

Meeting Date: Tuesday 21 July 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 16 June 2015

Report prepared by: Section Manager - Governance

File No.: CLM/15/1/3/2 - BP15/848

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 9/15, held on 16 June 2015, be confirmed.

ATTACHMENTS

1 MINUTES - Planning and Environment Committee Meeting - 16 June 2015

ITEM 1 (continued)

ATTACHMENT 1

**Planning and Environment Committee
MINUTES OF MEETING NO. 9/15**

Meeting Date: Tuesday 16 June 2015

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

Time: 5.01pm

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

Apologies: Councillor Simon.

Absent: Councillor Salvestro-Martin.

Staff Present: Group Manager – Environment and Planning, Acting Service Unit Manager – Assessment, Team Leader – Assessment, Senior Town Planner, Assessment Officer, Senior Development Engineer, Client Manager, 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 2 June 2015

RESOLUTION: (Moved by Councillors Yedelian OAM and Laxale)

That the Minutes of the Planning and Environment Committee 8/15, held on 2 June 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 17-21 RYEDALE ROAD, WEST RYDE. LOT 1 DP 701627 & LOT 3 DP 12089. Local Development Application for demolition of existing structures except for heritage façade and erection of part 6/part 7 storey mixed use building containing one commercial tenancy and a 43 room boarding house. Ground level parking will be provided for 13 cars and 10 motorcycles. LDA2014/0541.**

Note: This Item was dealt with later in the meeting as detailed in these Minutes.

ITEM 1 (continued)

ATTACHMENT 1

- 3 21 WINBOURNE STREET, WEST RYDE. LOT 4 DP 39266. Application under Section 82A of the EP&A Act 1979, to review Council's determination of LDA2013/0420 for alterations and additions and change of use of existing dwelling to a childcare centre for 39 children. (APL2015/0002.)**

Note: Marlicia Travis (representing Marsden High School P&C Association - objector) addressed the meeting in relation to this Item.

Note: A letter from Mr Moskopian (applicant) dated 26 May 2015, attaching 12 letters of support for the development, was tabled in relation to this Item and a copy is ON FILE.

RECOMMENDATION: (Moved by Councillors Laxale and Yedelian OAM)

That as a result of a call-up from Councillor Maggio, this matter be referred to full Council for consideration.

Record of Voting:

For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **23 JUNE 2015** as substantive changes were made to the published recommendation and Councillor **MAGGIO** requested that the matter be referred to the next Council Meeting.

- 4 12 RESERVE STREET, WEST RYDE. LOT 1 DP 785091. Local Development Application for a new dual occupancy (attached) and front fence with strata subdivision. LDA2015/0062.**

Note: Zhidong Lin (objector), Marjorie Ong (objector) and Benjamin Lam (representing the owners) addressed the meeting in relation to this Item.

Note: Documentation from Mr Lin (objector) was tabled in relation to this Item and a copy is ON FILE.

RESOLUTION: (Moved by Councillors Laxale and Yedelian OAM)

- (a) That Local Development Application No. LDA2015/62 at 12 Reserve Street, West Ryde be approved subject to the **ATTACHED** conditions (Attachment 1).
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

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

ITEM 1 (continued)

ATTACHMENT 1

- 2 17-21 RYEDALE ROAD, WEST RYDE. LOT 1 DP 701627 & LOT 3 DP 12089. Local Development Application for demolition of existing structures except for heritage façade and erection of part 6/part 7 storey mixed use building containing one commercial tenancy and a 43 room boarding house. Ground level parking will be provided for 13 cars and 10 motorcycles. LDA2014/0541.**

Note: Eric Abreu (objector) and Jamil Aliraja (representing MMD Construction Consultants - applicant) addressed the meeting in relation to this Item.

Note: An email from MMD Construction Consultants (applicant) dated 10 June 2015 requesting that this matter be deferred was tabled in relation to this Item and a copy is ON FILE.

Note: Photographs from Mr Abreu (objector) were tabled in relation to this Item and a copy is ON FILE.

RESOLUTION: (Moved by Councillors Yedelian OAM and Laxale)

- (a) That Local Development Application No. 2014/541 at 17-21 Ryedale Road, West Ryde, being LOT 1 DP 701627 & LOT 3 DP 12089 be refused for the following reasons:
1. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not in the public interest as the development is significantly larger than envisaged by Council's planning controls and is not compatible with the surrounding streetscape and heritage conservation area environment and will adversely impact the amenity of neighbouring residents.
 2. The proposal is contrary to requirements prescribed under the Ryde Local Environmental Plan 2014 (RLEP 2014) as:
 - a. It fails to satisfy the objectives of the B4 mixed use zone as the bulk and scale and unsympathetic design of the proposal together with the resultant adverse impact on the character of the conservation area is not considered to constitute a suitable form of development within the zone.
 - b. It fails to comply with the maximum FSR permitted on the site pursuant to Clause 4.4 of the RLEP 2014 (as varied by the State Environmental Planning Policy (Affordable Rental Housing) 2009).
 - c. It fails to meet the objectives of Clause 4.4 as the additional non-compliant floorspace is significant and will result in a much larger, bulkier building than should reasonably exist on the site with resultant adverse impact on the surrounding streetscape and heritage conservation area.

ITEM 1 (continued)

ATTACHMENT 1

- d. The Clause 4.6 submission has not satisfactorily demonstrated that the variation in FSR (Clause 4.4) would be in the public interest and that the objectives of the standards will be met despite the non-compliance as it fails to adequately consider the resultant impact of the proposed bulk and scale of the building on the character of the area or neighbouring residential properties.
 - e. It fails to comply with the objectives of Clause 5.10 of the RLEP 2014 in relation to conserving the environmental heritage of Ryde, and conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views.
3. The proposal fails to satisfy the requirements of the Ryde Development Control Plan 2014 (RDCP 2014) and has not provided a good design outcome, for the following reasons:
1. The proposal is contrary to the objectives and controls of Part 3.5 (Boarding Houses) of the DCP2014 as:
 - i. The proposal will impact adversely on the character of the local area and streetscape;
 - ii. The scale and form of the development will not be compatible with the character and quality of the streetscape;
 - iii. The proposal will not be sympathetic to the character of the surrounding Heritage Conservation Area.
 - iv. Inadequate boarding room design resulting in an adverse living environment for future residents;
 - v. Inadequate indoor communal living space will be provided for future residents;
 - vi. Inadequate clothes drying facilities will be provided for future residents; and
 - vii. The design does not optimise safety and security due to parking spaces being located directly adjacent to Ryedale Lane and not within the secure car park area.
 2. The proposal is contrary to the objectives and controls of Part 4.3 (West Ryde Town Centre) of the RDCP 2014 as:
 - i. The proposal does not comply with the RLEP 2014 FSR control resulting in a development of inappropriate bulk and scale;
 - ii. The proposed development does not maximise solar access to neighbouring residential properties;
 - iii. Appropriate landscaping has not been demonstrated as a landscape plan has not been provided; and
 - iv. The proposal is not sympathetic to, and will adversely impact, the Ryedale Road Heritage Conservation Area.
 3. The proposal does not comply with the numerical requirements for commercial car parking under Part 9.3 (Car Parking) of RDCP 2014.

ITEM 1 (continued)

ATTACHMENT 1

4. Consent is required from the owner(s) of the RoW forming Ryedale Lane to the rear of the site in order for the applicant to demonstrate they have legal access to use the RoW. In addition, without owner's consent to prohibit parking on the eastern side of the RoW, it will not be possible for construction vehicles to access the site and will impair ongoing access to the site for larger vehicles. This will impact traffic flow in Ryedale Lane and potentially public safety.
5. The proposal is contrary to the design quality principles of State Environmental Planning Policy 65 – Design Quality of Residential Flat Development for the following reasons:
 - a) The development adversely responds and contributes to its context.
 - b) The scale of the development will adversely impact on the scale of the street and surrounding buildings.
 - c) The built form is unacceptable due to its excessive bulk and scale.
 - d) The density of the development is inconsistent with the future character of the area.
 - e) The development results in poor amenity to the future occupants of the building.

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

Record of Voting:

For the Motion: Unanimous

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

The meeting closed at 6.07pm.

CONFIRMED THIS 21ST DAY OF JULY 2015.

Chairperson

- 2 37 PENNANT AVENUE, DENISTONE. LOT 1 DP 1005675. Local Development Application for Demolish pool, subdivide land into two lots, erect a new two storey dual occupancy with strata subdivision on one lot and retain the heritage item and outbuildings on the other lot. LDA2015/0005.**

Report prepared by: Assessment Officer - Town Planner

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

File Number: GRP/09/5/6/2 - BP15/957

1. Report Summary

Applicant: A J Kirillov

Owner: A J Kirillov, J L Kirillov

Date lodged: 5 January 2015

This report considers a development application (DA) for a two (2) lot subdivision, and construction of a two (2) storey dual occupancy and strata subdivision on the newly created lot. The other larger allotment will contain a Heritage Item ('Ben Lomond' House).

The major issue of concern with this DA is the impacts on the heritage significance and curtilage of 'Ben Lomond' House. Council's Heritage Officer is not supportive of the DA as the proposal will detract from the significance of 'Ben Lomond' House which requires a sizeable curtilage in order to retain the context and setting of the item. The provision of a two (2) storey development positioned in the forefront of 'Ben Lomond' House will obstruct and compete with the view to the item from the streetscape when viewed from the east. There was a previous (2004) subdivision that resulted in a new dwelling on the southern side of 'Ben Lomond' House which reduced its curtilage. The current proposal will cause a further unacceptable loss of curtilage and therefore heritage significance of 'Ben Lomond' House.

The DA has been notified to neighbours in accordance with Ryde DCP 2014 and a total of two (2) submissions were received. The submissions raised the following key issues:

- Privacy - overlooking due to tree removal, provision of a balcony and windows along north-eastern elevation;
- Parking - design will encourage vehicles to park on the grass verge; and
- Tree Removal - property contains Sydney Turpentine – Ironbark Forest which should be retained.

ITEM 2 (continued)

The proposal has been assessed against the controls relating to dual occupancies in Part 3.3 of Ryde DCP 2014 with the following areas of non-compliance:

- Front setback: Unit 1: 3.6m, Unit 2: 4.4m (Required: 6m);
- Rear setback: Unit 1: 3m, Unit 2: 6.5m (Required: 8m);
- Side setback: 0.9m to north-eastern side setback (Required: 1.5m at first floor level); and
- Garage setback: Unit 2's garage is in line with front façade (Required: garage to be 1m behind front façade)

The areas of non-compliance regarding the garage and side setbacks are considered minor and does not warrant refusal of the DA as they do not result in substantial adverse impacts to the amenity of the dual occupancy or surrounding properties or detract from the 'Ben Lomond' House on the site. However, the non-compliances regarding front and rear setbacks are not supported as a substantial variation to the DCP is sought and these variations increase the bulk of the development which will have an imposing impact on the view to 'Ben Lomond' House.

The subject DA as currently submitted is recommended for refusal.

Reason for Referral to Planning and Environment Committee: Requested by Mayor, Councillor Pickering.

Public Submissions: A total of two (2) submissions were received objecting to the development.

Clause 4.6 RLEP 2014 objection required? None required.

Value of works? \$784,000

RECOMMENDATION:

- (a) That Local Development Application No. 2015/5 at 37 Pennant Avenue, Denistone, being LOT 1 DP 1005675 be refused for the following reasons:
1. The proposal will detract from the level of heritage significance on the heritage item, 'Ben Lomond' House. The previous subdivision of the site reduced the curtilage of the item. Any further reduction in curtilage will adversely impact the context and setting of the item which is necessary to retain the high retention value of the 'Ben Lomond' House.
 2. The proposal is unacceptable in terms of Ryde DCP 2014 (Part 3.3 Dwelling Houses and Dual Occupancy (attached)):
 - Clause 2.9.1(a) Front setback; and
 - Clause 2.9.3 (a) Rear setback.

ITEM 2 (continued)

3. The dual occupancy proposed on LOT 11 of the subdivision is unacceptable in terms of bulk and scale as evidence in the non-compliances with Ryde DCP 2014. Subsequently, the development creates significant bulk and scale when viewed from the streetscape which obstructs and competes with the view to 'Ben Lomond' House.
4. Insufficient information has been submitted with the development application to enable a full and proper assessment, in particular, the following additional information and amended plans would be required:
 - A Heritage Conservation Management Plan;
 - Amended plans detailing the construction methods, levels and gradients of the proposed driveways in relation to Tree 14 (*Angophora floribunda*) and Tree 24 (*Eucalyptus saligna*) and which reflect the comments and recommendations contained within the Arboricultural Impact Appraisal and Method Statement;
 - Amended plans demonstrating a reduced building envelope which complies with front, rear and side setback controls; and
 - Amended plans detailing the location of each proposed driveway to the kerb with gradients that comply with AS 2890.1. Some excavation is foreseen therefore conceptual details of the driveways are required to allow Council's Consultant Landscape Architect to assess the potential impacts on trees to be retained in the verge.
5. In the circumstances of the case, approval of the development is not in the public interest.

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

ATTACHMENTS

- 1 Compliance Table - Ryde DCP 2014
- 2 Statement of Heritage Impact dated December 2014
- 3 Heritage Report dated May 2015
- 4 Map
- 5 A4 Plans
- 6 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

ITEM 2 (continued)

Report Prepared By:

Lauren Franks
Assessment Officer - Town Planner

Report Approved By:

Chris Young
Team Leader - Assessment

Liz Coad
Acting Group Manager - Environment and Planning

ITEM 2 (continued)

2. Site (Refer to attached map)

- Address** : 37 Pennant Avenue, Denistone
(LOT 1 DP 1005675)
- Site Area** : 2,938m²
Frontage to Pennant Ave: 47.065m
Frontage to Blaxland Rd: 3.05m
South-western side boundary of 45.63m;
North-eastern side boundary of 60.4m;
North-western rear boundary of 45m (excluding access handle); and
56m (l) x 3.05m (w) access handle to Blaxland Rd.
- Topography and Vegetation** : Subject site experiences a moderate slope towards Pennant Ave. Moderate and mature level of vegetation scattered throughout site including a Date Palm positioned in the centre of the site. Extensive planting situated in the eastern portion of the site.
- Existing Buildings** : A two (2) storey brick dwelling house, detached brick garage, pool and metal shed.
- Planning Controls** : Ryde LEP 2014
- Zoning** : R2 Low Density Residential under Ryde LEP 2014
- Other** : Ryde DCP 2014



Aerial photo of subject site and surrounds.

ITEM 2 (continued)



View of subject site from Pennant Avenue.

3. Councillor Representations

Name of Councillor: Mayor, Councillor Pickering

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

Date: 31 March 2015

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

On behalf of applicant or objectors? Applicant

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

4. Political Donations or Gifts

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

ITEM 2 (continued)

5. Proposal

The proposal involves a two (2) lot subdivision and strata subdivision of a two (2) storey dual occupancy on one (1) lot and retention of the heritage item and outbuildings on the other lot.

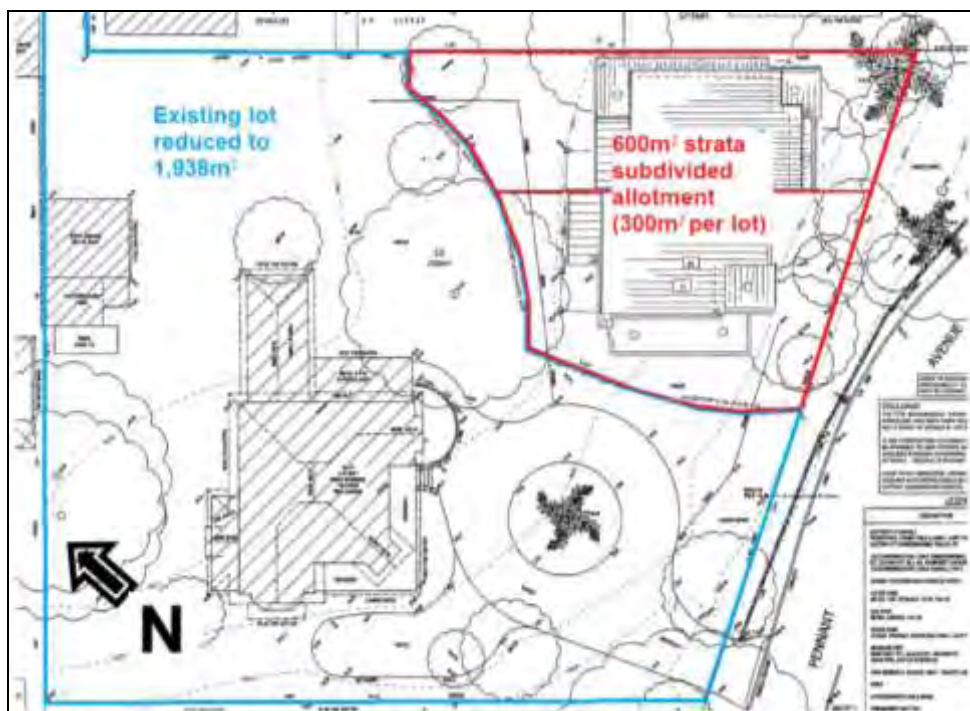
The proposed lot occupying an area of 600m² will comprise of the following dimensions:

- a frontage width of 26m;
- a north-eastern side boundary of 35.1m;
- a south-western side boundary of 19.595m; and
- a north-western rear boundary of 22.895m.

The subdivision of the site will result in the existing allotment occupying a total area of 1,938m² (1,767.2m² without access handle) and comprising of the following dimensions:

- a frontage width of 21.065m;
- an irregular shaped north-eastern side boundary totalling 67.805m;
- a south-western side boundary of 45.63m; and
- a north-western rear boundary of 45m (excluding access handle).

The following subdivision plan extract illustrates the size and location of each allotment and the siting of the existing dwelling house and dual occupancy:

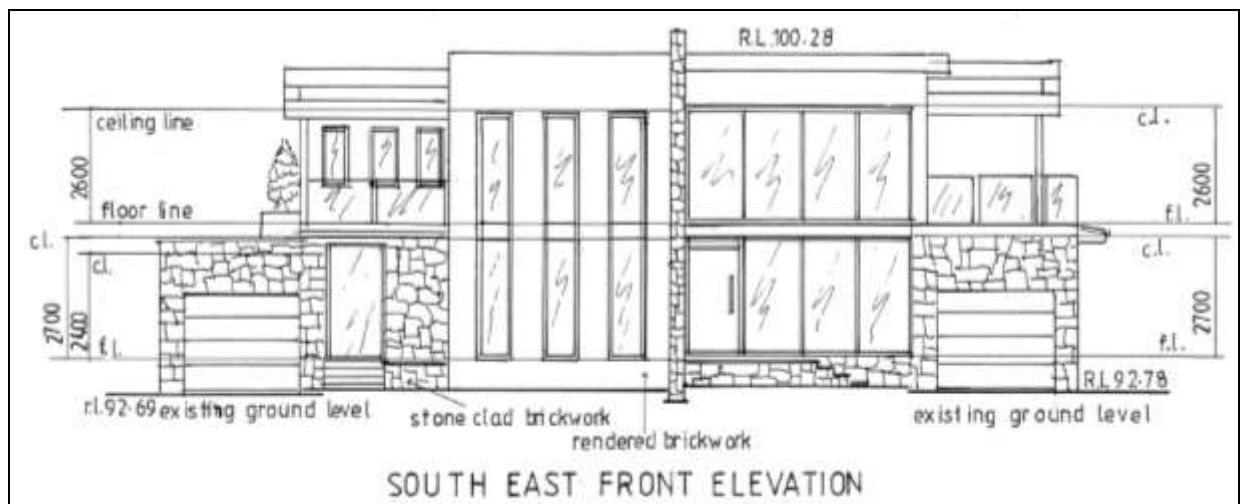


ITEM 2 (continued)

To facilitate the dual occupancy, removal of a pool and seven (7) trees is required. Specifically, each proposed unit forming the dual occupancy will comprise:

- Open plan living, family and dining area;
- Kitchen;
- Internal laundry;
- Single garage with internal access;
- Four (4) bedrooms (2 with built-in robes, 1 with a walk-in robe and ensuite);
- Balcony from main bedroom;
- Front porch; and
- Rear verandah.

The view of the proposed dual occupancy on the newly created lot from Pennant Avenue is shown in the following site plan and south-eastern elevation plan extract:



6. Background

Previous Subdivision of Site

The subject site has previously been subdivided to create an additional 700m² allotment in the southern portion of the site now known as No. 47 Pennant Ave as shown in the aerial photo earlier in this report. LDA14/98 was approved on 11 August 1998 with strict restrictions to ensure proposed development would conform to a building envelope which saw:

- The ridge of the building to be no higher than the sill height of the ground floor of 'Ben Lomond' House (RL 95.15);
- The setback from the southern boundary (Pennant Ave) be no less than 6.5m;
- The setback from the western boundary be no less than 3; and
- The development be no longer than 23m and no wider than 8.9m.

ITEM 2 (continued)

LDA221/2004 was approved on 3 August 2004 for a dwelling house and was appropriately designed to adhere to the restrictions specified on the subdivision consent. The Heritage Impact Assessment (HIA) submitted with LDA221/2004 accepted that:

“the proposed subdivision will impact on the original curtilage of Ben Lomond but care has been taken to limit that impact by siting the proposed residence in the south-west corner of the block. The removal of part of the vegetation to Pennant Avenue combined with the positioning of the proposed residence at the lowest level of the site will open-up the grounds allowing Ben Lomond to contribute substantially more to the streetscape of Pennant Avenue.”

The HIA accepted that the subdivision of the property would impact on the cultural significance of ‘Ben Lomond’ House however; the impact would be minimal provided that the location of the new dwelling is at the western end of the site and that it did not occupy any more than 1/3 of southern frontage.

Furthermore, the HIA outlined the future work proposed to ‘Ben Lomond’ House which would be undertaken from funds received from the sale of the subdivision and construction of the proposed dwelling. This future work included re-tiling and repair of the roof framing and eaves lining, removal of the external stair and reinstating the window and verandah at the back of the house.

The previous development proposals (LDA14/98 or LDA221/2004) were considered in the absence of a Conservation Management Plan (CMP). Whilst it is unclear whether or not Council deemed a CMP necessary at that time, Council considered the particulars of the development proposals on their merit, which, as outlined above, resulted in the imposition of stringent conditions of consent to mitigate heritage impacts.

It is also noted that the previous development applications were considered under the former Ryde Planning Scheme Ordinance (RPSO). Part IX of the RPSO established the framework for the identification and management of heritage items and heritage conservation areas.

Since this time, RPSO has been repealed and superseded by Ryde LEP 2010 and now Ryde LEP 2014. In this regard, this application has been considered pursuant to the heritage conservation provisions of clause 5.10 which reflect the present approach to heritage management and conservation practice.

ITEM 2 (continued)

Pre-lodgement Meeting

A pre-lodgement meeting was held on 12 March 2009 to discuss further subdivision of the site. At this time, no designs of future development on a lot were provided and a draft plan showing a proposed subdivision to create a lot of 523m² had been prepared. Council's Heritage Officer commented that:

"...further subdivision of the site may be supported in terms of heritage, providing that any proposed future dwelling has the opportunity to be located in a position that maintains significant views to the house. However, concerns are raised for the size and shape of the proposed new lot and recommends that a site analysis of the lot be undertaken that identifies significant views of the house from the public domain, identifies original garden features, paths, walls, shrub beds etc., identifies original and appropriate space around, identifies vehicle access point and a building envelope for the proposed dwelling."

From a planning perspective, concerns were raised with the proposed allotment size being 523m² representing a shortfall of 57m² from Council's minimum lot size (580m²). The submitted plans have addressed this by increasing the proposed allotment size to 600m² however, this has exacerbated heritage concerns.

DA Lodgement

The DA was lodged on 5 January 2015 and placed on extended public notification to account for the Christmas / New Year holiday period from 7 January to 5 February 2015.

On 18 March 2015, a letter was issued by Council Officers raising concerns in relation to heritage and that support for the proposal cannot be given. Further, this letter explained that a Conservation Management Plan (CMP) had not been submitted and given the significance of the heritage item, a CMP would be required for such an application. However, due to the severity of the heritage concerns, submission of a CMP would not necessarily result in support for the application being given.

After further consideration of the proposal, it was concluded that subdivision for a dual occupancy development would severely detract from the heritage value and significance of 'Ben Lomond' House. As such, a 2nd letter was issued on 26 March recommending that the DA be withdrawn, to avoid a situation where the applicant prepared a CMP for a proposal that Council Officers could not support.

ITEM 2 (continued)

On 15 April 2015, a meeting was held with the applicant / owners, their Heritage Consultants and Council Officer's including Heritage Officer. Discussion in this meeting primarily centred around heritage issues including:

- The various positions along Pennant Ave where 'Ben Lomond' house could be viewed unobstructed - the Applicant believes that the proposed location of the dual occupancy is currently densely vegetated which prevents view of the item.
- The need for a curtilage assessment to have been submitted with the DA to determine the level of open space required to surround 'Ben Lomond' house to ensure its significance is retained.
- The need for a grade assessment of the site to have been submitted with the DA to determine which portions of the site have low and high retention values – its need was not agreed by the Applicant's Heritage Consultant.
- Why a Conservation Management Plan (CMP) has been requested given the item is of local significance - the Applicant noting that request for a CMP is more aligned to state listed items.

On 11 May 2015, further heritage documentation was received in response to discussions occurring in the earlier meeting, and referred to Council's Heritage Officer (as discussed in full in the 'Referrals' section of this report).

7. Submissions

As aforementioned, the original proposal was notified in accordance with Development Control Plan 2014 - Part 2.1, Notification of Development Applications from 7 January to 5 February 2015.

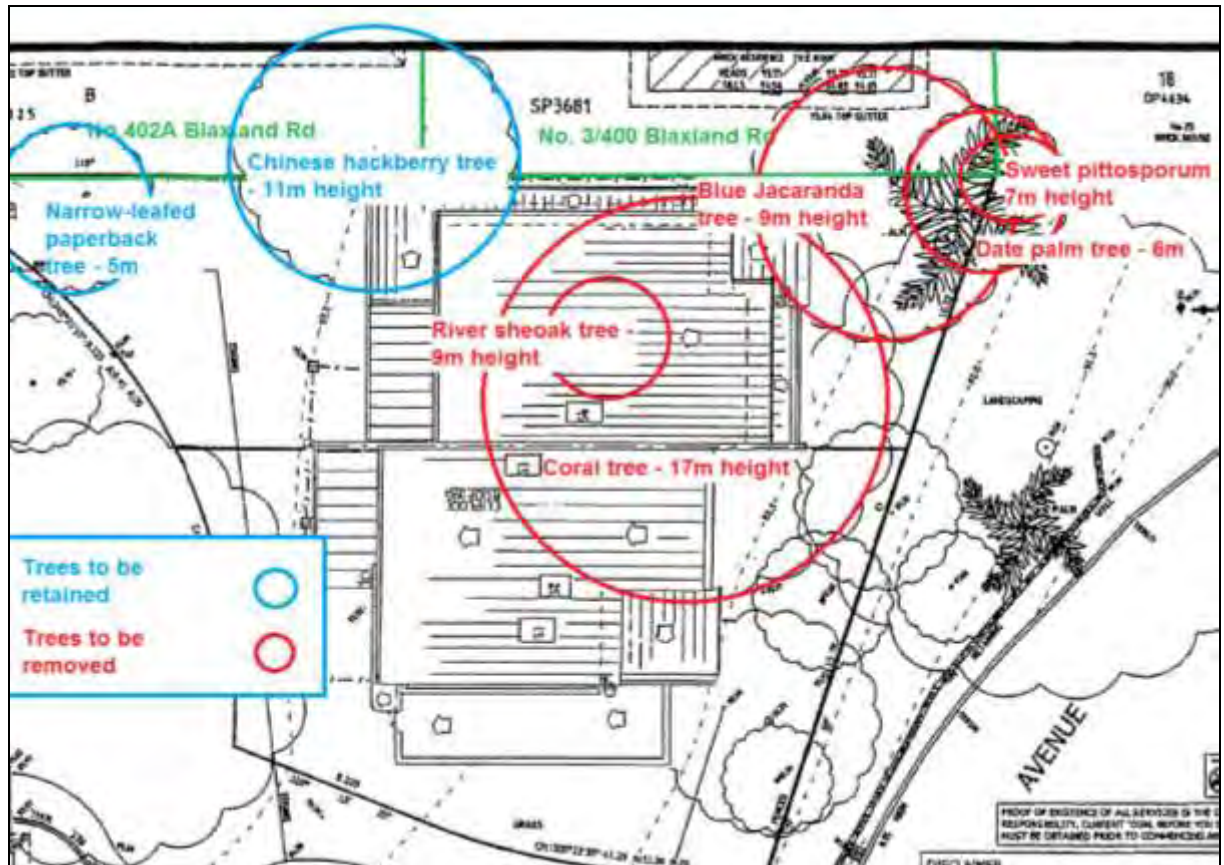
In response, a total of two (2) submissions were received from the owners of neighbouring properties as shown on the aerial photo earlier in this report. The key issues raised in the submissions are summarised and discussed as follows:

- A. Privacy.** *Concerns are raised that the removal of a significant number of trees to accommodate the dual occupancy will impose on the privacy of adjoining properties. Further, the number of windows proposed along the north-eastern side will allow future residents the opportunity to directly overlook adjoining properties.*

ITEM 2 (continued)

Assessment Officer's Comment

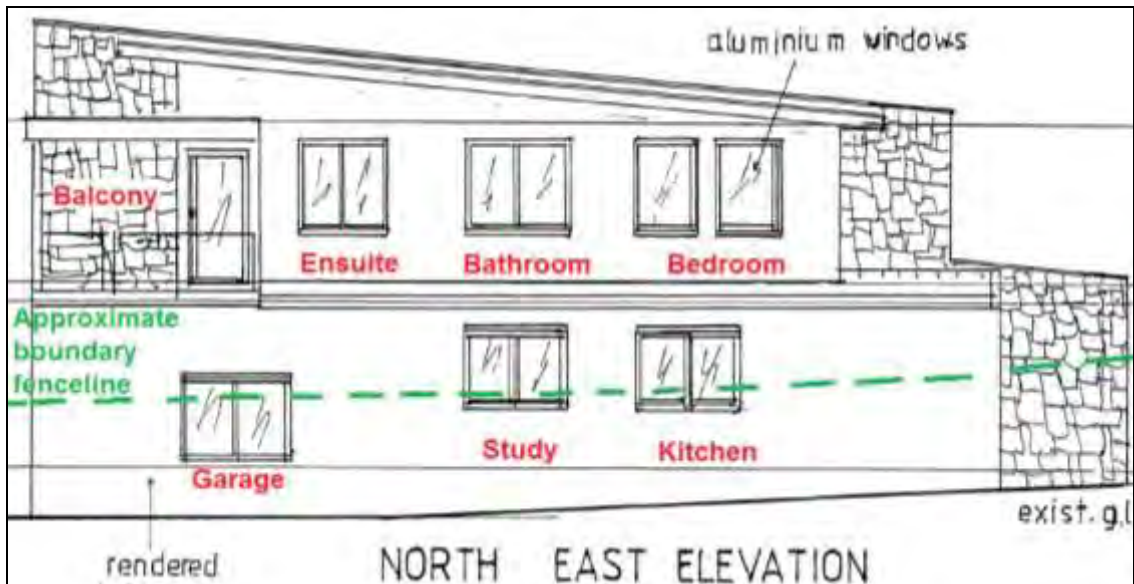
The following plan extract identifies tree species to be retained and removed along the north-eastern side boundary which offer privacy to adjoining properties:



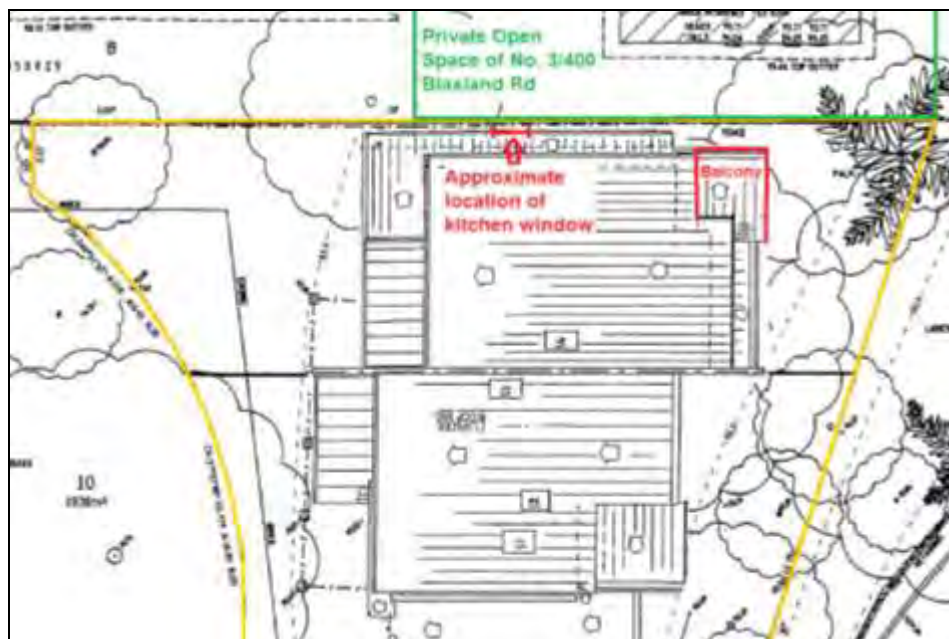
Trees to be removed are located in the front yard and front portion of the proposed dual occupancy. Overlooking from the proposed front yard would be minor as it is not the private open space area of the proposed dual occupancy. It is considered that tree removal will not compromise the privacy enjoyed by neighbouring properties however, the proposed siting and design of the dual occupancy will adversely impact this existing level of privacy.

ITEM 2 (continued)

The windows featured within the north-eastern elevation raised as a concern by adjoining properties are shown below:



Windows within the north-eastern elevation on the first floor relate to a bedroom, bathroom, ensuite and a balcony orientated towards Pennant Ave. It is acknowledged that a kitchen window exists on the ground floor however; the fence line would only obscure a small portion of the window. This window correlates with the private open space of No. 3/400 Blaxland Rd. Further, the balcony on the first floor overlooks the side passage of this adjoining property as illustrated below:



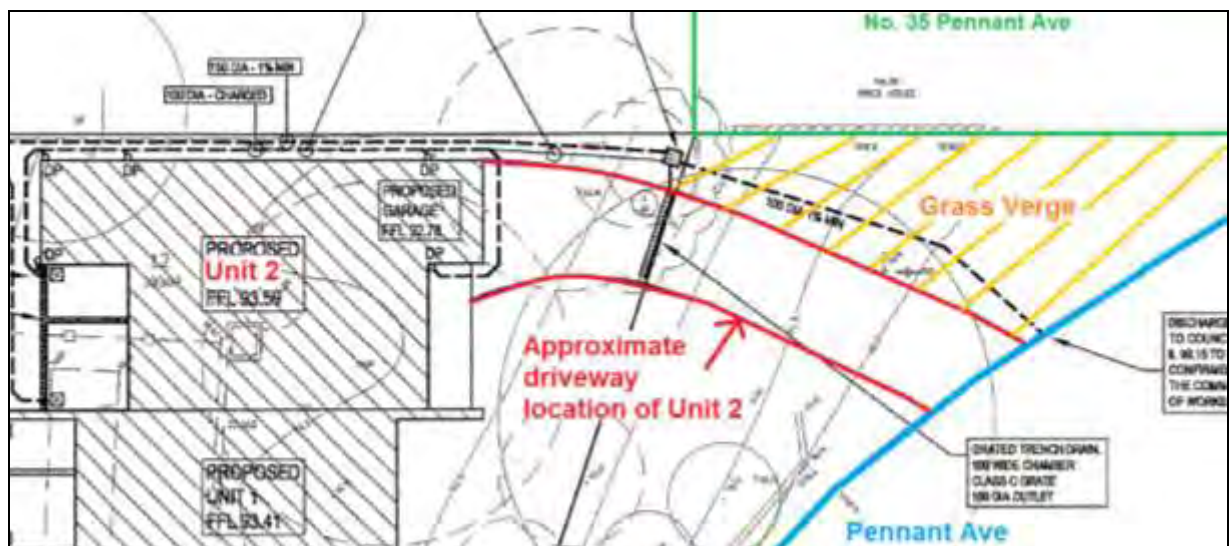
ITEM 2 (continued)

These issues have not been raised to the applicant in light of heritage issues, however, mitigation measures including fitting a privacy screen to the north eastern side of the balcony, fitting lattice screening to the top of the boundary fence or amending the size or style of the kitchen window could be taken to rectify concerns in relation to privacy, if it is decided to approve the DA.

- B. *Parking.*** Concerns are raised that the proposed location of the dual occupancy will encourage vehicles to park on the grass verge in front of No. 35 Pennant Avenue.

Assessment Officer's Comment

The portion of the land to which this concern relates is shown below:



The grass verge in this location is actually part of the road reserve (i.e. footpath) and therefore parking of vehicles on the 'verge' would not be lawful under NSW Road Rules. If this 'verge' were to be used for such vehicle parking then Council's Parking Enforcement Officers would have powers under the relevant legislation to take appropriate enforcement action.

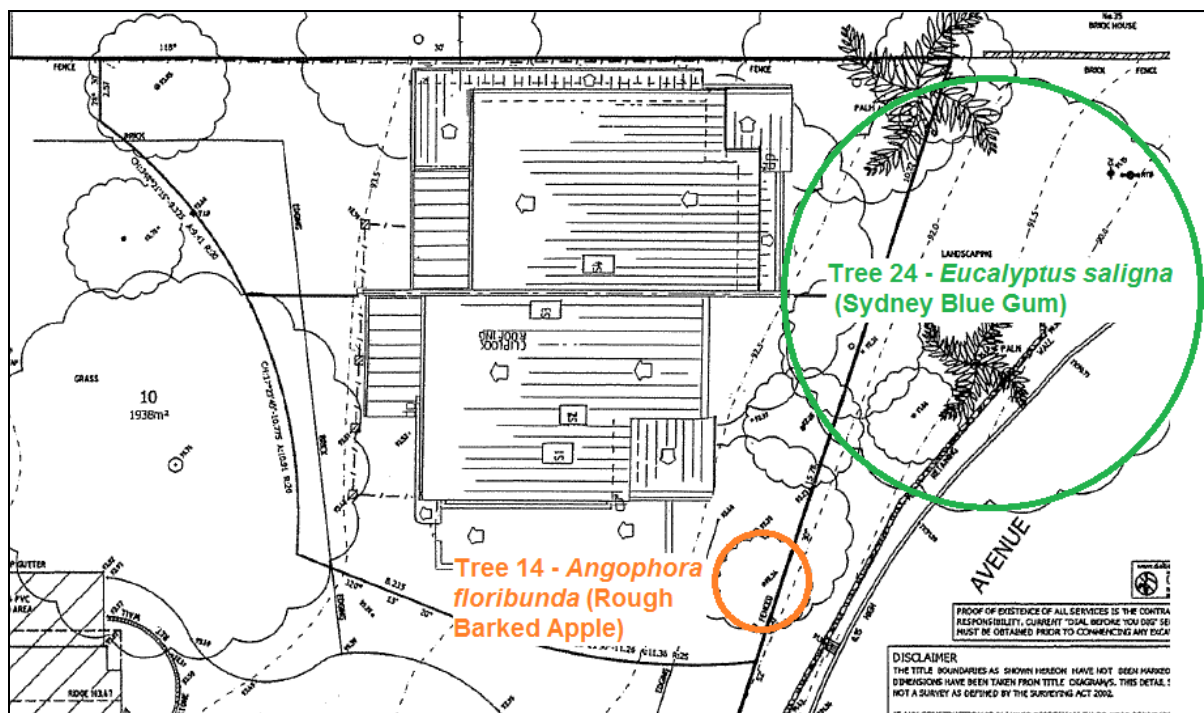
It is noted that the driveway to Unit 2 is proposed in this location to ensure a Sydney Blue Gum tree situated along the proposed lot's front boundary can be retained.

ITEM 2 (continued)

C. Tree Removal. Concerns are raised that the property's location is within an indigenous vegetation community comprising Sydney Turpentine – Ironbark Forest and should be retained.

Assessment Officer's Comment

There are two (2) significant trees on the proposed lot – namely a Sydney Blue Gum and also a Rough Barked Apple tree. These are shown in the following plan extract:



Council's Consultant Landscape Architect has noted that the applicant proposes to retain these trees however; there is presently insufficient information to determine the level of impact on these trees. This information would normally be required however given the heritage concerns with this DA the applicant has not been requested to provide this information.

8. Clause 4.6 RLEP 2014 variation required?

None required.

ITEM 2 (continued)

9. Policy Implications

Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Local Environmental Plan 2014

Zoning

Under the Ryde LEP 2014, the zoning of the subject site is R2 Low Density Residential. The proposed development, including 'subdivision' and construction of a 'dual occupancy' is permissible with consent under this zoning.

Mandatory Requirements

The following mandatory provisions under Ryde LEP 2014 apply to the development:

Clause 4.1 Minimum Subdivision Lot Size

This clause stipulates that any subdivision of land is not to be less than the minimum size shown for the land on the 'Lot Size Map' – 580m² for a standard allotment. The proposed Lot 11 located at the front of the site will have an area of 600m² with the remaining Lot 12 reduced to 1,767.2m² (excluding access handle), which complies with this clause.

Clause 4.3(2) Height of Buildings

- This clause states that the height of a building on any land is not to exceed the maximum height shown for the land on the 'Height of Buildings Map' – which is 9.5m for the subject site. The maximum height of the development as currently proposed is 7.9m, which complies with this clause.

Clause 4.4(2) 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 0.495:1, which complies with this clause.

Clause 5.10 Heritage Conservation

Clause 5.10(5) stipulates that before granting consent to any development on land on which a heritage item is located, a heritage management document is to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of a heritage item. A Heritage Impact Statement (HIS) was submitted with the DA and reviewed by Council's Heritage Officer.

ITEM 2 (continued)

In addition, clause 5.10(4) of this clause states that:

“The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).”

In considering what constitutes a ‘heritage management document’ and a ‘heritage conservation management plan’, the Ryde LEP 2014 provides the following definitions:

heritage conservation management plan means a document prepared in accordance with guidelines prepared by the Division of the Government Service responsible to the Minister administering the Heritage Act 1977 that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

heritage management document means:

- (a) a heritage conservation management plan, or
- (b) a heritage impact statement, or
- (c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

In summary, a ‘heritage management document’ can include either a Conservation Management Plan (CMP) or a Heritage Impact Statement (HIS), however the distinction is in the level of assessment provided. A HIS provides an impact assessment, specific to a development proposal, while a CMP provides a broader approach to heritage management and conservation, establishing the cultural significance of the heritage item, grading the level of significance of various fabric and elements of the site and establishing a framework of conservation policies to guide the ongoing management and conservation works to the heritage item, including guidance on managing change through such means as land use and new development.

A Heritage Impact Statement (HIS) was submitted with the DA and reviewed by Council’s Heritage Officer. In this instance, the HIS was considered insufficient in that it does not sufficiently establish the heritage curtilage required in order to retain the significance of the heritage item, does not provide a grading of significance of the various components of the site and therefore does not allow a properly informed assessment of the heritage impacts and suitability of the proposed development.

ITEM 2 (continued)

In this regard, Council's Heritage Officer required the submission of a CMP pursuant to clause 5.10(6). However, owed to the multiple concerns raised, support for the application could not be guaranteed if the Applicant decided to obtain a CMP. Refer Section 11 of this report for detailed commentary from Council's Heritage Officer.

(b) Relevant State Environmental Planning Policies (SEPPs)

SEPP BASIX:

A compliant BASIX Certificate has been submitted with the DA.

(d) Any draft Local Environmental Plans (LEPs)

There are no relevant Draft Environmental Planning Instruments for the subject site.

(e) Any Development Control Plan

Ryde Development Control Plan (DCP) 2014

The proposal has been assessed using the development controls contained in the Ryde DCP 2014. The DCP Compliance Table for this development proposal is held at **Attachment 1** to this report. Non-compliances identified in this table include:

Part 3.3 Dwelling Houses and Dual Occupancy (attached)

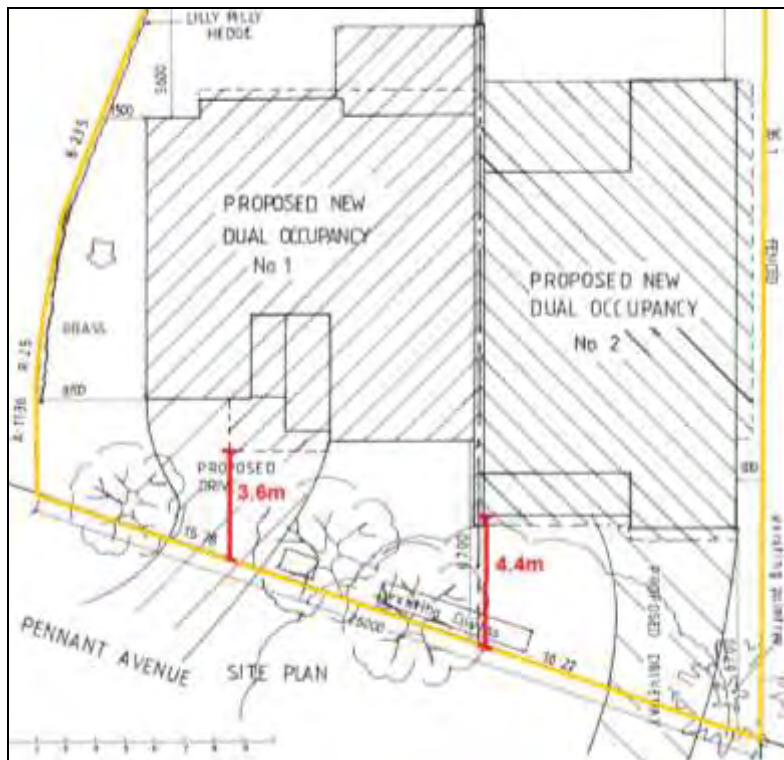
A. Front Setbacks – Section 2.9.1 (a)

“Dwellings are to be set back 6m from the street front boundary.”

Assessment Officer's Comment

A front setback of 3.6m is proposed to unit 1, measured to the first floor balcony and representing a non-compliance of 2.4m (40%). A front setback of 4.4m is proposed to unit 2, measured to the front porch and representing a non-compliance of 1.6m (26.6%) as shown in the following plan extract:

ITEM 2 (continued)



Non-compliance arises due to the size of the dual occupancy on a proposed irregular shaped lot. Whilst the development complies with the maximum floor space ratio, challenges have arisen as a consequence of the allotment shape resulting in non-compliances in relation to setback distances. The development's size should be reduced to ensure compliance with the 6m front setback requirement. Increasing the front setback distance would have the benefit of reducing the bulk of the development which is 19.75m in width and its visual prominence from the streetscape. It is considered this would also assist in retaining the view to the heritage item and its surrounding grounds.

B. Garage Setback – Section 2.9.1 (a)

“Garages and carports, including semi-basement garages and attached garages, are to be set back a minimum 1m from the dwelling’s front façade.”

Assessment Officer’s Comment

The garage of unit 2 is in line with first floor balcony.

ITEM 2 (continued)

Unit 2 incorporates a single lock-up garage within the design and has a width of 3.5m or 13.46% of the building frontage width. The intent of this development control is to prevent streetscapes from becoming overpowered by garages. The garage does not extend beyond the front building line or obstruct the view of Unit 2's entry from the street. Furthermore, as it is a single garage only, the minor non-compliance will not result in a contribution of garage bulk due to the significant width of proposed lot being 26m.

C. Side Setbacks – Section 2.9.2 (b)

“The outside walls of a two storey dwelling are to be set back from side boundaries not less than 1.5m.”

Assessment Officer's Comment

The first floor balcony of unit 2 encroaches within the 1.5m side boundary, resulting in a 900mm side setback at the first floor level being provided.

The following plan extract identifies this non-compliance:



This balcony occupies an area of 12m². There is scope for this balcony to be reduced in width to comply with the side setback control without impinging on its functionality as a space.

ITEM 2 (continued)

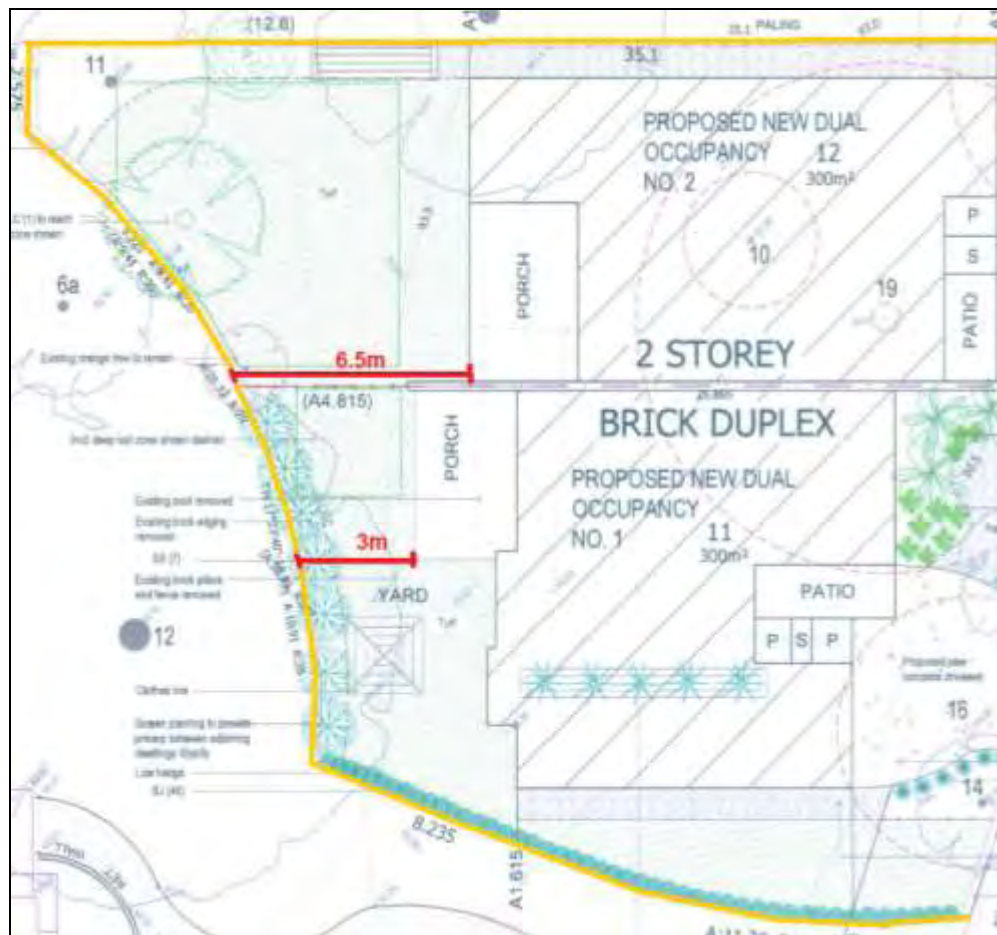
This non-compliance can be addressed via a condition of consent should the issues pertaining to heritage be resolved if it is decided to approve the DA.

D. Rear Setbacks – Section 2.9.3(a)

“The rear of the dwelling is to be set back from the rear boundary a minimum distance of 25% of the length of the site or 8m, whichever is greater.”

Assessment Officer’s Comment

A rear setback of only 3m is provided to unit 1 and 6.5m to unit 2 as shown below:



As the proposed lot is irregular in shape, calculation of the required rear setback distance has been taken through the centre of the site (23.5m). Based on this calculation, a rear setback of 8m should be maintained to each proposed unit.

ITEM 2 (continued)

Non-compliance arises due to the proposed shape of the allotment which results in challenges arising with regards to providing a dual occupancy, each unit incorporating three (3) bedrooms and a study capable of use as a 4th bedroom. A rear setback distance of 3m is considered representative of a multi dwelling housing development and is not large enough for a dual occupancy development. This scale of development should be reduced to ensure unit 1 incorporates a rear setback which has a greater level of compliance with the Ryde DCP.

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 including a compliance check against all relevant planning controls and detailed assessment report.

The resultant impacts of the dual occupancy are considered to result in a development that impacts the heritage significance of the heritage item as identified by Council's Heritage Officer.

Bulk and scale are contributing factors to the assessment of the desired character of low density residential area. Whilst the proposed dual occupancy development has been designed to comply with floor space ratio and building height, front and rear setback distances are non-compliant. This indicates that the building envelope is oversized for the proposed lot and should be reduced. This will have the dual outcome of reducing the bulk of the development and ensuring minimal impact is caused to 'Ben Lomond' House.

As a result, the proposed development is not considered to be satisfactory in terms of impacts on the built environment.

(b) Natural Environment

The portion of the site to contain the dual occupancy is identified to contain endangered non-conservation urban bushland. A total of eight (8) trees will be required to be removed to accommodate the development. This level of vegetation removal is supported by Council's Consultant Landscape Architect due to an appropriate level of replacement natural planting comprised of native species. Proposed landscaping of the front and rear yard will assist in providing a balance between the natural and built environment.

ITEM 2 (continued)

Whilst concerns in relation to the health of two (2) trees to be retained have been raised by Council's Consultant Landscape Architect, it is anticipated that these can be supported pending submission of additional information.

11. Suitability of the site for the development

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

Urban Bushland

- Endangered urban bushland accounts for approximately 2/3 of the site's area including the eastern portion of the site where the subdivision and dual occupancy is proposed. Council's Consultant Landscape Architect has raised concerns in relation to the level of encroachment into two (2) trees to be retained, namely, an *Angophora floribunda* and *Eucalyptus saligna* – Sydney Blue Gum which forms part of an endangered ecological community and therefore has a high retention value. As such, plans detailing the construction methods, levels and gradients of the proposed driveways and which reflect the comments and recommendations of the *Arboricultural Impact Appraisal and Method Statement* is required before support can be given.

Heritage Item

- As noted throughout this report, the subject site contains a listed heritage item identified as 'Ben Lomond' House. Council's Heritage Officer is not supportive of the proposal as it will adversely impact the heritage significance of the item. See referral below for further discussion.

12. The Public Interest

As discussed throughout this report, approval of the development is not in the public interest due to adverse heritage impacts on 'Ben Lomond' House.

From a planning perspective, the proposed dual occupancy does not comply with key development controls relating to front and rear setbacks due to the proposed lot needing to be irregular in shape.

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

ITEM 2 (continued)

13. Consultation – Internal and External

Internal Referrals

Heritage Officer: As stipulated throughout this report, Council's Heritage Officer is not supportive of the proposal. Two (2) referral comments have been received. The second referral comments have been received following submission of further heritage documentation submitted by the applicant's Heritage Consultant.

1st Referral to Heritage Officer:

Consideration of the proposal:

The development proposal seeks Council's approval for the demolition of the existing swimming pool and associated fencing, tree removal, Torrens Title subdivision of the existing one lot into two lots, followed by the construction of an attached dual-occupancy development and subsequent Strata Title subdivision of the new lot.

Heritage listing status:

37 Pennant Avenue, Denistone (also known as 'Ben Lomond'):

- *Is an item of heritage significance, listed on Schedule 5 of Ryde LEP 2014 (Item No.91)*
- *Is not located within a heritage conservation area or character area.*
- *Is not within the vicinity of any items of heritage significance listed under Schedule 5 of Ryde LEP 2014.*

Statement of Significance:

The State Heritage Inventory (SHI) provides a Statement of Significance for Ben Lomond as follows:

'The house Ben Lomond is of historical significance as evidence of the development of the Highlands Estate subdivision of The Hermitage estate in November 1905, following Ellen Blaxland's death in 1903.

The house Ben Lomond is of aesthetic significance as a fine representative example of a Federation Queen Anne style house set on a prominent corner allotment with extensive district views.'

ITEM 2 (continued)

Background history

A previous approval to subdivide the site into two lots was granted by Council on 11 August 1998, under Development Application No.14/98. The subdivision was approved with restrictions having regards to building envelopes to a dwelling on the new allotment created due to the heritage significance and listing of the site.

In March 2009, a Pre-lodgement meeting (PRL2009/12) was held between the previous owners of Ben Lomond and Council. At the time, it was proposed to further subdivide the property. Councils Heritage Officer at the time provided the following advice:

‘Further subdivision of the site may be supported in terms of heritage, providing that any proposed future dwelling has the opportunity to be located in a position that maintains significant views to the house. However, concern is raised regarding the size and shape of the proposed new lot and it is recommended that a site analysis of the lot be undertaken that identifies significant views of the house from the public domain, identifies original garden features, paths, walls, shrub beds etc, identifies significant trees and appropriate spaces around, identifies vehicle access point and a building envelope for the proposed dwelling.’

Consideration of the heritage impacts:

Known as ‘Ben Lomond’, 37 Pennant Avenue is considered to be a fine representative example of a two-storey dwelling, displaying architectural form and embellishment which is attributed to the Federation Queen Anne style.

Situated on land which forms a part of the earlier Highlands Estate subdivision, (carved out of The Hermitage Estate in late 1905), documentary evidence suggests that ‘Ben Lomond’ was constructed c1906 and designed to take advantage of the expansive and generally unobstructed views over the district towards the southwest-southeast.

By the mid-1940s, aerial photography evidences that the majority of the residential allotments of the c1905 subdivision of Highlands Estate had been taken up and developed with low-density, detached style dwelling houses. The land opposite the subject site largely remained characterised by open space, preserving the expansive views over the district from Ben Lomond. Interestingly, the c1943 aerial photograph evidences that much of the land comprising Ben Lomond was cleared and had very little vegetation cover – reinforcing the available district views, visual relationship to and prominence within, the streetscape.

ITEM 2 (continued)

Progressively, vegetation cover has increased on the site, and with the continued urbanisation of the locality, such development has obscured the wider district views. Notwithstanding, Ben Lomond still provides a positively imposing scale and form within the streetscape and is still a visually prominent built form.

Tree removal and demolition of swimming pool

The proposal seeks to remove a number of trees and understory vegetation on the site. The Arborist Report accompanying the DA has been reviewed and while the assessment does not provide any consideration to the heritage value of the landscape elements and vegetation, being limited to the ecological and landscape value of the trees only, it is accepted that on the basis of documentary evidence, particularly historical aerial photography, the existing vegetation is considered to have low significance to the overall cultural significance of the property. Consideration must still be given to streetscape amenity and ecological value, however from a heritage perspective, no objection is raised to the proposed removal of trees from the site.

Similarly, the proposal involves the demolition of the existing in-ground swimming pool, which appears to have been constructed in the late 20th Century. As part of the excavation of the swimming pool, it is likely that any potential archaeological resources were removed or destroyed and it is unlikely that excavation associated with the removal of the pool would have any impact on archaeological potential. The swimming pool is considered to have a neutral contribution to the significance of the site and its removal can be supported.

Proposed subdivision

The Applicant has provided the following justification for the proposed subdivision of the land:

- *Maintenance of the sizeable grounds under single ownership is physically onerous.*
- *Maintenance of Ben Lomond is financially onerous, with appropriate materials, fixtures, fittings and details for heritage buildings typically costing a premium that is in addition to the need for specialist tradesmen and consultants.*

Subsequently, it is understood that the Applicant seeks to subdivide the property in order to:

1. *Reduce the physical setting and curtilage of Ben Lomond so that additional emphasis and focus can be provided on the maintenance and conservation of the dwelling rather than the landscaped gardens.*

ITEM 2 (continued)

2. *To utilise the proceeds from the sale of the new allotment in the facilitation of conservation works to the dwelling.*

Ultimately, it is understood that the Applicant's primary objective for undertaking the proposed subdivision is to effect the conservation of the heritage item.

The Heritage Impact Statement (OCP Architects, December 2014) provides an assessment of the significance of Ben Lomond, including an analysis of views and the physical fabric of the place.

It is important to note that the heritage impact assessment considers that there is an 'adverse heritage impact associated with subdividing what remains a substantial portion of the c1905 historical allotment'.

However, the report considers that the subdivision of land is seen as a historical response to providing additional finances to property owners, demonstrated through the historical subdivision of The Hermitage Estate which created the subject site in c1905. Subsequently, the heritage impact assessment makes the claim that the subdivision of the land 'would in principle have some positive heritage impact in facilitating improved maintenance of the grounds and funds for ongoing maintenance of the property'.

I accept that a reduction in land size would allow for some redirection of focus, time and possibly finances from the maintenance and upkeep of the landscaped gardens to the built fabric of the place, however it is important to give consideration to what the minimum required heritage curtilage is, in order to retain the context and setting of Ben Lomond – as a general rule, a sizeable home demands retention of a sizeable allotment in order to preserve an appropriate context, so that the dwelling can in turn, continue to be read in context.

The Burra Charter advocates that the aim of conservation is to retain the cultural significance of a place. In this regard, it is important that by undertaking works, (whether or not they are intended to enhance the heritage significance of the heritage item) such works do not come at the expense of other contributory fabric and significant elements and ultimately, have an adverse impact on the heritage significance.

The Burra Charter also advocates that conservation requires the retention of an appropriate visual setting and other relationships that contribute to the cultural significance of the place.

ITEM 2 (continued)

In this regard, a curtilage assessment has not been undertaken, in which the minimum heritage curtilage required in order to retain the context and setting of Ben Lomond, is established. A curtilage assessment must be prepared accordingly and consider contributory elements to the setting of the heritage item, including open space, views, visual relationships, vegetation and ancillary structures.

It is considered appropriate to ensure that all contributory elements to the setting of Ben Lomond, are retained within that heritage curtilage.

While an analysis of views to Ben Lomond has been undertaken, this must be expanded upon to include views from the site, and more importantly, assess, establish and define the physical curtilage required in order to retain the setting and character of the dwelling.

Subsequently, before Council can give consideration to the development proposal, a Conservation Management Plan (CMP) must be prepared for Ben Lomond which gives consideration to a thorough heritage assessment, with particular regards to the heritage curtilage and a grading of significance for various elements of the site, identification of the tolerance to further development and change, together with establishing conservation policies for the ongoing management and conservation of the heritage item. The CMP should also include a schedule of both cyclical maintenance works as well as programmed conservation works.

It is expected that the CMP will then 'set the tone' for any development proposal and/or conservation works to Ben Lomond, by providing an informed approach to ensure that any development or works proposal will be located in areas of lesser significance and where there is an acceptable tolerance for change, as well as ensuring the identified heritage values and significance are not compromised.

The second aspect of the justification provided for the subdivision is that the proceeds of the sale of a new allotment would in-turn facilitate and provide the financial means for the undertaking of conservation works to Ben Lomond. A summarised list outlining some conservation works has been appended to the Heritage Impact Statement, however this information is considered insufficient in justifying a financial need to subdivide the property in order to undertake the conservation works.

For this reason, I am of the opinion that there is insufficient compelling evidence to suggest that subdivision is essential at this time and that subdivision will not adversely impact on the heritage values and significance of Ben Lomond.

ITEM 2 (continued)

Subsequently, if the Applicant is to proceed with the proposed subdivision on the basis of requiring finances for conservation works, a comprehensively detailed schedule of conservation works must be prepared by a suitably qualified heritage consultant, which itemises a complete and timed program of conservation works, inclusive of a detailed cost estimation from a qualified Quantity Surveyor. The schedule must also identify the immediate conservation works required as well as a timed programme for the longer term period and identify the proposed phasing of undertaking conservation works.

An inherent need to undertake immediate conservation works that cannot be delayed (ie: works that are essential in securing the viability, integrity and significance of the dwelling) must be demonstrated.

Planned conservation works that can be undertaken over the longer term (ie: works that will enhance the significance of the heritage item but are not essential in the immediate interim and can be delayed, such as cosmetic repairs) may demonstrate that alternative means of securing the financial means to undertake works can be explored and considered on an 'as needs' basis (ie: applying for a heritage grant to undertake a specific project such as the repair to tuckpointing).

The Applicant must also satisfactorily demonstrate that they have exhausted all other available avenues for financial assistance, ie: financial grants for heritage projects, lease etc, and why the subdivision of land is the most appropriate and/or only solution to generating the financial means to undertake conservation works.

Proposed dual occupancy and front boundary fence

The proposal seeks to construct a dual occupancy dwelling comprising a variety of one and two storeys on the proposed new allotment. The Heritage Impact Statement considers that the proposed built form will have an acceptable heritage impact and will not obscure significant views to the heritage item.

However, the proposed development will be situated within close proximity to Ben Lomond and significant contributory features, namely the carriage-loop and is likely to have an adverse visual impact on the landscaped setting of the heritage item. The physical proximity of the proposed dwelling to the proposed allotment boundary means that there is limited opportunity to establish deep soil landscape plantings that will provide a visual buffer between the built forms and will preserve the amenity and outlook from Ben Lomond.

ITEM 2 (continued)

In my opinion, the scale and proximity of the dwellings to Ben Lomond will compete with the characteristics of the heritage item, whereby compromising its visual prominence within the streetscape and will further restrict and sever the visual and physical relationship to the streetscape. Were subdivision to be considered acceptable in terms of its heritage impact, a significantly reduced building footprint would be required to the new dwelling ie: a single occupancy and single storey dwelling only.

The proposed front boundary fence is generally considered acceptable and it is likely that it would be supported were the application to be considered further.

Given the fundamentality of the issues raised with regards to the overall suitability of subdivision, the insufficient justification for the need to subdivide on the basis of conservation, and the visual impacts resulting from the proposed dual occupancy dwelling, the development proposal cannot be supported.

Owing to the strength of the heritage issues, I am of the opinion that there is no opportunity for the proposal to be amended at this point in time and it would be advisable that the Applicant withdraws the DA. Any subsequent development proposal must in turn be guided by the CMP and a re-submission to Council must be accompanied by the information prescribed and requested in the above advice.

2nd Referral to Heritage Officer: The following comments are made in relation to the Applicant's submission of a Heritage report received 11 May 2015.

Background

The development proposal seeks Council's approval for the demolition of the existing swimming pool and associated fencing, tree removal, Torrens Title subdivision of the existing one lot into two lots, followed by the construction of an attached dual-occupancy development and subsequent Strata Title subdivision of the new lot.

The Development Application was initially considered in a previous heritage referral dated 3 February 2015. A rigorous assessment of the supporting documentation highlighted the deficiency of the information submitted with the DA. Whilst the Applicant's Heritage Impact Statement (OCP Architects, December 2014) provided, on the whole, a reasonably informed assessment; the report provided a cursory assessment of:

- i) The heritage curtilage of the site, insofar as there was no assessment providing a grading of significance of the various fabric of the site and establishment of the minimum heritage curtilage required in order to retain the context and setting of 'Ben Lomond'.*

ITEM 2 (continued)

- ii) *The views to and from the site, including internal visual and physical relationships between landscaped areas, features and vistas.*

These primary issues are of paramount importance in the consideration of any subdivision of a heritage item.

It was also recommended that a Conservation Management Plan (CMP) be prepared 'Ben Lomond', which would provide a more comprehensively researched and informed heritage assessment, with particular regards to the heritage curtilage and a grading of significance for various elements of the site, identification of the tolerance to further development and change, together with establishing conservation policies for the ongoing management and conservation of 'Ben Lomond'.

At a meeting of 15 April 2015 (the purpose of which was to discuss the heritage issues identified), the Applicant's Heritage Officer suggested that the requirement of a CMP for a locally listed heritage item is not warranted and that in his experience, NSW local councils do not require such a high level heritage management document to be produced. It should be pointed out that the City of Ryde has previously requested the preparation of a CMP for numerous items of local heritage significance and from my experience in local government, the Heritage Division of the OEH and as an independent consultant, such practice is in fact widely accepted across NSW.

The statutory provisions of clause 5.10 of the Ryde LEP 2014 allows Council to require the submission of a heritage management document (such as a HIS or a CMP).

In summary, there was insufficient compelling evidence to justify beyond reasonable doubt that the subdivision of the land could occur without adversely impacting on the heritage values and significance of 'Ben Lomond'.

Consideration of the additional information

Following the meeting of 15 April 2015, additional information has been received, with the submission of a Heritage Report (OCP Architects, May 2015).

The Heritage Report furthers the historical analysis of 'Ben Lomond' and places the property in heritage context – this is considered necessary as it provides for a more appropriately informed assessment of historical significance and in turn, a grading of significance of extant structures and landscape features of the site.

ITEM 2 (continued)

Section 5.1 of the Heritage Report provides a grading of significance of the various fabric of the site which then informs the assessment and establishment of the heritage curtilage required in order to retain an appropriate setting for the heritage item.

The grading of significance is silent on its consideration of the spatial arrangement and configuration of the site, limited to a grading of significance of individual elements of the site only. An appropriate methodology would be to consider more comprehensively, the visual relationships between structures and landscape features, open space, outlook etc in addition to individual elements. For this reason, the recommended heritage curtilage is not well founded and I disagree with the recommended reduced lot heritage curtilage.

As the vegetation and swimming pool within the southeastern corner of the site have been individually graded as having little significance, the heritage curtilage assessment is then predicated on the assumption that this area is of little value to the landscaped setting and context of 'Ben Lomond' and thus supports the subdivision and alienation of this portion of the site from the heritage item.

I accept the argument that the existing vegetation on the proposed lot and within the Council reserve does obscure views to the heritage item from the road reserve and vice-versa. However, the plans indicate that the proposed two-storey semi-detached dwelling to be placed on the site, would in fact require the removal of the majority of the trees, including some removal of vegetation within the Council verge for driveway access and to ensure appropriate sight lines are achieved for safety with vehicles exiting the site, owing to the configuration of the road in this location of Pennant Avenue.

Subsequently, the argument that the existing vegetation in this location prevents any significant views of the heritage item has little weight and should be disregarded as the tree removal necessitated by the proposed dwelling would in fact restore some of the visual relationship between the heritage item and the streetscape. In my previous referral comments, I also indicated that the removal of the vegetation would in principle, be acceptable from a heritage perspective, as it does not form part of an earlier and significant planting scheme and post-dates the c1943 aerial photos.

It is important to note that the assessment of cultural significance (section 4.2) concludes that 'Ben Lomond has aesthetic significance for its siting within generous grounds' and that 'the significance of the grounds relates largely to the relationship between the house and the street as provided by the primary entrance from Pennant Avenue'. This relationship, in my opinion, would be further enhanced and partially restored through the removal of vegetation necessitated by the proposed works.

ITEM 2 (continued)

The assessment of cultural significance clearly demonstrates that the generous landscaped setting directly contributes to the setting, heritage values, and thus cultural significance of the property, supporting the argument that the further subdivision of the site will undoubtedly, have a deleterious and unacceptable impact on the landscaped setting, greatly compromising the aesthetic significance of the property which has been assessed as being derived from the dwelling's siting within generous grounds.

The Burra Charter establishes an acceptable approach to managing the setting of a heritage item and advocates that 'conservation requires the retention of an appropriate visual setting and other relationships that contribute to the cultural significance of the place'.

For these reasons, I remain of the opinion that the proposed subdivision will have an unacceptable heritage impact.

A detailed and itemised schedule of conservation and repair works has been supplied, which identifies a comprehensive programme of works to 'Ben Lomond'. I appreciate that the Applicant considers that the subdivision of the site is essential to generate the necessary financial means in which to enable these works to be undertaken.

However, heritage management requires a holistic approach to the place and the conservation of one element or aspect of a place of heritage significance should not come at the expense of another element or aspect which equally, contributes to the setting and fabric of the place.

If Council should resolve to approve the Development Application, the following recommendations should be adopted and form conditions of consent (the specific wording of which would be further expanded prior to the issue of any determination documentation):

- 1. The proposed built form on the new lot shall be limited to a single storey form with a low-pitch roof form so as to reduce the visual height, bulk, scale and envelope of the dwelling and to ensure that it does not visually dominate nor obscure the views and setting of 'Ben Lomond'.*
- 2. A positive covenant should be registered on the Land Title (s88B Instrument), preventing any further subdivision of land.*
- 3. A comprehensive Photographic Archival Recording of the site inclusive of all built structures and landscaped setting should be undertaken.*
- 4. A positive covenant should be registered on the Land Title (s88B Instrument), preventing the erection of differing fencing styles along the front boundary – so as to retain a cohesive streetscape character and allow interpretation of the original allotment boundaries.*

ITEM 2 (continued)

5. *A Voluntary Planning Agreement (VPA) or similar such legally binding instrument must be set in place and to the satisfaction of Council, obligating the owner of the property to direct the financial proceeds from the sale of the lots into the conservation works to 'Ben Lomond' and that satisfactory discharge of any such legally binding instrument will be subject to the satisfactory completion of the agreed works.*
6. *A Development Application is to be submitted to Council prior to any conservation works commencing. A Heritage Impact Statement must also be submitted providing an impact assessment of the proposed works.*

Senior Development Engineer: Council's Senior Development Engineer is not supportive of the proposed drainage arrangements. In light of the issues surrounding heritage being unresolvable, the applicant has not been requested to address the following engineering issues:

Stormwater Management

The applicant's drainage consultant has elected to locate both the detention tanks at the rear of the dwelling. Unfortunately this is not an ideal location as it does not provide a failsafe overland flow path. Despite this, the consultant has provided a 150mm diameter overflow line which is considerably over-designed given the respective area draining to the tank. As such, the arrangement is accepted.

Public Domain

The verge fronting the new lot is extensively planted out. There is also a small sandstone garden edging which provides some support to a batter, sloping up from the verge to the property boundary as shown in the following photos:

ITEM 2 (continued)



Sandstone wall and planting existing in the location of proposed dual occupancy.



Proposed driveway to Unit 2 may adversely impact Sydney Blue Gum shown above.

ITEM 2 (continued)

Whilst extensive works on the verge present a liability for Council, it would appear that this area is tidily kept by the owner of the property. It is likely to be appreciated by residents in the area as providing a positive contribution to the streetscape in Pennant Avenue. There is also very little potential for a footpath or turfed verge to be extended west of this area given it contains very large trees for the next 200m along Pennant Avenue. Considering these aspects, it is considered reasonable that the removal of vegetation and garden edging/retaining walls (technically aspects on public land) is not required. The provision of driveways in the verge will however require some excavation into the batter on the verge and formation of small retaining walls each side of the driveway. The structural engineering requirements of this are low and do not warrant great concern. Accordingly this can be addressed as a condition of an approval.

Recommendation

The applicant has not provided any specific details concerning the driveway apart from the partial driveway outline marked on the stormwater plans.

Due to the improbability of there being a footpath implemented along this frontage in the near future, it is accepted that both driveways could have grades exceeding Council's standard requirements. Notwithstanding this, the driveway ramps are to comply with AS 2890.1 and, with the existing grades of the verge, will require some excavation to be accommodated. It is advised that the applicant provide conceptual details of the driveways so as to permit Council's Consultant Landscape Architect to review the proposal in relation to potential impacts on the trees in the verge which are to be retained.

Consultant Landscape Architect: Council's Consultant Landscape Architect has requested further information relating to two (2) trees identified as being retained on the newly created allotment. Similar to engineering, the applicant has not been requested to address these issues:

*"Concerns are raised in relation to the significant impact to be sustained to Tree 14 (*Angophora floribunda*) and Tree 24 (*Eucalyptus saligna*) located on the subject site and within the Council verge. Of primary concern is the impact as a result of the proposed driveways which do not appear to have taken into consideration the comments and recommendations of the Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees dated 14 August 2014.*

ITEM 2 (continued)

Accordingly, it is requested that revised plans are to be submitted to Council which detail the construction methods, levels and gradients of the proposed driveway and reflect the comments and recommendations contained within the Arboricultural Impact Appraisal and Method Statement has been prepared by Naturally Trees dated 14 August 2014. This should be undertaken in consultation with the Arborist to ensure the proposed impact to the existing trees is sustainable and Tree's 14 and 24 can be retained in a healthy and viable condition with no long term impacts."

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.

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 not considered to be satisfactory for approval.

An assessment of the proposal in terms of the controls contained in DCP 2014 has identified several areas of non-compliance namely front, side and rear setbacks. The proposal is considered unacceptable in terms of these controls and results in a building envelope that is too large for an irregular shaped allotment.

More pertinent to the proposal, Council's Heritage Officer deems the proposal to adversely impact the heritage significance and high heritage values of 'Ben Lomond' House which will be obscured and concealed behind the proposed lot and dual occupancy development. The site has already been subdivided which reduced its curtilage. Any further reduction in curtilage and surrounding setting of 'Ben Lomond' House is discouraged.

On this basis, the proposal as currently submitted is considered unacceptable and is recommended for refusal.

ITEM 2 (continued)

ATTACHMENT 1

City of Ryde

ATTACHMENT 1

**Ryde Development Control Plan 2014
Compliance Check – Part 3.3 Dwelling Houses and Dual Occupancy (attached)**

DCP 2014	Proposed	Compliance
Part 3.3 - Dwelling Houses and Dual Occupancy (attached)		
Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	In excluding the heritage item's significance and character, the development for a dual occupancy is development is compliant with controls relating to height and FSR so is of a low density form, similar to the character of surrounding residential area.	Y
Dwelling Houses		
- To have a landscaped setting which includes significant deep soil areas at front and rear.	Front and rear gardens proposed.	Y
- Maximum 2 storeys.	2 storeys	Y
- Dwellings to address street	Dual occupancy presents to Pennant Ave.	Y
- Garage/carports not visually prominent features.	Garage in each unit not a prominent feature.	Y
Subdivision		
Lots other than hatchet shaped lots		
- Min. 580m ² , frontage to a road no less than 10m and 15m width at a distance of 7.5m from lot frontage.	Proposed Lot 11: 600m ² , 26m frontage width and 25.6m width at a distance of 7.5m from lot frontage.	Y
Hatchet shaped lots		
- Min 740m ² (excl. access handle), frontage to a road no less than 3m and an access corridor no less than 3m.	Existing Lot 10: 1,938m ² (incl. access handle) or 1,767.2m ² , frontage to Pennant Ave of 21.065m (Blaxland Rd) and access corridor of 3.05m to Blaxland Rd. Pennant Ave frontage width 21.5m at a distance of 7.5m from lot	Y

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DCP 2014	Proposed	Compliance
	frontage.	
Public Domain Amenity		
Streetscape		
- Front doors and windows are to face the street. Side entries to be clearly apparent.	Front doors and windows face street.	Y
- Single storey entrance porticos.	Single entrance portico.	Y
- Articulated street facades.	Articulated street façade.	Y
Public Views and Vistas		
- 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 existing views gained from the portion of the site earmarked for subdivision. Adjoining properties to the north do not currently have any water or significant views.	Y
Pedestrian & Vehicle Safety		
- Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard.	Car parking arrangements satisfactory to Council's Dev. Eng.	Y
- Fencing that blocks sight lines is to be splayed.	Proposed fencing does not block sightlines.	Y
Site Configuration		
Deep Soil Areas		
- 35% of site area min.	Permeable (deep soil) area: 218.5m ² approx. (36.4% of site area).	Y
- Min 8x8m deep soil area in backyard.	Rear DSA dimensions: 8m x 8m not provided.	Y
- Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls).	Front DSA: 100% permeable area in front yard= 54.97m ² . Hard surface areas have been kept to a	Y

ITEM 2 (continued)
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DCP 2014	Proposed	Compliance
equally).	minimum in the front yard.	
Topography & Excavation		
Within building footprint: - Max cut: 1.2m - Max fill: 900mm	Within BF Max cut: 200mm (garage-unit 2) Max fill: 700mm (entry to units)	Y
Outside building footprint: - Max cut: 900mm - Max fill: 500mm - No fill between side of building and boundary or close to rear boundary - Max ht retaining wall 900mm	Outside BF Max cut: - Max fill: - No fill between side of dual occupancy and boundary. Can be addressed via a condition.	Y Y Y
Floor Space Ratio		
Ground floor	195.55m ²	
First floor	137.91m ²	
Detached car parking structures	-	
Outbuildings (incl covered pergolas, sheds etc)	-	
Total (Gross Floor Area)	333.46m ²	
Less 36m ² (double) or 18m ² (single) allowance for parking	297.46m 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.	0.495:1	Y
Height		
- 2 storeys maximum (storey incl. basement elevated greater than 1.2m above EGL).	2 storeys	Y
- 1 storey maximum above attached garage incl semi-basement or at-grade garages.	1 storey above garage.	Y
Wall plate (Ceiling Height)	TOW RL: 100.28	Y

ITEM 2 (continued)

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DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> - 7.5m max above FGL or - 8m max to top of parapet <p>NB: TOW = Top of Wall EGL = Existing Ground Level FGL = Finished Ground Level</p>	<p>FGL below (lowest point): RL: 92.78 TOW Height (max)= 7.5m</p>	
<p>9.5m Overall Height</p> <p>NB: EGL = Existing Ground Level</p>	<p>Max point of dwelling RL: 100.68 EGL below ridge (lowest point): RL: 92.78 Overall Height (max)= 7.9m (SE - front elevation)</p>	Y
<p>Habitable rooms to have 2.4m floor to ceiling height (min).</p>	<p>Ground floor: 2.4m First floor: 2.6m</p>	Y
Setbacks		
<p>SIDE</p> <p>Single storey dwelling</p> <ul style="list-style-type: none"> - 900mm to wall - Includes balconies etc 	<p><u>Ground Floor</u></p> <p>NE side: 900m SW side: 1.5m</p>	Y
<p>SIDE</p> <p>Two storey dwelling</p> <ul style="list-style-type: none"> - 1500mm to wall - Includes balconies etc 	<p><u>First Floor</u></p> <p>NE side: 900m (balcony intrudes into 1.5m setback) SW side: 1.5m</p>	No (variation not supported)
<p>Side setback to secondary frontage (cnr allotments): 2m to façade and garage/carports</p>	<p>No secondary street frontage.</p>	Y
<p>Front</p> <ul style="list-style-type: none"> - 6m to façade (generally) - Garage setback 1m from the dwelling façade. - Wall above is to align with outside face of garage below. - Front setback free of ancillary elements eg RWT, 	<p>3.6m to first floor balcony of unit 1 or 4.4m to front porch of unit 2. Unit 1: garage is set back 1.8m from first floor balcony Unit 2: garage in line with balcony above. Wall above each garage is in alignment. Front setback is free of ancillary elements.</p>	<p>No (variation not supported)</p> <p>No (variation not supported)</p> <p>Y</p> <p>Y</p>

ITEM 2 (continued)

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City of Ryde

DCP 2014	Proposed	Compliance
A/C		
<p>Rear</p> <ul style="list-style-type: none"> - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. <p>Note: 5.875m is 25% of site length therefore 8m is required.</p>	<p>NOTE: Irregular shaped lot proposed with varying side boundary lengths. NE side is 35.1m and the SW side is 19m. Therefore, rear setback has been calculated by measuring through the centre of the site (23.5m). Unit 1: 3m Unit 2: 6.5m</p>	No (variation not supported)
<p>Sites wider than they are long</p> <ul style="list-style-type: none"> - One side setback of 8m or 20% of allotment width, whichever is greater. - Rear setback 4m min (in addition to 8m side setback). <p>NB: Side setback on irregular allotments can be measured at the centre line of the site. (must have 8x8m DSA)</p>	Proposed site will not be wider than it is long.	N/A
Outbuildings		
<ul style="list-style-type: none"> - Not within front setback. - Max area – 20m² - Max wall plate (ceiling) height 2.7m - Max O/A height 4.5m – Ridge to EGL - To be single storey. - Windows not less than 900mm from boundary. - Concrete dish drain if setback less than 900mm. - Design to complement new dwelling. 	No outbuilding proposed.	N/A
Car Parking & Access		
<p>General</p> <ul style="list-style-type: none"> - Dwelling: 2 spaces max, 1 space min. - Dual Occupancy (attached): 1 space max per dwelling. - Where possible access off 	<p>Number / location of car spaces: 2</p> <p>Access from: Pennant Ave</p>	<p>Y</p> <p>Y</p>

ITEM 2 (continued)

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DCP 2014	Proposed	Compliance
<p>secondary street frontages or laneways is preferable.</p> <ul style="list-style-type: none"> - Max 6m wide or 50% of frontage, whichever is less. - Behind building façade. 	<p>External width: 6m (50% of frontage = 13m) Garages in line with building façade.</p>	<p>Y</p> <p>Y</p>
<p>Garages</p> <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 - Materials in keeping or complimentary to dwelling. 	<p>Setback from façade: Garage is in line with balcony above. Width of opening: 5.6m Door setback: 300mm</p> <p>Windows setback: 900mm</p> <p>Garages are attached.</p> <p>Materials: consistent with new dwelling.</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p>
<p>Carpports</p> <ul style="list-style-type: none"> - Sides 1/3 open (definition in BCA) - Design & materials compatible with dwelling. 	<p>No carport is proposed.</p>	<p>N/A</p>
<p>Parking Space Sizes (AS)</p> <ul style="list-style-type: none"> o Double garage: 5.4m wide (min) o Single garage: 3m w(min) o Internal length: 5.4m (min) 	<p>Internal measurements: Unit 1: 3m x 5.9m (measured to stairs) Unit 2: 3m x 5.9 (measured to stairs)</p>	<p>Y</p>
<p>Driveways Extent of driveways minimised</p>	<p>Driveway minimised and obscured by landscaping along front boundary.</p>	<p>Y</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>No semi-basement car parking proposed.</p>	<p>Y</p>

ITEM 2 (continued)

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DCP 2014	Proposed	Compliance
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. - No openable windows, doors or other openings in a wall that forms part of barrier. - Spa to have lockable lid. - Pools not to be in front setback. 	No pool or spa proposed.	N/A
<p>Pool coping height</p> <ul style="list-style-type: none"> - 500mm maximum above existing ground level <p><i>(only if no impact on privacy)</i></p>	No pool proposed.	N/A
<p>Pool Setback</p> <ul style="list-style-type: none"> - 900mm min from outside edge of pool coping, deck or surrounds to allow sufficient space for amenity screen planting - 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 - Pool setback 3m+ from tree >5m height on subject or adjacent property - Pool filter located away from neighbouring dwellings, and in an acoustic enclosure 	No pool proposed.	N/A
Landscaping		
<p>Trees & Landscaping</p> <ul style="list-style-type: none"> - Major trees retained where 	Efforts have been made to	Y (provided

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DCP 2014	Proposed	Compliance
practicable.	retain trees and substantial planting proposed. Council's Consultant Landscape Architect requires further information to ensure the construction methods, levels and gradients of the proposed driveway reflect the recommendations of the submitted Arboricultural Impact Appraisal and Method Statement.	further information is received)
- Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL eg. stairs, terraces.	Physical connection provided.	Y
- Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access)	Obstruction-free pathway provided to each side of the dual occupancy.	Y
- Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy.	1 x Callery Pear tree capable of 10m in height proposed in front yard.	Y
- Back yard to have at least 1 tree with mature ht of 15m min and a spreading canopy.	1 x QLD Brush Box tree capable of 15m in height proposed in rear yard.	Y
- Hedging or screen planting on boundary mature plants reaching no more than 2.7m.	7 x Select Form Lilly Pilly proposed to align rear boundary of unit 1 can achieve 3m in height at maturity.	No (variation supported)
- OSD generally not to be located in front setback unless under driveway.	OSD not in front setback.	Y
- Landscaped front garden, with max 40% hard paving.	Hard Paving: 37.7%	Y
Landscaping for lots with Urban Bushland or Overland Flow constraints	Urban bushland occupies approx. ¾ of site, particularly along Pennant Ave frontage.	
- Where lot is adjoining bushland protect, retain and use only native indigenous vegetation for distance of 10m from bdy	Mixture of native and exotic plant species proposed – considered appropriate by Council's Consultant Landscape Architect.	Y

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City of Ryde

DCP 2014	Proposed	Compliance
adjoining bushland. - No fill allowed in overland flow areas. - Fences in Overland Flow areas must be of open construction so it doesn't impede the flow of water.	Site is not flood prone land. Site is not flood prone land.	N/A N/A
Dwelling Amenity		
Daylight and Sunlight Access		
- Living areas to face north where orientation makes this possible.	Living areas face NW	Y
- 4m side setback for side living areas where north is to the side allotment boundary.	N/A – north is not orientated to the side boundary.	N/A
<u>Subject Dwelling:</u>		
- Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21.	N facing windows: capable of receiving min. 3hours sunlight to a portion of their surface between 9am and 3pm on June 21.	Y
- Private open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21.	POS: will not be in shadow from the proposal or surrounding development - POS will receive min. 2hrs sunlight between 9am and 3pm on June 21.	Y
<u>Neighbouring properties are to receive:</u>		
- 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21.	Shadow cast from proposal will fall onto the driveway of the heritage item at 9am. At 12noon and 3pm on June 21, shadow falls onto Pennant Ave. Shadow does not fall onto adjoining properties open space areas.	Y
- 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.	At no time does shadow from development fall onto adjoining properties windows.	Y
Visual Privacy		

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DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. - Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space. - Side windows offset from adjoining windows. - Terraces, balconies etc are not to overlook neighbouring dwellings/private open space. 	<p>Balconies orientated to the front. Internal living areas located towards the front and rear.</p> <p>No living, family or dining room windows align with adjoining dwelling or their private open space</p> <p>Side windows offset from adjoining windows.</p> <p>Balconies appropriately located to prevent overlooking into neighbouring dwelling's P.O.S.</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</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>Layout conducive to minimising noise impacts.</p>	<p>Y</p>
<p>View Sharing</p> <ul style="list-style-type: none"> - The siting of development is to provide for view sharing. 	<p>Development provides for view sharing.</p>	<p>Y</p>
<p>Cross Ventilation</p> <ul style="list-style-type: none"> - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation. 	<p>Plan layout optimal for accessing prevailing breezes.</p>	<p>Y</p>
<p>External Building Elements</p>		
<p>Roof</p> <ul style="list-style-type: none"> - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable Terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights. 	<p>Skillion roof – well articulated. 450mm eaves overhang.</p> <p>No trafficable terrace.</p> <p>4 skylights proposed – symmetrically placed.</p> <p>No dormer windows proposed.</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>N/A</p>
<p>Attic Dormer Windows</p>		

ITEM 2 (continued)

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DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> - Max 2 dormer windows with a max total width of 3m. - Highest point to be 500mm min below roof ridge and 1m min above the top of gutter. - Total roof area of attic dormer: 8m² - Front face to be setback 1m min back from external face of wall below. - Balconies set into roof not permitted. 	No attic dormer windows proposed.	N/A
Fencing		
<p>Front/return:</p> <ul style="list-style-type: none"> - 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. 	<p><u>Front fence</u> 1.8m high wrought iron fence reflecting the character of the adjoining heritage item.</p> <p><u>Return fence</u> 1.8m high and open in excess of 50%.</p> <p>No retaining walls proposed on front boundary.</p>	<p>Y</p> <p>Y</p> <p>Y</p>
<p>Side/rear fencing:</p> <ul style="list-style-type: none"> - 1.8m max o/a height. 	1.8 high side and rear fencing.	Y
Part 7.1 - Energy Smart, Water Wise		
External Clothes Drying Area		
External yard space or sheltered ventilated space for clothes drying	Clothes line provided in each dwelling's rear yard.	Y
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 in accordance with Part 7.2 of DCP 2014.	Y
Part 8.2 - Stormwater Management		

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DCP 2014	Proposed	Compliance
Stormwater		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	Council's Dev. Eng. satisfied with proposed drainage arrangements.	Y
Part 9.2- Access for People with Disabilities		
Accessible path required from the street to the front door, where the level of land permits.	Path provided to front door of each dwelling.	Y
Part 9.4 – Fencing		
Front & return fences		
Front and return fences that exceed 1m in height are to be 50% open	Front fencing 1.8m high and open in excess of 50%.	Y
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><u>Note:</u> 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</p>	Seven (7) trees to be removed supported by Council's Consultant Landscape Architect provided that further information is submitted in relation to two (2) trees. In a meeting with the applicant, these issues were raised but as the DA cannot be supported based on heritage grounds, the applicant was not requested to addressing these issues.	Y (pending submission of further information)

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ATTACHMENT 1

City of Ryde

DCP 2014	Proposed	Compliance
<p>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>		

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ATTACHMENT 2



ITEM 2 (continued)

ATTACHMENT 2



OCP ARCHITECTS
STATEMENT OF HERITAGE IMPACT – 37 PENNANT AVENUE, DENISTONE

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Issue B DECEMBER 2014

Document status:

Issue	Date	Purpose	Written	Approved
A	December 2014	Draft to Client	KU	
B	December 2014	Issue for DA	KU	OC

ITEM 2 (continued)

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STATEMENT OF HERITAGE IMPACT – 37 PENNANT AVENUE, DENISTONE

Issue 3 DECEMBER 2014

1 INTRODUCTION

This report has been prepared for Anthony and Jennifer Krieger to assess the heritage impact of the proposed subdivision of the site at 37 Pennant Avenue, Denistone, and the construction of a dual occupancy dwelling in the eastern corner of the site. The site contains the two storey Federation residence known as 'Ben Lomond' in addition to a brick garage and outbuildings adjacent to the north west boundary.

The primary planning instrument is the Ryde Local Environmental Plan 2014 (LEP 2014) and the house at 37 Pennant Avenue is listed as a heritage item within LEP 2014 as an item of local significance (Item No. 91). The site is not located within a conservation area and there are no other heritage items located in the immediate vicinity of the site, although there are two other heritage items located on Pennant Avenue, "Woolandilly" at 11-13 Pennant Avenue (Item No. 90 – local significance) and "The Hermitage" at 1-9 Pennant Avenue (Item No. 88 – State significance).

This Assessment of Heritage Impact has been prepared to accompany a Development Application to the City of Ryde. This report aims to:

- Briefly describe the existing dwelling and the context, assess its significance and describe the proposal.
- Assess the impact of the proposed subdivision and construction of an attached dual occupancy dwelling on the heritage significance of 'Ben Lomond' and the site at 37 Pennant Avenue.

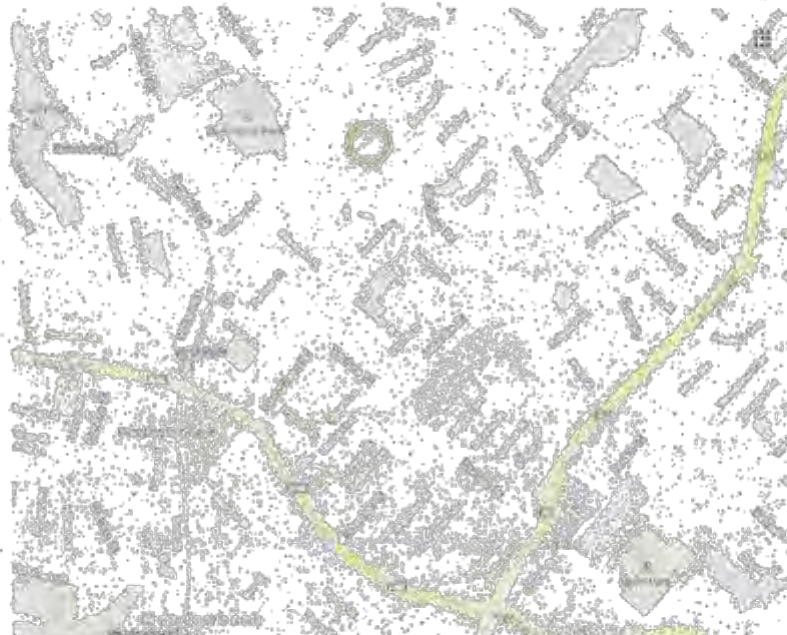


Figure 1.1 – Location plan of 37 Pennant Avenue, Denistone, showing the site location circled in orange. [Source: Google Maps 2014]

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STATEMENT OF HERITAGE IMPACT – 37 PENNANT AVENUE, DENISTONE

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1.1 Location

'Ben Lomond' is located at 37 Pennant Avenue, at the short section of the road where the alignment changes. The residence is set back from the street, with a side elevation facing Pennant Avenue, and is set within extensive grounds (Figure 1.1).

1.2 The Site

The site is a residential allotment at 37 Pennant Avenue, Denistone, known as Lot 1 in DP 1005675, comprising 2,538m². The site is zoned R2 Low Density Residential within RLEP 2014 and presently has the two storey residence 'Ben Lomond' situated towards the western corner of the site.

1.3 Authorship

The report was prepared by OCP Architects Pty Ltd, written by Karen Urquhart and reviewed by Otto Cserhalmi.

1.4 Methodology and Terminology

This report has been prepared on the basis of the NSW Heritage Branch guideline for the preparation of Assessments of Heritage Impact. The principles contained in the Australian ICOMOS Charter for the Conservation of Places of Cultural Significance (The Burra Charter) 2013 are used as a methodology for assessing heritage impact.

1.5 Basis of Assessment

The material upon which this assessment of the proposal is based are the development application drawings as follows:

Drawings prepared by Tony James Design and dated 14 October 2014

Drawing D01: Ground Floor Plan

Drawing D02: 1st Floor Plan

Drawing D03: Roof Plan

Drawing D04: South East and North West Elevations

Drawing D05: South West and North East Elevations

Drawing D06: Section A-A

Drawing D07: Site Plan

Plan of Proposed Subdivision, Drawing No. 59840pps prepared by Leon Lackenby & Hayward, dated 22 July 2014.

Landscape Plan, Drawing No. L-01 prepared by Space Landscape Designs, dated 28 November 2014.

Strata Plan Form 2, Sheets 1 and 2, prepared by Leon Lackenby & Hayward.

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2 HISTORICAL CONTEXT

2.1 Highlands Estate

The suburb of Denistone was established from a number of land grants originally made to Vanice, Evans and Toman (1795 – Porteous Mount grant); William Broughton and Privates John Stone, Richard Taylor and Lewis Wilkins (1795); William Keel (1797) and George Palfield (1798). The 450 acre Brush Farm Estate, incorporating most of the land south of Terry Road to Victoria Road and Tramway Street and east from Brush Road to Shalfisbury Road, was purchased by Gregory Blaxland in 1806 shortly after his arrival in the colony as a free settler. The estate was transferred to his eldest daughter Elizabeth and her husband Dr Thomas Foster in 1829. Foster then added to the estate by purchasing the Porteous Mount grant of 120 acres east of the Brush Farm Estate.¹ John Blaxland, eldest son of Gregory, then purchased a portion of this land and in 1842, he commissioned colonial architect John Blöb to build a brick and stone house that he named 'The Hermitage'.

John Blaxland died of The Hermitage on 26 January, 1884, and the next owner appears to have been Richard Rouse Terry, who had previously purchased the Denistone Estate on 9 December, 1872. From 1867 to 1903, The Hermitage was leased to various tenants and unoccupied between tenancies.

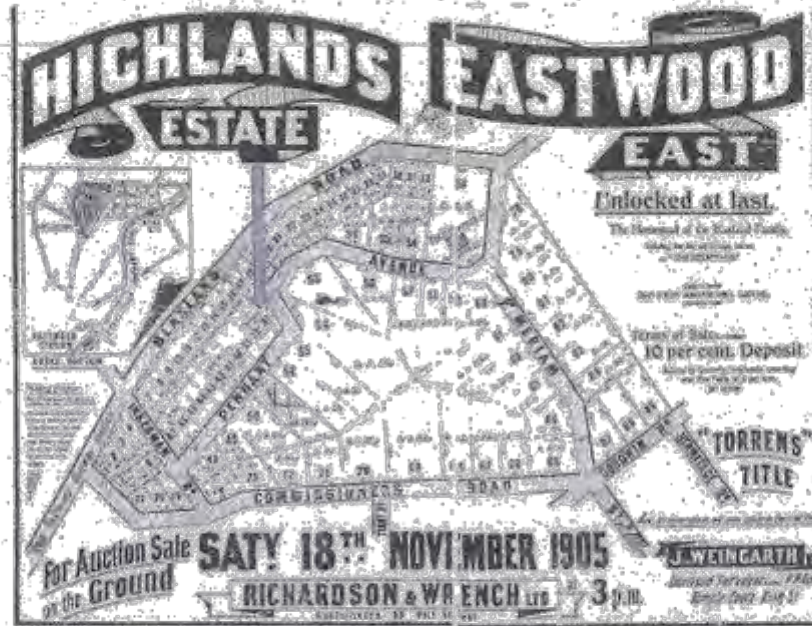


Figure 21 Auction notice for the Highlands Estate. The subject site is highlighted by circle.

¹ <http://dictionaryofsydney.org/entry/denistone>

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Land from estates such as the Highlands Estate and Denistone Estates were advertised for sale in the early decades of the twentieth century, although the subdivision plans do not refer to the suburb as 'Denistone'.² Pennant Avenue was created via the subdivision of the site of The Hermitage with the Highlands Estate subdivision, which occurred after the death of Ellen Blaxland in 1903. The Highlands Estate subdivision, which occurred in November 1905, was the area bounded by Blaxland, Meriam, Commissioners and Inkerman Roads.

2.2 37 Pennant Avenue, Denistone

The site of 37 Pennant Avenue, was originally part of the thirty acre grant made to George Patfield on April 10, 1798.

Following the subdivision of the Highlands Estate that occurred in 1905, Mr Henry Freeman purchased Lots 37 and 38, fronting Pennant Avenue, and Lot 15, fronting Blaxland Road. The house 'Ben Lomond' was designed by architect John Reid in 1906, with the Sydney Morning Herald reporting that 'Plans are being prepared by Mr Reid...for a villa residence at Eastwood'.³ Freeman subsequently purchased the adjoining Lots 16, 17 and 18 in 1909.

The house appears to have been completed in 1907. Henry Freeman's youngest son, John Douglas Freeman, said that he was born in the house 3 weeks after the family had taken up residence. The baptismal register of St Anne's Church Ryde shows that John Douglas was born on 15 December 1907 and baptised on 9 February 1908 and describes him as the child of Henry and Amelia Elizabeth Lucas Freeman of Eastwood East, an appropriate description for Denistone at that time.

Pennant Avenue, from Inkerman Road to Meriam Street, is first listed in the Sands Directory, from 1907, with 'Koertz Christian' the only occupant of the street listed at this time. Henry Freeman and the house, Ben Lomond, are first listed in the Sands' Directory in 'Blaxland's Road' in 1910 and from 1911, Freeman is recorded as residing in Pennant Avenue. It is evident that it is the same address, as the electoral roll of 1908, which describes Freeman as a managing salesman, also lists him as resident in Pennant Avenue.

Henry Freeman died at his residence on 5 December 1923, less than two years after commencing launching a successful business as an oil and colour merchant. Mrs H Freeman remained in residence at the house until 1929. The Sands' Directory records CR Steadman as the occupant of the house between 1930 and 1933 and in 1935, Ben Lomond was sold to a glove manufacturer, Tibor Muranyi.

During WWII, the RAAF used the property as an observation post and in 1946 it was divided into three flats and sold for 2900 pounds to Mr & Mrs Robert Grossman, a leather merchant.

Ben Lomond was purchased for use as a private residence in 1993 by Mr Salisbury and Ms Langford, who undertook extensive internal repairs and alterations to return the house to a single family dwelling, including reconstruction of the main stair. Approval to subdivide the original 3,236m² site was granted on 11 August 1998 and a new allotment of 700m² was created adjacent to the south west boundary. A new single storey dwelling was subsequently constructed on the new allotment in 2006.

The current owners purchased 'Ben Lomond' in 2013.

² The establishment of a railway platform between West Ryde and Eastwood, named Denistone, occurred in 1937 which facilitated the adoption of the name.

³ <http://nla.gov.au/nla.news-article14807096>

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3. PHYSICAL DESCRIPTION

3.1 Context

The site of Ben Leonard retains a frontage to Pennant Avenue, at the bend where the road changes alignment. Pennant Avenue has a split level arrangement from Inkerman Road - and past the site, with separate roads for one way traffic in each direction. The nature strip between the roads is heavily planted, including with mature gum trees, and there is a drop in the level of the road to the lower level of Pennant Avenue. The houses to the south are built below the road level owing to the topography and many contain mature trees and vegetation that obscure views further south.

To the south west of the property, number 47 Pennant Avenue was constructed following subdivision of the site in 1998. Further west and extending over several blocks are a series of single storey, blond brick cluster housing developments.



Figure 31
View south toward 37 Pennant Avenue, showing the split level road arrangement.
Source: OCP Architects, 2014



Figure 32
The house at 47 Pennant Avenue, with views to Ben Leonard beyond.
Source: OCP Architects, 2014

To the north east and adjacent to the site is a single storey brick cottage circa 1950s and a two storey red brick multi-unit development is adjacent to this. Further east along Pennant Avenue there are a mixture of Federation and later style cottages, with more contemporary buildings situated across the road.



Figure 33
Development in the vicinity of the site.
OCP Architects, 2014

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The topography and vegetation of the surroundings separate the site of Ben Lomond from other development in the area and in its context, Ben Lomond is only visible on close inspection. The site contains several large trees, including on its western corner where there are several trees, including a mature Indian Coral tree, and a variety of medium scale shrubbery, which obscure views west to the house. The Council owned land adjacent to the site boundary also contains vegetation, including a mature gum tree, that further prevents views to the house. Pedestrian movement adjacent to the property is very limited owing to the lack of footpaths and narrow nature strip next to the roadway.



Figure 3.4
Vegetation on the west corner of the site obscures views west to the house.
OCP Architects 2014



Figure 3.5
View along the road in front of the property, showing the limited provisions for pedestrian movement.
OCP Architects 2014

3.2 37 Pennant Avenue

3.2.1 Ben Lomond

'Ben Lomond' is a two-storey asymmetrical brick residence, designed in the Federation period with complimentary Queen Anne elements. The terracotta roof features dormer components, decorative terracotta ridge ornament and finials.

Mature informal gardens mark the perimeter of the site. The main entrance to the house is located on the eastern facade and is accessed by a driveway. The front porch has a tessellated tile floor and adjacent timber verandah which continues to the southern facade. The south-eastern elevation forms a chamfered corner containing timber-framed casement windows with arched upper sash. Above this sash is a red brick arch lintel. Wide timber verandahs feature timber balustrade and posts, with decorative carved timber valance. [There is] timber panelling to upper verandah soffits. On the second storey, double-hung sash windows feature timber sills and brackets, sheltered by a terracotta awning supported on large elaborately carved timber brackets.

The western facade features a two storey timber verandah with timber pediment detail.

The tall chimney situated on the roof of the eastern elevation is of the Queen Anne style and features brick string courses, roughcast and terracotta chimney pots.

The exterior of the house is in good condition and retains much of its original architectural integrity.

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Internally, the house features six open marble fireplaces in the spacious main living/entertaining areas and the four huge bedrooms. The ornate ceilings are more than four metres high.



Figure 3.6
View east of Ben Leonard from within the grounds
OCP Architects 2014

While the house is in good condition overall, external repairs and maintenance are required and will be ongoing in the future. External areas currently requiring repair work include:

- repairs to cracks in brick joints;
- repairs to painting;
- repairs to cracks in render;
- repairs to fessellated tiles at entry;
- repairs to timber eaves and rafters;
- repainting of external timbers, currently crazed and peeling.

In addition, there are opportunities to reinstaate historic details both internally and externally where these have been altered or removed.

⁴ Information from Ryde Library and Information Services.

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Figure 3.7
Cracking occurs in brickwork above openings.
OCP Architects 2014



Figure 3.8
Damaged render to veranda base.
OCP Architects 2014



Figure 3.9
Timber soffits and eaves require repair and repainting.
OCP Architects 2014



Figure 3.10
Marble of entrance stoop is cracked. The third second from the top is not fully supported and has dropped.
OCP Architects 2014

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Figure 3.11
Paint is peeling and cracked on timber work (note 261)
and render.
OCP Architects 2014



Figure 3.12
Painting to rear walls is poorly executed and requires
replacement.
OCP Architects 2014

3.2.2 - The Site

The site is located on the western side of Pennant Avenue, comprising an irregular shaped block of 2,538m². The house, Ben Lomond, is set back from the street behind landscaping and a paved circular driveway that conveys the historic form despite the current use of modern pavers. The house is situated on an elevated position, originally having views over the district, in particular from the upper level rooms and verandah (refer Section 3.3 View Analysis for current views).

37 Pennant Avenue has driveway access from Pennant Avenue on the south east and also has a driveway onto Blaxland Road, however the house is only visible from Pennant Avenue with the latter driveway accessing the rear of the property where outbuildings are located near the north western boundary, including a weatherboard shed from the inter-war period. The grounds also contain a modern swimming pool and pump house located toward the eastern corner of the site, which are contained by steel fencing and brick piers surrounded by medium scale vegetation.

A variety of ornamental and indigenous trees are scattered throughout the site and around the site boundaries. Much of the vegetation is of poor quality and does not contribute to the significance of the site. There are, however, mature Ullipity trees on the north western boundary, a Chinese Elm tree located beyond the eastern corner of Ben Lomond and gum trees adjacent to the eastern and southern corners of the site that contribute substantially to the landscape character of the site.

Another mature tree on the site, assessed in the arborist report to be in the order of 60 years old, is the Indian Coral tree situated in the eastern corner.

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3.3 View Analysis

Views from the house to the south west are still available, however vegetation on both the site and the surrounding land have grown to a height such that they obscure views from the house to the east and south east. The site vegetation and natural landform also restricts views to the house from the street, especially when approaching the site from the east (refer Figure 3.4). Consequently, views to the house from the public domain are limited to the verge on the south eastern corner of the site, and particularly from the driveway. Elsewhere, the house is concealed by land form and vegetation.

With regard to views it is important to note that as previously stated, Ben Lomond is only visible on close inspection. Vehicular traffic heading east must focus on negotiating two bends in Pennant Avenue, rather than observing the house, and pedestrian movement on Pennant Avenue is limited by the lack of facilities and exposure to potential danger in being too close to the road. Views to the house are obscured by vegetation for vehicular traffic heading west.



Figure 3.19
Dense vegetation, both on the site and beyond, limits views to the east from the upper level vantage of Ben Lomond.
OCP Architects 2014



Figure 3.20
Primary view to Ben Lomond from Pennant Avenue.
OCP Architects 2014



Figure 3.21
View north to the house from the first bend in the road.
OCP Architects 2014

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The following view analysis illustrates significant views to Ben Lomond from the public domain and also identifies views from the house.

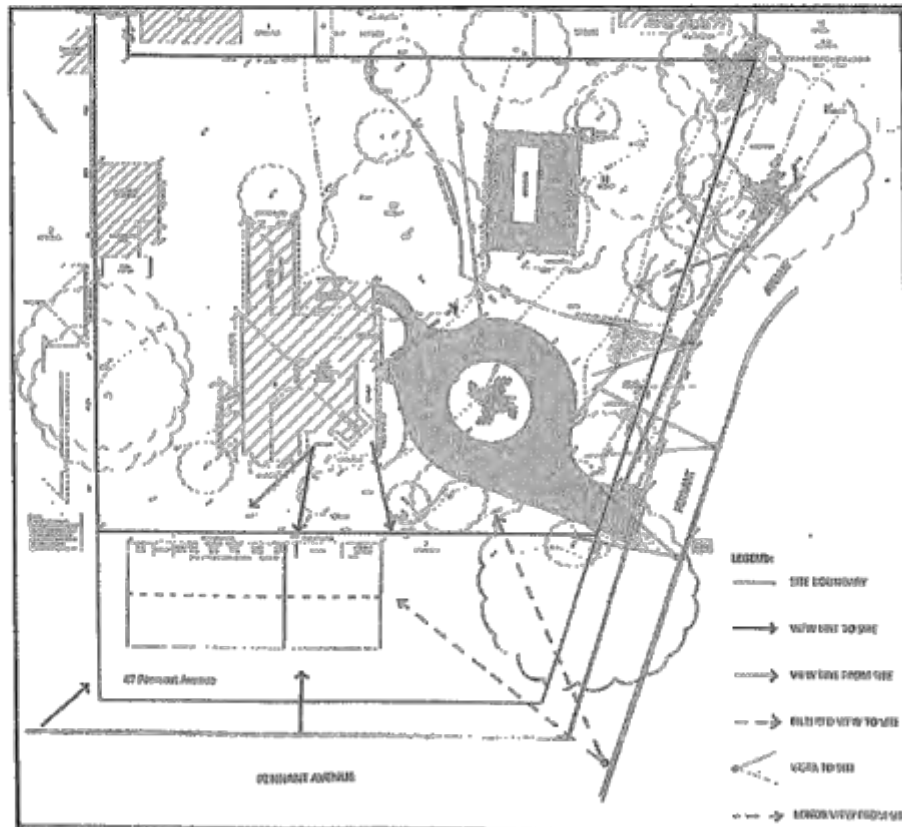


Figure 3.22
View Analysis
OCP Architects 2014

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4 STATEMENT OF SIGNIFICANCE

The house Ben Lomond and its site have local historic significance as evidence of the development of the Highlands Estate in November 1905, via subdivision of The Hermitage estate after the death of Ellen Baxand in 1903. The house was formerly sited on a prominent corner allotment with extensive district views, although today many of these views are obscured or diminished by vegetation that has grown on both the site and surrounding land. Extensive views remain available from the house to the west.

The site is no longer a corner allotment following subdivision adjacent to the south west boundary, however the original extent of the site may still be interpreted. Regardless of the subdivision, Ben Lomond retains generous grounds and remains visible to the street within a restricted range extending from the western corner of the original allotment (partial views over the house constructed on the subdivision), around the first bend of Pennant Avenue and along Pennant Avenue until views are obscured by vegetation.

The house has local aesthetic significance as a good representative example of a Federation Queen Anne style residence that is largely intact, including original internal elements. The house retains important external features that are characteristic of the style, including asymmetrical design, variety of roof shapes with gable set diagonally, terracotta ridge ornament, tall chimneys, wide timber verandahs with decorative brackets and timber casement windows with red brick arch lintels. Ben Lomond makes a positive contribution to its surroundings within the limited viewpoints that are available from the public domain.

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5 THE PROPOSAL

5.1 Context of the Proposal

Following subdivision adjacent to the south west boundary of the site in 1998, subsequent discussions were held between the previous owners of the site and Ryde Council about further subdivision in the eastern corner of the site. A pre-lodgement advice meeting was held with Council on 12 March 2007 at which the former owners identified issues relating to the maintenance of the sizeable property, security and access as reasons for the proposed subdivision. Council provided the following advice at this meeting:

Council's heritage advisor, Gary Stanley, has advised that a further subdivision of the site may be supported in terms of heritage, provided that any proposed future dwelling has the opportunity to be located in a position that maintains significant views to the house.²

Having initiated their own discussions and attended a meeting with Council on 29 August 2013, the present owners subsequently purchased Ben Lomond with the understanding that subdivision of the site, undertaken sympathetically to the site's heritage values, could be supported by Council. The owners then obtained heritage advice from OCP Architects in the early stages of the developing the proposal to facilitate a sensitive and appropriate response.

The proposal is comprised of two principal parts described as follows:

1. create a two-lot Torrens Title subdivision; and
2. construct an attached dual occupancy development and Strata subdivision.

5.2 Description of the Proposed Work

5.2.1 Torrens Title Subdivision

The proposal is to subdivide the existing 2,538m² site into two Torrens Title allotments:

- Proposed Lot 10 will contain the existing residence Ben Lomond and outbuildings, with a site area of 1,938m² and a frontage of 27.065 metres to Pennant Avenue.
- Proposed Lot 11 would contain the proposed dual occupancy dwellings, with a site area of 600m² and a frontage of 26 metres to Pennant Avenue.

5.2.2 Proposed Dual Occupancy and Strata Subdivision

The proposed attached dual occupancy will comprise two x2 storey dwellings that will be strata subdivided. Each dwelling would incorporate a separate driveway from Pennant Avenue.

² Ryde Council, Pre-lodgement Advice, 12 March 2007.

An alternative to reduce the width of the proposed block by creating a narrower allotment that extended toward the north western boundary was not considered to be feasible owing to the adverse impact that it would have on the existing original single storey wing of the rear of Ben Lomond.

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5.2.3 Demolition and Tree Removal

Construction of the attached dual occupancy dwellings as proposed would necessitate the following works:

1. demolition of the existing in ground swimming pool, pump house, pool surrounds and fencing; and
2. removal of eight trees on site.

5.2.4 New Boundary Fencing to Pennant Avenue

New fencing is proposed to the frontage of the entire site to Pennant Avenue.

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4 ASSESSMENT OF HERITAGE IMPACT

6.1 Torrens Title Subdivision

The Torrens Title subdivision of the site at 37 Pennant Avenue, Denistone, is proposed for the following reasons:

- Maintenance of the sizeable grounds under single ownership is physically onerous.
- Maintenance of Ben Lomond is financially onerous, with appropriate materials, fixtures, fittings and details for heritage buildings typically costing a premium that is in addition to the need for specialist tradesmen and consultants.

There is adverse heritage impact associated with subdividing what remains a substantial portion of the 1905 historical allotment. It is noted, however, that one aspect of significance of the site relates to the property itself being a subdivision of the much larger Hermitage estate. Traditionally, landowners would subdivide to provide finances for a variety of purposes. In the present instance, the Torrens Title subdivision of the site would in principle have some positive heritage impact in facilitating improved maintenance of the grounds and funds for ongoing maintenance of the property.

The subdivision is proposed in the eastern corner of the site, which in heritage terms is an appropriate location as there are no views from the public domain to Ben Lomond from this direction. The line of subdivision as proposed is kept behind the main two storey volume, adopting a gentle curve adjacent to, but clear of, the carriage loop and then curving in a protective arc at the rear to provide a generous clearance from the rear corner of Ben Lomond and the Chinese Elm tree. The organic lines follow a deliberate strategy for the subdivision boundary to appear like a garden wall to facilitate its integration in the landscape setting of Ben Lomond and mitigate adverse impacts. This will be further realised in the treatment of the boundary fencing, which is addressed in Section 6.2 below.

The Torrens Title subdivision of the site would provide an allotment of 600m², which satisfies the minimum allotment size required by the planning instruments (refer Statement of Environmental Effects prepared by GAT & Associates, December 2014). The site of Ben Lomond would retain a site area of 1938m², which enables Ben Lomond to retain a generous landscaped area to each side of the house and is of a sufficient scale to convey the importance of the property.

Subdivision in the location and manner proposed is acceptable in heritage terms as it:

- does not interfere with any significant views;
- has been designed sympathetically to significant features of the site – Ben Lomond, the carriage loop and the Chinese Elm tree – by providing appropriate clearances from these elements;
- has been specifically designed with organic lines, utilising a 'garden wall' concept to facilitate integration with the landscape setting;
- retains a substantial landscaped area around Ben Lomond;
- will provide a more manageable sized block to facilitate improved maintenance of the grounds; and
- will provide funds for ongoing maintenance of the property (house and grounds).

6.2 Dual Occupancy

The attached two storey dual occupancy dwellings are proposed to be constructed on the new allotment in the eastern corner. The generous setback adopted for the siting of Ben Lomond, as determined by the site topography and the original design considerations

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(including provision of the carriage loop), combined with the location of the new allotment as proposed mean that the new dwellings will be sited forward of Ben Lomond, closer to Pennant Avenue. While it is accepted practice to locate new development to the rear of heritage items to ensure their prominence and avoid heritage impact, in this instance, siting the new dwellings as proposed will not impact on the prominence of Ben Lomond as the house is not visible from this corner of the site.

Notwithstanding that the new development will not obscure views to Ben Lomond, the attached dual occupancy dwellings adopt a range of strategies to further minimise any adverse heritage impact on the house and the site as follows:

- The proposed height of the new dwellings will be at a lower level than Ben Lomond, with their maximum roof height approximating the low point of the main roof of Ben Lomond. This will allow Ben Lomond to remain prominent and will maintain 'views' from the original house to the east over the new dwellings (although mature vegetation beyond the site will remain).
- The new dwellings will be set on the existing ground level, which is lower towards Pennant Avenue and will assist in reducing the visual scale of the new development.
- The new dwellings incorporate a series of low pitched flat roofs that break up the building bulk and keep the scale of the new buildings low.
- The design incorporates verandahs and setbacks to further break up the building bulk.
- The two storey scale is reduced to single storey in the area adjacent to the south western boundary of the new allotment to ensure that the scale of the new building is highly subservient at the point where it is closest to Ben Lomond (despite a physical separation of over ten metres).
- The dwellings incorporate significant areas of stone cladding, which as a natural material complements the landscape setting of Ben Lomond and the masonry construction of the original residence. It is further proposed to incorporate landscaping along the south western wall at the second storey level to facilitate the integration of the new dwelling in its landscape surroundings.
- The boundary fence of the new allotment will be concealed by vegetation on each side so that it may be perceived to be part of the garden setting.
- New planting will enhance the garden setting around the new allotment (refer Landscape Plan L-01, prepared by Space Landscape Designs, dated 28/11/2014).

The above points demonstrate that the design of the new dwellings has appropriate regard for the significance of Ben Lomond and that the proposal adopts a variety of mitigating strategies to avoid adverse heritage impacts. Significant views from the south and south east to Ben Lomond will be retained. Furthermore, the proposed new development effectively replaces an existing volume of similar scale that is comprised of the vegetation and pool structures on this part of the site (refer Figure 3.19 and Section 6.3 Demolition and Tree Removal).

The setback of the new dwellings does not meet the requirements set by RDCP 2014, however in terms of heritage, this is a positive factor as it ensures that the footprint of the new development is set further away from Ben Lomond. The relationship between the straight alignment of the south east site boundary and the curved road alignment in front of the proposed allotment results in a nature strip that is unusually wide in its context, which offsets the non-compliant setback and ensures that the new development is built with an adequate setback from the road.

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6.3 Demolition and Tree Removal

6.3.1 Demolition of Pool, Pump House, Pool Surrounds and Fencing

The pool and pump house, including concrete surrounds, paving, brick piers and steel fencing are modern additions that make a relatively low contribution to the significance of the site. These elements may be removed without adverse heritage impact.



Figure 4.1
The pool, pump house, surrounds and fencing are elements of low significance that are proposed for demolition.
OCP Architects 2014

6.3.2 Removal of Trees

The *Arboricultural Impact Appraisal and Method Statement*, prepared by Naturally Trees (14 August 2014) has identified twenty four trees that have a relationship to the site, including twenty trees within the site boundary, three trees on the Council nature strip and one tree within the site boundary of 47 Pennant Avenue. These trees have been assessed by the arborist for their significance (based on their prominence in the area) and assessed according to the 'Tree AT' method of tree assessment, as follows:

Category A: Important trees suitable for retention for more than 10 years and worthy of being a material constraint.

Category Z: Unimportant trees not worthy of being a material constraint.

Eight trees are proposed to be removed from the eastern corner for the construction of the attached dual occupancy dwellings, as identified below:

Tree proposed for removal	Tree No.	Tree AT Assessment	Significance
<i>Casuarina cunninghamiana</i>	10	Z11	Moderate
<i>Phoenix canariensis</i>	13	Z12	Moderate
<i>Liquidambar styraciflua</i>	16	Z2	Moderate
<i>Cedrus deodara</i>	17	Z13	Moderate
<i>Brachychiton acerifolius</i>	18	Z2	Moderate
<i>Erythrina sykesii</i>	19	Z3	High
<i>Jacaranda mimosifolia</i>	21	Z8	Moderate
<i>Pittosporum undulatum</i>	23	Z5	Moderate

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In terms of heritage considerations, no trees on the site have been identified as heritage items and the trees proposed for removal have been identified by the arborist to have low retention values because they are small, display poor form or health or are considered as weed species.⁶ No adverse heritage impacts are anticipated from the removal of the nominated trees, with the main consideration relating to the landscape amenity of the site.

With regard for the landscape amenity, there are 12 other trees being retained on site, in addition to the four trees not within the site boundary but nevertheless having a relationship to the site. Of these, five trees are assessed as Category AA and five trees are assessed as Category A trees. The trees being retained include mature trees that make a significant contribution to the garden setting of Ben Lomond and the amenity of both the site and the surrounding area, including Lillypilly trees on the north western boundary and Chinese Elm tree to the rear of Ben Lomond. In this context, the removal of the low value trees as proposed will have a minimal impact on amenity. The removal of the nominated trees is supported in arboricultural terms and it is proposed to provide replacement planting to create a garden setting around the new allotment to mitigate any impact (refer Landscape Plan L-01, prepared by Space Landscape Designs, dated 28/11/2014). New planting proposed includes semi-mature trees with the potential to reach significant height.

The Indian Coral tree (*Erythrina sykesii*) is the largest tree proposed for removal and has been assessed to be of high significance by the arborist for its prominence. This tree species is deemed to be a weed species in the City of Ryde and any tree works to such trees are exempt from Council approval, except when sited on land that is a heritage item.⁷ This tree is not considered to be culturally significant, having been assessed to be approximately 60 years of age and is therefore not contemporary with Ben Lomond. Removal of this tree will not have adverse heritage impact and its removal is in accordance with the intent of the RDCP 2014.

The landscape setting is an important component of the site that complements Ben Lomond. The open space to each side of the house along with the high value trees around the site will be retained and continue to contribute to the amenity of the site and the surrounding area. The removal of trees as nominated will not have an adverse effect on the character or amenity of the site, particularly when considered in conjunction with new landscaping as proposed, and is acceptable in heritage terms.

6.4 New Boundary Fencing to Pennant Avenue

New fencing is proposed to the frontage of the entire site to Pennant Avenue. This approach of providing a unified fence in front of each Torrens Title allotment as proposed has positive heritage impact in principle as it will assist interpretation of the new allotment as part of the original site. The materials proposed are sandstone piers with metal fencing, which will complement the masonry construction of Ben Lomond and the attached dual occupancies. The new fencing should avoid replicating traditional detailing so as not to be misinterpreted as an original element. On this condition, and subject to an appropriate future detail, the heritage impact of this proposal will be positive as it will assist interpretation of the site.

⁶ Naturally Trees, *Arboricultural Impact Appraisal and Method Statement*, 14 August 2014, p.8.

⁷ RDCP 2014, Part 9.5 Tree Preservation, Section 2 Exempt Works, p.7-8

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STATEMENT OF HERITAGE IMPACT - 37 PEMBANT AVENUE, DENISTONE

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7 STATUTORY CONTROLS

7.1 Ryde Local Environmental Plan 2014

The primary planning instrument is the Ryde Local Environmental Plan 2014 (LEP 2014). Heritage conservation is addressed in Part 5.10 of LEP 2014, and relevant clauses are identified below:

Ryde LEP 2014	Comment
<p>(1) Objectives The objectives of this clause are as follows:</p> <p>(a) to conserve the environmental heritage of Ryde,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<p>The proposal conserves environmental heritage and the heritage significance of Ben Lomond and its site.</p> <p>The proposal retains significant fabric, including Ben Lomond, the carriage loop and high value mature vegetation.</p> <p>The proposal retains a 1938m² site, accommodating Ben Lomond within a substantial landscape setting.</p> <p>The proposal retains significant views both to and from the heritage item.</p>
<p>(5) Heritage assessment The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>This Statement of Heritage Impact assesses the proposal with consideration for the heritage significance of Ben Lomond and its site and finds that there will not be an unacceptable level of heritage impact. Where there is potential for heritage impact to occur, appropriate mitigating strategies are proposed to ensure that the significant aspects of the heritage item are retained (refer Section 6 for detail).</p>

7.2 Ryde Development Control Plan

The proposal has been assessed against the requirements of RDCP 2014 in the Statement of Environmental Effects prepared by GAT & Associates, December 2014.

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STATEMENT OF HERITAGE IMPACT - 37 PENNANT AVENUE, BEN LOMOND

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SUMMARY AND RECOMMENDATIONS

8.2 Impact of the Proposal

8.2.1 Positive Impact

There are positive impacts associated with the proposal that are consistent with recommended management provisions as detailed in the Heritage Inventory Assessment Report for Ben Lomond, as follows:

- The overall form of Ben Lomond will be retained and conserved and the historic use of the property as a residence will continue.
- All significant exterior fabric of Ben Lomond will be retained.
- A generous landscape setting for Ben Lomond will be retained, including high value mature vegetation and the carriage loop.
- The proposal will generate funds that will facilitate ongoing conservation and maintenance of the house and grounds.
- Proposed new development does not impact on significant views – all significant views to the property will be retained.
- Proposed new work (the attached dual occupancy and new fencing) does not attempt to replicate historic forms, rather adopting a 'contemporary neutral' design that allows the heritage item to remain prominent.
- The proposed attached dual occupancy is subservient in scale to Ben Lomond.
- The new construction will be integrated into the garden setting of Ben Lomond by new landscaping works.

8.2.2 Negative Impact

There are negative impacts associated with the proposal as follows:

- Subdivision of the allotment.
- Construction of an attached dual occupancy dwelling within the grounds.

8.1 Recommendations

While subdivision of the property and new construction as proposed will have impact on the cultural significance of Ben Lomond, appropriate mitigating strategies are proposed to minimise the negative impacts. Recommendations for redevelopment of the subdivided site include:

1. All contractors undertaking works on site should be briefed on the significance and heritage values of the place and what procedures and obligations are required.
2. Subdivision and new development should occur in the eastern corner of the site where views to Ben Lomond are not available.
3. The line of subdivision should adopt organic lines in the manner of a garden wall to integrate with the landscape setting. New fencing to this wall should include screening vegetation to each side to retain the landscape character.
4. New development should be subservient in scale to Ben Lomond and utilise complementary materials.
5. New fencing proposed to the front boundary of the two allotments as proposed should adopt complementary materials but avoid replication of traditional details.
6. The grounds of both allotments should be appropriately maintained in accordance with a plan of management for remedial action and long term planning, including pruning or removal of trees as they near the end of their life cycle and a strategy for replacement.

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7. Funds should be reserved for the ongoing conservation and maintenance of Ben Lomond as these become available. External repairs required in the short to medium term include:
 - repairs to cracks in brick joints;
 - repairs to cracks in render;
 - repairs to tessellated tiles at entry;
 - repairs to marble stair tread at entry;
 - repairs to timber eaves and rafters;
 - repainting of external timbers.
8. Future development of the site should be of a minor nature and relate to improved amenity. Opportunities include:
 - Opening up the rear kitchen wing to the north west.
 - Minor additions, including pergola, to establish a courtyard adjacent to the rear kitchen wing.

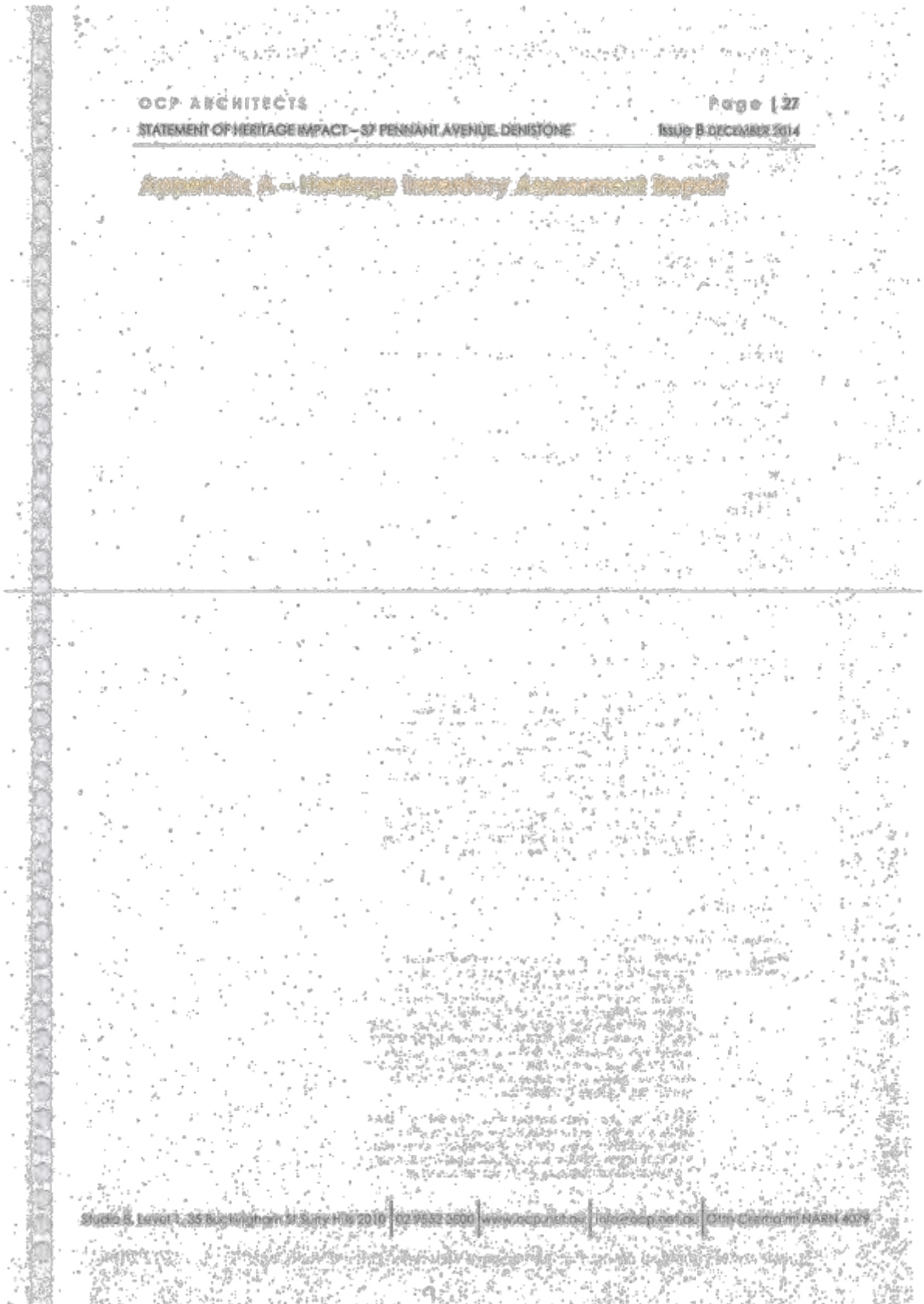
9 Conclusion

This Statement of Heritage Impact has reviewed the proposed subdivision and construction of attached dual occupancy dwelling on the site on Ben Lomond at 37 Pennant Avenue, Denistone, and concludes that the proposal will not have an unreasonable impact on the heritage values of Ben Lomond or its site. The line of subdivision provides appropriate clearances around important site elements and adopts a 'garden wall' character that will include vegetation to each side to complement the garden setting of Ben Lomond. The attached dual occupancy is located at an acceptable distance from Ben Lomond, adopting single storey scale where it is closest to the original house and a subservient scale overall. All significant views from the public domain to Ben Lomond will be retained, as will landscape elements such as high value trees and the carriage loop, and the property will continue to make a positive contribution to the character of the area.

The proposal is consistent with a range of management recommendations as detailed in the Heritage Inventory Assessment Report and the relevant statutory planning instrument Ryde LEP 2014 and is acceptable in heritage terms.

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Home > Heritage > Search and Discovery > NSW Heritage search

Ben Lomond - Federation Queen Anne style house and garden

Item details

Name of item: Ben Lomond - Federation Queen Anne style house and garden
Other name/s: Ben Lomond
Type of item: Built
Group/Collection: Residential buildings (private)
Category: House
Primary address: 37 Pennant Avenue, Denistone, NSW 2114
Parish: Hunters Hill
County: Cumberland
Local govt. area: Ryde

All addresses

Street Address	Suburb/Town	Parish	County	Type
37 Pennant Avenue	Denistone	Ryde Hunters Hill	Cumberland	Primary Address

Statement of significance

The house Ben Lomond is of historical significance as evidence of the development of the Highlands Estate subdivision of The Hermitage estate in November 1905, following Ellen Blackland's death in 1903. The house Ben Lomond is of aesthetic significance as a fine representative example of a Federation Queen Anne style house set on a prominent corner allotment with extensive district views.

Date significance updated: 14 Jan 13

Note: There are incomplete details for a number of items listed in NSW. The Heritage Branch intends to develop or upgrade statements of significance and other information for these items as resources become available.

Description

Builder/Maker: William Hudson

Physical description: The allotment retains a frontage to Pennant Avenue on a curve of the road but also retains a driveway onto Blackland Road (2011), which is evidence of subdivision of the land. No 47 Pennant Avenue (which is occupied by a modern house) takes up part of the Pennant Avenue western frontage, and is also evidence of subdivision. The Pennant Avenue frontage of the land is marked by a steep embankment, however there is a driveway access from Pennant Avenue near the eastern boundary of the site of 47 Pennant Avenue. The house is visible from Pennant Avenue but not from Blackland Road.

Ben Lomond is a substantial two storey Federation house set on a elevated and well vegetated allotment with extensive district views. The house appears to have been built to face Pennant Avenue. The house has a picturesque 3-dimensional composition, with a corner verandah.

<http://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=...> 22/12/2014

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surmounted by a diagonally orientated gablet, terminating in projecting gabled bays. The roof is hipped and gabled and clad in terracotta tiles and features decorative brick chimneys. The house features a corner gable end and bay windows. Walls are face brick with contrasting red brick trim. The 2-storey verandah/balcony facing Pennant Avenue features a simple timber balustrade and valance. The dwelling is in excellent condition.

Physical condition and/or Archaeological potential:

Date condition updated: 22 Nov 11

Modifications and dates: Site later subdivided.

Current use: Residential

Former use: Residential

History

Historical notes:

AREA HISTORY
Aboriginal people inhabited the Sydney basin for thousands of years prior to the arrival of Europeans. The northern coastal area of Sydney was home to the Guringai people, western Sydney was home to the Dharug clans, and southern Sydney was inhabited by the Dharawal clans. The Guringai lived primarily along the foreshores of the harbour, and fished and hunted in the waters and hinterlands of the area. All clans harvested food from their surrounding bush. Self-sufficient and harmonious, they had no need to travel far from their lands, since the resources around them were so abundant, and trade with other tribal groups was well established. The British arrival in 1788 had a dramatic impact on all of the Sydney clans. Food resources were quickly diminished by the invaders, who had little understanding of the local environment. As a result, the Aboriginal people throughout the Sydney Basin were soon close to starvation. The Sydney clans fought back against the invaders, but the introduction of diseases from Europe and Asia, most notably smallpox, destroyed over half the population. The clearing of land for settlements and farms displaced local tribes and reduced the availability of natural food resources, leaving Aboriginal people reliant on white food and clothing. The French surgeon and pharmacist Rene Primavere Lesson, who visited Sydney in 1824, wrote: "the tribes today are reduced to fragments scattered all around Port Jackson, on the land where their ancestors lived and which they do not wish to leave." (Information taken from City of Ryde Aboriginal Site Management Report, Aboriginal Heritage Office, 2011).

Modern day Denistone consists of a number of original land grants: those to Varnice, Evans and Ternan in 1795 (in the area of Denistone House); grants to William Kent in 1797 and George Pattfield in 1798 (the area around The Hermitage) and those to William Broughton and Privates John Stone, Richard Taylor and Lewis Williams in 1795 (modern-day Outlook Estate). Subsequent to these grants, throughout much of the nineteenth century, Denistone was consolidated in the hands of a few families of the colonial elite. On 22 July 1795, 120 acres (48.5 hectares), called Porteous Mount, were granted to John Varnice, Humphrey Evans and William Ternan. Varnice was granted 45 acres (18.2 hectares), Evans 45 acres and Ternan 30 acres (12.1 hectares), but the grants were not subdivided. On August 24, 1795 the Reverend Richard Johnson acquired the property. On 7 March 1800, Johnson sold it to Michael Connor, who transferred to Roger Connor on 12 June 1816.

Gregory Blaxland, a free settler, purchased the 450-acre (182-hectare) Brush Farm Estate in 1806 shortly after his arrival in the colony. This estate covered most of the area south from Terry Road to Victoria Road and Tramway Street

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and east from Brush Road to Shaftsbury Road. In 1829 he transferred Brush Farm Estate to his eldest daughter Elizabeth and her husband Dr Thomas Forster. Forster expanded the estate by purchasing the Porteous Mount grants of 120 acres, east of his Brush Farm Estate. Forster built an eight-room house which he called Deniston after his birthplace in England. He sold a portion of this land to his brother-in-law John Blaxland, eldest son of Gregory. Around 1842 John commissioned colonial architect John Bibb to build a brick and stone house which he called The Hermitage.

On May 23 1840, Dr Forster leased 'the dwelling house known by the name of Deniston' and 100 acres (40.4 hectares) of land to Major Edward Darvall for a period of 12 years. Darvall was a retired English army officer with strong family connections to the British East India Company. He and his family had arrived in January 1840.

Darvall did not remain at Deniston for the 12 years mentioned in the lease, as the property was again advertised to let in the Sydney Morning Herald on 6 March 1849. Major Darvall purchased other property in the Ryde district eventually settling on a large estate of nearly 400 acres (161.8 hectares) stretching from today's Rowe Street, Eastwood to Victoria Road, West Ryde and from Shaftsbury Road to Ryedale Road. The subdivision of the Darvall estate in the twentieth century also released land that forms part of modern-day Denistone.

After the Darvalls' departure, Deniston House was occupied by D Mackellar and his family. The house was damaged by bushfires in the summer of 1854-1855. "... the bare walls of that once fine house are all that is to be seen. The mansion and valuable buildings of Mr. Foster (sic) were barely saved from destruction; the orchards and vineyard were greatly injured..." (from article titled "Parramatta - Dreadful destruction from the bush fires" SMH Monday 1 January 1855, page 8). Following this event, it appears the Deniston estate was in the ownership of J. Blaxland and used for grazing, till 1872, as notices published in 1857 and 1863 confirm J. Blaxland's ownership and use of the Deniston property at this time, and there are no further notices for letting of the house (presumably due to its damaged state).

Deniston Estate was purchased by Richard Rouse Terry on 9 December 1872, who had followed his brother Edward Terry, owner of Eastwood House, to the Ryde district. Richard Rouse Terry built the stone house known today as Denistone House and resided there for many years. This was a well designed two-storey sandstone building which was completed in 1874. The first written reference to the spelling "Denistone" is in the death notice for an infant son of R.R. Terry in 1875 at "Denistone" (Sydney Morning Herald, 13 February 1875, p.1). After Terry's death in 1898, a number of tenants occupied the home and the property was gradually subdivided.

The Denistone Estate was opened up for sale in 1913. In November 1913 it was reported that "The Trustees of the late Mr. R.R. Terry have instructed Messrs J.E. Green and Co. to offer No. 1 subdivision of the Denistone Estate. There are 169 choice allotments to be submitted, and these are situated but three minutes from the station" (Real Estate Notes of the Week column, Sydney Morning Herald, 19 April 1913, p. 8). Also in 1913, 17 acres (6.8 hectares) of the Denistone Estate, including Denistone House, was purchased by the New South Wales Government for use as a convalescent hospital for men, which later became Ryde Hospital. Richard Rouse Terry's Denistone House is extant. The 2nd subdivision of the Denistone Estate was offered for sale between August and November 1914 (SMH, Saturday 21 November 1914, p. 9). The 3rd subdivision of the Denistone Estate was offered for sale in 1918 (SMH, 6 May 1918, p. 10).

John Blaxland died at The Hermitage on 26 January 1884 and Richard Rouse Terry is said to have been the next

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owner of The Hermitage and its land, which he purchased from the Blaxland estate. From 1887 to 1903 The Hermitage was leased to various tenants and unoccupied between tenancies.

Pennant Avenue was created with the subdivision of site of The Hermitage with the Highlands Estate subdivision in November 1905, following Ellen Blaxland's death in 1903. The first subdivision of the land took place in 1888 when the Miriam Hill Estate near what was then Ryde railway station (now West Ryde) was subdivided.

There were spurts of subdivision in the area. The first impetus came with the opening up of the railway to Hornsby in 1886 and the increased need for both industrial and residential lots in the area. Eastwood Station (originally called Dundas) opened in October 1886, quickly becoming a busy freight depot for local fruit produce. The arrival of the railway coincided with the deaths of a number of pioneering heads of the 'old families', opening the way for their descendants to subdivide their estates. In the early decades of the twentieth century, land from estates such as the Highlands and Denistone Estates were advertised. Highlands Estate (1905), was an area bounded by Blaxland, Meriam, Commissioners and Inkerman roads, and it 'unlocked at last, the homestead of the Blaxland family'. Denistone Estate, no 2, (1914) was the slice of land between Blaxland and Denistone roads, immediately to the east and north of Denistone House.

Interestingly none of these subdivision plans refer to the suburb as Denistone. Various it is Eastwood, Eastwood Ryde, Ryde Eastwood and, for good measure, West Ryde. No doubt the establishment of a railway platform halfway between West Ryde and Eastwood in September 1937, and the naming of it as Denistone, helped with the adoption of the name.

While other estates in the district were subdivided in the last decades of the nineteenth century, Jane Darvall kept the majority of the Ryedale estate intact until the beginning of the twentieth century. The Darvall Estate sold small portions of land throughout the 1880s, including land for the Strathfield to Hornsby rail line, Eastwood Public School, and West Ryde Masonic Hall. When Jane Darvall died in 1899 the estate was inherited by her only son Anthony William Darvall. The subdivision of the Ryedale estate was begun by him. Housing subdivisions were sold from 1902, and Denistone Estate was subdivided for sale from 1913. The subdivisions focused on land close to Ryde station (now West Ryde).

Anthony William's sons, Edward Roger and George Harrison Darvall, and his son-in-law William Herbert Bean continued the subdivision of the former Darvall Estate following Anthony's death in 1915. Darvall Estates 2 and 3, (1915) northern Anthony Road and Miriam Road in Denistone were part of this.

The Outlook Estate was the sixth and last subdivision of the Ryedale estate. The 124 home sites were advertised for private sale in 1929. The building of these houses took place during the 1930s and 1940s. Denistone Station was not added to the railway line until September 1937. (Angela Phippen, Denistone entry, Dictionary of Sydney online).

ITEM HISTORY

The land in Pennant Avenue was part of a thirty acre land grant to George Patfield made on April 10, 1798. Around 1835 these early land grants were amalgamated into large land holdings, much of which were acquired by John Macarthur, Gregory Blaxland and the Reverend Samuel Marsden.

The Hermitage was built from c1838 to 1842 for John Blaxland, its land consisted of 120 acres (48ha) which was amalgamated from four early farm grants in the 1830s acquired by John Blaxland in 1838. The Hermitage was the

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residence of John Blackland from 1842. John Blackland married Ellen Walker in 1845 and the family resided there until John Blackland's death in 1884.

Pennant Avenue was created with the subdivision of part of The Hermitage with the Highlands Estate subdivision in November 1905, following Ellen Blackland's death in 1903.

The house Ben Lomond was built on lots 37 and 38 of this Estate, conveyed to Henry Freeman in February 1907. Henry Freeman also bought lot 15 fronting Blackland Road at the same time and in 1909 added the adjoining lots 16, 17 & 18.

Henry Freeman & Ben Lomond are first listed in Sands' Sydney Directories in "Blacklands Road" in 1910 and from 1911 in Pennant Avenue but the electoral roll of 1908, which describes Freeman as a "managing salesman", also lists him as resident in Pennant Avenue. Henry Freeman's youngest son, John Douglas Freeman, said that he was born in the house 3 weeks after the family had taken up residence. The baptismal register of St Anne's Church Ryde shows that John Douglas was born on 15 December 1907 and baptised on 9 February 1908 and describes him as the child of Henry and Amelia Elizabeth Lucas Freeman of Eastwood East, an appropriate description for Denstone at that time.

A further piece of evidence suggesting a building date of 1907 comes from an item in the Cumberland Argus & Fruitgrowers Advocate of 19 October 1907 when William Hudson, builder, is reported as asking permission "to erect a septic tank for Mr H Freeman on the Highlands Estate, plan and specification of which were submitted". A mention in Ryde Council minutes for 19 July 1907 to W. Hudson's notification of his intention to erect a dwelling house on the Highlands Estate may refer to the building of Ben Lomond.

Henry Freeman and Mrs H. Freeman remained residing at the house until 1929. From 1930-1933 C.R. Steadman was recorded in Sands' Directory as the occupant of the house.

Historic themes

Illustration theme (Library)	How South Wales theme	Local theme
4. Settlement: Building settlements, towns and cities	Land tenure, Activities and processes for identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal.	Changing land uses from rural to suburban; subdivision of large estates.
4. Settlement: Building settlements, towns and cities	Towns, suburbs and villages: Activities associated with creating, planning and managing urban functions, landscapes and lifestyles in towns, suburbs and villages.	Suburban Development.

Assessment of significance

SHR Criteria a) (Historical significance)	The house is of historical significance as evidence of the development of the Highlands Estate subdivision of The Hermitage estate in November 1905, following Ellen Blackland's death in 1903.
SHR Criteria b) (Associative significance)	The house has historical association with Henry Freeman, managing salesman, and his family.
SHR Criteria c) (Aesthetic significance)	The house Ben Lomond is of aesthetic significance as a fine example of the Federation Queen Anne style house set on a prominent corner allotment with extensive district views.
SHR Criteria g) (Representative significance)	Fine representative example of the Federation Queen Anne style.
Integrity/Intactness: Intact	
Assessment criteria: Items are assessed against the State Heritage Inventory	

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Refer to SHPS 5.2.1.4 to determine the level of significance. Refer to the Listings below for the level of statutory protection.

Recommended management:

DOCUMENTATION: A Heritage Impact Statement is required by Council to accompany any Development Application for non-minor work. Please consult Council staff about your proposal and the level of documentation that will be required as early as possible in the process. Note that Council has adopted planning provisions to assist in the making of minor changes that will not have any impact on the significance of properties without the need to prepare a formal application or Heritage Impact Statement. In this case Council must be consulted in writing to confirm the nature of the works. **APPROACHES TO MANAGING THE HERITAGE SIGNIFICANCE OF THE PROPERTY:** (Note: the detailed requirements for each property will be determined on a case-by-case basis. The following advice provides general principles that should be respected by all development.) Further subdivision of the land is discouraged. The overall form of the building should be retained and conserved and new uses should be restricted to those that are historically consistent and/or able to be accommodated within the existing fabric with minimal physical impact. All significant exterior fabric should be retained and conserved. The setting of the property should be protected from the impacts of development and significant plantings, walls, paths and other landscape elements should be retained in a manner that will not threaten the viability of significant gardens, landscapes or views. The external surfaces and materials of significant facades (generally, but not limited to, those visible from the street or a public place including the water) should be retained, and painted surfaces painted in appropriate colours. Sandstone and face brickwork should not be painted or coated. Significant door and window openings should not be enlarged or enclosed. **OPPORTUNITIES FOR CHANGE:** All development should respect the principle of 'do as much as necessary but as little as possible'. In most instances, new work should not attempt to replicate historic forms. A 'contemporary neutral' design that sits quietly on the site, and enhances the quality of the item, will be a more sympathetic outcome than a 'fake' historic building. Respecting the scale and overall forms, proportions and rhythms of the historic fabric is critical. As a general principle, all major alterations and additions should NOT: - result in demolition of significant fabric - result in excessive site cover; - be visually prominent or overwhelm the existing buildings; - intrude into any views of the property from the public domain, including the water; and should be: - located behind the historic building(s) on the site; - visually subservient and have minimal impact on heritage significance including that of views over the property. Single storey extensions will generally be preferred over two storey forms unless there is a sound heritage reason to do otherwise. Atrium rooms must be accommodated in the original roof form. Solid fences or high walls on street boundaries and structures - including car parking structures - forward of the front building line are strongly discouraged.

Recommendations:

Management Category	Description	Date Updated
Statutory Instrument	List on a Local Environmental Plan (LEP)	24 Nov 11

Listings

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Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan	Ryde LEP 2010	91			
Local Environmental Plan	Draft Ryde LEP 2011	191			
Local Environmental Plan	Ryde LEP 2014	191	02 Sep 14		
Local Environmental Plan - Lapsed	LEP No. 105	107		14	352

Study details

Title	Year	Number	Author	Respected By	Guidelines used
Ryde Heritage Study	1988	107	Jonathan Falk Planning Consultants P/L Assoc with Rodney Jensen and Assoc P/L		No
Review of 1988 Ryde Heritage Study	2002		Hill Thalis Architecture and Urban Projects		Yes
Ryde SHL Review Stage 1	2012		Paul Davies Pty Ltd		Yes

References, internet links & images

Type	Author	Year	Title	Internet Links
Written	Angela Phippen	2010	Denstone suburb history, Dictionary of Sydney online	
Written	Kevin Shaw	1992	'Chatham Farm 1793-1855' pts 1-3, Ryde Recorder: newsletter of the Ryde District Historical Society, vol 24, no 4, September 1990; vol 25, no 1, March 1991; vol 26, no 5, November, 1992	
Written	NSW National Trust	1993	National Trust register listing form	

Note: internet links may be to web pages, documents or images



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The information for this entry comes from the following sources:

Name: Local Government
Database number: 2340085

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1943 RMA Sydney Suburbs Survey Showing Pennant Avenue, Inkerman, Terry and Blaxland Roads. The orange outline is 47 Pennant Ave not 37 Pennant Ave. No.37 is further down on the bend. The 1943 picture shows no trees on the proposed site.

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ATTACHMENT 2

SPACE
LANDSCAPE DESIGN

Name: A. Kirtlow
Address: Denstone



ACER PALMATUM DISSECTUM 'INABA SHIDARE'



LOPHOSTEMON CONFERTUS



MAGNOLIA GRANDIFLORA 'LITTLE GEM'



FICUS CALLERYANA 'CHANTICLEER'



ACMENA SMITHII 'CHERRY SURPRISE'



BUXUS MICROPHYLLA 'INFONICA'



CYCAS REVOLUTA



HYDRANGEA MACROPHYLLA



KNIPHOFIA ENSIFOLIA

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SYZYGIUM AUSTRALE 'SELECT FORM'

ARTIBEUS ODORATUS 'CRESTED'

SCLEROPHORUM NODOSUM



LYCOPodium obscurum 'MACROSPORE GIANT'

COMANDRA LONGIFOLIA 'TANIKA'

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ATTACHMENT 3

OCP ARCHITECTS

37 PENNANT AVENUE
DENISTONE, NSW
PROPOSED SUBDIVISION & CONSTRUCTION OF NEW DWELLINGS



HERITAGE REPORT IN SUPPORT OF
DEVELOPMENT APPLICATION LDA2015/5

FOR ANTHONY & JENNIFER KIBILOV

Job No 15022

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OCP ARCHITECTS
HERITAGE REPORT FOR LDA2015/5- 37 PENNANT AVENUE, DENISTONE

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Document status:

Issue	Date	Purpose	Written	Approved
A	May 2015	Draft to Client	KU	
B	May 2015	Final Issue for Council	KU	OC

Studio 8, Level 1, 35 Buckingham St Surry Hills 2010 | 02 9552 3800 | www.ocp.net.au | info@ocp.net.au | Otto Cserhalmi NARN 4079

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1 INTRODUCTION

This report has been prepared for Anthony and Jennifer Kirilov in support of Development Application LDA2015/5 for the proposed subdivision of the site at 37 Pennant Avenue, Denistone, and the construction of a dual occupancy dwelling in the eastern corner of the site. The site contains the two-storey Federation residence known as 'Ben Lomond' in addition to a brick garage and outbuildings adjacent to the north west boundary.

The primary planning instrument is the Ryde Local Environmental Plan 2014 (LEP 2014) and the house at 37 Pennant Avenue is listed as a heritage item within LEP 2014 as an item of local significance (Item No. 91). The site is not located within a conservation area and there are no other heritage items located in the immediate vicinity of the site, although there are two other heritage items located on Pennant Avenue, "Wollondilly" at 11-13 Pennant Avenue (Item No. 90 - local significance) and "The Hermitage" at 1-3 Pennant Avenue (Item No. 88 - State significance).

This report is supplementary to the Statement of Heritage Impact that was submitted with the Development Application and provides additional information to Council to inform their assessment of LDA2015/5 as follows:

1. Additional historical research
2. Physical analysis, with additional costed conservation and maintenance schedule and photographs depicting views identified in the view analysis.
3. Assessment of significance in accordance with NSW heritage assessment criteria and revised statement of significance based on additional information.
4. Assessment of significance of site elements (gradings of significance).
5. Heritage curtilage review.
6. Initial conservation policies.

1.1 The Site

'Ben Lomond' is located at 37 Pennant Avenue, at the short section of the road where the alignment changes. The residence is set back from the street and is set within substantial grounds (Figure 1.1).

The site is a residential allotment known as Lot 1 in DP 1005676, comprising 2,538m². The site is zoned R2 Low Density Residential within LEP 2014 and presently has the two-storey residence 'Ben Lomond' situated towards the western corner of the site.

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Figure 1.1 - Aerial view showing the site of 37 Pennant Avenue, Denistone.
Source: LPI/SKYViewer 2015

1.2 Authorship

The report was prepared by DCP Architects Pty Ltd, written by Karen Urquhart and reviewed by Otto Cserhalmi.

1.3 Methodology and Terminology

This Heritage Report for 37 Pennant Avenue, Denistone, has been prepared in accordance with:

- NSW Heritage Manual, NSW Heritage Office, Office of the Environment and Heritage.
- Methodology of The Conservation Plan, Australia ICOMOS, 7th edition 2013, by JS Kerr
- Methodology of Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (the Burra Charter), 2013
- Heritage Curfages, NSW Heritage Office and the Department of Urban Affairs and Planning, 1976.

1.4 Abbreviations

The following abbreviations have been used in this report:

- Bk Book
- CRS Commonwealth Record Series
- CT Certificate of Title

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DP Deposited Plan (LPI)
ML Mitchell Library
LPI Land and Property Information
NAA National Archives of Australia
No Number
SMH *Sydney Morning Herald*
SRNSW State Records, New South Wales

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HISTORICAL CONTEXT

The following history has been obtained from 'A History of Ben Lomond, 37 Pennant Avenue, Denstone' prepared by historian Dr Terry Kass, dated 27 April, 2015.

2.1 Site History

The property known as 'Ben Lomond', now at 37 Pennant Avenue, Denstone is situated on the junction of three separate grants. Part is located on George Patfield's grant, which was issued as 40 acres in total, but comprised two separate sections, each of 30 acres. The 30 acres on which the house is situated was later numbered as Portion 24, parish of Hunters Hill. Part of the land lies on Patrick Leonard's 30 acre grant (Portion 25). Surveyors laying out grants were instructed to leave roads for access between grants. In many cases, these roads were never used, particularly when common usage created new roads. This situation occurred in the parish of Hunters Hill, when what is known today as Blaxland Road, developed. The original road measured on the parish map was later sold to the adjoining landowner. Some of the site is positioned over that road. The situation is clarified in the following maps.



Figure 21: The DMA (Central Mapping Authority) showing map provides the cleared image showing the intersection of Portion 24 and 25 plus the delineated road on the land on which Ben Lomond is built (513922). Source: 0000336.DWG

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Figure 22 - The 1907 edition of the parish map demonstrates the grant boundaries as well as the road that became Bickard Road. The approximate location of the street outlined in red.
Source: Parish Maps 1907

In 1830, Dr Thomas Foster announced that he had "taken possession of his farm, now called Deniston [sic], consisting of several small farms in the field of Moss and Kissing Point".¹ This gave the name to the suburb. But, though the land on which 'Ben Leonard' is built was owned for a time by Thomas Foster, it did not form part of the estate attached to Denistone House. The land on which 'Ben Leonard' was later built had been conveyed to John Bickard and was part of the Bickard property.

The major events regarding the ownership of this land in the nineteenth century are briefly outlined below before a detailed history of 'Ben Leonard' is presented.

2.1.1 George Puffield's 60 Acre Grant

On 10 April 1798, 60 acres were granted to George Puffield.² No location was given on the grant deed but it was in an area then known as Eastern Farms. Parish maps show that the 60 acres was in two segments. The Northern part, [Portion 24] measuring 30 acres is the section on which 'Ben Leonard' is built.

¹ P. Geaves, *A Place of Pioneers: The century history of the Municipality of Ryde*, Ryde Municipal Council, Ryde, 1970, p63

² Grant Register, volume 1 (originally vol 2B), p 305

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By 1802, George Patfield had 40 acres of his land planted with grain plus some sheep and a pig. On 30 December 1834, by a deed of mortgage, George Patfield (possibly the executor of the deceased estate of George Patfield) mortgaged Patfield's Farm of 60 acres for £50 to Thomas Forster, esquire.³ Later, on 1 August 1853, Thomas Forster, of Brush Farm, conveyed the northern 30 acres of Patfield's grant to John Henshall Bettington, of Kissing Point, along with numerous other parcels of land.⁴ This brought the land into the ambit of the marriage settlement made in 1845 (refer Sec 2.1.3 below).

2.1.2 Patrick Leonard's 30 Acre Grant

Patrick Leonard was granted 30 acres in the District of Eastern Farms on 12 March 1800. Patfield Farm bounded the land on the north-west. The grant would be called 'Leonard Farm'.⁵

Numerous transactions followed, with a range of subsequent owners transferring their interest in the land until the western 15 acres of the grant was sold to Thomas Forster for £200 on 19 September 1839.⁶ On 30 July 1856, Thomas Forster conveyed the western 15 acres to John Blaxland, of Kissing Point, esquire for £200.⁷ This also placed this land into the ambit of the 1845 marriage settlement.

2.1.3 John Blaxland's Property

A marriage settlement was signed on 22 December 1845, between John Blaxland and John Henshall Bettington.⁸ The following day, 23 December 1845, John Blaxland, son of Gregory Blaxland, better known as one of the explorers who crossed the Blue Mountains 1813, married Ellen Falkner.⁹ John Blaxland became a merchant, and was later a director of the Australian Joint Stock Bank and an auditor of the City Bank. He was a member of the Legislative Council of New South Wales from 24 November 1863 until 26 January 1884.¹⁰ After his death on 26 January 1884, his widow was the beneficiary of his estate.

The unnecessary road that ran to the south west of Patfield's 30 acres and Leonard's 30 acres was granted Gregory George Blaxland as 4 acres 2 roods on 13 February 1894.¹¹ When much of the Blaxland property was converted to Torrens Title in 1904-1905, it was absorbed into the consolidated title.

Ellen Blaxland, widow of John Blaxland died, aged 85, on 14 October 1903.¹² That inspired her devisees to convert much of the land to Torrens Title. On 24 May 1904, Frederick Blaxland, of Cooma, solicitor, Francis Henry Blaxland, of Sydney, civil servant and Sydney Bernard Levick, of Sydney, accountant, as trustees of the marriage settlement of 22 December 1845, submitted a Real Property Application for various grants of land in the parish

³ Old System Deed, No 811 Bk G

⁴ Old System Deed, No 698 Bk 27

⁵ Grant Register, volume 3 (originally vol 3C), p 27

⁶ Old System Deed, No 827 Bk P

⁷ Old System Deed, No 696 Bk 27

⁸ RPA 13451

⁹ C N Connolly, *Biographical Register of the New South Wales Parliament 1856-1901*, Australian National University Press, Canberra, 1983, p 24

¹⁰ *Sydney Mail*, 2 Feb 1884, p 204, C N Connolly, *Biographical Register of the New South Wales Parliament 1856-1901*, Australian National University Press, Canberra, 1983, p 24

¹¹ CT 1121 f233

¹² *SMH*, 15 Oct 1903, p 6

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of Hunters Hill. The land included a grant of 60 acres to George Patfield of 10 April 1798 and a grant of 30 acres to Patrick Leonard of 12 March 1800.¹³

The application was approved. A Certificate of Title was issued to them on 9 September 1905 for three separate sections of land. The last section, measuring 64 acres 2 roods 29 ¼ perches, included the site of 37 Pennant Avenue.¹⁴ This land was transferred to Joseph Ezra Herbert O'Brien of Sydney, managing director of public company on 30 September 1905.¹⁵ In October 1905, surveyor John Weingarth surveyed that land, which was subdivided as the Highlands Estate. His plan was officially registered on 14 November 1905.¹⁶ On 18 November 1905, the land was auctioned as the Highlands Estate at Eastwood East.¹⁷

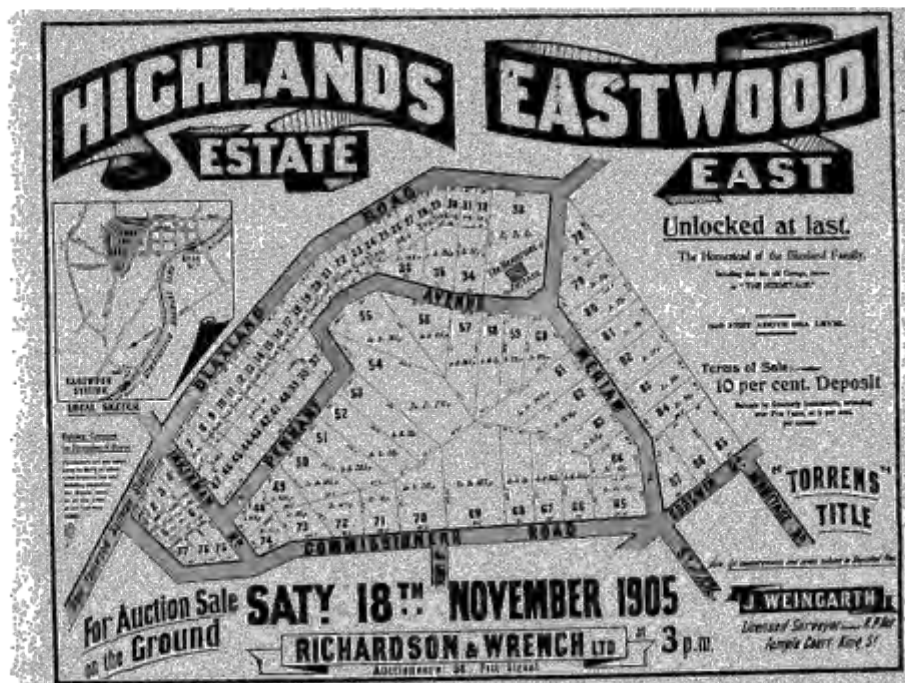


Figure 2.3 - The auction sale plan of the Highlands Estate. Note the statement about the building covenant on the left of the plan.

Source: ML subdivision plans, Denistone, ZSP:D6/5

Though the completion of the railway line from Homebush to Hornsby in 1886 opened the area for settlement, subdivision into suburban allotments did not commence until the early

¹³ RPA 13451

¹⁴ CT 1632 f 110

¹⁵ CT 1632 f 110; CT 1652 f 20

¹⁶ DP 4634

¹⁷ Denistone Subdivision Plans, ML, ZSP:D6/5

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1900s. The end of the great drought, which had hampered the whole economy from the 1890s onwards ended. Housing construction revived. The elevated land north of Ryde had the same attraction as the Blue Mountains. Ventilated by refreshing southerly winds and cooler in the summer months, it met all the criteria popular at that time as a 'healthy' district. The Highlands Estate was one of the first to capitalise on this appeal.

2.2 Ben Lomond

An announcement appeared in the press on 27 November 1906 that architect John Reid was preparing plans 'for a villa residence at Eastwood'.¹⁸ Whilst there is no definite evidence linking this to 'Ben Lomond', it may represent the design of this house. A search of contemporary architectural journals did not locate any information about or images of 'Ben Lomond'.¹⁹

On 22 February 1907, lots 15, 37 and 38, DP 4634, were transferred to Henry Freeman.²⁰ A Certificate of Title was issued on 9 April 1907 for 1 acre 5 perches, lots 15, 37 and 38, DP 4634, to Henry Freeman, of Summer Hill, managing salesman. The transfer included a covenant that buildings with a minimum value of £300 had to be built on either lots 37 or 38 and that any building on lot 15 facing Blaxland Road would have a minimum value of £250. Stables or outhouses could be built if they were more than 100 feet from Blaxland Road and if built to service a main building erected on lots 37 and 38. No shop, factory, blacksmith's shop, or workshop could be built as a mechanical workshop on lots 37 or 38, without written consent and no noxious trades were permitted.²¹

Freeman mortgaged his property on 23 May 1907 to Alfred William Meeks, Reginald James Black, Richard Teece, and Arthur Duckworth, all of Sydney, trustees of the Australian Mutual Provident Society Officers Provident Fund. The loan was for £1,200 at 6% interest for three years. The conditions included that construction of a building worth a minimum of £1,400 be commenced before 30 September 1907 on the basis of the plans and specifications submitted to the mortgagee.²²

Henry Freeman had married Amelia Elizabeth Short in a marriage registered at West Maitland in 1892.²³ Their children were Thomas W Freeman, whose birth was registered in 1894, and Marjorie registered in 1898, both registered at Ashfield, followed by John D Freeman, whose birth was registered at Ryde in 1908.²⁴ Henry Freeman had been born in New South Wales. His first employer went into partnership with J M Sandy, which later became James Sandy and Co Ltd. He progressed through the firm 'from a lad ...into that of sales manager, and eventually managing director'.²⁵

¹⁸ *SMH*, 27 Nov 1906, p 11

¹⁹ *Art and Architecture*, Vol 4, 1907 – Vol 7, 1910

²⁰ CT 1652 f 20

²¹ C T 1770 f 140

²² C T 1770 f 140; Dealing 416638

²³ BDM Marriage 4887/1892

²⁴ BDM Births, 4134/1894; 987/1898; 8111/1908

²⁵ *SMH*, 8 Dec 1923, p 18

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The house was complete by early 1908. Freeman retained ownership of the house, buoyed up by a series of mortgages. Apart from the original mortgage, he took out another on 1 July 1910 from the same mortgagees, followed by another on 7 March 1921.²⁶

In April 1923, Henry Freeman resigned as Managing Director of James Sandy and Co Ltd in order to set up his own business as a wholesale oil and colour merchant in Challis House, Martin Place.²⁷ On 29 May 1923, he wrote to James Sandy and Co Ltd, about selling his shares since he needed the money for his business.²⁸

Henry Freeman died aged 55 on 5 December 1923 leaving a widow and two sons, Dr T W Freeman, of Concord and Jack Freeman, plus a married daughter, Mrs Hugh Jemyn. He was buried in the Field of Mars cemetery.²⁹ A valuation of his assets dated 3 January 1924 by H W Homing and Co Ltd after his death described the Ryde property as:

Lots 15, 16, 17, 37 and 38 D. P. 4634, having a frontage 198 feet to BLAXLAND ROAD by a through depth of about 384 feet 3 inches to PENNANT AVENUE to which the land has a frontage of about 132 feet.

On the land fronting PENNANT AVENUE is "BEN LOMOND", a fully detached two-storey house, constructed of brick on brick foundations with tile roof.

The building comprises 8 rooms, Hall, Kitchen and all domestic offices with front balcony and verandah and rear verandah.

At the rear is a Weatherboard building on brick piers with iron roof, and comprises Buggy Shed, Man's Room and Stable.

Water, Gas, Electric Light and Septic Sewerage are installed.

ESTIMATED PRESENT MARKET VALUE £3000-0-0 (THREE THOUSAND POUNDS).³⁰

²⁶ CT 1770 f 140

²⁷ *Construction and Real Estate Journal*, 18 April 1923, p 8

²⁸ Stamp Duties Office, Deceased Estate File, Pre A 3573, SRNSW 20/938

²⁹ *SMH*, 8 Dec 1923, p 18

³⁰ Stamp Duties Office, Deceased Estate File, Pre A 3573, SRNSW 20/938

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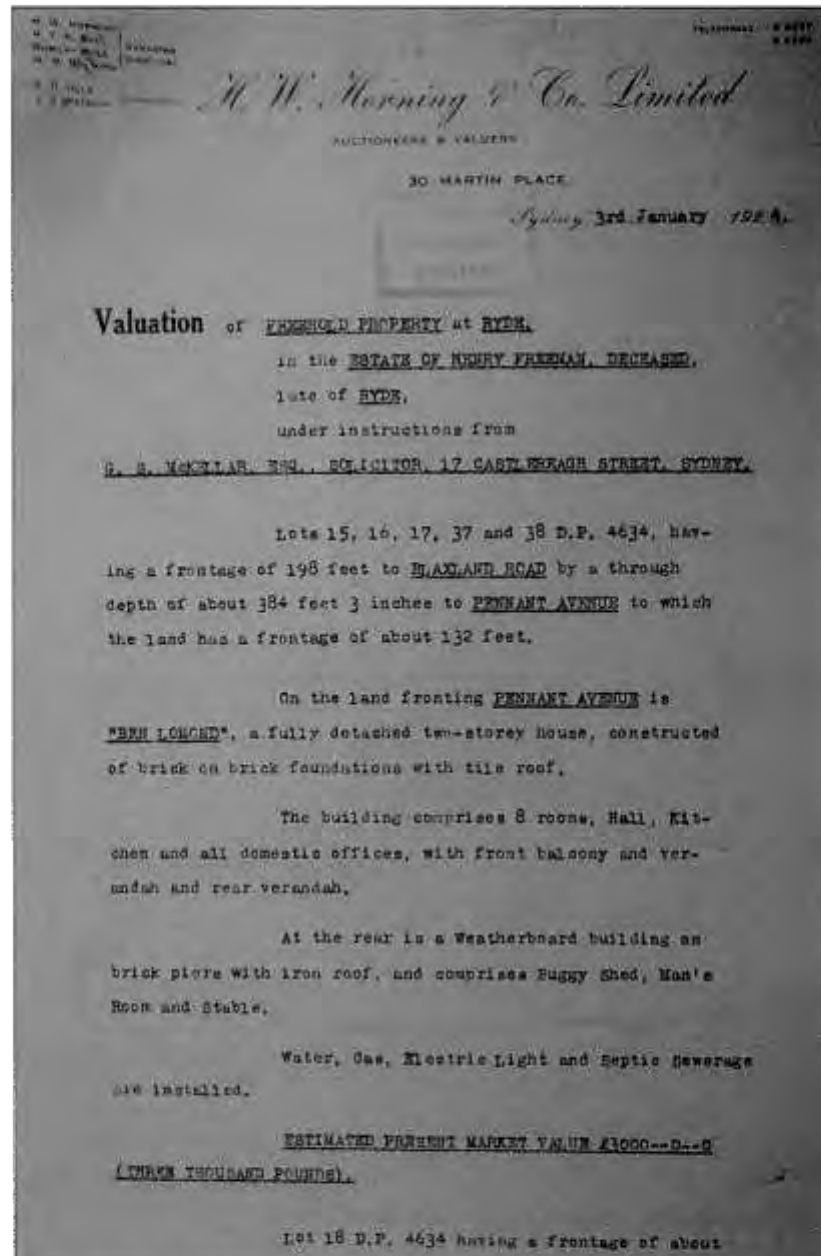


Figure 2.4 - The valuation dated 3 January 1924 of 'Ben Lomond'.
Source: Stamp Duties Office, Deceased Estate File, Pre A 3573, SRNSW 20/938

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A detailed inventory of the contents of the rooms and yard as well as Freeman's business premises at 332 Kent Street, Sydney, was also included. The rooms within 'Ben Lomond' were listed as dining room, hall, smoke room, drawing rooms, kitchen and pantry, laundry, staircase and landing, best bedroom, bedroom number 2, bedroom number 3 and maid's room.³¹ Other assets listed on the property included 25 Black Orpington fowls worth £3/15/0, and a sulky pony worth £6, as well as a small sulky worth £8.

The first valuation by the Valuer-General dated 1 December 1924 listed the property under Blaxland Road and not Pennant Avenue. It was listed as lots 15 to 17 and 37 and 38 Highland Estate, DP 4634. The owner was Mrs Amelia Freeman, Blaxland Road, Ryde, which had been crossed out for c/- Walmsley and Cowley, accountants, BNZ Chambers, Wynyard Street, Sydney. It was even later altered to British Australian Lead Manufacturers Pty Ltd, Cabarita Road, Concord. The improvements on the property were a 2 storey house, 10 rooms, and tile roof. The unimproved capital value was £1,000, and the improved capital value was £3,800.³² She was also listed as the owner of lot 18 Blaxland Rd, vacant land.³³

The mortgages of 1 July 1910 and 7 March 1921 were discharged on 10 August 1925.³⁴ The formal transmission of the property to Amelia Elizabeth Lucas Freeman, of Ryde, widow, was produced for registration on the title on 25 September 1925.³⁵ The property was mortgaged to the British Australian Lead Manufacturers Pty Ltd on 1 October 1925.³⁶ Amelia Freeman applied to subdivide the land. The Municipality of Ryde approved the subdivision on 3 July 1929.³⁷

³¹ Stamp Duties Office, Deceased Estate File, Pre A 3573, SRNSW 20/938

³² Valuer-General, Valuation Cards, Ryde, Blaxland Rd, SRNSW 13/7806, No 988; Pennant Ave, SRNSW 13/7812, no entry

³³ Valuer-General, Valuation Cards, Ryde, Blaxland Rd, SRNSW 13/7806, No 987

³⁴ CT 1770 f 140

³⁵ CT 1770 f 140

³⁶ CT 1770 f 140

³⁷ DP 323929

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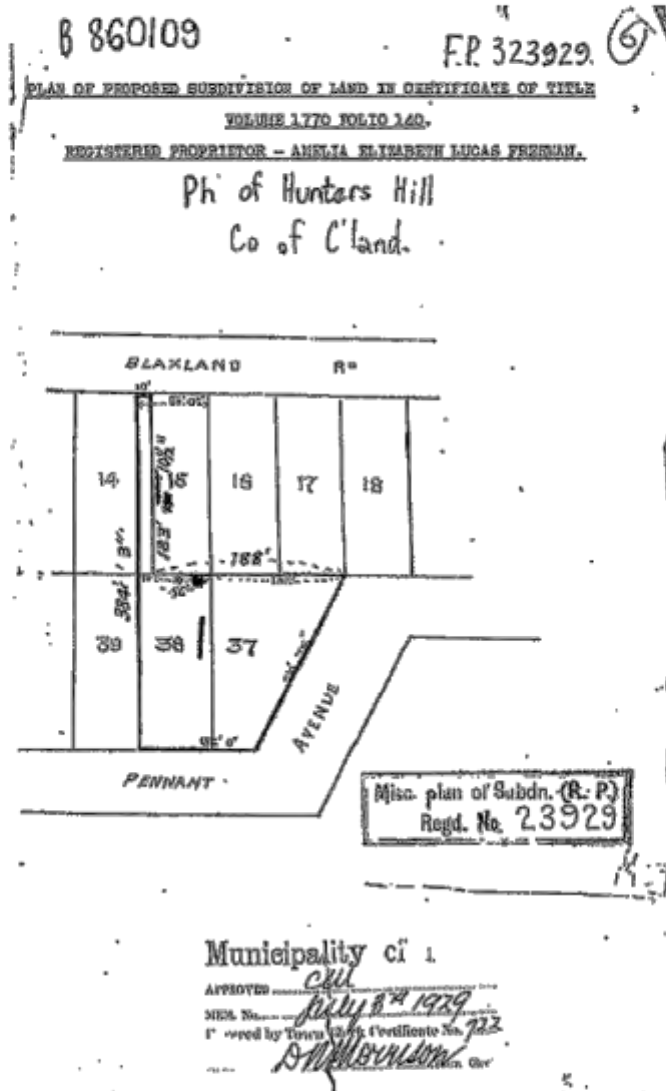


Figure 2.5 - The 1929 subdivision of the land left 'Ben Lomond' facing Pennant Avenue with an access driveway to Blaxland Road.
 Source: DP 323929

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The mortgages of 23 May 1907 and 1 October 1925 were discharged on 23 July 1929.³⁸ Lots 37 and 38 and part of lot 15 were transferred to Claude Reginald Steadman on 23 July 1929, of Henley, sheet metal worker.³⁹ The purchase price was £2,500. His address was recorded on the valuation as Pennant Avenue, Ben Lomond, Ryde.⁴⁰

A new valuation by the Valuer-General dated 1 September 1929 listed the property as lots 37 and 38 and part 15, including 'Ben Lomond' but still recorded it as owned by Mrs Amelia Elizabeth Freeman, c/- British Australian Lead Manufacturers Pty Ltd, Cabarita Road, Concord. The unimproved capital value was £507, and the improved capital value was £3,000. The improvements were a 2 storey house, 10 rooms, and tile roof, plus a WB (weatherboard) and GI (galvanised iron) shed and garage. The owner was later altered to Claude Reginald Steadman Pennant Avenue, Ben Lomond, Ryde.⁴¹

Surveys were undertaken before construction of a sewerage system. Surveyor H E Lanyon completed the fieldbook for the detail survey of this part of Ryde.⁴² The Detail Survey sheet compiled in 1930 from his survey showed the building outline.⁴³

³⁸ CT 1770 f 140

³⁹ C T 1770 f 140; C T 4325 f 230

⁴⁰ Valuer-General, Valuation Lists, Ryde, Central Ward, 1941-54, SRNSW 19/13339, No 3947

⁴¹ Valuer-General, Valuation Lists, Ryde, Central Ward, 1941-54, SRNSW 19/13339, No 3947

⁴² Fieldbook 2809, 22 December 1930, Sydney Water Plans Room, p 24

⁴³ DTS 1680, Version 1 & 2, 1930, Sydney Water Plans Room

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Figure 23: The Detail Survey aerial of 1930 showing ten demand.
Source: OIS 1693, Version 1, 1930, Sydney Water Plans Room

In March 1930, aerial photographs of Sydney were taken by the RAAF for the Metropolitan Water, Sewerage and Drainage Board. The photo for the Ryde district showed ten demand.

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Lomond²⁸ It provides additional detail to that in the Detail Survey sheet, including a shed or garage near the access road to Slackland Road, which is lined with trees, and the eastern form of the access drive.



Figure 2.7 - The aerial photo of March 1930 showed detail of Ben Lomond not shown on the Detail Survey.
Source: Aerial Mosaic of Sydney, March 1930, Ryde Sheet, SR Map 32242

A new Certificate of Title was issued for 3 roads 7 1/2 perches, lots 37 and 38 and part of lot 15 to Claude Reginald Steadman, of Hentley, sheet metal worker on 18 September 1929.²⁹ Though Steadman was recorded as a sheet metal worker, he was a business owner rather than a tradesman. On 23 July 1929, the day he purchased 'Ben Lomond', he mortgaged it to the Bank of NSW.³⁰

²⁸ Aerial Mosaic of Sydney, March 1930, Ryde Sheet, SR Map 32242

²⁹ CT 4325 1230

³⁰ CT 4325 1230

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In May 1939, an updated Detail Survey sheet was compiled, which showed a similar outline of the building. These later Detail Survey sheets were used as working copies until about 1960, so new data was added. The sheet shows that a new building had been built on lot 15 facing Baxland Road, but due to the updating of the map, it is unclear when that was done. Ben Lombard had a driveway access to Baxland Road as a result of the 1929 subdivision.⁸²



Figure 25 - The updated Detail Survey sheet of 1939 showing the house.
Source: Blackwattle Sheet 3197, Version 1, May 1939, Sydney Water Plans Room.

⁸² Blackwattle Sheet 3197, Version 1 & 2, May 1939, Sydney Water Plans Room.

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Another view of 'Ben Lomond' was provided by the 1943 aerial photo, which confirmed the building outline shown on the Detail Survey, and also included a range of outbuildings along the north-western fence. It also confirmed that the house on lot 15 facing Blaxland Road (406 Blaxland Road) and been constructed by 1943.⁴⁸



Figure 2.9 - The aerial photo of 1943. The address of the house constructed on Lot 15 was 406 Blaxland Rd.
Source: LPI SIX Viewer

⁴⁸ LPI SIX Viewer

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In 1944, 'Ben Lomond' was used by the Australian military. It has been claimed that it was used as an RAAF observation post. In fact, the Australian Army hired the property. It vacated 'Ben Lomond' on 11 May 1944. No details of the uses made of 'Ben Lomond' or of any alterations to fit it for military use were provided.⁴⁹

'Ben Lomond' was transferred to Tibor Muranyi, of Sydney, glove manufacturer on 9 August 1944.⁵⁰ Steadman's mortgage to the Bank of New South Wales was discharged on 14 August 1944.⁵¹ 'Ben Lomond' was sold for £2,600. Muranyi does not appear to have lived in 'Ben Lomond', but in the house constructed on Lot 15. His address was continually given as 406 Blaxland Road, Ryde.⁵² Muranyi mortgaged 'Ben Lomond' to the Sydenham Bankstown District No 1 Co-operative Building Society Limited on 8 August 1944.⁵³ It was discharged on 9 September 1946 after he had sold the property.⁵⁴

Muranyi had transferred it to Robert Grossman, of North Bondi, leather merchant and his wife Elizabeth on 17 August 1946.⁵⁵ The sale price was £2,900. On 9 September 1946, Grossman also mortgaged it to the Sydenham Bankstown District No 1 Co-operative Building Society Limited.⁵⁶ Grossman's address was later altered to 406 Blaxland Road, Ryde.⁵⁷

On 10 July 1947, the unimproved capital value was £867, whilst the improved capital value was £2,900. That valuation noted 'Ben Lomond' was 'Now 2 Flats'.⁵⁸ The valuation of 17 June 1954 listed the owners as Robert Grossman, 406 Blaxland Road, Ryde, leather merchant and his wife Elizabeth. The property was 'Benlomond' [sic]. Flats, 2 storey house, 10 rooms, and tile roof, WB and GI shed and garage. It was further described as 'Now 2 Flats'. The unimproved capital value was £1,630, whilst the improved capital value was £6,200.⁵⁹

A notification was made on the title on 21 October 1958 that the existing mortgage had been discharged.⁶⁰ The unimproved capital value was £8,500 on 18 June 1961 (the last available), and the improved capital value was £12,500.⁶¹ Robert Grossman of Ryde died on 23 October 1965.⁶² On 23 November 1965, the owner of the property on the valuation was altered to 'estate' of Robert Grossman.⁶³ A note was made on the title on 29 August 1966 that Elizabeth Grossman was now the sole surviving proprietor.⁶⁴ Elizabeth Grossman of Ryde

⁴⁹ NAA, CRS 459/1, Item 518/9/2023

⁵⁰ C T 4325 f 230

⁵¹ C T 4325 f 230

⁵² Valuer-General, Valuation Lists, Ryde, Central Ward, 1941-54, SRNSW 19/13339, No 3947

⁵³ C T 4325 f 230

⁵⁴ C T 4325 f 230

⁵⁵ C T 4325 f 230

⁵⁶ C T 4325 f 230

⁵⁷ Valuer-General, Valuation Lists, Ryde, Central Ward, 1941-54, SRNSW 19/13339, No 3947

⁵⁸ Valuer-General, Valuation Lists, Ryde, Central Ward, 1941-54, SRNSW 19/13339, No 3947

⁵⁹ Valuer-General, Valuation Lists, Ryde, 1954-7, SRNSW 3/10045, No 17022

⁶⁰ C T 4325 f 230

⁶¹ Valuer-General, Valuation Lists, Ryde, 1954-7, SRNSW 3/10045, No 17022

⁶² SMH, 25 Oct 1965

⁶³ Valuer-General, Valuation Lists, Ryde, 1954-7, SRNSW 3/10045, No 17022

⁶⁴ C T 4325 f 230

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died on 30 November 1992.⁶⁵ Transmission of the ownership of the property to Marlin Pentley was registered on 19 February 1993.⁶⁶

Soon afterwards, a transfer to Frederick James Salisbury and Wendy Joan Langford as joint tenants was registered on 31 August 1993.⁶⁷ These owners undertook extensive internal repairs and alterations to return the house to a single family dwelling, including reconstruction of the main stair. On 31 August 1993, it was mortgaged to the Westpac Banking Corporation, which was discharged on 29 August 1995.⁶⁸ A mortgage to Cillbank Ltd followed on 6 July 1995.⁶⁹ On 13 September 1999, the property was subdivided into lots 1 and 2, DP 1005675.⁷⁰ That mortgage was discharged on 28 January 2014.⁷¹ It was transferred to Anthony James and Jennifer Louise Kirillov, as joint owners on 5 March 2014.⁷²

⁶⁵ SMH, 1 Dec 1992

⁶⁶ CT 4325 f 230

⁶⁷ CT 4325 f 230

⁶⁸ CT 4325 f 230

⁶⁹ CT 4325 f 230

⁷⁰ CT 4325 f 230

⁷¹ History of Title Transactions 1/1005675

⁷² History of Title Transactions 1/1005675; Dealing AI421861

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3 PHYSICAL DESCRIPTION

3.1 Context

The site of Ben Lomond retains a frontage to Pennant Avenue, at the bend where the road changes alignment. Pennant Avenue has a split level arrangement from Inkerman Road and past the site, with separate roads for one way traffic in each direction. The nature strip between the roads is heavily planted, including with mature eucalyptus trees, and there is a drop in the level of the road to the lower level of Pennant Avenue. The houses to the south are built below the road level owing to the topography and many contain mature trees and vegetation that obscure views further south.

To the south west of the property, number 47 Pennant Avenue was constructed following subdivision of the site in 1998. Further west and extending over several blocks are a series of single storey, blond brick cluster housing developments (refer house 1.1).



Figure 3.1
View southward 37 Pennant Avenue, showing the split level road arrangement.
Source: OCP Architects 2014



Figure 3.2
The house at 47 Pennant Avenue, with view to Ben Lomond beyond.
Source: OCP Architects 2014

To the north east and adjacent to the site is a single storey brick cottage circa 1950s and a two storey red brick multi-unit development is adjacent to this. Further east along Pennant Avenue there are a mixture of Federation and later style cottages with more contemporary buildings situated across the road.



Figure 3.3
Developments in the immediate vicinity of the site
OCP Architects 2014

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The topography and vegetation of the surroundings separate the site of Ben Lomond from other development in the area and in its context, Ben Lomond is only visible on close inspection. The site contains several large trees, in particular on its western corner where there are several trees, including a mature Indian Coral tree, and a variety of medium scale shrubbery, which obscure views west to the house. The Council owned land adjacent to the site boundary also contains vegetation, including a mature acalyptus tree, that further prevents views to the house. Pedestrian movement adjacent to the property is very limited owing to the lack of footpaths and narrow nature strip next to the roadway.



Figure 3.1
Vegetation on the east corner of the site obscures views west to the house. The acalyptus tree on Council land is visible in the foreground.
OCOP Architects 2014



Figure 3.2
View along the road in front of the property, showing the limited provisions for pedestrian movement on either side of the road.
OCOP Architects 2014

3.2 Description of Ben Lomond

'Ben Lomond' is a two-storey asymmetrical brick residence, designed in the Federation period with complimentary Queen Anne elements. The terracotta roof features domer components, decorative terracotta ridge ornament and finials.

Highly informal gardens mark the perimeter of the site. The main entrance to the house is located on the eastern facade and is accessed by a driveway. The front porch has a tessellated tile floor and adjacent timber verandah which continues to the southern facade. The south-eastern elevation forms a chamfered corner containing timber-framed casement windows with arched upper sash. Above this sash is a red brick arch lintel. Wide timber verandahs feature timber balustrade and posts, with decorative carved timber valance. [There is] timber panelling to upper verandah soffits. On the second storey, double hung sash windows feature timber sills and brackets, sheltered by a terracotta awning supported on large elaborately carved timber brackets.

The western facade features a two-storey timber verandah with timber pediment detail.

The tall chimney situated on the roof of the eastern elevation is of the Queen Anne style and features brick string courses, roughcast and terracotta chimney pots.

The exterior of the house is in good condition and retains much of its original architectural integrity.

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Internally, the house features six open marble fireplaces in the spacious main living/entertaining areas and the four huge bedrooms. The ornate ceilings are more than four metres high.²³



Figure 3.6
View east of Ben Lomond from where the original
DCP Architects 2014.

3.2.1 Physical Condition of Ben Lomond

Site inspections were carried out by DCP Architects in December 2014. The building fabric was visually examined without physical intervention.

While the house appears to be in good condition generally, close inspection reveals that external repairs and maintenance are required. External areas currently requiring repair work include:

- repairs to cracks in brick joints;
- repairs to pointing;
- repairs to cracks in render;
- repairs to tessellated tiles at entry;
- repairs to timber eaves, rafters and decorative details;
- repainting of external timbers, currently crazed and peeling.

²³ Information from Ryde Library and Information Services.

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Figure 3.7
Cracking occurs in brickwork
above openings of Ben Leonard.
This example is from the kitchen
wing.
OCP Architects 2014.



Figure 3.8
Damaged render to exterior
base of Ben Leonard.
Photo by Owner 2018



Figure 3.9
Timber rafters and soffit of Ben
Leonard require repair and
replacement.
OCP Architects 2014

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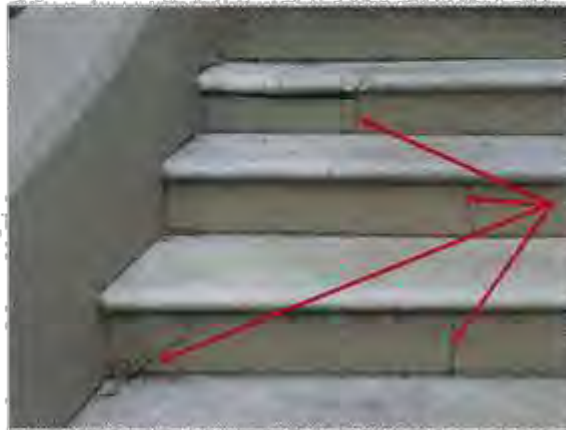


Figure 3.10
Signs to the entrance base of
Ben Leonard are cracked in
several places.
Photo by Owner 2015



Figure 3.11
The north of entrance steps
cracked and the foundation is
sloping.
Photo by Owner 2015



Figure 3.12
Poorly executed pointing requires
replacement. This photo shows
the north west elevation of Ben
Leonard.
Photo by Owner 2015

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Figure 3.13
Signs of old pointing repairs are required. This photo is a detail from the front elevation of Ben Lomond.
Photo by Owen 2015



Figure 3.14
Timber casing of Ben Lomond requires repair. This example shows a detail of the top of the ground floor window.
Photo by Owen 2015



Figure 3.15
Damage to timber work and glazing of Ben Lomond. Furring strips require replacement as part of the repair work.
Photo by Owen 2015

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Figure 31a
Paint peeling and cracked timber work and render
©2015 architects 2014

3.2.2 Conservation and Repair Schedule

Ongoing maintenance and repair work will be required in the future to maintain the significance of the property. In addition, there are opportunities to reinstate historic details both internally and externally where these have been altered or removed. To date, the current owners have commenced repair and maintenance work utilising borrowed funds, including:

- Replacing all cracked and broken glass with new glazing to match original.
- Repairing original locks.
- Removing non-original plywood fixture from verandah.
- Cleaning out roofspace.

The owner, a practising builder with experience in restoration of heritage properties, has prepared the following schedule that identifies other conservation and maintenance works that should be implemented:

EXTERNAL WORK		
1	Fix large leak into roof near Main chimney, repair lead flashing and restore chimney flashing. Clean bricks restore and seal including scaffolding.	\$4,000
2	Restore eaves including blocking between rafters and moulding under, to stop birds, possums, & insects entering roof. Scraping and sanding plus painting including scaffolding.	\$16,800
3	Replace all original mouldings and archways and post collar architraves to verandahs that are missing, including scaffolding.	\$26,800
4	Repair or replace to match existing all rotted timber handrails, balustrading, mouldings.	\$16,000
5	Replace missing slate threshold (to family room).	\$1,700

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EXTERNAL WORK		
6	Remove broken marble tread of front entrance stair, underpin and reinforce stair and replace marble tread.	\$3,400
7	Remove fessellated tiles, repair sunken deck and replace tessellated tiles.	\$5,400
8	Scrape back and re-render verandah piers.	\$4,800
9	Underpin and repair brickwork to side verandah and re-render.	\$5,200
10	Remove accretions to front entrance archway and gable and reconstruct detail to match existing rear gable.	\$8,200
11	Replace Ace rainwater heads with copper rainwater heads to match original x6.	\$7,800
12	Repair cracked brickwork above openings, including stair window, front kitchen window and kitchen doors, and cracked brickwork in walls generally, including verandah area plus rear of building.	\$6,300
13	Repair timber lining boards to verandah soffits and associated timber trims and details.	\$12,300
14	Repair or replace all rotten timber on railings, balustrading and verandah. Restore all timber work including posts and beams ready for painting.	\$39,000
15	Rear Verandah: Shore up and under pin rear verandah posts to get back to level, repair all timberwork and repair tiled roof and pointing after straightening.	\$28,600
16	Replace incorrectly aligned sash to study window to match existing.	\$1,400
17	Repair original awnings; remove introduced awnings.	\$2,200
18	Repair all tuck pointing.	\$30,000
19	Conserve and restore old original groomsmen's cottage which is badly termite and water damaged	\$85,000
20	Remove and replace all broken non original concrete paths with brick or sandstone paths 40m.	\$8,000
21	Remove and replace broken concrete driveway at rear 195 m2.	\$26,000
22	Clean out kitchen roof space.	\$1,200
23	Repair flyscreens.	\$3,500
24	Supply and install drainage to kitchen side and around verandah plus garage down pipes and drain to collect surface water which is getting under the house and causing damage.	\$15,000
25	Remove old air conditioning unit built into brickwork at front of family room and rebrick and tuck point, render inside and replace skirting.	\$4,300
26	Reconstruct side verandah to be more in keeping with original verandahs including exposed overhanging rafters, lining verandah ceiling and timberwork to posts, beams.	\$24,000
27	Clean out under house, old timbers etc. to prevent termites and improve ventilation.	\$4,400
TOTAL COST FOR EXTERNAL WORKS (ITEMS 1 TO 27)		\$393,300

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INTERNAL WORK		
28	Family Room Repair damaged window timber, replace sash cords and lifters. Repair door fanlight including mechanisms, repair cracks in ceiling, replace broken vent, repair fireplace hearth tiles (including to marble), replace cypress pine flooring repairs with kauri pine to match original.	\$5,600
29	Kitchen Replace all non original colonial architraves, picture moulds and skirting with mouldings to match existing.	\$9,200
30	Replace non original door to rear.	\$2,000
31	Laundry and WC Replace non original drummy tiles plus render walls and repair and restore doors.	\$7,400
32	Bathroom Repair toilet and vanity.	\$3,200
33	Entrance Replace cypress flooring with Kauri; replace non original door; repair skirtings.	\$3,300
34	Dining Replace cypress flooring, repair water damage to fireplace, repair door fanlight window plus replace mechanism, repair archway (new marble bases, plaster corners, plus repair mouldings), replace silver door handle.	\$18,000
35	Living Repair door fanlight window plus new mechanism, replace whole floor with Kauri pine floor, replace silver handles on doors plus new lifters and sash cords to windows.	\$6,300
36	Study Replace window openers, repair door fanlight window plus new mechanism, replace silver handle.	\$2,300
37	First Floor Hall Replace incorrect architrave and sill mouldings to stained glass window and to Bed 4 doorway. Repair cracks in walls above and below window, reinstate leadlight to match period of original. Repair and redo badly plastered arch mouldings set by previous owner. Replace missing skirting, remove non original plaster board wall and door to original archway and make good to archway. Repair large cracks in ceiling. Remove double doorway to Bed 4 and rebrick and replaster plus new skirting. Repair fanlight window and mechanism to outside door. Repair lock to door.	\$11,900
38	Bathroom Remove tiles to leaking shower and waterproof shower area and floor and retile to stop damage in floor and joists. Repair damage to water damaged timbers. Remove new false ceiling and	\$9,200

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INTERNAL WORK		
	plumbing pipes above to restore original high ceiling. Remove and replace non original incorrectly built architraves and sill moulding.	
39	Bed 4 Restore fanlight window and openers, repair cracks and patch up water damaged ceiling. Restore and replace sash cords to window and replace missing lock.	\$3,000
40	Bed 3 Replace fireplace tiles, replace window openers and sash cords and locks, replace silver door handle and latch. Repair cracks in ceiling. Repair ceiling rose.	\$3,600
41	Bed 2 Repair cracks in ceiling, replace silver locks, replace fire place hearth tiles. Repair window openers.	\$3,200
42	Main bed Replace cypress flooring with kauri pine flooring 4m ² , repair 3 window locks plus replace 4 window lifts, replace sash cords to windows, repair / replace fireplace hearth tiles, replace wall vent. Repair holes in skirting, repair restore hi light window plus clean off paint and repair opening mechanism, replace silver door locks.	\$4,600
43	Roof Area Clean out birds' nests. Repair or replace TME cracked or warped timber.	\$2,000
TOTAL COST FOR INTERNAL WORKS (ITEMS 28 TO 43)		\$94,800

OTHER MAINTENANCE WORK		
44	Repainting of verandahs and windows externally (which have not been painted in the last 10 years) plus internal painting - quote not including scaffolding. (Refer also quote for painting included at Appendix A).	\$42,900
45	Repainting verandah flooring (first floor)	\$4,800
46	Garden maintenance, removing weeds and overgrowth (allowance for removal of x5 loads)	\$3,750
47	Electrical maintenance, including repairs to lights.	\$2,700
TOTAL COST FOR OTHER MAINTENANCE WORK (ITEMS 44 TO 47)		\$54,150

TOTAL OVERALL COST (ITEMS 1 TO 47)		\$542,250
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3.3 Description of the Site

The site is located on the western side of Pennant Avenue, comprising an irregular shaped block of 2,538m². The house, Ben Lomond, is set back from the street behind landscaping and a paved circular driveway that is of modern origin. The house is situated on an elevated position, originally having views over the district, in particular from the upper level rooms and verandah (refer Section 3.3 View Analysis for current views).

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37 Pennant Avenue has driveway access from Pennant Avenue on the south east and also has a driveway onto Blaxland Road, however the house is only visible from Pennant Avenue with the latter driveway accessing the rear of the property where outbuildings are located near the north western boundary, including part of a weatherboard shed dating to at least the inter-war period.⁷⁹ The grounds also contain a modern swimming pool and pump house located toward the eastern corner of the site, which are contained by steel fencing and brick piers surrounded by medium scale vegetation.

A variety of ornamental and indigenous trees are scattered throughout the site and around the site boundaries. Much of the vegetation is of poor quality and is of relatively recent origin (aerial photographs from 1930 and 1943 which show the site as being largely devoid of trees).

There are, however, mature Lily Pill trees on the north western boundary, a Chinese Elm tree located beyond the eastern corner of Ben Lomond and eucalyptus trees adjacent to the eastern and southern corners of the site that contribute substantially to the landscape character of the site. Another mature tree on the site, assessed in the arborist report to be in the order of 60 years old, is the Indian Coral tree situated in the eastern corner.



Figure 3.17
Modern concrete slab observed from the first floor verandah.
DCP Architects 2014



Figure 3.18
View to the rear of Ben Lomond, with the Chinese Elm tree on the left.
DCP Architects 2014



Figure 3.19
View of vegetation in the eastern corner.
DCP Architects 2014



Figure 3.20
View of the site looking south behind the pool.
DCP Architects 2014

⁷⁹ Further investigation may confirm if the shed is contemporary with the construction of Ben Lomond.

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Figure 3.21
View of grounds looking north of the rear.
OCF Architects 2014



Figure 3.22
Landscaping in front of the south-west elevation.
OCF Architects 2014



Figure 3.23
View to a building on north west boundary. The
detached weatherboard shed is in the centre of the
photograph, as shown by arrow.
OCF Architects 2014

3.3 View Analysis

Views from the house to the south west are still available, however vegetation on both the site and the surrounding land have grown to a height such that they obscure views from the house to the east and south east. The vegetation, both on and off site, and natural landform also restricts views to the house from the street, especially when approaching the site from the east (refer View 1 below). Consequently, views to the house from the public domain are primarily available from the verge on the south eastern corner of the site, and particularly from the driveway. Elsewhere, the house is concealed by land form and vegetation.

With regard to views it is important to note that as previously stated, Ben Lomond is only visible on close inspection. Vehicular traffic heading east must focus on negotiating two bends in Pennant Avenue, rather than observing the house, and pedestrian movement on Pennant Avenue is limited by the lack of facilities and exposure to potential danger in being too close to the road (refer figure 3.5). Views to the house are obscured by vegetation and the split road arrangement for vehicular traffic heading west.

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The following view analysis illustrates views to Ben Lomond from the public domain and also identifies views from the house. These views have been numbered and are illustrated in photographs below (Sections 3.3.1 and 3.3.2).

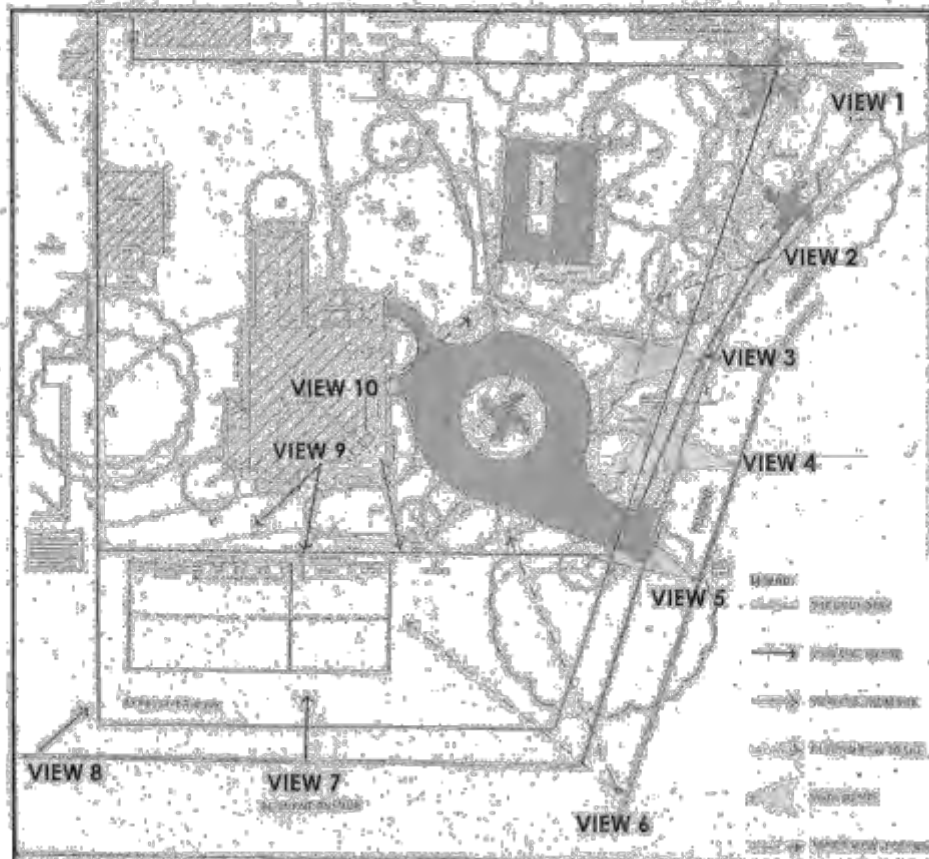


Figure 3.19 - View Analysis Plan
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3.3.1 Views to Ben Lomond (Views 1 to 8 from the View Analysis Plan)



VIEW 1 - Vegetation on the east corner of the site, including vegetation on the Council owned nature strip, obscures views west to the house. The Council owned eucalyptus tree is visible in the foreground.



VIEW 2 - Filtered views to Ben Lomond from the east are still largely obscured by vegetation.

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VIEW 3 - Views to Ben Lomond become available when directly in front of the property.



VIEW 4 - The primary view to Ben Lomond is in the vicinity of the driveway entrance from Pennant Avenue.

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VIEW 5 - Primary view to Ben Lomond from the driveway entrance from Pennant Avenue.



VIEW 6 - Filtered view north to the house from the first bend in Pennant Avenue.

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VIEW 7 - View north east to Ben Lomond from Pennant Avenue.



VIEW 8 - View east to Ben Lomond from Pennant Avenue.

Studio 8, Level 1, 35 Buckingham St, Surry Hills, 2010 | 02 9552 3800 | www.bcb.net.au | info@bcb.net.au | City of Ryde Ref: NERN 4079

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3.3.2 Views from Ben Lomond (Views 9 & 10 from the View Analysis Plan)



VIEW 9 - View west from Ben Lomond from the first floor verandah. Glimpses of the district are still available although mature vegetation in the fore and mid ground is predominant.



VIEW 10 - Dense vegetation, both on the site and beyond. Limits views to the east from the upper level verandah of Ben Lomond.

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ASSESSMENT OF SIGNIFICANCE

4.1 Analysis of Significance

The basis of assessment used in this report is the methodology and terminology of the Burra Charter (2013), The Conservation Plan by JS Ken (7th edition 2013) and the criteria of the Heritage Division, within the Office of Environment & Heritage, Department of Premier and Cabinet.

Article 26.1 of the Burra Charter states that:

"Work on a place should be preceded by studies to understand the place which should include analysis of physical, documentary, oral and other evidence, drawing on appropriate knowledge, skills and disciplines."

Once the place has been studied, the cultural significance can be assessed. Article 1.2 of the Burra Charter defines cultural significance as the aesthetic, historic, scientific, social or spiritual value for past, present or future generations.

The sections below evaluate the cultural significance of the place by considering the documentary and physical evidence. The physical evidence includes not only the original fabric but the subsequent layering of fabric over the life of the building.

4.2 Assessment of Significance for 37 Pennant Avenue, Denistone

This section assesses the significance of the place according to the criteria in the Heritage Division guidelines.

Criterion A - Historical Evolution

An item is important in the course, or pattern, of NSW's cultural or natural history (State significance); OR

An item is important in the course, or pattern, of the local area's cultural or natural history (local significance).

The residence at 37 Pennant Avenue is a good and largely intact example of a substantial early twentieth century family residence built during a revival period of construction following the end of the great drought in the 1890s.

37 Pennant Avenue has historical associations with the Highlands Estate, which was one of the first residential estates to capitalise on the appeal of Ryde as an elevated location that met the criteria for what was perceived as a 'healthy' district at the time.

The property has historical significance for maintaining the residential use for which the building was originally constructed in 1907. This significance was effectively reinstated post 1993 when extensive internal repairs and alterations were implemented to return the house to a single family dwelling following its conversion to a multiple occupancy dwelling circa 1947.

The association of the site with the Australian Army in 1944 does not demonstrate strong historical significance, in particular considering the brevity of their use of the site (the army vacated Ben Lomond on 11 May 1944). It is noted that despite clearance of the relevant file for public access, no details are available as to its specific use by the military.

37 Pennant Avenue satisfies Criterion A at a LOCAL level.

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Criterion B - Historical Associations

An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (State significance); OR

An item has strong or special association with the life or works of a person, or group of persons, of importance in the cultural or natural history of the local area (local significance).

The land on which Ben Lomond was later built was part of the property of John Blaxland, who was the son of Gregory Blaxland, one of the explorers who crossed the Blue Mountains in 1813. As such, while the property is not directly connected with explorer Gregory Blaxland, the land on which the site was subsequently established was owned by John Blaxland, who himself was a prominent local figure. John Blaxland became a merchant, and was later a director of the Australian Joint Stock Bank and an auditor of the City Bank. He was a member of the Legislative Council of New South Wales from 24 November 1883 until 26 January 1894. John Blaxland owned the land from 1845 and it was subsequently owned by his wife Ellen following his death in 1884. John Blaxland resided at The Heritage, which was built for his family between 1838 and 1842 and is also located on Pennant Avenue.

Although the land on which Ben Lomond was ultimately built was owned for a time by Thomas Forster, son-in-law of Gregory Blaxland and one of the most successful squatters of the great pastoral expansion in eastern Australia, the historical association of Forster with the site is minor. Forster has a greater historical association with Brush Farm and Denstone House.

The survey plan for the Highlands Estate was prepared by surveyor John Weingardt, who was regarded as one of the State's most experienced private surveyors, known for his identification surveys, road formation and street alignments. He published *Identification Surveys, Freehold Title and Torrens Title* (1913), a standard reference still esteemed by surveyors for its clarity and accuracy and used, *inter alia*, by lawyers in assessing the culpability of negligence of surveyors and in deciding whether to sue for damages.²⁴

37 Pennant Avenue satisfies Criterion B at a LOCAL level.

Criterion C - Aesthetic Values

An item is important in demonstrating aesthetic characteristics and/or high degree of creative or technical achievement in NSW (State significance) OR

An item is important in demonstrating aesthetic characteristics and/or high degree of creative or technical achievement in the local area (local significance).

Ben Lomond has aesthetic significance as a good example of a federation period Queen Anne residence that is relatively intact, including its plan layout, although missing timber detailing to the ground floor verandah is noted. The house exhibits features that were typical of the style, including picturesque asymmetrical form, dominant roof with tall chimneys, verandahs on more than one side, bay windows, red-toned face brickwork and painted timber detailing.

Aesthetically, the design of the house reflects the dominant style in Australian domestic architecture during the decades immediately before and after 1900.

²⁴ Australian Dictionary of Biography online, <http://adb.anu.edu.au/biogs/bio/weinga01.htm#i00011032>

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The house was sited to take advantage of the topography and historically afforded district views. District views to the south west are still available from the first floor verandah, and while these still retain some significance, the views are now diminished by mature vegetation in the surrounding context.

Ben Lomond remains visible to the street within a restricted range. The views that are available are of aesthetic importance, including for the contemporary community.

Ben Lomond has aesthetic significance for its siting within generous grounds. The significance of the grounds relates largely to the relationship between the house and the street as provided by the primary entrance from Pennant Avenue, which historically included an entrance driveway in a similar location to the current one, and the relationship between the house and its rear service areas, which historically included a range of outbuildings adjacent to the north west boundary.

Historically, the site was largely devoid of vegetation, a situation that remained until at least the middle of the nineteenth century. A number of mature trees currently located both on the site and adjacent to the site boundary, however, have aesthetic significance for the amenity value that they provide to the site and the surrounding locality. The mature trees that make a significant contribution to the garden setting of Ben Lomond include the Lilly Pilli trees on the north western boundary, the Chinese Elm tree to the rear of Ben Lomond and the mature eucalyptus tree located on the nature strip external to the site boundary.

37 Pennant Avenue satisfies Criterion C at a LOCAL level.

Criterion D - Social Values

An item has strong or special association with a particular community or cultural group in NSW for social, cultural or spiritual reasons (State significance); OR

An item has strong or special association with a particular community or cultural group in the area for social, cultural or spiritual reasons (local significance).

No formal community consultation or separate assessment of the site's social values has been undertaken, however as a site that has always been a privately owned residence, Ben Lomond and grounds have not been found to have strong or special association with a particular community or cultural group in NSW or the local area.

The association of the site with the Australian Army in 1944 does not demonstrate strong social significance, in particular considering the brevity of their use of the site (the army vacated Ben Lomond on 11 May 1944). It is noted that no details of their use of the property have been made available.

37 Pennant Avenue does not satisfy Criterion D.

Criterion E - Technical Values

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (State significance) OR

An item has potential to yield information that will contribute to an understanding of the area's cultural or natural history (local significance).

Any subfloor archaeological deposits within Ben Lomond have the potential to reveal information about the early twentieth century occupation of the house. The analysis and interpretation of the historic site elements, including weatherboard shed, may provide evidence of the material culture of the various occupants of the site.

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The potential archaeological remains of the former entrance drive may be present on the site. While this may confirm its location and layout on the site, this information is already available from the historic aerial photographs.

37 Pennant Avenue satisfies Criterion E at a LOCAL level.

Criterion F - Rarity

An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (State significance) OR

An item possesses uncommon, rare or endangered aspects of the area's cultural or natural history (local significance).

The site of 37 Pennant Avenue and all of its elements do not possess uncommon, rare or endangered aspects of NSW's or the local areas cultural or natural history.

37 Pennant Avenue does not satisfy Criterion F.

Criterion G - Representativeness

An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places or cultural or natural environments (State significance); OR

An item is important in demonstrating the principal characteristics of a class of the area's cultural or natural places or cultural or natural environments (local significance).

Ben Lomond is has representative significance as an example of an early twentieth century residence built on a ridge by a prosperous family, as demonstrated by the family ownership of several lots within the Highlands Estate.

37 Pennant Avenue satisfies Criterion G at a LOCAL level.

4.2.1 Levels of Significance Matrix

Criterion	Description	Level of Significance
A	An item is important in the course, or pattern, of NSW's / the local area's cultural or natural history.	LOCAL
B	An item has a strong or special association with the life or works of a person or group of persons, of importance in NSW / the local area's cultural or natural history.	LOCAL
C	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW / the local area.	LOCAL
D	An item has a strong or special association with a particular community or cultural group in NSW / the local area for social, cultural or spiritual reasons.	-
E	An item has potential to yield information that will contribute to an understanding of NSW's / the local area's cultural or natural history.	LOCAL
F	An item possesses uncommon, rare or endangered aspects of NSW's / the local area's cultural or natural history.	-
G	An item is important in demonstrating the principal characteristics of a class of NSW's / the local area's cultural or natural places or cultural or natural environments.	LOCAL

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4.3 Statement of Significance

The site of 37 Pennant Avenue has local historic significance for its association as part of the property owned by John Blaxland, son of explorer Gregory Blaxland and distinguished local figure who served as a member of the Legislative Council of New South Wales from 1863 to 1884. Following the death of his wife, Ellen Blaxland, in 1903, The Hermitage estate was subdivided and 37 Pennant Avenue became part of the Highlands Estate, as surveyed by prominent surveyor John Weingarh, which was one of the first residential estates to capitalise on the appeal of Ryde as an elevated location perceived to be a 'healthy' district. This historic significance is enhanced by the property maintaining the residential use for which it was originally established in 1907.

Ben Lomond is representative of an early twentieth century residence built on a ridge by a prosperous family and the house represents the dominant style of Australian domestic architecture in the period of its construction. The house has local aesthetic significance as an example of a federation Queen Anne style residence that is largely intact. The house retains important features that are characteristic of the style, including picturesque asymmetrical form, variety of roof shapes with terracotta ridge ornament and tall chimneys, wide timber verandahs featured on multiple elevations, bay windows, red-toned face brickwork and painted timber details. The siting of Ben Lomond within generous grounds is also significant, in particular as demonstrated in the relationship between the house and the street as provided by the entrance driveway and the relationship of the house to its rear service areas, traditionally located adjacent to the north west boundary.

Although historically vegetation on the site was limited, a number of mature trees both on the site and in its immediate vicinity make a significant contribution to the present garden setting of Ben Lomond. These landscape elements, including mature Lilly Pill trees on the north western boundary, Chinese Elm tree to the rear of Ben Lomond and the eucalyptus tree located on the nature strip adjacent to the site boundary, have aesthetic significance for the amenity value that they provide to both the site and the surrounding locality.

Also of local aesthetic significance are the views to Ben Lomond that are available within a restricted range extending from the western corner of the original allotment to the south eastern boundary in the vicinity of the entrance drive. Ben Lomond makes a positive visual contribution to its surroundings within the limited viewpoints that are available from the public domain. District views from the house also remain available from the first floor verandah to the south west, although these have been diminished by mature vegetation in the surrounding context beyond the site.

The site has some research potential associated with the original entrance drive to the site, which was in close proximity to the current entrance drive, although information about its location and layout are already available from historic aerial photographs. There is also potential for subfloor archaeological deposits within Ben Lomond which may provide evidence of local significance about the material culture of the various occupants of the site.

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GRADING OF SIGNIFICANCE

The following section determines a level of significance for the individual elements of the place or the various components of a place may contribute differently to its overall heritage value. To determine levels of significance the terms Exceptional, High, Moderate, Little and Insignificant are used. These gradings of significance are based upon the established criteria set down in the NSW Heritage Manual, *Assessing heritage significance, 2001*.

<http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/assessingheritagesignificance.pdf>

Grading reflects the contribution that the element makes to the overall significance of the item (or the degree to which the significance of the item would be diminished if the component were removed or altered).

The grading or ranking of significance of the site at 37 Pennant Avenue has been assessed in terms of the following aspects of significance:

- Original or early construction (relative age)
- Original or early architectural/aesthetic quality
- Ability to demonstrate a rare quality, craft of construction process
- Integrity and degree of intactness of spaces and physical fabric
- Extent and quality of subsequent alterations/additions

The site was inspected by GCP Architects in December 2014. Inspections were visual only and no fabric was opened up. In accordance with procedures recommended in the Conservation Plan, the significance of the various elements of 37 Pennant Avenue has been assessed in accordance with the criteria listed above and these are graded according to the level of their contribution to the overall significance of the place.

The term interpretation or interpretability is used in the sense of the ability to explain the meaning of the place, or making the significance of the place understood, or more meaningful. It is also used when a component is of slight or no significance, meaning it is difficult to interpret or unable to be interpreted, not an important function, often subject to alteration, detracting from significance and/or significant fabric.

Grading	Description of grading	Status
Exceptional	Rare or outstanding element directly contributing to an item's (the site's) local and State significance. Usually high degree of undisturbed fabric or attributes that embody heritage significance. Loss or alteration, or incompatible works to it or in its vicinity would greatly diminish its heritage value. Has a high degree of interpretability	Fulfills criteria for local or State listing. Elements and fabric that embody/demonstrate significance values must be preserved. Preserve, restore, reconstruct in accordance with the Burra Charter. If adaptation is necessary for the continued use of the item, minimise changes, do not remove or obscure significant fabric. Design changes so they are reversible.
High	High degree of original or early fabric. Demonstrates a key element of the item's (site's) significance. Alterations do not detract from significance. Can be easily interpreted and understood providing information	Fulfills criteria for local or State listing. Elements and fabric that embody/demonstrate significance values should be preserved. Preserve, restore, reconstruct in accordance with the Burra Charter. If

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Grading	Description of grading	Status
	<p>about the changing patterns of use of the place.</p> <p>Existing disturbance and evidence of change does not detract from its individual or contributory significance. Loss or unsympathetic further disturbance or change of it or in its vicinity would diminish significance.</p>	<p>adaptation is necessary for the continued use of the item, minimise changes, do not remove or obscure significant fabric. Design changes so they are reversible. In this case the condition of some of the elements will affect the feasibility of conserving them.</p>
Moderate	<p>Altered or modified elements. Elements with little heritage value, but which contribute to the overall significance of the item (site). The elements are capable of being interpreted.</p> <p>Loss or unsympathetic further disturbance or change is likely to diminish heritage significance.</p>	<p>Fulfils criteria for local or State listing.</p> <p>Aim to retain most of the significant fabric. Conservation of the overall form and configuration is desirable. Some of these items are already substantially altered and can accommodate further major changes. Compatible new construction can be added and fabric may be removed in part as necessary to accommodate new uses. If adaptation is necessary, more changes can be made than would be possible for fabric of higher significance, but the same principles apply. Wherever possible, additions should be designed to be reversible. Retention may depend on issues other than heritage value, such as financial viability.</p>
Little	<p>Alterations may detract from significance and may be difficult to interpret.</p> <p>Loss or unsympathetic disturbance may diminish individual heritage significance but would not diminish the overall significance of the place.</p> <p>Includes modifications where, although they indicate the changes in use over time, the actual fabric is not significant.</p>	<p>Does not fulfill criteria for local or State listing.</p> <p>Fabric of little significance may be retained, modified or removed as required for the future use of the place, provided that its removal causes no damage to more significant fabric. In the case where the fabric is neutral and the configuration is significant, the fabric should be retained until replacement is required.</p>
Intrusive	<p>Elements that, in their present form, damage the item's heritage significance. This category includes visually intrusive fabric, which obscures the reading of the significant uses and periods of development.</p>	<p>Does not fulfill criteria for local or State listing.</p> <p>Remove or alter intrusive fabric to reduce the adverse impact when the opportunity arises, whilst minimising damage to adjacent fabric of significance.</p>

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5.1 Levels of Significance Elements and Spaces

The following site plan shows the relative significance of the site and its elements according to the definitions above.

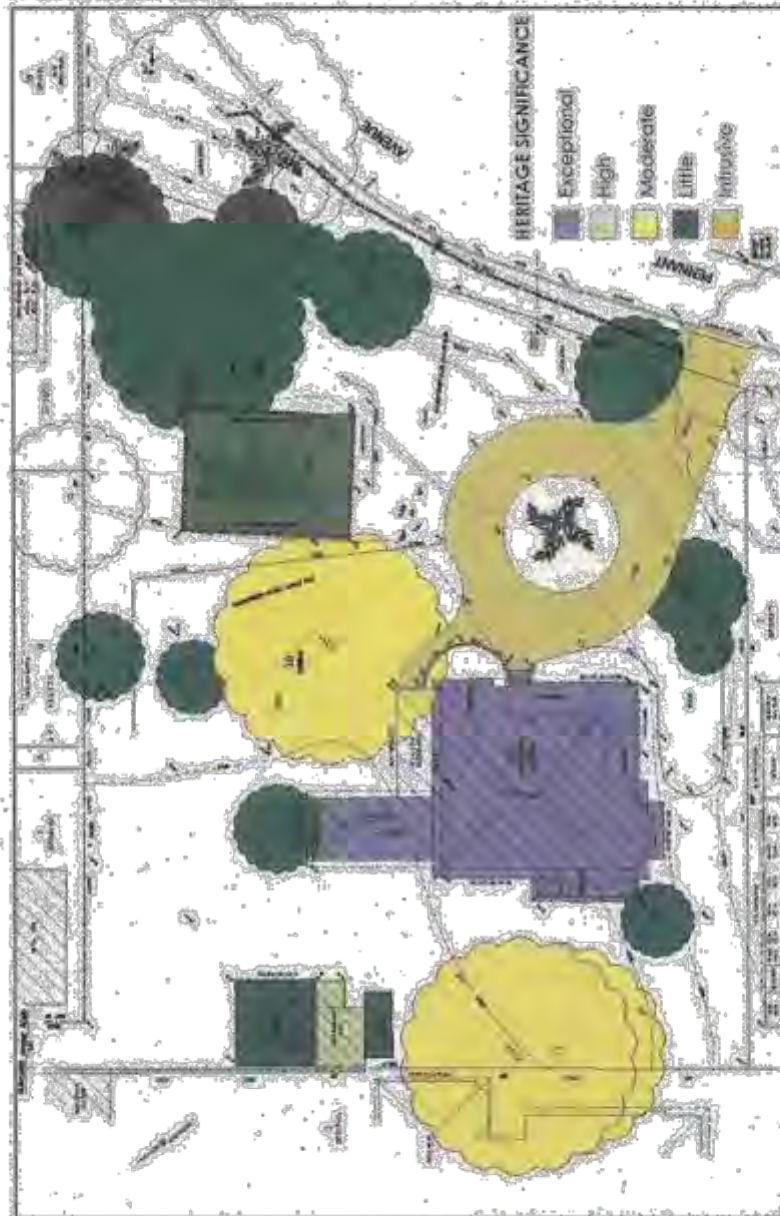


Figure 5.1 – Site Plan showing Gradiings of Significance for 37 Pennant Avenue, Denistone
 Source: CCP Architects 2015

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5.1.1 Built Elements

BEN LOMOND *Level of Significance: Exceptional*

Completed in 1907, possibly to a design by architect John Reid, the house reflects the contemporary tastes of relatively prosperous members of society at that time. While the siting of Ben Lomond on a ridge and the general design reflects the aspirations of upper middle class society, the architectural Queen Anne style was dominant in residential construction from the last decade of the nineteenth century to the first decade of the twentieth century and was therefore common in this regard.

The house is of high aesthetic significance and is well-constructed generally, although it is not exceptional in these aspects. The house is of exceptional significance in the context of its contribution to the site's significance.

WEATHERBOARD SHED *Level of Significance: High*

The aerial photographs show that outbuildings were traditionally located next to the north west boundary of the site. The ongoing presence of structures in this location to support the residential use of the property demonstrates a strong relationship between the house and its rear service areas. As a relatively early shed from the interwar period, or possibly earlier, the weatherboard shed is of high significance in the context of its contribution to the site's significance.

OTHER OUTBUILDINGS *Level of Significance: Little*

The presence of outbuildings adjacent to the north west boundary demonstrates the relationship between the house and rear service areas, however the actual fabric of the other outbuildings is of low quality and of little significance historically. The removal or replacement of the outbuildings located to each side of the interwar shed would not diminish the overall significance of the place.

5.1.2 Landscape Elements

POOL, PUMPHOUSE, ASSOCIATED SURROUNDS AND FENCING *Level of Significance: Little*

The pool and pumphouse, including concrete surrounds, paving, brick piers and steel fencing are modern additions that make a relatively low contribution to the significance of the site. The removal of these elements would not diminish the overall significance of the place.

ENTRANCE DRIVEWAY (CARRIAGE LOOP) *Level of Significance: Moderate*

The present entrance drive from Pennant Avenue is a modern element that is located in a similar location to the original entrance drive, but adopts a different form, namely the carriage loop. This element has significance for being in a similar location to the original drive, thus maintaining the original point of entry and open character that facilitates the principal views to Ben Lomond. It is of moderate significance as the fabric and form in themselves are not original or early elements, however an entrance drive should be maintained in this location.

LILLY PILLIES AND CHINESE ELM *Level of Significance: Moderate*

Historically, the site did not have decorative planting or formal landscaping and was in fact largely devoid of vegetation. The nominated trees have moderate significance, however, for their contribution to the garden setting of Ben Lomond and to the amenity of the locality.

OTHER TREES ON SITE *Level of Significance: Little*

The remaining trees on site are of relatively recent origin and as smaller, often poorer quality specimens, do not make the same level of contribution to the site amenity as the nominated trees above. The Indian Coral tree is included in this category as the element does not contribute to the overall significance of the place. The removal or replacement of these trees would not diminish the overall significance of the place.

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HERITAGE CURTLAGE

6.1 Introduction

The following definition of heritage curtilage and its application to the site at 37 Pennant Avenue is based on Heritage Curtilages, the 1996 publication by the NSW Heritage Office and the Department of Urban Affairs and Planning (now known as the Heritage Division, Office of Environment and Heritage).

In these guidelines the term heritage curtilage means the area of land (including land covered by water) surrounding an item of heritage significance which is essential for retaining and interpreting its heritage significance. It can apply to either:

- land which is integral to the heritage significance of items of the built heritage; or
- a precinct which includes buildings, works, relics, trees or places and their setting.⁷⁸

The nature of heritage curtilages can vary, depending on the purposes for which they are established. The need for curtilages around significant items in the built environment is generally understood. A curtilage can also be used, however, to establish the boundaries of a visual catchment zone, including all or part of a cultural landscape, which may be worthy of special protection.⁷⁹

The heritage curtilage should contain all elements contributing to the heritage significance, conservation and interpretation of a heritage item. The curtilage is defined by a line on a map, which will not necessarily coincide with the property boundary.⁸⁰

6.2 Establishing the Heritage Curtilage to 37 Pennant Avenue

Heritage curtilage can be classified as one of four types:

- Lot Boundary Heritage Curtilage
- Reduced Heritage Curtilage
- Expanded Heritage Curtilage
- Composite Heritage Curtilage

The research and analysis in the preceding sections of this report provide the basis for the proposed heritage curtilage for the site at 37 Pennant Avenue, Denistone. For this site, a reduced heritage curtilage that is less than the lot boundary of the property may be established that is sufficient to maintain the heritage significance of the site and its elements. The reduced heritage curtilage accords with the line of subdivision as proposed in L2A2015/5 as it provides for the retention of the major aspects of significance for the property as identified in the preceding sections of this report. In conjunction with this, an expanded heritage curtilage that includes Pennant Avenue itself in the vicinity of the entrance drive is appropriate as this area provides the most prominent observation points from which the Lamond can be viewed, interpreted and appreciated, as demonstrated in the view analysis (refer Section 3.3).

The recommended heritage curtilage is illustrated below:

⁷⁸ Heritage Office and Dept. of Urban Affairs & Planning, 1996, *Heritage Curtilages*, p.6

⁷⁹ *Ibid.*, p.6

⁸⁰ *Ibid.*, p.6

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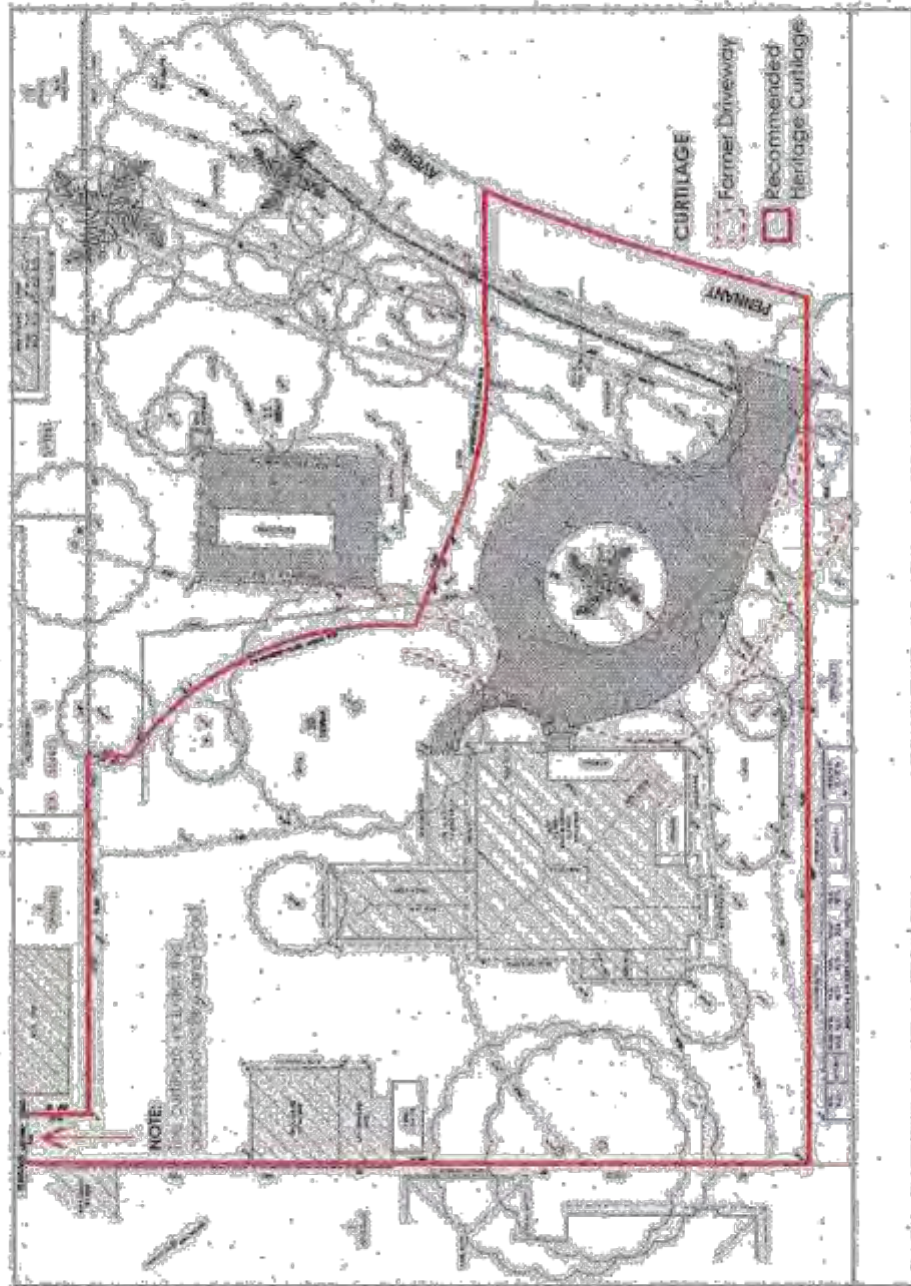


Figure A.1 - Recommended Heritage Curtilage for 37 Pennant Avenue, Denistone
Source: GCP Architects 2015

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6.3 Assessment of the Recommended Heritage Curtilage

The following sections assess the recommended heritage curtilage with consideration for the contributing factors identified in the *Heritage Curtilages* document and summarised below:

6.2.1 Historical Allotments

If may be important for historical reasons to display a heritage item in its relationship to its original allotment...Even in cases where the original boundaries have been broken up through subsequent subdivisions, they may be marked by features such as walls, paths, roads and plantings. It is important to identify and retain these features, as they may provide evidence of the original land grant, a significant event in the properties history or its association with a particular owner.⁷⁹

A curtilage should contain evidence of any cultural associations as well as providing a visual and aesthetic context for the item.⁸⁰

Response:

The boundaries of the existing allotment will continue to be defined by Pennant Avenue beyond the recommended curtilage boundary and by the paling fence on the north east boundary of the site. Furthermore, as part of the current Development Application LDA2015/5, new fencing is proposed to the frontage of the entire site to Pennant Avenue. This approach of providing a unified fence in front of each Torrens Title allotment will facilitate interpretation of the existing site boundary.

The rear access to Blaxland Road is included in the recommended curtilage, which will aid interpretation of the fact that 37 Pennant Avenue and allotments fronting Blaxland Road were originally in single ownership.

6.2.2 Design, Style and Taste

The design of a heritage item and its grounds can reveal much information about the architectural ideas, style and taste of its historical period. It can also be an essential part of the heritage significance of the item. Associated elements such as driveways, visual axes, plantings and fencing can provide valuable additional interpretive information. Accordingly, a heritage curtilage should include these elements.⁸¹

Response:

The documentary evidence demonstrates that the eastern portion of the site was traditionally a grassed area largely devoid of trees, structures or other landscape elements. In particular, the 1943 aerial photograph shows a concentration of activity at the rear of the site (north corner) and a considerable number of outbuildings adjacent to the north west boundary, demonstrating a strong relationship between the Ben Lomond and its associated service area. The entrance drive from Pennant Avenue is also a prominent feature historically.

The recommended curtilage includes the area of the main entrance in addition to the rear service area, including associated elements such as the driveway (replaced with carriage loop) and weatherboard timber shed. In addition, mature trees that contribute to the

⁷⁹ Ibid. p.10

⁸⁰ Ibid. p.11

⁸¹ Ibid. p.12

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garden setting of Ben Lomond and the amenity value of the area generally are within the recommended curtilage.

6.2.3 Functional Uses and Interrelationships

The significance of heritage items often involves their wider setting. It is often the interaction of a heritage item with its surroundings through activities, functions and visual links that enables its heritage significance to be fully appreciated...Well-considered landscape curtilages can provide physical evidence of the historical associations between the land and successive human activities.⁸²

Response:

The recommended curtilage allows the functional links between house its rear service areas, including access way to Blaxland Road, and the house and main entrance drive to be maintained.

6.2.4 Visual Links

The heritage significance of some properties includes the visual link between them and a harbor, river, transport mode, topographic feature, area of work or recreational area. The heritage significance of some buildings and their gardens can be best interpreted and appreciated if their original views of a river, harbor or mountain range are retained. It is important that planning controls or other development guidelines ensure any new development which may be introduced respects these visual corridors.⁸³

Response:

The recommended curtilage does not have any impact on:

- the existing visual link between Ben Lomond and district views to the south west; and
- the visual presentation of Ben Lomond to Pennant Avenue from the primary entrance.

These views to and from the house contribute to its significance and are the primary views as identified in the visual analysis.

The visual analysis clearly demonstrates that the presence of dense vegetation in the eastern corner of the site and beyond in the surrounding context both obscures views to Ben Lomond from the east and prevents views from the house to the east (refer Section 3.3 View Analysis – View 1 and View 10).

Historically, the eastern corner of the site was an open grassed space, however it is not feasible to restore this presentation, as even if the site vegetation were cleared, vegetation beyond the site boundary (including mature eucalyptus tree on the nature strip) combined with existing development (including 2 storey multiple occupancy residential development in this view line) would continue to impede this view. The benefits of even attempting to reinstate this view are, regardless, limited by the fact that pedestrian movement adjacent to the property is hampered by the lack of footpaths and narrow nature strip next to the roadway (refer Figure 3.5) and vehicular traffic from the east is separated from the site by the split road arrangement (refer Figure 3.1), which limits their visual access to it.

The recommended curtilage respects and does not interfere with the existing established view corridors that contribute to the significance of the property.

⁸² *ibid.*

⁸³ *ibid.* p.14

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6.2.5 Scale

Care is needed to ensure there is a satisfying proportional relationship between the heritage item and the area of land proposed as a curtilage.⁸⁴

Response:

The recommended curtilage would comprise a site area of 1,938m² and the area of the building footprint of Ben Lomond, including surrounding verandahs, is approximately 250m² i.e. the sizable residence would only occupy less than 13% of the site area retained within the recommended curtilage. As such, the recommended curtilage provides a generous setting at a scale that will continue to convey the importance of the property. Well-proportioned landscaped areas are retained to each side of Ben Lomond to provide a balanced effect and ensure the ongoing functionality of the landscape associated with the house.

6.2.6 Significant Features

These include bridges, outbuildings, gazebos, ornamental pools, planting features, moon gates, tennis courts, wells, paths and driveways, fences, jetties or wharves. They may have historical, aesthetic, scientific or social importance which contribute to the heritage significance of the property.⁸⁵

Response:

The recommended curtilage includes the features of the property that contribute to its significance as follows:

- The entrance driveway, including the area of the historic entrance drive, which was configured differently to the present carriage loop.
- The outbuildings adjacent to the north west boundary. Although the weatherboard shed is the only outbuilding of high contributing significance to the property, the ongoing siting of outbuildings in this location is of some significance and continues to demonstrate the strong functional relationship between the house and its rear service areas that occurred traditionally.
- Mature trees that, although not historically significant, contribute to the amenity value of the site and surroundings. Twelve trees will be retained within the recommended curtilage and three trees will remain on the Council nature strip, which although external to the site boundary will continue to provide amenity.

6.2.7 Vegetation

Trees or shrubs may be the sole remnants of the original garden, avenue entry drives, perimeter or feature planting. They may have historical, aesthetic and scientific value for such reasons and be significant in their own right. There may also be smaller plantings, including trees, shrubberies, perennials and ground covers which were part of the garden design and setting of a building. These plantings should be included within a heritage curtilage and can often help to define its perimeter.⁸⁶

Response:

Mature trees that contribute to the garden setting of Ben Lomond and the amenity value of the area generally are included within the recommended heritage curtilage. The eastern

⁸⁴ Ibid. p.15

⁸⁵ Ibid. p.16

⁸⁶ Ibid. p.17

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corner of the site was traditionally lacking in vegetation and presently within the site boundary, the only substantial tree in this area is the Indian Coral tree, which has been assessed to be of little significance and is classed as a noxious weed in the City of Ryde. The mature eucalyptus tree on the nature strip external to the site also has high amenity value.

6.2.8 Archaeological Features

Many properties, particularly remainders of original estates, contain archaeological elements such as old foundations, wells, pits, paths and drains. These elements, which have research potential, may be underground...[and] should be included within the curtilage.⁸⁷

Response:

The documentary evidence demonstrates that the eastern portion of the site was traditionally a grassed area largely devoid of trees, structures or other landscape elements, such that archaeological features in this area are not anticipated. The recommended curtilage, therefore, would not adversely impact on archaeological features.

6.3 Conclusion

The *Heritage Curtilages* publication provides the following general principles that should be satisfied in establishing a heritage curtilage that is not defined by the lot boundary.

- The significance of the original relationship of the heritage item to its site and locality should be conserved.

The recommended heritage curtilage retains the siting of Ben Lomond within generous grounds, and enables the traditional relationship between the house and the street, as provided by the entrance driveway, and the relationship of the house to its rear service areas to be demonstrated. The site will maintain its relationship to the locality via the retention of existing established views.

- An adequate setting for the heritage item should be provided which enables its heritage significance to be maintained.

Ben Lomond retains a generous setting within the recommended curtilage, which provides for the retention of well-proportioned landscaped areas to each side of the house. Within this setting, the footprint of Ben Lomond occupies less than 13% of the retained site area, such that the scale of the setting will continue to convey the importance of the property.

- Adequate visual catchments or corridors should be provided to the heritage item from major viewing points and from the item to outside elements with which it has an important visual or functional relationship.

The recommended curtilage respects the existing established view corridors that contribute to the significance of the property and does not have any impact on the existing link between Ben Lomond and district views to the south west or the primary presentation of Ben Lomond from Pennant Avenue (refer Section 6.2.4). In particular, the expansion of the curtilage to include Pennant Avenue itself in the vicinity of the entrance drive is important as this area provides the most prominent observation points from which Ben Lomond can be viewed, interpreted and appreciated, as demonstrated in the view analysis.

⁸⁷ Ibid. P.20

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- Adequate buffer areas should be provided to screen the heritage item from visually unsympathetic development or to provide protection from vibration, traffic noise, pollution or vandalism.

The recommended heritage curtilage provides a sufficient buffer area around Ben Lomond to provide for its protection. The recommended curtilage boundary is located behind the main two storey volume, adopting a gentle curve adjacent to, but clear of, the carriage loop and then curving in a protective arc at the rear to provide a generous clearance from the rear corner of Ben Lomond and the Chinese Elm tree, which in itself provides a protective buffer. The organic lines follow a deliberate strategy for the curtilage boundary to appear like a garden wall to facilitate its integration in the landscape setting of Ben Lomond. The treatment of the boundary wall is addressed in the conservation policies.

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CONSERVATION POLICIES

7.1 Introduction

This section contains Conservation Policies, aimed at ensuring that any proposed works to the building and site at 37 Pennant Avenue, Denistone, are undertaken in a manner that will respect its cultural significance.

The policies are pre-faced by a short background outlining the reasoning behind each policy, and then by strategies and guidelines as relevant. The policies below are initial policies prepared for this Heritage Report on the basis of the preceding research and analysis, and it is intended that they be developed for any Conservation Management Plan that may be prepared for the site.

7.2 Best Practice Heritage Management

7.2.1 Conservation of the Fabric

Background, Opportunities & Challenges

It is important that all significant physical fabric is appropriately conserved and managed in accordance with recognized conservation methodology. The Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (The Burra Charter 2013) has been widely accepted across Australia as the underlying methodology by which all works to heritage buildings and sites are undertaken.

Policy 1 - Conservation of the Fabric

All work undertaken to the historic fabric of the significant buildings and their settings should be done in accordance with current conservation and planning methodologies, including the principles of the Burra Charter.

Strategies/Guidelines

- Ensure the conservation of the place, using all the processes for care of the place including maintenance, preservation, restoration, adaptation and interpretation to retain the cultural significance embodied in the fabric, use and associations.
- Refer Australia ICOMOS Charter for the Conservation of Places of Cultural Significance Burra Charter 2013.

<http://australia.icomos.org/publications/burra/>

7.2.2 Maintenance

Background, Opportunities & Challenges

Regular maintenance and repair, including regular inspections, are important factors in the conservation process.

Policy 2 - Maintenance of the Fabric

A regular maintenance program that will guide the future maintenance of the site and its elements should be instigated.

Strategies/Guidelines

- Preserve the significant buildings (in the short term) where required by stabilising deterioration, including making water/tight, structurally stable etc.

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- Preserve the significant buildings (in the longer-term) by continuing maintenance, the single most important process of conservation. Carry out regular maintenance inspections.
- Regular inspections and maintenance must be carried out by persons with demonstrated skills and experience in heritage building work.

7.2.3 Significance

Background, Opportunities & Challenges

The site and building at 37 Pennant Avenue, Denistone, has been assessed as being of local significance and is therefore worthy of protection in accordance with current best practice.

Policy 3 - Retention of Significance

The Statement of Significance should be adopted as the basis for heritage management. All decisions should consider and seek to retain the values identified in the Statement of Significance.

Strategies/Guidelines

- This heritage report has endeavoured to identify why the site of 37 Pennant Avenue as a whole and each of its major elements are significant. The research and analysis has informed the understanding of the place in order to develop the statement of cultural significance and this, in conjunction with the subsequent significance assessment of individual elements within the site and conservation policies, should guide future planning and work.
- Prepare heritage impact statements when changes are proposed to the use or fabric of the place.

7.2.4 Conservation Policies

Background, Opportunities & Challenges

The conservation policies are intended to assist and guide the building owner, consultants, contractors and occupants through the processes of conserving, repairing, maintaining and using the site. The conservation policies provide a set of guidelines to inform future decisions. Decisions about future work including repair, conservation, maintenance works or future additions and development should take into consideration the significance of the place as a whole as well as of the affected separate parts and their interrelationship. The conservation policies are intended to manage change, rather than prohibit it.

Policy 4 - Conservation Policies

Use these conservation policies as a basis for the future management of the place. The policies should be applied within the broader context of other heritage management and asset management documents including statutory requirements

Strategies/Guidelines

- The conservation policies make recommendations regarding the conservation of the place so that any proposed future intervention will not result in inappropriate loss of

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cultural significance. It is intended to be of practical use to the owners of the site, enabling them to make decisions about the site having due regard to its significance.

- It is important for the owners to be aware of the processes that need to be followed when proposing maintenance, or other work relating to modification of significant fabric.

7.3 Recording Change

Background, Opportunities & Challenges

Archival records as well as the systematic recording of work at the site are valuable resources to support and ensure the proper overall management of heritage sites. They record the environment, aesthetics, technical skills and customs associated with the creation and use of heritage items before they are altered, removed or lost either by development, incremental change or deterioration. Well-managed records enhance the understanding of the heritage item, its significance and the impact of change as part of the conservation and management process.

Policy 5 - Recording Change

Changes to the site should be carefully recorded.

Strategies/Guidelines

- Record photographically before, during and after changes to the fabric (building and landscape) if it is conceded that changes to the fabric can tell an important story.
- All changes to significant fabric should be recorded in accordance with recording guidelines issued by the Heritage Division - How to prepare Archival Records of Heritage Items 1998.
<http://www.environment.nsw.gov.au/resources/heritagebranch/heritageinfoarchivalrecords.pdf> and the Photographic Recording of Heritage Items Using Film or Digital Capture 2006
<http://www.environment.nsw.gov.au/resources/heritagebranch/heritageinfoarchivalrecordsrecording2006.pdf> prepared by the NSW Heritage Division.

7.4 Skills and Experience

Background, Opportunities & Challenges

The Boro Charter encourages the use of skilled and appropriate professional direction and supervision from a range of disciplines for conservation activities. The skills and experience required and creative approaches taken in the context of a conservation project are quite different to those applied to the design and construction of new buildings.

It is important to involve specialists and contractors who have experience in heritage projects in planning, design and work for any changes to significant elements and features that are greater than day-to-day maintenance and cleaning.

Policy 6 - Appropriate Expertise and Skills

Skilled conservation professionals, specialists and contractors should be engaged to document, advise or implement conservation or upgrading works of the site.

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Strategies/Guidelines

- Work on heritage fabric should be carried out by tradespeople or professionals with demonstrated skills and experience in heritage building work, for example a conservation architect for technical matters concerning heritage fabric, skilled bricklayers and carpenters for brick and timber repairs respectively. Seek proof of their skill levels.
- For any work on traditionally constructed parts of the building, use traditional methods of construction, maintenance and repair.
- All contractors or tradespeople working at the site should be informed of the significance of the building and care should be taken to prevent damage to heritage fabric. This information should form part of the site induction.

7.5 Use and Building Code Compliance

7.5.1 Use

Background, Opportunities & Challenges

The continued use of the site is important for retaining the significance of the site. The present residential use continues the historic use and best presents Ben Lomond and its features.

While the documentary evidence indicates that Ben Lomond was at one time converted into 'flats', single residential use of the house is preferred as it involves the least intervention in the fabric. Such use also has least impact as the requirements for fire safety, and access and egress from a single residence are much less than for any more intensive uses.

Policy 7 - Use of the Building

Any future uses proposed for 37 Pennant Avenue must retain or enhance the significance of the place and be a compatible use. The preferred use of the property is residential and the site should retain amenity that supports the residential use.

Strategies/Guidelines

- A compatible use is one which respects the cultural significance of the place and conserves the significant fabric and spaces and where appropriate recovers significance.
- The use of the place should be organised in a way that allows the conservation of the fabric.

7.5.2 Code Compliance

Background, Opportunities & Challenges

The building should not be used for any purpose for which compliance with building regulations will adversely affect its significance. The National Construction Code (NCC, incorporating the BCA – The Building Code of Australia) has been adopted by planning and building legislation in NSW as the technical standard for design and construction and operation of buildings. The Building Code of Australia permits alternatives to its deemed-to-

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satisfy requirements provided that these can be demonstrated to achieve at least the same level of compliance with its performance requirements.

In many cases, heritage buildings will not comply with the deemed-to-satisfy requirements because of the original construction methods and materials used. In terms of ongoing use, and possible changes to the building, compliance with building regulations may incur loss of heritage significance.

Policy 8 – Building Use and Code Compliance

The building should not be used for any purpose for which building code compliance will require adverse changes to significant spaces or fabric.

Policy 9 – Compliance with BCA

Compliance with building regulations should be achieved using their objectives and performance requirements rather than deemed-to-satisfy provisions, where deemed to satisfy requirements in the BCA cannot be met without adverse heritage impact.

Strategies/Guidelines

- Where The Building Code of Australia deemed-to-satisfy requirements will result in adverse heritage impacts on the building use the alternative objectives and performance requirements instead.
- Consult The Fire, Access and Services Advisory Panel of the Heritage Council of NSW when proposals may have an impact on significant fabric and/or spaces.

7.6 Alterations and Additions to Ben Lomond

7.6.1 General

Background, Opportunities & Challenges

The following strategies and guidelines are designed to assist in managing the significant heritage values of the place, accepting that change is inevitable with most occupied and functioning heritage sites. Proposed changes should always be carefully considered in the context of the significance of the place and the potential for the change to impact on that significance.

To improve the living quality of the building, consideration could be given to internal alterations to the kitchens, bathroom, laundry and associated service areas.

Generally, proposed changes that impact on heritage significance should only be considered if:

- They allow for the recovery of areas or elements of greater significance;
- Care is taken to minimise the adverse effect on heritage significance and effort is made to negate the impact and enhance significance in some other way;
- The change helps to maintain the use, security/protection of the significant buildings/elements;
- There is no other alternative.

Policy 10 – Alterations and Additions - General

Any proposal for alterations or additions to Ben Lomond should demonstrate that there will be no unacceptable adverse heritage impact on the building or the site as a whole.

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Policy 11 – Visible Alterations and Additions

As Ben Lomond is visible from the public domain within a restricted range, no additions should be made to the south west and south east elevations or roof.

Strategies/Guidelines

- New work should be guided by the gradings of significance (to be developed in conjunction with any future CMP).
- No additions should occur to the upper floors of the building.
- The existing external building form including the roofscape and chimneys must be conserved and not obscured by any new addition including dormers, new floors, verandahs, etc. Roofs and roof finishes must not be altered.

7.6.2 Design and Detailing

Background, Opportunities & Challenges

New work that is sympathetically matched to the appearance and character of original work can be difficult to discern from original fabric on first inspection and this will become harder as introduced fabric ages.

New work in kitchens and bathrooms especially may take a more contemporary approach to design in accordance with contemporary heritage thinking.

Policy 12 – New work to be reversible

New work to Ben Lomond should be designed and detailed so that it is reversible and can be removed without adverse heritage impact.

Policy 13 – New work to be distinguishable

New work within Ben Lomond should be clearly distinguishable from existing work but should not be visually dominant over adjacent significant fabric.

Strategies/Guidelines

- New work should be recognisable as new work on close inspection, so as not to confuse the historical development of the building, but should not affect the integrity of the item.
- The design of minor alterations to the interiors should respect the historic form and detailing of the existing building.
- If so desired, the design of new kitchen and bathroom fitouts may take a more contemporary design approach.

7.6.3 New Elements

Background, Opportunities & Challenges

New development associated with Ben Lomond is acceptable where it will improve amenity and where it respects the cultural significance of the site. A primary objective is to maintain the integrity of the heritage elements and their setting and to facilitate the ongoing residential use which contributes to the cultural significance of the place.

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Policy 14 – Additions to Ben Lomond

It may be feasible to construct a new conservatory/ pergola and courtyard along the north west (rear) elevation of the kitchen wing to Ben Lomond, in association with opening up the kitchen wing to this elevation.

Policy 15 – New Outbuildings

Any new outbuildings required to service the use of the residence Ben Lomond should be located adjacent to the north west boundary where supporting buildings have traditionally been located. Any new structures must respect the fabric of the weatherboard shed.

Strategies/Guidelines

- The construction of a conservatory/ pergola and courtyard in association with the kitchen is possible, but should be subject to controls with regards to size, design and selection of materials.
- Any new outbuildings should be complementary in bulk and scale to the significant buildings on the site. New structures must not be of such a scale as to dominate the significant buildings or detract from their setting.

7.7 Landscape

Historically, 37 Pennant Avenue did not have decorative planting or formal landscaping, although did feature an entrance driveway and an area dedicated to the provision of support structures and sheds. Presently, some sheds remain present on the north west boundary and in addition, the yard features a variety of trees, including several mature trees with high amenity values.

Generally, gardening work does not require approval. Trees should not, however, be planted close to the houses as there is the potential for damage to the foundations.

Policy 16 – Landscaping

Landscaping is acceptable providing it is appropriate for the area and does not damage building fabric (e.g. the activity of tree roots). Removal of trees requires the approval of the Council of the City of Ryde.

Strategies/Guidelines

- The character of the rear yard should be retained as an open landscape area, with new service structures located adjacent to the north west boundary when required.
- An entrance drive should remain at the front of the property from Pennant Avenue and the visual connections between the Ben Lomond and the street should be retained.
- Landscape work should be preceded by an investigation of the substrate and any significant surviving earlier features, including the original entrance drive, should be retained or recorded.

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7.8 Setting

Background, Opportunities & Challenges

The landscape setting contributes to the significance of Ben Lomond, both historically and aesthetically and the scale of the setting provides evidence of the prosperity of the Freeman family.

Policy 17 – Setting

A landscape setting should be retained for Ben Lomond that has an appropriate proportional relationship to the house.

Strategies/Guidelines

- Refer to conservation policies addressing curtilage, future use and development as set out below for further comment on maintaining an appropriate setting for Ben Lomond.

7.9 Views

Background, Opportunities & Challenges

The front of the house is highly visible from the street in the immediate vicinity of the entrance drive, with other views available extending around to the west. Views from the house are also available from the first floor verandah to the south west.

Policy 18 – Significant Views

Conserve significant views and vistas associated with Ben Lomond and the site.

Policy 19 – Setting and Views

Maintain a landscape setting for Ben Lomond that allows existing established views to be maintained.

Strategies/Guidelines

- Refer to conservation policies addressing future use and development as set out below for further comment on maintaining existing views to the buildings.

7.10 Curtilage

Background, Opportunities & Challenges

The management of the site should include careful siting of any future development so that it will not impact on appreciation of the cultural significance of the place, including significant views. In this regard, it is critical to establish an appropriate curtilage.

Policy 20 – Curtilage

The recommended curtilage proposed in this Heritage Report should be used to guide future change to the place.

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Strategies/Guidelines

- The recommended curtilage incorporates aspects of the property contributing to its significance in accordance with the statement of significance, including an appropriate landscape setting to each side of Ben Lomond and the retention of significant views. While less than the property boundary in the eastern corner, it is sufficient to maintain the heritage significance of Ben Lomond within a generous landscape setting. The reduced curtilage is balanced by the expansion of the curtilage on the south east boundary across Pennant Avenue in the vicinity of the entrance drive, which is important to conserve the primary views of Ben Lomond.

7.9 Future Use and Development

Background, Opportunities & Challenges

Sensitive new development on the site may be appropriate, in particular to fund the conservation and ongoing maintenance of the significant buildings and grounds. Policies should be formulated which guide future development adjacent and external to the recommended curtilage to ensure that it complements the site's qualities.

Policy 21 – Areas Designated as Capable of Redevelopment

The area in the eastern corner of the site external to the recommended curtilage boundary may be sympathetically redeveloped. The preferred use is one that respects the significance and setting of the significant items and elements.

Strategies/Guidelines

This policy recognises that, in acknowledging the site's substantial size and local level of significance, there is potential within the site for new development within the grounds. The eastern corner of the site is a suitable location for new development as it:

- does not contain any elements of exceptional, high or moderate significance;
- is not associated with any documented historical use; and
- does not provide any view corridors either to or from Ben Lomond and its site.

Policy 22 – Landscape Setting

Any proposed future development should respect the landscape setting and limit the visual and physical impact on that setting, particularly in respect to visible areas when viewed from without the property.

Strategies/Guidelines

- The recommended heritage curtilage establishes an appropriate landscape setting for Ben Lomond that has considered and responded appropriately to the areas of the site that are visible. Future development should be designed and sited with consideration for this landscape setting.

Policy 23 – Landscape and Site Treatment

Landscaping is to be carried out in conjunction with any proposal for new development to ensure that new development is integrated into the garden setting of the site.

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Strategies/Guidelines

- New landscaping associated with any new development will enhance the garden setting and facilitate its integration within the total site.
- The recommended curtilage adopts organic lines to establish a 'garden wall' character to facilitate integration with the landscape setting.
- Any boundary fence associated with the recommended curtilage should be concealed by vegetation on each side so that it may be perceived to be part of the garden setting.

Policy 24 – Views

Major views to and from Ben Lomond and its site should not be adversely affected by proposals for new development.

Strategies/Guidelines

- The designated area that is capable of new development is appropriate for this purpose as it is not associated with any significant views to or from Ben Lomond and its setting. Future development in this location would not impact on the established views to or from Ben Lomond.

Policy 25 – Design

The design of new buildings in areas designated capable of redevelopment should respect the adjacent significant buildings and site.

Policy 26 – Bulk and Scale

New development should be subservient in bulk and scale to the significant buildings on the site. While two storey development is feasible, new structures must not be of such a scale as to dominate the significant buildings or detract from their setting.

Strategies/Guidelines

- Future development must be at a lower level than Ben Lomond to allow the original house to remain prominent.
- Strategies should be adopted to break up the building bulk, both physically and visually.

Policy 27 – Style and Materials

The style of new structures must complement the existing significant building but should not attempt to replicate it. Materials for new buildings should respect the materials of the existing significant building.

Strategies/Guidelines

- The inclusion of natural materials is appropriate to complement the landscape setting of Ben Lomond and the masonry construction of the original residence.

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CONCLUSION

This Heritage Report has provided additional historical research and subsequent analysis in order to provide a more thorough understanding of the place. This information has been used to identify why the site of 37 Pennant Avenue, as a whole and each of its major elements are significant. The statement of significance, as revised in this Heritage Report based on the additional information provided, expresses why the site is of value and identifies the major aspects that contribute to this significance. In the assessment of the current Development Application LDA2015/5, the following points summarised from the statement of significance, with commentary in *italics*, are relevant:

- Ben Lomond is representative of an early twentieth century residence... [it] represents the dominant style of Australian domestic architecture in the period of its construction.
- The federation Queen Anne style was widely employed in residential construction throughout Australia in the decade before and after 1900 and there are many surviving examples. Ben Lomond is a representative, but not a sole, example that will nevertheless be retained in total.
- The house has local aesthetic significance as an example of a federation Queen Anne style residence.
- The house has typical features of the style that, while not exceptional in themselves, contribute to its local aesthetic significance. These will be retained and conserved.
- The siting of Ben Lomond within generous grounds is also significant, in particular as demonstrated in the relationship between the house and the street as provided by the entrance driveway and the relationship of the house to its rear service areas, traditionally located adjacent to the north west boundary.
- The documentary and physical evidence demonstrates a strong relationship between the house and its primary entrance drive and also its rear service areas. These relationships and associated significant elements will be retained and conserved. There is no evidence demonstrating use of the eastern corner of the site.
- Landscape elements, including mature Lilly Pill trees on the north western boundary, Chinese Elm tree to the rear of Ben Lomond and the eucalyptus tree located on the nature strip adjacent to the site boundary, have aesthetic significance for the amenity value that they provide to both the site and the surrounding locality.
- These landscape elements, while not historically significant, will be retained.
- Ben Lomond makes a positive visual contribution to its surroundings within the limited viewpoints that are available from the public domain. District views from the house also remain available from the first floor verandah to the south west.
- The visual analysis has established that no significant views are available in the area of the eastern corner of the site owing to the presence of vegetation, including beyond the site boundary, and neighbouring development. The proposed dual occupancy development will not take away any current views either to or from Ben Lomond and the important elements of its setting.

This Heritage Report has established a recommended curtilage that will maintain and facilitate interpretation of the heritage significance of Ben Lomond and the associated significant elements of the site as determined via research and analysis. The development of the eastern corner of the site as proposed is external to this curtilage and it acknowledges guiding principles to retain the significance of the site, which were provided during the development of the design and are now formalised as initial conservation policies contained in this report. Specifically:

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- The line of subdivision provides appropriate clearances around important site elements and adopts a 'garden wall' character that will include vegetation to each side to complement the garden setting of Ben Lomond.
- The proposed residential use is a compatible use.
- The attached dual occupancy is located at an acceptable distance from Ben Lomond, adopting strategies to break up the building bulk and maintaining a single storey scale where in closest proximity to Ben Lomond. The proposed development is subservient in overall scale to Ben Lomond.
- The proposal includes substantial landscaping to ensure that the development is integrated into the garden setting of Ben Lomond.
- All significant views from the public domain to Ben Lomond will be retained, as will landscape elements such as high value trees and the entrance drive, and the property will continue to make the same positive contribution to the character of the area that it currently does.

In conclusion, the research and analysis, including visual analysis, statement of significance, curtilage study and initial conservation policies clearly demonstrate that the proposed development as described in LDA2015/5 will not adversely affect the significant heritage values of the site or the amenity of the surrounding area and is acceptable in heritage terms.

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APPENDIX A - QUOTE FOR PAINTING WORKS

Munro Painting & Decorating
27 Lewis Street
DEE WHY NSW 2099
Ph: 0410 493 635
LIC: 111515C

To: Tony Kurlov

Quotation for 37 Pennant Ave. Denistone

Quotation allows for the painting of the following area:

Complete exterior repaint of the main residence only.

Interior painting of one bedroom and kitchen downstairs, one upstairs bedroom, small hallway area and the drawing room - as per discussion.

Quotation allows for a three coat painting system throughout or two coats where the substrate is in sound condition.

Dulux paints to be used.

Not included:

No allowance for decking.

Joinery.

Scaffolding to be erected to provide safe access to all areas to be painted at the builder/owner's expense.

Price includes all preparation, painting and supply of materials.

Necessary preparation only and painting \$38,000 + GST

Price for thorough preparation, restoration and painting \$79,000 + GST

Regards
Ben Munro

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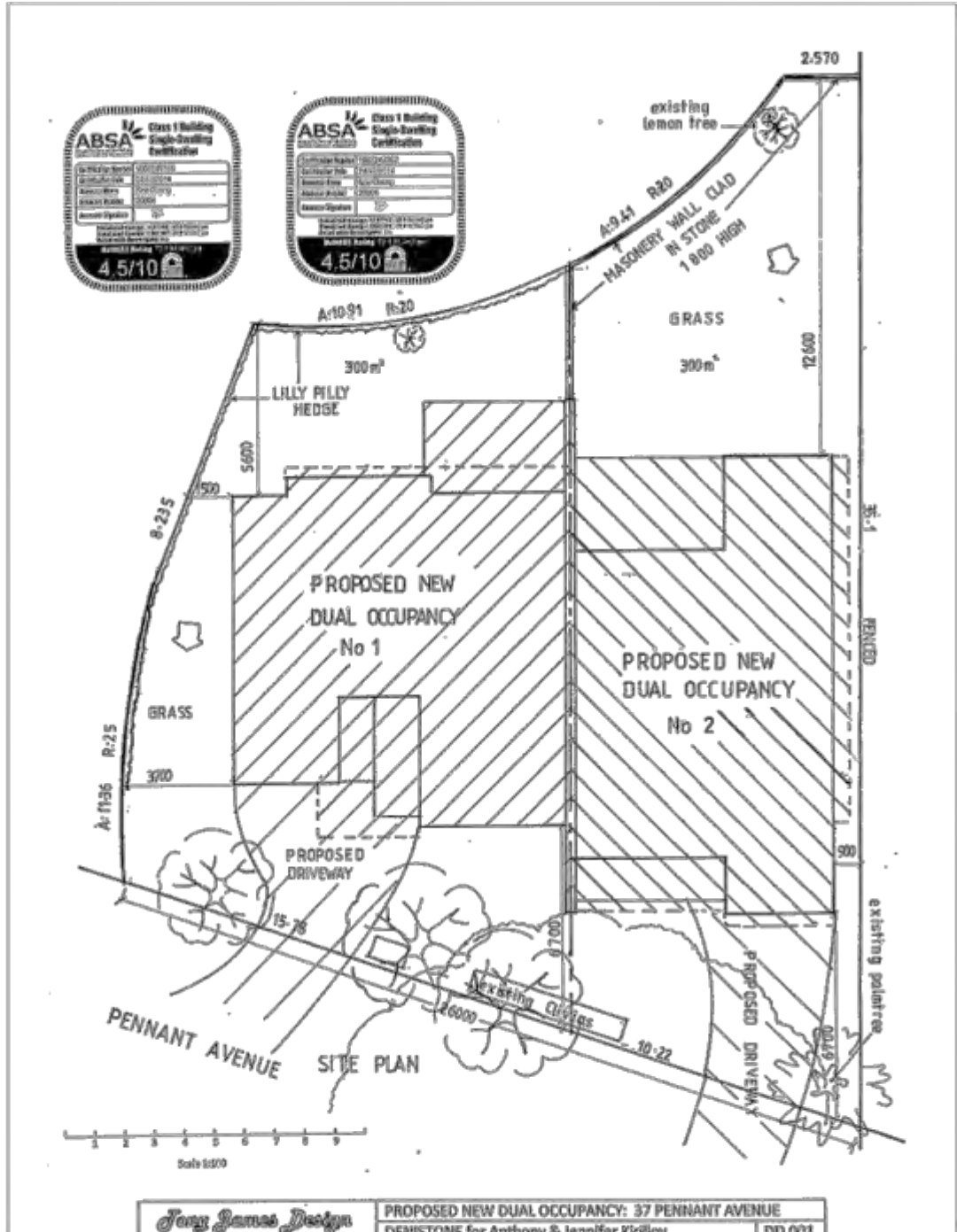
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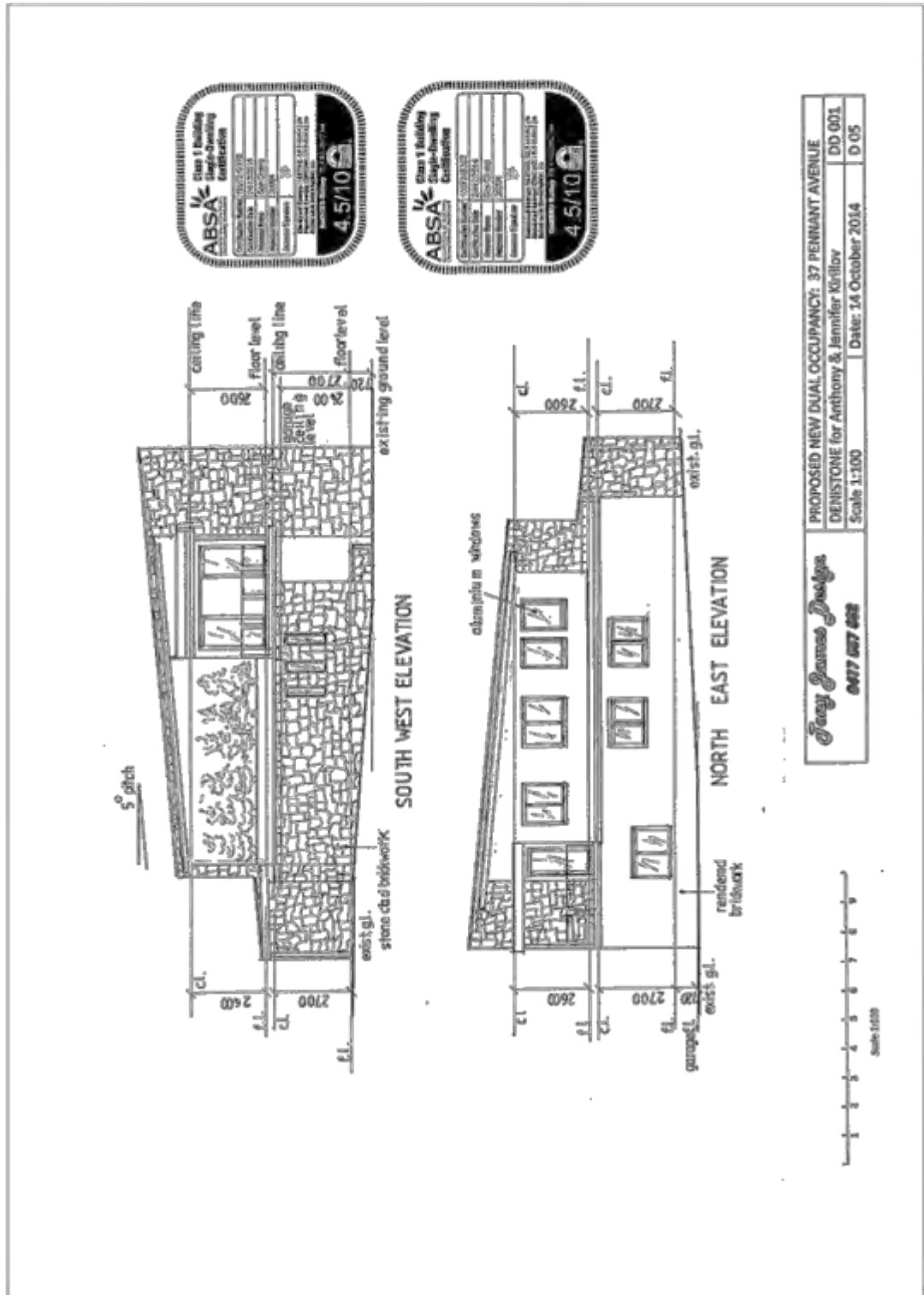
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Jerry James Design | PROPOSED NEW DUAL OCCUPANCY: 37 PENNANT AVENUE
 PREPARED for Anthony & Jennifer Kirlew | 100 001

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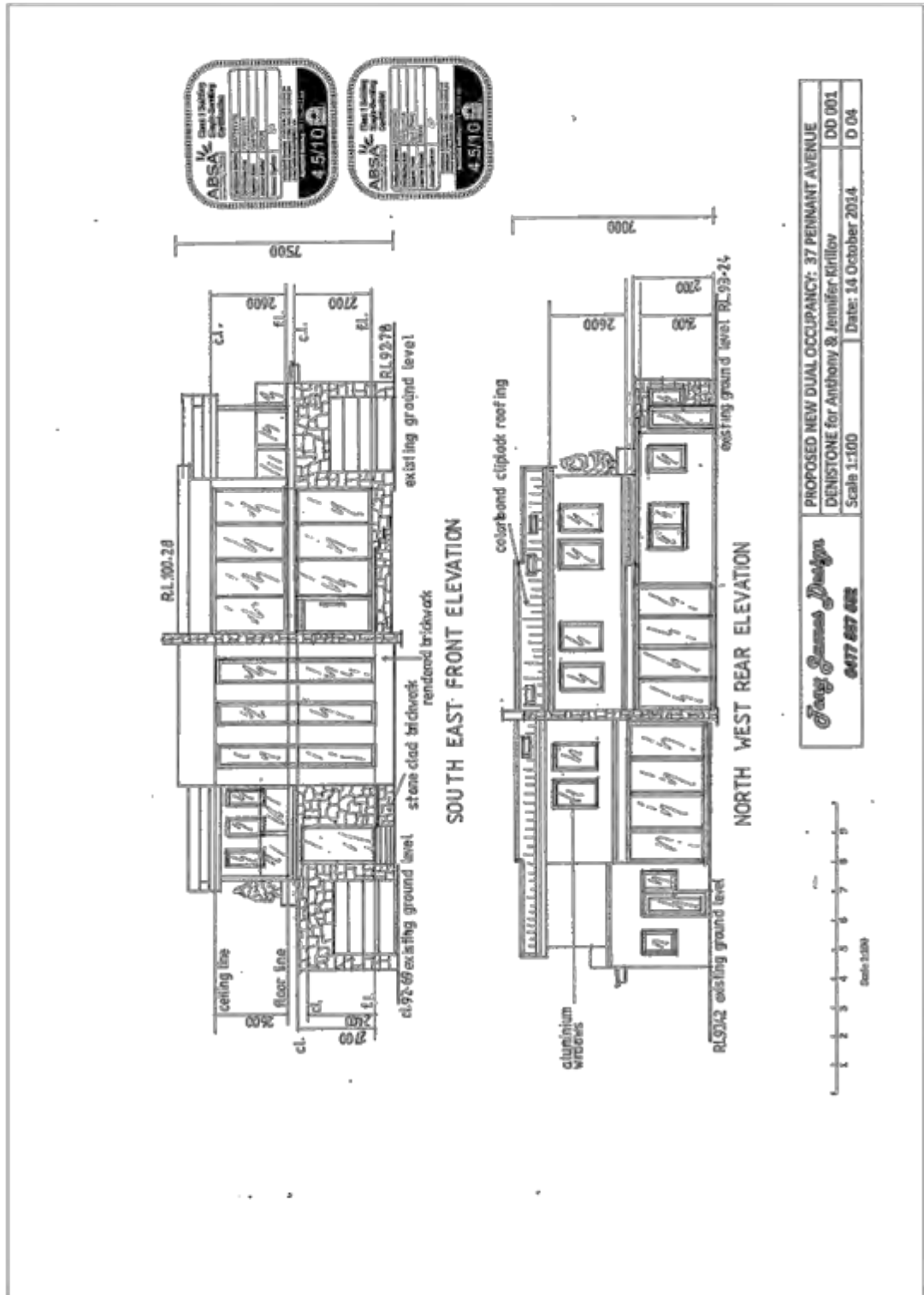
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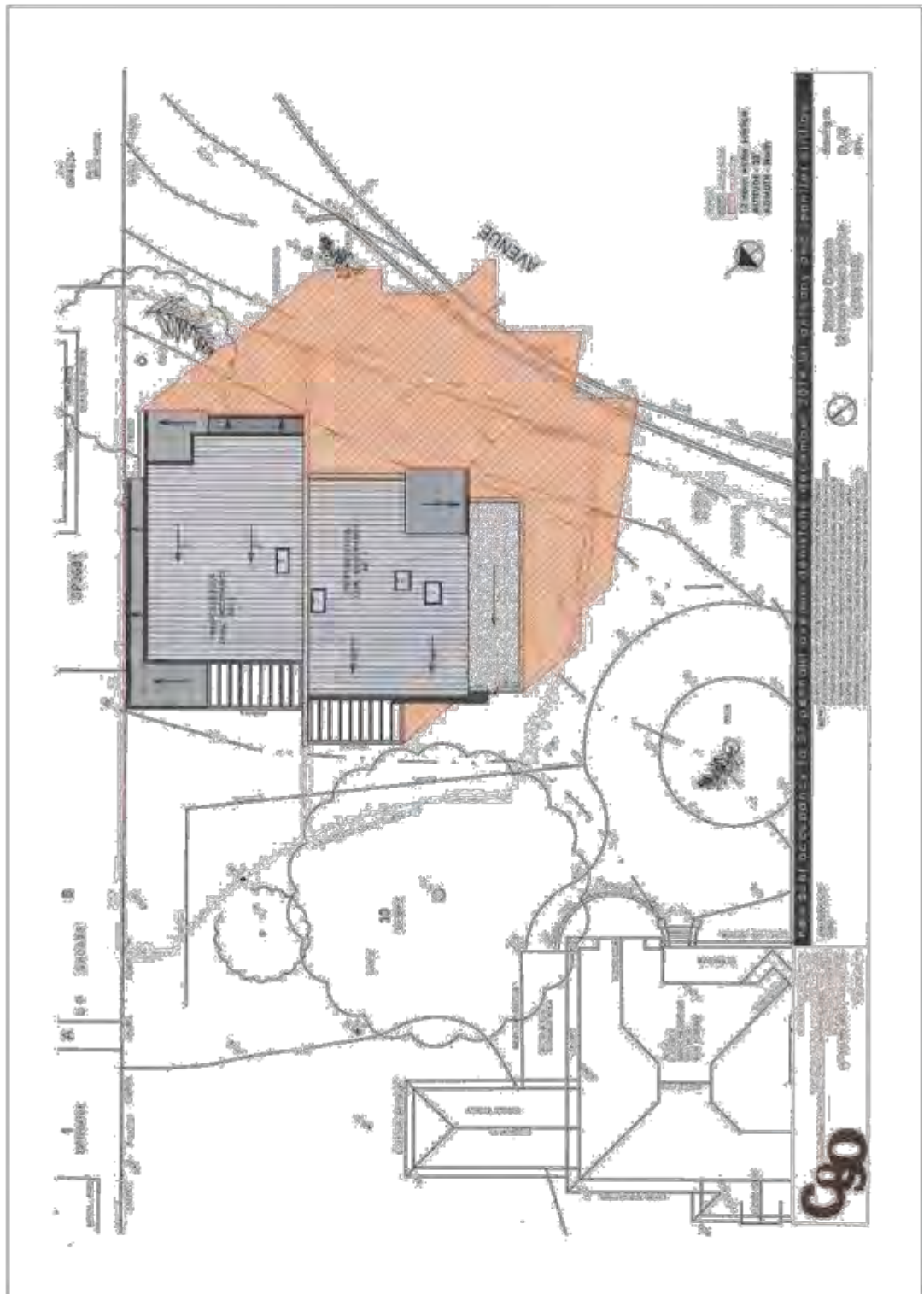
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- 3 120-124A VICTORIA ROAD, GLADESVILLE. LOTS 1 and 2 DP 552766 and LOT A DP 439417. Local Development Application for construction of a six storey residential flat building with forty six (46) apartments and basement parking containing fifty six (56) car parking spaces. LDA2014/0379.**

Report prepared by: Consultant Town Planner - City Plan Strategy and Development

Report approved by: Team Leader - Major Development Team; Acting Group Manager - Environment and Planning

File Number: GRP/09/5/6/2 - BP15/939

1. Report Summary

Applicant: St Peters DMG Development Pty Ltd

Owner: St Peters DMG Development Pty Ltd

Date lodged: 2 September 2014

This report considers an application for the construction of a residential flat building ("RFB") comprising 46 apartments set over a basement parking. A more detailed description of the development is provided in section 2 below.

The site is of an irregular shape, with frontages of 34.6m to Victoria Road Gladesville and 23.3m to Pearson Street, and an area of 1,400m². Adjacent and surrounding development is a mix of retail/commercial and residential.

The proposal has been the subject of evaluation by Council's Urban Design Review Panel, both at pre-lodgement stage and following submission of the development application. The design the subject of this report, which has evolved through a series of amended plans, has adopted the primary recommendations identified by the Panel.

The development fully complies with the requirements of RLEP 2010 (Gladesville Town Centre and Victoria Road Corridor) and Part 4.6 of DCP 2010 Gladesville Town Centre and Victoria Road Corridor. There are some minor non-compliances to the numeric requirements in the Residential Flat Design Code. These non-compliances relate to building separation, communal open space and daylight access. These variations can all be justified based on the merit of the application.

The application was advertised and notified in accordance with Council's Notification DCP (Part 2.1 of DCP 2010) with 6 submissions received, all of which raised objections or concerns. The main issues in those submissions relate to matters of traffic, parking, amenity impacts, and inconsistency with the character of the locality and construction impacts. All of these matters have been addressed in detail within this report.

ITEM 3 (continued)

Having regard to the assessment provided within this report, this application is recommended for approval.

Reason for Referral to Planning and Environment Committee:

Requested by Councillor Pendleton and the number of submissions received by Council.

Public Submissions: 6, all raising objections or concerns.

Clause 4.6 RLEP 2010 objection required? No

Value of works: \$9.16 million (including GST)

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. 2014/0379 at 120-124A Victoria Road Gladesville, being LOTS 1 and 2 DP 552766 and LOT A DP 439417 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 of Consent
- 2 RDCP Compliance Table
- 3 Map
- 4 A4 Plans
- 5 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Brad Roeleven
Consultant Town Planner - City Plan Strategy and Development

Report Approved By:

Sandra Bailey
Team Leader - Major Development Team

Liz Coad
Acting Group Manager - Environment and Planning

ITEM 3 (continued)

2. Site Area (refer to attached map)

- Address** : 120-124A Victoria Road Gladesville
LOTS 1 and 2 DP 552766 and LOT A DP 439417
- Site Area** : Area: 1,400m²
Frontage: 34.6m to Victoria Road
23.3m to Pearson Street
Depth: Variable due to irregular shape of allotment.
44.9m along northern boundary. 53.5m along
southern boundary
- Topography and Vegetation** : The site falls from north to south with a change in level of
about 1.6m along the Victoria Road frontage, and 2.2 along
Pearson Street. The site also falls from east to west, with a
maximum change in level of 4.4m through the centre of the
site. Given the extent of existing development vegetation is
limited, comprising isolated trees generally over the western
portion of the site in proximity to Pearson Street.
- Existing Buildings** : Existing improvements comprise 2 separate low rise
commercial buildings set adjacent to Victoria Road. Those
building are vacant and in a poor state of repair. The
balance of the site is hardstand, used for parking and
vehicle access.
- Planning Controls Zoning** : B4 Mixed Use under Ryde Local Environmental Plan
(Gladesville Town Centre and Victoria Road Corridor
centre) 2010
- Other** : Environmental Planning & Assessment Act 1979 and
Regulation 2000
Sydney Regional Environmental Plan (Sydney Harbour
Catchment) 2005
State Environmental Planning Policy No. 55 - Remediation
of Land
State Environmental Planning Policy No. 65 - Design
Quality of Residential Flat Development
State Environmental Planning Policy – Building
Sustainability Index (BASIX) 2004
State Environmental Planning Policy (Infrastructure) 2007
Ryde Local Environmental Plan (Gladesville Town Centre
and Victoria Road Corridor) 2010
Ryde Local Environmental Plan 2014
Ryde Development Control Plan 2010.
Draft Amendment 3 to State Environmental Planning Policy
No. 65.

ITEM 3 (continued)

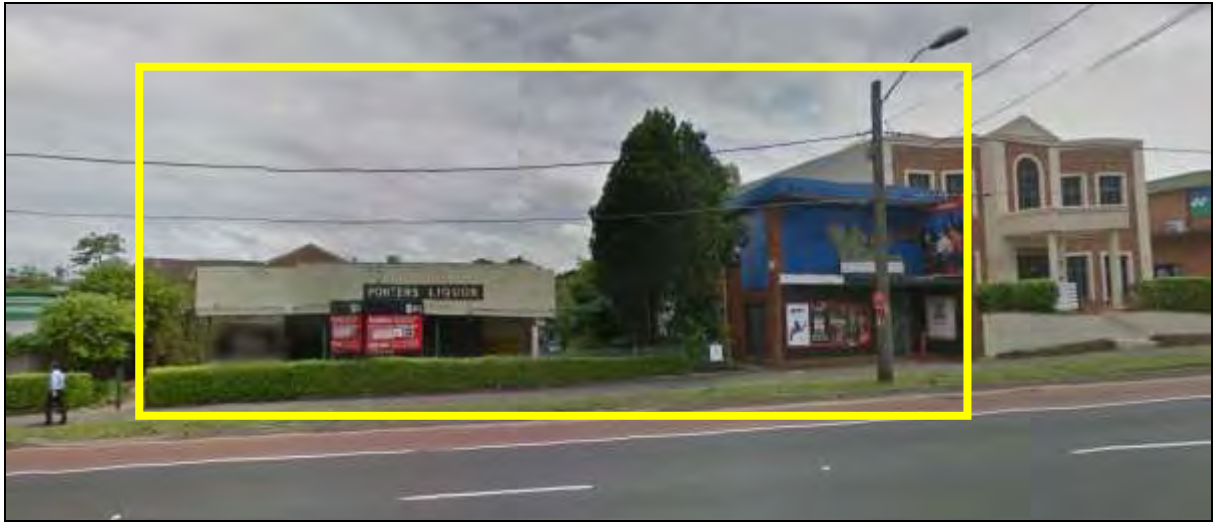


Figure 1: Site from Victoria Road



Figure 2: Site from Pearson Street.

3. Councillor Representations

Name of Councillor: Councillor Pendleton

Nature of the representation: On behalf of an objector

Date: 8/10/14

Form of representation: Email to the helpdesk.

ITEM 3 (continued)

4. Political Donations or Gifts

Any political donations or gifts disclosed? No

5. Proposal

Construction of a residential flat building comprising 46 apartments (10 x 1 bedroom; 31 x 2 bedroom and 5 x 3 bedroom units) within a 6 storey building set above 2 levels of basement parking. Vehicle access is via Pearson Street only, whilst pedestrian access is available from both street frontages.

Fifty six (56) car parking spaces, resident storage, waste storage and ancillary facilities are provided within the basement levels.



Figure 3: Photomontage of Victoria Road elevation

6. Background

A summary of key steps in the assessment of this application is set out below:

- 2 September 2014 - the application was lodged
- 1 October 2014 - Assessed by the Urban Design Review Panel
- 13 November 2014 - Amended plans received incorporating various design changes to respond to matters raised by the Design Review Panel.
- 22 December, 2014 - Letter issued to the applicant advising of various planning concerns

ITEM 3 (continued)

- 29 January 2015 - Amended plans received incorporating various design changes to respond to matters raised in Council's letter of 22 December 2014.
- 24 April 2014 - Amended plans received providing further details to demonstrate compliance with the LEP height control and calculations for landscape supply and deep soil zones.
- 11 May 2015 - Amended plans received providing a revised design for the basement to address arrangements for storage and plant rooms to resolve non-compliances with the LEP FSR control.

Consistent with section 2.9 of the RDCP the amended plans were not renotified as those revisions were necessary to clarify/confirm aspects of the design, and otherwise did not significantly alter the original proposal to an extent that material impacts for either neighbours or the natural environment were likely.

7. Submissions

The application as lodged was advertised in accordance with Part 2.1, Notification of Development Applications of the RDCP. A total of 6 submissions were received, all raising objections or concerns. Those issues are summarised and grouped below, and a response provided:

- a) *Loss of solar access to adjacent buildings and those opposite the site across Pearson Street.*

Response:

The extent of shadowing impacts is acceptable. Refer to section 10(b) below.

- b) *The scale of the building is inappropriate relative to existing buildings. The floor space ratio seems to be in excess of the Gladesville masterplan. The visual impact and height is excessive, and there is insufficient landscaping. It is an overdevelopment of the site and uncharacteristic for the area.*

Response:

The height and gross floor area of the building comply with the maximum controls specified in Ryde Local Environmental Plan (Gladesville Town Centre and Victoria Road Corridor) 2010. Those same development standards are carried over into the current Ryde Local Environmental Plan 2014. The building is therefore consistent with the desired future character for this locality.

ITEM 3 (continued)

- c) *Onsite parking will be used as storage by owners, and tenants will rely upon street parking. It is unclear where the vehicle access is however regardless it will generate increased traffic creating safety concerns, particularly for pedestrians using Pearson Street. The proposal should comply with Council's parking requirements as parking has become a problem in Pearson Street.*

Response:

The total parking supply, including the allocation of resident and visitor spaces, complies with Council's Development Control Plan. Refer to the discussion at section 10(d) below.

Traffic impacts have been assessed as minor. Refer to the discussion at section 10 (c) below.

Dedicated storage for each unit is provided in the basement consistent with best practice 'rules of thumb' nominated in the Residential Flat Design Code.

- d) *Construction traffic and noise will cause significant disruption and impacts for existing residents.*

Response:

It is acknowledged that the demolition, excavation and construction of large developments will alter the amenity of the locality for the duration of those works. A range of conditions are included in the recommendation to ensure those impacts are properly managed, and where necessary, within prescribed criteria. Refer to further details at section 10(j) below.

- e) *The cumulative impact of this development and others like it will place a strain on limited amenities including roads, parklands and schools. Gladesville has now met its 'quota' for housing from other nearby development and this proposal is not required.*

Response:

The density of the development reflects the outcomes contemplated by the suite of planning controls. Any consent granted to this application will include a condition requiring the payment of a monetary contribution towards improving community facilities, infrastructure and the public domain as identified in Council's Section 94 Development Contributions Plan 2007 (2010 Amendment). There is no housing 'quota' for Gladesville. Traffic generation is addressed at section 10(c) below.

- f) *The building will have serious implications for neighbouring residents in terms of privacy impacts, view loss and overshadowing.*

ITEM 3 (continued)

Response:

No views from any adjacent or nearby building will be affected. The extent of shadowing impacts is acceptable as discussed at section 10(b) below. Separation distances, in conjunction with established boundary plantings on the site of the only adjoining residential building, combine to achieve a satisfactory level of visual privacy.

- g) *Any concession from compliance with development guidelines sought by the applicant should be notified to local residents, with a period of 30 days in which to respond.*

Response:

The application has been notified in accordance with Council's Development Control Plan.

8. **Clause 4.6 RLEP (Gladesville Town Centre and Victoria Road Corridor) 2010 objection required?**

No.

9. **Policy Implications**

(a) Relevant Provisions of Environmental Planning Instruments etc:

Environmental Planning and Assessment Regulation 2000

This application satisfies Clause 50 of the Regulation as it is accompanied by the nominated documentation for development seeking consent for a residential flat building including:

- A design verification statement from a qualified designer;
- An explanation of the design in terms of the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development; and
- Relevant drawings and montages.

Ryde Local Environmental Plan (Gladesville Town Centre and Victoria Road Corridor) 2010

This application was lodged prior to the commencement of Ryde LEP 2014 and therefore the savings provisions of that instrument apply (per clause 1.8A) such that this application must be assessed relative to the 2010 LEP for the Gladesville Town Centre and Victoria Road Corridor.

ITEM 3 (continued)

Zoning, permissibility and zone objectives

The site is zoned "B4 Mixed Use" and the proposal, defined as a "residential flat building" is permissible with consent. The zone objectives are:

The zone objectives for the "B4 Mixed Use" zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To create vibrant, active and safe communities and economically sound employment centres.*
- *To create safe and attractive environments for pedestrians.*
- *To recognise and reinforce topography, landscape setting and unique location in design and land-use.*

This proposal is consistent with these objectives.

Remaining provisions

Compliance with remaining provisions of the LEP which may be relevant to this application is considered in the following Table:

<i>Clause</i>	<i>Comment</i>	<i>Complies</i>
Clause 2.6 Subdivision	The application nominates that future strata subdivision will be way of a Complying Development Certificate under the Codes SEPP.	N/A
Clause 2.7 Demolition requires consent	This application seeks consent to demolish all existing buildings and structures on site.	Yes
Clause 4.3 Building height	The design as amended satisfies the prescribed maximum building height of 19m	Yes
Clause 4.4 FSR	The design as amended satisfies the prescribed maximum FSR control of 2.7:1	Yes
Clause 5.10 Heritage	The site is not a heritage item but is in proximity to a heritage item. See comments at the end of this table.	Yes
Clause 6.1 Earthworks	Relevant matters nominated in this clause have been considered and no concerns were identified. Appropriate conditions provided by Council's Development Engineer. (see conditions 66, 70,72 and 73)	Yes

ITEM 3 (continued)

Clause 5.10 - Heritage

Although the site is not a listed heritage item, nor is it within a heritage conservation area, adjoining Victoria Road (being the former The Great North Road) is listed in Schedule 5 of the LEP as an item of local heritage item

The Office of Environment and Heritage data base entry for the Great North Road includes the following recommended management policy:

"The overall form of the road should be retained and conserved and remain a road.

Significant fabric should be retained. A Heritage Assessment is required prior to any substantial work or provision of new services. Any future development should preserve the existing form and external surfaces and materials of the road. No scope for development exists. A cohesive planting scheme should be implemented."

This application is consistent with that Policy in that:

- All works are located wholly within the development site, other than for a new public domain treatment comprising street trees and paving across the Victoria Road frontage of the site, and similar works to Pearson Street; and
- All required utility services already exist on site, although it is not known whether augmentation is required.

Given the above it is considered that, consistent with clause 5.10(5) of the LEP, a Heritage Impact Statement is not required in this instance.



Figure 4: Extract from LEP heritage map (site in red)

ITEM 3 (continued)

Ryde Local Environmental Plan 2014

This instrument came into effect on 12 September, 2014, after this application was lodged. The savings provisions of clause 1.8A of this Plan are such that it does not apply, however it remains a formal matter for consideration in the evaluation of this application as if it were a 'draft' plan.

Zoning, permissibility and zone objectives

The site remains zoned "B4 Mixed Use" and the proposal remains permissible with consent. The zone objectives are different being:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling*

This proposal is consistent with those objectives.

Remaining provisions

Compliance with remaining relevant provisions in the LEP is considered in the following Table:

Clause	Comment	Complies
Clause 4.3 Building height	The design as amended satisfies the prescribed maximum building height of 19m	Yes
Clause 4.4 FSR	The design as amended satisfies the prescribed maximum FSR control of 2.7:1	Yes
Clause 5.1A Land intended to be acquired for a public purpose	The site is not shown on the Land Reservation Acquisition Map as being required for future public purposes.	N/A
Clause 5.10 Heritage	The site is not a heritage item but is in proximity to a heritage item. Comments as per RLEP (Gladesville Town Centre and Victoria Road Corridor) 2010 remain applicable.	Yes

ITEM 3 (continued)

Clause	Comment	Complies
Clause 6.1 Acid sulphate soils	Class 5	Yes
Clause 6.2 Earthworks	Relevant matters nominated in this clause have been considered and no concerns were identified. Appropriate conditions have been provided by Council's Development Engineer. (see conditions 66, 70, 72 and 73)	Yes
Clause 6.4 Stormwater management	Relevant matters nominated in this clause have been considered and no concerns were identified. Appropriate conditions have been provided by Council's Development Engineer (see conditions 36 and 76)	Yes

(b) Relevant SEPPs

State Environmental Planning Policy No 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Contaminated Lands (SEPP 55) establishes State-wide provisions to promote the remediation of contaminated land. Specifically clause 7 requires the Council to consider whether the land is contaminated and, if so, whether it is suitable, or can be made suitable, for the proposed use.

This application is supported by both a Phase 1 Preliminary Site Assessment report and a Phase 2 Environmental Assessment report, which concluded:

"In view of the above findings, it is considered that the site is suitable for the proposed residential use, provided that the following will be implemented during excavation of the proposed basement:

In light of the presence of B(a)P exceeding HIL and ESL criteria and the heterogeneity of contaminants in fill material, it is recommended that all fill material at the site is removed as part of the proposed development. For future off-site disposal of site soils, waste classification testing is recommended to enable appropriate soil disposal in accordance with the DECCW (2009) Waste Classification Guidelines.

It should be noted that prior arrangements with the destination site and/or relevant authorities should be obtained prior to the disposal of any material.

ITEM 3 (continued)

Any soils to be imported onto the site for the purpose of back-filling excavated areas will be Virgin Excavated Natural Materials (VENM) and will also require validation testing in accordance with relevant EPA / OEH regulatory guidelines to confirm soil suitability for the proposed land use."

Council's Environmental Health Officer has reviewed and accepted those reports, and provided suitable conditions for inclusion in any approval. (See conditions 26, 27, 28 and 29).

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development

This Policy aims to improve the design quality of residential flat development. This proposal has been assessed against the following matters relevant to SEPP 65 for consideration:

- Urban Design Review Panel;
- The 10 SEPP 65 Design Quality Principles; and
- The NSW Residential Flat Design Code guidelines.

Urban Design Review Panel

The plans as lodged with the development application addressed a number fundamental design issues identified by the Panel at preDA stage, being:

- Reduction in building depth;
- Redistribution of building height by stepping the building down towards Pearson Street;
- Converting ground floor to residential given the concerns over viability for commercial floor space; and
- Adopting a "T" shaped floor plan.

In its subsequent evaluation of the development application plans the Panel again identified matters that had not been adopted, or fully addressed, and which would allow for an improved development and amenity outcome.

The proposal was subsequently further revised to address issues noted by both the Panel, and planning staff, in relation to:

- Side setbacks and party walls;
- Private and communal open space; and
- Improving the relationship of ground floor units to Victoria Road.

ITEM 3 (continued)

On balance the proposal has reasonably addressed the various design issues that have been raised.

Design Quality Principles

Part 2 of the Policy introduces 10 design quality principles. These principles do not generate design solutions, but provide a guide to achieving good design and the means of evaluating the merits of proposed solutions.

As required by the Environmental Planning and Assessment Regulation, the application is accompanied by a response to the design principles, as prepared by the project architect. The following table provides an assessment of the proposal against the 10 design principles of the SEPP:

Principle	Comment
Context	The Victoria Road corridor is transforming to a high density residential/mixed use precinct. The development generally accords with the desired future character nominated by the LEP and DCP. The building will contribute to the quality and identity of the area.
Scale	The bulk and scale of the proposal reflects the desired future character for the Victoria Road corridor as contemplated by the planning controls.
Built Form	Satisfactory with regard to considerations of building alignments, proportions, building type and articulation/massing of building volume.
Density	The proposed density is sustainable relative to the context of the site in terms of availability of infrastructure, public transport, community facilities and environmental quality.
Resource, energy and water efficiency	Energy and water efficiency targets under SEPP (Basix) 2004 are achieved
Landscape	A satisfactory landscape outcome will be achieved.
Amenity	Amenity for the apartments is satisfactory when tested against best practice 'rules of thumb' identified in the Residential Flat Design Code which supports the SEPP.

ITEM 3 (continued)

Principle	Comment
Safety and Security	Appropriate outcomes will be achieved through conditions in any consent
Social dimensions and housing affordability	The proposal comprises 46 apartments (9 x 1 bedroom, 32 x 2 bedroom and 5 x 3 bedroom). Of those, 6 apartments (13%) will be adaptable. This is considered to be a suitable mix of housing.
Aesthetics	The composition of building elements and materials is satisfactory.

Residential Flat Design Code

The SEPP requires consideration of the "Residential Flat Design Code" (RFDC) which supports the 10 design quality principles by giving greater detail as to how those principles might be achieved. The following table provides an assessment of the proposal against the matters in the RFDC:

Primary Guidelines	Comments	Comply
Part 01 – Local Context		
Building Height	The building complies with LEP height control (and FSR control) and is therefore consistent with the desired future character for the locality	Yes
Building Depth Apartment building depth of 10m-18m appropriate.	The majority of each floor plate is within this range	Yes
Building Separation	<p>The 'best practice' 12m separation distances are not strictly achieved, but are satisfactory when considered on merit.</p> <p>Due to the awkward shape of the site a portion of the rear of the building achieves only a 9m separation at its closest point from the residential flat building at No. 2 Pearson Street. Generally however, due to the juxtaposition of these two buildings the separation distances otherwise meet or exceed the 12m in the area adjoining the common boundary with No. 2 Pearson Street. Further the level of privacy</p>	Yes on merit

ITEM 3 (continued)

Primary Guidelines	Comments	Comply
	<p>relative to that common boundary is acceptable noting the arrangement of the floor plates affords a satisfactory level of privacy, and there are substantial boundary plantings at No 2 which will be retained.</p> <p>Nominal setbacks are provided along the eastern and western site boundaries through the use of a party wall design. That outcome is a specific response to the advice of the Design Review Panel, and is appropriate for a "B2 Local Centre" locality which typically has a different built form environment than a traditional residential zone. The side boundary, party wall, treatments include minimal openings to such that privacy to/from any future residential building should also be satisfactory in the event that adjacent sites redevelop in the future.</p>	
Street Setbacks	Street setbacks reflect DCP controls and allow for suitable interface with the public domain adjoining the site	Yes
Side and Rear Setbacks	Satisfactory	Yes
Part 02 – Site Design		
Deep Soil Zones (DSZ) Minimum of 25% of open space area should be DSZ. Exceptions may be made in urban	Landsaped area is 296m ² or 21% of the site, including podium plantings. DSZ is 171m ² or 57% of the landscaped area. This acceptable for a mixed use town centre site.	Yes
Fences and Walls	Fences and walls respond to the identified architectural character for the street and are satisfactory.	Yes
Landscape Design	The landscape treatment for the site is satisfactory.	Yes

ITEM 3 (continued)

Primary Guidelines	Comments	Comply
<p>Open Space Communal open space should generally be at least between 25% and 30% of the site area.</p>	<p>Communal space of 175m² is provided in two terraces areas at Levels 1 and 6, which is 12.5% of the site area. A variation to communal open space can be supported as:</p> <ul style="list-style-type: none"> • The site has two street frontages which is a constraint to finding a suitable location for common open space; • The communal space provided, particularly at level 6, has a high amenity; and • The site is about 130m from Looking Glass Bay Park, which provides access to an extensive foreshore network of open space 	<p>No - but satisfactory on merit</p>
<p>Orientation Optimise solar access to living areas and private open spaces by orientating to the north.</p>	<p>The orientation of the subdivision pattern, and the location of the adjacent building positioned on the northern common boundary precludes units having a primary orientation to the north</p>	<p>Yes</p>
<p>Planting on Structures</p>	<p>The landscape treatment includes planting on the podium as a consequence of the basement parking level. The landscape treatment is satisfactory.</p>	<p>Yes</p>
<p>Stormwater Management</p>	<p>Satisfactory subject to conditions recommended by Council's Development Engineer. Refer to sections 10(c), (d) and (e) below.</p>	<p>Yes</p>
<p>Safety</p>	<p>Residential entries are defined, and access is controlled. Most units have direct visual connection to the adjacent public domain, allowing for passive surveillance.</p>	<p>Yes</p>
<p>Visual Privacy Adopt building separation requirements.</p>	<p>Privacy within the development, and for adjacent sites, is satisfactory.</p>	<p>Yes</p>

ITEM 3 (continued)

Primary Guidelines	Comments	Comply
Building Entry	Entries into the building are provided from both street frontages. Disabled access into, and within the building, is satisfactory.	Yes
Parking	Parking supply and design is satisfactory. See further comments at 10(d) below.	Yes
Pedestrian Access	Building access is arranged to reflect the preferences of the Design Review Panel. Building entries are clearly identifiable. Equitable access is achieved.	Yes
Vehicle Access	The location and design of the access driveway is satisfactory.	Yes
Part 03 – Building Design		
Apartment Layout Single aspect apartments should be limited in depth to 8m from a window. Apartments should achieve the following minimum sizes: 1 bedroom – 50m ² 2 bedroom – 70m ²	Achieved. Yes	Yes Yes
Apartment Mix The development should provide a variety of types.	Satisfactory	Yes
Balconies Minimum depth of 2m	Achieved	Yes
Ceiling Heights	Achieved.	Yes
Ground Floor Apartments Optimise the number of ground floor apartments with separate entries	Achieved.	Yes

ITEM 3 (continued)

Primary Guidelines	Comments	Comply
Mixed Use	Not applicable	Yes
Acoustic Privacy	The development will be required to comply with the acoustic provisions of the BCA & relevant Australian Standards.	Yes
<p>Daylight Access Living rooms and private open spaces for at least 70% of apartments minimum 3 hours direct sunlight 9.00am - 3.00pm at mid winter. In dense urban areas a minimum of two hours may be acceptable.</p> <p>Limit single-aspect apartments (SW -SE) to a maximum of 10%</p>	<p>63% of units are able to achieve this target of 3hours at midwinter. This outcome is acceptable given the constraints imposed by the orientation of the subdivision pattern, existing adjacent development and the likely form of future buildings as adjoining sites re-develop. Those buildings are anticipated to abut the party walls of this proposal.</p> <p>35% of units are single aspect and this is a result of the orientation of the subdivision pattern. However the units at the upper levels in particular have good amenity from larger terraces and views of the Parramatta River and Olympic precinct.</p>	<p>No - but satisfactory on merit</p> <p>No - but satisfactory on merit</p>
<p>Natural Ventilation 60% of units to be naturally cross ventilated.</p> <p>25% of kitchens to have natural ventilation.</p>	<p>Achieved - 63% of units are cross ventilated.</p> <p>Achieved - 35% of units include a kitchen window.</p>	<p>Yes</p> <p>Yes</p>
Awnings	Not applicable.	N/A
Roof Design	The development has incorporated a flat roof typical of contemporary design.	Yes
Maintenance	The development can comply with this requirement.	Yes

ITEM 3 (continued)

Primary Guidelines	Comments	Comply
Waste Management	A waste management plan has been submitted with the development application and is considered satisfactory by Council's Environmental Health Officer.	Yes

State Environmental Planning Policy (Building Sustainability Index) 2004

The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building. As such, a BASIX Certificate has been prepared (No. 562197M) which provides the development with a satisfactory target rating. Compliance with the BASIX Certificate commitments can be ensured by appropriate conditions. (See conditions 25 and 90)

State Environmental Planning Policy (Infrastructure) 2007

This Policy provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process. The SEPP supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency. Relevant provisions from this Policy are addressed below:

Clause 101 - Development with frontage to a classified road

Victoria Road is a classified road, and this clause provides that consent must not be granted to development unless Council is satisfied of the following:

- (a) *Where practicable, vehicular access is to be provided by a road other than the classified road;*
- (b) *The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of vehicular access to the land, or the emission of smoke or dust from the development, or the nature, volume or frequency of vehicles using the classified road to gain access to the land; and*
- (c) *The development is of a type that is not sensitive to traffic noise or vehicle emissions, it is appropriately located and designed, or includes measures to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

In response it is noted:

- All vehicle access is via Pearson Street only;
- The operating characteristics of Victoria Road will not be diminished, as confirmed by Council's Development Engineer (refer to section 10(c) below); and;
- Mitigation of road traffic noise is addressed (see further comments below).

ITEM 3 (continued)

Clause 102 - Impact of road noise or vibration on non-road development

Victoria Road has annual average daily traffic volume of more than 40,000 vehicles. This clause therefore specifies the need to consider guidelines for internal noise levels within adjoining residential development.

The application is supported by an Acoustical Assessment report which identifies glazing/construction measures required to ensure apartments achieve the criteria for internal noise levels nominated in the Policy. That report has been evaluated and accepted by Council's Environmental Health Officer. Appropriate conditions are included in the recommendation (see condition 13).

Clause 104 - Traffic generating development

This proposal is not of a type captured by clause 104 and consequently referral to the Roads and Maritime Services (RMS) is not required. Notwithstanding, consideration of implications for the local road network has been undertaken, and is addressed at section 10(c) below.

(c) Relevant REPs

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

This Plan, now a deemed State Environmental Planning Policy, applies to the whole of the Ryde local government area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

Given the nature of this project and the location of the site there are no specific controls that directly apply to this proposal, with the exception of the objective of improved water quality. That objective will be achieved through compliance with the Part 8.2 of Ryde DCP 2010.

(d) Any draft Instruments

Draft Amendment 3 - State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

In September and October 2014 the Department of Planning and Environment exhibited proposed changes to this Policy which seek to clarify the intentions of the instrument and obligations on the part of consent authorities in terms of their consideration of both the Policy and the RFDC.

ITEM 3 (continued)

As the draft amendments are uncertain at this stage, they are considered to be of little or no weight in the assessment of this proposal.

(e) Any DCP (e.g. dwelling house, villa)

City of Ryde Development Control Plan 2010

The following sections of the Ryde Development Control Plan 2010 apply to the proposed development:-

- 4.6 – Gladesville Town Centre Corridor and Victoria Road Corridor
- 7.1 – Energy Smart, Water Wise
- 7.2 – Waste Minimisation and Management
- 8.1 – Construction Activities
- 8.2 – Stormwater Management
- 8.3 – Driveways
- 9.2 – Access for People with Disabilities
- 9.3 – Car Parking
- 9.4 – Fencing
- 9.6 – Tree Preservation

A full assessment of the proposal against the DCP annexed to this report.

10. Likely impacts of the Development

(a) Site context, built form and public domain

This proposal will achieve a satisfactory outcome for the setting and context of the site given:

- No public vistas or private views will be affected;
- The scale, form and presentation of the building generally accords with key controls in the LEP and DCP (noting justifications for identified departures elsewhere in this report),
- The relationship with adjacent sites is acceptable;
- The residential use of the land is compatible with the prevailing nature of the locality and the relationship with adjacent sites is acceptable;
- Vehicle access is located to ensure safe and efficient movements to and from the site;
- Service areas are located within the building ensuring the streetscape is not diminished by ancillary element such as garbage storage facilities.

ITEM 3 (continued)

(b) Overshadowing of adjacent sites

Midwinter shadow diagrams demonstrate that:

- North facing windows of the adjacent residential flat building at No. 2 Pearson Street will receive 3 hours solar access at midwinter;
- A limited number of dwelling houses opposite the site, across Pearson Street, will be overshadowed at 9am, however such shadowing will have ceased some time before midday; and
- Impacts for buildings further south are limited to the late afternoon, and are mitigated by shadows from existing buildings and vegetation.

(c) Traffic

The application is supported by a Traffic and Parking Impact Assessment report which provides the following details:

".....the proposal is assessed as generating some 69 daily vehicle trips; 9 am weekday peak hour vehicle trips and 7 pm weekday peak hour vehicle trips. On average these flows represent approximately 1 vehicle trip every 6.7 minutes in the am peak period and 8.6 minutes in the pm peak period.

The traffic generation of the proposed development should be discounted by the traffic generating potential of the existing buildings on the site notwithstanding they are currently vacant. As noted earlier a drive-thru Porters Liquor store operated from Nos. 120-124. It is unknown what use operated from No. 124A, however the GFA of the two buildings is approximately 290m². Considered in isolation the Porters Liquor drive-thru retail outlet would have generated significantly higher peak hour vehicle trips than the subject proposal, particularly during the higher turnover pm week day and weekend periods. Accordingly, it is concluded that the subject proposal will generate significantly less traffic than the previous uses on the site and have less impact on Pearson Street and the adjacent road network.

Notwithstanding, the assessed traffic generation of the development scheme will have no significant impact on existing traffic conditions in Pearson Street, the surrounding road network nor present any capacity implications for nearby intersections."

ITEM 3 (continued)

Council's Development Engineer has evaluated that report and has concluded the traffic generated associated with the proposal is minor, stating:

"Considering the environmental capacity of typical suburban roadways is in the order of 200 vehicles per hour during peak periods, the resulting level of traffic generation produced by the proposed development is relatively minor and not anticipated to impact the operation or safety of the surrounding road network. As such this aspect does not warrant further concern."

(d) Parking and access

Parking supply

Based upon the unit yield and mix the DCP nominates the following parking supply requirements:

- Residents - A minimum of 42 spaces and a maximum of 56 spaces; plus
- Visitors - 10 spaces.

The application provides a total of 56 onsite parking spaces, being within the range nominated by the DCP. The allocation of those spaces, being 46 resident and 10 visitor spaces, is also consistent with the DCP.

Access

All vehicle access to the site will be from Pearson Avenue, as is currently the case. Council's Development Engineer has identified the need for minor design changes to ensure the geometry of the driveway meets relevant Australian Standards (see condition 51).

(e) Stormwater

The application is supported by plans detailing arrangements for the collection, temporary storage (OSD) and subsequent disposal of stormwater to Pearson Street. The design as nominated is broadly acceptable, however a range of design modifications have been identified by Council's Development Engineer. Those changes are achieved by means of conditions requiring revised stormwater plans to be prepared to accompany any Construction Certificate (see condition 36 and 76).

(f) Tree removal and landscaping

The application is supported by an Arboricultural Assessment report which considers the health of the 4 trees on site, all of which are nominated for removal. A further tree (Camphor laurel), was not considered by the report due to it being an undesirable species, however it too is to be removed.

ITEM 3 (continued)

Council's Consultant Landscape Architect has evaluated the arborist report and raised no objection to the removal of these trees.

The Consultant Landscape Architect also advised that landscape plan provided with the application is generally satisfactory, subject to a range of amendments, which are achieved by means of conditions which are included in the recommendation (see conditions 1)

(g) Waste management

Council's Public works Team (waste) advises that arrangements of the storage and collection of waste are satisfactory.

(h) Acoustic

In addition to the discussion at section 9(b) above regarding measures to limit intrusion into the apartments from road traffic noise, the applicant's acoustic report also makes recommendations regarding:

- Sound insulation requirements between apartments; and
- Noise from mechanical plant/equipment.

Council's Environmental Health Officer has similarly provided conditions to ensure those recommendations are implemented. (See condition 13)

(i) Access

The application is supported by an Access Compliance Assessment Report which provides the summary:

"The purpose of this report is to assess the proposed Development Application architectural plans and details for compliance with: -

- *The prescriptive Deemed to Satisfy (DtS) Accessibility Provisions of Part D3 of the Building Code of Australia (BCA) Volume One Edition 2014;*
- *City of Ryde Council's Development Control Plan 2010- Part 9.2 Access for People with Disabilities;*
- *AS 4299 -1995 (Adaptable Housing); and*
- *The Disability Access to Premises - Buildings Standards (DAPS) 2010.*

The outcomes of this assessment report conclude that the proposed design is capable of achieving compliance with the abovementioned requirements subject to undertaking on works referenced within this report in accordance with the applicable codes and standards."

ITEM 3 (continued)

Included in the recommendation is a condition requiring the matters identified in that report to be resolved in conjunction with any plans prepared for a Construction Certificate (see condition 30).

(j) Construction Management

Included in the recommendation are multiple conditions to manage the construction process including:

- Dilapidation reports (see condition 42 and 61).
- Sediment and erosion control (see condition 72 and 73).
- Construction traffic management plan (see condition 55).
- Construction noise (see condition 4 and 64).
- Safety fencing (see condition 57).
- Dust control (see condition 66).

11. Suitability of the site for the development

These matters have been considered in the assessment of the development application. The proposal adequately responds to the site's characteristics, and accordingly is considered suitable.

12. The Public Interest

The proposal satisfactorily addresses relevant planning controls in a manner which is appropriate to its context and setting. The proposal is therefore considered to be orderly and economic use of the land.

13. Consultation

The application has been assessed by the following sections of Council:

- Environmental Health Officer
- Senior Development Engineer
- Consultant Landscape Architect
- Public Works

All have provided conditions for inclusion in any approval granted to this application.

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14. Conclusion

This application has been assessed relative to section 79C of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls. On balance the proposal has demonstrated a satisfactory response to the intention and objectives of the design principles and controls contained within the Residential Flat Design Code in accordance with SEPP 65, and with local planning controls.

Accordingly, approval of the development application is recommended.

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ATTACHMENT 1

ATTACHMENT 1 - LDA 2014/0379 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:

Architectural plans - Brooks Projects Architects

Document Description	Date	Rev	Plan No/Reference
Basement 2 plan	11.5.15	L	SK1L
Basement 1 plan	30.1.15	J	SK2J
Level 1 plan	11.5.15	W	SK3W
Levels 2 - 5	30.1.15	P	SK4P
Level 6 plan	30.1.15	P	SK5P
Site and roof plan	24.4.15	F	SK6F
Victoria Road elevation	29.1.15	F	SK7F
West elevation	29.1.15	F	SK8F
North elevation	29.1.15	F	SK9F
South elevation	29.1.15	F	SK10F
Section D-D	23.4.15	A	SK19A

Landscape plans - Vision Dynamics

Document Description	Date	Rev	Plan No/Reference
Landscape Concept Plan	1.9.14	A	14126DA1

Prior to the issue of a **Construction Certificate**, the following amendments shall be made:

- **Amendment of landscape plans.** The landscape plans shall be updated to be consistent with the approved architectural plans and other relevant conditions of this consent, prior to the issue of the Construction Certificate.
2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia
 3. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

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- (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
- 4. **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. **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.
- 7. **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.
- 8. **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.
- 9. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
- 10. **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.
- 11. **Road Opening Permits.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or

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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.

12. **Pipes and ducts.** No service ducts or pipes are to be visible from the street.
13. **Road traffic noise criteria for sensitive developments.** The building(s) must be designed and constructed so that the road traffic noise levels inside the building(s) comply with the noise criteria specified in *Development Near Rail Corridors and Busy Roads – Interim Guideline* (Department of Planning, 2008).

In this regard all acoustical treatments nominated in the acoustical assessment report (Rodney Stevens Acoustics: Ref 13658R1, dated 27 .8.14) and any related project documentation must be implemented during construction

14. **Mechanical ventilation of rooms.** If the airborne 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.
15. **Tree removal.** This consent authorises the removal of the following trees:
- Tree 1 is a mature *Ficus rubignosa* (Port Jackson Fig). Tree 2 is a *Jacaranda mimosifolia* (Jacaranda).
 - Tree 3 is a *Eucalyptus sp.* (Eucalypt).
 - Tree 4 is a mature *Chamaecyparis obtusa* (Cypress).
 - *Cinnamomum camphora* (Camphor Laurel).

All tree removal work is to be carried out in accordance NSW Workcover Code of Practice (2007) and undertaken by an Arborist with minimum AQF Level 2 qualifications.

16. **Tree protection - no unauthorised removal.** This consent does not authorise the removal of any neighbouring trees unless specifically authorised by a condition of this consent
17. **Australian Standards.** Any works approved by this consent must be carried out in accordance with all relevant Australian Standards

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 (e.g. 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.

18. **Tree works - provision of Arborist details.** Council is to be notified, in writing, of the name, contact details and qualifications of the Project Arborist appointed to the site. Should these details change during the course of works, or the appointed Project Arborist alter, Council is to be notified, in writing, within seven working days.
19. **External materials and colours.** A final schedule of all external materials and colours shall be submitted to Council for approval prior to the issue of any Construction Certificate.

Balustrades to Victoria Road shall comprise opaque glazing to improve the visual privacy to balconies.

20. **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**.
21. **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).
22. **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
23. **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**.

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24. **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	\$122,450.14
Open Space & Recreation Facilities	\$301,447.24
Civic & Urban Improvements	\$102,528.00
Roads & Traffic Management Facilities	\$13,985.38
Cycleways	\$8,735.92
Stormwater Management Facilities	\$27,767.36
Plan Administration	\$2,355.22
The total contribution is	\$579,269.26

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>.

25. **BASIX.** Prior to the issue of Construction Certificate the Construction Certificate plans and specifications are to detail all of the 'CC plan' commitments of the BASIX Certificate.
26. **Remediation of land.** The land must be remediated to the extent necessary for the proposed use and a copy of the site validation report must be submitted to Council for consideration. The site validation report must comply with the *Guidelines for Consultants Reporting on Contaminated Sites* (EPA, 1997) and demonstrate that the site is suitable for the proposed use.

No Construction Certificate is to be issued for any building work on the land until Council has confirmed in writing that it is satisfied that the land is suitable for the proposed use, without the need for further remediation.

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27. **Notice of remediation work.** Before commencing remediation work written notice must be submitted to Council in accordance with clause 16 of *State Environmental Planning Policy No. 55 - Remediation of Land*.
28. **Remediation work.** All remediation work must be carried out in accordance with the requirements of:
 - (a) *State Environmental Planning Policy No. 55 - Remediation of Land*;
 - (b) Any relevant guidelines published by the NSW Environment Protection Authority; and
 - (c) any council policy or development control plan relating to the remediation of land
29. **Council may require site audit of validation report.** If requested by Council, a site audit statement and a site audit summary report from an accredited site auditor under the Contaminated Land Management Act 1997 must be submitted to Council verifying the information contained in the site validation report.
30. **Disabled access.** Prior to the issue of a Construction Certificate, a report is to be provided from a suitably qualified access consultant to verify that the Construction Certificate drawings fully comply with Development Control Plan 2010 – Access for People with Disabilities, the Building Code of Australia and Australian Standards AS1428.1, AS4299, AS1735.12 and AS2890.6. The Construction Certificate drawings shall demonstrate compliance with the recommendations in the report by Certified Building Specialists dated 18 August, 2014. (Ref: A405911)

The report is to be provided to the PCA and Council (if Council is not the PCA).
31. **Design verification.** Prior to a Construction Certificate being issued with respect to this development, the Principle Certifying Authority is to be provided with a written Design Verification from a qualified designer. This statement must include verification from the designer that the plans and specification 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 143 of the *Environmental Planning and Assessment Regulation 2000*.
32. **Soil Depth Over Structures.** Where planting is proposed over a structure, the development is to achieve the minimum standards for soil provision suitable to the proposed planting, as contained within the Residential Flat Design Code. Information verifying that the development complies with these requirements to be provided on the Construction Certificate plans.
33. **Parking Spaces.** The following shall be provided:

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A maximum of 56 car parking spaces are to be provided as follows:

- (a) 10 visitor car spaces are to be provided on site, each clearly marked "Visitor Car Parking". One (1) of those spaces shall be accessible; and
- (b) 46 resident car spaces are to be provided on site.

Details to be shown on the Construction Certificate plans. Note that the area immediately adjacent to the stormwater detention tank, on each basement level, is not approved as parking spaces.

- 34. **Service infrastructure/utilities.** 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. Details of all service infrastructure/utilities are to be approved prior to the issue of the Construction Certificate.
- 35. **Waste and Recycling Services.** All garbage and recycling rooms must be constructed in accordance with the following requirements:
 - (a) The room must be of adequate dimensions to accommodate all waste containers, and any compaction equipment installed, and allow easy access to the containers and equipment for users and servicing purposes;
 - (b) The floor must be constructed of concrete finished to a smooth even surface, coved to a 25mm radius at the intersections with the walls and any exposed plinths, and graded to a floor waste connected to the sewerage system;
 - (c) The floor waste must be provided with a fixed screen in accordance with the requirements of Sydney Water Corporation;
 - (d) The walls must be constructed of brick, concrete blocks or similar solid material cement rendered to a smooth even surface and painted with a light coloured washable paint;
 - (e) The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with a light coloured washable paint;
 - (f) The doors must be of adequate dimensions to allow easy access for servicing purposes and must be finished on the internal face with a smooth-faced impervious material;
 - (g) Any fixed equipment must be located clear of the walls and supported on a concrete plinth at least 75mm high or non-corrosive metal legs at least 150mm high;
 - (h) The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation;
 - (i) The room must be provided with adequate artificial lighting; and
 - (j) a hose with a trigger nozzle must be provided in or adjacent to the room to facilitate cleaning.

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Details are to be submitted on the Construction Certificate plans.

36. **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 public inground drainage infrastructure generally in accordance with the plans by Lomford Engineers (Refer to Project 120VIC-H Dwg201-Iss. H, Dwg301-Iss. D, Dwg401-Iss. C, Dwg501-Iss. C, Dwg 601-Iss.D dated 27 August 2014) subject to the following variation(s) as marked in red on the approved plans:

- Due to the rate of discharge, the system must discharge directly to the inground public drainage network in Pearson Street. This will require the installation of a new inlet pit on the eastern side of the Pearson Street, generally fronting the site and the extension of a 375mm RFC (min.) line to the existing drainage infrastructure located on the western side of Pearson Street. Refer to condition "Public Domain Works – Council Approval."
- The above ground detention basin is not approved and must be deleted from the plans. To satisfy the SSR parameter, the below ground detention tank must be enlarged (deepened) accordingly.
- The encroachment of the onsite detention storage tank into Pearson Street roadway is not supported and must be revised such to be fully contained within the confines of the site.

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).
 - The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.
37. **Public Domain Works – Council Approval.** To facilitate access to and from the approved development and ensure the serviceable state of the infrastructure fronting the site is consistent with the life of the development, the following works shall be undertaken in association with the development at no cost to Council;

ITEM 3 (continued)

ATTACHMENT 1

- a) Due to the degree of runoff from the site, the property drainage system must discharge directly to the inground public drainage infrastructure. This will require the installation of a "V" grate inlet and gully pit (RMS "SK1" or similar) located in the dish drain on the eastern side of Pearson Street in proximity to the site frontage and extension of a 375mm (min.) RFC pipe to connect to the existing inground drainage infrastructure. The point of connection must be made to either an existing inlet pit or new junction pit. Any variations to these works are subject to consultation with Councils Public Works – Drainage section.

Detailed engineering plans prepared by a Civil engineer in accordance with City of Ryde Environmental Standards - Development Criteria - 1999 Section 4 - Public Civil Works, Council's DCP Part 8.2 (Stormwater Management) and associated annexure shall be submitted to Council for approval. At a minimum, the plans must show works in plan view, longitudinal sections and details at a scale relevant for the level of detail and include all existing services/ infrastructure to be retained in the area of works.

A separate plan is required for the proposed parking and traffic control sign layout. This aspect is subject to Councils consideration and Local Traffic Committee.

The approval of the Public Domain engineering plans and payment of any Council inspection fees (in accordance with Council's Management Plan) must be finalised prior to the issue of a Construction Certificate.

38. **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,

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- ensure that the treatment and drainage of groundwater will be undertaken in a manner which generally maintains the pre-developed 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.
- 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.

39. **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.

40. **Evidence of connection by gravity flow.** Documentary evidence from a professional hydraulic engineer or other suitably qualified person demonstrating that all of the premises will be connected directly to the sewerage system by gravity flow must be submitted with the application for the Construction Certificate.

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41. **Mechanical Ventilation details.** Details of all proposed mechanical ventilation systems, and alterations to any existing systems, must be submitted for approval 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 natural ventilation openings in the vicinity; and
 - (c) A design certificate from a professional mechanical services engineer certifying that the mechanical ventilation systems will comply with the *Building Code of Australia* and the conditions of this Consent.
42. **Dilapidation survey.** A dilapidation survey is to be undertaken that addresses all properties that may be affected by the construction and excavation work, namely:
- No. 2 Pearson Street,
 - No. 114 Victoria Road, and
 - No. 126 Vitoria Road.
- A copy of the dilapidation survey is to be submitted to the Accredited Certifier and Council prior to the release of the Construction Certificate.
43. **Hoarding Fees.** Where hoardings are required an application shall be made to Council with all fee in accordance with Council's Management Plan are to be fully paid prior to issue of Construction Certificate. The fee payable is for a minimum 6 months period. Should the time extend beyond this period an extension of time application together with payment for the additional fee is required to be submitted to Council for approval.
44. **Public Domain Works - Footpath Landscaping.** Public domain improvement works are to be undertaken along the Victoria Road & Pearson Street frontage of the development site in accordance with the City of Ryde Public Domain Technical Manual, Section 2 Gladesville. The work is to include but not be limited to paving, street furniture and plantings. A Public Domain plan is to be submitted to Council for approval prior to the issue of the Construction Certificate. Full details, including plans, specifications, sections, finished levels and material schedules shall be submitted to Council for approval prior to the issue of any Construction Certificate. These plans shall incorporate the following:
- (a) Full width grey granite footpath paving type 2 to be constructed along the Victoria Road and Pearson Street frontages of the site.
 - (b) Provision of a minimum of three street trees on the Victoria Road frontage in accordance with Councils secondary streets planting details.

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The street tree selection for Victoria Road is to comply with section 2.2.5 Street Trees, Paving and Street Furniture of the Public Domain Technical manual. Figure 13 of the manual identifies *Platanus acerifolia* (London Plane Tree) in a 200L pot size as the designated street tree for the area. It is recommended that 3 trees be planted along the site frontage at equal centres and under planted with *Liriope muscari* 'Royal Purple'.

The tree pits are to be vaulted beneath the pedestrian area to allow adequate soil volume for the trees to establish. A suitably qualified Landscape Architect is to designate the vault dimensions and Council is to be notified in writing of the detail of the proposed tree vaulting. Should these details change during the course of works, Council is to be notified. A member of Council's public works department shall inspect the installation of the tree vault and the tree to ensure compliance with the Certified Landscape Documentation. The location of underground services is not to conflict with the location of the Tree Vaults.

- (c) Provision of a minimum of two street trees on the Pearson Street frontage in accordance with Council's secondary streets planting details. It will be necessary to discuss with Council the appropriate type of trees to be provided.
- (d) All telecommunication and utility services are to be placed underground along the Victoria Road and Pearson Street frontages of the site.
- (e) New street lighting in Victoria Road and Pearson Street shall be designed and installed to Australian Standard AS1158.3.1-1999 Road Lighting, with vehicular luminance category V3 for Victoria Road and V5 for Pearson Street, and pedestrian luminance category P2 and to Ausgrid requirements.

Plans prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network are to be submitted to Council and Ausgrid for approval prior to commencement of work.

45. **Public Domain works- Maintenance Period.** The Public domain works will incur a 24 month maintenance period to ensure the successful establishment of the plant material.

Any damage caused to council property within the public domain along Victoria Road or Pearson Street shall be rectified at the expense of the applicant.

46. **Public Domain Works – Infrastructure.** Detailed engineering plans for the public domain infrastructure works, prepared by a Chartered Civil Engineer (with NPER registration with Engineers Australia), are to be submitted to Council for approval prior to the issue of any Construction Certificate.

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The works shall be in accordance with the City of Ryde Development Control Plan 2014 Parts 8.2 - Stormwater Management and 8.5 - Public Civil Works, and the City of Ryde Public Domain Technical Manual, Section 2 Gladesville.

The following works shall be completed at no cost to Council, prior to the issue of any Occupation Certificate;

- (a) The removal of all redundant vehicular crossings in Pearson Street and Victoria Road and replacement with new kerb and gutter.
- (b) The construction of a new vehicular crossing on the Pearson Street frontage of the site.
- (c) Construction of full width granite footway along the Victoria Road and Pearson Street frontages of the site.
- (d) The relocation/adjustment of all public utility services affected by the proposed works. Written approval from the applicable Public Authority shall be submitted to council and their requirements being fully complied with.
- (e) Adjustment of levels and grades of all infrastructure (footpath, kerb and gutter, road pavement, etc.) and provide a smooth transition to existing infrastructure.

47. **Vehicular Footpath Crossings.** Footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicular traffic. The crossing(s) are to be constructed to match the paving style along the frontage of the development site and conform to the driveway access levels issued by Council's Public Works Group. The location, design and construction shall comply with the City of Ryde Development Control Plan 2014 Part 8.3 Driveways and Part 8.5 - Public Civil Works, and all relevant Australian Codes and Standards.

In order to avoid the access driveway looking like a public road, kerbs shall not be returned to the boundary alignment line.

The applicant shall provide Council with certification from a Chartered Civil Engineer (with NPER registration with Engineers Australia) confirming that the vehicle crossing design meets Council requirements and the relevant standards, prior to the issue of the Construction Certificate.

48. **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.
49. **Driveway Access Levels.** The applicant is to apply to Council for site specific driveway access levels at the boundary alignment prior to the

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issue of the Construction Certificate. The application shall be accompanied by engineering plans of civil works along the frontage of the development site. The Council issued levels shall be incorporated into the design of the internal driveway, car parking areas, landscaping and stormwater drainage plans. Fees are payable in accordance with Council's Schedule of Fees & Charges at the time of the application.

50. **Reconstruction of Footpath Crossing.** The existing footpath crossing is not in accordance with Council specifications and is likely to dilapidate during construction of the development. Accordingly the driveway crossover must be replaced with a crossing which conforms with Council's requirements in terms of design, materials and construction details. Finished levels shall conform with property alignment levels issued by Council's Public Works Division and all grades and gradient transitions must comply with AS 2890.1.
51. **Vehicle Access & Parking.** All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Offstreet Parking standards).

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

- a) To allow for adequate sight distance from a vehicle exiting the property to pedestrians in the footpath area, the southern side of the driveway entry at the property boundary must have clear sight through a splayed region defined by Figure 3.3 of AS 2890.1 (2004) and Council's DCP.

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

52. **Engineering plans assessment and works inspection fees.** The applicant is to pay to Council for assessment of all engineering and public domain plans and works inspection fees, in accordance with Council's Schedule of Fees & Charges, prior to any approval being granted by Council.
53. **Signage and Linemarking.** A signage and linemarking plan shall be submitted to and approved by Council's Traffic Committee prior to the issue of a Construction Certificate. This will identify, but not be limited to, the provision of the 'No Parking; 5am – 11am; (Waste Collection Days); Waste Vehicles Excepted' zone on Pearson Lane.
54. **Removal of "No Stopping" Parking Restrictions.** The existing "No Stopping" parking restrictions spanning the site frontage in Pearson Street will not be required in relation to this development. Prior to the commencement of construction, the applicant must apply in writing to Council's Public Works – Traffic section for the removal of the parking restrictions for consideration. The alteration to parking restrictions will require the approval of the Local Traffic Committee which meets

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monthly. As such, the applicant must allow 6-8 weeks for this to be approved. Any costs associated with the alteration to parking restriction signage is to be borne by the applicant.

55. **Construction Traffic Management Plan.** As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by Council prior to issue of any Construction Certificate. This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The CTMP 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 CTMP 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.
- Specify that a minimum seven (7) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- 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.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site, west of Church Street to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and supplied to Council.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", RMS's Manual – "Traffic Control at Work Sites" and Councils DCP 2014 Part 8.1 (Construction Activities).

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All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and is to be paid at the time that the Traffic Management Plan is submitted.

Note: Pearson Street is comprised of 90 degree angle parking on the western side, with an additional capacity for parallel parking along the western kerbside, 6m wide road wide including the parallel parking capacity, and an indented parallel parking bay on the eastern kerbside. Adjustments may be required to accommodate construction traffic to turn into the proposed site. This will need to be identified in the Construction Traffic Management Plan.

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.

56. 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.

57. **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.

58. **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.

59. **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

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property) to support the subject land/footpath. An approved fence shall be erected along the boundary for public safety.

60. **Ground Anchors.** The installation of permanent ground anchors into public roadway is not permitted. The installation of temporary ground anchors may be considered subject to application for approval from Council's Public Works department, as per the provisions of Section 138 of the Roads Act. The application for consent must include detailed structural plans prepared by a chartered structural engineer, clearly nominating the number of proposed anchors, depth below existing ground level at the boundary alignment and the angle of installation. Approval is subject to the applicant paying all applicable fees in accordance with Council's Management Plan.
61. **Dilapidation report.** To ensure Council's infrastructures are adequately protected a dilapidation report on the existing public infrastructure in the vicinity of the proposed development and along the travel routes of all construction vehicles is to be submitted to Council prior to any works commencing. The report shall detail, but not be limited to the location, description and photographic record of any observable defects but to the following infrastructure where applicable.
- (a) Road pavement
 - (b) Kerb and gutter
 - (c) Footpath
 - (d) Drainage pits
 - (e) Traffic signs, and
 - (f) Any other relevant infrastructure

The report is to be submitted to Council's Traffic Development Engineer, prior to works commencing with another similar report submitted at completion and prior to issue of an Occupation Certificate. The reports shall be used by council to assess whether restoration works will be required prior to the issue of the Occupation Certificate.

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.

62. **Tree works - Arborist supervision.** An AQF Level 5 Arborist is also to be engaged to monitor the neighbouring trees throughout the development process and ensure compliance with the tree protection measures.

Hold points and certification

The Tree Protection Schedule provides a logical sequence of hold points for the various development stages including pre construction, construction and post construction. It also provides a checklist of various

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hold points that are to be signed and dated by the Project Arborist. This is to be completed progressively and included as part of the final certification. A copy of the final certification is to be made available to the City of Ryde Council on completion of the project.

Tree Protection Schedule

Hold Point	Task	Responsibility	Certification	Timing of Inspection
1	Establishment of tree protection fencing and additional root, trunk and/or branch protection	Principal Contractor	Project Arborist	Prior to demolition and site establishment
2	Supervise all excavation works proposed within the TPZ	Principal Contractor	Project Arborist	As required prior to the works proceeding adjacent to the tree
3	Inspection of trees by Project Arborist	Principal Contractor	Project Arborist	Bi-monthly during construction period
4	Final inspection of trees by Project Arborist	Principal Contractor	Project Arborist	Prior to issue of Occupation Certificate

63. **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*.
64. **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.
65. **Impact to adjoining or nearby properties.** The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations.
66. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
67. **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 is deemed suitable through validation by a geotechnical engineer.
68. **Site Facilities.** The following facilities must be provided on the site:

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- (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.
69. **Construction materials.** All materials associated with construction must be retained within the site.
70. **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.
71. **Traffic management.** Any traffic management procedures and systems must be in accordance with AS 1742.3 1996 and City of Ryde, Development Control Plan 2014: - Part 8.1; Construction Activities. This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.
- Accordingly, a detailed plan of traffic management prepared by a traffic engineer including certification indicating compliance are to be submitted with the Construction Certificate application.
72. **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.
73. **Erosion and Sediment Control.** The applicant shall install erosion and sediment control measures in accordance with the approved plan by Lomford Consulting Engineers (Refer to Project 120VIC-H Dwg601-Iss. B dated 27 August 2014) at the commencement of works on the site. Suitable erosion control management procedures in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction. Where construction works deviate from the plan, soil erosion and sediment control measures are to be implemented in accordance with the above referenced document.
74. **Geotechnical- Implementation of Geotechnical Monitoring Program.** 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)

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days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

75. **Construction Management Plan - Compliance.** All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.
76. **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 Lomford Engineers (Refer to Project 120VIC-H Dwg201-Iss. H, Dwg301-Iss. D, Dwg401-Iss. C, Dwg501-Iss. C, Dwg 601-Iss.D dated 27 August 2014) submitted in compliance to the condition labelled "Stormwater Management." and the requirements of Council in connection to the trunk drainage system.
77. **Imported Fill.** All imported fill must be validated in accordance with the *Contaminated Sites Sampling Design Guidelines* (EPA, 1995) by an experienced environmental consultant, and a copy of the validation report must be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) before the fill is used.
78. **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.
79. **Contaminated soil.** All potentially contaminated soil excavated during demolition work must be stockpiled in a secure area and be assessed and classified in accordance with the *Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes* (EPA, 1999) before being transported from the site.
80. **Disposal of asbestos wastes.** All asbestos wastes must be disposed of at a landfill facility licensed to receive asbestos waste.
81. **Transportation of wastes.** All wastes must be transported in an environmentally safe manner to a facility or place that can lawfully be used as a waste facility for those wastes. Copies of the disposal dockets must be kept by the applicant for at least 3 years and be submitted to Council on request.

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82. **Surplus excavated material.** All surplus excavated material must be disposed of at a licensed landfill facility, unless Council approves an alternative disposal site.
83. **CCTV Cameras**
- a) The applicant shall install and maintain surveillance cameras and recorders to monitor and record all entrance and exit points to the buildings. The cameras should include the foyer area to the buildings including the area around the mail boxes. The cameras should also monitor the 50 metre vicinity outside the building including, but not limited to, both footpath areas in front of the premises. CCTV cameras should also cover any communal areas, lifts, public spaces, basement car park and the entry to the basement storage area as described on drawing SK1L. Recordings should be made twenty four (24) hours a day seven (7) days a week.
 - b) As a minimum, CCTV cameras at entry and exit points to the premises **MUST** record footage of a nature and quality in which it can be used to identify a person recorded by the camera. All other cameras **MUST** record footage of a nature and quality in which it can be used to recognise a person recorded by the camera.
 - c) Suitable signage shall be installed in all areas where CCTV is provided to identify that it is in use.
 - d) The time and date must automatically be recorded on all recordings made whilst it is recording. All recordings are to be kept for a minimum period of thirty (30) days before they can be reused or destroyed.
 - e) If requested by police, the applicant is to archive any recording until such time as they are no longer required.
 - f) Recordings are to be made in a common media format such as Windows Media Player or similar, or should be accompanied by applicable viewing software to enable viewing on any windows computer.
 - g) The CCTV control system should be located within a secured area of the premise and only accessible by authorised personnel.
 - h) If the CCTV system is not operational, immediate steps are to be taken by the applicant to ensure that it is returned to a fully operational condition as soon as possible.
 - i) CCTV should be installed throughout the basement car park area and should include the entry and exit points to the car park.
84. **Access control**
- The following measures shall be addressed in the fit out of the building:
- a) All areas should be fitted with doors that comply with Australian Design Standards.

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- b) The locks fitted to the doors should be of a high quality and meet the Australian design standards.
 - c) Any glass within these doors should be laminated to enhance the physical security of the doors.
 - d) Access control should be set in place to exclude unauthorized access to restricted areas.
 - e) Access should be restricted to residents only to the lifts and stairs leading to the apartments.
 - f) Fire exit doors to the development should be fitted with single cylinder locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the development.
 - g) The main entry/exit doors to individual units should also be fitted with single cylinder locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.
 - h) The balcony doors to individual units should also be fitted with single cylinder locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.
 - i) The windows to individual units should also be fitted with key operated locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.
 - j) Intercom facilities should be incorporated into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
 - j) Letterboxes shall have good quality locks on them.
85. **Car parking security.** Vehicular entry to parking area is to be through a secured roller shutter with an intercom system for visitor's access. The roller shutter is to be controlled by a remote or card operating electronic lock sets. The phasing of the roller door needs to minimise the opportunity for unauthorised pedestrian access after a vehicle enters/exits the car park. The roller shutter shall be closed at all times when entry/exit is not required.
86. **Lighting:** Lighting is to be provided around the site and all lighting is to comply with the following requirements:
- Lighting is to be designed and installed in accordance with the relevant Australian and New Zealand Lighting Standards.
 - A Lighting Maintenance Policy is required to outline the maintenance, monitoring and operation of lighting.
 - To reduce power consumption and comply with the relevant Australian and New Zealand Standards for Lighting, car park lighting is to be interfaced with motion detectors.
 - Lighting is to be provided to all common areas including all car parking levels, stairs and access corridors and communal gardens.
 - Lighting is to be automatically controlled by time clocks and where appropriate, sensors for energy efficiency and a controlled environment for residents.

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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.

87. **Compliance with acoustic report.** The Principal Certifying Authority shall be provided with certification confirming compliance with all recommendations in sections 4.8.1 and 4.8.2 of the report by Rodney Stevens Acoustics dated 27 August, 2014 (Ref: Report 13658R1)
88. **Public domain - Works as executed plan.** A works-as-executed plan for works carried out in the public domain must be provided to Council and endorsed by Council, as the Road Authority, prior to the issue of the Occupation Certificate. All public domain works are to be completed to Council's satisfaction prior to the issue of the Occupation Certificate.
89. **Landscaping.** The landscaping works approved in Condition 1 are to be completed prior to the issue of any Occupation Certificate for the apartment building.
90. **BASIX Commitments.** Prior to the issue of the Occupation Certificate, the Principle Certifying Authority is to ensure that the BASIX commitments have been implemented in accordance with the approved BASIX Certificate. Note: Certificates from suitably qualified persons are to be submitted to the Principle Certifying Authority (if Council is the PCA) verifying that all BASIX commitments listed have been fulfilled in accordance with the BASIX Certificate.
91. **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 a Design Verification from a qualified designer. The statement must include verification from a qualified designer that the residential flat development achieves the design quality of the development shown on plans and specifications in respect to any Construction Certificate issued, having regard to the design quality principles set out in Part 2 of

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the State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development. This condition is imposed in accordance with Clause 154 of the *Environmental Planning and Assessment Regulations 2000*.

92. **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.

93. **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.
94. **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 and 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 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.
95. **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

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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.
 - 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 the connection of the site drainage system to the trunk drainage system complies with Section 4.7 of AS 3500.3 - 2003 (National Plumbing and Drainage Code) and the relevant sections of the City of Ryde DCP 2014, Part 8.2 " Stormwater Management" and associated annexure.
 - e) 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".
 - f) Certification from a suitably qualified structural or geotechnical engineer confirming that any temporary soil/ rock anchors installed into public roadway, have been de-stressed and are no longer providing any structural support.
 - g) 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.
 - h) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.
96. **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

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Management. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

97. **Street/house numbering.** To assist with way finding for emergency services, numbering of street numbers, building numbers, levels of the building and unit numbers should be clearly displayed. Street numbering is to be designed to be visible from the street. Council must be contacted in relation to any specific requirements for street numbering. All letterboxes and house numbering are to be designed and constructed to be accessible from the public way.
98. **Certification of Mechanical Ventilation Work.** 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**.
99. **Disabled Access.** Certification is to be provided from a suitably qualified access consultant to verify that the completed building complies with Development Control Plan 2010 – Access for People with Disabilities, the Building Code of Australia and Australian Standards AS1428.1, AS4299, AS1735.12 and AS2890.6.
100. **Signage and line marking.** All signage and linemarking approved by Council's Traffic Committee must be completed.
101. **Access to waste storage.** A lockable roller door or similar shall be placed on the proposed hard waste storage room to prevent access by the public. The door shall have the universal Council key installed for access by the contractor to access the room during the designated clean up week or to access bins for servicing.

OPERATIONAL

102. **Waste Collection Services.** Arrangements must be made with Council for the provision of waste collection services **before occupation commences**.
103. **Maintenance of Waste Areas.** All waste storage areas must be maintained in a clean and tidy condition at all times.
104. **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.
105. **Operation of Plant or Equipment.** The operation of any plant or equipment installed on the premises must not cause:

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- (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at the property boundary in the vicinity. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).
- (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
- (c) The transmission of vibration to any place of different occupancy

106. **Council may require acoustical consultant's report.** Council may require the submission of a report from an appropriately qualified acoustical consultant demonstrating compliance with the relevant noise and vibration criteria.

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RYDE DEVELOPMENT CONTROL PLAN COMPLIANCE TABLE	
LDA No: LDA2014/0379	Date Plans Rec'd: 13 November 2014 (amended) 29 January , 2015 (amended)
Address: 120-124A Victoria Road Gladesville	
Proposal:	Construction of a residential flat building containing 46 units.
Constraints Identified: Site orientation, dual street frontage, location of adjacent buildings on northern boundary	

RYDE DCP 2010 - Part: 4.6 - Gladesville Town Centre & Victoria Road Corridor		
Section 2 - Vision Statement		
2.2.4 - South Gladesville		
Requirements	Proposal	Comply
South Gladesville extends south of the town centre to Punt Road. it is the main approach to the town centre from central Sydney, and provides a visual impression of Gladesville upon arrival. The character of this precinct will be reinforced as a well landscaped entry to the town centre. The existing uses are predominantly low rise residential on the eastern side of Victoria Road, and commercial with residential flat buildings on the western side. Future development on the western side will have taller buildings set back from the street frontage with trees in the front setback providing the landscaped setting.	The development provides for a 6 storey building on the western side of Victoria Road consistent with the LEP height controls. The building is setback from the street, and public domain improvements include new street trees across the Victoria Road frontage of the site.	Yes

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Section 3 - Objectives and controls		
Section 3.1 - Built form		
3.1.1 - Built form heights		
Requirements	Proposal	Comply
a. Buildings must comply with the maximum heights described in the Gladesville Town Centre and Victoria Corridor Environmental Plan (LEP) and the Built Form Heights Plan (Figure 4.6D) in this Part.	Compliance with the LEP height control is addressed above. The building is 6 storeys to Victoria Road, exceeding the 5 storey control in the DCP. However Ryde DCP 2014 no longer includes a provision nominating the number of storeys, instead relying only upon the LEP height control (which remains at 19m under Ryde LEP 2014).	No - but satisfactory based on merit
b. The height limits in the LEP and the DCP should be read in conjunction.	Noted	N/A
c. Floor to ceiling height must be a minimum of 2.7m for residential uses.	Achieved	Yes
d. To ensure that the ground floor levels are adaptable over time for a range of uses, the floor to floor height at ground level in all mixed use developments is to be a minimum of 3.6m, regardless of the initial proposed use.	Not applicable	N/A
3.1.2 - Active Street frontages		
Requirements	Proposal	Comply
Not applicable to this site		
3.1.3 - Buildings abutting the street alignment		
Requirements	Proposal	Comply
Not applicable to this site		
3.1.4 - Setbacks		
Requirements	Proposal	Comply
a. Setbacks shall be in accordance with the following Table and Figures 4.6G and 4.6H.	The development is required to setback the upper floor level by 4m from Victoria Road. The development complies with this requirement.	Yes

ITEM 3 (continued)

ATTACHMENT 2

Section 3 - Objectives and controls		
Section 3.1 - Built form		
3.1.1 - Built form heights		
Requirements	Proposal	Comply
b. The ground floor and lower levels of buildings on Victoria Road (except within the Gladesville Town Centre precinct) must be set back 2m from the front property boundary and built to this alignment. Paving and footpath treatments to be provided within the setback area in accordance with Section 3.3 of this DCP and Ryde Public Domain Technical Manual.	Achieved	Yes
c. All levels of buildings in side streets must be setback a minimum 2m except as shown in Key Site Diagrams (Refer chapter 4.0 this Part). Street trees and deep soil are to be provided within the setback area.	Not applicable to this site	N/A
d. Buildings on the western side of Osgathorpe Street must be set back 3m and built to this alignment, with deep soil & large canopy trees in front setback.	Not applicable to this site	N/A
e. All levels of buildings in Farm Street must be set back 6m, and built to this alignment with deep soil and large canopy trees in the front setback.	Not applicable to this site	N/A

3.1.5 - Rear setbacks and residential amenity		
Requirements	Proposal	Comply
a. Provide 9m ground level setback at the rear of sites fronting Victoria Road in the North Gladesville and Monash Road Precincts except as shown in Key Sites Diagrams. Refer Figure 4.6I Setback I.	Not applicable to this site	N/A

ITEM 3 (continued)

ATTACHMENT 2

3.1.5 - Rear setbacks and residential amenity		
Requirements	Proposal	Comply
b. Provide 12m separation minimum above the ground floor between residential buildings (including existing residential buildings on adjacent sites).	Not applicable to this site	N/A
c. Buildings fronting Victoria Road may build to the side boundary for a depth of 20m measured from the street frontage. A side setback is then required to achieve 12m separation between proposed and potential residential land uses.	Generally achieved for most of the building. Due to the awkward shape of the site a portion of the rear of the building achieves only a 9m separation from No. 2 Pearson Street. That separation is acceptable as the design affords a satisfactory level of privacy. A setback of only 2.5m is achieved from the adjacent site to the north. Currently it supports commercial building, but in the future that land may be re-developed. The design of this building includes minimal openings to that boundary such that privacy to/from any future residential building should also be satisfactory.	No - but satisfactory on merit.
d. Predominantly residential activities should be located adjoining low density residential areas including at the rear. If this is not practicable, activities that do not produce negative impacts in terms of noise, light, sound and odour are encouraged.	Achieved	Yes

3.1.6 - Conservation area built form design guidelines		
Requirements	Proposal	Comply
Not applicable to this site.		
3.1.7 - Awning		
Requirements	Proposal	Comply
Not applicable to this site.		

ITEM 3 (continued)

ATTACHMENT 2

Section 3.2 - Access		
3.2.1 - Minimum street frontage / site amalgamation		
Requirements	Proposal	Comply
a. Any development within the North and South Gladesville Precincts is to have a minimum 40m frontage to Victoria Road and one driveway crossing maximum, unless it can be demonstrated that access may be achieved from the local road network.	The site has a frontage to Victoria Road of 34.6m, a shortfall of only 5.4m. As the objective of this control is to minimise the number of driveways connections to Victoria Road, no concerns arise given this proposal relies upon vehicle access only from Pearson Street.	No - but satisfactory on merit.
3.2.2 - Vehicular access		
Requirements	Proposal	Comply
a. Provide vehicular access from the local roads network in preference to Victoria Road. This will require development of public laneways within the rear setback of most sites in the North Gladesville and Monash Road Precincts in particular.	The proposal relies only upon vehicle access from Pearson Street.	Yes
b. Where a laneway is required, the new lane must include a 2-way carriageway, 6m wide and a footpath along one side 1.5m wide, to the satisfaction of Council	Noted - not applicable to this site	N/A
c. Gerard Lane shall be extended to create a connection running from Osgathorpe St to Gerard St.	Noted - not applicable to this site	N/A
d. Where a new lane is proposed to extend an existing lane, the new lane must be designed to seamlessly connect to the existing lane.	Noted - not applicable to this site	N/A

ITEM 3 (continued)

ATTACHMENT 2

3.2.3 - Parking		
Requirements	Proposal	Comply
a. Provide publicly accessible parking to support retail, entertainment and commercial land uses, church and educational institutions as shown on the Parking Control Drawing (Figure 4.6L) below, to Council's satisfaction.	Noted - not applicable to this site	N/A
b. The quantity of publicly accessible parking within the Town Centre Precinct shall equal or exceed existing public parking.	Noted - not applicable to this site	N/A
c. Provide secure bicycle parking in every building equal in area to 1 car space for every 100 car spaces or part thereof.	Achieved	Yes
Section 3.3 - Public domain		
3.3.1 - Pedestrian connections		
Requirements	Proposal	Comply
Not directly applicable to this site. Identified upgrades to the public domain are achieved by conditions. (see conditions Nos. 44, 45 and 46)		
3.3.2 - Public domain framework		
Requirements	Proposal	Comply
Not applicable to this site		
3.3.3 - Landscape character		
Requirements	Proposal	Comply
Not directly applicable to this site. Identified upgrades to the public domain, including street trees to Victoria Road, are achieved by conditions. (see conditions Nos. 44, 45 and 46)		
3.3.4 - Urban elements		
Requirements	Proposal	Comply
Identified upgrades to the public domain, including street trees to Victoria Road, are achieved by conditions. (see conditions Nos. 44, 45 and 46)		

ITEM 3 (continued)

ATTACHMENT 2

3.3.5 - Street sections introduction		
Requirements	Proposal	Comply
Noted.		
3.3.6 - Victoria Road section - South Gladesville precinct		
Requirements	Proposal	Comply
a. Provide paving, seats, benches and bins as selected by Council in accordance with the Ryde Public Domain Technical Manual.	Compliance achieved by conditions (see condition No44 and 46)	Yes
b. Provide seating and shelter (awnings or bus shelter) at all bus stops, and provide seating at community facilities and drop off points. Seating shall be in accordance with Ryde Public Domain Technical Manual.	Compliance achieved by conditions (see condition No 44 and 46)	Yes
c. Provide new street lighting to primary and secondary streets as selected by Council and underground power cables.	Compliance achieved by conditions (see condition No 44 and 46)	Yes
d. Provide pole lighting, lighting from building awnings and structures, in new public spaces, to ensure night time pedestrian safety to Council satisfaction.	Compliance achieved by conditions (see condition No 44 and 46)	Yes
Section 4 - Key sites		
Not applicable to this site.		

Other Detailed Provisions		
The proposed development is to comply with the provisions of the following parts of the DCP:		
<ul style="list-style-type: none"> Part 7.1 – Energy Smart, Waterwise 	The proposed development is supported by a BASIX certificate which satisfies requirements for sustainability with regard to water, thermal comfort and energy	Yes
<ul style="list-style-type: none"> 7.2 Waste Minimisation and Management 	A waste management plan has been submitted with the application and is adequate.	Yes
<ul style="list-style-type: none"> 8.1 Construction Activities 	Capable of complying subject to conditions recommended by Council's Development Engineer and standard conditions of consent.	Yes

ITEM 3 (continued)

ATTACHMENT 2

<ul style="list-style-type: none"> • 8.2 Stormwater Management 	Arrangements for the collection and disposal of stormwater are satisfactory.	Yes subject to conditions
<ul style="list-style-type: none"> • 8.3 Driveways 	The location and design of the driveway has been confirmed as satisfactory by Council's Development Engineer.	Yes, subject to conditions
<ul style="list-style-type: none"> • 9.2 Access for People with Disabilities • Class 2 Requirements • An accessible path of travel from the street to and through the front door of all units on the ground floor, where the level of the land permits. If the development has three or more residential storeys, with 10 or more units, to all units on all storeys. 	An accessible path of travel from Victoria Street to the front door of all units on the ground floor is provided. Lift access is then provided to all upper levels, and which also connects to the basement parking, including the required adaptable and visitor spaces.	Yes, subject to conditions
1 wide bay space for each accessible or adaptable unit At least 1 wide bay visitors' space	Achieved	Yes
<ul style="list-style-type: none"> • 9.3 Car Parking Residential Development - High Density (Residential Flat Buildings) 	Parking supply, allocation and location is satisfactory. Refer to detailed discussion in assessment report.	Yes, subject to conditions
2.7 Bicycle Parking a. In every new building, where the floor space exceeds 600m ² GFA (except for dwelling houses and multi unit housing) provide bicycle parking equivalent to 10% of the required car spaces or part thereof.	Bicycle parking spaces provided within the basement	Yes
<ul style="list-style-type: none"> • 9.4 Fencing 	Boundary treatments are satisfactory	Yes
<ul style="list-style-type: none"> • 9.6 Tree Preservation 	Satisfactory	Yes

ITEM 3 (continued)

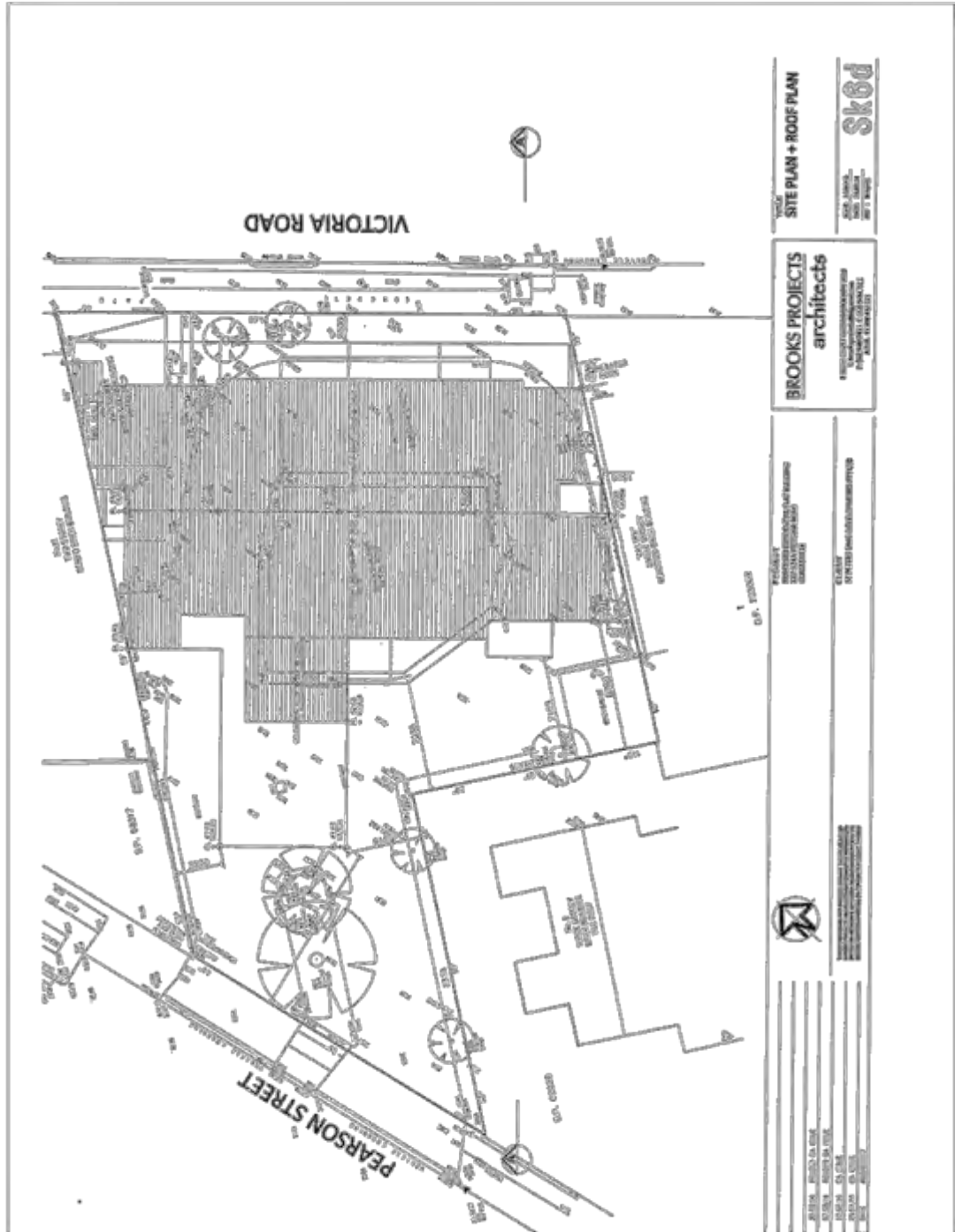
ATTACHMENT 3



Indicates submissions – note that several unit occupants from each strata have submitted objections
Also note: other objections were received with sender addresses not in direct vicinity

ITEM 3 (continued)

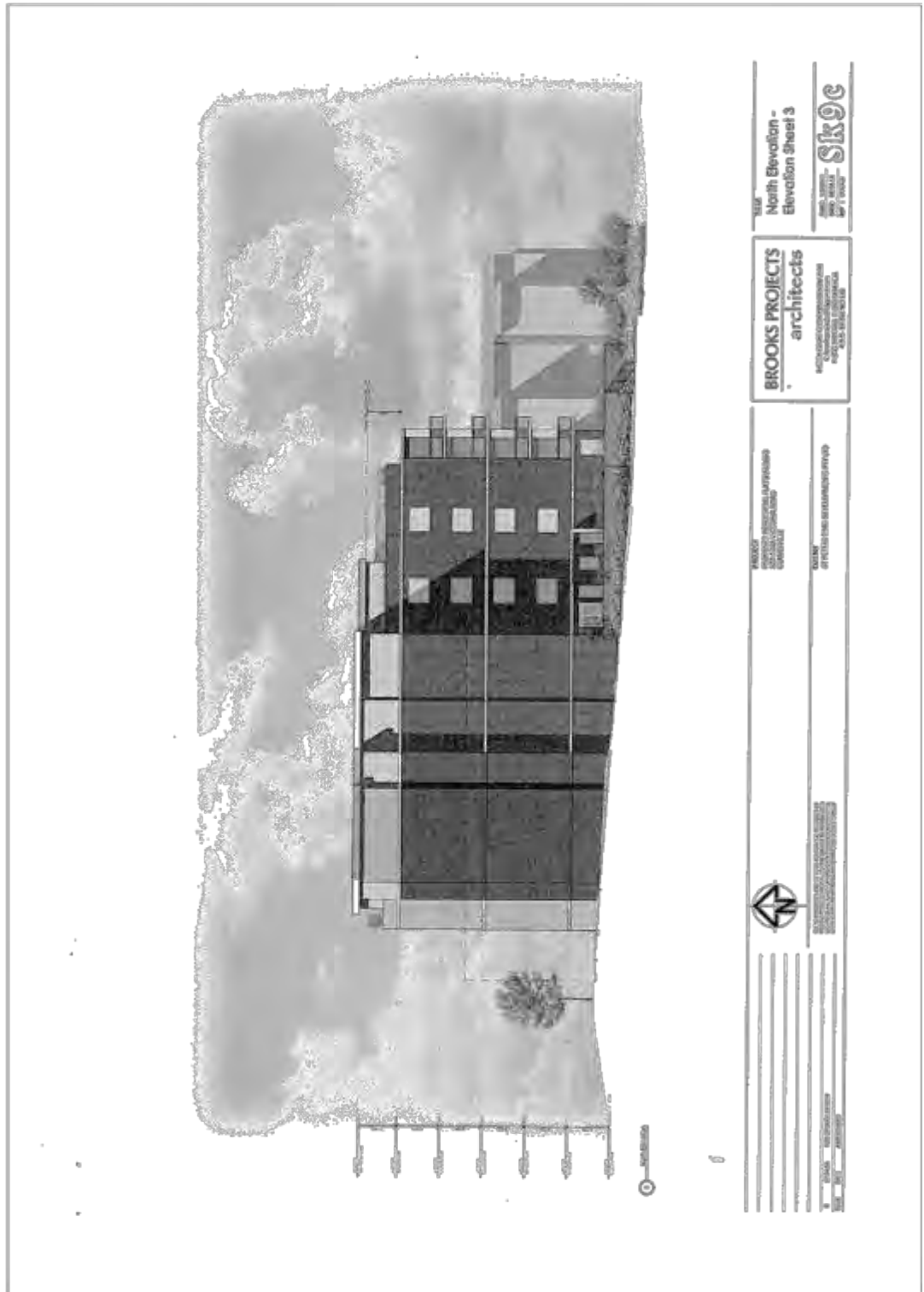
ATTACHMENT 4



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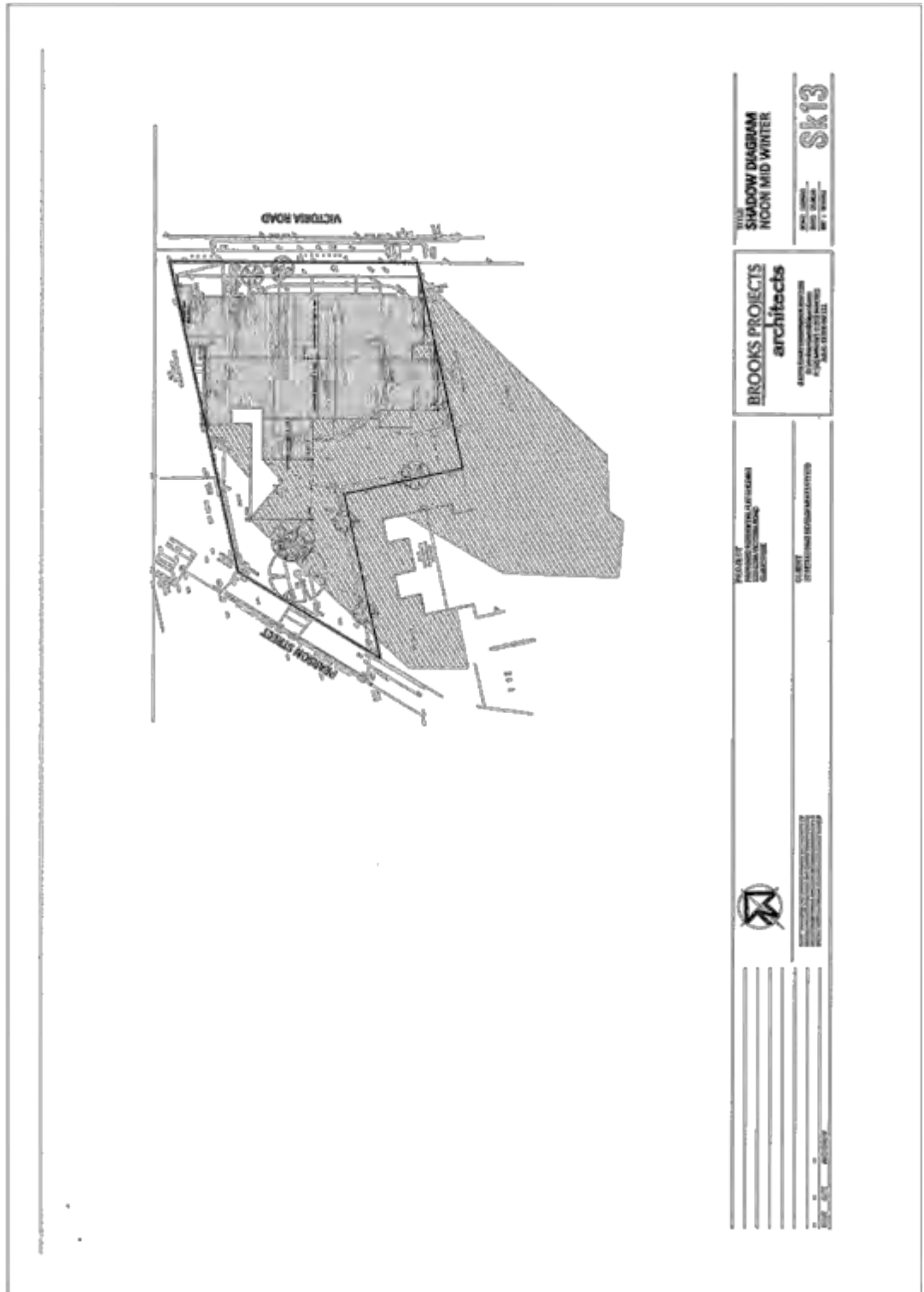
ITEM 3 (continued)

ATTACHMENT 4



ITEM 3 (continued)

ATTACHMENT 4



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