

**Meeting Date: Thursday 12 November 2020**  
**Location: Virtual Meeting held over Microsoft Teams**  
**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**

### **DECLARATIONS OF INTEREST**

### **DEVELOPMENT APPLICATION**

- 1 68 Blaxland Road, Ryde (Royal Hotel) - Alterations to an existing hotel, as well as the extension of trading hours from 2am to 4am, Monday to Saturday - LDA2020/0089
- 2 25 Clanwilliam Street, Eastwood - Demolition, new two storey dual occupancy (attached), front fence and strata subdivision - LDA2020/0135

## **DEVELOPMENT APPLICATIONS**

- 1 68 Blaxland Road, Ryde (Royal Hotel) - Alterations to an existing hotel, as well as the extension of trading hours from 2am to 4am, Monday to Saturday - LDA2020/0089**

**Report prepared by:** Senior Coordinator - Major Development

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

**Report dated:** 03 November 2020

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

BP20/1143

### **City of Ryde Local Planning Panel Report**

<b>DA Number</b>	LDA2020/0089
<b>Site Address &amp; Ward</b>	Royal Hotel 68 Blaxland Road, Ryde Central Ward
<b>Zoning</b>	B4 Mixed Use
<b>Proposal</b>	Alterations to an existing hotel, as well as the extension of trading hours from 2am to 4am, Monday to Saturday.
<b>Property Owner</b>	DOAR (NSW) Pty Ltd
<b>Applicant</b>	Patrick Gallagher
<b>Report Author</b>	Rebecca Lockart – Senior Coordinator Major Development
<b>Lodgement Date</b>	25 March 2020
<b>No. of Submission</b>	Fourteen (14) objecting to the proposal.
<b>Cost of Works</b>	\$91,300
<b>Reason for Referral to RLPP</b>	Contentious development – more than 10 unique objecting submissions
<b>Recommendation</b>	Refusal
<b>Attachments</b>	Attachment 1. Plan of Management Attachment 2. Architectural Plans

## ITEM 1 (continued)

### 1. Executive Summary

The following report is an assessment of Local Development Application No. LDA2020/0089, for alterations to an existing hotel, The Royal Hotel, as well as the extension of trading hours from 2am to 4am, Monday to Saturday.

#### Proposed hours of operation

The application proposes to extend the hours of operation a further two hours to 4am on Monday to Saturday.

The existing hours for the Hotel permit trade between 10am and 2am Monday to Saturday, and 10am to midnight Sunday. The site has been subject to a number of applications to extend trading hours. Each of these applications have predominantly related to the Hotel gaming area, and the measures enforced by conditions of existing consents are proposed to form part of the operations during the extended hours of operation as outlined in the submitted Plan of Management (**Attachment 2**). These include:

- No sale of liquor after midnight.
- Maximum of 50 patrons after midnight.
- Entry and exit to the Hotel after midnight to be restricted to the entry and exit point on Blaxland Road.
- Security guard from 9pm (on late trading evenings only).

#### Proposed building works

The proposed works include alterations to gaming room and accessibility improvements. The proposed building works include:

1. Alterations to the ceiling void in the gaming room, including the erection of baffle walls around the void perimeter.
2. New ramping from the Blaxland Road entry.
3. Expansion of the accessible toilet.

#### Submissions

The application was notified from 3 April 2020 to 29 April 2020. In response, fourteen (14) submissions were received objecting to the proposed modifications. Key issues raised include:

- Noise from patrons leaving the premises, including noise made directly by patrons and by the vehicles of patrons, particularly around the current closing time of the venue.
- Anti-social behaviour, including swearing, fighting, and public urination.
- Sleep disturbance associated with the noise impacts.
- Noise from the premises, include from poker machines, music, and patrons.
- Littering of bottles and other rubbish around neighbouring buildings.

**ITEM 1 (continued)**

- Illegal parking and traffic movements.
- Cigarette smoke impacting on residences.

Recommendation

The development has been assessed against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the proposal is recommended for refusal as:

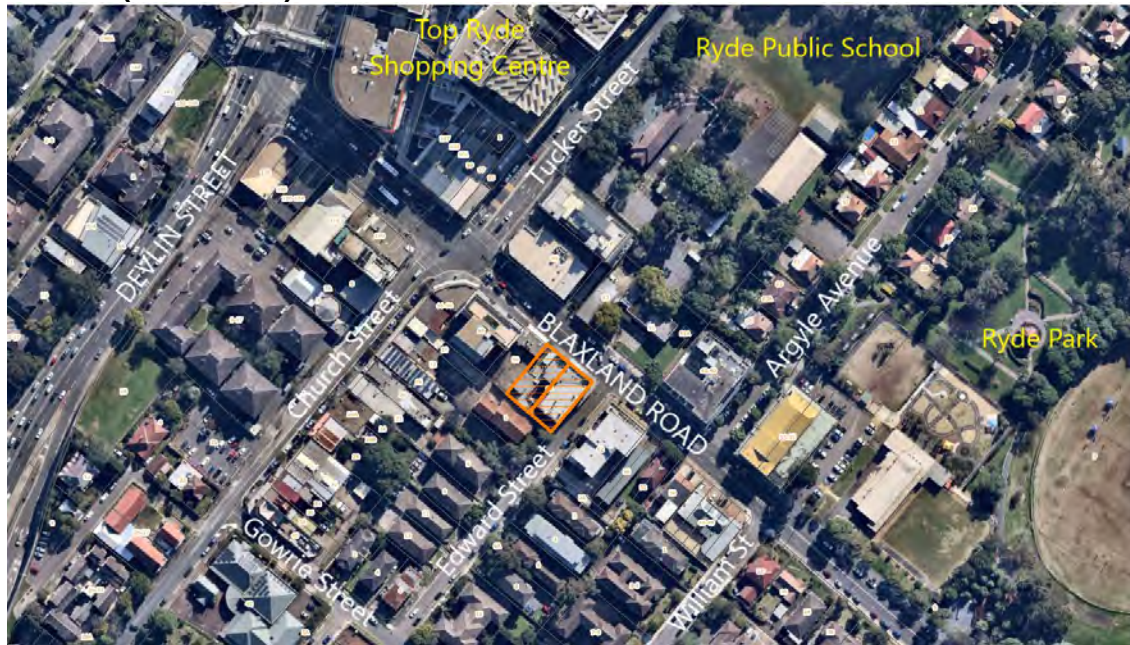
- The proposed extension of hours would adversely affect the amenity of the surrounding residential area.
- The proposed extension of hours is not compatible with the existing, and desired future character of the Ryde Town Centre.
- Past operations of the premises to 2am have not successfully demonstrated that impacts on the neighbourhood have been adequately managed based on the submissions received to the application.
- The proposed extension of hours does not meet the objectives of the B4 Mixed Use zone under Ryde Local Environmental Plan 2014 (RLEP 2014).
- The proposal is inconsistent with the objectives and controls under Ryde Development Control Plan 2014 (RDCP 2014)- Part 4.4 Ryde Town Centre.
- The application has a lack of information regarding the proposed acoustic treatment for noise mitigation.
- Approval of extended hours would set an undesirable precedent for other licenced premises within the Ryde area, and lead to potential detrimental cumulative impacts.
- The site is not considered suitable for the proposed extended hours of operation.
- The proposed extended hours of operation will result in negative social impacts and an increased risk for crime which cannot be eliminated through management practices.
- Approval of the application would not be in the public interest.

**2. The Site and Locality**Site description

The Site has a street address of 68 Blaxland Road, Ryde (Lot 16 and Lot 17 in Deposited Plan 9692), and is known as the Royal Hotel (“the Hotel”), which has been in operation since 1930.

The Site is located on the south-western side of Blaxland Road, at the western side of its intersection with Edward Street. The Site is regularly shaped and has a total area of 858m<sup>2</sup>. The Site has a 28.14m frontage to Blaxland Road and a 30.4m frontage to Edward Street.

**ITEM 1 (continued)**



**Figure 1:** Aerial photograph of site

Existing development on the Site includes a two-storey pub (**Figure 2**), with an outdoor ground floor gaming area located along the north-western boundary of the Site.

The Hotel provides the following facilities:

- General bar area.
- TAB area.
- Bistro.
- Gaming room with 28 gaming machines – including indoor and external/unenclosed.
- Beer garden.
- Sanitary facilities.
- First floor accommodation including 12 rooms with shared male and female bathrooms, a shared kitchen and deck area.

## ITEM 1 (continued)



Figure 2: Photograph of the site

### Operating hours and licencing conditions of the existing premises

The Hotel currently operates on a permanent basis on Monday to Saturday from 10.00 am until 2.00 am the following day; and from 10.00 am until 12.00 midnight on Sunday. It has operated with these hours since the approval of a Section 96 application in 2015 which granted approval to operate until 2am on a trial basis, which was then made permanent in 2017, as detailed later in this report.

The Hotel ceases the sale of alcohol after 12 midnight, with only the gaming area of the Hotel open until 2am.

The Hotel liquor licence (No. LIQH400105266) for the premises states: *Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4:00AM and 10:00AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.*

To this effect the other limits specified in the licence state:

- *No alcoholic drink is to be sold after 12:00 midnight.*
- *The number of patrons in the Hotel after 12.00 midnight is restricted to 50.*
- *No entertainment other than background music will be provided after 12.00 midnight.*
- *Entry and exit to the Hotel after 12.00 midnight will be restricted to the entry/exit point on Blaxland Road, closest to Church Street (see **Figure 2**).*

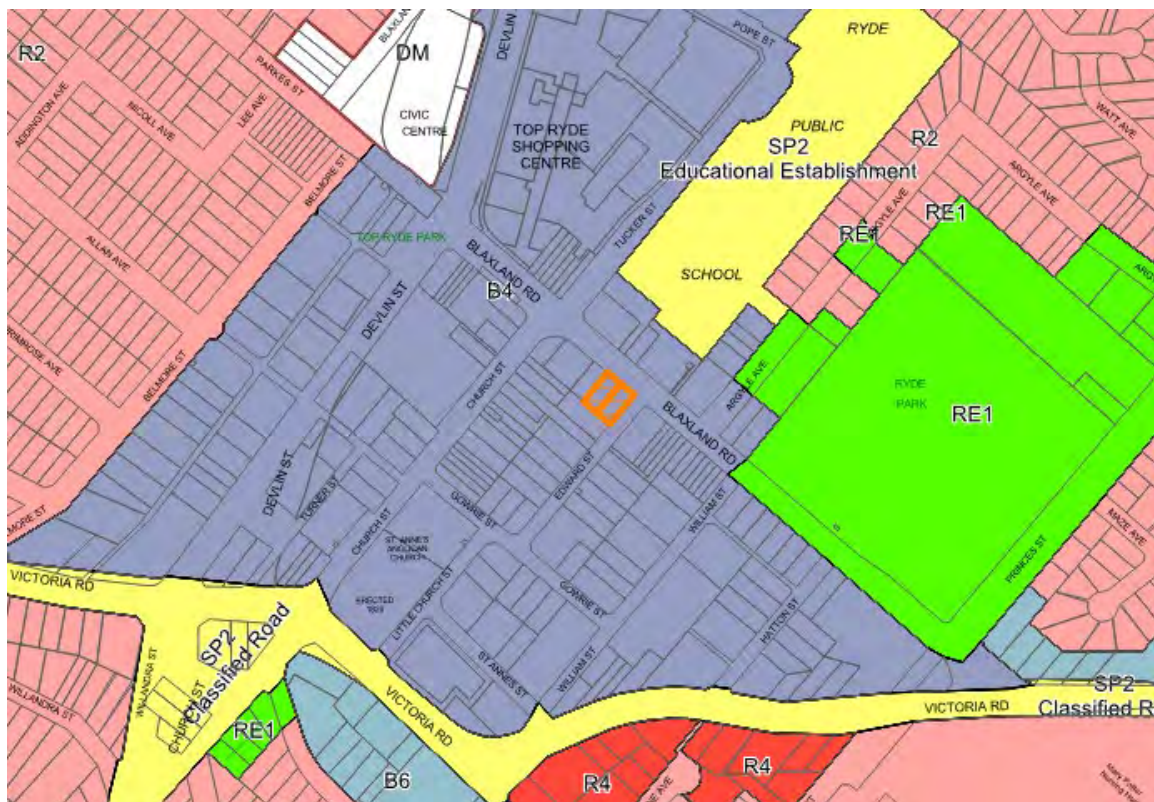
These conditions are reflected in the Plan of Management (POM) for the premises.

### Site context

### ITEM 1 (continued)

The Site is positioned on the corner of Blaxland Road and Edward Street. Blaxland Road is a state Classified Road, while Edward Street is a one-way street in a south-bound direction. The Hotel is located within a mixed-use neighbourhood, which includes commercial, retail, residential, recreational, education, and community use (**Figures 4 - 9**). There are a number of residential uses that surround the part of the Site to be affected by the proposed extended hours (refer **Figure 4 and 5**). The nearest residential receivers are located 3.5m from the part of the Hotel where the extended hours are proposed, being the residential flat building at 1 Edward Street as shown at **Figure 4**.

The Site is within the B4 Mixed Use zone under the provisions of RLEP 2014 (**Figure 3**) and also lies within the Main Street Precinct' Ryde Town Centre as identified within both the RLEP 2014 and RDCP 2014. All adjoining allotments are within the B4 Mixed Use zone. However, nearby land also lies within the SP2 Special Infrastructure (Ryde Public School), RE1 Public Recreation zone (Ryde Park), R2 Low Density Residential zone, B6 Enterprise Corridor and the R4 High Density Residential zone.



**Figure 3:** Ryde LEP 2014 – Zoning Map (site noted in orange)

**ITEM 1 (continued)**



**Figure 4:** Rear of the Hotel (on right) adjoining residential flat building at 1 Edward St



**Figure 5:** Looking north on Edward St showing adjoining mixed use/residential flat building at 2 Edward St and 62 Blaxland Road



**ITEM 1 (continued)**



**Figure 6:** Looking north on Edward Street showing typical residential flat buildings (Source: Google Streetview)



**Figure 7:** Blaxland Road looking south-east, 62 Blaxland Road and the Hotel on the corner of Edward Street

**ITEM 1 (continued)**



**Figure 8:** Looking west on Blaxland Road showing Top Ryde Shopping Centre in the distance



**Figure 9:** The Hotel, looking northwest up Blaxland Road

**ITEM 1 (continued)****3. The Proposal**

The subject development application (DA) seeks alterations to an existing hotel, as well as the extension of trading hours from 2am to 4am, Monday to Saturday, at 68 Blaxland Road, Ryde.

Hours of operation

The existing hours for the Hotel permit trade between 10am and 2am Monday to Saturday, and 10am to midnight Sunday. After midnight the Hotel does not sell or supply liquor and is subject to a maximum of 50 patrons under its liquor licence and/or the conditions of existing consent.

The proposal seeks to extend the hours of operation until 4am Monday to Saturday, with the same restrictions on use that currently apply to 2am, to apply until 4am as outlined in the submitted Plan of Management (**Attachment 2**).

The submitted Statement of Environmental Effects (SEE) provides wording for a suggested reviewable condition, which may be imposed pursuant to section 4.17(10B) of the EP&A Act:

*“1. Extended Hours of Operation*

*The hours of operation of the Hotel are regulated by a reviewable condition.*

*(a) The Hotel shall, subject to a reviewable condition, be permitted to trade from 2am to 4am Tuesday to Sunday.*

*(b) The purpose of this reviewable condition is to assist Council in monitoring the amenity impacts caused by the noise emissions of the operations of the Hotel’s gaming room during the hours 2am to 4am Tuesday to Sunday.*

*(c) Council is to carry out any such reviews of Condition 1(a), and may review it at any time, provided that there shall be a minimum interval of 12 months between any two reviews*

*(d) Before carrying out a review of Condition 1(a), Council shall give the operator of the Hotel 21 days written notice that a review of this condition will take place and any reasons for the review. The operator may make any submission to Council to support the continuation of the extended trading hours, and Council shall take into account any such submission received within 21 days after written notice is given of the review to the operator.*

*(e) Upon any review, Council may change Condition 1(a), including by extinguishing the reviewability of the Condition and thereby making the extended hours of operation permanent.*

*(f) To avoid doubt, the extended hours under Condition 1(a) shall be in addition to the hours of operation the premises is already permitted to trade under DA 1988/3707 (as that Consent was modified by Mod 2017/0215), which pre-existing hours shall not be reviewable under, nor in any way impaired by, this Consent.*

**ITEM 1 (continued)**

In relation to the proposed extended hours of operation, it is noted that insufficient information relating to the area affected by the extended hours has been submitted with the application. It is not clear which areas of the site are affected by the extended hours. As submitted for previous applications, a plan clearly nominating the area that would be specifically affected by the extended hours is necessary to undertake a proper and full assessment of the full impacts of the extension of operating hours.

The uncertainty around these matters has direct implications for the Development Application, particularly as there may be works required to be undertaken in the future that could impact on the acoustic environment, including background noise levels, but that could be free from further rigorous assessment associated with extended trading hours.

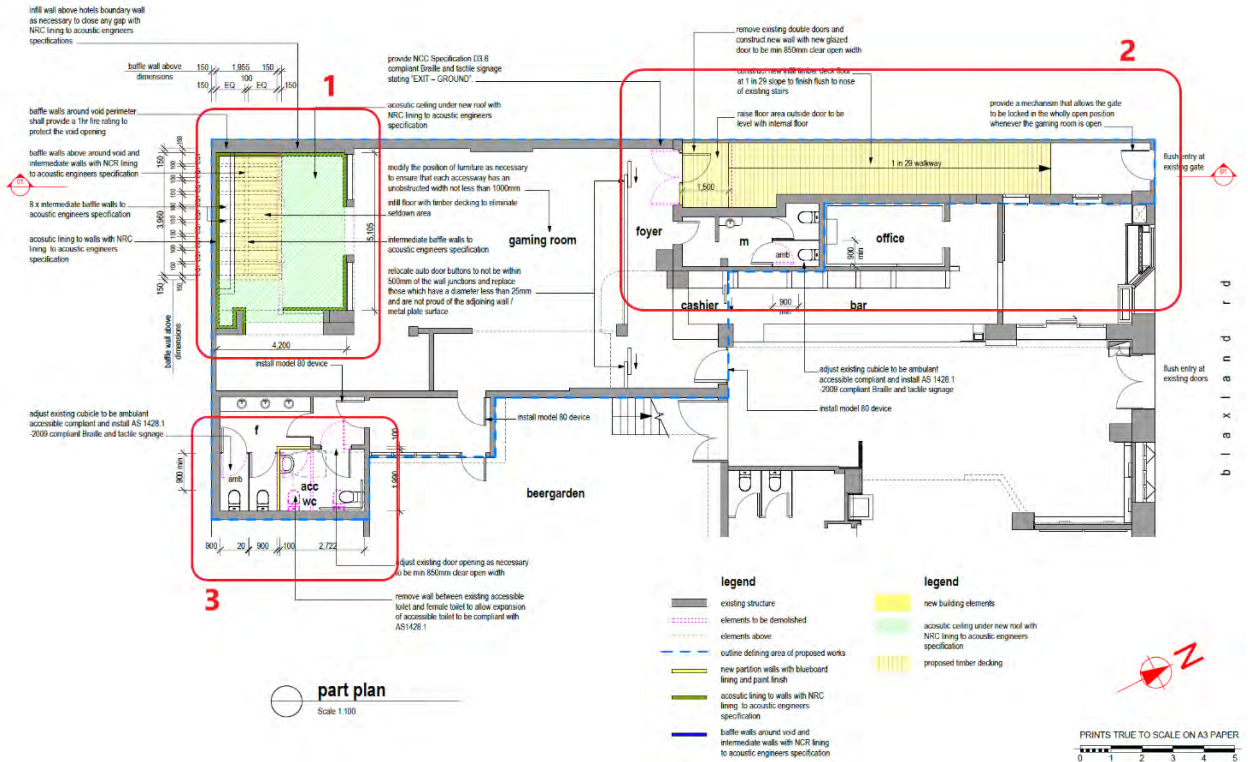
Such works described above could influence the calculation of gross floor area at the site and the required amount of parking, among other matters relevant to the proper consideration of the Development Application.

Proposed building works

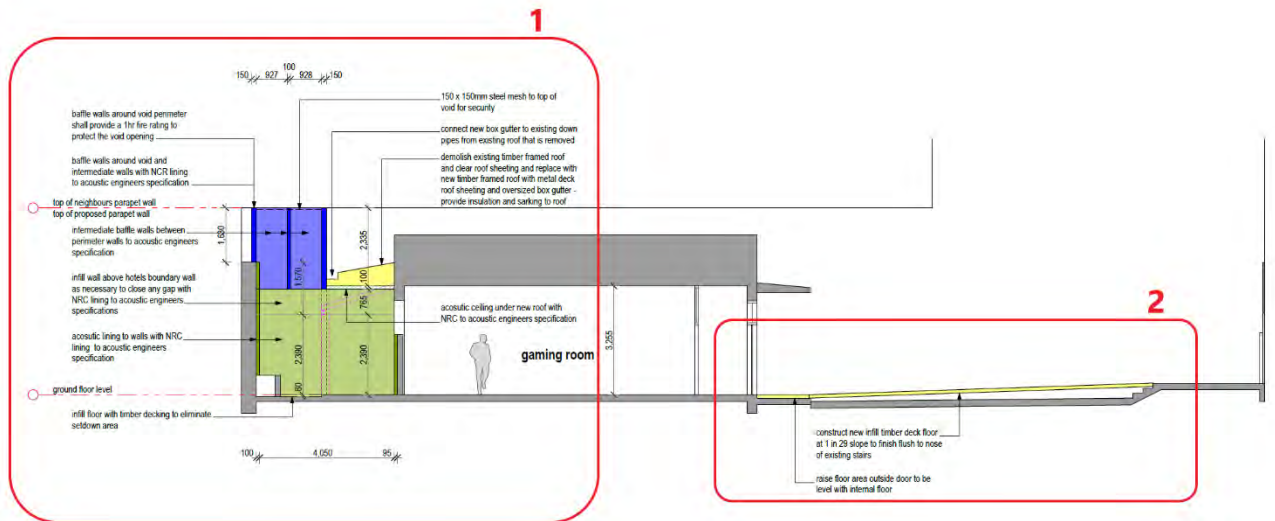
The proposed works include alterations to the gaming room and accessibility improvements. The proposed building works include the following as shown at **Figure 10 and 11**:

1. Alterations to the ceiling void in the gaming room, including the erection of baffle walls around the void perimeter. The alterations to the gaming room are related to acoustic attenuation of the gaming room, and to permit smoking.
2. New ramping from the Blaxland Road entry.
3. Expansion of the accessible toilet.

**ITEM 1 (continued)**



**Figure 10:** Proposed floor plan indicating location of proposed building works



**Figure 11:** Proposed section plan indicating location of proposed building works

**ITEM 1 (continued)****4. Background****1.1 LDA2020/89 – Subject Application**

The Development Application was lodged with Council on 1 April 2020.

The Development Application was referred to Council's Building Surveyor, Environmental Health Officer (EHO), and NSW Police. NSW Police comments refer to previous comments provided in response to MOD2018/0235, given it sought the same extension of hours as proposed within the Development Application.

The Development Application was advertised for a twenty-one (21) day period from 8 April 2020 to 29 April 2020. As part of the advertising period, the application was advertised in the Weekly Times, and notification letters were sent to surrounding properties.

As a result of the advertising process, 14 submissions were received, all of which objected to the Development Application. The issues raised within the submissions are summarised as follows:

- Noise from patrons leaving the premises, including noise made directly by patrons and by the vehicles of patrons, particularly around the current closing time of the venue.
- Anti-social behaviour, including swearing, fighting, and public urination.
- Sleep disturbance associated with the noise impacts.
- Noise from the premises, include from poker machines, music, and patrons.
- Littering of bottles and other rubbish around neighbouring buildings.
- Illegal parking and traffic movements.
- Cigarette smoke impacting on residences.

On 7 July 2020 Council received the Class 1 deemed refusal Appeal with the NSW Land and Environment Court ("LEC"). At the time of the receipt of the LEC appeal, a response from the EHO in relation to acoustic impacts had not been received in relation to the DA. Despite this, an Acoustic Consultant has been engaged for the court appeal, and the comments provided in the Statement of Facts and Contentions have been included in this report to assist in the assessment of the proposal.

On 19 June 2020, Council accepted lodgement of a Building Information Certificate (BIC), BC2020/0022, lodged for the purpose of legitimising unauthorised works at the Hotel. The BIC was issued on 20 August 2020.

**1.2 Other relevant applications**

The following outlines the previous applications seeking changes to hours of operation.

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- DA1988/3707 was issued on 15 June 1988, and Condition 7 of that consent states:

*“The hours of operation being restricted to between the hours of 10.00am to 12midnight Monday to Saturday and 10.00am to 8.00pm on Sunday”.*

- MOD1994/424 to extend hours from 10.00am to 3.00am Monday to Saturday, and 12 noon to 10pm on Sundays, was refused on 30 September 1994 for the following reasons:
  - The proposed hours of operation are considered to adversely affect the amenity of the locality.
  - The Development Application is not compatible with the residential character of the locality.
- MOD1994/424 sought to extend hours from 10.00am to 3.00am Monday to Saturday, and 12 noon to 10pm on Sundays, as refused on 30 September 1994 for the following reasons:
  - The proposed hours of operation are considered to adversely affect the amenity of the locality.
  - The proposal is not considered compatible with the residential character of the locality.

A total of 171 objections were received.

- MOD1995/433 to extend hours from 5.00am to 3.00am Monday to Saturday, and 12 noon to midnight on Sundays, was refused on 5 October 1995 for the following reasons:
  - The proposed hours of operation are out of character with the existing mixed commercial residential nature of the area given the subject property is located on the edge of a commercial zone with residential land adjoining and opposite.
  - The proposed hours of operation are considered to adversely affect the existing and likely future amenity of the locality.

Six (6) submissions in objection were received, including a petition with 187 signatures, a petition with 4 signatures, a submission from the Pindari-Thomas Bowden Retirement Village, Ryde Primary School, Ryde Public School P&C, and NSW Department of Education.

- MOD1999/1582 to extend hours to 3.00am daily, was refused on 8 February 2000 for the following reasons:
  - The proposed hours of operation would adversely affect the amenity of the surrounding residential area.
  - The proposed extension of hours is not compatible with the residential character of the locality.

**ITEM 1 (continued)**

Six (6) submissions in objection were received, including a petition with 108 signatures, and a submission from the Rector at St Anne's Anglican Church.

- MOD1988/3707.2 to extend hours to 3.30am Monday to Saturday, and to 12 midnight on Sundays, was refused on 11 May 2004 for the following reasons:
  - The proposed hours of operation are out of character with the existing commercial residential nature of the area given that the subject property is located on the edge of a commercial zone with high population densities on land adjoining and opposite the Hotel (particularly Edward & Gowrie Streets).
  - The proposed hours of operation are considered to adversely affect the existing and likely future amenity at the locality.
  - The proposed hours of operation are inconsistent with the objectives of Draft Local Environmental Plan No. 123 - Top Ryde Urban Village.
  - The hours of operation are not in the public interest.

83 submissions objection were received, including a petition containing 65 signatures.

- A Review of MOD1988/3707.2, undertaken in accordance with the former Section 82A of the EP&A Act, was refused on 17 January 2005.

18 submissions objection were received, including a petition containing 65 signatures.

- MOD2015/0100 to extend hours to 2am Monday to Sunday morning, and to 12 midnight on Sundays, was approved on a trial basis on 22 March 2016. The modified Condition 7 that was approved at the time is shown below:

7. **Trading Hours.** *The Hotel shall only operate within the hours specified under this condition:*
  - a) *The hours of operation of the premises are restricted to between 10.00am to 12.00 midnight Mondays to Saturdays and 10.00am to 10.00pm on Sundays.*
  - b) *Notwithstanding (a) above, the premises may operate until 2.00am on Tuesday to Sunday mornings and until midnight on Sundays for a trial period of twelve (12) months commencing from the grant of an extended trading authorisation by the NSW Independent Liquor and Gaming Authority. The applicant shall as soon as reasonably possible, furnish Council with documents to confirm commencement of the trial period.*
  - c) *At the expiration of the trial period the opening hours shall revert to the hours approved under (a) above.*
  - d) *The operator may seek a review of the opening hours through a separate Section 96 Application being made to Council prior to the*



**ITEM 1 (continued)**

*expiry of the trial period. A decision to make the hours permanent may include (but not limited to) factors such as:*

- *Evidence to be furnished by the operator as to whether the trial has actually occurred;*
- *Any justified complaints received and investigated by the Police and or the Council;*
- *Comments and advice received from the Ryde Local Area Command and as a result of the new Section 96 Application being referred to them;*
- *The performance of the operator during the trial period with respect to compliance with the Venue Management Plan.*

Furthermore, the following additional conditions were imposed:

14. **Offensive noise.** *The use of the premises must not cause the emission of offensive noise as defined in the Protection of the Environment Operations Act 1997.*
15. **Venue Management Plan (VMP).** *The business must be operated at all times in accordance with the Venue Management Plan dated February 2016 as approved under this development consent. Any changes to the Venue Management Plan must be agreed upon in writing by the Ryde Local Area Commander and City of Ryde.*
16. **Restriction on entertainment.** *No live music, entertainment provided by a DJ or other performer is to be provided at the Hotel after midnight. Any music if provided is to be limited to background music only.*
17. **Maximum number of patrons after 12.00 midnight.** *On any morning that the Hotel trades after midnight, no more than 50 patrons are to be in the Hotel at any one time after midnight.*
18. **No sale or supply of liquor after midnight.** *There shall be no sale or supply of liquor after 12.00 midnight.*
19. **Security guard.** *On the nights that the Royal Hotel trades past midnight, at least one licenced security officer shall be provided at the premises from 9.00pm and must ensure patrolling in the vicinity of the Hotel (including the bus zone area adjacent to the Hotel) until 30 minutes after closing time. The conduct and duties of the security personnel is to be in accordance with the details provided in the Venue Management Plan.*
20. **Provide dedicated email for complaints.** *The operator of the Hotel must set up a dedicated email address to receive and address complaints in relation to any noise or disturbances during or outside the opening hours of the premises. Such email is to be set up so as to enable any emails received or sent from that email address to be automatically copied to Ryde Council. The email address must be displayed in prominent locations inside and outside the Hotel.*

**ITEM 1 (continued)**

- MOD2017/0215 to make permanent the hours of operation approved under MOD2015/0100, was approved on 8 November 2017, resulting in the deletion of Conditions 7(b)-(d) inclusive.

The remaining conditions imposed under MOD20155/0100 (Condition 14 – 20) remain on the consent.

- MOD2018/0235 seeking comparable trading hours to that proposed within the subject development application was refused on 23 March 2019. This determination was appealed in Class 1 Proceedings in the Land and Environment Court of NSW on 9 April 2019 and is currently undetermined.

**5. Planning Assessment**

The following planning legislation, environmental planning instruments, development control plans and policies apply to the Site, and are of particular reference to the subject development application:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulations 2000 (EP&A Regulations)*
- *Ryde Local Environment Plan 2014*
  - Clause 2.2 – Zoning of land to which this Plan applies (the Site is zoned B4 Mixed Use)
  - Clause 2.3 – Zone objective and Land Use Table
  - Clause 4.3 – Height of Buildings
  - Clause 4.4 – Floor Space Ratio
  - Clause 5.10 – Heritage conservation – the site directly adjoins a State heritage item, the colonial Great North Road, known as Blaxland Road at the site frontage.
- *Ryde Development Control Plan 2014 (RDCP 2014)*
  - Part 4.4 – Ryde Town Centre
    - Section 2.2 Planning Principles for Ryde Town Centre
    - Section 2.3 The Objectives of this Part
    - Section 7.4 Acoustic Privacy
    - Section 8.3 Precinct 3 - Main Street
  - Part 9.3 – Parking Controls

**5.1 Ryde Local Environmental Plan 2014****Clause 2.1 Land Use Zones**

The subject site is within the B4 Mixed Use zone.

**Clause 2.3 Zone objectives and Land Use Table**

**ITEM 1 (continued)**

The objectives of the B4 Mixed Use zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.*
- *To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.*

The applicant's assessment in relation to the B4 zoning is as follows:

*"The Application meets the zone objectives by contributing to the mixture of land uses in the zone without adversely impacting the amenity of the surrounding area. Being the only hotel in the mixed-use zone with late night trading capabilities, extending trading hours will provide additional services to residents who wish to utilise the Hotel's facilities late at night.*

*Additionally, patrons also have the convenience of public transport options. Patrons wanting access to late night entertainment that the Hotel offers will be more inclined to arrive via these public transport options due to the convenience and accessibility of the Hotel.*

*The proposed ramp and improvements to the Hotel's accessible toilet will bring the Hotel up to code, as recommended in the Fire Safety and Accessibility Audit. By implementing these recommendations, residents will have improved access to the Hotel's facilities.*

*The Acoustic Assessment which accompanies the Application concludes that noise emissions will satisfy existing conditions of consent and thereby protect the amenity of the surrounding area."*

Despite the existing hotel contributing to a mixture of land uses, the application does not meet the first objective in relation to compatibility of its location. The Oxford Dictionary definition of 'compatible' is "able to exist or occur together without problems or conflict". The proximity of the site in relation to residential properties, and the information received in the submissions has established that the existing operations are not able to occur 'without problems or conflict'. As detailed later in this report, the recommended acoustic measures, both the operational and architectural measures are not considered to adequately manage impacts on the neighbourhood during the extended hours of operation.

Noise from the Hotel and from patrons exiting the premises, and littering from patrons in the surrounding streets, are current 'problems' that the submissions state are occurring with the current operations of the premises to 2am. To permit this to occur

**ITEM 1 (continued)**

until 4am is incompatible with the neighbourhood and would not be in keeping with the zoning of the site.

As outlined in the NSW Police referral,

*“Police object to this application as it will result in negative social impacts for both the local and broader community. The location is a mixed-use location of both residential and retail premises which is not suitable for the development proposed”.*

It is not considered that the proposed extended hours will be compatible with the surrounding land uses as the proposed mitigation measures outlined in the submitted Acoustic Report and Plan of Management to reduce the impacts are difficult to enforce to a level that would be compatible with the residential amenity of the neighbouring properties.

The operation of the premises until 4am, as demonstrated through its current operations to 2am and a lack of adequate, enforceable mitigation measures to demonstrate that no impacts will be caused, is incompatible and unsuitable for the mixed-use environment it is located. While liquor trade may cease and a restriction of 50 patrons apply from midnight, for the premises to have only a six hour closure period 5 days a week is not in keeping with the character of the area and will cause undesirable impacts on the amenity and character of the neighbourhood.

The Hotel is positioned within a mixed-use environment with immediately neighbouring residential uses. Operation of a hotel until 4am is not considered to be in keeping with the existing and future vision for the mixed-use Ryde Town Centre and accordingly, is not considered to meet the objectives of the B4 zone.

**Clause 4.3 – Height of Buildings**

Buildings must comply with the maximum heights described in Ryde LEP 2014 - Height of Buildings Map. The maximum permitted height is 15.5m. The proposed additions have a maximum height of 5.59m which complies.

**Clause 4.4 – Floor Space Ratio**

The proposed works do not affect the floor area of the building.

**Clause 5.10 – Heritage conservation**

The site directly adjoins a State heritage item, the colonial Great North Road, known as Blaxland Road at the site frontage. The proposed hours of operation and internal alterations are not anticipated to have an impact on the heritage significance of this heritage item.

**ITEM 1 (continued)**
**5.2 Draft Environmental Planning Instruments**

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

**5.3 Development Control Plans**
Part 4.4 - Ryde Town Centre
**Section 2.2 Planning Principles for Ryde Town Centre and Section 2.3 The Objectives of this Part**

The Objectives under Section 2.3 read as follows

1. *To reinforce Ryde Town Centre as an important cultural, civic, commercial, retail, employment, education, residential and recreation location*
2. *To enhance the civic qualities of Ryde Town Centre*
3. *To create an attractive, safe, convenient and well-used pedestrian environment and public domain*
4. *To develop a high quality urban centre*
5. *To develop high quality built form*
6. *To develop a sustainable town centre that balances social, economic and environmental objectives*

The proposal is not considered to meet these objectives, particularly (1), (3), (4) and (6). The Planning Principles under Section 2.2 generally reflect the Objectives under Section 2.3. An assessment of the applicable Planning Principles and the corresponding Objectives is provided below.

<b>2.2 Planning Principles for Ryde Town Centre</b>	<b>2.3 Corresponding Objectives for the Ryde Town Centre</b>	<b>Assessment</b>
<u>1. Regional role</u>		
1. <i>Development within the Ryde Town Centre is to contribute to the status of the land as an important retail, business, employment, recreational, entertainment, civic and residential centre.</i>	1. <i>To reinforce Ryde Town Centre as an important cultural, civic, commercial, retail, employment, education, residential and recreation location</i>	Extension of the hours of operation within the Ryde Town Centre area within a mixed-use environment is not considered to contribute to the importance of the centre as it will undermine the cohesiveness and compatibility of commercial/entertainment and residential uses through allowing detrimental amenity impacts to occur for an extended period.
<u>2. Sustainable planning and development</u>		
a. <i>Planning and development is to ensure that social, economic and environmental issues are considered together and with proper regard for their mutual cumulative</i>	6. <i>To develop a sustainable town centre that balances social, economic and environmental objectives</i>	The NSW Police referral raises issues with regard to the social and environmental impacts of extended trading hours. Crime, noise and amenity impacts in conjunction with negative social impacts are key impacts of the extended trading

**ITEM 1 (continued)**

<b>2.2 Planning Principles for Ryde Town Centre</b>	<b>2.3 Corresponding Objectives for the Ryde Town Centre</b>	<b>Assessment</b>
<i>impacts.</i>		hours, which cumulatively will have a detrimental impact on the neighbourhood. Approval of the proposed 4am operations would not be consistent with this Planning Principle, and would undermine the cohesive and amenable environment that the DCP is aiming to create.
<b>3. <u>Public domain</u></b>		
<i>b. Development is to create a safe and accessible public domain that will be enjoyed by shoppers, residents, workers and visitors. Active uses are to be located along pedestrian thoroughfares and streets.</i>	<b>3. To create an attractive, safe, convenient and well-used pedestrian environment and public domain</b>	Extension of the trading hours of the gaming room of the Hotel is not considered to meet this Planning Principle as operation of the premises until 4am is not conducive to creating a safe public environment. As raised by NSW Police, “an extension of trading hours has the potential to have the following negative impacts, upon the local area.” <ul style="list-style-type: none"> <li>• An increase in alcohol related assaults/crime</li> <li>• Intoxication related issues such as Excluded Person offences</li> <li>• Disturbance to the local neighbourhood.</li> <li>• An increase in patron migration.”</li> </ul>
<b>4. <u>Urban form</u></b>		
<i>c. Development is to provide a transition between the Town Centre and adjoining residential areas with complementary land-uses and the scale and massing of built form.</i>	<b>1. To reinforce Ryde Town Centre as an important cultural, civic, commercial, retail, employment, education, residential and recreation location</b>  <b>4. To develop a high quality urban centre</b>  <b>6. To develop a sustainable town centre that balances social, economic and environmental objectives</b>	The Hotel is located directly adjoining residential properties to the south-west and the south-east, and is separated by one property to the north-west to another residential flat building.  The land use with hours of operation to 4am is not considered complementary due to the level of probable impacts that would be caused with an extension of hours.

**Section 7.0 Residential Amenity - Section 7.4 – Acoustic Privacy**

The following controls of Section 7.4 of Part 4.4 of Ryde DCP 2014 are of relevance to the proposal.

- f) *The use of a premises, and any plant, equipment and building services associated with a premises must not:*

**ITEM 1 (continued)**

- i. Create an offensive noise as defined by the Protection of the Environment Operations Act 1997; and
- ii. Add significantly to the background noise experienced in a locality. Council may require a statement of compliance from a qualified acoustical consultant.
- g) Machinery and activities, including construction work, that are likely to generate offensive noise must be adequately sound-proofed in accordance with the Protection of the Environment Operations Act 1997 prior to occupation of the premises.
- h) Where retail and commercial development adjoins residential development, the use of mechanical plant equipment and building services will be restricted and must have acoustic insulation.
- j) Design restaurants and cafes to diminish the impact of noise associated with late night operation on nearby residents.

As indicated in the submitted Acoustic Report, the use of the premises may cause impact on neighbouring residential receivers, with a range of mitigation and management measures proposed to manage and ensure compliance with the noise emissions criteria. **Figure 12** below identifies the nearest residential receivers, with Receiver 1 being the residential building located along the southern boundary of the site, at 1 Edward Street, Ryde, some 3.5m from the boundary of the Site.



**Figure 12:** Site map, measurement description and surrounding receivers

(Source: Acoustic Logic – DA Acoustic Assessment – Ref. 20181776.2, dated 18/3/2020, Revision 4)

In assessing the proposal against the DCP controls, the acoustic report prepared by Acoustic Logic does not provide sufficient information and evidence as to whether the

**ITEM 1 (continued)**

development will comply with the relevant regulations and protect the acoustic amenity of the surrounding residential receivers and comply with the relevant DCP controls.

As outlined later in this report, the Acoustic Report submitted has a number of inadequacies and fails to sufficiently assess the acoustic impacts of the extended hours of operation and the proposed “architectural” acoustic mitigation measures for Council to be satisfied that both the extended use of the gaming room, in addition to patrons leaving the premises can “*diminish the impact of noise associated with late night operation on nearby residents*”.

Submissions received and the referral from NSW Police, raise concerns regarding the past performance of the premises operations, and indicate an inability to manage behaviour and impacts on neighbouring residential premises including operations of the premises and behaviour and noise from patrons leaving the premises of an early hour.

Accordingly, for the purpose of this assessment report, it cannot be concluded that the late night operations, including use of gaming machines, even at a restricted volume, noise from patrons within the gaming area, along with the potential social noise impacts from patrons entering and exiting the venue will have a detrimental impact on the amenity of the locality, at a sensitive time for noise receivers. Based on the above, the application for extended hours is not considered to meet the controls of Section 7.4 of Part 4.4, namely as it is not considered that the premises can have no impact on nearby residents.

**5.4 Planning Agreements OR Draft Planning Agreements**

There are no planning agreements or draft planning agreements applicable to the development.

**5.5 Any matters prescribed by the regulations**

The Environmental Planning and Assessment Regulations 2000 requires development to comply with the Building Code of Australia (or the National Construction Code).

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 has been reviewed by Council’s Building Surveyor and is further addressed later in this report.



**ITEM 1 (continued)****6. The likely impacts of the development****6.1 Built environment impacts**

There are further noise sources aside from those associated with the operation of the venue, including noise generated from patrons leaving the venue on foot and in vehicles, noise from intoxicated patrons attempting to gain entry to the premises, and noise associated with car horns, car doors, etc. Noise associated with these noise sources will be extended to longer periods through the early morning and create additional noise impacts on the locality.

Submissions made to Council have indicated that the existing operations of the Hotel already create sleep disturbance on nearby residential properties, and that the extended hours to 2am, approved by Council in 2016, have exacerbated this impact. The further increase in operating hours will extend the duration of acoustic impacts, would reduce the closing hours of the gaming room to six hours per day, and would further exacerbate the disturbance to surrounding residents. The nearest residential receivers are as close as 3.5m from the area of the Hotel where the extended hours are proposed.

Further to this, in relation to the extended trading at the Hotel under the comments provided to MOD2018/0235, NSW Police have indicated to Council that

*“noise emissions as patrons enter and leave the premises, by simply opening the Hotel door may cause noise that disturbs neighbours. Police are not aware of a double door or air lock door system at the premises to reduce this noise. Police are concerned management, especially between the hours of 2am and 4am will be unable to ensure there is no yelling or screaming in the outdoor gaming area. Patrons who have won amounts of money on a machine or lost amounts of money on a machine may yell or scream”.*

There is not sufficient public transport available in the late evening to expect that a reasonable number of patrons would be able to rely on this form of transport for their departure from the premises. Public transport services in the locality are more sporadic at 4am, then they are at 2am or at 12am. Patrons are more likely to leave the Hotel at this time via private car, taxi, or by walking. Taxis are also less likely to be available at this time of the evening. All of which create additional acoustic impacts on the locality, including noise from patrons.

The scheduled time between bus services can be longer than 1 hour. For those limited patrons that might elect to utilise a bus, it is likely that long wait times may be required, increasing the likelihood of acoustic and amenity impacts whilst patrons wait for services. This is especially the case for the nearest citybound bus stops, which are over 100m from the Hotel premises.

Cigarette smoke from designated smoking areas within the Hotel is likely to already generate health and amenity impacts on those living in close proximity to the

**ITEM 1 (continued)**

premises. The residential properties adjoining at No.1 Edward Street, having windows less than 3.5m from the gaming room, are likely to be particularly impacted by cigarette smoke. The gaming area of the Hotel is understood to have been designed so as to allow cigarette smoke from the gaming room to be released through areas adjacent to No.1 Edward Street, and beneath the windows on that property. By further reducing hotel closing hours, there will only be 6 hours per day when the area is unlikely to be releasing cigarette smoke, a particularly unusual outcome within a residential context.

**6.2 Social impacts**

NSW Police have objected to the extended trading proposal as it will result in negative social impacts. The NSW Police have indicated that it is widely known that the peak times for alcohol related crime is between 12am and 3am. Even with stringent regulatory controls, comprehensive management practices and experienced management/staff, the negative social impacts can be reduced however not be eliminated.

NSW Police have advised that since the granting of the current extended trading hours by Council and the Independent Liquor and Gaming Authority in 2016, the Hotel has had two 'Armed Robbery serious incidents' reported to Police within the Hotel's extended trading hour period (12am to 2am). The NSW Police have also advised that since their last submission in relation to the proposed extended trading hours on 7 January 2019, there have been three (3) serious incidents linked to the Hotel.

NSW Police have advised that as no other premises within the locality are open until 4am, that patrons leaving the venue are therefore at greater risk of being victims of crime, particularly those that may have won money in the gaming room.

The mitigation measures, outlined within the submitted Venue Management Plan, would not adequately mitigate the social impacts of late night operations beyond 2am, particularly in areas away from the immediate vicinity of the Hotel.

The proposal would create negative impacts on social capital and community cohesion, both perceived and actual. and will diminish local resident liveability, health and wellbeing through prolonged noise impacts, reduced air quality from smoking, crime and violence, both perceived and actual.

**6.3 Impacts of the extension of trading hours**

*Vinson v Randwick Council* [2005] NSWLEC 142 at 84-85 establishes the Land and Environment Court Planning Principle for Licenced Premises: *Extension of trading hours increase in permitted patron numbers or additional attractions*, stating:

*84 I therefore need to answer, in light of these presumptions in favour of the applicant, what I consider are the two questions relating to the present*

**ITEM 1 (continued)**

*application which arise for determination of the acceptability or otherwise of the application vis-a-vis the impacts on the amenity of the surrounding residential properties.*

85 *These questions are:*

- *What is the level of probable future impacts? and*
- *Can the measures proposed by the applicant reduce them to an acceptable level?*

In consideration of the subject application for extension of hours, the two questions posed by the Planning Principle are addressed below:

1. *What is the level of probable future impacts?*

The site is located adjoining residential premises. The applicant has stated in the SEE that *“The site has been used for a Hotel since 1930. It is an integral part of the neighbourhood. The site will continue to be suitable for use as a pub”*. Despite this, while the premises may have historically been zoned general business zonings under previous planning instruments, the current B4 Mixed Use zoning of the site indicates the vision of the area to be a mix of compatible uses, including “business, office, residential, retail and other development”.

The extension of hours by a total of 12 hours per week, to 4.00am 6 days a week, is likely to exacerbate the existing impacts on living amenity of the adjoining residential properties through lengthening the period it may occur, and moving the closure time to a more sensitive period of the morning.

Submissions state that the existing operation of the premises late at night is causing detrimental impacts to the amenity of the neighbourhood. Concern is raised that patrons leaving the premises via car cause noise impacts from loitering before leaving, loud vehicles exiting down Edwards Street and banging of car doors.

While the applicant has stated that *“given the limited number of patrons and prohibition on liquor, there is unlikely to be any adverse impact as those patrons depart the Hotel at close”*, it remains that extending the hours of operation earlier into the morning, will increase patron reliance on private transport due to poor availability of taxis and infrequent public transport options at this hour. In turn, it is reasonable to assume that the reported impacts from the patrons using private vehicles near and within the premises parking areas will continue, for an extended period to 4am.

The referral from the NSW Police states that *“Police have reviewed the recent application and note the application does not substantially differ from the original application in 2018”*. The referral from the police to MOD2018/0235 raised concern for the potential for patron migration between venues due to other venues closing earlier than the subject site, and thus attracting movement between venues. No other premises within the Ryde Town Centre have ordinary operating hours beyond midnight, and for comparison the West Ryde Hotel, the nearest other hotel to the subject premises, has opening hours of Monday to Thursday – 10am to 1am, Friday

**ITEM 1 (continued)**

and Saturday – 10am to 1.30am, Sunday – 11am to 12.00am. Additionally, the Ryedale Hotel (12-26 West Pde, West Ryde) has existing hours from Monday to Thursday – 8am to 12 midnight, Friday and Saturday – 8am to 2am, Sunday – 10am to 10.00am, with a recent application refused (MOD2020/0092 dated 29 June 2020) to permanently extend these hours until 2am Monday to Saturday, and midnight on Sunday.

Accordingly, given the limited number of venues open after midnight in the area, there is a likelihood that patrons will move from other venues to the Hotel to continue use of gaming machines, causing additional social and amenity impacts, and an increased risk for crime.

The response from NSW Police under MOD2018/0235 (dated 7 January 2019) detailed that *“Since the granting of current Extended Trading Hours by Ryde Council and the Independent Liquor and Gaming Authority in 2016 the Hotel has had the following serious incidents reported to Police within the Hotels extended trading hour period.*

**E64454634 — Armed Robbery** — *Between approximately 1.45am and 2.30am on 18 April 2017 the Hotel was subject to an armed robbery. Two offenders attended the Hotel where each offender produced a pistol. At the time there was only two staff at the Hotel being a male security guard and female manager. The offenders left with an amount of money.*

**E66118586 – Armed Robbery** — *On 17 January 2017 there was two employees working within the Hotel. Approximately 2am the Hotel had closed, and staff began closing procedures when a male approached the staff threatening them with a firearm and demanding cash. The offender left with an amount of money.”*

Further the referral response goes on to state:

*“An extension of trading hours has the potential to have the following negative impacts, upon the local area.*

- *An increase in alcohol related assaults/crime*
- *Intoxication related issues such as Excluded Person offences*
- *Disturbance to the local neighbourhood.*
- *An increase in patron migration.”*

The NSW Police response to this subject application (dated 10 August 2020) further states, *“Since the last submission the following serious incidents have been linked to the Royal Hotel Ryde”.*

**E74404905 – 18/06/2020** – *At 22:17 police were called to outside Royal Hotel in relation to people fighting. Upon police arrival it was established the persons involved had left the Hotel. Investigations revealed the*

**ITEM 1 (continued)**

*incident was a domestic dispute where the offender had been asked to leave the Hotel due to her level of intoxication. When the offender was spoken to by police, she indicated the incident would not have occurred should she have not been intoxicated.*

**E72954462 – 19/10/2019** – *About 23:10 police were driving past the Royal Hotel when they observed two persons wrestling and fighting on the roadway outside the Hotel. Police were required to separate the parties. Police ascertained they had been drinking within the Hotel when an argument ensued over a televised rugby game. Both parties were observed to be well affected by alcohol.*

**E72400579 – 10/07/2019** – *About a 20:45 group of four patrons were seated in the outdoor beer garden of the Hotel. The group began to converse with two males seated nearby. At some point one of these second males has begun to call the first group names while also challenging one of them to a fight. At this time the male has thrown a drink in the victim's face causing a fight to break out. A violent confrontation ensued with many people distancing themselves in order to not get hurt. During the violent altercation a glass panel on the door has been broken and another victim has been punched to the side of the face while attempting to break up the fight. The offenders were removed from the Hotel where they have left prior to police arrival.*

*“Police object to this application as it will result in negative social impacts for both the local and broader community. The location is a mixed-use location of both residential and retail premises which is not suitable for the development proposed”.*

In answering the question on the level of probably future impacts, it is considered that there is a high level of probability that the extended hours will lead to a degree of persistent risk of crime, intrusiveness from noise to adjoining residential premises, and for antisocial behaviour and noise from patrons leaving and entering the premises of an early morning, based on the past occurrences of crime, and submissions received by nearby residences. Additionally, the likelihood of patron migration between licenced venues as each venue closes is high, adding to the potential social and amenity impacts.

2. Can the measures proposed by the applicant reduce them to an acceptable level?

The proposed Plan of Management and recommendations of the Acoustic Assessment are difficult to enforce. Based on the NSW Police referral comments, the submissions received and the past occurrences of crime indicate that implementation of a Plan of Management and compliance with conditions cannot eliminate the impacts from the operation of the premises.

**ITEM 1 (continued)**

The concerns of the NSW Police referral and the submissions raise a reasonable level of 'likelihood' that there will be unacceptable impacts from the development through extending the hours of operation to 4am.

To assume that the implementation of management measures which do not significantly change from the measures implemented at present under the existing 2am closure time, will reduce the future impacts to an acceptable level is unreasonable.

As the development is likely to have an adverse impact on the amenity of the surrounding residential area, lead to a persistent risk of crime and potential for antisocial behaviour, the application is recommended for refusal.

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

The site is not suitable to accommodate the development, particularly the location is not suitable for a hotel premises with such late trading hours. It is unreasonable to suggest that a hotel trading to 4am and within such close proximity to residential properties will not disturb the residents.

The hours of operation are not consistent with that provided to comparable premises, as described earlier in this report. Many of the noise sources described throughout this report are difficult to account for as part of Development Application, and in this location a more effective measure of controlling impacts is to prevent any further extension to late night trading at the premises.

The operation of the premises until 4am, as demonstrated through its current operations to 2am, and a lack of adequate, enforceable mitigation measures to demonstrate that no impacts will be caused, is incompatible and unsuitable for the mixed-use environment in which it is located. While liquor trade may cease at midnight, a hotel premises with only a six hour closure period for gaming, for 6 days of the week, is not in keeping with the character of the area and will cause undesirable impacts on the amenity and character of the neighbourhood.

The site is located in close proximity to numerous residential premises, and is within a mixed use area with a vision for complementary land uses and proper regard for their mutual cumulative impacts of development. The site is not suitable for a pub with operating until 4.00am, Monday to Saturday.

**8. The Public Interest**

The Development Application is not in the public interest. 14 submissions were received during the notification period, with the issues raised summarised as follows:

- Noise from patrons leaving the premises, including noise made directly by patrons and by the vehicles of patrons, particularly around the current closing time of the venue.

**ITEM 1 (continued)**

- Anti-social behaviour, including swearing, fighting, and public urination.
- Sleep disturbance associated with the noise impacts.
- Noise from the premises, include from poker machines, music, and patrons.
- Littering of bottles and other rubbish around neighbouring buildings.
- Illegal parking and traffic movements.
- Cigarette smoke impacting upon nearby residences.

The extended hours will contribute to a persistent risk of crime, noise intrusion to adjoining residential premises and antisocial behaviour. The inability of achieve compliance with the relevant planning provisions outlined in this report demonstrates the proposal is not in the public interested.

Ryde Night Time Economy Study and Action Plan

Council has recently undertaken a Night Time Economy (NTE) Study to better understand how an 'after 5' scene can offer more than 'shopping' and enhance economic growth, community and cultural cohesion as well as job and wealth creation.

The NTE is the economy that operates in the early evening after (5pm to 9pm) into the late night (2am to 6am). In the City of Ryde most night activity in town centres is between 6pm and 12pm. To ensure the right balance between vibrancy, safety and quality of life is achieved in the future, the NTE Study summarised the size and character of the desired NTE experience in Ryde and to identify strategies to enhance NTE activations.

Of relevance to this application are the outcomes of the NTE Study, which include:

- *Make night time places and activities more family friendly*
- *Improve lighting and way-finding and install more creative/colourful lighting throughout town centres.*
- *Encourage small wine bars rather than large pubs*
- *Explore extended retail and dining hours*
- *Encourage restaurants and activities located outside of shopping centres to activate the streetscape*
- *Provide more cultural/community events/festivals/popups.*

The proposed extension of hours under this application do not reflect the outcomes of the study, which specifically identifies the encouragement of 'small wine bars rather than large pubs'. Additionally, the extension of hours with no liquor, and only gaming in operations from midnight to 4am is not considered to 'make night-time places and activities more family friendly'.

The NTE Study further identifies 'Criteria for a great NTE', including:

- *Diversity of offer: At least four different NTE activities available in a variety of locations including outside shopping centres.*

**ITEM 1 (continued)**

- *Transport: Train station and a major bus route.*
- *Wayfinding and connectivity: Clear connections between transport and NTE venues.*
- *Safety and risk: As identified in survey.*
- *Governance and partnerships: NTE included in the DCP, partnerships between local businesses, Chamber of Commerce, Council.*
- *Quality public domain: Public plazas and open space, footpaths, seating and lighting to support night time activity.*
- *Lighting and public art: Creative lighting installations, night lights, public art.*
- *Temporary uses: Regularly used for temporary uses e.g. markets, busking.*

As identified throughout this report, the extension of hours is out of keeping with the Ryde Town Centre. As the only premises in the area operating until 4am, the gaming only operations until the early morning does not have the supporting uses to provide 'diversity of offer', nor is there sufficient transport options or wayfinding and connectivity available, and further 'safety and risk' are key issues raised by NSW Police recommending the refusal of the application.

While it could be said the approval of the extension of hours is a 'first step' in establishing a NTE, however the type of use that is extended as a result of the hours is not considered to be in keeping with the desired character of the NTE experience identified in the study. Based on the above the proposed extension of hours of a hotel which operates gaming only from midnight, will not provide a positive contribution to the Ryde NTE and approval of the application would not be in the public interest. Approval of the Development Application would create an undesirable precedent for late night trading which would negatively transform and erode the character of the local area. NSW Police have indicated to Council an extension of trading hours for this application has the potential to have the following negative impacts upon the local area and accordingly approval of the application would not be in the public interest:

- a. An increase in alcohol related assaults/crime
- b. Intoxication related issues such as Excluded Person offences
- c. Disturbance to the local neighbourhood.
- d. An increase in patron migration

**9. Submissions**

The application was notified from 3 April 2020 to 29 April 2020. In response, fourteen (14) submissions were received objecting to the proposed modifications. Key issues raised include:

- Noise from patrons leaving the premises, including noise made directly by patrons and by the vehicles of patrons, particularly around the current closing time of the venue.



**ITEM 1 (continued)**

- Anti-social behaviour, including swearing, fighting, and public urination.
- Sleep disturbance associated with the noise impacts.
- Noise from the premises, include from poker machines, music, and patrons.
- Littering of bottles and other rubbish around neighbouring buildings.
- Illegal parking and traffic movements.
- Cigarette smoke impacting on residences.

**9.1 Noise from patrons leaving the premises, including noise made directly by patrons and by the vehicles of patrons, particularly around the current closing time of the venue.**

Council Assessment:

Noise from patrons leaving the premises late at night is a common theme of the submissions received in response to the application. While it is noted there may be no evidence to substantiate that the source of the noise is from patrons of the Hotel, it remains that there are no other premises within the immediate vicinity of the site that have hours of operation until 2am.

The infrequency of public transport services services, regardless of direction results in patrons to be more likely to linger either outside the premises or at nearby bus stops, or to rely on private transport to leave the premises, and park in the surrounding streets (shown at **Figure 13**). Parking areas are within close proximity to residential properties, and irrespective of whether passengers are intoxicated, results in additional movements of people and vehicles at an early hour. This also has the potential for further exacerbation from patron migration, being the (proposed) latest operating licenced gaming venue within Ryde.



**Figure 13.** Aerial photo of the site indicating location of nearby on street parking

**ITEM 1 (continued)**

The behaviour and amenity impacts from the existing operations to 2am is reportedly causing impacts to residents including sleep disturbance, and regardless of any Plan of Management, is difficult to manage due to the distance patrons may park from the Hotel and the lack of enforcement that is actually possible by hotel security in controlling the behaviour of patrons who are leaving the premises.

The management of the noise impacts of residents leaving the premises is reliant on the successful implementation of the Plan of Management. In fact, the extensive nature of the Plan of Management itself including measures that apply after midnight, is a strong indicator for the potential for adverse impacts to be caused on the amenity of the location.

The protection of the amenity is dependent on the Hotel's successful management of not only the immediate vicinity of the premises, but a periphery of up to 100m from the Hotel. To support an extension of hours earlier into the morning will not only increase the period in which patrons can come and go from the premises, leading to more vehicle movements and potential noise impacts, but also it moves the closure time to an hour where public transport is less available and thus increases reliance on private transport.

**9.2 Noise from the premises, including from poker machines, music, and patrons.**Council Assessment:

The site is located within a mixed-use neighbourhood. Residential properties are as close as 3.5m from the area of the Hotel seeking extended hours of operation. The Hotel relies on an acoustic baffle walls and upgrades to the ceiling over the gaming room, which has been proposed with minimal information regarding its design and effectiveness; and extensive management procedures to control patron behaviour.

*As indicated in the NSW Police referral to MOD2018/235: "Police submit that some of the recommendations above will be difficult to enforce. Noise emissions as patrons enter and leave the premises, by simply opening the Hotel door may cause noise that disturbs neighbours. Police are not aware of a double door or air lock door system at the premises to reduce this noise. Police are concerned management, especially between the hours of 2am and 4am will be unable to ensure there is no yelling or screaming in the outdoor gaming area. Patrons who have won amounts of money on a machine or lost amounts of money on a machine may yell or scream."*

Extension of hours for 12 hours a week within the most sensitive hours of the morning is likely to exacerbate the existing impact on living amenity of the adjoining residential area.

**9.3 Associated existing impacts from Hotel patrons in surrounding streets including:**

- **Littering of bottles and other rubbish around neighbouring buildings**

**ITEM 1 (continued)**

- **Anti-social behaviour, including swearing, fighting, and public urination.**
- **Illegal parking and traffic movements.**
- **Cigarette smoke impacting upon nearby residences**

Council Assessment:

It is noted that the associated existing impacts of the use of the site for the purpose of a Hotel is not anticipated to be exacerbated as a result of the change in hours, rather it will simply move the time of impact to earlier in the morning when sleep disturbance is more sensitive.

What the above existing impacts do indicate is that the existing management of the premises and of patrons leaving the premises is unable to be completely managed. While take away alcohol is permitted up to 11:00pm, it remains that as the only licenced premises within the vicinity of the site, it is highly likely the littering of liquor bottles is from the Hotel, and is causing impact on the amenity of the neighbourhood.

The submissions received demonstrate that the operation of the Hotel is currently affecting the amenity of the locality. Any further extension of the hours would result in the amenity of the area being further adversely affected which would prejudice the residents of the adjoining residential developments.

**10. Referrals**NSW Police

The referral from the NSW Police MOD2018/0235 states that “*Police have reviewed the recent application and note the application does not substantially differ from the original application in 2018*”. The referral from the police to have objected to the application due to the likely negative social impacts, suitability of the site and it is not in the public interest.

The referral to the subject application has not supported the extension of trading hours as extensively detailed in this report.

Acoustic Consultant

As detailed in the background section of this report, the application is subject to Class 1 proceedings in the Land and Environment Court for Deemed Refusal. At the time of the appeal no acoustic comments had been provided by Council’s EHO. Nonetheless, the Acoustic Consultant, in the preparation of Statement of Facts and Contentions raised the following issues which are provided here to provide further background and detail on Council’s assessment of the submitted Acoustic Report:

*The acoustic report prepared by Acoustic Logic does not provide sufficient information and evidence as to whether the development will comply with the*

**ITEM 1 (continued)**

*relevant regulations and protect the acoustic amenity of the surrounding residential receivers.*

*The selection of attended monitoring location A3 does not represent the worst case octave band noise levels. Given the noise levels at location A1 (shared boundary with Receiver 1) were lower across several octave bands, this would be more appropriate for the establishment of octave band noise criteria.*

*The overall results of attended monitoring location A1 (41 dBA) does not correspond with the results of the long term unattended noise monitor for the same time period (37-38 dBA). These two locations are located approximately 5 metres apart based on Figure 1. It would be expected that these results are consistent. There is no discussion within the report as to why these results are not consistent, as a 4 dB difference is significant.*

*Attended noise monitoring to determine octave band noise levels was undertaken for a total period of one hour (for three locations) on one Saturday night only. No attended noise monitoring was undertaken on other nights of the week to confirm octave band noise levels.*

*There is conflict between the text in Section 5.3.2 and Table 6 as to which receiver category has been selected (urban or suburban) for the establishment of NPI amenity criteria 12528750/12528750-LET\_LEC Proceedings - Patrick Gallagher v. CoR – 2 Ryde Hotel - 68 Blaxland Road, Ryde - acoustic input into SFC.docx.*

*The noise assessment fails to provide insertion loss data for the proposed 2.4 metre long attenuator.*

*The noise assessment discusses potential noise sources within the gaming room, including gaming machines, patron noise and background music, however fails to provide noise levels for these individual noise sources.*

*The noise assessment fails to provide octave band data for individual noise sources, or overall noise source levels used for the calculation of transmission to the receiver.*

*Attended monitoring was not undertaken within the gaming room to supplement the unattended noise logger to assist with determining suitable sound levels for the noise generating activities within the gaming room.*

*Attended noise monitoring of existing maximum noise level events from the gaming room was not undertaken at the nearest residential receiver.*

*Simultaneous measurements at the nearest residential receiver and within the gaming room were not undertaken to determine the transmission of noise.*

**ITEM 1 (continued)**

*Details of the location of the noise monitor within the gaming room, number of gaming machines within the area directly under the proposed roof and attenuator, and proximity of the monitor to the gaming machines, have not been provided.*

*There is no detailed explanation as to the selection of source levels of 70 dBA (L10 assessment) and 80 dBA (Lmax assessment).*

*The noise assessment fails to consider other potential noise sources, which I have observed in similar gaming rooms, such as patrons speaking with loud voices (potentially shouting or celebrating after a significant payout or feature) and patrons slapping the gaming machine buttons, which may result in noise levels above the source levels in item k).*

*The information presented in Section 6.1.2 does not provide enough information to determine the noise levels of noise generating sources in the gaming room, such as descriptors (ie Sound Power Level, Sound Pressure Level, Lmax, L10, Leq etc), distance from noise monitor and duration of the event.*

*Noise logger charts for the unattended noise monitor located within the gaming room have not been provided.*

*No assessment of mechanical plant noise has been provided.*

*The applicant has not provided sufficient detail to determine whether noise from the proposed use of the outdoor gaming area between 2 am and 4 am will negatively impact the acoustic amenity of the residents of the nearest residential receiver, given the close proximity to the gaming area.*

*The report recommends that the proponent "Install a 2.4m long attenuator in the location indicated on the attached drawings". However this is not shown on any submitted drawings.*

**Building Surveyor**

Council's Building Surveyor reviewed the subject application and provided the following comments in relation to Clause 94 of the EP&A Regulation:

- *Ensure compliance with BCA is listed in DA conditions; this will ensure partial conformity with BCA.*
- *It is not deemed appropriate to upgrade the building due to:*
  - a) *Volume of building work is less than half of total work*
  - b) *An existing AFSS is in force and deemed the fire measures are appropriate*
- *Regarding the Fire Safety and Accessibility Audit Report, the author does not list his/her qualifications/accreditations/professional memberships. An RFI is required to address this.*

**ITEM 1 (continued)**

- *No objections are raised regarding the fire protection of openings, or the recommendation and amendment to AFSS.*
- *Access assessment was very limited in scope. It did not conduct an assessment under the Disability Discrimination Act, Premises Standards, AS1428.2 etc. A RFI for an Access Report is to be requested and signed by a qualified access consultant.*
- *Performance Solution Report for access requirements are not deemed satisfactory in its methodology, assessment and reasoning. I think the major problem with the report is not demonstrating equivalency to the current building standards. A RFI for a performance solution report is required. I think the best pathway of for this performance solution report is by Expert Judgement. However this will entail the expert list his qualifications and the report properly address this approach in its methodology of assessment. Currently I think it approaches by way of comparison to DTS provisions however this approach is really difficult to justify in numerical provisions (kind of like being short of the required frontage for a development however much less lenient in this case).*

**11. Conclusion**

After consideration of the development against Section 4.15(1A) of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, it is recommended the application be refused for the following reasons:

- The proposed extension of operating hours will create negative impacts on the surrounding built environment and is incompatible with the locality.
- The proposed extension of operating hours will create negative social impacts in the locality.
- Approval of the Development Application would create an undesirable precedent for late night trading which would negatively transform the character of the local area.
- The acoustic report prepared by Acoustic Logic does not provide sufficient information and evidence as to whether the development will comply with the relevant regulations and protect the acoustic amenity of the surrounding residential receivers.
- Insufficient information relating to the area affected by the extended hours and it is not clear which areas of the site are affected by the extended hours, and any relevant works (in addition to the awning referred to within the acoustic report).
- Inadequate information has been provided with regard to Clause 94 of the EP&A Regulations relating to fire safety and access.
- Insufficient information has been provided with regard to the existing and proposed floor space within the proposal.
- The site is not suitable to accommodate the development.
- The Development Application is not in the public interest.

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

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

- a. That the Ryde Local Planning Panel refuse Local Development Application No. LDA2020/89 for the following in reasons:
  - i. Pursuant to Section 4.15(b) of the EP&A Act, the proposed extension of hours would adversely affect the amenity of the surrounding residential area.
  - ii. Pursuant to Section 4.15(b) of the EP&A Act, the proposed extension of hours is not compatible with the existing, and desired future character of the Ryde Town Centre.
  - iii. Pursuant to Section 4.15(b) and Section 4.15(d) of the EP&A Act, past operations of the premises to 2am have not successfully demonstrated that impacts on the neighbourhood have been adequately managed based on the submissions received to the application.
  - iv. Pursuant to Section 4.15(a)(i) of the EP&A Act, the proposed extension of hours does not meet the objectives of the B4 Mixed Use zone under Ryde Local Environmental Plan 2014 it is located.
  - v. Pursuant to Section 4.15(a)(iii) of the EP&A Act, the proposal is inconsistent with the objectives and controls under Ryde Development Control Plan 2014 - Part 4.4 Ryde Town Centre.
  - vi. Pursuant to Clause 115 of the EP&A Regulations, the application has a lack of information regarding the proposed acoustic treatment for noise mitigation.
  - vii. Pursuant to Section 4.15(b) of the EP&A Act, approval of extended hours would set an undesirable precedent for other licenced premises within the Ryde area, and lead to potential detrimental cumulative impacts.
  - viii. Pursuant to Section 4.15(c) of the EP&A Act, the site is not considered suitable for the proposed extended hours of operation.
  - ix. Pursuant to Section 4.15(b) of the EP&A Act, the proposed extended hours of operation will result in negative social impacts and an increased risk for crime which cannot be eliminated through management practices.
  - x. Approval of the proposed extended hours would not be in keeping with the reasons for approval of the consent which is sought to be modified per Section 4.55(3) of the EP&A Act.
  - xi. Pursuant to Section 4.15(e) of the EP&A Act, approval of the application would not be in the public interest.
- b. That the persons who made submissions be advised of this decision.

**ITEM 1 (continued)**

**ATTACHMENTS**

- 1 Plan of Management
- 2 A3 Plans - subject to copyright provisions

Report Prepared By:

**Rebecca Lockart**  
**Senior Coordinator - Major Development**

Report Approved By:

**Sandra Bailey**  
**Manager - Development Assessment**

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



**ITEM 1 (continued)**

**ATTACHMENT 1**

**Royal Hotel**

**VENUE  
MANAGEMENT PLAN**

68 BLAXLAND ROAD, RYDE

**March 2020**

**ITEM 1 (continued)**

**ATTACHMENT 1**

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**Appendices**

- A Liquor Promotions Guidelines
- B Intoxication Guidelines

**ITEM 1 (continued)**

**ATTACHMENT 1**

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**Purpose**

1. This Plan of Management (the “Plan”) is to ensure that the hotel is run at all times in a way that is consistent with good management, does not disturb the quiet and good order of the community, considers the community and meets the requirements and intents of the Environmental Planning and Assessment Act, the Liquor Act and the Gaming Machines Act. It provides a clear, concise and practical framework for the safe and proper management of the hotel.

In this plan, “*vicinity of the hotel*” means any public place within 50 metres of any part of the hotel building.

**Responsibilities and Requirements**

2. The licensee of the hotel is responsible for the implementation of, and adherence to, this Plan.
3. A copy of this Plan shall be kept with the hotel’s register of certificates of Responsible Service of Alcohol and Responsible Gaming Practices.
4. All staff and security officers employed at the hotel are to be familiar with the contents of this Plan.

**Amenity of Neighbourhood**

5. At all times the licensee shall consider the amenity of its neighbours and shall take all reasonable measures to ensure that adverse impacts on the surrounding area do not occur.
6. The licensee will take all reasonable measures to ensure that the behaviour of staff, security officers and patrons, when entering or leaving the hotel, do not detrimentally affect the amenity of the community.
7. The hotel shall be conducted so as not to interfere with, or materially affect, the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, vapour, steam soot, ash, dust, waste water, waste products, grit, oil or otherwise.

**Hours of trade**

8. This Plan of Management has been updated to accompany an application to Council to extend the current approved trading hours which are 10.00 am until 2.00 am Monday to Saturday inclusive; and from 10.00 am until 12.00 midnight on Sunday.
9. The proposed hours of trade of the Hotel are:  
  
Monday to Saturday: 10:00am to 4.00 am on the following day; and  
  
Sunday: 10:00am to 12.00 midnight.
10. It is proposed that the extension of hours after 2.00 am Monday to Saturday, initially be granted for a trial period.

**ITEM 1 (continued)**

**ATTACHMENT 1**

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11. Staff or authorised persons may be in the hotel at any time.

**Signage at and in the hotel**

12. The hotel's name shall be displayed on the exterior of the hotel building.
13. The hotel is to display all internal signage required by the Independent Liquor and Gaming Authority, regarding the sale of liquor or the provision of gaming.
14. Signs are to be prominently displayed in the hotel requesting patrons to leave the hotel quietly, respecting the rights of neighbours and the neighbouring community to quiet and good order.
15. Outside the main entrance to the hotel, a plaque shall display a telephone number to which any complaints about the hotel or its patrons may be made whilst the hotel is trading.
- 15A. Signage will be prominently displayed both inside and outside the hotel advising of the dedicated email address to receive and address noise and/or disturbance complaints during or outside the hotel's trading hours. The email address will enable all emails received and sent to automatically be copied to Ryde Council.
16. At positions, agreed with the Ryde LAC of the NSW Police Force and Ryde City Council, signs will be displayed on the exterior of the hotel informing the public that its surrounds are under CCTV surveillance.
17. Signs shall be displayed inside the hotel notifying patrons that a CCTV system is operating at all times.

**Footpaths**

18. No signs, goods or obstructions (other than waste bins put out for collection) shall be placed on the footpath outside the hotel.
19. The footpath adjoining the hotel is to be swept daily and kept clean and safe for the public.

**Noise**

20. Activities in or at the hotel while it is open for trade shall not result in an LA10 noise level being emitted the background noise level in any octave band from 31.5Hz to 8000Hz centre frequencies inclusive by more than 5dB at the boundary of the nearest affected residential property.
21. The hotel shall not conduct entertainment after 12.00 midnight, other than background music.
22. Amplified speakers shall not be directed towards any footpath or face any external openings from Hotel boundary walls.

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**Behaviour of Patrons/Responsible Service of Alcohol/Responsible Conduct of Gaming**

23. The licensee shall take all reasonable steps to control the behaviour of the patrons throughout the hotel (particularly the outdoor gaming area during the after-midnight period) and as they enter or leave the hotel.
24. The licensee shall take all reasonable steps to ensure that there is no loitering in the vicinity of the hotel by persons who have been denied admittance to the hotel or removed from the hotel.
25. The licensee, as far as is reasonably possible, will endeavour to monitor the behaviour of prospective patrons approaching the hotel.
26. Patrons shall not be permitted to take glasses or other open containers of liquor out of the hotel.
27. Patrons shall not be permitted to drink beverages supplied by the hotel on the footpath outside the hotel.
28. The dress policy will be enforced at all times. Patrons are not to wear hats whilst on the premises.
29. All employees are to be trained to establish good customer relations in order to provide the highest standard of service. Regular meetings and training sessions will be held to maintain these standards.
30. The following operational policies for the responsible service of alcohol shall apply at all times, together with the NSW Office of Liquor, Gaming and Racing's "*Liquor Promotions Guidelines*" and "*Intoxication Guidelines*".
  - (a) All managers and staff employed at the hotel shall complete an approved course in the Responsible Service of Alcohol unless they have completed one within the last five years.
  - (b) The licensee shall not engage in any liquor promotion that is likely to promote the irresponsible service or consumption of liquor.
  - (c) No person who is intoxicated will be served alcohol in the hotel.
  - (d) No person who is already intoxicated will be permitted to enter the hotel.
  - (e) The hotel will promote the service of non-alcoholic beverages and food.
  - (f) The hotel will not permit intoxication or any indecent, violent nor quarrelsome conduct on the premises. The hotel will comply with Eastwood Gladesville Local Liquor Accord's Barring Policy Guidelines.
  - (g) No person under the age of 18 shall be served liquor in the hotel.

**ITEM 1 (continued)**

**ATTACHMENT 1**

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- (h) No person under the age of 18 years shall be admitted to the hotel unless in the company of a responsible adult and then only into the part of the hotel which is subject to the minors area authorisation.

Production of photographic identification will be required where the age of a person seeking to enter the hotel is an issue. The only acceptable proof of age identification will be:

Photo driver's license;

Proof of age card (RTA); or

Current passport

- (i) Low-alcohol beer and non-alcoholic beverages will be available at all times when full-strength liquor is available in the hotel.
- (j) Food will be available whenever liquor is available for consumption in the hotel.
- (k) Staff will request patrons leaving the hotel during the after-midnight period to leave the area in a prompt and orderly manner, assist patrons in arranging safe transport from the hotel to home. Staff will arrange for a taxi to collect any patron when he or she requests such a service.
- (l) Staff will, on request, escort any patron to their vehicle parked in the vicinity of the hotel.
- (m) The licensee will maintain a register containing copies of each certificate showing the satisfactory completions of the Responsible Service of Alcohol courses undertaken by the licensee or staff that are required to complete the course. That register shall be made available for inspection on request by a NSW Police officer, or Inspector from Liquor & Gaming NSW.
- (n) All conditions imposed on the hotel's licence shall be met.

**CCTV conditions**

31. The licensee shall install and maintain surveillance cameras and recorders to monitor and record activities in:-
- i. the public areas of the hotel including its entrances, bars and gaming areas; and
  - ii. the immediate vicinity of the hotel.
- Recordings are to be made continuously, half an hour before opening to half an hour after close.
32. The time and date must automatically be noted on all recordings. All recordings are to be kept for a period of thirty (30) days before they can be re-used or destroyed. Any recording (or a copy thereof) is to be provided to the Ryde LAC within a

**ITEM 1 (continued)**

**ATTACHMENT 1**

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reasonable time following a request for it. Notwithstanding this requirement, should any recording exist, regardless of whether or not it falls within the thirty (30) day period, it must be supplied to Police or other regulatory officers following request.

33. If requested by Police or any regulatory officer, the licensee is to archive any recording until such time as it is no longer required by that officer or authority.
34. Recordings are to be made in a common media format such as Windows Media Player or similar, or should be accompanied by applicable viewing software to enable viewing on any Windows computer.
35. The CCTV control system should be located in the office of the hotel and only be accessible to authorised personnel. At all times whilst the hotel is trading, there must be, on the premises, a person with access to the system and the ability to use the system in order to make copies of any recordings requested by Police or any other regulatory officer.
36. The CCTV system shall be maintained by a registered security surveillance company. If, at any time, the CCTV system is not in full operational condition, the licensee is to notify the Ryde LAC within a reasonable time of the fault being discovered.
37. If the CCTV system is not operational, immediate steps are to be taken by the licensee to ensure that it is returned to a fully operational condition as soon as possible.
38. At all times the premises is open for trade an employee will be present within the hotel who is capable of operating the CCTV system and is able to immediately provide Police a copy of the recordings upon request.

**Management/Security officers**

39.
  - (i) The licensee or a member of staff who is designated as a duty manager shall be on duty at all times the hotel is open for trade.
  - (ii) In addition to that person, the licensee shall arrange for the provision of security officers to be on duty at the hotel at times specified below.
40. Any security officer, other than referred to in 40(i) working at the hotel shall:-
  - (a) Report to the licensee or duty manager before commencing duty to obtain a briefing on any specific duties to be addressed. Those duties may include patrolling in the vicinity of the hotel (including the adjacent bus zone area).
  - (b) Request any hotel patron – in or in the vicinity of the hotel – to behave in a quiet and orderly manner, leave the area promptly on exiting the hotel and to have regard for nearby residents, if that request is considered necessary or appropriate.

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- (c) Prevent any person detected as intoxicated entering the hotel and bring to the notice of the licensee or duty manager any person in the hotel who might be considered intoxicated.
  - (d) Take all reasonable steps to prevent patrons leaving the hotel with open drinking containers.
  - (e) Record details of any incidents in a log book together with an hourly estimate of the number of patrons in the hotel.
  - (f) At the end of each shift bring any incidents recorded in the log book and the actions taken in response to them to the attention of the licensee or duty manager and ensure they are entered into the hotel's Incident Register.
  - (g) At closing time, monitor patron behaviour in the vicinity of the hotel until all patrons have left the vicinity of the premises, taking all practical steps to ensure the quiet and orderly departure of patrons.
  - (h) Security officers are to ensure that patrons leaving the premises do not loiter or linger in the vicinity of the hotel and leave the area promptly or cause nuisance or annoyance to the neighbourhood.
  - (i) Co-operate with Police and any other private security personnel operating in the vicinity of the hotel.
  - (j) On nights that the hotel trades past midnight, at least one licensed security officer will be provided from 9.00 pm until 30 minutes after close and include the patrolling of the vicinity of the hotel (including the adjacent bus zone area).
41. Each security officer is to have a communication device to allow communication with any other officer on duty, the licensee or duty manager and the Ryde LAC (if the LAC consents to that and appropriate technology is reasonably available).
42. The licensee shall keep an incident register in which all incidents recorded at or in the vicinity of the hotel which involved hotel patrons shall be recorded. The licensee shall make the incident register available to Police, Council Officers or New South Wales Officer of Liquor & Gaming NSW (L&GNSW) officers upon receipt of a request to do so and will assist in identifying and resolving any incidents relating to any matters at, or in the vicinity of, the hotel.

**Recording and reporting of incidents**

43. Maintenance of an effective relationship with the Ryde LAC is essential to the provision of effective hotel security. That includes keeping the LAC informed of incidents. The licensee shall ensure that the following protocols are observed.
44. In the event of any **serious incident that requires the immediate attendance of Police**, staff or the security officer alerted is to report it, as soon as possible, to the duty manager and, if instructed to do so, to the Police or other emergency service.



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**Additional Measures to Apply when the Hotel Trades After Midnight**

45. It is proposed that various additional measures and restrictions will apply on any days that the Hotel trades after midnight to minimise the likelihood of adverse impacts.

*Patron Restriction*

46. On any morning that the Hotel trades after midnight, no more than 50 patrons are to be in the Hotel at any one time after midnight.

*Closure of certain areas of the Hotel*

47. The door to the gaming room from the TAB bar area must be locked at midnight to prevent patron access to the areas of the Hotel that are closed.

*No Sale or Supply of Liquor*

48. From 11.30 pm until 11.45 pm, there will be a limit of two alcoholic drinks per person.

49. From 11.45 pm until 12.00 midnight there will be a limit of one alcoholic drink per person.

50. There will be no sale or supply of liquor after 12.00 midnight.

*Exit and entry from the Hotel*

51. Exit from and entry to the Hotel after midnight will be restricted to the Blaxland Road entrance closest to Church Street.

*Restriction on Entertainment*

52. No live entertainment or entertainment provided by a DJ or other performer is to be provided at the Hotel after midnight. Music provided at the Hotel after that time is to be limited to background music only.

*Additional Security Requirements*

53. On any evening that the Hotel trades past midnight, the following security requirements are to apply:-

- At least one licensed security officer is to be in attendance from 9.00pm until half an hour after close to monitor patron behaviour within the hotel (and the outdoor gaming area during the after-midnight period) and to patrol the vicinity of the hotel (including the adjacent bus zone area).
- At least one manager must be in attendance from midnight until close. That manager must maintain radio contact with the security officer(s) at all times.
- The guard will wear a vest with the word "security" prominently displayed. As is presently the case, the guard will have a communication device to

**ITEM 1 (continued)**

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allow communication with other security, the licensee or duty manager of the Hotel as well as the Ryde LAC.

- At closing time, the guard(s) is/are to be stationed outside the hotel to assist with the orderly and prompt dispersal of patrons and the licensee will liaise with the Police as to the most suitable location for these officers to be stationed from time to time.

*Incident Register*

54. Prior to commencing exercising the Hotel licence during any extended trading hours, the licensee will implement an incident register at the Hotel and upon the commencement of trading the extended hours any required incident will be recorded in that register.

*Additional Noise Control Measures Between 2:00am and 4:00am*

55. Between 2:00am and 4:00am, on any day the Hotel is operating, the front entry windows and doors are to remain shut *except* when anyone is entering or exiting the Hotel building.

**Transport Options**

56. There are various transport options available, including abundant parking available nearby.
57. The hotel is only metres away from a bus stop.
58. Management will provide a service of contacting taxi companies to collect patrons from the front of the hotel.

**Maintenance**

59. The hotel premises shall be kept in a clean and tidy condition and be regularly maintained to the reasonable satisfaction of Council both internally and externally.
60. Any graffiti found on the hotel building is to be removed as soon as possible at the hotel's expense.

**Fire Safety**

61. The licensee shall ensure that all exit signs and emergency lights are located in the appropriate places and kept in good order.
62. Nominated staff will be trained in Fire Safety and Occupational Health and Safety, and will be given regular training in these matters so as to ensure that the hotel is operated safely and can be safely evacuated in the event of an emergency.

**House Policy**

63. The hotel will be conducted in accord with a House Policy provided to Ryde LAC.

**ITEM 1 (continued)**

**ATTACHMENT 1**

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64. The House Policy will be periodically updated to reflect legislative requirements and Police, L&GNSW and industry recommendations.
65. A copy of the House Policy will be maintained in the register in which the certificates of completion of responsible service of alcohol course are filed.

**Responsible Conduct of Gambling**

66. The licensee and staff of the hotel shall comply with any measures specified by any legislation, regulation or code of practice adopted by the Australian Hotels Association, in relation to responsible gambling.

**Operational Integrity**

67. The licensee will undertake to ensure the integrity of the hotel's operations and compliance with this VMP by arranging for independent, periodic covert surveillance of its operation in the form of a formal surveillance report. Such reports shall be retained and shall be made available upon receipt of a request from an authorised person.
68. The licensee shall join, and be an active member of, the Eastwood Gladesville Local Liquor Accord.

**Waste management**

69. The licensee shall ensure that solid waste from the hotel is minimised and that as much as is reasonably possible will be recycled. To that end, waste shall be separated into putrescible, cardboard and paper and glass and cans.
70. All wastes shall be stored in the designated waste storage areas until removed for collection from the hotel.
71. All waste containers and storage areas shall be kept clean.
72. The licensee shall arrange for contractors to collect wastes from the hotel. All collections shall be made before 7am on any day.
73. Putrescible waste (in bins) may be placed on the footpath outside the hotel after the hotel closes but the emptied bins are to be taken inside the hotel before 7am.
74. Bins containing other wastes are to be collected by trucks standing in the hotel's loading dock.
75. Putrescible wastes shall be collected twice weekly.
76. Other wastes shall be collected weekly.

**Amendment to this Plan**

77. If, in circumstances where experience shows that it is reasonable or desirable to modify any provision of this plan for the better management of the hotel, that modification shall be made to the plan after consultation with the Ryde LAC.

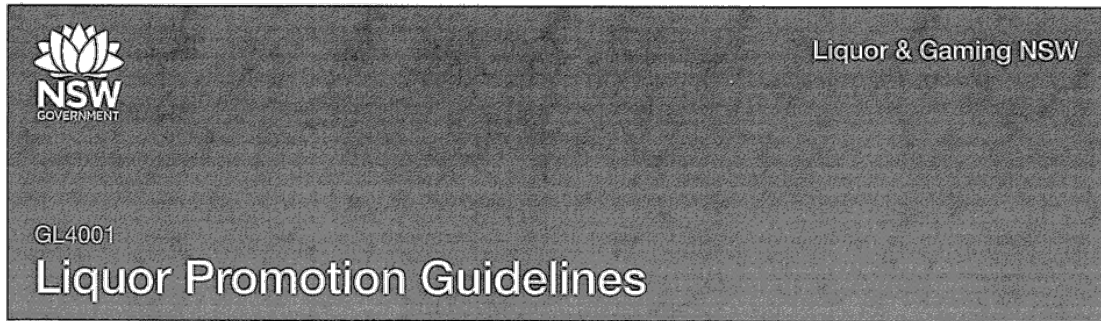
**ITEM 1 (continued)**

**ATTACHMENT 1**

## **APPENDIX A—Liquor Promotion Guidelines**

**ITEM 1 (continued)**

**ATTACHMENT 1**



**Introduction**

Promotions and activities that surround the sale and supply of alcohol can have a significant influence on patrons and the way they behave.

Undesirable or poorly managed liquor promotions can encourage people to drink irresponsibly and excessively, and lead to alcohol-related violence and anti-social behaviour and adverse health impacts.

Promotions that appeal to minors, are indecent, offensive, or are generally out of step with community standards can also encourage risky drinking and may lead to behaviours which harm or offend others.

Ensuring liquor promotions are run responsibly helps to minimise the harms that can arise. It also makes good business sense, and supports the sustainability and responsible development of the industry in NSW.

The Secretary, Department of Industry, has the power to ban or restrict 'undesirable' liquor promotions run by licensed venues in NSW by issuing a notice under section 102 of the *Liquor Act 2007* (the Act).

Before the Secretary can exercise this power, publicly available guidelines must be released under section 102(4) of the Act. These Guidelines fulfil this requirement and indicate the kinds of promotions or activities that the Secretary would consider being the subject of a notice.

The Secretary is also able to ban or restrict any activities at licensed venues that are likely to encourage the misuse and abuse of liquor under section 102A of the Act. This does not require guidelines and can be relevant for promotional activities as well as broader activities run on licensed premises.

The Secretary may also ban or restrict licensees from selling or supplying specific liquor products where they are considered 'undesirable' under section 101 of the Act.

**Running promotions responsibly in NSW - The Law**

**What are my obligations as a licensee?**

All licensees and staff have obligations under the *Liquor Act 2007* (the Act) to maintain responsible attitudes and practices towards promoting and selling alcohol.

These Guidelines convey principles for running promotions responsibly in NSW, and help to set standards for licensees to follow by providing examples of unacceptable practices.

If a licensee runs a promotion that is inconsistent with any of the principles or related standards set out in the Guidelines, they may be subject to regulatory scrutiny and intervention.

Liquor & Gaming NSW actively monitors liquor promotions run by licensed venues and also assesses complaints raised by the public.

**What makes a promotion undesirable?**

A promotional activity can be 'undesirable' and subject to a ban or restriction if the Secretary considers it contravenes one of seven principles in section 102 of the Act. These include that a promotion:

1. Must not have a special appeal to minors, because of the design, names, motifs or characters in the promotion that are, or are likely to be, attractive to minors, or for any other reason.
2. Must not be indecent or offensive.
3. Must not involve the use of non-standard measures that encourage irresponsible drinking and is likely to result in intoxication.
4. Should not use emotive descriptions or advertising that encourages irresponsible drinking and is likely to result in intoxication.
5. Should not involve the provision of free drinks, or extreme discounts or discounts of a limited duration, that creates an incentive for patrons to consume liquor more rapidly than they otherwise might.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Liquor Promotion Guidelines**

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6. Should not otherwise encourage irresponsible, rapid or excessive consumption of liquor.
7. Should not otherwise be considered to not be in the public interest.

**What can I do to ensure a promotion complies?**

When running promotions licensees should always consider how the principles apply, as well as what actions they can take to minimise any risk of harm.

Examples of unacceptable promotions that are clearly inconsistent with the principles and must not be undertaken are provided in these Guidelines to help demonstrate relevant standards in relation to each principle. However, they are not intended to be a definitive list of what can and cannot be done.

The Guidelines also include information about some of the practical steps that can be taken by licensees to help manage any associated risks.

**What happens if my promotion doesn't comply?**

If a licensee runs a liquor promotion that may be considered 'undesirable' it can be actively investigated by Liquor & Gaming NSW.

Typically, Liquor & Gaming NSW will first contact the licensee to seek an explanation when there are concerns that standards are not being met, and may request changes or withdrawal of the promotion.

If any concerns are not addressed then the Secretary, or a Liquor & Gaming NSW delegate, can ban or restrict any promotion considered to be undesirable by issuing a written notice under section 102 of the Act.

Section 102A can also be used to restrict or prohibit any activities likely to encourage the misuse or abuse of liquor.

If a licensee does not comply with a ban or restriction, they face fines of up to \$5,500.

**What promotions do the Guidelines apply to?**

All NSW licensees should be mindful that the Guidelines apply to all types of promotional activities - whether they are run using more traditional channels like flyers or posters or over the Internet, social media or SMS.

They extend to promotions that use social media influencers or other third parties, including any promoters engaged by a licensee.

The Guidelines also apply across different licensed environments where risks can differ and alcohol is being promoted:

- ▲ for consumption on premises; and
- ▲ for take-away or home delivery.

Past examples of promotions investigated by Liquor & Gaming NSW are included in the Guidelines to help demonstrate how each of the principles apply in these different contexts.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Liquor Promotion Guidelines**

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**Principle 1 - Appeal to Minors**

Promotions must not have a special appeal to minors, because of the design, names, motifs or characters in the promotion that are, or are likely to be, attractive to minors, or for any other reason.

**Explanation**

It is illegal to sell alcohol to minors or to supply alcohol to minors on licensed premises.

Promotions that hold particular appeal to minors can pose a significant risk as they may lead to increased levels of alcohol-related harm in a vulnerable group.

The National Health and Medical Research Council Guidelines refer to the increased risks of harm from alcohol for minors. Early drinking is related to increased alcohol consumption in adolescence and young adulthood. These drinking patterns are also related to the possibility of damage to the developing brain and development of alcohol-related harms in adulthood.

**Examples of unacceptable promotions**

- ▲ Using characters, imagery, motifs, naming or designs that would appeal to minors.
- ▲ Including merchandise that primarily appeals to minors.
- ▲ Using interactive games or technology that would appeal to minors.
- ▲ Using images of people that look under 18 years of age that suggests they are or have been consuming liquor or may be about to.

**Managing related risks**

Care should be taken in using celebrities or other role models that have a special appeal to minors as part of the liquor promotion. This may be construed as having a special appeal to minors under the Act.

Licensees should also exercise extra caution if running any promotions in environments where young people are more likely to be present.

For example, minors can readily be exposed to promotional material published over digital and social media platforms.

Placing promotional material at or close to primary or secondary schools, or other areas mostly used by minors, is likely to be 'unacceptable' in all cases.

Minors can also access most licensed premises in the company of a responsible adult, so licensees also need to be aware of their presence when running any promotions on-site.

**Past examples of promotions that have been investigated**

**On-premises environment**

- ▲ Cartoon animal characters that would appeal to minors were depicted on a hotel's Facebook page promoting a liquor activity.

**Take-away environment**

- ▲ A take-away liquor store packaged bottles of vodka with a box of Skittles and included instruction on how to mix Skittle bombs.
- ▲ Images on a licensee's Facebook page depicted young people in a heavily drunken state.
- ▲ An image on a licensee's Facebook and Instagram account paired an image of a large crowd of young people at a concert with a large-sized bottle of liquor on stage with the provocative title 'Raise your hand if you have been personally victimized by vodka'.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Liquor Promotion Guidelines**

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**Principle 2 – Indecent or Offensive**

Promotions must not be indecent or offensive.

**Explanation**

The use of indecent or offensive material in a liquor promotion is of poor taste and is against general community standards.

While determining what is indecent or offensive can be subjective, licensees should be mindful of what would reasonably be considered offensive in the broader community.

Indecent and offensive promotions may be a catalyst for crime or violence, including sexual crime against women.

**Examples of unacceptable promotions**

- ▲ Using images, including of human bodies, that may be considered offensive to a reasonable adult.
- ▲ Offering free or discounted drinks for participating in an activity that may be offensive to a reasonable adult present on the premises, for example, encouraging participants to remove items of clothing.
- ▲ Using insulting or offensive language.
- ▲ Using any form of discriminatory, demeaning or vilifying language or imagery.
- ▲ Using sexual, degrading or sexist images, symbols, figures or innuendo.

**Managing related risks**

Some drink brands and cocktails have provocative language in their names. While the sale of these products is largely accepted in society, care should be taken not to use language that may be insulting or offensive as a key part of the branding of any related liquor promotions. Branding a promotion with this language is likely to be considered 'undesirable'.

Caution should be exercised in promoting these products within or externally to a venue to limit the potential to cause offence.

**Past examples of promotions that have been investigated**

**On-premises environment**

- ▲ A hotel's Facebook post promoted ANZAC Day celebrations using sexual imagery with the title 'Let's re-enact Gallipoli;' 'Screw battle, we're getting drunk;' and 'Terrible shape for Dawn Service.'

**Take-away environment**

- ▲ A producer/wholesaler posted a promotion for a liquor product on its Facebook and Instagram pages depicting the consumption of liquor with sexual acts.
- ▲ A producer/wholesaler shared a video on its Facebook page created by another account user which promoted cheap liquor and excessive drinking using obscene language. The video was tagged 'Like watch and share'.



**ITEM 1 (continued)**

**ATTACHMENT 1**

**Liquor Promotion Guidelines**

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**Principle 3 – Non-Standard Measures**

Promotions must not involve the use of non-standard measures that encourage irresponsible drinking and is likely to result in intoxication.

**Explanation**

A standard measure is the level of alcohol used to work out safe drinking levels. Standard measures enable patrons to make informed decisions about their alcohol intake. In Australia, a standard measure contains 10 grams of pure alcohol. Licensees may refer to the National Guidelines for Alcohol Consumption on the Australian Department of Health website for further details on standard measures.

Where standard measures aren't used the likelihood of irresponsible drinking is increased as the alcohol content of the drink is unknown.

This principle, and the use of standard measures, is most relevant for promotions that offer liquor for consumption on licensed premises.

Separate requirements apply to packaged liquor sales to ensure standard drink information is clearly stated on liquor products (Food Standards Australia New Zealand) and to restrict the sale or supply of undesirable liquor products that may encourage irresponsible drinking (section 101 of the Act).

**Examples of unacceptable promotions**

- ▲ Encouraging the consumption of liquor in a yard glass for skolling.
- ▲ Encouraging the consumption of laybacks, slammers, blasters, bombs or consumption from a water pistol or test tubes with no stand.
- ▲ Encouraging an individual to purchase and consume on their own an alcoholic drink intended to be shared (that is, a drink containing a significant number of standard drinks).
- ▲ Encouraging the consumption of multiple shooters or shots by an individual.

**Managing related risks**

Care needs to be taken where liquor is being served in vessels that are not well recognised (e.g. schooner or wine glass) to ensure patrons have the ability to judge how much they consume.

If a promotion is being undertaken where an alcoholic drink is being sold in a large volume (such as jugs) or 'novelty' drinkware (such as teapots or jam jars) the following approach should be taken:

- ▲ Accurate standard measures should be used to pour the drink into the vessel.
- ▲ If the drink is meant to be shared, standard sized drinking vessels should be provided.
- ▲ Patrons should be made clearly aware of the alcohol content of the drink. For example, details of the number of standard drinks should be available on the drinks menu or on other suitable promotional material for the drink such as posters.

**Past examples of promotions that have been investigated**

**On-premises environment**

- ▲ A hotel supplied liquor in three litre cocktail balloons and two litre towers. Large vessels such as these can make it difficult for patrons to monitor their rate of alcohol consumption.
- ▲ A registered club promoted 'Mid-week Fishbowl Cravings' offering cocktails served in fishbowls with a straw.
- ▲ A hotel promoted \$10 cocktail buckets where patrons consumed the cocktail directly from the bucket with straws.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Liquor Promotion Guidelines**

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**Principle 4 – Emotive Description or Advertising**

The promotion should not use emotive descriptions or advertising that encourages irresponsible drinking and is likely to result in intoxication.

**Explanation**

The use of emotive descriptions in a liquor promotion can encourage irresponsible drinking.

A promotion that focuses on drinking irresponsibly or uses emotive descriptions to encourage excessive or rapid drinking can influence the actions of consumers and increase the likelihood of drinking to excess, intoxication and other alcohol related-harm.

**Examples of unacceptable promotions**

- ▲ Promoting events which focus primarily on the excessive consumption of alcohol e.g. 'Mad Monday'.
- ▲ Using language, labelling or titling that suggest irresponsible or excessive consumption of alcohol (e.g. 'Drink like a fish', 'beat the clock' and challenges to drink within certain timeframes).
- ▲ Engaging a person who, as part of the promotion, enthusiastically talks up excessive consumption of alcoholic beverages, encourages intoxication or irresponsible or illegal behaviour.
- ▲ Encouraging consumers to get drunk. This may involve the use of language images or slogans such as 'drink till you drop' or 'drink your money's worth'.
- ▲ Encouraging patrons to post pictures on social media of themselves in an intoxicated state.

**Managing related risks**

Licensees should take particular care in determining whether the name of a promotion or any promotional material used contains descriptions that may encourage irresponsible drinking.

**Past examples of promotions that have been investigated**

**On-premises environment**

- ▲ A hotel promoted a challenge to drink 30 tequila shots in 10 minutes. The challenge encouraged excessive drinking and posed significant risk to patron health and safety.
- ▲ A restaurant promoted a five-litre beer stein challenge for Oktoberfest.
- ▲ A bar promoted frozen cocktails with the tag line 'let's get slushie sloshed.' Emotive tag lines may encourage people to drink irresponsibly.
- ▲ A hotel challenged patrons to drink six beers in 60 minutes.

**Take-away environment**

- ▲ A takeaway liquor store promotion used the words 'stock up, party and don't risk running out of drinks.'

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Liquor Promotion Guidelines**

**Principle 5 - Extreme Discounts**

Promotions should not involve the provision of free drinks or extreme discounts, or discounts for a limited duration that create an incentive for patrons to consume liquor more rapidly than they otherwise might.

**Explanation**

Discounting alcohol can be used as a marketing tool for licensees to encourage business. However, discounts should not be excessive to the point where the promotion could encourage irresponsible drinking and intoxication.

**Examples of unacceptable promotions**

- Providing free drinks which encourage rapid consumption of alcohol (e.g. all you can drink in a limited time frame).
- Using drink cards, promotional cards, vouchers or shopper dockets which encourage rapid consumption of alcohol over a short period of time (e.g. \$50 voucher redeemable between 9pm and 10pm).
- Promoting happy hours encouraging or facilitating the rapid consumption of alcohol.
- Promotions that link the consumption of alcohol to unpredictable events (e.g. free drinks until the first points scored).

**Managing related risks**

It is important for licensees to consider implementing harm minimisation measures to reduce any risk of irresponsible drinking and intoxication that can arise from discounting practices. Licensees need to be aware that some discount promotions pose higher risks and are likely to be 'unacceptable' unless these risks are managed appropriately.

Examples of promotions likely to be 'unacceptable' without appropriate measures include those that:

- Encourage the purchase of large amounts of alcohol with rewards of free or discounted drinks (e.g. buy six drinks and get two free drinks) to be redeemed within the same trading period.
- Offer 'buy one, get one free' deals through discount vouchers, cards or 'shopper docket' offers without purchase limits or other suitable controls in place.
- Run for very short periods, creating incentive for patrons to stockpile or consume liquor rapidly.

- Run for extended periods over two hours, where patrons may drink more than they otherwise would.
- Offer 'all you can drink' for a set price or long periods of free drinks (e.g. \$50 entry and free drinks all night).
- Involve discounts of greater than 50% off the normal retail price.

There are a range of measures licensees can adopt to reduce the risk from discount liquor promotions, such as controls on the timing, drinks limits, promoting lower strength drinks, and close monitoring of patron behaviour on the premises during and after discount promotions.

Licensees should be cautious in offering discounts on drinks associated with rapid alcohol consumption (e.g. shots). Extreme discounting of any product designed for rapid consumption, whether for consumption on-premises or for take-away, is likely to be unacceptable.

**Additional Information**

Across the hospitality industry, there are a range of businesses that offer functions packages inclusive of all drinks for a set price (such as wedding packages, corporate events, etc). The Guidelines do not seek to prevent this type of activity. However, it is the responsibility of licensees to ensure the function is run safely and alcohol is served responsibly.

**Past examples of promotions that have been investigated**

**On-premises environment**

- A hotel promoted \$2 beers, this being at significant discount from the hotel's regular sale price.
- A restaurant promoted unlimited sake for two hours for \$17.90 per person.
- A night club promoted a \$30 door charge which included free house spirits, beer, wine and cider from 9pm till 3am.
- A hotel State of Origin promotion offered free middies until the first points scored.

**Take-away environment**

- A takeaway liquor store promoted packaged single shots for 50c each. Extreme discounts on products designed for rapid consumption are likely to encourage irresponsible consumption.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Liquor Promotion Guidelines**

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**Principle 6 – Irresponsible, Rapid or Excessive Consumption**

Promotions should not otherwise encourage irresponsible, rapid or excessive consumption of liquor.

**Explanation**

Licensees should always be mindful that liquor promotions they run do not encourage people to drink irresponsibly, rapidly or excessively.

It is important to consider how and when any alcohol will be consumed as a result of any promotion, and what related measures could help manage the risk of people drinking irresponsibly.

While promotions such as happy hours, competitions and games can enliven the environment on licensed premises, if not well managed they may incentivise irresponsible or excessive consumption.

Licensees should take care to ensure these types of promotions do not encourage people to drink in greater amounts or faster than they otherwise would.

**Examples of unacceptable promotions**

- ▲ Using drinkware which encourages rapid consumption, such as test tubes, water pistols or yard glasses.
- ▲ Drinking games, competitions, challenges, dares, scoreboards, lotteries or games of chance that involve the rapid or excessive consumption of liquor (e.g. beer pong, skolling games, flip and win, 'around the world', '60 shots in 60 minutes', pub golf).
- ▲ Challenging or daring patrons to drink a particular drink because of its higher alcohol content.
- ▲ Happy hours occurring late into the trading period or early hours of the morning.
- ▲ Encourage the stockpiling of drinks.

**Managing related risks**

While some competitions and games involving alcohol consumption are 'unacceptable', others can help to create enjoyable and safe environments in venues if run responsibly. Licensees should ensure that consuming alcohol is not required to take part in any competition or game. If there is a prize on offer, licensees are also encouraged to offer prizes other than liquor, such as meals, movie tickets or other products.

It is common for licensees to run happy hours to promote their business. When run responsibly, with suitable limits on duration, timing and frequency, this poses limited risk of irresponsible drinking.

There are many different harm minimisation measures licensees can adopt to manage risks relating to irresponsible, rapid or excessive consumption of alcohol from broader liquor promotions. A detailed summary of practical steps licensees can take is included at page 10 of these Guidelines.

**Past examples of promotions that have been investigated**

**On-premises environment**

- ▲ A restaurant promoted a Soju Bomb challenge on its Facebook page encouraging diners to create a new record for the number of bombs consumed in a sitting.
- ▲ A hotel promoted drinking games linked to scissor, paper, rock and toss the boss on its Facebook page. These and similar games, are unacceptable as they encourage patrons to drink more and in a shorter timeframe than they otherwise would.
- ▲ A karaoke venue's house policy instructed staff to 'make customers drink more.' Staff should never encourage patrons to drink more. This is an unacceptable practice.

**Take-away environment**

- ▲ A hotel promotion offered the chance to win 100 cans of beer when patrons download a mobile phone app.
- ▲ A hotel promoted a competition to win your height in a canned premixed alcoholic drink.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Liquor Promotion Guidelines**

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**Principle 7 – Not in Public Interest**

Promotions should not otherwise be considered to not be in the public interest.

**Explanation**

A range of liquor promotions may not necessarily promote rapid or excessive consumption of alcohol, or meet the other principles in the Guidelines, but may be considered undesirable as they are not in the public interest.

Generally, if something is not in the public interest it goes against principles of fairness, equity, decency or lawfulness in society. Public interest is linked to the wellbeing of the community or risk of detriment to the community at large.

Licensees need to ensure promotions do not contain discriminatory or demeaning content, or promote unlawfulness.

**Examples of unacceptable promotions**

- ▲ Using images or messages that could be seen to be encouraging or condoning breaking the law or other anti-social behaviour.
- ▲ Using images or messages which link the promotion of alcohol with illicit drugs or allude to drug taking behaviour.
- ▲ Associating liquor consumption with aggressive or violent behaviour towards other people.
- ▲ Including discriminatory elements into a promotion such as a gender-based free drinks or discounts (e.g. 'women drink free').

**Past examples of promotions that have been investigated**

**On-premises environment**

- ▲ A hotel promoted a jelly wrestling event to raise money for a charity. VIP tickets were on sale that included unlimited drinks for three hours. The event schedule also included boat race drinking games. The promotion was not consistent with a number of Principles in the Guidelines. It was therefore considered to not be in the public interest.
- ▲ A club promotion alluded to drug usage with the consumption of shots. The promotion was titled 'Shots or Lines'.

**Take-away environment**

- ▲ A social media account associated with a producer/wholesaler shared a video of two males jumping off letter boxes with the caption 'Sink a couple and you too will become a gymnastics gold medalist #undertheinfluence.' Promoting any inappropriate activity while under the influence of alcohol is against the public interest.

ITEM 1 (continued)

ATTACHMENT 1

**Liquor Promotion Guidelines**

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**Harm Minimisation Measures**

What additional steps can licensees take to ensure their promotions are run responsibly?

Licensees should never run promotions identified in these Guidelines as being 'unacceptable'.

Beyond that, licensees also need to actively consider the risk of harm from any other liquor promotion activities.

There can often be risks that need to be managed through appropriate harm minimisation measures. It's up to individual licensees to manage and minimise these risks within their own business environment.

Adopting harm minimisation measures can help ensure liquor is consumed responsibly, and allows patrons to enjoy safer environments together with the benefits of a promotion. This makes good sense for the business and supports responsible industry development. It also reduces the potential for serious liquor law breaches.

**On-premises environment**

For venues selling liquor for consumption on the premises, it is particularly important to plan for, control and monitor how promotions could impact patrons and ensure it does not encourage excessive drinking and intoxication on the premises. Some suggested steps licensees can take to reduce risk with running liquor promotions include, but are not limited to:

▲ Consider the timing of a promotion

*Time of day* – Licensees should be mindful of the times they run promotions and consider doing so at a time that poses lower risk. Running a promotion during certain times of the day can pose higher risks of irresponsible consumption. Promotions run before 10pm typically pose less risk than during the later trading period, as patrons are less likely to have consumed as much and more likely to have eaten.

*Duration* – Where the duration of a promotion is either too short or too long it can elevate the risk. Short promotions may encourage patrons to consume alcohol rapidly (e.g. discounted drinks for the first 10 minutes of each hour). Promotions that run for too long can pose a risk of patrons drinking excessively over an extended period, especially where they have been at the same venue for a number of hours. Licensees should appropriately time the duration of promotions to reduce the risk of irresponsible drinking. For example, happy hours should not exceed one to two hours.

*Frequency* – Running multiple promotions during a single trading period can increase the likelihood of patrons drinking excessively, especially if patrons have been at a particular venue for a long time, and can take advantage of multiple promotions. Licensees should consider restricting the number of promotions run over a single trading period.

▲ Consider placing limits on volume and strength

*Drink limits* – A drink limit on the number of drinks a person can purchase during a promotion, or each visit to the bar, provides an opportunity for patrons to enjoy the benefit of a promotion while facilitating responsible service of alcohol. For example, maximum two drinks per person.

*Liquor strength* – Drinks containing high alcohol content can lead to patrons to become intoxicated quickly. Offering drinks containing lower alcohol content in a promotion is an easy way to reduce the likelihood of intoxication.

▲ Monitor and manage patrons during promotions

*Drink stockpiling* – Bar staff should always keep a look out for patrons who try to stockpile several unconsumed drinks. Stockpiling drinks poses a significant risk of excessive or rapid intoxication. Where bar staff see a patron attempting to do so, they should cease any further service.

*RSA marshals* – Employing RSA marshals during the course of a promotion can help venues monitor consumption of alcohol. It also makes it easier to identify and respond early to patrons who may be at risk of becoming intoxicated.

**Take-away environment**

For venues selling liquor for take-away it is important to consider and apply appropriate harm minimisation measures that are suitable for the take-away business environment.

▲ Consider placing limits on coupons

Discount promotions such as discount vouchers, cards or 'shopper docket' without purchase limits or other suitable controls in place can pose a risk of irresponsible drinking. If using coupons, licensees should consider applying limits on the volume of alcohol that can be purchased and/or restricting their use to one per person.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Liquor Promotion Guidelines**

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**All licensed environments**

- Apply common sense in discounting liquor  
Discounts on alcohol designed for rapid consumption, such as shots, may pose significant risk of irresponsible drinking. Licensees should limit discounts on these products to ensure they are not excessive. It is also important to consider the normal retail price in determining the discount size. A 75% discount on an expensive bottle of wine may have a different effect to 75% off pre-packaged shots or cask wine.
- Apply strict controls on what promoters do for you  
When a licensee engages any third party to run a promotion on their behalf, it is important to ensure it still complies with principles and standards set by the Guidelines. A notice may be issued to the licensee where a third party runs a promotion on their behalf that is considered undesirable.
- Be cautious in offering liquor as a prize  
Licensees are encouraged to consider offering prizes other than liquor, particularly where the liquor can only be consumed on the licensed premises and there is increased risk of patrons consuming more than they otherwise would. If liquor is being offered as a prize in a trade promotion lottery, restrictions apply on how much liquor can be included. Licensees should refer to the NSW Fair Trading website for more details.
- Consider broader national advertising standards  
Licensees should understand how their promotions operate within the broader national regulatory frameworks for alcohol advertising. This includes available national codes and guidelines relating to responsible advertising and marketing of alcohol. Codes such as the ABAC Responsible Alcohol Marketing Code and Outdoor Media Association Policies include standards relating to content and placement that span state and territory boundaries and are relevant for liquor promotions and broader forms of advertising.

**For further information**

For more information about liquor promotions contact us:

 [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au)

 1300 024 720

 [Contact us online](#)

To make a complaint about liquor promotions please contact the Compliance Unit:

 02 9996 0837

 [Contact us online](#)

**Disclaimer**

This publication avoids the use of legal language. Information about the law may have been summarised or expressed in general statements. This information should not be relied upon as a substitute for professional legal advice or reference to the actual legislation.

This publication is intended as a guide only. We suggest you seek professional advice when necessary.

Edition 2019 (e-publication only)

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**ITEM 1 (continued)**

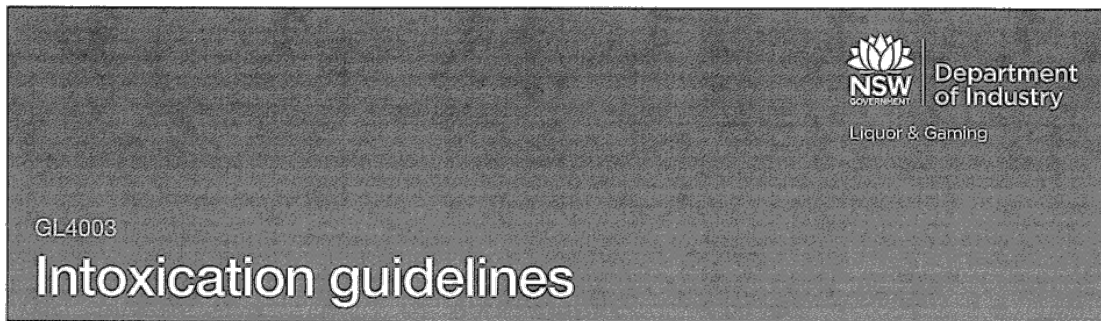
**ATTACHMENT 1**

## **APPENDIX B—Intoxication Guidelines**



ITEM 1 (continued)

ATTACHMENT 1



These guidelines are designed to assist you to determine whether or not a person is intoxicated.

**Overview**

You must always have due regard to the following objectives of the liquor laws:

- ▲ Need to minimise harm associated with the misuse and abuse of liquor.
- ▲ Encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor.
- ▲ Ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

**What is the law?**

Section 5 of the *Liquor Act 2007* states that a person is intoxicated if:

- ▲ the person's speech, balance, co-ordination or behaviour is noticeably affected, and
- ▲ it is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor.

Liquor licensees have important obligations to ensure alcohol is served responsibly to help minimise alcohol-related harm.

Supporting responsible consumption practices and preventing intoxication lowers the risk of alcohol-related violence and neighbourhood disturbance, and helps to promote a safe venue for customers and staff.

The NSW liquor laws prohibit the sale and supply of alcohol to intoxicated persons. Licensees also have a legal obligation to prevent intoxication from occurring on their premises. Fines, higher annual licence fees, and possible suspension or cancellation of a licence can apply where alcohol is served to an intoxicated person or intoxication is permitted.

Intoxication offences under the NSW liquor laws are discussed in the GL4002 'Prevention of intoxication on licensed premises March 2015' guidelines. The guidelines outline the obligations of licensees and serving staff. They provide advice on steps that can be taken by licensees and staff to manage the risk of intoxication on licensed premises.

The GL4002 'Prevention of intoxication on licensed premises March 2015' guidelines are issued by the Secretary, NSW Department of Industry, under section 73(5A) of the *Liquor Act 2007* and are available from Liquor & Gaming NSW at [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au).

**What are the noticeable signs of intoxication?**

These symptoms or signs are not exhaustive, and not necessarily conclusive of intoxication.

**Speech**

- ▲ slurring words
- ▲ rambling or unintelligible conversation
- ▲ incoherent or muddled speech
- ▲ loss of train of thought
- ▲ not understanding normal conversation
- ▲ difficulty paying attention.

**Balance**

- ▲ unsteady on feet
- ▲ swaying uncontrollably
- ▲ staggering
- ▲ difficulty walking straight
- ▲ cannot stand, or falling down
- ▲ stumbling
- ▲ bumping into or knocking over furniture or people.

**Coordination**

- ▲ lack of coordination
- ▲ spilling drinks
- ▲ dropping drinks
- ▲ fumbling change

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Intoxication guidelines**

- ▲ difficulty counting money or paying
- ▲ difficulty opening or closing doors
- ▲ inability to find one's mouth with a glass.

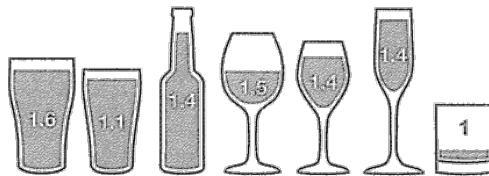
**Behaviour**

- ▲ rude
- ▲ aggressive
- ▲ belligerent
- ▲ argumentative
- ▲ offensive
- ▲ bad tempered
- ▲ physically violent
- ▲ loud / boisterous
- ▲ confused
- ▲ disorderly
- ▲ exuberant
- ▲ using offensive language
- ▲ annoying / pestering others
- ▲ overly friendly
- ▲ loss of inhibition
- ▲ inappropriate sexual advances
- ▲ drowsiness or sleeping at bar or table
- ▲ vomiting
- ▲ drinking rapidly.

**Standard drinks**

The concept of a standard drink enables people to keep track of how much alcohol they are consuming. A standard drink contains 10 grams of pure alcohol.

The [Standard drinks guide](#) can be used to help identify how many standard drinks have been consumed and is available from [alcohol.gov.au](http://alcohol.gov.au).



**How else to determine if someone is intoxicated**

Make observations:

- ▲ Does the person smell of alcohol?
- ▲ How long has the person been drinking?

- ▲ When did the person enter the premises?
- ▲ Was the person affected by alcohol when they arrived?
- ▲ What type of alcohol has been consumed?
- ▲ How much alcohol have you seen the person drink?

Your observations will help you form a reasonable belief as to whether the person is intoxicated as a result of alcohol consumption.

Talk to the person and their friends to help determine whether the person is intoxicated or becoming intoxicated.

**Reasonable belief that a person is intoxicated**

The law requires you to form a reasonable belief that the person is intoxicated as a result of alcohol consumption. It is all right if you refuse service to a person on the basis of this belief, even if you are wrong.

Reasonable grounds for a belief that a person is intoxicated are what a reasonable person would believe in the circumstances, taking into account the relevant knowledge and facts presented.

You should be sure of your reasons for refusal of service and these reasons should not be discriminatory, for example due to race, sex, or disability.

A person has the right to take the matter to the Anti-Discrimination Board if they feel they have been subjected to discrimination.

**Are there conditions that exhibit similar symptoms/signs to intoxication?**

Some medical conditions, disabilities or the use of drugs may cause similar behaviours without the person being intoxicated as a result of alcohol consumption.

Prior to refusing service on the basis that a person is intoxicated, you should endeavour to determine whether the person has a medical condition or disability which may cause signs or symptoms similar to intoxication.

If the person has a medical condition or disability, it is likely that their friends will be able to tell you. Be sensitive to a person's right to privacy.

Examples only:

- ▲ acute infections
- ▲ acquired brain injury
- ▲ brain trauma/tumours
- ▲ delirium
- ▲ diabetes/hypoglycaemia

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### Intoxication guidelines

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- ▲ epilepsy
- ▲ head injuries
- ▲ pneumonia
- ▲ seizures and post-seizure states
- ▲ stroke.

Even though a person has a pre-existing condition, if you have observed the person consuming alcohol and the person has been drinking for some time, then it would be reasonable to form a belief that the person is intoxicated as a result of alcohol consumption.

- ▲ Slow service down for the patron
- ▲ Wait for the patron to re-order, don't automatically top up drinks
- ▲ Do not conduct any activity or promotion that will result in patrons engaging in irresponsible, rapid, or excessive consumption of liquor.

#### What to do if someone is intoxicated

If there are reasonable grounds for you to form a belief that someone is intoxicated as a result of alcohol consumption, you must refuse service to that person. Under the law the person must also be asked to leave the premises.

Procedures for dealing with intoxication incidents should be in place and staff should be trained in these procedures.

#### When refusing service to a person:

- ▲ Introduce yourself to the person. Tell them your name and your role, and ask their name.
- ▲ Approach the person in a friendly and respectful manner. Patronising or authoritarian attitudes can often evoke anger and make the person more aggressive – this is a common response to threats to one's dignity and self-respect. Try not to speak to the person in front of others.
- ▲ When talking to the person: use their name; use slow, distinct speech; use short simple sentences; avoid emotion and involved discussions; use appropriate eye contact (limit for cultural reasons); and adjust speaking pace to match the patron's.
- ▲ Give clear, concrete statement that by law they cannot be served another drink.
- ▲ Notify the manager/licensee/supervisor or security. Also notify other bar staff that you have refused service to the person. If a shift change is nearing, notify the new staff.

- ▲ Give a clear instruction that the person must leave the premises. If necessary, guide them to the exit, ensuring that they have all their personal possessions with them.
- ▲ If the person refuses to leave then you should contact police for assistance in removing the person from the premises.
- ▲ If considered necessary, management may consider imposing a short term ban.

The Liquor & Gaming NSW website has a number of resources which provide further information on refusing entry or removing patrons from a premises.

See the FS3030 'Refusal of entry and patron bans/barring' fact sheet for further information on refusing entry or removing patrons from a premises, or search for 'refusing entry' at [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au).

#### Penalties

Supplying alcohol to an intoxicated person can be very expensive. The licensee or staff can be fined up to \$11,000 or be issued with an on-the-spot fine by way of a penalty notice. It is also an offence for other patrons to supply alcohol to an intoxicated person, with a maximum fine of \$1,100 applying.

#### For further information

Visit [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au) for more information about the liquor laws. Subscriptions to our e-news service are also available from this site.

Access to the liquor laws – the *Liquor Act 2007* and the *Liquor Regulation 2018* – is available from [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au).

To find out more about the liquor laws, contact L&GNSW:

- 📞 [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au)
- ☎ 1300 024 720
- 📧 [Contact us online](#)

#### Publication details

These guidelines are published by the Secretary, NSW Department of Industry, under section 5 of the *Liquor Act 2007*. They are designed to assist you to determine whether or not a person is intoxicated.

These guidelines are subject to periodic review. Please go to [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au) to ensure you are using the latest guidelines.

## **DEVELOPMENT APPLICATIONS**

- 1 25 Clanwilliam Street, Eastwood - Demolition, new two storey dual occupancy (attached), front fence and strata subdivision - LDA2020/0135**

**Report prepared by:** Assessment Officer - Town Planner

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

**Report dated:** 03 November 2020  
BP20/1145

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

### **City of Ryde Local Planning Panel Report**

<b>DA Number</b>	LDA2020/0135
<b>Street Address &amp; Ward</b>	25 Clanwilliam Street, Eastwood West Ward
<b>Zoning</b>	R2 Low Density Residential under RLEP 2014
<b>Proposed Development</b>	Demolition, new two storey dual occupancy (attached), front fence and strata subdivision
<b>Owner</b>	Xiazhu Xue & Yan Xue
<b>Applicant</b>	Yan Xue
<b>Report Author</b>	Madeline Thomas - Senior Town Planner
<b>Lodgement Date</b>	29 April 2020
<b>Number of Submissions</b>	Public Notification Period No. 1 = 15 submissions received Public Notification Period No. 2 = 10 submissions received
<b>Cost of Works</b>	\$905,500.00
<b>Reason for Referral to Local Planning Panel</b>	Contentious Development – number of submissions
<b>Recommendation</b>	Approval
<b>Attachments</b>	Attachment 1: Compliance Check Attachment 2: Draft conditions of consent

**ITEM 1 (continued)**

	Attachment 3: Architectural Plans
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**1. Executive Summary**

The following report is an assessment of a development application for the demolition of the existing dwelling and construction of an attached two storey dual occupancy, front fence and strata subdivision at No. 25 Clanwilliam Street, Eastwood.

The application was lodged on the 29 April 2020. Council received fifteen (15) unique submissions during the first notification period and ten (10) unique submissions during the second notification period, all of which objected to the development. The issues raised in the submissions relate to the following:

- Bulk and scale of the building
- Building being out of character with the surrounding area
- Visual privacy
- Overshadowing
- Traffic generation and parking
- Future use as a boarding house

The application has undergone significant change since lodgement in an attempt to address issues raised by Council with respect to the built form and character. Through refinements of the proposed dual occupancy, the amended proposal has been designed to be compatible with character of the area, and will not result in any unacceptable impact to the surrounding properties with respect to their amenity. The site is suitable for the proposed development.

The proposal is fully compliant with all relevant planning provisions within the Ryde Local Environmental Plan 2014 (RLEP 2014) and the Ryde Development Control Plan 2014 (RDCP 2014), with the only exception being the level of fill proposed. This non-compliance is acceptable given the slope of the site and the careful design of the development.

Assessment of the amended application against the relevant planning framework, and consideration of various design matters by Council's technical departments have not identified any fundamental issues of concern such that the application should be refused.

Consequently, this report concludes the application to be sound in terms of its design, function, and relationship with its neighbours and is recommended for approval.

This report recommends consent be granted to this application, in accordance with recommended conditions provided at Attachment 2.

## ITEM 1 (continued)

### 2. The Site and Locality

The development site is legally described as Lot 24 in DP 4789, No. 25 Clanwilliam Street, Eastwood, and has a site area of 891.6m<sup>2</sup>. The site is located on the north western side of Clanwilliam Street.

It is a regular rectangular shaped allotment with a 20.115m frontage to Clanwilliam Street and a depth of 44.55m.

The site accommodates a two storey dwelling house that addresses Clanwilliam Street, as well as a detached single carport. The dwelling is constructed of facebrick and weatherboard with a tiled roof.

The surrounding residential area is predominately made up of detached dwellings, being a mixture of one and two storeys with gable roofs. Despite the predominant form of low density development in the surrounding area being detached dwelling houses, there is also attached and semi-attached dual occupancy development and multi dwelling housing developments dispersed through the surrounding low density residential area.

**Figure 1** below shows the site in context to its surroundings.



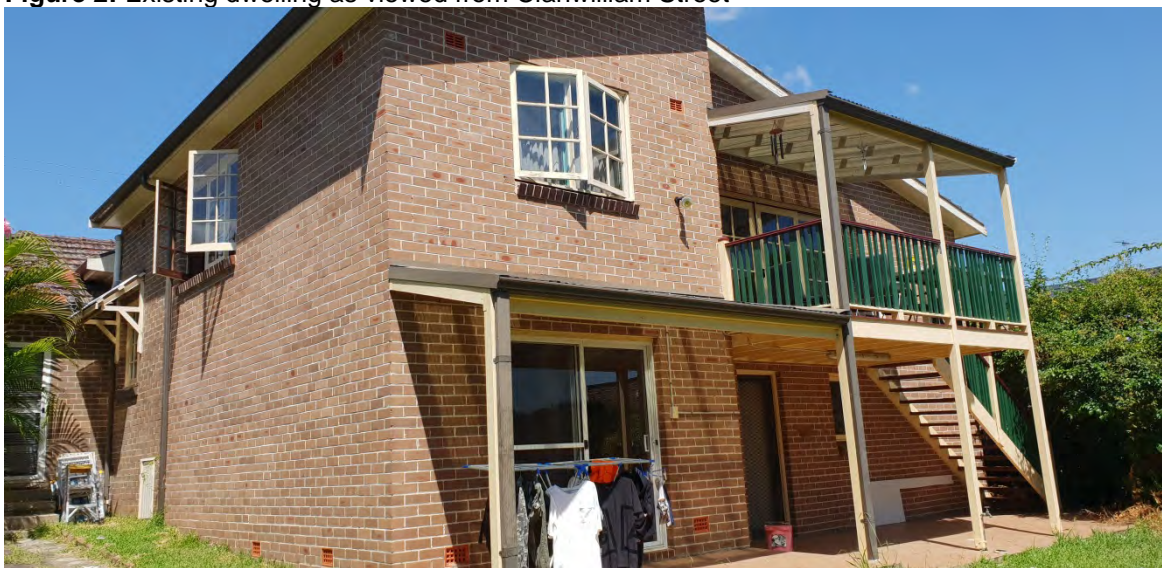
**ITEM 1 (continued)**

**Figure 1:** Aerial photo of subject site (site outlined in orange)

**Figure 2** below shows the site as viewed from the street.



**Figure 2:** Existing dwelling as viewed from Clanwilliam Street



**Figure 3:** View from backyard of existing dwelling

**ITEM 1 (continued)**



**Figure 4:** View of backyard and existing landscape setting

**Figures 5 to 8** show the surrounding development.



**Figure 5:** No. 27 Clanwilliam Street to the west of the site



**ITEM 1 (continued)**



**Figure 6:** No. 23 Clanwilliam Street to the east of the site



**Figure 7:** No. 14 and 16 Clanwilliam Street (on opposite side to subject site)

**ITEM 1 (continued)**



**Figure 8:** No. 19 Clanwilliam Street

**3. The Proposal**

It is proposed to demolish the existing structures on the site and construct a two storey attached dual occupancy. The proposal also includes the erection of a front fence and strata subdivision.

The proposal has undergone substantial refinement since being lodged in order to reduce the bulk and scale of the proposed dual occupancy and to allow the development to be more compatible with the character of the area.

**Figure 9** below shows the street elevation of the proposed development as originally lodged for this application.

**ITEM 1 (continued)**



**Figure 9:** Street Elevation of proposed development as originally lodged

Details of the proposed development (as amended) are as follows:

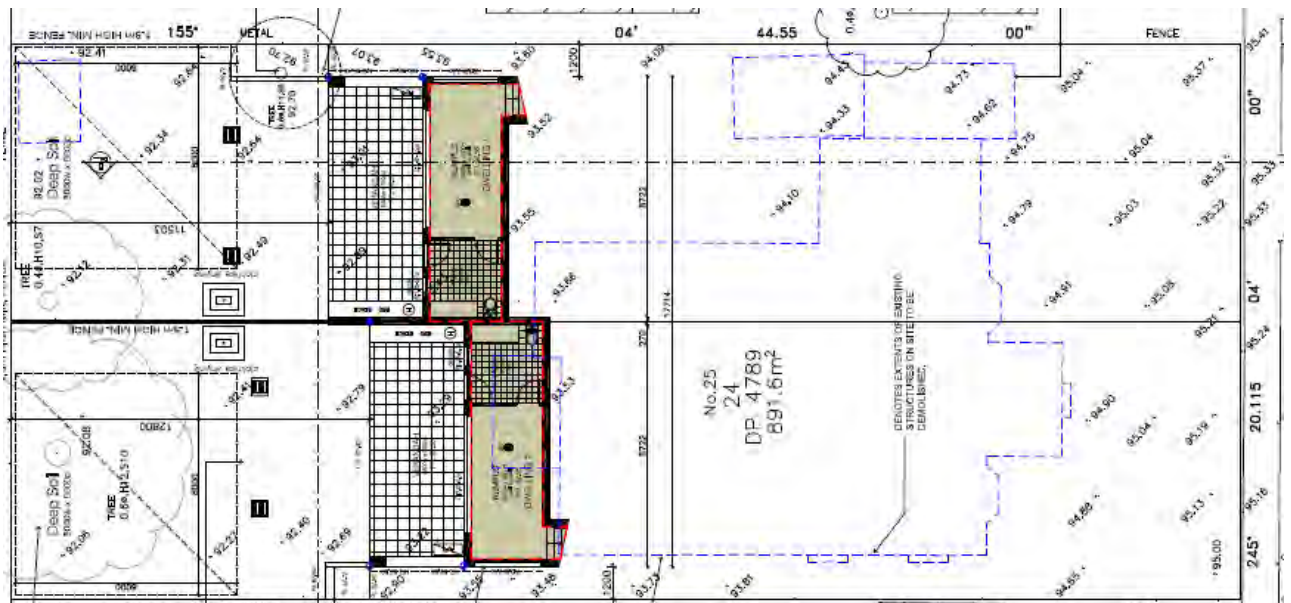
- Demolition of existing dwelling, carport and metal shed
- Removal of one (1) tree within the site
- Construction of a new two storey attached dual occupancy, with each dwelling comprising of the following:
  - Lower Ground floor: Rumpus room and laundry
  - Ground floor: Living room, dining room, kitchen, two bathrooms and guest bedroom
  - First floor: Three bedrooms and two bathrooms
- A single carport for each dwelling accessed from separate concrete driveways

**Figure 10 - 14** below illustrates the proposed development (as amended).

**ITEM 1 (continued)**

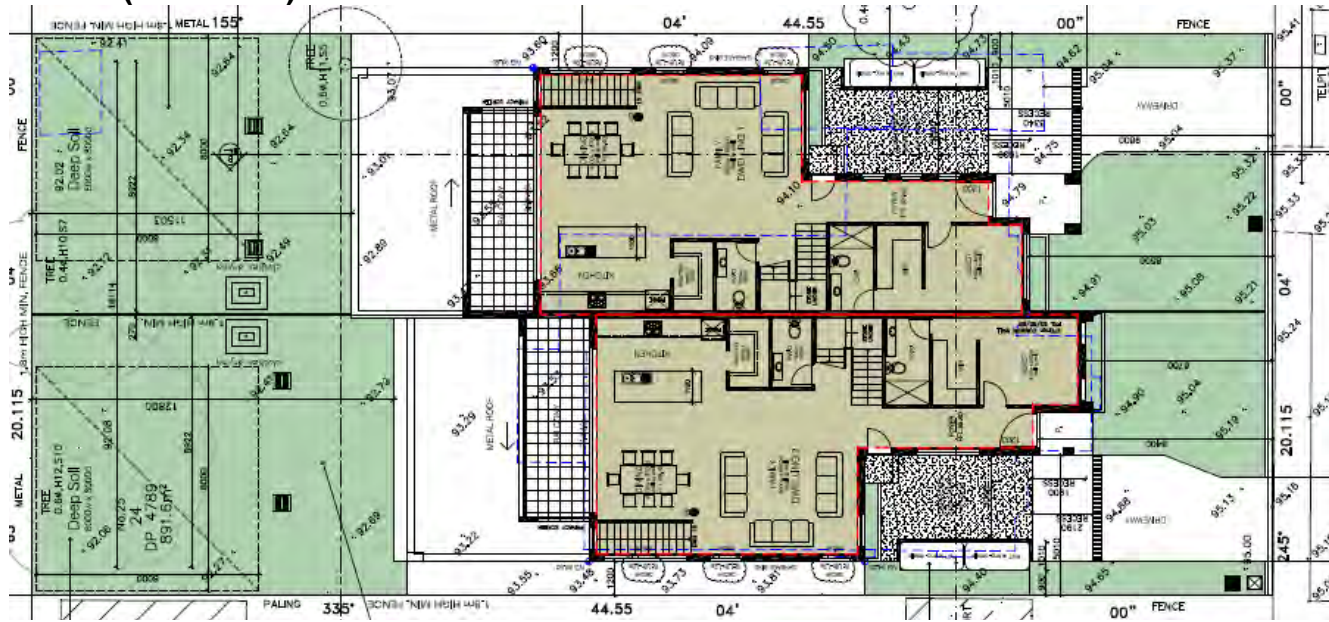


**Figure 10:** Elevation of proposed development (as amended) as viewed from Clanwilliam Street

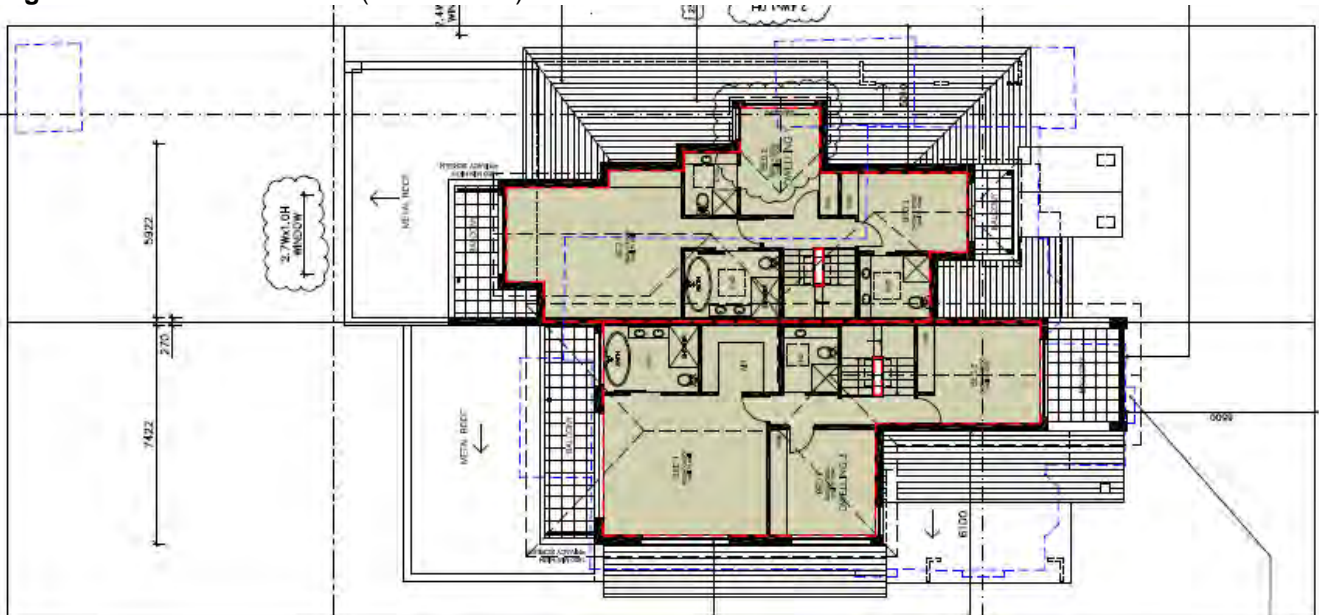


**Figure 11:** Lower Ground Floor Plan (as amended)

**ITEM 1 (continued)**



**Figure 12: Ground Floor Plan (as amended)**



**Figure 13: First Floor Plan (as amended)**

**ITEM 1 (continued)**



**Figure 14:** East elevation (as amended)

**4. Background**

13 February 2019	A development application (LDA2019/0051) was lodged for a dual occupancy development. Throughout the assessment of the application, key issues surrounding the proposal’s incompatibility with the character of the area were raised by Council Officers.
22 July 2019	The Applicant withdrew LDA2019/0051 in order to redesign the proposal to address the issues raised during the assessment of LDA2019/0051.
24 October 2019	A Pre-Lodgement meeting was attended to discuss the issues previously raised under LDA2020/0051 and changes required for any future development application lodged.
29 April 2020	Local Development Application LDA2020/0135 (the subject application) was lodged with Council.
4 May to 29 May 2020	The Application was notified to adjoining property owners. Concern was raised by a number of recipients of the plans that the plans notified did not accurately represent the proposed development.  Council requested the applicant provide amended plans accurately showing the roof form on the elevations.
20 May to 12 June 2020	Amended plans that rectified the inaccuracies in notification plans were submitted by the Applicant and renotified. 15 submissions were received objecting to the proposal.
30 June 2020	A request for an amended Arborist report was sent to the Applicant.
7 July 2020	A request for further information was forwarded to the applicant raising the following issues: <ul style="list-style-type: none"> <li>• Insufficient detail on excavation and fill proposed</li> </ul>

**ITEM 1 (continued)**

	<ul style="list-style-type: none"> <li>• Visual privacy and request for privacy screens</li> <li>• Request for amended stormwater design</li> </ul>
10 July 2020	<p>An additional request for information was sent to the Applicant following receipt of comments from Council's Urban Designer, who raised issues with the built form and incompatibility of the proposal with the character of the area.</p> <p>In particular, issues were raised with the regard to the symmetry of the development and the roof form.</p>
14 August 2020	<p>Amended plans were received by Council that included the following changes:</p> <ul style="list-style-type: none"> <li>• Change in roof form, with two distinct forms to help articulate and visually separate the two dwellings</li> <li>• Addition of privacy screens for rear balconies</li> <li>• Amended stormwater plans</li> <li>• Recessing of first floor to reduce bulk</li> <li>• Amended Arborist report</li> </ul>
17 August to 8 September 2020	<p>The amended plans received on 14 August 2020 were notified to adjoining neighbours and objectors. 10 submissions were received objecting to the amended proposal.</p>
10 September 2020	<p>A review of the amended plans was completed by Council's Urban Designer, who requested amendments to reduce the size of some of the dormer windows and to provide a dormer window for the upper level bedroom window of Unit 1.</p>
6 October 2020	<p>Amended plans were submitted by the Applicant to implement the window changes requested. These plans were not required to be renotified under the Ryde Community Participation Plan.</p>

## 5. Planning Assessment

The following planning policies and controls are of relevance to the development:

- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;
- State Environmental Planning Policy (Building Sustainability Index: BASIX);
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Ryde Local Environmental Plan 2014;
- Ryde Development Control Plan 2014:  
Section 7.11 Contribution Plan.

### 5.1 State Environmental Planning Instruments

#### State Environmental Planning Policy No. 55 – Remediation of Land

### ITEM 1 (continued)

The requirements of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) apply to the subject site.

In accordance with Clause 7 of SEPP 55, Council must consider if the land is contaminated, if it is contaminated whether it is suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed development.

Currently the site contains a two storey residential dwelling house.

A search of Council's records and mapping confirms that the site has continuously been used as a dwelling house with no history of land uses that could cause suspected contamination. As such, further investigation is not warranted, and the site is suitable for the proposed residential development.

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

The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building. As such, an amended BASIX Certificate has been submitted (No. 980960M\_03, dated 15 October 2020) which provides the development with a satisfactory target rating, as set out by the commitments below:

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

Appropriate conditions have been imposed requiring compliance with these BASIX commitments. See **Conditions 3 & 64**.

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

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (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 proposal has been supported by an arborist report recommending the removal of one (1) tree from the subject site, being a Leyland Cypress. The arborist also provides recommended measures for the protection and retention of all remaining trees.



**ITEM 1 (continued)**

Council's Landscape Architect has reviewed the proposal and supported the removal of the tree. Support has also been provided for the tree protection measures proposed in the arborist report. For this reason, it is considered that the proposal would not unduly impact upon any existing biodiversity or trees or vegetation on the site (subject to **Conditions 42-47, 57 and 60-63**).

**Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 is a deemed SEPP and applies to the subject site.

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above planning instrument. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the proposed development. The objective of improved water quality is satisfied through compliance with the provisions of Part 8.2 of RDCP 2014. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the planning instrument.

**5.2 Ryde Local Environmental Plan 2014**

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

The site is zoned R2 Low Density Residential under the provisions of the RLEP 2014. The development is permitted in this zoning.

Clause 2.3 – Zone Objectives

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives for the R2 Low Density Residential zone are:

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

The development complies with the above objectives. It will be consistent with the desired future character of the area by providing residential accommodation within an established low density residential environment.

Clause 4.1(B) – Minimum Lot sizes for dual occupancies and multi dwelling housing

## ITEM 1 (continued)

Clause 4.1B states that the minimum lot size for a site is required to be 580m<sup>2</sup> to permit a dual occupancy (attached) if it is land zoned R2 Low Density Residential. The clause also states that a minimum road frontage of 20m is required for sites proposing a dual occupancy (attached) development.

The subject site has a lot size of 891.6m<sup>2</sup>, and a frontage of 20.115m to Clanwilliam Street, and therefore satisfies this development standard.

### Clause 4.3 Height of buildings

The Height of Buildings Map specifies the maximum heights of any building on the site must not exceed 9.5m.

Building height is defined in this planning instrument as meaning “*the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*”

The proposal has a maximum building height of 9.5m, and therefore complies with this development standard.

### Clause 4.4 Floor Space Ratio

The FSR for the site is 0.5:1, which equates to 445.8m<sup>2</sup> when applied to the subject site. The proposal has been measured to have a gross floor area of 424.7m<sup>2</sup> (FSR of 0.476:1) which complies with this control.

## Other applicable RLEP 2014 provisions

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

Provision	Comment
Clause 5.1 Relevant acquisition authority	No part of the site is mapped as being reserved for acquisition for public purposes.
Clause 6.2 Earthworks	The proposed development includes 1.05m of excavation to facilitate the proposed design. Council's Senior Development Engineer has reviewed the submitted sediment and erosion control plan and it is considered satisfactory. <b>Condition 58</b> has been imposed requiring compliance with the measures proposed in the submitted plan.
Clause 6.4 Stormwater management	Council's Senior Development Engineer has raised no objections to the proposed stormwater management system for the site, subject to engineering conditions. See <b>Conditions 34, 59, 68, 69 and 72.</b>

## 5.3 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 development applications. Refer to conclusions made in relation to SEPP 55.

**Draft Environment State Environmental Planning Policy**

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

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

The site and the adjoining properties do not contain any remnant urban bushland, and as such, State Environmental Planning Policy No. 19 – Bushland in Urban Areas is not applicable to the proposal. Refer to conclusions made in relation to Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

**5.4 Development Control Plans**

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

- Part 3.3 Dwelling Houses and Dual Occupancy (Attached);
- Part 7.1 Energy Smart, Water Wise;
- Part 7.2 Waste Minimisation and Management;
- Part 8.2 Stormwater & Floodplain Management;
- Part 8.3 Driveways;
- Part 9.3 Parking Controls; and
- Part 9.5 Tree Preservation.

An assessment of the relevant controls is provided in **Attachment 1**. A discussion of the relevant provisions of the DCP is discussed below:

## ITEM 1 (continued)

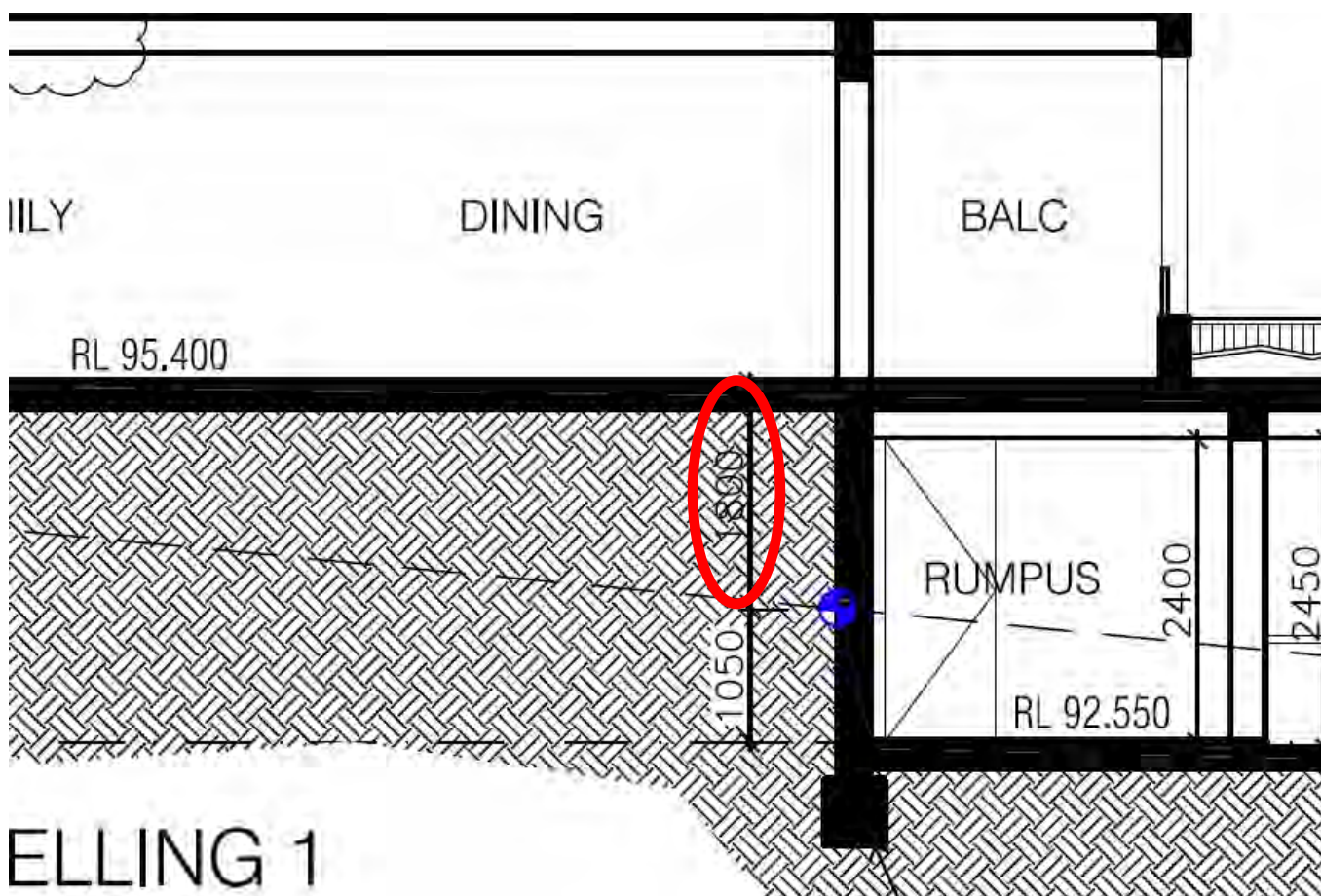
### Part 3.3 – Dwelling Houses and Dual Occupancy

The proposal is generally compliant with the controls of Part 3.3 of the Ryde DCP 2014, with the following exception:

#### *Topography and Excavation*

The RDCP 2014 (Section 2.6.2) contains a requirement that the maximum depth of excavation under the building footprint is to be 1.2m, and that the maximum height of fill under the dwelling footprint is 900mm. The purpose of this requirement is to ensure that excavation and fill does not result in unreasonable loss of privacy for neighbours, and to retain ground levels where possible.

The level of fill under the building footprint is 1.8m, thereby exceeding the maximum level of fill specified in Clause 2.6.2 (b). This is illustrated in **Figure 15** below.



**Figure 15:** Extract from section plan (as amended) showing 1.8m of fill within building footprint

This is considered acceptable in this instance as the proposal still meets the objectives of Section 2.6.2 for the following reasons:

## ITEM 1 (continued)

- The proposal does not have an unacceptable impact on the adjoining properties in relation to privacy and overshadowing given the careful window placement and design;
- The proposed fill does not adversely impact the streetscape, as the level of fill is not visible from Clanwilliam Street; and
- The proposed cut and fill is an appropriate design response to the topography of the site.

### Part 7.2 Waste Minimisation and Management

The development involves the demolition of existing structures and construction of a dual occupancy and the applicant has submitted a Waste Management Plan (WMP). The WMP is considered satisfactory.

### 5.5 Planning Agreements OR Draft Planning Agreements

There are no planning agreement or draft planning agreement applicable to this application.

### 5.6 Section 7.11 Development Contributions Plan 2007 Interim Update (2014)

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	\$ 6,061.80
Open Space & Recreation	\$ 10,438.15
Transport facilities	\$ 3,204.48
Plan Administration	\$ 295.57
<b>The total contribution is</b>	<b>\$ 20,000.00</b>

**Condition 23** has been imposed with respect to the payment of the Section 7.11 contributions.

### 5.7 Any matters prescribed by the regulations

There are no matters prescribed by the Regulation that have not been satisfied.

## **ITEM 1 (continued)**

### **6. The likely impacts of the development**

Most of the impacts associated with the proposed development have already been addressed in the report. The additional impacts associated with the development or those requiring further consideration are discussed below.

#### Built Form

The development is consistent with the built form objectives envisaged for the area. It provides a suitable bulk and scale for a development of this size, and contributes to additional housing in the area in a high-quality architectural design (refer Dwelling Analysis and Streetscapes Plan, Dwg No. DA:09 (Rev C), dated 01.10.2020).

The proposed built form is considered to be compatible with the surrounding character, and will not detract from the streetscape.

#### Access and Traffic

The development will result in one (1) additional dwelling. The traffic generation from the additional dwelling is considered to be negligible.

Accordingly, from a traffic perspective the development will not result in any unacceptable traffic implications to the road network.

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

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

### **8. The Public Interest**

The development is considered to be in the public interest as it is reasonably consistent with the relevant planning controls and complies with the objectives of the planning controls. Where variations to the planning controls occur in terms of the level of fill, the proposal has been designed to minimise any potential impact to adjoining properties.

### **9. Submissions**

#### Public Notification Period No. 1

**ITEM 1 (continued)**

In accordance with the Ryde Community Participation Plan, the owners of the surrounding properties were given notice of the application between 4 May 2020 and 29 May 2020. Following feedback from some of the neighbours notified, the notification plans were amended to more clearly reflect the proposed roof form. It is noted that the amended plans did not change the proposal that was originally submitted.

The amended plans were notified between 20 May 2020 and 12 June 2020. Fifteen (15) unique submissions were received from the following properties:

18 Clanwilliam Street, Eastwood	32 Clanwilliam Street, Eastwood
22 Railway Street, Eastwood	27 Clanwilliam Street, Eastwood
16 Clanwilliam Street, Eastwood	22 Lakeside Road, Eastwood
14 Clanwilliam Street, Eastwood	12 Clanwilliam Street, Eastwood
22 Clanwilliam Street, Eastwood	20 Clanwilliam Street, Eastwood
27A Clanwilliam Street, Eastwood	150 Chatham Road, Eastwood
11 Campbell Street, Eastwood	68 Tarrants Avenue, Eastwood
10 Clanwilliam Street, Eastwood	

The issues raised in the first public notification period were replicated in the second notification period (discussed below). As such, these are addressed under the Public Notification No. 2 below.

Public Notification Period No. 2

Amended plans were received on 14 August 2020 and notified between 17 August 2020 and 8 September 2020. Ten (10) unique submissions were received objecting to the development, from the following properties:

18 Clanwilliam Street, Eastwood	32 Clanalpine Street, Eastwood
22 Railway Street, Eastwood	27 Clanwilliam Street, Eastwood
14 Clanwilliam Street, Eastwood	12 Clanwilliam Street, Eastwood
21 Clanwilliam Street, Eastwood	20 Clanwilliam Street, Eastwood
11 Campbell Street, Eastwood	10 Clanwilliam Street, Eastwood

The submissions received were largely unchanged for the first public notification period, with the following issues raised across both notification periods:

- *Excessive bulk and scale*

All of the objections have raised concern that the proposal results in a built form with excessive bulk and scale.

Assessing officer comment:

**ITEM 1 (continued)**

The proposal has undergone significant refinement since the lodgement of the first development application (LDA2019/0051) in order to reduce the bulk and scale of the proposed dual occupancy development.

The bulk of the development has been reduced by providing single carport structures, setting back the front setback of the first floor and by providing two distinctly different roof forms for each of the dwellings within the dual occupancy development. The articulation of the roof form has assisted in reducing the bulk and scale of the development.

The proposal is compliant with respect to floor space ratio, building height, and building setbacks. The scale of the development is consistent with the desired future character of the area and low density development within the Ryde Local Government Area.

- *Proposal is out of character with the area*

All of the objections have raised concern that the proposal is not consistent with the prevailing character of the surrounding area.

Assessing Officer comment:

It is noted that the subject site is not located within a Heritage Conservation Area or Character Area. Despite this, an assessment of the prevailing form of low density residential development was undertaken, and the compatibility of the development to the character of the area was considered.

For guidance on the compatibility of development with the character of the local area, reference is made to the NSW Land and Environment Court Planning Principle established in *Project Venture Developments Pty Ltd v Pittwater Council* [\[2005\] NSWLEC 191](#) at 22-31.

The Planning Principle states that:

*“Compatibility is... different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve”.*

The criteria used to assess the local character includes the following:

- Building heights
- Site coverage and floor space ratio
- Scale and form of dwellings
- Building typology
- Building style and finishes
- Views and vistas



## ITEM 1 (continued)

The proposal is considered to be compatible with the character of the local area identified above for the following reasons:

### Building height

The local character of the surrounding area comprises a mixture of one and two storey dwellings. The proposed dual occupancy complies with the maximum building height development standard of 9.5m, and is not disproportionate to other dwellings within the surrounding area.

### Site coverage and floor space ratio

The proposal has a floor space ratio of 0.476:1, which is less than the maximum floor space ratio applicable to both the site and surrounding residential properties.

With respect to the site coverage, the proposal provides 352.6m<sup>2</sup>, which represents 39.6% of the total site area. The Ryde DCP 2014 requires a minimum of 30% deep soil area to be provided for dual occupancy developments.

### Scale and form of dwellings

It is acknowledged the roof form of the development as originally submitted was not consistent with the prevailing character of the area. However, the changes to the roof form detailed below have enabled the development to be consistent with the character of the area:

- The roof form has been amended so that each dwelling within the dual occupancy development has its own distinct form, rather than one single roof structure spanning both dwellings. Not only has this assisted in reduced the bulk of the dwelling, it is consistent with the prevailing roof forms in the area.
- The pitch of the roof is consistent with the adjoining properties.

The proposal also incorporates carports instead of garages.

The amended design of the proposal has recessed the first floor from the front façade, which is consistent with the existing dwelling on the site and the two storey dwellings within proximity of the subject site (see **Figures 16, 17 and 18** below).

The first floor is also setback from the side boundaries by 2.5m, meaning it will be slightly set into the roof, given the ground floor side setbacks are 1.2m.

**ITEM 1 (continued)**



**Figure 16:** Photograph of existing dwelling on subject site with recessed first floor



**Figure 17:** Photograph of No. 19 Clanwilliam Street showing recessed first floor

**ITEM 1 (continued)**



**Figure 18:** Photograph of No. 12 Clanwilliam Street with recessed first floor



**ANALYSIS OF PROPOSED STREETScape - CLANWILLIAM STREET, EASTWOOD**

**Figure 19:** Streetscape analysis submitted by the applicant

**Building typology**

Dual occupancy (attached) development is not prohibited in the zone, and the proposed design is considered to respond appropriately to the prevailing character in the area. Dual occupancy development and multi dwelling housing development occurs within the character catchment of the site, as shown in **Figure 20** below which shows a dual occupancy development at No. 18 Campbell Street, which has recently been constructed.

## ITEM 1 (continued)



**Figure 20:** Dual occupancy development recently constructed at No. 18 Campbell Street (within 200m of site)

### Building style and finishes

The materials and finishes selected are compatible with those used in the surrounding low density residential area. Facebrick, weatherboard cladding and tiled roofs are the predominant materials used in the surrounding area. The proposal is consistent with these materials.

### View and Vistas

The surrounding area does not benefit from any significant views or vistas. The proposal will not disrupt the view or vista of the surrounding properties.

The following questions are considered considering the questions posed in the Planning Principle:

In line with the planning principle established in the Land & Environment Court case *Project Venture Developments Pty Ltd v Pittwater Council*, to test whether a proposal is compatible with its context, two questions should be asked.

- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

### Comment

The proposal is harmonious with the building around it, given the compatibility as assessed under the above criteria.

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*

**ITEM 1 (continued)**Comment

The proposal's compliance with the Ryde DCP 2014 demonstrates that the proposal will not have an adverse impact on the amenity of the surrounding areas with respect to overshadowing, visual and acoustic privacy, outlook and retention of vegetation.

Given the development has been assessed as being consistent with the existing character of the area and the desired future character of the area, this concern does not warrant refusal of the application.

- *The proposal is three storeys in height*

Concern was raised in several submissions that the development is three storeys at the rear, which does not comply with the Ryde DCP 2014.

Assessing Officer comment:

The proposed development is considered to be two storeys in height.

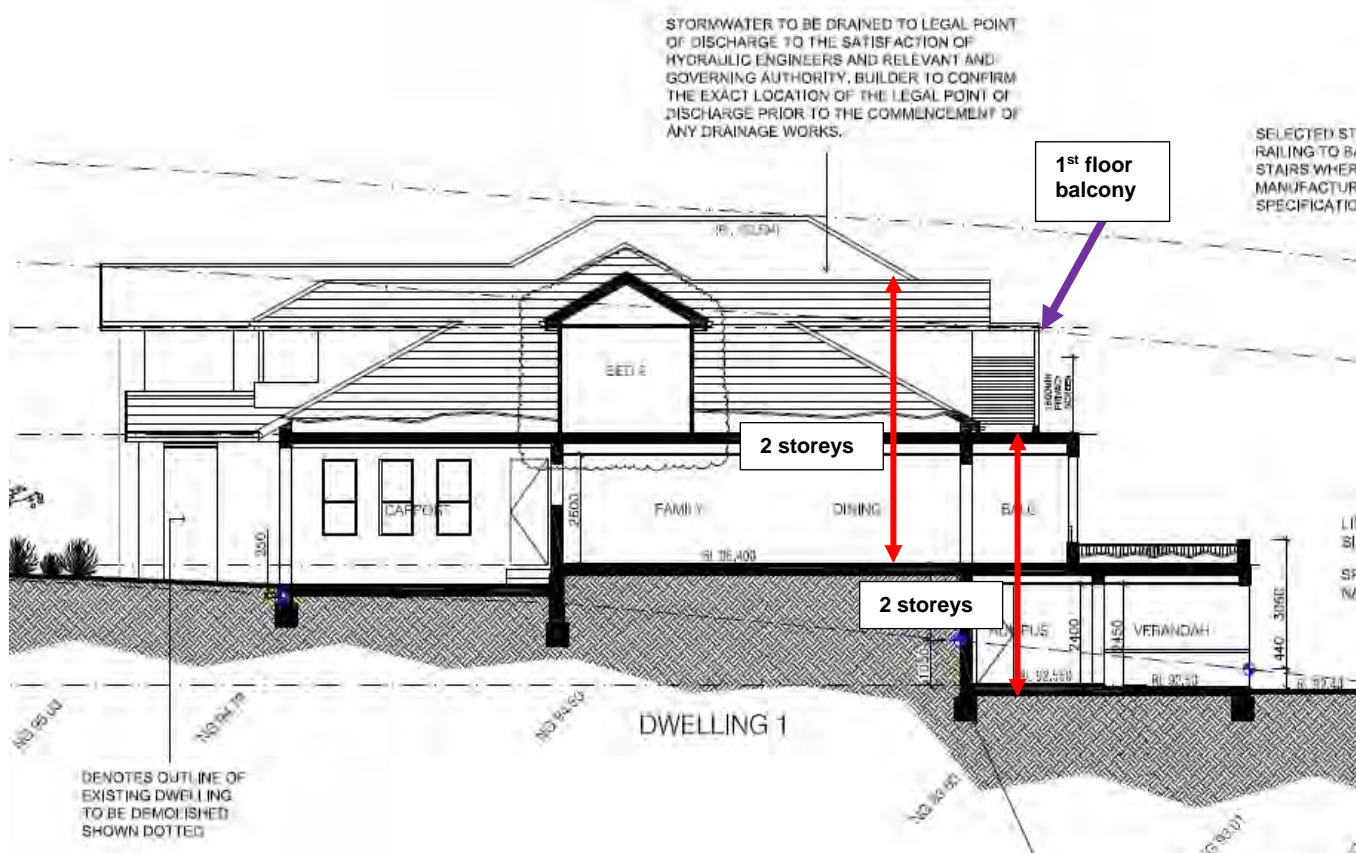
The Ryde LEP 2014 defines "storey" as follows:

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

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

The elements of the building that are above the rumpus area at the rear of the site are balconies, and are not enclosed and "within the building". Some elements of the balcony have a roof over, however, the first floor balcony is not considered to constitute an additional storey.

**ITEM 1 (continued)**



**Figure 21:** Section of proposed development showing maximum of two storeys at any time

Irrespective of the above, the building height and configuration at the rear of the site is considered to be an appropriate design response to the slope of the site.

As such, this concern does not warrant refusal of the application.

- *Side setback is less than 1.5m*

Concern was raised in several submissions that the proposal does not comply with the Ryde DCP 2014 given the ground floor side setback is less than 1.5m.

Assessing Officer comment:

The Ryde DCP 2014 specifies that the minimum side setback for single storey buildings is 900mm, and 1.5 for two storeys. The intent behind this control is for development to either meet the minimum 1.5m side setback for the entire vertical length of the wall, or for the development to be stepped in for the second storey.

The proposal complies with this control, as the ground floor has a side setback of 1.2m (which exceeds the 900mm minimum requirement) and a first floor setback of 2.5m (exceeding the 1.5m minimum requirement).

**ITEM 1 (continued)**

The side setbacks proposed ensure the development is of an appropriate scale by reducing the dominance of the second storey.

As such, this concern does not warrant refusal of the application.

- *Number of bedrooms and bathrooms would result in the development being used as an illegal boarding house*

Assessing Officer comment:

The proposal includes 2 x 4 bedroom dwellings with 3/4 bathrooms each and one powder room. The number of bedrooms and bathrooms does not indicate the potential use for a boarding house, and approval is only recommended for a dual occupancy development.

Regardless, **Condition 84** has been imposed that the development is not to be used as a boarding house.

This concern does not warrant refusal of the application.

- *Increase in traffic generation*

Assessing officer comment:

The proposal will result in one additional dwelling being provided on the subject site. The additional traffic generation from this dwelling will be negligible, and will not result in an adverse impact to the local road network.

This concern does not warrant refusal of the application.

- *Insufficient parking provided*

Assessing Officer comment:

The Ryde DCP 2014 requires one (1) parking space per dwelling within a dual occupancy development. This requirement does not vary based on the number of bedrooms within a dual occupancy development, and as such, the parking provision specified in the Ryde DCP 2014 has been satisfied by the development.

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

- *Excessive fill, meaning the proposal does not follow the natural landform*

Assessing Officer comment:

The proposal involves 1.8m of fill within the building footprint, as shown in **Figure 15** earlier in this report.

### ITEM 1 (continued)

This exceeds the maximum fill control within the Ryde DCP 2014 of 900mm. The objective of this control is to ensure the visual privacy of adjoining properties is maintained and to retain natural ground levels and existing landform where possible.

The level of fill proposed does not result in adverse visual privacy for the adjoining properties, and still allows for the existing ground levels to generally be maintained outside of the building footprint. The design is an appropriate response to the slope of the site.

This concern does not warrant refusal of the application.

- *Concern the lower ground floor alfresco areas will be enclosed illegally and result in non-compliance with floor space ratio*

Concern has been raised that the rumpus room and alfresco on the lower ground floor will be separately enclosed, given there is not internal stairs accessing these areas.

#### Assessing Officer comment:

The proposed development does not include enclosure of these areas, and any development that is built on the site will need to be built strictly in accordance with the conditions of consent and stamped approved plans.

Regardless, there are internal stairs provided to access the lower ground floor within both units.

This concern does not warrant refusal of the application.

- *Visual privacy*

Concern has been raised that the adjoining properties will be overlooked by windows and balconies.

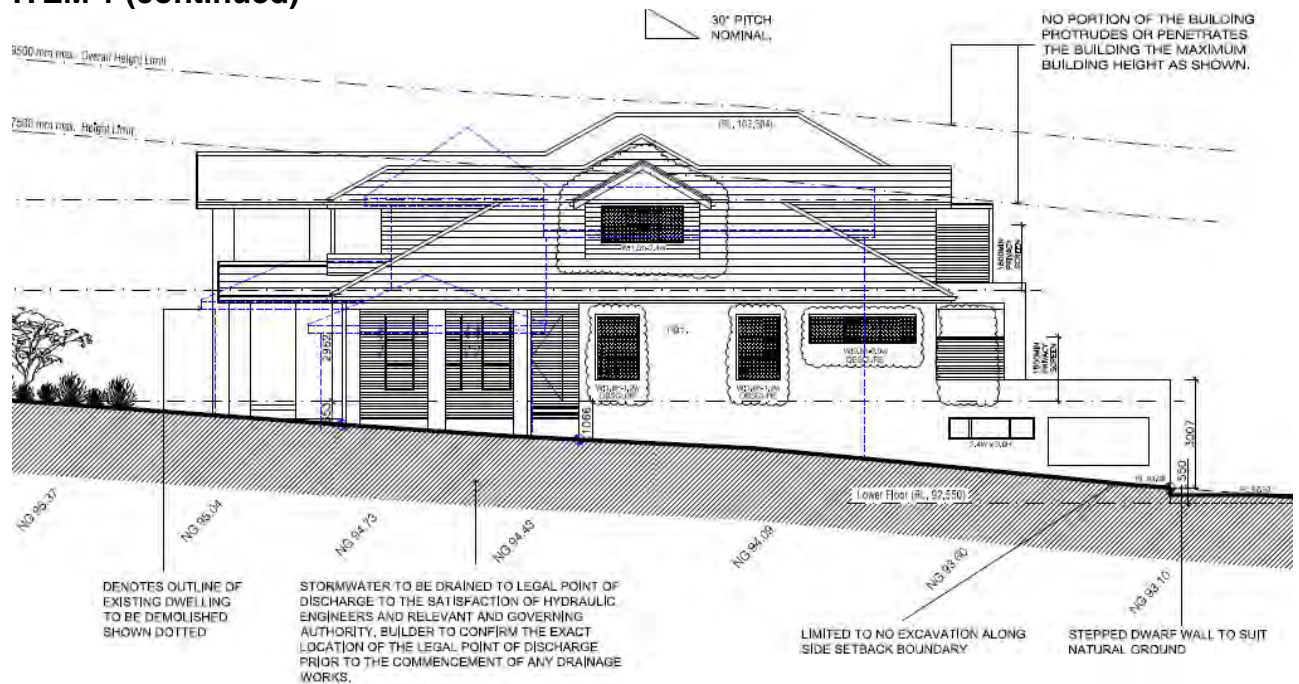
#### Assessing Officer comment:

The windows and balconies have been designed to ensure the development does not overlook the adjoining properties through the use of privacy screens on the balconies, high light windows and obscure glazing. The proposal complies with the Ryde DCP 2014 with respect to visual privacy, as no living, dining or kitchen windows overlook the adjoining properties' private open space or living room windows.

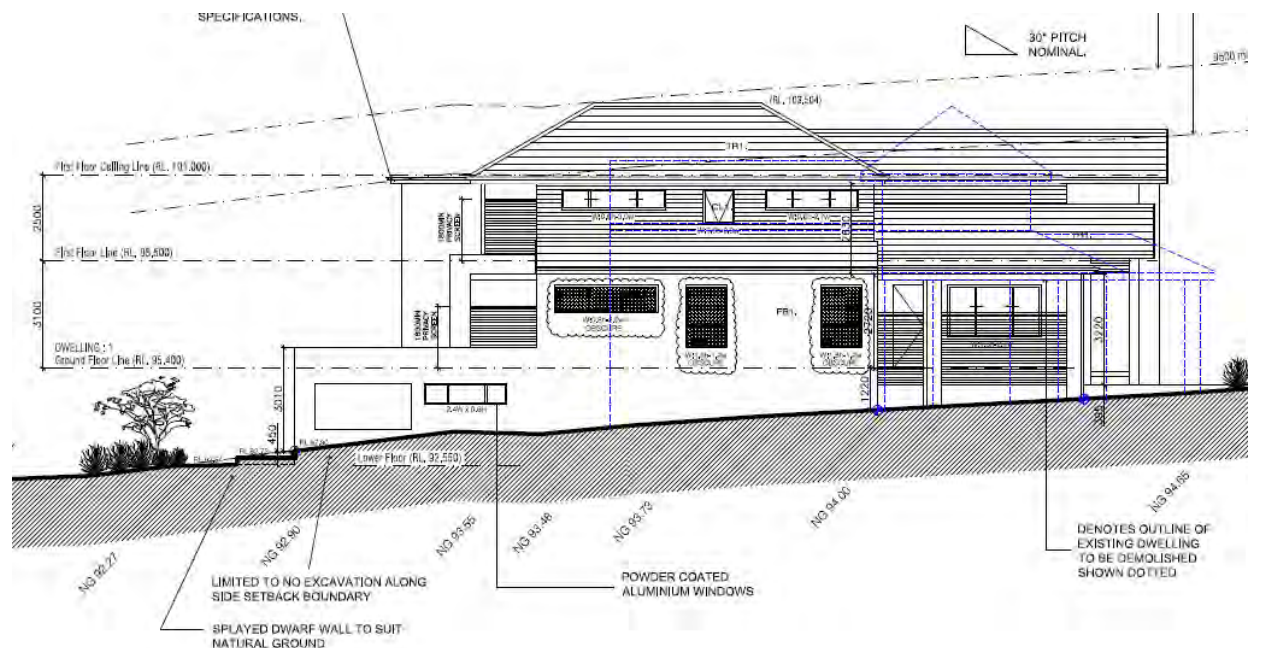
The location and style of the side windows and privacy screens is illustrated in **Figures 22** and **23** below.



**ITEM 1 (continued)**



**Figure 22:** Eastern elevation showing window locations and windows with obscure glazing



**Figure 23:** Western elevation showing window locations and windows with obscure glazing

As such, this concern does not warrant refusal of the application.

- *Overshadowing of adjoining property at No. 27 Clanwilliam Street*

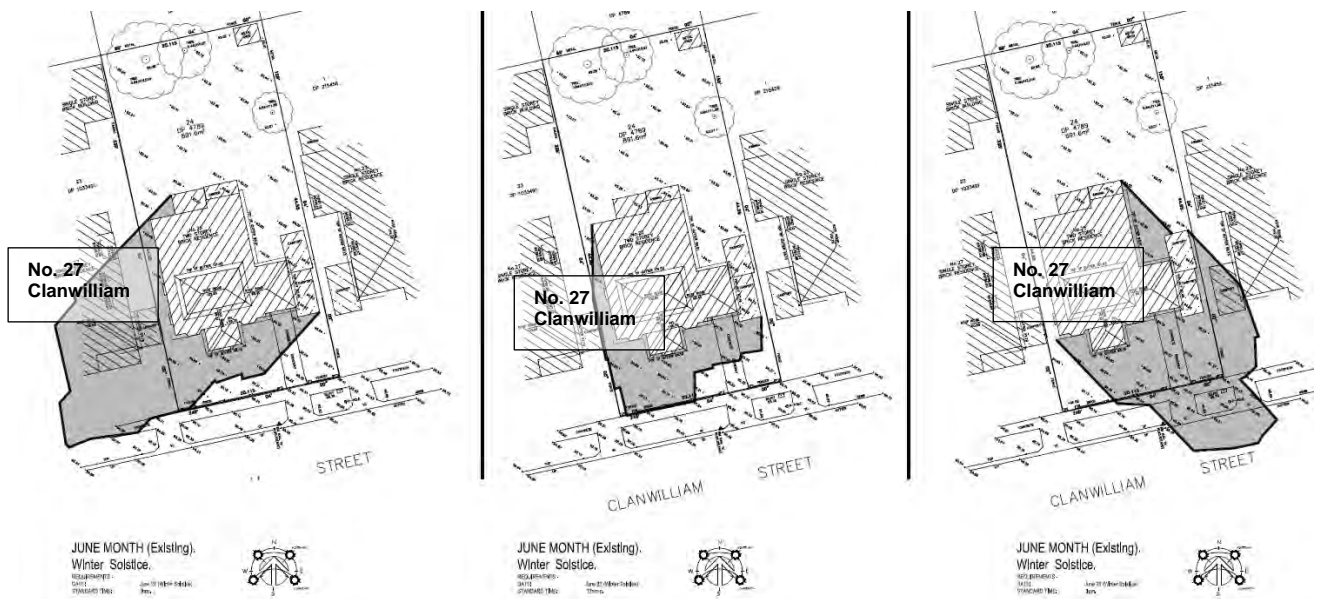
Assessing Officer comment:

The Ryde DCP 2014 requires the proposal to ensure the adjoining properties receive:

**ITEM 1 (continued)**

- a) A minimum of 3 hours sunlight to north facing living room windows
- b) A minimum of 2 hours sunlight to private open space

**Figure 24** below demonstrates that overshadowing from the proposal is predominantly to the street, and the proposal will not result in overshadowing of No. 27 Clanwilliam Street that would result in less than 2 hours sunlight to north facing windows or 3 hours sunlight for private open space.



**Figure 24:** Shadow diagrams for 21 June

As such, this does not warrant refusal of the application.

- *Unsafe driveway access*

Concern was raised that the proposed driveways do not provide appropriate sight distances to facilitate safe pedestrian access along the footpath.

Assessing Officer comment:

The proposal has been reviewed by Council's Senior Development Engineer, who has confirmed that the driveway complies with the relevant Australian Standards subject to conditions of consent (see **Conditions 11, 14, 32, 33 and 41**).

The proposed front fencing will not block sightlines for pedestrians.

This concern does not warrant refusal of the application.

- *Banded brickwork will accentuate the visual dominance of proposed development*

**ITEM 1 (continued)**Assessing Officer comment:

The proposed materials and finishes are consistent with those predominately used in Clanwilliam Street. The proposal has sufficient building articulation to prevent it from visually dominating the streetscape.

As such, this concern does not warrant refusal of the application.

- *Floor Space Ratio exceeds the 0.5:1 maximum development standard*

Assessing Officer comment:

The proposal has a total gross floor area of 424.7m<sup>2</sup> (FSR of 0.476:1), and therefore complies with this development standard.

Given the compliance with Clause 4.4 of the Ryde LEP 2014, this does not warrant refusal of the application.

The amended plans received on 6 October 2020 did not require re-notification given the changes reduced the impact on the adjoining properties by providing obscure glazing on some windows, adding a dormer window to restrict views to the adjoining property and reduced the size of another dormer window.

**10. Referrals**Internal Referrals:**Urban Designer**

A referral was made to Council's Urban Designer, who has made the following comments:

*"The key issue concerned in the previous round of comments is the proposal's contextual fit with the existing streetscape. I am satisfied that the amendments to the built form and composition of the proposal's façade have addressed the issue. However, the amended proposal is still required to resolve the following issues:*

*Visual privacy*

- *The dormer window of Bedroom 2 in Dwelling 1 looks directly over the side boundary, potentially causing visual privacy impact on the*

**ITEM 1 (continued)**

*adjoining property to the east. Bedroom 2 also relies on borrowed amenity from No.23 to achieve the outlook.*

- *No.23 has the potential to redevelop into a 2-storey dwelling house with habitable rooms on the first level. The future amenity of the neighbours should be taken into consideration and any potential adverse impact should be avoided.*
- *It is recommended to use dormer windows with glazing on the sides (see examples in images below) for Bedroom 2 of Dwelling 1. It will allow for views to the front and rear of the property and maximum daylight access to the bedroom. However, the east facing windowpanes are to be frosted to avoid any direct looking over the side boundary.*
- *The side windows of the living room in both dwellings on the ground floor sit above the 1.8m high side fences and directly face the side boundaries to No.23 and No.27. The future occupants of the proposed development will be able to look over the top of the side fences and into neighbouring dwellings. These side windows are to be replaced with high-level windows or frosted windows to eliminate any overlooking.*
- *Frosted windows, if used, should be included in the list of materials.*

***Dormer windows***

- *The scale of the dormer window of Bedroom 2 in Dwelling 1 is excessive. Clause 2.15.2(b) of DCP Part 3.3 requires that dormer windows should have a maximum total width of 3m; whereas the proposed dormer window is approximately 4m wide.*
- *The dormer window of Bedroom 3 in Dwelling 1 also exceeds the maximum allowable width of the DCP.*
- *It is recommended that the design reduces the scale of the dormer windows to achieve the compliance with the relevant DCP controls.*
- *The architectural drawings are also to demonstrate the compliance with Clause 2.15.2(d) of DCP Part 3.3 – “The total roof area of attic dormer windows is to be a maximum of 8 m<sup>2</sup>.”*

**Assessing Officer comment:**

The above comments were forwarded to the applicant, and amended plans were submitted implementing the requested changes to the windows (including dormer windows). Given the change in the windows reduced the impact on the adjoining properties, re-notification of these plans was not required.

**Senior Development Engineer:**

**ITEM 1 (continued)**

Council's Senior Development Engineer has reviewed the proposal (as amended) and has raised no issues with the amended proposal.

Council's Senior Development Engineer has imposed **Conditions 11, 14, 32, 33, 34, 41, 59, 68, 69 and 72.**

**Landscape Architect**

Council's Landscape Architect has reviewed the amended landscaping and architectural plans and has raised no issues with the amended proposal.

Council's Landscape Architect has imposed **Conditions 42-47, 57 and 60-63.**

**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 considered suitable for the site and is in the public interest.

The site is consistent with the objectives of the R2 Low Density Residential zone under Ryde LEP 2014 and complies with the applicable development standards.

The development generally complies with the relevant planning controls, and is consistent with the established low density residential character of the surrounding area.

The development is recommended for approval subject to appropriate conditions of consent provided in **Attachment 2** of this report.

The reasons for approval are as follows:

1. The proposal is consistent with the objectives of the R2 Low Density zone under RLEP 2014. The development is also consistent with the development standards in RLEP 2014.
2. The development will provide amenity to future residents whilst maintaining amenity to the adjoining residential properties.
3. The proposal is consistent with the existing and desired future character of the area.
4. The proposal is suitable for the site and in the public interest.

**ITEM 1 (continued)**

5. The submissions received in response to the development application have been adequately addressed in the assessment report for the proposal (as amended).

**12. Recommendation**

Pursuant to Section 4.6 of the Environmental Planning and Assessment Act, 1979, the following is recommended:

- A. That the Local Planning Panel grant consent to development application LDA2020/0135 for the demolition of existing structures, construction of a new two storey dual occupancy (attached), front fence and strata subdivision at No. 25 Clanwilliam Street, Eastwood subject to the conditions of consent in **Attachment 2** of this report; and
- B. Those that have made a submission be advised of the decision.

**ATTACHMENTS**

- 1 Compliance Check
- 2 Draft Conditions of Consent
- 3 A3 Plans - subject to copyright provisions

Report Prepared By:

**Madeline Thomas**  
**Assessment Officer - Town Planner**

Report Approved By:

**Rebecca Lockart**  
**Senior Coordinator - Major Development**

**Sandra Bailey**  
**Manager - Development Assessment**

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

ITEM 1 (continued)

ATTACHMENT 1

## Compliance Check - Quality Certification

### Assessment of a Dual Occupancy (attached), Single Dwelling House, Alterations & Additions to a Dwelling House and ancillary development.

<b>LDA No:</b> LDA2020/0135	<b>Date Plans Rec'd:</b>
<b>Address:</b> 25 Clanwilliam St Eastwood	
<b>Proposal:</b> To Demolish & construct a dual occupancy ( attached front fence a strata) Subdivision	
<b>Constraints Identified:</b>	

### COMPLIANCE CHECK

Ryde LEP 2014	Proposal	Compliance
<b>4.3(2) Height</b>		
9.5m	Ridge height: 103.504 EGL below Ridge: 94.004 <b>Max building height = 9.5m</b>	Yes
<b>4.4(2) &amp; 4.4A(1) FSR</b>		
0.5:1 (445.8m <sup>2</sup> )	Lower ground floor: 43.4m <sup>2</sup> Ground floor: 227.7m <sup>2</sup> First floor: 153.6m <sup>2</sup> Total GFA = <b>424.7m<sup>2</sup></b> <b>0.476:1</b>	Yes

DCP 2014	Proposed	Compliance
<b>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</b>		
<b>Desired Future Character</b>		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is consistent with the desired future character of the low density residential area as detailed further in this table.	Yes
<b>Dwelling Houses</b>		
- To have a landscaped	Front and rear gardens	Yes

**ITEM 1 (continued)**

**ATTACHMENT 1**

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
setting which includes significant deep soil areas at front and rear. - Maximum 2 storeys. - Dwellings to address street - Garage/carports not visually prominent features.	proposed.  Two storeys generally proposed. Three storeys proposed for a small portion at the rear of the site.  Dwelling presents to Clanwilliam Street.  Carports not prominent feature as setback in front elevation of building.	Yes         Yes         Yes
<b>Public Domain Amenity</b>		
<b>Streetscape</b>		
- Front doors and windows are to face the street. Side entries to be clearly apparent. - Single storey entrance porticos. - Articulated street facades.	Front doors and windows face street.  Single entrance portico.  Articulated street façade.	Yes         Yes         Yes
<b>Public Views and Vistas</b>		
- A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views. Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. Fence 70% open where height is >900mm.	The proposed development will not impact any existing views or vistas.	Yes
<b>Pedestrian &amp; Vehicle Safety</b>		
- Car parking located to accommodate sightlines to footpath & road in accordance with relevant	The proposal complies with the relevant Australian Standards with respect to the vehicular access.	Yes





**ITEM 1 (continued)**

**ATTACHMENT 1**

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
Height) - 7.5m max above FGL <i>or</i> - 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>	FGL below (lowest point): RL: 93.75  TOW Height = 7.25m	
Habitable rooms to have 2.4m floor to ceiling height (min).	2.5m min room height.	Yes
<b>Setbacks</b>		
<b>SIDE</b>  <b>Single storey dwelling (component of)</b> - 900mm to wall - Includes balconies etc	To wall min 1.2m	Yes
<b>SIDE</b>  <b>Two storey dwelling</b> - 1500mm to wall - Includes balconies etc	To wall min 2.5m	Yes
<b>Front</b> - 6m to façade (generally) - Garage setback 1m from the dwelling façade - Wall above is to align with outside face of garage below. Front setback free of ancillary elements eg RWT, A/C	6.7m front setback  Carport set back 2m behind building façade.  No structures within front setback.	Yes
<b>Rear</b> - 8m to rear of dwelling <b>OR</b> 25% of the length of the site, whichever is greater.  - <b>Note: 11.14m is 25% of</b>	11.5m rear setback (minimum)	Yes

**ITEM 1 (continued)**

**ATTACHMENT 1**

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
<b>site length.</b>		
<p><b>General</b></p> <ul style="list-style-type: none"> <li>- Dwelling: 2 spaces max, 1 space min.</li> <li>- Dual Occupancy (attached): 1 space max per dwelling.</li> <li>- Where possible access off secondary street frontages or laneways is preferable.</li> <li>- Max 6m wide or 50% of frontage, whichever is less.</li> </ul> <p>Behind building façade.</p>	<p>Number/location of car spaces: 2 single carports</p> <p>Access from: Clanwilliam Street</p> <p>External width: 3m</p>	<p>Yes</p>
<p><b>Carports</b></p> <ul style="list-style-type: none"> <li>- Sides 1/3 open (definition in BCA)</li> <li>- Design &amp; materials compatible with dwelling.</li> </ul>	<p>Carports have 2 sides open and are effectively integrated into the building design.</p>	<p>Yes</p>
<p><b>Parking Space Sizes (AS)</b></p> <ul style="list-style-type: none"> <li>o Double garage: 5.4m wide (min)</li> <li>o Single garage: 3m w(min)</li> <li>- Internal length: 5.4m (min)</li> </ul>	<p>Internal measurements: 3m x 5.4m and 3m x 5.4m</p>	<p>Yes</p>
<p><b>Driveways</b></p> <ul style="list-style-type: none"> <li>o Extent of driveways minimised</li> </ul>	<p>Two separate driveways which have minimal hardstand area given they each access single carports.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- <b>Landscaping</b></li> </ul>		
<p><b>Trees &amp; Landscaping</b></p> <ul style="list-style-type: none"> <li>- Major trees retained where practicable</li> <li>- Physical connection to be provided between dwelling and outdoor spaces where the</li> </ul>	<p>Major trees have been retained.</p> <p>Stairs provided for access to POS.</p>	<p>Yes</p> <p>Yes</p>

**ITEM 1 (continued)**

**ATTACHMENT 1**

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
<p>ground floor is elevated above NGL eg. stairs, terraces.</p> <ul style="list-style-type: none"> <li>- Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access)</li> <li>- Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy.</li> <li>- Back yard to have at least 1 tree with mature ht of 15m min and a spreading canopy.</li> <li>- Hedging or screen planting on boundary mature plants reaching no more than 2.7m.</li> </ul> <p>OSD generally not to be located in front setback unless under driveway.</p>	<p>Pathway provided</p>	
<ul style="list-style-type: none"> <li>- Landscaped front garden, with max 40% hard paving</li> </ul>	<p>Hard Paving: 64.7%</p>	<p>Yes</p>
<p><b>Landscaping for lots with Urban Bushland or Overland Flow constraints</b></p> <ul style="list-style-type: none"> <li>- Where lot is adjoining bushland protect, retain and use only native indigenous vegetation for distance of 10m from bdy adjoining bushland.</li> <li>- No fill allowed in overland flow areas.</li> <li>- Fences in Overland Flow areas must be of open construction so it doesn't impede the flow of water.</li> </ul>	<p>The site does not adjoin urban bushland and is not affected by overland flow.</p>	<p>N/A</p>
<ul style="list-style-type: none"> <li>- <b>Dwelling Amenity</b></li> </ul>		
<p><b>Daylight and Sunlight</b></p>		

**ITEM 1 (continued)**

**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
<p><b>Access</b></p> <ul style="list-style-type: none"> <li>- Living areas to face north where orientation makes this possible.</li> <li>- 4m side setback for side living areas where north is to the side allotment boundary.</li> </ul> <p><u>Subject Dwelling:</u></p> <ul style="list-style-type: none"> <li>- Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21.</li> <li>- Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21.</li> </ul> <p><u>Neighbouring properties are to receive:</u></p> <ul style="list-style-type: none"> <li>- 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21.</li> </ul> <p>At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21.</p>	<p>Living areas face north</p> <p>N facing windows achieve at least 3 hours sunlight on June 21.</p> <p>POS: at least 2 hours</p> <p>Hours of sunlight to adjoining principal open space: proposal does not reduce hours to POS on adjoining properties.</p> <p>Hours of sunlight to adjoining living area windows: does not reduce to less than 3 hours achieved.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p><b>Visual Privacy</b></p> <ul style="list-style-type: none"> <li>- Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling.</li> <li>- Windows of living, dining, family etc placed</li> </ul>	<p>All windows on elevated ground floor that could pose views into adjoining properties have obscure glazing or a high light windows. The first floor windows are not living rooms windows. Proposed balconies</p>	<p>Yes</p>

**ITEM 1 (continued)**

**ATTACHMENT 1**

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
so there are no close or direct views to adjoining dwelling or open space. - Side windows offset from adjoining windows. - Terraces, balconies etc are not to overlook neighbouring dwellings/private open space.	include privacy screens to ensure no overlooking occurs.	
<b>Acoustic Privacy</b> - Layout of rooms in dual occupancies (attached) are to minimise noise impacts between dwellings eg: place adjoining living areas near each other and adjoining bedrooms near each other.	Achieved.	Yes
<b>View Sharing</b> The siting of development is to provide for view sharing.	No views are impeded by proposal.	Yes
<b>Cross Ventilation</b> - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation.	Sufficient cross ventilation.	Yes
- <b>External Building Elements</b>		
<b>Roof</b> - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable Terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights. <b>Attic Dormer Windows</b>	The proposal was reviewed by Council's Urban Designer, who is satisfied that the roof design is consistent with the existing streetscape and has sufficient articulation to ensure the dominance of the built form is mitigated.  The dormer windows	Yes

**ITEM 1 (continued)**

**ATTACHMENT 1**

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
<ul style="list-style-type: none"> <li>- Max 2 dormer windows with a max total width of 3m.</li> <li>- Highest point to be 500mm min below roof ridge and 1m min above the top of gutter.</li> <li>- Total roof area of attic dormer: 8m<sup>2</sup></li> <li>- Front face to be setback 1m min back from external face of wall below.</li> <li>- Balconies set into roof not permitted.</li> </ul>	<p>comply with the controls.</p>	
<b>Fencing</b>		
<p><b>Front/return:</b></p> <ul style="list-style-type: none"> <li>- To reflect design of dwelling.</li> <li>- To reflect character &amp; height of neighbouring fences.</li> <li>- Max 900mm high for solid (picket can be 1m).</li> <li>- Max 1.8m high if 50% open (any solid base max 900mm).</li> <li>- Retaining walls on front bdy max 900mm.</li> <li>- No colorbond or paling</li> </ul> <p>Max width of piers 350mm.</p>	<p><u>Front fence</u> Description: 1.2m</p>	<p>Yes</p>
<p><b>Side/rear fencing:</b></p> <ul style="list-style-type: none"> <li>- 1.8m max o/a height.</li> </ul>	<p>No details provided for side fencing. Any fencing would need to be in accordance with the Dividing Fences Act.</p>	<p>N/A</p>
<b>Part 7.1 - Energy Smart, Water Wise</b>		
<b>Insulation</b>		
<p>Walls: R1.5 Ceiling: R3.0</p>		

**ITEM 1 (continued)**

**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
<b>External Clothes Drying Area</b>		
External yard space or sheltered ventilated space for clothes drying	Clotheslines proposed for each dwelling.	
<b>Part 7.2- Waste Minimisation &amp; Management</b>		
Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2014.	The applicant has submitted a Waste Management Plan in accordance with Part 7.2 of DCP 2014.	Yes
<b>Part 8.2 - Stormwater Management</b>		
<b>Stormwater &amp; Floodplain Management</b>		
Drainage is to be piped in accordance with Part 8.2 - Stormwater & Floodplain Management.	No issues have been raised by Council's Senior Development Engineer	
<b>Part 9.2- Access for People with Disabilities</b>		
Accessible path required from the street to the front door, where the level of land permits.	Achieved.	Yes
<b>Part 9.5 – Tree Preservation</b>		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed	One tree is being removed, and remaining trees retained/protected. An arborist report has been submitted and considered acceptable by Council's Landscape Architect.	Yes



**ITEM 1 (continued)**

**ATTACHMENT 1**

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
building and the driveway.		

<b>BASIX</b>		
All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans (list) <b>BASIX Cert 980960M_03 dated 15 October 2020</b> <ul style="list-style-type: none"> <li>• RWT 5000L</li> <li>• Swimming Pool               <ol style="list-style-type: none"> <li>1. &lt;28kL</li> <li>2. outdoors</li> </ol> </li> <li>• Thermal Comfort Commitments – Construction.</li> <li>• TCC – Glazing.</li> <li>• Solar Gas Boosted HWS w/41-45 RECS+</li> <li>• HWS Gas Instantaneous 5 star.</li> <li>• Natural Lighting               <ol style="list-style-type: none"> <li>1. kitchen</li> <li>2. bathrooms ()</li> </ol> </li> </ul>	<b>Suitable BASIX Certificate provided.</b>	Yes
Water Target 40	Water: 40	Yes
Energy Target 40	Energy: 51	Yes
Correct description of property/proposal on 1 <sup>st</sup> page of Certificate.	No incorrect details	Yes

<b>Demolition</b>		
Plan showing all structures to be removed	Appropriate demolition plan provided.	Yes
Demolition Work Plan	Demolition WMS provided.	Yes
Waste Management Plan	Demolition details provided within WMP.	Yes

**Summary of Issues/Non compliances:**

- Fill level (justifiable)

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Certification**

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

Name : Madeline Thomas

**ITEM 1 (continued)  
ATTACHMENT 2**

**ATTACHMENT 2**

**Draft conditions of consent – 25 Clanwilliam Street, Eastwood  
LDA2020/0135**

**GENERAL**

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

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

<b>Document Description</b>	<b>Date</b>	<b>Plan No/Reference</b>
Lower Ground Floor Plan	22.02.2020	CLAN-2020, Drawing 3, Revision A
Ground Floor Plan	01.10.2020	CLAN-2020, Drawing 4, Revision C
First Floor Plan	01.10.2020	CLAN-2020, Drawing 5, Revision C
Elevations A	01.10.2020	CLAN-2020, Drawing 5, Revision C
Elevations B	01.10.2020	CLAN-2020, Drawing 5, Revision C
Sections	01.10.2020	CLAN-2020, Drawing 5, Revision C
Landscape Plan	14 August 2020	CP:1A and CP:2A, Revision B
Stormwater Drainage Plans	12.08.2020	H688 – S1/3 to S3/3, Revision B
Site Waste Minimisation and Management Plan prepared by Nassima Design	-	-
Arborist Report prepared by Mark Bury Consulting	04/08/2020	-

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate numbered 980960M\_03 dated 15 October 2020.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the

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person having the benefit of the development consent must, at the person's own expense:

- a) Protect and support the adjoining premises from possible damage from the excavation, and
  - b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Hoardings.**
- (a) A hoarding or fence must be erected between the work site and any adjoining public place.
  - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
7. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
8. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
9. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
10. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.
11. **Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's 2014 DCP Part 8.5 "Public Domain Works", except otherwise as amended by conditions of this consent.
12. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
13. **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

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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.

14. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) required within the road reserve. No works shall be carried out on the footpath without this permit being paid and a copy kept on the site.

**DEMOLITION CONDITIONS**

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

A Construction Certificate is not required for Demolition.

15. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:
- (a) Council must be notified of the following particulars:
    - (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
    - (ii) The date the work is due to commence and the expected completion date
  - (b) A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.
16. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
17. **Excavation**
- (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.
  - (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with Safework NSW in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.

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18. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by Safework NSW.
19. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
20. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
21. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.
22. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.

**PRIOR TO CONSTRUCTION CERTIFICATE**

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

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

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

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

23. **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:

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

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.

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

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

24. **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**.
25. **Security deposit.** The Council must be provided with security for the purposes of section 4.17(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (dwelling houses with delivery of bricks or concrete or machine excavation)
26. **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**.
27. **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

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(b) Enforcement Levy

28. **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**.
29. **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](http://www.sydneywater.com.au/tapin) to apply.
30. **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**.
31. **Fibre-ready facilities and telecommunications infrastructure.** Prior to the issue of any Construction Certificate satisfactory evidence is to be provided to the Certifier that arrangements have been made for:
  - (i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Alternatively, demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.
  - And
  - (ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

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

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

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

- a) All internal driveways and vehicle access ramps must have ramp grades, transitions and height clearances complying with AS 2890 for all types of vehicles accessing the parking area. To demonstrate compliance with this Australian Standard, the plans to be prepared for the Construction



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Certificate must include a driveway profile, showing ramp lengths, grades, surface RL's and overhead clearances taken along the vehicle path of travel from the crest of the ramp to the basement. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

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

33. **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 3.0m wide, 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.

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.

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34. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to Clanwilliam Street, generally in accordance with the plans by TAA Consulting Engineers Pty Ltd, drawing number H688 – S1/3 to S3/3, revision B, dated 12<sup>th</sup> August 2020, subject to any variations marked in red on the approved plans and amended as follows;
- The garage levels must be reduced to be consistent with the approved Architectural plans. This will require the stormwater from trench grates spanning both driveways to be redirected to the respective absorption trench system at the rear of the site. The size (volume) of the trench system must be adjusted accordingly to account for the additional area.
  - The absorption system must be relocated to comply with Council's DCP requirements.
  - The discharge to the kerb along Clanwilliam Street extends beyond the boundary. This shall not extend more than 20m beyond the boundary line.
  - The pipe must cross the footway perpendicular to the street with two 45° bends used to turn the pipe parallel to the kerb line. An inspection eye should be installed on one of the bends.
  - The discharge pipe crosses two vehicular crossings. The applicant must fully reconstruct all neighbouring driveways and alteration of public services effected by the works. All costs related to these works must be borne by the applicant. A note to be provided on drainage plans depicting this.

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

- The certification must state that the submitted design (including any associated components such as pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of City of Ryde DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.
- Onsite detention must be incorporated in the stormwater management system having a minimum SSR of 4.85m<sup>3</sup> per dwelling and a maximum PSD of 4.2L/s per dwelling. Any variations to these values attributed to changes required by conditions of this consent, must be in accordance with Council's DCP requirements for onsite detention and must be validated in the certification of the design required by this condition. Note – a 2.5 m<sup>3</sup> offset to the RWT has been included in the calculation for each dwelling.
- Where the point of connection is in front of neighbouring property, the applicant must provide written notification to the affected property owner/s no less than a week prior to the works and all structures/ surface areas affected by the drainage connection works must be reinstated at the completion of this activity, at no cost to the affected property owner.

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**PRIOR TO COMMENCEMENT OF CONSTRUCTION**

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

**35. Site Sign**

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

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

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

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

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

**38. Excavation adjacent to adjoining land**

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- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
- (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
39. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.
40. **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.
41. **Footpath Works.** The applicant shall, at no cost to Council, excavate and/or fill the footpath adjacent to the subject property so the levels of the footpath comply with the levels specified by Council's Engineering Public Works. All work which is necessary to join the new footpath levels with the levels in front of the adjoining properties in a satisfactory manner shall be carried out by the applicant. The cost of reconstructing footpath paving or adjusting any services that may be affected shall be borne by the applicant.
42. **Tree Retention.** As identified in the Arborist Assessment prepared by Mark Bury Consulting dated 4/08/2020. The following trees on site or adjoining the site are to be retained and protected

Tree No.	Species "Common name"	Notes
2	<b>Jacaranda mimosifolia</b> (Jacaranda)	
3	<b>Jacaranda mimosifolia</b> (Jacaranda)	
4	<b>Jacaranda mimosifolia</b> (Jacaranda)	On adjoining property

43. **Tree Protection** Fence is to be installed before demolition and construction commences as indicated in the Arborist Report "Appendix 7 Tree Management Plan for Site" prepared by Mark Bury Consulting dated 4/08/2020.
44. **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

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regard, any fencing required to be constructed around the TPZ is to be in accordance with AS4687 Temporary fencing and hoardings.

45. **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.
46. **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.
47. **Arborist Report.** All items in the Arborist Report outlined in :” Appendix 7 Tree Management Plan” prepared by Mark Bury Consulting dated 4/08/2020, are to be implemented.

**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.

48. **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*.
49. **Noise from construction and demolition work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from demolition and construction work.
50. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
51. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
52. **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*;

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- (c) the material is reused only to the extent that fill is allowed by the consent.
53. **Construction materials.** All materials associated with construction must be retained within the site.
54. **Site Facilities**  
The following facilities must be provided on the site:
- (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
  - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
55. **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.
56. **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".
57. **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.
58. **Erosion and Sediment Control.** The applicant shall install erosion and sediment control measures in accordance with the approved plan at the commencement of works on the site. Suitable erosion control management procedures in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction. Where construction works deviate from the plan, soil erosion and sediment control measures are to be implemented in accordance with the above referenced document.
59. **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 TAA Consulting Engineers Pty Ltd, drawing number H688 – S1/3 to S3/3, submitted in compliance to the condition labelled "Stormwater Management."
60. **Excavation for services within Tree Protection Zone (TPZ).** Any excavation for services or grading/re-grading within the identified TPZs of trees to be retained shall be carried out by hand using manual hand tools. Roots greater

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than 25mm are not to be damaged or severed without the prior written approval of the Project Arborist.

61. **Tree Removal.** As identified in the Arborist Assessment prepared by Mark Bury Consulting dated 4/08/2020. The following trees on site are to be removed:

Tree No.	Species "Common name"
1	<b>Cupressus x leylandii</b> (Leyland Cypress)

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

PROJECT PHASE	ACTIVITIES	PROJECT ARBORIST to
Initial Site Preparation	Establish/delineate TPZ Install protective measures and undertake soil rehabilitation for all trees to be retained.	Project Arborist to mark Tree Protection Zones and install fences, mulch, irrigation and signage <b>Issue a Certification of Compliance</b> 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	<b>Supervise</b> 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 <b>Issue a Certificate of Compliance</b>
Practical Completion	Tree vigour and structure Assessment and undertake soil rehabilitation for all retained trees	Remove all remaining tree Protection measures <b>Certification of tree protection and soil rehabilitation for Protected Trees</b>
Defects liability / maintenance	Tree vigour and structure	Undertake any required remedial tree works

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period		<b>Certification of tree protection if necessary</b>
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63. **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).

**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.

64. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate numbered 980960M\_03 dated 15 October 2020.
65. **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.
66. **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](http://www.sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.



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67. **Redundant Footpath Crossing.** The existing footpath crossing(s) and associated gutter crossover(s) which are not accessing approved vehicle access points must be removed and restore kerb and gutter, verge and footway to match existing adjoining sections. All new levels and materials must be flush and consistent with adjoining sections and all costs are to be borne by the applicant. The works must be completed to Councils satisfaction, prior to the issue of any Occupation Certificate.
68. **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.
69. **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, charged/ siphonic and onsite disposal/ absorption components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the instrument are to be in accordance with the Council's terms for these systems as specified in City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7, and to the satisfaction of Council, and are to be registered on the title prior to the release of the Occupation Certificate for that title.
70. **Restriction as to User - Site cover.** A restriction as to user registered in accordance with the Conveyancing Act 1919 shall be placed on the property title, to limit the extent of impervious paving and or roof areas on the site. The terms of the restriction shall be generally in accordance with Council's DCP Part 8.4 (Title Encumbrances) for restricting site cover and to the satisfaction of Council
71. **Compliance Certificates – Engineering.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.
- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and the City of Ryde DCP 2014, Part 9.3 "Car Parking".
  - b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with the City of Ryde DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and

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- has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
- c) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
  - d) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual *"Managing Urban Stormwater: Soils and Construction"* by the NSW Department – Office of Environment and Heritage and the City of Ryde DCP 2014, Part 8.1 "Construction Activities".
  - e) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.
72. **On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with City of Ryde DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

**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.

- 73. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of any **Occupation Certificate**.
- 74. **Final Occupation Certificate.** The final occupation certificate associated with Development Consent DA2020/135 and any related S4.55 applications, must be issued for the entire development prior to the release of the Subdivision Certificate.
- 75. **Final Plan of Subdivision.** The submission of a final plan of subdivision plus three copies suitable for endorsement by the Authorised Officer.
- 76. **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
- 77. **Certification of Building Works.** If Council is not the PCA then certification that all building and drainage works **as detailed** in Local Development Consent No

**ITEM 1 (continued)**

**ATTACHMENT 2**

2020/135 and all related S4.55 applications if any, have been completed in accordance with that consent and final Occupation Certificate is ready to be issued.

78. **Existing Easements and Restrictions.** The applicant must acknowledge all existing easements and restrictions of the use of land on the final plan of subdivision.
79. **On-site Stormwater Detention Certification.** The submission of certification by a suitably qualified Civil Engineer for the on-site stormwater detention system, attesting the storage volume, discharge rate and satisfactory operation of the system prior to the release of the Subdivision Certificate.
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](http://www.sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

81. **Utility provider** - compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, Council etc).
82. **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.
83. **Fibre-ready facilities and telecommunications infrastructure.** Prior to the issue of any Subdivision Certificate satisfactory evidence is to be provided to the Principal Certifier that arrangements have been made for:
- (i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Alternatively, demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.  
And
  - (ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

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

**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.

84. **Dual Occupancy development only.** The dwelling is not to be used or adapted for use as a boarding house.

There are no LPP Planning Proposals