

Meeting Date: Tuesday 5 May 2015
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 5.00pm

NOTICE OF BUSINESS

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1 CONFIRMATION OF MINUTES - Meeting held on 21 April 2015

Report prepared by: Governance, Risk and Audit Coordinator
File No.: CLM/15/1/3/2 - BP15/503

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 5/15, held on 21 April 2015, be confirmed.

ATTACHMENTS

- 1 Minutes - Planning and Environment Committee Meeting - 21 April 2015

ITEM 1 (continued)

ATTACHMENT 1

**Planning and Environment Committee
MINUTES OF MEETING NO. 5/15**

Meeting Date: Tuesday 21 April 2015

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

Time: 5.16pm

Councillors Present: The Mayor, Councillor Pickering and Councillors Chung (Chairperson) and Yedelian OAM.

Apologies: Councillor Simon.

Leave of Absence: Councillor Laxale.

Absent: Councillor Salvestro-Martin.

Staff Present: Group Manager – Environment and Planning, Service Unit Manager – Assessment, Service Unit Manager – Urban Planning, Team Leader – Strategic Planning, Senior Development Engineer, Team Leader – Assessment, Assessment Officer, Senior Town Planner, Heritage Officer, Business Support Coordinator – Environment and Planning, Section Manager – Governance and Governance, Risk and Audit Coordinator.

DISCLOSURES OF INTEREST

There were no disclosures of interest.

1 CONFIRMATION OF MINUTES - Meeting held on 17 March 2015

RESOLUTION: (Moved by Councillor Yedelian OAM and the Mayor, Councillor Pickering)

That the Minutes of the Planning and Environment Committee 4/15, held on 17 March 2015, be confirmed.

Record of Voting:

For the Motion: Unanimous

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

ITEM 1 (continued)

ATTACHMENT 1

2 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.

Note: A Memorandum from the Group Manager – Environment and Planning dated 14 April 2015 was tabled in relation to this Item and a copy is ON FILE.

Note: Tony Pratt (objector) and Tony Legge (applicant) addressed the meeting in relation to this Item.

RESOLUTION: (Moved by the Mayor, Councillor Pickering and Councillor Yedelian OAM)

(a) That Local Development Application No. 2013/0173 for 46- 48 Gladstone Avenue be approved subject to the **ATTACHED** conditions (Attachment 1), with an amendment to Condition Number 54 to read as follows:-

54. 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:

- A 2.4m high lapped and capped timber fence must be provided along the northern and part of the eastern boundary that adjoins No. 39, 41, **43**, 45, 47 and 49 Princes Street;
- A 1.8m high lapped and capped timber fence must be provided along the southern side boundary of the site that adjoins No. 44 Gladstone Avenue;
- All retaining walls are to be setback from the boundary in accordance with the approved plans so that the boundary fence is independent of any retaining wall;
- Retaining walls higher than 600mm must be certified by a structural engineer;
- If front and return fence are provided, it must not exceed 1.0m in height and shall be designed in accordance with Council's Development Control Plan; Details must be submitted with the Construction Certificate plans;
- 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**.

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

ITEM 1 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: Unanimous

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

3 99 ELLIOTT AVENUE, EAST RYDE. LOT 393 DP 31574. Local Development Application for Demolition, new dual occupancy (attached). LDA2014/0311.

Note: Andrew McClelland (objector), Albert Khoo (objector), Leonie Dean (objector) Diaa Shakker and Matthew Benson (applicants) and Shant Kradjian (owner) addressed the meeting in relation to this Item.

RESOLUTION: (Moved by Councillors Yedelian OAM and the Mayor, Councillor Pickering)

- (a) That Local Development Application No. 2014/311 at 99 Elliott Avenue, East Ryde being LOT 393 DP 31574, be approved subject to the **ATTACHED** conditions (Attachment 1).
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

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

4 36 SAMUEL STREET, RYDE - LOT 27 DP 4826. Development Application for demolition and construction of a new dual occupancy (attached). LDA2014/332.

Note: A Memorandum from the Group Manager – Environment and Planning dated 10 April 2015 was tabled in relation to this Item and a copy is ON FILE.

Note: A Memorandum from the Group Manager – Environment and Planning dated 21 April 2015 attaching late submissions was tabled in relation to this Item and a copy is ON FILE.

Note: Bruce Lindsay (objector) and David Dinh (applicant) addressed the meeting in relation to this Item.

ITEM 1 (continued)

ATTACHMENT 1

RESOLUTION: (Moved by Councillor Yedelian OAM and the Mayor, Councillor Pickering)

- (a) That Local Development Application No. LDA2014/332 at 36 Samuel Street, Ryde being LOT 54 DP 27143 be approved subject to the **ATTACHED** conditions (Attachment 1) with an amendment to Condition 34 that all fencing is to be at the cost of the developer and an additional condition to ensure full compliance with Council's 40% hard paving area within the front setback. Evidence of the compliance with the 40% paving area to be submitted with the Construction Certificate.
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

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

The meeting closed at 6.22pm.

CONFIRMED THIS 5TH DAY OF MAY 2015.

Chairperson

2 43-45 MAGDALA ROAD, NORTH RYDE. LOT 242 DP 752035. Local Development Application for the use of southern section of existing car park at North Ryde RSL for parking of 30 buses by North Sydney Bus Charters Pty Ltd. LDA2014/0313.

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

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

Report dated: 8/04/2015

File Number: GRP/09/5/6/2 - BP15/442

1. Report Summary

Applicant: North Ryde RSL Community Club Ltd.

Owner: Crown Land – NSW Trade & Investment

Date lodged: 23 July 2014 (additional information received 19 February 2015)

This report considers a development application (DA) for the partial use of an existing car park at North Ryde RSL for the parking of thirty (30) buses. To accommodate these buses, the number of available on-site parking spaces will be reduced from 782 to 675, in the southern section of an existing car park.

The subject site is located on land owned and leased by the Crown - under Special Lease 172789 (1988/1) in the name of North Ryde RSL Community Club Ltd. This has been confirmed to Council in writing by NSW Trade & Investment, Crown Lands.

NSW Trade & Investment, Crown Lands have provided owner's consent for the lodgement of the Development Application (ATTACHED). This relates to the lodgement of the application only, and specifically indicates that it does not indicate concurrence for the proposed development.

The applicant is proposing to claim 'existing use rights' provisions of the Environmental Planning and Assessment Act 1979 to gain approval and has submitted legal advice in support of their DA. The legal advice provided by the applicant claims the storage of buses on the site continues the current use of a car park.

Council staff do not accept the legal argument provided by the applicant given that the proposed use is defined as a "Transport Depot". Accordingly, Council staff are of the opinion that the proposal does not enjoy the benefit of 'existing use rights' and is therefore a prohibited use in the RE1 Public Recreation zone.

The DA has been notified to neighbours in accordance with Ryde DCP 2010, and eight (8) submissions were received, which oppose the development on the following key grounds:

ITEM 2 (continued)

- Permissibility
- Noise
- Air pollution
- Current operational hours of use inconsistent with proposed hours
- Traffic generation, parking and access
- Contamination of land
- Safety

Despite the proposal being prohibited, Council officers are also of the opinion that the proposal is unsatisfactory from an environmental perspective with numerous residents' noting that buses are refuelled on the site and Council's Environmental Health Officer observing soapy waste water from the washing of buses draining from the site.

The site's location adjoining Lane Cove National Park and surrounding residential development is not appropriate for the proposed use, which would be better suited to a location within an industrial zone.

Given that the proposal is prohibited within the zoning of the property and the development is considered to be unacceptable as it will adversely affect the amenity of the immediate locality, the subject DA is recommended for refusal.

Reason for Referral to Planning and Environment Committee: Number of submissions received (8).

Public Submissions: Eight (8) submissions were received objecting to the development.

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

Value of works? Nil. Use is currently operational.

RECOMMENDATION:

- (a) That Local Development Application No. LDA2014/313 at 43-45 Magdala Road, North Ryde being LOT 242 DP 752035 be refused for the following reasons:
1. The Applicant has failed to prove that the subject property benefits from "existing use rights" and as such, the use of the property as a "Transport Depot" is prohibited under the relevant RE1 Public Recreation zone.
 2. The proposal will have adverse impacts on the amenity of surrounding residential properties by virtue of unacceptable:

ITEM 2 (continued)

- (a) noise impacts;
 - (b) odours;
 - (c) hours of operation;
 - (d) vehicular egress for buses onto Magdala Road.
3. Inadequate measures are proposed to be provided within the subject property to:
- (a) prevent the occurrence of water pollution as a result of bus washing activities; and
 - (b) prevent the occurrence of pollution spills from bus re-fuelling operations; and
 - (c) mitigate against the increased bushfire threat associated with the bus re-fuelling operations.
4. In the circumstances of the case, approval of the development is not in the public interest.
- (b) That this matter be referred to the Manager Environment, Environmental Health and Building for appropriate action to have the use as a Transport Depot cease and the persons who made submissions be kept informed of the progress of this action.
- (c) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Applicant's legal advice prepared by CBP Lawyers
- 2 Owner's Consent
- 3 Map
- 4 A4 Plan
- 5 A3 Plan - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Lauren Franks

Assessment Officer - Town Planner

Chris Young

Team Leader - Assessment

Report Approved By:

Liz Coad

Manager Assessment

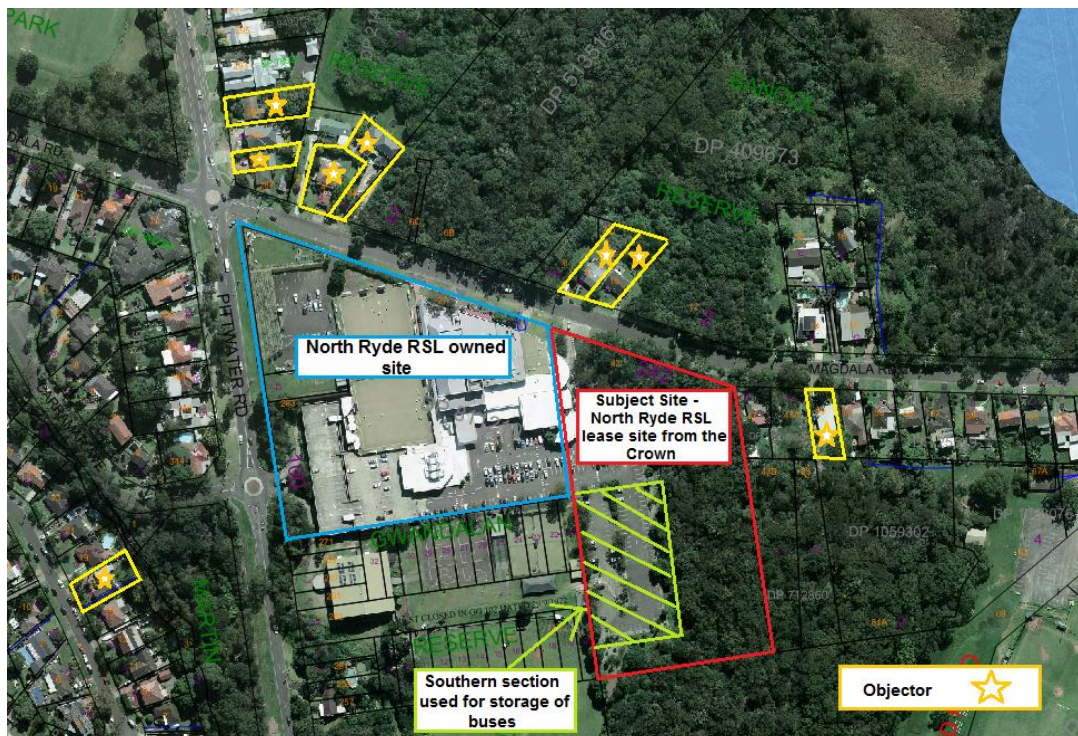
Dominic Johnson

Group Manager - Environment and Planning

ITEM 2 (continued)

2. Site (Refer to attached map.)

- Address** : 43-45 Magdala Rd North Ryde
(Lot 242 in DP 752035)
- Site Area** : 16.614m²
Frontage to Magdala Road: Approx. 108m
Rear Boundary: Approx. 96m
Eastern Side Boundary: Approx. 147m
Western Side Boundary: Approx. 195m
- Topography and Vegetation** : Unmaintained extensive vegetation surrounds the perimeter of the site.
- Existing Buildings** : Site contains a carpark with a small portion of North Ryde RSL extending onto the allotment.
- Planning Controls** : Ryde LEP 2010
- Zoning** : RE1 Public Recreation under Ryde LEP 2010
RE1 Public Recreation under Ryde LEP 2014
- Other** : Ryde DCP 2014



Aerial photo of subject site and surrounds.

ITEM 2 (continued)



View of site from Magdala Road.



View of southern portion of carpark cordoned off for use as a transport depot.

ITEM 2 (continued)**3. Councillor Representations**

Nil.

4. Political Donations or Gifts

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

5. Proposal

The DA seeks development consent for the use of the southern section of an existing car park at North Ryde RSL for the parking of thirty (30) buses by North Sydney Bus Charters Pty Ltd.

According to the Statement of Environmental Effects submitted with the DA, the following details are provided surrounding the use:

- Hours of operation: 6am to 6pm daily.
- Parking of twenty (20) x 24 seater Mitsubishi Rosas (similar in size to a mini bus) and ten (10) larger buses / coaches.
- Buses are primarily used to provide transport facilities for schools.
- Moveable barriers surround the bus parking area to restrict public access.
- Two (2) demountable buildings are located within the bus parking area to provide storage, change and rest facilities to drivers.
- Waste associated with the use relates to the internal cleaning of buses prior to their departure.
- Use does not involve any plant and equipment use or the carrying out of any maintenance of buses on the site with the exception of internal cleaning before departure and recharging of batteries.

6. Background

The subject site is located on land owned and leased by the Crown - under Special Lease 172789 (1988/1) in the name of North Ryde RSL Community Club Ltd. This has been confirmed to Council in writing by NSW Trade & Investment, Crown Lands.

NSW Trade & Investment, Crown Lands have provided owner's consent for the lodgement of the Development Application (ATTACHED). This relates to the lodgement of the application only, and specifically indicates that it does not indicate concurrence for the proposed development.

ITEM 2 (continued)Previous Approvals

The site was undeveloped until construction of the car park was approved by Council on 12 October 1989 (Development Consent No. A6005). At this time the land was designated as “Reserved for Proposed County Road” under the Ryde Planning Scheme Ordinance. The land has been continuously used or at least provided for use for car parking since its construction in 1990 / 1991.

Enforcement Action

On 7 November 2013, a “Notice of Proposed Order” was issued to North Ryde RSL after Council received various noise complaints from neighbours. North Ryde RSL was given until 27 November 2013 to provide a response. None was received.

An Order was issued under the terms of Section 121 of the Environmental Planning & Assessment Act 1979 on 7 March 2014 and required the use of the land for the parking of buses to cease. North Ryde RSL responded on 12 March 2014 requesting that Council not proceed with the Order as the RSL intended to submit a DA to legitimise the parking of buses on the site. Subsequently, Council withheld any enforcement action.

Due to ongoing complaints made by residents, Council’s Compliance Officers are currently investigating whether further enforcement action is required.

At this time, buses continue to park on the site.

7. Submissions

The proposal was advertised and notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. The application was advertised on 13 August 2014. Notification of the proposal occurred between 11 August 2014 and 27 August 2014.

Eight (8) submissions were received. The key issues raised in the submissions are summarised and discussed as follows:

A. Permissibility

Concerns are raised that the use of the car park has become a transport depot and is prohibited in the RE1 Public Recreation zone.

ITEM 2 (continued)Assessment Officer's Comment

It is agreed that the use constitutes a transport depot and is prohibited in the RE1 Public Recreation zone. The applicant has submitted legal advice in support of their application which utilises 'existing use rights' to gain approval. This claim is not supported. Refer to the Ryde Local Environmental Plan 2014 Section of this report for further commentary on 'existing use rights'.

B. Noise

Concerns are raised that data within the Noise Impact Assessment is not a true representation of the level of noise disturbance ascertained by surrounding residential properties and that the noise associated with buses entering and exiting the site is adversely impacting resident's amenity.

Assessment Officer's Comment

Agreed. Council's Environmental Health Officer identified errors and inadequacies in the results of the Noise Impact Assessment submitted with the DA. Subsequently, the applicant produced an Amended Noise Impact Assessment on 10 February 2015. Council's Environmental Health Officer is of the opinion that the results and recommendations within this amended report remain inadequate and are not a true representation of the level of noise disturbance experienced by surrounding residents. This assessment appears in the Referrals section, later in this report.

C. Air Pollution

Concerns are raised that emissions from the number and type of buses (including old diesel buses), accelerating up the steep driveway into the site emit fumes and gases which accumulates in No. 8 and 10 Magdala Road situated opposite the driveway and on the downhill slope of the land. Further, these buses regularly utilise the netball court carpark for parking and the turning circle at the end of Magdala Road which emit fumes to people undertaking bootcamp fitness classes and recreational activities.

Assessment Officer's Comment

The continuous arrival and departure of diesel buses into a site surrounded by low density residential and outdoor recreational spaces does present a health risk to not only residents within Magdala Road, but for residents of the wider community utilising the sports fields.

ITEM 2 (continued)

The location is not suitable for a transport depot and no mitigation measures are in force to monitor and control emissions from the buses.

D. Traffic Generation, Parking & Access

Concerns are raised that the proposal will exacerbate existing traffic congestion along Pittwater Road. Further, buses regularly park along Magdala Road and across resident's driveways, preventing access. Of added concern is that buses are regularly seen making a 3 point turn to exit the site as the driveway which has not been designed for the movement of heavy vehicles.

Assessment Officer's Comment

The parking of buses has been operational for approximately two (2) years. It is accepted that traffic congestion along Pittwater Road has increased during this time however; the increase in traffic congestion is not solely attributed to the parking of buses on the site. Further, RMS guidelines do not prescribe a maximum rate for bus movements within residential areas.

The ongoing arrival and departure of thirty (30) buses to the site will have a detrimental impact on Council's public infrastructure. Council's Senior Development Engineer anticipates that the movement of buses along Magdala Road generates 110 to 120 vehicle trips per day. This will intensify the rate of decline of Magdala Road. Subsequently, approval of the proposal can be seen as potentially having a financial burden to Council.

In terms of on-site parking availability to RSL patrons, the bus parking area reduces the number of spaces from 782 to 675. The Parking Surveys submitted with the DA have been reviewed by Council's Traffic Engineer who states:

"The applicant has identified that the RSL has not incorporated any additional facilities or services and as such, through documented 'Check Surveys', it is noted that the parking availability is deemed sufficient to cope with the demand whilst parking spaces are being occupied by buses.

In light of the excess parking identified in the John Coady Consulting Pty Ltd report, it has been deemed that parking demand will not be impacted."

ITEM 2 (continued)

In terms of manoeuvrability, Council's Traffic Engineer states that the amended plan showing provision of a "2.5m x 2.5m splay does not appear to be adequate to enable a bus to perform a safe turn when exiting the site." The applicant has not demonstrated that a bus' turning path when exiting the site can be achieved with a 2.5m x 2.5m splayed corner. The following photo shows the close proximity buses come to parked cars on Magdala Road and the damage cause the grass adjacent to the driveway:



E. Hours of Operation

Concerns are raised that the current operational hours of buses arriving and departing the site occurs seven (7) days a week between 5:30am - 1am which contradicts the DA which seeks approval for 6am – 6pm, seven (7) days a week. Should approval of the DA be granted, the applicant will not adhere to the operational hours they have stated in their DA.

Assessment Officer's Comment

This concern was reiterated in multiple submissions. It is agreed that the departure of any bus within a low density residential precinct before 6am is unacceptable on a weekday and weekend.

As demonstrated throughout this report, the applicant has failed to adhere to Council's Compliance Officer's repeated instructions to cease operation of the storage of buses on the site. This does not instil a sense of confidence that the applicant will adhere to a condition of consent restricting the hours of operation.

ITEM 2 (continued)

Of added concern is the applicant's comment in their Statement of Environmental Effects that "*the normal operational mode involves buses leaving the site by 6:30am at the earliest.*" This potentially means that up to thirty (30) buses could enter and exit the site at 6:30am and is substantial given that the nearest dwelling houses are located directly opposite the site at a distance of 22m (No. 8 Magdala Rd) and 30 (No. 10 Magdala Rd).

F. Contamination of Land

Concerns are raised that refuelling of buses occurs on the site and is causing the land to become contaminated and is inappropriate for a site identified as bushfire prone land.

Assessment Officer's Comment

Additional information submitted by the applicant's Planner states that "*there is to be no refuelling of vehicles or maintenance works carried out on-site.*" This contradicts numerous residents' claims of seeing a refuelling truck, namely *Fuel and Go mobile refuelling* regularly arriving to the site and departing approximately one (1) hour later. Council's Environmental Health Officer has also reported seeing oil stains in the car park during their site visit.

Further, the applicant's Planner claims in their Statement of Environmental Effects that "*the use does not involve the use of any plant or equipment or the carrying out of any maintenance of buses on the site, with the exception of cleaning before departure and recharging of batteries...the only wastes associated with the use relate to cleaning of the interior of the buses before departure.*" Contrary to this comment, Council's Environmental Health Officer has seen bus exteriors being washed as per the following photo:



ITEM 2 (continued)

The subject site adjoins Lane Cove National Park to the east and south. This adjoining land is zoned E1 National Park and Nature Reserves. Land with this zoning is categorised as being of high environmental significance. Serious concerns are raised that soapy wastewater is not being disposed of in an environmentally sensitive manner and is draining into the stormwater drainage system and flows into the adjoining Lane Cove National Park situated downhill from the subject site.

It is considered that the contents of the DA do not accurately reflect the current operations of buses parking on the site. Bus refueling has been omitted from the DA as forming part of the use and serious concerns are raised that the use has the potential to instigate or encourage the spread of a bushfire. Subsequently, a Bushfire Assessment Report has not been submitted. Council's Bushfire Consultant has reviewed the proposal stating:

"While it is noted in the application that refueling is not proposed, as requested by Council we have considered potential refueling operations associated with the proposed bus depot. In relation to the refueling of buses the following extract from Planning for Bush Fire Protection 2006 should be addressed by the applicant:

3.1 Bush Fire Protection Measures

Controlling Development Types.

Developments which should not be permitted on bush fire grounds, including those that may start bush fires or are a potential hazard to adjacent areas or to fire fighters if they are impacted upon by a bush fire:

- Power generating works*
- Sawmills*
- Junk yards*
- **Liquid fuel depots***
- Offensive and hazardous industries*
- Chemical industries*
- **Service stations***
- Ammunition storage/manufacture*
- Fire works manufacture/storage."*

For these reasons, it is agreed that the use is potentially contributing to the contamination of land and should not be supported.

ITEM 2 (continued)**G. Safety**

Concern is raised that with the absence of a footpath along Magdala Road means that pedestrians need to walk on the road. The continual manoeuvring of buses in Magdala Road poses a safety risk to pedestrians.

Assessment Officer's Comment

Of greatest concern are the reports from residents that buses are regularly seen making 3 point turns at the end of Magdala Road and when exiting the site and the driveway crossover. In the circumstance that the applicant had considered manoeuvrability of buses when exiting the property and instructed its drivers to park wholly within the site, the risk to pedestrian safety would not be an issue. The applicant has failed on many levels to consider the impact of the proposal on neighbouring properties.

8. SEPP 1 (or clause 4.6 RLEP 2010) objection required?

None required.

9. Policy Implications**Relevant Provisions of Environmental Planning Instruments etc:****(a) Ryde Local Environmental Plan 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 23 July 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.

ITEM 2 (continued)**(b) Ryde Local Environmental Plan 2010****Zoning**Proposed Use

Under the Ryde Local Environmental Plan 2010 (Ryde LEP 2010) the subject site is zoned RE1 Public Recreation. Whilst development for the purpose of a car park (being a commercial use) is prohibited in the zone, the car park is existing. It was constructed in accordance with development consent No. A6005 granted 12 October 1989, which pre-dates the Ryde LEP 2010.

As identified by Council, the proposal is considered to alter the existing use from a commercial use which is affiliated with North Ryde RSL to a transport depot which is also prohibited. The definition of each use as it appears in the Ryde LEP 2010 is:

***car park** means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.*

***commercial premises** means any of the following:*

- (a) business premises,*
- (b) office premises,*
- (c) retail premises.*

***transport depot** means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a business, industry, shop or passenger or freight transport undertaking.*

Aims and Objectives of the Zone

The aims and objectives of the RE1 Public Recreation zone are:

- To enable land to be used for public open space or recreational purposes.*
- To provide a range of recreational settings and activities and compatible land uses.*
- To protect and enhance the natural environment for recreational purposes.*
- To provide adequate open space areas to meet the existing and future needs of the residents of Ryde.*
- To protect and enhance the natural bushland in a way that enhances the quality of the bushland and facilitates public enjoyment of the bushland in a way that is compatible with its conservation.*

ITEM 2 (continued)

The proposal fails to achieve the aims and objectives of the zone which is in part, due to the use being prohibited. The use detracts from the natural bushland which bounds the eastern and southern boundaries of the site. The erection of wire fencing, waste bins and storage of large sized buses detracts from the appearance of the surrounding natural environment. Further, the use poses a threat to native flora and fauna which surrounds the site through waste water draining from the site and refuelling occurring on the site.

Existing Use Rights

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

The applicant is seeking the utilisation of existing use rights and considers the use of North Ryde RSL and the car park as one (1) development on the site. Legal advice accompanying the DA supports this claim noting:

“The Club is proposing to have a defined space within the existing car park used by a local bus company, for the purposes of parking passenger buses owned by a local bus company” ... (which) “is limited to the “parking” of buses only, and does not involve administration-related tasks (associated with a bus company), refuelling, the carrying out of repairs, maintenance and associated tasks.”

The applicant has omitted any reference to a transport depot in their DA which includes their legal advice. As identified in numerous site inspections by Council Officers, telephone conversations and submissions received from concerned residents, bus refuelling, and washing of buses occurs on the site. The proposal's incorporation of two (2) demountable buildings for the storage of bus keys collected by drivers before their run is an administration-related task. These findings contradict the information on which the applicant's legal advice is based.

It is agreed that the existing approved use on the site is for a car park, which is a commercial use given its affiliation with North Ryde RSL and its use by RSL patrons or Fitness First members. However, it is argued that by restricting access to the southern portion of the site to accommodate a bus parking area that is for private use only and includes operations of refuelling and washing of buses that the use is categorised as a transport depot and therefore does not benefit from existing use rights.

ITEM 2 (continued)**Mandatory Requirements**

The following mandatory provisions under Ryde 2010 apply to the development.

Clause 5.1A Development on land intended to be acquired for a public purpose

This clause applies to specific land zoned RE1 Public Recreation and SP2 Infrastructure as identified in the *Land Reservation Acquisition Map*.

Whilst the site is zoned RE1 Public Recreation, the site is not identified on the *Land Reservation Acquisition Map*. As such, no further commentary is required.

(b) Relevant SEPPs**State Environmental Planning Policy 55 – Remediation of Land**

This Policy requires Council to consider the potential for a site to be contaminated. The site has a history of being used as a car park and is unlikely to contain any contamination. In saying this, the proposed use as a transport depot has commenced on the site without approval. Site inspections undertaken by Council's Environmental Health Officer has revealed that washing of buses is undertaken on the site and oil stains throughout the car park are present which suggests that repair work to buses may have occurred. Concerns are raised that the continued operation of the use has the potential to contaminate the land which is situated adjacent to Lane Cove National Park.

(c) Relevant REPs

N/A

(d) Any draft LEPs

None relevant.

(e) Any DCP**Ryde Development Control Plan (DCP) 2014**

There are no development controls contained within the Ryde DCP 2014 which relate to use of a site for a transport depot. As such, reliance upon the controls within the Ryde LEP 2010 and impact of the development on surrounding residents, the natural environment and suitability of the site for the proposed use are to be considered.

ITEM 2 (continued)

10. Likely impacts of the Development

(a) Built Environment

The storage of substantial sized buses, demountable buildings, erection of 1.8m high wire fencing and waste containers is not representative of an aesthetically pleasing development. No formal bin storage area has been provided to obscure view of waste containers. This can be seen in the following photo:



The proposal relies upon wire fencing for delineating the bus parking area and existing car park. The type of wire fencing present is usually associated with a temporary use only around a construction site. This type of fencing is not considered to have the longevity required for the use as a transport depot and also detracts from the surrounding natural environment.

(b) Natural Environment

Serious concerns are raised that the washing and repair of buses undertaken on the site is detrimentally impacting the health of native flora and fauna in Lane Cove National Park and surrounding vegetative land. Details within the DA documentation claiming that no maintenance or cleaning of buses (with the exception of internal areas of the buses) contradicts the comments raised in multiple submissions and the findings by Council's Environmental Health Officer.

The proposal fails to demonstrate that the use is controlled with appropriate mitigation measures in place to ensure no adverse impact to the natural environment occurs.

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

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

Bushfire Prone Land

The site is categorised as bushfire prone land. No bushfire report has been submitted as the applicant claims that no refuelling, maintenance work or external washing of buses occurs. This is contrary to numerous submissions received during the notification period which report seeing refuelling tanks arriving to the site and leaving approximately one (1) hour later. As noted throughout this report, Council's Environmental Health Officer has seen oil stains in the area utilised for bus parking. Refuelling of buses poses a significant and real risk to causing a bushfire and has the potential to exacerbate a bushfire within the immediate vicinity of the site. No evidence to support the applicant's claim that refuelling does not occur has been provided.

Urban Bushland

Inadequately conserved urban bushland accounts for approximately half of the site's area extending from the front boundary, being Magdala Road, along the eastern side to the rear boundary. Waste water from washing buses has been observed by Council's Environmental Health Officer draining from the car park and poses a risk to the health of native flora and fauna habitats. This bushland is unmaintained and contains scrub and dense leaf cover on the ground. The concerns raised by surrounding residents regarding bus refuelling occurring on the site and within such close proximity to bushland are valid.

Acid Sulphate Soils

The subject site is situated within the 500m buffer zone of land affected by Class 1, 2, 3 or 4 Acid Sulphate Soils. The proposed development does not involve any excavation or ground disturbances that would require formal assessment regarding acid sulphate soils. It is therefore concluded that this environmental constraint will not adversely impact surrounding properties.

12. The Public Interest

The development is prohibited in the zone and fails to achieve the objectives of the RE1 Public Recreation zone. In particular, amenity of adjoining neighbours is not maintained and the development is unacceptable in terms of its impact on the natural environment as discussed throughout this report.

Therefore, it is considered that approval of this DA would not be in the public interest.

ITEM 2 (continued)

13. Consultation – Internal and External

Internal Referrals

Environmental Health Officer: Council's Environmental Health Officer is not supportive of the proposal and has provided the following comments:

Site Inspection:

An inspection of the site on 10 November 2014 revealed that:

- *Buses were being washed in the parking area and the soapy wastewater was flowing into the stormwater drainage system.*
- *There was evidence of oil staining on the pavement.*
- *One of the transportable buildings contains a kitchenette and that the sink is not connected to the sewerage system.*
- *The toilets in the Club are more than 100 metres away.*

Water pollution:

A wash bay should be provided for washing buses.

Equipment should also be kept on site for cleaning up accidental spills or leaks.

Staff amenities:

Adequate toilet and kitchen facilities should be provided for the staff employed on site.

Waste management:

The wash bay and all sanitary fixtures must be connected to the sewerage system in accordance with the requirements of Sydney Water Corporation and the NSW Department of Fair Trading

An adequate number of waste containers should also be provided for the storage of garbage.

Ideally the garbage bins should be stored in a covered waste storage area that is graded and drained to the sewerage system

ITEM 2 (continued)

The following comments are provided in response to the Amended Noise Impact Assessment submitted 2 February 2015 after deficiencies were identified in the Initial Noise Impact Assessment submitted at lodgement:

Background Noise Measurements:

The background noise level was measured in two locations. Monitor 1 was located in Magdala Road and Monitor 2 was located adjacent to the south-eastern boundary of the site.

The measured background noise levels are set out in Table 1 of the revised report as follows:

Location	Background Noise Level dB(A)			
	Daytime (7am - 6pm)	Evening (6pm - 10pm)	Night (10pm - 7am)	Shoulder Morning Period (6am - 7am)
Monitor 1 – along Magdala Road	49	51	45	49
Monitor 2 – south-east corner of site	43	44	42	43

I was concerned that the background noise measurement locations may be affected by extraneous noise from the Club. However, the consultant claims that this was not the case.

Noise Objectives:

The noise objectives have been amended and are set out in Table 6 of the revised report as follows:

Location	Time Period	INP Amenity Criteria dB(A) Leq (Period)	INP Intrusiveness Criteria dB(A) Leq (15 minute)	Sleep Disturbance Criteria dB(A) L1 (1 minute)
10 Magdala Road	Day	55	54	N/A
	Evening	45	56	N/A
	Night	40	54	64

ITEM 2 (continued)

<i>Location</i>	<i>Time Period</i>	<i>INP Amenity Criteria dB(A) Leq (Period)</i>	<i>INP Intrusiveness Criteria dB(A) Leq (15 minute)</i>	<i>Sleep Disturbance Criteria dB(A) L1 (1 minute)</i>
47 Magdala Road	Day	55	48	N/A
	Evening	45	49	N/A
	Night	40	48	58

I disagree with some of the objectives set out in this table. The night-time intrusiveness criteria should be 50 dB(A) for 10 Magdala Road and 47 dB(A) for 47 Magdala Road. Also, the night-time sleep disturbance criteria should be 60 dB(A) for 10 Magdala Road and 57 dB(A) for 47 Magdala Road.

It is understood that the proposed bus depot will operate from 6am - 6pm daily.

According to the Industrial Noise Policy where operations are proposed between 5am - 7am it may be unruly stringent to expect such operations to be assessed against the night-time criteria. In these circumstances, the Policy states that as a rule of thumb it may be appropriate to assign a shoulder period rating background level as the mid-point value between the rating background levels of the two assessment periods that are either side of the shoulder period.

This would give a shoulder period intrusiveness criteria of 52 dB(A) for 10 Magdala Road and 48 dB(A) for 47 Magdala Road and a shoulder period sleep disturbance criteria of 62 dB(A) for 10 Magdala Road and 58 dB(A) for 47 Magdala Road.

Predicted Noise Levels:

The predicted noise levels at the nearest affected residences are set out in Tables 10, 11 & 12 of the revised report and are summarised as follows:

<i>Location</i>	<i>Noise Source</i>	<i>Leq dB(A)</i>	<i>Lmax dB(A)</i>
10 Magdala Road	Operational noise	40	N/A
	Engine Starting	N/A	49
	Reversing Alarm	N/A	54
	Bus arriving/departing	N/A	66

ITEM 2 (continued)

<i>Location</i>	<i>Noise Source</i>	<i>Leq dB(A)</i>	<i>Lmax dB(A)</i>
<i>47 Magdala Road</i>	<i>Operational noise</i>	39	N/A
	<i>Engine Starting</i>	N/A	53
	<i>Reversing Alarm</i>	N/A	57
	<i>Bus arriving/departing</i>	N/A	55

The letter sets out the basis for determining the predicted noise levels. However, I am unsure about their methodology.

According to my calculations, the predicted noise levels at the worst affected residence for a bus leaving the site will be as follows:

LAeq:

$$SPL2 = SPL1 - 10 \log [r2^2 / r1^2]$$

$$SPL2 = 70 - 10 \log [20^2 / 5^2]$$

$$SPL2 = 58dB(A)$$

LAmix:

$$SPL2 = SPL1 - 10 \log [r2^2 / r1^2]$$

$$SPL2 = 78 - 10 \log [r20^2 / r5^2]$$

$$SPL2 = 66dB(A)$$

Modifying factors may also need to be added to the predicted noise levels for low-frequency noise and intermittency. This could add up to 10 decibels to the predicted noise levels.

Assessment of Noise Impact:

Based on my assessment, the noise level at the worst affected residence will exceed the shoulder period intrusiveness criteria by up to 16dB(A) and the shoulder period sleep disturbance criteria by up to 14dB(A).

In my opinion, the noise from the proposed bus depot will have an adverse impact on neighbouring residents.

ITEM 2 (continued)**RECOMMENDATION:**

That the application be refused for the following reasons:

- *inadequate amenities for staff*
- *inadequate facilities for the storage and handling of garbage*
- *inadequate facilities for washing buses*
- *potential water pollution impacts*
- *potential noise impacts*

Traffic Engineer: Council's Traffic Engineer has provided the following comments:

It should be noted that a 2.5m x 2.5m splay does not appear to be adequate to enable a bus to perform a safe turn exiting the site. Appropriate turning paths would be required to demonstrate the extent of the bus turning path and determine the required splay dimension.

The applicant has identified that the RSL has not incorporated any additional facilities or services and as such, through documented 'Check Surveys', it is noted that the parking availability is deemed sufficient to cope with the demand whilst parking spaces are being occupied by Buses.

Further, in light of the excess parking identified in the John Coady Consulting Pty Ltd report, it has been deemed that parking demand will not be impacted.

External Referrals

Bushfire Consultant: Council's Bushfire Consultant has raised concerns about the proposal and provided the following comments:

To accord with Council's request for a review of bushfire compliance or otherwise with Planning for Bush Fire Protection 2006 for the subject development application, the following information is provided having regard to Section 79BA of the Environmental Planning and Assessment Act 1979.

We have undertaken a review of the subject application and the surrounding lands for the purposes of determining the potential bushfire impact to the subject property. We have also reviewed the documentation provided by Council relevant to the subject development application.

The proposal as submitted to Council relates to the approval for the parking of 30 buses at the above mentioned address. The application also includes the approval of two (2) transportable buildings. The development proposal must demonstrate compliance with the aims and objectives of Planning for Bush Fire Protection 2006 as follows;

ITEM 2 (continued)***Aim and Objectives of PBP.***

All development on Bush Fire Prone Land must satisfy the aim and objectives of PBP.

The aim of PBP is to use the NSW development assessment system to provide for the protection of human life (including firefighters) and to minimise impacts on property from the threat of bush fire, while having due regard to development potential, on-site amenity and protection of the environment.

More specifically, the objectives are to:

- (i) afford occupants of any building adequate protection from exposure to a bush fire;*
- (ii) provide for a defensible space to be located around buildings;*
- (iii) provide appropriate separation between a hazard and buildings which, in combination with other measures, prevent direct flame contact and material ignition;*
- (iv) ensure that safe operational access and egress for emergency service personnel and residents is available;*
- (v) provide for ongoing management and maintenance of bush fire protection measures, including fuel loads in the asset protection zone (APZ); and*
- (vi) ensure that utility services are adequate to meet the needs of firefighters (and others assisting in bush fire fighting).*

In this regard insufficient information has been provided by the applicant that demonstrates compliance with the above.

Particular consideration should be given to the siting, design and construction standard of the temporary buildings in accordance with Planning for Bush Fire Protection 2006 and Australian Standard 3959 'Construction of buildings in bushfire-prone areas' 2009.

Consideration could also be given as to the impact that the proposed development may have on the local road infrastructure during a bushfire emergency in the locality.

While it is noted in the application that refueling is not proposed, as requested by Council we have considered potential refueling operations associated with the proposed bus depot. In relation to the refueling of buses the following extract from Planning for Bush Fire Protection 2006 should be addressed by the applicant:

ITEM 2 (continued)**3.1 Bush Fire Protection Measures**

Controlling Development Types.

Developments which should not be permitted on bush fire grounds, including those that may start bush fires or are a potential hazard to adjacent areas or to fire fighters if they are impacted upon by a bush fire:

- *Power generating works*
- *Sawmills*
- *Junk yards*
- **Liquid fuel depots**
- *Offensive and hazardous industries*
- *Chemical industries*
- **Service stations**
- *Ammunition storage/manufacture*
- *Fire works manufacture/storage.*

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

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

16. Other Options

None relevant.

17. Conclusion

The proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning and Assessment Act 1979.

An assessment of the proposal in terms of the permissibility of the use has identified that the current operation of the storing of buses on the site is consistent with the definition of a 'transport depot' and therefore is not eligible to enjoy the benefits of 'existing use rights'.

From an environmental perspective, the proposed use is unsatisfactory on many levels namely, water pollution, air pollution and increasing the risk of a bushfire. These issues alone are considered to be fatal to the application.

ITEM 2 (continued)

Council's Environmental Health Officer and Traffic Engineer have raised concerns with the existing operation of the site for bus parking and do not agree with findings within the Noise Report submitted with the DA.

The proposal has been notified and advertised in accordance with DCP 2014 and a total of eight (8) submissions have been received objecting to the development. Several valid issues of concern have been raised in the submissions relating to permissibility, noise and air pollution, obstruction of driveway crossovers, hours of operation and safety.

On balance, the proposed use of the North Ryde RSL car park for use as a transport depot is not appropriate and refusal is recommended.

ITEM 2 (continued)

ATTACHMENT 1



Our Ref: AFP.CFP.145420

22 July 2014

Mr Chris Jones
North Ryde RSL
PO Box 44
NORTH RYDE NSW 2113

By email: cjones@nrsl.com.au

Dear Sir

**Existing Club car park
Re advice on proposal to change the current use under existing use rights**

We refer to our recent conference regarding the above site and the Club's proposed application to Ryde Municipal Council seeking approval for the use of part of the Club's existing car park, currently servicing the needs of patrons and guests of the Club, for the purposes of parking passenger buses, owned and operated by a local bus company. The Club proposes to lodge that application reliant upon existing use rights.

We have been asked to advise on the legal merits of the proposed application. That advice is set out below, following an overview of the background details of the site and the legal framework underpinning existing use rights in NSW.

Background

The following facts and circumstances appear to be relevant to the advice:

1. The existing car park is situated on Lot 242 DP 752035 (the site).
2. The Club, which owns and occupies the property immediately to the west of the site, leases the site from the Crown under a perpetual lease granted by the Department of Lands in March 1988. For the all intent and purposes the Club and the existing car park present as single development or single "club site", albeit on separate legal title.
3. The car park was originally approved by Council in 1989. Briefly summarised, sometime in late 1988 or early 1989 the Club applied to the Council to construct the car park, for the purpose of servicing the parking needs of the Club. At the time of the application, the land was designated as "Reserved for Proposed County Road" under the Ryde Planning Scheme Ordinance. Clause 12(2) of the Ordinance provided that, where it appeared that the purpose for which the land was reserved could not commence within a reasonable time, Council, could, with the consent of the Commissioner for Main Roads (which consent was ultimately provided), consent to the carrying out of a work of a permanent character on the reserved land, subject to conditions which the Commissioner may require to be imposed. It was upon this basis that development consent No.A6005 was issued by Council on 12 October 1989 (shortly after the granting of the perpetual lease).

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ITEM 2 (continued)

ATTACHMENT 1

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North Ryde RSL



The car park was constructed in 1990-91.

4. On or about 30 June 2010 the Ryde Local Environmental Plan 2010 (RLEP 2010) came into effect. Under that instrument, the site was rezoned to RE1 Public Recreation. The RE1 zone permitted, with development consent:

Business identification signs; Community facilities; Environmental facilities; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Restaurants or cafes; Roads.

5. All other uses, with the exception of "environmental protection works" (being exempt development under the RE1 zone), are prohibited under the RE1 zone. In and of itself, a car park would be a prohibited use on the site.
6. The car park, having been lawfully approved under a prior environmental planning instrument, therefore enjoys existing use rights, based on the well established principles of existing use rights set out in the EPA Act 1979 (summarised briefly below).

Legislative framework for existing use rights under the EPA Act 1979

7. Section 106 of the EPA Act sets out the framework for existing use rights under the Act, in the following terms:

In this Division, existing use means:

- (a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4 of this Part, have the effect of prohibiting that use, and
- (b) the use of a building, work or land: (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.
8. An existing use may, in limited circumstances, be changed to another use that would otherwise be prohibited under the Act. The types of uses that may be changed are generally limited to commercial uses and light industrial uses, as set out in cl.41(1) of the Regulation.
9. Regarding existing commercial uses, cl.41(1)(e) of the EPA Regulation provides that an existing use may - if it is a commercial use - be changed to another commercial use, including a commercial use that would otherwise be prohibited under the Act.
10. Cl.41(3) goes on to address the definition of "commercial use" for the purposes of dealing with existing use rights under clause 41 of the EPA Regulation, in the following terms:
- commercial use means the use of a building, work or land for the purpose of office premises, business premises or retail premises (as those terms are defined in the standard instrument set out in the Standard Instrument (Local Environmental Plans) Order 2006). (Standard Instrument).*
11. The term "commercial use", therefore, incorporates three types of uses or sub-uses, namely, office premises, business premises or retail premises. These uses are separately defined in the Standard Instrument, as follows:

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ITEM 2 (continued)

ATTACHMENT 1

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North Ryde RSL

cbp

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

business premises means a building or place at which an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis.

retail premises means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials or whether also sold by wholesale).

12. Of the foregoing uses, office premises and retail premises would appear to be sufficiently remote from the concept of a car park being exclusively utilised by a Registered Club (being the existing use).
13. The question is therefore whether the existing use of the car park - servicing the needs of patrons and staff of the Club - could properly constitute a type business premises (constituting a sub category of commercial use) for the purposes of the Standard Instrument. If the answer is yes, then the existing use could lawfully be changed to another commercial use, in part or whole, that would otherwise be prohibited under the RLEP 2010, subject to any other relevant provisions of the Act or Regulation.

Opinion

14. The term "car park" is a defined term under the RLEP 2010, in the following terms:

car park means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.

15. A car park is therefore a recognised and defined use under the RLEP 2010. However, in certain circumstances, nothing prevents a particular use - in this case, a car park - from being characterised as another or separate use under the RLEP 2010.
16. In our view, as touched on above, the Club premises and the car park present as one development site or one integrated club site. It follows that any categorisation of the existing car park would have to have regard to the broader use of the combined sites, including the use or activities of what would certainly be construed as the dominant use of the combined site, being a registered club.
17. Therefore, the car park forms part of the Club's premises, and is subordinate to the activities and use of the Club. The car park has no independent use as a car park in these circumstances: *Goodwins (Sydney) Pty Ltd v Sydney City Council [1960] NSWRC; (1960) 5 LGRA 346.*
18. The question then arises as to whether, in all the circumstances, a registered club under the RLEP 2010 might be characterised as a commercial use or, more specifically, a type of business premises as defined by the Standard Instrument. The first thing to observe is that "registered club" is a defined term under the Standard Instrument and in similarly but updated wording in the RLEP 2010.
19. In our view, however, there is nothing inconsistent with categorizing the activities of a registered club with the activities of a commercial enterprise or, more specifically, the activities conducted as part of or in connection with business premises, as defined by the

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ITEM 2 (continued)

ATTACHMENT 1

22 July 2014
North Ryde RSL

cbp

Standard Instrument. In short, a registered club routinely employs a number of "occupations" (administration staff, waiter and bar service employees, gaming attendants, sporting coaches and fitness personnel, etc). These services are, in the main, directly available to members of the public on a regular basis.

20. The use of the Club's premises, in our view, is consistent with those premises being characterised as "business premises". That conclusion is generally consistent with registered clubs being permissible development under the B3 Commercial Core zone and the B5 Business Development zone under the Ryde LEP 2012.
21. In our view, having regard to the foregoing:
- (a) the car park should properly be characterised as subordinate to the activities and functions of the Club.
 - (b) the Club is a registered club for the purposes of the Standard Instrument and the RLEP 2010. The use of the Club is also consistent with or otherwise not inconsistent with a commercial use and, specifically, business premises.
 - (c) the car park therefore forms part of a commercial use and, more specifically, business premises.
 - (d) as a commercial use having the benefit of existing use rights, that use could, in part of whole, be changed, with development consent, to another commercial use in accordance with cl.41(1)(e) of the EPA Regulation.

Comment on the Club's proposed application

22. As noted, the Club is proposing to apply to the Council to have a defined space within the existing car park used by a local bus company, for the purposes of parking passenger buses owned by a local bus company. We are instructed that the activity - for which approval is sought - is limited to the "parking" of buses only, and does not involve administration-related tasks (associated with a bus company), refuelling, the carrying out of repairs, maintenance and associated tasks.
23. On the foregoing analysis, assuming that the activity of parking buses in a car park constitutes a change of use (please see comments below), that change of use would be permissible under cl.41 (1) of the Regulation, on the basis that:
- (a) the car park forms part of a commercial use and, more specifically, business premises.
 - (b) the activities associated with the operation of a bus company would constitute a commercial use for the purposes of cl.41 (3).
 - (c) the relevant change of use would represent a change of use from one commercial use to another commercial use.
 - (d) the change in use would constitute a minor change, would not increase floor space, does not involve rebuilding of the premises and does not involve intensification of the existing use, pursuant to cl.41(2)(a)-(e).
24. The above conclusion proceeds on the assumption that the parking of buses in the car park constitutes a change of use, as contemplated by the Act and the Regulation. That assumption may not necessarily be correct. Relevantly, the current use, being a car park, expressly permits the parking of "motor vehicles". The term "motor vehicles" is not defined. However, arguably, a passenger bus may represent a type of motor vehicle for

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ITEM 2 (continued)

ATTACHMENT 1

22 July 2014
North Ryde RSL



the purposes of the definition. If that position is correct, then no development consent would be required.

In summary, an application to change a part of the existing car park from its existing commercial use to another commercial use would be permissible, providing the planning merits of the application are satisfactory.

Should you have any questions in relation to the foregoing advice, please do not hesitate to contact us.

Yours faithfully



Anthony Perkins
Partner
Email: afp@cbp.com.au
Direct Line: +61 (02) 8281 4606

Contact: Claire Parsons
Senior Associate
Email: cfp@cbp.com.au
Direct Line: +61 (02) 8281 4610

ITEM 2 (continued)

ATTACHMENT 2



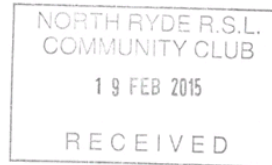
File Ref: mn88h35-002
Account No: 545674

Letter to Applicant (consent granted)

Stephen Cook
Phone: 02 9842 8338
Stephen.Cook@crowmland.nsw.gov.au

The Manager
North Ryde RSL Community Club Ltd
Cnr. Magdala Road & Pittwater Road
NORTH RYDE NSW 2113

Attention: Chris Jones



16 February 2015

Dear Sir

**Landowner's Consent for Lodgement of Applications relating to development comprising:
Approval to use part of North Ryde RSL Club's car park for the parking of buses.**

On Crown land: Lot 242 DP752035 Parish: Hunters Hill County: Cumberland

Consent is granted by the Minister administering the Crown Lands Act 1989 to the lodging a development application under the *Environmental Planning and Assessment Act 1979*, and other associated applications required under other legislation, for the development proposal described above.

This consent is subject to the following:

- (1) This consent is given without prejudice so that consideration of the proposed development may proceed under the *Environmental Planning and Assessment Act 1979* and any other relevant legislation.
- (2) This consent does not imply the concurrence of the Minister for Natural Resources, Lands and Water for the proposed development, or the issue of any necessary lease, licence or other required approval under the *Crown Lands Act 1989*; and does not prevent the NSW Trade & Investment Crown Lands from making any submission commenting on.
- (3) This consent will expire after a period of 12 months from the date of this letter if not acted on within that time. Extensions of this consent can be sought.
- (4) The Minister reserves the right to issue landowner's consent for the lodgement of applications for any other development proposals on the subject land concurrent with this landowner's consent.
- (5) Irrespective of any development consent or any approval given by other public authorities, any work or occupation of Crown land cannot commence without a current tenure from the NSW Trade & Investment authorising such work or occupation.

This letter should be submitted to the relevant consent or approval authority in conjunction with the development application and/or any other application.

It is advised that the NSW Trade & Investment will inform Ryde City Council of the issue of this landowner's consent and will request that Ryde City Council notify the NSW Trade & Investment of the subsequent development application, for potential comment, as part of any public notification procedure.

ITEM 2 (continued)

ATTACHMENT 2

You are required to forward to NSW Trade & Investment a copy of any development consent or other approval as soon as practical after that consent or approval is received.

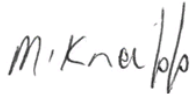
If any modifications are made to the application (whether in the course of assessment, by conditions of consent, or otherwise), it is your responsibility to ensure the modified development remains consistent with this landowner's consent.

This landowner's consent relates to the following plans and other documents as stamped and retained by the NSW Trade & Investment:

Statement of Environmental Effects prepared by Ludvik & Associates Pty Ltd dated July 2014

For further information, please contact Stephen Cook via the details given in the letter head.

Yours faithfully



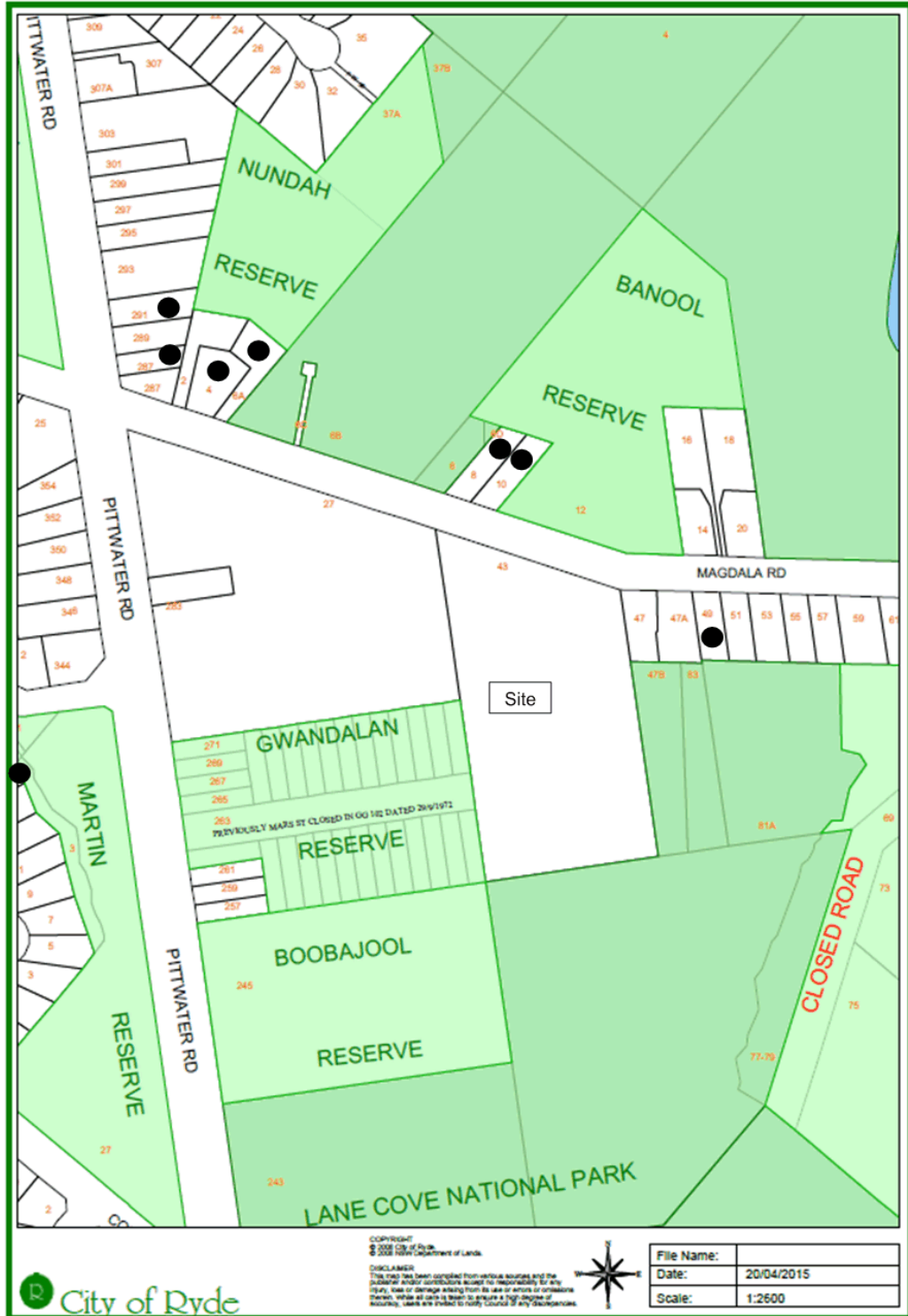
Michael Kneipp
A/Senior Manager
NSW Trade & Investment, Crown Lands, Metropolitan

16/02/2015

ITEM 2 (continued)

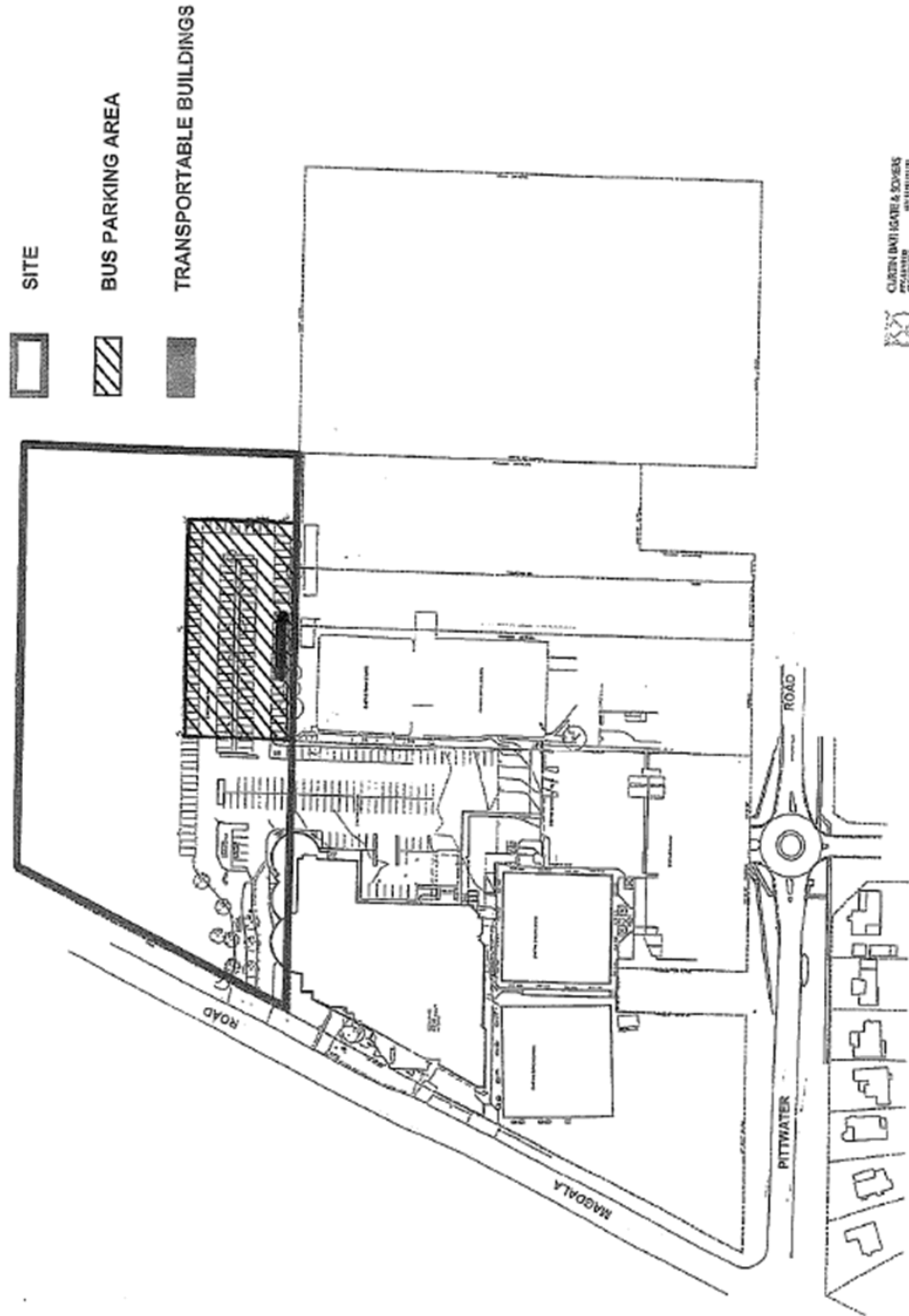
ATTACHMENT 3

● Indicates submissions received.



ITEM 2 (continued)

ATTACHMENT 4



**3 325 ROWE STREET, EASTWOOD. LOT 2 DP 18871 Development
Application - Demolition, new 2 storey dwelling. LDA2014/0411.**

Report prepared by: Creative Planning Solutions; Team Leader - Assessment**Report approved by:** Manager Assessment; Group Manager - Environment and
Planning**Report dated:** 8/04/2015**File Number:** GRP/09/5/6/2 - BP15/445

1. Report Summary**Applicant: JLA Architects****Owner: S H Li and T J Li****Date lodged: 22 September 2014 (amended plans received 21 January and
20 February 2015)**

This report considers a development application for demolition and construction of a new two (2) storey dwelling house at 325 Rowe Street, Eastwood. The DA originally proposed a 2-storey dwelling that included a large attic storage room. However, the revised plans received 21 January 2015, included the deletion of this originally proposed attic storage room.

The proposal has been assessed against the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979, the Ryde LEP 2014, and Ryde DCP 2014.

The proposed development has been assessed as generally complying with the mandatory requirements of Ryde LEP 2014 (except for the height control, to be addressed via conditions of consent) and satisfactorily meets the development controls of Ryde DCP 2014. There are some areas of non-compliance as summarised below (discussed in more detail in the body of the report):

- Topography and excavation (fill within/outside building footprint)
- Front setback (requirement for setback to be free of ancillary elements, and requirement for wall of garage to align with outside face of garage below)
- Amount of hard-paving within front setback exceeds 40%.
- Visual privacy – windows (addressed via condition)
- Tree removal (addressed via condition)

The DA was notified to neighbours in accordance with Part 2.1 DCP 2014 (Notification of Development Applications), and a total of 4 submissions was received, all from the owner of No 323 Rowe Street to the east (2 to the original DA notification, and 2 to the notification of amended plans). The issues of concern in the submissions related to bulk and scale of the dwelling, overshadowing impacts, privacy/overlooking impacts from windows, and overland flow/drainage issues. As discussed in the body of the report, these issues do not warrant refusal of the DA and can be largely addressed via conditions of consent.

ITEM 3 (continued)

Reason for Referral to Planning and Environment Committee: Requested by Councillor Perram.

Public Submissions: 4 submissions received, all from property owner at No 323 Rowe Street (to the east).

SEPP 1 (or clause 4.6 RLEP 2014) objection required? Yes. Clause 4.6 Variation Submitted, Building Height – not supported. It is recommended that the DA be approved via a condition of consent which requires amended plans to ensure a maximum building height of 9.5m.

Value of works \$616,960

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. LDA2014/0411 at 325 Rowe Street, Eastwood being LOT 2 DP 18871 be approved subject to the **ATTACHED** conditions (Attachment 1).
- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Draft Conditions
- 2 Compliance Table Ryde DCP 2014
- 3 Map
- 4 A4 Plans
- 5 A3 Plans - subject to copyright provisions - **CIRCULATED UNDER SEPARATE COVER**

Report Prepared By:
Ben Tesoriero Planning Consultant
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Chris Young
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Report Approved By:
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Manager Assessment

Dominic Johnson
Group Manager - Environment and Planning

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

Address	: 325 Rowe Street, Eastwood (Lot 2 in DP18871)
Site Area	: 581.74m ² (Deposited Plan) Site frontage to Rowe Street of 14.325m (site survey) North Eastern side boundary of 40.83m (site survey) South Western side boundary of 40.83m (site survey) Rear boundary of 14.325m (site survey)
Topography and Vegetation	: The topography of the local area has a moderate gradient, with the subject site having a cross-fall of 1:14.7 at the Rowe Street frontage. The site also slopes down from the Rowe Street frontage before rising again to the rear of the site. No existing significant vegetation has been identified on the site although Council's Consultant landscape architect/arborist has recommended the retention of the existing mature <i>Jacaranda mimosifolia</i> located within the front yard.
Existing Buildings	: Single storey dwelling house, double car port, garden shed.
Planning Controls Zoning	: R2 – Low Density Residential under Ryde Local Environmental Plan 2014
Other	: Ryde Development Control Plan 2014 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 Constraint – Overland Flow

ITEM 3 (continued)



Figure 1 - Aerial Image of subject site, including an annotation of the neighbouring property objecting to the proposed development by way of submission to Council as part of the notification of the development application.

Source: www.six.nsw.gov.au – edited by CPS

ITEM 3 (continued)

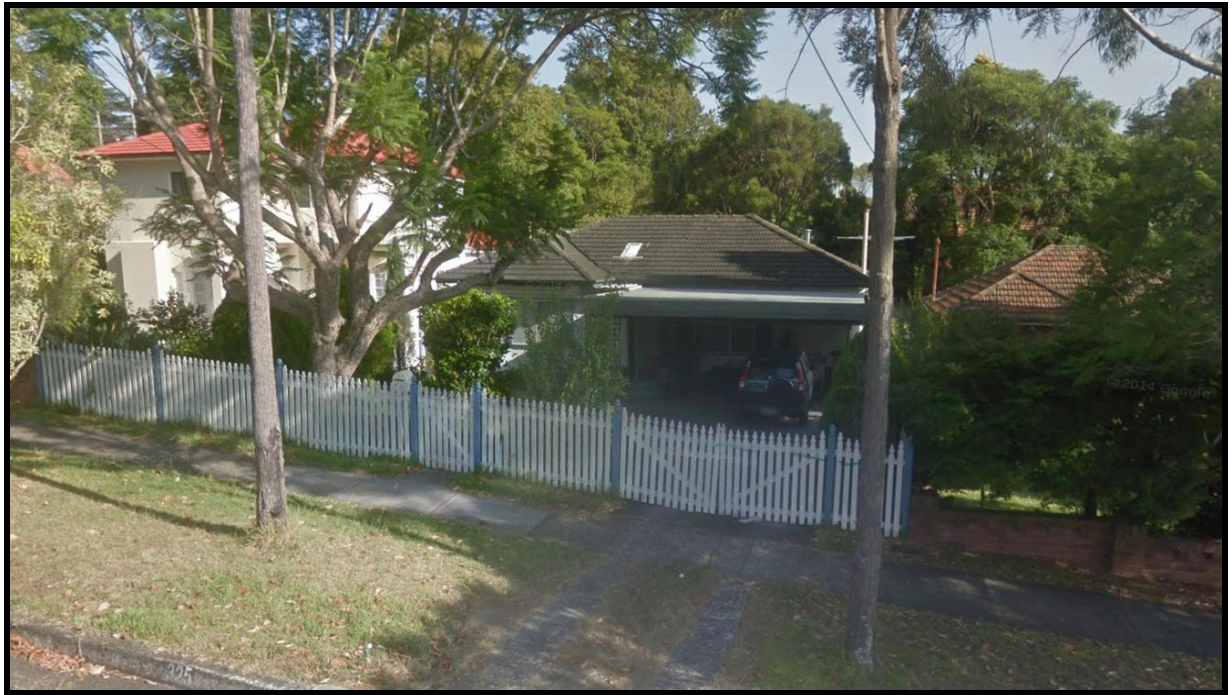


Figure 2 – View of subject site from the Rowe Street frontage.

Source: www.google.com.au/maps

3. Councillor Representations

Name of Councillor: Councillor Perram

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

Date: 17 October 2014

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

On behalf of applicant or objectors? Objectors at No 323 Rowe Street

Any other persons (e.g. consultants) involved in or part of the representation: Unknown.

4. Political Donations or Gifts

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

ITEM 3 (continued)

5. Proposal

The development proposes the erection of a two-storey dwelling house, generally containing 6 bedrooms and double garage and 1.2m high front fence.

The following is the front elevation drawing in the current (amended plan) DA submission:



Figure 3 - Front Elevation (amended plans).

6. Background

The following is a brief overview of the development history relating to the proposed dwelling house to be constructed on the subject site:

LDA2014/0411 was lodged on 22 September 2014, for a new two (2) storey dwelling house with attic storage room. Shortly thereafter, the DA was notified to neighbours for a period closing 24 September to 9 October 2014 and referred to Council's Senior Development Engineer and Consultant Landscape Architect (refer to the Submissions and Referrals Sections of this report for further detail on these processes).

Following the completion of the notification period and detailed assessment, a request for additional information was sent to the applicant by Council on 26 November 2014, raising the following matters (summarised):

- ***Floor Space Ratio*** – calculated as 306.86m² (or 0.527:1). Despite a submission of a Clause 4.6 written request by the applicant, this was not supported by Council officers as the proposed development was considered to be of a bulk and scale that was inconsistent with the desired future character for the low density residential areas of Ryde. Revised plans were requested to ensure a maximum FSR of 0.5:1.

ITEM 3 (continued)

- *Building Height* – measured at 9.83m. This was not supported by Council officers as the proposed building height was considered to be at a level that is inconsistent with the desired future character for the low density residential areas of Ryde. Revised plans were requested to ensure a maximum building height of 9.5m.
- *Car Parking, Access & Landscaping* - the original DA plans included a driveway of excessive width, which contributed to the proposal's non-compliance with the maximum hard paved area within the front yard (ie 46% hard paved area; exceeds DCP maximum 40%).
- *Visual Privacy* – the original DA plans included various potential privacy issues, including the proposed kitchen window aligning with living room windows of the dwelling to west (327 Rowe Street); and overlooking issues from the 1st floor balcony into private open space area of the dwelling to the east (323 Rowe Street).
- *Development Engineering matters* – the applicant was requested to address various matters raised by Council's Senior Development Engineer including:
 - confirmation of correct survey information used in drainage plan preparation;
 - use of front yard to store flood waters was not acceptable;
 - driveway long-section required, to comply with Australian standards and to allow for the conveyance of flood water through the site;
 - on-site detention (OSD) required for the development as site is partially affected by flooding. Suggested that a combined above ground OSD/BASIX tank be provided.
 - Drainage plan details - drainage should be connected to the existing stormwater pit (if one exists) within the property or at one location; drainage plan should show all finished ground/pit and driveway levels; and the levels shown on plans are to be consistent as different floor levels shown on different plan.
- *Submissions Received* – Council provided copies of the submissions received, for the applicant's information and response.
- *Call-up to the Planning & Environment Committee* – applicant advised that the DA had been called-up to the Planning & Environment Committee and advice of the meeting date would be provided in due course.

ITEM 3 (continued)

The applicant submitted amended architectural plans on 21 January 2015, which included the following plan amendments:

- Building roof pitch amended from 30° to 25° and reduction in overall height to RL71.11 which still demonstrates a non-compliance of approximately 90mm. A request to vary the Building Height Development Standard has been included in the revised submission,
- Attic level deleted, the submitted plans show that the proposed development now complies with the FSR of 0.5:1,
- A reduction in the driveway width to a single car width,
- Revised hard paved area within the front setback to comply with the maximum 40%,
- Notes that the kitchen window is offset from the existing window of adjoining building (No.327) at ground floor. The existing window (W1) of adjoining building (No.327) facing the kitchen is located on first floor.
- Addition of a 1.6m timber privacy screen to eastern side of rear balcony to prevent overlooking of adjacent property to the east (No. 323 Rowe Street).

In addition to the above, the applicant's letter 21 January 2015 provided a brief response to the Engineering matters (note – separate detailed engineering plans were submitted on 20 February 2015).

The revised plans submitted by the applicant on 21 January 2015 were re-notified from 29 January to 16 February 2015.

7. Submissions

The original proposal was notified to adjoining property owners in accordance with Ryde DCP 2014 – Part 2.1, Notification of Development Applications for a period from 24 September to 9 October 2014. Two (2) submissions were received, from the owner of No 323 Rowe Street to the east.

The revised plans received by Council on 21 January 2015 were re-notified between 29 January and 16 February 2015. A further 2 submissions were received, also from the owner of No 323 Rowe Street.

The key planning issues raised in the submissions regarding the proposed development are summarised and discussed as follows.

- A. Bulk and Scale** – *concerns were raised regarding the bulk and scale of the building. More specifically the submission contended that the proposed new dwelling is 'far too big' (for the subject site) as it will 'tower' over the property and is too bulky and out of scale with nearby dwellings located between Darvall Road and Harrison Avenue.*

ITEM 3 (continued)

Comment: As noted in the background section of this report, the original proposal's non-compliance with the provisions of the Ryde LEP 2014 and DCP 2014 in relation to Floor Space Ratio and Building Height were not supported by Council. Accordingly, a letter requesting additional information was sent to the applicant. This letter specifically stated that:

“the proposed development is considered to be of a bulk and scale that is inconsistent with the desired future character for the low density residential areas of Ryde.”

Revised plans and documentation was submitted to Council on 21 January 2015 and was subsequently re-notified. This documentation included a revised floor space ratio (to now comply with the provisions of Ryde LEP 2014 and DCP 2014) and overall building height (which reduced the overall height but not enough to achieve compliance with Ryde LEP 2014 and DCP 2014).

It is noted that the additional information included a request to vary the building height development standard by virtue of a maximum non-compliance of 90mm above the allowable building height of 9.5m. As detailed throughout this report, Council does not support this variation to the building height, as there is no valid reason why the proposed development cannot further reduce to the roof pitch to fit below the 9.5m height limit. It is also considered that the Clause 4.6 variation does not sufficiently demonstrate that strict compliance with the numerical control is unreasonable or unnecessary in this instance.

In order to achieve compliance with Council's Ryde LEP 2014, it is considered the building height will need to be reduced by 90mm to a maximum of 9.5m above existing ground level via the following condition of consent.

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

- *The building height (as defined in the Ryde LEP 2014) of the proposed dwelling house is to be reduced by 90mm to ensure the maximum building height complies with the 9.5m development standard contained in Clause 4.3 of the Ryde LEP 2014.*

This condition for the reduction overall building height of the proposed development has been imposed as it is considered that the modifications necessary to achieve the compliant building height could be reasonably undertaken with just a modest adjustment to the roof form that would not significantly impose on the overall design of the dwelling house and therefore not require further planning assessment.

ITEM 3 (continued)**B. Overshadowing** – *concerns are raised regarding the overshadowing as a result of the proposed development.*

Comment: As demonstrated in the shadow diagrams submitted as part of the development application (refer to **Figures 4-6** below), the proposed development is shown to have some minor overshadowing impacts on the neighbouring dwelling at No.323 Rowe Street, Eastwood between 9am and 3pm during the winter solstice.

The shadow diagrams indicate that No.323 Rowe Street, Eastwood will be subject to some minor overshadowing along its south western and south eastern elevations at 3pm on the 21st June. However, no overshadowing will occur at No. 323 from the proposed development prior to at least 12pm.

The Ryde DCP 2014 prescribes that a minimum of 3 hours solar access to a portion of neighbouring north-facing living room windows is achieved between 9am and 3pm at the winter solstice. Given the shadow diagrams indicate that adjoining windows will be free from shadows before 12pm, the dwelling at No.323 Rowe Street should achieve the minimum three (3) hours solar access at the winter solstice as prescribed in the Ryde DCP 2014.

It is noted that the submission contends that the dwelling at 323 Rowe Street seems to be in shade for much of the afternoon during the winter months. The shadow diagrams do show that the bulk of the shadows from the proposed development will be cast in the afternoon however these are mainly to the front portion of the dwelling which is also currently impacted by an existing 'lean to' shed within the western side setback of No. 323. The perception of existing shadow impacts may also be due to the existing vegetation located at the rear of the allotments at of No.323 and No.325, in addition to a rear garage to No 323 Rowe Street as shown in the aerial photo (refer to **Figure 1**). After careful review of the solar path and the shadow diagrams provided, it is considered that No.323 Rowe Street would be impacted more from the existing natural and built structures on its own allotment than from shadows cast by the proposed dwelling house at 325 Rowe Street.

Accordingly, neighbouring objections on the grounds of excessive overshadowing are not supported by virtue of the proposal being compliant with the minimum provisions of the Ryde DCP 2014.

ITEM 3 (continued)

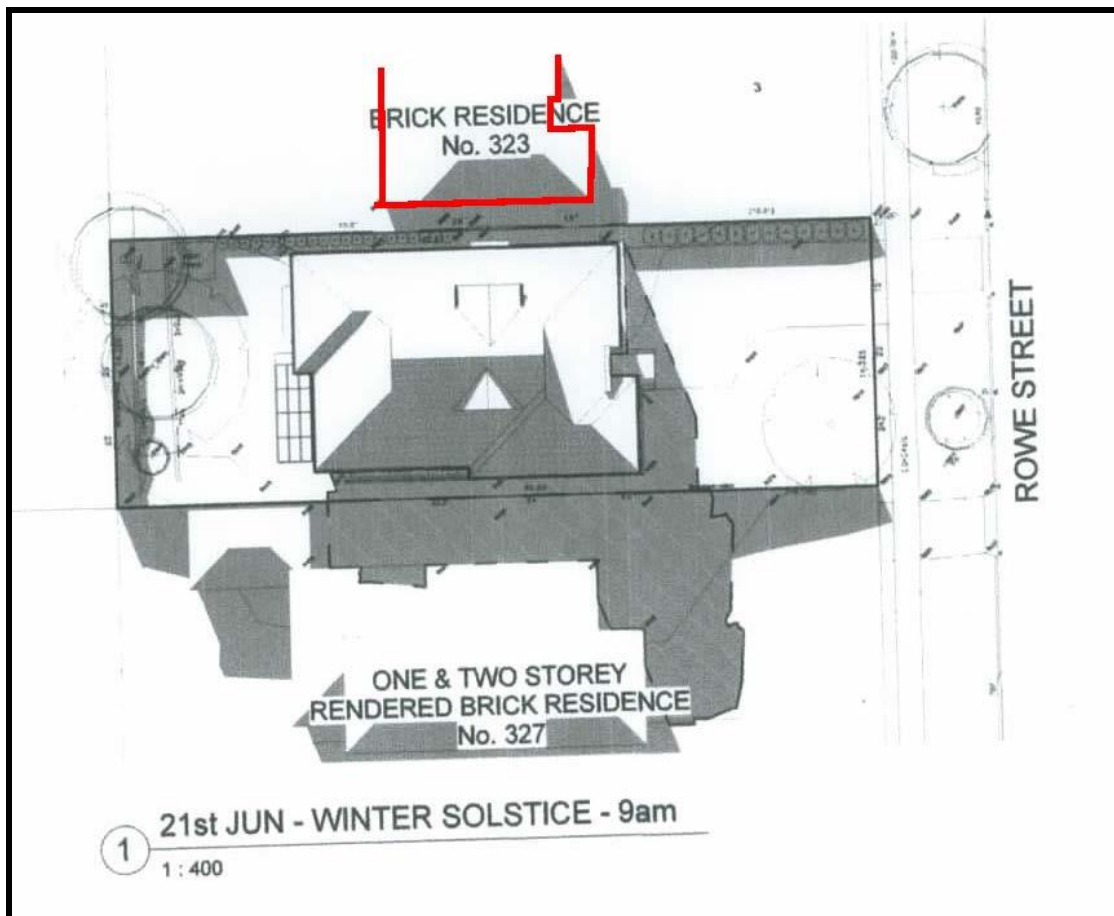


Figure 4 – Plan demonstrating proposed level of overshadowing at 9am on June 21. As can be seen the eastern facing side windows are overshadowed at 9am on June 21 (winter solstice).
Source: Submitted shadow diagrams

ITEM 3 (continued)

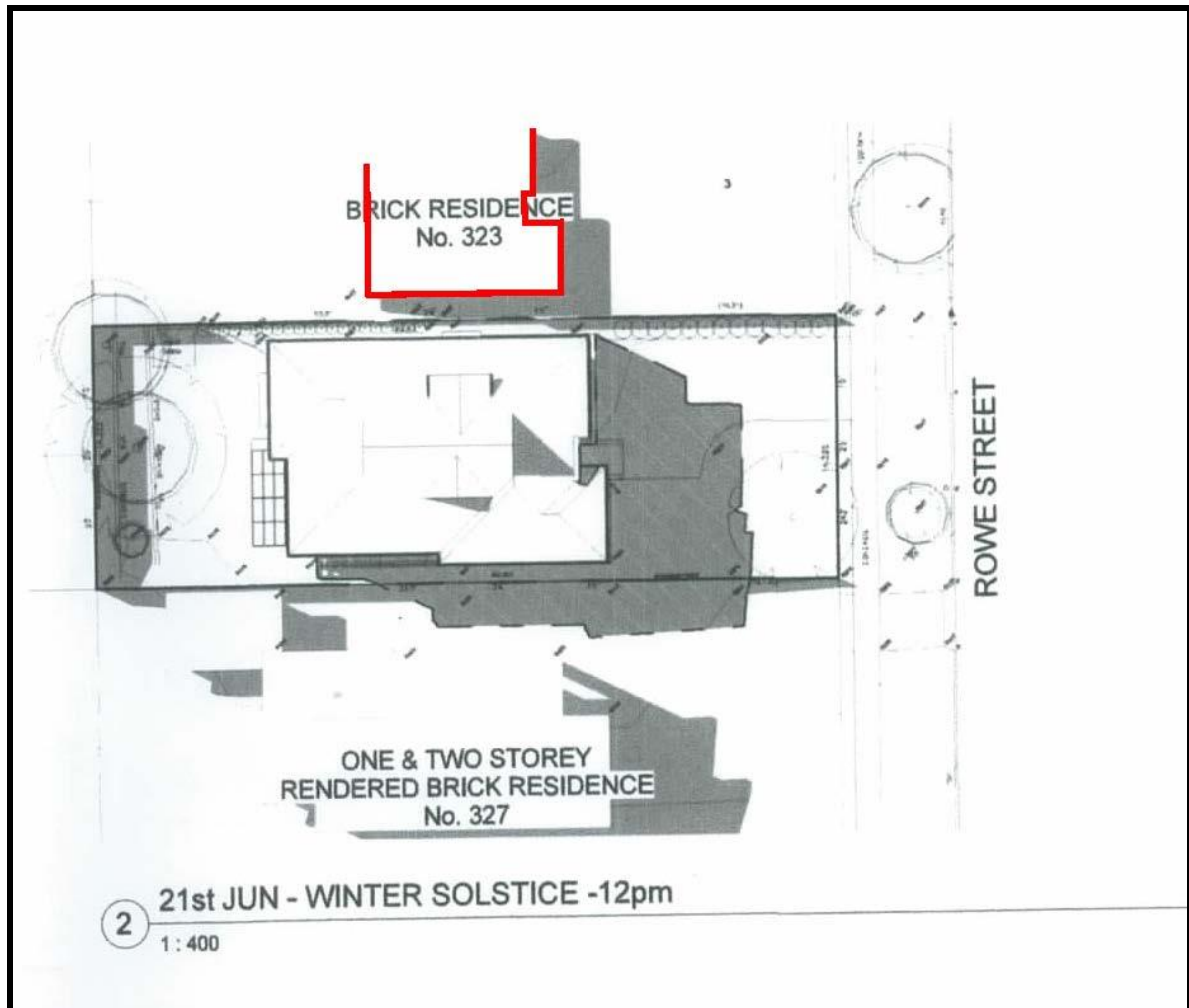


Figure 5 – Plan demonstrating proposed level of overshadowing at 12pm on June 21 on June 21 (winter solstice). As can be seen the northern facing windows of 323 Rowe Street are not overshadowed by the proposed new dwelling at 12pm and side windows are impacted by the existing lean to shed located within the side setback of 323 Rowe Street
Source: Submitted shadow diagrams

ITEM 3 (continued)

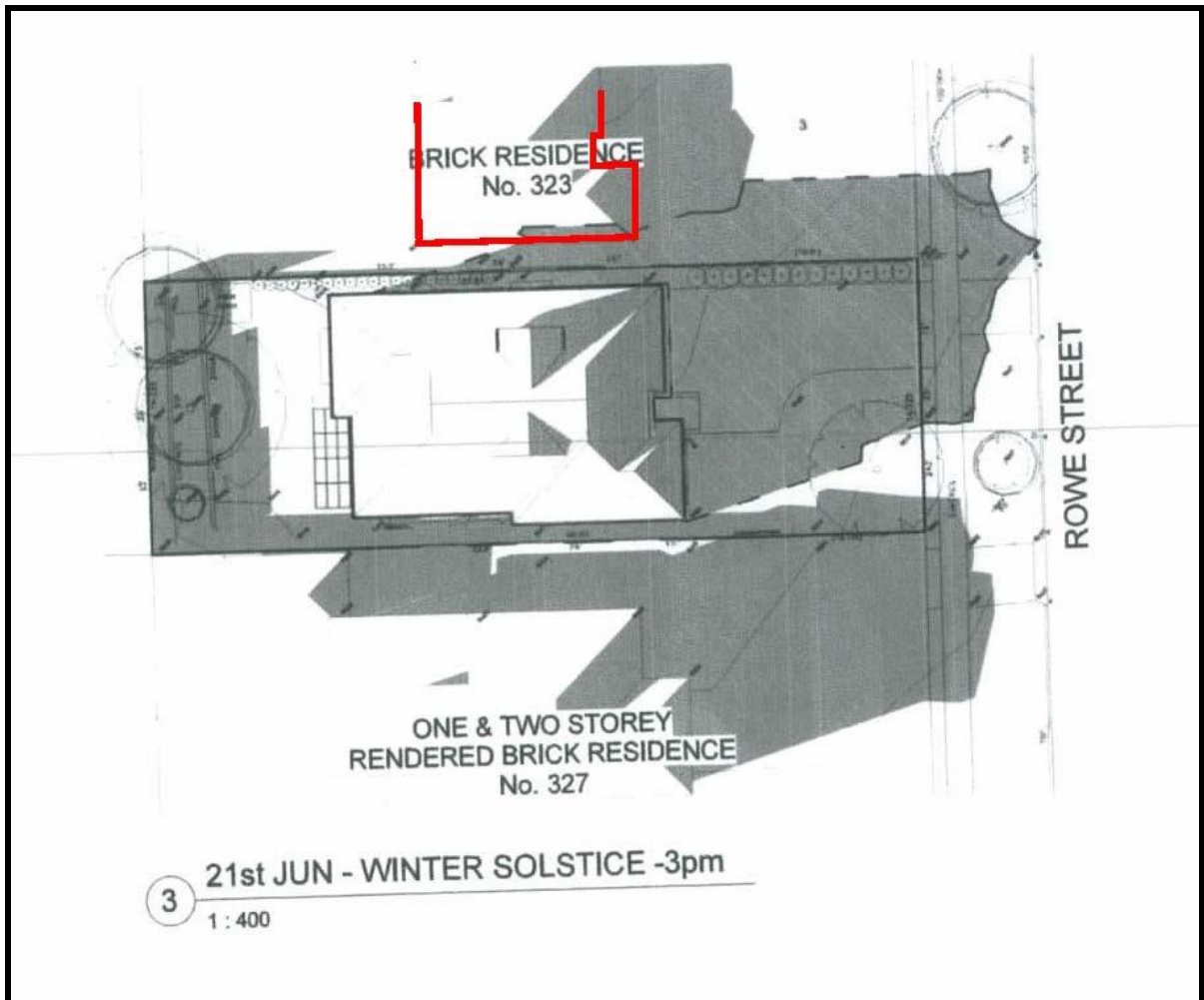


Figure 6 – Plan demonstrating proposed level of overshadowing at 3pm on June 21. As can be seen the eastern facing side windows are generally free from overshadowing by the proposed new dwelling at 3pm on June 21 (winter solstice) towards the rear of the property.

Source: Submitted shadow diagrams

ITEM 3 (continued)

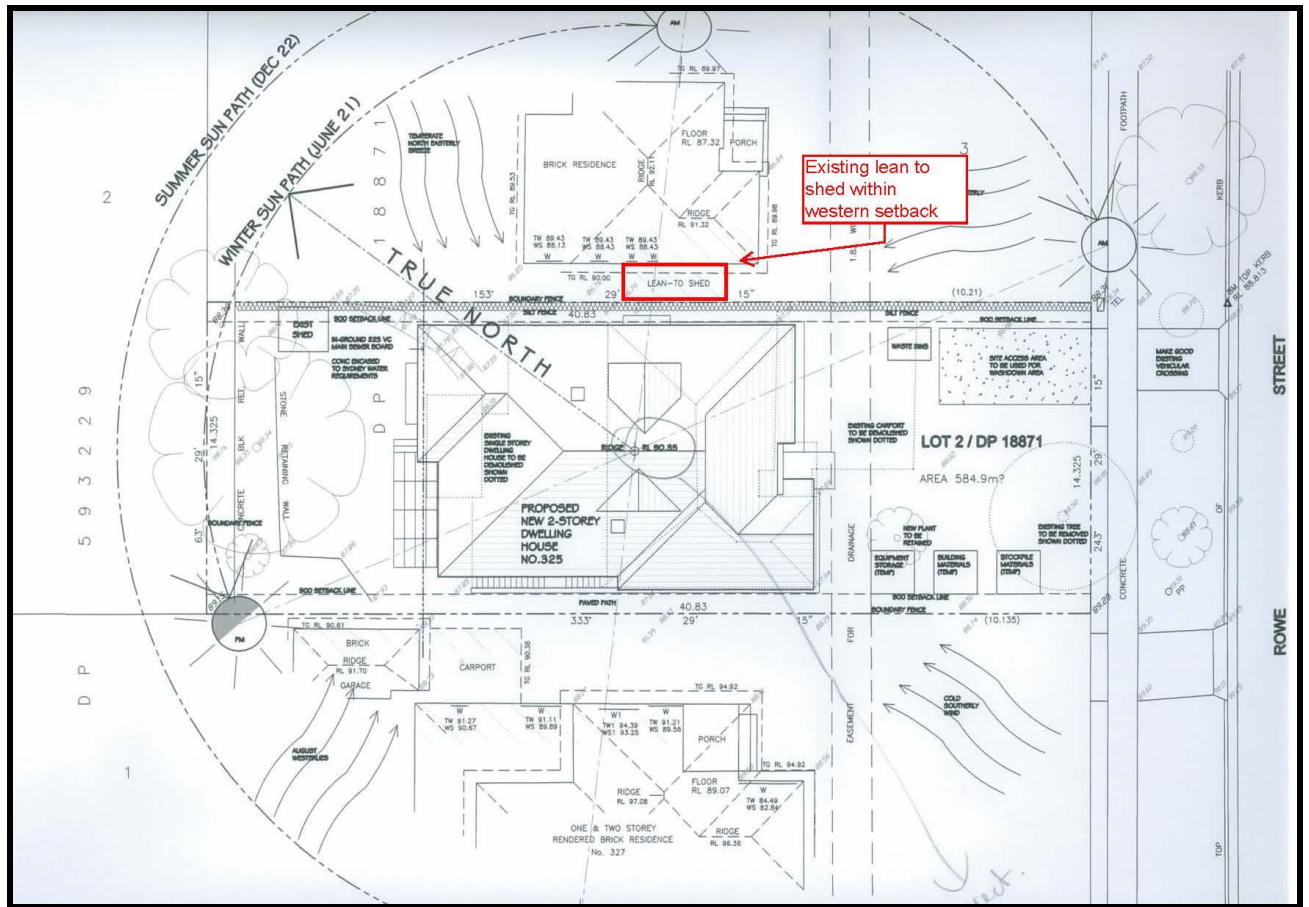


Figure 7 – Site Analysis Plan demonstrating path of sun and location of windows and structures on the subject and neighbouring allotments. Note the location of the existing lean to shed within the western side setback of 323 Rowe Street which would likely overshadow the two existing windows as detailed in the previous shadow diagrams.

Source: Submitted site analysis plan.

C. Glazing on the Eastern Façade – concerns are raised about the privacy impacts of the windows along the eastern elevation of the proposed development

Comment: The objector has rightly contended that there were no measures within the originally submitted plans to prevent the new dwelling from impacting privacy through overlooking of the adjacent dwelling and rear yard at 323 Rowe Street. This was also identified by Council officers in their preliminary planning assessment of the proposal and was detailed in the request for additional information letter sent to the applicant.

ITEM 3 (continued)

Accordingly, it was requested that revised plans be submitted to Council that take into consideration the recommendations and non-compliances with the visual privacy controls of Ryde DCP 2014. More specifically, it was recommended to the applicant that that consideration be given to modify the size, height or dimension of the proposed kitchen window, or install obscure glazing to reduce the potential for overlooking and subsequent loss of visual privacy to adjoining dwellings. In addition the letter recommended that a privacy screen be installed to the eastern elevation of the first floor balcony to reduce the opportunity for overlooking and maintain visual privacy to the neighbouring property's private open space area at 323 Rowe Street.

Notwithstanding the amendments made by the applicant, it is considered that some of the east-facing windows are a legitimate privacy concern, and as such should be conditioned to incorporate obscure glazing. In particular, the bathroom windows and windows to the stairwell could lead to some overlooking of the neighbour's property.

The remaining windows are considered to be generally compliant being at appropriate heights above the finished floor level (FFL) or offset an appropriate distance from the neighbouring windows and private open space areas of the adjoining dwellings. It is considered that the proposed window locations combined with the screening effect of the side boundary fence will not have an unacceptable privacy impact on neighbouring properties.

Accordingly, neighbouring objections on the grounds of privacy impacts from the eastern elevation windows are considered to be satisfactorily addressed by appropriate conditions of consent.

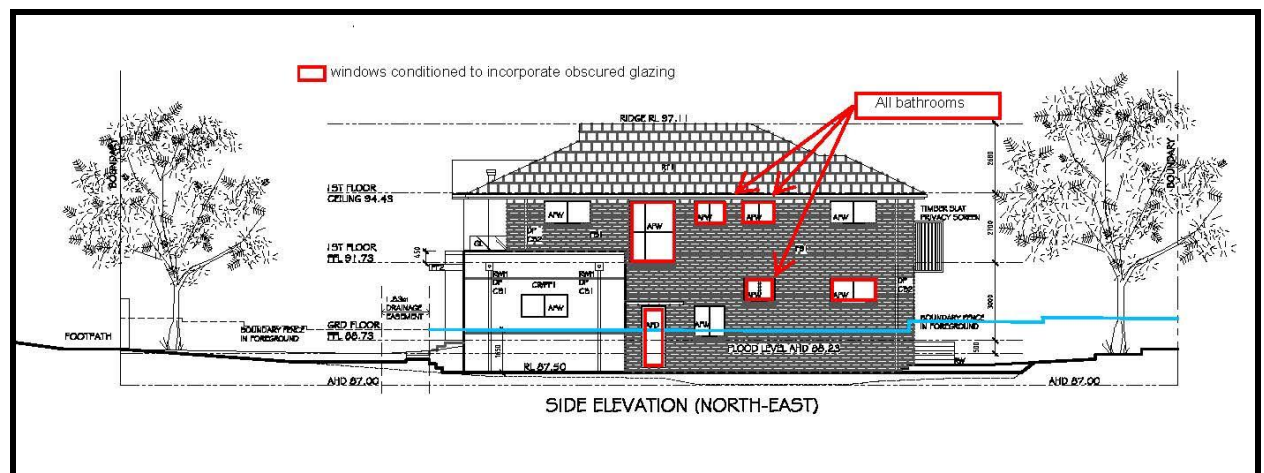


Figure 8 – Diagram showing the eastern elevation windows subject to condition of consent.
Source: Submitted elevation drawings

ITEM 3 (continued)

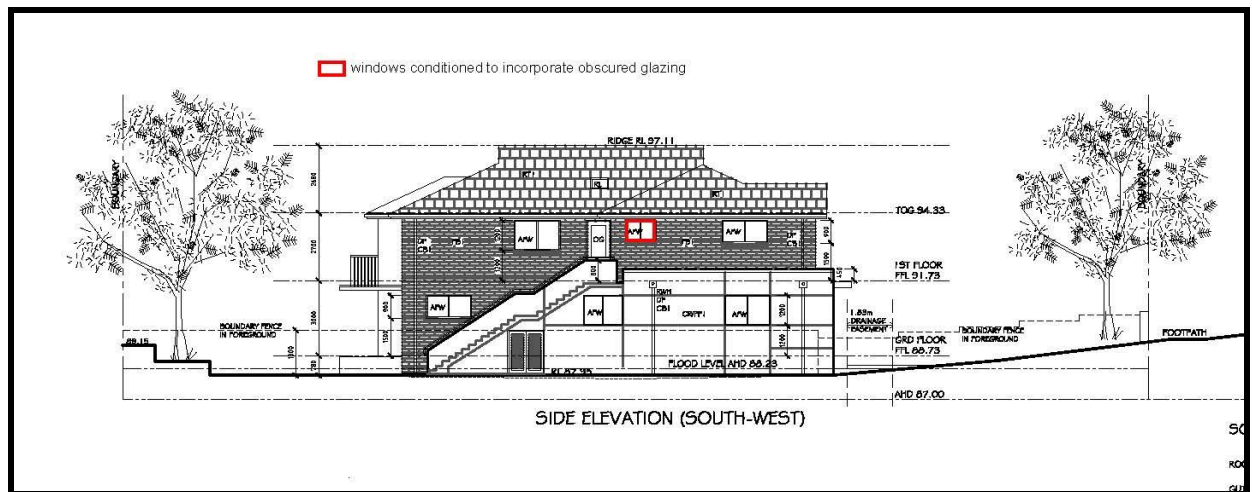


Figure 9 – Diagram showing the western elevation windows subject to condition of consent.
Source: Submitted elevation drawings

D. Overland flow – concerns are raised regarding overland flow contributing to ‘puddling of water under the objector’s house.

Comment: This site is shown on Council’s environmental constraint mapping to be located within an area subject to overland flow. It is noted that the proposed development has been designed according to the recommendations of a hydraulic engineer – LMW Design Group Pty Ltd – who recommended that the habitable floor levels be set greater than the 100 year flood level plus freeboard of 500mm. Accordingly ground floor levels for all habitable areas have been set at RL88.83 as shown on the submitted plans.

In relation to issues regarding overland flow, and potential impacts on the objector’s property at No 323 Rowe Street, it should be noted that Council’s Senior Development Engineer met with the owner of No 323 Rowe Street at the Ryde Planning & Business Centre on 11 March 2015 during the processing of this DA. The following is a summary of the advice provided to the adjoining property owner in this matter:

I spoke with the adjoining owner of 323 Rowe St on Wednesday counter duty in regards to his concerns of drainage of the above development.

He stated that he currently had damp or boggy conditions under the base of his house and believed that this was due to inadequate drainage of the upstream property. He believes this will be exacerbated by the proposed works.

ITEM 3 (continued)

I discussed the matter with him and gave him a broad outline of what we assess, what was proposed and explained the difficulties in dealing with stormwater management and overland flow. As I couldn't discuss the technicalities of the proposal without reviewing the plans, I told him that I would contact him later when I had a chance to do so.

I discussed this with him today and advised that the proposed development had;

- *Provided a reasonable level of surface inlet pits around the property, including 2 pits upstream, a pit in the forecourt and 200mm wide trench grate spanning the driveway access.*
- *Was required to provide a 3m³ rainwater tank to satisfy BASIX.*
- *Was required to provide 11m³ OSD storage.*

He indicated that he would like to see a bund along the downstream edge of the property. I responded that this would not be supported as it would increase the potential for inundation of the applicant's property and would be pointless when subject to major overland flows, in which the runoff would readily build up and overtop the structure and continue on downstream.

I've told him that due to the fall of the land and propensity for overland flow, this is not an issue that the owner should address and nor would Council expect him to address in development of his site. He understood this. I also advised him that the "boggy" soil conditions in this area would be a natural effect due to the topography of the area and, even if the upstream properties were not developed, he would likely experience this in this location. He seemed to agree with this as well.

There appears to be a misunderstanding of the difference between the management of stormwater from the development, methods to address major overland flow and the natural groundwater conditions that affect this area.

8. SEPP1 (or clause 4.6 RLEP 2014) objection required?

Required for variation to building height.

It is noted that a Clause 4.6 Variation was submitted with the revised plans due to a non-compliance of 90mm above the allowable building height of 9.5m. As detailed throughout this report, Council officers do not support this variation to the building height. This is because there is considered to be no valid reason why the proposed development cannot further reduce to the roof pitch to fit below the 9.5m height limit. It is also considered that the Clause 4.6 variation, as submitted, does not sufficiently demonstrate that strict compliance with the numerical control is unreasonable or unnecessary in this instance.

ITEM 3 (continued)

9. Policy Implications

Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Local Environmental Plan 2014

Zoning

Under Ryde LEP 2014 the zoning of the subject site is R2 Low Density Residential. The proposed development is permissible with consent under this zoning.

Principal Development Standards

A full assessment of the proposal against the relevant principal development standards contained within the Ryde LEP 2014 is illustrated in the Compliance Check table attached (**Attachment 2**). The following outlines the relevant development standards applying to the proposed development, along with a comment as to how the proposal performs against these development standards:

Clause 4.3 – Height of buildings. Sub-clause (2) of this clause states that:

“the height of a building on any land is not to exceed the maximum height for the land shown for the land on the height of buildings map”.

In this case, the maximum height is 9.5m. The maximum height of the proposed new dwelling is 9.59m, which is 90mm over the prescribed maximum and therefore does not comply with the provisions of the Ryde LEP 2014.

Clause 4.6 of the Ryde LEP 2014 includes exceptions to development standards. Specifically, Clause 4.6(3) indicates 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.

It is noted that Council has received a written request from the applicant to justify the contravention of the development standard. The applicant has submitted that the proposed variation from the numerical requirement is considered acceptable for the following justifications.

- *The proposed building when viewed from the street is less than 9.5m height limit and is compatible in scale to adjoining buildings that are 2-storey in height.*
- *The proposed development – building form is compatible to the existing and future 2-storey adjoining buildings in the neighbourhood.*

ITEM 3 (continued)

- *The existing single storey dwelling house of adjoining property No.325 Rowe Street is on the lower site when been developed into a 2-storey building in the future will be compatible in scale.*
- *The proposed building will not cause significant adverse overshadowing impact on adjoining*
- *properties (refer plan No.DA105/A - Winter Solstice shadow diagrams)*
- *The proposed development meets the objectives of this clause*

Having regard to the above justification, it is considered that compliance with the Building Height development standard is not unreasonable or unnecessary, and that the above justification does not provide sufficient environmental planning grounds to justify contravening the development standard in the circumstances of the proposal.

The proposed written application to vary the building height development standards is not considered to have satisfactorily addressed the below matters,

- *address whether strict compliance with the standard, in the particular case, would be unreasonable or unnecessary and why, and*
- *demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.*

In addition to the above it is noted that the proposed application to vary the building height development standard has not addressed all matters set out in the 'five part test' established by the NSW Land and Environment Court and as set out by the Department of Planning Guidelines to preparing an application to vary a development standard and detailed below,

1. *the objectives of the standard are achieved notwithstanding noncompliance with the standard*
2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

Given that the application to vary the building height has not sufficiently justified the variation according to the requirements of Clause 4.6 of Ryde LEP 2014 and the NSW Department of Planning Guidelines, the application to vary the aforementioned development standard is not supported.

ITEM 3 (continued)

It is also considered that a reduction in height of this ridge level could be undertaken without impacting on the floor plan or layout of the development. Additionally, the slight reduction in height of this ridge level, which is needed for the dwelling to comply with the development standard, is not considered to be to the detriment of the architectural aesthetic of the building.

As the proposed building height fails to achieve the development standard, a condition is recommended to be imposed to ensure the building height of the proposed development complies with the mandatory requirements of the Ryde LEP 2014.

In order to achieve compliance with Council's Ryde LEP 2014, the building height will need to be reduced by 90mm to a maximum of 9.5m above existing ground level via the following condition of consent.

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

- *The building height (as defined in the Ryde LEP 2014) of the dwelling house is to be reduced by 90mm to ensure the maximum building height complies with the 9.5m development standard contained in Clause 4.3 of the Ryde LEP 2014.*

This condition for the reduction of the overall building height has been imposed as it is considered that the modifications necessary to achieve the compliant building height could be reasonably undertaken with just a modest adjustment to the roof form that would not significantly impose on the overall design of the dwelling house and therefore not require further planning assessment.

Clause 4.4 - Floor Space Ratio. Clause 4.4 of the Ryde LEP 2014 prescribes development standards for the maximum floor space ratio on land shown on the 'Floor Space Ratio Map' included within the Ryde LEP 2014. The maximum prescribed floor space ratio identified for the subject site on the Floor Space Ratio Map is 0.5:1.

When utilising the appropriate definition for 'gross floor area' as prescribed in Ryde LEP 2014, the total gross floor area of the building has been calculated to be 290.35m².

The site area of the allotment has been identified as 581.735m² pursuant to Deposited Plan 18871.

Accordingly, given the above, the floor space ratio of the proposed development has been calculated as 0.499:1, thus complying with the maximum floor space ratio for the subject site.

ITEM 3 (continued)**(b) Relevant State Environmental Planning Policies (SEPPs)**State and Sydney Regional Environmental Planning PoliciesState Environmental Planning Policy (Building Sustainability Index: BASIX) 2004:

A BASIX Certificate (No. 535626S_02 dated 12 September 2014) was submitted with the original development application. However since lodgement of the original application, the design of the proposed dwelling house has been modified by virtue of the response to Council's additional information request.

As covered by Clause 55A(3) of the Environmental Planning and Assessment Regulation 2000, if an amendment or variation of a development application, or of any accompanying document, results in the proposed development differing in any material respect from the description contained in a current BASIX certificate for the development, the application to amend or vary the development application must have annexed to it a replacement BASIX certificate whose description takes account of the amendment or variation.

Accordingly, it is considered that despite the original plans having been revised the proposed development remains materially the same as that originally submitted. As such a new BASIX Certificate to replace the original BASIX Certificate that accompanied the development application is not considered necessary.

(c) Any draft LEPs

There are no draft Local Environmental Plans of relevance to the subject proposal.

(d) The provisions of any development control plan applying to the land**Ryde Development Control Plan 2014**Part 3.3 Dwelling Houses and Dual Occupancy Attached

The proposal has been assessed using the development controls contained in Ryde DCP 2014 and a full assessment is detailed in the Compliance Check table attached (**Attachment 2**). The following is an assessment of the non-compliances of the subject DA against the applicable components of Ryde DCP 2014.

Non-Compliances: Justifiable*Topography and Excavation*

Section 2.5.2 of Part 3.5 of the Ryde DCP 2014 prescribes the following development controls relating to topography and excavation:

ITEM 3 (continued)

- b. *The area under the dwelling footprint may be excavated or filled so long as:*
 - i. *the topography of the site requires cut and/or fill in order to reasonably accommodate a dwelling;*
 - ii. *the depth of excavation is limited to 1.2 metres maximum; and*
 - iii. *the maximum height of fill is 900mm.*
- c. *Areas outside the dwelling footprint may be excavated and/or filled so long as:*
 - i. *the maximum height of retaining walls is no greater than 900mm; and*
 - ii. *the depth of excavation is not more than 900mm; and*
 - iii. *the height of fill is not more than 500mm; and*
 - iv. *the excavated and filled areas do not have an adverse impact on the streetscape; and*
 - v. *the filled areas do not have an adverse impact on the privacy of neighbours; and*
 - vi. *the area between the adjacent side wall of the house and the side boundary is not filled; and*
 - vii. *the filled areas are not adjacent to side or rear boundaries.*
- d. *Fill is not allowed in areas of overland flow. Refer to Part 8.2 Stormwater Management under this DCP.*
- e. *Generally the existing topography is to be retained. The areas of excavation and fill are to be minimised.*

An assessment of the fill arrangements for the proposed development have revealed that the proposed level of fill within the building footprint is up to 1,069mm and the proposed level of fill outside the building footprint is up to 860mm.

Although exceeding the maximum levels of fill on site, these non-compliances with the numerical controls can be supported for the following reasons:

- The subject site is identified as being flood affected. The raised floor level meets Council's Flood data requirements and the submitted letter from the Applicant's Hydraulic Engineer whereby any habitable floor level on the subject site must be higher than the 1 in 100 year flood level plus a 500mm freeboard. The raised floor level of the proposed development at RL88.73 AHD has been designed to comply with this requirement. It is therefore considered inevitable that a site with such flooding constraints would exceed the maximum fill height. Furthermore the proposed fill levels are not considered excessive given the existing contours of the subject site.
- The proposed fill at the rear of the dwelling outside the building envelope is not considered fill in the true sense of the word i.e. ground built up using natural material and enclosed using a retaining wall. Rather the fill relates to a proposed timber deck to be built to just below the FFL of the family dining room at RL88.68.

ITEM 3 (continued)

- Fill techniques have been implemented across the site to allow a compliant flood level and also to achieve a more uniformed built form presentation to the street. This also helps for the building to closer align with Council's numerical topography and excavation controls.
- Natural ground levels are considered to be reasonably maintained where possible across the site.
- When viewed from the streetscape the dwelling (subject to the reduction in overall building height as dealt with via condition of consent) will appear as being consistent with the surrounding development along Rowe Street, most specifically the neighbouring two storey dwelling house to the west, presenting at a similar height as the proposed dwelling.
- The subject dwelling house has incorporated a split level design so as to step the building bulk down the allotment rather than present a single elevated finished floor level.



Figure 10 - Existing streetscape adjoining the subject site showing recent two-storey development akin to that proposed on the subject site.

Source: www.google.com.au/maps

ITEM 3 (continued)

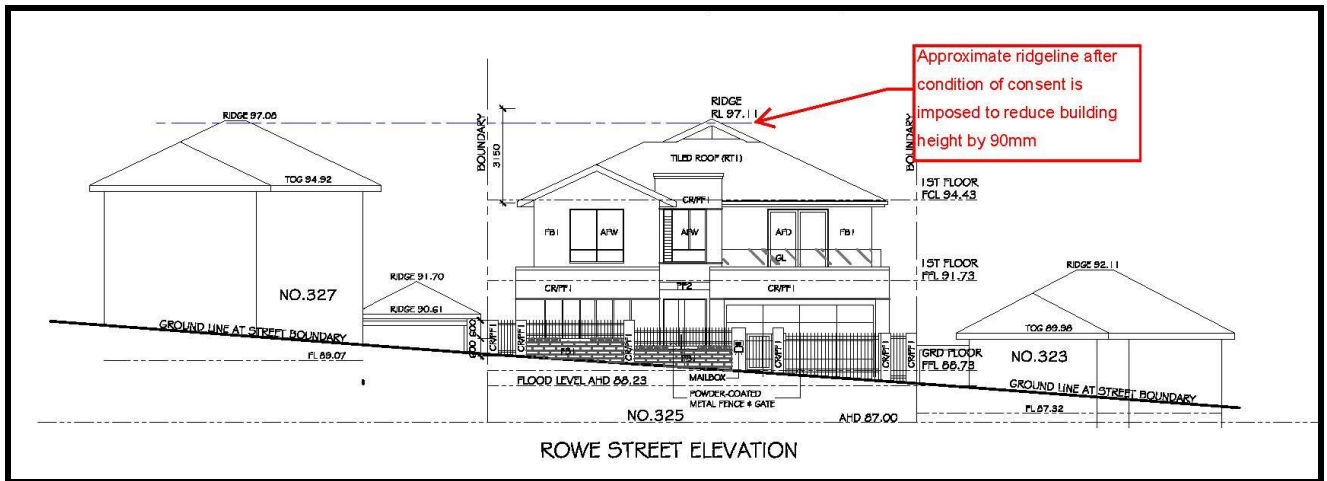


Figure 11 - Proposed streetscape elevation plan showing approximate revised ridgeline (subject to condition of consent to further lower by 90mm) relative to adjacent dwellings
Source: Submitted elevation drawings

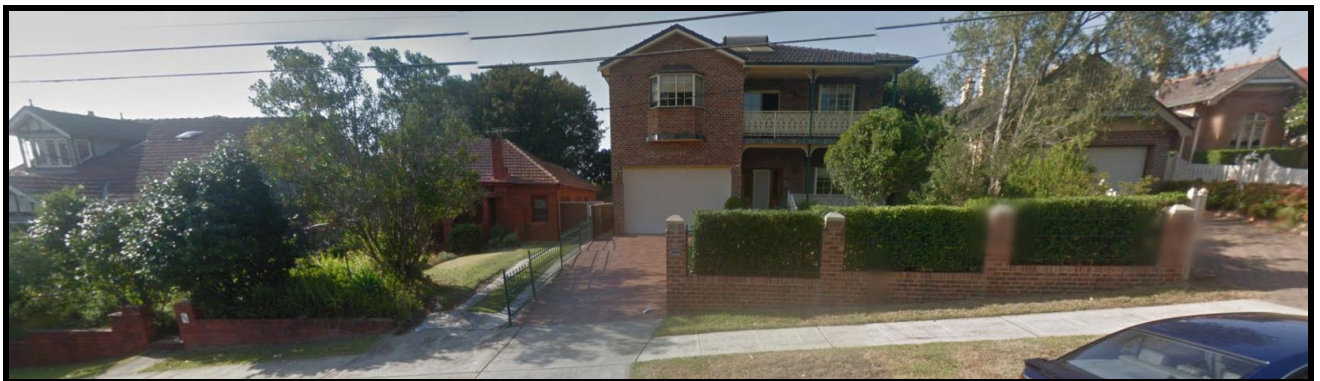


Figure 12 - Examples of similar two storey dwellings in Rowe Street opposite the subject site
Source: www.google.com.au/maps

ITEM 3 (continued)

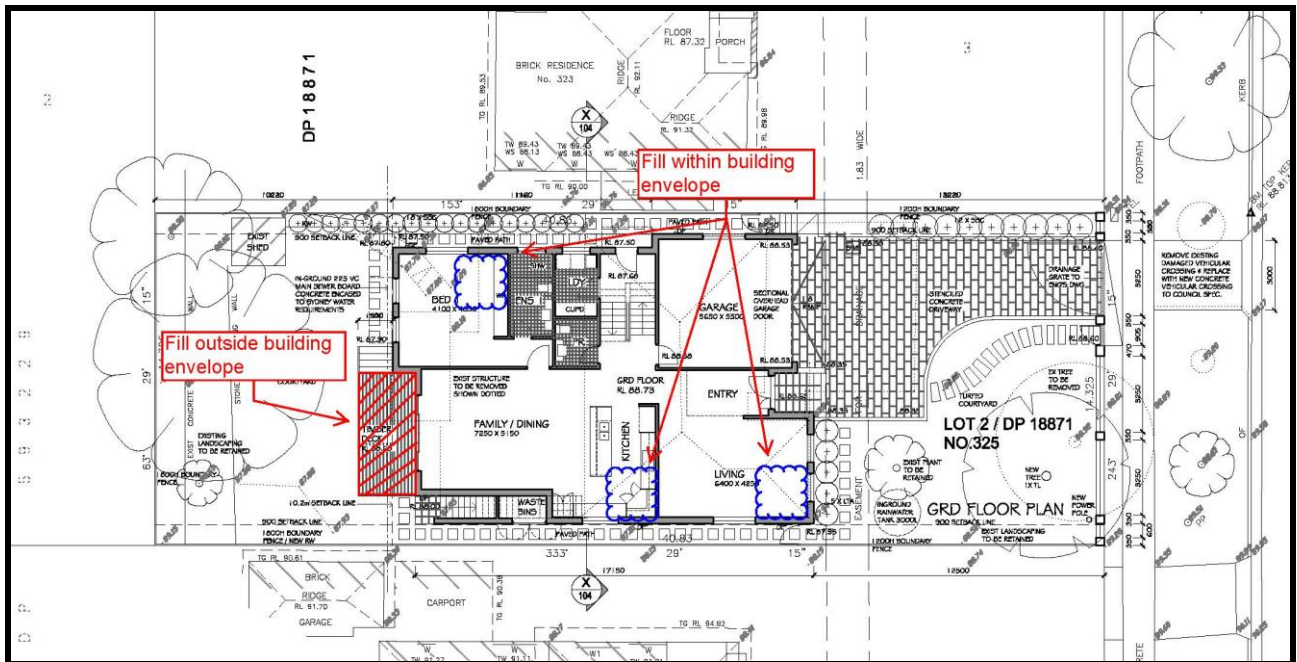


Figure 13 – This diagram shows the main proposed areas of fill non-compliance on the subject site. Note that fill outside the building envelope is in the form of a timber deck rather than introduction of soil to the site.

Source: Submitted site plan.

Setbacks – Front Setback

Section 2.8.1 of Part 3.3 of the Ryde DCP 2014 prescribes development controls for front setbacks. Specifically, these controls state dwellings are generally to be set back 6 metres from the street front boundary. The following front setback controls are also prescribed:

- a. Dwellings are generally to be set back 6 m from the street front boundary.
- b. ...
- c. Garages and carports, including semi-basement garages and attached garages, are to be set back a minimum of 1 m from the dwelling's front façade.
- d. The front setback is to be free of structures, and ancillary elements such as rainwater tanks and air conditioning units. The exception is car parking structures which comply with section 2.11.
- e. ...
- f. The outside face of a wall built above a garage which faces the street is to align with the outside face of the garage wall below.

ITEM 3 (continued)

An assessment of the proposed development has revealed that the front setback of the dwelling house is more than compliant with the 6m minimum front setback. However it is noted that the plans show that the front setback is not free of ancillary elements, and includes OSD and an 'in-ground' rainwater tank. In addition it is also noted that the wall above the garage is does not align with the outside face of the garage below. This is because the Level 1 balcony adjacent to Bedroom 4 is located above the proposed garage.

In relation to the proposed OSD and rainwater tank, it is noted that the referral comments from Council's Senior Development Engineer has stated that this is not approved and is required to be relocated to the side setback area.

Having regard to the alignment of the wall above the garage, although not complying with the front setback control, this non-compliance with Council's numerical controls can be supported for the following reasons:

- The front setback of the proposed dwelling house is a minimum 12.5m,
- The proposed garage is setback 1m from the main dwelling façade,
- The proposed level 1 balcony will provide opportunities for casual surveillance over the public domain,
- The building façade is well articulated and provides visual interest in the form of a balcony over the garage,
- The front setback provides sufficient pervious area and reduced hard paved area.

As covered by Section 79C(3A)(b) of the Environmental Planning and Assessment Act 1979, if a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development.

Landscaping

Section 2.12 of Part 3.3 of the Ryde DCP 2014 prescribes the following development controls for landscaping:

- e. Provide a landscaped front garden. Hard paved areas are to be minimised, and at a maximum, are to be no more than 40% of the front garden areas.*

As assessment of the submitted architectural and landscape plans of the front garden, indicates that the portion of the front garden to be hard paved is calculated at 43.31% (81m²) of the total front garden area. The proposed front garden therefore exceeds the maximum of 40% hard paved area prescribed in the Ryde DCP 2014.

ITEM 3 (continued)

Although proposing an area of hard paving that is above the maximum allowable, this non-compliance can be supported for the following reasons:

- The proposed hard paved area in the front setback allows for the creation of a driveway to access dwelling house development from Rowe Street;
- Hard paved areas are considered to have been minimised and soft landscaping has been provided where possible in the front yard;
- Revised plans were submitted by the applicant showing that the driveway width had been reduced from approximately 4.8m to 3.69m;
- Where possible the front yard has incorporated areas of deep soil planting that softens the visual impact of development on the site;
- Council's Consultant Landscape Architect has imposed a condition requiring the retention of the mature *Jacaranda mimosifolia* in the front landscaped area;
- Council's Senior Development Engineer has conditioned the development to provide OSD and rainwater retention within the side setback thus increasing the area available for deep soil landscaping.

For further details on how the proposed landscaping meets the requirements required on site, please refer to the compliance checklist included as an attachment to this report and to the Consultant Landscape Architect comments in the referral section.

It is considered that the proposed front yard meets the objectives of Section 2.12 of Part 3.3 of the Ryde DCP 2014 as it enhances the appearance and amenity of the development, is in character with the locality and streetscape. Therefore the above non-compliance can be supported in this instance.

Non-Compliances Resolved via Conditions:***Building Height***

As noted above, it is proposed to rectify the non-compliance with the 9.5m height restriction in Ryde LEP 2014 (also same control applies in Ryde DCP 2014) via a condition of consent.

Visual Privacy

Section 2.14.2 of Part 3.3 of the Ryde DCP 2014 prescribes the following controls relating to visual privacy:

- a. *Orientate the windows of the main internal living spaces such as living rooms, dining rooms, kitchens, family rooms and the like, generally to the front or to the rear of allotments.*
- b. *Orientate terraces, balconies and outdoor living areas to either the front or the rear of allotments, and not to the side boundaries.*

ITEM 3 (continued)

- c. Terraces and balconies are not to overlook neighbour's living areas and private open space.*
- d. Living room and kitchen windows, terraces and balconies are not to allow a direct view into neighbouring dwellings or neighbouring private open space.*
- e. Side windows are to be offset by distances sufficient to avoid visual connection between windows of the subject dwelling and those of the neighbouring dwelling.*
- f. Splayed walls with windows are not to be located above ground level where the windows will provide views into neighbouring allotments.*

Visual Privacy – External Stairs (western side)

A review of the plans submitted shows an external stair located within the western side setback providing pedestrian access to the first floor level of the dwelling. The external stair incorporates an elevated landing approximately 3.78m above existing ground level below. It is considered that this elevated landing has the same potential privacy impacts as a trafficable side terrace and or balcony.

This non-compliance is not supported for the following reasons:

- The stair is not orientated to either the front or rear of the property rather it is orientated to the western side boundary of the property;
- The stair provides an elevated external trafficable area that will result in potential overlooking into neighbouring allotment (327 Rowe Street);
- The proposed external stair will unnecessarily add to the visual bulk of the building, and is a building element not generally supported by Council; and
- The ground floor internal and external area remains accessible via the proposed internal stairwell without the inclusion of this external staircase.

In addition to the above, although it may not be the intention of the applicant, it is considered that the proposed external staircase may give rise to the second level of the dwelling house being reconfigured in a fashion that would allow this level to be utilised as a separate domicile or dwelling.

ITEM 3 (continued)

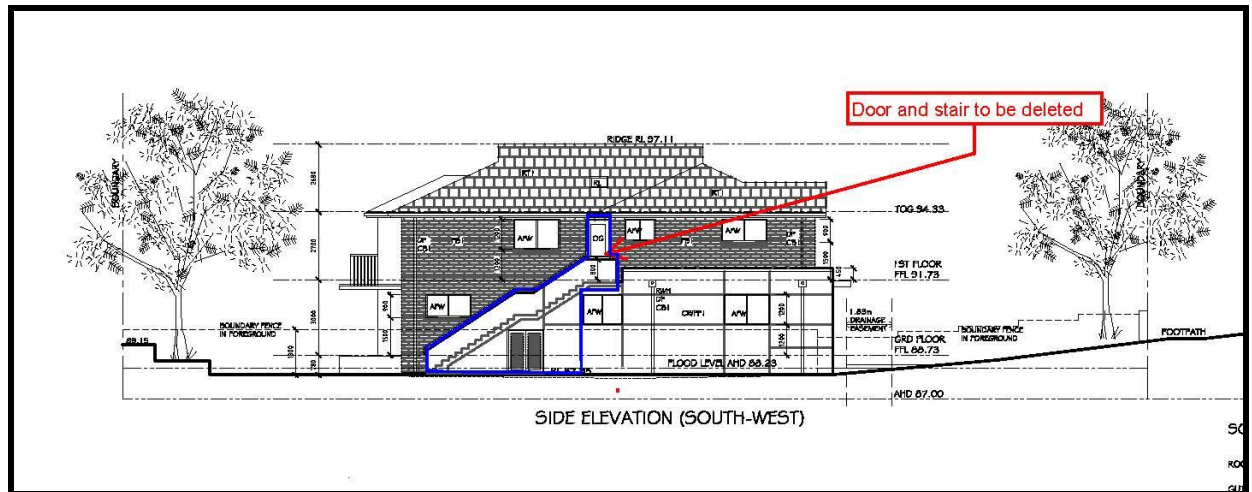


Figure 14 – South west elevation, stair and door to be deleted
Source: Submitted elevation drawings

In order to achieve compliance with Ryde DCP 2014, the proposed external stair will be required to be deleted via the following condition of consent.

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

- *The proposed external stairs and doorway at Level 1 shown on the plans on the south western elevation is not supported. Plans showing the deletion of these stairs and door including any internal reconfiguration necessary are to be provided.*

This condition for the deletion of the proposed external stairs has been imposed as it is considered that the modifications necessary remove the stairs and Level 1 door could be reasonably undertaken with just a modest adjustment to plans and first floor layout which would not significantly impose on the overall design of the dwelling house and therefore not require further planning assessment.

Visual Privacy – Window Glazing

As noted previously in this report, some of the east and west facing windows are required to be provided with obscure glazing, to ensure privacy is maintained both within the dwelling and to adjoining dwellings. Accordingly, it is recommended that the following condition be imposed to ensure all windows meet the controls set out within Section 2.14.2 of Part 3.3 of the Ryde DCP 2014:

ITEM 3 (continued)

Window Treatment. *All windows and doors shown marked in red on the approved plans are to be modified to include privacy measures that prevent a visual connection with adjacent dwellings. To minimise the potential for direct views obscure glazing or similar treatment must be installed. Plans that include details demonstrating compliance with this condition are to be submitted and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.*

Landscaping

Section 2.12 of Part 3.3 of the Ryde DCP 2014 prescribes development controls for landscaping. Specifically it states that:

- a. *Major existing trees are to be retained in a viable condition whenever practicable, through the appropriate siting of buildings, accessways and parking areas and through appropriate landscape treatment. Refer to Part 9.6 Tree Preservation in this DCP*

- h. *The front garden is to have at least 1 tree capable of a minimum mature height of 10 m with a spreading canopy.*

As detailed in the Landscape Referral comments later in this report, the removal of the large *Jacaranda mimosifolia* (Tree 5) within the front yard of the allotment is not supported and is recommended for retention.

ITEM 3 (continued)

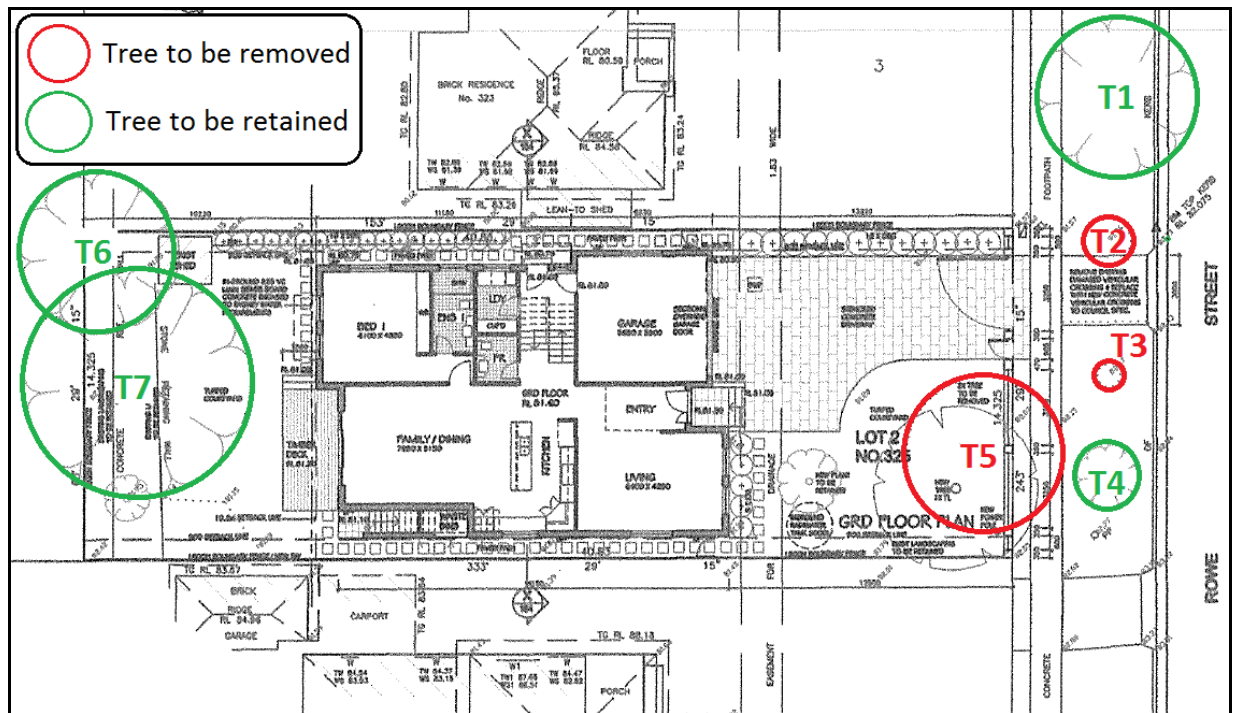


Figure 15 – Plan showing trees to be removed. Note that removal of T5 *Jacaranda mimosifolia* is not supported by Council’s Consultant Landscape Architect.

Source: Landscape Plan – edited by CPS

Accordingly, the following conditions have been recommended to ensure a Project Arborist is engaged to undertake appropriate tree protection and supervise all works that may impact on those trees that are to be retained.

Tree Removal - removal of *Jacaranda mimosifolia* within the front garden of the proposed development is **not approved** and must be retained and adequate protection measures installed to ensure its protection.

Project Arborist - A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for all trees to be retained on the subject site, neighbouring allotments and Council verge. All trees are to be monitored to ensure adequate health throughout the construction period is maintained. Additionally, all work within the Tree Protection Zones is to be supervised throughout construction. Details of the Project Arborist are to be submitted to Council prior to the commencement of construction.

ITEM 3 (continued)On – site Stormwater Detention

Section 2.12 of Part 3.3 of the Ryde DCP 2014 prescribes development controls for landscaping. Specifically it states that

- m. On site stormwater detention is generally not to be located in the front setback unless it is a underground tank located beneath the driveway.*

In addition to the above it is also noted that Section 2.8.1 of Part 3.3 of the Ryde DCP 2014 prescribes development controls for front setbacks which state

- d The front setback is to be free of structures, and ancillary elements such as rainwater tanks and air conditioning units. The exception is car parking structures which comply with section 2.11.*

It is noted that the referral comments received from Council's Senior Development Engineer state:

Provision of the onsite detention basin within the flood affected area of the property is not suitable. During a 100 year ARI storm event, the basin will be submerged and the OSD system will not work.

Therefore aboveground OSD tanks should be provided on the side yard. The application has been conditioned accordingly for applicant to address this at CC stage.

A suitable condition has been recommended by Council's Senior Development Engineer in relation to the re-location of the OSD within the courtyard areas (see condition 40 (a)).

Topography and Excavation

Section 2.5.2 of Part 3.5 of the Ryde DCP 2014 prescribes the following development controls relating to topography and excavation:

- d. Fill is not allowed in areas of overland flow. Refer to Part 8.2 Stormwater Management under this DCP.*

The site is shown on Council's constraint mapping to be subject to overland flow. It is noted that fill is proposed within the building envelope and to a lesser extent outside the building envelope.

The proposed development and revised stormwater plans were referred to Council's Senior Development Engineer who has provided the following condition of consent in relation to excavation within overland flow areas.

ITEM 3 (continued)

Overland Flow path. No filling, alteration to the surface levels or other obstructions within the overland flow path across the site shall be made without prior approval of Council.

Fencing

Section 2.15 of Part 3.3 of the Ryde DCP 2014 prescribes development controls for front, and return fences and walls. In particular it is stated that:

i. In areas of overland flow, fencing shall be of open construction so that it does not impede the flow of water.

The street elevation plan submitted with the development application, indicate a solid masonry base to the fence to the front boundary.

As the subject site is identified as a site constrained by overland flow, particularly in the front portion of the property, the proposed front boundary fence of solid masonry fence fails to meet the aforementioned control.

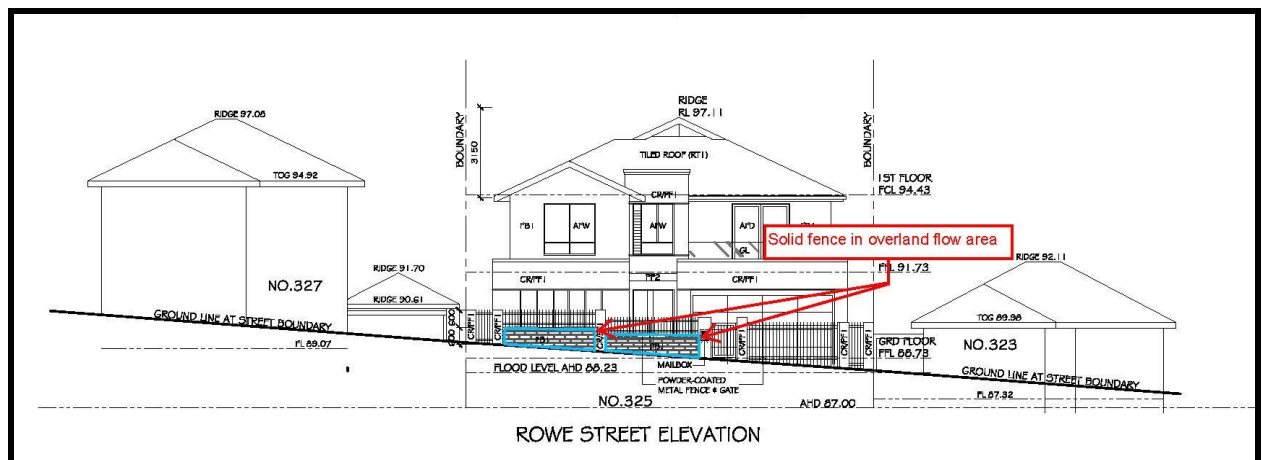


Figure 16 – Plan showing solid front boundary fence proposed.
Source: Submitted elevation drawings.

Accordingly, a condition of consent has been imposed by Council’s Senior Development Engineer to ensure fencing meets the controls set out within Section 2.15 of Part 3.3 of the Ryde DCP 2014 and does not impede the overland flow path. This condition is described below and included under the Development Engineer referral comments.

Fencing within Floodways. All new fencing within the overland flow path shall have a permeable section at least 200 mm above existing ground levels.

and

ITEM 3 (continued)

Overland Flow Mitigation. *The following overland flow mitigation measures are to be carried out. These are also to be shown on all documentation to be submitted for approval with the Construction Certificate:*

- 1) *No changes to natural ground levels within the overland flow path*
- 2) *Design of the driveway and the front yard to maintain the overland flow across the front yard from west towards the eastern boundary.*
- 3) ***Any new fences within the 100 year ARI flow zone are to provide a clear gap at the base of at least 200mm above ground level.***
- 4) *Landscaping works are not to obstruct overland flow*

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, a character assessment, and detailed assessment report.

The resultant impacts of the proposed dwelling house on the built environment are considered to result in a development that is consistent with the desired future character of the low density residential areas, and consistent with the nature of development in the Eastwood and wider Ryde local government area.

As a result, the proposed development is considered to be satisfactory in terms of impacts on the built environment subject to appropriate conditions of consent.

(b) Natural Environment

Given the nature of the proposed development being for the construction of a new dwelling house that replaces an existing single storey dwelling house on the site, and the development includes only minimal vegetation removal with compensatory planting, it is considered there will be no significant impact upon the natural environment as a result of the proposal.

It is noted that Council's Consultant Landscape Architect/Arborist has included conditions to ensure the retention of select significant vegetation on the subject site to assist with minimising the impact of the proposed development on the natural environment.

ITEM 3 (continued)

11. Suitability of the site for the development

A review of Council's map of Environmentally Sensitive Areas (held on file) identifies that the subject site is within the flood prone area and is affected by an overland flow path. The overland flow path traverses much of the subject site.

The proposed development has been assessed by Council's Senior Development Engineer who has raised no objections to the approval of the development subject to specific conditions.

12. The Public Interest

It is considered that approval of this DA would be in the public interest.

The development substantially complies with Council's current development controls, and, subject to imposition of specific conditions of consent, includes a built form that is in keeping with the existing and desired future character of the low density residential area.

13. Consultation – Internal and External

Internal Referrals

Development Engineer: The proposed development and revised plans were referred to Council's Senior Development Engineer who provided the following comments and conditions.

*Amended drainage plans submitted show the onsite detention basin within the front yard where overland flow traverses. Provision of the onsite detention basin within the flood affected area of the property is not suitable. During a 100 year ARI storm event, the basin will be submerged and the OSD system will not work. **Therefore aboveground OSD tanks should be provided on the side yard. The application has been conditioned accordingly for applicant to address this at CC stage.***

The BASIX report requires a 2500litre water tank with 100m² of roof area connected into it. This will be in addition to the OSD requirement.

From contours available on Council's mapping system, it appears that there is a natural depression running through the property. The overland flow through this area should be maintained. Therefore no side retaining walls or boundary fences that would obstruct the overland flow across the site should be allowed. The driveway should be designed to allow for the overland flow across the site. The driveway gradients can be achieved to comply with AS 2890.1.

ITEM 3 (continued)

The finished floor levels as proposed are satisfactory.

The drainage plan submitted was not approved and not stamped.

No objections are raised to the approval subject to the attached conditions

Landscape Architect: The proposed development and revised plans were referred to Council's Consultant Landscape Architect who has provided the following comments and conditions.

Tree removal proposed on the subject site is partially supported given that those to be removed are not significant within the landscape and have only a low retention value, however it is noted that removal of the large Jacaranda mimosifolia (Tree 5) within the front yard of the allotment is not supported and is recommended for retention.

Accordingly, a condition has been recommended that a Project Arborist be engaged to undertake appropriate tree protection and supervise all works that may impact trees to be retained. It is noted that two (2) trees located within the Council verge and two (2) trees located adjacent to the rear boundary are to be retained which is considered to be achievable due to the proposed construction works being located well away from these trees. No dedicated landscape plan has been submitted, however landscaping indicated on the site plan is considered to be acceptable given much of the open space areas are to be retained as existing.

Project Arborist - A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for all trees to be retained on the subject site, neighbouring allotments and Council verge. All trees are to be monitored to ensure adequate health throughout the construction period is maintained. Additionally, all work within the Tree Protection Zones is to be supervised throughout construction. Details of the Project Arborist are to be submitted to Council prior to the commencement of construction.

Tree Removal - removal of Jacaranda mimosifolia within the front garden of the proposed development is not approved and must be retained and adequate protection measures installed to ensure its protection.

External Referrals

None.

ITEM 3 (continued)**14. Critical Dates**

There are no critical dates or deadlines to be met.

15. Financial Impact

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

16. Other Options

None relevant.

17. Conclusion

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

There are two (2) key non-compliances with Council's Ryde LEP 2014 and Ryde DCP 2014 which were considered not justifiable. These relate to a non-compliance in the overall building height which is to be dealt with by a consent condition to ensure the development is compliant with the maximum building height prescribed for the subject site. In addition it is noted that the proposed external stair on the south-western elevation is not supported and is to be dealt with by condition requiring plans amendments showing this stair and door being deleted from the plans.

Additionally, eight (8) areas of non-compliance with the Ryde DCP 2014 were identified, however these were either considered to be justifiable given the circumstances of the subject site and the development proposed, or alternatively addressed via imposition of consent conditions.

The proposed development is considered to be consistent with the desired future character of the low density residential areas, and consistent with the nature of modern development in the Eastwood and wider Ryde local government area.

On the above basis, LDA2014/0411 at 325 Rowe Street, Eastwood is recommended for approval subject to conditions.

ITEM 3 (continued)

ATTACHMENT 1

DRAFT CONDITIONS OF CONSENT
325 ROWE STREET EASTWOOD
LDA2014/411

GENERAL

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

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

Document Description	Date	Plan No/Reference
Ground Floor & Site Plan	09/01/2015	DA 101 B
First Floor and Attic Plan	09/01/2015	DA 102 B
Front and Rear Elevations	09/01/2015	DA 103 B
Side Elevations and Section	09/01/2015	DA 104 B
Schedule of External Finishes	Undated	- (stamped copy attached)
Stormwater Drainage Plans	Feb 2015	D2
Stormwater Drainage Section Details and Notes	Feb 2015	D3

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

- (a) The building height (as defined in the Ryde LEP 2014) of the dwelling house is to be reduced by 90mm to ensure the maximum building height complies with the 9.5m development standard contained in Clause 4.3 of the Ryde LEP 2014
- (b) The proposed external stairs and the doorway at Level 1 shown on the plans on the south western elevation is not supported. Plans showing the deletion of these stairs and door including any internal reconfiguration necessary are to be provided.
- (c) All windows and doors shown marked in red on the approved plan (namely the windows to Ensuite 2 and Bath 2 and the stairwell at the first floor; and bedroom 1 ensuite 1 and the side entry door on the ground floor) are to be provided with obscure glazing to prevent a visual connection with adjacent dwellings. Plans that include details demonstrating compliance with this condition are to be submitted and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.

ITEM 3 (continued)

ATTACHMENT 1

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 535626S_02 dated 12 September 2014

Protection of Adjoining and Public Land

4. **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.
5. **Hoardings.**
 - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
6. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
7. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
8. **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.
9. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

ITEM 3 (continued)

ATTACHMENT 1

10. **Tree Removal** - removal of Jacaranda mimosifolia within the front garden of the proposed development is **not approved** and must be retained and adequate protection measures installed to ensure its protection.

Engineering Conditions

11. **Stormwater disposal.** Design and Construction Standards. All engineering plans and work shall be carried out in accordance with the relevant Australian Standard and City of Ryde Development Control Plan 2014 Section 8 except as amended by other conditions.
12. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
13. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
14. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No drainage work shall be carried out on the footpath without this permit being paid and a copy kept on the site.
15. **Fencing within Floodways.** All new fencing within the overland flow path shall have a permeable section at least 200 mm above existing ground levels.

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.

ITEM 3 (continued)

ATTACHMENT 1

16. **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.
17. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
18. **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.
19. **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.
20. **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.
21. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
22. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.

ITEM 3 (continued)

ATTACHMENT 1

23. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.
24. **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.
25. **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.
26. **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.
27. **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.

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.

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

ITEM 3 (continued)

ATTACHMENT 1

29. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
30. **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** dwelling houses with delivery of bricks or concrete or machine excavation
31. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
32. **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**.
33. **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**.
34. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.
35. **Fencing.** Fencing is to be in accordance with Council's Development Control Plan and details of compliance are to be provided in the plans for the **Construction Certificate**.

Engineering Conditions

36. **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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37. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. The driveway design is to incorporate Council's issued footpath and gutter crossing levels where they are required as a condition of consent. A driveway plan, longitudinal section from the centreline of the public road to the garage floor, and any necessary cross-sections clearly demonstrating that the driveway complies with the above details, and that vehicles may safely manoeuvre within the site without scraping shall be submitted with the Construction Certificate application.
38. **Design of the Driveway.** The driveway shall be designed to maintain the existing overland flow through the site.
39. **Council Inspections.** A Council engineer must inspect the stormwater connection to the existing Council stormwater pipeline. Council shall be notified when the collar connection has been made to the pipe and an inspection must be made before the property service line is connected to the collar. The property service line must not be connected directly to Council's pipeline. An inspection fee of \$149.00 shall be paid to Council prior to the issue of the Construction Certificate
40. **On-Site Stormwater Detention.** Stormwater runoff from all impervious areas shall be collected and piped by gravity flow to a combined above ground water recycling and on-site detention tank system in accordance with City of Ryde, Development Control Plan 2014: - Part 8.2; Stormwater Management.

Accordingly, revised engineering plans prepared by a qualified engineer shall be submitted with the construction certificate application, addressing, but not be limited to the following:

- a. Location of above ground water recycling/OSD tank system within the side court yards
- b. Provision of minimum on site detention storage volume of 9.0m³ and permissible site discharge of 3.5 l/s. In addition to this 2.5m³ of BASIX volume is to be provided within the tanks.
- c. Provision of overland flow path from western boundary towards the east.
- d. Deletion of any retaining walls that obstruct the overland flow through the site.

Detailed engineering plans including certification from a chartered civil engineer with NPER registration with Engineers Australia confirming compliance with this condition are to be submitted with the construction certificate application

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41. **Overland Flow path.** No filling, alteration to the surface levels or other obstructions within the overland flow path across the site shall be made without prior approval of Council.
42. **Overland Flow Mitigation.** The following overland flow mitigation measures are to be carried out. These are also to be shown on all documentation to be submitted for approval with the Construction Certificate:
- 1) No changes to natural ground levels within the overland flow path
 - 2) Design of the driveway and the front yard to maintain the overland flow across the front yard from west towards the eastern boundary.
 - 3) Any new fences within the 100 year ARI flow zone are to provide a clear gap at the base of at least 200mm above ground level.
 - 4) Landscaping works are not to obstruct overland flow

Accordingly, detailed engineering plans including certification from a chartered civil engineer with NPER registration with Engineers Australia confirming compliance with this condition are to be submitted with the construction certificate application.

43. **Construction near Pipeline in Drainage Easement.** All footings for buildings and other structures shall be taken a minimum of 100 mm below the invert of the existing pipeline. The structures shall not encroach over the easement including foundations. **The location and depth of the pipeline, along with the design of the footings, are to be shown on the plans submitted to and approved by the Consent Authority.**
44. **Water Tank First Flush.** A first flush mechanism is to be designed and constructed with the water tank system. Details of the first flush system are to be submitted with the construction certificate application.
45. **Erosion and Sediment Control Plan.** An Erosion and Sediment Control Plan (ESCP) shall be prepared by a suitably qualified consultant in accordance with the guidelines set out in the manual "Managing Urban Stormwater, Soils and Construction" prepared by the Landcom. These devices shall be maintained during the construction works and replaced where considered necessary.

The following details are to be included in drawings accompanying the *Erosion and Sediment Control Plan*

- (a) Existing and final contours
- (b) The location of all earthworks, including roads, areas of cut and fill
- (c) Location of all impervious areas
- (d) **Location and design criteria of erosion and sediment control structures,**
- (e) Location and description of existing vegetation
- (f) Site access point/s and means of limiting material leaving the site

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- (g) Location of proposed vegetated buffer strips
- (h) Location of critical areas (drainage lines, water bodies and unstable slopes)
- (i) Location of stockpiles
- (j) Means of diversion of uncontaminated upper catchment around disturbed areas
- (k) Procedures for maintenance of erosion and sediment controls
- (l) Details for any staging of works
- (m) Details and procedures for dust control.

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.

46. 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.

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

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

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- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor; and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act.

- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder; and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

49. Excavation adjacent to adjoining land

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

- 50. 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.

Engineering Conditions

- 51. 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.

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52. **Compliance Certificate.** A Compliance Certificate should be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and City of Ryde, Development Control Plan 2014: - Part 8.1; Construction Activities

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.

53. **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*.
54. **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.
55. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
56. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- a. Fill is allowed under this consent;
 - b. The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - c. the material is reused only to the extent that fill is allowed by the consent.
57. **Construction materials.** All materials associated with construction must be retained within the site.
58. **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.

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ATTACHMENT 1

59. 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.

60. 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".

61. Tree protection – no unauthorised removal. This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or otherwise necessary as a result of construction works approved by this consent.

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

63. Tree works – Australian Standards. Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.

64. Project Arborist - A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for all trees to be retained on the subject site, neighbouring allotments and Council verge. All trees are to be monitored to ensure adequate health throughout the construction period is maintained. Additionally, all work within the Tree Protection Zones is to be supervised throughout construction. Details of the Project Arborist are to be submitted to Council prior to the commencement of construction.

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

ITEM 3 (continued)

ATTACHMENT 1

PRIOR TO OCCUPATION CERTIFICATE

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

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

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

66. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) 535626S_02 dated 12 September 2014.
67. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
68. **Vehicle Footpath Crossings.** Concrete footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The location, design and construction shall conform to the requirements of Council. Crossings are to be constructed in plain reinforced concrete and finished levels shall conform with property alignment levels issued by Council's Public Works Division. Kerbs shall not be returned to the alignment line. Bridge and pipe crossings will not be permitted.
69. **On-Site Stormwater Detention System - Marker Plate.** Each on-site detention system basin shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface or access grate. The wording on the marker plate is described in City of Ryde, Development Control Plan 2014: - Part 8.2; Stormwater Management. An approved plate may be purchased from Council's Customer Service Centre on presentation of a completed City of Ryde OSD certification form.

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ATTACHMENT 1

70. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels is to be submitted to the **Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA.
71. **Compliance Certificates – Engineering.** Compliance Certificates should be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and **submitted to the PCA:**
- Confirming that all vehicular footway and gutter (layback) crossings are constructed in accordance with the construction plan requirements and Ryde City Council's Development Control Plan 2014: - Part 8.3
 - Confirming that the driveway is constructed in accordance with the construction plan requirements and Ryde City Development Control Plan 2014: - Part 8.3; Driveways.
 - Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2014: - Part 8.2; Stormwater Management
 - Confirmation from Council that drainage connection to Council's pipe has been inspected and satisfactory.
 - Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
 - Confirming that the vehicular crossing has been removed and the kerb and gutter have been constructed in accordance with Council's Development Control Plan 2014: - Part 8.3 Driveways
 - Certification from the hydraulic engineer confirming that finished ground and floor levels have been constructed and the overland flow path has been conveyed through the site as designed.
72. **Restriction as to User, Floodway.** A restriction as to user is to be placed on the property title to prevent the alteration of the ground surface and maintenance within the 100 year Average Recurrence Interval flow path and also not to have any structure placed inside without Council permission. The terms of the restriction shall be generally in accordance with Council's draft terms for provision for overland flow and to the satisfaction of Council

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73. **Positive Covenant, OSD.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Stormwater Detention Systems and to the satisfaction of Council.

The applicant shall submit the works as executed drawing and the compliance certificate for drainage from the hydraulic engineer to Council with the documents for the Positive Covenant & restriction.

74. **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.

ITEM 3 (continued)

ATTACHMENT 2

Quality Certification

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

LDA No:	LDA2014/0411
Date Plans Rec'd	22 September 2014
Address:	325 Rowe Street, Eastwood
Proposal:	Demolition and construction of a new 2-storey dwelling with attic storage room
Constraints Identified:	Overland Flow Area – Refer to Development Engineers comments

COMPLIANCE CHECK

RYDE LEP 2014	PROPOSAL	COMPLIANCE
4.3(2) Height <ul style="list-style-type: none"> 9.5m overall 	9.59m	No
4.4(2) & 4.4A(1) FSR <ul style="list-style-type: none"> 0.5:1 	0.499:1	Yes

DCP 2014	PROPOSED	COMPLIANCE
Part 3.3 – Dwelling Houses and Dual Occupancy (attached)		
Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is considered to be generally consistent with the desired future character of the low density residential area subject to the imposition of appropriate conditions of consent.	Yes
Dwelling Houses		
- To have a landscaped setting which includes significant deep soil areas at front and rear.	Proposal includes a landscaped setting at the front and rear.	Yes

ITEM 3 (continued)		ATTACHMENT 2
DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Maximum 2 storeys. - Dwellings to address street - Garage/carports not visually prominent features. 	<p>Two storeys proposed</p> <p>Dwelling presents to Rowe Street.</p> <p>Proposed double garage is not considered to be a visually prominent – set back, materials consistent, eaves overhang, compliant widths.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Public Domain Amenity		
<ul style="list-style-type: none"> • Streetscape <ul style="list-style-type: none"> - Front doors and windows are to face the street. Side entries to be clearly apparent. - Single storey entrance porticos. - Articulated street facades. 	<p>Front doors and windows of the proposed dwelling house face the street.</p> <p>Proposal includes a single storey entrance portico.</p> <p>Proposed dwelling is considered to have a well-articulated street facade.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> • Public Views and Vistas <ul style="list-style-type: none"> - A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views. - Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. - Fence 70% open where height is >900mm 	<p>No views exist.</p> <p>As above.</p> <p>As above.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>
<ul style="list-style-type: none"> • Pedestrian & Vehicle Safety <ul style="list-style-type: none"> - Car parking located to accommodate sightlines to footpath & road. - Fencing that blocks sight line is to be splayed. 	<p>Proposed car parking is located within an attached double garage which will allow for adequate sightlines.</p> <p>Fencing allows for sightlines.</p> <p>Proposed front fence is a low brick wall with piers and metal picket.</p>	<p>Yes</p> <p>Yes</p>
Site Configuration		
<ul style="list-style-type: none"> • Deep Soil Areas <ul style="list-style-type: none"> - 35% of site area min. 	<p>261m² approx. (44.86% of site area).</p>	<p>Yes</p>

ITEM 3 (continued)		ATTACHMENT 2
DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Min 8x8m deep soil area in backyard. - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). 	<p>Proposal includes an 8m x 8m deep soil area in backyard.</p> <p>Front yard is all deep soil apart from driveway, pedestrian path and garden walls.</p>	<p>Yes</p> <p>Yes</p>
<p>• Topography & Excavation</p> <p>Within building footprint:</p> <ul style="list-style-type: none"> - Max cut: 1.2m - Max fill: 900mm <p>Outside building footprint:</p> <ul style="list-style-type: none"> - Max cut: 900mm - Max fill: 500mm <ul style="list-style-type: none"> - No fill between side of building and boundary or close to rear boundary 	<p>No cut proposed</p> <p>Max fill: 1.69m in Bedroom 1, rear north-eastern corner</p> <p>Max cut: not proposed Max fill: 0.86m rear deck</p> <p>The proposed development was referred to Council's Development Engineer who states the following</p> <p><i>From contours available on Council's mapping system, it appears that there is a natural depression running through the property. The overland flow through this area should be maintained. Therefore no side retaining walls or boundary fences that would obstruct the overland flow across the site should be allowed. The driveway should be designed to allow for the overland flow across the site. The driveway gradients can be achieved to comply with AS 2890.1.</i></p>	<p>N/A</p> <p>No – Justifiable</p> <p>No – Justifiable</p> <p>Yes Condition</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
	<p><i>The finished floor levels as proposed are satisfactory.</i></p> <p><i>The drainage plan submitted was not approved and not stamped.</i></p> <p><i>No objections are raised to the approval subject to the attached conditions</i></p>	
- No fill in overland flow path	Refer to Development Engineer comments above	Condition
- Max ht retaining wall 900mm	None proposed	N/A
Floor Space Ratio		
<ul style="list-style-type: none"> - Ground floor - First floor - Total (Gross Floor Area) - Less 36m² (double) or 18m² (single) allowance for parking <p>FSR (max 0.5:1)</p> <p>Note: Excludes wall thicknesses, lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas.</p>	<p>175.14m²</p> <p>151.21m²</p> <p>326.35m²</p> <p>290.35 m²</p> <p>0.499:1 (area from DP – 581.7356098m²)</p>	Yes
Height		
- 2 storeys maximum (storey) incl basement elevated greater than 1.2m above EGL).	2 storeys proposed.	Yes
- 1 storey maximum above attached garage incl semi-basement or at-grade garages.	1 storey proposed above attached garage.	Yes
<p>Wall plate</p> <ul style="list-style-type: none"> - 7.5m max above FGL <i>or</i> - 8m max to top of parapet. 	<p>TOW RL: 94.03m (under side of eave)</p> <p>FGL below (lowest point): RL: 87.20.</p> <p>Wall plate height = 6.830m (indicated on eastern elevation)</p>	Yes
<p>NB: TOW = Top of Wall EGL = Existing Ground Level</p>		

ITEM 3 (continued)		ATTACHMENT 2
DCP 2014	PROPOSED	COMPLIANCE
<i>FGL = Finished Ground Level</i>		
<ul style="list-style-type: none"> - 9.5m Overall Height <p><i>NB: EGL – Existing ground Level</i></p>	Max point of dwelling RL: 97.11. EGL below ridge (lowest point) RL: 87.52 Overall Height (max)= 9.59m	No Not Justifiable Condition
- Habitable rooms to have 2.4m floor to ceiling height (min).	Habitable rooms to have a minimum ceiling height greater than 2.4m.	Yes
Setbacks		
<ul style="list-style-type: none"> • Front <ul style="list-style-type: none"> - 6m to façade (generally) - Garage setback 1m from the dwelling facade - Wall above is to align with outside face of garage below. - Front setback free of ancillary elements e.g. RWT,A/C • Side <ul style="list-style-type: none"> ○ One storey dwelling <ul style="list-style-type: none"> - 900mm to wall ○ Two storey dwelling <ul style="list-style-type: none"> - 1.5m to wall, includes balconies etc. • Rear <ul style="list-style-type: none"> - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. <p>Note. 25% of length of site is 10.2m. (applies)</p>	12.5m minimum Proposed garage door is setback 1m from front façade Wall above garage does not align. Balcony above. Front setback is free of ancillary elements 900mm minimum proposed 1.5m minimum proposed 10.20m minimum proposed	Yes Yes No – Justifiable Yes Yes Yes
2.10 Car Parking & Access		
<ul style="list-style-type: none"> • General <ul style="list-style-type: none"> - Dwelling: 2 spaces max, 1 space min. 	2 spaces proposed in double garage	Yes

ITEM 3 (continued)		ATTACHMENT 2
DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Where possible access off secondary street frontages or laneways is preferable. - Garage or carport may be in front if no other suitable position, no vehicular access to side or rear - Max 6m wide or 50% of frontage, whichever is less. Note. 50% of frontage = 7.16m - Behind building façade. 	<p>No secondary street frontages or laneways are available to subject site.</p> <p>Garage is in front as no other suitable position is possible.</p> <p>5.5m garage frontage.</p> <p>Proposed garage is setback 1m from front facade</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> • Garages - Garages setback 1m from façade. 	<p>Garage is setback 1mm from front facade</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Total width of garage doors visible from public space must not exceed 5.7m and not be recessed more than 300mm behind the outside face of the building element immediately above. 	<p>Width of garage door: 5m</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Garage windows are to be at least 900mm away from boundary. 	<p>Garage window is 900mm away from eastern boundary</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Free standing garages are to have a max GFA of 36m². 	<p>No free standing garages</p>	<p>N/A</p>
<ul style="list-style-type: none"> - Solid doors required 	<p>Solid door proposed</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Materials in keeping or complementary to dwelling. 	<p>Proposed materials complement contemporary style of new dwelling.</p>	<p>Yes</p>
<ul style="list-style-type: none"> • Parking Space Sizes (AS) Double garages: 5.4m w (min) - Internal length: 5.4m (min) 	<p>5.5m</p> <p>5.6m</p>	<p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> • Driveways - Extent of driveways minimised 	<p>Amended plans show driveway width has been minimised to a single car width,</p>	<p>Yes</p>
Landscaping		
<ul style="list-style-type: none"> • Trees & Landscaping - Major trees retained where practicable. 	<p>The proposed development was referred to Council's Consultant Landscape Architect - major trees retained in rear yard. It is noted that the removal of the</p>	<p>No Condition</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - If bushland adjoining use native indigenous species for 10m from boundary - Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL e.g. stairs, terraces. - Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access). - Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy. - Backyard to have at least 1 tree with mature ht of 15m min and a spreading canopy. 	<p>existing. <i>Jacaranda mimosifolia</i> (Tree 5) within the front yard of the allotment is not supported and is recommended for retention.”</p> <p>No bushland adjoining</p> <p>Physical connection provided in the form of an elevated timber deck which provides access to the rear yard from the main family/dining room.</p> <p>Provided on both sides</p> <p>The proposed tree removal within the front yard has been assessed by Council’s consultant landscape architect. It is noted that the “<i>removal of the large Jacaranda mimosifolia (Tree 5) within the front yard of the allotment is not supported and is recommended for retention.</i>”</p> <p>The proposed tree removal within the front yard has been assessed by Council’s consultant landscape architect. It is noted that no dedicated landscape plan has been submitted, however landscaping indicated on the site plan is considered to be acceptable given much of the open space areas are to be retained as existing.</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p> <p>No Condition</p> <p>Yes</p>

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ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Hedging or screen planting on boundary mature plants reaching no more than 2.7m. - OSD generally not to be located in front setback unless under driveway. 	<p>Refer above</p> <p>OSD proposed within front setback however this is not supported by Council's Senior Development Engineer.</p> <p><i>Provision of the onsite detention basin within the flood affected area of the property is not suitable. During a 100 year ARI storm event, the basin will be submerged and the OSD system will not work.</i></p> <p>Therefore aboveground OSD tanks should be provided on the side yard. The application has been conditioned accordingly for applicant to address this at CC stage.</p>	<p>Yes</p> <p>No Condition</p>
<ul style="list-style-type: none"> - Landscaped front garden, Hard paved areas minimised, max 40% hard paving. • Landscaping for lots with Urban Bushland or Overland Flow constraints 	<p>81sqm / 43.31% hard paved areas.</p>	<p>No – justifiable</p>
<ul style="list-style-type: none"> - Where lot is adjoining bushland protect, retain and use only native indigenous vegetation for distance of 10m from building adjoining bushland. 	<p>Not adjoining bushland</p>	<p>N/A</p>
<ul style="list-style-type: none"> - No fill allowed in overland flow areas. 	<p>The revised plans were referred to Council's Senior Development Engineer who notes the following</p>	<p>Yes Condition</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>- Fences in Overland Flow areas must be of open construction so it doesn't impede the flow of water.</p>	<p><i>From contours available on Council's mapping system, it appears that there is a natural depression running through the property. The overland flow through this area should be maintained. Therefore no side retaining walls or boundary fences that would obstruct the overland flow across the site should be allowed. The driveway should be designed to allow for the overland flow across the site. The driveway gradients can be achieved to comply with AS 2890.1.</i></p> <p><i>The finished floor levels as proposed are satisfactory.</i></p> <p><i>The drainage plan submitted was not approved and not stamped.</i></p> <p><i>No objections are raised to the approval subject to the attached conditions</i></p> <p>Refer above</p>	<p>Yes Condition</p>
Dwelling Amenity		
<p>• Daylight and Sunlight Access</p> <p>- Living areas located to north where orientation makes this possible.</p> <p>- Increase side setback for side living areas (4m preferred) where north is the side boundary.</p> <p><u>Subject Dwelling:</u></p> <p>- Subject dwelling north facing windows are to receive at least 3 hrs of sunlight to a portion of their</p>	<p>Livings areas located to north at the rear of the dwelling</p> <p>North is not side boundary.</p> <p>The submitted shadow diagrams indicate subject dwelling north facing windows</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>surface between 9am and 3pm on June 21.</p> <ul style="list-style-type: none"> Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21. 	<p>will receive required amounts of sunlight.</p> <p>The submitted shadow diagrams indicate POS subject dwelling will receive required amounts of sunlight.</p>	<p>Yes</p>
<p><u>Neighbouring properties are to receive:</u></p>		
<ul style="list-style-type: none"> 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21. 	<p>The submitted shadow diagrams indicate adjoining principle ground level open space will receive required sunlight on June 21.</p>	<p>Yes</p>
<ul style="list-style-type: none"> At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	<p>Adjoining north facing living area windows unaffected by subject shadowing.</p>	<p>Yes</p>
<ul style="list-style-type: none"> Visual Privacy Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. 	<p>Complies</p>	<p>Yes</p>
<ul style="list-style-type: none"> Windows of living, dining, family etc. placed so there are no close or direct views to adjoining dwelling or open space. 	<p>Generally. High level windows and windows do not align with adjoining.</p>	<p>Yes Condition</p>
	<p>The proposed kitchen window opposite the Level 1 window of No. 327 Rowe St which is shown on the site plan is considered to be sufficiently offset by virtue of the difference in levels.</p>	
	<p>To ensure privacy is maintained to the dwelling and to adjoining dwellings it is recommended that a condition of consent requiring obscure glazing be fixed to bathroom windows and to the large window located adjacent to the stairwell landing.</p>	

ITEM 3 (continued) DCP 2014	PROPOSED	ATTACHMENT 2 COMPLIANCE
<ul style="list-style-type: none"> - Side windows offset from adjoining windows. - Terraces, balconies etc. are not to overlook neighbouring dwellings/private open space. <ul style="list-style-type: none"> • Acoustic Privacy <ul style="list-style-type: none"> - Layout of rooms in dual occupancies (attached) are to minimise noise impacts between dwellings e.g.: place adjoining living areas near each other and adjoining bedrooms near each other. • View Sharing <ul style="list-style-type: none"> - The siting of development is to provide for view sharing. • Cross Ventilation <ul style="list-style-type: none"> - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation. 	<p>See above</p> <p>It is considered that the proposed external stair providing direct access to the first floor of the dwelling will result in unacceptable privacy and overlooking impacts on the neighbouring dwelling to the east. Accordingly it is recommended that should the development application be approved that this stair be deleted and subject to a deferred commencement condition.</p> <p>Rear first floor balcony allows for direct and proximate overlooking into rear POS to east – No. 323 Rowe Street. Amended plans show that a 1.6m privacy screen has been added to the eastern side of the rear balcony to address overlooking.</p> <p>Proposed development is not dual occupancy.</p> <p>No important views considered to exist across the subject site.</p> <p>Plan layout is sufficiently open and openings located to provide for cross ventilation.</p>	<p>No</p> <p>External Stair Not Justifiable Condition</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)		ATTACHMENT 2
DCP 2014	PROPOSED	COMPLIANCE
External Building Elements		
<ul style="list-style-type: none"> • Roof - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable Terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights. - Attic to be within roof space 	<p>Roof is considered to be well articulated.</p> <p>450mm minimum eaves overhang</p> <p>No proposed trafficable terrace.</p> <p>Skylights minimised and placed symmetrically.</p> <p>No dormer windows or skylights shown on the submitted plans</p> <p>The revised plans show that the proposed attic has been deleted.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Fencing		
<ul style="list-style-type: none"> • Front/return: - To reflect design of dwelling. - To reflect character and height of neighbouring fences. - Max 900mm high for solid (picket can be 1m). - Max 1.8m high if 50% open (any solid base max 900mm). - Retaining walls on front building max 900mm. - No colourbond or paling - Max pier width 350mm. • Side/rear fencing: - 1.8m max o/a height. 	<p>Proposed fence reflects dwelling design</p> <p>Proposed fence reflects character and height of neighbouring fences</p> <p>Proposed front fence solid portion <900mm high.</p> <p>Proposed height of fence approximately 1.6m at piers. Solid base <900mm high. Open metal picket fence above solid base.</p> <p>Note issues and conditions in relation to solid fences within overland flow areas.</p> <p>No retaining wall on front boundary proposed.</p> <p>Piers less than 350mm width.</p> <p>New boundary fence shown on plans ranging between 1.2m and 1.8m high</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
Part 7.2 – Waste Minimisation & Management		
Submission of a Waste Management Plan	Waste Management Plan submitted.	Yes
Part 8.2 – Stormwater Management		
Stormwater		
- Drainage is to be piped in accordance with Part 8.2 – Stormwater Management.	The proposed development has been referred to Council’s Senior Development Engineer who has raised no objections to the approval subject to the attached conditions	Yes
Part 9.2 – Access for People with Disabilities		
Accessible path required from the street to the front door, where the level of land permits.	Level of land does not permit.	N/A
Part 9.4 – Fencing		
<ul style="list-style-type: none"> • Front & Return Fences - Front and return fences that exceed 1m in height are to be 50% open. 	Front fence exceeds 1m in height. 50% open construction proposed. However it is noted that the front fence includes a solid masonry base, given the location of the site in an area subject to overland flow it is noted that Council’s Development Engineer has specifically imposed a condition of consent requiring any new fence within the overland flow path to have a permeable section at least 200mm above existing ground levels.	No Condition
Part 9.6 – Tree Preservation		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not	The proposed development has been referred to Council’s Consultant Landscape Architect who has made the following	Yes Condition

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway.</p> <p>Note: A site analysis is to be undertaken to identify the site constraints and opportunities including trees located on the site and neighbouring sites. In planning for a development, consideration must be given to building/site design that retains healthy trees, as Council does not normally allow the removal of trees to allow a development to proceed. The site analysis must also describe the impact of the proposed development on neighbouring trees. This is particularly important where neighbouring trees are close to the property boundary. The main issues are potential damage to the roots of neighbouring trees (possibly leading to instability and/or health deterioration), and canopy spread/shade from neighbouring trees that must be taken into account during the landscape design of the new development.</p>	<p>comments.</p> <p><i>Tree removal proposed on the subject site is partially supported given that those to be removed are not significant within the landscape and have only a low retention value, however it is noted that removal of the large Jacaranda mimosifolia (Tree 5) within the front yard of the allotment is not supported and is recommended for retention. Accordingly, a condition has been recommended that a Project Arborist be engaged to undertake appropriate tree protection and supervise all works that may impact trees to be retained. It is noted that two (2) trees located within the Council verge and two (2) trees located adjacent to the rear boundary are to be retained which is considered to be achievable due to the proposed construction works being located well away from these trees. No dedicated landscape plan has been submitted, however landscaping indicated on the site plan is considered to be acceptable given much of the open space areas are to be retained as existing.</i></p>	

ITEM 3 (continued)

ATTACHMENT 2

BASIX	PROPOSAL	COMPLIANCE
All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans (list) BASIX Cert 535626S_02 dated 12 September 2014	BASIX Certificate No. 535626S_02 12 September 2014 See below for commitments on plans.	Yes
<ul style="list-style-type: none"> RWT 2500L 	3000L underground rainwater tank in front yard	Yes
Thermal Comfort Commitments: <ul style="list-style-type: none"> Construction TCC – Glazing. 	To comply To comply	Yes Yes
HWS: Gas instantaneous, 5 stars	To comply	Yes
Natural lighting		
– Kitchen	Yes	Yes
– bathrooms (4)	Yes	Yes
Water Target 40	Water: 41	Yes
Energy Target 40	Energy: 40	Yes
Correct description of property/proposal on 1 st page of Certificate.	Correct details shown.	Yes

DEMOLITION	PROPOSAL	COMPLIANCE
<ul style="list-style-type: none"> Plan showing all structures to be removed. 	No plan submitted showing all structures to be removed.	No
<ul style="list-style-type: none"> Demolition Work Plan 	No demolition work plan submitted	No
<ul style="list-style-type: none"> Waste Management Plan 	Plan submitted	Yes

Summary of Issues/Non compliances:

Non compliances – justifiable:

- *Topography and Excavation - fill within and outside building footprint*
- *Front Setback –*
 - *Front setback generally free of ancillary elements*
 - *Wall above garage to align with outside face of garage below*
- *Landscaping – Hard paved area within front setback greater than 40%*

Non compliances – resolved via conditions:

- *Visual Privacy – Windows and glazing.*
- *Tree Removal – Consultant Arborist/Landscape comments*
- *On site stormwater detention – Dev. Engineering comments.*
- *Topography and excavation - No fill in overland flow areas.*
- *Fencing within overland flow - Dev. Engineering comments.*

ITEM 3 (continued)

ATTACHMENT 2

Non-compliances – Not justifiable

- *Building height, Clause 4.6 not supported – Condition imposed requiring reduction in overall building height to comply with 9.5m building height.*
- *Visual Privacy, external stair will result in unacceptable overlooking impacts to dwelling to the east. Accordingly, a condition is recommended to be imposed requiring the deletion of the proposed external stair and doorway.*

Certification

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

Name: Ben Tesoriero

Signature:



Date: 13 March 2015

ITEM 3 (continued)

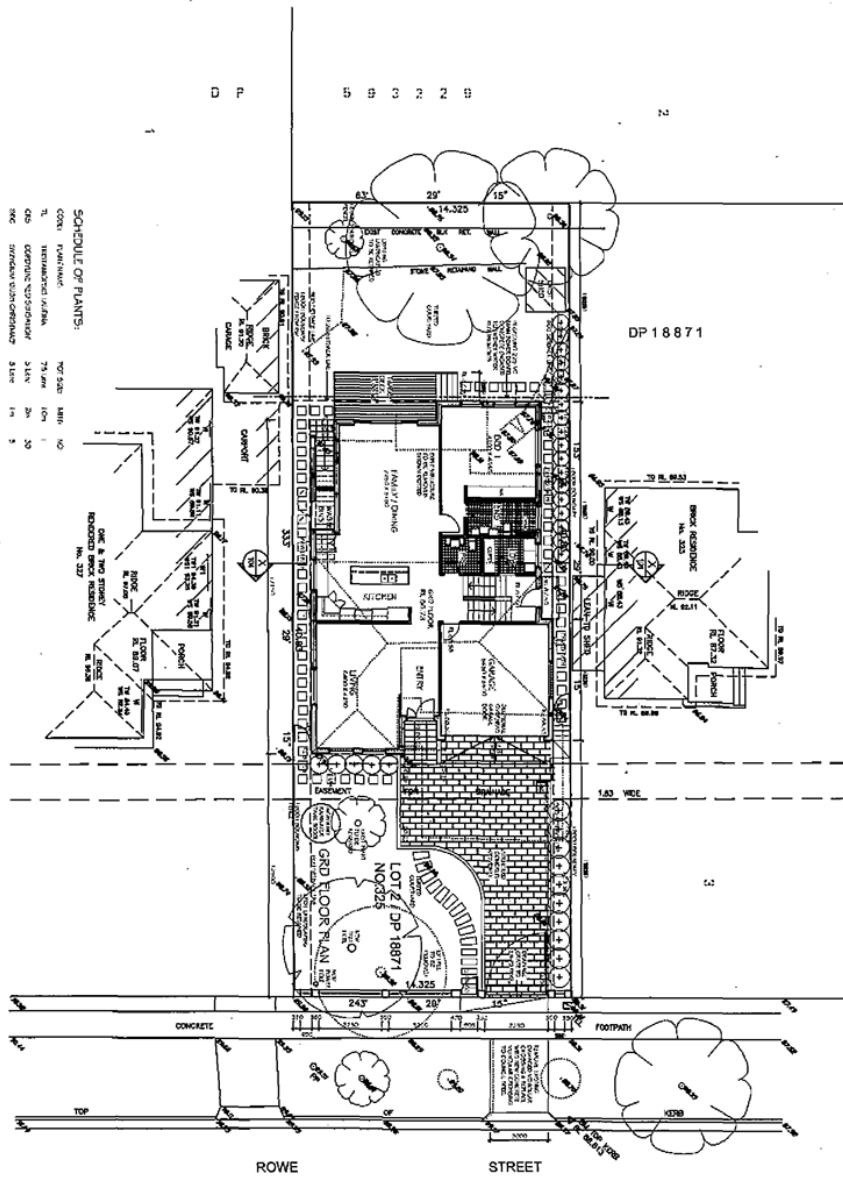
ATTACHMENT 3

 Indicates submissions received



ITEM 3 (continued)

ATTACHMENT 4



SCHEDULE OF PLANTS:

CODE	PLANT NAME	HT	WID	SPACING
T1	HEMLOCK	15 M	1.5 M	1.5 M
Q1	QUERCUS	15 M	1.5 M	1.5 M
S1	SWEET GUM	15 M	1.5 M	1.5 M

DEVELOPMENT APPLICATION

- BACK REQUIREMENTS:**
- Do not exceed 1.5m
 - 1.5m setback to the street
 - 1.5m setback to the footpath
 - 1.5m setback to the boundary
 - 1.5m setback to the boundary
 - 1.5m setback to the boundary
 - 1.5m setback to the boundary
 - 1.5m setback to the boundary
 - 1.5m setback to the boundary
 - 1.5m setback to the boundary

PROJECT:
PROPOSED NEW DWELLING
 NO. 325 ROWE ST EASTWOOD
 Prop: MR SHB, LI & MRS TJW, LI

Site:
 325 ROWE ST
 Eastwood, NSW 1585
 www.jpjarc.com.au

Scale:
 1:100

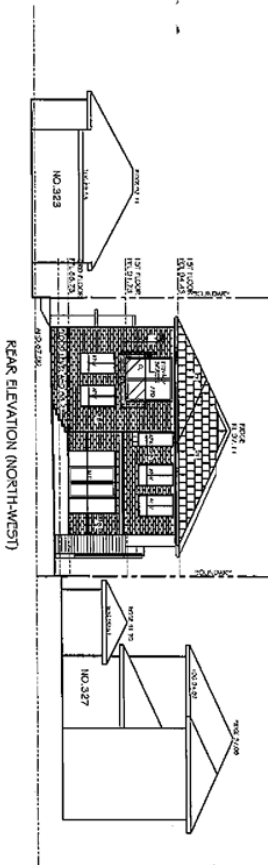
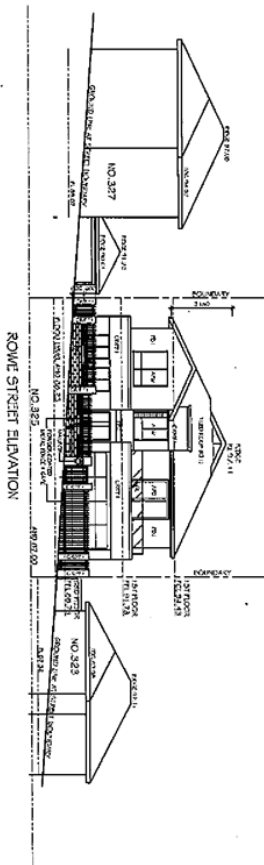
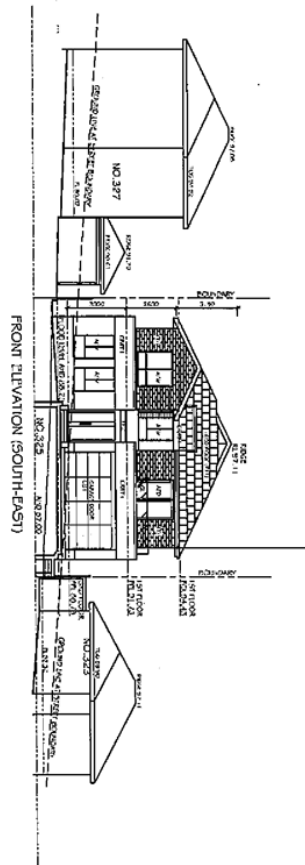
GROUND FLOOR & SITE PLAN

DATE: 13/01/2015
SCALE: DA 101
DATE: 13/01/2015
SCALE: B

ITEM 3 (continued)

ATTACHMENT 4

DEVELOPMENT APPLICATION

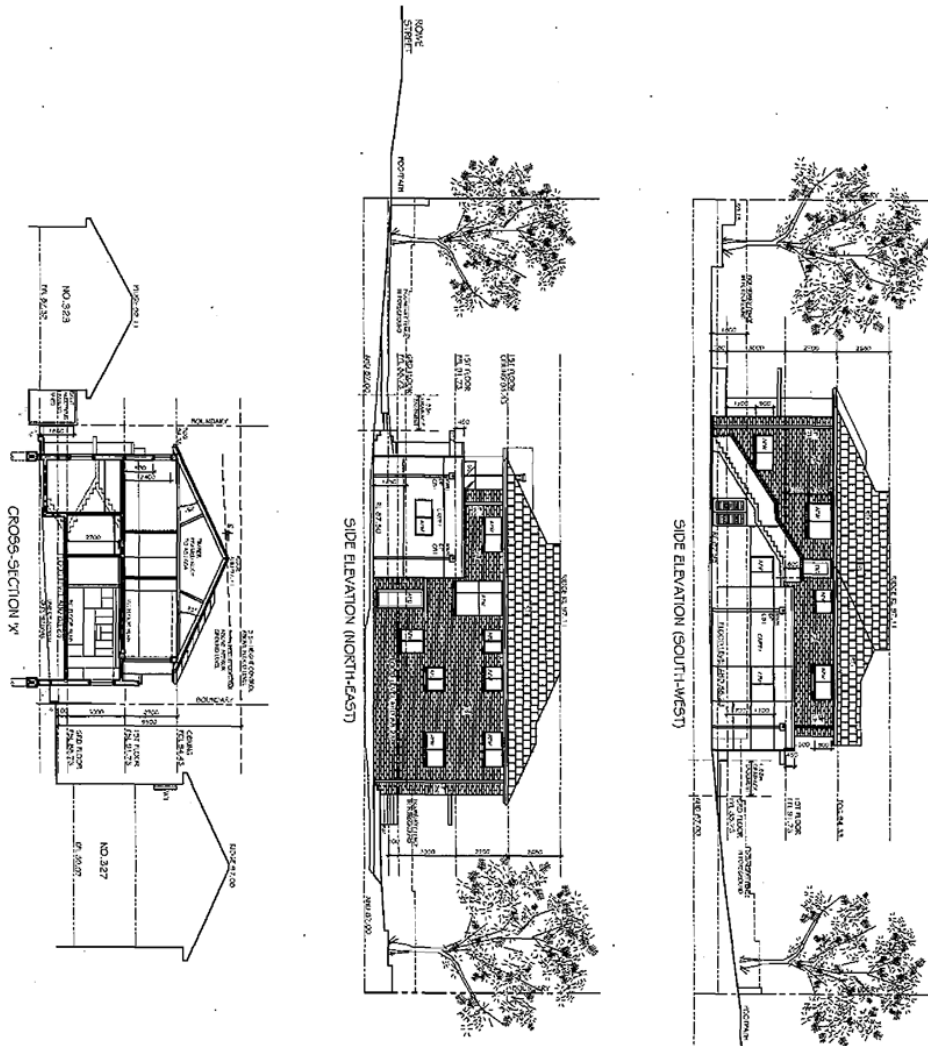


SCHEDULE OF EXTERNAL FINISHES
 1. ROOF: COLORBOND METAL SHEET ROOFING
 2. EXTERIOR WALLS: BRICK
 3. INTERIOR WALLS: PLYMOUTH SHEETWORK
 4. FLOORS: POLISHED CONCRETE
 5. CEILING: PLYMOUTH SHEETWORK
 6. GLAZING: CLEAR GLASS
 7. PAINTS: COLORBOND METAL PAINT
 8. STAINING: OIL-BASED STAIN
 9. FINISHES: POLISHED CONCRETE
 10. OTHER: AS PER ARCHITECT'S SPECIFICATIONS

3	ASSISTED/DA	09-01-2015
A	ISSUED FOR RM	04-05-2014
1	Drawings	
PROPOSED NEW DWELLING		
NO.325 ROWE ST EASTWOOD		
MR. SHE. LI & MRS. TJ.W. LI		
11a	architects	0 1 4 4
11/1/14	Ann Street	2 2 4 4
	Marrickville NSW 2204	0 0 2 7
	em: j.li@11a.com	
FRONT & REAR ELEVATIONS		
1331	DA	103 B

ITEM 3 (continued)

ATTACHMENT 4



DEVELOPMENT APPLICATION

SCHEDULE OF EXTERNAL FINISHES

ROOF (GABLES)	TRUSSED SHINGLES, 35% GRADE
EXTERNAL WALLS	CONCRETE BRICK
INTERIOR WALLS	CEMENT PLASTER
FLOORS	CEMENT CONCRETE
CEILING	CEMENT PLASTER
DOORS	CEMENT CONCRETE
WINDOWS	CEMENT CONCRETE
CHIMNEY	CEMENT CONCRETE
LANDSCAPE	CEMENT CONCRETE

1331 DA 104 B

PROPOSED NEW DWELLING
NO. 325 ROWE ST EASTWOOD

architects
Jill Architects
6/148 Avon Street
Eastwood NSW 2122
www.jillarchitects.com.au

DATE: 13/03/2015

SCALE: 1/20

DATE: 13/03/2015

SCALE: 1/20

DATE: 13/03/2015

SCALE: 1/20