



27 FEBRUARY 2014

NOTICE OF MEETING

You are advised of the following meeting:

TUESDAY 4 MARCH 2014.

Planning and Environment Committee Meeting No. 3/14

Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde - 5.00pm

English

If you do not understand this letter, please come to the Ryde Civic Centre, Devlin Street, Ryde, to discuss it with Council staff who will arrange an interpreter service. Or you may ring the Translating & Interpreting Service on 131 450 to ask an interpreter to contact Council for you. Council's phone number is 9952 8222. Council office hours are 8.30am to 4.30pm, Monday to Friday.

Arabic

إذا كنت لا تفهم محتويات هذه الرسالة، فالرجاء الاتصال بمركز مجلس بلدية رايد Ryde Civic Centre، وعنوانه: Ryde، Devlin Street، لمناقشتها مع العاملين في المجلس عن طريق مترجم، يستعين به العاملون لمساعدتك. أو يمكنك، بدلا من ذلك، أن تتصل بمكتب خدمات الترجمة TIS على الرقم 131 450 وأن تطلب من أحد المترجمين أن يتصل بالمجلس نيابة عنك. رقم تليفون المجلس هو 9952 8222، وساعات العمل هناك هي من الساعة 8.30 صباحا إلى 4.30 بعد الظهر من يوم الاثنين إلى يوم الجمعة.

Armenian

Եթէ այս նամակը չէք հասկնար, խնդրեմ եկէք՝ *Բայր Սիվիք Սենթրը, Տելվին փողոց, Բայր, խոսակցելու* Բաղաքապետարանի պաշտօնետաներուն հետ, որոնք թարգմանիչ մը կրնան կարգադրել: Կամ, կրնաք հեռաձայնել Թարգմանութեան Ապասարկութեան՝ 131 450, եւ խնդրել որ թարգմանիչ մը Բաղաքապետարանին հետ կապ հաստատէ ձեզի համար: Բաղաքապետարի հեռաձայնի թիւն է՝ 9952 8222: Բաղաքապետարանի գրասենեակի ժամերն են՝ կ.ա. ժամը 8.30 - կ.ե. ժամը 4.30, Երկուշաբթիէն Ուրբաթ:

Chinese

如果您看不懂這封信，請到位于 Devlin Street, Ryde 的禮特區市府禮堂 (Ryde Civic Centre) 與區政廳工作人員討論，他們將會給您安排傳譯員服務。或者您自己打電話給“翻譯及傳譯服務”，電話：131 450，請他們替您與區政廳聯係。區政廳的電話號碼是：9952 8222。區政廳工作時間是：周一至周五，上午 8.30 到下午 4.30。

Farsi

اگر این نامه را نمی فهمید لطفاً به مرکز شهرداری رايد در Devlin Street مراجعه کنید. کارمندان شهرداری ترتیب استفاده از يك مترجم را براي شما خواهند داد. یا میتوانید به سرویس ترجمه کتبی و شفاهی شماره 131 450 تلفن بزنیید و بخواهید که يك مترجم از جانب شما با شهرداری تماس بگیرد. شماره تلفن شهرداری 9952 8222 و ساعات کار از 8.30 صبح تا 4.30 بعد از ظهر می باشد.

Italian

Le persone che hanno difficoltà a capire la presente lettera, sono pregate di presentarsi al Ryde Civic Centre in Devlin Street, Ryde, e parlarne con gli impiegati municipali che provvederanno a richiedere l'intervento di un interprete. Oppure possono chiamare il Translating & Interpreting Service al 131 450 e chiedere ad uno dei loro interpreti di mettersi in contatto con il comune di Ryde. Il numero del comune è 9952 8222. Gli uffici comunali sono aperti dalle 8.30 alle 16.30, dal lunedì al venerdì.

Korean

이 편지를 이해할 수 없으시면 Ryde의 Devlin Street에 있는 Ryde Civic Centre로 오셔서 카운슬 직원과 상담하여 주십시오. 저희 직원이 통역 서비스를 연결해 드릴 것입니다. 아니면 131 450번으로 통번역 서비스(TIS)에 전화하셔서 통역사에게 대신 카운슬에 연락해 주도록 부탁하셔도 됩니다. 카운슬 전화 번호는 9952 8222번입니다. 카운슬의 업무 시간은 오전 8:30부터 오후 4:30, 월요일에서 금요일까지입니다.

Meeting Date: Tuesday 4 March 2014
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 5.00pm

NOTICE OF BUSINESS

Item	Page
1 CONFIRMATION OF MINUTES - Meeting held on 18 February 2014.....	1
2 7-19 CHATHAM ROAD, WEST RYDE. Section 96 modification to vary and extend the hours of use of the loading dock within the mixed use development (Coles Shopping Centre). LDA2007/0559 (MOD2013/0193).....	5
3 6/637- 639 BLAXLAND ROAD, EASTWOOD. LOT 6 SP 83373. Local Development Application for the change of use and fitout for a food premises and business identification signage - Beijing Dim Sim. LDA2013/0485.	25
4 50A BELMORE STREET, RYDE LOT 32 DP 13597. BUILDING CERTIFICATE APPLICATION BCT 2013/33 FOR UNAUTHORISED CONCRETE BLOCK RETAINING WALLS AND ASSOCIATED FILL.....	70

1 CONFIRMATION OF MINUTES - Meeting held on 18 February 2014

Report prepared by: Meeting Support Coordinator**File No.:** CLM/14/1/3/2 - BP14/145

REPORT SUMMARY

In accordance with Council's Code of Meeting Practice, a motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.

RECOMMENDATION:

That the Minutes of the Planning and Environment Committee 2/14, held on Tuesday 18 February 2014, be confirmed.

ATTACHMENTS

- 1 Minutes - Planning and Environment Committee - 18 February 2014

ITEM 1 (continued)

ATTACHMENT 1

Planning and Environment Committee
MINUTES OF MEETING NO. 2/14

Meeting Date: Tuesday 18 February 2014
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 5.00pm

Councillors Present: Councillors Etmekdjian (Chairperson), Chung, Laxale and Pickering.

Apologies: Councillor Yedelian OAM.

Absent: Councillor Salvestro-Martin.

Staff Present: Group Manager – Environment and Planning, Service Unit Manager – Assessment, Acting Service Unit Manager – Environmental Health and Building, Team Leader – Assessment, Consultant Town Planner – Creative Planning Solutions, Business Support Coordinator – Environment and Planning, Section Manager – Governance and Meeting Support Coordinator.

DISCLOSURES OF INTEREST

Councillor Laxale disclosed a Less than Significant Non-Pecuniary Interest in Item 3 - 191 Waterloo Road, Marsfield – LDA2013/0311, for the reason that he uses the park often and knows some people who live alongside the park.

1 CONFIRMATION OF MINUTES - Meeting held on 4 February 2014

RESOLUTION: (Moved by Councillors Pickering and Chung)

That the Minutes of the Planning and Environment Committee 1/14, held on Tuesday 4 February 2014, be confirmed.

Record of Voting:

For the Motion: Unanimous

Note: This is now a resolution of Council in accordance with the Committee's delegated powers.

ITEM 1 (continued)

ATTACHMENT 1

**2 135A TENNYSON ROAD, TENNYSON POINT - LOT 2 DP208447
Development application for demolition and construction of a new part 2 /
part 3 storey dwelling, and in-ground swimming pool. LDA2013/0297.**

Note: George Jabbour (applicant) and George Lloyd (applicant's planner) addressed the Committee in relation to this Item.

RESOLUTION: (Moved by Councillors Pickering and Laxale)

- (a) That LDA2013/0297 at 135A Tennyson Road, Tennyson Point being LOT 2 DP208447 be approved subject to the **ATTACHED** (Attachment 1) conditions.
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

Note: This is now a resolution of Council in accordance with the Committee's delegated powers.

**3 191 WATERLOO ROAD, MARSFIELD - LOT 1 DP574519, LOT 1 DP574518,
LOT 1 DP575331. Development Application for Installation of Playing
Field Lighting at Waterloo Park. LDA2013/0311.**

Note: Councillor Laxale disclosed a Less than Significant Non-Pecuniary interest in this Item for the reason that he uses the park often and knows some people who live alongside the park.

Note: Jo-Anne Lee (objector also spoke on behalf of Scott Hughes), Melissa Blanks (objector), Rod West (objector), Elizabeth Lawrence (supporter on behalf of Macquarie Dragons Football Club) and Tatjana Domazet (on behalf of the applicant) addressed the Committee in relation to this Item.

RECOMMENDATION: (Moved by Councillors Pickering and Laxale)

- (a) That LDA2013/0311 at 191 Waterloo Road, Marsfield being LOT 1 DP574519, LOT 1 DP574518 and LOT 1 DP575331 be approved subject to the **ATTACHED** (Attachment 1) conditions.
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **25 FEBRUARY 2014** as Councillor **PERRAM** requested that the matter be referred to the next Council Meeting

ITEM 1 (continued)

ATTACHMENT 1

The meeting closed at 6.05pm.

CONFIRMED THIS 4TH DAY OF MARCH 2014.

Chairperson

2 7-19 CHATHAM ROAD, WEST RYDE. Section 96 modification to vary and extend the hours of use of the loading dock within the mixed use development (Coles Shopping Centre). LDA2007/0559 (MOD2013/0193).

Report prepared by: Creative Planning Solutions; Team Leader - Assessment**Report approved by:** Manager Assessment; Group Manager - Environment & Planning**Report dated:** 14/02/2014**File Number:** GRP/09/5/6/2 - BP14/248

1. Report Summary**Applicant: Andrew Martin Planning Pty Ltd****Owner: Coles Group Property Developments Limited.****Date lodged: 22 November 2013**

This report considers a Section 96(1A) application for modification of a condition of consent relating to the use of the loading dock within the approved, and partially constructed, mixed use development at 7-19 Chatham Road, West Ryde.

Specifically, the proposal seeks to allow the use of the supermarket loading dock from 6am to midnight each day of the week, and use of the residential loading dock from 7am to midnight each day of the week. Currently the approved hours of use of both loading docks are 7am to 8pm each day of the week.

The Section 96 application has been notified to neighbours and twenty-three (23) submissions were received from neighbouring properties which are generally opposed to the modification on the basis the proposal will result in unacceptable noise impacts from vehicle movements associated with the operation of the loading docks in surrounding streets, as well as noise impacts from the loading/unloading of goods within the loading docks. A wide range of issues related to noise impacts were raised in the submissions, including objection to actual noise created (from trucks and other machinery, roller shutters etc) as well as effects of such noise including loss of amenity to nearby residential units in the evening hours and sleep disruption. The issues of concern regarding noise impacts raised in the submissions are considered valid.

The proposal has been assessed against the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979 and the following has been determined:

- The proposed Section 96(1A) modification is inconsistent with the objectives of the B4 Mixed Use zoning of the site under the Ryde Local Environmental Plan 2010, and Draft Ryde Local Environmental Plan 2011;
- The proposal does not comply with the objectives of Section 3.4 of Part 4.3 of the Ryde Development Control Plan 2010;

ITEM 2 (continued)

- The likely environmental impacts of the proposed modification have been considered and determined to be unsatisfactory when having regard to built environment;
- The proposed Section 96(1A) modification is considered not to be suitable for the site due to its impacts on surrounding land uses; and
- The proposed modification is considered not to be in the public interest.

Having regard to the above listed points, the negative impacts of the proposed modification are considered to outweigh any potential benefits that would result from the operation of the loading docks into the late evening, night and day time periods. On the above basis, MOD2013/0193 at 7-19 Chatham Road, West Ryde is recommended for refusal.

Reason for Referral to Planning and Environment Committee: Requested by Councillor Laxale, and number of submissions received.

Public Submissions: Twenty-three (23) submissions were received.

Clause 4.6 Ryde LEP 2010 objection required? None required.

Value of works?: Nil – change to condition of consent only.

RECOMMENDATION:

- (a) That Section 96 Application No MOD2013/0193 at 7-19 Chatham Road, West Ryde be refused for the following reasons:
1. The proposed modifications will cause excessive and unacceptable additional noise impacts on nearby residential properties.
 2. The proposed hours of use are unacceptable having regard to the amount and proximity of residential properties located close to the loading docks, and the unacceptable amenity impacts that will result upon those properties.
 3. The proposed modifications are inconsistent with the objectives of the B4 Mixed Use zoning of the site under the Ryde Local Environmental Plan 2010, and Draft Ryde Local Environmental Plan 2011.
 4. The likely environmental impacts of the proposed modification have been considered and determined to be unsatisfactory when having regard to built environment.
 5. In the circumstances of the case, approval of the proposed extension to hours of use of the loading dock is not in the public interest.
- (b) That the persons who made submissions be advised of Council's decision.

ITEM 2 (continued)

ATTACHMENTS

1 Map

Report Prepared By:

**Ben Tesoriero Planning Consultant
Creative Planning Solutions**

**Chris Young
Team Leader - Assessment**

Report Approved By:

**Liz Coad
Manager Assessment**

**Dominic Johnson
Group Manager - Environment & Planning**

ITEM 2 (continued)

2. Site (*Refer to attached map below*)

- Address** : 7-19 Chatham Road, West Ryde
Small lot on northern edge of 7 Chatham Road, West Ryde – Lot 1 in DP 1072082
9-19 Chatham Road, West Ryde – Lots 149-154 DP 11208
7A & 7B Chatham Road, West Ryde – Lots A & B, DP 398801
5 & 5A Anthony Road, West Ryde – Lot 1 & 2, DP 590509
3 Anthony Road, West Ryde – Lot B, DP 414394
10 Anthony Road, West Ryde – Lot 2, DP 1072079
Part of Anthony Road, West Ryde, and Part of Chatham Road, West Ryde.
- Site Area (approx.)** : 6,500m²
Northern boundary to Betts Street of 93m
Western boundary to Chatham Road of 70m
Eastern boundary to Anthony Street of 70m
Southern boundary of 86m
- Topography and Vegetation** : The subject site is currently entirely occupied by a partially constructed development (described below) and as such the existing topography on the site has been modified with all vegetation removed.
- Existing Buildings** : The subject site is currently occupied by a partially constructed development which is to include a seven (7) storey building of mixed retail, commercial and residential use with basement levels and the provision of a village square on the area adjoining the building, landscaping and associated road works, and erection of a four storey building to house community services and some retail floor space above two basement car parking levels (Note: this separate four-storey building is located on the eastern side of Anthony Road).
- Planning Controls Zoning** : B4 – Mixed Use under Ryde LEP 2010
B4 – Mixed Use under draft Ryde LEP 2011
- Other** : Nil.

ITEM 2 (continued)



Aerial Image of subject site (note – consent for the development as approved included the 7-storey mixed use development on the western side of Anthony Road (subject site for this s96 application), and the 4-storey community services building on the eastern side of Anthony Road)



Photograph looking south-west along Betts Street toward Chatham Road. To the left of frame is the partially constructed development at 7-19 Chatham Road where the loading dock is to be located.

ITEM 2 (continued)



Photograph showing 4-storey community services building (“West Ryde Community Centre” on the eastern side of Anthony Road) also approved as part of LDA2007/559

3. Councillor Representations

Name of Councillor: Councillor Laxale

Nature of the representation: Call-up to Planning & Environment Committee

Date: 28 January 2014

Form of the representation (e.g. via email, meeting, phone call): Email to Councillor Help Desk

On behalf of applicant or objectors? Unknown

Any other persons (e.g. consultants) involved in or part of the representation: None

ITEM 2 (continued)**4. Political Donations or Gifts**

None disclosed in applicant's modification application submission or in any submission received.

5. Proposal

The proposed amendment relates to a modification of the condition 145 of the consent for development approval LDA2007/0559 (the consent) issued by Ryde City Council on 11 January 2007 for a mixed use development. It is noted however that Condition 145 has previously been modified under a previous Section 96 application (Application No MOD2009/0080) on 20 October 2009.

Condition 145 of consent LDA2007/0559 relating to the operation of the loading dock within the development is prescribed as follows:

145. The hours of operation of the loading docks are 7.00am to 8.00pm, 7 days a week. Furthermore, deliveries by semi trailers must occur within the abovementioned hours and must not take place between the hours of 9.30am and 3.30pm or 6.30pm and 8.00pm.

The Section 96 modified condition under MOD2009/0080 approved on 20 October 2009 reads as follows:

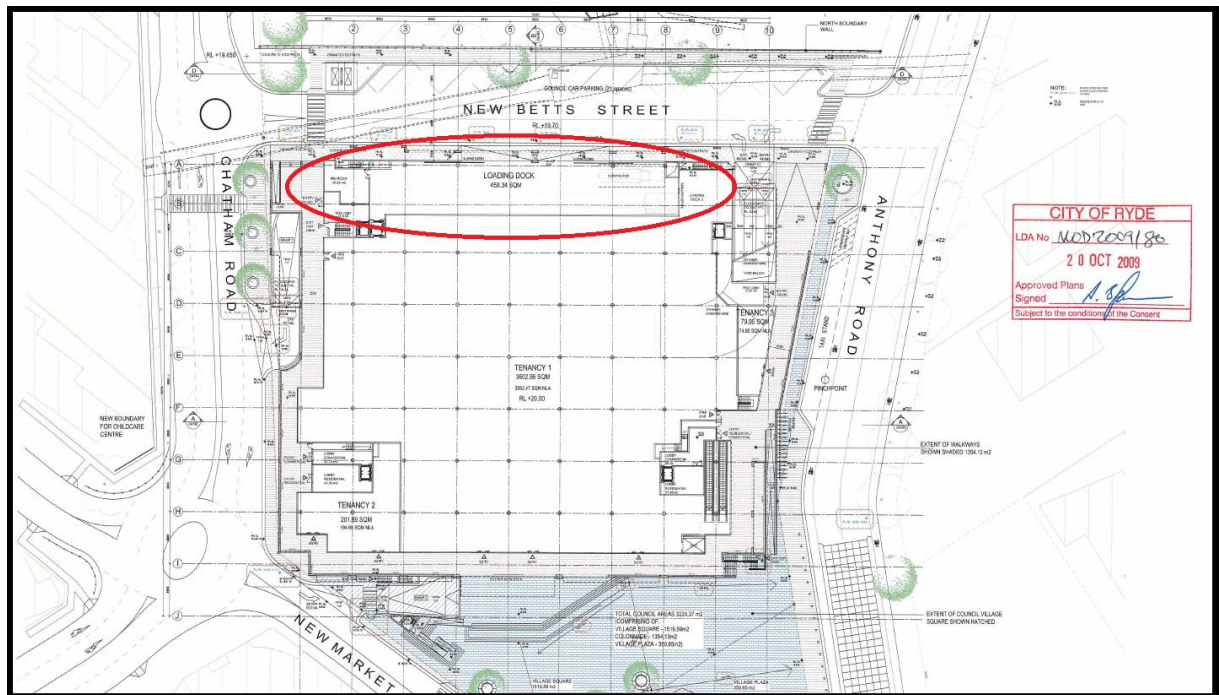
145. The hours of operation of the loading dock are 7.00am to 8.00pm, 7 days a week. Furthermore deliveries by semi trailers must occur within the abovementioned hours.

The current proposal which forms part of this Section 96(1A) application is to again modify Condition 145 to read as follows:

- *The hours of operation of the supermarket loading dock are 6.00am to 12.00 midnight, 7 days a week.*
- *The hours of operation of the residential loading dock are 7.00am to 12 midnight, 7 days a week.*
- *No vehicles to be on-site outside these hours.*
- *All vehicles must enter and exit in a forward direction*
- *All vehicles using the dock must have their engines turned off and radios deactivated while on-site.*

The following is an extract from the approved plans of MOD2009/80 showing the location of the loading dock.

ITEM 2 (continued)



Location of Loading Dock

In the applicant's Statement of Environmental Effects submitted with the subject Section 96(1A) application, it is claimed that the amended Condition 145 is to allow for the reasonable use of a retail supermarket. It is claimed that the spread of delivery hours assists the store in managing deliveries and ensuring the efficient use of the loading dock.

For comparison, it is noted that a Woolworths supermarket development is located at 14 Anthony Lane in West Ryde, which is approximately 70m south-east of the subject site. The loading dock associated with the Woolworths supermarket is conditioned to be allowed to operate from 7am to 8pm each day of the week and has been doing so for over five (5) years.

Accordingly, the Woolworths loading dock is consistent with that of the current approved use of the loading dock on the subject site which is also from 7am to 8pm each day of the week.

ITEM 2 (continued)

6. Background

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

- Development application LDA2007/0559 was approved by Ryde City Council on 11 January 2007 for a mixed use development on the subject site. Note that this included the 7-storey mixed retail, commercial and residential building on the western side of Anthony Road, and the 4-storey community services building on the eastern side of Anthony Road as shown in the air photo earlier in this report.
- LDA2007/2009 included Condition 145 which permitted the loading dock within the development to be used between 7.00am and 8.00pm, 7 days a week. However this was qualified to state that semi-trailers were excluded from using the loading dock between the hours of 9.30am and 3.30pm or 6.30pm and 8.00pm.
- Section 96(1A) modification (MOD2009/0080) to LDA2007/0559 was approved on 20 October 2009 to amend Condition 145 to allow full use of the loading dock from 7.00am to 8.00pm, 7 days a week for semi-trailers.
- On 22 November 2013 the subject Section 96(1A) application (MOD2013/0193) was lodged with Ryde City Council to again amend Condition 145 to broaden the hours of use of the loading dock as discussed in the Proposal section of this report.
- A total of twenty-three (23) submissions objecting to the amended proposal were received by Council following the notification of MOD2013/0193.

7. Submissions

The subject Section 96 modification was advertised and notified in accordance with Part 2.1 of the Ryde Development Control 2010 from 10 December 2013 to 8 January 2014. Note: extended notification applied due to the Christmas/New Year period. This involved direct notification to owners/occupiers within a 100m radius of the site (total of some 400 owners/occupants) as well as the Toga Group being the current owners of the residential units above the site.

In response, twenty-three (23) submissions objecting to the proposed modification were received.

ITEM 2 (continued)

The key issues raised in the submissions are summarised and discussed as follows.

A. Noise Impacts. *Concerns have been raised from neighbouring properties that the proposed expansion in the operating hours of the loading dock will result in unacceptable noise impacts on surrounding properties, including noise from the semi-trailer trucks that will utilise the loading dock, and noise from the loading/unloading of goods in the loading dock.*

Assessment Officer's Comment: A wide range of issues of concern related to the overall topic of "noise impacts" were raised in the submissions received. These include objection to the physical noise from trucks and other machinery (engines, beep noise, air brakes etc), noise from roller shutters, banging noises of delivered goods and people talking. Many of the submissions also raised concerns about the amenity impacts that such noise would have, including disruption to relaxation in residential properties in the evening and sleep disruption, if such noises are to occur up until midnight.

As outlined in the assessment of the proposal throughout this report, the community concern regarding the noise impacts associated with the expanded operating hours and use of the loading docks is considered valid.

The augmented operating hours and use of the loading docks will have an impact on surrounded sensitive receivers such as the residential development within the mixed use development itself on the site, and also the neighbouring residential development in surrounding streets.

As outlined by the objectors, the source of this noise is agreed to be sourced from the following:

- Semi-trailer and other vehicle movements negotiating their way through surrounding streets to the loading docks;
- Semi-trailer and other vehicle movements in and out of the proposed loading docks;
- Noise associated with the loading and unloading of goods from the semi-trailers and other vehicles;
- Semi-trailer and other vehicle movements negotiating their way through the surrounding streets from the loading docks.

Although the Statement of Environmental Effects submitted with the Section 96 application indicates that the effect of the modified Condition 145 will have a minor environmental impact, it is noted that there has been no assessment of the impacts on the augmented hours of use of the loading dock on surrounding sensitive receivers.

ITEM 2 (continued)

This is despite the fact that the proposed modification will involve semi-trailer and other vehicular movements in and out of the site for unloading goods and waste management works from 6am to midnight 7 days per week, which will effectively continue noise associated with the facilities later into the evening and night time periods every day of the week.

In this regard, it is considered that the proposed augmented hours and use of the loading docks on surrounding sensitive receivers is unsupportable, and as such the objector's comments considered valid.

B. Traffic Movements in Surrounding Streets. *Concerns are raised over the traffic movements for the semi-trailers that will utilise the loading dock within the proposed development.*

Assessment Officer's Comment: The proposal only pertains to a modification of conditions of consent to the augmented hours and the use of the loading docks; the way vehicles enter and exit the loading dock; and the turning off of engines and radios while on site.

The traffic engineering arrangements are already considered to have been assessed and determined satisfactory under the original development application (LDA2007/0559) assessment for the site, and as such are not considered relevant to this Section 96(1A) application.

However, the objector's concerns are acknowledged that vehicle movements through surrounding streets would result in additional noise being burdened upon existing residential development in the evening hours (until midnight), and as such this objection is considered to be valid as discussed throughout this report.

8. Clause 4.6 Ryde LEP 2010 objection required?

None required.

9. Policy Implications**Section 96 – Modification of Consents**

In accordance with Section 96(1A), Council may consider a modification of development consent provided:

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

ITEM 2 (continued)

In this regard, it is considered that the Section 96 Application is substantially the same development as that approved by Council because it only proposes a change to the hours of use of the loading dock (without any alteration to the design of the development). The proposed modification has been notified in accordance with the regulations, and consideration of the submissions received following such notification is given elsewhere in this report. Accordingly, Council is able to consider the proposed modification to the consent as the proposal satisfies the requirements of the above provisions of Section 96 (1A).

Section 96(3) requires Council to consider relevant matters referred to in Section 79C(1) in assessing and application for modification of development consent.

Relevant Provisions of Environmental Planning Instruments etc:**(a) Ryde Local Environmental Plan 2010****Zoning**

Under the Ryde LEP 2010 the zoning of the subject site is B4 Mixed Use. The proposal is permissible with consent. Although the proposal is permissible with consent, consideration should be given to the proposal's compatibility with the objectives of the zone, and such assessment is undertaken in the following section.

The objectives of the B4 zone under the Ryde LEP 2010 set out the purpose of the zone and reflect the strategic land use direction for land. These objectives for the B4 zone are listed below, followed by an assessment of how the proposed development performs against each of these objectives:

- *To provide a mixture of compatible land uses.*

Assessment Officer's Comment: Currently under construction on the subject site is a mixed use development which is to include a seven (7) storey building of mixed retail, commercial and residential uses.

Accordingly, it is considered that any new development on the subject site must ensure compatibility with the retail, commercial and residential land uses.

The proposed modification will result in the supermarket loading docks within the development being utilised from 6am until midnight every day of the week, and residential loading docks utilised from 7am to midnight every day of the week.

ITEM 2 (continued)

The use of these loading docks is considered to result in noise generation from the following activities:

- Semi-trailer and other vehicle movements negotiating their way through surrounding streets to the loading docks;
- Semi-trailer and other vehicle movements in and out of the proposed loading docks;
- Noise associated with the loading and unloading of goods from the semi-trailers and other vehicles;
- Semi-trailer and other vehicle movements negotiating their way through the surrounding streets from the loading docks.

With the combined loading docks being utilised from 6am to midnight, this represents an additional five (5) hours of noise associated with the facility continuing later into the evening and night time periods as well as the early morning period.

The above-outlined noise sources from the operation of the loading docks are considered to unsatisfactorily impact on the amenity of surrounding residential land uses, including those fifty (50) residential units located within the mixed use development at 7-19 Chatham Road, as well as those residential areas surrounding the subject site.

In this regard it is considered that the proposed Section 96(1A) modification will result in a development that is incompatible with that of the surrounding land uses, and as such inconsistent with this objective of the B4 Mixed Use zone.

- *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.*

Assessment Officer's Comment: The proposed modification relates only to loading docks located within an approved mixed use development that is already under construction. Accordingly there is considered to be no significant impact on the development's ability to maximise public transport patronage or encouraging walking and cycling.

- *To create vibrant, active and safe communities and economically sound employment centres.*

Assessment Officer's Comment: The proposed modification relates only to the modification of a condition of consent relating to the operating hours of the loading docks within the approved development on the subject site. As such, the logistics of the loading dock operation in terms of its safety, location etc. has already been assessed and determined appropriate.

ITEM 2 (continued)

Although the proposed modification will involve semi-trailer and other vehicle movements later into the evening, night time and early morning period, it is considered that this would not significantly impact on the safety, vibrancy and activeness of the community over that of the existing arrangements.

- *To create safe and attractive environments for pedestrians.*

Assessment Officer's Comment: The proposal is for the modification of a condition of consent relating to approved loading docks within a mixed-use development currently under construction.

In this regard, the safety and attractiveness of the environment for pedestrians is considered to have been assessed under the approved development application for the multi-use development and determined to be satisfactory.

- *To recognise topography, landscape setting and unique location in design and land-use.*

Assessment Officer's Comment: Again, as outlined above, the proposal is for the modification of a condition of consent relating to approved loading docks within a multi-use development currently under construction.

In this regard, the topography, landscape setting and location of the development was assessed under the approved development application for the multi-use development and determined to be satisfactory.

Having regard to the above-listed objectives of the B4 Mixed Use zone under the Ryde LEP 2010, and the Assessment Officer's Comments, it is considered that the proposed development is inconsistent with the objectives of the zone as it will be incompatible with the surrounding land uses.

(b) Relevant State Environmental Planning Policies (SEPPs)State and Sydney Regional Environmental Planning Policies

No State Environmental Planning Policies or Sydney Regional Environmental Planning Policies are considered to specifically relate to the proposed Section 96(1A) modifications.

ITEM 2 (continued)**(c) Any draft LEPs**

A Section 65 Certificate enabling the formal exhibition of Draft Local Environmental Plan 2013 (draft Ryde LEP 2013) was issued by the Department of Planning and Infrastructure on 23 April 2012. The draft Ryde LEP 2011 has been placed on public exhibition between 30 May 2012 and 13 July 2012. The details of the proposed development in relation to the draft Ryde LEP 2011 are as follows:

- the subject site remains within the 'B4 Mixed Use' land use zone;
- the definition of 'commercial premises' remains the same as that defined under the Ryde LEP 2010;
- the proposed development remains as development which is permitted with consent under the B4 Mixed Use land use zone; and
- objectives 1-2 of the B4 Mixed Use land use zone under the Ryde LEP 2010 have been maintained, while objectives 3-5 of the B4 land use zone under the Ryde LEP 2010 have been deleted.

Given the above, it is considered that the proposed development remains inconsistent with the objectives of the draft B4 Mixed Use zone under the Ryde LEP 2011 as it is considered incompatible with the surrounding land uses as a result of the associated noise impacts with the proposal.

(d) The provisions of any development control plan applying to the landRyde Development Control Plan (DCP) 2010.

The proposal has been assessed using the relevant development controls contained in the Ryde DCP 2010. As the proposed modification relates only to the modification of a condition of consent for the operating hours and use of the approved loading docks, many of the provisions within the Ryde DCP 2010 are considered irrelevant.

It is noted however that Section 3.4 of Part 4.3 'West Ryde Urban Village' of the Ryde DCP 2010 includes development controls relating to reducing the impact of road and rail related noise on dwellings in new residential developments.

Currently under construction on the subject site is a mixed-use development comprising commercial uses, retail uses, and fifty (50) residential units. In this regard, it is considered important when assessing the proposed Section 96(1A) modification to consider the impact of noise associated with the extended loading dock operating hours on this new residential development.

ITEM 2 (continued)

The source of noise associated with the loading docks is considered to constitute the following:

- Semi-trailer and other vehicular movements negotiating their way through surrounding streets to the loading docks;
- Semi-trailer and other vehicular movements in and out of the loading docks;
- Noise associated with the loading and unloading of goods from the semi-trailers and other vehicles;
- Semi-trailer and other vehicles movements negotiating their way through the surrounding streets from the loading docks.

Although the Statement of Environmental Effects submitted with the Section 96 application indicates that the effect of the modified Condition 145 will have a minor environmental impact, it is noted that there has been no assessment of the impacts on the augmented hours and use of the loading docks on surrounding sensitive receivers.

This is despite the fact that the proposed modification will involve semi-trailer and other vehicular movements in and out of the site for unloading goods and waste management services from 6am to midnight 7 days per week, which will effectively continue noise associated with the facilities later into the evening and night time periods every night of the week.

In this regard, it is considered that an unacceptable noise impact will occur on new and existing residential development surrounding the site as a result of the proposed augmented hours of use of the loading docks. As such this will be inconsistent with the objectives of Section 3.4 of Part 4.3 'West Ryde Urban Village' of the Ryde DCP 2010.

10. Likely impacts of the Development**(a) Built Environment**

The impacts of the proposed Section 96(1A) application on the built environment have been addressed and discussed throughout this report.

It is considered that the proposal will be incompatible with surrounding residential development by virtue of the operating hours of the loading dock extending into the late evening, night time and early morning periods every day of the week.

In this regard, the noise generated from the extended operating hours of the loading dock is unsupportable due to its impact on the built environment.

ITEM 2 (continued)**(b) Natural Environment**

Given the nature of the proposed modification being for the extended operation of an approved loading dock, it is considered there will be no significant impact upon the natural environment as a result of the proposal.

11. Suitability of the site for the development

A review of Council's map of Environmentally Sensitive Areas (held on file) identifies that there are no constraints affecting the subject property of concern that would specifically relate to the proposed development.

Given the loading dock is located within a mixed use development containing fifty (50) residential units, and is also located adjacent to land zoned for residential purposes, the noise impacts associated with the extended operating hours of the loading dock are considered to unreasonably impact on surrounding land uses.

As such, when having regard to the subject site and surrounds it is considered that the subject site is not suitable for the extended operating hours of the loading dock as proposed as part of this Section 96(1A) application.

12. The Public Interest

The proposed Section 96(1A) modification to extend the operating hours of the loading dock on the subject site is considered to be inconsistent with the B4 Mixed Use zone objectives and result in unacceptable impacts on the built environment.

As such, it is considered that approval of this modification application would not be in the public interest.

13. Consultation – Internal and External**Internal Referrals**

Environmental Health Officer: Council's Environmental Health Officer has considered the proposal and provided the following comments.

I have reviewed the Modification Application and note that no acoustic report was submitted with the application for modification, although an acoustic report was submitted with the original application.

Furthermore, I note that there are residential premises within very close proximity (around 20-25 metres) to the loading dock. The previously submitted acoustic report prepared by ERM dated July 2007 titled "West Ryde Urban Village Acoustic Assessment" considered only daytime noise, not night noise, refer to

ITEM 2 (continued)

condition 175 of DA559/2007. This report showed that project specific noise levels at night were lower than the daytime noise levels and that the vehicles in the loading dock were only assessed against the daytime noise levels in the submitted report.

The submitted acoustic report shows the daytime background level was 39 dbA and a small truck idles at least LAeq (15mins) 70dBA and a larger truck exceeds this. The night time back ground is likely to be around 35-dBA, therefore the noise of trucks idling, the sound of trucks entering and leaving the loading dock as well as loading and unloading of vehicles; the use of pallet jacks and plant noise are very likely to generate a sound level greater than 5dBA above the background noise when measured at the nearest affected residential receiver.

Therefore I recommend that application be refused.

Senior Development Engineer: Council's Senior Development Engineer has considered the proposal and made the following comments:

The proposed modification to the condition relates to the change in hours of use of the loading dock on the site, summarised as follows;

- The change of hours are differentiated between supermarket use and residential use.*
- Supermarket loading dock hours are to be extended from 6:00am (previously approved at 7:00am) to 12:00am (midnight – previously approved 8:00pm).*
- Residential use of the loading dock is to be extended from 7:00am (no change) to 12:00am (midnight – previously 8:00pm).*

It is noted that the existing loading dock hours currently overlap peak hour commute periods. As such, the proposed extension of the loading dock operating period is unlikely to impact the surrounding traffic network or impose on operation of the car park any more than the existing situation with respect to traffic and parking. For this reason, there is no objection to the modification in relation to the traffic.

It is advised that the potential environmental impacts (such as potential noise and light pollution) to neighbouring residents be taken into consideration in the extended periods.

Assessment Officer's Comments: The Senior Development Engineer's comments above generally relate to traffic generation, whereby it is indicated that the proposal would not impact on the surrounding road network given the existing relatively low traffic volumes in the evening hours. This is generally supported in terms of traffic generation, however concerns are raised regarding the amenity impacts arising from such additional traffic, ie noise and the hours in the evening in which the impacts would occur – as discussed throughout this report.

ITEM 2 (continued)**External Referrals**

None required.

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

Adoption of the recommendations outlined in this report will have no financial impact.

16. Other Options

None relevant.

17. Conclusion

The proposal has been assessed against the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979 and the following has been determined:

- The proposed Section 96(1A) modification is inconsistent with the objectives of the B4 Mixed Use zoning of the site under the Ryde Local Environmental Plan 2010, and Draft Ryde Local Environmental Plan 2011;
- The proposal does not comply with the objectives of Section 3.4 of Part 4.3 of the Ryde Development Control Plan 2010;
- The likely environmental impacts of the proposed modification have been considered and determined to be unsatisfactory when having regard to built environment;
- The proposed Section 96(1A) modification is considered not to be suitable for the site due to its impacts on surrounding land uses; and
- The proposed modification is considered not to be in the public interest.

Having regard to the above listed points, the negative impacts of the proposed modification are considered to outweigh any potential benefits that would result from the operation of the loading dock into the late evening, night and day time period.

On the above basis, MOD2013/00193 at 7-19 Chatham Road, West Ryde is recommended for refusal.

ITEM 2 (continued)

ATTACHMENT 1

● Indicates submissions received (other submissions received outside map area)



3 6/637- 639 BLAXLAND ROAD, EASTWOOD. LOT 6 SP 83373. Local Development Application for the change of use and fitout for a food premises and business identification signage - Beijing Dim Sim. LDA2013/0485.

Report prepared by: Assessment Officer - Town Planner; Team Leader - Assessment

Report approved by: Manager Assessment; Group Manager - Environment & Planning

Report dated: 17 February 2014
BP14/251

File Number: GRP/09/5/6/2 -

1. Report Summary

Applicant: Beijing Dim Sim Food P/L

Owner: J P Loiacono

Date lodged: 27 November 2013

This report considers a development application (DA) for the change of use and fitout to an eat-in and take-away food shop that involves the sale of Chinese dumplings and dim sims which are made on site. Two (2) business identification signs are proposed to accompany the food premises. Six (6) existing car parking spaces on the site will be allocated for use by the premises.

The proposal is utilising 'existing use rights' provisions of the Environmental Planning and Assessment Act 1979 to gain approval. The proposed use is prohibited in the R2 Low Density Residential zone. However, it was determined during assessment of a previous DA (LDA235/ 2003) which approved the mixed-use development currently existing for commercial premises and residential units, that the site benefits from 'existing use rights' and thus the proposal is permissible with consent.

The DA has been notified to neighbours in accordance with Ryde DCP 2010, and nine (9) submissions were received, which oppose the development on the following key grounds:

- Noise
- Traffic generation and parking shortfall
- Waste disposal
- Odour
- Use inconsistent with surrounding residential nature
- Signage inconsistent with surrounding residential nature

ITEM 3 (continued)

The proposal, in particular the proposed advertising signage, has been assessed against the controls in Ryde DCP 2010 and State Environmental Planning Policy 64 – Advertising and Signage (SEPP), and has minor areas of non-compliance:

- Number of signs
- Signage area
- Signage content
- Signage bulk and obtrusiveness

Subsequently, it is recommended that one (1) sign be excluded from approval of the application because the amount of signage exceeds the maximum allowable in a Residential zone under Council's DCP 2010.

The subject DA is recommended for approval subject to conditions and removal of one (1) flush wall sign.

Reason for Referral to Planning and Environment Committee: Number of submissions received (9).

Public Submissions: Nine (9) submissions were received objecting to the development.

SEPP 1 (or clause 4.6 RLEP 2010) objection required? No

Value of works? \$75,000

RECOMMENDATION:

- (a) That Local Development Application No. 2013/485 at 6/637-639 Blaxland Road, Eastwood, being LOT 6 SP 83383 be approved subject to the exclusion of one (1) flush wall sign and the conditions in **Attachment 1**.
- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Proposed Conditions
- 2 DCP Compliance Table
- 3 SEPP 64 Compliance Table
- 4 A4 Plans
- 5 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

ITEM 3 (continued)

Report Prepared By:

Lauren Franks
Assessment Officer - Town Planner

Chris Young
Team Leader - Assessment

Report Approved By:

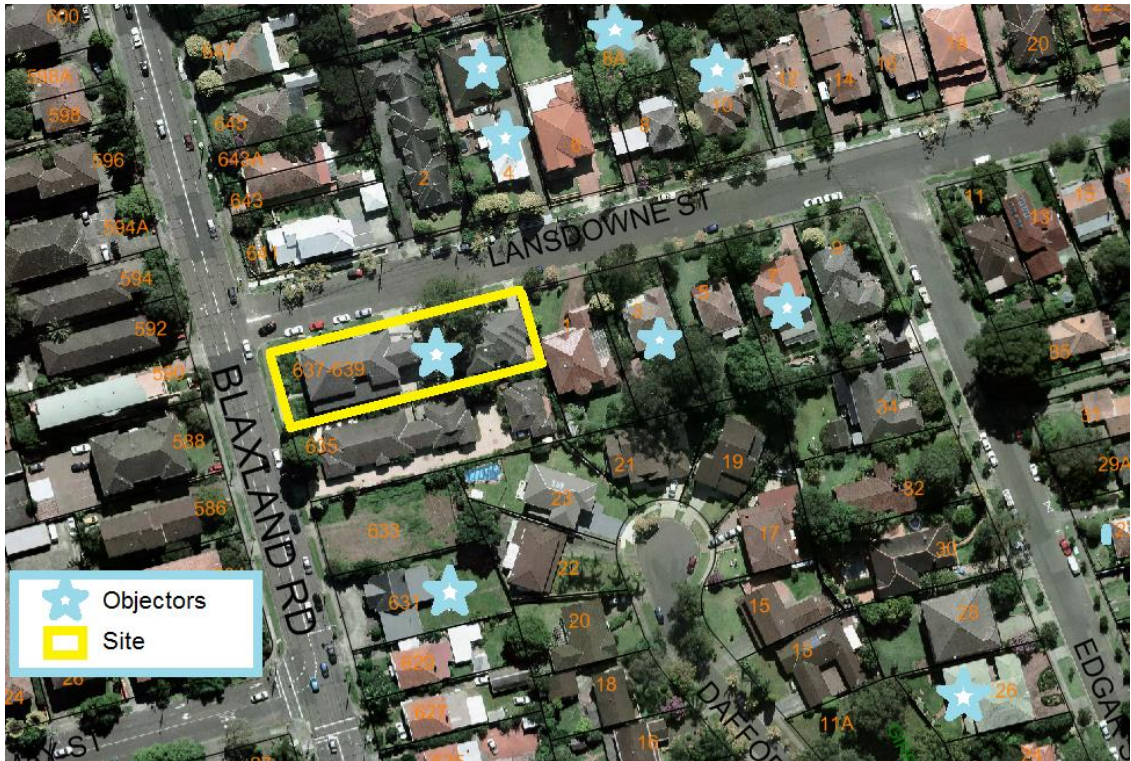
Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 3 (continued)**2. Site** (*Refer to attached map*)

Address	: 6/637-639 Blaxland Road, Eastwood (Lot 6 in SP 83373)
Site Area	: 1,362m ² (Premises: 104.67m ²) Frontage to Blaxland Road: 20.14m Frontage to Lansdowne Street: 67m Southern Rear Boundary: 68.365m Eastern Side Boundary: 20.205m
Topography and Vegetation	: Slight slope of 1.94m towards front north-western corner at Lansdowne Street and Blaxland Road intersection. A Sydney Blue Gum (<i>Eucalyptus saligna</i>), approximately 20m high situated in centre of site along Lansdowne Street frontage.
Existing Buildings	: A mixed use building comprising commercial space on the ground floor and two (2) units on the first floor. A second building exists comprising two (2) villas.
Planning Controls	: Ryde LEP 2010
Zoning	: R2 Low Density Residential
Other	: Ryde DCP 2010

ITEM 3 (continued)



Aerial photo of subject site and surrounds.



View of premises from Lansdowne Street and Blaxland Road intersection.

ITEM 3 (continued)**3. Councillor Representations**

Nil.

4. Political Donations or Gifts

None disclosed in applicant's DA submission or in any submission received.

5. ProposalDemolition

A total of seven (7) internal walls are proposed to be removed to accommodate the change of use and fitout.

Construction

The proposal is for the change of use and fitout of an existing furniture shop to an eat-in and take-away food shop with two (2) non-illuminated flush wall signs and six (6) allocated parking spaces.

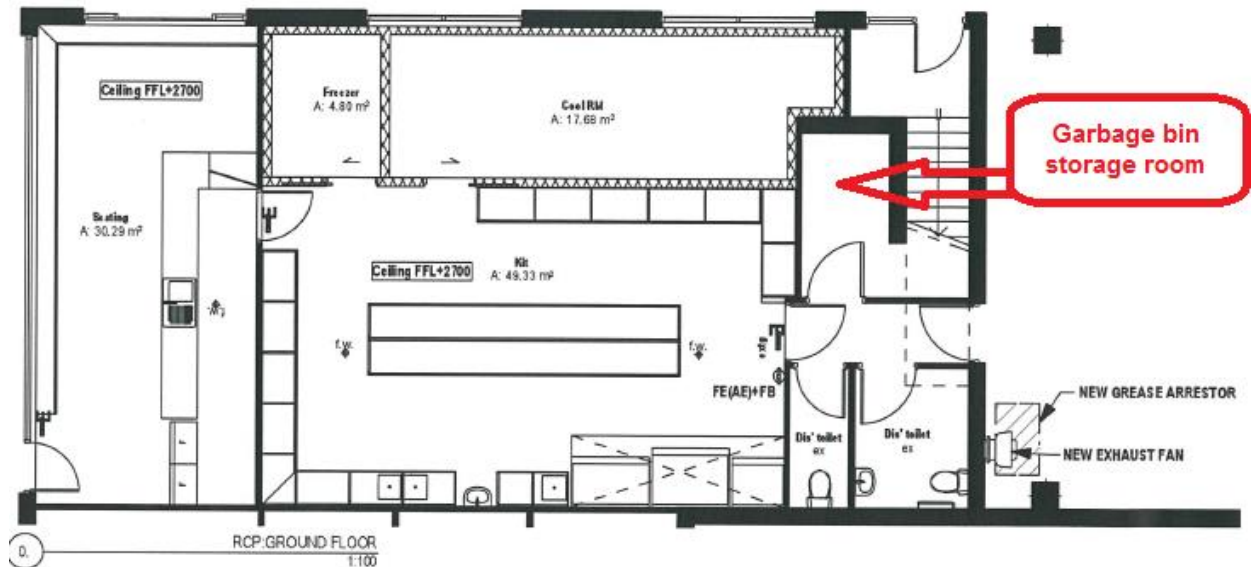
The food premises is proposed to have operating hours which are 7am to 6pm Monday to Saturday.

To restrict any potential adverse impacts on the amenity of the surrounding residential properties, it is recommended that the operating hours be limited to:

- 8am to 5pm Monday to Friday;
- 9am to 4pm Saturday;
- Closed Sundays and public holidays.

ITEM 3 (continued)

A plan extract of the internal areas of the premises is shown below:



According to the Statement of Environmental Effects submitted with the DA, the use of the premises will involve:

- Creation of dumplings and dim sims on site;
- Retail sale of dumplings and dim sims made on site;
- Operation of café / coffee shop on site where products made on site can be consumed on site;
- Installation of new commercial kitchen;
- Provision of six (6) car parking spaces for this use;
- Client access to be provided from Blaxland Road;
- All loading and unloading undertaken from loading area in car parking area from a Hilux Van accessed from Lansdowne Street;
- A maximum of three (3) staff area required for the operation;
- Proposed internal works as detailed on the architectural drawings; and
- Two (2) non-illuminated signs as proposed measuring 2.7m x 2m each (5.4m² each sign) as detailed on the architectural drawings.

6. Background

DA was lodged on 27 November 2013 and placed on public notification for fourteen (14) days from 4 December 2013 to 18 December 2013.

ITEM 3 (continued)

7. Submissions

As aforementioned, the proposal was notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications from 4 December 2013 to 18 December 2013.

Nine (9) submissions were received. The key issues raised in the submissions are summarised and discussed as follows:

A. Noise

Concerns are raised that the proposed use will generate significant noise from cooking, delivery trucks, operation of an exhaust fan and customer patronage.

Assessment Officer's Comment

The proposal is generally considered to be a low-scale retail development. The applicant's Statement of Environmental Effects (submitted with the DA) indicates that the development will involve a maximum of three (3) staff, with deliveries by a small vehicle (eg Hilux van). The hours of operation are recommended to be restricted to 8am to 5pm Monday to Friday and 9am to 4pm Saturday only. No Sunday or public holiday trading.

The equipment used to produce the food for sale will be located in a new commercial-grade kitchen located towards the centre of the premises, which should minimise noise impacts external to the premises.

Council's Environmental Health Officer has reviewed the DA and notes that the key properties at risk of increased noise are the two (2) residential units located above the food premises. This risk however, can be mitigated through the imposition of conditions on the consent. Therefore, to ensure the day to day operation of the premises does not adversely impact any surrounding property, the following standard noise conditions are recommended:

- A report from a qualified acoustical consultant detailing the measures required to comply with the noise criteria specified in this consent must be submitted to Council or an accredited private certifier with the application for the **Construction Certificate**.
- **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*.

ITEM 3 (continued)

- **Noise.** The operation of any plant or machinery installed on the premises must not cause:
 - (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at the most affected noise sensitive location in the vicinity. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).
 - (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
 - (c) The transmission of vibration to any place of different occupancy.

Specific to ensuring any mechanical ventilation system operates with minimal creation of noise, the following conditions have been recommended:

- Details of all proposed mechanical ventilation systems, and alterations to any existing systems, must be submitted to Council or an accredited private certifier with the application for the **Construction Certificate**. Such details must include:
 - (a) Plans (coloured to distinguish between new and existing work) and specifications of the mechanical ventilation systems;
 - (b) A site survey plan showing the location of all proposed air intakes exhaust outlets and cooling towers, and any existing cooling towers, air intakes, exhaust outlets and natural ventilation openings in the vicinity; and
 - (c) A certificate from a professional mechanical services engineer certifying that the mechanical ventilation systems will comply with the *Building Code of Australia* and setting out the basis on which the certificate is given and the extent to which the certifier has relied upon relevant specifications, rules, codes of practice or other publications
- Where any mechanical ventilation systems have been installed or altered, a certificate from a professional mechanical services engineer certifying that the systems comply with the approved plans and specifications must be submitted to the Principal Certifying Authority before the issue of an **Occupation Certificate**.

ITEM 3 (continued)**B. Traffic generation and parking demand**

Concerns are raised that the proposed use will generate a demand for parking that is in excess of the six (6) car parking spaces provided on the site and that this will result in an overflow of visitor parking on Lansdowne Street.

Assessment Officer's Comment

Matters concerning traffic generation and availability of parking have been reviewed by Council's Senior Development Engineer with the following comments made:

- *"The proposed development is a relatively small takeaway suited to catering to local residents. It is unlikely that it would draw parking demand from outside the area. With this in mind, there would also be a corresponding low ratio of patrons arriving by vehicle,*
- *Due to the restaurant floor area available and seating, it is anticipated that the store could accommodate up to 8 patrons in a peak period and approximately 5 patrons in shoulder periods.*
- *The proposal accommodates 3 staff on site and therefore potentially may require use of 1-2 offstreet spaces.*

Considering the above points, the provision of 6 offstreet parking spaces would be considered appropriate to accommodate the parking demands on the site.

Despite this, should the parking demand of the development ever exceed the site capacity during a peak period (say lunchtime), this period is within the peak resident parking periods (Monday to Friday 6pm to 7am). Given the impact to onstreet parking is very minor and unlikely to detract from parking availability, this aspect of the development does not warrant concern."

In regards to traffic generation, Council's Senior Development Engineer has stated:

"An estimate of traffic generation to and from the site can be produced based on the site's parking space capacity and anticipated average hourly turnover. For a conservative estimate, it is assumed during peak operating periods (midday) that there are up to 5 spaces available on site for patron parking and there is an average parking turnover of 2 patrons per hour per space. Under these circumstances, this would yield a total of 20 vehicle trips per hour (whereby a vehicle trip is a one way vehicle movement). As the site is on an intersection and fronting a major road, it is perceived most of this traffic would

ITEM 3 (continued)

be distributed to the major roadway, in which case the resulting traffic levels would be relatively minor. Alternatively, consideration is given on there being an even distribution to both the major roadway (Blaxland Road) and local roadway (Lansdowne Street) which would result in their being approximately 10 vehicle trips per hour in each. As local roads can experience differences in the order of 40 vehicles per hour day to day, the additional traffic volumes (noted to be during the peak operating period) present a very negligible change in the traffic levels and does not warrant concern.”

C. Waste disposal

Concerns are raised the volume of food waste awaiting disposal will attract vermin. Also, being a take-away premises, rubbish will be scattered along the street.

Assessment Officer's Comment

As stipulated in Part 7.2 of the Ryde DCP 2010, a take-away food shop is considered to generate general waste at a rate of 80L / 100m² floor area per day. The generation of recyclable material is varied.

The proposed shop will operate six (6) days per week therefore general waste will accumulate to 80L x 6 days = 480L (= a need for 2 x 240L general waste bins).

In calculating the amount of waste to be recycled, reference is made to the applicant's submitted Site Waste Minimisation and Management Plan. This Plan states that 156L of recyclable material will be generated per week which results in a need for 1 x 240L recycle bin. Coupled with the level of general waste, it can be considered that three (3) bins will be required.

A garbage room exists within the premises (approved as part of LDA329/2008). This room has dimensions of 1.4m x 2.65m, adequate in storing 3 x 240L bins – see floor plan earlier in report.

Subsequently, as waste will be internally stored, exposure of stored bins on the streetscape will not occur and it is considered that proposed waste disposal arrangements are sufficient for the proposed use.

It is noted that the applicant's Site Waste Minimisation and Management Plan states that the bins will be stored outside. This would be an unacceptable arrangement given the proximity of residential properties to the subject site. A condition will be imposed recommending that garbage and recycling bins for the development shall be stored within the garbage room at all times. See Condition 64.

ITEM 3 (continued)**D. Odour**

Concerns are raised that given the proposed use entails food preparation, this will lead to food scraps rotting which will create a permanent foul odour for local residents.

Assessment Officer's Comment

As noted above, in terms of waste storage / disposal, the proposal involves use of internal space within the premises to store waste prior to collection by Council's Waste Contractors. Such arrangement is unlikely to cause issues of odours for any neighbouring premises within the site or adjoining.

E. Use inconsistent with surrounding residential nature

Concerns are raised that the development will reduce the appeal of the residential nature of the neighbourhood and will set a precedence for further food premises to open within residential areas.

Assessment Officer's Comment

The subject site has contained commercial premises since 1946 and is a permissible use through utilising 'existing use rights'. If a subject site within a R2 Low Density Residential Zone does not already operate as a commercial premises, development can only occur if it is identified as a permissible use within the zone as dictated by the Ryde Local Environmental Plan 2010. Subsequently, approval of this DA will not result in an influx of food premises opening within the R2 Low Density Residential zone.

The subject site has been operating as a commercial premises for 68 years therefore approval of a Chinese eat-in / take-away shop is consistent with the historical use of the site. With the exception of signage, the development will not alter the external appearance of the building in which it is to be located as it is a change of use of existing approved commercial floor space.

F. Signage inconsistent with surrounding residential nature

Concerns are raised from 4 and 4A Lansdowne Street that the proposed signage is inconsistent with the residential nature of the neighbourhood.

Assessment Officer's Comment

Two (2) flush wall signs are proposed along the Lansdowne Street frontage. Each sign has dimensions of 2.7m x 2m (i.e. area of each sign is 5.4m²).

ITEM 3 (continued)

The proposed signs are not illuminated and are proposed to cover two (2) existing windows along this elevation. The existing use of the premises for a furniture and homewares shop currently has two (2) small sized window signs along this elevation as can be seen in the following photo:



Signage has been assessed against the controls appearing in Part 9.1 of the Ryde DCP 2010. From this assessment (see **Attachment 2**), it was concluded that removal of one (1) sign would result in the proposal having a better level of compliance with the controls appearing in this Part. This has been recommended as part of the approval. See Condition 1(a).

The objective of Part 9.1 is to ensure that signage does not detrimentally affect the visual amenity of the area, is compatible with the architectural style and size of the building and the adjoining built environment and maintains the distinctive urban character and amenity of the City of Ryde.

In assessing the one (1) sign, the proposal is considered to achieve the objectives of Part 9.1. The proposed sign will not detract from the character of the area and will be professionally constructed so that it is of a high quality and presentation. The distance between the sign and the nearest dwelling house which would be able to see the sign is approximately 40m. This is considered adequate in ensuring the sign does not affect the visual outlook of adjoining properties.

ITEM 3 (continued)**8. SEPP 1 (or clause 4.6 RLEP 2010) objection required?**

None required.

9. Policy Implications**Relevant Provisions of Environmental Planning Instruments etc:****(a) Ryde Local Environmental Plan 2010****Zoning**

The subject site is zoned R2 Low Density Residential. Commercial premises are normally prohibited in the R2 zone. However, this site was previously used for an auto-electrics business (from 1946 until it was re-developed for the current use of commercial premises and it was re-developed for the current use of commercial premises and residential units via LDA235/2003).

That previous (2003) DA was approved on the basis that the site benefits from 'existing use rights' and there have been changes of use of the commercial premises since that time, most recently to a furniture and homewares shop.

Part 4 Division 10 of the *Environmental Planning and Assessment Act 1979* and Part 5 of the *Environmental Planning and Assessment Regulation 2000* specifies that existing use rights apply when a non-conforming use (furniture and homewares shop) can be changed to another non-conforming use (Chinese eat-in and take-away shop). The clauses within these Parts can be utilised when a planning instrument comes into force and consequently prohibits that use.

The objectives of the R2 Low Density Residential zone is to provide facilities or services which meet the day to day needs of residents whilst retaining the low density nature of the zone and to ensure that the landuse is compatible with the character of the area.

Whilst the landuse is prohibited in the R2 Low Density Residential zone, the proposed change of use is considered to satisfy these objectives. The proposal does not incorporate any alteration to the existing building footprint and is merely changing an existing commercial use to another commercial use.

ITEM 3 (continued)**Mandatory Requirements**

The following mandatory provisions under Ryde LEP 2010 apply to the development:

Clause 4.3 Height of Buildings

The objective of this clause is to maintain the desired character and proportions of a street, and minimise overshadowing to ensure adequate solar access.

Specifically, this clause states that the height of a building on any land is not to exceed the maximum height shown for the land on the 'Height of Buildings Map' – which is 9.5m for the subject site.

As the proposal is for the change of use and fitout of an existing commercial floor space only and does not involve any change to the existing building, therefore the existing building height of 8.6m will remain.

Accordingly, the proposed development is consistent with the objectives of the height of buildings development standard.

Clause 4.4 Floor Space Ratio

The objective of this clause is to provide effective control over the bulk of future development and to allow appropriate levels of development for specific areas.

Specifically, this clause states that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the 'Floor Space Ratio Map'.

The proposal will not alter the existing floor space ratio as the proposed use will fitout the existing commercial floorspace on the ground level.

(b) Relevant State Environmental Planning Policies (SEPPs)State Environmental Planning Policy 64 – Advertising and Signage

The proposal incorporates the erection of two (2) flush wall signs. These signs fall within the scope of this policy. Consequently, as per clause 8, signage is to be consistent with the objectives of the Policy and is to satisfy the assessment criteria specified in Schedule 1.

As per clause 3(1)(a), the objectives are to ensure that signage is compatible with the desired amenity and visual character of the area, provide effective communication and is of a high quality design and finish.

ITEM 3 (continued)

The level of signage proposed represents a significant change from which currently exists along the Lansdowne Street frontage. The red background colour dominates the building elevation and is inconsistent with the visual character of the area. However, the reduction in signage from two (2) to one (1) is considered to better align with achieving the objectives with clause 3 (1)(a).

Moreover, assessment of the proposal against Schedule 1 of the SEPP (see **Attachment 2** for Schedule) further confirms that provision of one (1) flush wall sign would result in the proposal's achieving a better level of compliance with the assessment criteria.

(c) Relevant REPs

N/A.

(d) Any draft LEPs

A Section 65 Certificate enabling the formal exhibition of Draft Local Environmental Plan 2013 was issued by the Department of Planning and Infrastructure on 23 April 2012. The Draft Plan has been placed on public exhibition between 30 May 2012 and 13 July 2012. Under this Draft LEP, the zoning of the property is R2 Low Density Residential. The proposed development is normally prohibited within this zoning under the Draft LEP; however in this case, it is permissible as the site benefits from existing use rights as discussed above.

Draft LEP 2013 was adopted by Council on 12 March 2013 and is waiting gazettal by the Department of Planning and Infrastructure; as such LEP 2013 can be considered certain and imminent.

(e) Any Development Control PlanRyde Development Control Plan (DCP) 2010

The proposal has been assessed using the development controls contained in the Ryde DCP 2010. The DCP Compliance Table for this development proposal is held at **Attachment 2** to this report. Non-compliances identified in this table include:

A. Part 9.1 Signage – Section 2.2 Language

All advertising signs are to be displayed in the English language but may include a translation into another language using letters or characters that are no larger than the English language letters or characters.

ITEM 3 (continued)

Assessment Officer's Comment:

The plans as submitted show each proposed sign appearing with a Chinese logo and is illustrated below:



A standard condition of consent is recommended relating to the content of signage:

- **Signage – English language.** All advertising signs are to be displayed in the English language but may include a translation into another language using letters or characters that are no larger than the English language letters or characters.

Any translated message must be accurate and complete.

No amendment to the size of a sign will be permitted to allow for both the English and translated language to be displayed.

B. Part 9.1 Signage – Section 2.4 Design, Safety and Maintenance

Signs are to be unobtrusive in design, colour, height and scale.

Assessment Officer's Comment:

The proposed signage incorporates two (2) 5.4m² flush wall signs, each along the northern building elevation which fronts Lansdowne Street. The proposed signs will appear as follows:

ITEM 3 (continued)



Each sign's red background is not consistent with the beige brick colour and does not sit harmoniously with the surrounding low density residential form. In addition, the signs have a combined overall area of 10.8m², which is considered excessive.

It is recommended the sign farthest (sign on the left side of the elevation extract above) from the Lansdowne Street and Blaxland Road intersection is removed and a condition has been included to this effect which will appear as follows:

- Prior to the issue of a **Construction Certificate**, the following amendments shall be made (as marked in red on the approved plans):
 - (a) The proposed flush wall sign nearest to the driveway entry to the subject site is to be removed from the plans.

The development must be carried out in accordance with the amended plans approved under this condition. See Condition 1(a).

C. Part 9.1 Signage – Section 3.1.1 Extent of Signage (Residential Zones)

Maximum of 1 sign will be permitted per site.

Assessment Officer's Comment:

Two (2) flush wall signs are proposed for the site.

ITEM 3 (continued)

Each sign is identical and located next to each other along the same elevation. As each sign proposes an area which is in excess of the 5m² requirement (see comment in point E. below), non-compliance cannot be justified and supported in this instance. Subsequently, it is recommended that the proposal incorporate the provision of one (1) flush wall sign to adhere to this development control.

D. Part 9.1 Signage – Section 4.0 Flush Wall Signs

Only 1 sign per building elevation.

Assessment Officer's Comment:

Each proposed sign is identical and both are located along the Lansdowne Street frontage.

As noted in the commentary of Point C. above, each sign is identical and their size is in excess of the maximum 5m² stipulated in Section 4.0 of this Part.

The public's awareness of the premises' use will not be compromised through removal of one (1) of the signs. As such, permitting two (2) signs along this building frontage is not supported and it is recommended that one (1) of these signs be excluded from the consent.

E. Part 9.1 Signage – Section 4.0 Flush Wall Signs

Shall not exceed a maximum area of 5m²

Assessment Officer's Comment:

Each of the two (2) signs is proposed to occupy an area of 5.4m² (measuring 2m x 2.7m). This represents a non-compliance of 0.4m² per sign.

Given that through the justifications noted above it has been recommended that one (1) of these signs be removed from the proposal, to further restrict the applicant by reducing the size of the remaining sign by 0.4m², is extreme. This is due to the level of non-compliance being marginal and the fact that signage will not be illuminated.

Further to this, the applicant has noted that the dimensions of each sign have been dictated by the window size which will be covered up.

Therefore, allowing the one (1) flush wall sign to have an area of 5.4m² can be supported.

ITEM 3 (continued)**10. Likely impacts of the Development****(a) Built Environment**

Issues regarding impacts on the built environment are discussed throughout this report (in particular compliance with 'The Act') and are considered satisfactory for approval in terms of its impacts on the built environment.

(b) Natural Environment

Given the development will not alter the external areas of the building which will contain the premises; there will be no negligible impact on the natural environment.

11. Suitability of the site for the development

A review of Council's Map of Environmentally Sensitive Areas (held on file) identifies that the subject site is affected by the following constraints:

Drainage Easement

A 2.5m wide easement to drain water exists through the centre of the site, extending from the northern to the southern boundary. An open hardstand carpark is located above the easement. As the proposal does not include any external building works or excavation, no adverse impact will be caused to this easement.

Acid Sulphate Soils

The subject site is located within a 500m buffer zone of land affected by Class 1, 2, 3 or 4 Acid Sulphate Soils. The proposal will not result in any adverse impact on surrounding properties in terms of acid sulphate soils as no ground disturbance or excavation work will be required.

Overland Flooding

With the exception of a small portion of the north-eastern corner, the subject site is prone to flooding. Council's Senior Development Engineer states that there are '*no proposed works which would reduce the level of flood protection afforded by the current structure. In line with Councils Floodplain Management controls, the applicant must ensure that any new building components and works are in accordance with the controls and requirements listed in Schedule 3 of Councils DCP 2011 – Part 8.6 (Floodplain Management).*' A condition of consent has been recommended to this effect.

ITEM 3 (continued)**12. The Public Interest**

It is considered that approval of this DA would be in the public interest as it approves a small scale business operation within existing approved commercial premises.

13. Consultation – InternalInternal Referrals

Building Surveyor: The proposal includes removal of various internal walls and the provision of toilet facilities, and so this DA was referred to Council's Building Surveyor, who has provided the following comments:

A review of the details provided would suggest that the requirements of the BCA can be achieved. No objections to approval of this development application are raised.

Environmental Health Officer: Referral to Council's Environmental Health Officer was undertaken because the proposal involves the preparation and sale of food at the premises. The following comments were provided:

I recommend the application be approved subject to the following standard conditions.

Senior Development Engineer: The proposal's change of use has the potential to have an impact on traffic and parking availability. Subsequently, Council's Senior Development Engineer has reviewed the DA and provided the following comments:

Parking Demand

The proposed use is to be a mixture of dine in and takeaway however is noted to have a limited seating area, accommodating an area 1.8m wide by approximately 8 metres long in which a bench table is provided and 6 stool seats. Councils DCP Part 9.3 (Parking) presents that for takeaway/ drive-in premises, an appropriate parking rate is either 1 carspace per 10m² of GFA (which in this case is 11 carspaces) OR 1 car space per 5 seats (which in this case is 2 carspaces). This presents a great discrepancy in the required parking demand by the DCP and therefore a merit based approach is considered. The following is considered;

- The proposed development is a relatively small takeaway suited to catering to local residents. It is unlikely that it would draw parking demand from outside the area. With this in mind, there would also be a corresponding low ratio of patrons arriving by vehicle.*

ITEM 3 (continued)

- *Due to the restaurant floor area available and seating, it is anticipated that the store could accommodate up to 8 patrons in a peak period and approximately 5 patrons in shoulder periods.*
- *The proposal accommodates 3 staff on site and therefore potentially may require use of 1-2 offstreet spaces.*

Considering the above points, the provision of 6 offstreet parking spaces would be considered appropriate to accommodate the parking demands on the site.

Despite this, should the parking demand of the development ever exceed the site capacity during a peak period (say lunchtime), this period is within the peak resident parking periods (Monday to Friday 6pm to 7am). Given the impact to onstreet parking is very minor and unlikely to detract from parking availability, this aspect of the development does not warrant concern.

Traffic Generation

An estimate of traffic generation to and from the site can be produced based on the sites parking space capacity and anticipated average hourly turnover. For a conservative estimate, it is assumed during peak operating periods (midday) that there are up to 5 spaces available on site for patron parking and there is an average parking turnover of 2 patrons per hour per space. Under these circumstances, this would yield a total of 20 vehicle trips per hour (whereby a vehicle trip is a one way vehicle movement). As the site is on an intersection and fronting a major road, it is perceived most of this traffic would be distributed to the major roadway, in which case the resulting traffic levels would be relatively minor. Alternatively, consideration is given on there being an even distribution to both the major roadway (Blaxland Road) and local roadway (Lansdowne Street) which would result in their being approximately 10 vehicle trips per hour in each. As local roads can experience differences in the order of 40 vehicles per hour day to day, the additional traffic volumes (noted to be during the peak operating a period) present a very negligible change in the traffic levels and does not warrant concern.

Flooding and Overland Flow

The site is marked as being located in an overland flow path and do not propose any works which would reduce the level of flood protection afforded by the current structure. In line with Councils Floodplain Management controls, the applicant must ensure that any new building components and works are in accordance with the controls and requirements listed in Schedule 3 of Councils DCP 2011 – Part 8.6 (Floodplain Management).

ITEM 3 (continued)*Recommendation*

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

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

Adoption of the option(s) outlined in this report will have no financial impact.

16. Other Options

It is recognised that this type of use, being a food premises in a residential area, does have potential amenity impacts on neighbouring properties as discussed throughout this report. Therefore, whilst Council officers believe that these impacts can be ameliorated by recommended conditions of consent, an option available to Council is to refuse the application.

17. Conclusion

The proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning & Assessment Act 1979 and is generally considered to be satisfactory for approval.

The DA is recommended for approval subject to conditions of consent.

ITEM 3 (continued)

ATTACHMENT 1

6/637-639 Blaxland Road, Eastwood

GENERAL

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

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

Document Description	Date	Plan No/Reference
Site Plan & Demolition Plan	Oct '13	141002/WD:01
Ground Floor Plan	Oct '13	141002/WD:02
Ceiling Plan & Elevations	Oct '13	141002/WD:03
Sections	Oct '13	141002/WD:04
Details	Oct '13	141002/WD:05
Door Schedules	Oct '13	141002/WD:06

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

- (a) The proposed flush wall sign nearest to the driveway entry to the subject site is to be removed from the plans.

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

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
4. **Fire Safety Matters/Changes in building use**
- (a) A building in respect of which there is a change of building use must comply with the Category 1 fire safety provisions applicable to the proposed new use.

NOTE: The obligation under this clause to comply with Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in the relevant development consent.

ITEM 3 (continued)

ATTACHMENT 1

- (b) This clause does not apply to the extent to which an exemption is in force under clause 187 and 188 in the Environmental Planning and Assessment Regulations 2000.
 - (c) In this case clause, “Category 1 fire safety provision” has the same meaning as it has in Clause 3 in the Environmental Planning and Assessment Regulations 2000 subject to any terms of any condition or requirement referred to in Clause 187(6) or 188(4).
5. **Signage – not approved unless shown on plans.** This consent does not authorise the erection of any signs or advertising structures not indicated on the approved plans. Separate approval must be obtained from Council for any additional signs, unless such signage is “exempt development”.
6. **Security Grilles.** This consent does not authorise the erection of any security grilles or barriers on the shopfront. Separate approval must be obtained for any such works.

Protection of Adjoining and Public Land

7. **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.
8. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
9. **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.
10. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

Works on Public Road

11. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
12. **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.

ITEM 3 (continued)

ATTACHMENT 1

Stormwater

13. **Stormwater disposal.** Stormwater runoff from all impervious areas of the site is to be collected and piped to the existing or new underground stormwater drainage system in accordance with Council's DCP 2010, Part 8.2 "Stormwater Management".

Conditions imposed by Development Engineer:

14. **Design and Construction Standards.** All engineering plans and work shall be carried out in accordance with the requirements specified within Council's publication *Environmental Standards Development Criteria* and relevant Development Control Plans except otherwise as amended by conditions of this consent.
15. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
16. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
17. **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.
18. **Flood and Overland Flow Protection.** The property has been identified as being susceptible to flooding and overland flow during large storm events. In accordance with Council's Floodplain Risk Management controls, the following measures are required to be implemented in the development and/ or completed prior to the issue of any occupation certificate.
- a) All structures subject to flooding and overland flows must be constructed of flood compatible building components (refer to Schedule 3 of Council's DCP 2011 Part 8.6 3 "Floodplain Management"),

Conditions imposed by Environmental Health Officer:

19. **Food Premises.** The premises must comply with Food Safety Standard 3.2.3: *Food Premises and Equipment* and Australian Standard AS 4674 - 2004 *Design, construction and fit-out of food premises*.
20. **Food Premises.** The floors and wall junctions of all food handling areas where hosing is carried out must be water-proofed with a suitable membrane before the floor finish is laid.

ITEM 3 (continued)

ATTACHMENT 1

21. Premises shall be provided with a cleaner's or sluice sink and floor waste or similar which is connected to drainage that is not intended for use to prepare food, wash any equipment or for hands/face washing for disposing of mop water and similar liquid waste. It shall be located outside of areas where open food is handled.
22. All garbage and recycling rooms must be constructed in accordance with the following requirements:
 - (a) The room must be of adequate dimensions to accommodate all waste containers, and any compaction equipment installed, and allow easy access to the containers and equipment for users and servicing purposes;
 - (b) The floor must be constructed of concrete finished to a smooth even surface, coved to a 25mm radius at the intersections with the walls and any exposed plinths, and graded to a floor waste connected to the sewerage system;
 - (c) The floor waste must be provided with a fixed screen in accordance with the requirements of Sydney Water Corporation;
 - (d) The walls must be constructed of brick, concrete blocks or similar solid material cement rendered to a smooth even surface and painted with a light coloured washable paint;
 - (e) The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with a light coloured washable paint;
 - (f) The doors must be of adequate dimensions to allow easy access for servicing purposes and must be finished on the internal face with a smooth-faced impervious material;
 - (g) Any fixed equipment must be located clear of the walls and supported on a concrete plinth at least 75mm high or non-corrosive metal legs at least 150mm high;
 - (h) The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation;
 - (i) The room must be provided with adequate artificial lighting; and
 - (j) a hose with a trigger nozzle must be provided in or adjacent to the room to facilitate cleaning.
23. All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation.
24. A grease trap must be installed if required by Sydney Water Corporation. The grease trap must be located outside the building. Access through areas where exposed food is handled or stored or food contact equipment or packaging materials are handled or stored is not permitted.

ITEM 3 (continued)

ATTACHMENT 1

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.

25. **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.
26. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
27. **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 the Work Cover Authority, 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.
28. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.
29. **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.
30. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
31. **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.

ITEM 3 (continued)

ATTACHMENT 1

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.

32. **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**.
33. **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**.
34. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other building with no delivery of bricks or concrete or machine excavation)
35. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
36. **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**.
37. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

ITEM 3 (continued)

ATTACHMENT 1

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building, Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water assets - see Building, Development and Plumbing then Building and Renovating.

Or telephone 13 20 92.

38. **Reflectivity of materials.** Signage 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**.
39. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.

Conditions imposed by Environmental Health Officer:

40. The Principal Certifying Authority shall not issue a Construction Certificate until all structural requirements and fixtures/ fittings are shown on the plans for the subject food premises comply with the Food Act 2003, Food Regulation 2010 and the Australian Standard AS 4674 – 2004 “Design, Construction and Fit out of Food Premises”.
41. Details of all food handling areas must be submitted to and approved by Council before the issue of a **Construction Certificate**. Such details must include:
- (a) the layout and use of each room or area;
 - (b) the construction and finishes of all floors, walls and ceilings; and
 - (c) the location and details of all fixtures, fitting and equipment (including the method of installation).
42. **Mechanical Ventilation.** Details of all proposed mechanical ventilation systems, and alterations to any existing systems, must be submitted to Council or an accredited private certifier with the application for the **Construction Certificate**. Such details must include:
- (a) Plans (coloured to distinguish between new and existing work) and specifications of the mechanical ventilation systems;
 - (b) A site survey plan showing the location of all proposed air intakes exhaust outlets and cooling towers, and any existing cooling towers, air intakes, exhaust outlets and natural ventilation openings in the vicinity; and
 - (c) A certificate from a professional mechanical services engineer certifying that the mechanical ventilation systems will comply with the *Building Code of Australia* and setting out the basis on which the certificate is given and the extent to which the certifier has relied upon relevant specifications, rules, codes of practice or other publications.

ITEM 3 (continued)

ATTACHMENT 1

43. A report from a qualified acoustical consultant detailing the measures required to comply with the noise criteria specified in this consent must be submitted to Council or an accredited private certifier with the application for the **Construction Certificate**.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

44. **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.

45. **Excavation adjacent to adjoining land**

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

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.

46. **Construction noise.** The L₁₀ noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.

ITEM 3 (continued)

ATTACHMENT 1

47. **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.
48. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
49. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- (a) Fill is allowed under this consent;
 - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (c) the material is reused only to the extent that fill is allowed by the consent.
50. **Construction materials.** All materials associated with construction must be retained within the site.
51. **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.
52. **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.
53. **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".
54. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or otherwise necessary as a result of construction works approved by this consent.
55. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.

ITEM 3 (continued)

ATTACHMENT 1

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.

56. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Interim/Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Conditions imposed by Environmental Health Officer:

57. Council's Environmental Health Officer must inspect and approve the completed fit-out before the issue of an **Occupation Certificate**.
58. The operator must notify their business details to the NSW Food Authority before trading commences. Notifications may be lodged on-line at www.foodnotify.nsw.gov.au.
59. Details of the proposed waste storage and handling facilities must be submitted to and approved by Council before the issue of an **Occupation Certificate**.
60. Where any mechanical ventilation systems have been installed or altered, a certificate from a professional mechanical services engineer certifying that the systems comply with the approved plans and specifications must be submitted to the Principal Certifying Authority before the issue of an **Occupation Certificate**.
61. The applicant must contact the Wastewater Source Control Branch of Sydney Water Corporation on Tel. 13 11 10 to determine whether a Trade Waste Permit is required before discharging any trade wastewater to the sewerage system.

ITEM 3 (continued)

ATTACHMENT 1

OPERATIONAL CONDITIONS

The conditions in this Part of the consent relate to the on-going operation of the development and shall be complied with at all times.

62. **Hours of operation.** The hours of operation are to be restricted to:
- 8am to 5pm Monday – Friday
 - 9am – 4pm Saturday
 - Closed Sunday and public holidays
63. **Waste storage/disposal – hours of collection.** Waste and recyclable material generated by these premises must not be collected between the hours of 9pm and 8am on any day.
64. **Bin storage.** All waste and recycling bins associated with the development are to be stored within the internal garbage room. At no time shall bins be stored external to the premises.
65. **Waste disposal – method.** All wastes generated on the premises must be disposed of in an environmentally acceptable manner.
66. **Waste storage/disposal – containers.** An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste.
67. **Waste storage/disposal – recycling.** Wastes for recycling should be the stored in separate bins or containers and transported to a facility where the wastes will be recycled or re-used.
68. **Delivery and loading/unloading – hours.** No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 7am on any day.
69. **Delivery and loading/unloading – location.** All loading and unloading in relation to the use of the premises shall take place wholly within the property.
70. **Loading areas.** Loading areas are to be used for the loading and unloading of goods, materials etc. only and no other purpose.
71. **Signage – English language.** All advertising signs are to be displayed in the English language but may include a translation into another language using letters or characters that are no larger than the English language letters or characters.

Any translated message must be accurate and complete.

No amendment to the size of a sign will be permitted to allow for both the English and translated language to be displayed.

ITEM 3 (continued)

ATTACHMENT 1

Conditions imposed by Environmental Health Officer:

72. Condensation from the refrigeration units and cool room motors shall be directed to a tundish installed in accordance with the requirements of Sydney Water Corporation.
73. All liquid wastes generated on the premises must be treated and discharged to the sewerage system in accordance with the requirements of Sydney Water Corporation or be transported to a liquid waste facility for recycling or disposal.
74. All waste storage areas must be maintained in a clean and tidy condition at all times.
75. **Air Pollution.** The use of the premises, including any plant or equipment installed on the premises, must not cause the emission of smoke, soot, dust, solid particles, gases, fumes, vapours, mists, odours or other air impurities that are a nuisance or danger to health.
76. **Air Pollution.** Any discharge to atmosphere from the premises must comply with the requirements of the *Protection of the Environment Operations (Clean Air) Regulation 2010*.
77. **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*.
78. **Noise.** The operation of any plant or machinery installed on the premises must not cause:
 - (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at the most affected noise sensitive location in the vicinity. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).
 - (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
 - (c) The transmission of vibration to any place of different occupancy.

Advisory Notes:

- (a) Council officers may carry out periodic inspections of the premises to ensure compliance with relevant environmental health standards and Council may charge an approved fee for this service in accordance with Section 608 of the *Local Government Act 1993*.

The approved fees are contained in Council's Management Plan and may be viewed or downloaded at www.ryde.nsw.gov.au.

ITEM 3 (continued)

ATTACHMENT 1

- (b) To minimise the risk of cardiovascular disease in the community, fats and cooking oils that are high in saturated and/or trans fats should not be used in the preparation or cooking of food. Alternatively, instead of deep frying, change to healthier cooking methods such as baking, grilling, steaming or microwaving or use mono/polyunsaturated fats or oils such as canola, olive, sunflower, soybean and safflower oils and margarines.

End of Consent

ITEM 3 (continued)

ATTACHMENT 2

DCP COMPLIANCE TABLE
6/637-639 Blaxland Road, Eastwood

City of Ryde Development Control Plan 2010:

Part 7.2 – Waste Minimisation and Management

Part 9.1 – Signage

Part 9.2 – Access for People with Disabilities

Compliance with the above parts of DCP 2010 is illustrated by the development standards below:

DCP 2010	Proposed	Compliance
<i>Part 7.2 Waste Minimisation and Management</i>		
- Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	The applicant has submitted a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	Yes
<i>Part 9.1 Signage</i>		
2.1 Signage Content		
- A sign must be either: i) A business identification sign or a building identification sign as defined in RLEP 2010; ii) A directional sign that is a sign which directs persons to development on the land to which it is displayed.	2 business identification signs are proposed.	Yes
2.2 Language		
- All advertising signs are to be displayed in the English language but may include a translation into another language using letters or characters that are no larger than the English language letters or characters. - Any translated message must be accurate and complete.	Signs will be in Chinese and English. The English font is smaller in size than the Chinese. Translation into English is provided.	No (variation not supported - condition imposed) Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2010	Proposed	Compliance
2.3 Number of Signs		
- Visual clutter through the proliferation of signage and advertising structures are not permitted.	Signage does not result in visual clutter.	Yes
2.4 Design, Safety and Maintenance		
- All signs must be sympathetic to, and compatible with the architectural style and finishes of the building to which they are attached.	Proposal is compatible with the architectural style and finishes of adjoining premises.	No (variation not supported)
- Signs are to be unobtrusive in design, colour, height and scale	Signage is not obtrusive in bulk and scale if 1 of the flush wall sign's is removed.	Yes
- Signs must be attractive and professionally written as well as being simple, clear and efficient.	Signage will be professionally prepared and clearly written and efficient.	Yes
- Signs should be located at a height which avoids impact from footpath maintenance vehicles and discourages vandalism.	Signage does not interfere with pedestrian activity and does not encourage vandalism.	Yes
- Council will give due attention to all applications with respect to possible distraction of motorists due to illumination, position, colours, design and proximity to traffic.	It is not considered necessary to refer the proposal to the RTA.	Yes
- Signs facing roads with high traffic volumes, traffic lights or major intersections may be referred to other relevant authorities.	Signage will be kept in good condition at all times, with repairs undertaken when necessary.	Yes
- Signs must be kept in good and substantial repair and in clean and tidy condition.	High quality materials are incorporated in the signs, avoiding the potential for deterioration.	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2010	Proposed	Compliance
3.1 Residential Zones		
<p>Extent of signage</p> <ul style="list-style-type: none"> - Maximum of 1 sign permitted per site. <p>Sign options</p> <ul style="list-style-type: none"> - Business signs. - Real estate signs. - Home occupation signs. - Temporary signs. <p>Illumination</p> <ul style="list-style-type: none"> - Illumination of signs is prohibited. 	<p>2 non-illuminated flush wall signs proposed.</p> <p>2 business signs proposed.</p> <p>Signs will not be illuminated.</p>	<p>No (variation not supported)</p> <p>Yes</p> <p>Yes</p>
4.0 Definitions and requirements for different types of signage		
<p>Flush Wall Sign (A sign attached or painted on the wall of a building and projecting horizontally no more than 300mm from the wall)</p> <ul style="list-style-type: none"> - Only 1 sign per building elevation; - Where it is illuminated, shall not be less than 2.6m above the ground. - Shall not exceed a max. area of 5m² - Shall not extend laterally beyond the wall of the building to which it is attached. 	<p>2 signs on northern side elevation, fronting secondary street (i.e. Lansdowne St) Flush wall signs will not be illuminated.</p> <p>Combined sign area: 10.8m² (5.4m² per flush wall sign) Signs will not extend laterally beyond the wall.</p>	<p>No (variation not supported)</p> <p>N/A</p> <p>No (variation supported) Yes</p>
Part 9.2 Access for People with Disabilities		
<p><u>Class of Building – Class 6</u></p> <ul style="list-style-type: none"> - Must comply with all applicable provisions of this Part where there are structural alterations, major refurbishment or significant change of use affecting a substantial proportion of the gross floor area of the premises. 	<p>Complies with this Part – DA reviewed by Building Surveyor & Environmental Health Officer with conditions imposed.</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2010	Proposed	Compliance
- Where there is minor refurbishment to an existing building, accessibility shall not be made worse.	Accessibility will not be made worse – existing access arrangements to the building will remain.	Yes

ITEM 3 (continued)

ATTACHMENT 3

SEPP COMPLIANCE TABLE
6/637-639 Blaxland Road, Eastwood

State Environmental Planning Policy 64 – Advertising and Signage


Schedule 1 – Assessment Criteria

Compliance with the above Schedule is illustrated in the following table below:

SCHEDULE 1 – ASSESSMENT CRITERIA	
1 Character of the area	
<p>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p> <p>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</p>	<p>In removing one (1) of the proposed signs, the proposal is compatible with signage of the existing use as a furniture shop and the adjoining commercial premises which is an also located on the ground floor.</p> <p>The type of signage proposed is consistent with that of commercial premises nearby however, combined, the overall area of each sign is considered inappropriate for the predominantly residential nature of the surrounding development.</p>
2 Special areas	
<p>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</p>	<p>The imposition of two (2) signs has the potential to detract from the existing residential amenity surrounding the site. However, reducing the provision of signs to one (1) would result in signage blending harmoniously with surrounding development, particularly along Lansdowne Street.</p>
3 Views and vistas	
<p>Does the proposal obscure or compromise important views?</p> <p>Does the proposal dominate the skyline and reduce the quality of vistas?</p> <p>Does the proposal respect the viewing rights of other advertisers?</p>	<p>The proposed signs do not obscure or comprise any views.</p> <p>The premises and signage is confined to the ground floor level. Signage will not dominate the skyline.</p> <p>The proposed signs will not obscure the viewing rights to other advertisements or business identification signs and are contained within the premises.</p>

ITEM 3 (continued)

ATTACHMENT 3

SCHEDULE 1 – ASSESSMENT CRITERIA	
4 Streetscape, setting or landscape	
<p>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</p> <p>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</p> <p>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</p> <p>Does the proposal screen unsightliness?</p> <p>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</p> <p>Does the proposal require ongoing vegetation management?</p>	<p>The scale of the proposed signs is in excess of what is appropriate for the streetscape which is of a residential/commercial setting. As seen below, no signage currently exists along the Lansdowne Street frontage therefore the proposal will have a significant impact on the streetscape. Reducing the number of signs to one (1) along the Lansdowne Street elevation would result in a better balance of scale.</p>  <p>The location of the proposed signs will not require any ongoing vegetation maintenance.</p>
5 Site and building	
<p>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</p> <p>Does the proposal respect important features of the site or building, or both?</p> <p>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</p>	<p>Combined, the proposed signs' proportion is considered excessive. However, as previously mentioned, provision of one (1) sign would result in a better proportion between signage and the existing building.</p> <p>Jointly, the signs appear to dominate the building.</p>

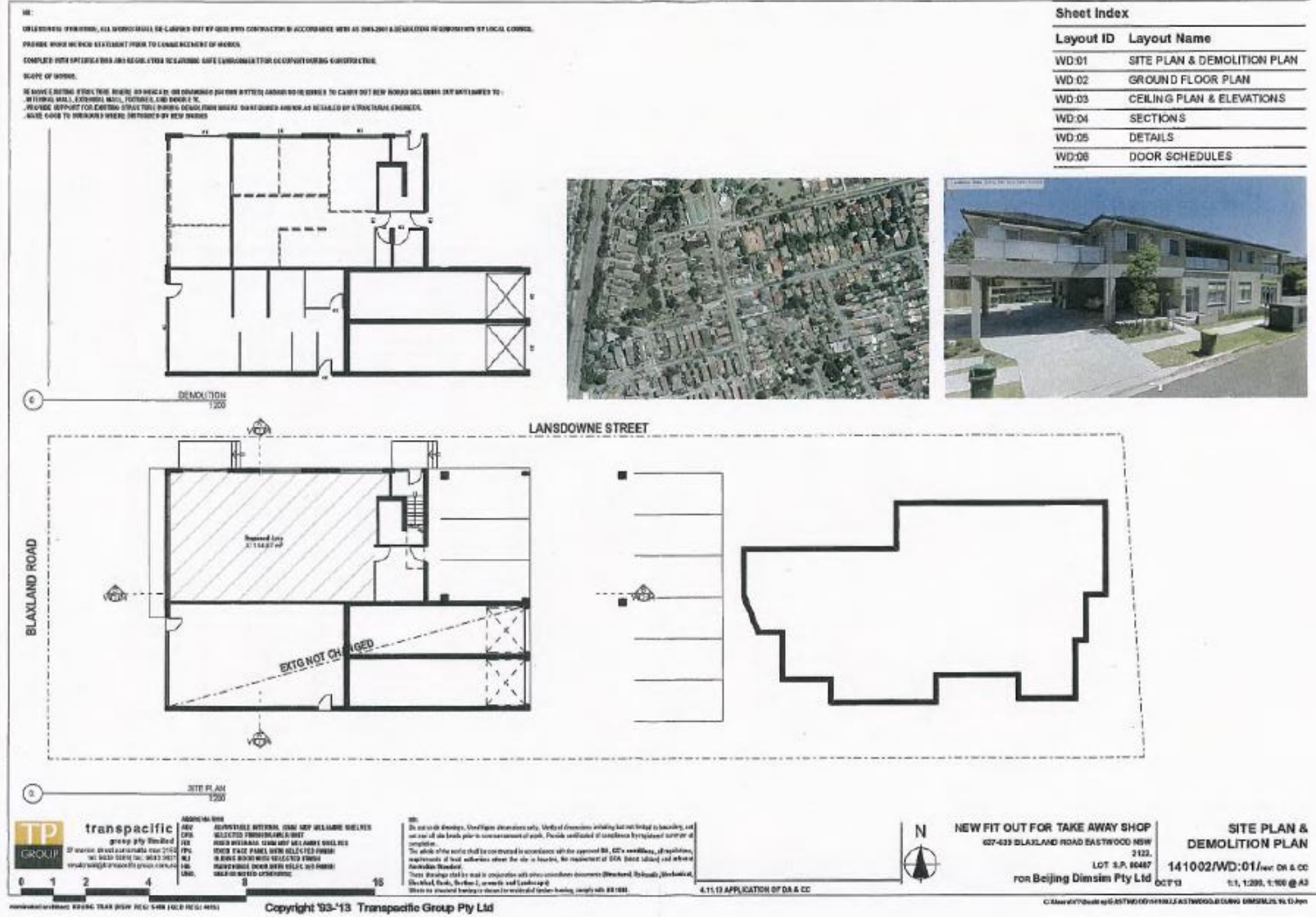
ITEM 3 (continued)

ATTACHMENT 3

SCHEDULE 1 – ASSESSMENT CRITERIA	
6 Associated devices and logos with advertisements and advertising structures	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed fixture method of signage will be such that the signage will not pose as a safety issue to motorists, or pedestrians.
7 Illumination	
<p>Would illumination result in unacceptable glare?</p> <p>Would illumination affect safety for pedestrians, vehicles or aircraft?</p> <p>Would illumination detract from the amenity of any residence or other form of accommodation?</p> <p>Can the intensity of the illumination be adjusted, if necessary?</p> <p>Is the illumination subject to a curfew?</p>	Signs will not be illuminated.
8 Safety	
<p>Would the proposal reduce the safety for any public road?</p> <p>Would the proposal reduce the safety for pedestrians or bicyclists?</p> <p>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</p>	<p>The proposed signs will not result in any obstruction of existing sightlines.</p> <p>The Lansdowne Street and Blaxland Road intersection does not have traffic signals. The signage will not cause a safety risk to pedestrians or bicyclists.</p>

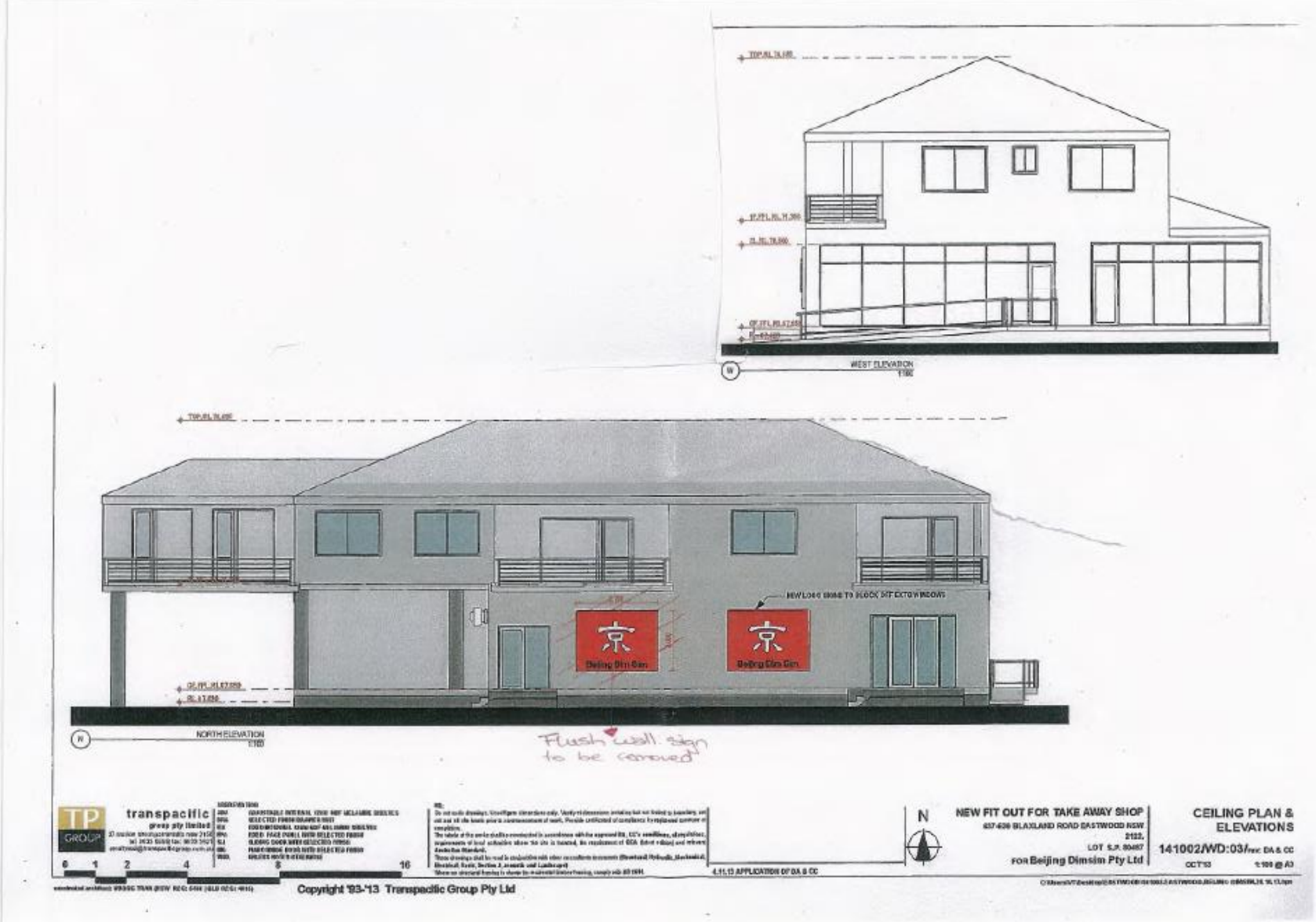
ITEM 3 (continued)

ATTACHMENT 4



ITEM 3 (continued)

ATTACHMENT 4



4 50A BELMORE STREET, RYDE LOT 32 DP 13597. BUILDING CERTIFICATE APPLICATION BCT 2013/33 FOR UNAUTHORISED CONCRETE BLOCK RETAINING WALLS AND ASSOCIATED FILL

Report prepared by: Building Surveyor - Compliance**Report approved by:** Manager - Environment, Acting Manager - Health & Building;
Group Manager - Environment & Planning**Report dated:** 11 February 2014 **File Number:** BCT2013/33 - BP14/227

Report Summary**Street Address:** 50a Belmore Street Ryde**Applicant:** Julio Montiel**Owner:** L & J Montiel**Date Lodged:** 29 July 2013

This report considers a Building Certificate application BCT2013/33 for unauthorised building works at 50a Belmore Road, Ryde. The unauthorised building works mainly consist of two (2) concrete block retaining walls, one located in the middle of the site with an effective height of 2200 mm and another varying in height located along the eastern boundary. The work also consists of unauthorised fill for levelling the top part (northern side) of the site.

The application was notified and one (1) submission was received from a neighbouring property, raising several issues and objecting to the unauthorised walls and extent of unauthorised site filling.

The issues and Council's comments are detailed in the report. The unauthorised works breach several aspects of Council's DCP and related development controls and cannot readily be brought into conformity with the Council's DCP and related development controls. The application has been recommended for refusal and separate action to require demolition of the unauthorised walls and removal of unauthorised fill is proposed.

Reason for Referral to Planning and Environment Committee:

Called up to the Planning & Environment Committee by Councillor Pendleton.

Public Submissions:

One submission was received objecting to the unauthorised building works. Issues raised together with Council's comments are detailed in the report.

Value of works:

\$4800 was nominated on the application.

ITEM 4 (continued)

The application and associated plans and notification details are **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors - subject to copyright provisions.

RECOMMENDATION:

- (a) That Building Certificate Application No. BCT2013/0033 seeking to allow retention of unauthorised concrete walls and site fill at 50a Belmore Street RYDE, being LOT 32 DP 13597, be refused for the following reasons;
1. The change in the natural topography of the site from unauthorised land filling is excessive and detrimental to the amenity of the adjoining property and does not meet Council's DCP and related development controls.
 2. The height of unauthorised fill on the subject property exceeds 500mm and the retaining walls are higher than 900mm adjacent to the side/rear boundary both in breach of Council's DCP and related development controls.
 3. The unauthorised concrete block walls as constructed do not compliment the surrounding development and visually impact the adjoining property with regard to size and bulk.
 4. The unauthorised concrete block boundary fence/wall exceeds the maximum allowable height of 1.8m (approximately 3m at one point) in contravention of Council's DCP and related development controls.
 5. The construction of the unauthorised retaining walls and land filling works are in breach of the objectives and controls listed in Councils DCP Part 3.3 (Dwelling House) Section 2.5.2 – "Topography and Excavation.
 6. The unauthorised concrete block finish to the eastern side boundary facing adjoining property at 1 Willandra St, Ryde is not of a suitable face finish and is uneven, of poor workmanship and of poor appearance that cannot be readily finished or maintained from wholly within the property boundary.
 7. Subsurface flows behind the section of the unauthorised retaining wall from No. 1 Willandra Street will be diverted, causing nuisance seepage flows to emerge at the termination of the wall in the southern corner which is likely to cause ongoing erosive effects and cause nuisance seepage on the neighbouring property.
 8. The unauthorised concrete block walls as built and unauthorised land filling prevents on-site vehicular access to the existing house garage or any off-street parking on the site effectively forcing all parking from the subject property to be on the street, which is in contravention of the Council's DCP and related development controls and adding further traffic and loss of public car spaces.

ITEM 4 (continued)

9. Any approval of the application to legitimise the unauthorised concrete block walls and site fill, given extent of breaches with the Council's DCP and related development controls, would set an undesirable precedent that is not in the public interest.
- (b) That the persons who made submissions be advised of Council's decision.
- (c) The Council commence legal proceeding to enforce requirements of the Demolition Order dated 20 December 2012 to demolish the unauthorised concrete block walls and to require natural ground levels to be restored by requiring removal of unauthorised land fill from the property.

ATTACHMENTS

- 1 Photos of Retaining Walls for 50a Belmore Street, Ryde
- 2 50a Belmore Street, Ryde. Building Certificate (Section 149A) Application no. BC2013/0033 for Retaining Wall & Rear Dividing Fence - CIRCULATED UNDER SEPARATE COVER - CONFIDENTIAL
- 3 50a Belmore Street, Ryde - Building Certificate neighbour notification letters, plans and map – subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER
- 4 50a Belmore Street, Ryde. Enclosed attachments addressing essential information points required for Council assessment of our building certificate application - Julio Montiel - CIRCULATED UNDER SEPARATE COVER - CONFIDENTIAL

Report Prepared By:

Peter Lupevski
Building Surveyor - Compliance

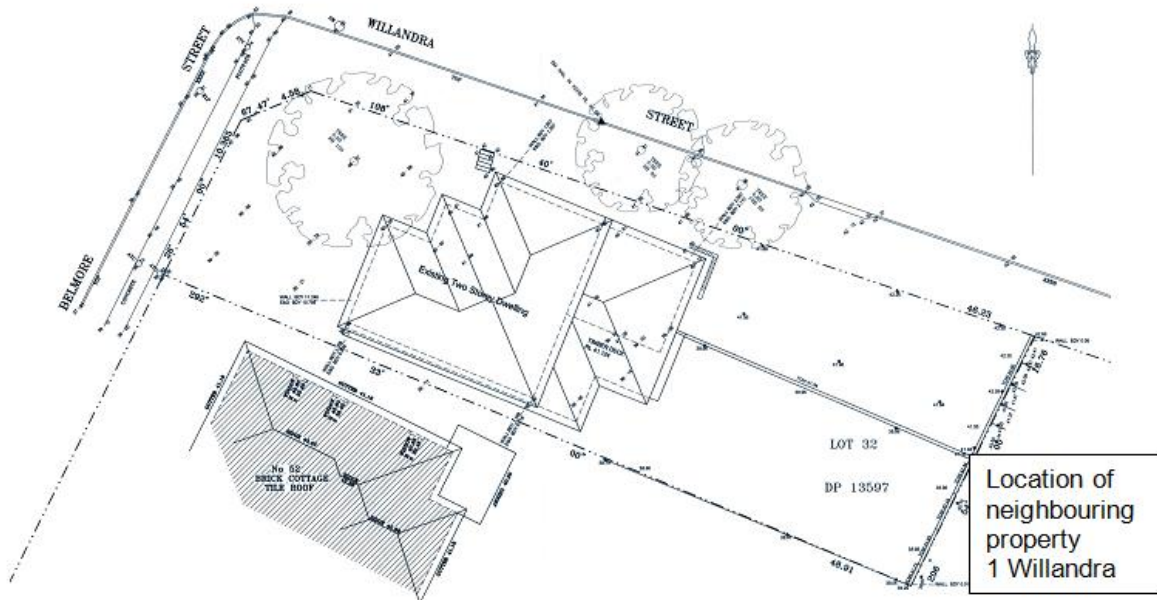
Report Approved By:

Sam Cappelli
Manager - Environment, Acting Manager - Health & Building

Dominic Johnson
Group Manager - Environment & Planning

ITEM 4 (continued)

2. Site



Address 50a Belmore Street, Ryde

Site Area Area: 730.67m
Frontage 10.365 metres
Depth 730.67 metres

Topography and Vegetation:

There is no significant vegetation on the site. The site falls away from Willandra Street and is divided into two halves by concrete block walls with a drop of 2200mm to the lower part of the site. The northern half adjacent to Willandra street has been filled and retained by the wall located in the middle of the site. The other concrete wall is adjacent to the eastern boundary and has a height of 3000mm measured from the subject site. This wall acts as a retaining wall for a height of 1.0m and a dividing fence with a height of 1800 to 2000mm measured from the neighbouring property site.

Existing Buildings: A two storey dwelling with an internal garage located at the rear of the dwelling exists on the site. Prior to the construction of the masonry retaining wall located in the middle of the site the garage had access to the approved internal garage

ITEM 4 (continued)

Planning Controls

Zoning: R2 – Low Density Residential under Ryde LEP 2010
R2 – Low Density Residential under draft Ryde LEP 2011

3. Councillor Representations:

Name of Councillor: Councillor Pendleton.

Nature of the representation: Call-up to Planning & Environment Committee.

Date: 4 March 2014.

4. Political Donations or Gifts:

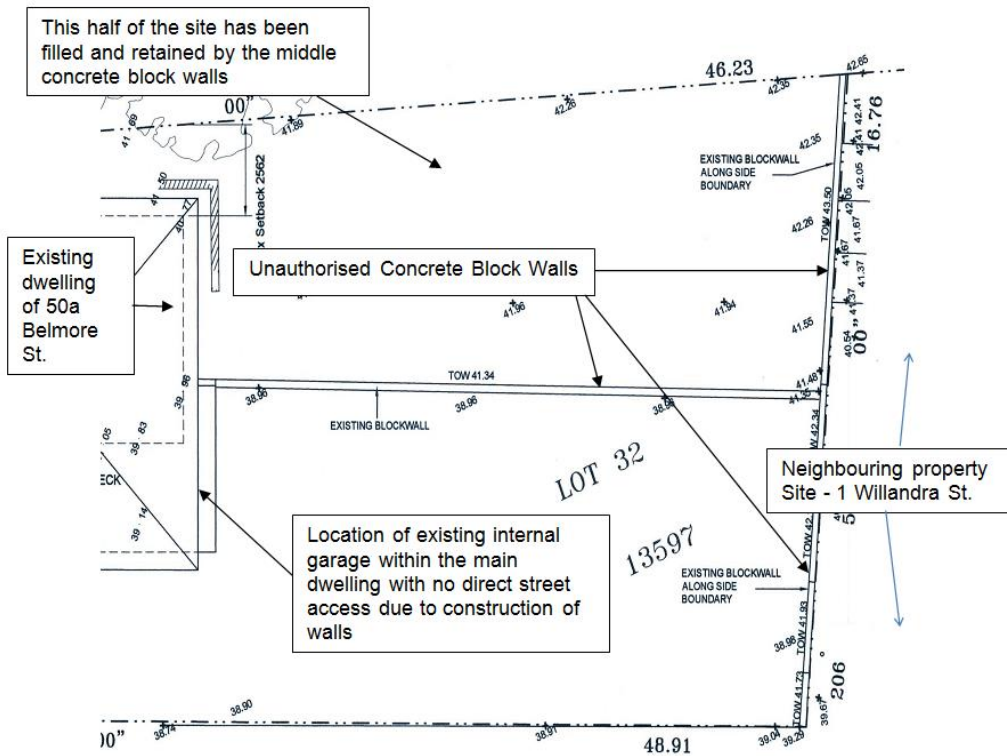
None disclosed in applicant's Building Certificate Application or in any submission received.

5. Unauthorised Building Works:

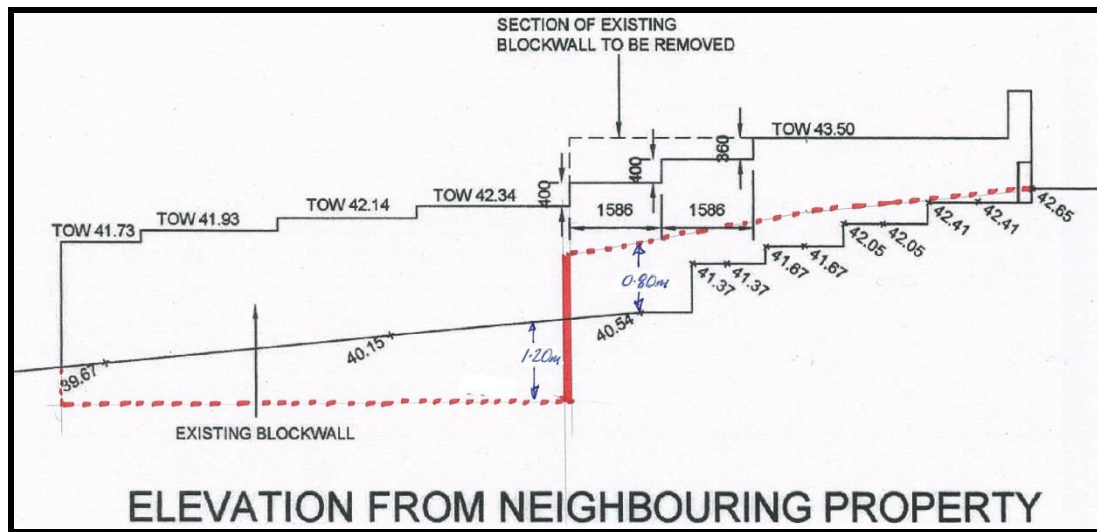
The unauthorised building works consist of two (2) concrete block walls, one located in the middle of the site and the other adjacent to the eastern boundary.

The unauthorised work also consists of fill to the northern part (top half) of the site adjacent to Willandra Street.

See photographs of unauthorised works also (**CIRCULATED UNDER SEPARATE COVER**) and depicting the extent of unauthorised works.



ITEM 4 (continued)



The sketch above shows relative differences in ground levels between the site and neighbouring property, the levels of No. 50A Belmore Street are marked on the elevation plan shown following. The extent of cut and fill relative to No. 1 Willandra Street varies from 1.20m (cut) to 0.80m (fill) with the level on No. 50A Belmore Street shown in red and dashed.

6. Background

History:

- 11 April 2011 Initial concerns were received by Council alleging that unauthorised building work consisting of masonry retaining walls and filling of site was in progress (CRS2011/895).
- 14 April 2011 Council sends acknowledgement letter (D11/29757) to the customer and inspects the property. *Note: Owner was advised to cease work.*
- 2 June 2011 Council issued a Notice of Proposed Order (NOPO) and Draft Order (NOT2011/151).
- 17 June 2011 Written representation from the owner Mr Julio Monteil was received advising the intention to submit BC for consideration.
- 5 September 2011 Local Development Application (LDA2011/472) was submitted for a proposed Garage, side fence and internal masonry wall (unauthorised) to support the structure and retain the fill on the northern side (top side).

ITEM 4 (continued)

- 7 November 2011 Local Development Application LDA 2011/472 was withdrawn.
- Note: Some time passed as owner made numerous approaches and sought to lodge further applications. However, extent of breaches precluded favourable consideration of LDA.*
- 10 August 2012 New Local Development Application LDA2012/273 for a new garage and new boundary fence was received and subsequently deferred pending more information.
- 20 August 2012 Objection received from adjoining neighbour – on LDA 2012/273.
- 2 October 2012 Fresh Notice of Proposed Order and Draft Order (NOT2012/211) together with a Covering letter to demolish and remove the unauthorised retaining walls, associated footings and fill material deposited on the property.
- 1 November 2012 Council Officer contacted owner to follow up on the NOPO and the response was that the owner did not receive notice.
- 7 November 2012 Fresh Notice and Draft Order of 2/10/12 was reserved.
- 20 December 2012 No representations received. Order issued to demolish and remove unauthorised walls and fill.
- 5 February 2013 Inspection revealed the unauthorised walls and site filling had not been demolished as required by the Order served on 20 December 2012.
- 26 February 2013 Penalty Infringement Notice (PIN) of \$1,500 was issued for failure to comply with Demolition Order. Note: the PIN was appealed by owner on 23/7/13 and this appeal was heard in the Ryde Local Court No 2013/139424 (Criminal List) with a decision by Senior Magistrate Bartley to award a higher fine of \$25,000.00 and pay Councils Professional costs of \$880.00
- 28 February 2013 Local Development Application LDA2012/273 was formally REFUSED and appropriate letters were sent to the applicant and objectors.
- 29 July 2013 Building Certificate Application (BCT2013/033) was received and was notified to adjoining affected property owners from 30/7/13 till 13/8/13.

ITEM 4 (continued)

- 10 August 2013 New Local Development Application (LDA2013/288) was lodged for a garage and side fence incorporating the unauthorised concrete block walls into the design.
- 12 August 2013 Objection to the Building Certificate Application (BCT2013/33) was received from the adjoining property owner (1 Willandra Street) outlining number of concerns in relation to the unauthorised concrete block walls.
Note: Similar objections were received for the Development Application (LDA2013/288) that was lodged concurrent to the Building Certificate Application.
- 2 October 2013 Council sent letter (D13/81181) requesting additional information within 21 days to assess the Building Certificate Application thoroughly prior to determination.
- 23 October 2013 Applicant was formally advised to withdraw LDA2013/288 as it was unlikely the proposed garage could be integrated with the unauthorised works.
- 14 November 2013 Additional information was received to enable determination of BC application.

Consultation- Community

Building Certificate Application (BCT2013/033) was received on 29 July 2013

The Building Certificate Application (BCT2013/033) was notified from 30 July 2013 till 13 August 2013. The most affected adjoining owner at 1 Willandra Street, Ryde has been consulted on several occasions as information concerning the BC is received

7. Submission

One (1) submission was received and several issues were raised. Each issue is outlined below:

- *The rear and internal boundary fences have been illegally constructed and there is no certification that the completed structure is safe, whether it meets the required engineering and other applicable building standards, BCA codes or CDC requirements. The rear boundary fence has been illegally built on our property and there have been no surveyor's reports and diagrams.*

ITEM 4 (continued)**Comment:**

The building works consisting of concrete block walls have been constructed without the approval by the Consent Authority. (Council) However, having regards to this the Environmental Planning & Assessment Act – 1979 – Section 149(A)- “Act” allows a person to lodge a Building Certificate Application with the Consent Authority (Council) for determination in relation to unauthorised building works.

As a result, the applicant has provided a survey plan prepared by G.K Willson and Associates (Registered Surveyors) dated 5 January 2013 confirming that the masonry walls are wholly within the subject property.

The applicant has provided Structural Certificate prepared by Cantali and Associates (Consulting Engineers) certifying the masonry walls and associated footings are structurally adequate and built in accordance with the Building Code of Australia (BCA) and relevant Australian Standards AS2870 – Residential Slabs and Footings (Construction).

- *Fence height - the maximum height for rear fences is to be 1.8 metres, the built fence at the lowest point on our property measures just over 2.1 metres and at its maximum is almost 3 metres. The fence height clearly is in breach of rear fence height restrictions. (DCP 3.3 2.15.2 and DCP 9.4 2.3).*

Comment:

The unauthorised masonry wall adjacent to the eastern boundary is partly acting as a retaining wall and a boundary fence and fails to comply as stated.

The masonry wall has an overall height of 3000mm max measured from the subject site and 2000mm overall height from the adjoining property as their land is higher.

2. *Fence type - Rear fences should be of post and lapped paling construction or modular steel construction, the built fence consists of concrete filled besser blocks. We request a timber fence or colorbond fence be erected. (DCP 9.4 2.3)*

Comment:

The wall as *built* adjacent to the eastern boundary is constructed from unfinished concrete block construction and not in accordance with Council's DCP.

3. *Overland Flow - all fencing is required to be of open construction so that it does not impede overland flow and so water can freely pass through it. The fences are required to allow water to freely pass through them and have a clearance between the ground and the bottom of the fence. The concrete filled besser block retaining wall built on concrete footings does not allow this and poses a large obstruction to the water flow and run off which will adversely affect our property. (DCP 3.3 2.15.2 and DCP 9.4 3.6).*

ITEM 4 (continued)**Comment:**

The applicant has provided Stormwater Design Certificate prepared by Donovan and Associates (Registered Surveyors and Civil / Structural Engineers) certifying the Agricultural Pipe Layout complies with the:

- Building Code of Australia (BCA);
- Australian Standards AS3500;
- Ryde Council's Drainage requirements and; and
- Ryde Council's Development Control Plan (DCP).

Further the application was referred to Council's Senior Development Engineer and the following comments have been received:

'The provided drainage certification refers only to the submitted design. There is no guarantee the works have been completed as nominated. Subsurface flows behind the section of retaining wall supporting No. 1 Willandra Street will be diverted, causing nuisance seepage flows to emerge at the termination of the wall in the southern corner. This can cause ongoing erosive effects and cause nuisance seepage on the neighbouring property.'

Pending on the subsurface conditions and backfill conditions installed behind the section of retaining wall supporting No. 1 Willandra St, the diversion of subsurface flows may result in consolidation and settlement of property levels of No. 1 Willandra Street over a period of time thereby causing damaging to structures on this property within this zone of influence.

There is a driveway located atop of the retaining wall supporting No. 1 Willandra Street. No documentation has been presented that guarantees the retaining wall'.

It is noted that the certification received from Donovan and Associates has certified the design only, not the Agricultural Pipe Drainage as completed.

4. Natural topography - Mr Montiel undertook extensive excavation that has and continues to disrupt the water flow and soil stability that has adversely affected our property. The excavations completed were extensive and exceeds the 1.2 metre maximum (we understand that approximately 4 metres of excavation has occurred) and the maximum height of fill has far exceeded the 900mm maximum also. The excavations undertaken by Mr Montiel have directly impacted our driveway with soil erosion and overall safety of our concrete driveway and front retaining walls (DCP 3.3 2.5.2).

Comment:

Confirm that the cut / excavation of the site and the construction of the masonry wall are in excess of 1200mm and the fill on exceeds 900mm.hence non-compliant with councils requirements as stated above.

ITEM 4 (continued)

6. *Fencing height - the enclosed diagrams do not detail any heights or widths or depths of the fences. The rear solid masonry block fence blocks pedestrian and vehicle vision on Willandra Street and it will also impact the entering and exiting of our property due to its size and structure type (DCP 9.4.1).*

Comment:

As the neighbouring driveway is approx. 4500 mm away from the eastern boundary the solid masonry walls is not considered to restrict the vehicular vision.

7. *Footings - there are concrete footings beneath the retaining wall that have already been poured and again like the retaining wall in Mr Montiel's backyard were a straight drop and not of an "L" shaped design. We believe this is a safety hazard.*

Comment:

The applicant has provided Structural Certificate prepared by Cantali and Associates (Consulting Engineers) certifying the masonry walls and associated footings are structurally adequate and built in accordance with the Building Code of Australia (BCA) and relevant Australian Standards AS2870 – Residential Slabs and Footings (Construction).

8. *Works commenced - works on the rear retaining and internal retaining wall Mr Montiel has complete disregard for regulations, safety and required process for Council approval for such works. Mr Montiel approached my family earlier in 2011 year notifying us that the Council has requested he stop any further works and he has completely disregarded Council requests.*

Comment:

To legitimise the commencement and the associated building works the applicant has lodged a Building Certificate Application (BCT2013/33)
Environmental Planning & Assessment Act – 1979 – Section 149(A)- is the Act that allows a person to lodge a Building Certificate Application with the Consent Authority (Council) for determination in relation to unauthorised building works.

9. *Mr Montiel has erected the walls to my boundary within 90cm of the boundary. The new wall must be built in accordance with the method of support proposed by a professional engineer's report provided with the application for the CDC. No such documentation has been provided.*

The walls are unsafe and a professional has not provided detailed drawings nor certified them.

ITEM 4 (continued)**Comment:**

The applicant has provided a Structural Certificate prepared by Cantali and Associates (Consulting Engineers) certifying the masonry walls and associated footings are structurally adequate and built in accordance with the Building Code of Australia (BCA) and relevant Australian Standards AS2870 – Residential Slabs and Footings (Construction).

10. In NSW all new housing and alterations and additions with a total estimated cost of works of \$50,000 or more must have a BASIX Certificate before they can get planning approval. Mr Montiel has not provided BASIX certification or home warranty insurance. His documentation is extremely deficient and inadequate.

Comment:

Basix is not required for development of Class 10(b) – “Masonry Retaining Walls”

8. Policy Implications**Relevant Provisions of Environmental Planning Instruments etc:**

Environmental Planning & Assessment Act – 1979 – Section 149(A) -

The Act that allows a person to lodge a Building Certificate Application with the Consent Authority (Council) for determination in relation to unauthorised building works.

The “Act” allows Council 3 (three) options – Approve, Defer, or Refuse.

Given the nature and extent of breaches and taking into consideration the objections raised from neighbouring property, the application has been recommended for refusal.

Building Code of Australia (BCA).

The BCA is a uniform set of technical provisions for the design and construction of buildings and other structures throughout Australia. The BCA is the minimum allowable construction standard for all building classifications.

The classification of a building or part of a building is determined by the purpose for which it is designed, constructed or adapted to be used. On this occasion the structure (retaining walls) is considered to be of a Class 10(b)

Class 10(b) — a structure being—

(i) a fence or

(ii) mast or

(iii) antenna or

(iv) retaining or free standing wall or

(v) swimming pool or the like

ITEM 4 (continued)**Ryde Local Environmental Plan (RLEP)**

Ryde Local Environmental Plan (“RLEP”) 2010 is a City-wide planning instrument that commenced on 30 June 2010. Under this Plan, the property is zoned R2 Low Density Residential. Retaining Walls are permitted in this zone subject to Council’s consent.

Zoning in

R2 Low Density Residential.

Relevant SEPPs

State Environmental; Planning Policy – (*Exempt and Complying Development Codes*) 2008 – The unauthorised walls as built fails to meet the requirements of the above SEPP and therefore not applicable for this type of construction.

The property owner/s should have lodged a formal Development Application for the approval of the building works, followed by obtaining a Construction Certificate by Council or an Accredited Certifier prior to commencement of work

Any draft LEPs

Draft LEP 2011 was adopted by Council on 12 March 2013 and is waiting gazettal by the Department of Planning and Infrastructure; as such LEP 2011 can be considered certain and imminent.

Under this Draft LEP, the zoning of the property is R2 Low Density Residential. The proposed development is permissible with consent within this zoning under the Draft LEP, and it is considered that the proposal is not contrary to the objectives of the Draft LEP or those of the proposed zoning.

12. Consultation – Internal and External**Internal Referrals:****Senior Development Engineer:**

Referred to the following documents:

1. Architectural Plans by Macolino D S dated 22 July 2013;
2. Stormwater Management by Macolino D S drawing No. 031120-1 Amdmnt A dated 22 July 2013 (received 14 November 2013);
3. Stormwater Certification by Donovan Associates dated 12 November 2013;
4. Structural Certification by Cantali and Associates dated 12 June 2013.

ITEM 4 (continued)

Background

The works are noted to comprise of a set of retaining walls aligned in order to terrace the rear yard of No. 50A Belmore Street into 2 separate levels. The terraced levels extend to the rear boundary of the site which abut No. 1 Willandra Street. Due to the slope of topography falling naturally down from the Willandra Street frontage, the terracing has resulted in the upper portion of the subject property being elevated above No. 1 Willandra Street and correspondingly, the lower level being excavated below levels of the neighbouring property at No. 1 Willandra Street

Stormwater Management

The drainage system installed as a result of these works (as shown on the plans by Macolino D S Dwg 031120-1 Iss A) indicates agricultural lines have been placed behind the retaining walls supporting the upper terrace. These lines discharge to a surface grate at the tow of the retaining wall dividing the site. Thereon the grate drains via pipe to a surface inlet pit adjoining the western boundary, with a note on the plans indicating runoff is then directed to Belmore Street. The plan accompanies documentation from Donovan Associates dated 12 November 2013 certifying the design however there is no clarification whether the system has been constructed as shown.

Site photos provided by compliance note that there is a surface grate at the base of the retaining wall dividing the property, as indicated on the drainage plan. There appears to be evidence of loose granular backfill placed behind the retaining wall adjoining No. 1 Willandra Street. There does not appear to be any weepholes or seepage outlets at the base of the retaining wall which supports No. 1 Willandra Street.

There are several concerns with the constructed retaining walls in relation to drainage. It should be noted however that some of these concerns are based on the limited information available and would depend on the subsurface conditions, which are unknown. These concerns are:

- Subsurface flows behind the retaining wall supporting No. 1 Willandra Street at the southern end of the site will be diverted, causing nuisance seepage flows to emerge at the termination of the wall in the southern corner into No. 1 Willandra Street.
- Pending on the subsurface conditions and extent of backfill installed behind the section of retaining wall supporting No. 1 Willandra St, the diversion of subsurface flows may result in consolidation and settlement of levels on this property and consequently damage adjoining structures within this zone of influence.
- The letter of certification relates only to the design of the system. Given the works have been constructed, some clarification that the design has been constructed as shown on the plans is required.

ITEM 4 (continued)

Geotechnical and Structural matters

The submitted structural certification is based on the visual inspection of the wall and exposed reinforcement. On this basis, the consultant has expressed he is of the *opinion* that the structure is built to Australian Building Codes and Standards however there is no guarantee of the structural adequacy of the retaining wall.

This is of concern then that retaining wall at the southern end of the site supports the neighbouring driveway. In which case, there is concern the wall may be subject to additional vehicle loads for which it has not been designed for

Town Planner

SECTION 79C HEADS OF CONSIDERATION

After consideration of the development against section 79C of the Environmental Planning and Assessment Act 1979 and the requirements of Council's Development Control Plan – Part 3.3 Dwelling Houses and Dual Occupancy (attached) and Part 9.4 - Fencing, the unauthorised works (as constructed) are not supported.

(a) The provisions of

(i) Any environmental planning instrument:

State and Sydney Regional Environmental Planning Policies

SEPP BASIX: Not applicable

Ryde LEP 2010:

Ryde LEP 2010	Proposal	Compliance
4.3(2) Height		
9.5m	No change	Yes
4.4(2) & 4.4A(1) FSR		
0.5:1	No change	Yes

ITEM 4 (continued)**(ii) Any development control plan**

Ryde DCP 2010: Part 3.3 - Dwelling Houses & Dual Occupancy (attached) & Part 9.4 – Fencing.

The non-compliances identified in the table are listed below:

Non-Compliances:**(1) Desired Future Character** - Council's DCP 2010: Part 3.3 - Dwelling Houses & Dual Occupancy (attached) – Section 2.1 '*Desired Future Character*' states:

- *The desired future character of the low density residential areas of the City of Ryde is one that requires minimal disturbance to the natural topography.*

The topography of the rear yard has been substantially altered. The difference between the upper ground level (adjoining Willandra Street) and the lower ground level (adjoining 52 Belmore Street) is approximately 3m. The change in the natural topography is excessive and does not meet the objectives of the desired future character of the low density residential areas of the City of Ryde.

(2) Topography & Excavation - Council's DCP 2010: Part 3.3 - Dwelling Houses & Dual Occupancy (attached) – Section 2.5.2 '*Topography and Excavation*' states:

Areas outside the dwelling footprint may be excavated and/or filled so long as:

- *Max height of fill is not to be more than 500mm.*
- *Max height of retaining walls is not to be more than 900mm.*
- *Filled areas are not adjacent to side or rear boundaries.*

The height of fill exceeds 500mm, the retaining walls are higher than 900mm and the filled areas are adjacent to the side/rear boundary. The main objective for topography and excavation is that generally the existing topography is to be retained with all areas of excavation and fill being minimised. The works as constructed do not meet Council's objectives for topography and excavation.

(3) Fences - Council's DCP 2010: Part 9.4 – Fences – Section 1.3 '*Determining an Application*' states:

- *Council must consider the effect of the fence on the amenity of the locality, including the visual impact, size and overshadowing.*

ITEM 4 (continued)

Masonry blocks that are used as boundary fences on residential properties is generally not supported. The masonry boundary fence as constructed does not compliment the surrounding development and visually impacts the adjoining properties with regard to size and bulk.

(4) Fences - Council's DCP 2010: Part 9.4 – Fences – Section 2.3 'Side and Rear Fences' states:

- *Side and rear boundary fences should not to exceed 1.8m in height;*

The masonry boundary fence/wall exceeds the maximum allowable height of 1.8m (approximately 3m at one point). All boundary fences on sloping sites should be designed to follow the contour of the land and have minimal impact on the adjoining properties.

- *Side and rear fences should be of post and lapped paling construction.*

The majority of boundary fences within the City of Ryde are timber or colorbond. The constructed masonry block boundary fence/wall is not considered to be a suitable fencing material as the finish surface on the adjoining property requires painting, bagging, etc which is a maintenance issue and is not consistent with the aesthetics of the surrounding developments. It also requires work to be carried out from the adjoining property. All boundary fences should have finish surfaces that are maintenance free.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The retaining walls, associated fill and side boundary fence/wall as constructed is considered to impact on the natural and built environments. The ground levels that previously existed have been substantially altered. The masonry boundary fence/wall is not considered to be a suitable fencing material for a residential property and visually impacts the adjoining properties with regard to size and bulk.

(c) The suitability of the site for the development

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

- 100m of a Heritage Item: There is no impact on the Heritage Item (Ryde Court house)
- Sewer line:

Note: The constructed retaining wall (running parallel with Willandra Street) extends from the rear of 50A Belmore Street to the boundary adjoining 1 Willandra Street appears to have been constructed in close proximity to a Sydney Water sewer main.

ITEM 4 (continued)

Evidence would have been needed from Sydney Water that they have no concerns with this masonry wall.

(d) The public interest

The nature and extent of the unauthorised works as constructed breaches several aspects of Council codes and any approval of those works by approving this application will set an undesirable precedent. This is not considered to be in the public interest.

ITEM 4 (continued)

ATTACHMENT 1



Photo showing the two (2) concrete block walls from the subject site looking towards the neighbouring property 1 Willandra Street

ITEM 4 (continued)

ATTACHMENT 1



Photo showing the current status of the concrete block wall constructed in the middle of the site

ITEM 4 (continued)

ATTACHMENT 1

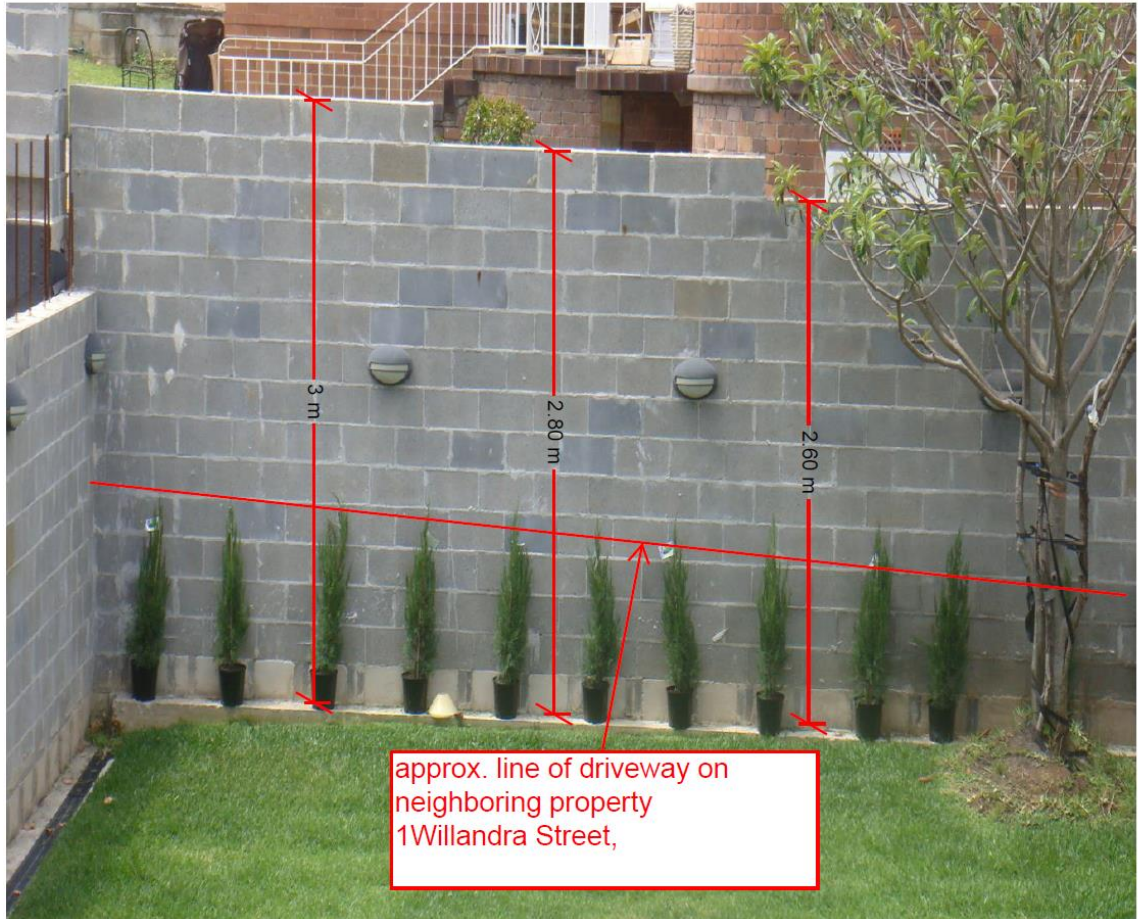


Photo showing view of the concrete block wall as built adjacent to the eastern boundary

ITEM 4 (continued)

ATTACHMENT 1

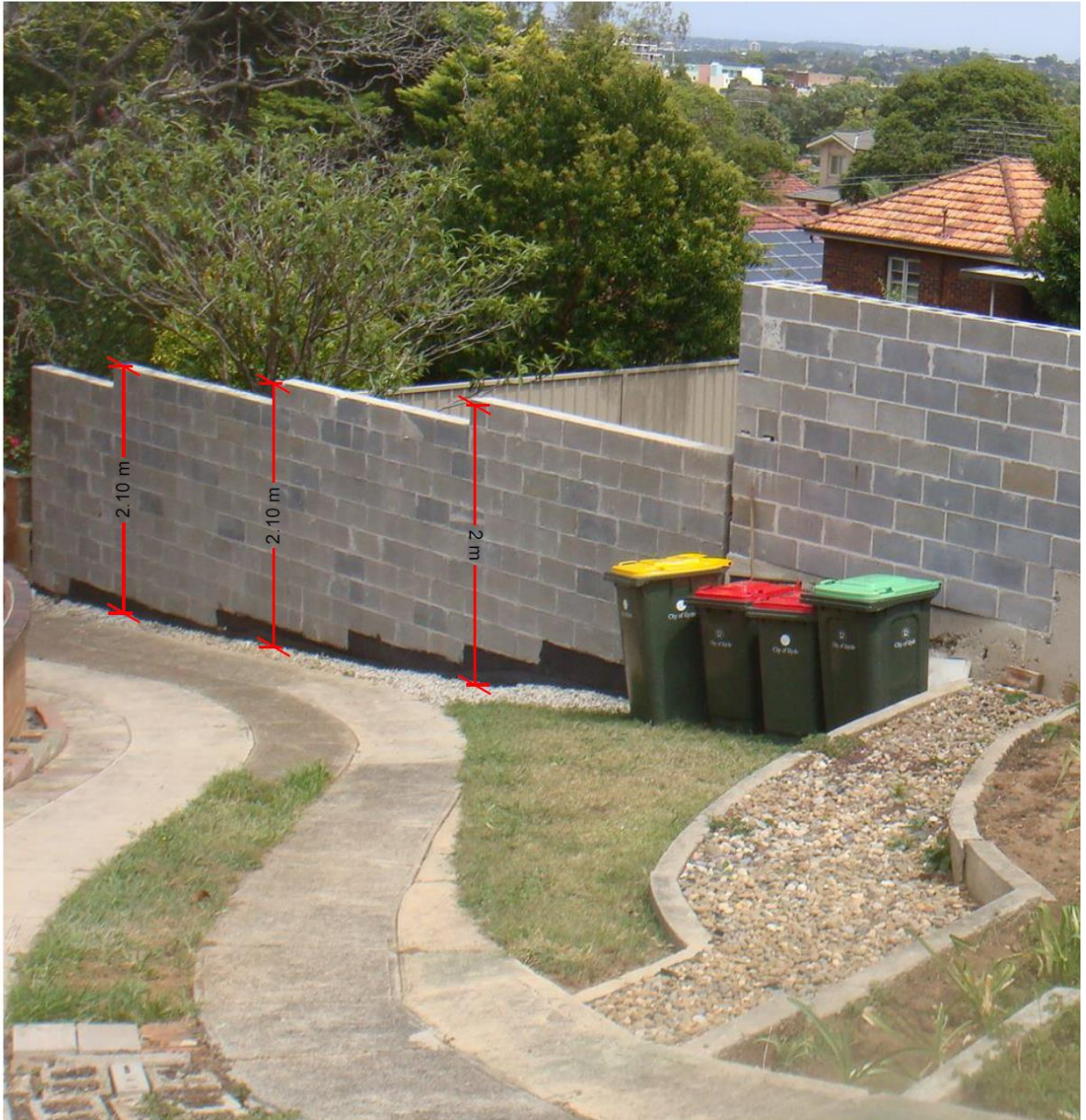


Photo showing the current status of the concrete block wall constructed adjacent to the eastern boundary viewed from the neighbouring property 1 Willandra Street

ITEM 4 (continued)

ATTACHMENT 1

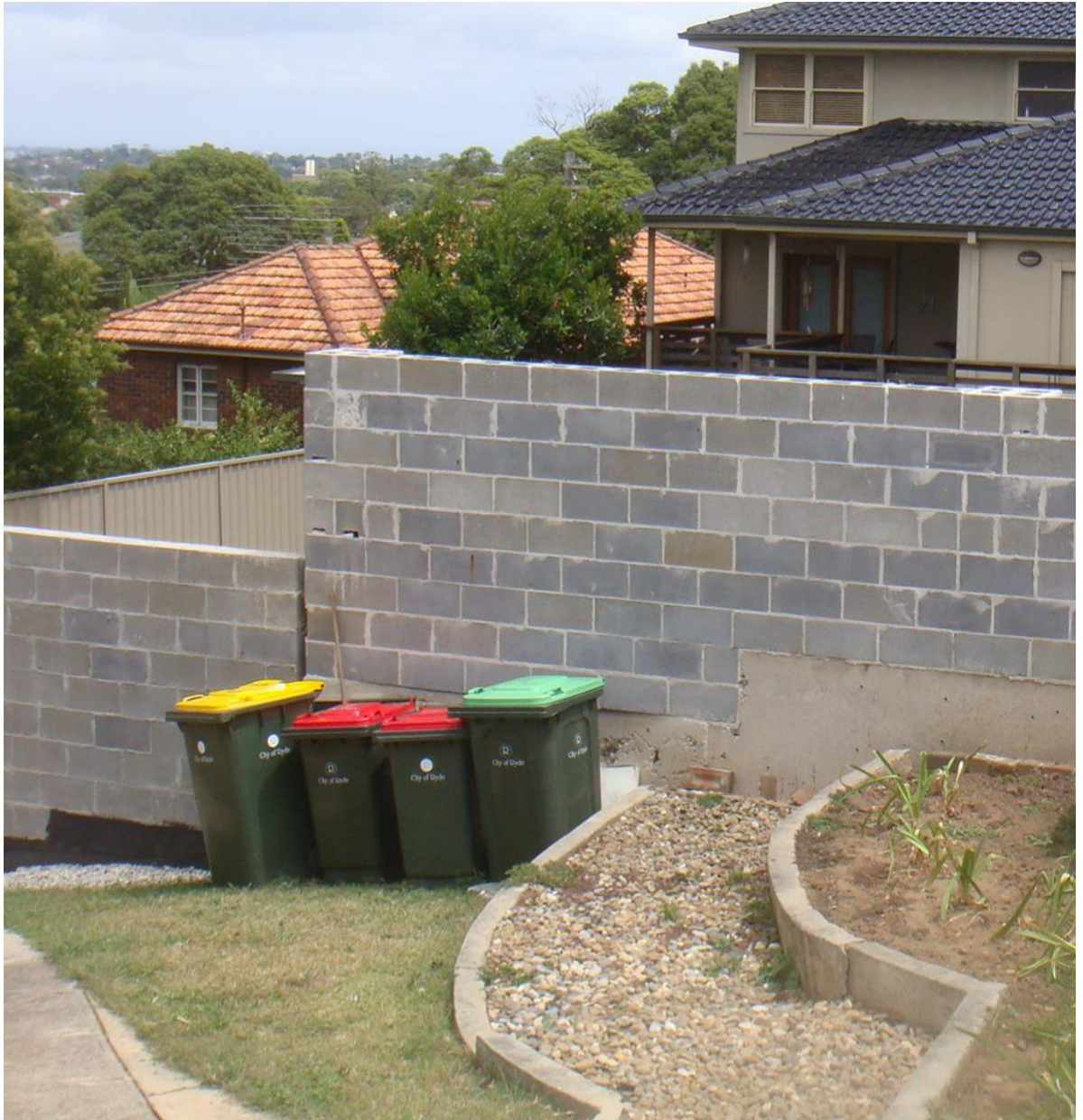


Photo showing the current status of the concrete block wall constructed adjacent to the eastern boundary viewed from the neighbouring property 1 Willandra Street

ITEM 4 (continued)

ATTACHMENT 1

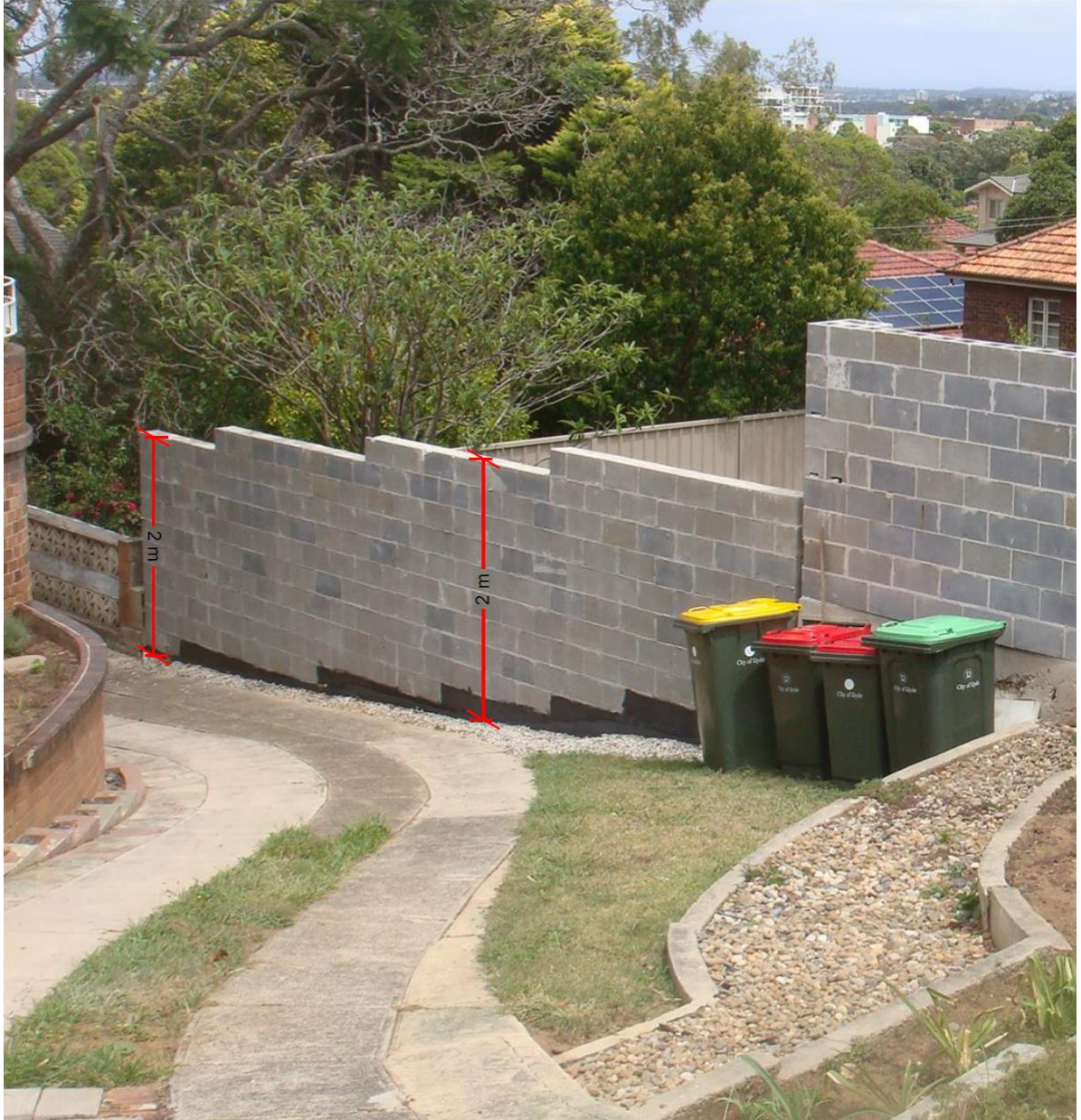


Photo showing the current status of the concrete block wall constructed adjacent to the eastern boundary viewed from the neighbouring property 1 Willandra Street