

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

NOTICE OF BUSINESS

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3	492 BLAXLAND ROAD, DENISTONE. Development Application for a multi dwelling housing development comprising four (4) dwellings pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009. LDA2014/0220.	106

1 CONFIRMATION OF MINUTES - Meeting held on 7 October 2014

Report prepared by: Meeting Support Coordinator**File No.:** CLM/14/1/3/2 - BP14/1090

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 10/14, held on Tuesday, 7 October 2014, be confirmed.

ATTACHMENTS

- 1 Minutes - Planning and Environment Committee - 7 October 2014

ITEM 1 (continued)

ATTACHMENT 1

**Planning and Environment Committee
MINUTES OF MEETING NO. 10/14**

Meeting Date: Tuesday 7 October 2014

Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde

Time: 5.04pm

Councillors Present: The Mayor, Councillor Pickering and Councillors Chung, Laxale, Simon and Yedelian OAM.

Note: The Mayor, Councillor Pickering left the meeting at 5.07pm and was not present for consideration and voting on Items 2 and 3.

Apologies: Councillor Salvestro-Martin.

Staff Present: Acting General Manager, Group Manager – Corporate Services, Acting Group Manager – Environment and Planning, Service Unit Manager – Assessment, Team Leader – Assessment, Assessment Officer – Town Planner, Senior Development Engineer, Business Support Coordinator – Environment and Planning, Section Manager – Governance and Meeting Support Coordinator.

DISCLOSURES OF INTEREST

Councillor Yedelian OAM disclosed a Less than Significant Non-Pecuniary Interest in Item 3 – 21 Winbourne Street, West Ryde for the reason that applicant has been known to him for many years.

1 ELECTION OF CHAIRPERSON AND DEPUTY CHAIRPERSON

The Acting General Manager, as Returning Officer, gave an overview of the election process in relation to the election of the Chairperson and Deputy Chairperson.

METHOD OF VOTING FOR CHAIRPERSON AND DEPUTY CHAIRPERSON

The Returning Officer presented the options on the method of voting for Chairperson and Deputy Chairperson.

RESOLUTION: (Moved by Councillors Yedelian OAM and Simon)

- (a) That the method of voting for the election of the Chairperson and Deputy Chairperson be open voting by show of hands.
- (b) That the Acting General Manager, as Returning Officer, undertake the election of the Chairperson and Deputy Chairperson for the ensuing twelve (12) months by announcing the nominations and then conducting the election.

ITEM 1 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: Unanimous

ELECTION OF CHAIRPERSON

The Returning Officer called for nominations for the position of Chairperson of the Committee and received nominations for Councillor Chung and Councillor Laxale.

The Returning Officer called for any further nominations. As there were none, nominations were closed.

The Returning Officer confirmed with both Councillor Chung and Councillor Laxale that they accepted their nomination.

The ELECTION FOR CHAIRPERSON was conducted which resulted in the following voting:

Councillor Chung 3 votes

Voting in favour: The Mayor, Councillor Pickering and Councillors Chung and Yedelian OAM

Councillor Laxale 2 votes

Voting in favour: Councillors Laxale and Simon

As a result of the voting, COUNCILLOR CHUNG WAS DULY ELECTED CHAIRPERSON FOR THE ENSUING YEAR.

Councillor Chung assumed the Chair.

ELECTION OF DEPUTY CHAIRPERSON

The Returning Officer called for nominations for the position of Deputy Chairperson of the Committee and received nominations for Councillor Yedelian OAM and Councillor Simon.

The Returning Officer called for any further nominations. As there were none, nominations were closed.

The Returning Officer confirmed with both Councillor Yedelian OAM and Councillor Simon that they accepted their nomination.

The ELECTION FOR DEPUTY CHAIRPERSON was conducted which resulted in the following voting:

Councillor Yedelian OAM 3 votes

Voting in favour: The Mayor, Councillor Pickering and Councillors Chung and Yedelian OAM

Councillor Simon 2 votes

Voting in favour: Councillors Laxale and Simon

ITEM 1 (continued)

ATTACHMENT 1

As a result of the voting, COUNCILLOR YEDELIAN OAM WAS DULY ELECTED DEPUTY CHAIRPERSON FOR THE ENSUING YEAR.

2 CONFIRMATION OF MINUTES - Meeting held on 2 September 2014

Note: The Mayor, Councillor Pickering was not present for consideration and voting on this Item.

RESOLUTION: (Moved by Councillors Yedelian OAM and Laxale)

That the Minutes of the Planning and Environment Committee 9/14, held on Tuesday 2 September 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.

3 21 WINBOURNE STREET, WEST RYDE. LOT 4 DP 39266. Local Development Application for Alterations and additions and change of use of existing dwelling to a childcare centre for 39 children. LDA2013/0420.

Note: The Mayor, Councillor Pickering was not present for consideration and voting on this Item.

Note: Councillor Yedelian OAM disclosed a Less than Significant Non-Pecuniary Interest in this Item for the reason that applicant has been known to him for many years.

Note: Wayne Gorman (objector) and Nigel White (planner on behalf of applicant) addressed the meeting in relation to this Item.

Note: Documents circulated from Nigel White (planner on behalf of applicant) were tabled in relation to this Item and a copy is ON FILE.

RECOMMENDATION: (Moved by Councillors Yedelian OAM and Laxale)

- (a) That Local Development Application No. 2013/420 at 21 Winbourne Street, West Ryde, being LOT 4 DP 39266 be deferred for a meeting to be held with the Group Manager – Environment and Planning and the applicant to discuss amendments to address the issues raised in the assessment report.
- (b) That amended plans be submitted to Council and renotified to all adjoining owners and those people who made submissions.
- (c) Subject to parts (a) and (b) above, a further report be submitted the Planning and Environment Committee.

ITEM 1 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **14 OCTOBER 2014** as substantive changes were made to the published recommendation.

The meeting closed at 5.35pm.

CONFIRMED THIS 4TH DAY OF NOVEMBER 2014

Chairperson

- 2 46-48 GLADSTONE AVENUE, RYDE. LOTS F and G DP 32873. Local Development Application for demolition of existing structures and construction of a 3 storey residential flat building containing 12 apartments and car parking for 16 vehicles. LDA2013/0173.**

INTERVIEW: 5.00pm

Report prepared by: Senior Town Planner

Report approved by: Manager Assessment; Acting Group Manager - Environment and Planning

Report dated: 7/10/2014

File Number: grp/09/5/6/2 - BP14/1226

1. Report Summary

Applicant: Legge Architects.

Owner: Solomon Holdings Australia Pty Ltd

Date lodged: 29 May 2013.

This report considers a proposal for demolition of 2 detached dwellings and construction of a 3 storey residential flat building containing 12 residential apartments with one basement level for 16 cars. The site comprises two lots which will be amalgamated.

The Development Application (DA) was publicly exhibited from 26 June 2013 to 10 July 2013. During this period, 23 submissions were received objecting to the development. A preliminary assessment and review by Council's Urban Design Review Panel (UDRP) indicated various non-compliances and issues with the application.

The applicant subsequently submitted several sets of amended plans in order to address the issues raised in the submissions and by the UDRP. The final set of amended plans was submitted on 17 July 2014. These plans were re-notified on 30 July 2014 for 14 days. During which 13 submissions were received from 11 properties. The impacts of this development are not considered sufficient to warrant the refusal of the application. The issues raised in the submissions have been adequately addressed either by amended plans or via recommended conditions.

At the time of lodgement, the Local Environmental Plan 2010 was applicable. As Council would be aware, the Ryde Local Environmental Plan 2014 (LEP2014) was notified on the legislation website on 12 September 2014 and as a result LEP2014 is now in force. However, pursuant to the savings provisions in the LEP2014, the proposal has been assessed under LEP2010.

Under the LEP2010 the site is zoned R4 High Density Residential and the main applicable controls are height and density. The development complies with the height restriction however exceeds the density control under Clause 4.5B. The density control is based on a site area requirement for one, two and three bedroom

ITEM 2 (continued)

apartments. This results in the development requiring a site area of 1,720m² whereas the site area is 1,139.6m². However, it is noted that this density control has been deleted and replaced with a floor space ratio (FSR) control of 1:1 for this site under the new LEP2014. The development has proposed a FSR of 0.89:1. This represents a full compliance with the new LEP2014. Given that the new LEP2014 is in force and this density provision will no longer apply to any new DAs, Council may resolve to vary this control with respect to the current DA to achieve consistency with the new LEP2014.

The development fully complies with the more substantive controls under the Ryde Local Environmental Plan 2010 and controls under the LEP2014 including maximum height provision and floor space ratio (FSR). The proposal generally complies with Residential Flat Design Code in relation to design and amenity requirements except for a minor breach of building separation requirement by 1m at the northern and eastern corner of the building which is considered satisfactory on merits. The proposal has been supported by Council's Urban Design Review Panel (UDRP) subject to recommended changes which have been incorporated in the amended design.

It is recommended that the proposed development be approved, subject to conditions of consent.

Reason for Referral to Planning and Environment Committee: Number of submissions received and requested by Councillor Pendleton and Councillor Maggio.

Public Submissions: 23 submissions were received from 13 properties in relation to the original proposal including a petition with 46 signatures;
13 submissions were received from 11 properties to the amended proposal.

SEPP 1 (or clause 4.6 RLEP 2010) objection required? Yes. The development does not comply with the density provisions contained in under Clause 4.5B of the RLEP 2010. Based on the number of apartments, the development is required to provide a site area of 1,720m². The development has a site area of 1,139.6m².

Value of works: \$2,519,330.00

A full set of the plans is **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors - subject to copyright provisions.

RECOMMENDATION:

- (a) That Local Development Application No. 2013/0173 for 46- 48 Gladstone Avenue be approved subject to the **ATTACHED** conditions (Attachment 1).

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(b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Draft Conditions
- 2 Map
- 3 A4 Plans
- 4 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER.

Report Prepared By:

Sanju Reddy
Senior Town Planner

Report Approved By:

Liz Coad
Manager Assessment

Meryl Bishop
Acting Group Manager - Environment and Planning

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2. Site (Refer to attached map.)



- Address** : 46-48 Gladstone Ave Ryde.
- Site Area** : 1139.6m² (combined area).
Frontage: 31.5metres (combined).
Depth: 30 metres – 39 metres.
- Topography and Vegetation** : The site is located on the eastern side of Gladstone Avenue with a cross-fall of approximately 3.5m from north corner to south. The site does not contain any significant vegetation.
- Existing Buildings** : The site contains two detached dwelling houses.
- Planning Controls Zoning** : R4 – High Density Residential

ITEM 2 (continued)

Zoning Extract from Local Environmental Plan 2014



Other : Ryde Local Environmental Plan 2010.
Ryde Local Environmental Plan 2014
Development Control Plan 2014.
State Environmental Planning Policy No. 65 – Design Quality
of Residential Flat Developments
State Environmental Planning Policy No. 55 – Remediation of
Land
State Environmental Planning Policy (Building Sustainability
Index: BASIX) 2004

3. Councillor Representations

Name of Councillor: Councillor Pendleton.

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

Date: 1 July 2013.

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

On behalf of applicant or objectors? Objectors.

Any other persons (e.g. consultants) involved in or part of the representation: No.

Name of Councillor: Councillor Maggio.

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

Date: 22 July 2013.

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

On behalf of applicant or objectors? Objectors.

Any other persons (e.g. consultants) involved in or part of the representation: No.

4. Political Donations or Gifts

Any political donations or gifts disclosed? None disclosed.

5. Proposal

Demolition of existing structures and construction of a 3 storey residential flat building containing 12 apartments and car parking for 16 vehicles.

FRONT VIEW



ITEM 2 (continued)

LAYOUT PLAN



6. Background

- 29 May 2013: DA was lodged on 29 May 2013;
- 25 June 2013: The application was reviewed by Council's Urban Design Review Panel which did not support the proposal for various reasons;
- 26 June 2013: The application was advertised in the Northern District Times and residents within the extended area were notified of the proposal;
- 10 July 2013: The submission period ended and Council received 23 submissions objecting to the development;
- 22 August 2013: The applicant was informed of the submissions and the issues raised by the Urban Design Review Panel via email correspondence;
- 17 September 2013: A full assessment of the Application was completed and the applicant was notified of the following issues and was advised to withdraw the application:
 - Lack of architectural details on the plans and poor quality of application;
 - Non-compliance with height;
 - Non-compliance with SEPP65 design principles;
 - Non-compliance with side and rear setbacks;
 - Inadequate building separation;
 - Car parking, traffic and waste management issues;
 - Solar access, overshadowing, landscaping, privacy impact etc;
 - Issues raised by the residents;
 - Issues raised by Council's UDRP.

ITEM 2 (continued)

- 4 December 2013: The applicant submitted amended plans to be reviewed again by Council's Urban Design Review Panel;
- 10 December 2013: The amended proposal was reviewed by the UDRP and various issues were raised again. It was also noted that the previously raised issues had not been adequately addressed. The UDRP did not support the application;
- 3 March 2014: The applicant was sent a final letter advising to submit amended plans or withdraw the application by 17 March 2014 or it would be forwarded to Planning & Environment Committee with a recommendation for refusal;
- 13 March 2014: The applicant advised that he did not wish to withdraw the application, requested an extension of time to submit amended plans and advised of the following:
 - There is a change in the ownership and the new owners wish to proceed with amended proposal;
 - That they will make changes in the proposal to incorporate all suggestions made by the UDRP;
 - The amended drawings will be submitted to Council by Monday 17 March 2014.
 - Requested that the amended design be considered again by the UDRP (3rd time);
- 19 March 2014: The applicant submitted amended design for consideration by the UDRP;
- 28 March 2014: Amended hard copy plans were received with additional information for the UDRP;
- 16 April 2014: The amended proposal was reconsidered by Council's UDRP;
- 21 May 2014: Formal comment from the UDRP was received by Council which was forwarded to the applicant on the same day. The Panel noted an improvement in the design. The Panel's advice contained specific suggestions for the applicant to incorporate in the design prior to lodgement of final plans for Council's determination;
- 6 June 2014: The applicant submitted draft plans for review by Council officers in preparation for lodgement of the amended design. The plans were reviewed and the following advice was provided to the applicant:
 - Parking layout and engineering issues;
 - BASIX: An amended BASIX Certificate is required with the amended application/proposal;
 - Accessible space should be closer to the lift for safety and convenience;
 - Retaining walls must be setback from the property boundary. All these details including TOW RLs must be plotted on the architectural plans and accompanied with section drawings;
 - Insufficient Levels;
 - Lack of storage space in the basement;
 - Require additional cross sections;

ITEM 2 (continued)

- Traffic Control light: The proposed traffic light located at the front boundary is a major concern in terms of its proximity to the public domain area, light spillage, aesthetics and streetscape impact;
- Architectural error – various issues as identified by Assessment Officer;
- Waste Management: details to be submitted;
- New Statement of Environmental Effect with SEPP 65 compliance table should be submitted with amended details;
- Access Report: Required;
- Shadow diagrams: required drawn to appropriate scale;
- Electrical Substation – consider location of substation if required;
- Rear balconies: Screening of rear balconies to address privacy concerns;
- Passing bay – provide passing bay to ensue no queuing occurs on the road;
- 17 July 2014: Final amended plans were received by Council;
- 30 July 2014: The amended proposal was advertised in the Northern District Times and residents and previous objectors were notified for 14 days;
- At the end of the submission period 13 submissions were received from 11 properties;
- Additional details to address the issues in the submissions were received on 16 September 2014 (view sharing).
- 19 September 2014: Council Officers contacted residents of 31 Gladstone Avenue (on site) to review view impact.

7. Submissions

The proposal was advertised and notified in accordance with Development Control Plan - Part 2.1, Notification of Development Applications. The original application was advertised on 26 June 2013 until 10 July 2013. During this time, 23 submissions were received from 13 properties objecting to the development.

The applicant submitted final amended plans on 17 July 2014. The amended proposal was re-notified on 30 July 2014 for 14 days during which 13 submissions were received from 11 properties objecting to the amended proposal.

The issues raised in the submissions and how it has been addressed are discussed below:

- a) **Why was the site rezoned?** *Why specifically 44-46 Gladstone Ave was rezoned for high density residential (R4), especially given that it has no frontage to Victoria Road and the rest of the lots on that side of the street are zoned for low density residential.*

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Assessment Officer's Comments

The land at 46-48 Gladstone Ave Ryde was zoned for high density residential development in 1979, that is, over 34 years ago. Included below is an extract of the Ryde Planning Scheme Ordinance, 1979 map which shows the subject land zoned as 2(c1). As can be seen from the map below the subject property was zoned Residential (c1) under the Ryde Planning Scheme Ordinance (RPSO) in 1979 - and under that zoning residential flat buildings were permitted with consent in the land use table.

The RPSO was superseded by the Local Environmental Plan 2010 (LEP2010) which retained the zoning of the site as High Density Residential as a result of the 'like for like' transfer of the previous zoning. As such in the 'like for like' conversion of zones from the Ryde Planning Scheme to the Standard Instrument (LEP 2010) - all higher density residential zones were converted to the equivalent R4 High Density Residential zones. It should be noted therefore that the zoning of the land did not change from June 1979 to date as is shown in Ryde LEP 2010 came into effect. Further the recently gazetted LEP2014 retains the R4 zoning of the site as well.

Zoning Extract from Ryde Planning Scheme Ordinance



As to why it was zoned to allow residential flat buildings under the RPSO, this was due to its location close to public transport, the demand for affordable housing in the metropolitan region at the time (including close to local employment areas such as Meadowbank and Ryde Town Centre) and the close proximity of similarly zoned land along Victoria Road and north western side of Gladstone Avenue.

- b) ***Inadequate exhibition material:*** *The documentation given at Council Office gives no significant additional details beyond what we received in the mail. I query whether the exhibition satisfies the requirements under the EP& A Regulations 2000, specifically Clause 56 (2)(b).*

ITEM 2 (continued)Assessment Officer's Comment:

The Application was publicly exhibited twice (the original and then the amended proposal). The notification letters sent out to the residents with A4 size plans advised that details of the proposal could be viewed at the Council Office upon request. An extract from the notification letter is included below:

Enclosed are A4 reduced plans providing a representation of the proposed activity. An electronic copy of the plans and details accompanying the application can be viewed at the Ryde Planning and Business Centre, 1 Pope Street Ryde (within the Top Ryde Shopping Centre) between 9.00am and 5.00pm Monday to Friday during the notification period. To make an appointment go to www.ryde.nsw.gov.au/planningandbusiness or call the Customer Service Centre on 9952 8222.

During the second round of notification, the notification letter also indicated in general terms the nature of amendments as shown below:

The proposal has been amended as follows:

- 1. Increased building separation and side and rear setbacks to comply with Council's requirements;*
- 2. Communal open space on the roof level has been deleted, and relocated at ground on the north western corner to avoid overlooking into the residential properties that adjoin the site;*
- 3. Reduction in the number of apartments from 14 to 12 units;*
- 4. Building height has been lowered and the design incorporates a transition in height to address topography and zone changes;*
- 5. The roof has been changed to a flat roof;*
- 6. Other detailed architectural changes as shown on the amended architectural plans.*

The relevant clause of the Environmental Planning & Assessment Regulation 2000 requires the following:

56(2) Extracts of a development application relating to the erection of a building:

- (a) sufficient to identify the applicant and the land to which the application relates, and,*
- (b) containing a plan of the building that indicates its height and external configuration, as erected, in relation to the site on which it is to be erected, if relevant for that particular development, are to be made available to interested persons, either free of charge or on payment of reasonable copying charges.*

ITEM 2 (continued)

The notification was carried out in accordance with Council's Notification Policy contained in the relevant Development Control Plan and in accordance with Clause 56(2) of the EP& A Regulation 2000.

- c) **Height non-compliance:** *We do not support any variation to the building height. Height compliance cannot be achieved for the following reasons:*
- i. *The lift overrun has not been shown on the plans and if the overrun is accounted for, it will result in height non-compliance;*
 - ii. *The proposed floor to floor heights are minimal and would not be sufficient to support the slab thickness, services and fittings within the roof.*

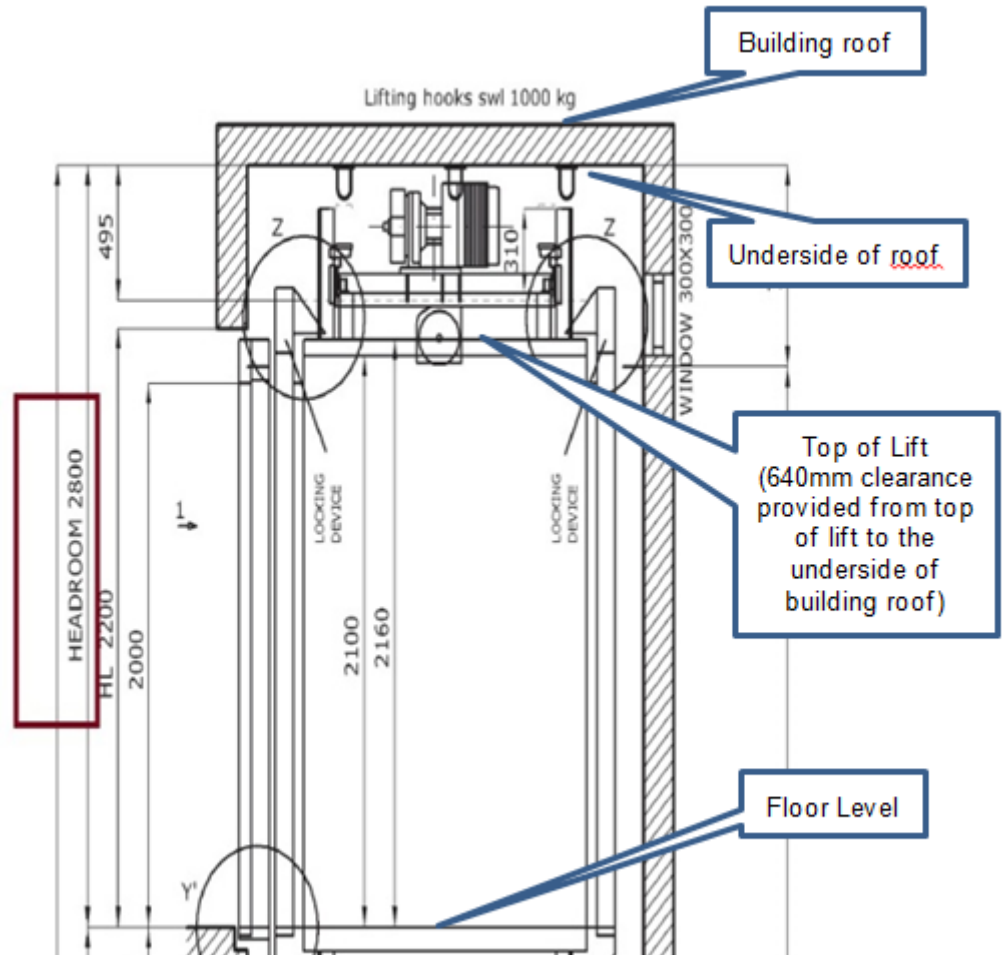
Assessment Officer's Comments:

No variation to the 9.5m building height is proposed. The proposal demonstrates full compliance with the maximum building height which is discussed in detail later in this report. With respect to the lift clearance and floor to ceiling height the following comment is provided:

- i. The applicant has provided manufacturers specifications of the lift that will be used in this development. The proposed Renova Electric lift requires a total of 2.8m headroom clearance to accommodate the lift car (2.16m height) and the motor overrun (640mm). The floor to ceiling height clearance on the top floor level is 2.8m and based on the Section diagram of the lift provided below the lift car and the lift motor attachment can be accommodated within the proposed height clearance. This confirms that additional building height is not warranted. The issue raised in the submission is irrelevant as it contradicts the details shown on the plans.

ITEM 2 (continued)

LIFT VERTICAL SECTION



ii. The proposed floor to floor height on all levels is a minimum of 3.0m. The floor to ceiling height of a minimum 2.7m can be achieved as required by SEPP65 after allowing for 180mm for the slab thickness and 120mm for services. Other similar RFB in the vicinity have been approved with similar floor to floor height. No further issues are raised in relation to this matter.

d) **Number of storeys:** Section 2.2 of the DCP Part 3.4 requires that development within the Area 2 precinct must not exceed a maximum of 2 storeys. The proposed development clearly exceeds this height control.

Assessment Officer's Comments

The recent changes to the EP&A Act require the consent authority to be "flexible" and allow reasonable alternative solutions in applying the DCP provisions. However, the DCP height control (based on storeys) referred to above (conflicts with the height provision of RLEP2010 based on metres) and

ITEM 2 (continued)

therefore the DCP provision has no effect to the extent that it is “inconsistent or incompatible with” Council’s RLEP 2010 pursuant to Clause 74C(5) of the EP&A Act, 1979.

It should also be noted that this part of the DCP has now been superseded by DCP2014 and the height restrictions in terms of storeys no longer applies as it has been deleted. The RLEP 2010 identifies a 9.5m height restriction for the site and the proposal complies with this control.

The proposed height is compatible with the heights of the adjoining RFB’s to the north which is 4 storeys high (much higher than the proposed development). The building also allows for height transition to the south western side to address the topography and the single dwelling located on the south western side. In addition, the height of the development is considered appropriate by Council’s Urban Design Review Panel. In these circumstances, the height is considered appropriate despite the non-compliance with the storeys control under DCP2010.

- e) **Setbacks:** *Under the DCP (Part 3.4) a 6 metre setback is required from the side and rear boundaries for a 3 storey building. The amended proposal falls short along the rear (south) boundary since the proposed building is not parallel to the rear boundary.*

Assessment Officer’s Comments

At the rear southern corner of the building the rear setback is 6.3m from the boundary and at the eastern corner is 5.8m from the boundary (only the corner section of the building). The average rear setback is 6.05m. The variation has resulted because of the irregular shape of the allotment and the building not being presented parallel to the rear boundary.

With respect to the DCP requirements, Clause 3.2.2 of the DCP Part 3.4 allows Council to vary the side and rear setback and states that a *portion of an external wall or a balcony may, at Council’s discretion, be permitted to stand closer to the adjacent side and/or rear boundary than that specified in the diagram in Figure 3.4.03 provided:*

- a. *The portion of the external wall and/or balcony so set back does not encroach more than 25% on the specified setback;*
- b. *A minimum setback of 3m is maintained;*

Both of the above criteria are met. In addition, the Urban Design Review Panel did not raise any objections to the proposed building set-out and the slight variation to the setback in the southern corner given that it is marginal and that the average setback complies with the 6m requirement. The rear section of the building (balconies) will be adequately screened.

ITEM 2 (continued)

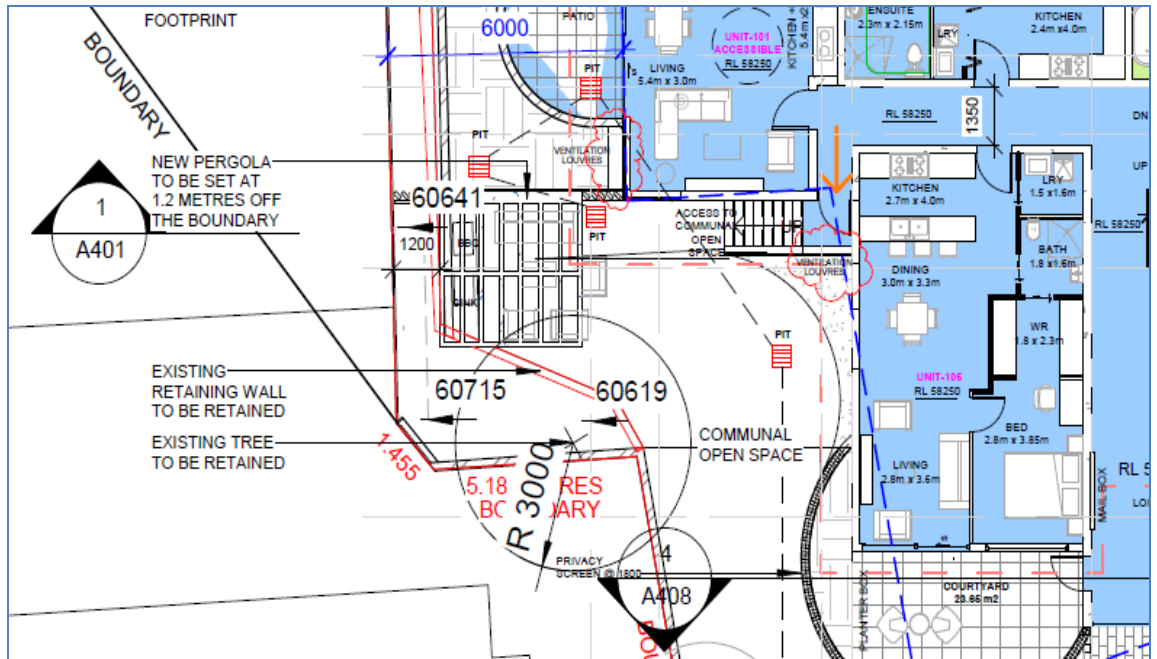
- f) **Tree removal:** *The tree Casuarina glauca must be retained as not only is it a natural habitat for birdlife it is the only significant tree in this neighbourhood.*

Comments:

In the original proposal this tree was to be retained. However as part of amendments required to the Urban Design Review Panel, the communal open space was relocated from the roof top to the ground level adjacent to the subject tree (so as to reduce the privacy impacts on the adjoining sites). The applicant still maintained that the tree would be retained, notwithstanding the level of encroachment around the root zone. In light of the submission and the level of encroachment around the tree, the proposal was reviewed by Council’s Consultant Landscape Architect on 20 August 2014. The advice received from the Landscape Architect indicated that the level of encroachment by the proposed works will be significant and as such will impact on the tree.

In order to ensure that the tree could be protected and retained, the applicant submitted an amended plan showing increased setback of the pergola from the tree. The plan also shows (see plan below) retention of existing retaining wall within the vicinity of the tree trunk so as to minimise disturbance to the root zone.

PLAN SHOWING PERGOLA SETBACK FROM THE TREE



ITEM 2 (continued)

The amended plan was reviewed by Council's Consultant Landscape Architect again on 22 September 2014. The following advice was received:

The revised design, including maintaining the existing retaining wall and levels surrounding the tree will significantly reduce the level of encroachment and as such it will now be capable of retention subject to a condition which requires a Project Arborist be engaged to install appropriate tree protection measures and supervise any works taking place within the tree protection zone.

Accordingly, the tree will be retained and appropriate conditions have been recommended to ensure tree protection measures are in place before any work commences around the tree and that the works around the tree is supervised by a qualified Arborist (refer to Conditions 1, 26, 27 & 28).

- g) ***Inadequate Landscaping:*** *Lack of landscaping along the rear boundary with the limited planting area and poor choice of species - proposed Brush Cherry and Scrub Cherry shrubs are small ornamental plants which will do nothing to provide visual relief from the bulk and scale of the proposed 3 storey apartment building.*

Assessment Officer's Comments

In relation to this concern, the application was reviewed by Council's Consultant Landscape Architect who provided the following advice:

- *The landscaping along the rear boundary includes forty-three (43) Syzygium 'Australe Select Form' (Lilly Pilly) planted at approximately 1m spacing's. Given this species has a mature width of approximately 1.5m, it is anticipated that full coverage can be expected along the rear boundary between a height of 3-5m and this is therefore not considered to be sparse. Furthermore, the proposed Lilly Pilly is not considered to be a 'small ornamental plant' but rather a large screening shrub with a dense form and upright habit.*
- *With regards to the level of cut resulting in the landscaping not being visible from the adjoining properties, although it is acknowledged that excavation is to occur within the rear of the allotment, the level of the planting beds adjacent to the boundary are remaining similar to the existing levels with only minimal excavation to occur (minimal level changes proposed at the boundary). It is therefore considered that the landscaping will be visible from the adjoining allotments.*
- *With regard to having a softening effect on the building, it is acknowledged that the proposed Syzygium 'Australe Select Form' will not provide softening to the upper levels of the building due to its maximum height of 3-5m. Accordingly a condition has been imposed which requires the planting of three (3) additional*

ITEM 2 (continued)

*Cupaniopsis anacardoides (Tuckeroo) along the rear boundary which include a mature height of 8-12m and mature spread of 8-10m interspersed with an additional three (3) *Elaeocarpus reticulatus* (Blueberry Ash) which include a mature height of 6-8m and a mature spread of 3-4m (see Condition 47). This additional planting is considered to provide appropriate screening and visual privacy whilst also softening the built form of the development.*

- *Further to this, the proposed pot sizes of the trees and shrubs has been conditioned to be increased so as to provide advanced specimens that have an immediate impact to the development when planted to provide screening and visual softening and that relate to the scale of the development (Condition 48).*

Based on the above it is considered that the proposed landscaping is satisfactory.

h) **Boundary Fences:** *That the following conditions in respect to boundary fencing be imposed as part any development consent issued:*

- **Along boundaries of 41 & 43 Princes Street:** *A new 2.4m high masonry rendered and painted boundary fence must be constructed along the common rear boundary with 41 and 43 Princes Street at no cost to the neighbours.*
- **Along boundaries of 39 Princes Street:** *A new 2.1m high lapped timber with steel posts boundary fence must be constructed along the common boundary at no cost to the neighbour (submission received from Urbis).*

Assessment Officer's Comments

The site levels are not being altered at the common boundaries where the development site adjoins the above sites. The excavation for the courtyards and the basement will be setback from the side and rear boundaries. Any required retaining walls will be provided separate from the fence and will also be setback from the common side/ rear boundaries. A 2.4m high masonry fence will deter from the character of other adjoining fences in term of height and construction material. It should also be noted that another submission received by Council (discussed under item (s) below) from a resident at No. 39 Princes Street dated 12 August 2014, advises Council that the objector "will not accept anything other than a lapped timber fence".

In light of the above, the applicant agrees to provide a 2.1m high lapped and capped timber fence along the common boundaries of 39, 41 & 43 Princes Street. This fencing combined with the planting is considered sufficient to ensure that the development will not result in overlooking from the ground floor. This is considered satisfactory (see Condition 56).

ITEM 2 (continued)

- i) **Garbage Bin:** *Another 12 bins on collection day will be put at the top of a very small cul-de-sac. There is only just enough room now to fit the bins of those in the area. This would also create more issues with parking as outlined above. It is reasonable and fair for residents to have both parking and their bins collected in front of their residences. How would the council ensure the issue with the bins was fixed, since there is only space for the bins for the residences that are already in this street?*

Assessment Officer's Comments

The application proposes to combine 2 sites and thus 2 frontages with a single driveway. This will result in reasonable frontage being available for bin stacking on the collection days. The parking matter can be addressed by conditions of consent.

This aspect of the proposal was reviewed by Council's Waste Management Coordinator who has recommended approval subject to the following conditions:

- **Bin Collection.** Bins will need to be brought to the kerbside for collection by the building caretaker
- **Signage.** "No Standing on Monday between 5.00am and 11.00am" signs will need to be installed to ensure clear access to the bins.

The above conditions have been included in the recommended conditions (see Conditions 120, 125).

- j) **Construction Noise:** *The residents in this street have already had to deal with construction noise due to the development at 690 Victoria Rd. This interferes with our ability to work and sleep from the noise and our right to have quiet enjoyment of our homes. I realize that development must occur, however this continual (for possibly years if this development goes ahead) noise and construction dust associated with the constant construction is unacceptable for anyone. Further to this, the owner-investors in this area will find it difficult to maintain tenants who have put up with the noise from these developments for the past two years;*

Assessment Officer's Comments

The area is going through a significant development phase. The proposed RFB is suitably located within the R4 zone and has been designed to respond to the opportunity that the site provides. Similar to any major redevelopment work, some level of inconvenience may result once the construction commences. The matters raised in the submission can be addressed via Demolition Work Plan, Construction Traffic Management Plan and restriction on work hours. In order to address the issue and to minimise traffic impact, the

ITEM 2 (continued)

applicant will be required to submit a Construction Traffic Management Plan for Council's approval prior to the issue of Construction Certificate. Accordingly conditions of consent have also been recommended to reduce any potential environmental impacts on the locality (Conditions 6, 20, 66 and 91).

- k) **Height Restrictions:** *Even though it may, or may not, comply with the maximum permissible height for the site is actually not that relevant. The maximum building height is set as a maximum and not as a "right" to develop to that maximum height. Council must consider other factors that may preclude the development reaching its maximum height such as amenity and impact on adjoining properties.*

Comments

Under Council's LEP2010 the height of a building on the subject site is not to exceed the maximum height of 9.5 metres. The development proposes a variable height ranging from 6.87m along the south western side boundary, 7.6m along the northern boundary and 9.2m along the central section of the building. As the maximum proposed building height is 9.2m, the proposal complies with the maximum height control. The above have been achieved through amended proposal as per Council's request. The proposed height now complies with Council's LEP2010. There are no further planning reason to seek a further reduction in height.

- l) **Inconsistent with existing character of the street:** *The existing dwellings on the eastern side of Gladstone Ave are all currently one to two storey dwellings. The proposed development, when compared to 44 Gladstone Ave, appears to be double the height of the dwelling. This towering building surely cannot be considered to provide an acceptable "transition" or be in character with the character and scale of the rest of Gladstone Avenue.*

Assessment Officer's Comments:

The streetscape comprises of residential flat buildings around the head of the cul-de-sac and on the western side of the street. Dwelling houses exists on the south eastern side of the street as marked up on the aerial photo provided below.

ITEM 2 (continued)



The residential flat buildings on Gladstone Avenue comprise 3-4 storey buildings as shown in the photo below. There is a 4 storey residential flat building on the adjoining site (immediately northeast of the subject site) and also on the sites opposite the subject site. A number of these buildings have access to Gladstone Avenue and the rest have access from Victoria Road (refer to plans below).

NORTH EASTERN VIEW OF GLADSTONE AV (Source: Google Streetview)



LOOKING NORTH EAST TOWARDS Cul-de-sac FROM COWELL STREET



ITEM 2 (continued)

SOUTH EASTERN SIDE OF GLADSTONE AVENUE (Source: Legge Architects)



Even though the streetscape depicts mixed characteristics, it is acknowledged that the site is located at the zone interface between the R4 zoned land and the R2 zoned land on the south eastern side (see map under Section 7(a) in this report). Thus compliance with maximum height and transition of height across the property is required to minimise impact and allow built form to reflect the change in zone to a lower density area.

After review of the original application, the issue of height, bulk and scale and the relationship with the existing single storey dwelling in Gladstone Avenue was raised by the Urban Design Review Panel. In light of the issues raised by the UDRP, the applicant has redesigned the proposal to address the height, building separation and height transition in the following matter:

- Increased the side setback along the southern side boundary;
- Lowered the height of the building;
- Created stepped profile on the lower side of the site to create a better interface with the adjoining dwelling house;
- Provided an additional 2m setback on the 3rd storey resulting in a combined side setback of 8m on that level from the side boundary;
- Deleted balconies facing the adjoining dwelling house at 44 Gladstone Avenue;
- Lowered the basement level;
- Deleted the roof terrace;
- Introduced comprehensive landscaping.

The west elevation below demonstrates how the building steps across the site to provide the required height transition.

ITEM 2 (continued)



The overall height of the proposed building is lower than the existing RFB located on the northern side of the subject site. With respect to the proposed building, the height changes from 9.2m (at the central part of the proposed building) to 8.8m and then to 6.87m towards the adjoining dwelling house adjacent to its side boundary. The wall of the proposed building facing the side boundary will be set back 6m from the common boundary with the low density residential property on the southern side.

The impact to 44 Gladstone Avenue has been mitigated by the development complying with the height and setback controls and providing adequate landscaping and height transition. The proposal has been architecturally design to reflect an acceptable bulk and scale suitable for the subject site. The proposed building is compatible with the existing streetscape. As detailed later in the report, the development is satisfactory in terms of overshadowing and overlooking. Given the zoning of the site, and acceptable design the issue raised in the submission is not sufficient to warrant the refusal of the development.

- m) **Car parking:** *Council is already aware of the car parking and traffic issues on this part of Gladstone Ave. It is clear that there is a lack of on street car parking on Gladstone Ave because of the higher density development in the vicinity with inadequate on site car parking and parking for visitors. If Council is aware of this, why contribute to the problem by approving another 12 units. I note that the applicant has reduced the number of units by 2, however it is still an intensification of the site in a cul-de-sac that, as outlined, has traffic and parking issues.*

Comments:

This issue was raised with the applicant at assessment stage. As a result various design changes have been incorporated to address the concern. The applicant engaged a Traffic Consultant to review the traffic situation. A Traffic Report prepared by GTK Consulting was submitted to Council with the revised proposal. The revised proposal and the Traffic Report were reviewed by

ITEM 2 (continued)

Council's Traffic Engineer. Council's Traffic Engineer did not raise any objections to the proposed development subject to conditions requiring Construction Traffic Management Plan.

The following comment was received from Council's Traffic Engineer:

The applicant has provided a traffic report noting the following matters;

- The consultant has presented traffic generation levels estimated to peak at 3 vtp (vehicle trips per hour) in the morning period and 2 vtp in the evening peak period. It is noted the applicant has applied the rates from the updated traffic survey data for high density development. The RMS definition of "high density" generally applies to flat buildings comprised of 20 or more units. Notwithstanding this, the RMS survey encompassed a range of building densities and has presented this data in the study. The data includes a 9-unit block in Wollongong which provided 19 vehicle spaces, equivalent to the proposed development. This data presents the traffic generation level from the site as 6 vtp in the morning peak and 2 vtp in the evening. Considering the proximity of the subject site to public transport and its lower parking capacity, a peak traffic generation level of 5 vtp in the morning peak hour would be expected. Despite this, it is agreed that the resulting level of traffic generation is low in that it presents 1 vehicle movement every 12 minutes on average.
- In regards to the concerns related to traffic flow in Gladstone Avenue, the report has investigated the road conditions and presented that the roadway has clear sight distance from either entries, there are 2-way/ double driveways located in the stretch of roadway in which vehicles could potentially overtake one another. In addition to this, it also includes photos of the parking conditions midday, which indicate that parking capacity peak traffic movement periods are likely to present numerous opportunities for vehicles to overtake one another. Considering this and the relatively low number of vehicle movements, this element does not warrant concern to a degree which would warrant refusal of the application. Accordingly, this aspect is considered satisfied.

In addition to the above, Council cannot ensure that vehicles do not park within Gladstone Avenue. All that Council can do is require the development to provide on-site car parking that satisfies the Council's DCP requirements. In this instance, the development is required to provide between 14 and 18 car parking spaces. The development has proposed a total of 16 car parking spaces. Accordingly, the development complies with Council's requirements.

- n) **Install fixed screens to balconies:** *The rear balconies will result in overlooking straight across to the rear bedroom, lounge room and backyard of 39 Princes Street. The loss of privacy, amenity and solar access has been totally disregarded for 39 Princes Street. There is no proposal to screen any of*

ITEM 2 (continued)

the windows on the northern side of the development and the proposed screening or lack thereof for the balconies overlooking our property. If the development is permitted to proceed then it must provide solid infill panel balustrades and permanent shutter screening on all balconies.

Assessment Officer's Comment:

This issue has been raised by the residents located at the rear of the site (Princes Road). The rear façade of the proposed building and the balconies are separated by a distance of 15m – 20m from the dwellings located on 39 – 49 Princes Street. This separation distance is greater than that required for building separation under the Residential Flat Design Code and more than the separation distance of other buildings located on the northern side (688 Victoria Road) and the south western side (44 Gladstone Avenue).

Based on the above separation distances, the Urban Design Review Panel did not recommend any additional setback or privacy measures on the rear balconies as they fully comply with the RFDC and are reasonably set back from the dwellings located along Princes Street. Further the applicant does not believe that additional privacy screening is required in light of the recommendations provided by the Urban Design Review Panel.

Notwithstanding the above, the applicant has agreed to provide additional screening to the upper level balconies (3rd level). The balconies to the upper levels will have permanent privacy screens. The setback/ separation distance and screening as required by condition of consent - see Condition 52 and 54) will ensure privacy is maintained while allowing some level of amenity and functionality of the balconies at the same time.

The screens will be as follows:

- i. The screens will be located in the central part of the edge of the balcony on the top floor level and will cover at least 60% of its sides facing Princes Street;
- ii. The privacy screens will be at least 1.7m in height from the finished floor level of the balcony;
- iii. The screens shall be constructed of horizontal obscured louvers fixed at 45 degree angle, upward facing to allow natural light to enter the balcony/ living space of the apartments but prevent overlooking into the adjoining residential properties. This will also allow adequate cross ventilation, sun penetration and amenity for the apartments;
- iv. The screens will be of permanent construction and must not be movable or operable by the future occupants;
- v. The screens must not be painted white or bright colours to prevent glare on the adjoining residents;

ITEM 2 (continued)

- vi. The Council will require full design details for approval before any Construction Certificate can be issued.

The above is considered reasonable to address the concerns of the residents.

- o) *Install privacy screen to windows:* Installation of external fixed shutters to all windows on the northern boundary to preventing overlooking into our property.**

Assessment Officer's Comment:

The windows on the north eastern elevation of the proposed building are located adjacent to irregular shaped triangular rear section of the adjacent property at 39 Princes Street. The location of the windows is marked by purple line. The affected area constitutes landscaped area with a metal shed as shown in the photo below on the adjoining property as shown marked yellow in the marked up aerial photo below. The landscaped area on the adjoining site adjacent to the proposed windows is located a significant distance away from the main living area/living rooms on the objector's property.

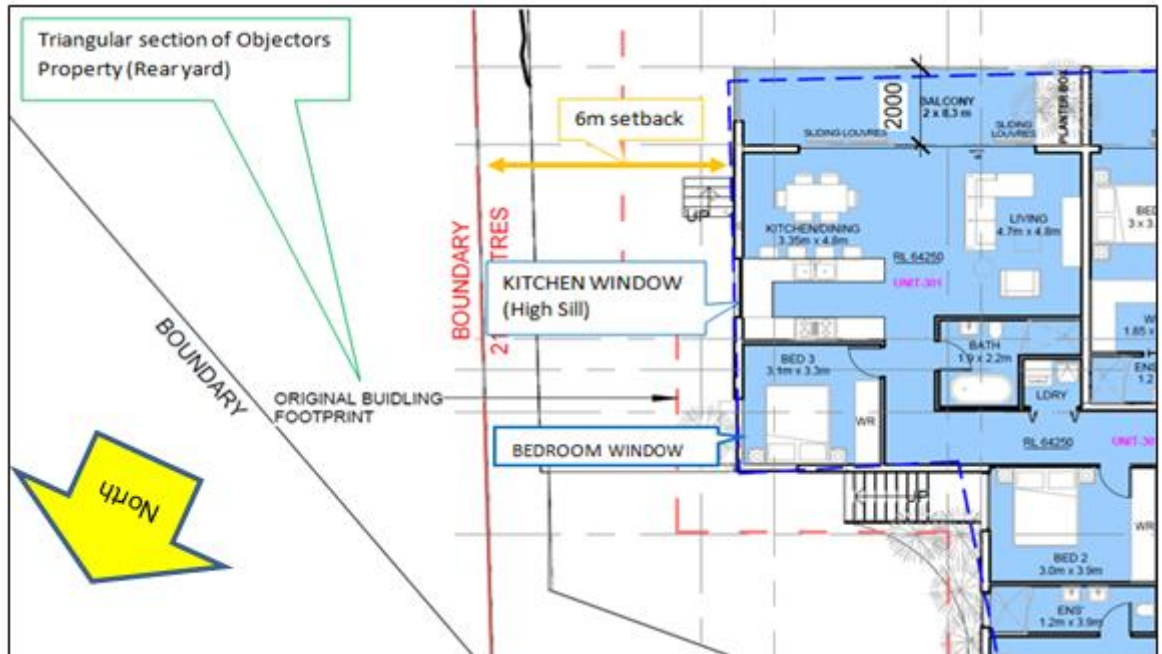
PHOTO SHOWING POSITION OF WINDOWS AND ADJOINING PROPERTY



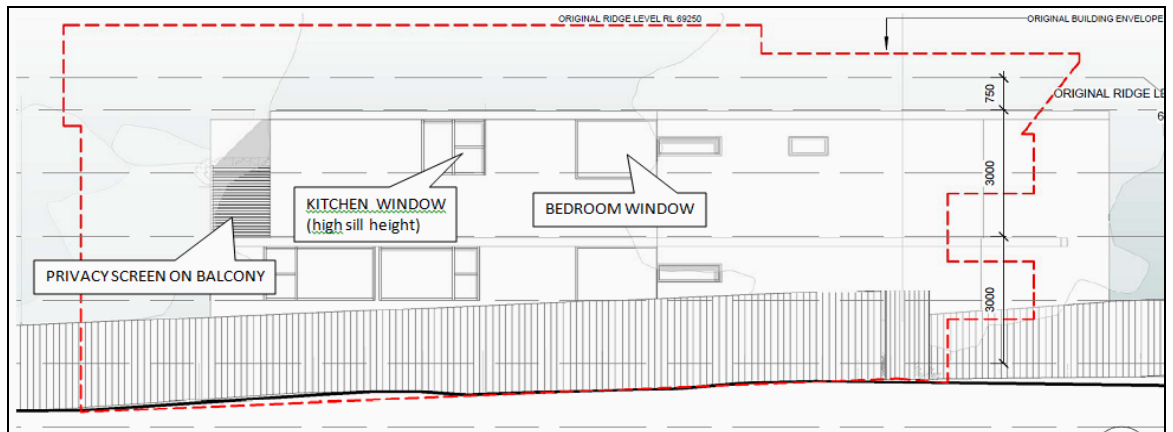
With respect to the windows on the north elevation, there are 2 windows on Level 2 units. One of the windows is off a bedroom which would mostly be occupied during night and would not result in any significant privacy problems. The other is a kitchen window with sill height of 1.7m. Overlooking impacts will not result from this window.

ITEM 2 (continued)

FLOOR PLAN SHOWING WINDOWS RELATIVE TO ADJOINING PROPERTY



NORTH ELEVATION SHOWING WINDOWS



The amended proposal has deleted all balconies facing northern side boundary in order to address privacy issues. Direct overlooking is not possible to an extent that would result in privacy concerns. Given that the building separation requirement is complied with where the windows are located, and that there are no balconies or living room windows which would have direct line of view from the windows to living room of the dwelling on No 39 Princes Street, it is deemed that privacy matters have satisfactorily been addressed on the north elevation. Given the above, privacy screens on the windows are not necessary.

ITEM 2 (continued)

It is unlikely that there will be any significant privacy issues emanating from the two windows proposed on the second level on the north eastern elevation of the proposed building.

- p) ***Pergola too close to the boundary:*** *Such a structure would also provide access to backyard of 39 Princes Street for any person wishing to climb the pergola. Any pergola erected should have clearance from our boundary to reduce this risk to our security and noise.*

Assessment Officer's Comment:

The amended plans now show that the pergola over the ground level communal open space will be set back 1.2m from the side boundary and 2.4m – 4m from the ***Casuarina glauca*** tree.

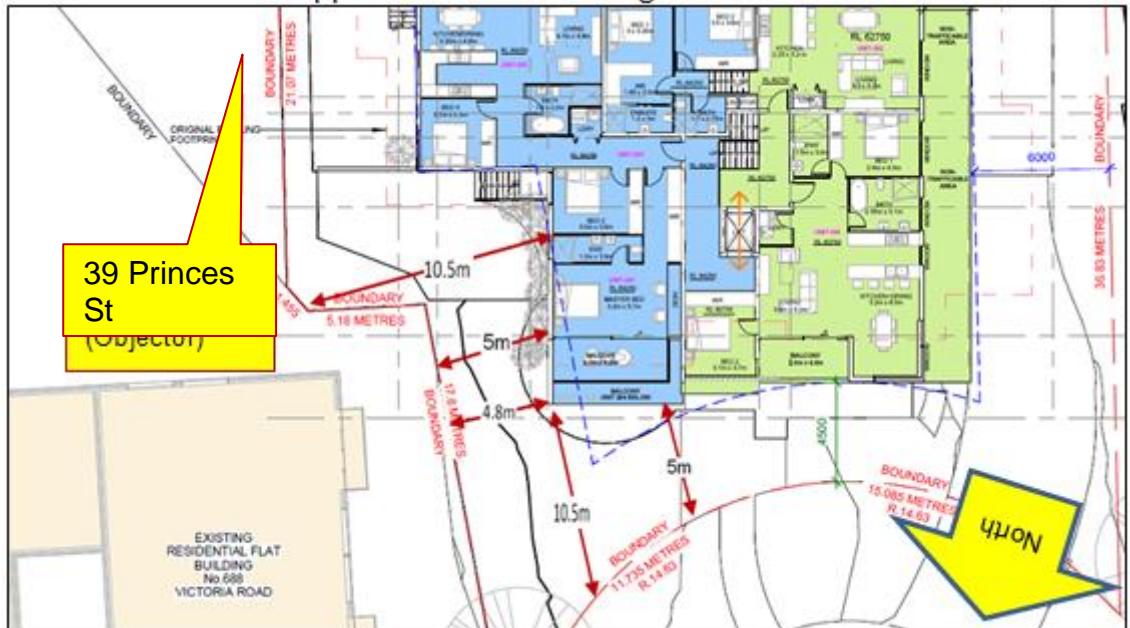
- q) ***Balconies too close to northern boundary of the site adjacent to No. 39 Princes Street:*** *The reduced setbacks at the front of the subject property bring the balconies extremely close to the northern boundary.*

Assessment Officer's Comment:

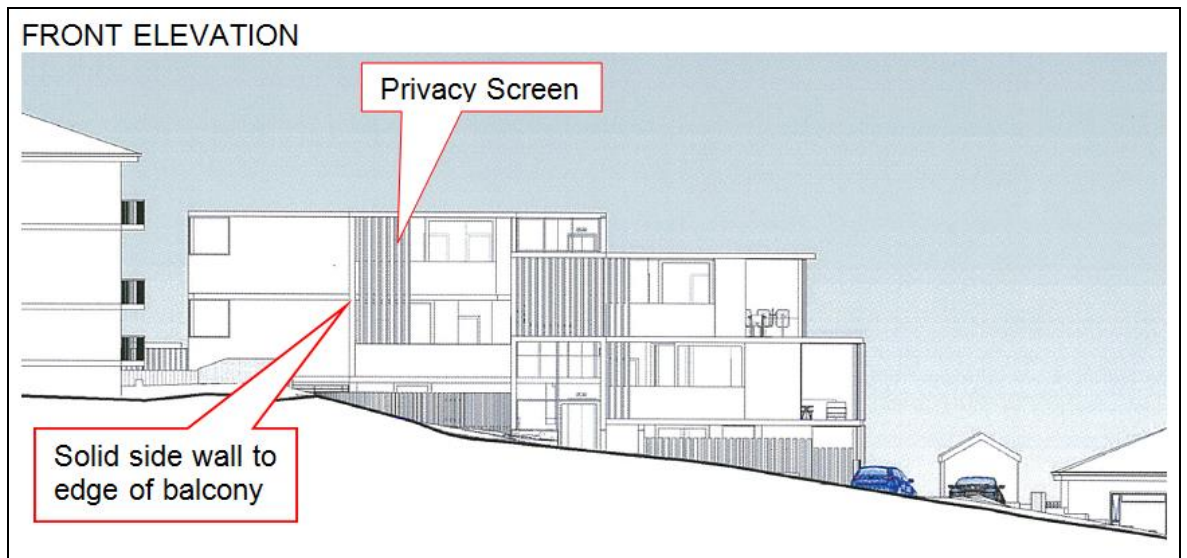
The northern balcony is over 12m away from the rear boundary of No. 39 Princes Street and does not face or overlook the common boundary with No. 39 Princes Street.

The proposed front setback ranges from 4.5m to 14.5m because of the curved nature of the front boundary (fronting a cul de sac). The position of the proposed building is generally in line with the adjoining building. The balcony is set back 5.5m to 10.5m from the front boundary (refer to plan below). The front and northern side setback as proposed are considered appropriate and will not adversely impact on the streetscape. The proposed setback was recommended and supported the Urban Design Review Panel.

ITEM 2 (continued)



On the northern elevation, the building wall is set back approximately 4.8m - 12m from the boundary. The closest part of the front balcony is 4.8m from the irregular shaped side boundary which is set back 10.5m from the front boundary at that location.



In order to address privacy the wall of the proposed building where the setback is less than 6m does not have any window opening. The front balcony incorporates a solid wall on northern side. Further, a privacy screen has been incorporated along the north western corner of the affected balconies as shown in the plan above.

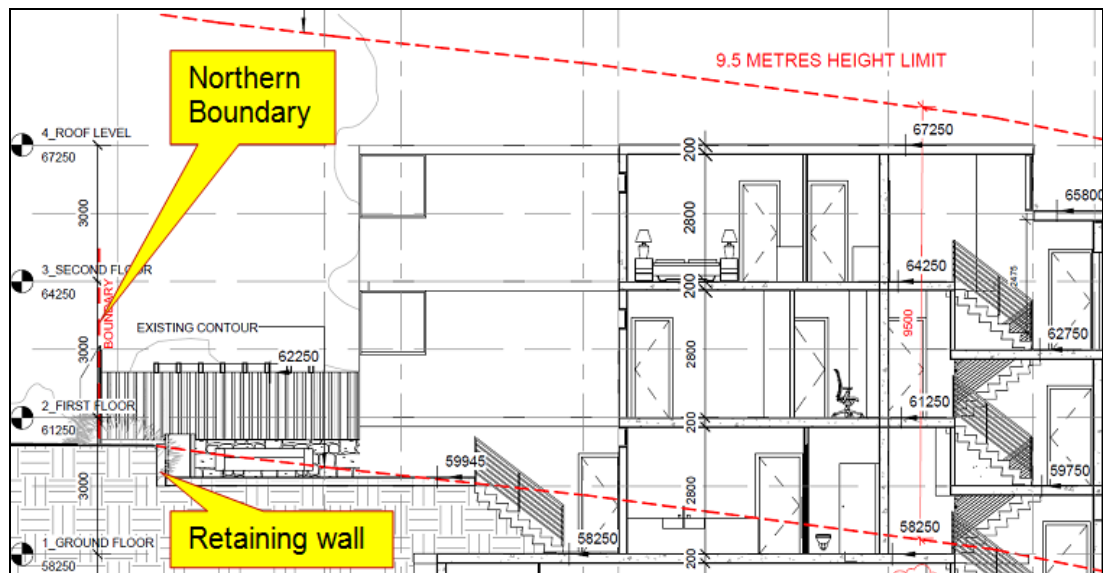
ITEM 2 (continued)

In addition the ground level is significantly lower than the adjoining ground level, thus the height of the building at the northern corner represents majority 2 storey building. In light of the above, the proposed balcony screens and the provision of building separation setback in accordance with the Residential Flat Design Code will satisfactorily address privacy concerns and is considered satisfactory.

- r) **Retaining wall to be built entirely on subject site.** As stated in our previous submission the developers will need to give consideration to the erection of a retaining wall to be built entirely within their boundary where the property at 48 Gladstone Avenue has been excavated below natural ground level.

Assessment Officer's Comment:

The excavation for the courtyards and the basement will be set back from the side and rear boundaries. Any required retaining walls will be provided separate from the fence and will also be setback from the common side/ rear boundaries. The ground level at the common boundaries will not be changed. The proposed retaining wall on the northern side of 48 Gladstone will be set back from the common side boundary as shown in the section below:



- s) **Fence must not be masonry but should be 2.1m / 2.4 high:** The development application states that it is proposed to replace the boundary fences in timber with what appears to be concrete post on top of a masonry retaining wall and further to that the plans we have sighted depict a large section of our boundary fence adjoining what is shown as a BBQ area to be of masonry construction. We will not accept anything other than a lapped timber fence with steel posts with a minimum height of **2.1 metres** in keeping with the

ITEM 2 (continued)

fence on the northern boundary and are not prepared to make any contribution to its replacement.

Assessment Officer's Comment:

The boundary fence will not be masonry. As per Council's DCP a timber lapped and capped fence will be provided at the common boundary. The applicant has agreed to increase the fence height to 2.1m as requested by the objector. No retaining wall is required at the boundary so the proposed fence will be measured from the existing ground level at the common boundary (see Condition 56).

- t) **Impact on Sewer line:** *It should be noted that whilst it is not a council issue the Sydney Water sewer main lies less than 300mm on the northern side boundary and any excavation and retaining wall will need to consider the zone of influence.*

Assessment Officer's Comment:

The applicant has confirmed that the sewer line was identified at the preliminary planning stage in both the survey and 'Dial Before You Dig' research. This issue does not result in any impact on the adjoining resident. The development can occur without any impact on the sewer line. Conditions Nos. 82 & 109 has been recommended to ensure consultation with Sydney Water takes place prior to the issue of any Construction Certificate.

- u) **Noise from BBQ area:** *The BBQ area on 684 Victoria Road is located less than 3 metres from the proposed communal area. When both areas are functional the noise generated will have a severe impact for all neighbours. Our property will become a noise tunnel.*

Assessment Officer's Comment:

The location of the communal open space was suggested by the Urban Design Review Panel as the original roof top location was deleted to address privacy. The proposed location is screened by a fence, pergola and planting zone. The area is lower than the adjacent property. All the above conditions will reduce the noise levels during the use of the area. In addition the proposed units have generous balconies and living areas thus the use of the communal open space will be occasional rather than frequent because of the small nature of the area.

ITEM 2 (continued)

- v) **No clothes drying area:** *There appears to be no provision for a clothes drying area. This is a disregard for the environment.*

Assessment Officer's Comment:

The application complies with the BASIX requirement and achieves the required water and energy consumption efficiencies. In addition, the units have provision for mechanical drying area within the laundry which is acceptable for apartments. A condition of consent will be imposed to ensure that any clothes drying would not be visible from the adjoining properties. (See condition number 53).

- w) **Glare and external finishes:** *It is noted that the proposed external wall colour for the building is brilliant white. The associated reflective glare generated by the use of this colour will burden the residents of those properties located within close proximity. This colour is juxtaposed to the palette of colours chosen by the developments at 690 Victoria Road. It is certainly not in keeping with the characteristics of the neighbourhood.*

Assessment Officer's Comment:

The external paint finish has now been changes to less bright cream Dulux ECRU(P15.D1).All windows & doors have clear anodised aluminium painted with DULUX ECRU (P15.D1). The choice of revised colour is less stark and more cream coloured as shown on the revised Schedule of Materials and Finishes shown below:

Schedule of materials and finishes



The above is considered satisfactory (see Condition 50).

ITEM 2 (continued)

- x) **Air-conditioning noise:** *If air conditioners are located on balconies the noise will transmit across our back yards and into our properties.*

Assessment Officer's Comment:

The air conditioning condensers will be located in the basement car park in the void space that the stepping floor plate provides. No air conditioning condenser units are proposed on the balconies. The air conditioning details have been provided on the amended plans. In addition appropriate conditions have been recommended to ensure that this requirement is complied with (see Condition 12).

- y) **External Lighting:** *External lighting if not carefully considered will impact significantly on the Princes Street properties as our bedrooms are all in line with the balconies at the rear of the property. If the proposed development is approved it will affect the amenity of the entire surrounding neighbourhood.*

Assessment Officer's Comment

The applicant advises that the external lighting will be carefully considered as it also affects the occupants of the proposed units as well. Screening of the proposed balconies is proposed. No flood lighting or spot lighting is proposed for the balconies or courtyards. Standard lighting will be installed. Any approval would be conditioned to ensure that external lighting would not affect the amenity of adjoining properties (see Condition No. 55).

- z) **Borrowing of Land:** *That Council does not support the 'borrowing' of our land with the assertion "is an area that cannot be built on".*

Assessment Officer's Comment:

The application does not purpose "borrowing" of any land.

- aa) **Dilapidation Report.** *Preparation of Dilapidation Report pre and post construction for all adjoining properties and a copy to be provided to the owners of those properties.*

Assessment Officer's Comment:

Recommended condition of Consent will require dilapidation report pre and post construction and copies can be provided to the adjoining properties (see Condition No. 67 and 110).

- bb) **Asbestos:** *All asbestos removal during demolition is carried out as per Workcover requirements.*

ITEM 2 (continued)Assessment Officer's Comment:

Appropriate conditions recommended (see Condition 29 & 30).

cc) **Poor Planning:** *Little consideration has been given to the remaining properties zoned R4 in this area. What we will be left with is a poorly thought out mix of ad hoc R4 development that Planners should be ashamed of as they have failed to make the best use of the zoned area. The good planning intent of the previous RLEP No 53 has been destroyed to the detriment of the neighbourhood.*

Assessment Officer's Comment:

RLEP No. 53 has been superseded by the previous and current planning controls. The matter is irrelevant to the current proposal.

dd) **Loss of Views:** *The proposed development will result in loss of views to the Sydney City including views to the Centrepont tower from No 31 Gladstone Avenue. The loss in views would be unreasonable in that the proposed development breaches the maximum height in storey control;*

Assessment Officer's Comments:

The Land and Environment Court has established "Planning Principles" in relation to impacts on views from neighbouring properties. In *Tenacity Consulting P/L vs Warringah Council (2004) NSWLEC 140 Roseth SC*, states that "*the notion of view sharing is involved when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment*". In deciding whether or not view sharing is reasonable, Commissioner Roseth set out a 4 step assessment in regards to '*reasonable sharing of view*'. The steps are as follows:-

Step 1: Assessment of views that will be affected;

Step 2: Consider from what part of the property the views are obtained. Sitting and side views are often unrealistic;

Step 3: Assess the extent of the impact for the whole property. The impact on views should be qualified as negligible, minor, moderate, sever or devastating.

Step 4: Consider the reasonableness of the proposed view loss taking into account any non-compliance that is causing the view loss. (A development that complies with all planning controls would be more reasonable than one that breaches them).

ITEM 2 (continued)

In this instance, the views currently enjoyed by 31 Gladstone Avenue can be assessed as follows:

Step 1

No. 31 Gladstone Avenue has 3 town houses. The view currently enjoyed by No. 1- 2/31 Gladstone Avenue is the skyline Sydney CBD skyline in the easterly and southerly direction. The view is significantly screened by existing trees located in the front yard of the objectors units. Unit No. 3/ 31 achieves a clearer view from its first floor balcony that comes off a bedroom. The Sydney Tower is also visible from the bedroom balcony which is considered iconic but distant view. The Sydney Tower is located approximately 10km away from the site as shown on the marked up map below. Nevertheless it is visible from the objector's property (3/31 Gladstone Avenue) from the front balcony.

Map 1 – Location of subject site and distance from the view



The views are available from the front of the site from the first floor balcony of the objector's residence at No. 3/ 31 Gladstone Avenue. The remaining views (from 2/31 Gladstone Avenue and 1/31 Gladstone Avenue) are partially screened by the trees located along the frontage of the site as seen in the street view below:

ITEM 2 (continued)

Objectors Site at 31 Gladstone Avenue



Current views enjoyed by 3/31 Gladstone Ave, (46 Gladstone Ave in foreground).



Step 2

The second step is to consider from what part of the property the views are obtained.

Commissioner Roseth states that: *“protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.”*

It is noted that the existing building on the objector’s site (all 3 town houses) have balconies on the first floor level. It is also noted that significant part of the objector’s premises (at 1-2/ 31 Gladstone Avenue) are largely screened by existing large trees located along its front boundary. The view is currently

ITEM 2 (continued)

available from standing position (refer to the photo above showing balcony from where views to the Sydney CBD is available). At standing position, the angle of view obtained from the southern balcony is far greater than that shown in the photo below and spans further around the eastern and southerly direction. It is also noted that the view is obtained from the balcony off the bedroom as shown in the street view above.

Step 3

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

The submission includes a photograph of the view to the Sydney CBD from the objector's balcony. The photo represents the view across over the development site implying that this is the only view from the objector's site. However, it is noted that the objector's view is not limited to the view corridor over the development site but also extends around to a much wider area to the southern and eastern side including views to CBD and Botany. In relation to the extent of loss of view, the architect has produced a simulated 3D model (wire frame analysis) showing the height of the proposed building (the red shaded part is the existing building in the photo as reference point) to analyse the impact on existing views from the objectors balcony.

The analysis indicates that the impact of the proposed building is the loss of foreground views to the Sydney CBD and part of the skyline below the Centre-Point tower. However, the impact is not considered significant because majority of the views are still retained including views to the Sydney Tower and skyscrapers. The drawing below clearly shows that the significant part of the iconic view and the views to the Sydney CBD skyline and all of the southern view will be retained. Views to the Sydney tower and majority of the city skyline is retained and shown on the 3D model below.

ITEM 2 (continued)

3D View Impact Analysis



Step 4

In **Tenacity P/L v Warringah Council**, it states, “*where an impact on view arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*”

The original proposal breached the maximum building height restriction under the LEP2010 and blocked most of the city skyline view as shown in the 3D model below.

ITEM 2 (continued)

ORIGINAL PROPOSAL (impact on view would have been much greater)



Council sought various amendments including a reduction in height and need for building height transition across the property to reflect the slope of the site and to address the change in zone boundary. The amended proposal with reduced height and stepped profile accommodates the view sharing as further explained below.

AMENDED PROPOSAL (reduced height and with building transition)



The existing views are provided over the southern side of the subject site. On the southern side of the site, a 6m – 8m setback is provided where the building fully complies with the requirements of Residential Flat Design Code with respect to building separation. The design also incorporates and building height transition on the southern side of the site which significantly retains the general view corridor towards the Sydney City CBD. The proposal also fully

ITEM 2 (continued)

complies with Council's LEP2010 and Draft LEP2013 with respect to building height and floor space ratio controls as detailed later in this report.

In relation to the height of the development, it is noted that the wall plate height on south western side is will be 6.87m (2.63m less than the maximum permitted) which will be set back 6m from the side boundary. The height of the wall plate along the northern side boundary is 7.6m and the overall height of the building is 9.2m which is less than 9.5m maximum allowed on the site. Thus it is clear that any potential impact on the existing views is not a result of any non-compliance with Council's setback or height controls. The height provision based on number of storeys contained under the DCP is superseded by the height provision contained under the LEP2010. The DCP control (based on storeys) conflicts with the height provision of RLEP 2010 (based on metres) and therefore the DCP provision has no effect to the extent that it is "inconsistent or incompatible with" Council's RLEP 2010 pursuant to Clause 74C(5) of the EP&A Act, 1979.

On the question of whether a more skilful design could provide the applicant with the same development potential and reduce the impact on the views of neighbours, the proposal has been significantly amended as recommended by Council's Urban Design Review Panel. The amendments have transformed the design to such an extent that it achieves full compliance with building separation / setback (now 6m from southern side boundary) and full compliance with the height control under the LEP2010. The building height transition results in the height of the south western wall plate being approximately 2.63m lower than the maximum 9.5m maximum height that is permitted on the site. Further the increased setback (6m at ground level and 8m on the second floor level) combined with the setback of the adjoining dwelling provides a view corridor which further helps minimise any impact on the distance views to the Sydney CBD.

The above changes have resulted in the deletion of 2 apartments, removal of roof terrace and reduction in the floor plate on the second floor level on the southern side (to provide stepped profile for building height transition). The amended proposal demonstrates an improvement in view sharing for the adjoining affected property. Thus it can be concluded that the current proposal does meet the view sharing criteria of the Land & Environment Planning principles. The building height is compliant and the view loss is minor to moderate at worse. It would be unreasonable to seek any further reduction in height in relation to this matter.

Accordingly, the proposal can be considered acceptable and the view sharing reasonable.

ITEM 2 (continued)**8. SEPP1 (or clause 4.6 RLEP 2010) objection required?**

Yes. The development does not comply with the density provisions contained in RLEP 2010. The development is required to provide a site area of 1,1720m² whereas the site area is 1,139.6m².

9. Policy Implications**(i) Relevant Provisions of Environmental Planning Instruments:****State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The development is defined as 'BASIX Affected Development' under the *Environmental Planning and Assessment Regulation 2000*.

The applicant has provided Assessor Certificates and BASIX Certificate:

- BASIX No. 471903M_02dated 05July 2014.

The certificate indicates that the development will achieve the required target scores for water efficiency, thermal comfort and energy efficiency.

A condition has been recommended in accordance with the *Environmental Planning & Assessment Regulation, 2000* requiring compliance with the *Schedule of BASIX Commitments* made in the Certificates (See Condition No. 105).

State Environmental Planning Policy No. 55 – Remediation of Land

The requirements of State Planning Policy No. 55 – Remediation of Land apply to the subject site. In accordance with Clause 7 of SEPP 55, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediate to a standard such that it will be made suitable for the proposed use.

Council's Environmental Health Officer has reviewed the application and advised the following:

Contamination: The dwellings to be demolished are generally constructed with load bearing masonry brick walls with tiled roofs. The buildings are generally constructed off a concrete slab on ground, presumably with strip and pad footings. The dwellings are three bedrooms single storey. There are some outbuildings, but little or no asbestos is expected.

ITEM 2 (continued)**Deemed SEPP Sydney Regional Environmental Plan
(Sydney Harbour Catchment) 2005**

Deemed SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 applies to the subject site and has been considered in this assessment.

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

State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development (SEPP 65.)

SEPP 65 came into force on 26 July 2002 and applies to the proposed development.

The Policy aims to improve the design quality of residential flat development in New South Wales. This Policy recognises that the design quality of residential flat development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.

The proposal has been assessed against the following matters for consideration:

- a) the advice of Council's Design Review Panel,
- b) the 10 design quality principles outlined in SEPP 65, and
- c) the Residential Flat Design Code published by Department of Planning and the NSW Government Architect (September 2002).

Urban Design Review Panel Comments:

Prior to lodgement of the application, the applicant did not seek appropriate pre-lodgement advice or a review by Council's Urban Design Review Panel. The application was reviewed by Council's Urban Design Review Panel on 25 June 2013 after the DA was lodged, again on 4 December 2013 and then finally on 16 April 2014. The most recent amended plan is subject of this based on the advice provided by the Panel on 16 April 2014 and is subject of this assessment.

The Panel generally made the following comments:

The proposal has been amended since the last meeting and the units reduced from 14 to 12. While a number of positive improvements have been made to the design, the following comments are made:

ITEM 2 (continued)

1. **Street Setbacks:** *The curvature of the street boundary results in a curved street setback. The proposed front building line is supported with the exception of the balcony to Units 204 and 304. The street setback to the balconies is only 2.8m. The Panel recommends a 4.5m minimum setback be provided to reduce the apparent bulk of the building along the street, particularly when viewed from the south-west.*

Assessment Officer's Comment:

The minimum 4.5m street set back is provided on the amended plans. This has been achieved by integrating the balcony within the footprint of the building and reducing the size of the affected unit.

2. **Separation:** *The UDRP had made various suggestions to improve the proposal in relation to this requirement.*

Assessment Officer's Comments:

The table below shows how the recommendations of the Panel have been incorporated in the amended design:

UDRP Recommendation	Amended Plan	Comments
The 6m setbacks along the south-western side boundary and along the rear boundary are supported.	A 6m setback is proposed along SW and rear boundaries.	Satisfactory
The balcony to Units 101, 201 and 301 should be reoriented to face the rear boundary with a minimum rear setback of 6m.	The balconies have been removed from the southern side and transition in height introduced.	Satisfactory
A bedroom should be deleted from apartment located on the north eastern side to increase the side setback, improve separation with 688 Victoria Road and provide courtyard.	The bedroom has been deleted from Unit No. 101 and layout changed to allow courtyards adjacent to northern boundary which has been redesigned as a combination of landscaped area and small terraces.	Satisfactory
The proposed separation between the balcony and the living room window and balcony of units 105, 205, and 305 is 8.2 and 10.2 m, below RFDC recommended 12m. The separation is addressed with screening.	The design has been further enhanced with solid wall along the northern wall of these units and also solid screen along the side of the balcony. Additional privacy screen has been introduced along part of the north western face of the balcony.	Satisfactory

ITEM 2 (continued)

UDRP Recommendation	Amended Plan	Comments
The courtyard space to Unit 105 remains a concern and should be designed as landscape area rather than a paved courtyard to reduce likely privacy impacts between properties.	The design has been altered and will now be majority landscaped area. The courtyards will be setback approximately 3m from the northern boundary with minimal disturbance.	Satisfactory
While adequate setback is provided for Units 303 and 304, the location of balconies facing the side boundary is problematic. The balconies overlook the lower density zone to the south and the rear garden of the adjacent house. The Panel recommends deleting the balconies. Primary balconies are provided in more appropriate locations facing the street and the rear boundary. The balconies could become non-trafficable and assist in stepping the building height at this crucial interface.	The balconies on the southern (side elevation) has been deleted and now is non trafficable. As the building wall is setback additional 2m from the boundary, the overall setback of the building wall on the second floor will be 8m. This improves the privacy and building transition in light of the lower density development on the southern side.	Satisfactory

3. **Communal Open Space:** *The Panel recommends the communal open space be relocated to the east at the corner of the site where the second bedroom to Units 101 is located. This would serve two purposes. It would co-locate communal open space in proximity to the future communal open space at 684-686 Victoria Road and the rear garden of 37B Princes Street and to the east and out of sight lines of the balcony at 688 Victoria Road. The relocation would also enable direct access to the space from the common internal corridor at ground level. Units 101, 201 and 301 would need to be reconfigured and potentially lose a bedroom.*

Assessment Officer's Comment:

The provision of open space and increased setbacks has resulted in the deletion of 2 apartments. The communal open space has been moved to the location suggested by the Urban Design Review Panel and can be accessed from the lobby. The ground floor has been reconfigured to one bed room units. The first floor has been reconfigured accordingly. The communal open space will be suitably designed with furniture, landscape and pergola.

ITEM 2 (continued)

4. **Unit Design and Amenity:** *The design of units is generally an improvement on the previous plan. Minor amendments would further improve the amenity of units including the following amendments:*
- *Re-planning Unit 304 to improve daylight access and ventilation to the kitchen.*
 - *Refining planter box design on balconies to improve their functionality and dimensions and to provide a kitchen window to Unit 301.*
 - *Considering opportunities for high level windows in for top floor units where the building height steps.*

Assessment Officer's Comment:

All the apartments have been redesigned. Only the kitchens in apartments 101, 102 and 103 have internal kitchens all these kitchens are within 8 metres of an external opening and therefore comply with SEPP 65. Unit 301 has also been replanned and the window has been moved to an external wall. The planter boxes outside kitchens have been removed and windows added. High level windows have been added to the stepped roof as suggested by the Panel to improve solar access.

5. **Car Park Design** - *The Panel questions the functionality of the waiting bay within the car park and suggest a passing bay be considered. While the Panel is not opposed to car stackers, the functionality of the car stacker as shown and the proposed sharing of a stacker by two apartments is a concern. The lift should open away from the vehicle path of travel.*

Assessment Officer's Comment:

The basement car park has been redesigned as per Council's request. The waiting bay in the basement has been deleted and a passing bay has been added to the entry ramp. The car stackers have been deleted and standard 16 parking spaces have been provided including 3 visitors and 2 accessible spaces. The lift door opens away from the parking spaces. The car park design is considered satisfactory.

Design Quality Principles under SEPP 65.

The proposal has been assessed against the 10 design quality principles identified under SEPP 65. Comments in relation each principle is provided below:

Design Quality Principle 1: Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a locations current character or, in the case of precincts undergoing a transition the desired future character as

ITEM 2 (continued)

stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

Assessment Officer's Comment:

The site is located within the R4 zone immediately adjacent to R2 zoned land along its south-western and south-eastern boundaries. An existing residential flat building to the north of the site faces the side boundary of the site. Buildings to the south are predominantly dwelling houses and dual occupancies. The site slopes to the south west by approximately 3.5 metres along the street frontage and approximately 5m along the rear boundary.

The character of the area consists of RFB's which have a height of 3 to 4 storeys as well as single storey dwelling houses which are located on the eastern side of Gladstone Avenue and on the southern side of the subject site.

The proposal is for a 3 storey apartment buildings with 12 units and a single basement car park level. This development represents an infill development is appropriate in terms of the context of the locality.

This proposed building has been carefully designed to comply with all the requirements at the Ryde LEP 2010 and the Draft Ryde LEP 2011. The desired character and proportion of Gladstone Avenue streetscape is maintained by this proposal. The proposed stepped building has respected the existing condition and will enhance the future streetscape of Gladstone area.

The development reflects a bulk and scale similar to the adjoining RFB's and provides appropriate height transition to address the lower density residential area to the south west. The proposed development is a desirable use of this site which blends in with the current and transitioning urban context of the area.

Design Quality Principle 2: Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired character of the area.

Assessment Officer's Comment:

The scale of the building (as amended) was also supported by the Council's Urban Design review Panel. The overall height responds to the height of the adjoining RFB as well as the adjoining dwelling house.

ITEM 2 (continued)

The proposed amended design for the development is well suited to the site. The proposal has responded to the streetscape character. Consistent with the philosophy of view sharing, this proposal is to remain of a lower scale with keeping building height under height limit. Careful design amendments have been carried out to ensure that this development does not conflict with the inherent scale of existing houses in the street. The proposed residential flat building plays as a transition building between high density residential zone and low density residential zone in terms of building height, design bulk & scale.

Design Quality Principle 3: Built Form

Good design achieves an appropriate form for a site and the building's purpose, building type and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Assessment Officer's Comment:

The built form design is driven by the site conditions, its surroundings and natural environmental benefits. The built form is considered appropriate for the site and proposed use. The facades of the building will provide visual interest with the proposed height and faced articulation.

Design Quality Principle 4: Density

Good design has a density appropriate for a site and its context; in terms of floor space yields (or number of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area, or in precincts undergoing a transition, and are consistent with the stated desired future character. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

Assessment Officer's Comment:

The proposed site is zoned for high density residential development but is located at a zone interface with lower density area. Thus the design reflects the height transition. There have been significant high density developments recently approved in the area along Victoria Road. All these developments are required to meet the growing population and future needs of the residents. The proposed site is very close to the Ryde Commercial and Business Centre. There is a park, bus stops and medical centre within a close proximity of the site. The proposed residential flat building has a mixed housing choice to meet the people's affordability, disabled access, and family requirements.

ITEM 2 (continued)**Design Quality Principle 5: Resource, Energy & Water Efficiency**

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. The proposed architectural details and external finishes are consistent and comparable with that of the already approved development.

Assessment Officer's Comment:

The proposed building has been designed around the principles of passive solar design and cross ventilation of the residential units. Access to the natural light has been one of the key driving factors to this design. All the habitable spaces and communal spaces receive direct and controlled sunlight.

The applicant has provided a BASIX Certificate for the building which indicates that the building will meet the energy and water use targets set by the BASIX SEPP.

Design Quality Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Assessment Officer's Comment:

The landscaping will assist in improving the aesthetics of the building as well as improving the amenity of the future residents and the streetscape. The development is considered satisfactory in terms of this planning principle.

Design Quality Principle 7: Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

Assessment Officer's Comment:

The layout and orientation of the apartments allows for a sufficient level of amenity for future occupants and residents of surrounding properties. The design mitigates potential impacts from overlooking and noise impacts.

The development complies with the controls contained in the Residential Flat Design Code in respect to apartment sizes, visual and acoustic privacy, access to sunlight, ventilation, storage and access requirements.

ITEM 2 (continued)**Design Quality Principle 8: Safety and Security**

Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate for the location and desired activities, and clear definition between public and private spaces.

Assessment Officer's Comment:

The proposal makes a positive contribution with respect to safety and security. Passive surveillance opportunities are provided with terraces, balconies and windows facing Gladstone Avenue. Entrance points are clearly identified and public and private space is clearly delineated through secure entrances and the use of planting and fencing.

Design Quality Principle 9: Social Dimensions

Good design responds to the social context and needs of the community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

Assessment Officer's Comment:

The development will include the following housing mix:

- 3 X 1 bedroom apartments;
- 8 X 2 bedroom apartments; and
- 1 X 3 bedroom apartments.

The proposed range of apartments provides a suitable mix of housing in response to current housing demand. Adaptable units are also proposed. The proposed mix is aimed at families, professional singles and couples. This is the existing demographic of the Ryde area. The size of the apartments is a direct function of the proposed price point, demographic and targeted market.

Design Quality Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

ITEM 2 (continued)
Assessment Officer's Comment:

The development includes a range of materials and finishes which are both compatible to the architectural design and to the surrounding built environment. The aesthetics of the building will ensure that the development will contribute to the desired future character of the area.

Residential Flat Design Code (RFDC)

The SEPP also requires the Council to take into consideration the requirements of the Residential Flat Design Code. The development generally complies with the rule of thumb specified under this document with the exception of the communal open space and deep soil zone. Notwithstanding, the application demonstrates that an acceptable level of amenity will still be achieved and depicts an improvement in the amenity for the overall number of individual apartments compared to the other buildings previously approved on the site

As demonstrated below, the development comply with the general intent of these controls and are considered satisfactory

Primary Guidelines	Comments	Comply
Part 01 – Local Context		
Building Height Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.	The site complies with the FSR in RLEP2014 and complies with the 9.5m maximum height control.	Yes
Building Depth In general, an apartment building depth of 10-18 metres is appropriate.	18m. The intent of this control can be met – as 92% of apartments are naturally ventilated	Yes
Building Separation Recommended building separation for buildings up to four storeys/ 12m height: -12m between habitable rooms/ balconies -9m between habitable / balconies and non-habitable rooms -6m between non-habitable rooms.	The development is required to be separated by 12m between the development and the buildings on the adjoining sites. This results in a setback requirement of 6metres from the side and rear boundaries. The development has generally maintained these separation distances however there are variations as discussed below. <ul style="list-style-type: none"> • 5.8m - 6.3m provided along 	Yes Yes Yes

ITEM 2 (continued)

Primary Guidelines	Comments	Comply
<p>Developments that propose less distance must demonstrate that adequate daylight access, urban form and visual and acoustic privacy has been achieved.</p>	<p>rear boundary.</p> <ul style="list-style-type: none"> • 6m – 8m along southern side boundary. • 4.8m – 6m along northern boundary. <p>The northern western corner of the units 105, 204 & 301 provides approximately 4.8m -12m setback from the boundary. The location where the separation is short by 1m, the affected wall does not have any opening and the balcony incorporates fixed screens. In addition the ground level is significantly lower than the adjoining ground level, thus the height of the building in at the northern corner represents a 2 storey building. The eastern corner of the building is setback 5.8m.</p> <p>However, adequate screening is proposed on the rear balcony.</p> <p>The proposed balcony screens and the provision of building separation setback in accordance with the Residential Flat Design Code will satisfactorily address the building separation and privacy and is considered satisfactory.</p>	
<p>Street Setbacks Identify the desired streetscape character and comply.</p>	<p>The proposed front setback ranges from 4.5m to 14.5m because of the curved nature of the front boundary (fronting a Cul-de-sac). The position of the proposed building is generally in line with the adjoining building. The proposed setback is supported by the UDRP. The setback as proposed by the development is considered</p>	<p>Yes</p>

ITEM 2 (continued)

Primary Guidelines	Comments	Comply
	appropriate and will not adversely impact on the streetscape.	
Side and Rear Setbacks Relate side setbacks to existing streetscape patterns. These controls should be developed in conjunction with building separation, open space and deep soil zone controls	The side setback on the southern side is 6m. The rear setback is 5.8m to 6.3m along the rear boundary. The setback along northern boundary is 4.8m – 6m which is greater than the setback of the adjoining RFB at this location. The proposed setback and design elements ensure adequate separation as discussed earlier. These setbacks will ensure adequate privacy with the adjoining properties and will also allow for deep soil planting around the building. The proposed setbacks are consistent with the streetscape.	Yes
Part 02 – Site Design		
Deep Soil Zones (DSZ) A minimum of 25% of the open space area of a site should be deep soil zone. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the RFB.	The development has provided approximately 79% of the open space area site area as deep soil zones. This is because the basement level is setback from all the boundaries. This will allow for appropriate plantings to soften the appearance of the building. The development complies with this requirement.	Yes
Landscape Design Landscaping is to improve the amenity of open spaces as well as contribute to the streetscape character.	The landscape design is appropriate for the development proposed and will provide adequate amenity to the open space areas and streetscape.	Yes
Communal Open Space The area of communal open space required should generally be at least between 25% and 30% of the site area. Where developments are unable to achieve the recommended communal open space, they must	The communal space (roof terrace) has been deleted to address overlooking and privacy concern from the residents. Instead the communal open space has been provided on ground level and equates to approximately 6% of the site	Yes

ITEM 2 (continued)

Primary Guidelines	Comments	Comply
demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.	area. In accordance with this rule of thumb, additional recreational amenity is provided in the form of increased private open space in the form of balconies and private courtyards.	
Orientation Optimise solar access to living areas and associated private open spaces by orientating them to the north.	The communal open space is oriented to the north and most courtyards and balconies face north, east and north west.	Yes
Fences and Walls Fences and walls are to respond to the identified architectural character for the street and area. They are also to delineate the private and public domain without compromising safety and security.	The development has proposed fencing around the boundaries of the site as well as within the site to differentiate between private courtyard areas. The fencing will not detract from the streetscape or architectural character of the development.	Yes
Planting on Structures In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. Suitable plant species should be incorporated.	The development has proposed only two planter boxes on the rear two balconies. Additional garden beds are provided at ground level. The planter box will contain a minimum soil depth of 600mm. This planter box will be deep enough to accommodate shrubs. The rest of the landscaping will be accommodated in areas that have deep soil areas.	Yes
Stormwater Management Reduce the volume impact of stormwater on infrastructure by retaining it on site.	The application has been assessed by Council's Development Engineer and has been found to be satisfactory.	Yes
Safety Optimise the visibility, functionality and safety of building entrances. Improve the opportunities for casual surveillance and minimise opportunities for concealment.	A residential entry from the street frontage is clearly visible and a paved footpath connects to the street. The design provides adequate surveillance opportunities.	Yes

ITEM 2 (continued)

Primary Guidelines	Comments	Comply
Visual Privacy The building separation requirements should be adopted.	As discussed under building separation, the development will provide adequate visual privacy.	Yes
Building Entry Ensure equal access to all. Developments are required to provide safe and secure access. The development should achieve clear lines of transition between the public street and shared private, circulation space and the apartment unit.	The development has provided equal access for all a lift and ramps. A lift is proposed which provides access to the front door of all apartments. Units 101 & 102 will be adaptable. Conditions of consent will ensure design certification prior to the issue of Construction Certificate (see Condition 73).	Yes
Vehicle Access To ensure that the potential for pedestrian / vehicle conflicts is minimised. The width of driveways should be limited to 6 metres. Vehicular entries should be located away from main pedestrian entries and on secondary streets.	The vehicular entry is separated from the pedestrian entry. A 6m wide driveway crossing will provide a passing bay. Sight lines to the driveway are adequate and the setback of the basement entrance will allow adequate holding space to avoid queuing on the street. The arrangement is unlikely to cause conflicts with pedestrians and vehicles.	Yes
Part 03 – Building Design		
Apartment Layout Single aspect apartments should generally be limited in depth to 8m from a window. The minimum sizes of the apartments should achieve the following; 1 bedroom – 50m ² 2 bedroom – 70m ² 3 bedroom – 95m ²	There will be only on single aspect apartment. The depth of the will be 7.2m. 1 bed = 50.4m ² (min) 2 bed = 73.3m ² (min) 3 bed = 112m ² (min)	Yes Yes Yes Yes
Apartment Mix The development should provide a variety of types.	Mix of 1, 2 & 3 bedroom units is proposed. The development also proposes a variety of layouts for the units.	Yes
Balconies Where private open space is not provided, primary balconies with	Balconies have been provided which achieves the 2m width.	Yes

ITEM 2 (continued)

Primary Guidelines	Comments	Comply
a minimum depth of 2 metres should be provided.		
Ceiling Heights The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level FCL).	The proposed floor to ceiling height for the residential apartments is 2.7m, which is considered satisfactory.	Yes
Ground Floor Apartments Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	Two of the ground floor units are accessible (adaptable) and 3 of the units are directly accessible from the ground level entry ramp.	Yes
Mixed Use The development is to choose a mix of uses that complement and reinforce the character, economics and function of the local area. The development must also have legible circulation systems.	Not required in this zone.	N/A
Internal Circulation In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.	The development has provided around 4 units on each level to be accessed from the lift. The development complies with the requirement.	Yes
Storage In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: <ul style="list-style-type: none"> • studio apartments - 6.0m³ • one-bedroom apartments - 6.0m³ • two-bedroom apartments - 8.0m³ Options including providing at least 50% within each respective apartment, dedicated storage rooms on each floor or dedicated storage in the basement.	The development provides storage in the apartments as well as in the basement in the form of separate storage areas. The storage areas comply with the requirement under the RFDC.	Yes

ITEM 2 (continued)

Primary Guidelines	Comments	Comply
Acoustic Privacy Apartments within a development are to be arranged to minimise noise transitions.	The development will be required to comply with the acoustic provisions of the BCA & Australian Standards (Condition 121).	Yes
Daylight Access Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9.00am and 3.00pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable. Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed.	The development will achieve a minimum of 3 hours solar access to 9 out of the 12 apartments. This represents 75% of the apartments which exceeds the RFDC requirement. The development proposes only one single aspect apartment.	Yes Yes
Natural Ventilation Building depths which support natural ventilation typically range from 10 to 18 metres. 60% of residential units should be naturally cross ventilated. 25% of kitchens should have access to natural ventilation.	11 out of the proposed 12 units (92% of the apartments) will achieve natural cross ventilation. 83% of the kitchens are naturally ventilated.	Yes Yes
Roof Design Roof design is to relate to the desired built form as well as the size and scale of the building.	The proposal incorporates stepped roof form to enable transition and lowering of the building to interface with the lower density development to the south. The form is consistent with other RFB within the locality.	Yes
Maintenance The design of the development is to ensure long life and ease of maintenance.	The development can comply with this requirement.	Yes

ITEM 2 (continued)

Primary Guidelines	Comments	Comply
Waste Management A waste management plan is to be submitted with the development application.	The waste storage area has been provided within the site adjacent to the vehicular ramp for ease of transportation to the kerb side on collection days. Council's Waste Management Coordinator has recommended approval subject to condition (see Condition No. 59 & 60).	Yes

Ryde Local Environmental Plan 2014:

Ryde LEP 2014 commenced on 12 September 2014 as the new environmental planning instrument applicable to the City of Ryde. In relation to existing DAs undetermined as of 12 September 2014, this instrument contains a Savings Provision (clause 1.8A) which states:

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

The DA was made (lodged) on 29 May 2013, before the commencement of this Plan and so it must be determined as if Ryde LEP2014 had not commenced. What this means is that Ryde LEP2014 is treated as a draft.

Ryde Local Environmental Plan 2010:
Clause 2.1: Zoning

The subject site is zoned R4 – High Density Residential.

The proposed Residential Flat Building is a permitted form of development on the site subject to Council's consent.

Aims and objectives for residential zones:

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

The development will provide a total of 12 dwellings comprising a mix of 1, 2 & 3 bedroom units. The development complies with this objective.

ITEM 2 (continued)

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

As the development proposes residential, this objective is not applicable.

- *To allow higher density development around transport nodes and commercial and retail centres.*

The development is within easy walking distance to Top Ryde which is a transport node and retail centre. The development complies with this requirement.

- *To allow for revitalisation, rehabilitation and redevelopment of residential areas while ensuring that building design does not adversely affect the amenity of the locality.*

The building design has been significantly revised from the original proposal to address the building separation and to protect the amenity of the adjoining properties. However due to the slope and location of the site, it is acknowledged that there will be some impacts to the adjoining residential properties in respect of construction impact, altered bulk and scale and views. To reduce these impacts the proposed development has ensured compliance with the height control, full compliance with building separation requirement along the rear and the southern side boundaries, provision of balcony screening and incorporated building height transition to reflect the topography. The development has also provided landscaping and the use of obscure balustrade to reduce the impacts of overlooking. As demonstrated in the report, the amenity impacts are considered acceptable. The development complies with this requirement.

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

Clause 2.6 (1) Subdivision

- (1) *Land to which this Plan applies may be subdivided, but only with development consent.*

Subdivision is not proposed under the current application. The land will be consolidated prior to Occupation Certificate if this DA were to be approved.

Clause 4.3: Height of Buildings

- (2) *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.*

ITEM 2 (continued)

The height of a building on the subject site is not to exceed the maximum height of 9.5 metres.

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

Because of the sloping site, the proposed building has a variable height ranging from 6.87m along the south western side boundary, 7.6m along the northern boundary and 9.2m along the central section of the building. As the maximum proposed building height is 9.2m, the proposal complies with the maximum height control.

Clause 4.4(2) – Floor Space ratio (FSR)

(2) *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.*

Clause 4.4(2) specifies that the maximum floor space ratio for a building on any land is not to exceed the FSR shown on the relevant FSR map. The map illustrates a FSR of 0.75:1. This clause however is not applicable to the development due to Clause 4.4A(2) of RLEP 2010. Clause 4.4A(2) specifies that the FSR does not apply to development for the purposes of a residential flat building unless they are part of shop top housing.

Shop top housing is defined as meaning one or more dwellings located above ground floor retail premises or business premises. As the development is not shop top housing, the clause is not applicable.

Clause 4.5B Density controls for multi dwelling housing and residential flat buildings in Zone R4 High Density Residential.

This clause requires that the consent authority must not consent to the erection of a RFB on land in an area specified in Column 1 of the Table unless the area of the land on which that development is to be carried out is not less than the total of the areas specified in column 2 of the Table. The site is located in Area 2. The following table demonstrates the site area required for each type of dwelling.

Area 2	Site area per unit
1 bedroom	100m ²
2 bedroom	150m ²
3 bedroom	220m ²

ITEM 2 (continued)

The proposal is located in Area 2. The proposed 3X1 bedroom, 8X2 bedroom and 1X3 bedroom units will require a total area of 1,720m² of site area. The site area comprises only 1139.6m² of land area and therefore is short by 580.4m². The development exceeds the density controls as specified by the LEP.

Clause 4.6 of LEP 2010 allows exceptions to development standards. Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. The consent authority must be satisfied that the applicant's written request has satisfied the above criteria and that the proposed development will be in the public interest as it is consistent with the zone objectives as well as the objectives of the particular development standard. In addition, consent cannot be granted unless the concurrence of the Director-General has been obtained. The applicant has requested a Clause 4.6 variation in respect of this matter. These matters are discussed below.

1. Written request provided by the applicant.

The applicant has provided a written request seeking to justify the variation to the development standard in the Statement of Environmental Effects prepared by Legge Architects received by Council on 17 July 2014.

2. Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case.

It is noted that this density clause been removed from the new RLEP2014 and replaced with a floor space ratio control. The intended new FSR restriction for this site is 1:1 under the LEP2014. The development has proposed a FSR of 0.89:1 which is well below the control and therefore would be satisfactory under the new LEP2014.

It would be reasonable for Council to put greater weight in respect to RLEP2014 rather than the density control contained in RLEP 2010 (which has been superseded) for the reasons of consistency in its application in its application with all future developments. It is widely accepted that a FSR control is the appropriate control in respect to controlling the bulk and scale of a development. In addition, this same approach had been adopted for an approval recently granted for a similar development located at 684 Victoria Road.

For these reasons, compliance with the density control would be unreasonable and unnecessary.

ITEM 2 (continued)**3. Environmental grounds to justifying contravening the development standard.**

The applicant has indicated that the proposal full complies with the objectives of the new FSR control under the draft LEP2013 (now RLEP2014) and is thus meritorious. In addition the following justification has been submitted by the applicant in support of the proposed variation:

This proposed building has been carefully designed to comply with Council's requirements. While the proposed building exceeds the density requirement under Clause 4.5B of LEP2010, the proposal meets the FSR requirement at the RLEP2014. Moreover, the proposal meets all other requirements of Ryde LEP 2010, Ryde DCP 2014 and State Environmental Planning Policy No. 65 with respect to setbacks, height, overshadowing, solar access, privacy, and other amenities. The following matters are noted in support of the proposed development (notwithstanding the non-compliance with the density provision):

- The bulk of the future development has been reduced as suggested by the Council Officer and the Urban Design Review Panel;
- The number of apartments have been reduced from 14 to 12 and all the boundary setbacks have been increased, thus a reduction in the bulk and scale of the building;
- The proposal complies with the Draft Ryde LEP 2011 and the proposed FSR (0.89:1) is well under the allowable FSR of 1:1 under the Draft LEP2013.
- The proposal will maintain the proportions of Gladstone Avenue by providing stepped building form in keeping with the lower scale of the R2 zoned area.
- The proposal will maintain the desired character by keeping proposed building as a transition between high density residential 3 and 4 storeys and low density residential 2 storeys.
- The proposal does not have any adverse impact of overshadowing amenity, overlooking and acoustic privacy to the neighbouring properties.

The RLEP2014 deletes the density provisions from Council's planning control along with the 2 storey height controls. The proposal maintains a suitable scale with respect the adjoining buildings along the street appropriate height transition reflecting the site topography and adjoining dwelling house. Amenity to the surrounding residential properties in terms of overshadowing, setbacks, building transition and privacy is also maintained.

ITEM 2 (continued)

The updated plans show the required privacy measures which reduce the privacy loss to the residential lands to the southern and eastern side. The proposal has addressed the recommendations of Council's Urban Design Review Panel. The number of apartments has been reduced to an extent that the resulting floor space ratio is well below that permitted under the LEP2014. In light of the above, and given that the proposal is well under the FSR control provided under the LEP2014, variation to Clause 4.5B of the superseded LEP2010.

4. Consistent with the zone objectives and objectives of the development standard.

The zone objectives have already been identified in an earlier section of the report. As previously concluded, the development complies with the objectives of the zone.

The objectives of the density control have not been identified in LEP 2010. However, it can be assumed that the intent of the density control is to provide effective control over the bulk and scale of high density residential developments in R4 zoned land.

Accordingly, the development results in full compliance with controls that shape up the massing and bulk and scale of the building. The development complies with the applicable rear and side boundary setbacks (building separation under the RFDC recommendations) and the height control under the LEP2010. In addition, the density control (FSR) provided under the LEP2014 is fully complied with.

5. Concurrence of the Director General.

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

Conclusion

Compliance with the density control (that has been deleted in the new LEP) is considered to be unreasonable and unnecessary in this particular case. The FSR control rather than the density control is the preferred form of control for all future RFB's in R4 zoned land and the development fully complies with this. In addition, the bulk and scale and massing of the building is consistent with Council's controls in respect to FSR, height and setbacks.

Clause 5.9 Preservation of Trees or Vegetation

Clause 5.9 requires either development consent or a permit granted by Council for the removal of any trees.

ITEM 2 (continued)

There are seven (7) existing trees located on the subject site that are to be removed and one (1) tree to be retained as part of the development. The tree that is proposed for retention is an 8m high Swamp Oak (*Casuarina glauca*) located along the northern boundary of the site which may be affected by the proposed development.

No issues are raised in relation to the removal of 7 trees and retention of a Swamp Oak subject to conditions 26 - 28.

Clause 6.1 Earthworks

Development consent is required for the earthworks associated with the development. Before granting consent for earthworks the consent authority must consider the following matters:

- The likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality.
- The effect of the proposed development on the likely future use or redevelopment of the land.
- The quality of the fill or the soil to be excavated, or both.
- The effect of the proposed development on the existing and likely amenity of adjoining properties.
- The source of any fill material and the destination of any excavated material.
- The likelihood of disturbing relics.
- Proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

The proposed development includes excavation for a basement car park. Council's Development Engineer requires that a number of conditions be included in the consent to address engineering issues such as a sediment and erosion control plan to be submitted prior to the issue of a Construction Certificate. The site is not known to contain any relics or any other item of heritage significance.

(ii) Any proposed instrument

Not applicable.

(iii) Development Control Plan 2014

Ryde Development Control Plan 2014 (DCP2014) applies to the site. The DCP2014 was adopted by Council on 28 May 2013 to come into effect upon notification of LEP2014.

The relevant aspects of the DCP2014 that is relevant to the proposed development are discussed below:

ITEM 2 (continued)

Part 7.2 Waste Minimisation and Management

As the development involves the demolition and construction of building the applicant submitted a Waste Management Plan (WMP) which has been reviewed by Council's Waste Management Coordinator and is considered satisfactory subject to condition.

The following comment was received:

The development of 12 units in cul-de-sac will require 15 x 240L bins in total, however the bin storage area allows for 20 bins, therefore the bin storage room is more than adequate. Bin bay is located in the basement, with access to the kerbside by the driveway.

From a Waste perspective there are no objections to approval of this application subject to the following conditions:

- **Bin Collection.** *Bins will need to be brought to the kerbside for collection by the building caretaker;*
- **Signage.** *"No Standing on Monday between 5.00am and 11.00am" signs will need to be installed to ensure clear access to the bins.*

Appropriate conditions of consent will be imposed to ensure that the waste will be disposed of satisfactorily (see Condition 120 and 125).

Part 9.2 Access for People with Disabilities

The DCP requires that the development must provide an accessible path of travel to all units as well as the provision of at least 1 adaptable unit. The development proposes 2 adaptable apartments. Lift access is proposed to all levels of the building. The applicant has not provided an Access Report however has stated that the development will comply with Council's requirements and details of compliance will be submitted with the Construction Certificate. A condition of consent has been imposed to ensure that the development complies with the appropriate access standards (See condition number 73 & 113).

Part 9.3 Car Parking

Council's DCP requires car parking to be provided at the following rates for residential developments:

- 1 bedroom: 0.6 to 1 space dwelling
- 2 bedroom: 0.9 to 1.2 spaces per dwelling
- 3 bedroom: 1.4 to 1.6 spaces per dwelling
- 1 visitor's space per 5 dwellings.

ITEM 2 (continued)

The minimum car parking required for the residential component is 11 resident spaces and 3 visitor spaces. The maximum car parking would be 15 resident spaces and 3 visitor spaces.

Based on the above, the minimum car parking required is 14 car parking spaces and the maximum car parking required being 18 spaces. The development provides 16 car parking spaces comprising 13 for residents and 3 for visitors. Two accessible parking space are also provided with a shared zone. The development complies with Council's requirements (Condition 71).

(iv) Section 94 Development Contribution Plan 2007

Development Contributions Plan – 2007 (2010 Amendment) allows Council to impose a monetary contribution on developments that will contribute to increased demand for services as a result of increased development density / floor area.

The contributions that are payable with respect to the increased floor area are based on the following figures being outside Macquarie Park:

Contribution Plan	Contributions
Community and Cultural Facilities	\$22,498.65
Open Space and Recreation Facilities	\$55,386.98
Civic and Urban Improvements	\$18,838.47
Roads and Traffic Management Facilities	\$2,569.93
Cycleways	\$1,605.08
Stormwater Management Facilities	\$5,102.66
Plan Administration	\$432.81
Grand Total	\$106,434.58

Notes:

- The CPI for June Quarter has been applied to the development. The CPI index for September quarter is likely to be issued by Bureau of Statistics by 23 October 2014. Should a new rate be available prior to determination of this DA, the Committee will be advised of the same via a separate memorandum with the revised S94 Contributions amount.

Condition 38 requiring the payment of a Section 94 contribution has been included in the recommendation of this report which will further be indexed at the time of payment if not paid in the same quarter.

10. Likely impacts of the Development

The likely impacts as a result of this development application have been addressed earlier in the report.

ITEM 2 (continued)**11. Suitability of the site for the development**

The development is not affected by any overland flow or other natural constraint. The site is suitable for the proposed development.

12. The Public Interest

The development application is considered to be in the public interest. This conclusion has been reached given that the development is generally consistent with the Council's planning controls.

13. Consultation – Internal and External Referrals

Senior Development Engineer: No objection subject to appropriate conditions of consent. The following comment was received:

Stormwater

The site topography falls across the site to the south. The initial review noted there is a small portion of the lot in the south western corner which falls away from the property frontage which was left untreated in the original submission. Whilst the area is proposed to be landscaped, it was noted to the applicant that the arrangement warranted some attention in regards to arresting stormwater runoff to ensure there are no potential detrimental impacts to downstream properties.

In the revised plans, a landscaped roof is proposed over the basement garage ramp and southern portion of the basement garage (RL 56.75m.) and along the southern perimeter is an additional landscaped terrace in which the surface drainage system is placed. The measure has addressed the previous concern and is therefore acceptable.

Vehicle Access

The applicant has undertaken significant modifications to address concerns raised in the initial engineering review. The following matters are noted;

- *Entry sight distance – In response to concerns regarding the sight distance between the vehicle access in/out of the property to traffic approaching on Gladstone Avenue, the applicant has proposed a widened vehicle entry to enable a vehicle to stand inside the property boundary. The driveway width and grades are satisfactory. The proposed "Give way" marking (Refer to Dwg A105) may inadvertently confuse some motorists and is not required.*
- *Ramp grades and verge level – it was identified the original application nominated boundary levels would result in boundary level being lower than the adjacent kerb/ road level and therefore runoff from the public domain would enter the basement garage. The revised plans have not addressed this issue. It*

ITEM 2 (continued)

is noted however that the internal driveway grades may be increased in the site to satisfy this. Accordingly a revised driveway profile must be prepared by the applicant, complying with Councils requirements and the issued boundary alignment levels. This can be addressed as a condition of approval.

- AS 2890.1 vehicle access requirements – The applicant has sought Councils advice in regards to vehicle access and the basement garage layout. The revised design has undergone significant changes in comparison to the original submission. In general, the design is acceptable except with regards to carspaces 1 and 2 located adjacent to the basement ramp. These spaces are dedicated to disabled parking and thereby pose some difficulty in terms of access to/ from the ramp plus have insufficient overhead clearance (2.2m provided however 2.5m is required). This can be readily addressed by swapping the spaces with 3, 4 & 5, which have adequate level of overhead clearance.

The parking requirements for the proposal are as follows;

Unit Type	Quantity	Min Req.		Max Req.	
Studio	0	0		0	
1 Bedroom	3	1.8	(2)	3	(3)
2 Bedroom	8	7.2	(8)	9.6	(10)
3 Bedroom	1	1.4	(2)	1.6	(2)
TOTALS	12	10.4	(12)	14.2	(15)
		(11)		(15)	

	Min (Residents)	Max. (Residents)	Visitors
SUB-TOTAL	11	15	2.4 (3)
TOTAL (Vis included)	13.4	(14)	17.4 (18)

The proposed development provides 13 residential spaces (including 2 disabled spaces) and 3 visitor spaces, thereby providing satisfying Councils controls.

Traffic Generation

Residents in Gladstone Avenue have expressed concern that the additional traffic generated by the development will cause congestion and potential conflicting flows due to the width of the carriageway in this this section of Gladstone Avenue.

The applicant has provided a traffic report noting the following matters;

- The consultant has presented traffic generation levels estimated to peak at 3 vtph (vehicle trips per hour) in the morning period and 2 vtph in the evening peak period. It is noted the applicant has applied the rates from

ITEM 2 (continued)

the updated traffic survey data for high density development. The RMS definition of “high density” generally applies to flat buildings comprised of 20 or more units. Notwithstanding this, the RMS survey encompassed a range of building densities and has presented this data in the study. The data includes a 9-unit block in Wollongong which provided 19 vehicle spaces, equivalent to the proposed development. This data presents the traffic generation level from the site as 6 vtpm in the morning peak and 2 vtpm in the evening. Considering the proximity of the subject site to public transport and its lower parking capacity, a peak traffic generation level of 5 vtpm in the morning peak hour would be expected. Despite this, it is agreed that the resulting level of traffic generation is low in that it presents 1 vehicle movement every 12 minutes on average.

- In regards to the concerns related to traffic flow in Gladstone Avenue, the report has investigated the road conditions and presented that the roadway has clear sight distance from either entries, there are 2-way/ double driveways located in the stretch of roadway in which vehicles could potentially overtake one another. In addition to this, it also includes photos of the parking conditions midday, which indicate that parking capacity peak traffic movement periods are likely to present numerous opportunities for vehicles to overtake one another. Considering this and the relatively low number of vehicle movements, this element does not warrant concern to a degree which would warrant refusal of the application.*

Accordingly, this aspect is considered satisfied.

Recommendation

There are no objections to the proposed development with respect to the engineering components, subject to the application of a number of conditions being applied to any development consent that addresses the following:

- Car parking and access to comply with AS2890 (see Condition 64 & 79).*
- A Geotechnical Report and Dilapidation Report required to ensure excavation does not impact on adjoining property (see Condition 65, 67 & 81).*
- A Traffic Management Plan required to ensure safe construction traffic flow (see Condition 66).*
- Stormwater management (see Condition No. 80, 82, 104, 116, 117 & 118).*

Traffic Engineer: No objection subject to appropriate conditions (see Conditions 66).

Environmental Health Officer: No objection subject to appropriate conditions of consent (see Conditions 24, 25, 29 – 37).

Waste Manager: No objection subject to conditions as discussed in the report (see Condition No. 125)

ITEM 2 (continued)

Consultant Landscape Architect: Has raised no objection to the application subject to recommended conditions of consent. A detailed report is on file, however, the summary is presented below:

*Tree removal proposed on the subject site is generally supported given that those to be removed are not significant within the landscape, have only a low-moderate retention value or are of poor health and vigour. Additionally, a significant number of native trees are proposed to offset and compensate for the tree removal on site. It is noted that one (1) tree proposed for retention (*Casuarina glauca*) has been recommended for removal due to the significant level of encroachment with the Structural Root Zone (SRZ) and Tree Protection Zone (TPZ) as a result of the new building footprint, communal open space and associated landscaping. The submitted landscape plan is considered to provide a high-quality landscape design with appropriate species selection and level of deep soil planting however a number of conditions have been recommended in relation to providing a higher level of screen planting along the boundaries to assist in the provision appropriate privacy to adjoining allotments and softening of the built form. Additionally, it has been recommended that the pot sizes of the proposed trees and shrubs be increased so as to provide instant assistance in screening and plants of an appropriate size that relate to the scale of the development.*

NOTE:

Appropriate conditions have been included in the recommended condition (see attachment - see Conditions 45 - 48).

14. Critical Dates

There are no critical dates to be met.

15. Financial Impact

N/A

16. Other Options

No other options are considered appropriate in respect of this application.

17. Conclusion

The proposal provides an opportunity to redevelop the site consistent with the strategic intentions of the LEP2010 and associated planning controls that has been adopted for the locality by the Council.

ITEM 2 (continued)

After consideration of the development against section 79C of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is considered suitable for the site and is in the public interest. The application is with the recommendations of the Urban Design Review Panel. The issues raised in the submissions have been considered and have been adequately addressed through the assessment process. Therefore, it is recommended that the application be approved subject to conditions.

ITEM 2 (continued)

ATTACHMENT 1

**46 – 48 Gladstone Avenue, Ryde - LDA2013/0173
DRAFT CONDITIONS OF CONSENT**

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:

Plan Title and Number	Description	Date	Issue
A801	Front View (Montage)	23/06/2014	F
D101	Demolition Plan	23/06/2014	F
A101	Site Plan	23/06/2014	F
A103	Roof Plan	23/06/2014	F
A104	Basement Floor Plan	23/06/2014	G
A105	Ground Floor Plan	23/06/2014	G
A106	First Floor Plan	23/06/2014	G
A107	Second Floor Plan	23/06/2014	G
A203	Window & Door Schedule	23/06/2014	F
A301	West Elevation	23/06/2014	F
A302	East Elevation	23/06/2014	F
A303	Elevations – NORTH & SOUTH	23/06/2014	G
A401	Cross – Section 1	23/06/2014	G
A402	Cross – Section 2	23/06/2014	G
A403	Long Section	23/06/2014	G
A404	Cross Section: Rear/ North / South	23/06/2014	G
A405	Driveway Plan – Sections	23/06/2014	F
A406	Entry Section	23/06/2014	F
A407	Communal Open Space/ Sections	23/06/2014	G
A408	Courtyard Section	23/06/2014	F
A501	Access Plan	23/06/2014	F
Greenthump	Landscape Concept Plan (to be amended)	08/07/2014	1
	Colour - Materials & Finishes	11 July 2014	-
	Waste Management Plan	4 April 2013	-

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

ITEM 2 (continued)

ATTACHMENT 1

- (a) Amended Landscape Concept Plan:
- i. To incorporate additional planting and bigger pot sizes as required under Conditions of this Development Consent.
 - ii. To show amended setback of pergola and associated works from the trunk of *Casuarina glauca* that must be protected and retained.
 - iii. Provide additional tree protection measures around the *Casuarina glauca* tree to ensure its protection during demolition and construction works on the site;

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. **BASIX.** Compliance with all commitments listed in BASIX Certificate numbered 471903M_02 dated 05 July 2014.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Signage – not approved unless shown on plans.** This consent does not authorise the erection of any signs or advertising structures on this site.
6. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
7. **Hoardings.**
 - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - (b) An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - (c) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

ITEM 2 (continued)

ATTACHMENT 1

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. The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
9. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Any gate installed must not open onto any public footpath.
10. **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.
11. **Services & Substation:** All service infrastructure/utilities including electrical substations, fire hydrants, gas meters and the like shall be located within the building envelope. Where this is not possible and subject to Council approval such infrastructure shall be located on the subject site and appropriately screened from view. If an electrical substation is required it must be setback at least 4.5m from the front boundary. Details of all service infrastructure/utilities are to be approved prior to issue of the Construction Certificate.
12. **Air Conditioning Condensers Units:** Any air-conditioning motors or condenser Units must not be installed on any balconies proposed on the building to prevent noise impact on the adjoining residents.
13. **Lift Overrun:** Any lift overrun must be contained within the proposed roof level and must not extend beyond RL67250 as shown on Plan Number A403 Issue G.
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.

ITEM 2 (continued)

ATTACHMENT 1

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. **Plumbing and drainage work** - All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation.
19. **Garbage and recycling cart storage area** - A storage area for garbage and recycling carts must be provided on the premises in accordance with Council's *Standard Requirements for the Construction of Garbage and Recycling Cart Storage Areas*.
20. **Noise and vibration from plant and equipment** - Unless otherwise provided in this consent, the operation of any plant or equipment 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, or computed for, the most affected point, on or within the boundary of the most affected receiver. 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.

ITEM 2 (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.

21. **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.
22. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
23. **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.
24. **Discovery of Additional Information** - Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable if any information is discovered during demolition or construction work that has the potential to alter previous conclusions about site contamination.
25. **Further requirements** - If additional information is discovered about site contamination, the proponent must comply with any reasonable requirements of Council.

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26. **Tree removal:** That the trees approved for removal are to be removed in accordance with NSW Workcover Code of Practice (2007) and undertaken by an Arborist with minimum AQF Level 2 qualifications.
27. **Tree to be retained:** The *Casuarina glauca* tree located adjacent to northern side boundary must be protected and retained. This tree must be protected against damage during construction in accordance with this Development Consent and adequate protection measures must be implemented during demolition and construction stage.
28. **Project Arborist** - A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place on the site for all trees to be retained on the subject site and neighbouring allotments. The Arborist must be engaged to oversee all works, during demolition and construction, in relation to the proposed tree works, tree protection requirements and as per Tree Protection Schedule (tree identification etc) provided in this Development Consent. The tree is to be monitored to ensure adequate health throughout the construction period is maintained. Additionally, all work within the Tree Protection Zones is to be supervised throughout construction. Details of the Project Arborist are to be submitted to Council and the PCA prior to the commencement of any demolition and construction works (refer to following hold points).

Hold Point	Task	Responsibility	Certification	Timing of Inspection
1.	Indicate clearly (with spray paint on trunks) trees approved for removal only	Principal Contractor	Project Arborist	Prior to demolition and site establishment
2.	Establishment of tree protection fencing	Principal Contractor	Project Arborist	Prior to demolition and site establishment
3.	Supervise all excavation works proposed within the TPZ	Principal Contractor	Project Arborist	As required prior to the works proceeding adjacent to the tree
4.	Inspection of trees by Project Arborist	Principal Contractor	Project Arborist	Bi-monthly during construction period
5.	Final inspection of trees by project Arborist	Principal Contractor	Project Arborist	Prior to issue of Occupation Certificate

29. **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.

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30. **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.
31. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
32. **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.
33. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.
34. **Imported fill – validation.** All imported fill must be supported by a validation from a qualified environmental consultant that the fill constitutes Virgin Excavated Natural Material. Records of the validation must be provided upon request by the Council.
35. **Delivery dockets to be provided.** Each load of imported fill must be accompanied by a delivery docket from the supplier including the description and source of the fill.
36. **Delivery dockets – receipt and checking on site.** A responsible person must be on site to receive each load of imported fill and must examine the delivery docket and load to ensure that only Virgin Excavated Natural Material that has been validated for use on the site is accepted.
37. **Delivery dockets – forward to PCA on demand.** The delivery dockets must be forwarded to the Principal Certifying Authority within seven (7) days of receipt of the fill and must be produced to any authorised officer who demands to see them.

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.

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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.

38. **Section 94.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of any **Construction Certificate**:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$22,498.65
Open Space & Recreation Facilities	\$55,386.98
Civic & Urban Improvements	\$18,838.47
Roads & Traffic Management Facilities	\$2,569.93
Cycleways	\$1,605.08
Stormwater Management Facilities	\$5,102.66
Plan Administration	\$432.81
The total contribution is	\$106,434.58

These are contributions under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 16 March 2011.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

A copy of the Section 94 Development Contributions Plan may be inspected at the Ryde Planning and Business Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

39. **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**.

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ATTACHMENT 1

40. **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**.
41. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation)
42. **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
43. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.
44. **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**.
45. **Tree Pot Sizes.** The proposed trees in pot sizes of 75 Litres are to be increased to a minimum pot size of 200 Litres so as to assist privacy and soften the impact of the development at the time of planting.
46. **Shrub Pot Sizes.** The proposed shrubs in pot sizes of 200mm located long the boundaries are to be increased to a minimum pot size of 45 Litres/400mm so as to assist privacy and soften the impact of the development at the time of planting.
47. **Rear Boundary Trees.** The rear boundary of the subject site is to include an additional three (3) *Cupaniopsis anacardoides* (Tuckeroo) tree plantings at a minimum pot size of 200 Litres and three (3) *Elaeocarpus reticulatus* (Blueberry Ash) tree plantings at a minimum size of 45 Litres.
48. **Side Boundary Trees.** The northern side boundary of the subject site is to include an additional four (4) *Elaeocarpus reticulatus* (Blueberry Ash) tree plantings at a minimum pot size of 45 Litres to be located between the proposed trees shown on the Landscape Plan dated 08.07.2014 prepared by Green Thumb Landscape Design.

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49. **Road traffic noise and acoustics.** The residential flat building(s) must be designed and constructed so that road traffic noise levels inside the building(s) comply with the satisfactory design sound levels recommended in Australian/New Zealand Standard AS/NZS 2107: 2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*, and AS3671-1989 – Traffic Noise Intrusion, when the windows and doors are closed. If the noise level with windows and doors open exceeds the above noise criteria by more than 10dBA, an approved system of mechanical ventilation must be provided so that the building occupants can leave the windows and doors closed.

A report from a qualified acoustical consultant detailing the measures required to comply with the relevant noise criteria must be submitted with the plans and specifications for the **Construction Certificate**.

50. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of approved finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.
51. **Sill height:** The kitchen window on second floor level on the northern elevation of the building shall incorporate a window sill height of at least 1.7m measured from the finished floor level of that apartment. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
52. **Front balconies:** Privacy screening must be provided along the northern corner of the front balconies associated with Units 204 & 301. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
53. **Clothes dryer:** Clothes must not be hung on the balconies for drying. Sufficient area must be provided within individual apartments to accommodate a washing machine and electrical clothes drier. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
54. **Privacy Screens.** Permanent privacy screens are to be provided on the north eastern facing balconies on the second floor level of the building (Units 301, 302) to ensure privacy for the occupants of dwellings along Princes Street. Details of the materials, finishes, dimensions and construction details in respect of the privacy screens must be submitted to Council and approval obtained prior to the issue of the relevant Construction Certificate. In this regard the privacy screens must be provided as follows:

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- a. Additional privacy screen will be required for every balcony (on second floor level) on the eastern elevation so that each balcony has at least 60% of its sides facing Princess Street screened;
- b. The privacy screens shall be fixed at the central part of the balcony along its edge that faces south east.
- c. The privacy screens to be at least 1.7m in height from the finished floor level of the balcony;
- d. The screens shall be constructed of horizontal obscured louvers fixed at 45 degree angle, upward facing to allow natural light to enter the balcony/living space of the apartments but prevent overlooking into the adjoining residential properties. This will also allow adequate cross ventilation, sun penetration and amenity for the apartments;
- e. The privacy screens must be of permanent construction and must not be movable or operable by the future occupants;
- f. The screens must not be painted white or bright colours to prevent glare on the adjoining residents;

Full details demonstrating compliance with the above requirements including (but not limited to) the following details are required for approval by Council prior to the issue of the relevant Construction Certificate:

- (a) Amended east elevation showing the balconies and privacy screen including colour and finishes details;
- (b) Details of individual balcony configuration with respect to the required screens showing its dimensions, height, elevation, louver and opening details as required in (d) above;
- (c) Submit section details drawn at a 1:20 scale of the privacy screen and balcony.

55. **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. Any lighting installed to the balconies must not cause glare or light spillage so as to impact on the rear properties. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

56. **Boundary Fence & Retaining wall:** Side and rear boundary fence shall be provided at the developers expense as part of the development. Such fence to be as follows:

- All boundary fence must be independent of any retaining wall;
- A 2.1m high lapped and capped timber fence must be provided along the northern and part of eastern boundary that adjoins No. 39, 41 and 43 Princes Street;

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- A 1.8m high lapped and capped timber fence must be provided along the southern side boundary that adjoins No. 44 Gladstone Avenue and along the rear boundary that adjoins No. 45 – 49 Princes Street;
- All retaining wall to be setback from the boundary in accordance with the approved plans;
- Retaining walls higher than 600mm must be certified by a structural engineer;
- If front and return fence is provided, it must not exceed 1.0m in height and shall be designed in accordance with Council's Development Control Plan;
- Any retaining structures proposed forward of the front setback must not exceed 600mm.

All proposed fence and retaining walls must ensure compliance with this condition and details of compliance are to be provided in the plans for the **Construction Certificate**.

57. **Planter box:** Planter boxes proposed on the balconies must have a soil depth of at least 600mm. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
58. **Balustrading:** Balustrading proposed on the rear elevation (facing Princess Street) must be obscured to prevent visibility through it.
59. **Waste Storage and Handling Facilities:** Waste Storage and Handling Facilities must be provided as follows:
- (a) A waste and recycling storage room must be provided on the site as shown on the basement layout plan.
 - (b) The waste and recycling storage room must be designed to accommodate the number of bins specified in the following table:

Minimum Number of Bins Required
6 X 240L General Waste Bins
6 X 240L Recycling Bins
3 X 240L Green Waste Bins

- (c) The finishing/ paving from the waste and recycling storage room must be moderately graded so that the bins can be safely and easily manoeuvred to the collection point.
- (d) A separate room or area should be provided in the basement carpark for the storage of bulky wastes such as disused furniture and white goods. Access by contractor to this room is required.

Full details of the proposed waste storage and handling facilities must be submitted for approval with the plans and specifications for the **Construction Certificate**.

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60. **Construction of garbage rooms** - All garbage 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 cock must be provided in or adjacent to the room to facilitate cleaning.
61. **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 2 (continued)

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62. **Design Verification in respect of SEPP 65.** Prior to the relevant Construction Certificate being issued with respect to this development, the Principal Certifying Authority (PCA) is to be provided with a written Design Verification from a qualified designer. The statement must include verification from the designer that the plans and specifications achieve or improve the design quality of the development to which this consent relates, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development. This condition is imposed in accordance with Clause 143A of the Environmental Planning and Assessment Regulation 2000.
63. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, car parking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.
64. **Car Parking & Access.** All internal driveways, vehicle turning areas, garage opening widths and parking space dimensions, headroom clearances, gradients and safe sight distances etc shall be designed comply with AS 2890 where applicable. Plans and engineering certification from a Traffic Engineer, indicating compliance with this condition are to be submitted with the Construction Certificate application
65. **Excavation** – To ensure the proposed site excavation will not impact on the adjoining property structures foundations and services. The applicant shall submit to the Principal Certifying Authority for approval a geotechnical report prepared and certified by a chartered practicing geotechnical/structural engineer addressing, but not be limited to the following items:
- The likely impacts of the proposed excavations will have on structures and services of adjoining properties;
 - Detail what measures are to be taken to protect the structures and services of adjoining properties from structural damage and undermining during construction; and
 - A copy of the report including geotechnical/structural engineer certification should be submitted to Council.

The above matters shall be completed prior to the issue of the **Construction Certificate** and all recommendations of the Geotechnical Engineer are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

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66. **Traffic Management Plan.** To ensure safe construction traffic flow on site a Traffic Management Plan (TMP) and report shall be prepared by an RMS accredited person and submitted to and approved sought from Council prior to issue of a Construction Certificate.

The TMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices” and the RMS’s Manual – “Traffic Control at Work Sites”. The TMP is to address but not be limited to the loss of on-street parking, construction vehicles travel routes, safety of the public and access, materials storage, handling and deliveries including construction traffic parking.

Additionally, all traffic controllers utilise for the site must be RMS accredited and a minimum of seven (7) day notice shall be given to residents if they will be affected by the proposed construction activities.

67. **Dilapidation Survey of adjoining properties.** A dilapidation survey is to be undertaken that addresses all adjoining properties (including 39-51 Princes Street, 688 Victoria Road and 44 Gladstone Avenue) that may be affected by the construction work. A copy of the Dilapidation Report must be submitted to the PCA and a hard copy and a softcopy of the report to Ryde City Council. A Construction Certificate must not be issued unless Council confirms in writing that this requirement has been met. Copies of the Report are to be forwarded to the adjoining residents by Council.
68. **Dilapidation Report public infrastructure.** Submit a dilapidation report on existing public infrastructure in the vicinity of the proposed development. The report is to include a description of the location and nature of any existing observable defects to the following infrastructure including a photographic record.
- a) Road pavement
 - b) Kerb and gutter
 - c) Constructed footpath.
 - d) Drainage pits.
 - e) Traffic signs
 - f) Any other relevant infrastructure.

The report is also to be submitted to Ryde Council, attention development engineer, prior to the issue of the construction certificate. The report shall be used by council as Roads Authority under the Roads Act to assess whether restoration works are required prior to the issue of the occupation certificate.

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A second Dilapidation Report shall be prepared by a suitably qualified person at the completion of the works to ascertain if any structural damage has occurred to the items specified in the earlier report. A copy of the report shall be submitted to Ryde City Council

69. **Signage.** A signage plan must be prepared by a suitably qualified person. The plan is to be submitted to and approved by the City of Ryde prior to the issue of a Construction Certificate. This must identify any parking restriction associated with Work Zones and Waste collection.
70. **Bicycle parking.** A designated area shall be provided within the building for bicycle parking. Bicycle parking racks must be provided. Details are to be submitted on the Construction Certificate.
71. **Car parking.** A total of sixteen (16) car parking spaces are to be provided on the site including 13 spaces allocated for use by residents, 3 allocated for use by visitors. The visitor spaces shall be clearly marked.
72. **Parking for disabled persons.** *At least two (2) accessible* parking spaces must be provided on the site and must be allocated to the adaptable units. Details are to be submitted on the Construction Certificate plans.
73. **Disabled Access & Adaptable Units.** The development must provide at least 2 adaptable apartments (Units 101 & 102). Disabled access is to be provided to and within the development in accordance with the applicable legislation. Design detail and certification indicating compliance with the Access to Premises Standards, AS1428 & AS4299, Building Code of Australia are to be submitted to the Principal Certifying Authority (PCA) prior to the Construction Certificate being issued.
74. **Access to the communal space:** Continuous Accessible path of travel shall be provided to the communal open space for access by the occupants.
75. **Sight lines.** Vegetation and proposed landscaping/ fencing must not hinder sight lines to and from the proposed access driveways to motorists, pedestrians and cyclists;
76. **Intercom facility.** An intercom facility should be provided at the entry to the basement parking and at street level entrance to the building. Details are to be submitted on the Construction Certificate plans.
77. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.

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78. Vehicle Footpath Crossing(s). Concrete footpath crossings and associated gutter crossovers must be constructed fronting the approved vehicle access location(s). The crossing(s) must be constructed in plain reinforced concrete with location, design and construction shall conform to Council requirements and AS 2890.1 – 2004 (Off-street Parking). Accordingly, prior to issue of Construction Certificate an application shall be made to Council's Public Works division for driveway crossing alignment levels. These issued levels are to be incorporated into the design of the driveway access and clearly delineate on plans submitted with the Construction Certificate application.

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

With respect to this, the following revision(s) must be undertaken;

- a) To ensure that the parking spaces allocated for disabled parking satisfy the headroom clearances in accordance with AS 2890.6, the spaces (1 & 2 on plans) are to be swapped over with spaces 3, 4 & 5.
- b) The proposed driveway ramp grades must be designed to satisfy the boundary alignment levels issued by Council's Public Works and comply with AS 2890.1. Accordingly a revised driveway ramp profile must be prepared, taken along the inside path (representing a shorter ramp length) of travel of vehicles from the boundary alignment to the basement garage. All ramp grades and transition gradients must comply with AS 2890.1

These amendment(s) must be clearly marked on the plans submitted with the application for a Construction Certificate.

80. Stormwater Management. To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted with the application for a Construction Certificate.

Stormwater runoff on the site shall be collected and piped by gravity flow to Gladstone Avenue generally in accordance with the plans by Wehbe Consulting Stormwater and Structural Engineers (Refer to Job No. 297 - Dwgs SW297-1 to SW297-4 Rev B dated 8 July 2014) and subject to the following variation(s), as marked in red on the approved plans;

- The raised surface levels in the south eastern corner of the lot is not required. The surface drainage system in this location may be extended north to drain the rear courtyards of the first floor units, thereby addressing this. Refer to the approved plan.

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The detailed plans, documentation and certification of the system must be prepared by a chartered civil engineer with NPER registration with Engineers Australia and comply with the following;

- The certification must state that the submitted design (including any associated components such as pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of City of Ryde – DCP 2010 Part 8.2 (Stormwater Management).
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.
- The subsurface drainage system must be designed to generally preserve the pre-developed groundwater table so as to prevent constant, ongoing discharge of groundwater to the public drainage network as well as avoid impacts, such as foundation consolidation that may result from dewatering practises.

81. **Geotechnical – Design, Certification and Monitoring Program.** The proposed development involves the construction of subsurface structures and excavation that has potential to adversely impact neighbouring property if undertaken in an inappropriate manner. To ensure there are no adverse impacts arising from such works, the applicant must engage a suitably qualified and practicing Civil or Structural Engineer specialising in geotechnical and the hydrogeological field to design, certify and oversee the construction of all subsurface structures associated with the development.

This engineer is to prepare the following documentation;

- a) Certification that the civil and structural details of all subsurface structures are designed to;
 - provide appropriate support and retention to neighbouring property,
 - ensure there will be no ground settlement or movement during excavation or after construction (whether by the act of excavation or dewatering of the excavation) sufficient to cause an adverse impact to adjoining property or public infrastructure, and,
 - ensure that the treatment and drainage of groundwater will be undertaken in a manner which generally maintains the predeveloped groundwater regime, so as to avoid constant or ongoing seepage to the public drainage network and structural impacts that may arise from alteration of the pre-developed groundwater table.

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- b) A Geotechnical Report and Monitoring Program to be implemented during construction that;
- is based on a geotechnical investigation of the site and subsurface conditions, including groundwater,
 - details the location and type of monitoring systems to be utilised, including those that will detect the deflection of all shoring structures, settlement and excavation induced ground vibrations to the relevant Australian Standard;
 - details recommended hold points and trigger levels of any monitoring systems, to allow for the inspection and certification of geotechnical and hydro-geological measures by the professional engineer; and;
 - details action plan and contingency for the principal building contractor in the event these trigger levels are exceeded.

The certification and the GMP is to be submitted for the approval of the Accredited Certifier prior to the issue of the Construction Certificate.

82. **Erosion and Sediment Control Plan.** An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified consultant, detailing soil erosion control measures to be implemented during construction. The ESCP is to be submitted with the application for a Construction Certificate. The ESCP must be in accordance with the manual *"Managing Urban Stormwater: Soils and Construction"* by NSW Department – Office of Environment and Heritage and must contain the following information;

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

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

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83. **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.

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.

This condition should be used for all developments that may affect Sydney Water infrastructure.

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.

84. **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.

85. **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.

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- (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.
86. **Tree Protection Measures:** Adequate tree protection measures must be installed on the site before commencement of any works on the site including demolition works.
87. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.
88. **Sediment and Erosion Control.** The applicant shall install appropriate sediment control devices in accordance with an approved plan prior to any earthworks being carried out on the site. These devices shall be maintained during the construction period and replaced where considered necessary. Suitable erosion control management procedures shall be practiced. This condition is imposed in order to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.
89. **Footpath Paving Construction.** The applicant shall, at no cost to Council, construct standard concrete footpath paving across the frontage of the property. Levels of the footpath paving shall conform with levels issued by Council's Engineering Services Division.

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.

90. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
91. **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 2 (continued)

ATTACHMENT 1

92. **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.
93. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
94. **Use of fill/excavated material.** Excavated material must not be reused on the property except if:
- (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.
95. **Construction materials.** All materials associated with construction must be stored within the site.
96. **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.
97. **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.
98. **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".
99. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

ITEM 2 (continued)

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100. **Traffic Management.** Any traffic management procedures and systems must be in accordance with *AS 1742.3 1996* and City of Ryde, Development Control Plan 2010: - Part 8.1; Construction Activities. This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.
101. **Truck Shaker.** A truck shaker grid with a minimum length of 6 metres must be provided at the construction exit point. Fences are to be erected to ensure vehicles cannot bypass them. Sediment tracked onto the public roadway by vehicles leaving the subject site is to be swept up immediately.
102. **Erosion and Sediment Control Plan – Implementation.** The applicant shall install erosion and sediment control measures in accordance with the Construction Certificate approved Soil Erosion and Sediment Control (ESCP) plan at the commencement of works on the site. Erosion control management procedures in accordance with the manual “Managing Urban Stormwater: Soils and Construction” by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.
103. **Geotechnical – Implementation of geotechnical monitoring.** The construction and excavation works are to be undertaken in accordance with the Geotechnical Report and Monitoring Program (GMP) submitted with the Construction Certificate. All recommendations of the Geotechnical Engineer and GMP are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.
104. **Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by Wehbe Consulting Stormwater and Structural Engineers (Refer to Job No. 297 - Dwgs SW297-1 to SW297-4 Rev B dated 8 July 2014) submitted in compliance to the condition labelled “Stormwater Management.”.

PRIOR TO OCCUPATION CERTIFICATE

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

ITEM 2 (continued)

ATTACHMENT 1

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.

105. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 471903M_02 dated 5 July 2014.
106. **Landscaping.** All landscaping works including tree protection and re-planting approved under this development consent are to be completed prior to the issue of any **Occupation Certificate**.
107. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This 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.

108. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of the **Occupation Certificate**.
109. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.
- Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

ITEM 2 (continued)

ATTACHMENT 1

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

110. **Post-construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation reports. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties, prior to the issue of the **Occupation Certificate**.
111. **Public domain – work-as-executed plan.** A works as executed plan for works carried out in the public domain must be provided to and endorsed by Council prior to the issue of the **Occupation Certificate**.
112. **Letterboxes and street/house numbering.** All letterboxes and house numbering are to be designed and constructed to be accessible from the public way. Council must be contacted in relation to any specific requirements for street numbering.
113. **Disabled access.** Access for disabled persons shall be provided in the building or portion of the building in accordance with the applicable legislation and the requirements set out in AS 1428.1. Documentary evidence and certification is to be obtained from a suitable qualified person confirming that the development meets these requirements in accordance with this consent, is to be provided to the PCA prior to the issue of any Occupation Certificate.
114. **Design Verification:** Prior to an Occupation Certificate being issued to authorise a person to commence occupation or use of a residential flat building, the Principal Certifying Authority (PCA) is to be provided with design verification from a qualified designer. The statement must include verification from the qualified designer that the residential flat development achieves the design quality of the development as shown on plans and specifications in respect of the relevant Construction Certificate issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development. This condition is imposed in accordance with Clause 154A of the Environmental Planning and Assessment Regulation 2000.
115. **Mechanical Ventilation:** 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 2 (continued)

ATTACHMENT 1

116. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.
117. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to Section 88 E of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention, pump/ sump components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the 88 E instrument are to be in accordance with the Council's draft terms for these systems as specified in City of Ryde DCP 2010 - Part 8.4 (Title Encumbrances) - Section 7, and to the satisfaction of Council, and are to be registered on the title prior to the release of the Occupation Certificate for that title.
118. **Compliance Certificates – Engineering.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.
- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and the City of Ryde DCP 2010, Part 9.3 “Car Parking”.
 - b) Confirming that the Stormwater Management system (including any ancillary components such as onsite detention) servicing the development complies with the City of Ryde DCP 2010, Part 8.2, “Stormwater Management” and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
 - c) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual “*Managing Urban Stormwater: Soils and Construction*” by the NSW Department – Office of Environment and Heritage and the City of Ryde DCP 2010, Part 8.1 “Construction Activities”.
 - d) Certification from a suitably qualified geotechnical engineer confirming that the Geotechnical Monitoring Program (GMP) was implemented throughout the course of construction and that all structures supporting neighbouring property have been designed and constructed to provide appropriate support of the neighbouring property and with consideration to any temporary loading

ITEM 2 (continued)

ATTACHMENT 1

- conditions that may occur on that site, in accordance with the relevant Australian Standard and building codes.
- e) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.
119. **On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).
120. **Signage.** "No Standing on Monday between 5.00am and 11.00am" signs must be installed to ensure clear access for waste removal truck for garbage bin collection. If such a sign is not already installed, the applicant must make an application to Council and seek approval and have the sign installed prior to the issue of any Occupation Certificate.
121. **Acoustic certification.** A report from a qualified acoustical consultant demonstrating compliance with the relevant noise criteria must be submitted to the Principal Certifying Authority before the issue of an **Occupation Certificate**.
122. **Mechanical Ventilation.** Where any mechanical ventilation systems have been installed, 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**.
123. **Land Consolidation:** All land titles within the site must be consolidated into one allotment. Documentary evidence of such consolidation shall be submitted prior to the issue of any Occupation Certificate under the Environmental Planning and Assessment Act 1979.

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.

124. **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 2 (continued)

ATTACHMENT 1

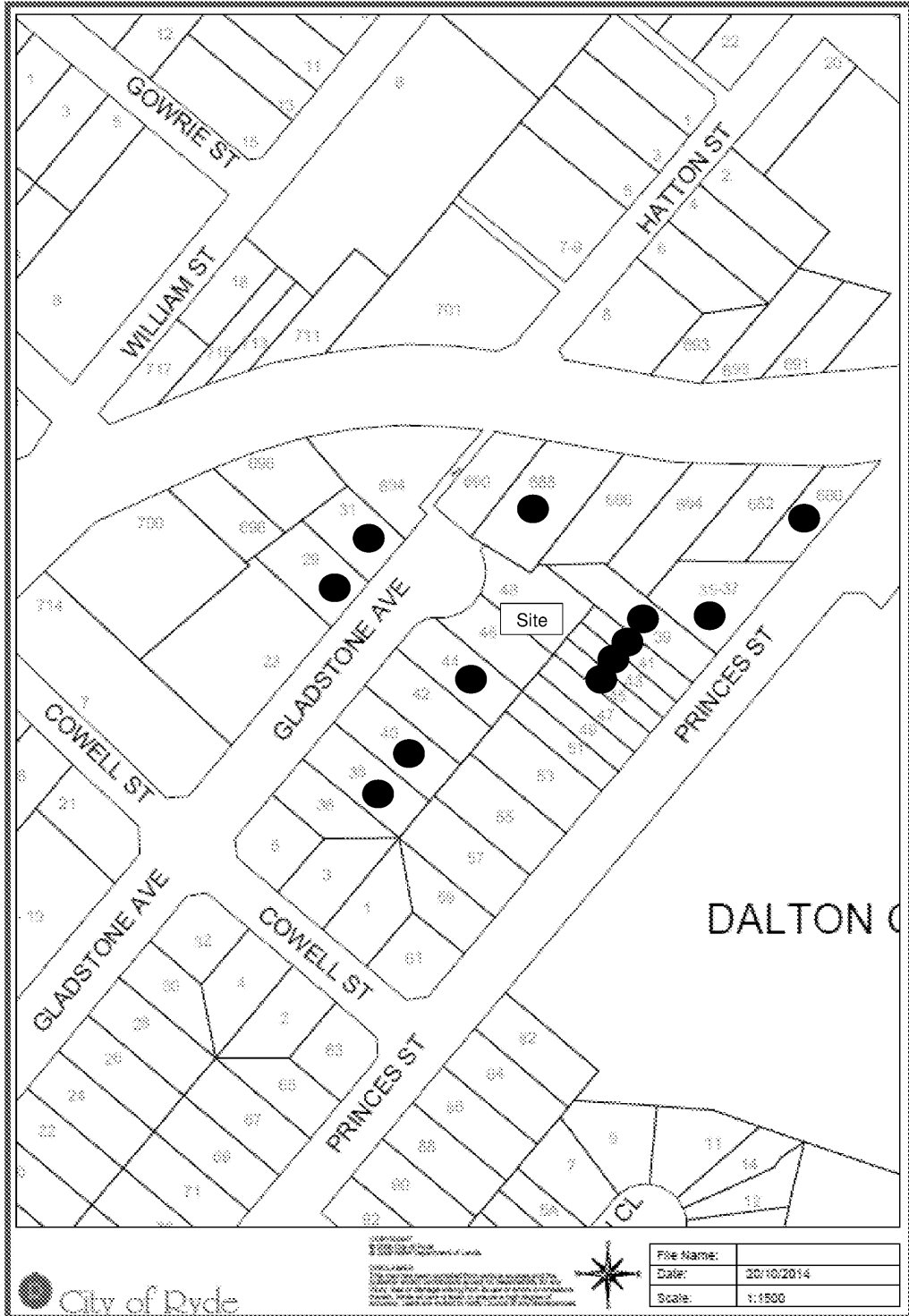
125. **Garbage collection:** Arrangements must be made with Council for the provision of garbage services to the premises before **occupation commences**. Caretakers or contractors must be employed to take the bins from waste and recycling storage room to the kerbside for servicing and to return the bins to the waste storage and recycling room as soon as practicable after servicing. The bins placed along the kerbside must not block any driveways in the street.
126. **Waste storage/disposal – containers.** An adequate number of suitable waste containers must be kept on the premises for the storage of garbage.
127. **Noise Pollution:** The use of the premises must not cause the emission of ‘offensive noise’ as defined in the *Protection of the Environment Operations Act 1997*. The operation of any plant or machinery installed on the premises must not cause:
- (d) 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).
 - (e) 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, when the windows and doors are closed*.

End of Conditions

ITEM 2 (continued)

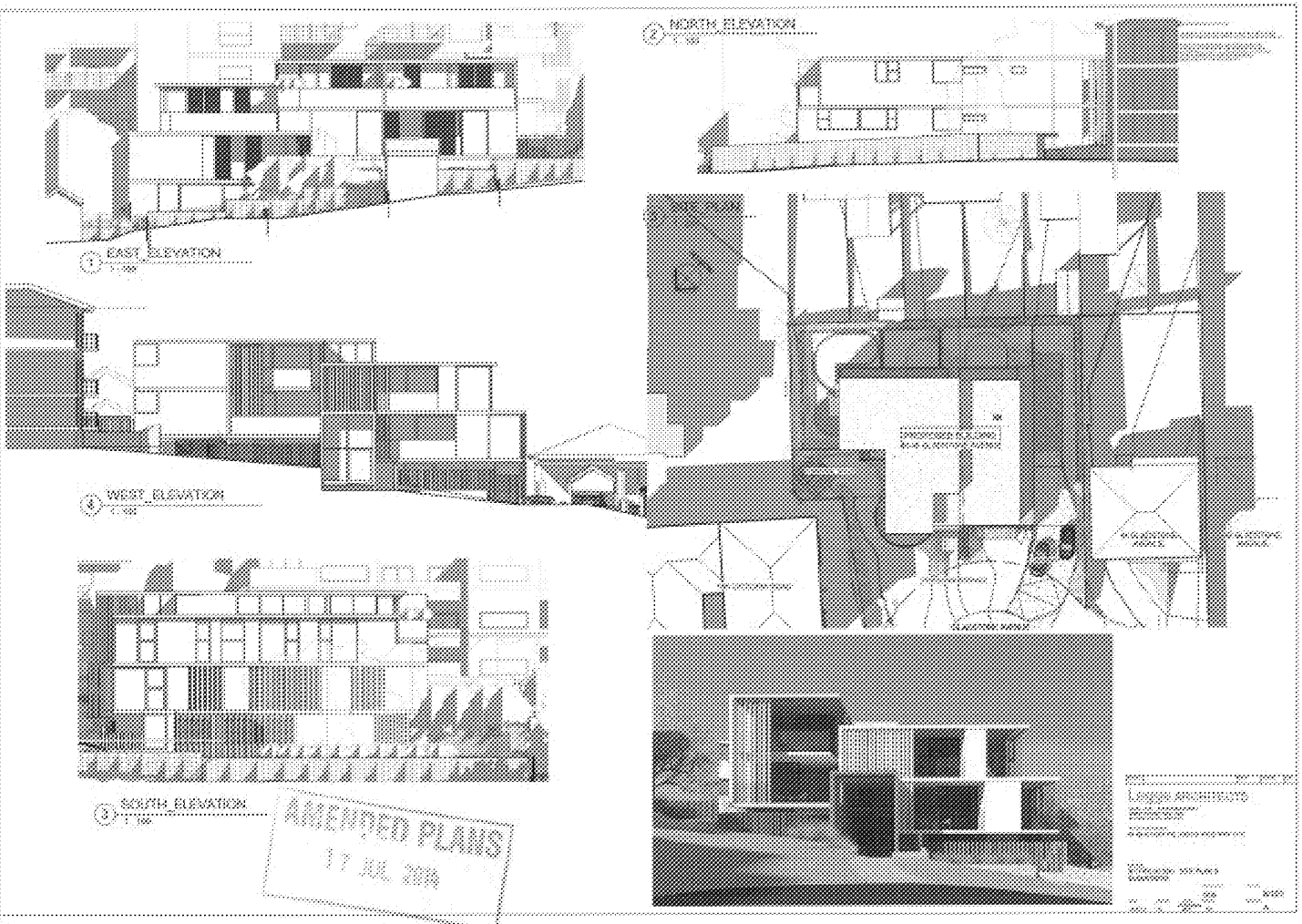
ATTACHMENT 2

● Indicates submissions received (petition also received)



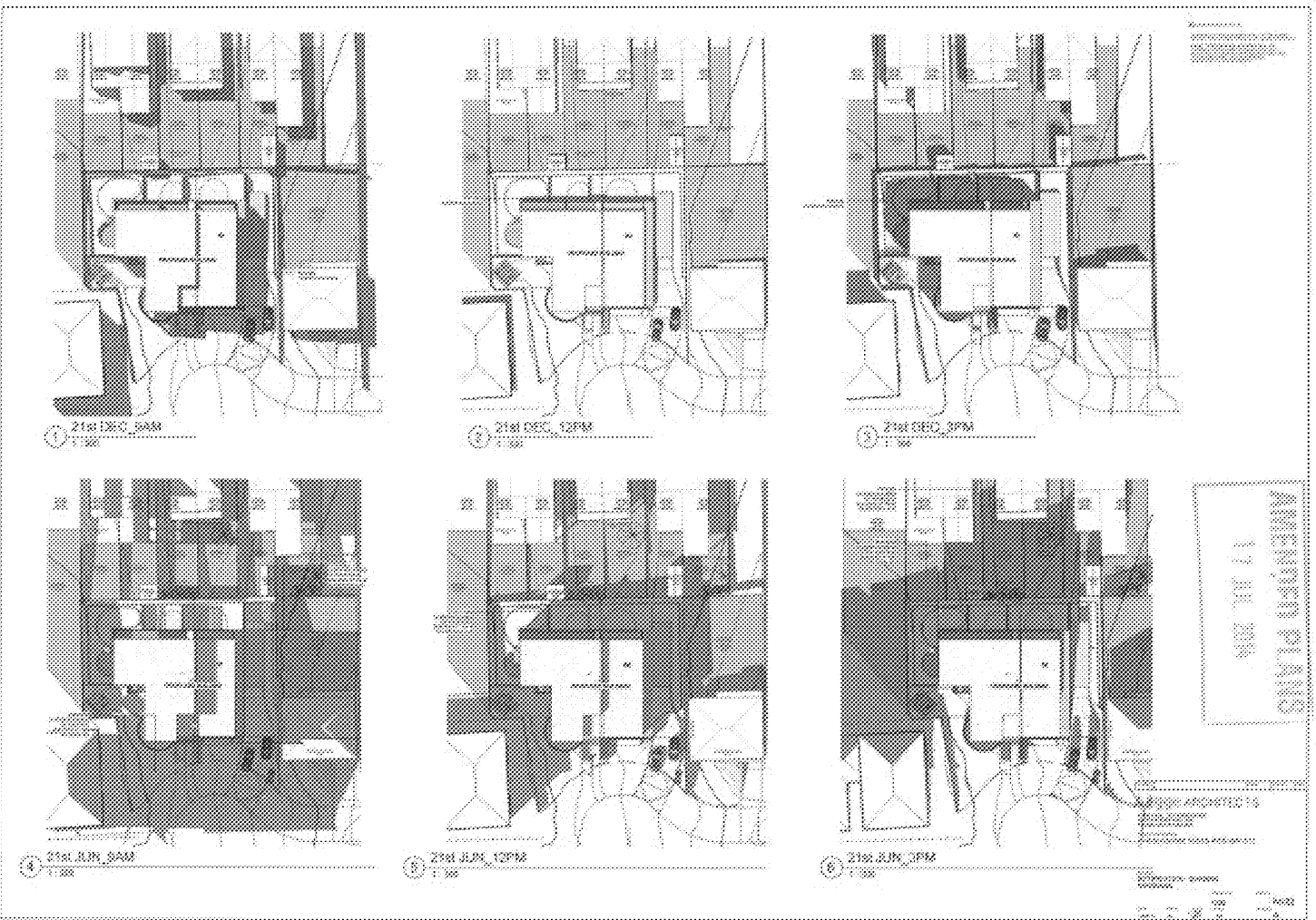
ITEM 2 (continued)

ATTACHMENT 3



ITEM 2 (continued)

ATTACHMENT 3



3 492 BLAXLAND ROAD, DENISTONE. Development Application for a multi dwelling housing development comprising four (4) dwellings pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009. LDA2014/0220.

Report prepared by: Team Leader - Assessment; Creative Planning Solutions

Report approved by: Manager Assessment; Acting Group Manager - Environment and Planning

Report dated: 7/10/2014

File Number: grp/09/5/6/2 - BP14/1227

1. Report Summary

Applicant: J & D Zhang (c/o Glendenning Minto & Assoc)

Owner: Mr D Wang

Date lodged: 29 May 2014

This report considers a development application (“DA”) to construct an in-fill affordable housing development pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009. The proposed development is to be in the form of a multi dwelling housing development comprising four (4) dwellings – 3 x 3 bedroom and 1 x 2 bedroom dwellings. The proposal is for these units to be constructed in two (2) buildings – the larger building at the front of the site is to contain units 1-3, and the smaller building at the rear is to contain unit 4.

The development is similar in style/design to a multi-dwelling housing development (ie each unit is part of a development complex of 4 units in total, with their own private open space and garage), and the site overall has common areas within the site including vehicular/pedestrian access driveway parallel to the southern boundary of the site, a visitor car parking space located between units 3 and 4, along with the front setback area comprised of landscape plantings, and hard landscape features such as a water fountain and paved areas. No subdivision is proposed as part of the application.

The subject site is located in an area of Denistone that is considered to be in transition. While the predominant development pattern is detached dwellings, evidence of a number of modern multi housing and dual occupancy developments have been identified in the vicinity of the site.

During the notification period, a total of six (6) submissions objecting to the development were received – which raised the following issues of concern (summarised):

- out of character with the local area;
- excessive dwelling density;
- unacceptable amenity on adjoining development including privacy and overshadowing impacts;

ITEM 3 (continued)

- inadequate front setback;
- unacceptable building height; and
- amount of parking provided is inadequate.

The subject DA has been assessed against the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979 (the Act), State Environmental Planning Policy (Affordable Rental Housing) 2009 (“ARHSEPP”), Ryde LEP 2010, and Ryde DCP 2014.

When assessed against the provisions of these applicable planning controls, the following issues of concern are identified:

In terms of State Environmental Planning Policy (Affordable Rental Housing) 2009:

- The development is unacceptable in terms of clause 16A of the ARHSEPP – as it is incompatible with the character of the local area. In particular, concerns are related to the building height proposed, the dwelling density, and its non-compliance with the applicable provisions of the Ryde LEP 2010/Draft Ryde LEP 2010 and Ryde DCP 2014.
- Unit 4 fails to achieve the minimum dwelling size for a three (3) bedroom dwelling as prescribed by the development standards contained within clause 14(b)(iv) of the ARHSEPP. The proposed dwelling size has an insufficient gross floor area to provide adequate amenity to this dwelling.
- The proposal does not appropriately allocate vehicular car parking spaces in accordance with the provisions of clause 14(a)(ii) of the ARHSEPP.
- The proposal is inconsistent with the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development as required by clause 15 of the ARHSEPP.

In terms of Ryde LEP 2010, the development does not comply with:

- The objectives of the R2 Low Density Residential zoning of the site (as will be discussed in detail in the body of this report).
- Clause 4.3(2A)(a) – height controls for dwellings that do not front the street;
- Clause 4.3(2A)(b) – height controls for dwellings that front the street;
- Clause 4.5A – density controls for the R2 Low Density Residential zone.

Pursuant to clause 4.6(3) of the Ryde LEP 2010, development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard. No such written request under Clause 4.6 of Ryde LEP 2010 has been received, and so Council cannot support the proposed development.

ITEM 3 (continued)

It is noted that Ryde LEP 2014 has taken effect as of 12 September 2014, however given the Savings Provisions in this LEP, this DA must be assessed under the previous Ryde LEP 2010. The development controls in the old and the new LEP are very similar for this type of development.

In terms of the controls contained in Ryde DCP 2014:

- The subject site is a 'non-preferred location' for multi dwelling housing developments;
- Density – site area (1011.7m²) not large enough for number of dwellings proposed (4), ie a maximum of 3 dwellings would be permitted;
- Dwelling 2 includes a side facing balcony which is prohibited;
- Height – Two storeys proposed for Unit 2 which is attached to a two storey Unit 1 (ie 1 storey allowed);
- Height – Dwelling 2 exceeds max height for unit not fronting the street of 6.5m, and Dwelling 1 exceeds max height of 8m;
- Minimum front setback not met;
- Max cut and fill exceeded outside building envelope;
- Minimum rear setback minimum not met;
- Minimum side setback minimum not met;
- A min 1.2m wide landscaped privacy strip between courtyard and adjoining property is not provided;
- Private open space areas for Dwelling 1 and Dwelling 2 do not meet minimum requirement; and
- Proposal fails to comply with vehicle manoeuvrability requirements.

The applicant was advised of these issues of concern by letter dated 29 July 2014. In their response dated 18 August 2014, the applicant had prepared a written response to the issues raised in Council's letter, but without adequately addressing the issues either by amended plans or written response. In particular, no Clause 4.6 request for variation has been provided in regard to the areas of non-compliance with Ryde LEP 2010.

It should be noted that the applicant has lodged an appeal to the Land and Environment Court against Council's deemed refusal of this DA. The First Directions Hearing in this appeal was held for 3 October 2014, at which point Council was required to prepare and file documentation in the Court (called a "Statement of Facts and Contentions") identifying why the development should be refused. This document is held as an attachment to this report, and contains contentions that are similar to the reasons for refusal identified in this report.

For Councillor's information, at the First Directions Hearing, the Land and Environment Court orders included setting a date for the Section 34 Conciliation Conference on 26 November 2014, and also a Second Directions Hearing for 3 December 2014 (which may be vacated if the proceedings are resolved at the Section 34 Conference).

ITEM 3 (continued)

Reason for Referral to Planning and Environment Committee: Number of submissions received, nature of proposed development.

Clause 4.6 RLEP 2010 objection required? Yes – required in terms of:

- Clause 4.3(2A)(a) – height controls for dwellings that do not front the street;
- Clause 4.3(2A)(b) – height controls for dwellings that front the street;
- Clause 4.5A – density controls for the R2 Low Density Residential zone.

Value of works: \$755,600.00

A full set of the plans is **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors - subject to copyright provisions.

RECOMMENDATION:

- (a) That Local DA No. 2014/0220 at 492 Blaxland Road, Denistone (LOT 36 Section 4 In DP 7997) be refused for the following reasons:
- 1) The proposed development is incompatible with the character of the local area, and as per clause 16A of State Environmental Planning Policy (Affordable Rental Housing) 2009 cannot be supported.
 - 2) The proposed development provides an unacceptable dwelling size for Dwelling 4, such that it will fail to provide an adequate level of amenity to occupants of this dwelling.
 - 3) The proposed development fails to achieve consistency with the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development as required by clause 15 of the ARHSEPP.
 - 4) The proposed development is considered to be contrary to the objectives of the R2 Low Density Residential zoning of the site under the Ryde Local Environmental Plan 2010;
 - 5) The proposed development fails to achieve compliance with the principal development standards contained within clause 4.3 - 'Height of Buildings', and clause 4.5A – 'Density Controls for Zone R2 Low Density Residential' of the Ryde Local Environmental Plan 2010. No written request has been submitted pursuant to clause 4.6 of the Ryde Local Environmental Plan 2010.
 - 6) The proposed development is inconsistent with the applicable development controls for multi dwelling housing development as prescribed by Part 3.5 of the Ryde Development Control Plan 2014;
 - 7) The proposed development will have an unacceptable impact on the built environment;
 - 8) The proposed development is unsuitable for the site;
 - 9) The proposed development is not in the public interest.

ITEM 3 (continued)

(b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Compliance Table - State Environmental Planning Policy (Affordable Rental Housing) 2009
- 2 Compliance Table - Seniors Living Policy Urban Design Guidelines for Infill Development
- 3 Compliance Table - Ryde Development Control Plan 2014
- 4 Character Assessment
- 5 Additional Information Letter to Applicant 29 July 2014
- 6 Applicant's Response dated 18 August 2014
- 7 Statement of Facts and Contentions (in current Land and Environment Court Appeal)
- 8 Map
- 9 A4 Plans
- 10 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Chris Young
Team Leader – Assessment

Ben Tesoriero Planning Consultant
Creative Planning Solutions

Report Approved By:

Liz Coad
Manager Assessment

Meryl Bishop
Acting Group Manager - Environment and Planning

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

Address : 492 Blaxland Road, Denistone
(Lot 36 in Section 4 of Deposited Plan 7997)
Site Area : 1,011.7 (Deposited Plan).

Site frontage to Blaxland Road of 20.12m (Deposited Plan)

Rear boundary of 20.12m (Deposited Plan)

Northern side boundary of 50.30m (Deposited Plan)

Southern side boundary of 50.30m (Deposited Plan)

Topography and Vegetation : The subject site has a steady cross-fall of 3.51m from a height of approx. 97.75 at the rear north-western corner to a height of approx. 94.24 in the front south-eastern corner. This fall occurs over a distance of 54m representing an average slope of approx. 1:15.4. The subject site includes some vegetation which is primarily confined to the perimeters of the site. There is also significant vegetation on adjoining allotments which have been identified as being relevant to the proposed development due to tree protection zones for such trees encroaching on the subject site. Of the six (6) identified mature trees on and adjoining the site, four (2) are proposed to be removed, with the remaining two (2) trees on adjoining property to remain.

Existing Buildings : The subject site currently includes a brick single storey dwelling house with a tiled roof and detached fibro shed/garage. Site access is via a concrete kerb crossing and driveway parallel to the northern side boundary.

A concrete footpath extends across the verge in front of the property parallel to the front boundary and Blaxland Road.

Planning Controls Zoning : R2 – Low Density Residential under Ryde LEP 2010
R2 – Low Density Residential under Ryde LEP 2014

Other : Ryde LEP 2010
Ryde DCP 2014
State Environmental Planning Policy (Affordable Rental Housing) 2009

ITEM 3 (continued)

Seniors Living Policy: Urban Design Guidelines for infill development
State Environmental Planning Policy 55 – Remediation of Land
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004



Figure 1: Aerial image of subject site and surrounding development.

ITEM 3 (continued)



Figure 2: Photograph of subject site taken from the northern side of Blaxland Road. Noted in this photograph is the existing single storey brick dwelling house with tiled roof on the site.

3. Councillor Representations

None.

4. Political Donations or Gifts

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

5. Proposal

The DA is seeking approval for the construction of an in-fill affordable housing development pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009.

The proposal is to be in the form of a multi dwelling housing development comprising four (4) dwellings – 3 x 3 bedroom and 1 x 2 bedroom dwellings. These units are proposed to be constructed in two (2) buildings – the larger building at the front of the site is to contain units 1-3, and the smaller building at the rear is to contain unit 4.

ITEM 3 (continued)

The development is similar in style/design to a multi-dwelling housing development (ie each unit is part of a development complex of 4 units in total, with their own private open space and garage), and the site overall has common areas within the site including vehicular/pedestrian access driveway parallel to the southern boundary of the site, a visitor car parking space located between unit 3 and 4, along with the front setback area comprised of landscape plantings, and hard landscape features such as a water fountain and paved areas. No subdivision is proposed as part of the application.

The following drawings show the site plan and elevations of the proposed development.

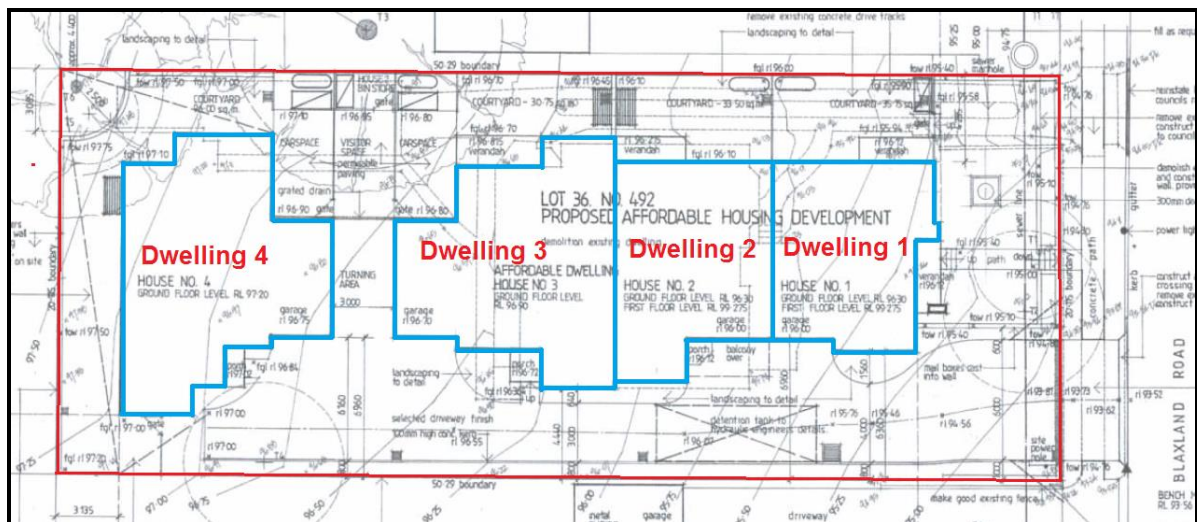


Figure 3: Site Plan extract of the proposed development with each of the four (4) dwellings proposed highlighted in blue and labelled in red. The thin red perimeter highlight represents the boundary of the subject site at 492 Blaxland Road, Denistone.

ITEM 3 (continued)

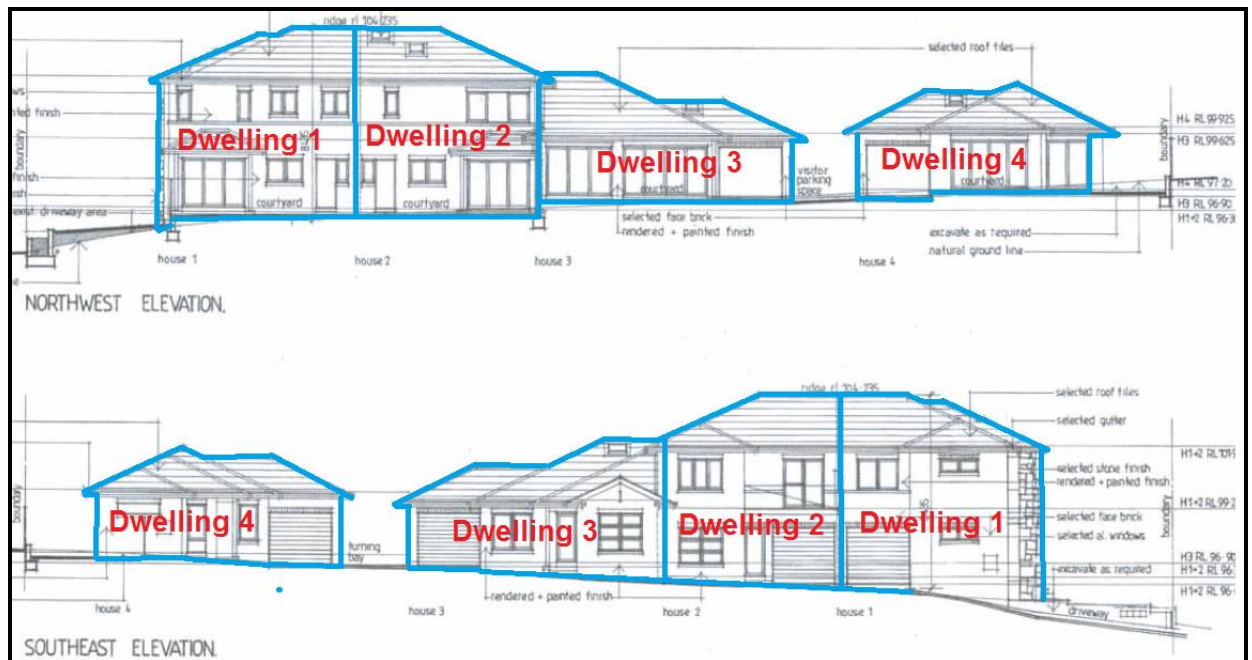


Figure 4: Extract of the North-west and South-east Elevation drawings of the proposed development with each of the four (4) dwellings proposed highlighted in blue and labelled in red. Noted in this diagram is that both Dwelling 1, and the adjoining Dwelling 2 are two (2) storey dwellings, whilst the attached Dwelling 3 is single storey. The detached Dwelling 4 is also single storey in height.

ITEM 3 (continued)

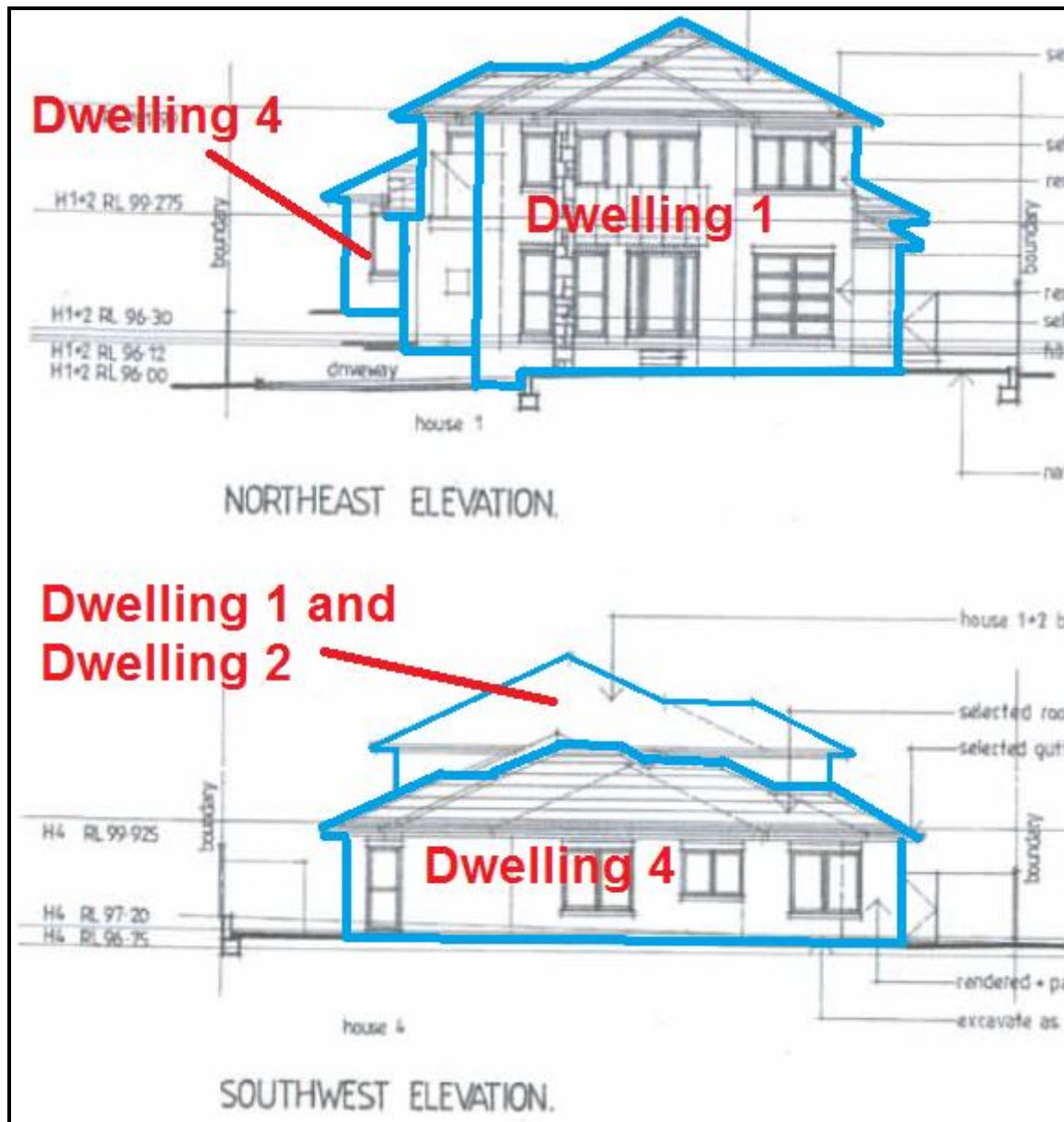


Figure 5: Extract of the North-east (front) and South-west (rear) Elevation drawings of the proposed development with the visible dwellings in the development highlighted in blue and labelled in red. Noted in this diagram is the two (2) storey presentation to Blaxland Road and the single storey presentation to the rear boundary with the two (2) storey height of Dwelling 2 visible when viewing the development from the rear.

6. Background

The following is a brief overview of the development history relating to the proposed development:

- No pre-lodgement meeting was undertaken by the applicant with City of Ryde Council's Building and Development Advisory Service;

ITEM 3 (continued)

- The subject DA (LDA2014/0220) was lodged on 29 May 2014;
- The DA was notified in accordance with the Ryde Development Control Plan 2010 (Ryde DCP 2010) for a period from 16 June to 9 July 2014. In response, six (6) objections were received by Council;
- Following Council's preliminary assessment of the subject DA and completion of the notification period, a letter was sent to the applicant on 29 July 2014. This letter suggested that the applicant withdraw the subject DA on the basis of the planning and development engineering issues identified with the proposal. A copy of Council's letter to the applicant is held at **Attachment 5**.
- On 18 August 2014 Council received a response from the applicant indicating the majority of the Council's concerns relate to incorrect emphasis being given to the Ryde DCP 2010 rather than enabling the ARHSEPP. In this regard the applicant did not adopt Council's recommendation for withdrawal of the DA, and instead indicated for Council to continue with its assessment of the DA. A copy of the applicant's response to Council's letter is held at **Attachment 6**.
- On 5 September 2014, an appeal was filed in the Land and Environment Court against Council's deemed refusal of this DA. As part of the process for this appeal, and the Rules of the Court, a Statement of Facts and Contentions was filed in the Court and served to the applicant on 3 October 2014 (see copy at **Attachment 7**). These are generally in accordance with the recommended reasons for refusal.
- At the First Directions Hearing, the Land and Environment Court orders included setting a date for the Section 34 Conciliation Conference on 26 November 2014, and also a Second Directions Hearing for 3 December 2014 (which may be vacated if the proceedings are resolved at the Section 34 Conference).

7. Submissions

In accordance with Part 2.1 'Notification of Development Applications' of the Ryde Development Control Plan 2010 (Ryde DCP 2010), the subject DA was notified to adjoining property owners. In response, six (6) submissions were received.

The issues raised in the submissions along with the Assessing Officer's Comment are below:

1. Character. *Objection is raised that the proposed development is out of character with the local area.*

ITEM 3 (continued)

Assessing Officer's Comment: Clause 16A of the ARHSEPP requires that consideration be given as to whether the design of infill affordable rental housing proposal is compatible with the character of the local area

Section 9 of this report (below) includes a detailed character assessment, as required under Clause 16A of the ARHSEPP and based on the applicable case law established by the Land and Environment Court. The conclusion of this character assessment is that the proposal is inconsistent with the character of the locality, and therefore it is considered that neighbouring objections based upon character are supported.

2. Density. *Objections are raised that the development has an excessive dwelling density.*

Assessing Officer's Comment: Clause 4.5A 'Density controls for Zone R2 Low Density Residential' of the Ryde LEP 2010:

The consent authority must not consent to the erection of multi dwelling housing (attached) on land in Zone R2 Low Density Residential unless: (a) the site area for the building is not less than: (i) for each 1, 2, or 3 bedroom dwelling – 300 square metres.

The proposed development is for a multi dwelling housing development containing 4 dwellings on land within the R2 Low Density Residential zone. On this basis the required site area for the proposed development is 1,200sqm. The site area of the subject allotment is only 1,011.714sqm (from Deposited Plan) which is 188.286sqm less than the minimum required.

It is noted that no written request for variation of the density standards under the Ryde LEP 2010 has been included as part of the DA, despite being requested in Council's letter dated 29 July 2014. As such, pursuant to clause 4.5A of the Ryde LEP 2010, Council must not consent to the development.

In any event, there is concern that the level of density on the site contributes to the overdevelopment of the site which is reflected in a number of other issues with the proposal as summarised below, and in more detail under Section 9 of this report. In particular, the proposed development fails to comply with:

- The building height development standards contained within the Ryde LEP 2010;
- The minimum setback requirements under the Ryde DCP 2014;
- The minimum side setback requirements under the Ryde DCP 2014;
- The minimum rear setback requirements under the Ryde DCP 2014;
- The minimum private open space area requirements for Dwelling 1 and Dwelling 2;

ITEM 3 (continued)

- The subject site is a non-preferred location for multi dwelling housing as identified under the Ryde DCP 2014 (on the basis of 'adverse traffic impacts').

Given the above, it is considered that neighbouring objections based upon density are supported as the proposed development is an apparent overdevelopment of the site.

3. Amenity. *Objections are raised regarding the negative impacts on the amenity of surrounding properties.*

Assessing Officer's Comment: The submissions in relation to amenity raise two (2) primary concerns of the proposal, the first being privacy and second overshadowing. These issues are addressed separately below.

Privacy

The concerns for the potential loss of privacy as a result of the proposed development primarily stem from the two (2) storey nature of the proposal.

Both Dwelling 1 and Dwelling 2 within the proposal will be two (2) storeys in height. This contravenes the development control contained in the Ryde LEP 2010 and DCP 2014 that prohibits two (2) storey dwellings that do not front to the street.

It is therefore important to consider that the proposed development, by including more than a single street facing two (2) storey dwelling, will include a greater number of residents with access to a first floor and subsequently increased amount of overlooking potential.

The privacy impacts of the proposed development are generally considered to be compliant with the majority of privacy related controls contained within the Ryde DCP 2014. That is those controls relating to the size, location and orientation of windows etc.

There is one important non-compliance however, which is two (2) upper level balconies are proposed. As per Section 3.10 of Part 3.5 of the Ryde DCP 2014, balconies are prohibited on all dwellings in multi dwelling house developments.

The proposed balcony of Dwelling 1 faces the street and as such is not considered to lead to unacceptable privacy impacts.

The proposed balcony of Unit 2 however, is oriented to the south-eastern side, facing No. 490 Blaxland Road. This balcony is located on the first floor of the dwelling and as such will facilitate overlooking to the neighbouring property.

ITEM 3 (continued)

Given that the privacy concerns arise because of the non-compliant two (2) storeys of Dwelling 2 and the non-compliance in regards to upper level balconies, the neighbouring objections based on privacy impacts are supported.

Overshadowing

The shadow diagrams submitted with the subject DA demonstrate that the shadows cast by the proposal will achieve compliance with the minimum solar access requirements for the dwelling houses on the adjoining allotments as required by the Ryde DCP 2014.

It is noted that this is largely achieved through the favourable orientation of the allotment, and increased setbacks from the southern side of the allotment by virtue of the access driveway located parallel to the south side boundary.

Given the above, the objectors issues with the overshadowing of the proposed development are not supported in this instance.

4. Front Setback. *Objection is made to the front setback of the multi dwelling housing development.*

Assessing Officer's Comment: Section 3.5.1 of Part 3.5 of the Ryde DCP 2014 contains controls relating to Front Setbacks. Specifically, the controls stipulate the following:

- a. *Buildings must be set back:*
 - i. *The same distance as one of the buildings on an adjoining allotment, if the difference between the setbacks of the building on the two adjoining allotments is not more than 2m; or*
 - ii. *If the difference between the setbacks of the adjoining buildings is more than 2m the development must be setback the average of the front setback of the two adjoining developments.*

An assessment of the adjoining dwellings reveal that the dwelling to the north-west is set back 13m whilst the dwelling to the south east is set back 14.6m. Since the difference in adjoining setbacks is not more than 2m then the applicable front setback control for the proposed development is the same distance as one of the buildings on the adjoining allotments i.e. 13m or 14.6m.

Submitted plans indicate that the proposed development has a front setback of 6.0m, which is non-compliant with the above mentioned control and significantly inconsistent with that of the adjoining development.

ITEM 3 (continued)

It is acknowledged that there are other multi dwelling house developments in the local area that also do not comply with the front setback control. For example, the multi dwelling house development at No. 496 Blaxland Road is only setback approximately 7.0m which is not consistent with the adjoining setbacks.

The proposed front setback is considered to make a significant contribution to the incompatibility of the proposed development in the local area as discussed in the Character Assessment (see **Attachment 4**). Whilst there are other developments in the locality with similar reduced front setbacks, these developments are single storey in height only, meaning that the reduced front setback does not lead to excessive prominence in the streetscape as is considered the case with the proposed development. Accordingly, the issue is partly the proposed front setback and the significant massing placed on Blaxland Road by the two (2) storey nature of the proposed development. As such the proposal is considered to be a discordant element in the streetscape and inconsistent with the character of the local area.

Given the above, the neighbouring objections based on the proposed front setback are supported.

5. Building Height. *Concern is raised on the impact of the building height of the multi dwelling housing development on privacy and overshadowing.*

Assessing Officer's Comment: Clause 4.3(2A)(a) 'Height of Buildings' of the Ryde LEP 2010 states the following for the maximum building height of multi-dwelling house development in the R2 Low Density Residential zone:

for dwellings in the building that do not have a frontage to the street – 6.5 metres.

The submitted plans indicate that Dwelling 2 does not front the street, yet has a building height of 8.235m. This is a significant variation to the principal development standard of the Ryde LEP 2010 in the order of 1.735m over the maximum allowable height.

Clause 4.3(2A)(b) 'Height of Buildings' also states the following for the maximum building height of multi-dwelling house development in the R2 Low Density Residential zone:

for dwellings with a frontage to the street, if adjoining lots contain dwelling houses that are less than 9.5 metres high – 8 metres.

The submitted plans indicate that Dwelling 1 fronts the street and has a height of 8.435m which exceeds the maximum allowable by 435mm.

ITEM 3 (continued)

As has been discussed earlier in this report, it is noted that no written request for variation of the building height standards under clause 4.6 of the Ryde LEP 2010 has been included as part of the DA. As such, pursuant to clause 4.3 of the Ryde LEP 2010, Council must not consent to the erection of the subject multi-dwelling house development on the subject site.

Despite the proposal not including a written request for variation under clause 4.6 of the Ryde LEP 2010, the proposed building height is not supported on the following basis:

- The non-compliant building height of Dwelling 1 contributes to what is considered to be a development that is out of character with that of other development in the local area. This is because all other multi dwelling housing within the local area has been identified as being single storey only. In addition dwelling house development has also been identified as being predominantly single storey in nature.
- It is considered the height of Dwelling 2, being significantly in excess of this development standard, contributes to the excessive bulk and scale of the proposed design and as such results in a development that is out of character with the local area, and presents unacceptable visual impacts on adjoining property which are considered to be exacerbated by the proposals non-compliant rear and side setbacks – see further commentary under Ryde DCP 2014 assessment below.
- The proposed development results in a built form and density that negatively impacts on the streetscape of Blaxland Road which is considered to be exacerbated by the development's non-compliant front setback.

The proposed development also fails to meet the objectives of the height of buildings development standard contained within clause 4.3 of the Ryde LEP 2010.

Given the above, the neighbouring objections based on the height of the proposed development are supported.

6. Parking. *Objections are made that the development provides insufficient on-site parking.*

Assessing Officer's Comment: Clause 14(2)(a) of the ARHSEPP states the following in relation to vehicular parking provisions for infill affordable rental housing developments, such as that being proposed as part of the subject DA:

ITEM 3 (continued)

A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:

(a) Parking

If:

- (ii) at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms.*

The proposed development includes a single two (2) bedroom dwelling and three (3) x three (3) bedroom dwellings. With regards to the abovementioned control, the proposed development requires a total of at least 5.5 car parking spaces.

The submitted plans indicate a total of seven (7) car parking spaces to be provided including six (6) spaces for the residents and one (1) visitor parking space. Accordingly, the proposed car parking rates comply with the abovementioned development standard.

Despite complying with the parking requirements, there are concerns over the proposed allocation of these spaces. Two (2) of the three (3) bedroom units (Dwelling 1 and Dwelling 2) will only have one (1) car parking space allocated to each, while the two (2) bedroom unit (Dwelling 3) will have two (2) car parking spaces as with Dwelling 4 which has three (3) bedrooms. Only allocating one (1) space for two (2) of the three (3) bedroom units is considered to be an inappropriate allocation that is inconsistent with the intent of the development standard.

As such, there is concern that there will be insufficient off-street parking available for the residents of these units. Further to this concern, Blaxland Road is a busy classified road where parking is often not allowed due to clearways. This would mean that residents may have to park in nearby side streets.

Given the above, the proposed allocation of car parking spaces is considered to be inappropriate and as such the neighbouring objections regarding parking have merit.

8. SEPP1 (or clause 4.6 Ryde LEP 2010) objection required?

Yes. The subject DA proposes to vary three (3) development standards contained within the Ryde LEP 2010. The development standards to be varied include the following:

- Clause 4.3(2A)(a) 'Height of Buildings' of the Ryde LEP 2010 states the following for the maximum building height of multi-dwelling house development in the R2 Low Density Residential zone:

ITEM 3 (continued)

“for dwellings in the building that do not have a frontage to the street – 6.5 metres.”

Submitted plans indicate that Unit 2 does not front the street, yet has a building height of 8.235m. This is a significant variation to the principal development standard of the Ryde LEP 2010 in the order of 1.735m over the maximum allowable height.

- Clause 4.3(2A)(b) ‘Height of Buildings’ also states the following for the maximum building height of multi-dwelling house development in the R2 Low Density Residential zone:

“for dwellings with a frontage to the street, if adjoining lots contain dwelling houses that are less than 9.5 metres high – 8 metres.”

This development standard is also stated in Section 3.3.2 ‘Height’ of Part 3.5 of the Ryde Development Control Plan 2010 (Ryde DCP 2014).

An assessment of the heights of the adjoining dwellings has revealed that they are less than 9.5m high. Accordingly, an 8 metre height limit is applicable.

- Clause 4.5A ‘Density controls for Zone R2 Low Density Residential’ of the Ryde LEP 2010 (and Draft Ryde LEP 2011) states that:

“(1) The consent authority must not consent to the erection of multi dwelling housing (attached) on land in Zone R2 Low Density Residential unless: (a) the site area for the building is not less than: (i) for each 1, 2, or 3 bedroom dwelling – 300 square metres.”

The proposed development is for a multi dwelling housing development comprising four (4) dwellings, including two (2) x three (3) bedroom two-storey dwellings at the front of the site, and one (1) x three (3) and one (1) x two (2) bedroom single storey dwellings at the rear of the site (i.e. 4 x ‘1, 2, or 3 bedroom dwellings’) on land within the R2 Low Density Residential zone. On this basis the required site area for the proposed development is 1,200sqm. The site area of the subject allotment is only 1,011.714sqm (from Deposited Plan) which is 188.286sqm less than the minimum required.

It is noted that no written request for variation of these development standards under the Ryde LEP 2010 has been included as part of the DA despite this being raised as an issue by Council in their letter to the applicant on 29 July 2014.

As such, pursuant to clause 4.3(2A)(b), 4.3(2A)(b), and 4.5A(1) of the Ryde LEP 2010, Council must not consent to the erection of the subject multi-dwelling house development on the subject site.

ITEM 3 (continued)***Comments on relationship of ARHSEPP with Ryde LEP 2010***

It is noted that although the subject DA is being lodged pursuant to the provisions of the ARHSEPP, clause 8 of the ARHSEPP provides the following directions for the relationship of the ARHSEPP with other environmental planning instruments:

“If there is an inconsistency between this Policy and any other environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.”

In this regard, if there is an inconsistency between the ARHSEPP and the relevant council’s Ryde LEP 2010, the provisions of the ARHSEPP will override those in the Ryde LEP 2010, but only to the extent of the inconsistency

Accordingly if there is no inconsistency between the ARHSEPP and the Ryde LEP 2010, then the provisions of the Ryde LEP 2010 continue to apply.

Reference is also made to the Department of Planning and Environment’s guidelines for supporting infill affordable rental housing (August 2014) which states the following when answering whether other local planning controls continue to apply:

“If the SEPP does not explicitly override a local council planning control, then the local council planning control continues to apply.”

The ARHSEPP does not provide development standards for the height of buildings, or dwelling density – and therefore the controls in Ryde LEP 2010/DCP 2014 are required to be applied.

It is noted that the ARHSEPP does include a development standard for minimum site area for infill affordable housing developments to be carried out, however this is not considered a dwelling density control, but rather a control ensuring that such development is not undertaken on smaller allotments that are below the minimum area of requirement of 450m².

Again, given no written request for variation of the abovementioned development standards has been submitted by the applicant, pursuant to clause 4.3(2A)(b), 4.3(2A)(b), and 4.5A(1) of the Ryde LEP 2010, Council must not consent to the erection of the subject multi-dwelling house development on the subject site.

ITEM 3 (continued)**9. Policy Implications****Relevant Provisions of Environmental Planning Instruments etc:**Ryde Local Environmental Plan 2014:

The Ryde LEP 2014 commenced on 12 September 2014 as the new environmental planning instrument applicable to the City of Ryde. In relation to existing DAs undetermined as of 12 September 2014, this instrument contains a Savings Provision (clause 1.8A) which states:

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

The DA was made (lodged) on 29 May 2014, before the commencement of this Plan and so it must be determined as if Ryde LEP 2014 had not commenced. What this means is that Ryde LEP 2014 is treated as a draft.

(a) Ryde Local Environmental Plan 2010**Land Use and zoning**

The subject site is currently zoned R2 Low Density Residential zone under the provisions of the Ryde LEP 2010. Within the R2 Low Density Residential zone, the proposal meets the definition of 'multi dwelling housing' as contained within the Dictionary of the Ryde LEP 2010, and is permissible with consent.

Clause 2.3 of the Ryde LEP 2010 requires that the consent authority must have regard to the objectives for development in a zone when determining a DA in respect of land within the zone.

The following is a list of the objectives for the R2 Low Density Residential zone as set out in the Land Use Table within the Ryde LEP 2010, followed by the Assessing Officer's Comment on how the proposed development performs against each of these objectives:

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

Assessing Officer Comment: The proposed development is for a multi dwelling housing development comprising 4 dwellings.. As such, the proposed development is not considered to be 'low density'.

ITEM 3 (continued)

Although multi dwelling housing has been identified as a permissible form of development within the R2 Low Density Residential zone, it is noted that the proposed development fails to comply with the dwelling density development standards for the R2 Low Density Residential zone contained within clause 4.5A of the Ryde LEP 2010. As such, it is considered that the proposal fails to provide a development outcome consistent with the low density residential environment of the R2 zone.

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

Assessing Officer Comment: The objective is not considered relevant to the proposed development.

To ensure that the general low density nature of the zone is retained and that development for the purposes of dual occupancy (attached) and multi dwelling housing (attached) do not significantly alter the character of a location or neighbourhood.

Assessing Officer Comment: With regard to Peninsula Development Australia Pty Ltd v Pittwater Council [2011] NSWLEC 1244, the character of the local area is to be assessed principally on the visual catchment in which the development will be viewed (refer to **Figure 7** for representation of the extent of the visual catchment of the site).

It is acknowledged that the nature of the surrounding area is changing from a traditional scenario of single dwelling houses on larger allotments to mixed residential accommodation comprising single dwelling houses, dual occupancy and multi dwelling housing developments.

As demonstrated in the Character Assessment (**Attachment 4**), the multi dwelling housing developments that have been observed within the local area are restricted to being single storey in height only. Additionally, the multi dwelling housing developments identified within the local area has been identified as having a maximum of three (3) dwellings on each allotment.

The proposed development being partly two (2) storeys high, and comprising four (4) dwellings is considered not to retain the general low density nature of the zone, either when having regard to the density of dwellings or the density of built form on the site.

It is considered the impact of these non-compliances with the provisions of Council's building height and dwelling density controls have a compounding impact on the local area as demonstrated by the development's inability to also comply with a suite of Council's development controls including those relating to front setbacks, visual and acoustic privacy, landscaping and vehicular parking.

ITEM 3 (continued)***To ensure that new development complements or enhances the local streetscape.***

Assessing Officer Comment: The proposed development is not considered to compliment or enhance the local streetscape. This is because the proposed development has been demonstrated to be inconsistent with the character of the local area, including that of development in the vicinity of the site along Blaxland Road.

The proposed development will introduce a part two (2) storey multi dwelling house development to a streetscape that comprises only single storey buildings. Furthermore as the proposed development will fail to comply with Council's front setback controls prescribed under the Ryde DCP 2014, the non-compliant building height of the multi dwelling house development is presented closer to the street which is considered to further detract from the streetscape rather than enhance it.

To maintain on sites with varying topography the two storey pitched roof form character of dwelling houses and dual occupancy (attached) developments.

Assessing Officer Comment: The proposed development is for the purposes of a multi dwelling housing development, and as such this objective which relates to dwelling houses and dual occupancy (attached) development is considered not to apply in this instance.

To ensure that land uses are compatible with the character of the area and responsive to community needs.

Assessing Officer Comment: Multi dwelling housing development is considered to be a compatible land use for the character of the local area, particularly given the prevalence of multi dwelling housing development within the vicinity of the subject site. However, the proposed density of the multi dwelling housing development, along with its non-compliant building height, and non-compliance with many controls within the Ryde DCP 2014 results in a land use that is considered not to be compatible with the character of the area and not necessarily responsive to community needs.

Further reference is again made to the Character Assessment (**Attachment 4**) which notes that all multi dwelling housing within the local area is single storey in height only, and is limited to a dwelling density of three (3) dwellings per allotment.

ITEM 3 (continued)**Principal Development Standards**

Part 4 of the Ryde LEP 2010 covers the principal development standards for development. When assessed against these development standards, the proposed development fails to comply with three (3) development standards, two (2) relating to the height of building, and one (1) relating to the dwelling density of multi dwelling housing. These are discussed in more detail below:

- Clause 4.3(2A)(a) 'Height of Buildings' of the Ryde LEP 2010 states the following for the maximum building height of multi-dwelling house development in the R2 Low Density Residential zone:

“for dwellings in the building that do not have a frontage to the street – 6.5 metres.”

The submitted plans indicate that Unit 2 does not front the street, yet has a building height of 8.235m. This is a significant variation to the principal development standard of the Ryde LEP 2010 in the order of 1.735m over the maximum allowable height.

Clause 4.3(2A)(b) 'Height of Buildings' also states the following for the maximum building height of multi-dwelling house development in the R2 Low Density Residential zone:

“for dwellings with a frontage to the street, if adjoining lots contain dwelling houses that are less than 9.5 metres high – 8 metres.”

An assessment of the heights of the adjoining dwellings has revealed that they are less than 9.5m high. Accordingly, an 8 metre height limit is applicable.

The submitted plans indicate that Unit 1 fronts the street and has a height of 8.435m which exceeds the maximum allowable by 435mm.

As has been discussed earlier in this report, it is noted that no written request for variation of the building height standards under clause 4.6 of the Ryde LEP 2010 has been included as part of the DA. As such, pursuant to clause 4.3 of the Ryde LEP 2010, the consent authority, being City of Ryde Council, must not consent to the erection of the subject multi-dwelling house development on the subject site.

Despite the proposal not including a written request for variation under clause 4.6 of the Ryde LEP 2010, the proposed building height is not supported on the following basis:

ITEM 3 (continued)

- The non-compliant building height of Unit 1 contributes to what is considered to be a development that is out of character with that of other development in the local area. This is because all other multi dwelling housing within the local area has been identified as being single storey only. In addition dwelling house development has also been identified as being predominantly single storey in nature.
- It is considered the height of Unit 2, being significantly in excess of this development standard, contributes to the excessive bulk and scale of the proposed design and as such results in a development that is out of character with the local area, and presents unacceptable amenity impacts on adjoining property which are considered to be exacerbated by the proposals non-compliant rear and side setbacks – see further commentary under Ryde DCP 2014 assessment below..
- The proposed development results in a built form and density that negatively impacts on the streetscape of Blaxland Road which is considered to be exacerbated by the development’s non-compliant front setback.
- The proposed development fails to meet the objectives of the height of buildings development standard contained within clause 4.3 of the Ryde LEP 2010.

An assessment of the proposed development against the objectives of the height of buildings development standard as provided under clause 4.3 of the Ryde LEP 2010 is provided below, along with a comment on how the proposed development performs against each of these objectives:

To maintain desired character and proportions of a street within areas,

Assessing Officer Comment: The streetscape within the local area is predominantly single storey in nature. Furthermore those multi dwelling housing developments within the local area of Blaxland Road have all been identified as single storey in nature.

Accordingly, with the proposed development including two (2) storeys to both Unit 1 and Unit 2 behind, along with non-compliant building heights it is not considered to maintain the desired character and proportions of the street.

Furthermore, as the proposed development fails to achieve Council’s minimum front setback requirements of the Ryde DCP 2014, the overwhelming proportions of the proposed development are considered to be exacerbated to the detriment of the streetscape.

ITEM 3 (continued)***To minimise overshadowing and ensure a desired level of solar access to all properties,***

Assessing Officer Comment: The shadow diagrams submitted with the subject DA demonstrate that the shadows cast by the proposal will achieve compliance with the minimum solar access requirements. However, by virtue of the proposed development including non-compliant buildings heights and setbacks, it is considered that an attempt to minimise overshadowing on adjacent properties has not been made.

To enable the built form in denser areas to create spatial systems that relate to human scale and topography,

Assessing Officer Comment: The subject site is located within the R2 Low Density Residential zone, and as such the reference to 'denser areas' within this objective is taken to be those zones under the Ryde LEP 2010 which permit higher density residential accommodation, such as the R4 High Density Residential zone and the R3 Medium Density Residential zone.

Nevertheless, it is acknowledged that the local area comprises a density that is slight higher than the typical R2 Low Density Residential zone by virtue of the prevalence of multi dwelling housing in the area. It is noted however, that this multi dwelling housing in the local area is all single storey in height, and as a result maintains an appropriate human scale with a density, bulk and scale in keeping with the surrounding low density residential areas.

The proposed development would however introduce a two (2) storey built form and density to the local area that is inconsistent with the height, bulk, scale and density of all other development in the local area.

To enable focal points to be created that relate to infrastructure such as train stations or large vehicular intersections,

Assessing Officer Comment: The subject site is located on Blaxland Road, and is not within the near proximity of any identifiable focal points such as a train station or large vehicular intersections. In this regard the application of this objective to the subject site and proposed development is not considered to apply.

ITEM 3 (continued)***To reinforce important road frontages in specific centres.***

Assessing Officer Comment: The subject site is located on Blaxland Road which is identified as a classified and busy road. However, the subject site is not located within a 'specific centre' and as such it is considered that development on the subject site need not reinforce Blaxland Road, but rather be consistent with the streetscape in this low density residential area – an objective which the proposed development fails to do, as covered above.

- Clause 4.5A 'Density controls for Zone R2 Low Density Residential' of the Ryde LEP 2010 (and Draft Ryde LEP 2011) states that:

“(1) The consent authority must not consent to the erection of multi dwelling housing (attached) on land in Zone R2 Low Density Residential unless: (a) the site area for the building is not less than: (i) for each 1, 2, or 3 bedroom dwelling – 300 square metres.”

The proposed development is for a multi dwelling housing development comprising four (4) dwellings, including two (2) x three (3) bedroom two-storey dwellings at the front of the site, and one (1) x three (3) and one (1) x two (2) bedroom single storey dwellings at the rear of the site (i.e. 4 x '1, 2, or 3 bedroom dwellings') on land within the R2 Low Density Residential zone. On this basis the required site area for the proposed development is 1,200m². The site area of the subject allotment is only 1,011.714m² (from Deposited Plan) which is 188.286m² less than the minimum required.

Again, as has been discussed earlier in this report, it is noted that no written request for variation of the dwelling density standards under clause 4.6 of the Ryde LEP 2010 has been included as part of the DA. As such, pursuant to clause 4.5A of the Ryde LEP 2010, the consent authority, being City of Ryde Council, must not consent to the erection of the subject multi-dwelling house development on the subject site.

Despite the proposal not including a written request for variation under clause 4.6 of the Ryde LEP 2010, the proposed dwelling density is not supported on the following basis:

- The proposed dwelling density is considered to contribute to an overdevelopment of the site. This dwelling density non-compliance is further exhibited in the proposal's non-compliance with Council's front setback, side setback, rear setback, landscaping, parking and visual and acoustic privacy non-compliances with the Ryde DCP 2014.

ITEM 3 (continued)

- The proposed development results in a built form and density that is inconsistent with the character of development in the local area, particularly when observing other multi dwelling housing development which includes only three (3) dwellings per allotment with a complying building height.
- The density of the proposed development is considered to negatively impact on the Blaxland Road streetscape by virtue of the overdeveloped site being inconsistent with the nature of other development in the local area of Blaxland Road and posing an unacceptable visual impact on the street.

Given the above, the proposed development must fail on the basis there has been no written request submitted for variation of the aforementioned development standards.

Comment on compliance with other development standards:**Clause 4.4(2) and 4.4A(1) Floor Space Ratio**

In accordance with Clause 4.4(2) the maximum floor space ratio (FSR) for the site is 0.5:1. Clause 4.4A(1) clarifies that in Zone R2 Low Density Residential this maximum FSR applies only to development for the purposes of a dwelling house or dual occupancy (attached).

Despite the aforementioned provisions of the Ryde LEP 2010, an assessment of the proposed development has identified that the proposed FSR is 0.38:1.

Clause 5.9 Preservation of Trees or Vegetation

Clause 5.9 of the Ryde LEP 2010 applies to species or kinds of trees or other vegetation that are prescribed in the Ryde DCP 2014 for which a person must not ringbark, cut down, lop, remove, injure or wilfully destroy without the authority conferred by development control or a permit granted by the Council.

The application is accompanied by an arboricultural impact assessment which details six (6) trees on the site and adjoining property which are impacted upon by the proposed development. Of the six (6) trees identified, four (4) trees located on the subject site are to be removed with one (1) being retained and one (1) tree located on neighbouring allotment to be retained and protected.

Council's Consultant Arborist and Landscape Architect has reviewed the proposal and has no objection to the removal of the trees detailed in the arboricultural report and have supported the retention of two (2) trees, being the tree located on the adjoining property at 494 Blaxland Road and a significant tree located in the north-western corner of the site.

ITEM 3 (continued)**(b) Relevant State Environmental Planning Policies (SEPPs)**State Environmental Planning Policy (Affordable Rental Housing) 2009

The ARHSEPP was introduced on 31 July 2009. The policy's intent is to increase the supply and diversity of affordable rental and social housing in the state.

The aims of the ARHSEPP are listed below:

- a) *to provide a consistent planning regime for the provision of affordable rental housing,*
- b) *to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- c) *to facilitate the retention and mitigate the loss of existing affordable rental housing,*
- d) *to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*
- e) *to facilitate an expanded role for not-for-profit-providers of affordable rental housing,*
- f) *to support local business centres by providing affordable rental housing for workers close to places of work,*
- g) *to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.*

The proposed development is for an in-fill affordable rental housing development in the form of multi dwelling housing pursuant to the provisions of Division 1 of the ARHSEPP.

Accessible Area Provisions

Clause 10 of Division 1 of Part 2 of the ARHSEPP specifies development to which the in-fill affordable housing provisions apply. In particular, the development concerned must be permitted with consent under another environmental planning instrument, and the development must be taking place on land that is within an 'accessible area' if it is in the Sydney region.

In accordance with Clause 4(1) of the SEPP an accessible area means land that is within:

- a) *800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or*

ITEM 3 (continued)

- b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or*
- c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.*

Multi dwelling housing is permitted within the R2 Low Density zone of the subject site under the provisions of the Ryde LEP 2010. Furthermore, the subject site is in the Sydney region and has been assessed as being located within an 'accessible area'. This is because the proposed development is located within 400m walking distance from a bus stop (ID 2114147) used by a regular bus service – route no. 515 operated by Sydney Buses.

Floor Space Ratio

Clause 13 of Division 1 of Part 2 of the ARHSEPP specifies maximum floor space ratios (FSR) for in-fill affordable housing development, which can allow for FSR bonuses over that prescribed for the site under the Ryde LEP 2010. However given the proposed development has an FSR of only 0.38:1, and as such complies with the maximum FSR set out in the Ryde LEP 2010 of 0.5:1, the DA does not need to apply the additional FSR bonus which may be sought under Clause 13 of the ARHSEPP.

Standards that cannot be used to refuse consent

Clause 14 of Division 1 of Part 2 of the ARHSEPP sets out specific standards in relation to site area, landscaped area, deep soil zones, solar access, parking and dwelling size, which consent authorities cannot use to refuse consent provided these standards are met. In this regard, it is noted that the proposed development fails to comply with the minimum requirements with regard to deep soil zones and dwelling size. Each of these non-compliances is discussed in further detail below.

Deep soil zones

Clause 14(1)(d) of the ARHSEPP states that a consent authority cannot refuse consent where the deep soil zones is not less than 15% of the site area, each area forming part of the deep soil zone has a minimum dimension of 3m; and if practicable, at least two thirds of the deep soil zone is located at the rear of the site area.

Given the subject site has an area of 1,011.74m², this would mean that the minimum deep soil area would need to be 151.76m², with preferably 100.16m² of this deep soil area located in the rear of the site.

ITEM 3 (continued)

A review of the plans submitted with the subject DA has revealed that the deep soil zone area is approximately 253.14 or 25% of the site area. Approximately 50% of this deep soil zone is located within the rear of the subject site.

Given the development standard indicates that at least two thirds of the deep soil zone is to be located at the rear of the site, if practicable, the proposed development would not comply strictly speaking. However, this variation from the preferred location of deep soil is considered justifiable because:

- the amount of deep soil area to be provided significantly exceeds the minimum requirements under Clause 14(1)(d) of the ARHSEPP;
- the proposed deep soil areas provides for sufficient space for planting trees and shrubs;
- the location of deep soil areas has sought to retain trees on site where possible;
- the location of deep soil areas has ensure neighbouring trees are protected from damage as part of the proposed development;
- under the provisions of the Ryde DCP 2014 there are no minimum requirements for deep soil areas for construction of multi dwelling housing developments in the R2 Low Density Residential zone.

It is noted that pursuant to clause 14(3) of the ARHSEPP a consent authority may consent to development whether or not the development complies with the standards set out in subclause 14(1) or 14(2).

Given the above, the proposed development's failure to comply with two thirds of the deep soil area to be located in the rear of the site is considered to be justifiable in this instance.

Dwelling size

Clause 14(2)(b) of the ARHSEPP states a consent authority must not refuse consent if the each dwelling has a gross floor area (GFA) of at least 50m² for a one (1) bedroom dwelling, 70m² for a two (2) bedroom dwelling or 95m² in the case of a dwelling having three (3) or more bedrooms.

An assessment of the plans submitted for the proposed development has revealed the following:

- Dwelling 1 – two (2) storey dwelling containing three (3) bedrooms with a calculated GFA of 104.38m²
- Dwelling 2 – two (2) storey dwelling containing three (3) bedrooms with a calculated GFA of 118.93m²
- Dwelling 3 – single storey dwelling containing two (2) bedrooms with a calculated GFA of 76.44m²

ITEM 3 (continued)

- Dwelling 4 – single storey dwelling containing three (3) bedrooms with a calculated GFA of 80.68m²

Accordingly, Dwelling 4 fails to achieve the minimum dwelling size by 14.32m² or 15.1% given the dwelling contains three (3) bedrooms yet only has a GFA of 80.68m².

It is noted that pursuant to clause 14(3) of the ARHSEPP a consent authority may consent to development whether or not the development complies with the standards set out in subclause 14(1) or 14(2). However, the proposed dwelling size of Dwelling 4 is not supported on the following grounds:

- It is considered the small size of Dwelling 4, in terms of GFA, fails to ensure the spatial arrangement of this dwelling is functional and well organised.
- The small size of Dwelling 4 is considered to result in a dwelling layout that provides a poor standard of residential amenity;
- To maximise the environmental performance of apartments; and
- It is considered the small size of Dwelling 4 will not be able to accommodate the variety of household activities and occupants' needs of a three (3) bedroom dwelling.

It is noted that the above issue of the small dwelling size of Dwelling 4 was raised with the applicant as part of Council's letter dated 29 July 2014.

In response, the applicant provided the following comments:

In relation to Dwelling No. 4 it is noted that the dwelling actually has a GFA of 90.25m² rather than the 80.68m² quoted in Council's letter. It is submitted that the deficiency of 4.75m² from the minimum 95m² standard preferred by the SEPP is not significant as to warrant the refusal of the application.

The following comments are made in relation to the calculation of the GFA of Dwelling 4. Clause 4(2) of the ARHSEPP provides the following:

A word or expression used in this Policy (other than Schedule 1 or 2) has the same meaning as it has in the standard instrument (as in force immediately before the commencement of the Standard Instrument (Local Environmental Plans) Amendment Order 2011) unless it is otherwise defined in this Policy.

The Standard Instrument defines 'gross floor area', and using the applicable definition, with the benefit of CAD (Computer Aided Design), when applying the above definition to Dwelling 4 the calculated GFA of this dwelling to be 80.68m². A copy of the CAD calculation diagram is indicated below in Figure 6.

ITEM 3 (continued)

Even when allowing for some small deviations associated with plan scanning, the Dwelling 4 falls substantially short of the minimum dwelling size requirements, and as such is not supported due to the aforementioned internal amenity reasons.

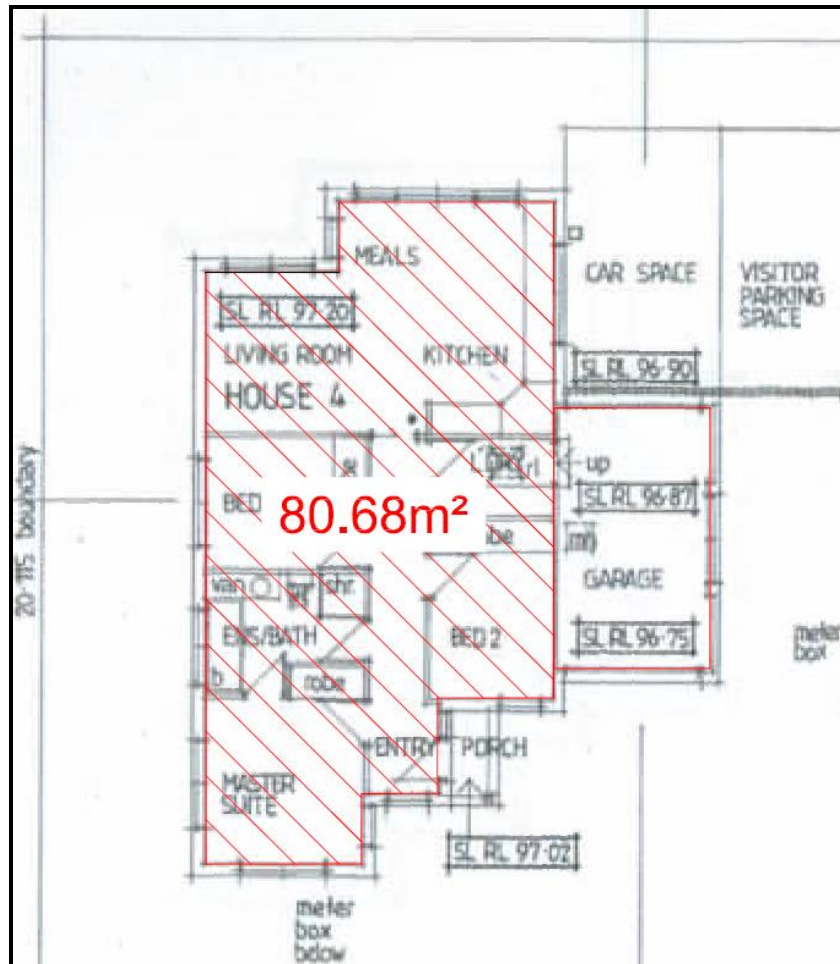


Figure 6: Extract of the proposed floor plan for Dwelling 4. Highlighted in red is the area of the dwelling which constitutes 'gross floor area' as per the definition contained within the Standard Instrument. The notable omission is the area of the proposed single car garage which is to be excluded from the gross floor area calculation as per the definition. The resultant gross floor area as calculated on CAD for the Dwelling 4 is 80.68m².

Design Requirements – Seniors Living Policy – Urban Design Guidelines for Infill Development

Clause 15(1) of the ARHSEPP states that a consent authority must not consent to an infill affordable development under the ARHSEPP unless it has taken into consideration the provisions of the Senior Living Policy; Urban Design Guidelines for Infill Development to the extent that those provisions are consistent with the ARHSEPP.

ITEM 3 (continued)

As detailed in the Compliance Tables for the Seniors Living Policy Urban Design Guidelines (see **Attachment 2**), the proposed development fails to comply with a number of key provisions, which include:

Responding to Context – the proposed development is considered not to positively contribute to the neighbourhood character. In particular, it is considered that the proposal does not respond to the scale, character, built form, front setbacks or building heights of other development in the streetscape. The proposed development will also be inconsistent with other developments on similar sized allotments, including that of other multi dwelling houses in the local area. As a result, it is considered that the proposal fails to be compatible with the built environment of the local area.

The principal reason for this is because the proposed part two storey multi dwelling house development is not replicated anywhere in the local area. All other multi dwelling house development in the local area are single storey only, the vast majority of dwelling houses and other development in the local area are single storey in height also.

It is also noted that the proposed development poorly responds to Ryde LEP 2010 and Ryde DCP 2014. This is evidenced through the design including significant non-compliances without justification for development standards contained within the Ryde LEP 2010 and development controls contained within Ryde DCP 2014.

Site Planning and Design – the proposed development includes an upper level side facing balcony to Dwelling 2 which is considered to result in potential overlooking of the adjoining development at 490 Blaxland Road. Additionally it is considered that the small size of Dwelling 4, in terms of GFA, results in inadequate amenity being provided to this three (3) bedroom dwelling.

Impacts on streetscape – the proposed development is not considered to satisfactory break up the building mass by virtue of both Dwelling 1 and the adjoining Dwelling 2 being two (2) storeys in height. This combined with a front setback that is inconsistent with adjoining development and non-compliant with the Ryde DCP 2014 results in a development that placed undue massing on the streetscape when taken into context of other development in the local area.

It is also noted that the upper levels of the proposed development are not setback behind the building façade as outlined in the Guidelines. Again, this places additional massing, and building bulk on the streetscape and adjoining development.

Impacts on neighbours – Again it is noted that Dwelling 1 and Dwelling 2 within the proposed development are not setback behind the building façade as outlined in the Guidelines. This is considered to place additional massing and visual impact on the neighbouring development.

ITEM 3 (continued)

Character of the local area

Clause 16A of the ARHSEPP states that a consent authority must not consent to development under Division 1 (Infill affordable housing) unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

In determining the 'local area' guidance is provided by Peninsula Development Australia Pty Ltd v Pittwater Council [2011] NSWLEC 1244, whereby the character of the local area is to be assessed principally on the visual catchment in which the development will be viewed (refer to **Figure 7** for representation of the extent of the visual catchment of the site).



Figure 7: Aerial image of the subject site and surrounding area with the maximum extent of the visual catchment of the site highlighted in red. The highlighted area is considered to be the 'local area' for the purposes of applying the provisions of the ARHSEPP and is guided by Peninsula Development Australia Pty Ltd v Pittwater Council [2011] NSWLEC 1244.

ITEM 3 (continued)

In terms of 'character', according to the NSW Land and Environment Court¹ there are two questions to be considered in determining whether a proposal is compatible with its context:

- Are the proposal's physical impacts on surrounding developments acceptable?
- Is the proposal's appearance in harmony with the buildings around it and the character of the street?

In answering the question whether the proposal's physical impacts on surrounding developments is acceptable, the main considerations are taken to be noise, overlooking and overshadowing which constrain the development potential of surrounding sites.

When assessing the proposed development's impacts on adjoining property, the principal concerns relate to the visual impact of the development. As has been identified throughout this report, the proposed fails to comply with a number of development standards and planning controls which seek to ensure multi dwelling housing in the R2 Low Density zone does not pose an unacceptable impact on adjoining development.

For the proposed development the following non-compliances with the relevant development standards and planning controls are identified when having regard to the visual impact of the buildings proposed:

- Building height – overall height;
- Building height – number of storeys;
- Dwelling density;
- Front setback;
- Side setback;
- Rear setback; and
- Non-preferred location for multi-dwelling housing development.

The cumulative impact of the aforementioned non-compliances with the Ryde LEP 2010, Ryde DCP 2014, and also Senior Living Policy; Urban Design Guidelines for Infill Development (see previous comments) is considered to result in a development that poses unacceptable visual impact on adjoining property.

In regard to the second question on character, it is noted that the NSW Land and Environment Court in recent rulings has provided that the relationship of built form

¹ *Pereira v The Hills Shire Council* [2012] NSWLEC 1113;
Revelop Projects Pty Limited v The Hills Shire Council [2012] NSWLEC 1117;
Rosen v City of Sydney Council [2012] NSWLEC 1124
McKees Project Management Pty Ltd v Manly Council [2012] NSWLEC 1126
Peninsula Development Australia Pty Limited v Pittwater Council [2011] NSWLEC 1244

ITEM 3 (continued)

to the surrounding space created by building height, setbacks and landscaping is significant to the creation of urban character.

Given this it is considered that the proposed development is inconsistent with the appearance of other buildings around it and the character of the street. This is because the attached Character Assessment has identified that the vast majority of buildings in the local area are single storey in height only, or where little evidence of two (2) storey development is identified, such buildings largely take on the appearance of single storey developments to the street.

The proposed development fails to comply with the minimum building height controls for multi dwelling housing both in terms of number of storeys and overall building height under the Ryde LEP 2010. Furthermore the proposal fails to comply with the minimum front setback controls contained within the Ryde DCP 2014. The effect of these non-compliances is the introduction of a foreign built element to the Blaxland Road streetscape which poorly varies the rhythm of development in the local area.

An assessment of other multi dwelling housing development within the local area has also revealed that dwelling density is provided at a maximum of three (3) dwellings per allotment. The proposed development, that has a similar allotment area and dimension, is to include four (4) dwellings at a density which fails to comply with the minimum requirements under the Ryde LEP 2010. Again, the resultant impact is a discordant development when considering the character of other multi-dwelling housing development in the local area.

On this basis, it is recommended that the subject DA be refused.

State Environmental Planning Policy (Building Sustainability Index: BASIX)

The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building. A compliant BASIX certificate has been provided with the DA.

State Environmental Planning Policy (Infrastructure) 2009

Clause 102(3) of State Environmental Planning Policy (infrastructure) 2009 (Infrastructure SEPP) states the following:

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

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

ITEM 3 (continued)

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

Figure 8 below includes the RMS Traffic Volume Map extract for the purposes of applying the provisions of the Infrastructure SEPP. This figure demonstrates the location of the subject site on Blaxland Road where traffic volumes are between 20,000 and 40,000 vehicles per day.

For these locations, the Department of Planning and Environment's 'Development Near Rail Corridors And Busy Roads – Interim Guideline' advises that road traffic noise assessments be undertaken for new developments and such development should include noise mitigation measures to meet the NSW Government's external noise target levels in the Environmental Criteria for Road Traffic Noise and take into account the internal noise levels stated in the Infrastructure SEPP.

No assessment of the noise impacts from Blaxland Road on the proposed development have been undertaken by the applicant. Given the recommendations of the aforementioned guidelines, it is recommended that should the subject DA proceed, then a suitable condition be imposed that prior to the issue of construction certificate, a suitably qualified acoustic engineer be engaged to undertake an assessment of the noise intrusion impact of the adjoining busy road. Additionally, the assessment should include recommendations for any noise mitigation measures to meet the NSW Government's external noise target levels in the Environmental Criteria for Road Traffic Noise and take into account the internal noise levels stated in the Infrastructure SEPP.

ITEM 3 (continued)

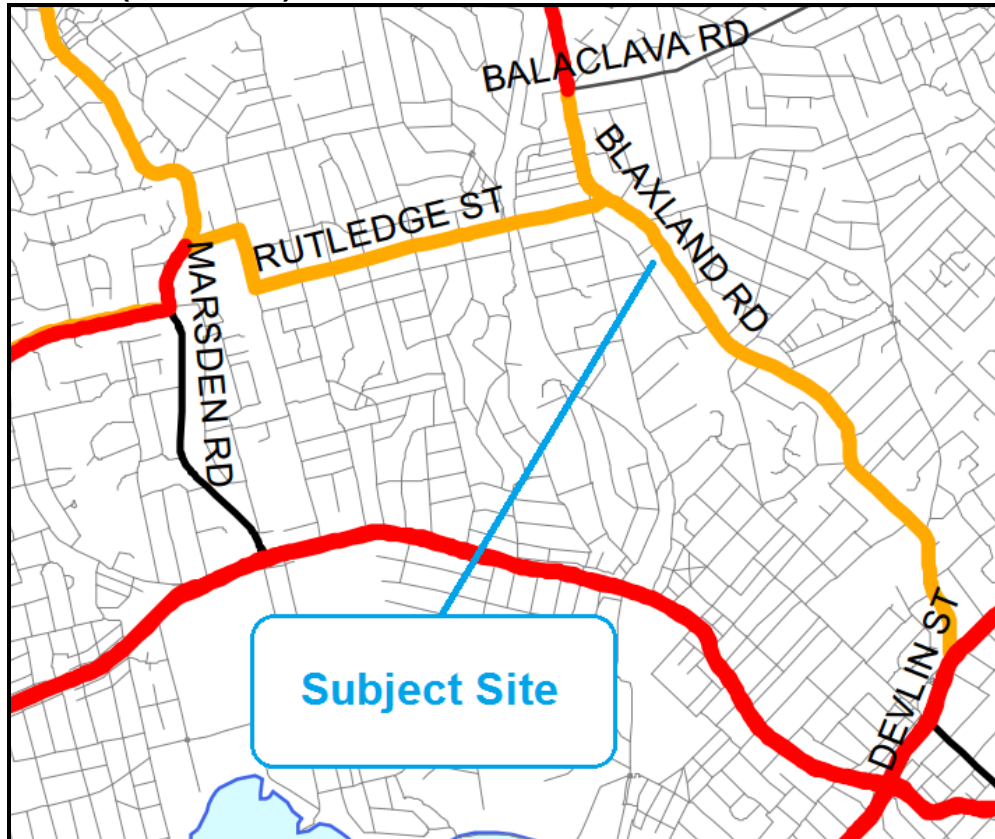


Figure 8: RMS Traffic Volume Map extract for the purposes of applying the provisions of the Infrastructure SEPP. Noted in this image is the location of the subject site on Blaxland Road, which for this location is highlighted amber, meaning that traffic volumes are between 20,000-40,000 vehicles per day.

State Environmental Planning Policy No 55 – Remediation of Land

The requirements of State Planning Policy No. 55 – Remediation of Land apply to the subject site. In accordance with Clause 7 of SEPP 55, Council must consider if the land is contaminated, then if it is contaminated is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The site is currently and has historically been in residential use and there is minimal evidence of contamination of the site for the site inspection undertaken.

As stated above, there is no evidence to indicate that the site may be contaminated and there is no requirement for preliminary contamination testing at this stage of the assessment.

(c) Any draft LEPs

None relevant.

ITEM 3 (continued)**(d) The provisions of any development control plan applying to the land****Ryde Development Control Plan 2014**

The proposed development has been thoroughly assessed against the provisions of the Ryde DCP 2014, whilst having regard to the Department of Planning and Environment's guidelines for supporting infill affordable rental housing (August 2014) which states the following when answering whether other local planning controls continue to apply:

"If the SEPP does not explicitly override a local council planning control, then the local council planning control continues to apply."

The ARHSEPP does provide development standards relating to floor space ratio, minimum site area, landscaped area, deep soil zones, solar access, parking and minimum dwelling sizes. For all other development standards the provisions of the Ryde LEP 2010 (and any other applicable environmental planning instruments) continue to apply. Similarly, all other planning controls contained within the Ryde DCP 2014 continue to apply.

The proposed development has had little regard to the provisions of the Ryde LEP 2010, and even less regard to the provisions of the Ryde DCP 2014. This is largely because the consultant town planner for the applicant has incorrectly indicated in their correspondence dated 18 July 2014 that the planning controls of the Ryde DCP 2014 in question do not apply to the proposal.

The following is a brief summary of those development controls which have been identified as failing to comply with the provisions of the Ryde DCP 2014. These non-compliances have been categorised into those controls which are considered to be justifiable in the circumstances of the development, those controls which would ordinarily be addressed by way of condition, and those controls which are neither justifiable nor capable of being conditioned.

All of the below non-compliances with Council's development controls are considered to contribute to the recommendation of this DA for refusal. This is because the cumulative impact of the following non-compliances with the Ryde DCP 2014 (plus the Ryde LEP 2010, ARHSEPP, and other environmental planning instruments discussed earlier) demonstrate that the proposal is an overdevelopment of the site, inconsistent with the character of the area, and a discordant element in the streetscape.

ITEM 3 (continued)

Non compliances – justifiable

- ***Dwelling 1 balcony***

Assessing Officers Comment: Section 3.10 of the Ryde DCP 2014 provides controls for visual and acoustic privacy. In particular, no balconies are permitted on multi dwelling housing developments.

The proposed development includes a balcony on the upper level of Dwelling 1 which fronts Blaxland Road.

Despite this not complying with the provisions of the Ryde DCP 2014, this particular balcony is considered acceptable as it adds visual interest to the front elevation of the building, and as it fronts Blaxland Road, minimal opportunities for overlooking of adjoining property is provided. This is particularly the case as the proposed development's non-compliance with the front setback means that only partial overlooking of the front yard areas of adjoining development would be possible.

In this regard it is considered that the proposed balcony on Dwelling 1 is justifiable in this instance.

- ***Subject site is a 'non-preferred location' for multi dwelling housing***

Assessing Officers Comment: Section 2.3 'Non-Preferred Locations' of Part 3.5 of the Ryde DCP 2014 states that:

specific locations have been identified by the Council as unsuitable for Multi dwelling housing (attached) development.

A review of the Ryde DCP 2014 has revealed that the subject site is located within the Blaxland Road (part) 'non-preferred location' (refer to Schedule 2 Map 4 of Ryde DCP 2014). The reason for this 'non-preferred location' is:

adverse traffic impacts and adverse impact/change to the character of the local area.

Notwithstanding the DCP controls regarding non-preferred location, Council has supported and approved other multi-dwelling housing developments in the immediate locality, including along Blaxland Road. This development could be supported despite non-compliance with the non-preferred location controls if the development was satisfactory in other respects. However, as discussed throughout this report, there are many other areas of non-compliance and issues of concern that mean this development cannot be supported.

ITEM 3 (continued)

Non compliances – resolvable via conditions:

- **No clothesline provided for Dwelling 1**

Assessing Officers Comment: Section 4.6 of Part 3.5 of the Ryde DCP 2014 prescribes controls in relation to clotheslines and drying area. In particular, external clotheslines are to be provided that are not visible from adjoining properties or public areas.

An assessment of the proposed development has revealed that clotheslines are provided in the courtyards of the dwellings which will not be visible from public space, however the plans do not indicate a clothesline for Dwelling 1. Accordingly, a condition requiring installation of a clothesline in accordance with Section 4.6 of Part 3.5 of the Ryde DCP 2014 could be imposed.

- **Lighting requirements**

Assessing Officers Comment: Section 4.7 of Part 3.5 of the Ryde DCP 2014 prescribes controls to ensure front yard lighting and lighting for the front of dwellings is to be provided, and that the location of such lighting must not have an adverse effect on adjoining properties.

Although no information has been provided in the subject DA on the proposed lighting arrangements, this is commonly dealt with via condition, and as such would be an appropriate approach for the subject DA also.

- **Drainage**

Assessing Officers Comment: Section 4.8 of Part 3.5 of the Ryde DCP 2014 prescribes controls in relation to drainage.

It is noted that Council's Senior Development Engineer has raised no issues in relation to the proposed development subject to appropriate conditions of consent.

- **Tree removal**

Assessing Officers Comment: Section 4.8 of Part 3.5 of the Ryde DCP 2014 prescribes controls in relation to tree removal.

ITEM 3 (continued)

Although tree removal is proposed as part of the subject DA, it is noted that Council's Consultant Arborist/Landscape Architect has raised no issues in relation to the proposed tree removal subject to appropriate conditions of consent. Further reference should be made to the Internal Referral section of this report for comments from Council's Consultant Arborist/Landscape Architect.

Non compliances – not justifiable:

- **Max cut and fill exceeded outside building envelope**

Assessing Officers Comment: Section 3.2 of Part 3.5 of the Ryde DCP 2014 includes planning controls relating to altering levels of a site. Specifically, it is prescribed that the levels of a site are not to be altered, either by cut or fill, by more than 300mm.

An assessment of the cut and fill arrangements for the proposed development across the subject site has revealed that a maximum of 1,190mm of cut is proposed at the front of the subject site along the north-western side of the driveway. Additionally, a maximum of 1,000mm of fill is proposed at the front eastern corner of the development.

Accordingly the proposed level of cut is 890mm over that prescribed by the Ryde DCP 2014. The proposed level of fill is 700mm over that prescribed by the Ryde DCP 2014

The proposed level of cut and fill is considered to significantly alter the levels of the site, and accordingly is not supported as it is not sympathetic with the topography of the site.

- **Dwelling Density**

Assessing Officers Comment: Section 2.6 of Part 3.5 of the Ryde LEP 201 provides planning controls in relation to dwelling density which reiterate those development standards contained within the Ryde LEP 2010.

Reference should be made to the assessment of dwelling density under the Ryde LEP 2010 covered earlier in this report for details of the proposal's non-compliance.

For the reasons outlined under the Ryde LEP 2010 assessment of dwelling density, the proposed development is not supported.

ITEM 3 (continued)

- ***Building Height / number of storeys***

Assessing Officers Comment: Section 3.3.2 of Part 3.5 of the Ryde LEP 2010 provides planning controls in relation to building height which reiterate those development standards contained within the Ryde LEP 2010.

Reference should be made to the assessment of building height under the Ryde LEP 2010 covered earlier in this report for details of the proposal's non-compliance. For the reasons outlined under the Ryde LEP 2010 assessment of building height, the proposed development is not supported.

Additionally, Section 4.1 of Part 5 of the Ryde DCP 2014 prescribes planning controls on the appearance of multi dwelling housing developments to ensure they complement the streetscape. This includes a control to ensure that dwellings which adjoin a two (2) storey dwelling fronting a main road are to be single storey in height only.

The plans submitted with the subject DA reveal that Dwelling 1 (which fronts Blaxland Road) is two (2) storeys and is attached to another dwelling, being Dwelling 2 which is also two (2) storeys in height.

Accordingly, the proposed development fails to comply with Section 4.1 of the Ryde DCP 2014 in this regard.

An investigation of the impacts of this non-compliance raises serious concern that the proposed scale of the two-storey component of the development does not relate to the character and streetscape of the surrounding area. This is because the streetscape is characterised by low density residential developments consisting primarily of single storey detached dwellings as well as some single storey multi dwelling developments only.

It is noted that the character of the area has changed with the introduction of more modern multi dwelling style developments compared to the established older style single dwelling houses. However, these developments are all single storey in nature so the scale of the proposed development is not considered to be consistent with the nature of both older and newer style development in the local area.

- ***Front setback minimum exceeded***

Assessing Officers Comment: Section 3.5.1 of Part 3.5 of Ryde DCP 2014 provides minimum front setback requirements for multi dwelling house developments. Specifically, they are to be the same as adjoining buildings if the adjoining buildings have a difference in front setback of less than 2m.

ITEM 3 (continued)

The adjoining dwelling to north-west is setback 13m, while the adjoining dwelling to south-east is setback 14.6m. Given the difference in adjoining setbacks is not more than 2m, the front setback of proposal must be the same as one of these adjoining property setbacks – either 14.6m or 13m.

The proposed development is however only setback 6m from the street. This is not considered justifiable in the circumstances of the proposed development, as despite more modern multi dwelling housing developments along Blaxland Road being built in closer proximity to the street than the older-style single dwelling houses (see attached Character Assessment), no other multi dwelling housing development in the local area is two (2) storeys in height.

Given the scale of the two (2) storey component (including its non-compliant building heights and density), the front setback is not considered to be justifiable as it creates additional building massing to the Blaxland Road streetscape that is inconsistent with other development in the local area, and as such would pose unacceptable visual impact to the street and adjoining property.

On this basis, the proposed development's significantly reduced front setback is not supported.

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Figure 9: Aerial image of subject site (middle allotment) and the adjoining development. Noted in this diagram is the front setbacks of each dwelling. According to the provisions of the Ryde DCP 2014, given the difference between setbacks of the adjoining allotments is 2m or less, the proposed development must have a front setback equal to one of the adjoining dwellings. However it is noted that the proposal is to include only a 6m front setback which accordingly fails to comply with the provisions of the Ryde DCP 2014.

- ***Side and Rear setback minimum exceeded***

Assessing Officers Comment: Section 3.5.4 of Part 3.5 of the Ryde DCP 2014 provides planning controls in relation to side and rear setbacks. In particular, side and rear setbacks of multi dwelling housing developments are to be a minimum of 4.5m unless vehicular access is included in this area, then a minimum setback of 6m is required.

The Ryde DCP 2014 also notes however that to promote variation and interest up to 50% of the building may be setback not less than 3m (i.e. 50% of length of wall creating the setback is allowed to be setback between 3m – 4.5m or 3m – 6m for areas with vehicular access)

An assessment of the setback arrangements has revealed that the proposed development is to be setback from the rear boundary 3.135m for the entirety of its length.

ITEM 3 (continued)

Further, 66% of the north-western side of the building (i.e. non-vehicular access side) is to be setback between 3 – 4.5m (38m total length). The remaining 34% length of the building is to be setback more than 4.5m requirement. This however does represent a non-compliance with the Ryde DCP 2014 as only 50% of the building wall is allowed to be setback between 3m – 4.5m.

For the south-eastern side of the development, the part of the building with no vehicular access is to be setback only 3m for the entirety of its length. This fails to comply with the provisions of the Ryde DCP 2014 as only 50% of the building wall is allowed to be setback between 3m – 4.5m.

For the south-eastern side of the development where vehicular access is provided 26.8% of the building wall is setback between 3m-6m (length of 33.5m) and as such complies because 50% of the wall is allowed to be setback between 3m – 6m.

The proposed side and rear setback arrangements can therefore be seen as significantly non-compliant with Council's planning controls. The resultant impact of this is a development which fails to then achieve the minimum private open space requirements of the Ryde DCP 2014 for Dwelling 1 and Dwelling 2. Additionally, the reduction in setbacks, coupled with the proposals non-compliant building height, density, and cut and fill arrangements result in an unacceptable visual impact on adjoining property and the streetscape of the local area.

For these reasons, the proposed side and rear setback arrangements of the development are not supported.

- ***Private Open Space – Dwelling 1 and Dwelling 2***

Assessing Officers Comment: The proposed development fails to meet the minimum private open space area requirements under the provisions of the Ryde DCP 2014. In particular, dwellings containing three (3) or more bedrooms are to provide a minimum private open space area of 35m². The proposed development however includes a private open space area of 34.44m² for Dwelling 1 and 32.76m² for Dwelling 2, both of which are three (3) bedroom dwellings.

Although it is acknowledged that the above shortfall is only relatively minor for Dwelling 1, it is more significant for Dwelling 2. These non-compliances with the minimum private open space areas are considered to provide further evidence that the proposal is an overdevelopment of the site, and as such cannot be justified in the circumstances of the proposal.

ITEM 3 (continued)

- ***Min 1.2m wide landscaped privacy strip***

Assessing Officers Comment: Section 3.6 of the Ryde DCP 2014 provides controls for private outdoor space. In particular, a minimum 1.2m wide landscaped privacy strip between the courtyard of the multi dwelling house building and the adjoining property is to be provided.

The Landscape Plan submitted with the subject DA includes a 800mm wide landscape strip between the courtyards and the adjoining property boundary.

This 400mm non-compliance with the above planning control is not considered justifiable because the proposed privacy strip is inadequately sized to provide sufficient planting to assist in the privacy of occupants within the development and to the adjoining property. Furthermore the inability to provide for a suitable landscape strip is considered to be further evidence the proposal represents an overdevelopment of the site, particularly when taking into consideration the proposed development's non-compliance with other planning controls contained within the Ryde DCP 2014 such as minimum setbacks and private open space area.

ITEM 3 (continued)

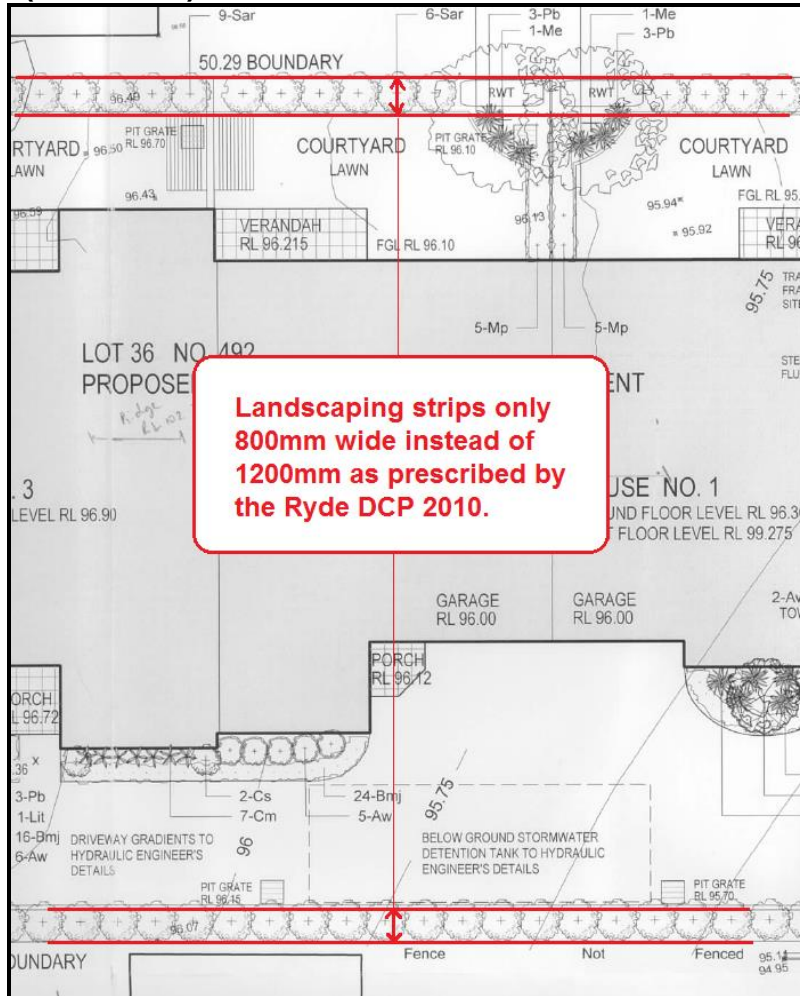


Figure 10: Landscape Plan extract showing the landscaping strips along the side boundaries to be only 800mm wide. The Ryde DCP 2014 requires such landscape strips to be 1,200mm wide to enable landscape planting that will assist in the provision of visual privacy to adjoining development.

- **Manoeuvrability**

Assessing Officers Comment: Section 3.8 of Part 3.5 of the Ryde DCP 2014 provides planning control in relation to car parking, manoeuvrability, and driveway crossings. Council's Development Engineer has made the following comments:

The manoeuvring from garages is unsatisfactory. However applicant is proposing a turning area and visitor car parking space between house No 4 & 3. Visitor parking is proposed behind the turning area. Vehicles reversing from this parking space will not have adequate sight lines. Therefore the building layout need to be revised to address sight lines for reversing vehicles from visitor parking space.

ITEM 3 (continued)

Given the above comments from Council's Development Engineer, the proposed vehicle manoeuvring arrangements are not supported.

- ***Dwelling 2 side facing balcony***

Assessing Officers Comment: Section 3.10 of the Ryde DCP 2014 provides controls for visual and acoustic privacy. In particular, no balconies are permitted on multi dwelling housing developments.

The proposed development includes a balcony on the upper level of Dwelling 2 which faces the south-eastern side boundary toward the adjoining property at No. 490 Blaxland Road.

This balcony is located on the first floor of the dwelling and as such will facilitate overlooking to the neighbouring property. On this basis, the proposed balcony on Dwelling 2 is not supported.

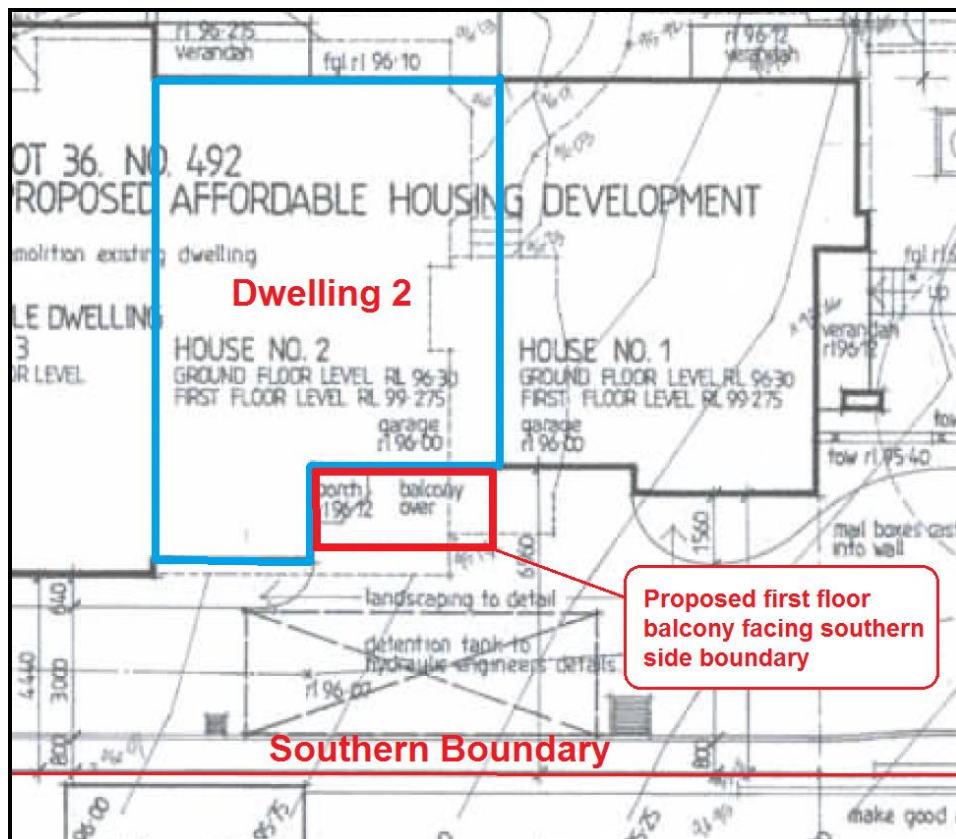


Figure 11: Elevation plan extract showing the proposed upper level side facing balcony that is considered to present opportunities for overlooking of adjoining property at 490 Blaxland Road and subsequent loss of privacy. It is noted that the Ryde DCP 2014 prohibits balconies on multi dwelling housing developments.

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

A thorough assessment of the impacts of the proposed development on the built environment has been undertaken as part of the completed assessment of the proposed development. This has included a compliance check against all relevant planning controls contained within ARHSEPP, Seniors Living Policy Urban Design Guidelines, Ryde LEP 2010, Draft Ryde LEP 2011, and Ryde DCP 2014.

The impacts of the proposed development on the built environment are considered to result in a development that

- Provide a dwelling density and built form density that is inconsistent with the nature of other development in the local area, including that of multi dwelling housing development which is single story in height, and comprises only three (3) dwellings per allotment, whilst the proposed development is two (2) storeys in height and includes four (4) dwellings on a similar sized allotment;
- Introduces a discordant building to the local area that will have unacceptable visual impact on the streetscape and adjoining development by virtue of its failure to achieve the prescribed controls regulating the building envelope – including building height, number or storeys of the development, dwelling density, front, rear and side setbacks, cut and fill, and non-preferred locations of multi dwelling house development.

As a result, the proposed development is considered to be unsatisfactory in terms of its impacts on the built environment.

(b) Natural Environment

The proposal is for residential development within an existing suburban area that has a long history of residential accommodation land uses. It is considered there will be no significant impact upon the natural environment as a result of the proposed development.

11. 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:

Proximity to Heritage Item: The subject site is located within 100m of a heritage item listed under Ryde LEP 2010 (ie Ryde Hospital, located in Denistone Road to the rear of the site). The subject site is not located within the visual catchment of the buildings on this property and therefore there are no objections to the proposal from a heritage view point and no further assessment is required.

ITEM 3 (continued)

12. The Public Interest

The assessment of the proposed development has established that the proposed development would be inconsistent with the provisions of the:

- ARHSEPP;
- Seniors Living Policy Urban Design Guidelines for Infill Development;
- Ryde LEP 2010;
- Draft Ryde LEP 2011; and
- Ryde DCP 2014.

Additionally, five (5) objections to the proposed development have been received by nearby residents in relation to the proposed development. The objections have been received from the following property addresses:

- 490 Blaxland Road Denistone East
- 494 Blaxland Road, Denistone East
- 541 Blaxland Road, Denistone East
- 46 Denistone Road, Denistone East
- 48 Denistone Road, Denistone East (“group” submission signed by owners of the 3 villas on this site)
- 3/48 Denistone Road, Denistone East



Figure 12: Aerial image of subject site including annotations of those neighbouring properties objecting to the proposed development

ITEM 3 (continued)

On the basis of the proposal's failure to achieve consistency with the above planning instruments, plans and policies, approval of this development would not be in the public interest.

Furthermore, the proposed development has been demonstrated in this report to have an unacceptable impact on the built environment and be an unsuitable site for the currently proposed development.

As such the proposed development cannot be seen to be in the public interest.

13. Consultation – Internal and ExternalInternal Referrals

Senior Development Engineer: Council's Development Engineer has provided the following comments in relation to the subject application:

The manoeuvring from garages is unsatisfactory. However applicant is proposing a turning area and visitor car parking space between house No 4 & 3. Visitor parking is proposed behind the turning area. Vehicles reversing from this parking space will not have adequate sight lines. Therefore the building layout need to be revised to address sight lines for reversing vehicles from visitor parking space.

Assessing Officer's Comment: The subject issues with vehicle manoeuvrability were raised with the applicant in Council's letter dated 29 July 2014. The applicant's response via their town planner was that the visitor car parking space is considered to be desirable and not a requirement of the ARHSEPP, and as such could be deleted in order to comply with the above issues.

However, no such plans demonstrating this have been forthcoming from the applicant.

Landscape Architect, 24 July 2014: Council's Landscape Architect has provided the following comments in relation to the subject application;

A review of the abovementioned landscape plan submitted in terms of location, design and extent of planting, paving, walls, structures and general layout is generally considered to be satisfactory. Additionally, the proposed species are considered to be appropriate for the site conditions and the level of planting is considered to increase the overall level of vegetation on site, however the following minor concern is raised:

ITEM 3 (continued)

***Front Yard Levels** – Ground levels, including the heights noted on the top of retaining walls, within the front yard adjacent to the entry to the courtyard entry to Unit 1 are not considered to be functional. Specifically, the top of wall height of the side boundary and return retaining wall being RL95.40 and the adjacent ground level being RL95.58. Adjustments are required to be made to the levels within this area for it to be capable of being a working landscape.*

Assessing Officer's Comment: Given the comments from Council's Consultant Landscape Architect above, it is considered that a revised landscape planning scheme would be required to be submitted to Council for assessment that is capable of being a working landscape.

Should this DA be approved, such a revised landscape scheme should form part of a deferred commencement condition.

External Referrals

Roads and Maritime Services (RMS): As the proposal would involve roadworks (ie construction of a new driveway /footpath crossing) on a Main Road, the proposal was referred to the RMS for concurrence. By letter dated 8 September 2014, the RMS advised that they have reviewed the application and would provide concurrence subject to applicable conditions to be imposed on any consent issued by Council.

14. Critical Dates

This development proposal is now the subject of an appeal lodged in the Land and Environment Court, and so there are various "critical dates" that are applicable. The appeal was listed for a First Directions Hearing on 3 October 2014, and Council was required to file and serve a "Statement of Facts and Contentions" in the Court at that stage – see **Attachment 7**.

At the First Directions Hearing, the Land and Environment Court orders included setting a date for the Section 34 Conciliation Conference on 26 November 2014, and also a Second Directions Hearing for 3 December 2014 (which may be vacated if the proceedings are resolved at the Section 34 Conference).

15. Financial Impact

Given that an appeal has now been lodged in this DA, there are financial impacts for Council associated with Council's defence of the appeal. A conservative estimate, based on past experience, indicates that the total costs could be between \$10,000 to \$15,000 depending on whether the matter proceeds to a full hearing or not, after the Section 34 Conference.

ITEM 3 (continued)

16. Other Options

The recommendation in this report is for **refusal** for the reasons listed in the recommendation and explained in more detail throughout this report.

The only practical alternative to this recommendation would be **approval subject to conditions**. However, this is not recommended due to the nature and extent of non-compliances with the various planning controls applicable to the development, as discussed throughout this report. Whilst it is considered that multi-dwelling housing developments should be supported (in order to assist Council to achieve its housing targets and also to achieve diversity in housing choice for the community), such developments should only be supported where they are of a high quality and generally in accordance with Council's controls for such development. As discussed throughout this report, the subject proposal has a range of non-compliances with the applicable planning controls, and as such approval cannot be recommended.

17. Conclusion

The subject DA has been assessed against the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979, the ARHSEPP, Ryde LEP 2010 and Ryde DCP 2014. The development is considered to be unsatisfactory for the reasons outlined in the body of the report.

ITEM 3 (continued)

ATTACHMENT 1

COMPLIANCE TABLE (Affordable Rental Housing SEPP 2009)

LDA No:	2014/0220
Date Plans Rec'd	2 June 2014
Address:	492 Blaxland Road, Denistone
Proposal:	Construction of a multi-dwelling housing development under the Affordable Rental Housing SEPP 2009, comprising 4 dwellings (2 x 3 bedrooms, 2 storeys at the front and 1 x 3 bedroom and 1 x 2 bedroom single storey dwellings at the rear). Note. Dwellings are referred to in this report as Unit's 1 to 4 with Unit 1 the front dwelling and Unit 4 the rear dwelling.
Constraints Identified:	Within 100m of Heritage Item

ARH SEPP 2009 Division 1	Proposed	Compliance
10 Development to which Division applies		
(1) Applies to development of dual occupancies, multi dwelling housing or residential flat buildings if: (a) development is permitted with consent under another EPI, and (b) development is on land that does not contain a heritage item	(1) Proposed development is considered multi dwelling housing by virtue of the definition contained in the standard instrument. The subject site is zoned R2 – Low Density Residential under the provisions of Ryde LEP 2010 and Draft Ryde LEP 2011 (see Figure 1 & 2 below) and multi dwelling housing is permissible in this zone. Also, the subject site does not contain an identified heritage item (see Figure 3 below).	Yes
(2) Despite subclause (1), division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area	(2) Subject site is located within the Sydney region. It is however, located in an 'accessible area'; the proposed development is located within 400m (approx. 305m) walking distance from a bus stop (ID 2114147) used by a regular bus service – route no. 515 operated by Sydney buses.	Yes

ITEM 3 (continued)

ATTACHMENT 1

ARH SEPP 2009 Division 1	Proposed	Compliance
(3) Despite subclause (1), this division does not apply to development on land that is not in the Sydney region unless all or part of the development is within 400m walking distance of land within Zone B2 or Zone B4, or equivalent	(3) Subject site is located within the Sydney region.	N/A

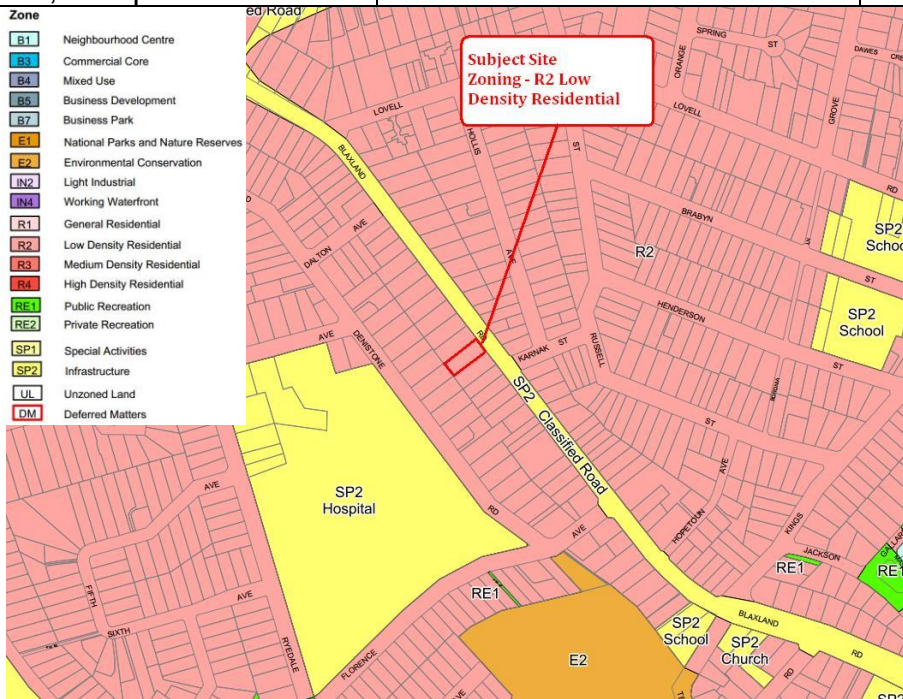


Figure 1. Ryde LEP 2010 Zoning Map Extract

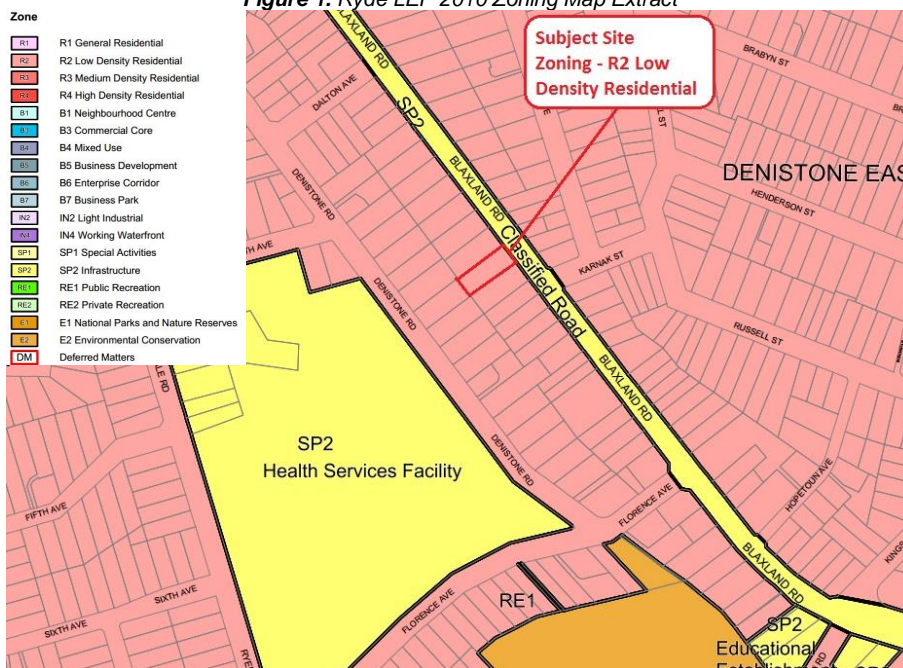


Figure 2. Draft Ryde LEP 2011 Zoning Map Extract

ITEM 3 (continued)

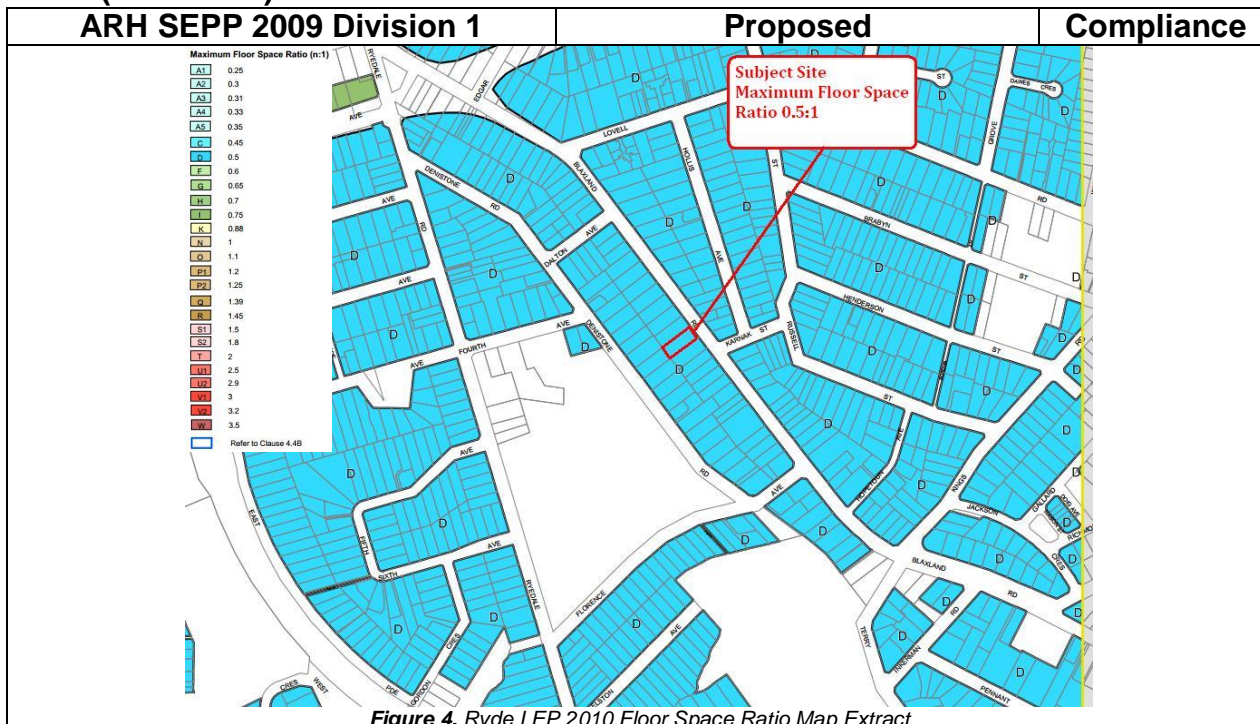
ATTACHMENT 1

ARH SEPP 2009 Division 1	Proposed	Compliance
<p style="text-align: center;">Figure 3. Ryde LEP 2010 Heritage Map Extract</p>		

13 Floor space ratios		
<p>(1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.</p>	<p>(1) Plans indicate that Dwelling 3 is proposed to be used for the purposes of affordable housing. Total GFA = 380.43m² Unit 3 GFA = 76.44m² (20.1% of total)</p> <p>At least 20% of GFA is proposed to be used for affordable housing, therefore this clause applies.</p>	<p>Yes</p>
<p>(2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:</p> <p>(a) if the existing maximum floor space ratio is 2.5:1 or less:</p> <p>(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</p>	<p>(2) Ryde LEP 2010 and the Draft Ryde LEP 2011 identify the existing maximum FSR on the subject site at 0.5:1.</p> <p>(a) The maximum FSR for the subject site is 0.5:1 under Ryde LEP 2010 (see Figure 4 below)</p> <p>(i) Does not apply. Percentage of GFA proposed to be used for affordable housing will not be 50% or higher.</p>	<p>N/A</p>

ITEM 3 (continued)

ATTACHMENT 1



ITEM 3 (continued)

ATTACHMENT 1

ARH SEPP 2009 Division 1	Proposed	Compliance
<p>(d) deep soil zones if, in relation to that part of the site area (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed:</p> <p>(i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the deep soil zone), and</p> <p>(ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and</p> <p>(iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</p> <p>(e) solar access if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</p>	<p>(d)</p> <p>(i) Sufficient soil depth has been provided to support the growth of trees and shrubs on an area of approximately 25% of the site, or 253.14m².</p> <p>(ii) Noted</p> <p>(iii) Two-thirds of proposed deep soil is not located at the rear. Most of the proposed deep soil zone is located within the courtyard areas along the north-western side boundary so as to provide private open space areas adjacent to each unit. Accordingly, these areas are considered an appropriate location for deep soil given the proposed arrangement and orientation of the units.</p> <p>(e) Shadow diagrams indicate that the living rooms and POS of all four (4) of the proposed dwellings will receive at least 3 hours direct sunlight between 9am and 3pm in mid-winter.</p>	<p>Yes</p> <p>Yes</p> <p>No - Justifiable</p> <p>Yes</p>
<p>(2) General A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p>(a) parking If:</p> <p>(i) in the case of a development application made by a social housing provider for development on</p>	<p>(2)</p> <p>(a)</p> <p>(i) Development application has not been made by a social housing provider</p>	<p>N/A</p>

ITEM 3 (continued)

ATTACHMENT 1

ARH SEPP 2009 Division 1	Proposed	Compliance
<p>land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms, or</p> <p>(ii) in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,</p> <p>(b) dwelling size If each dwelling has a gross floor area of at least:</p> <p>(i) 35 square metres in the case of a bedsitter or studio, or</p> <p>(ii) 50 square metres in the case of a dwelling having 1 bedroom, or</p> <p>(iii) 70 square metres in the case of a dwelling having 2 bedrooms, or</p> <p>(iv) 95 square metres in the case of a dwelling having 3 or more bedrooms.</p>	<p>(ii) Requirements: 1 x 2 bedroom dwelling – 1 space 3 x 3 bedroom dwellings – 1.5 space each, 4.5 spaces Total – At least 5.5 spaces required</p> <p>Proposed: 7 spaces including 4 single garages, 2 tandem spaces, and 1 visitor space.</p> <p>(b) GFAs: Unit 1 (3B): 104.38m² Unit 2 (3B): 118.93m² Unit 3 (2B): 76.44m² Unit 4 (3B): 80.68m²</p> <p>GFA of Unit 4 is non-compliant being significantly below the required 95m².</p>	<p>Yes</p> <p>No - Not justifiable</p>
<p>(3) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).</p>	<p>(3) Noted</p>	<p>-</p>
<p>15 Design requirements</p>		
<p>(1) A consent authority must not consent to development to which this Division applies unless it has taken into consideration the provisions of the Seniors Living Policy: Urban Design Guidelines for</p>	<p>(1) Refer to 'Seniors Living Policy: Urban Design Guidelines' checklist</p>	<p>No</p>

ITEM 3 (continued)

ATTACHMENT 1

ARH SEPP 2009 Division 1	Proposed	Compliance
Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004, to the extent that those provisions are consistent with this Policy.		
(2) This clause does not apply to development for the purposes of a residential flat building if State Environmental Planning Policy No 65—Design Quality of Residential Flat Development applies to the development.	(2) Proposed development is not for the purposes of a RFB.	N/A
16 Continued application of SEPP 65		
Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development to any development to which this Division applies.	Noted. The proposed development is not for the purposes of a residential flat building.	N/A
16A Character of local area		
A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	The proposed development is not considered to be compatible with the character of the local area. Reference should be made to the Character Assessment for further discussion.	No – Not justifiable
17 Must be used for affordable housing for 10 years		
(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that: (a) for 10 years from the date of the issue of the occupation certificate: (i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and (ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and	(1) Conditions to this effect will be imposed should development consent be granted.	Yes - To be conditioned

ITEM 3 (continued)

ATTACHMENT 1

ARH SEPP 2009 Division 1	Proposed	Compliance
(b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.		
(2) Subclause (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by, or on behalf of, a public authority.	(2) Subject site is not owned by the Land and Housing Corporation and the development application was not made by or on behalf of, a public authority.	N/A
18 Subdivision		
Land on which development has been carried out under this Division may be subdivided with the consent of the consent authority.	No subdivision proposed as part of the DA.	N/A

Summary of Issues/Non compliances:

Non compliances – justifiable

- Deep soil area – Two-thirds not located at the rear

Non compliances – resolved via conditions:

- Conditions to be imposed that ensure compliance with clause 17 of SEPP (ARH) 2009 – Must be used for Affordable Housing for 10 years.

Non compliances – not justifiable:

- Dwelling size – Dwelling 4 gross floor area is below the requirement
- Character of local area – incompatible
- Inconsistent with the Seniors Living Policy Urban Design Guidelines for Infill Development.

Certification

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

Name: Ben Tesoriero



Signature:

Date: 24 July 2014

ITEM 3 (continued)

ATTACHMENT 2

**SENIORS LIVING POLICY:
URBAN DESIGN GUIDELINES FOR INFILL
DEVELOPMENT**

Checklist of design principles and better practices

Design Issues / Design Principals and Better Practices	Complies – Yes / No / To Comply	Comment
1. Responding to Context		
Analysis of neighbourhood character		
<p>The key elements that contribute to neighbourhood character and therefore should be considered in the planning and design of new development are:</p> <p>1.01 Street layout and hierarchy – has the surrounding pattern and hierarchy of the existing streets been taken into consideration? (eg scale and character of the built form, patterns of street planting, front setbacks, buildings heights)</p>	<p>No – Not justifiable</p>	<p>The proposed development is not considered to be compatible with the scale, character, built form, front setbacks, or building height of other development in the local area.</p> <p>Refer to Character Assessment for further comments.</p>
<p>1.02 Block and lots – does the analysis of the surrounding block and lot layout take into consideration local compatibility and development suitability? (eg lot size, shape, orientation)</p>	<p>No – Not justifiable</p>	<p>The proposal is considered to result in a development outcome that is inconsistent with that of other multi dwelling house development on similar shaped allotments in the local area. Particularly when considering the density of development proposed on the subject allotment and the height of buildings.</p>
<p>1.03 Built environment – has a compatibility check been undertaken to determine if the proposed development is consistent with the neighbourhoods built form? (eg scale, massing, should particular streetscapes or building types be further developed or discouraged?)</p>	<p>No – Not justifiable</p>	<p>As identified above, the proposal will result in a development that is inconsistent with the built form of the neighbourhood. This is because the proposed part two storey multi dwelling house development is not replicated anywhere in the local area. All other multi dwelling house development in the local area is single storey only, the vast majority of dwelling houses and other development in the local area are single storey in height also. As a result the scale and massing of the development is considered to negatively impact on the built environment.</p>
<p>1.04 Trees – do trees and planting in the proposed development reflect trees and landscapes in the neighbourhood or street?</p>	<p>Yes</p>	<p>The proposed development includes a sufficient level of new plantings which have been informed by the surrounding landscapes and open spaces to ensure consistency is maintained within the surrounding neighbourhood.</p>
<p>1.05 Policy environment – has Council’s own LEP and DCP been considered to identify key elements that contribute to an areas character? Does the proposed development respond this?</p>	<p>No – Not justifiable</p>	<p>Poor consideration of the Ryde LEP 2010 and Ryde DCP 2010 has been undertaken in the design of the proposed development with significant non-compliances without justification for development standards contained within the Ryde LEP 2010 and development controls contained within the Ryde DCP 2010.</p>

ITEM 3 (continued)

ATTACHMENT 2

Design Issues / Design Principals and Better Practices	Complies – Yes / No / To Comply	Comment
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Site analysis

<p>Does the site analysis include:</p> <p>1.06 Existing streetscape elements and the existing pattern of development as perceived from the street</p>	<p>Yes</p>	<p>The submitted site analysis includes information relating to the existing pattern of development surrounding the subject site.</p>
<p>1.07 Patterns of driveways and vehicular crossings</p>	<p>Yes</p>	<p>Existing patterns of driveways included on submitted plans.</p>
<p>1.08 Existing vegetation and natural features on the site</p>	<p>Yes</p>	<p>Existing trees and key features of the existing site have been clearly identified on submitted plans.</p>
<p>1.09 Existing pattern of buildings and open space on adjoining lots</p>	<p>Yes</p>	<p>Existing buildings and private open spaces are clearly identifiable on adjoining allotments.</p>
<p>1.10 Potential impact on privacy for, or overshadowing of, existing adjacent dwellings.</p>	<p>Yes</p>	<p>Potential for overshadowing has been considered by way of submission of shadow diagrams indicating the level of impact to surrounding allotments. Impacts of privacy have been carefully considered and designs configured to maximise privacy to existing adjacent dwellings.</p>

2. Site Planning and Design

General

<p>Does the site planning and design:</p> <p>2.01 Optimise internal amenity and minimise impacts on neighbours?</p>	<p>No –see comment.</p>	<p>Internal amenity has been provided by way of generally ensuring a high level of privacy between dwellings, providing a variety quality landscaped private open spaces and a building arrangement that allows access to increased levels of sunlight/daylight and prevailing breezes. The exception is considered to be the upper level side facing balcony which allows for overlooking of the adjoining dwelling at 490 Blaxland Road. Deletion of this balcony from the proposed design should be undertaken.</p>
<p>2.02 Provide a mix of dwelling sizes and dwellings both with and without carparking?</p>	<p>No – see comment.</p>	<p>Dwellings will be a mix of two (2) and three (3) bedroom dwellings with a sufficient levels of car parking provided for residents and visitors. It is noted that the size of Dwelling 4 is however considered to have inadequate gross floor area for a three (3) bedroom dwelling.</p>
<p>2.03 Provide variety in massing and scale of built form within the development?</p>	<p>Yes</p>	<p>Building massing and form has been varied and separated to ensure visual interest is maintained across the development and visual impacts are minimised.</p>

Built form

<p>Does the site planning and design:</p> <p>2.04 Locate the bulk of development towards the front of the site to maximise the number of dwellings with frontage to the public street?</p>	<p>Yes</p>	<p>Bulk is located towards the front of the site with the two storey component fronting the street.</p>
<p>2.05 Have parts of developments towards the rear of the site been reduced in scale to</p>	<p>Yes</p>	<p>Two storey component steps down to single storey towards the rear of the site.</p>

ITEM 3 (continued)

ATTACHMENT 2

Design Issues / Design Principals and Better Practices	Complies – Yes / No / To Comply	Comment
limit impacts on adjoining neighbours?		
2.06 Orientate dwellings to maximise solar access to living areas and private open space, and locate dwellings to buffer quiet areas within the development from noise?	Yes	As demonstrated in the shadow diagrams submitted, the proposed development maximises solar access to the living areas and open spaces by way of appropriate orientation, setbacks and built form arrangement. Given the subject site is an internal allotment, it is considered that creating a buffer from external noise sources is not required.
Trees, landscaping and deep soil zones		
Does the site planning and design: 2.07 Retain trees and planting on the street and in front setbacks to minimise the impact of new development on the streetscape?	No	Existing trees within the front setback are proposed to be removed and replaced with a number of screening trees. These trees, however, are not considered to provide sufficient screening to minimise the impact of the new development on the streetscape. Refer to Character Analysis.
2.08 Retain trees and planting at the rear of the lot to minimise the impact of new development on neighbours and maintain the pattern of mid block deep-soil planting?	Yes	Existing trees have been retained across the site where possible to ensure screening exists between the existing dwellings and proposed development. Additionally, a high level of new landscape planting is to be incorporated across the site which will be an increase over that of the existing and provide appropriate screening to minimise visual bulk and scale.
2.09 Retain large or otherwise significant trees on other parts of the site through sensitive site planning?	Yes	Large trees have been retained and incorporated into the new landscape design where possible.
2.10 Where not possible to retain existing trees, replace with new mature or semi-mature trees?	Yes	A significant number of new mature and semi-mature trees are proposed across the site to offset any tree loss and provide a high quality landscape setting. Refer to Landscape plan.
2.11 Increase the width of landscaped areas between driveways and boundary fences and between driveways and new dwellings?	Yes	Buffer landscape strips have been provided between driveways and boundary fences and between driveways and dwellings with a range of trees, shrubs, grasses and groundcovers to be planted to provide effective screening treatments.
2.12 Provide pedestrian paths?	Yes	Paved pedestrian pathways have been provided through the site to allow easy access between all areas of the development.
2.13 Reduce the width of driveways?	Yes	Driveways have been minimised to allow only for sufficient and safe vehicular entry and egress. Additionally, the driveways have been provided with buffer landscape garden beds to the edges to soften their visual appearance.
2.14 Provide additional private open space above the minimum requirements?	Yes	Private open spaces have been provided including separate ground floor patios and balconies to the upper floors of the development.
2.15 Provide communal open space?	Yes	Outdoor communal open spaces have been provided to allow for recreational pursuits and activities.
2.16 Increase front, rear and/or side setbacks?	Yes	Buildings rear and front setbacks do not comply with councils controls. Refer to Ryde DCP 2010 check list for

ITEM 3 (continued)

ATTACHMENT 2

Design Issues / Design Principals and Better Practices	Complies – Yes / No / To Comply	Comment
		details.
2.17 Provide small landscaped areas between garages, dwellings entries, pedestrian paths, driveways etc.	Yes	Pockets plantings of shrubs, grasses and groundcovers have been incorporated adjacent to hard building elements to soften the visual appearance of the built forms and provide and tranquil landscape setting with deep soil capable of supporting a range of vegetation.
2.18 Provide at least 10% of the site area, at the rear of the site, for deep soils zones to create a mid-block corridor of trees within the neighbourhood?	Yes	Adequate level of deep soil is provided at the rear of the site which includes a sufficient level of vegetation.
2.19 Replicate an existing pattern of deep soil planting on the front of the site?	N/A	Existing trees to be removed at the front of the site are to be replaced with new trees in a similar pattern.
2.20 Use semi-pervious materials for driveways, paths and other paved areas?	Yes	Semi-pervious materials for driveways and other paved areas have been used where practicable.
2.21 Use on-site detention to retain stormwater on site for re-use?	Yes	On-site stormwater detention techniques have been incorporated within the design. Refer to Stormwater plans submitted.

Parking, garaging and vehicular circulation

Does the site planning and design: 2.22 Consider centralised parking in car courts to reduce the amount of space occupied by driveways, garages and approaches to garages?	Yes	Parking arrangement and location is considered appropriate.
2.23 Maintain, where possible, existing crossings and driveway locations on the street?	Yes	New driveway crossing on the south-eastern side of the frontage is considered to be a more appropriate location to the existing crossing on the north-western side of the frontage.

3. Impacts on Streetscape

General

Does the site planning and design: 3.01 Sympathise with the building and existing streetscape patterns? (i.e. siting, height, separation, driveways locations, pedestrian entries etc.)	No – Not justifiable	The proposal will result in a development that is inconsistent with the built form of the streetscape. This is because the proposed part two storey multi dwelling house development is not replicated anywhere in the streetscape of the local area. All other multi dwelling house development in the local area is single storey only, the vast majority of dwelling houses and other development in the local area are single storey in height also. As a result the scale and massing of the development is considered o negatively impact on the streetscape.
3.02 Provide a front setback that relates to adjoining development?		The front setbacks proposed are far less than the adjoining developments, and less than that required by

ITEM 3 (continued)

ATTACHMENT 2

Design Issues / Design Principals and Better Practices	Complies – Yes / No / To Comply	Comment
	No – Not justifiable	the Ryde DCP 2010. It is considered that this negatively results in undue massing and scale to the streetscape. Refer to Character Analysis for further details.
Built form		
Does the site planning and design: 3.03 Break up the building massing and articulate building facades?	Yes	The proposed building design has been broken up into separate blocks of varying heights to reduce the dominance of the built form. Façade articulation has been incorporated.
3.04 Allow breaks in rows of attached dwellings?	Yes	Proposed development has a break between a row of attached dwellings.
3.05 Use a variation in materials, colours and openings to order building facades with scale and proportions that respond to the desired contextual character?	Yes	A variety of materials and colours have been incorporated into the design of facades. These are considered to respond appropriately to the style of contemporary developments in the area.
3.06 Set back upper levels behind the front building façade?	No – Not justifiable	Second storey of front building façade is not setback. This contributes to the large bulk and scale of the development and presents a greater building mass to the streetscape. Refer to character analysis for further discussion.
3.07 Where it is common practice in the streetscape, locating second storeys within the roof space and using dormer windows to match the appearance of existing dwelling houses?	N/A	Second storeys within roof space not considered common practice within streetscape. It is noted, however, that the adjoining property to the north-west does incorporate a second storey within the roof space and that this could have been used in the design to match the appearance of this dwelling and potentially reduce the apparent bulk of the development.
3.08 Reduce the apparent bulk and visual impact of the building by breaking down the roof into smaller roof elements?	Yes	Well-articulated and pitched roof proposed.
3.09 Use a roof pitch sympathetic to that of existing buildings in the street?	Yes	Pitched roof proposed that is sympathetic to that of the existing buildings in the street.
3.10 Avoid uninterrupted building facades including large areas of painted render?	Yes	Building facades are provided with a high degree a variation and materiality change to avoid uninterrupted blank surfaces.
Trees, landscaping and deep soil zones		
Does the site planning and design: 3.11 Use new planting in the front setback and road reserve where it is not possible or not desirable to retain existing trees/planting?	Yes	New planting similar to existing plantings at the front of the site to maintain the existing streetscape landscaping character.
3.12 Plant in front of front fences to reduce their impact and improve the quality of the public domain?	Yes	New plantings along front boundary will provide sufficient screening for front fences.

ITEM 3 (continued)

ATTACHMENT 2

Design Issues / Design Principals and Better Practices	Complies – Yes / No / To Comply	Comment
Residential amenity		
Does the site planning and design: 3.13 Clearly design open space in the front setback as either private or communal open space?	N/A	Front setback area used primarily for landscaping and pedestrian access to the development which is considered appropriate given the nature of other front setbacks in the street.
3.14 Define the threshold between public and private space by level change, change in materials, fencing, planting and/or signage?	Yes	Threshold between public and private space is to be defined by way of ground surface materiality change, increased level of vegetative plantings as well as appropriate identification.
3.15 Design dwellings at the front of the site to address the street?	Yes	Unit 1 at the front of the site addresses Blaxland Road.
3.16 Design pedestrian entries, where possible, directly off the street?	Yes	One (1) pedestrian entry directly from Blaxland Road.
3.17 Provide a pedestrian entry for rear residents that is separate from vehicular entries?	N/A	No pedestrian entry separate from vehicular entry provided for rear units. This access is considered appropriate given the small nature of the proposal consisting of only 4 dwellings.
3.18 Design front fences that provide privacy where necessary, but also allow for surveillance of the street?	Yes	Low front fence proposed that will provide privacy and surveillance of the street.
3.19 Ensure that new front fences have a consistent character with front fences in the street?	Yes	Low front fence proposed is considered to be consistent with front fences in the street.
3.20 Orientate mailboxes obliquely to the street to reduce visual clutter and the perception of multiple dwellings?	To Comply	Letterboxes to be orientated obliquely to the street to reduce visual clutter.
3.21 Locate and treat garbage storage areas and switchboards so that their visual impact on the public domain is minimised?	Yes	Garbage storage areas not visible from public domain.
Parking, garaging and vehicular circulation		
Does the site planning and design: 3.22 Vary the alignment of driveways to avoid a 'gun barrel' effect?	Yes	Driveway varies in width and is well landscaped avoiding a 'gun barrel' effect.
3.23 Set back garages behind the predominant building line to reduce their visibility from the street?	Yes	Garages located behind the building line and are not prominent from the street.
3.24 Consider alternative site designs that avoid driveways running the length of the site?	Yes	Proposed driveway does not run the length of the site.
3.25 Terminate vistas with trees, vegetation, open space or a dwelling rather than garages or parking?	Yes	Vista along the driveway terminates with landscaping and the rear Unit 4.

ITEM 3 (continued)

ATTACHMENT 2

Design Issues / Design Principals and Better Practices	Complies – Yes / No / To Comply	Comment
3.26 Use planting to soften driveway edges?	Yes	Buffer plantings have been implemented along the edges of the driveway to soften the hard paved edges.
3.27 Vary the driveway surface material to break it up into a series of smaller spaces? (eg to delineate individual dwellings)	To Comply	Insufficient information provided to determine compliance with this control.
3.28 Limit driveway widths on narrow sites to single carriage with passing points?	Yes	Driveway width is minimised where possible.
3.29 Provide gates at the head of driveways to minimise visual ‘pull’ of the driveway?	Yes	No gate provided, however, the well-articulated and landscaped driveway area should minimise the visual ‘pull’ of the driveway.
3.30 Reduce the width where possible to single width driveways at the entry to basement carparking rather than double?	N/A	No basement parking proposed.
3.31 Locate the driveway entry to basement carparking to one side rather than the centre where it is visually prominent?	N/A	As above.
3.32 Recess the driveway entry to basement car parking from the main building façade?	N/A	As above.
3.33 Where a development has a secondary street frontage, provide vehicular access to basement car parking from the secondary street?	N/A	Subject site does not include a secondary frontage.
3.34 Provide security doors to basement carparking to avoid the appearance of a ‘black hole’ in the streetscape?	N/A	No basement parking proposed.
3.35 Return façade material into the visible area of the basement car park entry?	N/A	As above.
3.36 Locate or screen all parking to minimise visibility from the street?	Yes	Parking located behind front building line and is not prominent from the street.

4. Impacts on Neighbours

Built form

Does the site planning and design: 4.01 Where possible, maintain the existing orientation of dwelling ‘fronts’ and ‘backs’?	N/A	Proposed built form maintains the existing orientation of dwelling ‘fronts’ and ‘backs’ in a similar way to other multi-dwelling houses within the street.
4.02 Be particularly sensitive to privacy impacts where dwellings must be oriented at 90 degrees to the existing pattern of development?	Yes	High levels of privacy have been maintained to all existing neighbouring dwellings and allotments through appropriate building orientation, window positioning, sizing and glazing treatments, provision of landscape screen plantings and adequate setbacks to create visual buffers.

ITEM 3 (continued)

ATTACHMENT 2

Design Issues / Design Principals and Better Practices	Complies – Yes / No / To Comply	Comment
4.03 Set upper storeys back behind the side or rear building line?	No	Upper levels have not been setback. Despite this, privacy impacts are considered to be mitigated through building orientation, window positioning, sizing and glazing treatments, provision of landscape screen plantings and adequate setbacks to create visual buffers. The exception is the proposed side boundary facing upper level balcony which is considered to present overlooking opportunities to the adjoining development at 480 Blaxland Road.
4.04 Reduce the visual bulk of roof forms by breaking down the roof into smaller elements rather than having a single uninterrupted roof structure?	Yes	Pitched and well-articulated roof proposed.
4.05 Incorporate second stories within the roof space and provide dormer windows?	N/A	Second storeys within roof space not considered common practice within streetscape. It is noted, however, that the adjoining property to the north-west does incorporate a second storey within the roof space and that this could have been used in the design to match the appearance of this dwelling and potentially reduce the apparent bulk of the development.
4.06 Offset openings from existing neighbouring windows or doors?	Yes	Windows and doors are offset from existing neighbouring windows and doors.
4.07 Reduce the impact of unrelieved walls on narrow side and rear setbacks by limiting the length of the walls built to these setbacks?	Yes	The design of the development has aimed to reduce the impact of unrelieved walls by providing a high level of articulation and materiality fenestration, therefore mitigating and visual impacts to the existing surrounding development.

Trees, landscaping and deep soil zones

Does the site planning and design: 4.08 Use vegetation and mature planting to provide a buffer between new and existing dwellings?	Yes	New and existing vegetation provides a visual buffer and increased privacy to the existing surrounding dwellings. Screen planting is proposed around the entire perimeter of the site as well as some taller trees.
4.09 Locate deep soil zones where they will be provide privacy and shade for adjacent dwellings?	Yes	Deep soil zones located primarily in the courtyard areas which are located to the north of the dwellings and adjacent to the boundary providing for shade and privacy.
4.10 Plant in side and rear setbacks for privacy and shade for adjoining dwellings?	Yes	Planting is primarily within the side and rear setbacks for privacy.
4.11 Use species that are characteristic to the local area for new planting?	Yes	The proposed landscaping scheme uses a range of native and endemic species that are characteristic of the existing landscape within this area of Denistone.

Residential amenity

Does the site planning and design: 4.12 Protect sun access and ventilation to living		As demonstrated by the shadow diagrams submitted, the neighbouring dwellings and private open spaces will not be negatively impacted in terms of overshadowing
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ITEM 3 (continued)

ATTACHMENT 2

Design Issues / Design Principals and Better Practices	Complies – Yes / No / To Comply	Comment
areas and private open space of neighbouring dwellings by ensuring adequate building separation?	Yes	and will receive a high level of sunlight and daylight access. Additionally, adequate building separation, configuration and orientation has ensured appropriate cross ventilation is maintained to the surrounding allotments.
4.13 Design dwellings so that they do not directly overlook neighbours' private open space or look into existing dwellings?	Yes	Dwellings windows and balconies are offset and well screened such that no direct overlooking is possible.
4.14 Locate private open space in front setbacks where possible to minimise negative impacts on neighbours?	Yes	Given the character of the local area, POS in the front setback would not be appropriate. Accordingly, POS is located primarily along the north-western side and has been sufficiently screened and offset to minimise impacts on neighbours.
4.15 Ensure private open space is not adjacent to quiet neighbouring uses, eg bedrooms?	Yes	As above.
4.16 Design dwellings around internal courtyards?	N/A	Not considered applicable to multi-dwelling house developments.
4.17 Provide adequate screening for private open space areas?	Yes	POS is located primarily along the north-western side and has been sufficiently screened and offset to minimise impacts on neighbours and maximise privacy for occupants.
4.18 Use side setbacks which are large enough to provide usable private open space to achieve privacy and soften the visual impact of new development by using screen planting?	Yes	As above.

Parking, garaging and vehicular circulation

Does the site planning and design: 4.19 Provide planting and trees between driveways and side fences to screen noise and reduce visual impacts?	Yes	Landscape screen planting has been implemented along driveways and vehicular access ways to provide visual and acoustic privacy.
4.20 Position driveways so as to be a buffer between new and existing adjacent dwellings?	Yes	Proposed driveway forms a buffer along the south-eastern side.

5. Internal Site Amenity

Built form

Does the site planning and design: 5.01 Maximise solar access to living areas and private open space areas of the dwelling?	Yes	Living and POS areas generally located along the north-western side which is considered to be the most appropriate location for solar access.
5.02 Provide dwellings with a sense of identity through building articulation, roof form and other architectural elements?	Yes	As demonstrated by the submitted sketch drawings of the development, the building is considered to have a strong sense of identity through providing a design with a high level of visual interest in terms of materiality,

ITEM 3 (continued)

ATTACHMENT 2

Design Issues / Design Principals and Better Practices	Complies – Yes / No / To Comply	Comment
		building articulation, and feature elements.
5.03 Provide buffer spaces and/or barriers between the dwellings and driveways or between dwellings and communal areas for villa or townhouse style developments?	Yes	Adequate buffering between driveway and dwellings is proposed given the size of the site.
5.04 Use trees, vegetation, fences, or screening devices to establish curtilages for individual dwellings in villa or townhouse style developments?	Yes	Trees and fencing establishes curtilages for each of the four (4) proposed dwellings.
5.05 Have dwelling entries that are clear and identifiable from the street or driveway?	Yes	Each of the proposed dwellings will have clearly identifiable entries from both the street and the driveway.
5.06 Provide a buffer between public/communal open space and private dwellings?	N/A	No communal open space provided.
5.07 Provide a sense of address for each dwelling?	Yes	Each dwelling has a unique character with clear differences apparent.
5.08 Orientate dwelling entries to not look directly into other dwellings?	Yes	Dwelling have generally been orientated away from each other internally so as to provide a high level of internal privacy.

Parking, garaging and vehicular circulation

Does the site planning and design:		
5.09 Locate habitable rooms, particularly bedrooms, away from driveways, parking areas and pedestrian paths, or where this is not possible use physical separation, planting, screening devices or louvers to achieve adequate privacy?	Yes	Habitable rooms are generally located away from driveways and parking areas.
5.10 Avoid large uninterrupted areas of hard surface?	Yes	Proposed hard stand areas have been minimised where possible and relate only to vehicular access and parking and pedestrian pathways.
5.11 Screen parking from views and outlooks from dwellings?	Yes	Car parking is located within attached garages and carports and will not be clearly visible from dwellings.
Reduce the dominance of areas for vehicular circulation and parking by:		
5.12 Considering single rather than double width driveways?	Yes	Driveway is single width.
5.13 Use communal car courts rather than individual garages?	Yes	Car parking arrangement is considered appropriate given the small size of the site and development.

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ATTACHMENT 2

Design Issues / Design Principals and Better Practices	Complies – Yes / No / To Comply	Comment
Reduce the dominance of areas for vehicular circulation and parking by considering:		
5.14 Single rather than double garages?	Yes	Use of single garages provided.
5.15 Communal car courts rather than individual garages?	Yes	Car parking arrangements considered appropriate from a town planning perspective.
5.16 Tandem parking or a single garage with single car port in tandem?	Yes	Tandem car parking provision proposed, the car parking arrangements are considered appropriate from a town planning perspective.
5.17 Providing some dwellings without any car parking for residents without cars?	Yes	All dwellings provided with car parking spaces but the car parking arrangements considered appropriate from a town planning perspective.
Residential amenity		
Does the site planning and design:		
5.18 Provide distinct and separate pedestrian and vehicular circulation on the site where possible, where not possible shared access should be wide enough to allow a vehicle and a wheelchair to pass safely?	Yes	Proposed development is for a multi-dwelling house; wheelchair access is not considered applicable.
5.19 Provide pedestrian routes to all public and semi-public areas?	Yes	Pedestrian access to public and semi-public areas is considered appropriate.
5.20 Avoid ambiguous spaces in building and dwelling entries that are not obviously designated as public or private?	Yes	Ambiguous spaces are avoided.
5.21 Minimise opportunities for concealment by avoiding blind or dark spaces between buildings, near lifts and foyers and at the entrance to or within indoor car parks?	Yes	No blind or dark spaces apparent.
5.22 Clearly define thresholds between public and private spaces?	Yes	Thresholds have been clearly identified between public and private spaces by way of appropriate arrangement of screens, walls, fencing and landscaping as well as differentiation of materiality.
5.23 Provide private open space that is generous in proportion and adjacent to the main living areas of the dwelling?	Yes	Private open spaces have been appropriately positioned with generous proportions to ensure a good relationship between the internal living areas and outdoor open spaces are provided.
5.24 Provide private open space area that are orientated predominantly to the north, east or west to provide solar access?	Yes	Private open spaces have generally been orientated to the north and west providing maximum solar access.
5.25 Provide private open space areas that comprise multiple spaces for larger dwellings?	Yes	Larger 3 bedroom units provided with multiple POS spaces including courtyards, balcony, and turfed area.
5.26 Provide private open space areas that use screening for privacy but also allow casual	Yes	Privacy and casual surveillance permitted from private open spaces to ensure a high level of security is

ITEM 3 (continued)

ATTACHMENT 2

Design Issues / Design Principals and Better Practices	Complies – Yes / No / To Comply	Comment
surveillance when located adjacent to public or communal areas?		maintained within the development.
5.27 Provide private open space areas that are both paved and planted when located at ground level?	Yes	The proposed private open spaces at ground level include both paved and planted areas.
5.28 Provide private open space areas that retain existing vegetation where practical?	Yes	Not considered practical to retain existing vegetation within POS areas. Appropriate new landscaping proposed.
5.29 Provide private open space areas that use pervious pavers where private open space is predominantly hard surfaced to allow for water percolation and reduced run-off?	Yes	Adequate deep spoil areas provided across the site to allow for high levels of water percolation and reduced run-off.
5.30 Provide communal open space that is clearly and easily accessible to all residents and easy to maintain and includes shared facilities, such as seating and barbeques to permit resident interaction?	N/A	No communal open space provided as each dwelling proposes to include a substantial private open space area.
5.31 Site and/or treat common service facilities such as garbage collection areas and switchboards to reduce their visual prominence to the street or to any private or communal open space?	N/A	No common service facilities proposed. Garage collection areas and switchboards are provided for each unit.

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ATTACHMENT 3

COMPLIANCE TABLE (Ryde DCP 2014)

LDA No:	2014/0220
Date Plans Rec'd	2 June 2014
Address:	492 Blaxland Road, Denistone
Proposal:	<p>Construction of a multi-dwelling housing development under the Affordable Rental Housing SEPP 2009, comprising 4 dwellings (2 x 3 bedrooms, 2 storeys at the front and 1 x 3 bedroom and 1 x 2 bedroom single storey dwellings at the rear).</p> <p>Note. Dwellings are referred to in this report as Unit's 1 to 4 with Unit 1 the front dwelling and Unit 4 the rear dwelling.</p>
Constraints Identified:	Within 100m of Heritage Item

DCP 2014	Proposed	Compliance
2.1 Site Analysis		
<ul style="list-style-type: none"> ○ Must have a SA ○ SA should relate dwgs to surrounds + minimise amenity impacts 	<p>A site analysis has been submitted in the form of a site analysis plan. The plan does not address all the criteria outlined in Schedule 1 of the Part 3.5 of the Ryde DCP 2014.</p> <p>Although many elements of Schedule 1 are not shown on the site analysis plan, this information can be found elsewhere on other drawings submitted with the application.</p>	Yes
2.2 Minimum allotment size		
Area: (not <900m ²)	<p>Cl. 14 1(b) of SEPP (ARH) 2009 prevails</p> <p>Subject site area 1,011.714m² (Deposited Plan)</p>	N/A
Primary Frontage: (not <20m)	20.1168m as per Deposited Plan	Yes
Not hatchet shaped	Regular shaped allotment	Yes
2.3 Non-Preferred Locations		
Is the proposed development within a non-preferred location?	The proposed development is located within a non-preferred location, being along a part of Blaxland Road identified in	No – Not Justifiable

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ATTACHMENT 3

DCP 2014	Proposed	Compliance
	<p>Schedule 2 of Part 3.5 of the Ryde DCP 2014 (see Figure 1 below).</p> <p>This non-compliance is not considered justifiable because the subject site is directly identified as being a non-preferred location for multi dwelling housing. The reason for the non-preferred location is the potential for 'Adverse traffic impacts and adverse impact/change to the character of the local area'.</p> <p>It is noted that there are other multi dwelling housing developments located within this non-preferred location.</p>	

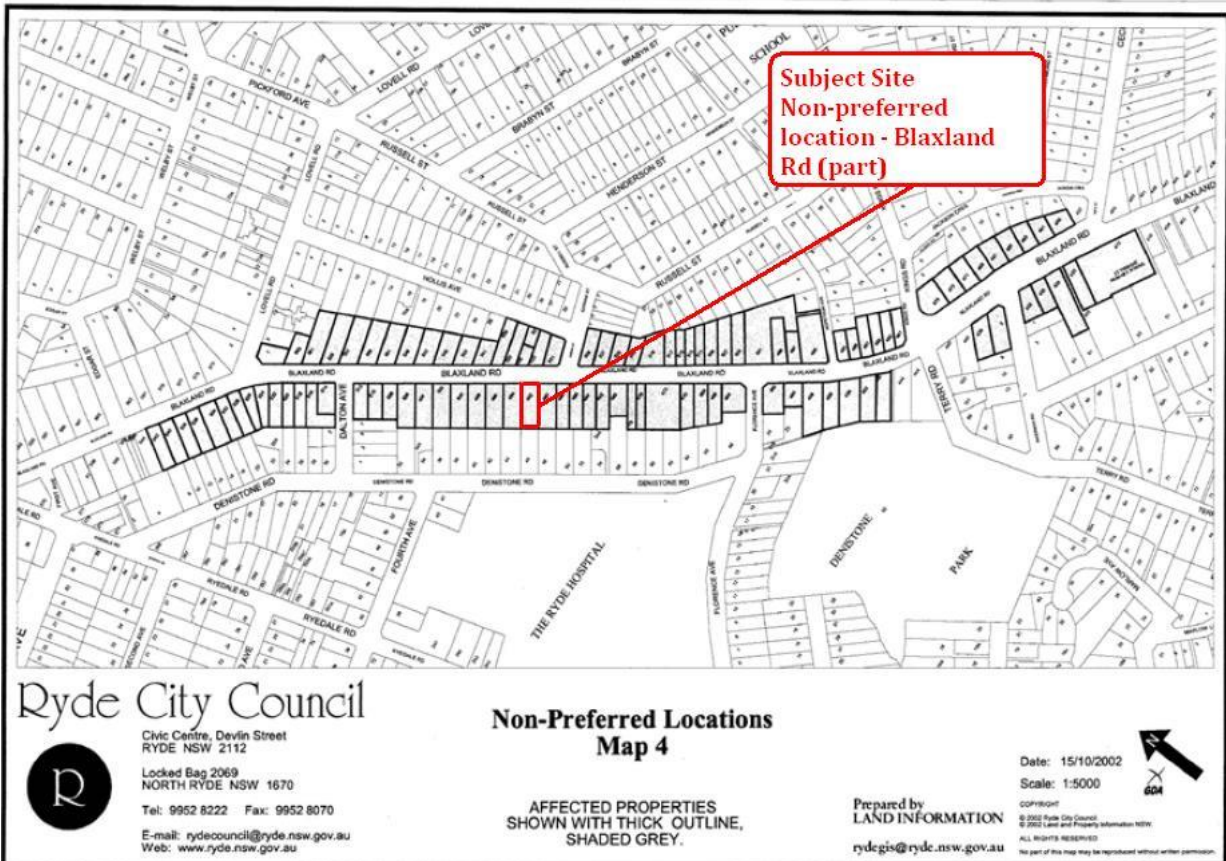


Figure 1. Ryde DCP 2014 extract – Blaxland Rd (Part) Non-preferred location

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ATTACHMENT 3

DCP 2014	Proposed	Compliance
2.5 Density		
As per clause 4.5A RLEP2010 – which states: (a) Site Area: (i) 300m ² per 1,2,3br dwg (3x300 = 900m ²)	1,200m² required Subject Site is 1,011.714m²	No – Not justifiable
2.6 Number of Dwellings		
Not more than 12 Dwellings	4 dwellings proposed	Yes
2.7 Type of Dwellings		
If 4 or more dwellings on site, <75% with same number of bedrooms (rounded down) e.g. 6d= 4x3B + 2x2B	3 x 3 bedroom dwellings and 1 x 2 bedroom dwelling proposed. Therefore, 75% of proposed dwellings contain 3 bedrooms which complies with the control.	Yes
3.1 Slope of Site		
At least one dwelling must present to the street	Unit 1 presents to Blaxland Road.	Yes
Slope must be <1:6 either up or down from street frontage	Subject site falls from the rear western corner to the front eastern corner at a gradient of approximately 1:17	Yes
Cross-fall >1:14	Subject site has a minor cross fall from the north-west to south-east at a maximum gradient of approximately 1:33	Yes
3.2 Altering the Levels of the Site		
No imported Fill	None shown	Yes
<300mm Cut or Fill outside building envelope.	Cut and fill is proposed across the subject site, with a maximum of 1190mm of cut proposed at the front of the subject site along the north-western side of the driveway. A maximum of 1000mm of fill is proposed at the front eastern corner of the development.	No – Not Justifiable
No basement garages, minimal steps, minimal retaining walls	No basement garages proposed, minimal steps, retaining walls have been minimised due to combination of cut and fill land stepping of the development.	Yes
POS generally at NGL.	Private open spaces are provided along the north-western boundary and are generally at NGL, with a	Yes

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ATTACHMENT 3

DCP 2014	Proposed	Compliance
	<p>combination of cut and fill proposed as well as stepping the development down the slope of the subject site from the rear to front.</p>	
<p>3.3 Storey and Height</p>		
<p>3.3.1 Storeys</p>		
<p>Dwg with frontage to street can be 2 storeys provided:</p> <ul style="list-style-type: none"> o 2 st dwg not attached to any other 2 st dwg o 2 st dwg is suitable re streetscape 	<p>Proposal includes a 2 storey dwelling (Unit 1) with a frontage to Blaxland Road. This dwelling is attached to another 2 storey dwelling to the rear (Unit 2).</p> <p>Plans indicate the dwelling which fronts Blaxland Road (Unit 1) is two storeys and is attached to a dwelling (Unit 2) that is also two storeys which does not comply with this control.</p> <p>An investigation of the impacts of this non-compliance reveals concern that the proposed scale of the two-storey component of the development does not relate to the character and streetscape of the surrounding area. The streetscape is characterised by low density residential developments consisting primarily of single storey detached dwellings as well as some single storey multi dwelling developments. It is noted that the character of the area has changed with the introduction of more modern multi dwelling style developments compared to the established older style single dwelling houses. However, these developments are all</p>	<p>No – Not justifiable</p>

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ATTACHMENT 3

DCP 2014	Proposed	Compliance
	<p>single storey in nature so the scale of the proposed development is not considered to be consistent with the locality.</p> <p>In addition, there is concern that the proposed two storey Unit 2 will result in privacy impacts for the surrounding properties due to the first floor side balcony of Unit 2 in particular.</p>	
3.3.2 Height		
<p>As per Clause 4.3(2a) – which states the maximum height is:</p> <p>(a) for dwgs in bldg with no frontage to street – 6.5m</p>	<p>Maximum height of Units 2-4 (dwellings with no street frontage) varies. The following is the heights of each unit:</p> <ul style="list-style-type: none"> • Unit 2: 8.235m • Unit 3: 5.735m • Unit 4: 4.725m <p>Unit 2 exceeds the maximum height by 1.735m. The non-compliance is the result of Unit 2 being 2 storeys in height.</p>	No – Not justifiable
<p>(b) for dwgs with a frontage to street, if adj lots have dwgs that are <9.5m high – 8m</p>	<p>Adjoining dwellings are <9.5m high. Therefore, 8m is the relevant height control.</p> <p>Unit 1 (dwelling fronts the street): Ridge level RL 104.235 NGL below is RL 95.8 Maximum height = 8.435m</p>	No – Not Justifiable
3.4 Site Coverage		
Site coverage < 40%	35.9%	Yes
Pervious area > 35%	36%	Yes
3.5 Setbacks		
3.5.1 Front Setbacks		
<p><u>Front Setbacks:</u> Similar to adjoining buildings - same as adjoining if <2m (in West Ryde Character Area where should be similar to adjoining)</p>	<p>Adjoining dwelling to north west is setback 13m. Adjoining dwelling to south east is setback 14.6m. Difference in adjoining setbacks is not more</p>	No – Not Justifiable

ITEM 3 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
	<p>than 2m. Therefore, front setback of proposal must be the same as one of these adjoining property setbacks – either 14.6m or 13m.</p> <p>Proposed front setback is 6.0m.</p> <p>Not considered to be justifiable, as despite more modern MDH being built in closer proximity to the street than the older-style single dwelling houses as evidenced on Six Maps, given the scale of the two-storey component, the front setback is not considered to be justifiable. Furthermore, the area is a preferred non-location for MDH.</p>	
<p>Setback of 1m less than the above std for not more than 50% of the front elevation for interest in the streetscape</p>	<p>Refer to comments above.</p>	<p>N/A</p>
<p>Council may vary this requirement if streetscape is likely to change: >7.5m for 50% of frontage, >6.5m for 50% of frontage.</p>	<p>Despite the number of newer multi dwelling developments in the area with reduced front setbacks in the order of 7-8m, council shouldn't vary this requirement as the streetscape is unlikely to change because this part of Blaxland Road has been specifically identified as a 'non-preferred location' for MDHs.</p>	<p>N/A</p>
<p>3.5.4 Side and Rear Setbacks</p>		
<p>Min 4.5m unless vehicular access is included in this area, then min 6m. To promote variation & interest up to 50% may be not less than 3m (i.e. 50% of length of wall creating the setback is allowed to be setback between 3m – 4.5m or 3m – 6m for areas with vehicular access)</p>	<p>Proposed Rear Setback – 3.135m (100% of length)</p> <p>Non-compliance because only 50% of the wall is permitted to be setback 3m – 4.5m.</p> <p>Not justifiable because reduced rear setback creates an overly narrow space at the rear of Unit 4 that cannot accommodate substantial landscaping and could facilitate</p>	<p>No – Not Justifiable</p>

ITEM 3 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
	<p>negative privacy impacts on the adjoining properties.</p> <ul style="list-style-type: none"> • North west side – 3.085m minimum setback <ul style="list-style-type: none"> ▪ 66% of north west side setback between 3 – 4.5m (38m total length) Remaining 34% length setback more than 4.5m requirement. Non-compliance because only 50% of the wall is permitted to be setback 3m – 4.5m. • South east side (part with no vehicular access) is setback 3m for 100% of its length. <ul style="list-style-type: none"> - Non-compliance because only 50% of the wall is permitted to be setback 3m – 4.5m. • South east side (part with vehicular access – 6m min) <ul style="list-style-type: none"> ▪ 26.8% of wall setback 3m – 6m (33.5m total length) ▪ Complies because 50% of the wall is allowed to be setback 3m – 6m. 	<p>No – not justifiable</p>
Must provide appropriate solar access.	Cl. 14 1(e) of SEPP (ARH) 2009 prevails	N/A
Ensure existing substantial trees not within proposed courtyard areas.	No existing substantial trees are located within proposed courtyard areas.	Yes
3.5.5 Internal Setbacks		
Habitable room windows don't overlook	No windows of habitable rooms overlook habitable room windows of another dwelling within the proposed development.	Yes
9m separation between facing dwellings habitable room windows?	No facing windows between dwellings within the proposed development.	N/A

ITEM 3 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
3.6 Private Outdoor Space		
Min 30m ² for 2B Min 35m ² for 3+B	Dwllg 1 – 3 bedroom: 34.44m ² Dwllg 2 – 3 bedroom: 32.76m ² Dwllg 3 – 2 bedroom: 46.19m ² Dwllg 4 – 3 bedroom: 115.32m ²	No - not Justifiable
Min dimension 4m and generally at NGL	Minimum dimension of private open space >4m for all units and are generally at NGL.	Yes
Solar access: 50% for ≥2hrs	Cl. 14 1(e) of SEPP (ARH) 2009 prevails	N/A
Do not contain ex'g big trees	No existing substantial trees within proposed courtyard areas.	Yes
Access to courtyard other than through dwg?	Courtyards for Units 1, 3, and 4 all have access other than through the dwelling. Courtyard for Unit 2 is only accessible through the dwelling. This is considered acceptable because the courtyard is able to be accessed through the garage and laundry without having to enter any living spaces of the dwelling.	Yes
Securely enclosed (not roofed) + visible from liv rms	All courtyards are securely enclosed and not roofed. They are also mostly visible from living areas.	Yes
Not within front setback	All private open spaces are located behind the building line	Yes
Min 1.2m wide landscaped privacy strip between courtyard and adjoining property	Proposed landscape privacy strip of 0.8m between courtyards and adjoining property. This non-compliance is not considered justifiable because the proposed privacy strip is inadequately sized to provide sufficient privacy to the occupants within the development and the adjoining properties.	No – Can Be Conditioned
3.7 Landscaping		
Extent of landscaping, existing trees retained in common areas?	No existing trees retained within common areas.	Yes

ITEM 3 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
If landscaping used for privacy: <ul style="list-style-type: none"> • ≥1.2m landscaped strip • Shrub mature height 3-4m, if possible small trees mature height 5-m in combination with screen planting 	Refer to above comments	No – Not Justifiable
Planting strip not less than 1.2m wide provided between driveway and adjoining property boundary.	Proposed planting strip between driveway and adjoining property boundary is 0.8m wide. This non-compliance is not considered justifiable because the proposed privacy strip is inadequately sized to provide sufficient privacy to the occupants within the development and the adjoining properties.	No – Not justifiable
1m strip between driveway and wall of dwgs	1m strip provided between driveway and wall of dwellings where possible.	Yes
Nature Strips: Street trees retained and protected?	No street trees exist on the adjacent nature strip	Yes
3.8 Car Parking, Manoeuvrability and Driveway Crossings		
Car Parking		
Number of Parking Spaces 1 space per 1 or 2 B dwelling 2 spaces per 3+B dwelling 1 visitor space per 4 dwgs (at least 1 space per dwg must be lockable garage)	Cl. 14 2(a) of SEPP (ARH) 2009 prevails however refer to assessment below for information purposes: <i>Required car spaces:</i> 1 space for 1 x 2 bedroom dwelling + 2 spaces for 3 x 3 bedroom dwellings = 7 resident spaces required 4 dwellings total = 1 visitor space required <i>Proposed:</i> 6 Resident spaces with 1 space per dwelling in a lockable garage 1 Visitor space	N/A

ITEM 3 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
	<i>Minor non-compliance by 1 resident space.</i>	
Garage location: - Not between dwelling and street frontage - No tandem parking in front of garage - Conveniently located for occupants - Located so they separate dwellings.	All garages located behind building lines 2 tandem car spaces are provided for units 3 and 4. They are located at the rear of the garages. All garages located adjacent to dwellings Garages located so as to separate adjoining dwellings	Yes Yes Yes Yes
Manoeuvrability: - Enter and leave garage/parking area with single 3pt turn, in a forward direction (unless safe to reverse - corner allotment only). - Garage opening widths	Development Engineer referral comments: The manoeuvring from garages is unsatisfactory. However applicant is proposing a turning area and visitor car parking space between house No 4 & 3. Visitor parking is proposed behind the turning area. Vehicles reversing from this parking space will not have adequate sight lines. Therefore the building layout needs to be revised to address sight lines for reversing vehicles from visitor parking space.	No – not justifiable
Driveways Suitably paved, extent minimised, to avoid excessive amounts of hard paving.	Driveway has been suitably paved and extent minimised where possible.	Yes
Driveway Crossings Width: <10 spaces, min 4m >10 spaces, max 6m	Development includes less than 10 spaces. 6m driveway crossing width proposed.	Yes
3.9 Overshadowing and Access to Sunlight		
Habitable room windows face courtyard or other outdoor space open to the sky, no closer than 1.5m to facing wall.	Proposed habitable rooms windows generally face the courtyards or driveways which are open to the sky. Facing	Yes

ITEM 3 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
	walls are located more than 1.5m away.	
Sunlight to at least 50% of each courtyard, and principal ground level open space >2hrs between 9am and 3pm on June 21 or	Cl. 14 1(e) of SEPP (ARH) 2009 prevails however refer to assessment below for information purposes: <i>According to the shadow diagrams submitted, the principal ground level open spaces achieve at least 2hrs sunlight between 9am and 3pm on June 21.</i>	Yes
Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight must not be further reduced by more than 20%	Although sunlight will be slightly reduced to neighbouring properties due to the increased bulk and scale of the proposed development relative to the existing development on site, they will still receive sufficient level of sunlight.	Yes
Shadow diagrams must indicate extent of shadowing within development and adjoining properties.	Shadow plans indicate the extent of shadowing caused by the proposed development and fencing both within the subject site and on adjoining properties.	Yes
3.10 Visual and Acoustic Privacy		
Min 9m separation between facing habitable room windows	No facing windows within the proposed development	N/A
No direct views between living area windows of adjacent dwellings (otherwise screening or obscuring necessary)	No direct views provided between adjacent dwellings living area windows.	Yes
Direct views from living areas to private open space of other dwellings should be screened or obscured within privacy sensitive zone of 12m radius.	No direct views are provided between living areas to POS of other dwellings.	Yes
No balconies.	There are two balconies proposed for the development. One is located on the first floor of Unit 1, oriented towards Blaxland Road. The other is located on the first floor of Unit 2, oriented to the south-east.	No – Justifiable (unit 1 balcony) Not justifiable (unit 2 balcony)

ITEM 3 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
Elevated landings (or similar associated with stairs into courtyard) max 1m wide	<p>Justifiable - The balcony for Unit 1 is oriented towards the street and is well forward of the adjoining property building lines so no overlooking is possible.</p> <p>Not Justifiable - The balcony of Unit 2 is oriented to the south-eastern side and may allow for potential overlooking to the S-E adjoining property.</p> <p>Landings provided within courtyards are only slightly elevated by 180mm</p>	Yes
Living and sleeping areas protected from high levels of external noise?	Living and sleeping areas have generally been protected from noise impacts in terms of vehicular movements through the site. It is noted that other high levels of noise are unlikely in the surrounding low density residential neighbourhood.	Yes
Noise levels of air con pool pumps etc must not exceed background noise level by more than 5dB(A)	No air conditioning or pool proposed.	N/A
3.11 Accessibility		
3.11.1 Pedestrian Access		
Pedestrian access provided, separate to vehicle access where possible.	Separate pedestrian access provided to Unit 1. Due to the shape of the allotment and limited space, the pedestrian access to Units 2, 3 and 4 is shared with vehicular access.	Yes
4.1 Appearance		
Complement streetscape	<p>Plans indicate the dwelling which fronts Blaxland Road (Unit 1) is two storeys and is attached to a dwelling (Unit 2) that is also two storeys which does not comply with this control.</p> <p>An investigation of the impacts of this non-compliance reveals</p>	No – Not justifiable

ITEM 3 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
	<p>concern that the proposed scale of the two-storey component of the development does not relate to the character and streetscape of the surrounding area. The streetscape is characterised by low density residential developments consisting primarily of single storey detached dwellings as well as some single storey multi dwelling developments. It is noted that the character of the area has changed with the introduction of more modern multi dwelling style developments compared to the established older style single dwelling houses. However, these developments are all single storey in nature so the scale of the proposed development is not considered to be consistent with the locality.</p>	
<p>Includes pitched roof, eaves, vertically oriented windows, verandahs, rendered and face brick</p>	<p>The proposed development includes pitched roofs, eaves, mostly vertically oriented windows, verandahs, rendered brick and a range of other elements that enhance its appearance.</p>	<p>Yes</p>
<p>At least 1 dwg must face street</p>	<p>Proposed Unit 1 faces Blaxland Road.</p>	<p>Yes</p>
<p>4.2 Ceiling Height</p>		
<p>Floor to Ceiling min 2.7m</p>	<p>Minimum 2.7m provided</p>	<p>Yes</p>
<p>4.3 Roofscape and Roof Materials</p>		
<p>Pitch 22-30° (35° where 2nd floor is within roof)</p>	<p>25° pitched roofs proposed</p>	<p>Yes</p>
<p>Min 300mm eaves overhang for roofs & verandas</p>	<p>Eaves overhand minimum 300mm</p>	<p>Yes</p>
<p>Gables to street frontage?</p>	<p>Gables front to Blaxland Road.</p>	<p>Yes</p>
<p>Variation to roof line?</p>	<p>Proposed roof line is varied and the roof is broken into smaller</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
	elements.	
Roof materials consistent with traditional ones in the street?	Tiled roofs are common in dwellings along Blaxland Road. Proposed roof tiles.	Yes
4.4 Building materials for Walls		
In keeping with the traditional materials for the locality. Detailing to break up large areas of wall adding interest and individuality	Rendered painted brick and stone features proposed which is considered to be consistent with contemporary developments in the locality. Sufficient detailing included that adds interest and individuality to the proposed development.	Yes
Proportion of windows and other openings consistent with character of locality. (windows generally 2:1 and 3:1 vertical proportion)	Proportion of windows is considered to be consistent with the character of the locality.	Yes
4.5 Fences		
4.5.1 Front fence		
Max ht 1m, and 70% visually permeable, return to be similar to front fence	Low brick (<1m high) wall proposed to fence the front boundary	Yes
Materials compliment dwelling e.g. wooden pickets, masonry with infill panels, wrought iron or similar etc	Proposed brick fence is considered to compliment the dwelling.	Yes
4.5.3 Other boundary fences		
Min ht 1.8m	1.8m high capped timber fence proposed along the rear, north-western side, and part of the south-eastern side boundary.	Yes
Lapped and capped timber	Lapped and capped treated pine timber fence proposed	Yes
4.6 Clotheslines and drying area		
External clotheslines (not visible from adjoining properties or public areas)	Clotheslines provided in courtyards which will not be visible from public space, however the plans do not indicate a clothesline for Dwelling 1. Accordingly, a condition will be imposed.	No – Can Be Conditioned
Each dwelling must have its own laundry	Laundries provided for all dwellings	Yes
4.7 Lighting		
Front yard lighting and lighting for the front of dwellings is to be provided	No information provided regarding yard lighting.	No – Can Be Conditioned
Location of external lighting must	No information provided	No –

ITEM 3 (continued)

ATTACHMENT 3

DCP 2014	Proposed	Compliance
not have adverse effect on adjoining properties.	regarding yard lighting.	Can Be Conditioned
4.8 Garbage bin enclosures		
For developments up to 5 dwellings on sites that are not steeply sloping and which have a wide road frontage: - Each dwelling must be provided with a storage area for Council's standard rubbish and recycling bins. - Storage area should be behind the dwelling, not visible from public spaces, common areas and habitable room windows	Each dwelling provided with storage area for bins.	Yes
	Storage areas not visible from public space, common areas and habitable room windows	Yes
Drainage		
Refer to Part 8.2 Storm water Management DCP 2014	Stormwater plans submitted and referred to Development Engineer.	Conditions to be included.
Tree Removal		
Refer to Part 9.6 Tree Preservation DCP 2014	Arborist report submitted. See Landscape Officers comments.	Conditions to be included

BASIX	Proposal	Compliance
All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans BASIX Cert No. 546456M dated 16 May 2014	BASIX Certificate submitted	Yes
• RWT Min. 1500L per dwelling	Min 1500L RWT proposed for each dwelling	Yes
• Thermal Comfort Commitments: - Insulation as per schedule - Windows & glazing as per schedule - Construction as per schedule - TCC – Glazing as per schedule.	To comply To comply To comply To comply	Yes Yes Yes Yes
• Fixtures - 3 star taps & showerheads - Toilets 1 st flush or 3 star	To comply To comply	Yes Yes
• Lighting - 40% LED	To comply	Yes
Water Target 40	Water: 40	Yes
Energy Target 40	Energy: 44	Yes
Correct description of property/proposal on 1 st page of Certificate.	Correct details shown	Yes

ITEM 3 (continued)

ATTACHMENT 3

Summary of Issues/Non compliances:

Non compliances – justifiable

- Unit 1 balcony

Non compliances – resolved via conditions:

- No clothesline provided for Unit 1
- Lighting requirements.
- Drainage
- Tree removal

Non compliances – not justifiable:

- Subject site is a 'non-preferred location' for MDHs
- Density – site area not large enough for x4 1,2 and 3 bedroom dwellings.
- Dwelling 2 side facing balcony
- Height – Two storeys proposed for Unit 2 which is attached to a two storey Unit 1.
- Height –
 - Unit 2 exceeds max height for unit not fronting the street of 6.5m
 - Unit 1 exceeds max height of 8m
- Front setback minimum exceeded
- Max cut and fill exceeded outside building envelope
- Rear setback minimum exceeded
- Side setback minimum exceeded
- Min 1.2m wide landscaped privacy strip between courtyard and adjoining property not met
- POS – dwelling 1 and 2 do not meet minimum requirement
- Manoeuvrability

Certification

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

Name: Ben Tesoriero



Signature:

Date: 24 July 2014

ITEM 3 (continued)

ATTACHMENT 4

CHARACTER ANALYSIS – 492 Blaxland Road, Denistone

SEPP (ARH) 2009 - 16A Character of local area

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

With regard to Peninsula Development Australia Pty Ltd v Pittwater Council [2011] NSWLEC 1244, the character of the local area is to be assessed principally on the visual catchment in which the development will be viewed, the visual catchment is defined by the perimeter shown in **Figure 1**.

Character is determined by a combination of interrelated elements including building heights, bulk, scale, setbacks and landscaping. The proposed multi dwelling housing development at No.492 Blaxland Road, Denistone will then be assessed as to its compatibility with the character of the local area with regard to these elements.

Height – The majority of dwellings within the visual catchment and the wider area are single storey in height. The exceptions to this are:

- No.46 Denistone Road a two storey dwelling house located immediately behind the subject site, which is two storey in height only at the rear of the site and presents to Denistone Road as a single storey dwelling.
- No.529 Blaxland Road a two storey dwelling house located to the south-east of the subject site on the corner of Blaxland Road and Karnak Street. The dwelling house presents to Blaxland Road as single storey, and is two storey in height at the rear of the site presenting to Karnak Street.
- No.547 Blaxland Road to the north of the subject site. The dwelling house is single storey, however the garage is constructed with a storey above; and
- No.32 Hollis Avenue a two storey dwelling house located to the east of the site. The dwelling house presents to Hollis Avenue as two storeys in height.

In addition it is noted that the adjoining property to the north, No. 494 Blaxland Road, despite being single storey is taller in height than the surrounding area's single storey dwellings. The additional height is a direct result of what appears to be a habitable roof space/attic, complete with dormer window in the Blaxland Road façade. Based on the submitted survey plan the height of the dwelling at No.494 Blaxland Road is estimated at 7.19m (Ridge RL 104.19 – estimated NGL RL 97.0). The proposed development has a height of 8.485m (Ridge RL 104.235 – NGL95.75) which is 1.295m taller than the adjoining dwelling at No.494 Blaxland Road.

It is of key significance to note that all multi dwelling housing developments located within the visual catchment and the surrounding area are single storey in height, as can be seen in **Figure 2**.

ITEM 3 (continued)

ATTACHMENT 4

Bulk and scale – Dwellings within the visual catchment are typically of a bulk and scale in keeping with that of a single storey freestanding dwelling house, with the exception of the listed developments above that are two storey. The proposed development is considered to have a bulk and scale significantly larger than the existing bulk and scale within the area. This is primarily due to the proposal's height and number of units proposed. The proposed development presents to Blaxland Road as two storeys and as highlighted above would be approximately 1.3m higher than the adjoining property at No.494 Blaxland Road. In addition to the number of storeys and overall building height the proposed front façade wall plate is taller than surrounding development and with significantly less articulation. Additionally the proposed development is for four (4) units, which is not in keeping with the existing multi dwelling housing developments in the surrounding area which are all of single storey height and consist of three (3) units per allotment. Furthermore, the proposed front setback of 6m is significantly less than the existing 13m front setback of No. 494 Blaxland Road and the 15m front setback of No. 490 Blaxland Road, which will only serve to greater exacerbate the prominence of the development in the streetscape and is insufficient in size to accommodate large trees that could potentially reduce the developments overbearing bulk and scale.

Setbacks – Dwellings in the visual catchment have typical setbacks of a low density residential area in suburban Sydney. Importantly, however, a number of multi dwelling housing developments including No. 496 Blaxland Road and No. 502 Blaxland Road have reduced front setbacks in the order of 6-8m. Whilst the proposed development is in keeping with this precedence in that the setback is 6m, it cannot be supported as it presents to the street as a two storey multi dwelling housing development, whilst the surrounding multi dwelling housing developments are only single storey.

Overall, the proposed development is not considered to be compatible with the character of the local area primarily due to concern regarding the overall bulk, scale and density of the development within the visual catchment. The unacceptable bulk, scale and density is the result of a combination of factors including the non-compliances with the application planning controls relating to building height, second storey construction, reduced front setback, reduced side setbacks, reduced rear setbacks, and alterations to the levels of the site.

ITEM 3 (continued)

Figure 1: Visual
regard to With regard to
Development Australia
Council [2011] NSWLEC



ATTACHMENT 4

Catchment – having
Peninsula
Pty Ltd v Pittwater
1244,

ITEM 3 (continued)

ATTACHMENT 4



Figure 2: Location of Multi Dwelling Housing Developments within Visual Catchment

ITEM 3 (continued)

ATTACHMENT 4

Note: The following photographs document each allotment and it's current development on that site as of 3 September 2014. This serves as a representation of the character of development in the local area for the purposes of determining the compatibility of the proposed multi dwelling house development



Figure 3: No.502 Blaxland Road.
Single Storey Multi Dwelling Housing Development – Three (3) Units.



Figure 4: No.500 Blaxland Road.
Single Storey Dwelling House.



Figure 5: No. 498 Blaxland Road.
Vacant lot.



Figure 6: No.496 Blaxland Road.
Single Storey Multi Dwelling Housing Development – Three (3) Units.

ITEM 3 (continued)



Figure 7: No.494 Blaxland Road.
Single Storey Dwelling House, with attic/habitable roof.

ATTACHMENT 4



Figure 8: No.492 Blaxland Road.
Single Storey Dwelling House – Subject Site.



Figure 9: No.490 Blaxland Road.
Single Storey Dwelling House.



Figure 10: No.488 Blaxland Road.
Single Storey Dwelling House.

ITEM 3 (continued)



Figure 11: No.486 Blaxland Road.
Single Storey Dwelling House.



Figure 13: No.482 Blaxland Road.
Single Storey Dwelling House.

ATTACHMENT 4



Figure 12: No.484 Blaxland Road.
Single Storey Dwelling House.



Figure 14: No.480 Blaxland Road.
Single Storey Dwelling House.

ITEM 3 (continued)



Figure 15: No.525 Blaxland Road.
Single Storey Dwelling House.



Figure 17: No.529 Blaxland Road.
Two Storey Dwelling House – Presents to Blaxland Road as
single storey and Karnak Street as two storey.

ATTACHMENT 4



Figure 16: No.527 Blaxland Road.
Single Storey Dwelling House.



Figure 18: No.1 Karnak Street.
Single Storey Dwelling House.

ITEM 3 (continued)



Figure 19: No.28 Hollis Avenue.
Single Storey Dwelling House.



Figure 21: No.32 Hollis Avenue.
Two Storey Dwelling House.

ATTACHMENT 4



Figure 20: Rear of No.537 Blaxland Road.
Single Storey Dwelling House.



Figure 22: No.34 Hollis Avenue.
Single Storey Dwelling House.

ITEM 3 (continued)

ATTACHMENT 4



Figure 23: No.531 Blaxland Road.
Single Storey Dwelling House.



Figure 24: No.533 Blaxland Road.
Single Storey Dwelling House.



Figure 25: No.535 Blaxland Road.
Single Storey Dwelling House.



Figure 26: No.537 Blaxland Road.
Single Storey Dwelling House.

ITEM 3 (continued)



*Figure 27: No.539 Blaxland Road.
Single Storey Dwelling House.*

ATTACHMENT 4



*Figure 28: No.541 Blaxland Road.
Single Storey Dwelling House.*



*Figure 29: No.543 Blaxland Road.
Single Storey Dwelling House.*



*Figure 30: No.545 Blaxland Road.
Single Storey Dwelling House.*

ITEM 3 (continued)



Figure 31: No.547 Blaxland Road.
Single Storey Dwelling House, with two storey garage.



Figure 33: No.40 Denistone Road.
Single Storey Multi Dwelling Housing Development – Three (3) Units.

ATTACHMENT 4



Figure 32: No.549 Blaxland Road.
Single Storey Dwelling House.



Figure 34: No.42 Denistone Road.
Single Storey Dwelling House.

ITEM 3 (continued)



Figure 35: No.44 Denistone Road.
Single Storey Dwelling House – used as a Doctors Surgery.



Figure 37: No.46 Denistone Road.
Two Storey Dwelling House – Presents to Denistone Road as single storey.

ATTACHMENT 4



Figure 36: No.46 Denistone Road.
Two Storey Dwelling House – Presents to Denistone Road as single storey.



Figure 38: No.48 Denistone Road.
Single Storey Multi Dwelling Housing Development – Three (3) Units.

ITEM 3 (continued)



Figure 39: No.50 Denistone Road.
Single Storey Multi Dwelling Housing Development – Three (3) Units.

ATTACHMENT 4



Figure 40: No.52 Denistone Road.
Single Storey Dwelling House – used as a Doctors Surgery.

ITEM 3 (continued)

ATTACHMENT 5

J & D Zhang
C/- Glendinning Minto & Assoc Pty Ltd
P O Box 225
THORNLEIGH NSW 2120

29 July 2014

Dear Sir/Madam

**492 Blaxland Rd Denistone
Local Development Application No. LDA2014/0220**

I refer to your development application (DA) for the above development.

A preliminary assessment of your development application has been carried out. Unfortunately, this assessment reveals that there are issues of concern with regard to your DA so significant that Council officers cannot support your proposal in its current form.

1. Issues regarding compliance with Planning Controls:

The issues of concern are outlined in the attached document.

You are advised that the issues of concern are so significant that a complete re-design of the proposal would be required if you still wish to undertake an “affordable rental housing” development at this property.

2. Development Engineering

Your DA has been referred to Council’s Development Engineer who has provided the following comments.

The manoeuvring from garages are satisfactory. However applicant is proposing a turning area and a visitor parking space between house No 4 & 3. Visitor parking is proposed behind the turning area. Vehicles reversing from this parking space will not have adequate sight lines. Therefore the building layout need to be revised to address sight lines for reversing vehicles from visitor parking space.

3. Submissions Received

Please find attached copies of the (6) submissions received in relation to this your DA.

ITEM 3 (continued)

ATTACHMENT 5

4. Determination at Council's Planning & Environment Committee

As more than 5 submissions have been received, your DA will be required to be determined at Council's Planning & Environment Committee rather than under delegated authority.

You are requested to withdraw your current DA within 14 days of the date of this letter. Council will refund 50% of the submitted DA fees if you withdraw your DA within this time. If you do not withdraw your DA within 14 days, then a report will be prepared to the next available Planning & Environment Committee meeting with a recommendation of refusal. If Council proceeds to determine your DA by refusal then no refund of fees will be given.

Should you require further assistance please contact me on 9952 8237 between 3pm and 4.30pm Monday to Friday.

Yours sincerely

Chris Young
Team Leader – Assessment

ITEM 3 (continued)

ATTACHMENT 5

**Attachment to Letter 29 July 2014
LDA2014/220**

A preliminary review of the subject development application by Council's Development Assessment officers has raised the following issues the proposed multi-dwelling house development on the subject site:

- Clause 16A 'Character Area' of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) states that:

"a consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area."

Section 4.1 'Appearance' of Ryde Development Control Plan 2010 (Ryde DCP 2010) also covers the compatibility of multi-dwelling housing developments with local character.

An assessment of the compatibility of the design of the proposed development with the character of the local area was undertaken and has concluded that the development will not be compatible with the local character, primarily due to the relative bulk and scale of the development. The design issues with the proposed multi-dwelling house development are explored further in this letter, however it is noted that support for the proposed development cannot be given when having regard to the provisions of clause 16A of the ARHSEPP and Section 4.1 of the Ryde DCP 2010.

- Clause 14 2(b)(iv) 'Dwelling Size' of the ARHSEPP indicates that standards that cannot be used to refuse development consent. In relation to dwelling sizes, it is stated that a consent authority must not refuse consent to development for in-fill affordable housing if:

"if each dwelling has a gross floor area of at least: 95 square metres in the case of a dwelling having 3 or more bedrooms."

Submitted plans indicate that Unit 4 contains 3 bedrooms and has a gross floor area of 80.68m² which is significantly below the minimum standards of the ARHSEPP. This significant variation raises concerns for the amenity of the future occupants of this dwelling. Accordingly, this variation is not supported.

- Clause 4.5A 'Density controls for Zone R2 Low Density Residential' of the Ryde Local Environmental Plan 2010 (Ryde LEP 2010) and the Draft Ryde Local Environmental Plan 2011 (Draft Ryde LEP 2011) states that:

ITEM 3 (continued)

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“(1) The consent authority must not consent to the erection of multi dwelling housing (attached) on land in Zone R2 Low Density Residential unless: (a) the site area for the building is not less than: (i) for each 1, 2, or 3 bedroom dwelling – 300 square metres.”

The proposed development is for a multi dwelling housing development containing 1 x 2 bedroom dwellings and 3 x 3 bedroom dwellings (i.e. 4 x ‘1, 2, or 3 bedroom dwellings’) on land within the R2 Low Density Residential zone. On this basis the required site area for the proposed development is 1,200sqm. The site area of the subject allotment is only 1,011.714sqm (from Deposited Plan) which is 188.286sqm less than the minimum required.

It is noted that no written request for variation of the density standards under the Ryde LEP 2010 has been included as part of the development application. As such, pursuant to clause 4.5A of the Ryde LEP 2010, the consent authority, being City of Ryde Council, must not consent to the erection of the subject multi-dwelling house development on the subject site.

In any event, there is concern that the level of density on the site contributes to the overdevelopment of the site which is reflected in a number of other issues with the proposal outlined within this letter.

- Section 2.3 ‘Non-Preferred Locations’ of Part 3.5 of the Ryde DCP 2010 states that

“specific locations have been identified by the Council as unsuitable for Multi dwelling housing (attached) development.”

A review of the Ryde DCP 2010 has revealed that the subject site is located within the Blaxland Road (part) ‘non-preferred location’ (refer to schedule 2 Map 4 of Ryde DCP 2010).

The Ryde DCP 2010 states that the reason for this ‘non-preferred location’ is:

“adverse traffic impacts and adverse impact/change to the character of the local area.”

The proposed development is for a multi dwelling house development within this specifically identified area that the Council considers to be unsuitable for this type of development. In addition, an analysis of the compatibility of the design with the character of the local area has found that the development will not be compatible and hence would have an ‘*adverse impact/change to the character of the local area*’.

ITEM 3 (continued)

ATTACHMENT 5

Furthermore, Council have identified ‘*traffic impacts*’ as a reason for the subject site being a ‘non-preferred location’. There is concern that the cumulative impact of the additional density of a multi dwelling house, and in particular this proposal which exceeds the density controls of the Ryde LEP 2010, will lead to adverse traffic impacts on what is a classified road – Blaxland Road.

Accordingly, the proposed development is considered to be unsuitable for the subject site when having regard to the provision of Section 2.3 of the Ryde DCP 2010.

- Clause 4.3(2a) ‘Height of Buildings’ of the Ryde LEP 2010 states the following for the maximum building height of multi-dwelling house development in the R2 Low Density Residential zone:

“for dwellings in the building that do not have a frontage to the street – 6.5 metres.”

Submitted plans indicate that Unit 2 does not front the street, yet has a building height of 8.235m. This is a significant variation to the principal development standard of the Ryde LEP 2010 in the order of 1.735m over the maximum allowable height.

It is noted that no written request for variation of the building height standards under the Ryde LEP 2010 has been included as part of the development application. As such, pursuant to clause 4.5A of the Ryde LEP 2010, the consent authority, being City of Ryde Council, must not consent to the erection of the subject multi-dwelling house development on the subject site.

In any event, it is considered the height of this dwelling, being significantly in excess of this development standard, contributes to the excessive bulk and scale issues of the proposed design.

- Clause 4.3(2b) ‘Height of Buildings’ also states the following for the maximum building height of multi-dwelling house development in the R2 Low Density Residential zone:

“for dwellings with a frontage to the street, if adjoining lots contain dwelling houses that are less than 9.5 metres high – 8 metres.”

This development standard is also stated in Section 3.3.2 ‘Height’ of Part 3.5 of the Ryde Development Control Plan 2010 (Ryde DCP 2010).

An assessment of the heights of the adjoining dwellings has revealed that they are less than 9.5m high. Accordingly, an 8 metre height limit is applicable.

ITEM 3 (continued)

ATTACHMENT 5

The submitted plans indicate that Unit 1 fronts the street and has a height of 8.435m which exceeds the maximum allowable by 435mm. There is concern that this height variation contributes to what is considered an out of character development with an overwhelming bulk and scale.

Additionally it is noted that no written request for variation of the building height standards under the Ryde LEP 2010 has been included as part of the development application. As such, pursuant to clause 4.5A of the Ryde LEP 2010, the consent authority, being City of Ryde Council, must not consent to the erection of the subject multi-dwelling house development on the subject site.

- Clause 4.3(2C) 'Height of Buildings' of the Draft Ryde LEP 2011 states the following for the maximum building height of multi-dwelling house development in the R2 Low Density Residential zone:

"The maximum height of multi dwelling housing in Zone R2 Low Density Residential is: (a) For dwellings in the building that do not have a frontage to the street 5 metres."

The submitted plans indicate that the proposed Unit 2 and Unit 3 do not have a frontage to the street, yet have building heights of 8.235m and 5.735m respectively. Therefore, Unit 2 significantly exceeds the standard by 3.235m and Unit 3 exceeds the standard by 735mm.

Again, there is concern that this height variation contributes to what is considered to be a development which is out of character with that of the local area and also contributes to an overwhelming bulk and scale and privacy issues.

- Section 3.3.1 'Storeys' of Part 3.5 of the Ryde DCP 2010 states that:

"a multi dwelling housing development must be contained within a single storey. However, a dwelling with frontage to the street can be two storeys provided: i. The two storey dwelling is not attached to any other two storey dwelling; and, ii. Council is satisfied that a two storey dwelling is suitable in terms of the surrounding streetscape."

The plans submitted with the development application indicate the dwelling which fronts Blaxland Road (Unit 1) is two storeys and is attached to a dwelling (Unit 2) that is also two storeys, which therefore does not comply with this control.

An investigation of the impacts of this non-compliance reveals concerns that the proposed two storey Unit 2 does not relate to the character and streetscape of the surrounding area. The streetscape is considered to be characterised by low density residential developments consisting primarily of single storey detached dwellings as well as some single storey multi dwelling housing developments.

ITEM 3 (continued)

ATTACHMENT 5

It is noted there are a number of existing multi dwelling housing developments in the vicinity of the subject site. These developments, however, are all modestly scaled and single storey in nature. Hence the proposed development is not considered to be compatible with these.

Furthermore, there is concern that the proposed two storey Unit 2 will result in privacy impacts for the surrounding properties, in particular the adjoining properties to the south-east, No. 490 Blaxland Road, and to the north-west, No. 494 Blaxland Road.

Given this, the variation to the Ryde DCP 2010 cannot be supported.

- Section 3.5.1 'Front setbacks' of Part 3.5 of the Ryde DCP 2010 states:

"a. Building must be setback: i. The same distance as one of the buildings on an adjoining allotment, if the difference between the setbacks of the building on the two adjoining allotments is not more than 2m."

An assessment has revealed that the setbacks of the adjoining properties are 13m and 14.6m (i.e. difference is not more than 2m). Accordingly, the front setback requirement is 13m or 14.6m. Submitted plans indicate that the proposed front setback is 6m which represents a significant variation over 7m.

Whilst it is noted that a number of existing multi-dwelling housing developments within the area have similar front setbacks to that which is proposed, given the scale of the proposed development including a significant two-storey component, the proposed front setback is considered to contribute to an excessively bulky development that has a scale that will be incompatible with the character of the local area.

Given this, the significant variation to the front setback controls of the Ryde DCP 2010 cannot be supported.

- Section 3.10 'Visual and Acoustic Privacy' of Part 3.5 of the Ryde DCP 2010 states that:

"Balconies are prohibited on all dwellings."

The submitted plans indicate that there are two (2) balconies proposed for the development. One is located on the first floor of Unit 1, oriented towards Blaxland Road. The other is located on the first floor of Unit 2, oriented to the south-east side of the site.

There is concern that the proposed side facing balcony on Unit 2 will result in unacceptable privacy impacts due to its orientation towards the south-east adjoining property, No. 490 Blaxland Road.

ITEM 3 (continued)

ATTACHMENT 5

Accordingly, the variation to the Ryde DCP 2010 required for the proposed side facing balcony on Unit 2 is not supported.

- Section 3.7 'Landscaping' of Part 3.5 of the Ryde DCP 2010 states that:

"Landscape strips included for privacy purposes must be not less than 1.2m wide. It also states that a planting strip not less than 1.2m wide should be provided between the driveway and the adjoining property boundary."

An assessment of the plan has revealed two (2) primary planting strips that are of concern located along the north-western side boundary adjacent to the courtyards and along the south-eastern side boundary adjacent to the driveway.

Given the location of the planting strip along the north-western side adjacent to the courtyards of the units, it is considered this strip is for privacy purposes, both for the occupants of the development and the adjoining property to the north-west, No. 494 Blaxland Road. Accordingly, this strip should be not less than 1.2m wide. The proposed landscape strip is only 700mm wide.

The planting strip along the south-east side boundary is located between the driveway and the adjoining property to the south-east, No. 490 Blaxland Road. Given this location, the strip should not be less than 1.2m wide. Again, the proposed strip is 800mm wide.

The variation to the Ryde DCP 2010 required for the proposed landscaping is not supported.

- Clause 14 2(a)(ii) 'Parking' of the ARHSEPP indicates standards that cannot be used to refuse development consent. In relation to parking, it is stated that a consent authority must not refuse consent to development for in-fill affordable housing if:

"at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms, and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms."

Based on the number of dwelling/bedrooms within the proposed development a total of 5.5 parking spaces would be required. The submitted plans indicate a total of 7 parking spaces are proposed.

Despite compliance with this numerical standard, there is concern over of the allocation of these 7 parking spaces such that Unit 1 and Unit 2 (both 3 bedrooms) are only provided with 1 space each whilst Unit 3 (2 bedrooms) is provided with 2 spaces. This parking allocation is not supported by Council as it is seen to be inconsistent with the intention of the abovementioned standards under the ARHSEPP.

ITEM 3 (continued)

ATTACHMENT 6

glendinning minto & associates p/l
planning & development control consultants abn 68 091 465 271

18th August 2014

City of Ryde Council
Locked Bag 2069
NORTH RYDE 1670

Attention: Chris Young

Dear Chris

**PROPOSED AFFORDABLE RENTAL HOUSING DEVELOPMENT
492 BLAXLAND ROAD, DENISTONE
DA 2014/220**

I refer to the subject application and to Council's letter dated 29th July 2014 and provide the following response to the matters raised.

Development Engineering

Council is advised that whilst the visitor car space is considered to be desirable that it is not a requirement of the SEPP and as such can be deleted if required by the Council. It is considered that this is a matter which can be dealt with by a condition of consent.

Town Planning

Compatibility Test

It is advised that we remain of the opinion that the proposal does succeed when assessed against the requirements of Clause 16A of the SEPP. In this regard reference is made to the detailed assessment contained within the originally submitted Statement of Environmental Effects. Reference is also made to the recently approved development at 498 Blaxland Road which provides for a similar development outcome to the proposed development and which was consented to by the Council via a Section 34 agreement.

Dwelling Size

In relation to Dwelling No. 4 it is noted that the dwelling actually has a GFA of 90.25m² rather than the 80.68m² quoted in Council's letter. It is submitted that the deficiency of 4.75m² from the minimum 95m² standard preferred by the SEPP is not of such significance as to warrant the refusal of the application.

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ITEM 3 (continued)

ATTACHMENT 6

Glendinning Minto & Associates Pty Ltd

Density Controls

It is advised that the Density Controls contained within the Ryde LEP do not apply to the proposal. The relevant test in so far as the Ryde LEP is to be applied is that the zoning of the land permits multi-dwelling housing. In this regard it is noted that multi-dwelling housing is a permissible land use within the R2 zone. It is also noted that the SEPP via Clause 13 permits a greater density than that which would be permitted by Council's LEP.

Non-preferred Location

In response to this concern it is submitted that the SEPP overrides the provisions of Council's DCP with the relevant test being that the zoning of the land permits multi-dwelling housing which is the case in this instance. In addition to the above it is submitted that the proposed development has been designed and configured so as to not adversely affect the operation of Blaxland Road. This is achieved through the provision of compliant parking and a turning area.

Height of Buildings & Storeys

It is advised that the identified height controls as contained within the Ryde DCP do not apply to the proposal. It is also noted that there are no applicable height controls contained within the SEPP. It is submitted that in determining the appropriateness of the building height that reference should be made to the applicable compatibility test contained within the originally submitted Statement of Environmental Effects. Reference is also made to the recently approved development at 498 Blaxland Road which provides for a similar development outcome to the proposed development and which was consented to by the Council via a Section 34 agreement.

Front Setback

It is submitted that the front setback of the proposal is consistent with the setback provided to the other multi-dwelling housing developments located within the vicinity of the site including the setback of the recently approved development at 498 Blaxland Road.

Balconies

Council's concerns in relation to the balcony associated with Unit 2 are noted and it is agreed that there is potential for privacy impacts. It is requested that this matter be dealt with by way of a condition requiring the deletion of the balcony.

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ITEM 3 (continued)

ATTACHMENT 6

Glendinning Minto & Associates Pty Ltd

Landscaping

It is my opinion that the landscape outcome proposed for the site is appropriate and is consistent with the landscape outcome occurring upon nearby multi-dwelling housing developments including the recently approved development at 498 Blaxland Road.

Parking

The proposal provides for car parking which complies with the requirements of the SEPP.

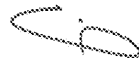
Summary

In summary it is considered that there has been no issue raised within Council's letter which warrants the refusal of the application. It is considered that Council's concerns relating to the visitor car space and the balcony can be dealt with via conditions of consent.

It is considered that the majority of the Council's concerns appear to relate to an incorrect emphasis being given to Council's DCP rather than the enabling SEPP.

We accordingly look forward to Council's continued and favourable consideration of the application and request that should you have any on-going concerns regarding the proposal that we would be happy to meet with you at Council to discuss.

Yours Sincerely



Andrew Minto
DIRECTOR

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ITEM 3 (continued)

ATTACHMENT 7

STATEMENT OF FACTS AND CONTENTIONS

COURT DETAILS

Court	Land and Environment Court of NSW
Class	1
Case number	TBC of 2014

TITLE OF PROCEEDINGS

Applicant	J & D ZHANG
Respondent	RYDE CITY COUNCIL

FILING DETAILS

Filed for	Ryde City Council, Respondent
Legal representative	Paul Kapetas, General Counsel
Legal representative's reference	GCL/12/5/5/2/7
Contact name and telephone	Paul Kapetas 9952 8080

PART A – FACTS

THE APPLICATION

1. These proceedings are an appeal against the deemed refusal of Development Application No. LDA2014/0220 ("the development application").

THE PROPOSAL

2. The development application proposes to construct an in-fill affordable housing development pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009.

The proposed in-fill affordable rental housing development is to be in the form of a multi dwelling housing development comprising four (4) dwellings consisting of three (3) x three (3) bedroom and one (1) x two (2) bedroom dwellings.

Common areas within the proposed development include the vehicular/pedestrian access driveway parallel to the southern boundary of the site, a visitor car parking space located between Dwelling 3 and Dwelling 4, along with the front setback area comprised of landscape plantings, and hard landscape features such as a water fountain and paved areas.

ITEM 3 (continued)

ATTACHMENT 7

The proposal includes the removal of four (4) mature trees located on the Site.

THE SITE

3. The Site is legally described as Lot 36 in Section 4 of Deposited Plan 7997 and its street address is known as 492 Blaxland Road, Denistone.
4. The Site is located on the south-western side of Blaxland Road, and is rectangular in shape with a total area of 1,011.7m² (Deposited Plan 7997).
5. The site has a frontage to Blaxland Road of 20.12m and a rear boundary of 20.12m, a northern and southern side boundary both of 50.30m in length (Deposited Plan 7997).
6. The Site has a steady cross-fall of 3.51m from a height of approx. RL 97.75 at the rear north-western corner to a height of approx. RL 94.24 in the front south-eastern corner. This fall occurs over a distance of 54m representing an average slope of approximately 1:15.4.
7. The Site currently includes a brick single storey dwelling house with a tiled roof and detached fibro shed/garage. Site access is from Blaxland Road via a concrete kerb crossing which is parallel to the northern side boundary.



Figure 1: Aerial image of subject site and surrounding development.

ITEM 3 (continued)

ATTACHMENT 7



Figure 2: Photograph of subject site taken from the northern side of Blaxland Road. Noted in this photograph is the existing single storey brick dwelling house with tiled roof on the site.

THE LOCALITY

8. The Site is located within a residential area in Denistone with development in the local area characterised by single storey dwelling houses and single storey multi-dwelling housing development. Immediately adjoining the site:
 - to the south at 490 Blaxland Road is a single storey dwelling house of brick construction with a tiled roof;
 - to north at 494 Blaxland Road is a single storey dwelling house of brick construction with a tiled roof;
 - to the east of the Site on the opposite side of Blaxland Road are a series of single storey dwelling houses located at 537 to 531 Blaxland Road. These dwelling houses are of brick and weatherboard construction with tiled roofs.
 - to the west of the Site at 44 Denistone Road is a single storey dwelling house used as a doctors surgery. At 46 Denistone Road is a two-storey dwelling house that presents as a single storey only to Denistone Road. At 48 Denistone Road is a single storey multi dwelling house development containing three (3) dwellings.

ITEM 3 (continued)

ATTACHMENT 7

9. The Site has a primary frontage to Blaxland Road, which is a classified main road and is characterised by high levels of traffic volumes between 20,000 and 40,000 vehicles per day (source: RMS Traffic Volume Maps for the purposes of applying the provisions of State Environmental Planning Policy (Infrastructure) 2007).

THE STATUTORY CONTROLS

10. The following statutory controls are relevant to the assessment of the subject development application:
- a. Environmental Planning and Assessment Act 1979 (**EP&A Act 1979**)
 - b. Environmental Planning and Assessment Regulations 2000 (**Regulations**)
 - c. State Environmental Planning Policy (Affordable Rental Housing) 2009 (**ARH SEPP**)
 - d. State Environmental Planning Policy (Infrastructure) 2007 (**ISEPP**)
 - e. State Environmental Planning Policy 55 – Remediation of Land (**SEPP55**)
 - f. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (**BASIX**)
 - g. Ryde Local Environmental Plan 2010 (**LEP 2010**)
 - h. Draft Ryde Local Environmental Plan 2013 (**Draft LEP**)
 - i. Ryde Development Control Plan 2010 (**DCP 2010**)
 - j. Seniors Living Policy: Urban Design Guidelines for infill development
11. LEP 2010 is a City-wide planning instrument that commenced on 30 June 2010. Under this Plan, the Site is zoned R2 Low Density Residential. The proposed development is a land use that is identified as being permissible with consent within this zoning.
12. The Draft LEP commenced on 12 September 2014 (now the Ryde Local Environmental Plan 2014 (LEP 2014)) and is the new environmental planning instrument applicable to the City of Ryde superseding the LEP 2010. In relation to existing DAs un-determined as of 12 September 2014 (such as that of the subject DA), this instrument contains a Savings Provision (clause 1.8A) which states:

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

ITEM 3 (continued)

ATTACHMENT 7

The subject DA was made (lodged) on 29 May 2014, before the commencement of the LEP 2014 and so it must be determined as if LEP 2014 had not commenced. What this means is that LEP 2014 is treated as a draft.

Under this Draft LEP, the zoning of the property is R2 Low Density Residential. The proposed development is a land use that is identified as being permissible with consent within this zoning under the Draft LEP.

13. The Ryde Development Control Plan 2014 (DCP 2014) is the Development Control Plan applicable to the proposed development on the Site.
14. It is acknowledged that the Ryde Development Control Plan 2010 was in place when the application was lodged.
15. The following Parts of DCP 2014 are of relevance in the assessment of this development application:
 - Part 3.4 – Multi Dwelling Housing (for Low Density Residential Zone)
 - Part 7.1 – Energy Smart, Water Wise
 - Part 7.2 – Waste Minimisation and Management
 - Part 8.2 – Stormwater Management.

ACTIONS OF THE RESPONDENT CONSENT AUTHORITY

16. On 29 May 2014, the development application was lodged with the respondent.
17. The development application was notified for a period of three (3) weeks from 16 June 2014 to 9 July 2014. In response, six (6) submissions were received by Council, all of which objecting to the proposed development;
18. Following Council's preliminary assessment of the subject development application and completion of the notification period, a letter was sent to the applicant on 29 July 2014. This letter suggested that the applicant withdraw the subject development application on the basis of the planning and development engineering issues identified with the proposal. In summary the issues identified were:
 - (a) The proposed development is considered to be incompatible with the character of the surrounding area, and as such must not be consented to by the consent authority under clause 16A of the ARHSEPP;
 - (b) The proposed development fails to comply with the minimum 'dwelling size' development standards under ARHSEPP;
 - (c) The proposed development fails to comply with the density controls contained within the LEP 2010;

ITEM 3 (continued)

ATTACHMENT 7

- (d) The proposed development is to be undertaken within a 'non-preferred location' as prescribed by the DCP 2010;
 - (e) The proposed development fails to comply with multiple aspects of the 'height of buildings' development standards contained within the LEP 2010, and also the development controls within the DCP 2010;
 - (f) The proposed development fails to comply with the 'height of buildings' controls identified within the Draft LEP;
 - (g) The proposed development fails to comply with the maximum number of storeys permitted in multi dwelling housing developments under the provisions of the DCP 2010;
 - (h) The proposed development fails to comply with the front setback controls contained within the DCP 2010;
 - (i) The proposed development fails to comply with the visual and acoustic privacy controls contained within the DCP 2010;
 - (j) The proposed development fails to comply with the landscaping provisions contained within the DCP 2010;
 - (k) The proposed development fails to comply with the intent of the parking provisions contained within ARHSEPP.
19. The applicant was also advised that six (6) submissions objecting to the development application had been received by Council and as such the development application would be required to be determined by Council's Planning and Environment Committee rather than under delegated authority;
20. On 18 August 2014 Council received a response from the applicant's town planner indicating the majority of the Council's concerns relate to incorrect emphasis being given to the DCP 2010 rather than enabling the ARHSEPP. In this regard the applicant did not adopt Council's recommendation for withdrawal of the development application, and instead indicated for Council to continue with its assessment of the development application.
21. On 5 September 2014, the current appeal was filed.

PART B - CONTENTIONS

B1 – CONTENTIONS THAT THE APPLICATION BE REFUSED

1. Character

ITEM 3 (continued)

ATTACHMENT 7

The proposed development is incompatible with the character of the local area, and cannot be supported.

1.1 Relevant planning requirements

Clause 16A of ARHSEPP requires the consent authority to take into consideration whether the design of the development is compatible with the character of the local area.

1.2 Particulars

- (a) In determining the 'local area' guidance is taken from *Peninsula Development Australia Pty Ltd v Pittwater Council [2011] NSWLEC 1244*, whereby the character of the local area is to be assessed principally on the visual catchment in which the development will be viewed (refer to **Figure 7** for representation of the maximum extent of the visual catchment of the site).



Figure 3: Aerial image of the subject site and surrounding area with the maximum extent of the visual catchment of the site highlighted in red. The

ITEM 3 (continued)

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highlighted area is considered to be the 'local area' for the purposes of applying the provisions of the ARHSEPP and is guided by Peninsula Development Australia Pty Ltd v Pittwater Council [2011] NSWLEC 1244.

- (b) In terms of 'character', according to the NSW Land and Environment Court¹ it is understood two questions are to be considered in determining whether a proposal is compatible with its context:
- (i) Are the proposal's physical impacts on surrounding developments acceptable? ; and
 - (ii) Is the proposal's appearance in harmony with the buildings around it and the character of the street?
- (c) When assessing the proposed development's impacts on adjoining property, the principal concerns relate to the visual impact of the development. The proposal fails to comply with a number of development standards and planning controls which seek to ensure multi dwelling housing in the R2 Low Density zone does not pose an unacceptable impact on adjoining development.

For the proposed development the following non-compliances with the relevant development standards and planning controls are identified when having regard to the visual impact of the buildings proposed:

- (i) Building height – overall height;
- (ii) Building height – number of storeys;
- (iii) Dwelling density;
- (iv) Front setback;
- (v) Side setback;
- (vi) Rear setback; and
- (vii) Non-preferred location for multi-dwelling housing development.

The cumulative impact of the aforementioned non-compliances with the LEP 2010, Draft LEP, Ryde DCP 2014, and also Senior Living Policy; Urban Design Guidelines for Infill Development is considered to result in a development that poses an unacceptable visual impact on adjoining properties and the streetscape.

- (d) In regard to the second question on character, it is noted that the NSW Land and Environment Court in recent rulings has provided that the relationship of built form to the surrounding space created by building height, setbacks and landscaping is significant to the creation of urban character.

¹ *Pereira v The Hills Shire Council* [2012] NSWLEC 1113;
Revelop Projects Pty Limited v The Hills Shire Council [2012] NSWLEC 1117;
Rosen v City of Sydney Council [2012] NSWLEC 1124
McKees Project Management Pty Ltd v Manly Council [2012] NSWLEC 1126
Peninsula Development Australia Pty Limited v Pittwater Council [2011] NSWLEC 1244

ITEM 3 (continued)

ATTACHMENT 7

Given this it is considered that the proposed development is inconsistent with the appearance of other buildings around it and the character of the street. This is because a character assessment of the local area has identified that the vast majority of buildings in the local area are single storey in height only, or where little evidence of two (2) storey development is identified, such buildings largely take on the appearance of a single storey development to the street.

- (e) The proposed development fails to comply with the current maximum building height controls for multi dwelling housing both in terms of number of storeys and overall building height under the LEP 2010, Draft LEP and DCP 2014. Furthermore, the proposal fails to comply with the minimum front, side and rear setback controls contained within the DCP 2014.
- (f) It should also be noted that proposal would not comply with the same requirements under DCP 2010 which was applicable at the time that the relevant development application was lodged with Council but has since been superseded by the requirements of DCP 2014.
- (g) The effect of these non-compliances with the current planning controls is the introduction of a foreign built element to the Blaxland Road streetscape which poorly varies the rhythm of development in the local area.
- (h) An assessment of other multi dwelling housing development within the local area has also revealed that dwelling density is provided at a maximum of three (3) dwellings per allotment. The proposed development, that has a similar allotment area and dimension, is to include four (4) dwellings at a density which fails to comply with the minimum requirements under the LEP 2010 and Draft LEP. Again, the resultant impact is a discordant development which cannot be supported when considering the character of other multi-dwelling housing development in the local area.

2. Contrary to the Design Requirements – Seniors Living Policy – Urban Design Guidelines for Infill Development

The proposed development is considered to be contrary to the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004, to the extent that those provisions are consistent with this Policy.

2.1 Relevant planning requirements

ITEM 3 (continued)

ATTACHMENT 7

Clause 15(1) of the ARHSEPP provides that a consent authority must not consent to development to which this Division applies unless it has taken into consideration the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004, to the extent that those provisions are consistent with this Policy.

2.2 Particulars

The proposed development is considered to be inconsistent with the following provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development*:

- (a) *Responding to Context* – the proposed development is considered not to positively contribute to the neighbourhood character. In particular, it is considered that the proposal does not respond to the scale, character, built form, front setbacks or building heights of other development in the streetscape.

The proposed development will also be inconsistent with other developments on similar sized allotments, including that of other multi dwelling houses in the local area. As a result, it is considered that the proposal fails to be compatible with the built environment of the local area.

The principal reason for this is because the proposed part two storey multi dwelling house development is not replicated anywhere in the local area. All other multi dwelling house development in the local area are of single storey construction only, while the vast majority of dwelling houses and other forms of development in the local area are also of single storey construction.

It is also noted that the proposed development poorly responds to the objectives and development standards/controls to Council's own LEP 2010, Draft LEP and DCP 2014 (and those of DCP 2010 which was in force when the application was lodged). This is evidenced through the design including significant non-compliances without justification for development standards contained within the LEP 2010, Draft LEP and development controls contained within the Ryde DCP 2014 and previous DCP 2010.

- (b) *Site Planning and Design* – the proposed development includes an upper level side facing balcony to Dwelling 2 which will result in overlooking of the adjoining development at 490 Blaxland Road. Additionally it is considered that the small size of Dwelling 4, in terms of

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GFA, results in inadequate amenity being provided to this three (3) bedroom dwelling.

- (c) *Impacts on streetscape* – the proposed development is not considered to satisfactory break up the building mass by virtue of both Dwelling 1 and the adjoining Dwelling 2 being two (2) storeys in height. This combined with a front setback that is inconsistent with adjoining development and non-compliant with the relevant requirements of DCP 2014, results in a development that places undue massing on the streetscape when taken into context of other development in the local area.

It is also noted that the upper levels of the proposed development are not set back behind the building façade as outlined in the aforementioned Guidelines. Again, this places additional massing, and building bulk on the streetscape and adjoining development.

- (d) *Impacts on neighbours* – Again it is noted that Dwelling 1 and Dwelling 2 within the proposed development are not set back behind the building façade as outlined in the Guidelines. This is considered to place additional massing and visual impact on the neighbouring development.

3. Contrary to the Objectives of the Zone

The proposed development is considered to be contrary to the objectives of the R2 Low Density Residential zoning of the site under the LEP 2010 and the Draft LEP.

3.1 Relevant planning requirements

- (a) *Clause 2.3(2) of the LEP 2010 requires that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.*

The objectives for the R2 Low Density Residential zone under the provisions of LEP 2010 are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that the general low density nature of the zone is retained and that development for the purposes of dual occupancy (attached) and multi dwelling housing (attached) do*

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not significantly alter the character of a location or neighbourhood.

- *To ensure that new development complements or enhances the local streetscape.*
- *To maintain on sites with varying topography the two storey pitched roof form character of dwelling houses and dual occupancy (attached) developments.*
- *To ensure that land uses are compatible with the character of the area and responsive to community needs.*

- (b) *Clause 2.3(2) of the Draft LEP requires that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.*

The objectives for the R2 Low Density Residential zone under the provisions of the Draft LEP are:

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

3.2 Particulars

- (a) The proposed development is considered to be contrary to the following objectives relating to of the R2 Low Density Residential zoning of the site under LEP 2010:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To ensure that the general low density nature of the zone is retained and that development for the purposes of dual occupancy (attached) and multi dwelling housing (attached) do not significantly alter the character of a location or neighbourhood.*
- *To ensure that new development complements or enhances the local streetscape.*
- *To ensure that land uses are compatible with the character of the area and responsive to community needs.*

- (b) The proposed development is considered to be contrary to the following objectives relating to of the R2 Low Density Residential zoning of the site under the Draft LEP:

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

4. Dwelling Size

The proposed development provides an unacceptable dwelling size for Dwelling 4, such that it will fail to provide an adequate level of amenity to occupants of this dwelling.

4.1 Relevant planning requirements

Clause 14(2)(b) of the ARHSEPP states a consent authority must not refuse consent to development if each dwelling has a gross floor area (GFA) of at least 50m² for a one (1) bedroom dwelling, 70m² for a two (2) bedroom dwelling or 95m² in the case of a dwelling having three (3) or more bedrooms.

4.2 Particulars

An assessment of the plans submitted for the proposed development has revealed Dwelling 4 fails to achieve the minimum dwelling size by 14.32m² or 15.1% given the dwelling contains three (3) bedrooms yet only has a GFA of 80.68m².

It is noted that pursuant to clause 14(3) of the ARHSEPP a consent authority may consent to development whether or not the development complies with the standards set out in subclause 14(1) or 14(2). However, the proposed dwelling size of Dwelling 4 is not supported on the following grounds:

- (i) It is considered the small size of Dwelling 4, in terms of GFA, fails to ensure the spatial arrangement of this dwelling is functional and well organised;
- (ii) The small size of Dwelling 4 is considered to result in a dwelling layout that provides a poor standard of residential amenity; and
- (iii) It is considered the small size of Dwelling 4 will not be able to accommodate the variety of household activities and occupants' needs of a three (3) bedroom dwelling.

5. Building height

The proposed development includes a building height that is inconsistent with the character of comparable development in the local area. The proposed development includes a building height that will present an unacceptable visual impact on neighbouring property and the streetscape.

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5.1 Relevant planning requirements

- (a) *Clause 4.3(2A)(a) 'Height of Buildings' of LEP 2010 states the following for the maximum building height of multi-dwelling house development in the R2 Low Density Residential zone:*

"for dwellings in the building that do not have a frontage to the street – 6.5 metres."
- (b) *Clause 4.3(2A)(b) 'Height of Buildings' of LEP 2010 states the following for the maximum building height of multi-dwelling house development in the R2 Low Density Residential zone:*

"for dwellings with a frontage to the street, if adjoining lots contain dwelling houses that are less than 9.5 metres high – 8 metres."
- (c) *Clause 4.3 of the Draft LEP states that height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum height shown for the land on the Height of Building Map is 9.5m.*
- (d) *Clause 4.3(2C) of the Draft LEP indicates exceptions to building heights, namely that the maximum building height of multi-dwelling house development in the R2 Low Density Residential zone for dwellings which do not have a street frontage is 5 metres.*
- (e) *Clause 4.6 of LEP 2010 provides that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard.*
- (f) *Clause 4.6 of the Draft LEP also provides that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard.*
- (g) *Section 3.3.2 of Part 3.4 of the DCP 2014 provides planning controls in relation to building height which reiterate those development standards for building height contained within LEP 2014.*
- (h) *Section 3.3.2 of Part 3.5 of the DCP 2010 provides planning controls in relation to building height which reiterate those development standards for building height contained within the LEP 2010.*

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5.2 Particulars

- (a) The buildings heights of the proposed development are:
 - (i) Dwelling 1 which fronts the street – 8.435m;
 - (ii) Dwelling 2 which does not front the street – 8.235m;
 - (iii) Dwelling 3 which does not front the street – 5.735m; and
 - (iv) Dwelling 4 which does not front the street – 4.725m.
- (b) With regard to Clause 4.3(2A)(a) of LEP 2010, the submitted plans indicate that Dwelling 2 does not front the street, yet has a building height of 8.235m. This is a significant variation to the principal development standard of the LEP 2010 in the order of 1.735m over the maximum allowable height.
- (c) With regard to clause 4.3(2A)(b) of LEP 2010, an assessment of the heights of the adjoining dwellings has revealed that they are less than 9.5m high. Accordingly, an 8 metre height limit is applicable.

The submitted plans indicate that Dwelling 1 fronts the street and has a height of 8.435m which exceeds the maximum allowable by 435mm.

- (d) With regard to the provisions of clause 4.3 and clause 4.3(2C) of the Draft LEP, and given the abovementioned building heights, Dwelling 1 and Dwelling 4 would comply, however Dwelling 2 and Dwelling 3 would exceed the 5m height limit and accordingly not comply.
- (e) No written request for variation of the building height standards under clause 4.6 of the LEP 2010/Draft LEP has been included as part of the development application. As such, pursuant to clause 4.3 of the Ryde LEP 2010, the consent authority must not consent to the erection of the subject multi-dwelling house development on the Site.
- (f) Despite the proposal not including a written request for variation under clause 4.6 of the LEP 2010, the proposed building height is not supported on the following basis:
 - (i) The non-compliant building height of Dwelling 1 contributes to what is considered to be a development that is out of character with that of other development in the local area. This is because all other multi dwelling housing within the local area has been identified as being single storey only. In addition dwelling house development has also been identified as being predominantly single storey in nature.

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- (ii) It is considered the height of Dwelling 2, being significantly in excess of this development standard, contributes to the excessive bulk and scale of the proposed design and as such results in a development that is out of character with the local area, and presents unacceptable amenity impacts on adjoining property which are considered to be exacerbated by the proposals non-compliant rear and side setbacks – see further commentary under DCP 2010 below.
- (iii) The proposed development results in a built form and density that negatively impacts on the streetscape of Blaxland Road which is considered to be further negatively influenced by the development's non-compliant front setback.
- (iv) The proposed development fails to meet the objectives of the height of buildings development standard contained within clause 4.3 of the Ryde LEP 2010.

6. Number of storeys

The number of storeys proposed in the multi dwelling housing development is considered to be inconsistent with the character of the local area, and disproportionate within the streetscape.

6.1 Relevant planning requirements

Section 3.3.1 of Part 3.4 of the DCP 2014 provides that a multi dwelling housing development must be contained within a single storey building. However a dwelling with frontage to the street can be two storeys in a multi dwelling housing development provided the two storey dwelling is not attached to any other two storey dwelling, and Council is satisfied that a two storey dwelling is suitable in terms of the surrounding streetscape.

Note: Section 4.1 of Part 3.5 of the DCP 2010 which was in force when the development application was lodged prescribed planning controls on the appearance of multi dwelling housing developments to ensure they complement the streetscape. This includes a control to ensure that dwellings which adjoining a two (2) storey dwelling fronting a main road are to be single storey in height only.

6.2 Particulars

- (a) Dwelling 1 (which fronts Blaxland Road) is two (2) storeys and is attached to another dwelling, being Dwelling 2 which is also two (2) storeys in height.

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Accordingly, the proposed development fails to comply with Section 3.3.1 of the DCP 2014 and also failed to comply with Section 4.1 of the DCP 2010.

- (b) This non-compliance raises serious concern that the proposed scale of the two-storey component of the development does not relate to the character and streetscape of the surrounding area. This is because the streetscape is characterised by low density residential developments consisting primarily of single storey detached dwellings as well as some single storey multi dwelling developments only.

It is noted that the character of the area has changed with the introduction of more modern multi dwelling style developments compared to the established older style single dwelling houses. However, these developments are all single storey in nature so the scale of the proposed development is not considered to be consistent with the nature of both older and newer style development observed in the local area.

7. Density

The proposed dwelling density results in an unbalanced relationship between the site area, dwelling size and residential population living on the site.

In turn this creates a poor development aesthetic that is an overdevelopment of the site and inconsistent with the character of development in the local area.

The dwelling density proposed will negatively impact on the Blaxland Road streetscape.

7.1 Relevant planning requirements

- (a) Clause 4.5A 'Density controls for Zone R2 Low Density Residential' of the Ryde LEP 2010 (and Draft Ryde LEP 2011) states that:

"(1) The consent authority must not consent to the erection of multi dwelling housing (attached) on land in Zone R2 Low Density Residential unless: (a) the site area for the building is not less than: (i) for each 1, 2, or 3 bedroom dwelling – 300 square metres."

- (b) Clause 4.6 of LEP 2010 provides that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard.

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- (c) *Section 2.5 of Part 3.4 of the DCP 2014 provides planning controls in relation to dwelling density which reiterate those development standards contained within the clause 4.5A of LEP 2010 and clause 4.5A of LEP 2014.*

Note: Section 2.6 of Part 3.5 of the DCP 2010 provides planning controls in relation to dwelling density which reiterate those development standards contained within the LEP 2010 and LEP 2014.

7.2 Particulars

- (a) The proposed development is for a multi dwelling housing development comprising four (4) dwellings, including two (2) x three (3) bedroom two-storey dwellings at the front of the site, and one (1) x three (3) and one (1) x two (2) bedroom single storey dwellings at the rear of the site (i.e. 4 x '1, 2, or 3 bedroom dwellings') on land within the R2 Low Density Residential zone. On this basis the required site area for the proposed development is 1,200m². The site area of the subject allotment is only 1,011.714m² (from Deposited Plan) which is 188.286m² less than the minimum required.
- (b) No written request for variation of the dwelling density standards under clause 4.6 of the LEP 2010 has been included as part of the development application. As such, pursuant to clause 4.5A of LEP 2010, the consent authority must not consent to the erection of the subject multi-dwelling house development on the Site.
- (c) Despite the proposal not including a written request for variation under clause 4.6 of LEP 2010, the proposed dwelling density is not supported on the following basis:
- (i) The proposed dwelling density if considered to contribute to an overdevelopment of the site. This dwelling density non-compliance is further exhibited in the proposal's non-compliance with Council's front setback, side setback, rear setback, landscaping, parking and visual and acoustic privacy non-compliances with the DCP 2014.
- (ii) The proposed development results in a built form and density that is inconsistent with the character of development in the local area, particularly when observing other multi dwelling housing development which includes only three (3) dwellings per allotment with a complying building height.

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- (iii) The density of the proposed development is considered to negatively impact on the Blaxland Road streetscape by virtue of the overdeveloped site being inconsistent with the nature of other development in the local area of Blaxland Road and posing an unacceptable visual impact on the street.

8. Impact on natural topography

The proposed development includes excessive levels of cut and fill that will have an unacceptable impact on natural ground levels and the natural topography of the subject property.

8.1 Relevant planning requirements

- (a) *Clause 1.2(b) of Draft LEP encourages a range of housing types and densities that are compatible with the existing environmental character of the locality, have a sympathetic and harmonious relationship with adjoining development and enhance the amenity and characteristics of the established residential area.*
- (b) *Clause 1.2(g) of Draft LEP encourages development which preserves and where appropriate improves the existing character and environmental quality of the land.*
- (c) *Clause 3.2 of Part 3.4 of DCP 2014 requires that levels of the site should not be altered by more than 300 mm. This relates to all areas of the site not covered by the building floor envelope e.g. driveways, courtyards, setback areas, landscaped areas.*

8.2 Particulars

- (a) A maximum of 1,190mm of cut is proposed at the front of the Site along the north-western side of the driveway. Additionally, a maximum of 1,000mm of fill is proposed at the front eastern corner of the development.

Accordingly the proposed level of cut is 890mm over that prescribed by the DCP.2014, or exceeding the control by 296.7%. The proposed level of fill is 700mm over that prescribed by the Ryde DCP 2014, or exceeding the control by 233.3%.

- (b) The proposed alteration to the natural topography prevailing at the site is unacceptable and is not harmonious with the character of the area or adjoining developments.

9. Front Setback

The proposed front setback fails to ensure the development is in keeping with the existing streetscape and results in a development that creates additional

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building massing to the Blaxland Road streetscape that is inconsistent with other development in the local area.

9.1 Relevant planning requirements

Section 3.5.1 of Part 3.4 of the DCP 2014 provides minimum front setback requirements for multi dwelling house developments. Specifically, they are to be the same as adjoining buildings if the adjoining buildings have a difference in front setback of less than 2m.

9.2 Particulars

- (a) The adjoining dwelling to north-west is set back 13m, while the adjoining dwelling to south-east is set back 14.6m. Given the difference in adjoining setbacks is not more than 2m, the front setback of proposal must be the same as one of these adjoining property setbacks being either 14.6m or 13m. The proposed development is however only set back 6m from the street.
- (b) The proposed front setback is not considered justifiable in the circumstances of the proposed development, as despite more modern multi dwelling housing developments along Blaxland Road being built in closer proximity to the street, no other multi dwelling housing development in the local area is two (2) storeys in height.
- (c) Given the scale of the two (2) storey component (including its non-compliant building heights and density), the front setback is not considered to be justifiable as it creates additional building massing to the Blaxland Road streetscape that is inconsistent with other development in the local area, and as such would pose unacceptable visual impact to the street and adjoining property.

10. Side and Rear Setbacks

The proposed side and rear setbacks are inadequate to provide sufficient separation from adjoining properties to ensure the visual impact of the proposal is minimised. Additionally the proposed side setbacks are considered inadequate to provide sufficient private open space areas and landscape screening.

10.1 Relevant planning requirements

- (a) *Section 3.5.4 of Part 3.4(a) of the DCP 2014 provides planning controls in relation to side and rear setbacks. In particular, side and rear setbacks of multi dwelling housing developments are to be a minimum of 4.5m unless vehicular access is included in this area, then a minimum setback of 6m is required.*

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- (b) *Section 3.5.4 of Part 3.4(d) of the DCP 2014 also notes that to promote variation and interest up to 50% of the building may be setback not less than 3m (i.e. 50% of length of wall creating the setback is allowed to be set back between 3m – 4.5m or 3m – 6m for areas with vehicular access)*

Note: The development controls relating to side and rear setbacks contained within Section 3.5.4 of Part 3.4 of the DCP 2014 are consistent with the side and rear setback controls provided within Section 3.5.4 of Part 3.5 of the DCP 2010 when the development application was lodged.

10.2 Particulars

- (a) An assessment of the setback arrangements has revealed that the proposed development is to be setback from the rear boundary 3.135m for the entirety of its length.
- (b) Further, 66% of the north-western side of the building (i.e. non-vehicular access side) is to be set back between 3 – 4.5m (38m total length). The remaining 34% length of the building is to be set back more than 4.5m requirement. This represents a non-compliance with the DCP 2014 as only 50% of the building wall is allowed to be setback between 3m – 4.5m.
- (c) For the south-eastern side of the development, the part of the building with no vehicular access is set back only 3m for the entirety of its length. This fails to comply with the provisions of the DCP 2014 (and DCP 2010) as only 50% of the building wall is allowed to be setback between 3m – 4.5m.
- (d) For the south-eastern side of the development where vehicular access is provided 26.8% of the building wall is set back between 3m-6m (length of 33.5m) and as such complies because 50% of the wall is allowed to be setback between 3m – 6m.
- (e) The proposed side and rear setback arrangements can therefore be seen as significantly non-compliant with Council's planning controls. The resultant impact of this is a development which fails to then achieve the minimum private open space requirements of the DCP 2014 for Dwelling 1 and Dwelling 2.
- (f) Additionally, the reduction in setbacks, coupled with the proposal's non-compliant building height, density, and cut and fill arrangements result in an unacceptable visual impact on adjoining property and the streetscape of the local area.

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- (g) For these reasons, the proposed side and rear setback arrangements of the development are not supported.

11. Private Open Space (courtyards)

The private open space areas of Dwelling 1 and Dwelling 2 are considered to be inadequate in area to satisfactorily provide a functional outdoor space and activity area appurtenant to the dwellings.

11.1 Relevant planning requirements

- (a) *Section 3.6 of Part 3.4 of the DCP 2014 provides planning controls in relation to private open space (courtyards). In particular, the minimum private open space requirements for three (3) or more bedroom dwellings is 35m².*
- (b) *Section 3.6 of Part 3.4 of the DCP 2014 also indicates that a minimum 1.2 m wide landscaped privacy strip is required to be provided between the courtyard and the adjoining property. This control is reiterated in Section 3.7 Landscaping – Privacy Planting of the DCP 2014.*

Note: This planning control is consistent with Section 3.6 of Part 3.5 of the DCP 2010 which applied when the development application was lodged.

11.2 Particulars

- (a) Both Dwelling 1 and Dwelling 2 within the proposed development are three (3) bedroom dwellings.
- (b) The private open space (courtyard) area of Dwelling 1, excluding the area of the 800mm landscape strip, has been calculated as being 28.04m². When including the area of the landscape strip the area of the private open space area is 34.44m².
- (c) The private open space (courtyard) area of Dwelling 1, excluding the area of the 800mm landscape strip, has been calculated as being 26.36m². When including the area of the landscape strip the area of the private open space area is 32.76m².
- (d) These non-compliances with minimum private open space (courtyard) areas of the proposed development are considered to compromise the ability of these spaces to be adequately used as outdoor activity areas of the dwelling.
- (e) These non-compliances with the minimum private open space areas are considered to provide further evidence that the proposal is an overdevelopment of the site, and as such cannot be justified in the circumstances of the proposal.

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- (f) As identified above, the Landscape Plan submitted with the subject development application includes an 800mm wide landscape strip between the courtyards and the adjoining property boundary.
- (g) This 400mm non-compliance with the above planning control is not considered justifiable because the proposed privacy strip is inadequately sized to provide sufficient planting to assist in the privacy of occupants within the development and to the adjoining property. Furthermore the inability to provide for a suitable landscape strip is considered to be further evidence the proposal represents an overdevelopment of the site, particularly when taking into consideration the proposed development's noncompliance with other planning controls contained within the Ryde DCP 2010 such as minimum setbacks and private open space area.

12. Vehicle Manoeuvrability

The proposed vehicular manoeuvring arrangements for the visitor car parking space is considered to have inadequate sight lines to enable a safe turning area for vehicles to enter and exit the site in a forward direction.

12.1 Relevant planning requirements

Section 3.8 of Part 3.4 of the DCP 2014 provides planning controls in relation to car parking, manoeuvrability, and driveway crossings to ensure convenient and safe turning areas that will permit all vehicles to enter and leave the site in a forward direction. This requires adequate width of driveways, garages and turning areas.

Section 2.3 'Non-Preferred Locations' of Part 3.4 of the DCP 2014 states that specific locations have been identified by the Council as unsuitable for Multi dwelling housing (attached) development.

Schedule 2 - Non-Preferred Locations lists those areas unsuitable for Multi dwelling housing developments, reasons for their listing and possible exemptions.

A review of DCP 2014 has revealed that the Site is located within the Blaxland Road (part) 'non-preferred location' (refer to Schedule 2 Map 4 of DCP 2014).

The DCP 2014 states that the reason for this 'non-preferred location' is adverse traffic impacts and adverse impact/change to the character of the local area.

Note: This planning control is consistent with Section 3.8 of Part 3.5 of the DCP 2010 which applied when the development application was lodged.

12.2 Particulars

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- (a) Vehicular manoeuvring from the proposed garages and the visitor car parking space between Dwellings 3 and Dwelling 4 is unsatisfactory for a number of reasons including inadequate sight lines that will allow for the safe movement of vehicles within the site.
- (b) The proposed development is for a multi dwelling house development within this specifically identified area that the Council considers to be unsuitable for the proposed type of development based on traffic impacts. In this regard it is essential that safe turning areas are available and adequate sight lines are provided for vehicles to enter and exit the Site safely.

13. Side Facing Balcony

The proposed side facing balcony will allow for direct overlooking and subsequent loss of privacy for the adjoining property at 490 Blaxland Road.

13.1 Relevant planning requirements

Section 3.10 of the DCP 2014 provides controls for visual and acoustic privacy. In particular, no balconies are permitted on multi dwelling housing developments.

Note: This planning control is consistent with Section 3.10 of Part 3.5 of the DCP 2010 which applied when the development application was lodged.

13.2 Particulars

- (a) The proposed development includes a balcony on the upper level of Dwelling 2 which faces the south-eastern side boundary toward the adjoining property at No. 490 Blaxland Road.
- (b) This balcony is located on the first floor of the dwelling and as such will facilitate unacceptable overlook and subsequent loss of privacy to the neighbouring property. On this basis, the proposed balcony on Dwelling 2 is not supported.

14. Likely Impacts of the Development

The proposed development will have unacceptable impacts on the built environment.

14.1 Relevant planning requirements

Section 79C of the EP&A Act 1979 provides the matters for consideration in the determining of development applications. This includes under Section 79C(b) the likely impacts of that development on the built environment.

14.2 Particulars

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The impacts of the proposed development on the built environment are considered to result in a development that:

- (i) Provides a dwelling density and built form density that is inconsistent with the nature of other development in the local area, including that of multi dwelling housing development which is single story in height, and comprises only three (3) dwellings per allotment, whilst the proposed development is two (2) storeys in height and includes four (4) dwellings on a similar sized allotment; and
- (ii) Introduces a discordant building to the local area that will have unacceptable visual impact on the streetscape and adjoining development by virtue of its failure to achieve the prescribed controls regulating the building envelope, including building height, number or storeys of the development, dwelling density, front, rear and side setbacks, and cut and fill.

15. Suitability of the Site for the Development

The proposed multi dwelling house development is not suitable for Site.

15.1 Relevant planning requirements

Section 79C of the EP&A Act 1979 provides the matters for consideration in the determining of development applications. This includes under Section 79C(c) the suitability of the site for the development.

15.2 Particulars

The proposal is considered to be an overdevelopment of the site. This is evidenced by the proposal's significant failure to achieve compliance with the provisions of the ARHSEPP, Seniors Living Policy Urban Design Guidelines for Infill Development, LEP 2010, Draft LEP, DCP 2014 (and previous DCP 2010 which was in force when the development application was lodged). The resultant impact of these non-compliances is:

- (i) The proposed development provides a dwelling density and built form density that is inconsistent with the nature of other development in the local area, including that of multi dwelling housing development which is single story in height, and comprises only three (3) dwellings per allotment, whilst the proposed development is two (2) storeys in height and includes four (4) dwellings on a similar sized allotment; and
- (ii) The proposed development will introduces a discordant building to the local area that will have unacceptable visual impact on the streetscape and adjoining development by virtue of its failure to achieve the prescribed controls regulating the building envelope – including building

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height, number or storeys of the development, dwelling density, front, rear and side setbacks, cut and fill, and non-preferred locations of multi dwelling house development.

16. Public Interest

The proposed development is not in the public interest.

16.1 Relevant planning requirements

Section 79C of the EP&A Act 1979 provides the matters for consideration in the determining of development applications. This includes under Section 79C(e) the public interest.

16.2 Particulars

- (a) The assessment of the proposed development has established that the proposed development would be inconsistent with the provisions of the:
 - (i) ARHSEPP;
 - (ii) Seniors Living Policy Urban Design Guidelines for Infill Development;
 - (iii) LEP 2010;
 - (iv) Draft LEP; and
 - (v) Ryde DCP 2014.

- (b) Additionally, six (6) submissions to the proposed development have been received by nearby residents in relation to the proposed development. The submissions raise valid concerns that generally reflect the contentions raised by Council. On the basis of the proposal's failure to achieve consistency with the above planning instruments, plans and policies, unsuitability for the site, as well as its unacceptable impacts on the built environment, approval of this development would not be in the public interest.

B2 – CONTENTIONS THAT MAY BE RESOLVED BY CONDITIONS OF CONSENT

17.No Clothesline Provided for Dwelling 1

The residents of Dwelling 1 within the proposed multi dwelling housing development do not have access to a clothes line.

17.1 Relevant planning requirements

Section 4.6 of Part 3.5 of the Ryde DCP 2010 prescribes controls in relation to clotheslines and drying areas. In particular, external clotheslines are to be provided that are not visible from adjoining properties or public areas.

ITEM 3 (continued)

ATTACHMENT 7

Note: This planning control is consistent with Section 4.6 of Part 3.5 of the DCP 2010 which applied when the development application was lodged.

17.2 Particulars

- (a) An assessment of the proposed development has revealed that clotheslines are provided in the courtyards of the dwellings which will not be visible from public space, however the plans do not indicate a clothesline for Dwelling
- (b) Accordingly, a condition requiring installation of a clothesline in accordance with Section 4.6 of Part 3.4 of the DCP 2014 should be imposed.

18. Lighting Requirements

No information has been provided to demonstrate that lighting will be proposed that ensures the safety and security of residents entering and leaving the site.

18.1 Relevant planning requirements

Section 4.7 of Part 3.5 of the DCP 2014 prescribes controls to ensure front yard lighting and lighting for the front of dwellings is to be provided, and that the location of such lighting must not have an adverse effect on adjoining properties.

Note: This planning control is consistent with Section 4.7 of Part 3.5 of the DCP 2010 which applied when the development application was lodged.

18.2 Particulars

Although no information has been provided in the subject development application on the proposed lighting arrangements, this is commonly dealt with via condition, and as such would be an appropriate approach for the subject development application also.

B3 – CONTENTIONS THAT THERE IS INSUFFICIENT INFORMATION TO ASSESS THE APPLICATION

Nil.

ITEM 3 (continued)

ATTACHMENT 7

SIGNATURE



Signature

Name

Liz Coad

Capacity

Manager Assessment

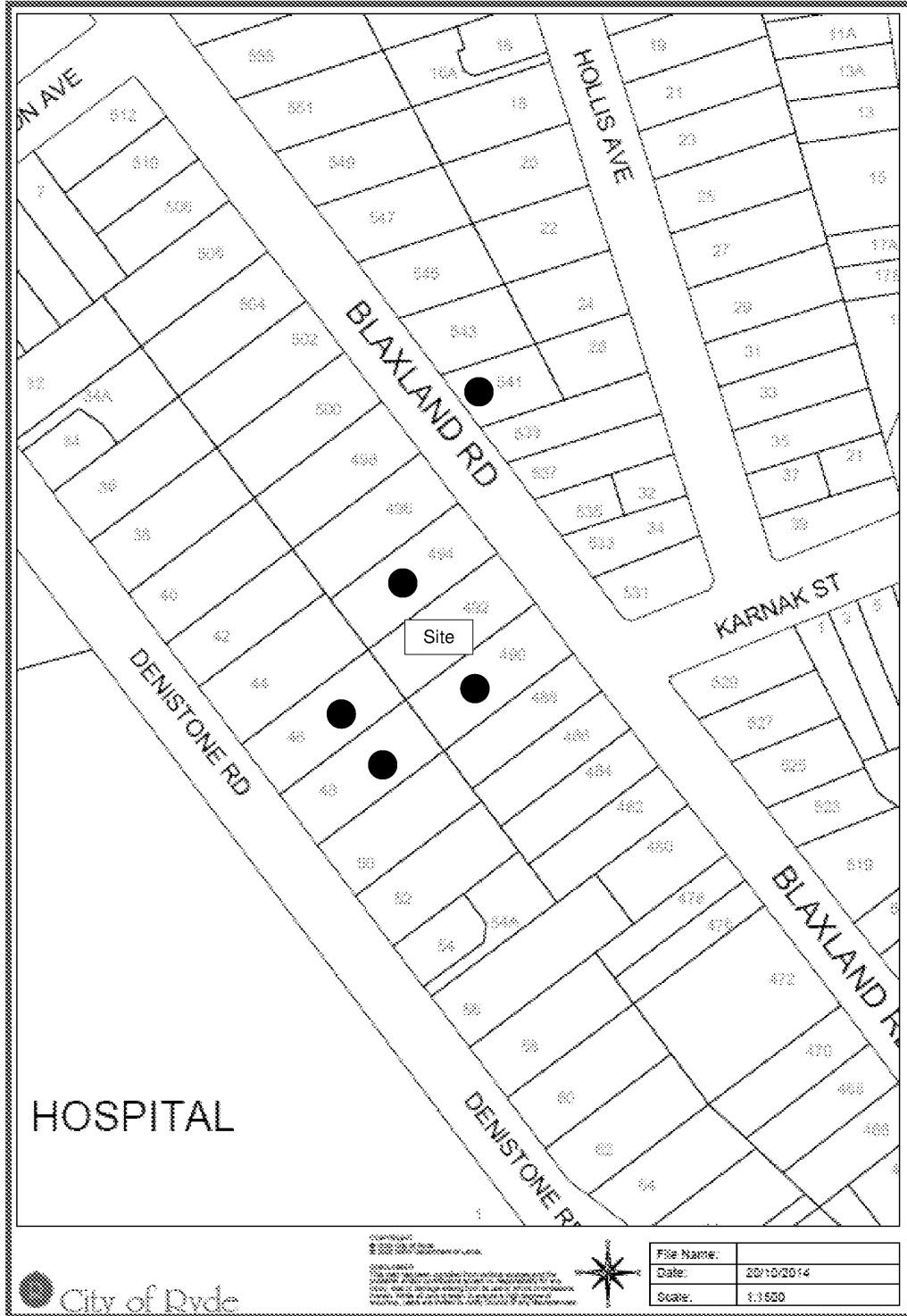
Date of signature

2 October 2014

ITEM 3 (continued)

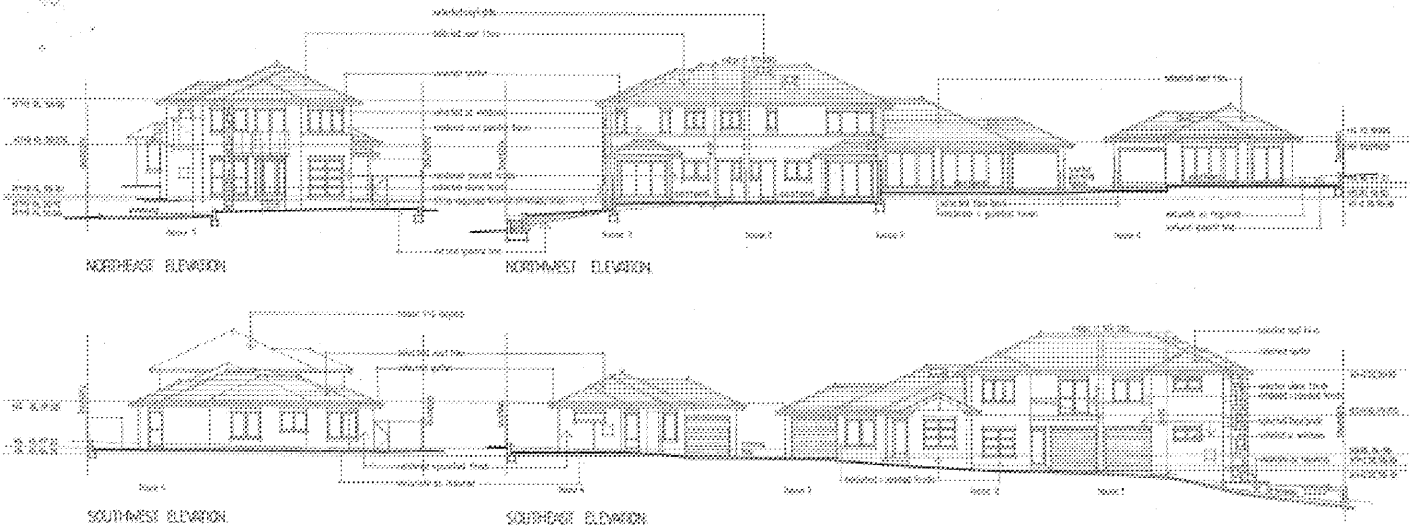
ATTACHMENT 8

 Indicates submissions received.



ITEM 3 (continued)

ATTACHMENT 9



GRID COORDINATE MEMO (To be used in conjunction with the site plan)		PROPOSED AFFORDABLE HOUSING PH 1 + PH 2 25 UNITS LOTS 30 AND 32 BLAKELAND ROAD DUNEDIN	
DATE: 10/15/14 DRAWN BY: [Name] CHECKED BY: [Name]	SCALE: 1:100 SHEET NO: 002 OF 002	PROJECT NO: 14/001/004	DATE: 1 APR 2014