

6 FEBRUARY 2019

NOTICE OF MEETING

You are advised of the following meeting:

THURSDAY 14 FEBRUARY 2019.

City of Ryde Local Planning Panel Meeting No. 1/19

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 14 February 2019
Location: Council Chambers, Level 1A, 1 Pope Street, Ryde
Time: 5.00pm

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DEVELOPMENT APPLICATIONS

2 35 BUENA VISTA AVENUE, DENISTONE - NEW TWO STOREY DWELLING AND RETIANING WALLS - LDA2018/0189

Report prepared by: Acting Senior Coordinator - Assessment

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

Report dated: 5/02/2019

File Number: GRP/09/6/12/1/2 - BP19/84

City of Ryde Local Planning Panel Report

DA Number	LDA2018/0189
Site Address & Ward	Lot 79 in DP 16433, No. 35 Buena Vista Avenue, Denistone Ward: West
Zoning	R2 Low Density Residential
Proposal	New two storey dwelling and retaining walls
Property Owner	Violet Nasr & Michael C Nasr
Applicant	Violet Nasr & Michael C Nasr
Report Author	Tony Collier – Senior Coordinator Major Development
Lodgement Date	14 May 2018
No. of Submissions	Public Exhibition No. 1 – 10 submissions Public Exhibition No. 2 – 2 submissions Public Exhibition No. 3 – 6 submissions
Cost of Works	\$800,000.00

ITEM 2 (continued)

Reason for Referral to IHAP	Contentious Development – Development is the subject of 10 or more unique submissions by way of objection
Recommendation	Approval
Attachments	Attachment 1: Draft conditions Attachment 2: RDCP 2014 Compliance Table Attachment 3: Approved plans (MOD2016/0015) Attachment 4: Amended plans

1. Executive Summary

The subject application seeks consent to construct a new two storey dwelling house with retaining walls.

The site is located within the Denistone Character Area.

The application notified on three separate occasions and attracted 10 submissions in the first round, two submissions in the second round and six submissions in the third round. The concerns raised in the submissions most commonly related to the design of the dwellings and its compatibility to the character of the area amongst other numerical matters related to building height, floor space ratio, setback as well as amenity concerns such as overshadowing and privacy impacts.

All of the above concerns have been detailed throughout this report and are addressed specifically in Section 8. 'Submissions'.

The application has been found to comply with the primary development standards under the *Ryde Local Environmental Plan 2014* (i.e. Clause 4.3 'Height of Buildings' and Clause 4.4 'Floor Space Ratio') together with other applicable clauses (i.e. Clause 6.2 'Earthworks' and Clause 6.4 'Stormwater Management').

The application has also been found to generally comply with the applicable controls under the *Ryde Development Control Plan 2014* (RDCP 2014), in particular with Clause 3.2 'Character Assessment' where a full assessment has been conducted against the Character Statement of the Denistone Character Area and the Planning Principles established by the NSW Land and Environment Court where it was considered that the development achieved compatibility with the character of the area.

The non-compliances identified by this assessment under the RDCP 2014 are considered to be minor and are supported. These non-compliances refer to Clause

ITEM 2 (continued)

2.6.2 'Topography and Excavation' (cut and fill); Clause 2.9.1 'Front Setback' (Garage located forward of building façade); and Clause 2.9.3 'Rear Setbacks' (Alfresco).

On balance, the development is recommended for approval for the following reasons:

- The development satisfies the character tests required to be undertaken by the RDCP 2014 and the NSW Land and Environment Court.
- The design achieves compliance with the applicable Development Standards prescribed by the *Ryde Local Environmental Plan 2014*.
- With exception to minor non-compliances (all of which are supported on merit), the proposal achieves compliances with the various applicable controls contained in the *Ryde Development Control Plan 2014*.
- The issues raised in the submissions received in response to the three rounds of notification do not warrant the refusal of the application.
- The site is suitable for the development, with appropriate conditions being imposed to address topography/excavation and stormwater management.
- Given its degree of compliance, the development is not inconsistent with what is envisaged by the *Ryde Local Environmental Plan 2014* and the *Ryde Development Control Plan 2014* for the area and is in the public interest.

2. The Site and Locality



Figure 1 - Aerial photograph of site in context.

ITEM 2 (continued)

The site is located at 35 Buena Vista Avenue in Denistone (Lot 79 in DP 16433) on the north western side of the road and has a total site area of 716.7m² (by survey).

The site is a regularly shaped allotment with a frontage to Buena Vista Avenue of 13.715m, average depth of 51m and a splayed western rear boundary of 14.57m.

The site falls significantly from the north western rear corner of the site (RL 86 Datum to AHD) to the south eastern corner of the street frontage (RL 75.44 Datum to AHD) by approximately 10.56m.

Existing on the site is a single storey single dwelling house and an attached garage with a balcony above the garage in front of the building line.

The existing dwelling house represents a 1940-50's post-war period architectural style and has a hipped roof with its ridge level reaching up to RL 89.1 (Datum to AHD).

The existing driveway crossing is located on the northern side of the frontage and is curved to service the garage on the southern side of the front yard.

There are retaining walls in the periphery of the front yard due to the height difference and terraced landscaped areas on the site (see **Figure 2** below).



Figure 2 - Subject site from Buena Vista Avenue.

ITEM 2 (continued)

The subject site falls within the urban bushland with potential presence of *Sydney Blue Gum* trees (as shown on the Ryde Map), however a site inspection has confirmed that the site only contains medium sized bushes and shrubs within the rear yard at status quo.

This is also shown on the submitted survey plan and aerial photographs (2009 and 2018) provided below in **Figure 3**.



Figure 3 - Aerial photos (Nearmap) showing the rear yard (in yellow) – 2009 (above) and 2018 (below)

ITEM 2 (continued)

Adjoining the site on either sides of the site are two storey dwelling houses with a detached garage within the front building line.

Photographs of the neighbouring properties are provided below in **Figures 4** and **5**.



Figure 4 - Photos showing No 31 Buena Vista Ave (left) and No 33 Buena Vista Ave (right)



Figure 5 - Photos showing No 37 Buena Vista Ave (left) and No 39 & 41 Buena Vista Ave (right)

The subject site is located within the 'Denistone Character Area'. The character statement in the RDCP 2014 Part 3.3 – Denistone Character area describes the area as '*an early 20th century hillside subdivision, features a strong pattern of single detached brick and tile dwellings which predominately date from the Inter-War period and display architectural styles consistent with their period. Houses sit within established gardens, which together with the street trees, help establish the green and leafy character of the area*'.

The key characteristics of the Denistone Character area are mainly identified as: the façade (face brickwork, defined front façade displaying modulation and consistent

ITEM 2 (continued)

front setback); geometrically regular hipped tiled roof (moderate slope and eave overhangs); and low front fence.

Neighbour properties consist of a mix of styles, some of which are not representative of the Denistone Character area (particularly No. 33 and 31 Buena Vista Avenue). No. 37 directly to the north of the subject site is an inter-war styled dwelling that has been modified but does contain period features.

More broadly, surrounding development comprises of a mix of older styled bungalow dwellings with newer styles of development scattered throughout the Denistone Character area as shown in **Figure 6** below.



Figure 6 - Photos showing various architectural styles in Buena Vista Avenue

3. The Proposal

The application seeks consent for the construction of a new two storey dwelling and retaining walls at No. 35 Buena Vista Avenue, Denistone.

ITEM 2 (continued)

Details of the proposal are as follows:

Basement

The proposed new dwelling contains a basement garage at the end of an existing driveway diagonally across the front yard.

The surplus basement area (including the lift, stairs and corridor within the basement) has been included in the FSR calculation of this proposal. The basement level is to be excavated between 2.19m and 3.67m below the existing ground level to respond to the topography of the site.

Ground Floor

The main entrance to the ground floor is from Buena Vista Avenue via the driveway. A central terrace is proposed on the mid-section of the southern side of the dwelling. The ground floor level of the dwelling is split-levelled in response to the natural topography.

The central courtyard is accessed off the ground floor family room on the southern rear part of the dwelling.

First Floor

A smaller footprint is proposed for the first floor level of the dwelling with a recess from the ground floor front building line and greater side setbacks from the site boundary.

Notably the majority of the southern wall of the first floor level is setback 4.5m with the front gallery setback 2m from the southern side boundary. A first floor front balcony is proposed off the front gallery room.

Figure 7 below shows the design of the development as originally submitted with this application (Issue C).

ITEM 2 (continued)



Figure 7 - Perspective of the original design (Issue C)

3.1 Amended plans

Amended plans (Issue E) were received on 4 October 2018.

The amended plans include the following:

- Deletion of the first floor front balcony over the front entry;
- increase in setbacks to the front and rear of the dwelling and side setback of the entry foyer;
- reduction of the building depth and basement size; and
- changes to the roof form and façade of the dwelling (the floor levels of the dwelling and building height remain unchanged).

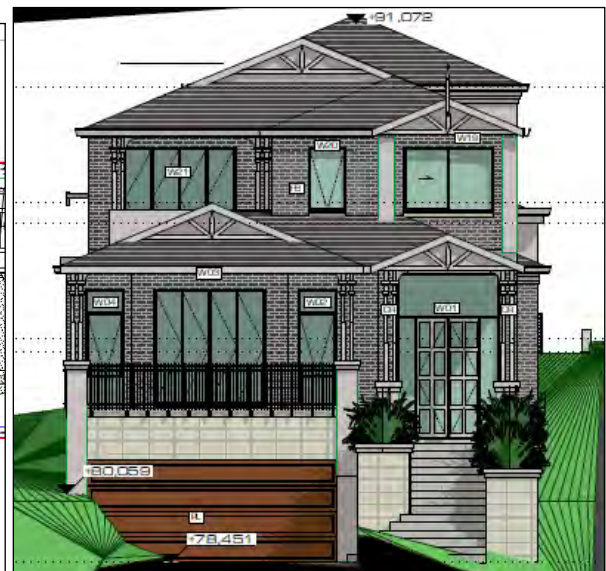
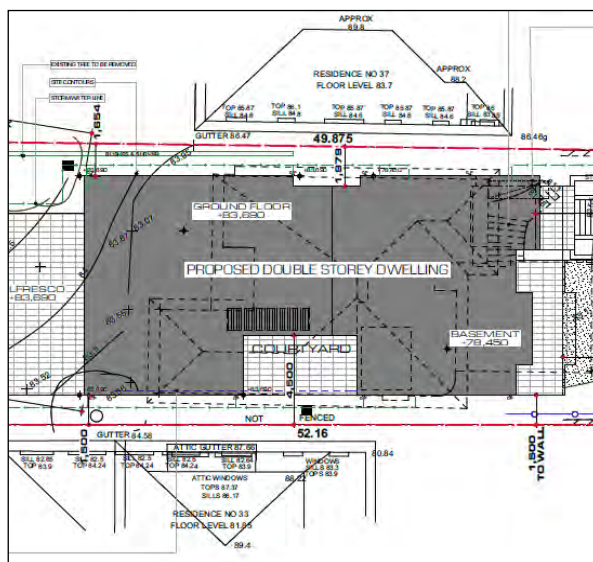
Figure 8 below shows the design of the development as amended with Issue E.

ITEM 2 (continued)



Figure 8 - Perspective of the amended design (Issue E)

Figure 9 below shows the amended plans submitted with Issue E.



ITEM 2 (continued)



Figure 9 - Amended plans (Issue E)

The amended plans were notified from 5 October 2018 to 22 October 2018, and then re-notified from 27 November 2018 to 7 December 2018 due to an erroneous description in the October notification letter.

The amended plans (Issue E) are the subject of the assessment of this application.

3.2 Background

LDA2011/337

Alterations and additions to the existing dwelling, including a new in-ground swimming pool, was approved by Council on 21 February 2012.

This previous application involved a first floor addition and ground floor extension to the existing dwelling on the site. Notably, the following heritage matters were raised and addressed by an amended design for that application:

ITEM 2 (continued)

“It is recommended that the following items be addressed and re-submitted in a revised plan to the Heritage Planner/Council for further review:

- *Step the proposed first floor extension back behind the existing front building line/ building footprint. Thereby reducing the scale and retaining the original front façade and proportions of the dwelling house - a minimum 4 m setback would be appropriate;*
- *Delete the combined two-storey portico and proposed front patio. A front verandah/patio may be appropriate within the area where the proposed first floor is to be setback behind the existing front building line (refer to the point raised above). This includes the removal of the decorative roofing details around the perimeter of this proposed elevated patio/portico;*
- *Delete the 2 x bay windows and associated roofing details on the proposed first floor;*
- *Provide a revised colour scheme articulating the original features of the property and the neighbouring Inter-war period dwellings;*
- *Ensure roof detailing is geometric and sympathetic to the original proportions of the dwelling house; and*
- *Ensure all windows are proportional in scale to the existing windows.”*

LDA2011/0337 lapsed on 21 February 2017.

MOD2016/15

Section 4.55(1A) application to amend the external fabric of the approved alterations and additions including: change to the internal layout of the ground floor laundry; slightly increase the size of the front patio (500mm wider); and change the roof profile over the garage and slightly enlarge the balcony at the front of the dwelling.

MOD2016/15 was approved on 1 April 2016.

Figure 10 below shows the approved site plan and front elevation for MOD2016/15.

ITEM 2 (continued)

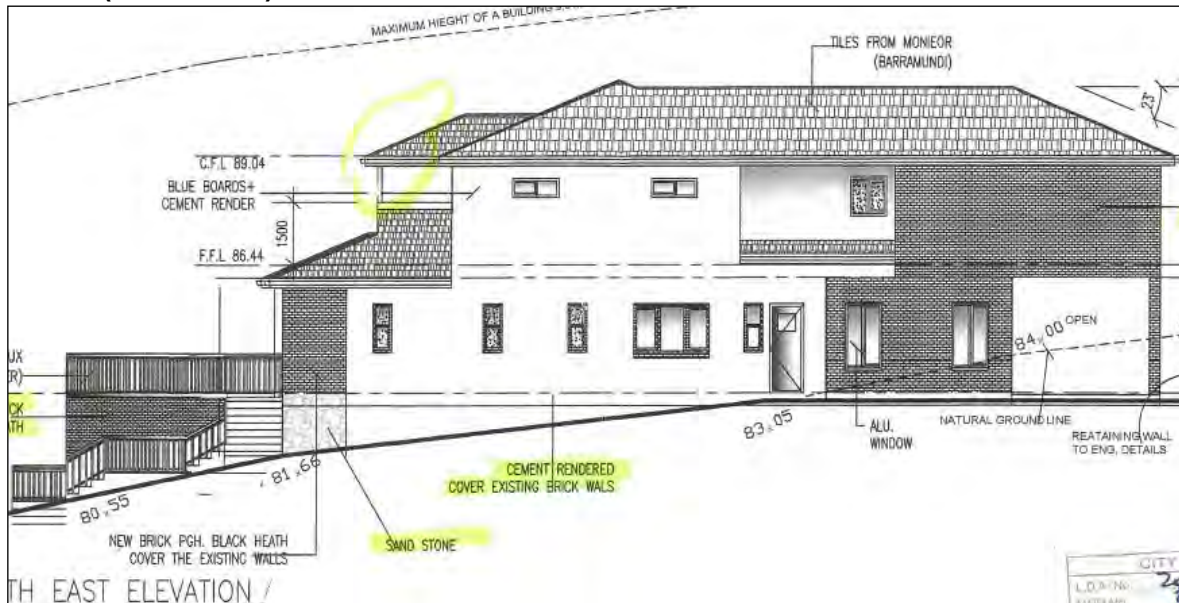


Figure 11 - Approved side elevations (MOD2016/15)

4. Planning Assessment

4.1 State Environmental Planning Instruments

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

The SEPP generally aims to protect and preserve bushland within the urban areas referred to in Schedule 1 because of its:

- a) *Value to the community as part of the natural heritage,*
- b) *Aesthetic value, and*
- c) *Value as a recreational, educational and scientific resource.*

Note: The SEPP defines bushland as “*land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and floristics of the natural vegetation*”.

Council’s records identify the site as being located within urban bushland with a potential presence of Sydney Blue Gum trees. However it was found that the site does not contain any significant trees, particularly, Sydney Blue Gum trees as shown in **Figure 3** which show comparative aerial photographs between 2009 and 2018.

A supporting letter prepared by Monaco Designs Landscape & Horticultural Consultants and submitted with LDA2011/337 (in response to a standard requirement for a Flora and Fauna Report) stated:

ITEM 2 (continued)

“A site visit was undertaken on 22 June 2011 at the request of Sight Building Design to determine the requirements of Councils request , with the following observations made:

- *Site is in an urban setting and contains no representations or remnant vegetation of Blue Gum High Forest Community.*
- *Site does not adjoin or link to any areas supporting the Blue Gum High Forest Community.*
- *Site is heavily disturbed and contains a dominance of exotic species, with a high influence of weed species particularly in the rear yard, i.e. Ivy, Monstera, Privet, Fishbone Fern and Cocos Palms”.*

This was accepted as part of the application and determination.

A site inspection was again conducted on 26 July 2018 which confirmed the non-existence of Sydney Blue Gum trees (**Figure 12** below shows photos taken from the site inspection and perspective aerial photograph of the site).



Figure 12 - Subject site from Buena Vista Avenue showing existing vegetation within the rear yard

Therefore the SEPP No. 19 is not considered to be applicable or relevant to the subject application and no further assessment has been carried out.

State Environmental Planning Policy 55 – Remediation of Land

Clause 7(1)(a) of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) requires that a consent authority must not consent to the carrying out of any development on land unless:

- *It has considered whether the land is contaminated, and*

ITEM 2 (continued)

- *If the land is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out, and*
- *If the land requires remediation to be made suitable for the development proposed to be carried out, it is satisfied that the land will be remediated before the development is carried.*

The site has been used continuously for residential purposes for a significant period of time such that contamination of land is unlikely to have occurred.

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

A BASIX Certificate (see Certificate No. 911675S-02 dated 02 May 2018) has been submitted with the application. As there was no change made to the location of windows and doors in the amended plans, an updated BASIX Certificate was not required.

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

Commitment	Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	51

A standard condition has been included in the Draft Consent requiring compliance with this BASIX certificate. **See Condition 3**

4.2 Ryde Local Environmental Plan 2014 (RLEP 2014)

Ryde LEP 2014 commenced on 12 September 2014 as the new environmental planning instrument applicable to the City of Ryde.

Under Ryde LEP 2014, the property is zoned R2 Low Density Residential, and the proposed development is permissible with Council's consent.

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 provide facilities or services to meet the day to day needs of residents.***

ITEM 2 (continued)

- **To provide for a variety of housing types.**

The proposed development is considered to satisfy the objectives for residential developments.

Part 4 – Principle Development Standards

The following is a summary of the clauses under Ryde LEP 2014 applicable to the development.

Clause	Proposal	Compliance
4.3 Height		
9.5m	(Rear) Max ridge = RL91.272 EGL (lowest point) = RL83.5 Height = Max. 7.77m (Mid-section/gable end) Max ridge = RL90.746 EGL (lowest point) = RL82.7 – RL83 Height = Max. 8.05m (Front) max ridge = RL89.851 EGL (lowest point) = RL81.3 – RL81.4 Height = 8.56m	Yes
4.4 FSR		
Site = 716.7sqm (by survey) 0.5:1 (max. GFA = 357.26sqm)	Basement = 11.71sqm GFL = 197.74.38sqm FFL = 142.11sqm Excludes 36sqm double garage and basement storage area Total GFA = 347.56sqm FSR = 0.485:1	Yes
6.2 Earthworks		
Appropriate measure to manage risk of flood hazard of the land	Geotechnical report has been assessed by Council's Structural Engineer – satisfactory subject to conditions.	Yes (by conditions)
6.4 Stormwater Management		
Minimise the impacts of urban stormwater on land	The proposed stormwater concept plan has been reviewed by Council's Development Engineer who raised no objection subject to conditions of consent.	Yes (by conditions)

ITEM 2 (continued)

4.3 Draft Environmental Planning Instruments

There are no Draft Environmental Planning Instruments applicable to the subject site.

4.4 Development Control Plans

Ryde Development Control Plan 2014 (RDCP 2014)

Part 3.3 – Dwelling Houses and Dual Occupancy (Attached)

The development is subject to the provisions of Part 3.3 and is identified as being located within the north-western part of the Denistone Character Area.

Figure 13 below shows the location of the site within the Denistone Character Area.

ITEM 2 (continued)

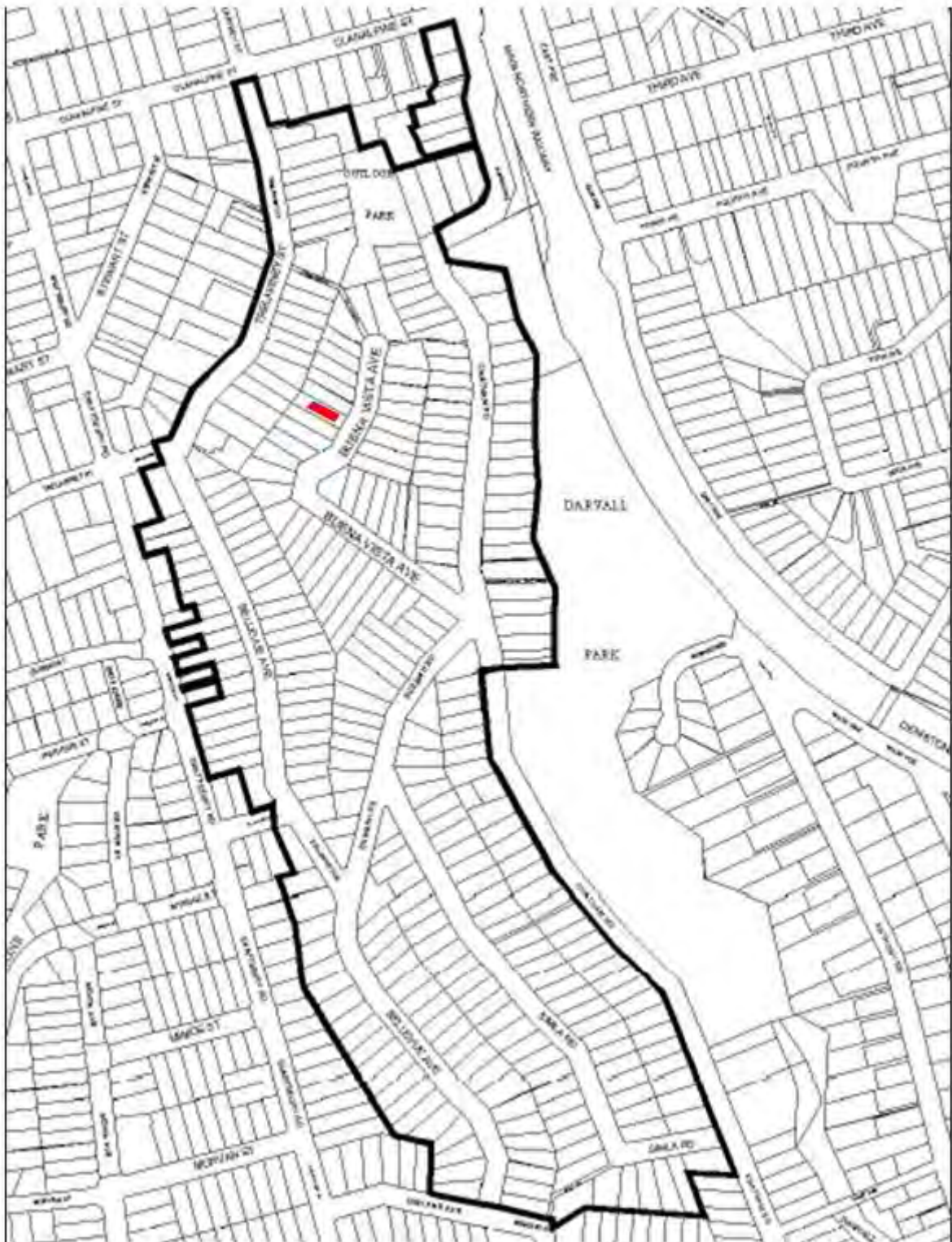


Figure 13 – Location of the site (in red) in the Denistone Character Area (outlined in black).

An assessment of the development against the Character Statement of the Denistone Character Area and against the Planning Principles established by the

Agenda of the City of Ryde Local Planning Panel Report No. 1/19, dated Thursday 14 February 2019.

ITEM 2 (continued)

NSW Land and Environment Court is provided in detail under 'Clause 3.2 - Character Assessment' later in this report

An assessment of the proposal against the applicable controls in the RDCP 2014 is detailed in the compliance table held at **Attachment 2**.

Identified non-compliances

The following non-compliances have been identified:

- Clause 2.6.2 – Topography and Excavation (cut and fill).
- Clause 2.9.1 – Front Setback (Garage located forward of building façade).
- Clause 2.9.3 – Rear Setbacks (Alfresco).
- Clause 2.11 – Car Parking and Access (Garage located forward of building façade).

Clause 2.6.2 - Topography and Excavation (Supported on merit)

Clause 2.6.2(b) states:

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

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

Cut

The proposed basement is considered to be true basement as most of the basement is located below the existing ground level rather than a semi-basement. As such the basement requires excavation up to 3.67m in depth instead of the maximum 1.2m depth allowed under Ryde DCP.

This variation to the maximum depth of excavation within the building footprint is considered to be acceptable and is recommended to be supported for the following reasons:

- The area to which the proposed basement excavation occurs is mainly on the south eastern side of the dwelling. As a result of the proposed excavation on this side of the building, the overshadowing impact on the southern adjoining property has been reduced with the lowered building height and stepped in first floor level.

Given the east-west orientation of the site, the building height has direct impact on the extent of shadows cast by the proposed building (i.e. the length of

ITEM 2 (continued)

shadows onto the neighbouring properties). Accordingly the reduced building height on this side of the building resulting from the basement excavation is considered to be appropriate in this circumstance.

- The proposed basement garage has a greater front setback from the street with a finished garage level similar to the existing garage level of RL 79.08 (datum to AHD). Due to these design features of the new basement garage, the proposal involves more basement excavation than the maximum permitted within the building footprint as the garage is placed at a higher point of the front of the site.

The new location and garage level of the development are supported on the basis that this garage design improves the vehicular access and manoeuvrability due to:

- The existing driveway is to be used for vehicular access from the one-way laneway of Buena Vista Avenue (**Figure 14**). The existing 15m long driveway runs diagonally across the front yard and has a grade of more than 1:5 which is not considered suitable for vehicles to reverse out of the site.
- The greater front setback of the garage provides room for open car spaces within the front yard which could also be used as a turning area to allow vehicles to exist the site in a forward direction. This will minimise vehicle and pedestrian conflicts in front of the site and hence is considered an improvement from the current site condition.



Figure 14 – Existing garage and driveway from Buena Vista Avenue

ITEM 2 (continued)

- The proposed basement garage provides internal access to the living areas of the dwelling directly above whereas the existing garage only provided external access. This is considered an improvement of the internal connection within the proposed dwelling in terms of functionality and practical use of the garage given the natural topography.
- No additional impacts are envisaged with the imposition of conditions requiring retaining walls, appropriate erosion and sediment control measures, protection and support of adjoining properties and submission of a dilapidation report.

Fill

Further to the above, the proposal includes a maximum fill of 1.47m at the mid-point of the dwelling.

This is to address the stepped platform of the building to respond to the sloping topography of the site.

This variation to the maximum depth of fill within the building footprint is considered to be acceptable and is recommended to be supported for the following reasons:

- The fill permits a continuous floor plate between primary living areas and the private open space area and alfresco at the rear of the building.
- The central location and graduating height of the fill does not unreasonably exacerbate the bulk and scale of the development nor its impact on neighbouring property.

Figure 15 below shows the areas of cut and fill discussed above.



Figure 15 – Locations of cut (brown) and fill (green).

ITEM 2 (continued)**Clause 2.9.1 – Front Setback (Supported on merit); and
Clause 2.11 – Car Parking and Access (Supported on merit)**

Clause 2.9.1(c) states that garages and carports, including semi-basement garages and attached garages, are to be set back a minimum of 1.0m from the dwelling's front façade.

Similarly, Clause 2.11.1(c) also states that garages are to be located at least 1.0m behind the front building elevation. Therefore, both clauses are discussed below.

Furthermore, Clause 2.11.1(j) states that the total width of garage doors visible from a public place, such as the street, is not to exceed 5.7m.

The development includes a garage which extends forward of the dwelling's front façade by 2.4m (although it is noted that the roof of the 2.4m wide section incorporates a terrace/balcony which services the ground floor lounge of the dwelling).

The development includes a garage door with a width of 5.8m.

This variation is considered to be acceptable and is recommended to be supported for the following reasons:

- The topography of the site rises steeply within the front of the site such that the visual prominence of the garage is mitigated by the rising landscape batter which extends along the southern side setback and the entry to the dwelling which includes heavy, ornate stone planter boxes that frame the northern side of the garage.
- The garage is recessed back into the site further than the existing garage which currently dominates the street frontage of the site. In this manner, the development improves the streetscape quality of the lot frontage.
- The garage is designed as an integral part of the overall architecture of the dwelling and incorporates differing materials (stone cladding) which provides visual differentiation and interest.
- The variation to the width of the garage door is minor and would not be noticeable when viewed from the street.

Clause 2.9.3 – Rear Setbacks (Supported on merit)

Clause 2.9.3(a) states that the rear of the dwelling is to be set back from the rear boundary a minimum distance of 25% of the length of the site or 8.0m, whichever is the greater.

ITEM 2 (continued)

The site has boundary lengths of 49.875m (north) and 52.16m (south). Therefore, 25% of the boundary length is calculated between 12.46m (north) and 13.04m (south), both of which are greater than the alternative 8.0m setback.

The dwelling has rear setbacks of between 12.72m (north) and 14.51m (south) and therefore complies. However, the alfresco which is attached to the rear of the dwelling has a setback of between 8.4m (north) and 9.8m (south) which does not comply.

This variation is considered to be acceptable and is recommended to be supported for the following reasons:

- The alfresco is a single storey structure which is excavated into the site by approximately 0.7m (see **Figure 15** above). Therefore, the structure will not result in an unreasonable visual impact upon neighbouring property.
- The structure is located at the rear of the site and is therefore not visible from the street or any other public place.
- The alfresco does not create any amenity impact on neighbouring property.

Figure 16 below shows the areas of non-compliance of the alfresco structure (marked in red).

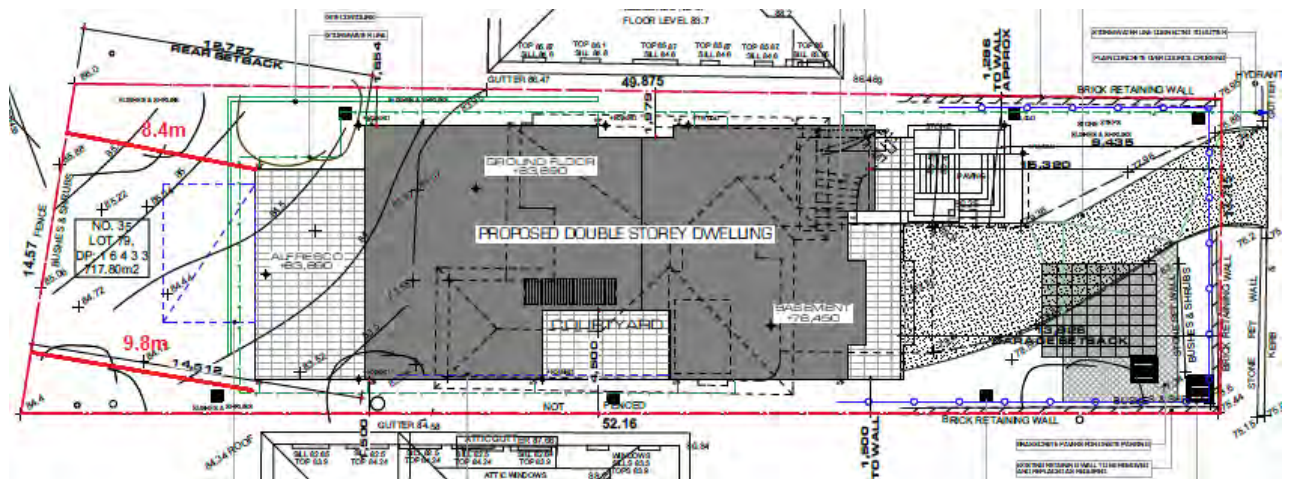


Figure 16 – Rear setback non-compliance (in red).

Clause 3.2 - Character Assessment

The following does not suggest a non-compliance. Rather, the matter of character is addressed in detail as follows to respond to the Denistone Character Area and the recommendation made by Council's Heritage Advisor.

ITEM 2 (continued)

Clause 3.2.1 includes the Character Statement for the area which states:

“The Denistone Character Area, an early 20th century hillside subdivision, features a strong pattern of single detached brick and tile dwellings which predominately date from the Inter-War period and display architectural styles consistent with their period. Houses sit within established gardens, which together with the street trees, help establish the green and leafy character of the area.

Dwellings are almost exclusively single storey with two storey dwellings occurring as a lower ground level where the site slopes away from the street. They are relatively closely spaced with mostly minimum side setbacks but have clearly defined front façades through the use of modulation and architectural detail. Front setbacks are generally consistent within streetscapes.

Unspoiled roof scapes make a significant contribution to the character and visual cohesiveness of the area. Roofs are generally geometrically regular simple hipped roofs of a moderate slope and with a modest eaves overhang.

Car parking structures are widespread in the area reflecting the suburban development during the period when cars were becoming more common. Garages have differing forms but are generally unobtrusive. The placement and style of the garage has been influenced in some situations by the topography of the lot.

Low front fences complement the style of the dwelling and respond to the topography of the setting. Fences are predominantly face brick with a brick capping and are usually detailed to match the architectural character of the house they front.

The low front fences delineate the private and public domain and allow the house to be readily seen from the street.

Well-established and highly visible front gardens feature lawns, garden beds and mature specimen tree plantings. The garden like character of the area is partly determined by Outlook Park with its large trees providing a visible green canopy, by the garden plantings, grassed verges and by the street tree plantings. Rear gardens together form a band of green treed space between houses.

Considerable additions to and alteration of dwellings has occurred over the past several decades, however the alterations and additions that have been done sit comfortably with existing structures and streetscapes. Those alterations and additions that are identifiable generally display a concern for and sympathy with the immediate area.

The key characteristics are:

ITEM 2 (continued)

- *Face brickwork on visible façades, and tiled roofs, with the colours consistent with the existing predominant colours;*
- *Clearly defined front façades displaying modulation;*
- *Consistent front setbacks;*
- *Geometrically regular simple hipped roofs of a moderate slope and with a modest eaves overhang; and*
- *Low front fences which complement the design and materials of the house they front.”*

Clause 3.2.2 acknowledges that some change will occur in the area but that this change should be harmonious with the character of the area. This means that new development, such as new houses, alterations and additions and car parking structures, should reflect the character of the area. The scale, form, massing, materials and details of new development requires careful consideration. Large block like forms are not acceptable.

In this respect, Clause 3.2.2 requires:

- *Development to be consistent with the characteristics described in the key character statement.*
- *Development to be compatible with the existing streetscape.*
- *Existing houses, garages and front fences are not to be demolished unless a replacement is part of the same application.*

The matter of assessing the character compatibility of development has been examined against the planning principle (*Surrounding Development*) by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003) NSWLEC 268* and *Project Venture Developments v Pittwater Council (2005) NSWLEC 191* where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment.

The following provides an assessment against the Planning Principles established in those two cases.

In the case of ‘*GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003) NSWLEC 268*’ Senior Commissioner Roseth established the following Planning Principles:

“The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation”.

ITEM 2 (continued)

The dwelling house is stepped to follow the natural contours of the site and has been designed to present as a two storey to the street.

It is also noted that the proposed dwelling has various ridge levels (front – RL 89.851, mid section – RL 90.746 and rear – RL 91.272) which are not considered to be a significant increase from the existing ridge level (RL 89.1) and the previously approved ridge level (RL 90.82) of the dwelling on the site.

The proposed dwelling does not significantly add bulk to the dwelling as previously approved by Council under MOD2016/15 as illustrated in **Figure 17** below.

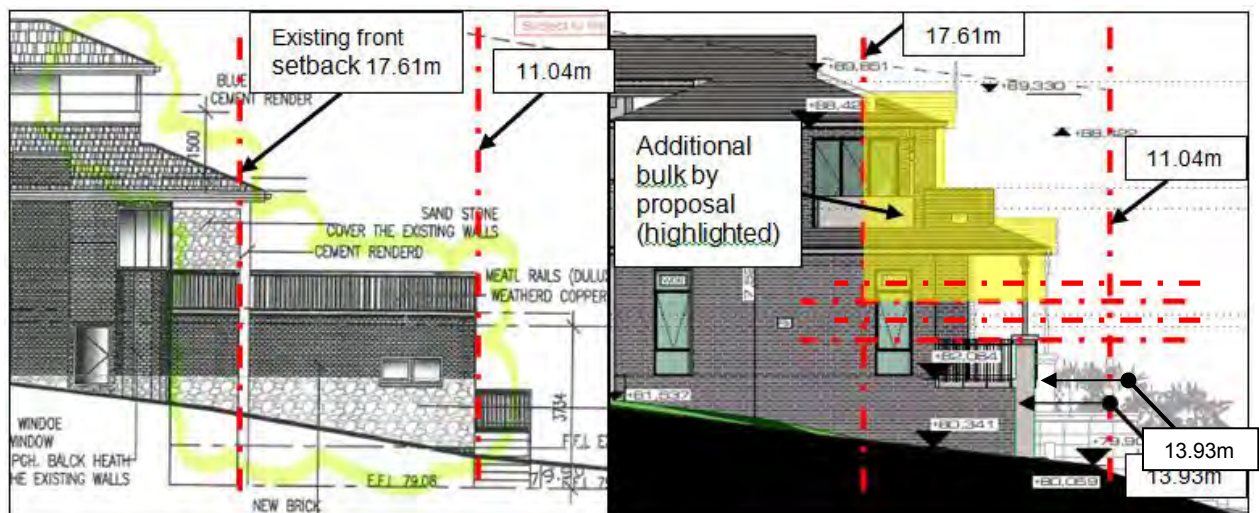


Figure 17 – Indicative elevations showing the existing garage (as approved by MOD2016/15 – left) and proposed garage (as amended by the subject application). Building envelope of the existing garage shown in red dashed lines and additional bulk generated by the proposal as high-lighted (right)

As detailed in the Character Statement' it is noted that 'Dwellings are almost exclusively single storey with two storey dwellings occurring as a lower ground level where the site slopes away from the street' (see **Figure 6**). This is not the case for the higher side of Buena Vista Avenue, where the site slopes towards the street. There are two storey dwellings or single storey dwellings with a double storey appearance (lower ground level or garage at lower side) that form part of the existing streetscape of this side of Buena Vista Avenue as shown in **Figures 4 and 5**.

Furthermore, Buena Vista Avenue (and the Character Area) includes a mix of single and double storey dwellings of varying architectural styles (e.g. *Californian Bungalows*, *Art Deco*, *Austere* from the inter-war period to modern architectural styles) and ages as shown in **Figures 4, 5 and 6**.

In this regard, it is considered that the scale of the development is not dissimilar to the existing surrounding developments in the area and hence it is compatible with the streetscape. Thus the development is considered to be consistent with the first principle.

ITEM 2 (continued)

“The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping”.

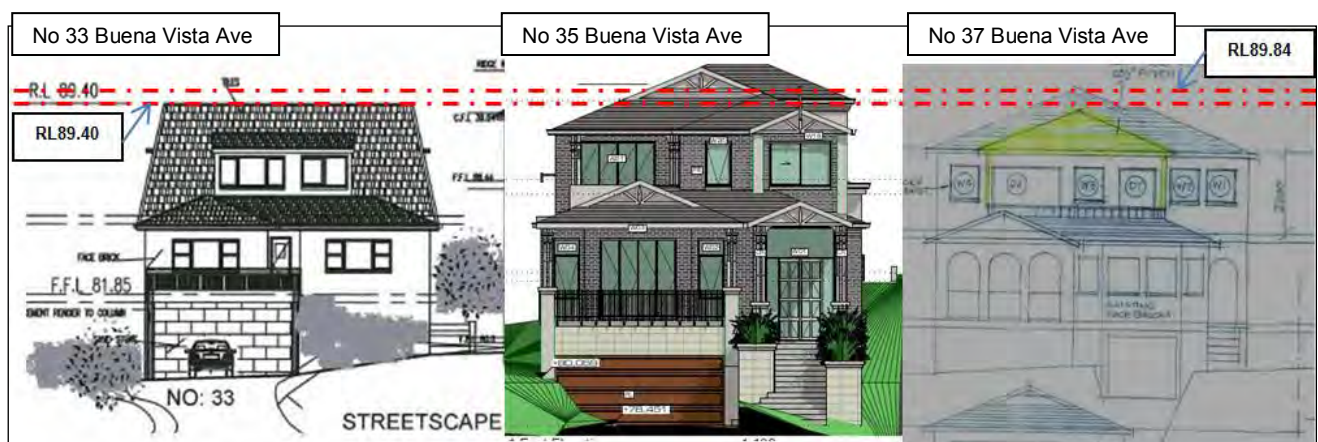
The proposed dwelling complies with the building height and FSR development standards under the RLEP 2014 and is not considered to be of a scale that is significantly greater than the other dwellings found on this side of Buena Vista Avenue.

The design of the development provides the provision of a basement garage that forms part of the façade of the dwelling and its appearance on the streetscape.

Whilst this design of the development defers from the existing developments in the area and generates additional bulk, where the majority of the neighbouring properties are provided with a detached garage or carport in front of the building line with minimal setback from the road reserve, the development is not significantly different to the one it replaces.

The proposed dwelling does not have any characteristics that would detract from its single dwelling house appearance and has a hipped roof with a pitch of 22.5° which is consistent with the moderate slope and modest eave overhangs.

Figure 18 below is an indicative streetscape elevation of the development in the site context. This diagram is indicative only, but it is proportioned to compare the scale of the development to the existing surrounding developments (i.e. similar street frontage for each considering the uniform subdivision pattern and building heights shown in red lines indicating the existing ridge levels of neighbouring properties at No. 33 and No. 37 Buena Vista Avenue).



ITEM 2 (continued)

Figure 18 – Indicative streetscape showing the subject site (middle), No 33 Buena Vista Ave (left) and No 37 Buena Vista Avenue (right). The above diagram is indicative only, however it illustrates the relative ridge levels and uniform subdivision patten/site frontage of these three properties.

The development provides sufficient setbacks from the side boundaries and is consistent with the established building line of the existing developments in the area.

Because of the slope of the site, the development has been terraced down to address the topography. This is a similar approach to that adopted by the other recently approved properties in the wide Ryde LGA where the site slopes towards the street.

As can be seen in **Figure 18**, the massing of neighbouring dwellings is similar although the proposed development provides a slightly higher building height at all levels (and particularly in the rear section) which results in minimal visual and overshadowing impacts while effectively addressing the topography of the site.

In this regard, the development is considered to be compatible with the scale of surrounding development.

“The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site’s edges to destroying it and planting new vegetation”.

The site does not contain any characteristics which would otherwise assist in reducing visual dominance.

As noted above, the terraced format of the development is considered to address the slope of the site and the reduced visual scale towards Buena Vista Avenue and neighbouring properties.

In this regard, the development is considered to be consistent with this principle.

“The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity”.

The development introduces new roof materials with concrete tiles instead of the predominant terracotta roof tiles found in the surrounding properties and charcoal brick work for the front of the dwelling in an area that has various coloured brick works (i.e red bricks or earthy toned bricks).

ITEM 2 (continued)

The neutral colours, materials and hipped roof with gable ends used in the development are considered to be unobtrusive in the existing streetscape/roof scapes of the area and it is considered to be consistent with other buildings in Buena Vista Avenue.

In this regard, the development is considered to be consistent with this principle.

Figure 19 below shows the roof plan of the development within the Character area.



Figure 19 – Indicative aerial photograph with the roof of the proposed superimposed on existing (new roof colour is charcoal for No 35 Buena Vista Avenue). Black lines indicate the main ridge lines of the proposed and yellow line indicates the established building line.

The above Principles were further developed in *Project Venture Developments v Pittwater Council (2005) NSWLEC 191* to include the following:

“Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites”.

The following provides an assessment of any foreseeable physical impacts on the development potential of surrounding sites.

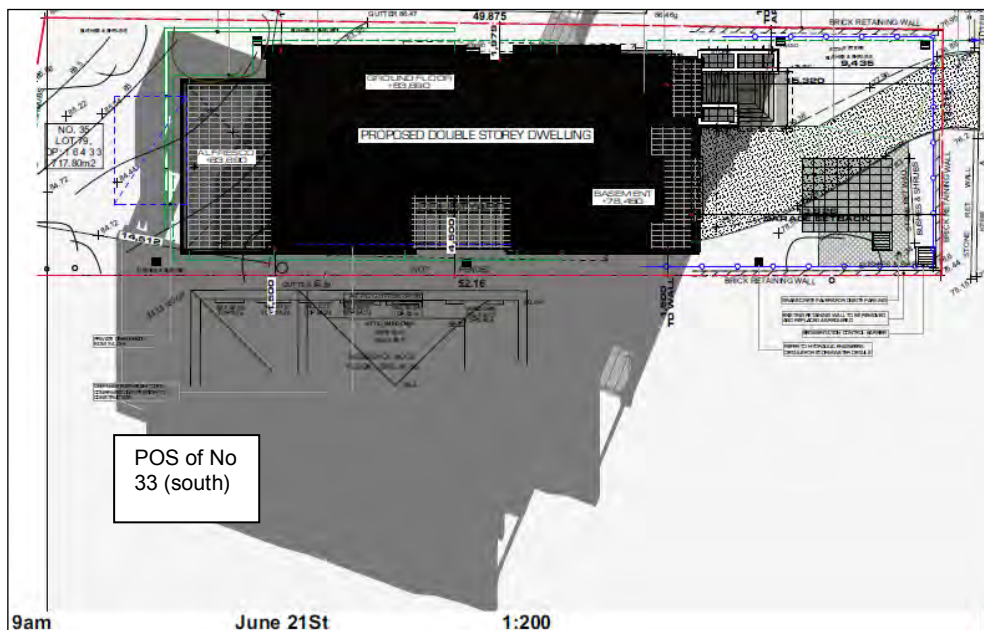
Privacy

ITEM 2 (continued)

The development has been designed to respond to the privacy of neighbouring properties with the provision of window offsets, narrow windows and privacy screens to the side elevations (conditioned to require an additional privacy screen to the side of the first floor front balcony) will ensure that the development will not unreasonably overlook the neighbouring properties.

Overshadowing

The development will allow at least 3 hours of sunlight upon the private open space of the southern adjoining property at No. 33 Buena Vista Avenue as required under the RDCP 2014. However it will overshadow the north facing windows of this neighbouring property during mid-winter as shown in the shadow diagrams in **Figure 20** below.



ITEM 2 (continued)

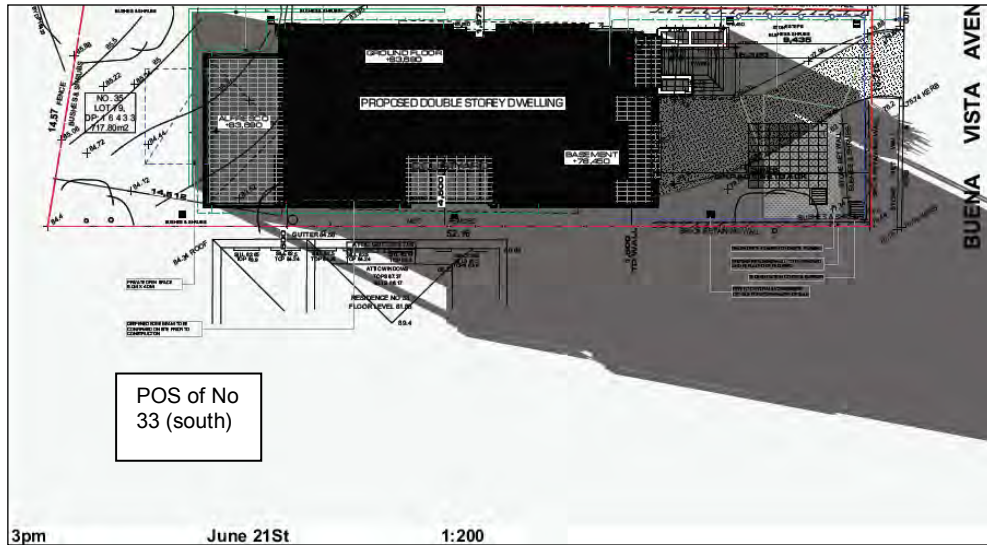


Figure 20 – Shadow diagrams (9am – top, 12noon – middle and 3pm bottom) submitted with the amended.

The two storey construction of the proposal will overshadow the southern adjoining property which is inevitable due to the east-west orientation, especially the north facing ground floor windows of this neighbour.

However the submitted shadow diagram indicates that at least 4 of 7 ground floor windows of the southern neighbouring property will receive sunlight in the late afternoon during mid-winter solstice (3pm June 21).

The extent of shadowing of the development is illustrated in the elevational shadow diagram in **Figure 21** below.

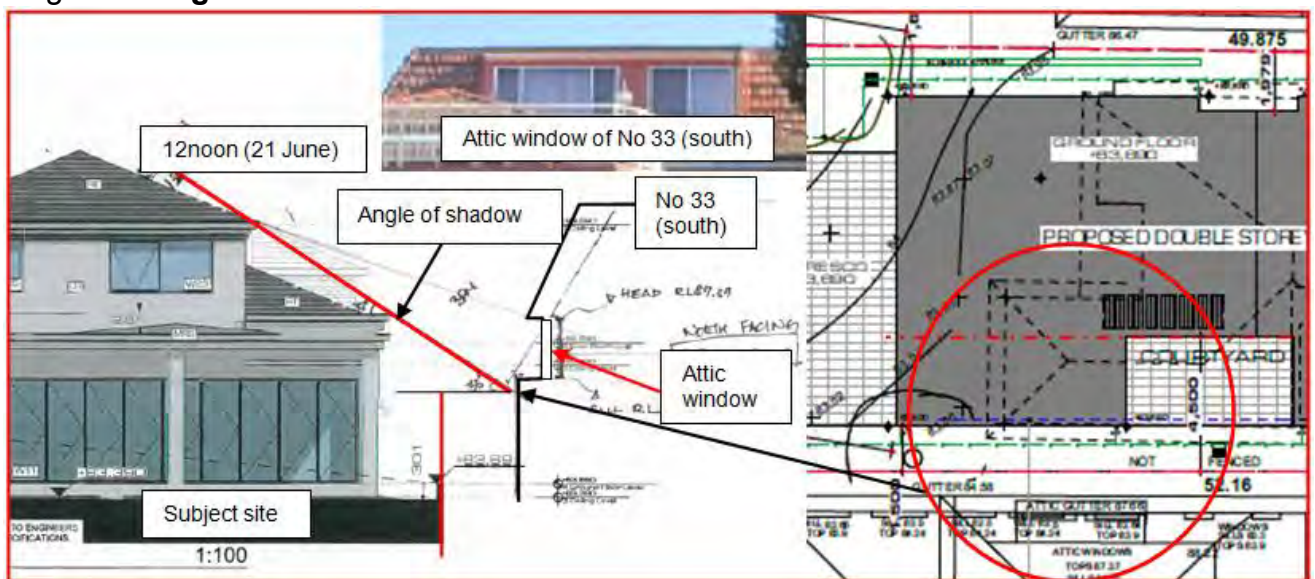


Figure 21 – Shadow elevation at 12noon (mid-winter) showing the shadow on No 33 Buena Vista.

ITEM 2 (continued)

As it can be seen in **Figure 21** above, the development permits at least 2 to 3 hours on sunlight upon the north facing attic windows of the southern neighbouring property at No. 33 Buena Vista Avenue, given the 4.5m setback of the first floor level.

Noise

It is not expected that the noise generated from the two dwellings would not be any different to that generated from any other residential development.

Conclusion to the Character Assessment

The subject site contains a single storey dwelling with a lower ground level for the attached garage in front of the building line that displays the key characteristics attributed to the post-war period date 1940's. However Council's Heritage Advisor has commented on the existing dwelling on the site that *'it is considered a pleasant but not remarkable example of the architectural style'* and as such it is unlikely that the development will impact on any architectural significance of the Denistone Character area.

Surrounding the subject site, there is *'a mix of styles some of which are not representative of the Denistone Character area particularly No. 33 and 31. No.37 directly to the north of the subject site is an inter-war styled dwelling that has been modified but does contain period features'*.

For the above reasons, the removal of the existing dwelling is unlikely to have any adverse impact on the Denistone Character area, especially in this part of Buena Vista Avenue where there are properties that have no significant contribution to the Denistone Character area (Refer to **Figures 4 and 5** showing Nos. 31 - 41 Buena Vista Avenue).

The development will replace the existing dwelling house and is considered acceptable on the following basis:

- It is evident from the photographs of surrounding properties that the immediate area is undergoing transitions in terms of scale and architectural styles (refer to **Figures 4, 5 and 6**).
- The development does not reproduce the sameness of the existing dwelling it replaces or the Inter-War period architecture style, however the applicant has made reasonable attempts to retain the key characteristics of the Denistone Character Area while effectively addressing the topography of the site.

The development has addressed the key characteristics of the Character Area by:

ITEM 2 (continued)

- Providing face brickwork on all street facing facades and tiled roof with neutral colour scheme that are considered unobtrusive on the existing streetscape;
 - Providing clearly defined façade of the dwelling fronting the street that relate to the various internal rooms while displaying modulation;
 - Providing the garage behind the existing setback from the street and consistent with the established front setback of this side of Buena Vista Avenue;
 - Incorporating a hipped roof of a moderate slope, gable ends and with a modest eaves overhangs. While the proposed roof form is not a regular simple hipped roof form as stated in the Character Statement, it is considered to be unobtrusive on the existing roof scape of the wider Character Area context; and
 - Retaining the existing front fence on the site.
- The subject property is not listed as a heritage item or located within a heritage conservation area. As well the subject property is not a contributory item within the Denistone Character Area that would require rigorous heritage consideration under Clause 5.10 of the RLEP 2014 – *Heritage Conservation*.
 - Also the bulk and scale of the development is not dissimilar to other complying developments found in the area or the wider Ryde LGA context by complying with the building height and FSR development standards under the RDCP 2014.

The above character assessment has found that, in the context of the Planning Principle established by Land and Environment Court, the proposal is considered to be compatible with the character of the local area and surrounding wider locality.

4.5 Planning Agreements or Draft Planning Agreements

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

4.6 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)

Section 7.11 contributions do not apply to detached dwellings.

4.7 Any matters prescribed by the regulations

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

ITEM 2 (continued)**5. The likely impacts of that development**

All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report (see DCP 2014 and Submissions sections).

The development is considered satisfactory in terms of environmental impacts.

6. Suitability of the site for the development

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

Bushland (may contain Sydney Blue Gum trees): See SEPP No 19 – Bushlands in Urban Areas assessment above.

Landslip (low to moderate risk): See Consultant Structural Engineer's referral above.

Denistone Character Area: See Heritage Advisor's referral above.

7. The Public Interest

Given the above assessment, it is considered that the approval of the application would be in the public interest as the site is suitable for the development as proposed.

8. Submissions

In accordance with DCP 2014 *Part 2.1 Notice of Development Applications*, the proposal was on three (3) separate occasions.

In each occasion, the application was notified to surrounding property owners and objectors during the following periods:

- Public Exhibition No. 1 – 23 May 2018 to 8 June 2018;
- Public Exhibition No. 2 – 13 June 2018 to 2 July 2018; and
- Public Exhibition No. 3 – 27 November 2018 to 7 December 2018.

Public Exhibition No. 1 (23 May 2018 to 8 June 2018)

Public exhibition No. 1 attracted 10 submissions objecting to the proposal and raising the following issues:

- **Alignment/front setback**

ITEM 2 (continued)

The proposal is forward of the adjoining properties and is closer to the street and the established front setback. This will deteriorate the existing streetscape of the Character Area and it could potential raise a safety issue given the narrow one-way street in front of the subject site.

Comment

The following detailed assessment of setback has been undertaken in order to clarify the extent of the compliance with the front setback of the proposal and the established front setback of the area.

Clause 2.9.1 'Front Setbacks' under the RDCP 2014 states that dwellings are generally to be set back 6.0m from the street front boundary. The development provides a compliant front setback of:

- Dwelling Façade: 15.32m;
- Garage: 13.92m; and
- Planter boxes and steps: 9.43m.

The Dictionary under the RLEP 2014 defines Building Line/Setback as “**Building line or setback** means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and:

- (a) a building wall, or
- (b) the outside face of any balcony, deck or the like, or
- (c) the supporting posts of a carport or verandah roof,
whichever distance is the shortest.”

As noted earlier in this report, the proposed dwelling house incorporates a basement garage which is setback further from the front wall of the existing garage on the site (refer to **Figure 17**). The existing garage on the site is not categorised as an outbuilding as it is attached and forms part of the lower ground level of the existing dwelling house on the site. This is not the case for the properties with a detached garage found in the street.

Figure 19 of this report shows the established front setback of this side of Buena Vista Avenue (the front wall is taken to be the front setback for properties with a detached garage to the front as per the LEP definition above).

Notably the subject site and the southern neighbouring property at No 37 Buena Vista Avenue have either an attached carport or garage in front of the existing dwelling on each lot. The front setbacks for these properties are taken to the outside face of the balcony (above the garage of No. 35 Buena Vista Avenue) and the supporting posts of the carport/upper ground balcony above the carport of No. 37 Buena Vista Avenue. See **Figure 22** below.

ITEM 2 (continued)



Figure 22 – Established front setback of immediate adjoining properties (red arrows indicate the existing setback of each property and yellow line indicates the proposed front setback of the subject site).

For the above reason, the proposal complies with the minimum front setback requirement under Clause 2.9.1 and it is considered to be consistent with the established front setback of the area with the exception of an additional storey above the garage which does not significantly add bulk to the dwelling as illustrated in **Figure 17**.

This issue does not warrant the refusal of the application.

• **Overshadowing**

“I am extremely concerned about sunshine will be fully blocked by the new building. I have only one room upstairs of my house has got good sunshine during the winter time at moment. So please be sure that the new building does not reduce my limited sunshine.”

Comment

The amended proposal provides sufficient building separation and afternoon sunlight to the attic windows and private open space of the southern adjoining property at No. 33 Buena Vista Avenue as detailed in the ‘Character Test’ assessment of this report (see **Figures 20 and 21**).

ITEM 2 (continued)

This issue does not warrant the refusal of the application.

- **Overlooking**

We are most concerned about our privacy, the proposed front balcony on the North side overlooks directly into our living room and bed room.

Comment

The first floor balcony on the northern side of the dwelling has been removed with the amended plans and no further issue was raised in relation to overlooking with the last round of neighbour notification.

This issue does not warrant the refusal of the application.

- **Northern side setback**

“The space between the North side wall and the boundary is not specified in the proposed plans.”

Comment

The amended plans indicate the northern side setback of between 1.44m and 1.65m at the ground floor and between 1.87m 2.13m at the upper floor. These setbacks comply with Clause 2.9.2(a) & (b) of the RDCP 2014 which states:

- “a. The outside walls of a one storey dwelling are to be set back from the side boundaries not less than 0.9m.*
- b. The outside walls of a two storey dwelling are to be set back from side boundaries not less than 1.5m.”*

This issue does not warrant the refusal of the application.

- **Size and Scale**

“The building is an imposing structure not in keeping with the homes in the street/area”;

“The proposed building is totally out of character and scale”;

“The proposed house at No. 35 would stand out from the rest of the houses and would be grating on the current streetscape”;

“The form, scale, size and proportions of the proposed building area out of character with the rest of the street and unsympathetic to the interwar, brick cottages of the Denistone Character Area”;

ITEM 2 (continued)

“Why don’t they go and build this in a street that already has these Mc Mansion style houses. There are plenty of those streets in the district”;

“The proposed structure is not in harmony with the nature of the Denistone Character Area (DCA) and will be of a scale and mass significantly out of proportion with adjacent properties and with the dwellings in the DCA”;

“The proposed development will create an enormous building that will have an imposing and overbearing presence in the streetscape, with the monolithic appearance of a multi-storey building in a streetscape of mostly single storey dwellings. The building will be easily distinguishable when viewed from the City of Ryde office block at Top Ryde”

and

“The scale is outlandish, stretching out to the extremes of the site, blocking established vistas of existing homes. A pure McMansion amongst singular character homes.”

Comment

The proposal has been amended to reduce the overall building footprint and envelope to comply with the RDCP requirements. As a result, the bulk and scale of the development is not dissimilar to other complying developments found in the area or the wider Ryde LGA context by complying with the setbacks and FSR controls under the relevant EPIs and RDCP 2014.

It would be unreasonable to insist on a scale of the development to match the existing cottages found generally in the area, instead of the maximum FSR permitted in the area in accordance with Section 4.15 (3A)(a) of the *Environmental Planning and Assessment Act 1979*, which states:

“If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) *if those provisions set standards with respect to an aspect of the development and the development application complies with those standards - is not to require more onerous standards with respect to that aspect of the development.”*

This issue does not warrant the refusal of the application.

- **Inappropriate basement excavation in an area subject to landslip and ground stability**

“The plans, as they exist, appear to require substantial excavation in area that is a known slip zone and where movement still occurs. How will this be monitored?”

ITEM 2 (continued)

and

“The extensive excavation required for construction of the new home may result in de-stabilisation of the steep slope of the hill with possible resultant damage to adjoining properties. This area is a known slip zone!”

Comment

The amended Geotechnical report submitted with this application has been reviewed by Council’s Consultant Structural Engineer who raised no objection subject to the recommendation contained in the Geotechnical Report (Aargus Pty Ltd report dated 17 October, 2018) given the low-moderate risk of landslip and mitigation measures to be taken during excavation and construction.

This issue was again raised in the final round of notification in October 2018 as detailed later in this report.

This issue does not warrant the refusal of the application.

• Height

“The building front is planned straight up from the basement to the top level (not step up). All the other house has been built step up at front in the street”;

“I am writing to express my dismay at the proposal to knock down No. 35 Buena Vista Avenue, Denistone, and build a very large modern 2018 style house on 2-3 levels”;

“It is essentially a three story structure which I feel is in not a permitted option in the local area”;

“The proposal describes the building as a ‘proposed double storey dwelling’ which it is not; there is a staircase and lift behind the garage, and the garage staircase and lift area located under the lounge on the ground floor and gallery on the first floor,,,,, the front façade of the building...reaches a height of approx.. 13 metres above street level at the eaves. This is equivalent to a four storey building, which is a significant imposition on the streetscape and contravenes the intent of Section 2.1 of the Ryde DCP – desired future character of the low density residential area of the City of Ryde”;

“The proposed new two storey dwelling in Buena Vista Avenue will be on the high side of the street. To construct a tall two storey building on top of the hill will not be in line with the streetscape and character of the area. The height of the proposed dwelling needs to be lower to be in line with the surrounding dwellings in Buena Vista Avenue”;

ITEM 2 (continued)

“From our perspective at No. 22 on the lower side of Buena Vista Avenue, the proposed development will create a structure more like a multi-storey block of home units, with an intrusive and overbearing street presence”;

“This is a three storey building, not a two storey building (RDGP2.1)”;

“Portico is a three storey structure (RDGP 2.1)”;

and

“The proposed design is a 3 storey home, which viewed from the street, appears to be four storeys high. This is far too tall and large for the site and does not appear to comply with the current Ryde LEP”

Comment

The dwelling as amended presents generally as a two storey dwelling with a basement that is stepped into the natural topography of the site. An assessment has been undertaken which has found that a rectangular section in the middle of the dwelling façade constitutes a three storey element, however, this was supported (see earlier commentary under ‘Clause 2.8.1 – Building Height’ of the RDGP 2014).

The development is unlikely to cause any detrimental impacts on the neighbouring properties through visual and acoustic privacy and overshadowing impacts with the design of the dwelling that addresses the natural topography, orientation and other relevant site features.

It would be unreasonable to insist on a single storey construction for the site for the reasons states in the ‘Character Area’ assessment of this report.

This issue does not warrant the refusal of the application.

• Ratios/landscaping

“It would appear that the home and hard landscaping occupy most of the available land and there is very little soft landscape remaining on the block”;

“Buena Vista is an attractive street with many native Eucalyptus trees in the back garden protected by the City of Ryde Council and looked after by the residents. This is the nature of the street, it is not a street in which very large, modern dwelling fit well”;

“The area of turf and garden that surround the existing house will substantially shrink. Whenever it rains, the increase in the block’s hard surfaces will contribute to the street’s already challenging drainage problems”;

ITEM 2 (continued)

“Most of the houses in the street take up a third or less of their blocks, with the rest taken up with open spaces including many large trees (isn’t there some sort of Blue Gum forest preservation order on existing trees and open space?), and yet this proposed development leaves almost no open space or possibility for the growth of substantial trees. How does that make sense?”

and

“Existing trees and shrubs will be removed in an area where vegetation and gardens are a feature of the streetscape (DCP 2.1)”.

Comment

The amended proposal provides sufficient landscaped areas on the site and complies with the RDCP 2014 landscaping requirements (i.e. the development provides approximately 41.8% deep soil area for the site). Furthermore the development provides a satisfactory drainage solution which is supported by Council’s Development Engineer with the imposition of conditions of consent.

As detailed in the ‘SEPP No 19 – *Bushlands in Urban Areas*’ section of this report, the subject site does not contain any significant vegetation, especially Sydney Blue Gum trees (refer to **Figures 3 and 12**).

The properties on the higher side of Buena Vista Avenue, including the subject site, appear to occupy a significant proportion of their site areas with garages and concrete area to the front of each dwelling to provide vehicular and pedestrian access and to address the natural slope towards the street. This is not the case for the majority of the properties on the lower side of Buena Vista Avenue (being the opposite side of the subject site) where the dwellings generally site closer to the street and have garages with minimal setback from the front boundary for levelled access for vehicles and pedestrians from the street (refer to **Figures 3, 6 and 19**).

No further issue was raised in relation to the above issue with the last round of neighbour notification from 04 October 2018 to 22 October 2018.

This issue does not warrant the refusal of the application.

- **Streetscape/Denistone Character Area**

“Our street is Art Deco style while this house is modern ASIAN style. I do not think this development should be permitted in Buena Vista Avenue Denistone as it is not keeping with the heritage aspect of the street”;

“The modern design, size and scale of the proposed development is unsympathetic with the remainder of the properties in Buena Vista Avenue”;

ITEM 2 (continued)

“The proposed development is an inappropriate design and scale for the surrounding area and is not keeping with the design elements set out in the Denistone Character Area guidelines”;

“This is not a house which fits with the Denistone Character Area which was designed to preserve the unique look of the area”;

“The front façade lacks sympathy with the surrounding architecture of Buena Vista Avenue, and surrounding street of the DCA, which is more characteristic of interwar and post war 20th century architecture consisting of modest dwellings”;

“Some years ago the City of Ryde approved of this street being classified as part of Denistone Character Area. Under this classification, houses were not allowed to be pulled down and frontages had to remain in keeping with the 1930s- 1950s architectural features. I presume that this ruling has now been overruled, although I do not recall being notified by the Council”

and

“Proposal of a similar nature in this area of the DCA have been rejected by Council in recent years, for example a proposal at Number 41 Buena Vista Avenue, and that at Number 37 was amended to improve its compatibility with the consultation with residents of the DCA. Many residents of this area have taken pride in maintaining the character of the neighbourhood by retaining the facades and street frontages when they renovate their homes”.

Comment

Clause 91 of the *Environmental Planning and Assessment Regulation 2000* requires “a submission by way of objection must set out the grounds of the objection”.

In this regard, the ground of objection based on the cultural background is not a valid planning objection or any ground of objection that can be considered. Also the development (original or amended) does not represent any “Asian” architectural style nor include multiple use of the dwelling as separate occupancies.

In respect to the other approved residential developments at No. 37 and No. 41 Buena Vista Avenue, it was found that these properties have been modified and do not contain period features as commented by the previous heritage referral and depicted in **Figure 23** below.

ITEM 2 (continued)



Figure 23 – No 37 Buena Vista Avenue (left) and No 41 Buena Vista Avenue (right)

The development is not considered to be dissimilar to other developments in the street in terms of building height and FSR of the dwelling (see **Figure 18** of this report), except for the basement garage that forms part of the dwelling that is similar to the existing garage on the site.

The development is considered to be appropriate for the site as detailed in the ‘Character Assessment’ of this report. It’s worth noting that the subject site is not listed as a heritage item/located within a Heritage Conservation Area or has an Interim Heritage Order (IHO) under the *Heritage Act 1977* and EPIs (i.e. Clause 5.10 – Heritage Conservation under the RLEP 2014 is not relevant or applicable to the site).

The statutory consideration of the Character Area is under the current RDCP 2014 requirements and as such It would be unreasonable to limit the design, size and scale of the development in accordance with Section 4.15 (3A)(a) of the *Environmental Planning and Assessment Act 1979*, particularly when the development is capable of achieving full compliance with the development standards contained in the RLEP 2014.

Regardless, this issue was further raised with the objection received at the final round of notification as detailed later in this report.

This issue does not warrant the refusal of the application.

• **Current condition of the home**

The existing dwelling has progressively deteriorated since it has been vacant and access of the footpath has been blocked.

Comment

ITEM 2 (continued)

There are no known public health risks or Council records that raise the above concern for the vacant property at No 35 Buena Vista Avenue.

This issue does not warrant the refusal of the application.

- **Determination of the application.**

“Sadly, in these times of ‘anything goes’ development, Buena Vista Avenue’s houses, gardens, trees and special character are under threat. People such as us, who lived here for many years and love the street’s unique character, are uniformly opposed to the proposed changes at No. 35 Buena Vista Avenue and will not hesitate to make our feelings known, both to Council and at the ballot box”;

“Our request is that these plans and any other similar brought forward are dismissed”

and

“We ask that the application is referred to the Planning Committee, and not dealt with under delegated authority, and, we ask that the application in its current format be rejected”.

Comment

The application is referred to the Ryde Local Planning Panel for determination.

Public Exhibition No. 2 (4 October 2018 to 22 October 2018)

Public exhibition No 2 attracted one (1) submission objecting to the proposal and raising the following issues:

- **Size and Scale**

“While the front of the building (roof form and façade) has been softened to blend more sympathetically with the existing streetscape, the footprint and setbacks appear not to have changed from the original submission. Your notification letter states (changes made with the amended plans), the change would appear to be minor and, almost, imperceptible. The large, footprint and scale of the proposed development has not changed, except for the softened front façade.”

Comment

The proposal has been amended to reduce the overall building footprint and envelope to comply with the RDCP requirements. As a result, the bulk and scale of the development is not dissimilar to other complying developments found in the area or the wider Ryde LGA context by complying with the setbacks and FSR controls under the relevant EPIs and RDCP 2014.

ITEM 2 (continued)

As noted earlier in the report, It would be unreasonable to insist on a scale of the development to match the existing cottages found in the area (various size and scale of developments), instead of the maximum FSR permitted in the area in accordance with Section 4.15(3A)(a) of the *Environmental Planning and Assessment Act 1979*,

Section 3.2.2 – *Retention of Key Characteristics* of the RDCP 2014 states that “*the scale, form, massing, materials and details of new development requires careful consideration. Large block like forms are not acceptable*”. This DCP requirement, however, does not explicitly specify any numerical controls that are different to the development standards contained in the RLEP 2014.

• Height

“The proposed design remains a 3 storey home, which viewed from the street appears to be four storeys high. This is far too tall and large for the site and does not appear to comply with the current RYDE LEP. The roadway drops approximately 2m across the front of the property, which exacerbates the height issue”

Comment

The above issue has been addressed earlier in the report under the ‘Original plans – first round of notification’ and have been illustrated in **Figures 8, 9, 17 and 18**.

This issue does not warrant the refusal of the application.

• Ratios/landscaping

“It would appear that the home and hard landscaping occupy most of the available land and there is very little soft landscape remaining on the block. This has not changed.”

Comment

The development is required to provide a minimum 35% of the site area as deep soil landscaping with minimal hard stand areas to the front and 8m x 8m deep soil area within the rear yard.

The amended proposal complies with these landscaping requirements under the RDCP 2014 and hence it is considered acceptable.

This issue does not warrant the refusal of the application.

• Excavation

“The extensive excavation required for construction of the new home may result in de-stabilisation of the steep slope of the hill with possible resultant damage to adjoining properties. This area is a known slip zone!”

ITEM 2 (continued)Comment

As detailed earlier, the amended Geotechnical report submitted with this application has been reviewed by Council's Consultant Structural Engineer who raised no objection subject to the recommendation of the Geotechnical report given the low-moderate risk of landslip and mitigation measures to be taken during excavation and construction.

This issue does not warrant the refusal of the application.

• Denistone Character Area

"The proposed development is an inappropriate design and scale of the surrounding area and is not keeping with the design elements set out in the Denistone Character Area guidelines. Further, windows and doors facing the street should be 'timber' in keeping with the existing neighbouring houses and streetscape. The plans submitted appear not to nominate whether they are aluminium or timber."

Comment

The character assessment contained in this report has found that, in the context of the Planning Principle established by NSW Land and Environment Court, the proposal is considered to be compatible with the character of the local area and surrounding wider locality.

In respect to the materials for the street facing windows and doors, there are no specific requirements in the RDCP 2014 that limit the use of aluminium windows or doors.

This issue does not warrant the refusal of the application.

• Current condition of the existing home

"The progressively deteriorating conditions of the home are of continuing concern to myself and several neighbours. This property was previously rented by the current owners and was well maintained. During the course of many months, the home has been left vacant and the condition of the existing home and garden has been allowed to deteriorate. We now have vermin evident in the street and our back yards."

Comment

No known public health risks have been recorded against the vacant property at No 35 Buena Vista Avenue. Regardless the above concern relating to public health is considered a compliance issue and falls outside the scope of the assessment of this development application.

This issue does not warrant the refusal of the application.

Public Exhibition No. 3 (27 November 2018 to 7 December 2018)

ITEM 2 (continued)

Public exhibition No 3 attracted six (6) submissions objecting to the proposal and raising the following issues:

- **Denistone Character Area**

“Some years ago, Ryde Council put a lot of effort and expense into an assessment of the Denistone Character Area. Quite a number of us engaged with Council officers in shaping that plan and preserving the character of the area, particularly the character of Buena Vista Avenue. Many of us have lived in the street for about 40 years (e.g. Nos 24, 30, 39, 43, 49) and many of our neighbours for more than 20 years (e.g. 22, 26, 28).

Many of us have had quite extensive renovations done to our houses, all without modifying the streetscape. We have all shown that the area's character can be maintained, the character of the streetscape can be preserved, and that our homes can be upgraded to modern standards. In short, we have preserved the Denistone Character Area.

The proposed modifications to No 35 do not fit in at all with the existing streetscape. They fail to comply with many of the details included in the outline of the Denistone Character Area - a document prepared by Council with the assistance of many of the Buena Vista residents.

The proposed redevelopment of No 35 does not fit in any way with Council's own guidelines.”

“I refer to the Council's DEP 2014 (RDCP 2014):

Section 2.2.1 (Point 2) - to be well designed and compatible with the site's context;

Section 3.2 (Denistone Character Area) - It is important that the character of the Denistone Character Area is maintained.

While it is accepted that some change will occur, this change should be harmonious with the character of the area.

This means that new development, such as new houses, alterations and additions and car parking structures, should reflect the character of the area.

The scale, form, massing, materials and details of new development requires careful consideration. Large block like forms are not acceptable.

This proposal does not meet the above requirements of your DEP (RDCP 2014)....further, in Section 3.2.2 of the DEP, you list Objectives and Controls which are applicable to any development, within the Denistone Character Area.

ITEM 2 (continued)

The proposed development fails to meet Objective 1 (To ensure that new development is consistent with the character of the area) and fails to comply with the controls (New development is to be consistent with the characteristics described in the key character statement. New development is to be compatible with the existing streetscape).

If this development proceeds as per the current plans, it will represent a complete lack of empathy and consideration for the residents of Denistone and Denistone Character Area, coupled with a disregard by Council of its own requirements under the LEP and DEP (RDCP)”

“...such a building will not be in keeping with the present streetscape of Buena Vista and does not comply with the intentions of the Denistone Character Area. It will affect the neighbours in the two adjacent houses negatively because of its height and mass.

The Denistone Character Area ruling was that the houses should reflect the character of the area. The above planned new house at No. 35 does not. As Council has approved this, does this mean the Denistone Character Area concept is no longer in practice and, if so, would you please let me know when this was cancelled and whether residents were informed.”

“The proposed development fails to address the requirement that new developments be compatible with the site’s context, and disregards entirely the intent of the Denistone Character Area that new developments reflect the character of the area”

“We have seen the updated plans for 35 Buena Vista Ave, It clearly does not follow the guidelines set out in the Heritage Plan for our street and immediate area. The plans so obviously set out to create an extreme multi columned folly that contradicts the known characteristics of the immediate and surrounding housing.”

Comment

As discussed earlier, the character assessment contained in this report has found that, in the context of the Planning Principle established by NSW Land and Environment Court, the proposal is not considered to be a significant departure from the character of the local area as prescribed under the RDCP 2014 and surrounding wider Ryde LGA.

The subject property is not listed as a heritage item or located within a heritage conservation area. As well the subject property is not a contributory item within the Denistone Character Area or a heritage conservation area that would be subject to rigorous heritage consideration and assessment under Clause 5.10 of the RLEP 2014 – *Heritage Conservation*.

ITEM 2 (continued)

It is considered that reasonable attempts have been made to design the development to complement the key characteristics of the area and to reduce the overall building footprint and envelope to comply with the RDCP requirements. As a result, the bulk and scale of the development is not dissimilar to other complying developments found in the area or the wider Ryde LGA context by complying with the setbacks and FSR controls under the relevant EPIs and RDCP 2014. In addition, no detrimental amenity impacts are envisaged with the development as detailed in the report.

It would be unreasonable to refuse this application solely based on the character requirements under the RDCP 2014 and insist on a scale and building height of the development to be exact match of the existing cottages found in the area, instead of the maximum allowable building envelope and height for the area as stated in Section 4.15 (3A)(a) of the *Environmental Planning and Assessment Act 1979*.

This issue does not warrant the refusal of the application.

- **Number of storeys**

“The proposal remains a three storey development, with garage/basement, ground floor and upper floor, similar proposals have been refused or modified previously for Nos. 37 and 41 Buena Vista Avenue; DEP (RDCP) Section 2.8.1 Building Height, page 22, under controls, as per the extract below, states “Maximum number of storeys 2.”

“This is still a three storey development, in a prominent and dominating position in both the street, and the landscape. Additionally there is no landscaping that includes trees or shrubs that contributes to the streetscape.”

Comment

The dwelling as amended presents generally as a two storey dwelling with a basement that is stepped into the natural topography of the site. An assessment has been undertaken which has found that a rectangular section in the middle of the dwelling façade constitutes a three storey element, however, this was supported (see earlier commentary under ‘Clause 2.8.1 – Building Height’ of the RDCP 2014).

The northern side of the first floor level, where there are two floor levels above the basement, is placed over the basement area where the wall height is less than 1.2m due to the cross fall of the site. **Figure 24** below illustrates the split level of the proposed dwelling and compliance with the maximum number of storeys permitted under the RDCP 2014. Also refer to **Figure 18** of this report which shows the proposed dwelling in the existing streetscape.

Although the development may appear to be three storeys, especially when it is viewed from the street, the proposed dwelling has been stepped to respond to the topography and has a true basement under the two storey component of the

ITEM 2 (continued)

development. As such the amended proposal complies with the maximum number of storeys permitted under the RDCP 2014.

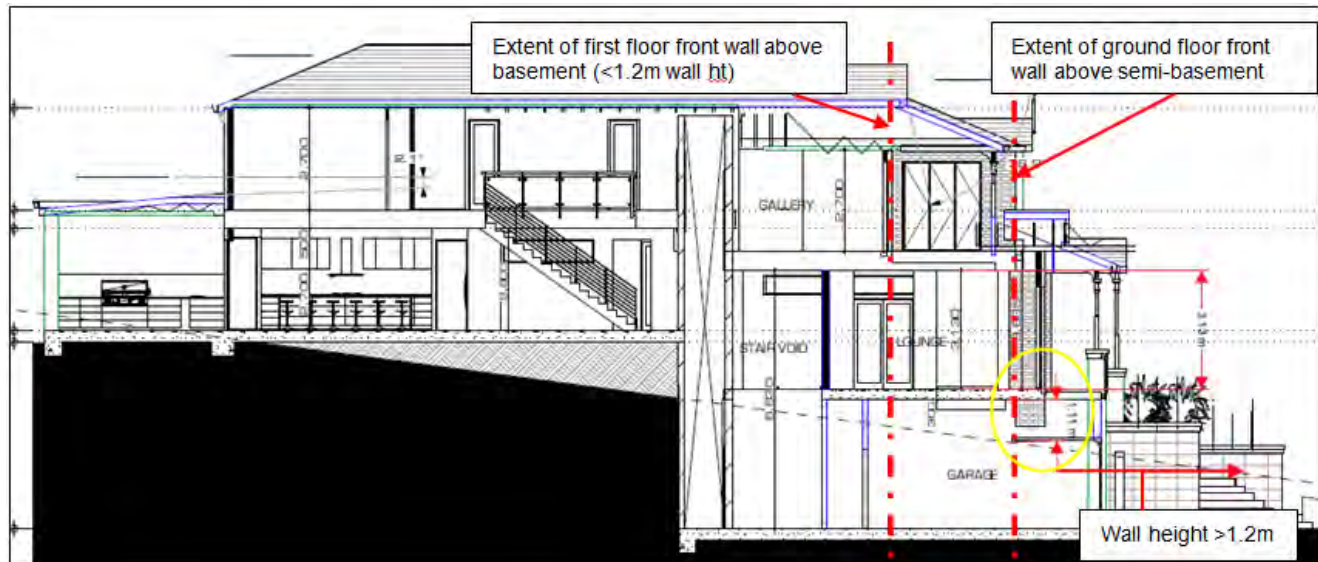


Figure 24 – Section (as amended) to show the upper floor levels above the basement garage level

• **Floor Space Ratio**

“The floor space ratio, without including the floor space for the garage level, is approximately 63 to 65%. If you include the basement, less the allowed 36sqm double garage allowance, the FSR is closer to 70%. This is 40% more than the limit of 50%, contained in the Council’s DCP (RDCP)”

“The scale is overbearing, stretching out to the extremes of the site, blocking established vistas of existing homes. A pure McMansion amongst singular character homes.

We have seen previous more suitable and agreeable plans submitted by the new owners and wonder why these new extreme drawings have surfaced. We find the new plans aggressive and unnecessary and do not wish for them to move forward.”

Comment

The amended proposal complies with the maximum FSR of 0.5:1 permitted under the RLEP 2014, inclusive of the basement area not used for parking (36m²), ground floor level without the void over the stairs from the basement level and first floor level without the void over the stairs from the ground floor level in accordance with the definition of ‘Gross Floor Area’ under the RLEP 2014 as shown in **Figure 25** below.

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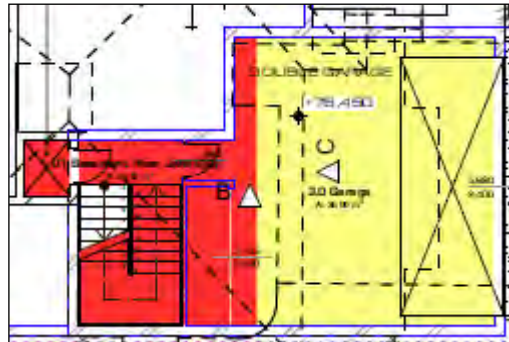


Figure 25 – GFA calculation plans (basement - as amended)



Figure 25 – GFA calculation plans (ground floor - as amended)

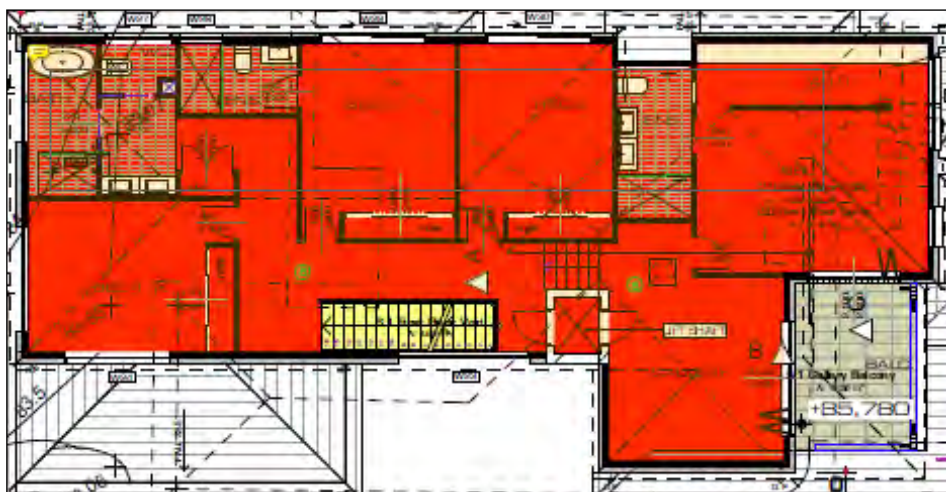


Figure 25 – GFA calculation plans (first floor - as amended)

ITEM 2 (continued)**9. Referrals****Development Engineer**

Council's Senior Development Engineer has raised no objection to the application subject to the conditions of consent attached to this report.

Consultant Structural Engineer

Council's Consultant Structural Engineer has raised no objection to the application subject to the conditions of consent included in the attached draft conditions.

Heritage Advisor

Council's Heritage Advisor has reviewed both the original (dated 15 May 2018) and amended proposal (28 September 2018) and provided the following comments:

Original proposal**Consideration of the proposal:**

The development proposal seeks Council's approval for the demolition of the existing building on the site and construction of a two-storey detached style dwelling.

Reason for the Heritage Referral:

The development proposal has been referred for heritage consideration as the subject site is located within the Denistone Character Area.

Consideration of the heritage impacts:

The site falls within the Denistone Character Area. Also known as the Outlook Estate – Contiguous Areas, this precinct takes in the area bound by Burmah, Chatham and Simla Roads, Bellevue Avenue and Trelawney and Beaumont Streets.

This area has been previously subject to a number of heritage studies and assessments, including the most substantial study, being the 'Outlook Estate – Contiguous Areas Denistone Heritage Assessment & Character Study' (Weir + Phillips, September 2004). The heritage assessment was commissioned by Council in 2004, to consider and establish the heritage significance of the Character Area – the impetus for the conservation of the area resulting from community action when the Denistone Heritage and Environment Preservation Group was formed by local residents, in response to growing concerns about unsympathetic development in the area.

The Weir + Phillips report states the following:

ITEM 2 (continued)

'...The land in the study area was sold through a series of subdivisions from around 1915. To ensure the creation of a high quality residential suburb, the residential allotments were sold with covenants, the most important being the building of one house only on each allotment and a requirement to build in brick.

The first houses within the Study Area were built in the popular Californian Bungalow Style...Building within the Study Area continued in the post World War II period, with houses of this period displaying a return to the austerity that had accompanied the Great Depression...Most allotments within the Study Area had been built upon by 1955-60...'

The report established a Statement of Significance as follows:

'The Outlook Estate – Contiguous Areas has historical significance for its ability to demonstrate the cultural development of the local area over a period of two-hundred years. The area initially formed part of the late eighteenth century grant, Chatham Farm (1795), which was subsequently consolidated into one of the large family held estates that dominated this area of Ryde throughout the nineteenth century.

The subdivision of the Darvall's Ryedale Estate from 1900 (including the subject area from c1915) has significance as part of a Sydney-wide pattern brought about by rapid population increase, suburbanisation and improved public transport routes, particularly the railway. Aside from commemorative street names, the eighteenth and nineteenth century history of the area is largely confined to historical documents.

The Outlook Estate – Contiguous Areas has historic and aesthetic significance for its ability to reflect the cultural influences on the suburbanisation of Ryde. The area has significance as part of a Sydney-wide pattern of interwar subdivisions sold with covenants attached to the land title to ensure a high quality suburban environment. The area has significance for its ability to demonstrate the eclectic range of influences that acted upon domestic architecture in Sydney from period 1915 to 1960 and thus an ability to reflect the economical, political and cultural climate of Sydney (and the local area). The austere approach to popular architectural styles of this period found throughout the area provides a telling reflection of the economic and political upheavals that characterised the period from the late 1920s to the post World War II era. The housing has some technical significance as demonstrating good quality brickwork and brick detailing of its period.

The Outlook Estate – Contiguous Areas has aesthetic significance derived from a high level of intactness, a general consistency in building form (ie single dwellings on single allotments), a consistency in building quality, the variety of the brickwork used and the vistas enjoyed from its higher reaches. The Outlook

ITEM 2 (continued)

Estate – Contiguous Areas has social significance as an area highly valued by Council and the community.'

In light of the above, the report recommended that the Outlook Estate – Contiguous Areas precinct be protected by heritage listing as a heritage conservation area and that Council prepare a Development Control Plan to guide future development so that future development is sympathetic to the identified characteristics in the area.

Council resolved in or about 2005 not to proceed with the listing of the Outlook Estate – Contiguous Areas precinct as a heritage conservation area within the then Ryde Planning Scheme Ordinance (Ryde PSO).

However, Council proceed with the preparation of a Development Control Plan, which has been translated into the current Ryde DCP.

While I am cognisant that the Denistone Character Area does not have any statutory heritage protection under the Ryde LEP 2014, consideration must still be given to the provisions of the DCP which have been specifically developed to help facilitate appropriate design and new development within the character area.

The subject site contains a single-storey, detached style dwelling which displays the key characteristics attributed to the Post-War period and dates to the late 1940s. It displays a moderate degree of design integrity, with no vertical or horizontal alterations or additions which otherwise distort its profile.

However, it is considered a pleasant but not remarkable example of the architectural style. This position has been consistently held in two previous heritage referrals relating to a previous development proposal for the subject site.

The proposed dwelling is a substantially scaled two-storey building, which, in my opinion, will be visually incompatible with the prevalent scale, form, massing and materiality of dwellings in the street, disrupting the existing sense of continuity and uniformity in terms of the scale and architectural language.

The Ryde Residential DCP provides specific development controls relating to the Denistone Character Area and states that 'it is important that the character of the Denistone Character Area is maintained', acknowledging that some change will occur, however requires that such change is harmonious with the character of the area and should ultimately, reflect the character of the area.

When viewed from the streetscape, the proposed second storey addition will significantly alter the silhouette, becoming a visually dominant feature of the streetscape, discordant with the prevalent built forms. For these reasons, the

ITEM 2 (continued)

scale of the dwelling is not considered to be 'harmonious with the character of the area'.

The Character Statement for the Denistone Character Area also recognises that 'un-spoilt roof scapes make a significant contribution to the character and visual cohesiveness of the area'.

In this manner, I would strongly encourage the Applicant to revisit the design, having greater regard to the design controls for the precinct."

Amended proposal

"Amended plans have been received which involve design changes to the architectural language and form.

I acknowledge that the property is located within a Character Area and is not subject to the same stringent criteria normally applied to applications proposed within a Heritage Conservation Area.

I also acknowledge the previously approved development (LDA2011/337 and MOD 2016/15) which was similar in overall silhouette and form. Therefore, the decision rests with Planning to determine whether this current revised design is satisfactory in accordance with the Character Test established by the NSW Land and Environment Court."

Comment

The issue of character was assessed in this report under Part 3.3 Section 3.2 - Character Assessment of the RDCP 2014 and the planning Principles established in the Land and Environment Court cases *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003) NSWLEC 268* and *Project Venture Developments v Pittwater Council (2005) NSWLEC 191*.

In summary, the character assessment found that, in the context of the Planning Principle established by Land and Environment Court, the proposal is considered to be compatible with the character of the local area and surrounding wider locality.

10. Objects of EP&A Act

Section 1.3 of the EP & A Act contains the following relevant objects:

1.3 Objects of Act

- (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*

ITEM 2 (continued)

- (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) *to promote the orderly and economic use and development of land,*
- (d) *to promote the delivery and maintenance of affordable housing,*
- (e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) *to promote good design and amenity of the built environment,*
- (h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) *to provide increased opportunity for community participation in environmental planning and assessment.*

The proposal does achieve the objectives.

11. Conclusion

That development consent be granted to LDA2018/0189 for the following reasons:

1. The development satisfies the character tests required to be undertaken by the RDCP 2014 and the NSW Land and Environment Court.
2. The design achieves compliance with the applicable Development Standards prescribed by the Ryde Local Environmental Plan 2014.
3. With exception to minor non-compliances (all of which are supported on merit), the proposal achieves compliances with the various applicable controls contained in the Ryde Development Control Plan 2014.
4. The issues raised in the submissions received in response to the three rounds of notification do not warrant the refusal of the application.
5. The site is suitable for the development, with appropriate conditions being imposed to address topography/excavation and stormwater management.
6. Given its degree of compliance, the development is not inconsistent with what is envisaged by the Ryde Local Environmental Plan 2014 and the Ryde Development Control Plan 2014 for the area and is in the public interest.

ITEM 2 (continued)**12. Recommendation**

- 1) That LDA No. LDA2018/0189 at 35 Buena Vista Avenue, Denistone be approved subject to the conditions in the attached draft consent.
- 2) The objectors be advised of the decision.

ATTACHMENTS

- 1 Draft Conditions of Consent
- 2 DCP Compliance Check
- 3 MOD2016/15 Approved Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER
- 4 Amended Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Tony Collier
Acting Senior Coordinator - Assessment

Report Approved By:

Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

ITEM 2 (continued)
DRAFT CONDITIONS (LDA2018/0189)

ATTACHMENT 1

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
Site Plan and Erosion & Sediment Controls	28/09/2018	17-37-Nas-2 Rev E
Basement Floor Level	28/09/2018	17-37-Nas-3 Rev E
Ground Floor Plan	28/09/2018	17-37-Nas-4 Rev E
First Floor Plan	28/09/2018	17-37-Nas-5 Rev E
Roof Plan and Driveway Gradient	28/09/2018	17-37-Nas-6 Rev E
Elevations (North & East)	28/09/2018	17-37-Nas-7 Rev E
Elevations (West and South)	28/09/2018	17-37-Nas-8 Rev E
Sections (A & C)	28/09/2018	17-37-Nas-9 Rev E
Section (B)	28/09/2018	17-37-Nas-10 Rev E
Schedule of External Finishes	28/09/2018	17-37-Nas-13 Rev E
Concept Landscape Plan	28/09/2018	17-37-Nas-16 Rev E
Geotechnical Report	17/10/2018	GS4565-1E
Waste Management Plan	Received: 15/05/2018	Not specified

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate numbered 911675S_02, dated 2 May 2018.
4. **Geotechnical Report.** All the recommendations contained in the Geotechnical Investigation Report prepared by Aargus Pty Ltd Ref No GS4565-1E dated 17 October 2018 shall be carried out during the construction.
5. **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.
6. **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

ITEM 2 (continued)

ATTACHMENT 1

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.

7. 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.

8. 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.

9. 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.

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

11. Tree protection – no unauthorised removal. This consent does not authorise the removal of trees unless specifically authorised by a condition of this consent. Trees shown on the approved plans as being retained must be protected against damage during construction.

12. Australian Standards. Any works approved by this consent must be carried out in accordance with all relevant Australian Standards.

13. 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.

14. Service Alterations. All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.

15. Restoration. Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage

ITEM 2 (continued)

ATTACHMENT 1

facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.

16. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) 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.
17. **Stormwater disposal.** Stormwater runoff from all impervious areas of the site is to be collected and piped to the existing or new underground stormwater drainage system in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.

PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

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

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

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21. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
22. **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.
23. **Reconstruction of Footpath Crossing.** The existing footpath crossing is not in accordance with Council specifications and is likely to dilapidate during construction of the development. Accordingly the driveway crossover must be replaced with a crossing which conforms with Council's requirements in terms of design, materials and construction details. Any adjoining sections of disturbed verge, footpath, kerb, etc must be restored to Council specifications. Finished levels shall conform with property alignment levels issued by Council's Public Works Division and all grades and gradient transitions must comply with AS 2890.1.
24. **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).
25. **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**.
26. **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.
27. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.
28. **Fencing.** Fencing is to be in accordance with Council's DCP 2014: Part 3.3 – Dwelling Houses and Dual Occupancy (attached) – Section 2.16 - Fences. Details of compliance are to be provided in the plans for the **Construction Certificate**.
29. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to Buena Vista Avenue, generally in accordance with the

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plans by SW-35 BUENA Sheet No.1, prepared by M.M. Farah Civil/Structural Pty Ltd, dated 10 March 2018, along with the following amendment; Two cleaning eyes into the OSD tank must be provided, as required within Part 1.4.10 of Council's DCP 2014.

The detailed plans, documentation and certification of the drainage system must be submitted with the application for a Construction Certificate and are to be 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 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 requirements of City of Ryde 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.

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

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

- a) Existing and final contours
- b) The location of all earthworks, including roads, areas of cut and fill
- c) Location of all impervious areas
- d) Location and design criteria of erosion and sediment control structures,
- e) Location and description of existing vegetation
- f) Site access point/s and means of limiting material leaving the site
- g) Location of proposed vegetated buffer strips
- h) Location of critical areas (drainage lines, water bodies and unstable slopes)
- i) Location of stockpiles
- j) Means of diversion of uncontaminated upper catchment around disturbed areas
- k) Procedures for maintenance of erosion and sediment controls
- l) Details for any staging of works
- m) Details and procedures for dust control.

The ESCP must be submitted with the application for a Construction Certificate. This condition is imposed to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

ITEM 2 (continued)
PRIOR TO COMMENCEMENT OF CONSTRUCTION

ATTACHMENT 1

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.

31. Site Sign

- a. A sign must be erected in a prominent position on site, prior to the commencement of construction:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- b. Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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

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

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

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

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ATTACHMENT 1

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

34. Excavation adjacent to adjoining land

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

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

36. Pre-commencement dilapidation report. The submission of a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties namely No. 33 and No. 37 Buena Vista Avenue, and public infrastructure (including roads, gutters, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining private properties, prior to the commencement of construction.

37. 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. Any doors/ gates on the boundary must be installed so they do not open onto any footpath.

38. 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 Engineering Public Works. 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.

39. Footpath Paving Construction. The applicant shall, at no cost to Council, construct standard concrete footpath paving across the frontage of the property. Levels of the footpath paving shall conform with levels issued by Council's Engineering Services Division.

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ATTACHMENT 1

40. **Full Width Footpath Paving Construction.** The applicant shall, at no cost to Council, construct full width concrete paving across the full frontage of the property. Levels of the footpath paving shall conform with levels issued by Council's Public Works Division.

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.

41. **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*.
42. **Noise from construction work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from construction and earthworks.
43. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
44. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
45. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- a) Fill is allowed under this consent;
 - b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - c) The material is reused only to the extent that fill is allowed by the consent.
46. **Construction materials.** All materials associated with construction must be retained within the site.
47. **Site Facilities**
The following facilities must be provided on the site:
- (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
48. **Site maintenance**

ITEM 2 (continued)

ATTACHMENT 1

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.
49. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 “Traffic Control Devices for Work on Roads”.
50. **Erosion and Sediment Control.** The applicant shall install erosion and sediment control measures in accordance with Construction Certificate submission 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. Where construction works deviate from the plan, soil erosion and sediment control measures are to be implemented in accordance with the above referenced document.
51. **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 SW-35 BUENA Sheet No.1, prepared by M.M. Farah Civil/Structural Pty Ltd, dated 10 March 2018 submitted in compliance to the condition labelled “Stormwater Management.”

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.

ITEM 2 (continued)**ATTACHMENT 1**

52. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate numbered 911675S_02, dated 2 May 2018.
53. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.
54. **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.
55. **Offensive noise.** The use of any equipment on the premises (air conditioning motors or the like) must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.
56. **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 Councils satisfaction, prior to the issue of any Occupation Certificate.
57. **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 the onsite detention system) and finished surface levels which convey stormwater runoff.
58. **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 terms for these systems as specified in City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7, and to the satisfaction of Council, and are to be registered on the title prior to the release of the Occupation Certificate for that title.
59. **Post-construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all properties, 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**.

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ATTACHMENT 1

60. **On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with City of Ryde 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).
61. **Compliance Certificates – Engineering.** 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 the City of Ryde DCP 2014, Part 9.3 “Car Parking”.
 - b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with the City of Ryde DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures (including OSD tank components) 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 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 the City of Ryde DCP 2014, Part 8.1 “Construction Activities”.
 - d) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council’s satisfaction.

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.

62. **Single dwelling only.** The dwelling is not to be used or adapted for use as two separate domiciles or a boarding house.
63. **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).

End of conditions

ITEM 2 (continued)

ATTACHMENT 2

Compliance Check - Quality Certification

Assessment of a new two storey dwelling and retaining walls

LDA No: LDA2018/0189	Date Plans Rec'd: 4 October 2018
Address: 35 Buena Vista Avenue, Denistone	
Proposal: New two storey dwelling and retaining walls	
Constraints Identified: Urban Bushland, Landslip, Denistone Character Area	

COMPLIANCE CHECK (APPLICABLE CONTROLS)

Ryde LEP 2014	Proposal	Compliance
4.3(2) Height		
9.5m	(Rear) Max ridge = RL91.272 EGL (lowest point) = RL83.5 Height = Max. 7.77m (Mid-section/gable end) Max ridge = RL90.746 EGL (lowest point) = RL82.7 – RL83 Height = Max. 8.05m (Front) max ridge = RL89.851 EGL (lowest point) = RL81.3 – RL81.4 Height = 8.56m	Yes
4.4(2) & 4.4A(1) FSR		
Site = 716.7sqm (by survey) 0.5:1 (max. GFA = 357.26sqm)	Basement = 11.71sqm GFL = 197.74.38sqm FFL = 142.11sqm Excludes 36sqm double garage and basement storage area Total GFA = 347.56sqm FSR = 0.485:1	Yes

DCP 2014	Proposed	Compliance
Part 3.3 - Dwelling Houses and Dual Occupancy (attached)		
Desired Future Character		

ITEM 2 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<p>Development is to be consistent with the desired future character of the low density residential areas.</p>	<p>Site is within Denistone Character Area.</p> <p>A character test has been conducted in accordance with the Planning Principles established under the NSW Land and Environment Court.</p> <p>The test found that, in the context of the Planning Principle, the proposal was considered to be compatible with the character of the local area and surrounding wider locality.</p>	<p>Yes</p>
Dwelling Houses		
<ul style="list-style-type: none"> • To have a landscaped setting which includes significant deep soil areas at front and rear. • Maximum 2 storeys. • Dwellings to address street • Garage/carports not visually prominent features. 	<p>Front and rear gardens proposed. Front garden compromised by existing driveway and steps.</p> <p>Maximum 2 storeys at any point through section.</p> <p>Front entry and lounge room window faces street.</p> <p>Garage is visually prominent however this is an existing situation and is typical of dwellings in the Denistone Character Area</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Public Domain Amenity		
<p>Streetscape</p> <ul style="list-style-type: none"> • Front doors and windows are to face the street. Side entries to be clearly apparent. • Single storey entrance porticos. • Articulated street facades. 	<p>Front entry and living room window faces street</p> <p>Provided.</p> <p>Articulated street façade.</p>	<p>Yes</p>
Public Views and Vistas	No views unreasonably	Yes

ITEM 2 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<p>A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views. Garages/carports and outbuildings are not to be located within view corridor if they obstruct view.</p>	<p>obstructed.</p>	
<p>Pedestrian & Vehicle Safety</p> <ul style="list-style-type: none"> • Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard. • Fencing that blocks sight lines is to be splayed. 	<p>Garage setback and permits adequate sightlines.</p> <p>No front fencing proposed</p>	<p>Yes</p>
<p>Site Configuration</p>		
<p>Deep Soil Areas</p> <ul style="list-style-type: none"> • 35% of site area min. • Min 8x8m deep soil area in backyard. • Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). 	<p>299.49m² approx (41.8% of site area).</p> <p>8.0m x 8.0m provided in backyard.</p> <p>Front DSA: Front yard area deep soil area is maximised. Driveway and steps. No additional impervious area.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>Topography & Excavation</p> <p>Within building footprint:</p> <ul style="list-style-type: none"> • Max cut: 1.2m • Max fill: 900mm <p>Outside building footprint:</p> <ul style="list-style-type: none"> • Max cut: 900mm 	<p><u>Within building footprint</u></p> <p>Max cut:</p> <ul style="list-style-type: none"> • 2.19m to 3.67m (Basement carparking) • 0.7m (Rear terrace) <p>Max fill:</p> <ul style="list-style-type: none"> • 1.47m (centre of the building) <p><u>Outside Building footprint</u></p>	<p>No</p> <p>Yes</p> <p>No</p> <p>No</p>

ITEM 2 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> • Max fill: 500mm • No fill between side of building and boundary or close to rear boundary • Max ht retaining wall 900mm 	Max cut: <ul style="list-style-type: none"> • 1.67m (retaining wall) Max fill: <ul style="list-style-type: none"> • No fill proposed. 	
Height		
2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL).	Maximum 2 storeys at any point through section.	Yes
1 storey maximum above attached garage incl semi-basement or at-grade garages.	Garage is well forward of dwelling and has two storeys above (at the norther half of the dwelling only)	No
Wall plate (Ceiling Height) <ul style="list-style-type: none"> • 7.5m max above FGL 	TOW RL: 89.04 FGL below (lowest point): RL: 84.5 FGL below (highest point): RL: 81.66 TOW Height (min)= 4.54m TOW Height (max)= 7.38m	Yes
Habitable rooms to have 2.4m floor to ceiling height (min).	2.6m – 2.75m min room height	Yes
Setbacks		
Side	<u>North</u> Ground: 1.44m to 1.65m Upper: 1.87m to 2.13m <u>South</u> Ground: 1.5m to 4.5m Upper: 2.0m to 4.5m	Yes
<ul style="list-style-type: none"> • The outside walls of a one storey dwelling are to be set back from the side boundaries not less than 0.9m. • The outside walls of a two storey dwelling are to be set back from side boundaries not less than 1.5m.” 		
Front		
<ul style="list-style-type: none"> • 6m to façade (generally) 	9.48m to 15.32m	Yes
<ul style="list-style-type: none"> • Garage setback 1m from the dwelling façade 	Garage set forward 2.4m of facade	No

ITEM 2 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> Wall above is to align with outside face of garage below. Front setback free of ancillary elements eg RWT, A/C 	<p>Walls above align</p> <p>Front setback is free of such elements</p>	<p>Yes</p> <p>Yes</p>
<p>Rear</p> <ul style="list-style-type: none"> 8m to rear of dwelling or 25% of the length of the site, whichever is greater. <p>Note: Site length is 49.875m (N side) and 52.16m (S side). 25% = 12.46m/13.04m</p>	<p>Dwelling: 12.72m to 14.51m</p> <p>Alfresco: 8.4m to 9.8m</p>	<p>Yes</p> <p>No</p>
Car Parking & Access		
<p>General</p> <ul style="list-style-type: none"> Dwelling: 2 spaces max, 1 space min. Max 6m wide or 50% of frontage, whichever is less. Behind building façade. 	<p>Existing garage = 2 spaces</p> <p>No secondary street frontage</p> <p>External width: 5.559m</p> <p>Forward of building facade</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p>
<p>Garages</p> <ul style="list-style-type: none"> Garages setback 1m from façade. Total width of garage doors visible from public space must not exceed 5.7m and be setback not more than 300mm behind the outside face of the building element immediately above. Garage windows are to be at least 900mm away from boundary. Materials in keeping or complimentary to dwelling. 	<p>Setback from façade: 2.4m in front of façade</p> <p>Width of opening: 5.8m</p> <p>Door setback: 0mm</p> <p>No windows proposed</p> <p>Materials: consistent with new dwelling.</p>	<p>No</p> <p>No</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>
<p>Parking Space Sizes (AS)</p> <ul style="list-style-type: none"> Double garage: 5.4m wide (min) Internal length: 5.4m (min) 	<p>Internal measurements: 5.8m x 6.5m</p>	<p>Yes</p>
<p>Driveways</p> <p>Extent of driveways minimised</p>	<p>One new driveway proposed to replace existing driveway</p>	<p>Yes</p>

ITEM 2 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
Landscaping		
Trees & Landscaping		
<ul style="list-style-type: none"> • Major trees retained where practicable • Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL eg. stairs, terraces. • Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access) • Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy. • Back yard to have at least 1 tree with mature ht of 15m min and a spreading canopy. • Hedging or screen planting on boundary mature plants reaching no more than 2.7m. • OSD generally not to be located in front setback unless under driveway. 	<p>No major trees present</p> <p>Alfresco area provided</p> <p>Obstruction free access available on both sides.</p> <p>Condition</p> <p>Condition</p> <p>Screen planting to rear</p> <p>OSD proposed in front setback below landscaping and driveway due to topography</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Condition</p> <p>Condition</p> <p>Yes</p> <p>Yes</p>
Landscaped front garden, with max 40% hard paving	Front setback 6.0m x 13.715 = 82.29m ² Total landscaping in front setback = 59.38 ² Total hard paving in front setback = 22.91m ² (27.84%)	Yes
Landscaping for lots with Urban Bushland constraints Where lot is adjoining bushland protect, retain and use only native indigenous vegetation for distance of 10m from bdy adjoining bushland.	No native species to preserve. Landscaping plan introduces native species on the site.	Yes

ITEM 2 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
Dwelling Amenity		
<p>Daylight and Sunlight Access</p> <ul style="list-style-type: none"> Living areas to face north where orientation makes this possible. 4m side setback for side living areas where north is to the side allotment boundary. <p><u>Subject Dwelling:</u></p> <ul style="list-style-type: none"> Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21. Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21. <p><u>Neighbouring properties are to receive:</u></p> <ul style="list-style-type: none"> 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21. At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	<p>Dwelling generally oriented east-west. Family room located on north-western side.</p> <p>Main family room window is to the alfresco on western side.</p> <p>North facing windows receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21.</p> <p>POS – receives 6 hours sunlight between 9am and 3pm (unaffected by proposal)</p> <p>6 hours of sunlight to adjoining principal open space – shadow diagrams show shadows predominantly fall on the adjoining dwelling and front setback.</p> <p>Hours of sunlight to adjoining living area windows: 3 hours</p>	<p>Yes</p>
<p>Visual Privacy</p> <ul style="list-style-type: none"> Orientate windows of living areas, balconies and outdoor living areas to the 	<p>– Windows to the GF family and kitchen are to the rear & dining/lounge are to the</p>	<p>Yes</p>

ITEM 2 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
front and rear of dwelling. <ul style="list-style-type: none"> • Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space. • Side windows offset from adjoining windows. • Terraces, balconies etc are not to overlook neighbouring dwellings/private open space. 	front. <ul style="list-style-type: none"> - As above - Side windows are generally small and would not cause adverse privacy. - Rear alfresco is cut below NGL Acceptable. 	
Acoustic Privacy Layout of rooms in dual occupancies (attached) are to minimise noise impacts between dwellings eg: place adjoining living areas near each other and adjoining bedrooms near each other.	Minimal acoustic impacts expected.	Yes
View Sharing The siting of development is to provide for view sharing.	Provides for view sharing	Yes
Cross Ventilation Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation.	Acceptable	Yes
External Building Elements		
Roof <ul style="list-style-type: none"> • Articulated. • 450mm eaves overhang minimum. • Not to be trafficable terrace. <ul style="list-style-type: none"> • Skylights to be minimised and placed symmetrically. • Front roof plane is not to have both dormer windows 	Sufficient articulation 300mm to 450mm (variable) overhang. Acceptable No trafficable terrace provided to roof. Large balcony to front is not supported. None proposed	Yes

ITEM 2 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
and skylights.		
Fencing		
Front/return: <ul style="list-style-type: none"> - To reflect design of dwelling. - To reflect character & height of neighbouring fences. - Max 900mm high for solid (picket can be 1m). - Max 1.8m high if 50% open (any solid base max 900mm). - Retaining walls on front bdy max 900mm. - No colorbond or paling Max width of piers 350mm. 	No front/return fencing proposed.	Yes
Side/rear fencing: <ul style="list-style-type: none"> - 1.8m max o/a height. 	Not specified. Condition.	Yes
Part 7.2- Waste Minimisation & Management		
Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2014.	The applicant has submitted a Waste Management Plan in accordance with Part 7.2 of DCP 2014.	Yes
Part 8.2 - Stormwater Management		
Stormwater & Floodplain Management		
Drainage is to be piped in accordance with Part 8.2 - Stormwater & Floodplain Management.	See Development Engineer comments	Yes
Part 9.5 – Tree Preservation		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the	Proposal involves minimal tree removal on this site.	Yes

ITEM 2 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
driveway.		

Summary of Issues/Non compliances:

Part 3.3 – Dwelling Houses and Dual Occupancy (Attached)

Clause 2.6.2 – Topography and Excavation (cut and fill)

Clause 2.9.1 – Front Setback (Garage) & Rear Setback (Alfresco)

Clause 2.11 – Car Parking and Access (Garage located forward of building façade)

Certification

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

Name

Signature

Date

3 5 FARNELL STREET, WEST RYDE - DEMOLITION, NEW TWO STOREY DUAL OCCUPANCY (ATTACHED) - LDA2018/0107
Report prepared by: Acting Senior Coordinator - Development Assessment

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

Report dated: 5/02/2019

File Number: GRP/09/6/12/1/2 - BP19/85

**City of Ryde
Local Planning Panel Report**

DA Number	LDA2018/0107
Site Address & Ward	5 Farnell Street, West Ryde West Ward
Zoning	R2 Low Density Residential under RLEP 2014
Proposal	Demolition; new two storey dual occupancy (attached)
Property Owner	Robert Trovato & Melissa A Trovato
Applicant	Robert Trovato Melissa Antonetta Trovato
Report Author	Madeline Thomas – Assessment Officer
Lodgement Date	14 March 2018
No. of Submission	<ul style="list-style-type: none"> • One (1) submission and two (2) petitions containing 33 and 59 signatures respectively in the first public notification period. • Fifteen (15) submissions received objecting to the development in the second public notification period.
Cost of Works	\$837,000.00
Reason for Referral to RLPP	Contentious Development – Development is the subject of 10 or more unique submissions by way of objection.
Recommendation	Approval

ITEM 3 (continued)

Attachments	Attachment 1 – Draft Conditions of Consent Attachment 2 – Compliance Table Attachment 3 – Architectural Plans
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1. Executive Summary

The following report is an assessment of a development application for the demolition of the existing dwelling and the construction of a new two storey dual occupancy (attached) at No. 5 Farnell Street, West Ryde.

The application was lodged on the 14 March 2018. During the two separate notification periods, Council received one (1) submission and two (2) petitions containing 33 and 59 signatures respectively to the original notification period and fifteen (15) submissions for the second notification period. All of the submissions objected to the development. The issues raised in the submissions related to concerns with the rear setback, floor space ratio, building height and overshadowing. These matters are addressed in full detail in Section 9 of this report.

The proposal has been amended on several occasions since it was lodged in order to address a number of non-compliances with Council's controls and submissions raising concern in respect to the front setback and bulk of the proposed building.

The proposal does not result in unacceptable impacts to the surrounding properties in respect to their amenity.

The development has been assessed in respect of the relevant planning instruments and the application is non-compliant with the following:

Ryde Development Control Plan 2014 (Part 3.3 – Dwelling Houses and Dual Occupancy (Attached))

- The development fails to comply with the Ryde Development Control Plan (RDCP) 2014 in regard to the rear deep soil area, which requires an 8m x 8m area in the backyard. This is considered acceptable given the site is still capable of absorption of stormwater runoff and mature tree planting.
- The development fails to comply with the RDCP 2014 requirement in respect to the rear setback. The RDCP 2014 requires a rear setback of 8m or 25% of the average site length, whichever is greater. In this instance, the required setback is 8.89m, whereas the proposal has a rear setback of 6m. This is considered acceptable, as the site backs on to a reserve and does not create any adverse privacy impacts on adjoining properties. Additionally, the proposal is within the West Ryde Special Development Area, and is required to have a 12m front setback. Given the increased front setback, a reduced rear setback is considered to be a suitable design solution, as the proposal is of appropriate bulk and scale.
- The development results in a combined width of each single garage space of each dwelling being 6.5m. The RDCP 2014 requires the garages to have a

ITEM 3 (continued)

maximum width of 6m, meaning the proposal is not compliant with this control.

This is considered acceptable as the non-compliance is minor, and the proposed building has adequate articulation so that the garage is not a prominent feature.

- The development fails to comply with the RDCP 2014 requirement in respect to the size of the trees planted in the rear setback. The RDCP 2014 requires a tree with a minimum height of 15m to be planted in the rear yard. The application proposes two crepe myrtle trees with a mature height of 6m, and therefore does not comply with this control. This is considered acceptable given the site backs onto a Council reserve with several mature trees meeting the required height of 15m within close proximity of the site.
- The development fails to comply with the RDCP 2014 requirement in respect to overshadowing of the north facing window of the adjoining property to the south. This is considered acceptable given the minor non-compliance proposed, and that the amenity of adjoining neighbour will not be unreasonably compromised.

Following an assessment of the development application, it is considered that these non-compliances are acceptable on planning grounds.

The development is considered to be consistent with the desired future character of the precinct as identified in the relevant planning instruments.

The development application is therefore recommended for approval subject to appropriate conditions of consent provided in Attachment 1 of this report.

2. The Site and Locality

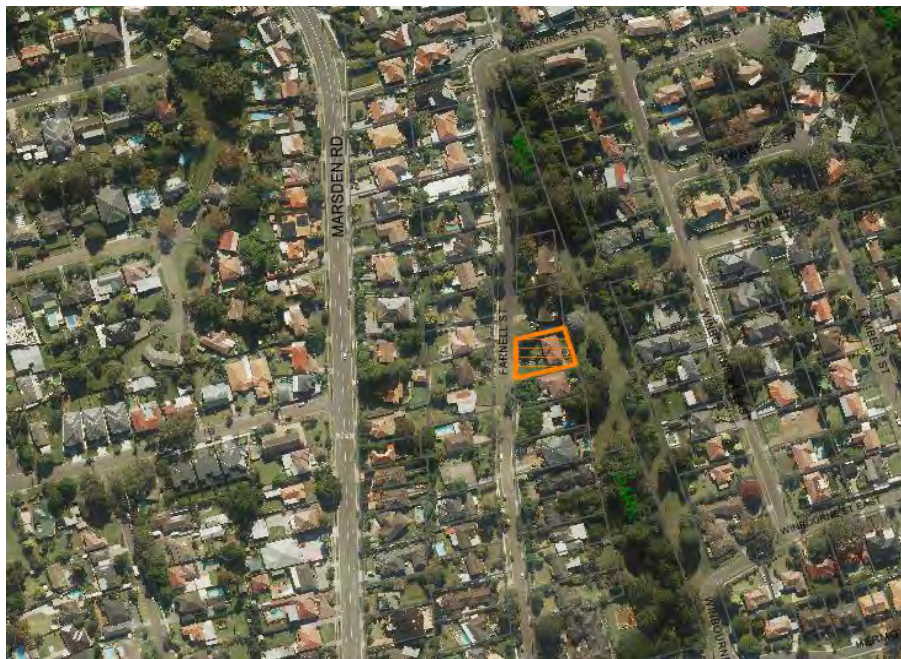


Figure 1: Aerial view of the subject site in its context

ITEM 3 (continued)

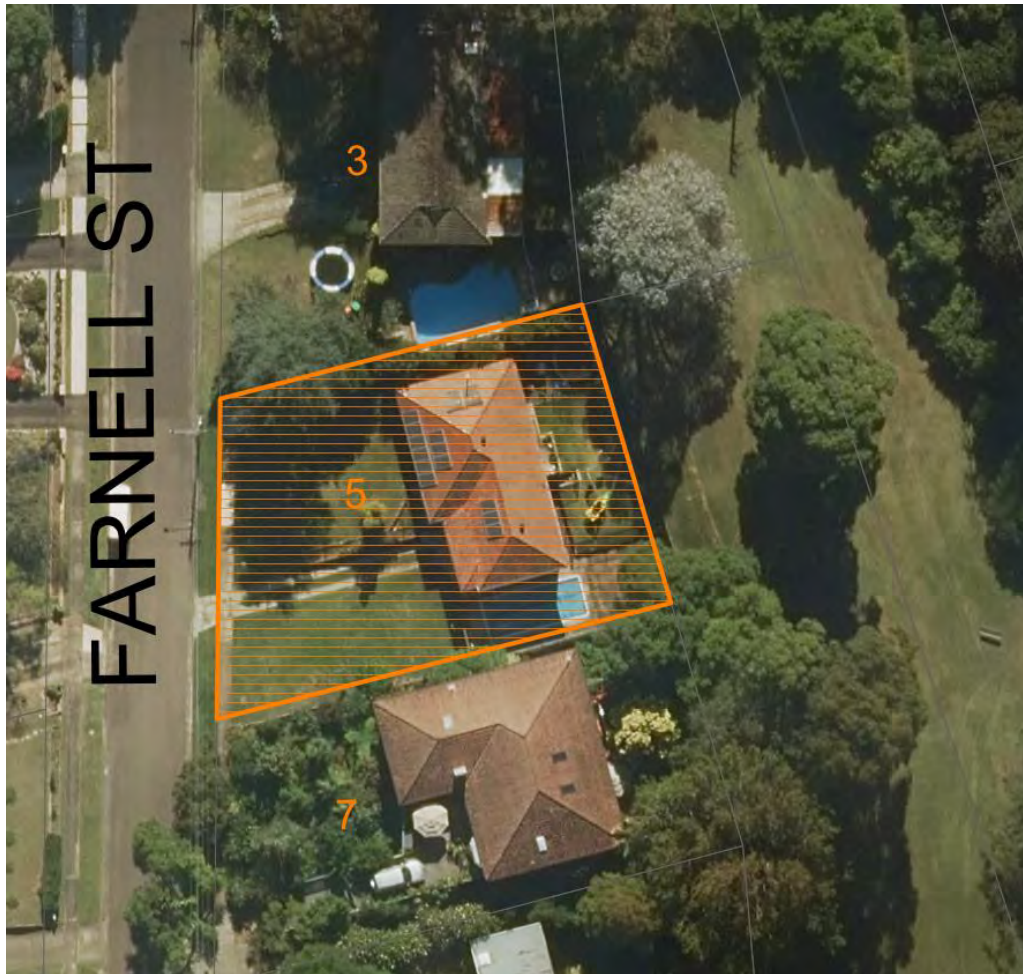


Figure 2: Aerial view of the subject site and immediate surrounds

The site is located on the eastern side of Farnell Street, West Ryde, and is legally known as Lot 8 in DP 618972, No. 5 Farnell Street, West Ryde.

The site is slightly irregular rectangular shape, with a splayed front boundary of 27.54m following the alignment of Farnell Street, and has an area of 941.9m². The northern (side boundary) has a length of 31.46m and the southern boundary has a length of 39.625m, giving an average site length of 35.54m.

Currently, the site accommodates a part single/two storey brick dwelling and swimming pool. The existing dwelling is setback approximately 15m from the front boundary, and is similar to the prevailing 12m or greater front setback throughout Farnell Street and the West Ryde Special Development Area. Landscaping consists of planted species within a domestic setting.

The site adjoins Bell Park at the rear, as shown in **Figure 1**. Bell Park contains several mature trees scattered within close proximity of the subject site, as shown in **Figure 6**.

ITEM 3 (continued)

The site slopes from the western (front) and northern (side) boundary (RL 57.7 – RL 58.38) to the south east corner of the site (RL 55.41m) by approximately 3m.

Surrounding development includes detached dwellings varying in age, scale and architectural style. As noted above, the site is within the West Ryde Special Development Area, which consistently has dwellings with front setbacks of 12m or more.

Figure 1 above shows the site in its context.

Figures 3 to 8 show photographs of the subject site and surrounds.



Figure 3: View of existing dwelling from Farnell Street.

ITEM 3 (continued)



Figure 4: View at rear of existing dwelling.



Figure 5: View at rear of site towards No. 7 Farnell Street to the south.

ITEM 3 (continued)



Figure 6: View towards Bell Park at rear of subject site.



Figure 7: View of detached dwellings with large front setbacks on western side of Farnell Street

ITEM 3 (continued)



Figure 8: View of detached dwellings with large front setbacks on eastern side of Farnell Street

3. The Proposal

The proposal is for the demolition of the existing dwelling and construction of a new two storey dual occupancy (attached).

ITEM 3 (continued)

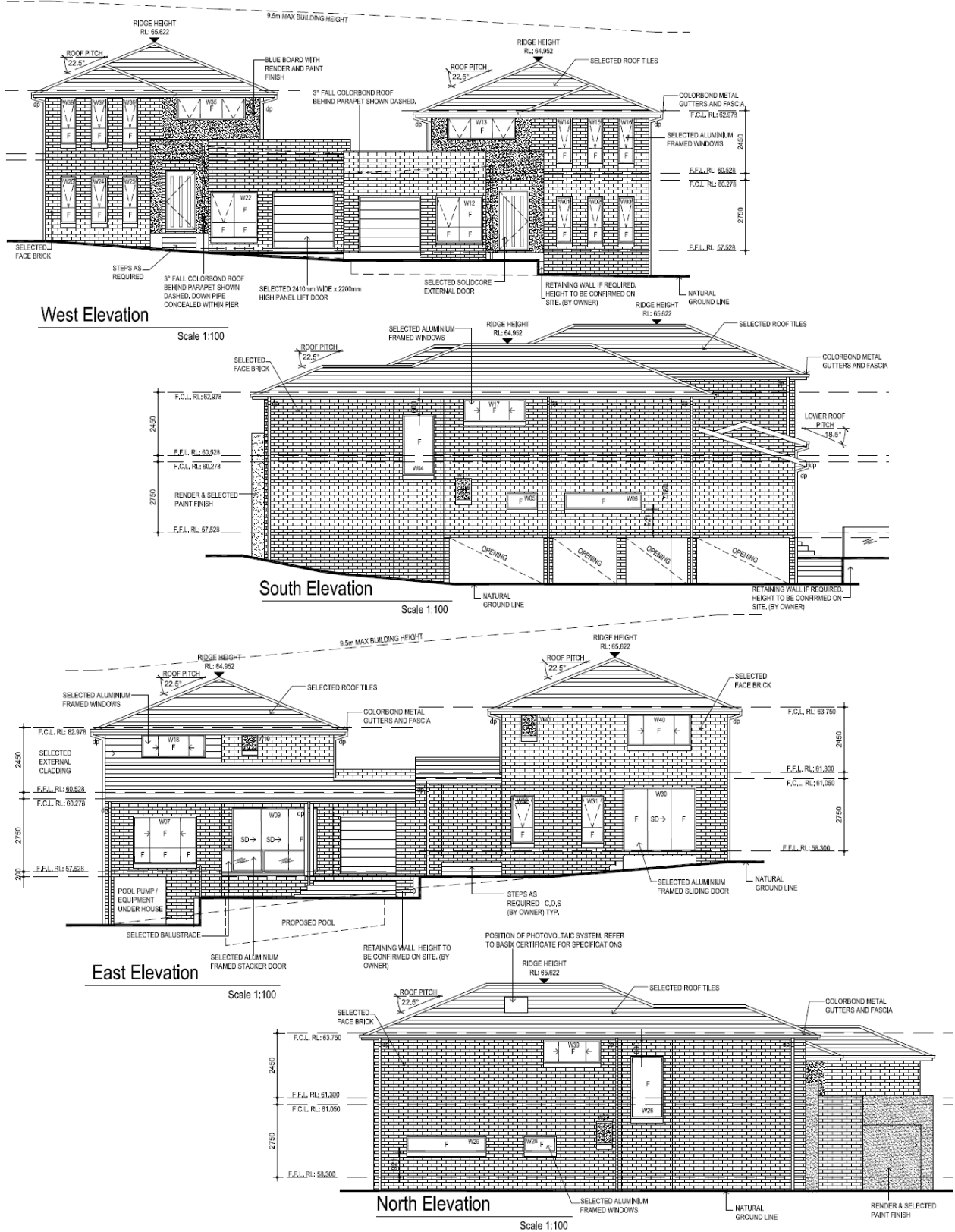


Figure 9: Elevations of the original plans submitted with the application

ITEM 3 (continued)

Figure 9 above shows the development as originally submitted to Council. It is noted that several design changes have occurred during the assessment of this application, and the proposed development in its current state is detailed as follows:

Unit 1

Ground Floor

Unit 1 is located on the southern side of the site, and is two storeys in height.

Unit 1 has a single garage, with additional storage, which is accessed from a separate driveway from Farnell Street.

The ground floor also contains a theatre room, bathroom, laundry and open living/dining/kitchen area. This area opens on to a raised alfresco area at the rear of the unit.

A sub-floor area is located at the southern side of the building and includes an open undercroft entertainment area. The remainder of the sub-floor area is enclosed and consists of sloping soil at natural ground level which rises to the northern side of the site (below Unit 2).

First Floor

The first floor of Unit 1 contains four bedrooms and two bathrooms. The first floor component is predominantly located on the northern side of the unit, so that the building height is reduced near the boundary.

Unit 2

Ground Floor

Unit 2 is located on the northern side of the site, and is two storeys in height. Unit 2 has a single garage, with additional storage, which is accessed from a separate driveway from Farnell Street. The ground floor also contains a theatre room, bathroom, laundry and open living/dining/kitchen area. This area opens on to a raised alfresco area at the rear of the unit.

First Floor

The first floor of Unit 2 contains four bedrooms and two bathrooms. The first storey component of Unit 2 is located on the northern side of the unit, creating a separation between the first floor components of the dual occupancy (attached).

Figure 10 below shows the elevations of the proposed development.

ITEM 3 (continued)

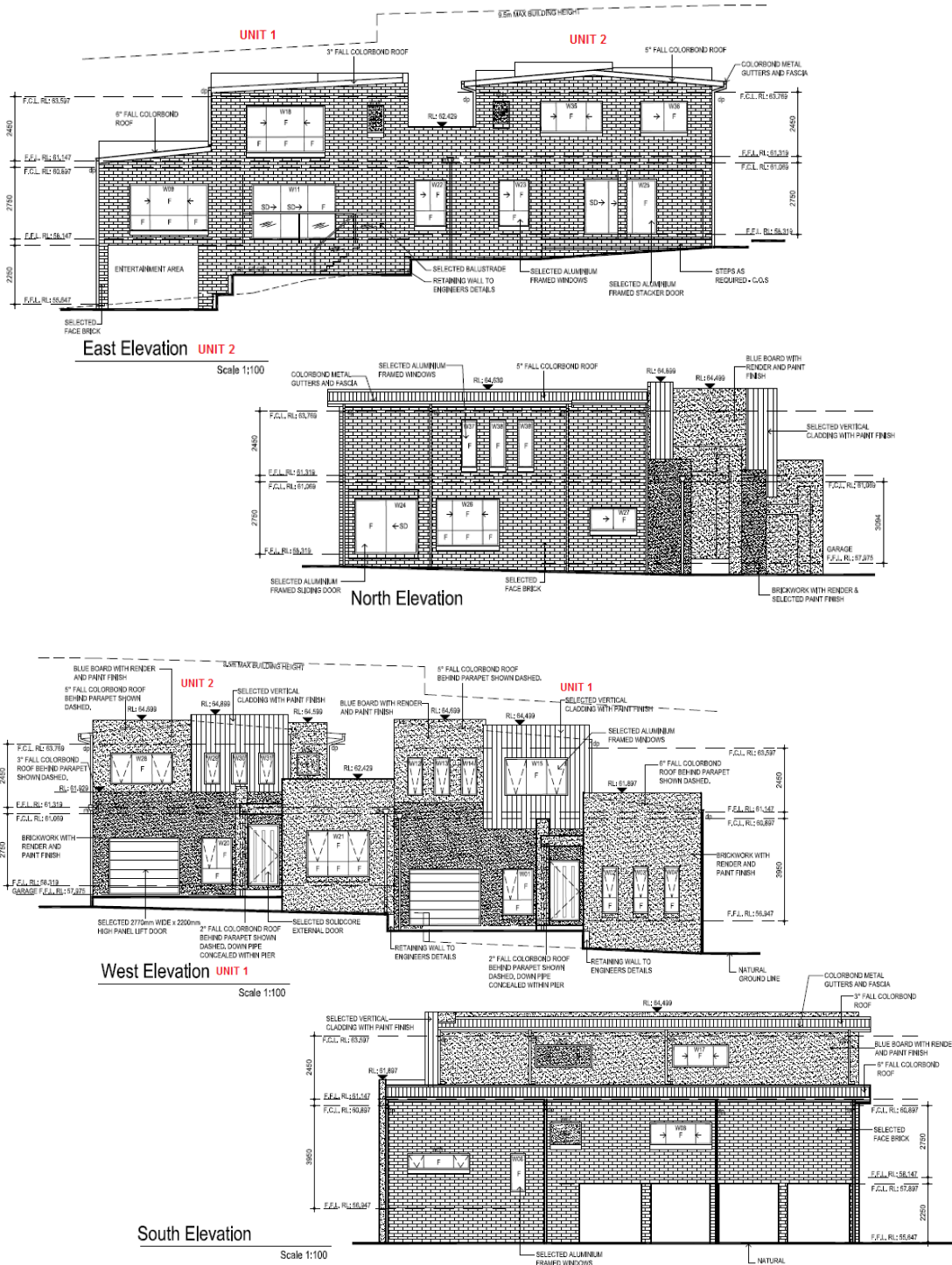


Figure 10: Elevations of proposed dual occupancy.

ITEM 3 (continued)**4. Background**

The development application was submitted to Council on 14 March 2018.

26 April 2018

A letter was sent to the applicant on 26 April 2018 which requested that a separate application be made to drain stormwater through the Council reserve at the rear of the property.

The applicant made this application following the receipt of this letter, and approval was granted by Council's City Works Department to allow the applicant to drain over Council Property. Council's Drainage Engineer has included the required conditions in their referral response to this application in regard to details of the design within Council land.

21 May 2018

An additional letter was sent to the applicant on 21 May 2018 raising various issues with the application. These issues included:

- The site is within the West Ryde Special Development Area (as identified within Part 3.3 of the RDCP 2014) and therefore requires a minimum 12m front setback. The proposal originally proposed a 6m front setback, which was well forward of the established building line in Farnell Street, and was considered to be unsympathetic to the street character and would create an undesirable precedent for future development in the Development Area.
- The plans did not demonstrate that the proposal was compliant with Section 2.14.1 – Daylight and Sunlight Access – of the RDCP 2014 in regard to the adjoining north facing windows of No. 7 Farnell Street.
- The proposed building height exceeded the maximum building height of 9.5m for the site. The applicant was advised that the building height needed to be lowered or a Clause 4.6 variation request needed to be submitted.

29 May 2018

The applicant was advised that insufficient information had been provided to demonstrate that the application complied with Ryde Council's Development Control Plan (RDCP) 2014 with regard to solar access the north facing living room window of the adjoining property at No. 7 Farnell Street.

5 July 2018

A letter was sent to the applicant requesting an arborist report be provided to assess the impact the proposed stormwater design on the trees within the reserve at the rear of the site. This report was provided on the 14 August 2018.

ITEM 3 (continued)13 August 2018

Amended plans were provided by the applicant to address the non-compliant front setback and building height, as follows:

- Front setback was increased to a minimum of 12m to comply with the RDCP 2014.
- As a result, the rear setback was decreased to 6m.
- Other minor design changes were included to facilitate the increased front setback.

On 13 August 2018, the applicant was advised that the design of the amended building was not acceptable for the following reasons:

- Lack of building articulation;
- Inappropriate roof form; and
- Presentation of large blank wall on southern elevation.

Subsequently, the applicant was requested to amend the plans prior to their re-notification.

17 August 2018

The applicant provided amended stormwater plans to reflect the changes made in the architectural plans.

25 September 2018

A meeting was held with Council and the applicant to discuss the unresolved issues regarding the overshadowing of the adjoining property at No. 7 Farnell Street.

It was decided that amended plans were required to be submitted that substantially reduced the height of Unit 1 (closest to the southern boundary) in order to increase the solar access to the north facing windows of No. 7 Farnell Street.

3 December 2018

Amended plans were received from the applicant to address the above. These changes included:

- The removal of the proposed pool;
- Change in roof pitch;
- Changes in materials and finishes to provide more articulation; and

ITEM 3 (continued)

- Changes in second storey configuration to reduce height of the building near the southern boundary.

These plans satisfactorily addressed the above requests for additional information, as outlined below:

- The reduction in the building height increased the sunlight received by the north facing living room window of No. 7 Farnell Street.
- Whilst the amended plans, which have a 6m rear setback, do not comply with the required 8m rear setback, the removal of the pool ensures adequate deep soil area and landscaping is provided, and is therefore considered acceptable.
- The changes to the building materials and finishes included more varied materials which satisfactorily provided more building articulation.

The amended plans had sufficient changes to justify re-notification to adjoining neighbours, and are the subject of this report.

5. Planning Assessment

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

5.1 State Environmental Planning Instruments

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

An amended BASIX Certificate (see Certificate No. 909740M_03 dated 08 August 2018) has been submitted with the application.

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

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

An appropriate condition (See **Conditions 3** and **73**) is included in the draft conditions to ensure this is addressed.

State Environmental Planning Policy No. 55 – Remediation of Land

ITEM 3 (continued)

In accordance with Clause 7 of SEPP 55, 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 site has historically been used for a low density residential use and is not located in close proximity to any known contaminated land.

Therefore, it is considered that the subject site satisfies the requirements of SEPP 55 with regard to the proposed development.

5.2 Ryde Local Environmental Plan 2014 (RLEP 2014)

RLEP 2014 commenced on 12 September 2014 as the new environmental planning instrument applicable to the City of Ryde.

Under RLEP 2014, the property is zoned R2 Low Density Residential, and the proposed development 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 zone include the following:

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

Comment

The development will provide for the housing needs of the community within a low density residential development.

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

Comment

This objective is not applicable to the proposed development.

- *To provide for a variety of housing types.*

Comment

The provision of dual occupancy development will satisfy the objective for providing an additional dwelling on the site.

The proposal is considered to be consistent with the above objectives as the development contributes to the variety of housing within the West Ryde area.

ITEM 3 (continued)
Part 4 – Principle Development Standards

Clause	Proposed	Compliance
4.3(2) Height of Buildings		
9.5m	8.41m	Yes See discussion beneath this table
4.1(B) Minimum lot sizes for dual occupancies and multi dwelling housing		
580m ² 20m frontage	941.9m ² 27.54m	Yes See discussion beneath this table
4.4(2) & 4.4A(1) Floor Space Ratio		
0.5:1 (470.95m ²)	465.5m ² 0.494:1	Yes See discussion beneath this table

Clause 4.1B – Minimum lot sizes for dual occupancies and multi dwelling housing

Clause 4.1B state that the minimum lot size for a site is required to be 580m² to permit a dual occupancy (attached) if it is land zoned R2 Low Density Residential. The clause also states that a minimum road frontage of 20m is required for sites proposing a dual occupancy (attached) development.

The subject site (No. 5 Farnell Street) has a lot size of 941.9m², and a frontage of 27.54m to Farnell Street, and therefore satisfies this development standard.

Clause 4.3 - Height of Buildings

Clause 4.3(2) states that the height of a building on this site is not to exceed the maximum height shown on the Height of Buildings Map.

The map specifies the maximum height for any building on the site as 9.5m. Building height is defined in this planning instrument as meaning the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The proposed development responds to the site's topography, which has a cross slope to the southern side, and is stepped down the site, as identified in **Figure 10** below.

Therefore, multiple measurements for the height of the building are assessed as part of this application.

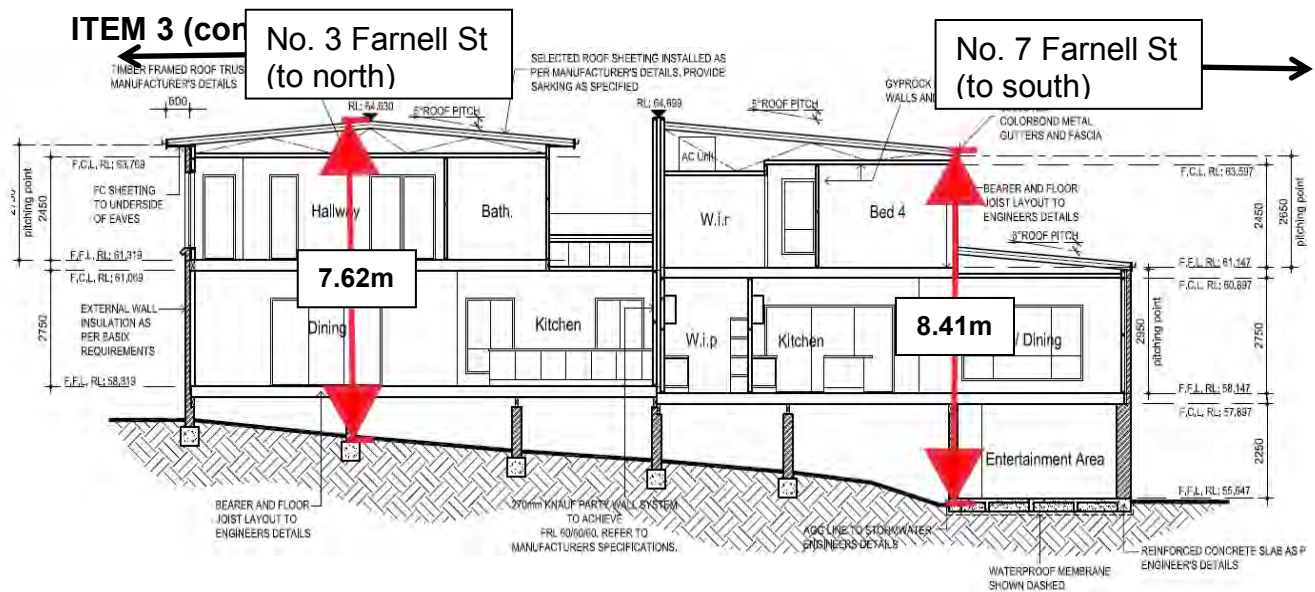


Figure 11: Elevations of proposed development illustrating compliance with height control.

Unit 2

The proposed dual occupancy results in a building with a height of 7.82m from the ridge of the roof for Unit 2 on the northern side of the dwelling to the existing ground level as illustrated in **Figure 11**.

Unit 1

As mentioned previously in this report, the site slopes to the southern boundary. The roof above the lowest existing ground level for Unit 1 measures to a height of 8.41m. It is noted that the section of Unit 2 closest to the southern boundary is reduced in height by 3.05m from the highest point of the dwelling, having a building height of 5.63m.

Given the maximum height of the dual occupancy is 8.41m, the development complies with the maximum building height development standard under Clause 4.3 of the RLEP 2014.

Clause 4.4 Floor Space Ratio

Clause 4.4(2) states the floor space ratio (FSR) of a building is not to exceed the maximum specified on the FSR Map. The FSR Map specifies a maximum FSR of 0.5:1 for the site.

The site has an area of 941.9m², and therefore, the maximum gross floor area permitted for the site is 470.95m².

The RLEP 2014 defines *gross floor area* as the following:

ITEM 3 (continued)

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:
 - (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
 - (h) any space used for the loading or unloading of goods (including access to it), and
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and
 - (j) voids above a floor at the level of a storey or storey above.

The proposed development results in the following gross floor area:

- Ground floor: 300.5m²
- First Floor: 201m²
- 501.5m² (minus) 36m² (garage)
- **Total GFA = 465.5m²**

Therefore, the proposed development has an FSR of 0.494:1, which, which complies with the maximum permitted FSR for the site under Clause 4.4(2).

Other provisions

The table below considers other provisions relevant to the evaluation of this proposal:

Provision	Comment
Clause 6.2 - Earthworks	The proposed development includes minor excavation within the building footprint to a maximum depth of 700mm. This level of excavation is compliant with the RDCP 2014. Council's Senior Development Engineer has reviewed the erosion control plan provided by the applicant, and has imposed a condition that the measures specified in this plan

ITEM 3 (continued)

Provision	Comment
	are to be complied with (see Condition 68). Accordingly the development is considered satisfactory in respect of this clause.
Clause 6.3 – Flood Planning	The site is located within a “Flood Planning Area”, and as such, a flood assessment was submitted with this application. Council’s City Works Drainage Engineer has reviewed the application and is satisfied that the proposed floor levels address the flood constraint of the site.
Clause 6.4 - Stormwater management	The development has proposed the stormwater management system so that it drains through Council’s Reserve (Bell Park) at the rear of the site. As a result, the applicant was required to make a separate application to Council in order to drain through Council’s land. Council’s Drainage and Senior Development Engineer have raised no issues in relation to the stormwater management system proposed, subject to conditions of consent relating to the realignment of the drainage infrastructure within the reserve (see Condition 42) and the provision of an additional pit at the lowest point of the front yard of Unit 2 (see Condition 42).

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)

The following sections of the RDCP 2014 are of relevance, being:

- **Part 3.3 – Dwelling Houses and Dual Occupancy (attached).**
- **Part 7.2 - Waste Minimisation and Management.**
- **Part 8.1 - Construction Activities.**
- **Part 8.2 - Stormwater Management.**
- **Part 9.3 - Car Parking.**

A full assessment of the proposal under the Ryde DCP 2014 is illustrated in the compliance table at **Attachment 2**.

The non-compliances identified in the table are assessed in detail below:

1. Section 2.6.1 – Deep Soil Area (justifiable)

Section 2.6.1(a & b) of the RDCP 2014 has a requirement that the deep soil area of a site must be at least 35% of the total site area, and that this area must include an

ITEM 3 (continued)

area with minimum dimensions of 8m x 8m in the backyard. The RDCP 2014 (Section 2.6.1c) also specifies that this area can be shared for a dual occupancy development.

The objectives of these controls are to ensure the land retains its ability to absorb rainwater and stormwater runoff, and that the site is capable of supporting mature trees and other vegetation.

The proposal has a deep soil area of 401.3m², which is 42.6% of the total site area. However, given the rear setback of 6m, the proposal does not accommodate an 8m x 8m deep soil area in the backyard.

This non-compliance is considered acceptable in this instance for the following reasons:

- The site has significant deep soil areas within the front setback, given the 12m front setback required. The proposal includes two mature trees within the front setback, and thereby meets the objective to provide mature tree growth.
- Additionally, the site backs on to Bell Park Reserve, which contains a number of mature trees within close proximity of the site. Therefore, the reduction in the amount of deep soil area in the backyard will not adversely impact the amenity of the proposed dwellings or surrounding properties.
- The backyard has a total deep soil area of 149m², which, whilst it does not comply with the minimum 8m dimension required, significantly exceeds the total area of deep soil required.
- The site provides adequate deep soil area to facilitate stormwater runoff.

2. Section 2.9.3 – Rear setback (justifiable)

Section 2.9.3 (a) of the RDCP requires dual occupancy (attached) developments to have a minimum rear setback of 8m or 25% of the site length, whichever is greater. The objectives of this control are as follows:

- To provide an area for private outdoor recreation and relaxation.
- To allow space for vegetation, mature trees and deep soil zones.
- To separate dwelling to achieve privacy.
- To enable contiguous vegetation corridors across blocks.

The average site length for the subject site is 35.56m, and therefore, 25% of the site length, and the required rear setback, is 8.89m.

The proposal has a rear setback ranging between 6m and 6.659m, as shown in **Figure 12**.

ITEM 3 (continued)

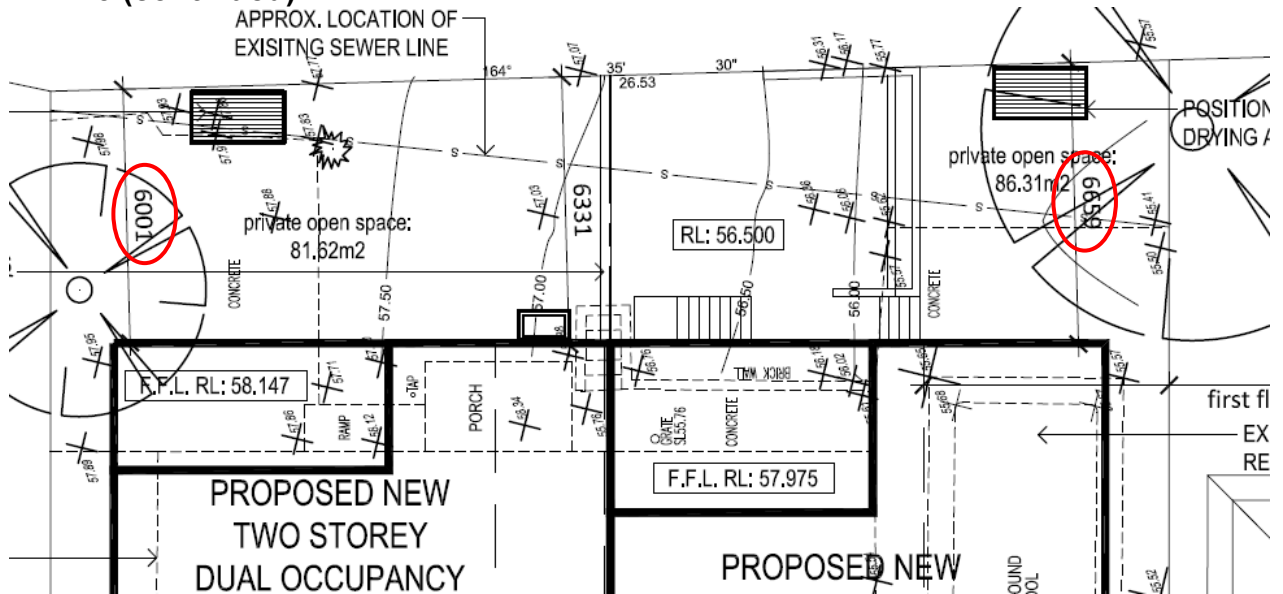


Figure 12: Extract from Site Plan showing rear setback to eastern boundary.

The proposal is therefore non-compliant with this control, varying from the control by 2.89m (33%). This non-compliance is considered acceptable in this instance for the following reasons:

- The non-compliance does not result in any visual privacy issues, as the site backs on to Bell Park, and the alfresco areas or living room windows do not look into the residential properties to the north and south.
- As mentioned earlier in this report, the site has adequate deep soil area to allow for vegetation and mature trees.
- A contiguous vegetation corridor is still provided at the rear of the site in Bell Park Reserve (see **Figure 13**). No trees are to be removed within the rear setback.
- The architectural design includes a substantial alfresco area at the rear of each dwelling, which, in conjunction with the private open space proposed, provides an appropriate area for private outdoor recreation.
- As the site is within the West Ryde Special Development Area, a 12m front setback is proposed. The design of the proposal, in conjunction with the substantial front setback, has ensured the bulk and scale of the proposed building is not excessive, and is compatible with the streetscape.
- The reduced rear setback does not result in unacceptable impacts on the adjoining properties, as discussed in Section 9 of this report.

ITEM 3 (continued)



Figure 13: Aerial photo of subject site showing retention of vegetation corridor.

3. Section 2.11.1 (i) – External garage width (justifiable)

The Ryde DCP 2014 has a requirement that garages facing the street are to have a maximum width of 6m or 50% of the frontage, whichever is less. The subject site has a frontage of 27.54m, meaning that 50% of the frontage is 13.77m. Therefore the maximum width of the garage in this instance is required to be 6m.

The combined external width of the two garages is 6.5m, which does not meet the 6m requirement. This is considered acceptable in this instance for the following reasons:

- The garage is still less than 50% of site's frontage, and the articulation of the front façade, including the separation of each garage, ensures that the garage is

ITEM 3 (continued)

not a prominent feature for either the individual lot or the streetscape (see **Figure 14**).

- The proposed width exceeds 6m by only 500mm.
- Compliant side and front setbacks are still achieved.
- The width of the garage has not resulted in excessively wide driveways, which have been kept to a minimum width where possible.

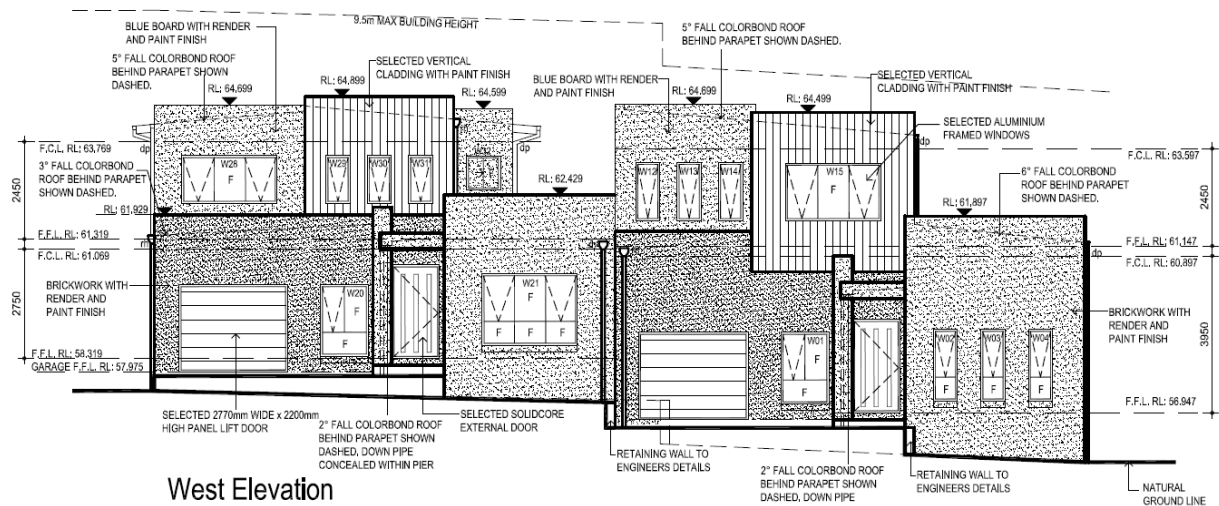


Figure 14: Front elevation of proposed building

4. Section 2.13 – Landscaping

Section 2.13(i) of the RDCP 2014 requires developments, where the backyard does not have a mature tree at least 15m high, to have a tree with a minimum mature height of 15m with a spreading canopy in the 8m x 8m deep soil area in the backyard. The objective of this control is to enhance the appearance and amenity of development.

As previously discussed in this report, the proposed development does not contain an 8m x 8m deep soil area in the backyard. The subject site does not currently contain a tree in the rear setback that reaches the height of 15m, and the development does not propose the planting of such a tree. Therefore, the development fails to comply with this control.

This is considered acceptable in this instance for the following reasons:

- The site backs on to Bell Park Reserve, which contains several trees of substantial height and spreading canopies. These trees provide amenity to the subject site and adjoining dwellings. Additionally, two 6m Crepe Myrtle trees are planted within the rear setback to enhance the appearance of the proposed development.
- The proposal does not proposed excessive hardstand area within the rear setback.

ITEM 3 (continued)

- The proposal includes the planting of two Coastal Banksias within the front setback, which are capable of reaching a mature height of 15m, and contribute positively to the appearance of the development. The RDCP 2014 only requires the planting of one mature tree within the front setback, so the provision of two such trees compensates for the absence of such a tree in the rear setback.

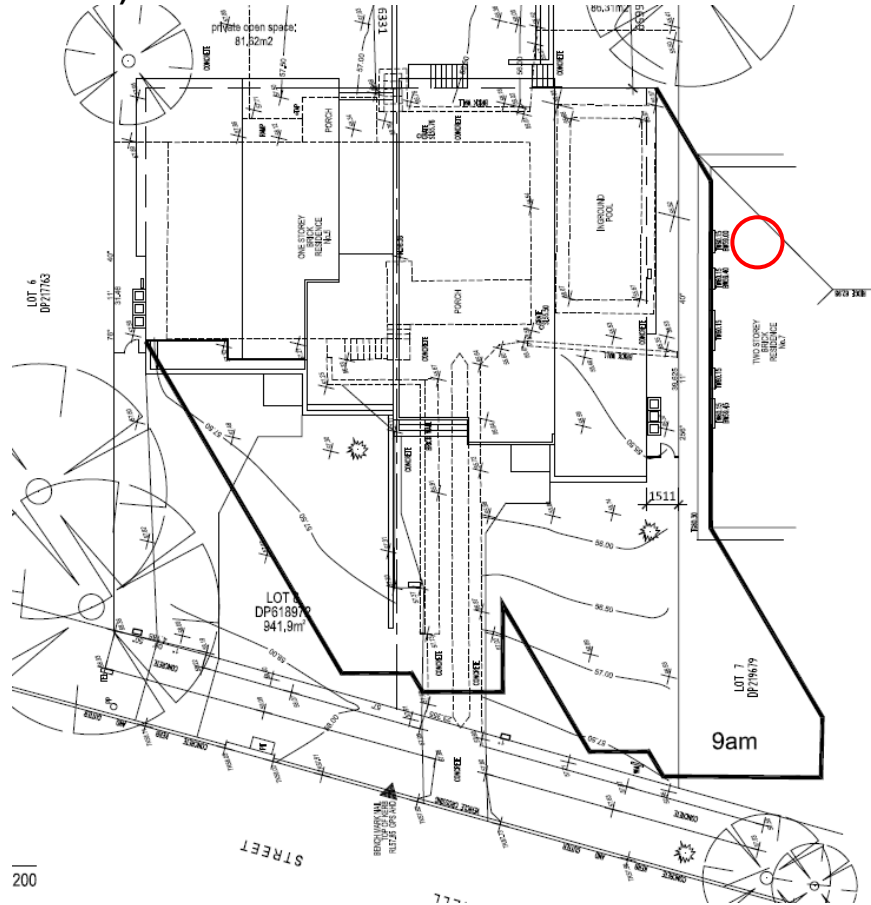
5. Section 2.14.1 – Daylight and Sunlight Access

Section 2.14.1 (e) of the RDCP 2014 requires developments to ensure:

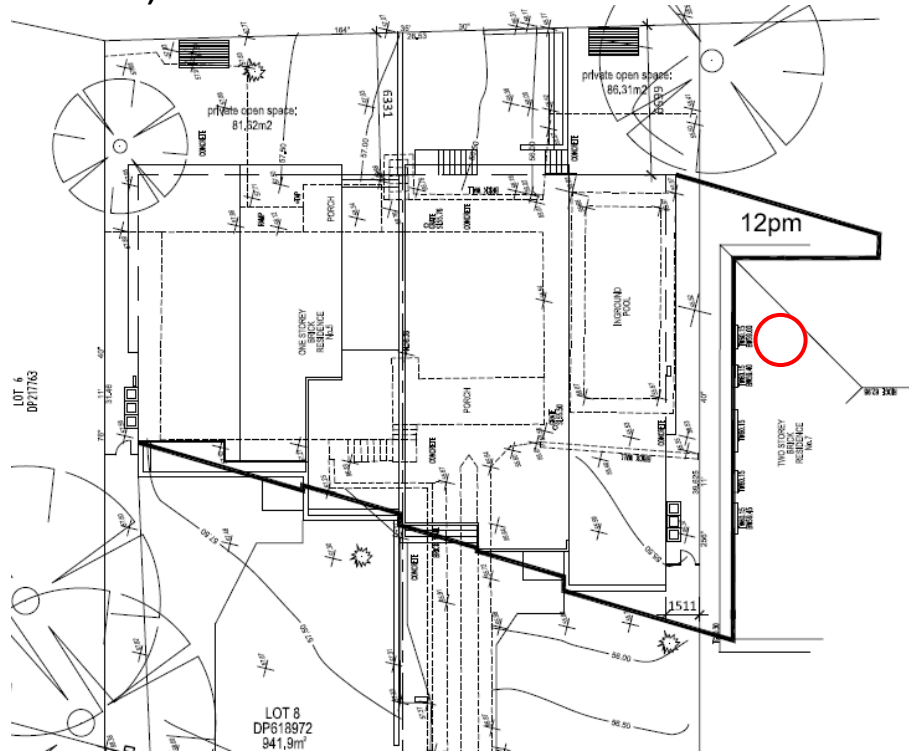
- i) North facing living room windows of neighbouring dwellings are to receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their surface, where this can be reasonably maintained given the orientation topography of the subject and neighbouring sites; and
- ii) Sunlight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

Given the orientation of the site, and the close proximity of the north facing windows of No. 7 Farnell Street, the kitchen window (as identified in **Figure 15**) of No. 7 Farnell Street is affected by overshadowing.

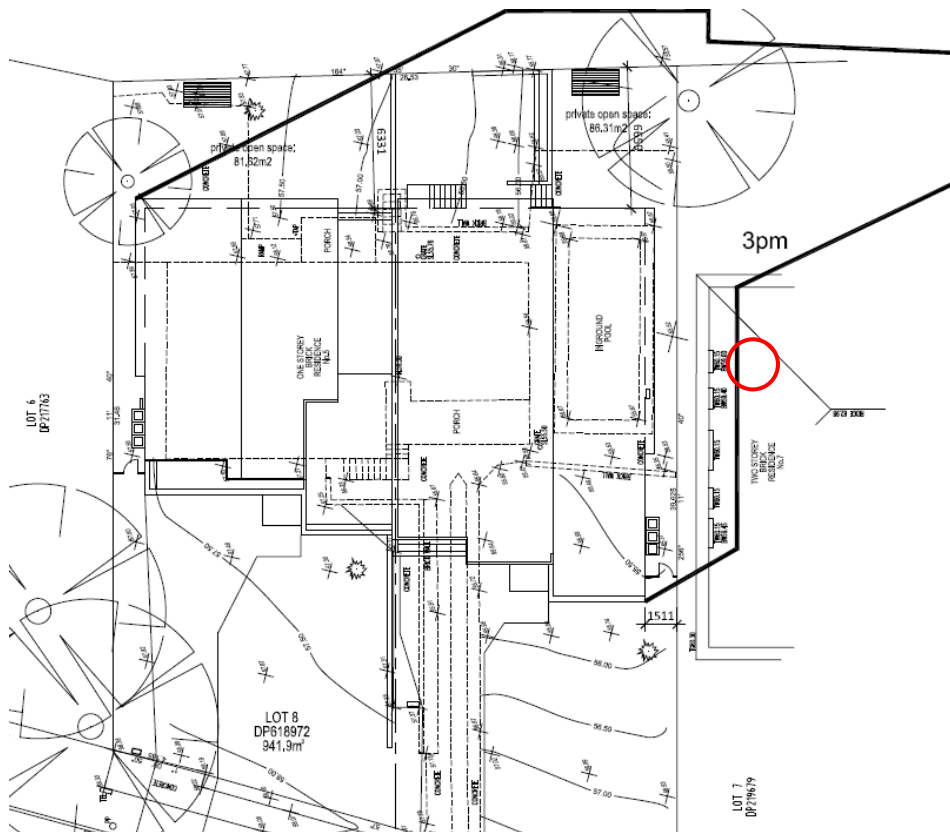
ITEM 3 (continued)



ITEM 3 (continued)



Shadows at Noon on 21 June.

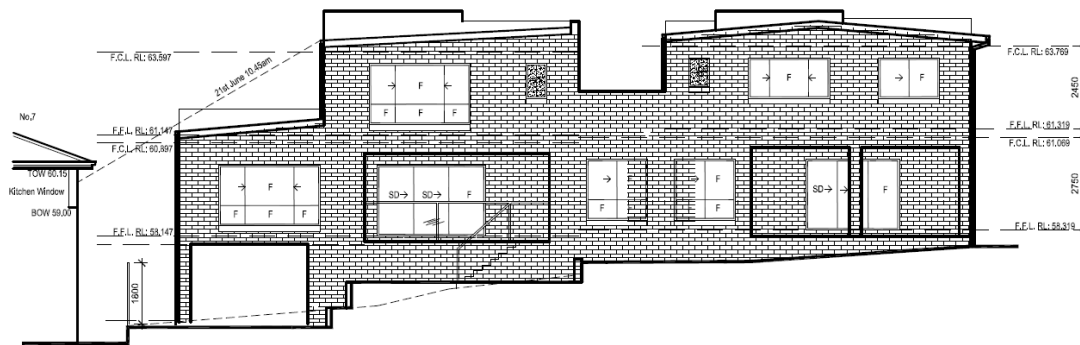


ITEM 3 (continued)

Shadows at 3.00pm on 21 June.

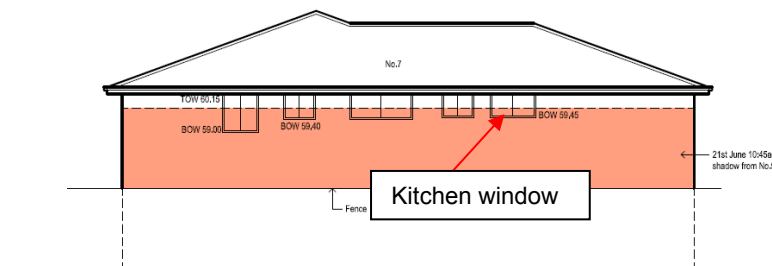
Figure 15 – Shadows cast over No. 7 Farnell Street on 21 June.

The proposal results in the kitchen window (as identified in red in **Figure 15**) receiving 2.5 hours of sunlight on June 21, as demonstrated in the elevational shadow diagrams in **Figure 16**. Therefore, the proposal does not provide the required 3 hours sunlight to the kitchen window of No. 7 Farnell Street, and does not comply with this control.



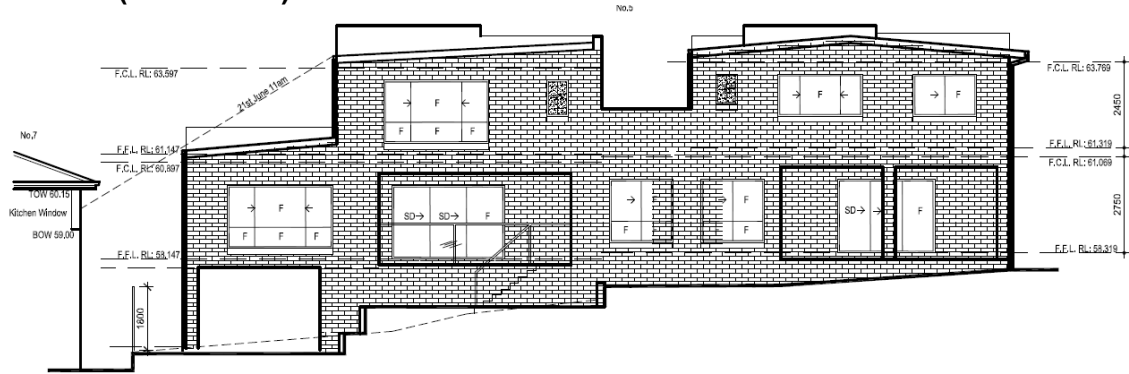
10:45am Shadow Diagram
21st June

Scale 1:100



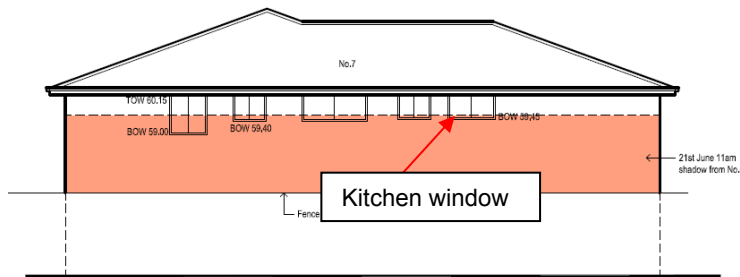
10:45am Shadow Diagram Elevation 21st June

ITEM 3 (continued)

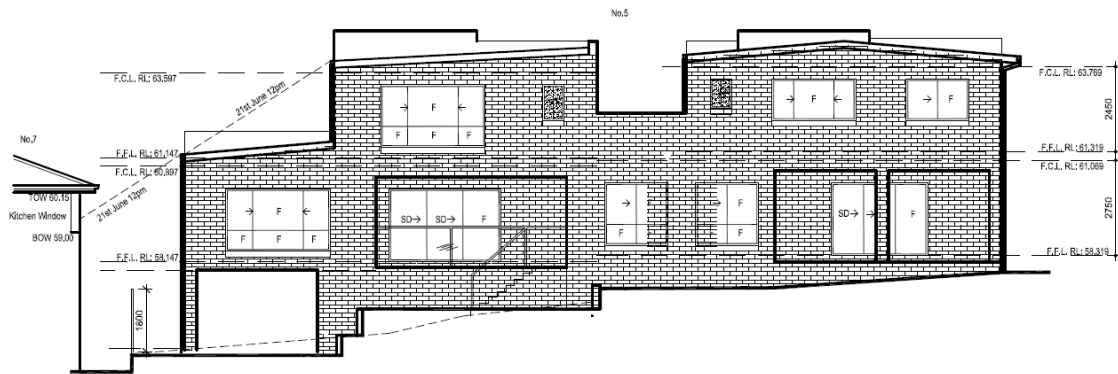


11am Shadow Diagram
21st June

Scale 1:100

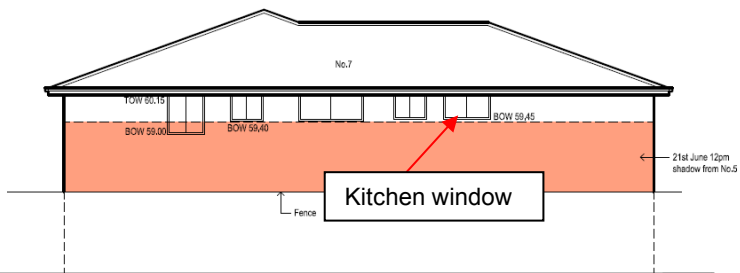


11am Shadow Diagram Elevation 21st June



12pm Shadow Diagram
21st June

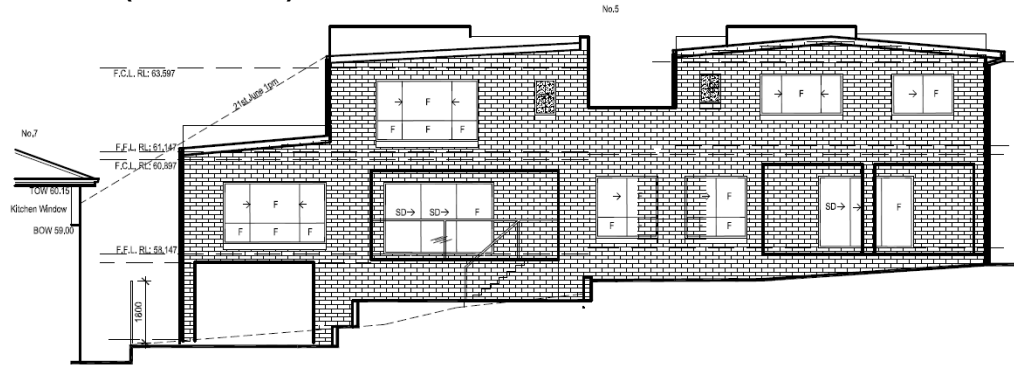
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12pm Shadow Diagram Elevation 21st June

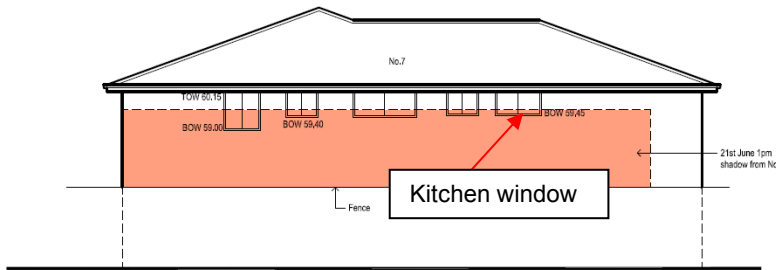
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ITEM 3 (continued)

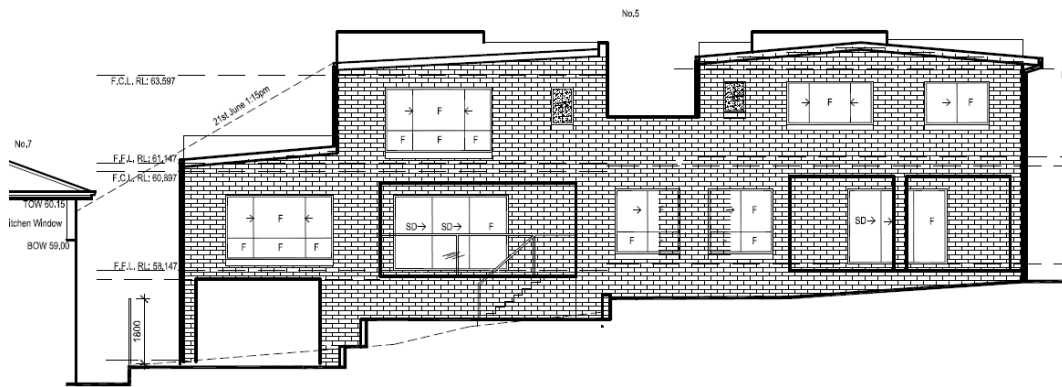


1pm Shadow Diagram
21st June

Scale 1:100

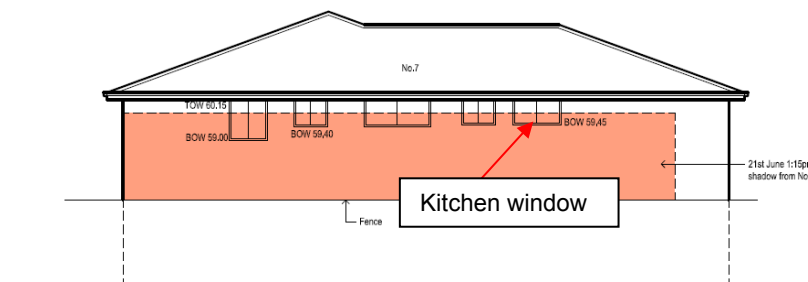


1pm Shadow Diagram Elevation 21st June



1:15pm Shadow Diagram
21st June

Scale 1:100



1:15pm Shadow Diagram Elevation 21st June

ITEM 3 (continued)

Figure 16: Elevational shadow diagrams assessing impact on No. 7 Farnell Street

As shown in **Figure 16**, the kitchen window receives a total of 2.5 hours sunlight to a portion of its surface between the hours of 10:45am and 1:15pm.

This non-compliance is considered acceptable in this instance for the following reasons:

- The control states that this requirement applies where three hours sunlight can be reasonably maintained given the orientation topography of the subject and neighbouring sites. The kitchen window, which is north-facing, of No. 7 Farnell Street is located approximately 1.5m from the dividing boundary. Additionally, the level of No. 5 Farnell Street is significantly higher than that of No. 7 Farnell Street. Given the close setback of this window to the dividing boundary, and the topography of the site, it is not considered reasonable to maintain three hours sunlight to this window.
- The requirement for a 12m front setback has restricted the developable building footprint of the site. The proposed design has reduced the building height of Unit 1 near the southern boundary in an attempt to mitigate the overshadowing impact on the upstairs windows of No. 7 Farnell Street.
- Solar access is provided to the kitchen area of No. 7 Farnell Street by another window facing the rear (i.e. eastern elevation), as shown in **Figure 17**. Whilst this window is not north-facing, it still provides this area of the house with sunlight on June 21.
- A shortfall of 30 minutes of sunlight is not considered to be a significant impact on the amenity of the adjoining property.
- This window would be affected by overshadowing even if the proposal was compliant with the RDCP 2014 rear setback control.

ITEM 3 (continued)



Figure 17: Location of kitchen windows for No. 7 Farnell Street.

5.5 Planning Agreements OR Draft Planning Agreements

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

5.6 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)

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

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$4,227.74
Open Space & Recreation Facilities	\$10,407.85
Civic & Urban Improvements	\$3,539.91
Roads & Traffic Management facilities	\$482.86
Cycleways	\$301.62
Stormwater Management Facilities	\$958.70
Plan Administration	\$81.32
The total contribution is	\$20,000.00

Condition on the payment of Section 7.11 Contribution of **\$20,000.00** has been included in the Conditions of Consent (see **Condition 27**).

ITEM 3 (continued)**5.7 Any matters prescribed by the regulations**

As the development involves the demolition of the existing dwelling, Council must consider the provisions of *AS201-1991: The Demolition of Structures*.

Appropriate conditions of consent have been included to reflect this Australian Standard (see **Conditions 19 to 26**).

6. The likely impacts of the development

Most of 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 considered to be a suitable development for the site, being permissible in the zone. As detailed earlier in this report, the development is consistent with the emerging character of the area and appropriately responds to the natural and built environmental assets and constraints of the site.

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

Landslip/Slope Instability

A satisfactory Geotechnical Report with suitable conditions has been provided to suitably address the landslip/slope instability. Council's Consultant Structural Engineer has raised no issues in relation to the application.

Overland Flow

The proposal has been designed so that the floor level is above the 100 year floor event, which varies between RL 55.84 and RL 57.80. Council's Senior Development Engineer and City Works (Drainage) department have raised no issues in relation to the application.

8. The Public Interest

The development is considered to be in the public interest as it is reasonably consistent with the relevant planning controls. Where variations to the planning controls occur in terms of the rear setback, deep soil area, external width of the garage and tree planting, the proposed variation is not considered to have any potential impact to adjoining properties. The development complies with the objectives of the planning controls.

ITEM 3 (continued)
9. Submissions
Public Exhibition No. 1

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 21 March 2018 and 6 April 2018.

In response, one (1) individual submission and two (2) petitions with 33 and 59 signatures respectively were received over the notification period from the following properties:

Address	
7 Farnell Street, West Ryde (individual and petition)	6 Farnell Street, West Ryde (petition)
26 Farnell Street, West Ryde (petition)	14 Farnell Street, West Ryde (petition)
1/12 Farnell Street, West Ryde (petition)	24 Farnell Street, West Ryde (petition)
8 Farnell Street, West Ryde (petition)	11 Farnell Street, West Ryde (petition)
15 Farnell Street, West Ryde (petition)	17 Farnell Street, West Ryde (petition)
21 Farnell Street, West Ryde (petition)	1 Farnell Street, West Ryde (petition)
10 Farnell Street, West Ryde (petition)	2/38 Farnell Street, West Ryde (petition)
40 Farnell Street, West Ryde (petition)	32 Farnell Street, West Ryde (petition)
34 Farnell Street, West Ryde (petition)	36 Farnell Street, West Ryde (petition)
38 Farnell Street, West Ryde (petition)	56 Farnell Street, West Ryde (petition)
4 Bell Avenue, West Ryde (petition)	44 Farnell Street, West Ryde (petition)
54 Farnell Street, West Ryde (petition)	19 Farnell Street, West Ryde (petition)
33 Farnell Street, West Ryde (petition)	35 Farnell Street, West Ryde (petition)
42 Farnell Street, West Ryde (petition)	39 Farnell Street, West Ryde (petition)
60 Farnell Street, West Ryde (petition)	64 Farnell Street, West Ryde (petition)
31 Farnell Street, West Ryde (petition)	27 Winbourne Street, West Ryde (petition)
58 Farnell Street, West Ryde (petition)	18 Farnell Street, West Ryde (petition)
1/50 Farnell Street, West Ryde (petition)	4/50 Farnell Street, West Ryde (petition)
3/50 Farnell Street, West Ryde (petition)	37 Farnell Street, West Ryde (petition)

The submissions raised the following issues in respect to the original plans provided:

- **Front setback not compliant with West Ryde Special Development Area.**

Comment

As discussed previously in this report, the site is within the *West Ryde Special Development Area* as described in the Part 3.3 of the RDCP 2014 (Section 3.1).

As such, the proposal is required to have a minimum front setback of 12m in order to be consistent with the existing setbacks in the area.

ITEM 3 (continued)

Amended plans were received showing a minimum front setback of 12m, and therefore, the amended plans address this concern.

This issue does not warrant the refusal of the application.

- **Overshadowing of No. 7 Farnell Street**

Concern was raised by the adjoining neighbour to the south (No. 7 Farnell Street) in regard to the overshadowing on the north facing windows, stating that all the north facing windows of No. 7 Farnell Street would receive no sunlight between the hours of 9am and 3pm on June 21.

Comment

Due to the amended plans provided, this issue has been discussed in detail later in this report under Public Exhibition No.2.

- **Location of drainage line through Bell Park and stormwater discharge onto No. 7 Farnell Street**

A submission raised concern that the drainage plan was restricted to roof water runoff. The submission was also concerned regarding the proximity of the drainage infrastructure to a number of mature trees in Bell Park.

Comment

Amended stormwater plans have been provided which adequately consider the roof area and hardstand areas for the proposed development.

In relation to the impact on the trees within the Bell Park Reserve, it is advised that a separate application was lodged for approval to drain through Council land (i.e. Bell Park). This application was considered by Council's City Works Department, as well as Council's Landscape Architect. The amended stormwater plans provided, in conjunction with conditions of consent imposed (see **Condition 18**), ensure the trees within the reserve will be preserved. It is further noted that these works will be constructed by Council.

Therefore, this issue does not warrant refusal of the application.

- **Building Height**

Concern was raised regarding the height of the proposed building, particularly in regard to the calculation of the building height.

The submission stated that the site had previously been filled some time ago, approximately 600mm above the existing ground level near the northern boundary of No. 7 Farnell Street, and that the building height should be measured from the previous ground level.

ITEM 3 (continued)

The submission also raised concern that the building was effectively three storeys at the rear of the dwellings.

Comment

It is noted that the maximum height of the proposed building has been reduced from the original plans submitted through design changes, and the following comments apply to the amended plans.

The Ryde Local Environmental Plan (RLEP) 2014 defines building height as the following:

“building height (or height of building) means:

- (a) *in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

The existing ground level is considered to be the reduced level (RL) of the ground as it currently stands (or exists at the time). Therefore, whilst the site may have been subject to some excavation or fill at the time the existing dwelling was constructed, the calculation of the proposed building height for the current application considers the current existing ground level.

Using the above definition, the maximum height of the building, as proposed in the amended plans subject to this report, has been calculated to be 8.41m. Therefore, the proposed building is compliant with the maximum building height of 9.5m for the site.

The proposed design responds to the topography of the site, which steps down the site to towards the southern boundary.

The amended plans also reduced the building height at the lowest points of the site so that two storeys is achieved for the entire building.

Therefore, this issue does warrant refusal of the application.

- **Retaining wall on dividing (southern) boundary**

Concern was raised that the existing retaining wall located on the subject site adjoining the dividing boundary between No. 5 and No. 7 Farnell Street would be

ITEM 3 (continued)

compromised as a result of the proposed construction, leading to structural issues for both properties.

Comment

Due to the amended plans provided, this issue has been discussed in detail later in this report under Public Exhibition No. 2.

- **Location of garbage bins and air conditioning unit**

Concern was raised in the submission in regard to the location of the garbage bins for Unit 1.

Suggestion was made in the submission that a bin storage area within the front setback be excavated into the site.

Comment

The proposed location of the bin storage area for Unit 2 is as depicted in the amended plans shown in **Figure 18**.

Whilst this area is adjacent to some windows of No. 7 Farnell Street, the provision of an appropriate boundary fence along the southern boundary will mitigate the visual impact of these bins.

Furthermore, the suggestion of a bin storage area excavated into the front setback is not considered an appropriate alternative, as this structure would detract from the streetscape.

This issue does not warrant reason for refusal.

ITEM 3 (continued)

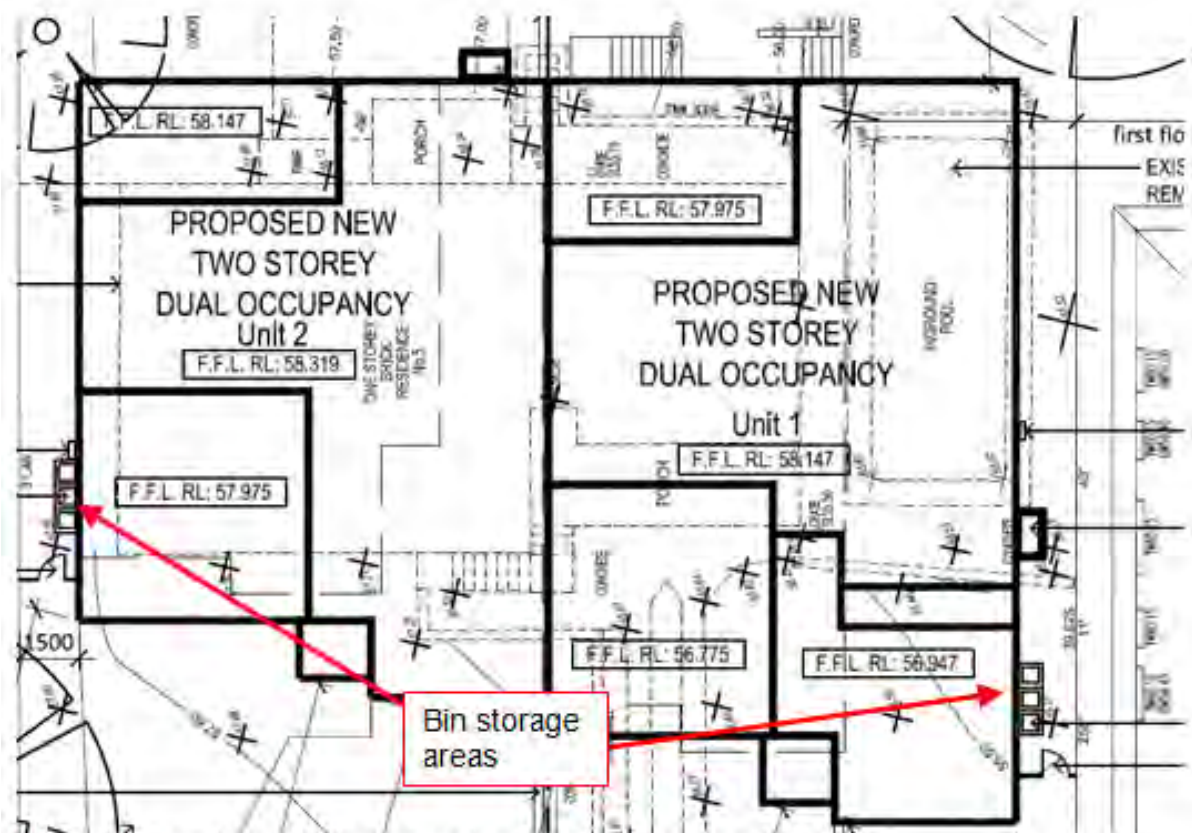


Figure 18: Location of submissions in relation to the subject site

Public Exhibition No. 2

In accordance with the RDCP 2014 *Part 2.1 Notice of Development Application*, owners of surrounding properties were given notice of the amended application between 5 December 2018 and 04 January 2019.

In response, fifteen (15) submissions were received over the notification period from the following properties:

Address	
7 Farnell Street, West Ryde	1 Farnell Street, West Ryde
26 Farnell Street, West Ryde	36 Farnell Street, West Ryde
15 Farnell Street, West Ryde	19 Farnell Street, West Ryde
21 Farnell Street, West Ryde	77 Winbourne Street East, West Ryde
34 Farnell Street, West Ryde	11a Farnell Street, West Ryde
31 Farnell Street, West Ryde	2/55-57 Winbourne Street East, West Ryde
63 Winbourne Street East, West Ryde	11b Farnell Street, West Ryde
79 Winbourne Street East, West Ryde	

ITEM 3 (continued)

Figure 19 below details the location of submissions in relation to the subject site.



Figure 19: Location of submissions in relation to the subject site

The submissions in response to the amended plans raised the following issues:

- **Rear setback**

A number of submissions have identified the proposed rear setback as a concern. Particular concern was raised in regard to the impact of the proximity of the proposed building to Bell Park, and the amenity of the users of Bell Park.

Additionally, concern has been raised that the proposed building would block views of the park currently enjoyed by No. 1, 3, 7 and 21 Farnell Street.

Comment

ITEM 3 (continued)

Bell Park is predominately used as a walking path and an area for outdoor recreation for nearby residents. The reduced rear setback, being approximately 2.5m less than the existing setback, will not adversely impact the usability or amenity of the users of Bell Park.

The existing dwelling, as well as surrounding properties, currently has partial views of Bell Park (see **Figure 20** for context). The Ryde DCP 2014 has a requirement that the siting of new developments is to provide for view sharing. Given the proposed development is two storey, and has a rear setback of 6m, there is potential for the views of Bell Park from some surrounding properties to be affected.

ITEM 3 (continued)



Figure 20: Views analysis from No. 1, 3, 7 and 21 Farnell Street

The Land and Environment Court has established “planning principles” in relation to impacts on views from neighbouring properties. In *Tenacity Consulting P/L v Warringah Council (2004) NSWLEC 140* Roseth SC, states that “the notion of view

ITEM 3 (continued)

sharing is involved when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment”.

(Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable). In deciding whether or not view sharing is reasonable, Commissioner Roseth set out a 4 step assessment in regards to ‘reasonable sharing of view’. The steps are as follows:

1. *Description and assessment of views to be affected by proposal and the value of these views*
2. *Ascertain whether view retention expectations are realistic. Consider from what part of the property the views are obtained.*
3. *Assess the extent of the impact for the whole property. The impact should be qualified on a scale from negligible to devastating.*
4. *Assess the reasonableness of the proposal that is causing the impact, taking into account any non-compliance that is causing the view loss. (A development that complies with all the planning controls would be more reasonable than one that breaches them).*

Planning Principles**The First Step**

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons.

Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

View from rear windows/backyard of No. 7 Farnell Street towards North East

As demonstrated by **Figure 20**, the existing dwelling at No. 7 Farnell Street has views directly to Bell Park facing the north east, east and south east. The view to the east is slightly obscured given the vegetation at the rear of No. 7 Farnell Street (see **Figure 22**). It is noted that this view is not a water view, and is not considered an iconic view. Therefore, it would be considered that the view towards Bell Park are not highly valuable in accordance with *Tenacity Consulting P/L v Warringah Council (2004) NSWLEC 140*.

In regard to the views from No. 1, 3 and 21 Farnell Street, it is not considered that these views are affected by the proposed development, as demonstrated in **Figure 20**.

ITEM 3 (continued)

Therefore, this views analysis has been limited to the view from the rear of No. 7 Farnell Street.



Figure 21 – View from rear of No. 5 Farnell Street looking North East along Bell Park



Figure 22 – View of rear of No. 7 Farnell Street from the north east

The Second Step

The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries.

In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

ITEM 3 (continued)

In this instance, the views that would be enjoyed by No. 7 Farnell Street, West Ryde, is limited to the rear first storey windows (as shown in **Figure 22**) for the following reasons:

- The remaining windows at the rear of the property are orientated towards the east and south east, and are therefore not affected by the proposed development.
- The vegetation at the rear of No. 7 Farnell Street already obscures views from the raised outdoor area of No. 7 Farnell Street, as shown in **Figure 22**.

The Third Step

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them).

The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

The views from No. 7 Farnell Street that have been assessed are from the rear window towards the north east perspective of Bell Park.

Factors taken into consideration in assessing the extent of the impact include the siting of the development, setbacks, proposed building heights and design of the dwelling house.

The setback of the proposed building is approximately 2.5 metres forward of the existing dwelling at No. 5 Farnell Street, as shown by the purple line in **Figure 20**.

The green arrows shown in **Figure 20** indicate that the majority of the views from the rear window of No. 7 Farnell Street will be maintained, and the decreased rear setback of the development at No. 5 Farnell Street will have a minor impact on this view.

The Fourth Step

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them.

ITEM 3 (continued)

Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skillful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours.

If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

The proposed development generally complies with all planning controls that control the bulk and scale of new development under the Ryde LEP 2014 and Ryde DCP 2014, including floor space ratio and building height. Whilst the rear setback does not comply with the RDCP 2014, this non-compliance does not restrict all views from No. 7 Farnell Street. This non-compliance has been assessed and determined to be satisfactory when having regard to the objectives of the RDCP 2014, and the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

Given the significant front setback requirement for the site, the proposed rear setback is considered reasonable. In considering the question of whether a more skillful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours, the answer is no.

This is due to the following reasons:

- Unobstructed views of Bell Park have still been afforded to No.7 Farnell Street. Accordingly, the Ryde DCP 2014 control in relation to view sharing (the siting of development is to provide for view sharing) is considered to generally be met.
- Views lost from the first floor window are cross views. The expectation to retain cross views and side views is unrealistic. On balance, the view loss is considered to be acceptable considering the proposed development generally complies with relevant planning controls governing bulk, scale and siting of the development.
- The proposed development is considered reasonable when taking into account its substantial compliance with local planning controls.
- The design of the dwelling is considered to be consistent with the desired future character of the low density residential zone and that of the emerging character of the West Ryde Special Development Area.

In this instance the view impact is considered acceptable and the view sharing reasonable.

ITEM 3 (continued)

This issue does not warrant reason for refusal.

- **West Ryde Special Development Area**

The submission raised concern that the non-compliant rear setback would not comply with the character of the West Ryde Special Development Area.

Comment

The control within the Ryde DCP 2014 relates solely to the front setback of proposed dwellings within the area.

Therefore, the rear setback is not considered to impact the character of the West Ryde Special Development Area.

This issue does not warrant reason for refusal.

- **Number of storeys too close to rear boundary and Bell Park**

Concern has been raised that the proposed dual occupancy will be three storeys high too close to the rear boundary and Bell Park. The submission is concerned that there will be a loss of amenity for the users of the park and the properties adjoining the park.

Comment

The proposal has a maximum building height of 8.41m, and therefore complies with the maximum building height of 9.5m.

Amended plans have been provided which have reduced the building height at the lowest points of the site so that two storeys is achieved for the entire building.

Therefore, this issue does warrant refusal of the application.

- **Floor Space Ratio**

Concern in the calculation of the floor space ratio of the proposal was raised in a submission, stating that the total gross floor area is 720.52m², including the following areas:

- Ground floor area
- First floor area
- Entertainment Area (under ground floor on south eastern corner of Unit 1)
- Garage/Gym
- Porch
- Alfresco and Verandah

ITEM 3 (continued)

- Sub-floor area

Comment

The RLEP 2014 (Clause 4.5 (2)) defines *Floor Space Ratio* as follows:

“The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.”

The RLEP 2014 also defines *Gross Floor Area* as follows:

“gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and*
- (b) habitable rooms in a basement or an attic, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:*
 - (d) any area for common vertical circulation, such as lifts and stairs, and*
 - (e) any basement:*
 - (i) storage, and*
 - (ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.”*

The calculations provided in the submission do not reflect definition of gross floor area, with particular regard to the following:

1. The submission has incorporated areas for common vertical circulation, such as voids and stairs, in the calculation for the ground floor and first floor.
2. The definition of gross floor area excludes any car parking to meet the requirements of the RDCP 2014. In this instance, the required car parking area equates to 36m².
3. The alfresco area, verandah and entertainment area are not included in the gross floor calculations as they are not enclosed with outer walls with a height above 1.4m.
4. The Macquarie Dictionary defines “floor” as follows:

ITEM 3 (continued)

“that part of a room or the like which forms a lower enclosing surface, and upon which one walks”

As such the area of the subfloor area is not considered to be a floor, as the subfloor area as a maximum floor to ceiling height of 2.25m, and does not meet the minimum floor to ceiling requirement for habitable rooms under the Building Code of Australia (BCA). As such, this area does not meet the included areas for the gross floor area as defined within the RLEP 2014.

During the assessment of this application, the floor space ratio has been calculated as follows:

- Ground floor: 300.5m²
- First Floor: 201m²
- 501.5m² (minus) 36m² (garage)
- **Total GFA = 465.5m²**

Therefore, the proposed development has an FSR of 0.494:1, which, which complies with the maximum permitted FSR for the site under Clause 4.4(2).

Therefore, this issue does not warrant refusal of the application.

- **Overshadowing**

Concerns have been raised that the overshadowing caused by the proposed building will excessively overshadow the north facing windows of No. 7 Farnell Street (to the south).

Comment

As detailed in Section 5.4 of this report, the RDCP 2014 requires north facing living room windows of adjoining properties receive three hours sunlight to a portion of their surface between 9am and 3pm on 21 June. It is noted that this control applies only to living room windows.

As detailed in Section 5.4 of this report, the north facing window that this control applies to is the kitchen window at the rear of No. 7 Farnell Street. It is noted that the proposal does not fully comply with Section 2.14.1 of the RDCP 2014 in respect to the overshadowing of this window, as the window only achieves 2.5 hours of sunlight between 9am and 3pm on 21 June.

As previously detailed in this report, this minor non-compliance is considered acceptable given the site's topographic orientation. The impact on the adjoining property is negligible given the small nature of the non-compliance and the additional window facing the street for this area of No. 7 Farnell Street.

ITEM 3 (continued)

It is noted that an increase in the rear setback (as requested by this submission), would not result in a reduction of the overshadowing of this window, unless the building was pushed forward so that a front setback of approximately 6m was achieved. As detailed previously in this report, given the application is within the West Ryde Special Development Area, a 12m front setback is required.

It is further noted that the submission's concern regarding the remaining north-facing windows does not breach the controls within the RDCP 2014, as these controls apply to living room windows.

Therefore, this issue does not warrant refusal of this application.

- **Location of air conditioning unit**

Concern has been raised regarding the location of the air conditioning units, and that the noise and hot air from the air conditioning unit will adversely impact the adjoining neighbour to the south.

Comment

A condition of consent (see **Condition 89**) has been imposed that the any noise emitted from ancillary elements such as air conditioning units or the like must not exceed 5dB(A) above the background noise level when measured from any affected residence.

Any air blown from the air conditioning unit would be mitigated by the dividing boundary fence.

This issue does not warrant refusal of this application.

- **Location of rear boundary fencing**

Concern has been raised that the existing boundary fencing at the rear of the subject site is located encroaches into Council land (i.e. Bell Park), and should be rectified.

Comment

A condition of consent has been imposed that all boundary fencing is to be located on the boundaries, as identified by a registered surveyor. This condition states that any encroaching fencing is to be rectified.

This issue has been resolved by a condition of consent (see **Condition 88**), and therefore does not warrant refusal of the application.

- **Retaining Wall**

ITEM 3 (continued)

Concern has been raised that the existing retaining wall located on the subject site adjoining the dividing boundary between No. 5 and No. 7 Farnell Street would be compromised as a result of the proposed construction, leading to structural issues for both properties.

Comment

Appropriate conditions have been included in the conditions of consent in regard to managing the structural integrity of the existing retaining wall, including a condition that a certified structural engineer must design and certify all engineering works (see **Condition 4** and **29**). Furthermore, a dilapidation report has been imposed by condition (**Condition 33 and 76**) in regard to the retaining wall.

Therefore, this does not warrant reason for refusal of this application.

- **Height of dividing fence on southern boundary**

Concern has been raised that a 1.8m high fence on top of the existing retaining wall on the southern boundary will lead to the amenity of the adjoining southern property being adversely impacted, as the combined structure (i.e. fence and retaining wall) will be approximately of 2.4m.

The existing retaining wall is shown in **Figure 23** below:



Figure 23: View of existing retaining wall from No. 7 Farnell Street

ITEM 3 (continued)Comment

The existing retaining wall has a height of approximately 600mm from the existing ground level of No. 7 Farnell Street, which is lower than the subject site (as shown in **Figure 23**). The existing ground level of the subject site is roughly flush with the top of the retaining wall.

It is noted that the erection of new dividing fences is a matter covered in the *Dividing Fences Act 1991*. The determination of a “sufficient dividing fence” under the Dividing Fences Act must consider the relevant environmental planning instrument (EPI) relating to the land on which the fence is located. Part 3.3 of the RDCP 2014 (the relevant EPI) specifies that the maximum height for side and rear fences is to be 1.8m.

It is acknowledged that a side fence on the southern boundary of the subject site will result in a combined structure measured to approximately 2.4m from the existing ground level of No. 7 Farnell Street. It is further noted that the owner of No. 7 Farnell Street has indicated in a meeting with Council staff on 11 January 2019 of his preference of an open-style fence on top of the retaining wall.

Whilst it is acknowledged that the privacy of each property must be considered, the erection of a dividing fence must occur under the provision of the Dividing Fences Act. As such, a condition of consent (**Condition 91**) has been included in **Attachment 1** with this directive.

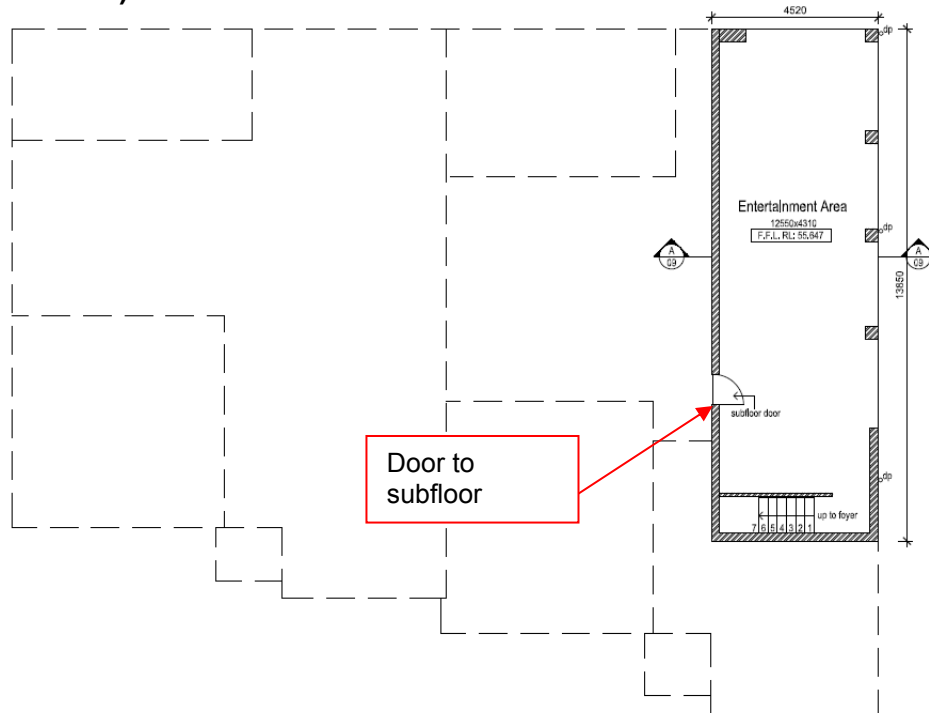
If an agreement regarding the dividing fence cannot be reached between the owners, an application can be lodged to the NSW Civil and Administrative Tribunal (NCAT) to enable the parties to settle the dispute.

This issue does not warrant reason for refusal.

- **Sub-floor area contributing to gross floor area**

Concern was raised that the sub-floor area connecting to the entertaining area (as shown in **Figure 24** and **25**) has a height of 2.4m in some sections, and should be included within the gross floor area calculations. The submission raised concern that, given the height of the subfloor, this effectively would act as a third storey, and be used as an extension of the entertaining area.

ITEM 3 (continued)



Lower Floor Plan

Scale 1:100

Figure 24: Lower floor plan showing door from entertainment area to subfloor

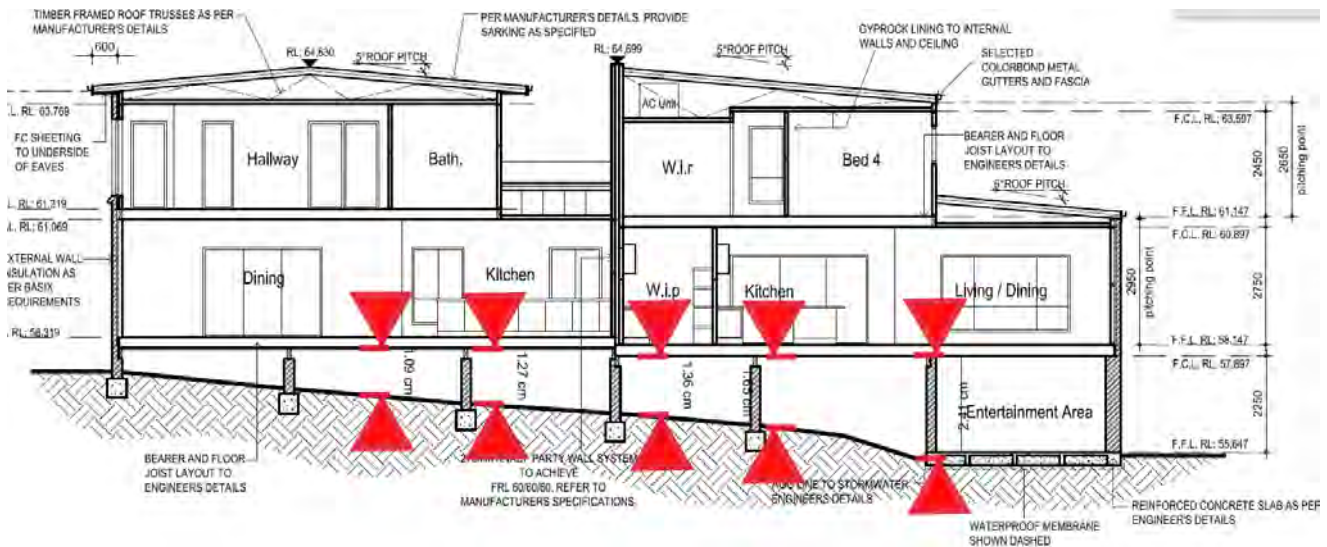


Figure 25: Section showing height of subfloor area

As per the definition of 'floor' and 'gross floor area' previously provided in this report, the area of the subfloor area is not considered to be a floor, as this area has a maximum floor to ceiling height of 2.25m, and does not meet the minimum floor to ceiling requirement for habitable rooms under the Building Code of Australia (BCA).

ITEM 3 (continued)

As such, this area does not meet the included areas for the gross floor area as defined within the RLEP 2014.

- **Dividing Party Wall**

Concern was raised that the party wall separating the two proposed units did not comply with the Building Code of Australia in relation to the fire safety separation, as the wall does not extend to the finished ground level below.

Comment

A condition of consent has been imposed (**Condition 2**) specifying that the development must comply with the requirements of the BCA. As such, should approval be granted subject to these conditions, the party wall would be required to be extended to comply with the BCA.

Therefore, this issue is resolved by a condition of consent, and does not warrant reason for refusal of the application.

- **Stormwater**

The submission requested that the any damage to the existing drainage infrastructure on the site during construction be repaired and certified by a qualified engineer.

Comment

The proposal incorporates a new drainage system to facilitate the new building. Council's Senior Development Engineer has reviewed the proposed concept stormwater plan, and has raised no issue with the proposed stormwater design. The applicant will be responsible for the construction and maintenance of the drainage infrastructure within the site.

This does not warrant refusal of the application.

10. Referrals

Internal Referrals

Senior Development Engineer

The amended plans were referred to Council's Senior Development Engineer for consideration.

The following comments have been provided:

ITEM 3 (continued)*“Stormwater Management*

Review of the drainage plans show a combined OSD/water recycling system has been provided for each unit as underground tanks. These tanks are now relocated partially under the garage and under the driveway. Having OSD tanks under the garage is not ideal due to possible flooding within the garage if constructed with incorrect levels and the preferred location will be at rear as designed previously. However the amended design shows a grated drain located about 1.2m away from the garage entry with driveway sloping towards this drain. Any emergency overflows from the tank have been designed to be directed into this grated drain.

The lowest point within the front yard of Unit 2 should be connected to the drainage pit SP3. This has been marked in red on the plans and an appropriate condition of consent has been imposed.

The BASIX report requires 2000 litre water tank for each unit with 100m² of roof area connected to each. Details provided are satisfactory.

The architectural plan shows that there is no fill around the dwellings. A retaining wall is proposed between the boundaries of the two units at front. This wall should not exceed the height of the existing ground levels along this boundary within Unit 2.

The amended plans now show the open area under Unit 1 (lower ground floor) as an entertainment area. The finished floor level of this entertainment area is same as the 100 year ARI flood level with only 27mm freeboard. The 100 year ARI flood level issued for this area is at RL 55.62. The flood assessment details on the attached plans D7 did not address the freeboard issue of the entertainment area. However the engineer has indicated in his assessment that overland flow flooding of the site could be unlikely.

I do tend to agree with the engineer here. There is some discrepancy between the flood maps available on Rydemaps and Council issue flood levels. Looking at the general site contours for this area and the topography, it is unlikely that any backflow effect from the overland flow would occur. The site could be affected by the general overland flow from the upstream properties. The entertainment area should not be used for any habitable purposes, and as such, a condition of consent has been imposed.

The ground floor levels have been set according to the levels issue by Council with 500mm freeboard and are satisfactory.

The outlet pipe from the internal drainage system which runs through the park has been relocated away from the boundary to protect the existing trees. This has been approved by Council's City Works & Open Space Sections. Their conditions are to be included.

ITEM 3 (continued)*Recommendation*

There are no objections to the proposed development with respect to the engineering components, subject to the application of the following conditions and above comments.

Conditions have been imposed under **Conditions 36 to 44, Conditions 66 to 69, Conditions 77 to 84.**

Consultant Structural Engineer (Cardno)

A referral was made to Council's Consultant Structural Engineer (Cardno), and the following comments have been made:

"As requested the amended documentation provided in relation to this matter has been reviewed and we advise as follows:

- 1. The architectural layouts for both units have been changed substantially, the floor level of Unit 1 has been lowered by 238 mm, and the floor level of Unit 2 has been raised by 18 mm.*

The ground floors in both units are now shown as being fully suspended, thus removing the filling that was previously proposed under Unit 2.

- 2. The revised stormwater drawings show the proposed rainwater and OSD tanks as being in revised locations, however the required excavations below existing ground level have not changed significantly in depths.*

Discharge from both OSD tanks is still shown as discharging from the pit on the south-eastern corner of the lot and this it still drains to a new inter-allotment drainage line through Bell Park that connects to Council's box culvert in Ball Park.

- 3. The abovementioned changes slightly reduce the risks of slope instability, and accordingly do not change the recommendations contained in our report to Council dated 29 March 2018.*

Those recommendations were "Should Council's officers decide to approve this application then Cardno recommends that this approval be conditioned requiring that all design works and all construction works be conducted in strict compliance with all of the recommendations as contained in the Ground Technologies report dated 9 November 2017."

Conditions have been imposed under **Conditions 1 and 11.**

ITEM 3 (continued) City Works – Drainage

A referral was made to Council’s City Works Department, who have raised no issues with the proposal subject to conditions of consent.

These conditions have been imposed under **Conditions 17, 18, 42, 85, 86 and 87.**

Landscape Architect

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

“Existing Trees

An Arborist Report has been submitted with the application prepared by Redgum Horticultural dated 8/09/2018.

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

Tree No.	Location	Species “Common name”	Proposed recommendation by Arborist	Comment
1	No. 7 Farnell St	Jacaranda mimosifolia Jacaranda	Retain	Agree
2	Bell Park	Leptospermum petersonii Jacaranda	Retain	Agree
3	Bell Park	Leptospermum petersonii Lemon-Scented Teatree	Retain	Agree
4	Bell Park	Jacaranda mimosifolia Lemon-Scented Teatree	Retain	Agree
5	Bell Park	Eucalyptus microcorys Tallowood	Retain	Agree
6	Bell Park	Jacaranda mimosifolia Jacaranda	Retain	Agree
7	Bell Park	Schinus areira Peppercom Tree	Retain	Agree
8	Bell Park	Jacaranda mimosifolia Jacaranda	Retain	Agree
9	Bell Park	1.0 Syncarpia glomulifera 2.0 Turpentine	Retain	Agree
10	No. 9 Farnell St	3.0 Melaleuca quinquenervia 4.0 Broad Leafed Paperbark	Retain	Agree
11	No. 9 Farnell St	Macadamia tetraphylla Macadamia Nut	Retain	Agree

Refer to **Figure 26** for location of trees

ITEM 3 (continued)

Appendix F - Site Plan B
Survey of Trees to be Retained and Tree Protection Plan

Plan reproduced by email and further reduced by electronic scanning and no longer to original scale. For other tree protection measures see sections 5.0 and 7.0.

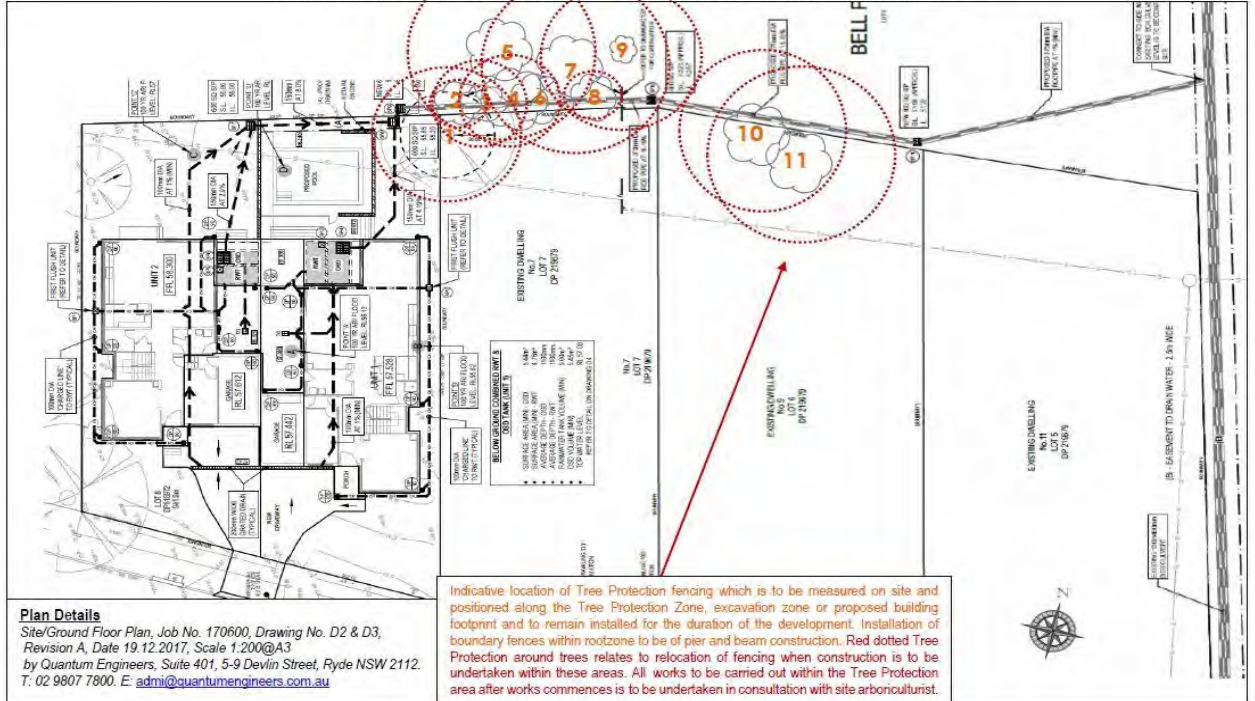


Figure 26: Location of trees subject to assessment



Figure 27: Trees to be retained in Bell Park and adjoin property to the right

Council is to construct a stormwater pipeline from the back of the property, zig-zagging through Bell Park to avoid the existing trees, to an existing stormwater system in Bell Park. The pipeline is at the cost of the applicant. A protective

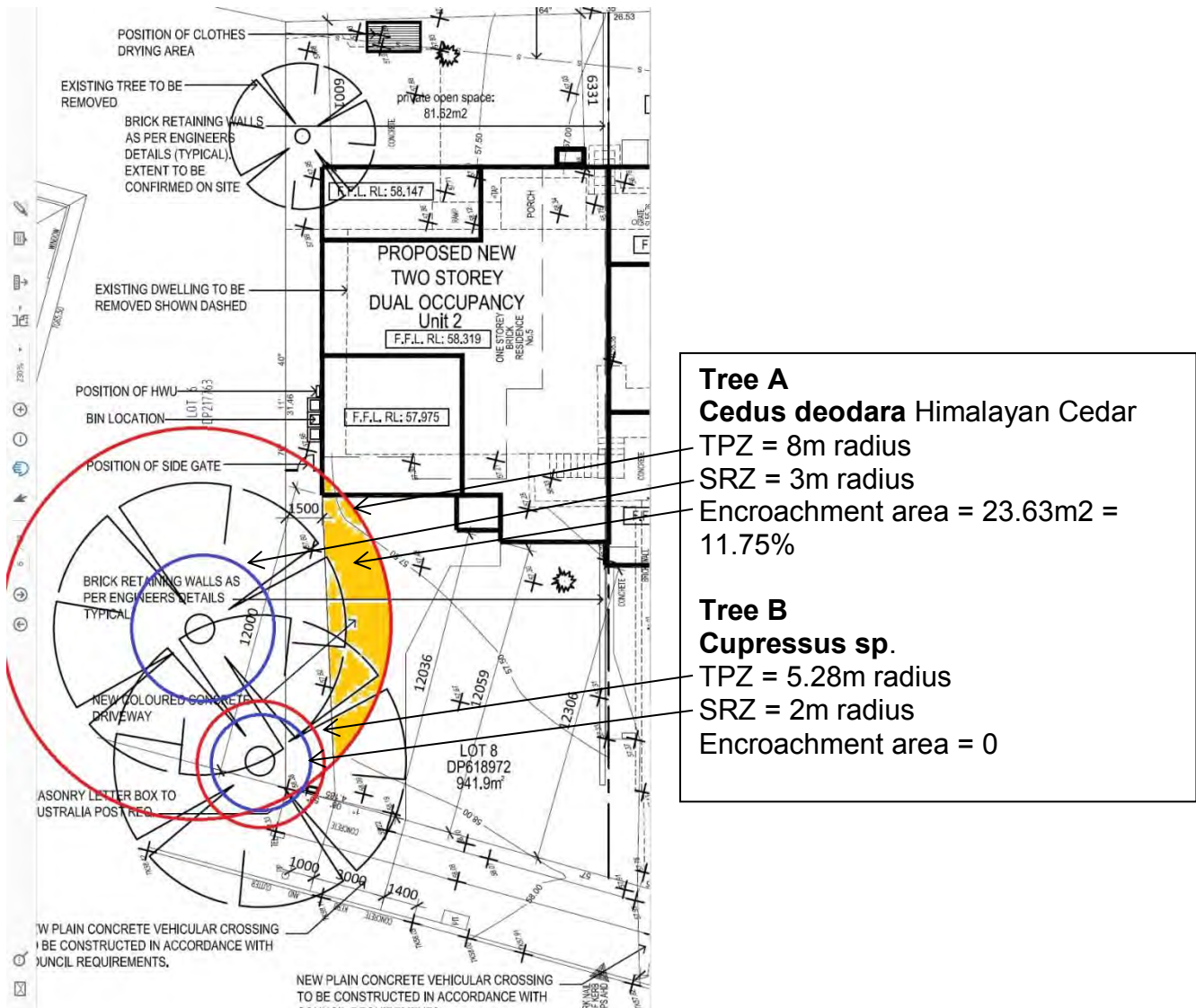
ITEM 3 (continued)

fence will need to be constructed around the Tree Protection Zones (TPZs) as show on the Tree Protection Plan in Appendix F Arborist Report prepared by Redgum Horticultural dated 8/09/2018. Council will be responsible for this construction work.

The Arborist Report was prepared to an earlier stormwater plan which showed the pipeline inside the TPZs. The Arborist required “thrust boring or direct drilling of the pipeline”. The pipeline has since being repositioned outside the TPZs and these special excavation methods are no longer required.

The following comments have been made in relation to the two trees on the adjoining property (No. 3 Farnell Street):

Figure 28 below gives calculations based on Australian Standard AS4970-2009 Protection of trees on development sites.



ITEM 3 (continued)

Figure 28: Location of trees on adjoining properties and associated Tree Protection Zones

AS4970-2009 states that an encroachment of less than 10% it is considered a Minor Encroachment. The Encroachment of the driveway on Tree A is calculated at 11.75%, slightly more than the 10%, however mitigating factors include:

- *A retaining wall along the boundary that has been there for many years and would have restricted root growth into the development site.*
- *Large area of undisturbed soil in the adjoining property where the tree is located This forms an area more than 11.75% compensation and is contiguous with the Tree Protection Zone*

*For the above reasons it is considered the driveway will have little effect on Tree A. A condition of consent specifying that any excavation or regrading within the identified TPZs of these two trees shall be carried out by hand using manual hand tools (see **Condition 54**).*

Landscape Plan

The Landscape plan is satisfactory as following has been provided:

- *A physical connection has been provided by way of stairs between the outdoor paved area and the private yard.*
- *Less than 40% of the front garden will be hard paved*
- *Pathway between front and rear yards has been provided*
- *Trees and shrubs are in scale with the development*
- *Front garden has at least one tree that can grow to a minimum height of 10 metres (the proposed *Banksia integrifolia*).*
- *Private open space has been provided.*

However the backyard does not have a tree with a mature height of at least 15 metres. This is considered acceptable given the reduced rear setback and planting provided in Bell Park.

Stormwater Plan

Generally on-site detention tanks should not be located in the front setback, 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.”

ITEM 3 (continued)

Conditions have been imposed under **Conditions 52, 53, 54, 55, 56, 57, 70, 71, 72 and 73.**

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, LDA2018/0107, is recommended to be approved for the following reasons:

1. The development complies with the relevant provisions of RLEP 2014 with minimal impact to adjoining properties.
2. The proposal provides the opportunity to redevelop the site to deliver a diverse choice of housing to meet the future needs of residents, which fulfils the objectives of R2 Low Density Residential Zones.
3. The proposal is considered to respond to existing and desired future character of the area through enhancing the characteristics of the streetscape.
4. The development results in breaches to the RDCP 2014 as follows:
 - a) Rear setback. However, the proposed setback does not result in any adverse privacy impacts on the adjoining neighbours, and sufficient deep soil area is provided, and the setback is therefore considered acceptable.
 - b) Rear deep soil area. However, the proposal still allows for suitable Stormwater absorption and mature tree planting, and therefore, this non-compliance is acceptable.
 - c) External garage width. This non-compliance is minor, and the proposed garages do not dominate the streetscape.
 - d) Tree Planting. The proposal does not include a mature tree with a height of 15m in the rear setback, however, the proposed landscaping still ensures the appearance of the development is enhanced.
 - e) Overshadowing. The proposal fails to comply with respect to overshadowing of the north facing window of the adjoining property to the south. This non-compliance is acceptable given the amenity of adjoining neighbour will not be unreasonably compromised.
5. The issues raised in the submissions have been adequately addressed in the assessment report.

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

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

1. The Local Planning Panel grant consent to the following development application LDA2018/0107 for the demolition of the existing dwelling and construction of a new two storey dual occupancy (attached), subject to conditions of consent outlined in **Attachment 1** of this report.
2. The objectors be advised of the decision.

ATTACHMENTS

- 1 Draft Conditions of Consent
- 2 Compliance Check
- 3 Amended Plans - subject to copyright provisions - 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 3 (continued)
ATTACHMENT 1

ATTACHMENT 1

Draft conditions of consent – 5 Farnell Street, West Ryde

LDA2018/0107

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
Site Plan	06/11/2018	227, Sheet 2 of 22, Issue 4
Lower Floor Plan	06/11/2018	227, Sheet 3 of 22, Issue 4
Ground Floor Plan	06/11/2018	227, Sheet 4 of 22, Issue 4
First Floor Plan	06/11/2018	227, Sheet 5 of 22, Issue 4
Elevations	06/11/2018	227, Sheet 6 and 7 of 22, Issue 4
Section	06/11/2018	227, Sheet 9 of 22, Issue 4
Roof Plan	06/11/2018	227, Sheet 10 of 22, Issue 4
Window Schedule	06/11/2018	227, Sheet 8 of 22, Issue 4
Landscape Plan	06/11/2018	227, Sheet 12 of 22, Issue 4
Demolition Plan	06/11/2018	227, Sheet 13 of 22, Issue 4
Stormwater Management Plan	29/11/2018	17060, D1 – D10, Revision E
Arboricultural Impact Assessment	8/08/2018	4513
Geotechnical Investigation prepared by Ground Technologies	09/11/2017	17GTE-1402
Site Waste Minimisation and Management Plan	16/02/2018	-

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate numbered 909740M_03, dated 8 August 2018.
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

ITEM 3 (continued)

ATTACHMENT 1

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. **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.
8. **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.
9. **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.
10. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.
11. **Geotechnical Report.** All design and construction works are to be executed in full compliance with all of the recommendations as contained in the Ground Technologies report dated 9 November 2017.

ITEM 3 (continued)

ATTACHMENT 1

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.
16. **Flooding – fencing.** All fences across the overland flow path are to provide a 200mm clear gap (measured from finished ground level) at the base of the fence, which may be covered by mesh.
17. **Overland Flow Path.** No raised garden beds are allowed across the existing overland flow path. Allowance shall be made for surface runoff from adjacent properties, and to retain existing surface flow path system draining the site (if any).
18. **Drainage Infrastructure.** The applicant is required to provide a 600 x 600mm or a larger pit at the eastern boundary of the Unit 1 and a 375mm diameter stub from the pit through the eastern side boundary. Careful consideration must be given to the location of this pit so that there will be no adverse effects on the trees due to the construction of the pipeline through Bell Park. Council will extend the pipeline from the stub to a new grated pit located in Bell Park adjacent to No. 11B Farnell Street. Council will undertake the construction work and all associated costs shall be borne by the applicant.

DEMOLITION CONDITIONS

ITEM 3 (continued)

ATTACHMENT 1

The following conditions are imposed to ensure compliance with relevant legislation and Australian Standards, and to ensure that the amenity of the neighbourhood is protected.

A Construction Certificate is not required for Demolition.

19. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:
 - (a) Council must be notified of the following particulars:
 - (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - (ii) The date the work is due to commence and the expected completion date
 - (b) A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.
20. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
21. **Excavation**
 - (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.
 - (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with Safework NSW in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.
22. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by Safework NSW.
23. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.

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24. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
25. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.
26. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.

PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

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

27. **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	\$4,227.74
Open Space & Recreation Facilities	\$10,407.74
Civic & Urban Improvements	\$3,539.91
Roads & Traffic Management facilities	\$482.86
Cycleways	\$301.62
Stormwater Management Facilities	\$958.70
Plan Administration	\$81.32
The total contribution is	\$20,000.00

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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>.

28. **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**.
29. **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**. **If it is proposed to retain the retaining wall** located along the southern boundary, it must be certified by a suitably qualified Structural Engineer to ensure that the wall will not be affected by the development. To ensure this, the engineer is to submit structural details and certification of the retaining wall with the application for a **Construction Certificate**.
30. **Security deposit.** The Council must be provided with security for the purposes of section 4.17(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**. (dwelling houses with delivery of bricks or concrete or machine excavation)
31. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:

ITEM 3 (continued)

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- (a) Infrastructure Restoration and Administration Fee
- (b) Enforcement Levy

32. **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**.

33. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties (including any public place) that may be affected by the construction work namely No. 7 Farnell Street, West Ryde. 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**.

Note: In the event that all reasonable attempts (to the satisfaction of Council) have been made to obtain access to the relevant properties to undertake the dilapidation survey required by this Condition 33, and such access has been denied, then compliance is not required with this Condition 33.

34. **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.

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

36. **Drop-edge beams.** Drop-edge beams must be provided around both dwellings. Details are to be shown in documentation submitted with the **Construction Certificate**.

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

38. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. The driveway design is to incorporate Council's

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issued footpath and gutter crossing levels where they are required as a condition of consent. A driveway plan, longitudinal section from the centreline of the public road to the garage floor, and any necessary cross-sections clearly demonstrating that the driveway complies with the above details, and that vehicles may safely manoeuvre within the site without scraping shall be submitted with the Construction Certificate application.

39. **Driveway Location.** The proposed driveway to Unit 2 shall be minimum of 500mm from the existing stormwater pit & the power pole in Farnell Street.
40. **Provision of Pedestrian Sight Lines.** To allow for adequate sight distance from a vehicle exiting the property to pedestrians in the footpath area, the driveway entry at the property boundary must have clear sight through a splayed region defined by Figure 3.3 of AS 2890.1 (2004) and Council's DCP. Ideally the region is to be free of all obstructions, otherwise any solid obstructions are to be no greater than 900mm above finished surfaces. These amendment(s) must be clearly marked on the plans submitted with the application for a Construction Certificate to demonstrate compliance with this condition.
41. **Extension of Drainage Infrastructure in Public Reserve/ Park.** To permit discharge of stormwater from the development to the Council's Stormwater drainage system in Bell Park, the Council drainage line is to be extended to be in proximity to the subject site. To achieve this, Council's City Works is to construct these works in accordance with the approved plans and details, upon payment of \$105,933.00 provided to Council prior to issue of a Construction Certificate. A copy of the receipt of this payment shall be forwarded to Council's City Works/Development Engineer.
42. **On-Site Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to the Council pipe at rear, generally in accordance with the plans prepared by Quantum Engineers Job No 170600 Dwg D1 & D6 I Revision E dated 29/11/18 subject to any variations marked in red on the approved plans and noted following;
- Provision of a surface inlet pit within the lowest point within the front yard of Unit 2 and connect this pit to the pit SP3
 - Any overflows from the grated drains within the driveways are to be directed away from the garages,
 - Ensure consistency between the architectural plans & the stormwater plans

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;

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- The certification must state that the submitted design (including any associated components) 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 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.
 - The submitted design shall include long sections through the proposed stormwater pits and pipes in line with the requirements set out within Council's Stormwater and Floodplain Management Technical Manual and submitted to Council for written approval.
43. **Water Tank First Flush.** A first flush mechanism is to be designed and constructed with the water tank system. Details of the first flush system are to be submitted with the construction certificate application.
44. **Vehicle Access & Parking.** All internal driveways, vehicle turning areas, garages and vehicle parking space dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).
45. **Fibre-ready facilities and telecommunications infrastructure.** Prior to the issue of any Construction Certificate satisfactory evidence is to be provided to the Certifier 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 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).

PRIOR TO COMMENCEMENT OF CONSTRUCTION

ITEM 3 (continued)

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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.

46. 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.

47. 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.

48. 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

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ATTACHMENT 1

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

49. Excavation adjacent to adjoining land

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

- 50. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.
- 51. **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. Any doors/gates on the boundary must be installed so they do not open onto any footpath.
- 52. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless identified in the Arborist Assessment prepared by Redgum Horticultural dated 8/09/2018.
- 53. **Tree Work.** The Arborist Report was prepared to an earlier stormwater plan which showed the pipeline inside the TPZs. The Arborist required “thrust boring or direct drilling of the pipeline”. The pipeline has since being repositioned outside the TPZs and these special excavation methods are no longer required.
- 54. **Excavation within Tree Protection Zone.** Any excavation or grading/re-grading for the Unit 2 driveway within the identified TPZs of the adjoining Cedus dedara tree on No. 3 Farnell Street to be retained shall be carried out by hand using manual hand tools. Roots greater than 25mm are not to be damaged or severed without the prior written approval of the Project Arborist.
- 55. **Tree Protection Fencing.** Tree protective fencing is to be installed before demolition and construction commences around the Tree Protection Zones (TPZs) as show on the Tree Protection Plan in Appendix F Arborist Report prepared by Redgum Horticultural dated 8/09/2018.

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56. **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.
57. **Project Arborist.** A Level 5 Project Arborist be appointed 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
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

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		if necessary
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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.

58. **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*.
59. **Noise from construction and demolition work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from demolition and construction work.
60. **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.
61. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
62. **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.
63. **Construction materials.** All materials associated with construction must be retained within the site.
64. **Site Facilities**
The following facilities must be provided on the site:
 - (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.

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ATTACHMENT 1

65. 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.
66. **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”.
67. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Job No 170600 Dwg D1 to D 6 Revision E dated 29/11/18 prepared by Quantum Engineers and as amended in red by Council and condition with the heading “**On-Site Stormwater Management**”.
68. **Erosion and Sediment Control.** The applicant shall install erosion and sediment control measures in accordance with the approved plan 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. Where construction works deviate from the plan, soil erosion and sediment control measures are to be implemented in accordance with the above referenced document.
69. **Traffic Management.** Traffic management procedures and systems must be in place and practised during the construction period to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 1996 and City of Ryde, Development Control Plan 2014 Part 8.1 Construction Activities.
70. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
71. **Tree works – arborist supervision.** A Consultant Arborist must be appointed to oversee all works, including demolition and construction, in relation to the trees identified for retention on the site.
72. **Tree works – provision of arborist details.** Council is to be notified, in writing, of the name, contact details and qualifications of the Consultant Arborist

ITEM 3 (continued)

ATTACHMENT 1

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.

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.

73. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate numbered 909740M_03, dated 8 August 2018.
74. **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.
75. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of any **Occupation Certificate**.
76. **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**.
77. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
78. **Damaged Footpath Paving Construction.** The applicant shall, at no cost to Council, construct any damaged concrete footpath paving across the frontage of the property in Farnell Street. A compliance certificate from the Council's City

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ATTACHMENT 1

Works & Infrastructure shall be obtained upon completion of concrete footpath paving works indicating that all works have been completed to Council's satisfaction and submitted to the Principal Certifying Authority.

79. **Vehicle Footpath Crossings.** Concrete footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The location, design and construction shall conform to the requirements of Council. Crossings are to be constructed in plain reinforced concrete and finished levels shall conform with property alignment levels issued by Council's City Works & Infrastructure Division. Kerbs shall not be returned to the alignment line. Bridge and pipe crossings will not be permitted.
80. **On-Site Stormwater Detention System - Marker Plate.** Each on-site detention system basin shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface or access grate. The wording on the marker plate is described in City of Ryde, Development Control Plan 2014: - Part 8.2; Stormwater & Floodplain Management. An approved plate may be purchased from Council's Customer Service Centre on presentation of a completed City of Ryde OSD certification form.
81. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels **is to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA.
82. **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 Principal Certifying Authority 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.
- Confirming that the driveway & associated parking areas are constructed in accordance with the construction plan requirements, AS 2890.1 and Ryde City Development Control Plan 2014: - Part 8.3; Driveways.
 - Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2014: - Part 8.2; Stormwater & Floodplain Management

ITEM 3 (continued)

ATTACHMENT 1

- Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
 - Confirming that the vehicular crossing has been removed and the kerb and gutter have been constructed in accordance with Council's Development Control Plan 2014: - Part 8.3 Driveways
 - Certification from the hydraulic engineer confirming that finished ground and floor levels have been constructed and the overland flow path has been conveyed through the site as designed.
 - Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.
83. **Positive Covenant, OSD.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Stormwater Detention Systems and to the satisfaction of Council.
84. **Restriction as to User, Floodway.** A restriction as to user is to be placed on the property title to prevent the alteration of the ground surface and maintenance within the 100 year Average Recurrence Interval flow path and also not to have any structure placed inside without Council permission. The terms of the restriction shall be generally in accordance with Council's draft terms for provision for overland flow and to the satisfaction of Council.
85. **Probable Maximum Flood.** A certificate from a qualified engineer shall be provided to the Principal Certifying Authority confirming that the building structure is able to withstand the forces of floodwaters having regard to hydrostatic pressure, hydrodynamic pressure, the impact of debris and buoyancy forces up to the Probable Maximum Flood (PMF) event.
86. **Flood Compatibility.** A certificate from a practicing structural engineer shall be provided to the Principal Certifying Authority confirming that all new building components below the 100 year ARI flood plus 0.5m freeboard have been designed to be flood compatible. A certificate from a qualified engineer shall be provided to the Principal Certifying Authority confirming that all new boundary and internal fencing located across the existing overland flow path are permeable up to the 1 in 100 year ARI flood level.
87. **Works-as Executed Drawings – Stormwater Drainage** - Prior to the issue of an Occupation Certificate, Works-As-Executed Drawings for the existing overland flowpath showing ground levels at regular interval shall be submitted

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ATTACHMENT 1

to and approved by Council's Stormwater Engineer. The Works-as-Executed Drawings shall be accompanied by a certificate from a registered surveyor, certifying the drawings are a true and accurate representation of the ground levels.

88. **Boundary Fencing.** All boundary fencing is to be located on the boundaries, as defined by a Registered Surveyor. Any existing encroachments are to be rectified prior to the issue of any **Occupation Certificate**.

OPERATIONAL CONDITIONS

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

89. **Ancillary Elements – Noise.** Any noise emitted from ancillary elements such as air-conditioning units or the like must not exceed 5dB(A) above the background noise level when measured at any affected residence.
90. **Unit 1, Lower Ground Floor Area.** The lower ground floor area of Unit 1 shall not be used for any habitable purposes.
91. **Dividing Fencing.** All dividing fences are to be constructed in accordance with the *Dividing Fences Act 1991*.

End of Conditions

ITEM 3 (continued)

ATTACHMENT 2

Compliance Check - Quality Certification

Assessment of a Dual Occupancy (attached), Single Dwelling House, Alterations & Additions to a Dwelling House and ancillary development.

LDA No: LDA2018/0107	Date Plans Rec'd:
Address: 5 Farnell St West Ryde	
Proposal: Demolition; new two storey dual occupancy (attached) and swimming pool.	
Constraints Identified: Slope Instability, Overland Flow Area, Flood Risk	

COMPLIANCE CHECK

Ryde LEP 2014	Proposal	Compliance
4.3(2) Height		
9.5m	Ridge RL (min): 64.63 EGL below (min): RL: 57.01 Building Height (max)= 7.62m Ridge RL (max): 64.057 EGL below (max) RL: 55.647 Building Height (max)= 8.41m	Yes
4.4(2) & 4.4A(1) FSR		
0.5:1 Site area= 941.9m ²	Ground floor: 300.5m ² First Floor: 201m ² 501.5m ² (minus) 36m ² (garage) Total GFA = 465.5m ² (or 0.494:1)	Yes

DCP 2014	Proposed	Compliance
Part 3.3 - Dwelling Houses and Dual Occupancy (attached)		
Desired Future Character		

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DCP 2014	Proposed	Compliance
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is consistent with the desired future character of the low density residential area as detailed further in this table.	Yes
Dwelling Houses		
<ul style="list-style-type: none"> - To have a landscaped setting which includes significant deep soil areas at front and rear. - Maximum 2 storeys. - Dwellings to address street - Garage/carports not visually prominent features. 	<p>Front and rear gardens proposed.</p> <p>Two storeys proposed. The FFL of the ground floor is more than 1.2m above the EGL, however, this is due to flood constraints, and the proposal is considered 2 storeys in height as the space underneath the two storeys is not used any room.</p> <p>Dwelling presents to Farnell Street.</p> <p>Garage not prominent feature as setback in front elevation of building.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Public Domain Amenity		
Streetscape		
<ul style="list-style-type: none"> - Front doors and windows are to face the street. Side entries to be clearly apparent. - Single storey entrance porticos. - Articulated street facades. 	<p>Front doors and windows face street.</p> <p>Single entrance portico.</p> <p>Articulated street façade.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Public Views and Vistas		
<ul style="list-style-type: none"> - A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views. 	No public view or vista is impeded by the proposed development.	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. Fence 70% open where height is >900mm.		
Pedestrian & Vehicle Safety - Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard. - Fencing that blocks sight lines is to be splayed.	No issues have been raised by Council's Senior Development Engineer.	Yes
Site Configuration		
Deep Soil Areas - 35% of site area min. - Min 8x8m deep soil area in backyard. - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). - Dual occupancy developments only need 1 of 8 x 8m area (doesn't have to be shared equally).	Permeable (deep soil) area: 401.3m ² approx (42.6% of site area).	Yes
	Rear DSA dimensions: 8m x 8m are not provided due to 6m rear setback. Adequate DSA still provided and significant areas provided in front setback.	No
	Front DSA: 100% permeable area in front yard= 246.8m ² . Hard surface areas have been kept to a minimum in the front yard.	Yes
Topography & Excavation Within building footprint: - Max cut: 1.2m - Max fill: 900mm Outside building footprint: - Max cut: 900mm - Max fill: 500mm	Within BF Max cut: 700mm Max fill:850mm Outside BF Max cut: nil Max fill: nil	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> - No fill between side of building and boundary or close to rear boundary - Max ht retaining wall 900mm 		
Height		
<ul style="list-style-type: none"> - 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL). 	Two storeys are proposed for the development.	Yes
<ul style="list-style-type: none"> - 1 storey maximum above attached garage incl semi-basement or at-grade garages. 		
Wall plate (Ceiling Height) <ul style="list-style-type: none"> - 7.5m max above FGL or - 8m max to top of parapet <i>NB:</i> <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> <i>FGL = Finished Ground Level</i>	TOW (highest) RL: 63.789 FGL below (lowest point): TOW Height (max)= 7.2m	Yes
9.5m Overall Height <i>NB:</i> <i>EGL = Existing Ground Level</i>	8.41m	Yes
Habitable rooms to have 2.4m floor to ceiling height (min).	2.45m min room height.	Yes
Setbacks		
SIDE Two storey dwelling <ul style="list-style-type: none"> - 1500mm to wall - Includes balconies etc 	To wall min 1.5m	Yes
Front <ul style="list-style-type: none"> - 6m to façade (generally) - Garage setback 1m from the dwelling façade - Wall above is to align with outside face of garage 	12m front setback is required given the site is within the West Ryde Special Development Area. A 12m front setback has been	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
below. - Front setback free of ancillary elements eg RWT, A/C	provided.	
Rear - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. Note: 8.89m is 25% of average site length.	A 6m rear setback is proposed. Given the increased front setback, and that the site backs on to a reserve, this is considered acceptable.	No (justifiable)
Sites wider than they are long - One side setback of 8m or 20% of allotment width, whichever is greater. - Rear setback 4m min (in addition to 8m side setback). NB: Side setback on irregular allotments can be measured at the centre line of the site. (must have 8x8m DSA)	Not applicable.	N/A
Car Parking & Access		
General - Dwelling: 2 spaces max, 1 space min. - Dual Occupancy (attached): 1 space max per dwelling. - Where possible access off secondary street frontages or laneways is preferable. - Max 6m wide or 50% of frontage, whichever is less. - Behind building façade.	Number/location of car spaces: 2 spaces in the form of 2 x single garages. Access from: Farnell Street. External width: 6.5m (combined).	Yes Yes No (justifiable)
Garages - Garages setback 1m from façade. - Total width of garage doors visible from public space	Setback from façade: greater than 1m. Width of opening: 4.8m	Yes Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<p>must not exceed 5.7m and be setback not more than 300mm behind the outside face of the building element immediately above.</p> <ul style="list-style-type: none"> - Garage windows are to be at least 900mm away from boundary. - Free standing garages are to have a max GFA of 36m² - Materials in keeping or complimentary to dwelling. 	<p>(combined).</p> <p>No side garage windows.</p>	<p>Yes</p>
<p>Parking Space Sizes (AS)</p> <ul style="list-style-type: none"> o Double garage: 5.4m wide (min) o Single garage: 3m w(min) o Internal length: 5.4m (min) 	<p>Internal measurements: 3.01 x 5.51m and 3m x 6.05m</p>	<p>Yes</p>
<p>Driveways Extent of driveways minimised</p>	<p>Two driveways proposed are not excessive in hardstand area.</p>	<p>Yes</p>
Landscaping		
<p>Trees & Landscaping</p> <ul style="list-style-type: none"> - Major trees retained where practicable - Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL eg. stairs, terraces. - Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access) - Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy. - Back yard to have at least 1 tree with mature ht of 15m min and a spreading canopy. 	<p>All major trees are retained.</p> <p>Stairs are provided to each raised alfresco area.</p> <p>Pathway provided.</p> <p>2 x 15m trees (Coastal Banksia) provided in front yard.</p> <p>Trees proposed in backyard do not meet height requirement. However, given the close proximity of trees</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No (justifiable)</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> - Hedging or screen planting on boundary mature plants reaching no more than 2.7m. - OSD generally not to be located in front setback unless under driveway. 	<p>within Council's reserve at the rear of the site, this is considered acceptable in this instance.</p>	
<ul style="list-style-type: none"> - Landscaped front garden, with max 40% hard paving 	<p>Hard Paving: 30%</p>	<p>Yes</p>
<p>Landscaping for lots with Urban Bushland or Overland Flow constraints</p> <ul style="list-style-type: none"> - Where lot is adjoining bushland protect, retain and use only native indigenous vegetation for distance of 10m from bdy adjoining bushland. - No fill allowed in overland flow areas. - Fences in Overland Flow areas must be of open construction so it doesn't impede the flow of water. 	<p>The lot backs on to a Council reserve where urban bushland is identified. The proposal will not result in the removal of any trees within the reserve.</p> <p>No issues raised by Council's Development Engineer in regard to overland flow.</p>	<p>Yes</p> <p>Yes</p>
<p>Dwelling Amenity</p>		
<p>Daylight and Sunlight Access</p> <ul style="list-style-type: none"> - Living areas to face north where orientation makes this possible. - 4m side setback for side living areas where north is to the side allotment boundary. <p><u>Subject Dwelling:</u></p> <ul style="list-style-type: none"> - Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 	<p>Living areas face predominately west. However, adequate solar access is provided to these windows.</p> <p>Side boundary is the northern boundary. 4m side setback is not appropriate in this instance.</p> <p>N facing windows: at least 3 hours sunlight is achieved for proposed north facing windows.</p>	<p>No (justifiable)</p> <p>No (justifiable)</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<p>3pm on June 21.</p> <ul style="list-style-type: none"> - Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21. <p><u>Neighbouring properties are to receive:</u></p> <ul style="list-style-type: none"> - 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21. - At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	<p>POS: 2 hours sunlight is achieved to at least 50% of POS.</p> <p>2 hours sunlight provided to No. 7 Farnell Street POS.</p> <p>Given the orientation of the site, the north facing kitchen/living room window of No. 7 Farnell Street (to the south) are somewhat overshadowed by the proposed building. North facing kitchen window will receive sunlight to a portion of their surface for 2.5 hours between 9am and 3pm of June 21.</p>	<p>Yes</p> <p>Yes</p> <p>No (justifiable)</p>
<p>Visual Privacy</p> <ul style="list-style-type: none"> - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. - Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space. - Side windows offset from adjoining windows. - Terraces, balconies etc are not to overlook neighbouring dwellings/private open 	<p>Treatment and design of windows (including obscure glass and highlight windows) ensures no overlooking opportunities into neighbouring properties.</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
space.		
Acoustic Privacy Layout of rooms in dual occupancies (attached) are to minimise noise impacts between dwellings eg: place adjoining living areas near each other and adjoining bedrooms near each other.	Achieved.	Yes
View Sharing - The siting of development is to provide for view sharing.	The proposed development does not restrict views of adjoining dwellings.	Yes
Cross Ventilation - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation.	Adequate cross ventilation is achieved.	Yes
External Building Elements		
Roof - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable Terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights. Attic Dormer Windows - Max 2 dormer windows with a max total width of 3m. - Highest point to be 500mm min below roof ridge and 1m min above the top of gutter. - Total roof area of attic dormer: 8m ² - Front face to be setback 1m min back from external	Adequate roof articulation is achieved. No dormer windows are proposed.	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
face of wall below. - Balconies set into roof not permitted.		
Fencing		
Front/return: - To reflect design of dwelling. - To reflect character & height of neighbouring fences. - Max 900mm high for solid (picket can be 1m). - Max 1.8m high if 50% open (any solid base max 900mm). - Retaining walls on front bdy max 900mm. - No colorbond or paling Max width of piers 350mm.	No front fencing is proposed.	Yes
Side/rear fencing: - 1.8m max o/a height.	Can be conditioned.	Yes
Part 7.1 - Energy Smart, Water Wise		
Insulation		
Walls: R1.5 Ceiling: R3.0	Suitable BASIX certificate has been provided.	Yes
Hot Water System		
Any hot water system/s installed as part of a development or as a replacement must consider the most efficient option available to minimise greenhouse gas emissions.	Suitable BASIX certificate has been provided.	Yes
Water Fixtures, Fitting and appliances		
3 star shower heads; 4 star dual flush toilet; 4 star taps (other than bath outlets and garden taps); aerators to	Suitable BASIX certificate has been provided.	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
bathroom/kitchen taps.		
External Clothes Drying Area		
External yard space or sheltered ventilated space for clothes drying	Proposed on rear boundary – satisfactory.	Yes
Water Efficient Labelling & Standards (WELS)		
Minimum WELS rating of 4.5 stars for new or replacement dishwashers & washing machines.	Suitable BASIX certificate has been provided.	Yes
Part 7.2- Waste Minimisation & Management		
Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2014.	The applicant has submitted a Waste Management Plan in accordance with Part 7.2 of DCP 2014.	Yes
Part 8.2 - Stormwater Management		
Stormwater & Floodplain Management		
Drainage is to be piped in accordance with Part 8.2 - Stormwater & Floodplain Management.	No issues raised by Development Engineer subject to conditions of consent.	
Part 9.2- Access for People with Disabilities		
Accessible path required from the street to the front door, where the level of land permits.	Provided via driveway.	
Part 9.5 – Tree Preservation		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance	Trees at rear of site on Council reserve/neighbouring property have been assessed by an arborist and are able to be retained.	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
between the tree(s) and the proposed building and the driveway.		

BASIX		
All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans (list) BASIX Cert 909740M_03 dated 08 August 2018 <ul style="list-style-type: none"> • RWT 5000L • Swimming Pool <ol style="list-style-type: none"> 1. <28kL 2. outdoors • Thermal Comfort Commitments – Construction. • TCC – Glazing. • Solar Gas Boosted HWS w/41-45 RECS+ • HWS Gas Instantaneous 5 star. • Natural Lighting <ol style="list-style-type: none"> 1. kitchen 2. bathrooms () 	Suitable BASIX certificate has been provided.	Yes
Water Target 40 Energy Target 50	Water: 40 Energy: 50	Yes Yes
Correct description of property/proposal on 1 st page of Certificate.	No incorrect details	Yes

Demolition		
Plan showing all structures to be removed	Shown on plans.	Yes
Demolition Work Plan	Provided.	Yes
Waste Management Plan	Provided.	Yes

Summary of Issues/Non compliances:

ITEM 3 (continued)

ATTACHMENT 2

- External garage width (justifiable)
- Rear setback (justifiable)
- Backyard tree planting (justifiable)
- Rear 8m x 8m Deep Soil Area (justifiable)
- Solar Access (justifiable)

Certification

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

Name Madeline Thomas

Signature

Date

4 11 THIRD AVENUE, EASTWOOD - TORRENS TITLE SUBDIVISION INTO TWO ALLOTMENTS, DEMOLITION AND THE CONSTRUCTION OF A TWO STOREY DUAL OCCUPANCY (ATTACHED) ON EACH LOT INCLUDING SUBSEQUENT STRATA SUBDIVISION OF EACH DUAL OCCUPANCY - LDA2018/0096

Report prepared by: Acting Senior Coordinator - Development Assessment

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

Report dated: 6 February 2019
BP19/88

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

**City of Ryde
Local Planning Panel Report**

DA Number	LDA2018/0096
Site Address & Ward	11 Third Avenue, Eastwood West Ward
Zoning	R2 Low Density Residential
Proposal	Torrens Title subdivision into two allotments, demolition and the construction of a two storey dual occupancy (attached) on each lot, including subsequent Strata subdivision of each dual occupancy
Property Owner	Prestige Lane Pty Ltd
Applicant	Baini Design
Report Author	Madeline Thomas – Assessment Officer
Lodgement Date	7 March 2018

ITEM 4 (continued)

No. of Submissions	14 submissions
Cost of Works	\$1,695,463 (verified by a Registered quantity surveyor)
Reason for Referral to IHAP	<ul style="list-style-type: none"> • Contentious Development – Development is the subject of 10 or more unique submissions by way of objection • Exceedance of Floor Space Ratio by more than 10%
Recommendation	Refusal
Attachments	Attachment 1: Compliance table for RDCP 2014 Attachment 2: Amended plans

1. Executive Summary

This application seeks approval for Torrens Title subdivision of the existing single allotment into two (2) allotments, demolition of existing structures and construction of a two storey (attached) dual occupancy on each newly subdivided allotment and subsequent Strata subdivision of each dual occupancy on land known as 11 Third Avenue, Eastwood.

The proposal was advertised and notified in accordance with Council's Notification Policy. During the notification period (from 19 March 2018 to 4 April 2018) Council received 14 submissions.

The submissions raise various concerns with the development including:

- potential structural damage to the existing retaining wall on the common boundary;
- soil erosion;
- increased traffic and pedestrian safety;
- overshadowing;
- visual and acoustic privacy;
- health hazards;
- adequacy of the existing infrastructure due to the increased density;
- permissibility of the development within the zone;

ITEM 4 (continued)

- insufficient information provided with the neighbour notification;
- narrow width of the laneway and potential traffic conflicts;
- removal of significant trees;
- streetscape and character of the area;
- neighbourhood amenity;
- lack of pedestrian footpath along Young Parade;
- adequacy of car parking;
- heritage value;
- bulk and scale/number of dwellings and bedrooms; and
- Inappropriate design response to the site constraints and features.

Amended plans were received on 18 July 2018. Re-notification of these plans was not required in accordance with the RDCP as Council is of the opinion that the amendment is not significantly different to the originally submitted development.

The subject site is not considered to be suitable for the proposed Torrens Title subdivision of the existing single allotment into two separate allotments given the lack of satisfactory access for cars and pedestrians from Young Parade due to the site constraints with natural topography and steeply sloped reserve in Young Parade.

The proposed allotment, Lot B is not considered suitable for a dual occupancy, given the lack of satisfactory access for cars and pedestrians. The proposed dual occupancy on Lot B is an inappropriate design response to the site constraints where there are limited developable areas with the presence of Sydney Blue Gum trees taking up to 1/3 of the Lot B, limited useable street frontage for a driveway with minimal impact on Sydney Blue Gum trees and steeply sloped reserve to accommodate an acceptable grade for vehicular and pedestrian access from Young Parade. As a result, the proposal also fails to comply with various planning controls applicable to this application.

These existing Sydney Blue Gum trees form part of the Blue Gum High Forest. The Blue Gum High Forest is listed as a critically endangered ecological community (EEC) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). It is also listed as an endangered ecological community in NSW under the *NSW Biodiversity Conservation Act 2016*.

The applicant has failed to provide Council with an Environmental Impact Statement assessing the cumulative impact of the proposal on the EEC.

Furthermore the development fails to comply with various EPIs and RDCP 2014 controls mainly due to the inappropriate design response to the site constraints.

Given the reasons detailed above, the development application is recommended for refusal.

ITEM 4 (continued)

2. The Site and Locality

The subject site consists of one allotment legally described as Lot 109 in DP 4684 and is known as No. 11 Third Avenue Eastwood.

The site is located at the south eastern side of the intersection of Third Avenue and Young Parade, is regularly shaped with a street frontage of 25.145m to Third Avenue, depth of 50.29m (along the secondary street frontage to Young Parade) and has a total site area of 1,264.36m². See **Figure 1** below.



Figure 1 - Aerial photograph of site in context

The site currently contains a single storey dwelling house with a driveway along the western side of the site.

Figure 2 below shows the existing dwelling house currently occupying the site.

ITEM 4 (continued)

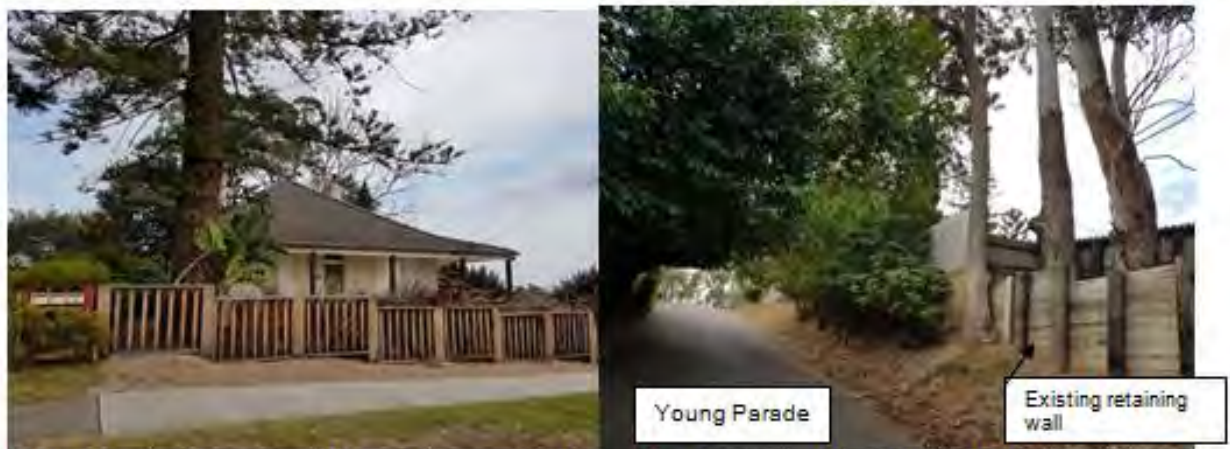


Figure 2 – Photographs of the existing dwelling house from Third Ave (left) and Young Parade (right)

The site is currently accessed via a single crossover on the western side of the Third Avenue frontage as depicted in **Figure 3**.



Figure 3 – Photographs showing the existing vehicular access from Third Avenue

The site gradually falls away from the eastern side of Third Avenue towards the intersection of Third Avenue and Young Parade. However the site falls sharply by approximately 3m – 4m towards the south western corner of the site where there are existing trees within close proximity to the existing retaining walls, as shown in **Figure 4**).

The Council verge in between the site and the constructed Young Parade (i.e. within the road reserve) has a cross fall as well as a steep fall from the front boundary to the kerb. See **Figure 4**.

ITEM 4 (continued)



Figure 4 – Photographs showing the existing Young Parade reserve (left) and retaining wall around existing Sydney Blue Gum trees (right)

There are nine (9) trees comprising a mix of Australian natives and exotic within and in the vicinity of the site consisting of the following:

Tree Number	Species	Retention Value (RV)
T1	Norfolk Island Pine (<i>Araucaria heterophylla</i>)	Medium
T2	Weeping Bottlebrush (<i>Callistemon viminalis</i>)	Medium
T3	Italian Cypress (<i>Cupressus sempervirens</i>)	Nil
T4	Silk Oak (<i>Grevillea robusta</i>)	Low-Medium
T5	Sydney Blue Gum (<i>Eucalyptus saligna</i>)	Medium-High
T6	Sydney Blue Gum (<i>Eucalyptus saligna</i>)	Medium-High
T7	Sydney Blue Gum (<i>Eucalyptus saligna</i>)	Medium-High
T8	Sydney Blue Gum (<i>Eucalyptus saligna</i>)	Medium-High
T9	Sydney Blue Gum (<i>Eucalyptus saligna</i>)	Medium-High

Table 1 – Species and Retention Value of existing trees at 11 Third Avenue, Eastwood

Of note, the above list indicates the presence of five (5) Sydney Blue Gums on the site which form part of the Blue Gum High Forest.

The Blue Gum High Forest is listed as a critically endangered ecological community under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). It is also listed as an endangered ecological community in NSW under the *NSW Biodiversity Conservation Act 2016*.

Six (6) of the existing trees on the site are located within the south western corner of the site taking up approximately 1/3 of the total site area of the newly created Lot B (see **Figure 4** and **5**).

There is an existing Sydney Water sewer line running across the site width as demonstrated in **Figure 5**.

ITEM 4 (continued)



Figure 5 - Aerial photograph of site showing the sewer line (in yellow)

The site adjoins an established low density residential development to the east containing three (3) villas at No. 13 Third Avenue with a common driveway immediate to the eastern side boundary.

The site adjoins single dwelling houses to the south. These dwellings have driveways accessed from Young Parade (see **Figure 6** below).



Figure 6 – Photograph showing driveways accessing Young Parade to south of site (Source: Google Maps)

ITEM 4 (continued)

It's worth noting that these existing driveways in Young Parade provide acceptable access for cars and pedestrians as they are either designed to follow the natural contours (slopes diagonally to the kerb alignment) with longer driveway length with minimal grade change or are located on the opposite side of Young Parade where there are minimal height changes within the footpath reserve.

3. The proposal

The proposal seeks approval for the Torrens Title subdivision of the existing single allotment into two (2) allotments, demolition of existing structures and the construction of a two storey (attached) dual occupancy on each newly subdivided allotment.

It also includes subsequent Strata subdivision of the dual occupancy on each new allotment.

Details of the development are:

- **Torrens Title Subdivision**

Existing single allotment Lot 109 in DP 4684 is to be subdivided into two (2) separate allotments to be known as Lot A and Lot B as shown in **Figure 7** below.

The allotments are as follows:

Lot	Area
Existing: Lot 109 DP 4684	1,264.36m ²
Proposed: Lot A	632.18m ²
Proposed: Lot B	632.18m ²

ITEM 4 (continued)

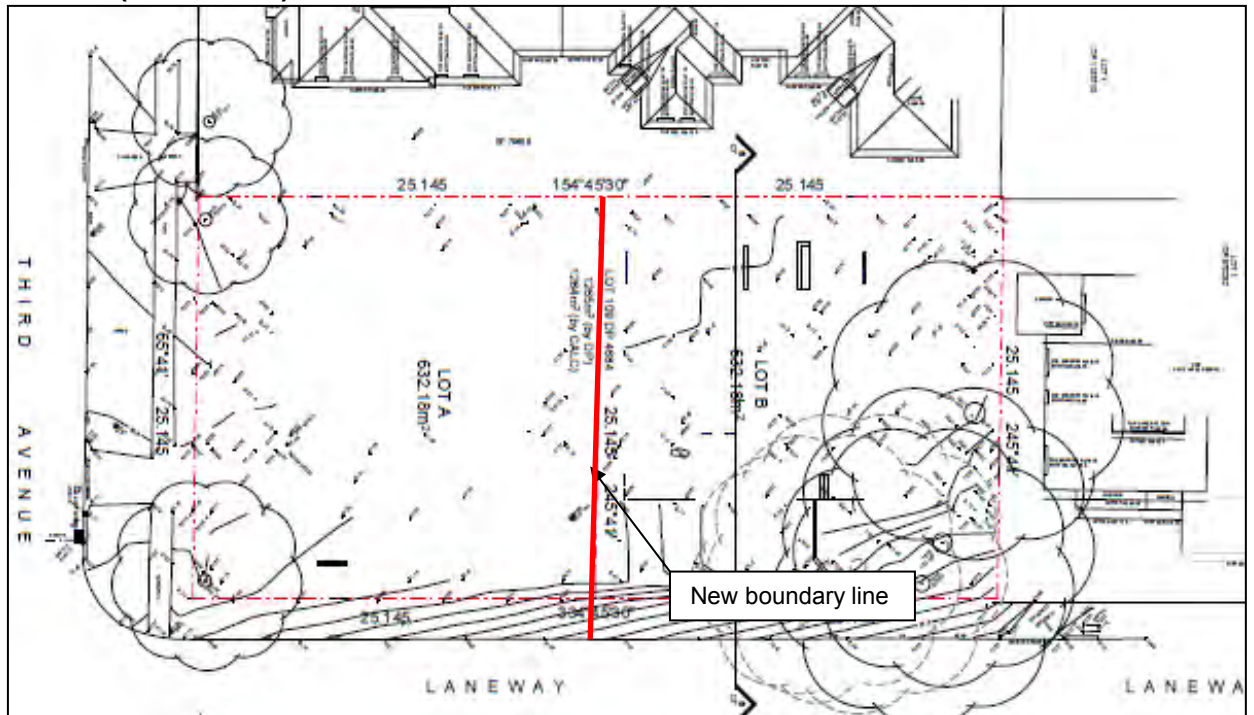


Figure 7 – Subdivision plan

- **Lot A (attached dual occupancy fronting Third Avenue)**

A two storey dual occupancy is proposed on Proposed Lot A, which addresses, and is accessed from, Third Avenue.

The ground floor includes a single garage with separate main entry and front porch with pedestrian access from Third Avenue for each dwelling.

The main entrance is adjoined by an open plan living/dining and kitchen with a covered alfresco area to the southern rear of each dwelling.

Figure 8 shows the front elevation of this dual occupancy.

ITEM 4 (continued)



Figure 8 – Front elevation of the attached dual occupancy on Lot A

The first floor of each dwelling is identical and comprises five bedrooms (master bedroom with an ensuite, walk-in wardrobe), a separate bathroom and first floor front balcony facing Third Avenue.

A new driveway crossing is proposed from Third Avenue. The internal driveway is located in the centre of the street frontage in order to retain 1 x existing on-site tree within the front yard of each dwelling. See **Figure 9**.

ITEM 4 (continued)

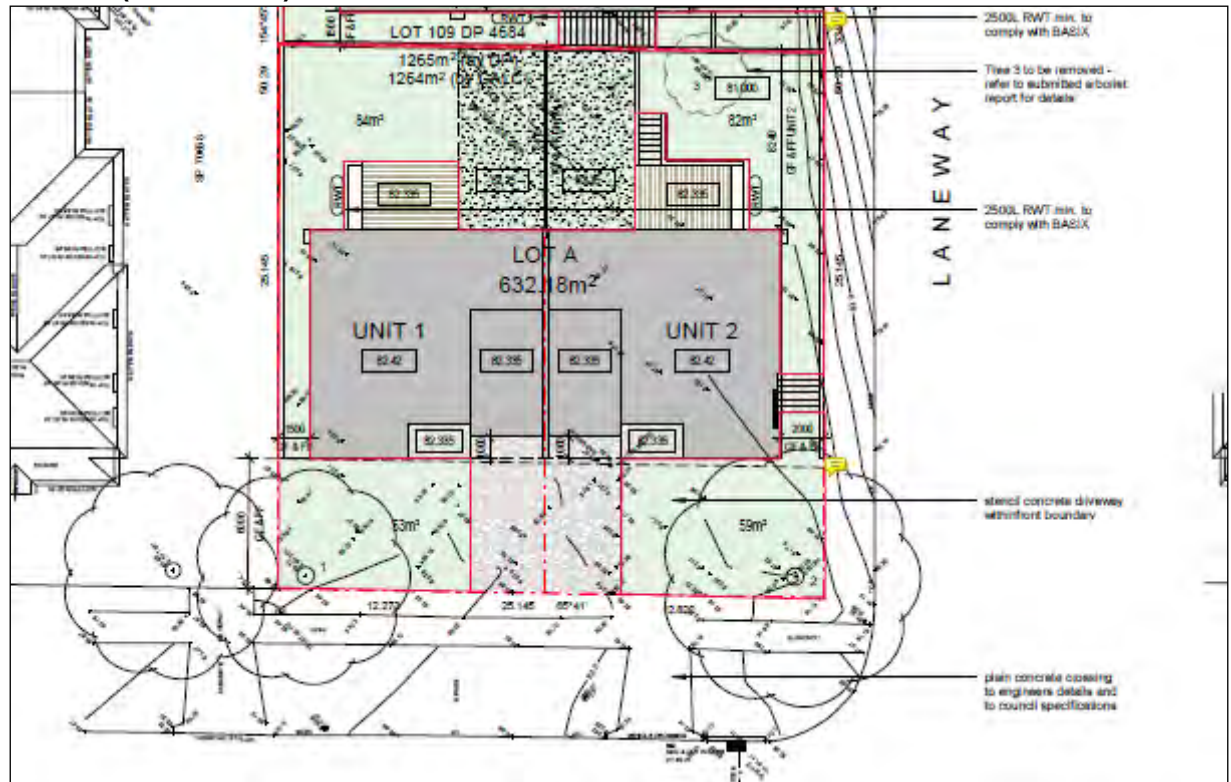


Figure 9 – Site Plan of the attached dual occupancy on Lot A

- **Lot B (attached dual occupancy fronting Young Parade)**

A two storey dual occupancy is proposed on Proposed Lot B, which addresses, and is accessed from, Young Parade.

The basement level of each dwelling includes an entry foyer, double tandem garage and additional basement floor area that has not been clearly marked for any intended use.

The ground floor includes a study and open plan living/dining and kitchen with a covered alfresco area to the eastern side of each dwelling.

The first floor of each dwelling is identical and comprises four bedrooms (master bedroom with an ensuite, walk-in wardrobe), a separate bathroom, first floor front balcony fronting Young Parade.

Figure 10 shows the front elevation of this dual occupancy.

ITEM 4 (continued)

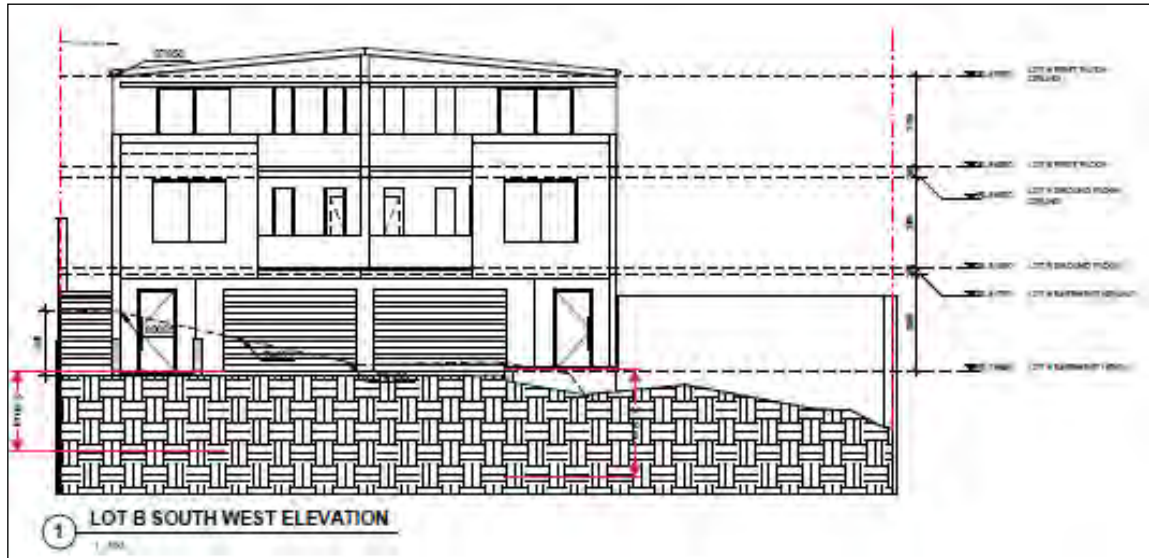


Figure 10 – Front elevation of the attached dual occupancy on Lot B

A new driveway crossing is proposed from Young Parade. The proposed driveway is towards the northern side of the street frontage of Lot B as depicted below in **Figure 11**.

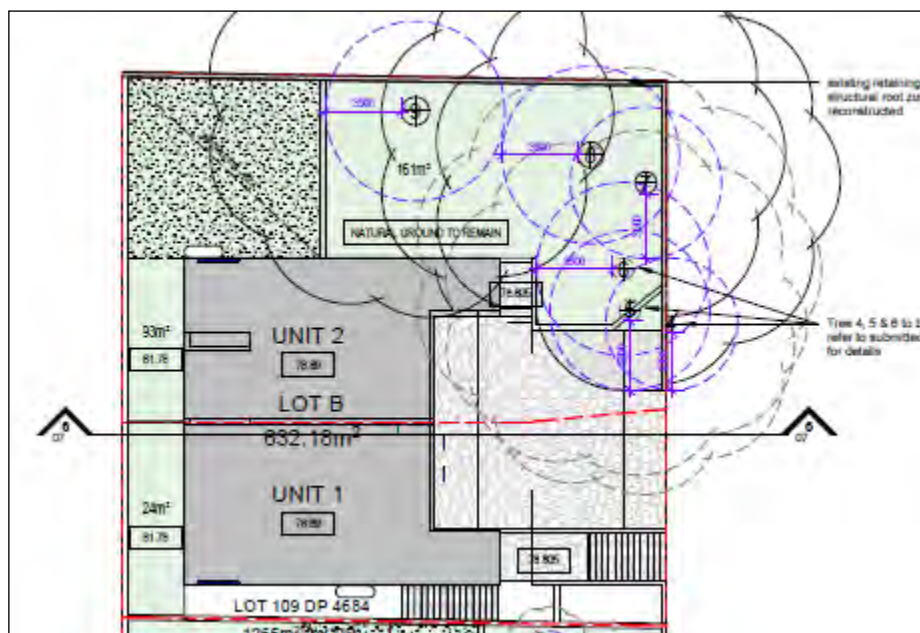


Figure 11 – Site Plan of the attached dual occupancy on Lot B

A 10m wide driveway has been proposed as part of the amended plans dated 17 July 2018. A typical driveway profile has been submitted with the amended plans as shown in **Figure 12**.

ITEM 4 (continued)

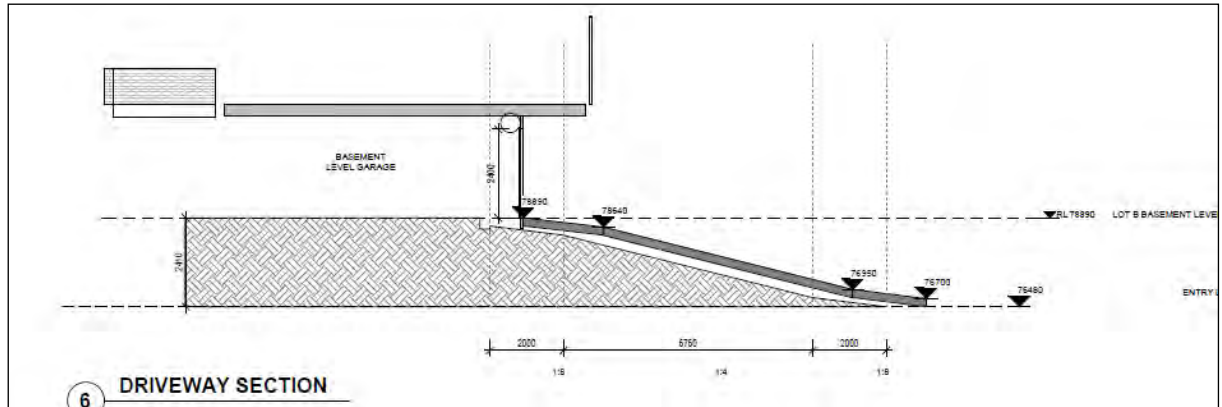


Figure 12 – Typical driveway profile for the proposed dual occupancy on Lot B

- **Tree Retention & Removal**

The development involves the removal of three (3) trees from the proposed Lot B being numbered T4, T5 and T6.

Two of these trees (Trees 5 & 6) are mature Sydney Blue Gums which are proposed to be removed to facilitate the widened driveway from Young Parade (as amended).

These Sydney Blue Gum trees are currently dead. See **Figures 13 & 14** below.

The remaining tree, T4 is a Silk Oak (*Grevillea robusta*) and this has been identified as having declining health.



Figure 13– Photograph showing existing Sydney Blue Gum T4-9 at the time of lodgement (left) and current conditions of T5 & T6 Sydney Blue Gum trees at the time of the amended plans (right)

Figure 14 below shows the location of Trees 5 and 6 and their proximity to the originally proposed single driveway/crossover (to the left) and the amended double driveway/crossover (to the right).

ITEM 4 (continued)

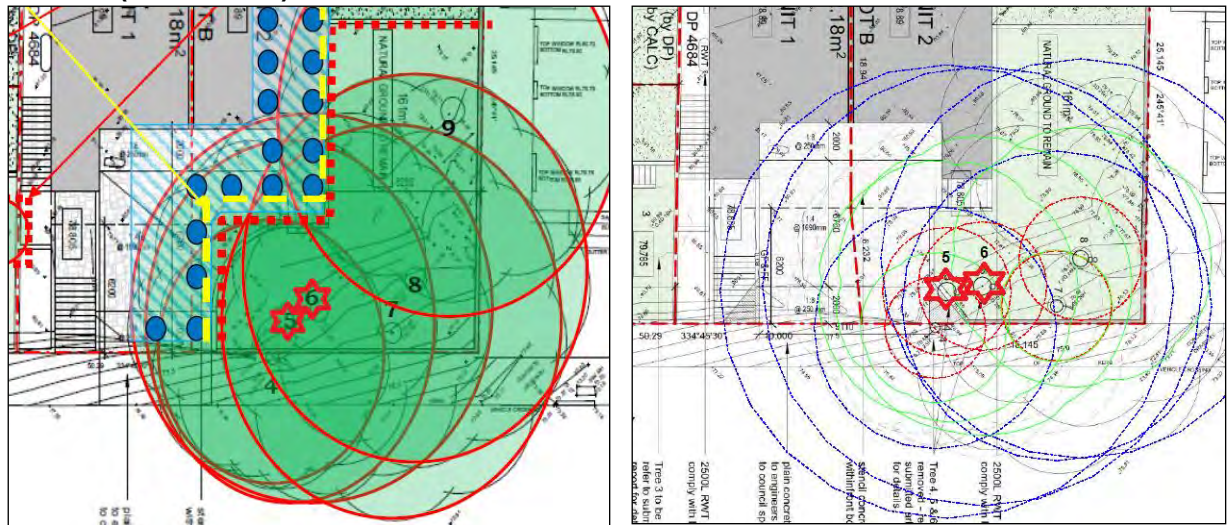


Figure 14 – Proximity of Trees 5 & 6 to the proposed driveway

- **Strata Title Subdivision**

The development also includes subsequent Strata subdivision of each dual occupancy on newly created Lots A & B as detailed in **Table 2** below:

Lot A:	Lot B:
Unit 1: 316.09m ² and min. frontage of 12.82m for each dwelling (to Third Avenue).	Unit 1: 232.14m ² and minimum 10m frontage (to Young Parade)
Unit 2: 316.09m ² and min. frontage of 12.82m for each dwelling (to Third Avenue).	Unit 2: 400.04m ² and minimum 15.145m frontage (to Young Parade)

Table 2 – Site area and frontage of each Strata subdivided allotment

4. Background

The development application was submitted to Council on 7 March 2018.

4 May 2018

A letter was sent to the applicant on 4 May 2018 following a preliminary assessment of the proposal as originally submitted (Revisions A & B). The following issues were raised:

- Maximum building height/number of storeys/maximum wall plate height. Proposed Unit 2 exceeded the maximum building height of 9.5m by 140mm and was not accompanied by a written 4.6 variation request;
- Floor Space Ratio (FSR). The proposed dual occupancy on Proposed Lot A exceeded the maximum FSR, having a total FSR of 0.52:1;
- Deep soil landscaping. The 8m x 8m deep soil area for each dual occupancy contained an above ground onsite detention tank. Additionally, the front yard of

ITEM 4 (continued)

Proposed Lot B contains hard paving in excess of 40% of the front yard area, as allowed under the RDCP 2014;

- Topography and excavation. Given the level of excavation required, and the fact the site was identified as being within an area of slope instability, a Geotechnical Report was required to be submitted to assess the proposal;
- Minimum rear setback. The proposed dual occupancy buildings did not achieve the required 8m rear setback;
- Insufficient private open space;
- Retaining walls (Young Parade and southern boundary);
- Unsatisfactory drainage/OSD system for each allotment;
- Access arrangement for Lot B (vehicular and pedestrian);
- Re-grading of the reserve in Young Parade;
- Compliance with AS2890 – Vehicle access and parking;
- Sightlines for the driveway of Lot B;
- Excessive excavation and likely impact on the existing trees on site;
- Absence of a Geotechnical report due the known site constraint with a moderate risk of slope instability;
- Absence of detailed driveway profiles to demonstrate compliance with AS2890;
- Absence of a written Clause 4.6 variation request to consider LEP variations;
- Incorrect North point on architectural plans to enable a detailed assessment; and
- Absence of a Waste Management plan including the details of excavated soil (quantity and quality) and methods of disposal to ascertain the likely impact of the extensive earthworks.

At a meeting held with the applicant, the above issues identified at the preliminary assessment stage were discussed to enable further detailed assessment of the application. At this meeting the applicant was given options to either submit a re-design of the original proposal to address the issues or to withdraw the application.

18 July 2018 – Amended plans

In response to the issues raised at the preliminary assessment, amended plans (Revision D) were submitted to Council on 18 July 2018, which include the following changes:

- Design changes to adjust the uppermost ceiling levels;
- Widened driveway width for Lot B;
- Additional information including Geotechnical report, amended stormwater plans, revised Arborist report (prepared by a different Arborist to the original submission) was received.

These amended plans were not required to be re-notified under the RDCP 2014, as the amended proposal did not significantly differ from the originally submitted proposal.

ITEM 4 (continued)

24 October 2018

Despite the above changes, the majority of the issues identified in the preliminary assessment remain unresolved. As such, a final request for information was sent to the applicant on 24 October 2018 requesting these issues be resolved, and also raised the following issue in relation to the cumulative impact on the Endangered Ecological Community. The letter to the applicant stated:

“NSW Biodiversity Conservation Act 2016

The site contains 5 x Sydney Blue Gum trees which form part of the Blue Gum High Forest which is listed as a Critically Endangered Ecological Community (EEC) under the NSW Biodiversity Conservation Act 2016.

The amended proposal involving the widening the driveway for Lot B has resulted in the driveway encroaching within the Tree Protection Zone (TPZ) and/or Structural Root Zone (SRZ) of at least two of the Sydney Blue Gums (listed as Trees 5 and 6 in the Arborist Reports submitted to Council).

It is noted that the original Arboricultural Assessment Report (dated 19 January 2018 as prepared by Horticultural Management Services) submitted to Council recorded these two trees as in good health with a moderate life expectancy. However, the second Arboricultural Assessment Report (dated 12 June 2018 as prepared by Urban Arbor and submitted to Council on 17 July 2018) recorded that these two trees were found to be in poor condition and were recommended for removal based on poor health.

Council’s Consultant Landscape Architect has examined Trees 5 and 6 and determined that the trees are, in fact, dead. This particular matter is being investigated by Council separately.

Notwithstanding, given the impact upon the two trees, concern is now raised with respect to the cumulative impact upon the remaining EEC due to the removal of these trees. In this respect, an Environmental Impact Statement (EIS) is required to be prepared by a qualified Ecologist and submitted to Council for review under s. 5.7 of the Environmental Planning and Assessment Act 1979. This may trigger a requirement to prepare a 5 Part Test under s.7.3 of the NSW Biodiversity Conservation Act 2016.

Ryde Local Environmental Plan 2014***Clause 4.1 – Minimum Subdivision Lot Size***

The minimum lot size requirement under the RLEP 2014 is 580m².

ITEM 4 (continued)

The proposed Torrens Title subdivision of the existing single allotment complies with the minimum lot size as prescribed in the Lot Size Map under the RLEP 2014. However any subdivision is also required to satisfy the objectives of Clause 4.1 – Minimum subdivision lot size, which are as follows:

- (1)(a) to retain streetscape, amenity, landscaped areas and private open space in residential zones, and*
- (b) to ensure that lot sizes enable sufficient areas of open space within each lot so as **to enable the retention and embellishment of green linkage corridors in residential zones.***

The above objectives of Clause 4.1 of the RLEP 2014 are correlated and are relevant to the following objectives of the Environmental Planning and Assessment Act 1979 (as amended) which state that:

Objects of EP & A Act 1979

The objects of this Act are as follows:

- (e) **to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats***
- (g) to promote good design and amenity of the built environment*

To achieve the above objectives relating to landscaped setting and protection of the Blue Gum High Forest, each new allotment is required to provide sufficient developable area whilst having no adverse impact on the Blue Gum High forest.

It is noted that the constraints of Lot B limit the developable area to approximately 2/3 of the site (with minimal impact on the Blue Gum High Forest (i.e. 2/3 of the proposed site area of 632.18m² of Lot B equates to 421.5m²)).

To achieve the above objectives relating to good design and amenity of the built environment, each new allotment is required to provide satisfactory access for vehicles and pedestrians. Due to the limited street frontage, reduced developable area and sloping topography of Lot B, the proposed Torrens Title subdivision fails to promote a good design outcome that responds to the site features and constraints.

It is therefore considered that, based upon the information currently before Council, the proposed Torrens Title subdivision is not consistent with the objectives of Clause 4.1 and consequently the relevant objects of the Environmental Planning and Assessment Act 1979.

Clause 4.4 – Floor Space Ratio

ITEM 4 (continued)

Council has undertaken its assessment of this application in line with the recent judgement of the NSW Land and Environment Court (Chami v Lane Cove Council (2015)). In this judgement internal stairs are included in the calculation of gross floor area/floor space ratio for dwelling houses and dual occupancies as they are not considered to be 'common' vertical circulation area.

It has been identified that the development does not comply with the permitted floor space ratio development standard of Clause 4.4 under the Ryde Local Environmental Plan 2014 in that:

Clause	Permitted	Proposed	Difference
4.4 Floor Space Ratio	Lot A: 316.09m ² Lot B: 316.09m ²	Lot A: 0.51:1 (322.14m ²) Lot B: 0.69:1 (438.67m ²)	+6.05m ² (1.91%) +122.58m ² (38.7%)

The breaches to the development standard may be addressed through the submission of a request made under Clause 4.6 of the LEP although the variation sought for Lot B is considered to be excessive.

Attempts should be made in the first instance to physically reduce the floor area of Lot B to reduce the extent of the variation sought.

Be aware that any variation to a development standard which exceeds 10% will be required to be referred to the Ryde Local Planning Panel for determination.

Ryde Development Control Plan 2014

Part 3.3 - Landscaping

Relevant clauses:

- *DCP Part 3.3, Section 2.3 Dual Occupancy (attached) requires significant deep soil areas at the front and rear;*
- *DCP Part 3.3, Section 2.6.1 Deep Soil Areas requires the front garden area to be completely permeable with the exception of the driveway, pedestrian path and garden walls; and*
- *DCP Part 3.3, Section 2.11.1 Car Parking limits the width of the driveway to be a single car width except where they need to provide access to a double garage.*

It should be noted that there are no numerical landscaping controls for each dwelling of the dual occupancies, however the above DCP controls imply that the landscaped setting/front yard is controlled by the maximum driveway/impervious area allowed

ITEM 4 (continued)

within the front yard; and landscaped area to be provided within the rear setback area of each dwelling.

The amended proposal provides 14m² and 24m² of landscaped areas to the front and rear of Unit 1 on Lot B, respectively.

The overall width of hardstand area to the front of Unit 1 on Lot B is more than 80% of the 10m street frontage of Unit 1 on Lot B.

The proposed Unit 1 of Lot B has a non-compliant rear setback of 2.84m for landscaping which is a shortfall from the minimum 4m required under the RDCP 2014. This is not the case with Unit 2 of Lot B as it provides 8m x 8m landscaped area to the south, rather than the western rear of Unit 2.

As such the proposed Unit 1 of Lot B exceeds the maximum amount of hardstand area within the front yard and does not provide sufficient landscaped area to the rear due to the non-compliant rear setback.

The above issues have been reiterated by Council's Consultant Landscape Architect who provided the following comment:

"No changes have been undertaken to the size of private open space of Unit 1 of Lot B and as such concerns are still raised in relation to insufficient private open space area being provided for a large dwelling of 4-bedrooms + study and resulting in poor amenity for occupants. Whilst there are no numerical controls for the size of private open space to be provided for dual occupancies, it is noted that only 24m² of soft landscaping has been provided for this dwelling.

In addition to the above, it is noted that amended landscape plans have not been submitted to reflect those architectural changes proposed. As such, no further comment can be provided in relation to the suitability of proposed landscaping across the site."

For the reasons detailed above, it is considered that the proposal fails to provide satisfactory landscaped setting.

Clause 2.5.3 - Pedestrian and vehicle safety

Clause 2.5.3 Pedestrian and vehicle safety requires compliance with the relevant Australian Standards (AS2890) when designing driveways;

The proposed driveway design fails to comply with the Australian Standard 2890.1 and RDCP 2014 in respect to the maximum driveway grade, provision of transitional ramp within the site boundary and sightlines for pedestrian and car safety in the narrow Young Parade (no sightline triangles and retaining walls more than 900mm at the front boundary).

ITEM 4 (continued)

Additionally, the driveway profile submitted with the amended proposal has not adequately addressed the height differences between the sides of the driveway and diagonal fall within the Young Parade reserve. The submitted survey plan indicates a cross fall of 1:6875 (or 14.6%) from north to south side of the kerb and a maximum fall of 1:2.25 (or 44.5%) at the lowest kerb level along the southern alignment of the driveway crossing in the Young Parade reserve. Not only are these gradients inconsistent with the AS 2890, it would also result in the need for retaining walls in the public domain or regrading of the public domain.

Lastly, insufficient information is provided with respect to the proposed regrading upon the remaining EEC.

Clause 2.6.2 – Topography and Excavation

Relevant clauses:

- *DCP Part 3.3, Section 2.6.2 limits the depth of excavation to 1.2m maximum within the building footprint and 0.9m outside the dwelling footprint;*
- *DCP Part 3.3, Section 2.6.2 limits the height of fill to 0.9m maximum within the building footprint and 0.5m outside the dwelling footprint;*
- *DCP Part 3.3, Section 2.6.2 limits the height of retaining walls to 0.9m maximum; and*
- *DCP Part 3.3, Section 2.6.2 recommends to retain the existing topography.*

The development proposes excavation up to depths ranging approximately 1.1m to 4.2m for Lots A and B, respectively within the building footprint and filling of land with heights ranging from approximately 1m for Lot A within the building footprint.

The development proposes excavation up to depths approximately 1.3m to 2.3m for Lots A and B, respectively outside the building footprint and filling of land with a height more than 1m for both lots outside the building footprint.

The proposed retaining walls exceed the maximum 0.9m with a height more than 2m above the existing ground level. As such it is considered that no reasonable attempts have been made to respond or to retain the existing topography of the site.

Section 2.6.2 limits the amount of excavation and fill of the land in order to retain natural ground levels and existing landform. In the circumstance of this application the extent of excavation of the proposal will have direct connections to the level of impacts on the EEC, stabilising the site and vehicular access for the newly created Lot B.

The proposal fails to achieve acceptable vehicular access and to minimise the impacts on the EEC and retaining wall construction are unclear due to insufficient information submitted.

ITEM 4 (continued)

Additionally Council's Development Engineer raised concerns regarding the excessive excavation of the site and does not support the proposed development.

Section 2.9.3 – Rear setback

Section 2.9 requires a minimum rear setback of 25% of the length of the site or 8m, whichever is greater. The only exception to this rear setback requirement is for a site that is wider than it is longer, when a minimum 8m from the side boundary is achieved then a minimum 4m rear setback is required to be provided.

The newly created Lot B is a squarely shaped allotment with dimensions of 25.145m x 25.145m. In the circumstance of this application, it is reasonable to apply the minimum 4m rear setback requirement given the presence of the EEC taking up to 1/3 of the site area limiting the developable area towards the northern half of Lot B.

These site features are identified as site constraints that require consideration for the built form outcome, however the proposal fails to provide a satisfactory design solution to overcome these site constraints and results in poor amenity for the future occupants of Unit 1.

The reduced rear setback of 2.84m of the proposed dual occupancy on Lot B is considered to be unreasonable in respect to adequacy of private open space and landscaped setting."

Given the impact upon the two trees, concern is now raised with respect to the cumulative impact upon the remaining EEC due to the removal of these trees. In this respect, an Environmental Impact Statement (EIS) is required to be prepared by a qualified Ecologist and submitted to Council for review under s. 5.7 of the Environmental Planning and Assessment Act 1979. This may trigger a requirement to prepare a 5 Part Test under s.7.3 of the NSW Biodiversity Conservation Act 2016.

The applicant was required to submit the requested information (including the Environmental Impact Statement) by 20 November 2018. This information has not been submitted, and as such, the amended plans and information received on 18 July 2018 are the subject of this report.

5. Planning Assessment**Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)**

The Blue Gum High Forest is listed as a critically endangered ecological community under the EPBC Act and, as such, forms a 'Matter of National Environmental

ITEM 4 (continued)

Significance'. Listed threatened species and ecological communities are recognised as a matter of national environmental significance.

Any action that is likely to have a significant impact on listed threatened species and ecological communities under the EPBC Act must be referred to the Minister and undergo an environmental assessment and approval process.

A significant impact is an impact which is important, notable, or of consequence, having regard to its context or intensity. Whether or not an action is likely to have a significant impact depends upon the sensitivity, value, and quality of the environment which is impacted, and upon the intensity, duration, magnitude and geographic extent of the impacts.

As noted under the following section (NSW Biodiversity Conservation Act 2016), Council's Consultant Landscape Architect has advised that insufficient information has been submitted to determine the impact of the declining health/death of the two Sydney Blue Gum trees to the remaining EEC and the suitability of removal from an ecological perspective.

This forms a reason for the refusal of the application.

NSW Biodiversity Conservation Act 2016

The objective of the Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development, in particular:

- (a) *to conserve biodiversity at bioregional and State scales, and*
- (b) *to maintain the diversity and quality of ecosystems and enhance their capacity to adapt to change and provide for the needs of future generations, and*
- (c) *to improve, share and use knowledge, including local and traditional Aboriginal ecological knowledge, about biodiversity conservation, and*
- (d) *to support biodiversity conservation in the context of a changing climate, and*
- (e) *to support collating and sharing data, and monitoring and reporting on the status of biodiversity and the effectiveness of conservation actions, and*
- (f) *to assess the extinction risk of species and ecological communities, and identify key threatening processes, through an independent and rigorous scientific process, and*
- (g) *to regulate human interactions with wildlife by applying a risk-based approach, and*
- (h) *to support conservation and threat abatement action to slow the rate of biodiversity loss and conserve threatened species and ecological communities in nature, and*
- (i) *to support and guide prioritised and strategic investment in biodiversity conservation, and*

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- (j) *to encourage and enable landholders to enter into voluntary agreements over land for the conservation of biodiversity, and*
- (k) *to establish a framework to avoid, minimise and offset the impacts of proposed development and land use change on biodiversity, and*
- (l) *to establish a scientific method for assessing the likely impacts on biodiversity values of proposed development and land use change, for calculating measures to offset those impacts and for assessing improvements in biodiversity values, and*
- (m) *to establish market-based conservation mechanisms through which the biodiversity impacts of development and land use change can be offset at landscape and site scales, and*
- (n) *to support public consultation and participation in biodiversity conservation and decision-making about biodiversity conservation, and*
- (o) *to make expert advice and knowledge available to assist the Minister in the administration of this Act.*

The site accommodates five (5) Sydney Blue Gums on the site which form part of the Blue Gum High Forest.

The Blue Gum High Forest is listed as a critically endangered ecological community under the *NSW Biodiversity Conservation Act 2016*.

It is noted that two of the five trees (Trees 5 & 6) have suffered declining health since the first Arborist Report submitted with the application was prepared. As such, the question regarding what impact the declining health of these two trees will have on the remaining trees within the EEC remains to be answered.

In this respect, Council's Consultant Landscape Architect has advised that insufficient information has been submitted to determine the impact of the removal of these trees to the remaining EEC and the suitability of removal from an ecological perspective. The applicant was requested to provide an Environmental Impact Statement (EIS) on 24 October 2018. This information has not been provided to Council.

This therefore forms a reason for the refusal of the application.

5.1 State Environmental Planning Instruments**State Environmental Planning Policy No. 19 – Bushlands in Urban Areas**

The SEPP generally aims to protect and preserve bushland within the urban areas referred to in Schedule 1 because of its:

- a) *Value to the community as part of the natural heritage,*
- b) *Aesthetic value, and*
- c) *Value as a recreational, educational and scientific resource.*

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Note: The SEPP defines bushland as “*land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and floristics of the natural vegetation*”.

The subject site is located within the Blue Gum High Forest. In particular, the existing trees on the south western corner of the site are Sydney Blue Gums that are prominent in the landscape and form part of a Critically Endangered Ecological Community (CEEC) within the area.

Two (2) separate Arborist reports have been submitted with this application, which have been reviewed by Council’s Consultant Landscape Architect.

i) Arborist Report received on 8 March 2018.

The first Arborist report (prepared by Horticultural Services dated 19 January 2018) submitted at the lodgement of this application stated that:

“The site contains significant remnant vegetation associated with the Blue Gum High Forest in the Sydney Basin Bioregion that is list as a Critically Endangered Ecological Community (EEC) in Part 2 of Schedule 1A of the Threaten Species Conservation Act (Part 1 of Schedule 2 of the Biodiversity Conservation Act 2016).

These trees are proposed to be retained, protected and monitored in accordance with the Tree Management Plan (TMP).”

The existing significant trees numbered T5 to T9 (refer to **Table 1** and **Figure 13** (left)) were found to have Safe Useful Life Expectancy (SULE) ratings of 3 (high to moderate) and retention values ranging from moderate to high.

ii) Arborist Report received with the amended proposal on 17 July 2018.

A revised Arborist report (prepared by Urban Arbor dated 18 June 2018) reached a contrary conclusion to the first Arborist report (prepared by Horticultural Services dated 19 January 2018) mentioned above.

In this respect, the revised Arborist report states and recommends that:

“Urban Arbor have been requested to assess the impact of the construction of the Lot B driveway to trees numbered 4, 5, 6, 7 and 8.

The assessment of the impact to the trees is based on modifications to the lot B driveway footprint only.

Tree 5 and 6 were found to be in poor condition at the time of inspection. Both trees have been recommended for removal based on poor health.” (refer to **Figure 13** – right)

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The amended plans propose the removal of three (3) trees (numbered T4, T5 and T6). Council's Consultant Landscape Architect has provided the following comments:

“Two (2) trees (Tree 5 & 6) on site are now dead and this is considered to be the result of a case of poisoning. This is unfortunate as these were highly significant trees that were prominent in the landscape and form part of a Critically Endangered Ecological Community (CEEC) within the Ryde LGA being the Blue Gum High Forest. Given these are now dead, they should be removed for safety reasons.

The removal of Tree 4 has not been supported - given the sudden loss of two (2) highly prominent trees on site (Tree 5 & 6), it is considered important that those existing trees of high retention value must be retained to ensure the landscape character and amenity of the site is not further negatively impacted.

An additional two trees (Tree 7 & 8) are to be impacted and are to be retained however the recommendations of the revised Arborist Report do not appear to have been implemented with regards to retaining the existing retaining wall arrangements within the TPZ areas.

With regards to Tree 7 & Tree 8, the amended plans indicate that incursion to the Tree Protection Zones (TPZ) is to be approximately 10 & 15% respectively.

The plans submitted however do not reflect the recommendations of the Arboricultural Assessment being that the existing timber retaining walls adjacent to the trees are to be retained to ensure impacts are minimised. The amended plans indicate that these walls are to be removed and reconstructed which is not supported due to the likelihood of impact.”

In the absence of the actual cause of the declining health/death of trees T5 & T6, since the lodgement of the application and the development having an impact on the trees that are currently alive, being trees numbered T7, T8 and T9, the amended proposal is not considered to achieve the aims of the SEPP 19 – Bushland in Urban Area as it fails to:

- *Preserve the prominent Sydney Blue Gum trees in the vicinity of the Blue Gum High Forest EEC which has its value to the community as part of the natural heritage and aesthetic value;*
- *To protect the remnants of plant communities which were once characteristic of land now within an urban area;*
- *To protect rare and endangered flora and fauna species;*
- *To protect habitats for native flora and fauna;*
- *To protect bushland as a natural stabiliser of the soil surface;*
- *To protect bushland for its scenic values, and to retain the unique visual identity of the landscape,*

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- *To protect significant geological features; and*
- *To promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.*

In summary, the amended proposal is not supported as it fails to achieve the aims of the SEPP 19 – Bushlands in Urban Areas.

Concurrent to the assessment of this application, Council's Tree Management section are investigating the proposed removal of the two (2) Sydney Blue Gum trees numbered T5 and 6.

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

A BASIX Certificate (see Certificate No. 892736M dated 02 February 2018) has been submitted with the application.

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

Commitment	Target	Proposed
Water	40	44
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 site is not likely to produce any contamination which would otherwise prevent ongoing residential development.

5.2 Ryde Local Environmental Plan 2014 (RLEP 2014)

Ryde LEP 2014 commenced on 12 September 2014 as the new environmental planning instrument applicable to the City of Ryde.

Part 2 – Permitted and Prohibited Development

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Under Ryde LEP 2014, the property is zoned R2 Low Density Residential, and the proposed development of a dual occupancy (attached) is permissible with Council's consent.

Aims and Objectives of the R2 Low Density Residential zone

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

The proposal is considered to satisfy the objectives for residential development, as the proposal would result in an increase in the variety of housing within a low density residential environment.

Part 4 – Applicable Development StandardsClause 4.1 – Minimum Subdivision Lot Size

The minimum lot size requirement under the RLEP 2014 is 580m².

The proposed Torrens Title subdivision of the existing single allotment complies with the minimum lot size as prescribed in the Lot Size Map under the RLEP 2014. However any subdivision is also required to satisfy the objectives of Clause 4.1 – Minimum subdivision lot size, which are as follows:

4.1 Minimum subdivision lot size

- (1)(a) *to retain streetscape, amenity, landscaped areas and private open space in residential zones, and*
- (b) *to ensure that lot sizes enable sufficient areas of open space within each lot so as to enable the retention and embellishment of green linkage corridors in residential zones.*

The above objectives of Clause 4.1 of the RLEP 2014 are correlated and are relevant to the following objectives of the *Environmental Planning and Assessment Act 1979* (as amended) which state that:

Objects of EP & A Act 1979

The objects of this Act are as follows:

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- (e) ***to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats***
- (g) *to promote good design and amenity of the built environment*

Comment

To achieve the above objectives relating to landscaped setting and protection of the Blue Gum High Forest, each new allotment is required to provide sufficient developable area whilst having no adverse impact on the Blue Gum High forest.

It is noted that the constraints of Lot B limit the developable area to approximately 2/3 of the site (with minimal impact on the Blue Gum High Forest (i.e. 2/3 of the proposed site area of 632.18m² of Lot B equates to 421.5m²)).

To achieve the above objectives relating to good design and amenity of the built environment, each new allotment is required to provide satisfactory access for vehicles and pedestrians. Due to the limited street frontage, reduced developable area and sloping topography of Lot B, the proposed Torrens Title subdivision fails to promote a good design outcome that responds to the site features and constraints.

It is therefore considered the proposed Torrens Title subdivision is not consistent with the objectives of Clause 4.1 and consequently the relevant objects of the EP & A Act.

The following compliance table is a summary of other relevant clauses under Ryde LEP 2014 applicable to the development.

Clause	Proposal	Compliance
4.1A Dual occupancy (attached) subdivisions		
Strata subdivision (attached dual occupancies) = 580m ²	Proposed dual occupancy on each new lot Lot A = 632.18m ² Lot B = 632.18m ²	Yes
4.1B Minimum lot size for dual occupancies		
Dual occupancy (attached) = 580m ² Minimum road frontage ≥ 20m	Dual occupancy (attached) = 580m ² Minimum road frontage ≥ 20m	Yes/complies with the numerical LEP standard. See commentary below
4.3(2) Height of Buildings		
9.5m	Lot A (fronting Third Avenue) = 8.57m	Yes

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Clause	Proposal	Compliance
	Lot B (fronting Young Parade) = 8.83m	
4.4 Floor Space Ratio		
Site area = 632.18m ² (each lot) Maximum FSR = 0.5:1 (316.09m ² each lot)	Lot A = 0.51:1 (322.14m ² = +6.05m ² or 1.91%) Lot B = 0.69:1 (438.67m ² = +122.58m ² or 38.7%)	No See commentary below

Clause 4.1B – Minimum lot size for dual occupancies

The development complies with the numerical control under Clause 4.1B of the RLEP 2014, however the proposed effective lot size of Lot B (estimated at 421.5m²) is not considered to be capable of accommodating a dual occupancy due to the site constraints, lack of satisfactory access for cars and pedestrians and limited developable area with the Blue Gum High Forest as detailed in the report.

Clause 4.4 - Floor Space Ratio

The Dictionary under the RLEP 2014 defines Floor Space Ratio (FSR) as

“the gross floor area of all buildings within the site to the site area.”

The Dictionary under the RLEP 2014 defines Gross Floor Area (GFA) as

“the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- a) the area of a mezzanine, and*
- b) habitable rooms in a basement or an attic, and*
- c) any shop, auditorium, cinema, and the like, in a basement or attic,*

but excludes:

- d) any area for common vertical circulation, such as lifts and stairs, and*
- e) any basement:*
 - (i) storage, and*
 - (ii) vehicular access, loading areas, garbage and services, and*
- f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- g) car parking to meet any requirements of the consent authority (including access to that car parking), and*

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- h) any space used for the loading or unloading of goods (including access to it), and*
- i) terraces and balconies with outer walls less than 1.4 metres high, and*
- j) voids above a floor at the level of a storey or storey above."*

Furthermore, the areas within the basements (additional to the required car parking for the development), as shown in **Figure 16**, are included as GFA given that the intended use of these basement areas are unclear and are capable of being converted into additional car spaces (minimum dimensions of 6.07m x 11m as shown on the amended floor plan).

Figures 15 and 16 show the total GFA of each dual occupancy proposed.



Figure 15 – GFA calculations for the proposed dual occupancy on Lot A (shaded in yellow)

ITEM 4 (continued)

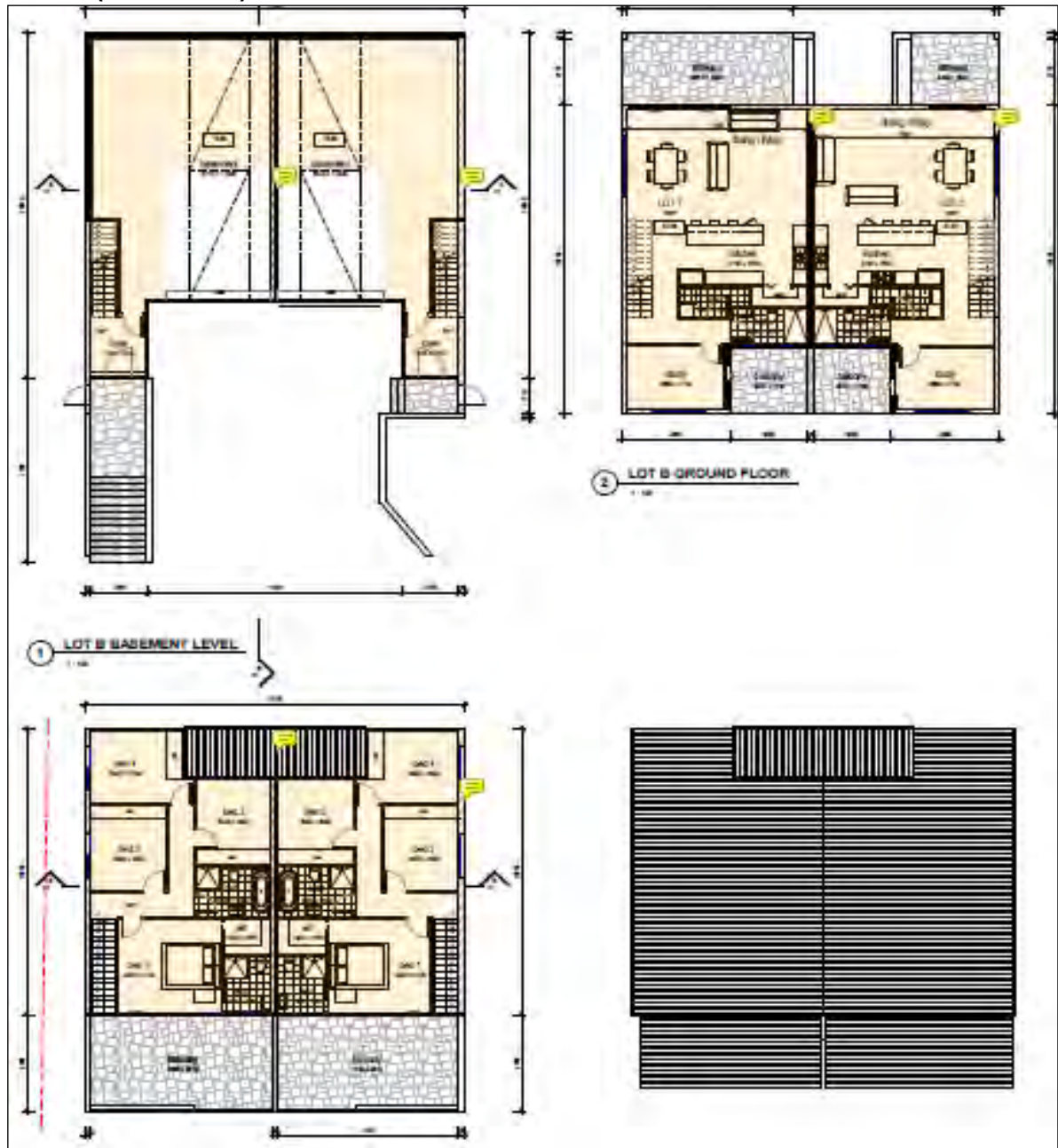


Figure 16 – GFA calculations for the proposed dual occupancy on Lot B (shaded in yellow)

Based on the above, the Floor Space Ratio (FSR) for the dual occupancy on Lot A is 0.51:1. This represents a variation of 6.05m² or 1.91%.

The FSR for the dual occupancy on Lot B is 0.69:1. This represents a variation of 122.58 m² or 38.7% above the numerical LEP standard.

Furthermore, the RLEP 2014 defines “basement” as the following:

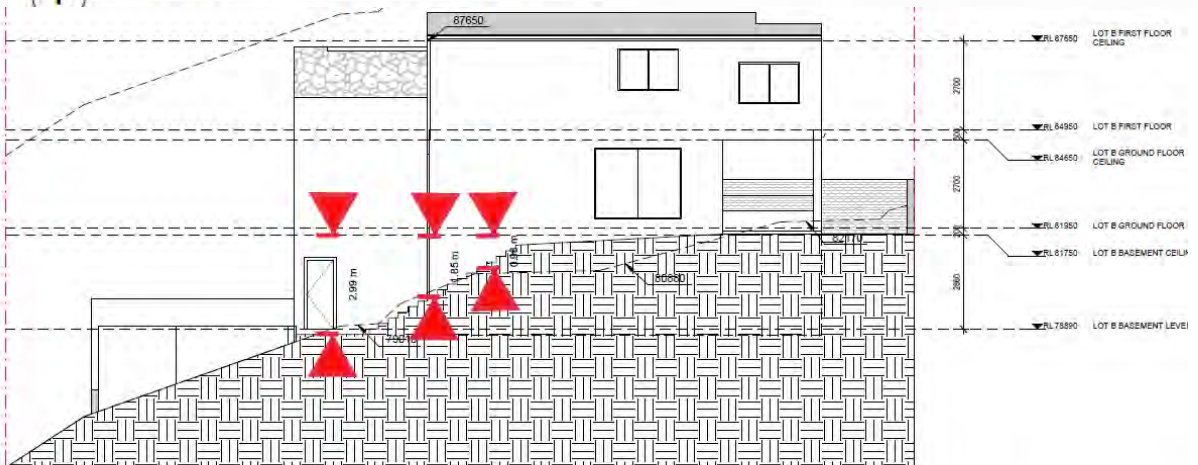
ITEM 4 (continued)

Basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

The applicant has not provided an appropriate section of the dual occupancy on Proposed Lot B to accurately demonstrate what sections of the “basement” level meet the definition of basement as specified in the RLEP 2014. As such, the elevations of this building are provided below (**Figure 17**) indicating that large sections of this level would not meet this definition, and therefore, would not be excluded under “basement storage” if this is, in fact, the intended use for this level.



1 LOT B SOUTH WEST ELEVATION



4 LOT B SOUTH EAST ELEVATION
1:100

ITEM 4 (continued)

Figure 17 – Elevations of the proposed dual occupancy for Proposed Lot B showing ceiling level above existing ground level.

It should be noted that the definition of Gross Floor Area does exclude any basement storage. If it was intended that the majority of the basement was to be used as storage, this development would still result in a FSR of 0.55:1. **Figure 18** details the approximate maximum area of the basement which could be used as storage. For both dual occupancies the FSR exceeds the maximum permitted under the RLEP 2014.

The shading in each plan indicates areas which may be nominated as floor area.

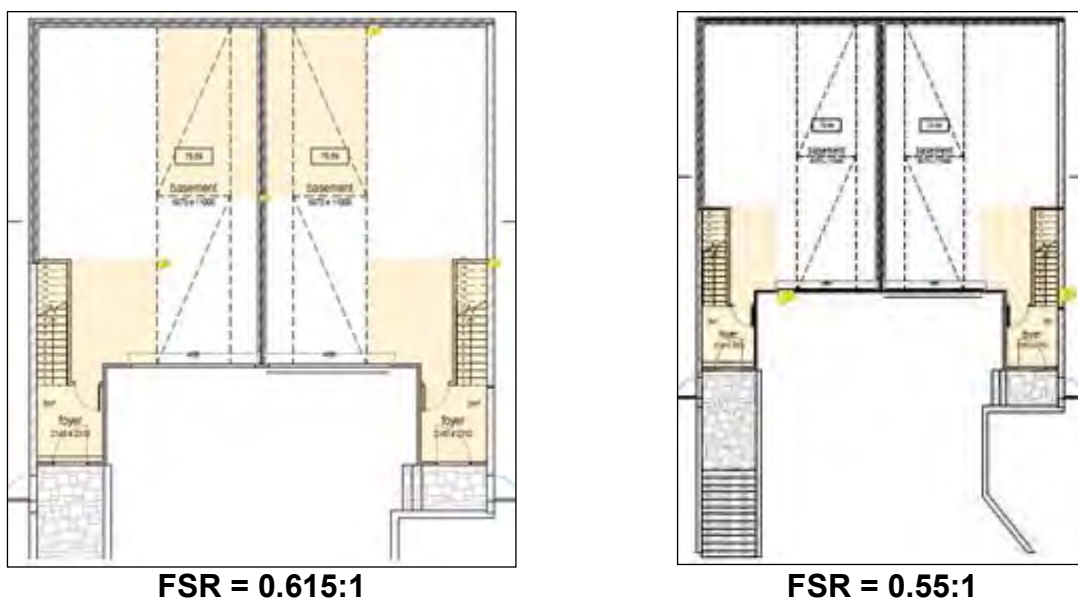


Figure 18 – Comparative assessment of GFA.

Clause 4.6(3)(a) & (b) of the RLEP 2014 stipulates that:

- “(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.”*

The applicant has not submitted a written Clause 4.6 variation in respect of the dual occupancies as the applicant is of the view that the development complies with the FSR. Due to the issues of gaining access to Lot B and possible significant re-design of the proposal that would be required to address the issues identified at the

ITEM 4 (continued)

preliminary assessment. The applicant was advised of this issue in Council's letter dated 24 October 2018.

The absence of a written Clause 4.6 variation request warrants reason to refuse this application.

6.2 Earthworks

Clause 6.2(3) of the RLEP 2014 requires consideration of the following matters:

- (3) *Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:*
- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
 - (b) *the effect of the development on the likely future use or redevelopment of the land,*
 - (c) *the quality of the fill or the soil to be excavated, or both,*
 - (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
 - (e) *the source of any fill material and the destination of any excavated material,*
 - (f) *the likelihood of disturbing relics,*
 - (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
 - (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment

The development fails to satisfy the above matters of consideration under Clause 6.2 of the RLEP 2014 on the following basis:

- No detailed Waste Management Plan was provided to determine the quantity and quality of the excavated soil and the destination of excavated materials from the site. This was requested at the preliminary assessment stage of the application.

ITEM 4 (continued)

- Insufficient information has been received in relation to the mitigation measures and management of the site which forms part of the Blue Gum High Forest during earthworks.
- Council's Development Engineer who does not support the proposed excavation and filling of the land for the reasons detailed in the 'Referrals' section of the report.

6.4 Stormwater Management

The amended stormwater concept plan has been reviewed by Council's Development Engineer who does not support the application for the reasons detailed in the 'Referrals' section of the report.

5.3 Draft Environmental Planning Instruments

There are no draft environmental planning instruments of relevance to the assessment of the application.

6. Development Control Plans

Ryde Development Control Plan 2014

A full assessment of the proposal under DCP 2014 is illustrated in the compliance table held at **Attachment 1**.

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

Non-Compliances

Section 2.13 – Landscaping (not supported)

Section 2.13(e) requires that the landscaped setting in the front yard has a maximum driveway/impervious area of no more than 40%.

The amended proposal provides 84% hardstand area within the front setback of Unit 1 on proposed Lot B, as illustrated in **Figure 19**. Therefore, the proposal does not comply with Section 2.13(e) of the RDCP 2014.

It is further noted that Unit 1 on proposed Lot B has a landscaped area of 24m² in the rear setback (see **Figure 19**), and therefore does not provide a useful outdoor space for liveability, as required by Section 2.13(c).

The above issues have been reiterated by Council's Consultant Landscape Architect who provided the following comment:

ITEM 4 (continued)

“No changes have been undertaken to the size of private open space of Unit 1 of Lot B and as such concerns are still raised in relation to insufficient private open space area being provided for a large dwelling of 4-bedrooms + study and resulting in poor amenity for occupants. Whilst there are no numerical controls for the size of private open space to be provided for dual occupancies, it is noted that only 24m² of soft landscaping has been provided for this dwelling.

In addition to the above, it is noted that amended landscape plans have not been submitted to reflect those architectural changes proposed. As such, no further comment can be provided in relation to the suitability of proposed landscaping across the site.”

For the reasons detailed above, the proposal fails to provide satisfactory landscaped setting as stipulated under the RDCP 2014 and is not supported.

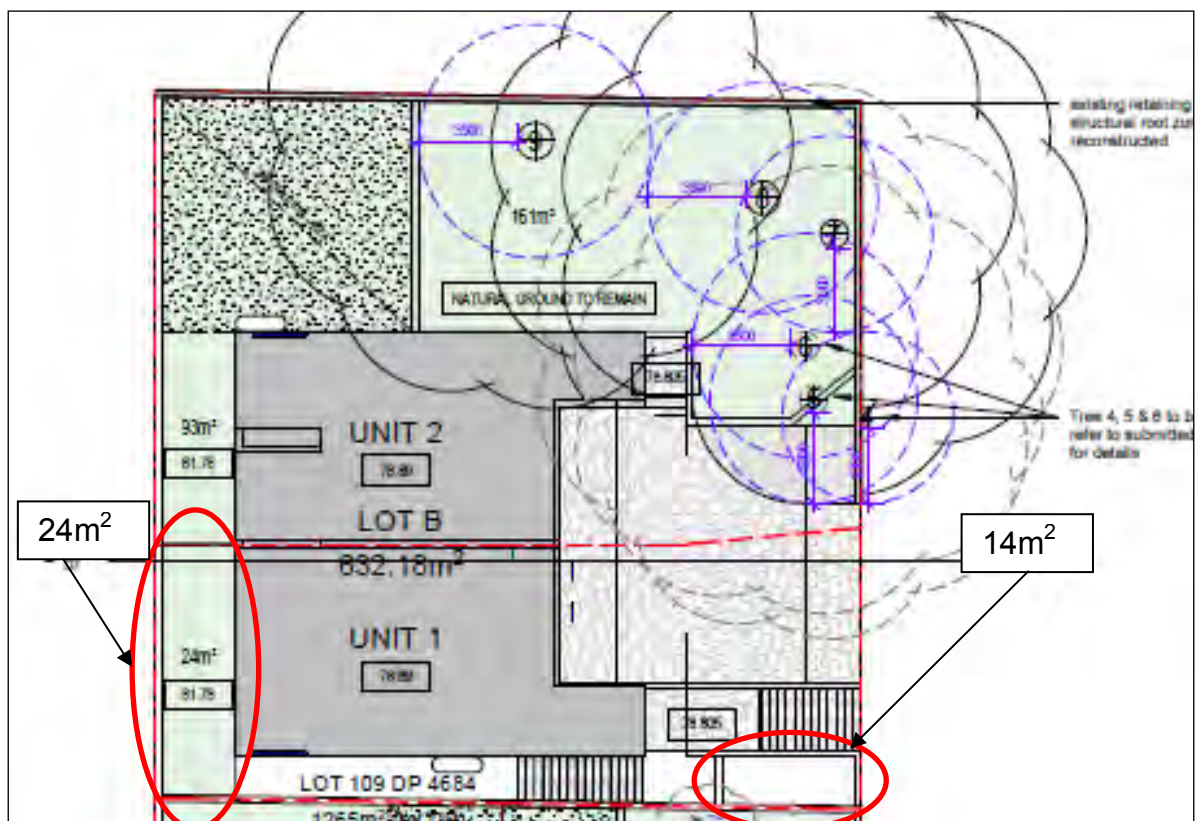


Figure 19 – Site plan showing the front and rear yards of Unit 1 of Lot B.

Section 2.8.1 – Building height of Unit 1 on Lot B (justifiable)

Relevant DCP sections:

- DCP Part 3.3, Section 2.8.1 includes a Building Height Table which specifies the maximum 2 storeys for dual occupancies, single storey construction over

ITEM 4 (continued)

the semi-basement level and maximum wall plate and parapet heights of 7.5m and 8m, respectively, allowed for dual occupancies.

Section 2.8 limits the number of storeys and height of the parapet/wall plate for new dual occupancies to ensure that the height of the development is consistent with the desired future character of the low density residential areas and is compatible with the streetscape.

The Statement of Environmental Effects accompanying the application provides justification for these non-compliances as follows:

“DCP stipulates that the maximum building height for a dual occupancy (attached) is 9.5m and a maximum wall plate height is 7.5m or 8m for a roof which has a continuous parapet.

No part of the proposal exceeds 9.5m with a maximum wall plate height of <7.5m and as such is consistent with Council’s DCP building height controls.

For clarity see the submitted 3D height planes that confirm this noting the only protrusions relate to architectural design features being the stacked stone column element and a small part of the parapet. This is reasonable given the substantial cross-fall on the site and that they features are decorative and the actual habitable areas are designed to be below the specified 8m limit and the overall building is below the 9.5m overall LEP maximum height.

The maximum number of storeys permitted for a dual occupancy development is 2 habitable floors.

It is noted that the development proposes a stepped building and is designed to comply noting the basement area is technically a storey to 1 dwelling however as discussed previously in this statement the building is compliant with the overall 9.5m height limit and the minor departure has merit given the substantial cross-fall on the site.”

The non-complaint heights for the dual occupancy (Lot B) does not warrant refusal of this application (refer to **Figure 20 and 21**) given the extent and minor nature of the non-compliances.

ITEM 4 (continued)

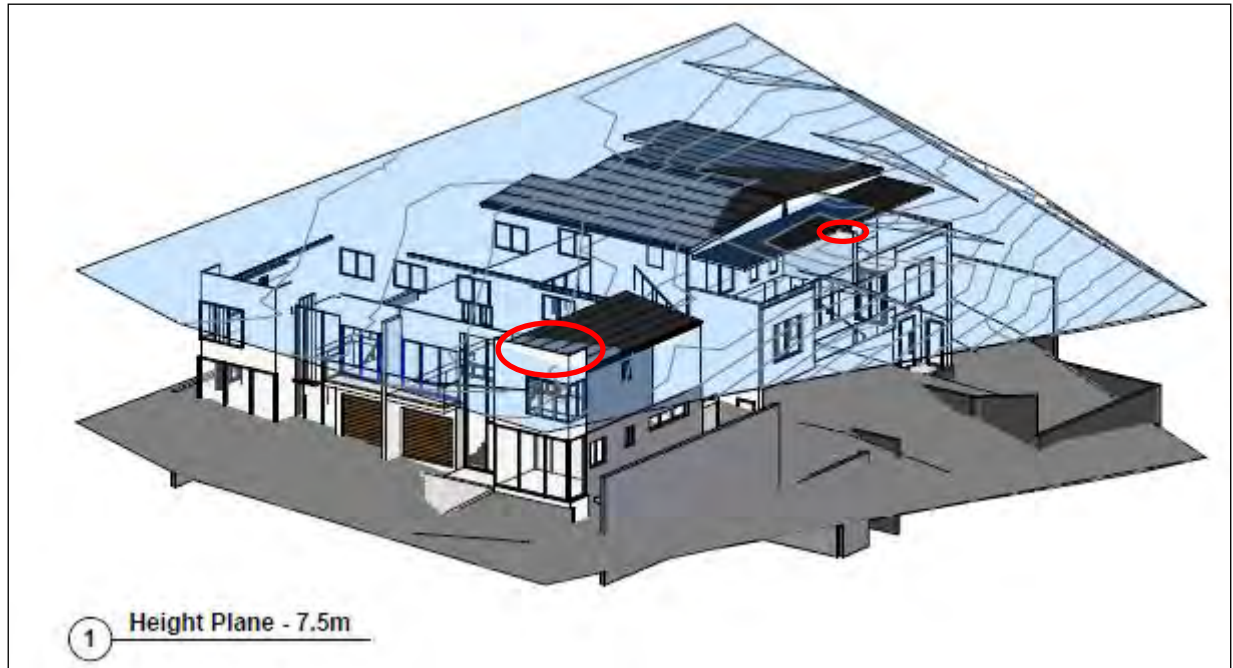


Figure 20 – 3D height plane showing areas of non-compliance with the maximum wall plate height of 7.5m (Lot A & B)

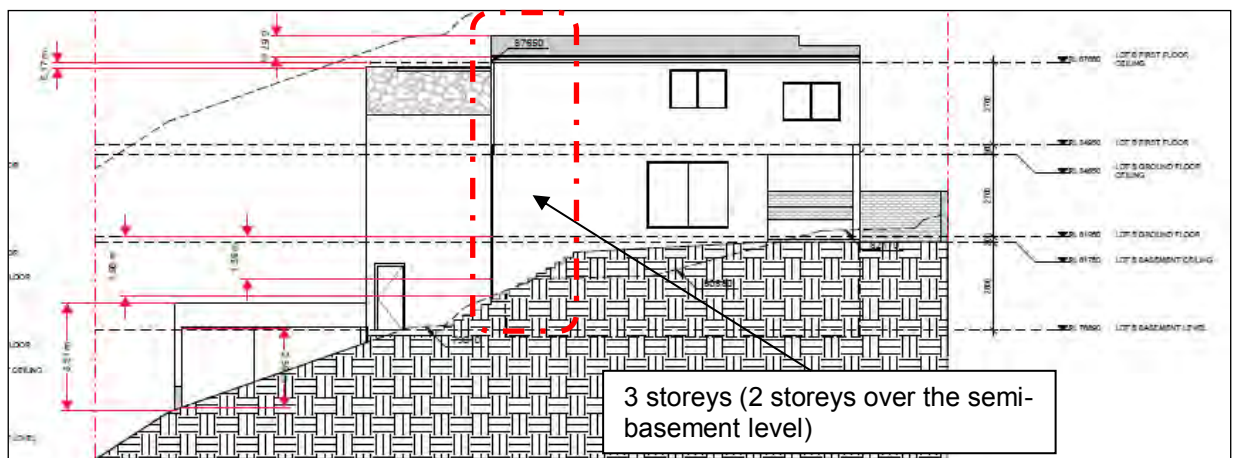


Figure 21 – Side elevation showing the non-compliant built form of Lot B

Section 2.6.2 – Topography and Excavation (not supported)

Relevant DCP sections:

- Section 2.6.2 limits the depth of excavation to 1.2m maximum within the building footprint and 0.9m outside the dwelling footprint;
- Section 2.6.2 limits the height of fill to 0.9m maximum within the building footprint and 0.5m outside the dwelling footprint;
- Section 2.6.2 limits the height of retaining walls to 0.9m maximum; and
- Section 2.6.2 recommends to retain the existing topography.

ITEM 4 (continued)

The development proposes excavation up to depths ranging approximately 1.1m to 4.2m for Lots A and B, respectively within the building footprint and filling of land with heights ranging from approximately 1m for Lot A within the building footprint.

The development proposes excavation up to depths approximately 1.3m to 2.3m for Lots A and B, respectively outside the building footprint and filling of land with a height more than 1m for both lots outside the building footprint.

The proposed retaining walls exceed the maximum 0.9m with a height more than 2m above the existing ground level. As such it is considered that no reasonable attempts have been made to respond or to retain the existing topography of the site as depicted in **Figure 22** and **23**.

Section 2.6.2 limits the amount of excavation and fill of the land in order to retain natural ground levels and existing landform. In the circumstance of this application the extent of excavation of the proposal will have direct connections to the level of impacts on highly significant Sydney Blue Gum trees, stabilising the site and vehicular access for the newly created Lot B.

The proposal fails to achieve acceptable vehicular access and to minimise the impacts on the highly significant Sydney Blue Gum trees and retaining wall construction are unclear due to insufficient information submitted.

Additionally Council's Development Engineer raised concerns regarding the excessive excavation of the site and does not support the proposed development.

As such the proposed excavation and fill involved with the proposal are not supported, and warrant refusal of the application.

Section 2.5.3 – Pedestrian & vehicle safety (not supported)

Relevant DCP section:

- DCP Part 3.3, Section 2.5.3 Pedestrian and vehicle safety requires compliance with the relevant Australian Standards (AS2890) when designing driveways;

The proposed driveway design fails to comply with the Australian Standard 2890.1 and RDCP 2014 in respect to the maximum driveway grade, provision of transitional ramp within the site boundary and sightlines for pedestrian and car safety in the narrow Young Parade (no sightline triangles and retaining walls more than 900mm at the front boundary refer to **Figure 22** and **23** below).

ITEM 4 (continued)



Figure 22 – Photomontage of Lot B

It is further noted that the driveway profile (as shown in **Figure 12**) submitted with the amended proposal has not adequately addressed the height differences between the sides of the driveway and diagonal fall within the Young Parade reserve.

The submitted survey plan indicates a cross fall of 1:6875 (or 14.6%) from north to south side of the kerb and a maximum fall of 1:2.25 (or 44.5%) at the lowest kerb level along the southern alignment of the driveway crossing in the Young Parade reserve.

Not only are these gradients inconsistent with the AS 2890, it would also result in the need for retaining walls in the public domain or regrading of the public domain. These retaining walls would not be supported given the impact on the streetscape, and site regrading would also not be supported as it would have further adverse impacts to the remaining Sydney Blue Gum trees.

An indicative diagram of the proposed driveway crossing for Lot B has been provided in **Figure 23**.

ITEM 4 (continued)

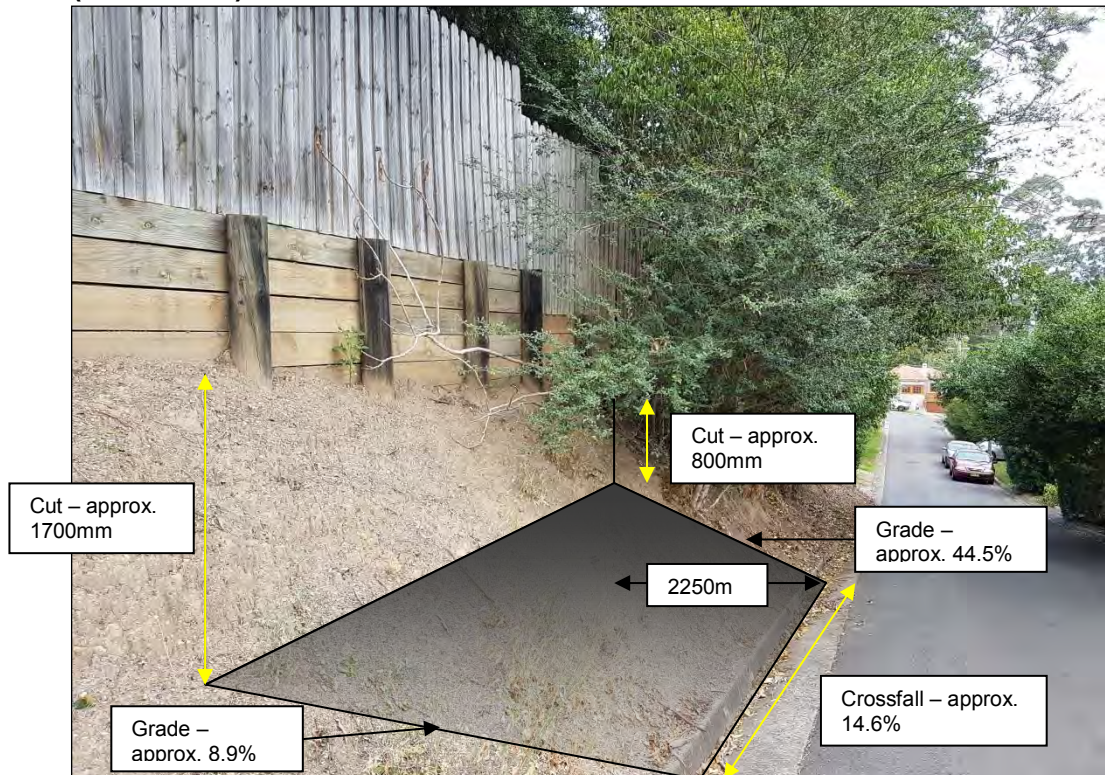


Figure 23 – Indicative driveway profile for the proposed dual occupancy on Lot B

The proposal fails to provide satisfactory vehicular and pedestrian access from Young Parade and is therefore it is not supported.

Section 2.9.3 – Rear setback (not supported)

Section 2.9 requires a minimum rear setback of 25% of the length of the site or 8m, whichever is greater. The only exception to this rear setback requirement is for a site that is wider than it is longer, when a minimum 8m from the side boundary is achieved then a minimum 4m rear setback is required to be provided.

The newly created Lot B is a squarely shaped allotment with dimensions of 25.145m x 25.145m. In the circumstance of this application, it is reasonable to apply the minimum 4m rear setback requirement given the presence of highly significant Sydney Blue Gum trees taking up to 1/3 of the site area limiting the developable area towards the northern half of Lot B.

These site features are identified as site constraints that require consideration for the built form outcome, however the proposal fails to provide a satisfactory design solution to overcome these site constraints and results in poor amenity for the future occupants of Unit 1.

ITEM 4 (continued)

Therefore, the reduced rear setback of 2.84m of the proposed dual occupancy on Lot B is considered to be unreasonable in respect to adequacy of private open space and landscaped setting and therefore this DCP variation is not supported.

Section 2.11 – Number of car spaces for the proposed dual occupancy on Lot B (not supported)

As detailed earlier in the report, the proposed dual occupancy on Lot B provides additional car spaces and consequently the proposal exceeds the maximum car spaces allowed under Section 2.11 (a) of the RDCP 2014.

The FSR exceedance resulting from the proposal is not supported for the reasons detailed in the 'FSR' section of the report and hence the additional car spaces for Lot B are not supported (refer to **Figures 17 and 18**).

7. Planning Agreements or Draft Planning Agreements

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

8. Section 7.11 Development Contributions Plan 2007 (Amendment 2010)

Council's current Section 94 Development Contributions Plan 2007 (Interim Update (2014) effective 12 August 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) is as follows:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$12,683.22
Open Space & Recreation Facilities	\$31,223.55
Civic & Urban Improvements	\$10,619.73
Roads & Traffic Management facilities	\$1,448.58
Cycleways	\$904.86
Stormwater Management Facilities	\$2,876.10
Plan Administration	\$243.96
The total contribution is	\$60,000.00

Any applicable Section 7.11 contributions would be subject to a condition of consent should this application be approved.

ITEM 4 (continued)**9. Any matters prescribed by the regulations**

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

10. The likely impacts of the developmentNatural Environment

The proposal is likely to have adverse impacts on the natural environment as no reasonable attempts have been made to address the aims of the SEPP 19 – Bushland in Urban Areas as detailed in the report. Insufficient information has been provided to determine the impact of the declining/death of the two Sydney Blue Gum trees, particularly with regard to the remaining EEC. Therefore, the application has not demonstrated that the removal of this vegetation will not have an adverse impact on the existing natural environment.

Additionally, the proposal fails to provide satisfactory drainage solution to minimise disruption of the existing drainage pattern of the area as commented by Council's Development Engineer.

Built Environment

The proposal is likely to have adverse impacts on the built environment given the nature and extent of non-compliances with the objectives and controls contained in the RLEP 2014 and RDCP 2014.

Social Impact

There is no positive social benefit to the community, given the likely adverse amenity impacts on the adjoining properties by having little regard to the site that contains a number of significant trees which form part of the EEC and constraints by the natural topography of the site.

Economic Impact

There is no positive economic benefit to the community which would arise from the approval of this development which would outweigh the costs of allowing a non-complying development proposal and therefore setting a precedent.

11. Suitability of the site for the development

In the absence of consideration against the conservation of the Blue Gum High Forest and satisfactory access for cars and pedestrians from Young Parade with this application, the subject site is not considered to be suitable for the proposed development.

ITEM 4 (continued)

12. The Public Interest

The proposal is not considered to be desirable or in the public interest, given the extent and nature of the non-compliances with the RLEP 2014 and RDCP 2014 which were adopted as an outcome of an extensive consultation with the community. Furthermore, it is not considered that approval of the application would be in the public interest as the site is not suitable for the proposed development.

Furthermore, the potential loss of (or further impact upon) the EEC as a result of the development is not considered to be in the public interest.

13. Submissions

In accordance with the RDCP 2014 *Part 2.1 Notice of Development Applications*, the application was notified from 19 March 2018 to 4 April 2018.

In response to the neighbour notification of the application, fourteen (14) submissions were received, including duplicate submissions, from the following properties:

Addresses	
9 Young Parade, Eastwood	9 Third Avenue, Eastwood
1/13 Third Avenue, Eastwood	6 Third Avenue, Eastwood
20 Fourth Avenue, Eastwood	2a Third Avenue, Eastwood
13 Fourth Avenue, Eastwood	22 Fourth Avenue, Eastwood
22a Fourth Avenue, Eastwood	2 Third Avenue, Eastwood
26a Fourth Avenue, Eastwood	15 Third Avenue, Eastwood
1/13 Fourth Avenue, Eastwood	Address not given

The concerns raised in the submissions are summarised and addressed following.

- **Potential damage to the neighbouring properties and on site trees/soil erosion.**

Comment

As detailed in the report, it is unclear as to the level of impacts on the remaining Sydney Blue Gum trees due to the retaining wall construction required for the proposed development.

Two of the Sydney Blue Gum trees have died in a reasonably short period of time. This is currently being investigated by Council's Tree Management Section and Consultant Landscape Architect. The retention of the remaining trees is critical.

The likely impact to these trees by the retaining wall construction has been identified in the applicant's second arborist report. The development fails to provide satisfactory solution to address these concerns.

ITEM 4 (continued)

The above issues relating to the potential impacts on Sydney Blue Gum trees and retaining walls are considered sufficient to warrant the refusal of this application.

- **Increased traffic/narrow width of the laneway (Young Parade)/lack of street parking/access for emergency vehicles and garbage trucks/lack of pedestrian footpath in Young Parade**

Comment

The proposal fails to provide satisfactory vehicular access from Young Parade and fails to address the above concerns in regard to the existing traffic and road conditions of Young Parade.

It is agreed that the above issues relating to the existing traffic and road conditions of Young Parade and vehicular access have not been satisfactorily considered and are sufficient to warrant the refusal of this application.

- **Removal of trees and vegetation/preservation of Sydney Blue Gum trees and natural habitat**

Comment

As mentioned in the report, the above issues relating to the existing Sydney Blue Gum trees and the likely impact on the Sydney Blue Gum High Forest EEC are considered sufficient to warrant the refusal of this application.

- **Unacceptable increase in density in the local area/bulk and scale/number of dwellings and bedrooms/permmissibility within the zone/ suggestion to provide smaller dwellings with access from Third Avenue/lack of information with the neighbour notification**

Comment

Land subdivision and dual occupancies are permissible in R2 Low Density Residential zones under the Ryde LEP 2014. It is noted that the proposed design has not responded to the overall site constraints, and therefore, the scale of the proposed dual occupancies is not considered appropriate to the subject site.

- **Potential overshadowing/visual and acoustic privacy impacts**

Comment

The proposal is unlikely to have any adverse impacts through overshadowing, visual and acoustic privacy

- **Lack of parking for number of dwelling proposed**

Comment

ITEM 4 (continued)

The proposal meets the minimum parking rate required for dual occupancy development under the RDCP 2014. As such the above concern is not considered to be valid to warrant the refusal of this application.

- **Demolition of the original century dwelling house that exists on the site/heritage value**

Comment

The existing dwelling house on the site is not categorised as being heritage significant nor located in a heritage conservation area and such the above concern is not considered to be valid to warrant the refusal of this application.

- **Neighbourhood amenity/streetscape and character of the area**

Comment

As discussed in the report the bulk and scale of the proposed development is not considered to be compatible with the low density residential character of the area. It is therefore agreed that the proposal has not properly considered the impact of the proposed development on adjoining properties in respect to amenity, streetscape and character of the area.

- **Health hazards during demolition and construction**

Comment

Appropriate conditions of consent can be imposed to minimise adverse impacts on the adjoining properties during demolition and construction, were this application be recommended for approval.

- **Potential power outage due to the increased number of dwellings**

Comment

The above concern is noted; however it is not considered to have any direct relevance to this application and is not considered to be valid to warrant the refusal of this application.

- **Lack of pedestrian access in Young Parade and DDA requirements for accessible pathways**

Comment

This concern is concurred with. The proposal fails to provide pedestrian access from Young Parade and therefore it is not supported.

- **Recently approved multi-dwelling housing developments in the area**

Comment

ITEM 4 (continued)

The above concern is noted; however it is not considered to have any direct relevance to this application and is not considered to be valid to warrant the refusal of this application.

- **Request for a 'Traffic calming zone' or '10Km shared zone' for Young Parade**

Comment

The above concern is noted; however it is not considered to have any direct relevance to this application and is not considered to be valid to warrant the refusal of this application.

- **Loss of trees and natural habitats**

Comment

This concern is concurred with. Concurrent to the assessment of this application, Council's Tree Management section and Consultant Landscape Architect are investigating the proposed removal of the two (2) Sydney Blue Gum trees numbered T5 and 6.

- **Vehicular access is to be from Third Avenue due to increased traffic in Young Parade.**

Comment

Lot A gains access from Third Avenue. However, as noted earlier in this report, access for Lot B from Young Parade is considered to be unacceptable due to the topography of the site in relation to the roadway.

The matter was referred back to the applicant to resolve, however, the amended plans received in response did not adequately address this issue.

This forms a reason for the refusal of the application.

14. Referrals**Consultant Landscape Architect**

A referral was made to Council's Consultant Landscape Architect, and the following comments have been made in relation to the amended Arborist report:

"This Landscape Addendum considers the amended plans and information submitted to Council relating to existing trees and landscaping as part of a development application for the construction of two (2) attached dual occupancy developments at the subject site being 11 Third Avenue, Eastwood.

ITEM 4 (continued)

Based on the amended information submitted, an additional three (3) trees are proposed for removal based on the new driveway and retaining wall arrangements. This includes two (2) trees originally identified in good health and condition and recommended for retention within the original Arborist Assessment submitted.

Given the discrepancies identified between the original Arborist Assessment and the new Arborist Assessment submitted, the site was reinspected to confirm the observations and findings.

*As confirmed on site, two (2) trees being Tree 5 & Tree 6 (*Eucalyptus saligna* – Sydney Blue Gum) were observed as dead with no live foliage. As discussed within the Arborist Report, these highly significant trees have declined rapidly and CPS considers this is likely due to a case of tree poisoning. Given these trees are now dead, it is considered their removal should be undertaken as they are likely to become unstable and potentially hazardous in the future.*

With regards to Tree 7 & Tree 8, the amended plans indicate that incursion to the Tree Protection Zones (TPZ) is to be approximately 10 & 15% respectively. The plans submitted however do not reflect the recommendations of the Arboricultural Assessment being that the existing timber retaining walls adjacent to the trees are to be retained to ensure impacts are minimised. The amended plans indicate that these walls are to be removed and reconstructed which is not supported due to the likelihood of impact.

*It is noted that the revised Arboricultural Impact Assessment recommends removal of Tree 4 (*Grevillea robusta* – Silky Oak) due to it falling within the new driveway footprint. Whilst it is concurred that the revised design would necessitate the removal of Tree 4, the removal of this tree is not supported in this instance. Given the sudden loss of two (2) highly prominent trees adjacent (Tree 5 & 6), it is considered important that those existing trees of high retention value (i.e. Tree 4, 7 & 8) must be retained to ensure the landscape character and amenity of the site is not further negatively impacted.*

No changes have been undertaken to the size of private open space of Unit 1 of Lot B and as such concerns are still raised in relation to insufficient private open space area being provided for a large dwelling of 4-bedrooms + study and resulting in poor amenity for occupants. Whilst there are no numerical controls for the size of private open space to be provided for dual occupancies, it is noted that only 24m² of soft landscaping has been provided for this dwelling.

In addition to the above, it is noted that amended landscape plans have not been submitted to reflect those architectural changes proposed. As such, no further comment can be provided in relation to the suitability of proposed landscaping across the site.”

ITEM 4 (continued)**Further Comment**

Following the issue related to the declining health/death of the two Sydney Blue Gums (Trees 5 & 6) on the site, Council's Consultant Landscape Architect has provided the following additional comment:

"The revised Arboricultural Impact Assessment Report prepared by Urban Arbor dated 12.06.2018 and Architectural Plans prepared by Baini Design dated 09.07.2018 indicate that three (3) additional trees are to be removed as part of the revised design being Tree 4, Tree 5 and Tree 6.

Given the proposed tree removal includes two (2) large and significant Sydney Blue Gums (Eucalyptus saligna – Tree 5 & 6) which form part of a Endangered Ecological Community (EEC) protected under the Biodiversity Conservation Act 2016 being 'Blue Gum High Forest in the Sydney Basin Bioregion', it is considered that insufficient information has been submitted to determine the impact of removal to the EEC and the suitability of removal from an ecological perspective."

Assessing Officer Comment

Council's Consultant Landscape Architect has identified a number of issues in regard to the landscape plan and arborist report provided. It is considered that insufficient information has been provided regarding the potential level of impact upon the remaining EEC given the declining health/death of the two Sydney Blue Gums.

City Works (Waste)

A referral was made to Council's City Works department, and the following comments were provided in respect to waste:

"The development is for two sets of duplexes, one facing Third Ave and the other set accessed from Young Parade. Each duplex will have its own set of bins, meaning 4 x 140L waste, 4 x 240L recycle and 4 x 240L garden organics bins.

Waste has a concern regarding the area where the bins are expected to be placed in Young Parade for servicing. Currently the land along the road is a steep gradient with a lot of vegetation and no footpath along this side of Young Parade. Please advise how you will be ensuring that the bins are placed on a flat surface for collection, which will not impact traffic flow along this narrow street."

Development Engineer

A referral was made to Council's Development Engineer, and the following comments have been made:

ITEM 4 (continued)Original Plans*“Stormwater Management*

The subject property is located at the corner of Third Avenue and Young Parade. Young Parade is a narrow laneway with kerb and gutter constructed on both sides. The property has a gradient sloping towards its south-western corner and towards Young Parade. The property is affected by sloping instability issues.

The stormwater drainage system is proposed with above ground basins for Lot A and below ground tanks for Lot B and discharges to Young Parade. The rear OSD basins within Lot A will require cut and fill both.

For properties effected by sloping instability issues, above ground basins or underground tanks are generally not recommended. (It is noted that there is no geotechnical report submitted with the application which should be requested).

The drainage plans need to be amended to provide a combined above-ground BASIX and OSD tank system for each unit.

Subdivision

The proposed subdivision is to create two lots with access from Third Avenue to Lot A and access to Lot B from Young Parade. Each Lot is to be about 632m².

Though the proposed lot areas comply with minimum lot size requirement, the access arrangement for Lot B will be an issue due to existing site conditions. The subdivision will require provision of pedestrian access along Young Parade.

If the development is approved, the subdivision should be finalised prior to the construction of the dwellings.

Public Domain

The footpath reserve along Young Parade at the moment is not suitable for pedestrian passage due to the steep slope and therefore needs to be regraded to allow for pedestrian friendly pathway. Re-grading of the footpath is also required for garbage bins to be placed on the footpath for collection days.

These works will require excavation & retaining wall construction along the boundary with transition to the existing footpath levels on the adjoining property No 9 Young Parade.

Vehicle Access and Parking

The access to Lot A is proposed via Third Avenue and to Lot B is proposed via Young Parade. The footpath reserve in Young parade is very narrow (about

ITEM 4 (continued)

2.5m wide) and has a very steep cross fall. The boundary levels appear to be about 1.5 to 2.0m higher than the kerb level.

The proposed basement garages/driveway for Units in Lot B require excessive cut within the property. The cut proposed for the garages along the eastern boundary is about 3.8m and at front Young Parade boundary is about 2.5m which do not comply with Council's DCP requirements. These levels at the boundary may need to be lowered further to achieve satisfactory driveway gradients to comply with AS 2890.1. The proposed cut and the regrading of the footpath reserve may have some impact on the existing trees within the property and also the removal of existing trees.

The proposed cut and the high retaining walls in excess of 2.5m at Young Parade frontage will obstruct the vision of drivers reversing from the garages creating unsafe situations and therefore cannot be supported.

The driveway gradients also do not comply with AS 2890.1 and the levels may need to be lowered further for these units.

Waste and Service Requirements

The application has been referred to Council's City works Department and Waste Section is yet to be commented regarding their service requirements.

Other Issues

There are number of existing retaining walls within the property which had been constructed few years ago. The proposed excavation/construction works may have some impact on these and needs to be looked at by a geotechnical engineer.

The proposed cut adjoining the existing trees also will have some impact on the trees. The re-grading of the footpath will require the removal of the existing small trees on the footpath and also the large tree. The arborist report recommended to keep all the trees on site.

It is noted that there is no geotechnical report submitted for the development."

Response to Amended Plans received 18 July 2018

"A sewer line runs through the site from the adjoining No 13 Third Av towards Young Parade. This line appears to be adjoining the excavated area. If Council is to further assess this application, further comments should be sought from Sydney Water (we may be able to request applicant to liaise with Sydney Water).

Following comments are provided in regard to the amended plans submitted to Council:

ITEM 4 (continued)*1. Cut proposed at the rear of the property*

Lot A, Unit 1- external cut at the back is about 750mm with retaining walls. The retaining wall appears to be extended above the cut levels. (This may have the potential to block the natural surface runoff from the adjoining property)

Lot A Unit 2 –external cut 200 adjoining the tanks.

The rear yards have a slope from RL 82.5 to 81.2 which has about 14% grade. The lower garden area is 1.25m below. The lower garden area is at RL 81.0. The stormwater pit level shown in this area is 1.4m below the rest of the garden. To raise the pit to the rest of the garden level there is some fill/retaining wall will be required in this area.

Lot B, Unit 1-external cut at the back is about 1.0m with retaining walls

Lot B, Unit 2- external cut at the back is about 780-500mm with retaining walls

Cut proposed within the front driveway area (Young Parade frontage):

3.5m-2.5m cut within the site and associated retaining walls

The access requires cut within the footpath area within the Laneway.

- 2. Large garage areas are proposed within the basement of Lot B for Unit 1 & 2. These garages require about 3.8m excavation to achieve the levels proposed.*
- 3. The driveway gradients as shown on sheet 7 are unsatisfactory. The long section is confusing, does not show where the levels are proposed or the changes of gradients are taken. i.e. not shown where the boundary or the kerb. The setbacks to the garages are not clearly shown on plan views to verify if the distances shown are correct. The long section should be taken across the worst section of the driveway. The gradients as shown are at the highest (12.5% and 25%) and there is no room for error. The garage floor levels may need to be lowered to achieve a lower gradient.*
- 4. The combined driveway width for Lot B is shown over 10.0m with almost full front setback area as concrete. Maximum combined driveway allowed is 5.0m across the footpath extending to 6.0m at the layback with wings. I assume you may require additional landscaping within rather than having a fully concrete front yard.*
- 5. Sight lines (Lot B) - sheet 7 indicates walls along the side stair case (height not given). A splay is proposed on the southern side.*
- 6. There is no information on plans showing where bins are expected to be placed in Young Parade for servicing.*
- 7. The drainage plan does not show the method of collection of surface water from the rear/side yards.*

ITEM 4 (continued)

The applicant has tried to address some of the issues, however still there are some non-compliances and outstanding issues. The cut proposed within the property is excessive with high retaining walls

Recommendation

The development as proposed with access from Young Parade will require extensive earth works. Due to existing site conditions, the proposal is an over development for the site.

The development cannot be supported as proposed due to following:

- *Vehicular access required for the proposed Torrens Title subdivision, especially Lot B fronting Young Parade;*
- *Unacceptable driveway gradient for the dual occupancy on Lot B which fails to comply with AS 2890 & DCP;*
- *Unsatisfactory drainage system that fails to comply with DCP;*
- *Insufficient information in relation to the existing Sydney Water's pipeline across Lot B to determine the likely impact on the pipeline;*
- *Extensive cut and fill that exceed the maximum depth and height allowed under DCP;*
- *Pedestrian and car safety in relation to sightlines due to the retaining walls and absence of sightline splay for the driveway of Lot B;*
- *Unacceptable landscaping setting of Lot B with the excessive paved/driveway area;*
- *Insufficient information in relation to the garbage bins collection point within the kerb due to the height difference; and*
- *Lack of information on the drainage disposal method of surface water from the rear/side yards."*

Consultant Structural Engineer

A referral was made to Council's Consultant Structural Engineer and received no objection, subject to the appropriate conditions, should this application be approved.

15. Conclusion

After consideration of the development against section 4.15C of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is recommended for refusal for the following reasons:

1. The proposal fails to demonstrate that the threatened ecological community and their habitats (Blue Gum High Forest) will be adequately conserved. Insufficient information has been provided to determine the impact of the declining health/death of the two Sydney Blue Gum trees to the remaining

ITEM 4 (continued)

EEC and the suitability of removal from an ecological perspective under the relevant provisions of EPBC Act, NSW Biodiversity Conservation Act 2016 and State Environmental Planning Policy No 19 – Bushland in Urban Areas;

2. The application exceeds the maximum floor space ratio applicable to the site, and has failed to provide a written Clause 4.6 variation to justify the variation from this development standard. The departure from this standard results in a development that is incompatible with the streetscape in relation to bulk and scale.
3. The proposal fails to satisfy the aims and objectives of Clause 4.1 of the RLEP 2014 as it does not ensure that efficient areas of open space is provided for each lot to enable the retention and embellishment of green linkage in residential zones.
4. The proposal fails to satisfy the aims and objectives of Clause 6.2 of the RLEP 2014 in that the proposal does not clearly identify the extent of cut and fill required to facilitate the proposed development.
5. The proposal fails to provide an acceptable landscape setting, failing to comply with the RDCP 2014 in respect to deep soil area.
6. The proposed development fails to comply with the relevant Australian Standards (AS2890) and the RDCP 2014 with respect to the proposed access to proposed Lot B.
7. The proposed development fails to comply with the RDCP 2014 in regard to the rear setback for the dual occupancy on proposed Lot B, resulting in unacceptable amenity for future residents.
8. The proposal fails to provide sufficient information in relation to:
 - Detailed Waste Management Plan was provided to determine the quantity and quality of the excavated soil and the destination of excavated materials from the site;
 - Mitigation measures and management of the site which forms part of the Blue Gum High Forest during earthworks; and
 - Driveway profiles and sections to ascertain the exact amount of excavation and to assess the impact of the development; and
9. The amended proposal fails to respond to the known site constraints and is not compatible with the desired future character of the area.
10. The amended proposal results in an unacceptable and non-complaint built form.

ITEM 4 (continued)

11. The development is not considered to be in the public interest.

Therefore this application is recommended that the application be refused for the following reasons:

16. Recommendation

1. That Development Application at No. LDA2018/96 for the Torrens Title subdivision into two allotments, demolition of existing structures, construction of a two storey dual occupancy (attached) on each lot and subsequent Strata subdivision of each dual occupancy at 11 Third Avenue, Eastwood, be refused for the following reasons:
 - a) Pursuant to Section 1.3 of the Environmental Planning and Assessment Act 1979, the proposed development tends to hinder the attainment of the objects of the EP & A Act 1979 whereby the objects require the protection of conservation of threatened ecological communities and their habitats (the Blue Gum High Forest) and promotion of good design and amenity of the built environment.
 - b) Pursuant to the objects of the Commonwealth Protection and Biodiversity Conservation Act 1999, insufficient information has been submitted determine the impact of the declining health/death of the two Sydney Blue Gum trees to the remaining Critically Endangered Ecological Community (EEC) and suitability of removal from an ecological perspective.
 - c) Pursuant Section 1.3 of the Biodiversity Conservation Act 2016, insufficient information has been submitted determine the impact of the declining health/death of the two Sydney Blue Gum trees to the remaining Sydney Blue Gum trees within the Sydney Basin Bioregion that is listed as a Critically Endangered Ecological Community (EEC) in Part 1 of Schedule 2 of the NSW Biodiversity Conservation Act 2016.
 - d) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal fails to satisfy the aims of the State Environmental Planning Policy No 19 – Bushland in Urban Areas in relation to the protection and management of the site containing significant remnant vegetation associated with the Blue Gum High Forest.
 - e) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal fails to satisfy the objectives of Clause 4.1 of the Ryde Local Environmental Plan 2014 given the lack of consideration to the site constraints with limited access for cars and pedestrians and developable area for future developments on the site.

ITEM 4 (continued)

- f) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal fails to comply with the maximum FSR permitted under Clause 4.4 of the Ryde Local Environmental Plan 2014 and it is considered an overdevelopment of the site.
- g) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, no written Clause 4.6 standard variation was submitted for the FSR exceedance under Clause 4.4 of the Ryde Local Environmental Plan 2014.
- h) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal fails to satisfy the objectives of Clause 6.2 of the Ryde Local Environmental Plan 2014 due to the unknown extent of excavation and fill of the land involved with the proposed development.
- i) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the objectives of the Ryde Development Control Plan 2014 Part 3.3 – Dual Occupancy in relation to compatibility with the existing and future desired character of the area.
- j) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the provisions of the Ryde Development Control Plan 2014 Part 3.3 – Section 2.3, 2.6 and 2.11 in relation to the landscaped setting and extent of driveway/impervious areas within the front setback area permitted for a dual occupancy development.
- k) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the provisions of the Ryde Development Control Plan 2014 Part 3.3 – Section 2.6.2 in relation to the maximum depth of excavation for dual occupancy developments.
- l) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the provisions of the Ryde Development Control Plan 2014 Part 3.3 – Section 2.5.3, 2.11 and 2.16 in relation to the vehicular access, driveway design and pedestrian and car safety for a dual occupancy development.
- m) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the provisions of the Ryde Development Control Plan 2014 Part 3.3 – Section 2.9 in relation to the minimum rear setback required for a dual occupancy development.

ITEM 4 (continued)

- n) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the provisions of the Ryde Development Control Plan 2014 Part 3.3 – Section 2.11 in relation to the maximum car spaces permitted for a dual occupancy development.
- o) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the provision of the Ryde Development Control Plan 2014 Part 3.3 – Section 8.2 in relation to providing satisfactory drainage system and changes in site levels to achieve satisfactory drainage system for a dual occupancy development.
- p) Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, as insufficient information has been submitted to determine the impact of the declining/death of the two Sydney Blue Gum trees to the remaining EEC and the suitability of removal from an ecological perspective under the relevant provisions of Commonwealth Environment Protection and Biodiversity Conservation Act 1999, NSW Biodiversity Conservation Act 2016 and State Environmental Planning Policy No 19 – Bushland in Urban Areas.
- q) Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, as insufficient information has been submitted to determine the quantity and quality of the excavated soil and the destination of excavated materials from the site and likely impact on the natural environment;
- r) Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the application will result in poor environmental impacts with regards to the lack of mitigation measures and management of the site which forms part of the Blue Gum High Forest during earthworks;
- s) Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the application will result in poor amenity impacts for the residents of the proposed dwellings and the surrounding built environment, due to the nature and extent of non-compliances with the objectives and controls of the Ryde Development Control Plan 2014 Part 3.3 – Dual Occupancy.
- t) Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, there are no positive social and economic benefits to the community by the application.
- u) Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the subject site is not considered to be suitable for the proposed Torrens Title subdivision of the existing single allotment into two separate allotments given the lack of satisfactory access for cars and pedestrians from Young Parade due to the site constraints with natural topography and steeply sloped reserve in Young Parade.

ITEM 4 (continued)

- v) Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed allotment, Lot B is not considered suitable for a dual occupancy, given the lack of satisfactory access for cars and pedestrians. The proposed dual occupancy on Lot B is an inappropriate design response to the site constraints where there are limited developable areas, limited useable street frontage and steeply sloped reserve to accommodate an acceptable grade for vehicular and pedestrian access from Young Parade.
 - w) Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed allotment, Lot B is not considered suitable for a dual occupancy, given the presence of an existing Sydney Water's Sewer line in the vicinity of the basement excavation and lack of waste bin collection point in the steep graded reserve in Young Parade.
 - x) Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the application is not in the public interest and is likely to set an undesirable precedent.
- 2. That those persons making a submission be advised of the decision.
 - 3. That the poisoning of the two (2) Sydney Blue Gum trees numbered T5 and T6 continue to be investigated.

ATTACHMENTS

- 1 Compliance Check
- 2 Amended Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Madeline Thomas
Acting Senior Coordinator - Development Assessment

Report Approved By:

Tony Collier
Acting Senior Coordinator - Assessment

Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

ITEM 4 (continued)

ATTACHMENT 1

Compliance Check - Quality Certification

Assessment of a Dual Occupancy (attached)

LDA No: LDA2018/0096	Date Plans Rec'd: 07 March 2018
Address: 11 Third Ave Eastwood	
Proposal: Torrens Title subdivision into two allotments, demolition and the construction of a dual occupancy (attached) on each lot.	
Constraints Identified: East-west oriented, cross fall east to west with a height difference of approximately 7m	

COMPLIANCE CHECK

Ryde LEP 2014	Proposal	Compliance
4.1 Minimum subdivision lot size		
(1)The objectives of this clause are: <i>(a) to retain streetscape, amenity, landscaped areas and private open space in residential zones, and</i> <i>(b) to ensure that lot sizes enable sufficient areas of open space within each lot so as to enable the retention and embellishment of green linkage corridors in residential zones.</i>	The proposed Torrens Title subdivision is considered to be inconsistent with the objectives of Clause 4.1	No (refer to the assessment report)
(2) Lot Size Map: Min. 580m ² each new lot	631.18m ²	Yes
4.1A Dual occupancy (attached) subdivisions		
Strata subdivision (attached dual occupancies) = 580m ²	Proposed dual occupancy on each new lot Lot A = 632.18m ² Lot B = 632.18m ²	Yes
4.1B Minimum lot size for dual occupancies		

ITEM 4 (continued)

ATTACHMENT 1

Ryde LEP 2014	Proposal	Compliance
Dual occupancy (attached) = 580m ² Minimum road frontage ≥ 20m	Dual occupancy (attached) = 580m ² Minimum road frontage ≥ 20m	Yes/complies with the numerical LEP standard.
4.3(2) Height of Buildings		
9.5m	Lot A (fronting Third Ave) = 8.57m Lot B (fronting Young Pde) = 8.83m	Yes
4.4 FSR		
Site area = 632.18m ² each lot 0.5:1	Lot A = 0.51:1 (322.14m ² +6.05m ² or 1.91%) Lot B = 0.69:1 (438.67m ² +122.58m ² or 38.7%)	No
4.6 Exceptions to development standards		
A written request must be made to consider the variation to Clause 4.4 – FSR numerical standard of the RLEP 2014	No Clause 4.6 request was submitted for the exceedance of FSR standard. Regardless the extent of variation is 38.8% over the maximum which is not supported	No
6.2 Earthworks		
Matters for consideration: <ul style="list-style-type: none"> Impacts on drainage patterns and soil stability of the area the destination of any excavated material 	Council's Development Engineer does not support the excavation and fill involved with the proposal	No

DCP 2014	Proposed	Compliance
Part 3.3 - Dwelling Houses and Dual Occupancy (attached)		
2.1 Desired Future Character		
Development is to be consistent with the desired future character of the low density residential	The proposed development is an overdevelopment of the site and is not considered to be	No

ITEM 4 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
areas.	consistent with the desired future character of the low density residential area	
2.3 Dual Occupancy (attached)		
<ul style="list-style-type: none"> - To have a landscaped setting which includes significant deep soil areas at front and rear. - Maximum 2 storeys. - Dwellings to address street - Garage/carports not visually prominent features. 	<p>Unit 1 of the new Lot B does not provide sufficient front and rear yards</p> <p>Unit 2 of the new Lot B has part two and part three storeys due to the natural contours of the land</p> <p>Dwellings address both street frontages</p> <p>Garage not prominent feature as setback in front elevation of building.</p>	<p>No</p> <p>No</p> <p>Yes</p> <p>Yes</p>
2.4 Subdivision		
<ul style="list-style-type: none"> - Min site area 580m² - Min site width of 15m at a distance of 7.5m from the frontage of the lot 	<p>Lot A = 632.18sqm (25.145m to Third Ave)</p> <p>Lot B = 632.18sqm (25.145m to Young Pde)</p>	<p>Yes</p>
2.5 Public Domain Amenity		
Streetscape		
<ul style="list-style-type: none"> - Front doors and windows are to face the street. Side entries to be clearly apparent. - Single storey entrance porticos. - Articulated street facades. 	<p>Front doors and windows face each street frontage.</p> <p>Single entrance portico.</p> <p>Articulated street façade.</p>	<p>Yes</p>
2.5.2 Public Views and Vistas		
<ul style="list-style-type: none"> - A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict 	<p>The site does not contain an existing or potential view corridor to/from water which could be created within a side boundary setback.</p>	<p>N/A</p>

ITEM 4 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
views. Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. Fence 70% open where height is >900mm.		
<p>2.5.3 Pedestrian & Vehicle Safety</p> <ul style="list-style-type: none"> - Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard. - Fencing that blocks sight lines is to be splayed. 	Unsatisfactory sightlines provided with the retaining walls on both sides of the driveway for Lot B	No
2.6 Site Configuration		
<p>Deep Soil Areas</p> <ul style="list-style-type: none"> - 35% of site area min. 221.26sqm required for each - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). - Dual occupancy developments only need 1 of 8 x 8m area (doesn't have to be shared equally). 	<p>Permeable (deep soil) area: 312.93m² approx (49.5% of site area) – Lot A Permeable (deep soil) area: 287.64m² approx (45.5% of site area) – Lot B</p> <p>Unit 1 Lot B (front DSA): Less than 50% permeable area in front yard= 14m².</p> <p>Min. 8m x 8m area provide for each dual occupancy,</p>	<p>Yes</p> <p>No</p>
<p>2.6.2 Topography & Excavation</p> <p>Within building footprint:</p> <ul style="list-style-type: none"> - Max cut: 1.2m - Max fill: 900mm <p>Outside building footprint:</p> <ul style="list-style-type: none"> - Max cut: 900mm 	<p>Lot A (within BF) Max cut: 1.1m (north east) Max fill: 1m (south west) Lot B (within BF) Max cut: 4.2m (north east) Max fill: Nil</p> <p>Lot A (outside BF) Max cut: 1.3m Max fill: 1.4</p>	<p>No</p> <p>No</p>

ITEM 4 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> - Max fill: 500mm - No fill between side of building and boundary or close to rear boundary - Max ht retaining wall 900mm 	Lot B (outside BF) Max cut: 2.3m (north) Max fill: 1m (south) The proposal involves cut and fill within the side and rear setback areas	
2.7 Floor Space Ratio		
Semi-basement (Lot B)	126.04m ² (excess basement garage area included)	
Ground floor	Lot A: 157.92m ² (excludes single garage each) Lot B: 164.56m ²	
First floor	Lot A: 164.22m ² Lot B: 148.07m ²	
Total (Gross Floor Area)	Lot A: 322.14m ² Lot B: 438.67m ²	
FSR (max 0.5:1) Note: Excludes wall thicknesses; lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas.	Lot A = 0.51:1 Lot B = 0.69:1	No
2.8 Height		
- 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL).	Height of any basement ceiling (above EGL) that is located below two storeys above: 1.39m – 1.96m above EGL (Unit 2 Lot B)	No
- 1 storey maximum above attached garage incl semi-basement or at-grade garages.	2 storeys above the garage of Unit 2 (Lot B)	No
Wall plate (Ceiling Height)		No

ITEM 4 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> - 7.5m max above FGL <i>or</i> - 8m max to top of parapet <p><i>NB:</i> <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> <i>FGL = Finished Ground Level</i></p>	<p>Lot A = TOW RL: 89.62 (parapet) FGL below (lowest point): RL: 81.2 TOW Height (max) = 8.44m</p> <p>Lot B = TOW RL: 87.48 (stacked stone column of Lot B) FGL below (lowest point): RL: 78.9 TOW Height (max) = 8.58m</p>	
<p>9.5m Overall Height</p> <p><i>NB:</i> <i>EGL = Existing Ground Level</i></p>	<p>Lot A (fronting Third Ave) = 8.57m</p> <p>Lot B (fronting Young Pde) = 8.83m</p>	Yes
<p>Habitable rooms to have 2.4m floor to ceiling height (min).</p>	<p>2.7m min room height.</p>	Yes
<p>2.9 Setbacks</p>		
<p>SIDE</p> <p>Two storey dwelling</p> <ul style="list-style-type: none"> - 1500mm to wall - Includes balconies etc 	<p>To wall min 1.5m</p>	Yes
<p>Side setback to secondary frontage (cnr allotments): 2m to façade and garage/carports</p>	<p>Lot A = min. 2m from the secondary street frontage to Young PDE</p>	Yes
<p>Front</p> <ul style="list-style-type: none"> - 6m to façade (generally) - Garage setback 1m from the dwelling façade - Wall above is to align with outside face of garage below. - Front setback free of ancillary elements eg RWT, A/C 	<p>Lot A: 6m from Third Ave (Min 1m garage setback)</p> <p>Lot B: 6.2m from Young Pde (Min 1m garage setback)</p> <p>Tank 02 for Unit 2 of Lot A is located within the secondary street setback area. To be conditioned to be</p>	<p>Yes</p> <p>Yes</p> <p>Yes (can comply by condition)</p>

ITEM 4 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
	appropriately screened.	
<p>Rear</p> <ul style="list-style-type: none"> - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. <p>Note: 6.28m is 25% of site length.</p>	<p>Lot A = 8.24m</p> <p>Lot B = 2.84m (see below)</p>	<p>No (see below)</p>
<p>Sites wider than they are long</p> <ul style="list-style-type: none"> - One side setback of 8m or 20% of allotment width, whichever is greater. - Rear setback 4m min (in addition to 8m side setback). <p>NB: Side setback on irregular allotments can be measured at the centre line of the site. (must have 8x8m DSA)</p>	<p>Lot B = 2.84m (eastern rear BDY) & 8.515m (southern side BDY)</p>	<p>No</p>
2.11 Car Parking & Access		
<p>General</p> <ul style="list-style-type: none"> - Dwelling: 2 spaces max, 1 space min. - Dual Occupancy (attached): 1 space max per dwelling. - Where possible access off secondary street frontages or laneways is preferable. - Max 6m wide or 50% of frontage, whichever is less. - Behind building façade. 	<p>Number/location of car spaces:</p> <p>Lot A = 1 space within the single garage</p> <p>Lot B = Min. 2 spaces within the tandem garage</p> <p>Access from: Lot A from Third Ave and Lot B from Young Pde.</p> <p>External width: 6m (Lot A) and 8m or 52.9% (Lot B)</p>	<p>Yes</p> <p>No (15)</p> <p>No /Vehicular access from Young Pde is not supported</p> <p>No</p>
<p>Garages</p> <ul style="list-style-type: none"> - Garages setback 1m from façade. - Total width of garage doors visible from public space must not exceed 5.7m and be setback not more than 300mm 	<p>Setback from façade: Min 1m garage recessing</p> <p>Width of opening: Max 4m each garage door</p>	<p>Yes</p> <p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
behind the outside face of the building element immediately above. - Garage windows are to be at least 900mm away from boundary. - Free standing garages are to have a max GFA of 36m ² - Materials in keeping or complimentary to dwelling.	Door setback: Nil Windows: Setback: No windows to sides of each garage Floor Area: No freestanding garages provided Materials: consistent with new dwelling.	No N/A N/A Yes
Parking Space Sizes (AS) o Double garage: 5.4m wide (min) o Single garage: 3m w(min) o Internal length: 5.4m (min)	Internal measurements: Lot A = 3.2m x 5.5m Lot B = 3m x 11m	Yes
Driveways - Extent of driveways minimised	Lot B = Combined driveway and concrete area next to the driveway = 10m/the combined width is considered excessive and it also limits the amount of landscaped area within the front setback area of Unit 1 of Lot B	No
Semi-basement Car Parking - Ramps must start 2m from the boundary (not on public land). - Walls are not to extend beyond walls of dwelling above.	Transitional ramp start at the front boundary of Lot B (regrading of kerb and gutter/nature strip may be required). The basement walls are kept within the building footprint	No Yes
2.13 Landscaping		
Trees & Landscaping - Major trees retained where practicable - Physical connection to be provided between dwelling and	3 x Sydney Blue Gum trees (located within the bushland) are required to be removed in order to accommodate the	No

ITEM 4 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21.</p> <ul style="list-style-type: none"> - Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21. <p><u>Neighbouring properties are to receive:</u></p> <ul style="list-style-type: none"> - 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21. - At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	<p>3hours.</p> <p>POS: Min 3hours.</p> <p>Hours of sunlight to adjoining principal open space: Min 3hours</p> <p>Hours of sunlight to adjoining living area windows: Min 3hours.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>Visual Privacy</p> <ul style="list-style-type: none"> - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. - Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space. - Side windows offset from adjoining windows. - Terraces, balconies etc are not to overlook neighbouring dwellings/private open space. 	<p>Sufficient visual privacy achieved with a mix of window offsets, building separation and no first floor rear balconies facing the adjoining properties.</p>	<p>Yes</p>
<p>Acoustic Privacy</p> <p>Layout of rooms in dual occupancies (attached) are to minimise noise impacts between dwellings eg: place</p>	<p>Acceptable</p>	<p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
adjoining living areas near each other and adjoining bedrooms near each other.		
View Sharing - The siting of development is to provide for view sharing.	The proposal does not obstruct any significant views.	N/A
Cross Ventilation - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation.	Achieved	Yes
2.15 External Building Elements		
Roof - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable Terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights.	Flatroof form N/A No terrace proposed No dormer windows proposed No dormer windows proposed	Yes (acceptable) N/A N/A N/A N/A
2.16 Fences		
Front/return: - To reflect design of dwelling. - To reflect character & height of neighbouring fences. - Max 900mm high for solid (picket can be 1m). - Max 1.8m high if 50% open (any solid base max 900mm). - Retaining walls on front bdy max 900mm. - No colorbond or paling Max width of piers 350mm.	<u>Front fence</u> Description: None proposed <u>Return fence</u> Description: None proposed Lot B: Retaining walls exceed 900mm maximum height above EGL	N/A N/A No
Side/rear fencing:	Height: No details provided	Yes (can comply)

ITEM 4 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
- 1.8m max o/a height.	Materials proposed: No details provided	(with conditions)
Part 7.1 - Energy Smart, Water Wise		
Insulation		
Walls: R1.5 Ceiling: R3.0	Walls: R2.0 Ceiling: R3.5	Yes
Hot Water System		
Any hot water system/s installed as part of a development or as a replacement must consider the most efficient option available to minimise greenhouse gas emissions.	Satisfactory BASIX certificate (892736M dated 02 February 2018) submitted	Yes
Water Fixtures, Fitting and appliances		
3 star shower heads; 4 star dual flush toilet; 4 star taps (other than bath outlets and garden taps); aerators to bathroom/kitchen taps.	Satisfactory BASIX certificate provided	Yes
External Clothes Drying Area		
External yard space or sheltered ventilated space for clothes drying	Can be provided in the rear yard of each dwelling	Yes (by condition if required)
Water Efficient Labelling & Standards (WELS)		
Minimum WELS rating of 4.5 stars for new or replacement dishwashers & washing machines.	BASIX Certificate submitted with the application.	Yes
Part 7.2- Waste Minimisation & Management		
Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2014.	The applicant has submitted a Waste Management Plan in accordance with Part 7.2 of DCP 2014.	Yes
Part 8.2 - Stormwater Management		

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ATTACHMENT 1

DCP 2014	Proposed	Compliance
Stormwater & Floodplain Management		
Drainage is to be piped in accordance with Part 8.2 - Stormwater & Floodplain Management.	Council's Development Engineer does not support the stormwater drainage system proposed with the proposal	No
Part 9.5 – Tree Preservation		
<p>Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway.</p> <p>Note: A site analysis is to be undertaken to identify the site constraints and opportunities including trees located on the site and neighbouring sites. In planning for a development, consideration must be given to building/site design that retains healthy trees, as Council does not normally allow the removal of trees to allow a development to proceed. The site analysis must also describe the impact of the proposed development on neighbouring trees. This is particularly important where neighbouring trees are close to the property boundary. The main issues are potential damage to the roots of</p>	Refer to the 'SEPP 19' section of the report.	No

ITEM 4 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
neighbouring trees (possibly leading to instability and/or health deterioration), and canopy spread/shade from neighbouring trees that must be taken into account during the landscape design of the new development.		

BASIX		
All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans (list) BASIX Cert 892736M dated 02 Feb 18 ABSA Cert 1011943394 <ul style="list-style-type: none"> • RWT 5000L • Swimming Pool <ol style="list-style-type: none"> 1. <28kL 2. outdoors • Thermal Comfort Commitments – Construction. • TCC – Glazing. • Solar Gas Boosted HWS w/41-45 RECS+ • HWS Gas Instantaneous 5 star. • Natural Lighting <ol style="list-style-type: none"> 1. kitchen 2. bathrooms () 	Satisfactory BASIX certificate provided	Yes
Water Target 40 Energy Target 40	Water: 44 Energy: 50	Yes Yes

Demolition		
Plan showing all structures to be removed	Yes	Yes
Demolition Work Plan	Yes	Yes
Waste Management Plan	Yes	Yes

Summary of Issues/Non compliances:

ITEM 4 (continued)

ATTACHMENT 1

The aims and objectives of:

- State Environmental Planning Policy No 19 – Bushland in Urban Areas;
- Clause 4.1 – Minimum Subdivision Lot Size of the Ryde Local Environmental Plan 2014;
- Clause 4.4 – FSR of the Ryde Local Environmental Plan 2014; and
- Clause 6.2 – Earthworks of the Ryde Local Environmental Plan 2014.

The objectives and planning controls of:

- Clause 4.4 – FSR of the Ryde Local Environmental Plan 2014;
- Ryde Development Control Plan 2014 Part 3.3 – Section 2.3, 2.6 and 2.11 – Landscaped setting for dual occupancy developments;
- Ryde Development Control Plan 2014 Part 3.3 – Section 2.6.2 – excavation and fill for dual occupancy developments;
- Ryde Development Control Plan 2014 Part 3.3 – Section 2.5.3., 2.11 and 2.16 – Pedestrian & vehicle safety, driveway design and vehicular access for dual occupancy developments;
- Ryde Development Control Plan 2014 Part 3.3 – Section 2.9 – Minimum rear setbacks for dual occupancy developments;
- Ryde Development Control Plan 2014 Part 3.3 – Section 2.11 – Maximum number of car parking spaces permitted for dual occupancy developments;

Other Issues:

- Clause 4.6 – Exceptions to Development Standards of the Ryde Local Environmental Plan 2014;
- Determine the impact of the declining/death of the two Sydney Blue Gum trees to the remaining EEC and the suitability of removal from an ecological perspective under the relevant provisions of EPBC Act, NSW Biodiversity Conservation Act 2016 and State Environmental Planning Policy No 19 – Bushland in Urban Areas;
- Detailed Waste Management Plan was provided to determine the quantity and quality of the excavated soil and the destination of excavated materials from the site;

ITEM 4 (continued)

ATTACHMENT 1

- Mitigation measures and management of the site which forms part of the Blue Gum High Forest during earthworks;
- Location of garbage bin collection point in the steep graded reserve in Young Parade;
- Location of the existing Sydney Water's sewer line across the rear half of the subject site;
- Driveway profiles and sections to ascertain the exact amount of excavation and to assess the impact of the development; and
- Amended landscaped plan to reflect the changes made with the amendment and to assess the impact on the highly significant trees on site.

Certification

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

Name Madeline Thomas

Signature

Date 18 January 2019

PLANNING PROPOSAL

5 PLANNING PROPOSAL TO HERITAGE LIST 68 DENISTONE ROAD, DENISTONE UNDER RYDE LEP 2014

Report prepared by: Strategic Planner

Report approved by: Senior Coordinator - Strategic Planning; Manager - Urban Strategy; Director - City Planning and Environment

Report dated: 31 January 2019
BP19/66

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

City of Ryde Local Planning Panel Report

Site Address and Ward	68 Denistone Road, Denistone West Ward
Current Planning Provisions	Zoning – R2 – Low Density Residential Maximum Height of Building – 9.5m Maximum Floor Space Ratio – 0.50:1 Other – Subject of Ryde Interim Heritage Order No. 4
Summary of Proposed Amendments to Planning Provisions	It is proposed to list the subject site as a Heritage Item under the provisions of <i>Ryde Local Environmental Plan 2014, Schedule 5 Environmental Heritage</i> and amend the <i>Heritage Map</i>
Property Owner	777 Trading Pty Ltd
Applicant	City of Ryde Council
Report Author	Rachel Hughes – Strategic Planner
Lodgement Date	Not Applicable. City of Ryde has prepared the Planning Proposal consequential to: <ul style="list-style-type: none"> Ryde Council resolution to apply an Interim Heritage Order and prepare the Planning Proposal for the site on 25 September 2018 and Ryde Interim Heritage Order (IHO) No. 4 notified 26 September 2018.
Reason for Referral	Required by Ministerial Direction made under Section 9.1 of the <i>Environmental Planning and Assessment Act 1979</i> dated 27 September 2018. Refer https://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Independent-Hearing-and-

ITEM 4 (continued)

	Assessment-Panels/Statutory-rules
Recommendation to City of Ryde Council	That the planning proposal seeking to list the subject site as a Heritage Item under the provisions of <i>Ryde Local Environmental Plan 2014, Schedule 5 Environmental Heritage</i> and amend the <i>Heritage Map</i> be forwarded to the Minister of Planning for Gateway Determination under 3.34 of the <i>Environmental Planning and Assessment Act 1979</i> .
Attachments	Attachment 1 – Planning Proposal which includes Heritage Assessment Report and Ryde Interim Heritage Order No.4 Attachment 2 – Local Planning Panels Direction - Planning Proposals

1. Executive Summary

This planning proposal seeks to amend the Ryde Local Environmental Plan (LEP) 2014 to protect the dwelling and associated landscaped grounds at 68 Denistone Road, Denistone from any development which would have a negative impact on its heritage significance and its contribution to the surrounding landscape.

This would be achieved by including 68 Denistone Road, Denistone as a Heritage item in *Ryde LEP 2014, Schedule 5 Environmental Heritage* and including the property in *Ryde LEP 2014 Heritage Map*.

The property is currently subject to an Interim Heritage Order (IHO) authorised by Council on 25 September 2018 and notified in the Government Gazette 26 September 2018. An IHO is a temporary measure protecting a potential heritage item from demolition while the necessary investigations are carried out to determine its heritage significance.

An experienced heritage consultant was subsequently engaged by Council to undertake a heritage assessment of the property in accordance with NSW Heritage Office guidelines. The assessment concludes that the property at 68 Denistone Road has heritage significance and merits inclusion in *Ryde LEP 2014, Schedule 5 Environmental Heritage* and in the *Ryde LEP 2014 Heritage Map*.

This Planning Proposal is in alignment with all relevant strategic plans, including the Greater Sydney Commission's *Our Greater Sydney 2056: Metropolis of Three Cities (Updated March 2018)* and *Our Greater Sydney 2056: North District Plan (March 2018)*, and City of Ryde's *The City of Ryde 2028 Community Strategic Plan* and *The City of Ryde Local Planning Study 2010*.

ITEM 4 (continued)

2. The Site and Locality

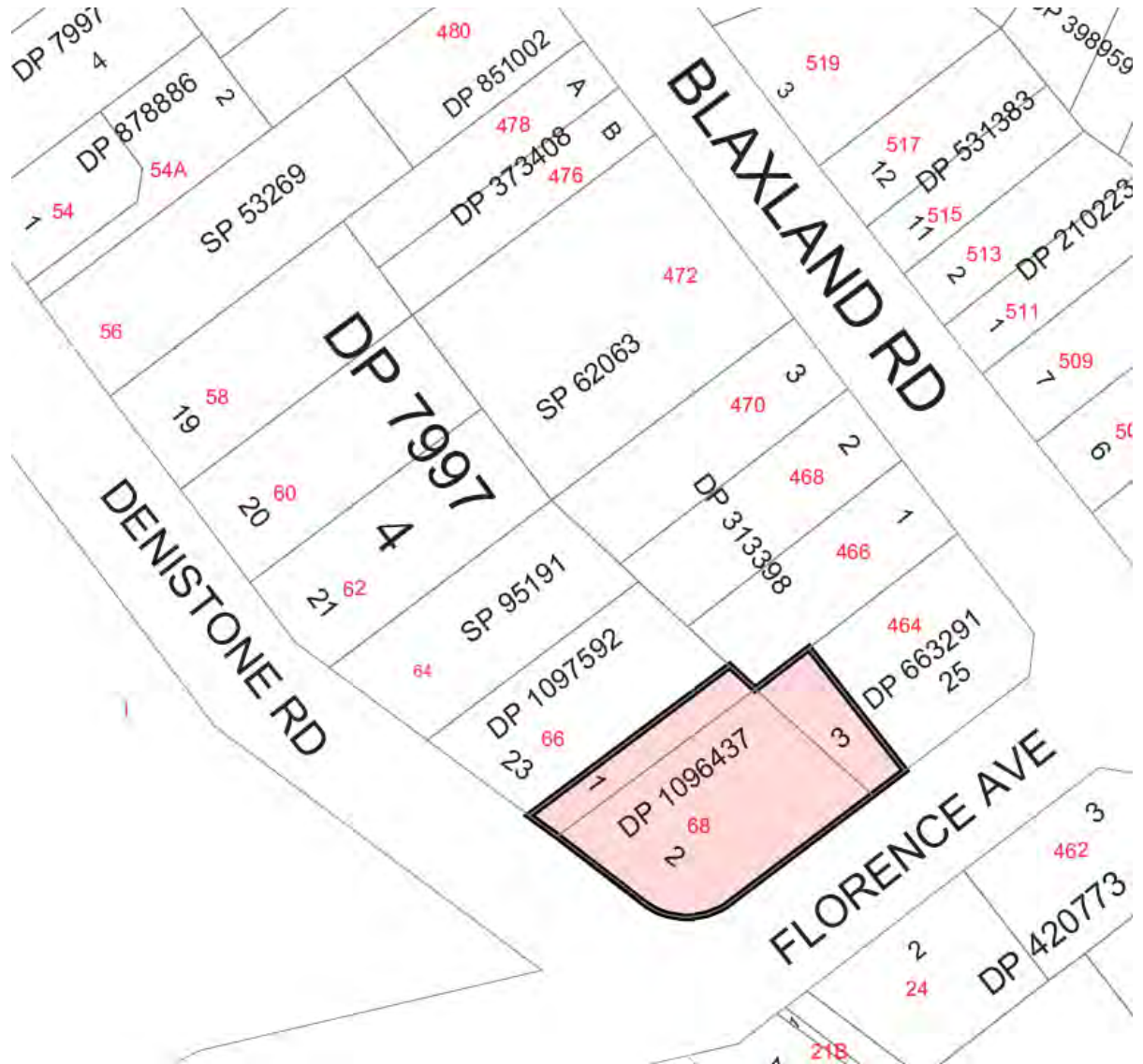
68 Denistone Road is a 1,606m² corner site at the intersection of Denistone Road and Florence Avenue in the suburb Denistone. (See map below.) The property includes an Inter-war California Bungalow style dwelling with associated gardens. (See photographs below.)

The site and its immediate surroundings are zoned R2 – Low Density Residential, have a maximum building height of 9.5m, and a maximum floor space ratio of 0.50:1.

FIGURE 1 Aerial Photograph of the site



ITEM 4 (continued)
FIGURE 2 Map of site



ITEM 4 (continued)

FIGURE 3 Photographs of dwelling – interior and exterior including garden



3. The Planning Proposal

This Planning Proposal seeks to amend Ryde LEP 2014 by including the property 68 Denistone Road, Denistone as a Heritage item in *Schedule 5 Environmental Heritage* and including the property in *Ryde LEP 2014 Heritage Map*, thereby protecting it from future works which would detract from its heritage value and contribution to the historical and aesthetic character of the local area. (See Attachment 1.)

The Planning Proposal as submitted (refer to Attachment 1) has been prepared in accordance with the requirements under Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the NSW Department of Planning and Environment's 'A guide to preparing planning proposals' (dated August 2016). The Planning Proposal adequately sets out the following:

- A statement of the objectives or intended outcomes of the proposed amending LEP;
- An explanation of the provisions that are to be included in the proposed amending LEP;

ITEM 4 (continued)

- Justification for those objectives, outcomes and provisions and the process for their implementation;
- Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies;
- Details of the community consultation that is to be undertaken on the planning proposal; and
- A project timeline.

Specifically the planning proposal seeks to:

- Amend *Ryde LEP 2014 Schedule 5 Environmental Heritage* - to include the property 68 Denistone Road, Denistone (Lots 1-3 DP 1096437) as follows:

Excerpt: Proposed Amendment to Ryde LEP 2014 Schedule 5 Environmental Heritage (Proposed amendment shown in red)

Denistone	"Poynton" (house)	25 Commissioners Road Lot A, DP 28226	Local	36	
Denistone	"Denistone House" and "Trigg House" (Ryde Hospital)	1 Denistone Road	Lot I, DP 869614	Local	47
Denistone	House	68 Denistone Road	Lots 1-3, DP 1096437	Local	224
Denistone	House	22 Miriam Road	Lot 80A, DP 6272	Local	219

And

- Amend *Ryde LEP 2014 Heritage Map* – to include 68 Denistone Road, Denistone (Lots 1-3 DP 1096437) as indicated in the following excerpt of the proposed *Ryde LEP 2014 Heritage Map*.

ITEM 4 (continued)

Excerpt: Proposed Ryde LEP Heritage Map



4. Background

On 25 September 2018, in response to a Mayoral Minute addressing a Development Application regarding a potential Heritage site at 68 Denistone Road, Council on 25 September 2018 resolved:

That Council delegate the General Manager to place an Interim Heritage Order over 68 Denistone Road, Denistone; and

- a. Prepare a Planning Proposal to list the property as an item of local heritage significance within Schedule 5 Environmental Heritage of Ryde Local Environmental Plan 2014, and*
- b. That the Planning Proposal seeking heritage listing of 68 Denistone Road, Denistone be forwarded to the Department of Planning and Environment with a request for a Gateway Determination, and*
- c. That upon receipt of the Gateway Determination, the General Manager place the Planning Proposal on Community Comment, in accordance with the conditions of the Gateway Determination.*
- d. That a report on the outcomes of community consultation be presented to Council as soon as practicable.*

Ryde Interim Heritage Order No 4 was subsequently published in the Government Gazette on 26 September 2018.

An Interim Heritage Order is a temporary measure of protection for potential Heritage Items. It requires by law that no works (including demolition) commence on a site until Council has had ample opportunity to conduct a full heritage assessment and determine whether the site merits a more permanent form of legislative protection. Interim Heritage Orders last no more than 12 months and are only applied when a property is at risk of demolition or damage.

ITEM 4 (continued)

Ryde Interim Heritage Order No 4 will cease to provide 68 Denistone Road legislative protection on the 27 March 2019.

5. Heritage Assessment

An independent Heritage Assessment prepared by experienced conservation professionals, Paul Davies Pty Ltd, concludes that 68 Denistone Road, Denistone (including the dwelling and associated grounds) is rare in the local context and meets the NSW Heritage Office criteria for historical and aesthetic heritage significance.

The house Lanark Brae at 68 Denistone Road (corner Florence Avenue), Denistone is of local historical significance as evidence of the suburban subdivision of the 19th century Denistone Estate...offered for sale from December 1914...

The house and property are of local aesthetic significance, as the house is a finely detailed, substantial representative example of the Inter-war California Bungalow style....

The house and property are rare at a local level as a substantial Inter-war California Bungalow style house on a prominent corner property retaining a substantial garden setting including interwar period garden features.

The independent Heritage Assessment notes that the site makes a notable contribution to local character, and merits legislative protection on the basis of its rarity and heritage significance and states:

(A)s this report has established the local heritage significance of the property at 68 Denistone Road, Denistone (Lots 1,2 & 3, DP1096437), the City of Ryde Council proceed with the process of heritage listing the site by amending the Ryde LEP 2014 to include the site as a heritage item under Schedule 5 Part 1: Heritage Items of that LEP.

6. Planning Direction

On 27 September 2018 the Minister for Planning brought into effect a new Direction regarding the referral of Planning Proposals to Local Planning Panels (ATTACHED). This Planning Proposal is subject to the Direction which stipulates that:

1. A council to whom this direction applies is required to refer all planning proposals prepared after 1 June 2018 to the local planning panel for advice...

2. When a planning proposal is referred to the local planning panel for advice in accordance with this direction it is to be accompanied by an assessment report prepared by the council staff setting out recommendations in relation to the planning proposal, including whether or not the planning proposal should be forwarded to the Minister or Greater Sydney Commission under section 3.34 of the Environmental Planning and Assessment Act 1979.

ITEM 4 (continued)

3. *The local planning panel must have given its advice on the planning proposal before council considers whether or not to forward it to the Minister or Greater Sydney Commission under section 3.34 of the Environmental Planning and Assessment Act 1979.*

The purpose of this report is to obtain the Panel's advice to Council on whether or not the Planning Proposal should proceed to Gateway Determination and community consultation.

Community consultation would then be reported to Council for consideration prior to their decision about whether or not he bring the proposed LEP amendments into effect.

7. Planning Assessment

The assessment of the subject planning proposal has been undertaken in accordance with the NSW Department of Planning and Environment's 'A guide to preparing planning proposals' (dated August 2016).

• Part 1 Objectives or intended outcomes

This Planning Proposal seeks to amend RLEP 2014 by including the property 68 Denistone Road, Denistone as a Heritage item in *Schedule 5 Environmental Heritage* and including the property in *Ryde LEP 2014 Heritage Map*.

The intended outcome of the Planning Proposal is;

- To ensure the protection of the dwelling and associated grounds 68 Denistone Road, Denistone from any development which could adversely affect the heritage significance of the property, and
- To preserve the contribution this site provides to the environmental heritage of Ryde, and
- To permit future use and development of this property consistent with the cultural significance of the item.

• Part 2 Explanation of provisions

The submitted planning proposal as lodged by the proponent seeks to amend the RLEP 2014 as follows:

- Amend *Ryde LEP 2014 Schedule 5 Environmental Heritage* - to include the property 68 Denistone Road, Denistone (Lots 1-3 DP 1096437)
- Amend *Ryde LEP 2014 Heritage Map* – to include 68 Denistone Road, Denistone (Lots 1-3 DP 1096437)

ITEM 4 (continued)

• Part 3 Justification

Need for the Planning Proposal

The NSW Department of Planning and Environment's 'A guide to preparing planning proposals' requires the following two questions be answered to demonstrate the need for the proposal:

1. Is the planning proposal a result of any strategic study or report?

Response:

68 Denistone Road is the subject of Interim Heritage Order No. 4 (published in Government Gazette No. 99 on Wednesday 26 September). This is a temporary form of legislative protection, designed to prevent harm to the subject site while further studies are undertaken to determine its heritage significance. This Planning Proposal is the result of the heritage study undertaken for the site, which recommends the above amendment to the Ryde LEP 2014.

"It is recommended that as this report has established the local heritage significance of the property at 68 Denistone Road, Denistone (Lots 1,2 & 3, DP1096437), the City of Ryde Council proceed with the process of heritage listing the site by amending the Ryde LEP 2014 to include the site as a heritage item under Schedule 5 Part 1: Heritage Items of that LEP."
 (See Attachment 1)

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Response:

This Planning Proposal represents the only means of achieving the objectives and intended outcomes above.

Relationship to Strategic Planning Framework – The Strategic Merit Test

A strategic merit test is provided in the following table.

Strategic Merit Issue	Comment
State Environmental Planning Policies and Local Directions	The Planning Proposal is consistent with the relevant State Environmental Planning Policies and Local Planning Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979. A detailed analysis of compliance with these policies is provided in the attached Planning Proposal.
Greater Sydney Region Plan - A Metropolis of Three Cities	The Planning Proposal is consistent with the Greater Sydney Region Plan - A Metropolis of Three Cities.
North District Plan	The Planning Proposal is consistent with the North District Plan March 2018.

ITEM 4 (continued)

Strategic Merit Issue	Comment
Ryde Local Planning Study	The Planning Proposal is consistent with the Ryde Local Planning Study 2010.

Key Assessment Issues

An assessment of the key issues relevant to the Planning Proposal is provided in the following table.

Site Specific Issues	Assessment
Local character	The site makes a notable contribution to local character, which this planning proposal seeks to preserve.
Heritage	The site has been assessed as possessing local historical and aesthetic heritage significance.

8. Conclusion

This report recommends that Council proceed to request a Gateway Determination to heritage list the property at 68 Denistone Road Denistone for the following reasons:

1. An independent Heritage Assessment prepared by experienced conservation professionals, Paul Davies Pty Ltd, concludes that 68 Denistone Road, Denistone (including the dwelling and associated grounds) is rare in the local context and meets the NSW Heritage Office criteria for historical and aesthetic heritage significance.
2. The independent Heritage Assessment notes that the site makes a notable contribution to local character, and merits legislative protection on the basis of its rarity and heritage significance.
3. Legislative protection can only be provided by including 68 Denistone Road, Denistone as a Heritage item in *Ryde LEP 2014, Schedule 5 Environmental Heritage* and including the property in *Ryde LEP 2014 Heritage Map*

9. Recommendation

The Ryde Local Planning Panel recommends to Council that:

The Planning Proposal seeking to include 68 Denistone Road, Denistone as a Heritage item in *Ryde LEP 2014, Schedule 5 Environmental Heritage* and include the property in *Ryde LEP 2014 Heritage Map* be forwarded to the Minister of Planning for Gateway Determination under 3.34 of the *Environmental Planning and Assessment Act 1979*.

ITEM 4 (continued)**ATTACHMENTS**

- 1 Planning Proposal - 68 Denistone Road, Denistone
- 2 Local Planning Panels Direction - Planning Proposals

Report Prepared By:

Rachel Hughes
Strategic Planner

Report Approved By:

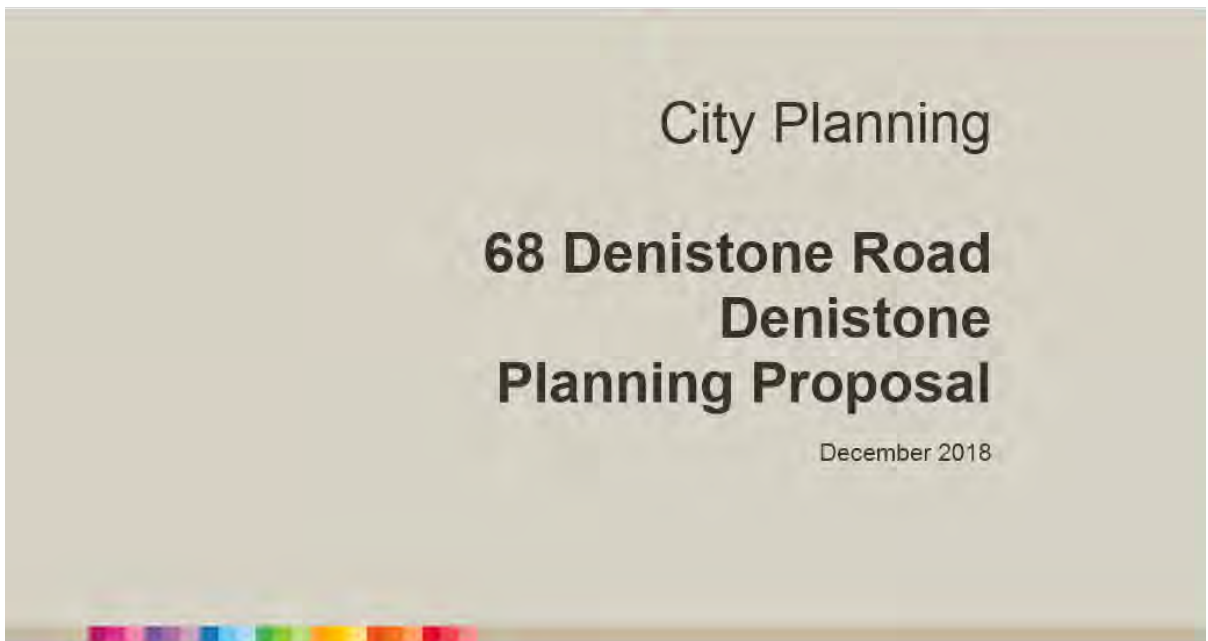
Lexie Macdonald
Senior Coordinator - Strategic Planning

Dyalan Govender
Manager - Urban Strategy

Liz Coad
Director - City Planning and Environment

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ATTACHMENT 1



ITEM 5 (continued)

ATTACHMENT 1

Contents

Executive Summary

1.0 Introduction

- 1.1 Planning Proposal**
- 1.2 Site Description**
- 1.3 Context**
- 1.4 Current Planning Controls**
- 1.5 Background**

2.0 Objectives and Intended Outcomes

3.0 Explanation of Provisions

4.0 Justification

- 4.1 Need for the Planning Proposal**
- 4.2 Relationship to strategic planning framework**
- 4.3 Environmental, social and economic impact**
- 4.4 State and Commonwealth Interests**

5.0 Mapping

6.0 Community Consultation

7.0 Project Timeline

Attachments

- 1. Ryde Local Environmental Plan 2014 Site Identification Map**
- 2. Interim Heritage Order No. 4 published in Government Gazette No.99 dated Wednesday, 26 September 2018**
- 3. Mayoral Minute – 25 September 2018 MM12/18 “Heritage Protection – 68 Denistone Road, Denistone”**
- 4. Heritage Study – to be attached**
- 5. Schedule 5 Environmental heritage and Draft Heritage Map**

ITEM 5 (continued)

ATTACHMENT 1

Executive Summary

This Planning Proposal seeks to amend the Ryde Local Environmental Plan (LEP) 2014 to protect the dwelling and associated landscaped grounds at 68 Denistone Road, Denistone from any development which would have a negative impact on its heritage significance and its contribution to the surrounding landscape.

This would be achieved by including 68 Denistone Road, Denistone as a Heritage item in *Ryde LEP 2014, Schedule 5 Environmental Heritage* and including the property in *Ryde LEP 2014 Heritage Map*.

The property is currently subject to an Interim Heritage Order authorised by Council on 25 September 2018 and notified in the Government Gazette 26 September 2018, which is a temporary measure protecting a potential heritage item from demolition while the necessary investigations are carried out to determine its heritage significance.

An experienced heritage consultant was subsequently engaged by Council to undertake a heritage assessment of the property in accordance with NSW Heritage Office guidelines. The assessment concludes that the property at 68 Denistone Road has heritage significance and merits inclusion in *Ryde LEP 2014, Schedule 5 Environmental Heritage* and in the *Ryde LEP 2014 Heritage Map*.

This Planning Proposal is in alignment with all relevant strategic plans, including the Greater Sydney Commission's *Our Greater Sydney 2056: Metropolis of Three Cities (Updated March 2018)* and *Our Greater Sydney 2056: North District Plan (March 2018)*, and City of Ryde's *The City of Ryde 2028 Community Strategic Plan* and *The City of Ryde Local Planning Study 2010*.

ITEM 5 (continued)

ATTACHMENT 1

1. Introduction

This Planning Proposal has been prepared in accordance with the requirements of the Environmental Planning and Assessment Act 1979 (in particular section 3.33) and relevant guidelines produced by the Department of Planning and Environment. It explains the intended effect of a proposed amendment to the Ryde Local Environmental Plan (LEP) 2014 and sets out the justification for making that amendment.

The Department of Planning and Environment requires a Planning Proposal to contain the following information:

Section 3.33 Part 2 states:

The Planning Proposal is to include the following:

- (a) a statement of the objectives or intended outcomes of the proposed instrument, (see 2.0)*
- (b) an explanation of the provisions that are to be included in the proposed instrument, (see 3.0)*
- (c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under section 9.1), (see 4.0)*
- (d) if maps are to be adopted by the proposed instrument, such as maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument, (see 5.0)*
- (e) details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument. (see 6.0)*

1.1 Planning Proposal

This Planning Proposal aims to amend the existing Ryde LEP 2014 to:

- Conserve and protect the heritage of the built environment of the property to which this plan applies,
- To ensure that any new development on the land does not adversely affect the heritage significance of the building(s) and their setting and
- Include the property 68 Denistone Road, Denistone in LEP 2014 as a Heritage Item in *Schedule 5 Environmental Heritage* and on the *Heritage Map*

ITEM 5 (continued)

ATTACHMENT 1

1.2 Site Description

This Planning Proposal applies to the land known as: **68 Denistone Road, Denistone (Lots 1-3 DP 1096437)** identified on the map titled *Draft Site Identification Map* shown in Figure 1 (Refer also to Attachment 1)

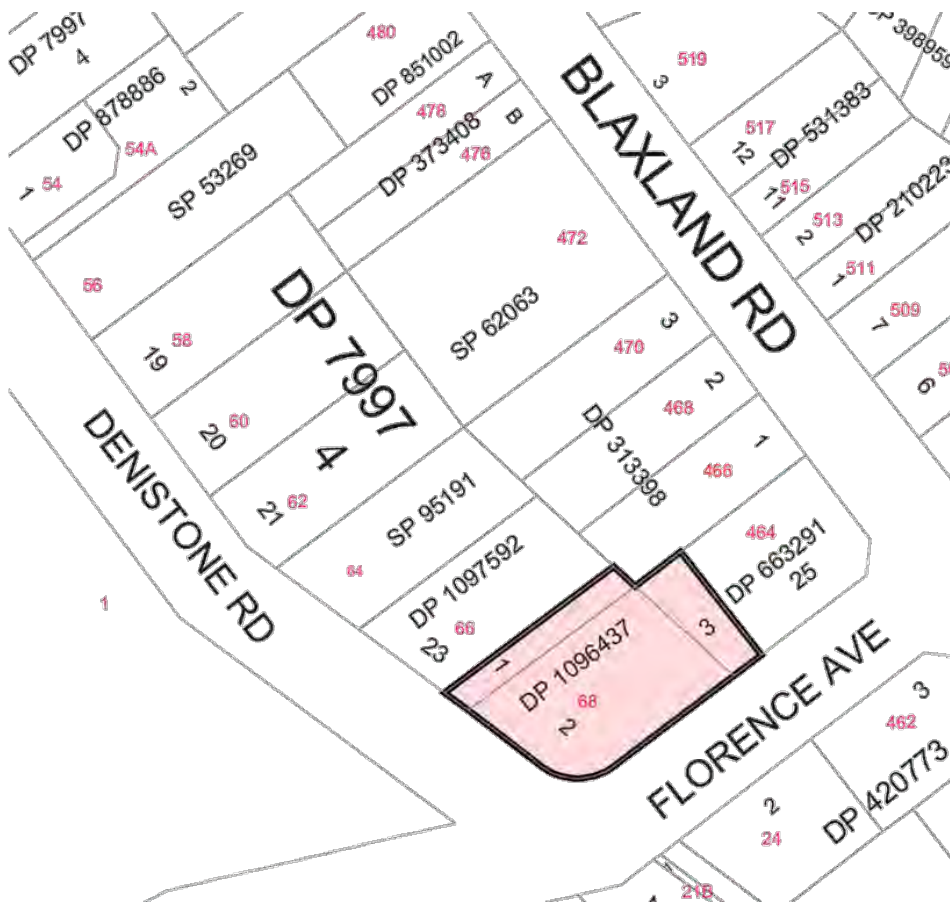


Figure 1: Subject site, 68 Denistone Rd, Denistone

ITEM 5 (continued)

ATTACHMENT 1

A site location plan is shown at **Figure 2** and an aerial photo of the site is shown at **Figure 3**. Ground level photographs of the site and building interior are shown at **Figure 4**.

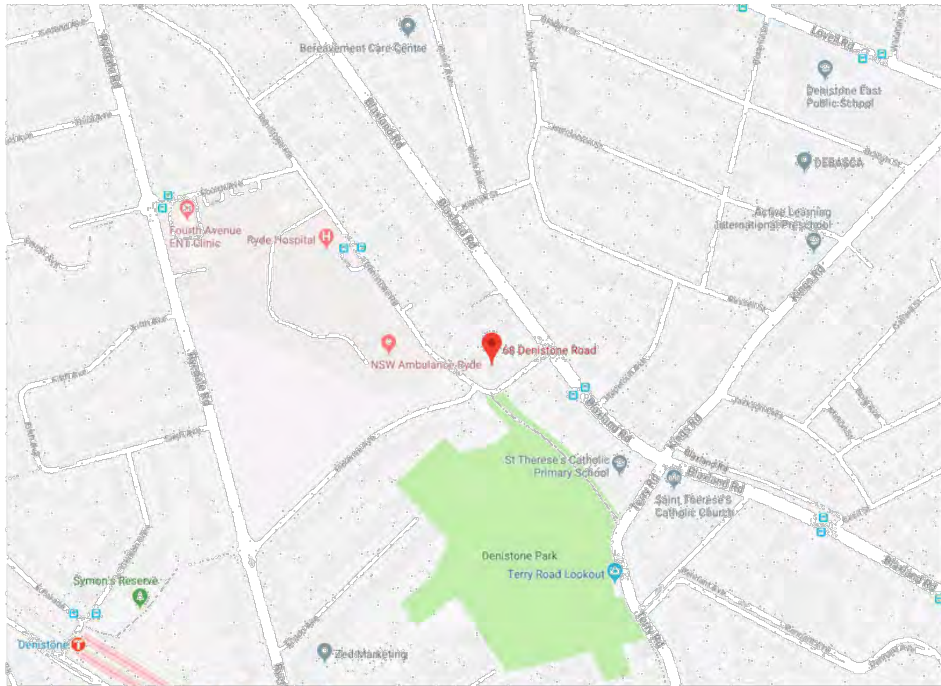


Figure 2: the site located at the red drop pin

The subject site which is approximately 1,606m² contains an intact inter-war California Bungalow style dwelling and associated gardens as shown in Figures 3 and 4.

ITEM 5 (continued)

ATTACHMENT 1



Figure 3: Aerial Photograph of the site (Source: Paul Davies Pty Ltd, Heritage Assessment Report p7)



Figure 4: Front Façade of 68 Denistone Road, Denistone (top) and photographs indicating intact interior and architectural detail of this California bungalow style building (bottom). (Sourced 10 Dec 18: <https://www.realestate.com.au/sold/property-house-nsw-denistone-127703430>)

ITEM 5 (continued)

ATTACHMENT 1

1.3 Context

The site is located south east of the Eastwood Town Centre at the intersection of Denistone Road and Florence Avenue (just off Blaxland Road) in the suburb of Denistone. The site is in the vicinity of a number of local heritage items listed under the RLEP 2014.

Excerpt of Ryde LEP 2014 Schedule 5 Environmental Heritage

Suburb	Item name	Address	Property description	Significance	Item no
Denistone	"Denistone House" and "Trigg House" (Ryde Hospital)	1 Denistone Road	Lot 1, DP 869614	Local	47
Denistone East	"Highbury House"	495 Blaxland Road	Lot 1, DP 514007	Local	18
Denistone	Open space, Denistone Park	62 Terry Road		Local	125
Denistone	Stone marker	Road reserve (outside 456 Blaxland Road)		Local	26
Denistone	House	89-91 Terry Road	Lot 5, DP 29054	Local	126
Denistone	House	37 Pennant Avenue	Lot 1, DP 1005675	Local	91
Denistone	Open Space	Darvall Park, Chatham Road		Local	26
Eastwood	Seat	East Parade (outside 36A)		Local	50
Eastwood	House	2 Second Avenue	Lot 1, DP 931131	Local	114

Locations of local heritage items in the vicinity of the site are shown in Figure 5. The subject site is outlined in black.



Figure 5: Heritage Items in the vicinity of the property

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1.4 Current Planning Controls
Environmental Planning Instruments

Ryde LEP 2014 is the principle planning instrument applying to the site.

Zoning

The site is currently zoned under the Ryde LEP 2014 as R2 – Low Density Residential (see Figure 6).

Under the zone the following uses are permitted with consent:

Bed and breakfast accommodation; Boarding houses; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies (attached); Dwelling houses; Environmental protection works; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Hospitals; Multi dwelling housing; Places of public worship; Recreation areas; Residential care facilities; Respite day care centres; Roads; Secondary dwellings.

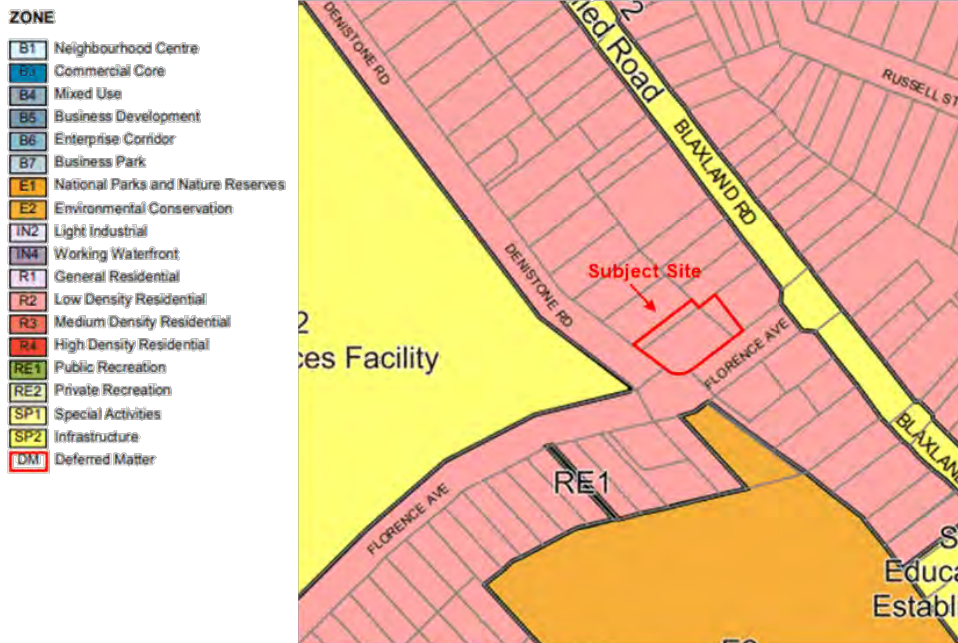


Figure 6: Current Site Zoning (Land Zoning Map – Sheet LZN_002 of the RLEP2014)



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Building Height

The maximum building height relating to the site, is 9.5m as per Ryde LEP 2014 Height of Buildings Map. (see Figure 7 below)



Figure 7: Current Height of Buildings (Height of Buildings Map – Sheet HOB_002 of the RLEP2014)

Floor Space Ratio

The maximum floor space ratio relating to the site is 0.50:1 as per Ryde LEP 2014 Floor Space Ratio Map. (See Figure 8 below)

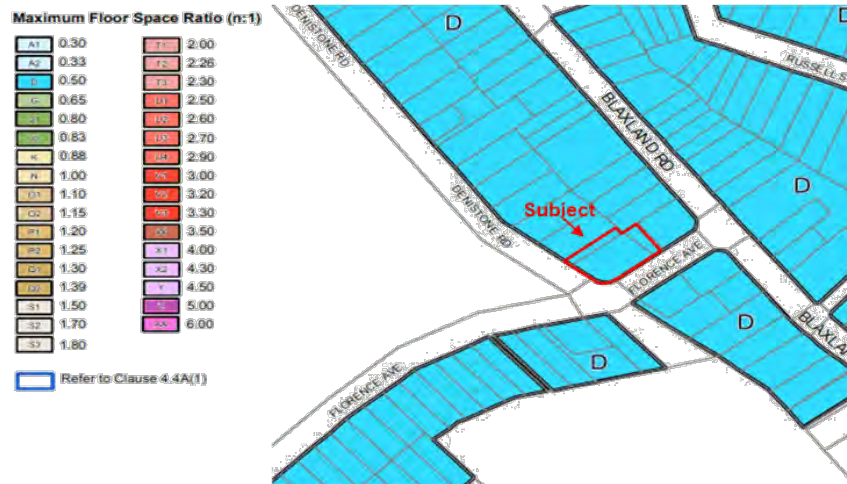


Figure 8: Current Floor Space Ratio as per Ryde LEP 2014

ITEM 5 (continued)**ATTACHMENT 1****1.5 Background**

Ryde Heritage Study 2010 was commenced in 2003 and approximately 71 properties were identified and recommended for heritage listing, together with amendments to existing heritage listings. On 17 August 2010, Council considered the *Draft Ryde Heritage Study 2010*, and resolved not to pursue the heritage listing of any property unless the land owner applied for a heritage listing.

As a result of the *Ryde Heritage Study 2010*, 14 items were heritage listed including 3 dwellings, 2 public buildings and 9 stone markers. Since 2010, a study of the 57 buildings that were recommended but not listed reveals that:

- 1 has been significantly damaged by fire and is beyond salvageable repair,
- 9 have been demolished or consent granted for demolition, and
- Several have been the subject of DAs for alterations and additions.

68 Denistone Road, Denistone is not listed as an item of heritage significance under the provisions of Ryde Local Environmental Plan 2014, nor was it identified as part of the *Ryde Heritage Study 2010*. Council did receive correspondence requesting heritage consideration for the property when it appeared on the market in February 2018.

A Local Development Application (LDA) was received by Council on the 28 August 2018 to consolidate the existing 3 lots at 68 Denistone Road, Denistone, and subdivide them into 2 new lots. The LDA does not explicitly propose demolition of the existing dwelling, but is accompanied by an indicative site plan which shows the Applicant's redevelopment intentions (including the construction of a duplex and triplex that would be subject to future development applications). Council received six submissions during the notification period for this LDA, all of which cited heritage value as their primary concern for the property.

In response Council, on 25 September 2018, resolved:

That Council delegate the General Manager to place an Interim Heritage Order over 68 Denistone Road, Denistone; and

- Prepare a Planning Proposal to list the property as an item of local heritage significance within Schedule 5 Environmental Heritage of Ryde Local Environmental Plan 2014, and*
- That the Planning Proposal seeking heritage listing of 68 Denistone Road, Denistone be forwarded to the Department of Planning and Environment with a request for a Gateway Determination, and*
- That upon receipt of the Gateway Determination, the General Manager place the Planning Proposal on Community Comment, in accordance with the conditions of the Gateway Determination.*
- That a report on the outcomes of community consultation be presented to Council as soon as practicable.*

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An IHO is a temporary heritage protection measure against the demolition of a potential heritage item. It also provides time to assess the heritage significance of a potential item and take the appropriate steps to list the item if warranted. The legal effect of an IHO made by a Local Council is that approval is required for any development for the life of the order and demolition is prohibited during that period. One of the key requirements for Council imposing an IHO over a property is that it must consider the property is being or is likely to be harmed.

Interim Heritage Order No. 4 (IHO) which relates to the subject property (68 Denistone Road, Denistone) was published in the Government Gazette No.99 dated Wednesday, 26 September 2018. (See attachment 2)

An experienced heritage consultant was subsequently engaged by Council to undertake a heritage assessment of the property. The study concludes that the property at 68 Denistone Road has heritage significance as follows:

The house Lanark Brae at 68 Denistone Road (corner Florence Avenue), Denistone is of local historical significance as evidence of the suburban subdivision of the 19th century Denistone Estate, specifically the development of the Denistone Estate Subdivision No. 2, lots of which were offered for sale from December 1914, and of the operation of a building covenant on the land.

The house and property are of local aesthetic significance, as the house is a finely detailed, substantial representative example of the Inter-war California Bungalow style, built within the core period for this house style, on a large prominent corner site within a garden setting which retains significant inter-war period garden features including three palm trees, and brick and stone edging to paths and garden beds. The house is remarkably intact and features distinctive exterior elements of the style including leadlight timber-framed casement windows, bay windows, return verandah and a small eastern verandah, dark face brickwork, terracotta tiled hipped and gabled roof, gable ends featuring timber shingling and imitation half timbering, brick verandah balustrades with timber posts above, and distinctive internal elements of the style including timber fretwork frieze and timber pilasters between main hallway and lounge/dining area, tiled fireplaces with timber mantelpieces to formal rooms, timber paneled doors, timber floors and decorative plaster ceilings.

The house and property are rare at a local level as a substantial Inter-war California Bungalow style house on a prominent corner property retaining a substantial garden setting including interwar period garden features.

The heritage study recommends that the City of Ryde Council proceed with the process of heritage listing the site by amending the Ryde LEP 2014 to include the site as a heritage item under Schedule 5 Part 1: Heritage Items of the Ryde LEP 2014 (See attachment 4)

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2.0 Objectives and Intended Outcomes

This part of the Planning Proposal responds to Section 3.33 (2a) of the Environmental Planning and Assessment Act 1979, which requires an explanation of what is planned to be achieved by the proposed amendments to the Ryde LEP 2014.

This Planning Proposal seeks to amend RLEP 2014 by including the property 68 Denistone Road, Denistone as a Heritage item in *Schedule 5 Environmental Heritage* and including the property in *Ryde LEP 2014 Heritage Map*

The intended outcome of the Planning Proposal is:

- To ensure the protection of the dwelling and associated grounds 68 Denistone Road, Denistone from any development which could adversely affect the heritage significance of the property, and
- To preserve the contribution this site provides to the environmental heritage of Ryde
- To permit future use and development of this property consistent with the cultural significance of the item.



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3.0 Explanation of Provisions

The Planning Proposal seeks to:

- Amend *Ryde LEP 2014 Schedule 5 Environmental Heritage* - to include the property 68 Denistone Road, Denistone (Lots 1-3 DP 1096437) (see Figure 9)
- Amend *Ryde LEP 2014 Heritage Map* – to include 68 Denistone Road, Denistone (Lots 1-3 DP 1096437) (see excerpt below)

A draft Schedule 5 Environmental heritage and Draft Heritage Map are included at **Attachment 5**

Denistone	"Poynton" (house)	25 Commissioners Road	Lot A, DP 28226	Local	36
Denistone	"Denistone House" and "Trigg House" (Ryde Hospital)	1 Denistone Road	Lot I, DP 869614	Local	47
Denistone	House	68 Denistone Road	Lots 1-3, DP 1096437	Local	224
Denistone	House	22 Miriam Road	Lot 80A, DP 6272	Local	219

Excerpt: Proposed Amendment to Ryde LEP 2014 Schedule 5 Environmental Heritage (Amendment shown in red)



Figure 9: Excerpt of Proposed Heritage Map



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4.0 Justification

Section 3.33 (3) of the Environmental Planning and Assessment Act 1979 enables the Planning Secretary to issue requirements with respect to the preparation of a Planning Proposal.

4.1 Need for the Planning Proposal

Is the Planning Proposal a result of any strategic study or report?

The property is the subject of an Interim Heritage Order published in the Government Gazette No. 99 on Wednesday 26 September 2018.

A consultant was subsequently engaged by Council to provide a detailed heritage assessment of the house and site. The findings of this study identify this property as a rare California Bungalow style residence in Denistone. The study indicates that it is of local historical and aesthetic significance, is remarkably intact and finely detailed, and exhibits a substantial degree of integrity.

The study concludes that 68 Denistone Road Denistone warrants heritage listing under the provisions of Ryde LEP 2014 in order to protect its heritage significance.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes?

This Planning Proposal represents the only means of ensuring the heritage significance of the site. This will ensure that the site is recognised and protected from development that may adversely affect the significance of the site and its contribution to the environmental heritage of the City of Ryde.



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4.2 Relationship to strategic planning framework

Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The strategic planning context for the consideration of this Planning Proposal includes:

Our Greater Sydney 2056 – North District Plan (March 2018)

The North District Plan (NDP) is the Greater Sydney Commission's plan for priorities and actions for growth and development of the Northern District. The Greater Sydney's North District includes the local government areas of Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, Northern Beaches, Mosman, North Sydney, City of Ryde and Willoughby.

The NDP provides the means by which the Greater Sydney Region Plan (*A Metropolis of Three Cities (March 2018 Updated)*) can be implemented on a local level, by providing opportunities, priorities and actionable growth and development opportunities for the North District. This Planning Proposal supports the following Planning Priority in the retention and renewing of local heritage:

Planning Priority N6 – "Creating and renewing great places and local centres, and respecting the District's heritage"

This planning priority promotes local heritage as an important component of local identity that creates a distinctive built character. The NDP states that "*Identifying, conserving, interpreting and celebrating Greater Sydney's heritage values leads to a better understanding of history and respect for the experiences of diverse communities. Heritage identification, management and interpretation are required so that heritage places and stories can be experienced by current and future generations.*" (NDP, p49)

The heritage study attached to this Planning Proposal confirms the importance of 68 Denistone Road, Denistone as a place of heritage significance. The listing of this property under the Ryde LEP 2014 Schedule 5 Part 1 will ensure that future generations can appreciate the unique aesthetic significance of this property, which supports *Planning Priority N6* as a property that respects the District's heritage and can retain character of Denistone and the local centres in the City of Ryde.

Thus, the recognition and protection of 68 Denistone Road, Denistone as containing a building and grounds which are representative of dwellings during the inter-war period and contribute to the heritage of the City of Ryde, supports the Goals and Directions of *Our Greater Sydney 2056 North District Plan (March 2018)*.

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Is the Planning Proposal consistent with the local council's local strategy, or other local strategic plan?

City of Ryde Strategic Plans:

1. The City of Ryde 2028 Community Strategic Plan

The Community Strategic Plan sets out the future vision for the City of Ryde. The plans set the desired outcomes and the aspirations of the community, and the goals and strategies on how they will be achieved. The seven outcomes for the City of Ryde are;

- Our vibrant and liveable city
- Our active and healthy city
- Our natural and sustainable city
- Our smart and innovative city
- Our connected and accessible city
- Our diverse and inclusive city
- Our open and progressive city

The Planning Proposal is in line with the goals and strategies of the Community Strategic Plan 2028. It speaks to both outcome one: Our Vibrant and Liveable City; and to outcome six: Our Diverse and Inclusive City.

Outcome one describes a city "designed with a strong sense of identity and place" (p16), relates the community's desire to "protect and maintain Ryde's character and heritage" (p17), and includes goals to "uphold and protect its unique character" (p17). The Planning Proposal responds to this vision by creating a legislative protection against character-damaging redevelopment of the Denistone area and streetscape.

Outcome six describes a city with a "rich social, cultural, historical and creative tapestry [which] provides an enduring legacy for future generations" (p26) and "a distinct local identity built on our city's character and rich cultural heritage" (p27). The Planning Proposal responds to this vision by protecting key elements of the landscape which contribute to Ryde's historical and cultural legacy.

2. The City of Ryde Local Planning Study (December 2010)

Council adopted the *Ryde Local Planning Study (December 2010)* in response to the NSW Government's *Metropolitan Strategy* and draft *Inner North Draft Subregional Strategy* to outline a vision for development of Ryde over the next 20 years. The Local Planning Study was the basis for the preparation of the Ryde LEP 2014. One of the aims of Ryde LEP 2014 that was derived from the Local Planning Study was:

(d) to identify, conserve and promote Ryde's natural and cultural heritage as the framework for its identity, prosperity, liveability and social development, (Ryde LEP 2014 Clause 1.2(d))

The Planning Proposal is consistent with both the Study and Ryde LEP 2014.

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Is there a net community benefit?

The Planning Proposal will facilitate the retention of an item of local heritage significance that contributes to the character and identity of the City of Ryde and will assist to connect the local community to place. The item illustrates the history and development of Ryde.

The inclusion of 68 Denistone Road, Denistone in Ryde LEP 2014 Schedule 5 Environmental Heritage will enable Council to ensure;

- The protection of local heritage significance to the City of Ryde from any development that would adversely impact on the heritage value of the buildings and grounds.

The above outcome of the proposal is considered to be in the public's interest and responds to demonstrable community interest.

Is the Planning Proposal consistent with applicable state environmental planning policies?

A summary assessment of the Planning Proposal in terms of State Environmental Planning Policies is contained in the table below (Table 1).

This assessment indicates that the draft LEP contained in this Planning Proposal is consistent with all relevant State Environmental Planning Policies

Table 1 – Consistency with relevant SEPP's

State Environmental Planning Policies (SEPPs)	Consistent		N/A	Comment
	Yes	No		
State Environmental Planning Policy No 19 - Bushland in Urban Areas			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 21 - Caravan Parks.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 30 - Intensive Agriculture.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 33 - Hazardous and Offensive Development.			✓	Applies to the whole of the State. Not relevant to proposed amendment

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State Environmental Planning Policies (SEPPs)	Consistent		N/A	Comment
	Yes	No		
State Environmental Planning Policy No 50 - Canal Estate Development.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 55 - Remediation of Land.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 62 - Sustainable Aquaculture.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 64 - Advertising and Signage.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 70- Affordable Housing (Revised Schemes)			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Infrastructure) 2007			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (State Significant Precincts) 2005			✓	Applies to the whole of the State. Not relevant to proposed amendment

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State Environmental Planning Policies (SEPPs)	Consistent		N/A	Comment
	Yes	No		
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (State and Regional Development) 2011			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Affordable Rental Housing) 2009			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017			✓	Applies to the whole of the State. Not relevant to proposed amendment
Deemed SEPPs				
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005			✓	Applies to the whole of the State. Not relevant to proposed amendment
Proposed SEPPs				
State Environmental Planning Policy (Environment)			✓	Applies to the whole of the State. Not relevant to proposed amendment

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Is the Planning Proposal consistent with applicable Ministerial Directions (Section 9.1)?

A summary assessment of the Planning Proposal in terms of the Directions issued by the Minister for Planning under section 9.1 of the EP&A Act is set out in Table 2.

The following is a list of Directions issued by the Minister for Planning to relevant planning authorities under section 9.1 of the *Environmental Planning and Assessment Act 1979*. These directions apply to Planning Proposals lodged with the Department of Planning on or after the date the particular direction was issued:

Table 2: Consideration of Relevant Section 9.1 Directions applying to Planning Proposal

Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
1. Employment and Resources				
1.1 Business and Industrial Zones Objectives: (a) Encourage employment growth in suitable locations, (b) Protect employment land in business and industrial zones, and (c) Support the viability of identified centres			✓	
1.2 Rural Zones Objective: To protect the agricultural production value of rural land			✓	
1.3 Mining, Petroleum Production and Extractive Industries Objective: To ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development			✓	
1.4 Oyster Aquaculture Objectives: (a) To ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a Planning Proposal, (b) To protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.			✓	
1.5 Rural Lands Objectives: (a) To protect agricultural production value of rural land (b) facilitate the orderly and economic development of rural lands for rural and related purposes.			✓	

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Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
2. Environmental Heritage				
2.1 Environment Protection Zones Objective: To protect and conserve environmentally sensitive areas			✓	
2.2 Coastal Management: Objective: To protect and manage coastal areas of NSW.			✓	
2.3 Heritage Conservation Objective: to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	✓			This PP aims to heritage list a property of heritage significance
2.4 Recreation Vehicle Areas Objective: To protect sensitive land or land with conservation values from adverse impacts from recreation vehicles.			✓	
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs Objective: To ensure that a balanced and consistent approach is taken when applying environmental protection zones and overlays to land on the NSW Far North Coast			✓	
3. Housing, Infrastructure and Urban Development				
3.1 Residential Zones Objectives: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.			✓	The subject land is zoned <i>R2 Residential Low Density</i> . Residential development is permitted in the zone. No change is proposed to the land use zone. The intent of the PP is to identify the land as a heritage item under Schedule 5 of Ryde LEP 2014. The subject land is currently used as a dwelling house.
3.2 Caravan Parks and Manufactured Home Estates Objectives: (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home estates			✓	
3.3 Home Occupations Objective: To encourage the carrying out of low-impact small businesses in dwelling houses			✓	

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Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
<p>3.4 Integrating Land Use and Transport Objectives: The objective of this direction is to ensure that urban structure, building forms, land use locations, development designs, subdivision and street layouts achieved the following planning objectives:</p> <ul style="list-style-type: none"> (a) improving access to housing, jobs, and services by walking, cycling and public transport, and (b) increasing choice of available transport and reduce dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight. 			✓	
<p>3.5 Development Near Licensed Aerodromes Objective:</p> <ul style="list-style-type: none"> (a) to ensure effective and safe operation of aerodromes (b) to ensure operation is not compromised by development that constitutes and obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measure so that the development is not adversely affected by aircraft noise. 			✓	
<p>3.6 Shooting Ranges Objectives:</p> <ul style="list-style-type: none"> (a) To maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) To reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) To identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range. 			✓	
4. Hazard and Risk				
<p>4.1 Acid Sulfate Soils Objective: To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>			✓	

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Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
4.2 Mine Subsidence and Unstable Land Objective: to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.			✓	
4.3 Flood Prone Land Objectives: (a) To ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and (b) To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts on both on and off the subject land.			✓	
4.4 Planning for Bushfire Protection Objectives: (a) To protect life, property and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) To encourage sound management of bushfire prone areas.			✓	
5. Regional Planning				
5.1 Implementation of Regional Strategies (Revoked 17 October 2017)			✓	
5.2 Sydney Drinking Water Catchment Objective: to protect water quality in the Sydney drinking water catchment.			✓	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast Objectives: (a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre, (b) to provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and (c) to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.			✓	

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Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast Objectives: (a) To protect the Pacific Hwy's function, that is to operate as the North Coast's primary inter- and intra- regional road traffic route; (b) To prevent inappropriate development fronting the highway; (c) To protect public expenditure invested in the Pacific Highway; (d) To protect and improve highway safety and highway efficiency (e) To provide for the food, vehicle service and rest needs of travellers on the highway; and (f) To reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.			✓	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)			✓	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008)			✓	
5.7 Central Coast (Revoked 10 July 2008)			✓	
5.8 Second Sydney Airport: Badgerys Creek Objective: The objective of this direction is to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.			✓	
5.9 North West Rail Link Corridor Strategy Objectives: (a) To promote transit oriented development and manage growth around the stations of the North West Rail Link (NWRL) (b) Ensure development within the NWRL corridor is consistent with the proposal set out in the NWRL Corridor Strategy and precinct Structure Plans			✓	
5.10 Implementation of Regional Plans Objective: to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.			✓	
6. Local Plan Making				
6.1 Approval and Referral Requirements Objective: to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	✓			

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Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
6.2 Reserving Land for Public Purposes Objectives: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.			✓	
6.3 Site Specific Provisions Objective: to discourage unnecessarily restrictive site specific planning controls.			✓	
7. Metropolitan Planning				
7.1 Implementation of the Metropolitan Plan for Sydney Objective: to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.	✓			The acknowledgement and protection of 68 Denistone Road Denistone as an item of local heritage significance within the City of Ryde supports the Goals and Directions of A Plan for Growing Sydney
7.2 Implementation of Greater Macarthur Land Release Investigation Objective: to ensure development within the Greater Macarthur Land Release Investigation Area is consistent with the Greater Macarthur Land Release Preliminary Strategy and Action Plan (the Preliminary Strategy).			✓	
7.3 Parramatta Road Corridor Urban Transformation Strategy Objectives: (a) facilitate development within the Parramatta Road Corridor that is consistent with the <i>Parramatta Road Corridor Urban Transformation Strategy (November, 2016)</i> and the <i>Parramatta Road Corridor Implementation Tool Kit</i> (b) to provide a diversity of jobs and housing to meet the demands of a broad cross-section of the community, and (c) guide the incremental transformation of the Parramatta Road Corridor in line with the delivery of necessary infrastructure.			✓	

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Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan Objective: to ensure development within the North West Priority Growth Area is consistent with the North West Priority Growth Area Land Use and Infrastructure Strategy.			✓	
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan Objective: to ensure development within the Greater Parramatta Priority Growth Area is consistent with the Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan dated July 2017			✓	
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan Objective: to ensure development within the Wilton Priority Growth Area is consistent with the Wilton Interim Land Use and Infrastructure Implementation Plan and Background Analysis.			✓	
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor Objective: to ensure development within the precincts between Glenfield and Macarthur is consistent with the plans for these precincts.			✓	
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan Objective: to ensure development within the Western Sydney Aerotropolis is consistent with the Stage 1 Western Sydney Aerotropolis Land Use and Infrastructure Implementation Plan dated August 2018.			✓	
7.9 Implementation of Bayside West Precincts 2036 Plan Objective: to ensure development within the Bayside West Precincts (Arncliffe, Banksia and Cooks Cove) is consistent with the Bayside West Precincts 2036 Plan.			✓	
7.10 Implementation of Planning Principles for the Cooks Cove Precinct Objective: to ensure development within the Cooks Cove Precinct is consistent with the Cooks Cove Planning Principles.			✓	

ITEM 5 (continued)

ATTACHMENT 1



On 27 September 2018, the Minister for Planning gave an additional direction under 9.1 of the *Environmental Planning and Assessment Act 1979* with the objective of identifying the types of Planning Proposal that are to be advised on by Local Planning Panels on behalf of councils in the Greater Sydney Region and Wollongong and to establish the procedures in relation to those matters. This Direction is relevant to this Planning Proposal, and the proposal will be referred to the Ryde Local Planning Panel in early 2019 and prior to Council considering the outcomes of community consultation.



ITEM 5 (continued)

ATTACHMENT 1

4.3 Environmental, social and economic impacts

Impact on Critical Habitat, Threatened Species and Ecological Communities

The land is situated in a suburban context and is currently used as a dwelling house. The wider area has historically been developed for low density residential housing within an urban context.

The Planning Proposal will not affect any critical habitat, threatened species, populations, ecological communities, or their habitats nor is it expected to have any adverse environmental effects.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

Environmental effects

The subject site is not subject to flooding, bushfire hazard, soil instability, or noise impact. Furthermore, the property does not contain habitat, threatened species populations, ecological communities, or their habitats.

Therefore, this Planning Proposal is not expected to have any adverse environmental effects.

Heritage

The Planning Proposal aims to list the property 68 Denistone Road, Denistone as a heritage item within the Ryde LEP 2014, so that the property will be protected through *Clause 5.10 Heritage conservation* of LEP 2014 from work that would adversely affect the heritage significance of the site. This will result in a positive impact on the built environment and protection against damage to its character.

Has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal will have a positive impact on the social fabric of Ryde by ensuring that the streetscape maintains a strong sense of place and illustrates local cultural and developmental history. The impact of the listing on the value of the property is not known. The listing is not expected to impact on the viability of the area as a residential suburb.

ITEM 5 (continued)

ATTACHMENT 1



4.4 State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposed?

There is extensive public utility service infrastructure available in this area which supports the existing residential use of the site and the surrounding development.

What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Any State or Commonwealth authority that is identified in the Gateway determination as needing to be consulted will be consulted following that determination.



ITEM 5 (continued)

ATTACHMENT 1

5.0 Mapping

Proposed Draft Ryde LEP 2014 Heritage Map, indicating the proposed amendment being sought is provided in Attachment 5. (Preview included below)



ITEM 5 (continued)

ATTACHMENT 1

6.0 Community Consultation

This section provides details of the community consultation that is to be undertaken on the Planning Proposal:

The community consultation process for this Planning Proposal will be undertaken in accordance with the conditions of a Gateway Determination, should it be issued.

It is anticipated that consultation will be for a 28 day period as follows:

- Written notice given
 - o In the local newspaper circulating in the area
 - o On Council's webpage
 - o To affected landowners
 - o To local state government representatives
 - o State and Commonwealth authorities as required
- The written notice will
 - o Provide a brief description of the objectives and intended outcomes of the Planning Proposal,
 - o Indicate the land affected,
 - o State where the Planning Proposal can be inspected,
 - o Indicate the last date for submissions and
 - o Confirm whether the Minister has chosen to delegate the making of the LEP
- The following materials will be placed on exhibition
 - o The Planning Proposal and supporting documents
 - o The Gateway Determination

ITEM 5 (continued)

ATTACHMENT 1



7.0 Project Timeline

Following is an indicative timeline

Milestone	Date
1. Resolution of Council to prepare Planning Proposal	September 2018
2. Planning Proposal submitted with request for Gateway Determination	December 2018
3. Gateway Determination received by Council	January/February 2019
4. Community Consultation (anticipated 28 days)	March/April 2019
5. Outcomes of Community Consultation presented to Council	May/June 2019
6. Planning Proposal submitted to Department of Planning and Environment requesting notification on Government website	July 2019



ITEM 5 (continued)

ATTACHMENT 1



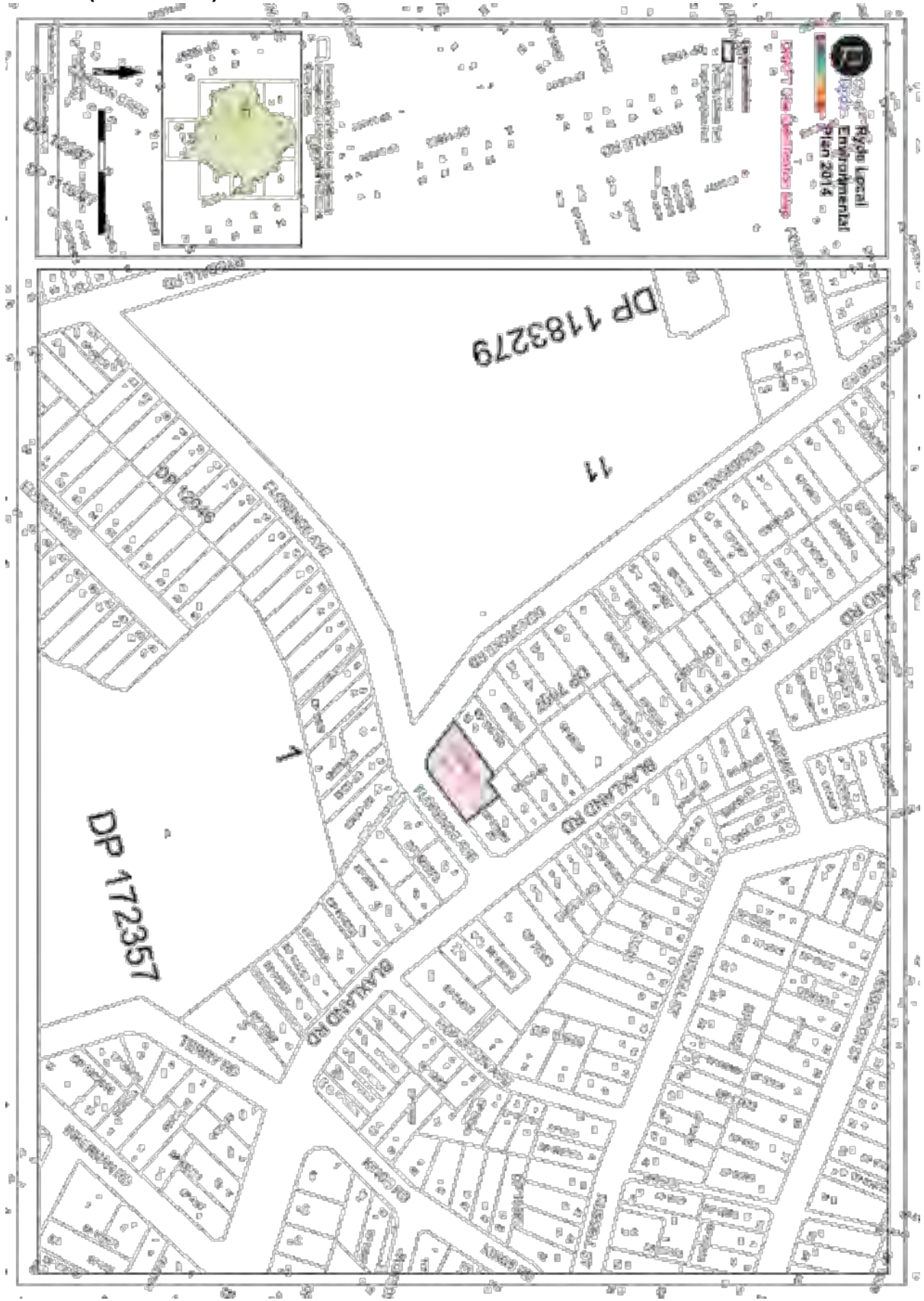
ATTACHMENT 1

Ryde Local Environmental Plan 2014 Site Identification Map



ITEM 5 (continued)

ATTACHMENT 1



ITEM 5 (continued)

ATTACHMENT 1



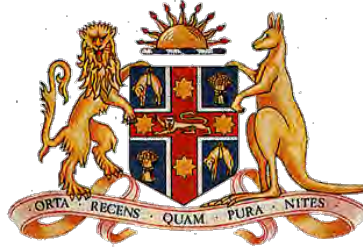
ATTACHMENT 2

**Interim Heritage Order No. 4 published in Government Gazette
No.99 dated Wednesday, 26 September 2018**



ITEM 5 (continued)

ATTACHMENT 1



Government Gazette

of the State of

New South Wales

Number 99

Wednesday, 26 September 2018

The New South Wales Government Gazette is the permanent public record of official NSW Government notices. It also contains local council, private and other notices.

From 1 January 2018, each notice in the Government Gazette has a unique identifier that appears in square brackets at the end of the notice and that can be used as a reference for that notice (for example, [n2018-14]).

The Gazette is compiled by the Parliamentary Counsel's Office and published on the NSW legislation website (www.legislation.nsw.gov.au) under the authority of the NSW Government. The website contains a permanent archive of past Gazettes.

To submit a notice for gazettal – see Gazette Information.

ITEM 5 (continued)

ATTACHMENT 1

Council Notices

COUNCIL NOTICES

COUNCIL OF THE CITY OF RYDE

HERITAGE ACT 1977

INTERIM HERITAGE ORDER NO. 4

Under Section 25 of the *Heritage Act 1977*, the Council of the City of Ryde does by this order:

- (1) make an interim heritage order to cover the item of the environmental heritage specified or described in Schedule "A"; and
- (2) declares that the Interim Heritage Order shall apply to the curtilage or site of such an item, being the land described in Schedule "B".

Schedule "A"

All landscaping, works, relics and buildings that are attached to, located upon or form part of the land described in Schedule B.

Schedule "B"

All that parcel of land known as Lot 1 DP 1096437, Lot 2 DP 1096437 & Lot 3 DP 1096437 (also known as 68 Denistone Road, Denistone 2114) shown edged heavy black on the plan catalogued Interim Heritage Order No.4 in the office of the Council of the City of Ryde.

Condition

This Interim Heritage Order will lapse six months from the date that it is made unless the local council has passed a resolution before that date; and

- (i) in the case of an item which, in the council's opinion, is of local significance, the resolution seeks to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; or
- (ii) In the case of an item which, in the Council's opinion, is of State heritage significance, the resolution requests the Heritage Council to make a recommendation to the Minister for Heritage under section 32(2) of the Heritage Act to include the item on the State Heritage Register.

Executed this 26th day of September 2018 at North Ryde in the State of New South Wales, for and on behalf of the Council of the City of Ryde by **GEORGE DEDES**, General Manager, in accordance with his delegated authority under Section 377 of the *Local Government Act 1993*.

George Dedes

[n2018-3241]

ITEM 5 (continued)

ATTACHMENT 1



ATTACHMENT 3

Mayoral Minute – 25 September 2018

**MM22/18 “Heritage Protection – 68 Denistone Road,
Denistone”**



ITEM 5 (continued)

ATTACHMENT 1

**MM22/18 HERITAGE PROTECTION - 68 DENISTONE ROAD,
DENISTONE - Mayor, Councillor Jerome Laxale**

File Number: URB/08/1/10 - BP18/1031

REPORT SUMMARY

Council on the 28 August 2018 received a Local Development Application (LDA) for the consolidation of the 3 existing lots and subdivision to create 2 lots at 68 Denistone Road, Denistone (LDA2018/340).

The LDA was available for community comment between 3 September and 19 September 2018. Council received six (6) submissions during the notification period, all objected to the development raising heritage as a concern, five (5) submissions specifically refer to the heritage of the building, and one (1) refers more generally to the heritage of the area. Council also received correspondence prior to the lodgement of the Development Application, prompted by the sale of the property in February 2018. The correspondence requested consideration be given to listing.



Figure 1- 68 Denistone Rd, Denistone – External Façade and Landscaping

Additional images are attached for reference.

Council, dated 25 September 2018, submitted on 25 September 2018.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 0 (continued)
Background

68 Denistone Road, Denistone is not listed as an item of heritage significance under the provisions of Ryde Local Environmental Plan 2014.

Whilst demolition of the dwelling at 68 Denistone Road, Denistone is not proposed as part of the present LDA, the application is accompanied by an indicative site plan which shows the Applicant's demolition and redevelopment intentions (the construction of a duplex and triplex that would be subject to future applications).

Council's Heritage Advisor has undertaken a preliminary assessment of the property and considers 68 Denistone Road, Denistone, to have cultural heritage significance and to be a good representative example of an Inter-War Californian Bungalow. The dwelling displays a high degree of design integrity and is significantly enhanced by its established landscaped garden setting, which contains a number of significant landscape features and comprises the heritage curtilage. The interior of the dwelling also displays a remarkably high degree of integrity with many fine features. It is also one of the more prominent dwellings in the streetscape.

Given that this property is considered to have local heritage significance and is under imminent threat of harm through demolition, it is prudent that Council resolve to follow the necessary process to impose an Interim Heritage Order (IHO) over the property.

Interim Heritage Order (IHO)

An IHO is a temporary heritage protection measure against the demolition of a potential heritage item. It also provides Council with the time to further assess the heritage significance of a potential item and take the appropriate steps to list the item if warranted.

The legal effect of an IHO made by a Local Council is that approval is required for any development for the life of the order and demolition is prohibited during that period.

One of the key requirements for Council imposing an IHO over a property is that it must consider that the subject property is being or is likely to be harmed. In this case, the lodgement of the Development Application foreshadowing the demolition of the property constitutes a threat of harm.

I am therefore proposing that due to the imminent threat of harm through demolition at 68 Denistone Road, Denistone, that Council delegate the General Manager to impose an IHO.

RECOMMENDATION:

Council, dated 25 September 2018, submitted on 25 September 2018.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 0 (continued)

That Council delegate the General Manager to place an Interim Heritage Order over 68 Denistone Road, Denistone; and

- (i) Prepare a Planning Proposal to list the property as an item of local heritage significance within Schedule 5 Environmental Heritage of Ryde Local Environmental Plan 2014, and
- (ii) That the Planning Proposal seeking heritage listing of 68 Denistone Road, Denistone be forwarded to the Department of Planning and Environment with a request for a Gateway Determination, and
- (iii) That upon receipt of the Gateway Determination, the General Manager place the Planning Proposal on Community Comment, in accordance with the conditions of the Gateway Determination.
- (iv) That a report on the outcomes of community consultation be presented to Council as soon as practicable.

ATTACHMENTS

- 1 Photos of 68 Denistone Road, Denistone

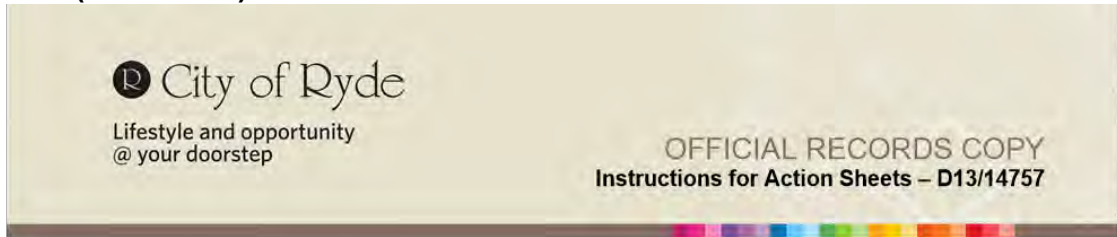
Report Prepared By:



Councillor Jerome Laxale
Mayor

ITEM 5 (continued)

ATTACHMENT 1



**EXTRACT FROM MINUTES OF COUNCIL MEETING
NO. 12/18 HELD ON 25 SEPTEMBER 2018**

MAYORAL MINUTE

22/18 HERITAGE PROTECTION - 68 DENISTONE ROAD, DENISTONE - Mayor Jerome Laxale

Note: John Court (on behalf of himself and on behalf of William Lloyd), Patricia Lloyd and Ronald McKeon addressed the meeting in relation to this Item.

Note: Correspondence from William Lloyd dated 25 September 2018 was tabled in relation to this Item and a copy is ON FILE.

Note: Correspondence from Patricia Lloyd dated 25 September 2018 was tabled in relation to this Item and a copy is ON FILE.

Note: Undated Correspondence from Catherine Taffa was tabled in relation to this Item and a copy is ON FILE.

RESOLUTION: (Moved by The Mayor, Councillor Laxale and Councillor Maggio)

That Council delegate the General Manager to place an Interim Heritage Order over 68 Denistone Road, Denistone; and

- (i) Prepare a Planning Proposal to list the property as an item of local heritage significance within Schedule 5 Environmental Heritage of Ryde Local Environmental Plan 2014, and
- (ii) That the Planning Proposal seeking heritage listing of 68 Denistone Road, Denistone be forwarded to the Department of Planning and Environment with a request for a Gateway Determination, and
- (iii) That upon receipt of the Gateway Determination, the General Manager place the Planning Proposal on Community Comment, in accordance with the conditions of the Gateway Determination.
- (iv) That a report on the outcomes of community consultation be presented to Council as soon as practicable.

ITEM 5 (continued)

ATTACHMENT 1

Record of the Voting
For the Motion: Unanimous

ITEM 5 (continued)

ATTACHMENT 1



ATTACHMENT4

Heritage Study



ITEM 5 (continued)

ATTACHMENT 1

Lanark Brae

68 Denistone Road, Denistone

Heritage Assessment Report

November 2018



prepared by Paul Davies Pty Ltd
for City of Ryde Council

ITEM 5 (continued)

ATTACHMENT 1

Revision	Date	Issued By
Draft	21/11/2018	Chery Kemp, Heritage Specialist
Final	22/11/2018	Chery Kemp, Heritage Specialist

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ATTACHMENT 1

1.0 INTRODUCTION/BACKGROUND

1.1. THE BRIEF

The property at 68 Denistone Road, Denistone, is the subject of a Local development application (LDA) to consolidate the existing 3 allotments on the property and subdivide the property into 2 allotments, an application considered to indicate a future threat to the existing house on the property.

City of Ryde Council resolved to place an Interim Heritage Order (IHO) on the property on 25 September 2018, which took effect on 26 September 2018.

This heritage assessment report has been prepared on behalf of City of Ryde Council to assess the heritage significance of the property at 68 Denistone Road, Denistone, and guide Council as to future actions with regard to the Interim Heritage Order.

1.2. APPROACH AND METHODOLOGY

The methodology used in this report is in accordance with the guidelines of the NSW Heritage Manual and in accordance with the latest version of The NSW Heritage Division, Office of Environment & Heritage (OEH) Assessing Heritage Significance guidelines. This report is also in accordance with the principles and definitions set out in the Australia ICOMOS Burra Charter 2013 and its Practice Notes.

1.3. LIMITATIONS

The site was visited by Wendy Crane, Graduate Architect, of Paul Davies Pty Ltd on 14 November 2018. The subject site was inspected, and the exterior of the house photographed. All photographs in this report were taken on 14 November 2018 by Wendy Crane, Graduate Architect of Paul Davies Pty Ltd unless otherwise captioned. For the interior, real estate photographs taken for advertisements for the sale of the house around January 2018 have been utilised, along with photos taken during the site visit, taken from the exterior through windows (captioned accordingly). Note that damage to the interior shown on the site visit photos is a result of illegal building work to the house which occurred prior to the imposition of the IHO on the property.

The historical background in this report has been thoroughly researched by professional historian Dr. Anne-Maree Whitaker from a mix of primary (e.g. *Sand's Directory*, Lands Titles) and secondary sources, and is considered to be a detailed history sufficient to provide the basis for heritage significance analysis of the place.

1.4. AUTHOR IDENTIFICATION

This report was prepared by Paul Davies Pty Ltd, Architects and Heritage Consultants, 180 Darling St Balmain NSW 2041.

This report was authored by Chery Kemp, Heritage Specialist, with historical research undertaken and history written by Dr. Anne-Maree Whitaker, Historian sub-consultant.

1.5. ACKNOWLEDGEMENTS

Angela Phippen, Local Studies & Family History Librarian, City of Ryde, is acknowledged for her assistance with historical research for this report.

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ATTACHMENT 1

1.6. DEFINITIONS

For the purposes of this report

Local	Refers to City of Ryde Council
State	refers to New South Wales

The following definitions used in this report and are from *Article 1: Definitions of The Burra Charter 2013, the Australian ICOMOS Charter for the Conservation of Places of Cultural Significance*.

Place	means a geographically defined area. It may include elements, objects, spaces and views. Place may have tangible and intangible dimensions.
Cultural significance	means aesthetic, historic, scientific, social or spiritual value for past, present or future generations. Cultural significance is embodied in the <i>place</i> itself, its <i>fabric, setting, use, associations, meanings, records, related places and related objects</i> . Places may have a range of values for different individuals or groups.
Fabric	means all the physical material of the <i>place</i> including elements, fixtures, contents and objects.
Conservation	means all the processes of looking after a <i>place</i> so as to retain its <i>cultural significance</i> .
Maintenance	means the continuous protective care of a <i>place</i> , and its <i>setting</i> . Maintenance is to be distinguished from repair which involves <i>restoration or reconstruction</i> .
Preservation	means maintaining a <i>place</i> in its existing state and retarding deterioration.
Restoration	means returning a <i>place</i> to a known earlier state by removing accretions or by reassembling existing elements without the introduction of new material.
Reconstruction	means returning a <i>place</i> to a known earlier state and is distinguished from <i>restoration</i> by the introduction of new material.
Adaptation	means changing a <i>place</i> to suit the existing <i>use</i> or a proposed use.
Use	means the functions of a <i>place</i> , including the activities and traditional and customary practices that may occur at the place or are dependent on the place.
Compatible use	means a <i>use</i> which respects the <i>cultural significance</i> of a <i>place</i> . Such a use involves no, or minimal, impact on cultural significance.
Setting	means the immediate and extended environment of a <i>place</i> that is part of or contributes to its <i>cultural significance</i> and distinctive character.
Related Place	means a <i>place</i> that contributes to the <i>cultural significance</i> of another place.
Related object	means an object that contributes to the <i>cultural significance</i> of a <i>place</i> but is not at the place.
Associations	mean the connections that exist between people and a place.
Meanings	denote what a place signifies, indicates, evokes or expresses to people.
Interpretation	means all the ways of presenting the cultural significance of a place.

1.7. SITE LOCATION

The site at 68 Denistone Road, Denistone is located on the eastern side of Denison Road, on the north-eastern corner of the Denison Road and Florence Avenue intersection, west of Blaxland Road, and opposite the Ryde Ambulance Station. The real property details are outlined in Table 1 below. The property encompasses three separate allotments within the same DP (see Table 1 below), with the house being located on Lot 2.

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Table 1: Real Property Details for 68 Denistone Road, Denistone

Street address	Real property description
68 Denistone Road, Denistone	Lots 1,2 & 3, DP1096437

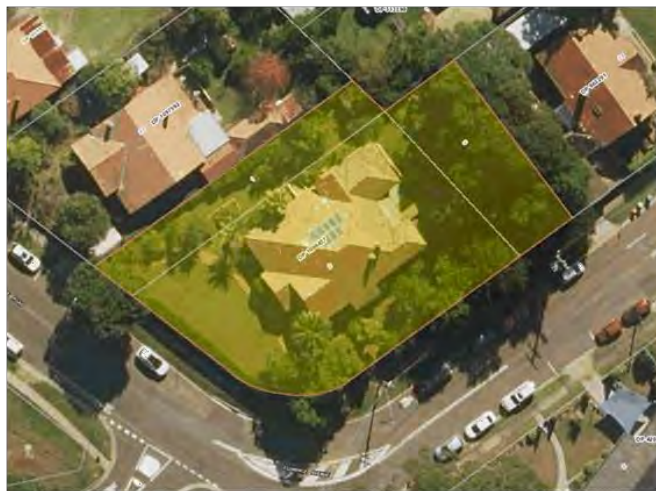


Figure 1: Satellite view of the subject property at 68 Denistone Road, Denistone (shaded yellow, outlined in red) showing the 3 separate allotments within the property. Source: NSW Land & Property Information Six Maps



Figure 2: 1943 aerial photo of subject property (shaded yellow, outlined in red). Note there appears to be an outbuilding to the east of the house, on the boundary between Lot 2 and Lot 3 of the property. Source: NSW LPI Six Maps

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ATTACHMENT 1



Figure 3: Location map showing the location of 68 Denistone Road, Denistone, opposite the Ryde Ambulance Station, with Ryde Hospital to the north-west, and Blaxland Road to the east. Source: NSW Land & Property Information

1.8. STATUTORY LISTINGS AND CONTROLS

NSW HERITAGE ACT 1977 (AS AMENDED)

The property is not included on the State Heritage Register (SHR).

LOCAL ENVIRONMENTAL PLAN (LEP)

The Ryde LEP 2014 does not include the property at 68 Denistone Road, Denistone, in its heritage item Schedule 5, and does not include the property within any heritage conservation area listed in the LEP. The only heritage items in the vicinity are "Denistone House" and "Trigg House" (Item No. 47) which are within the Ryde Hospital property to the north-west of the site.

Figure 4 below shows the statutory heritage context of the site

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Figure 4: The heritage context of the site (indicated with blue shading), showing it is not within any heritage conservation area listed in the LEP. The property is in the vicinity of heritage item Nos. 47 (Ryde Hospital "Denistone House" and "Trigg house") and Item No. 125 (Denistone Park) Source: Ryde LEP 2014 Heritage Map 002

INTERIM HERITAGE ORDER

The property is the subject of a Local development application (LDA) to consolidate the existing 3 allotments on the property and subdivide the property into 2 allotments, an application considered to indicate a future threat to the existing house on the property.

City of Ryde Council resolved to place an Interim Heritage Order on the property on 25 September 2018, which took effect on 26 September 2018.

1.9. NON- STATUTORY LISTINGS

No National Trust listings¹ or Australian Institute of Architects listings² have been noted for the subject property.

¹ Checked via Inquiry with the NSW National Trust

² Checked against July 2018 NSW Chapter, AIA list of significant architecture

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2.0 HISTORICAL BACKGROUND

2.1. INDIGENOUS HISTORY

The geology of this region is Hawkesbury sandstone and the Wianamatta group of sedimentary rocks, predominantly Ashfield shale. The area lies between the Parramatta and Lane Cove Rivers, a plateau which slopes gradually southward from an east-west ridge. The Lane Cove River banks are dominated by sandstone bluffs and steep rocky hillsides, while the Parramatta River is less steep and characterised by mudflats and bays. This district between the rivers was the home of the Wallumede Indigenous people, and at the time of the arrival of the First Fleet in 1788 was a significant population centre. Prominent indigenous residents of the area included Bennelong and his kinsman Bidjee Bidjee. By 1797 the Aboriginal community of the Lane Cove valley was reported to be actively resisting the new settlers and was responsible for burning a house and killing some hogs. 'Native raiders' were mentioned again in 1804 and 1809, but there are no later references to Aborigines living in the area. Around 40 Aboriginal sites have been recorded in the Lane Cove National Park including shelters, cave art, rock engravings, middens and grinding grooves.³

2.2. DENISTONE AREA HISTORY

The site of 68 Denistone Road is part of a land grant known as 'Porteous Mount' issued on 22 July 1795 to John Varnice, Humphrey Evans and William Ternan. Varnice was granted 45 acres (18.2 hectares), Evans 45 acres and Ternan 30 acres (12.1 hectares), but the grants totalling 120 acres (48.5 hectares) were not subdivided (see Figure 5 below).

Just on a month later, on 24 August 1795, the colony's chaplain the Reverend Richard Johnson acquired the property. On 7 March 1800, Johnson sold it to Michael Connor, who transferred to Roger Connor on 12 June 1816.⁴

³ Megan Martin, *A Pictorial History of Ryde*, Kingsclear Books, Sydney, 1998, pp 1-5; NSW National Parks and Wildlife Service, *Lane Cove National Park Plan of Management*, Sydney, 1998, p 25.

⁴ Angela Phippen, 'Denistone', Dictionary of Sydney online.

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Figure 5: Early map of the parish of Hunters Hill showing land grant to Varnice, Evans and Ternan. Source: NSW Land Registry Services

Gregory Blaxland, a free settler, purchased the nearby 450-acre (182-hectare) Brush Farm Estate in 1806 shortly after his arrival in the colony. This estate covered most of the area south from Terry Road to Victoria Road and Tramway Street and east from Brush Road to Shaftsbury Road. In 1829 he transferred Brush Farm Estate to his eldest daughter Elizabeth and her husband Dr Thomas Forster. The following year Forster expanded the estate by purchasing the 'Porteous Mount' grants of 120 acres, east of his Brush Farm Estate. Forster built an eight-room house which he called Deniston after his birthplace, possibly Dennistoun in Lanarkshire, Scotland.⁵

On May 23 1840, Dr Forster leased 'the dwelling houses known by the name of Deniston' and 100 acres (40.4 hectares) of land to Major Edward Darvall for a period of 12 years. Darvall did not remain at Deniston for the 12 years mentioned in the lease, as the property was again advertised to let in the Sydney Morning Herald on 8 March 1849.

After the Darvalls' departure, Deniston House was occupied by Andrew Hardie McCulloch and his family.

⁵ Angela Phippen, 'Denistone', Dictionary of Sydney online; *Sydney Gazette*, 1 June 1830, p 3.

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The house was burned down by bushfires on 30 December 1854:

The fire at this place [‘The Hermitage’] being partially subsided, attention was attracted by the awful conflagration which was going on at the estate of Dennison, the property of Mr. Blaxland and residence of Mr. M’Culloch, solicitor; here the destruction of property was considerable, and, in a word, with the exception of a few articles of furniture which was saved, the bare walls of that once fine house are all that is to be seen.⁶

Deniston Estate was purchased by Richard Rouse Terry on 9 December 1872. Terry was the grandson of the ‘Botany Bay Rothschild’ Samuel Terry and of Richard Rouse who gave his name to Rouse Hill.⁷ RR Terry built the present two-storey sandstone Denistone House and resided there for many years after its completion in 1874 (see Figures 6 and 7 below). The property, comprising 140 acres, was brought under Torrens title in 1884.⁸ After Terry’s death in 1898, ownership passed to his son John Edgar Terry, accountant of Sydney, and son-in-law Frank David Muller, gentleman of Sydney.⁹



Figure 6: Richard Rouse Terry. Source: HR88/10, Hamilton Rouse Hill Trust Collection, Sydney Living Museums

⁶ *Sydney Morning Herald*, 1 January 1855, p 8.

⁷ Samuel Terry <http://adb.anu.edu.au/biography/terry-samuel-2721>; Richard Rouse <http://adb.anu.edu.au/biography/rouse-richard-2612>.

⁸ Primary Application 3303 and title vol 686 fol 191, NSW Land Registry Services.

⁹ Title vol 1115 fol 59, NSW Land Registry Services.

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Figure 7: Richard Rouse Terry and his wife Jane Emma with their children in 1892. Source: P1/1742, State Library of NSW

In November 1913 it was reported that the first of three subdivisions of the Denistone Estate into 169 quarter-acre blocks would be offered for sale. Also in 1913, 6.8 hectares of the estate, including Denistone House, was purchased by the New South Wales Government for use as a convalescent hospital for men, complementing the Carrara convalescent hospital for women at Vaucluse. Patients began moving into the hospital in August 1914 although it was not officially opened until 25 February 1915. The site later grew into the Ryde District Soldiers' Memorial Hospital which opened on 12 May 1934 with 56 beds, with Denistone House converted into the nurses' quarters. The house was later used for a maternity ward.¹⁰

The second subdivision of the Denistone Estate, including the current 68 Denistone Road, was offered for sale between August and November 1914¹¹ (see Figure 8 below). While many lots were sold in 1914 and 1915, the current 68 Denistone Road site was not sold until its purchase by Christina Ann Jones, widow, on 15 November 1917.¹²

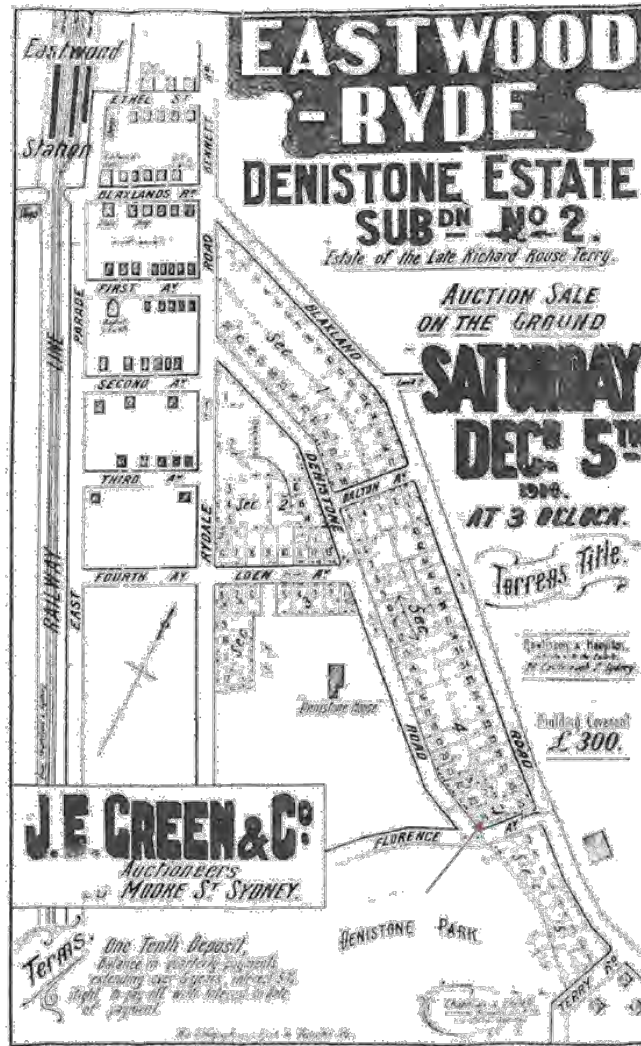
¹⁰ Ryde Heritage Inventory, SHI no 2340199, study no 136, p 38.

¹¹ *Sydney Morning Herald*, 21 November 1914, p 9.

¹² Transfer no A347891 of Lot 24 section 4 DP 7997 and title vol 1115 fol 59, NSW Land Registry Services.

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B21.1914.DENI

Figure 8: Denistone subdivision no 2, 1914, with the location of the subject site at Lot 24, 68 Denistone Rd (corner Florence Avenue) marked with red arrow.. Source: Local Studies Collection, Ryde Library Service

ITEM 5 (continued)

ATTACHMENT 1

2.3. SITE HISTORY

Mrs Christina Ann Jones was the widow of the Reverend Henry Jones, a Methodist minister who had served in New South Wales and Queensland in a long career, before dying in 1910 at the age of 61.¹³ Mrs Jones was born in Ryde in 1853, the daughter of Andrew and Janet Short.¹⁴ After her husband's death their only child, Henry Spencer Jones, enlisted in World War I and returned after service in France. During his absence overseas Mrs Jones moved in with her relatives at Clyde Cottage, North Road, Ryde.¹⁵ When Mrs Jones bought the land now known as 68 Denistone Road, there was a covenant on the property requiring the erection of a building worth at least £300.¹⁶

Historical records indicate the house at 68 Denistone Road was built in 1920. Mrs Jones sold her previous home at 36 Wisdom Road, Greenwich on 6 November 1916 to Walter Berry, grazier, retaining a mortgage over the property.¹⁷ Her address was amended to Clyde Cottage on 1 November 1916 on her son's war record.¹⁸ After her son's return from the war in 1919 the mortgage on her previous home in Greenwich was discharged on 7 February 1920.¹⁹ Henry Spencer Jones married Margaret Kavanagh on 29 April 1920.²⁰

Therefore in 1920 Mrs Jones had received the funds from the sale of her previous home, and her son had returned from the war and married. This provides both the means and motive for the construction of the new house in Denistone. Mrs Jones first appears in the *Sands Directory* at the Denistone address in 1921. The directory was published in January each year, with entries closing in the first week of the preceding October.²¹ Therefore 68 Denistone Road must have been completed and occupied by early October 1920. Mrs Jones named the house *Lanark Brae* after her previous marital home in Greenwich.

The first change to the site was in 1919 when a small area of approximately 10 perches was added to the block from the adjoining lot 23.²² This area is now Lot 1 of DP 1096437. Later Mrs Jones bought lot 25 to the north-east on 1 August 1922, then subdivided off a portion of around 10 perches (Lot 2 of DP 1096437) and consolidated the expanded site of 68 Denistone Road on 26 September 1924²³ (see Figure 9 below). The property was then transferred to her son Henry Spencer Jones on 24 October 1924.²⁴

Tenders were called in 1926 by H. Jones for a garage on the Florence Avenue frontage with a price of £40.²⁵ A sewage plan from the 1930s and aerial photograph from 1943 show the house on its expanded block with its garage accessed off Florence Avenue (see Figures 10, 11 and 12 below).

¹³ 'The Late Rev. Henry Jones', *The Methodist*, 3 December 1910, p 11.

¹⁴ 'Mrs Christina Jones', *The Methodist*, 3 November 1934, p 15.

¹⁵ Garth Jones, 'The Short Story', typescript contained in vertical file 'Short family', Ryde Library Service.

¹⁶ Title vol 2807 fol 89, NSW Land Registry Services.

¹⁷ Title vol 1840 fol 250, NSW Land Registry Services.

¹⁸ Henry Spencer Jones, SERN 7691, National Archives of Australia.

¹⁹ Title vol 1840 fol 250, NSW Land Registry Services.

²⁰ Marriage certificate 5142/1920, NSW Registry of Births Deaths and Marriages.

²¹ See eg *Sunday Times*, 27 August 1911, p 4; *Sydney Morning Herald*, 11 January 1921, p 8.

²² Title vol 2996 fol 136, NSW Land Registry Services.

²³ Title vol 3345 fol 189 and title vol 3643 fol 41, NSW Land Registry Services.

²⁴ Title vol 3643 fol 41 and transfer no B142710, NSW Land Registry Services.

²⁵ *Construction and Local Government Journal*, 19 May 1926, p 1.

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ATTACHMENT 1

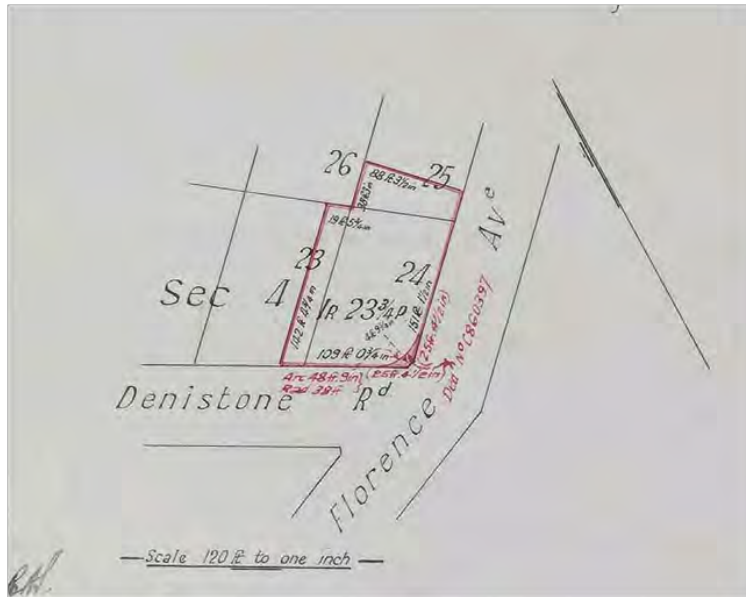


Figure 9: Site map showing the consolidated site in 1924 from land title vol 3643 fol 41 Source: NSW Land Registry Services

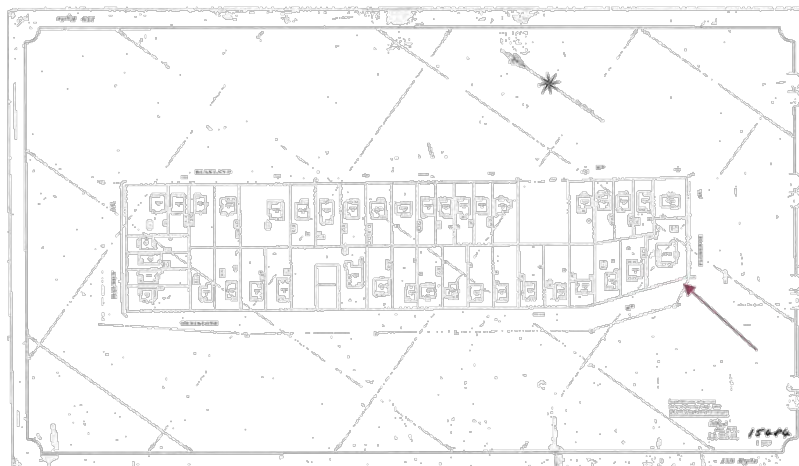


Figure 10: 1930s Sewerage plan showing completed houses on the Denistone Estate Subdivision No. 2, with subject site arrowed. Source: Ryde Library Service

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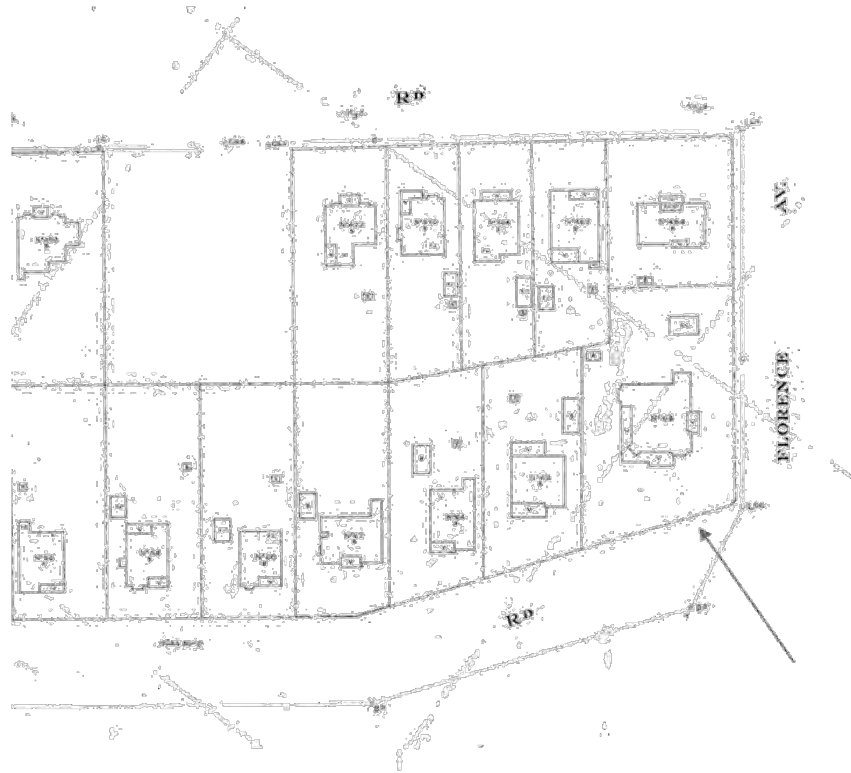


Figure 11: Closeup of the site at 68 Denistone Road from the 1930s sewerage plan above, with subject site arrowed. Note this shows the garage off Florence Street constructed in 1926 . Source: Ryde Library Service

Mrs Christina Jones died in 1934.²⁶ The aerial photo in Figure 12 below shows the house and site in 1943.

Henry Spencer Jones retained the house until 1961 when it was transferred to Olga Blanche Scott, married woman of Eastwood, on 9 November 1961.²⁷

Mrs Scott sold the property on 13 February 1990 for \$395,000 to Graeme Lloyd Willis and Doreen Myfanwy Willis as joint tenants.²⁸

Following the death of Mrs Willis in January 2018 the house was sold again, this time for \$3,601,000²⁹ (see Figure 13 below for a site plan and floor plan of the house from the real estate website in 2018).

²⁶ Death certificate 16969/1934, NSW Registry of Births Deaths and Marriages.

²⁷ Title vol 5112 fol 217 and transfer no H915076, NSW Land Registry Services.

²⁸ Title vol 5112 fol 217 and transfer no Y836451, NSW Land Registry Services.

²⁹ Death notice, *Sydney Morning Herald*, 13 January 2018; Sale prices from <https://www.realestate.com.au/property/68-denistone-rd-denistone-nsw-2114?pid=p4ep-pdp|sold-pdp;property-history-cta#timeline>.

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Figure 12: Detail of 1943 aerial photo showing the site (arrowed), with the house and garage. Source: NSW Land and Property Information



Figure 13: Site plan and Floor plan of house, 2018 Source: McGrath Real Estate website.

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ATTACHMENT 1

2.4. REFERENCES USED FOR THIS HISTORY

Reference: Old Form Torrens Registers, Parish maps.

Source: NSW Land Registry Services, Historical Land Records viewer:

http://www.nswlrs.com.au/land_titles/historical_records_online/where_to_look

Reference: Sands Sydney Directory, 1858-1933.

Source: Council of the City of Sydney:

<http://www.cityofsydney.nsw.gov.au/learn/search-our-collections/sands-directory>

Reference: Trove: Digitised newspapers and more.

Source: National Library of Australia:

<http://trove.nla.gov.au/>

Reference: Aerial photographic survey of Sydney, 1943.

Source: SixMaps, NSW Department of Finance and Services:

<https://maps.six.nsw.gov.au/>

Reference: Water Board survey, 1937, and 'The Short Story', typescript contained in vertical file 'Short family'.

Source: Ryde Library Service.

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ATTACHMENT 1

3.0 PHYSICAL DESCRIPTION

3.1. SITE AND CONTEXT, SETTING OF THE HOUSE

The site is a prominent large corner site of the corner of Denistone Road and Florence Avenue. The site is surrounded by later low-scale detached residences. The street boundary to Denistone Road is defined by hedging and a modern timber picket front fence.

The house sits within a generous garden setting which retains inter-war period features including three palm trees, and brick and stone garden edging to paths and garden beds.



Figure 14: View of the site at 68 Denistone Road from the opposite (southern) side of Denistone Road



Figure 15: The house Lanark Brae, 68 Denistone Road as seen from Denistone Road in its garden setting. Note the two palm trees at the southern front of the house seen here appear on the 1943 aerial photo of the site (Figure 12 above).

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Figure 16: Zoomed image of the house Lanark Brae, 68 Denistone Road as seen from Denistone Road in its garden setting.



Figure 17: Main front entry to the house from Denistone Road

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ATTACHMENT 1



Figure 18: (Left) the palm tree at the south-western corner, front of the house. Note this palm tree appears on the 1943 aerial photo of the site (See Figure 12 above)



Figure 19: View along the western side of the house looking south towards Denistone Road, showing two of the three palm trees with the third palm tree just visible at left.

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Figure 20: Stone edged garden beds in the rear garden. These likely date from the period 1930s-1950s.



Figure 21: Brick edging marking the edge of an overgrown path to the western side of the house

ITEM 5 (continued)

ATTACHMENT 1

3.2. THE EXTERIOR OF THE HOUSE

The house Lanark Brae is a single storey dark face brick Inter-war California Bungalow style house located on the north-western corner of Denistone Road and Florence Avenue, featuring a hipped and gabled terracotta tiled roof, simple stuccoed brick chimneys, and timber-framed casement windows and fanlights.

The house features a return verandah on the south and west elevations, returning around the front south-west corner. The verandahs feature timber floors and brick balustrades with pairs of timber posts above. The ceiling to the main return verandah is a plain paneled ceiling, however the ceiling to the eastern verandah is a decorative plaster panel ceiling. There are steps flanked by stuccoed brick dwarf walls onto the return verandah from the south and west. The timber-panelled front door features a leadlight panel and is surrounded by leadlight sidelights and fanlights. The house also features bay windows to the front (south) and western side elevations, and leadlight windows including two small leadlight windows to the eastern elevation to either side of the lounge room fireplace.

The house appears remarkably intact, however evident alterations include:

- Circa 1950s partial verandah enclosure to the western side of the return verandah to form a sunroom. The original western steps onto the verandah at this point have been retained, and the enclosure is lightweight and easily removeable.
- Covered decking to the rear of the house, which appears relatively modern.
- Single storey brick extension to the rear north-western corner of the house to create Bedroom 4/study room. This has been constructed in brickwork to match existing and roofed with terracotta tiling to match existing and is considered to be a sympathetic rear addition to the house.
- The original 1926 garage accessed off Florence Avenue appears to have been replaced with the garage/workshop which now exists, probably in the late 20th century, and a roof installed to connect this building to the rear of the house.



Figure 22: (Left) front door with leadlight sidelights and fanlights and marble step.

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Figure 23: View along front verandah to the west, showing complex ceiling form and bay window



Figure 24: Detail of timber-framed casement windows with fanlights.

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ATTACHMENT 1



Figure 25: Detail of south-western corner of the return verandah showing brick balustrade, timber posts and timber verandah floor



Figure 26: (Left) View along the western side of the return verandah showing circa 1950s infill at the northern end of the verandah. According to the real estate floor plan, this partial verandah enclosure is a sunroom, however the original steps onto the verandah on the western side of the house remain (see below).

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Figure 27: The western elevation of the house, showing the circa 1950s partial verandah enclosure to form a sunroom (centre) with the original western steps onto the verandah remaining.



Figure 28: Detail of western verandah circa 1950s sunroom enclosure and original western steps onto verandah.

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Figure 29: (Left) rear (north) end of the western elevation of the house



Figure 30: Detail of gable ends, windows and awning on the western elevation of the house.

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ATTACHMENT 1



Figure 31: View south along the west elevation of the house towards Denistone Road, showing 3 palm trees



Figure 32: View of the rear (north elevation) of the house including a chimney, with the garage/workshop at left

ITEM 5 (continued)

ATTACHMENT 1



Figure 33: North-west corner of the house



Figure 34: View along the rear (north) elevation looking west with recent decking

ITEM 5 (continued)

ATTACHMENT 1



Figure 35: Central section of the rear (north) elevation



Figure 36: (Left) View along the central section of the rear elevation looking west

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ATTACHMENT 1



Figure 37: (Left) the north-eastern corner of the house. The two windows shown here are to the kitchen (left) and laundry (right)



Figure 38: View of the rear of the house from the east, showing the chimneys to the rear of the dining room and to bedroom 3

ITEM 5 (continued)

ATTACHMENT 1



Figure 39: View north towards the garage/workshop along the eastern elevation of the house with the eastern verandah at left.



Figure 40: View of the southern end of the eastern elevation showing the eastern verandah (marked "patio" on real estate floor plan).

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Figure 41: Detail of small leadlight window to the northern (rear elevation, near the south-eastern corner of the house. This is one of the two leadlight windows to either side of the lounge room fireplace.



Figure 42: (Left) View south along the eastern elevation, showing bay window (foreground) and small eastern verandah

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Figure 43: View of small verandah on the eastern elevation of the house (facing Florence Avenue)



Figure 44: Decorative plaster ceiling to eastern verandah

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Figure 45: The eastern elevation of the carport and garage/workshop off Florence Avenue



Figure 46: The southern and eastern elevations of the garage/workshop with (at left) the covered area connecting the house to the garage/workshop

ITEM 5 (continued)

ATTACHMENT 1



Figure 47: The western elevation of the modern garage (at left) and workshop (at right).



Figure 48: The eastern end of the rear (north elevation) of the house with the garage/workshop at left

ITEM 5 (continued)

ATTACHMENT 1

3.3. THE INTERIOR OF THE HOUSE

The interior of the house features fine details typical of its circa 1920 period of construction including paneled plaster ceilings, timber mantelpieces and tiled surrounds to fireplaces, decorative timberwork including timber columns and a fretwork frieze to define a formal entry from the front hallway into the lounge/dining room area.

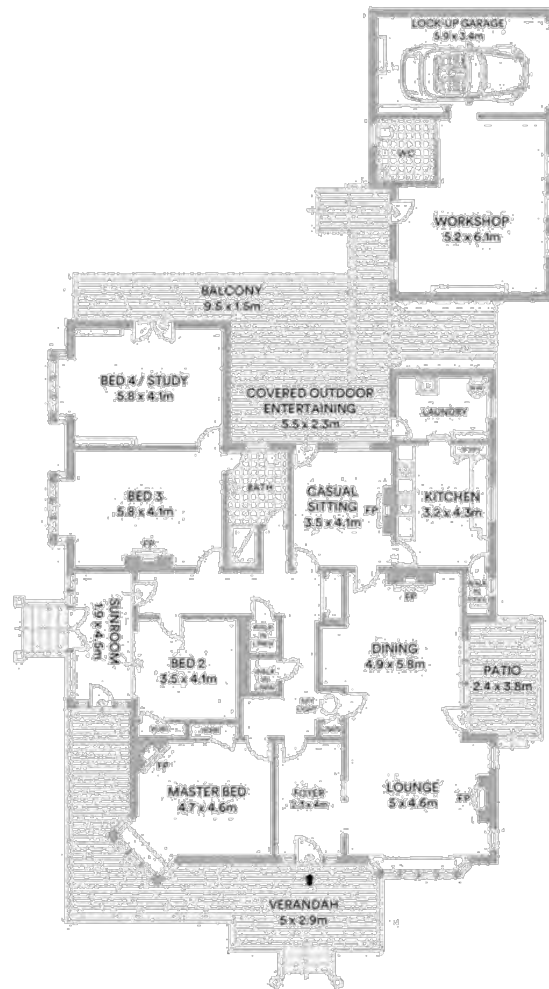


Figure 49: (Left) Floorplan from McGrath Real Estate website 2018. The location of the interior rooms referred to in the photos below can be referenced against this diagram.

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Figure 50: View of lounge room looking through the main front hallway onto the front verandah through the front door at left. Note faceted bay window to the front of the lounge room (at the front, south elevation of the house) Source: January 2018 real estate photo from McGrath website



Figure 51: View of dining room looking north towards the rear of the house. Note mantelpiece to the rear fireplace to the dining room. Source: January 2018 real estate photo from McGrath website

ITEM 5 (continued)

ATTACHMENT 1



Figure 52: The lounge room and lounge room fireplace



Figure 53: Lounge room ceiling, taken through front bay window

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Figure 54: View of loungeroom and dining room looking towards the rear from front bay window



Figure 55: View of wall between loungeroom and hallway (foyer). Note the damage to the wall plaster is a result of illegal building works which occurred prior to the IHO on the site.

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ATTACHMENT 1

4.0 COMPARATIVE ANALYSIS

4.1. BASIS OF COMPARATIVE ANALYSIS

This comparative analysis compares the Inter-war California Bungalow style on the subject site with:

- inter-war period heritage listed brick houses within the City of Ryde LGA, dating from the period 1920-1935, and
- Inter-war period brick houses within two Ryde LGA Heritage Conservation Areas (Eastwood House Estate HCA 4 and Maxim Street West Ryde HCA 2).

4.2. COMPARATIVE ANALYSIS TABLE

Table 2: Comparative Analysis of house at 68 Denistone Road Denistone with brick Inter-war period houses (heritage listed or within HCAs) within Ryde LGA

Property address	Heritage listing details	Notes/Comments
Subject property – 68 Denistone Road, Denistone	Subject to an IHO	Fine representative example of Inter-war California Bungalow style house on a prominent corner site, within a substantial garden setting.



Figure 56: Lanark Brae, 68 Denistone Road, Denistone (corner Florence Avenue)

Source: Image from realestate.com.au

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Property address	Heritage listing details	Notes/Comments
8 Rutledge Street (corner Trelawney Street, Eastwood)	Listed in the RMS Section 170 register. Not listed in the Ryde LEP 2014.	Listed as an "Interwar Arts & Crafts style bungalow" of local significance



Figure 57: No. 8 Rutledge Street (corner Trelawney St) Eastwood, Source: Image from SHI form, taken from Trelawney Street



Figure 58: No. 8 Rutledge Street (Corner Trelawney Street) Rutledge Street façade, taken January 2010. Source: Google Streetview

ITEM 5 (continued)

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Property address	Heritage listing details	Notes/Comments
64 Tarrants Avenue, Eastwood (Corner Rutledge Street)	Listed in the RMS Section 170 register. Not listed in the Ryde LEP 2014.	Listed as a fine representative Inter-war California Bungalow of local significance
 <p data-bbox="427 1043 893 1066">Figure 59: No. 64 Tarrants Avenue, Eastwood Source: Image from SHI form</p>		
"Wallington", 16 Miriam Road, West Ryde	Item No. 218, Ryde LEP 2014, Local significance	Constructed 1921-22, Inter-war California Bungalow style brick house, part of the 1 st subdivision of the Darvall Estate, evidence of a building covenant & early development of West Ryde, fine example of an Inter-war Bungalow style dwelling in a garden setting.
 <p data-bbox="427 1697 938 1720">Figure 60: "Wallington", 16 Miriam Street, West Ryde Source: Image from SHI form</p>		


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Property address	Heritage listing details	Notes/Comments
Eastwood House Estate (HCA4) examples of Inter-war California Bungalows		
Clive Road Eastwood		
 <p data-bbox="432 936 932 958">Figure 61: Houses in Clive Road, Eastwood Source: Image from Google Streetview</p>		
Hillview Road Eastwood		
 <p data-bbox="432 1317 948 1339">Figure 62: Houses in Hillview Road, Eastwood Source: Image from Google Streetview</p>		
Maxim Street West Ryde (HCA2) examples of Inter-war California Bungalows		
17 to 21 Maxim Street, West Ryde		
 <p data-bbox="432 1706 995 1729">Figure 63: Houses at 17-21 Maxim Street, West Ryde Source: Image from Google Streetview</p>		

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Property address	Heritage listing details	Notes/Comments
32 & 34 Maxim Street West Ryde		
 <p data-bbox="432 992 1038 1014">Figure 64: Houses at Nos. 32 & 34 Maxim Street, West Ryde Source: Image from Google Streetview</p>		
35 Maxim Street West Ryde (Corner Gaza Road)		
 <p data-bbox="432 1597 1015 1619">Figure 65: House at 35 Maxim Street West Ryde (Corner Gaza Road) Source: Google Streetview</p>		

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4.3. CONCLUSION OF COMPARATIVE ANALYSIS

There is only one comparative Inter-war California Bungalow heritage listed in the Ryde LEP 2014, being "Wallington" in West Ryde, however 2 other Inter-war California Bungalows within the Ryde LGA have been listed on the RMS Section 170 register, though not in the LEP heritage schedule. Two of the heritage listed comparative examples are also on corner sites, as is the subject house.

The LEP listed house "Wallington" and the RMS listed house at 64 Tarrants Avenue Eastwood appear to be less substantial and less finely detailed houses than the subject house at 68 Denistone Road.

The RMS listed house at 8 Rutledge Street (corner Trelawney Street) Eastwood, appears to be of a similar size to the subject house, however that house was described in its SHI form as a Federation Bungalow style house (though it also shows the influence of the Inter-war California Bungalow style - in particular in its gabled roof form with gable ends facing both street frontages), and to stylistic differences, is not directly comparable to the subject house at 68 Denistone Road, though it is similar in size, quality of detail, and corner location.

In relation to "Wallington", 16 Miriam Road, West Ryde, the only Inter-war California Bungalow style house currently heritage listed in the Ryde LEP 2014, it is notable that the historical significance of "Wallington" relates to its being "part of the 1st subdivision of the Darvall Estate, evidence of a building covenant & early development of West Ryde, fine example of an Inter-war Bungalow style dwelling in a garden setting."³⁰ This is similar to the situation with the subject house in relation to historical significance, as the subject house was part of the Denistone Estate Subdivision No. 2 and the site as part of that subdivision was subject to a covenant requiring the erection of a building worth at least £300, and the subject house is considered to be a substantial, finely detailed example of an Inter-war California Bungalow style dwelling in a garden setting.

In relation to the Inter-war California Bungalows within the two HCAs examined in Table 2 above, these range from modest to occasional more substantial examples such as 35 Maxim Street, West Ryde (also a corner property). However, the house at 35 Maxim Street is, again, not as finely detailed as the subject house at 68 Denistone Road, Denistone, which features a return verandah and gable ends to the south and west.

In conclusion, it is considered that the house at 68 Denistone Road, Denistone is rare within the Ryde LGA as a substantial, finely detailed Inter-war California Bungalow style house, which provides evidence of an early subdivision and operation of a covenant on the site, similar to the significance of the only other building of the same style currently listed in the Ryde LEP 2014, "Wallington" at 16 Miriam Road, West Ryde.

³⁰ Quote from the Statement of Significance in the SHI form for "Wallington", 16 Miriam Road, West Ryde

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5.0 ASSESSMENT OF HERITAGE SIGNIFICANCE

5.1. CRITERIA FOR ASSESSING CULTURAL HERITAGE SIGNIFICANCE

The NSW Heritage Manual (1996, amended 2001) in the *Assessing heritage significance* section sets out the basis for assessment of the heritage significance of an item, place or site by evaluating its significance in reference to specific criteria. These criteria can be applied at national, state or local levels of significance.

The criteria used are:

Criterion (a) Historical significance

The item is important in the course of, or pattern of New South Wales' cultural or natural history (State significance) OR An item is important in the course, or pattern, of the local area's cultural or natural history.

Guidelines for Inclusion:

- Shows evidence of a significant human activity

Not applicable.

- Is associated with a significant activity or cultural phase

Applicable at a local level as the house is evidence of the development of the Denistone Estate Subdivision No. 2 lots of which were for sale from December 1914.

- Maintains or shows the continuity of a historical process or activity

Applicable at a local level as the property illustrates early twentieth century suburban development of the Denistone Estate and evidences the operation of a covenant on the property requiring the erection of a building worth at least £300. The property provides evidence of the suburban subdivision of 19th century estates in the early 20th century in Denistone.

Guidelines for Exclusion:

- Has incidental or unsubstantiated connections with historically important activities or processes

Not relevant. The house is illustrative of early 20th suburban development of the Denistone Estate No. 2 subdivision.

- Provides evidence of activities or processes that are of dubious historical importance

Not relevant. The development of the Denistone Estate subdivisions in the early twentieth are clearly of historical importance to the history of the suburb of Denistone.

- Has been so altered that it can no longer provide evidence of a particular association

Not relevant. The house is remarkably intact and illustrates well its period of construction and history of development of the Denistone Estate No. 2 subdivision.

Types of items which meet criterion (a) include:

- Items which demonstrate strong associations to past customs, cultural practices, philosophies or systems of government, regardless of the intactness of the item or any structure on the place;

Not Applicable.

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- Items associated with significant historical events, regardless of the intactness of the item or any structure on the place;

Applicable at a local level as the house is associated with the development of the Denistone Estate No. 2 subdivision, the suburban subdivision of 19th century estates in the early 20th century and the operation of a building covenant on the site.

- Significant cultural landscapes and other items demonstrating overlays of the continual pattern of human use and occupation; and/or

Not Applicable.

- Items where the physical fabric (above or below ground) demonstrates any of the points described above.

Applicable at a local level as the fabric of the house illustrates well its period of construction as a 1920 house built on a lot from the Denistone Estate No. 2 subdivision, which illustrates the early 20th century suburban development of the Denistone Estate subdivisions, and the operation of a building covenant on the site.

Criterion (b) Historical Association

An item has strong or special association with the life or works of a person, or group of persons, of importance in New South Wales' cultural or natural history (State significance) OR

An item has strong or special association with the life or works of a person, or group of persons, of importance in the cultural or natural history of the local area (Local significance).

Guidelines for Inclusion:

- Shows evidence of a significant human occupation

Not Applicable

- Is associated with a significant event, person or group of persons

Not Applicable.

Guidelines for Exclusion:

- Has incidental or unsubstantiated connections with historically important people or events

Not Applicable (no association with historically important people or events).

- Provides evidence of people or events that are of dubious historical importance

Not relevant (no association with historically important people or events).

- Has been so altered that it can no longer provide evidence of a particular association.

Not relevant (no association with historically important people or events).

Types of items which meet this criterion include:

- Items which demonstrate strong associations to a particular event, historical theme, people or philosophies, regardless of the intactness of the item or any of its structures;

Not Applicable (no association with historically important people or events).

- Items associated with significant historical events, regardless of the intactness of the item or any structure on the place; and/or

Not Applicable (no association with historically important people or events).

ITEM 5 (continued)

ATTACHMENT 1

- Items where the physical fabric (above or below ground) demonstrates any of the points described above.

Not Applicable (no association with historically important people or events).

Criterion (c) Aesthetic/Technical significance

An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in New South Wales (State significance); OR

An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area (Local significance).

Guidelines for Inclusion:

- Shows or is associated with, creative or technical innovation or achievement

Not Applicable (as the house is a fine but typical Inter-war California Bungalow style house, built within the core period for this house style)

- Is the inspiration for a creative or technical innovation or achievement

Not Applicable (as the house is a fine but typical Inter-war California Bungalow style house, built within the core period for this house style)

- Is aesthetically distinctive

Applicable at a local level, as the Inter-war California Bungalow style house at 68 Denistone Road is a substantial, finely detailed house of the style, on a large prominent corner site within a garden setting.

- Has landmark qualities

Applicable at a local level due to the prominent corner location of the house.

- Exemplifies a particular taste, style or technology.

Applicable at a local level, as the house at 68 Denistone Road is a fine representative example of the Inter-war California Bungalow style. The house is remarkably intact and features distinctive exterior elements of the style including leadlight timber-framed casement windows, bay windows, return verandah and a small eastern verandah, dark face brickwork, terracotta hipped and gabled roof, gable ends featuring timber shingling and imitation half timbering, brick verandah balustrades with timber posts above, and distinctive internal elements of the style including timber fretwork frieze and timber pilasters between main hallway and lounge/dining area, tiled fireplaces with timber mantelpieces to formal rooms, timber paneled doors, timber floor and decorative plaster ceilings.

Guidelines for Exclusion:

- Is not a major work by an important designer or artist

Applicable, as there is no known association with any architect or designer.

- Has lost its design or technical integrity

Not Applicable. The house at 68 Denistone Road is substantially intact and retains its design integrity.

- Its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded

Not Applicable (see above)

ITEM 5 (continued)

ATTACHMENT 1

- Has only a loose association with a creative or technical achievement.

Not relevant (as the house is a fine but typical Inter-war California Bungalow style house, built within the core period for this house style)

Types of items which meet this criterion include:

- Items which demonstrate creative or technical excellence, innovation or achievement;

Not Applicable, as the house is a typical, if fine, representative example of its style.

- Items which have been the inspiration for creative or technical achievement;

Not Applicable (see above).

- Items which demonstrate a highly original and influential style, such as an important early (seminal) work of a major architect; and/or

Not Applicable (no known association with any architect or designer).

- Items which demonstrate the culmination of a particular architectural style (known as climactic).

Applicable at a local level as the house at 68 Denistone Road is a fine representative example of the Inter-war California Bungalow style.

Criterion (d) Social significance

An item has strong or special association with a particular community or cultural group in New South Wales for social, cultural or spiritual reasons (State significance) OR

An item has strong or special association with a particular community or cultural group in the area for social, cultural, or spiritual reasons (Local significance).

Guidelines for Inclusion:

- Is important for its associations with an identifiable group

Not researched

- Is important to a community's sense of place.

Not researched

Guidelines for Exclusion:

- Is only important to the community for amenity reasons

No information available on this point.

- Is retained only in preference to a proposed alternative.

No information available on this point.

Types of items which meet this criterion include:

- Items which are esteemed by the community for their cultural values;

No information available on this point

- Items which if damaged or destroyed would cause a community a sense of loss;

No information available on this point.

and/or

- Items which contribute to a community's sense of identity.

No information available on this point.

ITEM 5 (continued)

ATTACHMENT 1

Items are excluded if:

- They are valued only for their amenity (service convenience); and/or

No information available on this point.

- The community seeks their retention only in preference to a proposed alternative.

No information available on this point.

Criterion (e) Research potential

An item has potential to yield information that will contribute to the understanding of New South Wales' cultural or natural history (State significance) OR

An item has potential to yield information that will contribute to an understanding of the area's cultural or natural history (Local significance).

Guidelines for Inclusion:

- Has the potential to yield new or further substantial scientific and/or archaeological information

Not applicable. The site is considered unlikely to have significant archaeological potential.

- Is an important benchmark or reference site or type

Not applicable (see above).

- Provides evidence of past human cultures that is unavailable elsewhere.

Not applicable (see above).

Guidelines for Exclusion:

- The knowledge gained would be irrelevant to research on science, human history or culture

Considered likely to be applicable.

- Has little archaeological or research potential

Considered likely to be applicable.

- Only contains information that is readily available from other resources or archaeological sites.

Considered likely to be applicable.

Criterion (f) Rarity

An item possesses uncommon, rare or endangered aspects of New South Wales' cultural or natural history (State significance); OR

An item possesses uncommon, rare or endangered aspects of the area's cultural or natural history (Local significance).

Guidelines for Inclusion:

- Provides evidence of a defunct custom, way of life or process

Not Applicable.

- Demonstrates a process, custom or other human activity that is in danger of being lost

Not Applicable.

- Shows unusually accurate evidence of a significant human activity

Not applicable.

ITEM 5 (continued)

ATTACHMENT 1

- Is the only example of its type

Not applicable as there are three other heritage listed houses of the same period within the Ryde LGA, however two of these are more modest examples, and the other has stylistic differences to the subject house. Inter-war California Bungalow style houses within the 2 Ryde HCAs examined are more modest examples and not as finely detailed as the subject house.

- Demonstrates designs or techniques of exceptional interest

Applicable as the comparative analysis table establishes, the house is locally rare as a house of the Inter-war California Bungalow style within Ryde LGA, and as a house which is a finely detailed, substantial representative example of the Inter-war California Bungalow style.

- Shows rare evidence of a significant human activity important to a community.

Not applicable.

Guidelines for Exclusion:

- Is not rare

Not Applicable. The subject house is considered rare at a local level (Ryde LGA) as a fine representative example of the Inter-war California Bungalow style.

- Is numerous but under threat

Not Applicable.

Criterion (g) Representativeness

An item is important in demonstrating the principal characteristics of a class of New South Wales' cultural or natural places; or cultural or natural environments (State significance) OR

An item is important in demonstrating the principal characteristics of a class of the area's cultural or natural places; or cultural or natural environments (Local significance).

Guidelines for Inclusion:

- Is a fine example of its type

Applicable. The house at 68 Denistone Road is considered to be a fine representative example of the Inter-war California Bungalow style which retains a substantial garden setting including inter-war period features such as palm trees.

- Has the principal characteristics of a particular way of life, philosophy, custom, significant process, design, technique or activity

Applicable as the subject house has the principal characteristics of the Inter-war California Bungalow style, including terracotta tiled gabled and hipped roof form, shingled and imitation half-timbered gable ends, dark brickwork, verandahs with brick balustrades and pairs of timber posts, timber-framed casement windows with fanlights above, extensive use of lead lighting, decorative paneled plaster ceilings, use of timber fretwork friezes and timber paneled doors to the interior.

- Is a significant variation to a class of items.

Not Applicable. The house is considered to be a fine representative example of the Inter-war California Bungalow style.

- Is part of a group which collectively illustrates a representative type

Not Applicable.

- Is outstanding because of its setting, condition or size

ITEM 5 (continued)

ATTACHMENT 1

Applicable at a local level due to the prominent corner location and substantial garden setting of the house.

- Is outstanding because of its integrity or the esteem in which it is held.

Applicable at a local level due to the integrity of the house.

Guidelines for Exclusion:

- Is a poor example of its type.

Not Applicable.

- Does not include or has lost the range of characteristics of a type

Not Applicable. The house retains the characteristics of an Inter-war California Bungalow, and is substantially intact.

- Does not represent well the characteristics that make up a significant variation of a type.

Not Applicable. The house is a fine representative example of an Inter-war California Bungalow.

5.2. DETAILED ASSESSMENT OF HERITAGE SIGNIFICANCE

CRITERION (A) HISTORICAL SIGNIFICANCE

The house *Lanark Brae* at 68 Denistone Road (corner Florence Avenue) is of local historical significance as evidence of the suburban subdivision of the 19th century Denistone Estate, specifically the development of the Denistone Estate Subdivision No. 2, lots of which were offered for sale from December 1914, and of the operation of a building covenant on the land.

CRITERION (B) HISTORICAL SIGNIFICANCE (ASSOCIATION)

Not relevant, as there is no known historical association with significant persons.

CRITERION (C) AESTHETIC/TECHNICAL SIGNIFICANCE

The house and property are of local aesthetic significance, as the house is a finely detailed, substantial representative example of an Inter-war California Bungalow style house, built within the core period for this house style, on a large prominent corner site within a garden setting which retains significant inter-war period garden features including three palm trees, brick and stone edging to paths and garden beds.

The house is remarkably intact and features distinctive exterior elements of the style including leadlight timber-framed casement windows, bay windows, return verandah and a small eastern verandah, dark face brickwork, terracotta tiled hipped and gabled roof, gable ends featuring timber shingling and imitation half timbering, brick verandah balustrades with timber posts above, and distinctive internal elements of the style including timber fretwork frieze and timber pilasters between main hallway and lounge/dining area, tiled fireplaces with timber mantelpieces to formal rooms, timber paneled doors, timber floors and decorative plaster ceilings.

CRITERION (D) SOCIAL SIGNIFICANCE

Not researched.

CRITERION (E) RESEARCH POTENTIAL

Not relevant. The property is considered unlikely to have significant archaeological potential.

ITEM 5 (continued)

ATTACHMENT 1

CRITERION (F) RARITY

The house and property are rare at a local level as a substantial Inter-war California Bungalow style house on a prominent corner property retaining a substantial garden setting including inter-war period garden features.

CRITERION (G) REPRESENTATIVENESS

The house is a finely detailed, substantial representative example of an Inter-war California Bungalow style house within a substantial garden setting retaining inter-war garden features.

INTEGRITY

The house and property exhibit a substantial degree of integrity with only minor alterations including partial verandah enclosure to create a sunroom, rear addition for an additional bedroom, and construction of new garage/workshop to the rear of the house.

5.3. SUMMARY STATEMENT OF SIGNIFICANCE

The house *Lanark Brae* at 68 Denistone Road (corner Florence Avenue), Denistone is of local historical significance as evidence of the suburban subdivision of the 19th century Denistone Estate, specifically the development of the Denistone Estate Subdivision No. 2, lots of which were offered for sale from December 1914, and of the operation of a building covenant on the land.

The house and property are of local aesthetic significance, as the house is a finely detailed, substantial representative example of the Inter-war California Bungalow style, built within the core period for this house style, on a large prominent corner site within a garden setting which retains significant inter-war period garden features including three palm trees, and brick and stone edging to paths and garden beds. The house is remarkably intact and features distinctive exterior elements of the style including leadlight timber-framed casement windows, bay windows, return verandah and a small eastern verandah, dark face brickwork, terracotta tiled hipped and gabled roof, gable ends featuring timber shingling and imitation half timbering, brick verandah balustrades with timber posts above, and distinctive internal elements of the style including timber fretwork frieze and timber pilasters between main hallway and lounge/dining area, tiled fireplaces with timber mantelpieces to formal rooms, timber paneled doors, timber floors and decorative plaster ceilings.

The house and property are rare at a local level as a substantial Inter-war California Bungalow style house on a prominent corner property retaining a substantial garden setting including inter-war period garden features.

6.0 CONCLUSION/RECOMMENDATIONS

6.1. COUNCIL ACTIONS

It is recommended that as this report has established the local heritage significance of the property at 68 Denistone Road, Denistone (Lots 1,2 & 3, DP1096437), the City of Ryde Council proceed with the process of heritage listing the site by amending the Ryde LEP 2014 to include the site as a heritage item under Schedule 5 Part 1: Heritage Items of that LEP.

ITEM 5 (continued)

ATTACHMENT 1

6.2. POLICY RECOMMENDATIONS WITH REGARD TO FUTURE DEVELOPMENT PROPOSALS FOR THE SITE

- Ensure the house "Lanark Brae" and early 20th Century garden elements on the site including the three palm trees, and brick and stone edging within the garden, are retained and conserved as part of any future proposals for the site
- Future proposals should ensure conservation and restoration of the property by retaining the internal spatial arrangement of the house, interior and exterior original features, finishes and details, while also allowing provision for an ensuite/bathroom to Bed 2, and new kitchen, laundry, bathroom fitouts.
- Preferably retain the use of the property as a residence.
- Future proposals may involve rear additions to the house or new structures at the rear of the property, providing these do not affect significant elements of the site, have an appropriate relationship to the street frontages and are of an appropriate height and scale which does not dominate or detract from the house "Lanark Brae" as the main significant building on the property.
- Require any development proposal for the site to include a Heritage Impact Statement including a Schedule of Conservation Works. The undertaking of work included in the Schedule of Conservation Works should be a Condition of any development consent for the site and should be certified as completed prior to the issue of any Occupation Certificate following a development approval. The Schedule of Conservation Works is to include:
 - Works to remove later accretions to the house which detract - such as removal of the circa 1950s sunroom (partial verandah enclosure) on the western side verandah and reinstatement of this area as part of the open verandah
 - Works to repair damaged plasterwork to interior walls and any other elements damaged by illegal building works

It should be noted that the following site elements are of low heritage significance:

- 4th bedroom to the north-west corner of the house, a later (post-1943) addition.
- decking to the rear of the house
- the garage/workshop, and
- roof connecting the rear of the house to the garage/workshop.

ITEM 5 (continued)

ATTACHMENT 1

7.0 ATTACHMENTS

ATTACHMENT 1: DRAFT STATE HERITAGE INVENTORY (SHI) FORM FOR
LANARK BRAE, 68 DENISTONE ROAD, DENISTONE

ITEM 5 (continued)

ATTACHMENT 1

SHI INVENTORY FORM – WORD VERSION

ITEM

ITEM NO:
 ITEM NAME: Lanark Brae
 LOCATION: 68 Denistone Road, Denistone
 ALTERNATE ADDRESS: Corner Florence Avenue
 OTHER/FORMER NAMES:
 ITEM TYPE: Built
 CATEGORY: Residential
 GROUP/COLLECTION: ----

LGA: City of Ryde

SUMMARY STATEMENT OF SIGNIFICANCE:

The house Lanark Brae, built in 1920 at 68 Denistone Road (corner Florence Avenue) is of local historical significance as evidence of the development of the Denistone Estate Subdivision No. 2, lots of which were offered for sale from December 1914, and of the early twentieth century suburban development of the Denistone Estate in general.

The house and property are of local aesthetic significance, as the house is a finely detailed, substantial representative example of an Inter-war California Bungalow style house, built within the core period for this house style, on a large prominent corner site within a garden setting which retains significant inter-war period garden features including three palm trees, and brick and stone edging to paths and garden beds.

The house and property are rare at a local level as a substantial Inter-war California Bungalow style house on a prominent corner property retaining a substantial garden setting including inter-war period garden features.

Assessed Significance: Local

LISTINGS: Currently subject to an Interim Heritage Order

LOCATION:

Owner: Private – Individual
 LOTS/DPS: Lots 1,2 & 3, DP1096437
 BOUNDARIES: The property has the following boundaries: North- east: boundary adjoins properties at 464 Blaxland Road and 466 Blaxland Road; North-west: boundary adjoins property at 66 Denistone Road; South-west: boundary to Denistone Road ; South-east: boundary to Florence Avenue.

ITEM 5 (continued)

ATTACHMENT 1

DESCRIPTION

DESIGNER: Not known
 MAKER/BUILDER: Not known
 YEAR STARTED: 1920 YEAR COMPLETED: 1920 CIRCA: NO

PHYSICAL DESCRIPTION:

The house Lanark Brae is a single storey dark face brick house located on the north-western corner of Denistone Road and Florence Avenue, featuring a hipped and gabled terracotta tiled roof, simple stuccoed brick chimneys, and timber-framed casement windows and fanlights. The house features a return verandah on the south and west elevations, returning around the front south-west corner. The verandahs feature timber floors and brick balustrades with pairs of timber posts above. The ceiling to the main return verandah is a plain paneled ceiling, however the ceiling to the eastern verandah is decorative plaster. There are steps flanked by stuccoed brick dwarf walls onto the return verandah from the south and west. The timber-panelled front door features a leadlight panel and is surrounded by leadlight sidelights and fanlights. The house also features bay windows to the front (south) and western side elevations, and leadlight windows including two small leadlight windows to the eastern elevation either side of the lounge room fireplace.

The garden includes significant original features including three palm trees located near the house and brick and stone path and garden bed edging.

The front fence to Denistone Avenue is a timber picket fence which while not original is not unsympathetic.

PHYSICAL CONDITION: Good

MODIFICATION DATE/S:

Evident alterations to the house and site include:

- Circa 1950s partial verandah enclosure to the western side of the return verandah to form a sunroom. The original western steps onto the verandah at this point have been retained, and the enclosure is lightweight and easily removeable.
- Covered decking to the rear of the house, which appears relatively modern.
- Single storey brick extension to the rear north-western corner of the house to create Bedroom 4/study room. This has been constructed in brickwork to match existing and roofed with terracotta tiling to match existing and is considered to be a sympathetic rear addition to the house.
- New garage/workshop to the rear of the house.

FURTHER COMMENTS:

During 2018 some illegal building works have taken place, including removal of plasterwork from small sections of interior walls.

HISTORY

The land at Denistone was the home of the Wallumede people, however European settlement of the area from the 1790s drove indigenous people out of the area, with no references to indigenous residents after 1809. Prominent indigenous residents of the area included Bennelong and his kinsman Bidjee Bidjee.

The site at 68 Denistone Road was part of a land grant made to John Varnice in 1795 known as "Porteus Mount".

In 1806 shortly after his arrival in the colony of New South Wales, Gregory Blaxland had purchased the nearby 450-acre Brush Farm grant. In 1829 Gregory Blaxland transferred Brush Farm Estate to his eldest daughter Elizabeth and her husband Dr. Thomas Forster. The following year Forster expanded the estate by purchasing the "Porteous Mount" grants of 120 acres, east of Brush Farm Estate. Forster built an eight-room house which he called Deniston after his birthplace, possibly Dennistoun in Lanarkshire, Scotland.

ITEM 5 (continued)

ATTACHMENT 1

On May 23 1840, Dr Forster leased 'the dwelling houses known by the name of Deniston' and 100 acres (40.4 hectares) of land to Major Edward Darvall for a period of 12 years. After the Darvalls' departure, Deniston House was occupied by Andrew Hardie McCulloch and his family. The house was burned down by bushfires on 30 December 1854.

Deniston Estate was purchased by Richard Rouse Terry on 9 December 1872. Terry was the grandson of the 'Botany Bay Rothschild' Samuel Terry and of Richard Rouse who gave his name to Rouse Hill. R.R. Terry built the present two-storey sandstone Denistone House (now part of Ryde Hospital) and resided there for many years after its completion in 1874. The property, comprising 140 acres, was brought under Torrens title in 1884. After Terry's death in 1898, ownership passed to his son John Edgar Terry, accountant of Sydney, and son-in-law Frank David Muller, gentleman of Sydney.

In November 1913 it was reported that the first of three subdivisions of the Denistone Estate into 169 quarter-acre blocks would be offered for sale. Also, in 1913, 6.8 hectares of the estate, including Denistone House, was purchased by the New South Wales Government for use as a convalescent hospital for men, complementing the Carrara convalescent hospital for women at Vaucluse. The site later grew into the Ryde District Soldiers' Memorial Hospital which opened on 12 May 1934 with 56 beds, with Denistone House converted into the nurses' quarters. The house was later used for a maternity ward.

The second subdivision of the Denistone Estate, including the current No. 68 Denistone Road, was offered for sale between August and December 1914. While many lots were sold in 1914 and 1915, the current 68 Denistone Road site was not sold until its purchase by Christina Ann Jones, widow, on 15 November 1917.

Mrs. Christina Ann Jones was the widow of the Reverend Henry Jones, a Methodist minister who had served in New South Wales and Queensland in a long career, before dying in 1910 at the age of 61. Mrs. Jones was born in Ryde in 1853, the daughter of Andrew and Janet Short. After her husband's death their only child, Henry Spencer Jones, enlisted in World War I and returned after service in France. During his absence overseas Mrs. Jones moved in with her relatives at Clyde Cottage, North Road, Ryde. When Mrs. Jones bought the land now known as 68 Denistone Road, there was a covenant on the property requiring the erection of a building worth at least £300.

Historical records indicate the house at 68 Denistone Road was built in 1920. Mrs. Jones sold her previous home at 36 Wisdom Road, Greenwich on 6 November 1916 to Walter Berry, grazier, retaining a mortgage over the property. Her address was amended to Clyde Cottage on 1 November 1916 on her son's war record. After her son's return from the war in 1919 the mortgage on her previous home in Greenwich was discharged on 7 February 1920. Henry Spencer Jones married Margaret Kavanagh on 29 April 1920.

Therefore in 1920 Mrs. Jones had received the funds from the sale of her previous home, and her son had returned from the war and married. This provides both the means and motive for the construction of the new house in Denistone. Mrs. Jones first appears in the Sands Directory at the Denistone address in 1921. The directory was published in January each year, with entries closing in the first week of the preceding October. Therefore 68 Denistone Road must have been completed and occupied by early October 1920. Mrs. Jones named the house *Lanark Brae* after her previous marital home in Greenwich.

In 1919 and 1922 Mrs. Jones purchased additional land to expand the site to the west and north, and then transferred the enlarged site to her son Henry Spencer Jones on 24 October 1924.

A sewerage diagram from circa 1930 shows the house on its enlarged site, with a rear garage erected in 1926 accessed off Florence Avenue.

Mrs Christina Jones died in 1934. Henry Spencer Jones retained the house until 1961 when it was transferred to Olga Blanche Scott, married woman of Eastwood, on 9 November 1961.

Mrs. Scott sold the property on 13 February 1990 for \$395,000 to Graeme Lloyd Willis and Doreen Myfanwy Willis as joint tenants.

Following the death of Mrs. Willis in January 2018 the house was sold again, this time for \$3,601,000.

ITEM 5 (continued)

ATTACHMENT 1

HISTORIC THEMES:

National Theme	State Theme	Local Theme
Developing Cultural Life	Creative Endeavour	Fine example of Inter-war California Bungalow style
Settlement	Accommodation	
Settlement	Towns, Suburbs and villages	Denistone Estate No. 2 subdivision 1914
Settlement	Land Tenure	Early 20 th century suburban subdivision of large 19 th century estates

Owner: Private- Individual
Current Use/s: Residence
Former Use/s: Residence

ASSESSMENT

SHR Criterion (a) Historical:

The house *Lanark Brae* at 68 Denistone Road (corner Florence Avenue), Denistone is of local historical significance as evidence of the suburban subdivision of the 19th century Denistone Estate, specifically the development of the Denistone Estate Subdivision No. 2, lots of which were offered for sale from December 1914, and of the operation of a building covenant on the land.

SHR Criterion (b) Historical Association:

Not relevant

SHR Criterion (c) Aesthetic/Technical:

The house and property are of local aesthetic significance, as the house is a finely detailed, substantial representative example of an Inter-war California Bungalow style house, built within the core period for this house style, on a large prominent corner site within a garden setting which retains significant inter-war period garden features including three palm trees, brick and stone edging to paths and garden beds.

The house is remarkably intact and features distinctive exterior elements of the style including leadlight timber-framed casement windows, bay windows, return verandah and a small eastern verandah, dark face brickwork, terracotta tiled hipped and gabled roof, gable ends featuring timber shingling and imitation half timbering, brick verandah balustrades with timber posts above, and distinctive internal elements of the style including timber fretwork frieze and timber pilasters between main hallway and lounge/dining area, tiled fireplaces with timber mantelpieces to formal rooms, timber paneled doors, timber floors and decorative plaster ceilings.

SHR Criterion (d) Social:

Not relevant

SHR Criterion (e) Research:

Not relevant

SHR Criterion (f) Rarity:

The house and property are rare at a local level as a substantial Inter-war California Bungalow style house on a prominent corner property retaining a substantial garden setting including inter-war period garden features.

ITEM 5 (continued)

ATTACHMENT 1

SHR Criterion (g) Representative:

The house is a finely detailed, substantial representative example of an Inter-war California Bungalow style house within a substantial garden setting retaining inter-war garden features.

Integrity/Intactness:

The house and property exhibit a substantial degree of integrity with only minor alterations including partial verandah enclosure to create a sunroom, rear addition for an additional bedroom, and construction of new garage/workshop to the rear of the house.

Assessed Significance: Local

REFERENCES

REFERENCES USED FOR THIS ITEM

Author:

Title:

Year:

Publisher:

Page Nos:

Repository:

Type of info:

Client Name:

HERITAGE STUDIES WHICH INCLUDE THIS ITEM:

Study Author: Paul Davies Pty Ltd & Dr. Anne-Maree Whitaker

Study Title: Heritage Assessment report on 68 Denistone Road, Denistone for City of Ryde Council

Year: 2018

Number in Study:

ADMIN

MANAGEMENT CATEGORY AND TYPE:

Statutory Instrument: list on a Local Environmental Plan

Develop a Statement of Heritage Impact

RECOMMENDED MANAGEMENT:

- Ensure the house "Lanark Brae" and early 20th Century garden elements on the site including the three palm trees, and brick and stone edging within the garden, are retained and conserved as part of any future proposals for the site
- Future proposals should ensure conservation and restoration of the property by retaining the internal spatial arrangement of the rooms house, interior and exterior original features, finishes and details, while also allowing provision for an ensuite/bathroom to Bed 2, and new kitchen, laundry, bathroom fitouts.
- Preferably retain the use of the property as a residence.
- Future proposals may involve rear additions to the house or new structures at the rear of the property, providing these do not affect significant elements of the site, have an appropriate relationship to the street frontages and are of an appropriate height and scale which does not dominate or detract from the house "Larnark Brae" as the main significant building on the property.

ITEM 5 (continued)

ATTACHMENT 1

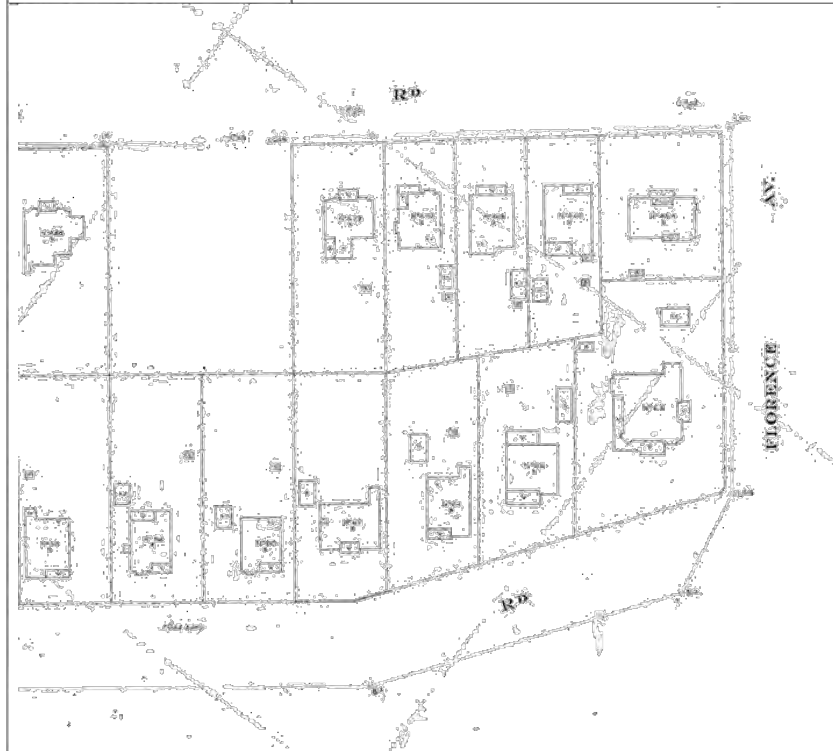
- Require any development proposal for the site to include a Heritage Impact Statement including a Schedule of Conservation Works. The undertaking of work included in the Schedule of Conservation Works should be a Condition of any development consent for the site and should be certified as completed prior to the issue of any Occupation Certificate following a development approval. The Schedule of Conservation Works is to include:
 - o Works to remove later accretions to the house which detract - such as removal of the circa 1950s sunroom (partial verandah enclosure) on the western side verandah and reinstatement of this area as part of the open verandah
 - o Works to repair damaged plasterwork to interior walls and any other elements damaged by illegal building works

ITEM 5 (continued)

ATTACHMENT 1

IMAGES

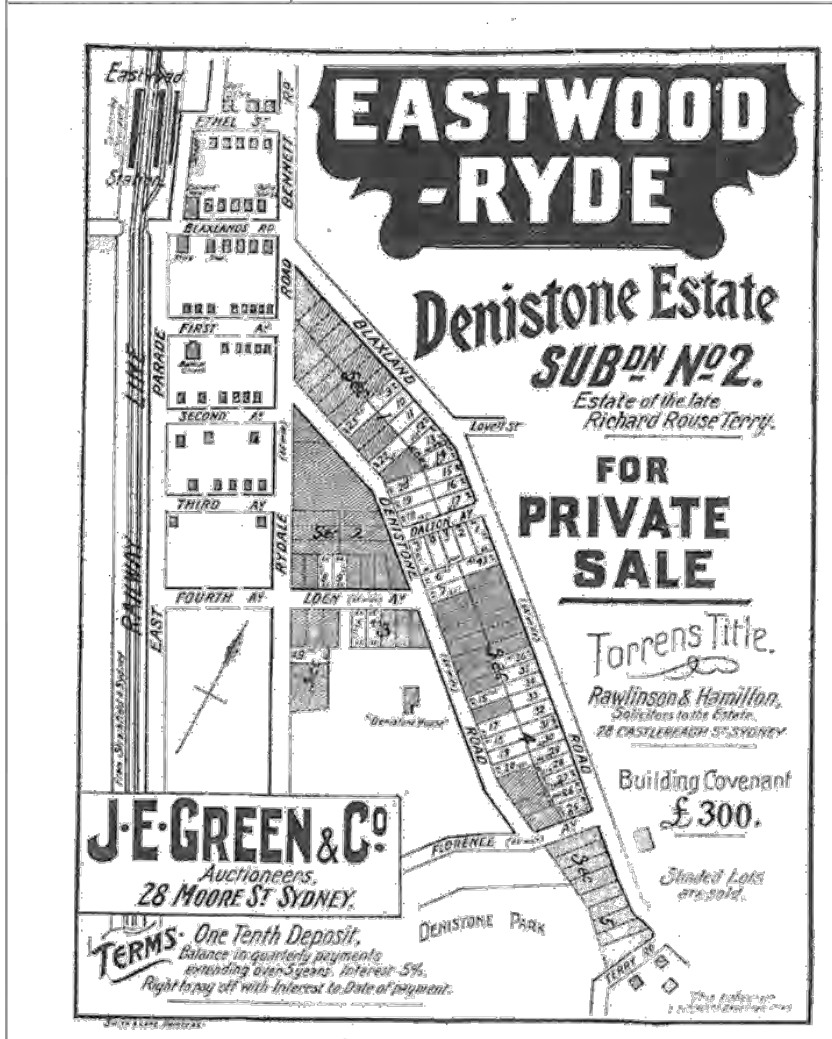
Image type	Map
Image Caption	1930s sewerage plan showing Lanark Brae on the corner of Denistone Road & Florence Avenue, with original rear garage constructed 1926
Thumbnail Caption	1930s sewerage plan showing Lanark Brae on the corner of Denistone Road & Florence Avenue
Image Number	
Image by	MWS & DB NSW
Image date	1930
Image copyright	Source Ryde Library Local Studies
Image filename	
Thumbnail filename	



ITEM 5 (continued)

ATTACHMENT 1

Image type	Subdivision map
Image Caption	Denistone Estate Subdivision No. 2 1914
Thumbnail Caption	Denistone Estate Subdivision No. 2 1914
Image Number	
Image by	
Image date	1914
Image copyright	Image source Ryde Library Local Studies
Image filename	
Thumbnail filename	



ITEM 5 (continued)

ATTACHMENT 1

Image type	Photograph
Image Caption	"Lanark Brae" 68 Denistone Road, Denistone
Thumbnail Caption	"Lanark Brae" 68 Denistone Road, Denistone
Image Number	
Image by	Paul Davies Pty Ltd
Image date	14/11/2018
Image copyright	City of Ryde Council & Paul Davies Pty Ltd
Image filename	
Thumbnail filename	



ITEM 5 (continued)

ATTACHMENT 1

Image type	Photograph
Image Caption	West elevation of "Lanark Brae" 69 Denistone Road, Denistone
Thumbnail Caption	West elevation of "Lanark Brae" 69 Denistone Road, Denistone
Image Number	
Image by	Paul Davies Pty Ltd
Image date	14/11/2018
Image copyright	City of Ryde Council & Paul Davies Pty Ltd
Image filename	
Thumbnail filename	



ITEM 5 (continued)

ATTACHMENT 1

Image type	Photograph
Image Caption	Palm trees at "Lanark Brae" 69 Denistone Road, Denistone
Thumbnail Caption	Palm trees at "Lanark Brae" 69 Denistone Road, Denistone
Image Number	
Image by	Paul Davies Pty Ltd
Image date	14/11/2018
Image copyright	City of Ryde Council & Paul Davies Pty Ltd
Image filename	
Thumbnail filename	



ITEM 5 (continued)

ATTACHMENT 1

Image type	Photograph
Image Caption	Eastern verandah, "Lanark Brae" 69 Denistone Road, Denistone
Thumbnail Caption	Eastern verandah, "Lanark Brae" 69 Denistone Road, Denistone
Image Number	
Image by	Paul Davies Pty Ltd
Image date	14/11/2018
Image copyright	City of Ryde Council & Paul Davies Pty Ltd
Image filename	
Thumbnail filename	



ITEM 5 (continued)

ATTACHMENT 1

Image type	Photograph
Image Caption	Leadlight window "Lanark Brae" 69 Denistone Road, Denistone
Thumbnail Caption	Leadlight window, "Lanark Brae" 69 Denistone Road, Denistone
Image Number	
Image by	Paul Davies Pty Ltd
Image date	14/11/2018
Image copyright	City of Ryde Council & Paul Davies Pty Ltd
Image filename	
Thumbnail filename	



ITEM 5 (continued)

ATTACHMENT 1

Image type	Photograph
Image Caption	Timber fretwork freize and posts between hallway & lounge/dining room, "Lanark Brae" 69 Denistone Road, Denistone
Thumbnail Caption	Timber fretwork freize and posts between hallway & lounge/dining room, "Lanark Brae" 69 Denistone Road, Denistone
Image Number	
Image by	Paul Davies Pty Ltd
Image date	14/11/2018
Image copyright	City of Ryde Council & Paul Davies Pty Ltd
Image filename	
Thumbnail filename	



ITEM 5 (continued)

ATTACHMENT 1



ATTACHMENT 5

Schedule 5 Environmental Heritage and Draft Heritage Map

Ryde Local Environmental Plan 2014

Inserted in alphabetical order item 224 shown red

Denistone	"Poynton" (house)	25 Commissioners Road	Lot A, DP 28226	Local	36
Denistone	"Denistone House" and "Trigg House" (Ryde Hospital)	1 Denistone Road	Lot I, DP 869614	Local	47
Denistone	House	68 Denistone Road	Lots 1-3, DP 1096437	Local	224
Denistone	House	22 Miriam Road	Lot 80A, DP 6272	Local	219



ITEM 5 (continued)

ATTACHMENT 1



ITEM 5 (continued)

ATTACHMENT 2

LOCAL PLANNING PANELS DIRECTION – PLANNING PROPOSALS

I, the Minister for Planning, give the following direction under section 9.1 of the *Environmental Planning and Assessment Act 1979*.


Minister for Planning

Dated: 27/1/2018

Objective

The objective of this direction is to identify the types of planning proposals that are to be advised on by local planning panels on behalf of councils in the Greater Sydney Region and Wollongong and to establish the procedures in relation to those matters.

Application

This direction applies to a council that has constituted a local planning panel under the *Environmental Planning and Assessment Act 1979*, other than the council of the City of Sydney.

Direction

1. A council to whom this direction applies is required to refer all planning proposals prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:
 - (a) the correction of an obvious error in a local environmental plan,
 - (b) matters that are of a consequential, transitional, machinery or other minor nature, or
 - (c) matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.
2. When a planning proposal is referred to the local planning panel for advice in accordance with this direction it is to be accompanied by an assessment report prepared by the council staff setting out recommendations in relation to the planning proposal, including whether or not the planning proposal should be forwarded to the Minister or Greater Sydney Commission under section 3.34 of the *Environmental Planning and Assessment Act 1979*.
3. The local planning panel must have given its advice on the planning proposal before council considers whether or not to forward it to the Minister or Greater Sydney Commission under section 3.34 of the *Environmental Planning and Assessment Act 1979*.
4. This direction takes effect on the date it is published on the Department of Planning and Environment's website and applies to planning proposals that, before that date, have not been forwarded to the Minister or the Greater Sydney Commission. For the avoidance of doubt, the requirement in clause 2 to this direction extends to planning proposals that

ITEM 5 (continued)

ATTACHMENT 2

have been referred to the local planning panel, and in relation to which the panel has not provided advice, before the date this direction takes effect.

5. This direction revokes the previous Local Planning Panels Direction – Planning Proposals dated 23 February 2018.