



30 JULY 2019

NOTICE OF MEETING

You are advised of the following meeting:

THURSDAY 8 AUGUST 2019.

City of Ryde Local Planning Panel Meeting No. 6/19

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 8 August 2019
Location: Council Chambers, Level 1A, 1 Pope Street, Ryde
Time: 5.00pm

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

NOTICE OF BUSINESS

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There are no LPP Planning Proposals

DEVELOPMENT APPLICATIONS

1 958 VICTORIA ROAD, WEST RYDE - ALTERATIONS & ADDITIONS TO EXISTING 9 ROOM BOARDING HOUSE BRINGING THE TOTAL BOARDING ROOM NUMBER TO 17 - LDA2018/0363

Report prepared by: Senior Town Planner

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

Report dated: 30/07/2019 **File Number:** GRP/09/6/12/1/2 - BP19/878

City of Ryde Local Planning Panel Report

DA Number	LDA2018/0363
Site Address & Ward	958 Victoria Road, West Ryde Central Ward
Zoning	SP1 Special Activities (Water Supply System)
Proposal	<p>Alterations & additions to the existing 9 room boarding house involving the following bringing the total boarding room number to 17:</p> <ul style="list-style-type: none"> • First floor rear addition to accommodate 2 new rooms; • New single storey detached building to accommodate 2 new rooms; • New two storey detached building to accommodate 4 new rooms.
Property Owner	C.J.E Dental Pty Ltd
Applicant	C.J.E Dental Pty Ltd
Report Author	Rebecca Lockart – Senior Town Planner
Lodgement Date	13 September 2018
No. of Submissions	2 submissions

ITEM 1 (continued)

Cost of Works	\$485,000.00
Reason for Referral to LPP	Sensitive development: Development involving the demolition of a heritage item
Recommendation	Refusal
Attachments	Attachment 1: Plans submitted with the application

1. Executive Summary

Application is made for alterations and additions to an existing building at No. 958 Victoria Road, West Ryde. The application seeks consent for the following:
Alterations & additions to the existing 9 room boarding house involving the following bringing the total boarding room number to 17:

- *First floor rear addition to accommodate 2 new rooms;*
- *New single storey detached building to accommodate 2 new rooms;*
- *New two storey detached building to accommodate 4 new rooms.*

The existing building is listed as a heritage item under *Ryde Local Environmental Plan 2014* (Ryde LEP 2014). Therefore, the application is referred to the Ryde Local Planning Panel (RLPP) as the proposal involves the partial demolition of a heritage item, being the rear wing of the existing building.

The use of the word 'demolition' in the RLPP referral criteria has the same meaning as under the Standard Instrument - Principal Local Environmental Plan:

*"demolish, in relation to a heritage item or an Aboriginal object, or a building, work, relic or tree within a heritage conservation area, means wholly or **partly destroy**, dismantle or deface **the heritage item**, Aboriginal object or building, work, relic or tree".*

The site is zoned SP1 Special Activities (Water Supply System), which prohibits any residential development. Accordingly, the proposal relies on permissibility via two planning pathways:

- Existing use rights under Section 4.65 of the *Environmental Planning and Assessment Act 1979* (EP&A Act); and
- Clause 5.10 of Ryde LEP 2014 which permits the consent authority to grant consent to development for any purpose of a building that is a heritage item, even though development for that purpose would otherwise not be allowed, if the consent authority is satisfied that the proposal meets a strict set of criteria.

ITEM 1 (continued)

The notification of the application attracted two (2) submissions objecting to the proposal. The submissions raise concerns relating to:

- pedestrian access;
- accuracy of details;
- traffic impacts;
- removal of trees impact on the heritage significance of the item; and
- safe vehicle access.

The assessment contained in this report concludes that the proposed development does not qualify for existing use rights and does not satisfy the provisions of Clause 5.10 of the Ryde LEP 2014. The development is therefore not permissible and accordingly, the consent authority cannot approve the subject application.

In summary, the development is not permissible for the following reasons:

- the proposal fails to demonstrate the development benefits from existing use rights under Section 4.56 of the EP&A Act; and
- the proposed development does not adequately satisfy Clause 5.10 of Ryde LEP 2014 as:
 - the proposed development does not facilitate the conservation of the heritage item;
 - the proposal does not identify if the proposed development is in accordance with the existing heritage management document for the site; and
 - the proposed works will adversely affect the heritage significance of the heritage item.

The proposal is also considered to be unacceptable for the following reasons:

- The proposal does not to comply with core amenity principles of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP (Affordable Rental Housing) 2009 or AHSEPP) and Ryde DCP 2014 Part 3.5 for boarding houses and the proposal will have an unacceptable impact on the amenity of the occupants of the premises.
- The site is considered unsuitable for the development due to the impacts of the proposed development on the heritage significance of the site, the incompatibility of the development with the SP1 Special Purposes zoning, and the amenity impacts on occupants due to non-compliances with the SEPP (Affordable Rental housing) 2009 and Ryde DCP 2014.
- Submissions have raised concern regarding the impacts of the development on the heritage significance of the heritage item.
- The proposed bicycle parking does not comply with the controls of Section 2.7 of Part 3.6 of Ryde Development Control Plan 2014 (Ryde DCP 2014). The

ITEM 1 (continued)

proposed bicycle parking is not secure or undercover, is in a concealed location and is unsafe for users.

- The proposed parking area fails to comply with the requirements of AS2890.1:2004.
- The application has been submitted with insufficient information to permit the consent authority to be satisfied that the development meets the following requirements:
 - BASIX Certificate as required by clause 2A of Schedule 1 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regs or 'the Regulations').
 - That the the proposal meets the acoustic and air quality requirements in accordance with Clause 101(c) of SEPP (Infrastructure) 2007.
 - That the development will comply the noise criteria under Clause 102 of SEPP (Infrastructure) 2007
 - That the land is suitable (or will be suitable, after remediation) for the intensified residential purposes per Clause 7(1) of State Environmental Planning Policy No. 55.
 - That the proposal meets the relevant Stormwater Management requirements of Ryde DCP 2014.
 - Clause 94 of the EP&A Regs.
 - That the proposed development will have a detrimental impact on existing vegetation both on the site and adjoining properties, and the proposed landscaping does not meet the relevant amenity and design standards for the proposed development.

Given the reasons detailed above, the development application is recommended for refusal.

2. The Site and Locality

The site is known as 958 Victoria Road West Ryde, Lot 8 in DP 819902. The site has an area of 1,217m² by site dimensions and a frontage of 31.525m to Victoria Road.

Positioned on the southern side of Victoria Road (as shown at **Figure 1 and 2**), the building is listed as a Local Heritage Item under the Ryde Local Environmental Plan 2014 (RLEP 2014) and noted as having historical significance as the former Ryde Pumping Station Engineer's residence built circa 1891. An image of the existing building on site is shown at **Figure 3**.

The site is bounded on three sides by 948 Victoria Road (the Sydney Water owned Ryde Pumping Station and site) which is a State Heritage item listed on the State Heritage Register.

ITEM 1 (continued)

To the north of the site is Lot 14 in DP 819902 which was subdivided from the subject site for the purpose of acquisition to accommodate a future road. Lot 14 is owned by the Roads and Maritime Service, is zoned SP2 Classified Road, and does not form part of this development application.

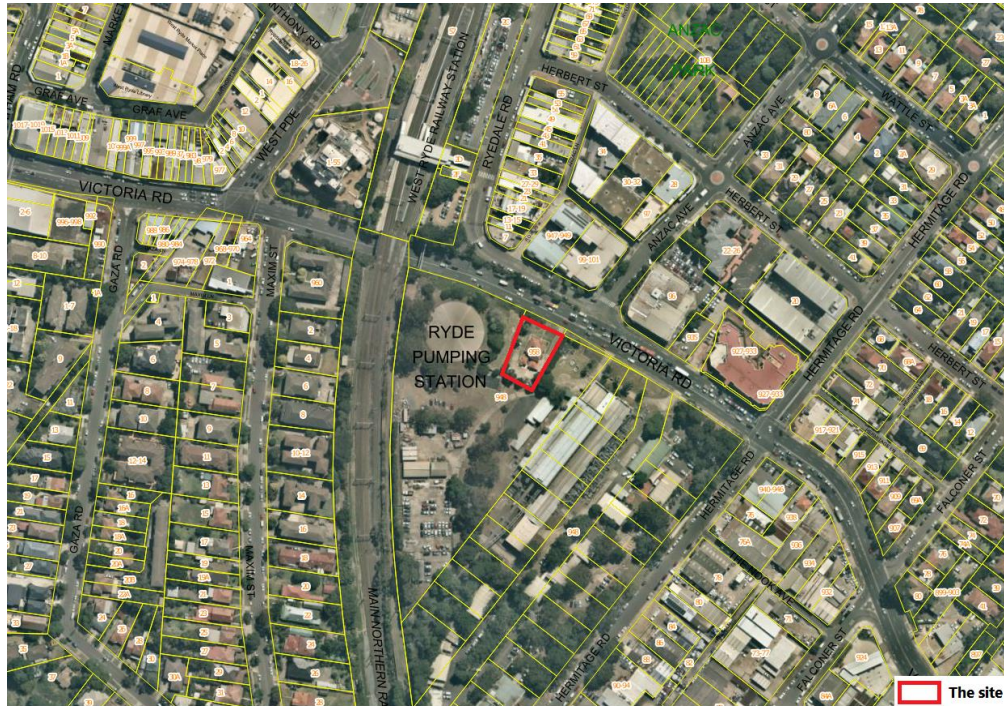


Figure 1. Aerial photo of the site



Figure 2. Aerial photo of the site showing Land Title details for the site and surrounding lots

ITEM 1 (continued)



Figure 3. Photo of the heritage listed building on the site, with the Ryde Pumping Station in the background

3. The Proposal

The proposal as sought by the applicant is for:

“Additions and alterations to existing boarding house to accommodate eight (8) additional rooms”

The existing building (referred to as an “existing boarding house” by the applicant) contains nine (9) rooms. The proposed alterations and additions include the following works to create a total of eight (8) additional rooms:

- First floor addition at the rear of the existing building. This will involve the partial removal of the roof structure at the rear of the property, to construct two rooms with ensuites and a laundry room on the first floor
- Two additional buildings to be positioned in the south-west corner of the site named Building ‘B’ and ‘C’ being:
 - Building B: two-storey building containing two (2) rooms with ensuites across each floor (i.e. total four (4) rooms)
 - Building C: one-storey building containing two rooms with ensuites.

ITEM 1 (continued)

As identified above, the proposed first floor addition to the existing building will involve the demolition of the roof structure of the ground floor and part of the wall structures of the first floor as detailed in **Figure 4 and 5** below



Figure 4. Photo of the south elevation of the existing building.

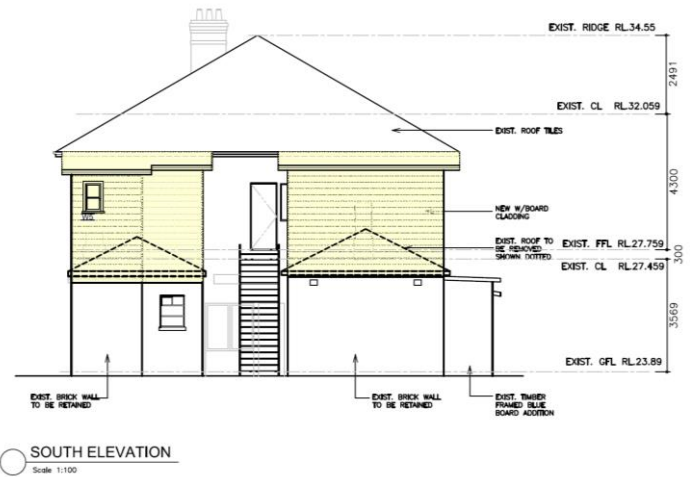


Figure 5. South elevation plan of proposed development

Figure 6 below shows the site analysis plan for the proposed development, noting the positions of proposed Buildings B and C.

ITEM 1 (continued)

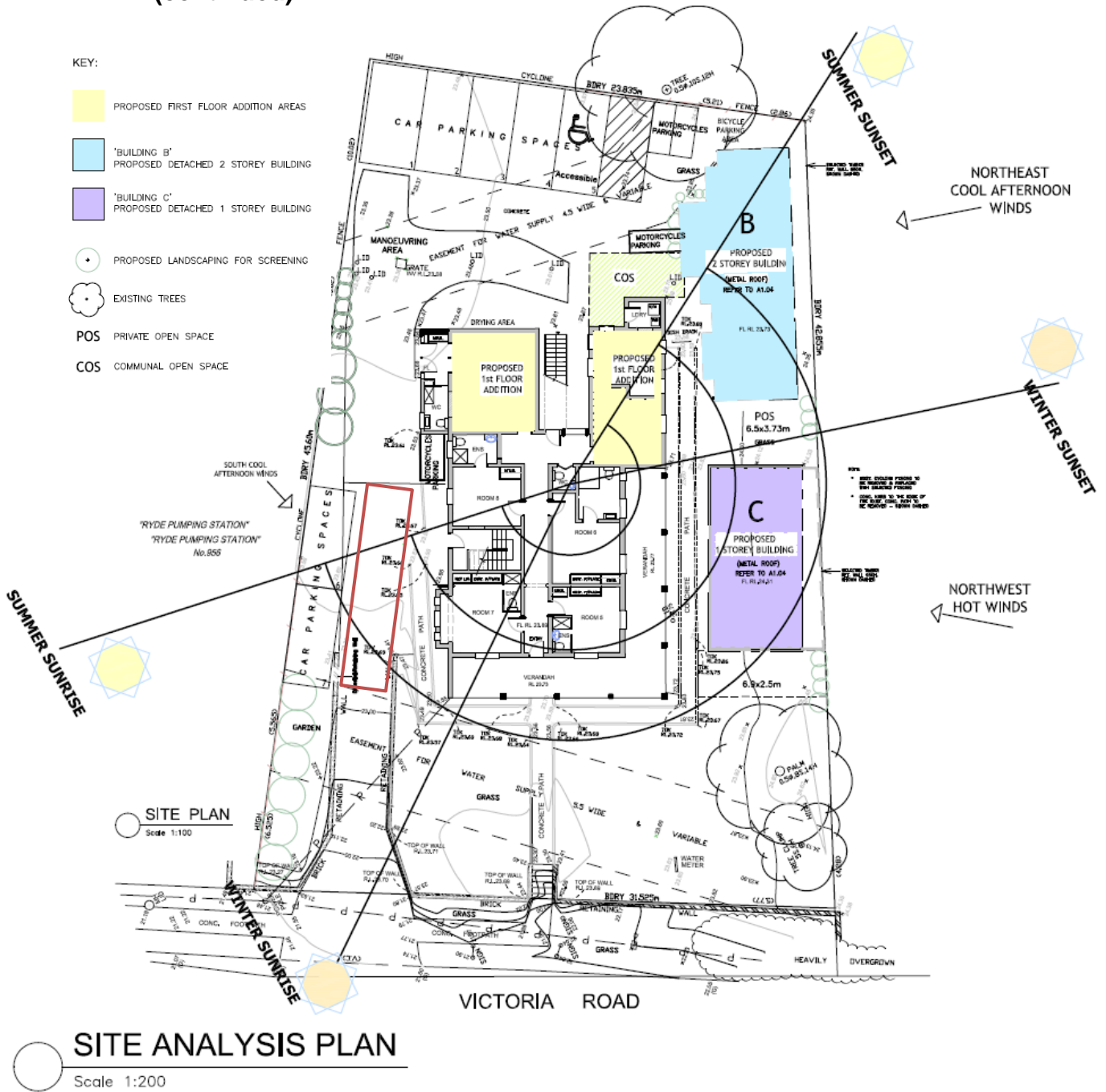


Figure 6. Site Analysis Plan (Source: Gus Fares Architects, Drawing No. DA/A001, June 2018 Issue A)

Figure 7 and 8 below identify the area of the existing site for the positions of proposed Buildings B and C within the context of the existing building and side boundaries.

ITEM 1 (continued)



Figure 7. Photograph of existing building identifying location of Building B and C.



Figure 8. Photograph of existing building identifying location of Building B and C.

The existing building has 9 rooms (5 on the ground floor and 4 on the first floor). All rooms are self-contained, meaning they have individual ensuites, and kitchenettes

ITEM 1 (continued)

(however consent for these works has never been obtained). The building also has a common laundry.

The ground floor is accessed via a pedestrian pathway that leads off Victoria Road, with rear access via the communal room/kitchen. The first floor is accessed primarily via a separate side entrance along the eastern façade of the building (**Figure 9**). Access is also via the rear stairs shown at **Figure 10**.



Figure 9. Photograph of existing building identifying primary entrance to access first floor.



Figure 10. Photograph of rear of existing building identifying secondary entrance to access first floor.

ITEM 1 (continued)

The existing driveway runs along the eastern boundary of the site which leads to the parking area at the rear of the property. At present, parking on the site is an informal arrangement with no line-marking or signage erected. The submitted Traffic Impact Assessment prepared by Apex Engineers identifies that, at present, there is car parking for 5 vehicles and 4 motorbikes at the rear of the property, however this is not clearly delineated.

The proposed parking scheme includes an additional 2 parking spaces along the driveway as highlighted in red at **Figure 6**.

The proposal also includes the removal of shrubbery along the eastern boundary of the site adjacent to the driveway for the proposed 2 parking spaces.

Plan of Management

The application includes a Plan of Management dated 20 June 2018 which provides for the following:

- Section 3 – Duties of the Property Manager/Managing Agent;
- Section 4 – Maximum Number of Lodgers;
- Section 5 – Minimising Impacts on Residents;
- Section 6 – Display of House Rules;
- Section 7 – Fire safety
- Section 8 – Cleaning and maintenance;
- Section 9 – Boarder/Lodger information;
- Section 10 – Registration the Boarding House;
- Section 11 – Boarding House Furniture and Facilities;
- Section 12 – Waste Management & Recycling; and
- Section 13 – Safety & Security.

It is noted that the Plan states that the boarding house will be operated and managed by a “*Manager/Managing Agent engaged by the owner who will be familiar with the content of the Plan of Management*”.

The Plan of Management states that there will be no use of the outdoor areas, common room and area permitted after 10pm on Sunday to Thursdays and after 11pm on Friday and Saturday.

4. Background**History of Subject Development Application**

- **13 September 2018:** Application lodged with Council
- **18 September 2018:** Council wrote to the applicant advising that the application would be rejected pursuant to Clause 51 of the Regulation because insufficient

ITEM 1 (continued)

information had been submitted to Council to enable a proper assessment to be conducted of the proposal.

- **26 September 2018:** The applicant's legal representative wrote to Council advising that under Clause 51 of the Regulations, Council did not have the authority to reject the application for the reasons outlined in the letter dated 18 September 2018.
- **26 September 2018:** A letter was sent to the applicant requesting additional information under Clause 54 of the Regulation stating that the permissibility of the development was not adequately established for Council to assess the development in its current form.
- **9 January 2019:** A further letter was sent to the applicant requesting the additional information as outlined in the earlier letter dated 26 September 2018.
- **16 January 2019:** Additional information was received including the applicant's justification of existing use rights and the permissibility of the proposed development.
- **18 January 2019:** The application was notified from 18 January 2019 to 22 February 2019 and advertised in the *Northern District Times* on 23 January 2019. In response two (2) submissions were received.
- **6 February 2019:** A site visit was undertaken by Council staff. The applicant was also advised that the 'existing layout' of the building (as shown on the plans) was not as per the layout of the building at the time of the inspection.
- **19 February 2019:** Amended plans were submitted to Council correcting the internal layout of the premises as shown on the plans.

Relevant Site History

- **28 April 1983:** A letter was received from The Secretary, Department of Environment & Planning stating:

"... the existing two-storey brick house has been declared surplus to its needs by the Metropolitan Water Sewerage and Drainage Board, and is under consideration for purchase from that Authority for use by the Government's Emergency Accommodation Unit.

It is intended that the premises be occupied and used as a hostel providing accommodation of medium to longer term duration predominantly for young people, under full-time supervision by a Resident Manager.

...

ITEM 1 (continued)

The subject land ... is zoned Special Uses 5(a) – Pumping Station and partly reserved for County Road Widening in the prescribed Ryde Planning Scheme.

...

An application is therefore now made to the Minister for Planning and Environment pursuant to the provisions of the Environmental Planning and Assessment Act 1979 and having regard to the provisions of State Environmental Planning Policy No. 8 – Surplus Public Land for consent to enable the property to be used for the purpose of a hostel”.

The original Development Application Form dated 26 April 1983 is attached to this report which sought approval for:

“Use of existing two storey house as Hostel Accommodation (See Letter)”.

- **19 May 1983:** A letter on behalf of The Secretary, Department of Environment & Planning was received stating:

“The Department is in receipt of a development application by the Housing Commission of New South Wales in respect on the above land.

The development application has been made under the provisions of State Environmental Planning Policy No. 8 – Surplus Public Land. The purpose of the application is to convert the existing building into a hostel providing accommodation of medium to longer term duration predominantly for young people, under the full-time supervision of a Resident Manager”.

- **29 June 1983:** General Planning Building and Development (G.P.B.& D) Committee No. 12/83. Meeting Held on 21 June 1983, and considered by Council Meeting on 28 June 1983, Minute No. 158.

“Consideration of a development application to convert existing building for emergency youth accommodation.”

- **18 October 1983:** A letter on behalf of The Secretary, The Housing Commission of N.S.W to Municipality of Ryde stating:

“2. Attached please find notice of determination of the development application, issued pursuant to section 92 of the Environmental Planning and Assessment Act 1979 and clause 44 of the Environmental Planning and Assessment Regulation 1980.

3. This approval does not relieve the applicant of the obligation to obtain any other approval required under the Local Government Act, 1919 and Ordinances (including approval of building plans) or any other Act”.

ITEM 1 (continued)

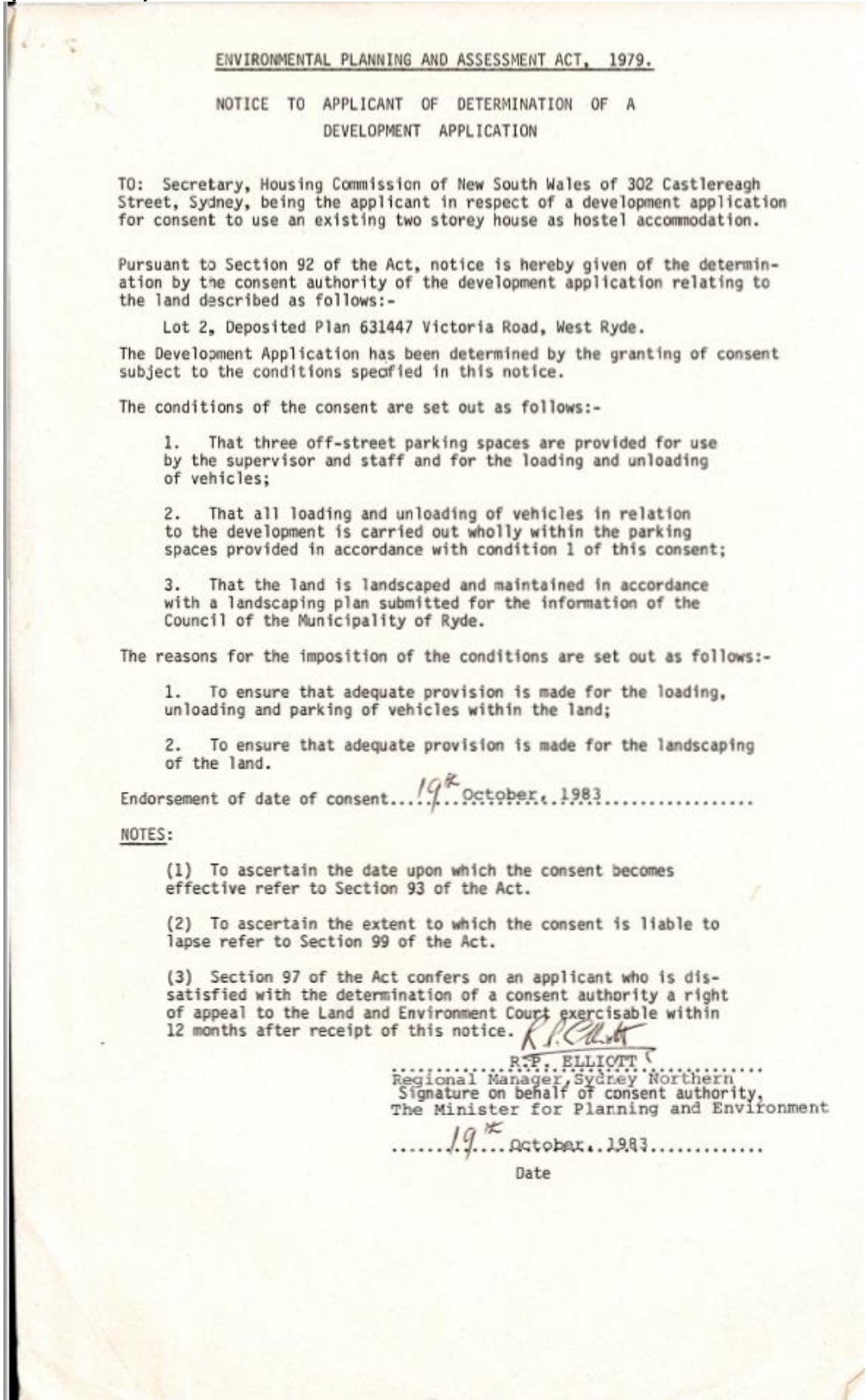
- **19 October 1983:** Notice to Applicant of Determination of a Development Application. A copy of this consent is included over page.

“TO: Secretary, Housing Commission of New South Wales ... for consent to use an existing two storey house as hostel accommodation”.

- **27 October 1983:** File note by Council Senior Draftsman:

“Approval was given by the Dept of Environment and Planning dated 19th October 1983, to convert the existing building on the above property, for emergency youth housing. A copy of the approval is kept in the consent register under Development Consent No. 3873’A’.”

ITEM 1 (continued)



Existing Development Consent for use of the premises issued 19 October 1983

ITEM 1 (continued)

- **9 December 1992:** Subdivision of Lot 2, DP631441 registered by the Land Titles Office, creating DP 819902 including Lot 7 being the Pump Station site and Lot 8 being the Engineers Residence site and a number of other ancillary lots.
- **29 July 2009:** Letter from Ryde Hunters Hill Community Housing Co-operative Ltd to General Manager City of Ryde:

“Ryde Hunters Hill Community Housing originally leased the above property from Housing NSW in June 1986 and has utilised the property to accommodate our tenants since that time”.

- **4 July 2011:** Council records show that the property was sold from the NSW Land and Housing Corporation to C.J.E Dental Pty Ltd (the current owner of the site).
- **15 February 2012:** Development Application LDA2012/0047 lodged with Council for:

“Alterations and additions to existing house”.

The submitted Statement of Environmental Impacts prepared by Peter Hall Architects dated November 2011, refers to the existing use as one (1) free-standing dwelling house, used for residential purposes.

Site photos taken by Council Assessment Officer dated 13 April 2012 notes all rooms are empty, with locks on doors to prevent squatters.

BASIX Certificate lodged with the DA (dated 6 January 2012, No. A129664) identified the dwelling type as ‘*Separate dwelling house*’.

- **16 October 2012:** Application was considered by the Ryde Planning & Environment Committee.

The DA was recommended for refusal to the Planning & Environment Committee due to adverse impacts on the heritage significance of the existing dwelling and the adjoining Ryde Pumping Station buildings, which are both listed as Heritage Items under Ryde LEP 2010.

At the Council’s Ordinary Meeting of 23 October 2012, it was resolved to defer consideration of this DA to enable mediation between the applicant, objectors and the Group Manager Environment & Planning.

The mediation meeting was held on 14 November 2012 at the Ryde Planning & Business Centre to discuss the issues of concern, which primarily related to the heritage significance of the subject building (which is a Heritage Item under Ryde LEP 2010).

ITEM 1 (continued)

Meeting Minutes on file dated 14 November 2012 identify the following comments from Chad Hazouri (the owner):

“Noted some of the concerns and issues he has had with the dwelling since he bought it recently, including repairing white-ant damage and on-going security issues with squatters. Also noted that the building was possibly used as an illegal boarding house by the previous owner but it is now vacant.

Now he wants to restore the building and undertake the proposed additions as soon as he can, and reside in the completed building and also possibly use it for his dental practice”.

And

“Raised concerns that this arrangement [relating to discussed changes to the design] would not meet the needs of his family”.

On 27 March 2013 final amended plans were submitted to address concerns regarding the original proposal. These final plans followed the submission of interim amended plans and a further meeting (following the mediation meeting) between Council staff, the applicant and the objector to refine what was to be included in the final amended plans.

- **21 May 2013:** Application was approved by the Ryde Planning & Environment Committee for *“Alterations and additions to existing dwelling”* subject to conditions.
- **14 August 2014:** Building Certificate (Section 149A Application) for unauthorised works (BC2014/0037) lodged for:

“Unauthorised works to parts of existing boarding house”

- **9 March 2015:** Email from Team Leader Development Assessment to Council Building Surveyor in relation to BC2014/0037:

“One of my main concerns is that the applicant appears to have “abandoned” any former boarding house usage of the property. During the assessment of the recent DA (LDA2012/47) during 2012-2013, there was no suggestion that the property was being used as a boarding house at that stage. The DA was for “alterations and additions to a dwelling”, and at the time the property was vacant (except there was some suggestion it was being used illegally from time to time by “squatters”). Under the EP&A Act and Regulations – Existing use rights are “abandoned” if the property ceases to be used for the previously approved purpose for a period of more than 12 months – and I think that the building was vacant for more than 12 months”.

ITEM 1 (continued)

- **9 March 2015:** Email from Team Leader Strategic Planning to Team Leader Development Assessment:

“When we visited on Friday it was certainly not being used as a boarding house – one room had a bed which was possibly being used but otherwise it was a construction site.

Peter Hall told us at meetings in 2012 it was not being used as a boarding house”.

- **8 March 2016:** BC2014/0037 was refused for the following reasons:

1. The property is in a Zone (SP2 Infrastructure - Pumping Station) as identified in Councils LEP and therefore, all work is ONLY permitted to be undertaken with a consent granted by the Consent Authority (Council)
2. The two storey building is an item of heritage significance as listed on Schedule 5 of Ryde LEP -2014 and, therefore, building work to be undertaken requires a consent by the Consent Authority (Council)
3. The building work undertaken (*as highlighted on the floor plans submitted*) indicates that the building is intended to be used as a Class 1(b) – *Boarding House*
4. Council Records show that no Consent has been granted for the “use” of the building for a Class 1(b) – *Boarding House*.
5. The Building fails to comply with the Building Code of Australia (BCA) for Class 1(b) – *“Boarding House”*
6. The building works completed on the Ground Floor and First Floor (*as highlighted on the floor plans submitted*) fails to comply with the Building Code of Australia (BCA)
7. The materials and fabric used to construct the unauthorised building works to the on the Ground Floor (*as highlighted on the floor plans submitted*) in particular the enclosed verandah and the removal of the French doors on the eastern elevation has a result of adverse heritage impact.

No compliance action was undertaken by Council’s Building Compliance Officers as access to the site was not provided by the owner despite numerous attempts by Council officers.

Registration of boarding houses

It is noted that the existing building is registered on the NSW Boarding House Register as a “General Registerable Boarding House”. NSW Fair Trading has advised¹ that the premises was registered in September 2015.

To obtain registration under the Boarding Houses Act 2012 (Part 2) details of the existing EP&A Act approval of the boarding house must be provided to NSW Fair Trading.

¹ Via telephone conversation with the Assessment Officer on 14 May 2019 with the Accommodation Registry team at NSW Fair Trading.

ITEM 1 (continued)

Accordingly, upon the determination of this application, it is recommended that Council write to NSW Fair Trading to advise of the unauthorised use of the premises as a boarding house in relation to the registration of the premises.

In addition to the above, it is emphasised that the premises is not registered on the Environmental Health Boarding House list under the Boarding House Act 2012.

Unauthorised building work

The plans submitted with the subject DA showing the 'existing layout' are incorrect, insofar as they show the 'existing' floor plans and elevations inclusive of the extensive unauthorised works that have previously been undertaken. This includes the following:

- Removal of the previous kitchen fitout and installation of a new kitchen fitout.
- Installation of a new bathroom / WC to ground floor bedrooms.
- New WC fitout to passageway at the rear of the ground floor.
- Removal of French doors to the verandah on the south-eastern wing and installation of partition to the verandah
- Installation of a bathroom / WC to the former verandah on the south-eastern rear wing.
- Fitout of a bathroom to the rear south-eastern corner of the first floor.
- Construction of a new internal bathroom ensuite and partition walls to all first floor bedrooms.

These works were included in the Building Certificate BC2014/0037 which was refused by Council. To show these unauthorised works on the plans is misleading, impedes the assessment of the proposed development and hinders Council from making an accurate assessment of the impact of the actual proposed use and works on the heritage significance of the building.

The only two (recent) approvals on the site are the 19 October 1983 consent issued by the Department of Housing for use of the existing building for hostel accommodation, and the 2012 Development Application LDA2012/0047 for alterations to an existing dwelling house (see **Figure 11**).

The existing layout plans as submitted with LDA2012/0047 are the only Council record available to benchmark and assess the building layout prior to the unauthorised works that have been undertaken to the site. A review of this compared with the existing plans submitted with the subject DA (**Figure 12**) identifies that extensive works have been undertaken without Council approval, between the 2012 DA and the lodgement of the subject application.

ITEM 1 (continued)

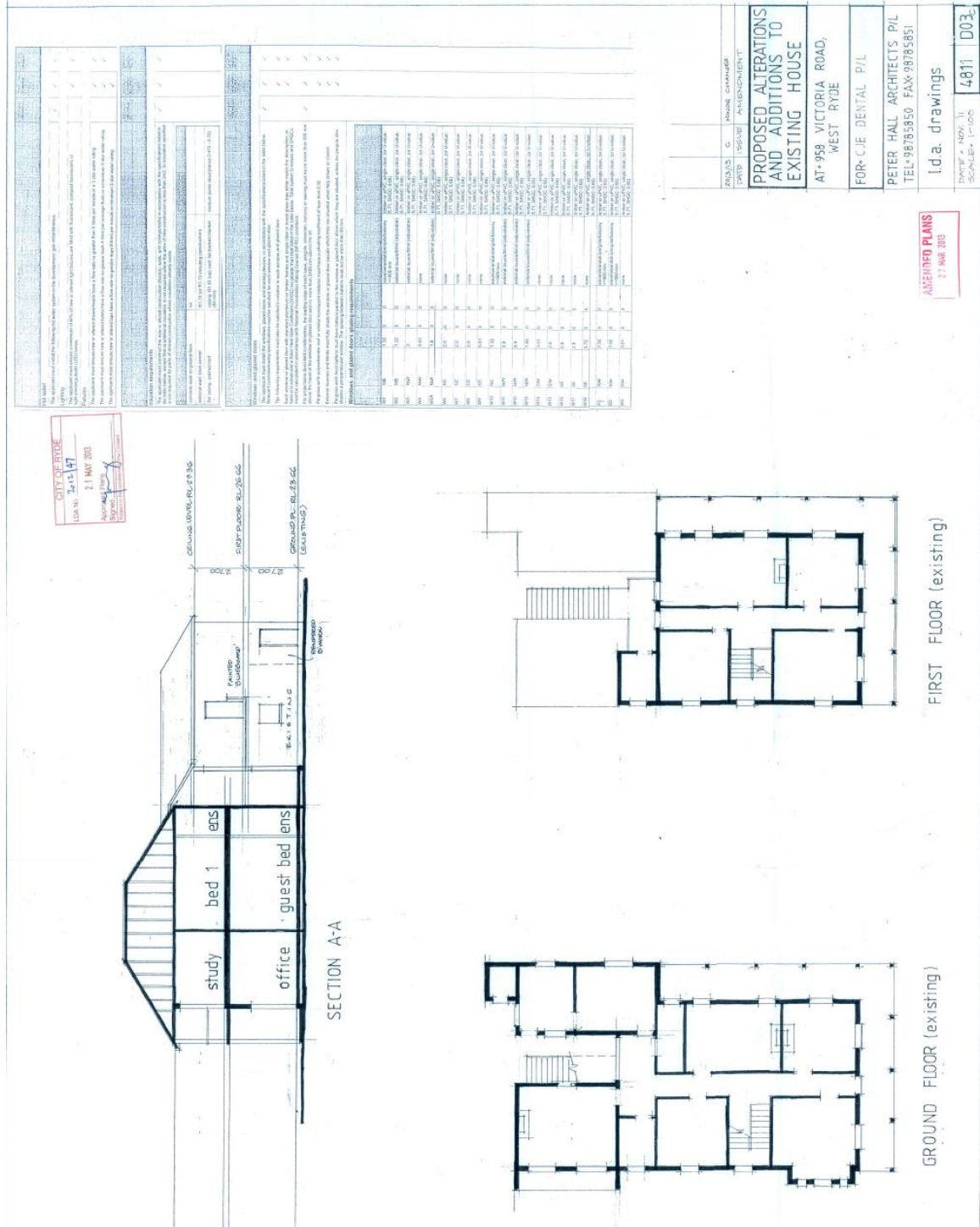


Figure 11. Approved DA plans under LDA2012/0047 showing existing layout of premises.

ITEM 1 (continued)

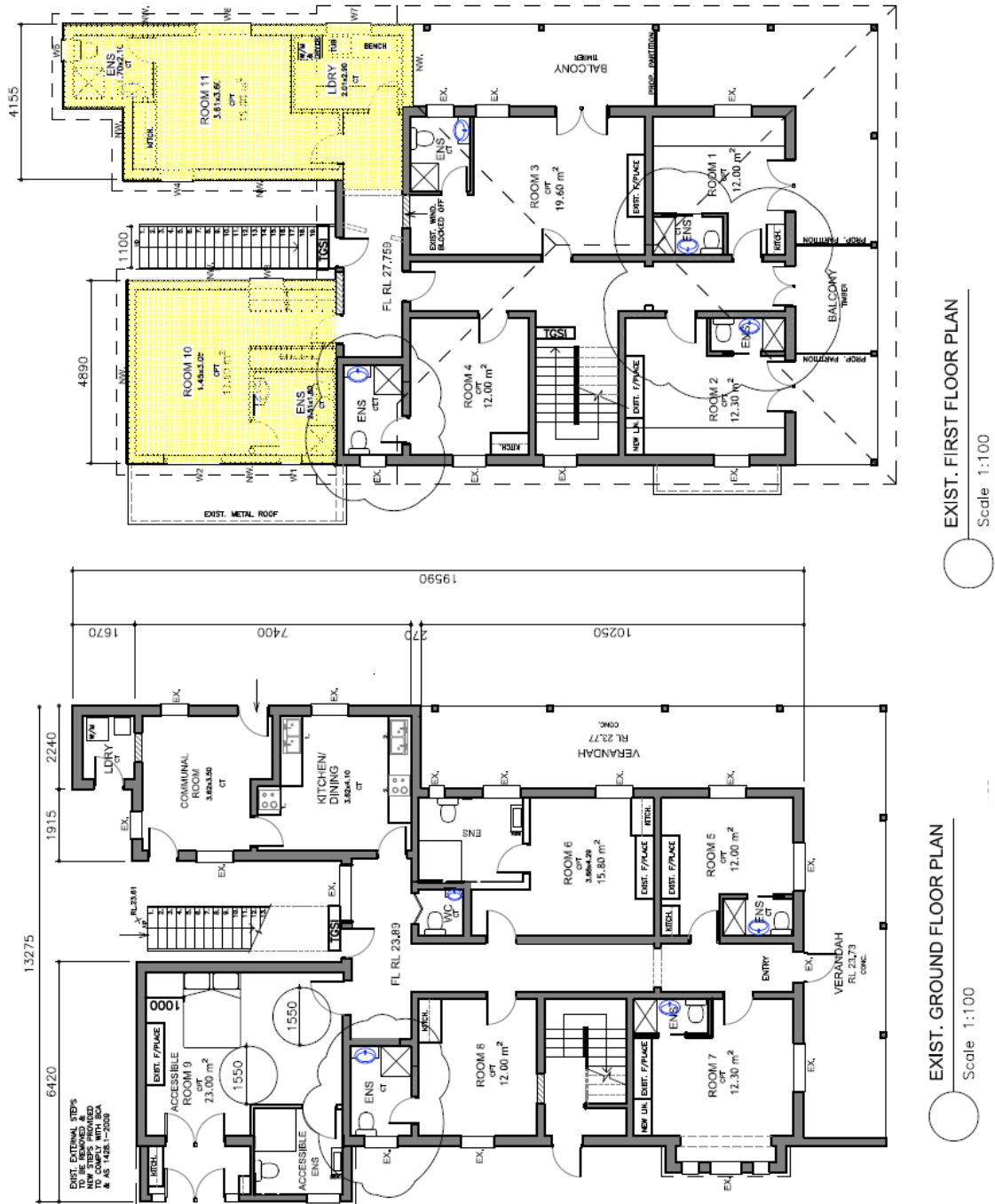


Figure 12. Amended plans submitted by applicant showing the existing layout of premises

ITEM 1 (continued)**5. Planning Assessment****5.1 Environmental Planning and Assessment Act 1979****A. DIVISION 4.11 EXISTING USES*****Clause 4.65 Definition of “existing use” (cf previous s 106)***

*In this Division, **existing use** means:*

- (a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and*
- (b) the use of a building, work or land:*
 - (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
 - (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

Approval and permissibility of existing use

The site was approved as ‘hostel accommodation’ under the 19 October 1983 consent issued by the Minister for Planning and Environment.

The site at the time was zoned Special Uses ‘A’ (Pumping Station) under the Ryde Planning Scheme Ordinance (RPSO) under which ‘hostel accommodation’ would be a prohibited use. The permissibility of the site however was given under *State Environmental Planning Policy No. 8 – Surplus Public Land* (SEPP 8) which was gazetted on 8 April 1983 and enabled the Minister for Planning and Environment to approve a development application on surplus public land (notwithstanding that the development may be prohibited under a local planning instrument affecting the subject site).

Clause 7 of SEPP 8 ‘Carrying out of development’, stated:

- (1) A person may, with the consent of the Minister, carry out development on surplus public land:*
 - (a) for a purpose which could be carried out, with development consent, on the land in accordance with any other environmental planning instrument applying to the land,*

ITEM 1 (continued)

- (b) *for a purpose which could be carried out, with or without development consent, on land adjacent to or in the vicinity of that land in accordance with any other environmental planning instrument applying to the land so adjacent or in the vicinity, or*
- (c) *without limiting the generality of paragraph (a) or (b), for a public purpose or **for the purpose of housing**, commercial premises or industry, or any combination of those purposes. (emphasis added)*

Under SEPP 8, 'housing' was collectively defined under Clause 4 as including the following individual uses

"housing means any type of residential accommodation including boarding-houses, dwellings, dwelling-houses, residential flat buildings, hostels, housing for aged or disabled persons or housing provided by charitable, co-operative, governmental, public or religious bodies for any purpose."

Consent was accordingly granted on 19 October 1983 for the purpose of 'hostel accommodation'.

Clause 10 of SEPP 8 further states:

"10 Effect on consent of land ceasing to be in public ownership

Where, after the date on which a consent is granted by the Minister under this Policy in relation to surplus public land, the land ceases to be in public ownership, a person may, in accordance with the consent, carry out, on the land, the development the subject of the consent."

Based on Clause 10, it is considered that, once the site had been transferred into private ownership in July 2011 and subject to any other provisions of the EP&A Act or Regulations, the new owner could continue to carry out the purpose of the approved use as hostel accommodation in accordance with the consent.

As established later in this report however, the applicant has failed to demonstrate the continued use of the premises (in accordance with the consent) between 27 February 2008 to 4 July 2011. As this is a period greater than 12 months the use is therefore presumed to be abandoned under Sections 4.66(3) and 4.68(3). Nothing in SEPP 8 permitted the continuance of the use where it has been abandoned, and nonetheless the ownership of the premises occurred after the repeal of SEPP 8, with no other permissibility pathways available to commence the use as a hostel, or boarding house, after this time.

Relevant Date

Clause 39 of the Regulations defines 'relevant date' as

ITEM 1 (continued)

“(a) in relation to an existing use referred to in section 4.65 (a) of the Act - the date on which an environmental planning instrument having the effect of prohibiting the existing use first comes into force, or

(b) in relation to an existing use referred to in section 4.65 (b) of the Act—the date when the building, work or land being used for the existing use was first erected, carried out or so used”.

SEPP 8 (which permitted the hostel accommodation use on the site) was repealed on 31 December 2007 by Schedule 4 to the *State Environmental Planning Policy (Infrastructure) 2007 (641)* (the Infrastructure SEPP) with effect from 1 January 2008.

The Infrastructure SEPP permitted group homes under Division 11 of the SEPP only. No other residential / housing uses were permissible under the Infrastructure SEPP on the site at that date and nor has it been made permissible on SP1 Special Purpose zoned land under the Infrastructure SEPP, or any other applicable environmental planning instrument since that time.

Accordingly, the relevant date prohibiting the existing approved use of the site as hostel accommodation is established at 31 December 2007.

For clarity it is noted that the use of the site for any residential purposes has been prohibited on the site, other than via SEPP 8, since the date of the approval of the hostel use including:

- *Ryde Planning Scheme Ordinance*, which was the applicable local planning instrument at the time of the approval, zoned the site Special Uses 5(a) – Pumping Station and partly reserved for County Road Widening in the prescribed Ryde Planning Scheme.
- *Ryde Local Environmental Plan 2010* (Ryde LEP 2010), commenced on 30.6.2010 repealing RPSO, under which the subject property was zoned SP2 Pumping Station, and permitted the following uses:

“The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Recreation areas; Roads”.

- *Ryde Local Environmental Plan 2014*, which repealed Ryde LEP 2010, commencing on 12.9.2014, under which the subject property was zoned SP1 Water Supply System, and permitted uses included:

“The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose”.

In view of the above, but for SEPP 8, the use of the premises for hostel accommodation has been prohibited under the applicable Ryde local planning

ITEM 1 (continued)

instruments even since the approval of the use in 1983. For the purpose of Clause 39 of the EP&A Regulations, the ‘relevant date’, being the date the use would become prohibited per section 4.65 (a) of the EP&A Act, was the date SEPP 8 was repealed being 31 December 2007, and thus approval could not be sought again to use the premises for the ‘purpose of housing’.

Definition of the existing use

SEPP 8 permitted the carrying out of development for the ‘purpose of housing’ with the consent of the Minister.

As discussed earlier, under SEPP 8 ‘housing’ is defined as:

*“**housing** means any type of residential accommodation including **boarding-houses**, dwellings, dwelling-houses, residential flat buildings, **hostels**, housing for aged or disabled persons or housing provided by charitable, co-operative, governmental, public or religious bodies for any purpose.” (emphasis added).*

SEPP 8 did not provide a definition of boarding house or hostel accommodation, however, applicable at the same time as SEPP 8 however was *State Environmental Planning Policy No. 10—Retention of Low-Cost Rental Accommodation* which specifically defined these terms as follows:

***hostel** means premises that are generally staffed by social workers or support providers and at which:*

- (a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and*
- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.*

***boarding-house** means a building:*

- (a) that is wholly or partly let in lodgings, and*
- (b) that provides lodgers with a principal place of residence for 3 months or more, and*
- (c) that generally has shared facilities, such as a communal bathroom, kitchen or laundry, and*
- (d) that has rooms with one or more lodgers,*

and includes a hotel (not being premises to which a hotelier’s licence under the Liquor Act 1982 relates).

It should be noted that there was no relationship between SEPP 8 and SEPP 10.

ITEM 1 (continued)

The subject development application seeks consent for alterations and additions to an existing boarding house. The applicable environmental planning instrument in force is Ryde LEP 2014, under which the following definitions apply:

***hostel** means premises that are generally staffed by social workers or support providers and at which:*

- (a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and*
- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.*

***boarding house** means a building that:*

- (a) is wholly or partly let in lodgings, and*
- (b) provides lodgers with a principal place of residence for 3 months or more, and*
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

The use of the premises is approved specifically for 'hostel accommodation'. As the terms 'boarding house' and 'hostel' are individually listed under the term 'housing' under SEPP 8, and other environmental planning instruments (EPI) at the time specifically defined the terms, it is clear the approval did not apply a broader interpretation of the term 'hostel' to also include a type of premises used as a 'boarding house'.

The Development Application Form submitted to the Department of Environment & Planning on 28 April 1983 sought approval for the "*Use of the existing two storey house as Hostel Accommodation*". The attached letter dated 28 April 1983 states that the dwelling is to be "*used as a hostel providing accommodation of medium to longer term duration predominantly for young people, under full-time supervision by a Resident Manager*".

Accordingly the intended use of the premises at the time of approval was only ever as a hostel and most closely aligns with the current definition as a hostel under Ryde LEP 2014.

Furthermore, no other environmental planning instrument has since permitted the change of use from a hostel to a boarding house as exempt development, and there has been no subsequent approval to change the use to the purpose of a boarding house.

ITEM 1 (continued)

It is therefore concluded that the existing use, if any, would be for the purpose of hostel accommodation, not as a boarding house.

Demonstration of continuation of existing uses by the applicant

Hostel accommodation

It can be concluded that the use of the premises as a hostel has been abandoned as:

- 1) No documentation has been provided by the applicant to demonstrate the continuance of the use of the premises as a 'hostel'.
- 2) The applicant has provided documentary evidence to demonstrate the *intermittent* use of the premises as a boarding house since 1 July 2010, therefore indicating that the use had ceased to be used in accordance with the original consent (i.e. a hostel) for a period of more than 12 months thereby negating its existing use rights.
- 3) Development Application No. LDA2012/0047 was lodged with Council for the purpose of 'Alterations and additions of an existing dwelling'. The application was approved on 13 May 2013. As detailed earlier in this report, the owner of the premises and the Consultant Architect for the applicant asserted that the premises was not used for the purpose of a boarding house, but was a single dwelling only, the application was subsequently approved on the basis that the premises was a single dwelling.

Boarding house

While it has been established that there is no approval for the use of the premises as a boarding house (and that the existing use right to operate as a hostel has ceased), the applicant has submitted the following documentation to demonstrate the continued use of the premises as a 'boarding house':

- 1) Income statements for the following units, dates and amounts:

Unit	Statement From	Statement to	Income Amount
3	1 July 2010	2 July 2012	\$2,650.00
8	1 July 2010	2 July 2012	\$5,940.00
2	1 July 2010	2 July 2012	\$3,935.50
1	1 July 2010	2 July 2012	\$2,100.00
8	1 July 2011	30 June 2012	\$5,940.00
8	3 July 2012	1 August 2012	\$900.00

- 2) Tax Invoices for the following timeframes and units:

- 28 December 2011 – 25 January 2012 - Unit 2.
- 14 Jan 2012 – 3 February 2012 – Unit 3.

ITEM 1 (continued)

- 5 February 2012 to 17 March 2012 – Unit 8.
 - 15 April 2012 – 12 May 2012 – Unit 8.
 - 13 May 2012 – 16 June 2012 – Unit 8.
 - 17 June 2012 – 14 July 2012 – Unit 8.
 - 15 July 2012 – 18 August 2012 – Unit 8.
- 3) The Trust Ledger from 13 October 2015 through to 17 October 2018 indicating income from tenants.
- 4) A heavily redacted document supplied by NSW Family & Community Services (FACS) to the owner dated 27 February 2008 that uses the term 'boarding house'. The author, purpose or the context of the document however is unknown.
- The letter identifies that from 9/6/1986 a person or entity whom has been redacted from the document (however is assumed to be Ryde Hunters Hill Community Housing based on Council records) "*took possession of the property and has successfully managed the property as a boarding house for the past 21 years*".
- 5) A Statutory Declaration identifying that since taking ownership of the premises, the current owner has continuously used the premises for the purpose of a boarding house.

The Addendum Statement of Environmental Effects Report prepared by Andrew Martin Planning dated 16 January 2019 states that the relevant date is 12 September 2014, being the date Ryde LEP 2014 came into effect. As outlined above however, the use of the premises has been prohibited since the repeal of SEPP 8 on 31 December 2007.

From 27 February 2008 (being the date of the FACS letter) to 4 July 2011 (being the date the current owner took possession of the premises), no information is provided regarding the continued use of the premises. This is following the 'relevant date' and it is therefore concluded that (despite the use not being an approved use) insufficient information has been provided to demonstrate that the use has continued since the relevant date in accordance with Section 4.66(3) of the EP&A Act.

The following points are also provided for clarity and completeness:

- While the date of the earliest invoice statement provided with the Statutory Declaration is 1 July 2010, the dates of these invoice statements are inaccurate as the premises did not come into the ownership of the current owner until 4 July 2011. Accordingly it is fair to assume that the current owner did not receive income from leasing the premises from 1 July 2010 as the statement would suggest.

ITEM 1 (continued)

- Furthermore, the applicant has stated that the use of the term ‘boarding house’ in the 27 February 2008 FACS letter is due to the term being the closest ‘best fit’ term in the transitional definition under Ryde LEP 2014. This statement however is incorrect as ‘hostel’ has been specifically and separately defined under the Standard Instrument LEP since its gazettal on 31 March 2006 and has always had a standalone definition separate from the term ‘boarding house’ under New South Wales planning legislation and environmental planning instruments since the date of the initial approval.

Enlargement, expansion and intensification of existing uses and alteration or extension of buildings and works

Clause 42 of the EP&A Regs relates to “Development consent required for enlargement, expansion and intensification of existing uses”. Clause 42 states:

- (1) *Development consent is required for any enlargement, expansion or intensification of an existing use.*
- (2) *The enlargement, expansion or intensification:*
 - (a) *must be for the existing use and for no other use, and*
 - (b) *must be carried out only on the land on which the existing use was carried out immediately before the relevant date.*

Clause 43 of the Environmental Planning and Assessment Regulation 2000 relates to “Development consent required for alteration or extension of buildings and works”. Clause 43 states:

- (1) *Development consent is required for any alteration or extension of a building or work used for an existing use.*
- (2) *The alteration or extension:*
 - (a) *must be for the existing use of the building or work and for no other use,*

And
 - (b) *must be erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant date.*

Accordingly, as the existing use of the premises for the purpose of a boarding house has not been adequately substantiated, development consent cannot be given for the enlargement, expansion and intensification of the use of the premises, nor can the alteration or the extension of the building or work for the existing use be approved.

Unlawful commencement

Section 4.69 of the EP&A Act identifies circumstances where uses which have unlawfully commencement are rendered lawful, stating the following:

ITEM 1 (continued)**4.69 Uses unlawfully commenced** (cf previous s 109A)

- (1) *The use of a building, work or land which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except:*
- (a) *the commencement of an environmental planning instrument which permits the use without the necessity for consent under this Act being obtained therefor, or*
 - (b) *the granting of development consent to that use.*
- (2) *The continuation of a use of a building, work or land that was unlawfully commenced is, and is taken always to have been, development of the land within the meaning of and for the purposes of any deemed environmental planning instrument applying, or which at any time applied, to or in respect of the building, work or land.*

This clause does not apply to the unlawful commencement of the premises as a boarding house, as the use has always required development consent to be obtained under SEPP 8, Ryde Planning Scheme Ordinance, Ryde LEP 2010 and Ryde LEP 2014, and no consent has been obtained.

Reasons for refusal – existing uses

Accordingly the application is recommended for refusal as:

- a. The proposed use as a “boarding house” is a prohibited use in the SP1 Water Supply System zone under Ryde LEP 2014.
- b. Insufficient information has been presented for the applicant to substantiate that the property benefits from existing use rights per Section 4.66 of the Environmental Planning and Assessment Act 1979 for the following reasons:
 - i. The Applicant has failed to establish that the use for the purpose of a boarding house was lawfully commenced as no consent substantiating its approval has been provided.
 - ii. There is a presumption of abandonment for any purpose as the Applicant has failed to provide satisfactory documentary evidence that rebuts such a presumption. In this regard, the Applicant has not substantiated that the use was not abandoned for a continuous period of 12 months since the relevant date (i.e. 31 December 2007) until the present.
 - iii. The enlargement, expansion and intensification of the use of the premises, and the alteration or the extension of the building cannot be approved under Clauses 42 and 43 of the EP&A Regs as the existing use has not been substantiated.

ITEM 1 (continued)**B. SECTION 4.70 EXISTING USES****4.70 Saving of effect of existing consents** (cf previous s 109B)

- (1) *Nothing in an environmental planning instrument prohibits, or requires a further development consent to authorise, the carrying out of development in accordance with a consent that has been granted and is in force.*
- (2) *This section:*
- (a) *applies to consents lawfully granted before or after the commencement of this Act, and*
 - (b) *does not prevent the lapsing, revocation or modification, in accordance with this Act, of a consent, and*
 - (c) *has effect despite anything to the contrary in section 4.66 or 4.68.*
- (3) *This section is taken to have commenced on the commencement of this Act.*

The applicant has advised that a permissibility pathway under Section 4.70 of the EP&A Act also exists which would permit the applicant to modify the existing consent in order to undertake the proposed development. Accordingly, should the consent be considered to be 'in force', the owner of the premises may be able undertake the development in accordance with the consent being hostel accommodation.

The application being assessed at present is for 'alterations and additions to an existing boarding house', for which there is no existing development consent for that use. Nothing within Section 4.70 permits the consent authority to grant consent for change of use from hostel to boarding house, or to grant consent for a use which has been unlawfully commenced.

Further, any modification of an existing consent, whether via a new development application or Section 4.55 application would be assessed under the relevant provisions of the EP&A Act and Regulations and the merits of application, which as established thought this report are not well founded and form the reasons for the refusal of this subject application.

5.2 State Environmental Planning Instruments**State and Sydney Regional Environmental Planning Policies****State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The Environmental Planning and Assessment Regulation 2000 provides the following definitions under Clause 3:

***"BASIX affected building** means any building that contains one or more dwellings, but does not include a hotel or motel".*

ITEM 1 (continued)

“BASIX affected development means any of the following development that is not BASIX excluded development:

- (a) **development that involves the erection (but not the relocation) of a BASIX affected building,**
- (b) *development that involves a change of building use by which a building becomes a BASIX affected building,*
- (c) **development that involves the alteration, enlargement or extension of a BASIX affected building, where the estimated construction cost of the development is:**
 - (i) *\$100,000 or more—in the case of development for which a development application or an application for a complying development certificate is made on or after 1 October 2006 and before 1 July 2007, or*
 - (ii) ***\$50,000 or more—in the case of development for which a development application or an application for a complying development certificate is made on or after 1 July 2007,***
- (d) *development for the purpose of a swimming pool or spa, or combination of swimming pools and spas, that services or service only one dwelling and that has a capacity, or combined capacity, of 40,000 litres or more”. (emphasis added).*

In the recent NSW Land & Environment Court (LEC) case *SHMH Properties Australia Pty Ltd v City of Sydney Council [2018] NSWLEC 66*, Commissioner Preston determined that, if rooms in a boarding house are capable of being used as a separate domicile (and therefore meeting the definition of a ‘dwelling’), a BASIX certificate for the development will be required to accompany the development application.

As each of the boarding rooms contains facilities to make each room a separate domicile (i.e. bathroom, kitchenette and washing machines) and are therefore self-contained dwellings in their own right.

A BASIX Certificate has been provided with the Development Application for Buildings B and C, and identifies that the development will comply with the Water, Thermal Comfort and Energy Scores required.

The existing building is defined as a BASIX affected building, being a building containing one or more dwellings. However a Certificate has not been provided for the alterations and additions to the existing building, which are estimated to cost more than \$50,000.

Accordingly the application is recommended for refusal as a BASIX Certificate has not been submitted for the proposed alterations and additions to the existing building

ITEM 1 (continued)

as required by clause 2A of Schedule 1 of the Environmental Planning and Assessment Regulation 2000.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The subject development application is for 'alterations and additions to an existing boarding house'.

The submitted Statement of Environmental Effects provides an assessment against the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009* (SEPP (Affordable Rental Housing) 2009).

Division 3 of the SEPP applies to Boarding Houses generally.

Clause 26 – Land to which this Division applies

Clause 26 stipulates that this Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:

- a) *Zone R1 General Residential,*
- b) *Zone R2 Low Density Residential,*
- c) *Zone R3 Medium Density Residential,*
- d) *Zone R4 High Density Residential,*
- e) *Zone B1 Neighbourhood Centre,*
- f) *Zone B2 Local Centre,*
- g) *Zone B4 Mixed Use.*

The site is located within a SP1 Special Purposes (Water Supply Services) zone under the Ryde LEP 2014. Therefore, the SEPP does not apply.

State Environmental Planning Policy (Infrastructure) 2007Clause 101 - Development with frontage to classified road

Clause 101 requires the consent authority to be satisfied that the development, being land with frontage to a classified road, has:

- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to*

ITEM 1 (continued)

ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

While alternate access to the site is not possible in line with clause 101(a), the proposed development, seeks to intensify the development on the site, has not demonstrated that the “*safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of ... (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land*”.

The application has been reviewed by the NSW Roads and Maritime Services who have objected to the application, advising they do not support the application in its current form as it does not allow for simultaneous vehicle movements to/from the site at a point of time, and “*the driveway may not be wide enough to cater for simultaneous vehicle movements and also there was no swept path diagrams supporting this movement*”.

In light of this assessment, and Council’s Development Engineering comments outlined later in this report, the consent authority cannot be satisfied that the development meets the requirements of Clause 101(b) and the development cannot therefore be approved.

Further to this, per clause 101 (c) inadequate information has been supplied with the application to demonstrate that the residential use, including the new Buildings B and C, being a development sensitive to traffic noise or vehicle emissions, are “*appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road*”.

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

Clause 102 requires the consent authority to consider if development is likely to be adversely affected by road noise or vibration on land that is adjacent to a road corridor for a freeway, a tollway or a transit way or any other road with an annual average daily traffic volume of more than 40,000 vehicles.

Victoria Road is a Classified Road which has a volume of traffic exceeding 40,000 vehicles per day.

Clause 102(3) states:

“If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*

ITEM 1 (continued)

(b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time”.*

As outlined in Council’s Environmental Health Officer referral comments later in this report, the application has not been submitted with an acoustic report to demonstrate that the development will comply with the above noise criteria. Accordingly, Council cannot be satisfied that appropriate measures will be taken in accordance with Clause 102(3), and Council must not grant consent to the development.

State Environmental Planning Policy No. 55 – Remediation of Land

The SEPP 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.

The applicant’s Statement of Heritage Impact identifies that the Ryde Pumping Station as constructed on the site in 1891, with the Engineers Cottage constructed circa 1890 as a single storey cottage, and additions made in the late 1890s/early 1900s. The lot on which the development is situated was historically part of the same lot as the pump station until it was subdivided in 1992.

The applicant’s Statement of Environmental Effects has stated that the dwelling is a long standing residential use, with no significant excavation required to undertake the proposed works. It also states that the past uses are not listed in Table 1 of the ‘*Managing Land Contamination Planning Guidelines*’ (Department of Urban Affairs and Planning & EPA, 1998).

Notwithstanding the comments of the applicant’s planning consultant, Section 3.2 under the ‘*Managing Land Contamination Planning Guidelines*’ states the following:

“3.2 INITIAL EVALUATION BY THE PLANNING AUTHORITY

An initial evaluation is essential to determine whether contamination is an issue and whether sufficient information is available to carry out a planning function in good faith.

....

The initial evaluation can be based on readily available factual information and should be carried out regardless of the nature of the proposed use or the current use. Readily available information may include: current zoning and permissible uses, records from previous rezonings, development applications and building applications for the site, property files, information provided by the proponent such as a development application or rezoning request or an investigation, and the knowledge of council staff”.

Due to the past industrial use of the broader site which the subject property was part of and it’s continued SP1 Special Purposes (or the like) zoning, Council cannot be

ITEM 1 (continued)

certain that the area of land proposed to be intensified on the site for residential purposes is not contaminated in accordance with Clause 7(4)(c)(ii).

Clause 7(1)(a) requires that “a consent authority must not consent to the carrying out of any development on land unless: (a) it has considered whether the land is contaminated”, with (b) and (c) requiring further consideration of the contaminated state of the site and requirements for remediation respectively. In this regard insufficient information has been provided in the form of a preliminary investigation to identify that the land is suitable (or will be suitable, after remediation) for the intensified residential purposes. Accordingly, the consent authority must not consent to the proposed development.

5.3 Local Environmental Plans

Ryde Local Environmental Plan 2014 (RLEP 2014)

Clause 2.3 Zone objectives and Land Use Table

Under Ryde LEP 2014, the property is zoned SP1 Special Purposes (Water Supply System) as shown at **Figure 13**.

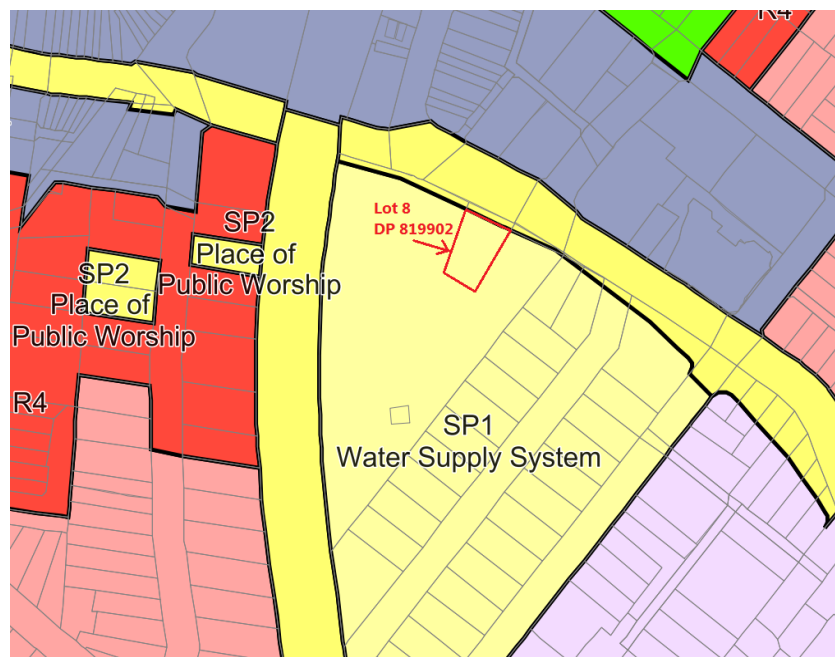


Figure 13. Zoning Map excerpt from Ryde LEP 2014

Permissibility

The following use is permissible with consent in the zone:

Aquaculture: The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.”

ITEM 1 (continued)

The existing building on the site was constructed as the 'Engineers Cottage' and used by the pumping station manager and/or the engineers at the station thereby constituting a use which was ordinarily incidental or ancillary to development for the established purpose of the SP1 zone.

It is accepted that the site was subdivided from the pumping station on 9 December 1992, however, it is also acknowledged that the special use/purpose zoning remained in force for the newly created lot thereby limiting any development on the subject site to one that is ordinarily incidental or ancillary to development for that purpose.

Despite the subdivision, a concurrent rezoning of the subject site was not pursued and the limitation of uses within the SP1 zone remain as per the above definition and that, any use which is not ordinarily incidental or ancillary to development for that purpose (including a residential dwelling house and/or hostel) is prohibited.

Accordingly, the use is a prohibited use in the zone. Further, as demonstrated earlier in this report, the development also cannot rely on the existing use provisions under the EP&A Act for permissibility.

Objectives of the zone

The objectives of the zone are:

- *To provide for special land uses that are not provided for in other zones.*
- *To provide for sites with special natural characteristics that are not provided for in other zones.*
- *To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.*

The proposed use is not consistent with the objectives of the zone as:

- Boarding houses are a prohibited use within the zone
- The site does not have any special natural characteristics that are not provided for in other zones.
- The development is not in keeping with the special characteristics of the site or its existing or intended special use.

Accordingly the proposed development is recommended for refusal as:

1. The use is prohibited in the SP1 Special Purposes Water Supply System zone and is inconsistent with the objectives of the zone.

Part 4 – Principle Development Standards

ITEM 1 (continued)

The subject site does not have a maximum height or floor space ratio control under Clauses 4.3 and 4.4 of Ryde LEP 2014. This is due to the zoning of the site as SP1 Special Purposes Water Supply System, under which the proposed residential development is prohibited, and not envisaged to occur on the site.

Clause 5.10 Heritage conservation

Under Ryde LEP 2014, the property is identified as Local Heritage Item No. 156 as shown at **Figure 14**. The item name is “House (Former engineer’s residence)”.



Figure 14. Heritage Map excerpt from Ryde LEP 2014

- *Requirement for consent*

Clause 5.10(2) identifies that development consent is required for any of the following:

(b) *altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*

and

(e) *erecting a building on land:*

ITEM 1 (continued)

- (i) *on which a heritage item is located or that is within a heritage conservation area.*

Accordingly the proposed works require development consent.

- *Effect of proposed development on heritage significance*

Clause 5.10(4) states that:

“The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6)”

In this regard, Council’s Heritage Advisor has reviewed the submitted Heritage Impact Assessment and advised that the proposed alterations and additions to the existing building, and the two new buildings to be constructed on the site are not supported as the effect of the proposed development on the heritage significance of the item will be detrimental as outlined in the Heritage Referral comments above.

- *Conservation incentives*

In the event the existing use rights provisions are not demonstrated, the applicant has also sought to claim permissibility of the use of the site as a boarding house under Clause 5.10(10).

Clause 5.10(10) states:

The consent authority may grant consent to development for **any purpose of a building that is a heritage item** or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, **even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:**

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*

ITEM 1 (continued)

(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area. (emphasis added)

Council's Heritage Advisor has assessed the proposal in relation to this clause, and concludes, "I do not consider there to exist a sound basis or justification for the use of clause 5.10(10) of the Ryde LEP 2014". The reasons for this are outlined in the Heritage Referral comments above, but are in summary for the following reasons:

- the conservation of the heritage item will not be expressly facilitated by the granting of consent with the "range of works ... reasonably anticipated with the general upkeep and maintenance of any property regardless of whether or not the property is a listed item of heritage significance".
- a Conservation Management Plan (CMP) was prepared for the site in 2012 is outdated, however "it is noted that the existing Heritage Impact Statement (HIS) submitted with the proposal does not provide any clear indication on whether the current development proposal is consistent with the conservation policies of the CMP".
- "While the nominated works would contribute to the conservation and upkeep of the heritage item, it has not been demonstrated that a direct correlation or nexus between the granting of approval of the otherwise prohibited land use and the conservation of the heritage item exists".
- consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out; and
- the proposed development will adversely affect the heritage significance of the heritage item.

Accordingly, the proposed development is recommended for refusal as:

- a. The proposed development will have an adverse effect on the heritage significance of the existing heritage item per Clause 5.10(4) of Ryde LEP 2014.
- b. The relevant provisions of Clause 5.10(10) of Ryde LEP 2014 have not been satisfied and accordingly the proposed development for 'alterations and additions to an existing boarding house' is prohibited.
- c. The development application seeks approval only for "alterations and additions to an existing boarding house", not for change of use of the premises as a whole. Accordingly; the provisions of Clause 5.10(10) as sought by the applicant apply only to the areas subject to the alterations and additions to the existing building, not the use of the existing building. The applicant has not substantiated existing use rights for use of the existing building, therefore, a change of use of the existing building for a boarding house has not been sought,

The Consent Authority cannot approve the development under Clause 5.10(10) for 'alterations and additions to an existing boarding house' as there is no approval for the existing use which is sought to be intensified.

ITEM 1 (continued)**5.4 DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS****Draft Remediation of Land State Environmental Planning Policy**

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

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

The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of development applications. The requirements under SEPP 55 have been addressed earlier in this report.

As such, it is considered the requirements of the draft SEPP are adequately considered in the assessment of this proposal.

Draft Environment State Environmental Planning Policy

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

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

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

5.5 DEVELOPMENT CONTROL PLANS**Ryde Development Control Plan 2014 (RDCP 2014)**

The applicable provisions of the RDCP 2014 are:

- Part 2.1 Notification of Development Applications.
- Part 3.5 Boarding Houses
- Part 7.1 Energy Smart, Water Wise.
- Part 7.2 Waste Minimisation and Management.
- Part 8.1 Construction Activities.
- Part 8.2 Stormwater and Floodplain Management.

ITEM 1 (continued)

- Part 8.3 Driveways.
- Part 9.3 Parking Controls.
- Part 9.5 Tree Preservation.

With regard to Parts 2.1 and Part 7.1 to 9.2, noting the advice received from the various technical departments within Council and the consideration of issues within this report, sufficient information has been provided to carry out a thorough assessment of these matters and recommendations made where required. Parts 3.5 and 9.3 are considered below.

Part 3.5 Boarding Houses*Section 1.4 Land Affected by this Part*

“This Part applies to land within the City of Ryde where boarding houses are permitted.”

As existing use rights for the development have not been sufficiently demonstrated, and the site is zoned SP1 which prohibits boarding houses, this Part of Ryde DCP 2014 does not apply.

Section 2.4 Development on land NOT subject to the provisions of Part 2 of the ARHSEPP

“The following section applies to boarding house development where it is permissible with consent from Council and is NOT subject to Part 2 Division 3 Boarding Houses of the ARHSEPP by virtue of clauses 26 Land to which Division applies and 27 Development to which Division applies under that division where the land is:

- a. Zoned R2 Low Density Residential NOT within an accessible area as defined under the ARHSEPP; and*
- b. Zoned B6 Enterprise Corridor”*

While the provisions of Part 2 of the AHSEPP do not apply to the subject site, being SP1 zoned land, the provisions of this Section also do not apply as the land is not zoned R2 or B6.

Part 9.3 Parking Controls

The parking controls under Part 9.3 generally reference the provisions of Part 3.5 of the Ryde DCP 2014 and the AHSEPP with regard to the required car, motorbike and bicycle parking provisions. While the provisions of Part 3.5 and AHSEPP do not apply to the site as established earlier, the parking rate should be taken as a benchmark of acceptable parking for the type of proposed development on the site.

ITEM 1 (continued)

Furthermore, nothing within Part 9.3 prevents the application of the design controls for parking, despite Part 3.5 of the Ryde DCP 2014 and the AHSEPP not applying to the development.

Car Parking

Council's Senior Development Engineer has provided the following assessment of the proposal in relation to parking:

"Considering the site is zoned SP1, where boarding houses are not permitted within the zone, the development does not fall under the SEPP (ARH). The provisions of Council's DCP do not apply for a similar reason.

Notwithstanding the above, the traffic report, completed by Apex Engineers Pty Ltd, dated July 2018, as a guide, has assessed the development against the provisions of the SEPP (ARH) relating to boarding house development, Clause 29 (e) which is also adopted in Part 9.3 of Council's DCP 2014.

The SEPP stipulates a parking requirement of 0.5 spaces per room. As the total development consists of 17 rooms, the development requires a total of 9 parking spaces.

The traffic engineer has stated the following:

- *The current approval requires only 3 parking spaces for the existing 9 boarding rooms.*
- *The additional 8 rooms requires an additional 4 parking spaces*

Thus the development requires a total of 7 car spaces, which has been shown on the plan.

The proposed parking bays have been reviewed and the following is noted:

- *The site fronts a Victoria Road which is classified as a State Road. RMS requires all vehicles to enter and exit the site in a forward direction. Furthermore, a vehicular waiting bay must be included at the entry to the site to avoid any vehicles queuing up along Victoria Road. It must have a minimum width of 5.5m and length of 6.0m within the sites boundary. Vehicles utilising the accessible space (marked as 5) will most likely utilise the community open space to manoeuvre out which is not acceptable. Proposed car spaces 6 and 7 are not supported. They will require an additional 300mm clearance from the boundary line which will reduce the aisle width. Furthermore, no turning bay has been provided thus it is unclear how these spaces will conveniently exit the site in a forward*

ITEM 1 (continued)

direction. Car space 7 requires part of the retaining wall to be removed. Insufficient information regarding the floor levels have not been submitted to ensure the gradients complies”.

As noted in the Development Engineer referral comments later in this report, the proposal is recommended for refusal for a number of reasons, including parking and engineering.

Motorbike and bicycle parking

Section 2.7 of Part 9.3 of Ryde DCP 2014 states the following in relation to bicycle and motor bike parking:

- b. Bicycle and motor cycle parking is to be provided for boarding house development in accordance with the requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009, and Part 3.6 Boarding Houses under this DCP.*

Note: The requirements are at least 1 space for bicycle and 1 space for motorcycle per 5 boarding rooms.

As Part 3.6 of the DCP and the AHSEPP do not apply to the development, these rates do not strictly apply. It is identified however that as a benchmark 4 motor bike parking spaces and 4 bicycle parking spaces are an acceptable rate which a boarding house development should provide. The proposal includes 4 motorbike and 4 bicycle parking spaces which complies with the controls.

In relation to the design of the spaces however, the following design controls also apply generally in relation to bicycle parking under Section 2.7 of this Part:

- e. Bicycle parking is to be secure and located undercover with easy access from the street and building entries.*
- f. Bicycle parking is to be located in accordance with Safer by Design principles.*

Note: Safety may be addressed by ensuring that Bicycle parking is located to ensure passive surveillance (e.g. highly visible areas such as near building entries) and where adequate lighting is provided.

The proposed development does not comply with the above controls as the parking area is not secure or undercover. More importantly however the location of the bicycle parking area behind Building B is concealed with poor access between motorbike parking and the external walls of Building B. The position of the bicycle parking does not prevent crime, does not provide effective surveillance of people

ITEM 1 (continued)

accessing the bicycle parking area, or of the bicycles, and is in an area with unrestricted access from the public.

Accordingly the proposed bicycle parking area is not supported, and is recommended for refusal.

5.6 Planning Agreements or Draft Planning Agreements

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

5.7 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 application is for approval for alterations and additions to an existing boarding house. While the application is recommended for refusal, should the application be approved, the following contribution amount would be payable.

It is noted that the same contribution would be payable for the purpose of a hostel.

The contribution for boarding houses is based on the number of additional bedrooms 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	\$12,702.00
Open Space & Recreation Facilities	\$31,269.68
Civic & Urban Improvements	\$10,635.44
Roads & Traffic Management facilities	\$1,450.72
Cycleways	\$906.24
Stormwater Management Facilities	\$2,880.32
Plan Administration	\$244.32
The total contribution is	\$60,088.72

It is noted that should any approval for the use of the entire premises for a boarding house be given, contributions would be payable for all rooms within the boarding house, including in those purporting to be 'existing'.

5.8 Any matters prescribed by the regulations

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

ITEM 1 (continued)**6. The likely impacts of the development**

While the standards within the Affordable Housing SEPP and Ryde DCP 2014 Part 3.5 do not strictly apply, they set a predetermined standard of acceptability for boarding house developments with regard to amenity and impact.

In this regard the proposed development, seeking alterations and additions to a dwelling which the applicant states is an existing boarding house, will have an unacceptable impact with regard to a number of development standards under each of these planning instruments. These are further outlined below.

Communal Living Room and Solar Access

Clause 25 of the AHSEPP defines communal living room:

***communal living room** means a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room.*

Controls for the size and solar access of the communal living room is within both Ryde DCP 2014 and the AHSEPP.

Communal living room minimum area

Part 3.5 of Ryde DCP 2014, Section 3.6 relates to internal building design, to control (e) providing the requirements for specific rooms, areas and facilities.

With regard to common living rooms, the following control applies:

b. Class 1b boarding houses must have indoor communal living areas of a minimum 12.5m² or 1.25m²/resident, whichever is greater. Class 3 Boarding Houses must provide a common living area a minimum 15m² in area, with a further 15m² provided for each additional 12 persons thereafter.

Note: The communal living area calculation can include any dining area, recreation room or games room, but cannot include bedrooms, bathrooms, laundries, reception area, storage, kitchens, car parking, loading docks, driveways, clothes drying areas, corridors and the like

This equates to a requirement for a communal living room of 23.75m² (i.e. 19 lodgers x 1.25m²).

ITEM 1 (continued)

The proposal includes a communal living room of 3.62m x 3.5m= 12.67m²

The submitted documentation has included the kitchen as part of the communal living room calculation, however as noted in the DCP, this area is to be specifically excluded.

The application proposes to retain the existing communal living room for use by all lodgers (**Figure 15**). To increase the demand on an already under-sized communal living space would result in an unacceptable impact on the amenity of lodgers and incompatibility of the development.



Figure 15. Existing Communal Living Room

Solar Access to communal living room

Clause 29(c) of the AHSEPP provides the following standard with regard to solar access to communal living rooms:

- c) **solar access:** *where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,*

Solar access diagrams for the living rooms have not been provided. However, based on the shadow diagrams provided with the application the one communal room located on the ground floor at the rear of the existing dwelling (pictured at **Figure 15**), will receive no direct sunlight between the hours of 9am and 3pm in midwinter, based on the existing configuration of the development and the shadow cast by proposed Building B.

ITEM 1 (continued)

While the communal space is an existing room, to increase the demand and number of residents using the space, which provides poor amenity will result in unreasonable impacts on the amenity for residents.

The assessment report submitted with the proposal indicates that the room will not achieve the required solar access, however 'a highlight window could be added if required'. Where this would be located to improve solar access is unclear as insufficient information has been provided to identify where a window would be located in order for the room to achieve 3 hours, and would furthermore require additional demolition of existing heritage fabric. Based on the information provided, an additional window would not be capable of improving the solar access to the room.

Access and Parking

Section 3.3 of Part 3.5 of Ryde DCP 2014 states the following with regard to accessibility.

3.3 Accessibility

The design of boarding houses needs to provide an environment that is physically accessible to all members of the community, including those with disabilities.

The ARHSEPP contains parking rates for boarding houses. The design of boarding houses, including parking spaces and access thereto, will also need to take into consideration the following controls.

Controls

a. All boarding house developments are to be accompanied by an Accessibility Report which addresses the accessibility requirements for people with disabilities, where required, under the BCA and Disability (Access to Premises – Buildings) Standards 2010.

The submitted Accessibility Report (prepared by Building Innovations Australia, dated 17/7/2018, v1.0) identifies in relation to Clause D3.2 of the Building Code of Australia – Access to Buildings Design that, “*the current design of the development consists of an inaccessible pedestrian entrance located at the main point of pedestrian entry at the allotment boundary. Final design details of wheelchair access to this part are to be provided at the Final Construction Certificate stage*”.

No details have been provided regarding alterations to the existing pedestrian entrance. Access is only provided for wheelchair access via the driveway, which as outlined in the RMS and Development Engineering referral, is already an

ITEM 1 (continued)

unacceptable and unsafe arrangement for vehicle access. To require wheelchair access via the driveway is unacceptable.

As the subject site is a local heritage listed item these works should form part of the application, as the works require consent from Council.

7. 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:

Road Widening: See Development Engineer's referral below.

Heritage Items: See Heritage Advisor's referral below.

In light of the above assessment, given the heritage concerns raised by Council's Heritage Advisor, the SP1 Special Purposes zoning of the site and the amenity impacts as a result of the AH SEPP and DCP non-compliances, it is not considered that the site is suitable for the proposed development.

8. The Public Interest

Given the above assessment, it is not considered that approval of the application would be in the public interest as the site is not suitable for a boarding house.

9. Submissions

In accordance with DCP 2014 Part 2.1 Notice of Development Applications, the proposal was advertised in the Northern District Times dated 23 January 2019 and owners of surrounding properties were given notice of the application.

It is noted that the proposal was incorrectly notified stated that the new single storey detached building would accommodate 4 new rooms. The accompanying notification plans however correctly identified the proposed 2 rooms. As the actual number was less than the notified amount, it was not considered that the proposal required further notification to correctly describe the development.

In response, two (2) submissions were received.

The submissions raise the following issues:

a) Pedestrian Access.

The location of the site on the southern side of Victoria Road and to the west of the rail overpass means direct pedestrian access to the station is blocked, with pedestrians required to walk east first to cross at the lights at Hermitage Road, and then back again to the west to the train station.

ITEM 1 (continued)

Submissions raise that they regularly witness pedestrians stranded in the middle of Victoria Road trying to cross the 5 lanes of traffic in front of the subject site. There is no median strip in this section of road, only double barrier median dividing lines.

Comment:

Figure 16 below indicates the path of travel crossing at Hermitage Road that is described in the submissions. While the permissibility of the premises as a boarding house is opposed earlier in this report, and AH SEPP does not apply to the subject site, it is still noted that the site is defined as being within an ‘accessible area’ under the SEPP, meaning land that is within “800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates”.

The walking distance from the site to the entrance to West Ryde Station is 550m. Accordingly while the path of travel may be complex, with **Figure 17** showing the lack of a pedestrian path in a westward direction from the site, a safe pedestrian route is possible from the site to the train station.

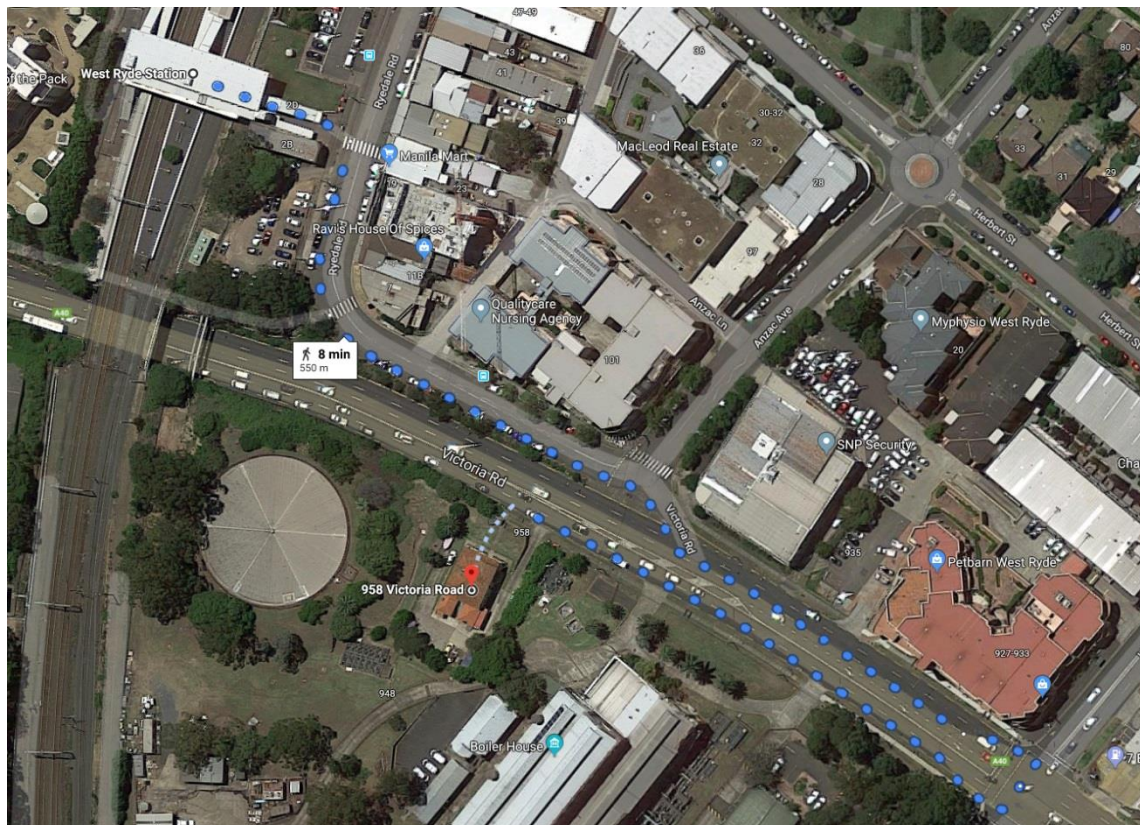


Figure 16. Google maps pedestrian walking directions from the site to West Ryde Train Station.

ITEM 1 (continued)



Figure 17. Google Streetview image of the site looking west along Victoria Road.

b) Number of rooms.

“At present this Cottage has been transformed into a 9 room boarding house with a pending Development Application before City of Ryde to add the following:-

- 1. First floor addition to accommodate 2 new rooms*
- 2. New single story detached building to accommodate 4 new rooms*
- 3. New two story detached building to accommodate 4 new rooms*

As stated in the City of Ryde communication this will bring the total number of boarding rooms to 17. This number is incorrect as the total number of boarding rooms will be 19, not 17”.

Comment:

The proposal seeks to add an additional 2 rooms to the existing 9 bedroom building, in addition to two detached buildings accommodating 2 and 4 rooms respectively. This takes the total number of rooms to 17.

It is noted that the notification of the proposal was incorrect in stating that the new single storey detached building would accommodate 4 rooms, when only 2 rooms are proposed to Building B.

ITEM 1 (continued)

c) Traffic Impact Assessment.

“For the existing 9 boarding rooms there is presently 5 car spaces and 4 motorcycle spaces. The proposal is to provide 2 additional car parking spaces and no further motorcycle spaces. Since the subject site is zoned SP1 Special Activities (Water Supply Systems) under Ryde LEP2014 the provision of the SEPP (Affordable Rental Housing) 2009 does not apply to the proposal. Also the provision of the Ryde Development Control Plan (2014): Part 3.5-Boarding Houses do not apply for a similar reason (i.e. the site is not located on a residentially zoned land).

The proposal has been assessed against the Affordable Rental Housing 2009 parking provision criteria which provides for 1.0 parking spaces for every 2.0 boarding rooms. Since there will be 19 boarding rooms if the proposal is approved, then this will require a total of 10 car parking spaces (rounded up from 9.5). The proposal only allows for 7 which is way short on the criteria”.

Comment:

As noted earlier the number of rooms outlined in the notification letter was incorrect, with the single storey Building B containing only two rooms. In total the proposal provides 8 new rooms within the development, which under the AHSEPP the total of would require a total of 4 parking spaces.

The original approval of the (hostel accommodation) development required the provision of three onsite parking spaces (see copy of consent earlier in this report) Accordingly the site would require a total of 7 parking spaces, which are shown the proposed plans.

d) Removal of vegetation for parking spaces.

Concern is raised regarding the removal of the trees along the east of the site adjacent to the existing driveway in the location of the proposed two additional parking spaces, and the impact this has on the pump station site.

Comment:

The trees referenced in this submission are bamboo as shown at **Figure 18**. This is an exempt species under Ryde DCP 2014. Any development consent for the site would specifically identify that all trees on the site and the adjoining site are to be retained and protected. The bamboo however may be removed without consent.

The removal of this vegetation is not considered to have an impact on the pump station site. From a heritage impact perspective, the subject site and the pump station have always been ancillary or complementary to one another with regard to their purpose and history. The removal of the bamboo therefore is unlikely to cause any detrimental impacts on the heritage significance of the pump station site.

ITEM 1 (continued)



Figure 18. Collation of photographs showing vegetation along the eastern boundary of the site.

e) Site Coverage and Heritage Significance.

*“Council, when considering the management of the Heritage Significance of this property, as a general principle, all major alterations and additions should **NOT** result in excessive site cover or be visually overwhelming to the existing buildings and should be preferably single storey. In the case of this development, it is intended to construct one new single storey detached building and also a two storey detached building. This construction will definitely be excessive site coverage and one detached building will be two storey in contradiction of the design requirements. There is also an intention to add a first floor addition to the rear of the existing property even though single storey is preferred over two storey unless there is a sound heritage reason to do so”.*

Comment:

Council’s Heritage Advisor has reviewed the subject development and opposes the proposed alterations and additions.

f) Vehicle Access To Site.

Access to the site is unsafe with only left-in-left-out possible from the site. The driveway configuration is unsafe with only space for one vehicle, which if a car were to pull into the driveway would be dangerous.

Comment:

Council’s Senior Development Engineer has reviewed the driveway configuration, with the driveway non-compliant with the Australian Standards. Accordingly this forms one of the recommended reasons for refusal for the application.

Access from Victoria Road in and out of the site is already limited to left-in-left-out. If vehicles access the site in a right-hand turn, then this would be subject to the road rules and is not a matter for consideration under this application as it is an existing driveway entrance.

ITEM 1 (continued)**10. Referrals****NSW Office of Heritage**

The application was referred to NSW Office of Heritage as it is bound by a State Heritage Item. In response the following comments were provided:

“Whilst the proposed development will be outside the curtilage, given the proximity of the proposed development, the following comments are provided on the proposed development:

- *Significant views from the public domain to the Ryde Pumping Station and site are from the north, along Victoria Road and from the east. The proposed development is located to the west of the former Engineer’s Residence. While the new structures will be visible from Victoria Road, due to their size and location the proposed structures would not be dominant in the views from the public domain to the SHR listed site. Therefore, the proposed development is unlikely to have adverse impact on the significant views to the SHR item or its landmark qualities.*
- *The Heritage Council endorsed Conservation Management Plan (CMP) for the Ryde Water Pumping Station and Site, prepared by Asset Management Division of Sydney Water Corporation recognizes the site of the Engineer’s Residence site as a sensitive area for potential archaeology. Policy 7.10.2 in the CMP in relation to the historical archaeological resources recommends avoiding works to the areas of archaeological potential. It is recommended that a baseline archaeological assessment is completed for the works to ensure that archaeological constraints are appropriately managed. A recommended condition is listed below.*

Recommended condition:

1. *Prior to any ground disturbance works occurring on the site, the applicant shall engage a suitably qualified historical archaeologist to undertake a baseline historical archaeological assessment of the site. The assessment shall comply with Heritage Council of NSW guidelines including but not limited to Assessing Significance for Historical Archaeological sites and Relics (2009) and Archaeological Assessments (1996). This assessment should identify what relics, if any, are likely to be present, assess their significance and consider the impacts from the proposal on this potential resource”.*

NSW Roads and Maritime Service

The application was referred to NSW RMS as the proposal is adjacent to Lot 14 which is owned by the RMS for future road widening.

The RMS has advised that they do not support the application for the following reasons:

ITEM 1 (continued)

- 1. In accordance with AS 2890.1- 2004 (Parking Facilities, Part 1: Off-street car parking), the driveway shall be a minimum of 5.5 metres in width for a minimum distance of 6 metres from the property boundary.*
- 2. All vehicles are to enter and leave the site in a forward direction and vehicles are to be wholly contained on site before being required to stop. In this regard, swept path diagrams demonstrating simultaneous movement to/from the site and also vehicles are able to turn from kerb side lane should be submitted to Roads and Maritime to review.*

Development Engineer

Council's Senior Development Engineer has reviewed the subject application and provided the following comments:

“Stormwater Management

A review of the plan, completed by ING Consulting Engineers Pty Ltd, drawing number 098022018DA Sheet 01 and 02, revision B, dated 5th September 2018, has noted the following matters:

- Plans propose to discharge the stormwater runoff to Victoria Road,*
- The site is located along a ridge that falls to the side eastern boundary,*
- Due to the nature of the site, the rear south eastern corner is lower than the middle of the site. To ensure during a storm event that the overland flow path is directed towards Victoria Road, away from neighbouring properties, the driveway will need to be regraded demonstrating compliance. Note – typically a drainage easement will be required, however considering the site surroundings, obtaining an easement will provide little to no purpose.*
- The plans incorporate an onsite detention system however a recalculation of the storage volume is required. The plans depict two separate OSD tanks which are acceptable in principle although the OSD calculation sheet must be revised to include the existing development, the impervious and pervious areas bypassing and draining to the storage facility.*

These will require the stormwater management plan to be amended prior to development consent.

Vehicle Access and Parking

Considering the site is zoned SP1, where boarding houses are not permitted within the zone, the development does not fall under the SEPP (ARH). The provisions of Council's DCP do not apply for a similar reason.

ITEM 1 (continued)

Notwithstanding the above, the traffic report, completed by Apex Engineers Pty Ltd, dated July 2018, as a guide, has assessed the development against the provisions of the SEPP (ARH) relating to boarding house development, Clause 29 (e) which is also adopted in Part 9.3 of Council's DCP 2014.

The SEPP stipulates a parking requirement of 0.5 spaces per room. As the total development consists of 17 rooms, the development requires a total of 9 parking spaces.

The traffic engineer has stated the following:

- *The current approval requires only 3 parking spaces for the existing 9 boarding rooms.*
- *The additional 8 rooms requires an additional 4 parking spaces*

Thus the development requires a total of 7 car spaces, which has been shown on the plan.

The proposed parking bays have been reviewed and the following is noted:

- *The site fronts a Victoria Road which is classified as a State Road. RMS requires all vehicles to enter and exit the site in a forward direction. Furthermore, a vehicular waiting bay must be included at the entry to the site to avoid any vehicles queuing up along Victoria Road. It must have a minimum width of 5.5m and length of 6.0m within the sites boundary.*
- *Vehicles utilising the accessible space (marked as 5) will most likely utilise the community open space to manoeuvre out which is not acceptable.*
- *Proposed car spaces 6 and 7 are not supported. They will require an additional 300mm clearance from the boundary line which will reduce the aisle width. Furthermore, no turning bay has been provided thus it is unclear how these spaces will conveniently exit the site in a forward direction.*
- *Car space 7 requires part of the retaining wall to be removed. Insufficient information regarding the floor levels have not been submitted to ensure the gradients complies.*

Recommendation

Assessment of the engineering components of the proposed development has revealed the following matters that warrant refusal;

- *Stormwater Management – Insufficient information has been provided to adequately provide a system in compliance with Part 8.2 of Council's DCP requirements. The plans fail to provide the following:*

ITEM 1 (continued)

- *Due to the nature of the site, the rear south eastern corner is lower than the middle of the site. During a storm event or failure of the system, the overland flow path must be directed towards Victoria Road, away from neighbouring properties. Note – compliance may be achieved if the driveway is regraded demonstrating a clear overland flow path.*
- *The plans incorporate an onsite detention system however the calculation of the storage volume is not in accordance with Council’s requirements. The plans depict two separate OSD tanks which are acceptable in principle although the OSD calculation sheet must be revised to include the existing development, the impervious and pervious areas bypassing and draining to the storage facility.*
- *Vehicle Access and Parking – The proposed parking area fails to comply with the requirements of AS2890.1:2004. The following non-compliances are noted:*
 - *The site fronts a Victoria Road which is classified as a State Road. RMS requires all vehicles to enter and exit the site in a forward direction. Furthermore, a vehicular waiting bay must be included at the entry to the site to avoid any vehicles queuing up along Victoria Road. It must have a minimum width of 5.5m and length of 6.0m within the sites boundary.*
 - *Vehicles utilising the accessible space (marked as 5) will most likely utilise the community open space to manoeuvre out which is not acceptable.*
 - *Proposed car spaces 6 and 7 are not supported. They will require an additional 300mm clearance from the boundary line which will reduce the aisle width. Furthermore, no turning bay has been provided thus it is unclear how these spaces will conveniently exit the site in a forward direction.*
 - *Car space 7 requires part of the retaining wall to be removed. Insufficient information regarding the floor levels have been provided which fails to demonstrate the gradients provided comply.*

Environmental Health Officer

Has reviewed the subject application and provided the following comments:

“The propose development is for alterations and additions to an existing boarding house. It is noted that this premises is not on the Environmental Health Boarding House list and therefore is not registered as a Boarding House.

ITEM 1 (continued)

In the Statement of Environmental Effects it is stated that the building is set back from Victoria Road by 5.5m and will be buffered by the existing building façade and glazing. There is a potential impact of noise as it is located on an arterial road (Victoria Road) and according to our DCP an acoustic report prepared by a suitably qualified consultant must be done.

Recommendation:

Further information is required the applicant must provide an acoustic report prepared by a suitably qualified consultant”.

Building Surveyor

Council’s Building Surveyor has reviewed the proposal and provided the following response:

“The Proposal

This application seeks development consent for “addition and alteration to existing boarding house to accommodate 8 additional rooms” as outlined by the applicant on their development application form.

Clause 94 Consent authority may require buildings to be upgraded

- (1) This clause applies to a development application for development involving the rebuilding, alteration, enlargement or extension of an existing building where:
 - (a) the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, as it was before any such work was commenced, measured over its roof and external walls, or*
 - (b) the measures contained in the building are inadequate:
 - (i) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or*
 - (ii) to restrict the spread of fire from the building to other buildings nearby.**
 - (c) (Repealed)**
- (2) In determining a development application to which this clause applies, a consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.*

ITEM 1 (continued)Comment:

Inadequate information provided with application. BCA & Access 2016 Reports have not addressed this matter.

Additional Matters:

If use has been continued as a Class 1b, then it has not been demonstrated that the building has been maintained as per the requirements of the Local Government Act 1919 and Ordinance 70 which were applicable at the time”.

Heritage Advisor

Council’s Heritage Advisor has reviewed the subject application and provided the following comments:

“Consideration of the proposal

The development proposal involves the alterations and additions to the existing 9 room boarding house to increase the number of bedrooms to a total of 17.

To achieve this, the proposal involves a first floor rear addition to accommodate 2 new rooms, a single storey detached building to accommodate 2 new rooms and a two storey detached building to accommodate 4 new rooms.

Reason for the Heritage Referral

The development proposal has been referred for heritage consideration as the subject site is an item of heritage significance, listed on Schedule 5 of Ryde LEP 2014 and is located within the vicinity of the following items of heritage significance listed under Schedule 5 of Ryde LEP 2014:

- i) ‘Ryde Pumping Station and site’ Victoria Road, West Ryde (Item No.SHR01634)*
- ii) ‘Ryedale Road Heritage Conservation Area’ Ryedale Road, West Ryde (Item No.C3)*

Statement of Cultural Significance

‘The house has historical significance as the former Ryde Pumping Station Engineer’s residence, built circa 1891 and extended circa 1900-1906. The house illustrates the accommodation provisions for senior staff of the Pumping Station in the late 19th and early 20th centuries, the alterations to the residence in this period reflecting the changing needs of the resident engineer. The house has historical association with the Ryde Pumping Station from 1891. The house has aesthetic significance as a circa 1891 single storey residence within substantial grounds, extended with a rear

ITEM 1 (continued)

wing circa 1900 and with a first floor in 1906, and now representative of the Federation Queen Anne style. (Source: NSW State Heritage Inventory)

Consideration of the heritage impacts

This development proposal involves the alterations and additions to what is described in the application documentation as an 'existing boarding house', specifically to increase the number of rooms from 9 to 17, through the construction of additions to the existing two storey building and the construction of two new separate detached buildings which are to sit to the southwest and west of the existing building.

There is contention over the legality of the present use of the premises as a boarding house. It is noted that the Applicant has provided a town planning opinion by their retained planning consultant, which includes information pertaining to past approvals and documentation regarding uses that dates back to the early 1980s when the subject property was acquired by the Department of Housing for social housing.

However, it is noted that the drawings approved by Council for a previous DA (LDA2012/47) in May 2013, notate each of the rooms and internal spaces of the building as clearly having a single-occupancy domestic residential use. Furthermore, Council records show that at a meeting between Council staff and the owner of the property in November 2012, the owner advised Council that the premises was vacant.

The relevance of the issue of the legality of the existing use, is that this present application is predicated on the assumption that the premises enjoys 'existing use rights', with the submitted supporting documentation submitted with the application suggesting that there is an unbroken line of evidence of the continued use as a boarding house.

This is a fundamental issue to the current development proposal, for if it is held by Council that the premises does not enjoy existing use rights, then approval must be sought for the use of the premises as such. Since a 'boarding house' is identified as an ordinarily prohibited land use within the subject zoning, the Applicant seeks to then rely on the 'heritage incentive provisions' of clause 5.10(10) of the Ryde LEP 2014.

The heritage incentive provisions of clause 5.10(10) gives Council a mechanism to grant development consent to an otherwise ordinarily prohibited land use within the relevant zoning, on the basis that Council is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*

ITEM 1 (continued)

- (b) *the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) *the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) *the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) *the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

The use of the heritage incentive provisions effectively requires Council to be satisfied that there will be a positive conservation outcome achieved to the heritage item, which, it is generally anticipated, be in the form of a range of substantial conservation works, being undertaken in conjunction with any approved new use and that such works be undertaken prior to such new use commencing.

In this instance, a Conservation Management Plan (CMP) was prepared for the subject site in 2012, which provides a basic but generally sufficient conservation management framework and implementation policy to guide current, ongoing and future use and management of the heritage item. Good conservation practice recognises that a CMP has a limited lifespan and requires periodic review and updating to reflect, inter-alia, changes in legislation, ownership, condition and a general review of other factors that may impact on how the heritage item is managed. Consequently, since the current CMP for the subject premises is now 8 years old, it is considered necessary that it be comprehensively reviewed and updated. It is also necessary that any heritage impact assessment and indeed any development proposal involving change to the property, is guided by the revised CMP. It is noted that the existing Heritage Impact Statement (HIS) submitted with the proposal does not provide any clear indication on whether the current development proposal is consistent with the conservation policies of the CMP.

A schedule of conservation works has been submitted with this application, itemising a range of works that in my opinion, are otherwise on the whole considered cyclical maintenance works, reasonably anticipated with the general upkeep and maintenance of any property regardless of whether or not the property is a listed item of heritage significance.

While the nominated works would contribute to the conservation and upkeep of the heritage item, it has not been demonstrated that a direct correlation or nexus between the granting of approval of the otherwise prohibited land use and the conservation of the heritage item exists. In other words, the scope and scale of the proposed conservation works does not provide sufficient justification to demonstrate that a positive conservation outcome would ensue through Council approving the ordinarily prohibited land use. Furthermore, I do not consider the

ITEM 1 (continued)

scope of the nominate conservation works to be 'conditional' upon Council granting consent to the land use, that is, since the majority of the works are what is typically considered cyclical maintenance, such works would likely be undertaken as part of any reasonably anticipated upkeep and ongoing cyclical maintenance. Council's Local Heritage Assistance Fund could be utilised by the property owner as a means of obtaining financial assistance for such maintenance and conservation works to the heritage item.

By way of summary, I do not consider there to exist a sound basis or justification for the use of clause 5.10(10) of the Ryde LEP 2014.

Either way, any adaptive re-use of a heritage item must be tested for the 'level of fit', that is, any adaptive re-use must be designed to conform and harmoniously fit with the heritage item, rather than changing and conforming the heritage item to fit the new use. In some instances, modifications to the heritage item to accommodate the new use will be necessary, but such changes must always be considered on the basis of the impact to the significance of the heritage item and adopting the 'cautious principle' of the Australia ICOMOS Burra Charter of 'doing as much as necessary but as little as possible' to guide such changes.

The proposed use of the heritage item as a boarding house is generally considered acceptable from a heritage perspective, however, such a use must be introduced in a manner that involves minimal changes to significant fabric. The material changes to the building necessitated by the use of the premises as a boarding house are discussed further below and the existing unauthorised works are not supported.

Turning to the proposed works themselves, in 2012 a Development Application was submitted to Council (LDA2012/47) for the alterations and additions to the heritage item. The proposal involved the construction of a two storey addition attaching to the rear of the building. Council's Heritage Advisor at the time provided the following comments on the proposed additions:

'The submitted architectural plans demonstrate that the proposal will result in the demolition of the rear wings and significance 19th century (original) fabric. A review of the current and past architectural plans indicates that the existing ground floor plan, matches the ground floor plan of the engineer's residence in 1907. A review of these plans indicates that little or no alteration has taken place to the main form and features of the ground floor and rear wings since the original modifications took place in 1907. A site visit conducted 7 Marc 2012 confirmed the findings of the desktop review of the architectural plans... It is considered that the proposal to demolish the two 19th century wings of the Engineer in Charge residence and replace these with a new two storey rear addition will impact adversely on the heritage significance of the item...'

ITEM 1 (continued)

Consequently, the proposal to demolish the rear wings of the dwelling and erect a two storey addition was not supported on heritage grounds, citing adverse heritage impacts to significant fabric.

A subsequent heritage referral provided further comments to the effect that:

'...Under no circumstances would demolition of the rear wings be considered...a proposal for the internal modification of the rear wings may be considered; however the rear wing external walls, verandah and external fabric, including roof form must remain intact, be retained and conserved...'

LDA2012/47 was considered at Councils' then Planning and Environment Committee meeting of 16 October 2012, where the application was deferred, pending mediation between Council staff and the Applicant to resolve the heritage design issues. Further heritage advice was sought from Council's then Heritage Officer, who supported the amended design subject to conditions.

Consequently, LDA2012/47 was approved by Council in May 2013, however that consent does not appear to have been acted upon and is understood to have since lapsed.

In any case, it is evident that extensive works have been previously undertaken to the interior and exterior of the premises which have not been consented to. The works are in direct contradiction to the previously approved plans under LDA2012/47 and as such, those works are deemed unauthorised.

In early 2015, Council received a Building Certificate Application, seeking retrospective approval to regularise the unauthorised works. A site inspection undertaken by Council's present Heritage Advisor and Building Compliance Officers identified the following unauthorised works, including but not limited to:

- i) Removal of the previous kitchen fitout and installation of a new kitchen fitout.*
- ii) Removal of original timber architraves.*
- iii) Installation of a new bathroom / WC to ground floor bedroom.*
- iv) New joinery to ground floor bathroom / WC.*
- v) New WC fitout to passageway at the rear of the ground floor.*
- vi) Removal of French doors to the verandah on the south-eastern wing and make-good opening to verandah with a lightweight partition wall with plasterboard and FC sheet cladding.*
- vii) Installation of a bathroom / WC to the former verandah on the south-eastern rear wing.*
- viii) Fitout of a bathroom to the rear south-eastern corner of the first floor.*
- ix) Construction of a new internal bathroom ensuite and partition walls first floor bedroom.*

ITEM 1 (continued)

It was noted at the time that some of the works involved the removal and reversal of some of the previous fit-out works associated with the former occupation by the Department of Housing and that in principle, those works were supported (such as the kitchen fitout). However, the remainder of the works were not supported, on the basis that they had an adverse impact to significant heritage fabric and that pro-active development consent was ordinarily required.

Subsequently, the Building Certificate application (BC2014/0037) was refused by Council on 8 March 2016.

The plans submitted with the current DA for the proposed alterations and additions are incorrect and misleading, insofar as they show the 'existing' floor plans and elevations inclusive of the extensive unauthorised works that have previously been undertaken. The plans therefore are not a true reflection of the spatial arrangement and character of the building's interior and exterior and any future changes (including those the subject of this application) must be assessed and considered on the pre-2012 condition and form of the building rather than using the unlawful changes to the building as the starting basis.

The proposal itself seeks to modify the existing two single storey rear wings by the removal of the hipped roof forms and vertical additions to effectively make the rear wings two storeys.

The rear single storey wings of the building have previously been identified in the 2012 CMP and other previous heritage assessments for the subject premises as being of high significance, whereby having low tolerance to further changes.

While I am cognisant that the rear single storey wings are a later addition (c1906-1907), they nonetheless are an early addition to the dwelling and directly contribute to the significance of the building. They retain a high degree of integrity through their form and silhouette (despite unsympathetic and unauthorised works to the south-eastern rear wing) and are of high significance that they must be retained and appropriately conserved. In this manner, the unauthorised works that have enclosed the verandah of the south-eastern rear wing must be removed and restored to its pre-2012 condition and form.

The proposed vertical additions to the rear wings will involve material affectation to significant fabric through the removal of their hipped roof forms and the additions will adversely impact on the overall significance of the heritage item by irreversibly distorting the original silhouette and form of the building inclusive of the hipped rear wings, whereby having an adverse and unacceptable heritage impact. These changes are not supported.

Two additional separate and detached buildings are also proposed, both siting towards the southwest and west of the main dwelling. Whilst elevation plans have been submitted of those structures, they do not sufficiently illustrate the visual and

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physical relationship to the two-storey dwelling in elevation form, essentially depicting the proposed structures in isolation.

Policy K4.2 of the 2012 CMP for the site states that 'any new structures required on the site; their design and siting must be considered in order to maintain the visual setting of the house'. While the CMP is silent on identifying areas of the site that have tolerance to accommodating new buildings, the single storey building sitting parallel to the eastern side of the heritage item is not supported as it visually and physically encroaches on the setting of the heritage item to an extent that will diminish the visual prominence of the heritage item, diminishing the landscaped setting and sense of spatial separation surrounding the building and having an adverse and unacceptable heritage impact accordingly.

Proposed 'Building B' is a two-storey structure that is set towards the rear of the building. While it has close physical proximity to the heritage item, it is physically detached, having no material impact to significant fabric. Its' positioning to the rear, together with the skillion roofed form and composition of face brick and weatherboard cladding, assists in visually integrating the structure into the site. No objections are raised to proposed Building B, subject to a reconfiguration of the internal stairwell so that the building maintains a clear line of sight through the property.

The site plan includes a notation to the effect that there is no tree removal proposed, however the landscape plan identifies the removal of 9 trees and shrubs along the eastern boundary. This must be clarified. The site plan shows the location of the removed trees and shrubs as accommodating a proposed tandem car parking area. No objections are raised to the removal of those nominated trees and shrubs, in that their removal will reinstate views to the heritage item from Victoria Road. However, the cumulative impact of the additional formalised car parking spaces and the consequential diminution of the landscaped setting, will adversely impact on the landscaped setting to the site.

A landscape plan has been submitted with the application, which shows the proposed establishment of new landscape plantings and formalised garden areas. However, given the importance of the landscaped setting and the significance of the site, it is necessary that any new landscape treatment be developed with the input of a suitably qualified and experienced landscape heritage specialist, so that an appropriate garden setting can be developed that will enhance the landscaped setting and significance of the heritage item.

Recommendation

The proposed development is not supported on heritage grounds for the reasons outlined in the above discussion."

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Landscape Architect

Council's Landscape Architect has reviewed the subject application and provided the following comments:

“Existing Trees

An Arborist Report has NOT been submitted with the application. An Arboricultural Impact Assessment is required of all trees on site, trees on adjoining sites where any part of the development will encroach into the Tree Protection Zone of those trees and any street trees. This Assessment is to be carried out as per the requirements of Australian Standard AS4970-2009 Protection of trees on development sites.

In the Arborist Report the Arborist must consider the impacts of the development including:

- *Stormwater proposals.*
- *Cut and fill.*
- *Retaining Walls that will be required for Buildings B and C.*
- *Car parking and driveway.*
- *Any encroachment on the Tree Protection Zone and Structural Root Zone of trees on site or on adjoining sites.*

Landscape Plan

The Landscape plan is unsatisfactory; it must be prepared by a qualified Landscape Architect.

Stormwater Plan

The stormwater pipes need to be assessed by the Arborist.

Architecture Plans

The Architecture Plan and the Landscape Plan do not show retaining walls that will be required for the proposed cut and fill for Buildings B and C which are below existing levels along the eastern boundary.

Recommendation

The following further information is required:

1. *An Arboricultural Impact Assessment is required of all trees on site, trees on adjoining sites where any part of the development will encroach into the Tree Protection Zone of those trees and any street trees. This Assessment*

ITEM 1 (continued)

is to be carried out as per the requirements of Australian Standard AS4970-2009 Protection of trees on development sites.

In the Arborist Report the Arborist must consider the impacts of the development including:

- *Stormwater proposals.*
- *Cut and fill.*
- *Retaining Walls that will be required for Buildings B and C.*
- *Car parking and driveway.*
- *Any encroachment on the Tree Protection Zone and Structural Root Zone of trees on site or adjoining site.*

2. The Landscape plan is unsatisfactory; it must be prepared by a qualified Landscape Architect.

3. The Architecture Plan and the Landscape Plan do not show retaining walls that will be required for the proposed cut and fill for Buildings B and C which are below existing levels along the eastern boundary”.

11. Objects of the EP&A Act

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

- (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,*
- (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 not achieve the following objectives as approval of the development would not:

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- (c) promote the orderly and economic use and development of land;*
- (f) to promote the sustainable management of built and cultural heritage;*
- (g) to promote good design and amenity of the built environment; or*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.*

As demonstrated in the assessment within this report, the approval of the proposed works to the existing heritage item is inconsistent with the zone objectives of the site is located, will result in detrimental impacts to the existing heritage building, does not promote good design that considers the heritage significance of the existing building, and is not the appropriate pathway to ensure the proper construction and maintenance of the existing building.

12. Conclusion

This assessment report has demonstrated that the Consent Authority have no power in which to approve the subject development application as it is a prohibited development within the SP1 Special Purposes zone under Ryde LEP 2014; and the application has failed to demonstrate the development benefits from existing use rights under the EP&A Act and the development does not adequately satisfy Clause 5.10 of Ryde LEP 2014 in order to permit the approval of the proposal.

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, approval of the proposed development would not be in the public interest due to the unacceptable impacts of the development, the submissions received in response to the proposal and the unsuitability of the development for the site.

The proposal is an incompatible use within the SP1 Special Purposes zone under Ryde LEP 2014 and will have a detrimental impact on the heritage significance of the locally listed heritage building proposed to be partially demolished under this application.

While the provisions of the AHSEPP and Ryde DCP 2014 in relation to boarding houses do not strictly apply to the proposed development due to the site's zoning, issues raised with regard to residential amenity are unable to be addressed, and the proposal will provide unacceptable communal living spaces, solar access and accessibility to the premises.

The application has failed to provide sufficient information to allow for a full and proper assessment in relation to a number of essential matters including: the BASIX requirements for the existing building; the noise and air quality requirements of SEPP (Infrastructure) 2007; contamination details with regard to SEPP No. 55; fire safety under Clause 94 of the EP&A Regs; and arboricultural details in relation to the existing trees and vegetation both on the site and the adjoining property.

ITEM 1 (continued)

Council's Senior Development Engineer and the NSW RMS have raised concern with the proposed parking area which fails to comply with the requirements of AS2890.1:2004, and when assessed against the provisions of Ryde DCP 2014 the proposed bicycle parking area raises safety and security concerns for users.

Given the reasons detailed above, the development application is recommended for refusal.

13. Recommendation

That Development Application LDA2018/0363 at No. 958 Victoria Road, West Ryde for '*Alterations & additions to the existing 9 room boarding house*' be refused for the following reasons.

A. Prohibited use within the zone

The development as a "boarding house" is a prohibited use in the SP1 Water Supply System zone under Ryde Local Environmental Plan 2014 and is inconsistent with the objectives of the zone.

B. Existing use rights not established

Insufficient information has been presented for the applicant to substantiate that the property benefits from existing use rights per Section 4.66 of the Environmental Planning and Assessment Act 1979 for the following reasons:

- i. The Applicant has failed to establish that the use for the purpose of a boarding house was lawfully commenced as no consent substantiating its approval has been provided.
- ii. There is a presumption of abandonment for any purpose as the Applicant has failed to provide satisfactory documentary evidence that rebuts such a presumption. In this regard, the Applicant has not substantiated that the use was not abandoned for a continuous period of 12 months since the relevant date (i.e. 31 December 2007) until the present.
- iii. The enlargement, expansion and intensification of the use of the premises, and the alteration or the extension of the building cannot be approved under Clauses 42 and 43 of the *Environmental Planning and Assessment Regulations 2000* as the existing use has not been substantiated.

C. Heritage impacts

- i. The proposed development will have an adverse effect on the heritage

ITEM 1 (continued)

significance of the existing heritage item per Clause 5.10(4) of Ryde Local Environmental Plan 2014.

- ii. The relevant provisions of Clause 5.10(10) of Ryde Local Environmental Plan 2014 have not been satisfied and accordingly the proposed development for 'alterations and additions to an existing boarding house' is prohibited.
- iii. The development application seeks approval only for "alterations and additions to an existing boarding house", not for change of use of the premises as a whole. Accordingly, the provisions of Clause 5.10(10) as sought by the applicant apply only to the areas subject to the alterations and additions to the existing building, not the use of the existing building. The applicant has not substantiated existing use rights for use of the existing building, therefore, as change of use of the existing building for a boarding house has not been sought under this application, Council cannot approve the development under Clause 5.10(10) for 'alterations and additions to an existing boarding house' as there is no approval for the existing use which is sought to be intensified.

D. Likely impacts of the development

In accordance with Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the development, though not complying with core amenity principles of the State Environmental Planning Policy (Affordable Rental Housing) 2009 and Ryde Development Control Plan 2014 Part 3.5, will have an unacceptable impact on the amenity of the occupants of the premises as proposed for the purpose as a boarding house including:

- i. The development does not comply with the minimum area requirements for communal living rooms under Section 3.6 of Part 3.4 of Ryde DCP 2014.
- ii. The development does not comply with Clause 29(c) of State Environmental Planning Policy (Affordable Rental Housing) 2009 with no direct sunlight received between the hours of 9am and 3pm in midwinter as a result of the configuration of the room and the shadow cast by proposed Building B.
- iii. The proposal does not provide an environment that is physically accessible to all members of the community, including those with disabilities. The premises is non-compliant with Clause D3.2 of the Building Code of Australia – Access to Buildings Design and does not provide the necessary details to demonstrate the required works to provide wheelchair access to the building entrance, which require development consent under Ryde Local Environmental Plan 2014.

ITEM 1 (continued)**E. Suitability of the site**

In accordance with Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the site is considered unsuitable for the development due to the impacts of the proposed development on the heritage significance of the site, the incompatibility of the development with the SP1 Special Purposes zoning, and the amenity impacts on occupants due to non-compliances with the SEPP (Affordable Rental housing) 2009 and Ryde DCP 2014.

F. Public Interest

In accordance with Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the proposal is not considered to be in the public interest.

G. Submissions

In accordance with Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979*, submissions have raised concern regarding the impacts of the development on the heritage significance of the heritage item, and approval of the development would not be in the public interest.

H. Vehicle Access and Parking

The proposed parking area fails to comply with the requirements of AS2890.1:2004. The following non-compliances are noted:

- i. The site fronts a Victoria Road which is classified as a State Road. RMS requires all vehicles to enter and exit the site in a forward direction. Furthermore, a vehicular waiting bay must be included at the entry to the site to avoid any vehicles queuing up along Victoria Road. It must have a minimum width of 5.5m and length of 6.0m within the sites boundary. In view of this the application does not satisfy the provisions of Clause 101 of SEPP (Infrastructure).
- ii. Vehicles utilising the accessible space (marked as 5) will most likely utilise the community open space to manoeuvre out which is not acceptable.
- iii. Proposed car spaces 6 and 7 are not supported. They will require an additional 300mm clearance from the boundary line which will reduce the aisle width. Furthermore, no turning bay has been provided thus it is unclear how these spaces will conveniently exit the site in a forward direction.

ITEM 1 (continued)

- iv. Car space 7 requires part of the retaining wall to be removed. Insufficient information regarding the floor levels have been provided which fails to demonstrate the gradients provided comply.

I. Ryde Development Control Plan 2014 – Bicycle parking safety

The proposed bicycle parking does not comply with the controls of Section 2.7 of Part 3.6 of Ryde Development Control Plan 2014. The proposed bicycle parking is not secure or undercover, is in a concealed location and is unsafe for users.

J. Insufficient information

In accordance with Clause 54 of the *Environmental Planning and Assessment Regulation 2000* the application has been submitted with insufficient information to permit the consent authority to be satisfied that the development meets the following requirements:

- i. BASIX Certificate

A BASIX Certificate has not been submitted for the proposed alterations and additions to the existing building as required by clause 2A of Schedule 1 of the Environmental Planning and Assessment Regulation 2000.

- ii. SEPP (Infrastructure) 2007

- Inadequate information has been submitted with the application to demonstrate in accordance with Clause 101(c) that the proposed alterations and additions are appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road, being Victoria Road.
- The application has not been submitted with an acoustic report to demonstrate that the development will comply the noise criteria under Clause 102 of SEPP (Infrastructure) 2007. Accordingly, the consent authority cannot be satisfied that appropriate measures will be taken in accordance with Clause 102(3), and must not grant consent to the development.

- iii. State Environmental Planning Policy No. 55 - Remediation of Land

- Per Clause 7(1) of State Environmental Planning Policy No. 55 - Remediation of Land the consent authority must not consent to the carrying out of the proposed development on the land as upon consideration of

ITEM 1 (continued)

whether the land is contaminated, insufficient information has been provided in the form of a preliminary investigation to identify if the land is contaminated. Thus the consent authority cannot be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the intensified residential purposes.

iv. Engineering matters - Stormwater Management

Insufficient information has been provided to adequately provide a system in compliance with Part 8.2 of Ryde Development Control Plan 2014. The plans fail to provide the following:

- Due to the nature of the site, the rear south eastern corner is lower than the middle of the site. During a storm event or failure of the system, the overland flow path must be directed towards Victoria Road, away from neighbouring properties. Note – compliance may be achieved if the driveway is regraded demonstrating a clear overland flow path.
- The plans incorporate an onsite detention system however the calculation of the storage volume is not in accordance with Council's requirements. The plans depict two separate OSD tanks which are acceptable in principle although the OSD calculation sheet must be revised to include the existing development, the impervious and pervious areas bypassing and draining to the storage facility.

v. Environmental Planning and Assessment Regulation – Clause 94

The subject application is for development involving the rebuilding, alteration, enlargement or extension of an existing building. Accordingly, insufficient information has been provided to address the requirements of Clause 94 of the *Environmental Planning and Assessment Regulations 2000*.

vi. Landscaping and Tree Impacts

- An Arboricultural Impact Assessment is required of all trees on site, trees on adjoining sites where any part of the development will encroach into the Tree Protection Zone of those trees and any street trees. This Assessment is to be carried out as per the requirements of Australian Standard AS4970-2009 Protection of trees on development sites.

In the Arborist Report the Arborist must consider the impacts of the development including:

ITEM 1 (continued)

- Stormwater proposals.
 - Cut and fill.
 - Retaining Walls that will be required for Buildings B and C.
 - Car parking and driveway.
 - Any encroachment on the Tree Protection Zone and Structural Root Zone of trees on site or adjoining site.
- The Landscape plan is unsatisfactory; it must be prepared by a qualified Landscape Architect.
 - The Architecture Plan and the Landscape Plan do not show retaining walls that will be required for the proposed cut and fill for Buildings B and C which are below existing levels along the eastern boundary.
2. The objectors be advised of the decision.
 3. That the NSW Roads and Maritime Service and NSW Office of Heritage be advised of the decision.
 4. That the matter be referred to Council's Manager Environment, Health & Building to immediately commence enforcement action in respect to the unauthorised use and works.

ATTACHMENTS

- 1 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Rebecca Lockart
Senior Town Planner

Report Approved By:

Sandra Bailey
Manager - Development Assessment

Tony Collier
Senior Coordinator - Major Development

Liz Coad
Director - City Planning and Environment

2 11 VIMIERA ROAD, EASTWOOD - NEW MULTI DWELLING HOUSING DEVELOPMENT CONTAINING THREE DWELLINGS - 1 x 2 STOREY, 4 BEDROOM DWELLING AT THE FRONT AND 2 x SINGLE STOREY, 3 BEROOM DEWLLINGS AT THE REAR AS WELL AS STRATA SUBDIVISION - LDA2019/0076

Report prepared by: Assessment Officer - Town Planner

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

Report dated: 23/07/2019 **File Number:** GRP/09/6/12/1/2 - BP19/855

**City of Ryde
Local Planning Panel Report**

DA Number	LDA2019/0076
Site Address & Ward	11 Vimiera Road, Eastwood West Ward
Zoning	R2 Low Density Residential
Proposal	New multi-dwelling housing development containing three (3) dwellings - 1 x 2 storey, 4 bedroom dwelling at the front and 2 x single storey, 3 bedroom dwellings at the rear as well as strata subdivision
Property Owner	Ivan Y F Chan
Applicant	James Kim
Report Author	Madeline Thomas – Senior Town Planner
Lodgement Date	1 March 2019
No. of Submissions	First notification period: 28 submissions Second Notification period: 10 submissions

ITEM 2 (continued)

Cost of Works	\$858,000.00
Reason for Referral to RLPP	Contentious Development – Development is the subject of 10 or more unique submissions by way of objection
Recommendation	Refusal
Attachments	Attachment 1: Compliance Table Attachment 2: A3 Plans

1. Executive Summary

The following report is an assessment of a development application to construct a new multi dwelling housing development containing three (3) dwellings and strata subdivision of the three dwellings at No. 11 Vimiera Road, Eastwood.

The application was lodged on the 1 March 2019. During two separate notification period, Council received twenty eight (28) submissions to the original notification period and ten (10) submissions for the second notification period. All submissions objected to the development. The issues raised in the submissions related to the removal of significant trees, excessive building form, overshadowing of adjoining properties and visual privacy.

The application has undergone significant change since lodgement in an attempt to address issues raised by Council with respect to the retention of trees within the site and surrounding properties. Despite the amended plans relocating the building footprint and driveway location in the amended plans, the applicant has failed to address the Council Officer's concerns and the development would adversely impact on the Sydney Blue Gum trees on the site.

The subject site is not considered suitable for the proposed multi dwelling housing development as the proposal would result in an unacceptable impact on the Sydney Blue Gum trees on the site, which form part of a Critically Endangered Ecological Community (CEEC) under the *Biodiversity Conservation Act 2016*.

The proposal is also considered to be unacceptable for the following reasons:

- Insufficient pervious area has been provided. This contributes to the unacceptable impact on trees within the site and on adjoining properties;
- Impractical private outdoor space for Units 2 and 3, resulting in poor amenity for future residents;
- Inadequate number of parking spaces being provided due to the poor design of two parking spaces;

ITEM 2 (continued)

- Proposal will result in poor amenity to the future occupants of Unit 2 and the occupants of the adjoining neighbour due to overshadowing;
- The proposed vehicular access does not provide sufficient information to demonstrate there is adequate vehicle manoeuvring for the development;
- There is limited detail provided in the following regard:
 - Mitigation measures for trees during construction;
 - Amount of cut and fill required;
 - Extent of proposed suspended slab;
 - The shadow diagrams provided do not allow for a proper assessment of the overshadowing occurring on the adjoining property.

Given the reasons detailed above, the development application is recommended for refusal.

2. The Site and Locality



Figure 1: Aerial photograph of site in context.

The site is known as No. 11 Vimiera Road, Eastwood and is a single allotment with a legal description of Lot 4 in DP 4574.

ITEM 2 (continued)

The site is located on the north western side of Vimiera Road, to the north east of its intersection with Blaxland Road. Moore Park is located on the opposite side of Vimiera Road to the subject site.

The site is generally rectangular in shape, with a skewed rear boundary. The allotment has a frontage to Vimiera Road of 20.115m, a rear boundary dimension of 22.505m, side boundary dimensions of 59.265m and 49.18m, and a site area of 1091m². The site slopes from the street (RL 67.6) to the rear of the site (RL 64.25) by approximately 3m.

Figure 1 above shows the site in its context.

The site is currently developed with a single storey residential brick dwelling (see **Figure 2** below). The site contains a number of significant trees, including two Sydney Blue Gums which form part of a Critically Endangered Ecological Community under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act). It is also listed as a Critically Endangered Ecological Community in NSW under the *NSW Biodiversity Conservation Act 2016*.

A large Brushbox tree is located within the road reserve near the south eastern corner of the site. These trees are shown in **Figures 3 and 4** below.



Figure 2: Existing dwelling on the subject site

ITEM 2 (continued)



Figure 3: Sydney Blue Gum Trees (T25 left, T21 right)



Figure 4: Brushbox in road reserve at front of site

The trees on the site and surrounding properties consist of the following:

Tree Number	Species
T1	Jacaranda (<i>Jacaranda mimosifolia</i>) – street tree
T2	Brush Box (<i>Lophostemon confertus</i>) – street tree
T3	Japanese Camellia (<i>Camellia japonica</i>)
T4	Sasanqua Camellia (<i>Camellia sasanqua</i>)
T5	Sasanqua Camellia (<i>Camellia sasanqua</i>)
T6	Sasanqua Camellia (<i>Camellia sasanqua</i>)
T7	Feijoa (<i>Feijoa sellowiana</i>)
T8	Abelia (<i>Abelia x grandiflora</i>)
T9	Abelia (<i>Abelia x grandiflora</i>)

ITEM 2 (continued)

T10	Sasanqua Camellia (<i>Camellia sasanqua</i>)
T11	Poinsettia (<i>Euphorbia pulcherrima</i>)
T12	Japanese Zelkova (<i>Zelkova serrata</i>) – neighbouring property to south
T13	Sacred Bamboo (<i>Nandina domestica</i>)
T14	Crepe Myrtle (<i>Lagerstroemia indica</i>) – neighbouring property to south
T15	NSW Xmas Bush (<i>Ceratopetalum gummiferum</i>)
T16	Frangipani (<i>Plumeria acutifolia</i>)
T17	Photinia (<i>Photinia glabra rubens</i>)
T18	Sasanqua Camellia (<i>Camellia sasanqua</i>)
T19	Jacaranda (<i>Jacaranda mimosifolia</i>)
T20	Camphor Laurel (<i>Cinnamomum camphora</i>)
T21	Sydney Blue Gum (<i>Eucalyptus saligna</i>)
T22	Mulberry (<i>Morus nigra</i>)
T23	Sydney Blue Gum (<i>Eucalyptus saligna</i>) – neighbouring property to west
T24	Liquidambar (<i>Liquidambar styraciflua</i>)
T25	Sydney Blue Gum (<i>Eucalyptus saligna</i>)

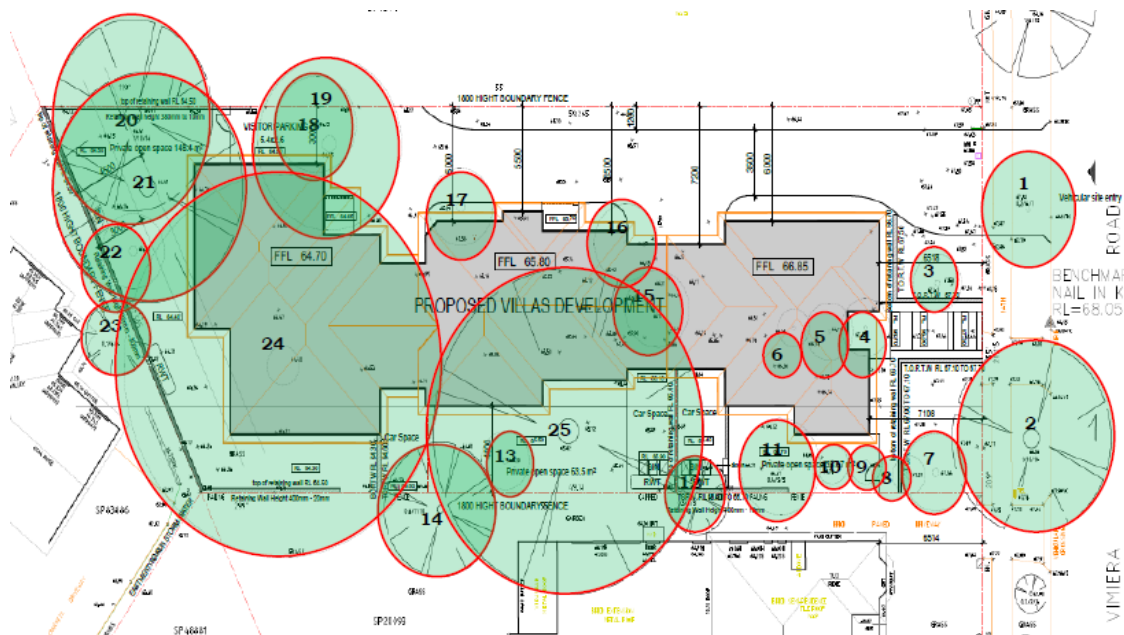


Figure 5: Location of existing trees on the site and adjoining properties

The site is located within an established residential area, and is located within 500m of the Eastwood Town Centre. The existing dwelling currently on the site is consistent with the established residential development in the area. The surrounding residential area comprises a range of low density development, including detached dwellings, dual occupancies and multi dwelling housing.

Immediately adjoining the site to the north east, at No. 15 Vimiera Road, is a recently constructed multi dwelling housing development consisting of four dwellings (see

ITEM 2 (continued)

Figure 6 below). To the south west at No. 7-9 Vimiera Road is an attached brick dual occupancy, as shown in **Figure 7** below.



Figure 6: Newly constructed multi dwelling housing development at No. 15 Vimiera Road



Figure 7: Brick dual occupancy at No. 7-9 Vimiera Rd to the south west

The site's rear boundary adjoins a multi dwelling housing development at No. 659 Blaxland Road. These units are setback approximately 2.5m from the common boundary with the subject site.

The buildings on both No. 15 and No. 7-9 Vimiera Road are setback approximately 6m from the front boundary.

ITEM 2 (continued)**3. The Proposal**

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

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

The application, as amended by plans submitted by the applicant on 17 April 2019, is described below.

Unit 1Ground floor

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

First floor

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

Unit 2

Unit 2 is accessed from the internal access on the north eastern boundary. The entry connects to the open kitchen/dining/living area, which accesses the single garage and associated tandem parking space in the eastern side of the house. The unit contains three bedrooms and two bathrooms in the western section of the house.

The Sydney Blue Gum (T25) proposed for retention will be located centrally in the private open space of Unit 2, approximately 1.5m from the wall of Unit 2.

Unit 3

Unit 3 is also accessed from the internal access on the north eastern boundary, and is located at the rear of the site. The unit has a separate living area to the dining and kitchen area. This unit contains three bedrooms and two bathrooms. It also has two parking spaces in the form of a single garage and tandem space behind the garage, adjoining the private open space.

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

ITEM 2 (continued)

contain the other Sydney Blue Gum (T21) which is proposed to be retained. The wall of Unit 3 will be setback approximately 2.5m from T21.

Figures 8 to 10 below show the site and various perspectives of the development.

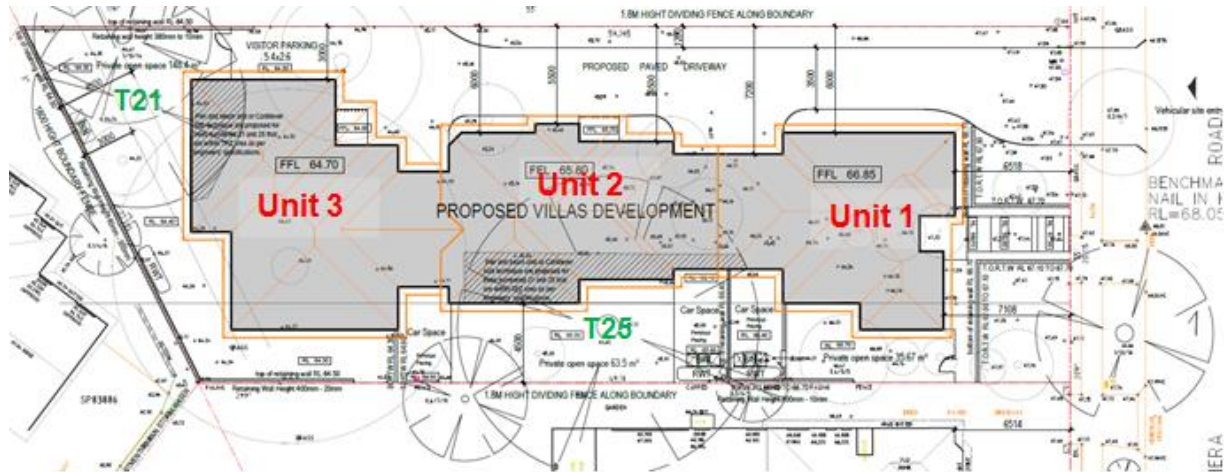


Figure 8: Site plan

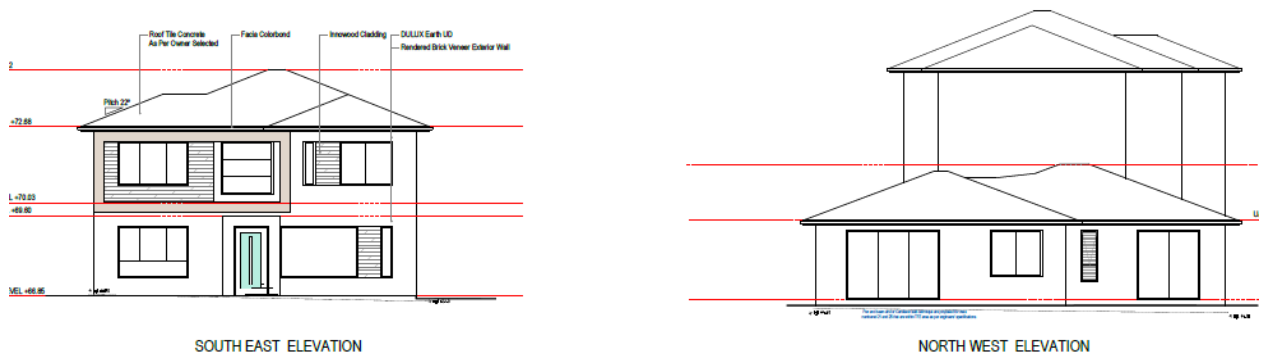


Figure 9: South East (street) elevation and North West elevation (rear)

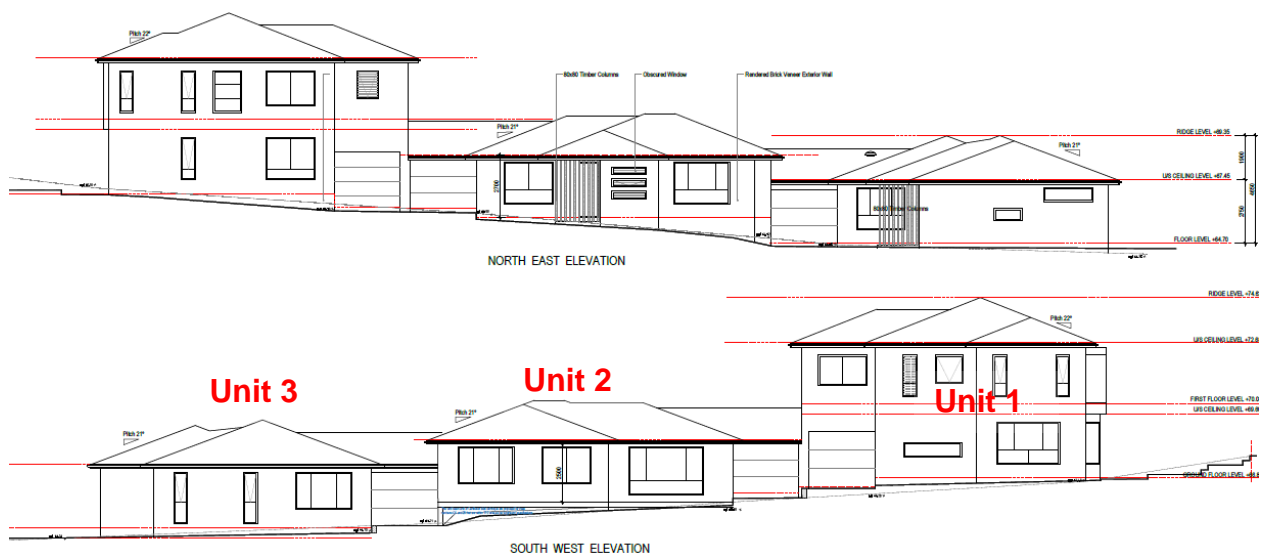


Figure 10: South west and north east elevations (side elevations)

ITEM 2 (continued)

This application proposes to remove eighteen (18) of the twenty two (22) trees located on the site, and to remove one (1) tree on the adjoining property (Tree 12). Out of the four (4) trees proposed to be retained on the site, two of these trees are Sydney Blue Gums (Tree 21 and Tree 25), and one is a Brushbox tree in the road reserve (Tree 2).

4. Background

This application was lodged with Council on the 1 March 2019.

27 March 2019

A preliminary assessment of the application identified a number of issues that were considered incapable of being addressed by plan amendments. It is noted that the original plans submitted involved the driveway being located along the south western boundary, resulting in the removal of two (2) Sydney Blue Gums and the Brushbox street tree.

A letter was sent to the applicant on 27 March 2019 recommending withdrawal of the application. The issues raised in this letter are outlined below:

Tree Removal

The removal of two (2) Sydney Blue Gums (Eucalyptus saligna) being Tree 21 & 25 as shown on the plans submitted is not supported. These are significant trees of High retention value which form part of a Critically Endangered Ecological Community (Blue Gum High Forest) within the City of Ryde. As such, these trees must be retained and protected as part of any development on site.

Furthermore, the removal of one (1) significant Council street tree (Lophostemon confertus) being Tree 2 is not supported. This is a highly prominent tree within the streetscape of Vimiera Road and forms part of a dedicated avenue planting. This tree must also be retained and protected as part of any development on site.

Ecological Assessment

The proposal includes removal of two (2) significant Sydney Blue Gums (Eucalyptus saligna) which form part of a Critically Endangered Ecological Community (CEEC) within the City of Ryde. No Ecological Assessment has been submitted to determine the impact on the CEEC as a result of the proposed removal and as such a full assessment of the proposal cannot be carried out.

Pervious Area

ITEM 2 (continued)

The proposal fails to achieve the minimum 35% pervious area as required by Section 3.4(b) of Part 3.4 of the Ryde DCP 2014. Plans are to be updated to reflect increased pervious area which meets the minimum 35% required.

Hard Surfaces

The provision of tandem car parking spaces as concrete surfacing is not supported and must be provided as a pervious surface. Plans are to be updated showing the surface treatments of these spaces as pervious.

Insufficient Information provided on Survey

The survey and information provided does not locate any of the structures or show any levels on the adjoining property to the north. This detail is required, as it is necessary to determine any impact on adjoining properties, as well as determining the level of overshadowing that may occur for the proposed units.

It is noted that the shadow diagrams must show the overshadowing that will occur to the proposed units, as well as the adjoining properties. These shadow diagrams must consider the fencing on the northern boundary.

Fencing detail

Detail on the fencing along the boundaries needs to be provided in respect to the total height combined with the proposed retaining walls. The plans do not show whether the proposed 1.8m high dividing fencing will be located on top of the proposed retaining walls.

17 April 2019

The applicant submitted amended plans to address the above issues, with the changes including the following:

- Relocation of the driveway to the north eastern boundary, and subsequent reconfiguration of the units. The size and layout of each unit did not significantly change, with the exception of the private open space of each unit.
- Proposed retention of three of the significant trees on the site, including the Brushbox street tree and the two Sydney Blue Gums (T21 and T25).
- The applicant provided a revised survey to include the recently constructed multi dwelling housing development at No. 15 Vimiera Road.

The applicant advised that, given the two Sydney Blue Gum trees are proposed to be retained, that an Ecological Impact Assessment was not required.

The amended plans provided are subject to this report.

ITEM 2 (continued)**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 (CEEC) under the EPBC Act and, as such, forms a 'Matter of National Environmental 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 the applicant has failed to demonstrate that Trees 21 and 25, which form part of the CEEC, can be retained as a result of the proposed development, and have not provided an Environmental Impact Assessment (EIA) to assess the impact on the CEEC. As such, insufficient information has been provided to assess if the proposal will result in a significant impact on the Blue Gum High Forest CEEC.

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*

ITEM 2 (continued)

- (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*
- (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 two (2) Sydney Blue Gums on the site (Trees 21 and 25) and one (1) Sydney Blue Gum near the common boundary on the adjoining property to the west (Tree 23 at No. 659 Blaxland Road), 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*.

Council's Consultant Landscape Architect has advised that the applicant has failed to demonstrate that the retention of Trees 21 and 25 would be viable given the substantial incursions to the Tree Protection Zones (TPZs) and Structural Root Zones (SRZs). No Environmental Impact Assessment (EIA) has been provided to assess the impact on this CEEC, and as such, this forms a reason for the refusal of the application.

5.1 State Environmental Planning Instruments

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

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

ITEM 2 (continued)

An amended BASIX Certificate (see Certificate 990219M_02 dated 14 April 2019) has been submitted with this application.

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

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

State Environmental Planning Policy No. 55 – Remediation of Land

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

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

5.2 Ryde Local Environmental Plan 2014 (RLEP 2014)

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

Part 2 – Permitted and Prohibited Development

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

Aims and objectives for 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.

ITEM 2 (continued)
Part 4 – Principle Development Standards

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

Clause	Proposal	Compliance				
4.1B Minimum lot sizes for dual occupancies and multi dwelling housing						
(1) The objective of this clause is to achieve planned residential density in certain zones. (2) Development consent may be granted for development on a lot in Zone R2 Low Density Residential for a purpose shown in Column 1 of the table to this clause if: (a) the area of the lot is equal to or greater than the area specified for that purpose and shown opposite in Column 2 of the table, and (b) the road frontage of the lot is equal to or greater than 20 metres.	R2 Low Density Residential	Yes				
	Multi dwelling housing	Yes				
	1,091m ²	Yes				
	20.115m	Yes				
<table border="1"> <thead> <tr> <th>Column 1</th> <th>Column 2</th> </tr> </thead> <tbody> <tr> <td>Multi dwelling housing</td> <td>900 square metres</td> </tr> </tbody> </table>	Column 1	Column 2	Multi dwelling housing	900 square metres		
Column 1	Column 2					
Multi dwelling housing	900 square metres					
4.3(2) Height						
9.5m	Unit 1 = 8.1m Unit 2 = 4.95m Unit 3 = 4.9m	Yes				
4.3A(2) Exception to Height of Buildings						
5m for a dwelling without street frontage <i>Applicable to Units 2 and 3</i>	Unit 2 = 4.95m Unit 3 = 4.9m	Yes				
4.5A Density Controls for R2 zone						
Development consent must not be granted to the erection of multi dwelling housing on land on Zone R2 Low Density Residential unless: (a) The site area for the building is not less than	Unit 1 = 4 bedroom Unit 2 = 3 bedroom Unit 3 = 3 bedroom 1 x 365m ² = 365m ² 2 x 300m ² = 600m ² Total required area = 956m ² Site area = 1,091m ²	Yes				
i) For each 1, 2 or 3 bedroom dwelling – 300m ² ii) For each 4 or more bedroom dwelling – 365m ² , and iii) Each dwelling will have its own contiguous private open space.						

Other Relevant Clauses
Clause 5.10 – Heritage conservation

The site is not identified as being a Heritage Item or within a Heritage Conservation area. The subject site does, however, contain a detached-style dwelling which

ITEM 2 (continued)

displays features attributed to the Inter-War period and is of an architectural style and period that falls within the scope of the current city-wide heritage study.

Council's Heritage Advisor has considered that the dwelling on the site is a typical and non-descript example of the Californian Bungalow architectural style, and does not meet the threshold required for demonstrating heritage significance.

As such, no issues have been raised with respect to the demolition of the existing dwelling.

Clause 6.2 - Earthworks

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

The following matters are required to be considered:

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development.*

The site is not located within an overland flow area.

- (b) *the effect of the development on the likely future use or redevelopment of the land.*

The proposed excavation is to facilitate the future development of the site. Minor excavation is required to facilitate the development, including excavation for Unit 3 and regrading within the front setback.

Insufficient information has been provided with respect to the suspended slab for Units 2 and 3, so the amount of excavation and fill required is unknown.

- (c) *the quality of the fill or the soil to be excavated, or both.*

The site has not been identified as contaminated and a condition of any consent will expect that all imported fill must be validated in accordance with the Contaminated Sites Sampling Design Guidelines (EPA, 1995).

- (d) *the effect of the development on the existing and likely amenity of adjoining properties.*

Insufficient information has been provided in relation to the mitigation measures and management of the site which forms part of the Blue Gum High Forest during any earthworks.

ITEM 2 (continued)

The level of impact to the two Sydney Blue Gums on the site is unacceptable, and the applicant has failed to demonstrate that these trees could be retained as a result of the proposal. Given the significant size of these trees, and the fact that they form part of the Blue Gum High Forest community, the amenity of the surrounding properties will be adversely impacted by their removal.

Furthermore, grade modification, hard surfacing, retaining walls and stormwater infrastructure within the TPZs and SRZs of the trees (T12 and T14) on the adjoining property to the south (i.e. No. 7-9 Vimiera Road) would result in an unacceptable impact on these trees. No land owners consent has been provided for the removal of these trees.

The amenity of the adjoining properties will therefore be adversely impacted by the proposed development, forming reason for the refusal of this application.

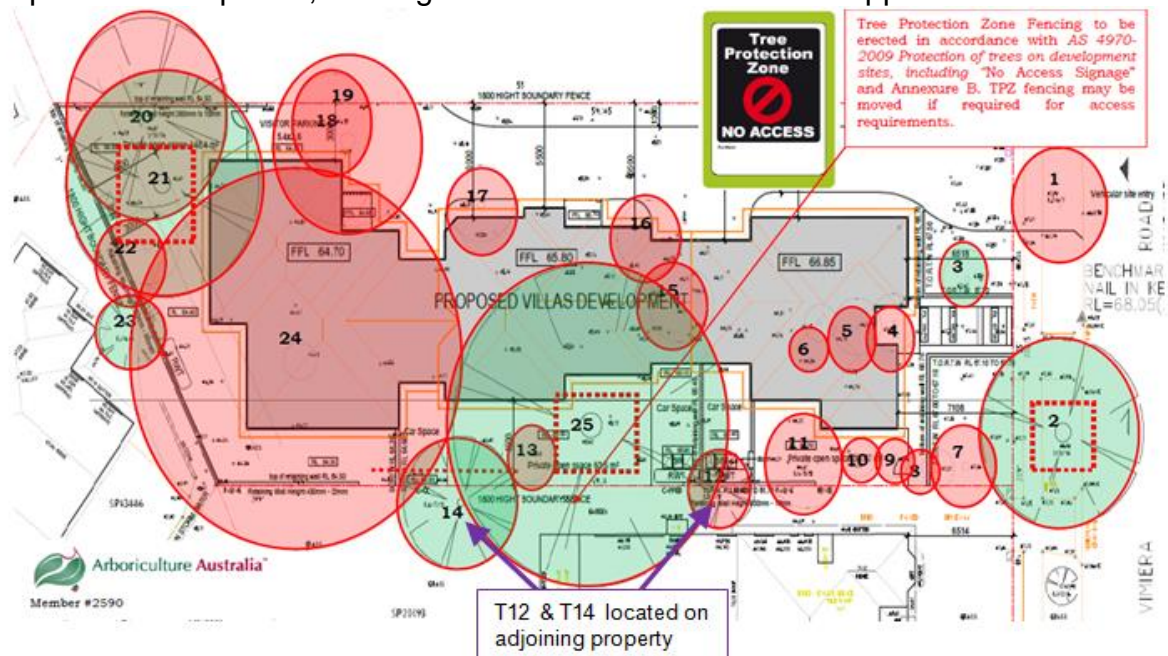


Figure 11 - Location of trees on subject site and adjoining properties that may be affected by proposal (green indicates retention and red indicates removal).

It is further noted that the Arborist report is inconsistent, as the Tree Management Plan does not reflect the recommendation to retain Tree 12 (as shown in **Figure 11**).

(e) *the source of any fill material and the destination of any excavated material.*

The site has not been identified as contaminated. No information has been provided in regard to either the source of fill or the destination of excavated materials and conditions of any consent would be required to address these matters.

(f) *the likelihood of disturbing relics.*

ITEM 2 (continued)

Given the location of the site and its previous development, it is considered unlikely that any relics would be disturbed.

- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area.*

Subject to adequate sedimentation measures during construction, the proposal is unlikely to impact any waterway and it will not impact any drinking water catchment or environmentally sensitive area.

- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Appropriate measures to enable the retention of Trees 12, 14, 21 and 25 have not been provided, forming reason for the refusal of this application.

Clause 6.4 - Stormwater Management

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

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

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

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

However, the Arborist Report has failed to consider the impact of the stormwater infrastructure on the trees that are identified to be retained.

5.3 Draft Environmental Planning Instruments**Draft Remediation of Land State Environmental Planning Policy**

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

ITEM 2 (continued)

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

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

5.4 Development Control Plans**Ryde Development Control Plan 2014****Part 3.4 – Multi dwelling housing for Low Density Residential zone**

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

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

Section 3.4 – Site Coverage

The objective of this control is to ensure that there is a balance between built and unbuilt areas, and to allow for sufficient landscaping and pervious areas within the site.

Whilst the site has site coverage of 405.6m² (37%) and complies with the maximum 40% site coverage control, the proposal does not meet the required pervious area of 381.85m² (35% of the site area).

The shortfall of 23.75m² represents a 6% variation to the control, which is minor, however, given the constraints of the site, this variation is significant, as it contributes to impact on the trees within the site and adjoining the site.

ITEM 2 (continued)

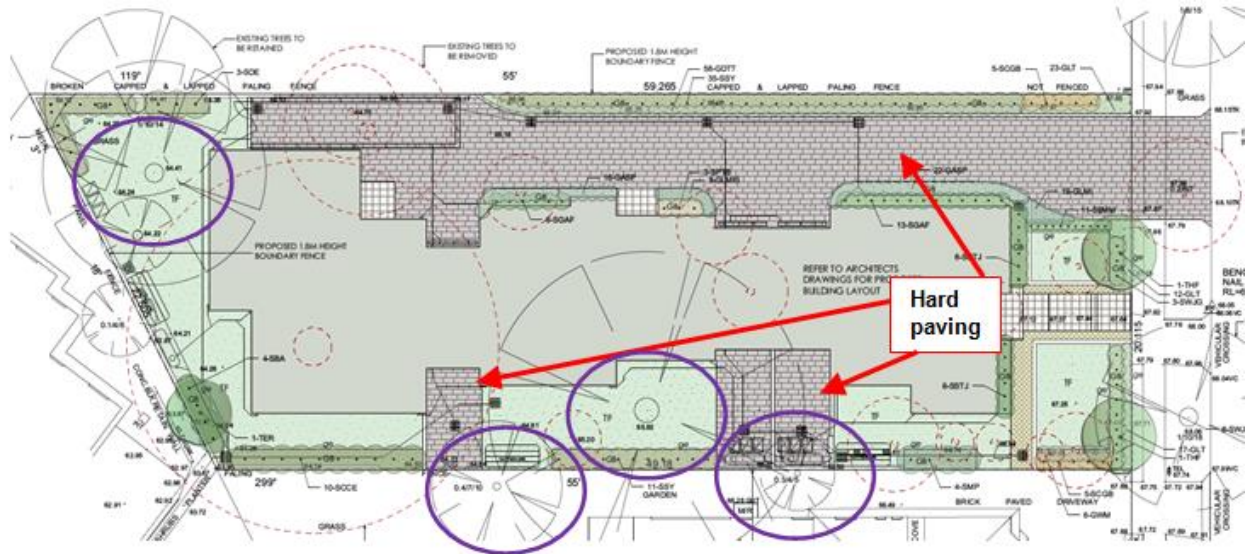


Figure 12: Extract of landscape plan showing extent of paved areas in relation to trees (trees of concern circled in purple)

Limited detail is provided in respect to the paving for the driveway and tandem parking areas, and therefore, there is potential for these paved areas to have an adverse impact on the nearby trees (see **Figure 12** above).

Given the constraints of the site, this non-compliance is unacceptable, and forms reason for refusal of the application.

Section 3.5.4 – Side and Rear Setbacks

Section 3.5.4 (a) requires setbacks to have a minimum setback of 6m where vehicular access is proposed in this area. Unit 2 has a setback to the north eastern boundary of 5.5m for a portion of the wall. The porch for Unit 2 is setback 5m from the north eastern boundary, as shown in **Figure 13** below.

ITEM 2 (continued)

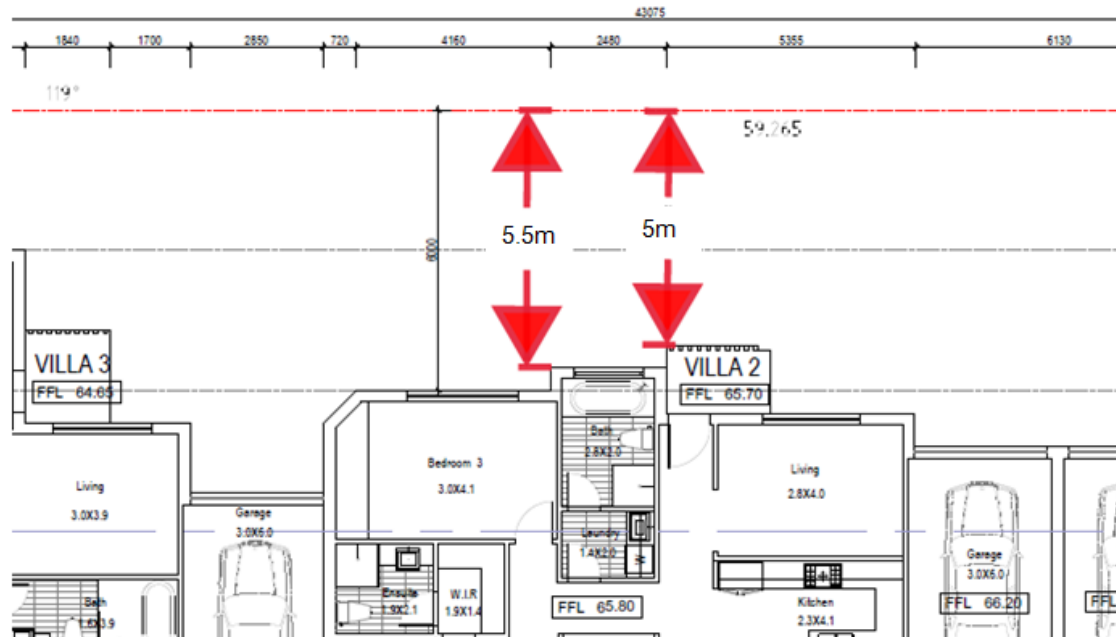


Figure 13: Setback of Unit 2 to the north eastern boundary

This non-compliance is unacceptable, as it does not allow for adequate landscaping within the driveway area. Additionally, in the absence of swept paths, it is unclear whether the current driveway arrangement will allow for appropriate vehicular access.

This forms reason for refusal of the application.

Section 3.6 – Private Outdoor Space (courtyards)

The objectives of this section of the RDCP 2014 are as follows:

1. That private outdoor spaces are functional and relate to the activity areas of the dwelling
2. That all courtyards gain satisfactory access to sunlight

Whilst the proposal complies with the numerical control for the amount of private open space required for each dwelling (i.e. 35m² per dwelling), the proposal fails to comply with Section 3.6 (d), as follows:

(d) The development should be designed in such a way that courtyards do not contain any existing substantial trees.

The courtyard areas of Units 2 and 3 both have significant trees centrally located within their courtyards, as illustrated in **Figure 14** below.

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“The trunks of Trees 21 & 25 at ground level are still located within very close and unsustainable proximity to the proposed building alignment. More specifically, Tree 21 is located 2.5 metres away from the proposed western enclosing wall of Unit 3 despite having a TPZ of 9.3 metres.

Similarly, Tree 25 is located just 1.5 metres away from the proposed southern enclosing wall of Unit 2 despite having a TPZ of 14.4 metres.

The proposed alignment of these walls in addition to the proposed grade modification, retaining walls and stormwater infrastructure will result in TPZ incursions of 49.62% and 22.08% for Tree 21 & 25 respectively (the TPZ incursion for Tree 25 increasing from 27.04% to 49.12% based on the current site arrangements).

Given any incursion over 10% is defined as Major under AS4970-2009, it is considered that the arrangements as currently proposed represent an unsuitable outcome for these high retention value trees.”

Whilst it is acknowledged that the Arborist Report (as amended) has provided recommendations in relation to the retention of these trees via a suspended slab within a small area of the overall TPZ, no detail has been provided as to the extent of the suspension of the slab, nor has it considered the installation of stormwater infrastructure, as shown in **Figure 15** below.



Figure 15: Proximity of enclosed walls and stormwater infrastructure in relation to T21 and T25

It is further noted that the proposal has an unacceptable impact on Trees 12 and 14, which are located on the adjoining property to the south west. No landowners consent for the removal of these trees has been provided.

Given the impact on these trees as detailed above, the site is considered unsuitable for the development, and this forms reason for refusal of the application.

ITEM 2 (continued)

Section 3.8.1 – Car Parking

This section refers to Part 9.3 – Parking Controls of the RDCP 2014, which requires each unit to have two parking spaces, and one visitor parking space. The proposal provides two parking spaces per unit in the form of a lockable garage and a tandem parking space behind the garage.

Whilst the development numerically complies with this control, the usability of two of the parking spaces, the tandem parking space for Units 1 and 2 do not meet the required length under AS2890.1, as the bin storage area and rainwater tank are proposed at the end of each space, resulting in a length of approximately 4.7m (see **Figure 16** below).

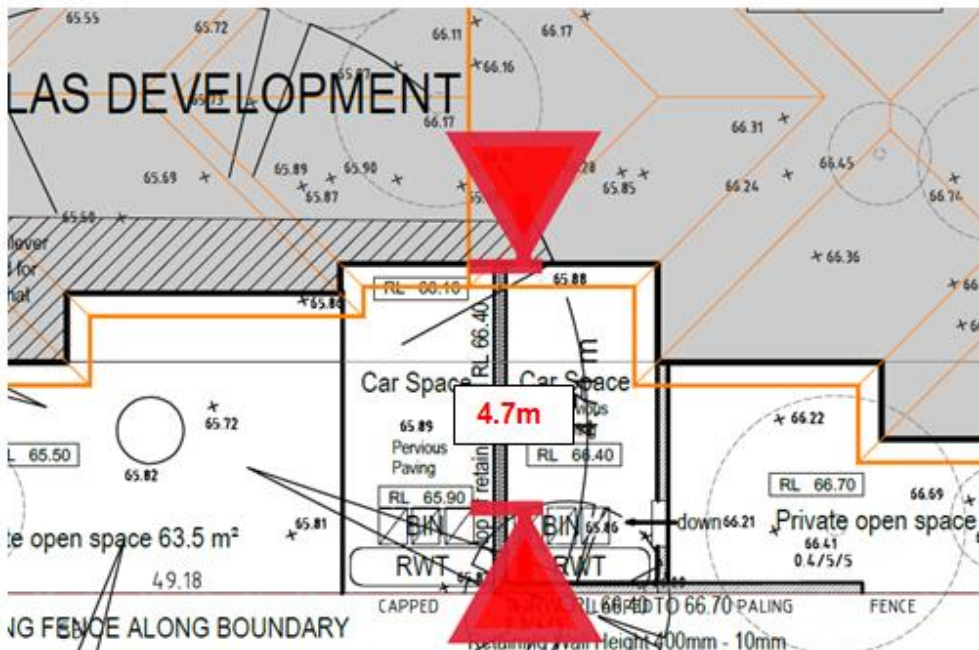


Figure 16: Length of tandem parking space accounting for bin storage and rainwater tank

It is considered that the proposal does not provide the required parking spaces, as the tandem parking spaces for Units 1 and 2 cannot accommodate a vehicle as per AS2890.1.

It is further noted that the relocation of the bin storage areas and rainwater tanks into the private open space of Units 1 and 2 would further diminish the usability of these areas, which are already impractical and result in poor amenity for future residents.

Therefore, this forms reason for refusal of the application.

Section 3.8.2 – Manoeuvrability

Section 3.8.2 of the RDCP 2014 requires that vehicles must be able to enter and exit the site in a forward direction.

ITEM 2 (continued)

Council's Senior Development Engineer has stated the following with respect to the manoeuvrability of vehicles using the site:

"The plans have not been supported with swept diagrams depicting forward entry and exit to the site from their dedicated spaces. Compliance may be achieved, however, it is envisioned that to achieve forward entry and exit the landscape strip along the north eastern boundary will have to be reduced significantly or removed in some areas to accommodate vehicle entry. As a result, it may impact landscaping requirements if the applicant has only provided the minimum amount of landscaping required under the RDCP 2014."

Insufficient information has been provided that the proposal can comply with this control without adversely impacting the amenity of the future residents and adjoining residents by removing the landscaping on the north eastern boundary.

This forms reason for refusal of the application.

Section 3.9 – Overshadowing and Access to Sunlight

Section 3.9(b) of the RDCP 2014 requires that 50% of each courtyard within the development is to have no less than two hours sunlight between 9am and 3pm of June 21.

Insufficient information has been provided by the applicant to demonstrate that Units 1 and 2 comply with the control. This is particularly problematic, as the private open space of Unit 2 is segmented and unpractical given the location of Tree 25 in the middle of the courtyard.

The amenity of the courtyard of Unit 2 is considered to be unacceptable, and therefore, this forms reason to refuse the application.

Furthermore, the applicant has not considered the overshadowing that will be caused by the fencing on the south western boundary on the adjoining property's north facing windows. A retaining wall up to 400mm in height is proposed along a section of the south western boundary, with the fence sitting on top of the retaining wall, having a total approximate height of 2.2m. The shadow diagrams provided by the applicant have not considered this fence structure, which may impact the solar access to the north facing windows of No. 9 Vimiera Road.

Section 4.2 – Ceiling Height

The RDCP 2014 requires the minimum floor to ceiling height for multi dwelling housing to be 2.7m to ensure dwellings have sufficient light, space and ventilation to all rooms.

ITEM 2 (continued)

The second storey component of Unit 1 has a floor to ceiling height of 2.65m, and therefore does not comply with this control.

This is considered acceptable in this instance, as Unit 1 has sufficient solar access and ventilation. The main living areas for this unit are on the ground floor, which has a floor to ceiling height of 2.75m.

Section 4.3 – Roofscape and Roof Materials

Section 4.3 (d) states that the use of gables fronting the street is required to add further interest to the streetscape, and that hip roofs will be generally not be permitted.

The development proposes a hip roof for Unit 1, which presents to Vimiera Road. In this instance, the roof style is considered to be consistent with the streetscape, and has sufficient articulation to add interest to the streetscape.

Therefore, this non-compliance does not warrant refusal of the application.

5.5 Planning Agreements OR Draft Planning Agreements

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

5.6 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)

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

5.7 Any matters prescribed by the regulations

All matters prescribed by the regulations have been considered in the assessment of the application. The contributions 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	\$7,303.64
Open Space & Recreation Facilities	\$17,980.08
Civic & Urban Improvements	\$6,115.38
Roads & Traffic Management facilities	\$834.18
Cycleways	\$521.08
Stormwater Management Facilities	\$1,656.20
Plan Administration	\$140.48
The total contribution is	\$34,551.04

ITEM 2 (continued)**6. The likely impacts of the development**

The proposal is likely to have adverse impacts on the natural environment as no reasonable attempts have been made to retain and protect the Blue Gum High Forest on the site.

The subject site contains Blue Gum High Forest. In particular, Trees 21, 23 and 25 are Sydney Blue Gums that are prominent in the landscape and form part of a 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 and each have been determined as inadequate by Council's Consultant Landscape Architect.

i) Arborist Report dated 13 December 2018

The first Arborist report submitted at the lodgement of this application stated that:

"The site contains a mixture of introduced exotic and native planted vegetation observed"

and that;

"Site trees, minor TPO Exempt shrubs and Council Street tree numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, 18, 19, 20, 21, 22, 24 and 25 are either located within the proposed Villa envelope or required driveway access and ultimately have to be removed, there are no objections to their removal"

This Arborist Report identified Trees 21, 23 and 25 as Sydney Blue Gums in good health, yet did not recommend that an Ecological Impact Assessment be conducted in respect to the significant impact on Trees 21 and 25.

The Arborist Report also erroneously identified Tree 21 as being *"an ornamental shrub"*.

ii) Arborist Report dated 10 April 2019

An amended Arborist Report (prepared by the same Arborist) to accompany the amended plans was submitted with the additional information on 14 April 2019.

This report recommended the retention of Trees 2, 3, 14, 21, 23 and 25.

Council's Consultant Landscape Architect has provided the following comments with respect to the amended report:

"The proposed level of impact to Trees 21 & 25, both Eucalyptus saligna (Sydney Blue Gums) located on the subject site is not supported with each of

ITEM 2 (continued)

these trees being of high significance and retention value as well as being of a species consistent with and listed under Critically Endangered Ecological Community (CEEC): Blue Gum High Forest in the Sydney Basin Bioregion.

The current building alignment, extensive areas of external grade modification, hard surfacing, retaining walls and stormwater infrastructure within the Tree Protection Zones (TPZ) and Structural Root Zones (SRZ) of these trees is not sustainable and the associated impacts have not been suitably assessed or discussed within the Arboricultural Impact Assessment (AIA) prepared by Horticultural Management Services dated 10th April 2019.

Despite providing general recommendations for the provision of a suspended slab within a small area of the overall TPZ, the AIA does not provide a detailed description of where the slab is to be suspended, does not appear to have considered the installation of stormwater services located within SRZs or the high level of grade modification within the TPZ of each tree (in places, up to 300mm) and does not provide any percentage indication as to the calculated incursions to TPZs and SRZs.

In general, the AIA has failed to demonstrate that these trees would remain viable given each will be subject to major TPZ encroachments as a result of the proposal that significantly exceed 10% of their defined TPZ. It is noted that the demonstration of viability in this regard is a requirement under Section 3.3.3 of the Australian Standard: AS4970-2009 - Protection of trees on development sites.”

In summary, the development, including the proposed building footprint, site regrading and stormwater infrastructure results in an unacceptable impact on the existing natural environment.

7. Suitability of the site for the development

The impact on the critically endangered ecological community demonstrates that the site is not suitable for the proposed development.

8. The Public Interest

Given the above assessment, 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 the CEEC as a result of the development is not considered to be in the public interest.

ITEM 2 (continued)

9. Submissions

Public Notification Period No. 1

In accordance with the RDCP 2014 *Part 2.1 Notice of Development Applications*, the application was notified between 8 March 2019 and 4 April 2019, and advertised in the *Northern District Times* on 13 March 2019.

In response to the first public notification period, twenty seven (27) submissions were received from the following properties:

Address	
18 Andrew Street, Melrose Park	5/4-6 Lincoln Street, Eastwood
19 Munro Street, Eastwood	56 Vimiera Road, Eastwood
5 Vimiera Road, Eastwood	14 Wood Street, Eastwood
32A Vimiera Road, Eastwood	7 Vimiera Road, Eastwood
53 Terry Road, Denistone	10 Bertram Street, Eastwood
9 Vimiera Road, Eastwood	28 River Avenue, Chatswood West
7 Adamson Avenue, Dundas Valley	72 River Avenue, Chatswood West
24 Woodvale Avenue, North Epping	62 River Avenue, Chatswood West
60 Anthony Road, Denistone	25 Cocos Avenue, Eastwood
5/12 Forest Grove, Epping	9/23-25 Cook Street, Glebe
19 Vimiera Road, Eastwood	14/275 Blaxland Road, Ryde
3/17 Vimiera Road, Eastwood	4 x undisclosed address

The majority of the submissions received in this period were related to concern for the removal of trees on the site. Concern was also raised in regard to excessive bulk and scale, front and rear setbacks, site coverage, overshadowing, visual privacy and cut and fill.

The above issues are not addressed here because of the significant design changes resulting from the submission of amended plans. (which were the subject of Public Notification No. 2 – see below).

Public Notification Period No. 2

The amended plans received were renotified between 18 April 2019 and 5 May 2019.

In response to the second public notification period, ten (10) submissions were received objecting to the development from the following properties:

Address
24 Woodvale Avenue, North Epping
20/512 Victoria Road, Ryde

ITEM 2 (continued)

Address
3/17 Vimiera Road, Eastwood
5/16 Vimiera Road, Eastwood
9 Vimiera Road, Eastwood
9/23-25 Cook Street, Glebe
14/275 Blaxland Road, Ryde
25 Cocos Avenue, Eastwood
2 x undisclosed address

The concerns raised in the submissions are summarised and addressed follows:

- **Impact of revised layout and size of development on Sydney Blue Gums**

All the submissions received raised concerns that, regardless of the applicant's stated intention to retain the Sydney Blue Gums on the site, the amended design of the development would impact on these trees and result in their removal. Particular concern was raised that the proximity of Unit 2 to Tree 25 was unsustainable.

Comment

This concern is concurred with. The location of Units 2 and 3 in relation to Trees 25 and 21 respectively, as well as the retaining walls, stormwater infrastructure proposed within the Tree Protection Zones (TPZs) and Structural Root Zones (SRZs) of these two trees, will make the retention of these trees unviable.

Furthermore, the proposal's impact on adjoining trees on the property to the south (i.e. Trees 12 and 14) is unacceptable, as land owners consent has not been provided for the removal of these trees.

As such, the development is not considered to be suitable for the site, and this issue forms reason for refusal of the application.

- **Impact on removal of screen planting on amenity of neighbouring property**

Concern has been raised by the adjoining property owner of No. 9 Vimiera Road that the removal of the trees on the site located on the south western boundary will adversely impact the adjoining properties privacy and amenity.

Comment

The proposed removal of the trees along the south western boundary, being Trees 7, 8, 9, 10, 11 and 13, is supported, as appropriate replacement planting along this boundary is provided in the form of Orange Jessamine and Lilly Pilly trees. The courtyard areas are not elevated, and will not create privacy issues into the adjoining property.

ITEM 2 (continued)

This issue does not warrant refusal of the application.

- **Excessive building form**

General concerns were raised that the proposed development was an overdevelopment of the site, as the proposal does not comply with front and rear setbacks and has excessive bulk and scale.

Comment

The proposal complies with the setback controls within the RDCP 2014, with the exception of the side setback to the north eastern boundary. Furthermore, the site coverage, building height, minimum lot size and minimum frontage complies with the relevant planning provisions.

However, it is agreed that the development is an overdevelopment of the site, given the site constraints of the significant vegetation that restricts the developable areas of the site.

The unsuitability of the site for the proposed development forms reasons for refusal of the application.

- **Overshadowing**

Concern was raised by the neighbour to the south west (No. 9 Vimiera Road) that the north facing windows (including two living rooms windows) would not receive 3 hours sunlight in midwinter. Concern was also raised that the skylights of No. 7 Vimiera Road would be excessively overshadowed by the development.

Comment

It is agreed that the applicant has provided insufficient information to demonstrate that the north facing living room windows of No. 9 Vimiera Road would not have their solar access significantly impacted. Part 3.4 of the RDCP 2014 does not indicate the number of hours of solar access required to the habitable windows of adjoining properties, Section 3.9 of the RDCP 2014 requires that solar access to adjoining properties is to be maintained.

Notwithstanding, a review of the shadow diagrams submitted reveals that no unreasonable impact would occur to the skylight windows of No. 7 Vimiera Road given the 20m distance from the subject development.

However, given the application has not account for the impact of the combined fence and retaining wall along sections of the south western boundary, insufficient information has been provided to demonstrate that the amenity of the adjoining property at No. 9 Vimiera Road would not be unreasonably impacted.

ITEM 2 (continued)

- **Retaining wall on south western boundary**

Concern has been raised that the proposed retaining wall on the south western boundary would destabilise the land at No. 9 Vimiera Road.

Comment

It is noted that the retaining wall has a maximum height of 400mm, and, in normal circumstances, would be unlikely to destabilise the land on the adjoining property. However, given the retaining wall will abut Tree 12 on the adjoining property, the retaining wall may have an unacceptable impact on this tree.

- **Visual Privacy**

Concern has been raised from the owner of No. 9 Vimiera Road that the location and size of the windows on the south western elevation, as well as the courtyard areas, will overlook the garden of No. 9 Vimiera Road.

Comment

The courtyard areas are generally at natural ground level, and, with the provision of a 1.8m high fence, no overlooking into the adjoining property would occur from these areas.

The RDCP 2014 does not permit direct views from living room windows into adjoining living room windows or private open space. No views from any living room windows into the private open space of the adjoining properties will occur, given the only living room windows on the south western elevation (Units 1 and 2) are setback a sufficient distance from the boundary to prevent any overlooking.

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

- **Fencing detail**

One submission requested that the proposal include a front fence to screen gas and water services to the property and to maintain the existing streetscape.

Comment

The landscaping proposed within the front setback would provide sufficient screening for the proposal, and would enable the proposal to complement the existing streetscape.

This issue does not warrant refusal of the application.

ITEM 2 (continued)**10. Referrals****Consultant Landscape Architect**

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

"Following a review of these documents, it has been noted that the design of the multi-dwelling development has been mirror reversed along the site's longitudinal axis so that the driveway is now located adjacent to the northern boundary and Private Open Space (POS) areas for each unit now located adjacent to the southern boundary. The immediate effect of this being that Tree 21 is located slightly further away from the proposed building alignment and Trees 2 & 25 are no longer located within the footprint of the proposed driveway.

For Tree 2, the changes in this instance have enabled its retention as requested given no additional incursion to its Tree Protection Zone (TPZ) is likely to occur as a result of the newly proposed works. In this regard, it is considered that the previously highlighted concern in relation to this tree has been satisfactorily resolved.

*Notwithstanding, the trunks of Trees 21 & 25 at ground level are still located within very close and unsustainable proximity to the proposed building alignment. More specifically, Tree 21 is located 2.5 metres away from the proposed western enclosing wall of Unit 3 despite having a TPZ of 9.3 metres (see **Figure 15**). Similarly, Tree 25 is located just 1.5 metres away from the proposed southern enclosing wall of Unit 2 despite having a TPZ of 14.4 metres (see **Figure 15**). The proposed alignment of these walls in addition to the proposed grade modification, retaining walls and stormwater infrastructure will result in TPZ incursions of 49.62% and 22.08% for Tree 21 & 25 respectively (the TPZ incursion for Tree 25 increasing from 27.04% to 49.12% based on the current site arrangements). Given any incursion over 10% is defined as Major under AS4970-2009, it is considered that the arrangements as currently proposed represent an unsuitable outcome for these high retention value trees.*

It is acknowledged the revised AIA submitted has provided recommendations in relation retaining each of these trees in unison with the current building alignment via the provision of a suspended slab within a small area of the overall TPZ. Although this building methodology can mitigate impact, the revised AIA does not provide a detailed description of where the slab is to be suspended, does not appear to have considered the installation of stormwater services located within the Structural Root Zone (SRZ) or the high level of grade modification within the TPZ of each tree (in places, up to 300mm). Accordingly, the AIA is considered insufficient as it has not properly assessed the full level of impact and does not comply with the requirements of AS4970-2009 Protection

ITEM 2 (continued)

of trees on development sites whereby major levels of encroachment to the TPZ are anticipated.

Compounding the unsuitable nature of the proposed changes is the fact that the proposal is now non-compliant with control as listed under Section 3.7 (d) of Part 3.4 of Ryde DCP 2014 whereby existing substantial trees are not to be located within proposed courtyard areas.

An additional issue that has arisen as a result of the design being mirrored is that tandem car parking areas adjoining each unit now heavily impact both the TPZs the SRZs of Trees 12 & 14 located within the neighbouring allotment adjacent to the southern boundary. Specifically; grade modification, hard surfacing, retaining walls and stormwater infrastructure will result in TPZ incursions of 21.97% and 11.75% for Tree 12 & 14 respectively with each tree being subjected to significant incursions into their SRZs. It is anticipated that the design as proposed in this regard will result in an unsustainable impact to these trees and potential decline. It is noted that the amended AIA has nominated Tree 12 for removal however given that the neighbouring owner has not issued consent for the removal of either of these trees, they must be considered a priority for retention and further design changes will be required to ensure impacts are reduced to a sustainable level.

In addition to the outstanding tree concerns, further review of the amended Landscape Plan included as part of this submission has revealed that both the pervious area and tandem carpark hard surfacing issue alluded to above have not been resolved. It is noted that the surfacing to the tandem carparks has been changed from concrete to unit pavers, however this fails to meet requirement as detailed in the request for information letter issued by the City of Ryde for these areas to be clearly defined as having a pervious surface treatment. Calculations completed have revealed that the overall site pervious area is 34.23% - as such, the proposal still fails to meet the minimum 35% requirement as stipulated within Section 3.4 (b) of Part 3.4 of Ryde DCP 2014.”

Assessing Officer comment

Council's Consultant Landscape Architect has assessed that the level of impact to two Sydney Blue Gums is unacceptable, and that the retention of these trees will not be viable as a result of the proposed development. Furthermore, the impact on the trees on the adjoining property to the south west has not been addressed by the applicant.

Tree Management Officer

A referral was made to Council's Tree Management Officer due to the location of two Council street trees in relation to the proposed development. No issues have been raised subject to conditions of consent.

ITEM 2 (continued)
Heritage Advisor

A referral was made to Council's Heritage Advisor, who has raised no issues with the proposal.

Senior Development Engineer

A referral was made to Council's Senior Development Engineer, and the following comments have been made:

“Stormwater Management

The amended stormwater plan, completed by StormCivil Pty Ltd, drawing number 303153 D1, D2, and D3, Issue B, dated 13th April 2019, has been altered to reflect the latest architectural plans. The OSD tank has also been relocated to remain outside of the tree protection zone. There are no objections to these changes.

Vehicle Access and Parking

In response to protecting the existing trees constraining the site, the amended plans depict the vehicular crossing and development being reflected to the northern boundary. The grades provided are generally in accordance with AS2890.1.

The plans have not been supported with swept path diagrams depicting forward entry and exit to the site from their dedicated spaces. Compliance may be achieved, however it is envisioned that to achieve forward entry and exit the landscaped strip along the northern boundary will have to be reduced significantly or removed in some areas to accommodate vehicle entry. As a result, it may impact landscaping requirements if the applicant has only provided the minimum amount of landscaping required under Council's DCP.”

11. Conclusion

The development application is recommended for refusal for the following reasons:

1. The proposal will have an unacceptable impact on the Blue Gum High Forest critically endangered ecological community. Insufficient information has been provided to determine the impact on the two Sydney Blue Gum trees to the remaining CEEC and the sustainability of the impact 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 amended proposal fails to respond to the known site constraints and is not suitable for the site.

ITEM 2 (continued)

3. The proposal fails to comply with the RDCP 2014 in respect to the minimum pervious area requirement.
4. The proposal fails to comply with the RDCP 2014 in respect to the private outdoor area. The courtyard areas of Unit 2 and 3 are impractical as they contain significant trees, and result in poor amenity for future residents of these units.
5. The proposal fails to provide the necessary parking spaces in accordance with the RDCP 2014 given the location of the proposed rainwater tanks and bin storage areas.
6. The proposal fails to demonstrate that there is sufficient solar access to Unit 2's courtyard and the adjoining property to the south west.
7. The proposal fails to provide sufficient information in relation to:
 - The amount of cut and fill required and details of the proposed suspended slab;
 - Mitigation measures for trees within the site and adjoining properties during construction;
 - Manoeuvrability for vehicles, as no swept path diagrams have been provided;
 - The shadow diagrams provided do not consider the fence on the south western boundary, as required by the RDCP 2014.
8. The development is not considered to be in the public interest.

12. Recommendation

- A.** That Development Application LDA2019/0076 for the construction of a new multi dwelling housing development containing three (3) dwellings – 1 x 2 storey, 4 bedroom dwelling at the front and 2 x single storey, 3 bedroom dwellings at the rear and strata subdivision at No. 11 Vimiera Road, Eastwood, be refused for the following reasons.
1. Pursuant to Section 1.3 of the *Environmental Planning and Assessment Act 1979*, the proposed development hinders the attainment of the objects of the EP & A Act 1979 whereby Object (e) requires the protection of the environment, including the conservation of threatened ecological communities and their habitats (the Blue Gum High Forest) and promotion of good design and amenity of the built environment.
 2. Pursuant to the objects of the *Commonwealth Protection and Biodiversity Conservation Act 1999*, the proposal is considered to have an unacceptable impact on the two Sydney Blue Gum trees and

ITEM 2 (continued)

- subsequently, insufficient information has been provided that the proposal will not have a significant impact to the remaining Critically Endangered Ecological Community (CEEC).
3. Pursuant to Section 1.3 of the *Biodiversity Conservation Act 2016*, the impact of the proposed development on the two Sydney Blue Gum trees within the site is unacceptable, and insufficient information has been provided that the proposal will not have a significant impact to the remaining Critically Endangered Ecological Community (CEEC).
 4. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the development does not comply with the following provisions of the Ryde Development Control Plan 2014 – Part 3.4:
 - a) *Section 3.4 – Site Coverage* in that the proposal fails to meet the required pervious area;
 - b) *Section 3.5.4 – Side and rear setbacks* in that the proposal fails to meet the required 6m side setback from the north eastern boundary;
 - c) *Section 3.6 – Private Outdoor Space* in that the proposal results in impractical courtyard areas due to the significant trees located in these courtyards;
 - d) *Section 3.7 – Landscaping* in that the proposal fails to retain and protect significant site and adjoining trees;
 - e) *Section 3.8.1 – Car parking* in that the proposal fails to provide the required number of parking spaces due to the location of the rainwater tanks and bin storage;
 - f) *Section 3.8.2 – Manoeuvrability* in that insufficient information has been provided to demonstrate that adequate vehicular access is available without further reducing the landscaping and pervious area;
 - g) *Section 3.9 – Overshadowing and Access to sunlight* in that insufficient information has been provided to demonstrate Unit 2 and the adjoining property to the south west receives the required solar access.
 5. 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 3.4 – Multi dwelling housing.
 6. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, that the proposed development design is not suitable for the site given the proposal results in an unacceptable impact on a critically endangered ecological community, and fails to achieve compliance with relevant planning provisions.
 7. Pursuant to Section 4.15(1)(e) of the *Environmental Planning and*

ITEM 2 (continued)

Assessment Act 1979, in that the development is not in the public interest because it fails to achieve the objectives and requirements of the applicable environmental planning instruments and development control plans.

B. That those persons making a submission be advised of the decision.

ATTACHMENTS

- 1 Compliance Check
- 2 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Madeline Thomas
Assessment Officer - Town Planner

Report Approved By:

Tony Collier
Senior Coordinator - Major Development

Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

ITEM 2 (continued)

ATTACHMENT 1

Compliance Check - Quality Certification

Assessment of a Multi Dwelling Housing (attached) Development

LDA No: LDA2019/0076	Date Amended Plans Rec'd: 17/04/2019
Address: 11 Vimiera Rd Eastwood	
Proposal: New multi-dwelling housing development containing three (3) dwellings - 1 x 2 storey, 4 bedroom dwelling at the front and 2 x single storey, 3 bedroom dwellings at the rear as well as strata subdivision.	
Constraints Identified: Urban Bushland	

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

DCP 2014	Proposed	Compliance
2.2 Minimum allotment size		
Frontage and site area not less than 20m and 900sqm respectively.	Frontage = 20.115m Site area = 1,091m ²	Yes
'Hatchet Shaped' lots considered unsuitable.	Not a hatchet-shaped lot.	Yes
2.3 Non-Preferred Locations		
Is the proposed development within a non-preferred location?	Not identified as a non-preferred location.	Yes
2.4 Retention of Existing Dwellings		
Retention of existing dwg as part of a MDH will not be approved	Existing dwelling not to be retained.	Yes
Exception may occur if heritage item or contributing item where: <ol style="list-style-type: none"> a. The site can be subdivided so that the development is on a separate lot to the item. In this circumstance, the multi dwelling lot must have: <ol style="list-style-type: none"> i. Width not less than 20m beyond access handle; ii. Minimum area of 900sqm excl access handle; iii. Width of access handle 		N/A

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
not less than 4m for 3 or more dwellings. b. New development must complement item; c. Schedule of conservation and restoration works for item lodged with DA for subdivision. d. The item is not to be demolished.		
2.5 Density controls in R2 zone		
Clause 4.5A RLEP 2014 (a) Site Area not less than: i) 300sqm for 1, 2, 3 bedders, and ii) 365sqm for 4 or more bedder. (b) Each dwelling to have own contiguous private open space.	2 x 3 bedroom (2 x 300m ² = 600m ²) 1 x 4 bedroom (365m ²) Required area = 965m ² Site area = 1,091m ²	Yes
2.6 Number of Dwellings		
Not more than 12 x Dwellings	Three (3) villas proposed.	Yes
2.7 Type of Dwellings		
1. a) If 4 or more dwellings on site, not more than 75% should have same number of bedrooms. (Round down) b) Slope, proposed levels, building height, site coverage, landscaping, setbacks, accessibility and shadowing to be considered when assessing: i. will development complement existing neighbourhood, and ii. will development meet needs of householders including older persons with disabilities.	Only three (3) dwellings are proposed, and therefore, dwelling mix is not required.	N/A

PART 3.0 Site Planning

DCP 2014	Proposed	Compliance
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ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
3.1 Slope of Site		
a. Dwellings present to street. At least one entrance visible.	Villa 1 presents to Vimiera Road.	Yes
b. Sites with slope greater than 1:6 unacceptable.	Slope does not exceed 1:6.	Yes
c. Site that slope up from street more than 1:6 unacceptable.		
d. Cross fall more than 1:14 not acceptable.	Cross slope does not exceed 1:14.	Yes
3.2 Altering the Levels of the Site		
a. No imported Fill.	Levels outside building envelope are not altered by more than 300mm.	Yes
b. No altering of levels of site (not covered by building envelope) more than 300mm.	No basement garages.	Yes
c. No basement garages and minimal retaining walls.	Private open space generally at NGL.	Yes
d. Private open space provided at ground level.		
3.3 Storey and Height		
3.3.1 Storeys		
a. Street facing dwelling may be two storeys provided:	Villa 1, which fronts Vimiera Road, is two storeys. The remaining villas are both single storey.	Yes
i. Two storey dwelling not attached to any other two storey dwelling.		
ii. Two storey dwelling is suitable within streetscape.	The site is not a corner lot.	
b. Corner lots, one dwelling can be two storeys on shortest street frontage.		
c. Corner lots to be sensitively designed.		
3.3.2 Height		
a. As per Clause 4.3 and 4.3A (2) of RLEP 2014.	Villa 1 = 8.1m Villa 2 = 4.95m Villa 3 = 4.9m	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
3.4 Site Coverage		
Site coverage < 40% Pervious area > 35%	Site coverage = 37% (405.6m ²) Pervious area = 34.23% (373.45m ²) - it has not clearly identified the permeable paving proposed.	Yes No
3.5 Setbacks		
3.5.1 Front Setbacks		
<ul style="list-style-type: none"> a. Development must be <ul style="list-style-type: none"> i. same as adjoining if difference between setbacks of adjoining dwellings is <2m ii. Average of setback between the two if >2m b. Setback of 1m less than the above std for not more than 50% of the front elevation. c. May vary this requirement if streetscape is likely to change: not less than 7.5m for 50% of frontage, not less than 6.5m for 50% of frontage. 	The front setbacks of both adjoining properties is approximately 6m. The proposal has a minimum front setback of 6.518m, complying with this control.	Yes
3.5.4 Side and Rear Setbacks		
<ul style="list-style-type: none"> a. Min 4.5m unless vehicular access is included in this area, then min 6m. b. Must be adequate to provide appropriate solar access. c. Ensure existing substantial trees not within proposed courtyard areas. d. Min 3m up to 50% permitted. 	3m/4.5m minimum side and rear setbacks provided for north west and south western elevations. North eastern elevation fails to achieve a 6m setback the entirety of Villa 2, having a setback to the porch of approximately 5m, and 5.5m to the wall of the villa.	No

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>not located within courtyards.</p> <p>e. Tree location must not cause damage to building.</p> <p>f. Arboriculture assessment where significant tree/s impacted.</p> <p>g. Landscape strips for privacy not more than 1.2m wide and be 3 to 4m high. Trees 5 to 6m high.</p> <p>h. Landscape strip not less than 1.2m wide between driveway and boundary. Shrubs 2 to 2.5m high. Trees 5 to 6m high.</p> <p>i. Landscape strip not less than 1m between driveway and wall of dwellings.</p> <p>j. Edge between driveway and paths edged with concrete, not timber.</p> <p>k. Rolled edge between driveway and garden/lawn areas.</p> <p>l. Trees within footpath to be protected.</p> <p>m. OSD tanks and above ground OSD not located in front setback. Driveway preferable. In landscape area, min 300mm soil cover.</p>	<p>these trees are located in the main courtyard areas of Villas 2 and 3, adversely impacting the amenity of future residents, as well as posing risk to the dwellings in the future.</p> <p>Arborist report provided has insufficient information to demonstrate Trees 21 & 25 can be retained.</p> <p>Landscape strips are adequate in width and height.</p>	<p>No</p> <p>Yes</p>
3.8.1 Car Parking		
Car Parking		
<p>a. Number of parking spaces, refer to Part 9.3 of DCP:</p> <ul style="list-style-type: none"> - 1 space per 1 or 2 B dwelling, - 2 spaces per 3+B dwelling, 	<p>2 x spaces provided for each dwelling in the form of a lockable garage and a tandem parking space behind the garage. However, the tandem space for Units 1 and 2 have inadequate dimensions due to the RWT and</p>	<p>No</p>

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> - 1 visitor space per 4 dwellings. b. At least 1 space per dwg must be lockable garage (round up). c. Additional onsite parking to be provided for hatchet-shaped lots. d. Hatchet shaped lots require 1 additional space for every 4 dwellings and be accessible to all residents. e. Garages not located between dwellings and street frontage. f. Garages and parking spaces do not dominate streetscape. g. Garage (doors) should be designed to reduce visual prominence. h. Tandem parking not permitted in front of a garage. i. Garages and parking areas convenient. j. Garages separate dwellings. 	<p>bin storage area.</p> <p>1 visitor parking space is proposed.</p>	
3.8.2 Manoeuvrability		
<ul style="list-style-type: none"> a. Vehicles enter and leave in a forward direction. b. Corner lots, reversing out permitted depending on traffic conditions. c. Corner lot, vehicle access point not less than 6m from property boundary at intersection of 2 roads. d. Tandem arrangement permitted where no impact on manoeuvrability. e. Enter and leave parking spaces in a single 3 point 	<p>Council's Senior Development Engineer has stated that, in the absence of swept path diagrams, the landscape strip would need to be reduced further to enable vehicular manoeuvring.</p>	<p>No</p>

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
turn. f. Comply with AS 2890.1.		
3.8.3 Driveways		
a. Driveways paved and extent minimised appropriately.	Driveway width is acceptable.	Yes
3.8.4 Driveway crossings		
a. Up to 10 spaces – 4m More than 10 – not more than 6m If width of driveway crossings more than 30% of frontage, two crossings not permitted.	No issues have been raised by Council's Senior Development Engineer.	Yes
3.9 Overshadowing and Access to Sunlight		
<p>a. Habitable room windows face courtyard or other outdoor space open to the sky, no closer than 1.5m to facing wall.</p> <p>b. Sunlight to at least 50% of each courtyard, and principal ground level open space >2hrs between 9am and 3pm on June 21 or</p> <p>Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight must not be further reduced by more than 20%.</p> <p>c. Shadow diagrams must indicate extent of shadowing within development and adjoining properties.</p>	<p>Living areas will receive sufficient solar access.</p> <p>It is not clear that the courtyard of Villa 2 will receive at least 2 hours solar access between 9am and 3pm on 21 June, particularly given the large tree in the middle of the POS.</p>	<p>Yes</p> <p>No</p>
3.10 Visual and Acoustic Privacy		

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
a. Min 9m separation between facing habitable room windows. b. No direct views between living area windows or adjacent dwellings (otherwise screening or obscuring necessary). c. Direct views from living areas to private open space of other dwellings should be screened or obscured within privacy sensitive zone of 12m radius. d. No balconies. Elevated landings (or similar associated with stairs into courtyard) max 1m wide e. Living and sleeping areas protected from high levels of external noise? f. Noise levels of air con pool pumps etc must not exceed background noise level by more than 5dB(A)	Achieved. No direct views between living room windows. No overlooking from living areas to POS of adjoining dwellings. No balconies are proposed for Villa 1. Proposal does not raise any acoustic issues.	Yes Yes Yes Yes Yes
3.11 Accessibility		
3.11.1 Pedestrian Access		
a. Safe access achieved for pedestrians. b. Continuous access path provided and separate from vehicle access.	Suitable pedestrian access is provided .	Yes
3.11.2 Access for People with Disabilities – Devts of 6 or more dwellings		

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
a. 6 or more dwelling developments have min 35% of dwellings provide access to all indoor areas and outdoor living areas for people with disabilities (street, car parking and common areas accessed in one continuous path of travel) b. Dwgs designed as per AS4299 must be able to access street, car pkg and common areas using continuous path of travel.	The proposal is for 3 dwellings.	N/A
3.11.3 Access Audits		
a. Access audit must be submitted for 6 or more dwellings.	The proposal is for 3 dwellings.	N/A

PART 4.0 Building Form

DCP 2014	Proposed	Compliance
4.1 Appearance		
a. Complement streetscape. b. Includes pitched roof, eaves, vertically oriented windows, verandahs, rendered and face brick. c. At least 1 dwg must face street.	The built form is compatible with surrounding development.	Yes
4.2 Ceiling Height		
a. Floor to Ceiling min 2.7m	Minimum floor to ceiling height of 2.5m.	No
4.3 Roofscape and Roof Materials		
a. Pitch 22-30 degrees where visible from a public place. b. Pitch increase to 35% where second storey contained in roof. c. Eaves of at least 300mm. d. Gables fronting street is required and hip roofs generally not permitted.	Roof pitch is 21° to 23°. Hipped roof proposed, but compatible with character of the area.	Yes No (justifiable)

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
e. Variation in roof line. f. Use materials consistent with traditional materials.		
4.4 Building materials for Walls		
a. Exterior walls use materials consistent in form and colour of existing development. b. Windows have vertical proportion of between 2:1 and 3:1.	Achieved.	Yes
4.5 Fences		
4.5.1 Front fence		
a. Front fences not higher than 1m and must be at least 70% visually permeable. b. Front fences constructed of materials including: <ol style="list-style-type: none"> i. Wooden pickets (open), ii. Masonry (sand stone or facebrick); and iii. Wrought iron or similar. 	No front fence proposed.	Yes
4.5.3 Other boundary fences		
a. Fences other than boundary fences facing street must be a min of 1.8m high. b. Side, return and rear boundary fencing constructed of timber to lapped and capped standard.	1.8m high fencing proposed, however, materials not provided. Could be conditioned.	Yes
4.6 Clotheslines and drying area		
a. Clothes drying facility provided to each dwelling in appropriate location. b. Laundry within each dwelling.	Location of clothes drying area not provide for each dwelling.	No
4.7 Lighting		
a. Front yard lighting and	No details of lighting proposed,	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
front of dwelling provided. b. External lighting must not adversely affect adjoining properties. c. Spot lights discouraged.	however, expected this could comply with conditions.	
4.8 Location of bin enclosures		
a. A. Waste and recycling storage areas and facilities provided in accordance with Part 7.2 of Waste DCP. b. Up to 5 dwellings, not steeply sloping and wide road frontage: <ul style="list-style-type: none"> i. Each dwelling provided with storage area. ii. Storage area not visible from public spaces, habitable rooms or common areas within development or other properties. c. 6 or more dwellings, or steeply sloping or have narrow frontage: <ul style="list-style-type: none"> i. Central bin enclosure provided. ii. Enclosure is behind building line and suitably screened. 	Adequate bin storage areas proposed for each dwelling.	
For developments of 6 or more dwellings or where sites are steeply sloping or have a narrow street frontage: <ul style="list-style-type: none"> - A central garbage bin enclosure shall be provided - Behind the building line and suitably screened by landscaping. A plan indicating the design and location of the garbage bin enclosure must be submitted with the DA. 	Three (3) dwellings proposed.	N/A

ITEM 2 (continued)
PART 5.0 – Engineering

ATTACHMENT 1

DCP 2014	Proposed	Compliance
Drainage		
<ul style="list-style-type: none"> a. Refer to Part 8.2 Stormwater & Floodplains Management DCP 2014. b. Runoff from roofs and hard surfaces must not cause nuisance or damage to other private properties. c. Runoff from roofs, driveways and hard surfaces collected and drained via gravity to on-site stormwater detention system before discharge to street gutter or council pipe or watercourse. d. Interallotment easement acquired where runoff cannot be directed to street or a suitable pipeline. e. Pump out systems not permitted. f. Surface on-site detention basis not permitted. g. Pervious area must not be less than 35%. h. On-site detention system must be provided. i. Use of porous paving for patios and pathways encouraged. j. Porous paving considered to be 25% impervious. Use for driveways not permitted. k. Rainwater tanks encouraged. l. Details of tanks in Part 8.2 of Stormwater Management DCP. m. Consideration given to overland flow. 	<p>No issues have been raised by Council's Senior Development Engineer with respect to drainage.</p>	<p>Yes</p>

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>n. If water entering property is sizeable, demonstrate proposed development complies with minimum design standards.</p> <p>o. If overland flow is small, hydraulic study generally unnecessary</p> <p>p. Overland flow must not:</p> <p>ii. Be redirected in a manner which increases the quantity or concentration of flows through adjoining properties;</p> <p>iii. Enter buildings, lockup garages or sheds;</p> <p>iv. Enter the piped drainage system unless that system has been designed to accept those flows;</p> <p>v. Enter the on-site detention system.</p> <p>q. Overland flow must:</p> <p>i. Be conveyed through the site in a safe manner,</p> <p>ii. Be conveyed in a manner which will not result in scour.</p> <p>r. Details of the method of dealing with stormwater are to be submitted with the Development Application to Council's satisfaction.</p>		
6.1 Local Open Space Facilities		
<p>a. Increased demand for local open space facilities is to be satisfied through the acquisition and embellishment of certain land for open space purposes identified in</p>	<p>Should the application be approved, Section 7.11 contributions would be charged in accordance with Council's S94 Plan.</p>	<p>Yes</p>

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>Council's Open Space and Recreation Facilities Plan. Multi dwelling housing developments which create an increased demand for local open space are required to make an appropriate cash contribution toward the local open space acquisition and embellishment program.</p>		
<p>6.2 Local Road Facilities</p>		
<p>a. The construction of kerb and gutter, paved road shoulder, foot paving and landscaping where such facilities do not exist across the entire frontage of the land adjacent to the proposed development will be requested to be undertaken as part of the development. This work is to be carried out in accordance with the requirements of Council.</p>	<p>If the application were to be approved, conditions of consent would be imposed in relation to the necessary public domain works.</p>	

Summary of Issues/Non compliances:

- Pervious area
- Side setback
- Private open space
- Tree retention
- Landscape plan inconsistencies
- Trees in courtyards
- Solar Access
- Floor to ceiling height
- Location of clothes drying area

ITEM 2 (continued)

ATTACHMENT 1

Certification

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

Name Madeline Thomas (Senior Town Planner)

Date 24/06/2019

- 3 38 FOURTH AVENUE, EASTWOOD - NEW TWO STOREY BOARDING HOUSE COMPRISING 8 X DOUBLE BOARDING ROOMS, 2 x SINGLE BOARDING ROOMS, 1 x COMMUNAL ROOM AND PARKING FOR 5 CARS – UNDER THE PROVISIONS OF STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING 2009) - LDA2019/0025**

Report prepared by: Creative Planning Solutions

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

Report dated: 23/07/2019 **File Number:** GRP/09/6/12/1/2 - BP19/856

City of Ryde Local Planning Panel Report

DA Number	LDA2019/0025
Site Address & Ward	38 Fourth Avenue, Eastwood Lot E in Deposited Plan 18058 West Ward
Zoning	R2 Low Density Residential Zone
Proposal (as amended)	New two storey boarding house comprising, 8 x double boarding rooms, 2 x single boarding rooms, 1 x communal room and parking for 5 cars – under the provisions of <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i> .
Lodgement Date	16 January 2019
Property Owner	Weihua Li
Report Author	Ben Tesoriero – Consultant Planner
Applicant	Roger Johnson – Moderinn Pty Ltd
No. of Submission(s)	DA notification – 25 January to 20 February 2019 Twenty-four (24) unique submissions. Amended plans notification – 13 to 29 May 2019 Fourteen (14) unique submissions.
Cost of Works	\$1,223,021.00
Reason for Referral to LPP	Contentious development – the subject of 10 or more unique submissions by way of objection. <i>Schedule 1, Part 2 of Local Planning Panels Direction</i>
Recommendation	Approval
Attachments	Attachment 1 – Conditions of consent Attachment 2 – DCP compliance table Attachment 3 – SEPP (Affordable Rental Housing) 2009 Compliance table Attachment 4 – A3 Plans

ITEM 3 (continued)**1. Executive Summary**

The Development Application (DA) was lodged on 16 January 2019 and seeks consent for the construction of a new two storey boarding house comprising 10 rooms, 1 communal room and parking for 5 cars – under the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP).

The DA was advertised in the *Northern District Times* on the 30 January 2019. The owners of surrounding properties were given notice of the application on 25 January 2019, with the notification period for submissions closing on 20 February 2019. In response to this notification/advertisement of the DA, twenty-four (24) unique submissions were received, all of which objected to the proposal.

The objections were generally based on the following grounds:

- Traffic and parking impacts.
- Overshadowing and visual privacy impacts.
- Insufficient information in relation to who will be managing the boarding house.
- Concern in relation to the manager only being made available between 9am to 6pm Monday to Saturday.
- Concerns over why an onsite manager will not be residing on the premises.
- Safety in relation to cooking facilities proposed.
- Adverse impact on the character of the local area.
- Impact on neighbourhood amenity.
- Acoustic Impacts.
- Crime.
- Tree Removal.
- Landscaping.
- Unsympathetic landscape arrangements having regard to the local context.
- Insufficient notification of adjoining properties.
- Excess garbage generated by the proposed development.
- Bulk and scale.
- Size of bathrooms and bedrooms.

The DA was referred to Council's Heritage Advisor, City Works, Development Engineer, Consultant Landscape Architect, Environmental Health Officer, and NSW Police.

A detailed planning assessment was undertaken which identified a considerable number of issues with the proposal, many of which were common with those concerns raised by objectors. A letter detailing these issues and requesting that the DA be withdrawn was sent to the applicant on 22 March 2019.

At a meeting with the applicant on 28 March 2019, it was agreed that the applicant would be granted leave to rely upon amended plans.

ITEM 3 (continued)

On 8 May 2019 Council received amended plans and documentation seeking consent for a modified proposal that attempted to address the issues raised in Council's letter.

The amended plans were re-notified in accordance with the provisions of *Ryde Development Control Plan 2014* from 13 May 2019 to 29 May 2019. In response to the re-notification, fourteen (14) submissions were received objecting to the proposal on many of the same grounds as the originally notified DA.

The amended proposal has been assessed against the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

This assessment has found that the amended DA addresses many of the issues raised in the additional information letter issued to the applicant. The revised proposal now achieves satisfactory compliance with the relevant development standards and controls for boarding houses.

The amended development now appropriately responds to the subject site and character of the local area, while not resulting in an unacceptable impact on the natural or built environment. Approval of the DA is now considered to be in the public interest.

As such, this assessment recommends that development application LDA2019/0025 be approved, subject to conditions of consent.

2. The Site and Locality

The site which is the subject of this DA is legally described as Lot E in Deposited Plan 18058 and has a street address of 38 Fourth Avenue, Eastwood. The subject site is located on a corner allotment with an area of 575.4m² (survey plan). The subject site has a 12.19m primary frontage to Fourth Avenue, a 4.76m arc from the primary frontage to the secondary frontage and a 35.05m secondary frontage to Ryedale Road. The subject site features a north-south orientation and contains a maximum southeast to northwest (i.e. diagonal) fall of approximately 1.96 metres.

ITEM 3 (continued)

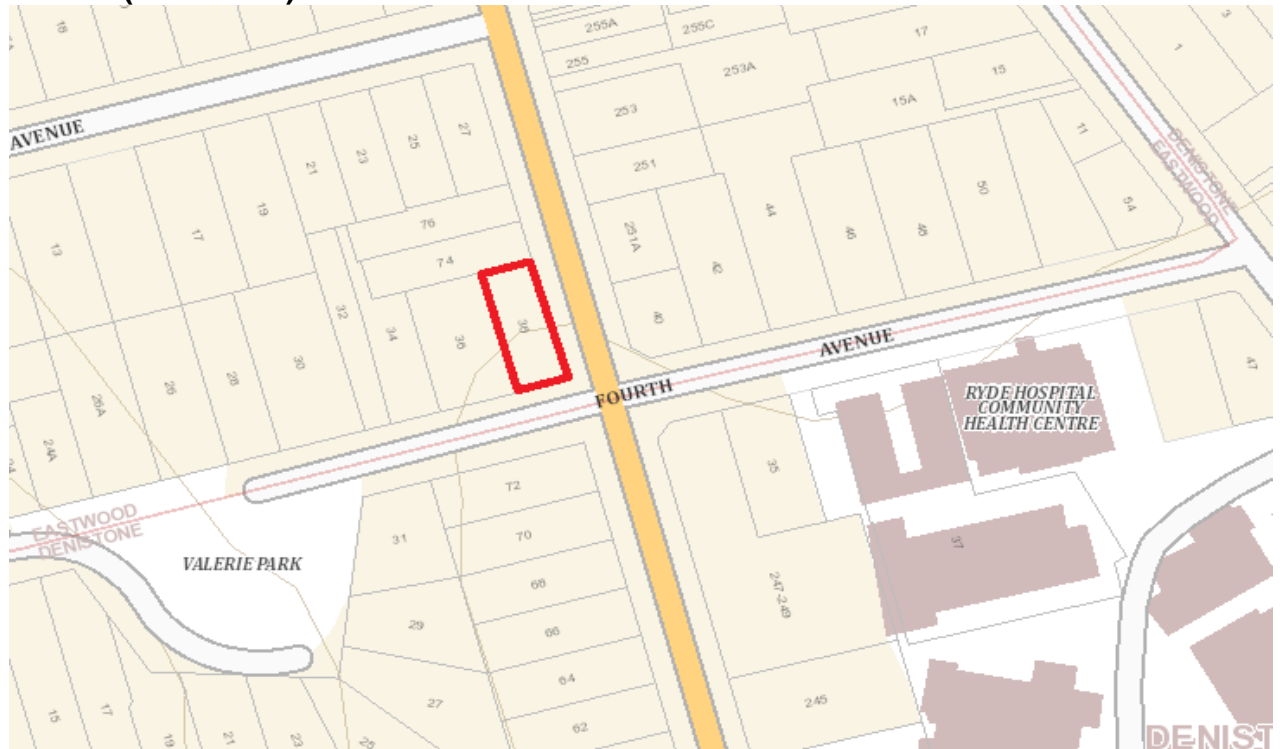


Figure 1 – Location of the subject site (identified by the red border) and surrounding area.

Source: <https://maps.six.nsw.gov.au>

Existing development on the subject site consists of a single-storey detached dwelling house with a tiled roof, with a garage located at the rear of the allotment that is accessed via the secondary street frontage. The remainder of the site largely consists of landscaped areas and contains some significant vegetation, including a large Jacaranda tree in the rear setback and a large Himalayan Cedar tree in the front setback.



Figure 2 – The subject site as viewed from Fourth Avenue.

Source: Google – February 2017

ITEM 3 (continued)



Figure 3 – The subject site as viewed from Ryedale Road.
Source: Google – February 2017

The subject site is located on the northern side of Fourth Avenue and the western side of Ryedale Road. The site is approximately 640 metres south of the Eastwood Town Centre. Development within the surrounding area primarily consists of low-density residential development (i.e. detached dwelling houses, dual occupancies and multi-dwelling housing). To the south-east of the site on Fourth Avenue is land zoned SP2 Infrastructure, which contains numerous health services facilities associated with the Ryde Hospital.

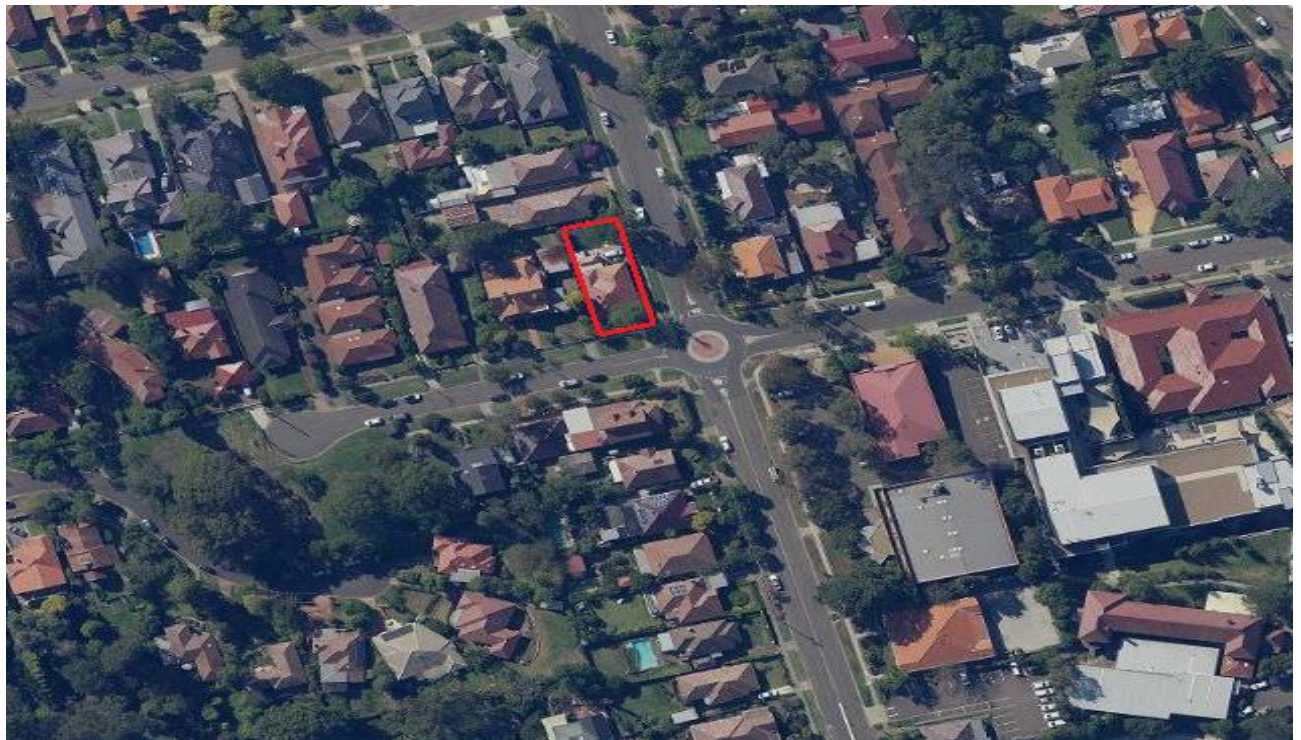


Figure 4 – An aerial photograph of the subject site (identified by the red border) and surrounding area. To the lower right of the image is the Ryde Hospital site.
Source: <https://maps.six.nsw.gov.au>

ITEM 3 (continued)



Figure 5 – A closer aerial photograph of the subject site (identified by the red border) and surrounding land. Noted are the large trees within the front and rear setback of the dwelling house.
Source: <https://maps.six.nsw.gov.au>

Due to the subdivision layout of surrounding land, and the location of the subject site on a corner allotment, there are only two (2) properties that adjoin the subject site. Development on these properties is outlined as follows:

- 36 Fourth Avenue: adjoins the western boundary of the subject site. Development on this property consists of a two-storey detached dwelling house with a tiled roof and detached garage at the rear of the allotment - refer to **Figure 6**.
- 74 Ryedale Road: adjoins the northern boundary of the subject site. Development on this property consists of a single storey rendered brick dwelling house with a hipped tiled roof and detached double car garage located at the rear of the allotment - refer to **Figure 7**.

ITEM 3 (continued)



Figure 6 – Two storey dwelling house at 36 Fourth Avenue, to the west of the subject site.
Source: Google – February 2017



Figure 7 – Single storey dwelling house at 74 Ryedale Road, to the north of the subject site.
Source: Google – November 2017

The subject site and all adjoining land is located within the R2 Low Density Residential zone. The nearest zone boundary is an SP2 Infrastructure (Health Service Facilities) zone, which is approximately 25 metres south-east of the subject site and incorporates Ryde Hospital.

ITEM 3 (continued)

The subject site is not affected by any significant environmental hazards or affectations (e.g. flooding, bush fire prone land, or areas of ecological sensitivity, etc.). The site does not contain a heritage item, and is not located within a heritage conservation area; however the site is located within the vicinity of Ryde Hospital (Denistone House and Trigg House) which is an item of local heritage significance under Schedule 5 of the *Ryde Local Environmental Plan 2014* (LEP2014).

A site inspection was undertaken on 22 February 2019. The inspection identified that the layout of the land is consistent with the applicant's submitted site survey.

3. The Proposal

The amended DA seeks consent for the construction of a new two-storey boarding house comprising, 8 x two-person boarding rooms, 2 x single-person boarding rooms, 1 x communal room and parking for 5 cars. The boarding house would therefore have a maximum capacity of 18 boarders.

The proposal seeks consent under Division 3 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP).

Details of the boarding house are as follows:

Ground floor:

Access to the entry lobby is via a paved concrete pathway from the secondary street frontage to Ryedale Road. The ground floor includes four (4) boarding rooms, one (1) of which is an accessible room. All boarding rooms include a kitchenette and an ensuite bathroom. The ground floor also includes a common room with kitchen and dining facilities, along with access to a laundry.

First Floor

The first floor is accessed via a staircase only, and includes six (6) boarding rooms, each including a kitchenette, ensuite bathroom and small balcony.

External

The primary frontage setback to Fourth Avenue includes an open lawn area and boundary screen planting adjacent to a new 1.2m high front fence. Soft landscaping treatments and small hedge and screen plantings are also proposed on the secondary street frontage adjacent to Boarding Room 1 and Boarding Room 2.

The driveway and crossover on the secondary street frontage provides access to the concrete at-grade car park located at the rear of the allotment. The at-grade car park is to include five (5) car parking spaces and two motorcycle spaces. Directly adjacent to the driveway entry is a small area of deep soil, and hard paved area for the bin enclosure.

ITEM 3 (continued)

Directly adjacent to the car park area at the rear of the allotment is the private open space area. The private open space area comprises of a large open lawn, with clothes drying area at the rear. The eastern side of the private open space area contains planting to screen the private open space from the car park and the public domain of Ryedale Road.

A pervious pathway extends from the car park down the western side setback of the building, and provides direct access to the communal room. Two undercover bicycle parking spaces are located within the western side setback.

4. Background

The DA was lodged with Council on 16 January 2019.

The DA was advertised in the *Northern District Times* on the 30 January 2019. The owners of surrounding properties were given notice of the application on 25 January 2019, with the notification period for submissions closing on 20 February 2019. In response to this notification/advertisement of the DA, twenty-four (24) unique submissions were received, all of which objected to the proposal.

The objections raised in the submissions have been summarised as follows:

- Traffic and parking impacts.
- Overshadowing and visual privacy impacts.
- Insufficient information in relation to who will be managing the boarding house.
- Concern in relation to the manager only being made available between 9am to 6pm Monday to Saturday.
- Concerns over why an onsite manager will not be residing on the premises.
- Safety in relation to cooking facilities proposed.
- Adverse impact on the character of the local area.
- Impact on neighbourhood amenity.
- Acoustic Impacts.
- Crime.
- Tree Removal.
- Landscaping.
- Unsympathetic landscape arrangements having regard to the local context.
- Insufficient notification of adjoining properties.
- Excess garbage generated by the proposed development.
- Bulk and scale.
- Size of bathrooms and bedrooms.

A detailed response to the objections raised in the submissions is contained later in the assessment report.

ITEM 3 (continued)

Following a preliminary assessment of the proposal, a letter recommending withdrawal of the DA was sent to the applicant on the 22 March 2019. The issues outlined in the letter are included below:

- **Works in the public domain** – The originally submitted proposal included a considerable amount of works within the public domain which were not supported.

Council advised the applicant that the works proposed resulted in issues of streetscape cohesion, disjointed footpath alignments, reductions in on-street parking availability, and pedestrian safety. The applicant was also advised it is inappropriate to borrow from the public domain for the purposes of tree planting to screen the development's built form.

- **Deep Soil Areas** – Council identified that the proposed development failed to provide the minimum 35% deep soil area across the site. Council's initial assessment identified an inadequate deep soil area equating to only 28.5% of the site area.
- **Trees** – The original proposal included the removal of the large Jacaranda and Himalayan Cedar trees on the site. This was despite the applicant's own arborist report indicating these trees were prominent landscape features with a high retention value. Council advised the applicant that the removal of these trees was not supported.
- **Tree Plantings** – The front and rear setbacks did not provide trees capable of reaching mature heights that would comply with the provisions of DCP2014.

The applicant was advised that the inability to provide adequate tree plantings was a direct result of the proposal's inability to comply with the minimum deep soil area.

- **Private Open Space** – The area nominated as private open space at the rear of the allotment did not constitute private open space, as it did not provide any form of privacy to users, given the direct unfiltered views of the space afforded from the public domain.
- **Fencing** – The use of Colorbond for the front fence was not supported as it did not reflect the landscape character of fencing within the broader streetscape.
- **Boundary between public and private domain** – The boundary between the public and private domain was not clearly articulated due to a lack of fencing and gates along the secondary street frontage.
- **Internal Building Design** – The proposed boarding house had incorrectly been categorised as a Class 1b building in the applicant's DA documentation,

ITEM 3 (continued)

rather than a Class 3 building, given 19 lodgers are proposed to reside in the building. This impacted on the boarding house design, and ability to comply with specific controls for Class 3 boarding houses under DCP2014.

- **Specific Room, Areas and Facilities** – The kitchenette facilities provided within each Boarding Room were non-compliant with the minimum 2m² requirement.
- **Communal Living Rooms** – Given the proposed development was a Class 3 boarding house, a common room of 30m² was required, and as such the 17m² common room originally proposed was not supported.
- **Communal Kitchen and Dining Areas** – The kitchen arrangements within the common room were non-compliant with the minimum area controls under DCP2014. Council's assessment also identified, that three (3) sinks and three (3) stove cookers were required for 19 lodgers, however only two single and two stove cookers had been provided within the communal kitchen.
- **Laundry and Drying Facilities** – The laundry occupied an area of 1.04m² which was non-compliant with the minimum 7m² required. The proposal failed to separate the laundry facilities from the kitchen facilities. Council also identified the external clothes drying area did not meet the minimum 15m².
- **Management**
 - The Plan of Management had indicated that the contact details of the Manger and Agent would be provided within the boarding house. However, Section 4.2 of Part 3.5 of DCP2014 requires this information to be displayed externally.
 - The Plan of Management specified that an off-site manager would be the principal contact and only available Monday to Saturday between 9am and 6pm. Council advised the applicant that the off-site manager needs to be contactable 24 hours a day in accordance with Section 4.2 of Part 3.5 of DCP2014.
- **Bicycle Parking** – The location of the 2 bicycle parking spaces within the front setback of the secondary street frontage were not located undercover in accordance with DCP2014.

On the 28 March 2019, a meeting was held between Council and the applicant in order to discuss and clarify the issues raised in the Council letter issued on the 22 March 2019. The applicant advised they were confident of being able to address all issues raised, so it was agreed that the applicant would take leave to rely upon amended plans and documentation.

On the 8 May 2019 amended plans and documentation were submitted to Council and forwarded to the consultant town planner and referral officers for assessment. The amended plans proposed the following changes:

ITEM 3 (continued)

- Retention of the Himalayan Cedar and Jacaranda tree.
- Modification of the car park to include part pervious paving.
- Enlargement of the common room and the provision of a laundry on the ground floor.
- Modification of the ground and first floor setback to Fourth Avenue to ensure the building is setback 7.5m (note the balconies are proposed to be setback a minimum of 6m from Fourth Avenue).
- Modification to the rear setback and provision of balconies for the entire rear elevation of the first floor.
- Fencing details to Fourth Avenue and Ryedale Road. The fencing along Fourth Avenue is proposed to be brick base and columns with metal palisade fence between the columns. This fence will be a maximum height of 1.2m. This style of fence is proposed to continue along the Ryedale Road frontage adjacent to the boarding house. A 1.2m high metal palisade fence is proposed adjacent to the car parking area and a timber fence 1.8m high adjacent to the bin enclosure.

The owners of surrounding properties were given notice of the amended application on 13 May 2019 with the notification period for submissions closing on the 29 May 2019. In response to this notification/advertisement of the DA, fourteen (14) unique submissions objecting to the DA were received. The objections to the DA raised issues similar to that in the first round of notification, and are addressed in more detail later in this assessment report.

The amended plans submitted on 8 May 2019 form the basis of this assessment and recommendation.

5. Planning Assessment**5.1 State Environmental Planning Instruments****State Environmental Planning Policy No. 55 – Remediation of land**

Clause 7 of State Environmental Planning Policy No. 55 – Remediation of land (SEPP 55) requires Council to consider whether the site is contaminated, and if so whether it is suitable for the proposed development.

A contamination assessment has not been submitted with this DA; however the site history indicates that the land has been used for residential purposes for an extended period of time (i.e. since at least the 1940s). Residential land uses are not typically associated with activities that would result in the contamination of the land.

At the site inspection, no potential sources of contamination were identified.

ITEM 3 (continued)

With consideration to the above it is unlikely that the site is contaminated and would therefore be suitable for continued use as residential accommodation.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The DA has been lodged pursuant to Division 3 of ARHSEPP, and the following provides an assessment of how the proposal performs against these provisions.

Clause 26 – Land to which Division Applies

The subject site is zoned R2 Low Density Residential under the provisions of LEP2014, which is a zone to which Division 3 of the ARHSEPP applies.

Clause 27 – Development to which Division applies

The SEE and DA lodgement form submitted specifies the proposal is for the purposes of a 'boarding house'.

A review of the plans submitted as part of the proposed development indicates the proposal would meet the definition for a 'boarding house', as defined within the Dictionary of the 'Standard Instrument'.

Clause 27(2) provides that despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.

accessible area means land that is within:

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or*
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or*
- (c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.*

Eastwood is within the Sydney region and the site is zoned R2 Low Density Residential under LEP2014. The land is approximately 640m walking distance from Denistone Railway Station, and is therefore within an accessible area - refer to **Figure 8** below.

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Figure 8 – A map overlay (indicated by the red line) showing the walking distance from the subject site to Denistone Railway Station.

Source: <https://maps.six.nsw.gov.au/>

Clause 27(3) applies to land that is not in the Sydney Region.

The subject site is located within Eastwood, which is within the Sydney region. As such cl.27(3) does not apply.

Clause 28 outlines that development to which this division applies may be carried out with consent.

The proposed boarding house is the subject of LDA2019/0025, and as such is appropriately seeking consent.

Clause 29(1)(a) outlines that a consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than the existing maximum floor space ratio for any form of residential accommodation permitted on the land.

The maximum floor space ratio for the subject site, per the LEP2014 is 0.5:1. The proposal has an FSR of 0.496:1 and therefore complies.

ITEM 3 (continued)

Clause 29(1)(b) outlines that if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land

The proposed development is not within a zone in which no residential accommodation is permitted.

Clause 29(1)(c) applies in circumstances where the zoning permits residential flat buildings.

The subject site is within the R2 Low Density Residential zone in which residential flat buildings are not permitted.

Clause 29(2) outlines that a consent authority must not refuse consent to development to which this Division applies on any of the following grounds:

Clause 29(2)(a) Building height - if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,

The maximum building height prescribed for the subject site under LEP2014 is 9.5m. The proposal has a maximum building height of 9.05m, and therefore complies.

Clause 29(2)(b) Landscaped area - if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,

The amended landscape treatment of the front setback area is now compatible with the streetscape in which the building is located. This has been achieved through the deletion of extraneous works originally proposed in the public domain, the use of boundary screen planting, appropriate front boundary fencing and materials, and also the retention of significant trees along the primary and secondary frontages. These trees to be retained are prominent landscape features that positively contribute to the landscape character of the local area, and will also help soften the development when viewed from the public domain.

Clause 29(2)(c) Solar access - where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,

The proposal includes one (1) communal living area on the ground floor within the north-western corner of the building.

The communal room includes a large window on its northern elevation, along with supplementary windows on the eastern and western elevations of the communal room. This window arrangement maximises sunlight to the communal room. The shadow studies submitted with the amended plans confirm that the ground floor communal living room will receive a minimum 3 hours direct sunlight between 9am and 3pm in mid-winter.

ITEM 3 (continued)

Clause 29(2)(d) if at least the following private open space areas are provided (other than the front setback area):

(i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,

An area labelled as private open space for the lodgers is proposed in the rear north-western corner of the allotment. This space has an area of 57.5m² with a minimum dimension of 4.5m.

Previously it was argued this area did not constitute private open space, given the space was highly visible from the public domain due to an absence of fencing to the secondary street frontage. However, as part of the applicant's amended plans, the area now includes screen planting, fencing and gates to the entry of the car park area which prevent any unfiltered or direct views of the private open space from the public domain of Ryedale Road.

(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,

No accommodation is to be provided for a boarding house manager.

Clause 29(2)(e) Parking if:

(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and

(ii) in the case of development not being carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces provided for each boarding room.

The proposed development is not being carried out on, or behalf of a social housing provider. Therefore Clause 29(2)(e)(i)(ii) are not applicable.

Clause 29(2)(e)(iia) states that in the case of development not being carried out by or on behalf of a social housing provider – at least 0.5 parking spaces are provided for each boarding room.

Given the proposed development is not being carried out by or on behalf of a social housing provider – and is located within an accessible area, Clause (2)(e)(iia) applies. As such, 0.5 car parking spaces are to be provided for each boarding room. The proposed development includes 10 boarding rooms and provides five (5) car parking spaces within the at-grade car park located at the rear of the site. Accordingly compliance is achieved with the standard.

The car parking arrangements for the proposed development have been reviewed by Council's Development Engineer, and have been deemed satisfactory – see further comments in the referrals section of this report.

ITEM 3 (continued)

Clause 29(2)(e)(iii) in the case of any development – not more than 1 parking space is provided for each person employed in connection with the development and who is a resident on site.

The proposal does not seek to employ someone in connection with the development and who is a resident on site. Therefore, this Clause is not applicable.

Clause 29(2)(f)(i) outlines that if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: 12 square metres in the case of a boarding room intended to be used by a single lodger, or(ii) 16 square metres in any other case

As per the submitted floor plans, Boarding Room 6 and Boarding Room 7 propose a maximum of 1 lodger. By calculation, Boarding Room 6 has a gross floor area of 12.71m² excluding the kitchen and bathroom facilities, and Boarding Room 7 has a gross floor area of 12m² excluding kitchen and bathroom facilities.

Boarding Rooms 1, 2, 3, 4, 5, 8, 9, and 10 within the development propose to include a maximum of 2 lodgers within each room, as depicted on the submitted floor plans, and as explained within the SEE and submitted Plan of Management. Each of these rooms has a minimum gross floor area which exceeds 16m² excluding the private kitchen and bathroom.

Clause 29(3) outlines that boarding house may have a private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.

Each boarding room has private facilities, including a kitchenette and ensuite bathroom.

Clause 29(4) prescribes that a consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).

Clause 30 provides development standards for boarding houses.

Clause 30(1)(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,

The proposed boarding house includes 10 rooms. One (1) communal living room is provided on the ground floor.

Clause 30(1)(b) no boarding room will have a gross floor area (excluding any area used for the purpose of private kitchen or bathroom facilities) or more than 25 square meters.

ITEM 3 (continued)

The proposed boarding house does not contain any boarding rooms with a GFA of more than 25m² (excluding any area used for the purposes of private kitchen or bathroom facilities)

Clause 30(1)(c) no boarding room will be occupied by more than 2 adult lodgers.

The submitted Plan of Management indicates that boarding rooms will not be occupied by more than 2 adult lodgers.

Clause 30(1)(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger.

Aside from kitchenettes and en-suite bathrooms in each boarding room, the boarding house also includes a full service kitchen within the communal room for the use of each lodger. Accordingly, the development will provide adequate bathroom and kitchen facilities.

Clause 30(1)(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager.

The boarding house proposes to accommodate a maximum of 18 lodgers as per the submitted SEE, Plan of Management, and plan depictions. As such a boarding room or on-site dwelling for a boarding house manager is not required.

Clause 30(1)(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use

The proposed boarding house is on land zoned R2 Low density Residential, and as such is not land zoned primarily for commercial purposes.

Clause 30(1)(h) at least one parking space will be provided for a bicycle and one will be provided for a motorcycle, for every 5 boarding rooms.

The proposed development includes 10 boarding rooms. In order to achieve compliance with this clause, 2 bicycle and 2 motorcycle parking spaces are required. The development includes 2 motorcycle parking spaces within the hardstand area adjoining the driveway and two bicycle parking spaces within the western side setback.

As part of the assessment of the DA, the proposal was referred to Council's Development Engineer, who in their referral response has raised no issue with the proposed motorcycle or bicycle parking arrangements.

Clause 30(2) outlines that subclause (1) does not apply to development for the purposes of minor alterations and additions to an existing boarding house.

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The proposed development is not for the purposes of minor alterations and additions to an existing boarding house, but rather the construction of a new boarding house.

Clause 30A indicates that a consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

In Council's letter to the applicant on the 22 March 2019, a number of issues were raised which prevented the DA from being supported. The issues raised within the additional information letter which directly affected the ability for the proposal to be compatible with the character of the local area for the following reasons:

- The use of Colorbond fencing material along the front and secondary street frontages.
- The unscreened visual impact from the public domain of the open car parking area, and private open space area.
- The unscreened visual impact of the garbage bin enclosure.
- Non-compliant deep soil areas resulting in excessive hardstand areas, and a lack of vegetation planting to help screen the development.
- The considerable amount of works proposed within the public domain would result in issues of streetscape cohesion, disjointed footpath alignments, reductions in on-street parking availability, and pedestrian safety.
- The proposed removal of significant trees of high retention value both in the primary and secondary front setbacks would unduly impact on the landscape character of the local area.

The amended plans submitted on the 8 May 2019, have resolved the above issues and present a development which is now compatible with the character of the local area for the following reasons:

- The proposed development now contains front fencing which does not include Colorbond materials. Specifically, the front fence now proposes face brick pillars and metal palisading which is complementary to the typology of front fencing throughout Eastwood.
- New proposed fencing and gates to the entry of the at-grade car park area at the rear of the allotment results in the screening of the open car parking spaces and private open space areas from the public domain.
- A 1.8m lapped and capped timber fence is proposed to screen the garbage bin enclosure from the public domain.

ITEM 3 (continued)

- The amended DA no longer seeks to undertake unsympathetic works within the public domain.
- The Himalayan Cedar within the primary front setback and the Jacaranda located along the secondary frontage are nominated for retention.
- The amended plans now include 201.40m² of deep soil which equates to 35% of the site area, thus achieving compliance with DCP2014 and supporting the growth of mature trees and vegetation.
- The proposed development exhibits a built form which achieves compliance with the setback controls within DCP2014 and respects the building height and floor space ratio development standards prescribed for the subject site in accordance with LEP2014. As such, the bulk and scale of the development is compatible with the desired character for the area, as established by these planning controls.
- The use of burnished red facebrick walls, with a pitched tiled roof in a darker tone is compatible with the earthy tone of building materials used throughout the local area.
- The proposed development was referred to Council's Heritage Advisor for comment, given the subject site is located within the vicinity of heritage items at Ryde Hospital (Denistone House and Trigg House). In the referral response, no objections were raised to the replacement-built form subject to conditions.

5.2 Ryde Local Environmental Plan 2014Permissibility

The subject site is within the R2 Low Density Residential zone under the provisions of the *Ryde Local Environmental Plan 2014* (LEP2014) – refer to **Figure 9** below. The proposed development is most appropriately defined as a 'boarding house', which is a land use that is permitted with consent in the R2 zone.

ITEM 3 (continued)

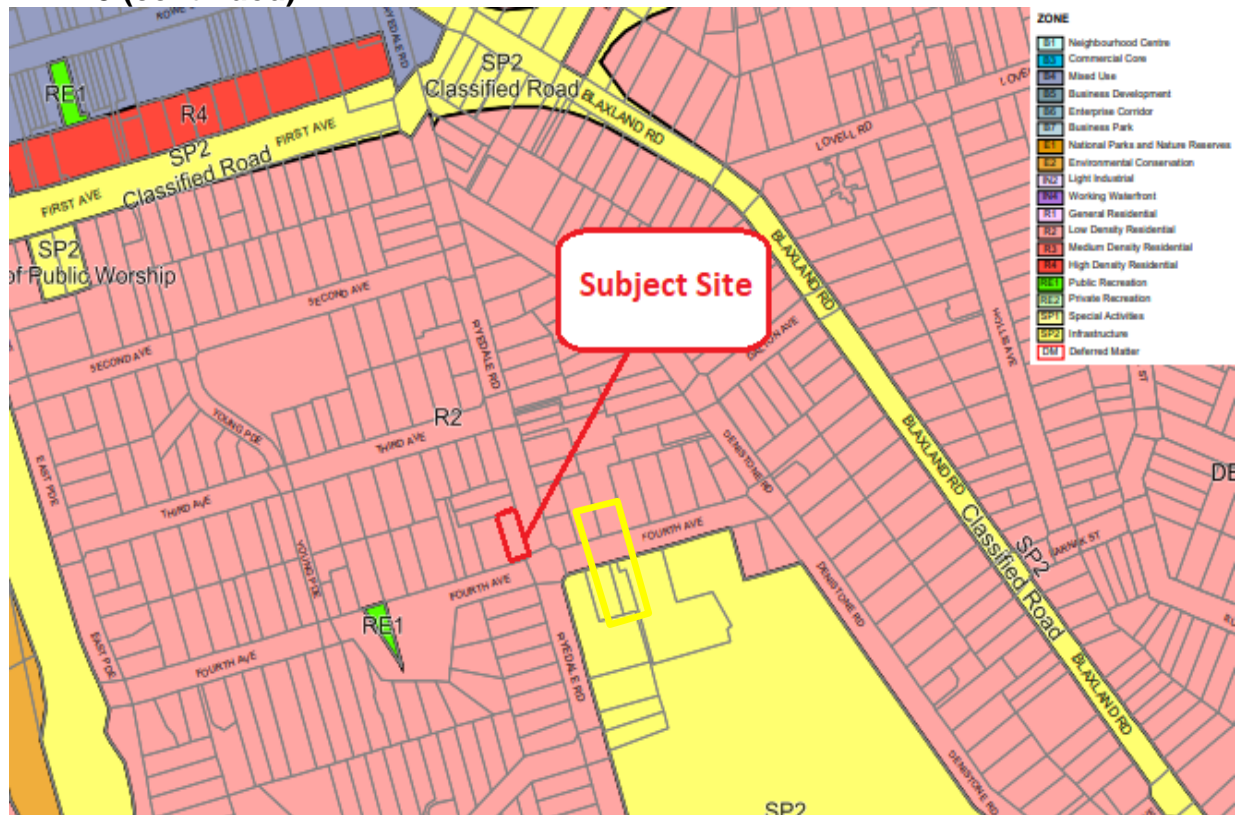


Figure 9 - LEP2014 Zoning Map Extract – Demonstrating the subject site being zoned R2 and as such constituting land to which Division 3 of the ARHSEPP applies.

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

Objectives of the R2 – Low Density Residential zone:

The objectives of the R2 zone are as follows:

- 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 development ensures the general low density character of the zone is retained via a building that respects Council’s development controls relating to building height, floor space ratio, setbacks, and landscaping.

The proposal would satisfy the second objective as it will unlikely affect the ability of surrounding land to accommodate land uses that could provide facilities or services to meet the day-to-day needs of residents.

The third objective would also be satisfied as the proposal will introduce a different type of residential accommodation to an area that is dominated by dwelling houses.

Clause 4.3(2) Height of Buildings

ITEM 3 (continued)

Clause 4.3(2) of LEP2014 prescribes that the height of a building on any land is not to exceed the maximum height shown for the land on the *Height of Buildings Map* - refer to **Figure 10** below. In accordance with the height of buildings map, the subject site is prescribed a maximum building height of 9.5m. The proposed development includes a maximum building height of 9.05m. This has been calculated at the north-eastern end of the building between the roof ridge RL:98.55 and an existing ground level contour directly beneath at RL:89.50. As such, the proposed development achieves compliance with the height of buildings development standard.



Figure 10 - LEP2014 Height of Buildings Map Extract – Demonstrating the subject site is prescribed a maximum building height of 9.5m.

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

Clause 4.4(2) Floor Space Ratio

Clause 4.4(2) of LEP2014 prescribes that the maximum floor space ratio (FSR) for a building on any land is not to exceed that shown for the land on the *Floor Space Ratio Map*. In accordance with this map, the subject site is prescribed an FSR of 0.5:1 - refer to **Figure 11** below. The proposed development exhibits a floor space ratio of 0.496:1, thus achieving compliance with the FSR development standard.

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Figure 11 - LEP2014 FSR map extract – FSR of 0.5:1 applies to the site.
Source: <https://www.legislation.nsw.gov.au/>

Clause 5.10 Heritage Conservation

Despite the subject site not containing a heritage item, nor being located within a heritage conservation area, the DA was referred to Council's Heritage Advisor for comment given the site is within the vicinity of Ryde Hospital (Denistone House and Trigg House) which is an item of local heritage significance under Schedule 5 of LEP2014 - refer to **Figure 11** below.

In the referral response received on 6 February 2019, Council's Heritage Advisor, supported demolition of the existing dwelling, and stated that the proposed development will not result in any visual impacts on the setting of the heritage items.

ITEM 3 (continued)



Figure 11 - LEP2014 Heritage map extract.
Source: <https://www.legislation.nsw.gov.au/>

5.3 Draft Environmental Planning Instruments

No draft environmental planning instruments are identified as being applicable to the proposed development on the subject site.

5.4 Development Control Plans

Ryde Development Control Plan 2014

Part 3.5 of the DCP2014 provides the development controls which are applicable to boarding house developments in the City of Ryde. However, as per Section 1.6 of this Part, applicable controls for boarding houses are also contained within:

- Part 3.3 - Dwelling Houses and Dual Occupancy (Attached),
- Part 3.4 - Multi Dwelling Housing [for Low Density Residential zone] in 3.0 Development Types,
- Part 7.2 Waste Minimisation and Management.
- Part 9.3 Parking Controls.

An assessment of the proposal having regard to the relevant DCP2014 provisions is contained in the compliance table held at **Attachment 2**.

ITEM 3 (continued)

As covered by Section 4.15(3A)(b) of the *Environmental Planning and Assessment Act 1979* (the Act), if a development control plan contains provisions that relate to the development that is the subject of a DA, the consent authority is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objectives of those standards for dealing with that aspect of the development.

With the above in mind, the following outlines those aspects of the proposal which have been assessed as non-compliant with the applicable development controls, but nonetheless have been determined acceptable as they are able to achieve the objectives of those standards.

- 1. Deep Soil:** Section 2.6.1 of Part 3.3 of DCP2014 states the deep soil area must include an area with minimum dimensions of 8m x 8m in the backyard.

An assessment of the landscaping arrangements has revealed the proposal does not include a minimum 8m x 8m deep soil area in the backyard. The proposal does however achieve a deep soil dimension of 12.2m x 4.4m.

Despite this non-compliance, the proposal includes approximately 201.40m² of deep soil area across the wider site. This equates to 35% of the site which is landscaped with significant deep soil, achieving compliance with the minimum 35% control specified within DCP2014.

In addition, the proposal will retain two (2) significant trees located within the primary and secondary setbacks, including Tree 1 (Himalayan cedar) and Tree 4 (Jacaranda mimosifolia). Refer to **Figure 13** and **Figure 14** below.

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Figure 13 - Tree 1 (Himalayan cedar), located within the primary front setback to Fourth Avenue, be retained and protected during construction works.

ITEM 3 (continued)



Figure 14 - Tree 4 (*Jacaranda mimosifolia*), located within the secondary front setback to Ryedale Road, to be retained and protected during construction works.

As indicated within the applicant's Arboricultural Impact Assessment undertaken by Bluegum in April 2019, the proposed development will not have any adverse impacts on the two significant trees of high retention value. Furthermore, additional trees are proposed to be planted within the front and rear setback which will reach heights of at least 10m at maturity and include spreading canopies.

As such sufficient deep soil areas have been provided across the site to support the growth and protection of mature trees and vegetation, while at the same time allowing for water permeation.

ITEM 3 (continued)

As part of the assessment of the DA, the proposal was referred to Council's Consultant Landscape Architect who has advised the development is satisfactory, subject to conditions.

Having regard to the above, the objectives of the deep soil planting controls are achieved, and as such, flexibility should be applied to the deep soil area control in the circumstance of the case.

- 2. Privacy (Acoustic and Visual)** – Section 3.2 of Part 3.5 of DCP2014 includes controls to ensure new boarding houses achieve an acceptable level of acoustic and visual privacy, both to future residents of the boarding house, and neighbouring properties. In particular, control c. provides:

Boarding houses are to be designed to minimise and mitigate any impacts on the visual and acoustic privacy of neighbouring buildings and on the amenity of future residents.

Each of the boarding rooms contain a balcony or ground floor deck, however these spaces are generally of a smaller area and dimension. As such, this limits their use to passive outdoor recreation only, and does not give rise to their potential use for entertaining purposes or more active outdoor recreation that may otherwise impede on the privacy of neighbours or lodgers.

However, Boarding Room 8 includes a larger dimensioned balcony that extends 2.5m from the boarding room wall, whereas other balconies extend only 1.5m or less.

Also, at 1.5m high, the privacy screen proposed to the balcony of Boarding Room 8 is of inadequate height to prevent overlooking.

To ensure the balcony to Boarding Room 8 doesn't give rise to potential activity that may impact on privacy, the following condition is recommended:

Boarding Room 8 Balcony – *The northern extent of the balcony for Boarding Room 8 is to be reduced by repositioning the balustrade to not extend further than 1.5m from the northern elevation wall for Boarding Room 8. The privacy screen along the western elevation of the balcony to Boarding Room 8 is to maintain its 2.5m length, but is to have its height increased to 1.7m from the finished floor level of the balcony to Boarding Room 8.*

ITEM 3 (continued)

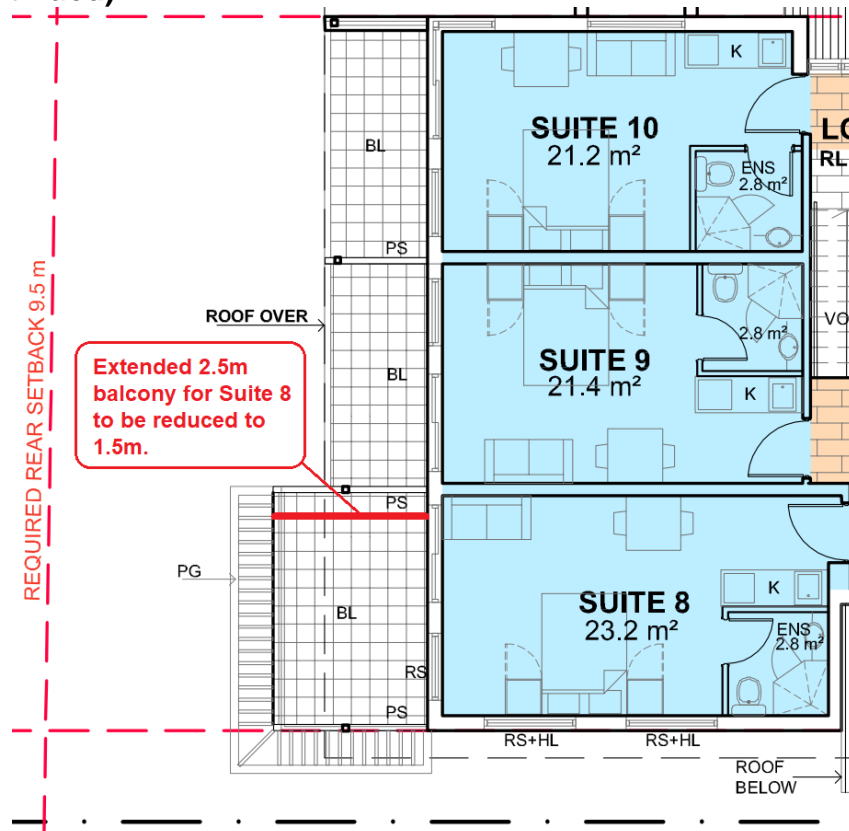


Figure 15 – Extract if the first floor plan showing the balcony to Boarding Room 8 which is to be reduced in its northern extend to ensure privacy is maintained. The height of the privacy screen to this balcony is also recommended to be increased to 1.7m by way of a consent condition.

- 3. Communal Kitchen and Dining Areas** - Section 3.6 of Part 3.5 of DCP2014 provides development controls in relation to communal kitchen and dining areas. Specifically, DCP2014 prescribes that kitchen facilities shall be available for all lodgers 24 hours a day/ 7 days per week.

The applicant's amended Plan of Management indicates that the communal areas of the proposed development will be restricted from use between the hours of 10pm and 6am.

This inconsistency with the development control can readily be addressed through imposition of the following consent condition:

Communal Kitchen and Dining Areas – Kitchen facilities shall be available for all lodgers 24 hours per day/ 7 days per week.

Section 3.6 of Part 3.5 of DCP2014 also provides that a communal kitchen is to contain one sink for every 6 people or part thereof, with running hot and cold water.

ITEM 3 (continued)

The proposed development seeks to accommodate a total of eighteen (18) lodgers. In accordance with the aforementioned control, at least three (3) sinks are to be provided within the communal kitchen area. However, the communal kitchen only includes two (2) sinks.

This noncompliance can readily be addressed through imposition of the following consent condition:

Communal Kitchen – *The communal kitchen is to include three (3) sinks, with each sink to include running hot and cold water.*

4. Ensuite Bathrooms - Section 3.6 of Part 3.5 of DCP2014 provides development controls relating to the internal building design of boarding houses. Specifically, where bathroom facilities are proposed in boarding rooms, the following minimum gross floor areas apply:

- *Minimum 2.1m² for any ensuite, which must comprise a hand basin and toilet, plus,*
- *0.8m² for any shower in the ensuite (in addition to above)*

Each boarding room ensuite comprises a hand basin, toilet and shower. In accordance with the aforementioned controls, a minimum GFA of 2.9m² for each ensuite bathroom is required.

However, an assessment of the ensuite arrangements has revealed that Boarding Rooms 5, 8, 9 and 10 have an area of 2.8m². As such, they fall 0.1m² short of achieving compliance, which equates to a 3.5% variation to the control.

The minor non-compliance is however considered justifiable given adequate detail has been included on the drawings to demonstrate each ensuite bathroom can provide adequate space to accommodate a toilet, hand washing basin and shower. The plans also show the swing path of the entry door to the bathroom does not conflict with the shower door or other bathroom amenities.

Having regard to the above, the proposed minor variation to the control is supportable.

5. External Clothes Drying Area - Section 3.6 of Part 3.5 of DCP2014 prescribes that where lodgers do not have their own laundry facilities, the following is to be provided:

ITEM 3 (continued)

- 15m² external clothes drying areas for every 12 residents in an outdoor area (can be retractable).

The development has proposed an area at the rear of the site which contains 1 clothes line. This area is equivalent to 8.5m² and is capable of providing at least 2 clothes lines. In addition to this area, the laundry will also contain 2 dryers. These combined features are considered sufficient for the occupants of the boarding house.

- 6. Emergency Contact** - Section 4.0 of Part 3.5 of DCP2014 prescribes that occupiers of adjacent properties are to be provided with a 24-hour telephone number for a principal contact (for example owner or manager) for use in the event of an emergency.

The amended Plan of Management indicates that an off-site manager (principal contact) will only be contactable between the hours of 9am to 6pm Monday to Saturday. The Plan of Management indicates an after-hours number will be provided. However, it does not indicate specifically whether a 24-hour telephone number to a principal contact of the boarding house will be provided to neighbouring properties within vicinity of the proposed development in the event of an emergency.

To ensure emergency contact information is provided to neighbours, it is recommended the following condition of consent be imposed prior to issue of any occupation certificate:

Emergency Contact – Occupiers of adjacent properties are to be provided with a 24 hour telephone number for a principal contact (for example owner or manager) for use in the event of an emergency.

5.5 Planning Agreements OR Draft Planning Agreements

No planning agreements or draft planning agreements are in place for the proposed development.

5.6 Any matters prescribed by the regulations

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

6. The likely impacts of the development

Likely impacts on the natural and built environment:

Built Environment

ITEM 3 (continued)

As demonstrated through the assessment carried out in this report, the proposal will result in a built form outcome that is compatible with the desired future character of the low density residential area. The development will also be consistent with the aims and objectives of the R2 Low Density Residential Zone, and satisfactorily compliant with the relevant planning controls that seek to ensure the compatibility of development within the Ryde local government area.

Natural Environment

The proposed development is for the construction of a new boarding house within an existing suburban environment, and the amended proposal does not include the removal of any significant vegetation. It is considered there will be no unreasonable impact upon the natural environment, with the recommended conditions of consent helping to mitigate any minor impacts that could arise.

7. Suitability of the site for the development

The proposed boarding house is a permissible form of development on the subject site, both under the ARHSEPP for which LDA2019/0025 has been lodged, and also under the provisions of the LEP2014. Further the subject site is located in an 'accessible area' when having regard to its proximity to public transport services and the provisions of the ARHSEPP.

The subject site has also been determined to be compatible with the character of the local area. This is because the building to accommodate the boarding house is of a bulk and scale that is compliant with the provisions of the local planning controls, and in harmony with the site's low-density surrounding.

The proposal has been deemed satisfactory when having regard to the vicinity of heritage items at the Ryde Hospital site (Denistone House and Trigg House).

The subject site is also considered to be a suitable location for affordable housing given its close proximity to Ryde Hospital, and the potential demand for affordable housing that may arise from this health services facility.

Being on a corner allotment, the subject site includes only two (2) common boundaries to private property, and as such, this helps minimise impacts on adjoining residential accommodation.

Having regard to the above, the proposed development is considered to be suitable for the subject site.

8. The Public Interest

The development substantially complies with the provisions of the ARHSEPP and also Council's current development controls. Additionally, it has been determined that

ITEM 3 (continued)

the proposed built form is in keeping with the existing and desired future character of the low density residential area.

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

9. Submissions

The DA was advertised in the *Northern District Times* on the 30 January 2019. The owners of surrounding properties were given notice of the application on 25 January 2019, with the notification period for submissions closing on 20 February 2019. In response to this notification/advertisement of the DA, twenty-four (24) unique submissions were received, all of which objected to the proposal.

Following the applicant's submission of amended plans, the amended DA was renotified in accordance with Part 2.1 Notice of Development Application of the DCP2014 from 13 May 2019 to 29 May 2019.

In response to this notification/advertisement of the DA, fourteen (14) unique submissions objecting to the DA were received, all objecting to the proposed development. The objections raised in the submissions are outlined below, followed by a comment from the assessing planner.

A. Character – The development is incompatible with the local area's low density residential character.

Comment: As established within *Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191* the compatibility of a proposal with the character of surrounding development can be derived through answering the following two questions:

- Are the proposal's physical impacts on surrounding development acceptable?
The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposal's appearance in harmony with the buildings around it and the character of the street?

The proposed development achieves compliance with the applicable planning controls pertaining to overshadowing/solar access, visual privacy, acoustic amenity, and visual impact. The proposal also achieves compliance with the applicable planning controls that apply to car, motorcycle and bicycle parking.

As a result, the proposal will not unduly impact on surrounding development, with the redevelopment potential of surrounding sites not being constrained because of the proposed development.

ITEM 3 (continued)

It is reminded that the aforementioned planning principle explains compatibility is different from sameness. As such, any minor difference in the appearance of the proposed development from older building stock in the local area is not sufficient grounds to substantiate incompatibility.

Nonetheless, the bulk and scale of the development complies with the relevant development standards pertaining to building height and FSR. Furthermore, the building achieves compliance with the setback controls prescribed within DCP2014. For this reason, the bulk and scale of the development can be seen as consistent with the desired future character of the local area.

Building materials and finishes adopt similar earthy tones to that characterised by other buildings in the local area – refer to **Figure 16** below.

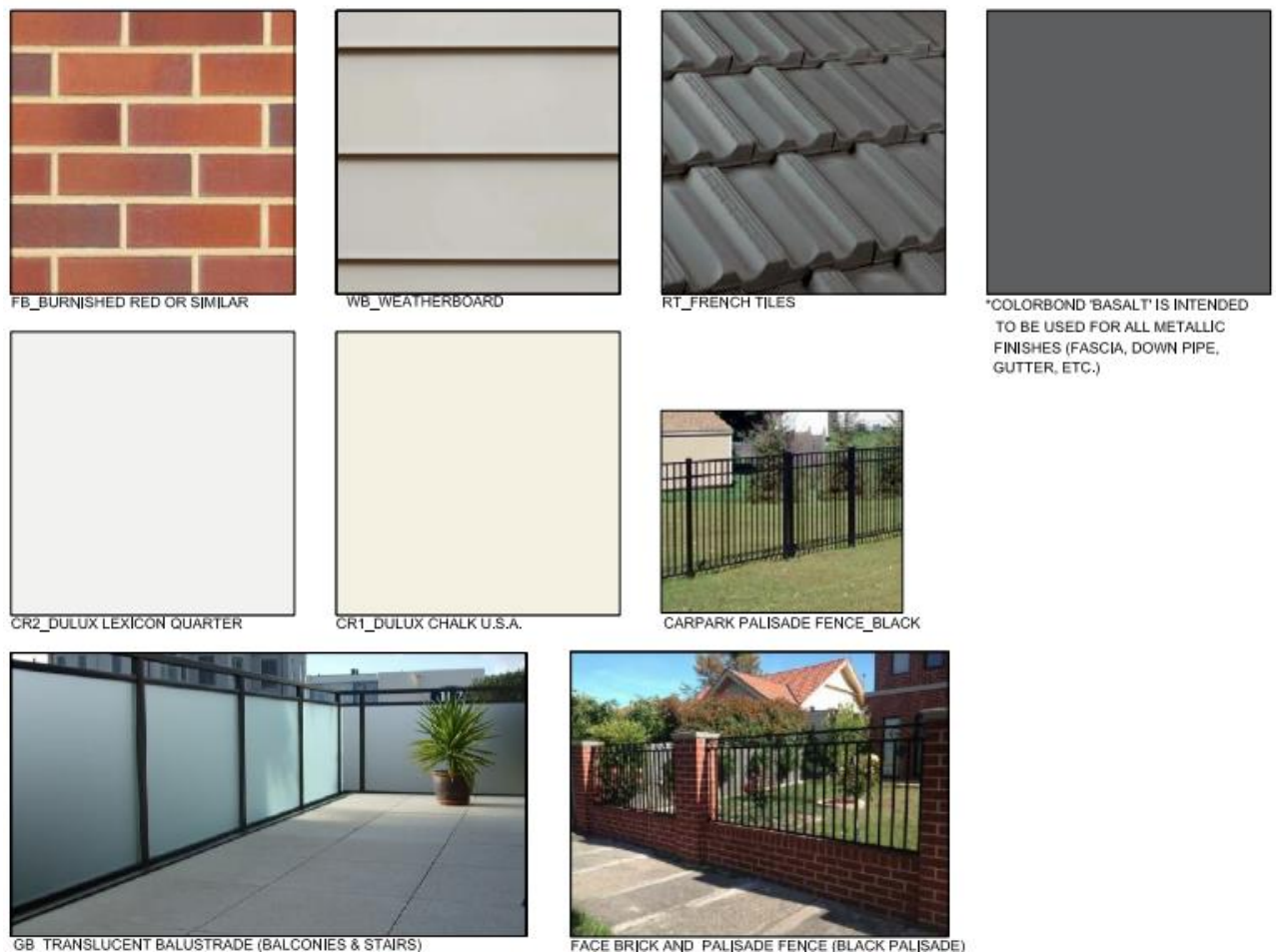


Figure 16 – Extract of applicants submitted materials and finishes schedule.
Source: Moderinn Pty Ltd.

The proposal will also retain all significant trees on the site, and seek to augment landscaping through additional planting that will further help the development synthesise with the landscape character of the local area.

ITEM 3 (continued)

Amended plans have also been submitted which remove previously proposed Colorbond materials from the primary and secondary street boundary fences. The new fencing scheme achieves compliance with DCP2014 and will accordingly harmonise with the streetscape.

Having regard to the above, it is not agreed that the proposal's appearance will be inharmonious or incompatible with the character of the local area.

B. Overdevelopment – The proposed boarding house is an overdevelopment of the size of the allotment.

Comment: The proposed development exhibits a built form which achieves compliance with the setback controls within DCP2014, and also complies with the building height and FSR development standards prescribed under LEP2014.

The compliant building envelope and favourable orientation of the site combine to ensure compliance is achieved with regard to overshadowing of adjoining property.

Furthermore, satisfactory compliance is achieved with regard to the raft of planning controls pertaining to landscaping, private open space areas, visual privacy, and parking.

The DA also achieves compliance with the recently introduced development standard under clause 30AA of the ARHSEPP which limits the number of boarding rooms in a boarding house to not more than twelve (12) in the R2 Low Density Residential zone.

Having regard to the level of compliance achieved relevant planning controls, the notion the proposal represents an overdevelopment of the site is not supported.

C. Landscaping – Inadequate space for mature trees or shrub plantings.

Comment: The amended DA now includes the retention of two (2) significant trees on the site, including the Himalayan Cedar within the front setback, and the Jacaranda tree within the rear. As such, the level of tree retention on the site would already achieve compliance with the minimum tree planting requirements within Section 3.3 of DCP2014.

Irrespective, 201.40m² of deep soil is provided, which equates to 35% of the site area – thus achieving compliance with the controls under DCP2014.

As demonstrated on the applicant's revised landscape plan the deep soil areas are utilised to support the growth of additional mature trees and vegetation.

D. Parking – The parking provision on site is inadequate for the number of lodgers to be accommodated in the boarding house.

ITEM 3 (continued)

Comment: Clause 29 of the ARHSEPP provides a consent authority must not refuse consent to development to which Division 3 applies on any of the ground of parking, if at least 0.5 parking space per boarding room is provided.

The proposal includes ten (10) boarding rooms, thus necessitating five (5) parking spaces. The proposal includes five (5) car parking spaces within the at-grade rear car park.

The appropriateness of this car park has been reviewed by Council's Development Engineer and has been deemed satisfactory.

Clause 30 of the ARHSEPP also provides that a consent authority must not consent to development to which Division 3 applies unless at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.

The proposal achieves compliance with Division 3 by including two (2) bicycle and two (2) motorcycle parking space on the site.

Given the proposal achieves full compliance with the relevant controls pertaining to car, motorcycle and bicycle parking, the argument the development provides inadequate parking is not supported.

E. Management of the Boarding House – Insufficient information has been provided on how the proposed boarding house will be managed.

Comment: Included within the applicant's submission of additional information is a comprehensive Plan of Management that has generally been prepared having regard the template contained within Schedule 2 of Part 3.5 of DCP2014. Where the Plan of Management has been found to be deficient, conditions of consent have been recommended to address such deficiencies – i.e. emergency contact information – see discussion earlier in this assessment report.

F. Tree Removal – Concern has been raised that the proposed development will result in the removal of significant trees located on the site.

Comment: Council's letter to the applicant on the 22 March 2019 outlined the importance of retaining Tree 1 (Himalayan cedar) located within the primary setback, and also Tree 4 (Jacaranda mimosifolia) located along the secondary street boundary.

The amended plans submitted by the applicant on 8 May 2019 now include design changes to retain Tree 1 and Tree 4. To support the nominated tree retention the applicant has also submitted a revised arborist report by consulting arborist's Bluegum. The amended plans and arborist report have been submitted to Council's Consultant Landscape Architect and arborist for comment. The referral response concurs that the trees are capable of retention, subject to conditions of consent

ITEM 3 (continued)

requiring implementation of tree protection measures. This includes the deletion of the balcony structure for Boarding Room 2 and 5 within the structural root zone of Tree 1.

G. Visual Privacy – Overlooking and visual privacy impacts to the adjoining property to the west.

Comment: With the proposed modifications to the balcony for Boarding Room 8 (see discussions earlier in this assessment report), the western elevation of the proposed development no longer present any visual privacy or overlooking impacts to the adjoining property to the west at 36 Fourth Avenue for the following reasons. Figure 17 also demonstrates the western elevation of the building.

- The primary windows to the common room have been orientated to the rear of the building. The western elevation to the common room only includes highlight windows with a minimum sill height of 1.5m.
- Balconies located on the first floor have been orientated to the rear of the boarding house.
- The balcony to Boarding Room 8 on the first floor includes privacy screening on its western elevation, which will prevent overlooking of the adjoining property. The privacy screening height is to be increased from 1.5m to 1.7m by way of consent conditions.
- Views from the balconies to Boarding Room 9 and Boarding Room 10 will be limited by the privacy screening to the balcony of Boarding Room 8, and also their physical separation distance from the boundary.
- All side windows on the ground floor and first floor western elevation of the building have been offset from adjoining windows.
- All windows located on the first floor of the western elevation are high level (i.e. sill heights of 1.5m) which will prevent overlooking opportunities.



ITEM 3 (continued)

Figure 17. Western elevation of the development which adjoins 36 Fourth Avenue. All windows to the common room and boarding room contain high level windows with a sill height of 1.5m. A privacy screen is proposed on the western elevation of the balcony adjacent to boarding room 8.

Source: Moderinn Pty Ltd

Having regard to the above, it is not agreed that the proposed development will result in unreasonable overlooking of the adjoining property to the west at 36 Fourth Avenue, subject to the imposition of the recommended consent conditions.

H. Dwelling House Demolition – Concern has been raised over the appropriateness of demolishing the existing dwelling house on the subject site given its age.

Comment: The subject DA does not seek demolition of the existing dwelling house on the subject site, and as such, any demolition of the dwelling house would be subject to a separate consent.

The DA was referred to Council's Heritage Advisor as the subject site is located within vicinity of listed heritage items at Ryde Hospital and also because of the age of the existing house.

In their referral response, Council's Heritage Advisor has advised the existing dwelling has been modified through various changes that have both distorted and diminished its architectural integrity. As such this results in the inability of the existing dwelling to be able to satisfy the Heritage Council of NSW significance criteria to warrant its retention and heritage listing.

Demolition is supported by the Heritage Advisor, subject to an archival recording being undertaken prior to demolition works. The requirement for this archival recording is to be imposed via a consent conditions.

I. Bin Enclosure – Visual Impact of the bin enclosure from the streetscape.

Comment: The amended plans submitted on the 8 May 2019 have included a 1.8m lapped and capped timber fence which completely screens the garbage bin enclosure from the public domain of Ryedale Road. As such there are no visual impacts anticipated from the bin enclosure.

J. Accessible Area – The subject site is not located within an accessible area as it is located 700m from Denistone Railway Station.

Comment: In accordance with Clause 4 of the ARHSEPP, 'accessible area' means: *800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates.*

This assessment has found the subject site to be 670m walking distance from the public entrance of Denistone Railway Station. Even if the objector's measurement of

ITEM 3 (continued)

700m were to be accepted, the subject site would still be within 800m walking distance, and therefore meet the definition of 'accessible area.'

K. Overshadowing – Insufficient information provided regarding overshadowing impacts.

Comment: Adequate shadow analysis diagrams have been submitted in accordance with the Ryde Development Application Information Package. These diagrams effectively demonstrate the proposed development will not result in any unreasonable overshadowing to adjoining property between 9am and 3pm on June 21. The shadow diagrams have been included in Figure 18.



Figure 18. Shadow diagrams of the development taken at 9am, 12 noon and 3pm mid winter. The diagrams demonstrate that 36 Fourth Avenue is affected by overshadowing at 9am mid winter. This impact is restricted to the side boundary and part of the front yard. There is no overshadowing at 12 noon.

Source: Moderinn Pty Ltd.

As such, it is not agreed the proposal includes insufficient information to carry out an appropriate assessment of overshadowing impacts.

ITEM 3 (continued)

It is also reiterated that the proposed development combines a favorable site orientation with a compliant building envelope in terms of building height, FSR and setbacks. The result is a built form outcome that affords a high level of solar access to neighboring property.

L. Sustainability – concerns have been raised over the level of sustainability associated with the development.

Comment: BASIX Certificate No. 987480M_02, dated 2 may 2019, has been submitted with the amended DA. The certificate satisfactorily achieving compliance with the *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* and Clause 164A(4) of the *Environmental Planning and Assessment Regulation 2000*. As such all sustainability requirements necessary for the development have been met.

M. The proposed building will fail to satisfy the objects under Section 5(a)(i) of the *Environmental Planning and Assessment Act 1979*. At least 20% of the accommodation should provide disability access and disability parking.

Comment: The objects of the Act now feature within Section 1.3. Irrespective, the objector has not outlined which objects of the Act are offended by the proposed development.

On the matter of disability access, it is noted the proposal includes an accessible boarding room on the ground floor, accessible communal areas, and an accessible car parking space. The BCA only requires 10% of the rooms to be accessible. In this case this represents one room and the development complies with this requirement.

In accordance with Part 3.3 of Section 3.5 of DCP2014, the amended plans are accompanied by an accessibility report demonstrating compliance with requirements for people with disabilities, where required, under the BCA and Disability (Access to Premises – Buildings) Standards 2010.

N. Vehicle Manoeuvring/Queuing – The proposal does not comply with the relevant Australian Standards in relation to queuing, namely Section 3.4 stipulates “at an entry point, the queuing area to be provided between the vehicular control point and the property boundary shall be sufficient to allow a free influx of traffic which will not adversely affect traffic or pedestrian flows in the frontage road”

Comment: As part of the assessment of the subject DA, the proposal was referred to Council’s Development Engineer to review the traffic, parking, and vehicle maneuvering arrangements of the proposed development. In their referral response, Council’s Development Engineer has raised no objection to the proposal, subject to the imposition of consent conditions.

ITEM 3 (continued)

It is noted that Council's standard conditions of consent include a requirement that the development comply with all relevant Australian Standards.

O. Noise Management – Lack of noise management strategies within the submitted Plan of Management.

Comment: Section 6 of the submitted Plan of Management includes rules to prevent noise impacts to adjoining residents which include the following:

- No loud music or television noise is permitted after 10.00pm.
- No parties or gatherings are permitted upon the premises after 10.00pm.
- No visitors other than residents of the property are permitted after 10.00pm.
- No use of the outdoor areas is permitted after 10.00pm.
- Noise restrictions imposed on the use of the communal kitchen between the noise sensitive hours of 10:00pm to 6:00am.

The Plan of Management will form part of the conditions of consent, and as such the development will be bound to comply with these boarding house rules contained therein.

P. Smoking Areas – Lack of designated on-property smoking areas.

Comment: Section 7 of the submitted Plan of Management includes House Rules which stipulate that *no smoking in areas which may affect the amenity of other residents of the boarding house or of residents of neighbouring properties.*

Again, the Plan of Management will form part of the conditions of consent, and as such the development will be bound to comply with these boarding house rules contained therein.

10. Referrals

Heritage Advisor: The proposal was referred to Council's Heritage Advisor for comment as the subject site is located within the vicinity of the Ryde Hospital site (Denistone House and Trigg House) which is an item of local heritage significance under Schedule 5 of the LEP2014. The Heritage Advisor was also request to review the subject dwelling house to be demolished given it contains an older style dwelling house which displays characteristics that make the dwelling of potential heritage significance.

The referral response from Council's Heritage Advisor issued on 6 February 2019 stated the following:

ITEM 3 (continued)

- *It is unlikely that the dwelling would satisfy the Heritage Council of NSW significance assessment criteria to warrant its retention and listing.*
- *Although the subject site is within the physical proximity to 'Denistone House' and 'Trigg House', they both feature towards the centre of the Ryde Hospital site, surrounded by late 20th century-built forms that obscure any direct visual relationship to the heritage items.*

As such, Council's Heritage Advisor, supports the demolition of the proposed development subject to the condition of archival recording being undertaken prior to demolition works. Further, Council's Heritage Advisor concludes that the proposed development will not result in any visual impacts on the setting of the vicinity heritage items.

The amended proposal has generally sought to improve areas of non-compliance, tree retention, and help ensure the building is more harmonious with the character of the local area. For these reasons, the amended proposal was not referred back to the Heritage Advisor for further comment – particularly given their supportive comments in the first instance.

NSW Police: As part of the assessment of the DA, the proposal was referred NSW Police for comment. In their referral response on the 5 February 2019, NSW Police recommended lodgers be required to provide the Boarding House management with personal details including their next of kin details for emergency purposes. These details should be kept in the management office for the duration of their stay.

NSW Police also recommended that they be made aware of any complaints that are of a criminal nature. A sign containing the caretaker's phone number should be displayed in a prominent location for emergency services, and to contact the caretaker/manager if needed in case of an emergency.

NSW Police have suggested a condition be placed within the Plan of Management to stipulate the maximum number of visitors permitted in each individual room. The maximum number of visitors allow in each individual room be no more than 4.

NSW Police have recommended consent conditions relating to the installation of CCTV cameras, security lighting, territorial re-enforcement measures, and access control. These have been included within the draft consent. (See condition numbered 2, 22 to 45).

Landscape: The amended plans were referred to Council's Consultant Landscape Architect for comment, noting that the significant trees originally nominated for removal are now to be retained. The applicant's amended plans were also accompanied by a revised arborist report.

The Consultant Landscape Architect has supported the amended landscape design and nominated tree retention, subject to the imposition of detailed consent conditions

ITEM 3 (continued)

on tree protection measures. Importantly, these conditions include the deletion of the front facing balcony to Fourth Avenue for Boarding Room 2 and Boarding Room 5. (See condition number 2). The removal of this balcony will ensure the boarding house remains clear of the structural root zone for Tree 1. Furthermore, by removing this balcony structure, canopy pruning to Tree 1 can also be minimised – refer **Figure 18** below.

The full range of landscape/arborist conditions recommended have been included within the draft consent.

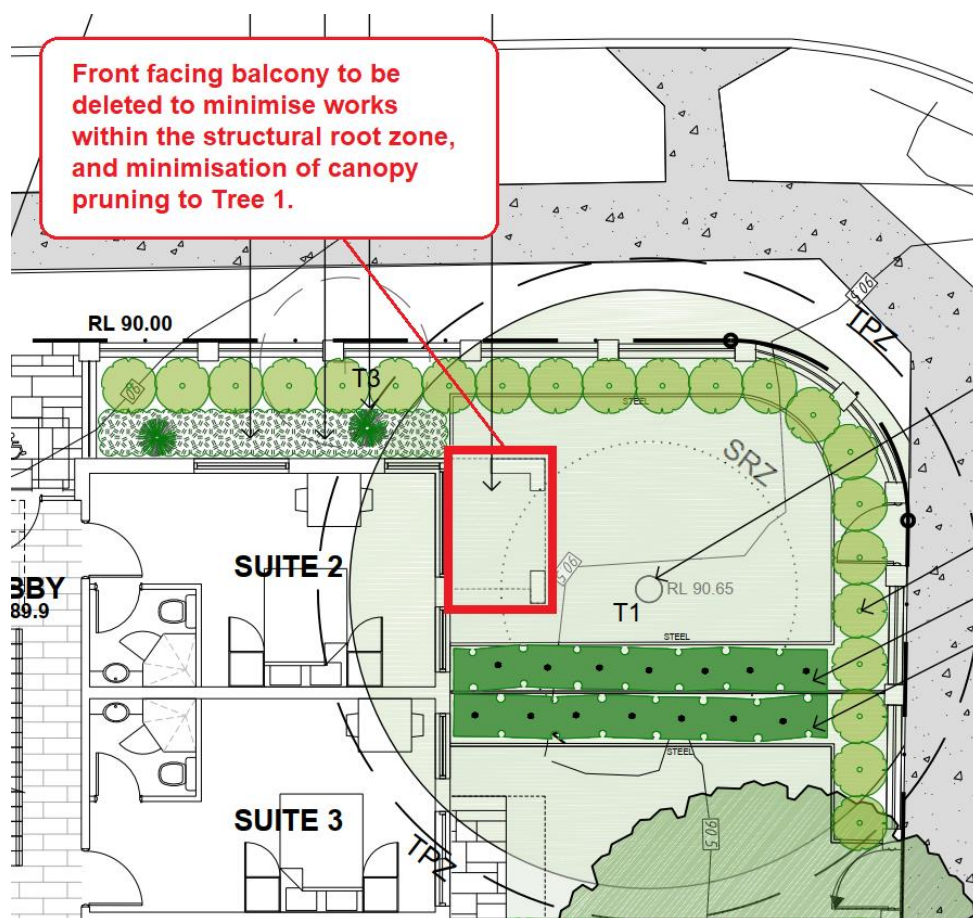


Figure 18 – The front facing balcony is to be deleted by way of condition to ensure works within the structural root zone of Tree 1 are avoided. Further, by removing the balcony, canopy pruning to Tree 1 will also be minimised. Source: Landscape plan submitted by the applicant.

Development Engineer: The DA was referred to Council’s Development Engineer, who in their referral response dated 4 February 2019 raised no objections to the proposed development with respect to the engineering components, subject to the application of recommended consent conditions.

Given the applicant’s amended plans have included some minor modifications to the car parking and on-site detention layout, these drawings were re-referred to Council’s Development Engineer for comment. In their revised referral response on 3 June

ITEM 3 (continued)

2019, no objection was raised to the amended proposal, subject to the imposition of recommended consent conditions. These recommended consent conditions have been included within the draft consent.

City Works: The DA was referred to Council's traffic and waste officers within City Works (CW). In their referral response issued on the 20 May 2019, the traffic and waste department raised no objection to the approval of the application, subject to conditions. These recommended consent conditions have been included within the draft consent.

11. Conclusion

After consideration of the proposed development against the relevant sections of the Environmental Planning and Assessment Act and the relevant statutory and policy provisions, the proposal is considered suitable for the site and is in the public interest.

The development application is recommended for approval for the following reasons:

1. The proposed use is a permitted use in the R2 zoning and the development complies with the relevant provisions of the applicable planning instruments including State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Ryde Local Environmental Plan 2014.
2. The proposal is compatible with the character of the local area.
3. The proposal will not create impacts on the residential amenity of adjoining properties.
4. The development has retained the significant vegetation on the site.
5. The development results in minor non-compliances with the requirements of DCP 2014. Many of these non-compliances can be addressed with conditions of consent. The other non-compliances do not result in a loss of amenity to adjoining properties or future residents of the site.

12. Recommendation

That LDA2019/0025 be APPROVED for the construction of a new two storey boarding house comprising, 8 x double boarding rooms, 2 x single boarding rooms, 1 x communal room and parking for 5 cars – under the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, subject to the conditions as identified in Attachment 3.

ITEM 3 (continued)

ATTACHMENTS

- 1 Draft Conditions of Consent
- 2 RDCP 2014 Compliance Table
- 3 State Environmental Planning Policy (Affordable Rental Housing) 2009
- 4 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

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**Sandra Bailey
Manager - Development Assessment**

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

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ATTACHMENT 1

Draft Conditions of Consent for LDA2019/0025

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
Cover Page	01.05.2019	Moderinn Pty Ltd, Issue F, Drawing No. DA_100.
Ground Level Floor Plan	30.04.2019	Moderinn Pty Ltd, Issue H, Drawing No. DA_1001.
Level 1 Floor Plan & Roof Plan.	30.04.2019	Moderinn Pty Ltd, Issue G, Drawing No. DA_1002.
North & South Elevations & Section A-A	30.04.2019	Moderinn Pty Ltd, Issue F, Drawing No. DA_2000.
East & West Elevation	30.04.2019	Moderinn Pty Ltd, Issue F, Drawing No. DA_2001.
Finishes Schedule	23.04.2019	Moderinn Pty, Ltd, Issue E, Drawing No. DA_5000..
General Arrangement – Ground Floor	30.04.2019	Southeast Engineering + Environment, Revision D, Drawing No. 455-01.
OSD Details	30.04.2019	Southeast Engineering + Environment, Revision D. Drawing No. 455-03.
OSD Details & RCC Calculation Sheet	30.04.2019	Southeast Engineering + Environment, Revision D, Drawing No. 455-04.
Erosion and Sediment Control Plan	30.04.2019	Southeast Engineering + Environment, Revision D, Drawing No. 455-05.
Landscape Title Sheet	17.04.2019	R+M Landscape Architecture, Issue B, Drawing No. LP01.
Landscape Plan	17.04.2019	R+M Landscape Architecture, Issue B, Drawing No. LP02.
Landscape Details	17.04.2019	R+M Landscape Architecture, Issue B, Drawing No. LP03.
Existing Tree Plan	17.04.2019	R+M Landscape Architecture, Issue B, Drawing No. LP04.

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ATTACHMENT 1

Statement of Compliance Access for People with a Disability.	12.04.2019	Issue A, Job No: 218423, Prepared by Accessible Building Solutions,
Building Code of Australia Assessment Report	01.05.2019	Ref: R1305, Prepared by Accredited Building Certifiers Pty Ltd.
Arboricultural Impact Assessment	April 2019	Prepared by Bluegum Tree Care and Consultancy, Author: Alexis Anderson.
Traffic Impact Assessment	April 2019	Prepared by APEX Engineers

2. **Plan of Management.** The Plan of Management dated 3/5/19, Revision 1 prepared by Planik is to be updated to reflect the following requirements:

- All lodgers are to be required to provide the Boarding House management with personal details including their next of kin details for emergency purposes. These details are to be kept in the management office for the duration of the stay.
- NSW police are to be made aware of any complaints/incidents that are of a criminal nature.
- A sign containing the caretakers phone number should be displayed in a prominent location for emergency services and others to be able to contact the caretaker/manager if needed in case of an emergency.
- The maximum number of visors permitted in each individual room is to be no more than 4.

A copy of the revised plan of management which incorporates the above requirements is to be submitted to Council for approval prior to the issue of any Occupation Certificate.

The operation of the premises is to be carried out strictly in accordance with the revised plan of management approved by Council.

3. **Balcony Deletion.** Suite 5. The terrace balcony adjoining Suite 5 is to be deleted to mitigate impacts to Tree 1 (*Cedrus deodara*) to a sustainable level. The area below the balcony at the ground level is to be provided as turf with no modifications to the existing grade. Details of compliance are to be shown on the plans for Construction Certificate.

4. **Boarding Room 8 Balcony.** The northern extent of the balcony for Boarding Room 8 is to be reduced by repositioning the balustrade to not extend further than 1.5m from the northern elevation wall for Boarding Room 8. The privacy screen along the western elevation of the balcony to Boarding Room 8 is to maintain its 2.5m length, but is to have its height increased to 1.7m from the finished floor level of the balcony

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to Boarding Room 8. Details of compliance are to be shown on the Construction Certificate plans.

5. **Communal kitchen.** The communal kitchen is to include three (3) sinks, with each sink to include running hot and cold water. Details of compliance are to be shown on the plans for Construction Certificate.
6. **Clothes drying area.** A minimum of two clothes lines are to be provided within the clothes drying area identified at the rear of the site. The clothes drying area should not be viewable from the public domain.
7. **Emergency Contact.** Occupiers of adjacent properties are to be provided with a 24 hour telephone number for a principal contact (for example owner or manager) for use in the event of an emergency.
8. **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.
9. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 987480M_02, dated 02 May 2019.
10. **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.
11. **Tree Retention.** The following trees as referenced within the Arboricultural Impact Assessment and Tree Protection Specification prepared by Bluegum Tree Care & Consultancy dated April 2019 must be retained and protected: Trees 1, 4 & 5.

Protection of Adjoining and Public Land

12. **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.
13. **Hoardings.**
 - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

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14. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
15. **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.
16. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

Works on Public Road

17. **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.
18. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

General Engineering Conditions

19. **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.
20. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
21. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.

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22. **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.

NSW Police conditions

Closed Circuit Television

23. The applicant should install and maintain surveillance cameras and recorders to monitor and record all entrance and exit points to the building. The cameras should include the area around the mail boxes at the front of the premises. The cameras should also monitor the 50 metre vicinity outside the building including, but not limited to, the footpath area in front and at the rear of the premises. Recordings should be made twenty-four (24) hours a day seven (7) days a week.
24. As a minimum, CCTV cameras at entry and exit points to the premises MUST record footage of a nature and quality in which it can be used to identify a person recorded by the camera. All other cameras MUST record footage of a nature and quality in which it can be used to recognise a person recorded by the camera.
25. The time and date must automatically be recorded on all recordings made whilst it is recording. All recordings are to be kept for a minimum period of thirty (30) days before they can be reused or destroyed.
26. If requested by police, the applicant is to archive any recording until such time as they are no longer required.
27. Recordings are to be made in a common media format such as Windows Media Player or similar, or should be accompanied by applicable viewing software to enable viewing on any windows computer.
28. The CCTV control system should be located within a secured area of the premise and only accessible by authorised personnel.
29. If the CCTV system is not operational, immediate steps are to be taken by the applicant to ensure that it is returned to a fully operational condition as soon as possible.

Lighting

30. The areas around the entrances and communal areas should be well lit and that all lighting should be designed to Australian and New Zealand Lighting standards.
31. Sensor lighting should be installed into areas that may be areas of concealment.

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Territorial Reinforcement

32. A street sign should be prominently displayed at the front of the development to comply with Local Government Act, 1993, Section 124, Order No.8.
33. Signage also needs to be provided at entry/exit points and throughout the development to assist users.
34. Signage also needs to be provided on any fire exit doors warning users that the doors are to be used for emergency purposes only.
35. Signage is to be used to indicate entries and exits. Signs should be clear, legible and useful. The front of the building should have clear signage in regards to street numbers so that emergency services are able to clearly read the numbers. Signage should also be erected outlining the unit numbers for the boarding house
36. A sign with the managers details must be erected near the boarding house units so that neighbours and emergency services can contact the manager in case of emergency.
37. Location maps should be used throughout the complex to indicate to visitors where they are.

Access Control

38. Access control should be set in place to exclude unauthorized access to the building as well as to restricted areas such as the boarding rooms and common areas. Access to the residential part of the building should be for residents only and should be accessed by some form of security system such as key access, pin code or a swipe card system.
39. All areas should be fitted with doors that comply with Australian Design Standards.
40. The locks fitted to the doors should be of a high quality and meet the Australian design standards.
41. Any glass within these doors should be laminated to enhance the physical security of the doors.
42. Fire exit doors to the development should be fitted with single cylinder locksets (Australia and New Zealand Standard- Lock Sets) to restrict unauthorized access to the development.
43. The main entry/exit doors to individual units should also be fitted with single cylinder locksets (Australia and New Zealand Standard- Lock Sets) to restrict unauthorized access to the unit.

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- 44. The windows to individual units should also be fitted with key operated locksets (Australia and New Zealand Standard- Lock Sets) to restrict unauthorized access to the unit
- 45. Intercom facilities should be incorporated into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
- 46. As mail theft is an emerging crime in the metropolitan area, letter boxes should be secured in a location that can be accessed by residents only. Having the letter box opening where mail can be inserted by Australia Post on the external area of the building, but having access to the rear of the letter box where you retrieve the mail on the internal side of the building is strongly recommended. **The applicant should also liaise with Australia Post and develop strategies in relation to security of mail boxes. Australia Post are able to implement systems to address mail theft in multiple residential complexes.**

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.

- 47. **Section 7.11.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of any **Construction Certificate**:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$11,649.76
Open Space & Recreation Facilities	\$28,679.25
Civic & Urban Improvements	\$9,754.39
Roads & Traffic Management Facilities	\$1,330.54
Cycleways	\$831.18
Stormwater Management Facilities	\$2,641.70
Plan Administration	\$224.08

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The total contribution is \$55,110.90

These are contributions under the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 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.

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

48. **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**.
49. **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**.
50. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation).
51. **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
52. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.
53. **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**.

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54. **Sydney Water Tap in™.** The approved plans must be submitted to the Sydney Water Tap in™ on-line service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water Sydney Water Tap in™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, eg relocating or moving an asset.

Sydney Water's [Tap in™](https://www.sydneypwater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm) online service is available at:

<https://www.sydneypwater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

55. **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**.
56. **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**.
57. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.
58. **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.
59. **Vehicle Footpath Crossing(s).** Concrete footpath crossings and associated gutter crossovers must be constructed fronting the approved vehicle access location(s). The crossing(s) must be constructed in plain reinforced concrete with location, design and construction shall conform to Council requirements and AS 2890.1 – 2004 (Offstreet Parking). Accordingly, prior to issue of Construction Certificate an application shall be made to Council's Public Works division for driveway crossing alignment levels. These issued levels are to be incorporated into the design of the

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driveway access and clearly delineate on plans submitted with the Construction Certificate application.

60. **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).
61. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to Ryedale Road, generally in accordance with the plans by Southeast Engineering and Environmental Pty Ltd, drawing number 455-01 sheet 1 to 5, revision D, dated 30th April 2019 subject to any variations marked in red on the approved plans and noted following;
- An additional access grate must be provided to the OSD facility. The grate must be located within the aisle width. This is to ensure access to the tank is maintained even whilst the spaces are occupied.

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.
 - Onsite detention must be incorporated in the stormwater management system having a minimum SSR of 17.25m³ and a maximum PSD of 12.1L/s. Any variations to these values attributed to changes required by conditions of this consent, must be in accordance with Council's DCP requirements for onsite detention and must be validated in the certification of the design required by this condition.
62. **Erosion and Sediment Control Plan.** An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified consultant, detailing soil erosion control measures to be implemented during construction. The ESCP is to be submitted with the application for a Construction Certificate. The ESCP must be in accordance with the manual *"Managing Urban Stormwater: Soils and Construction"* by NSW Department – Office of Environment and Heritage and must contain the following information;
- Existing and final contours
 - The location of all earthworks, including roads, areas of cut and fill
 - Location of all impervious areas

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- Location and design criteria of erosion and sediment control structures,
- Location and description of existing vegetation
- Site access point/s and means of limiting material leaving the site
- Location of proposed vegetated buffer strips
- Location of critical areas (drainage lines, water bodies and unstable slopes)
- Location of stockpiles
- Means of diversion of uncontaminated upper catchment around disturbed areas
- Procedures for maintenance of erosion and sediment controls
- Details for any staging of works
- 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.

63. **Footing Design.** Final positions of footings are to be modified as necessary and in consultation with the Project Arborist to avoid any significant roots encountered. Final locations of footings are to be documented and signed off by the Project Arborist prior to the issue of **Construction Certificate**.
64. **Grasscrete Pavers.** The ground surface of the driveway adjoining Tree 4 as shown on the approved plans and the bin enclosure is to be constructed of grasscrete paver cells which allow infiltration of rainwater to the soil profile below. No excavation is to occur within these areas and the sub-base is to be constructed of uncompacted aggregate. Details are to be included in the plans for Construction Certificate.
65. **Materials and Colour Finishes Schedule.** A detailed sample board of materials and colour finishes shall be submitted to the satisfaction of Council's Heritage Advisor prior to the issue of any Construction Certificate.

The selected materials and colour finishes shall incorporate a palette of materials and finishes that have a tactility, tone and hue that is complementary to the adjoining and surrounding period homes of the early 20th century.

The sample board shall include clear notations or be accompanied by a reference plan to indicate how the proposed tactile materials and colour finishes relate to the various elements and fabric of the building.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

66. Site Sign

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- (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.

67. **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.

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

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

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

69. 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.

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- (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.
70. **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.
71. **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.
72. **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.
73. **Photographic Archival Recording.** Prior to the commencement of any works, including the dismantling of fabric or demolition, a Photographic Archival Recording shall be undertaken and submitted to Council.

Written confirmation must also be obtained from Council's Heritage Advisor, confirming that the Photographic Archival Recording is of an acceptable quality that satisfies the requirements of this condition.

The Photographic Archival Recording shall be prepared in accordance with the guidelines "*Archival Recording of Heritage Items Using Film or Digital Capture*" published by the Heritage Division of the Office of Environment and Heritage.

One complete copy of the Photographic Archival Recording shall be submitted to Council and shall contain (for digital projects):

- A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the sequence in which images were taken. The report may also address the limitations of the photographic record and may make recommendations for future work;
- Plans of the building marked up to indicate where the photographs were taken and the direction of the photograph;
- The report should include all technical details including camera and lenses, image file size and format, technical metadata associated with the images, and colour information;
- Catalogue sheets, photographic plan, supplementary maps;

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- Colour thumbnail image sheets (e.g. A4 page with six images by six images) showing images and reference numbers. The thumbnail sheets should be processed with archivally stable inks on archivally acceptable photographic paper and cross referenced to catalogue sheets;
- One full set of 10.5x14.8cm (A6) colour prints OR, if a large project, a representative set of selected images processed with archivally stable inks on archivally acceptable photographic paper.
Photographic images are to include:
 - View to and from the site (possible from four compass points)
 - Views showing relationships to other relevant structures, landscape features and moveable items
 - All external elevations
 - Views of all external and internal spaces (e.g. courtyards, rooms, roof spaces, etc)
 - External and internal detail (e.g. joinery, construction joints, decorative features, paving types, etc)
- A CD or DVD containing electronic image files saved as TIFF and RAW files with associated metadata, and cross-referenced to catalogue sheets.

The report should be presented on archival quality paper in a suitable archival binder and slipcase, and all storage of individual components must be in archival quality packaging suitable for long term storage.

74. **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.
75. **Tree Protection Fencing.** All protective fencing and signage around TPZs must be located in accordance with AS4970: Protection of trees on development sites. In this regard, any fencing required to be constructed around the TPZ is to be in accordance with AS4687 Temporary fencing and hoardings.
76. **Project Arborist.** A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for all trees to be retained on the subject site and neighbouring allotments in accordance with AS4970-2009 Protection of trees on development sites and the Arboricultural Impact Assessment prepared by Bluegum Tree Care & Consultancy dated April 2019. All trees are to be monitored to ensure adequate health throughout the construction period is maintained. Additionally, all work within the Tree Protection Zones is to be supervised by the Project Arborist throughout construction. Details of the Project Arborist are to be submitted to Council prior to the commencement of construction.
77. **Canopy Tying.** Where possible tree branches overhanging the construction zones are to be tied back to the main trunk rather than pruned.

DURING CONSTRUCTION

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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.

78. **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*.
79. **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.
80. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
81. **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.
82. **Construction materials.** All materials associated with construction must be retained within the site.
83. **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.
84. **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.
85. **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".

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86. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or identified as approved for removal on the stamped plans.
87. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.
88. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
89. **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.
90. **Tree works – provision of arborist details.** Council is to be notified, in writing, of the name, contact details and qualifications of the Consultant Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.
91. **Stormwater Trench/Pit Locations.** The alignment of stormwater infrastructure is to be located as far away from existing trees to be retained as practical. Should the excavation for the stormwater pits and trenches conflict with any major structural roots (greater than >25 mm diameter) of existing trees, their location and alignment is to be modified in consultation with the Project Arborist to avoid impact. Under no circumstances should roots be severed or cut without prior approval from the Project Arborist.
92. **Underground Utilities.** Any utility services to be located underground within the TPZ are to be undertaken utilising excavation techniques that prevent or minimise damage to structural roots (roots greater than >25 mm diameter). To prevent soil compaction and root damage these works should be conducted with non-motorised hand tools or directional drilling.
93. **Excavation within TPZ.** Any excavation or grading/re-grading within the identified TPZs of trees to be retained shall be carried out by hand using manual, non-motorised hand tools. Roots greater than 25mm are not to be damaged or severed without the prior written approval of the Project Arborist.
94. **Fill Requirements.** All fill to be placed within the Tree Protection Zones of neighbouring trees is to be gap graded structural soils which allows for gaseous exchange and future root growth. The Project Arborist is to confirm suitability of the proposed material prior to installation.
95. **Root Pruning.** Where root pruning is required, roots shall be severed with clean, sharp pruning implements and retained in a moist condition during the construction

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phase using hessian material or mulch where practical. Severed roots shall be treated with a suitable root growth hormone.

96. **Canopy Pruning.** All canopy pruning work required shall be carried out in accordance with Australian Standard 4373-2007 – Pruning of Amenity Trees. All pruning work shall be carried out by an experienced Arborist with minimum AQF Level 3 qualifications. No branches of greater than 100mm in diameter should be removed or pruned without further advice from the Project Arborist. No more than 10% of the live crown of any tree or neighbouring tree is to be pruned to allow for the proposed development and under no circumstances should wholesale pruning to the boundary be carried out.
97. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.
98. **Tip docket** – Tip Dockets identifying the type and quantity of waste disposed/recycled during construction are to be kept in accordance with the Site Waste Minimisation & Management Plan for spot inspections.
99. **Illegal Dumping** – The area surrounding the construction site must be maintained to reduce the incidence of illegal dumping and management of litter from the site and workers associated with the site must be undertaken.
100. **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.
101. **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 Southeast Engineering and Environmental Pty Ltd, drawing number 455-01 sheet 1 to 5, submitted in compliance to the condition labelled “Stormwater Management.”
102. **Archaeology.** As required by the *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the Heritage Act 1977 to obtain the necessary approvals/permits from the Heritage Division of the OEH.

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Note: The *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

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.

- 103. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 987480M_02, dated 2 May 2019.
- 104. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of any **Occupation Certificate**.
- 105. **Detailed Protection Requirements.** Detailed tree protection and construction methodology recommendations contained within Section 7 of the Arboricultural Impact Assessment prepared by Bluegum Tree Care & Consultancy dated April 2019 must be adopted throughout the project. Details and evidence of strict compliance with each recommendation must be submitted prior to issue of any **Occupation Certificate**.
- 106. **Final Assessment of Trees.** At completion of all construction works the Project Arborist is to carry out an assessment of all trees that were required to be retained. This assessment is to be documented in writing, a copy of which is to be submitted to Council prior to the issue of any Occupation Certificate for the development. The documentation is also to specify any required on-going remedial care that is required to be undertaken to ensure the continuous health and retention of the specified trees.
- 107. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This

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certificate must be prominently displayed in the building and copies must be sent to Council and the Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Each year the Owners must send to the Council and the Fire and Rescue NSW an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

108. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of any **Occupation Certificate**.

109. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

110. **Public domain – work-as-executed plan.** A works as executed plan for works carried out in the public domain must be provided to and endorsed by Council prior to the issue of any **Occupation Certificate**.
111. **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.
112. **Signage and Linemarking – External.** A plan demonstrating the proposed signage and line marking within Council’s Public Domain shall be prepared by a suitably qualified person and submitted to and approved by the Ryde Traffic Committee prior to the issue of any Occupation Certificate.
- Note:** The applicant is advised that the plan will require approval by the Ryde Traffic Committee if the proposal requires change in existing parking conditions and hence, adequate time should be allowed for this process.

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113. **Signage and Linemarking – Implementation.** The applicant is to install all signage and linemarking, as per the plan approved by the Ryde Traffic Committee. These works are to be undertaken prior to the issue of any Occupation Certificate.
114. **Waste Management Facilities** – An authorised Council waste officer is to inspect and approve all waste management facilities to ensure they comply with the development approval Waste management Plan.
115. **Garbage Services** – Suitable arrangements must be made with the City of Ryde Council for the provision of garbage services to the premises prior to the issue of any Occupation Certificate.
116. **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.
117. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.
118. **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.
119. **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”.

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- 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, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
- c) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
- d) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual *“Managing Urban Stormwater: Soils and Construction”* by the NSW Department – Office of Environment and Heritage and the City of Ryde DCP 2014, Part 8.1 “Construction Activities”.
- e) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council’s satisfaction.

120. **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).

121. **Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

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

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.

122. **Offensive noise.** The use of the premises must not cause the emission of ‘offensive noise’ as defined in the *Protection of the Environment Operations Act 1997*.

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123. **Communal kitchen and dining areas.** Kitchen facilities shall be available for all lodgers 24 hours per day / 7 days per week.
124. **Waste storage/disposal – hours of collection.** Waste and recyclable material generated by these premises must not be collected between the hours of 9pm and 8am on any day.
125. **Signs in bin area** - Signs will be required to be placed within the bin area to encourage correct recycling and reduce contamination. City of Ryde will provide the required signage
126. **Bin storage** – Garbage and recycling bins must always be stored on-site between collections.
127. **Waste storage area maintenance** – All waste storage areas must be maintained in a clean and tidy condition at all times
128. **Waste storage** – All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.
129. **Household cleanup collection** – Unwanted household items must be stored onsite until the night prior to a Pre-booked household cleanup collection.
130. **Parking Allocation.** Both the owner and occupier of the development must provide and maintain the minimum parking allocation as follows;
- 4 residential car spaces,
 - 1 accessible car space.
131. **Stormwater Management – Implementation of maintenance program.** The stormwater management system components are to be maintained for the ongoing life of the development by the strata management/ owners corporation, as per the details in the approved drainage system maintenance plan (DSMP).
132. **Pervious Paver.** The areas depicted on the approved architectural plans require pervious pavers to protect the existing tree. The areas within the tree protection zone must utilise only pervious pavers for the life of the building.

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ATTACHMENT 2

ATTACHMENT 2 – COMPLIANCE TABLE - Ryde Development Control Plan 2014

LDA No:	LDA2019/0025
Date Plans Rec'd	16 January 2019
Amended Plans Submitted	8 May 2019
Address:	38 Fourth Avenue, Eastwood
Proposal:	New two storey boarding house comprising 10 rooms, 1 common room and parking for 5 cars – under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009.
Amended Proposal	New two storey boarding house comprising, 8 x double boarding rooms, 2 x single boarding rooms, 1 x communal room and parking for 5 cars – under the provisions of <i>State Environmental Planning Policy (Affordable Rental Housing) 2009.</i>
Constraints Identified:	Within 100m of heritage item.

Part 3.5 of the *Ryde Development Control Plan 2014* (DCP2014) provides the development controls which are applicable to boarding house developments in the City of Ryde. However, as per Section 1.6 of this Part, applicable controls for boarding houses are also contained within:

- Part 3.3 - Dwelling Houses and Dual Occupancy (Attached),
- Part 3.4 - Multi Dwelling Housing [for Low Density Residential zone] in 3.0 Development Types,
- all parts in 4.0 Urban Centres, and
- all parts in 5.0 Special Areas with respect to local area character; and
- Part 7.1 Energy Smart, Water Wise; Part 7.2 Waste Minimisation and Management; and Part 9.3 Parking Controls.

As such, the following tables brings together the applicable development controls from all Parts of DCP2014 and assesses the proposed development performance against each of these controls.

DCP 2014	PROPOSED	COMPLIANCE
Part 3.3 – Dwelling Houses and Dual Occupancy (attached)		
Section 2.1 Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	The proposal is compatible with the desired future character of the low density residential area,	Yes

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DCP 2014	PROPOSED	COMPLIANCE
	demonstrated by the proposal's high level of compliance with the relevant planning controls. See further discussion of 'character' later In this report.	
Section 2.2 Dwelling Houses		
- To have a landscaped setting which includes significant deep soil areas at front and rear.	The proposal provides deep soil areas to the front and rear of the site.	Yes
- Maximum 2 storeys.	Proposal is for a two storey boarding house.	Yes
- Dwellings to address street	The amended boarding house development now adequately addresses both Fourth Avenue and the secondary street frontage to Ryedale Road through provision of appropriate windows facing the street, as well as clear sightlines to the front door of the building.	Yes
- The boundary between public and private space is to be clearly articulated	The boundary between the private and public domain is clearly articulated.	Yes
- Garage/carports not visually prominent features.	The proposal includes an at-grade car park located at the rear of the allotment, accessed via a driveway and crossover to the secondary street frontage. No garages or carports are proposed. Nevertheless, the parking area is not visually prominent on the secondary street frontage given the inclusion of the new 1.2m high metal palisade fence, gate, and landscaping	Yes

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DCP 2014	PROPOSED	COMPLIANCE
Section 2.5 Public Domain Amenity		
<ul style="list-style-type: none"> • Streetscape <ul style="list-style-type: none"> - Front doors and windows are to face the street. Side entries to be clearly apparent. - Design of front gardens - Single storey entrance porticos. - Articulated street facades. 	<p>The front door of the boarding house faces the secondary street frontage to Ryedale Road and is clearly apparent from the street.</p> <p>The design of the front garden is compatible with local character of the area through the use of boundary screening planting, appropriate boundary fencing, and the retention of significant vegetation within the primary and secondary front setbacks.</p> <p>Single storey entrance portico proposed.</p> <p>The proposed boarding house development is located on a corner allotment. The facades on both the primary and secondary street frontages include an appropriate degree of articulation and fenestration which create visual interest in the streetscape.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> • 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. - Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. 	<p>No water views are available from the street or across the site.</p> <p>N/A - refer above.</p>	<p>N/A</p> <p>N/A</p>

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DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Fence 70% open where height is >900mm 	N/A - refer above.	N/A
<ul style="list-style-type: none"> • Pedestrian & Vehicle Safety <ul style="list-style-type: none"> - Car parking located to accommodate sightlines to footpath & road. - Fencing that blocks sight line is to be splayed. 	<p>Proposed car parking is located within an at-grade car park located at the rear of the allotment, accessed via a driveway and crossover to the secondary street frontage which accommodates sightlines to the footpath and road. Council's Development Engineer has assessed the proposal and deemed it to be satisfactory, subject to conditions.</p> <p>The proposed fencing arrangements do not block sightlines to the footpath and road.</p>	<p>Yes</p> <p>Yes</p>
Section 2.6 Site Configuration		
<ul style="list-style-type: none"> • Deep Soil Areas <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>201.40m² approx. (35% of site area).</p> <p>The maximum dimension of the deep soil are is 12.2 x 4.4m deep soil area within the private open space.</p> <p>The subject site is located on a corner allotment. The front yard area to the primary and secondary street frontage includes deep soil areas, with only the driveway and pedestrian pathways including hard paving.</p>	<p>Yes</p> <p>No</p> <p>Yes</p>
<ul style="list-style-type: none"> • Topography & Excavation <ul style="list-style-type: none"> Within building footprint: <ul style="list-style-type: none"> - Max cut: 1.2m 	<p>The maximum level of cut proposed inside the building footprint is 340mm within</p>	<p>Yes</p>

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DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Max fill: 900mm 	<p>Boarding Room 4. This has been calculated between the finished floor level RL:90.03 and existing ground level at RL:90.37.</p>	
<p>Outside building footprint:</p> <ul style="list-style-type: none"> - Max cut: 900mm 	<p>The maximum level of fill proposed inside the building footprint is 330mm within the Common Room. This has been calculated between the finished floor level of RL:90.03 and existing ground level at approximately RL89.70.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Max cut: 900mm 	<p>The maximum level of cut proposed outside the building footprint is 635mm within the Fourth Avenue setback, adjacent to Boarding Room 2. This has been calculated between the finished level of the open lawn area at RL:89.865 to an existing ground level contour at RL:90.50.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Max fill: 500mm 	<p>The maximum level of fill proposed outside the building footprint is 440mm within the bin enclosure. This has been calculated between the finished floor level RL:89.44 and an existing ground level contour at 89.00.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - No fill between side of building and boundary or close to rear boundary 	<p>No fill is proposed between the building and western side boundary.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - No fill in overland flow path 	<p>The site is not subject to overland flow.</p>	<p>N/A</p>
<ul style="list-style-type: none"> - Max ht retaining wall 900mm 	<p>The maximum height of</p>	<p>Yes</p>

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DCP 2014	PROPOSED	COMPLIANCE
	retaining walls is 900mm.	
Section 2.7 Floor Space Ratio		
<p>- Ground floor - First floor</p> <p>- Total (Gross Floor Area) - Less 36m² (double) or 18m² (single) allowance for parking</p> <p>FSR (max 0.5:1)</p> <p>Note: Excludes wall thicknesses, lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas.</p>	<p>144.16m² 141.27m²</p> <p>285.43m²</p> <p>The proposal does not incorporate any garage structures</p> <p>0.496:1 (area from site survey – 575.4m²)</p>	<p>Yes</p>
Section 2.8 Height		
<p>- 2 storeys maximum (storey) incl basement elevated greater than 1.2m above EGL).</p> <p>- 1 storey maximum above attached garage incl semi-basement or at-grade garages.</p> <p>Wall plate</p> <p>- 7.5m max above FGL or - 8m max to top of parapet.</p> <p>NB: <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> <i>FGL = Finished Ground Level</i></p> <p>- 9.5m Overall Height</p> <p>NB: <i>EGL – Existing ground Level</i></p>	<p>2 storey boarding house proposed.</p> <p>No garage structures proposed. An at-grade car park is proposed at the rear of the allotment, accessed via a driveway and crossover from the secondary street frontage.</p> <p><u>Wall plate height</u> The maximum wall plate height is 7.3m. This has been measured on the eastern elevation of the proposed building.</p> <p><u>Building Height</u></p> <p>Measured Roof ridge height RL: 98.55</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

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DCP 2014	PROPOSED	COMPLIANCE
<p>- Habitable rooms to have 2.4m floor to ceiling height (min).</p>	<p>EGL contour below ridge (lowest point) RL: 89.50</p> <p>Overall Height (max)= 9.05m</p> <p>Minimum ceiling height for habitable rooms is 3.2m.</p>	<p>Yes</p>
<p>Section 2.9 Setbacks</p>		
<p>• Front</p> <p>- 6m to façade (generally)</p> <p>- Secondary street setback minimum of 2m</p> <p>- Garage setback 1m from the dwelling façade</p> <p>- Wall above is to align with outside face of garage below.</p> <p>- Front setback free of ancillary elements e.g. RWT,A/C</p> <p>• Side</p> <p>○ Two storey dwelling</p> <p>- 1.5m to wall, includes balconies etc.</p>	<p>The proposed front setback is 6.0m.</p> <p>The proposed secondary street setback to the boarding house development is 2m.</p> <p>No garage is proposed as part of this boarding house development. Rather an at-grade car park is proposed at the rear of the allotment.</p> <p>Refer above.</p> <p>The proposed development is located on a corner allotment and the primary front and secondary setback are considered to be free of ancillary elements.</p> <p>Note: the concrete OSD tank is located underground within the driveway to the at-grade car park accessed via the secondary street frontage.</p> <p>The ground floor and first floor of the proposed boarding house development has been setback 1.5m from</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>

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DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> • Rear - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. <p>Note. Average site length is 38.01m and 25% equates to 9.5m</p>	<p>the western side boundary.</p> <p>The total length of the subject allotment is 38.01m. The proposed development has been setback from the northern rear boundary by 13.2m which complies with the minimum rear setback of 25% of the length of the site.</p>	<p>Yes</p>
<p>Section 2.10 Car Parking & Access</p>		
<ul style="list-style-type: none"> • General - Dwelling: 2 spaces max, 1 space min. - Where possible access off secondary street frontages or laneways is preferable. - Garage or carport may be in front if no other suitable position, no vehicular access to side or rear - Max 6m wide or 50% of frontage, whichever is less. 	<p>Boarding house proposed - as such a different car parking rate applies – refer to ARHSEPP Compliance Check.</p> <p>A pedestrian pathway on the secondary street frontage to Ryedale Road provides direct access to the entry lobby of the boarding house. Furthermore, vehicle access is also facilitated on the secondary street frontage via a newly proposed driveway and crossover to council specification providing access to the at-grade car park at the rear of the allotment.</p> <p>No garage is proposed as part of this boarding house development, rather an at-grade car park is located at the rear of the allotment accessed via the secondary street frontage.</p> <p>Refer above.</p>	<p>N/A</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>

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DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Behind building façade. 	Refer above.	N/A
<ul style="list-style-type: none"> • Garages 		
<ul style="list-style-type: none"> - Garages setback 1m from façade. 	Refer above.	N/A
<ul style="list-style-type: none"> - Total width of garage doors visible from public space must not exceed 5.7m and not be recessed more than 300mm behind the outside face of the building element immediately above. 	Refer above.	N/A
<ul style="list-style-type: none"> - Garage windows are to be at least 900mm away from boundary. 	Refer above.	N/A
<ul style="list-style-type: none"> - Free standing garages are to have a max GFA of 36m². 	Refer above.	N/A
<ul style="list-style-type: none"> - Solid doors required 	Refer above.	N/A
<ul style="list-style-type: none"> - Materials in keeping or complementary to dwelling. 	Refer above.	N/A
<ul style="list-style-type: none"> • Parking Space Sizes (AS) 		
<ul style="list-style-type: none"> - Double garages: 5.4m w (min) 	Refer above.	N/A
<ul style="list-style-type: none"> - Internal length: 5.4m (min) 	Refer above.	N/A
<ul style="list-style-type: none"> • Driveways 		
<ul style="list-style-type: none"> - Extent of driveways minimised 	Extent of driveway has been minimised.	Yes
Section 2.13 Landscaping		
<ul style="list-style-type: none"> • Trees & Landscaping 		
<ul style="list-style-type: none"> - Major trees retained where practicable. 	<p>The applicant's updated arborist report indicates that Trees 1, 4 and 5 are of high retention value.</p> <p>However, the updated arborist report indicates the potential impacts of the proposed works on trees to</p>	Yes

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DCP 2014	PROPOSED	COMPLIANCE
<p>- If bushland adjoining use native indigenous species for 10m from boundary</p>	<p>be retained.</p> <ul style="list-style-type: none"> • The area beneath the Suite 2 (1st floor) verandah is to consist of lawn at existing ground level and as such it will be possible for the roots of Tree 1 to exist within this space. While minor pruning of Tree 1 will be required to accommodate the first floor of the building, less than 10% of the canopy volume will be removed. • Tree 4 is located within close proximity to the proposed bin enclosure, stormwater drainage line and driveway, excavation will be required for the bin enclosure, stormwater drainage line and driveway. However, Tree 4 is likely to tolerate the impacts of the proposal and has a reasonable chance of remaining viable in the long term. • In relation to Tree 5, the existing building footings are likely to have restricted root spread to the east. However, the proposed ground floor slab will be at the same alignment as the existing. No notable root loss is expected as a result of the new ground floor slab. <p>As such, major trees are retained where practicable.</p> <p>No bushland adjoining.</p>	<p>N/A</p>

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DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL e.g. stairs, terraces. 	<p>Proposal provides a physical connection between the boarding house and outdoor spaces in the form of a stencilled pervious paving treatment from the lobby area to the private open space.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access). 	<p>Not required, subject site is located on a corner allotment.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy. 	<p>Landscape plan indicates a Grey Gum tree proposed to be planted in the front yard capable of reaching 12m in height. This is compliant with the minimum 10m minimum mature height required.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Backyard to have at least 1 tree with mature ht of 15m min and a spreading canopy. 	<p>Landscape plan indicates a Spotted Gum tree is proposed to be planted in the rear private open space adjacent to the car parking which is capable of reaching 25m in mature height with a spreading canopy.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Hedging or screen planting on boundary mature plants reaching no more than 2.7m. 	<p>Boundary screen planting does not exceed 2.7m in height.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - OSD generally not to be located in front setback unless under driveway. 	<p>OSD is proposed within the driveway to the secondary street frontage underground. The proposed development was referred to Council's Development Engineer for comment who raised no objections.</p>	<p>Yes</p>
<ul style="list-style-type: none"> • Landscaping for lots with Urban Bushland or Overland 	<p>No urban bushland or overland flow.</p>	<p>N/A</p>

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DCP 2014	PROPOSED	COMPLIANCE
<p>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 building 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>Significant vegetation is to be retained and protected within the rear yard.</p> <p>The site is not identified as being subject to overland flow.</p> <p>The site is not identified as being subject to overland flow.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>
Section 2.13 Dwelling Amenity		
<p>• Daylight and Sunlight Access</p> <ul style="list-style-type: none"> - Living areas to face north where orientation makes this possible. - Increase side setback for side living areas (4m preferred) where north is the side boundary. <p><u>Subject Dwelling:</u></p> <ul style="list-style-type: none"> - Subject dwelling north facing living area windows are to receive at least 3 hrs 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>	<p>The proposed common room is located at the rear of the building, directly orientated towards the north.</p> <p>North is not the side boundary.</p> <p>Given the northern orientation, the shadow diagrams indicate the common room will receive at least 3 hours sunlight from 9am-3pm on June 21 to the north facing windows.</p> <p>Shadow diagrams indicate the rear private open space area will receive 3 hours sunlight from 9am-12pm on June 21. This is assisted by the northern orientation of this open space area.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>

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ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<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. 	<p>No adjoining private open space will be overshadowed by the proposed boarding house development that would otherwise lead to a non-compliance with the DCP2014 provisions.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	<p>The submitted shadow diagrams indicate that the north facing living room windows of the adjoining properties will not be affected by the proposed development and will receive a compliant level of solar access between 9am and 3pm on June 21.</p>	<p>Yes</p>
<ul style="list-style-type: none"> • Visual Privacy - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. 	<p>The windows to the common room have also been orientated to the rear of the building. In addition, balconies on the first floor have been orientated towards the front and rear of the boarding house. Privacy screening has also been included on the western elevation of the balcony located on the first floor to Boarding Room 8. As such, visual privacy to adjoining property can be maintained.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Windows of living, dining, family etc. placed so there are no close or direct views to adjoining dwelling or open space. 	<p>Refer above.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Side windows offset from adjoining windows. 	<p>Side windows have been offset from adjoining windows and will not result in any visual privacy impacts.</p>	<p>Yes</p>

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DCP 2014	PROPOSED	COMPLIANCE
<p>- Terraces, balconies etc. are not to overlook neighbouring dwellings/private open space.</p> <p>• Acoustic Privacy - Layout of rooms in dual occupancies (attached) are to minimise noise impacts between dwellings e.g.: place adjoining living areas near each other and adjoining bedrooms near each other.</p> <p>• View Sharing - The siting of development is to provide for view sharing.</p> <p>• Cross Ventilation - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation.</p>	<p>The proposal does not include any first floor balconies which would result in overlooking of the neighbouring properties private open space area at 36 Fourth Avenue. The balcony to Boarding Room 8 on the first floor includes privacy screening on its western elevation. In addition, the balconies of the first floor of Boarding Room 9 and Boarding Room 10 have been recessed from the Boarding Room 8 balcony.</p> <p>The proposed development is not a dual occupancy, but rather a boarding house development. Nevertheless, it is considered that the boarding house has a satisfactorily design and layout to minimise the transmission of noise where possible.</p> <p>No significant views across the subject site.</p> <p>Cross-ventilation will be achieved throughout the proposed boarding house development with windows to all four sides of the building which will optimise access for cross ventilation.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>
Section 2.14 External Building Elements		
<p>• Roof - Articulated.</p>	<p>Articulated hipped roof form proposed.</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
- 450mm eaves overhang minimum.	Eaves overhang minimum 450mm.	Yes
- Not to be trafficable Terrace.	No proposed trafficable terrace.	N/A
- Skylights to be minimised and placed symmetrically.	No skylights proposed.	N/A
- Front roof plane is not to have both dormer windows and skylights.	No dormer windows proposed.	N/A
- Attic to be within roof space	No attic proposed.	N/A
Section 2.16.1 Fences		
<ul style="list-style-type: none"> • Front/return: - To reflect design of dwelling. - To reflect character and 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). 	<p>The proposed front fence reflects the design of the building.</p> <p>The use of face brick and metal palisade fencing along the primary and secondary street frontage reflects the character of fencing within the broader streetscape.</p> <p>The fence located on the primary and secondary frontage is 1.2m in height.</p> <p>The maximum height of the front fence to the primary frontage is 1.2m high and is 50% open.</p> <p>The maximum height of the brick palisade front fence to the secondary street frontage is 1.2m high and 50% open.</p> <p>Note: The secondary street frontage also includes metal palisade fencing and gates at a maximum height of 1.2m.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>

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ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Retaining walls on front fence max 900mm. 	<p>No retaining walls are proposed as part of the front fence.</p>	<p>N/A</p>
<ul style="list-style-type: none"> - No Colourbond or paling 	<p>The front fence does not include any form of Colorbond wood paling.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Max pier width 350mm. 	<p>The maximum pier width of the 1.2m high front fence to the primary frontage and secondary frontage is 350mm.</p>	<p>Yes</p>
<ul style="list-style-type: none"> • Side/rear fencing: <ul style="list-style-type: none"> - 1.8m max o/a height. 	<p>The existing 1.8m lapped and capped timber fence along the northern rear boundary and western side boundary is being retained.</p>	<p>Yes</p>

Part 3.5: Boarding Houses

Section 2.3 Development subject to provisions of Part 2 of the ARHSEPP

<p>(a) All boarding house developments are to be designed to be compatible with the character of the local area.</p>	<p>The proposal is compatible with the character of the local area, demonstrated by the development's high level of compliance with the relevant planning controls.</p>	<p>Yes</p>
<p>(b) Where external changes, including building and/or construction work, are proposed, a Local Area Character Statement is to be prepared and submitted with the development application.</p>	<p>A Local Area Character Statement is submitted with the development application.</p>	<p>Yes</p>
<p>(c) Boarding house development located in the vicinity of a Heritage Item or within a Heritage Conservation Area must be designed sympathetically to the significance of the Heritage</p>	<p>The proposed development was referred to Council's Heritage Officer for comment as the subject site contains an older style dwelling house, which displays characteristics that make the dwelling of</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>Conservation Area/Item.</p> <p>(d) The design of boarding house development is to take into consideration any desired future character objectives of urban centres identified under the RLEP2014, RLEP (Gladesville Town Centre and Victoria Road Corridor) 2014 and Part 4 Urban Centres of this DCP.</p> <p>Size and Scale</p> <p>(e) In the R1 General Residential and R2 Low Density Residential zones, a maximum number of 12 bedrooms per boarding house will be permitted.</p> <p>(f) Notwithstanding compliance with numerical standards under the ARHSEPP and LEP, applicants must demonstrate that the bulk and relative mass of development is acceptable for the</p>	<p>potential heritage significance. Additionally, the site is also located within the vicinity of the Ryde Hospital site (Denistone House and Trigg House) which is an item of heritage significance, listed on Schedule 5 of the <i>Ryde LEP 2014</i>.</p> <p>In their referral response received on the 6 February 2019, Council's Heritage Officer raised no objection the replacement built form subject to the conditions of the inclusion of Photography Archival Recordings being undertaken prior to the commencement of any demolition works.</p> <p>The proposed site is not located within any of the urban centres identified in LEP2014 or DCP2014.</p> <p>The subject site is located within the R2 zone and 10 boarding rooms are proposed.</p> <p>See Part 3.3 of DCP2014 Compliance check above.</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
street and adjoining dwellings in terms of:		
(i) Overshadowing and privacy	As above	Yes
(ii) Streetscape (bulk and scale)	As above	Yes
(iii) Building setbacks	As above	Yes
(iv) Parking and traffic generation	Refer to ARHSEPP Compliance Check.	Yes
(v) Landscape requirements	See Part 3.3 of DCP 2014 Compliance check above.	Yes
(vi) Visual impact and impact on existing views (this must address view sharing)	As above	Yes
(vii) Any significant trees on site, and	See Part 3.3 of DCP 2014 Compliance check above.	Yes
(viii) Lot size, shape and topography.	As above	Yes
Parking and Traffic		
(g) Parking spaces and access are not to be located within communal open space areas or landscaped areas.	An at-grade car parking area is proposed at the rear of the allotment and is not located within the communal/private open space area. It is noted that the parking area is directly adjacent to the POS with landscaping and screen planting delineating the two areas.	Yes
(h) Notwithstanding the requirements of Part 9.3 Parking Controls under this DCP, a boarding house development for 30 or more bedrooms is to be supported by a Traffic and Parking Impact Assessment Report, prepared by a suitably qualified person.	Proposal is for a boarding house with 10 bedrooms.	N/A

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ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
Section 3.2 Privacy (Acoustic and Visual) and Amenity		
(a) The main entrance of the boarding house is to be located and designed to address the front (street) elevation.	The boarding house building adequately address the secondary street front elevation through the provision of appropriate windows facing Ryedale Road, as well as clear sightlines to the front door.	Yes
(b) Access ways to the front entrance of the boarding house are to be located away from windows to boarding rooms to maximise privacy and amenity for lodgers.	Access ways to the front entrance are considered to be appropriately located away from windows to boarding rooms.	Yes
(c) Boarding houses are to be designed to minimise and mitigate any impacts on the visual and acoustic privacy of neighbouring buildings and on the amenity of future residents.	The proposed boarding house has been designed to minimise and mitigate any impacts on the visual and acoustic privacy of neighbouring dwellings.	Yes
(d) An acoustic report prepared by a suitably qualified acoustic consultant may be required where there is the potential for noise impacts on occupants and neighbours.	No acoustic report submitted, however due to the design and layout of the boarding house, it is considered that there is limited potential for noise to unduly impact on occupants and neighbours.	Yes
Section 3.3 Accessibility		
(a) All boarding house developments are to be accompanied by an Accessibility Report which addresses the accessibility requirements for people with disabilities, where required, under the BCA and Disability (Access to Premises – Buildings) Standards 2010.	A Revised Access Report has been submitted by Accessible Building Solutions, dated 12 April 2019. The submitted Access Report confirms that the proposal can achieve compliance with the access provisions of the BCA and the Access to Premises Standard. The Access Report correctly	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
	identifies the building as Class 3 under the BCA.	
Section 3.4 Waste Minimisation and Management		
(a) Waste storage and recycling facilities shall be provided on the premises in accordance with the requirements for boarding houses contained in Part 7.2 Waste Minimisation and Management of this DCP.	See Part 7.2 below.	Refer below.
Section 3.5 Sustainability and Energy Efficiency		
A BASIX Certificate is to be submitted with the Development Application.	BASIX Certificate (No. 987480M_02, dated 2 May 2019) submitted that demonstrates compliance with thermal, energy and water.	Yes
Section 3.6 Internal Building Design		
(a) As a minimum, in the R2 Low Density Residential zone (and where Class 1b under the BCA) boarding houses shall make provision for the following facilities within each building;	The proposed boarding house is a Class 3 under the BCA.	N/A
(i) storage for occupants;	Proposed development is not a Class 1B in accordance with the National Construction Code. Refer above.	N/A
(ii) laundry facilities;	Refer above.	N/A
(iii) sanitary facilities.	Refer above.	N/A
(b) As a minimum, in all other cases, boarding houses shall make provisions for the following facilities within each building.	According to the National Construction Code, Class 3 buildings are residential buildings (boarding houses) other than a Class 1 or Class 2 building. Given the proposed development does not meet the requirements to be classified as a Class 1b	

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ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
(i) Manager/operator accommodation where there are 20 or more lodgers;	boarding house, the provisions of Class 3 are applied. The proposed development incorporates 18 lodgers. As such, a manager/operator is not required.	N/A
(ii) Laundry facilities	A laundry facility has been provided within the common room on the ground floor.	Yes
(iii) Communal food preparation facilities	kitchen facilities have been provided within the common room on the ground floor.	Yes
(iv) Sanitary facilities	Sanitary facilities have been provided within each suite in the boarding house.	Yes
(v) Storage area for each occupant.	Storage areas for each occupancy are considered to be provided adjacent to the beds.	Yes
(c) Boarding houses in larger scale developments (more than 20 boarding rooms) are to be designed so that	The proposed boarding house development is not a large scale development as it only contains 10 boarding room suites.	
(i) No more than 8 boarding rooms share a stairway and/or corridor	Refer above.	N/A
(ii) 1 communal living area is provided every 8 boarding rooms.	Refer above.	N/A
(d) All boarding house developments are to be designed to optimise safety and security, both internal to the development and for the public domain by employing design criteria	The proposed boarding house has been referred to Council's Development Engineer for comment. The proposal has been deemed satisfactory subject to	Yes

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ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>including:</p> <p>(i) maximising overlooking of public and communal spaces while maintaining internal privacy;</p> <p>(ii) avoiding dark and non-visible areas;</p> <p>(iii) locating communal and common areas in safe and accessible locations;</p> <p>(iv) providing lighting appropriate to the location and desired activities;</p> <p>(v) providing clear definition between public and private spaces.</p> <p>Specific Rooms, Areas and Facilities</p> <p>(e) The development is to be designed to meet the</p>	<p>conditions. No apparent safety concerns with the proposal’s design have been identified as part of the planning assessment.</p> <p>The boarding house design maximises overlooking of public and communal spaces with balconies to the front and rear of the building to ensure appropriate passive surveillance of such areas.</p> <p>The main entry is provided at the front of the site clearly visible from the secondary street frontage to Ryedale Road.</p> <p>Communal and common areas are considered to be safe and accessible.</p> <p>The submitted Plan of Management indicated that perimeter lighting will be provided. However, the submitted plans do not indicate the location of the perimeter lighting. Council’s standard conditions relating to the provision of lighting is also recommended to ensure obtrusive effects of common area lighting is minimised.</p> <p>A clear definition between the public and private spaces has not been provided.</p> <p>See assessment below.</p>	<p></p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes – subject to conditions of consent</p> <p>Yes</p>

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DCP 2014	PROPOSED	COMPLIANCE
<p>requirements identified in the following table.</p> <p>(i) Bedrooms / Boarding Rooms:</p> <p>(a) Boarding rooms are to be designed as the principal place of residence for occupants.</p> <p>(b) No boarding rooms shall open directly onto communal living, dining and kitchen areas.</p> <p>(c) Each boarding room (excluding any private kitchen or bathroom facilities) must comply with the minimum areas identified in the ARHSEPP. Plans shall clearly show the size and maximum occupation of each room. Boarding rooms less than the minimum size will not be supported.</p> <p>(d) Where additional facilities are proposed in boarding rooms, the following additional gross floor areas apply:</p>	<p>The boarding house has been designed as a principal place of residence for occupants. Each bedroom is of an appropriate size and includes kitchenettes and sanitary facilities. A common room is also provided on the ground floor which includes a common kitchen, living room, and laundry facilities. This design is considered to cater to the needs of occupants to ensure the boarding house is capable of being used as a place of residence into the future.</p> <p>No boarding rooms open onto the common room which is within an enclosed open plan room at the rear north-western corner of the building.</p> <p>Each boarding room, (excluding any private kitchen or bathroom facilities) complies with the minimum areas identified within the ARHSEPP. Refer to ARH compliance.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

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DCP 2014	PROPOSED	COMPLIANCE
(i) Minimum 2.1m ² for any ensuite, which must comprise a hand basin and toilet; plus	Refer below for boarding room suites which include a shower.	Refer below
(ii) 0.8m ² for any shower in the ensuite (in addition to above); plus	All en-suites include showers, therefore a minimum GFA of 2.9m ² is required. Boarding Rooms 5, 8, 9, 10 are labelled on the drawings as including an area of 2.8m ² . As such, they fall 0.1m ² short of achieving compliance, which equates to a 3.5% variation to the control. All other bathrooms are 2.9m ² or larger in GFA.	No - justifiable
(iii) 1.1m ² for any laundry, which must comprise a wash tub and washing machine; plus	Laundry facilities are not provided within each boarding room suite.	N/A
(iv) 2m ² for any kitchenette, which must comprise a small fridge, cupboards and shelves (in addition to required wardrobe space), a microwave, and a minimum of 0.5m ² bench area.	Able to comply. The submitted Ground Floor and Level 1 plans indicate a GFA for all kitchenettes of 2.0m ² . The submitted Plan of Management indicates the kitchenettes are to include a sink, bench, storage, bar, fridge and microwave.	Yes
(ii) Communal Living Rooms (a) Indoor communal living rooms/areas are to be located:		
(i) near commonly used spaces, such as kitchen, laundry, lobby entry area, or manager's office;	A communal living room has not been provided.	N/A
(ii) adjacent to the communal open space; and	The common room is located adjacent to the communal/private open space.	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>(iii) where they will have a minimal impact on bedrooms and adjoining properties in terms of noise generation.</p>	<p>The location of the proposed common room will have minimal impact on the bedrooms as no bedrooms open directly onto the common room. The common room is oriented to the rear on the ground floor which is sufficiently separated from neighbouring properties to minimise impacts.</p>	<p>Yes</p>
<p>(b) Class 1b boarding houses must have indoor communal living areas of a minimum 12.5m² or 1.25m²/resident, whichever is greater. Class 3 Boarding Houses must provide a common living area a minimum 15m² in area, with a further 15m² provided for each additional 12 persons thereafter.</p>	<p>The proposal is a Class 3 boarding house, given 18 lodgers are to be accommodated. Therefore, a common room of 30m² is required to achieve compliance. The proposed common room is 30.4m².</p>	<p>Yes</p>
<p>(c) Openings are to be oriented away from adjoining residential properties to minimise overlooking and maximise privacy and amenity.</p>	<p>A disabled access opening is provided at the southern end of the common room which has been orientated away from the adjoining residential property to maximise privacy and amenity.</p>	<p>Yes</p>
<p>(iii) Communal Kitchen and Dining Areas</p>		
<p>(a) Where communal kitchens are provided, they are to be in a location accessible to all residents.</p>	<p>The communal kitchen is provided on the ground floor easily accessible to all residents. An Access Report has been submitted, and indicates that compliance with the relevant standards is obtained.</p>	<p>Yes</p>
<p>(b) A communal kitchen area is to be provided with a minimum</p>	<p>Proposed communal kitchen has an area of 8.18m².</p>	<p>Yes</p>

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DCP 2014	PROPOSED	COMPLIANCE
<p>area of 6.5m² in total or 1.2m² for each resident occupying a boarding room that does not contain a kitchenette, whichever is greater, and is to contain:</p> <p>(i) One sink for every 6 people, or part thereof, with running hot and cold water; and</p> <p>(ii) One stove top cooker for every 6 people, or part thereof, with adequate exhaust ventilation.</p> <p>(c) A combined kitchen and dining area must have a minimum area of 15m² with an additional 1m² per room in a development that contains 12 or more bedrooms.</p> <p>(d) No bathrooms, toilets or boarding rooms shall open directly on to communal kitchen facilities.</p> <p>(e) Where food is proposed to be provided as part of Boarding House operations, or is for sale, kitchen and food areas shall comply with the National Code for the Construction and Fit-out of Food Premises and be provided</p>	<p>At least 3 sinks are required for 18 people. As shown on the plans, 2 sinks are provided within the communal kitchen which is non-compliant given there are 18 lodgers proposed to reside within the development. A condition for an additional sink is recommended.</p> <p>At least 3 stove top cookers required for 19 people. As shown on the plans, 3 stove top cookers are provided within common room kitchen which is compliant.</p> <p>The combined kitchen and dining area within the common room (excluding the laundry facilities and the disabled access entries) has an area of 26.26m².</p> <p>No bathrooms, toilets or boarding rooms open directly on to the communal kitchen.</p> <p>Not proposed within subject boarding house as per the SEE/PoM.</p>	<p>No - condition</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>

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ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
with sufficient ventilation in accordance with the BCA.		
(f) Kitchen facilities shall be available for all lodgers 24 hours per day/ 7 days per week.	Kitchen facilities within the common room are not available between 10pm and 6am per the PoM. A condition to address this non-compliance is recommended.	No - condition
(iv) Bathroom Facilities		
(a) In all boarding houses communal bathroom facilities must be in an accessible location for all occupants 24 hours per day.	The proposed development includes ensuite bathrooms in each of the boarding rooms.	Yes
(b) Bathrooms should be a minimum of 5m ² .	No communal bathrooms proposed – see above.	N/A
(c) Where ensuite bathroom facilities are provided in boarding rooms, the overall facilities must comply with the minimum facility requirements for the total occupancy of the overall premises.	The proposed development includes ensuite bathrooms in each of the boarding rooms. These en-suite bathrooms comply with the facility requirements previously in this table – i.e. minimum hand wash basin, shower, laundry and kitchenette sizes.	Yes
(v) Laundries and Drying Facilities		
(a) Laundry and drying facilities are to be provided for all lodgers. Where lodgers do not have their own laundry facilities, the following is to be provided:		
(i) A minimum space of 4m ² for every 12 lodgers; an additional 3m ² for every additional 12 lodgers or part thereof;	A 4m ² communal laundry is required for 18 lodgers. The submitted plans indicate that a 7m ² laundry is to be provided within the common room on the ground floor.	Yes
(ii) 15m ² external clothes drying	A 1.66m ² external clothes	No

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ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>area for every 12 residents in an outdoor area (can be retractable).</p> <p>(b) Outside drying areas shall be located in a communal open space in a location which maximises solar access and ensures that the usability of the space is not compromised.</p> <p>(c) Internal drying and laundry facilities shall be located in a safe and accessible location for all residents, and separate from communal kitchen facilities.</p> <p>(vi) Management Office Design (a) Where management offices are to be provided, they are to be located at a central, visible point which is convenient to occupants of and visitors to the boarding house.</p>	<p>drying area has been provided within the private open space area. This is non-compliant with the minimum 15m² prescribed in the aforementioned control.</p> <p>The external clothes drying areas have been located within the communal/private open space area.</p> <p>Laundry facilities provided within the common room on the ground floor. Notably the laundry facility has been separated from the kitchen facilities within the common room.</p> <p>No management office required due to size of the proposed boarding house development.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p>
Section 4.0 Management		
<p>(a) All boarding houses are required to be managed by a manager who has overall responsibility including the operation, administration, cleanliness, and maintenance and fire safety of the premises. Management arrangements are to be set out in a Plan of Management.</p>	<p>The proposed boarding house is to be managed by an off-site manager who is responsible for the following as detailed within the submitted PoM.</p> <ul style="list-style-type: none"> • Be contactable 24 hours per day, 7 days per week, inclusive. Adjacent property owners/occupiers will be supplied these details – although there is a contradictions within the PoM regarding the availability of 	<p>Yes</p>

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ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
	<p>the primary contact – see below.</p> <ul style="list-style-type: none"> • Oversee all residential concerns. • Enforce the minimum occupancy period. • Organise the cleaning and maintenance of the common areas and common open space areas. • Provide lodgers with appropriate information prior to the commencement of occupation. • Carry out inspections on a regular basis at a minimum of once every 3 months to ensure that the building is maintained in a clean and tidy condition and that all facilities and fittings are appropriately maintained. • Record all inspections in a logbook, which must be made available to Council upon request. • Organise the waste collection and facility needs for the site, and the ongoing storage and collection of waste on-site including transfer of waste to and from collection points for the waste collection services as required, and regular cleaning of bins/waste storage areas. • Maintain an incident register. • Maintain the electrical circuits to a safe standard. • Notify the Council in writing within 1 month of any change in the management 	

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ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>(b) A Plan of Management is to be submitted with each Development Application for a boarding house. The Plan of Management, as a minimum, must address the ongoing management and operational aspects of the boarding house identified in the template attached to this Part (refer Schedule 2 Template for Plan of Management).</p> <p>(c) The name and contact details of the manager or managing agent is to be displayed at all times externally at the front entrance on the boarding house.</p> <p>(d) Occupiers of adjacent properties are to be provided with a 24 hour telephone number for a principal contact (for example owner or manager) for use in the event of an emergency.</p>	<p>and provide contact details for the new management.</p> <p>A PoM has been submitted as part of the proposed development which has been assessed as satisfactory when having regard to the template contained within Schedule 2 of Part 3.5 of DCP 2014.</p> <p>The submitted PoM indicates the contact details of the Managing Agent's details will be displayed externally at the front entrance of the premises.</p> <p>The PoM indicates that the off-site manager (principal contact) will only be available to be contacted between the hours 9am to 6pm Monday to Saturday. The PoM indicates an after-hours number will be provided. However it does not specifically indicate whether a 24 hour telephone number will be provided to neighbouring properties within vicinity of the proposed development in the event of an emergency.</p>	<p>Yes</p> <p>Yes</p> <p>No - condition</p>
Part 7.2 – Waste Minimisation and Management		
Section 2.3 All Developments		
<p>(a) Developments must provide space on-site for the sorting and storage of waste in containers suitable for collection.</p>	<p>Space on-site is provided for the sorting and storage of waste to within the bin enclosure located at the north-eastern corner of the</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>(b) The size of storage areas and number of storage containers required must be sufficient to handle and store the waste likely to be generated and stored on the premises between collections.</p>	<p>allotment.</p> <p>Proposal requires 40L per person per week of general waste & 35L per person per week of recyclable waste = 400L general waste and 350L recyclable.</p> <p>The submitted Waste and Environmental Management Plan has indicated: 1 x 140L General Waste 1 x 240L Recycling 1 x 240L Green Waste</p> <p>This does not meet the aforementioned requirements.</p> <p>Despite this, Council's Environmental Health Officers have assessed the proposed development and determined the proposed waste arrangements to be satisfactory, subject to conditions of consent. In this regard, the proposal is considered to satisfactorily comply.</p>	<p>No - justifiable</p>
<p>(c) Additional space must be provided for the storage of bulky wastes where appropriate.</p>	<p>No significant bulky waste likely to be generated by the proposed boarding house.</p>	<p>N/A</p>
<p>(d) Allowance must be made for the storage of green waste where relevant.</p>	<p>Allowance made for the storage of 1 x 240L green waste bin in the garbage storage bin area located to the side/rear of the development.</p>	<p>Yes</p>
<p>(e) All waste containers must</p>	<p>All waste containers</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>be stored within the boundaries of the site unless otherwise approved by Council under Section 68 of the Local Government Act 1993.</p>	<p>proposed to be contained within the site to the side/rear of the development.</p>	
<p>(f) All applications for development, including demolition, construction and the ongoing use of a site/premises, must be accompanied by:</p>		
<p>(i) a Site Waste Minimisation and Management Plan (SWMMP);</p>	<p>A SWMMP has been submitted</p>	<p>Yes</p>
<p>(ii) location and design details of waste storage facilities on the site.</p>	<p>Location details of waste storage facilities have been provided in a dedicated hard stand bin enclosure area located within the north-eastern corner of the allotment.</p>	<p>Yes</p>
<p>(g) In all development, waste and recycling storage areas and facilities should be provided and be located in positions that:</p>		
<p>(i) provide easy, direct and convenient access for the users of the facility;</p>	<p>Proposed garbage area located in easy, direct and convenient location adjacent to the car park.</p>	<p>Yes</p>
<p>+ (ii) permit easy transfer of bins to the collection point if relocation of bins is required;</p>	<p>Proposed garbage area permits easy transfer of bins to collection point (street kerb) via the adjacent driveway.</p>	<p>Yes</p>
<p>(iii) permit easy, direct and convenient access for collection service providers;</p>	<p>Proposed garbage collection will utilise street kerb collection.</p>	<p>Yes</p>
<p>(iv) do not intrude on car</p>		

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>parking, landscaping, access and turning areas required for the type and scale of development;</p> <p>(v) do not reduce amenity (minimises the potential for noise, odour and other amenity and environmental impacts on residents and other occupants);</p> <p>(vi) maximize protection of trees and significant vegetation.</p>	<p>Proposed garbage storage area does not intrude on car parking, landscaping, access or turning areas.</p> <p>The proposed bin enclosure located at the rear north-eastern corner of the site is located approximately 12.08m away from the proposed boarding house development. As such, the bin enclosure location has been suitably located to minimise potential noise and odour from this area.</p> <p>The applicants updated arborist report indicates that Trees 1, 4 and 5 are of high retention value.</p> <p>It is noted the updated arborist report includes the following comments:</p> <ul style="list-style-type: none"> • The area beneath the Suite 2 (1st floor) verandah is to consist of lawn at existing ground level and as such it will be possible for the roots to Tree 1 to exist within this space. While minor pruning of Tree 1 will be required to accommodate the first floor of the building, less than 10% of the canopy volume will be removed. • Tree 4 is located within close proximity to the proposed bin enclosure, 	<p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

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DCP 2014	PROPOSED	COMPLIANCE
<p>(h) In cases where the waste storage areas and facilities are likely to be visible from the street, the design and location of waste storage areas/facilities should be such that they complement the design of both the development and the surrounding streetscape. Design elements such as fencing, landscaping and roof treatments may be used.</p> <p>(i) No incineration devices are permitted.</p> <p>(j) A collection point for waste collection is to be identified on</p>	<p>stormwater drainage line and driveway, excavation will be required for the bin enclosure, stormwater drainage line and driveway. However, Tree 4 is likely to tolerate the impacts of the proposal and has a reasonable chance of remaining viable in the long term.</p> <ul style="list-style-type: none"> In relation to Tree 5, the existing building footings are likely to have restricted root spread to the east. However, the proposed ground floor slab will be at the same alignment as the existing. No notable root loss is expected as a result of the new ground floor slab. <p>As such, major trees are retained where practicable.</p> <p>The waste storage area located within the north-eastern corner of the allotment, addresses the secondary street frontage of Ryedale Road and has been suitably screened by a 1.8m lapped and capped timber fence which complements the design of both the development and surrounding streetscape.</p> <p>No incineration devices proposed.</p> <p>Proposed garbage collection will utilise street kerb</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>the plans submitted with the development application. The collection point must be conveniently located for users and services purposes and sited so that waste collection vehicles do not impede the access to the site or car parking facilities when servicing the bins so that waste can be safely and easily collected.</p> <p>(k) The path for wheeling bins between the waste and recycling storage room/area and the vehicle collection point must be free of steps and kerbs and, in the case of residential development, of a gradient of less than 14:1, and for all other development types, of a grade to the satisfaction of Council. The waste storage area must be as close as practicable to the collection point.</p> <p>(l) Access driveways and service areas for waste collection vehicles must be designed in accordance with Australian Standard AS 2890.2-2002 <i>Parking Facilities – Part 2: Off-street commercial vehicle facilities</i>.</p> <p>(m) All waste facilities must comply with the Building Code of Australia (BCA) and all relevant Australian Standards (AS).</p>	<p>collection.</p> <p>Proposed path from storage area to street kerb is free of steps and kerbs.</p> <p>Council’s CW&I (Waste) officers have undertaken an assessment of the amended plans and raised no objection subject to consent conditions.</p> <p>No waste collection vehicles entering the site.</p> <p>Council’s CW&I (Waste) officers have undertaken an assessment of the amended plans and raised no objection subject to consent conditions. Standard conditions regarding compliance with the BCA and AS have been included.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>(n) Heritage conservation considerations may alter requirements of this Part in the refurbishment of existing buildings. Designs should be discussed with Council's Heritage Advisor.</p>	<p>The proposed development was referred to Council's Heritage Officer for comment as the subject site contains an older style dwelling house, which displays characteristics that make the dwelling of potential heritage significance. Additionally, the site is also located within the vicinity of the Ryde Hospital site (Denistone House and Trigg House) which is an item of heritage significance, listed on Schedule 5 of the <i>Ryde LEP 2014</i>.</p> <p>In their referral response received on the 6 February 2019, Council's Heritage Officer raised no objection the replacement built form subject to conditions, including Photography Archival Recordings being undertaken prior to the commencement of any demolition works.</p>	<p>Yes</p>
<p>(o) Any equipment, such as volume reducing equipment, will be required to be installed in accordance with the manufacturer's instructions.</p>	<p>No equipment required to be installed.</p>	<p>N/A</p>
<p>(p) Where commercial food preparation is carried out on the premises, the waste storage area is to be designed with a cover to exclude rainwater and a floor to be graded and drained to the sewerage system. The area is to be readily accessible for servicing and suitably screened from public view.</p>	<p>No commercial food preparation proposed to be carried out on site.</p>	<p>N/A</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
Section 2.4 – Demolition and Construction		
(a) Demolition activity must comply with relevant Australian Standards and WorkCover requirements.	To comply	To comply
(b) Demolition is to be carried out using the process of deconstruction where materials are carefully dismantled and sorted. A Demolition Work Plan is required to be submitted.	To comply	To comply
(c) A dedicated area is to be allocated on-site for the stockpile of materials for reuse, recycling or disposal and for site waste bins (for surplus and unwanted materials).	Noted, to be covered by Standard Condition.	To comply
(d) Construction materials are to be stored away from the waste materials stored on-site for collection to enable easy access for waste collectors.	Noted, to be covered by Standard Condition.	To comply
Section 2.6 Multi Dwelling Housing developments (3 or more dwellings) and Residential Flat Buildings (up to 3 storeys)		
<ul style="list-style-type: none"> • All Developments (a) Space must be provided inside each dwelling for receptacles to store garbage and recycling material. The area is to have the capacity to store two day's worth of materials. • Communal Bin Storage – larger scale developments (b) Multi Dwelling Housing developments that do not meet the requirements for individual bin storage, and Residential Flat Developments of up to 3 storeys, must have communal bin storage 	<p>Council's CW&I (Waste) officers have undertaken an assessment of the amended plans and raised no objection subject to consent conditions.</p> <p>Individual bin storage is not proposed. A communal bin storage area is provided adjacent within the north-eastern corner of the allotment.</p>	<p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>areas designed and constructed in accordance with Schedule 4: S4.1. Residential Bin Storage Areas.</p> <p>(c) Communal bin storage areas are to be located so as they can be screened from the street and in a position which is convenient for users and waste collection staff.</p> <p>(d) To facilitate servicing by waste collection staff, communal bin storage areas must not be more than 15 metres from the street kerb.</p> <p>(e) For developments where bulk bins are provided for waste (i.e. 660/1100 litre skip bins) the bulk bins should be contained within waste and recycling storage rooms designed and constructed in accordance with the requirements of Schedule 4 (refer S4.2 Waste and Recycling Storage Rooms).</p> <p>(f) For developments comprising 30 or more dwellings, a separate room or undercover caged area of a minimum 5 square metres, with instructive signage must be provided for the storage of bulky discarded items such as furniture and white goods, awaiting Council pickup, to prevent illegal dumping in the public domain. Bulky items storage areas should be located adjacent to waste storage areas.</p> <p>(g) Where collection vehicles</p>	<p>A communal bin storage area is provided adjacent to the car park and is considered to be convenient for users and waste collection staff.</p> <p>The communal bin enclosure is located 4.6m from the street kerb.</p> <p>Bulk bins not provided.</p> <p>Not applicable to subject proposal.</p> <p>Collection vehicles not</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>are required to drive into a property to collect waste and recycling, adequate access must be provided for the users, waste collection staff and collection vehicles, and:</p> <p>(i) the site must be designed to allow collection vehicles to enter and exit the property in a forward direction with minimal need for reversing and to be operated with adequate clearances; and</p> <p>(ii) the access and manoeuvring space are to be suitable for the collection vehicle in terms of pavement strength, spatial design, access width and clearances. Appendix C Collection Vehicles and Appendix D Vehicle access/Turning Circles under the Better Practice Guide for Waste Management in Multi-Unit Dwellings, DECC 2008 are to be used as a guide.</p>	<p>required to drive into property.</p>	
Part 8.2 – Stormwater Management		
<p>• Stormwater - Drainage is to be piped in accordance with Part 8.2 – Stormwater Management.</p>	<p>Application has been referred to Council’s Development Engineer who has indicated no objection to the proposed development, subject to conditions.</p>	<p>Yes</p>
Part 9.2 – Access for People with Disabilities		
<p>Accessible path required from the street to the front door, where the level of land permits.</p>	<p>Accessible path from the street to the front door, provided. Standard conditions of consent have been included regarding accessibility.</p>	<p>Yes</p>
Part 9.3 – Parking Controls		
Section 2.2 Residential Land-Uses		
<p>• Boarding Houses –</p>		

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>accessible area:</p> <p>(a) At least 0.2 parking spaces / boarding room (1 space /5 boarding rooms). In terms of dwelling size this equates to:</p> <p>(i) At least 0.2 parking spaces/dwelling containing 1 bedroom</p> <p>(ii) At least 0.5 parking spaces / dwelling containing 2 bedrooms</p> <p>(iii) At least 1 parking space / dwelling containing 3 or more bedrooms</p> <p>(b) Not more than 1 parking space for each person employed in connection with the development.</p>	<p>Given the proposed development is not being carried out by or on behalf of a social housing provider – and is located within an accessible area Clause (2)(e)(ii) applies. As such 0.5 car parking spaces are to be provided for each boarding room. The proposed development includes 10 boarding rooms and provides five (5) car parking spaces within the at-grade car park located at the rear of the site.</p> <p>The proposal does not seek to include any employed residents on the site.</p>	<p>Yes</p> <p>N/A</p>
Section 2.7 Bicycle Parking		
<p>(b) Bicycle and motor cycle parking is to be provided for boarding house development in accordance with the requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009, and Part 3.6 Boarding Houses under this DCP.</p> <p>(c) Bicycle parking should be designed in accordance with AS 2890.3 Parking facilities - Bicycle parking facilities.</p> <p>(d) Bicycle parking and access should ensure that potential conflicts with vehicles are minimised.</p>	<p>ARH SEPP requires: 2 motorcycle spaces and 2 bicycle spaces.</p> <p>Proposed: 2 motorcycle and 2 bicycle spaces.</p> <p>To be addressed via standard condition.</p> <p>Bicycle parking and access will not conflict with vehicles.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
(e) Bicycle parking is to be secure and located undercover with easy access from the street and building entries.	Bicycle parking is located within the western side setback undercover.	Yes
(f) Bicycle parking is to be located in accordance with Safer by Design principles	Bicycle parking is considered to be safe and secure given it is located within the western side setback of the building.	Yes
(h) Provide secure bicycle storage in all residential developments except for developments with a minimum of 600m ² , dwelling houses and multi-unit (villa) housing.	Secure parking to be conditioned.	Yes – Subject to condition
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</p>	<p>The applicants updated arborist report indicates that Trees 1, 4 and 5 are of high retention value.</p> <p>However, the updated arborist report indicates the potential impacts of the proposed works on trees to be retained.</p> <ul style="list-style-type: none"> • The area beneath the Suite 2 (1st floor) verandah is to consist of lawn at existing ground level and as such it will be possible for the roots to tree 1 to exist within this space. While minor pruning of Tree 1 will be required to accommodate the first floor of the building, less than 10% of the canopy volume will be removed. • Tree 4 is located within close proximity to the proposed bin enclosure, stormwater drainage line and driveway, excavation will be 	Yes

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DCP 2014	PROPOSED	COMPLIANCE
<p>particularly important where neighbouring trees are close to the property boundary. The main issues are potential damage to the roots of 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.</p>	<p>required for the bin enclosure, stormwater drainage line and driveway. However, Tree 4 is likely to tolerate the impacts of the proposal and has a reasonable chance of remaining viable in the long term.</p> <ul style="list-style-type: none"> In relation to Tree 5, the existing building footings are likely to have restricted root spread to the east. However, the proposed ground floor slab will be at the same alignment as the existing. No notable root loss is expected as a result of the new ground floor slab. <p>As such, major trees are retained where practicable.</p>	

BASIX	PROPOSAL	COMPLIANCE
<p>All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans (list) BASIX Cert 987480M_02 dated 2 May 2019</p>	<p>BASIX commitments indicated on plans.</p>	<p>Yes</p>

Certification

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

Name: Ben Tesoriero



Date: 4 October 2016

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ATTACHMENT 3

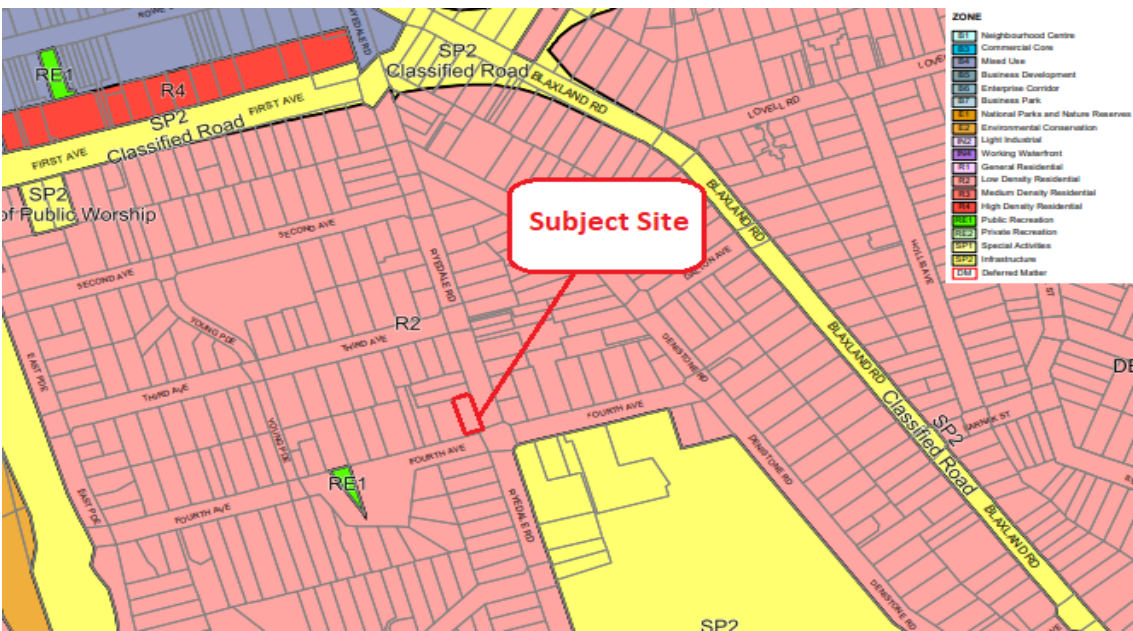
ATTACHMENT 3 - COMPLIANCE TABLE
State Environmental Planning Policy (Affordable Rental Housing SEPP) 2009

LDA No:	LDA2019/0025
Date Plans Rec'd	16 January 2019
Amended Plans Submitted	8 May 2019
Address:	38 Fourth Avenue, Eastwood
Original Proposal:	New two storey boarding house comprising 10 rooms, 1 common room and parking for 5 cars – under the provisions of <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i>.
Amended Proposal.	New two storey boarding house comprising, 8 x double boarding rooms, 2 x single boarding rooms, 1 x communal room and parking for 5 cars – under the provisions of <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i>.
Constraints Identified:	Within 100m of heritage item.

ARH SEPP 2009 Division 3	Proposed	Compliance
26 Land to which Division applies		
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones: (a) Zone R1 General Residential, (b) Zone R2 Low Density Residential, (c) Zone R3 Medium Density Residential, (d) Zone R4 High Density Residential, (e) Zone B1 Neighbourhood Centre, (f) Zone B2 Local Centre, (g) Zone B4 Mixed Use.	The subject site is zoned R2 Low Density Residential under the provisions of LEP2014 (refer to Figure 1 below). As such the subject site is land to which Division 3 'Boarding Houses' of the ARHSEPP applies.	Yes

ITEM 3 (continued)

ATTACHMENT 3

ARH SEPP 2009 Division 3	Proposed	Compliance
 <p>Figure 1 - LEP2014 Zoning Map Extract – Demonstrating the subject site being zoned R2 and as such constituting land to which Division 3 of the ARHSEPP applies.</p>		

27 Development to which Division applies

<p>(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.</p> <p>A 'boarding house' is defined under the RLEP2014 as:</p> <p>boarding house means a building that:</p> <ul style="list-style-type: none"> (a) is wholly or partly let in lodgings, and (b) provides lodgers with a principal place of residence for 3 months or more, and (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that 	<p>(1) The SEE and DA lodgement form submitted with the subject DA specifies that the proposal is for the purposes of a 'boarding house'.</p> <p>A review of the plans submitted as part of the proposed development indicates the proposal would be capable of meeting the definition for a 'boarding house' under the provisions of the 'Standard Instrument'.</p>	<p>Yes</p>
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ITEM 3 (continued)

ATTACHMENT 3

ARH SEPP 2009 Division 3	Proposed	Compliance
<p><i>accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.</i></p>		
<p>(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.</p> <p>accessible area means land that is within:</p> <p>(a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or</p> <p>(b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or</p> <p>(c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</p> <p>walking distance means the shortest distance between 2 points</p>	<p>(2) The subject site is within zone R2 Low Density Residential under LEP2014. Additionally, the subject site is within an 'accessible area' for the following reason:</p> <ul style="list-style-type: none"> • Consistent with the definition for 'accessible area' and 'walking distance' in clause 4 of the ARHSEPP, the development site is located approximately 670m walking distance from Denistone railway station. 	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 3

ARH SEPP 2009 Division 3	Proposed	Compliance
<p><i>measured along a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings.</i></p> <p>regular bus service means any regular passenger service conducted by bus (including any transitway service).</p> <p>regular passenger service means a public passenger service conducted according to regular routes and timetables, but does not include a tourist service or a long-distance service.</p>		
<p>(3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.</p>	<p>(3) The subject site is located within Eastwood, which is within the Sydney region.</p>	<p>N/A</p>
<p>28 Development may be carried out with consent</p>		
<p>Development to which this division applies may be carried out with consent.</p>	<p>Noted, the proposed boarding house is the subject of a DA (LDA2019/0025) and as such is seeking development consent.</p>	<p>Noted</p>
<p>29 Standards that cannot be used to refuse consent</p>		
<p>(1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a</p>		

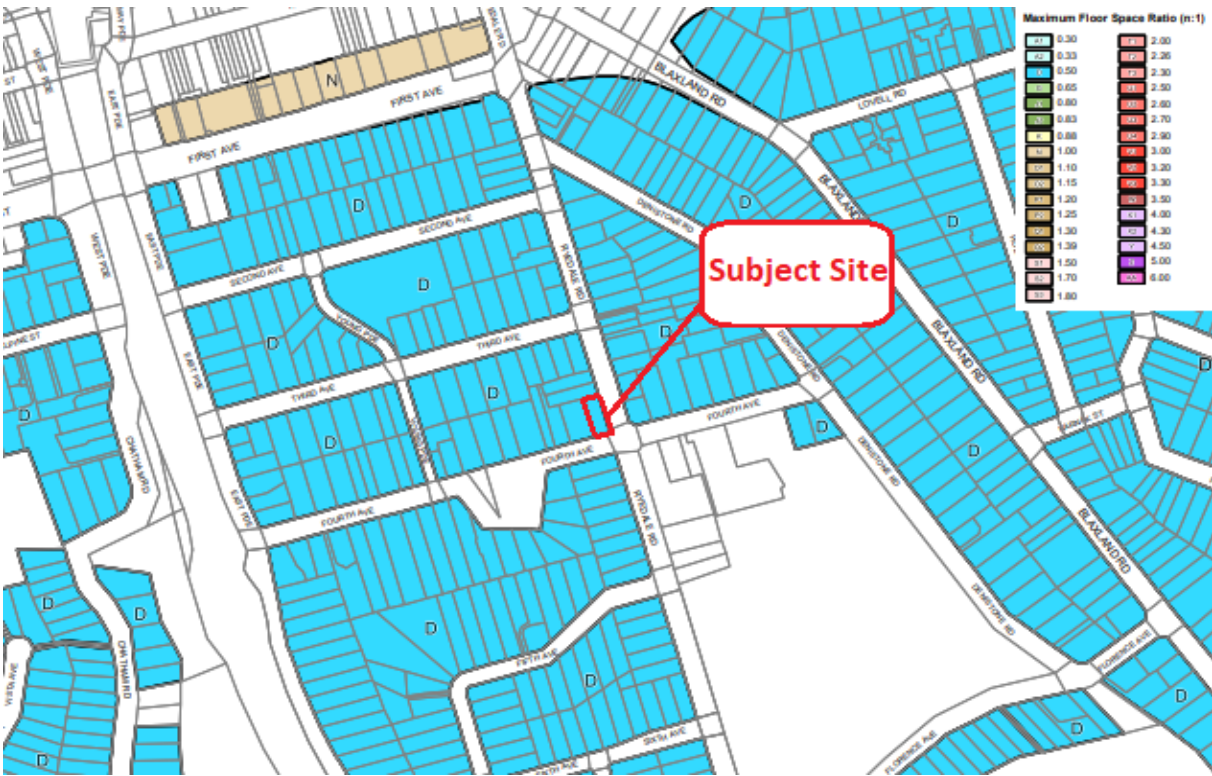
ITEM 3 (continued)

ATTACHMENT 3

ARH SEPP 2009 Division 3	Proposed	Compliance
<p>floor space ratio are not more than:</p> <p>(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or</p> <p>(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or</p> <p>(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</p> <p>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</p> <p>(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</p>	<p>(a) The maximum floor space ratio permitted on the subject site, per the LEP2014 is 0.5:1. An FSR of 0.496:1 is proposed.</p> <p>(b) Proposed development is not within a zone in which no residential accommodation is permitted.</p> <p>(c) Proposed development is not within a zone in which RFBs are permitted.</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p>

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ATTACHMENT 3

ARH SEPP 2009 Division 3	Proposed	Compliance
 <p data-bbox="328 1133 1286 1167">Figure 2. Ryde LEP 2014 FSR map extract – FSR of 0.5:1 applies to the site.</p>		
<p data-bbox="185 1200 687 1346">(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p data-bbox="185 1391 687 1648">(a) Building height if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,</p> <p data-bbox="185 1738 687 1928">(b) Landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</p>	<p data-bbox="735 1402 1190 1659">(a) Under the LEP 2014, the maximum height allowed on the subject site is 9.5m. The proposal is for a building with a maximum height of 9.05m as detailed in the LEP 2014 Compliance Check.</p> <p data-bbox="735 1749 1174 1973">The amended plans submitted on the 8 May 2019 present a development with landscaping treatments that are compatible with the character of the local area for the following reasons:</p>	<p data-bbox="1294 1402 1350 1435">Yes</p> <p data-bbox="1294 1738 1350 1771">No</p>

ITEM 3 (continued)

ATTACHMENT 3

ARH SEPP 2009 Division 3	Proposed	Compliance
	<ul style="list-style-type: none"> • The proposal now includes front fencing which does not include any Colorbond material. The front fencing is set to include brick and metal palisading which is complementary to the typology of fencing throughout Eastwood. • The inclusion of gates to the entry of the at-grade car park now screens the open car parking spaces from the public domain. • The private open space now includes landscape screening which prevents direct unfiltered views of the public domain. • A 1.8m lapped and capped timber fence is now proposed which screens the garbage bin enclosure from the public domain. • The amended plans now seek to retain the existing pedestrian footpaths within the public domain around the site. • The proposal now seeks the retention of the Himalayan Cedar within the primary front setback and the Jacaranda within the secondary front setback which contribute positively to the landscape character of the local area. • The amended plans now include 201.40m² of deep soil which equates to 35% of the site area, thus achieving compliance with DCP2014 	

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ATTACHMENT 3

ARH SEPP 2009 Division 3	Proposed	Compliance
<p>(c) Solar access where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</p> <p>(d) Private Open Space if at least the following private open space areas are provided (other than the front setback area):</p> <p>(i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,</p> <p>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,</p> <p>(e) Parking If:</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an</p>	<p>and supporting the growth of mature trees and vegetation.</p> <p>(c) The proposal includes one communal living area on the ground floor within the north-western corner of the building.</p> <p>Given the communal room includes a large window on its northern elevation, the shadow studies submitted are able to confirm the ground floor communal living room will receive a minimum 3 hours direct sunlight between 9am and 3pm in mid-winter.</p> <p>(i) An area labelled as private open space for the lodgers is proposed in the rear north-western corner of the allotment. This has an area of 57.5m² with a minimum dimension of 4.5m.</p> <p>(ii) No accommodation is to be provided for the boarding house manager.</p> <p>The proposed development is not being carried out by a social housing provider. As such this clause does not apply.</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p>

ITEM 3 (continued)

ATTACHMENT 3

ARH SEPP 2009 Division 3	Proposed	Compliance
<p>accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development not being carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p>	<p>(ii) The proposed development is not being carried out by or on behalf of a social housing provider.</p>	<p>N/A</p>
<p>(iia) in the case of development not carried out by or on behalf of a social housing provider – at least 0.5 parking spaces are provided for each boarding room, and</p>	<p>(iia) Given the proposed development is not being carried out by or on behalf of a social housing provider – and is located within an accessible area Clause (2)(e)(iia) applies. As such 0.5 car parking spaces are to be provided for each boarding room. The proposed development includes 10 boarding rooms and provides five (5) car parking spaces within the at-grade car park located at the rear of the site.</p>	<p>Yes</p>
<p>(iii) in the case of any development – not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site.</p>	<p>The proposal does not seek to include any employed residents on the site.</p>	<p>N/A</p>
<p>(f) Accommodation size If each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p>	<p>(i) As per the submitted floor plans, Boarding Room 6 and Boarding Room 7 propose a maximum of 1 lodger. By</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 3

ARH SEPP 2009 Division 3	Proposed	Compliance
(ii) 16 square metres in any other case	<p>calculation, Boarding Room 6 has a gross floor area of 12.50m² excluding the kitchen and bathroom facilities, which complies with the minimum 12m².</p> <p>By calculation Boarding Room 7 has a gross floor area of 12.71m² excluding the kitchen and bathroom facilities, which complies with the minimum 12m².</p> <p>(ii) Boarding Rooms 1, 2 ,3, 4, 5, 8, 9, 10 within the development propose to include a maximum of 2 lodgers within each room as depicted on the submitted floor plans, and as explained within the SEE and submitted Plan of Management. Each of these rooms has a minimum gross floor area which exceeds 16m² excluding the private kitchen and bathroom, achieving compliance.</p>	<p>Yes</p> <p>Yes</p>
(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	Each boarding room has private facilities, including a kitchenette and en-suite bathroom.	Yes
(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclauses (1) or (2).	Noted, however as demonstrated above, the proposal complies with the standards set out in subclauses (1) and (2).	Noted
30 Standards for boarding houses		

ITEM 3 (continued)

ATTACHMENT 3

ARH SEPP 2009 Division 3	Proposed	Compliance
<p>(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:</p> <p>(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,</p> <p>(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,</p> <p>(c) no boarding room will be occupied by more than 2 adult lodgers,</p> <p>(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,</p> <p>(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,</p> <p>(f) (Repealed)</p> <p>(g) if the boarding house is on land zoned primarily for</p>	<p>(a) The proposed boarding house includes 10 rooms. One (1) communal living room is provided on the ground floor.</p> <p>(b) The proposed boarding house does not contain any boarding rooms with a GFA of more than 25m² (excluding any area used for the purposes of private kitchen or bathroom facilities)</p> <p>(c) The submitted Plan of Management indicates that boarding rooms will not be occupied by more than 2 adult lodgers.</p> <p>(d) Adequate bathroom and kitchen facilities are provided for all lodgers. Each boarding room will contain an en-suite bathroom and kitchenette</p> <p>(e) The boarding house proposes to accommodate a maximum of 18 lodgers as per the submitted SEE and Plan of Management. As such a boarding room or on-site dwelling is not required for a boarding house manager.</p> <p>N/A</p> <p>(g) The proposed boarding house is not on land zoned primarily for commercial</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>

ITEM 3 (continued)

ATTACHMENT 3

ARH SEPP 2009 Division 3	Proposed	Compliance
<p>commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,</p> <p>(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.</p>	<p>purposes.</p> <p>(h) 10 boarding rooms are proposed.</p> <p>Requirement: 2 bicycle and 2 motorcycle spaces.</p> <p>Proposed: 2 motorcycle and 2 bicycle spaces.</p> <p>Motorcycle parking is to be located on a hardstand area adjoining the driveway. Bicycle parking is located within the western side setback. .</p>	<p>N/A</p> <p>N/A</p> <p>Yes</p>
<p>(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.</p>	<p>(2) Proposed development is not for the purposes of minor alterations or additions to an existing boarding house, but rather the construction of a new boarding house.</p>	<p>N/A</p>
30A Character of local area		
<p>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</p>	<p>The amended plans submitted on the 8 May 2019 present a development with landscaping treatments that are compatible with the character of the local area for the following reasons:</p> <ul style="list-style-type: none"> The proposal now includes front fencing which does not include the prohibited Colorbond material. The front fencing is set to include 	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 3

ARH SEPP 2009 Division 3	Proposed	Compliance
	<p>brick and metal palisading which is complementary to the typology of fencing throughout Eastwood.</p> <ul style="list-style-type: none"> • The inclusion of gates to the entry of the at-grade car park screens the open car parking spaces from the public domain. • The private open space now includes landscape screening which prevents direct unfiltered views of the public domain. • A 1.8m lapped and capped timber fence is now proposed which screens the garbage bin enclosure from the public domain. • The amended plans now seek to retain the existing pedestrian footpaths around the site. • The proposal now seeks the retention of the Himalayan Cedar within the primary front setback and the Jacaranda within the secondary front setback which contribute to the landscape character of the local area. • The proposed development was referred to Council's Heritage Officer for comment, given the subject site is located within the vicinity of Ryde Hospital (Denistone House and Trigg House) which is an item of heritage significance, listed on Schedule 5 of the RLEP 2014. In their referral response issued on 6 	

ITEM 3 (continued)

ATTACHMENT 3

ARH SEPP 2009 Division 3	Proposed	Compliance
	<p>February 2019, no objections were raised to the replacement-built form subject to conditions. Although amended plans have been submitted, the overall built forms remains substantially the same.</p> <ul style="list-style-type: none"> • The amended plans now include 201.40m² of deep soil which equates to 35% of the site area, thus achieving compliance with DCP2014 and supporting the growth of mature trees and vegetation. • The 2 storey form and scale of the building, the landscape presentation to the street and articulated façade on both the primary and secondary frontage ensures the development proposal is compatible with the form and scale of the existing development within the visual catchment of the subject site. • The proposed development exhibits a built form which achieves compliance with the setback controls within DCP2014 and respects the building height and floor space ratio development standards prescribed for the subject site in accordance with LEP2014. 	

Certification

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

ITEM 3 (continued)

ATTACHMENT 3

Name: Ben Tesoriero



Date: 28 May 2019

There are no LPP Planning Proposals