

Meeting Date: Tuesday 21 April 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 17 March 2015

Report prepared by: Section Manager - Governance**File No.:** CLM/15/1/3/2 - BP15/406

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 4/15, held on 17 March 2015, be confirmed.

ATTACHMENTS

1 MINUTES - Planning and Environment Committee Meeting - 17 March 2015

ITEM 1 (continued)

ATTACHMENT 1

**Planning and Environment Committee
MINUTES OF MEETING NO. 4/15**

Meeting Date: Tuesday 17 March 2015

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

Time: 5.04pm

Councillors Present: Councillors Chung (Chairperson), Laxale, Simon and Yedelian OAM.

Absent: Councillor Salvestro-Martin.

Apologies: Nil.

Staff Present: Group Manager – Environment and Planning, Service Unit Manager – Assessment, Service Unit Manager – Environmental Health and Building, Team Leader – Assessment, Planning Consultant (Creative Planning Solutions), Senior Development Engineer, 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 3 March 2015

RESOLUTION: (Moved by Councillors Yedelian OAM and Laxale)

That the Minutes of the Planning and Environment Committee 3/15, held on 3 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.

2 40 ANTHONY ROAD, DENISTONE – LOT 115 IN DP 305219. Development Application for a multi dwelling housing development containing 5 units and strata subdivision. LDA2014/0133.

Note: Daryl Jordan (objector), Paul Abi-Saab (applicant) and Jack Tannous (applicant's planner) addressed the meeting in relation to this Item.

ITEM 1 (continued)

ATTACHMENT 1

RESOLUTION: (Moved by Councillors Simon and Laxale)

- (a) That LDA 2014/0133 at 40 Anthony Road, Denistone being LOT 115 DP 305219 be approved subject to deferred commencement and the ATTACHED conditions (See 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.

The meeting closed at 5.27pm.

CONFIRMED THIS 21ST DAY OF APRIL 2015

Chairperson

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

Report prepared by: Senior Town Planner

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

File Number: GRP/09/5/6/2 - BP15/400

1. Report Summary

Applicant: Legge Architects.

Owner: Solomon Holdings Australia Pty Ltd

Date lodged: 29 May 2013.

This report has been prepared to enable Council's further consideration of a development application (DA) for demolition of 2 detached dwellings and construction of a 3 storey residential flat building containing 12 residential apartments with one basement parking level for 16 cars. The site comprises two lots which will be amalgamated.

At the council meeting of 11 November 2014, it was resolved to defer consideration of this DA to allow the then acting Group Manager Environment & Planning to undertake mediation between the applicant and the objectors. No specific terms of the mediation were provided in the Council's resolution. Following the mediation, a further report was to be provided to the Planning & Environment Committee.

The mediation meeting was held on 16 December 2014 at the Ryde Civic Centre office with three objectors in attendance. Two other objectors, who could not attend, forwarded their concerns via email which were also discussed in the meeting.

As a result of the mediation, the following outcomes were agreed:

- i) **Fence:** Boundary fence height to be increased to 2.4m with timber lapped and capped construction at applicant's cost (See Condition 54);
- ii) **Planting Pot Sizes:** Agreement on increasing pot sizes for Blueberry Ash to 200L from 75L and the proposed 200L pot sizes to remain for plants along the rear and northern side boundaries (See Condition 46);
- iii) **Privacy Screens to balconies:** Privacy screens (1.7m high) to cover 100% sides of the top floor balconies. The screens will have 45 degree angled slats/ blades facing upwards with a height of 1.5m and a further 200mm above it to have straight blades to allow distant viewing (See Condition 52);

ITEM 2 (continued)

- iv) **Construction Traffic Management Plan (CTMP):** CTMP to include matters such as where the construction workers and delivery vehicles can park during the construction phase (See Condition 63).
- v) **Garbage:** Agreed by parties that no changes required;
- vi) **Parking:** Agreed by parties that no changes required as sufficient spaces provided in accordance with Council's DCP;

The following items were to be explored further:

- vii) **Top floor setback:** The applicant undertook to explore amending the plans to increase the setback of the top floor (north eastern corner of the building) from the rear boundary by 500mm – 600mm. In relation to this matter the applicant agreed to communicate with the objector (resident of No. 43 Princes Street) to discuss this amendment. Amended plans were to be submitted to Council for re-notification and further review. Accordingly the plans were amended and re-notified.
- viii) **Developer to plant trees on neighbouring properties and pay maintenance bond to Council:** The objectors requested that a non-invasive bamboo be planted at no. 41 Princes Street and Blueberry ash (200L) to be planted at no. 43 Princes Street by the developer. In addition the resident of 43 Princes Street requested that the applicant provide a bond to Council for landscaping works on the subject site and on the neighbouring private property to ensure that the landscaping is maintained for 12 months from the date of the issue of Occupation Certificate. These requests from the objectors were noted at the mediation and identified for further review to determine if such a condition would be lawful under Section 80 of the Environmental Planning & Assessment Act. As the two adjoining properties are not part of the overall development site, such a condition to require the planting cannot be imposed. This change was not shown on the amended plans.

On 10 February 2014, amended plans were received incorporating privacy screens, increased boundary fence height along rear and northern boundary, a 500mm additional setback of the second floor level at the north eastern corner (Drawing No. A107) and increased pot sizes for proposed trees within the site. These amended plans were re-notified to the neighbours for a period of fourteen days from 11 February 2015 to 27 February 2015. During this period three submissions were received.

ITEM 2 (continued)

Approval is recommended subject to the **ATTACHED** conditions in (Attachment 1). These conditions have been updated to include the latest amended plans and the agreed changes to the privacy screen, boundary fence, landscaping and Traffic Management Plan.

Reason for Referral to Planning and Environment Committee: Previously requested by Councillor Pendleton and Councillor Maggio and subsequent resolution of Council.

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

SEPP 1 (or clause 4.6 RLEP 2010) objection required? Yes.
Under the Savings Provisions of the LEP2014, the development is being assessed under the LEP2010. The development does not comply with the density provisions contained in under Clause 4.5B of the RLEP 2010. Based on the number of apartments, the development is required to provide a site area of 1,720m². The development has a site area of 1,139.6m². This density control has been deleted and replaced with a floor space ratio (FSR) control of 1:1 for this site under the new LEP2014. The development has proposed a FSR of 0.89:1. This represents a full compliance with the new LEP2014

Value of works: \$2,519,330.00

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

RECOMMENDATION:

- (a) That Local Development Application No. 2013/0173 for 46- 48 Gladstone Avenue be approved subject to the **ATTACHED** conditions (Attachment 1).
- (b) That the persons who made submissions be advised of Council's decision.

ITEM 2 (continued)

ATTACHMENTS

- 1** Draft Conditions of Consent
- 2** Mediation Notes
- 3** A4 Plans
- 4** Previous Report
- 5** 46 to 48 Gladstone Avenue - Confidential Legal Advice – CIRCULATED
UNDER SEPARATE COVER - CONFIDENTIAL
- 6** A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE
COVER

Report Prepared By:

Sanju Reddy
Senior Town Planner

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment and Planning

ITEM 2 (continued)

2. Site (Refer to attached map.)

- Address** : 46-48 Gladstone Avenue, Ryde.
- Site Area** : 1139.6m² (combined area).
Frontage: 31.5 metres (combined).
Depth: 30 metres – 39 metres.
- Topography and Vegetation** : The site is located on the eastern side of Gladstone Avenue with a cross-fall of approximately 3.5m from north corner to south. The site does not contain any significant vegetation.
- Existing Buildings** : The site contains two detached dwelling houses.
- Planning Controls Zoning** : R4 – High Density Residential
- Other** : Ryde Local Environmental Plan 2010;
Ryde Local Environmental Plan 2014;
Development Control Plan 2014;
State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Developments & Residential Flat Design Code;
State Environmental Planning Policy No. 55 – Remediation of Land;
SEPP (Building Sustainability Index: BASIX) 2004.



ITEM 2 (continued)

3. Proposal

Demolition of 2 detached dwellings and construction of a 3 storey residential flat building containing 12 apartments and car parking for 16 vehicles.

FRONT VIEW



LAYOUT PLAN



ITEM 2 (continued)

4. Background

- The previous report to Planning & Environment Committee of 4 November 2014 contains an assessment of the proposal as originally submitted.
- At its meeting of 11 November 2012 Council resolved that:
 - (a) *That consideration of LDA2013/0173 at 46-48 Gladstone Avenue, Ryde be deferred for the Acting Group Manager – Environment and Planning to undertake a mediation between the applicant and the objectors.*
 - (b) *That the matter then be reported back to the Planning and Environment Committee.*
- A mediation meeting was held on 16 December 2014. Three objectors attended the meeting.
- At the meeting, the applicant agreed to a number of requests from the objectors to address their concerns. These are discussed in detail later in the report.
- On 10 February 2015, amended plans were received incorporating the above design changes.
- The amended plans were re-notified to the neighbours for a period of 14 days from 11 February 2015 to 27 February 2015. During this period 3 submissions were received.
- The notes of the mediation meeting, including details of the persons attending and the summary of discussions, are **ATTACHED** (Attachment 2) to this report.

5. Submissions

The amended plans were notified to the affected adjoining owners, in accordance with the terms agreed in the mediation meeting for a period of seven days from 11 February 2015 to 27 February 2015. During this period 3 submissions were received.

The issues raised in the submissions are discussed below:

From 43 Princes Street (located at the rear of the development site)

- a) *We (Tony & Gloria Pratt) wish to thank Council for the effort it has made, over a period of nearly two years to balance the interests of effected residents and the proponent in the assessment of this proposal;*

ITEM 2 (continued)

Assessment Officer's Comment

Noted.

- b) *We have participated in the consultation process and mediation meeting and are now satisfied with the design changes subject to the agreed outcomes being included in the conditions of consent.*

Assessment Officer's Comment

Noted.

- c) *The consent condition should include the imposition of bond against the installation and 12 month maintenance of the landscaping – refer to attached minutes section 4.b and point 9 of the summary (this refers to bond for landscaping on the subject (46-48 Gladstone Avenue) and neighbouring properties (41 & 43 Princes Street).*

Assessment Officer's Comment

The assessment of the application has established that the privacy concerns have been addressed by:

- provision of adequate building separation;
- the inclusion of 1.7m high privacy screen on 100% of the balconies on the upper level;
- provision of 2.4m high boundary fence; and,
- increased screen planting within the subject site along the rear boundary (Blueberry ash & Tuckeroo).

All of the above changes have been shown on the amended plans and appropriate conditions of consent have been recommended to ensure compliance.

Notwithstanding the above, the request from the objector was considered by Council Officers. Unfortunately the request from the objector seeking Council to impose condition requiring the developer to provide security bond and carry out landscaping work on the neighbours' site would be inconsistent with the requirements under Section 79C and Section 80 of the Environmental Planning & Assessment Act, 1979. Such a condition to require the planting could only be imposed if these two properties formed part of the development site.

ITEM 2 (continued)

Submission from 31 Gladstone Avenue (located opposite the development site)

- d) *As the amendments do not address my concerns, my previous objection is still relevant. Most notably, although the site has high density zoning, Ryde policy documents do not require the provision of the maximum number of units possible, especially given the traffic, parking and access issue on Gladstone Avenue and the location of the site on a cul-de-sac. Our zoning is also high density but we are 3 townhouses on the opposite side of the road with less impact on the street.*

Assessment Officer's Comment

Having only 3 town houses on number 31 Gladstone Avenue does not in any way preclude other high density sites from developing to its full potential (subject to satisfactory compliance with the LEP and DCP requirements). There are other examples of recently approved residential flat buildings within 100m of the site which have been approved for more than 3 apartments on individual site.

The development complies with Council's desired future character of the area as it is consistent with the FSR under Ryde Local Environmental Plan 2014.

In relation to the height of the development, as reported in the original assessment report the wall plate height on south western side is will be 6.87m (2.63m less than the maximum permitted) which will be setback 6m from the side boundary. The height of the wall plate along the northern side boundary is 7.6m and the overall height of the building is 9.2m which is less than 9.5m maximum allowed on the site. This matter was dealt in detail under the previous report.

- e) *Can Council also advise of any mediation that may have taken place and the issues discussed.*

Assessment Officer's Comment

Minutes of the mediation meeting have been forwarded to the objector.

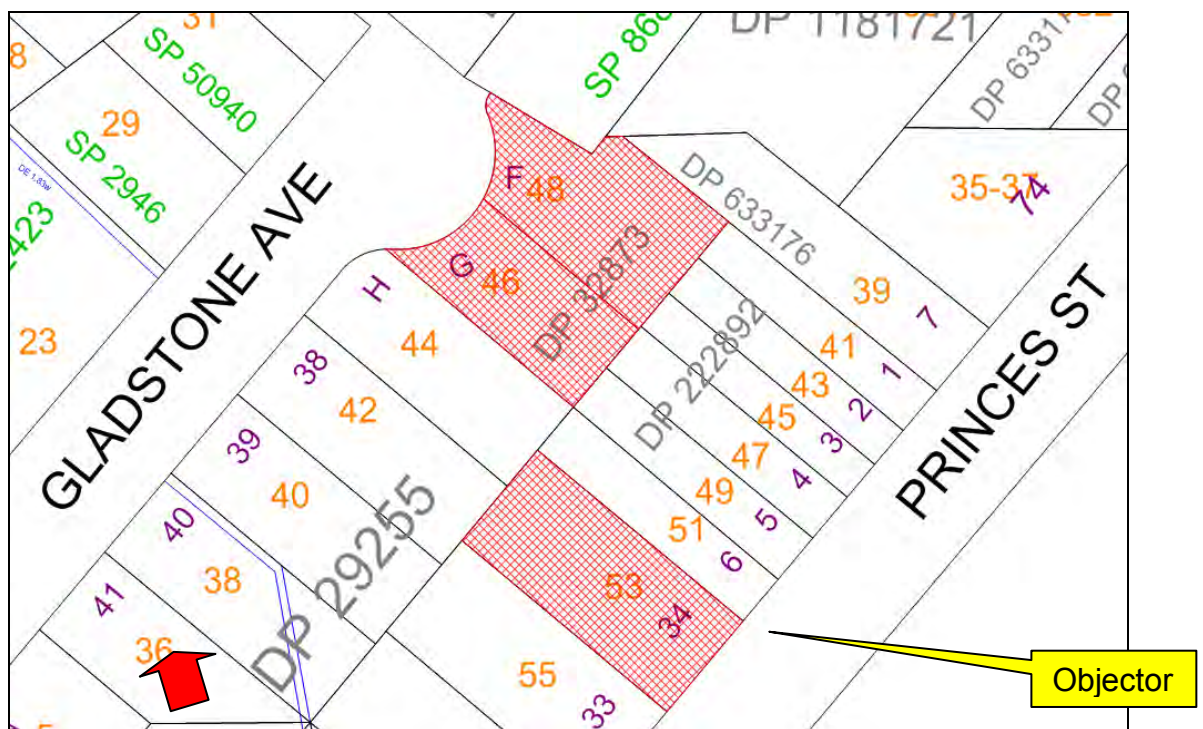
ITEM 2 (continued)

Submission from 53 Princes Street (new submission)

- f) *Wish to seek additional amendment to also increase the fence height to 2.4m along the southern boundary of the subject site. I would also like to see the Blueberry ash trees which are to be planted along the rear boundary to also be planted along the southern boundary which meets my property. Again this is in reference to improving privacy to both my property and the neighbouring residential property of Gladstone Avenue.*

Assessment Officer's Comment

The objector's property (No. 53 Princes Street) does not immediately adjoin the subject site does not have a common boundary with the subject site. The location of No. 53 Princes Street relative to the subject site is shown on the map below.



It should be noted that the immediate neighbour to the south (No. 44 Gladstone Avenue) as shown in the above map is located immediately adjacent to the subject site has not requested a 2.4m high fence along the southern boundary of the subject site. Because of the sloping topography (fall from north to south), a 2.4m high fence along the southern boundary is likely to impact on the amenity of No. 44 Gladstone Avenue (single dwelling) by creating a feeling of enclosure and deprivation of sunlight access along its northern side yard and part of rear yard.

ITEM 2 (continued)

Further, privacy impact to 44 Gladstone Avenue (and 53 Princes Street) has been mitigated by the development complying with the setback and height controls and providing adequate landscaping and height transition along its southern boundary. The proposal has been architecturally design to reflect an acceptable bulk and scale suitable for the subject site. There are no accessible balconies on the southern side of the proposed building, the elevation incorporates fixed privacy screens and provides a 6m to 8m setback. As detailed in the original report, the development is satisfactory in terms of overshadowing and overlooking. The basement is located 2.4m from the southern side boundary and therefore planting of large trees along this elevation is not recommended.

6. Details of architectural changes shown on the amended plans.

- (a) **Fence:** Boundary fence height to be increased to 2.4m with timber lapped and capped construction at applicant's cost.

Details of these changes have been shown on the Ground Floor Plan (A105 Revision H). The recommended condition No 55 includes additional details to ensure that construction occurs as per the amended plans. The above is considered satisfactory.



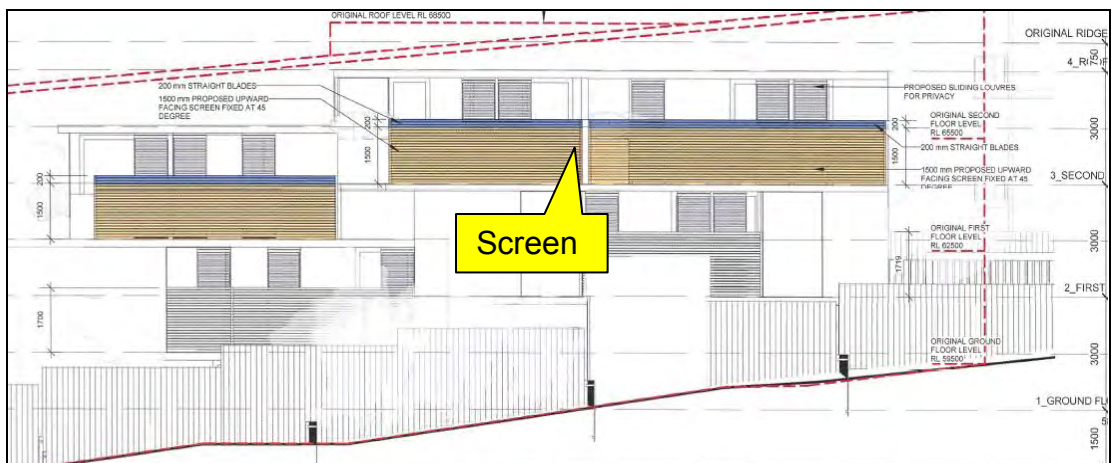
- (b) **Pot Sizes:** Agreement on increasing pot sizes for Blueberry Ash to 200L from 75L and the proposed 200L pot sizes to remain for plants along the rear and northern side boundaries.

These have been noted on the amended plan and recommended Condition No. 46 have been revised to ensure details are approved with the Construction Certificate (also refer to the above plan which has incorporated additional trees all of which are now 200L pot size.

ITEM 2 (continued)

- (c) **Privacy Screens to balconies:** Privacy screens are to be provided to all balconies on the east facing Princes Street. These balconies will cover 100% of the side of the top floor balconies (facing Princes Road) and is to be 1.7m in height. These privacy screens are to be designed as follows:
- i. From floor level to a height of 1.5m the screens are to have a 45 degree angled upward facing blades. Above 1.5m, the screen will incorporate a further 200mm high screen. This screen is to have straight blades to allow distant viewing.

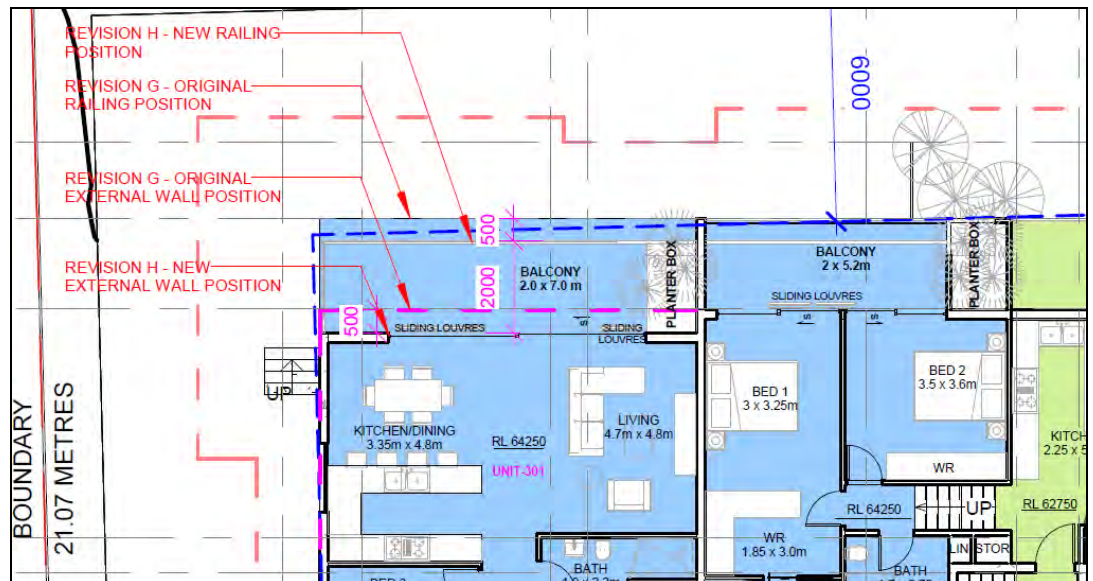
The plans have been amended to show the privacy screens. This is demonstrated below. Condition No. 52 has been revised to reflect the agreed design criteria of the screens.



- (d) **Top floor setback:** The applicant undertook to explore amending the plans to increase the setback of the top floor (north eastern corner of the building) from the rear boundary by 500mm – 600mm. In relation to this matter the applicant was allowed to communicate with the objector after which plans were to be submitted to Council for re-notification and further review.

Accordingly the applicant has amended the plan to increase the setback of the building (including the balcony screen) on the second floor level. The applicant provided the plan to the objector for review. On 18 December 2014, an email was received from the neighbour raising no objection to the amended plans. The setback is shown marked on the plan shown below:

ITEM 2 (continued)



- (e) **Traffic Management Plan (TMP):** Recommended condition to be revised by Council so as to include additional matters such as construction traffic management, parking and consultation;

The recommended condition has been reviewed (Condition 63).

- (f) **Developer to plant trees on neighbouring properties and pay maintenance bond to Council:** It was requested by the owner of No. 43 Princes Street that a non-invasive bamboo be planted at No. 41 Princes Street and additional Blueberry ash (of minimum 200L pot size) be planted at no. 43 Princes Street by the developer at the developer's cost.

It should be noted that the privacy issues have been satisfactorily addressed as a result of various design changes through the DA assessment process. In relation to privacy treatment along the rear elevation and the rear boundary (common boundary with 41 & 43 Princes Street) a 2.4m high fence will be erected along the boundary and a 1.7m screen has also been incorporated along the top floor balconies. In addition a row of trees have also been incorporated within the site along the rear boundary. Such a condition would not be lawful under Section 80 of the Environmental Planning and Assessment Act. To be lawful these properties would be required to be part of the subject site and owners consent would be required for the lodgement of the development application. Without this the following issues could arise from the imposition of such a condition:

ITEM 2 (continued)

- During the time of construction, the developer/ builder will require access to the private properties which is not possible without consent of the neighbours and a time convenient for the neighbour. This could create issues between the parties involved;
- Should damages occur on the neighbours' property as a result of the works required by the condition of consent, claims for damages and dispute may arise;
- There may be entry and trespassing issues resulting from the actions of the developer because of works required by the conditions imposed by Council – pre or post occupation;
- Once the Occupation Certificate has been issued, the builder/developer has very little control of the property especially when the apartments have been sold and occupied;

As detailed above, the privacy issues have already been adequately addressed without the need to incorporate further landscaping on the adjoining site.

7. Policy Implications

(i) Relevant Provisions of Environmental Planning Instruments:

The previous report to Planning & Environment Committee of 6 November 2012 contained an assessment of the proposal against the relevant planning controls. The amendments achieved via the mediation process do not affect any of the compliance requirements.

(ii) Section 94 Development Contribution Plan 2007

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

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

ITEM 2 (continued)

Contribution Plan	Contributions
Community and Cultural Facilities	\$22,750.42
Open Space and Recreation Facilities	\$56,006.86
Civic and Urban Improvements	\$19,049.05
Roads and Traffic Management Facilities	\$2,598.37
Cycleways	\$1,623.10
Stormwater Management Facilities	\$5,158.95
Plan Administration	\$437.57
Grand Total	\$107,624.32

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

8. Likely impacts of the Development

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

9. Suitability of the site for the development

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

10. The Public Interest

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

11. Consultation – Internal and External Referrals

The result of internal consultation was presented in the original assessment report to the Planning & Environment Committee of 4 November 2014.

13. Financial Impact

N/A

14. Other Options

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

ITEM 2 (continued)

15. Conclusion

The original assessment report had recommended approval of the proposal development subject to conditions.

The mediation process resulted in further changes to the proposal. These changes have been agreed to by the immediate neighbours who attended the mediation meeting. This has addressed the concerns of the neighbours in relation to overlooking and landscaping. A re-notification of the amended proposal saw a substantially reduced number of objections (from 13 reduced to 3).

It is noted that the applicant has co-operated with the neighbours and the Council Officers in making further design amendments in keeping with the agreed outcomes of the mediation session for this development. Accordingly this DA is presented back to the Planning & Environment Committee for consideration and determination and is recommended for approval.

ITEM 2 (continued)

ATTACHMENT 1

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

GENERAL

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

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

Plan Title and Number	Description	Date	Issue
A801	Front View (Montage)	09/02/2015	G
D101	Demolition Plan	23/06/2014	F
A101	Site Plan	09/02/2015	G
A103	Roof Plan	09/02/2015	G
A104	Basement Floor Plan	17/12/2014	G
A105	Ground Floor Plan	09/02/2015	H
A106	First Floor Plan	17/12/2014	G
A107	Second Floor Plan	09/02/2015	H
A203	Window & Door Schedule	17/12/2014	F
A301	West Elevation	09/02/2015	G
A302	East Elevation	09/02/2015	G
A303	Elevations – NORTH & SOUTH	09/02/2015	H
A401	Cross – Section 1	17/12/2014	G
A402	Cross – Section 2	17/12/2014	G
A403	Long Section	17/12/2014	G
A404	Cross Section: Rear/ North / South	17/12/2014	G
A405	Driveway Plan – Sections	17/12/2014	F
A406	Entry Section	17/12/2014	F
A407	Communal Open Space/ Sections	17/12/2014	G
A408	Courtyard Section	17/12/2014	F
A501	Access Plan	17/12/2014	F
Greenthump	Landscape Concept Plan (to be amended)	08/07/2014	1
Colour - Materials & Finishes		11 July 2014	-
Waste Management Plan		4 April 2013	-

ITEM 2 (continued)

ATTACHMENT 1

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

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

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

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate numbered 471903M_02 dated 05 July 2014.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - a) Protect and support the adjoining premises from possible damage from the excavation, and
 - b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Signage – not approved unless shown on plans.** This consent does not authorise the erection of any signs or advertising structures on this site.
6. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.

ITEM 2 (continued)

ATTACHMENT 1

7. Hoardings.

- a) A hoarding or fence must be erected between the work site and any adjoining public place.
- b) An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- c) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

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

9. Development to be within site boundaries. The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Any gate installed must not open onto any public footpath.

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

11. Services & Substation: All service infrastructure/utilities including electrical substations, fire hydrants, gas meters and the like shall be located within the building envelope. Where this is not possible and subject to Council approval such infrastructure shall be located on the subject site and appropriately screened from view. If an electrical substation is required it must be setback at least 4.5m from the front boundary. Details of all service infrastructure/utilities are to be approved prior to issue of the Construction Certificate.

12. Air Conditioning Condensers Units: Any air-conditioning motors or condenser Units must not be installed on any balconies proposed on the building to prevent noise impact on the adjoining residents.

13. Lift Overrun: Any lift overrun must be contained within the proposed roof level and must not extend beyond RL67250 as shown on Plan Number A403 Issue G.

ITEM 2 (continued)

ATTACHMENT 1

14. **Design and Construction Standards.** All engineering plans and work shall be carried out in accordance with the requirements specified within Council's publication *Environmental Standards Development Criteria* and relevant Development Control Plans except otherwise as amended by conditions of this consent.
15. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
16. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
17. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) required within the road reserve. No works shall be carried out on the footpath without this permit being paid and a copy kept on the site.
18. **Plumbing and drainage work.** All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation.
19. **Garbage and recycling cart storage area.** A storage area for garbage and recycling carts must be provided on the premises in accordance with Council's *Standard Requirements for the Construction of Garbage and Recycling Cart Storage Areas*.
20. **Noise and vibration from plant and equipment.** Unless otherwise provided in this consent, the operation of any plant or equipment installed on the premises must not cause:
 - a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).

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- b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
- c) The transmission of vibration to any place of different occupancy.

DEMOLITION CONDITIONS

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

A Construction Certificate is not required for Demolition.

- 21. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:
 - a) Council must be notified of the following particulars:
 - i. The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. The date the work is due to commence and the expected completion date
 - iii. A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.
- 22. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
- 23. **Excavation.**
 - (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.
 - (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with the Work Cover Authority, in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.
- 24. **Discovery of Additional Information.** Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable if any information is discovered during demolition or construction work that has the potential to alter previous conclusions about site contamination.

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

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

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29. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.
30. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
31. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
32. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.
33. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.
34. **Imported fill – validation.** All imported fill must be supported by a validation from a qualified environmental consultant that the fill constitutes Virgin Excavated Natural Material. Records of the validation must be provided upon request by the Council.
35. **Delivery dockets to be provided.** Each load of imported fill must be accompanied by a delivery docket from the supplier including the description and source of the fill.
36. **Delivery dockets – receipt and checking on site.** A responsible person must be on site to receive each load of imported fill and must examine the delivery docket and load to ensure that only Virgin Excavated Natural Material that has been validated for use on the site is accepted.
37. **Delivery dockets – forward to PCA on demand.** The delivery dockets must be forwarded to the Principal Certifying Authority within seven (7) days of receipt of the fill and must be produced to any authorised officer who demands to see them.

PRIOR TO CONSTRUCTION CERTIFICATE

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

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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.

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

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$22,750.42
Open Space & Recreation Facilities	\$56,006.86
Civic & Urban Improvements	\$19,049.05
Roads & Traffic Management Facilities	\$2,598.37
Cycleways	\$1,623.10
Stormwater Management Facilities	\$5,158.95
Plan Administration	\$437.57
The total contribution is	\$107,624.32

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

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

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

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39. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
40. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
41. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation)
42. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - a) Infrastructure Restoration and Administration Fee
 - b) Enforcement Levy
43. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.
44. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
45. **Shrub Pot Sizes.** The proposed shrubs in pot sizes of 200mm located long the boundaries are to be increased to a minimum pot size of 45 Litres/400mm so as to assist privacy and soften the impact of the development at the time of planting.
46. **Tree planting along the rear boundary.** A total of six (6) large trees must be planted along the rear boundary within the subject site comprising of three (3) ***Cupaniopsis anacardoides*** (Tuckeroo) trees with a minimum pot size of 200L and three (3) ***Elaeocarpus reticulatus*** (Blueberry Ash) tree plantings at a minimum size of 200L at the time of planting. A certification and documentary evidence from an Arborist is to be provided confirming that the trees have been planted in accordance with this condition. The trees shall be maintained throughout the life of the completed development.

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47. **Side Boundary Trees.** The northern side boundary of the subject site is to include an additional four (4) *Elaeocarpus reticulatus* (Blueberry Ash) tree plantings at a minimum pot size of 45 Litres to be located between the proposed trees shown on the Landscape Plan dated 08.07.2014 prepared by Green Thumb Landscape Design. The details of this requirement are to be included in the amended Landscape Plan required under Condition 1 of this Consent.
48. **Road traffic noise and acoustics.** The residential flat building(s) must be designed and constructed so that road traffic noise levels inside the building(s) comply with the satisfactory design sound levels recommended in Australian/New Zealand Standard AS/NZS 2107: 2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*, and AS3671-1989 – Traffic Noise Intrusion, when the windows and doors are closed. If the noise level with windows and doors open exceeds the above noise criteria by more than 10dBA, an approved system of mechanical ventilation must be provided so that the building occupants can leave the windows and doors closed.

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

49. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of approved finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.
50. **Sill height:** The kitchen window on second floor level on the northern elevation of the building shall incorporate a window sill height of at least 1.7m measured from the finished floor level of that apartment. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
51. **Clothes dryer:** Clothes must not be hung on the balconies for drying. Sufficient area must be provided within individual apartments to accommodate a washing machine and electrical clothes drier. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

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52. **Privacy Screens.** Permanent privacy screens are to be provided on the north eastern facing balconies on the second floor level of the building (on Units 301 & 302) to prevent overlooking into the rear yards of adjoining dwellings located on Princes Street. Design details of the screens in relation to materials, finishes, dimensions and construction details must be submitted to Council and approval obtained prior to the issue of the relevant Construction Certificate. In this regard the privacy screens must be designed and provided as follows:

- a) Privacy screen of permanent construction must be provided along full length of every balcony located on the upper level of the eastern elevation (on second floor level) facing Princes Street;
- b) The privacy screens must be architecturally design to form an integral part of the façade and should be fixed external to the balustrades.
- c) The privacy screens must be 1.7m in height measured from the floor level of the balcony and constructed to the following specification:
 - i. For a height of 1.5m (from floor of the balcony), the screens shall be constructed of horizontal obscured blades fixed at 45 degree angle, upward facing to prevent overlooking into the adjoining residential properties while allowing natural light into the balcony;
 - ii. The remaining 200mm on top (above the 1.5m height) shall have straight horizontal blades to allow distant views;
 - iii. The width of the horizontal blades to be no more than 100mm;
 - iv. The privacy screens must not be movable or operable by the occupants;
 - v. The screens must not be painted white or bright colours to prevent glare on the adjoining residents;

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

- a) Details of individual balcony configuration with respect to the required screens showing its dimensions, height, elevation, blades/ louver and opening details as required in (c) above;
- b) Submit section details drawn at a 1:20 scale of the privacy screen and balcony.
- c) Submit sight line diagrams (sections through the balcony) drawn to scale.

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53. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents. Any lighting installed to the balconies must not cause glare or light spillage so as to impact on the rear properties. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
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 eastern boundary that adjoins No. 39, 41, 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**.
55. **Planter box:** Planter boxes proposed adjacent to the balconies must have soil depth of at least 600mm. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
56. **Waste Storage and Handling Facilities:** Waste Storage and Handling Facilities must be provided as follows:
- a) A waste and recycling storage room must be provided on the site as shown on the basement layout plan.

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- b) The waste and recycling storage room must be designed to accommodate the number of bins specified in the following table:

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

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

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

57. **Construction of garbage rooms** - All garbage rooms must be constructed in accordance with the following requirements:

- a) The room must be of adequate dimensions to accommodate all waste containers, and any compaction equipment installed, and allow easy access to the containers and equipment for users and servicing purposes;
- b) The floor must be constructed of concrete finished to a smooth even surface, coved to a 25mm radius at the intersections with the walls and any exposed plinths, and graded to a floor waste connected to the sewerage system;
- c) The floor waste must be provided with a fixed screen in accordance with the requirements of Sydney Water Corporation;
- d) The walls must be constructed of brick, concrete blocks or similar solid material cement rendered to a smooth even surface and painted with a light coloured washable paint;
- e) The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with a light coloured washable paint;
- f) The doors must be of adequate dimensions to allow easy access for servicing purposes and must be finished on the internal face with a smooth-faced impervious material;
- g) Any fixed equipment must be located clear of the walls and supported on a concrete plinth at least 75mm high or non-corrosive metal legs at least 150mm high;

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- h) The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation;
 - i) The room must be provided with adequate artificial lighting; and
 - j) A hose cock must be provided in or adjacent to the room to facilitate cleaning.
58. **Mechanical Ventilation:** Details of all proposed mechanical ventilation systems, and alterations to any existing systems, must be submitted to Council or an accredited private certifier with the application for the **Construction Certificate**. Such details must include:
- a) Plans (coloured to distinguish between new and existing work) and specifications of the mechanical ventilation systems;
 - b) A site survey plan showing the location of all proposed air intakes exhaust outlets and cooling towers, and any existing cooling towers, air intakes, exhaust outlets and natural ventilation openings in the vicinity; and
 - c) A certificate from a professional mechanical services engineer certifying that the mechanical ventilation systems will comply with the *Building Code of Australia* and setting out the basis on which the certificate is given and the extent to which the certifier has relied upon relevant specifications, rules, codes of practice or other publications
59. **Design Verification in respect of SEPP 65.** Prior to the relevant Construction Certificate being issued with respect to this development, the Principal Certifying Authority (PCA) is to be provided with a written Design Verification from a qualified designer. The statement must include verification from the designer that the plans and specifications achieve or improve the design quality of the development to which this consent relates, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development. This condition is imposed in accordance with Clause 143A of the Environmental Planning and Assessment Regulation 2000.
60. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, car parking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.

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61. **Car Parking & Access.** All internal driveways, vehicle turning areas, garage opening widths and parking space dimensions, headroom clearances, gradients and safe sight distances etc shall be designed comply with AS 2890 where applicable. Plans and engineering certification from a Traffic Engineer, indicating compliance with this condition are to be submitted with the Construction Certificate application

62. **Excavation** – To ensure the proposed site excavation will not impact on the adjoining property structures foundations and services. The applicant shall submit to the Principal Certifying Authority for approval a geotechnical report prepared and certified by a chartered practicing geotechnical/structural engineer addressing, but not be limited to the following items:

- The likely impacts of the proposed excavations will have on structures and services of adjoining properties;
- Detail what measures are to be taken to protect the structures and services of adjoining properties from structural damage and undermining during construction; and
- A copy of the report including geotechnical/structural engineer certification should be submitted to Council.

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

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

The TMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices” and the RMS’s Manual – “Traffic Control at Work Sites”. The TMP is to address but not be limited to the following:

- Loss of on-street parking;
- Parking arrangement for construction workers;
- Handling deliveries loading/ unloading during the construction phase;
- Construction vehicles travel routes and & manoeuvring;
- Safety of the public and maintaining access for residents;

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- Materials storage;
- Traffic controllers - all traffic controllers utilise for the site must be RMS accredited;
- Safety and directional signs.

A minimum of seven (7) day notice shall be given to adjoining residents of if they will be affected by the proposed construction activities. A list of properties for notification along part of Princes Street, Gladstone Avenue and Victoria Road must be provided as part of the CTMP.

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

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

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

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66. **Signage.** A signage plan must be prepared by a suitably qualified person. The plan is to be submitted to and approved by the City of Ryde prior to the issue of a Construction Certificate. This must identify any parking restriction associated with Work Zones and Waste collection.
67. **Bicycle parking.** A designated area shall be provided within the building for bicycle parking. Bicycle parking racks must be provided. Details are to be submitted on the Construction Certificate.
68. **Car parking.** A total of sixteen (16) car parking spaces are to be provided on the site including 13 spaces allocated for use by residents, 3 allocated for use by visitors. The visitor spaces shall be clearly marked.
69. **Parking for disabled persons.** *At least two (2) accessible* parking spaces must be provided on the site and must be allocated to the adaptable units. Details are to be submitted on the Construction Certificate plans.
70. **Disabled Access & Adaptable Units.** The development must provide at least 2 adaptable apartments (Units 101 & 102). Disabled access is to be provided to and within the development in accordance with the applicable legislation. Design detail and certification indicating compliance with the Access to Premises Standards, AS1428 & AS4299, Building Code of Australia are to be submitted to the Principal Certifying Authority (PCA) prior to the Construction Certificate being issued.
71. **Access to the communal space:** Continuous Accessible path of travel shall be provided to the communal open space for access by the occupants.
72. **Sight lines.** Vegetation and proposed landscaping/ fencing must not hinder sight lines to and from the proposed access driveways to motorists, pedestrians and cyclists;
73. **Intercom facility.** An intercom facility should be provided at the entry to the basement parking and at street level entrance to the building. Details are to be submitted on the Construction Certificate plans.
74. **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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75. **Vehicle Footpath Crossing(s).** Concrete footpath crossings and associated gutter crossovers must be constructed fronting the approved vehicle access location(s). The crossing(s) must be constructed in plain reinforced concrete with location, design and construction shall conform to Council requirements and AS 2890.1 – 2004 (Off-street Parking). Accordingly, prior to issue of Construction Certificate an application shall be made to Council's Public Works division for driveway crossing alignment levels. These issued levels are to be incorporated into the design of the driveway access and clearly delineate on plans submitted with the Construction Certificate application.

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

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

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

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

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

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

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

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

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

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

This engineer is to prepare the following documentation;

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

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

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

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

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

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- Details and procedures for dust control.

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

80. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

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

- Quick Check agents details - see Building, Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water assets - see Building, Development and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

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

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

81. **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.

ITEM 2 (continued)

ATTACHMENT 1

- 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.

82. 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.

83. Tree Protection Measures: Adequate tree protection measures must be installed on the site before commencement of any works on the site including demolition works.

84. 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.

85. 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.

86. Footpath Paving Construction. The applicant shall, at no cost to Council, construct standard concrete footpath paving across the frontage of the property. Levels of the footpath paving shall conform with levels issued by Council's Engineering Services Division.

ITEM 2 (continued)

ATTACHMENT 1

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.

87. **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*.
88. **Construction noise.** The L₁₀ noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.
89. **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.
90. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
91. **Use of fill/excavated material.** Excavated material must not be reused on the property except if:
- Fill is allowed under this consent;
 - The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - the material is reused only to the extent that fill is allowed by the consent.
92. **Construction materials.** All materials associated with construction must be stored within the site.
93. **Site Facilities**
The following facilities must be provided on the site:
- toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - a garbage receptacle for food scraps and papers, with a tight fitting lid.

ITEM 2 (continued)

ATTACHMENT 1

94. 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.

95. 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".

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

97. Traffic Management. Any traffic management procedures and systems must be in accordance with *AS 1742.3 1996* and City of Ryde, Development Control Plan 2010: - Part 8.1; Construction Activities. This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

98. Truck Shaker. A truck shaker grid with a minimum length of 6 metres must be provided at the construction exit point. Fences are to be erected to ensure vehicles cannot bypass them. Sediment tracked onto the public roadway by vehicles leaving the subject site is to be swept up immediately.

99. Erosion and Sediment Control Plan – Implementation. The applicant shall install erosion and sediment control measures in accordance with the Construction Certificate approved Soil Erosion and Sediment Control (ESCP) plan at the commencement of works on the site. Erosion control management procedures in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.

100. Geotechnical – Implementation of geotechnical monitoring. The construction and excavation works are to be undertaken in accordance with the Geotechnical Report and Monitoring Program (GMP) submitted with the Construction Certificate. All recommendations of the Geotechnical Engineer and GMP are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

ITEM 2 (continued)

ATTACHMENT 1

101. **Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by Wehbe Consulting Stormwater and Structural Engineers (Refer to Job No. 297 - Dwgs SW297-1 to SW297-4 Rev B dated 8 July 2014) submitted in compliance to the condition labelled "Stormwater Management."

PRIOR TO OCCUPATION CERTIFICATE

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

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

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.

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

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

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

ITEM 2 (continued)

ATTACHMENT 1

105. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of the **Occupation Certificate**.

106. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

107. **Post-construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation reports. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties, prior to the issue of the **Occupation Certificate**.

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

109. **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.

110. **Disabled access.** Access for disabled persons shall be provided in the building or portion of the building in accordance with the applicable legislation and the requirements set out in AS 1428.1. Documentary evidence and certification is to be obtained from a suitable qualified person confirming that the development meets these requirements in accordance with this consent, is to be provided to the PCA prior to the issue of any Occupation Certificate.

ITEM 2 (continued)

ATTACHMENT 1

111. **Design Verification:** Prior to an Occupation Certificate being issued to authorise a person to commence occupation or use of a residential flat building, the Principal Certifying Authority (PCA) is to be provided with design verification from a qualified designer. The statement must include verification from the qualified designer that the residential flat development achieves the design quality of the development as shown on plans and specifications in respect of the relevant Construction Certificate issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development. This condition is imposed in accordance with Clause 154A of the Environmental Planning and Assessment Regulation 2000.
112. **Mechanical Ventilation:** Where any mechanical ventilation systems have been installed or altered, a certificate from a professional mechanical services engineer certifying that the systems comply with the approved plans and specifications must be submitted to the Principal Certifying Authority before the issue of an **Occupation Certificate**.
113. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.
114. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to Section 88 E of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention, pump/ sump components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the 88 E instrument are to be in accordance with the Council's draft terms for these systems as specified in City of Ryde DCP 2010 - Part 8.4 (Title Encumbrances) - Section 7, and to the satisfaction of Council, and are to be registered on the title prior to the release of the Occupation Certificate for that title.
115. **Compliance Certificates – Engineering.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.

ITEM 2 (continued)

ATTACHMENT 1

- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and the City of Ryde DCP 2010, Part 9.3 “Car Parking”.
 - b) Confirming that the Stormwater Management system (including any ancillary components such as onsite detention) servicing the development complies with the City of Ryde DCP 2010, Part 8.2, “Stormwater Management” and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
 - c) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual “*Managing Urban Stormwater: Soils and Construction*” by the NSW Department – Office of Environment and Heritage and the City of Ryde DCP 2010, Part 8.1 “Construction Activities”.
 - d) Certification from a suitably qualified geotechnical engineer confirming that the Geotechnical Monitoring Program (GMP) was implemented throughout the course of construction and that all structures supporting neighbouring property have been designed and constructed to provide appropriate support of the neighbouring property and with consideration to any temporary loading conditions that may occur on that site, in accordance with the relevant Australian Standard and building codes.
 - e) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council’s satisfaction.
116. **On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).
117. **Signage.** “No Standing on Monday between 5.00am and 11.00am” signs must be installed to ensure clear access for waste removal truck for garbage bin collection. If such a sign is not already installed, the applicant must make an application to Council and seek approval and have the sign installed prior to the issue of any Occupation Certificate.
118. **Acoustic certification.** A report from a qualified acoustical consultant demonstrating compliance with the relevant noise criteria must be submitted to the Principal Certifying Authority before the issue of an **Occupation Certificate**.

ITEM 2 (continued)

ATTACHMENT 1

119. **Mechanical Ventilation.** Where any mechanical ventilation systems have been installed, a certificate from a professional mechanical services engineer certifying that the systems comply with the approved plans and specifications must be submitted to the Principal Certifying Authority before the issue of an **Occupation Certificate**.
120. **Land Consolidation:** All land titles within the site must be consolidated into one allotment. Documentary evidence of such consolidation shall be submitted prior to the issue of any Occupation Certificate under the Environmental Planning and Assessment Act 1979.

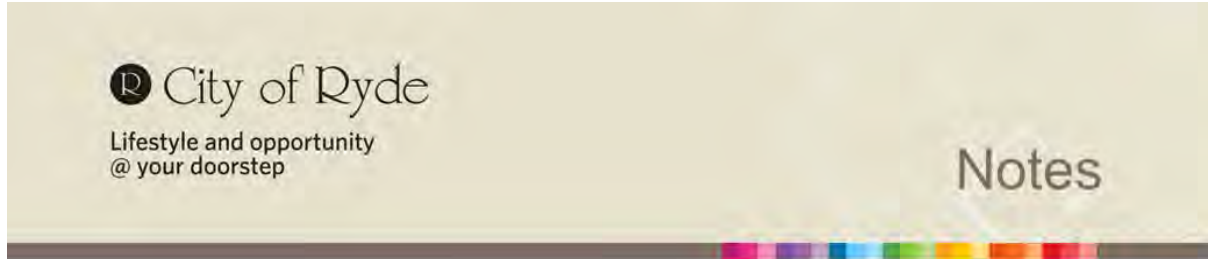
OPERATIONAL CONDITIONS

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

121. **Offensive noise.** The use of the premises must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.
122. **Garbage collection:** Arrangements must be made with Council for the provision of garbage services to the premises before **occupation commences**. Caretakers or contractors must be employed to take the bins from waste and recycling storage room to the kerbside for servicing and to return the bins to the waste storage and recycling room as soon as practicable after servicing. The bins placed along the kerbside must not block any driveways in the street.
123. **Waste storage/disposal – containers.** An adequate number of suitable waste containers must be kept on the premises for the storage of garbage.
124. **Noise Pollution:** The use of the premises must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*. The operation of any plant or machinery installed on the premises must not cause:
- d) The emission of noise that exceeds the background noise level by more than 5dBA when measured at the most affected noise sensitive location in the vicinity. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).
 - e) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors, when the windows and doors are closed*.

ITEM 2 (continued)

ATTACHMENT 2



46-48 Gladstone Avenue, LDA2013/0173 - Mediation meeting
Tuesday 16 December 2014, 4.00-5.00
Civic Centre, Level 5, Room 3

Attendees:

Neighbours	
Fiona Warnock	49 Princes Street
Tony Pratt	43 Princes Street
Lee Granger	40 Gladstone Avenue
Applicants	
Eric Wu	
Hammad Osmani	
Jim Nguyen	
Tony Legge	
City of Ryde	
Meryl Bishop	Acting Group Manager Environment and Planning
Sanju Reddy	Senior Planner
Meg Fox	Note taker

1. Introduction and Welcome – Meryl Bishop

Meryl explained the purpose of the meeting, read the Council Resolution and explained the procedures to be followed by all parties today. Meryl advised that if the plans are amended, notification may need to occur.

2. Context and history of the development.

Meryl showed the zoning map. Identified as a high density residential zone as part of the 1979 Planning Scheme, and over the years that has remained in place. Height limit is 9.5m. Density provisions are 1:1 FSR.

Application was also considered under DCP and assessed under SEPP 65.

Sanju went through the history of the development.

3. Objectors issues

In summary:

Fence height: The objectors raised issues in relation to the proposed fence height. The recommended conditions required a fence height of 2.1m. However, the objectors requested that the fence height be increased to 2.4m along the rear boundary incorporating the common boundary of 39 - 49 Princes Street.

ITEM 2 (continued)

ATTACHMENT 2

Landscaping: Objectors requested that the proposed 75L trees be changed to 200L, the ones that are already proposed to be 200L can stay as is.

- requested tree planting in the properties in 43 and 41; (this to be explored by applicant and Tony Pratt as it was not known as to what the affected resident wanted -)

Privacy Screen: Discussion on privacy including privacy screens.

Setback: Increase top floor setback.

Traffic: Bins on collection day causes traffic congestion, traffic, construction traffic impact, parking.

Ordering of trees: Objectors requested that prior to Construction Certificate asking that the applicants show evidence to Council that number of trees have been ordered and can pre-grow.

Tree maintenance Bond- provision of a bond to ensure survival / replacement of the trees and maintenance of the landscaping

4. Addressing issues

4. a. Fences

The objectors requested for a further increase in the eastern and northern boundary fence height from 2.1m to 2.4m.

Agreed outcome:

The applicants agreed to increase the fence to 2.4m as measured from residents' side of the boundary (existing ground level). (Will be the same as on their side.) The agreed construction material of the fence to be timber lapped and capped.

4. b. Landscaping

Discussion took place around the need for further increase in the pot sizes for proposed landscaping plants. In addition the objectors suggested that the trees be planted on the adjoining neighbours land, that is, trees to be planted by applicants on 41 and 43 Princes (not just supplying, but actually planting and maintaining it). Tony Pratt indicated that he could talk to the neighbour (the owner of 41 Princes Street re what kind of trees may be acceptable to her (she suggested she may accept clumping bamboo – *Gracilis*).

Tony Pratt further suggested that Council impose a bond on the applicant to ensure that the landscaping does take place and is maintained for a period of time. Objectors asked for 12 months from date of occupation certificate.

Council Officer advised that this may be problematic as it involves work on private property and that Council may not be able to lawfully take such a bond. Conditions of consent should be adequate to ensure compliance. Meryl took on notice and will look at a mechanism the issue of a bond for the maintenance of the trees.

Agreed outcomes:

The applicants agreed on increasing pot sizes for Blueberry Ash to 200L from 75L as was originally proposed. It was further agreed that conditions of consent should ensure that

ITEM 2 (continued)

ATTACHMENT 2

adequate evidence is provided to Council of pot sizes and trees prior to Construction Certificate.

It was agreed that there will be 200L Blueberry Ash at No. 43, and clumping bamboo or an alternate at No. 41.

4. c. Privacy screens

The objectors disagreed with the recommended 60% coverage of the balconies and sought 100% coverage using screens. This screen could be 1.7m high.

Agreed outcome:

The applicants accepted 1.7 high for privacy screens and to provide screens along the full edge of the balconies facing Princes Street subject to the following changes:

- Up to a height of 1.5m, the screen slats will be angled at 45 degrees to prevent downward looking view. Above the 1.5m height the privacy screen will have straight louvers for a height of 200mm to allow viewing through it (to allow distant view to the Sydney CBD)

4. d. Zoning

The objectors sought an explanation of why the new zoning in this location allows higher density development. Meryl explained the zoning and the related planning controls that are in place . It was advised that the previous zoning (2c1) based on the old Ryde Planning Scheme Ordinance was carried over from 1979 planning controls into the current planning scheme. The zoning back in 1979 planning control allowed residential flat buildings (RFB) and so do the current controls. However, the height, setback and density control will ensure a low scale RFB on the site so as to provide adequate transition.

4. e. Garbage bins, parking on site.

The Construction Management Plan will cover where workers and deliveries can park during the construction. If there are issues the objectors need to contact the builders/applicants. If someone parks illegally the rangers can be contacted to issue a fine.

Bin collection days exacerbate the issue especially as sites on Victoria Road put their bins on Gladstone Avenue, but this cannot be easily changed.

More parking spaces have been provided in this development than required in Council's controls – 13 spaces would be needed and 16 spaces have been provided.

4. f. Top floor setback

Applicants undertook to explore amending the plans to increase the setback on the northeastern corner by about 600mm, on the top floor only or possibly the whole building. In relation to this matter, the applicant may communicate with Tony Pratt and provide details of any amendments to Council Officer for review.

ITEM 2 (continued)

ATTACHMENT 2

Applicants will aim to lodge plans in early January. Notification will probably be required, then the matter can be worked on for the next available Committee meeting.

Agreed outcome:

Applicant to consider revising the design. Discussion to occur between the applicant and Tony Pratt on design ideas. Council must be informed of these discussions.

5. Summary – Meryl

1. **Fence:** Agreement on fence height and material – 2.4m fence along the northern side boundary and rear boundary of the subject site at applicant's costs.
2. **Pot Sizes:** Agreement on increasing pot sizes for Blueberry Ash to 200L from 75L and the proposed 200l pot sizes to remain for plants along the rear and northern side boundaries.
3. **Trees on neighbouring properties:** A non-invasive bamboo species (clumping) or an alternate to be used at no. 41 Princes Street. Blueberry ash 200L to be planted at no. 43 Princes Street.
4. **Privacy Screens to balconies:** Privacy screens to cover 100% sides of the top floor balconies for a height of 1.7m. The screens will have 45 degree angled slats/blades facing upwards with a height of 1.5m and a further 200mm above it may have straight blades to allow distant view. Total height of the screens to be 1.7m
5. **Traffic Management Plan (TMP):** TMP we will look at in conditions re traffic management, parking and consultation.
6. **Garbage** – comments made by the objectors will be taken on board by Council.
7. **Parking** – in excess but understood they're still not sufficient for the area. The number of parking spaces provided as part of the development will be the same.
8. **Increasing the building setback from rear by 600mm:** Moving the building or just the first floor 600mm – to reduce impact of top floor. This will be explored by the architect in consultation with Tony Pratt and Council staff.
9. **Landscape bond** – Council will explore how this could be done.

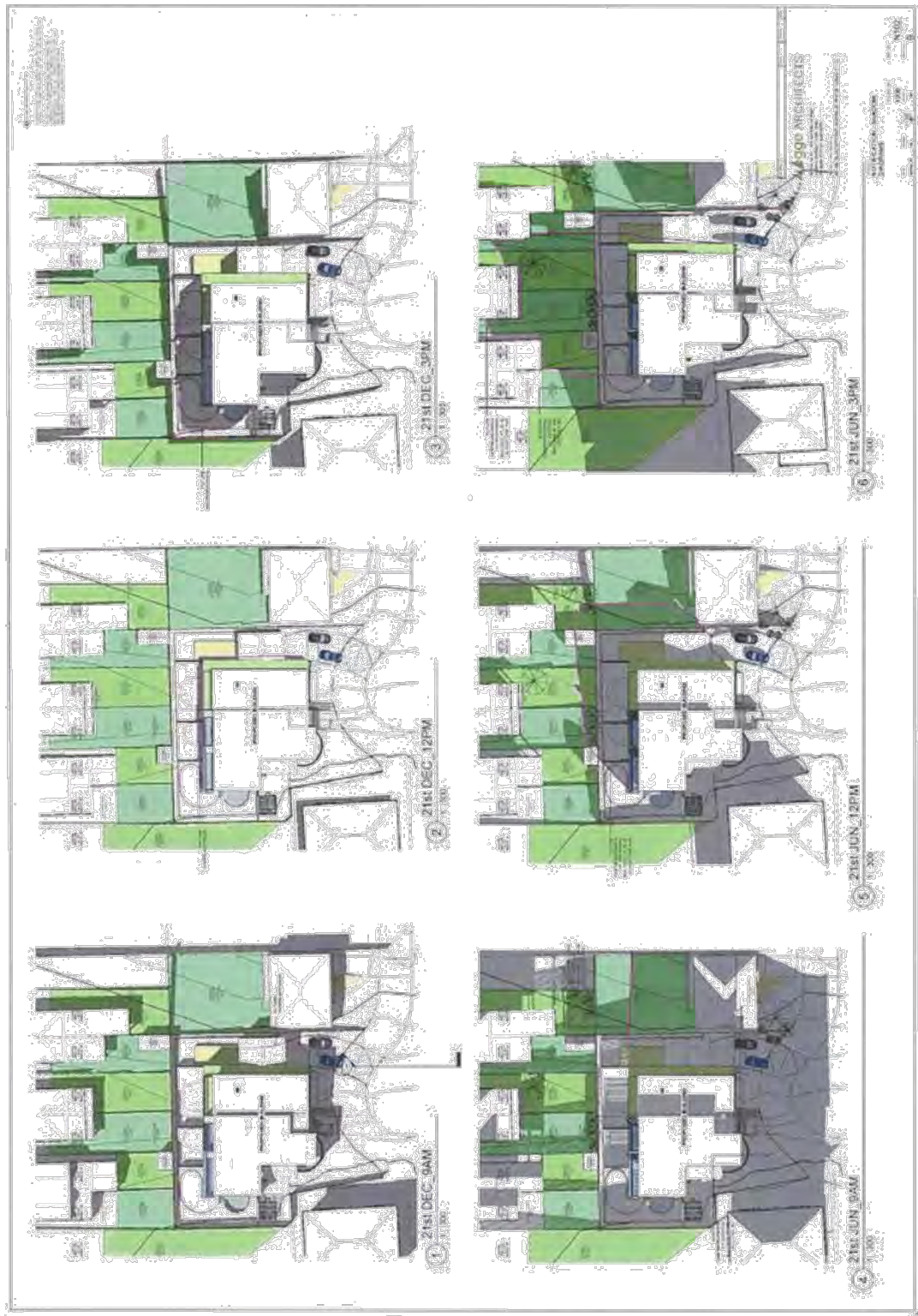
ITEM 2 (continued)

ATTACHMENT 3



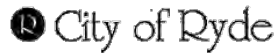
ITEM 2 (continued)

ATTACHMENT 3



ITEM 2 (continued)

ATTACHMENT 4



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

INTERVIEW: 5.00pm

Report prepared by: Senior Town Planner

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

Report dated: 7/10/2014 **File Number:** grp/09/5/6/2 - BP14/1226

1. Report Summary

Applicant: Legge Architects.

Owner: Solomon Holdings Australia Pty Ltd

Date lodged: 29 May 2013.

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

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

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

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

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

Agenda of the Planning and Environment Committee Report No. 11/14, dated Tuesday 4 November 2014.

ITEM 2 (continued)

ATTACHMENT 4

ITEM 2 (continued)

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

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

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

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

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

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

Value of works: \$2,519,330.00

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

RECOMMENDATION:

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

Agenda of the Planning and Environment Committee Report No. 11/14, dated Tuesday 4 November 2014.

ITEM 2 (continued)

ATTACHMENT 4

ITEM 2 (continued)

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

ATTACHMENTS

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

Report Prepared By:

Sanju Reddy
Senior Town Planner

Report Approved By:


Liz Coad
Manager Assessment

Meryl Bishop
Acting Group Manager - Environment and Planning

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ITEM 2 (continued)


ATTACHMENT 4

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ITEM 2 (continued)

2. Site (Refer to attached map.)



Address : 46-48 Gladstone Ave Ryde.

Site Area : 1139.6m² (combined area).
Frontage: 31.5metres (combined).
Depth: 30 metres – 39 metres.

Topography and Vegetation : The site is located on the eastern side of Gladstone Avenue with a cross-fall of approximately 3.5m from north corner to south. The site does not contain any significant vegetation.


Existing Buildings : The site contains two detached dwelling houses.

Planning Controls Zoning : R4 – High Density Residential

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ATTACHMENT 4



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ITEM 2 (continued)
Zoning Extract from Local Environmental Plan 2014



Other :

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

3. Councillor Representations

Name of Councillor: Councillor Pendleton.

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

Date: 1 July 2013.

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

On behalf of applicant or objectors? Objectors.

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

Name of Councillor: Councillor Maggio.

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

Date: 22 July 2013.

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

On behalf of applicant or objectors? Objectors.

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

4. Political Donations or Gifts

Any political donations or gifts disclosed? None disclosed.

5. Proposal


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

FRONT VIEW



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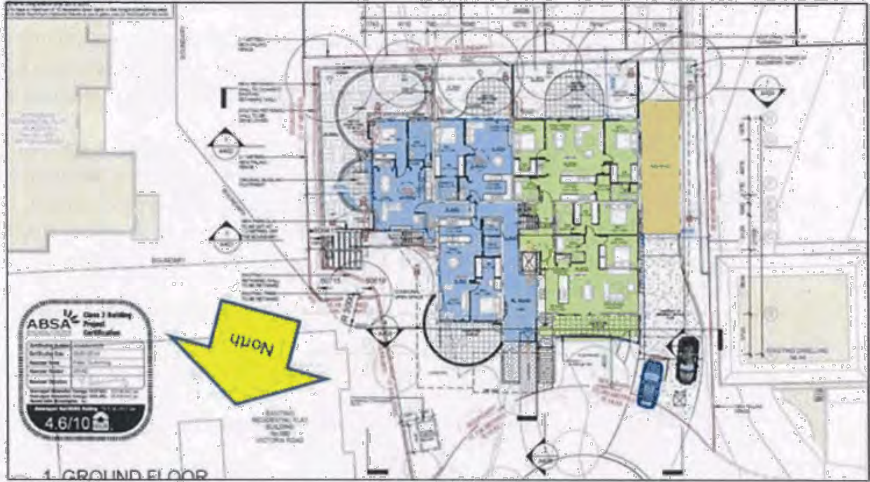


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LAYOUT PLAN



6. Background

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

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

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

7. Submissions

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

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

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

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

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Assessment Officer's Comments

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

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

Zoning Extract from Ryde Planning Scheme Ordinance



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

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

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Assessment Officer's Comment:

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

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

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

The proposal has been amended as follows:

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

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

- 56(2) Extracts of a development application relating to the erection of a building:*
- (a) sufficient to identify the applicant and the land to which the application relates, and,*
 - (b) containing a plan of the building that indicates its height and external configuration, as erected, in relation to the site on which it is to be erected, if relevant for that particular development, are to be made available to interested persons, either free of charge or on payment of reasonable copying charges.*

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

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

Assessment Officer's Comments:

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

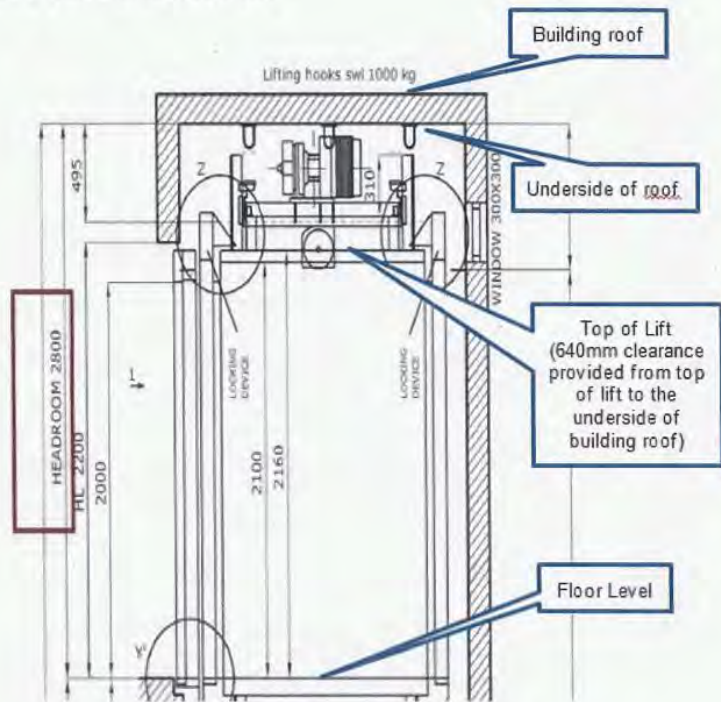
- i. The applicant has provided manufacturers specifications of the lift that will be used in this development. The proposed Renova Electric lift requires a total of 2.8m headroom clearance to accommodate the lift car (2.16m height) and the motor overrun (640mm). The floor to ceiling height clearance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

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LIFT VERTICAL SECTION



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

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

Assessment Officer's Comments

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

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

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

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

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

Assessment Officer's Comments

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

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

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

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

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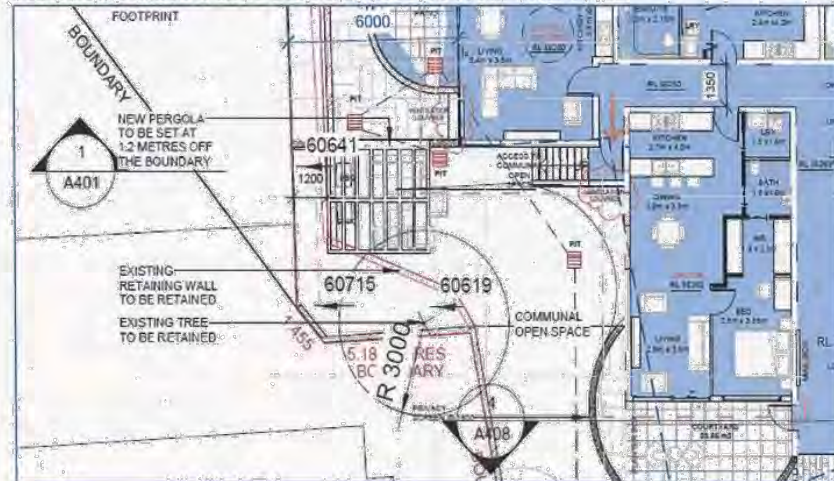
- f) **Tree removal:** The tree *Casuarina glauca* must be retained as not only is it a natural habitat for birdlife it is the only significant tree in this neighbourhood.

Comments:

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

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

PLAN SHOWING PERGOLA SETBACK FROM THE TREE



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

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

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

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

Assessment Officer's Comments

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

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

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

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

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

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

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

Assessment Officer's Comments

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

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

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

Assessment Officer's Comments

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

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

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

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

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

Assessment Officer's Comments

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

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

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

Comments

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


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

Assessment Officer's Comments:

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


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

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



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



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



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

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

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

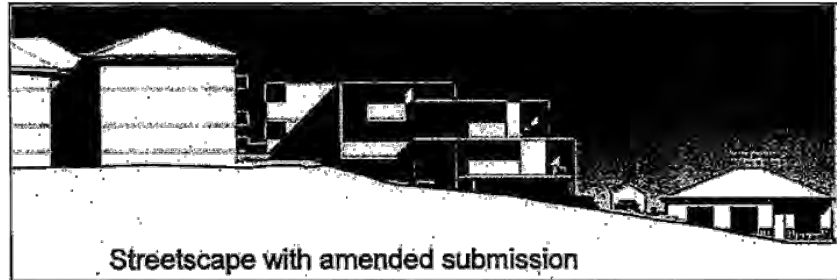
The west elevation below demonstrates how the building steps across the site to provide the required height transition.

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

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

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

Comments:

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

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

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

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

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

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

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

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

Assessment Officer's Comment:

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

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

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

The screens will be as follows:

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

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

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

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

Assessment Officer's Comment:

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


PHOTO SHOWING POSITION OF WINDOWS AND ADJOINING PROPERTY



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

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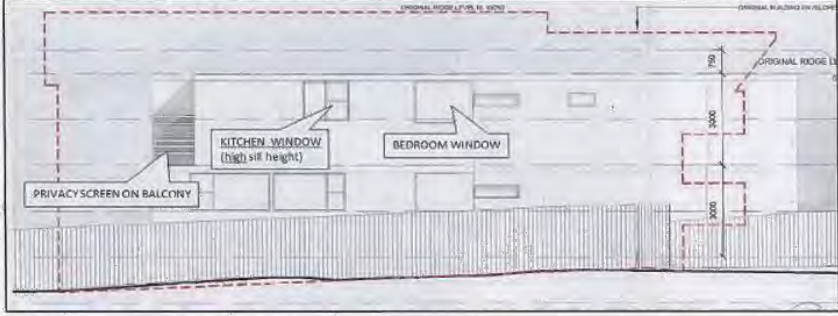
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FLOOR PLAN SHOWING WINDOWS RELATIVE TO ADJOINING PROPERTY



NORTH ELEVATION SHOWING WINDOWS



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

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

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

Assessment Officer's Comment:

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

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


Assessment Officer's Comment:

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

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


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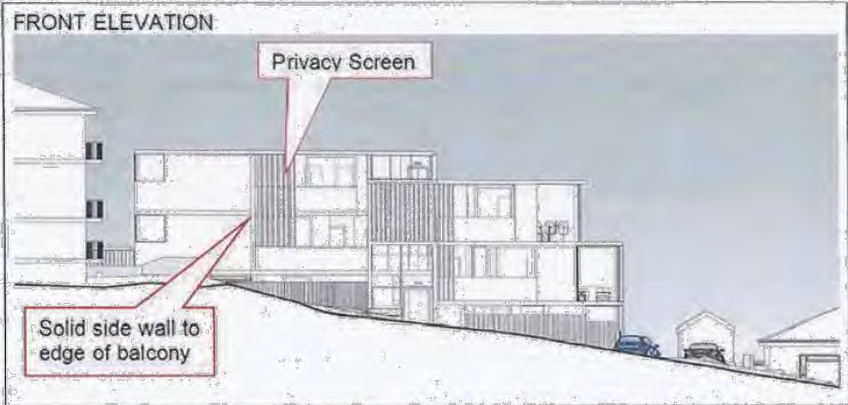
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On the northern elevation, the building wall is set back approximately 4.8m - 12m from the boundary. The closest part of the front balcony is 4.8m from the irregular shaped side boundary which is set back 10.5m from the front boundary at that location.



FRONT ELEVATION:

Privacy Screen


Solid side wall to edge of balcony

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

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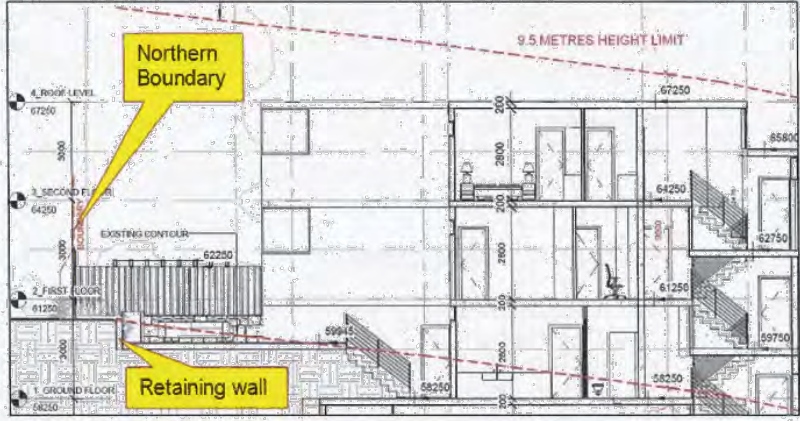
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In addition the ground level is significantly lower than the adjoining ground level, thus the height of the building at the northern corner represents majority 2 storey building. In light of the above, the proposed balcony screens and the provision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

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

Assessment Officer's Comment:

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



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

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

Assessment Officer's Comment:

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

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

Assessment Officer's Comment:

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


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

Assessment Officer's Comment:

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

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

Assessment Officer's Comment:


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

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

Assessment Officer's Comment:

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

Schedule of materials and finishes



The above is considered satisfactory (see Condition 50).

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

Assessment Officer's Comment:

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

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

Assessment Officer's Comment

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

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

Assessment Officer's Comment:

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

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

Assessment Officer's Comment:

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

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

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Assessment Officer's Comment:

Appropriate conditions recommended (see Condition 29 & 30).

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

Assessment Officer's Comment:

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

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

Assessment Officer's Comments:

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

Step 1: Assessment of views that will be affected;

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

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

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

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

Step 1

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

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



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

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Objectors Site at 31 Gladstone Avenue



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



Step 2
The second step is to consider from what part of the property the views are obtained. Commissioner Roseth states that: *“protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.”*

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

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

Step 3

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

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

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

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3D View Impact Analysis



Step 4

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

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

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



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

AMENDED PROPOSAL (reduced height and with building transition)



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

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

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

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

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

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

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

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

9. Policy Implications

(i) Relevant Provisions of Environmental Planning Instruments:

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

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

The applicant has provided Assessor Certificates and BASIX Certificate:
- BASIX No. 471903M_02dated 05July 2014.

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

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

State Environmental Planning Policy No. 55 – Remediation of Land

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

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

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

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

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

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

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

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

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

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

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

Urban Design Review Panel Comments:

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

The Panel generally made the following comments:

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

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

Assessment Officer's Comment:

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

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

Assessment Officer's Comments:

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

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

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

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

Assessment Officer's Comment:

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

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

Assessment Officer's Comment:

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

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

Assessment Officer's Comment:

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

Design Quality Principles under SEPP 65.

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

Design Quality Principle 1: Context

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

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

Assessment Officer's Comment:

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

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

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

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

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

Design Quality Principle 2: Scale

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

Assessment Officer's Comment:

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

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

Design Quality Principle 3: Built Form

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

Assessment Officer's Comment:

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

Design Quality Principle 4: Density

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

Assessment Officer's Comment:

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

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Design Quality Principle 5: Resource, Energy & Water Efficiency

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

Assessment Officer's Comment:

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

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

Design Quality Principle 6: Landscape

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

Assessment Officer's Comment:

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

Design Quality Principle 7: Amenity

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

Assessment Officer's Comment:

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

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

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Design Quality Principle 8: Safety and Security

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

Assessment Officer's Comment:

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

Design Quality Principle 9: Social Dimensions

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

Assessment Officer's Comment:

The development will include the following housing mix:

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

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

Design Quality Principle 10: Aesthetics

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

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Assessment Officer's Comment:

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

Residential Flat Design Code (RFDC)

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

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

Primary Guidelines	Comments	Comply
Part 01 – Local Context		
Building Height Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.	The site complies with the FSR in RLEP2014 and complies with the 9.5m maximum height control.	Yes
Building Depth In general, an apartment building depth of 10-18 metres is appropriate.	18m. The intent of this control can be met – as 92% of apartments are naturally ventilated	Yes
Building Separation Recommended building separation for buildings up to four storeys/ 12m height: -12m between habitable rooms/ balconies -9m between habitable / balconies and non-habitable rooms -6m between non-habitable rooms.	The development is required to be separated by 12m between the development and the buildings on the adjoining sites. This results in a setback requirement of 6metres from the side and rear boundaries. The development has generally maintained these separation distances however there are variations as discussed below. • 5.8m - 6.3m provided along	Yes Yes Yes

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

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

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

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

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Primary Guidelines	Comments	Comply
a minimum depth of 2 metres should be provided.		
Ceiling Heights The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL).	The proposed floor to ceiling height for the residential apartments is 2.7m, which is considered satisfactory.	Yes
Ground Floor Apartments Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	Two of the ground floor units are accessible (adaptable) and 3 of the units are directly accessible from the ground level entry ramp.	Yes
Mixed Use The development is to choose a mix of uses that complement and reinforce the character, economics and function of the local area. The development must also have legible circulation systems.	Not required in this zone.	N/A
Internal Circulation In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.	The development has provided around 4 units on each level to be accessed from the lift. The development complies with the requirement.	Yes
Storage In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: • studio apartments - 6.0m ³ • one-bedroom apartments - 6.0m ³ • two-bedroom apartments - 8.0m ³ Options including providing at least 50% within each respective apartment, dedicated storage rooms on each floor or dedicated storage in the basement.	The development provides storage in the apartments as well as in the basement in the form of separate storage areas. The storage areas comply with the requirement under the RFDC.	Yes

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

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

Ryde Local Environmental Plan 2014:

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

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

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

Ryde Local Environmental Plan 2010:

Clause 2.1: Zoning

The subject site is zoned R4 – High Density Residential.

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

Aims and objectives for residential zones:

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

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

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

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

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

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

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

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

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

Clause 2.6 (1) Subdivision

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

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

Clause 4.3: Height of Buildings

- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

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

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

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

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

(2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

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

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

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

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

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

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

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

1. Written request provided by the applicant.

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

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

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

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

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

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3. Environmental grounds to justifying contravening the development standard.

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

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

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

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

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

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

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

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

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

5. Concurrence of the Director General.

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

Conclusion

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

Clause 5.9 Preservation of Trees or Vegetation

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

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

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

Clause 6.1 Earthworks

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

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

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

(ii) Any proposed instrument

Not applicable.

(iii) Development Control Plan 2014

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

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

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Part 7.2 Waste Minimisation and Management

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

The following comment was received:

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

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

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

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

Part 9.2 Access for People with Disabilities

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

Part 9.3 Car Parking

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

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

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

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

(iv) Section 94 Development Contribution Plan 2007

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

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

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

Notes:

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

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

10. Likely impacts of the Development

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

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11. Suitability of the site for the development

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

12. The Public Interest

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

13. Consultation – Internal and External Referrals

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

Stormwater

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

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

Vehicle Access

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

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

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

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

The parking requirements for the proposal are as follows;

Unit Type	Quantity	Min Req.		Max Req.	
Studio	0	0		0	
1 Bedroom	3	1.8	(2)	3	(3)
2 Bedroom	8	7.2	(8)	9.6	(10)
3 Bedroom	1	1.4	(2)	1.6	(2)
TOTALS	12	10.4	(12)	14.2	(15)
			(11)		(15)
SUB-TOTAL			Min (Residents) 11	Max. (Residents) 15	Visitors 2.4 (3)
TOTAL (Vis included)		13.4	(14)	17.4	(18)

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

Traffic Generation

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

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

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

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

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

Accordingly, this aspect is considered satisfied.

Recommendation

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

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

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

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

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

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

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

NOTE:

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

14. Critical Dates

There are no critical dates to be met.

15. Financial Impact

N/A

16. Other Options

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

17. Conclusion

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

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

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ATTACHMENT 1

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

GENERAL

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

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

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

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

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ATTACHMENT 1

(a) Amended Landscape Concept Plan:

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

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

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

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8. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
9. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Any gate installed must not open onto any public footpath.
10. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
11. **Services & Substation:** All service infrastructure/utilities including electrical substations, fire hydrants, gas meters and the like shall be located within the building envelope. Where this is not possible and subject to Council approval such infrastructure shall be located on the subject site and appropriately screened from view. If an electrical substation is required it must be setback at least 4.5m from the front boundary. Details of all service infrastructure/utilities are to be approved prior to issue of the Construction Certificate.
12. **Air Conditioning Condensers Units:** Any air-conditioning motors or condenser Units must not be installed on any balconies proposed on the building to prevent noise impact on the adjoining residents.
13. **Lift Overrun:** Any lift overrun must be contained within the proposed roof level and must not extend beyond RL67250 as shown on Plan Number A403 Issue G.
14. **Design and Construction Standards.** All engineering plans and work shall be carried out in accordance with the requirements specified within Council's publication *Environmental Standards Development Criteria* and relevant Development Control Plans except otherwise as amended by conditions of this consent.
15. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.

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16. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
17. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) required within the road reserve. No works shall be carried out on the footpath without this permit being paid and a copy kept on the site.
18. **Plumbing and drainage work** - All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation.
19. **Garbage and recycling cart storage area** - A storage area for garbage and recycling carts must be provided on the premises in accordance with Council's *Standard Requirements for the Construction of Garbage and Recycling Cart Storage Areas*.
20. **Noise and vibration from plant and equipment** - Unless otherwise provided in this consent, the operation of any plant or equipment installed on the premises must not cause:
 - (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).
 - (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
 - (c) The transmission of vibration to any place of different occupancy.

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ATTACHMENT 1

DEMOLITION CONDITIONS

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

A Construction Certificate is not required for Demolition.

21. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:
 - (a) Council must be notified of the following particulars:
 - (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - (ii) The date the work is due to commence and the expected completion date
 - (b) A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.
22. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
23. **Excavation**
 - (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.
 - (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with the Work Cover Authority, in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.
24. **Discovery of Additional Information** - Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable if any information is discovered during demolition or construction work that has the potential to alter previous conclusions about site contamination.
25. **Further requirements** - If additional information is discovered about site contamination, the proponent must comply with any reasonable requirements of Council.

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

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

- 29. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.

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30. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal docket must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
31. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
32. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.
33. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.
34. **Imported fill – validation.** All imported fill must be supported by a validation from a qualified environmental consultant that the fill constitutes Virgin Excavated Natural Material. Records of the validation must be provided upon request by the Council.
35. **Delivery dockets to be provided.** Each load of imported fill must be accompanied by a delivery docket from the supplier including the description and source of the fill.
36. **Delivery dockets – receipt and checking on site.** A responsible person must be on site to receive each load of imported fill and must examine the delivery docket and load to ensure that only Virgin Excavated Natural Material that has been validated for use on the site is accepted.
37. **Delivery dockets – forward to PCA on demand.** The delivery dockets must be forwarded to the Principal Certifying Authority within seven (7) days of receipt of the fill and must be produced to any authorised officer who demands to see them.

PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

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

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

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

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

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

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

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

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40. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
41. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation)
42. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
43. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.
44. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
45. **Tree Pot Sizes.** The proposed trees in pot sizes of 75 Litres are to be increased to a minimum pot size of 200 Litres so as to assist privacy and soften the impact of the development at the time of planting.
46. **Shrub Pot Sizes.** The proposed shrubs in pot sizes of 200mm located long the boundaries are to be increased to a minimum pot size of 45 Litres/400mm so as to assist privacy and soften the impact of the development at the time of planting.
47. **Rear Boundary Trees.** The rear boundary of the subject site is to include an additional three (3) *Cupaniopsis anacardoides* (Tuckeroo) tree plantings at a minimum pot size of 200 Litres and three (3) *Elaeocarpus reticulatus* (Blueberry Ash) tree plantings at a minimum size of 45 Litres.
48. **Side Boundary Trees.** The northern side boundary of the subject site is to include an additional four (4) *Elaeocarpus reticulatus* (Blueberry Ash) tree plantings at a minimum pot size of 45 Litres to be located between the proposed trees shown on the Landscape Plan dated 08.07.2014 prepared by Green Thumb Landscape Design.

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

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

50. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of approved finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.

51. **Sill height:** The kitchen window on second floor level on the northern elevation of the building shall incorporate a window sill height of at least 1.7m measured from the finished floor level of that apartment. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

52. **Front balconies:** Privacy screening must be provided along the northern corner of the front balconies associated with Units 204 & 301. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

53. **Clothes dryer:** Clothes must not be hung on the balconies for drying. Sufficient area must be provided within individual apartments to accommodate a washing machine and electrical clothes drier. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

54. **Privacy Screens.** Permanent privacy screens are to be provided on the north eastern facing balconies on the second floor level of the building (Units 301, 302) to ensure privacy for the occupants of dwellings along Princes Street. Details of the materials, finishes, dimensions and construction details in respect of the privacy screens must be submitted to Council and approval obtained prior to the issue of the relevant Construction Certificate. In this regard the privacy screens must be provided as follows:

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

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

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

55. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents. Any lighting installed to the balconies must not cause glare or light spillage so as to impact on the rear properties. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

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

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

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

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

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

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

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

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

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60. **Construction of garbage rooms** - All garbage rooms must be constructed in accordance with the following requirements:
- (a) The room must be of adequate dimensions to accommodate all waste containers, and any compaction equipment installed, and allow easy access to the containers and equipment for users and servicing purposes;
 - (b) The floor must be constructed of concrete finished to a smooth even surface, coved to a 25mm radius at the intersections with the walls and any exposed plinths, and graded to a floor waste connected to the sewerage system;
 - (c) The floor waste must be provided with a fixed screen in accordance with the requirements of Sydney Water Corporation;
 - (d) The walls must be constructed of brick, concrete blocks or similar solid material cement rendered to a smooth even surface and painted with a light coloured washable paint;
 - (e) The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with a light coloured washable paint;
 - (f) The doors must be of adequate dimensions to allow easy access for servicing purposes and must be finished on the internal face with a smooth-faced impervious material;
 - (g) Any fixed equipment must be located clear of the walls and supported on a concrete plinth at least 75mm high or non-corrosive metal legs at least 150mm high;
 - (h) The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation;
 - (i) The room must be provided with adequate artificial lighting; and
 - (j) A hose cock must be provided in or adjacent to the room to facilitate cleaning.
61. **Mechanical Ventilation:** Details of all proposed mechanical ventilation systems, and alterations to any existing systems, must be submitted to Council or an accredited private certifier with the application for the **Construction Certificate**. Such details must include:
- (a) Plans (coloured to distinguish between new and existing work) and specifications of the mechanical ventilation systems;
 - (b) A site survey plan showing the location of all proposed air intakes exhaust outlets and cooling towers, and any existing cooling towers, air intakes, exhaust outlets and natural ventilation openings in the vicinity; and
 - (c) A certificate from a professional mechanical services engineer certifying that the mechanical ventilation systems will comply with the *Building Code of Australia* and setting out the basis on which the certificate is given and the extent to which the certifier has relied upon relevant specifications, rules, codes of practice or other publications

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

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

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

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

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

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

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

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

69. **Signage.** A signage plan must be prepared by a suitably qualified person. The plan is to be submitted to and approved by the City of Ryde prior to the issue of a Construction Certificate. This must identify any parking restriction associated with Work Zones and Waste collection.

70. **Bicycle parking.** A designated area shall be provided within the building for bicycle parking. Bicycle parking racks must be provided. Details are to be submitted on the Construction Certificate.

71. **Car parking.** A total of sixteen (16) car parking spaces are to be provided on the site including 13 spaces allocated for use by residents, 3 allocated for use by visitors. The visitor spaces shall be clearly marked.

72. **Parking for disabled persons.** *At least two (2) accessible* parking spaces must be provided on the site and must be allocated to the adaptable units. Details are to be submitted on the Construction Certificate plans.

73. **Disabled Access & Adaptable Units.** The development must provide at least 2 adaptable apartments (Units 101 & 102). Disabled access is to be provided to and within the development in accordance with the applicable legislation. Design detail and certification indicating compliance with the Access to Premises Standards, AS1428 & AS4299, Building Code of Australia are to be submitted to the Principal Certifying Authority (PCA) prior to the Construction Certificate being issued.

74. **Access to the communal space:** Continuous Accessible path of travel shall be provided to the communal open space for access by the occupants.

75. **Sight lines.** Vegetation and proposed landscaping/ fencing must not hinder sight lines to and from the proposed access driveways to motorists, pedestrians and cyclists;

76. **Intercom facility.** An intercom facility should be provided at the entry to the basement parking and at street level entrance to the building. Details are to be submitted on the Construction Certificate plans.

77. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.

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

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

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

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

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

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

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

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

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

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

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

This engineer is to prepare the following documentation;

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

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

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

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

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

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

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83. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

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

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

Or telephone 13 20 92.

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

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

84. Site Sign

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

85. Excavation adjacent to adjoining land

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.

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- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
- (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

86. **Tree Protection Measures:** Adequate tree protection measures must be installed on the site before commencement of any works on the site including demolition works.

87. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

88. **Sediment and Erosion Control.** The applicant shall install appropriate sediment control devices in accordance with an approved plan prior to any earthworks being carried out on the site. These devices shall be maintained during the construction period and replaced where considered necessary. Suitable erosion control management procedures shall be practiced. This condition is imposed in order to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

89. **Footpath Paving Construction.** The applicant shall, at no cost to Council, construct standard concrete footpath paving across the frontage of the property. Levels of the footpath paving shall conform with levels issued by Council's Engineering Services Division.

DURING CONSTRUCTION

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

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

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

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ITEM 2 (continued)

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92. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
93. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
94. **Use of fill/excavated material.** Excavated material must not be reused on the property except if:
- (a) Fill is allowed under this consent;
 - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (c) the material is reused only to the extent that fill is allowed by the consent.
95. **Construction materials.** All materials associated with construction must be stored within the site.
96. **Site Facilities**
The following facilities must be provided on the site:
- (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
97. **Site maintenance**
The applicant must ensure that:
- (a) approved sediment and erosion control measures are installed and maintained during the construction period;
 - (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
 - (c) the site is clear of waste and debris at the completion of the works.
98. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".
99. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

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

PRIOR TO OCCUPATION CERTIFICATE

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

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

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ITEM 2 (continued)

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

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

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

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

108. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of the **Occupation Certificate**.
109. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

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ITEM 2 (continued)

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

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conditions that may occur on that site, in accordance with the relevant Australian Standard and building codes.

- e) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.

119. On-Site Stormwater Detention System - Marker Plate. To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

120. Signage. "No Standing on Monday between 5.00am and 11.00am" signs must be installed to ensure clear access for waste removal truck for garbage bin collection. If such a sign is not already installed, the applicant must make an application to Council and seek approval and have the sign installed prior to the issue of any Occupation Certificate.

121. Acoustic certification. A report from a qualified acoustical consultant demonstrating compliance with the relevant noise criteria must be submitted to the Principal Certifying Authority before the issue of an **Occupation Certificate**.

122. Mechanical Ventilation. Where any mechanical ventilation systems have been installed, a certificate from a professional mechanical services engineer certifying that the systems comply with the approved plans and specifications must be submitted to the Principal Certifying Authority before the issue of an **Occupation Certificate**.

123. Land Consolidation: All land titles within the site must be consolidated into one allotment. Documentary evidence of such consolidation shall be submitted prior to the issue of any Occupation Certificate under the Environmental Planning and Assessment Act 1979.

OPERATIONAL CONDITIONS

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

124. Offensive noise. The use of the premises must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.

ITEM 2 (continued)

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125. **Garbage collection:** Arrangements must be made with Council for the provision of garbage services to the premises before **occupation commences**. Caretakers or contractors must be employed to take the bins from waste and recycling storage room to the kerbside for servicing and to return the bins to the waste storage and recycling room as soon as practicable after servicing. The bins placed along the kerbside must not block any driveways in the street.
126. **Waste storage/disposal – containers.** An adequate number of suitable waste containers must be kept on the premises for the storage of garbage.
127. **Noise Pollution:** The use of the premises must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*. The operation of any plant or machinery installed on the premises must not cause:
- (d) The emission of noise that exceeds the background noise level by more than 5dBA when measured at the most affected noise sensitive location in the vicinity. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).
 - (e) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors, when the windows and doors are closed*.

End of Conditions

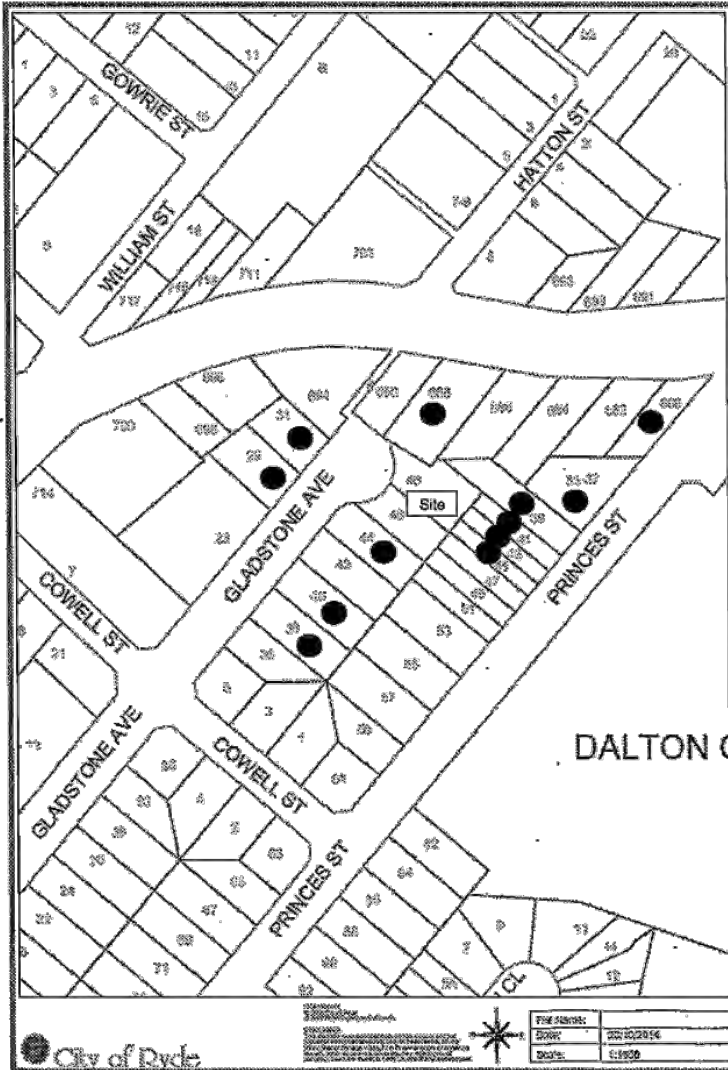
ITEM 2 (continued)

ATTACHMENT 4

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ATTACHMENT 2

● Indicates submissions received (petition also received)



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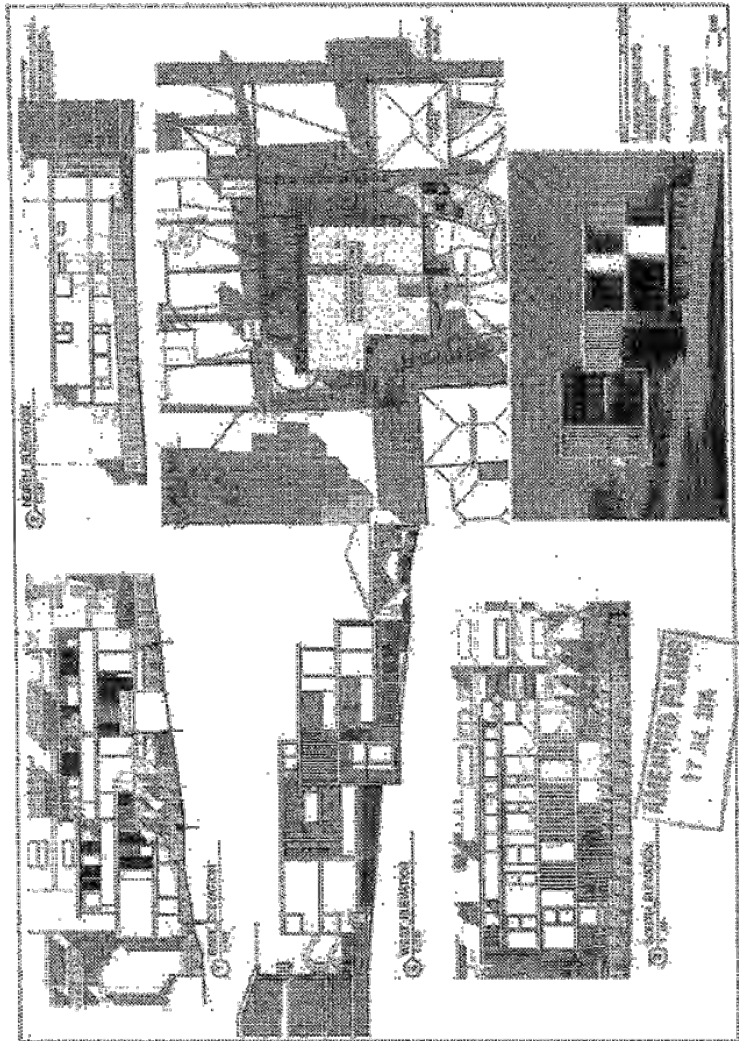
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ATTACHMENT 3



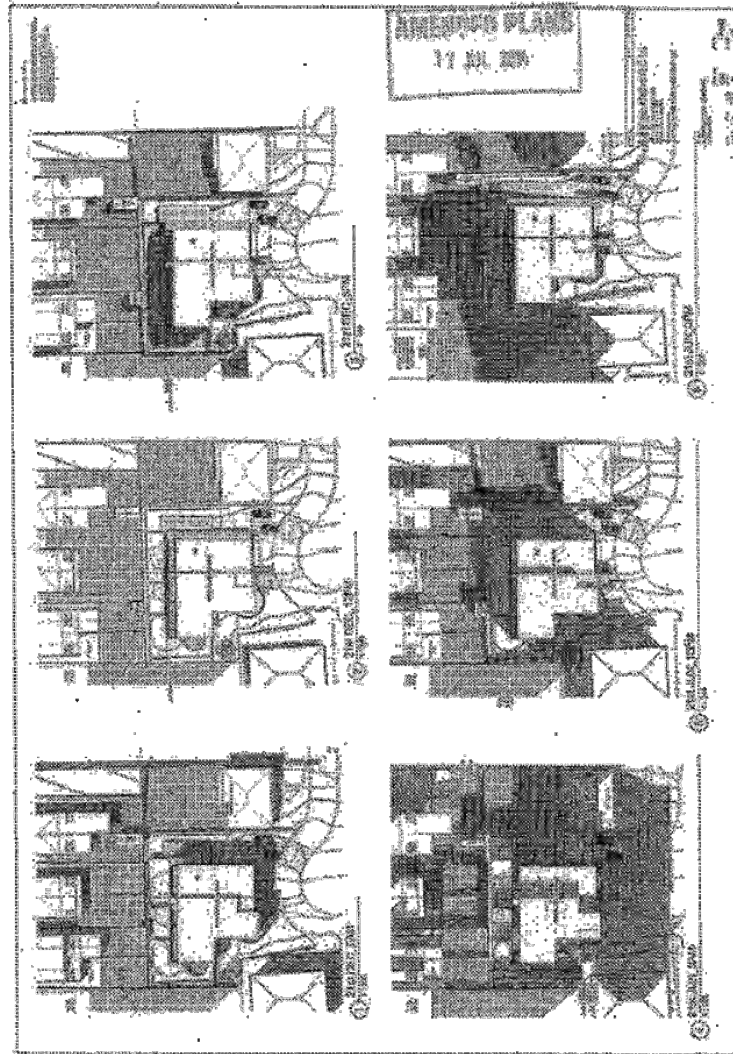
Agenda of the Planning and Environment Committee Report No. 11/14, dated
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ITEM 2 (continued)

ATTACHMENT 4

ITEM 2 (continued)

ATTACHMENT 3



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Tuesday 4 November 2014.

Agenda of the Planning and Environment Committee Report No. 5/15, dated
Tuesday 21 April 2015.

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

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

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

File Number: GRP/09/5/6/2 - BP15/403

1. Report Summary

Applicant: H Shaker.

Owner: S Kradjian.

Date lodged: 21 July 2014 (amended plans received 14 November 2014)

This report considers a development application (DA) for the erection of a two storey attached dual occupancy.

The proposal has been assessed against the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979, the Ryde LEP 2010, and Ryde DCP 2014. The proposal complies with the maximum building height and floor space for residential properties in an R2 Low Density Residential zoning. There are some minor non-compliances with Ryde DCP 2014 regarding topography and excavation (amount of cut), garage width, landscaping (deep soil area and dimensions of 8m x 8m) and extent of hard surface within front garden. However these are considered to be justifiable given a merit based assessment.

The DA was notified to neighbours, and a total of forty nine (49) submissions including 13 submissions to the original plans and 36 submissions to the amended plans (10 individual and 26 pro-forma submissions) were received. The issues of concern raised in these submissions related to:

- Covenant restrictions - The proposal is inconsistent with terms of a covenant applying to allotments within 'The Dress Circle Estate'
- Heritage - An interim heritage order should be imposed on the 'The Dress Circle Estate' and the DA refused
- The proposal is of a bulk and scale that is out of character with the streetscape
- The proposal is inconsistent with the objectives of Ryde LEP 2014
- Visual privacy – overlooking and loss of overall privacy windows
- Solar access - overshadowing of windows and courtyard

ITEM 3 (continued)

- Building height (no of storeys) – concern is raised in the submissions that the dual occupancy is three storeys
- Traffic and parking issues as a result of the proposal
- Front setback and extent of excavation to accommodate garages
- Loss of trees and deep soil areas
- Error on plans relating to incorrect numbering of neighbouring properties
- Notification period during Christmas/Holiday period was inappropriate
- Reduced property value as a result of the proposed dual occupancy within 'The Dress Circle Estate'
- Climate change not addressed in Ryde Council DCP and policies.

In regard to concerns raised in resident submissions that the proposal is inconsistent with a covenant applying to properties within the 'Dress Circle Estate', the body of the report will explain that Council is not bound to abide by the terms within a private covenant and the proposal is consistent with the built form of residential development within the estate and the Ryde LGA. Other major concerns raised included the potential for heritage status to be applied to the 'Dress Circle Estate' and design of the building, however as discussed within the report these concerns do not warrant further design amendments to the application or refusal of the application outright.

It is generally considered that the proposal is acceptable when assessed using the objectives and controls of Ryde's DCP 2014 and is generally consistent with modern dual occupancy developments throughout the City of Ryde. It is therefore recommended that the DA be approved.

Reason for Referral to Planning and Environment Committee: Number of submissions received, totalling forty nine (49).

Public Submissions: Forty nine (49) submissions were received from objecting to the development. Thirteen (13) submissions were received to the original notification and a further thirty six (36) submissions (10 individual submissions and 26 pro-forma copies of the same submission) were received to the amended plans.

SEPP 1 (or clause 4.6 RLEP 2010) objection required? None required.

Value of works - \$850,000

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

ITEM 3 (continued)

RECOMMENDATION:

- (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.

ATTACHMENTS

- 1 Draft Conditions
- 2 Compliance Table
- 3 Dress Circle Estate information
- 4 Map
- 5 A4 Plans
- 6 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Michael Tully
Assessment Officer - Town Planner

Chris Young
Team Leader - Assessment

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment and Planning

ITEM 3 (continued)

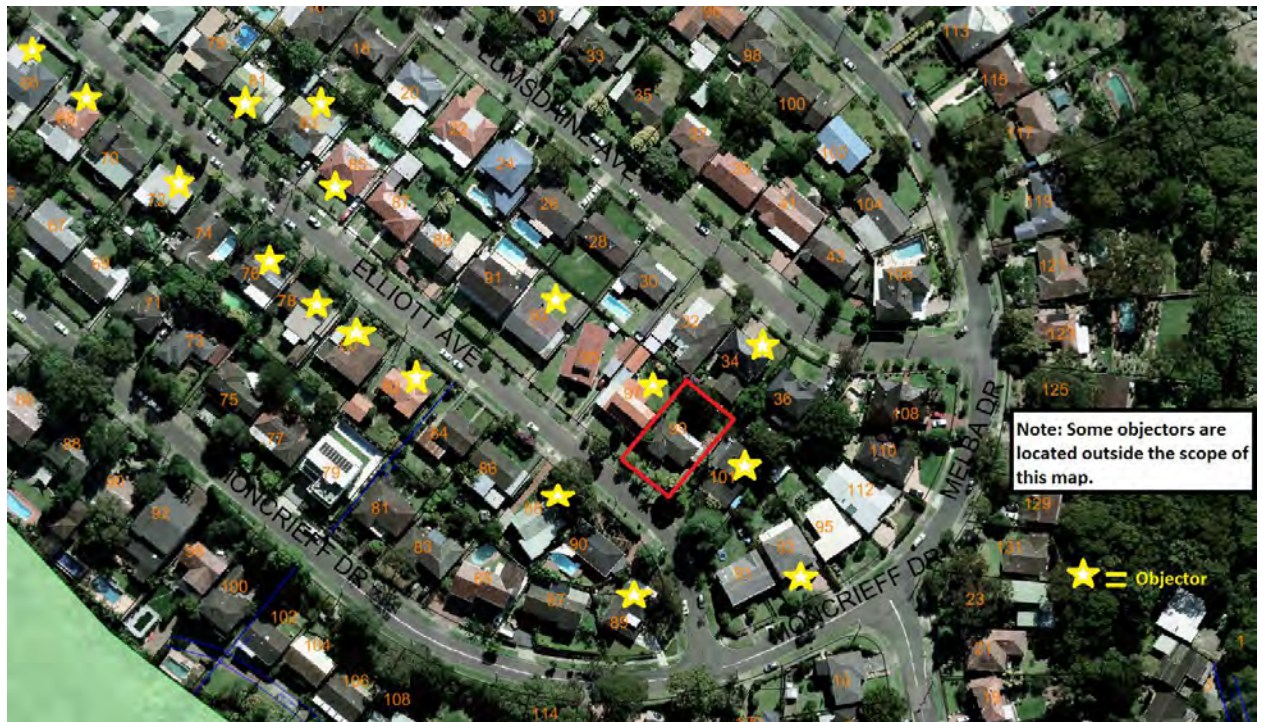
2. Site (Refer to attached map.)

Address	: 99 Elliott Avenue, East Ryde
Site Area	: 581.91m ² Frontage: 14.82m + 4.265m (arc) – 19.085m Depth: 30.48 - 30.67m
Topography and Vegetation	: The site slopes towards the street and contains a number of smaller trees.
Existing Buildings	: Single storey dwelling house and attached single car garage.
Planning Controls	
Zoning	: R2 Low Density Residential under Ryde LEP 2010.
Other	: Ryde DCP 2014.



Subject site (above)

ITEM 3 (continued)



3. Councillor Representations

Nil - (Note: Several copies of submissions received were sent to Councillors who then forwarded those submissions to Council officers for assessment as part of the consideration of this DA)

4. Political Donations or Gifts

Any political donations or gifts disclosed? None disclosed.

5. Proposal

- Demolition of the existing dwelling house;
- Tree removal and construction of retaining walls
- Construction of a two storey attached dual occupancy residential development, with vehicular access to Elliott Avenue:

Unit 1 and 2 both comprise a semi basement garage with internal access to the floor above. The ground floor consists of an entry, study, laundry/bathroom, one bedroom with ensuite and a combined kitchen/dining/lounge area which accesses the ground floor deck to the rear. The ground floor of unit 2 also provides a small deck within the western side setback. The first floor of both units consists of three bedrooms including a Master bedroom with an ensuite and walk in wardrobe and bathroom.

ITEM 3 (continued)

Four balconies (two per unit) are attached to bedrooms on the first floor, facing the rear.

The proposed 2 storey building is to be constructed of a combination of masonry, timber cladding and metal shading louvers. The dwellings proposed consist of multiple skillion roofs with a slope of 1-5 degrees.

The development provides a standard dual occupancy design with each dwelling separated by a common wall. The building provides articulation to Elliott Avenue through varied street setbacks, differing roof and façade designs.

The following is a photo montage of the proposed dual occupancy when viewed from Elliott Avenue.



6. Background

The following is a brief overview of the development history relating to the proposed attached dual occupancy to be constructed on the subject site:

- DA was lodged on 21 July 2014.
- Following the notification period thirteen (13) submissions were received from the neighbouring properties concerning 'The Dress Circle Estate' covenant, heritage conservation and request for placement of an interim heritage order, bulk and scale, streetscape, three storey elements, privacy, overshadowing, traffic/parking and landscaping.

ITEM 3 (continued)

- Additional information was requested by Council on 27 July 2014 in relation to elevated floor levels, floor space, lot size <580sqm, no. of storeys, wall plate height, garage dominance, car parking spaces, streetscape, privacy, overshadowing, landscaping and inconsistencies.
- Meeting held with applicant on 11 September 2014 to discuss additional information requested by Council on 27 July 2014.
- Amended plans were received by Council on 14 November 2014 and included the following amendments:
 - Reduction in floor area and number of storeys to a maximum of two
 - Reduced size of garages
 - Internal reconfiguration of the ground floor and first floor of both units
 - Changes to windows within the western and eastern elevation
 - Revised front entry design to both units
 - Addition of a deck within the western elevation of unit 2
 - Revised roof design
 - Revised landscaping and stormwater plan

The amendments addressed the additional information requested by Council 27 July 2014.

- Amended plans were received by Council on 22 December 2014 and included the following amendments:
 - Deletion of ground floor deck within the eastern elevation (side setback) and replacement of bi-fold doors (associated with the deck) with a highlight window.

The amendments addressed the additional information requested by Council 27 July 2014.

- Following the re-notification of the amended plans received by Council on 14 November 2014, thirty six (36) further submissions (10 individual submissions and 26 pro-forma copies of the same submission) were received objecting to the proposed development. The concerns raised were very similar to the issues raised during the initial notification period.

ITEM 3 (continued)

- The amended plans received by Council on 22 December 2014 were not re-notified as the only change from the plans received on 14 November 2014 was the deletion of ground floor deck within the eastern elevation (side setback) and replacement of bi-fold doors (associated with the deck) with a highlight window. These minor changes addressed privacy concerns and further compliance with Ryde DCP 2014, therefore it was considered that re-notification was not required.

7. Submissions

The original proposal was notified to adjoining property owners in accordance with Development Control Plan 2014 – Part 2.1, Notification of Development Applications for a period from 28 July to 12 August 2014.

Amended plans were received on 14 November 2014, which were then re-notified to neighbours for a period from 16 December 2014 to 14 January 2015 (extended notification period applied due to Christmas/New year period).

In response to the **original proposal**, thirteen (13) submissions were received. When the amended plans were received and re-notified to neighbours, a further thirty six (36) submissions were received (10 individual submissions and 26 pro-forma copies of the same submission). The issues of concern are summarised and discussed as follows:

- *A dual occupancy will decrease the value of our properties (within the ‘Dress Circle Estate’)*

Comment: Development Application applicants have a right, under the provisions of the Environmental Planning and Assessment Act, 1979, to apply for developments that achieve the aim of orderly and economic use and development of land.

Concerns about possible decreases in surrounding property values do not constitute a reasonable ground for refusal. This position has been reinforced by planning and development decisions in the Land and Environment Court.

- *The proposal is inconsistent with ‘The Dress Circle Estate’ covenants that affect properties within the Estate and which will irrevocably change the character of the area.*

Comment: Clause 1.9A (1) and (4) of the Ryde LEP 2010, titled “Suspension of covenants, agreements and instruments” states the following:

ITEM 3 (continued)

- (1) *For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose....*
- (4) *Except for the purposes of enabling development for dual occupancy (attached).... this clause does not apply to any land in Zone R2 Low Density Residential.*

Under subclause (1), provided a development proposal is permissible within the zone or where development consent is granted under the Environmental Planning and Assessment Act, a covenant (on its own) cannot restrict the carrying out of that development.

Under subclause (4), the entire clause (ie: all of clause 1.9A) does not apply in any R2, R3 or R4 residential zone “*except for the purposes of enabling development for dual occupancy (attached)*”

The weight to be given to any covenant in determining a DA becomes a matter for Council. If Council has any policies in this regard or has engaged in a particular practice in relation to covenants, such a policy/practice will bear on the weight to be given. The existence of the covenant itself does not mandate refusal of the DA.

Council does not have any current policy or practice in relation to giving any additional weight to a covenant. Also, it should be noted that the heritage significance of the ‘Dress Circle Estate’ is not currently identified as either a heritage conservation area or a heritage character area under either the Ryde LEP or DCP.

Further, it also noted that Council has previously granted consent for a dual occupancy development at no. 92 Melba Drive (LDA2011/554 – approved 05/04/12) and no. 50 Melba Drive (LDA2013/371 - approved 12/12/13), both of which are within the ‘Dress Circle Estate’.

- *The application should be refused and an interim heritage order should be placed over the ‘Dress Circle Estate’ pending new and more detailed provisions to protect the heritage significance of the estate.*

Comment: In order to properly consider resident concerns regarding possible heritage protections and streetscape significance of the ‘Dress Circle Estate’, specialist advice was sought from Council’s Heritage Officer and Team Leader Strategic Planning. The following comments have been provided:

ITEM 3 (continued)

The 'Dress Circle Estate' was created in the 1960s and there remains some evidence of the early subdivision pattern and housing forms and styles from this period.

There is a high degree of variation in the building typology, i.e. there are a substantial number of examples where the earlier housing forms have been modified through alterations and additions, upper storey additions, car parking structures or cosmetic changes such as rendering, re-cladding of roofs etc.

As a result, the significantly varied building typology does not provide a sense of cohesion that enables one to view and appreciate the precinct as a good example of a c1960s estate subdivision that is readily identifiable and interpreted as such. Whilst certain restrictions-as-to-user / covenants were placed on the Titles requiring specific building specifications (materials, form and density), many of the dwellings have progressively departed from these 'restrictions' to a point where it would be difficult to argue that the resulting built forms provide evidence of such a design intent and level of development control from that period.

In terms of the subdivision pattern, this is still generally intact. Best interpreted from an aerial perspective, there is evidence of the wide street frontages and separation between dwellings, although this has been generally eroded through later alterations and additions together with new development.

Further, the precinct has not previously been considered in heritage studies as having a degree of significance that warrants its protection through being declared a heritage conservation area.

Given the high degree of contemporary development within the precinct, this has eroded the sense of cohesion in the streetscapes and building typology to a point where it is difficult to view and appreciate the precinct as a c1960s estate subdivision. Subsequently, it is considered that this precinct would not satisfy the NSW Heritage Council criteria for assessing heritage significance and would not warrant the creation of a heritage conservation area.

Therefore, refusal of the application on these grounds alone is not considered appropriate and the provisions within the LEP and DCP are considered adequate.

- *No holistic and thematic heritage studies have been carried out of the Ryde LGA since 1986, although the heritage values of the estate has been raised in submissions to Council in respect of LEP 2010 and LEP 2014 when they were in draft form.*

ITEM 3 (continued)

Comment: Further to the comments in the previous objection, Council's Heritage Officer has also provided advice on Council's previous consideration of the possible heritage significance of this area. In this regard, a draft Heritage Study was considered by Council in August 2010. A number of representations were made from concerned owners of places which were proposed for listing. Subsequent to their objection for the listing, Council resolved that those items were to be removed from the draft heritage list and also resolved that the compulsory heritage listing of properties would not be pursued unless specifically requested by the property owner.

Further, the precinct has not previously been considered in heritage studies as having a degree of significance that warrants its protection through being declared a heritage conservation area.

If Council were to pursue a heritage listing by making the precinct a conservation area, regardless of the diminished heritage values and obscured significance; such a listing would devalue the importance and recognition of existing heritage listed items and conservation areas. Heritage listings need to be justified, rather than using a heritage listing as a stymie to development or change. Understandably, every heritage item and conservation area will have differing degrees of significance and be of significance for differing reasons and values.

As mentioned previously in the objection above, there is a high degree of variety in the built forms and housing typology within the streetscapes. There are varying setbacks, bulk and scale and detailing of dwellings. While there is evidence of the earlier housing forms, the majority of these appear to have been modified through alterations and additions, to a degree that contemporary development is a characteristic feature and therefore unlikely to stand out from original examples in the estate.

- *The proposal will set an undesirable precedent for the area, encouraging others to do the same type of development and which will result in an increase in population.*

Comment: Attached dual occupancies are a permissible form of development within the R2 Low Density Residential zone under Ryde LEP 2010 and the proposal predominantly complies with the prescriptive controls relating to this type of development as required by Council's DCP for Dwelling Houses and Dual Occupancies (attached). The areas of non-compliance are considered to be justifiable given a merit based assessment and do not warrant refusal of the development application.

ITEM 3 (continued)

Significantly, the development proposal complies with the maximum floor space control (being 0.5:1) which is identical to that applicable to single detached dwelling houses. Consequently, the overall size and impact of the development proposal will not be dissimilar to a free-standing dwelling house which can also be approved to the same extent as the current proposal and could (conceivably) house extended family members in a large dwelling.

The proposal has been assessed as adequately fulfilling the objectives and controls of Council's DCP and is not considered will set an undesirable precedent for the area.

- *The proposal is inconsistent with the objectives contained within LEP 2014 which prohibits the construction of dual occupancies on allotments of land that have a frontage of less than 20m.*

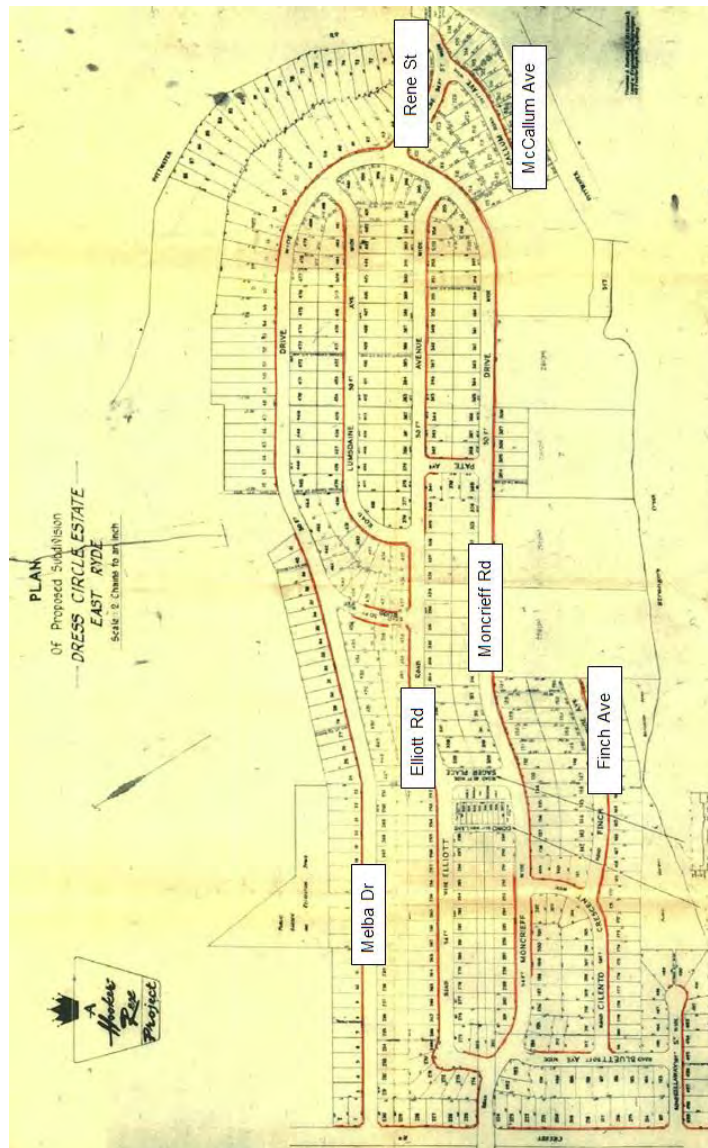
Comment: As discussed later in the report (provisions of Environmental Planning Instruments), this DA was lodged under the provisions of RLEP 2010 which did not contain a minimum frontage requirement.

Therefore, the proposal is assessed against the controls contained within LEP 2010 which requires allotments of land to have a minimum area of 580sqm if a dual occupancy is to be proposed and a maximum floor space ratio (FSR) of 0.5:1. The subject site has an allotment of land with a total calculated site area of 581.91sqm and a maximum FSR of 0.496:1. The proposal is considered to be consistent with the objectives of the R2 Low Density Residential zoning and the objectives of DCP 2014 for dual occupancies.

- *The height, bulk and design of the dual occupancy is out of character with the 'Dress Circle Estate'.*

Comment: The 'Dress Circle Estate' was created in the 1960s by Hooker Rex after removal of a significant portion of contaminated soils (previously a sewage dump) to allow the subdivision to occur. Hooker Rex also sealed and upgraded Pittwater Road as part of the subdivision at the request of Council. The subdivision configuration and streets within the estate are shown in the plan below. Please refer to attachment 3 for a copy of the plan and information about the estate.

ITEM 3 (continued)



The streets within the 'Dress Circle Estate' area contain a mixture of brick and fibro clad dwellings (single and two storeys) with hipped gable roofs. Newly constructed dwellings and dual occupancies (predominantly two storeys) combine a variety of external finishes, contemporary window shapes and roof form which is more akin to inner city designs. Such examples are shown below:

ITEM 3 (continued)

6 Rene Street – single dwelling



79 Moncrieff Street – single dwelling



41 Finch Avenue – single dwelling



92 Melba Drive – dual occupancy



LDA2011/554 – Approved 05/04/12
Four (4) submissions received.

ITEM 3 (continued)

50 Melba Drive – dual occupancy

LDA2013/371 – Approved 12/12/13
One (1) submission received.



102 Melba Drive – Single Dwelling
(under construction)



Street elevation (above) of 102 Melba Drive

ITEM 3 (continued)

Existing dwellings within the 'Dress Circle Estate' and properties which have been modified present a variety of built form as demonstrated by the images below:

36 Elliott Avenue – single dwelling



14 Elliott Avenue – single dwelling



12 Elliott Avenue – single dwelling



24 Elliott Avenue – single dwelling



ITEM 3 (continued)

72 Elliott Avenue – single dwelling



42 Melba Drive – single dwelling



106 Melba Drive – single dwelling



94 Melba Drive – single dwelling



It is considered the design of the dual occupancy (refer to montage earlier in the report) is reflective of both traditional and contemporary designs through the incorporation of skillion roofing and the mixture of cement render, timber cladding and vertical metal louvers (for shade), creating modern dwellings with elements of traditional designs.

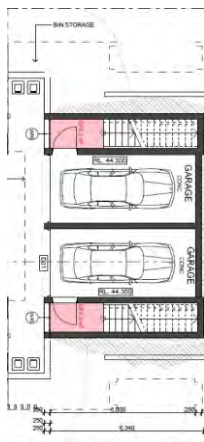
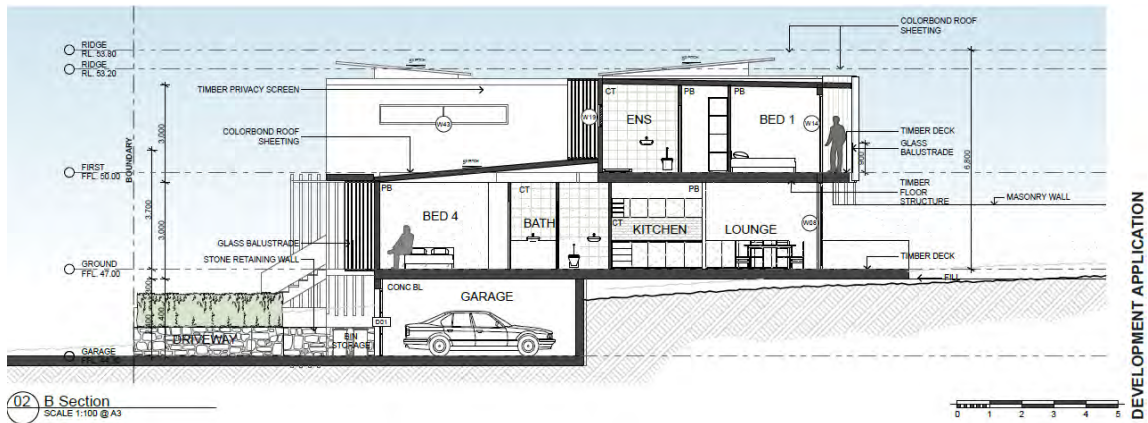
The overall height of the dual occupancy is a maximum of 8.45m which is well below the maximum allowable 9.5m. It has an overall FSR of less than 0.5:1, complying with LEP 2010. The building is a maximum of two storeys, set back a minimum of 1.5m from each side boundary, 8m from the rear and at least 6m from the front boundary, complying with the building envelope controls within Ryde DCP 2014.

ITEM 3 (continued)

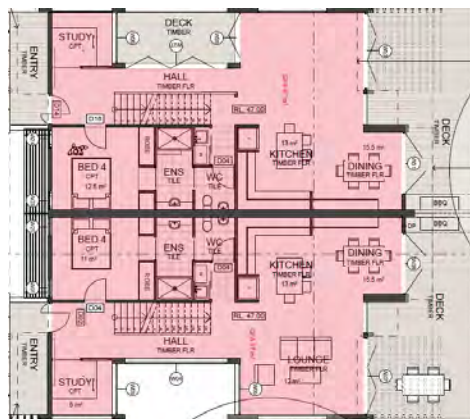
Therefore, the design, bulk and scale of the proposed dual occupancy is considered to be consistent with the prevailing streetscape and the residential character of the 'Dress Circle Estate'.

- *Building height - Concern is raised that that the proposed building is three (3) storey's in height and exceeds the maximum number of storeys stipulated in part 2.7.1 Ryde DCP 2014, which is a maximum of two storeys for dual occupancies.*

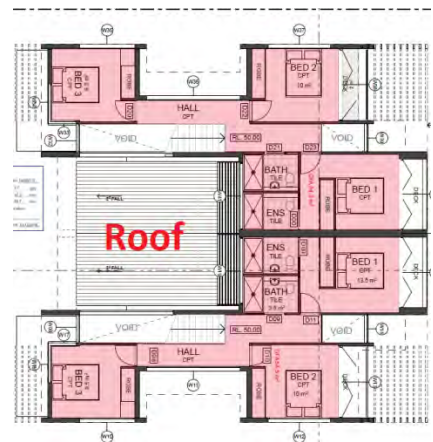
Comment: Amended plans were submitted which reduced the proposed building to a maximum of two storeys in height and only one storey above the garage. See section B below:



Garage



Ground floor



First floor

ITEM 3 (continued)

Even though the dual occupancy appears as three levels when viewed from the front, the section and floor plans (above) demonstrate that at no point throughout the dwelling is there a three storey element. A storey is defined in Ryde LEP 2010 as:

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

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

The area above the ground floor bedrooms (marked in red as 'Roof') is not a storey, therefore the proposed dual occupancy is a maximum of two storeys throughout at any point and complies with the DCP control for number of storeys.

Further, the proposed dual occupancy is a maximum of 8.45m in height which complies with RLEP 2010 which permits a maximum height of 9.5m. A photo montage (see earlier in report) of the proposal clearly demonstrates the proposal is a maximum of two storeys.

- *Overshadowing – concerns are raised over the proposed development overshadowing the neighbouring dwelling at 101 Elliott Avenue and reducing the amount of sunlight to the western courtyard and windows during winter.*

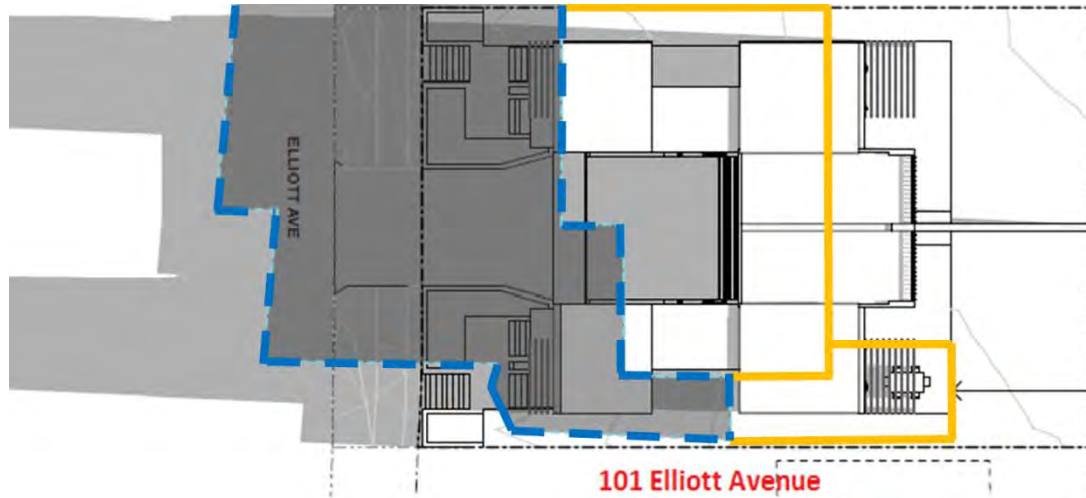
Comment: Ryde DCP 2014 contains the following requirements in terms of overshadowing of neighbouring properties:

For neighbouring properties ensure:




- *sunlight to at least 50% of the principal area of ground level private open space of adjacent properties is not reduced to less than two hours between 9am and 3pm on June 21, and*
- *windows to north-facing living areas of neighbouring dwellings receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their surface, where this can be reasonably maintained given the orientation topography of the subject and neighbouring sites.*

As demonstrated in the shadow diagrams submitted as part of the development application (see below), the proposed development will have some overshadowing impacts (midday onwards) on the neighbouring dwelling at 101 Elliott Avenue:

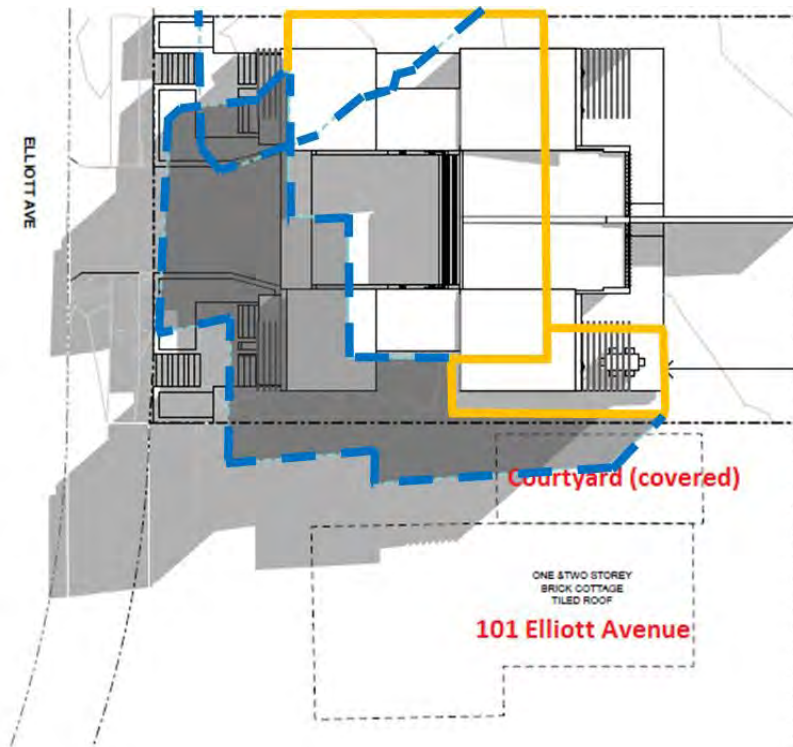
ITEM 3 (continued)



9AM – No impact

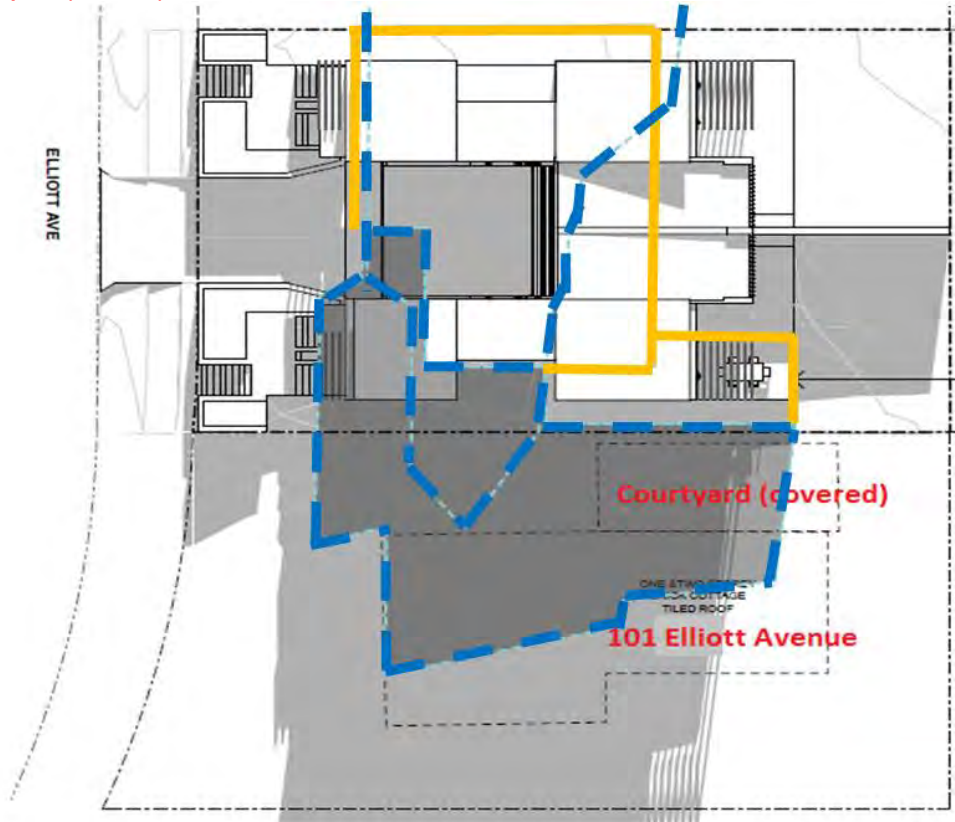
Existing residence shown in solid orange line	
Existing residence shadow shown in dark grey and blue outline	
Proposed dual occupancy shadow shown in light grey	

Midday (below)



ITEM 3 (continued)

3pm (below)



As demonstrated by the shadow diagrams provided, the rear courtyard of 101 Elliott Avenue will be subject to overshadowing between midday and 3pm on the 21st June. However, between 9am and midday, the principal area of ground level private open space, ie the rear courtyard will not be overshadowed and will achieve more than the minimum two hours sunlight as prescribed in the Ryde DCP 2014.

Further, the windows within the western elevation of the 101 Elliott Avenue will continue to receive a minimum of three (3) hours sunlight to a portion of their surface between 9am and 3pm on the 21st June.

Therefore, the proposal complies with *Section 2.14.1 Daylight and Sunlight Access, Part 3.3 Dwelling Houses & Dual Occupancy, DCP 2014.*

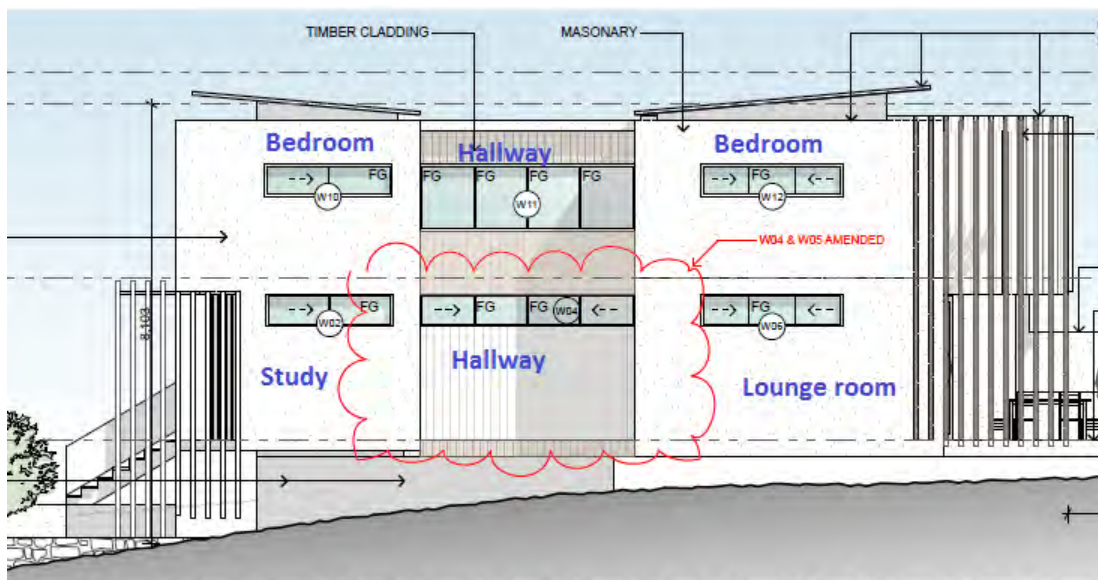
- *Privacy – The window placements of the building will impact upon the privacy of 101 Elliott Avenue*

ITEM 3 (continued)

Comment: The east-facing windows of the development relate to unit 1 of the development – shown in the east elevation drawing below. The DA plans show that the upper storey of the development (first floor level) consists of (3) bedrooms and only bedroom 2 and 3 face towards the objectors’ property. These rooms are used infrequently and predominantly at night and they are not considered to be primary living areas of the dual occupancy unit. As noted in Ryde DCP 2014, overlooking from bedroom windows is less of a concern than overlooking from the windows of other habitable rooms, because of the nature of use of these rooms.

The ground floor of unit 1 has a range of different types of rooms facing the objector’s property. As shown on the east elevation drawing below, the rear of the development on the eastern side contains a lounge room which is provided with a “highlight” (2.1m sill height) window because this room is one of the main living rooms of the development, minimising any overlooking. Although the lounge room (of both units) is also to be provided with a sliding door window to the northern elevation, direct overlooking of the adjoining property will be adequately resolved via boundary fencing given that the floor levels of this room are proposed to be at (or slightly below) natural ground level. The ground floor deck located within the side setback of unit 1 (shown on amended plans received 22/12/14) has been deleted and the corresponding door replaced with a highlight window.

The ground floor study room is also provided with a highlight window and will not provide for adverse overlooking opportunities.

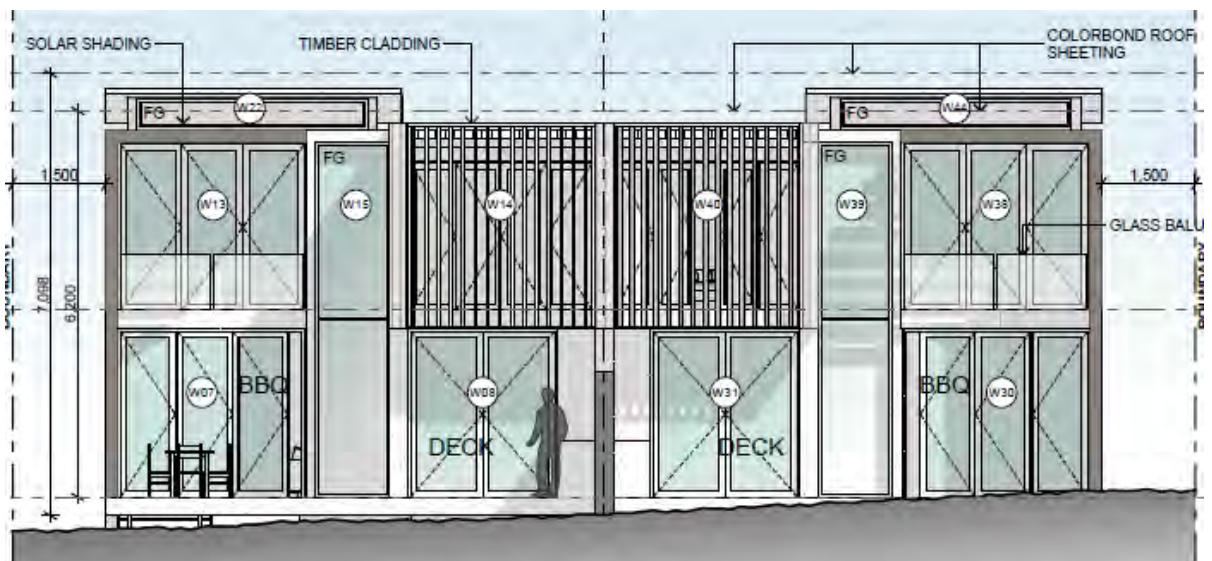


ITEM 3 (continued)

- *Privacy - Concerns are raised regarding overlooking and noise impacts from the windows within the rear elevation of the development affecting no. 34 Lumsdaine Avenue. Concerns are also raised regarding the potential for large number of people to occupy the building.*

Comment: The north facing (rear) windows of both units - shown in the north elevation drawing (below), relate to bedrooms on the first floor which are used infrequently and predominantly at night. Overlooking from bedroom windows is less of a concern than overlooking from the windows of other habitable rooms, because of the nature of use of these rooms.

The ground floor of both units has a range of different types of rooms facing the objector's property, however direct overlooking of the adjoining property will be adequately resolved via boundary fencing and landscaping given that the floor levels of the rooms are proposed to be at (or slightly below) natural ground level.



The proposed dual occupancy comprises a total of six (6) bedrooms, three bedrooms per unit. This number of bedrooms is not dissimilar to a large house which may provide on average between 5 – 6 bedrooms. The applicant has not proposed to use the individual units for more intensive purposes.

ITEM 3 (continued)

- *The proposed development does not meet the following objectives outlined under Clause 1.2, LEP2014:*
 - (d) *to identify, conserve and promote Ryde's natural and cultural heritage as the framework for its identity, prosperity, liveability and social development,*
 - (e) *to improve access to the city, facilitate the maximum use of public transport and encourage walking and cycling,*
 - (g) *to preserve and improve the existing character, amenity and environmental quality of the land to which this Plan applies,*

Comment: With regards to *Clause (d)*, the proposed dual occupancy is unlikely to impact upon any natural or cultural heritage as the precinct is not identified as a conservation area or character area, nor is it within the vicinity of any heritage items. Concerning *Clause (e)*, the proposed dual occupancy has no effect on access to the city and the use of public transport from within the surrounding streets. Walking and cycling within Elliott Avenue and the 'Dress Circle Estate' will continue to be supported as the proposed development will not impact upon the ability of pedestrians and cyclists from using the surrounding streets and footpaths for recreation or transport.

Concerning *Clause (g)*, the surrounding area contains brick and fibro clad dwellings with hipped gable roofs (single and double storey), while newly constructed dwellings and dual occupancies (predominantly two storeys) combine a variety of external finishes and roof forms.

It is considered the design of the dual occupancy is reflective of both traditional and contemporary designs through the incorporation of skillion roofing and the mixture of cement render, timber cladding and vertical metal louvers (for shade) create modern dwellings with elements of traditional designs.

The proposed landscape plan will provide a high-quality landscape design with appropriate species selection and level of deep soil planting to maintain a suitable landscape corridor within the rear setback, which is consistent with other properties within the street.

ITEM 3 (continued)

- *Streets within the 'Dress Circle Estate' are narrow and become single lane when cars are parked either side of the road making it difficult for passing emergency vehicles, garbage trucks and residents. The proposed dual occupancy will increase the number of cars parked in Elliott Avenue and result in potential traffic safety issues as it is located on the crest of a slight hill which drops down to a busy Moncrieff Avenue.*

Comment: Concerns regarding existing on street parking issues in Elliott Avenue, and the potential impacts of this development on this existing situation were a common issue raised in this development application.

The development requires one (1) parking space for each attached dwelling. Each unit provides one (1) car space within the garage, satisfying the parking requirements outlined with Ryde DCP 2014. The matter was raised with Council's Senior Development Engineer who advised the following;

"Elliott Avenue is a closed loop serving only for access to Elliott Avenue residents (ie very little through traffic). Considering the low traffic volumes and low onstreet parking demand experienced in this street, the occasional vehicle parked on street does not pose any concerns in regards to safety or operation of the roadway, particularly in the vicinity of the subject property which benefits from adequate approach sight distance from either direction for the applicable speed limit.

In regards to the proposed development, there is provision to stand an additional vehicle in the driveway on the property when required. As such, it is unlikely there will be any longterm impact to onstreet parking as presented in the submission. In the event that any visitor were to park fronting the property (as for any other dwelling in the street), it would not present an issue in terms of traffic safety or operation such to warrant refusal of the application."

- *Parking - The garages of the dual occupancy will be used as storage spaces and further cars will be parked on the street as a result.*

Comment: Although some concerns have been raised that residents will use the garages for 'storage' and simply park on the street, there is not considered to be any planning basis for these concerns. The provision of one car space per dwelling satisfies the parking requirements prescribed within DCP 2014 for dual occupancies, and the provision of such off-street parking has shown to be a valued component of any residential development.

ITEM 3 (continued)

- *The capacity of the ageing sewer pipes may not be able to cope with the proposed increase in the number of dwellings on the subject property*

Comment: The proposal results in the demolition of a single dwelling and construction of a dual occupancy (attached) – two dwellings. The increased load on the local sewer system will be minimal, however a condition has been imposed requiring the applicant to obtain a Section 73 Compliance Certificate prior to the issue of the construction certificate. The Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation to establish the water and sewer infrastructure requirement and charges to be paid.

Sydney Water generally will not issue a Section 73 Compliance Certificate unless it is satisfied that water/sewer services can be provided in a satisfactory manner.

- *Increase in traffic to and from the site, and in particular reversing traffic will lead to greater danger of conflict between vehicles and pedestrians.*

Comment: The RMS document “*Guide to Traffic Generating Developments*” provides average traffic generation rates for residential development for use in the assessment of such development. Whilst this document does not directly specify a rate for dual occupancy development, the document details a rate for larger units and townhouses (3 bedrooms or more) which would be equivalent to the subject proposal. As such, the specified rate is slightly greater than half that for single residential dwellings, being 5 to 6.5 daily vehicle trips per townhouse compared to 9 daily vehicle trips for a residential dwelling. Accordingly it is acknowledged that whilst there will be an increase in traffic generation, the level of traffic generation is not significant such to impact Elliott Avenue in terms of operation and safety.

With respect to vehicles reversing from the property, a great majority of the existing dwellings in the street are noted to require owners to reverse out into Elliott Avenue. Council’s Senior Development Engineer has applied a condition assuring that the front boundary fence is to be modified to comply with sight distance requirements of AS 2890.1 for vehicle entry points.

Considering the anticipated level of traffic generation, the low level of vehicle and pedestrian traffic in Elliott Avenue, the proposed vehicle access arrangement does not present a concern such that the application be refused or that the driveway be redesigned to provide a turning bay. (See Condition 36.)

ITEM 3 (continued)

- *Excavation - The 'Dress Circle Estate' is located on a sandstone platform, thus the extent of excavation proposed to accommodate the garages may impact upon the foundations of neighbouring properties.*

Comment: The proposed garages are located within the centre of the building, therefore any excavation which occurs will be located a minimum of 4.6m from the side boundary of the neighbouring properties. The depth of excavation will range from 1500 – 2000mm and will be limited to the footprint of the garages only. Therefore, the proposed excavation is highly unlikely to impact upon the foundations of neighbouring properties. However, to ensure that possible impacts in terms of excavation are suitably managed, it is recommended that dilapidation reports (both pre-commencement and post-construction) be required for immediately adjacent properties (97 and 101 Elliott Avenue). See conditions 44 and 69 within the draft development consent.

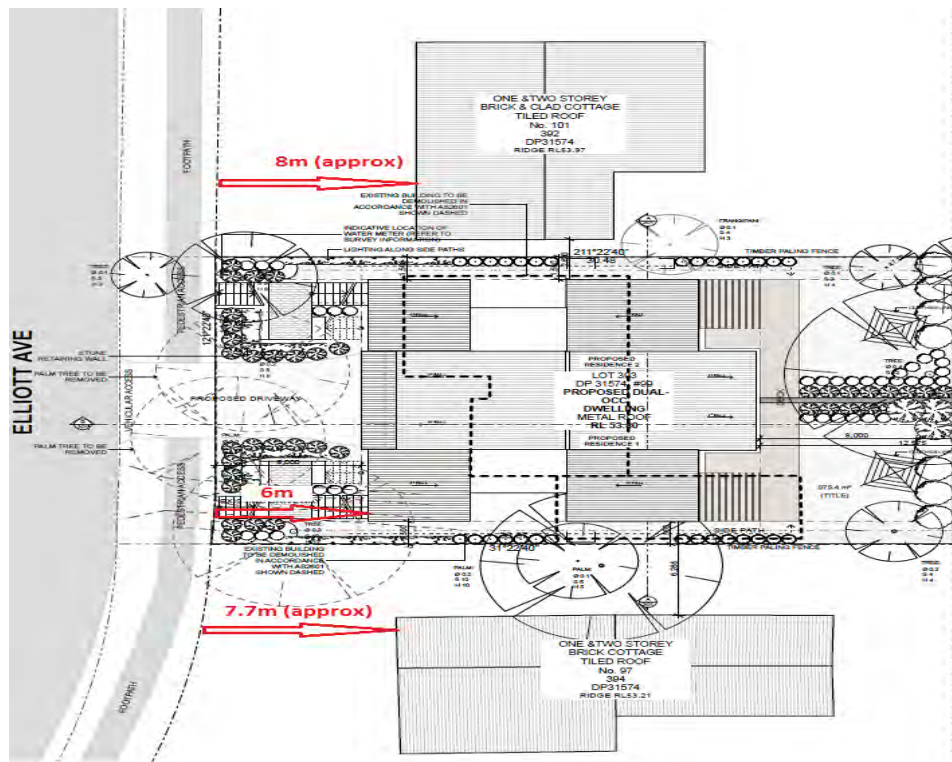
- *Error on Plans – The applicant has incorrectly listed the neighbouring properties on the site plan, nominating 97 Elliott Avenue as 101 Elliott Avenue and vice versa. Therefore the application should be rejected.*

Comment: The error refers to the incorrect property description of the dwellings either side of the subject site on the site plan submitted by the applicant. The minor error on the site plan is noted, but will not affect Councils ability from conducting a full and proper assessment of the application and does not warrant refusal of the application.

- *Front setback - The proposed development is located forward of the street setback of neighbouring dwellings and will affect the outlook of neighbouring dwellings.*

Comment: The proposed dual occupancy has a varied front setback, whereby the garages are setback up to 7.3m, the ground floor a minimum of 6m and the first floor a minimum of 6.3m. The plan below highlights the front setback of the dual occupancy, relevant to the neighbouring properties.

ITEM 3 (continued)



Ryde DCP 2014 requires a minimum setback of 6m to be provided for dual occupancies and the development complies with this control. The location of the proposed building is considered to be within the range of front setbacks within the prevailing streetscape, while the articulated front elevation and landscaping treatment adequately minimise the bulk and scale of the building. See image below which highlights front setbacks within Elliott Avenue.



ITEM 3 (continued)

Further, the proposed building will not obscure any significant views or vistas.

- *Loss of trees and increased stormwater runoff –Concerns are raised the proposal will result in a dramatic loss of trees, vegetation and the landscape setting, as well as increased stormwater runoff*

Comment: Four (4) trees (*Tuckeroo, Bangalow Palm, Cocos Palm and False Cypress*) within the front setback and two (2) trees (*Box Elder and Blackthorn*) within the rear setback are proposed to be removed. No objection was raised by Councils Consultant Landscape Architect as the trees to be removed have a low retention value and are not significant.

The proposed landscape plan will provide a high-quality landscape design with appropriate species selection and level of deep soil planting to maintain a suitable landscape corridor within the rear setback, which is consistent with other properties within the street.

Council's Senior Development Engineer has raised no objection to the design of the stormwater system, supporting the proposal subject to standard conditions of consent.

- *Notification – Councils decision to notify the amended plans during 16 December 2014 and 14 January 2015 is contrary to the public interest.*

Comment: During this period, Council notified the amended plans for a period of up to 28 days which is double the normal notification period (14 days) for this type of development. The extension of the notification period during the Christmas period is a requirement within the Councils Notification DCP, to provide adequate time for neighbouring property owners to respond to a proposed development application over the Christmas and New Year period.

Further, Council has received numerous submissions well after the notification period closed (14 January 2015) and considered these as part of the assessment process.

- *Climate change - The current Ryde Council planning controls and urban design provisions fail to address the issue of climate change, particularly with regards to loss of trees and vegetation, dual occupancies and 10/50 vegetation clearing laws. They must be addressed immediately by Ryde Council.*

Comment: The above issues raised in this submission are beyond the scope of assessment for an individual development application.

ITEM 3 (continued)

The proposed landscape plan and tree planting schedule is considered to be consistent with Councils landscaping controls contained within DCP 2014. In addition, Councils Consultant Landscape Architect has imposed conditions of consent relating to the additional planting of one tree within the front setback and standard conditions to ensure the landscaping works are completed as part of the construction process.

- *Why is Ryde Council giving preference to developers and not rate payers within East Ryde?*

Comment: Property owners have a right under the provisions of the Environmental Planning & Assessment Act 1979 to lodge development applications which achieve the aims of orderly economic development. The rights of adjoining owners have been balanced and considered in terms of consideration of submissions received.

- *Why can't Ryde Council restrict duplex type developments to estates that have much large allotments?*

Comment: As previously mentioned, under Ryde Local Environmental Plan (LEP) 2010 (which the proposal is subject to assessment under) *dual occupancies (attached)* are a permissible form of development within land zoned *R2 Low Density Residential*. Allotments of land were required to have a minimum site area of 580sqm. The subject site – 99 Elliott Avenue is zoned *R2 Low Density Residential* and has a site area of 581.91sqm. Therefore, the proposal is a permissible form of development under Ryde LEP 2010 on that allotment.

The current LEP (LEP 2014) has very similar controls to the superseded LEP (LEP 2010), however in addition to the previous controls for dual occupancies; it also requires allotments of land to have a minimum frontage of 20m. The subject site has a frontage of 19.085m (14.82m + 4.265m) which does not meet the minimum frontage requirement, however it is not subject to assessment under LEP 2014 as discussed earlier in the submissions section.

- *During construction of the proposal, traffic congestion within Elliott will be amplified.*

Comment: Localised traffic congestion may occur during the construction phase, however it will only be temporary and is unlikely to adversely impact upon the normal traffic flow within the surrounding street network.

ITEM 3 (continued)

However, the following conditions are advised to mitigate any localised traffic issues during construction:

1. **Construction Management Plan.** *As a result of the site constraints, limited vehicle access and parking, a Construction Management Plan (CMP) must be submitted for approval by the accredited certifier, prior to the commencement of any works on the site. The CMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent the site.*

The CMP must:-

- *Make provision for all construction materials to be stored on site, at all times.*
 - *Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.*
 - *Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council's Public Works.*
 - *Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.*
 - *Be in accordance with Council's DCP 2010 Part 8.1 (Construction Activities)*
 - *Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees. (See Condition 50.)*
2. *Structures or works on Council property (such as hoardings, scaffolding, shoring or excavation), the modification of parking restrictions (Work Zones) and standing heavy vehicles (crane, concrete pump, etc) on a footpath/ roadway are subject to separate approval from Council and/or the Local Traffic Committee. (See Condition 16.)*

ITEM 3 (continued)

3. **Construction Management Plan – Compliance.** *All works and construction activities are to be undertaken in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. A copy of the approved CMP is to be kept onsite at all times and made available to the accredited certifier or Council on request. (See Condition 17.)*

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

Not required.

9. Policy Implications

Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Local Environmental Plan 2010

Zoning

Under the Ryde LEP 2010 the zoning of the subject site is R2 Low Density Residential. The proposed development, being construction of a new attached 'dual occupancy' is permissible with consent under this zoning.

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 dual occupancy is 8.45m, which complies with Ryde LEP 2010.

Clause 4.4 - Floor Space Ratio. This clause prescribes a maximum floor space ratio (FSR) of 0.5:1. The FSR for the proposed development has been calculated to be 0.496:1, which complies with this clause.

Ryde LEP 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.

ITEM 3 (continued)

The DA was made (lodged) on 27/07/14 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.

(b) Relevant SEPPs

SEPP BASIX:

A compliant BASIX Certificate has been submitted with the DA.

(c) Any draft LEPs

N/A

(d) Any DCP (e.g. dwelling house, villa)

The proposal has been assessed using the development controls contained in Ryde DCP 2014, refer to the Compliance Check Table at **Attachment 2**. The table identifies some areas of non-compliance that are acceptable on a merit assessment of the proposal, as discussed in the following section.

- 1. Minimum 35% deep soil across the site not met and 8m x 8m (rear) deep soil zone not provided:** Section 2.5.1 of Part 3.3 of the Ryde DCP 2014 prescribes development controls for deep soil. Specifically, that a site is to have a deep soil area that is at least 35% of the area of the allotment and an area within the rear setback be provided with dimensions of 8m x 8m.

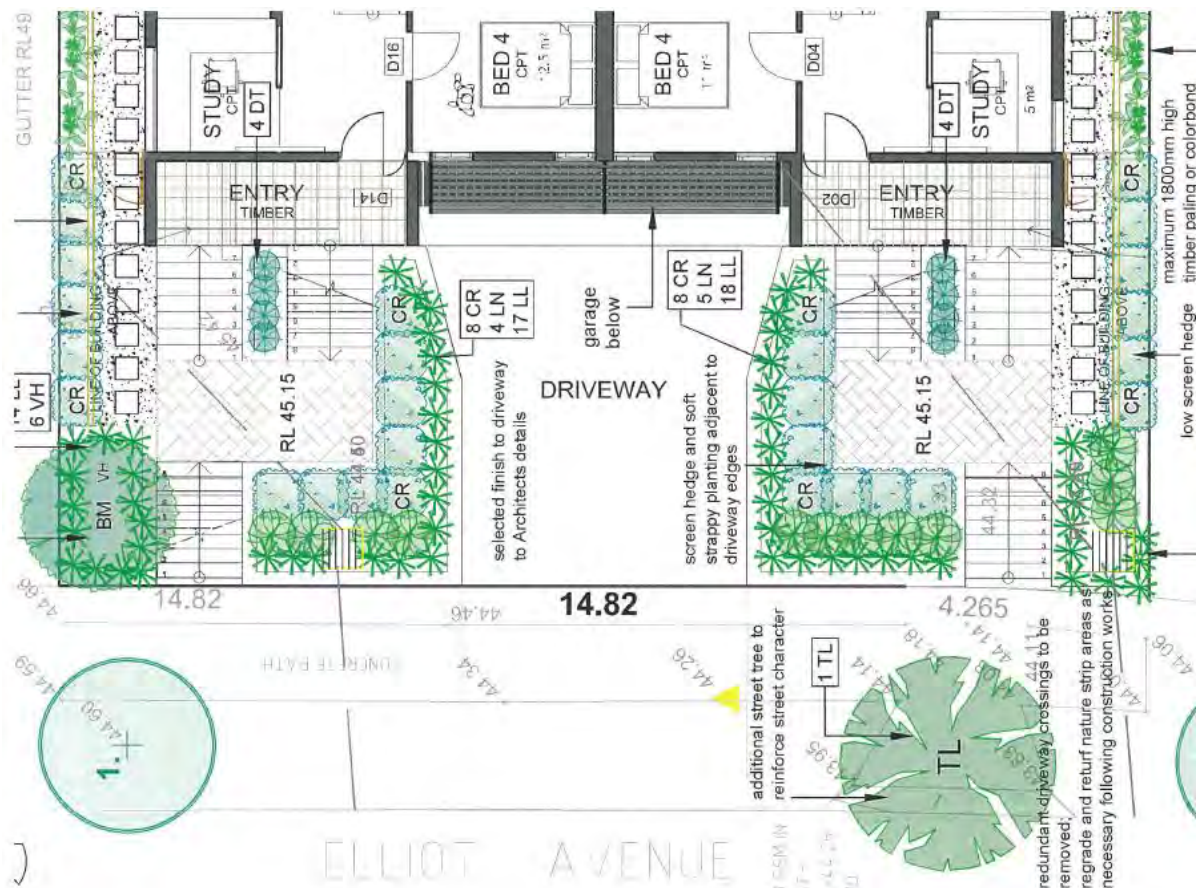
As assessed the proposed level of deep soil across the subject site is 28%, which falls short of the required area by 36.27m² and does not provide the minimum dimensions at the rear. Although not meeting the required amount of deep soil or dimensions (8m x 8m) the non-compliances can be supported for the following reasons:

- Deep soil planting has been incorporated across the site where possible with the inclusion of soft landscaping to minimise the visual impact of the semi-basement garage and reduce the heat island effects associated with hard paved areas.
- The proposed deep soil zone to the rear (6.4m x 19.08m) is considered to allow for sufficient space for mature tree growth and viable conditions for other vegetation.

ITEM 3 (continued)

- The proposed dual occupancy has a minimum rear setback of 8m and comprises a rear courtyard with dimensions of 6m x 19.08m (114.48sqm). The dimensions of the rear yard provide more than adequate space for a large canopy tree, a variety of landscaping works/tree planting and an area for active and passive recreation. The rear setback provides a landscape corridor which is consistent with other surrounding dwellings and the objectives of the control for deep soil zones.

Given the above it is considered that the level of deep soil provided across the site is sufficient and that the objectives of the deep soil control have been met. The landscaping proposed within the front setback is shown in the landscape plan below:



- 2. Landscaping** –front setback to compromise maximum 40% hard paving. Section 2.13 of Part 3.3 of the Ryde DCP 2014 prescribes landscaping controls, specifically that the front setback is to comprise a landscaped garden, limiting hard paved areas to a maximum of 40% of the front garden area.

ITEM 3 (continued)

The proposed dual occupancy has up to 74% impermeable areas within the front setback and 26sqm of planted garden area. Although exceeding the maximum hard surface area of 40%, the non-compliance can be supported for the following reasons:

- The front setback provides a high-quality landscape design with appropriate species selection and landscape elements such as rock walls, stepping stones and architecturally designed stairs to the front entrance, enhancing the appearance and presentation of the development.
- The front garden design is similar to recently constructed dwellings within the 'Dress Circle Estate' as highlighted earlier in the 'submissions section' of the report.
- The front garden will still allow for rainwater absorption and minimise the extent of stormwater runoff.
- The design of the front garden is closely incorporated with the design of the development as a whole. For example it incorporates steps and retaining walls required as a design response to changes in levels from the street.

Given the above it is considered that the objectives of the landscaping control have been met.

3. External garage width

Section 2.10.1 of the Ryde DCP 2014 states:

Garages and carports facing the public street are to have a maximum width of 6 metres or 50% of the frontage, whichever is less.

The proposed garages have a combined external width of 6.25m.

The non-compliance of 250mm is very minor and will not contribute to excessive garage dominance or detract from the prevailing streetscape. The modulated front elevation, architectural features including vertical louvered sun awnings and landscaping will soften the bulk of the garages and make them appear recessive.

4. Topography and excavation.

Section 2.5.2 of Part 3.3 of the Ryde DCP 2014 prescribes development controls for topography and excavation. Specifically, the Ryde DCP 2014 stipulates that:

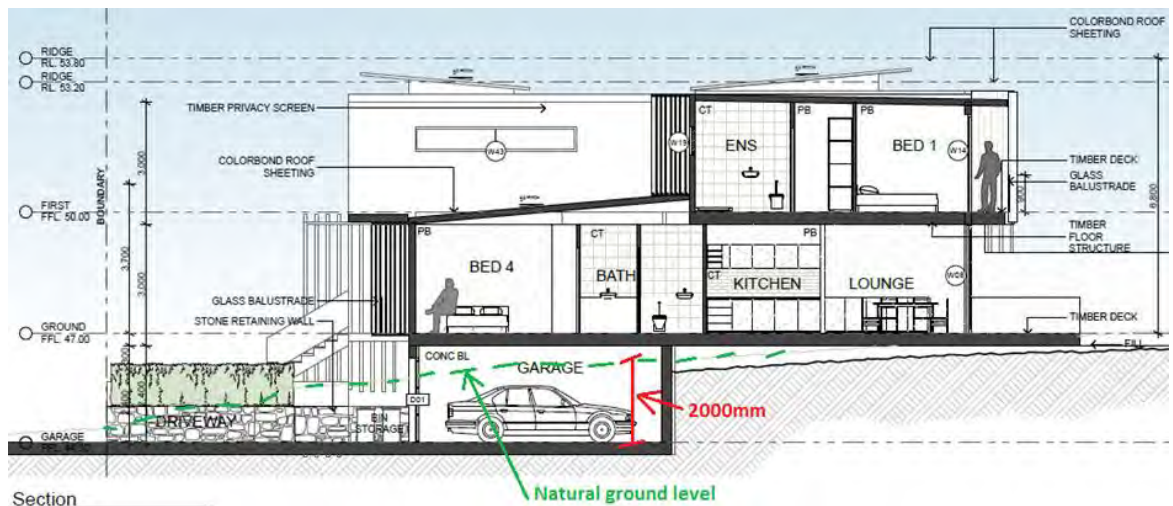
ITEM 3 (continued)

- Areas under the dwelling footprint may be excavated and filled so long as the maximum depth of excavation is limited to 1.2 metres and the height of fill is 900mm;

Cut/fill within building footprint:

- Within the building footprint the maximum level of cut is 2000mm (at the rear of the garages);

The proposed cut within the building footprint is shown in the following diagram (cross section):



The proposed cut within the building footprint is considered acceptable for the following reasons:

- The cut exceedance within the building footprint is primarily concentrated in the rear section of the eastern and western elevation– associated with the proposed single car garages. The depth of excavation will range from 1500 – 2000mm and will be limited to the footprint of the garages only.
- The proposed garages are located within the centre of the building, therefore any excavation which occurs will be located a minimum of 4.6m from the side boundary of the neighbouring properties.
- The dwelling has a fully compliant overall building height and wall plate height.
- Landscaping works within the front setback will partially screen the garage element from the street, minimising garage dominance.

ITEM 3 (continued)

Given the above, and the proposed development's design being consistent with objectives of the topography and excavation controls, the proposed non-compliance is considered justifiable in this instance.

Section 94 of the Environmental Planning and Assessment Act 1979

Council's Section 94 Development Contributions Plan - 2007

The contribution that are payable with respect to the increase housing density on the subject site (*being for residential development outside the Macquarie Park Area*) are as follows:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$ 4,277.74
Open Space & Recreation Facilities	\$ 10,407.85
Civic & Urban Improvements	\$ 3,539.91
Roads & Traffic Management Facilities	\$ 482.86
Cycleways	\$ 301.62
Stormwater Management Facilities	\$ 958.70
Plan Administration	\$ 81.32
The total contribution is	\$ 20,000.00

A condition for the payment of a Section 94 Contribution of \$20,000 has been included in the draft conditions of consent (**Attachment 1**).

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 in terms of DCP compliance, and in terms of the submissions received.

The resultant impacts of the proposed dual occupancy 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 Ryde Local Government Area.

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

ITEM 3 (continued)

(b) Natural Environment

Given the nature of the proposed development being for the construction of a new dual occupancy that replaces an existing dwelling on site, and the development includes limited excavation (garage area only) and tree removal with compensatory planting, it is considered there will be no significant impact upon the natural environment as a result of the proposal.

11. Suitability of the site for the development

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

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 includes a contemporary built form that is in keeping with the existing and desired future character of the low density residential area, and maximises housing choice.

13. Consultation – Internal

Internal Referrals:

Senior Development Engineer: Council's Senior Development Engineer has assessed the proposal and advised that it is satisfactory subject to conditions. With respect to concerns regarding traffic safety, it is to be noted that the site is located in an area subject to very low volumes of vehicle and pedestrian traffic and the development presents very little to change to offstreet vehicle access and parking that is prevalent along Elliot Street. As such, this aspect does not raise any concerns such to warrant refusal or that the development be further amended.

Consultant Landscape Architect: Council's Consultant Landscape Architect has assessed the proposal and advised that it is satisfactory subject to conditions.

Heritage Officer: Council's Heritage Officer has assessed the proposal and advised that it is satisfactory, no conditions recommended. Such comments have been made in response to the particular issues of concern raised by the neighbours, and as discussed in the submissions section of this report, above.

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 79C of the Environmental Planning & Assessment Act 1979 and is generally considered to be satisfactory for approval.

The non-compliances identified in terms of Ryde DCP 2014 regarding topography and excavation (cut and fill requirements), garage width/setback and landscaping/deep soil are considered to be justifiable given a merit based assessment or through conditions to be imposed.

The proposal has attracted a number of submissions both to the notification of the original proposal and to the amended plans received. Many of the issues raised in the submissions relate to the proposed dual occupancy being out of character with the 'Dress Circle Estate' and setting precedence for future development of this type and scale. However, the housing typology within the streets of the 'Dress Circle Estate' do not provide a sense of cohesion that enables one to view and appreciate the precinct as a good example of a c1960s estate subdivision that is readily identifiable and interpreted as such. This is demonstrated in the 'submissions section' of the report which included examples of the earlier housing forms which have been modified through alterations and additions, as well cosmetic changes such as rendering, re-cladding and newly constructed dwellings/dual occupancies which incorporated modern and contemporary designs.

The issues of traffic and parking congestion were not considered to be significant, nor would they be substantially altered as a result of the proposed development.

Therefore, the issues of concern are not considered sufficient to warrant further design amendments or justify refusal of the proposal.

ITEM 3 (continued)

The proposed development is considered to be consistent with the desired future character of the low density residential areas, which permits both dual occupancy and two-storey residential developments, and consistent with the nature of modern development in the Ryde Local Government Area.

On the above basis, LDA2014/311 at 99 Elliott Avenue, East Ryde is recommended for approval.

ITEM 3 (continued)

ATTACHMENT 1

Draft Development Consent

GENERAL

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

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

Document Description	Date	Plan No/Reference
Cover Sheet	01/12/14	A001 – Issue B
Notes/Legend	01/12/14	A002 – Issue B
Site Plan	01/12/14	A003 – Issue B
Site Analysis	01/12/14	A004 – Issue B
Garage Floor Plan	01/12/14	A101 – Issue B
Ground Floor Plan	01/12/14	A102 – Issue B
First Floor Plan	01/12/14	A103 – Issue B
Roof Plan	01/12/14	A104 – Issue B
Elevations	01/12/14	A201 – Issue B
Elevations	01/12/14	A202 – Issue B
Sections	01/12/14	A203 – Issue B
Finishes schedule	01/12/14	A204 – Issue B
Survey Plan	20/08/14	Rev A
Existing Tree Plan	20/10/14	1 of 4 – Rev B
Landscape Details	20/10/14	2 of 4 – Rev B
Landscape Plan	20/10/14	3 of 4 – Rev B
Landscape Plan	20/10/14	4 of 4 – Rev B
Stormwater Plan	03/11/14	1 of 2 – Rev C
Stormwater Plan	03/11/14	2 of 2 – Rev C
Erosion and Sediment Control Plan	09/07/14	

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

- a) **OSD Location.** The location of the OSD tanks and all associated pits & pipework is to be moved outside the Tree Protection Zones of the neighbouring trees established by the Project Arborist. Details of compliance are to be reflected on the plans submitted with the **Construction Certificate**.

ITEM 3 (continued)

ATTACHMENT 1

- b) **Tree planting – front yard.** One (1) Eucalyptus haemastoma (Scribbly Gum) with a minimum pot size of 45litres is to be planted in the front garden. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**

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(s) numbered 561196M_02, dated 05/11/2014.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a) Protect and support the adjoining premises from possible damage from the excavation, and
 - b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.

Protection of Adjoining and Public Land

5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Hoardings.**
- a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
7. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

ITEM 3 (continued)

ATTACHMENT 1

8. **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.
9. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

Works on Public Road

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

Development Engineer Conditions:

12. **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.
13. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
14. **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.
15. **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.

ITEM 3 (continued)

ATTACHMENT 1

16. Structures or works on Council property (such as hoardings, scaffolding, shoring or excavation), the modification of parking restrictions (Work Zones) and standing heavy vehicles (crane, concrete pump, etc) on a footpath/roadway are subject to separate approval from Council and/or the Local Traffic Committee.
17. **Construction Management Plan – Compliance.** All works and construction activities are to be undertaken in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. A copy of the approved CMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

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.

18. **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.
19. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).

ITEM 3 (continued)

ATTACHMENT 1

20. 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.

21. **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.

22. **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.

23. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.

24. **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.

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.

ITEM 3 (continued)

ATTACHMENT 1

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

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$ 4,277.74
Open Space & Recreation Facilities	\$ 10,407.85
Civic & Urban Improvements	\$ 3,539.91
Roads & Traffic Management Facilities	\$ 482.86
Cycleways	\$ 301.62
Stormwater Management Facilities	\$ 958.70
Plan Administration	\$ 81.32
The total contribution is	\$ 20,000.00

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

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

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

26. **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

27. **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**.
28. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: dwelling houses with delivery of bricks or concrete or machine excavation)
29. **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
30. **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**.
31. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

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

- Quick Check agents details - see Building, Developing and Plumbing then Quick Check; and
 - Guidelines for Building Over/Adjacent to Sydney Water assets - see Building, Development and Plumbing then Building and Renovating.
 - Or telephone 13 20 92.
32. **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**.

ITEM 3 (continued)

ATTACHMENT 1

33. **Fencing.** Fencing is to be in accordance with Council's DCP 2014: Part 3.3 – Dwelling House and Dual Occupancy (attached) – Section 2.16 - Fences. Details of compliance are to be provided in the plans for the **Construction Certificate**.

Development Engineer Conditions:

34. **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.
35. **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.
36. **Provision of Pedestrian Sight Lines.** Clear pedestrian sight lines in accordance with Figure 3.3 of AS2890.1 :2004 Off Street Car Parking are to be provided at the driveway entry. This requires that there be no wall or fence higher than 900mm within 2.5m of the driveway entry at the boundary and to a distance of 2.0m. Full details are to be shown on the architectural and landscaping plans submitted for approval with the Construction Certificate.
37. **On-Site Stormwater Detention.** Stormwater runoff from site shall be collected and piped to Blaxland Road via an On-site detention (OSD) system designed in accordance with the City of Ryde, Development Control Plan 2014: - Part 8.2; Stormwater Management. The concept drainage design prepared by Loka Consulting Engineers Job No 14NL134 Sheet D00, D01 Revision C shall be amended to incorporate but not be limited to the following:
- a) A minimum two access grates per OSD tank
 - b) The overflow from the tanks when all pipes are blocked must be designed to travel down the pathway towards the street without entering the neighbouring properties
 - c) Provision of surface inlet pits within the rear yard & connection of these to the street

ITEM 3 (continued)

ATTACHMENT 1

- d) All gutters, downpipes and pipeline conveying stormwater runoff to the OSD tank are to be designed for the 1 in 100 year, 5 minute duration storm event.
- e) Provision of a pump out system for the runoff from the driveway.

Detailed engineering plans including certification from a chartered civil engineer with NPER registration with Engineers Australia indicating compliance with this condition are to be submitted for approval with the Construction Certificate application.

38. **Pump System.** The wet well shall be designed and constructed in accordance with section 7.3 of AS 3500.3. The pumps shall be dual submersible and shall be sized and constructed in accordance with section 7.3 of AS 3500.3.

Direct connection of the pumps rising main into the kerb will not be permitted. The rising main is to be connected into the on site detention tank. Details shall be submitted with the Construction Certificate application.

In the event of pump failure, all runoff that otherwise would have been pumped from the property is to be stored on the site for up to the 100 year Average Recurrence Interval 3 hour storm event. A detailed drainage design by a qualified Civil Engineer is to be submitted with the **Construction Certificate application**. The tank volume is to be determined using the ILSAX drainage program or its equivalent. The rational method is not permitted.

39. **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.

40. **Structural Certification.** The foundations of the building adjoining the underground detention tanks are to be designed in such a way to minimise any structural loads from the building on to the detention tanks and vice versa. The walls of the OSD tanks shall be fully waterproofed to avoid any seepage. A certification from a structural engineer addressing this shall be submitted with the construction certificate.

41. **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.

ITEM 3 (continued)

ATTACHMENT 1

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
- 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.

42. 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.

ITEM 3 (continued)

ATTACHMENT 1

43. **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.
44. **Residential building work – provision of information.** Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA has given the Council written notice of the following information:
- a) in the case of work for which a principal contractor is required to be appointed:
 - i. the name and licence number of the principal contractor; and
 - ii. the name of the insurer by which the work is insured under Part 6 of that Act.
 - b) in the case of work to be done by an owner-builder:
 - i. the name of the owner-builder; and
 - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

ITEM 3 (continued)

ATTACHMENT 1

46. **Pre-commencement dilapidation report.** The submission of a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties namely 97 and 101 Elliot Avenue, and public infrastructure (including roads, gutters, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining private properties, prior to the commencement of construction.
47. **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.
48. **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.
49. **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
50. **Construction Management Plan.** As a result of the site constraints, limited vehicle access and parking, a Construction Management Plan (CMP) must be submitted for approval by the accredited certifier, prior to the commencement of any works on the site. The CMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent the site.

The CMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council's Public Works.

ITEM 3 (continued)

ATTACHMENT 1

- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Be in accordance with Council's DCP 2010 Part 8.1 (Construction Activities)
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street tree's.

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.

51. **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*.
52. **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.
53. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
54. **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.
55. **Construction materials.** All materials associated with construction must be retained within the site.

ITEM 3 (continued)

ATTACHMENT 1

56. 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.

57. 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.

58. 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".

59. Tree protection – no unauthorised removal. This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or identified as approved for removal on the stamped plans.

60. That trees 1,6,7,8 10 and 12 are retained as nominated on the approved landscape plan.

61. 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 and neighbouring allotments. 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.

62. That tree 2, 3, 5 and 11 be removed in accordance with NSW Workcover Code of Practice (2007) and undertaken by an Arborist with minimum AQF Level 2 qualifications as nominated on the approved landscape plan.

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

ITEM 3 (continued)

ATTACHMENT 1

64. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
65. **Tree works – arborist supervision.** A Consultant Arborist must be appointed to oversee all works, including demolition and construction, in relation to the trees identified for retention on the site.
66. **Tree works – provision of arborist details.** Council is to be notified, in writing, of the name, contact details and qualifications of the Consultant Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.
67. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

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.

68. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) 561196M_02, dated 05/11/2014.
69. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of any **Occupation Certificate**.

ITEM 3 (continued)

ATTACHMENT 1

70. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

71. **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.
72. **Post-construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties, prior to the issue of any **Occupation Certificate**.

Development Engineer Conditions:

73. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
74. **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.

ITEM 3 (continued)

ATTACHMENT 1

75. **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.
76. **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.
77. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Job No 14NL134 Dwg D00 & D01 Revision C dated 7/11/14 prepared by Loka Consulting Engineers and as amended in red by Council and conditions of this consent.
78. **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.
 - 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
 - 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.

ITEM 3 (continued)

ATTACHMENT 1

- 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

79. **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.
80. **Positive Covenant, Pumps.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the pump 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 Pump-out 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.

ITEM 3 (continued)

ATTACHMENT 2

Compliance Check

Assessment of a Dual Occupancy (attached)

LDA No: LDA2014/0311	Date Plans Rec'd:
Address: 99 Elliott Avenue, East Ryde	
Proposal: Demolition, new dual occupancy (attached).	
Constraints Identified: Nil	

COMPLIANCE CHECK

Ryde LEP 2010	Proposal	Compliance
4.3(2) Height		
9.5m	8.45m	Yes
4.4(2) & 4.4A(1) FSR		
0.5:1	0.496:1 (determined from calculated site area)	Yes
4.5A(2)(a) Allotment Size- Dual Occupancy (attached) in Zone R2		
Min size - 580m ²	581.91m ²	Yes

DCP 2014	Proposed	Compliance
<i>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</i>		
Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed dual occupancy is a modern and contemporary design, commensurate with the existing and newly constructed dwellings and additions within the 'Dress Circle Estate'.	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
Dwelling Houses		
<ul style="list-style-type: none"> - To have a landscaped setting which includes significant deep soil areas at front and rear. - Maximum 2 storeys. - Dwellings to address street - - Garage/carports not visually prominent features. 	<p>Front and rear gardens proposed to both units of the dual occupancy including deep soil areas at the rear capable of supporting a variety of trees, shrubs, grasses and groundcovers. Limited deep soil has been provided to the front.</p> <p>A maximum of two storeys are proposed.</p> <p>Both units of the dual occupancy are considered to address Elliott Avenue.</p> <p>Garages are located behind the front building line of the floor directly above (ground floor)</p>	<p>No. Justifiable.</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Dual Occupancy – Strata Subdivision		
<p>For controls relating to subdivision of dual occupancies (attached) see clause 4.1A of Ryde LEP 2014.</p>	<p>Strata subdivision of the proposed dual occupancy (attached) is not proposed.</p>	<p>N/A</p>
Public Domain Amenity		
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 both units of the dual occupancy face Elliott Avenue.</p> <p>Single storey entrance portico proposed to both units of the dual occupancy.</p> <p>The proposed dual occupancy is considered to have</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
	sufficiently articulated street facades which promoting visual interest and reduce the visual bulk of the dwellings.	
<p>Public Views and Vistas</p> <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. 	No water views identified.	Yes
<p>Pedestrian & Vehicle Safety</p> <ul style="list-style-type: none"> - Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard. - Fencing that blocks sight lines is to be splayed. 	<p>Car parking is located to the front of the dwelling to allow vehicles to enter and exit the site safely.</p> <p>No front fence has been proposed, however large garden beds within the front setback will present as rendered block walls that face the street. The height of these walls have not been specified, therefore a condition has been recommended by Councils Senior Development Engineer that the walls are limited to maximum height of 900mm to ensure adequate line of sight is provided when a vehicle is exiting the property.</p>	<p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
Site Configuration		
Deep Soil Areas		
<ul style="list-style-type: none"> - 35% of site area min. - 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). - Dual occupancy developments only need 1 of 8 x 8m area (doesn't have to be shared equally). 	<p>Permeable (deep soil) area: 167.08m² approx (28% of site area).</p> <p>Rear DSA dimensions: Dimensions of 6.4m x 19.08m are provided within the rear yard of each unit.</p> <p>Front DSA: 26% permeable area in front yard= 28.8m².</p>	<p>No. Justifiable.</p> <p>No. Justifiable.</p> <p>No. Justifiable.</p>
Topography & Excavation		
<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 - No fill between side of building and boundary or close to rear boundary - Max ht retaining wall 900mm 	<p>Within BF Max cut: 2000mm</p> <p>Max fill: 500mm</p> <p>Outside BF Max cut: up to 500mm - OSD basin Max fill: 500mm (front setback)</p> <p>Maximum height of retaining walls associated with landscaping works are restricted to a maximum of 900mm as per the recommendation of Councils Senior Development Engineer.</p>	<p>No. Justifiable.</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
Floor Space Ratio		
Semi-basement garage	46.29m ²	Yes
Ground floor	169.47m ²	
First floor	109.29m ²	
Total (Gross Floor Area)	325.05m ²	
Less 36m ² (double) allowance for parking	289.05m ²	
FSR (max 0.5:1) Note: Excludes wall thicknesses; lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas.	0.496:1	
Height		
- 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL).	A maximum of two storeys is throughout the proposed dual occupancy (attached).	Yes
- 1 storey maximum above attached garage incl semi-basement or at-grade garages.	A maximum of one storey is proposed above the garage of each unit.	Yes
Wall plate (Ceiling Height) - 7.5m max above FGL <i>or</i> - 8m max to top of parapet <i>NB:</i> <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> <i>FGL = Finished Ground Level</i>	TOW RL: 52.55 FGL below (highest point) RL: 44.95 TOW Height (max)= 7.6m	Yes
9.5m Overall Height <i>NB:</i> <i>EGL = Existing Ground Level</i>	Max point of dwelling RL: 53.4 EGL below ridge (highest point) RL: 44.95 Overall Height (max)= 8.45m	Yes
Habitable rooms to have 2.4m floor to ceiling height (min).	2.4m min room height is provided to the semi-basement garage.	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
	2.7m min room height is provided to the ground floor and first floor.	
Setbacks		
SIDE		
Two storey dwelling - 1500mm to wall - Includes balconies etc	A minimum 1500mm setback is provided from both side boundaries on the ground and first floor of the dual occupancy.	Yes
Front		
- 6m to façade (generally)	A minimum 6m setback is provided.	Yes
- Garage setback 1m from the dwelling façade.	The semi basement garage is setback a minimum of 1m behind the ground floor.	Yes
- Wall above is to align with outside face of garage below.	Yes - The wall above the garage aligns with garage below.	Yes
- Front setback free of ancillary elements eg RWT, A/C	Complies	Yes
Rear		
- 8m to rear of dwelling OR 25% of the length of the site, whichever is greater.		
Note: 7.5m is 25% of site length, therefore a rear setback of 8m applies to the site.	A minimum rear setback of 9m is provided from the ground floor and 8m from the first floor.	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
Car Parking & Access		
General		
<ul style="list-style-type: none"> - Dual Occupancy (attached): 1 space max per dwelling. 	2 spaces proposed, one per unit.	Yes
<ul style="list-style-type: none"> - Where possible access off secondary street frontages or laneways is preferable. 	Access from: Elliott Avenue.	Yes
<ul style="list-style-type: none"> - Max 6m wide or 50% of frontage, whichever is less. 	External width: 6.25m	No. Justifiable.
<ul style="list-style-type: none"> - Behind building façade. 	Located behind ground floor deck/entrance.	Yes
Garages		
<ul style="list-style-type: none"> - Garages setback 1m from façade. 	The semi basement garage is setback a minimum of 1m behind the ground floor.	Yes
<ul style="list-style-type: none"> - Total width of garage doors visible from public space must not exceed 5.7m and be setback not more than 300mm behind the outside face of the building element immediately above. 	Width of opening: 5m (combined width of garages)	Yes
<ul style="list-style-type: none"> - Garage windows are to be at least 900mm away from boundary. 	N/A	
<ul style="list-style-type: none"> - Free standing garages are to have a max GFA of 36m² 	N/A	
<ul style="list-style-type: none"> - Materials in keeping or complimentary to dwelling. 	N/A	

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<p>Parking Space Sizes (AS)</p> <ul style="list-style-type: none"> ○ Double garage: 5.4m wide (min) ○ Single garage: 3m w(min) ○ Internal length: 5.4m (min) 	<p>Each single car garage is 3m wide x 6m long</p>	<p>Yes</p>
<p>Driveways</p> <ul style="list-style-type: none"> - Extent of driveways minimised 	<p>The extent of the driveway has been minimised</p>	<p>Yes</p>
<p>Semi-basement Car Parking</p> <ul style="list-style-type: none"> - Ramps must start 2m from the boundary (not on public land). - Walls are not to extend beyond walls of dwelling above. 	<p>N/A - The driveway provided is consistent with the street level.</p> <p>The walls of the semi-basement garage do not extend beyond the wall above</p>	<p>Yes</p>
<p>Landscaping</p>		
<p>Trees & Landscaping</p> <ul style="list-style-type: none"> - Major trees retained where practicable - Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL eg. stairs, terraces. - Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access) 	<p>Four (4) trees within the front setback and two (2) within the rear setback are proposed to be removed. No objection was raised by Councils Consultant Landscape Architect as the trees to be removed have a low retention value and are not significant.</p> <p>Connection provided to outdoor areas via the use of decks.</p> <p>Obstruction free pathway provided within the side setbacks.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> - Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy. - Back yard to have at least 1 tree with mature ht of 15m min and a spreading canopy. - 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>Front yard does not include 1 tree with mature height of 10m and spreading canopy. A condition has been recommended by Councils Consultant Landscape Architect for a suitable species to be planted.</p> <p>Rear yard includes an existing mature canopy tree.</p> <p>Boundary screen/hedging plants do not reach more than 2.7m in height.</p> <p>OSD located within side setbacks.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> - Landscaped front garden, with max 40% hard paving 	<p>26% permeable area in front yard= 28.8m², therefore 74% impervious area within front setback.</p>	<p>No. Justifiable.</p>
Dwelling Amenity		
<p>Daylight and Sunlight Access</p> <ul style="list-style-type: none"> - Living areas to face north where orientation makes this possible. - 4m side setback for side living areas where north is to the side allotment boundary. <p><u>Subject Dwelling:</u></p> <ul style="list-style-type: none"> - Subject dwelling north 	<p>Living areas of both dwellings are orientated to the rear in a northerly direction.</p> <p>N/A</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<p>facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21.</p>	<p>According to the shadow diagrams submitted, north facing windows of the subject units will receive at least 3 hours of sunlight to a portion of their surface between 9am and 3pm on June 21.</p>	<p>Yes</p>
<p>- Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21.</p>	<p>According to the shadow diagrams submitted areas of the POS of the subject units will receive more than 2 hours required sunlight between 9am and 3pm on June 21.</p>	<p>Yes</p>
<p><u>Neighbouring properties are to receive:</u></p>		
<p>- 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21.</p>	<p>According to the shadow diagrams submitted, the adjoining ground level open space of the adjacent 101 Elliott Avenue will receive at least 2 hours sunlight to at least 50% of the area between 9am and 3pm on June 21.</p>	<p>Yes</p>
<p>- At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21.</p>	<p>According to the shadow diagrams submitted, north facing living area windows (where possible) will continue receive at least 3 hours sunlight to a portion of their surface between 9am and 3pm on June 21.</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<p>Visual Privacy</p> <ul style="list-style-type: none"> - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. 	<p>The ground floor living areas are located to the rear of the development and predominately at or slightly above natural ground level (NGL), minimising direct overlooking.</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>Windows facing side boundaries are predominately highlight windows, except for the ground floor bi-fold doors within the western elevation. The bi fold doors provide access to a small deck within the western side. The deck will directly oppose the brick wall associated with 97 Elliott Avenue which does not include a single door or window.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Side windows offset from adjoining windows. 	<p>In summary, windows of living, dining, family etc. have been placed so as to avoid direct views to adjoining dwelling and open space.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Terraces, balconies etc are not to overlook neighbouring dwellings/private open space. 	<p>Side windows generally offset.</p> <p>Four (4) first floor balconies are located to the rear of the units and are associated with bedrooms. Bedrooms are predominately used at night and are unlikely to contribute adverse overlooking opportunities. Further, the vertical shading devices located either side of the dual occupancy will limit any</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
	<p>overlooking over side boundaries from any of the balconies.</p> <p>Therefore, it is considered the proposed dual occupancy is appropriately designed to minimise overlooking and mitigate any loss of privacy.</p>	
<p>Acoustic Privacy Layout of rooms in dual occupancies (attached) are to minimise noise impacts between dwellings eg: place adjoining living areas near each other and adjoining bedrooms near each other.</p>	<p>The proposed layout of the rooms of each dwelling is considered to allow for sufficient acoustic privacy due to the design placing similar rooms adjacent to each other.</p>	<p>Yes</p>
<p>View Sharing - The siting of development is to provide for view sharing.</p>	<p>No views identified.</p>	<p>Yes</p>
<p>Cross Ventilation - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation.</p>	<p>The design of the dwelling is considered to optimise the access to prevailing breezes and provide for cross ventilation.</p>	<p>Yes</p>
<p>External Building Elements</p>		
<p>Roof - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable Terrace. - Skylights to be minimised</p>	<p>Articulated roof proposed.</p> <p>Due to the flat roof design proposed it incorporates no eaves.</p> <p>None provided.</p> <p>No skylights proposed.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights.	Neither proposed.	Yes
Fencing		
Front/return: - To reflect design of dwelling. - To reflect character & 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 bdy max 900mm. - No colorbond or paling Max width of piers 350mm.	No front fence has been proposed, however large garden beds within the front setback will present as rendered block walls that face the street. The height of these walls have not been specified, therefore a condition is recommended by Councils Senior Development Engineer that the walls are limited to maximum height of 900mm to ensure adequate line of sight is provided when a vehicle is exiting the property.	Yes
Side/rear fencing: - 1.8m max o/a height.	1.8m high timber or colorbond fences are proposed.	Yes
Part 7.1 - Energy Smart, Water Wise		
Insulation		
Walls: R1.5 Ceiling: R3.0	To comply with BASIX certificate.	Yes
Hot Water System		
Any hot water system/s installed as part of a development or as a replacement must consider the most efficient option available to minimise greenhouse gas emissions.	To comply with BASIX certificate.	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
Water Fixtures, Fitting and appliances		
3 star shower heads; 4 star dual flush toilet; 4 star taps (other than bath outlets and garden taps); aerators to bathroom/kitchen taps.	To comply with BASIX certificate.	Yes
External Clothes Drying Area		
External yard space or sheltered ventilated space for clothes drying	Adequate areas have been provided within the rear setback.	Yes
Water Efficient Labelling & Standards (WELS)		
Minimum WELS rating of 4.5 stars for new or replacement dishwashers & washing machines.	To comply with BASIX certificate.	Yes
Part 7.2- Waste Minimisation & Management		
Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2014.	The applicant has submitted a Waste Management Plan.	Yes
Part 8.2 - Stormwater Management		
Stormwater		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	Drainage plans submitted and referred to Development Engineer for comment and deemed satisfactory subject to 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 the land does not permit an accessible pathway and the design of the dual occupancy reflects this.	Yes

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
Part 9.4 – Fencing		
Front & return fences		
<p>Front and return fences that exceed 1m in height are to be 50% open</p>	<p>No front fence has been proposed, however large garden beds within the front setback will present as rendered block walls that face the street. The height of these walls have not been specified, therefore a condition is recommended by Councils Senior Development Engineer that the walls are limited to maximum height of 900mm to ensure adequate line of sight is provided when a vehicle is exiting the property.</p>	<p>Yes</p>
Part 9.6 – Tree Preservation		
<p>Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed 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,</p>	<p>Four (4) trees within the front setback and two (2) within the rear setback are proposed to be removed. No objection was raised by Councils Consultant Landscape Architect as the trees to be removed have a low retention value and are not significant.</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<p>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>		

BASIX		
<p>All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans (list) BASIX Cert 561196M_02 dated 05/11/2014</p>	<p>BASIX commitment shown on plans</p>	<p>Yes</p>
<p>Water Target 40 Energy Target 40</p>	<p>Water: 40 Energy: 43</p>	<p>Yes Yes</p>
<p>Correct description of property/proposal on 1st page of Certificate.</p>	<p>Description is correct</p>	<p>Yes</p>

Demolition		
<p>Plan showing all structures to be removed</p>	<p>Yes</p>	<p>Yes</p>
<p>Demolition Work Plan</p>	<p>Yes</p>	<p>Yes</p>
<p>Waste Management Plan</p>	<p>Yes</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

Summary of Issues/Non compliances:

- Topography and excavation (amount of cut within building footprint >1200mm)
- External garage width is greater than 6m
- Landscaping (deep soil area <35% and dimensions of 8m x 8m within rear setback not provided) and;
- Extent of impervious area within the front garden (impervious areas exceed 40% of front garden area)

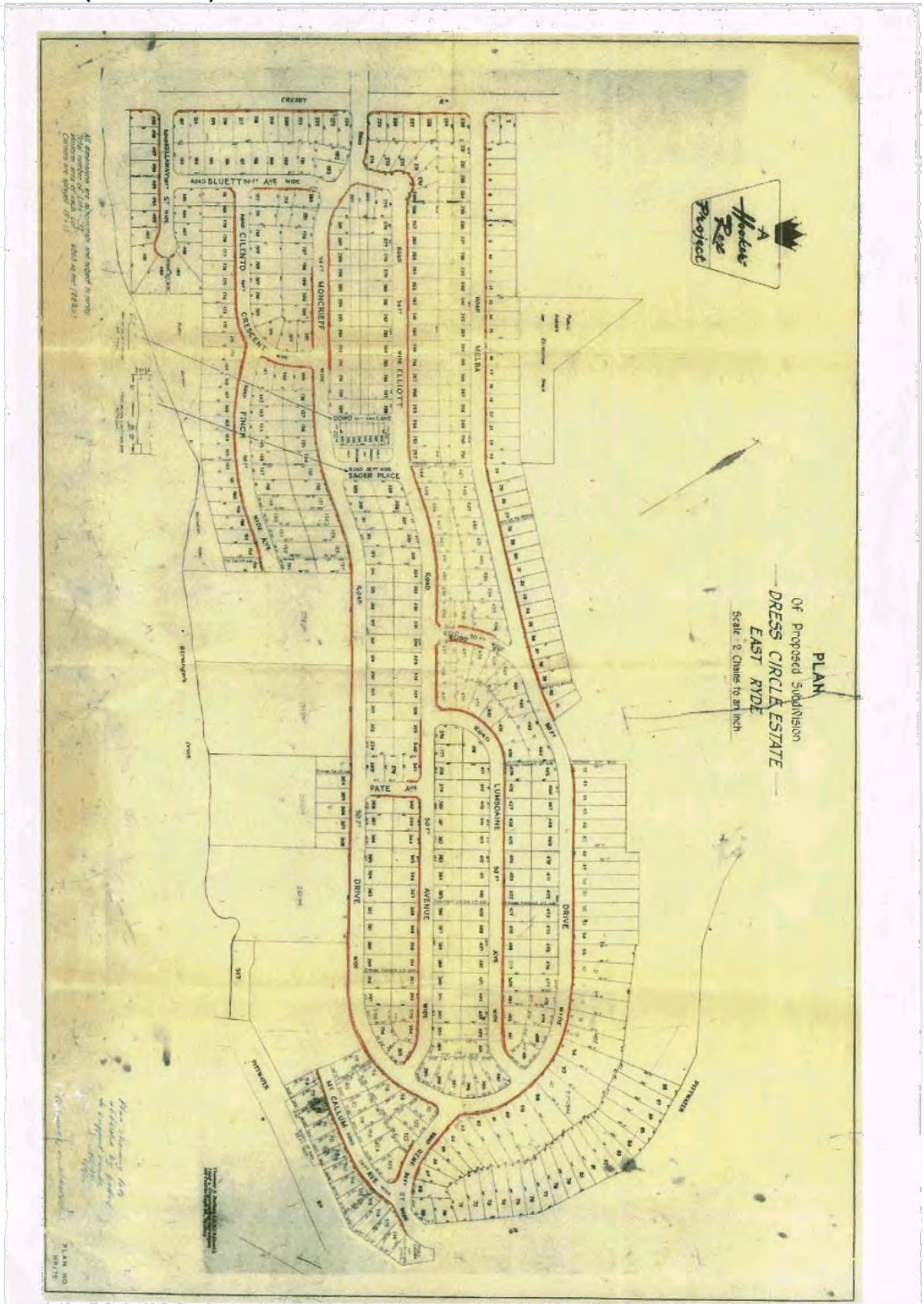
ITEM 3 (continued)

ATTACHMENT 3

Attachment 3: 'Dress Circle Estate' subdivision plan and background information.

ITEM 3 (continued)

ATTACHMENT 3



ITEM 3 (continued)

ATTACHMENT 3

Hooker Rex

In the building boom of the late 1950s, Hooker Rex Pty Ltd proposed redeveloping the Dress Circle Estate. Until 1956 there had been a sewage dump just beyond the northwest end of the Estate, in an area between today's Elliott Avenue, Bluett Avenue and Cilento Crescent. The council therefore said that the area could not be built on for 50 years. Hooker Rex overcame this by bringing in bulldozers and removing all the contaminated soil. They then covered the exposed clay with a five metre layer of clean soil. Another condition imposed by the council was that Hooker Rex seal and upgrade Pittwater Road.

Street Names

Hooker Rex retained the original name of the Dress Circle Estate and, using this theatrical name as a theme, named the streets after the greatest Australian stars of stage and screen. The streets and the artists after whom they were named are:

Bluett Avenue	Kitty Bluett, radio comedienne.
Cilento Crescent	Dianne Cilento, actress of stage and screen, Academy Award nominee.
Dowd Lane	Ronald Dowd, opera singer.
Elliott Avenue	Madge Elliott, stage actress and dancer.
Finch Avenue	Peter Finch, Academy Award winning actor of stage and screen.
Kellaway Street	Cecil Kellaway, actor of stage and screen, twice nominated for an Academy Award.
Lumsdaine Avenue	Jack Lumsdaine, song writer, entertainer, radio broadcasting pioneer.
McCallum Avenue	John McCallum, actor of stage and screen, managing director of J C Williamson Theatres, producer and director of films and TV, executive producer of <i>Skippy</i> .
Melba Drive	Dame Nellie Melba, opera singer, Australia's first international superstar.
Moncrieff Drive	Gladys Moncrieff, musical comedy singer. "Australia's Queen of Song".
Pate Avenue	Michael Pate, film star, TV actor and director.
Rene Street	Roy Rene (Mo), comedian.
Rudd Street	Steele Rudd, author, playwright, author of <i>On Our Selection</i> .
Sager Place	Peggy Sager, prima ballerina.

Bronhill Avenue was named after June Bronhill, a singer in opera, operetta and musicals. It was not on the plans of the Estate that Hooker Rex submitted to Ryde Council. It was a pre-existing road, Portius Road, that was upgraded and renamed when the Dress Circle Estate was developed.

The **Heatly Reserve** in the shopping centre was named after Ern Heatly, a highly regarded shop keeper who died in an armed robbery in his shop in 1983.

Fox Road, close to the northern corner of the Estate, was named after Alderman WH Fox of Ryde Council. It was part of the Mirradong Estate which was developed by Australia Holdings Pty Ltd at the same time as Hooker Rex developed the Dress Circle Estate.

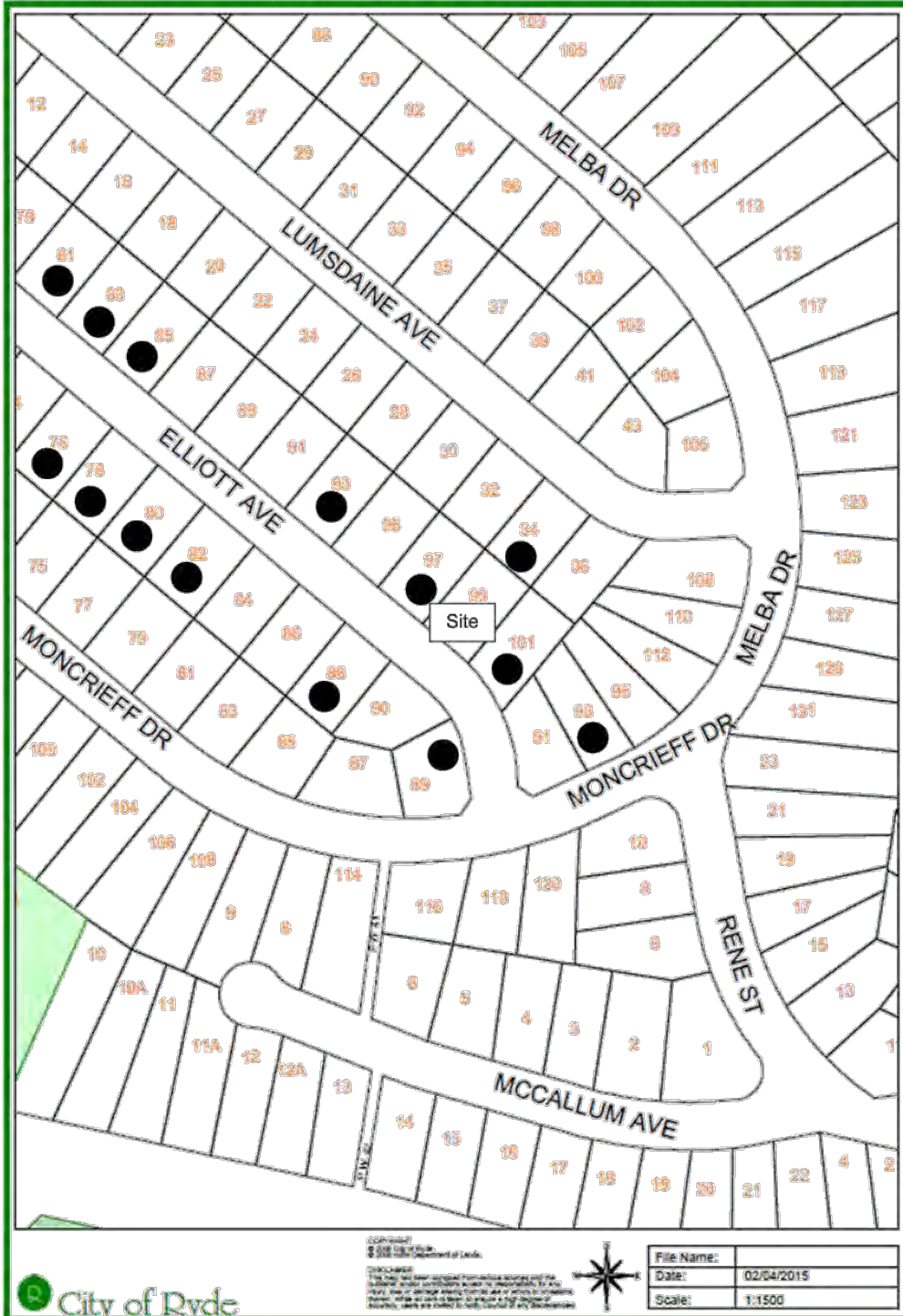
Pre-existing streets were **Pittwater Road** and **Cressy Road**.

Pittwater Road is the south eastern boundary of the Dress Circle Estate. Governor Arthur Phillip discovered an inlet off Broken Bay, north of Sydney. He named it "The Pitt Water" after England's Prime Minister, William Pitt. This was later abbreviated to "Pittwater". A road was planned to connect The Pitt Water and Parramatta, but this was never completed. Pittwater Road is a remnant of this incomplete road.

ITEM 3 (continued)

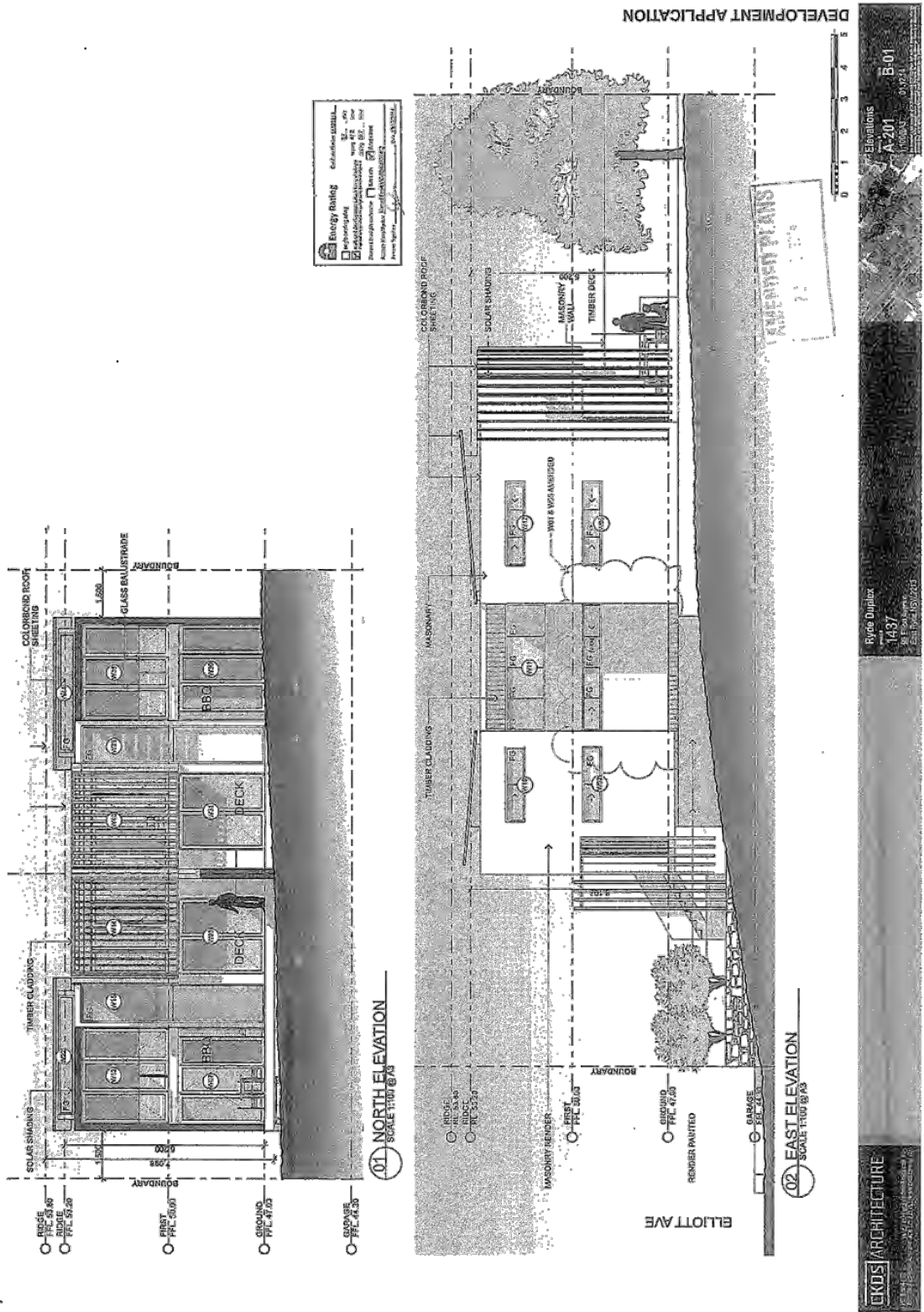
ATTACHMENT 4

 Indicates submissions/petitions received (other submissions outside map area)



ITEM 3 (continued)

ATTACHMENT 5



ITEM 3 (continued)

ATTACHMENT 5

DEVELOPMENT APPLICATION

EXISTING RETAINING WALLS
EXISTING DRIVEWAY
PROPOSED DRIVEWAY

CONCRETE RETAINING WALL

EXISTING CONCRETE RETAINING WALL

ELLIOTT AVE

21st June 2015

Ryde Offices
1437
1437 Ryde Office
East Ryde NSW 2112

EXOS ARCHITECTURE

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

Report prepared by: Creative Planning Solutions; Team Leader - Assessment
Report approved by: Manager Assessment; Group Manager - Environment and Planning
File Number: GRP/09/5/6/2 - BP15/409

1. Report Summary

Applicant: Mr David Dinh

Owner: David Dinh

Date lodged: 5 August 2014 (amended plans received 10 February 2015)

This report considers a development application (DA) for demolition and construction of a new attached dual occupancy development at 36 Samuel Street, Ryde.

The proposal has been assessed in terms of the controls contained in Ryde LEP 2010 and Ryde DCP 2014. The following areas of non-compliance have been identified.

- Non-compliance with the minimum allotment size contained in Ryde LEP 2010 (580m² required for erection of a dual occupancy (attached); site area is 569m²).
- Landscaping requirements (minimum required 8m x 8m deep soil area is not provided)
- Max fill within and outside footprint exceeded;
- Fill proposed in side setback area;
- Fill proposed in overland flow path; and
- Hard paved area within front yard exceeds 40%.

During the notification period, one (1) submission was received. The issue raised in this submission related mainly to the location and potential noise of any air conditioning units (but not raising issues of concern regarding the design of the development). It is considered that this issue could be appropriately addressed by a condition of consent.

It is acknowledged that the proposal would result in a minor increase in dwelling density of the surrounding area, and an increase in bulk and scale over that of the existing dwelling on site.

Nevertheless, the proposed dual occupancy is largely compliant with the objectives and controls of Ryde's DCP 2014 and as a result is generally consistent with modern dual occupancy developments throughout the City of Ryde. It is therefore recommended that the development application be approved.

ITEM 4 (continued)

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

Public Submissions: One (1) submission was received objecting to the development.

SEPP 1 (or clause 4.6 RLEP 2010) objection required? Clause 4.6 request submitted to vary minimum lot size pursuant to Clause 4.5A(2)(a) of Part 4 'Principal Development Standards' of Ryde LEP 2010 – Supported.

Value of works: \$480,000

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. LDA2014/332 at 36 Samuel Street, Ryde being Lot 54 DP 27143 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
Creative Planning Solutions**

**Chris Young
Team Leader - Assessment**

Report Approved By:

**Liz Coad
Manager Assessment**

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

ITEM 4 (continued)

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

Address	: 36 Samuel Street, Ryde (Lot 54 in Deposited Plan 27143)
Site Area	: 569.09m ² (Deposited Plan) Site frontage to Samuel Street of 16.15m (Deposited Plan) South west side boundary of 35.24m (Deposited Plan) North east side boundary of 35.24m (Deposited Plan) Rear boundary of 16.15m (Deposited Plan)
Topography and Vegetation	: The topography of the local area is relatively steep with the subject site having a 1:7 fall away from Samuel Street to the rear of the site. The site is identified as being constrained by overland flow across the front portion of the site and urban bushland – non conservation at the rear of the site
Existing Buildings	: Single storey weatherboard dwelling house
Planning Controls	
Zoning	: R2 – Low Density Residential under Ryde LEP 2010 R2 – Low Density Residential under Ryde LEP 2014
Other	: Ryde DCP 2014

ITEM 4 (continued)



Figure 1 - Aerial Image of subject site, including an annotation of the neighbouring property objecting to the proposed development.

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

ITEM 4 (continued)



Figure 2 – Photograph showing existing dwelling on the subject site and adjacent dwellings
Source: www.google.com.au/maps– edited by CPS

3. Councillor Representations

Name of Councillor: Councillor Pendleton

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

Date: 1 September 2014

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

On behalf of applicant or objectors? Unknown

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

4. Political Donations or Gifts

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

ITEM 4 (continued)

5. Proposal

The development proposes the erection of a two-storey attached dual occupancy, each with 4 bedrooms, generally containing living areas on the ground floor and bedrooms (and bathrooms) at first floor level. A single garage is provided for each dwelling in the dual occupancy, accessed via a central/shared driveway.

6. Background

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

LDA2014/332 was lodged on 5 August 2014. Shortly thereafter, it was notified to neighbours and referrals sent to internal/external officers (Senior Development Engineer and Consultant Landscape Architect).

Following a preliminary assessment, a request for additional information was sent to the applicant by Council on 20 August 2014, requesting the following matters to be addressed (summarised):

- **Minimum allotment size for dual occupancy** – 580m² required under Ryde LEP 2010; allotment size is 569.09m². Applicant was advised that a formal request to vary this development standard was required under Clause 4.6 of Ryde LEP 2010 (ie the submitted request as part of the Statement of Environmental Effects was not sufficient).
- **Minimum allotment frontage** – the applicant was requested to provide a revised Statement of Environmental Effects, to address the minimum 20m frontage requirement for dual occupancy development contained in the (then) Draft LEP 2013.
- **Visual Privacy** – the applicant was requested to provide revised plans which address potential privacy concerns from the elevated rear ground floor verandah and first floor balcony of both dwellings, in terms of overlooking of the adjoining rear patio / BBQ private open area of each adjacent dwelling within the dual occupancy.

On 23 August 2014, Council's Senior Development Engineer completed their assessment and requested the following additional information/amended plans. A letter was sent to the applicant to request this information on 23 August 2014:

- **Easement rejection letters** – required to show the applicant has made a genuine attempt to obtain an easement to drain water over a downstream property or properties.

ITEM 4 (continued)

- **Reduction in site coverage** – extent of site coverage/impervious area was approximately 55%, exceeding the maximum of 35% (or 40% with the provision of additional rainwater storage).
- **On-Site Detention** – Not provided in the original plans, but required for new developments exceeding 35% site coverage.
- **Absorption pits** – the proposed absorption pits have insufficient clearance from adjoining structures.

On 12 September 2014, the applicant contacted Council by email to acknowledge the additional information requested above, and also to request additional time to submit the requested information. On 16 September 2014, the applicant provided the following information as requested in Council's letter dated 20 August.

- Clause 4.6 Application form to vary a development standard Lot Size and submissions;
- Clause 4.6 Application form to vary a development standard Road Frontage Width and submissions;
- Revised Plans illustrating a new blade wall at the rear along the central party wall to address privacy concerns; and
- Revised Statement of Environmental Effects.

On 8 December 2014, a further letter was sent to the applicant to follow up the previous request for Engineering information. On 17 December 2014, the applicant provided a preliminary response for review by Council's Senior Development Engineer, however (by emails dated 21 January and 29 January 2015) this preliminary response was still unsatisfactory and further amendments were required.

On 5 February 2015, the applicant submitted the required revised engineering information. This has been assessed by Council's Senior Development Engineer to be satisfactory as discussed in the Referrals section of this report (below).

7. Submissions

The original proposal was notified to adjoining property owners in accordance with the Ryde Development Control Plan 2010 (Ryde DCP 2010) – Part 2.1, Notification of Development Applications for a period from 7 to 22 August 2014.

In response, one (1) submission was received from the owners of the neighbouring property to the south west of the subject site as shown on the aerial photograph at **Figure 1** earlier in this report.

ITEM 4 (continued)

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

- **Noise from air conditioning** – concerns were raised regarding the location of any air conditioning unit and the noise generated by any such unit if located within the side setback. Submission requested that the air conditioning unit be located at the rear of the building.

Comment: Whilst the submitted plans do not show the location of the proposed air conditioning units, the submitted BASIX certificate indicates that single phase air-conditioning will be utilised for the heating and cooling of both dwellings. Accordingly, it is considered that the following condition (see condition 29) be imposed to address any potential issues relating to noise impacts from air conditioning units.

Air Conditioning. *The noise of an air conditioner, pump, or other mechanical equipment must not exceed the background noise level by more than 5dB(A) when measured in or on any premises in the vicinity of the item. This may require the item to have a sound proofed enclosure. Details of the proposed location and compliance with this condition are to be provided on the plans and submitted to Council for approval prior to the issue of a **Construction Certificate.***

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

A variation to the minimum lot size control contained in Clause 4.5A(2)(a) of Part 4 'Principal Development Standards' of Ryde LEP 2010 has been requested by the applicant. A written request under Clause 4.6 to vary this requirement was submitted on 12 September 2014 as noted in the Background section of this report (above).

It is considered that the revised Clause 4.6 variation submitted sufficiently demonstrates that strict compliance with the numerical control in relation to the minimum lot size is unreasonable or unnecessary in this instance. This is because the non-compliance is relatively minor and does not result in significant non-compliances with other development standards and development controls within both the Ryde LEP 2010 and Ryde DCP 2014.

Accordingly, the request made pursuant to Clause 4.6 to vary the aforementioned development standard is supported. This matter is discussed more specifically in the assessment of the development application against the provisions of the Ryde LEP 2010 later in this report.

ITEM 4 (continued)

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.

It is noted that the development application was lodged 5 August 2014 and Ryde LEP 2014 commenced on 12 September 2014. What this means is that the Ryde LEP 2014 is considered as a Draft.

It should be noted that Ryde LEP 2014 now contains a minimum allotment frontage requirement (20m) applicable to dual occupancy developments, and the frontage of this allotment (16.115m) does not comply with this requirement. However, as the provisions of Ryde LEP 2010 did not contain a minimum frontage requirement for dual occupancy developments, and Ryde LEP 2010 remained in force at the time of lodgement and prevails over Ryde LEP 2014 (which was considered as a Draft at the time when this DA was lodged), there are no planning issues of concern regarding approval of the proposed development despite non-compliance with the minimum allotment frontage that now applies under Ryde LEP 2014.

(b) Ryde Local Environmental Plan 2010

Zoning

Under the Ryde LEP 2010, the zoning of the subject site is R2 Low Density Residential. The proposed development, being construction of a new attached 'dual occupancy' is permissible with consent under this zoning.

Aims and objectives for residential zones:

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

ITEM 4 (continued)

- *To ensure that the general low density nature of the zone is retained and that development for the purposes of dual occupancy (attached) and multi dwelling housing (attached) do not significantly alter the character of a location or neighbourhood.*
- *To ensure that new development complements or enhances the local streetscape.*
- *To maintain on sites with varying topography the two storey pitched roof form character of dwelling houses and dual occupancy (attached) developments.*
- *To ensure that land uses are compatible with the character of the area and responsive to community needs.*

The proposed development is considered to satisfy the objectives for residential developments as it will provide a range of housing types for the community within a low density residential environment, and ensures the general low scale of the surrounding area is maintained via compliant building heights, floor space ratio, and satisfactory setbacks.

The proposal is not considered to detract from the streetscape and includes a form and modern appearance consistent with new and recently approved residential development in the local area.

Principal Development Standards

A full assessment of the proposal against the relevant principal development standards contained within the Ryde Local Environmental Plan 2010 (Ryde LEP 2010) is illustrated in the Compliance Check table below.

RYDE LEP 2010	PROPOSAL	COMPLIANCE
4.3(2) Height • 9.5m overall	9.18m	Yes
4.4(2) & 4.4A(1) FSR • 0.5:1	0.47 : 1 Site Area 569.09m ² (DP)	Yes
4.5A Density controls for Zone R2 Low Density Residential (2) The consent authority must not consent to the erection of a dual occupancy (attached) on a lot in Zone R2 Low Density Residential unless:		

ITEM 4 (continued)

RYDE LEP 2010	PROPOSAL	COMPLIANCE
(a) the lot has an area of not less than 580 square metres, and (b) it is satisfied that adequate arrangements have been made for the disposal of sewage and stormwater from each dwelling.	(a) Site Area = 569.09m² (b) Refer to Development Engineers comments.	<p style="text-align: center;">No Clause 4.6 submitted Refer assessment below</p>

Clause 4.5A (2) (a) – Density Controls for Zone R2 Low Density Residential

Clause 4.5A provides density controls for the R2 Low Density Residential zone to ensure that developments maintain a residential density that is in character with that of surrounding development. Sub-clause (2) (a) of this clause states that:

The consent authority must not consent to the erection of a dual occupancy (attached) on a lot in Zone R2 Low Density Residential unless:

(a) the lot has an area of not less than 580 square metres

In this case, the subject site has an area of 569.09m², therefore below the 580m² minimum requirement for dual occupancy developments by 10.91m² or 1.88%.

Clause 4.6 of the Ryde LEP 2014 includes exceptions to development standards where a written request from the applicant that seeks to justify the contravention of the development standard.

As noted above the applicant has submitted a Clause 4.6 request as part of revised documents received by Council on 16 September 2014. The revised Clause 4.6 states that compliance with the development standard is unreasonable and unnecessary for the following reasons summarised below.

- ***The Proposed Development, being close to public transport, in line with principles of urban consolidation and supportive of housing affordability;***
- ***The underlying objective of the standard is not relevant to the Proposed Development***
- ***The underlying object of purpose would be defeated if compliance was required***

ITEM 4 (continued)

A review of the submitted Clause 4.6 request for variation to the subject development standard has considered the above reasons. This assessment concurs that the non-compliance with the minimum lot size is minor and considers that the non-compliance does not negatively impact on the density of the low density residential zone in which the site is located.

In addition to the above and as demonstrated in the attached Compliance Check, **ATTACHED** (Attachment 2) the proposed development complies with both the Building Height (9.18m) and Floor Space Ratio (0.47:1) development standards and is also shown to have compliant setbacks to all boundaries. As such, it can be considered that the development has respected the key bulk and scale standards, and as such the minor non-compliance with the minimum lot size control is considered acceptable.

In respect of the environmental planning matters required to be addressed following the additional information letter, it is noted that the applicant has resolved visual privacy issue between the two proposed dwellings through the addition of a 970mm blade wall between the two dwellings to reduce overlooking.

(b) Relevant State Environmental Planning Policies (SEPPs)

State and Sydney Regional Environmental Planning Policies

SEPP BASIX:

A compliant BASIX Certificate (No 563776M dated 25th July 2014) has been submitted with the development application. A standard condition has been included in the Draft Consent requiring compliance with this BASIX certificate.

It is noted that although amended plans have been provided by the applicant as part of an additional information request, the amendments made have not resulted in the development differing in any material respect. In this regard, pursuant to the provisions of Section 55A of the Environmental Planning and Assessment Regulation 2000, a revised BASIX Certificate is not considered to be required.

(c) Any draft LEPs

There are no Draft Local Environmental Plans of relevance to the proposed development.

ITEM 4 (continued)

(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 a detailed assessment of the non-compliances of the subject development application against the key components of the Ryde DCP 2014 that are considered to apply to the development.

Non-Compliances:

Deep Soil Areas

Section 2.5.1 of Part 3.3 of the Ryde DCP 2014 prescribes development controls for deep soil areas. Specifically, that:

- a) *Sites are to have a deep soil area that is at least 35% of the area of the allotment*
- b) *The deep soil area must include:*
 - i. *an area with minimum dimensions of 8 metres by 8 metres in the back yard, and*
 - ii. *a front garden area which is to be completely permeable with the exception of the driveway, pedestrian path & garden walls.*
- c) *Allotments with dual occupancies need only have one 8 metre x 8 metre deep soil area for the allotment. The area does not need to be shared equally with each allotment.*

A review of the submitted plans indicates that the proposed development has a deep soil area of 39.4% (224.40m²) which satisfactorily complies, however the proposed development does not have a deep soil area with minimum dimensions of 8m by 8m in the back yard.

As such, the proposal does not meet the numerical controls outlined in Section 2.5.1(b)(i) above.

Although the proposed development does not achieve the minimum dimension for deep soil areas required by Section 2.5.1, this non-compliance can be supported for the following reasons:

ITEM 4 (continued)

- A deep soil dimension of 16m x 6.6m is generally provided within the rear yard, and as such is considered to have a satisfactory dimension to accommodate deep soil planting and allow adequate permeability;
- The proposed development has provided deep soil areas which exceed the required 35% as detailed in the aforementioned control. It is noted that deep soil has been incorporated across the site where possible with the inclusion of soft landscaping to minimise the visual impact of the hard paved area and reduce the heat island effects associated with hard paved areas.
- The non-compliance is considered to be relatively minor, just falling short of the required dimension by 1.4m due to the rear paved area encroaching slightly on the deep soil area. As noted above despite not meeting the minimum dimensions, the deep soil area provided at the rear is significantly more (12.5%) than the control requires, providing for approximately 224.40m² of deep soil area (refer **Figure 3**).
- Adequate deep soil area is provided on site to ensure the planting of appropriate species of trees, plants and hedges per the Landscaping controls within the Ryde DCP 2010 and conditions recommended by Council's Consultant Landscape Architect,

As covered by Section 79C(3A)(b) of the Environmental Planning and Assessment Act 1979 (the Act), 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.

ITEM 4 (continued)

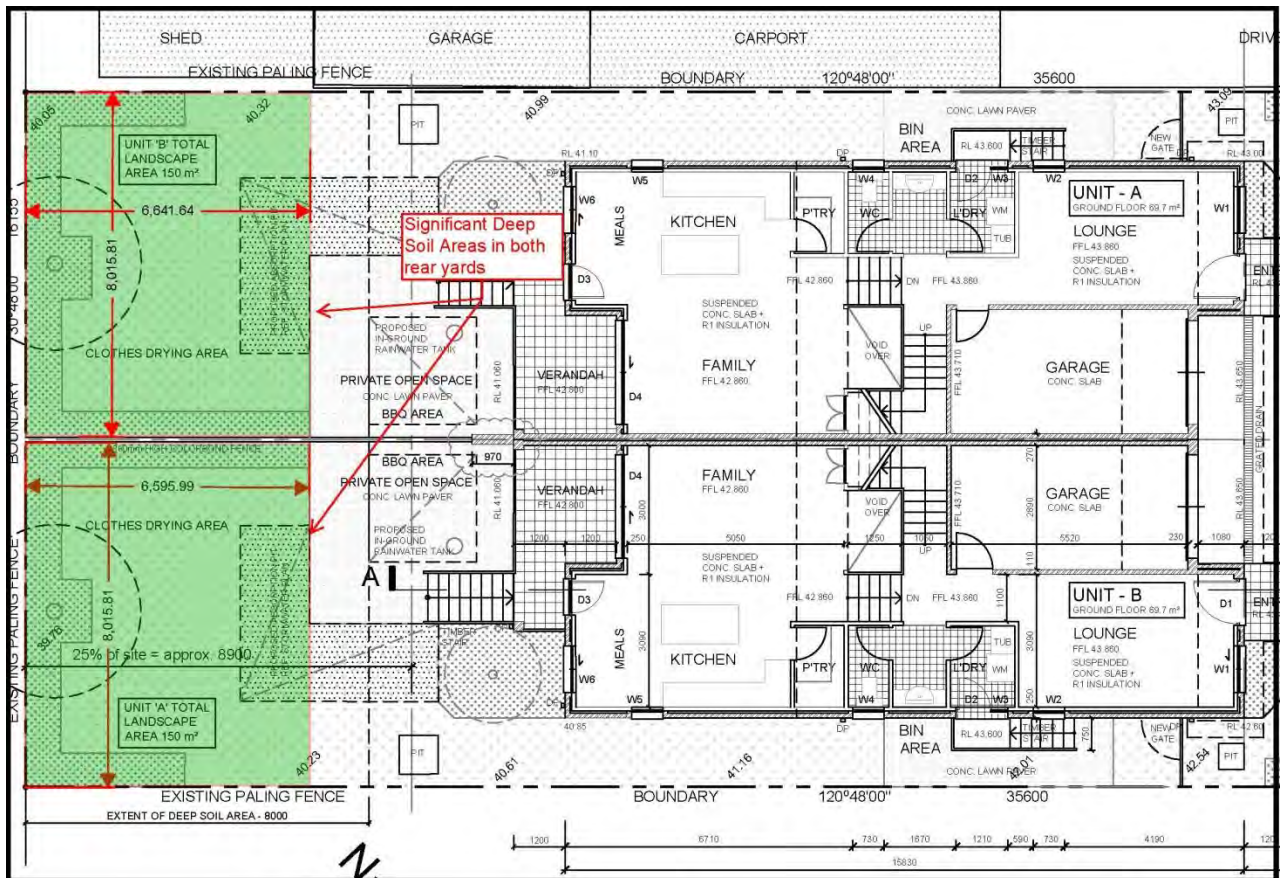


Figure 3 – Plan of proposed development and landscaping on the subject site. Diagram shows the significant amount of deep soil area provided in the rear yard, despite not meeting the minimum 8m x 8m dimension outlined in the Ryde DCP 2010.

Source: Submitted ground floor plan edited by CPS

Topography and Excavation

Section 2.5.2 of Part 3.5 of the Ryde DCP 2010 prescribes development controls relating to topography and excavation. Specifically, the Ryde DCP 2010 stipulates the following:

- 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*

ITEM 4 (continued)

- 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 cut and fill arrangements for the proposed development have revealed that the maximum proposed level of fill within the building footprint is 2110mm (middle of Dwelling 2 (Unit B) where the ground floor water closet (WC) is located. The proposed level of cut outside the building footprint is 200mm and the proposed level of fill outside the building footprint is 2,100mm in the rear ground floor verandah within Dwelling 1 (Unit A).

In addition, it is noted that the submitted plans indicate that fill is proposed on both sides of the building for the side entries and stairs to the entries. Up to approximately 1.4 – 1.8m fill at the top of the stairs and approximately 0.6m for the paved areas around the stairs.

A review of Council's environmental constraint mapping in relation to overland flow against the submitted plans show that fill is proposed within overland flow path. This fill however is in not in the form of solid soil fill. The fill is an elevated floor level with a suspended slab.

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

- As indicated in **Figure 4** the maximum fill within the building footprint is exceeded approximately halfway down the site within the room marked WC. It is considered that the elevated floor levels will not result in a loss of privacy for neighbours as beyond this point the building steps down to the main living areas which are orientated towards the rear of the site.
- The level of fill is common along the north-western side of Samuel Street due to the slope away from street and flood implications of the land. As such, the existing building on the subject site has similar levels of fill.
- The proposal includes a suspended, so no solid soil fill will be used. Accordingly, existing ground level is reasonably maintained.

ITEM 4 (continued)

- The maximum fill outside the building footprint is located at the south western corner of the elevated verandah to Dwelling 1 (Unit A). Given that this elevated verandah is setback approximately 3.5m from the south western boundary, it is thus considered that it will not result in any unacceptable privacy impacts to the dwelling to the south west. In addition it is noted that privacy between the proposed dwellings has been addressed through the introduction of a central blade wall (refer **figure 6**) to address overlooking from the proposed verandahs into each other's private open space. It is also noted that specific conditions of consent have been recommended by Council's Consultant Landscape Architect to extend the screen planting along this internal boundary and to provide an additional 300mm of lattice atop the internal boundary fence.
- The raised verandahs are relatively small in size with an approx. area of 8.2m² and are oriented towards the rear yards of each dwelling. The existing dwelling has a similar level of fill for the rear portico as a result of the slope of the site.
- Suspended verandahs are proposed, so again, no solid soil fill is to be used. Accordingly, the existing ground levels are reasonably maintained which allows for a flat rear private open space and BBQ area.
- A balance of both cut and fill techniques have been implemented across the site to allow for a more uniformed built form presentation to the street. When viewed from the streetscape the dual occupancy will appear as being generally consistent with the surrounding development along Samuel Street. This also helps for the building to closer align with Council's numerical topography and excavation controls.
- Plans indicate that fill is proposed on both sides of the building for the side entries and stairs to the entries. Up to approximately 1.4 – 1.8m fill at the top of the stairs and approximately 0.6m for the paved areas around the stairs. This non-compliance is considered justifiable as only a small section of the side setback areas are filled and the proposed stairs and side entries are suspended, so no solid fill is required for this element. Furthermore the fill in this location is to provide a flat area for bin storage. Given that this side access is elevated, some concern is raised in relation to privacy impacts on neighbouring allotments. However it is considered that this area will not be highly trafficked and that the proposed 1.8m fence will provide an adequate level of screening.

ITEM 4 (continued)

- The subject site is identified as being flood affected. The raised floor level of the dwellings is in response to Council's Flood data requirements and the submitted Flood Impact Assessment Report whereby any habitable floor level on the subject site must be higher than the 1 in 100 year flood level plus a 500mm freeboard. It is therefore considered inevitable that a site with such flooding constraints, it will generally be necessary to exceed the maximum fill height.
- It is noted that the application has been referred to Council's Development Engineer who has deemed the proposal satisfactory subject to conditions of consent.

As covered by Section 79C(3A)(b) of the Environmental Planning and Assessment Act 1979 (the Act), 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.

ITEM 4 (continued)

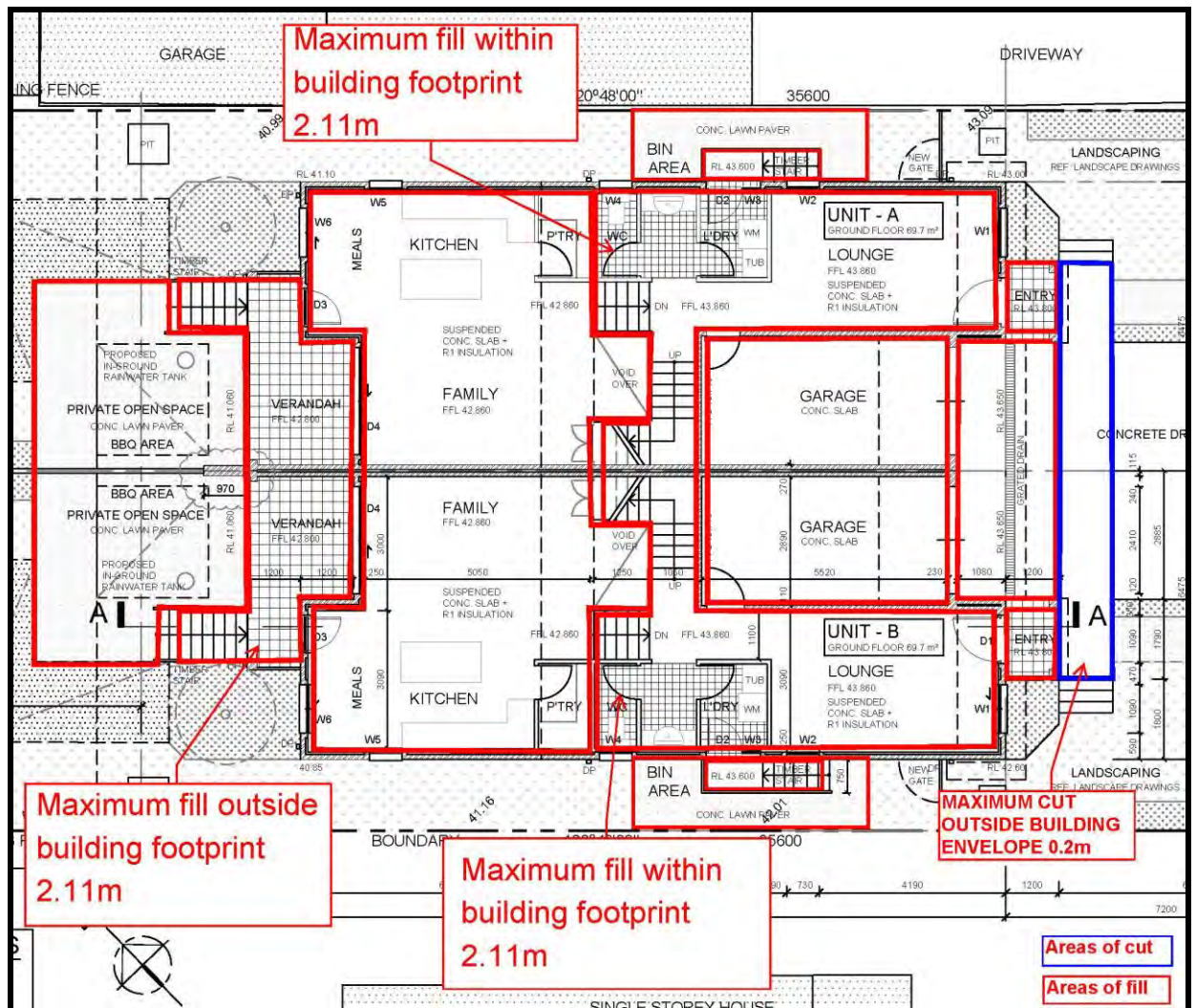


Figure 4 – This diagram shows the proposed areas of cut and fill on the subject site. Noted is how the majority of the building is raised to comply with the 1:100 year flood level plus 500mm freeboard which is indicated in the following figure.

Source: Submitted ground floor plan edited by CPS

ITEM 4 (continued)

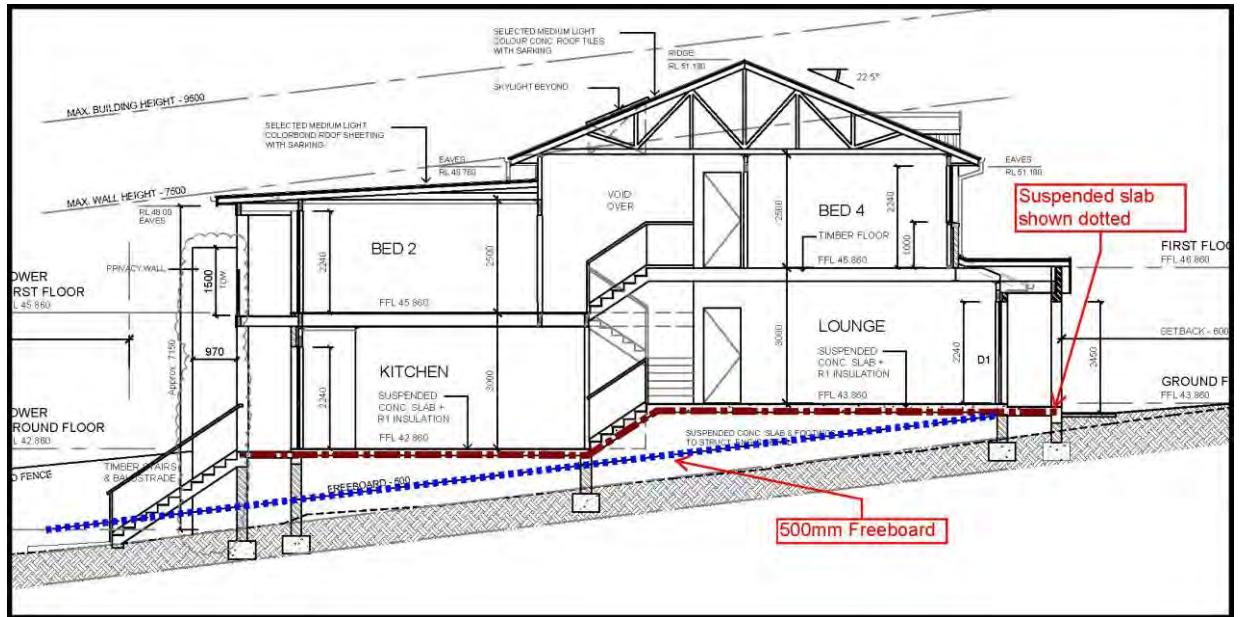


Figure 5 – Section showing the proposed dwelling and suspended concrete slab. Also note dwelling respects the existing topography by stepping down the site.
Source: Submitted section plan edited by CPS

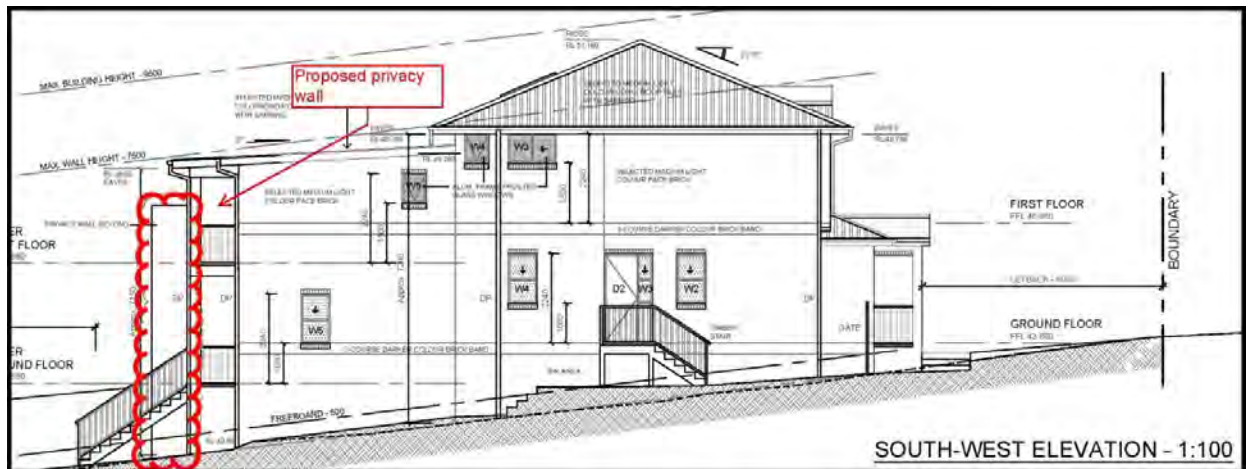


Figure 6 – Elevation showing location of proposed privacy blade wall extending out from the party wall to reduce internal overlooking opportunities.
Source: Submitted section plan edited by CPS

ITEM 4 (continued)

Landscaping

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

- 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 51.21% (56.36m²) 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.

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 two new driveways to access the dual occupancy development from Samuel Street.
- Due to the narrower frontage of the subject site it is considered inherently difficult to provide a double driveway access and also comply with the maximum 40% hard paved requirement. While it is acknowledged that the minimum frontage requirements for dual occupancy developments has now increased, given this is an 'existing application' in terms of clause 1.8A of the Ryde LEP 2014, the proposed frontage width is permissible.
- Hard paved areas are considered to have been minimised and soft landscaping has been provided where possible in the front yard.
- Where possible the front yard has incorporated areas of deep soil planting that softens the visual impact of development on the site and assists with a satisfactory presentation to the street.

For further discussion on how the proposed landscaping meets the requirements required on site, please refer the comments in the 'Deep Soil Areas' section of this report.

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, and is in character with the locality and streetscape. Therefore the above non-compliance can be supported in this instance.

ITEM 4 (continued)

Non-Compliances Resolved via Conditions:

Visual Privacy

Section 2.14.2 of Part 3.3 of the Ryde DCP 2014 prescribes development controls relating to visual privacy. Specifically, the Ryde DCP 2014 stipulates the following:

- a. *Orientate terraces, balconies and outdoor living areas to either the front or the rear of allotments, and not to the side boundaries.*
- b. *Terraces and balconies are not to overlook neighbour's living areas and private open space.*

As noted in the letter for additional information to the applicant, concern was raised in relation to visual privacy impacts within the development resulting from the proposed elevated verandahs. It is acknowledged that the revised plans detailed the addition of a new 970mm blade wall between the dwellings to mitigate these potential impacts. Nevertheless it is considered that the internal dividing fence could provide further privacy by the imposition of a condition of consent requiring 300mm of lattice screening (Refer **Figure 7**).

Accordingly, it is recommended that the following condition (see condition 30) be imposed to ensure the maximum level of visual privacy is maintained within the proposed development in order meet the controls set out within Section 2.14.2 of Part 3.3 of the Ryde DCP 2014:

Lattice screening. *The provision of a lattice screen 300mm high on top of central fence between Dwelling 1 and Dwelling 2 to minimise the potential for overlooking of adjoining residential property. Details of compliance are to be provided to Council for approval prior to the issue of a **Construction Certificate**.*

In addition to internal overlooking, there is considered to be some opportunity for overlooking of adjoining property to the south west of the site, particularly from the rear verandah of Unit A given its elevated nature. Overlooking to the adjoining property to the north-east is not considered to be a concern due to the adjoining property including garages and outbuilding immediately adjacent to the Unit B verandah (refer to **Figure 8** below). To address overlooking from the Unit A verandah to the adjoining property to the south-west, the following condition of consent is recommended (see condition 35):

Privacy Screen. *A privacy screen is to be installed on the south-western elevation of the rear ground floor verandah of Unit A. This privacy screen is to be a minimum height of 1.6m above the finished level of the verandah so as to minimise overlooking opportunities to adjoining property.*

ITEM 4 (continued)

*Details of compliance are to be provided to Council for approval prior to the issue of a **Construction Certificate**.*

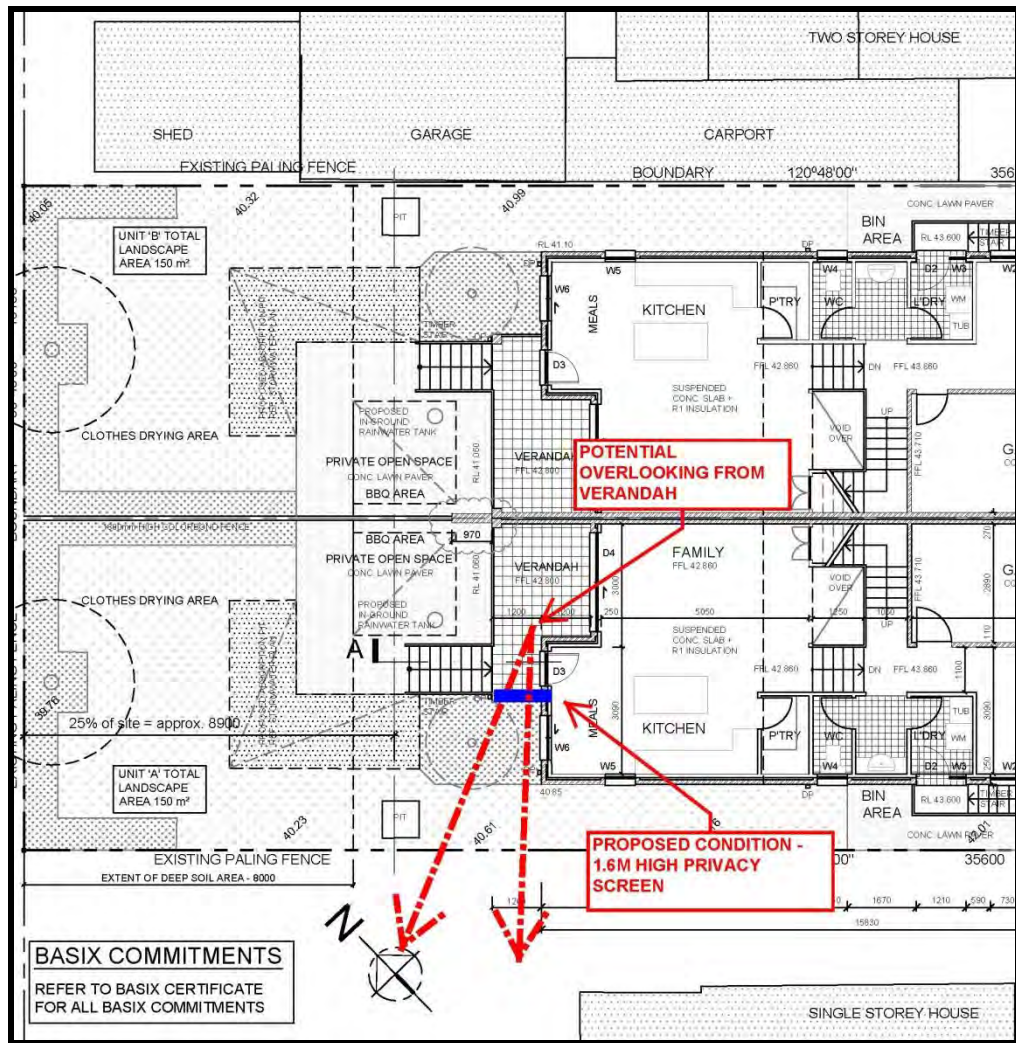


Figure 7 – The above figure illustrates the potential overlooking from the Unit A elevated rear verandah and the privacy screen to be inserted by way of condition to minimise overlooking and maintain adequate visual privacy to the adjoining property to the south-west. Noted in this image also is that the adjoining property to the north-east includes garages and outbuilding adjacent to the Unit B verandah, and as such, visual privacy issues are not a concern in this location.

Source: Submitted ground floor plan edited by CPS

ITEM 4 (continued)

Tree Planting within Rear Yard

Section 2.13 of Part 3.3 of the Ryde DCP 2010 prescribes development controls for tree planting within the rear yards. In particular it is stated that:

- i. *Where the backyard does not have a mature tree at least 15 m high, plant a minimum of one large canopy tree in the back yard. The tree is to be capable of a mature height of at least 15m and is to have a spreading canopy. The tree is to be located in the 8 m x 8 m deep soil area*

Council's consultant Landscape Architect has raised concerns in relation to the two (2) trees proposed for the rear yard of each allotment (*Melaleuca linariifolia*) which are not considered to grow to an appropriate mature size given the nature of the development. Additionally, it is noted that given there are no large existing trees located on the subject site, the canopy cover should be increased. Accordingly, it is recommended that the following condition be imposed to provide a tree of an appropriate mature size within the rear yard (see condition 31):

Tree planting – rear yard. One (1) *Eucalyptus pilularis* with a minimum pot size of 45litres is to be planted in the rear garden of the allotment. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

Screen Planting within Rear Yard

Section 2.13 of Part 3.3 of the Ryde DCP 2010 prescribes development controls for hedge planting on boundaries. In particular it is stated that:

- k *Hedge planting on boundaries is to consist of plant species which have a mature height no greater than 2.7 m.*

Council's consultant Landscape Architect has raised concerns given the elevated level of the rear terrace area of each unit of the dual occupancy, it is considered that privacy/overlooking impacts could be further mitigated by the continuation of the boundary screening hedges located along the side boundaries so as to preclude views towards the neighbouring private open space (Refer **Figure 8**).

ITEM 4 (continued)

Accordingly, it is recommended that the following condition be inserted so as to ensure the screen planting along the boundaries is continued to minimise views towards neighbouring allotments (see condition 32):

Screen Planting. *The row of *Murraya paniculata* located along the side boundaries within the rear yard of each unit is to be continued to the rear building line. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.*

Fencing

Section 2.15 of Part 3.3 of the Ryde DCP 2010 prescribes development controls for fences.

Whilst it is noted that there is no specific control relating to the use of Colorbond material for side and rear fences and walls, it is noted that the control for front and return fences states that:

g. Front and return fences are not to be Colorbond or timber paling

It is thus considered that the proposed Colorbond fence dividing the rear yards of the two dwellings is a poor design aesthetic for the dual occupancy development. Accordingly, it is therefore considered that a more appropriate fence would be a lapped and capped timber paling fence. This is because this style of fence is more consistent with the existing timber paling boundary fence. In addition a timber fence would be more appropriate considering the above condition requiring 300mm of timber lattice screening which is proposed to help mitigate potential privacy impacts between the two new dwellings (Refer **Figure 8**).

Accordingly, it is recommended that the following conditions be imposed to ensure fencing meets the controls set out within Section 2.15 of Part 3.3 of the Ryde DCP 2010 (see condition 34):

Dividing fence – rear yard *The proposed 1.8m Colorbond fence shown on the submitted plans dividing the rear yards between Unit A and Unit B is to be replaced with a lapped and capped timber paling fence. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.*

In addition to the above it is noted that submitted plans do not indicate all details of the proposed fencing. Accordingly it is considered that the following condition be imposed to ensure compliance with fencing related controls set out within Section 2.15 of Part 3.3 of the Ryde DCP 2014 (see condition 33):

ITEM 4 (continued)

Fencing. Fencing is to be in accordance with Council's Development Control Plan and details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

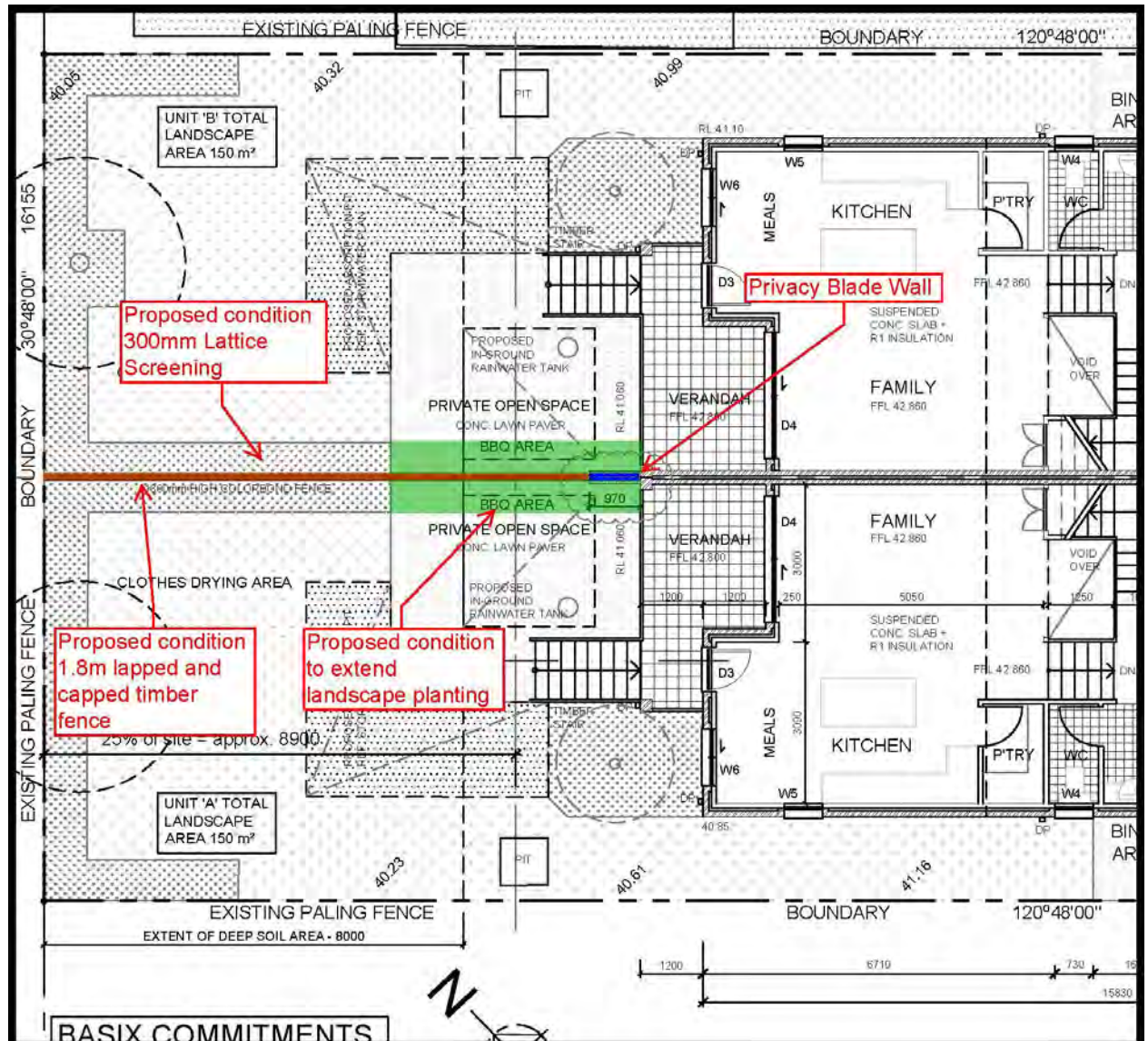


Figure 8 – The above figure illustrates each privacy feature that has been either conditioned or proposed by the applicant (Privacy Blade Wall)
Source: Submitted ground floor plan edited by CPS

ITEM 4 (continued)

10. Likely impacts of the Development

(a) Built Environment

A thorough assessment of the impacts of the proposed development on the built environment has been undertaken as part of the completed assessment of the proposed development. This has included a compliance check against all relevant planning controls, a character assessment, and detailed assessment report.

The resultant impacts of the proposed dual occupancy 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 Ryde and the wider local government area.

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

(b) Natural Environment

Given the nature of the proposed development being for the construction of a new dual occupancy that replaces an existing single storey dwelling on 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.

11. Suitability of the site for the development

A review of Council's map of Environmentally Sensitive Areas (held on file) identifies constraints of "Flood prone area" and 'Urban Bushland' affecting the subject property. It is noted however that flooding constraint is limited to the front portion of the subject site. The subject development has been referred to Council's Development Engineer's and Consultant Landscape Architect/Arborist for assessment. The referral responses (below) have both indicated that the proposed development is satisfactory subject to conditions.

In this regard, it is considered that the proposed development is suitable for the subject site.

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 includes a built form that is in keeping with the existing and desired future character of the low density residential area.

ITEM 4 (continued)

13. Consultation – Internal and External

Internal Referrals

Development Engineer: The proposed development is generally acceptable with respect to the engineering components. The following matters were noted in the initial review;

- Documented evidence of drainage easement refusal from downstream property owners.
- Lack of onsite detention.
- Non-compliances associated with the use of absorption systems.

All these items have been addressed by the revised plans and further documentation provided by the applicant.

Consultant 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

Tree 1 – Located within the centre of the front yard of the subject site, this is a mature *Cedrus deodara* of poor health and vigour with a height of approximately 10 metres, canopy spread of 6 metres and Diameter at Breast Heights (DBH) of 400mm. According to the plans submitted, this tree is located within the footprint of the proposed new central driveway and as such will not be capable of retention.

It is noted that this tree is of very poor form as a result of past improper pruning techniques and significant crown modifications. Past failure or improper pruning of the internal leader was also observed. As a result this tree is of poor health and of stunted dimensions. Accordingly, given the poor health, vigour and form of the tree and the minimal amenity it is providing, removal is supported.

*It should be noted that the Landscape Plan submitted indicates that two (2) replacement trees (*Cupaniopsis anacardoides*) are proposed within the front yard of the allotment to compensate and offset the proposed tree loss.*

Recommendation: *That this tree be removed in accordance with NSW Workcover Code of Practice (2007) and undertaken by an Arborist with minimum AQF Level 2 qualifications.*

ITEM 4 (continued)

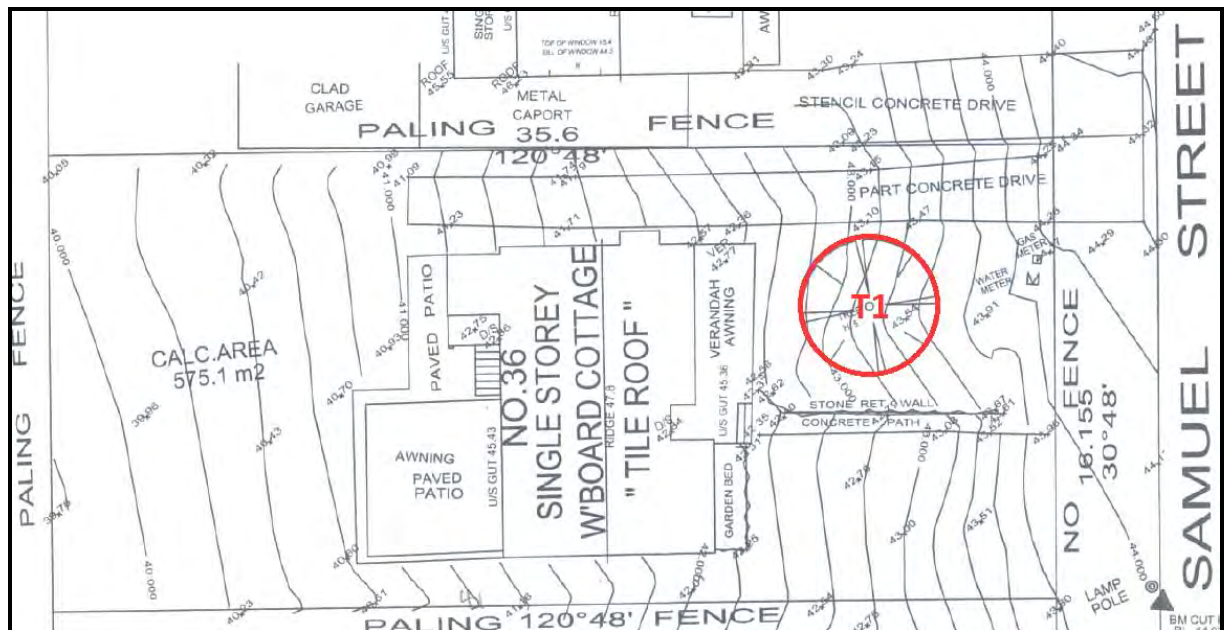


Figure 9 – Submitted survey plan showing tree proposed to be removed.
Source: Submitted survey plan edited by CPS Landscape Architect

Landscape Plan

It is noted that the Landscape Plan (Drawing No. ANN001, Revision B dated 30 July 2014) prepared by Denis Chan Landscape Architect has been reviewed as part of this assessment.

A review of the abovementioned landscape plan submitted in terms of location, design and extent of planting, paving, structures and general layout is generally considered to be satisfactory however the following minor concerns are raised:

Rear Yard Trees

*The two (2) trees located within the rear yard of each allotment (*Melaleuca linariifolia*) are not considered to grow to an appropriate mature size given the nature of the development. Additionally, it is noted that given that there are no large existing trees located on the subject site the canopy cover should be increased. Accordingly, it is recommended that the following condition be inserted to provide a tree of an appropriate mature size within the rear yard:*

Tree planting – rear yard. One (1) *Eucalyptus pilularis* with a minimum pot size of 45litres is to be planted in the rear garden of the allotment. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

ITEM 4 (continued)

Screen Planting

Given the elevated level of the rear terrace area of each unit of the dual occupancy, it is considered that privacy/overlooking impacts to the neighbouring rear open spaces may be a concern. It is considered these impacts can be somewhat mitigated by the continuation of the boundary screening hedges located along the side boundaries so as to preclude views towards the neighbouring private open space. Accordingly, it is recommended that the following condition be inserted so as to ensure the screen planting along the boundaries is continued to minimise views towards neighbouring allotments:

Screen Planting. *The row of *Murraya paniculata* located along the side boundaries within the rear yard of each unit is to be continued to the rear building line. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.*

Hard Paving – Front Yard

The front yard includes a level of hard paving which exceeds the maximum 40% of the front yard area as per the Ryde DCP 2010. Despite this, given the only hard paved areas are the driveway and pedestrian pathways, and appropriate tree and shrub plantings have been incorporated within the front yard, this is considered to be acceptable.

Dividing Fence Material

See comments in Section 9 above.

External Referrals

None.

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.

ITEM 4 (continued)

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 is one (1) key non-compliance with Council's Ryde LEP 2010 relating to the subject allotment being below the minimum lot size for dual occupancy development. However this has been satisfactorily addressed in the submitted Written Request to vary the subject development standard pursuant to Clause 4.6 of Ryde LEP 2014.

Additionally it is noted that although some non-compliances with the Ryde DCP 2014 were identified, these were either considered to either 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 Ryde and wider local government area.

On the above basis, LDA2014/332 at 36 Samuel Street, Ryde is recommended for approval subject to conditions.

ITEM 4 (continued)

ATTACHMENT 1

DRAFT CONDITIONS OF CONSENT
36 SAMUEL STREET, RYDE - LDA2014/332

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 Plan	03/09/2014	DA01-REV 3
First Floor Plan	03/09/2014	DA02-REV 3
Roof Plan	03/09/2014	DA03
Side Elevations	03/09/2014	DA05-REV 3
Section A_A	03/09/2014	DA06-REV 3
Demolition Plan	29/07/2014	DA10
Erosion and Sediment Control Plan	18/07/2014	DA12
Landscape Plan	30/07/2014	ANN001 – 1/2
Landscape Plan	30/07/2014	ANN001 – 2/2
Flood Assessment Report	30/04/2014	PL Civil Consulting Engineer
Arboricultural Assessment Report	30/07/2014	TALC – Tree and Landscape Consultants
Stormwater – General Notes	July 2014	C1.01
Stormwater Details	July 2014	C2.01
Stormwater Details	July 2014	C2.02
Stormwater Details	July 2014	C2.03
Stormwater Details	July 2014	C2.04
Stormwater Details	July 2014	C2.05

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.

ITEM 4 (continued)

ATTACHMENT 1

3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 563776M, dated 25 July 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.

Works on Public Road

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.

Engineering Conditions

9. **Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's 2014 DCP Part 8.5 "Public Domain Works", except otherwise as amended by conditions of this consent.
10. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.

ITEM 4 (continued)

ATTACHMENT 1

11. **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.
12. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) required within the road reserve. No works shall be carried out on the footpath without this permit being paid and a copy kept on the site.

DEMOLITION CONDITIONS

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

A Construction Certificate is not required for Demolition.

13. **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.
14. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
15. **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.

ITEM 4 (continued)

ATTACHMENT 1

- (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.
16. **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.
17. **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.
18. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
19. **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.

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.

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

ITEM 4 (continued)

ATTACHMENT 1

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$4,227.74
Open Space & Recreation Facilities	\$10,407.85
Civic & Urban Improvements	\$3,539.91
Roads & Traffic Management Facilities	\$482.86
Cycleways	\$301.62
Stormwater Management Facilities	\$958.70
Plan Administration	\$81.32
The total contribution is	\$20,000.00

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

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

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

21. **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**.
22. **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**.
23. **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.

ITEM 4 (continued)

ATTACHMENT 1

24. **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
25. **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**.
26. **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**.
27. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.
- Please refer to the website www.sydneywater.com.au for:
- Quick Check agents details - see Building, Developing and Plumbing then Quick Check; and
 - Guidelines for Building Over/Adjacent to Sydney Water assets - see Building, Development and Plumbing then Building and Renovating.
- Or telephone 13 20 92.
28. **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**.
29. **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**.

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30. **Air Conditioning.** The noise of an air conditioner, pump, or other mechanical equipment must not exceed the background noise level by more than 5dB(A) when measured in or on any premises in the vicinity of the item. This may require the item to have a sound proofed enclosure. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
31. **Lattice screening.** The provision of a lattice screen 300mm high on top of central fence between Dwelling 1 and Dwelling 2 to minimise the potential for overlooking of adjoining residential property. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
32. **Tree planting – rear yard.** One (1) Eucalyptus pilularis with a minimum pot size of 45litres is to be planted in the rear garden of the allotment. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
33. **Screen Planting.** The row of *Murraya paniculata* located along the side boundaries within the rear yard of each unit is to be continued to the rear building line. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
34. **Fencing.** Fencing is to be in accordance with Council's Development Control Plan and details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
35. **Dividing fence – rear yard.** The proposed 1.8m colourbond fence shown on the submitted plans dividing the rear yards between Dwelling 1 (Unit A) and Dwelling 2 (Unit B) is to be replaced with a lapped and capped timber paling fence. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
36. **Privacy Screen.** A privacy screen is to be installed on the south-western elevation of the rear ground floor verandah of Unit A. This privacy screen is to be a minimum height of 1.6m above the finished level of the verandah so as to minimise overlooking opportunities to adjoining property. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

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Engineering Conditions

37. **Boundary Alignment Levels.** The applicant is to apply to Council for site specific boundary alignment levels prior to the issue of the Construction Certificate. The application would need to be accompanied by engineering plans of any civil works along the frontage of the development site. Fees are payable in accordance with Council's Schedule of Fees & Charges at the time of the application.
38. **Vehicle Footpath Crossing(s).** Concrete footpath crossings and associated gutter crossovers must be constructed fronting the approved vehicle access location(s). The crossing(s) must be constructed in plain reinforced concrete with location, design and construction shall conform to Council requirements and AS 2890.1 – 2004 (Offstreet Parking). Accordingly, prior to issue of Construction Certificate an application shall be made to Council's Public Works division for driveway crossing alignment levels. These issued levels are to be incorporated into the design of the driveway access and clearly delineate on plans submitted with the Construction Certificate application.
39. **Vehicle Access & Parking.** All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Offstreet Parking standards).
40. **Stormwater Management.** To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted with the application for a Construction Certificate.

Stormwater runoff from the development shall be collected and piped by gravity flow to Samuel Street generally in accordance with the plans by Fly Engineering Pty Ltd. (Refer to Dwg. No. 13080-C1.02 Rev 4 dated 27 Jan 2015) incorporating the amendments marked in red on the approved plans.

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

- The certification must state that the submitted design (including any associated components such as pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of City of Ryde – DCP 2014 Part 8.2 (Stormwater Management).

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- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.

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

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

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

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.

42. **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,

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- (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.
43. **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.
44. **Residential building work – provision of information.** Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA has given the Council written notice of the following information:
- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor; and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act.
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder; and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

45. **Excavation adjacent to adjoining land**
- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
 - (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.

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- (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.

46. **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

47. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Any doors/gates on the boundary must be installed so they do not open onto any footpath.
48. **Footpath Paving Construction.** The applicant shall, at no cost to Council, construct standard concrete footpath paving across the frontage of the property. Levels of the footpath paving shall conform with levels issued by Council's Engineering Services Division.
49. **Property above/below Footpath Level.** Where the ground level adjacent the property alignment is above/below the ultimate footpath level, as set by Council, adequate measures are to be taken (either by means of constructing approved retaining structures or batters entirely on the subject property) to support the subject land/footpath. An approved fence shall be erected along the boundary for public safety.

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.

50. **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*.
51. **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.

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52. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
53. **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.
54. **Construction materials.** All materials associated with construction must be retained within the site.
55. **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.
56. **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.
57. **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".
58. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.
59. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
60. **Tree works – arborist supervision.** A Consultant Arborist must be appointed to oversee all works, including demolition and construction, in relation to the trees identified for retention on the site.

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ATTACHMENT 1

61. **Tree works – provision of arborist details.** Council is to be notified, in writing, of the name, contact details and qualifications of the Consultant Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.
62. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

Engineering Conditions

63. **Erosion and Sediment Control Plan – Implementation.** The applicant shall install erosion and sediment control measures in accordance with the Construction Certificate approved Soil Erosion and Sediment Control (ESCP) plan at the commencement of works on the site. Erosion control management procedures in accordance with the manual “Managing Urban Stormwater: Soils and Construction” by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.
64. **Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by Fly Engineering Pty Ltd. (Refer to Dwg. No. 13080-C1.02 Rev 4 dated 27 Jan 2015) submitted in compliance to the condition labelled “Stormwater Management.”.

PRIOR TO OCCUPATION CERTIFICATE

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

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

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.

65. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 563776M, dated 25 July 2014.

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66. **Landscaping.** All landscaping works approved by condition 1, as modified by this consent, are to be completed prior to the issue of the final **Occupation Certificate**.
67. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

68. **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.

Engineering Conditions

69. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.

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ATTACHMENT 1

70. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention and onsite disposal/ absorption components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the instrument are to be in accordance with the Council's draft terms for these systems as specified in City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7, and to the satisfaction of Council, and are to be registered on the title prior to the release of the Occupation Certificate for that title.
71. **Restriction as to User, Site cover.** A restriction as to user under Section 88 of the Conveyancing Act 1919 shall be placed on the property title, to limit the extent of impervious paving and or roof areas on the site. The terms of the restriction shall be generally in accordance with Council's draft terms for restricting site cover and to the satisfaction of Council.
72. **Redundant Footpath Crossing.** The existing footpath crossing(s) and associated gutter crossover(s) which are not accessing approved vehicle access points must be removed and restore kerb and gutter, verge and footway to match existing adjoining sections. All new levels and materials must be flush and consistent with adjoining sections and all costs are to be borne by the applicant. The works must be completed to Councils satisfaction, prior to the issue of the Final Occupation certificate.
73. **Compliance Certificates – Engineering.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.
- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and the City of Ryde DCP 2014, Part 9.3 "Car Parking".
 - b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with the City of Ryde DCP 2014, Part 8.2, "Stormwater Management" and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.

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ATTACHMENT 1

- c) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
- d) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by the NSW Department – Office of Environment and Heritage and the City of Ryde DCP 2014, Part 8.1 "Construction Activities".
- e) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.

74. **On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with City of Ryde, Development Control Plan 2014: - Part 8.2; Stormwater Management. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

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ATTACHMENT 2

Quality Certification

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

GENERAL INFORMATION

LDA No:	LDA 2014/0332
Date Plans Rec'd	5 August 2014
Address:	36 Samuel Street, Ryde
Proposal:	New Dual Occupancy (Attached)
Constraints Identified:	Overland flow area Urban bushland – inadequately conserved

COMPLIANCE CHECK

RYDE LEP 2010	PROPOSAL	COMPLIANCE
4.3(2) Height <ul style="list-style-type: none"> 9.5m overall 	9.18m	Yes
4.4(2) & 4.4A(1) FSR <ul style="list-style-type: none"> 0.5:1 	0.47 : 1 Site Area 569.09m ² (DP)	Yes
4.5A Density controls for Zone R2 Low Density Residential (2) The consent authority must not consent to the erection of a dual occupancy (attached) on a lot in Zone R2 Low Density Residential unless: (a) the lot has an area of not less than 580 square metres, and (b) it is satisfied that adequate arrangements have been made for the disposal of sewage and stormwater from each dwelling.	(a) Site Area = 569.09m² (b) Refer to Development Engineers comments.	No – Clause 4.6 request submitted

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ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
Part 3.3 – Dwelling Houses and Dual Occupancy (attached)		
2.1 Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	<p>The proposed development is generally consistent with the desired future character of the low density residential area as detailed further in this table.</p> <p>Note. The proposed dual occupancy consists of two attached, two storey dwellings, in a side-by-side configuration. The dwelling located on the north-eastern side will be referred to as 'Unit A' whilst the dwelling on the south-western side will be referred to as 'Unit B'.</p>	Yes
2.2 Dwelling Houses		
<ul style="list-style-type: none"> • To have a landscaped setting this includes significant deep soil areas at front and rear. • Maximum 2 storeys. • Dwellings to address street • Garage/carports not visually prominent features. 	<p>Proposal has a landscaped setting including significant deep soil areas at the front and rear.</p> <p>Proposal is for a two storey dual-occupancy.</p> <p>Proposal presents to Samuel Street.</p> <p>Single attached garage proposed for each unit, fronting to Samuel Street.</p> <p>They are well set back from the building street façade and are not visually prominent features.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
2.4 Public Domain Amenity		
2.4.1 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. 	<p>Front doors and windows face Samuel Street.</p> <p>The proposal includes a single storey entrance portico for both units.</p>	<p>Yes</p> <p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Articulated street facades. - Corner buildings to address both frontages 	Proposal is considered to have a well-articulated street façade. Not on corner	Yes N/A
2.4.2 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. 	No existing or potential view to the water from the street.	Yes
<ul style="list-style-type: none"> - Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. 	N/A see above	N/A
<ul style="list-style-type: none"> - Fence 70% open where height is >900mm 	N/A see above	N/A
2.4.3 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. 	Garages at the front of the building. Clear sightlines available to footpath and road. Submitted plans do not indicate proposed fencing. Standard conditions to ensure compliance with fencing related controls.	Yes To Be Conditioned
2.5 Site Configuration		
2.5.1 Deep Soil Areas		
<ul style="list-style-type: none"> - 35% of site area min. - Min 8x8m deep soil area in backyard. 	Approximately 39.4% (224.40m ²) deep soil area. 8 x 8m deep soil area has not been provided in the backyard. Non-compliance justifiable: <ul style="list-style-type: none"> • Significant DSA provided in backyard >64sqm. • Almost 8 x 8m, just misses out due to rear paved area encroaching slightly on the area. 	Yes No – Justifiable

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). - Dual occupancy developments only need 1 of 8 x 8m area (doesn't have to be shared equally). 	<ul style="list-style-type: none"> • Both units have significant DSA and sufficient plantings including 15m mature height tree in each backyard. <p>Proposed front yard area only has hard paving for driveway, pedestrian paths and garden walls.</p> <p>As above</p>	<p>Yes</p> <p>No – Justifiable</p>
2.5.2 Topography & Excavation		
<p>Within building footprint:</p> <ul style="list-style-type: none"> - Max excavation: 1.2m - Max fill: 900mm 	<p>Max excavation: None proposed within footprint</p> <p>Max fill: Approximately 2110mm in the middle of Unit B where the ground floor WC is located.</p> <p>Fill arrangement: Fill proposed across entire building footprint with the level increasing as the site slopes to the rear.</p> <p>Non-compliance justifiable:</p> <ul style="list-style-type: none"> • Flood Assessment Report recommends floor level built at least 500mm freeboard over the existing ground level. This requires exceedance of 900mm max fill level. • High level fill common along this side of Samuel Street due to slope away from street and flood level. Existing building on site has similar levels of fill. 	<p>Yes</p> <p>No – Justifiable</p>

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
	<ul style="list-style-type: none"> • Suspended Verandahs proposed, so no solid soil fill to be used. Accordingly, existing ground levels maintained. • Fill allows for a flat rear POS BBQ area, which provides amenity benefits. 	
<p>- No fill between side of building and boundary or close to rear boundary</p>	<p>Plans indicate that fill is proposed on both sides of the building for the side entries and stairs to the entries. Up to approximately 1.4 – 1.8m fill at the top of the stairs and approximately 0.6m for the paved areas around the stairs.</p> <p>Non-compliance justifiable:</p> <ul style="list-style-type: none"> • Only a small section of the side setback areas are filled. • Stairs and entry suspended so no solid fill required for this element. 	<p>No – Justifiable</p>
<p>- No fill in overland flow path</p>	<p>Fill is proposed within overland flow path. This fill however is in not in the form of solid soil fill. The fill is an elevated floor level with a suspended slab.</p> <p>There is some solid fill proposed in the side paved areas and the rear patio and these appear to be within the overland flow path.</p> <p>The proposed development has been referred to Council’s Development Engineer who has deemed the proposal satisfactory subject to conditions</p>	<p>No – Justifiable</p>

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
- Max ht retaining wall 900mm	<p>Plans do not identify any retaining walls. However, due to levels of fill proposed alongside boundaries and cut proposed in the front yard, retaining walls may be necessary but would be unlikely to be higher than 900mm maximum.</p> <p>The proposed development has been referred to Council's Development Engineer who has deemed the proposal satisfactory subject to conditions</p>	Yes
2.6 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 style="text-align: center;">159.80m² 143.58m² 303.38m² 267.38m² (two parking spaces -36m²)</p> <p style="text-align: center;">0.47 : 1 (area from DP27143 – 569.09m²)</p>	Yes
2.7 Height		
<ul style="list-style-type: none"> - 2 storeys maximum (storey) incl basement elevated greater than 1.2m above EGL). - 1 storey maximum above attached garage incl semi-basement or at-grade garages. 	<p>Proposal is for a two storey dual occupancy.</p> <p>Proposal includes 1 storey above each of the attached garages.</p>	Yes Yes
<p>Wall plate (Ceiling Height)</p> <ul style="list-style-type: none"> - 7.5m max above FGL or - 8m max to top of parapet. <p>NB: <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> <i>FGL = Finished Ground Level</i></p>	<p>TOW RL: 48.78 / 48.00 FGL below (lowest point): RL: 41.78 / 41.00 (approximately) TOW Height (max)= 7.0m (Max wall plate in two</p>	Yes

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
- 9.5m Overall Height <i>NB: EGL – Existing ground Level</i>	locations on both sides of the building – in the middle and at the rear - refer to marked side elevations) Max point of dwelling RL: 51.18 EGL below ridge (lowest point) RL: 42.0 (approximately) Overall Height (max)= 9.18m	Yes
- Habitable rooms to have 2.4m floor to ceiling height (min).	Proposed habitable rooms have minimum ceiling height of 2.5m.	Yes
2.8 Setbacks		
2.8.1 Front Setbacks		
6m to façade (generally) 2m to secondary street frontage 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	7.2m minimum front setback Not on corner Proposed garages are setback approximately 2.28m behind the front facade. The wall above the proposed garages aligns with the outside face of the garages. Proposed front setback area is free of ancillary elements	Yes N/A Yes Yes Yes
2.8.2 Side Setbacks		
<ul style="list-style-type: none"> ○ One storey dwelling <ul style="list-style-type: none"> - 900mm to wall, includes balconies etc. ○ Two storey dwelling <ul style="list-style-type: none"> - 1500mm to wall, includes balconies etc. ○ Side setback to secondary frontage (cnr allotments): 2m to façade and garage/carports 	N/A Proposed two storey building has a minimum side setback of 1500mm. Not on a corner	N/A Yes N/A
2.8.3 Rear Setbacks		
- 8m to rear of dwelling OR 25% of the length of the site, whichever is greater.	Required: 8.89m is 25% of site length Proposed:	Yes

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
	12.4m minimum rear setback	
<ul style="list-style-type: none"> • Sites wider than they are long - One side setback of 8m or 20% of allotment width, whichever is greater. NB: Side setback on irregular allotments can be measured at the centre line of the site (must have 8x8 DSA). - Rear setback 4m min (in addition to 8m side setback) 	Site is not wider than it is long	N/A
<p>Battle-axe (hatchet shaped)</p> <ul style="list-style-type: none"> - Setback min 8m from front allotment. A single storey garage or outbuilding may be located within this setback. 	Subject site is not battle-axe.	N/A
2.9 Outbuildings		
	No outbuildings proposed	N/A
2.10 Car Parking & Access		
<ul style="list-style-type: none"> • General - Dual Occupancy (attached): 1 space max per dwelling. - Where possible access off secondary street frontages or laneways is preferable. • Garages - Garages facing street, max 6m wide or 50% of frontage, whichever is less. - Behind building façade. 	<p>Proposal includes a single space for each dwelling within an attached single garage.</p> <p>Access off primary street frontage – Samuel Street. No secondary frontage or laneway access available to subject site.</p> <p>Requirement: Proposed frontage of building 12.9m wide, 50% is 7.74m. Less than 6m. ie. 6m max.</p> <p>Proposal: Proposed garages combine for a width of 5.7m.</p> <p>Proposed garages are setback 2.28m behind the building façade.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Garages setback 1m from façade. - Total width of garage doors visible from public space must not exceed 5.7m and be setback not more than 300mm behind the outside face of the building element immediately above. - Garage windows are to be at least 900mm away from boundary. - Free standing garages are to have a max GFA of 36m². - Solid doors required - Materials in keeping or complementary to dwelling. • Carports <ul style="list-style-type: none"> - Sides 1/3 open (definition in BCA) - Design and materials compatible with dwelling. • Driveways <ul style="list-style-type: none"> - Extent of driveways minimised • Semi-basement Car Parking 	<p>Proposed garages are setback 2.28m behind the building facade.</p> <p>Both garage doors visible from street. Combined door width 5.4m. Doors setback approx. 250mm.</p> <p>No garage windows proposed.</p> <p>Proposed garages are not freestanding.</p> <p>Solid doors proposed</p> <p>Flat-line sectional garage doors proposed. This is considered to be complementary to the contemporary style of the proposal.</p> <p>No carport proposed</p> <p>No carport proposed</p> <p>Extent of driveways considered to be minimised. Proposed double width driveway for entire length for access to each garage.</p> <p>No semi-basement car parking proposed</p>	<p>Yes</p> <p>Yes / Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>N/A</p>
2.11 Swimming Pools & Spas		
<ul style="list-style-type: none"> - Must comply with all relevant Acts, Regulations and Australian Standards. - Must at all times be surrounded by a child resistant barrier and located to separate pool from any residential building and/or outbuildings (excl cabanas) and from adjoining land. 	<p>No swimming pools or spas proposed</p> <p>As above</p>	<p>N/A</p> <p>N/A</p>

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - No openable windows, door or other openings in a wall that forms part of barrier 	As above	N/A
<ul style="list-style-type: none"> - Spa to have lockable lid if not fenced or covered 	As above	N/A
<ul style="list-style-type: none"> - Pools not to be in front setback 	As above	N/A
<p>Pool coping height</p> <ul style="list-style-type: none"> - 500mm maximum above existing ground level 	As above	N/A
<p><i>(only if no impact on privacy)</i></p> <ul style="list-style-type: none"> • Pool Setback - 900mm min from outside edge of pool coping, deck or surrounds to allow sufficient space for amenity screen planting 	As above	N/A
<ul style="list-style-type: none"> - Screen planting required for pools located within 1500mm, min bed width of 900mm for the length of the pool. Min ht 2m, min spacing 1m. 	As above	N/A
<ul style="list-style-type: none"> - Pool setback 3m+ from tree >5m height on subject or adjacent property. 	As above	N/A
<ul style="list-style-type: none"> - Pool filter located away from neighbouring dwellings, and in an acoustic enclosure. 	As above	N/A
2.12 Landscaping		
<ul style="list-style-type: none"> • Trees & Landscaping - Major trees retained where practicable. - If bushland adjoining use native indigenous species for 10m from boundary 	<p>One (1) tree is proposed to be removed on site which has been supported given its poor health and poor form and additional tree plantings proposed within the front to compensate for the tree removal. No other trees on the subject site or neighbouring allotments are to be impacted.</p> <p>Council's mapping (held on file) indicates 'Inadequately Preserved Bushland' on site.</p>	<p>Yes</p> <p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - 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>The proposed development has been referred to Council's Consultant Landscape Architect who has raised no significant concerns with the subject development in relation to preservation of urban bushland.</p> <p>Proposed building is connected to the outdoor spaces via stairs and front entrance portico.</p> <p>Obstruction-free pathways are provided along each side of the building for each of the units.</p> <p>2 x 10m mature height trees proposed to be planted adjacent to front boundary, one (1) for each unit.</p> <p>Council's consultant Landscape Architect has raised concerns in relation to the two (2) trees proposed for the rear yard of each allotment (Melaleuca linariifolia) are not considered to grow to an appropriate mature size given the nature of the development. Additionally, it is noted that given that there are no large existing trees located on the subject site the canopy cover should be increased. Accordingly, it is recommended that a condition be imposed to provide a tree of an</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No To be conditioned</p>

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>- Hedging or screen planting on boundary mature plants reaching no more than 2.7m.</p>	<p>appropriate mature size within the rear yard:</p> <p>Council's consultant Landscape Architect has raised concerns given the elevated level of the rear terrace area of each unit of the dual occupancy, it is considered that privacy/overlooking impacts to the neighbouring rear open spaces may be a concern. It is considered these impacts can be somewhat mitigated by the continuation of the boundary screening hedges located along the side boundaries so as to preclude views towards the neighbouring private open space. Accordingly, it is recommended that the following condition be inserted so as to ensure the screen planting along the boundaries is continued to minimise views towards neighbouring allotments:</p>	<p>No To be conditioned</p>
<p>- OSD generally not to be located in front setback unless under driveway.</p>	<p>Proposal includes two (2) 5000L underground rainwater tanks located under each of the rear paved BBQ areas.</p>	<p>Yes</p>
<p>- Landscaped front garden, with max 40% hard paving.</p>	<p>51.21% (56.36m²) hard paved within front yard area.</p> <p>Council's consultant landscape The front yard includes a level of hard</p>	<p>No – Justifiable</p>

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> • Retaining walls and other landscaping elements not to obstruct overland flow path. - Where lot is adjoining bushland protect, retain and use only native indigenous vegetation for distance of 10m from building adjoining bushland. 	<p>paving which exceeds the maximum 40% of the front yard area as per the Ryde DCP 2010. Despite this, given the only hard paved areas are the driveway and pedestrian pathways, and appropriate tree and shrub plantings have been incorporated within the front yard, this is considered to be acceptable.</p> <p>Council's mapping (held on file) indicates subject site affected by overland flows. No retaining walls proposed. See Development Engineers referral.</p> <p>Council's mapping (held on file) indicates 'Inadequately Preserved Bushland' on site. Refer to the Consultant Landscape Architect's Comments.</p>	<p>Yes</p> <p>Yes</p>
2.13 Dwelling Amenity		
2.13.1 Daylight and Sunlight Access		
<ul style="list-style-type: none"> - Living areas to face north where orientation makes this possible. - Increase side setback for side living areas (4m preferred) where north is the side boundary. 	<p>Primary living areas including the open plan kitchen/family room area is located at the rear of each unit. These areas are generally oriented to the north, east and west and as such are likely to have good access to sunlight.</p> <p>North is not the side boundary.</p>	<p>Yes</p> <p>N/A</p>

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p><u>Subject Dwelling:</u> - Subject dwelling north facing windows are to receive at least 3 hrs of sunlight to a portion of their surface between 9am and 3pm on June 21.</p>	<p>Proposal includes north-facing living room windows in the family/kitchen area at the rear. Due to the height of these windows and the lack of surrounding obstructions, they are likely to receive the required amounts of sunlight.</p>	<p>Yes</p>
<p>- Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21.</p>	<p>Proposal includes primary POS areas in the form of rear BBQ area and verandah. Due to the height of these areas and the lack of surrounding obstructions, they are likely to receive the required amounts of sunlight.</p>	<p>Yes</p>
<p><u>Neighbouring properties are to receive:</u> - 2 hours sunlight (not reduced) to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21.</p>	<p>Shadow diagrams indicate that the POS of the adjoining property to the north-east will not be affected at all by the shadowing of the proposed development. The property to the south-west will have some shadowing on its side but none on its principal ground level open space which is located at the rear. Accordingly, proposal will not reduce sunlight to adjoining POS to less than 2hrs.</p>	<p>Yes</p>
<p>- At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21.</p>	<p>Shadow diagrams indicate that proposals shading will affect north-facing side windows of adjoining dwelling to south-west but they will still receive required amounts of sunlight.</p>	<p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
2.13.2 Visual Privacy		
<ul style="list-style-type: none"> - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. 	<p>Windows of main living areas generally oriented to the front and rear. It is noted that due to the height of the ground floor rear living areas there is potential for overlooking from Window 5 (side orientation) and Window 6 (rear orientation) of both units (refer to elevations). However, due to the small size of these windows and there position which avoids direct sightlines, privacy impacts are considered minimal.</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>As above.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Side windows offset from adjoining windows. 	<p>Proposed side windows are offset from adjoining windows.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Terraces, balconies etc. are not to overlook neighbouring dwellings/private open space. 	<p>Proposal includes rear ground floor verandah and rear first floor balcony for each unit. Due to the main portion of these areas being away from the side boundaries and recessed into the building, privacy impacts on adjoining properties are considered to be minimal.</p>	<p>No – To be conditioned</p>
	<p>It is noted that revised plans have been received from the applicant which show a 970mm blade wall to address privacy impacts identified by the preliminary planning assessment and request for additional information.</p>	

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>- Living room and kitchen windows, terraces and balconies are not to allow direct view into neighbouring dwellings or neighbouring private open space.</p>	<p>It is considered that privacy has been satisfactorily addressed by this additional blade wall. However it is considered that the proposed development be further conditioned to provide 300mm of lattice screening a top of the proposed 1.8m fence which has also been recommended to be changed by condition of consent from colourbond (as shown on the submitted plans) to a 1.8m lapped and capped timber fence.</p> <p>As above.</p>	<p>Yes</p>
2.13.3 Acoustic Privacy		
<p>- 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.</p>	<p>The layout of the proposed attached dual occupancy minimises noise impacts between the dwellings. The floor plan of each unit is a reflection of the other, meaning that the same usages adjoin each other.</p>	<p>Yes</p>
2.13.4 View Sharing		
<p>- The siting of development is to provide for view sharing.</p>	<p>The proposal complies with controls related to bulk and scale such as heights and setbacks and is sited in the middle of the site. Additionally, no significant views exist across the subject site. Accordingly, development is considered to have provided for view sharing.</p>	<p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
2.13.5 Cross Ventilation		
- Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation.	The proposed layout of the dwellings is generally open plan allowing for cross ventilation.	Yes
2.14 External Building Elements		
2.14.1 Roof		
- Articulated.	Proposed roof is pitched and well-articulated.	Yes
- 450mm eaves overhang minimum.	Proposed eaves overhang at least 450mm.	Yes
- Not to be trafficable Terrace.	No trafficable terrace proposed on the roof.	Yes
- Skylights to be minimised and placed symmetrically.	Skylight proposed for each unit located on the rear facing plane of the roof, not visible from public domain. They are placed symmetrically.	Yes
- Front roof plane is not to have both dormer windows and skylights.	No dormer windows are proposed.	N/A
- Attic to be within roof space	Proposed attic is within the roof space.	Yes
- Attics may be in garage if garage next to dwelling & not within front or rear setback	No attic proposed in the garages.	N/A
2.15 Fencing		
2.15.1 Front/return:		
- To reflect design of dwelling.	Submitted plans not clear as to the proposed boundary fencing. Standard conditions to be imposed to ensure fencing complies with Ryde DCP 2010.	To be conditioned
- To reflect character and height of neighbouring fences.	As above	
- Max 900mm high for solid (picket can be 1m).	As above	
- Max 1.8m high if 50% open (any solid base max 900mm).	As above	

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Retaining walls on front building max 900mm. - No colourbond or paling - Max pier width 350mm. 	<p>As above</p> <p>As above</p> <p>As above</p>	
2.15.2 Side/rear fencing:		
<ul style="list-style-type: none"> - 1.8m max o/a height. 	<p>Plans do indicate proposed 1800mm high Colorbond fence dividing the two units rear yards.</p> <p>It is considered that the proposed colourbond fence be deleted and conditioned to be a 1.8m high lapped and capped timber fence.</p>	To be conditioned
Special requirements for Battleaxe Lots		
<ul style="list-style-type: none"> o Must be setback from rear boundary of front allotment 8m min (in addition to having an 8m/25% rear setback). Single storey garage or carport may be within setback. 	Subject site is not a battleaxe allotment	N/A
<ul style="list-style-type: none"> o Must have hard paved area in front setback for turning, so vehicles can enter and exit in a forward direction. 	As above	N/A
<ul style="list-style-type: none"> o View corridor to water co-ordinated with that of front allotment or along access handle. 	As above	N/A
Part 7.1 – Energy Smart, Water Wise (only if BASIX not required)		
	BASIX certificate submitted	N/A
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.	Standard conditions to be imposed to compliance with Ryde DCP 2010.	To be conditioned
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		
Front & Return Fences		

ITEM 4 (continued)

ATTACHMENT 2

DCP 2014	PROPOSED	COMPLIANCE
<p>Front and return fences that exceed 1m in height are to be 50% open.</p>	<p>Submitted plans not clear as to the proposed boundary fencing. Standard conditions to be imposed to ensure fencing complies with Ryde DCP 2010.</p>	<p>To be conditioned</p>
Part 9.6 – Tree Preservation		
<p>Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed 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>The proposed tree removal has been referred to Council’s Consultant Landscape Architect who has provided the following comments.</p> <p><i>One (1) tree is proposed to be removed on site which has been supported given its poor health and poor form and additional tree plantings proposed within the front to compensate for the tree removal. No other trees on the subject site or neighbouring allotments are to be impacted.</i></p>	<p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 2

BASIX	PROPOSAL	COMPLIANCE
Correct description of property/proposal on 1 st page of Certificate.	Correct details shown	Yes
Water Target 40	Water: 45	Yes
Energy Target 40	Energy: 52	Yes
All ticked "Show on DA plans" commitments on the BASIX Certificate are to be shown on plans (list) BASIX Cert 563776M dated 25th July 2014	See below.	Yes
<ul style="list-style-type: none"> • Water <ul style="list-style-type: none"> - Alternative water supply each dwlg - 5000L water tank each dwlg 	To comply Underground RWT proposed at rear of each dwelling.	Yes Yes
<ul style="list-style-type: none"> • Energy <ul style="list-style-type: none"> - HWS 4 star instantaneous - Natural lighting: • Bathrooms (3) • Kitchen (0) 	To comply All bathrooms have windows with access to natural light.	Yes Yes N/A
<ul style="list-style-type: none"> • Thermal Comfort Commitments: <ul style="list-style-type: none"> - Construction 	To comply	Yes

DEMOLITION	PROPOSAL	COMPLIANCE
<ul style="list-style-type: none"> • Plan showing all structures to be removed. 	Demolition plan submitted showing all structures to be removed.	Yes
<ul style="list-style-type: none"> • Demolition Work Plan 	Demolition work plan has not been provided. Standard condition of consent to be imposed to ensure compliance with Ryde DCP 2010.	To be conditioned
<ul style="list-style-type: none"> • Waste Management Plan 	Plan submitted	Yes

Summary of Issues/Non compliances:

Ryde LEP - Non-compliances – Justifiable

- *Min lot size for dual occs not met. (RLEP2010) – Clause 4.6 Submitted; and*
- *Min road frontage for dual occs not met. (DLEP2011).*

ITEM 4 (continued)

ATTACHMENT 2

Ryde DCP 2014 Non-compliances – Justifiable

- *8 x 8m deep soil area not provided in rear yard;*
- *Max fill within and outside footprint exceeded;*
- *Fill proposed in side setback area;*
- *Fill proposed in overland flow path; and*
- *Hard paving in front yard exceeds 40%.*

Ryde DCP 2014 Non-compliances – Resolved via conditions

- *Visual privacy impacts between dwellings and to adjacent property due to potential overlooking;*
- *Tree planting within rear yard unsatisfactory according to Consultant Landscape Architect;*
- *Screen planting unsatisfactory according to Consultant Landscape Architect; and*
- *Fencing details insufficient according to Consultant Landscape Architect.*

Non-compliances – Not justified

- *None*

Certification

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

Name: Ben Tesoriero

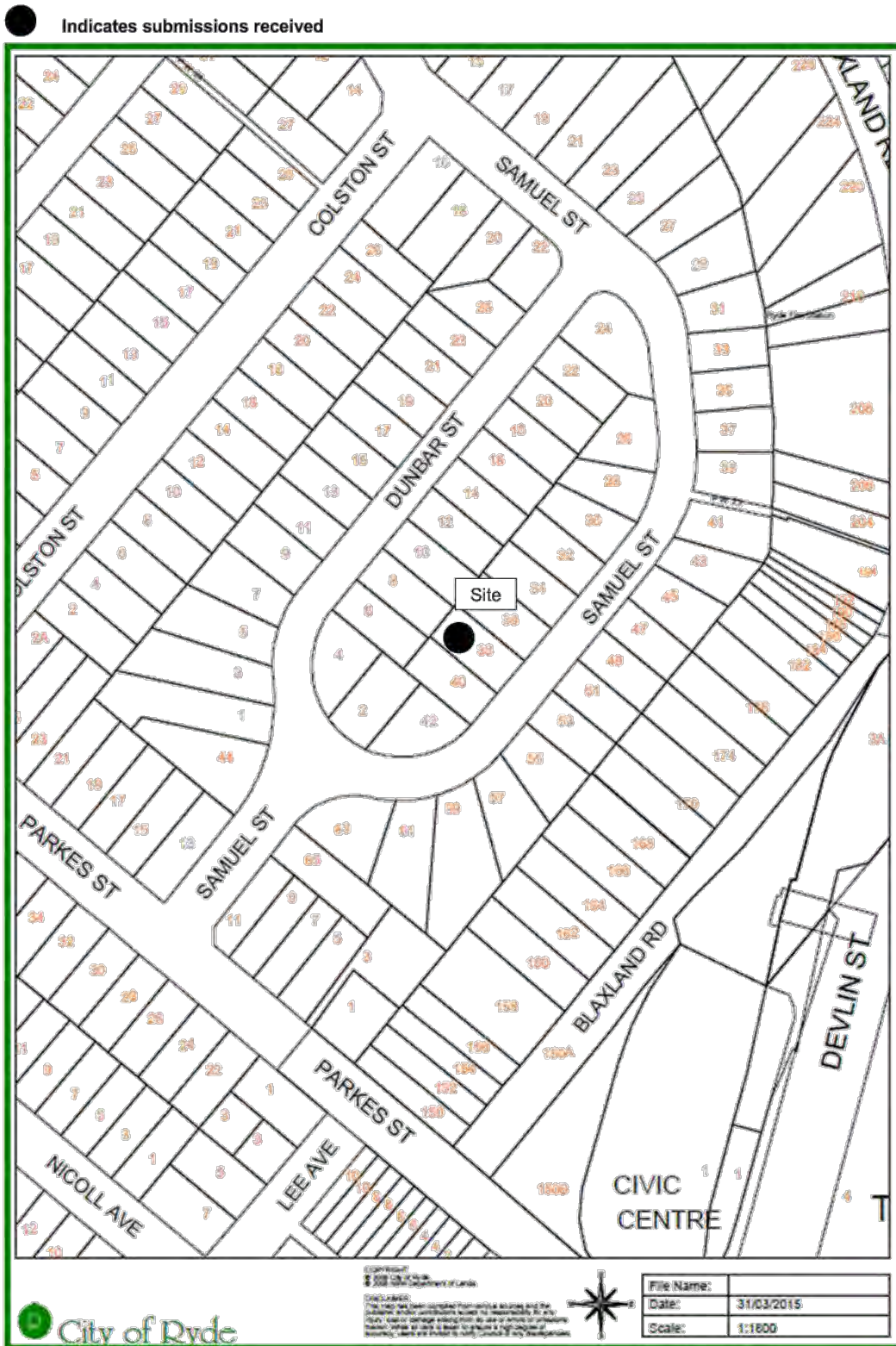


Signature:

Date: 17 March 2015

ITEM 4 (continued)

ATTACHMENT 3



ITEM 4 (continued)

ATTACHMENT 4

AMENDMENTS:
Rev. 1: 18/07/14 - DA Submission.
Rev. 2: 29/07/14 - Amended for DA Submission.
Rev. 3: 03/09/14 - Privacy wall added.

ARCHITECTURAL DRAWING SCHEDULE:

COVER PAGE	DA00
GROUND FLOOR PLAN	DA01
FIRST FLOOR PLAN	DA02
ROOF PLAN	DA03
STREET & REAR ELEVATIONS	DA04
SIDE ELEVATIONS	DA05
SECTION A/A	DA06
SHADOW DIAGRAM - 22 JUNE, 9 AM	DA07
SHADOW DIAGRAM - 22 JUNE, 12 NOON	DA08
SHADOW DIAGRAM - 22 JUNE, 3 PM	DA09
DEMOLITION PLAN	DA10
FSR CALCULATION PLAN	DA11
EROSION & SEDIMENT CONTROL	DA12

ACCOMPANYING DOCUMENT SCHEDULE:

DA APPLICATION	2825
STATEMENT OF ENVIRONMENTAL EFFECTS	ANN001 - /12
S149 CERTIFICATE	ANN001 - /22
BASIX CERTIFICATE + CERTIFIED COPIES	C1.01
FLOOD REPORT	C1.02
ARBORIST REPORT	C2.01
SURVEY	C2.02
LANDSCAPE PLAN	C2.03
LANDSCAPE PLAN	C2.04
LANDSCAPE PLAN	C2.05
STORMWATER - GENERAL NOTES	
STORMWATER PLAN	
STORMWATER DETAILS	
STORMWATER DETAILS	
STORMWATER DETAILS	
STORMWATER DETAILS	

PROPOSED NEW DUAL OCCUPANCY
AT:
36 SAMUEL STREET
RYDE NSW 2112

LOT DETAILS:

LOT No: 54
DEPOSITED PLAN: 27143
LOT AREA: 575.118 m²
ZONING: R2
FSR: 0.5 (287.559 m²)

COMBINED AREAS:

GROUND FLOOR AREA:	139.4 m ²	UNIT 'A' AREAS:	GROUND FLOOR AREA:	69.7 m ²	UNIT 'B' AREAS:	GROUND FLOOR AREA:	69.7 m ²
FIRST FLOOR AREA:	143.6 m ²	FIRST FLOOR AREA:	FIRST FLOOR AREA:	71.8 m ²	FIRST FLOOR AREA:	FIRST FLOOR AREA:	71.8 m ²
TOTAL FLOOR AREA:	283 m ²	TOTAL FLOOR AREA:	TOTAL FLOOR AREA:	141.5 m ²	TOTAL FLOOR AREA:	TOTAL FLOOR AREA:	141.5 m ²
LANDSCAPE AREA:	300 m ²	LANDSCAPE AREA:	LANDSCAPE AREA:	150 m ²	LANDSCAPE AREA:	LANDSCAPE AREA:	150 m ²
FRONTYARD AREA:	123 m ²	FRONTYARD AREA:	FRONTYARD AREA:	61.5 m ²	FRONTYARD AREA:	FRONTYARD AREA:	61.5 m ²
FYARD PAVED AREA:	48 m ²	FYARD PAVED AREA:	FYARD PAVED AREA:	24 m ²	FYARD PAVED AREA:	FYARD PAVED AREA:	24 m ²

BASIX COMMITMENTS: REFER TO BASIX CERTIFICATE FOR ALL BASIX COMMITMENTS

EXTERNAL WALLS: Brick veneer, Reflective foil + R2 insulation, Medium colour.
Plasterboard on studs, No insulation.
Cavity brick, Plasterboard on sides, No insulation.

INTERNAL WALLS: Standard aluminium, Single glazed, Clear.
Concrete, R1 insulation, General floor covering (tile/carpet). Wet area floor covering (ceramic tile)

WINDOWS: Timber, General floor covering (tile/carpet). Wet area floor covering (ceramic tile)

FLOOR - Ground: Plasterboard, No insulation.

FLOOR - First: Plasterboard, R3 insulation.

CEILING - First: Tile, Metal deck, Medium colour.

ROOF: Tile, Metal deck, Medium colour.

PROPOSED NEW DUAL OCCUPANCY
Address: 36 SAMUEL STREET RYDE NSW 2114
Owner: DAVID DINH

ANNEX DESIGN
Contact No: 0433 773 254

COVER PAGE - SITE PLAN

Scale: 1:1-200 Date: 03/09/14 Revision: 3 Drawn: HA

Project Name: DAVID DINH

Drawn: HA

Project Name: DAVID DINH

Drawn: HA

ITEM 4 (continued)

ATTACHMENT 4

