surrounding areas; and
- Vegetation screen planting.

For these reasons, the proposal has been assessed as being of minimal environmental impact when considered as a modification to the existing DA approval.

b) *The proposed development is substantially the same as the approved.*

The original DA granted approval for the installation of outdoor sports field lighting and use of the sports fields during the evening for training and late finishing games. Conditions of consent currently limit the hours of operation for the use of sports field lighting.

No changes are proposed to the general purpose, use or appearance of the approved sports field lighting as part of this Section 4.55(1A) modification. The modifications will not result in a change of land use at the site, or the general layout of the site. While approval of the modification will enable the continued use of the sports fields into the evening for an additional day per week, the development will be substantially the same as the DA approved, both from a quantitative and qualitative perspective.

c) *The application for modification has been notified in accordance with:*

(i) *the regulations, if the regulations so require, or*

ITEM 3 (continued)

(ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

The MOD2019/0116 was placed on public notification from 15 July 2019 to 1 August 2019 in accordance with DCP2014.

d) Council has considered any submissions concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

The modification was notified in accordance with DCP2014. No submissions were received.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

An assessment of the proposal having regard to the matters referred to in Section 4.15(1) of the Act is contained below.

Consent was granted to LDA2005/0116 in order to support the growing demand for organised sport participation within the City of Ryde. The applicant is currently experiencing further demand for the use of sports fields within the local government area, and the additional park usage that will be enabled by consenting to MOD2019/0116 will help service this demand.

5.2 State Environmental Planning Instruments

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

The subject site is located within the Foreshores and Waterways Area, and located within the Wetlands Protection Area, as indicated in **Figure 10** below.

ITEM 3 (continued)

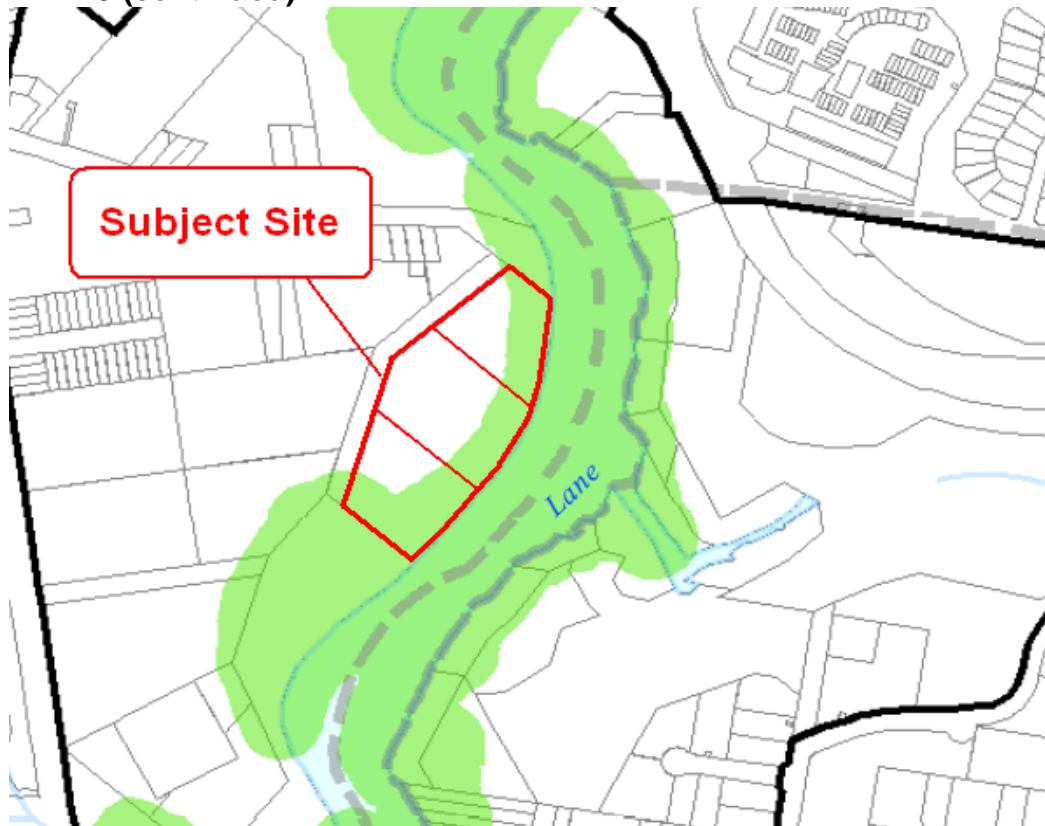


Figure 10 – Wetlands Protection Area Map – SREP (SHC) 2005

Source: <https://www.planning.nsw.gov.au/>

The development complies with all the requirements of this planning instrument.

5.3 Ryde LEP 2014

The subject site is zoned ‘RE1 – Public Recreation’ under the provisions of the *Ryde Local Environmental Plan 2014* (LEP2014) – refer to **Figure 11** below. The proposed development is best described as “recreation facilities (outdoor)”, which is a development that is permissible with consent within the zone.

Aims and objectives for the RE1 – Public Recreation zone:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- The proposed modification will ensure the approved development continues to satisfy the objectives for the RE1 Public Recreation zone as it:

ITEM 3 (continued)

- will continue to improve the use of Magdala Park for public open space and recreational purposes and to meet the demands of community sporting activities.
- will provide for, and allow an expansion of, the recreational and sporting activities to be undertaken at Magdala Park that are considered compatible with surrounding land uses;
- is not considered to detract significantly from the natural environment of Magdala Park or its surrounds;

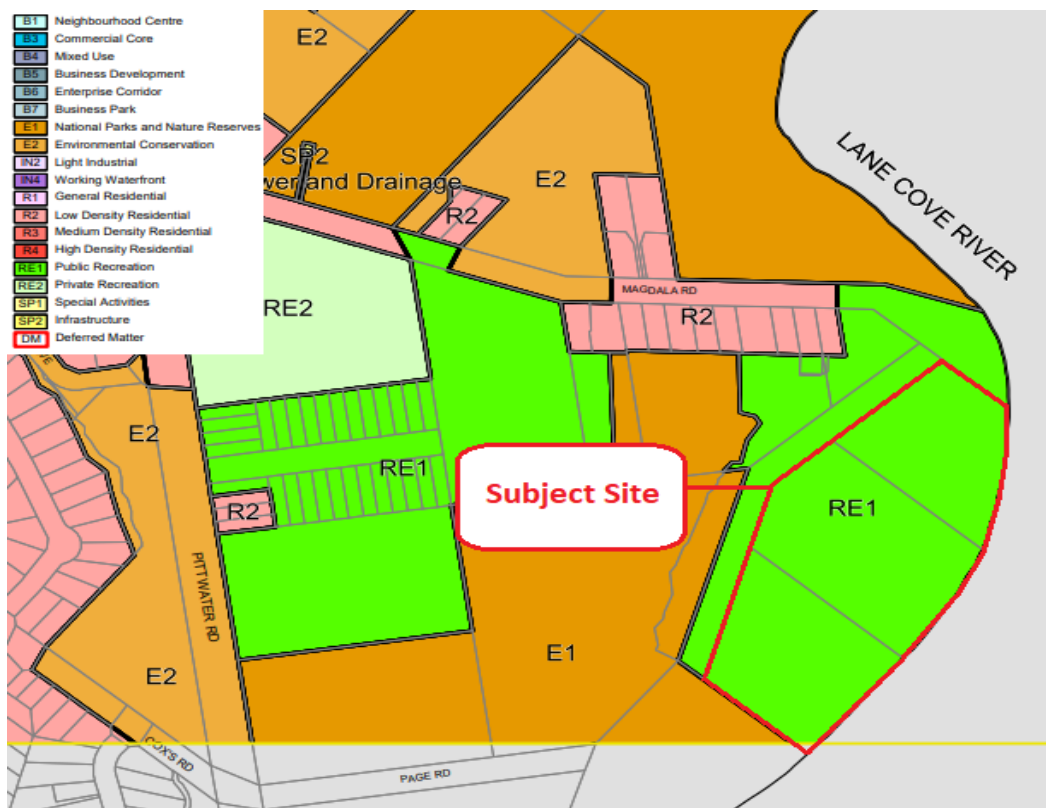


Figure 11 – LEP2014 Zoning map extract. Magdala Park zoned RE1 Public Recreation.

Source: <https://www.legislation.nsw.gov.au/>

5.10 Heritage Conservation

Clause 5.10 of LEP2014 outlines conservation provisions for the City of Ryde local government area.

A review of Councils Heritage Map contained within LEP2014 has revealed the subject site does not contain an item of heritage, and is not located within a heritage conservation area.

However, the subject site has been identified as being located immediately adjacent to a portion of Heritage Item No.59 and approximately 50m to the south of another portion of Heritage Item No.59. In accordance with Schedule 5 of LEP2014, Heritage

ITEM 3 (continued)

Item No.59 is open space associated with the Lane Cove National Park which is identified as having State Heritage Significance.

Given there are no physical works proposed, and the application is only seeking consent to expand weekday usage by one additional day, there is no identifiable impact to the nearby heritage item. Notably, the subject 4.55(1A) modification was notified to Lane Cove National Park on 15 July 2019. No response was received from Lane Cove National Park.

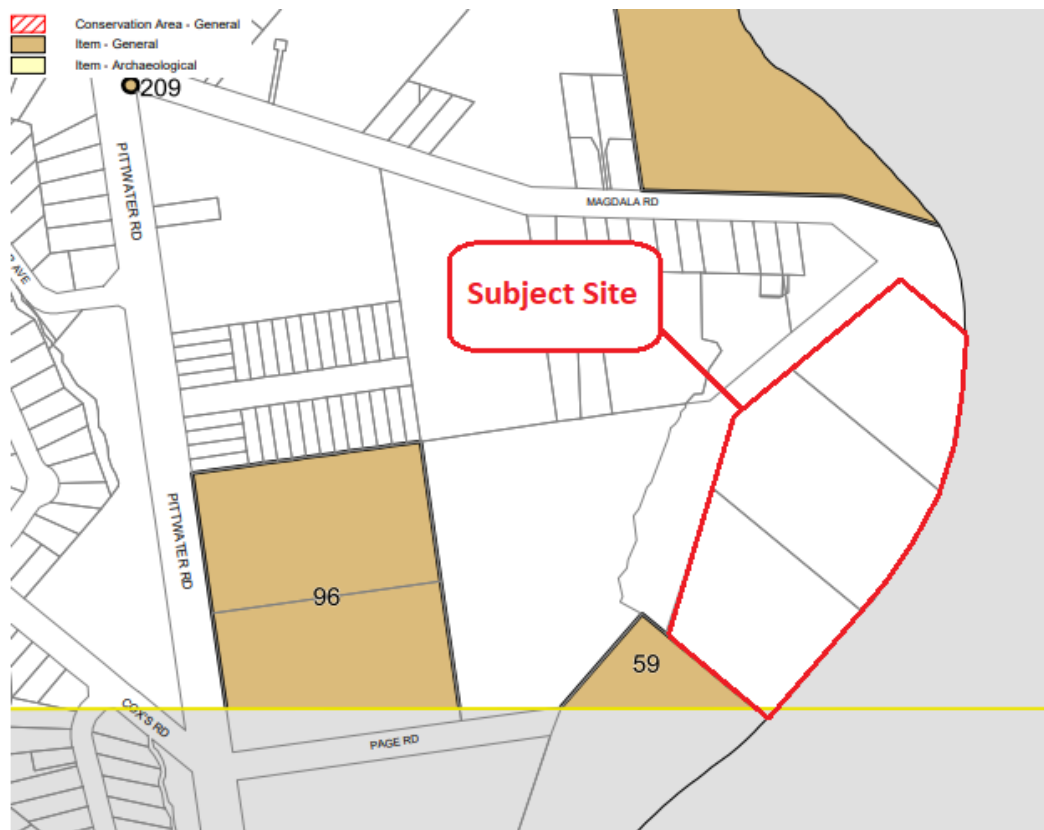


Figure 12 – LEP2014 Heritage map extract. Magdala Park located immediately adjacent to Heritage Item No.59 (Lane Cove National Park)

Source: <https://www.legislation.nsw.gov.au/>

5.4 Draft Environmental Planning Instruments

No draft environmental planning instruments are identified as being applicable to the proposed Section 4.55(1A) modification.

5.5 Development Control Plans

Ryde Development Control Plan 2014

A review of DCP2014 having regard to the proposed modification has not revealed any specific development controls that would be applicable to the extended use of

ITEM 3 (continued)

the lighting. The proposed development is considered to satisfy the general objectives of the DCP2014 for the following reasons:

- The modification will enhance the existing amenity of the City of Ryde by providing improved opportunities for its residents to participate in organised sport programs and activities at Magdala Park.
- Additionally, the extra illumination of the sports fields for an additional week day supports the growing demand for organised sport participation.
- The proposed modification is appropriate for the location given the existing use of the land for organised sporting activities. The modification will only seek to enhance the usability of this community space.

Sydney Harbour Foreshore & Waterways Development Control Plan

The aims of the Development Control Plan are:

- *To protect ecological communities within the area covered by SREP (Sydney Harbour Catchment) 2005.*
- *Ensure that the scenic quality of the area is protected or enhanced.*
- *Provide siting and design principles for new buildings and waterside structures within the area; and*
- *Identify potential foreshore access locations in the area.*

The Sydney Harbour Foreshore & Waterways Development Control Plan has identified as being within 'Landscape Character Type 15'.

Development in these areas must consider the following:

- *The contribution industrial uses make to the economics and vitality of the river and their need for location on the waters edge;*
- *Establishment of open space and recreational opportunities;*
- *Mitigating against incompatible land uses; and*
- *Preserving the mangrove screening along the foreshore and reducing the stark contrast of built elements behind these natural features.*

The application proposes no physical works, but does extend the usage of the field lighting for an additional day during the week.

The application is also assessed under the performance criteria for the land within 'Landscape Character Type 15'. See Table below.

ITEM 3 (continued)

Provision	Proposal	Compliance
<p>The industrial uses along the river are maintained and preserved. Pressure for these uses to relocate is minimised;</p>	<p>The proposal is not within the vicinity of industrial land uses. Further, given the proposal results in no physical works, and only includes an extension to the operating hours of the existing light poles on Sports Field 1 and 2, the proposed modification is not anticipated to impact on the industrial uses along the river, nor result in pressure for these uses to relocate.</p>	<p>Yes</p>
<p>Design and mitigation measures are provided between incompatible land uses to minimise noise and amenity impacts;</p>	<p>Conditions of consent under LDA2005/0116 in relation to direction of lights and compliance with relevant Australian Standards still apply to the proposal. Additionally, conditions limiting the hours of floodlight usage will remain to mitigate amenity impacts on adjoining land uses. Further conditions relating to minimising the impact of light spillage and noise have not been included as part of the Section 4.55(1A) recommendations as these are already satisfactorily covered on the existing consent.</p>	<p>Yes</p>
<p>Remaining natural elements along the foreshore are preserved to maintain the natural screen along the foreshore; and</p>	<p>The proposal does not include any physical works, therefore no impacts on the natural elements along the foreshore are anticipated.</p>	<p>Yes</p>
<p>Vegetation is integrated within the development to minimise the contrast between natural and built elements.</p>	<p>The proposal does not include any physical works, and therefore no impacts on vegetation are anticipated.</p>	<p>Yes</p>

ITEM 3 (continued)**5.6 Planning Agreements OR Draft Planning Agreements**

No planning agreements or draft planning agreement exist for this development.

5.7 Any matters prescribed by the regulations

No relevant provisions of the Regulations have been identified as pertinent in the assessment of the proposed development on the subject site.

6. The likely impacts of the development

Likely impacts on the natural and built environment:

Built Environment Impact

The proposed modification application will allow for the expansion in the use of the Magdala Park sports fields, which would enable further use of the fields for an additional week day up until 9:30pm.

The proposed modification must be considered in terms of its impact on the surrounding built environment.

- The additional Friday illumination does not change the use of Magdala Park as a public recreation area – accordingly no impact on the built environment in terms of the nature of the land use is anticipated.
- The modification application retains the 9:30pm curfew imposed on LDA2005/0116, whilst only expanding the usage of the lights for an additional weekday.
- The existing traffic and parking impacts are likely to already be established in this locality up until 9:30pm Monday to Thursday. The traffic and parking impacts associated with an additional weekday of usage is unlikely to be dissimilar to the impacts already experienced throughout Monday to Thursday given the operating hours of the lights up until 9:30pm remain unchanged. With an increasing population throughout the Ryde LGA, it is expected that the demands on community facilities, such as public parks and sporting facilities would increase over time, and the associated impact on parking is not unexpected in streets surrounding local sports facilities.

The additional weekday of lighting up until 9:30pm may initially also assist in easing congestion and improving on-street parking availability. This is because the sports fields are used by local organised sports clubs who need to distribute sports field availability amongst registered members of different teams and age groups. As explained by the applicant in part of their modification, the additional sports field usage will result in additional sessions made available to local sporting groups

ITEM 3 (continued)

which would allow clubs to spread their members use of the fields throughout the week, thus easing congestion.

- Sports field lighting has the potential to impact on the built environment in terms of the obtrusive effects of outdoor lighting, particularly on other aspects of the built environment such as nearby residential accommodation.

'Australian Standard AS4282-1997 – Control of the obtrusive effects of outdoor lighting' sets out guidelines for control of the obtrusive effects of outdoor lighting and gives recommended limits for the relevant lighting parameters to contain these effects within tolerable levels.

Table 2.1 within AS4282-1997 outlines the recommended maximum values of light for the control of obtrusive light both during pre-curfew hours and curfew hours. Curfew hours within the City of Ryde have generally been established to be after 10:00pm.

The lights are currently approved for use as late as 9:30pm, and the proposed modification to enable their use on Fridays would not result in any use of the lights beyond 9:30pm or during curfew hours.

Condition 5 of the consent requiring compliance with this Australian Standard will continue to remain in place, that being:

The lighting of the ovals shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads. All existing and proposed lights shall comply with the Australian Standard AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting.

- Condition 5A of the consent to MOD2012/0142 required *curfew switches to be installed, along with manual off switches, to each tower set, to ensure that the light use does not extend beyond the approved times of use.* In addition, as part of the conditions of consent to MOD2014/0006 light shielding was required to be installed to light poles on Field No.1 to reduce the impact of stray light on the surrounding areas.

These existing conditions are to remain in place and will ensure the lights do not provide a disturbance beyond the evening periods in which they are approved to operate. Therefore, based on the existing conditions associated with the use of the lights, and given the subject 4.55(1A) modification only includes an expansion of the use of the lighting for an additional weekday until 9:30pm, the light spill affects are already mitigated to be within acceptable limits.

ITEM 3 (continued)

- Sports field lighting can impact on the built environment in terms of the obtrusive effects of noise associated with the use of the fields to be illuminated. The proposed modification would allow for the courts to be used for an additional weekday up until 9:30pm.

Existing conditions of consent in relation to the implementation of a Noise Management Plan are to remain in place. Given the minor change proposed as part of this modification, no additional conditions regarding noise mitigation are considered necessary.

Natural Environment Impact

While there will be minimal physical change to the park, the proposed modification must be considered in terms of its potential impact on the surrounding natural environment.

- The illumination of Magdala Park sports fields does not change the use of park – accordingly there is no impact on the natural environment in this regard as there will be no vegetation removal or change of use to the public recreation area.
- The extended use of the lighting will not require any earthworks, given that the proposal would seek to utilise existing lighting structures.
- Illuminating lights have the potential to impact on the natural environment in terms of the obtrusive effects of outdoor lighting on the park and the areas surrounding the park, all of which may contain flora and fauna. The lighting is currently approved for use up until 9:30pm Monday to Thursday and the proposed use on Friday will also be limited to 9:30pm. Throughout the vast majority of the night-time period, Magdala Park will not be illuminated by the lights, thus it is not expected that the proposal will generate significant impacts on local flora and fauna beyond that already consented to under the originally approved DA.
- The proposal was notified to Lane Cove National Park on 15 July 2019. No response was received.

Likely social and economic impacts of the development:**Social Impact**

The proposed modification seeks an expansion to the approved illumination days for the Magdala Park Sports Fields. The proposed modification must be considered in terms of its social impacts.

The proposed lighting will extend the overall availability of Magdala Park, benefiting not only the sporting teams that will use the fields during these hours but also the members of the wider public that will also be able to use the Park and

ITEM 3 (continued)

surrounding curtilage areas. This will create a range of social benefits such as additional capacity for sporting teams in Ryde, and the associated physical and mental health benefits of participation in sports.

Economic Impact

The proposed modification must be considered in terms of its economic impacts.

The proposed lighting is likely to contribute to a range of economic benefits in the Ryde LGA through:

- More efficient use of land resources, existing infrastructure and existing services; and
- Additional sports team capacity in the area due to the proposal increasing the availability of the Magdala Park sports fields.

7. Suitability of the site for the development

A review of Council's maps associated with the LEP2014 identifies that the site is affected by Class 2 and Class 5 acid sulfate soils – Refer to Figure 13 below. The proposal does not seek any physical works on the site, and as such the presence of potential acid sulfate soils on the site is not relevant to the proposal.

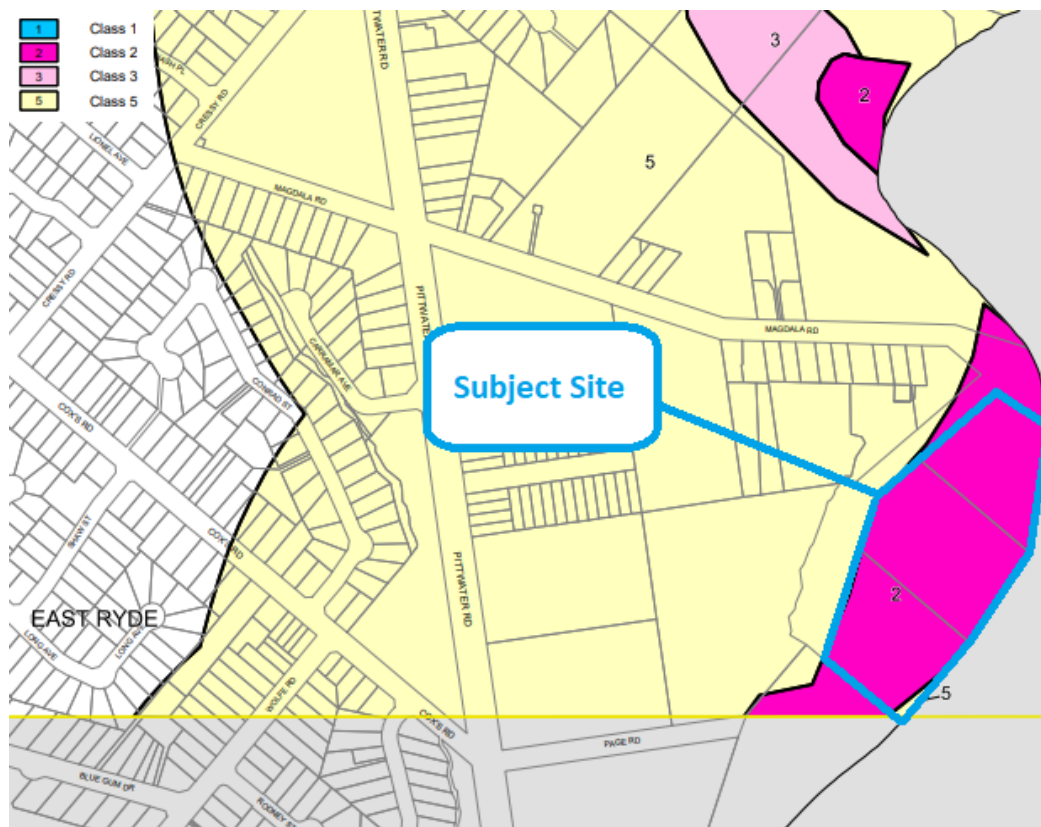


Figure 13 – LEP2014 Acid Sulphate Soils map extract. Subject Site affected by Class 2 and Class 5 Acid Sulphate Soils.

ITEM 3 (continued)

Source: <https://www.legislation.nsw.gov.au/>

In addition, the subject site is located on bushfire prone land and is affected by overland flow in accordance with Councils Environmentally Sensitive Areas Map. However, the proposal does not seek any physical works on the site, and as such the subject modification is considered satisfactory in terms of bushfire risk and flood risk.

Given the above, and given the proposed Section 4.55(1A) Modification will help facilitate recreational activity on land zoned for public recreational purposes, the subject site is considered suitable for the proposed development.

8. The Public Interest

Having regard to the assessment contained in this report, it is considered that approval of the development is in the public interest.

9. Submissions

The subject 4.55(1A) modification application was notified to the owners of surrounding properties and the Lane Cove National Park on 15 July 2019, with the notification period for submissions closing on the 1 August 2019. No submissions were received.

10. Referrals

No internal or external referrals were carried out in relation to the subject DA.

11. Conclusion

The modification is recommended for approval. The reasons for approval are as follows:

1. The proposal is consistent with the objectives and planning controls contained within the provisions of LEP2014, DCP2014 and also the applicable SREPs.
2. The impacts on the natural and built environment have been assessed to be satisfactory, with the existing conditions of consent remaining satisfactory to mitigate impacts that have the potential to arise.
3. The proposal will continue to help facilitate recreational activities on land zoned for public recreational purposes, and is therefore a suitable use of the site.
4. The development is considered to be in the public interest.

ITEM 3 (continued)**12. Recommendation**

That MOD2019/0116 to LDA2005/0116 be modified as follows:

Amend Condition 3(a) to read as follows:

3. *The use of the lights to illuminate the fields shall be restricted to no later than:*
 - a. *9:30pm on Monday to Friday for training on fields 1 & 2*
 - b. *Until 6:00pm on Saturday and Sunday for late finishing games only if light deteriorates to such an extent as to make playing unsafe, and until 9:30pm on no more than ten (10) separate occasions on either a Tuesday, Wednesday, Thursday, or Saturday through the winter seasons (April to September) for soccer competition games.*

ATTACHMENTS

There are no attachments for this report.

Report Prepared By:

**Ben Tesoriero Planning Consultant
Creative Planning Solutions**

Report Approved By:

**Sandra Bailey
Manager - Development Assessment**

**Liz Coad
Director - City Planning and Environment**

- 4 2 Waratah St Eastwood - New multi-dwelling housing development containing three (3) dwellings - 1 x 2 storey, 5 bedroom dwelling at the front and 2 x single storey, 3 bedroom dwellings at the rear as well as strata subdivision. - LDA2019/0128**

Report prepared by: Building Surveyor - Fast Track Team

Report approved by: Senior Coordinator - Fast Track Team; Manager - Development Assessment; Director - City Planning and Environment

Report dated: 3 December 2019

File Number: GRP/09/6/12/1/2 -

BP19/1458

City of Ryde Local Planning Panel Report

DA Number	LDA2019/0128
Site Address & Ward	2 Waratah St Eastwood West Ward
Zoning	R2 Low Density Residential
Proposal	New multi-dwelling housing development containing three (3) dwellings - 1 x 2 storey, 5 bedroom dwelling at the front and 2 x single storey, 3 bedroom dwellings at the rear as well as strata subdivision.
Property Owner	Feris Merhi, Ellen M Merhi, Mark A Merhi, Giovanna Merhi
Applicant	GM Building Group
Report Author	Jane Tompsett – Assessment Officer
Lodgement Date	1 May 2019
No. of Submissions	Notification period: 18 submissions to the original plans Amended plans exhibited 5-22/11/2019 and one (1) submission was received

ITEM 4 (continued)

Cost of Works	\$980,000.00
Reason for Referral to RLPP	Contentious Development – Development is the subject of 10 or more unique submissions by way of objection
Recommendation	Approval
Attachments	Attachment 1 – Amended conditions of consent Attachment 2 – Previous Report to Local Planning Panel Attachment 3 – Previous Compliance Table Attachment 4 – Amended Plans

1. Background

LDA2019/128 proposes to construct a new multi dwelling housing development containing three (3) dwellings and strata subdivision of the three (3) dwellings at No. 2 Waratah Street, Eastwood.

The proposal complies with the requirements of the Ryde Local Environmental Plan 2014. The only non-compliance with Ryde Development Control Plan 2014 Part 3.4 – Multi Dwelling Housing, is in respect to control 3.9 – Overshadowing and Access to Sunlight. In this regard each courtyard is required to have at least 2 hours of sunlight. This has only been provided for unit 3.

This application was considered by the Local Planning Panel at its meeting held on 10 October 2019. At this meeting the Panel resolved to: *defer the development application to allow the applicant to submit amended plans which would address solar access to the living areas of dwellings 1 and 2, noting that the deletion of bedroom 1 from dwelling 2 and the replacement of the kitchen adjacent to the driveway for unit 2 would achieve that objective.*

The applicant has submitted the amended plans and this supplementary report addresses those plans.

2. The Proposal

The original Development Application proposed a multi dwelling development containing three (3) dwellings. The amended plans have proposed the same development. Amendments to the plans include the following:

ITEM 4 (continued)**Unit 1**

- The overall length of unit 1 has been reduced by 400mm. There have been no changes to the front or side setbacks as a result of the reduced length of the dwelling.
- The kitchen has been relocated from the southern side of the site to the northern side adjacent to the driveway with a window proposed on the northern elevation. This will allow for unrestricted natural solar access to the kitchen. As a result of this amendment, bedroom 5 and the ensuite have been reduced in size and the staircase has been relocated to the southern boundary.
- An additional window has been added to the northern elevation of the lounge room to further improve natural solar access.
- The length of the deck on the ground floor has been reduced by 400mm.
- The first floor plan has been amended to accommodate the relocated stair case. No changes are proposed to the windows on the first floor.

Unit 2

- The length of unit 2 has been increased by 400mm.
- The overall length of the multi-dwelling development is the same as originally considered by the Panel. The increased length of this unit has occurred to ensure that unit 2 can be re-designed as a 3 bedroom dwelling and ensure the living areas receive solar access.
- The internal configuration of the unit has been amended to relocate the bedrooms and living areas. This has resulted in the living area having two windows to the northern boundary.
- The deck has been reduced in size and now provides an improved relationship with the kitchen and living areas of the units.

The previous decision of the Local Planning Panel was that bedroom 1 of unit 2 should be deleted to provide opportunities for improved sunlight to the unit. The applicant has retained this dwelling as a 3 bedroom unit. By increasing the overall length of the unit by 400mm, this has allowed the internal arrangement of the unit to be reconfigured so that the living area is located on the northern boundary and 3 bedrooms can be retained. This arrangement satisfies the intent of the previous decision of the Panel.

The amendments have been demonstrated in Figures 1 and 2 below.

ITEM 4 (continued)

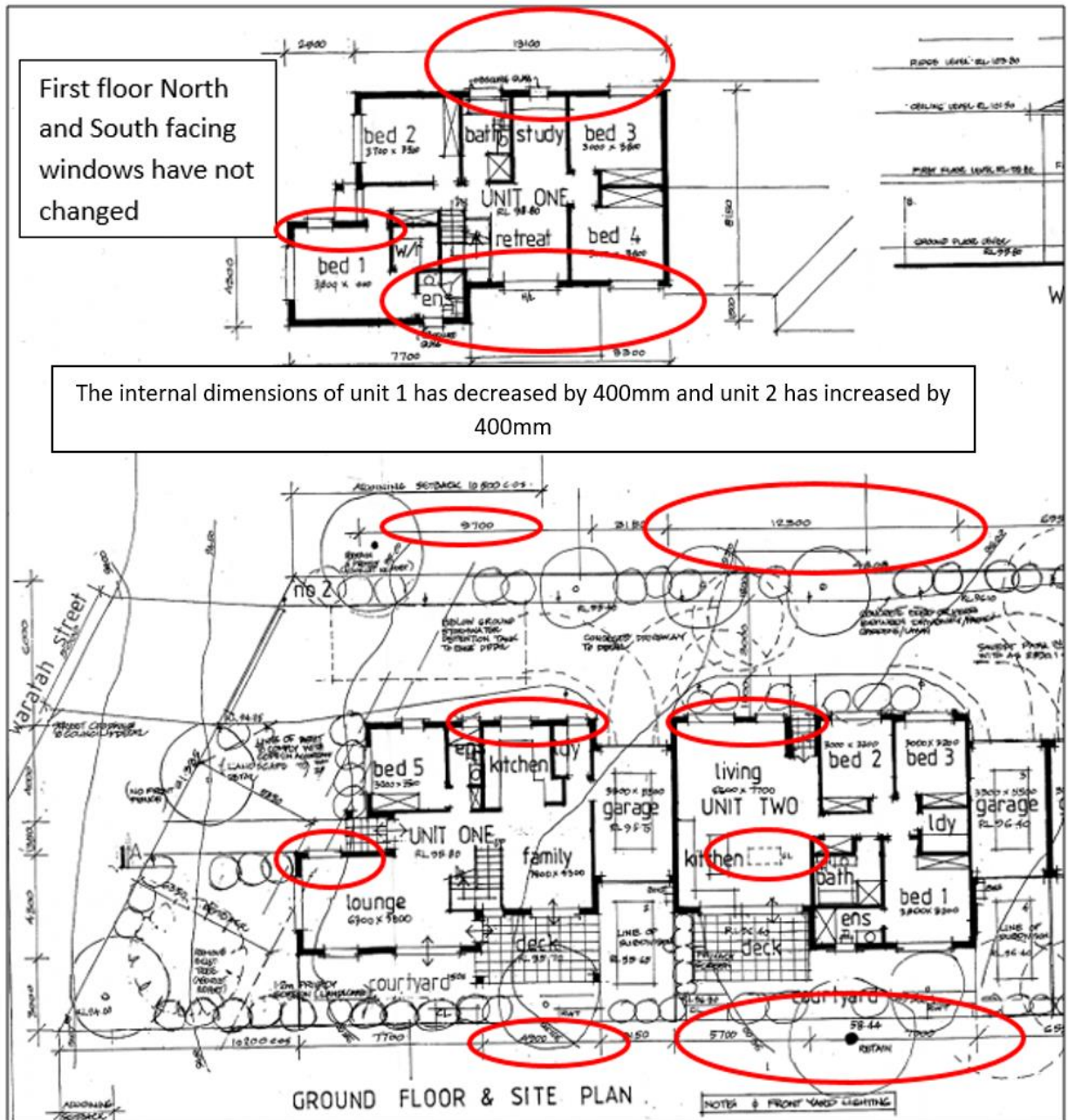


Figure 1: Amended plans. The red indicates the proposed amendments to the plan.

ITEM 4 (continued)

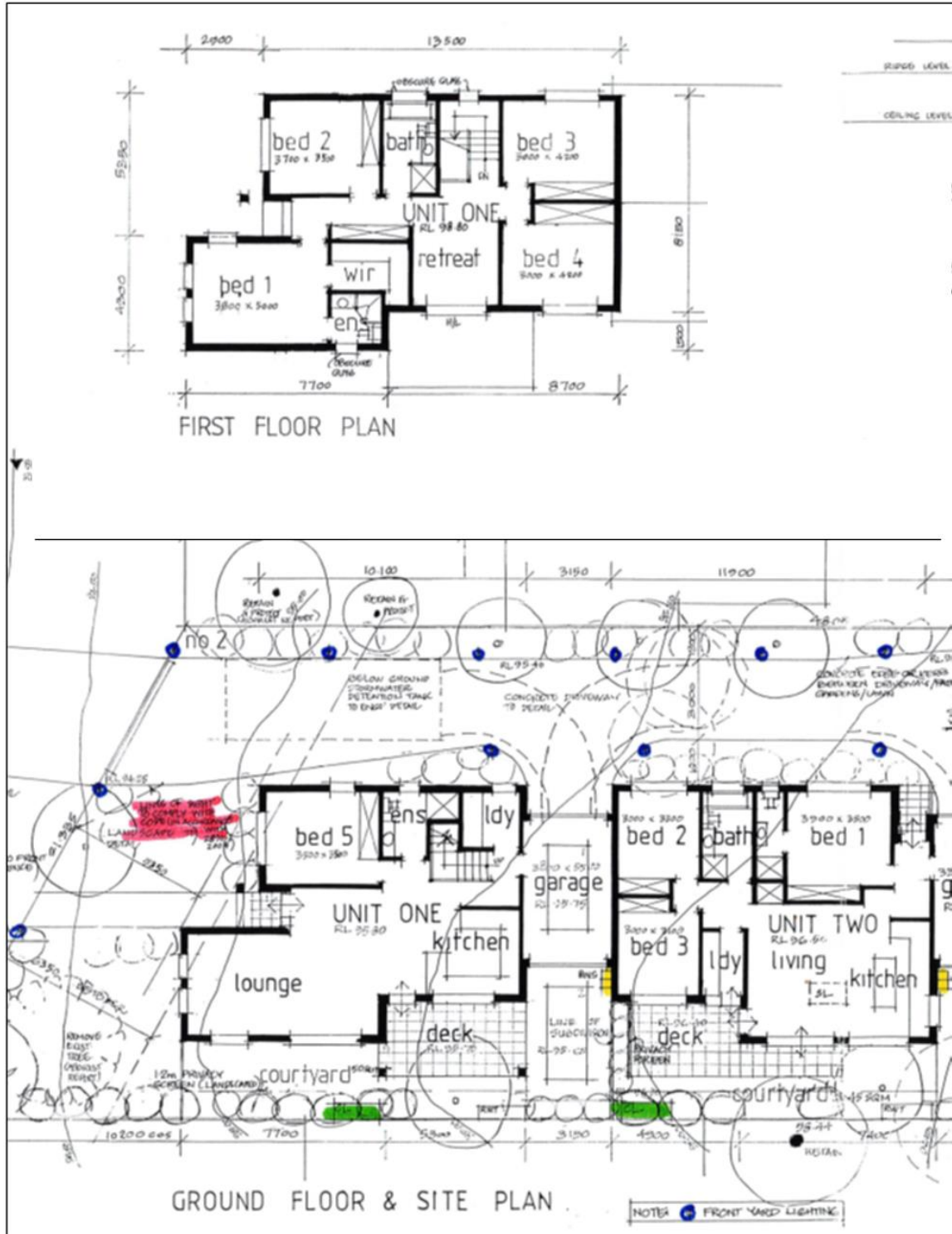


Figure 2. Original Plans which were considered by the Local Planning Panel at its meeting held on 10 October 2019.

ITEM 4 (continued)

3. Planning Assessment

3.1 Development Control Plans

The attached report provides a compliance table in respect of the original plans. The only change as a result of the amended plans is in respect to Clause 3.9 – Overshadowing and Access to Sunlight. Part (b) of this clause requires multi dwelling housing developments to provide two (2) hours of sunlight to at least 50% of each courtyard within the development. As detailed in the previous report, the private open spaces of units 1 and 2 will not achieve the required solar access as shown in **Figure 3**.

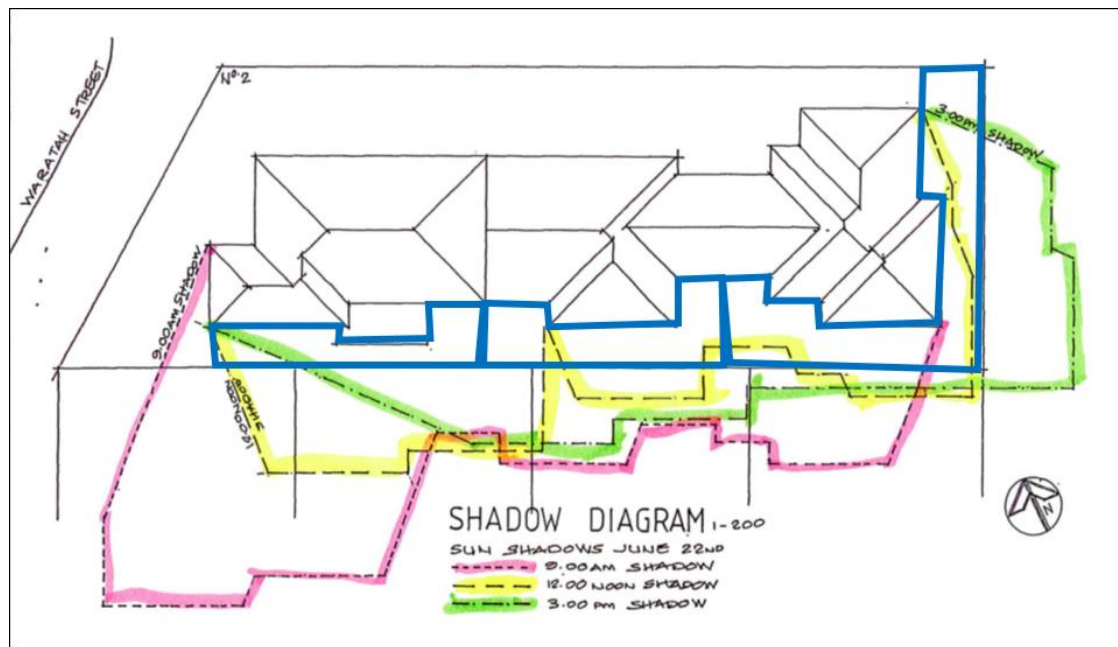


Figure 3. Shadow Diagram. Courtyards for each unit shown in blue.

While the amended plans have not improved the sunlight to the courtyards, they have relocated part of the living areas within Units 1 and 2 to the northern elevation. This will improve the internal amenity for these units by allowing natural light and warmth of the sun through the windows in the winter months and all through the year.

4. Notification

The amended plans were required to be notified for 14 days between the 5th and 22nd of November 2019. During this time, Council received one submission which raised the following concerns:

- *The development should provide a minimum of 15 parking spaces. If this cannot be achieved, one villa should be removed to enable that space to be used as parking.*

ITEM 4 (continued)

This issue was originally addressed in the October report. Council's Senior Development Engineer has provided the following comments:

The proposed residential development consists of three dwellings comprising of, 1 x 5 bedroom dwelling and 2 x 3 bedroom dwellings. This falls under the medium density category, and thus the parking rates found in Section 2.2 of Part 9.3 from Council's DCP 2014 have been applied.

As a result two off-street parking spaces are required per dwelling and an additional shared visitor space. The development depicts a tandem arrangement for each dwelling and a single visitor space located at the rear of the site satisfying the required parking numbers. The allocated spaces and dimensions are in accordance with the requirements of the relevant Australian Standards (AS2890.1), thus the site is capable of accommodating up to 7 vehicles as per Council's DCP requirements.

In the interest of public safety, all spaces are capable of providing forward entry and exit from the site. This will ensure adequate visibility of any pedestrians along Waratah Street is maintained. In addition, a passing bay has been provided within the site to ensure vehicles entering the site do not reverse or queue along Waratah Street.

Council acknowledges the concerns regarding the traffic the development will generate. To determine its impact, the development has been assessed under the RMS Guide to Traffic Generating Developments.

The guide provides the following traffic generation rates, presented as "Weekday peak hour vehicle trips" (vtph – vehicle trips per hour), whereby a vehicle trip presents as a one way movement to and from a property:

Type of Development	Vehicle trips per hour (vtph)
Single dwelling	0.85 vtph / dwelling
Medium density residential dwelling (Smaller units: < 2 bed) (Larger units: 3+ bed)	0.4 – 0.5 vtph / dwelling 0.5 – 0.65 vtph / dwelling

For a conservative approach, this assessment will assume that a single dwelling will generate one (1) vehicle movement per hour, whereas the proposed development will generate two (2) vehicle movements per hour during a weekday peak hour period. Thus the proposed development will only increase the existing traffic generation by one (1) vehicle per hour.

Considering the RMS guide assumes a daily vehicle generation rate of 10 per single house dwelling, which can vary from 10-20% on a day to day basis, the increase as a result of the multi-dwelling proposal is considered negligible and will simply be absorbed within the variance. It can be concluded that the proposal will not significantly impact traffic generation or increase the risk hazard to the public.

ITEM 4 (continued)

- A “No Parking” sign needs to be posted in front of this property. There is no space in front of the property for roadside parking. If a car is parked in front of this property, there is insufficient passing space for vehicles entering and leaving the end of Waratah Street, around the island. The garbage truck and construction vehicles already have difficulty manurvering in this end of the street.

The following photograph demonstrates the front of the site as well as the location of the existing driveway. The proposed driveway will be located in the same location. Council’s Senior Development Engineer has confirmed that the road is wide enough to have one car parked in front of the site as well as have another car pass. It should be noted that this part of Waratah Street is one way around the island.



The original submissions received were addressed in detail in the previous report which has been attached.

5. Conclusion

The amended plans satisfy the previous decision of the Panel. The living spaces of unit 1 and unit 2 will receive better amenity and solar access during the winter months. This will have a financial benefit to the future occupants by reducing the living costs for heating and lighting of the dwellings.

Upon consideration of the development against Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other relevant statutory provisions, the proposal is considered to be suitable for the site and is in the public interest.

Therefore, the amended development is recommended for approval.

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6. Recommendation

A) That LDA2019/0128 for the construction of a new multi-dwelling housing development containing three (3) dwellings as well as strata subdivision at 2 Waratah Street, Eastwood be approved subject to the conditions provided in **Attachment 1** of this report.

B) That all objectors be advised of the decision of the Local Planning Panel

ATTACHMENTS

- 1 Amended conditions of consent
- 2 Previous Report to Local Planning Panel
- 3 Previous Compliance Table
- 4 A3 Plans - subject to copyright - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

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Report Approved By:

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Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

ITEM 4 (continued)

ATTACHMENT 1

Attachment 4 – Draft conditions of consent for LDA2019/0128

GENERAL

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

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

Document Description	Date	Plan No/Reference
Architectural Plans	14.10.2019	Drawing 5881 D01 ^C , D02 ^C ₁ , D03 ^C , D04 ^A ₁ as amended by Council and conditions of consent.
Landscaping Plans	13.08.2019	Job Dwg. No. 29.19/098'A' one one/one as amended in red by Council and conditions of consent.
Stormwater Concept Plans	10.08.2019	Job No. 303168 Dwg. No. D1 Sheet 1 of 2, D2 Sheet 2 of 2 Issue B, Dwg. No. E1 Sheet 1 of 1 Issue B prepared by Storm Civil as amended in red by Council and conditions of consent .
Specialist reports	15.04.2019	Arboricultural Impact Assessment report prepared by Hugh the Arborist

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

- (a) **Retaining walls.** All proposed retaining walls are to be shown in detail including top and bottom of wall on the Architectural plans and Landscape plans. There is to be no fill adjacent to any boundaries. The screen planting is to be at existing ground level. The Landscape plan is to be amended to reflect the proposed levels and approved architectural plans.
- (b) **Privacy screen.** To ensure the privacy is maintained for adjoining properties, a 300mm privacy screen is to be attached to the southern boundary side 1.8m high lapped and capped fence, this screen is to be installed along the entire private open space for Unit 1 and adjacent to the deck for Unit 2.

ITEM 4 (continued)

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- (c) **Private Outdoor Space.** The Private Outdoor Space (courtyards) must be unroofed. The architectural and stormwater plans are to reflect unroofed private outdoor courtyards.
- (d) **Stormwater.** Stormwater plans are to be amended to reflect the approved architectural Plans.
The Development must be carried out in accordance with the amended plans approved under this condition.
2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 1000805M_05, dated 22 November 2019.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Hoardings.**
- (a) A hoarding or fence must be erected between the work site and any adjoining public place.
- (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
7. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
8. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.

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ATTACHMENT 1

9. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
10. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
11. **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. **Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's 2014 DCP Part 8.5 (Public Domain Works), except otherwise as amended by conditions of this consent.
13. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
14. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
15. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) required within the road reserve. No works shall be carried out on the footpath without this permit being paid and a copy kept on the site.

PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

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

16. **Section 7.11.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council as follows:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	7,386.06
Open Space & Recreation Facilities	18,182.98
Civic & Urban Improvements	6,184.38
Roads & Traffic Management Facilities	843.58
Cycleways	526.96
Stormwater Management Facilities	1674.88
Plan Administration	142.06
The total contribution is	\$34,940.90

These are contributions under the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979 as specified in Section 7.11 Development Contributions Plan 2007 Interim Update (2014), effective from 10 December 2014.

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.

The contribution must be paid **prior to the issue of any Construction Certificate**. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the **City of Ryde**. Personal or company cheques will not be accepted.

A copy of the Section 7.11 Development Contributions Plan may be inspected at the Ryde Customer Service Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council’s website <http://www.ryde.nsw.gov.au>.

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

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18. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
19. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: dwelling houses with delivery of bricks or concrete or machine excavation)
20. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
21. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
22. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses 4 Waratah Street as this may be affected by the construction work namely 2 Waratah Street. A copy of the survey is to be submitted to the PCA (*and Council, if Council is not the PCA*) prior to the release of the **Construction Certificate**.

Reason: Both properties have constructed approximately 100mm from the common boundary. This application doesn't include demolition. However the Dilapidation Survey should be carried out prior to any future demolition approval.
23. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to www.sydneywater.com.au/tapin to apply.
24. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.
25. **Fibre-ready facilities and telecommunications infrastructure.** Prior to the issue of any Construction Certificate satisfactory evidence is to be provided to the Certifying Authority that arrangements have been made for:
 - (i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily

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connected to any premises that is being or may be constructed on those lots. Alternatively, demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

And

- (ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in Section 372Q of the Telecommunications Act).

26. **Vehicle Access & Parking.** All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Offstreet Parking standards).

With respect to this, the following revision(s) must be undertaken;

- a) The landscaped strip located along the boundary adjacent to the secondary car spaces must be reduced in width to ensure the secondary space complies with the requirements of AS2890.1. In this regard, the secondary car space requires a clear 3m wide by 5.4m long clearance to demonstrate compliance with AS2890.1.
- b) Swept path diagrams demonstrating compliance with forward entry and exit to the site is required. The swept path diagrams must show vehicles entering each parking space and then exiting the site in a forward direction. The swept path diagrams must include a manoeuvring clearance in accordance with Paragraph B3.2 of AS/NZS 2890.1: 2004 and a further 300 mm clearance to obstructions in accordance with Clause 2.5.2(c) of AS/NZS 2890.1: 2004.
- c) Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of AS/NZS 2890.1:2004.

These amendment(s) must be clearly marked on the plans submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

These amendment(s) must be clearly marked on the plans submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

27. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to Waratah Street, generally in accordance with the plans by StormCivil Pty Ltd, drawing number 303168 D1 and D2, issue B, dated 10th August 2019.

The detailed plans, documentation and certification of the drainage system must be submitted with the application for a Construction Certificate and prepared by a chartered civil engineer and comply with the following;

- The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the

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requirements of Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.

- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.
- Onsite detention must be incorporated in the stormwater management system having a minimum SSR of 21.4 m³ and a maximum PSD of 18.8 L/s. Any variations to these values attributed to changes required by conditions of this consent, must be in accordance with Council's DCP requirements for onsite detention and must be validated in the certification of the design required by this condition.

28. **Driveway Access Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific driveway access levels by Council prior to the issue of the Construction Certificate.

29. **External Engineering Works.** To facilitate satisfactory and safe access to and from the proposed development, the following public infrastructure works shall be constructed at no cost to Council along the entire public road frontage of the site.

- a) Construction of concrete footpath paving and replacement of all damaged kerb and gutter etc.
- b) Construction of any other associated structures across the footway if required by Council's City Works Department.
- c) Relocation or adjustments of any services within the footpath area if required due to proposed works

Any variation to the scope of works, whether due to the site conditions or circumstances arising from detailed assessment of the plans, is at the discretion of Council's City Works and Infrastructure.

Detailed engineering plans prepared by a qualified and experienced civil engineer in accordance with Development Control Plan 2014 Part 8.5 - Public Civil Works are to be submitted to, and approved by Council.

Engineering plans assessment and inspections fee associated with this work are payable in accordance with Council's Schedule of Fees and Charges prior to approval being issued by Council.

30. **Vehicle Footpath Crossing(s).** Concrete footpath crossings and associated gutter crossovers must be constructed fronting the approved vehicle access location(s). The crossing(s) must be constructed in plain reinforced concrete with location, design and construction shall conform to Council requirements and AS 2890.1 – 2004 (Offstreet Parking). Accordingly, prior to issue of Construction Certificate an application shall be made to Council's Public Works division for driveway crossing alignment levels. These issued levels are to be incorporated into the design of the driveway access and clearly delineate on plans submitted with the Construction Certificate application.

31. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties that may be affected by the construction work. A copy of the dilapidation

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survey is to be submitted to the Accredited Certifier *and Council* prior to the release of the 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.

32. 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.

33. 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.

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

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

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

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given the Council written notice of the updated information (if Council is not the PCA).

35. 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.

36. Safety fencing. The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with Safework NSW requirements and be a minimum of 1.8m in height.

37. Footpath Works. The applicant shall, at no cost to Council, excavate and/or fill the footpath adjacent to the subject property so the levels of the footpath comply with the levels specified by Council’s City Works & Infrastructure Department. All work which is necessary to join the new footpath levels with the levels in front of the adjoining properties in a satisfactory manner shall be carried out by the applicant. The cost of reconstructing footpath paving or adjusting any services that may be affected shall be borne by the applicant.

38. Tree Retention. As identified in the Arborist Assessment prepared by Hugh The Arborist dated 14/04/2019. The following trees on site or adjoining the site are to be retained and protected

Tree No.	Species “Common name”	Notes
1	Cupressus sempervirens Swanes Golden	Retain and Protect On adjoining property
1a	Schefflera actinophylla Umbrella Tree	Retain and Protect On adjoining property
5	Jacaranda mimosifolia Jacaranda	Retain and Protect On adjoining property
13a	Liquidambar styraciflua Liquidambar	Retain and protect On adjoining property

39. Tree Protection. All tree protection works including installation of any fencing is to be undertaken prior to any demolition or site clearing works on site.

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40. **Project Arborist.** A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for all trees to be retained on adjoining allotments in accordance with AS4970-2009 Protection of trees on development sites. All trees are to be monitored to ensure adequate health throughout the construction period. Additionally, all work within the Tree Protection Zones is to be supervised by the Project Arborist throughout construction.
41. **Provision of Arborist details.** Council is to be notified, in writing, of the name, contact details and qualifications of the Project Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.
42. **Tree Protection** is to be installed before demolition and construction commences as indicated in "Section 10.5 Site Specific Tree Protection Recommendations" of the Arborist's Report prepared by Hugh The Arborist dated 14/04/2019.

DURING CONSTRUCTION

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

43. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
44. **Noise from construction work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from construction work.
45. **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.
46. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
47. **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.
48. **Construction materials.** All materials associated with construction must be retained within the site.

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49. Site Facilities

The following facilities must be provided on the site:

- (a) toilet facilities in accordance with Safework 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.

50. 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.

51. 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”.

52. Stormwater Management - Construction. The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by StormCivil Pty Ltd, drawing number 303168 D1 and D2, issue B, dated 10th August 2019, submitted in compliance to the condition labelled “Stormwater Management.” and the requirements of Council in relation to the connection to the public drainage system.

53. Erosion and Sediment Control. The applicant shall install erosion and sediment control measures in accordance with the approved plan by StormCivil Pty Ltd, drawing number 303168 E1, issue B, dated 10th August 2019, at the commencement of works on the site. Suitable erosion control management procedures in accordance with the manual “Managing Urban Stormwater: Soils and Construction“ by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.

54. Tree Removal. As identified in the Arborist Assessment prepared by Hugh The Arborist dated 14/04/2019. The following trees on site are to be removed:

Tree No.	Species “Common name”
2	Arbutus unedo Irish Strawberry Tree
3	Magnolia x soulangeana Saucer Magnolia
4	Pittosporum spp. Varigated Pittosporum
6	Cupressus spp.
7	Metrosiderous excelsior pōhutukawa
8	Unknown

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9	Tristaniopsis laurina Water Gum
10	Rondeletia amoena Rondeletia
11	Citharexylum spinosum Fiddlewood
12	Pittosporum undulatum Native Daphne
13	Cupressus spp.
14	Gordonia axillaris Gordonia
15	Unknown
16	Cupressus spp.
17	Cupressus spp.

55. **Project Arborist Inspections.** The Project Arborist is to inspect and document with Certificates of Compliance to the certifying authority as stipulated in SECTION 5 MONITORING AND CERTIFICATION of AS4970-2009.

PROJECT PHASE	ACTIVITIES	PROJECT ARBORIST to
Initial Site Preparation	Establish/delineate TPZ Install protective measures and undertake soil rehabilitation for all trees to be retained.	Project Arborist to mark Tree Protection Zones and install fences, mulch, irrigation and signage Issue a Certification of Compliance of tree protection measures being in place and soil rehabilitation undertaken
Construction work	Liaison with site manager, compliance and any deviation from approved plan	Maintain or amend protective measures Supervision and monitoring formal notification of any deviation from approved tree protection plan
Stormwater connection installation through TPZ, Implement hard and soft landscape works	Supervise Installation of pipes within tree TPZ	Excavate trench through TPZ under Arborist supervision, install pipework, remove selected protective measures as necessary and perform remedial tree works Issue a Certificate of Compliance

ITEM 4 (continued)

ATTACHMENT 1

Practical Completion	Tree vigour and structure Assessment and undertake soil rehabilitation for all retained trees	Remove all remaining tree Protection measures Certification of tree protection and soil rehabilitation for Protected Trees
Defects liability / maintenance period	Tree vigour and structure	Undertake any required remedial tree works Certification of tree protection if necessary

56. **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.

57. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s).
58. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of any **Occupation Certificate.**
59. **Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a

ITEM 4 (continued)

ATTACHMENT 1

Notice of Requirements letter detailing all requirements that must be met.

Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to www.sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

60. **Post-construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties, prior to the issue of any **Occupation Certificate**.
61. **Public domain – work-as-executed plan.** A works as executed plan for works carried out in the public domain must be provided to and endorsed by Council prior to the issue of any **Occupation Certificate**.
62. **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.
63. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.
64. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the instrument are to be in accordance with the Council's standard terms for such systems, as specified in City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7 and to the satisfaction of Council. The positive covenant must be registered on the title prior to the release of any Occupation Certificate for development works for which the system(s) serve.
65. **Redundant Footpath Crossing.** The existing footpath crossing(s) and associated gutter crossover(s) which are not accessing approved vehicle access points must be removed and restore kerb and gutter, verge and footway to match existing adjoining sections. All new levels and materials must be flush and consistent with adjoining sections and all costs are to be borne by the applicant. The works must be completed to Council's satisfaction, prior to the issue of any Occupation Certificate.

ITEM 4 (continued)

ATTACHMENT 1

66. **Engineering Compliance Certificates.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.
- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council’s DCP 2014 Part 9.3 (Parking Controls).
 - b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council’s DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
 - c) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
 - d) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual *“Managing Urban Stormwater: Soils and Construction”* by the NSW Department – Office of Environment and Heritage and Council’s DCP 2014 Part 8.1 (Construction Activities).
 - e) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council’s satisfaction.
67. **On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with Council’s DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council’s Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

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.

68. **Parking Allocation.** Both the owner and occupier of the development must provide and maintain the minimum parking allocation as follows;
- 6 residential spaces, and
 - 1 visitor space.

PRIOR TO SUBDIVISION CERTIFICATE

ITEM 4 (continued)

ATTACHMENT 1

69. **Final Occupation Certificate.** Prior to the issue of any Subdivision Certificate The final occupation certificate associated with Development Consent DA2019/128 and any related 4.55 applications, must be issued for the entire development prior to the release of the Subdivision Certificate.
70. **Final Plan of Subdivision.** The submission of a final plan of subdivision plus three copies suitable for endorsement by the Authorised Officer.
71. **Final plan of subdivision - title details.** The final plan of subdivision shall contain detail all existing and/or proposed easements, positive covenants and restrictions of the use of land
72. **Occupation Certificate.** A final occupation certificate in relation to Development Consent No.Lda2019/128 must be in force.
73. **Existing Easements and Restrictions.** The applicant must acknowledge all existing easements and restrictions of the use of land on the final plan of subdivision.
74. **On-site Stormwater Detention Certification.** The submission of certification by a suitably qualified Civil Engineer for the on-site stormwater detention system, attesting the storage volume, discharge rate and satisfactory operation of the system prior to the release of the Subdivision Certificate.
75. **Removal of encroachments.** All structures, services etc. are to be wholly contained within the legal property boundaries of each lot. All existing structures and services etc are either to be demolished, relocated and/or have appropriate easement/s registered over the encroachment to ensure their legal operation. Prior to issue of Subdivision Certificate, a certificate shall be obtained from a registered surveyor and submitted to the Principal Certifying Authority to confirm this requirement has been met.
76. **Registration of easements.** The registration of all necessary easements is required to ensure all proposed lots will have legal access to all utility services, drainage and vehicular access. Prior to release of the Subdivision Certificate, certification shall be obtained from a registered surveyor and submitted to Council confirming the above requirement will be met upon registration of the linen plan at the Land and Property Information.
77. **Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

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Go to www.sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

78. **88B Instrument.** If required, the submission of an instrument under Section 88B of the Conveyancing Act 1919 with 2 copies, creating any Easements, Positive Covenants and Restrictions on use, the City of Ryde being the authority empowered to release vary or modify the same.
79. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to Section 88 of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the 88 E instrument are to be in accordance with the Council's draft terms for these systems as specified in Council's DCP 2014 Part 8.4 (Title Encumbrances) Section 7, and to the satisfaction of Council.
80. **Notice of Arrangement (Utility Provider).** Notice of Arrangement and compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Ausgrid, Sydney Water, Telstra, Council etc).

End of consent

ITEM 4 (continued)

ATTACHMENT 2

Attachment 2 – Previous Report for LDA2019/0128

**City of Ryde
Local Planning Panel Report**

DA Number	LDA2019/0128
Site Address & Ward	2 Waratah St Eastwood West Ward
Zoning	R2 Low Density Residential
Proposal	New multi-dwelling housing development containing three (3) dwellings - 1 x 2 storey, 5 bedroom dwelling at the front and 2 x single storey, 3 bedroom dwellings at the rear as well as strata subdivision.
Property Owner	Feris Merhi, Ellen M Merhi, Mark A Merhi, Giovanna Merhi
Applicant	GM Building Group
Report Author	Jane Tompsett – Assessment Officer
Lodgement Date	1 May 2019
No. of Submissions	Notification period: 18 submissions
Cost of Works	\$980,000.00
Reason for Referral to RLPP	Contentious Development – Development is the subject of 10 or more unique submissions by way of objection
Recommendation	Approval
Attachments	Attachment 1 – Draft Conditions of Consent Attachment 2 – DCP Compliance Table Attachment 3 – A3 Plans

Meeting Date: 12 December 2019

ITEM 4 (continued)

ATTACHMENT 2

1. Executive Summary

The following report is an assessment of a development application to construct a new multi dwelling housing development containing three (3) dwellings and strata subdivision of the three dwellings at No. 2 Waratah Street, Eastwood.

The proposal complies with the requirements of the Ryde Local Environmental Plan 2014. The only non-compliance with Ryde Development Control Plan 2014 Part 3.4 – Multi Dwelling Housing, is in respect to control 3.9 – Overshadowing and Access to Sunlight. In this regard each courtyard is required to have at least 2 hours of sunlight. This has only been provided for unit 3.

The application was lodged on the 30 April 2019. During the notification period, Council received eighteen (18) submissions. The issues raised in the submissions related to the non-compliances with Council's controls (minimum lot size and frontage), concerns with traffic and parking in the cul-de-sac, privacy with first floor windows, and lack of a garbage room facility. All issues raised in the submissions have been addressed in detail in the report.

Amended plans were submitted on 15th August. These plans proposed minor amendments which have improved the privacy and amenity of the subject site and adjoining neighbours. The plans have also demonstrated compliance with vehicle access and egress and internal car parking on the subject site. The amended plans did not require re-notification.

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposal does not result in any significant adverse impacts upon the streetscape or surrounding properties and is determined to be an acceptable form of development. The proposal has been appropriately designed to achieve the required levels of amenity for future occupants without adversely affecting the amenity of neighbouring properties. The proposal is not considered to raise any issues which would be contrary to the public interest.

The development application is recommended for approval subject to the recommended conditions provided in **Attachment 1** of this report.

2. The site & locality

The site is known as No. 2 Waratah Street, Eastwood and is a single allotment with a legal description of Lot 74 in DP 17583.

The site is located on the eastern side of Waratah Street, in between the head of the cul-de-sac to the north and Acacia Street to the South. The site is generally rectangular in shape, with a splayed frontage. The allotment has a frontage to Waratah Street of 21.335m, a rear boundary dimension of 18.65m, side boundary dimensions of 48.08m and 58.44m, and a site area of 993.9m². The site has a cross fall sloping from the rear south eastern corner (RL96.8) to the front north western corner of the site (RL95.5) by approximately 2m.

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Figure 1 below shows the site in its context.



Figure 1: Aerial photograph of site in context

The site is currently developed with a part one and part two storey residential brick dwelling (see **Figure 2** below).



Figure 2: 2 Waratah Street Eastwood

There are no significant trees on the site.

The site is located within a low density residential area with surrounding development including a variety of single and two (2) storey residential developments such as detached dwellings and secondary dwellings, attached dual occupancies and multi

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dwelling housing developments. The surrounding development varies in age, scale and architectural style.

The site is adjoined to the south by a Dual Occupancy development (currently under construction) at 25 Acacia Street (**Figure 3** below) which comprises two dwellings 1 x 5 bedroom and 1 x 4 bedroom. The private open space of Unit one is located adjacent to the shared boundary.



Figure 3: 25 Acacia Street

To the north of the subject site No. 4 Waratah Street is an older masonry two storey dwelling with a single garage. No. 6 Waratah is a masonry two storey dwelling and secondary dwelling with 7 x bedrooms and a single garage Street. (**Figure 4** below)

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Figure 4: 6 Waratah Street (left hand side) and 4 Waratah Street (right hand side) above

Waratah Street is a cu-de-sac with one way traffic around the island at the end (**Figure 5** below) of the street. The access to 2 Waratah Street will be left in only around the island, and left only driving out. The proposed driveway is in a similar position to the existing driveway on the right hand side. (**Figure 5** below)



Figure 5: The view of the end of the cul-de-sac. Existing driveway 2 Waratah Street

3. The proposal

Application is made to construct a multi dwelling housing development consisting of:

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- 1 x two storey, five bedroom dwelling fronting Waratah Street (Unit 1)
- 2 x single storey, three bedroom dwellings with access from the proposed internal access (Units 2 and 3)

The application, as amended by plans submitted by the applicant on 15 August 2019, is described below.

Unit 1

Ground floor

Unit 1 addresses Waratah Street, and has a separate pedestrian access to the porch of the unit. The majority of the ground floor of the unit consists of an open living/kitchen/dining area, as well as a bathroom/laundry and bedroom. The private open space for this unit is located on the south boundary, and adjoins the tandem parking space behind the single garage.

First floor

The first floor of Unit 1 comprises four bedrooms and two bathrooms. This floor also contains a sitting area that adjoins the hallway to each bedroom.

Unit 2

Unit 2 is accessed from the front entry door facing the northern boundary. The entry connects to the open kitchen/dining/living area, which accesses the single garage and associated tandem parking space in the eastern side of the house. The unit contains three bedrooms and two bathrooms in the north and southern sections of the house.

Unit 3

Unit 3 is also accessed from the front entry door facing the northern boundary, and is located at the rear of the site. The unit has a combined kitchen/living/dining area. This unit contains three bedrooms and two bathrooms. It also has two parking spaces in the form of a single garage and tandem space behind the garage, adjoining the private open space.

The private open space for Unit 3 wraps around Unit 3 to the east and south. The rear corner of the site is identified as private open space for Unit 3.

Figures 6 to 9 below show the various perspectives of the development.

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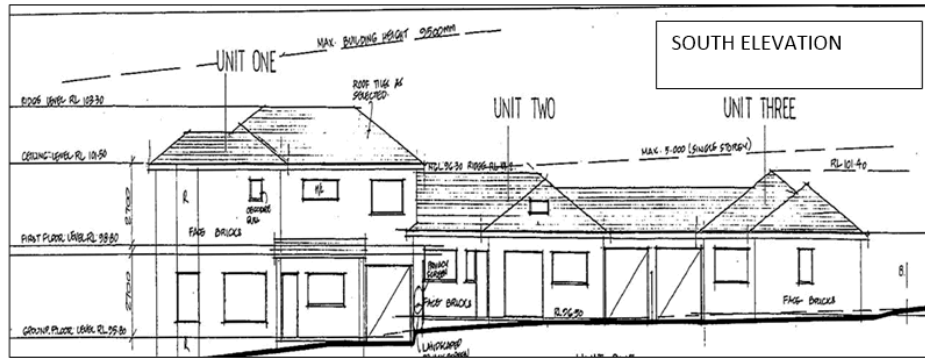


Figure 6: Proposed South Elevation of 2 Waratah Street

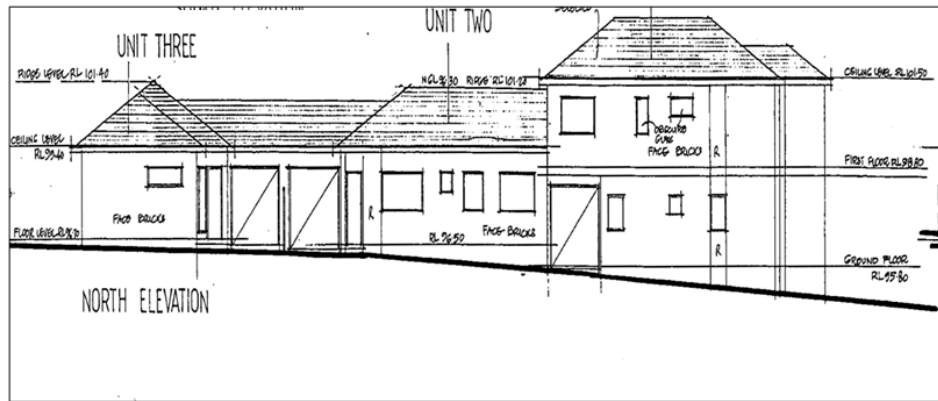


Figure 7: Proposed North Elevation of 2 Waratah Street

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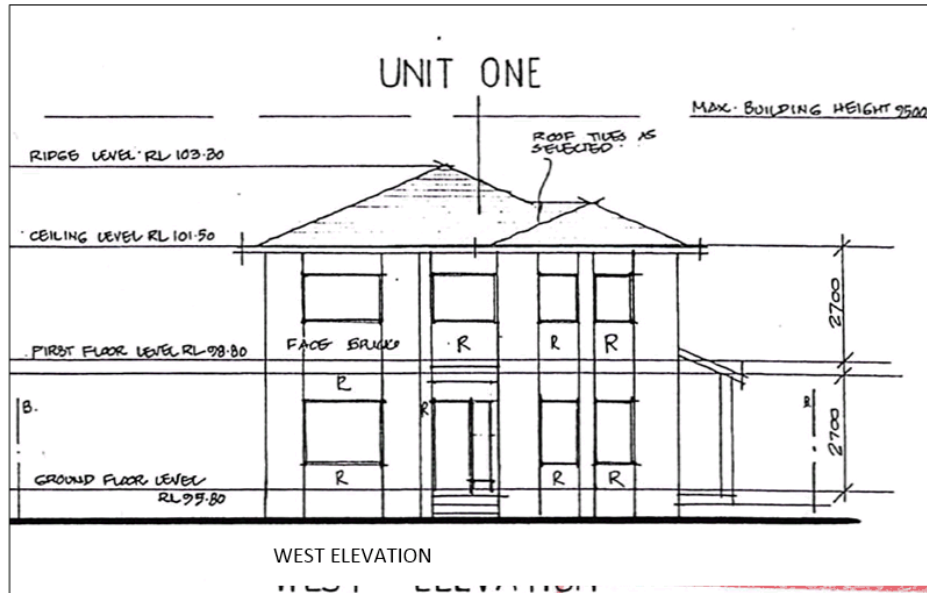


Figure 8: Proposed West Elevation (front) of 2 Waratah Street

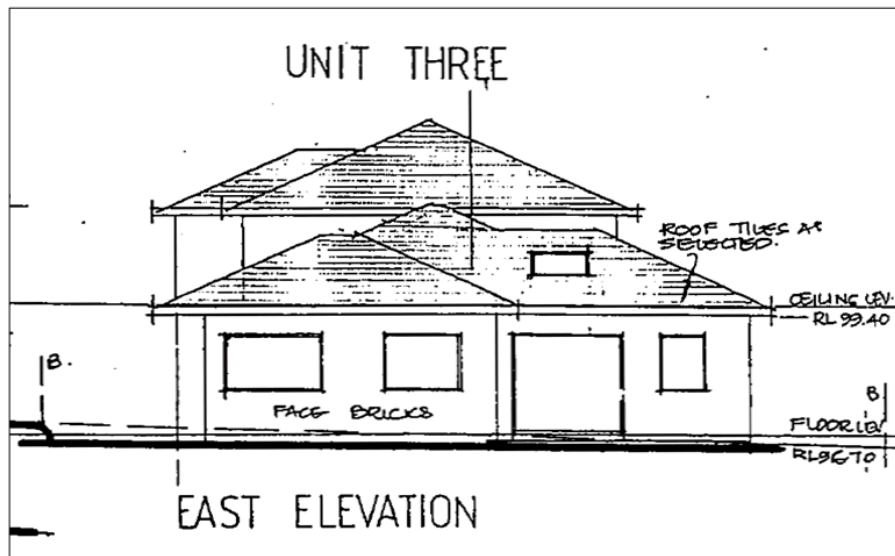


Figure 9: Proposed East Elevation (rear) of 2 Waratah Street

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A total of 17 trees and shrubs were assessed by the Arboricultural report prepared by Hugh the Arborist dated 14/04/2019. It is proposed to retain and protect four (4) adjoining neighbour's trees, and remove the remaining 13 trees and shrubs on the subject site. The most common tree to be removed is 4 conifer trees.

4. Background

This application was lodged with Council on the 30 April 2019.

7 July 2019

A preliminary assessment of the application identified a number of minor issues that were considered capable of being addressed by plan amendments. A letter was sent to the applicant to address minor non-compliances with Council's DCP 2014.

15 August 2019

Amended plans and information was received that substantially addressed the minor non compliances with Council's Controls. The changes to the plans included:

- The applicant has removed a window, provided obscure glazing to a window and reduced a window and provided high sill height to the first floor windows of Unit One.
- A skylight has been introduced to Unit Two (2) & Unit Three (3) living rooms.
- The east elevation wall of Unit Three (3) has been modified to comply with Council's control for rear setbacks.
- Details of garbage bin storage has been shown on the amended plans.
- Car parking and details of manoeuvrability and driveway crossings are compliant with Councils controls.
- Clothes lines have been shown on the plans as required under Council's DCP 2014.
- Security lighting in the driveway is shown on the amended plans.
- Landscaping has been amended to comply with Council's DCP 2014.

The amended plans were not required to be renotified.

5. Planning Assessment

5.1 State Environmental Planning Instruments

An assessment of the development in respect to Section 4.15 of the Environmental Planning and Assessment Act is detailed below.

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

An amended BASIX Certificate (see Certificate 1000805_03 dated 11 September 2019) has been submitted with this application.

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The Certificate confirms that the development will meet the NSW government's requirements for sustainability, if built in accordance with the commitments set out below:

Commitment	Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	50

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 requires consideration of whether a site is potentially contaminated and whether any such contamination makes the site unsuitable for the proposed form of development or whether remediation works are required to make the site suitable for the form of development proposed.

Given the established residential use, the proposal is not likely to result in contamination and the site is suitable for the proposed development without need for remediation.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The Vegetation SEPP commenced on 25 August 2017 and replaced clause 5.9 of RLEP 2014, which related to the preservation of trees and vegetation.

The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation. The development proposes the removal of the following existing vegetation from the site:

Tree No.	Species "Common name"
2	Arbutus unedo Irish Strawberry Tree (Decorative fruit tree)
3	Magnolia x soulangeana Saucer Magnolia (tree)
4	Pittosporum spp. Varigated Pittosporum (native evergreen shrub/tree)
6	Cupressus spp. Cypress (conifer tree)
7	Metrosiderous excelsior Pohutukawa (New Zealand Christmas tree)
8	Unknown
9	Tristaniopsis laurina Water Gum (native tree)
10	Rondeletia amoena Rondeletia (evergreen flowering shrub)
11	Citharexylum spinosum Fiddlewood (decorative shrub/small tree)

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12	Pittosporum undulatum Native Daphne (evergreen shrub)
13	Cupressus spp. Cypress (conifer tree)
14	Gordonia axillaris Fried Egg Tree (closely resembles the Camelia)
15	Unknown in the report
16	Cupressus spp. Cypress (conifer tree)
17	Cupressus spp. Cypress (conifer tree)

Given that the species to be removed do not contain a significant retention value and some species are not native, it is considered that the proposed development does not unduly impact upon any species with biodiversity value on the site. The proposal is consistent with the provisions of the SEPP.

Four adjoining neighbour's trees are to be protected during construction in accordance with the recommendations in Arboricultural Impact Assessment prepared by Hugh the Arborist dated 15 April 2019.

The location of the trees are shown in (Figure 10 below).

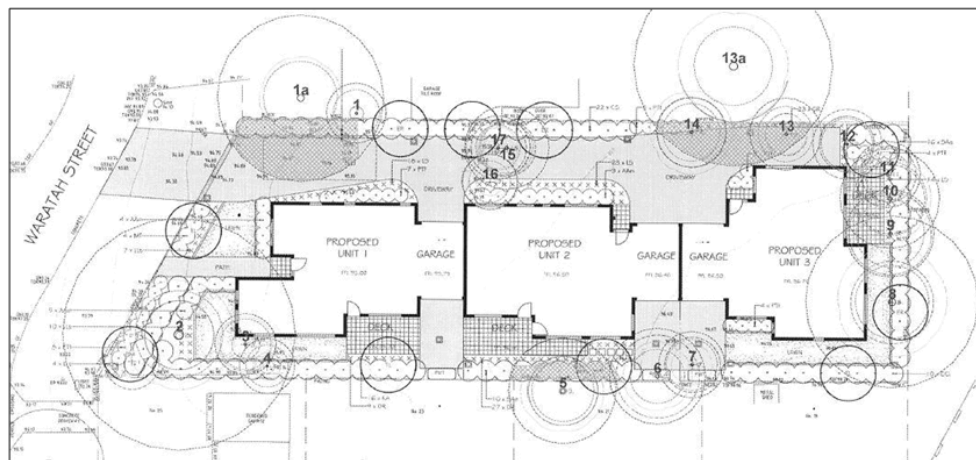


Figure 10: 2 Waratah Street Eastwood Appendix 1B by Hugh the Arborist dated 15 April 2019

5.2 Ryde Local Environmental Plan 2014 (RLEP 2014)

Outlined below are the following clauses applicable to the proposal.

Clause 2.3 - Zone Objectives and Land Use Table

Under Ryde LEP 2014, the site is zoned R2 Low Density Residential, and the proposed development being *Multi Dwelling Housing* is permissible with Council's

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consent. Multi dwelling housing is defined as *three (3) or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.*

The proposed built form is consistent with this definition.

Aims and objectives for residential zones:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*
- *To provide for a variety of housing types.*

The proposed development is considered to satisfy the objectives for low density residential zone. The proposal provides for housing within a low density environment and the provision of a multi dwelling housing development provides for a variety of housing types.

Part 4 – Principle Development Standards

The following is a summary of the numerical clauses under RLEP 2014 applicable to the development.

Clause	Proposal	Compliance				
4.1B Minimum lot sizes for dual occupancies and multi dwelling housing						
(1)The objective of this clause is to achieve planned residential density in certain zones. (2) Development consent may be granted for development on a lot in Zone R2 Low Density Residential for a purpose shown in Column 1 of the table to this clause if: (a) the area of the lot is equal to or greater than the area specified for that purpose and shown opposite in Column 2 of the table, and (b) the road frontage of the lot is equal to or greater than 20 metres.	R2 Low Density Residential	Yes				
	Multi dwelling housing	Yes				
	993.9m ²	Yes				
	21.335m	Yes				
<table border="1"> <thead> <tr> <th>Column 1</th> <th>Column 2</th> </tr> </thead> <tbody> <tr> <td>Multi dwelling housing</td> <td>900 square metres</td> </tr> </tbody> </table>	Column 1	Column 2	Multi dwelling housing	900 square metres		
Column 1	Column 2					
Multi dwelling housing	900 square metres					
4.3(2) Height						
9.5m	Unit 1 = 8.3m Unit 2 = 4.95m Unit 3 = 5.0m	Yes				
4.3A(2) Exception to Height of Buildings						
5m for a dwelling without street frontage <i>Applicable to Units 2 and 3</i>	Unit 2 = 4.95m Unit 3 = 5.0m	Yes				
4.5A Density Controls for R2 zone						

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Clause	Proposal	Compliance
Development consent must not be granted to the erection of multi dwelling housing on land on Zone R2 Low Density Residential unless: (a) The site area for the building is not less than i) For each 1, 2 or 3 bedroom dwelling – 300m ² ii) For each 4 or more bedroom dwelling – 365m ² , and iii) Each dwelling will have its own contiguous private open space.	Unit 1 = 5 bedroom Unit 2 = 3 bedroom Unit 3 = 3 bedroom 1 x 365m ² = 365m ² 2 x 300m ² = 600m ² Total required area = 965m ² Site area = 993.9m ² The development complies with the private open spaces requirements.	Yes

Part 6 Additional local provisions

Clause 6.2 - Earthworks

Clause 6.2 requires consideration of the impact of earthworks in relation to environmental functions, processes, neighbouring uses, cultural and heritage items and features of the surrounding land.

The proposed excavation and earthworks are compliant with Council's controls and considered satisfactory.

Clause 6.4 - Stormwater Management

Clause 6.4 addresses Stormwater management and requires the following matters to be considered:

- (a) *is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
- (b) *includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
- (c) *avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

The applicant has proposed an underground onsite detention system (OSD) within the proposed driveway.

No issues have been raised by Council's Senior Development Engineer with respect to the Stormwater Management system proposed.

The internal drainage details for the development as proposed complies with Council's requirements and is designed to mitigate any potential adverse impacts of stormwater

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runoff on adjoining properties. Therefore, the proposal satisfies the provisions outlined in Clause 6.4.

5.3 Draft Environmental Planning Instruments

Draft Remediation of Land State Environmental Planning Policy

The Draft SEPP is a relevant matter for consideration as it is an Environmental Planning Instrument that has been placed on exhibition. The explanation of Intended Effects accompanying the draft SEPP advises:

As part of the review of SEPP 55, preliminary stakeholder consultation was undertaken with Councils and industry. A key finding of this preliminary consultation was that although the provisions of SEPP 55 are generally effective, greater clarity is required on the circumstances when development consent is required for remediation work.

The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of development applications. The subject site has been historically used for residential purposes. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

Draft Environment SEPP

The draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways and urban bushland areas. Changes proposed include consolidating SEPPs, which include:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal is consistent with the provisions of the draft SEPP.

5.4 Development Control Plans

Ryde Development Control Plan 2014 (Ryde DCP 2014)

The proposal is subject to the provisions of the following parts of RDCP 2014:

- Part 3.4: Multi Dwelling Housing;
- Part 7.2: Waste Minimisation and Management;
- Part 8.1: Construction Activities;
- Part 8.2: Stormwater & Floodplain Management;
- Part 8.3: Driveways;
- Part 8.5: Public Civil Works;
- Part 9.2: Access for People with Disabilities;
- Part 9.3: Parking Controls; and

ITEM 4 (continued)

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- Part 9.5: Tree Preservation.

The provisions of DCP 2014 have been considered in this assessment. Parts 7.2 to 9.5 are addressed separately via considerations given in the referral responses provided by Council's Development Engineer and Landscape Architect. The proposal is consistent with the aims and objectives of Ryde DCP 2014 and where strict compliance has not been achieved with the controls, in accordance with Section 4.15(3A)(b) of the Environmental Planning and Assessment Act, flexibility has been shown in determining whether a reasonable alternative solution is provided by the proposed development. These matters are discussed below.

Part 3.4 – Multi dwelling housing for Low Density Residential zone

The development is subject to Part 3.4 of the RDCP 2014. A full assessment of the proposal under the RDCP 2014 is illustrated in the compliance table held at **Attachment 1**.

The non-compliances identified within the table are detailed below.

Section 3.9 – Overshadowing and Access to Sunlight

Control 3.9(b) requires multi dwelling housing developments to provide two (2) hours sunlight to at least 50% of each courtyard within the development. The private open space for Unit 3 is compliant with the control as the primary open space of the unit being the alfresco area which has a eastern aspect and will achieve at least two (2) hours sunlight to 50%. The private open spaces of Units 1 and 2 will not achieve the required solar access as shown in **Figure 11** below.

The non-compliance occurs due to the driveway being provided along the northern boundary and courtyards along the southern boundary. For a rectangle shape site, it would be possible to flip the development, so that the driveway is provided on the southern side and the courtyards along the northern boundary. This site however has a splayed frontage to the Waratah Street resulting in the northern boundary being the shortest boundary. It would not be possible to flip the development and retain compliance with the front setback requirement. This arrangement could effectively result in one dwelling less on the site. The location of the proposed private open space adjoins those properties that front Acacia Street. This results in greater separation between the private open space of these dwellings and the proposed development. There are other examples of developments in the locality where the private open space will not received the required solar access. Given the splayed frontage of the site this non-compliance is considered justified and the application does not warrant refusal.

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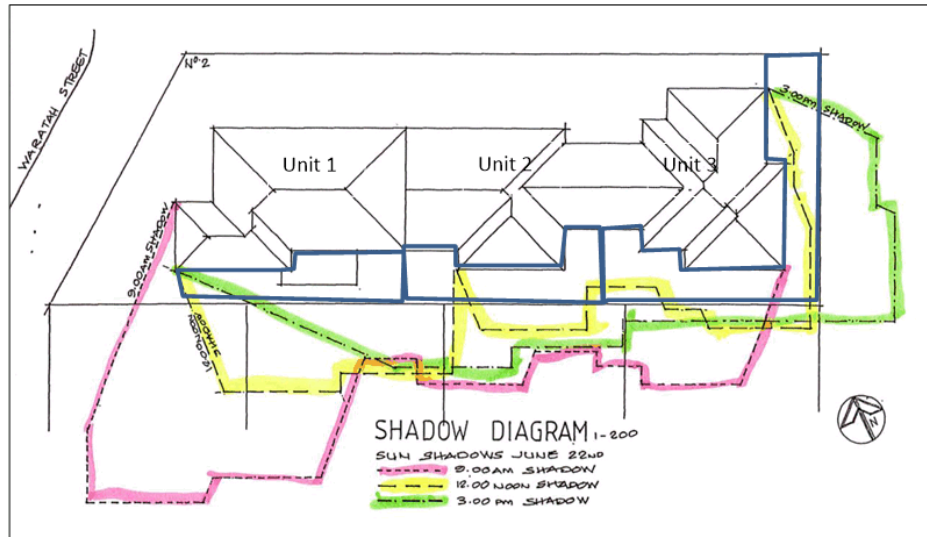


Figure 11: Shadow Diagram 2 Waratah Street. Courtyards for each unit shown in blue.

5.5 Planning Agreements or Draft Planning Agreements

The application is not the subject of any planning agreements or draft planning agreements.

5.6 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)

Any applicable Section 7.11 contributions would be subject to a condition for any recommended consent.

Council's current Section 7.11 Development Contributions Plan 2007 (Interim Update (2014) effective 10 December 2014) requires a contribution for the provision of various additional services required as a result of increased development density. The contribution is based on the number of additional dwellings there are in the development proposal.

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

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A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$7,348.02
Open Space & Recreation Facilities	\$18,089.34
Civic & Urban Improvements	\$6,152.54
Roads & Traffic Management facilities	\$839.24
Cycleways	\$524.24
Stormwater Management Facilities	\$1,666.26
Plan Administration	\$141.34
The total contribution is	\$34,760.98

Condition 16 on the payment of Section 7.11 Contribution of **\$34,760.98** has been included in the Conditions of Consent.

5.7 Any matters prescribed by the regulations

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and others. There are no relevant Clauses applying contained within the regulation relevant to the proposal.

6. The likely impacts of the development

The ground floor of Unit 1 and Unit 2 are partially elevated due to the existing gentle slope on the site. To prevent overlooking from the ground floor it is intended to impose the following condition 1 (b).

- **Privacy screen.** To ensure the privacy is maintained for adjoining properties, a 300mm privacy screen is to be attached to the southern boundary side 1.8m high lapped and capped fence, this screen is to be installed along the entire private open space for Unit 1 and adjacent to the deck for Unit 2.

As demonstrated within this assessment and including conditions, it is considered that the proposal will not result in any adverse impacts to the natural and/or built environment.

The proposal does not result in any significant adverse impacts upon any adjoining properties or the streetscape.

7. Suitability of the site for the development

As detailed within this report, the proposed development has been designed in response to the site configuration (spay frontage). The proposal is consistent with the traditional form of multi dwelling housing within the City of Ryde due to the site circumstance.

The site meets the minimum frontage width of 20 metres and minimum site area of 900m² and is permissible within the zone. The proposal is compliant with the principal development standards. The proposal is generally compliant with the suite of built form controls and where compliance has not been achieved, the proposal has sought flexibility on the basis of consistency with the objectives of the control despite the non-

ITEM 4 (continued)

ATTACHMENT 2

compliance. The proposal does not result in any adverse impacts on adjoining properties.

The proposal is considered to be an appropriate form of development and is responsive to the site circumstance. On this basis, the site is considered to be suitable for the site.

8. The Public Interest

The public interest is best serviced by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised.

The proposal has been assessed against the relevant environmental planning instruments and Council considers the proposal to be acceptable. The proposal is compliant with the principal development standards and is consistent with the relevant provisions contained within RDCP2014.

The non-compliances are considered to be acceptable on merit and do not result in any adverse impacts upon adjoining properties or the streetscape. On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

9. Submissions

In accordance with the RDCP 2014 *Part 2.1 Notice of Development Applications*, the application was notified between 8 May 2019 and 29 May 2019, and advertised in the *Northern District Times* on 9 May 2019.

The amended plans received on 15 August 2019 were not required to be re-notified given the minor extent of design changes and given that the amendments did not increase the impact upon adjoining or neighbouring land or cause material impact on the environment.

In response to the public notification period, eighteen (18) submissions were received from the following properties:

Address	
23 Acacia Street, Eastwood	27 Waratah Street, Eastwood
25 Acacia Street, Eastwood (2)	9 Waratah Street, Eastwood
19 Waratah Street, Eastwood	5 Waratah Street, Eastwood
13 Waratah Street, Eastwood	11 Waratah Street, Eastwood
21 Waratah Street, Eastwood	29 Waratah Street, Eastwood (2)
19 Acacia Street, Eastwood	26 Acacia Street, Eastwood
7 Waratah Street, Eastwood	4 Banksia Street, Eastwood
4 Waratah Street Eastwood	

ITEM 4 (continued)

ATTACHMENT 2



Figure 12: Map showing the location of objectors within the vicinity (subject property is shaded in red).

The submissions raised the following issues:

- **Car Parking and Traffic**

Submissions raised concerns in respect to the impact of traffic and car parking.

Assessment Officer's Comment:

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

The proposed residential development consists of three dwellings comprising of, 1 x 5 bedroom dwelling and 2 x 3 bedroom dwellings. This falls under the medium density category, and thus the parking rates found in Section 2.2 of Part 9.3 from Council's DCP 2014 have been applied.

As a result two off-street parking spaces are required per dwelling and an additional shared visitor space. The development depicts a tandem arrangement for each dwelling and a single visitor space located at the rear of the site satisfying the required parking numbers. The allocated spaces and dimensions are in accordance with the requirements of the relevant Australian Standards (AS2890.1), thus the site is capable of accommodating up to 7 vehicles as per Council's DCP requirements.

ITEM 4 (continued)

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In the interest of public safety, all spaces are capable of providing forward entry and exit from the site. This will ensure adequate visibility of any pedestrians along Waratah Street is maintained. In addition, a passing bay has been provided within the site to ensure vehicles entering the site do not reverse or que along Waratah Street.

Council acknowledges the concerns regarding the traffic the development will generate. To determine its impact, the development has been assessed under the RMS Guide to Traffic Generating Developments.

The guide provides the following traffic generation rates, presented as “Weekday peak hour vehicle trips” (vtph – vehicle trips per hour), whereby a vehicle trip presents as a one way movement to and from a property:

Type of Development	Vehicle trips per hour (vtph)
Single dwelling	0.85 vtph / dwelling
Medium density residential dwelling (Smaller units: < 2 bed) (Larger units: 3+ bed)	0.4 – 0.5 vtph / dwelling 0.5 – 0.65 vtph / dwelling

For a conservative approach, this assessment will assume that a single dwelling will generate one (1) vehicle movement per hour, whereas the proposed development will generate two (2) vehicle movements per hour during a weekday peak hour period. Thus the proposed development will only increase the existing traffic generation by one (1) vehicle per hour.

Considering the RMS guide assumes a daily vehicle generation rate of 10 per single house dwelling, which can vary from 10-20% on a day to day basis, the increase as a result of the multi-dwelling proposal is considered negligible and will simply be absorbed within the variance. It can be concluded that the proposal will not significantly impact traffic generation or increase the risk hazard to the public.

• **Increase in density**

Concerns from the residents regarding increase in the density in the street and neighbourhood.

Assessment Officer’s comment

Multi dwelling housing is a permitted use in the Low Density Zoning. Council’s LEP 2014 Clause 4.5A Density controls in R2 zone states:

Development consent must not be granted to the erection of multi dwelling housing on land in Zone R2 Low Density Residential unless:

- (a) the site area for the building is not less than:

 - (i) for each 1, 2 or 3 bedroom dwelling—300 square metres, and*
 - (ii) for each 4 or more bedroom dwelling—365 square metres, and**
- (b) each dwelling will have its own contiguous private open space.*

The proposal has 2 x 3 bedrooms and requires 600m² and 1 x 5 bedrooms requires 365m². Each dwelling has its own contiguous private open space.

ITEM 4 (continued)

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The required land area is 965m². The site has 993.9m² and complies with Council's Density requirements. The site also has a 21.335 frontage to Waratah Street which exceeds Council's minimum frontage requirement

- **Demand on local schools and services**

The submissions raised the issue that demand on local schools and services are not sufficient for demand.

Assessment Officer's comment:

The State government is addressing this issue through recent legislation for example State Environmental Planning Policy Educational Establishments and Child Care Facilities 2017 to allow fast tracking development for schools to meet increasing demands.

Multi dwelling housing developments are permissible in R2 Low Density Residential Zones under the Ryde LEP 2014. The location of the proposed development is within proximity of the Eastwood Town Centre, Midway local shops and access to public transport such as bus stops.

Overall, the proposal complies with the site and density requirements outlined in Clauses 4.1B and 4.5A of RLEP 2014, satisfies objectives of R2 Low Density Residential Zones inclusive of the objectives set out in RDCP2014: Part 3.4 – Multi Dwelling housing.

- **Non- Compliances with Councils DCP 2014**

The proposal is compliant with Council's controls for street frontage, lot area, access, car parking, amenity and landscaping, with the exception of Section 3.9 – Overshadowing and Access to Sunlight. The overshadowing and access to sunlight has been justified previously in this report.

- **Privacy**

Concerns were raised regarding privacy for the adjoining dwellings in Acacia Street.

Assessment Officer's comment:

The dwelling currently on site is an existing part one and part two storey dwelling with a first floor window facing south towards the Acacia Street residents. The proposed two storey element for Unit 1 is a similar size (height and length) to the existing dwelling.

The applicant has amended the plans for Unit 1 in respect to the southern side elevation. The changes from the left hand side are as follows:

- removal of a first floor window,
- provided obscure glazing to a ensuite window,
- and changed the window to a highlight window (minimum sill height of 1.5m) the remaining first floor window is a bedroom window (**Figure 13** below).

ITEM 4 (continued)

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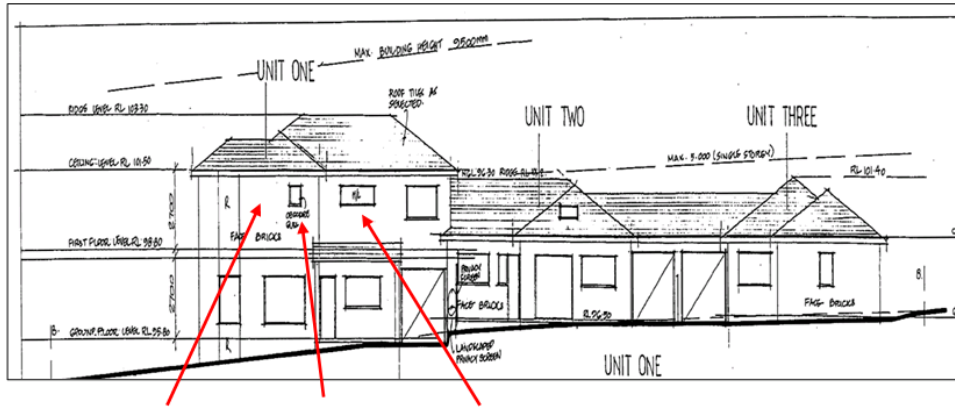


Figure 13: Window removed, obscure window, highlight window, South Elevation amended plans dated 15 August 2019

Due to the window treatment and use of the windows, privacy from the first floor is considered acceptable.

To prevent overlooking from the ground floor it is intended to impose the following condition 1(b).

- **Privacy screen.** To ensure the privacy is maintained for adjoining properties, a 300mm privacy screen is to be attached to the southern boundary side 1.8m high lapped and capped fence, this screen is to be installed along the entire private open space for Unit 1 and adjacent to the deck for Unit 2.

- **Garbage room**

A garbage room is not necessary for the development as there are only three dwellings. Council’s DCP 2014 permits each dwelling to store their garbage bins in their private open space in the rear yard. The amended plans received have shown the proposed locations in each Unit’s rear yard to comply with Council’s control.

10. Referrals

Landscape Architect

A referral was made to Council’s Consultant Landscape Architect, and the following comments have been made:

1.0 Existing Trees

An Arborist Report has been submitted with the application prepared by Hugh The Arborist dated 14/04/2019

A summary of the existing trees identified by the Arborist are show in the table below:

Tree	Species	Proposed	Comment
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ITEM 4 (continued)

ATTACHMENT 2

No.	"Common name"	recommendation by Arborist	
1	Cupressus sempervirens Swanes Golden	Retain and Protect On adjoining property Encroachment <10%	Agree
1a	Schefflera actinophylla Umbrella Tree	Retain and Protect On adjoining property Encroachment 22%. Proposed driveway in same location as existing driveway. Driveway to be constructed on or above existing soil level.	Agree
2	Arbutus unedo Irish Strawberry Tree	Remove Not significantly impacted, but significant dieback	Agree
3	Magnolia x soulangeana Saucer Magnolia	Remove Encroachment 25%	Agree
4	Pittosporum spp. Varigated Pittosporum	Remove Removed to allow for landscaping	Agree More of a shrub than a tree.
5	Jacaranda mimosifolia Jacaranda	Retain and Protect On adjoining property Encroachment 9%	Agree
6	Cupressus spp.	Remove In footprint of building	Agree
7	Metrosiderous excelsior pöhutukawa	Remove In footprint of car park	Agree
8	Unknown	Remove Encroachment 27%	Agree
9	Tristaniopsis laurina Water Gum	Remove Encroachment 32%	Agree
10	Rondeletia amoena Rondeletia	Remove Encroachment 37%	Agree More of a shrub than a tree
11	Citharexylum spinosum Fiddlewood	Remove Encroachment 37%	Agree
12	Pittosporum undulatum Native Daphne	Remove Encroachment 35%	Agree
13	Cupressus spp.	Remove In driveway	Agree
13a	Liquidambar styraciflua Liquidambar	Retain and protect On adjoining property Encroachment 13%	Agree

ITEM 4 (continued)

ATTACHMENT 2

		<i>Driveway to constructed above grade</i>	
14	<i>Gordonia axillaris</i> <i>Gordonia</i>	<i>Remove In driveway</i>	<i>Agree</i>
15	<i>Unknown</i>	<i>Remove In driveway</i>	<i>Agree</i>
16	<i>Cupressus spp.</i>	<i>Remove In driveway</i>	<i>Agree</i>
17	<i>Cupressus spp.</i>	<i>Remove In driveway</i>	<i>Agree</i>

2.0 Landscape Plan

The Landscape Plan is satisfactory as it satisfies the following requirements of DCP 2014: Part 3.4 Multi dwelling housing

- *Landscaping used to assist in preserving the privacy of the occupants of dwellings within the development and adjoining properties.*
- *Landscape strips included for privacy purposes must be not less than 1.2 metres wide.*
- *Shrubs planted in this strip must achieve a mature height of 3 to 4 metres.*
- *Where possible small trees with a mature height of 5 to 6 metres should be planted in combination with the shrubs."*
- *Use native plant material, particularly material indigenous to the area*
- *A planting strip not less than 1.2 metres wide between driveway and adjoining property*
- *Shrubs planted the driveway strip must achieve a mature height of 2 to 2.5 metres. Where possible small trees with a mature height of 5 to 6 metres should be planted in combination with the screen planting.*
- *A landscaping strip of not less than 1 metre must be provided between the driveway and the wall of the dwellings.*

The Landscape Plan has satisfied the following requirement with the amended plans :

- *The edge between the driveway and paths and gardens and lawn areas should be edged or kerbed with concrete or similar materials. Timber edging is not acceptable*

Refer to Figure 14 below for location of neighbour trees

ITEM 4 (continued)

ATTACHMENT 2

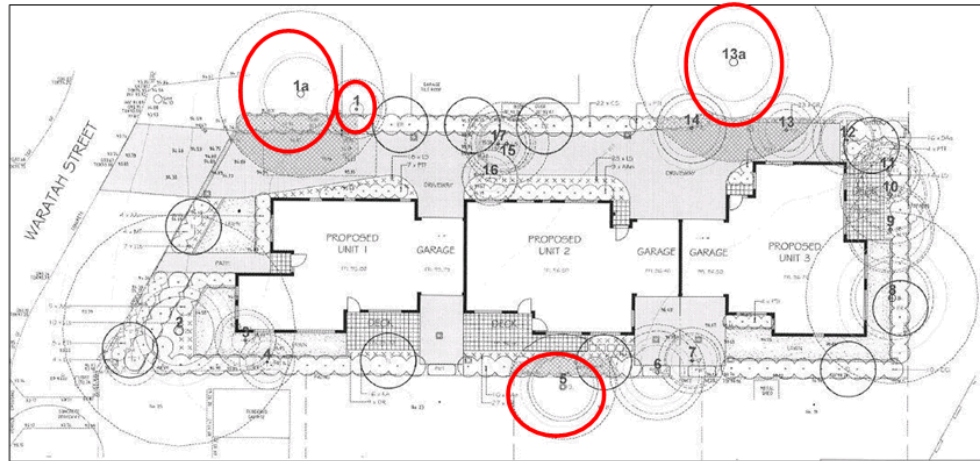


Figure 14: Location of neighbour trees to be retained circled in red.

3.0 Stormwater Plan

Generally on-site detention tanks should not be located in the front setback, if located in the front set back the tank should be located under the driveway. This has been achieved with underground tanks under the driveway.

The stormwater pipes are generally compatible with retention of the existing trees to be retained with the exception of tree 1a. The detention tank is located in its TPZ, however as this is a very resilient species, it is considered it will stay viable after disturbance.

4.0 Architecture Plans

The areas of cut and fill will not impact the existing trees

Recommendation

No objection subject to conditions imposed.

Senior Development Engineer

A referral was made to Council’s Senior Development Engineer, and the following comments have been made:

Stormwater Management

The amended stormwater plan, completed by StormCivil Pty Ltd, drawing number 303168 D1 and D2, issue B, dated 10th August 2019, has been reviewed and found to have addressed the previous concern, where the rainwater tank clashed with the secondary car space. The rainwater tanks have simply been relocated adjacent to the secondary space. There are no further objections from a drainage perspective.

Vehicle Access and Parking

ITEM 4 (continued)

ATTACHMENT 2

The amended architectural plan (D01-A) incorporates swept paths demonstrating forward entry and exit from the site. The accuracy of these swept paths should not be relied on, however considered the dimensions depicted on the plans are generally in accordance with the requirements of AS2890.1, it is deemed compliant. A condition of consent will be implemented to ensure compliance is maintained at CC stage.

Response to Traffic Submissions

The proposed residential development consists of three dwellings comprising of one 5-bedroom dwelling and two 2-bedroom dwellings. This falls under the medium density category, and thus the parking rates found in Section 2.2 of Part 9.3 from Council's DCP 2014 have been applied.

As a result 2 off-street parking spaces are required per dwelling and an additional shared visitor space. The development depicts a tandem arrangement for each dwelling and a single visitor space located at the rear of the site satisfying the required parking numbers. The allocated spaces and dimensions are in accordance with the requirements of the relevant Australian Standards (AS2890.1), thus the site is capable of accommodating up to 7 vehicles as per Council's DCP requirements.

In the interest of public safety, all spaces are capable of providing forward entry and exit from the site. This will ensure adequate visibility of any pedestrians along Waratah Street is maintained. In addition, a passing bay has been provided within the site to ensure vehicles entering the site do not reverse or que along Waratah Street.

Council acknowledge the concern regarding the traffic the development will generate. To determine its impact, the development has been assessed under the RMS Guide to Traffic Generating Developments. The guide states a single dwelling will generate one (1) vehicle movement per hour, whereas the proposed development will generate two (2) vehicle movements per hour during a weekday peak hour period. Thus the proposed development will only increase the existing traffic generation by one (1) vehicle per hour.

Considering the RMS guide assumes a daily vehicle generation rate of 10 per single house dwelling, which can vary from 10-20% on a day to day basis, the increase as a result of the multi-dwelling proposal is considered negligible and will simply be absorbed within the variance. It can be concluded that the proposal will not significantly impact traffic generation or increase the risk hazard to the public.

Recommendation

There are no objections to the proposed development with respect to the engineering components, subject to the application of the following conditions being applied to any development consent being issued for the proposed development.

11. Conclusion

Upon consideration of the development against Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other relevant statutory provisions, the proposal is considered to be suitable for the site and is in the public interest.

Therefore the development is recommended to be approved for the following reasons:

ITEM 4 (continued)

ATTACHMENT 2

- The development complies with the relevant provisions of RLEP 2014 and satisfies the zone objectives
- The proposal is consistent with the desired future character of the area.
- Notwithstanding the variation outlined above within this report, the development generally complies with the relevant provisions outlined in RDCP 2014 Part 3.4: Multi Dwelling Housing which provides acceptable amenity for future occupants and adjoining properties.

12.RECOMMENDATION

- A) That LDA2019/0128 for the construction of a new multi-dwelling housing development containing three (3) dwellings as well as strata subdivision at 2 Waratah Street, Eastwood subject to the conditions outlined in **Attachment 1** of this report.
- B) That all objectors be advised of the decision of the Local Planning Panel.

Report prepared by:

Jane Tompsett
Assessment Officer

Report approved by:

Colin Murphy
Senior Coordinator – Fast Track Team

Sandra Bailey
Manager – Development Assessment

Liz Coad
Director – City Planning and Environment

ITEM 4 (continued)
Attachment 2 – Compliance Table

ATTACHMENT 3

Compliance Check - Quality Certification

**Assessment of a Multi Dwelling
Housing (attached) Development**

LDA No: LDA2019/0128	Date Plans Rec'd: 30 April 2019
Address: 2 Waratah St Eastwood	
Proposal: New multi-dwelling housing development containing three (3) dwellings - 1 x 2 storey, 5 bedroom dwelling at the front and 2 x single storey, 3 bedroom dwellings at the rear as well as strata subdivision.	
Constraints Identified: None	

DCP 2014	Proposed	Compliance
PART 2.0 – Site Analysis, Location Number and Type of Dwelling		
2.1 Site Analysis		
(a) Site analysis submitted (b) The site analysis should be used to: i. how future dwgs will relate to their immediate surroundings and to each other ii. produce a design that minimise the negative impact on the amenity of adjoining properties and street/neighbourhood	Site analysis Plan 5881 Drawing D03 ^A prepared by Peter Hall and dated 21 July 2019 including Survey Landscape plan and Stormwater plans	Yes
2.2 Minimum allotment size		
(a) Frontage and site area not less than 20m and 900sqm respectively. (b) Hatched Shaped' lots considered unsuitable exception Section 2.4 Retention of existing dwellings.	Frontage = 21.335 Site area = 993.9m ²	Yes N/A
2.3 Non-preferred locations		
(a) The site is suitable for more intense residential development being multi dwelling. The site is not a non-preferred location.	The site is not a non-preferred location.	Yes
2.4 Retention of Existing Dwellings		
(a) Retention of existing dwg as part of a MDH will not be approved. Exception being heritage significant building or contributory building.		NA
2.4.1 Heritage Significant Buildings		

ITEM 4 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
<p>(a) The site can be subdivided so that the development is on a separate lot to the item. In this circumstance, the multi dwelling lot must have:</p> <ul style="list-style-type: none"> i. Width not less than 20m beyond access handle; ii. Minimum area of 900sqm excl access handle; iii. Width of access handle not less than 4m for 3 or more dwellings. <p>(b) New development must complement item;</p> <p>(c) Schedule of conservation and restoration works for item lodged with DA for subdivision.</p> <p>(d) The item is not to be demolished.</p>		NA
2.5 Density controls in R2 zone		
<p>(a) The proposal complies with Clause 4.5A RLEP 2014</p> <p>(a) Site Area not less than:</p> <ul style="list-style-type: none"> i) 300sqm for 1, 2, 3 bedders, and ii) 365sqm for 4 or more bedder. <p>Each dwelling to have own contiguous private open space.</p> <p>(b) The area of any access handle or the area bwn the FSBL and MHWMM is not included in site area.</p>	<p>Proposal complies with Clause 4.5A.</p> <p>2 x 3 bedroom requires 600m²</p> <p>1 x 5 bedroom requires 365m²</p> <p>Total site area required 965m² proposed 993.9m²</p> <p>Each dwelling has its own contiguous private open space</p>	<p style="text-align: center;">Yes</p> <p style="text-align: center;">Yes</p> <p style="text-align: center;">Yes</p> <p style="text-align: center;">Yes</p> <p style="text-align: center;">N/A</p>
2.6 Number of Dwellings		
(a) No more than 12 Dwellings	Three Dwellings proposed	Yes
2.7 Type of Dwellings		
<p>(a) 4 or more dwgs, not more than 75% should have same number of bedrooms. (Round down)</p> <p>(b) The proposed slope, levels, building height, site coverage, landscaping, setbacks, accessibility and shadowing to be considered when assessing:</p> <ul style="list-style-type: none"> i. whether the development complements existing neighbourhood, and ii. whether the development meet needs of householders including older persons with disabilities. 		N/A
PART 3.0 Site Planning		

ITEM 4 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
3.1 Slope of Site		
(a) Dwellings presentation to street. At least one dwg clearly seen from street.	Unit 1 front door presents to the street	Yes
(b) Sites with slope > than 1:6 unacceptable.	Rear RL 96.8 Front RL 94.0 Slope 1:20 is less	Yes
(c) Site that slope up from street > than 1:6 unacceptable.	Slope 1:20 is less	Yes
(d) Cross fall > than 1:14 not acceptable.	RL 96.8 RL 94.25 Cross fall 1:20 is less	Yes
3.2 Altering the Levels of the Site		
(a) No imported Fill.	Concrete slab cut and fill is proportionate on the site	Yes
(b) Levels of the site outside of the building footprint not altered by >300mm	Excavation Unit 1 is 300mm on the side boundary near 2 nd car space	Yes
(c) Basement garages not permitted. Steps to be minimised and minimal retaining walls.	The adjoining deck at Unit 2 is stepped back 800mm from the side boundary and elevated and proposes screen planting. In addition a condition of consent has been imposed to provide a 300mm privacy screen on the boundary fence between adjoining neighbours to maintain privacy Condition 1 (b)	Yes Condition 1(b) To comply
(d) Private open space generally at natural ground level.	No Basement garages	Yes
(c) Basement garages not permitted. Steps to be minimised and minimal retaining walls.	No Basement garages	N/A
(d) Private open space generally at natural ground level.	Open space is provided at ground level	Yes
3.3 Storey and Height		
3.3.1 Storeys		
(a) Street facing dwelling may be two storeys provided:	Two storey dwelling is not attached to any other two storey dwelling.	Yes
i. Two storey dwelling not attached to any other two storey dwelling.	Two storey dwelling is suitable within streetscape.	Yes
ii. Two storey dwelling is suitable within streetscape.		
(b) Corner lots, one dwg can be two storeys on shortest street frontage.		N/A
(c) Corner lots with 2 storey dwg to be sensitively designed in regards to topography, dwg size and height.		N/A
3.3.2 Height		

ITEM 4 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
(a) Proposal complies with Clause 4.3 and 4.3A (2) of RLEP 2014.	RL 103.30 ridge RL 95.25 below the ridge Maximum height 8.05m	Yes
3.4 Site Coverage		
(a) Site coverage < 40% (b) Pervious area > 35%	Site coverage 355.06m ² = 35% Pervious area 383.18m ² = 38%	Yes
3.5 Setbacks		
3.5.1 Front Setbacks		
(a) Development must be i. same as adjoining if difference between setbacks of adjoining dwellings is <2m ii. Average of setback between the two if >2m (b) Setback of 1m less than the above std for not more than 50% of the front elevation. (c) May vary this requirement if streetscape is likely to change: not less than 7.5m for 50% of frontage, not less than 6.5m for 50% of frontage.	25 Acacia Street 2.190m setback in Waratah Street and 4 Waratah Street is setback 10.5m Total 12.69m the average of the two setbacks is 6.345m Proposed 6.350m 5.345m for 50% Proposed 5.350m	Yes Yes Yes
3.5.2 Hatchet Shaped Allotment		
(a) Vehicles enter and leave in forward direction.		N/A
3.5.3 Setback from secondary frontage		
(a) Min 4.5m		N/A
3.5.4 Side and Rear Setbacks		
(a) Min 4.5m unless vehicular access is included in this area, then min 6m. (b) Must be adequate to provide appropriate solar access. (c) Ensure existing substantial trees not within proposed courtyard areas. (d) Min 3m up to 50% permitted.	6m Adequate Solar access for 3 units in addition skylights have been installed in Unit 2 and Unit 3 Private open space in the rear yards. Existing substantial bushes are to be removed from courtyards Varying setbacks from 3m to 6m.	Yes Yes Yes Yes
3.5.5 Internal Setbacks		
(a) Habitable windows do not overlook habitable windows of another dwelling. (b) Min 9m separation provided between habitable windows within development.	No Habitable windows overlook habitable windows of another dwelling Min 9m separation provided between habitable windows within development.	Yes Yes
3.6 Private Outdoor Space (courtyards)		

ITEM 4 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
<p>(a) Minimum: i. 30m² for 2 bed. ii. 35m² for >3 bed.</p> <p>(b) Min 4m dimensions. (c) At least 50% access to sunlight for 2 hours. (d) Courtyards do not contain existing substantial trees.</p> <p>(e) Access other than through dwelling to POS and not less than 1m wide. (f) Private outdoor space securely enclosed and visible from living area. (g) Must be one area, can be partially paved but not roofed.</p> <p>(h) Courtyards not in front setback. (i) Min 1.2m wide landscape privacy strip between courtyard and adjoining property.</p>	<p>Unit 2 38.25m² Unit 3 68m² Unit 1 38.25m²</p> <p>Minimum of 4m for dimensions</p> <p>Some minor trees in courtyards proposed for removal</p> <p>Through the garage as well as dwelling. Securely enclosed and visible from the living area</p> <p>Unit 1 shows a roof on the architectural plans. All the units show downpipes on the patios on the Stormwater plans. Condition 1(c) Private Outdoor Space. The Private Outdoor Space (courtyards) must be unroofed. The architectural and stormwater plans are to reflect unroofed private outdoor courtyards.</p> <p>Courtyards are not in front setback</p> <p>1.2m landscape strip proposed</p>	<p>Yes</p> <p>Yes</p> <p>No Refer to report Addressed under Overshadowing and Access to Sunlight Yes</p> <p>Yes</p> <p>Yes Refer to condition No. 1 (c)</p> <p>Yes</p> <p>Yes</p>
3.7 Landscaping		
Landscape plans		
<p>(a) A concept landscape plan submitted. (b) Landscaping completed prior to occupation. Should include watering system.</p>	<p>Landscape plan provided by "Iscape" Landscape Architecture August 2019 Job.dwg no. 29.19/098'A</p>	<p>Yes</p>
Protection and retention of trees		
<p>(c) Existing trees retained and buildings setback appropriately. (d) Existing substantial trees not located within courtyards. (e) Tree location must not cause damage to building. (f) Arboriculture assessment where significant tree/s impacted.</p>	<p>Existing neighbour trees are retained and buildings setback appropriately. Existing substantial trees are not located within courtyards. Tree location must not cause damage to building. Arboriculture assessment provided and recommendations conditioned for tree protection for neighbour trees</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Privacy planting		

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ATTACHMENT 3

DCP 2014	Proposed	Compliance
<p>(g) Landscape strips for privacy not less than 1.2m wide. Shrubs must achieve mature height of 3 - 4m. Trees 5 - 6m high. Planting along the driveway and around pathways</p> <p>(h) Landscape strip not less than 1.2m wide bwn driveway and boundary. Shrubs 2 - 2.5m high. Trees 5 - 6m high.</p> <p>(i) Landscape strip not less than 1m bwn driveway and wall of dwgs.</p> <p>(j) Edge bwn driveway & paths edged with concrete, not timber.</p> <p>(k) Rolled edge bwn driveway & garden/lawn areas. Nature strips</p> <p>(l) Trees within footpath to be protected. On site detention</p> <p>(m) OSD tanks and above ground OSD not located in front setback. Driveway preferable. In landscape area, min 300mm soil cover.</p>	<p>Privacy planting achieves a mature height of 3 - 4m. Trees 5 - 6m high.</p> <p>Landscape strip is generally not less than 1.2m wide for the majority of driveway between driveway and boundary. Shrubs 2 - 2.5m high. Trees 5 - 6m high.</p> <p>Landscape strip is generally not less than 1m between driveway and wall of dwgs.</p> <p>Edge between driveway & paths edged with concrete, not timber.</p> <p>Rolled edge between driveway & garden/lawn areas.</p> <p>No existing trees in the footpath</p> <p>OSD blow ground</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>
3.8 Car Parking, Manoeuvrability and Driveway crossings		
3.8.1 Car Parking		
<p>Number of car spaces</p> <p>(a) Number of parking spaces, refer to Part 9.3 of DCP:</p> <ul style="list-style-type: none"> - 1 space per 1 or 2 B dwelling, - 2 spaces per 3+B dwelling, - 1 visitor space per 4 dwellings. <p>(b) At least 1 space per dwg must be lockable garage (round up).</p> <p>Hatchet shaped allotments</p> <p>(c) Additional onsite parking to be provided for hatchet-shaped lots.</p> <p>(d) Hatchet shaped lots require 1 additional space for every 4 dwellings and be accessible to all residents. Location</p> <p>(e) Garages not located bwn dwellings and street frontage.</p> <p>(f) Garages and parking spaces do</p>	<p>Unit 1 5 Bedrooms Unit 2 3 Bedrooms Unit 3 3 Bedrooms</p> <p>Each unit has 2 spaces and 1 visitor space provided</p> <p>Each dwelling has a lockable garage</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>

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DCP 2014	Proposed	Compliance
not dominate streetscape. (g) Garage (doors) should be designed to reduce visual prominence. (h) Tandem parking not permitted in front of a garage. (i) Garages and parking areas convenient. (j) Garages separate dwellings.	Garages are not located between dwellings and street frontage. Garages and parking do not dominate streetscape Garage doors face the side boundary not the street and are recessed back from the driveway Tandem parking at rear of garage Garages and parking areas are convenient adjoining each dwelling The garages separate dwellings.	Yes Yes Yes Yes Yes
3.8.2 Manoeuvrability		
(a) Vehicles enter and leave in a forward direction. (b) Corner lots, reversing out permitted depending on traffic conditions. (c) Corner lot, vehicle access point not less than 6m from property boundary at intersection of 2 roads. (d) Tandem arrangement permitted where no impact on manoeuvrability. (e) Enter and leave parking spaces in a single 3 point turn (f) Comply with AS 2890.1.	Vehicles will enter and leave in a forward direction.	Yes N/A N/A Yes Yes
3.8.3 Driveways		
(a) Driveways paved and extent minimised appropriately.	Driveway paved and extent is minimised	Yes
3.8.4 Driveway crossings		
(a) Up to 10 spaces – 4m More than 10 – not more than 6m If width of driveway crossings more than 30% of frontage, two crossings not permitted.	4.5m <30% of frontage single crossing	Yes Yes
3.9 Overshadowing and Access to Sunlight		

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DCP 2014	Proposed	Compliance
<p>(a) Habitable room windows face courtyard or other outdoor space open to the sky, no closer than 1.5m to facing wall.</p> <p>(b) Sunlight to at least 50% of each courtyard, and principal ground level open space of adjacent properties must not be reduced to less than 2hrs between 9am and 3pm on June 21.</p> <p>Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight must not be further reduced by more than 20%.</p> <p>(c) Shadow diagrams must indicate extent of shadowing within development and adjoining properties.</p>	<p>Unit1 , Unit 2 and Unit 3 all face a courtyard from a habitable room</p> <p>Unit 3 comply</p> <p>Unit 1 and Unit 2 have less than 2 hours due to the orientation. The driveway is on the north side due to the splay frontage.</p> <p>Adjoining dwellings comply with from 1pm to 3pm</p> <p>Drawing No. 5881 D03^A</p>	<p>Yes</p> <p>No(1)</p> <p>N/A</p> <p>Yes</p>
3.10 Visual and Acoustic Privacy		
<p>(a) Min 9m separation between facing habitable room windows.</p> <p>(b) No direct views between living area windows or adjacent dwellings (otherwise screening or obscuring necessary).</p> <p>(c) Direct views from living areas to private open space of other dwellings should be screened or obscured within privacy sensitive zone of 12m radius</p> <p>(d) No balconies. Elevated landings (or similar associated with stairs into courtyard) max 1m wide</p> <p>(e) Living and sleeping areas protected from high levels of external noise.</p> <p>(f) Noise levels of air con pool pumps etc must not exceed background noise level by more than 5dB(A)</p>	<p>9m separation between facing habitable room windows.</p> <p>No direct views between living area windows or adjacent dwellings.</p> <p>Slightly elevated floor level for Unit 1 and floor level of deck at Unit 2. This has been addressed with a condition of consent to provide a 300mm privacy screen on top of the timber lapped and capped fence</p> <p>Screening has been provided between Unit 1 and Unit 2.</p> <p>Screening has been provided between Unit 1 and Unit 2. Due to change in levels</p> <p>Bedrooms and living areas face the side boundaries</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
3.11 Accessibility		
3.11.1 Pedestrian Access		

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DCP 2014	Proposed	Compliance
(a) Safe access achieved for pedestrians. (b) Continuous access path provided and separate from vehicle access where practical.	Pedestrian shared access along the low use driveway is considered satisfactory in this instance	Yes
3.11.2 Access for People with Disabilities – Devts of 6 or more dwellings		
(a) 6 or more dwelling developments have min 35% of dwellings provide access to all indoor areas and outdoor living areas for people with disabilities (street, car parking and common areas accessed in one continuous path of travel) (b) Dwgs designed as per AS4299 must be able to access street, car pkg and common areas using continuous path of travel.		N/A
3.11.3 Access Audits		
(a) Access audit must be submitted for 6 or more dwellings.		N/A
PART 4.0 Building Form		
4.1 Appearance		
(a) Complement streetscape. (b) Includes pitched roof, eaves, vertically oriented windows, verandahs, rendered and face brick. (c) At least 1 dwg must face street.	The proposal complements the streetscape. And includes a pitched roof, eaves, vertically (and horizontally for highlight windows) oriented windows, verandahs, rendered and face brick. At least 1 dwg faces street.	Yes Yes Yes
4.2 Ceiling Height		
(a) Floor to Ceiling min 2.7m	2.7m	Yes
4.3 Roofscape and Roof Materials		
(a) Pitch 22-30 degrees where visible from a public place. (b) Pitch increase to 35% where second storey contained in roof. (c) Eaves of at least 300mm. (d) Gables fronting street is required and hip roofs generally not permitted. (e) Variation in roof line. (f) Use materials consistent with traditional materials.	Pitch 22-30 degrees where visible from a public place. Eaves of at least 300mm. Variation in roof line. Use materials consistent with traditional materials.	Yes N/A Yes N/A Yes Yes

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DCP 2014	Proposed	Compliance
4.4 Building materials for Walls		
(a) Exterior walls use materials consistent in form and colour of existing development. (b) Windows have vertical proportion of between 2:1 and 3:1.	Masonry and rendered combination Front facing windows have vertical proportion of between	Yes
4.5 Fences		
4.5.1 Front fence		
(a) Front fences not higher than 1m and must be at least 70% visually permeable. (b) Front fences constructed of materials including: i. Wooden pickets (open), ii. Masonry (sand stone or facebrick); and iii. Wrought iron or similar.	No front fence proposed	N/A
4.5.2 Other Boundary Fences which Face a Street		
(a) Boundary fences facing another street must be constructed of similar materials to front fence. (b) Boundary fencing facing another street, capped and capped timber fences and 'colorbond' not permitted. (c) If boundary fencing is solid, no indentation less than 600mm by 300mm must be provided.		N/A N/A N/A
4.5.3 Other boundary fences		
(a) Fences other than boundary fences facing street must be a min of 1.8m high. (b) Side, return and rear boundary fencing constructed of timber to lapped and capped standard.	1.8m CB/TP fence Side and rear boundary	N/A Yes
4.6 Clotheslines and drying area		
(a) Clothes drying facility provided to each dwelling in appropriate location. (b) Laundry within each dwelling.	Clothes drying facility is provided to each dwelling in an appropriate location. Laundry is within each dwelling.	Yes Yes
4.7 Lighting		
(a) Front yard lighting and front of dwelling provided (b) External lighting must not adversely affect adjoining properties. (c) Spot lights discouraged.	External lighting provided in blue along driveway in gardens and front yard	Yes
4.8 Location of bin enclosures		
(a) A. Waste and recycling storage areas and facilities provided in accordance with Part 7.2 of Waste DCP. (b) Up to 5 dwellings, not steeply sloping and wide road frontage: i. Each dwelling provided with	Location of bins shown in each unit Yellow	Yes

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DCP 2014	Proposed	Compliance
<p>storage area.</p> <p>ii. Storage area not visible from public spaces, habitable rooms or common areas within development or other properties.</p> <p>(c) 6 or more dwellings, or steeply sloping or have narrow frontage:</p> <p>i. Central bin enclosure provided.</p> <p>ii. Enclosure is behind building line and suitably screened.</p>		N/A
PART 5.0 – Engineering		
5.1 Drainage		
<p>Stormwater Runoff</p> <p>(a) Refer to Part 8.2 Stormwater & Floodplains Management DCP 2014.</p> <p>Property Drainage</p> <p>(b) Runoff from roofs and hard surfaces must not cause nuisance or damage to other private properties.</p> <p>(c) Runoff from roofs, driveways and hard surfaces collected and drained via gravity to on-site stormwater detention system before discharge to street gutter or council pipe or watercourse.</p> <p>(d) Interallotment easement acquired where runoff cannot be directed to street or a suitable pipeline.</p> <p>(e) Pump out systems not permitted.</p> <p>Minimising Flowrates</p> <p>(f) Surface on-site detention basis not permitted.</p> <p>(g) Pervious area must not be less than 35%.</p> <p>(h) On-site detention system must be provided.</p> <p>(i) Use of porous paving for patios and pathways encouraged.</p> <p>(j) Porous paving considered to be 25% impervious. Use for driveways not permitted.</p> <p>Stormwater Conservation</p> <p>(k) Rainwater tanks encouraged.</p> <p>(l) Details of tanks in Part 8.2 of Stormwater Management DCP.</p>	<p>The proposal has been supported by stormwater plans Job 303168 DWG NO. D1 2 Issue B, D2 2 Issue B prepared by Storm Civil and dated 10 August 2019</p> <p>The development application has been considered by Council’s Senior Development Engineer/ and Flooding Engineer who is satisfied with the proposal.</p> <p>The development application has been considered by Council’s Senior Development Engineer/ and Flooding Engineer who is satisfied with the proposal.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>Yes</p>

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There are no LPP Planning Proposals