

4 AUGUST 2020

NOTICE OF MEETING

You are advised of the following meeting:

THURSDAY 13 AUGUST 2020.

City of Ryde Local Planning Panel Meeting No. 6/20

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 دراین 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 13 August 2020
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

Item	Page
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DECLARATIONS OF INTEREST

DEVELOPMENT APPLICATIONS

- | | | |
|---|---|----|
| 1 | 68-70 Chatham Road, Denistone - New multi-dwelling housing containing four (4) dwellings - 2 x 2 storey, 3 and 4 bedroom dwellings at the front and 2 x single storey, 3 bedroom dwellings at the rear as well as strata subdivision - LDA2018/458..... | 3 |
| 2 | 38 Wicks Road, North Ryde - Torrens Title subdivision to create two lots and construction of a dwelling house on each resulting lot - LDA2019/0411 | 63 |

PLANNING PROPOSALS

- | | | |
|---|--|-----|
| 3 | PLANNING PROPOSAL: ADMINISTRATIVE AND UPDATE LEP | 153 |
|---|--|-----|

DEVELOPMENT APPLICATIONS

- 1 68-70 Chatham Road, Denistone - New multi-dwelling housing containing four (4) dwellings - 2 x 2 storey, 3 and 4 bedroom dwellings at the front and 2 x single storey, 3 bedroom dwellings at the rear as well as strata subdivision - LDA2018/458**

Report prepared by: Senior Coordinator - Administration and Reporting

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

Report dated: 04 August 2020 **File Number:** GRP/09/6/12/1/2 - BP20/800

City of Ryde Local Planning Panel Report

DA Number	LDA2018/458
Site Address & Ward	68-70 Chatham Road, Denistone NSW 2114 Lot 13 in Deposited Plan 9166 Lot 14 in Deposited Plan 9166 West Ward
Zoning	R2 Low Density Residential
Proposal	New multi-dwelling housing containing four (4) dwellings - 2 x 2 storey, 3 and 4 bedroom dwellings at the front and 2 x single storey, 3 bedroom dwellings at the rear as well as strata subdivision.
Property Owners	Kwong Fah Chong, Yuen Yee Poon, and Siew Loon Poon
Applicant	Wen Architects C/O: Hao Yan
Report Author	Simon Truong, Consultant Planner
Lodgement Date	3 December 2018
No. of Submissions	110 submissions received, all objecting to the proposed development.
Cost of Works	\$1,385,428.00
Reason for Referral to LPP	Contentious development – (b) in any other case

ITEM 1 (continued)

	– is the subject of 10 or more unique submissions by way of objection. <i>Schedule 1, Part 2 of Local Planning Panels Direction</i>
Recommendation	Refusal
Attachments	Attachment 1 – LEP and DCP Compliance Table Attachment 2 – Plans submitted with the DA

1. Executive Summary

The subject development application (DA No. LDA2018/458) was lodged on 3 December 2018 and seeks consent for the construction of a multi dwelling development for four attached dwellings, comprising of two double storey dwellings at the front of the site, and two single storey dwellings at the rear.

In accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 – Directions by the Minister, this application is reported to the Ryde Local Planning Panel for determination as it is contentious development, having received greater than ten (10) submissions (110 submissions have been received, all objecting to the development).

The site is located within the Draft Chatham Road Heritage Conservation Area (HCA). The planning proposal to amend the *Ryde Local Environmental Plan 2014* (RLEP 2014) is currently under consideration by the Department of Planning, Industry and Environment. In addition, Council resolved to place an Interim Heritage Order on the existing dwellings to prevent their demolition. The Interim Heritage Order has since expired; however, the existing dwellings are examples of Inter-War period houses that make a strong contribution to the character and significance of the area.

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposal is not consistent with the objectives of the R2 Low Density Residential zone, pursuant to RLEP 2014, as the development does not appropriately provide for the housing needs of the community within the low density residential environment.

Furthermore, the proposal is inconsistent with provisions within *Ryde Development Control Plan 2014* (RDCP 2014) pertaining to the *Denistone Character Area* as well as controls specific to multi dwelling housing. Non-compliances with the RDCP 2014 relate to cut and fill, solar amenity, privacy, car parking design, and vehicular manoeuvring.

ITEM 1 (continued)

The site has been assessed as being unsuitable for the proposed development, and the proposal is not in the public interest. For the reasons outlined above, the subject DA is recommended for refusal.

2. The Site and Locality

The subject site, 68-70 Chatham Road, comprises two lots legally described as Lot 13 (No.68) and Lot 14 (No.70) within Deposited Plan 9166. The site is an irregular shaped allotment with a frontage to Chatham Road of 30.47 metres and a total site area of 1,300m².

The site slopes up from Chatham Road towards the rear, with a total rise of up to 5.1 metres. The site also rises steadily from the south-east to the north-west for the eastern two-thirds of the site, before increasing steeply towards the rear.



Figure 1: Aerial photograph of the site (outlined in orange with hatching) in context.

Existing development on the site consists of two single storey dwelling houses of brick construction with tiled roofs (**Figure 2**). Two (2) small metal sheds also located within the rear of No.68, while one (1) small metal shed is located at the rear of No.70. Mature vegetation is contained at the front and rear of the site, and vehicular access is obtained via individual driveways and crossovers to each lot from Chatham Road. The site is located within the Draft Chatham Road HCA, and the Denistone Character Area.

ITEM 1 (continued)



Figure 2: The site as viewed from Chatham Road (No.68 left and No.70 right)
Source: CPS Site Inspection, 28 October 2019.

On the opposite side of Chatham Road is Darvall Park which is an item of local heritage significance, listed under RLEP 2014.

Adjoining the northern side boundary is No.72 Chatham Road, which contains a raised part one/ part two-storey dwelling house of brick construction with a tiled roof (**Figure 3**). Adjoining the southern side boundary is No.66 Chatham Road which contains a raised single storey dwelling house of brick construction with a tiled roof and rear addition (**Figure 4**).

Development within the surrounding area consists primarily of low-density residential accommodation (detached single and two-storey dwelling houses). A number of newer two-storey dwelling houses are located along Chatham Road at No.72, 74, 76, 80 and 82 Chatham Road (**Figures 5 and 6**).

A dual occupancy (**Figure 7**) is located nearby at No.60 Chatham Road.

ITEM 1 (continued)



Figure 3: No.72 Chatham Road, adjoining to the north of the subject site.
Source: CPS Site Inspection, 8 July 2020.



Figure 4: No.68 Chatham Road, adjoining to the south of the subject site
Source: CPS Site Inspection, 8 July 2020.

ITEM 1 (continued)



Figure 5: Contemporary two-storey dwelling at No.76 Chatham Road
Source: CPS Site Inspection, 8 July 2020



Figure 6: Contemporary two-storey dwellings at No.80 and 82 Chatham Road
Source: CPS Site Inspection, 8 July 2020

ITEM 1 (continued)



Figure 7: Two-storey dual occupancy at No. 60 Chatham Road
Source: CPS Site Inspection, 8 July 2020

3. The Proposal

LDA2018/458 seeks consent for the construction of a multi dwelling development comprising:

- Four (4) attached dwellings including:
 - 1 x two-storey dwelling at the front of the site (south-eastern), and containing four (4) bedrooms;
 - 1 x two-storey dwelling at the front of the site (north-eastern), and containing three (3) bedrooms; and,
 - 2 x single storey dwellings at the rear, both containing three (3) bedrooms.
- Nine (9) car parking spaces comprising eight (8) resident spaces and one (1) visitor space.
- Removal of nine (9) existing trees.
- Common driveway and vehicular crossing including car turntable.
- Retaining walls at the side and rear boundaries.
- Strata subdivision.

ITEM 1 (continued)

In order to facilitate the proposed development, demolition of existing dwellings will be required, but demolition works are not proposed as part of this DA.

A summary of individual dwellings as proposed is provided below:

Units One and Two

- Two two-storey dwellings at the south-eastern and north-eastern side of the eastern street frontage, containing four (4) bedrooms and three (3) bedrooms respectively, and both containing two (2) tandem car spaces with one (1) garage space. Both dwellings also provide combined living, dining and kitchen area, study, upstairs sitting room, four (4) bathrooms, and private open space on the respective side boundaries with a raised deck area.

Units Three and Four

- Two single storey dwellings at the north western and south western rear, both containing three (3) bedrooms, two (2) tandem car spaces with one (1) garage space, combined living, dining and kitchen area, two (2) bathrooms, and private open space on the side and rear boundaries, with raised deck areas.

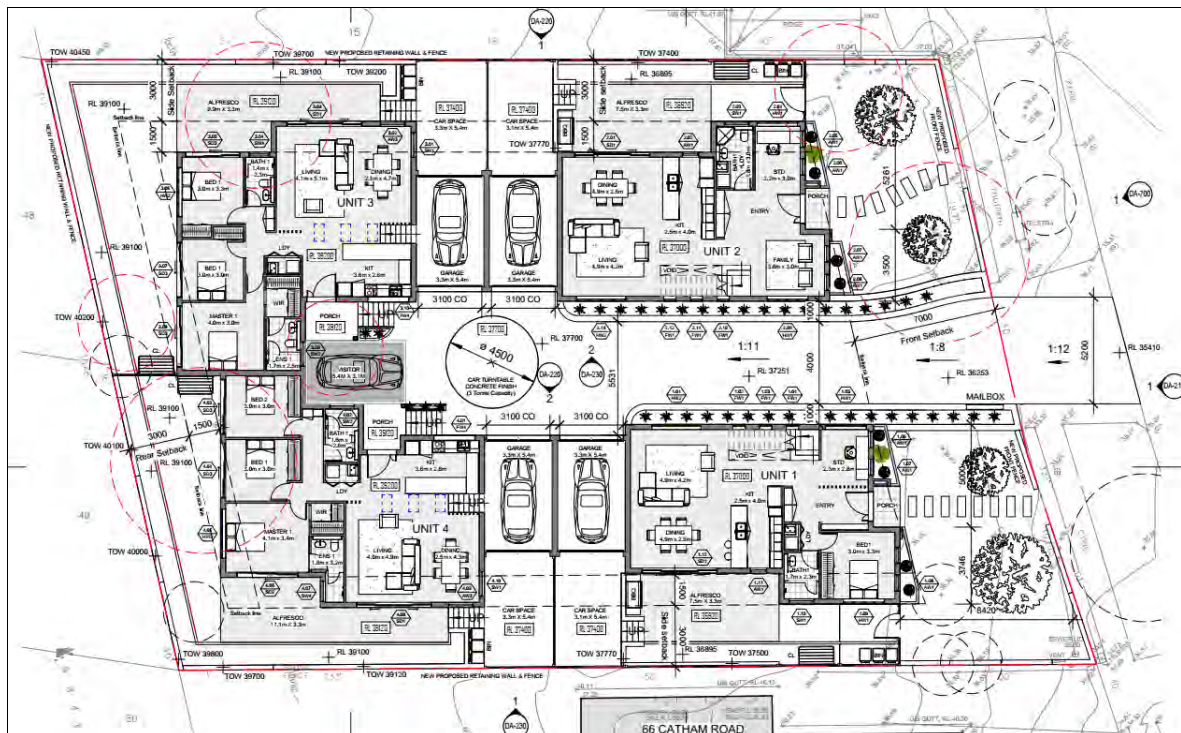


Figure 8: Proposed ground floor layout
Source: Architectural plans

ITEM 1 (continued)

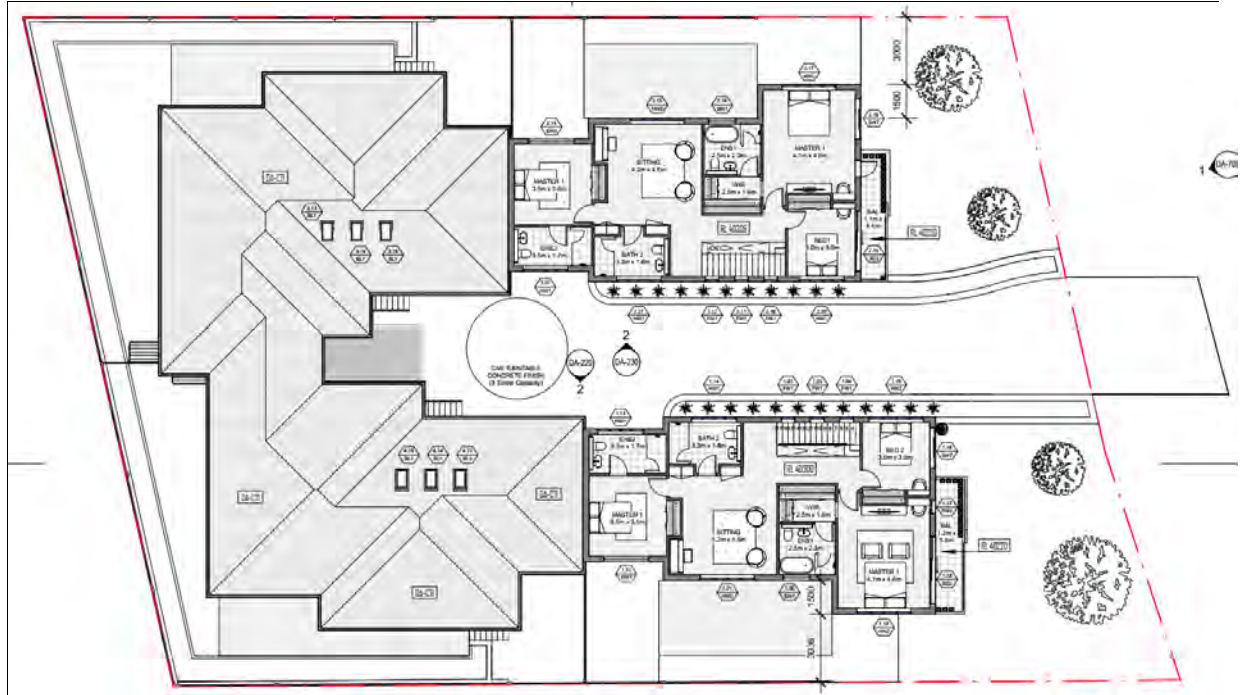


Figure 9: Proposed first floor layout

Source: Architectural plans



Figure 10: Proposed north-eastern and south-western elevations

Source: Architectural plans

External

ITEM 1 (continued)

Landscaping components of the front setback include three (3) retained trees at the southern end of the street frontage, numerous tree and shrub plantings, and groundcover. These plantings are surrounded by a series of retaining walls. A paved concrete driveway access is provided through the centre of the site, including a vehicle turntable for cars to enter and exit in a forward direction. The side and rear setbacks include private open space for dwellings comprising rear decks, car parking, new turf and planting.

The proposed development will comprise of brick, timber, stone cladding and concrete roof tiles to provide a contemporary dwelling form.

Subdivision

The submitted application form and Statement of Environmental Effects each nominate strata subdivision as forming part of the proposal. No subdivision plan was submitted with the application; but strata subdivision could be directed by conditions of consent should development consent be granted.

4. Background

28 November 2017	Council resolved to undertake an LGA wide heritage study to ensure items of heritage significance are identified and options for their adequate protection are recommended.
3 December 2018	The DA was lodged with Council.
Advertising placed 16 January 2019. Notification – 11 January 2019 to 6 February 2019.	The DA was advertised in the <i>Northern District Times</i> and notified to surrounding properties. In response, 110 submissions were received, all objecting to the proposed development. The objectors raised a range of issues discussed later in this report.
27 February 2019	Council resolved to place an Interim Heritage Order (IHO) over the site being No.68-70 Chatham Road, Denistone. The IHO was in response to Council's 2017 resolution and subsequent findings within the <i>Ryde Heritage Review 2019</i> that was being prepared at the time. This Review recommended the Chatham Road HCA be established and select dwellings be acknowledged because of their contributory value.
28 February 2019	IHO No. 5 was published in the NSW Government Gazette which identified the land in the following terms:

ITEM 1 (continued)

	<p>All that parcel of land known as Lots 13-14 in DP 9166 (also known as 68 and 70, <u>Denistone Road</u>) shown edged heavy black on the plan catalogued Interim Heritage Order No. 5 in the office of the Council of the City of Ryde.</p> <p><u>Emphasis</u> added.</p>
1 March 2019	<p>As it had erroneously referred to the land as being situated at Denistone Road instead of the correct street name, being Chatham Road, IHO No. 5 was revoked and IHO No. 6 was published in the NSW Government Gazette. Apart from the reference to the IHO number and the street name, IHO No. 5 and IHO No. 6 (including the plan) were identical.</p>
1 April 2019	<p>Class 1 Appeal against IHO No. 6 filed with the Land and Environment Court. This was discontinued on 21 April 2020.</p>
23 July 2019	<p>The <i>Ryde Heritage Review 2019</i> was prepared in accordance with Council's 2017 resolution. The <i>Ryde Heritage Review 2019</i> identified 44 new heritage items, 6 new HCAs, 2 new archaeological sites and amendments to 8 existing heritage items. This includes the Chatham Road HCA.</p> <p>Council resolved to prepare a Planning Proposal to amend RLEP 2014 to make a number of heritage amendments recommended in the <i>Ryde Heritage Review 2019</i> including establishing the Chatham Road HCA, which included the subject site.</p>
30 July 2019	<p>The Planning Proposal is submitted to the Department of Planning, Industry and Environment for Gateway Determination.</p>
7 August 2019	<p>Class 4 proceedings against IHO No. 6 filed with the Land and Environment Court.</p>
9 August 2019	<p>Department of Planning, Industry and Environment grant Gateway determination to the making of the Planning Proposal.</p>
11 September 2019	<p>The Planning Proposal is placed on exhibition with public consultation to conclude on 10 November 2019.</p>
8 November 2019	<p>The Class 4 appeal is upheld by the Land and Environment Court and IHO No. 6 applying to the site is deemed to be invalid as the IHO was made in breach of the Ministerial Authority made on 12 April 2013.</p>

ITEM 1 (continued)

	On the same day, new IHO's No. 7 and No. 8, also relating to the subject site, was published in the NSW Government Gazette.
12 December 2019	At the Council meeting, Council resolved to the making of the Planning Proposal to amend RLEP 2014 to make a number of heritage amendments including establishing the Chatham Road HCA containing the subject site.
13 December 2019	The Planning Proposal was referred to the Department of Planning, Industry and Environment for assessment and drafting of the LEP.
8 May 2019	IHO No. 7 and No.8 expired given Council has not passed a resolution to place the item on the heritage schedule of an LEP.

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 Stage 1 Preliminary Site Investigation has not been undertaken for the site to determine whether the site could potentially be subject to contamination based on historical uses on the land.

A review of online historical aerial imagery indicates the site and surrounding locality comprised residential dwellings as far back as 1943. 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.

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

In accordance with Clause 6(1) of this SEPP, BASIX applies to BASIX affected development which includes a building that contains one or more dwellings.

The proposal is supported by BASIX Certificate 953321M dated 04 September 2018. It is noted that the BASIX certificate incorrectly references that four (4) car parking spaces (assumed to be garage spaces) are proposed as part of the development. However, nine (9) car spaces in total are proposed with the five (5) car parking

ITEM 1 (continued)

spaces omitted from the description assumed to be the external spaces which do not impact on the BASIX assessment.

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

The objectives of this SEPP are to protect biodiversity values and amenity, through the preservation of trees and other vegetation.

The proposal seeks to remove nine (9) trees on the site to facilitate the development, and this is supported by an Arboricultural Impact Assessment (AIA), prepared by Redgum Horticultural, dated 11 September 2018.

The proposal was referred to Council's Consultant Landscape Architect / Arborist for comment who raised no objection with the proposed tree removal and recommends conditions for trees proposed to be retained on and adjoining the site.

State Environmental Planning Policy (Infrastructure) 2007

This SEPP requires consideration of noise impacts to sensitive uses. However, given the location of the site and its separation distances to rail and road infrastructure, consideration of rail noise (clause 87), or noise associated with roads with greater than 20,000 movements per day (clause 102) is not required.

5.2 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

This SEPP applies to the whole of the Ryde Local Government Area. The aims are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

Given the residential scale of the project and the location of the site away from the waterway, there are no specific controls that directly apply to this proposal and the proposal is not inconsistent with this SEPP.

5.3 Ryde Local Environmental Plan 2014 (RLEP 2014)

The following outlines provisions of RLEP 2014 that are relevant to the proposal.

Clause 2.3 - Zone Objectives and Land Use Table

Under RLEP 2014, the site is zoned R2 low density residential and multi dwelling housing is permissible with consent.

ITEM 1 (continued)

Objectives for residential zones:

The objectives of the R2 low density residential 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 provides facilities or services to meet the day to day needs of residents.*
- *To provide for a variety of housing types.*

The proposal is not consistent with the objectives of the zone as it fails to provide for housing that serves the needs of the community within a low density residential environment, as discussed throughout this report.

The following table provides a summary of the key provisions that apply to the proposal:

Clause	Proposal	Compliance
4.1B Minimum Lot Size		
900m ²	The subject site has a total area of 1,300m² (by title), therefore satisfactorily complies with the minimum site area requirement.	Yes
Road frontage of the lot is equal to or greater than 20 metres.	The subject site has a total road frontage to Chatham Road of 30.465m (as per survey).	Yes
4.3(2) Height of Buildings		
9.5m	The maximum building height is 8.05m (Dwelling 1). <u>Dwellings fronting Chatham Road:</u> Dwelling 1: 8.05m (RL 45.05 – RL 37.00) Dwelling 2: 7.804m (RL 45.054 – RL 37.25)	Yes
4.3A(2) Exceptions to height of buildings		
Despite clause 4.3, the maximum height of MDH on land in Zone R2 Low Density Residential is 5 metres for any dwelling that does not have a road frontage.	The maximum building height for dwellings without a road frontage is 4.324m (Dwelling 4). <u>Dwellings with no frontage:</u> Dwelling 3: 3.918m (RL 43.518 – RL 39.6) Dwelling 4: 4.329m (RL 43.529 – RL 39.2)	Yes
4.5A Density controls for Zone R2 Low Density Residential		
(a) the site area for the building is not less than: (i) for each 1, 2 or 3 bedroom dwelling—300	The development would require a site area of 1,265m ² . The site has	Yes

ITEM 1 (continued)

Clause	Proposal	Compliance
square metres, and (ii) for each 4 or more bedroom dwelling—365 square metres, and (b) each dwelling will have its own contiguous private open space.	an area of 1,300m ² , and complies with this standard. (b) Each dwelling has its own contiguous private open space.	
5.10 Heritage Conservation		
(1) The objectives of this clause are as follows— (a) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views, (c) To conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance	The site is located within the Draft Chatham Road HCA. The proposal fails to conserve environmental heritage noting the contributory heritage value of existing dwellings, and is also unsatisfactory with regard to the Draft Chatham Road HCA as discussed later in this report. The site is also located within the visual catchment of Darvall Park, a locally listed heritage item, located on the opposite side of Chatham Road. The proposal is not considered to adversely impact on the heritage significance of Darvall Park and no further consideration is required.	No
6.2 Earthworks		
(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	The development proposes up to 810mm of fill and up to 1.27m of cut across the site, with raised driveways, retaining walls along the majority of side and rear boundaries, and steps provided throughout the site. The proposed earthworks will contribute to adverse amenity impacts associated with the development.	No
6.4 Stormwater Management		
(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.	The proposed stormwater management system is supported by Council's Senior Development Engineer, subject to conditions.	Yes

5.4 Draft Environmental Planning Instruments

ITEM 1 (continued)

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 DAs. As discussed with the SEPP 55 assessment, the site has been used for residential purposes for an extended period of time, and is therefore unlikely to have been associated with land uses that would result in contamination of the site. Further investigation is not warranted.

Draft Environment SEPP

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

- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal is not inconsistent with the provisions of the draft SEPP.

Draft Amendment to the Ryde Local Environmental Plan 2014

The Planning Proposal to amend the RLEP 2014 to include the Chatham Road HCA within Schedule 5 of RLEP 2014 was exhibited from 11 September 2019 to 10 November 2019. The Planning Proposal is currently under the consideration of the Department of Planning, Industry and Environment.

The following is also relevant:

- The subject site was previously the subject of an Interim Heritage Order pursuant to Clause 25 of the *Heritage Act 1977*. The Interim Heritage Order specified a validity period of six (6) months unless Council has passed a resolution before the six month expiry that seeks to place the item on the heritage schedule of a local environmental plan, with appropriate provisions for protecting and managing the item. The Interim Heritage Order has since expired; however, the existing dwellings are examples of Inter-War period houses that make a strong contribution to the character and significance of the area. On this basis, demolition is not supported.

ITEM 1 (continued)

- The subject site is located within the visual catchment of Darvall Park which is an item of heritage significance under RLEP 2014. As discussed in earlier in this report, it is not expected that the development will impact on the heritage significance of Darvall Park.

It is noted the site is also located within the Denistone Character Area under Section 3.2 of Part 3.3 of RDCP 2014. This is discussed later in this report.

Council's Heritage Officer does not support demolition of existing dwellings and comments:

"The Chatham Road Heritage Conservation Area (HCA) is significant because it is a highly intact example of an early 20th century subdivision in the Ryde area and has aesthetic significance for its high concentration of Inter-War period housing from the early 20th century."

"Demolition of the existing dwellings is not supported as both 68 and 70 Chatham Road are considered to display characteristics and features which define both dwellings as reasonably intact examples of early 20th century Inter War Californian Bungalows. Both dwellings provide an important contribution to the streetscape and have contributory value to the draft Chatham Road HCA."

"The proposal fails to satisfy the NSW LEC Planning Principle relating to the demolition of a contributory dwelling in a HCA."

"Demolition of the dwellings would have an adverse deleterious impact on the streetscape and broader HCA by interrupting the visual continuum of the streetscape and the wholesale loss of two contributory built forms."

Whilst demolition of existing dwellings is not proposed as part of the application, the proposed multi dwelling development would require demolition of existing dwellings to be realised. The demolition of existing dwellings is not supported in light of Council's Heritage Officer comments.

In relation to the proposed new building works, Council's Heritage Officer provides:

"The proposed replacement built form is not of a sufficient quality by virtue of its typology, form, massing, scale, height and overall language and would not harmoniously integrate with the streetscape and broader HCA."

While multi-dwelling housing is permissible within the R2 zone, as discussed in more detail later in this report, the site is in a non-preferred location for multi-dwelling housing under the RDCP 2014 provisions given the land is within a draft HCA and because of the site's significant slope. Despite this, the proposal has not appropriately considered the key design characteristics of the draft HCA or constraints of the site.

ITEM 1 (continued)

In particular, the proposed upper storey footprint is similar to the ground floor footprint and provides a block shape and prominent second storey form. Historic buildings that have been extended to two storeys within the draft HCA have typically maintained the visual appearance of a single storey dwelling, with the upper storey footprints reduced and setback as seen at No. 58 and No.72 (**Figures 11 and 12**).

Whilst some examples of less modulated upper storeys can be found in Chatham Road (including No. 80 and No.82 Chatham Road (**Figure 13**) and the nearby locality, these are considered poor outcomes that are not consistent with the overall desired character for the area, and should not be replicated.

Further, the proposed materials and finishes introduce elements that are not in-keeping with the character of the draft HCA, particularly at the upper level. This includes the proposed white render, central sandstone portico and balcony, and timber cladding. The proposed window glazing proportions at the Chatham Road façade are also not in keeping with those prevalent in the streetscape.

The proposed contemporary design, including prominent and continuous two-storey form, combined with incongruent finishes is detrimental to the prevailing and desired single storey character of the Draft Chatham Road HCA, and is inconsistent with the streetscape.



Figure 11: Characteristic two-storey dwelling house at No.58 Chatham Road
Source: CPS Site Inspection, 8 July 2020

ITEM 1 (continued)



Figure 12: Characteristic two-storey dwelling at No.72 Chatham Road, immediately adjoining to the north of the subject site.
Source: CPS Site Inspection, 8 July 2020.



Figure 13: More recent two-storey dwellings at No. 80 and 82 Chatham Road
Source: CPS Site Inspection, 8 July 2020

5.5 Development Control Plans

Ryde Development Control Plan 2014 (RDCP 2014)

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

- Part 3.3: Dwelling Houses and Dual Occupancy (Denistone Character Area);

ITEM 1 (continued)

- Part 3.4: Multi Dwelling Housing;
- Part 7.2: Waste Minimisation and Management;
- Part 8.2: Stormwater & Floodplain Management;
- Part 8.3: Driveways; and
- Part 9.3: Parking Controls.

A full assessment of the proposal under RDCP 2014 is illustrated in the compliance table at **Attachment 1**.

The provisions of RDCP 2014 have been considered in this assessment, and it is concluded that the proposal is inconsistent with the aims and objectives of RDCP 2014. The key RDCP 2014 discussion points are below:

Denistone Character Area

The site is located within the Denistone Character Area (**Figure 14**) and Section 3.2.2 of Part 3.3 provides that new development is to be consistent with the characteristics described in the key character statement and to be compatible with the existing streetscape.

The following is an extract of the Character Statement:

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

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

“The key characteristics are:

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

ITEM 1 (continued)

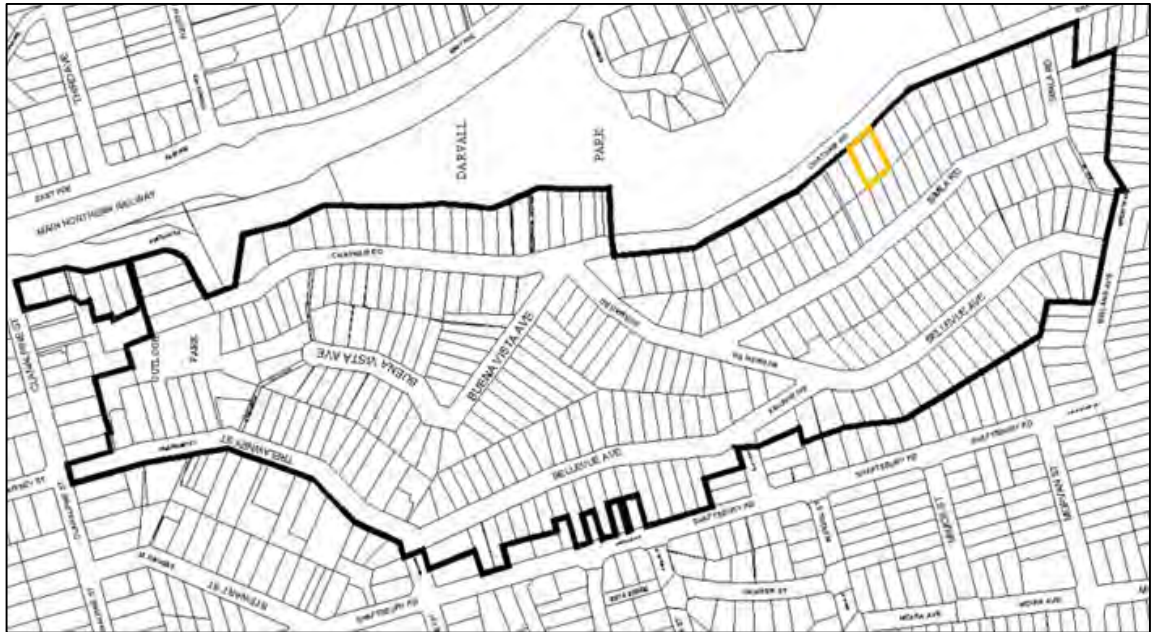


Figure 14: Denistone Character Area map with subject site outlined in orange
Source: Ryde Development Control Plan 2014

The existing dwellings are good examples of Inter-War period houses that make a strong contribution to the character and significance of the area as recognised by the Council's Heritage Officer. The proposed contemporary two-storey presentation to Chatham Road is detrimental to the prevailing and desired single storey character of the Denistone Character Area, and is inconsistent with the Chatham Road streetscape.

In addition, whilst the proposal includes face brick, the overall design is inconsistent with the key characteristics, noting the materials and finishes introduce elements that are not in-keeping with the Chatham Road streetscape and Denistone Character Area particularly at the upper level. This includes the proposed white render, central sandstone portico and balcony, and timber cladding. The proposed window glazing proportions at the Chatham Road façade are also not in keeping with those prevalent in the streetscape.

The two-storey form combined with the incongruent finishes fail to complement and enhance the existing streetscape, and is therefore incompatible with the Denistone Character Area.

Non Preferred Locations for Multi Dwelling Housing

The site is in a non preferred location for multi dwelling housing as defined in Section 2.3 and Schedule 2 of Part 3.4 which includes:

- Sites within HCAs; and
- Sites with slopes greater than the allowed gradient of 1:14 prescribed in Section 3.1 of Part 3.4.

ITEM 1 (continued)

Whilst the Draft Chatham HCA has not been formally adopted, the draft HCA forms part of a Draft Environmental Planning Instrument and is nonetheless a matter for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. In this regard, the site is within the Draft Chatham HCA and is considered to be a non preferred location for multi dwelling housing.

Regarding site gradient, the cross fall is 1:11.5 across the majority of the site and 1:5.6 at the rear, and as such constitutes a non preferred location for multi dwelling housing. The proposed design response has not satisfactorily addressed the slope constraints of the site. A more responsive design may have adopted better terracing or split level dwellings.

Front Setbacks

The proposal fails to comply with Section 3.5.1 of Part 3.4 which indicates the front setback of the proposal to match the setback of an adjoining building, where the difference between the setbacks of the two adjoining buildings is not more than 2 metres. The minimum front setbacks of No. 66 and No. 72 Chatham Road are 7.66 metres and 8.5 metres respectively, based on the survey submitted with the DA.

The proposal provides a minimum front setback of 7 metres but varies up to 8.3 metres which is generally consistent with the existing front setbacks at the subject site which vary between 5.74 metres and 7.3 metres. In addition, the front boundary of properties at Chatham Road are angled, causing varied setbacks to all dwellings. In this regard, the proposed front setback, of a minimum 7 metres, is considered a reasonable response and in keeping with the setback pattern of the local area.

Side and Rear Setbacks

The proposal fails to comply with Section 3.5.4 of Part 3.4, which includes a minimum 4.5 metre setback to side and rear boundaries. Despite this, Section 3.5.4 also provides that:

“To promote variation and interest in design Council may allow up to 50% of the wall of any multi dwelling housing dwelling to be not less than 3 metres from the side and rear boundary”.

The submitted Statement of Environmental Effects indicates that the proposal is reliant on this variation for compliance for all side and rear setbacks; however, this is not correct for the proposed rear setbacks. Approximately 52.4% of the length of Unit 3, and 64.4% of the length of Unit 4, do not comply with the minimum required 4.5 metre rear setback.

Importantly, the Statement of Environmental Effects does not describe how the development promotes variation and interest in design. Given the context within a draft HCA, and that the proposal does not make any meaningful contribution to the

ITEM 1 (continued)

draft conservation area, concessions for 50% of the length of each wall, for the purposes of design variation, are not appropriate in this instance. All rear and side setbacks are therefore unable to be supported, particularly the rear setbacks which seek a concession for over 50% of the length of the respective walls.

Finally, the variation will unnecessarily exacerbate solar access compliance, which is described later within this report.

Excessive Cut and Fill

As outlined above, the site fails to comply with the minimum 1:14 cross fall, and includes a gradient of 1:11.5 across the majority of the site and 1:5.6 to the rear. Whilst the cross fall is compliant in parts of the site (towards the street and within the centre), the overfall cross fall is undesirable as it creates inherent challenges in maintaining privacy of adjoining properties, whilst minimising general cut and fill to retain natural ground levels.

In this regard, significant levels of excavation occur throughout most of the site, whereby over 75% of the site area includes cut or fill in excess of 300mm, contrary to Section 3.2 of Part 3.4. Fill of up to 810mm is proposed within the front setback of Dwelling 1, with cut up to 1.27 metres proposed across the site. This results in a raised driveway, retaining walls along the majority of side and rear boundaries, and steps provided throughout the site. The significant variation to cut and fill requirements is unsympathetic with the natural topography of the site and is not supported.

Additionally, none of the private open space areas are provided at natural ground level, relying on raised decks amongst areas of excessive cut. As discussed later, the proposal provides a 1.8 metre side boundary fence on top of a 1.12 metre high retaining wall along the southern boundary of Unit 4. This results in an almost 3 metre high boundary treatment presenting to No.66 Chatham Road. The excessive wall and fence height at the southern boundary results in a poor visual outlook from the private open space of No.66 Chatham Road. This is a poor design response to the site constraints.

Overshadowing and Access to Sunlight

Section 3.9 of Part 3.4 requires 2 hours of midwinter solar access to 50% of courtyards within the development, as well as to ground level private open space of adjacent properties. For private open space areas on adjacent properties that are already non-compliant, this section provides that sunlight must not be further reduced by more than 20%.

The submitted shadow diagrams (**Figure 15**) show that the proposal will overshadow the adjoining private open spaces of No. 21 Simla Road (west) and No. 66 Chatham Road (south) but fails to account for shadows from adjoining buildings and fences as required by the sunlight planning principle within *The Benevolent Society v Waverley*

ITEM 1 (continued)

Council (2010) and control (b). The shadow diagrams also fail to show the entire extent of the private open space areas of the affected properties, or any windows that might be affected. In this regard, there is insufficient information to demonstrate the proposal will not have any unreasonable solar impacts on adjoining properties, particularly to No. 66 Chatham Road.

The submitted shadow diagrams indicate that the private open space of the southern oriented units, being Dwellings 1 and 4, will each receive non-compliant solar access during midwinter. Again, there is a shortfall of information required to determine whether each unit is compliant, namely shadows from the adjoining building to the north at 72 Chatham Road. This building likely places significant limitations on solar access to Dwellings 2 and 3.

The non-compliant side and rear setbacks significantly exacerbate this issue. Subsequently, the non-compliant side and rear setbacks, solar access impacts, and shortfall of information within the shadow diagrams, all form reasons for refusal.



Figure 15: Shadow diagrams during mid-winter
Source: Architectural plans

Visual and Acoustic Privacy

Section 3.10 Visual and Acoustic Privacy of Part 3.4 provide:

- Minimum 9 metres separation between facing habitable room windows;
- No direct views between living area windows of adjacent dwellings (otherwise screening or obscuring necessary); and
- Direct views from living areas to private open space of other dwellings to be screened or obscured within privacy sensitive zone of 12 metre radius.

ITEM 1 (continued)

The stairs of Dwelling 1 and 2 have direct views into the respective living and family rooms. Further the sill height of the living room windows of Dwelling 2 is less than 1.5 metres high and this window faces onto the common driveway. The above will result in unacceptable privacy impacts between dwellings (**Figure 16**).

Additionally, the excessive cut and fill arrangements result in poor design outcomes when trying to limit overlooking to adjoining properties. For example, in order to maintain visual privacy, a 1.8 metre boundary fence on top of a 1.12 metres high retaining wall is proposed along the southern boundary of Unit 4. This adversely impacts on the visual outlook of No. 66 Chatham Road whereby a boundary fence height of up to almost 3 metres is provided at the private open space of No. 66 Chatham Road. Alternatively, if an overall fence height of 1.8 metres was utilised (when measured from EGL at No. 66 Chatham Road), this would result in direct overlooking into the rear private open space of No. 66 Chatham Road given the raised deck and ground floor level of Unit 4. This poor design outcome is a direct result of the site's unsuitability for multi dwelling housing because of the gradient, and the poor design response to the site constraints.

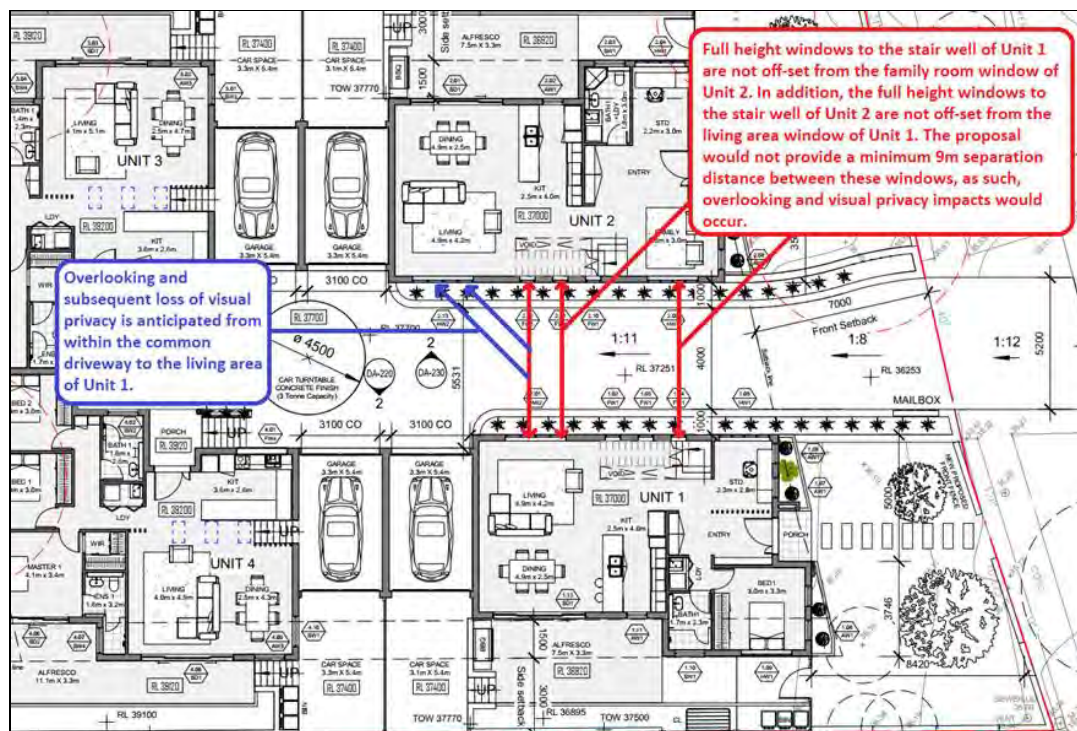


Figure 16: Extract of ground floor plans showing internal privacy impacts
Source: Architectural plans

Car Parking, Manoeuvrability and Driveway Crossings

Section 3.8 of Part 3.4 requires that vehicles be able to enter and leave garage/parking areas in a forward direction, with a single three-point turn permitted.

ITEM 1 (continued)

The proposal is not supported by swept path plans that demonstrate vehicles are able to enter and exit the site in a forward direction. Further, the proposed driveway is 4 metres in width which does not allow for two way traffic and relies upon a central car turntable for vehicles to enter and exit in a forward direction.

Council's Traffic Engineer comments that:

- The proposal fails to comply with *AS2890.1* requirements with regards to swept paths to allow for vehicles to enter and exit the site in a forward direction. The proposed car turntable as an alternative solution is not sustainable and is impractical. The car turntable is not supported.
- A vehicular waiting bay must be included at the entry to the site. It must have a minimum width of 5.5 metres and length of 6.0 metres within the site's boundary.
- The proposed length of the car spaces provided for both the garage and secondary space, whilst technically complying with the minimum 5.4 metre length, are insufficient in the enclosed and restricted spaces. An additional 300mm must be provided on either end. Thus, each space provided must be a minimum 6 metres in length.
- Minimum lines of sight for pedestrian safety must be provided in accordance with Figure 3.3 of *AS 2890.1*.

Car turntables as an alternate solution are unprecedented for multi dwelling developments within the City of Ryde. Such a solution is uncharacteristic of the low density residential zone. Further, there are risks that in the event of a turntable breakdown, vehicles will be required to reverse out of the site posing a significant safety risk to residents and other vehicles. The proposed solution for this limited number of dwellings is considered unsustainable and impractical. The subject site is of a suitable size without the constraints that could warrant a car turntable, and the proposal is capable of being redesigned to comply with minimum requirements of *AS2890.1*. Failure to achieve compliance with *AS2890.1*, as well as reliance on mechanical equipment that may be prone to failure in the future, will likely discourage the use of the dedicated parking areas (particularly noting all units comprise tandem car spaces), placing unnecessary demand for on street parking. Further, the proposed arrangement to facilitate the forward movement of vehicles into and out of the site is not supported given the potential safety implications to pedestrians and vehicles, in particular noting a dedicated pedestrian pathway for access to the rear units has not been provided as prescribed by Section 3.11.1 of Part 3.4.

In addition, whilst a waiting bay could be provided in the front setback area, the resultant reduction to landscaped area will adversely impact on the streetscape character. An increased driveway width allowing for two way traffic would be required.

5.6 Planning agreements or draft planning agreements

ITEM 1 (continued)

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

5.7 Section 7.11 Development Contributions Plan 2020

Although the development attracts contributions, the application has been recommended for refusal.

5.8 Any matters prescribed by the regulations

The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning, Industry and Environment and others. As the proposal is recommended for refusal, there are no further matters for consideration.

6. The likely impacts of the development

The proposal is inconsistent with the provisions of RLEP 2014, including the Draft Chatham Road HCA, and RDCP 2014. The development proposes numerous variations to provisions within these instruments and plans. There are a number of impacts which arise from these non-compliances which have already been addressed in the report. The proposal is not supported on this basis.

7. Suitability of the site for the development

The subject site is located within a non-preferred location for multi dwelling housing being within the Draft Chatham Road HCA and due to the slope of the site. These constraints require careful consideration to ensure that the site is suitable for the development. However, for the reasons outlined within this report, the proposal is not suitable for the subject site.

8. The Public Interest

Based on the assessment contained in this report, approval of the development is contrary to the public interest, and this forms a reason for refusal.

9. Submissions

In accordance with Part 2.1 Notice of Development Application of the DCP2014, the proposal was advertised in the Northern District Times on 16 January 2019, and the owners of surrounding properties were given notice of the application on 11 January

ITEM 1 (continued)

2019, with the notification period for submissions closing on 6 February 2019. In response, 110 submissions were received, all objecting to the development. Of the 110 submissions, 84 were based on a pro-forma document, and 2 of these contained signed petitions, with 60 signatures in one petition and 5 signatures in the other (total 65 signatures).

The objections raised in the submissions are covered below, followed by a comment from the assessing planner:

A. The proposal will result in an overdevelopment of the site where four large homes replace two, increasing the density of the area.

Comment: The proposal will increase the density of the area through replacement of two (2) existing single storey dwellings with a multi-dwelling housing development comprising of four (4) dwellings.

Clause 4.5A (Density controls for Zone R2 Low Density Residential) prescribes the site area required for dwellings based on the number of bedrooms provided.

A site area of 1,265m² is required to accommodate the proposed development.

The subject site has an area of 1,300m², thus achieving compliance with Clause 4.5A of RLEP2014. The resultant additional density is considered acceptable. However, the built form impacts as discussed in this report are considered unacceptable and the proposal is recommended for refusal.

B. The proposed development fails to achieve compliance with clause 3.2.1 and 3.2.2 (Denistone Character Area). Specific concerns include:

- **The façade is not in keeping with the streetscape and broader Denistone Character Area.**
- **Approval of the development will set an undesirable precedent within the Denistone Character Area.**
- **Concerns regarding demolition of the existing dwelling.**
- **Front fence design.**

Comment: The site is also located within the Draft Chatham Road HCA and the Denistone Character Area. Council's Heritage Officer has confirmed the existing dwellings are examples of Inter-War period houses that make a strong contribution to the character and significance of the area. On this basis, demolition is not supported. The new development proposed is not supported given the resultant built form is incompatible with the Denistone Character Area and draft HCA.

The front fence fails to comply with the visual permeability requirements of RDCP 2014; this could potentially be addressed by conditions.

ITEM 1 (continued)

- C. Objectors at No.72 Chatham Road have indicated that two entertaining areas will be located adjacent to their boundary fence and will likely result in an increase in noise.**

Comment: Although the proposal is not being recommended for approval, if it were, the proposed private open space areas are considered acceptable from a noise impact perspective. The spaces are of moderate size, and associated with a land use that is not considered a noise generating development. In addition, the provisions of the *Protection of the Environment Operations Act 1997* and associated Regulations would apply.

- D. The proposal results in structural issues to No.21 Simla Road.**

Comment: This could be addressed by prescribed conditions of consent, which require the protection of neighbouring buildings. Notwithstanding, the application is recommended for refusal.

- E. The proposal will result in overlooking and visual privacy impacts to adjoining properties, particularly at No.21 Simla Road and No.66 Chatham Road.**

Comment: The 1.8 metre southern boundary fence of Units 1 and 4 will limit potential for overlooking, noting the levels of the proposed decks and ground floors to Units 1 and 4 are below or equal to the base of the boundary fence. Overlooking from the first floor of Unit 1 to No. 66 Chatham Road is limited to oblique views only, and is therefore considered acceptable. Notwithstanding, as discussed in earlier in this report, the proposed southern boundary fence height of up to almost 3 metres (1.8 metre fence plus 1.12 metre retaining wall) is a poor response to the site's gradient in order to maintain visual privacy, and is not supported.

The privacy of No. 21 Simla Road would most likely be affected by rear west-facing windows on the front dwelling; however, none are proposed. The proposed ground level of the single storey dwellings at the rear, including the private open space which adjoins No. 21 Simla Road, is below the natural ground level of that property. In this regard, the proposal will not result in unacceptable overlooking to No. 21 Simla Road given the difference in site/finished levels.

- F. Overshadowing of adjoining properties, including No.66 Chatham Road and No.21 Simla Road. Submissions noted that the shadow diagrams did not include shadows cast by existing buildings and structures at adjoining properties, including the location of windows.**

Comment: As discussed in Section 5, the shadow diagrams show that the proposal will overshadow the adjoining private open spaces of No. 21 Simla Road (west) and No. 66 Chatham Road (south) but the diagrams fail to show

ITEM 1 (continued)

shadows for adjoining buildings and fences, as required to undertake a full assessment. The shadow diagrams also fail to show the entire extent of the private open space areas of the affected properties, or any windows that might be affected. There is insufficient information to demonstrate the proposal will not have any unreasonable solar impacts on adjoining properties, particularly to No. 66 Chatham Road. This forms a recommended reason for refusal.

G. The proposal will result in excessive tree removal. This will have an effect on the ecology of the area.

- **Concerns regarding the submitted Arborist Report.**
- **Objectors at 21 Simla Road, have raised concern that the proposed development will result in tree imbalances causing trees to lean into the direction of their property.**
- **Excavation adjacent to boundaries will result in an impact to trees on adjoining properties**

Comment: The proposal was referred to Council's Consultant Landscape Architect/Arborist who assessed the submitted Arboricultural Impact Assessment and Tree Management Plan, and raised no objection with the proposed removal of nine (9) existing trees on site and retention of three (3) trees within the southern front setback. The nine (9) trees proposed to be removed are not considered capable of being retained due to the unacceptable and unavoidable impacts from the proposed construction works. Council's Consultant Landscape Architect/Arborist noted that the removal of these trees will result in a low to moderate impact to the landscape character of the subject site and replacement planting is required.

The Council's Consultant Landscape Architect/Arborist was generally satisfied that the proposed landscape plan's overall layout, design, and plantings was acceptable. However, a recommendation was made for two (2) locally native canopy replacement trees within the front setback, and continuous screen planting at the site boundaries.

Where impacts to trees required for retention were identified, including those on adjoining properties, appropriate conditions of consent could be recommended to address this issue.

H. Concerns regarding impact to services and utilities.

Comment: The following standard condition could be imposed on any development consent, to ensure adequate services and utility connections and upgrades as required.

- ***Service Alterations.*** All services or utilities required to be altered in order to complete the development works are to be undertaken in accordance

ITEM 1 (continued)

with the requirements of the relevant service provider (eg Telstra, Jemena, Ausgrid, etc), with all costs associated with this alteration to be borne by the applicant.

Notwithstanding, the proposal is recommended for refusal.

I. The proposal will increase traffic congestion and reduces the availability of off-street parking within Chatham Road. Concerns also include that:

- **The proposal provides insufficient on-site parking.**
- **Tandem car parking spaces within garages are unlikely be utilised.**

Comment: The proposal is for a multi-dwelling housing development for four dwellings. This results in two additional dwellings above what is existing on the site. The traffic generated by two additional dwellings is not expected to have noticeable adverse impacts on the local traffic network. The proposed car parking provision for eight (8) residential car spaces and one (1) visitor car space complies with car parking requirements prescribed in Section 2.2 of Part 9.3 of RDCP 2014.

Notwithstanding, as detailed in Section 5, Council's Senior Development Engineer has raised a number of concerns with the proposed car parking dimensions, vehicular access and manoeuvrability arrangements. The inability to satisfy these issues will likely discourage the use of the dedicated parking areas, and place unnecessary demand on on-street parking. See the referrals section of this report for more details.

J. Excavation adjacent to boundaries will affect ground water.

Comment: The proposal was referred to Council's Senior Development Engineer who raised no objections with regards to ground water. Notwithstanding, as detailed in Section 5, the proposal seeks significant levels of excavation across the site which result in poor amenity outcomes and significant modification to the existing site topography. For these reasons the proposed site excavation is not supported.

K. Proposal results in a non-compliant site coverage.

Comment: The proposal includes a site coverage of 516m² which equates to 39.69% of the total site area. As such the proposal complies with Section 3.4 of Part 3.4 of RDCP 2014 which prescribes a maximum 40% site coverage.

L. The proposal does not comply with the front setback controls contained within DCP 2014.

Comment: As detailed in Section 5, the proposal fails to comply with Section 3.5.1 of Part 3.4 of RDCP 2014 which indicates the front setback of the proposal

ITEM 1 (continued)

is to be the same distance as one of the buildings on an adjoining allotment, if the difference between the setbacks of the building on the two adjoining allotments is not more than 2 metres.

The minimum front setbacks of No.66 and No.72 Chatham Road are 7.66 metres and 8.5 metres respectively. The proposal provides a minimum front setback of 7 metres but varies up to 8.3 metres. The existing front setback of No. 68 and No.70 Chatham Road are a minimum of 5.74 metres and 7.3 metres respectively. In addition, the front boundary of properties at Chatham Road are angled and results in varied setbacks to all dwellings. Noting this, the proposed front setback of a minimum 7 metres is a reasonable response and in keeping with the streetscape pattern.

M. The proposal does not achieve compliance with the side and rear setback controls contained within RDCP 2014.

Comment: As detailed in Section 5, the proposal fails to comply with the Section 3.5.4 of Part 3.4 of RDCP 2014 which requires a minimum 4.5 metre setback to the side and rear boundaries. A concession for up to 50% of the setback to be reduced to no more than 3 metres is also included in Section 3.5.4, but only in circumstances where it promotes variation and interest in the design; this is not the case with the subject development. Furthermore, the rear setbacks fail to comply, even accounting for this concession.

These non-compliances will also unnecessarily exacerbate solar amenity impacts and are not supported.

N. Non-compliant building height; request for double storey villas to be replaced with single storey villas at the front of the site.

Comment: As detailed in Section 5, whilst the proposal complies with the maximum height control, the site is located within the Draft Chatham Road HCA and the Denistone Character Area, where the predominant existing/desired building form is dwellings of single storey appearance. The proposed design, including the upper storey form, does not reflect the desired character of buildings in the area and fails to complement and enhance the existing streetscape.

O. Concerns regarding the removal of asbestos.

Comment: Demolition is not proposed as part of this DA, and would be subject to separate approval which would need to include conditions regarding the removal and disposal of hazardous materials.

P. No overshadowing details within the submitted BASIX certificate.

ITEM 1 (continued)

Comment: Overshadowing impacts to neighbouring properties are assessed under the provisions contained within RDCP 2014. BASIX assessments do not require consideration of overshadowing to neighbouring properties.

Q. The submitted BASIX certificate indicates that only four (4) residential car spaces are provided.

Comment: The proposal is supported by BASIX Certificate 953321M dated 04 September 2018. The BASIX certificate lists 4 car parking spaces being proposed as part of the development, despite nine (9) car spaces in total being proposed. However, the five (5) car parking spaces not included in the description are external and do not impact on the BASIX assessment.

R. The existing two lots should not be retained and be consolidated.

Comment: In the event of an approval, consolidation of the two lots is typically required by Council, given that access and drainage arrangements are made across the entire site, and to avoid any BCA issues associated with lot boundaries being through the centre of the site.

S. Request for the subject DA to be put on hold until the Local Environmental Plan is amended.

Comment: The assessment has been completed, and the application is recommended for refusal. It is not appropriate to hold applications in abeyance, given the uncertainty over the timing of the future Draft LEP's progression.

T. Insufficient size of private open space areas inhibit the ability to provide screen planting along the boundaries.

Comment: The proposed size of private open spaces complies with the minimum 35m² required for each dwelling containing 3 or more bedrooms, as prescribed by Section 3.6 of Part 3.4 of RDCP 2014. The private open space areas are capable of accommodating screen planting along the boundaries to improve privacy. A condition addressing this matter was recommended by the Council's Consultant Landscape Architect / Arborist, but the application is recommended for refusal.

U. Incorrect labelling of adjoining properties on the submitted documentation.

Comment: It is acknowledged that the aerial site plan on page 3 of the submitted Statement of Environmental Effects incorrectly identifies No. 66 and No.68 as the subject site. Further, the site plans and floor plans incorrectly refer to adjoining properties as No. 66 and No.72 'Catham Road'. These errors do not impact on Council's capacity to complete its consideration of the proposal and recommendation for refusal.

ITEM 1 (continued)

V. Inadequate waste storage

Comment: The proposal provides private waste bin storage areas for individual dwellings within the respective external dwelling areas, consistent with Council's requirements. The waste bins will be collected by Council similar to other residential developments.

W. The proposed housing form will attract undesirable residents.

Assessing officer comment: Personal attributes of future occupants of the proposed development are not a matter of consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

X. Concerns regarding construction noise.

Comment: In the event of an approval, standard conditions will be imposed in respect to construction noise and hours of construction. These conditions aim to reduce construction noise to an acceptable level.

Y. The existing child care centre at no. 70 Chatham Road should not form part of the proposal.

Comment: The proposal is for a multi dwelling development. The existing child care centre does not form part of the proposal.

10. Referrals

INTERNAL REFERRALS

Senior Development Engineer

The proposal was referred to Council's Senior Development Engineer for comment who advised the following:

Stormwater Management

The proposed stormwater management system for the development discharges to the existing kerb inlet pit located in Chatham Road and incorporates an onsite detention system. This complies with Council requirements and standard conditions of consent were recommended.

Vehicle Access and Parking

- The proposed car parking provision is compliant.

ITEM 1 (continued)

- There is a concern regarding the length of the car spaces provided for both the garage and secondary space. The plans depict a complying 5.4m, however as the spaces are either enclosed or restricted, an additional 300mm must be provided on either end. Thus each space provided must be a minimum 6m in length.
- It is required that for all vehicles utilising the site must enter and exit in a forward direction. No swept path diagrams have been submitted for review, however it is noted the provisions provided do not comply with AS2890.1 requirements. It appears entry and exit to each car space is dependent on a car turntable. Utilising a mechanical device to service the entire development is not sustainable and practical. Thus the car turntable is not supported and must be removed. A swept path analysis is required to be submitted demonstrating forward entry and exit from the site to all car spaces provided.
- A vehicular waiting bay must be included at the entry to the site. It must have a minimum width of 5.5m and length of 6.0m within the sites boundary.
- Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of AS/NZS 2890.1:2004.
- A turntable is likely to result in the tandem car parking space not being used by occupants of the dwelling. This would result in increased demand for on street car parking.

Heritage

The proposal was referred to Council's Heritage Officer for comment on two occasions. Initial comments on 23 January 2019 (prior to the Planning Proposal to establish the Chatham Road HCA) were unsupportive of the proposal given the detrimental impacts to the Chatham Road streetscape and Denistone Character Area.

Updated comments were obtained on 21 July 2020 given the Planning Proposal to amend RLEP 2014 to establish the Chatham Road HCA requires consideration pursuant to Section 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*. The recommendation of the Heritage Officer is provided below:

The proposed development is not supported on heritage grounds for the following reasons:

1. *The proposed demolition of the two dwellings is not supported, as demolition would result in the loss of two contributory built forms within the draft Chatham Road HCA and would have an adverse and deleterious impact on the significance of the Chatham Road HCA.*

ITEM 1 (continued)

2. *The proposal fails to satisfy the NSW LEC Planning Principle relating to the demolition of a contributory dwelling in a HCA.*
3. *The proposed development fails to satisfy clause 5.10 of the Ryde LEP 2014 in that the development does not conserve the environmental heritage of Ryde.*
4. *The proposed replacement built form is not of a sufficient quality by virtue of its typology, form, massing, scale, height and overall language and would not harmoniously integrate with the streetscape and broader HCA.*
5. *The proposed development is not considered in the public interest.*

Landscape Architect/Arborist

In their referral response, Council's Consultant Landscape Architect/Arborist commented the following:

- The proposed removal of nine (9) trees (Trees 7, 8, 9, 10, 11, 12, 14, 15 and 16) is supported as they are not considered capable of being retained due to the unacceptable and unavoidable impacts from the proposed construction works. The removal of these trees will result in a low to moderate impact to the landscape character of the subject site and replacement planting is required.
- The retention of three (3) trees on site (Trees 2, 3 and 4) is supported. The retention of three (3) Council street trees (Trees 1, 5 and 6) will require referral and approval from Council's Tree Management Team prior to any consent being granted. However, given their location away from the proposed construction works, they are unlikely to be impacted.

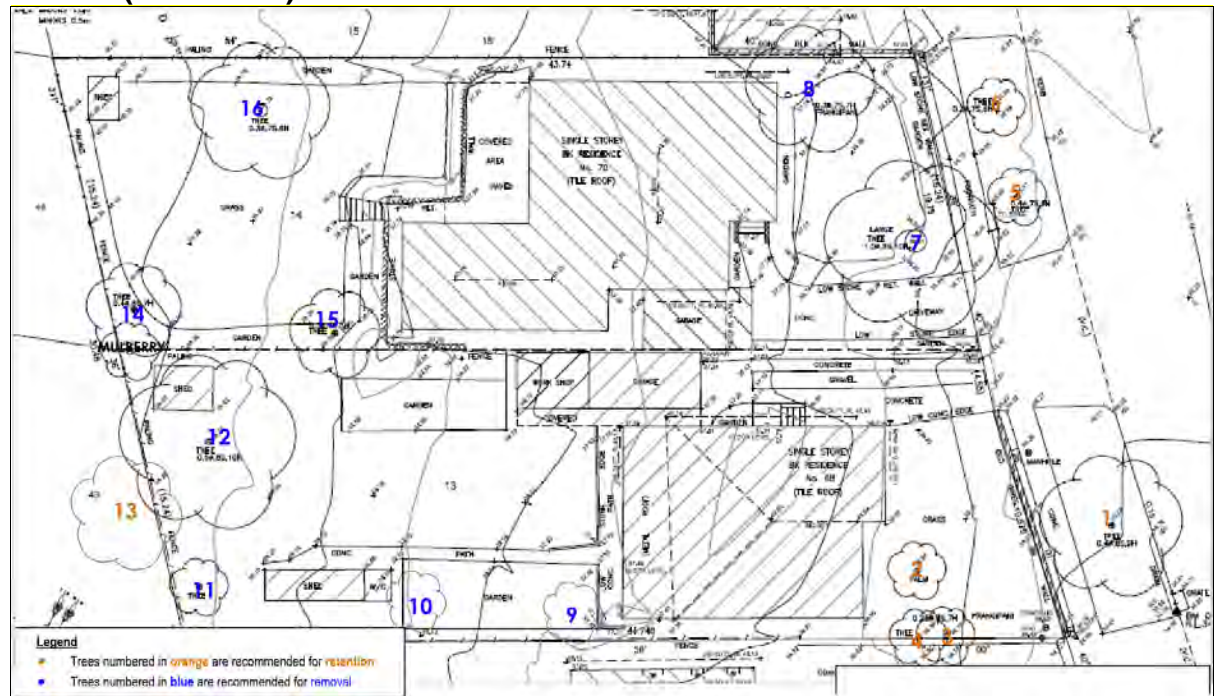
ITEM 1 (continued)

Figure 17: Extract of Tree removal and retention plan

Source: Arboricultural Impact Assessment and Tree Management Plan submitted with application

- The landscape plans indicate the proposal is generally compliant with the overall key controls and objectives with regards to private open space size, pervious area, design and plant species selection.
- Concern is raised in relation to the removal of all existing canopy trees on site and the lack of adequate replacement species specified. A condition is recommended to ensure that adequate replacement tree canopy is established in the medium term for two (2) locally native canopy trees capable of reaching a minimum mature height of 10 metres with a spreading canopy within the front setback.
- The landscape plans lack label definition and therefore concern is raised in relation to the lack of suitable screen planting provided.
- Conditions are recommended to ensure continuous screen planting is provided at site boundaries capable of reaching a mature height of 3 metres; a permeable surface finish such as gravel, pebble, crushed sandstone or permeable concrete pavers be provided at the secondary car spaces; standard condition to protect trees proposed to be retained on site and off site; requiring a qualified arborist be present during tree removal.

Despite the recommendation for refusal, in the event of an approval, the above consent conditions are supported.

11. Conclusion

ITEM 1 (continued)

After consideration of the development against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and the relevant statutory and policy provisions, the proposal is not considered suitable for the site and is contrary to the public interest.

It is therefore recommended that the application be refused. The reasons for this recommendation are as follows:

- The demolition of the existing dwellings, which are contributory buildings within the Draft Chatham Road HCA, is not supported.
- The proposed contemporary two storey building form facing Chatham Road is detrimental to the prevailing single storey character of the Draft Chatham Road HCA, Denistone Character Area and is incompatible with the Chatham Road streetscape.
- The site is in a non-preferred location for multi dwelling housing being within the Draft Chatham Road HCA and because of its steep topography.
- The proposal results in a range of poor amenity outcomes, including inadequate solar amenity to the proposed rear units, privacy impacts within the development.
- The submitted solar diagrams are unsatisfactory to correctly demonstrate the solar amenity impacts associated with the development.
- The proposed parking and access arrangements, including the mechanical car turntable, exhibit various shortcomings and are not appropriate to service the development.
- A number of well-founded objections to the proposal have been received following notification of the DA.

12. Recommendation

Pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979*, that the Ryde Local Planning Panel refuse LDA2018/458 for the construction of a multi dwelling development for four units with two double storey dwellings at the front streetscape and two single storey dwellings at the rear, for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the provisions of *Ryde Local Environmental Plan 2014* in that:
 - The proposal is contrary to the objectives of the R2 Low Density Residential Zone in failing to provide housing that serves the housing needs of the community within a low density residential environment.
 - The proposal is inconsistent with Clause 6.2 of *Ryde Local Environmental*

ITEM 1 (continued)

Plan 2014 as the proposed earthworks are unsympathetic to the natural topography of the site, resulting in unacceptable impacts on the amenity of neighbouring properties and the streetscape.

2. Pursuant to Clause 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is detrimental to the character of the Draft Chatham Road Heritage Conservation Area, and the proposed demolition of the existing contributory dwellings and replacement with contemporary buildings is not appropriate.
3. Pursuant to Clause 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with *Ryde Development Control Plan 2014*, Section 3.2 of Part 3.3 Dwelling Houses and Dual Occupancy, as it is not compatible with the Denistone Character Area.
4. Pursuant to Clause 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the following provisions of Part 3.4 Multi Dwelling Housing of *Ryde Development Control Plan 2014*, specifically:
 - Section 2.3, as the site is in a non-preferred location for multi dwelling housing being within the Draft Chatham Road Heritage Conservation Area and because of its steep topography. The proposal is a poor response to the site's natural constraints and the character of the local area.
 - Section 3.5.4 and Section 3.6, as the non-complying rear and side setbacks contribute unnecessarily towards poor built form and solar amenity outcomes.
 - Section 3.8 as the proposal fails to safely allow for vehicles to enter and exit the site in a forward direction in accordance with *AS2890.1* requirements without reliance on a mechanical car turntable; and, the dimensions of the proposed tandem residential car parking spaces is insufficient to adequately accommodate vehicles.
 - Section 3.9, as the submitted solar diagrams are unsatisfactory to demonstrate that the proposal will not have any unreasonable solar amenity impacts on proposed dwellings or to adjoining properties.
 - Section 3.10 as the proposal results in adverse overlooking impacts between Dwellings 1 and 2.
5. The site is unsuitable for the proposed development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* for the following reasons:
 - The site is in a non-preferred location for multi dwelling housing being within the Draft Chatham Road Heritage Conservation Area and because of its steep topography.
 - The proposal is not compatible with the Draft Chatham Road Heritage Conservation Area and the Denistone Character Area.

ITEM 1 (continued)

6. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development application is not in the public interest.

ATTACHMENTS

- 1 Compliance Table
- 2 A3 Plans - subject to copyright provisions

Report Prepared By:

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ITEM 1 (continued)

ATTACHMENT 1

Attachment 1 – Compliance Table

Compliance Check - Quality Certification

**Assessment of a Multi Dwelling
Housing Development**

LDA No: LDA2018/0458	Date Plans Rec'd: 03/12/2018
Address: 68-70 Chatham Road, Denistone, NSW 2114	
Proposal: New Multi-dwelling housing comprising 1 x 4 bedroom and 3 x 3 bedroom dwellings and subdivision.	
Constraints Identified: Interim Heritage Order (expired), within draft Chatham Road Heritage Conservation Area, within 100m of Heritage item, site slope.	

RLEP 2014	Proposed	Compliance
4.1B Minimum Lot Size		
<ul style="list-style-type: none"> 900 square metres Road frontage of the lot is equal to or greater than 20 metres. 	Existing Lot: 68 Chatham Road, (Lot 13 DP 9166) 70 Chatham Road, (Lot 14 DP 9166) <ul style="list-style-type: none"> Total Site Area = 1300m² Total Road Frontage = 30.465m 	Yes
4.3(2) Height of buildings		
<ul style="list-style-type: none"> 9.5m – maximum building height 	The maximum building height is 8.05m (Unit 1) . <u>Dwellings fronting Chatham Road:</u> Dwelling 1: 8.05m (RL 45.050 – RL 37.00) Dwelling 2: 7.804m (RL 45.054 – RL 37.25)	Yes
4.3A(2) Exceptions to height of buildings		
<ul style="list-style-type: none"> Despite clause 4.3, the maximum height of multi dwelling housing on land in Zone R2 Low Density Residential is 5 metres for any dwelling that does not have a road frontage. 	The maximum building height for dwellings without a road frontage is 4.324m (Unit 4) . <u>Dwellings with no frontage:</u> Dwelling 3: 3.918m (RL 43.518 – RL 39.6) Dwelling 4: 4.329m	Yes

ITEM 1 (continued)

ATTACHMENT 1

RLEP 2014	Proposed	Compliance
	(RL43.529 – RL 39.2)	
4.5A Density controls for Zone R2 Low Density Residential		
<p>(a) The site area for the building is not less than:</p> <p>i. For each 1, 2 or 3 bedroom dwelling – 300 square metres and</p> <p>ii. For each 4 or more bedroom dwelling – 365 square metres</p>	<p>The site has an area of 1,300m², it achieves compliance with this standard.</p> <p>The proposal provides for 3 x 3-bedroom Dwellings, and 1 x 4-bedroom Dwelling.</p> <p>3 x 300m² + 1 x 365m² = 1,265m².</p>	Yes
(b) each dwelling will have its own contiguous private open space	Each dwelling will have its own contiguous private open space.	Yes
5.10 Heritage Conservation		
<p>(5) Heritage assessment. The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is located or</p> <p>(b) on land that is within a heritage conservation area or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b).</p>	<p>The site is located within the Draft Chatham Road Heritage Conservation Area. The proposal fails to conserve environmental heritage noting the contributory heritage value of existing dwellings, and is unsatisfactory with regard to the Draft Chatham Road Heritage Conservation Area.</p> <p>The site is also located within the visual catchment of Darvall Park, a locally listed heritage item, located on the opposite side of Chatham Road. The proposal is not considered to adversely impact on the heritage significance of Darvall Park.</p>	No
6.1 Acid Sulfate Soils		
(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The subject site is not affected by any Class of Acid Sulfate Soils.	N/A
6.2 Earthworks		
(1) The objectives of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	<p>The development seeks up to 810mm of fill and up to 1.27m of cut across the site with raised driveways, retaining walls along the majority of side and rear boundaries, and steps also provided throughout the site.</p> <p>The proposed earthworks will contribute to adverse amenity impacts on neighbouring properties and the significant cut and fill is unsympathetic</p>	No

ITEM 1 (continued)

ATTACHMENT 1

RLEP 2014	Proposed	Compliance
	with the natural topography of the site and is not supported.	
6.3 Flood Planning		
(1) The objectives of this clause are as follows— (a) to minimise the flood risk to life and property associated with the use of land, (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change, (c) to avoid significant adverse impacts on flood behaviour and the environment.	The subject site is not affected by overland flow.	N/A
6.4 Stormwater Management		
(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and all receiving water.	The proposed stormwater management system is supported by Council's Senior Development Engineer, subject to conditions.	Yes

DCP 2014	Proposed	Compliance
Part 3.3 Dwelling Houses and Dual Occupancy (attached)		
3.2 Denistone Character Area		
<ul style="list-style-type: none"> New development is to be consistent with the characteristics described in the key character statement. New development is to be compatible with the existing streetscape. Existing houses, garages and front fences are not to be demolished unless a replacement is part of the same application 	<p>As detailed in the assessment report, the proposed demolition is not supported.</p> <p>Further, the contemporary double storey building form is detrimental to the prevalent desired single storey character of the area and is not compatible with the streetscape.</p>	No
PART 2.0 – Site Analysis, Location Number and Type of Dwelling		
2.1 Site Analysis		
(a) Site analysis submitted (b) The site analysis should be used to: i. how future dwellings will relate to their immediate	Site Analysis Plan submitted.	Yes

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>surroundings and to each other</p> <p>ii. produce a design that minimise the negative impact on the amenity of adjoining properties and street/neighbourhood</p>		
2.2 Minimum allotment size		
<ul style="list-style-type: none"> Frontage and site area not less than 20m and 900sqm respectively. 	Frontage = 30.465m. Site area = 1300m ²	Yes
<ul style="list-style-type: none"> Hatchet Shaped' lots considered unsuitable exception Section 2.4 Retention of existing dwellings. 	The subject site is not a hatchet shaped allotment.	N/A
2.3 Non-preferred locations		
<p>(a) The site is suitable for more intense residential development being multi dwelling. The site is a non preferred location.</p>	The subject site as per Schedule 2, is located within a non-preferred location being within the draft Chatham Heritage Conservation Area and, subject to a slope which exceeds that allowed in Section 3.1 as discussed below.	No
2.4 Retention of Existing Dwellings		
<p>(a) Retention of existing dwelling as part of a MDH will not be approved. Exception being heritage significant building or contributory building.</p>	The proposed development does not seek to retain the existing dwellings. However as discussed below, this will be contrary to the now expired Interim Heritage Order for the site.	Refer to report
2.4.1 Heritage Significant Buildings		
<p>(a) The site can be subdivided so that the development is on a separate lot to the item.</p> <p>In this circumstance, the multi dwelling lot must have:</p> <ul style="list-style-type: none"> iii. Width not less than 20m beyond access handle; iv. Minimum area of 900sqm excl access handle; v. Width of access handle not less than 4m for 3 or more dwellings. <p>(b) New development must</p>	The subject site was the subject of a now expired Interim Heritage Order and is within the draft Chatham Road Heritage Conservation Area. The proposed development seeks to demolish the existing dwellings and is not supported given the dwellings have been assessed to have contributory value to the draft Heritage Conservation Area.	No

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>complement item;</p> <p>(c) Schedule of conservation and restoration works for item lodged with DA for subdivision.</p> <p>(d) The item is not to be demolished.</p>		
2.5 Density controls in R2 zone		
<p>(a) The proposal complies with Clause 4.5A RLEP 2014</p> <p>(b) The area of any access handle or the area between the FSBL and MHWL is not included in site area.</p>	The proposal complies with density requirements prescribed by cl. 4.5A of RLEP 2014.	Yes
2.6 Number of Dwellings		
(a) No more than 12 Dwellings	Four (4) dwellings proposed	Yes
2.7 Type of Dwellings		
(a) 4 or more dwgs, not more than 75% should have same number of bedrooms. (Round down)	The proposed development includes only four (4) dwellings. Not more than 75% of dwellings will include the same number of bedrooms.	Yes
<p>(b) The proposed slope, levels, building height, site coverage, landscaping, setbacks, accessibility and shadowing to be considered when assessing:</p> <p>i. whether the development complements existing neighbourhood, and</p> <p>ii. whether the development meet needs of householders including older persons with disabilities.</p>	<p>The site is non-compliant with slope requirements for multi dwelling development.</p> <p>Heritage character and amenity concerns outlined elsewhere.</p>	No
PART 3.0 Site Planning		
3.1 Slope of Site		
(a) Dwellings presentation to	Dwelling 1 and Dwelling 2 will front	Yes

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
street. At least one dwelling clearly seen from street.	Chatham Road.	
(b) Sites with a down slope > than 1:6 unacceptable.	Northern Boundary RL40.5 - RL35.8 43.64m /4.7m = 1:9.3 Southern Boundary RL39.65 - RL35.0 44.83m /4.65 = 1.9.6	Yes
(c) Site that slope up from street > than 1:6 unacceptable.	Refer above.	N/A
(d) Cross fall > than 1:14 not acceptable.	NW corner - SE corner RL40.5 – RL35.4 = 5.1m 58.99m/ 5.1m (site survey) or 1:11.5	No
	Rear crossfall of site RL40.33- RL38.42 = 5.91 5.91m/ 33.33m = 1:5.6	No
	Mid crossfall of site RL37.75-RL36.81 = 0.94 32.17m/0.94m = 1:34	Yes
	Front crossfall of site RL37.00-RL35.4 = 1.6m 33.61m/1.6m = 1:21	Yes
3.2 Altering the Levels of the Site		
(a) No imported Fill.	Fill is proposed under the building footprint of Dwelling 1, 3 & 4. However, it is not anticipated imported fill will be required.	Yes
(b) Levels of the site outside of the building footprint not altered by >300mm	POS Dwelling 2 NGL RL 37.50 – POS of RL 36.84 = 660mm cut POS Dwelling 3 NGL RL 40.30 – POS of RL 39.03 = 1270mm cut POS Dwelling 4 NGL RL 39.97- POS of RL 39.04 = 930mm cut Front Setback Dwelling 1 NGL RL 36.11 – lawn area RL 36.92 = 810mm fill Tandem parking spaces Dwg 1 & 4 NGL RL 38.00 – parking RL 37.30	No

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
	= 700m cut	
(c) Basement garages not permitted. Steps to be minimised and minimal retaining walls.	Retaining walls proposed to side and rear boundaries of up to 1.21m in height. A significant number of steps are also proposed within the open space areas as well as to access Unit 3 & 4 noting the significant changes proposed to the natural topography.	No
(d) Private open space generally at natural ground level.	POS is generally not proposed at NGL. The submitted plans show that cut and fill is proposed to alter the natural ground level across the site. This results in greater overshadowing from proposed units to the private open spaces and excessive southern boundary fence height at the adjoining No. 66 Chatham Road.	No
3.3 Storey and Height		
3.3.1 Storeys		
(a) Street facing dwelling may be two storeys provided: i. Two storey dwelling not attached to any other two storey dwelling. ii. Two storey dwelling is suitable within streetscape.	Dwelling 1 – 2 have a frontage to Chatham Road and are each 2-stories, and not attached to another 2 storey dwelling. The remaining two dwellings located at the rear are single storey.	Yes
(b) Corner lots, one dwelling can be two storeys on shortest street frontage.	N/A	N/A
(c) Corner lots with 2 storey dwelling to be sensitively designed in regards to topography, dwelling size and height.	N/A	N/A
3.3.2 Height		
(a) Proposal complies with Clause 4.3 and 4.3A (2) of RLEP 2014.	Refer to LEP assessment.	Yes
3.4 Site Coverage		
(a) Site coverage < 40%	Site coverage: 516m ² (39.69%)	Yes
(b) Pervious area > 35%	Pervious area: 461.44m ² (35.5%)	Yes

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
3.5 Setbacks		
3.5.1 Front Setbacks		
<p>(a) Development must be</p> <p>i. same as adjoining if difference between setbacks of adjoining dwellings is <2m</p> <p>ii. Average of setback between the two if the setback of adjoining dwellings is >2m</p>	<p>Neighbouring front setbacks: No.72 Chatham Rd = 8.5m No.66 Chatham Road = 7.66m</p> <p>Therefore a minimum 7.66m front setback is required.</p> <p>Proposed front setback is minimum 7m but varies up to 8.3m. It is noted the existing front setback of No. 68 and No. 70 are a minimum of 5.74m and 7.3m respectively. In addition, the front boundary of properties at Chatham Road is angled and results in varied setbacks to all dwellings. Noting this the proposed front setback of a minimum 7m is considered a reasonable response and in keeping with the desired setback for the site. However, given other built form concerns, the proposal is not supported.</p>	<p>No (acceptable)</p>
<p>(b) Setback of 1m less than the above standard for not more than 50% of the front elevation.</p>	<p>Greater than 50% setback more than 1m from required 7.66m.</p>	<p>No</p>
<p>(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.</p>	<p>Greater than 50% of the proposed setback is less than 7.5m</p>	<p>N/A</p>
3.5.2 Hatchet Shaped Allotment		
<p>(a) Vehicles enter and leave in forward direction.</p>	<p>The subject site is not a hatchet shaped allotment.</p>	<p>N/A</p>
3.5.3 Setback from secondary frontage		
<p>(a) Min 4.5m</p>	<p>The subject site does not contain a secondary street frontage.</p>	<p>N/A</p>
3.5.4 Side and Rear Setbacks		

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
(a) Min 4.5m unless vehicular access is included in this area, then min 6m.	Side setbacks not compliant with min. 4.5m, but some setbacks provided at 3m for up to 50% of building length.	No
(b) Must be adequate to provide appropriate solar access.	Shadow diagrams suggest that the courtyards to Unit 1 & 4 will not receive complaint levels of sunlight access between 9am-3pm.	No
(c) Ensure existing substantial trees not within proposed courtyard areas.	No trees in courtyards.	Yes
(d) Min 3m up to 50% permitted.	Rear setbacks - greater than 50% non-compliant with 4.5m rear setback (52.4% of Unit 3 and 64.4% of Unit 4).	No
3.5.5 Internal Setbacks		
(a) Habitable windows do not overlook habitable windows of another dwelling.	The common stairway of Units 1 and 2 have direct views into the respective living and family rooms. Further the window sill height of the living room of Unit 2 is less 1.5m and faces onto the common driveway. The above will result in unacceptable privacy impacts between units.	No
(b) Min 9m separation provided between habitable windows within development.	Generally no direct facing habitable room windows proposed.	Yes
3.6 Private Outdoor Space (courtyards)		
(a) Minimum: i. 30m ² for 2 bed. ii. 35m ² for >3 bed.	Sufficient POS has been provided based on min. 35 m ² requirement. POS has been provided at the following amounts: <ul style="list-style-type: none"> Unit 1: 55m² (30m² with min. 4m dimension. Remaining POS are useable spaces and considered acceptable.) Unit 2: 52m² (30m² with min. 4m dimension. Remaining POS are useable spaces and considered acceptable.) Unit 3: 104m² (81m² with min. 4m dimension) Unit 4: 87m² (52m² with min. 4m dimension) 	Yes
(b) Min 4m dimensions and at natural ground level	Minimum dimensions for POS are achieved for large portion of POS for Units. However, courtyards are	No

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
(c) At least 50% access to sunlight for 2 hours.	generally 500mm-1.27m above or below natural ground level. The submitted shadow diagrams indicate that the private open space of Units 1 and 4 will not receive the required two hours of sunlight during mid winter between 9am and 3pm to at least 50% of each courtyard.	No
(d) Courtyards do not contain existing substantial trees.	Unit 2 & 3 likely 20 overshadowed by dwelling at 72 Chatham Road. Courtyards are not to contain existing large trees.	Yes
(e) Access other than through dwelling to POS and not less than 1m wide.	Access to POS available for all units other than through dwelling Private outdoor space securely enclosed and visible from living area.	Yes
(f) Private outdoor space securely enclosed and visible from living area.	All POS areas are located behind the building line.	Yes
(g) Must be one area, can be partially paved but not roofed.	A hard stand courtyard area is provided to all units.	Yes
(h) Courtyards not in front setback.	No courtyards within the front setback.	Yes
(i) Min 1.2m wide landscape privacy strip between courtyard and adjoining property.	1.2m wide landscaping provided between courtyards and adjoining property.	Yes
3.7 Landscaping		
Landscape plans		
(a) A concept landscape plan submitted.	Concept Landscape Plan submitted, prepared by Chak Shing Chan, dated 17/09/2018.	Yes
(b) Landscaping completed prior to occupation. Should include watering system.	Capable of being satisfied by a condition of consent.	Yes
Protection and retention of trees		
(c) Existing trees retained and	The majority of existing trees within the	No

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
buildings setback appropriately.	subject site have been proposed to be removed.	
(d) Existing substantial trees not located within courtyards.	Existing substantial trees will not be located within courtyards.	Yes
(e) Tree location must not cause damage to building.	The proposed tree locations will not cause any damage to the buildings	Yes
(f) Arboricultural assessment where significant tree/s impacted.	An Arboricultural Impact Assessment and Tree Management Plan, prepared by Redgum Horticultural, dated 11 September 2018 has been submitted.	Yes
Privacy planting		
(g) Planting along the driveway and around pathways. Landscape strips included for privacy purposes must be not less than 1.2 metres wide	Landscape plant labelling is unclear to confirm landscape strips achieve privacy. Able to be conditioned but applications is recommended for refusal.	No
(h) Landscape strip not less than 1.2m wide between driveway and boundary. Shrubs 2 - 2.5m high. Trees 5 - 6m high.	Landscaping strips have been provided where possible.	Yes
(i) Landscape strip not less than 1m between driveway and wall of dwgs.	Landscape strip greater than 1m between driveway and wall of dwellings.	Yes
(j) Edge between driveway & paths edged with concrete, not timber.	Able to be required by condition. However, application is recommended for refusal.	Able to comply
(k) Rolled edge between driveway & garden/lawn areas.	Able to be required by condition. However, application is recommended for refusal.	Able to comply
Nature strips		
(l) Trees within footpath to be protected.		
On site detention		
(m) OSD tanks and above ground OSD not located in front setback. Driveway preferable. In landscape area, min 300mm soil cover.	There are no street trees that will be impacted by the proposed development.	Yes
	OSD Tanks provided within driveway.	Yes

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
3.8 Car Parking, Manoeuvrability and Driveway crossings		
3.8.1 Car Parking		
Number of car spaces		
(a) Number of parking spaces, refer to Part 9.3 of DCP: <ul style="list-style-type: none"> - 1 space per 1 or 2 B dwelling, - 2 spaces per 3+B dwelling, - 1 visitor space per 4 dwellings. 	All dwellings are 3-bed or 4-bed. Two (2) car parking spaces provided for each dwelling in a tandem arrangement, with one space per dwelling within lockable garage.	Yes
(b) At least 1 space per dwg must be lockable garage (round up).	One (1) visitor space provided.	Yes
Hatchet shaped allotments		
(c) Additional onsite parking to be provided for hatchet-shaped lots.	Subject site is not a hatchet shaped allotment.	N/A
(d) Hatchet shaped lots require 1 additional space for every 4 dwellings and be accessible to all residents.	Refer above.	N/A
Location		
(e) Garages not located between dwellings and street frontage.	No garages to be located between dwellings and the street.	Yes
(f) Garages and parking spaces do not dominate streetscape.	Garages will not dominate the streetscape.	Yes
(g) Garage (doors) should be designed to reduce visual prominence.	Garage doors are designed to reduce visual prominence.	Yes
(h) Tandem parking not permitted in front of a garage.	Tandem parking is not proposed in front of the garage.	Yes
(i) Garages and parking areas convenient.	Parking is conveniently located for all dwellings.	Yes
(j) Garages separate dwellings.	Parking has been designed to	Yes

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
	separate dwellings.	
3.8.2 Manoeuvrability		
(a) Vehicles enter and leave in a forward direction.	Development engineer comments note that the proposal does not comply with minimum swept path requirements. Vehicles entering and exiting the site rely upon a car turntable which is not supported. Car parking dimensions provided is insufficient to accommodate 2 car spaces noting spaces are enclosed. 6m length required. Vehicular waiting bay required at site entry.	No
(b) Corner lots, reversing out permitted depending on traffic conditions.	The subject site is not located on a corner allotment.	N/A
(c) Corner lot, vehicle access point not less than 6m from property boundary at intersection of 2 roads.	Refer above.	N/A
(d) Tandem arrangement permitted where no impact on manoeuvrability.	Tandem parking proposed, manoeuvrability concerns in relation to parking design.	No
(e) Enter and leave parking spaces in a single 3-point turn	Not supported by Council's Senior Development Engineer.	No
(f) Comply with AS 2890.1.	Proposal does not comply.	No
3.8.3 Driveways		
(a) Driveways paved and extent minimised appropriately.	The concrete driveways are to be suitably paved and lead to each lockable garage. The proposed driveways have been minimised.	Yes
3.8.4 Driveway crossings		
(a) Up to 10 spaces – Minimum 4m More than 10 spaces – not more than 6m	One common driveway proposed with a width of 5.3m.	Yes
If width of driveway crossings more than 30% of frontage, two crossings not permitted.	Only one crossing proposed	N/A
3.9 Overshadowing and Access to Sunlight		

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
(a) Habitable room windows face courtyard or other outdoor space open to the sky, no closer than 1.5m to facing wall.	Habitable room windows will be orientated towards the POS areas.	Yes
(b) Sunlight to at least 50% of each courtyard, and principal ground level open space of adjacent properties must not be reduced to less than 2hrs between 9am and 3pm on June 21. Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight must not be further reduced by more than 20%.	The submitted shadow diagrams indicate that the private open space of Units 1 and 4 will not receive the required two hours of sunlight during mid winter between 9am and 3pm to at least 50% of each courtyard. Adjoining properties to the west and south will receive some additional overshadowing. However shadow diagrams provided do not allow for a full assessment.	No
(c) Shadow diagrams must indicate extent of shadowing within development and adjoining properties.	Unsatisfactory shadow diagrams submitted.	No
3.10 Visual and Acoustic Privacy		
(a) Min 9m separation between facing habitable room windows.	Min. separation between facing habitable room windows achieved.	Yes
(b) No direct views between living area windows or adjacent dwellings (otherwise screening or obscuring necessary).	No direct facing of habitable room windows. However, the common stairway of Units 1 and 2 have direct views into the respective living and family rooms which have less 9m separation. Further the window seal height of the living room of Unit 2 is less 1.5m	No
(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	There will be no direct views from the living areas of the proposed dwellings to the adjoining residential properties.	Yes
(d) No balconies. Elevated landings (or similar associated with stairs into courtyard) max 1m wide	All units will comprise elevated decking which are greater than 1m in width.	No
(e) Living and sleeping areas protected from high levels of	The layout of each dwelling of the development is generally considered to	Yes

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
external noise.	be acceptable in terms of protecting living and sleeping areas of high levels of external noise.	Yes
(f) Noise levels of air con pool pumps etc must not exceed background noise level by more than 5dB(A)	No A/C, swimming pools or pumps proposed.	
3.11 Accessibility		
3.11.1 Pedestrian Access		
(a) Safe access achieved for pedestrians.	Pedestrian access to rear dwellings provided by the driveway. As safe forward access and egress is not provided for vehicles, the proposal does not achieve safe access for pedestrians.	No
(b) Continuous access path provided and separate from vehicle access.	Continuous access path for rear dwellings is not provided separate from vehicle access.	No
3.11.2 Access for People with Disabilities – Developments of 6 or more dwellings		
(a) 6 or more dwelling developments have min 35% of dwellings provide access to all indoor areas and outdoor living areas for people with disabilities (street, car parking and common areas accessed in one continuous path of travel)	Not applicable. The proposal includes four (4) dwellings.	N/A
(b) Dwellings designed as per AS4299 must be able to access street, car pkg and common areas using continuous path of travel.		
3.11.3 Access Audits		
(a) Access audit must be submitted for 6 or more dwellings.	Less than six (6) dwellings proposed.	N/A
PART 4.0 Building Form		
4.1 Appearance		

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
(a) Complement streetscape.	The two storey block form and materiality of the finished development is incompatible with the existing streetscape character of Chatham Rd, utilising brick, timber, stone cladding and concrete roof tiles which are not characteristic of the streetscape, Denistone Character Area and Draft Chatham Road Heritage Conservation Area.	No
(b) Includes pitched roof, eaves, vertically oriented windows, verandahs, rendered and face brick.	The proposed development includes dwellings with pitched roofs, eaves, vertically orientated windows and face brick.	Yes
(c) At least 1 dwg must face street.	Unit 1 and Unit 2 face the street.	Yes
4.2 Ceiling Height		
(a) Floor to Ceiling min 2.7m	All dwellings have a minimum floor to ceiling height of 2.7m.	Yes
4.3 Roofscape and Roof Materials		
(a) Pitch 22-30 degrees where visible from a public place.	Roof pitch of front dwellings visible from the street will be 27 degrees. Rear dwellings will be 18 degrees. Whilst the proposed pitch of rear dwellings does not comply, the roof pitch will not have an adverse impacts on the visual character of the development given its location at the rear of the site.	No
(b) Pitch increase to 35% where second storey contained in roof.	The proposed development will not include a second storey contained within a roof.	N/A
(c) Eaves of at least 300mm.	Minimum 300mm eaves proposed.	Yes
(d) Gables fronting street is required and hip roofs generally not permitted.	Gables provided within roof form fronting Chatham Road.	Yes
(e) Variation in roof line.	Appropriate levels of variation to the roof line.	Yes
(f) Use materials consistent with traditional materials.	Concrete roof proposed is incompatible with visual character of the street.	No
4.4 Building materials for Walls		
(a) Exterior walls use materials consistent in form and colour of existing development.	The materiality of the finished development is incompatible with the existing streetscape character of	No

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
(b) Windows have vertical proportion of between 2:1 and 3:1.	Chatham Road utilising brick, timber, stone cladding and concrete roof tiles which are not characteristic of the streetscape, Denistone Character Area, and Draft Chatham Road Heritage Conservation Area. The windows proposed in the development are incompatible with the proportions of windows within the existing dwellings and wider locality.	No
4.5 Fences		
4.5.1 Front fence		
(a) Front fences not higher than 1m and must be at least 70% visually permeable.	Front fence details indicate 1m high front fence with 500mm solid masonry base and 500mm open vertical uprights. Upper portion of fence is 50% open. Capable of compliance subject to conditions.	No
(b) Front fences constructed of materials including: i. Wooden pickets (open), ii. Masonry (sand stone or facebrick); and iii. Wrought iron or similar.	The front fence, as mentioned above, is proposed to be constructed of rendered masonry and vertical uprights. The proposed fence matches the façade materials of the fronting dwellings.	Yes
4.5.2 Other Boundary Fences which Face a Street		
(a) Boundary fences facing another street must be constructed of similar materials to front fence. (b) Boundary fencing facing another street, capped and capped timber fences and 'colorbond' not permitted. (c) If boundary fencing is solid, no indentation less than 600mm by 300mm must be provided.	The subject site is not located on a corner allotment and therefore does not have a secondary street frontage.	N/A
4.5.3 Other boundary fences		
(a) Fences other than boundary fences facing street must be a min of 1.8m high.	Insufficient information provided, regarding side, rear and internal boundary fencing. Capable of compliance subject to conditions.	Able to comply
(b) Side, return and rear boundary fencing constructed of timber to lapped and capped standard.	Sections and elevations suggest that the fencing is to be a timber paling.	Yes

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
4.6 Clotheslines and drying area		
(a) Clothes drying facility provided to each dwelling in appropriate location.	Clotheslines provided in each POS area and not visible from adjoining properties or public areas.	Yes
(b) Laundry within each dwelling.	All dwellings provided with an internal laundry.	Yes
4.7 Lighting		
(a) Front yard lighting and front of dwelling provided	No information provided. Standard condition able to be imposed.	No-Condition
(b) External lighting must not adversely affect adjoining properties.	Capable of compliance via the imposition of standard consent conditions to be imposed.	No-Condition
(c) Spot lights discouraged.	No spot lights are proposed.	Yes
4.8 Location of bin enclosures		
(a) A. Waste and recycling storage areas and facilities provided in accordance with Part 7.2 of Waste DCP. (b) Up to 5 dwellings, not steeply sloping and wide road frontage: <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. 	Each dwelling is provided with a storage area for bins not visible from public spaces, habitable rooms or common areas.	Yes
PART 5.0 – Engineering		
5.1 Drainage		
Stormwater Runoff		
(a) Refer to Part 8.2 Stormwater & Floodplains Management DCP 2014.	Refer to Council's engineer comments; the proposal complies with Council requirements.	Yes
Property Drainage		

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>(b) Runoff from roofs and hard surfaces must not cause nuisance or damage to other private properties.</p> <p>(c) Runoff from roofs, driveways and hard surfaces collected and drained via gravity to on-site stormwater detention system before discharge to street gutter or council pipe or watercourse.</p> <p>(d) Inter-allotment easement acquired where runoff cannot be directed to street or a suitable pipeline.</p> <p>(e) Pump out systems not permitted.</p> <p>Minimising Flowrates</p> <p>(f) Surface on-site detention basis not permitted.</p> <p>(g) Pervious area must not be less than 35%.</p> <p>(h) On-site detention system must be provided.</p> <p>(i) Use of porous paving for patios and pathways encouraged.</p> <p>(j) Porous paving considered to be 25% impervious. Use for driveways not permitted.</p> <p>Stormwater Conservation</p> <p>(k) Rainwater tanks encouraged.</p> <p>(l) Details of tanks in Part 8.2 of Stormwater Management DCP.</p> <p>Overland Flow</p> <p>(m) Consideration given to overland flow.</p> <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</p>		

ITEM 1 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>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>		
Part 6.0 Public Facilities		
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 Council's Open Space and Recreation Facilities Plan. Contributions required.</p>	<p>Although the development attracts contributions, the application has been recommended for refusal.</p>	<p>N/A</p>
6.2 Local Road Facilities		
<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>No public domain works recommended by Council's engineer. However it is noted from site inspections the existing pathway is in a reasonable condition.</p>	<p>Yes.</p>

2 38 Wicks Road, North Ryde - Torrens Title subdivision to create two lots and construction of a dwelling house on each resulting lot - LDA2019/0411

Report prepared by: Creative Planning Solutions

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

Report dated: 04 August 2020
BP20/801

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

**City of Ryde
Local Planning Panel Report**

DA Number	LDA2019/0411
Site Address & Ward	38 Wicks Road, North Ryde East Ward
Zoning	R2 Low Density Residential
Proposal	Torrens Title subdivision to create two lots and construction of a dwelling house on each resulting lot
Property Owners	Sang Min Lee
Applicant	Hall & Hard Homes Pty Ltd
Report Author	Ben Tesoriero Consultant Planner
Lodgement Date	22 November 2019
No. of Submissions	One (1) submission objecting to the development
Cost of Works	\$1,209,756.50
Reason for Referral to LPP	Departure from Development Standard –The proposal results in a 22.3% departure from the minimum subdivision lot size standard prescribed under cl.4.1(3) of RLEP 2014.
Recommendation	Approval (Deferred Commencement)
Attachments	1. Compliance Table Ryde LEP and DCP 2. Draft conditions of consent

ITEM 2 (continued)

	<ul style="list-style-type: none">3. Clause 4.6 written request to vary Clause 4.1(3) minimum subdivision lot size4. Plans submitted with the development application
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1. Executive Summary

The proposal is for a two-lot Torrens Title battle-axe subdivision and the construction of two dwellings and associated civil works, landscaping and tree removal at 38 Wicks Road, North Ryde. Consent is not sought for demolition.

This application is reported to the Ryde Local Planning Panel (RLPP) for determination as it proposes a departure from a development standard in excess of 10% in accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 - Directions by the Minister.

Clause 4.1(3) of *Ryde Local Environmental Plan 2014* (RLEP 2014) requires a minimum allotment size of 580m² and Clause 4.1C(3) requires a minimum allotment size of 740m² for a battle axe allotment. The proposed battle-axe allotment (Lot 2) has an area of 858.7m² and meets the 740m² requirement of Clause 4.1C(3) but proposed Lot 1 has an area of 450.4m², resulting in a 129.6m² shortfall. The proposal seeks a 22.3% variation to the minimum 580m² lot size development standard under Clause 4.1(3) of RLEP 2014. The proposed dwellings on each allotment comply with the development standards relating to height and FSR.

The proposal has been supported by a Clause 4.6 written variation request which satisfactorily addresses the jurisdictional prerequisites required to satisfy the consent authority. The variation sought to the standard is considered to be satisfactory.

Given that the proposal is similar to other surrounding residential subdivisions, both the subdivision and associated development will be consistent with the character of the local area, and is mostly consistent with the provisions of Part 3.3 (Dwelling Houses and Dual Occupancy) within *Ryde Development Control Plan 2014* (RDCP 2014).

The application was lodged on 22 November 2019, with owners of surrounding properties being notified from 27 November 2019 until 16 December 2019. In response, one (1) submission was received, which objected to the subject Development Application (DA).

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposal does not result in any significant adverse impacts upon neighbouring properties or the streetscape. The subject site is suitable for the proposed development.

ITEM 2 (continued)

For the reasons outlined above, the subject DA is recommended for approval, subject to conditions including deferred commencement conditions. The deferred commencement condition relates to vehicular manoeuvring and the provision of a swept path analysis, to ensure vehicles can enter and exit onto Wicks Road (classified road) in a forward direction. The proposal also relies upon the creation of a drainage easement which forms part of the deferred commencement consent.

2. The Site and Locality

The site is legally described as Lot 7 within Deposited Plan 19328 and has a street address of 38 Wicks Road, North Ryde. The site is a rectangular-shaped allotment with a width of 14.325 metres and a depth of 91.44 metres. The front south eastern boundary adjoins Wicks Road (**Figure 1**) and the total site area is 1,309.1m². The site includes a moderate front-to-rear fall across the site of approximately 5.59 metres.



Figure 1: Aerial photograph of the site in context (red border). Also demonstrated in this image is the subdivision pattern of development adjacent to the site, which commonly includes battle-axe allotments akin to that proposed under LDA2019/0411.

The subject site presently contains a single-storey dwelling house (renovated in 2012) and a detached garage within the rear setback adjacent to the north east boundary (**Figure 2**).

Adjoining the site's north eastern side boundary is 40 and 42 Wicks Road). No. 40 Wicks Road is a battle-axe allotment which contains a single-storey multi-dwelling housing development, while No. 42 Wicks Road contains a detached two-storey dwelling house and associated structures (**Figure 3**). Adjoining the site's south western side boundary are 36 and 36A Wicks Road. No. 36 Wicks Road is a battle-axe allotment which contains a detached two-storey dwelling house and associated

ITEM 2 (continued)

structures, while No. 36A Wicks Road contains a two-storey attached dual occupancy (**Figure 4**). The rear boundary adjoins North Ryde Golf Club.



Figure 2: The site as viewed from Wicks Road.
Source: Google, March 2020



Figure 3: 42 Wicks Road, as viewed from the south-eastern side of Wicks Road.
Source: CPS site inspection, 10 January 2020

ITEM 2 (continued)



Figure 4: 36A Wicks Road, as viewed from Wicks Road.
Source: Google, March 2020

The local area consists of a range of different development typologies. The site is located within a row of residential allotments that extends from the intersection of Cox's and Wicks Road, approximately 220 metres to the north east of the site, to a point approximately 240 metres to the south west of the site. Development within this stretch of allotments consists of one-and-two storey dwellings houses, dual occupancies (predominantly attached) and multi-dwelling housing developments. Lots within the north eastern end of this row are considerably deep, and consequently many of those allotments have been consolidated and/or subdivided to create battle-axe allotments. Land to the west and north west is occupied by North Ryde Golf Club, while land to the south east (the opposite side of Wicks Road) encompasses Macquarie Hospital and North Ryde Common.

3. The Proposal

The proposal includes a two (2) lot Torrens title subdivision of the site, one (1) two-storey dwelling on each allotment and associated landscaping and civil works.

Lot 1 presents to Wicks Road and has a site area of 450.4m² and a frontage of 11.325m. The rear allotment (Lot 2) will be a 'battle-axe' allotment with an area of 858.7m² (740m² excluding the access handle); access to this site will be obtained via a three-metre wide access handle adjoining Wicks Road.

Drainage for both proposed allotments will be via an easement adjacent to the north eastern boundary of Lot 2; discharge from the easement will be into the North Ryde Golf Course which adjoins the rear boundary of the site. This arrangement will also require the creation of an easement burdening Lot 2, for the benefit of Lot 1.

ITEM 2 (continued)

The proposed development includes the removal of three trees from the site including Tree 2, 3 and 4 (Gordonia, Chinese Weeping Cypress and Ash Tree).

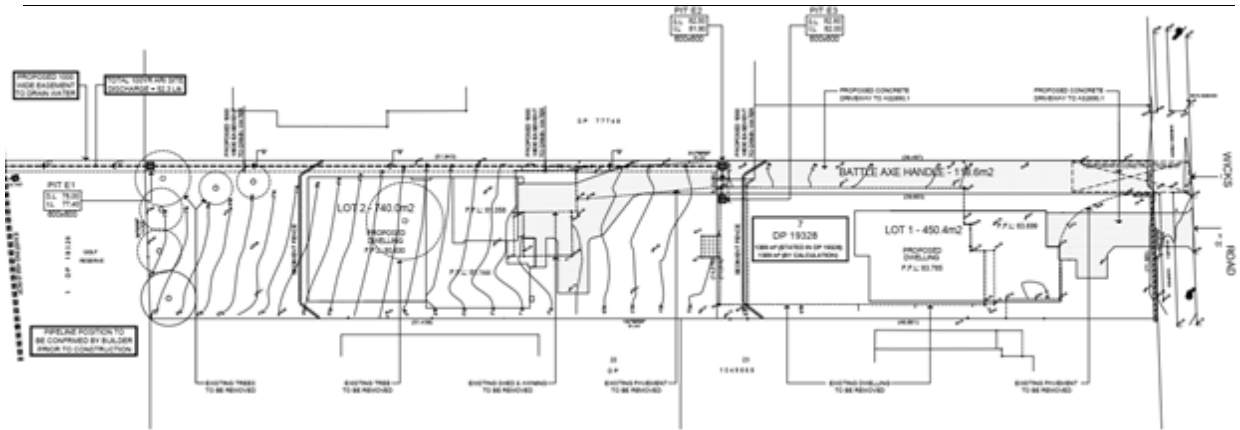


Figure 5: Extract of proposed subdivision plan.
Source: ALW Design, 2020

The layout for each of the dwellings is detailed as follows:

Lot 1:

Ground floor (RL 83.785) (Figure 6)

- Single-vehicle garage and alfresco level with floor levels of RL 83.699.
- Entry is obtained from the front elevation of the dwelling and past a front lounge room. The centre of the ground floor contains a bathroom, laundry, stairwell to the first floor and a central passageway.
- The rear of the dwelling contains an open-plan living area including a kitchen, walk-in pantry, dining and family area.
- A covered alfresco area (floor level RL 83.699) is located to the rear north east side of the dwelling and is accessed from the adjoining family room. The area of the alfresco space is 13.33m².
- There will be a stepdown of approximately 500mm from the alfresco area to the at-grade private open space area, which is located to the rear of the dwelling.

First floor (RL 86.855) (Figure 7)

- The first-floor area contains four bedrooms; the master bedroom at the front of the dwelling includes an ensuite bathroom and Walk-In-Robe (WIR), three bedrooms, bathroom and rumpus room towards the front of the first floor and a linen storage area.

ITEM 2 (continued)

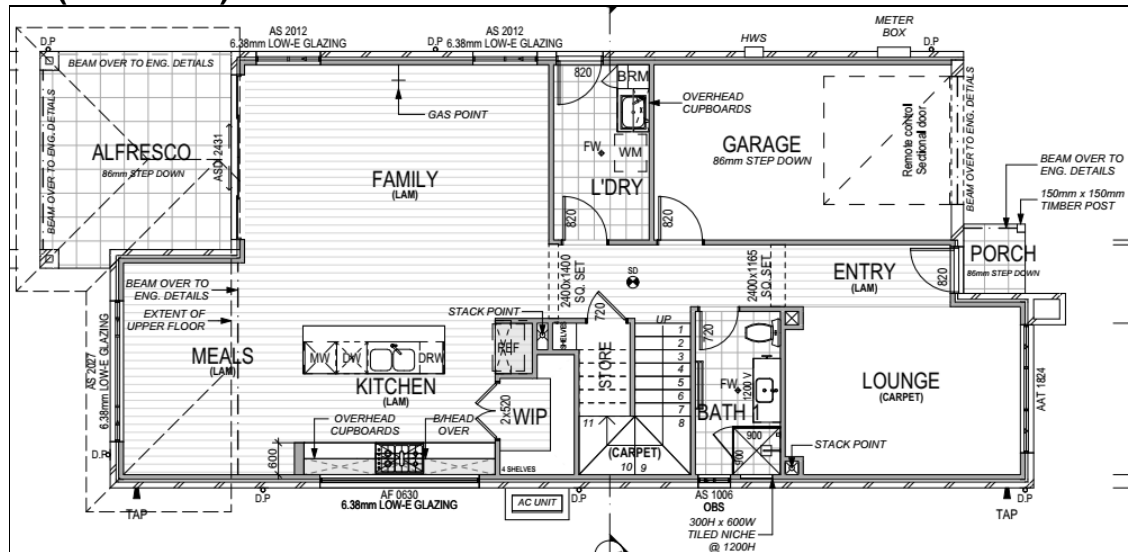


Figure 6: Extract of proposed Lot 1 ground floor.
Source: Hall & Hart Homes, 2020

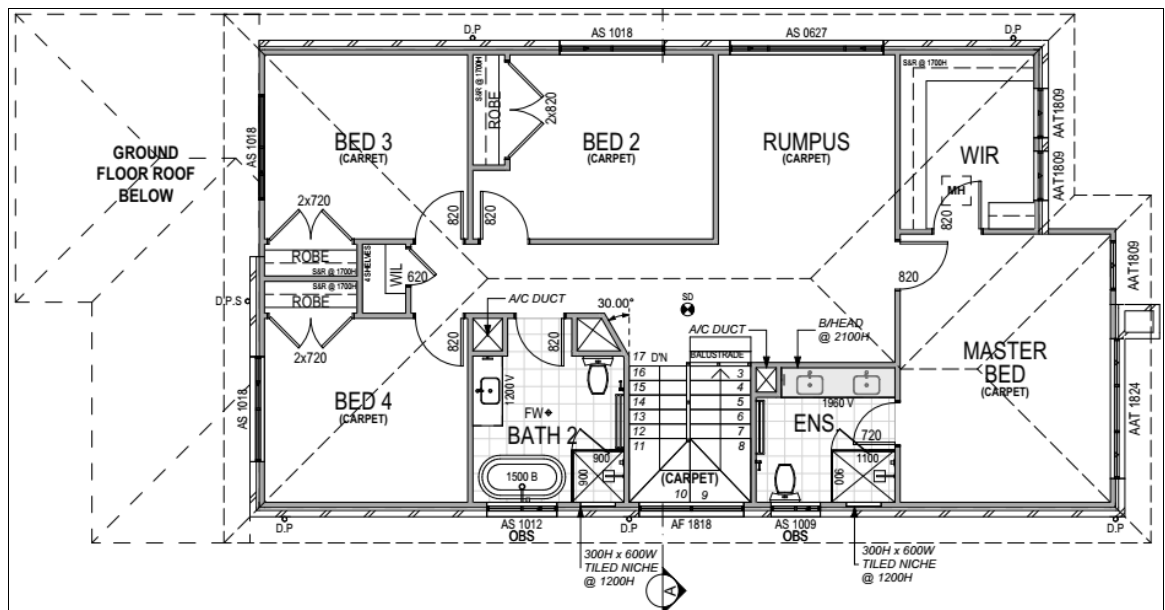


Figure 7: Extract of proposed Lot 1 first floor.
Source: Hall & Hart Homes, 2020

Lot 2:

Ground floor (RL 80.63 and RL 81.144) (Figure 8)

- A double-vehicle garage with a floor level of RL 81.144.
- Entry is obtained from the front elevation of the dwelling and past the garage and a bedroom (containing an ensuite and WIR) at the front of the dwelling. The centre of the ground floor otherwise contains a powder room, storage areas, laundry, stairwell to the first floor and a central passageway.

ITEM 2 (continued)

- The rear of the dwelling contains an open-plan living area including a kitchen, walk-in pantry, dining and family area. A home theatre is also located on the northwest side of the dwelling adjacent to the family area.
- A covered alfresco area (floor level RL 80.544) is located to the rear northeast side of the dwelling and is accessed from the adjoining kitchen, meals and family rooms. The area of the alfresco space is 20.5m².
- There is a stepdown of approximately one metre from the alfresco area to the at-grade private open space area, which is located to the rear of the dwelling.

First floor (RL 84.214) (Figure 9)

- The first-floor area contains five bedrooms; the master bedroom at the front of the dwelling with an ensuite and WIR, while the remaining four bedrooms contain BIRs.
- The remainder of the first floor contains a study nook to the front, and a rumpus room towards the rear, with a linen storage area.

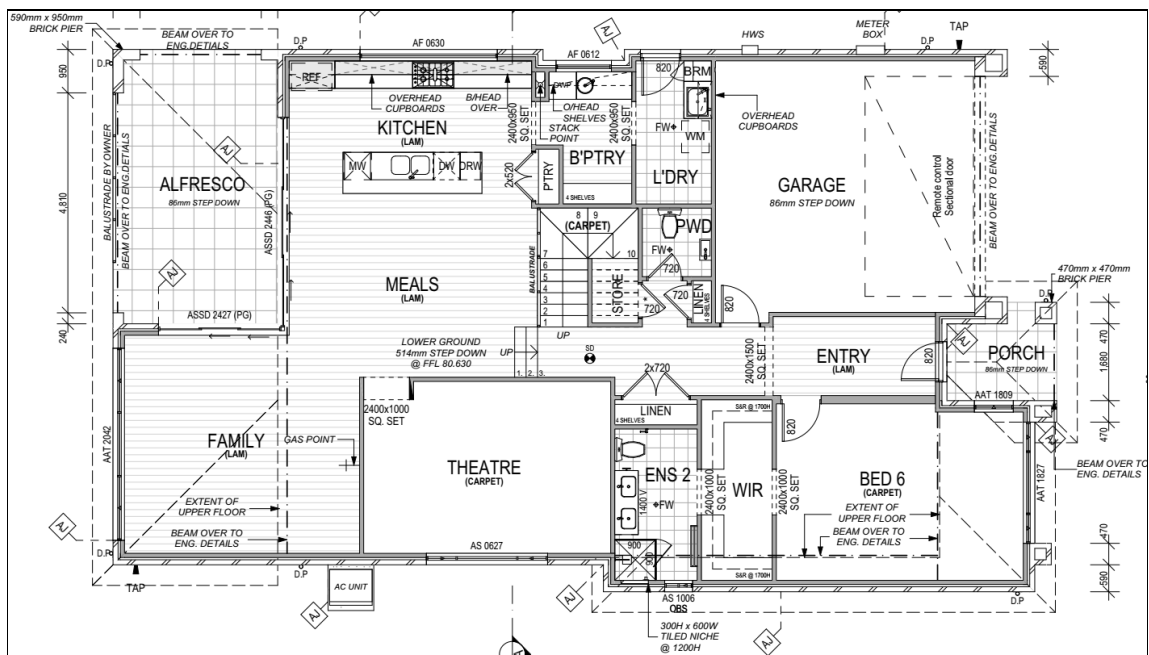


Figure 8: Extract of proposed Lot 2 ground floor.
Source: Hall & Hart Homes, 2020

ITEM 2 (continued)

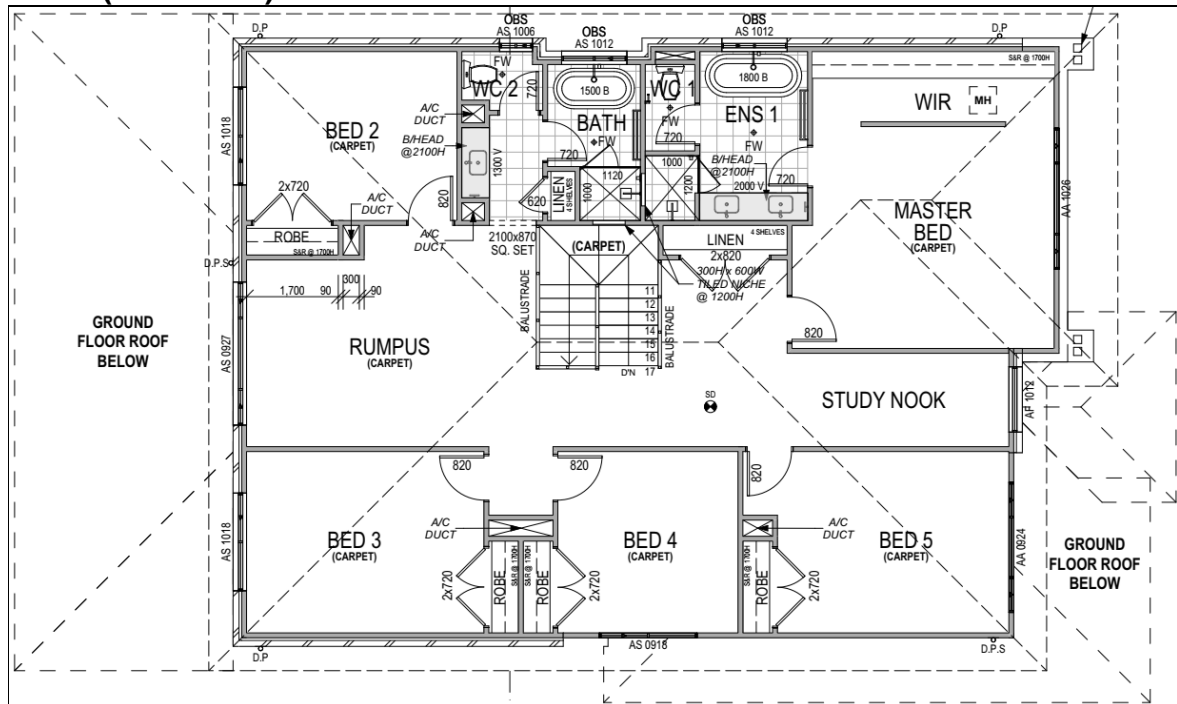


Figure 9: Extract of proposed Lot 2 first floor.
Source: Hall & Hart Homes, 2020

4. Background

Demolition of existing structures was approved by Complying Development Certificate 181144/01, issued by New Home Certification Group on 28 September 2018 (as of 1 June 2020 demolition works had not commenced).

APPLICATION HISTORY

22 November 2019	The subject DA was lodged.
27 November 2019 - 16 December 2019	The DA was notified to the owners of surrounding properties. In response, one (1) submission was received.
13 February 2020	Council sent a request for additional information to the applicant. Issues raised included plan detail inconsistencies, no confirmation regarding drainage easement from North Ryde Golf Course, potential impacts on vegetation from drainage lines, validity of the BASIX Certificates, and vehicle manoeuvring arrangements.
2 March 2020	The applicant submits amended plans and information.
15 April 2020	A request for further information was sent to the applicant relating to the driveway/vehicle manoeuvring arrangements, owners consent

ITEM 2 (continued)

	from North Ryde Golf Course for the easement, and potential tree impacts from draining lines were unresolved by the applicant's initial amended plans.
25 June 2020	Amended plans and documentation submitted by the applicant, including amended landscape plan, updated owners consent regarding the easement from the North Ryde Golf Course, amended architectural plans, and amended arborist report.
3 July 2020	Further request for additional information sent to the applicant in relation to incorrectly detailed BASIX Certificates.
7 July 2020	Updated BASIX Certificates submitted by the applicant.

5. Planning Assessment
5.1 Objects of the Environmental Planning and Assessment Act 1979

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

1.3 Objects of Act (cf previous s 5)

- (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,
- (g) to promote good design and amenity of the built environment,
- (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 is for a two lot Torrens title subdivision and construction of two single dwellings. The proposal is reliant upon the creation of a drainage easement and the recommendation is for a deferred commencement consent. The provision of two detached dwellings is not a permissible form of development and therefore the recommended consent includes the registration of the subdivision prior to the issue of a Construction Certificate for the proposed dwellings. The proposed staging of the development consent is to ensure orderly and economic development of land which is consistent with the provisions of the RLEP.

5.2 State Environmental Planning Instruments

ITEM 2 (continued)

State Environmental Planning Policy (Building Sustainability Index BASIX) 2004

The development is identified under the *Environmental Planning and Assessment Regulation 2000* (Regulations) as BASIX Affected Buildings.

Two (2) BASIX Certificates and associated NatHERS certificates were submitted as part of the DA:

- BASIX Certificate No. 964743S_06 dated 7 July 2020 for a single dwelling.
- BASIX Certificate No. 964785S_07 dated 7 July 2020 for a single dwelling.

The BASIX Certificates and associated information have been reviewed and the information contained is deemed to be satisfactory. Conditions in accordance with the Regulations to ensure fulfilment of the BASIX requirements at relevant stages of the development have been included.

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 purpose.

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.

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

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

The objective of the Vegetation SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.

The rear of the subject site is mapped as containing significant urban bushland on Council's Environmentally Sensitive Areas map. However, the site does not contain any significant trees. Concern is held regarding the potential impact upon significant trees upon the adjoining site at the North Ryde Golf Course as a result of the proposed stormwater pipe and **Condition 27** is recommended relating to a design modification.

The proposed development includes the removal of three trees from the site including Tree 2, 3 and 4 (Gordonia, Chinese Weeping Cypress and Ash Tree). Tree 2 is located within the building footprint and Trees 3 and 4 whilst not impacted are sought

ITEM 2 (continued)

to be removed on the landscape plan which has been considered acceptable by Council's Landscape Architect.

The proposal has been supported by a satisfactory arborist report and landscape plan. The proposal does not unduly impact upon any existing biodiversity or trees or vegetation on the site.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The aims of the SREP (deemed SEPP) are as follows:

- (a) *to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained—*
 - (i.) *as an outstanding natural asset, and*
 - (ii.) *as a public asset of national and heritage significance,*
- (b) *for existing and future generations,*
- (c) *to ensure a healthy, sustainable environment on land and water,*
- (d) *to achieve a high quality and ecologically sustainable urban environment,*
- (e) *to ensure a prosperous working harbour and an effective transport corridor,*
- (f) *to encourage a culturally rich and vibrant place for people,*
- (g) *to ensure accessibility to and along Sydney Harbour and its foreshores,*
- (h) *to ensure the protection, maintenance and rehabilitation of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity,*
- (i) *to provide a consolidated, simplified and updated legislative framework for future planning.*

Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal.

5.3 Ryde Local Environmental Plan 2014 (RLEP 2014)

A detailed assessment of applicable development standards is contained within the compliance checklist contained in **Attachment 1**. Outlined below are the following clauses applicable to the proposal.

Clause 2.3 - Zone Objectives and Land Use Table

Under Ryde LEP 2014, the property is zoned R2 Low Density Residential, and the proposed dwellings are permissible with Council's consent. Pursuant to Clause 2.6(1) of the RLEP 2014, the proposed Torrens Title subdivision of the site may occur with development consent.

Objectives for residential zones:

The objectives of the R2 low density residential zone are as follows:

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

ITEM 2 (continued)

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

The proposal is for the provision of new residential dwellings which provide for a variety of housing types and provides for the housing needs of the community within a low density residential environment. The second objective is not of relevance to the proposed development. The proposal has been supported by a satisfactory Clause 4.6 written variation which demonstrates the residential zone objectives are achieved despite the variation to the development standard. The proposed satisfies the relevant objectives for residential developments.

The following table provides a summary of key provisions that apply to the proposal:

Clause	Proposal	Compliance
2.6 – Subdivision requires consent		
Subdivision requires consent	The proposal seeks development consent for subdivision.	Yes
4.1 Minimum subdivision lot sizes		
Minimum required lot size: 580m²	Proposed Lot 1 would have a site area of 450.4m ² , which constitutes a 129.6m ² , or a 22.3% variation to the development standard.	No, 4.6 variation request submitted
4.1C Minimum lot size for battle-axe lots		
(3) Despite clause 4.1, the minimum lot size for a battle-axe lot that is land to which this clause applies is 740 square metres.	Proposed lot area for Lot 2: 740m ²	Yes
(4) If a lot is a battle-axe lot or other lot with an access handle and is land to which this clause applies, the area of the access handle is not to be included in calculating the lot size.	118.7m ² access handle and has been excluded from site areas of proposed allotments.	Yes
4.3(2) Height of Buildings		
9.5m	Proposed building heights: <ul style="list-style-type: none"> • Lot 1: 8.11 metres • Lot 2: 8.83 metres Note: Heights calculated from roof ridge to lowest ground RLs beneath.	Yes
4.4(2) Floor Space Ratio		
0.5:1	Proposed GFA: <ul style="list-style-type: none"> • Lot 1: 202.2m² • Lot 2: 305.4m² Proposed FSR: <ul style="list-style-type: none"> • Lot 1: 0.449:1 • Lot 2: 0.360:1 	Yes

ITEM 2 (continued)

Clause	Proposal	Compliance
	Notes: <ul style="list-style-type: none"> Lot 2 calculations include the access handle. 	
4.6 Exceptions to development standards		
(1) The objectives of this clause are as follows— (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	Variation sought to Clause 4.1.	Yes
6.2 Earthworks		
(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	Proposed earthworks are not significant or of a scale that would likely affect future redevelopment potential of the site nor would it have any foreseeable adverse impacts if addressed by conditions of consent. No objection has been raised by Council's Development Engineer.	Yes
6.4 Stormwater Management		
(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.	The plans depict sufficient permeable surfaces, OSD and discharge from the site via an easement that is to be created over the adjoining golf course (with Lot 2 also burdened by an easement to drain water from Lot 1). Council's Development Engineer is satisfied with the proposed drainage arrangement.	Yes

Clause 4.6 – Exceptions Clause 4.6 – Exceptions to Development Standards.

The development contravenes Clause 4.1(3) of RLEP 2014, which requires a minimum lot size of 580m². Proposed Lot 1 would have an area of 450.4m², resulting in a 129.6m² short fall to the development standard. The proposal seeks a 22.3% variation to the minimum lot size standard. The proposal has been supported by a written Clause 4.6 request prepared by Hamptons Property Services, dated 27 March 2019 (amended 2 March 2020), to vary the development standard.

An assessment of the relevant provisions of cl.4.6 is as follows.

- Clause 4.6(3)(a) – Is compliance unreasonable or unnecessary in the circumstances of the case?

ITEM 2 (continued)

- Clause 4.6(3)(b) – Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

The variation request provides the reasons why compliance with the standard is unreasonable and/or unnecessary, with selected excerpts shown below:

- *The proposal achieves all other development standards applying to the site, as well as the requirements of the Ryde Development Plan 2014 (RDCP), in particular as it relates to side design, setbacks, landscaped area, site coverage and so forth. Therefore, the proposal demonstrates full consistency with the intended outcomes for the site, despite non-compliance with the standard. The proposal is comprehensive and will improve the environmental conditions of the site, through aspects such as additional landscaping that would not be achieved in absence of supporting this application. Therefore, compliance with the standard is therefore unreasonable and unnecessary and results in a detrimental outcome compared to a development where variation to the lot size is permitted.*
- *Imposing compliance with the development standard serves no purpose when the adjoining parcels of land have already effected the proposed arrangement. While historical in their approval, if anything, approving this application, despite non-compliance with the minimum lot size ensures that the use of this allotment is more closely consistent with the zone objectives, than if it were left in its current form. As such, it is unreasonable to require compliance with this development standard.*
- *“...as demonstrated in the SEE, the proposal:*
 - *Complies with, and is less than, the permitted building height.*
 - *Complies with the maximum permitted FSR on the allotment, and is less than which could be achieved if a single dwelling were proposed.*
 - *Propose an extent of landscaping and deep soil planting that significantly exceeds the required proportion of the allotment and, again, is greater than that which would be provided if the site were redeveloped with a single dwelling house.*
 - *Complies with the required setback distances from front, side and rear boundaries.*

Therefore, but for the allotment size, the proposal does not seek to overdevelop the site as there is no more floor space proposed than that permitted by the development standard and other aspects, such as landscaping and deep soil planting, are over and above the specified requirement. They are also less, and more than, respectively, than if the site were redeveloped with a single dwelling house. By creating this outcome ensures that a dwelling of a domestic scale presents to the streetscape and is not the dominant building form in the vicinity of the site. This can be accommodated on the undersized allotment thus resulting in sufficient grounds to vary the development standard.”

ITEM 2 (continued)

- *“The outcome is, instead, consistent with built form on the adjoining allotments, which have all, similarly undertaken further subdivision of the allotments to create an affordable form of housing. The architectural plans demonstrate that a dwelling can be comfortably achieved that complies with the requirements, without intruding upon the amenity of adjoining properties.”*
- *“The proposal also provides for an opportunity for low density residential development to service local accommodation need, particularly given the site’s proximity to health and medical facilities. It will also result in a material improvement to the natural setting over the current situation with new landscaping treatment that which will not only benefit the site, but will ensure consistency with the pattern of subdivision on the adjoining allotments. Without this variation, such improvements to the natural setting would not be achieved, as sought by both objectives of the development standard and the objectives of the zone.”*
- *“Allowing the variation produces a better environmental and planning outcome by more efficiently utilising this site, which is currently enjoyed by only one household. The outcome will aid the natural qualities of the setting and improve the interface with the adjoining allotments. This outcome will accord with the zone objectives, as well as reinforce the public interest aspect associated with the development.”*

Comment: It is agreed the development outcome will be consistent with the built form of adjoining allotments. As indicated above, the proposed subdivision reflects the progressive subdivision pattern of surrounding land. While the subdivision of surrounding land has not occurred under the current planning provisions, there are several examples of similar-sized lots and/or similar subdivision patterns in the local area. These are shown in the table below:

Address	Lot type	Area (approx.)	Dwelling type
32A Wicks Road	Battle-axe	830m ²	Detached dwelling
34 Wicks Road	Street-fronting	341m ²	Attached dwelling
34A Wicks Road	Battle-axe	738m ²	Detached dwelling
34B Wicks Road	Street-fronting	341m ²	Attached dwelling
36A Wicks Road	Battle-axe	740m ²	Detached dwelling
38 Wicks Road (1)	Street-fronting	450.4m² (proposed)	Detached dwelling
38 Wicks Road (2)	Battle-axe	740m² (proposed)	Detached dwelling
40 Wicks Road	Battle-axe	1608m ²	Multi-dwelling

ITEM 2 (continued)

			housing
42 Wicks Road	Street-fronting	840m ²	Detached dwelling
2/44 Wicks Road	Street-fronting	383m ²	Detached dwelling
3/44 Wicks Road	Battle-axe	717m ²	Detached dwelling
48A Wicks Road	Battle-axe	442m ²	Detached dwelling

It is agreed that permitting the variation will more effectively utilise the site. While other forms of development (a larger dwelling, dual occupancy or multi-dwelling housing) are permissible, given the subject site's width and orientation, such development may be difficult to establish. Aside from the proposed subdivision lot size variation and a non compliant lot width, the proposal otherwise obtains a high level of compliance with applicable development standards and controls.

Further, the layout and design of the proposed development is unlikely to have adverse and unreasonable impacts on surrounding property, would provide a sufficient amount of deep soil space, and will provide good residential amenity and privacy to both proposed dwellings. As such, approval of the variation will enable a better outcome than other potential forms of development on the site.

Is the proposal in the public interest?

A development is generally seen to be in the public interest if it is consistent with the objectives of the development standard and the zone in which the particular development is carried out. A response to each of the objectives of the R2 zone is as follows:

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

The form of the development (two detached dwellings on separate allotments) is a low-density response that is consistent with development on surrounding sites; notable examples of such similar development patterns (in terms of subdivision layout and/or streetscape presentation) include 30, 30A, 32, 32A, 36, 36A, 42, 50A, and 52 Wicks Road. Further, both dwellings are different sizes (four and six bedrooms), and are capable of providing for community housing needs. The proposal is therefore consistent with the objective.

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

The proposal will not affect the capacity of surrounding sites to provide facilities or services meeting the needs of local residents. The proposal is not contrary to this objective.

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

ITEM 2 (continued)

As indicated above the proposal is for two detached dwellings containing four and six bedrooms respectively. A variety of housing types are therefore proposed that are consistent with the variety of housing types within the surrounding residential area.

A response to each of the objectives of Clause 4.1 (Minimum subdivision lot size) of RLEP 2014 is as follows:

(a) to retain streetscape, amenity, landscaped areas and private open space in residential zones,

The proposed development will not adversely affect the streetscape character of Wicks Road, as development on proposed Lot 1 is both suitable for the size of the allotment and consistent with existing development on surrounding street-facing allotments. Compliance is therefore achieved with development standards and controls which govern the size, bulk, scale and landscaped area. Further, both the primary living areas and private open space of the dwelling would be oriented towards the rear/north western boundary and separated sufficiently from Lot 2 so as to enable sufficient visual privacy and solar access.

The objective would therefore be satisfied as development on the proposed allotment would retain the local streetscape qualities and neighbouring amenity, in addition to providing expansive private open space areas with high levels of amenity for residents.

(b) to ensure that lot sizes enable sufficient areas of open space within each lot so as to enable the retention and embellishment of green linkage corridors in residential zones.

The proposed development would provide a large private open space at the rear of the site; the lot size will also provide substantial deep soil space to the front and rear of the allotment to enable plantings that support the retention and embellishment of green linkages. The development also proposes greater landscaped and deep soil area than what is otherwise required by Council's controls, thereby helping to satisfy the objective.

Summary

The applicant has adequately addressed why compliance with the development standard is unreasonable or unnecessary under Clause 4.6(3)(a). The applicant has also demonstrated sufficient environmental planning grounds to justify contravention of the minimum lot size standard, as required by and Clause 4.6(3)(b).

The proposed development is consistent with the objectives of the standard and the R2 zone. For this reason, the development will be in the public interest.

ITEM 2 (continued)

Concurrence with the Planning Secretary is not required.

Accordingly, development consent may be granted to the proposal despite the contravened development standard.

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 DAs. As discussed within the SEPP 55 assessment above, the subject site has been used for residential purposes for an extended period of time, and is therefore unlikely to have been associated with land uses that would result in contamination of the site. The site is therefore suitable for the development, and further investigation is not warranted in this instance.

Draft Environment SEPP

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

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

The proposal is not inconsistent with the provisions of the draft SEPP.

5.5 Ryde Development Control Plan 2014 (RDCP 2014)

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

- Part 3.3: Dwelling Houses and Dual Occupancy (Attached);
- Part 7.2: Waste Minimisation and Management;
- Part 8.1: Construction Activities;
- Part 8.2: Stormwater & Floodplain Management;

ITEM 2 (continued)

- Part 8.3: Driveways;

The development is subject to the provisions of Part 3.3 – Dwelling Houses and Dual Occupancy under the RDCP 2014. A full assessment of the proposal under DCP 2014 is illustrated in the compliance table at **Attachment 1**.

The provisions of DCP 2014 have been considered in this assessment and it is concluded that the proposed is consistent with the aims and objectives of RDCP 2014. Where strict compliance has not been achieved, in accordance with Section 4.15 (3A)(b) flexibility has been sought to allow a reasonable alternative solution that achieves the objects the standard. These matters are discussed below:

Part 3.3: Dwelling Houses and Dual Occupancy (Attached)

Section 2.4 - Subdivision

The proposal seeks to vary two development controls within Section 2.4 a. (Subdivision) of Part 3.3 of the RDCP 2014, specifically:

- That all allotments (other than battle-axe allotments) have an area of at least 580m² (Control i), and
- That all allotments (other than battle-axe allotments) have a width of not less than 15 metres at a distance of 7.5 metres from the front boundary (Control iii).

Proposed Lot 2 complies with Control ii (which requires a frontage of at least 10 metres); the proposal also complies with controls under Section 2.4 that relate to battle-axe allotments.

Proposed Lot 1 has a width of 11.325 metres and area of 450.4m². The variation to the site area has been discussed under the Clause 4.6 variation to Clause 4.1(3) and is considered acceptable. The reduced width is not considered to be an impediment to a compliant form of development. The proposed dwelling fully complies with the minimum setback and landscaping/deep soil area requirements, and the design/layout of the proposed dwelling would not be unreasonably constrained, and achieves high levels of internal amenity.

Further, the landscaped areas towards the rear of each allotment would provide sufficient open space that would enable green linkages and corridors within residential-zoned areas. The reduced width of Lot 1 is therefore considered acceptable.

Section 2.6.2 – Topography and Excavation

The proposal would technically comply with cut and filling requirements, as the levels of excavation and filling (both within and outside the proposed building footprints) would be within RDCP 2014 requirements. The plans however indicate that both dwellings would be placed on 'waffle-pod' slabs, and that the north eastern rear

ITEM 2 (continued)

corner of the dwelling on Lot 2 (alfresco area) would be significantly elevated 1140mm above ground level (**Figure 10**). Whilst the area under the rear of this dwelling would not technically be 'filled', it would present the appearance of a structure that is built above natural ground level and the existing landform of the site.

The issue would arise from the location of the dwelling footprint on Lot 2, which is situated on a steeper part of the site. The footprint of this dwelling is proposed to be stepped in order to minimise excessively large amounts of filling and/or elevation of the rear of the dwelling, however to prevent a significant stepdown between internal living areas and the alfresco area (the principal private open space area), the floor level between these areas has been largely retained (albeit with an 86mm stepdown) which contributes to the aforementioned elevation of the alfresco area.

The relevant objectives of the controls would be satisfied, in that the proposed development has for the most part retained ground levels and landform and would minimise the extent of excavation and fill; as the issue is at the rear of the site, there would be no impact on streetscape.

ITEM 2 (continued)

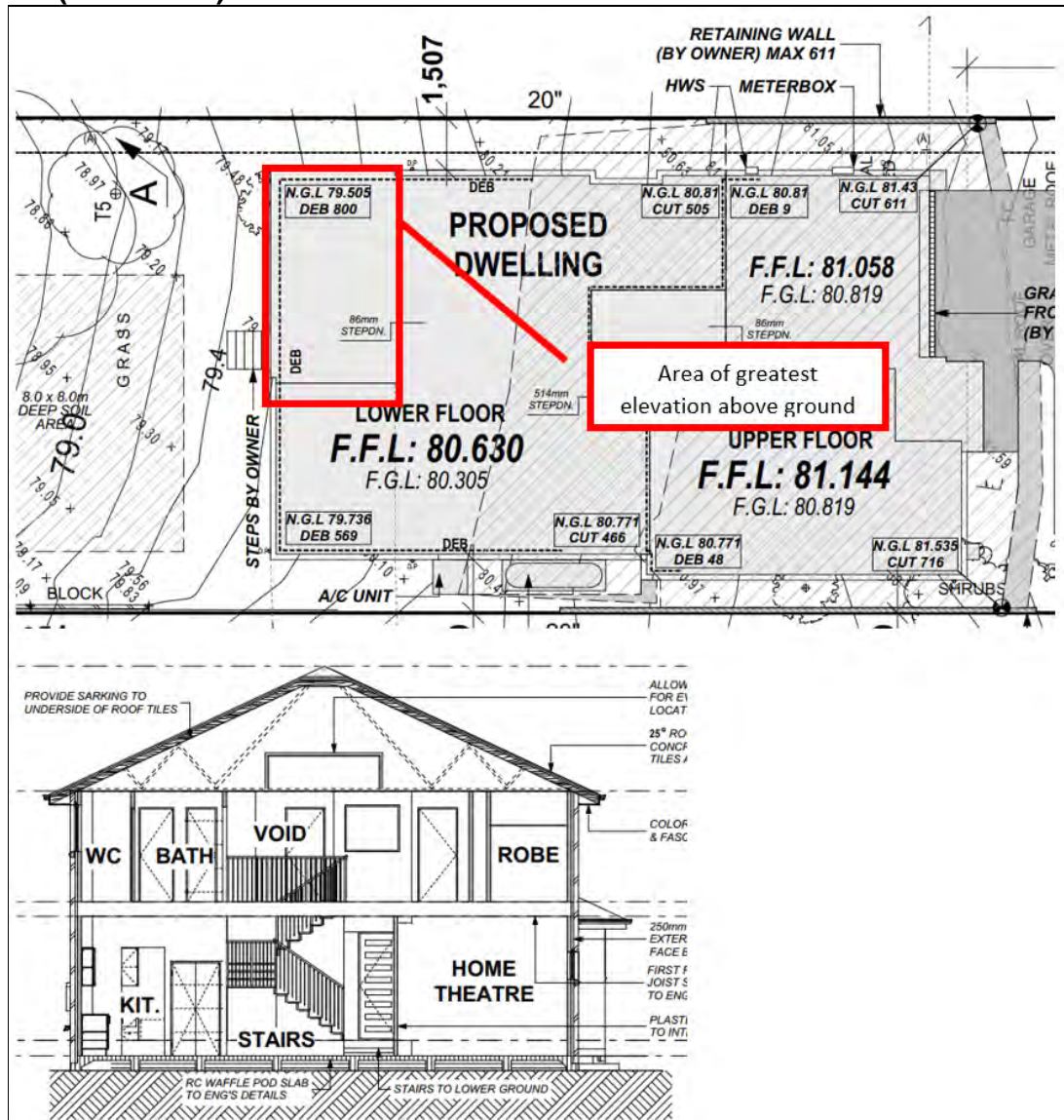


Figure 10 – The north-western corner of the dwelling which is elevated.

Source: Hall & Hart Homes, 2020

Concern has been raised in the submission that the orientation and elevation of the alfresco area would result in adverse visual privacy impacts on the adjoining site to the north east at 40 Wicks Road. It is therefore recommended **Condition 1(a)** which requires provision of a privacy screen along the north eastern elevation of the alfresco area. This would mitigate likely visual privacy concerns and would subsequently satisfy the final objective of the control under Section 2.6.2 of RDGP 2014.

With regard to the above, the elevation of the alfresco area is therefore considered to be satisfactory.

Section 2.9.2 – Side Setback

ITEM 2 (continued)

Control (b) requires 1.5 metre side setbacks for two storey dwellings. The proposed dwelling on Lot 1 is compliant with this requirement. However, the proposed dwelling on Lot 2 is set back 950mm from the south western side boundary (Figure 11) and does not comply. The proposal is considered acceptable for the following reasons:

- The extent of non-compliance along the south western elevation is for a length of 7.38 metres. The remainder of the elevation provides for a 1.504 metre setback and complies.
- The non compliance occurs at ground floor with the first floor complying with the required setback.
- The rear of the dwelling where it is elevated achieves a compliant side setback.
- The elevation contains a single window associated with the ensuite and does not result in any adverse privacy impact upon the adjoining dwelling at 36A Wicks Road.
- The non compliant setback does not result in any unacceptable overshadowing to the adjoining dwelling.

On this basis, the minor variation is acceptable.

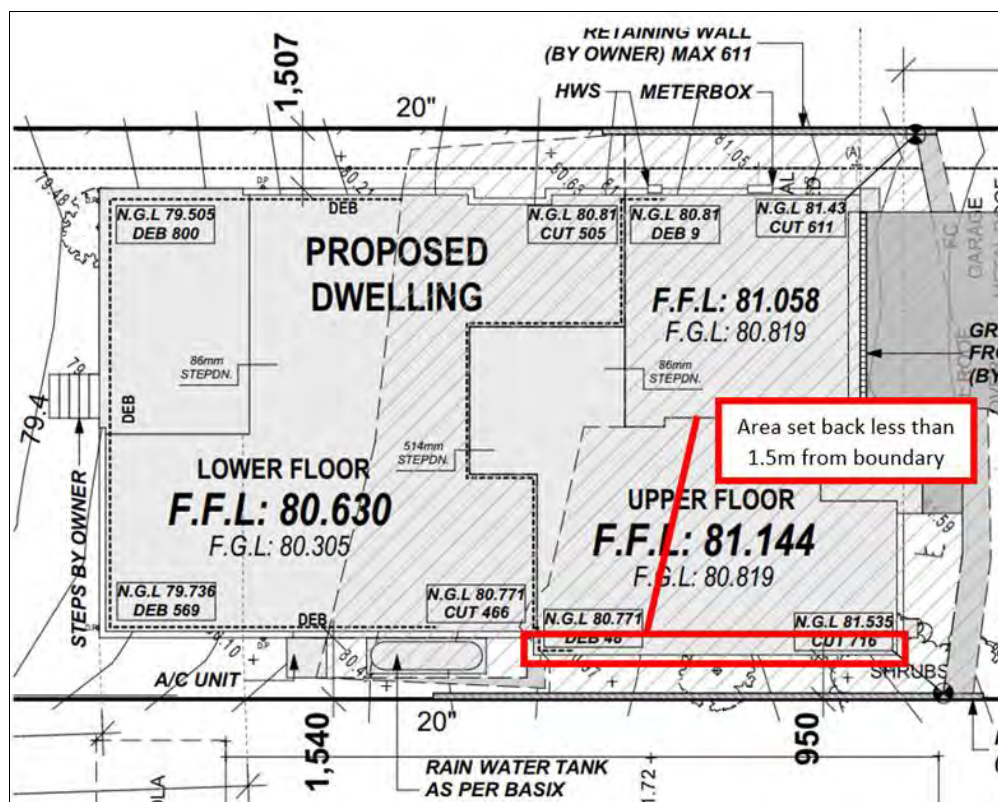


Figure 11 – The proposed side setback of 950mm from south-western side boundary
Source: Hart & Home 2020

Section 2.14.2 - Visual Privacy

ITEM 2 (continued)

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

5.7 Section 7.11 Development Contributions Plan 2020

Council's current Section 7.11 Development Contributions Plan 2020 effective 1 July 2020 requires a contribution for the provision of various additional services required as a result of increased development density. The contribution is based on the number of additional dwellings there are in the development proposal. The contribution that are payable with respect to the increase housing density on the subject site (being for residential development outside the Macquarie Park Area) are as follows:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$6,061.80
Open Space & Recreation Facilities	\$10,438.15
Transport facilities	\$3,204.48
Plan Administration	\$295.57
The total contribution is	\$20,000.00

Condition 25 is recommended requiring the payment of the Section 7.11 fee prior to the issue of the Subdivision Certificate.

5.8 Any matters prescribed by the regulations

Environmental Planning and Assessment Regulation 2000

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and others. Standard conditions are recommended relating to compliance with BCA and AS.

Building Code of Australia Upgrade – Clauses 93 and 94

In accordance with Clause 93 and 94 of the Regulations 2000, the proposal will be required to provide adequate fire safety in accordance with the BCA. This will be included in the recommendations of this report.

6. The likely impacts of the development

ITEM 2 (continued)

The assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment in general due to the nature of the development. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report (see DCP 2014). The proposal seeks variation to the development standard Clause 4.1 relating to minimum allotment size. The proposal has been supported by a satisfactory Clause 4.6 variation and demonstrates the proposal does not result in any adverse impacts despite the variation.

Subject to conditions, the proposal is unlikely to result in any adverse impacts on the streetscape, the character of the local area or surrounding allotments. The development will not result in any significant or adverse visual privacy or overshadowing impacts on adjoining sites, and the visual appearance of the development from the public domain would be consistent with surrounding sites.

Noting the fragmented subdivision pattern of Wicks Road to the southwest of Cox's Road (which includes lots that are smaller than what is permitted by the current RLEP 2014 provisions), approval of the proposed development in this specific instance is unlikely to establish a negative precedent that would be reflected elsewhere. The development is considered satisfactory in terms of environmental impacts.

7. Suitability of the site for the development

The site is within an R2 Low Density Residential zone. The proposal is for the subdivision of an existing allotment and associated residential development and civil works. While the proposal does not meet the minimum lot area and width requirements for Lot 1, it seeks an appropriate intensification of the site that otherwise satisfies relevant planning requirements including landscaped/deep soil area and private open space areas. The submitted cl.4.6 variation is considered to meet the jurisdictional prerequisites to enable the consent authority to support the proposed departure from the development standard. The proposed development is therefore suitable for the site.

8. The Public Interest

The public interest is best serviced by the consistent application of the requirements of the relevant environmental planning instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised.

Although the proposal seeks a variation to a development standard, the submitted cl.4.6 establishes satisfactory environmental planning grounds for the variation, and approval of the variation is consistent with the objectives of the lot area development standard and the R2 zone. Further, the proposal is consistent with other relevant

ITEM 2 (continued)

planning provisions, would not significantly or unreasonably affect surrounding sites, and is consistent with the existing and desired future character of the local area.

The proposal would therefore be in the public interest.

9. Submissions

In accordance with the Ryde Community Participation Plan, owners of surrounding properties were notified from 27 November 2019 until 16 December 2019. In response, one (1) submission was received from the owner of Unit 1, 40 Wicks Road, which objected to the subject Development Application (DA).

- A. *The request to join into our Storm water pipes, Pit and Easement has not been granted by Body Corporate and owner of 1/40 Wicks Rd. The Body Corporate have already advised the LSB Lawyers about this situation. Although when these plans were viewed today at Council the Storm Management Plan was still indicating shared access with no alternate proposal. Therefore, we request to view alternate plan for the storm water management of Lot 1&2 prior to development approval*

Comment: The original assessment of the proposal identified that the stormwater plans depicted drainage via an easement on the adjoining site at 40 Wicks Road, however consent had not been obtained from the owners of that land to do so. Subsequent revisions to the stormwater plans depict that stormwater is proposed to discharge from the OSD systems to an easement to be created within North Ryde Golf Course. Landowner's consent (signed by the course's General Manager) has been obtained by the applicant and submitted with amended plans. Such an arrangement has been reviewed by Council's Development Engineer, who confirmed that this arrangement is satisfactory, subject to recommended conditions.

- B. *The dwelling on Lot 2 in particular the alfresco at the rear of the property is directly looking over and into two Bedrooms and a Bathroom of the adjoining property at 1/40 Wicks Rd. We would request that a fixed privacy screen be installed floor to ceiling on the alfresco area on the northern side of the new property on lot 2.*

Comment: **Condition 1(a)** is recommended which requires the provision of a privacy screen along the north eastern elevation of the alfresco area associated with the dwelling on Lot 2.

- C. *Disturbing impact of lighting*

ITEM 2 (continued)

- *The fixed windows in the kitchen, butler's pantry and laundry door will be overlooking our adjoining property resulting increased interference from light at night and reduced privacy.*
- *We request that these windows and the door have an opaque finish to reduce this impact. The First-Floor plan shows Bathroom, Ensuite and W.C. windows on the northern side of the property that at night would produce an undesirable light source shining directly into the Bedrooms. We request the installation of external Privacy Screens be fitted to these windows to reduce this hazard.*

Comment: The proposed dwelling on Lot 2 within the north eastern elevation contains ground floor openings associated with the laundry, pantry, kitchen and the alfresco is sited in the north-eastern corner of the dwelling. The proposed heights of the sills and tops of the two windows are respectively 900mm and 1.52 metres above the level of the ground floor (RL 80.63). The window's lintel height is below a sight line and does not result in any adverse privacy impact. Given the laundry door's placement with regard to the levels of the site, all but the top 640mm of the door would be screened by a 1.8 metre high boundary fence.

At first floor, the windows are associated with ensuite 1 and the bathroom. These windows are identified as being obscure glazing and do not result in any adverse privacy impact.

The lighting associated with the proposed dwelling would not be uncharacteristic of a low density residential area and does not result in any adverse amenity impact. Given the limited nature of use of internal lighting it is not considered unreasonable.

10. Referrals**INTERNAL REFERRALS****Senior Development Engineer****STAGE 1 – SUBDIVISION****Drainage Easement**

The Applicant has provided Owner's consent from the golf course in regards to the easement. The registration of this easement is to be completed prior to the issue of any development consent, which can be dealt with via a deferred commencement condition.

STAGE 2 – CONSTRUCTION OF SINGLE DWELLINGS

ITEM 2 (continued)

Stormwater Management

Council's Landscape Architect has raised concerns in regards to potential impacts on the existing trees due to the proposed stormwater system line. As a result, the plan is to be amended to comply with the requirements of the condition of consent labelled Amended Stormwater Plan.

Vehicle Access and Parking

The amended architectural plans depict Lot 1 to provide only one off-street parking space. Taking into consideration the site fronts a State Road with no on-street parking and the concern that the building setback provides sufficient space to accommodate a second vehicle, there is a concern this area will be utilised as a secondary space which will result in reversing onto Wicks Road which should be prevented. Council's Planner has advised the arrangement is considered satisfactory as the plans do not depict a secondary space.

The plans include a permeable driveway adjacent to the hardstand area, although it doesn't appear sufficient to enable forward entry and exit within 3 manoeuvres. Swept paths demonstrating compliance were previously requested, although were not provided. As a result, a deferred commencement condition is required to address this matter.

Recommendation

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

Planner's Comment: Part 9.2 of RDCP 2014 requires up to two parking spaces for a dwelling house; the provision of only one space for Lot 1 is therefore compliant. Pursuant to s.4.15(3A) of the *Environmental Planning and Assessment Act 1979*, if a development complies with the provisions of a development control plan, then the consent authority is not to require more onerous standards with respect to that aspect of the development.

Furthermore, Part 3.3 of RDCP 2014 requires a 6 metre front setback and an additional 1m setback to garages, and there is therefore no opportunity to reduce the length of the driveway.

However, it is agreed that the deferred commencement condition relating to vehicular manoeuvring and the provision of a swept path analysis is required. This will help ensure vehicles from Lot 1 can enter and exit onto Wicks Road (classified road) in a forward direction.

Landscape Architect

ITEM 2 (continued)

As part of the assessment of the subject DA, the proposal along with the subsequent amended plans and arborist reports, has been referred to Council's Landscape Architect for comment. In their latest referral response dated 12 July 2020, support for the proposed development subject to consent conditions has been provided.

Condition 27 requires the submission of an amended stormwater plans prior to the issue to construction certificate in order to better protect to ensure the retention of significant trees (Trees 6, 8 & 9 Swamp Oak, Coastal Myall and Yellow Box) located on the adjoining property at the North Ryde Golf Course, that would be impacted upon by the applicant's proposed stormwater drainage lines. The proposed condition has been reviewed by Council's Development Engineer and is supported.

The proposal also includes the removal of Tree 2 (Gordonia) which is sited within the building footprint of Lot 2. The submitted landscape plan additionally shows the removal of Tree 3 and 4 (Chinese Weeping Cypress and Ash Tree) (**Figure 13**). The proposed removal is necessary to accommodate the proposed underbore stormwater pipe to the North Ryde Golf Course. Compensatory tree planting or two local Australian native trees with a minimum pot size of 45 litres has been recommended by way of consent conditions.

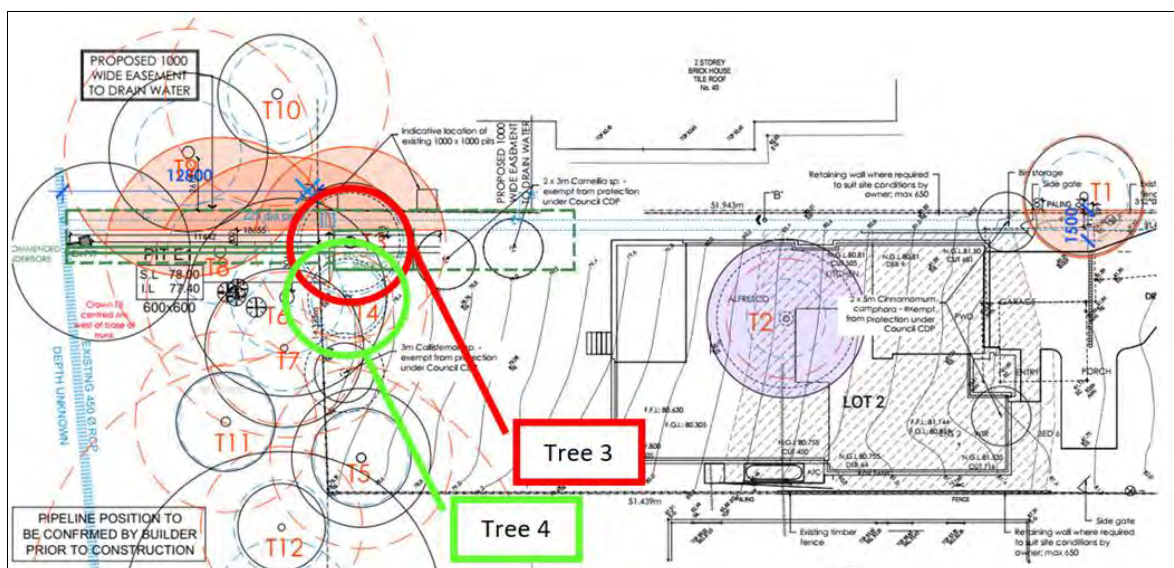


Figure 13 Tree 3 and 4 proposed for removal Source: Hart & Home 2020

11. Conclusion

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is suitable for the site and is not contrary to the public interest. Therefore, it is recommended that the application be approved for the following reasons:

ITEM 2 (continued)

- The proposed subdivision is consistent with the objectives of the relevant provisions of the RLEP 2014 and RDCP 2014, with minimal environmental impacts.
- The proposal has been supported by a satisfactory Clause 4.6 written variation request which demonstrates that compliance with the Clause 4.1 minimum subdivision lot size development standard is unreasonable or unnecessary in the circumstances of this specific proposal. The Clause 4.6 written variation request also demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard.
- Issues raised in the submission received in response to this application have been considered and addressed in the report. None of the issues raised warrant the refusal of the subject DA.
- The proposed subdivision and associated development are consistent with the approved development of the local area and will have minimal impact to adjoining properties.
- The site is suitable for the proposed development, which is also in the public interest.

12. Recommendation

That the Ryde Local Planning Panel, as the consent authority, grant deferred commencement consent to LDA2019/411 for the Torrens Title subdivision to create two lots and construction of a dwelling house on each resulting lot, civil works and associated landscaping works on land known as 38 Wicks Road, North Ryde subject to the recommended conditions in **Attachment 2**.

ATTACHMENTS

- 1 Compliance Table
- 2 Draft Deferred Commencement Conditions of Consent
- 3 Clause 4.6 - Minimum Allotment Size
- 4 A3 Plans - subject to copyright provisions

ITEM 2 (continued)

Report Prepared By:

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ITEM 2 (continued)

ATTACHMENT 1

Compliance Check - Quality Certification

Assessment of a two lot subdivision and construction of 2 x single dwellings and ancillary development.

LDA No: LDA2019/411	Date Plans: 18.06.2020 and
Address: 38 Wicks Road, North Ryde	
Proposal: Torrens title subdivision to create two lots and construction of a dwelling house on each resulting lot.	
Constraints Identified: Urban bushland	

COMPLIANCE CHECK

Clause	Proposal	Compliance
2.6 – Subdivision requires consent		
Subdivision requires consent	The proposal seeks development consent for subdivision.	Yes
4.1 Minimum subdivision lot sizes		
Minimum required lot size: 580m ²	Proposed Lot 1 would have a site area of 450.4m ² , which constitutes a 129.6m ² , or a 22.3% variation to the development standard.	No, 4.6 variation request submitted
4.1C Minimum lot size for battle-axe lots		
(3) Despite clause 4.1, the minimum lot size for a battle-axe lot that is land to which this clause applies is 740 square metres.	Proposed lot area for Lot 2: 740m ²	Yes
(4) If a lot is a battle-axe lot or other lot with an access handle and is land to which this clause applies, the area of the access handle is not to be included in calculating the lot size.	118.7m ² access handle and has been excluded from site areas of proposed allotments.	Yes
4.3(2) Height of Buildings		
9.5m	Proposed building heights: <ul style="list-style-type: none"> Lot 1: 8.11 metres Lot 2: 8.83 metres Note: Heights calculated from roof ridge to lowest ground	Yes

ITEM 2 (continued)

ATTACHMENT 1

Clause	Proposal	Compliance
	RLs beneath.	
4.4(2) Floor Space Ratio		
0.5:1	<p>Proposed GFA:</p> <ul style="list-style-type: none"> Lot 1: 202.2m² Lot 2: 305.4m² <p>Proposed FSR:</p> <ul style="list-style-type: none"> Lot 1: 0.449:1 Lot 2: 0.360:1 Site: 0.388:1 <p>Notes:</p> <ul style="list-style-type: none"> Lot 2 calculations include the access handle. FSR calculations rounded to three decimal places. 	Yes
4.6 Exceptions to development standards		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</p> <p>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p>	Variation sought to Clause 4.1.	Yes
5.10 Heritage Conservation		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views,</p> <p>(c) To conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance</p>	The site does not contain a heritage item and is not within an HCA. The nearest two heritage items are at 16 Wicks Road (Item 172; single dwelling located approximately 180m to the south-west) and 60 and 62 Wicks Road (Item 173; a pair of semi-detached dwellings located approximately 190m to the north-east). The site is unlikely to contain items of indigenous heritage given its developed state, however the potential discovery of such items during works can be	Yes

ITEM 2 (continued)

ATTACHMENT 1

Clause	Proposal	Compliance
	addressed via conditions.	
6.2 Earthworks		
(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	Proposed earthworks are not significant or of a scale that would likely affect future redevelopment potential of the site nor would it have any foreseeable adverse impacts if addressed by conditions of consent. No objection has been raised by Council's Development Engineer. The source of any fill and/or the destination of any excavated materials would be addressed by conditions of consent.	Yes
6.4 Stormwater Management		
(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.	The plans depict sufficient permeable surfaces, OSD and discharge from the site via an easement that is to be created over the adjoining golf course (with Lot 2 also burdened by an easement to drain water from Lot 1). Council's Development Engineer is satisfied with the proposed drainage arrangement.	Yes

DCP 2014	Proposed	Compliance
Part 3.3 - Dwelling Houses and Dual Occupancy (attached)		
Section 1.0 Introduction		
Part 1.6 Site Analysis		
Site analysis to be submitted.	Drawing prepared by Hart & Home	Yes
Section 2.0 General Controls		
2.1 Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is consistent with the desired future character of low-density residential areas within the surrounding locality. The typology and design of the proposed dwellings are consistent with development on surrounding allotments (particularly 36 and 36A Wicks Road). Refer to assessments below and the assessment	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
	report for further information.	
2.2 Dwelling Houses		
(a) Landscape setting which includes significant deep soil areas at the front and rear (b) Maximum two storeys high (c) Dwellings address the street (d) Boundary between public and private space is clearly articulated (e) Garages and carports are not to be visually prominent features (f) Dwellings are to respond appropriately to the site analysis	<p>Front and rear setbacks are to contain predominantly landscaped areas with significant deep soil areas</p> <p>Both dwellings two storeys in scale.</p> <p>Lot 1 presents to the streetscape.</p> <p>The garage on Lot 1 would be a single vehicle garage; this feature would be located behind the front building line and its width would be limited to less than 40% of the total frontage of the dwelling. The Lot 2 garage would only be partly visible from Wicks Road along the access handle, and would not be a visually prominent structure from the public domain.</p>	Yes
2.4 Subdivision		
Minimum lot sizes apply under RLEP Clause 4.1A	<p>Lot 1:</p> <ul style="list-style-type: none"> Proposed lot area: 450.4m² 11.3m road frontage 11.3m maximum lot width <p>Refer to the planning assessment for a discussion of these variations.</p> <p>Lot 2:</p> <ul style="list-style-type: none"> Proposed lot area: 740m² 3m road frontage 3m wide access corridor 	No
2.5 Public Domain Amenity		
2.5.1 Streetscape		
(a) Site design, building setbacks and level changes respect the existing topography (b) Front gardens to complement	<p>Lot 1 presents to Wicks Road.</p> <p>Single storey access porch for</p>	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>and enhance streetscape character</p> <p>(c) Dwelling design is to enhance the safety and amenity of the streetscape</p> <p>(d) Carports and garages visible from the public street are to:</p> <p>(i) Be compatible with the building design</p> <p>(ii) Be setback behind the dwelling's front elevation</p> <p>(e) Driveways and hard stand areas are to be minimised .</p> <p>(f) Dwellings, garages and carports are to be orientated to match the prevailing orientation of such buildings in the streetscape</p> <p>(g) Facades from the public domain are to be well designed.</p>	<p>dwg on Lot 1</p> <p>The primary facades of both dwellings would be articulated.</p>	
2.5.2 Public Views and Vistas		
<p>(a) 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. Fence 70% open where height is >900mm.</p> <p>(b) Garages/carports and outbuildings are not to be located within view corridor if they obstruct view.</p>	<p>No significant views are obtainable from the subject site or adjoining sites.</p>	<p>Yes</p>
2.5.2 Pedestrian & Vehicle Safety		
<p>(a) Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard.</p> <p>(b) Fencing that blocks sight lines is to be splayed.</p> <p>(c) Refer to relevant AS when designed driveways</p>	<p>The garages are setback sufficiently to enable appropriate sight lines. Fencing does not block sight lines.</p>	<p>Yes</p>
2.6 Site Configuration		
2.6.1 Deep Soil Areas		
<p>(a) 35% of site area min.</p> <p>(b) Deep soil area must include:</p> <p>(i) Min 8x8m deep soil area in backyard.</p> <p>(ii) Front garden area to be completely permeable (exception driveway, pedestrian path and garden walls).</p> <p>(c) Dual occupancies need only one 8m x 8m in back yard</p>	<p>Proposed deep soil areas:</p> <ul style="list-style-type: none"> Lot 1: 164.6m², or 36.1% Lot 2: 284.9m², or 38.55% <p>Note: Above calculations exclude areas occupied by onsite stormwater infrastructure and the pervious vehicular</p>	<p>Yes</p>

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>(d) Deep soil areas to have soft landscaping</p> <p>(e) Deep soil areas to be 100% permeable. Not covered by structures, paving or the like, or have below surface structures such as stormwater detention elements.</p>	<p>manoeuvring area within the front setback of Lot 1.</p> <p>8m x 8m deep soil area provided for each allotment.</p> <p>The front setback area of both allotments would contain landscaped areas except for where vehicular and pedestrian access and vehicular manoeuvring is proposed.</p>	
2.6.2 Topography & Excavation		
<p>(a) Building form and siting relates to the original topography of the land and of the streetscape.</p> <p>(b) The area under the building footprint may be excavated or filled so long as:</p> <p>(i) the topography of the site requires cut and/or fill in order to reasonably accommodate a dwelling</p> <p>(ii) the depth of excavation is limited to 1.2m maximum</p> <p>(iii) the maximum height of fill is 900mm</p> <p>(c) Areas outside the dwelling footprint may be excavation and/or filled so long as:</p> <p>(i) the maximum height of retaining walls is not >900mm</p> <p>(ii) the depth of excavation is not >900mm</p> <p>(iii) the height of fill is not >500mm</p> <p>(iv) the excavation and filled areas do not have an adverse impact on the privacy of neighbours</p> <p>(v) the filled areas do not have an adverse impact on the privacy of neighbours</p> <p>(vi) the area between the adjacent side wall of the house and the side boundary is not filled</p> <p>(vii) the filled areas are not adjacent to side or rear boundaries</p> <p>(d) Fill is not allowed in areas of overland flow. Refer to Part 8.2 stormwater management</p> <p>(e) Generally the existing topography is to be retained.</p>	<p>Max cut: Lot 1: Approx. 220mm (southeast corner of dwelling) Lot 2: Approx. 709mm (centre of front building line)</p> <p>Max fill (no fill, but partly elevated): Lot 1: Approx. 545mm (northwest corner of dwelling) Lot 2: Approx. 1,140mm (northeast corner of dwelling)</p> <p>Max cut: Lot 1: Approx. 190mm (adjacent to southwest corner of the dwelling) Lot 2: Approx. 800mm (adjacent to southwest corner of the dwelling)</p> <p>Max fill: Lot 1: None Lot 2: Approx. 100m (within the southwest side setback)</p> <p>No fill proposed.</p> <p>Site is not affected by overland flow.</p>	<p>Yes</p>

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
	Maximum retaining wall height of 800mm	
2.7 Floor Space Ratio (FSR)		
(a) FSR is 0.5:1 in accordance Clause 4.4 (b) A floor area of 36m ² maybe excluded when this area accommodates 2 car space. An area of 18m ² may be excluded when the area accommodates 1 parking space.	<ul style="list-style-type: none"> Lot 1: 0.449:1 Lot 2: 0.360:1 	Yes
2.8 Height		
2.8.1 Building height		
(a) Building heights are to be as follows: - Maximum height of 9.5 metres for dwellings and dual occupancy. - Outbuildings including garages and carports maximum height 4.5 metres.	Maximum two storeys <ul style="list-style-type: none"> Lot 1: 8.11 metres Lot 2: 8.83 metres 	Yes
<u>Maximum wall plate</u> - 7.5m max above FGL or - 8m max to top of parapet <i>NB:</i> <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> - <i>FGL = Finished Ground Level</i>	Maximum wall plate heights: - Lot 1: 5.66m (northeast elevation) - Lot 2: 6.31m (northeast elevation)	Yes
<u>Maximum number of storeys:</u> - 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL). - 1 storey maximum above attached garage incl semi-basement or at-grade garages	Maximum two storeys.	Yes
2.8.2 Ceiling Height		
(a) Habitable rooms to have 2.4m floor to ceiling height (min).	2.45m minimum room height.	Yes
2.9 Setbacks		
2.9.1 Front setbacks		
(a) Dwellings are generally to be set back 6m from street front boundary (b) On corner sites, the setback secondary frontage minimum 2m (c) Garages and carports,	Minimum front setbacks: - Lot 1: o To porch: 8m o To building line: Min. 8.6m	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>including semi-basement garages and attached garages, set back min 1m from façade</p> <p>(d) The front setback free of structures. The exception is car parking structures which comply with 2.11.</p> <p>(e) Attached garages, including semi-basement garages on secondary frontages not to protrude forward of the façade. The exception is garages located on battle axe allotments. These garages do not need to be setback.</p> <p>(f) The outside face of wall built above a garage aligns with the outside face of the garage wall below.</p>	<p>Minimum garage setbacks:</p> <ul style="list-style-type: none"> – Lot 1: <ul style="list-style-type: none"> ○ Setback: 9.757m ○ 1.757m behind front building line – Lot 2: <ul style="list-style-type: none"> ○ Setback: 18.06m ○ 1.08m behind front building line <p>The walls of the levels above garages on both lots will align with respective garages below</p>	
2.9.2 Side Setbacks		
<p>(a) One storey dwellings setback 900mm</p> <p>(b) Two storey dwellings setback 1.5m</p> <p>(c) The second storey addition to a single storey dwelling are to be set back 1.5m</p> <p>(d) Allotments wider than they are long, one side setback a min of 20% of the width of the lot or 8m, whichever is greater.</p>	<p>Minimum side setbacks:</p> <ul style="list-style-type: none"> – Lot 1: <ul style="list-style-type: none"> ○ Northeast: Min. 1.552m (to proposed internal boundary; 4.552m to existing boundary) ○ Southwest: Min. 1.55m – Lot 2: <ul style="list-style-type: none"> ○ Northeast: Min. 1.507m ○ Southwest: <ul style="list-style-type: none"> ● Ground Floor: 950mm ● First floor: 1.54m 	No
2.9.3 Rear Setbacks		
<p>(a) The rear setback min 25% of the site length or 8m, whichever is greater.</p> <p>(b) Allotments wider than they are long, min setback of 4m</p> <p>(c) Dwelling on battle axe allotment are to be setback the rear boundary of the front lot min of 8m. Single storey garage or outbuilding can be within setback.</p>	<ul style="list-style-type: none"> – Lot 1: <ul style="list-style-type: none"> ○ Proposed length of site: Max. 40m – 25% site length requirement applies. ○ Required rear setback: 10m ○ Proposed rear setback: Min. 12.5m – Lot 2: <ul style="list-style-type: none"> ○ Proposed length of site: Max. 51.4m – 25% site length requirement applies. ○ Required rear setback: 12.85m ○ Proposed rear setback: Min. 14.34m (to building line) 	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
	<p>Front setback:</p> <ul style="list-style-type: none"> – Lot 2: <ul style="list-style-type: none"> ○ To porch: 16.5m ○ To building line: Min. 16.98m – Sufficient space within the front setback area to enable manoeuvring of a vehicle. 	
2.11 Car Parking and Access		
2.11.1 Car Parking		
<p>(a) Dwellings 2 spaces. Dual occ 1 space/dwg</p> <p>(b) Spaces can be enclosed or roofed.</p> <p>(c) Garages setback 1m behind front elevation.</p> <p>(d) Located forward of existing dwelling if:</p> <p>(i) there is no other suitable position</p> <p>(ii) no vehicular access to the rear of side of the site</p> <p>(iii) it is preferred that it is single car width.</p> <p>(e) Garages doors solid. No expanded mesh doors.</p> <p>(f) Preference located off laneways, secondary street frontages.</p> <p>(g) Driveway widths minimised. Driveways single car width except where needed to be widen to double garage access.</p> <p>(h) Driveways not roofed.</p> <p>(i) Min width 6m or 50% of the frontage whichever is less</p> <p>(j) Total width garage doors not be >5.7m</p> <p>(k) Driveways for battle axe enable vehicles to enter and leave in forward direction</p> <p>(l) Garage doors not be recessed more than 300mm</p> <p>(m) Garage windows >900mm from boundaries</p> <p>(n) Free standing garages max GFA 36m²</p> <p>(o) Design and materials to complement dwelling</p> <p>(p) Setback at least 1m from</p>	<p>Car parking spaces:</p> <ul style="list-style-type: none"> – Lot 1: One enclosed space – Lot 2: Two enclosed spaces <p>– Lot 1:</p> <ul style="list-style-type: none"> ○ Width of frontage: 8.23m ○ External width of garage: 3.26m, or 39.6% of the frontage. <p>– Lot 2:</p> <ul style="list-style-type: none"> ○ External width of frontage: 11.9m ○ Width of garage: 5.54m, or 46.9% <p>Garages are located behind building lines; refer to setback assessments above.</p> <p>Minimum garage setbacks:</p> <ul style="list-style-type: none"> – Lot 1: <ul style="list-style-type: none"> ○ Setback: 9.757m ○ 1.757m behind front building line – Lot 2: <ul style="list-style-type: none"> ○ Setback: 18.06m ○ 1.08m behind front building line <p>Garage door widths:</p> <ul style="list-style-type: none"> – Lot 1: 2.4m – Lot 2: 4.8m <p>Both garage doors are aligned with the front building line of the levels above.</p> <p>No garage windows proposed.</p>	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>façade</p> <p>(q) Carports not enclosed.</p>	<p>Garages integrated into both dwellings.</p> <p>Contrasting colours consistent with both dwellings proposed.</p> <p>Lot 2 – 5.49m Lot 1 – 3.3m</p> <p>Lot 1 – 5.5m Lot 5.7m</p> <p>Both driveways are sufficiently minimised.</p> <p>The design of both driveways would enable forward vehicular entry/exit to the site, although development engineer has raised concern with a potential space for Lot 1 – refer to discussion within report.</p>	
2.13 Landscaping		
<p>(a) Major trees to be retained where practical</p> <p>(b) Lots adjoining bushland, protect and retain indigenous native vegetation and use native indigenous plant spaces for a distance of 10m</p> <p>(c) Provide useful outdoor spaces</p> <p>(d) Physical connection between dwelling and external ground level</p> <p>(e) Provide landscape front garden. Hard paved areas no more than 40%.</p> <p>(f) Pathway along one side boundary connecting front to rear. Not to be blocked by ancillary structures. Not required where there is rear lane access or corner allotment.</p> <p>(g) Landscape elements in front garden to be compatible with scale of dwelling.</p> <p>(h) Front garden at least 1 canopy tree at least 10m in height</p>	<p>Primary-use POS areas (i.e. alfresco areas) would adjoin internal living areas. Connection from the elevated alfresco areas to the remainder of each POS area will be made via stairs.</p> <p>Unobstructed paths of travel would be located on at least one side of each dwelling.</p> <p>At least one significant tree is proposed within each front setback. Both trees would have mature heights of at least 10 metres.</p> <p>The landscape plans for Lot 1 show one significant trees within the rear setback with a mature height of at least 15 metres. The arboricultural report recommends planting of at least one large tree within the rear</p>	<p>Yes</p>

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>(i) Mature tree at least 15m in rear garden with the DSA.</p> <p>(j) Locate and design landscaping to increase privacy between dwellings.</p> <p>(k) Hedge planting on boundary no greater than 2.7m</p> <p>(l) Retaining walls and other landscape elements not to obstruct stormwater overland flow.</p> <p>(m) OSD not to be located within front setback unless it is underneath driveway</p> <p>(n) Landscaping to include POS</p> <p>(o) Designed to improve energy efficient of building and micro climate of external living areas.</p>	<p>setback to offset removal, noting that there are numerous large trees within the rear setback.</p> <p>Landscape plans indicate that hedging plants would have a mature height of approximately 2m.</p> <p>OSD is not located within the front setback of either lot.</p> <p>Lot 1:</p> <ul style="list-style-type: none"> ○ Front setback area: 96.5m² ○ Paved area: 38.49m² ○ Coverage: 39.9% <p>Lot 2:</p> <ul style="list-style-type: none"> ○ Front setback area: 241m² ○ Paved area: 90m² ○ Coverage: 37.3% 	
2.14 Dwelling Amenity		
2.14.1 Daylight and Sunlight Access		
<p>(a) Living areas are to be predominantly located to the north where possible</p> <p>(b) Sites with northern side boundary to have increased setback of 4 metres is preferred.</p> <p><u>Subject Dwelling</u></p> <p>(c) Windows to north facing living areas of subject dwellings are to receive at least 3 hours of sunlight between 9am to 3pm on June 21.</p> <p>(d) Private open space is to receive at least 2 hours sunlight between 9am to 3pm on June 21.</p> <p><u>Neighbouring properties:</u></p> <p>(e) For neighbouring properties:</p> <p>(i) sunlight to 50% of principal areas of ground level POS is not reduced to less than 2 hours between 9am to 3pm on 21 June</p> <p>(ii) windows to north facing living</p>	<p>With the exception of the Lot 1 lounge room, the internal living areas of both dwellings would be oriented towards the rear (i.e. northern) and northeast side boundaries.</p> <p>Open plan living areas on the ground floor of each dwelling have windows directed toward the north that would be capable of obtaining at least 3 hours of direct solar access on June 21.</p> <p>The private open space areas of both allotments would be capable of receiving at least 2 hours solar access on June 21</p> <p><u>Lot 1:</u></p> <p>Due to the orientation of the site, the dwelling would notably overshadow the northeast elevation of the adjoining dwelling at 2/36 Wicks Road.</p>	<p>Yes</p>

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>areas to receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of surface, where can be reasonably maintained given orientation and topography.</p>	<p>Such overshadowing would not affect the rear-facing internal living areas of this dwelling, and the private open space would be entirely unaffected at 12:00pm on June 21. Compliance would be maintained.</p> <p><u>Lot 2:</u> Due to the orientation of the site, the dwelling would notably overshadow the northeast facade of the adjoining dwelling at 2/36 Wicks road. Such overshadowing would not adversely affect the rear-facing internal living areas of this dwelling, and at least 3 hours of direct solar access would be obtainable to a large window at the rear of the ground floor on this northeast facade. The proposed dwelling would not affect the private open space of this adjoining property on June 21, with only very minor overshadowing associated with a water tank within the rear setback.</p> <p>The proposal would permit at least 3 hours of sunlight into the northwest-facing living area windows of the dwellings at 2/36 and 36A Wicks Road on June 21</p>	
2.14.2 Visual Privacy		
<p>(a) Orientate the windows of main living spaces (living room, dining, kitchen, family etc) to the front and rear</p> <p>(b) Orientate terraces, balconies and outdoor living areas to front or rear and not side boundary</p> <p>(c) Terraces and balconies are not to overlook neighbour's living areas and POS</p> <p>(d) Living and kitchen windows, terraces and balconies are not to allow direct view into neighbouring dwelling or POS</p>	<p><u>Lot 1:</u> The level 2 rumpus room within the dwelling on Lot 1 would address the northeast side elevation, however it features a window sill raised 1.6m above the floor level to maximise visual privacy. Two family room windows on the northeast elevation of the ground floor, however due to the adjoining access handle to Lot 2 these windows would be sufficiently set back to minimise adverse</p>	<p>Yes</p>

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>(e) Side windows are to be offset by sufficient distance to avoid visual connection between dwellings.</p> <p>(f) Splayed walls with windows are not to be located above ground level where the windows provide views into adjoining property.</p>	<p>privacy impacts.</p> <p><u>Lot 2:</u> The windows of living areas are predominantly oriented towards the front and rear of both dwellings. The level 2 rumpus room within the dwelling on Lot 1 would address the northeast side elevation, however it features a window sill raised 1.6m above the floor level to maximise visual privacy.</p> <p>The placement of side-facing windows is generally considered to be satisfactory; while concern is raised by a neighbour regarding the heights of the kitchen and pantry windows, these are set close enough to natural ground level that views from these windows are likely to be obscured by a 1.8 metre boundary fence. There is however concern about views from the northeast side of the Lot 2 alfresco area and adjoining internal living areas</p> <p>As such, a condition is recommended that would require a privacy screen at least 1.6 metres high when measured from the FFL of the alfresco area to preserve the privacy of dwellings at 40 Wicks Road.</p> <p>Side windows would be mostly offset from those on adjoining sites to avoid visual privacy impacts. Concern is however raised regarding the placement and design of the southwest-facing stairway window on Lot 1. This window is for a high-use area and may enable views between this area and first-floor bedroom windows within 36 Wicks Road. A condition is</p>	

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
	<p>therefore recommended that would require views from the window to be obscured (either by frosting of the glass and/or privacy screening).</p> <p>Elevated ground floor alfresco area Lot 2 may create over looking into 40 Wicks Road; condition 1(a) recommended requiring a privacy screen.</p>	
2.14.3 Acoustic Privacy		
<p>(a) Noise of mechanical equipment not exceed 5dB(A) above background noise measured in or on any premises in vicinity of the item.</p> <p>(b) Dwellings on arterial roads double glazed windows fronting road.</p> <p>(c) Dwellings on arterial roads acoustic seal on the front door.</p> <p>(d) Dual occupancies are to be designed to reduce noise transmission between dwellings.</p>	<p>Proposal is not considered to generate any additional noise than what would be expected in a low density residential area.</p>	Yes
2.14.4 View Sharing		
<p>(a) The siting of development is to provide for view sharing.</p>	<p>No significant views are obtainable from the subject site or surrounding sites.</p>	Yes
2.14.5 Cross Ventilation		
<p>(a) Designed to optimise access to prevailing breezes and provide for cross ventilation.</p>	<p>Windows proposed within each elevation</p>	Yes
2.15 External Building Elements		
2.15.1 Roofs		
<p>(a) Relate roof design to the desired built form by:</p> <p>(i) articulating the roof</p> <p>(ii) roof is consistent with the architectural character of dwelling</p> <p>(iii) eaves minimum 450mm overhang on pitched roofs</p> <p>(iv) compatible roof form, slope, material and colour to adjacent buildings</p> <p>(v) roof height is in proportion to the wall height of the building</p> <p>(b) The main roof not trafficable terrace.</p>	<p>Min 450mm eaves proposed</p> <p>No traffic roofs or skylights proposed</p>	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
<p>(c) Proposed attic contained within the volume of the roof space.</p> <p>(d) Skylights to be minimised on roof planes visible from the public domain. Skylights are to be symmetrical.</p> <p>(e) The front roof plane is not to contain both dormer and skylight. Dormers are preferred.</p> <p>(f) Balconies and terraces are not to be set into roofs.</p> <p>(g) Scale of the roof is to be in proportion with the scale of the wall below.</p> <p>(h) Attics may be located in the garage roofs if the garage is located next to the dwelling. Garages located within front or rear setbacks are not to have attics.</p>		
2.16 Fences		
2.16.1 Front and return Fences and Walls		
<p>(a) Reflect the design of the dwelling</p> <p>(b) Materials compatible with the house and other fences in streetscape</p> <p>(c) Solid fence or wall max 900mm. Open light weight fence (timber picket) 1m.</p> <p>(d) Return fence is to be no higher than front fence</p> <p>(e) Fences max 1.8m if 50% open with solid base max 900mm</p> <p>(f) Fences arterial road solid and 1.8m max</p> <p>(g) No Colorbond or timber paling.</p> <p>(h) Retaining walls max 900mm</p> <p>(i) Overland flow - fencing open not impede flow of water</p> <p>(j) Fence piers max 350mm.</p>	<p>No front fences are proposed; a masonry letter box is however proposed with colours to match the Lot 1 dwelling.</p>	<p>Yes</p>
2.16.2 Side and Rear Fences and Walls		
<p>(a) 1.8m Max side and rear fence</p> <p>(b) Overland flow - fencing to be open not impede flow of water</p> <p>(c) No Barbed wire, broken glass or other dangerous elements.</p> <p>(d) Fencing forward of the foreshore building line open and permeable.</p>	<p>Existing side boundary fences are to be retained. 1.8m high lapped and capped side and rear boundary fences are proposed on boundaries where no side/rear fences are currently erected.</p>	<p>Yes</p>

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
Part 7: Environment		
7.1: Energy Smart, Water Wise		
3.0 The information Guide		
3.2 Required information		
(a) Energy efficiency performance report (b) Site analysis	Refer to BASIX Certificates 964743S_06 (Lot 1) and 964785S_07 (Lot 2) Plans consistent with Certificate	Yes
Part 7.2 Waste Minimisation and Management		
2.3 All developments		
(a) Developments must provide space for onsite waste containers (b) Compliant size of storage areas and number of storage containers. (c) Space to be provided for bulk waste where appropriate. (d) Storage of green waste provided (e) Stored within the boundaries of the site. (f) Site Waste Minimisation and Management Plan (SWMMP) to be submitted. (g) Located to provide easy, direct and convenient access. (h) No incineration devices. (i) Collection point identified on plan. (j) Path for wheeling bin collection not less than 14:	Storage areas provided within each allotment	Yes
2.4 Demolition and Construction		
(a) Demolition must comply with AS and WorkCover (b) Demolition work plan submitted (c) Dedicated area on site for stockpile of materials taking into account environmental factors and amenity impacts. (d) Construction materials to be stored away from the waste materials on site.	Conditions recommended. Plan shows dedicated area for stockpile of waste.	Yes
2.5 Residential Developments comprising 1 or 2 Dwellings		
(a) Space inside each dwelling for receptacles for garbage, recycling. (b) Space provided outside the dwellings to store the required garbage, recycling and green waste	Sufficient spaces provided within each allotment	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
bins. Screened from street. Easy access to wheel the bins to the kerbside.		
Part 8: Engineering		
8.1 Construction Activities		
2.1.2 Erosion and Sediment Control Plan		
Erosion and sediment control plan to be submitted.	Erosion and sediment control plan provided	Yes
Part 8.2 Stormwater and Floodplain Management		
2.0 Stormwater Drainage		
(a) Drainage is to be piped in accordance with Section 2.0 Stormwater Drainage Application has been consideration satisfactory by Development Engineering and City Works.	Council's Development Engineer is satisfied that – subject to conditions – the proposed drainage arrangements will be in accordance with Part 8.2 of the DCP.	Yes
Part 8.3 Driveways		
3.0 Existing footway crossings		
3.1(a) Existing footway crossings may only be used when they provide access of max of 2 dwgs, correct location and level and adequate width. In good condition and is not a bridge or piped crossing.		Yes
3.2(a) disused footway crossing slabs that become redundant are to be removed and footway restored.	Condition recommended regarding reinstatement of redundant crossing.	Yes
4.0 Designing internal access roads and parking spaces		
4.1 (a) the design of all parking spaces, circulation roads and manoeuvring areas on the property must confirm to the minimum requirements of AS2890.1-2004.		Yes
4.2 Design of Parking Spaces		
(b) Vehicles (85 th percentile) to enter and leave designated parking space in a single 3 point turn manoeuvre. A 99 th percentile vehicle for disabled vehicles. (c) Enter and leave in a forward direction. Waived where the garage is located at the front of a dwelling and insufficient space within front setback to provide a turning area.	Subject to deferred commencement condition	Yes
S2.0 Design Standards		
S2.2 Vehicular crossing widths		

ITEM 2 (continued)

ATTACHMENT 1

DCP 2014	Proposed	Compliance
(a) Min 3.0m and max of 5.0m. (b) Max width of 6m to facilitate accessing two adjacent garages if the distance between the space and the street frontage is less than 5.0m	3.0m	Yes
Part 9.2 Access for People with Disabilities		
4.1.2 Class 1 Buildings		
Accessible path required from the street to the front door, where the level of land permits.	Accessible paths of travel are proposed to the front of both dwellings.	Yes
Part 9.3 Parking Controls		
2.2 Residential Lane Uses		
- Dwelling houses up to 2 spaces/dwelling - Dual occupancy 1 space/dwelling	Lot 1 – 1 space Lot 2 – 2 spaces	Yes

ITEM 2 (continued)

ATTACHMENT 2

PART 1 - The following are the Deferred Commencement condition(s) imposed pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979.

(A) Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent is granted to LDA2019/411 subject to the following conditions:

1.Drainage Easement. Prior to the commencement of any works, an easement to drain stormwater from the development must be acquired over downstream property (Golf Course). The easement is to be located generally as shown on the concept plan by ALW Design Pty Ltd, drawing number SW18318-S4, revision DD, dated 20th February 2020, must have a defined width and must comply with the DCP Part 8.2 (*Stormwater and Floodplain Management*) & Part 8.4 (*Title Encumbrances*).

The terms of the easement should reference Schedule 8 of the Conveyancing Act – 1919 (*"Easement to drain water"*). The easement plan and associated terms agreed upon by all parties must be submitted to Council for review and approval prior to the submission to the NSW Land Registry Services (LRS) for registration. Council must be listed as the prescribed authority to release or vary the terms of the easement.

Documentary evidence of registration of the drainage easement on the title of the burdened lot, including the terms of the drainage easement and its location on the burdened lot(s) which are consistent with the draft approved by Council, must be submitted to Council to demonstrate the requirements of this condition have been satisfied prior to the activation of this Development Consent.

2.Vehicular Forward Entry & Exit – Lot 1. To ensure the single off-street parking space provided to Lot 1 can achieve safe access to and from Wicks Road, which is classified as a sub-arterial road, forward entry and exit must be provided. The architectural plan, completed by Hall & Hart Homes Pty Ltd, drawing number H0164 page 2 of 13, revision H, dated 18th June 2020, depicts a permeable driveway adjacent to the driveway where there are concerns insufficient area has been provided to ensure compliance. As a result, swept path diagrams completed in accordance with AS2890.1 demonstrating compliance are required to be submitted to Council for review. The swept paths are to be limited to 3 vehicular manoeuvres. Documentation demonstrating compliance of this item must be submitted to Council for approval prior to the issue of the Development Consent.

(B) Written evidence that the matters identified in deferred commencement conditions (a)(1) and (2) above have been satisfied, must be submitted to council within 12 months from the date of this development consent, failing which, this development consent **will lapse** pursuant to Section 4.53(6) of the Environmental Planning and Assessment act 1979.

ITEM 2 (continued)

ATTACHMENT 2

- (C) This Development Consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions (A)(1) and (2) above have been satisfied; and
- (D) Upon Council giving written notification to the Applicant that deferred commencement consent conditions (A)(1) and (2) above have been satisfied, the development consent will become operative from the date of that written notification, subject to the following conditions of consent:

The conditions in the following sections of this consent shall apply upon satisfactory compliance with the above requirements and receipt of appropriate written confirmation from Council.

PART 2 - The conditions in the following sections of this consent shall apply upon satisfactory compliance with the above requirements and receipt of appropriate written confirmation from Council.

GENERAL

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

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

Document Description	Date	Plan No/Reference
Site Plan – Lot 1	18/06/2020	Job No. H0164, page 2 of 13 Rev H prepared by Hall & Hart Homes
Ground Floor Plan – Lot 1	18/06/2020	Job No. H0164, page 4 of 13 Rev H prepared by Hall & Hart Homes
First Floor Plan – Lot 1	18/06/2020	Job No. H0164, page 5 of 13 Rev H prepared by Hall & Hart Homes
Elevations – Lot 1	18/06/2020	Job No. H0164, page 6 of 13 Rev H prepared by Hall & Hart Homes
Elevations – Lot 1	18/06/2020	Job No. H0164, page 7 of 13 Rev H prepared by Hall & Hart Homes
Section A-A – Lot 1	18/06/2020	Job No. H0164, page 8 of 13 Rev H prepared by Hall & Hart Homes
Slab/Drainage Plans – Lot 1	18/06/2020	Job No. H0164, page 9 of 13 Rev H prepared by Hall & Hart

ITEM 2 (continued)

ATTACHMENT 2

		Homes
Site Management/Sediment Plan – Lot 1	18/06/2020	Job No. H0164, page 10 of 13 Rev H prepared by Hall & Hart Homes
Site Analysis Plan – Lot 1	18/06/2020	Job No. H0164, page 11 of 13 Rev H prepared by Hall & Hart Homes
Landscape Plan – Lot 1	11/06/2020	Sheet L-01 Rev D prepared by eco-design
External Materials & Finishes – Lot 1	23/01/2019	Job No. H0164 prepared by Hall & Hart Homes
Site Stormwater Management Layout – Lot 1	20/02/2020	Job No. SW18318, Drawing No. SW18318-S2 Issue DD prepared by alwdesign
Roof Layout & General Details– Lot 1	20/02/2020	Job No. SW18318, Drawing No. SW18318-S3 Issue DD prepared by alwdesign
Site Plan – Lot 2	26/06/2019 (15/11/19)	Job No. H0164, page 2 of 14 Rev H prepared by Hall & Hart Homes
Ground Floor Plan – Lot 2	26/06/2019 (15/11/19)	Job No. H0164, page 4 of 14 Rev H prepared by Hall & Hart Homes
First Floor Plan – Lot 2	26/06/2019 (15/11/19)	Job No. H0164, page 5 of 14 Rev H prepared by prepared by Hall & Hart Homes
Elevations – Lot 2	26/06/2019 (15/11/19)	Job No. H0164, page 6 of 14 Rev H prepared by Hall & Hart Homes
Elevations – Lot 2	26/06/2019 (15/11/19)	Job No. H0164, page 7 of 14 Rev H prepared by Hall & Hart Homes
Section A-A – Lot 2	26/06/2019 (15/11/19)	Job No. H0164, page 8 of 14 Rev H prepared by Hall & Hart Homes
Slab/Drainage Plans – Lot 2	26/06/2019 (15/11/19)	Job No. H0164, page 9 of 14 Rev H prepared by Hall & Hart Homes
Site Analysis Plan – Lot 2	26/06/2019 (15/11/19)	Job No. H0164, page 10 of 14 Rev H prepared by Hall & Hart Homes
Site Management/Sediment Plan – Lot 2	26/06/2019	Job No. H0164, page 11 of 14 Rev H prepared by Hall & Hart Homes
Landscape Plan – Lot 2	28/06/2019	Sheet L-01 Rev B prepared by

ITEM 2 (continued)

ATTACHMENT 2

		eco-design
External Materials & Finishes – Lot 2	23/01/2019	Job No. H0164 prepared by Hall & Hart Homes
Site Stormwater Management Layout – Lot 2	20/02/2020	Job No. SW18318, Drawing No. SW18318-S4 Issue DD prepared by alwdesign
Roof Layout & General Details– Lot 2	20/02/2020	Job No. SW18318, Drawing No. SW18318-S5 Issue DD prepared by alwdesign
Plan of Proposed Subdivision		Surveyor Ref. 5737-17 DP
Proposed Subdivision Layout	20/02/2020	Job No. SW18318, Drawing No. SW18318-S1 Issue DD prepared by alwdesign
BASIX Certificate No. 964743S_06	07/07/2020	Prepared by Frys Energywise
BASIX Certificate No. 964743S_07	07/07/2020	Prepared by Frys Energywise
Arboricultural Impact Assessment	22/06/2020	Prepared by Arboreport
Waste Management Plan	21/01/2019	Prepared by Jessica Samyia

Prior to the issue of a **Construction Certificate**, the following amendments shall be made:

- (a) A privacy screen shall be erected along the north eastern elevation of the alfresco associated with the dwelling on Lot 2 to a height of 1.6 metres above the finished floor level.
- (b) The first floor window associated with the stairway within the south western elevation of proposed dwelling on Lot 1 shall be constructed of obscure glazing.

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

Reason: To prevent privacy impacts to neighbouring properties at 1/40 and 36 Wicks Road.

2. Inconsistency between documents

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

Reason: To ensure that the development is in accordance with the determination.

3. 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.

Reason: Statutory requirement.

ITEM 2 (continued)

ATTACHMENT 2

4. **BASIX.** Compliance with all commitments listed in BASIX Certificates numbered 964743S_06 and 964743S_06, dated 7 July 2020.

Reason: Statutory requirement.

5. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.

Reason: To ensure the structural protection of adjoining properties.

6. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and 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.

Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties.

7. **Hoardings.**

- (a) A hoarding or fence must be erected between the work site and any adjoining public place.
- (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

Reason: To ensure the safety of the public and hoarding/fencing is removed at the completion of the development.

8. **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.

Reason: To ensure the safety of the public.

9. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

Reason: To ensure public spaces are unobstructed during construction.

ITEM 2 (continued)

ATTACHMENT 2

10. **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 2014 Part 8.5 (*Public Domain Works*), except otherwise as amended by conditions of this consent.

Reason: To ensure compliance with design and construction standards.

11. **Service Alterations.** All services or utilities required to be altered in order to complete the development works are to be undertaken in accordance with the requirements of the relevant service provider (eg Telstra, Jemena, Ausgrid, etc), with all costs associated with this alteration to be borne by the applicant.

Reason: To ensure services are provided to dwellings.

12. **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.

Reason: To ensure the protection of public during works.

13. **Road Opening Permit.** In accordance with the requirements of the Roads Act, the applicant must obtain consent (*Road opening Permit*) from Council prior to any excavation being undertaken in the road reserve (this includes verge and public footpath areas). No works shall be carried out in the road reserve without this permit being paid and a copy kept on the site.

Reason: To ensure compliance with the requirements of *Roads Act 1993*.

14. **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.

Reason: To ensure access to public utilities.

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.

Reason: To ensure works are undertaken within the site.

ITEM 2 (continued)
STAGE 1 – SUBDIVISION

ATTACHMENT 2

PRIOR TO SUBDIVISION CERTIFICATE

The following conditions in this Part of the consent apply to the Subdivision component of the development. All conditions in this Part of the consent must be complied with prior to the issue of a Subdivision Certificate.

16. **Final Plan of Subdivision.** The submission of a final plan of subdivision plus three copies suitable for endorsement by the Authorised Officer.

Reason: To provide required documentation.

17. **Final plan of subdivision - title details.** The final plan of subdivision shall contain detail all existing and/or proposed easements, positive covenants and restrictions of the use of land

Reason: To ensure the subdivision plans identifies all easements and restrictions.

18. **Existing Easements and Restrictions.** The applicant must acknowledge all existing easements and restrictions of the use of land on the final plan of subdivision.

Reason: To ensure all existing easements and restrictions are shown on the plan of subdivision.

19. **Removal of encroachments.** All structures, services etc. are to be wholly contained within the legal property boundaries of each lot. All existing structures and services etc are either to be demolished, relocated and/or have appropriate easement/s registered over the encroachment to ensure their legal operation.

Reason: To ensure all structures are located within the site.

20. **Registration of easements.** The registration of all necessary easements is required to ensure all proposed lots will have legal access to all utility services, drainage and vehicular access. Prior to release of the Subdivision Certificate, certification shall be obtained from a registered surveyor and submitted to Council confirming the above requirement will be met upon registration of the linen plan at the Land and Property Information.

Reason: To ensure all required easements are registered.

21. **Easement to Drain Water.** The drainage system servicing one of the lots is noted to traverse the alternate lot(s) and therefore an Easement to Drain Water must be created over the respective part(s) of the drainage system. Where the subdivision will result in rainwater storage/ detention tanks straddling the new lot boundaries, a reciprocal drainage easement must be created over the storage, allowing each lot to drain over the alternate lot and warranting shared responsibility in maintenance of the system. The easement width, location and alignment must be in accordance with the

ITEM 2 (continued)

ATTACHMENT 2

Council's DCP Parts 8.2 (*Stormwater and Floodplain Management*) and Part 8.4 (*Title Encumbrances*) and is to be based on recent Works-As-Executed plans of the stormwater system. Plans and documentation complying with this condition must be submitted with the application for a Subdivision Certificate.

Reason: To ensure the creation of the drainage easement.

22. **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.

Reason: Statutory requirement.

23. **Utility provider – compliance.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc).

Reason: To ensure all services are provided.

24. **88B Instrument.** If required, the submission of an instrument under Section 88B of the Conveyancing Act 1919 with 2 copies, creating any Easements, Positive Covenants and Restrictions on use, the City of Ryde being the authority empowered to release vary or modify the same.

Reason: To ensure the creation of the Section 88B.

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

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$6,061.80
Open Space & Recreation Facilities	\$10,438.15
Transport Facilities	\$3,204.48
Plan Administration	\$295.57
The total contribution is	\$20,000.00

ITEM 2 (continued)

ATTACHMENT 2

These are contributions under the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979 as specified in Section 7.11 Development Contributions Plan 2020, effective from 1 July 2020.

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

STAGE 2 – CONSTRUCTION OF SINGLE DWELLINGS

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.

26. **Subdivision.** The approved subdivision, creating two new lots, must be registered prior to the issue of any **Construction Certificate**.

Reason: In order to facilitate orderly development of land and ensuring the proposal does not result in a prohibited land use (detached dual occupancy).

27. **Amended Stormwater Plan.** The following changes indicated in the Arborist Report prepared by Arboreport dated 18/06/2020 must be shown on an amended Stormwater Plan:

"Tree 1 ...The location of the excavation for the proposed pipe should be diverted to outside the SRZ, ie at an offset of 1500mm from the northern boundary, and using a similar deflection angle to that of the layout of the proposed driveway edge east of the proposed strip drain."

ITEM 2 (continued)

ATTACHMENT 2

"Tree 8... In order to retain and protect this tree, design modification must be carried out and implemented. A design should be considered to underbore from a sending pit located in the north west of Lot 2 (or east of TPZ of Tree 3 if that tree was to be retained), extending to the indicated stormwater main, as this solution will potentially reduce encroachment within the TPZ of Trees 6, 8 & 9. For the purposes of impact consideration, we have assumed a sending pit size of 2mx 3m which we understand could be located within Lot 2 38 Wicks Rd. The depth from existing surface would need to be a minimum of 1m to top of underbored pipe within the SRZ of all potentially affected trees (Trees 3, 6, 8 & 9). An approximate recommended location of a sending pit and an underbored section of pipe is indicated in green within a broader area (green rectangle in the Tree Location Plan). We understand that there is some flexibility in the design of the location and direction of this discharge pipe connecting to the stormwater main."

Amended Stormwater Plans are to be submitted to and approved by the Principal Certifier prior to the issue of a **Construction Certificate**.

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

Reason: To ensure compliance with the Australian Standards.

29. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.

Reason: To ensure the structural integrity of the approved development.

30. **Security deposit.** The Council must be provided with security for the purposes of section 4.17(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: dwelling houses with delivery of bricks or concrete or machine excavation)

Reason: Statutory requirement.

31. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:

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

Reason: Statutory requirement.

ITEM 2 (continued)

ATTACHMENT 2

32. **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**.

Reason: To provide suitable vehicular access.

33. **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 (Off street Parking). Accordingly, prior to issue of Construction Certificate an application shall be made to Council's Public Works division for driveway crossing alignment levels. These issued levels are to be incorporated into the design of the driveway access and clearly delineate on plans submitted with the Construction Certificate application.

Reason: To ensure appropriate levels are incorporated into the development.

34. **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**.

Reason: Statutory requirement.

35. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to www.sydneywater.com.au/tapin to apply.

Reason: Statutory Requirement.

36. **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**.

Reason: To ensure the use of appropriate roofing material to minimise reflectivity and impacts upon amenity.

37. **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**.

Reason: To ensure fencing is compliant with Council's policy requirements.

ITEM 2 (continued)

ATTACHMENT 2

38. **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 (Off street Parking standards).

With respect to this, the following revision(s) / documentation must be provided with the plans submitted with the application for a Construction Certificate:

- a) To allow for adequate sight distance from a vehicle exiting the property to pedestrians in the footpath area, the northern side of the driveway entry at the property boundary must have clear sight through a splayed region defined by Figure 3.3 of AS 2890.1 (2004) and Council's DCP. Ideally the region is to be free of all obstructions, otherwise any solid obstructions are to be no greater than 900mm above finished surfaces and horizontal fencing/ slats are to permit more than 50% visual permeability.

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

Reason: To demonstrate compliance with AS 2890.1 (2004) and Council's DCP

39. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to the downstream property via the drainage easement registered as per the deferred commencement condition of this consent, generally in accordance with the plans by ALW Design Pty Ltd, drawing number SW18319 S1 to S5, revision DD, dated 20th February 2020, subject to any variations marked in red on the approved plans or noted following;

- The plans must be amended to incorporate the registered drainage easement location as required by the imposed deferred commencement condition.
- Additional strip drains are required along the access handle to prevent the concentration of stormwater runoff.
- To protect the existing trees surrounding the site, the plan is to be amended to comply with the requirements of the condition of consent labelled *Amended Stormwater Plan*

The detailed plans, documentation and certification of the drainage system must be submitted with the application for a Construction Certificate and prepared by a suitably qualified Civil Engineer and comply with the following;

- The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures.
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.

ITEM 2 (continued)

ATTACHMENT 2

Reason: To ensure effective stormwater management.

40. **Stormwater Management - Onsite Stormwater Detention.** In accordance with Council's community stormwater management policy, an onsite stormwater detention (OSD) system must be implemented in the stormwater management system of the development.

As a minimum, the OSD system must;

- a) provide site storage requirement (SSR) and permissible site discharge (PSD) design parameters complying with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management).
- b) incorporate a sump and filter grate (trash rack) at the point of discharge from the OSD system to prevent gross pollutants blocking the system or entering the public drainage service,
- c) ensure the OSD storage has sufficient access for the purpose of ongoing maintenance of the system, and
- d) ensure the drainage system discharging to the OSD system is of sufficient capacity to accommodate the 100 year ARI 5 minute storm event.

Detailed engineering plans and certification demonstrating compliance with this condition & Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) are to be submitted with the application for a Construction Certificate.

Reason: To ensure effective stormwater management.

41. **Vehicle Footpath and Gutter Crossover Approval.** A new vehicle footpath crossing and associated gutter crossover shall be constructed at the approved vehicular access location/s. Where there is an existing vehicle footpath crossing and gutter crossover, the reconstruction of this infrastructure may be required in order that it has a service life consistent with that of the development and ensure it is compliant with current Council's standards and specifications. The location, design and construction shall be in accordance with Council's DCP 2014 Part 8.3 (*Driveways*), Part 8.5 (*Public Civil Works*) and Australian Standard AS2890.1 – 2004 (*Offstreet Parking*).

Prior to the issue of the Construction Certificate, an application shall be made to Council for approval under Section 138 of the Roads Act, 1993, for the construction of the vehicle footpath and gutter crossover. The application shall include engineering design drawings of the proposed vehicle footpath crossing and gutter crossover. The drawings shall be prepared by a suitably qualified Civil Engineer using the standard B85 vehicle profile. The drawings shall show the proposed vehicle footpath crossing width, alignment, and any elements impacting design such as service pits, underground utilities, power poles, signage and/or trees. In addition, a benchmark (to Australian Height Datum) that will not be impacted by the development works shall be included. All grades and transitions shall comply with Australian Standard AS 2890.1-2004 Offstreet Parking and Council's specifications. The new crossing shall be 3.0 m. wide each, without the splays, and shall be constructed at right angle to the alignment of the kerb and gutter, and located no closer than 1m from any power pole and 3m from any street tree unless otherwise approved by Council.

ITEM 2 (continued)

ATTACHMENT 2

Fees are payable at the time of the application, in accordance with Council's Schedule of Fees and Charges.

The Council approved design details shall be incorporated into the plans submitted for the application of the Construction Certificate.

Reason: To ensure the location, design and construction of civil works are compliant with relevant standards and requirements.

42. **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
- 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.

Reason: Protection of the environment.

43. **Compensatory Tree Planting** of two local Australian native trees with a minimum pot size of 45 litres to be planted in the rear yard, to reach a height of 15m at maturity with a spreading canopy. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

Reason: To ensure require tree planting is provided.

ITEM 2 (continued)

ATTACHMENT 2

44. **Tree planting – location.** The compensatory trees are to be planted a minimum of 3m from any property boundary. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the **Construction Certificate**.

Reason: To ensure future development on an adjacent site is not affected by the root zone of trees on the subject site.

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.

45. Site Sign

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

Reason: Statutory requirement.

46. **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.

Reason: Statutory requirement.

47. **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

ITEM 2 (continued)

ATTACHMENT 2

- (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).

Reason: Statutory requirement.

48. Excavation adjacent to adjoining land

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

Reason: To ensure notice is given to adjoining owners prior to excavation works.

49. 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.

Reason: To ensure site is safely secured.

50. 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.

Reason: To ensure development occurs within the site boundaries.

51. Property above/below Footpath Level. Where the ground level adjacent the property alignment is above/below the established verge and footpath level, adequate measures are to be taken (either by means of constructing approved retaining structures or batters entirely on the subject property) to support the subject land/footpath and prevent harm to the public / occupants of the site due to the abrupt level differences.

Reason: To ensure public safety.

ITEM 2 (continued)

ATTACHMENT 2

52. **Construction Traffic Management Plan.** As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by a Traffic Engineer having RMS accreditations and submitted to Council for approval prior to the issue of a Construction Certificate. This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent the site.

The CTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- Specify construction vehicle routes and rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council's Traffic section.
- Wherever the site is in proximity to a Public School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum seven (7) days notification must be provided to adjoining property owners prior to the implementation of significant temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street tree's.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", RMS's Manual – "Traffic Control at Work Sites" and Councils DCP 2014 Part 8.1 (Construction Activities). The modification of parking restrictions (Work Zones) and standing heavy vehicles (crane, concrete pump, etc) on a footpath/ roadway are subject to separate approval from Council and/or the Local Traffic Committee.

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and is to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

53. **Tree Retention.** As identified in the Arborist Assessment prepared by Arboreport dated 18/06/2019. The following trees on site or adjoining the site are to be retained and protected:

ITEM 2 (continued)

ATTACHMENT 2

Tree No.	Species "Common name"	Notes
1	Jacaranda mimosifolia Jacaranda	On adjoining property
5	Macadamia integrifolia Macadamia Nut	On site
6	Casurina glauca Swamp She-oak	In adjoining golf course
7	Melaleuca quinquenervia Broad Leafed Paperbark	In adjoining golf course
8	Acacia binervia (Coastal Myall)	In adjoining golf course
9	Eucalyptus melliodora (Yellow Box)	In adjoining golf course
10	Casurina glauca Swamp She-oak	In adjoining golf course
11	Acacia binervia (Coastal Myall)	In adjoining golf course
12	Casurina glauca Swamp She-oak	In adjoining golf course
13	Casurina glauca Swamp She-oak	In adjoining golf course

Reason: To identify trees required for retention.

54. **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.

Reason: To ensure all trees to be retained are protected during works.

55. **Tree Protection Fencing.** All trees to be retained on site and on adjoining site are to have protective fencing and signage around TPZs and must be located in accordance with AS4970-2009: 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.

Reason: To ensure the erection for tree protection fencing.

56. **Project Arborist.** A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for all trees to be retained on adjoining allotments in accordance with AS4970-2009 Protection of trees on development sites. All trees are to be monitored to ensure adequate health throughout the construction period. Additionally, all work within the Tree Protection Zones is to be supervised by the Project Arborist throughout construction.

Reason: To ensure an arborist is onsite to ensure compliance with relevant Australian Standard.

ITEM 2 (continued)

ATTACHMENT 2

57. **Provision of Arborist details.** Council is to be notified, in writing, of the name, contact details and qualifications of the Project Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.

Reason: To ensure an arborist is appointed and Council is notified.

DURING CONSTRUCTION

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

58. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.

Reason: Statutory requirement.

59. **Survey of footings/walls.** Any 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.

Reason: To ensure all works are located on the subject site.

60. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.

Reason: To protect the environment and the amenity of surrounding properties.

61. **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.

Reason: To protect the environment.

62. **Construction materials.** All materials associated with construction must be retained within the site.

Reason: To ensure safety and amenity of the area.

63. Site Facilities

ITEM 2 (continued)

ATTACHMENT 2

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.

Reason: Statutory requirement.

64. 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.

Reason: To ensure the site is appropriately maintained.

65. **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".

Reason: To ensure works do not disrupt pedestrians and vehicular traffic.

66. **Tree Removal.** As identified in the Arborist Assessment prepared by Arboreport dated 3/06/2019. The following trees on site are to be removed:

Tree No.	Species "Common name"	Notes
2	Gordonia axillaris (Gordonia)	On site
3	Cupressus funebris (Chinese Weeping Cypress)	On site
4	Fraxinus sp. (Ash Tree)	On site

Reason: To identify trees approved for removal.

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

PROJECT PHASE	ACTIVITIES	PROJECT ARBORIST to
Initial Site Preparation	Establish/delineate TPZ Install protective measures and undertake soil	Project Arborist to mark Tree Protection Zones and install fences, mulch, irrigation and

ITEM 2 (continued)

ATTACHMENT 2

	rehabilitation for all trees to be retained.	signage Issue a Certification of Compliance of tree protection measures being in place and soil rehabilitation undertaken
Construction work	Liaison with site manager, compliance and any deviation from approved plan	Maintain or amend protective measures Supervision and monitoring formal notification of any deviation from approved tree protection plan
Stormwater connection installation through TPZ, Implement hard and soft landscape works	Supervise Installation of pipes within tree TPZ	Excavate trench through TPZ under Arborist supervision, install pipework, remove selected protective measures as necessary and perform remedial tree works Issue a Certificate of Compliance
Practical Completion	Tree vigour and structure Assessment and undertake soil rehabilitation for all retained trees	Remove all remaining tree Protection measures Certification of tree protection and soil rehabilitation for Protected Trees
Defects liability / maintenance period	Tree vigour and structure	Undertake any required remedial tree works Certification of tree protection if necessary

Reason: To ensure inspections are undertaken during works.

68. **Tree works – Australian Standards.** All tree work must be carried out by a qualified and experienced Arborist with a minimum of AQF level 3 in Arboriculture with NSW Work Cover Code of Practice for Amenity Tree Industry (1998) and AS4373 Pruning of amenity trees (2007).

Reason: To ensure works are undertaken by an arborist.

69. **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.

Reason: To ensure that trees not approved for removal are retained.

70. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.

Reason: To ensure that trees not approved for removal are protected during works.

ITEM 2 (continued)

ATTACHMENT 2

71. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

Reason: Perimeter of slabs are not to be visible and are to have face brickwork from the natural ground level.

72. **Traffic Management.** Any traffic management procedures and systems must be in accordance with *AS 1742.3 1996* and City of Ryde, Development Control Plan 2014: - Part 8.1; Construction Activities. This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

Reason: To ensure effective traffic management.

73. **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 ALW Design Pty Ltd, drawing number SW18319 S1 to S5, revision DD, dated 20th February 2020, submitted in compliance to the condition labelled "Stormwater Management." and the requirements of Council in relation to the connection to the public drainage system.

Reason: To ensure effective stormwater management system is constructed.

74. **Stormwater Management – Works in the New Drainage Easement.** To ensure there is minimal imposition and loss of amenity to the owner/ occupants of the property burdened by the new drainage easement in construction of these drainage services, the builder/ developer must;
- (i) provide a minimum 3 weeks notification to the burdened property owner and occupants prior to the commencement of works in the neighbouring property.
 - (ii) ensure the works are completed in a timely manner.
 - (iii) ensure any structures adjacent the works are adequately supported at all times.
 - (iv) make provision to restore the work area so as to maintain the amenity of the land / minimise the imposition of works on the burdened land, should the works be delayed due to unforeseen events such as weather, service adjustments, etc.
 - (v) restore all areas on the burdened property disturbed by the construction works to a condition equivalent to the pre-developed state or otherwise as agreed by the owner of the burdened property.
 - (vi) comply with any terms agreed upon by both parties in regards to the construction of the drainage services and restoration of the land, in the granting of the easement.

Reason: To ensure there is minimal imposition and loss of amenity to the owner/ occupants of the property burdened by the new drainage easement

75. **Erosion and Sediment Control Plan - Implementation.** The applicant shall install erosion and sediment control measures in accordance with the Construction Certificate approved Soil Erosion and Sediment Control (ESCP) plan at the commencement of works on the site. Erosion control management procedures in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by the NSW Department

ITEM 2 (continued)

ATTACHMENT 2

- Office of Environment and Heritage, must be practiced at all times throughout the construction.

Reason: Protection of the environment.

76. **Construction Traffic Management Plan - Implementation.** All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance with the submitted traffic management plan to minimise impacts.

77. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

Reason: Protection of visual presentation.

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.

78. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 964743S_06 and 964743S_06, dated 7 July 2020.

Reason: Statutory requirement.

79. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.

Reason: To ensure that the landscape works are consistent with the Development Consent.

ITEM 2 (continued)

ATTACHMENT 2

80. **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.

Reason: Statutory Requirement.

81. **Public domain – work-as-executed plan.** A works as executed plan for any works carried out in the public domain must be provided to and endorsed by Council prior to the issue of any **Occupation Certificate**.

Reason: To ensure the integrity of works in the public domain.

82. **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.

Reason: To ensure consistency with Council's requirements for street numbering.

83. **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.

Reason: To demonstrate the stormwater management system has been constructed in accordance with the approval.

84. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the instrument are to be in accordance with the Council's standard terms for such systems and to the satisfaction of Council. The positive covenant must be registered on the title prior to the release of any Occupation Certificate for development works for which the system(s) serve.

ITEM 2 (continued)

ATTACHMENT 2

Reason: To ensure the title of the property represents the approved stormwater management system.

85. **Engineering Compliance Certificates.** Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.
- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls).
 - b) In addition to the above, conforming the components of the permeable driveway area have been constructed in accordance with the approved plan approved under the deferred commencement condition regarding forward and entry exit to Lot 1.
 - c) Confirming that the constructed interallotment drainage system complies with the construction plan requirements and the Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
 - d) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
 - e) 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.
 - f) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).
 - g) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.

Reason: To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards.

86. **On-Site Stormwater Detention System - Marker Plate.** . The plate construction, wordings and installation shall be in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

Reason: 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

ITEM 2 (continued)

ATTACHMENT 2

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.

87. **Single dwellings only.** Each approved dwelling is not to be used or adapted for use as separate domiciles or as a boarding house.

Reason: To ensure that the approved development is used in a manner that is consistent with this consent.

ITEM 2 (continued)

ATTACHMENT 3



2 March 2020

Request for variation of a development standard pursuant to clause 4.6 of the Ryde Local Environmental Plan 2014 (RLEP).

The Development Application

The development application is for the construction of two new dwelling houses with associated car parking and landscaping, and a two lot, Torrens title subdivision, including access handle to the rear allotment, at 38 Wicks Road, North Ryde.

The Site

The property is a regular shaped allotment, with a width of 14.35m (minimum) and a length of 91.44m.

The property has an area of 1,309m² (by Deposited Plan).

The Variation Sought

The proposed development complies with all other development standards pertaining to the site, except for minimum allotment size for proposed Lot 1, as set out at clause 4.1C. There is a shortfall in the total site area of 129.6m².

Figure 5 in the SEE shows the general pattern of subdivision in the immediate locality, which demonstrates that the subject site is the only allotment within the immediate locality, on the western side of Wicks Road, that does not benefit from more than one dwelling on what was originally a single lot. The outcome demonstrates a consistent pattern of subdivision of land within the vicinity of the site which has allowed for increased residential density in this location, therefore promoting improved affordability and access to housing. This is of particular benefit given the extent of employment generating uses within the immediate vicinity of the site, particularly on the eastern side of Wicks Road, with hospital related facilities.

This Request will demonstrate that the variation sought meets the requirements of clause 4.6 and is appropriate for approval. Most importantly, it has a neutral impact on adjoining properties, such that the undersized allotment does not cause difficulty to adjoining properties, despite its smaller size. This has been achieved through a careful design approach, with all other matters compliant with the relevant development standards.



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ITEM 2 (continued)

ATTACHMENT 3

While it cannot be argued that the development standard has been abandoned due to the dates upon which nearby properties were subdivided, it is clearly apparent that the proposal will have the same effect on the subject site as those which have occurred on neighbouring sites, such that the impacts are neutral. While on an undersized allotment, the capacity of infrastructure will not be compromised through one extra dwelling in what is a fairly dense urban context that is then visually alleviated by the golf course to the rear (west) of the site.

Figure 1: Dominant subdivision pattern on the western side of Wicks Road, including the subject site, as marked



Ryde Local Environmental Plan 2014

Clause 4.1(2) provides:

- (2) *This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.*
- (3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.*

The Lot Size, as shown on the relevant Map is 580m².

However, Clause 4.1C addresses Minimum Lot Size for Battle Axe Allotments and states that:

- (2) *This clause applies to land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential other than land identified as North Ryde Station Precinct on the [Centres Map](#).*
- (3) *Despite clause 4.1, the minimum lot size for a battle-axe lot that is land to which this clause applies is 740 square metres.*



ITEM 2 (continued)

ATTACHMENT 3

- (4) If a lot is a battle-axe lot or other lot with an access handle and is land to which this clause applies, the area of the access handle is not to be included in calculating the lot size.*

The subject site is located in the R2 Low Density Residential Zone; the proposed rear, Lot 2, will benefit from a battle axe handle and therefore must be 740m² in area. In addition, as demonstrated by the Plan of Subdivision accompanying this application, the access handle has been excluded from the calculation of the lot area. The proposed rear lot complies with the minimum lot size required by this clause.

Therefore, it is only clause 4.1(2) which is sought to be varied in accordance with clause 4.6 of the RLEP.

Clause 4.6 of the RLEP

Clause 4.6 of RLEP provides, so far as relevant:

- (1) The objectives of this clause are as follows:*
- To provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - To achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - b. that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
- a. The consent authority is satisfied that:*
 - i. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - b. The concurrence of the Secretary has been obtained.*
- (5) In deciding whether to grant concurrence, the Secretary must consider:*
- a. whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - b. the public benefit of maintaining the development standard, and*
 - c. any other matters required to be taken into consideration by the Secretary before granting concurrence.*



ITEM 2 (continued)

ATTACHMENT 3

Is minimum lot width a development standard?

Clause 4.6 can only be used to vary a control that is a development standard. Development standards are relevantly defined in s1.4 of the *Environmental Planning & Assessment Act 1979 (EP & A Act)* as follows:

***development standards** means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*

(a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,

(b) – (o)

Being a provision of the RLEP in relation to the carrying out of development, under which a requirement is fixed in respect to the minimum allotment size in the relevant zone, clause 4.1(2) of the RLEP is a development standard. Accordingly, clause 4.6 can be used to approve a variation of the standard.

As noted by the Chief Judge of the Land & Environment Court of NSW in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, [*Initial Action*], clause 4.6 is facultative in permitting a consent authority to grant consent for development even though that development would contravene a development standard imposed by an environmental planning instrument. However, clause 4.6(4) establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.

Clause 4.6(4)

In order for the Court to grant a variation to the development standard under clause 4.6, it must be satisfied that:

1. the clause 4.6 Request adequately addresses the matters required by clause 4.6(3), namely that compliance with the standard is unnecessary or unreasonable in the circumstances of the case and secondly that there are sufficient environmental planning grounds to justify contravening the development standard; and
2. the proposed development will be in the public interest because it is consistent with the objectives of the standard and zone; and
3. the concurrence of the Secretary has been obtained.



ITEM 2 (continued)

ATTACHMENT 3

Clause 4.6(4)(a)(i) - Whether request adequately addresses requirements

This request is comprehensive in its discussion of whether compliance with the zone and objectives of the standard is unreasonable or unnecessary and whether there are sufficient environment planning grounds for varying the standard. Both issues are discussed below.

Clause 4.6(3)(a) Unnecessary or unreasonable

The common approaches for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827. Cases such as *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, *Randwick Council v Micaul Holdings Pty Ltd* [2017] NSWLEC 7 and, most recently, *Initial Action*, have confirmed that adopting the Wehbe principles remains an appropriate approach.

The *Wehbe* approach provides a five-part test, which is reproduced below and considered having regard to this application:

The Five Part Test	Relationship to this Application
1. The objectives of the standard are achieved notwithstanding non-compliance with the standard.	This is the case with respect to this application.
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.	Not applicable
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.	Not applicable
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.	Not applicable
5. Compliance with the development standard is unreasonable or inappropriate due to the existing use of land and current environmental character of the parcel of land. That is, the	Not applicable



ITEM 2 (continued)

ATTACHMENT 3

particular parcel of land should not have been included in the zone.	
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The first option and applicable in this case, is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Set out below is an extract from the judgement in Wehbe that explains the rationale for adopting this approach in the context of clause 4.6.

The rationale is that development standards are not ends in themselves but means of achieving ends...The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

Compliance with the objectives of the minimum allotment size development standard is demonstrated in the table below. As is evident from this assessment, the proposal provides an alternative means for achieving the objectives of the development standard, such that there is no purpose served by requiring compliance with the minimum allotment size. This is particularly the case as the landholdings within the immediate vicinity of the site have all achieved the desired outcome that is sought for this allotment, without adversely impacting neighbouring properties. Therefore, to impose the standard would serve no purpose, assuming that there is no impact on adjoining properties.

4.1 Minimum subdivision lot size		
(1) The objectives of this clause are as follows:		
(a) to retain streetscape, amenity, landscaped areas and private open space in residential zones,	✓	The proposed development preserves the existing streetscape character of Wicks Road, with presentation of the same driveway composition as per the existing situation and a new dwelling to replace that currently on the lot. The scale of the dwelling is two storeys in height, below the development standard for height of buildings and compliant with the floor space ratio control. Existing landscaping to the street will be retained and improved upon, with both landscaped and deep soil areas exceeding the minimum



ITEM 2 (continued)

ATTACHMENT 3

		<p>requirements specified by the DCP for both of the proposed allotments. The same applies to the quantum of private open space proposed.</p> <p>Despite being undersized, the appearance of the development retains the visual composition of a single dwelling to the streetscape consistent with the appearance that is evident in the existing streetscape.</p> <p>This is furthered by the separation distance between the front and rear dwelling, such that any visibility of the rear dwelling, from the street, is set back a substantial distance, being 29.483m between the ground floor of the two building forms.</p> <p>This outcome ensures that, as a result of a skilled design outcome that achieves the desired amenity, landscaped area and private open space to both the site itself and neighbouring properties, the undersized allotment is of no consequence in terms of its impact, having regard to the objective of the standard. The end outcome results in the appearance of a traditional dwelling house on a traditional lot, which is a desirable outcome within the low density residential zone and consistent with the street composition.</p> <p>Therefore, the size of the undersized allotment achieves this objective, which accords with the desired character of the area despite being undersized.</p>
(b) to ensure that lot sizes enable sufficient areas of open space within each lot so as to enable the retention and embellishment of green linkage corridors in residential zones.	✓	<p>Despite being an undersized allotment, open space is provided in accordance with the relevant planning controls thus not resulting in an outcome that would otherwise deprive the embellishment of green linkage corridors in residential zones. Given that the required amount is able to be achieved across the undersized allotment, the proposal provides a positive contribution to such corridor, thus achieving the desired objective.</p>



ITEM 2 (continued)

ATTACHMENT 3

		<p>Further, the Arborist Report pertaining to this application demonstrates the ability to retain and embellish green corridors, despite non-compliance with the development standard. As a result of the redevelopment of the site, landscaping on the site is increased in material quality to the extent that this would unlikely be achieved if the property were not redeveloped.</p> <p>The other key point to redevelopment of this site is that the outcome provides for a higher quantum of open space area than if the site were redeveloped for a dwelling house. If the development standard for floor space was applied, this would result in a maximum floor space of 654.5m². The proposed development has a floor space of 550.39m² and is therefore approximately 114m² less in area than what may be achieved if the allotment were retained with a single dwelling.</p> <p>The benefit of this is that there is also a material increase in open space that may be permitted on the site. If the site were retained as a single allotment, the requirement for deep soil planting is 35% of the site area; this would therefore require 458.15m². The proposed development provides 544.78m² in deep soil planting which is substantially more than that required.</p> <p>Therefore, the proposal exceeds to expectation of this objective in terms of its contribution to green corridors within the immediate locality.</p>
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Further, consideration of the Objectives of the R2 Low Density Residential zone is also relevant for the purpose that, by imposing the development standard has no effect that would otherwise benefit the site or the locality; the proposal instead seeks to uphold the objectives of the zone, as set out below.

Zone Objective	Compliance	Comment
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ITEM 2 (continued)

ATTACHMENT 3

To provide for the housing needs of the community within a low density residential environment	✓	<p>The proposed development is a low-density response with two separate dwellings proposed on allotments consistent with the nature of development within the immediate vicinity of the site.</p> <p>Most importantly, the development proposed on the undersized allotment provides a density of development that does not exceed the intended floorspace capacity having regard to the site area and thus compliant with that specified of 0.5:1. This ensures that the character of the development, despite being on an undersized allotment, does not place undue pressure on the intended density of the proposed allotments, nor within the context of a low density residential environment.</p> <p>As detailed above, the proposal also provides a total floor space that is less than if it were developed for a single dwelling house, thus promoting a low density residential environment more so than a traditional dwelling arrangement.</p>
To enable other land uses that provide facilities or services to meet the day to day needs of residents	✓	The proposed development is for residential purposes only.
To provide for a variety of housing types	✓	<p>The proposed development is for two single dwelling houses, consistent with the desired low-density residential nature of development that is sought after in this zone.</p> <p>The dwellings are of different sizes to ensure that a variety in product is achieved, as well as responding to market and end user conditions that are desired for the site.</p> <p>The variety is also embedded in the design, with the streetscape context of the proposal enhancing local character, by having one dwelling located behind the other so as not to 'clutter' the streetscape appearance and retain the approach for single dwelling houses to prevail to the street frontage.</p>

The application demonstrates consistency with the objectives of the R2 Low Density Residential zone and with the minimum lot size objectives. Adopting Preston CJ's language in *Wehbe*, development standards are means to an end, not ends in themselves. The application will comprehensively achieve all of the objectives



ITEM 2 (continued)

ATTACHMENT 3

of the lot size development standard and the R2 zone notwithstanding the lot area non-compliance for proposed Lot 2.

The proposal achieves all other development standards applying to the site, as well as the requirements of the Ryde Development Control Plan 2014 (RDCP), in particular as it relates to side design, setbacks, landscaped area, site coverage and so forth. Therefore, the proposal demonstrates full consistency with the intended outcomes for the site, despite non-compliance with the standard. The proposal is comprehensive and will improve the environmental conditions of the site, through aspects such as additional landscaping, that would not be achieved in absence of supporting this application. Therefore, compliance with the standard is therefore unreasonable and unnecessary and results in a detrimental outcome compared to a development where the variation to the lot size is permitted.

Further, and as stated above, by imposing compliance with the development standard serves no purpose when the adjoining parcels of land have already effected the proposed arrangement. While historical in their approval, If anything, approving this application, despite non-compliance with the minimum lot size ensures that the use of this allotment is more closely consistent with the zone objectives, than if it were left in its current form. As such, it is unreasonable to require compliance with this development standard.

Clause 4.6(3)(b) – Sufficient environmental planning grounds

The second element of clause 4.6(3) on which the Court must be satisfied is that there are sufficient environmental planning grounds to justify contravening the development standard.

The environmental planning grounds relate to the subject matter, scope and purpose of the *Environmental Planning & Assessment Act [EP&A Act]* including the objects of the EP&A Act (*Wehbe* para 23).

As Preston CJ explains in *Wehbe*:

“.. the focus of clause 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole. Second the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under clause 4.6(a)(i) that the written request has adequately addressed the matter.”

The requested variation consists of a shortfall in the lot size. This Request demonstrates that the variation sought will have an improved environmental planning outcome compared to the request not being allowed



ITEM 2 (continued)

ATTACHMENT 3

with no adverse environmental or other impacts and that all of the zone and standard objectives will be met, or exceeded, notwithstanding the variation.

As detailed above, the better environmental planning outcome is acceptance of this proposal which results in a lesser amount of floor space and a greater proportion of landscaped area on the site than if it were redeveloped as a single dwelling on a single allotment. The increased landscaped area is material to ensure that the green linkages within the vicinity of the site may be increased, thus improving environmental performance.

In addition, as demonstrated in the SEE, the proposal:

- Complies with, and is less than, the permitted building height.
- complies with the maximum permitted FSR on the allotment, and is less than that which could be achieved if a single dwelling were proposed.
- Proposes an extent of landscaping and deep soil planting that significantly exceeds the required proportion of the allotment and, again is greater than that which would be provided if the site were redeveloped with a single dwelling house.
- Complies with the required setback distances from front, side and rear boundaries.

Therefore, but for the allotment size, the proposal does not seek to overdevelop the site as there is no more floor space proposed than that permitted by the development standard and other aspects, such as landscaping and deep soil planting, are over and above the specified requirement. They are also less, and more than, respectively, than if the site were redeveloped with a single dwelling house. By creating this outcome ensures that a dwelling of a domestic scale presents to the streetscape and is not the dominant building form in the vicinity of the site. This can be accommodated on the undersized allotment thus resulting in sufficient grounds to vary the development standard.

The outcome is, instead, consistent with built form on the adjoining allotments, which have all, similarly undertaken further subdivision of the allotments to create an affordable form of housing. The architectural plans demonstrate that a dwelling can be comfortably achieved that complies with the requirements, without intruding upon the amenity of adjoining properties.

The proposal also provides an opportunity for low density residential development to service local accommodation needs, particularly given the site's proximity to health and medical facilities. It will also result in a material improvement to the natural setting over the current situation with new landscaping treatment that which will not only benefit the site, but will ensure consistency with the pattern of subdivision on the adjoining allotments. Without this variation, such improvements to the natural setting would not be achieved, as sought by both objectives of the development standard and objectives of the zone.



ITEM 2 (continued)

ATTACHMENT 3

Allowing the variation produces a better environmental and planning outcome by more efficiently utilising this site, which is currently enjoyed by only one household. The outcome will aid the natural qualities of the setting and improve the interface with the adjoining allotments. This outcome will accord with the zone objectives, as well as reinforce the public interest aspect associated with the development.

It would be unreasonable and unnecessary, in particular serve no purpose, for the application for a 2-lot subdivision to comply with the lot size development standard in the circumstances of this case, as:

- the proposed lot exceeds the minimum required area for landscaping
- the proposed dwelling can comfortably achieve the permitted FSR and be suitably positioned to reduce any potential impact on neighbouring properties
- the proposal satisfies all other key requirements of the RLEP 2014
- the proposal does not result in any unreasonable environmental impacts
- to require compliance with the numerical standard for lot size is unreasonable
- the proposal is consistent with the objectives of the minimum lot size for subdivision as contained at clause 4.1(2) of the RLEP
- the proposal is consistent with the objectives of the R2 Low Density Residential zone
- strict compliance would result in an outcome that is inconsistent with the development pattern in the immediate vicinity of the site, which can otherwise occur without adverse impact on neighbouring properties
- the better environmental planning outcome is to allow the variation thus enabling creation of a new dwelling to improve housing affordability within the locality, in a manner that has been consistently applied in the vicinity of this site, for two (or more) separate dwellings.

Strict compliance with the control would produce an adverse environmental planning impact and the requested variation has the positive environmental planning outcomes referred to in this Request. It is therefore considered that there are sufficient environmental planning grounds to justify departure from the development standard. In addition, the proposed variation does not raise any matters of State or regional environmental planning significance and there is no public benefit to maintain the lot size development standard in the circumstances of this case, particularly given the character of development within the vicinity of the site, which this proposal is consistent with.

With respect to clause 4.6(4)(a)(i), the Court as consent authority can be satisfied that this request for variation has adequately addressed the matters required to be addressed by clause 4.6(3) namely:

- 4.6(3)(a)- that compliance with the standard is unreasonable and unnecessary in the circumstances of this case; and



ITEM 2 (continued)

ATTACHMENT 3

- 4.6(3)(b) – that there are sufficient environmental planning grounds to justify contravening the development standard.

The fourth element that the Court needs to be satisfied with in order to vary the development standard is that the proposed development will be in the public interest if the standard is varied because it is consistent with the standard's and zone's objectives.

Preston CJ in *Initial Action* (para 27) described the relevant test for this requirement as follows:

"The matter in cl 4.6(a)(ii) with which the consent authority or the Court on appeal must be satisfied is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest. If the proposed development is inconsistent with either the objectives of the development standard or objectives of the zone or both, the consent authority, or the Court on appeal, cannot be satisfied that the development will be in the public interest for the purpose of clause 4.6(4)(a)(ii)."

As demonstrated in this Request, the proposed development will comprehensively meet all of the objectives of both the lot size development standard and the R2 zone and is therefore consistent with the objectives of the standard and the zone. Accordingly, the consent authority can be satisfied that it is in the public interest to vary the standard for the purpose of this development application. In terms of the setting, the public interest will provide a consistent visual outcome, in terms of urban density that is represented in the street and will improve access to affordable housing despite non-compliance with the development standard. Variation of the lot size standard has no adverse impacts, and sufficiently allows for all other planning controls to be achieved on the undersized allotment, therefore minimizing environmental impact, impact to neighbouring properties and therefore will result in a better environmental planning outcome in producing two lots with no adverse impacts. It will also result in a density of development that is below the expectation of a single dwelling house on one allotment of land. The flexibility enabled by clause 4.6 will, in this case, produce a neutral, if not, better environmental planning outcome than would result from strict compliance.

Secretary's concurrence

By Planning Circular dated 21 February 2018, the Secretary of the Department of Planning & Environment advised that consent authorities can assume concurrence to clause 4.6 requests except in the circumstances set out below:

- Lot size standards for rural dwellings



ITEM 2 (continued)

ATTACHMENT 3

- Variations exceeding 10%; and
- Variations to non-numerical development standards.

The Circular also provides that concurrence can be assumed when an LPP is the consent authority where a variation exceeds 10% or is to a non-numerical standard, because of the greater scrutiny that the LPP processes and determinations are subjected to, compared with decisions made under delegation by Council staff.

Concurrence of the Secretary can therefore be assumed in this case.



PLANNING PROPOSALS

3 PLANNING PROPOSAL: ADMINISTRATIVE AND UPDATE LEP

Report prepared by: Senior Strategic Planner

Report approved by: Manager - Urban Strategy; Director - City Planning and Environment

Report dated: 13 July 2020

File Number: LEP2020/3/4 - BP20/718

City of Ryde Local Planning Panel Report

Site Address and Ward	Affects numerous sites and is City of Ryde wide (See Planning Proposal at ATTACHMENT 1).
Current Planning Provisions	Affects numerous planning provisions and mapping of the <i>Ryde Local Environmental Plan 2014</i> (See Planning Proposal at ATTACHMENT 1).
Planning Proposal Overview	<p>The purpose of this Planning Proposal is to amend the <i>Ryde Local Environmental Plan 2014</i> (LEP) to update the LEP and address a range of administrative issues identified in the operation of the plan and to introduce provisions to:</p> <ul style="list-style-type: none"> • Increase floor space available for creative enterprises by removing some prohibited land uses within business and light industrial land use zones; • Protect environmentally sensitive lands; • Permit advertising and signage for public benefit; • Require design excellence within the centres of the City of Ryde; and • Other miscellaneous matters (e.g. clarify clauses).
Property Owner	Numerous private and government agencies (including City of Ryde)
Applicant	City of Ryde
Report Author	Naomi L'Oste-Brown
Lodgement Date	N/A
Reason for Referral	Required by Ministerial Direction made under Section 9.1 of the <i>Environmental Planning and Assessment Act 1979</i> dated 27 September 2018
Recommendation	That the Ryde Local Planning Panel recommend to Council that the Planning Proposal be submitted for Gateway Determination under 3.34 of the <i>Environmental Planning and Assessment Act 1979</i>
Attachments	Attachment 1 – Planning Proposal

ITEM 3 (continued)

1. Executive Summary

The purpose of this Planning Proposal is to amend the *Ryde Local Environmental Plan 2014* (LEP) to update and address a range of miscellaneous administrative issues identified in the operation of the plan through the correction of errors, omissions and anomalies. The Planning Proposal also proposes to introduce provisions to address the following main objectives:

- Remove prohibitions and restrictions in relation to uses within business and light industrial zones, including providing for creative enterprises.
- Provide for design excellence in the City of Ryde Town Centres.
- Allow advertisements on billboards (for community benefit) with development consent and on transport related street furniture as exempt development.
- Provide environmentally sensitive land provisions and mapping to provide conservation management outcomes.
- Protect threatened ecological Sydney Turpentine Ironbark Forest community and riparian land on and adjoining the Ivanhoe Estate.
- Expand community education and capacity of Council's waste management practices.

The Planning Proposal is provided at **ATTACHMENT 1**.

Due to the amount of proposed amendments, an explanation of the provisions proposed to achieve the above objectives is not reiterated in this report. However, it is provided in Part 2 of the attachment along with a planning assessment. The assessment concludes that the Planning Proposal is generally consistent with relevant State and Local legislation, directions, policies and strategic directions, including *Planning Ryde: Local Strategic Planning Statement 2020* (LSPS), and will have a minimal environmental, social and economic impact.

2. The Site and Locality

The Planning Proposal affects numerous sites and is City of Ryde wide (See Maps at Part 4 and Appendix G-I of the attached Planning Proposal provided at **ATTACHMENT 1**).

3. The Planning Proposal

As discussed above, the purpose of this Planning Proposal is to amend the LEP to update and address a range of miscellaneous administrative issues identified in the operation of the plan. The Planning Proposal also introduces provisions in relation to making floor space available for creative industries, protecting environmentally sensitive lands, advertising and signage for public benefit, requiring design excellence within the centres of the City of Ryde and other matters.

The objectives of the Planning Proposal include:

ITEM 3 (continued)

- Improve the operation of the LEP through the correction of historic errors, omissions and anomalies.
- Implement the LSPS as follows:
 - Remove prohibitions in relation to uses within business and industrial zones to assist with achieving employment targets and making the City of Ryde's employment and urban services lands more competitive and provide for the needs of existing and future employees, businesses and organisations.
 - Remove restrictions in relation to the development of function centres, neighbourhood shops, registered clubs, restaurants or cafes in the B7 Business Park Zone of the Macquarie Park Corridor to promote the night time economy, precinct activation and provide for the needs of employees, visitors, businesses and organisations.
 - Provide for design excellence in the City of Ryde Town Centres.
 - Permit advertising structures (billboards) as uses in Business, Industrial, Special Activity and Special Infrastructure zones on Council owned land where community benefit is derived from the advertising and hypothecated to access network improvement in the City of Ryde for the convenience, safety and amenity of pedestrian, cyclists and vehicle road users.
 - Provide environmentally sensitive land provisions and mapping to provide conservation management outcomes for environmentally sensitive land.
 - Expand community education and capacity of Council's waste management practices.
 - Better provide community events that are responsive to the changing trends and needs of the community.
 - Incorporate Council-initiated resolutions made with respect to general advertising so as to provide improved access facilities and transport networks as exempt development.
 - Protect threatened ecological Sydney Turpentine Ironbark Forest community and riparian land on and adjoining the Ivanhoe Estate.

The Planning Proposal is considered to be in accordance with the requirements under Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the NSW Department of Planning and Environment's 'A guide to preparing planning proposals' (dated August 2016). The Planning Proposal adequately sets out the following:

ITEM 3 (continued)

- A statement of the objectives or intended outcomes of the proposed amending LEP;
- An explanation of the provisions that are to be included in the proposed amending LEP;
- Justification for those objectives, outcomes and provisions and the process for their implementation;
- Maps, where relevant, to identify the intent of the Planning Proposal and the area to which it applies;
- Details of the community consultation that is to be undertaken on the Planning Proposal; and
- A project timeline.

4. Background

As this Planning Proposal has been initiated by Council to update and address a range of miscellaneous administrative issues identified in the operation of the LEP and to introduce new provisions there is no background to its preparation. However, there is background to each of the proposed amendments to the LEP provisions and mapping which is provided in Part 2 – An Explanation of the Provisions provided at **ATTACHMENT 1**.

5. Referrals

Council at its meeting of 25th August 2015 considered a report recommending that in pursuit of accruing public benefits, that outdoor advertising opportunity be explored. The Planning Proposal seeks to make general advertising and advertising structures (billboards) permissible on Council owned land in specific zones (excluding residential zones) within the City subject to appropriate controls. This approach will provide Council with some flexibility in considering appropriate locations, size and illumination for such signage and enable targeted community consultation when a development application for an advertising structure is under consideration. An Outdoor Advertising - Special Community Signs Policy is provided at Appendix A provided at **ATTACHMENT 1** and details how the public benefit will be derived. Input from Council's Property Team has been incorporated into the policy.

Proposed Environmentally Sensitive Lands provisions and mapping for terrestrial biodiversity, riparian lands, watercourses, scenic quality and natural landforms were referred to Council's Environment Department. See Part 2 - An Explanation of Provisions and maps at Appendix G to I provided at **ATTACHMENT 1** for an explanation of the proposed provisions and land to which the provisions will apply. Our environment team supports their implementation to achieve environmental management outcomes for the City of Ryde's most environmentally sensitive land.

6. Planning Assessment

The assessment of the Planning Proposal has been undertaken in accordance with the NSW Department of Planning and Environment's 'A guide to preparing planning proposals' (dated August 2016).

ITEM 3 (continued)

- **Part 1 Objectives and intended outcomes**

The objectives of the proposed changes to the LEP are provided above and detailed in Part 1 – Objectives or Intended Outcomes provided at **ATTACHMENT 1**. The intended outcomes are also detailed in that part of the attachment.

- **Part 2 Explanation of provisions**

An explanation of provisions is detailed in Part 2 – Explanation of Provisions provided at **ATTACHMENT 1** and is not reiterated here due to the broad nature of the proposed new planning controls and amendments to existing provisions proposed.

- **Part 3 Justification**

Need for the Planning Proposal

The NSW Department of Planning and Environment's 'A guide to preparing planning proposals' requires the following two questions be answered to demonstrate the need for the proposal:

1. Is the Planning Proposal a result of an endorsed local strategic planning statement, strategic study or report?
2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is not a result of a single strategic study or report. It responds to matters that have been raised by Council staff in relation to the operation of the LEP. It also responds to parts of the LSPS and Council resolutions detailed in Part 2 – An Explanation of the Provisions provided in **ATTACHMENT 1**. The Planning Proposal is required to amend the LEP to resolve the identified issues and implement the decision of Council.

The Planning Proposal is the only means to achieve the intended outcome as amendments to the LEP are required.

Relationship to Strategic Planning Framework – The Strategic Merit Test

A strategic merit test is provided in the following table. More detail is provided in Part 3 - Justification provided in **ATTACHMENT 1**.

ITEM 3 (continued)

Strategic Merit Issue	Comment
State Environmental Planning Policies and Local Directions	The Planning Proposal is generally consistent with the relevant State Environmental Planning Policies and Local Planning Directions under Section 9.1 of the <i>Environmental Planning and Assessment Act 1979</i> . An analysis of compliance with these policies is provided in the attached Planning Proposal.
Greater Sydney Region Plan - A Metropolis of Three Cities	The planning proposal is generally consistent with the Greater Sydney Region Plan - A Metropolis of Three Cities.
North District Plan	The Planning Proposal is generally consistent with the North District Plan.
Ryde Local Strategic Planning Statement (LSPS)	The Planning Proposal is consistent with Council's adopted LSPS and implements several planning priorities identified by the strategy.

Key Assessment Issues

Due to the number of proposed new provisions, amendments to existing provisions and amount of subject land, key assessment issues relevant to the Planning Proposal are detailed in Part 2 – Explanation of Provisions provided in **ATTACHMENT 1**.

7. Conclusion

The Planning Proposal has been initiated by Council to update and address a range of miscellaneous administrative issues identified in the operation of the LEP and to introduce new provisions.

The Planning Proposal is generally consistent with relevant State and Local legislation, directions, policies and strategic directions, including Council's LSPS, and will have a minimal environmental, social and economic impact.

ITEM 3 (continued)

8. Recommendation

That the Ryde Local Planning Panel recommend to Council that the Planning Proposal be submitted for Gateway Determination under 3.34 of the *Environmental Planning and Assessment Act 1979*.

ATTACHMENTS

1 Administrative and Update LEP Planning Proposal

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