

**Meeting Date:** Tuesday 9 February 2016  
**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 8 December 2015**

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**Report prepared by:** Senior Coordinator - Governance  
**File No.:** CLM/16/1/3/2 - BP15/1893

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**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 16/15, held on 8 December 2015, be confirmed.

**ATTACHMENTS**

**1 MINUTES - Planning and Environment Committee Meeting - 8 December 2015**

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Planning and Environment Committee  
MINUTES OF MEETING NO. 16/15**

**Meeting Date:** Tuesday 8 December 2015

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

**Time:** 5.00pm

**Councillors Present:** Councillors Simon (Chairperson), Chung, Pendleton, Pickering, and Yedelian OAM.

Note: Councillor Pickering arrived at the meeting at 5.23pm during the consideration of Item 2.

Note: Councillor Pendleton left the meeting at 7.33pm and did not return. She was not present for consideration or voting on Items 1, 6, 7 and 8.

**Apologies:** Councillor Etmekdjian.

**Staff Present:** Acting Director – City Strategy and Planning, Acting Chief Operating Officer, Manager – Assessment, Acting Manager – Strategic City, Senior Coordinator – Strategic Planning, Senior Coordinator – Development Assessment, Senior Strategic Planner, Senior Development Engineer, Planning Consultant (Creative Planning Solutions), Senior Coordinator – Governance and Governance, Risk and Audit Coordinator.

**DISCLOSURES OF INTEREST**

There were no disclosures of interest.

**1 CONFIRMATION OF MINUTES – Meeting held on 10 November 2015**

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

**2 95 BALACLAVA ROAD, EASTWOOD - LOT 6 DP 35226 Development Application for a new two storey boarding house comprising twelve (12) boarding rooms under State Environmental Planning Policy (Affordable Rental Housing) 2009. LDA2015/11.**

Note: Pooja Chugh (objector) and Nicole Lennon (representing Green Garden Developments - applicant) addressed the meeting in relation to this Item.

**ITEM 1 (continued)**

**ATTACHMENT 1**

Note: Plans from Nicole Lennon were tabled in relation to this Item and a copy is ON FILE.

**RECOMMENDATION:** (Moved by Councillors Chung and Yedelian OAM)

- (a) That Local Development Application No. LDA2015/011 at 95 Balaclava Road, Eastwood being LOT 6 DP 35226 be approved via a Deferred Commencement consent 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: Councillors Chung, Simon and Yedelian OAM

Against the Motion: Councillors Pendleton and Pickering

Note: This matter will be dealt with at the Council Meeting to be held on **15 DECEMBER 2015** as dissenting votes were recorded.

**3 38 CONRAD STREET, NORTH RYDE - LOT 23 DP 222878. Section 96(1A)  
Application to modify consent for alterations and additions to dwelling.  
LDA2011/343 (MOD2015/77)**

Note: Brett Daintry (Town Planner representing objectors at 36 Conrad Street), Robyn Slothouber (objector), Robert Carbone (applicant) and Omar Zaher (Private Certifier for Robert Carbone – applicant) addressed the meeting in relation to this Item.

Note: A letter from Brett Daintry dated 7 December 2015 and diagrams were tabled in relation to this Item and copies are ON FILE.

Note: A letter from Robyn Slothouber was tabled in relation to this Item and a copy is ON FILE.

Note: Documentation from Robert Carbone was tabled in relation to this Item and a copy is ON FILE.

Note: Council Staff provided a brief presentation to Councillors in relation to this Item and a copy is ON FILE.

**MOTION:** (Moved by Councillors Pickering and Chung)

This assessment report has considered the submitted documentation and makes the following recommendations to Council:

**ITEM 1 (continued)**

**ATTACHMENT 1**

- (a) That Section 96 application MOD2015/0077 to LDA2011/0343 at No.38 Conrad Street, North Ryde being LOT 23 DP 721631 be **APPROVED** in the following manner:

- **Condition 1** is deleted and replaced with:

**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:

<b>Document Description</b>	<b>Date</b>	<b>Plan No/Reference</b>
Ground Floor/Site Plan	02/09/2015	A1.01, Revision D
Lower Ground Floor/Site Plan	13/08/2015	A1.02, Revision C
Elevations & Section	02/09/2015	A1.03, Revision D

Prior to the issue of a **Construction Certificate**, the following amendments shall be made:

- BASIX.** All revised BASIX commitments are to be detailed on the Construction Certificate plans and be submitted to Council for approval prior to the issue of a **Construction Certificate**.
- Carport** - the proposed carport forward of the building line is not approved and shall be deleted from the submitted plans. Plans detailing this change are to be submitted to Council for approval prior to the issue of a **Construction Certificate**.
- Privacy Screen – Northern Boundary.** A 1.8m high fully opaque (translucent) or fixed louvered privacy screen be installed along the northern edge of the proposed parking structure for a length extending 5.4m from the building façade with compliant vehicle barriers required where the vertical fall to the adjacent ground level exceeds 600mm under Australian Standards 2890.1-2004. Plans that include details demonstrating compliance with this condition are to be submitted and approved by Council prior to the issue of a **Construction Certificate**.
- Revised Landscape Plan.** A revised landscape plan for the site that is prepared by a suitably qualified landscape architect is to be submitted to Council for approval prior to the issue of **Construction Certificate** for the works covered in Condition 1 of this consent. The revised landscape plan is to ensure semi-established fast

**ITEM 1 (continued)**

**ATTACHMENT 1**

growing plants are planted along the northern boundary (between the street boundary and the front of the dwelling) to provide screening to the adjoining property at No.36 Conrad Street.

- (e) **Pedestrian Pathway** - Physical separation be placed between the pedestrian and driveway components of the elevated parking structure via a low level wall, bollard, or planter etc. Plans detailing compliance with this condition are to be submitted to Council for approval prior to the issue of a **Construction Certificate** works covered in the plans under Condition 1.

**Number of Car Parking Spaces** - One (1) motor vehicle, boat or other vehicle is permitted to park on the elevated parking structure at any one time.

- **Condition 7** is deleted and replaced with the following:
  - The development is to be carried out in compliance with BASIX Certificate No. A177112\_02 dated 07 May 2015.
- **Condition 21** is deleted.
- **ALL** other conditions remain unaltered and must be complied with.

(b) That the objectors be advised of Council's decision.

On being put to the Meeting, the voting on the Motion was two (2) For and three (3) Against. The Motion was **LOST**.

**Record of Voting:**

For the Motion: Councillors Chung and Pickering

Against the Motion: Councillors Pendleton, Simon, and Yedelian OAM

Note: This matter is **AT LARGE**.

Note: This matter will be dealt with at the Council Meeting to be held on **15 DECEMBER 2015** as the matter is AT LARGE.

**ADJOURNMENT**

The Chairperson, Councillor Simon adjourned this meeting to reconvene at 6.18pm on Tuesday, 8 December 2015 in Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde, the time being 6.17pm.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Councillors Present:** Councillors Simon (Chairperson), Chung, Pendleton, Pickering, and Yedelian OAM.

**Apologies:** Councillor Etmekdjian.

**MEETING RECONVENED**

The Meeting reconvened at 6.18pm on Tuesday, 8 December 2015 in in Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde.

The following Councillors were present:

Councillors Simon (Chairperson), Chung, Pendleton, Pickering, and Yedelian OAM.

**Apologies:** Councillor Etmekdjian.

**Staff Present:** Acting Director – City Strategy and Planning, Acting Chief Operating Officer, Manager – Assessment, Acting Manager – Strategic City, Senior Coordinator – Strategic Planning, Senior Coordinator – Development Assessment, Senior Strategic Planner, Senior Development Engineer, Planning Consultant (Creative Planning Solutions), Senior Coordinator – Governance and Governance, Risk and Audit Coordinator.

**4 136A CRESSY ROAD, EAST RYDE - LOT 91 DP 579412. Section 96(1A)  
Application to modify consent for approved multi-dwelling housing  
development. LDA2013/352 (MOD2015/94)**

Note: Colin Dunlop (objector), Libby Lawson (objector), Gerda Rugholm (applicant) and Gregg Ritchie (Architect representing Gerda Rugholm – applicant) addressed the meeting in relation to this Item.

Note: An email dated 6 December 2015 and a letter dated 25 August 2015 from Gerda Rugholm were tabled in relation to this Item and copies are ON FILE.

**RECOMMENDATION:** (Moved by Councillors Pickering and Yedelian OAM)

- (a) That consideration of this application be deferred for further discussions to be undertaken between the Acting Director – City Strategy and Planning and the applicant regarding alternate fencing designs.
- (b) That a further report be submitted to the Planning and Environment Committee as soon as practicable.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Record of Voting:**

For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **15 DECEMBER 2015** as substantive changes were made to the published recommendation and Councillors **MAGGIO** and **SALVESTRO-MARTIN** requested that the matter be referred to the next Council Meeting.

**5 PLANNING PROPOSAL - 66-82 TALAVERA ROAD, MACQUARIE PARK**

Note: Michael Harrison (representing Holdmark) addressed the meeting in relation to this Item.

Note: Documentation from Michael Harrison was tabled in relation to this Item and a copy is ON FILE.

**RESOLUTION:** (Moved by Councillors Pendleton and Pickering)

- (a) That Council defers the determination of the Planning Proposal for 66 – 82 Talavera Road Macquarie Park until the Macquarie Park Strategic Review and the supporting draft Plan outlining the future direction for Macquarie Park in terms of land use, urban design and infrastructure provision and delivery is completed (approx. June 2016). Council supports further discussion with the applicant on this issue.
- (b) That upon completion of the Macquarie Park Strategic Review and the supporting draft Plan for the future direction for Macquarie Park an amended Planning Proposal and a Voluntary Planning Agreement be submitted for 66 – 82 Talavera Road Macquarie Park based on that draft Plan.
- (c) That the General Manager write to the Minister for Planning seeking clarification of the interim approach to deal with Planning Proposals that do not comply with the current planning controls, while the strategic review of Macquarie Park is being undertaken (to ensure the strategic direction that will be developed for the Corridor will not be undermined and that critical infrastructure will be delivered to meet the growing population demands in the Corridor in an appropriate and timely manner).

**Record of Voting:**

For the Motion: Unanimous

Note: A Notice of Rescission signed by Councillors Chung, Pickering and Simon was received in relation to this Item at 11.26am on 10 December 2015 and will be considered by Council at its meeting to be held on 15 December 2015.



**ITEM 1 (continued)**

**ATTACHMENT 1**

**ADJOURNMENT**

The Chairperson, Councillor Simon adjourned this meeting to reconvene at 7.01pm on Tuesday, 8 December 2015 in Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde, the time being 6.59pm.

**Councillors Present:** Councillors Simon (Chairperson), Chung, Pendleton, Pickering, and Yedelian OAM.

**Apologies:** Councillor Etmekdjian.

**MEETING RECONVENED**

The Meeting reconvened at 7.01pm on Tuesday, 8 December 2015 in Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde.

The following Councillors were present:

Councillors Simon (Chairperson), Chung, Pendleton, Pickering, and Yedelian OAM.

**Apologies:** Councillor Etmekdjian.

**Staff Present:** Acting Director – City Strategy and Planning, Acting Chief Operating Officer, Manager – Assessment, Acting Manager – Strategic City, Senior Coordinator – Strategic Planning, Senior Coordinator – Development Assessment, Senior Strategic Planner, Senior Development Engineer, Planning Consultant (Creative Planning Solutions), Senior Coordinator – Governance and Governance, Risk and Audit Coordinator.

**9 TREE MANAGEMENT REVIEW**

**Note:** Noel Plumb (representing Ryde Environment Group) addressed the meeting in relation to this Item.

**Note:** An email and letter from John Boyle dated 8 December 2015 was tabled in relation to this Item and a copy is ON FILE.

**Note:** An email from John McCain and Diane Michel dated 8 December 2015 was tabled in relation to this Item and a copy is ON FILE.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**MOTION:** (Moved by Councillors Pickering and Yedelian OAM)

- (a) That Council endorse the amendments to Ryde Development Control Plan 2014 Part 9.5 Tree Preservation as shown at **ATTACHMENT 1**, and that the amended DCP be placed on public exhibition in accordance with the provisions of the NSW Environmental Planning and Assessment Act.
- (b) That the outcomes of the exhibition are reported back to Council following the exhibition period.
- (c) That Council endorse the proposed amendments to the appeal process for Tree Management Applications, information for applicants, and procedures for tree works on public land and affected by infrastructure construction and maintenance, as outlined in **ATTACHMENT 2**.
- (d) That Council amend the 2015/16 Schedule of Fees and Charges for “Request for review of determination of Tree Permit Applications” from \$65.50, to \$25.00 for a Stage 1 Review (by an alternative Council officer) and \$40.00 for a Stage 2 Review (by Council’s Internal Review Panel);
- (e) That Council amend the 2015/16 Schedule of Fees and Charges for “Request for review of determination of Tree Permit Applications- Eligible pensioner discount” from \$33.00, to \$12.50 for a Stage 1 Review (by an alternative Council officer) and \$20.00 for a Stage 2 Review (by Council’s Internal Review Panel);
- (f) That the new fees be advertised for 28 days, and should there be no objections, the new fees will commence.

On being put to the Meeting, the voting on the Motion was two (2) For and three (3) Against. The Motion was **LOST**.

**Record of Voting:**

For the Motion: Councillors Pickering and Yedelian OAM

Against the Motion: Councillors Chung, Pendleton and Simon

Note: This matter is **AT LARGE**.

Note: This matter will be dealt with at the Council Meeting to be held on **15 DECEMBER 2015** as the matter is AT LARGE.

Note: Councillor Pendleton left the meeting at 7.33pm and did not return.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**1 CONFIRMATION OF MINUTES - Meeting held on 10 November 2015**

Note: Councillor Pendleton was not present for consideration or voting on this Item.

**RESOLUTION:** (Moved by Councillors Pickering and Yedelian OAM)

That the Minutes of the Planning and Environment Committee 15/15, held on 10 November 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.

**6 AMENDMENTS TO NORTH RYDE STATION PRECINCT DEVELOPMENT CONTROL PLAN**

Note: Councillor Pendleton was not present for consideration or voting on this Item.

**RESOLUTION:** (Moved by Councillors Pickering and Yedelian OAM)

- (a) That Council adopt the amendments to the North Ryde Station Precinct Development Control Plan attached to this report.
- (b) That Council give public notice in a local newspaper of its decision with respect to the draft amending North Ryde Station Precinct Development Control Plan (DCP) within 28 days of its decision, and provide the Secretary of the Department of Planning and Environment with a copy of the plan in accordance with the Environmental Planning and Assessment Regulation 2000.
- (c) That Council notify all community members who made a submission regarding the DCP amendments of its 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**

**7 CAR PARKING RATES IN MACQUARIE PARK: PLANNING PROPOSAL AND AMENDMENTS TO RYDE DEVELOPMENT CONTROL PLAN**

Note: Councillor Pendleton was not present for consideration or voting on this Item.

Note: A Memorandum from the Acting Director – City Strategy and Planning dated 4 December 2015 was tabled in relation to this Item and a copy is ON FILE.

**MOTION:** (Moved by Councillors Chung and Yedelian OAM)

That Council defer consideration of the amendment to the parking meter rates in Macquarie Park Corridor until consultation occurs with landowners, tenants and key stakeholders as part of the strategic review of the parking in the Corridor.

**AMENDMENT:** (Moved by Councillors Pickering and Simon)

- (a) That Council note the Planning Proposal for the Macquarie Park Corridor car parking rates as outlined in **ATTACHMENT 2**.
- (b) That Council forward the Planning Proposal to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act 1979.
- (c) That, in the event of a Gateway determination being issued pursuant to Section 56 of the Environmental Planning and Assessment Act 1979, the proposal be placed on public exhibition and a further report be presented to Council following the completion of the consultation period advising of the outcomes and next steps.
- (d) That the proposed amendments to Ryde DCP 2014 Part 4.5 Macquarie Park Corridor and Part 9.3 Parking Controls be exhibited concurrently with the Planning Proposal.
- (e) That the outcomes of the community consultation for both the Planning Proposal and DCP amendments are reported to Council as soon as practicable after the exhibition.

On being put to the Meeting, the voting on the Amendment was two (2) For and two (2) Against. The Amendment was **LOST**. The Motion was then put and **LOST**.

**Record of Voting:**

For the Amendment: Councillors Pickering and Simon

Against the Amendment: Councillors Chung and Yedelian OAM

**ITEM 1 (continued)**

**ATTACHMENT 1**

**MOTION:** (Moved by Councillors Chung and Yedelian OAM)

That Council defer consideration of the amendment to the parking meter rates in Macquarie Park Corridor until consultation occurs with landowners, tenants and key stakeholders as part of the strategic review of the parking in the Corridor.

On being put to the Meeting, the voting on the Motion was two (2) For and two (2) Against. The Motion was **LOST**.

**Record of Voting:**

For the Motion: Councillors Chung and Yedelian OAM

Against the Motion: Councillors Pickering and Simon

Note: This matter is **AT LARGE**.

Note: This matter will be dealt with at the Council Meeting to be held on **15 DECEMBER 2015** as the matter is AT LARGE.

**8 MACQUARIE PARK STRATEGIC REVIEW PRINCIPLES**

Note: Councillor Pendleton was not present for consideration or voting on this Item.

**RESOLUTION:** (Moved by Councillors Chung and Pickering)

- (a) That Council endorse the principles and outcomes from the Macquarie Park Strategic Review - Ideas Workshop to guide the strategic investigation of Macquarie Park being undertaken in partnership with the NSW Department of Planning and Environment.
- (b) That the General Manager write to the NSW Department of Planning and Environment to incorporate the principles from the Macquarie Park Strategic Review workshop in the scope of works and technical studies that are part of the strategic review of Macquarie Park.

**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**

**9 TREE MANAGEMENT REVIEW**

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

The meeting closed at 7.43pm.

CONFIRMED THIS 9TH DAY OF FEBRUARY 2016.

Chairperson

- 2 490 VICTORIA RD RYDE. Lot B DP 319817. Applications pursuant to Section 96(1A) of the Environmental Planning and Assessment Act, 1979 to amend two (2) approved applications in relation to introduction of fill into the rear yard area, various retaining wall works, and increased height of approved shed.**

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**Report prepared by:** Assessment Officer - Town Planner

**Report approved by:** Acting Manager Assessment; Acting Director - City Strategy and Planning

**File Number:** GRP/09/5/6/2 - BP16/20

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**Applicant:** K A Moody, H Knezovic.

**Owners:** Colin R Moody, Kerri A Moody, Hayley J Knezovic, Ivan Knezovic.

**Date lodged:** 28 May 2015

This report has been prepared to enable Council's further consideration of two (2) Section 96(1A) applications to regularise the introduction of fill into the rear yard, replace and relocate existing retaining walls in the rear yard and to establish screen planting and a trellis screen to the rear of the metal shed and to legitimise a constructed slab level of RL49.45 for the approved metal shed.

At the Council's Ordinary Meeting of 24 November 2015, it was resolved to defer consideration of these Section 96(1A) applications to allow for mediation to be undertaken with the applicant and objector and for a further report to be prepared for referral to the Planning & Environment Committee.

A meeting between Council's Acting Director – City Strategy & Planning, the applicant and objector (owner of No. 7A Searle Street) was held on 15 December 2015, in accordance with Council's resolution. Discussions focussed on how issues of overlooking, stormwater drainage and visual bulk from the shed could be addressed. Mediation meeting notes are attached to this report and discussed further in the body of this report.

There was no requirement for the applicant to submit amended plans or any additional information following the mediation meeting, as agreement was reached at the meeting regarding the issues of concern with this application.

The Section 96(1A) applications are recommended for approval with additional conditions to reflect the outcomes of the medication meeting, as agreed by both the applicant and the objector. Approval is recommended subject to the conditions in **Attachment 1 and 2** which reflect these agreed meeting outcomes.

**Reason for Referral to Planning and Environment Committee:** Previously considered by the Committee.

## ITEM 2 (continued)

**Public Submissions:** Three (3) submissions from one (1) adjoining property were received during the original notification period objecting to the development. No amended plans or additional information has been required therefore further notification has not been undertaken.

**Clause 4.6 RLEP 2014 objection required?** None required.

**Value of works?** \$9,000.00

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

### 2. Background

The previous report to the Planning & Environment Committee on 10 November 2015 contains an assessment of the proposal as originally submitted, and details of the background to the Section 96(1A) applications up until that point in time.

At that meeting, the Committee resolved that this matter be referred to full Council for determination.

At Council's Ordinary Meeting of 24 November 2015, Council resolved *"that consideration of the application be deferred for a mediation to be undertaken by the Acting Director – City Strategy and Planning with the applicant and objector and that a further report be submitted to the Planning and Environment Committee as soon as practicable."*

Following this resolution, a mediation meeting was held on 15 December 2015 at the Ryde Planning & Business Centre. The notes of the mediation meeting, including details of the persons attending and the summary of discussions, are held at **Attachment 3** to this report.

### 3. Proposal – Amended Mitigation Measures

At the mediation meeting, discussions resulted in the following agreed changes to the proposal to prevent overlooking, reduce visual bulk of the shed and ensure stormwater from subject site is directed to the street:

1. Erection of a new lap and cap rear boundary fence at the expense of the owners of the subject site to a minimum height 2.4m as agreed between owners at No. 490 Victoria Road and objector at No. 7A Searle Street. Erection of boundary fencing can occur prior to determination of Section 96(1A) applications so it was agreed for the objector to put in letter form to the owners of No. 490 Victoria Road his desired fence height and style and this would be reviewed and signed when an agreement has been reached by both property owners.



## ITEM 2 (continued)

**NOTE:** Although it was agreed that a letter would be prepared and signed by both parties, there was also some discussion that the fencing should be the subject of a condition of consent – and this was the preferred position of the objector. In order to facilitate determination of the Section 96(1A) applications draft conditions have been prepared to each Section 96(1A) application for such new boundary fencing.

2. Landscaping to be provided along rear boundary of subject site which is shared with No. 7A Searle Street. In this regard, to ensure sufficient additional privacy is provided, it is recommended that *Murraya Paniculata* (Orange Jessamine) shrubs be planted at 1m spacings, between the rear boundary and the retaining wall on No. 490 Victoria Road. See condition 1(a) on both Section 96(1A) applications.
3. Screening to be fitted to the rear of metal shed, conforming to the shape of the metal shed. The form of screening is to allow potential for a climbing plant to grow.
4. Removal of requirement for a 1.5m high privacy screen (as this will be obsolete if a new 2.4m high boundary fence is provided).
5. Imposition of a condition to ensure seepage runoff generated from all retaining walls area is piped to a suitable sized pump-out system which connects to Victoria Road (see new condition 64 on MOD2015/83; and 16 on MOD2015/84).

Each of the agreed changes can be addressed via conditions of consent and it was advised at the mediation meeting that amended plans or additional information from the applicant would not be required.

## 4. Submissions

As no amended plans or additional information were required following the mediation meeting, it was not necessary to re-notify the Section 96(1A) applications.

## 5. Ryde Development Control Plan (DCP) 2014

The previous report to Planning and Environment Committee (10 November 2015) contained an assessment of the proposal against controls within Ryde DCP 2014, which indicated that the proposal had one (1) justifiable non-compliance regarding fill.

## **ITEM 2 (continued)**

The potential overlooking and view to the metal shed into the objector's property at No. 7A Searle Street due to fill under in the rear yard and metal shed was discussed at the mediation meeting. An agreement was reached between the owners of the subject site and objector at No. 7A Searle Street for a new boundary fencing (at the expense of the owners of the subject site) to be erected to a minimum height of 2.4m along the rear boundary, landscaping to be planted along the rear boundary and screening to the rear of the metal shed to improve the view of the shed from the adjoining property at No. 7A Searle Street.

There were no changes to the proposal's compliance with Ryde DCP 2014, in particular to the level of fill proposed in the rear yard or under the metal shed as a consequence of the mediation meeting. Subsequently, further assessment of the proposal against the development controls appearing in Ryde DCP 2014 is not required.

## **6. Conclusion**

The proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning & Assessment Act 1979. It is generally considered that the proposed development is suitable for approval subject to conditions.

The mitigation measures agreed to by both the applicant and objector for a new boundary fencing to a height no less than 2.4m at the expense of the owners of the subject site to reduce the potential for overlooking, screening to the rear of the metal shed to reduce visual bulk of the shed and landscaping along the rear boundary of the subject site which adjoins No. 7A Searle Street have all been addressed via conditions of consent.

The objector's concern regarding stormwater drainage had originally been addressed via a condition of consent (Condition 64 on MOD2015/83; and 16 on MOD2015/84) requiring seepage from all retaining walls to be directed to Victoria Road via a pump-out system. This condition was explained to the objector in the mediation meeting so it is considered that this issue has been resolved.

Accordingly, the Section 96(1A) applications are presented back to the Planning & Environment Committee for consideration and determination. Approval is recommended subject to the conditions in **Attachment 1 and 2**.

**ITEM 2 (continued)**

**RECOMMENDATION:**

(a) That the Section 96(1A) applications to modify Local Development Application No. MOD2015/0083 & MOD2015/0084 at 490 Victoria Rd Ryde being Lot B DP 319817 be approved subject to the amendment of the conditions in **Attachments 1 and 2.**

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

**ATTACHMENTS**

- 1** Proposed conditions of consent for MOD2015/0083
- 2** Proposed conditions of consent for MOD2015/0084
- 3** Mediation meeting notes, 15 December 2015
- 4** Original report to Planning & Environment Committee Meeting - 10 November 2015
- 5** A4 plans
- 6** A3 plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**Lauren Franks**  
**Assessment Officer - Town Planner**

Report Approved By:

**Chris Young**  
**Acting Manager Assessment**

**Liz Coad**  
**Acting Director - City Strategy and Planning**

**ITEM 2 (continued)**

**ATTACHMENT 1**

**Proposed Modification to Development Consent No. LDA2011/0346 under Section 96 of the Environmental Planning and Assessment Act, 1979**

**Section 96 Modification:**

- Condition 1 is to be amended to read:
  1. Development is to be carried out in accordance with the following drawings and documentation:
    - The following architectural drawings prepared by *House Plans by Design*:

<b>Drawing Ref.</b>	<b>Date</b>	<b>Drawing No.</b>
Cover Sheet	16 August 2011	01
Site Analysis Plan	16 August 2011	02
Proposed Site Plan	16 August 2011	03
Proposed Ground Floor Plan	16 August 2011	04
First Floor Plan	16 August 2011	05
Elevations (North-East and North-West)	16 August 2011	06
Elevations (South-East and South-West)	16 August 2011	07
Sections	16 August 2011	08
Glazing Schedule and BASIX Tables	16 August 2011	09
Landscape Concept Plan	16 August 2011	10
<b>Landscaping Plan</b>	<b>22.04.15</b>	<b>2015-003 (Rev. C)</b>
<b>Landscaping Elevation &amp; Sections</b>	<b>22.04.15</b>	<b>2015-004 (Rev. C)</b>

- Statement of Environmental Effects prepared by *House Plans by Design* dated 27 June 2011.
- Site Stormwater Management Layout and Details prepared by *alw design*, dated 19 August 2011.

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

*1(a) The screen proposed at the rear of the shed is to be re-shaped so that it conforms to the shape of the metal shed and does not protrude beyond the shed walls or above the shed roofline. The form of screening is to allow the potential for a climbing plant to grow.*

**ITEM 2 (continued)**

**ATTACHMENT 1**

*1(b) The two (2) Aristocrat Pear trees proposed in the rear yard are to be removed. In their place, Murraya Paniculata (Orange Jessamine) are to be planted at 1m spacing's and at a minimum 300mm pot / container size along the rear boundary.*

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

- Condition 64-67 are added to the consent:

64. All seepage runoff generated from all retaining walls shall be intercepted and piped to a suitably sized pump-out system and connected to the drainage system to the street. The pump-out and sub-surface drainage system shall be designed in accordance with relevant sections of AS 3500. Engineering certification indicating compliance is to be submitted to the Principal Certifying Authority.
65. A new "lapped and capped", timber boundary fence (minimum height 2.4m when measured from finished ground level on southern (No. 7A Searle St) side of the fence) is to be erected along the subject site's rear boundary which separates the site from No. 7A Searle St. New boundary fencing is to be constructed at the expense of the applicant and in consultation with the owners of No. 7A Searle Street with the agreed height, form and style to be mutually agreed by each property owner.
66. Condition 1, 64 and 65 must be adhered to within 120 days of the date of this consent. The Principal Certifying Authority must inspect the site to ensure that construction has been undertaken in accordance with all conditions appearing on this consent.
67. The metal shed is to be for residential use only. No business operations are to undertaken from the metal shed at any time.

- All other conditions remain unaltered.

**ITEM 2 (continued)**

**ATTACHMENT 2**

**Proposed Modification to Development Consent No. LDA2012/0255 under Section 96 of the Environmental Planning and Assessment Act, 1979**

**Section 96 Modification:**

- Condition 1 is to be amended to read:

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:

<b>Document Description</b>	<b>Plan No/Reference</b>
Architectural Plans	Job No. 79944: Sheet No. 1 (Dated June 2012), Job No. STON7944: Sheet 7/7 (Dated 30/05/2012)
Stormwater Drainage Plans	Job No. SW11197: Dwg No. SW11197 – S1, SW11197 – S2 (All issue E, dated 04/07/12)
<b>Landscaping Plan</b>	<b>2015-003 (Rev. C), dated 22.04.15</b>
<b>Landscaping Elevation &amp; Sections</b>	<b>2015-004 (Rev. C), dated 22.04.15</b>

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

*1(a) The screen proposed at the rear of the shed is to be re-shaped so that it conforms to the shape of the metal shed and does not protrude beyond the shed walls or above the shed roofline. The form of screening is to allow the potential for a climbing plant to grow.*

*1(b) The two (2) Aristocrat Pear trees proposed in the rear yard are to be removed. In their place, Murraya Paniculata (Orange Jessamine) are to be planted at 1m spacing's and at a minimum 300mm pot / container size along the rear boundary.*

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

**ITEM 2 (continued)**

**ATTACHMENT 2**

- Condition 16-19 is added to the consent:
  16. All seepage runoff generated from all retaining walls shall be intercepted and piped to a suitably sized pump-out system and connected to the drainage system to the street. The pump-out and sub-surface drainage system shall be designed in accordance with relevant sections of AS 3500. Engineering certification indicating compliance is to be submitted to the Principal Certifying Authority.
  17. A new “lapped and capped”, timber boundary fence (minimum height 2.4m when measured from finished ground level on southern (No. 7A Searle St) side of the fence) is to be erected along the subject site’s rear boundary which separates the site from No. 7A Searle St. New boundary fencing is to be constructed at the expense of the applicant and in consultation with the owners of No. 7A Searle Street with the agreed height, form and style to be mutually agreed by each property owner.
  18. Condition 1, 16 and 17 must be adhered to within 120 days of the date of this consent. The Principal Certifying Authority must inspect the site to ensure that construction has been undertaken in accordance with all conditions appearing on this consent.
  19. The metal shed is to be for residential use only. No business operations are to undertaken from the metal shed at any time.
- All other conditions remain unaltered.

**ITEM 2 (continued)**

**ATTACHMENT 3**

<b>Mediation Meeting Notes</b>	
<b>490 Victoria Road, Ryde. Section 96(1A) applications to amend two (2) approved applications in relation to introduction of fill into the rear yard area, various retaining wall works, and increased height of approved shed. (MOD2015/83 &amp; MOD2015/84).</b>	
<b>Tuesday 15 December 2015, 1.30pm.</b>	
<b>Ground Floor Meeting Room, Ryde Planning and Business Centre</b>	
<b>In attendance:</b>	
<u>Council Officers:</u>	MB = Meryl Bishop: Group Manager Environment & Planning (Chair); CY = Chris Young: Senior Coordinator – Assessment; LF = Lauren Franks: Assessment Officer - Assessment
<u>Applicant:</u>	HK = Hayley Knezovic (owner) IK = Ivan Knezovic (owner) CM = Colin Moody (owner)
<u>Neighbour:</u>	MC = Mark Christie, owner of No 7A Searle Street (to the rear)
<b>SUMMARY OF DISCUSSIONS:</b>	
MB	<p>Opened the meeting and introduced those attending from Council. Explained the “rules” to be followed in the meeting including providing opportunities for both parties to speak, beginning with the neighbour (MC) to explain their point of view, mutual respect for each other’s position, and an expectation that all parties will work together to reach a solution.</p> <p>Also stated that the mediation would be controlled to ensure it does not become “heated”, and if it does, then the meeting will be terminated and a report prepared back to the Planning &amp; Environment Committee.</p>



**ITEM 2 (continued)**

**ATTACHMENT 3**

MB	<p>Quoted the Council resolution (Ordinary Meeting 24 November 2015) which states:</p> <p style="text-align: center;"><i>That consideration of the application be deferred for a mediation to be undertaken by the Acting Director – City Strategy and Planning with the applicant and objector and that a further report be submitted to the Planning and Environment Committee as soon as practicable.</i></p> <p>Both sides would be able to state their concerns and issues, and see if we could find some middle ground. Meeting to be set around fencing, shed height and shed bulk.</p>
MC	<p>Asked that drainage could be added to meeting discussion as water has been pooling in his yard behind shed and was keen to discuss solutions.</p> <p>Noted that his priority is privacy as the existing situation has remained for two (2) years. Stated that the report to Planning &amp; Environment Committee Meeting addressed privacy but believed the report was light on detail in relation to shed bulk.</p> <p>Advised that recommendation for 1.5m high privacy screen was not high enough to provide privacy.</p>
HK	<p>Advised that she would like a higher boundary fence in lieu of 1.5m high privacy screen.</p>
MC	<p>Explained that he is unsure of RL's and what they mean so has been unsure how the height of the shed has been calculated. However, expressed a desire for a boundary fence to be as high as possible.</p>
CM	<p>Responded by advising that they are happy to provide a boundary fence as high as MC would like. Asked MC if he could see into dual occupancy living room from his property.</p>
MC	<p>Answered yes, view can be gained from his lounge room.</p>
MB	<p>Suggested boundary fence height of between 2.1m-3m and for an agreed height to be put in writing and signed by both parties.</p>
CM / HK / IK / MC	<p>CM, HK, IK requested MC put in writing his desired details of a boundary fence. CM, HK, IK would then review MC's request. Consensus that a timber lap and cap boundary fence is preferred.</p>

**ITEM 2 (continued)**

**ATTACHMENT 3**

	Agreement that both parties would sign document once fencing details are finalised.
MB	Raised the issue of view to the shed due to its height from MC property.
MC	Acknowledged the shed height was unlikely to be altered. Concern that planting behind shed would not survive. Asked what measures could be undertaken behind shed.
IK	Advised that he had been trying to keep area behind shed tidy.
CM	Suggested planting and lattice screen.
HK	Reiterated CM's comments with established trees being provided behind shed but noted that MC is a battle-axe lot therefore considered it unfair and onerous to restrict development of her property because of neighbour's property being a battle-axe lot.
MC	Explained that he accepts HK's perspective and believed the size and height of shed should have been more thoroughly considered as part of original development assessment.
MB	<p>Summarised that details of fence height and materiality would be suggested in letter form by MC to owners of subject site and an agreement be reached.</p> <p>MB noted that as part of the Section 96 applications that landscaping will be provided along fence line in owner's property, for a screen behind the shed to be provided which conforms to the profile of the shed and for the 1.5m high privacy screen be deleted.</p>
CY	Pointed out on the plans where the boundary line between No. 7A Searle St and subject site lies and where the existing fence is located.
MB	<p>Read out the drainage condition to be imposed which reads:</p> <p><i>All seepage runoff generated from all retaining walls shall be intercepted and piped to a suitable sized pump-out system and connected to the drainage system to the street. The pump-out and sub-surface drainage system shall be designed in accordance with relevant sections of AS 3500. Engineering certification indicating compliance is to be submitted to the Principal Certifying Authority.</i></p>

**ITEM 2 (continued)**

**ATTACHMENT 3**

MC	<p>Noted that flooding onto his property occurs behind the shed and was unsure if this condition will stop flooding onto his property from occurring and if pump-out system would be noisy.</p> <p>Clarified if the cost of the boundary fence would covered by the owners.</p>
CM	<p>Explained that flooding could be occurring because the guttering to the shed had yet to be fitted but this will be undertaken once Section 96 applications were determined. Pump-out system has already been required from shed to discharge roof stormwater. Excessive noise should not occur and regardless, he will need to have this system in place in order to comply with Council's requirements to prevent flooding.</p>
HK	<p>Responded that the owners are happy to cover the cost of boundary fence provided that the shed remains as is.</p>
MC	<p>Agreed to shed remaining as is provided the boundary fence was permanent and of lap and cap style.</p> <p>Raised the question of how long the Section 96 applications will take to resolve from now.</p>
MB	<p>Advised that the boundary fence can be erected before determination of the Section 96 applications as this is a private matter between neighbours and does not involve Council.</p>
MC	<p>Expressed desire for boundary fence to be covered by a condition of consent.</p>
MB / CY	<p>Advised that from this point onwards, a further report will be prepared and submitted to next available Planning and Environment Committee (PEC) Meeting (noting that 1<sup>st</sup> PEC Meeting is in February 2016).</p> <p>MB advised that imposition of boundary fencing as a condition of consent will be looked at further following this meeting and during preparation of further report to go to PEC Meeting.</p>

**ITEM 2 (continued)**

**ATTACHMENT 3**

	<p><b>Outcomes</b></p> <ul style="list-style-type: none"> <li>• Letter to be prepared by MC outlining boundary fence height, style and that the cost be borne by owners of 490 Victoria Rd. Letter to be reviewed by owners of 490 Victoria Rd and signed if details are agreed to. Any changes are to be discussed between owners and once letter is supported, signed by all. A copy to be provided to Council.</li> <li>• Erection of boundary fencing can occur prior to determination of Section 96 applications.</li> <li>• Landscaping to be provided along rear boundary of subject site which is shared with No. 7A Searle St.</li> <li>• Screening which conforms to shape of shed to be erected at rear of shed. Form of screening to allow potential for a climbing plant to grow.</li> <li>• Removal of requirement for 1.5m high privacy screen.</li> </ul>
<p>MB</p>	<p>Advised that a successful mediation meeting was held. Closed the meeting at 2.15pm, thanked everyone for their attendance and positive contribution in the discussions.</p>

**ITEM 2 (continued)**

**ATTACHMENT 4**

- 2 490 VICTORIA ROAD, RYDE. LOT B DP 319817. Applications pursuant to Section 96(1A) of the Environmental Planning and Assessment Act, 1979 to amend two (2) approved applications in relation to introduction of fill into the rear yard area, various retaining wall works, and increased height of approved shed.**

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

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

**Report dated:** 19/10/2015 **File Number:** GRP/09/5/6/2 - BP15/1563

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Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

ITEM 2 (continued)

ATTACHMENT 4

1. Report Summary

**Applicant: K A Moody, H Knezovic.**

**Owners: Colin R Moody, Kerri A Moody, Hayley J Knezovic, Ivan Knezovic.**

**Date lodged: 28 May 2015**

This report considers two (2) Section 96(1A) applications to regularise the introduction of fill into the rear yard, replace and relocate existing retaining walls in the rear yard, establish screen planting and a trellis screen to the rear of the metal shed and legitimise a constructed slab level of RL49.45 for the approved metal shed.

There have been two (2) development applications approved by Council for this property – one for the erection of a dual occupancy development (LDA2011/346), and another for a new shed in the rear yard (LDA2012/255). Given that both of these applications approved associated works in the rear yard (including retaining walls, landscaping and erection of a structure), two (2) Section 96 applications have been lodged in relation to the works that have already been undertaken. This single report has been prepared to enable Council's consideration of the applications that are interrelated.

The Section 96 applications have been notified to neighbours in accordance with Ryde DCP 2014 and three (3) submissions were received from / on behalf of the adjoining owner to the rear (No. 7A Searle St) raising the following key issues:

- Privacy
- Visual bulk from outbuilding
- Noise
- Solar access
- Replacement of boundary fencing
- Stormwater runoff
- Outstanding documentation
- Classification of applications as Section 96(1A)

The proposal has been assessed against the controls appearing within Part 3.3 of Ryde DCP 2014 with the modifications resulting in one (1) non-compliance in relation fill outside the building footprint. Clause 2.6(c) stipulates that a maximum 500mm is permissible however, the proposal results in 840mm fill under the shed footprint.

The proposed modifications are considered to be substantially the same development in terms of the relevant provisions of the Environmental Planning and Assessment Act, 1979 and classed as having 'minimal environmental impact' which enables assessment of the proposals as Section 96(1A) applications.

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Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

**ITEM 2 (continued)**

**ATTACHMENT 4**

**ITEM 2 (continued)**

Pursuant to the imposition of conditions to mitigate against privacy concerns which arise as a consequence of the modifications, the proposal can be supported.

**Reason for Referral to Planning and Environment Committee:** Requested by Councillor Chung

**Public Submissions:** Three (3) submissions from one (1) adjoining property were received objecting to the development. Two (2) of these are detailed submissions from planning consultants on behalf of the adjoining owner, and is attached to this report.

**Clause 4.6 RLEP 2014 objection required?** No

**Value of works?** \$9,000.00

**RECOMMENDATION:**

- (a) That the Section 96 applications to modify Local Development Application No. MOD2015/0083 and MOD2015/0084 at 490 Victoria Road, Ryde being LOT B DP 319817 be approved subject to the amendment of the conditions in **Attachments 1 and 2**.
- (b) That the persons who made submissions be advised of Council's decision.

**ATTACHMENTS**

- 1 Draft Conditions for MOD2015/0083
- 2 Draft Conditions for MOD2015/0084
- 3 MB Town Planning submission dated 18 June 2015
- 4 MB Town Planning submission dated 11 September 2015
- 5 Map
- 6 A4 Plans
- 7 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**Lauren Franks**  
**Assessment Officer - Town Planner**  
**Chris Young**  
**Team Leader - Assessment**

Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

**ITEM 2 (continued)**

**ATTACHMENT 4**

**ITEM 2 (continued)**

Report Approved By:

**Liz Coad**  
Manager - Assessment

**Sam Cappelli**  
Acting Group Manager - Environment and Planning



ITEM 2 (continued)

ATTACHMENT 4

ITEM 2 (continued)

2. Site (Refer to attached map)

<b>Address</b>	: 490 Victoria Road, Ryde (LOT B in DP 319817)
<b>Site Area</b>	: 826.8m <sup>2</sup> (by applicant survey) Frontage: 15.24m South-eastern side boundary: 54.255m North-western side boundary: 54.255m South-western rear boundary: 15.24m
<b>Topography and Vegetation</b>	: Cross-fall of approximately 1.53m towards the south-western rear corner. Turfed rear yard with no trees or form of planting.
<b>Existing Buildings</b>	: Two (2) storey attached dual occupancy and outbuilding.
<b>Planning Controls</b>	: Ryde LEP 2014
<b>Zoning</b>	: R2 Low Density Residential
<b>Other</b>	: Ryde DCP 2014



Aerial photo of subject site and surrounds.

Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

**ITEM 2 (continued)**

**ATTACHMENT 4**

**ITEM 2 (continued)**

**3. Councillor Representations:**

Name of Councillor: Councillor Chung

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

Date: 11 August 2015

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

On behalf of applicant or objectors? Objectors

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.

**5. Proposal**

There have been two (2) development applications approved by Council for this property – one for the erection of a dual occupancy development (LDA2011/346), and another for a new shed in the rear yard (LDA2012/255). Given that both of these applications approved associated works in the rear yard (including retaining walls, landscaping and erection of a structure), two Section 96 applications have been lodged in relation to the works that have already been undertaken. This single report has been prepared to enable Council's consideration of the applications that are interrelated.

In summary, the two (2) Section 96 applications propose the following:

- Legitimising the introduction of fill in the rear yard up to a height of 550mm in the rear south-western corner;
- Removal of retaining wall along the rear south-western boundary between the metal shed and the north-western side boundary;
- Removal of retaining wall along north-western side boundary;
- Retention of retaining wall to the rear of the metal shed;
- Construction of a new retaining wall a distance of 900mm from the south-western rear boundary of the site and the north-western side boundary;
- Provision of screen planting in the rear yard including a trellis screen to the rear of the metal shed; and
- Legitimising the constructed slab level of RL49.45 for the approved metal shed. This is up to 840mm higher than the original approval.

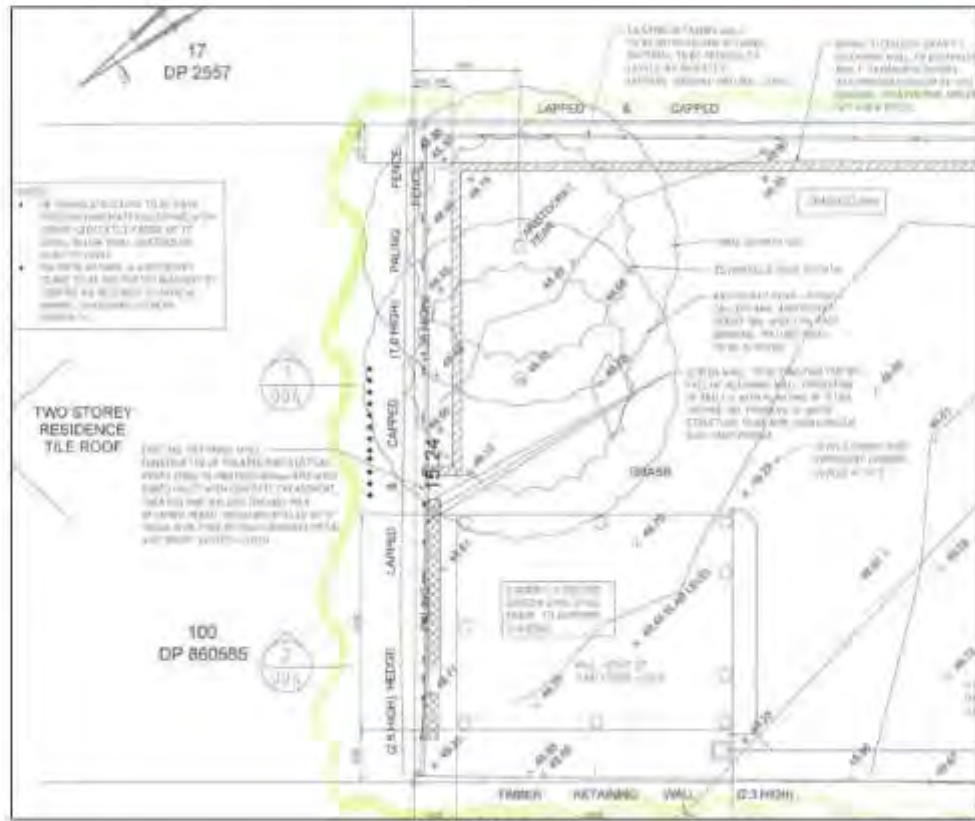
Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

**ITEM 2 (continued)**

**ATTACHMENT 4**

**PREVIOUS REPORT TO PLANNING AND ENVIRONMENT COMMITTEE  
 10 NOVEMBER 2015**

**ITEM 2 (continued)**



**Site Plan**

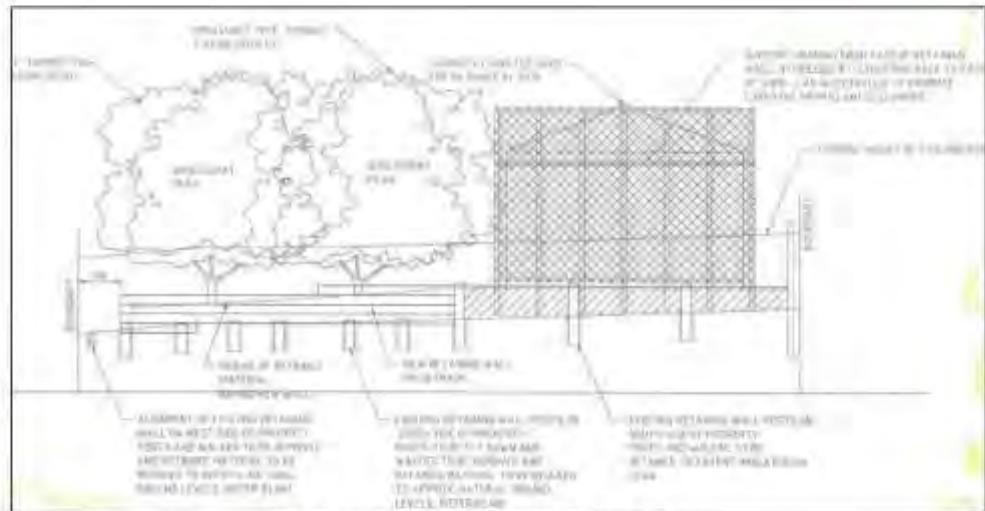
Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

**ITEM 2 (continued)**

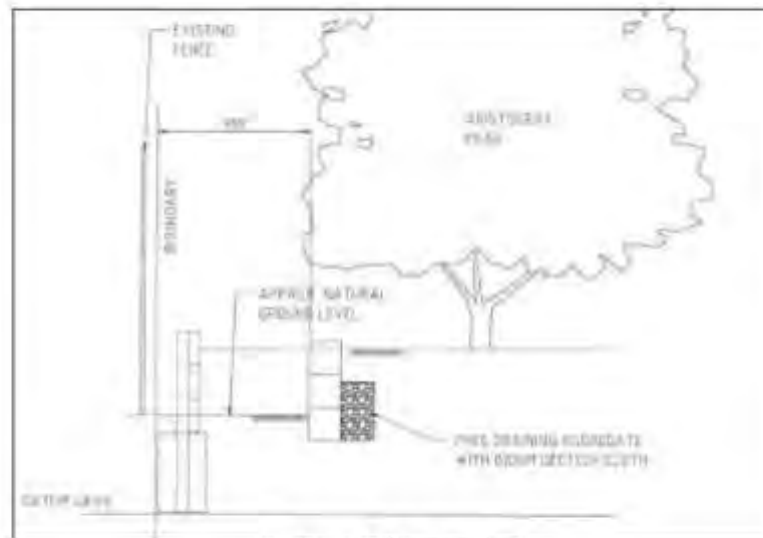
**ATTACHMENT 4**

**PREVIOUS REPORT TO PLANNING AND ENVIRONMENT COMMITTEE  
10 NOVEMBER 2015**

**ITEM 2 (continued)**



**Southern elevation at rear boundary**



**Section of retaining wall**

Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

**ITEM 2 (continued)**

**ATTACHMENT 4**

**ITEM 2 (continued)**

**6. Background**

LDA2011/0346: Consent was issued on 10 October 2011 for this initial development application (DA) for the construction of a new two (2) storey dual occupancy.

LDA2012/0255: Consent was issued on 22 August 2012 for the construction of an outbuilding at the rear of the approved dual occupancy.

In the period from January to November 2014, complaints were received during the construction phase from the adjoining owner at the rear (No. 7A Searle St) regarding various issues, including non-conformity with the approved DA and CC plans, the importation of fill into the rear yard area, and resulting impacts on the objectors property i.e. increased height of the approved shed, privacy impacts from the fill, and drainage issues.

The initial complaint received in January 2014 was referred to the Principal Certifying Authority (PCA) who was appointed for the certification of the development for follow-up action. The matter was investigated by the PCA and a Notice of Proposed Order was served on 1 April 2014 requiring the owners to comply with the development approval.

The owners were unable to resolve the matter with the Private Certifier. Subsequently, Council Officers undertook their own inspection of No. 7A Searle St and the subject site and served a Notice of Proposed Order in November 2014 to demolish the unauthorised retaining wall constructed on the rear boundary, remove fill material and comply with their development approval in relation to the shed construction.

Upon receiving the Council issued Notice of Proposed Order, the owners advised that they were preparing plans to lodge Section 96 applications to modify the original DA consents. By April 2015, no Section 96 applications had been submitted so Council Officers began revising the Notice and Draft Order in April 2015. The owners lodged the Section 96 applications in May 2015 before the Order was served.

MOD2015/0083 and MOD2015/0084 to amend LDA2011/0346 and LDA2012/0255 were lodged on 28 May 2015 and placed on public notification from 3 June to 18 June 2015.

It is noted that this application involves work that has already been undertaken without approval. In this regard, it is noted that the Land and Environment has given consideration to applications under Section 96 of the Environmental Planning & Assessment Act 1979 where work has already been undertaken. In *Windy Dropdown v Warringah Council [2000] NSWLEC 240*, Justice Talbot considered such an application and made the following comments:

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Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

ITEM 2 (continued)

ATTACHMENT 4

ITEM 2 (continued)

*"...the broad construction of s 96 leads to a practical result that enables a consent authority to deal with unexpected contingencies as they arise during the course of construction of development or even subsequently, provided of course that the development to which the consent as modified relates is substantially the same development.*

*It follows from the foregoing analysis and reasoning that in my view an application that relates to development which has been already carried out can be made pursuant to s 96. The Court is therefore in a position to consider the subject application on the merits."*

Council is therefore able to consider and determine the current application despite the fact that it involves unauthorised work. Council is required to consider the usual planning merits of such an application (eg impacts on neighbours, compliance with planning controls etc), and may approve such an application if the impacts are acceptable, notwithstanding that the work has already been undertaken.

**7. Submissions**

As aforementioned, the Section 96 applications were notified in accordance with Development Control Plan 2014 - Part 2.1, Notification of Development Applications from 3 June until 18 June 2015. In response, three (3) submissions were received from one (1) adjoining property at No. 7a Searle Street. Two (2) of these are detailed submissions from a planning consultant on behalf of the adjoining owner, and these are attached to this report.

The submissions raised the following issues:

- A. Privacy.** *Concerns are raised that the additional fill added to level the subject site's rear yard allows occupants of No. 490 Victoria Road to directly look into the principal private open space and internal living areas of No. 7a Searle Street. Whilst this issue is prevalent during the day, this issue continues at night with concern that occupants of No. 490 Victoria Road can view through the hedge to the living area of No. 7a Searle Street when the lights are on. Request is made for the proposed retaining wall to be relocated 2.5m from the shared boundary.*

Comment: It is agreed that the incorporation of additional fill in excess of approved levels has resulted in the potential for occupants of the subject site to view into the rear private open space of No. 7a Searle St.

However, it is noted that the objectors property has a very high (approx. 2.4m) hedge running along the entire rear boundary with the subject site, which at present forms a very effective privacy screen between the properties (see photo below).

**ITEM 2 (continued)**

**ATTACHMENT 4**

**ITEM 2 (continued)**



To address this issue, the portion of the retaining wall extending between the metal shed and north-western boundary will be re-positioned 900mm from the rear boundary. Further, two (2) Aristocrat Pear trees are proposed close to the rear boundary. This is shown on the following plan extract:



It is recognised that landscaping alone is not sufficient to preserve privacy between the two (2) properties, and that these matters are not enough to satisfactorily alleviate the potential for overlooking. Subsequently, discussions

Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

**ITEM 2 (continued)**

**ATTACHMENT 4**

**ITEM 2 (continued)**

with the Applicant resolved for the following privacy measures to be addressed via a condition of consent.

*1(a) A 1.5m high timber slat privacy screen is to be fitted to the top of the retaining wall extending along the rear boundary between the metal shed and the north-western side boundary.*

*1(b) The two (2) Aristocrat Pear trees proposed in the rear yard are to be removed. In their place, Murraya Paniculata (Orange Jessamine) are to be planted at 1m spacing's and at a minimum 300mm pot / container size between the rear boundary and privacy screen.*

In relation to privacy at night, the following photo shows a standing view towards the shared rear boundary from the living area of No. 7a Searle Street:



The inclusion of a roof partially extending from the rear wall of the living area over the paved outdoor terrace of No.7a Searle Street limits the potential for occupants of No. 490 Victoria Road to view into the internal living area. This is because from a standing position, the roofline adjoins with the top of the fence line. Some minimal light overspill may occur onto No. 490 Victoria Road however, through the provision of a 1.5m privacy screen to the top of the new retaining wall, privacy will be improved during the day and night.

The objector's request indicated in the second submission from MB Town Planning to relocate the retaining wall 2.5m from the rear boundary is not considered necessary and is excessive in the circumstances. Under the State Environmental Planning Policy (Exempt and Complying Development Codes)

Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.



ITEM 2 (continued)

ATTACHMENT 4

ITEM 2 (continued)

2008, a retaining wall can be constructed up to a height of 600mm and located 1m from a lot boundary as exempt development. The proposal only marginally exceeds this control with fill under the shed achieving 840mm at its highest point. It is considered that the requirement to provide a 1.5m high timber slat privacy screen and landscape screening (as recommended above) will satisfactorily resolve privacy issues between the two (2) properties, without requiring relocation and reconstruction of the existing retaining wall.

- B. Visual Bulk from Outbuilding.** *Concerns are raised that the rear metal shed's height, raised floor level and proximity to the rear boundary shared with No. 7a Searle Street is visually displeasing from this adjoining property. Request is made for the shed to be relocated 1m forward from its current position to minimise its bulk.*

Comment: The following photo demonstrates the view of the metal shed from the rear private open space area of No. 7a Searle Street. It is evident that the existing landscaping effectively screens the visual impact of the shed, with only the top being visible. The shed contains no windows to cause overlooking, and has the appearance of an outbuilding typically found in a residential environment.



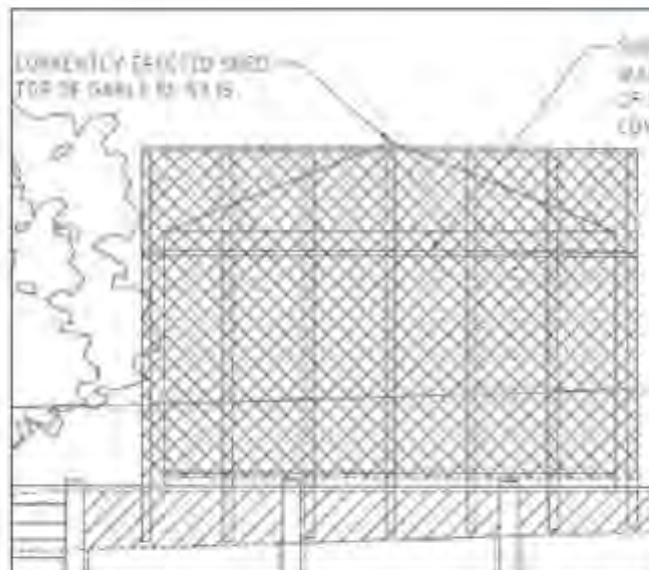
View directly behind shed from rear yard of No. 7a Searle Street

The Applicant has proposed the erection of a trellis screen behind the metal shed to improve the view of the shed from No. 7a Searle Street. This can be seen in the following plan extract:

ITEM 2 (continued)

ATTACHMENT 4

ITEM 2 (continued)



The trellis screen can be seen to extend above the roof line of the metal shed which in turn creates additional shadow and bulk. The metal shed is light in colour which prevents attention being drawn to it as it blends with the skyline quite well in contrast to a dark colour. As such, a trellis screen would not resolve concerns relating to bulk and may in fact, contribute to any bulk caused by the shed. Subsequently, the following condition is recommended:

*1(c) The trellis screen and planting of 'Star Jasmine' / 'Mandevilla white' are to be removed and do not form part of this approval.*

The second submission from MB Town Planning contains a request to relocate the shed 1m forward from its current position, in order to reduce the perceived impacts of bulk and scale from the objector's property. This is considered to be an unreasonable request because even with the increase in height, the 4.3m high shed fully complies with Council's height controls for outbuildings (4.5m). Therefore any relocation of the shed would bring additional costs and construction issues that would not be supported in the circumstances.

- C. Noise.** *Concerns are raised that since the erection of the shed and the high level of fill without suitably high fencing and screening, higher levels of noise from the rear, including much louder noise from Victoria Road is heard at No. 7a Searle Street. Request is made that if any consideration has been given to the environmental acoustics occurring as a consequence of LDA2011/0346 and / or LDA2012/0255, that this be retained as part of these Section 96 applications.*

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*Also, request is made for acoustic material to be installed within the shed to mitigate reverberation of noise from traffic on Victoria Rd.*

Comment: Conditions of consent imposed on LDA2011/0346 and LDA2012/0255 to restrict noise relate to the construction phase only. No conditions of consent have been imposed relating to the use of the dual occupancy or metal shed as these buildings are considered low density in nature and generate noise associated with day to day activities undertaken in a residential environment.

It is not considered that the changes to the height of the shed or increased ground levels in the rear yard would contribute to any significant increase in background noise levels or increased traffic noise from Victoria Rd to the objector's property. The use of the shed and the rear yard is expected to continue to be for domestic use only as the shed is necessary for the storage of motorbikes and tools. No business operations are undertaken from the shed and the following condition of consent has been imposed to ensure this continues:

- *The metal shed is to be for residential use only. No business operations are to undertaken from the metal shed at any time.*

The second submission from MB Town Planning contains a request to install acoustic material in the shed. This matter has been discussed with Council's Environmental Health Officer who has advised that it is unlikely that the shed would "amplify" the noise from Victoria Rd. This is because in particular there are no openings at the rear of the shed facing the objector's property to convey additional noise; and also the shed is located a sufficient distance from Victoria Rd for any traffic noise to disperse. The shed's location, dimensions and size have been approved as part of LDA2012/0255.

Therefore, there is no need to require the applicant to obtain a specific acoustic assessment or install acoustic material to the shed for this type of application.

**D. Solar Access.** *Concerns are raised that the increase in the shed height and addition of a trellis screen will take away morning sunlight gained to the rear yard of No. 7a Searle Street.*

Comment: The shed height will increase by 590mm. It is accepted that a minor increase in shadow cast to No. 7a Searle Street will be experienced during morning hours. However, this increase will not lead to an unreasonable level of shadow to No. 7a Searle Street.

The photo and aerial image below shows the location of the paved outdoor terrace in relation to the shed. Shadow diagrams were not submitted with the original DA, or with the current Section 96 applications, as these are not normally required for outbuilding structures, such as the shed in question. However,

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based on knowledge of the site's orientation it is considered that whilst there may be some additional overshadowing during morning hours, the majority of the private open space at the objector's property will receive adequate solar access after 12noon.



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View of paved outdoor terrace

As mentioned earlier in this section of the report, whilst the applicant has proposed a trellis screen at the back of the shed to improve the appearance for the neighbor, it is considered that the proposed trellis screen will not alleviate bulk and may in fact increase overshadowing due to the screen extending above the metal shed roof ridgeline. A condition of consent has been imposed requiring the removal of the trellis screen from the approved plans.

- E. Replacement Boundary Fencing.** Request is made for the owners of No. 490 Victoria Rd to cover the cost to erect a new 2.4m high lap and cap / solid boundary fence shared with No. 7a Searle St.

**Comment:** A site inspection identified the existing boundary fence to be in fair condition. At no point has any part of the retaining wall has collapsed. The retaining wall does not lean on the boundary fencing for support and does not appear to have been damaged or destroyed due to the construction of the outbuilding or retaining wall. The boundary fencing achieves the standard 1.8m height and the need for additional height to be provided to restrict overlooking has been addressed via the following conditions as discussed earlier in this report:

*1(a) A 1.5m high timber slat privacy screen is to be fitted to the top of the retaining wall extending along the rear boundary between the metal shed and the north-western side boundary.*

*1(b) The two (2) Aristocrat Pear trees proposed in the rear yard are to be removed. In their place, Murraya Paniculata (Orange Jessamine) are to be planted at 1m spacing's and at a minimum 300mm pot / container size between the rear boundary and privacy screen.*

Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

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It is considered that these requirements will ensure sufficient privacy between the two (2) properties, and subsequently, there is no need for a new 2.4m high boundary fencing to be imposed as a condition of consent.

- F. **Stormwater Runoff.** *Concerns are raised that since the unauthorized works, stormwater runs into the rear yard of No. 7a Searle Street. What assurance can be given that the proposed works meet required needs for drainage?*

Comment: Council's Senior Development Engineer has inspected the existing drainage arrangements in the subject site's rear yard and assessed the drainage measures proposed. Council's Senior Development Engineer is satisfied that the stormwater from the metal shed is (and will continue to be) directed to the OSD system as approved. However, upon inspection, it was not clear how seepage runoff from retaining walls and the fill was being drained. To rectify this, Council's Senior Development Engineer has imposed the following condition requiring seepage runoff from all retaining walls and fill to be intercepted and connected to a suitably sized pump out system to pump into the OSD tank at the front of the property.

- *All seepage runoff generated from all retaining walls shall be intercepted and piped to a suitably sized pump-out system and connected to the drainage system to the street. The pump-out and sub-surface drainage system shall be designed in accordance with relevant sections of AS 3500. Engineering certification indicating compliance is to be submitted to the Principal Certifying Authority."*

- G. **Outstanding Documentation.** Request is made for engineering plans to be provided by a structural engineer demonstrating the structural adequacy of the retaining wall. Also, hydraulic engineering plans accompanied by a hydraulic engineer's signed statement confirming that drainage from the shed satisfies Ryde DCP 2014 is requested.

Comment: A condition appears on LDA2012/255 which relates to the construction of the metal shed requiring certification of engineering components. This condition reads:

5. **Structural Certification.** *The applicant must engage a qualified practicing structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the Construction Certificate.*

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Council's Senior Development Engineer has also noted that:

*"Notwithstanding this condition, the proposed retaining wall supports the applicant's property and, in an extreme case where it were to fail – the height, scope and revised setback of the wall would not pose a threat to the neighbouring property."*

In regards to drainage compliance with Ryde DCP 2014, Council's Senior Development Engineer has noted that the appropriateness of stormwater discharge from the property has been addressed by the following condition appearing on the consent for LDA2011/346:

**24. On-Site Stormwater Detention.** Stormwater runoff from all impervious areas shall be collected and piped by gravity flow to a suitable on-site detention system in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2, Stormwater Management.

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

- a. Direct the surface drainage from the central court yard area between unit 1 & 2 to pit P1 bypassing the water tank.*
- b. Design the outlet pipe from the central court yard area for 100 year ARI 5 minutes storm duration.*
- c. Design all gutters, down pipes and pipes from the roof to carry the 100 year ARI 5 minutes storm runoff to the detention tank.*

Further, condition 11 of LDA2012/255 relating to the construction of the dual occupancy appears as follows:

**11. Compliance Certificates – Engineering.** Compliance Certificates should be obtained for the following (if Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and **submitted to the PCA:**

- *Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management.*

**H. Classification of applications as Section 96(1A).** Concerns are raised that the modifications are not of a minimal environment impact and therefore does not satisfy Section 96(1A)a. of the Environment Planning and Assessment Act, 1979.

**ITEM 2 (continued)**

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Comment. This concern is subjective and the Applicant's Statement of Environmental Effects lodged with each Section 96 application has satisfactorily demonstrated why their proposals are classified as Section 96(1A) applications.

The proposal is considered to be of '*minimal environmental impact*' for the following reasons:

- The existing erected retaining wall around the perimeter of the subject site's rear yard has not collapsed, is free-standing and does not lean on boundary fencing; and
- To accommodate the metal shed, fill has been approved in the rear yard under LDA2012/0255; and
- The metal shed has been constructed in its approved location and to its approved width and length.

**8. Clause 4.6 RLEP objection required?**

None required.

**9. Policy Implications**

**Relevant Provisions of Environmental Planning Instruments etc:**

**Ryde Local Environmental Plan 2014**

**Zoning**

The subject site is zoned R2 Low Density Residential under the provisions of the Ryde Local Environmental Plan 2014. Regulatory works to the rear yard and surrounds of the metal shed (a form of outbuilding) and ancillary to a dual occupancy are permitted within the R2 Low Density Residential zone with development consent.

The objectives of the R2 Low Density Residential zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for a variety of housing types.

Comment. The minor modifications do not compromise the ability of the dual occupancy to achieve the objectives of the zone. The measures imposed will ensure the privacy to the adjoining property at No. 7a Searle Street is maintained.



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**ITEM 2 (continued)**

**Matters for consideration pursuant to Section 96(1A) EPAA:**

The provisions of Section 96(1A) of the Environmental Planning and Assessment Act, 1979 allow a consent authority to modify the consent where the application meets the following criteria: -

- (a) The development to which the consent as modified relates is of minimal environmental impact.
- (b) The development to which the consent as modified relates is substantially the same development.
- (c) The application has been notified in accordance with the regulations or development control plan.
- (d) Submissions made during the prescribed notification period have been considered.

Under Section 96(1A), Council must be satisfied that the development as modified is substantially the same as was approved in the original consent. In arriving at this determination there should be no consideration of the merits of the proposal but rather a straight before and after comparison. If it is determined to be substantially the same then the proposed modifications need to be assessed on their merits having regard to submissions received and any relevant council planning controls.

The **current approvals** provide for a new two storey dual occupancy (LDA2011/0346) and an outbuilding at the rear of the dual occupancy (LDA2012/0255).

The **proposed modifications** relate to legitimising the raised finished floor level of the metal shed, replacement and relocation of retaining walls in the rear yard and imposition of privacy measures to alleviate adverse impact to adjoining properties as a consequence of additional fill in the rear yard.

It is the opinion of Council's assessing officer that the modified development is substantially the same as the original DAs and therefore the applications can be considered on their merits.

**Relevant State Environmental Planning Policies (SEPPs)**

There are none that affect this application.

**Relevant Regional Environmental Planning Policies (REPs)**

There are none that affect this application.

**Any draft Local Environmental Plans (LEPs)**

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

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Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

**ITEM 2 (continued)**

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**Any Development Control Plan**

Ryde Development Control Plan (DCP) 2014

Assessment of the key DCP 2014 controls is illustrated in the compliance table below:

DCP 2014	Proposed	Compliance
<b>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</b>		
<b>Topography &amp; Excavation</b>		
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: Nil Max fill: Approx. 550mm for turfed yard & 840mm for shed (adjacent to metal shed in rear yard) Fill close to rear boundary removed to ensure 900mm separation achieved Retaining walls to be 900mm along rear boundary.	Y N (variation supported) Y   Y

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<b>Outbuildings</b>		
- Not within front setback	Approved location of metal shed will not change – in rear yard.	Y
- Max area – 20m <sup>2</sup>	Approved area of metal shed (31.5m <sup>2</sup> ) will not change. This is an existing non-compliance that was considered in the original assessment and found to be acceptable.	Y (existing non-compliance)
- Max wall plate (ceiling) height 2.7m	2.7m from top of wall the finished ground level below.	
- Max O/A height 4.5m – Ridge to EGL	Overall height of the metal shed will be increased to 4.3m.	Y
- To be single storey.	Shed will remain single storey.	Y
- Windows not less than 900mm from boundary.	No windows within shed.	Y
- Concrete dish drain if setback less than 900mm.	900mm setbacks achieved.	Y
- Design to complement new dwelling.	Amendments will not alter approved shed materiality or colour which is complementary to the dual occupancy.	Y
<b>Dwelling Amenity</b>		
<b>Daylight &amp; Sunlight Access</b>		
<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	The increase in the metal shed height by 590mm will result in a minor increase in shadow cast to the adjoining property to the south (No 7a Searle St). It is not anticipated that this minor increase will be noticeable or cause adjoining properties to become non-compliant with the level of sunlight obtained	Y
- At least 3 hours sunlight to a portion of the surface of		Y

Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

**ITEM 2 (continued)**

**ATTACHMENT 4**

**ITEM 2 (continued)**

north facing adjoining living area windows between 9am and 3pm on June 21.	to adjoining property's principal private open space and north facing living room windows.	
<b>Visual Privacy</b> - Terraces, balconies etc are not to overlook neighbouring dwellings/private open space.	No windows proposed within shed and	Y
<b>Fencing</b>		
<b>Side/rear fencing:</b> - 1.8m max o/a height.	Side & rear fencing to be 1.8m in height.	Y
<b>Part 8.2 - Stormwater Management</b>		
<b>Stormwater</b>		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	Senior Development Engineer satisfied with proposed drainage arrangements.	Y

Justification for non-compliances:

1. Topography & Excavation: Section 2.5(c) states the following:

*"Areas outside the dwelling footprint may be excavated and / or filled so long as:*  
*iii. the height of fill is not more than 500mm."*

**Comment:** At its highest, fill within the rear yard reaches 840mm under the shed and 550mm to level the turfed yard. This represents a non-compliance of up to 340mm over the maximum 500mm height of fill permitted.

A key intent of this control is to ensure that privacy is maintained to adjoining properties. The level of fill seeking approval has been undertaken without consent. In its present form without any privacy measures imposed to mitigate against the potential for overlooking, the non-compliance could not be justifiable. However, as discussed in the comments to submission concerns, mitigation

Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

**ITEM 2 (continued)**

**ATTACHMENT 4**

**ITEM 2 (continued)**

measures including the provision of a 1.5m privacy screen on top of the retaining walls along the rear boundary, relocation of the retaining wall 900mm from the side and rear boundaries and landscaping between the rear retaining wall and rear boundary appropriately control overlooking. Subsequently, the intent of this control has been satisfied.

Further, it is noted that direct access to the rear yard from the front yard is difficult due to the narrow side access to the rear yard being 900mm at most due to side boundary fencing encroaching onto the subject site to allow the adjoining property at No. 492 Victoria Road access to their carport. To require the applicant to reduce fill in the rear yard through excavation would be difficult and to decommission the shed would be excessive as it is seen that the adverse impacts can be addressed by conditions of consent.

**10. Likely impacts of the Development**

**(a) Built Environment**

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

**(b) Natural Environment**

The proposed modifications will improve the existing rear yard through introducing planting and rectifying unauthorised retaining walls to prevent impacts relating to drainage. Therefore, the proposal is considered to have a positive impact on the natural environment.

**11. Suitability of the site for the development**

A review of Council's Map of Environmentally Sensitive Areas (held on file) revealed that no environmental constraints affect the subject site.

**12. The Public Interest**

It is considered that approval of the Section 96 applications would be in the public interest as the adverse impacts arising from the unauthorised fill have been addressed via conditions of consent. Specifically, the conditions require the erection of 1.5m high privacy screening inset 900mm from the rear boundary and screen planting. These measures will restrict the potential for overlooking into No. 7A Searle St and improve the level of privacy between this property and the subject site.

The development substantially complies and achieves the objectives of the R2 Low Density Residential zone.

**ITEM 2 (continued)**

**ATTACHMENT 4**

**ITEM 2 (continued)**

**13. Consultation – Internal and External**

Internal Referrals

**Senior Development Engineer:** Council's Senior Development Engineer is supportive of the proposal pursuant to one (1) condition of consent. The following comments have been provided:

*"The amended plans submitted with the Sec 96 applications indicate that the site has been filled about 300-550mm and under the shed about 800mm.*

*Drainage from the shed has been directed to the OSD system as approved previously. It is not clear what is happening with the agg lines constructed for the retaining walls/fill and where these are directed to. A site inspection indicated that the rear property, No 7A Searle Street has a dish drain along the rear boundary which appears to be leading into a pit in the rear yard to collect runoff from its north-eastern boundary. However notwithstanding this, seepage runoff from the fill carried out on No 490 Victoria Road should be collected and drained into a suitable drainage system. Therefore the seepage runoff should be intercepted and connected to a suitably sized pump out system to pump into the OSD tank at the front.*

*From drainage perspective, no objections are raised to the approval subject to the attached condition.*

Recommended Condition

*25. All seepage runoff generated from all retaining walls shall be intercepted and piped to a suitably sized pump-out system and connected to the drainage system to the street. The pump-out and sub-surface drainage system shall be designed in accordance with relevant sections of AS 3500, Engineering certification indicating compliance is to be submitted to the Principal Certifying Authority."*

External Referrals

None required.

**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.

Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

**ITEM 2 (continued)**

**ATTACHMENT 4**

**ITEM 2 (continued)**

**16. Other Options**

The Section 96 applications are recommended for approval as the issues of concern raised by the objector can be addressed via conditions of consent.

An alternate option is to refuse the Section 96 applications and proceed with the issuing of Orders. However, it is Council Officers opinion that this action would be excessive in the circumstances.

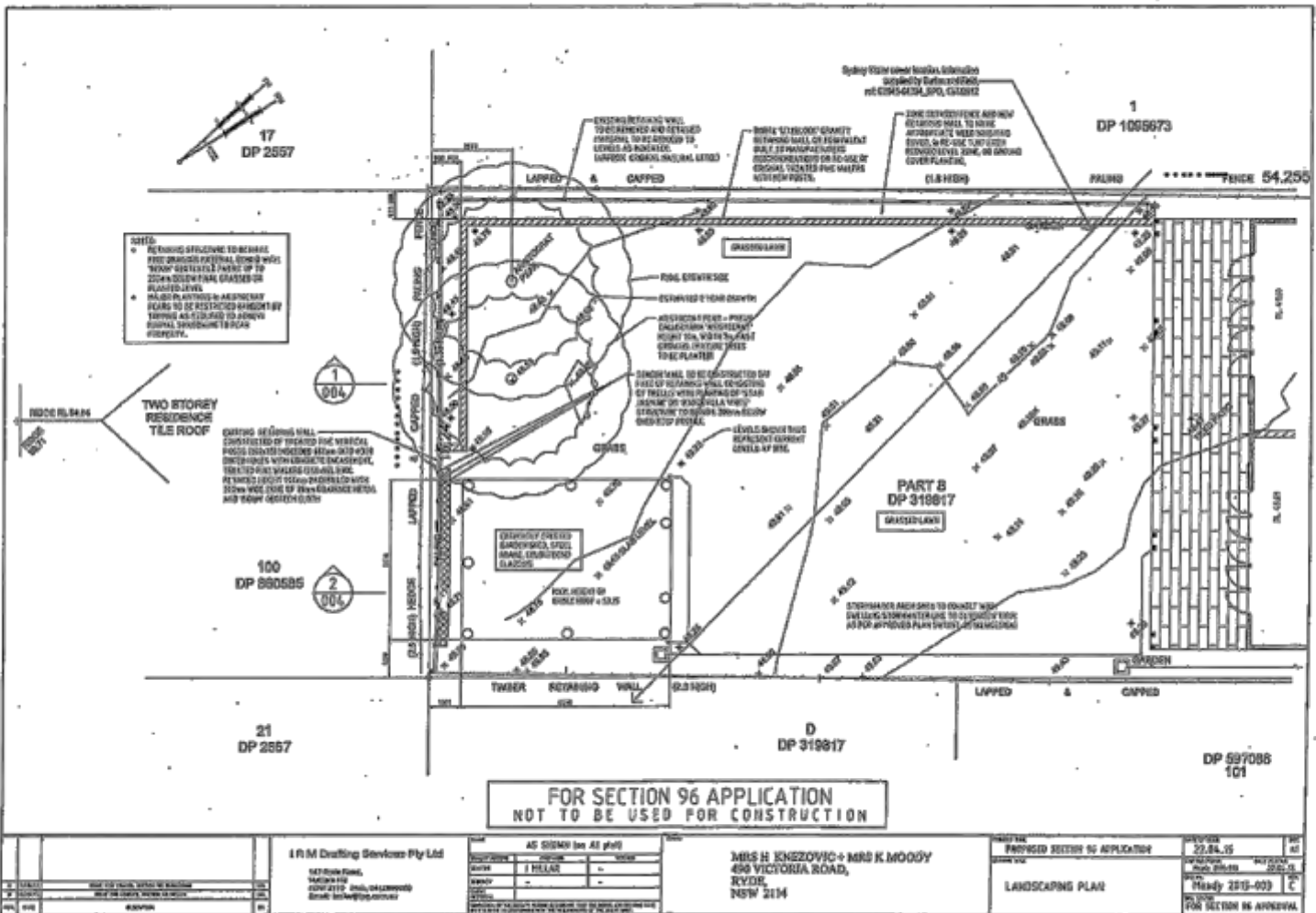
**17. Conclusion**

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

The Section 96(1A) applications are recommended for approval subject to the amendment of one (1) condition and inclusion of three (3) conditions.

ITEM 2 (continued)

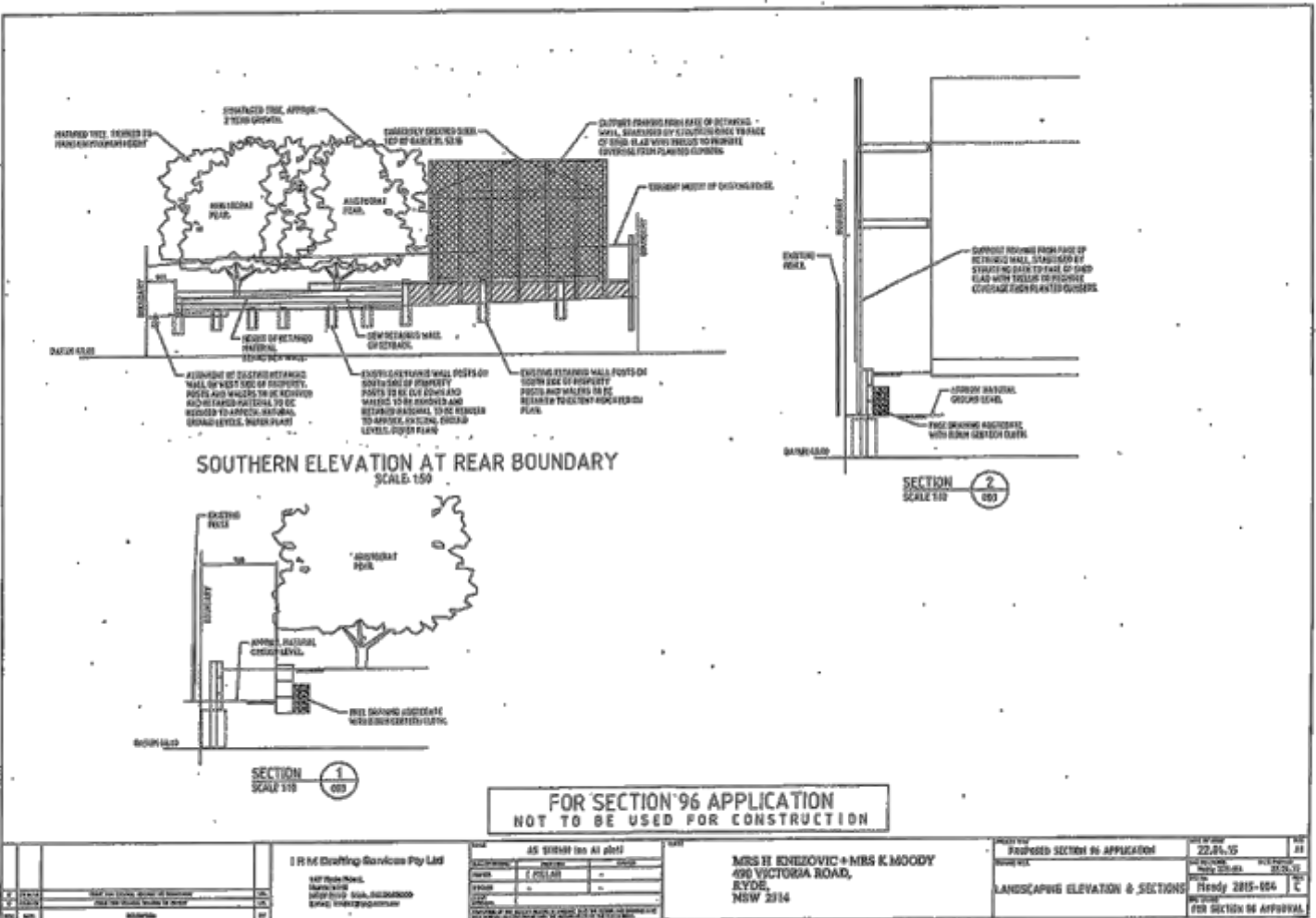
ATTACHMENT 5





**ITEM 2 (continued)**

**ATTACHMENT 5**



**3 87 BOWDEN STREET & 2 MACPHERSON STREET, RYDE - LOT 17  
DP663261 AND LOT 1 DP 327005. Development Application for  
demolition, and construction of a new part three/part-two storey child  
care centre with basement car park. LDA2015/0283.**

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**Report prepared by:** Acting Manager Assessment

**Report approved by:** Acting Director - City Strategy and Planning

**File Number:** GRP/09/5/6/2 - BP16/21

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**1. Report Summary**

**Applicant:** Kerolos Zaki

**Owners:** M+W Zaki Pty Ltd ATF The Zaki Group Trust; and Zaks Corporate Pty Ltd ATF The Zaks Corporate Trust

**Date lodged:** 22 June 2015

This report has been prepared to enable Council's further consideration of a development application (DA) for demolition of all existing structures, and construction of a new part three/part two-storey child care centre with basement car parking at 87 Bowden Street and 2 Macpherson Street, Ryde.

Council at its Ordinary Meeting of 24 November 2015 resolved to defer consideration of this DA to enable a meeting between the applicant and Council's Acting Director – City Strategy & Planning to discuss a range of issues regarding the DA, with a further report to be presented to the Planning & Environment Committee.

Following Council's resolution, a meeting was arranged between the applicant and Council's Acting Director – City Strategy & Planning for 15 December 2015. However, the applicant declined Council's invitation to attend, and the meeting was cancelled. Accordingly, this current report is presented to enable the Planning & Environment Committee's further consideration of this DA.

Furthermore, on 18 December 2015, Council was served with formal notice that the applicants for this DA have lodged an appeal in the Land and Environment Court against Council's deemed refusal of this DA. In terms of timeframe for this appeal, it is listed for a First Directions Hearing in the Court on 28 January 2016, by which time Council's General Counsel is required to either advise the Court that Council has approved the application, or serve documentation to the Court (Statement of Facts and Contentions) identifying why the DA should be refused.

Given that the First Directions Hearing date is before the first Planning & Environment Committee meeting for 2016, Council's General Counsel has been instructed to seek deferral of the First Directions Hearing to enable Council to re-consider and determine the DA beforehand.

### **ITEM 3 (continued)**

It is recommended that this DA be approved via a Deferred Commencement consent subject to conditions, as per the previous report to Planning & Environment Committee.

**Reason for Referral to Planning and Environment Committee:** Previously considered by the Committee.

**Public Submissions:** 9 submissions received (2 from the same property No 89 Bowden Street), and a petition containing 39 signatures.

**Clause 4.6 Ryde LEP 2014 objection required?** None required.

**Value of works:** \$2,836,317

## **2. Background**

The previous report to Planning & Environment Committee 10 November 2015 contains a full assessment of the proposal as originally submitted, and details of the background to the development application up until that point in time.

At this meeting, the Planning & Environment Committee recommended that the DA be deferred for a meeting to be undertaken with the applicant and the Acting Director – City Strategy & Planning to discuss various issues of concern regarding the application (see resolution below).

The DA was then considered at Council's Ordinary Meeting on 24 November 2015, where Council resolved as follows:

- (a) That consideration of Local Development Application No. LDA2015/0283 at 87 Bowden Street and 2 Macpherson Street, Ryde (LOT 17 DP663261 and LOT 1 DP327005) be deferred for a meeting to be undertaken with the applicant and the Acting Director – City Strategy and Planning to discuss reducing the number of children, revisiting the level of excavation, traffic issues, the provision of a Heritage Impact Statement and other DCP non-compliances.*
- (b) That a further report be presented to the Planning and Environment Committee as soon as practicable.*

## **3. Actions Following Council's Resolution**

### Meeting between Applicant and Acting Director – City Strategy & Planning

In accordance with Council's resolution, arrangements were made to conduct a meeting between the applicant and the Acting Director – City Strategy & Planning on 15 December 2015.

### **ITEM 3 (continued)**

On 14 December 2015, Council officers received an email from the applicant declining the invitation to attend this meeting, which was then cancelled.

#### Appeal Lodged in the Land and Environment Court

On 18 December 2015, Council received formal notice of an appeal lodged in the Land and Environment Court against Council's deemed refusal of this DA. According to this notice of appeal, this matter is listed for a First Directions Hearing in the Court on 28 January 2016, by which time Council's General Counsel is required to either:

- advise the Court that Council has approved the application; or
- serve documentation to the Court (Statement of Facts and Contentions) identifying why the DA should be refused.

Given that the First Directions Hearing date is before the first Planning & Environment Committee meeting for 2016, Council's General Counsel has been instructed to seek deferral of the First Directions Hearing (by agreement with the applicant) to enable Council to re-consider and determine the DA. Such deferral is likely to be for a period of 3-4 weeks, which provides sufficient time for Council to re-consider this DA.

#### **4. Financial Impact**

Given that an appeal has been lodged in relation to this DA, there are now financial impacts which vary according to how Council determines the DA. If Council adopts the recommendation of approval subject to conditions, then the applicants would discontinue the appeal in the Court upon Council's approval of the DA, which would end the matter relatively quickly. Costs for Council in this scenario would normally be limited to under \$3000.

Conversely, if Council decides to refuse this DA, then costs will be incurred in Council's defence of the appeal. This will include engaging consultants given that Council officers have recommended approval. External consultants will need to be engaged to support any recommendation of refusal, including in this case town planning and traffic/development engineering consultants, should this matter proceed to a full hearing. Past experience indicates that the total costs of Council's defence of this appeal could be in the order of \$50,000.

#### **5. Other Options**

The recommendation in the previous report in this matter was approval (Deferred Commencement) subject to conditions.

### **ITEM 3 (continued)**

The only practical alternative to this recommendation of approval would be refusal. In this regard, the various issues of concern arising from assessment of this DA as discussed in the previous report to Planning & Environment Committee and issues raised by the local community could form the basis for reasons for refusal (ie including the number of children, level of excavation, traffic issues, provision of a Heritage Impact Statement, and non-compliances with Council's DCP). In this regard, suggested reasons for refusal have been prepared, and these are provided at **ATTACHMENT 2**.

The General Counsel is available to advise Council of likely prospects of success which should be done in closed session.

### **6. Conclusion**

The proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning & Assessment Act 1979 as outlined in the previous report to Planning & Environment Committee.

Following Council's resolution of 24 November 2015, arrangements were made to conduct a meeting between the applicant and Council's Acting Director – City Strategy & Planning. However, the applicant has declined Council's invitation to attend this meeting, which was therefore cancelled.

Accordingly this DA is presented back to the Planning & Environment Committee for consideration and determination. Approval is recommended subject to the conditions in Attachment 1.

### **RECOMMENDATION:**

- a) That LDA2015/283 at 87 Bowden Street and 2 MacPherson Street Ryde being LOT 17 DP663261 and LOT 1 DP 327005 be approved subject to the **ATTACHED** conditions (**Attachment 1**):
- b) That the persons who made submissions be advised of Council's decision.

### **ATTACHMENTS**

- 1** Proposed conditions of consent
- 2** Suggested reasons for refusal
- 3** Previous report to Planning & Environment Committee meeting - 10 November 2015
- 4** A4 plans
- 5** A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

**ITEM 3 (continued)**

Report Prepared By:

**Chris Young**  
**Acting Manager Assessment**

Report Approved By:

**Liz Coad**  
**Acting Director - City Strategy and Planning**

**ITEM 3 (continued)**

**ATTACHMENT 1**

**DRAFT CONDITIONS OF CONSENT**  
**87 BOWDEN STREET AND 2 MACPHERSON STREET, RYDE.**  
**LDA2015/283**

**PART 1** - The following are the Deferred Commencement condition(s) imposed pursuant to Section 80(3) of the Environmental Planning & Assessment Act 1979:

1. **Signed Undertaking.** A signed undertaking by the applicant, licensee or proposed licensee that certifies the proposal has been designed to comply with respect to the Children (Education and Care Services) Supplementary Provisions Regulation 2012 and Department of Education and Communities requirements is to be submitted to Council.
2. **Amended Plans.** The submission of amended plans that comply with the following requirements:
  - (a) **Size of Col Rooms.** The size of the col rooms shall be modified to comply with the controls contained in Section 7.1(d) of the Ryde Development Control Plan 2014.

**PART 2** - The conditions in the following sections of this consent shall apply upon satisfactory compliance with the above requirements and receipt of appropriate written confirmation from Council.

**GENERAL**

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

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

Document Description	Date	Plan No/Reference
Ground Floor Plan	04/15	DA01, Revision 3
First Floor Plan	03/15	DA02, Revision 3
Car Park Plan	03/15	DA03, Revision 2
Roof Plan	03/15	DA04, Revision 2
North Elevation	04/15	DA05, Revision 5
South Elevation	04/15	DA06, Revision 5
East Elevation	04/15	DA07, Revision 5
West Elevation	04/15	DA08, Revision 5
Section Plan	04/15	DA09, Revision 3
Colour Sample Sheet	04/15	DA17, Revision 3
Concept Stormwater Plan – Basement	23/03/15	SW02, Issue A
Concept Stormwater Plan – Ground Floor	23/03/15	SW03, Issue A
Concept Stormwater Plan –	23/03/15	SW04, Issue A

**ITEM 3 (continued)**

**ATTACHMENT 1**

First Floor Concept Stormwater Plan – Roof Plan	23/03/15	SW05, Issue A
Sediment & Erosion Control Plan	23/03/15	SW06, Issue A
Landscape Architectural Plan – Ground and Rooftop	27/03/15	L_101, Issue D
Landscape Architectural Details and Planting Schedule	23/03/15	L_501, Issue A
Acoustic Assessment (prepared by Renzo Tonin & Associates)	5/05/15	TH270-01F02 Acoustic Assessment (r2)
Arboricultural Assessment (prepared by Elke Landscape Architect)	18/06/15	1503_b_Little Zacks Academy Child Care, NSW, Arboricultural Assessment
Site Waste Minimisation Plan	27/05/15	Prepared by Ecosystem Architecture
Assessment of Traffic and Parking Impact (prepared by Transport and Urban Planning)	10/06/15	Ref. 15027R1
BCA Capability Report (prepared by Vic Lilli & Partners Consulting)	05/05/15	Ref. J150086

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

- (a) The following works located outside of the property boundary do not form part of this consent:
- Car parking spaces within the road reserve;
  - New hard and soft landscaping treatments; and
  - Traffic island/blisters.

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

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **Energy Efficiency.** The fittings, fixtures and materials installed in association with the development (including but not limited to hot water systems, ceiling/roof insulation, shower heads, toilet cisterns and the like) shall comply with the requirements of Council's DCP. Details are to be noted on the plans submitted with the **Construction Certificate**.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:



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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.
- 5. **Signage – not approved unless shown on plans.** This consent does not authorise the erection of any signs or advertising structures not indicated on the approved plans. Separate approval must be obtained from Council for any additional signs, unless such signage is "exempt development"
- 6. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
- 7. **Hoardings.**
  - a. A hoarding or fence must be erected between the work site and any adjoining public place.
  - b. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
  - c. Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
- 8. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 9. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
- 10. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
- 11. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
- 12. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

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- 13 **Relocation of Post Office Boxes.** Consultation and compliance with the requirements of Australia Post in relation to the proposed relocation of the post office boxes is required. Details of the consultation and authorisation for relocation of the post office boxes from Australia Post is required to be submitted to Council for records purposes.
- 14 **Bicycle/motorcycle parking.** An area shall be designated for motorbike and/or bicycle parking on the site within the basement level. A bicycle parking rack must be provided.

Environmental Health Conditions

- 15 **Construction and fit-out of food premises** — All proposed food premises (other than retail meat premises) must be constructed and fitted-out in accordance with the requirements of:
- (a) Food Safety Standard 3.2.3: *Food Premises and Equipment*; and
  - (b) Australian Standard AS 4674-2004: *Design, construction and fit-out of food premises*
- 16 **Construction of walls** - The walls of all proposed food premises must be constructed of brick, concrete blocks, preformed panels filled with suitable material or other solid materials.
- 17 **Provision for installation of kitchen exhaust systems** - Adequate provision must be made for the installation of kitchen exhaust systems to the proposed food premises.
- 18 **Floors of change areas** - The floors of all change rooms must be constructed of a durable, impervious material that is non-slip and capable of being easily cleaned.
- 19 **Tiling of walls** - All walls adjoining wash basins, sinks and similar fixtures must be finished with glazed tiles or a similar smooth-faced impervious material where splashing is likely to occur.
- 20 **Hand washing facilities in change areas** - A hand basin supplied with hot and cold running water through a common spout, together with an adequate supply of soap and clean single-use towels, must be provided in a readily accessible location within the change area.
- 21 **Ventilation of basement carparks** — All car parking facilities within buildings shall be naturally or mechanically ventilated in accordance with the Building Code of Australia and Australian Standard AS 1668.2-2012: *The use of mechanical ventilation and airconditioning in buildings— Mechanical ventilation in buildings*.
- 22 **Fresh air intake vents** - All fresh air intake vents must be located in a position that is free from contamination and at least 6 metres from any exhaust air discharge vent or cooling tower discharge.

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23. **Exhaust air discharge vents** - All exhaust air discharge vents must be designed and located so that no nuisance or danger to health will be created.
24. **Carpark exhaust vent** - The carpark exhaust vent must be located at least 3 metres above ground level or any pedestrian thoroughfare and:
- at least 6 metres from any fresh air intake vent or natural ventilation opening; and
  - at least 6 metres or, where the dimensions of the allotment make this impossible, the greatest possible distance from any neighbouring property boundary.
25. **Kitchen exhaust vent** - The kitchen exhaust vent must be located above roof level:
- at least 6 metres from any fresh air intake vent or natural ventilation opening;
  - at least 6 metres or, where the dimensions of the allotment make this impossible, the greatest possible distance from any neighbouring property boundary; and
  - at least 8 metres from any cooling tower.
26. **Storage of garbage and recyclable materials** - A separate garbage room or external area must be provided in a convenient location on the premises for the storage of garbage and recyclable materials and shall comply with the requirements of Council's Development Control Plan DCP 2014, Part 7.2.
27. **External garbage storage areas** - External areas used for the storage of garbage must be roofed and paved with concrete graded to a grated drain connected to the sewerage system.
28. A hose cock must be provided adjacent to the garbage storage area to facilitate cleaning of the containers and storage area.
29. **Construction of garbage rooms** - All garbage rooms must be constructed in accordance with the following requirements:
- 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;
  - 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;
  - The floor waste must be provided with a fixed screen in accordance with the requirements of Sydney Water Corporation;
  - 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;
  - The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with a light coloured washable paint.

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- f) The doors must be of adequate dimensions to allow easy access for servicing purposes and must be finished on the internal face with a smooth-faced impervious material.
- g) Any fixed equipment must be located clear of the walls and supported on a concrete plinth at least 75mm high or non-corrosive metal legs at least 150mm high.
- h) The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation.
- i) The room must be provided with adequate artificial lighting, and
- j) A hose cock must be provided in or adjacent to the room to facilitate cleaning.

30 **Plumbing and drainage work** - All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation and the NSW Department of Fair Trading.

Engineering Conditions

31 **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.

32 **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.

33 **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.

34 **Road Activity Permits.** To carry out work in, on or over a public road, the Consent of Council is required as per the Roads Act 1993. Prior to issue of a Construction Certificate and commencement of any work, permits for the following activities, as required and as specified in the form "*Road Activity Permits Checklist*" (available from Council's website) are to be obtained and copies submitted to Council with the *Notice of Intention to Commence Work*.

- a) **Road Use Permit** - The applicant shall obtain a Road Use Permit where any area of the public road or footpath is to be occupied as construction workspace, other than activities covered by a Road Opening Permit or if a Work Zone Permit is not obtained. The permit does not grant exemption from parking regulations.

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- b) **Work Zone Permit** - The applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. A Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.
- c) **Road Opening Permit** - The applicant shall apply for a road-opening permit and pay the required fee where a new pipeline is to be constructed within or across the road pavement or footpath. Additional road opening permits and fees are required where there are connections to public utility services (e.g. telephone, telecommunications, electricity, sewer, water or gas) within the road reserve. No opening of the road or footpath surface shall be carried out without this permit being obtained and a copy kept on the site.
- d) **Elevated Tower, Crane or Concrete Pump Permit** - The applicant shall obtain an Elevated Tower, Crane or Concrete Pump Permit where any of these items of plant are placed on Council's roads or footpaths. This permit is in addition to either a Road Use Permit or a Work Zone Permit.
- e) **Crane Airspace Permit** - The applicant shall obtain a Crane Over Airspace Permit where a crane on private land is operating in the air space of a Council road or footpath. Approval from the Roads and Maritime Services for works on or near State Roads is required prior to lodgement of an application with Council. A separate application for a Work Zone Permit is required for any construction vehicles or plant on the adjoining road or footpath associated with use of the crane.
- f) **Hoarding Permit** - The applicant shall obtain a Hoarding Permit and pay the required fee where erection of protective hoarding along the street frontage of the property is required. The fee payable is for a minimum period of 6 months and should the period is extended an adjustment of the fee will be made on completion of the works. The site must be fenced to a minimum height of 1.8 metres prior to the commencement of construction and throughout demolition and/or excavation and must comply with WorkCover (New South Wales) requirements.
- g) **Skip Bin on Nature Strip** - The applicant shall obtain approval and pay the required fee to place a Skip Bin on the nature strip where it is not practical to locate the bin on private property. No permit will be issued to place skips within the carriageway of any public road.

**DEMOLITION CONDITIONS**

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

A Construction Certificate is not required for Demolition.

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35. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:
- (a) Council must be notified of the following particulars:
    - (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
    - (ii) The date the work is due to commence and the expected completion date
  - (b) A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.
36. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
37. **Excavation**
- (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.
  - (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with the Work Cover Authority, in accordance with AS 2601-2001 *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.
38. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.
39. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
40. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
41. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.
42. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.
43. **Imported fill – validation.** All imported fill must be supported by a validation from a qualified environmental consultant that the fill constitutes Virgin Excavated

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Natural Material. Records of the validation must be provided upon request by the Council.

44. **Delivery dockets to be provided.** Each load of imported fill must be accompanied by a delivery docket from the supplier including the description and source of the fill.
45. **Delivery dockets – receipt and checking on site.** A responsible person must be on site to receive each load of imported fill and must examine the delivery docket and load to ensure that only Virgin Excavated Natural Material that has been validated for use on the site is accepted.
46. **Delivery dockets – forward to PCA on demand.** The delivery dockets must be forwarded to the Principal Certifying Authority within seven (7) days of receipt of the fill and must be produced to any authorised officer who demands to see them.
47. In relation to the demolition of the existing building (or part of a building) on the site:
- (i) A Preliminary Hazard Analysis Report prepared by an appropriately qualified consultants to be submitted to the Council detailing whether any hazardous materials exist on the site (eg lead in paints and ceiling dust or asbestos).
  - (ii) Should any hazardous materials be identified as per item (i), a Work Management Plan shall be submitted to Council in accordance with AS2601 - Demolition of Buildings. The report shall contain details regarding:
    - (a) The type of hazardous material.
    - (b) The level or measurement of the hazardous material in comparison to relevant Guidelines;
    - (c) Proposed methods of containment, and
    - (d) Proposed methods of disposal.

**48. Salvage of materials and building elements**

Traditional building materials and architectural elements (such as windows, doors, internal and external joinery, masonry, tiles etc) are to be dismantled, salvaged and sold to an established dealer in second-hand heritage building materials.

Documentation of the salvage methodology must be submitted for the approval of Council prior to the commencement of demolition.

**PRIOR TO CONSTRUCTION CERTIFICATE**

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

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

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

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

49. **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**.
50. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
51. **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)
52. **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
53. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.
54. **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**.
55. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties (including any public place) that may be affected by the construction work namely 89 Bowden Street, 91 Bowden Street, 2 See Street, 4 See Street, 6 See Street, and 8 See Street. A copy of the survey is to be submitted to the PCA (and Council, if Council is not the PCA) prior to the release of the **Construction Certificate**.
56. **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



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easements, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://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.

57. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.
58. **Fencing.** Fencing is to be in accordance with Council's Development Control Plan and details of compliance are to be provided in the plans for the **Construction Certificate**.
59. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.
60. **Plan of Management** – the Plan of Management be updated to include all child care centre operational recommendations contained within the approved consultant reports detailed in Condition 1. An updated Plan of Management is to be submitted to Council for approval prior to the issue of a **Construction Certificate**.
61. **Access Control.** An electronic key pad to all access points is required to ensure there is no unauthorised access to the child care centre. Details of compliance are to be provided in the plans for the **Construction Certificate**
62. **Screen Doors and Windows.** Insect screens are to be installed to all operable windows and doors. Plans detailing the insect screens are to be approved by Principal Certifying Authority prior to the issue of the **Construction Certificate**.
63. **Access and Mobility Report.** In order to demonstrate compliance with the Disability Discrimination Act (DDA) 1992 and Disability (Access to Premises-Buildings) Standards 2010, an Access and Mobility Report, prepared by a suitably qualified Access Consultant is required to be submitted to Council for approval prior to the issue of **Construction Certificate**.
64. **Exterior Lighting** – Installation of exterior lighting is to be undertaken in accordance with the provisions of the Ryde Development Control Plan 2014. Lighting details are to be submitted to the Principal Certifying Authority prior to

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issue of the **Construction Certificate**. The lighting details are to include certification from an appropriately qualified person that there will be no offensive glare or adverse impact onto adjoining properties.

65. **Waste Management Plan.** A detailed waste management plan is to be submitted to Council for approval prior to the issue of **Construction Certificate**. The waste management plan is to be prepared in accordance with Section 7.4 of Part 3.2 and also Part 7.2 of the Ryde Development Control Plan 2014.

66. **Tree Species Substitution.** The proposed species of *Quercus robor* and *Dianella 'Boarder Silver'* are to be deleted from the Landscape Plans submitted for **Construction Certificate**.

67. **Landscape Details.** The landscape plans submitted with the **Construction Certificate** are to include the following:

- (a) Detailed sections of the outdoor areas located on podium, including the rooftop which demonstrate the relationship and workability between the proposed planting, hard paved and turf areas;
- (b) Additional natural and interactive play structures, elements and items are to be included to the outdoor play areas to ensure rich and varied outdoor experience, particularly for the older age groups. This could include but is not limited to sandpits, climbing/balancing structures, rocks, edible gardens, water play and earth mounding;
- (c) Details of materiality for the hard surfaces of the outdoor play areas;
- (d) Details of the proposed planting areas including planting layouts, densities and species locations;
- (e) Increased levels of shade are to be provided to the outdoor play areas with specific details of the shading to the rooftop play area provided.
- (f) All street trees/planting (within 3m of the vehicle access driveway to the site) shall not exceed 1 metre in height to ensure maximum visibility is maintained to all pedestrians.

Environmental Health Conditions

68. **Kitchen fitout plans** - The kitchen fitout plans submitted with the development application do not meet the requirements of Food Safety Standard 3.2.3: *Food Premises and Equipment* and Australian Standard AS 4674-2004: *Design, construction and fitout of food premises*.

Amended plans demonstrating compliance with AS 4674 and Standard 3.2.3 must be submitted for approval with the application for the **Construction Certificate**. The amended plans must include:

- a. The proposed floor layout and use of each room or area;
- b. The proposed floor, wall and ceiling finishes;
- c. Details of all proposed fixtures fittings and equipment (including the proposed method of installation); and

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d. Lighting, ventilation and drainage details.

**69. Garbage storage details** - Details of the proposed garbage room or storage area must be submitted for approval with the application for the Construction Certificate. Such details must include:

- (a) the specifications and layout of all proposed waste storage and handling equipment; and
- (b) the access to the collection point.

**70. Access details for waste collection vehicles** - Details of all driveways and manoeuvring areas for waste collection vehicles must be submitted for approval with the application for the Construction Certificate. Such details must include:

- (c) vehicle turning circles and swept paths; and
- (d) overhead and side clearances (where appropriate).

Engineering Conditions

**71. 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 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 significant 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.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", RMS's Manual –

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'Traffic Control at Work Sites' and Councils DCP 2014 Part 8.1 (Construction Activities). The modification of parking restrictions (Work Zones) and standing heavy vehicles (crane, concrete pump, etc) on a footpath/ roadway are subject to separate approval from Council and/or the Local Traffic Committee.

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 Construction Traffic Management Plan is submitted

**72. 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.

**73. 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:

- a) Construction of a concrete footpath fronting the development site along the Macpherson Street frontage. Levels and grades of the footpath are to marry smoothly into the adjoining sections to be retained.
- b) Reconstruction of the kerb and gutter the full length of the site in Macpherson Lane. The applicant is to confirm with Council's Public Works – Asset section regarding the profile of the kerb prior to preparing detailed plans.
- c) Construction of a new driveway crossover, 5.5m wide and fronting the approved vehicle entry in Macpherson Street. Levels and grades are to be in accordance with Council's Technical Specifications and AS 2890.1
- d) Removal of any existing driveway crossovers made redundant by the works and reinstatement of infrastructure in these areas consistent with the adjoining.

Levels and grades of all infrastructure (footpath, gutter, roadway, etc) must be in accordance with the boundary alignment levels issued by Council's Public Works. Any variations to the scope of works or requirements which may be subject to change due to the presence of services which cannot be relocated or design inefficiencies that may arise in the detailed review, is at the discretion of Council's Public Works.

Detailed engineering plans prepared by a Civil engineer in accordance with the Council's DCP and Technical Manuals shall be submitted to Council's Public Works for approval. At a minimum, the plans must show the public domain works in plan view, longitudinal sections at a scale relevant for the level of detail and is to note any existing services/ infrastructure effected by the works.

The applicant shall undertake and bear all costs associated with these works and the liaison, approval and relocation of any utility services. The approval of

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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.

**74. Dilapidation Report.** Submit a dilapidation report on existing public infrastructure in the vicinity of the proposed development. The report is to include a description of the location and nature of any existing observable defects to the following infrastructure including a photographic record.

- a) Road pavement
- b) Kerb and gutter
- c) Footpath.
- d) Drainage pits.
- e) Traffic signs
- f) Any other relevant infrastructure

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

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

**75. 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) The disabled space located is inappropriately located at the northern end of the parking area as it would require a less abled driver significant manoeuvring to access and exit. To address this, the disabled space is to be located within 1 entry manoeuvre from the base of the vehicle access ramp, and the corresponding parents spaces relocated north.
- b) The nominated turning bay area is crucial for vehicles to exit the parallel staff parking spaces located on the eastern wall of the garage. Accordingly the turning bay area is to be linemarked with chevron marking and labelling indicating the space is to be reserved for a turning bay area.

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

**76. 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

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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 Macpherson Lane, generally in accordance with the plans by Scott Collis Consulting Engineers Pty Ltd. (Refer to Job No. 15030 Dwgs SW01-SW05 & SW07 Rev A, dated 1 April 2015) subject to the following variation(s):

- The nominated PSD exceeds the maximum permissible when discharging to the kerb (which is, 30L/s). Accordingly, the OSD design is to be revised to have a maximum PSD rate of 30L/s and the SSR be expanded, as per Section 1.4.3 of the DCP Part 8.2 (Stormwater & Floodplain Management – Technical Manual). Revised OSD calculations, complying with Council's simplified design procedure, are to be submitted with the documentation. The revised SSR and diameter (based on 1522m<sup>2</sup> of area draining to the OSD) is estimated to be some 58.04m<sup>3</sup> and 127mm – to be confirmed by the consultant.
- To ensure there is adequate headroom clearance provided in the basement garage beneath the OSD storage tank, the submitted stormwater details are to provide a cross sectional view of the storage tank, depicting the RRL of the playground and basement parking levels. The height clearance in the basement garage must comply with AS 2890.1 (2.2m) and may require the extending the footprint of the OSD tank to achieve the required storage volume.
- The surface inlet/ access grates in the playground area are to be screened and fixed in accordance with relevant Australian Standards and controls for structures / facilities in playground areas, etc. This is to ensure the safety of the playground area is not impacted.
- The OSD storage must have a piped overflow in the event of failure of the system. This is to prevent inundation of the playground area or any overflow impacting neighbouring properties/ public domain areas.

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 WSUD measures, 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 Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.

The subsurface drainage system must be designed to preserve the pre-developed groundwater table so as to prevent constant, ongoing discharge of groundwater to the public drainage network, as well as avoid long term impacts related to the support of structures on neighbouring properties.

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**

**ITEM 3 (continued)**

**ATTACHMENT 1**

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.

**77. 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.

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

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

- (a) in the case of work for which a principal contractor is required to be appointed:
  - (i) the name and licence number of the principal contractor, and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act
- (b) in the case of work to be done by an owner-builder:
  - (i) the name of the owner-builder; and
  - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

**80. Excavation adjacent to adjoining land**

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining

**ITEM 3 (continued)**

**ATTACHMENT 1**

- premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage
- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating
  - (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land

**81 Pre-commencement dilapidation report.** The submission of a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties namely 89 Bowden Street, 91 Bowden Street, 2 See Street, 4 See Street, 6 See Street, and 8 See Street, and public infrastructure (including roads, gutters, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining private properties, prior to the commencement of construction.

**82 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.

**83. Photographic Archival Recording**

Prior to the commencement of any works, including the dismantling of fabric or demolition, a Photographic Archival Recording shall be undertaken and submitted to Council.

The Photographic Archival Recording shall be prepared in accordance with the guidelines "*Archival Recording of Heritage Items Using Film or Digital Capture*" published by the Heritage Division of the Office of Environment and Heritage.

Two complete copies of the Photographic Archival Recording shall be submitted to Council. Each copy should contain (for digital projects):

- A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the sequence in which images were taken. The report may also address the limitations of the photographic record and may make recommendations for future work;
- Plans of the building marked up to indicate where the photographs were taken and the direction of the photograph;
- The report should include all technical details including camera and lenses, image file size and format, technical metadata associated with the images, and colour information;
- Catalogue sheets, photographic plan, supplementary maps;
- Colour thumbnail image sheets (e.g. A4 page with six images by six images) showing images and reference numbers. The thumbnail sheets should be processed with archivally stable inks on archivally acceptable photographic paper and cross referenced to catalogue sheets;



**ITEM 3 (continued)**

**ATTACHMENT 1**

- One full set of 10.5x14.8cm (A6) colour prints OR, if a large project, a representative set of selected images processed with archivally stable inks on archivally acceptable photographic paper.
- A CD or DVD containing electronic image files saved as RAW files with associated metadata, and cross-referenced to catalogue sheets.

The report should be presented on archival quality paper in a suitable archival binder and slipcase, and all storage of individual components must be in archival quality packaging suitable for long term storage.

Environmental Health Conditions

84. **Waste management plan** - The waste management plan submitted with the development application does not meet the requirements of Section 7.2 of Council's *Development Control Plan 2010*.

Prior to work commencing a new waste management plan must be submitted to and approved by Council. The new plan must include the types and estimated volumes of waste materials that will be generated; the proposed method of reuse, recycling or disposal; and the name and address of the recycling facility or landfill site if the waste is to be recycled or disposed of off site. Reuse and recycling must be maximised.

85. **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.
86. **Identification and removal of hazardous materials** - Any hazardous materials, including asbestos, must be identified before demolition work commences and be removed in a safe manner.
87. **Storage and removal of wastes** - All demolition and construction wastes must be stored in an environmentally acceptable manner and be removed from the site at frequent intervals to prevent any nuisance or danger to health, safety or the environment and shall comply with the requirements of the Protection of Environment Operations Act, 1997.
88. **Contaminated soil** - All potentially contaminated soil excavated during demolition or construction work must be stockpiled in a secure area and be assessed and classified in accordance with the *Waste Classification Guidelines* (DECCW, 2009) before being transported from the site.
89. **Transportation and disposal 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. All transportation and disposal of waste shall be conducted in accordance with the Protection of Environment Operations Act, 1997 and the Protection of Environment Operations (Waste) Regulation 2014.

**ITEM 3 (continued)**

**ATTACHMENT 1**

90. **Disposal of asbestos wastes.** All asbestos wastes must be disposed of at a landfill facility licensed to receive asbestos waste
91. **Surplus excavated material** - All surplus excavated material must be disposed of at a licensed landfill facility, unless Council approves an alternative disposal site
92. **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.
93. **Noise control measures** - All noise and vibration control measures nominated in the acoustical consultant's report *prepared by Renzo Tonin & Associates dated 5 May 2015 titled "Proposed Child Care Centre CRN of Macpherson St & Bowden St, Ryde, Acoustic Assessment"* and any related project documentation must be implemented.

Engineering Conditions

94. **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.

**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.

95. **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*.
96. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
97. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
98. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- a. Fill is allowed under this consent.

**ITEM 3 (continued)**

**ATTACHMENT 1**

- b. The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
- c. the material is reused only to the extent that fill is allowed by the consent.

99. **Construction materials.** All materials associated with construction must be retained within the site.

100. **Site Facilities**

The following facilities must be provided on the site:

- (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
- (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.

101. **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.

102. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

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

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

105. **Archaeology stop work provisions**

As required by the NSW *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately to allow a suitably qualified archaeologist to make an assessment and recommendation of the findings.

If relics are encountered, Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified and further archaeological work may be required before works could re-commence. Approvals/permits from the Heritage Division may also be required to disturb/relocate relics.

Engineering Conditions

106. **Traffic Management.** Any traffic management procedures and systems must be in accordance with AS 1742.3 1996 and City of Ryde, Development Control

**ITEM 3 (continued)**

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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.

107. **Erosion and Sediment Control.** The applicant shall install erosion and sediment control measures in accordance with the approved plan by Scott Collis Consulting Engineers Pty Ltd. (Refer to Job No. 15030 Dwgs SW06 Rev A, dated 1 April 2015) 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.
108. **Construction Traffic Management Plan - Implementation.** 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. 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.
109. **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 Scott Collis Consulting Engineers Pty Ltd. (Refer to Job No. 15030 Dwgs SW01-SW05 & SW07 Rev A, dated 1 April 2015) submitted in compliance to the condition labelled "Stormwater Management."
110. **Public Domain Works - Construction.** The public domain works specified in this consent must be constructed in accordance with the approved civil infrastructure plans, documentation and any associated conditions as issued by Council's Public Works under Section 138 of the Roads Act.

**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.

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**ATTACHMENT 1**

111. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.
112. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.
- Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Interim/Final Occupation Certificate.
- Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.
113. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of the **Occupation Certificate**.
114. **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](http://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.
115. **Post-construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties, prior to the issue of the **Occupation Certificate**.
116. **Public domain – work-as-executed plan.** A works as executed plan for works carried out in the public domain must be provided to and endorsed by Council prior to the issue of the **Occupation Certificate**.

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**ATTACHMENT 1**

117. **Letterboxes and street/house numbering.** All letterboxes and house numbering are to be designed and constructed to be accessible from the public way. Council must be contacted in relation to any specific requirements for street numbering.

118. **Emergency Evacuation.** Prior to the issue of an Occupation Certificate for the child care centre, a "Fire Safety and Evacuation Plan" complying with Australian Standard AS3745 is to be prepared by a suitably qualified person and submitted to the Principal Certifying Authority.

The Fire Safety and Evacuation Plan is to address:

The mobility of children and how this is to be accommodated during an

- i. Evacuation;
- ii The location of a safe congregation area, away from the evacuated building, busy roads and other hazards, and away from evacuation points for use by other occupants/tenants of the same building or of surrounding buildings; and
- iii. The supervision of children during the evacuation and at the congregation area with regard to the capacity of the child care centre including child to staff ratios.

Engineering Conditions

119. **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.

120. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention and 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 instrument are to be in accordance with the Council's 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. Note that completed WAE plans as well as certification of the completed stormwater management system must be provided with the application, prior to it being endorsed by Council.

121. **Engineering Compliance Certificates.** 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

**ITEM 3 (continued)**

**ATTACHMENT 1**

are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.

- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls).
- b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, 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 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 Council's DCP 2014 Part 8.1 (Construction Activities).
- e) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.

122. **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 Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

123. **Relocation of Australia postbox.** The new vehicle entry and driveway crossover will require the relocation of an existing Australia postbox located on Macpherson Street, adjacent Macpherson Lane. The applicant is to liaise with Australia Post and seek written confirmation regarding their service requirements, potential relocation options and processes in regards to the relocation of the postbox. Following this, the applicant is then to contact Council's Public Works – Traffic section in regards to the necessary approval from the Local Traffic Committee for the relocation of the "Mail Zone" parking restrictions (note: allowance must be made for LTC meetings - scheduled once every 6 weeks). All costs associated with the relocation of this service is to be borne by the applicant and is to be completed prior to the issue of the Occupation Certificate.

Environmental Health Conditions

124. **Registration of premises** - The operator of the business must register the premises with Council's Environmental Health Unit before trading commences

**ITEM 3 (continued)**

**ATTACHMENT 1**

**OPERATIONAL CONDITIONS**

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

125. **Hours of operation.** The hours of operation are to be restricted to:
- (a) The hours of operation of the child care centre are restricted to 7:00am to 6:00pm Monday to Friday.
  - (b) The child care centre is not permitted to operate on, Saturdays, Sundays or Public Holidays.
126. **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*.
127. **Waste storage/disposal – hours of collection.** Waste and recyclable material generated by these premises must not be collected between the hours of 9pm and 8am on any day.
128. **Waste storage/disposal – method.** All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.
129. **Waste storage/disposal – containers.** An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste.
130. **Waste storage/disposal – recycling.** Wastes for recycling should be stored in separate bins or containers and transported to a facility where the wastes will be recycled or re-used.
131. **Delivery times.** All deliveries to and from the child care centre are to occur between the hours of 10:30am and 2:30pm on the days which the child care centre is operational.
132. **Delivery and loading/unloading – location.** All loading and unloading in relation to the use of the premises shall take place wholly within the property.
133. **Noise and Vibration** A validation report must be obtained from a suitably qualified and experienced consultant in acoustics three (3) months after the business commences trading and from time to time as reasonably requested by Council. The report should demonstrate and certify that noise and vibration intrusion within the development and from the development to adjoining sensitive receivers satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Office of Environment & Heritage/Environment Protection Authority Noise Control Manual & Industrial Noise Policy, NSW Department of Environment and Conservation's *Assessing Vibration: a technical guideline 2006* and conditions of Council's development consent.



ITEM 3 (continued)

ATTACHMENT 1

The report is to be forwarded to and approved by Council. This report must address (but not limited to) the level of noise intrusion from road traffic noise within the building and the accumulation effect of mechanical plant and equipment and noise generated from all children in the outdoor play area on adjoining residential properties. Any recommendations outlined in the acoustic report are to be implemented in accordance with the report.

Environmental Health Conditions

134. **Storage and disposal of wastes** - All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.
135. **Waste containers** - An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste.
136. **Recyclable wastes** - Wastes for recycling must be stored in separate bins or containers and be transported to a facility where the wastes will be recycled or re-used.
137. **Hazardous wastes** - All wastes classified as hazardous wastes under the *Protection of the Environment Operations Act 1997* must be transported to an appropriately licensed waste facility for disposal.
138. **Disposal of liquid wastes** - All liquid wastes generated on the premises must be treated and discharged to the sewerage system in accordance with the requirements of Sydney Water Corporation or be transported to a liquid waste facility for recycling or disposal.
139. **Trade waste permit** - The applicant must contact Sydney Water Corporation to determine whether a Trade Waste Permit is required before discharging any trade wastewater to the sewerage system.
140. **Maintenance of waste storage areas** - All waste storage areas must be maintained in a clean and tidy condition at all times.
141. **Air pollution** - The use of the premises, including any plant or equipment installed on the premises, must not cause the emission of smoke, soot, dust, solid particles, gases, fumes, vapours, mists, odours or other air impurities that are a nuisance or danger to health.
142. **Standards of air impurities not to be exceeded** - Any discharge to atmosphere from the premises must comply with the requirements of the *Protection of the Environment Operations (Clean Air) Regulation 2010*.
143. **Offensive Noise**. The use of the premises must not cause the emission of "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*.

**ITEM 3 (continued)**

**ATTACHMENT 1**

144. **Noise and vibration from plant or equipment** - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:

- (e) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the *New South Wales Industrial Noise Policy* (EPA, 2000).
- (f) 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*.
- (g) The transmission of vibration to any place of different occupancy.

145. **Compliance with noise management plan** - The occupier must ensure that the ongoing requirements of the noise management plan being acoustical consultant's report prepared by *Renzo Tonin & Associates dated 5 May 2015 titled "Proposed Child Care Centre CRN of Macpherson St & Bowden St, Ryde, Acoustic Assessment* are complied with.

146. **Clean water only to stormwater system** - Only clean unpolluted water is permitted to enter Council's stormwater drainage system in compliance with the Protection of Environment Operations Act, 1997.

**ADVISORY NOTES**

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

The approved fees are contained in Council's Management Plan and may be viewed or downloaded at [www.ryde.nsw.gov.au](http://www.ryde.nsw.gov.au).

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

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**ATTACHMENT 2**

**SUGGESTED REASONS FOR REFUSAL  
87 BOWDEN STREET AND 2 MACPHERSON STREET, RYDE.  
LDA2015/283**

1. Insufficient information has been submitted to enable Council to make a full and proper assessment of the application. Specifically, a Heritage Impact Statement has not been submitted with the application, and therefore Council is unable to make a proper assessment of the impact on nearby heritage items, or on the possible heritage significance of the existing dwelling on the subject site.
2. The development is unacceptable in terms of non-compliance with Ryde Development Control Plan 2014. Specifically:
  - (a) Signed undertaking regarding compliance with the Childrens Services Regulation 2004 or the requirements of DOCS;
  - (b) Preferred locations for larger centres in residential areas;
  - (c) Crime Prevention through Environmental Design (CPTED) principles;
  - (d) Height requirements in for child care centres in low density residential areas;
  - (e) Built form controls in residential areas:
    - Height
    - Setbacks
    - Acoustic privacy (elevated play areas)
    - Underground parking;
  - (f) Play areas within the front setback;
  - (g) Centre facilities (cot rooms);
  - (h) Waste Management Plan and waste storage arrangements;
3. The proposal is unacceptable in terms of traffic issues, specifically, traffic generated from the proposed development and also impacts of vehicle movements on the local road network during peak periods.
4. The proposal is unacceptable in terms of the amount and extent of excavation proposed, specifically regarding the basement level carpark.
5. The proposal is unacceptable in terms of the number of children proposed in the centre, specifically which will lead to unacceptable amenity impacts on neighbouring properties (in particular noise), as well as excessive traffic generation and vehicle movements during peak periods.

ITEM 3 (continued)

ATTACHMENT 3

**4 87 BOWDEN STREET and 2 MACPHERSON STREET, RYDE -  
LOT 17 DP663261 AND LOT 1 DP 327005. Development  
Application for demolition, and construction of a new part  
three/part-two storey child care centre with basement car park.  
LDA2015/0283.**

**Report prepared by:** Creative Planning Solutions; Team Leader - Assessment  
**Report approved by:** Manager - Assessment; Acting Group Manager - Environment  
and Planning  
**Report dated:** 20/10/2015 **File Number:** GRP/09/5/6/2 - BP15/1572

**Report Summary**

**Applicant:** Kerolos Zaki  
**Owners:** M+W Zaki Pty Ltd ATF The Zaki Group Trust; and Zaks Corporate  
Pty Ltd ATF The Zaks Corporate Trust  
**Date lodged:** 22 June 2015

This report considers a development application for demolition of all existing structures, and construction of a new part three/part two-storey child care centre with basement car parking at 87 Bowden Street and 2 Macpherson Street, Ryde. The proposal will also include associated stormwater and landscaping works.

Within the Macpherson Street road reserve the proposal also includes new pathways, street tree planting, vehicular parking spaces, and traffic control devices. The Bowden Street road reserve is to include new street tree planting and landscape works also.

The proposed child care centre is to accommodate ninety (90) children, and operate from 7am to 6pm, Monday to Friday.

The subject development application was notified to adjoining land owners and advertised in accordance with the provisions of Ryde DCP 2014. In response, nine (9) letters were received in objection to the proposal (including two (2) letters from the same address at 89 Bowden Street), and a separate petition objecting to the proposal containing thirty-nine (39) signatures.

The submissions objected to the proposal principally on the following grounds:

- Traffic, parking, and pedestrian safety;
- Bulk and scale (i.e. building height, floor space ratio, setbacks, compatibility with zone)
- Level of excavation, including basement parking, and deep soil areas;

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- Amenity impacts, including acoustic, visual privacy and overshadowing;
- Heritage significance; and
- Inadequate centre facilities, including proposed number of children, and waste management.

The proposal has been assessed against the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979 (the Act), the Children (Education and Care Services) Supplementary Provisions Regulation 2012, Ryde Local Environmental Plan 2014 (LEP2014), and Ryde Development Control Plan 2014 (DCP2014).

The proposal is generally compliant with the mandatory requirements of the LEP2014, and satisfactorily meets the development controls of DCP2014, subject to conditions.

Although the proposal would result in a significant intensification of the use of the site, the proposed child care centre is considered satisfactory when having regard to the objectives and controls set out in the above listed planning instruments. Those negative impacts associated with the proposal can be adequately mitigated by way of condition, and for this reason, the proposal is recommended for approval.

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

**Public Submissions:** 9 submissions received (2 from the same property No 89 Bowden Street), and a petition containing 39 signatures.

**SEPP 1 (or clause 4.6 RLEP 2014) objection required?** A Clause 4.6 Variation is not required.

**Value of works \$2,836,317**

**RECOMMENDATION:**

- That Local Development Application No. LDA2015/0283 at 87 Bowden Street and 2 Macpherson Street, Ryde (LOT 17 DP663261 and LOT 1 DP327005) be approved subject to the **ATTACHED** conditions (**Attachment 1**).
- That the persons who made submissions be advised of Council's decision.

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**ATTACHMENTS**

- 1 Draft Conditions of Consent
- 2 Compliance Table - Ryde DCP 2014
- 3 Children (Education & Services) Supplementary Provisions Regulation 2012
- 4 Map
- 5 A4 Plans
- 6 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**Ben Tesoriero Planning Consultant  
Creative Planning Solutions  
Chris Young  
Team Leader - Assessment**

Report Approved By:

**Liz Coad  
Manager - Assessment**

**Sam Cappelli  
Acting Group Manager - Environment and Planning**

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

<b>Address</b>	: 87 Bowden Street & 2 Macpherson Street, Ryde (Lot 17 in DP663261 and Lot 1 DP 327005)
<b>Site Area</b>	: 1,644m <sup>2</sup> – being 986.4m <sup>2</sup> for Lot 17 in DP663261 and 657.6m <sup>2</sup> for Lot 1 in DP327005. Site frontage to Bowden Street of 21.64m; Site frontage to Macpherson Street of 60.96m; North-western side boundary of 43.28m to Macpherson Lane South-eastern side boundary of 45.72m to 89 Bowden Street Boundary of 21m to rear of 89 Bowden Street (Site Survey)

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Boundary of 21.64m to side boundary of 91 Bowden Street.

*Note: All areas and dimensions obtained from Deposited Plans, except as otherwise stated.*

**Topography and Vegetation**

- : The topography of the local area has a moderate gradient, with the subject site having a steady cross fall of approximately 3m from the eastern corner of the site at the junction of Bowden Street and Macpherson Street to the western corner near Macpherson Lane. No significant vegetation has been identified on the site.

**Existing Buildings**

- : 87 Bowden Street, Ryde - Single storey dwelling house and three (3) outbuildings, two (2) of which are located adjacent the Bowden Street frontage.  
2 Macpherson Street, Ryde - single storey dwelling house and garden shed.

**Planning Controls Zoning**

- : R2 – Low Density Residential under Ryde Local Environmental Plan 2014

**Other**

- : Ryde Development Control Plan 2014, and Children (Education and Care Services) Supplementary Provisions Regulation 2012.

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

Source: [www.six.nsw.gov.au](http://www.six.nsw.gov.au) – edited by CPS

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**Figure 2** – Photograph from the Bowden Street frontage showing the dwelling house at 87 Bowden Street which forms part of the subject site  
*Source: CPS – 20 July 2015*



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**Figure 3** – Photograph of the Macpherson Street frontage showing the dwelling house and associated structures at 2 Macpherson Street which forms part of the subject site.  
Source: CPS – 20 July 2015

**3. Councillor Representations**

None

**4. Political Donations or Gifts**

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

**5. Proposal**

The proposed development is for the demolition of all existing structures, then the subsequent construction of a new part three/part two-storey building and basement parking to be used as a child care centre for ninety (90) children. Further details of the proposal are as follows:

Operation

The proposed child care centre seeks approval for ninety (90) children aged 0-5 years. The applicant has provided the following indicative breakdown of children per age group.

- 0-2 years – Twenty-six (26) children
- 2-3 years – Twenty-four (24) children
- 3-5 years – Forty (40) children

The proposed child care centre is to operate between the hours of 7.00am and 6.00pm, Monday to Friday. The centre is to be closed on weekends and public holidays.

The proposed physical works associated with the child care centre are outlined below:

Basement car park

- Lift access to the ground and first floor;
- Eight (8) staff car parking spaces;
- Twelve (12) general parking spaces (including 1 disabled space); and
- Vehicular turning area.

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Ground Floor

- Entry and lobby area;
- Administration area;
- Lift access to the basement and first floor;
- Six (6) playrooms, children's WC's, and storage areas;
- Four (4) exterior play areas; and
- Cot rooms and nappy change area.

First Floor

- Lift access to the ground floor and basement car park;
- One (1) exterior play area with Children's WC's;
- Storage;
- Staff area and WC's;
- Kitchen; and
- Laundry.

External

Within the site boundary:

- A solid wall to a maximum height of between 1.6m and 1.8m is proposed to be located to the play areas adjacent the Bowden and Macpherson Street frontages, which will provide child safety, as well as an acoustic barrier for noise attenuation.
- A feature garden entry is proposed adjacent the lobby/entrance. This will include feature pots and climbing plants to the wall;
- Screen hedges are proposed along to western wall to Macpherson Lane;
- Screen planting proposed along the Bowden and Macpherson Street boundaries
- Screen planting is proposed along the boundaries with adjoining properties; and
- Trees will be provided throughout the subject site to provide shade, screening and visual interest.
- The submitted landscape plan demonstrates that the outdoor play areas will provide turf areas, natural planting zones, as well as hard surfaces. In addition, the outdoor play areas will include a variety of natural and synthetic surfaces that aim to provide a stimulating environment for children to play in.

Within the road reserve:

- Within the Macpherson Street road reserve the proposal includes new pathways, street tree planting, vehicular parking spaces, and traffic control devices; and

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- Within the Bowden Street road reserve the proposal includes new street tree planting and landscape works.

**NOTE:** Many of these works within the road reserve, particularly the on-street parking spaces for the child care centre, and traffic control devices are unnecessary or inappropriate in the context of the proposed development, and although these have been offered by the applicant on the DA plans, it is recommended that these not be required. This is discussed further in the Referrals section of this report below.

**6. Background**

The following is a brief overview of the development assessment history relating to the proposed child care centre to be constructed on the subject site:

- LDA2015/0283 was lodged on 22 June 2015;
- The DA was notified to adjoining land owners and advertised in the Northern District Times in accordance with DCP2014 from 30 June to 15 July 2015. In response, nine (9) submissions were received from surrounding properties objecting to the proposal. A separate petition objecting to the proposal was also submitted to Council containing thirty-nine (39) signatures.
- Following an initial assessment of the proposed development, a request for additional information was sent to the applicant by Council on 4 August 2015. This letter raised the following matters:
  - *Size and Functionality of Play Spaces:* clarification was sought on the level of planting to occur within the outdoor play spaces to ensure adequate useable and unencumbered areas are provided for the children.
  - *Accessibility:* an Access and Mobility Report, prepared by a suitably qualified Access Consultant, was requested in order to demonstrate compliance with the Disability Discrimination Act 1992 and Disability (Access to Premises-Buildings) Standards 2010.
  - *Landscaping:* further details on the landscaping arrangements were sought from the applicant to confirm the adequacy of plantings throughout the development, and usability and functionality of the outdoor play spaces.
- Following the above request for additional information, the applicant submitted a letter on 18 August 2015 providing clarification on the queries

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which had been put to the applicant in the additional information request. The information provided was considered satisfactory, thus enabling the completion of the assessment.

7. Submissions

The proposed development was notified in accordance with the DCP2014 – Part 2.1, Notification of Development Applications for a period from 30 June to 15 July 2015.

In response, nine (9) submissions and one (1) petition with 39 signatures was received from surrounding properties, as shown on the aerial photograph at **Figure 1** earlier in this report.

The key planning objections/issues raised in the submissions are summarised and addressed below.

**A. Traffic, Parking, and Pedestrian Safety** – *The following traffic, parking and pedestrian safety concerns were raised in the submissions:*

- Increase in traffic flow during peak hours, to and from Victoria Road,
- Impact on traffic flow to Macpherson Street and Bowden Street;
- Traffic Report is not adequate;
- Increase in parking along Macpherson Street;
- Potential traffic conflict when exiting the childcare centre due to poor visibility;
- Concerns are raised regarding the increase in pedestrians crossing Macpherson Street and Bowden Street during peak hour periods. The majority, of which, will be people with young children; and
- The proposed car park does not adequately accommodate delivery trucks and vans.

**Assessing Officer's Comment:** Submitted with the development application is a traffic and parking impact assessment prepared by Transport & Urban Planning Pty Ltd, which assesses the traffic, pedestrian and parking impacts of the proposal.

The report outlines the traffic impacts on the adjacent road network and intersections will be acceptable and traffic conditions on the road network will remain satisfactory with little change from existing conditions.

With regard to parking, the report concludes that the proposal will have adequate off street parking (20 spaces) to comply with the provisions of DCP2014. This has been

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confirmed by Council officers within the assessment of the proposal against the DCP2014 parking controls - refer **Attachment 2**.

Pedestrian safety has been considered within the report prepared by Transport & Urban Planning Pty Ltd. The report outlines that safe pedestrian crossing infrastructure and refuge islands are provided across Victoria Road, Bowden Street and Macpherson Street, and as such the existing facilities are adequate to cater for any walk trips generated by the proposal.

As part of the assessment of the subject development application, the proposal and report prepared by Transport & Urban Planning Pty Ltd has been assessed by Council's Senior Development Engineer. Advice has been received that the proposal is acceptable from a traffic, parking and pedestrian safety perspective, subject to imposition of the recommended conditions of consent. This is further discussed in the Referrals section of this report below.

For accommodation of delivery vans to the site, the following condition has been recommended to ensure deliveries to and from the child care centre do not coincide with the peak times of day when children are being dropped off and picked up from the centre. This condition is consistent with restrictions that have been placed on deliveries times for other child care centres in the City of Ryde.

**Delivery times.** All deliveries to and from the child care centre are to occur between the hours of 10:30am and 2:30pm on the days which the child care centre is operational.

Given the above, it is considered that the traffic, parking and pedestrian impacts of the development have been satisfactorily assessed, and determined to be acceptable by Council officers. In this regard, the objections to the proposal on the grounds of traffic, parking and pedestrian safety are not supported in this instance.

**B. Acoustic privacy** – *The following concerns were raised by objectors in relation to maintenance of acoustic privacy from the proposed child care centre:*

- *The children playing on the exterior play areas would cause significant noise pollution for surrounding residents*
- *The size of outdoor play areas will result in acoustic impacts on adjoining neighbours.*
- *The proposed acoustic treatments have not been shown on the plans.*

**Assessing Officer's Comments:** As part of the DA submission, an Acoustic Assessment has been undertaken by acoustic engineering firm Renzo Tonin &

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Associates. The report assesses the noise impacts of the proposed development on adjoining property.

It is also important to note that the Association of Australian Acoustical Consultant (AAAC) has issued a 'Guideline for Child Care Acoustic Assessment (2013) (AAAC-Guideline) which contains the following suggested limits to maintain a reasonable level of acoustic privacy to adjoining residential receptors.

*For outdoor play of more than 2 hours per day, the Leq 15min noise level emitted from the outdoor play area shall not exceed the background noise level by more than 5dB.*

*It is reasonable to allow a higher level of noise impact for a shorter duration of outdoor play. For outdoor play of up to 2 hours total per day, noise shall not exceed the background noise level by more than 10dB.*

This acoustic report submitted with the DA outlines that with the suggested noise attenuation measures incorporated into the design of the child care centre, noise generated from the proposed child care centre is predicted not to exceed 5dBA above the background level – when measures over a 15 minute period at any point on a residential boundary.

Given the above it is considered that the proposal satisfactorily meets the objective of the AAAC Guidelines to maintain a reasonable level of acoustic privacy to adjoining residences. It is noted that achievement of this objective is consistent with that for acoustic privacy as contained within Section 4.2 of DCP 2014.

In this regard, it is considered that the proposal is satisfactorily compliant with regard to acoustic impacts on adjoining property.

Further to the above, it is important to note that the noise predictions for the outdoor play areas have been conducted based on the worst case scenario where all children are playing outdoors concurrently. As outlined in the submitted Plan of Management for the proposed child care centre, it is not anticipated that that all outdoor play areas would be used by all of the groups concurrently. Accordingly, the actual noise impacts of the proposal are likely to be less than that covered in the acoustic report.

Although the proposed acoustic treatments have not all be demonstrated on the plans, it is intended that the acoustic report be included as a condition of consent for the proposed child care centre to ensure the acoustic treatments and recommendations made are incorporated into the development.

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As part of the assessment of the subject development application, the proposal was also referred internally to Council's Environmental Health Officers (EHO). The full EHO response is contained in the Referrals section of this report, however importantly for the acoustic performance of the proposed development, it is acknowledged that the EHO referral response supports the proposed development subject to the imposition of conditions.

**C. Amenity impacts.** *As well as acoustic privacy outlined above, visual privacy and overshadowing concerns were also raised in the submissions.*

**Assessing Officer's Comments:** The following comments are made in relation to potential overlooking from the development:

- No windows are located on those elevations adjoining neighbouring properties
- All outdoor play spaces on the ground floor are bordered by acoustic fences. These fences range between 1.6m and 2m in height which also act as effective privacy screens to prevent overlooking.
- On the first floor of the building, no windows have been orientated towards neighbouring properties.
- The outdoor play space on the first floor is to be bound by a 1.6m high acoustic fence which will double as an effective privacy screen to prevent overlooking.

Given the above, it is considered that maintenance of visual privacy has been effectively considered as part of design of the child care centre, both from an intrusive perspective, and also an overlooking perspective. In this regard, the objector comments in relation to loss of visual privacy are not supported in the circumstances of the case.

Section 2.14.1 of Part 3.3 of DCP2014 prescribes that new development should ensure sunlight to at least 50% of the principal area of ground level private open space of adjacent properties is not reduced to less than two hours between 9 am and 3 pm on June 21.

This section of DCP2014 also prescribes that windows to north-facing living areas of neighbouring dwellings receive at least 3 hours of sunlight between 9 am and 3 pm on 21 June over a portion of their surface, where this can be reasonably maintained given the orientation topography of the subject and neighbouring sites.

When assessing a dwelling's principal open space area, it is taken that the area immediately adjoining the living areas, or adjacent to the rear of the dwelling forms

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the principal component of the private open space area. A review of the aerial imagery for the dwelling at 89 Bowden Street would appear to confirm this.

The applicant has submitted shadow diagrams which demonstrate the principal open space area adjoining the dwelling at 89 Bowden Street will receive greater than 3 hours solar access between 9am and 3pm at the 21 June. Given the proposal will result in greater than 3 hours solar access to the principal open space area of the dwelling at 89 Bowden Street, the proposal is considered to satisfactorily comply with the 2 hour minimum requirement.

It is acknowledged that the dwelling at 89 Bowden Street includes windows on its northern elevations. These windows will receive less than 3 hours solar access as a result of the proposal. However due to the unfavourable orientation of the site, whereby north is the side boundary, it is considered unreasonable to enforce strict numerical compliance with this control. This is pertinent given the control outlines numerical compliance should be pursued where this can be reasonably be achieved with the site's orientation. It is also noted that the proposal includes a compliant bulk and scale from a building height, floor space ratio, and setback perspective, yet still overshadows the adjoining property. This is further evidence that the resultant overshadowing is a circumstance of the site's poor orientation, rather than the built form of the proposal itself. In this regard, even a complying dwelling house or dual occupancy development at 87 Bowden Street would likely result in similar overshadowing of the property at 89 Bowden Street.

Based on the above, the neighbour's objection to the proposal on the basis of overshadowing is not supported in the circumstances of the case.

**D. Bulk and scale** - concerns were raised in the submissions on the proposed bulk and scale of the development. In particular, concerns were raised over the proposed floor space ratio (FSR), building heights, setbacks and the compatibility of the development within the zone.

**Assessing Officer's Comments:** The maximum prescribed FSR for the subject site under the provisions of LEP2014 is 0.5:1. A calculation of the gross floor area (GFA) has been undertaken with the assistance of a computer aided design (CAD) program. The calculation of the GFA had been completed in accordance with the relevant definitions contained within the Dictionary of LEP2014, and in accordance with application of these definitions by the City of Ryde for other child care centre developments. When utilising the site area as per the Deposited Plans for the land, the calculated FSR is 0.497:1. Given the FSR complies with the limits set by LEP2014, it is considered satisfactory.

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With regard to building height, LEP2014 prescribes a 9.5m maximum for the subject site. Again, when utilising the appropriate definitions within LEP2014, the building height of the proposal has been calculated as 8.51m. This building height is substantially less than the maximum permitted by LEP2014, and is therefore also considered satisfactory.

It is acknowledged that the proposed building includes a small component which is classified as three-storeys when strictly applying the definitions contained within LEP2014 and DCP2014. The three-storey component of the building is by virtue of the basement garage being classified as a storey for a small component of the building where the sloping nature of the site means the basement extends more than 1m above existing ground level. This is depicted in **Figure 4** later in this report. Despite technically constituting a small third-storey component, given the compliant building height, and the third-storey classification arising because of the basement garage, this is considered to be an acceptable variation to Council's controls. Additionally, when viewed from the surrounding streets, the building will not appear out of character with other buildings by virtue of its compliant overall height and wall plate heights.

Minimum setbacks for child care centres are prescribed within DCP2014. For low density residential areas, setbacks are to be consistent with those prescribed for dwelling house and dual occupancy development in Part 3.3 of DCP2014. For front setbacks that is generally 6m to the primary street frontage, and 2m to the secondary street frontage. Rear setbacks are to be generally 8m or 25% of the allotment depth, whichever is the greater. For side setbacks, these should be 900mm at the ground floor, and 1.5m at the second storey.

The subject site is located on the corner of Bowden Street and Macpherson Street. The subject site is also an irregular shaped allotment with six (6) vertices. As such, strict application of the numerical setback controls becomes difficult to apply in the circumstances of the site.

As outlined in the DCP2014 compliance tables held in **Appendix 2**, all setbacks have been assessed as compliant with the provisions of Part 3.3 of DCP2014, except those to the Macpherson Lane frontage which are basically built to parts of the boundary. Despite this non-compliance, the proposed building's presentation to Macpherson Lane is considered acceptable. This is because a number of existing buildings along Macpherson Lane are already built to the boundary, and as such the proposal is not uncharacteristic of the laneway. Further, the proposal is not expected to result in any unacceptable overshadowing or loss of privacy to property on the opposite side of Macpherson Lane.

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In terms of the proposal's compatibility with the R2 zone, the following is noted:

- Child care centres are a permissible form of development within the R2 Low Density Residential zone;
- DCP2014 indicates that corner sites are preferred for larger scale centres (50-90 places). The proposal is considered to be a larger centre with 90 places and is therefore consistent with aforementioned recommendations of DCP2014.
- Despite the site's six vertices, the site adjoins only two residential properties (89 and 91 Bowden Street), which minimises the potential for negative amenity impact on neighbours in accordance with the preferred locations identified in the DCP2014.
- The proposed child care centre achieves appropriate setbacks from the neighbouring residential properties as referenced above.
- The design of the proposal is not considered to result in the loss of visual privacy, solar access, or acoustic amenity to adjoining development, and
- The traffic, parking and pedestrian safety impacts associated with the development have been assessed by Council as being satisfactory.

Given the above, it is considered the bulk and scale of the development is satisfactorily compliant with the provisions of Council's planning controls. For this reason, the objector's submissions on the bulk and scale elements of the proposal are not supported.

**E. Heritage significance** – *concerns were raised regarding the historical significance of 87 Bowden Street.*

**Assessing Officer's Comments:** The subject development application was referred to Council's Heritage Advisor as the subject site is located within the vicinity of the following items of heritage significance listed under Schedule 5 of LEP2014:

- 'Church' 74A Bowden Street, Ryde (Item No.120)
- 'Church' 7-9 McPherson Street, West Ryde (Item No.164)
- 'House' 95 Bowden Street, Ryde (Item No.121)

A more detailed assessment of matters relating to heritage significance is contained in the Referrals section of this report (Heritage Officer's comments), below.

**F. Inadequate Centre Facilities** – *Concerns were raised with regard to the adequacy of the facilities provided at the proposed child care centre. These concerns included:*

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- *The centre is inadequate to accommodate the proposed number of children; and*
- *Waste management facilities inadequate.*

**Assessing Officer's Comments:** Before discussing in detail the proposal's suitability with regard to the adequacy of its facilities, it is important to note that DAs for child care centres are generally assessed against the provisions of both Ryde DCP 2014 and also the provisions of the *Children (Education and Care Services) Supplementary Provisions Regulation 2012* (Regulation 2012). This is most prevalent when looking at the minimum indoor and outdoor play space sizes required, which are greater under DCP2014 than that in the Regulation 2012. In other similar DAs, non-compliances with Ryde DCP 2014 are generally supported provided a proposal can achieve compliance with Regulation 2012.

For indoor play spaces, the 90 child proposal would require 405m<sup>2</sup> of unencumbered indoor play space to comply with DCP2014, and 292.5m<sup>2</sup> to comply with the Regulation 2012. The measured unencumbered indoor play space area totals 398.02m<sup>2</sup>.

For outdoor play spaces, the 90 child proposal would require 900m<sup>2</sup> of unencumbered outdoor play space to comply with DCP2014, and 630m<sup>2</sup> to comply with the Regulation 2012. The measured unencumbered outdoor play spaces total 848m<sup>2</sup>.

Accordingly, the proposed child care centre easily complies with the minimum play space requirements of the Regulation 2012, despite a minor non-compliance with DCP2014.

In regard to cot rooms, it is noted that the Regulation 2012 does not prescribe minimum sizes for sleeping rooms. Despite this, DCP2014 outlines that a sleeping room must contain a minimum of 2.5m<sup>2</sup> floor space per cot, and a maximum of 10 cots per room. Two cot rooms are provided within the proposed child care centre which have four and six cots respectively in each room. However, despite being compliant with the number of cots per room, the floor space of these rooms totals 12.5m<sup>2</sup>, meaning that the size of the room falls short of the minimum by 12.5m<sup>2</sup>.

Given the indoor play spaces easily achieve compliance with the minimum requirements under the Regulations 2012, it is considered feasible and appropriate that the sleeping rooms be enlarged to achieve compliance with the provisions of DCP2014 which aim to ensure centre facilities achieve best practices. For this reason, the following condition of consent has been recommended:

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**Size of Cot Rooms.** *The size of the cot rooms shall be modified to comply with the controls contained in Section 7.1(d) of the Ryde Development Control Plan 2014.*

The subject development application has been referred to Council's EHO who has indicated in their referral response that the proposal is satisfactory when having regard to waste facilities/management, subject to the imposition of condition of consent. Reference should be made to the Referrals section of this report for details of the EHO referral response and their recommended conditions of approval to deal with waste management.

The above has demonstrated the proposed child care centre is either satisfactorily compliant with the regard to applicable controls for centre facilities, or able to comply with the imposition of conditions. In this regard, it is considered the objector's concerns relating to the inadequacy of the centre facilities had been addressed.

**G. Level of excavation** – *concerns have been raised in the submissions that the proposal results in excessive excavation and will impact on adjoining property. Related to this concern is the proposal including basement parking which not consistent with the provisions of DCP2014, and deep soil areas being reduced because of basement parking.*

**Assessing Officer's Comments:** It is acknowledged that a significant level of excavation will be required on the site to accommodate the proposed semi-basement parking area. For this reason it has been recommended that conditions of consent be included to ensure protection of adjoining property from the impacts of such excavation. These include conditions relating to the support for neighbouring dwellings, limitations on the hours of work, erection of hoarding fences, restriction to development within site boundaries, requirement to obtain Road Opening Permits, pre and post construction dilapidation reports, and necessity to comply with all Australian Standards.

Further to the above, it is considered unlikely that the proposed excavation will have a significant impact on adjoining private property as the bulk of excavation is concentrated nearer the Macpherson Street and Macpherson Lane frontages.

As part of the assessment of the proposal, the development application was referred internally to Council's Senior Development Engineer. The referral response has indicated that the proposal is satisfactory, subject to the imposition of conditions (refer to the Referrals section of this report, below).

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When viewed from the public domain, the elevations submitted with the development application reveal that that semi-basement car parking areas will be largely screened, and not highly visible from the street. This because of the varied building articulation and significant level of landscape screen planting proposed.

The semi-basement car park is considered to provide a more aesthetically pleasing and convenient parking arrangement than an at-grade car park. The semi basement car park will also help to move vehicles on-site rather than park on the street.

Part 3.2 of the DCP2014 does not stipulate minimum requirements for deep soil areas in child care centres. Rather, Section 6.1 in Part 3.2 of the DCP2014 simply outlines that the submitted landscape plan should identify opportunities for deep soil planting.

The proposed child care centre will provide 30% turfed area and 30% natural planting in accordance with Section 6.2.2 of the DCP2014, thus complying with the requirements for the provision of landscaping within outdoor play spaces.

As part of the assessment of the proposal, the subject development application was referred to Council's Consultant Landscape Architect. The referral response indicates that the landscaping arrangements of the proposed child care centre are satisfactory, subject to the inclusion of conditions. These are discussed in further detail in the Referrals section of this report.

For the above reasons, the objectors concerns in relation to the level of excavation on the site are considered to have been adequately justified, or addressed by way of condition.

**8. SEPP1 (or clause 4.6 RLEP 2014) objection required?** A Clause 4.6 Variation is not required.

**9. Policy Implications**

**Relevant Provisions of Environmental Planning Instruments etc:**

**(a) Ryde Local Environmental Plan 2014**

**Zoning**

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Under the Ryde LEP 2014, the zoning of the subject site is R2 Low Density Residential. The proposed development, being a 'child care centre', is permissible with consent under the R2 zoning.

Further the proposal is considered to be consistent with the objectives of the R2 zone as it will provide a facility to assist with the day to day needs of residents. It is also considered that the proposal will not impact the local area's ability to continue to provide for the housing needs of the community within a low density residential environment.

**Principal Development Standards**

A full assessment of the proposal against the relevant principal development standards contained within the LEP2014 is illustrated in the Compliance Check table attached – see **Attachment 2**. The following outlines the relevant development standards applying to the proposed development, along with a comment as to how the proposal performs against these development standards.

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

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

LEP2014 prescribes a maximum building height of 9.5m on the 'Height of Buildings Map'. The development proposes a building height of 8.51m, which is under the prescribed maximum and therefore complies with the provisions of the LEP2014.

Clause 4.4 – Floor Space Ratio. Clause 4.4 of the LEP2014 prescribes development standards for the maximum floor space ratio (FSR) of development. The maximum prescribed FSR identified for the subject site is 0.5:1 on the Floor Space Ratio Map within LEP2014.

When utilising the definition for 'gross floor area' as prescribed by the Dictionary within the LEP2014, the total gross floor area of the building has been calculated to be 779m<sup>2</sup> – refer to the attached Compliance Checklist in **Appendix 2** for a more detailed calculation of the gross floor area of the building.

The site area of the combined allotments has been identified as 1,644m<sup>2</sup>. This comprises 986.4m<sup>2</sup> for Lot 17 in DP663261 and 657.6m<sup>2</sup> for Lot 1 in DP327005.

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Accordingly, given the above, the FSR of the proposed development has been calculated as 0.497:1, thus complying with the maximum FSR for the subject site under LEP2014.

Clause 5.10 – Heritage conservation. Clause 5.10(5) of the LEP2014 prescribes that the consent authority may, before granting consent to any development on land that is within the vicinity of a heritage item, 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.

The subject development application was referred to Council's Heritage Advisor as the site is located within the vicinity of the following items of heritage significance listed under Schedule 5 of LEP2014:

- 'Church' 74A Bowden Street, Ryde (Item No.120)
- 'Church' 7-9 McPherson Street, West Ryde (Item No.164)
- 'House' 95 Bowden Street, Ryde (Item No.121)

A more detailed assessment of matters relating to heritage significance is contained in the Referrals section of this report (Heritage Officer's comments), below.

**(b) Relevant State Environmental Planning Policies (SEPPs)**

State and Sydney Regional Environmental Planning Policies

**State Environmental Planning Policy No.55 – Remediation of Land**

State Environmental Planning Policy No.55 – Remediation of Land (SEPP55) applies to the entire state of New South Wales and includes planning controls for the remediation of contaminated land. It also requires an investigation to be made if land contamination is suspected.

The applicant's SEE has indicated that there is no serious reason to suspect that the property is subject to any contamination as it is understood that the site does not have any history of use for contaminating land uses.

Further a review of Council's environmentally sensitive land mapping has not identified that the site is impacted upon by contamination.

Standard conditions of consent relating to contamination, fill and removal of hazardous materials will be imposed to assist in mitigating any potential impacts.

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Further, non-standard conditions relating to environmental health are to be imposed, as per the recommendations of Council's technical referral officers – see Section 13 of this report

Other State Environmental Planning Policies

No other SEPPs have been identified as being applicable to the proposed development. It is noted that the SEE states that all business identification signage will form separate development applications at a later date, and as such no assessment of the current development application under *State Environmental Planning Policy 64 – Advertising and Signage* is required. Further as the proposal is not located adjacent to any busy roads, rail corridors or flight paths (ANEF20) no assessment under *State Environmental Planning Policy (Infrastructure) 2007* is required.

**(c) Any draft LEPs**

No draft environmental planning instruments are relevant for the proposed development on the subject site.

**(d) The provisions of any development control plan applying to the land**

**Ryde Development Control Plan 2014**

The proposal has been assessed using the development controls contained in Ryde DCP 2014. The full assessment is detailed in the Compliance Check table – see **Attachment 2**.

The following outlines those non-compliances identified with the subject development application, and elaborates on how these non-compliances are either justifiable in the circumstances of the case, or are not justifiable and require amendment to the design or imposition of mitigation measures by way of conditions of consent.

Note. The *Children (Education and Care Services) Supplementary Provisions Regulation 2012* provides requirements for the construction of child care centres in addition to those controls provided within DCP2014. It is considered that the proposed child care centre complies or is able to comply with the relevant provisions of this Regulation. A compliance check that provides an assessment of the proposed child care centre against these requirements is also provided at **Attachment 2**.

Non-Compliances: Justifiable

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

With the above in mind, the following outlines those aspects of the proposal which have been assessed as non-compliant with the applicable development controls under DCP2014, but nonetheless have been determined acceptable as they are able to achieve the objects of those standards.

1. **Suitability of Location for Child Care.** Section 2.1 in Part 3.2 of the DCP2014 prescribes development controls relating to the suitability of locations for child care centres. In particular, control 2.1(i) stipulates the following:

*Preferred locations for larger scale centres in residential areas (particularly low density residential areas), i.e. for centres accommodating 50-90 places, are sites located on street corners, where sites share common boundaries with compatible non-residential uses, or where child care centres can be co-located with compatible uses subject to acceptable traffic and parking requirements being met.*

The child care centre is defined as a large scale centre as it proposed to accommodate 90 places. The location of the proposed child care centre only achieves partial compliance with the abovementioned development control. This is because although the subject site is located on a street corner, the site shares common boundaries with existing low density residential development, rather than compatible non-residential uses as suggested by this development control.

Although the proposed development only achieves partial compliance with the abovementioned control, the location of the proposed child care centre is considered to minimise impacts on neighbouring properties and meets the objectives of the control for the following reasons:

- The proposed child care centre will be sited on a street corner to maximise boundaries to a road reserve rather than adjoining residential land consistent with the preferred locations for larger centres identified in DCP2014;
- Given the site fronts three streets, the site adjoins only two residential properties (89 and 91 Bowden Street), which minimises the potential for negative amenity impacts on neighbours. Again this is consistent with the preferred locations identified in DCP2014.

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- The proposed child care centre achieves satisfactorily compliant and appropriate setbacks from the neighbouring residential properties;
- The visual privacy implications for the neighbouring residential properties have been taken into consideration with the design of the proposal and considered to be acceptable. The centre will not incorporate any windows or play spaces which have the potential to overlook adjoining properties.
- The elevated outdoor play areas are proposed to incorporate fencing/acoustic screening to heights of between 1.6m and 2m, which is considered to substantially minimise the potential for overlooking.
- The Acoustic Assessment undertaken by Renzo Tonin & Associates has concluded that noise impacts from the outdoor play areas to the nearest residential receivers are predicted to comply with the noise objectives established in the report. This has been supported in Council's EHO referral response.

Given the above, the proposed partial non-compliance, with regard to the location of the child care centre is considered justifiable.

2. **Centres In Residential Areas.** Section 3.2 in Part 3.2 of DCP2014 prescribes development controls relating to child care centres located in low density residential areas. Specifically, control 3.2(c) stipulates the following:

*In low density residential areas, child care centres are encouraged to be single storey in height for reasons of safety and access. In the case of 2 storey buildings, the second storey should only be used for the purposes of storage and staff facilities.*

An assessment has revealed that the proposal will have a part-three and part two-storey component. The three-storey component of the building occurs as a result of the basement car parking area constituting a 'storey' for a small portion of the floor plate where the basement extends by more than 1m above existing ground level. However despite this, when the building is viewed from the street, it will largely appear as a two-storey building only – refer to **Figure 4** and **Figure 5** below.

The first floor will include staff facilities, as well as access to the open outdoor play area. It is however noted that the majority of the first floor of the building is not classified as a second storey when applying the appropriate definitions contained within the Dictionary of LEP2014 - see extract of 'storey' definition below. This is because the majority of the first floor comprises open outdoor play spaces which have no ceiling or roof above, and as such would not meet the definition of a 'storey'.

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

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

Although parts of the building do not comply with the above control relating to the maximum number of storeys, this non-compliance with Council's numerical controls can be supported for the following reasons:

- The development control stated above outlines that child care centres are encouraged to be single storey in height for reasons of safety and access. As such, it is considered that the height limitations do not relate to the bulk and scale of the building in terms of compatibility with surrounding residential development; rather, safety and access are the main considerations when assessing the proposed development against this development control.
- With the above in mind, it is noted that upper level play spaces are to be surrounded by perimeter acoustic barriers between 1.6m and 2m in height. The proposal indicates these are non-climbable, and as are considered to provide an element of safety to children playing in these areas. The proposal has also been referred to Council's EHO and Building Surveyors for assessment. The responses received have confirmed that the proposal is satisfactory, subject to conditions. Standard conditions of consent requiring compliance with all relevant Australian Standards and the Building Code of Australia will also be imposed.
- Apart from the elevated play areas, the first floor comprises of storage and staff facilities, which is consistent with the intent of this development control, thus achieving partial compliance.
- Whilst it is acknowledged that the child care centre is defined as having a partial three-storey component, the proposed building is considered to be predominately either single storey or two-storey. The exception is the north eastern portion of the building where the basement level is located more than 1m above the existing ground level - refer **Figure 4**.
- Further to the above point, the proposed building will generally appear as a maximum two-storeys from Bowden Street and Macpherson Street. Therefore it is considered to be consistent with the existing streetscape where dwelling houses do not exceed two-storeys in height.
- When viewed from Bowden and Macpherson Street, the proposed dwelling will not present as visually dominant or as being inconsistent with other surrounding dwellings within the immediate locality – refer **Figure 5**.

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**Figure 4** – Diagram indicating the approximate extent of the basement above the existing ground level at the Macpherson Street elevation

Source: North Elevation - Landscape plan by applicant, edited for diagrammatic purposes by CPS.



**Figure 5** – Northeast perspective: Corner of Bowden and Macpherson Street.

Source: Architectural plans submitted with development application

Section 3.2(d) of Part 3.2 of the DCP2014 also stipulates the following:

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*In low density residential areas, except as otherwise required under this Part, child care centre developments are to be designed to comply with the built form controls under Part 3.3 Dwelling Houses and Dual Occupancy of this DCP, for example, FSR, height, setbacks.*

An assessment of the proposed development has revealed that the child care centre generally complies with the built form controls outlined in Part 3.3 of the DCP2014. The only exception which is considered to warrant further investigation is the zero setback to Macpherson Lane.

This zero setback can be supported for the following reasons:-

- An observation of other buildings located along Macpherson Lane has revealed that zero setbacks are prevalent, including directly opposite the site where the adjacent dwelling house and outbuildings are built to the boundary – refer **Figure 7**.
- Given the proposal is not inconsistent with surrounding development along Macpherson Lane the proposal is considered to remain in character with Macpherson Lane.
- Whilst it is acknowledged that the wall to Macpherson Lane is slightly raised above the existing ground level, due to the location of the basement beneath, the visual impact to surrounding properties is considered negligible as it will not be located adjacent any areas of private open space or living areas. Rather, the wall will be located directly adjacent the garage/parking area.
- The Macpherson Lane elevation is well articulated with a variation in setbacks between the ground floor and first floor, thus reducing the visual bulk of the building.
- The hard and soft landscaping and screening treatments to the outdoor play areas and semi-basement car park that are proposed along Macpherson Lane elevation will contribute to softening the appearance of the wall, thus further reducing any potential visual impact – refer **Figure 6**.

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**Figure 6** – This demonstrates that the building is well articulated at the Macpherson Lane elevation with the addition of landscaping and screening treatments to the semi-basement car park and outdoor play areas, which softens the overall appearance of the building.  
*Source: Macpherson Lane Elevation Plan by applicant, edited for diagrammatic purposes by CPS.*



**Figure 7** – Image showing zero setbacks to Macpherson Lane opposite the subject site. Numerous buildings with zero setbacks are identified along Macpherson Lane. As such the proposed zero setback is not considered uncharacteristic of the laneway.  
*Source: Macpherson www.google.com*

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3. **Acoustic privacy for adjoining residents.** Section 4.2 of Part 3.2 of the DCP2014 seeks to ensure that the site layout and building design, including the internal layout, minimises the noise emitted from the centre, and does not have an impact on the amenity of surrounding residences. In particular Control 4.2 (e) stipulates that elevated play and transition areas are to be avoided.

An assessment of the proposed development has revealed that two (2) elevated outdoor play spaces are proposed. One of which is located on the first floor, while the other is located at 'the raised ground floor/podium level above the basement parking below.

Although the proposed child care centre includes elevated outdoor play spaces, the non-compliance with this development control can be supported and meets the objectives of the control for the following reasons:

- As mentioned earlier in this report, the Acoustic Assessment undertaken by Renzo Tonin & Associates has concluded that noise impacts from the outdoor play areas to the nearest residential receivers are predicted to comply with the DCP2014 with the implementation of the following:
  - The number of children outdoors in each area is limited as per Table 5 (of the Acoustic Assessment)
  - Acoustic screens in accordance with the recommendations of the Acoustic Assessment
  - Play Area 5 at Level 1 to be dedicated a passive play only area and is appropriately fitted out to facilitate this type of quiet play.
  - Soft fall or artificial grass or similar shall be installed in the outdoor play area to minimise reflections off the ground.
- Further to the above, it is important to note that the noise predictions for the outdoor play areas have been conducted based on the worst case scenario where all children are playing outdoors concurrently. It is not anticipated that that all outdoor play areas would be used by all of the groups concurrently – this is confirmed in the submitted Plan of Management for the proposed child care centre.
- The recommendations of the Acoustic Report are consistent with the AAAC guidelines for child care centres that aim to maintain reasonable levels of acoustic privacy to adjoining property;
- Council's EHO's have undertaken an assessment of the proposal and deemed the development to be satisfactory subject to conditions of consent – refer Section 13 of this report.

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Given the above, the proposed non-compliances with regard to the elevated outdoor play areas is considered justifiable as the noise emitted from the elevated outdoor play areas has been assessed by the applicant's consultant as being minimised to compliant levels through the implementation of the above acoustic treatments. However, to ensure the claimed noise attenuation measures and acoustic recommendations comply with the relevant criteria, all noise mitigation and attenuation measures should be subject to compliance testing via a verification report prepared by an appropriately qualified Acoustic Engineer within the first three (3) months of operation. The report should then be and submitted to Council for review.

With the above in mind, the following conditions are recommended to ensure adequate levels of acoustic amenity are maintained to surrounding sensitive receivers:

**Noise and Vibration** *A validation report must be obtained from a suitably qualified and experienced consultant in acoustics three (3) months after the business commences trading and from time to time as reasonably requested by Council. The report should demonstrate and certify that noise and vibration intrusion within the development and from the development to adjoining sensitive receivers satisfies the relevant provisions of the Protection of the Environment Operations Act 1997, NSW Office of Environment & Heritage/Environment Protection Authority Noise Control Manual & Industrial Noise Policy, NSW Department of Environment and Conservation's Assessing Vibration: a technical guideline 2006 and conditions of Council's development consent.*

*The report is to be forwarded to and approved by Council. This report must address (but not limited to) the level of noise intrusion from road traffic noise within the building and the accumulation effect of mechanical plant and equipment and noise generated from all children in the outdoor play area on adjoining residential properties. Any recommendations outlined in the acoustic report are to be implemented in accordance with the report.*

4. **Location and siting of outdoor play spaces.** Section 6.2 of Part 3.2 of DCP2014 identifies expectations of best practice in the design of outdoor play spaces. In particular Control 6.2.1 (c) prescribes that the location of outdoor play spaces in the front setback should be avoided.

The proposed development is at variance with this control as the child care centre proposes to locate outdoor play spaces (shown as numbers 1, 2 and 3 on the submitted plans) within the front setback.

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Although the proposed child care centre includes outdoor play spaces within the front setback, the non-compliance with this development control can be supported because it meets the objectives of the control for the following reasons:

- The outdoor play spaces will be designed in accordance with the DEC's requirements, thus facilitating quality, safety and attention to best practice in design.
- The outdoor play spaces exceed the minimum NSW licensing standards for unencumbered play areas by 218m<sup>2</sup>. In this regard it is not anticipated that there will be an over concentration of children playing in the outdoor play spaces.
- The proposed child care centre has located the outdoor play spaces away from adjoining residences where possible, thus protecting the acoustic and visual amenity of surrounding residents.
- Landscaping and screening is proposed to the Bowden and Macpherson Street frontages, which will soften the appearance of the play spaces to better integrate with surrounding residential development.
- The submitted Acoustic Assessment has focused on recommending treatments to the design of the child care centre to reasonably maintain acoustic amenity to adjoining residences from the outdoor play spaces. The Acoustic Report has been prepared in accordance with the AAAC guidelines and also been reviewed by Council's EHO who have indicated support for the proposal subject to conditions.
- The Acoustic Assessment has specified that traffic noise intrusion within the proposed child care centre is only able to meet the AAAC Guidelines (30dBA for sleeping areas, 40dBA for internal areas, and 55dBA for outdoor areas) for parts of the day only. The times of the day when such noise intrusion limits are exceeded tends to be in peak hour traffic period. As such the Acoustic Assessment has made recommendations to ensure the operation of the child care centre is managed in such a way to ensure compliance can be achieved, i.e. closing doors and windows facing Bowden Street during morning and afternoon peak hour periods, and utilisation of quieter play spaces during peak periods. The submitted Acoustic Report will form part of the conditions of consent for the proposal, and as such the applicant will be bound to all recommendations contained within the Acoustic Report. Further, the following condition of approval is recommended to ensure the Plan of Management for the child care centre is updated to reflect the recommendations of the Acoustic Report:

**Plan of Management** – the Plan of Management be updated to include all child care centre operational recommendations contained within the approved consultant reports detailed in Condition 1. An updated Plan of

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*Management is to be submitted to Council for approval prior to the issue of a **Construction Certificate**.*

- Acoustic screening is proposed to minimise traffic noise within the outdoor play areas, as well as maintain the acoustic amenity of surrounding properties. Accordingly, a condition of consent will be imposed outlining that acoustic treatments are to be in accordance with the recommendation outlined in the submitted acoustic assessment report.
- According to the Plan of Management submitted with the subject development application, not all children will be utilising the outdoor play areas at the same time, thus reducing the noise impacts associated with utilisation of the outdoor play spaces

For the above reasons, the non-compliance with regard to the proposed location of the outdoor play areas contained within the DCP2014, is considered justifiable.

5. **Basement car parking.** Section 5.1 of Part 3.2 of DCP2014 outlines car parking requirements. In particular Control 5.1(f) prescribes that underground parking is not permitted in low density residential areas.

An assessment of the child care centre has revealed that semi-basement car parking is proposed, which will include:

- Lift access to the ground and first floor
- 8 staff car parking spaces
- 12 general parking spaces (including 1 disabled space)

Although the proposed child care centre will incorporate semi-basement car parking, the non-compliance with this development control can be supported as it is capable of meeting the objective of the control for the following reasons:

- The semi-basement car park will not be highly visible from the Bowden Street, Macpherson Street or Macpherson Lane street frontages as appropriate screening and landscape treatments are proposed –refer **Figure 4** and **Figure 5**.
- When viewed from the public domain, the elevations submitted with the development application reveal that that semi-basement car parking areas will be largely screened, and not highly visible from the street. This because of the varied building articulation and significant level of landscape screen planting proposed.

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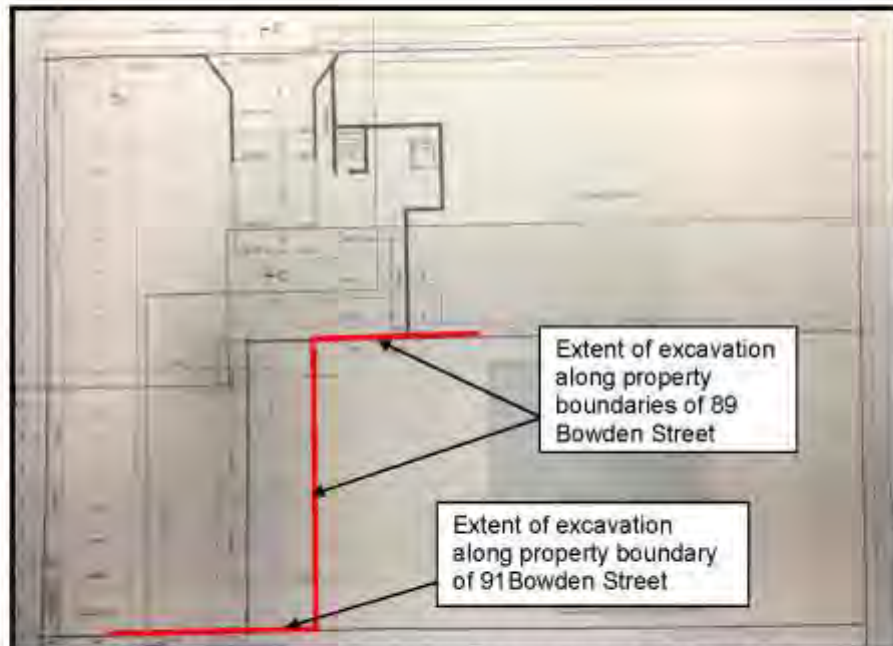
- It is considered unlikely that the proposed excavation will have a significant impact on adjoining private property as the bulk of excavation is concentrated nearer the Macpherson Street and Macpherson Lane frontages.
- It has been recommended that conditions of consent be included to ensure protection of adjoining property from the impacts of such excavation. These include conditions relating to the support for neighbouring dwellings, limitations on the hours of work, erection of hoarding fences, restriction to development within site boundaries, requirement to obtain Road Opening Permits, pre and post construction dilapidation reports, and necessity to comply with all Australian Standards.
- As part of the assessment of the proposal, the development application was referred internally to Council's Senior Development Engineer. The referral response has indicated that the proposal is satisfactory, subject to the imposition of conditions. The referral response and recommended conditions are provided in Section 13 of this report.
- The semi-basement car park is considered to provide a more aesthetically pleasing and convenient parking arrangement than that of an at-grade car park. The semi basement car park will also help to move vehicles on-site rather than park on the street.
- For corner allotments adjacent to main and collector roads, Council has previously permitted basement car parking for child care centres.

For the above reason's, the proposal's non-compliance with the basement parking controls is considered justifiable.

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**Figure 8** – This diagram shows where the excavation will occur along the property boundaries of 89 & 91 Bowden Street. Given the proximity to the boundary, conditions of consent will be put in place to ensure support for neighbouring property, limitations on the hours of work, as well as pre and post construction dilapidation reports.  
Source: Basement Plan by applicant, edited for diagrammatic purposes by CPS.

**Non-compliances – Resolved via condition**

- 1. Child care centre design.** Section 1.7 in Part 3.2 of the DCP2014 prescribes that development applications for child care centres are to be prepared in accordance with Council's requirements and must be accompanied by documentation to demonstrate compliance with the relevant objectives and controls of this part. In this regard, the below requirement for the submission of a development application applies:

*Child care centre development applications are required to be accompanied by a signed undertaking by the applicant, licensee or proposed licensee that demonstrates that the proposal has been designed to comply with respect to the*

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*Children's Services Regulation 2004 or DEC's requirements as relevant at the time of application.*

An assessment of the submitted documentation has revealed that no signed undertaking was received as part of the submitted development application documents from the applicant, licensee or proposed licensee. Accordingly, the following condition of consent requiring a signed undertaking is recommended.

**Signed Undertaking.** *A signed undertaking by the applicant, licensee or proposed licensee that certifies the proposal has been designed to comply with respect to the Children (Education and Care Services) Supplementary Provisions Regulation 2012 and Department of Education and Communities requirements is to be submitted to Council.*

2. **Fencing, Gates and Security** Section 3.1 and also Section 3.5 in Part 3.2 of the DCP2014 prescribes development controls to ensure child care centres are appropriately designed to a high level of safety and security. Further gates are to be designed to prevent children leaving/entering unsupervised by use of childproof locking systems, and impede intruders from entering the premises.

The submitted Site Analysis Plan shows that a secure perimeter will be provided to all three street frontages. The secure perimeter will provide additional access constraints to potential intruders from the proposed active outdoor play areas. However, to ensure gates are suitably secured, the following condition of consent is to be imposed requiring an electronic key pad to access points:

**Access Control.** *An electronic key pad to all access points is required to ensure there is no unauthorised access to the child care centre. Details of compliance are to be provided in the plans for the **Construction Certificate**.*

3. **Screened doors and windows.** Section 3.1 of Part 3.2 of DCP2014 prescribes controls relating to the design and character of all child care centres. More specifically, the control requires screening to all doors and windows to prevent mosquito bite infections.

The submitted SEE states that this control will be complied with. Accordingly it is recommended that the following be included as a condition to ensure that the proposed development meets the controls set out in Section 3.1 of Part 3.2 of the DCP2014.

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**Screen Doors and Windows.** *Insect screens are to be installed to all operable windows and doors. Plans detailing the insect screens are to be approved by Principal Certifying Authority prior to the issue of the **Construction Certificate**.*

4. **Car Parking and Access.** Section 5.5 of Part 3.2 of DCP2014 seeks to ensure that all new child care centres, and alterations and additions to existing child care centres (where relevant), are designed to make adequate provision for access by people with disabilities over and above the requirements of the Building Code of Australia to assist compliance with Disability Discrimination Act (DDA) 1992 and Disability (Access to Premises-Buildings) Standards 2010.

The submitted BCA Capability Report prepared by Vic Lilli and Partners has identified a number of items that require further consideration with regard to access for people with disabilities. This report also recommends a separate report be prepared from by a suitably qualified Access Consultant in order to demonstrate compliance with the applicable provisions.

Given the above an Access and Mobility Report, prepared by a suitably qualified Access Consultant, was requested to be submitted to Council as part of an additional information request to the applicant on 4 August 2015.

In the applicant's response on 17 August 2015, an Access and Mobility Report was not provided to Council, rather it was commented that a detailed accessibility report would be part of the construction certificate process.

In the regard, the following condition is recommended to ensure such a report is furnish to Council for assessment and approval prior to the issue of a construction certificate:

**Access and Mobility Report.** *In order to demonstrate compliance with the Disability Discrimination Act (DDA) 1992 and Disability (Access to Premises-Buildings) Standards 2010, an Access and Mobility Report, prepared by a suitably qualified Access Consultant is required to be submitted to Council for approval prior to the issue of **Construction Certificate**.*

5. **Centre Facilities.** Section 7.1 in Part 3.2 of DCP2014 seeks to ensure that child care centres are designed to ensure best practice in the provision of centre facilities and also the good amenity for staff and users of the centre. In particular, the following development control applies:

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*Control 7.1 (d) In centres where children under the age of 2 years are proposed to be cared for the following are to be provided:*  
*i. A sleeping room with 2.5 m<sup>2</sup> of floor space per cot and a maximum of 10 cots per room.*

Two cot rooms are provided within the proposed child care centre which have four and six cots respectively in each room. However, despite being compliant with the number of cots per room, the floor space of these rooms totals 12.5m<sup>2</sup>, meaning that the size of the room falls short of the minimum by 12.5m<sup>2</sup>.

Given the indoor play spaces easily achieve compliance with the minimum requirements under the Regulations 2012, it is considered feasible and appropriate that the sleeping rooms be enlarged to achieve compliance with the provisions of DCP2014. For this reason, the following condition of consent has been recommended:

***Size of Cot Rooms.*** *The size of the cot rooms shall be modified to comply with the controls contained in Section 7.1(d) of the Ryde Development Control Plan 2014.*

It is noted that the applicant has sought to justify the non-compliant cot room sizes on the basis that no such limitations are imposed under the Regulation 2012. However, as noted above, it is not considered unreasonable or unnecessary to comply with the provisions of DCP2014 given ample indoor play space area is provided for which 12.5m<sup>2</sup> could be reallocated to an enlarged cot room.

6. ***Exterior Lighting.*** Section 7.3 of Part 3.2 of DCP2014 prescribes controls relating to exterior lighting. The controls for exterior lighting state:
- a. Lighting is to be provided to assist access via the main entrance.*
  - b. The street number of the building must be provided for identification. It is to be visible from the street day and night, by lighting and/or reflective material, to ensure easy identification for visitors including emergency services.*
  - c. The locations and design of all proposed external lighting must not have an adverse impact on adjoining properties. Where possible, sensor lighting and energy efficient lighting should be used. The use of spotlights is discouraged.*

The submitted SEE states that the proposal will comply with the DCP2014 and that lighting will be appropriately directed within the development. As such it is

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considered that the following standard condition relating to lighting should be included.

**Exterior Lighting** – Installation of exterior lighting is to be undertaken in accordance with the provisions of the Ryde Development Control Plan 2014. Lighting details are to be submitted to the Principal Certifying Authority prior to issue of the **Construction Certificate**. The lighting details are to include certification from an appropriately qualified person that there will be no offensive glare or adverse impact onto adjoining properties.

7. **Waste Management.** Section 7.4 in Part 3.2 of the DCP2014 prescribes that the consideration of waste produced during demolition and construction, and also management of waste through the ongoing use of the facility once developed, is required for all child care centre developments. In particular, a waste management plan is to be submitted for all proposed demolition and construction in accordance with Part 7.2 of the DCP2014.

Although reference is made to waste storage areas within the basement in the SEE, an assessment of the submitted documentation has shown that limited details have been provided on the location and provisions for the storage and collection of waste within the existing basement.

Additionally, the Plan of Management submitted with the application provides little detail on how waste will be managed as part of the operation of the child care centre.

Accordingly, the following condition of consent is recommended:

**Waste Management Plan.** A detailed waste management plan is to be submitted to Council for approval prior to the issue of **Construction Certificate**. The waste management plan is to be prepared in accordance with Section 7.4 of Part 3.2 and also Part 7.2 of the Ryde Development Control Plan 2014.

8. **Emergency Evacuation.** Section 7.5 in Part 3.2 of the DCP2014 prescribes that a Fire Safety and Evacuation Plan be prepared in accordance with DEC's requirements to ensure child care centres have emergency evacuation procedures and plans in place to assist the safe evacuation of occupants in preparation for times of emergency. The plan is required to be submitted prior to the issue of the Occupation Certificate. As such it is recommended that the following is included in the conditions of consent.

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**Emergency Evacuation.** Prior to the issue of an Occupation Certificate for the child care centre, a "Fire Safety and Evacuation Plan" complying with Australian Standard AS3745 is to be prepared by a suitably qualified person and submitted to the Principal Certifying Authority.

The Fire Safety and Evacuation Plan is to address:

The mobility of children and how this is to be accommodated during an

- i. evacuation;
- ii. The location of a safe congregation area, away from the evacuated building, busy roads and other hazards, and away from evacuation points for use by other occupants/tenants of the same building or of surrounding buildings; and
- iii. The supervision of children during the evacuation and at the congregation area with regard to the capacity of the child care centre including child to staff ratios.

10. Likely impacts of the Development

(a) Built Environment

A thorough assessment of the impacts of the proposed development on the built environment has been undertaken as part of the completed assessment of the proposed development. This has included a compliance check against all relevant planning controls, referral of the proposal to relevant technical officers within Council, and a detailed assessment report

The resultant impacts of the proposed child care centre on the built environment are considered to be satisfactory, subject to appropriate conditions of consent.

The following provides an assessment of those impacts on the built environment not already addressed in this report.

**Hours of Operation.** The proposed hours of operation for the child care centre are 7:00am to 6:00pm, Monday to Friday. The SEE submitted with the application indicates that the centre will be closed on weekends and public holidays.

To ensure the operation of the proposed child care centre is consistent with the above hours, the following condition of consent is recommended to confirm the proposal will not impact on the built environment in the evening, night-time, or weekend or public holidays.

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**Hours of operation.** The hours of operation are to be restricted to:

- (a) The hours of operation of the child care centre are restricted to 7:00am to 6:00pm Monday to Friday.
- (b) The child care centre is not permitted to operate on, Saturdays, Sundays or Public Holidays.

**Noise from Car Park and Mechanical Plant.** Details on noise intrusion from surrounding roads, and also noise associated with the use of play areas has been addressed in detail within this report. However it is acknowledged that noise associated with the proposed basement car park and mechanical plant is also a relevant matter for consideration when considering the impacts of the proposal on the built environment.

An assessment of the Acoustic Report submitted with the development application reveals the following:

- The highest noise level predicted from car park activity is 42dBA across Macpherson Lane at 4 See Street and 6 See Street. This complies with the nominated criteria.
- Noise impacts from site related traffic on public roads comply with the NSW Road Noise Policy and are acceptable.
- The report recommends that any air conditioning condensers are strategically located away from residential neighbours and using the proposed child care centre buildings for acoustic shielding;
- An ideal location for mechanical plant would be in the lower ground floor car park, underneath the building and away from the site boundaries, notably along Macpherson Lane.

As outlined earlier in this report, the Acoustic Report will form part of the conditions of consent for the child care centre. As such, the development will be bound by the recommendations contained within the Acoustic Report. Additionally, compliance testing for acoustics has been recommended as part of this assessment report, and will also be included as a condition of consent.

With the imposition of the above conditions, the acoustic impacts of the proposed development are considered to be satisfactory when having regard to their impacts on the built environment.

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**Traffic, Parking, and Pedestrian Safety.** Submitted with the development application is a traffic and parking impact assessment prepared by Transport & Urban Planning Pty Ltd. The report assesses the traffic, pedestrian and parking impacts of the proposal.

The report outlines the traffic impacts on the adjacent road network and intersections will be acceptable and traffic conditions on the road network will remain satisfactory with little change from existing conditions.

With regard to parking, the report concludes that the proposal will have adequate off street parking (20 spaces) to comply with the provisions of DCP2014. This has been confirmed by Council within the assessment of the proposal against the DCP2014 parking controls - refer **Attachment 2**.

Pedestrian safety has been considered within the report prepared by Transport & Urban Planning Pty Ltd. The report outlines that safe pedestrian crossing infrastructure and refuge islands are provided across Victoria Road, Bowden Street and Macpherson Street, and as such the existing facilities are adequate to cater for any walk trips generated by the proposal.

As part of the assessment of the subject development application, the proposal and report prepared by Transport & Urban Planning Pty Ltd has been referred to both Council's Traffic Engineer and Senior Development Engineer. The response from Council's these engineers is that the proposal is acceptable from a traffic, parking and pedestrian safety perspective, subject to imposition of the recommended conditions of consent outlined in the Referrals section of this report.

For accommodation of delivery vans to the site, the following condition has been recommended to ensure deliveries to and from the child care centre do not coincide with the peak times of day when children are being dropped off and picked up from the centre. This condition is consistent with restrictions that have been placed on deliveries times for other child care centres in the City of Ryde.

**Delivery times.** All deliveries to and from the child care centre are to occur between the hours of 10:30am and 2:30pm on the days which the child care centre is operational.

Given the above, it is considered that the traffic, parking and pedestrian impacts of the development have been satisfactorily assessed, and determined to be acceptable by Council officers with regard to the impacts on the build environment.

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**Relocation of Post Office Boxes.** The submitted plans reveal that the proposal requests the relocation of the Australia Post Office Boxes that are currently in front of the pedestrian entry to the child care centre on Macpherson Street. The post office boxes are proposed to be moved westward, closer to the corner of Macpherson Street and Macpherson Lane – refer to **Figure 9** below.

Matters associated with post office box infrastructure and servicing requirements are considered to be best dealt with by Australia Post. As such, the following condition is recommended to ensure that the issue regarding relocation of the post boxes resolved between the applicant and Australia Post prior to the issue of construction certificate.

*Relocation of Post Office Boxes. Consultation and compliance with the requirements of Australia Post in relation to the proposed relocation of the post office boxes is required. Details of the consultation and authorisation for relocation of the post office boxes from Australia Post is required to be submitted to Council for records purposes.*



**Figure 9** –This diagram indicates the current location of the post offices boxes to the right of frame which conflicts with the pedestrian entry of the child care centre, and also the approximate new location for the post office boxes suggested by the applicant.  
Source: [www.google.com](http://www.google.com)

(b) Natural Environment

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The proposed development is located in an established urban area, and as such is not considered to result in any significant impacts on the natural environment. Imposition of Council's standard conditions of consent relating to protection of the natural environment are considered satisfactory to mitigate any adverse impact the proposed demolition, construction and operation of the child care centre will have.

Further, the subject development application has been referred to Council's technical officers who have indicated that the proposal is satisfactory subject to the imposition of conditions. This includes Council's Consultant Landscape Architect who has assessed the proposed disturbance to vegetation on the site.

**11. Suitability of the site for the development**

A review of Council's map of Environmentally Sensitive Areas (held on file) identifies no constraints affecting the subject property other than those already identified within this report.

**12. The Public Interest**

Having regard to the assessment contained in this report, it is considered that approval of the development is in the public interest as it provides for the needs of the local and wider community. Additionally, the proposal is considered to complement the area providing a much needed service to both nearby residents and workers within Ryde and the community generally.

**13. Consultation – Internal and External**

Internal Referrals

**Heritage Officer:** The subject development application was referred to Council's Heritage Officer as the subject site is located within the vicinity of the following items of heritage significance listed under Schedule 5 of LEP2014:

- 'Church' 74A Bowden Street, Ryde (Item No.120)
- 'Church' 7-9 McPherson Street, West Ryde (Item No.164)
- 'House' 95 Bowden Street, Ryde (Item No.121)

The relationship between the subject site and these adjoining heritage items is shown in the air photo below:

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The following comments have been provided from Council's Heritage Advisor:

**Background**

*The development proposal seeks Council's approval for the demolition of the existing dwelling houses ancillary structures and removal of existing vegetation on the site and construction of a childcare centre.*

*Previous heritage comments were provided on 21 July 2015 (that requested the provision of a Heritage Impact Statement to support the development application).*

*An assessment of the proposal at the time concluded that the dwelling displays characteristics and form that has high architectural and aesthetic values and that a heritage impact assessment is necessary in order to more thoroughly consider the potential heritage significance of the site, together with the impact of the new development on the heritage items within the vicinity of the site.*

**Additional referral comments**

*No further documentation or assessment has been provided to date, however it is understood that this application is to be considered by Council's Planning and Environment Committee for determination.*

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*In my opinion, a robust heritage impact assessment (in the form of a Heritage Impact Statement (HIS)) is crucial to the assessment of the proposal and should still be sought, to allow for an assessment in more detail of the potential heritage values and cultural significance of the dwellings.*

*Opportunity exists for the Applicant to also consider a revised design whereby the existing dwelling at 87 Bowden Street could be retained and modified to suite the use as a childcare centre, having a lesser visual impact on the heritage item opposite. It is considered that a skillful design could be pursued which retains the dwelling and sympathetically adapts / repurposes the dwelling to achieve a suitable level of functionality and amenity for the proposed childcare centre. The regard in which 87 Bowden Street is held by the community is represented in the submissions received which raise concerns over the proposed demolition of the dwelling.*

*As the development remains the same as previously considered and no further heritage assessment has been provided, the development cannot be supported in its current form on heritage grounds due to insufficient information and the view that the existing dwelling at 87 Bowden Street holds considerable architectural and aesthetic significance.*

*However, should Council decide to approve the development proposal in its current form, then the following conditions of consent should be imposed:*

**Recommended conditions**

**1. Salvage of materials and building elements**

*Traditional building materials and architectural elements (such as windows, doors, internal and external joinery, masonry, tiles etc) are to be dismantled, salvaged and sold to an established dealer in second-hand heritage building materials.*

*Documentation of the salvage methodology must be submitted for the approval of Council prior to the commencement of demolition.*

**Reason:** *Heritage conservation.*

**2. Archaeology stop work provisions**

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*As required by the NSW National Parks and Wildlife Service Act 1974 and the Heritage Act 1977, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately to allow a suitably qualified archaeologist to make an assessment and recommendation of the findings.*

*If relics are encountered, Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified and further archaeological work may be required before works could re-commence. Approvals/permits from the Heritage Division may also be required to disturb/relocate relics.*

**Reason:** Statutory obligations.

**3. Photographic Archival Recording**

*Prior to the commencement of any works, including the dismantling of fabric or demolition, a Photographic Archival Recording shall be undertaken and submitted to Council.*

*The Photographic Archival Recording shall be prepared in accordance with the guidelines "Archival Recording of Heritage Items Using Film or Digital Capture" published by the Heritage Division of the Office of Environment and Heritage.*

*Two complete copies of the Photographic Archival Recording shall be submitted to Council. Each copy should contain (for digital projects):*

- *A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the sequence in which images were taken. The report may also address the limitations of the photographic record and may make recommendations for future work;*
- *Plans of the building marked up to indicate where the photographs were taken and the direction of the photograph;*
- *The report should include all technical details including camera and lenses, image file size and format, technical metadata associated with the images, and colour information;*
- *Catalogue sheets, photographic plan, supplementary maps;*

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- *Colour thumbnail image sheets (e.g. A4 page with six images by six images) showing images and reference numbers. The thumbnail sheets should be processed with archivally stable inks on archivally acceptable photographic paper and cross referenced to catalogue sheets;*
- *One full set of 10.5x14.8cm (A6) colour prints OR, if a large project, a representative set of selected images processed with archivally stable inks on archivally acceptable photographic paper.*
- *A CD or DVD containing electronic image files saved as RAW files with associated metadata, and cross-referenced to catalogue sheets.*

*The report should be presented on archival quality paper in a suitable archival binder and slipcase, and all storage of individual components must be in archival quality packaging suitable for long term storage.*

**Reason:** *Heritage conservation.*

Assessment Officer's Comments:

It is noted that retention of the existing dwelling is recommended for consideration, given that this existing dwelling has been identified (in resident submissions) as having some architectural character and possible heritage value. Whilst this is noted, it is not considered that Council should insist upon the retention of the existing dwelling for as part of any re-development at the site, because the existing dwelling is not listed as a heritage item under the provisions of Ryde LEP 2014. Further, retention of the existing dwelling would require a major re-design of the proposal, and the applicant has advised that they have considered the possibility of retaining the dwelling as part of re-development but did not pursue this because it was not commercially viable. It has been Council's practice to only list items of architectural significance and seek retention with the support of the property owner.

In relation to issues regarding non-provision of a Heritage Impact Statement (in regard to relationship with adjoining heritage items), it is noted that the most significant nearby heritage item is the Church at No 74A Bowden Street (opposite the site). Other heritage items are located at 7 Macpherson Street, 95 Bowden Street and the group at 61-77 Forsyth Street, however these other items have a diminished relationship to the subject site because they do not have a direct "line of sight" and/or they are further away from the subject site.

The Church at No 74A Bowden Street is a very architecturally distinct building – most notably because it has a prominent corner location (corner of Bowden and Squire Streets), and a generous setback (over 10m) from Bowden Street. These site

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characteristics would enable the Church to retain its heritage significance, as well as sight lines from various directions (both ways along Bowden Street, Squire Street and Macpherson Street) regardless of what type of development takes place on adjoining allotments. Furthermore, the distance (between the Church and the proposed building the subject of this DA) is approximately 30 metres which would further assist to ensure the Church retains its prominent position and thus its heritage significance.

In addition, it is noted that (if the site were to be developed for a single dwelling and not the subject child care centre development), it would be possible to utilise the Complying Development provisions of planning controls introduced by the State Government (State Environmental Planning Policy (2008) – Exempt and Complying Development Codes). In particular, a Complying Development Certificate could be issued for a new dwelling that would not require any particular Heritage assessment to be made in relation to adjoining heritage items.

For these reasons, it is not considered necessary to require provision of a Heritage Impact Assessment. The recommended conditions of consent provided by the Heritage Officer are included in the Draft Conditions of Consent (Attachment 1).

**Consultant Landscape Architect:** The proposed development was referred to Council's Consultant Landscape Architect who has indicated that the proposal is supportable from both a tree impact and landscape architectural perspective, subject to the imposition of the following non-standard conditions:

**Tree Species Substitution.** *The proposed species of Quercus robor and Dianella 'Boarder Silver' are to be deleted from the Landscape Plans submitted for Construction Certificate.*

**Landscape Details.** *The landscape plans submitted with the Construction Certificate are to include the following:*

- (a) *Detailed sections of the outdoor areas located on podium, including the rooftop which demonstrate the relationship and workability between the proposed planting, hard paved and turf areas;*
- (b) *Additional natural and interactive play structures, elements and items are to be included to the outdoor play areas to ensure rich and varied outdoor experience, particularly for the older age groups. This could include but is not limited to sandpits, climbing/balancing structures, rocks, edible gardens, water play and earth mounding;*
- (c) *Details of materiality for the hard surfaces of the outdoor play areas;*
- (d) *Details of the proposed planting areas including planting layouts, densities and species locations;*

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- (e) *Increased levels of shade are to be provided to the outdoor play areas with specific details of the shading to the rooftop play area provided.*

**Building Surveyor:** The proposed development was referred to Council's Building Surveyor who has indicated that the proposal is satisfactory subject to the imposition of Council's standard building conditions.

**Senior Development Engineer:** The proposed development and revised plans were referred to Council's Senior Development Engineer who provided the following comments. Conditions of consent have been provided, and these are included in the Draft Conditions of Consent (see **Attachment 1**)

Stormwater Management

*The proposed stormwater management system for the development discharges with the fall of the land to Macpherson Lane and incorporates onsite detention complying with Council's requirements. The following matters are to be addressed:*

- *The plans have not provided much attention to the intrusion of the OSD tank into the parking level below. The architectural details indicate the tank is below the carpark level however the stormwater plans indicate that it is suspended above. Comparison of the nominated levels indicates that the drainage design would provide 2.43m of clearance between the invert of the tank and the parking level which would allow for some 230mm for structural elements. This clearance is minimal and it is likely that the tank depth and footprint would need to be modified to accommodate structural elements. The potential for this has been implemented in the drafted conditions.*
- *The OSD will discharge to the kerb in Macpherson Lane however the nominated PSD rate exceeds the maximum permitted discharge to the kerb of 30L/s (47L/s is proposed). This can be addressed by expansion of the storage volume and revising the discharge control, which does not pose a significant issue and is addressed as a condition of approval.*
- *The OSD is located in a rear play yard and therefore it is crucial that the access grates to the system be adequately screened so as to provide a safe play environment.*
- *The plans have not detailed the failure mode of the OSD system which is of concern given that it may lead to inundation of the playground area. This could be rectified by having a piped overflow to the discharge pit.*

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*These matters are addressed in the standard conditions of approval and marked on the approved plans.*

Public Domain

*The following matters are noted.*

- *The nominated relocation of the Post Office box does not pose as a great issue with respect to the onstreet parking restrictions however would warrant that any changes should be undertaken in consultation with Australia Post and the changes to the parking restrictions will need to be progressed through the Local Traffic Committee. This can be addressed as a condition of consent.*
- *The proposed allocation of onstreet parking spaces to facilitate the pickup-drop-off manoeuvres is not supported given the arrangement is contrary to Councils DCP objectives requiring the parking demands of the development to be provided off the street.*
- *The proposed kerb extensions are beneficial for traffic calming however may not be warranted (becoming an unwanted burden for Council to maintain) and may adversely reduce the efficiency of the intersection thereby effecting traffic flow. (See also Public Works Comments below).*

*It is noted that the kerb infrastructure along the site frontage of Macpherson Lane is considerably dilapidated and likely to degrade further as a result of the works. To ensure the serviceable life of this infrastructure is aligned with that of the development it is conditioned that the kerb must be replaced.*

Traffic Generation

*The submitted traffic report has presented traffic generation levels based on RMS guidelines and the peak rates are as follows (in Vehicle Trips Per Hour):*

- *AM Peak hour – 72 total (36 in, 36 out)*
- *PM Peak hour – 63 total (32 in, 32 out)*

*Whilst this is a marked difference in comparison to the present level of traffic generation from the sites themselves, it is to be noted this traffic generation will be distributed over the surrounding network and the resulting volumes will be relatively very low in comparison to the existing traffic levels conveyed in the surrounding road network. The report notes Bowden Street north of the Macpherson Street intersection conveys 677 to 895 vehicles per hour in the peak periods.*

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Vehicle Access and Parking

The proposed parking area accommodates 2 way traffic flow at the entry and driveway grades, transitions, access aisle dimensions and space dimensions comply with AS 2890.1 for the given user class. The following matters are noted:

- The plans have located a disabled space at the far northern end of the parking row. This will require excessive manoeuvring to enter and exit which would pose a problem for less abled drivers. It therefore should be relocated to a more convenient location at the base of the ramp.
- The turning bay at the far southern end is crucial for staff parked in the parallel spaces to exit the garage in a forward manner. It is warranted that this area be appropriately linemarked.

The proposed development warrants 20 parking spaces to be provided, allocated as per the rates in the DCP Part 9.3 (Parking) as follows:

- Parents 1 space per 8 children @ 90 children = 11.25 (12 spaces)
- Staff 1 space per 2 staff @ 16 staff = 8

These spaces have been accommodated in the proposed basement parking area. As noted above, the allocation of onstreet parking to serve the development is not warranted nor supported.

Recommendation

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

It should be noted that those proposed works outside of the property boundary within the road reserve are not supported as part of the subject development application. This includes the hard and soft landscaping treatments (within 3m of vehicle access driveway to the site) shown on the plans, along with car parking spaces, and traffic island/blisters. Accordingly, the following is recommended under Condition 1 so that these works are excluded from the consent:

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

- (a) The following works located outside of the property boundary do not form part of this consent:
  - Car parking spaces within the road reserve;

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- *New hard and soft landscaping treatments (within 3m of the vehicle access driveway to the site); and*
- *Traffic island/blisters.*

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

**Public Works:** The DA was referred to Council's Public Works Group and the following comments have been provided.

*A combined entry/ exit 6.5 metres wide driveway is proposed to be provided from Macpherson Street. Due to the proposed driveway location, the existing Australia Post box in Macpherson Street is to be relocated. This requires consultation with the Australia Post.*

*Additionally it should be noted that 72 Vehicle movements in the peak period has been identified, however of those movements, it is 36 movements which will be outbound and contributing to the traffic flow. Because the Childcare Centre is proposing to operate from 7.00am, it is anticipated that the majority of drop-off will occur prior to 7.00am thereby not affecting the peak period as significantly. This is considered to be a minimal impact development.*

Development	Parking	AM Generation	PM Generation	Total
Pre				
Post	20	72	64	136

*The existing facilities around the site include a refuge to assist in the crossing of McPherson Street near the intersection of Bowden Street and a roundabout with associated refuges for crossing Bowden Street. Observing the existing infrastructure demonstrates no need for any further traffic related infrastructure. The applicant will however need to embellish the existing facilities to ensure maximum visibility and presence.*

*Due to the presence of children in the area, all street trees/planting (within 3m of the vehicle access driveway to the site) shall not exceed 1 metre in height to ensure maximum visibility is maintained to all pedestrians.*

*Council will not allocate parking on-street for use specifically by the Childcare Centre. All parking is to be included in the basement parking levels.*

**Environmental Health Officer:** The proposed development was referred to Council's Environmental Health Officer who provided the following comments. Conditions of

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consent have been provided, and these are included in the Draft Conditions of Consent (see **Attachment 1**).

**Waste Management**

*The applicant proposes to store garbage bins in the basement, however, there is no bin storage room or area shown on the plans. The waste management plan submitted with the application only considers construction/demolition waste, not the ongoing waste management of the proposed Child Care Centre.*

*The applicant shall comply with the requirements of Council's DCP 2014, Part 7.2 including the construction of the garbage storage area.*

**Food**

*There is a kitchen proposed on the top floor of the proposed child care centre. The fitout of the kitchen shall comply with AS4674:2004.*

**Noise**

*The subject site is approximately 137 metres from Victoria Road and approximately 400 metres from the rail corridor. An acoustic report has been prepared by Renzo Tonin & Associates dated 5 May 2015 titled "Proposed Child Care Centre CRN of Macpherson St & Bowden St, Ryde, Acoustic Assessment". This report states that the noise impacts from the outdoor play areas are predicted to comply with the City of Ryde Child Care Centres DCP with limits placed on the number of children outdoors in each area, acoustic screens and the play area number 5 on level 1 to be dedicated as a passive play area only and appropriately fitted out to facilitate quiet play.*

**Contamination**

*The site appears to have been used as a residence from present day to before 1942 according to Council's records. Therefore it is unlikely that there is contamination on the property, although there is the potential for the site to contain fill materials Council's records do not indicate that there is fill on the site.*

**Acid Sulphate Soils**

*The site is not in an area where an acid sulphate soils management plan is required.*

**Hazardous Materials**

*Due to the age of the house which is proposed for demolition in this application, there is likely that the house has been constructed using asbestos containing*

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*material and/or lead paint or similar materials. Therefore, it is recommended that consideration be given prior to demolition of the potential for hazardous materials on the site to ensure appropriate demolition and safety techniques can be employed and to prevent contamination to the environment.*

**External Referrals**

None required.

**14. Critical Dates**

There are no critical dates or deadlines to be met.

**15. Financial Impact**

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

**16. Other Options**

None relevant.

**17. Conclusion**

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

Although areas of non-compliance with DCP2014 were identified, these were either considered to be justifiable given the circumstances of the subject site and the development proposed, or alternatively addressed via imposition of consent conditions.

The proposed child care centre is considered to result in a development that is consistent with the objectives of the R2 Low Density Residential zone as it will provide a facility to assist with the day to day requirements of residents. The building itself is considered compatible with the current and likely future character of the low density residential area. This is largely due to the fact that the proposal includes a compliant bulk and scale from a building height, floor space ratio and setback perspective, which is based on the numerical requirements for low density residential development.

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Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

**ITEM 3 (continued)**

**ATTACHMENT 3**

**ITEM 4 (continued)**

The proposed number of children, and the intended hours of operation of the child care centre are considered appropriate for the subject site's location, and consistent with other recently approved child care centres within the City of Ryde.

The traffic, parking, impacts of the proposal, along with the acoustic and visual amenity of impacts has been assessed and is considered to be satisfactorily consistent with the relevant development controls and objectives outlined in Part 3.2 of the DCP2014 for child care centres.

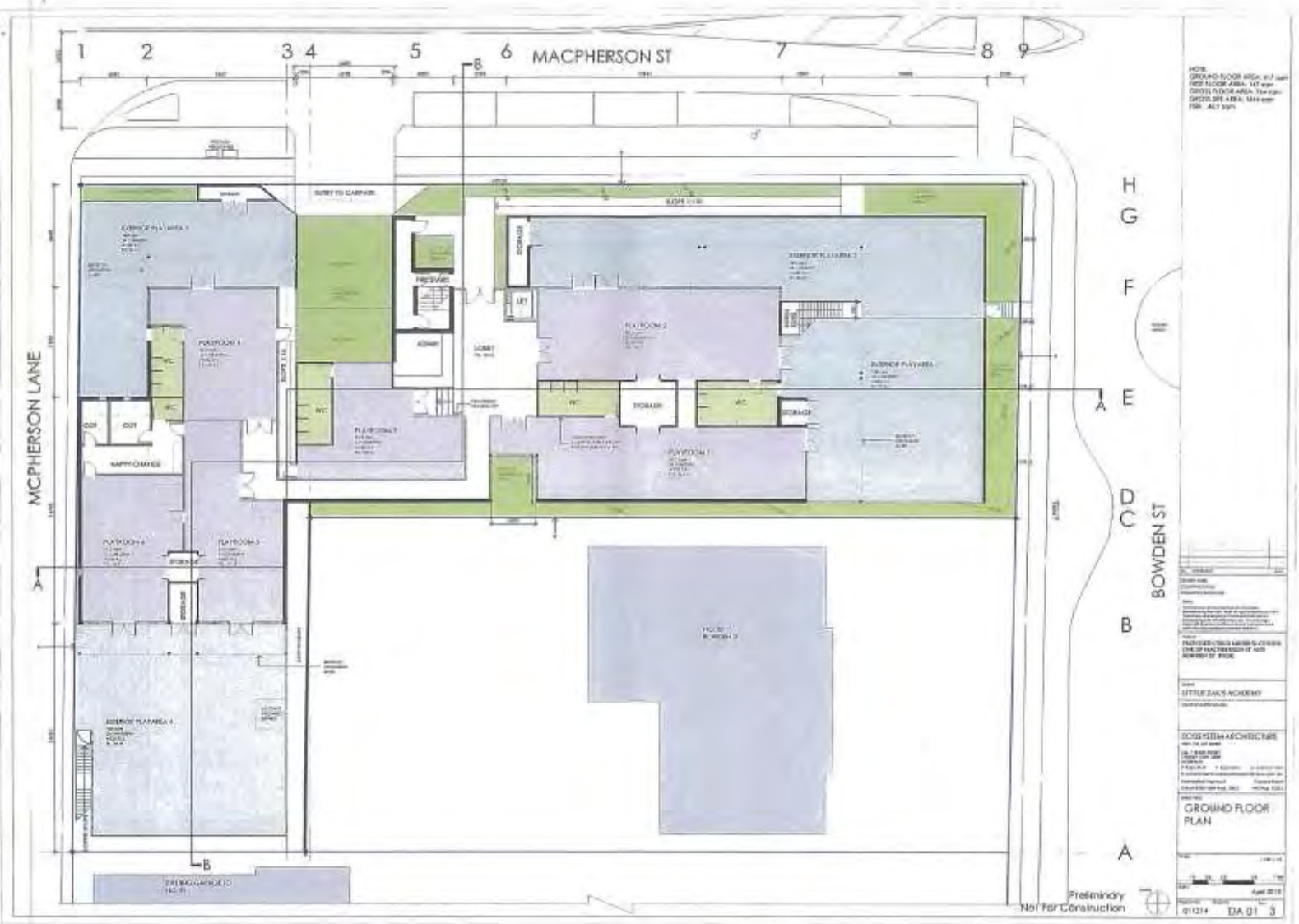
On the above basis, LDA2015/0283 at 87 Bowden Street and 2 Macpherson Street, Ryde is recommended for approval subject to conditions.

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Planning and Environment Committee, dated 27 January 2016, submitted on 10 November 2015.

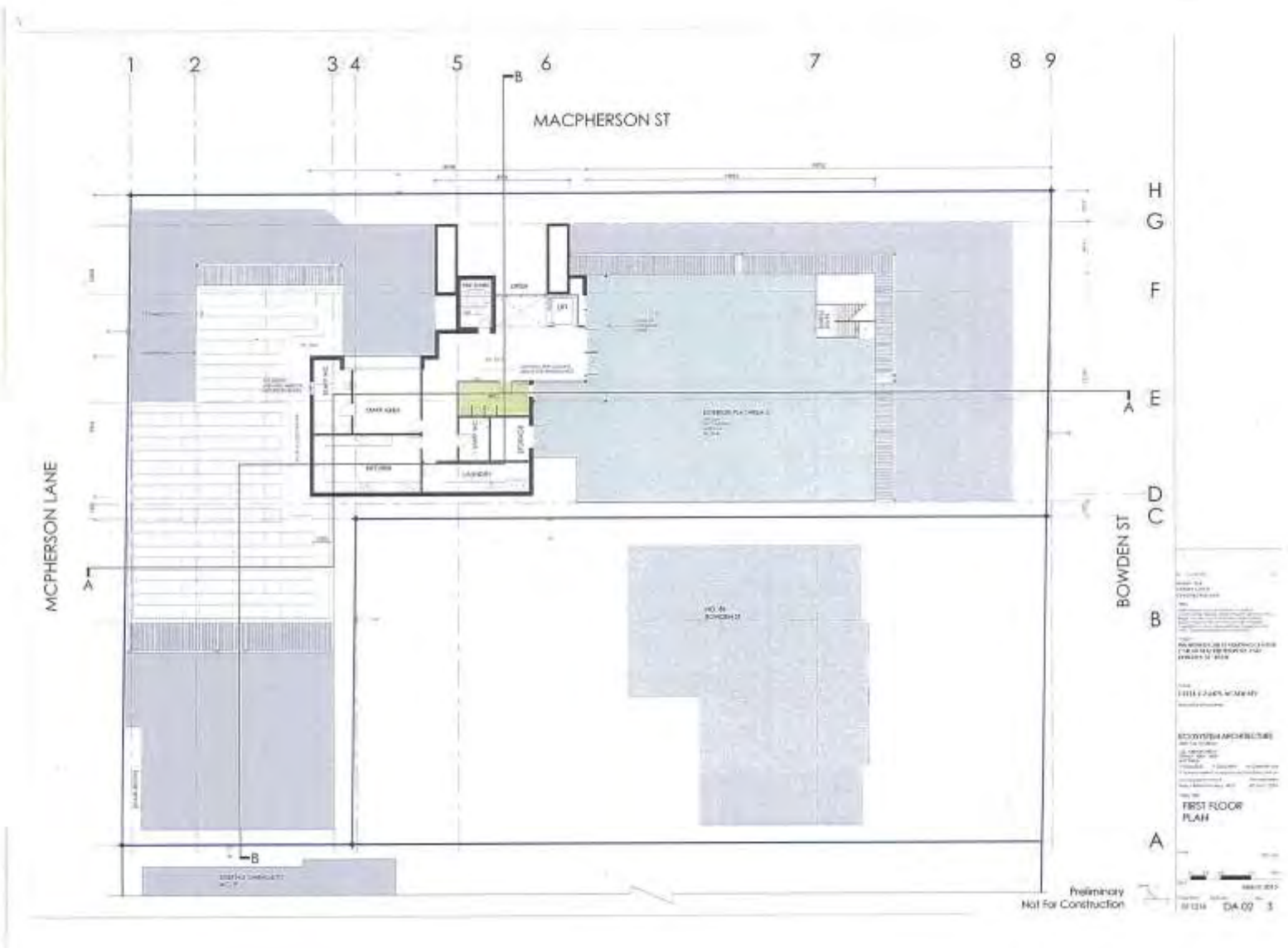
**ITEM 3 (continued)**

**ATTACHMENT 4**



**ITEM 3 (continued)**

**ATTACHMENT 4**



**ITEM 3 (continued)**

**ATTACHMENT 4**



**ITEM 3 (continued)**

**ATTACHMENT 4**





**ITEM 3 (continued)**

**ATTACHMENT 4**





**ITEM 3 (continued)**

**ATTACHMENT 4**



**ITEM 3 (continued)**

**ATTACHMENT 4**

