



ASSESSMENT REPORT

Local Development Application No: LDA2022/0358

Assessment Officer: Niroshini Stephen
Report to Manager Assessment: 30 June 2023
Consent Authority functions exercised by: Delegate

EXECUTIVE SUMMARY

Application details

Subject land:	34 Clayton St Ryde
Lot and DP Number:	Lot 34 DP 35169
Site Area and dimensions:	626.7m ² , frontage of 18.5 metres
Proposal:	Demolition of existing dwelling and construction of a dual occupancy with swimming pool and Torrens Title subdivision
Applicant:	ASA Studio Pty Ltd
Owner:	Ximing Xie
Date lodged:	14 November 2022
Date clock stopped:	N/A
Date clock started again:	N/A
No. of days on STC:	N/A
Value of Works:	\$943,250.00
Submissions:	None Trim Checked on: 29 June 2023
Zoning:	R2 Low Density Residential under RLEP 2014
DCP Non-Compliances:	<ul style="list-style-type: none">• Section 2.1 – Desired future character• Section 2.6.1 – Deep Soil Areas• Section 2.6.2 – Topography & Excavation• Section 2.8.2 – Building height• Section 2.9.1 – Front setbacks• Section 2.11.1 – Car parking• Section 2.13 – Landscaping• Section 2.14.1 – Daylight and sunlight access• Section 2.14.2 – Visual privacy• Section 2.15.1 – Roofs
Clause 4.6 RLEP 2014	No
Objection Required:	
Councillor Representations	None

Report Recommendation: **Approval**

REPORT

THE SITE



Figure 1 Aerial photograph of site

The site is legally described as Lot 34 within DP 35169 and is known as 34 Clayton Street Ryde. The site is irregular in shape with a frontage of 18.5 metres to Clayton Street. The south western side boundary is 30.48metres and the north eastern side boundary is 29.74 metres. The rear south eastern boundary width is 22.975 metres. The site has an area of 626.7m².

The site falls from the front (RL38.77) to the rear (RL33.45) by approximately 5.32 metres.

The site presently accommodates a single storey dwelling. The site currently does not contain any vehicular access or parking on site. Other site works include paved areas and pathways.

Adjoining properties

The site is adjoined to the north west by No. 32 Clayton Street which contains a single storey dwelling. A review of Council's system shows this property is subject to a recent development application approval. Local Development Application No. LDA2022/0285 was approved on 18 January 2023 for demolition, new two storey dwelling, swimming pool and front fence. For the purpose of this assessment, the proposal has been assessed against the approved development application under LDA2022/0285.

The site is adjoined to the north east by No. 36 Clayton Street which is a single storey dwelling. The site is adjoined to the rear by Burrows Park.

THE PROPOSAL (as amended)

Development consent is sought for demolition of existing dwelling and construction of dual occupancy with swimming pool and Torrens Title subdivision. The proposal comprises the following works:

- Demolition of existing dwelling and associated structures
- Construction of an attached dual occupancy comprising:

Unit A (south west of the party wall)

- **Lower Ground Floor RL34.585:** internal stairs, pool and under house area.
- **Single garage RL37.925** located to the south west of the party wall.
- **Ground Floor RL38.01:** Study, bathroom, internal stairs, kitchen, living and dining. The living/dining room has access to the alfresco (RL37.925).
- **First Floor RL41.03:** Bedroom 2 with ensuite, Bedroom 3 with ensuite, study, master bedroom with walk in wardrobe and ensuite and internal stairs. Bedroom 2 and 3 have access to a street facing balcony 1.0 metres in depth. The master bedroom has access to a rear facing balcony 1.2 metres in depth.

Unit B (north east of the party wall)

- **Lower Ground Floor RL34.585:** internal stairs, pool and under house area.
 - **Single garage RL37.925** located to the north east of the party wall.
 - **Ground Floor RL38.01:** Study, bathroom, internal stairs, kitchen, living and dining. The living/dining room and kitchen have access to the alfresco (RL37.925).
 - **First Floor RL41.03:** Bedroom 2 with ensuite, Bedroom 3 with ensuite, master bedroom with walk in wardrobe and ensuite and internal stairs. Bedroom 2 has access to a street facing balcony 2.6 metres in depth. The master bedroom has access to a rear facing balcony 1.2 metres in depth.
- New vehicle crossing and driveway
 - Landscaping works
 - Removal of eight (8) trees
 - The proposed Torrens title subdivision comprises:
 - Unit A – 295.90m² in area with a 9.657m front boundary
 - Unit B – 330.51m² in area with a 8.817m front boundary

APPLICATION HISTORY

14 November 2022	Application lodged.
15 November 2022 to 5 December 2022	Application notified. No submissions received.
1 March 2023	A request for information was sent to the applicant requesting: <ul style="list-style-type: none">- Updated subdivision plan;- Further details regarding fill and retaining walls;- Amended plans addressing visual privacy concerns;

	<ul style="list-style-type: none"> - Pool filter equipment to be shown on the plans; - Clarification if boundary fencing is to be retained; - Demolition work method statement to be provided; - Updated architectural plans and landscape plans that are consistent; - Landscape plan and Arborist report to be updated to include all existing trees; and - Amended information addressing development engineering and bushfire matters
27 March 2023	Applicant submits amended architectural plans and further information.
2 May 2023	A request for information was sent to the applicant requesting: <ul style="list-style-type: none"> - Further details regarding cut, fill and retaining walls; and - Amended plans addressing visual privacy concerns
8 May 2023	Applicant submits amended architectural plans and further information.
27 June 2023	An email was sent to the applicant requesting: <ul style="list-style-type: none"> - Amended plans addressing visual privacy concerns; - Location of bins to be shown; - Amended plans reducing the extent of hard paving within the front yard; and - Amended plans addressing solar access concerns.
29 June 2023	Applicant submits amended architectural plans and further information.

REFERRALS:

External referral

Ausgrid

The proposal was considered satisfactory by Ausgrid subject to conditions of consent.

NSW Rural Fire Service

The application is an integrated Development Application and was referred to NSW Rural Fire Service under Section 100B of the Rural Fires Act. The proposal was considered satisfactory by NSW Rural Fire Service subject to conditions of consent.

Internal referral

Development Engineer: No objections were raised subject to recommended conditions of consent.

Bushfire Consultant: No objections were raised subject to recommended conditions of consent.

Consultant Structural Engineer: No objections were raised subject to recommended conditions of consent.

Tree Management Officer: No objections were raised.

Landscape Architect: No objections were raised subject to recommended conditions of consent.

Heritage Advisor: No objections were raised.

STATUTORY PROVISIONS

SECTION 4.14 CONSULTATION AND DEVELOPMENT CONSENT – CERTAIN BUSH FIRE PRONE LAND (formerly 79BA)

The site is mapped as being bushfire affected. The application was referred to the NSW Rural Fire Service (NSW RFS) pursuant to Section 4.14 and 100B of the Rural Fires Act 1997. The NSW RFS raised no objections to the proposed development subject to the inclusion of conditions of consent.

The application was referred to Council’s Bushfire Consultant who raised no objections to the proposed development subject to the inclusion of conditions of consent.

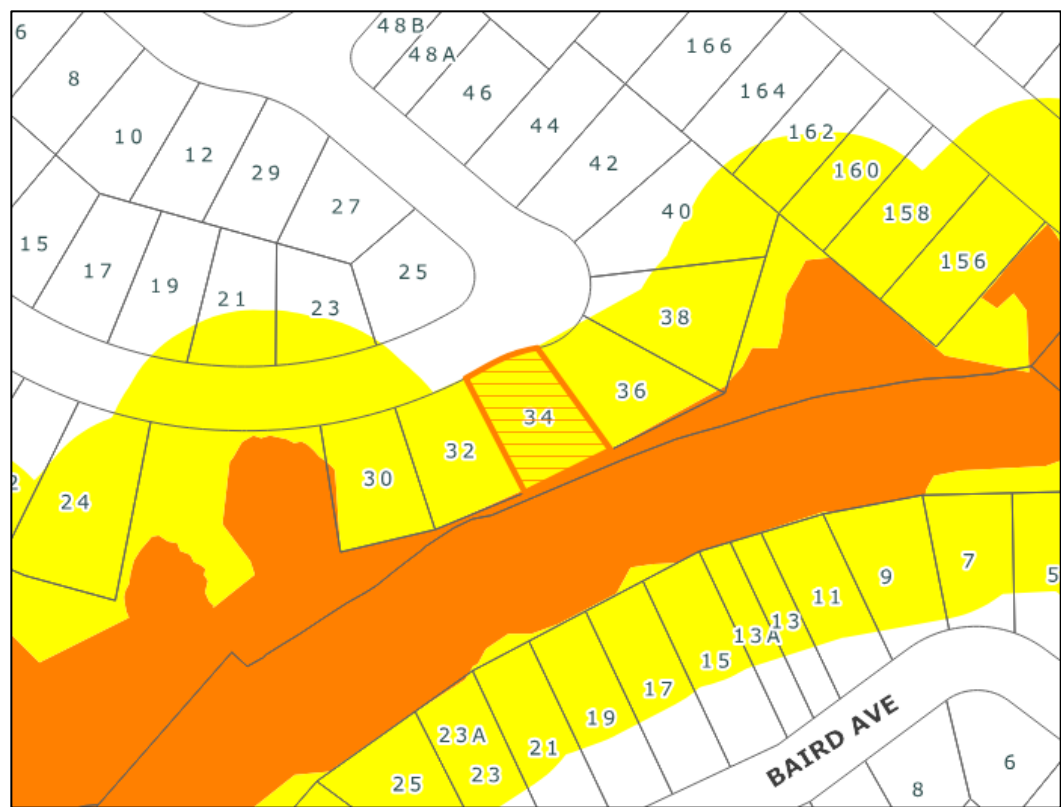


Figure 2 Bushfire mapping

SECTION 4.15 MATTERS FOR CONSIDERATION

(a) The provisions of

(i) Any environmental planning instrument:

Instrument	Proposal	Compliance
State Environmental Planning Policy Resilience and Hazards SEPP 2021		
Chapter 4 Remediation of land		

<p>The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land.</p> <p>The aims are to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.</p>	<p>Pursuant to Clause 4.6(1) considerations, the subject site has been historically used for residential purposes. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.</p>	<p>Yes</p>
State Environmental Planning Policy BASIX 2004		
<p>The certificate demonstrates compliance with the provisions of the SEPP and is consistent with commitments identified in the application documentation.</p>	<p>A BASIX Certificate (see Certificate No. 1316909M_02, dated 28 October 2022) has been submitted with the application. A standard condition has been included in the Draft Consent requiring compliance with this BASIX certificate.</p>	<p>Yes</p>
State Environmental Planning Policy – Biodiversity and Conservation SEPP 2021		
Chapter 2 Vegetation in non-rural areas		
<p>The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.</p>	<p>The proposal includes the removal of eight (8) trees.</p> <p>The proposal has been supported by an arborist report and landscape plan.</p> <p>The proposal is considered satisfactory by Council's Landscape Architect.</p>	<p>Yes</p>
Chapter 6 Water Catchments		
<p>This Plan applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.</p>	<p>Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal.</p>	<p>Yes</p>

Ryde LEP 2014

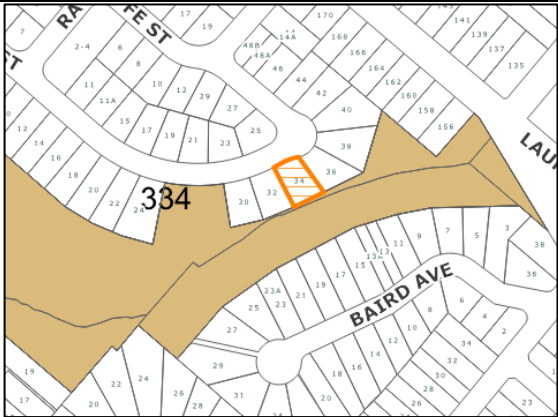
Under Ryde LEP 2014, the property is zoned R2 Low Density Residential, and the proposed demolition of existing dwelling and construction of dual occupancy with swimming pool and Torrens Title subdivision is permissible with Council's consent. The following is a summary of the clauses under Ryde LEP 2014 applicable to the development.

Ryde LEP 2014

Ryde LEP 2014	Proposal	Compliance
4.1A Dual occupancies (attached) subdivisions		

Ryde LEP 2014	Proposal	Compliance
<p>Despite clause 4.1, development consent may be granted for the Torrens title subdivision of a lot or subdivision of a lot under the <i>Strata Schemes Development Act 2015</i> if—</p> <p>(a) before the day <i>Ryde Local Environmental Plan 2014 (Amendment No 28)</i> commences, a development application for a dual occupancy (attached) has been approved and an occupation certificate has been issued for that development, and—</p> <p>(i) the lot to be subdivided a minimum 580m²</p> <p>(ii) 1 dwelling each lot</p> <p>(iii) Each lot at least 290m²</p>	N/A	N/A
<p>(b) on or after the day <i>Ryde Local Environmental Plan 2014 (Amendment No 28)</i> commences, a development application made for a dual occupancy (attached) has been approved for the lot, and—</p> <p>(i) the lot to be subdivided a minimum 580m²</p> <p>(ii) 1 dwelling each lot</p> <p>(iii) Each lot at least 290m²</p> <p>(iv) Primary road frontage equal or > 7.5 metres</p>	<p>626.7m²</p> <p>1 dwelling each lot Unit A – 295.90m² Unit B – 330.51m²</p> <p>Unit A – 9.657m Unit B – 8.817m</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
4.1B(2) Minimum lot sizes for dual occupancies and multi dwelling housing		
<p>(a) Minimum 580 m²</p> <p>(b) the primary road frontage of the lot is equal to or greater than 15 metres.</p>	<p>626.7m²</p> <p>18.5 metres</p>	<p>Yes</p> <p>Yes</p>
4.3(2) Height		

Ryde LEP 2014	Proposal	Compliance
9.5m	9.48m	Yes
4.4(2) & 4.4A(1) FSR		
0.5:1	0.496:1 It is noted a floor to ceiling (2.7 metre high) privacy screen is proposed to the front north western elevation of the Unit A street facing balcony for a length of 3.5 metres. The balcony is open on two sides and the privacy screen is partially open. For these reasons the balcony has not been included in the gross floor area calculation.	Yes
5.10 Heritage Conservation		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views,</p> <p>(c) To conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance</p>	<p>The site is located within 100m of one (1) heritage item being:</p> <ul style="list-style-type: none"> Item name: Burrows Park; Address: 116 Buffalo Road <p>The item is of local significance, as outlined in Schedule 5 of RLEP 2014. The location of the subject site from the heritage item is shown in Figure 3 below.</p> <p>The proposal is three storeys when viewed from the rear. The existing trees at the rear will offer a reasonable buffer between the item and the proposed development.</p> <p>Despite being within 100m of the heritage item, the proposal is considered to satisfy the objectives of Clause 5.10 of RLEP 2014 by conserving the heritage significance of the heritage items, including associated fabric, settings and views. The proposal does not result in any significant adverse impacts upon the environmental heritage of Ryde.</p> <p>The proposal was reviewed by Council's Heritage Advisor and no issues were raised.</p>	Yes

Ryde LEP 2014	Proposal	Compliance
	 <p>Figure 3 – Location of the subject site from the heritage item</p>	
5.23 Public Bushland		
<p>(1) The objective of this clause is to protect and ensure the ecological viability of bushland, including rehabilitated areas in urban areas, by—</p> <p>(a) preserving biodiversity, habitat corridors and links between public bushland and other nearby bushland, and</p> <p>(b) preserving bushland as a natural stabiliser of the soil surface, and</p> <p>(c) preserving existing hydrological landforms, processes and functions, including natural drainage lines, watercourses, wetlands and foreshores, and</p> <p>(d) preserving the recreational, educational, scientific, aesthetic, environmental, ecological and cultural values and potential of bushland,</p> <p>(e) and mitigating disturbance caused by development.</p>	<p>Burrows Park is located to the rear of the site. The proposal will not impact Burrows Park and is considered acceptable.</p>	<p>Yes</p>
6.2 Earthworks		
<p>(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or</p>	<p>The proposal includes 2.2 metres of excavation and 2.0 metres of fill. The proposed excavation is not considered to result in any adverse detrimental impacts upon environmental functions and processes or neighbouring uses.</p> <p>The redevelopment of the site, given its sloping nature involves appropriate levels of cut and fill which does not adversely</p>	<p>Yes</p>

Ryde LEP 2014	Proposal	Compliance
features of the surrounding land.	impact the amenity of adjoining properties and is considered to be consistent with the provisions of Clause 6.2(3).	
Clause 6.4 Stormwater management		
(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.	<p>The proposal is consistent with the provisions of Clause 6.4(3) in that the proposal has been designed to maximise the use of permeable surfaces allowing for water filtration and avoids adverse impacts of stormwater runoff on adjoining properties and receiving waters.</p> <p>The proposal has been considered acceptable by Council's Senior Development Engineer.</p>	Yes

Aims and objectives for residential zones:

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

The proposal is for demolition of existing dwelling and construction of dual occupancy with swimming pool and Torrens Title subdivision which provides for a variety of housing types and provides for the housing needs of the community within a low density residential environment. The second objective is not of relevance to the proposed development. The proposed satisfies the relevant objectives for residential developments.

(ii) Any proposed instrument (Draft LEP, Planning Proposal)

Nil

(iii) Any development control plan

Ryde DCP 2014:

The development is subject to the provisions of Part 3.3 – Dwelling Houses and Dual Occupancy under the RDCP 2014. A full assessment of the proposal under DCP 2014 is illustrated in the compliance table at **Attachment 1**.

The provisions of DCP 2014 have been considered in this assessment and it is concluded that the proposed is consistent with the aims and objectives of RDCP 2014. Where strict compliance has not been achieved, in accordance with Section 4.15 (3A)(b) flexibility has been sought to allow a reasonable alternative solution that achieves the objects the standard. These matters are discussed below:

Section 2.1 – Desired Future Character

The objective of Section 2.1 is to ensure that development is consistent with the desired future character of the low density residential areas. Control 2.1(a) requires consistency with the desired future character and Part 2.1 details the fourteen means of achieving consistency with the desired future character.

The proposal includes three floor levels and results in a three storey building comprising of a lower ground floor, ground floor and first floor. The third storey component is technically limited to a portion at the rear of the dual occupancy and the development remains in full compliance with the LEP in terms of maximum building height. The proposal has a maximum height of 9.48 metres. **Figure 4** below shows the portion of the dual occupancy that is three storeys. The proposal is two (2) storeys when viewed from Clayton Street and is compatible with the streetscape which consists of single and two storey dwellings. The existing trees at the rear will offer a reasonable buffer and conceal the three storey component when viewed from Burrows Park. The proposal is setback 8.0 metres from the rear boundary and the separation ensures the three storey component is not prominent when viewed from Burrows Park. The proposed levels are required to enable the driveway to connect to the garage at an acceptable level. As such, the non-compliance is considered acceptable.

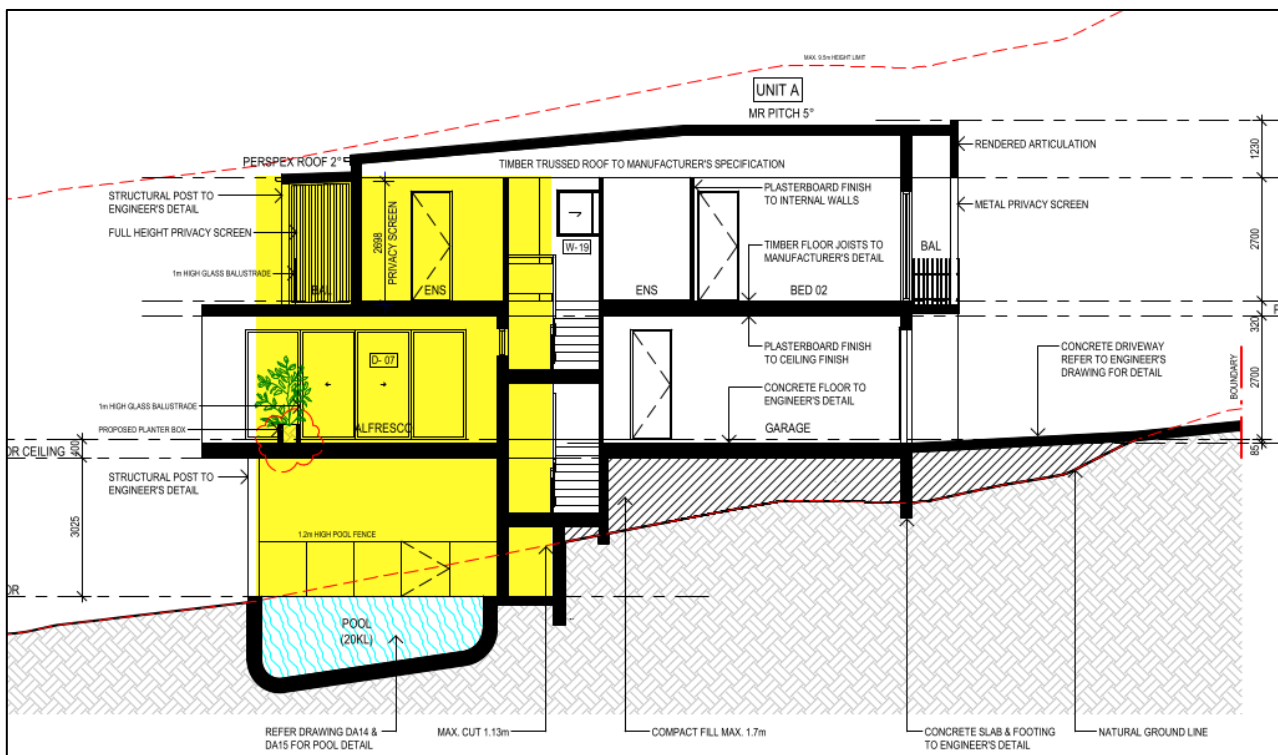


Figure 4 Section plan of dual occupancy. Highlighted section shows portion that is three (3) storeys

Section 2.6.1 – Deep soil areas

Control 2.6.1(e) states deep soil areas to be 100% permeable. Not covered by structures, paving or the like, or have below surface structures such as stormwater detention elements. The proposal provides for areas greater than the minimum 8m x 8m deep soil area within the rear Unit A (8.9m x 8.2m) and Unit B (9.1m x 11.8m) though both units have part of the rear yard occupied by an absorption trench. This non compliance is acceptable given the significant deep soil area provided across the remainder of the site which exceeds 35%. The proposal is consistent with the objectives of the controls in that the land retains its

ability to absorb rainwater so as to reduce stormwater runoff, retains the vegetation corridor, provides space for mature tree growth and retains existing mature trees. The non compliance is considered acceptable in the circumstance for the reasons outlined above.

Section 2.6.2 – Topography & Excavation

Control 2.6.2(b)(ii) requires within the dwelling footprint, the depth of excavation to be limited to a maximum of 1.2m. The depth of excavation within the building footprint is 2.2m and does not comply with this control. The proposed cut is associated with the swimming pool and exceeds the requirement by 1 metre. The extent of cut has been minimised, does not create inconsistency of built form when viewed from the street and does not result in an unreasonable loss of privacy or security for neighbours. The non-compliance is considered acceptable and in the circumstance meets the objectives of the control for the reasons outlined above.

Control 2.6.2(b)(iii) states the maximum height of fill within the building footprint is 900mm. The fill proposed within the building footprint is 2m. The fill is located below the Unit B kitchen. The fill proposed within the building footprint is non compliant with the control and exceeds the requirement by 1.1m.

The proposed building will be consistent with the adjoining dwellings and creates consistency along the streetscape. The proposal minimises excavation on site and retains natural ground levels and existing landform. The natural ground levels outside of the building footprint are largely maintained. The non compliance does not result in any additional privacy concerns for the adjoining neighbours.

The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

Control 2.6.2(c)(i) requires the maximum height of retaining walls to be no greater than 900mm. The following retaining walls are greater than 900mm and do not comply with the control:

- The retaining wall adjacent to the north eastern side boundary has a height of 1.11m. The full extent of the wall will only be visible from within the dual occupancy and not from the street. The retaining wall has no impact on the streetscape and is considered acceptable.
- The retaining wall adjacent to the south western side boundary has a height of 960mm. The full extent of the wall will only be visible from within the dual occupancy and not from the street. The retaining wall has no impact on the streetscape and is considered acceptable.

The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

Control 2.6.2 (c)(iii) permits maximum fill outside the building footprint of 500mm. The fill proposed outside the building footprint is 1.1m and therefore is non compliant with the control, exceeding the requirement by 600mm. The fill is proposed within the front yard. The site slope to the rear and the fill is required to provide pedestrian access to the dual occupancy at a functional level. The fill is also required to enable the driveway to connect to the garage at an acceptable level. The proposal is consistent with the objectives of the

controls in that the development will create a consistent streetscape and natural landform when viewed from the street. The proposed fill does not result in any unreasonable overlooking or amenity impacts. The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

Control 2.6.2(c)(vi) requires the area between the adjacent side wall of the house and the side boundary is not filled. The control requires that filled areas are not adjacent to side or rear boundaries. Fill is proposed along both side boundaries. The proposal does not comply with both Control 2.6.2(c)(vi) and Control 2.6.2(c)(vii). Approximately 400mm of fill is proposed along the north eastern side boundary. The fill aligns with the front yard of the neighbouring property and does not result in visual privacy impacts. Approximately 400mm of fill is proposed along the south western side boundary. The fill aligns with the front yard of the neighbouring property and does not result in visual privacy impacts. The fill is associated with the side pathways which is not an area considered to be used for extended periods. The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

Section 2.8.1 – Building Height

Control 2.8.1(a) requires the wall plate height to be 7.5 metres. The proposed wall plate height is 9.2 metres and does not comply with the control.

The proposal has a height of 9.48 metres and complies with the development standard of 9.5 metres. The site slopes from the front to the rear and the wall plate height non compliance occurs at the rear of the site where the natural ground level is the lowest. A compliant wall plate height would not significantly reduce the overshadowing to the rear yards. The non compliant wall plate height does not contribute to the overshadowing of the rear yards. The overshadowing of the rear yards occurs as a result of the orientation of the subdivision pattern north west – south east and the slope to the rear which has some impact on the length of the shadow. The non compliant building wall height does not result in any significant adverse amenity impacts to adjoining properties.

The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

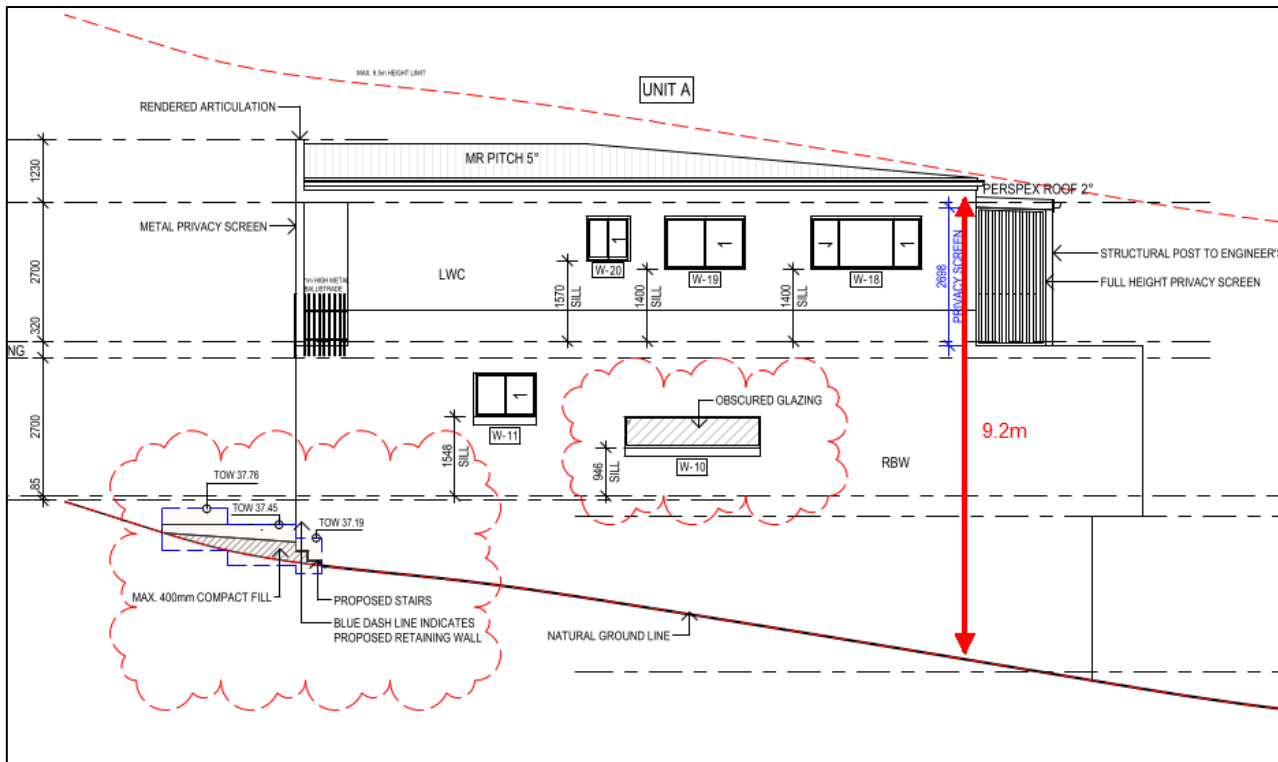


Figure 5 Wall plate height shown on elevation plan

Control 2.8.1(a) requires dual occupancy buildings to be two (2) storeys. The proposal is three storeys and does not comply with Control 2.8.1(a). The proposed three storey component is considered acceptable as discussed above under Section 2.1 – Desired Future Character.

Section 2.9.1 – Front Setbacks and Section 2.11.1 - Car Parking

Control 2.9.1(a) requires that dwellings are generally to be set back 6m from the street front boundary. The front setback measured to the first floor Unit B balcony is 5.4 metres and does not comply with Control 2.9.1(a). The extent of non compliance is minor at 600mm and extends for a length of 3.0 metres only. The remainder of the proposal has a front setback of 6 metres. The proposal meets the objectives of the control in that a satisfactory transition between public and private space is created, a consistent building setback is largely achieved, and a generous front garden is provided. The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

Control 2.9.1(c) and Control 2.11.1(c) and (p) require garages to be setback 1 metre from the dwelling's front façade. The Unit B garage is setback 0.7 metres forward of the Unit B facade and does not comply with Control 2.9.1(c) and Control 2.11.1(c) and (p).

The Unit B garage is setback 6.7 metres from the front boundary and complies with Control 2.9.1(a) which requires dwellings to be setback 6 metres from the street front boundary. The Unit B garage is setback 0.4 metres from the porch and 1 metre from the Unit A façade which create a break in the massing. The level of the garage is RL 37.925 and is lower than the level at the front boundary (RL 38.77). The garage will be sited lower than the front boundary and will not be a prominent feature in the streetscape. The site has a width of 18.5 metres and the Unit B garage will not be a prominent feature. The front elevation is appropriately articulated and achieves the desired presentation to the streetscape. The proposal is considered acceptable as it meets the objectives of the control in that the garage

is not a prominent element in the streetscape. The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

Control 2.9.1 (f) requires the outside face of a wall built above a garage which faces the street to align with the outside face of the garage wall below. The outside face of the wall built above the Unit B garage is setback 1.6 metres from the garage wall. The proposal does not comply with the control requirement. The Unit B garage is setback 0.4 metres from the porch and 1 metre from the Unit A façade which create a break in the massing. The transition in the front setback prevents the garage from being a prominent feature and provides visual interest. The front elevation is appropriately articulated and achieves the desired presentation to the streetscape. The proposal is considered acceptable as it meets the objectives of the control in that the garage is not a prominent element in the streetscape. The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

Section 2.11.1 – Car Parking

Control 2.11.1(i) states garages and carports facing the public street are to have a maximum width of 6m or 50% of the frontage, whichever is less. The garage width for the proposal is required to be 6m. The proposed garages have a combined width of 6.5m and do not comply with the control. This is considered acceptable for the following reasons:

- The level of the garages is RL 37.925 and is lower than the level at the front boundary (RL 38.77). The garages will not be a prominent feature in the streetscape;
- The width of the development is 16.3 metres and a garage with a larger width can be achieved without being a prominent feature;
- The Unit A garage is setback 1 metre from the dwelling façade and the Unit B garage is setback 0.4 metres from the porch. The articulation of the front façade ensure the garages are not a prominent feature;
- The width of the garages has not resulted in excessively wide driveways. The driveways have been kept to a minimum width where possible; and
- The garage width is still less than 50% of the site's frontage.

The proposal is considered acceptable as it meets the objectives of the control in that off-street parking is provided, car parking structures are not a prominent feature and car parking structures are consistent with the design of the dwelling. The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

Section 2.13 – Landscaping

Control 2.13(e) has a requirement that hard paved areas are to be minimised, and at a maximum, are to be no more than 40% of the front garden areas. The proposed hard paved area is 51% of the front garden area. The proposal does not comply with the control.

Control 2.6.1 (b)(ii) requires a front garden to be completely permeable with the exception of the driveway, pedestrian path and garden walls. The proposed hard paved area is associated with the proposed driveway and pedestrian pathways which complies with Control 2.6.1 (b)(ii). A condition is recommended requiring the width of the Unit B pathway to be reduced to 1.1 metres. The width of the pathway should not extend past the porch column. The landscaping with the front setback has been maximised where possible and the proposal achieves approximately 60.3m² of landscaping in the front garden. The front

pathways are proposed to be timber and the extent of concrete has been limited to the driveways. The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

Section 2.14.1 – Daylight and Sunlight Access

Control 2.14.1(a) states living areas are to be located predominantly to the north where the orientation of the lot makes this possible. Control 2.14.1(c) requires windows to north-facing living areas of the subject dwelling are to receive at least 3 hours of sunlight between 9 am and 3 pm on 21 June over a portion of their surface.

The living areas of Unit A predominantly orientate to the south west, south east and north east. The garage and entrance are orientated to the north west, given this is the site's frontage, and the living areas are orientated to the rear to enable views to Burrows Park. The shadow diagrams show the living area windows are overshadowed between 9am and 3pm on June 21. The proposal is considered acceptable given the orientation of the subdivision pattern north west – south east which results in the south western and south eastern elevations being affected by overshadowing throughout the day. The proposed development is largely compliant with the required setbacks and heights and it is considered the shadow impact is not a result of poor design but rather the orientation of the allotments. The ground floor study room orientates to the north and receives adequate solar access between 9am and 3pm. A condition is included to require a skylight to be provided above the living/dining area to improve the amenity of the future occupants.

The living areas of Unit B orientate to the south east and north east. The garage and entrance are orientated to the north west, given this is the site's frontage, and the living areas are orientated to the rear to enable views to Burrows Park. The shadow diagrams show the living/dining rooms windows are overshadowed between 9am and 3pm on June 21. The proposal is considered acceptable given the orientation of the subdivision pattern north west – south east which results in the south eastern elevation being affected by overshadowing throughout the day. The proposed development is largely compliant with the required setbacks and heights and it is considered the shadow impact is not a result of poor design but rather the orientation of the allotments. The proposal is considered acceptable as the north eastern kitchen window receives adequate solar access between 9am and 12pm on June 21. The ground floor study room orientates to the north and receives adequate solar access between 9am and 3pm. A condition is included to require a skylight to be provided above the living/dining area to improve the amenity of the future occupants. The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

Control 2.14.1(d) states private open space of the subject dwelling is to receive at least two hours sunlight between 9 am and 3 pm on June 21.

The shadow diagrams show the private open space of Unit A will not receive two hours sunlight between 9 am and 3 pm on June 21. A compliant wall plate height would not significantly reduce the overshadowing to the rear yards. The proposal is considered acceptable despite the non compliance given the orientation of the subdivision pattern north west – south east which results in the private open space areas being overshadowed throughout the day. The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

Control 2.14.1e(ii) requires 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.

The site is adjoined to the south west by, No. 32 Clayton Street. This property is subject of a recent development application approval for the demolition of the existing dwelling, construction of a two storey dwelling, swimming pool and front fence (LDA2022/0285) which was approved on 18 January 2023. The proposal will overshadow one (1) north east facing living room window approved under LDA2022/0285 between 9am and 12pm.

A compliant wall plate height would not significantly reduce the overshadowing to the neighbouring property. The proposal is considered acceptable despite the non compliance given the orientation of the subdivision pattern north west – south east which results in the adjoining properties north eastern window being impacted by overshadowing between 9am and 12pm. The proposed development is largely compliant with the required setbacks and overall building height and it is considered the shadow impact is not a result of poor design but rather the orientation of the allotment. The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

Section 2.14.2 – Visual Privacy

Control 2.14.2(a) requires windows of the main internal living spaces such as living rooms, dining rooms, kitchens, family rooms and the like, to orientate to the front or to the rear of allotments. Control 2.14.2(d) requires living room and kitchen windows, terraces and balconies are not to allow a direct view into neighbouring dwellings or neighbouring private open space. The following openings do not comply with Control 2.14.2(a) and (d):

Unit A

- Kitchen window. The window has obscured glazing and is not openable. The window will have no adverse impact on the adjoining property.
- The living/dining glass sliding door opening to the alfresco area. The glass sliding door aligns with the party wall and does not result in visual privacy impacts.
- First floor study window. The study window does not align with any openings within the neighbouring property and does not result in visual privacy impacts.

Unit B

- Kitchen window. The window aligns with a blank wall within the neighbouring property and does not result in visual privacy impacts.
- Living/dining glass sliding door opening to the alfresco area. The solid wall associated with the alfresco and full height privacy screen located on the north east elevation align with the glass sliding door. The glass sliding door does not result in visual privacy impacts.

The non-compliances are considered acceptable in the circumstance for the reasons outlined above.

Control 2.14.2(c) requires terraces and balconies are not to overlook neighbour's living areas and private open space. Control 2.14.2(d) requires living room and kitchen windows, terraces and balconies are not to allow a direct view into neighbouring dwellings or

neighbouring private open space. The following balcony does not comply with Control 2.14.2(c) and (d):

Unit A

- Ground floor alfresco. The ground floor alfresco is elevated well above the natural ground level immediately below the slab and there would be overlooking which may occur. Although raised, it would be difficult to overlook the adjoining property to the side as the alfresco is set in behind a masonry wall. A planter box on the outside of the rear glass balustrade also acts as a barrier for overlooking. The planter box is proposed with plants capable of growing up to 2.5m high (*Viburnum* copper tops). The plants specified require full sun and are not appropriate in this location as they will not receive the sunlight required for them to grow. Council's Landscape Architect has recommended *Nandina domestica* (Sacred Bamboo) which grow to a height of 1.5 metres and will restrict overlooking. A condition has been included in the consent to replace the proposed plants with a more appropriate species.
- First floor street facing balcony. The first floor balcony is elevated which may enable some limited views into the front yard of the neighbouring property. The balcony has a depth of 1m and is accessed from a Bedroom. Given the depth and access being from a bedroom, it is not considered to be an area which will be extensively used for prolonged periods or result in any significant adverse impacts upon the visual privacy of the adjoining property.
- First floor rear facing balcony. The first floor balcony off the main bedroom would enable views into the neighbouring properties. A full height privacy screen is proposed along the side which will limit direct overlooking of the neighbouring property to the west. Overlooking into the property to the east, being Unit B within the development is obscured by the blade wall which extend to the ceiling level of the First floor and out to the furthest point of the common wall (see ground floor plan) and the distance away from the common boundary. The balcony has dimensions of 3.5m (width) x 1.2m (depth). Given the dimensions and access being from a bedroom, it is not considered to be an area which will be extensively used for prolonged periods and views will be directed to Burrows Park. The balcony will not result in any significant adverse impacts upon the visual privacy of the adjoining property.

Unit B

- Ground floor alfresco. The ground floor alfresco is elevated well above the natural ground level immediately below the slab and there would be overlooking which may occur. Although raised, it would be difficult to overlook adjoining property to the side as the alfresco is set in, behind a masonry wall and a full height privacy screen 2.0m beyond the wall. A planter box on the outside of the rear glass balustrade also acts as a barrier for overlooking. The planter box is proposed with plants capable of growing up to 2.5m high (*Viburnum* copper tops). The plants specified require full sun and are not appropriate in this location as they will not receive the sunlight required for them to grow. Council's Landscape Architect has recommended *Nandina domestica* (Sacred Bamboo) which grow to a height of 1.5 metres and will restrict overlooking. A condition has been included in the consent to replace the proposed plants with a more appropriate species.

- First floor street facing balcony. The first floor balcony is elevated which may enable some limited views into the front yard of the neighbouring property. The balcony has a depth ranging from 1.7 metres to 2.6 metres and is accessed from a Bedroom. Given the depth and access being from a bedroom, it is not considered to be an area which will be extensively used for prolonged periods or result in any significant adverse impacts upon the visual privacy of the adjoining property.
- First floor rear facing balcony. The first floor balcony off the main bedroom would enable views into the neighbouring properties. A full height privacy screen is proposed along the side which will limit direct overlooking of the neighbouring property to the east. Overlooking into the property to the west, being Unit A within the development is obscured by the blade wall which extend to the ceiling level of the First floor and out to the furthest point of the common wall (see ground floor plan) and the distance away from the common boundary. The balcony has dimensions of 4.7m (width) x 1.2m (depth). Given the dimensions and access being from a bedroom, it is not considered to be an area which will be extensively used for prolonged periods and views will be directed to Burrows Park. The balcony will not result in any significant adverse impacts upon the visual privacy of the adjoining property.

The non-compliances are considered acceptable in the circumstance for the reasons outlined above.

Section 2.15.1 – Roofs

Control 2.15.1(a)(iii) requires eaves with a minimum overhang of 450mm to be provided for pitched roofs. The eave overhang is 200mm and is non compliant with the control. An articulated roof is proposed and is consistent with the character of the dwelling. The non compliance is not noticeable and is considered acceptable in this regard. The proposal is considered acceptable as it meets the objectives of the control in that the roof design contributes to the design of the building, contributes to a consistent streetscape and provides weather protection. The non-compliance is considered acceptable in the circumstance for the reasons outlined above.

Control 2.15.1(a)(iv) requires a compatible roof form, slope, materials and colour to adjacent buildings to be provided. An articulated roof form consisting of a parapet roof and colorbond pitched roof is proposed. The proposal does not comply with Control 2.15.1 (a)(iv) as the adjacent buildings have pitched tiled roofs. Despite being within 100m of a heritage item, being a Park, the proposal is not considered to have adverse impacts on the heritage significance of the item. The proposed roof form and material will not have an adverse impact on the streetscape and is reflective of the changing streetscape. The non compliance is considered acceptable in the circumstance for the reasons outlined above.

(iv) The Regulations

Environmental Planning and Assessment Regulation 2021

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and others. Standard conditions are recommended relating to compliance with

BCA and AS.

Australian Standard for Demolition - Clause 61(1)

Clause 61(1) of the Environmental Planning & Assessment Regulations 2021 requires the consent authority to consider the provisions of *Australian Standard AS 2601-2001: The demolition of structures*. The demolition of the existing structures will be carried out in accordance with a construction/demolition management plan, and this will be required to be submitted prior to the issue of a Construction Certificate. Conditions to this effect are included in the recommendation section of this report.

Building Code of Australia Upgrade – Clause 64

In accordance with Clause 64 of the Regulations 2021, the proposal will be required to provide adequate fire safety in accordance with the BCA. This will be included in the recommendations of this report.

Section 7.11 - Development Contributions Plan – 2020

Council's current Section 7.11 Development Contributions Plan 2020 effective 1 July 2020 requires a contribution for the provision of various additional services required as a result of increased development density. The contribution is based on the number of additional dwellings there are in the development proposal. The contribution that are payable with respect to the increase housing density on the subject site (being for residential development outside the Macquarie Park Area) are as follows:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$6,061.80
Open Space & Recreation Facilities	\$10,438.15
Roads & Traffic Management facilities	\$3,204.48
Plan Administration	\$295.57
The total contribution is	\$20,000.00

Condition on the payment of Section 7.11 Contribution of \$20,000.00 has been included in the draft notice of determination attached to this report.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment in general due to the nature of the development. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report (see DCP 2014). The development is considered satisfactory in terms of environmental impacts.

(c) The suitability of the site for the development

The site is zoned R2 Low Density Residential. The proposal is for demolition of existing dwelling and construction of dual occupancy with swimming pool and Torrens Title. The assessment has demonstrated the proposal is consistent with the statutory requirements and policy controls. The assessment demonstrates the proposal will not result in any significant adverse impacts upon adjoining properties or the streetscape. The proposal is an appropriate development and this has been demonstrated in this report. The proposal is considered to be suitable for the site.

(d) Any submissions made in accordance with this Act or the regulations

In accordance with DCP 2014 Part 2: Community Participation Plan and Procedure, the owners of surrounding properties were given notice of the application between 15 November 2022 to 5 December 2022.

The amended plans received on 27 March 2023, 8 May 2023 and 29 June 2023 were not required to be renotified in accordance with DCP 2014 Part 2: Community Participation Plan and Procedure. The amendments are not considered to increase the impact on adjoining or neighbouring land or cause material impact on the environment.

Overall, in response to the public notification period, no submissions were received.

(e) The public interest

The public interest is best served by the consistent application of the requirements of relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised. The proposal has been assessed against the relevant planning instruments and is considered to be acceptable. The proposal is compliant with the principal development standards. The proposal does not result in any adverse impacts upon adjoining properties or the streetscape. On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

Objects of EP&A Act

Section 1.3 of the EP & A Act contains the following relevant objects:

1.3 Objects of Act (cf previous s 5)

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (g) to promote good design and amenity of the built environment,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

The proposal achieves the objectives. The proposed attached dual occupancy provides for an appropriate built form which is responsive to the site constraints and has been designed in response to the site's topography. The proposal is consistent with relevant Objects of the Act.

CONCLUSION

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is suitable for the site and is not contrary to the public interest. Therefore, it is recommended that the application be approved for the following reasons:

- The proposal is consistent with the objectives for R2 zoned land.
- The proposal complies with the statutory provisions set out in the Environmental Planning and Assessment Act 1979.
- The proposal is considered to be low impact to adjoining properties and surrounding environment.
- The proposal is not contrary to the public interest.

RECOMMENDATION:

That Council as the consent authority grant development consent to Local Development Application LDA No. LDA2022/0358 for demolition of existing dwelling and construction of dual occupancy with swimming pool and Torrens Title subdivision on land at 34 Clayton Street Ryde subject to the conditions in the attached draft consent.

In signing this report, I declare that I do not have a conflict of interest.



Niroshini Stephen
Senior Town Planner



Sohail Faridy
Senior Coordinator
Development Assessment

This application is determined on 13 July 2023 under the delegated authority of:



Carine Elias
Manager Development Assessment

ATTACHMENT 1 – COMPLIANCE TABLE

DCP 2014	Proposed	Compliance
Part 3.3 - Dwelling Houses and Dual Occupancy (attached)		
Section 1.0 Introduction		
Part 1.6 Site Analysis		
Site analysis to be submitted.	Drawing prepared by ASA Studio and dated 5/05/2023	Yes
Section 2.0 General Controls		
2.1 Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	Three storeys	No
2.2 Dwelling Houses		
(a) Landscape setting which includes significant deep soil areas at the front and rear	Landscape setting includes significant deep soil areas at the front and rear	Yes
(b) Maximum two storeys high	Three storeys	No
(c) Dwellings address the street	Dwelling address the street	Yes
(d) Boundary between public and private space is clearly articulated	Boundary between public and private space is articulated	Yes
(e) Garages and carports are not to be visually prominent features	Garages are not visually prominent features	Yes
(f) Dwellings are to respond appropriately to the site analysis	Dwellings respond to the site analysis	Yes
2.3 Dual Occupancy (attached)		
(a) New dual occupancy buildings are to meet the controls for new dwelling houses set out in 2.2.1..	The proposal does not comply with Control (b) as above	No
(b) Alterations and additions to dual occupancy buildings are to meet the requirements of 2.2.2		
2.4 Subdivision		
Minimum lot sizes apply under RLEP Clause 4.1A	Subdivision plan has been provided	Yes
	The proposal complies with Clause 4.1A	
2.5 Public Domain Amenity		
2.5.1 Streetscape		
(a) Site design, building setbacks and level changes respect the existing topography	Site design, building setbacks and levels changes respect the existing topography	Yes
(b) Front gardens to complement and enhance streetscape character	Front gardens complement and enhance the streetscape character	Yes

DCP 2014	Proposed	Compliance
(c) Dwelling design is to enhance the safety and amenity of the streetscape	Windows and balconies orientate to the street	Yes
(d) Carports and garages visible from the public street are to:	Garages are compatible with the building design. Unit A garage is setback 1 metre. Unit B garage is 0.7 forward of façade	Yes
(i) Be compatible with the building design		
(ii) Be setback behind the dwelling's front elevation		
(e) Driveways and hard stand areas are to be minimised	Driveways and hardstand areas have been minimized. No issues raised by Council's Development Engineer.	Yes
(f) Dwellings, garages and carports are to be orientated to match the prevailing orientation of such buildings in the streetscape	Dwelling and garages match the orientation of such buildings in the streetscape	Yes
(g) Facades from the public domain are to be well designed.	Facades from the public domain are well designed.	Yes
2.5.2 Public Views and Vistas		
(a) A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views. Fence 70% open where height is >900mm.	N/A – no existing view to water	Yes
(b) Garages/carports and outbuildings are not to be located within view corridor if they obstruct view.	N/A – no existing view to water	Yes
2.5.2 Pedestrian & Vehicle Safety		
(a) Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard.	No issues raised by council's Development Engineer	Yes
(b) Fencing that blocks sight lines is to be splayed.	N/A – no changes to front fence	Yes
(c) Refer to relevant AS when designed driveways		
2.6 Site Configuration		
2.6.1 Deep Soil Areas		
(a) 35% of site area min.	42.4% (265.7m ²)	Yes
(b) Deep soil area must include:		
(i) Min 8x8m deep soil area in backyard.	8x8m has been provided	Yes

DCP 2014	Proposed	Compliance
(ii) Front garden area to be completely permeable (exception driveway, pedestrian path and garden walls).	Front garden completely permeable except for driveway and pedestrian paths	Yes
(c) Dual occupancies need only one 8m x 8m in back yard	8x8m has been provided	No
(d) Deep soil areas to have soft landscaping	Deep soil areas have soft landscaping	Yes
(e) Deep soil areas to be 100% permeable. Not covered by structures, paving or the like, or have below surface structures such as stormwater detention elements.	Deep soil areas are not 100% permeable. Absorption trenches are located within deep soil area.	No
2.6.2 Topography & Excavation		
(a) Building form and siting relates to the original topography of the land and of the streetscape.	Building form and siting related to the original topography of the land and of the streetscape	Yes
(b) The area under the building footprint may be excavated or filled so long as:		
(i) the topography of the site requires cut and/or fill in order to reasonably accommodate a dwelling	The topography of the site requires cut and fill to reasonably accommodate the dual occupancy	Yes
(ii) the depth of excavation is limited to 1.2m maximum	Max cut: 2.2m	No
(iii) the maximum height of fill is 900mm	Max fill: 2m	No
(c) Areas outside the dwelling footprint may be excavation and/or filled so long as:		
(i) the maximum height of retaining walls is not >900mm	Retaining wall height = 1.1m	No
(ii) the depth of excavation is not >900mm	N/A – no excavation proposed outside the building footprint	Yes
(iii) the height of fill is not >500mm	Max fill: 1.1m	No
(iv) the excavation and filled areas do not have an adverse impact on the privacy of neighbours	The excavation and filled areas do not have an adverse impact on the privacy of neighbours	Yes

DCP 2014	Proposed	Compliance
(v) the filled areas do not have an adverse impact on the privacy of neighbours	Filled areas do not have an adverse impact on the privacy of neighbours	Yes
(vi) the area between the adjacent side wall of the house and the side boundary is not filled	Area between the side wall of the house and side boundary is filled	No
(vii) the filled areas are not adjacent to side or rear boundaries	Filled areas are adjacent to side boundary	No
(d) Fill is not allowed in areas of overland flow. Refer to Part 8.2 stormwater management	N/A – the site is not affected by overland flow	Yes
(e) Generally the existing topography is to be retained.	Generally the existing topography is retained	Yes
2.7 Floor Space Ratio (FSR)		
(a) FSR is 0.5:1 in accordance Clause 4.4	Ground Floor: 191m ² First Floor: 155.8m ² Minus 36 m ² : 310.8m ² 310.8m ² / 626.7m ² FSR =: 0.496:1	Yes
(b) A floor area of 36m ² maybe excluded when this area accommodates 2 car space. An area of 18m ² may be excluded when the area accommodates 1 parking space.		
2.8 Height		
2.8.1 Building height		
(a) Building heights are to be as follows: - Maximum height of 9.5 metres for dwellings and dual occupancy. - Outbuildings including garages and carports maximum height 4.5 metres.	Roof RL (highest): 44.23RL EGL (lowest) under: 34.75RL Height of Building = 9.48m	Yes
<u>Maximum wall plate</u> - 7.5m max above FGL or - 8m max to top of parapet <i>NB:</i> <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i>	TOW RL:44.03 EGL below: 34.83 TOW Height = 9.20m	No

DCP 2014	Proposed	Compliance
- FGL = Finished Ground Level		
<u>Maximum number of storeys:</u> - 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL).	Three storeys	No
- 1 storey maximum above attached garage incl semi-basement or at-grade garages	1 storey above garage	Yes
2.8.2 Ceiling Height		
(a) Habitable rooms to have 2.4m floor to ceiling height (min).	2.7m minimum room height.	Yes
2.9 Setbacks		
2.9.1 Front setbacks		
(a) Dwellings are generally to be set back 6m from street front boundary	5.4m	No
(b) On corner sites, the setback secondary frontage minimum 2m	N/A – the site is not a corner site	Yes
(c) Garages and carports, including semi-basement garages and attached garages, set back min 1m from façade	Unit A garage is setback 1 metre. Unit B garage is 0.7 forward of façade	No
(d) The front setback free of structures. The exception is car parking structures which comply with 2.11.	The front setback is free of structures	Yes
(e) Attached garages, including semi-basement garages on secondary frontages not to protrude forward of the façade. The exception is garages located on battle axe allotments. These garages do not need to be setback.	N/A	Yes
(f) The outside face of wall built above a garage aligns with the outside face of the garage wall below.	Unit A – aligns Unit B – wall is setback 1.6 metres	No
2.9.2 Side Setbacks		
(a) One storey dwellings setback 900mm	Lower ground – 1.5m Ground floor - 1.5m	Yes
(b) Two storey dwellings setback 1.5m	First floor – 1.5m	

DCP 2014	Proposed	Compliance
(c) The second storey addition to a single storey dwelling are to be set back 1.5m (d) Allotments wider than they are long, one side setback a min of 20% of the width of the lot or 8m, whichever is greater.	N/A N/A	
2.9.3 Rear Setbacks		
(a) The rear setback min 25% of the site length or 8m, whichever is greater. (b) Allotments wider than they are long, min setback of 4m (c) Dwelling on battle axe allotment are to be setback the rear boundary of the front lot min of 8m. Single storey garage or outbuilding can be within setback.	A rear setback of 7.53m is 25% of site length. Proposed = 8m	Yes
2.11 Car Parking and Access		
2.11.1 Car Parking		
(a) Dwellings 2 spaces. Dual occ 1 space/dwg (b) Spaces can be enclosed or roofed. (c) Garages setback 1m behind front elevation. (d) Located forward of existing dwelling if: (i) there is no other suitable position (ii) no vehicular access to the rear of side of the site (iii) it is preferred that it is single car width. (e) Garages doors solid. No expanded mesh doors. (f) Preference located off laneways, secondary street frontages. (g) Driveway widths minimised. Driveways single car width except where needed to be widened to double garage access. (h) Driveways not roofed. (i) Min width 6m or 50% of the frontage whichever is less	2 spaces proposed Spaces are enclosed and roofed Unit A garage is setback 1 metre. Unit B garage is 0.7 forward of façade N/A Garage doors are solid N/A Driveway widths minimized. No issues raised by Council's Development Engineer. Driveway is not roofed 6.5m	Yes Yes No Yes Yes Yes Yes No

DCP 2014	Proposed	Compliance
(j) Total width garage doors not be >5.7m	5.2m	Yes
(k) Driveways for battle axe enable vehicles to enter and leave in forward direction	N/A	Yes
(l) Garage doors not be recessed more than 300mm	Garage doors are not recessed more than 300mm	Yes
(m) Garage windows >900mm from boundaries	N/A – no garage windows proposed	Yes
(n) Free standing garages max GFA 36m ²	N/A	Yes
(o) Design and materials to complement dwelling	Materials and finishes complement the dwelling	Yes
(p) Setback at least 1m from façade	Unit A garage is setback 1 metre. Unit B garage is 0.7 forward of façade	No
(q) Carports not enclosed.	N/A	Yes
2.11.2 Semi basement Car Parking		
(a) Ramps start at least 2m from street boundary. Ramps not on public land.	N/A – semi basement garage is not proposed	Yes
(b) The walls of semi basement car parks are not to extend beyond the walls of the dwelling above.		
(c) Semi basement car parking can only be used where it is appropriate with regard to the topography of the site.		
2.12 Swimming Pools and Spas		
(a) Swimming pools, fencing, gates and spas must comply with all relevant Acts. Regulations and Australian Standards.	1.2m high swimming pool fence proposed. Condition recommended	Yes
(b) Child resistant barrier.	Condition recommended	Yes
(c) Wall of dwelling may form part of the barrier.	Wall forms part of dwellings and does not contain any openings.	Yes
(d) If spa is covered by a child safe structure no barrier required.	N/A – no spa proposed	Yes
(e) Not within front setback.	Not within front setback	Yes
(f) Finished coping level not >500mm above adjacent ground level. Must not adversely impact on privacy of neighbours.	300mm The pool do not result in overlooking	Yes

DCP 2014	Proposed	Compliance
(g) Setback 900mm from outside edge of coping, deck or pool surrounding including paving. Further setback to preserve existing screen planting.	Pools are setback greater than 900mm from side and rear setbacks	Yes
(h) Screen planting is to be provided within a landscape bed, which is to have a minimum width of 900 mm and is to extend for the length of the pool. Planting is to take the form of dense hedging with a minimum height of 2 m and minimum spacing of plants of 1 metre	N/A - The pool is located within the lower ground floor and does not result in visual privacy impacts	Yes
(i) Min 3m from trunk of trees over 5m in height.	Pools are greater than 3m from tree trunks	Yes
(j) Pool pump/filter away from neighbouring dwgs. Acoustically enclosed noise does not exceed 5dB(a) above background at boundary.	Location of pool filter equipment is acceptable. Condition recommended regarding noise	Yes
2.13 Landscaping		
(a) Major trees to be retained where practical	Major trees retained where practical. No issues raised by Council's Landscape Architect	Yes
(b) Lots adjoining bushland, protect and retain indigenous native vegetation and use native indigenous plant spaces for a distance of 10m	The site is affected by urban bushland. No issues raised by Council's Environment Officer	Yes
(c) Provide useful outdoor spaces	Useful outdoor spaces provided	Yes
(d) Physical connection between dwelling and external ground level	Physical connection between dwelling and external ground level provided	Yes
(e) Provide landscape front garden. Hard paved areas no more than 40%.	51% (64m ²)	No
(f) Pathway along one side boundary connecting front to rear. Not to be blocked by ancillary structures. Not required where there is rear	Pathway provided on both sides of dual occupancy	Yes

DCP 2014	Proposed	Compliance
lane access or corner allotment.		
(g) Landscape elements in front garden to be compatible with scale of dwelling.	Landscape elements in front garden are compatible with the scale of the dwelling	Yes
(h) Front garden at least 1 canopy tree at least 10m in height	Two (2) water gum with a height of 10m	Yes
(i) Mature tree at least 15m in rear garden with the DSA	A mature tree with a height of 15m has not been provided. This is considered acceptable as existing trees (e.g. Tree 4 has a height of 19m) with a height of 15m are being retained. No issues raised by Council's Landscape Architect	Yes
(j) Locate and design landscaping to increase privacy between dwellings	Hedge planting proposed on the side and rear boundaries	Yes
(k) Hedge planting on boundary no greater than 2.7m	3.0 metres. The 3.0 metre high screen planting does not result in overshadowing impacts to the neighbouring properties and the non compliance is considered acceptable	Yes
(l) Retaining walls and other landscape elements not to obstruct stormwater overland flow.	No issues raised by Council's Development Engineer	Yes
(m) OSD not to be located within front setback unless it is underneath driveway	N/A	Yes
(n) Landscaping to include POS	Landscaping includes POS	Yes
2.14 Dwelling Amenity		
2.14.1 Daylight and Sunlight Access		
(a) Living areas are to be predominantly located to the north where possible	Unit A - living areas orientate to the south west, south east and north east Unit B – living areas orientate to the south east and north east	No
(b) Sites with northern side boundary to have increased setback of 4 metres is preferred.	N/A – north does not orientate to the side boundary	Yes
<u>Subject Dwelling</u>	Unit A – north east facing sliding door does not receive 3 hours	No

DCP 2014	Proposed	Compliance
<p>(c) Windows to north facing living areas of subject dwellings are to receive at least 3 hours of sunlight between 9am to 3pm on June 21.</p> <p>(d) Private open space is to receive at least 2 hours sunlight between 9am to 3pm on June 21.</p> <p><u>Neighbouring properties:</u></p> <p>(e) For neighbouring properties:</p> <p>(i) sunlight to 50% of principal areas of ground level POS is not reduced to less than 2 hours between 9am to 3pm on 21 June</p> <p>(ii) windows to north facing living areas to receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of surface, where can be reasonably maintained given orientation and topography.</p>	<p>Unit B – living/dining sliding door and kitchen window orientate north east. The sliding door does not receive 3 hours. The kitchen window receives 3 hours.</p> <p>Unit A – does not receive 2 hours of solar access Unit B - receives 2 hours between 9am and 11am</p> <p>50% of private open space receives 2 hours of solar access</p> <p>The proposal does not overshadow the north facing living areas of existing neighbouring properties.</p> <p>One (1) window within the neighbouring property approved under (LDA2022/0285) will not receive solar access for 3 hours</p>	<p>No</p> <p>Yes</p> <p>No</p>
2.14.2 Visual Privacy		
<p>(a) Orientate the windows of main living spaces (living room, dining, kitchen, family etc) to the front and rear</p> <p>(b) Orientate terraces, balconies and outdoor living areas to front or rear and not side boundary</p> <p>(c) Terraces and balconies are not to overlook neighbour's living areas and POS</p> <p>(d) Living and kitchen windows, terraces and balconies are not to allow direct view into</p>	<p>Unit A – kitchen window, living/dining glass sliding door and study window orientate to the side Unit B – kitchen window and living/dining glass sliding door orientate to the side</p> <p>All outdoor living areas orientate to the front and rear</p> <p>Unit A – ground floor alfresco, first floor front and rear balcony Unit B – ground floor alfresco, first floor front and rear balcony</p> <p>Unit A – study, ground floor alfresco, first floor front and rear balcony</p>	<p>No</p> <p>Yes</p> <p>No</p> <p>No</p>

DCP 2014	Proposed	Compliance
neighbouring dwelling or POS	Unit B – ground floor alfresco, first floor front and rear balcony	
(e) Side windows are to be offset by sufficient distance to avoid visual connection between dwellings.	All windows are offset	Yes
(f) Splayed walls with windows are not to be located above ground level where the windows provide views into adjoining property	N/A – no splayed walls	Yes
2.14.3 Acoustic Privacy		
(a) Noise of mechanical equipment not exceed 5dB(A) above background noise measured in or on any premises in vicinity of the item.	Air conditioning units are not proposed. Pool filter equipment is proposed for each unit. Condition recommended.	Yes
(b) Dwellings on arterial roads double glazed windows fronting road.	N/A	Yes
(c) Dwellings on arterial roads acoustic seal on the front door.	N/A	Yes
(d) Dual occupancies are to be designed to reduce noise transmission between dwellings.	Pool/outdoor living areas are collocated on the lower ground floor, garages and living areas are collocated on the ground floor and bedrooms and bathrooms are collocated on the first floor	Yes
2.14.4 View Sharing		
(a) The siting of development is to provide for view sharing.	The siting of the development allows for view sharing	Yes
2.14.5 Cross Ventilation		
(a) Designed to optimise access to prevailing breezes and provide for cross ventilation.	The plan layout is designed to optimise access to prevailing breezes and provides for cross ventilation	Yes
2.15 External Building Elements		
2.15.1 Roofs		
(a) Relate roof design to the desired built form by:		
(i) articulating the roof		

DCP 2014		Proposed	Compliance
(ii)	roof is consistent with the architectural character of dwelling	An articulated roof is proposed. The roof is consistent with the architectural character of the dwelling. Eaves overhang by 200mm. The roof form, slope, material and colour is not compatible with adjacent buildings. Roof height is in proportion to the wall height of the building.	No
(iii)	eaves minimum 450mm overhang on pitched roofs		
(iv)	compatible roof form, slope, material and colour to adjacent buildings		
(v)	roof height is in proportion to the wall height of the building		
(b)	The main roof not trafficable terrace.	Main roof is not a trafficable terrace	Yes
(c)	Proposed attic contained within the volume of the roof space.	N/A – no attic proposed	Yes
(d)	Skylights to be minimised on roof planes visible from the public domain. Skylights are to be symmetrical.	N/A – no skylights proposed	Yes
(e)	The front roof plane is not to contain both dormer and skylight. Dormers are preferred.	N/A – skylights and dormers are not proposed	Yes
(f)	Balconies and terraces are not to be set into roofs.	Balconies and terraces are not set into the roofs	Yes
(g)	Scale of the roof is to be in proportion with the scale of the wall below.	Scale of the roof in is proportion with the scale of the wall below	Yes
(h)	Attics may be located in the garage roofs if the garage is located next to the dwelling. Garages located within front or rear setbacks are not to have attics.	N/A	Yes
2.16 Fences			
2.16.1 Front and return Fences and Walls			
(a)	Reflect the design of the dwelling	No changes to existing front fence. The demolition plan notates a section of the front fence is to be demolished to accommodate the driveway and this is considered acceptable.	Yes
(b)	Materials compatible with the house and other fences in streetscape		

DCP 2014	Proposed	Compliance
(c) Solid fence or wall max 900mm. Open light weight fence (timber picket) 1m. (d) Return fence is to be no higher than front fence (e) Fences max 1.8m if 50% open with solid base max 900mm (f) Fences arterial road solid and 1.8m max (g) No Colorbond or timber paling. (h) Retaining walls max 900mm (i) Fence Overland flow - fencing open not impede flow of water (j) piers max 350mm.		
2.16.2 Side and Rear Fences and Walls		
(a) 1.8m Max side and rear fence	N/A - Existing timber paling fence to be retained on side and rear boundary.	Yes
(b) Overland flow - fencing to be open not impede flow of water	N/A	Yes
(c) No Barbed wire, broken glass or other dangerous elements.	N/A	Yes
(d) Fencing forward of the foreshore building line open and permeable.	N/A	Yes
Part 7: Environment		
7.1: Energy Smart, Water Wise		
3.0 The information Guide		
3.2 Required information		
(a) Energy efficiency performance report (b) Site analysis	BASIX Certificate: 1316909M_02 and dated 28 October 2022 Energy: 50 Water: 40 Plans consistent with Certificate	Yes
Part 7.2 Waste Minimisation and Management		
2.3 All developments		
(a) Developments must provide space for onsite waste containers (b) Compliant size of storage areas and number of storage containers. (c) Space to be provided for bulk waste where appropriate.	A Waste Management Plan has been submitted and is considered acceptable	Yes

DCP 2014	Proposed	Compliance
(d) Storage of green waste provided (e) Stored within the boundaries of the site. (f) Site Waste Minimisation and Management Plan (SWMMP) to be submitted (g) Located to provide easy, direct and convenient access. (h) No incineration devices. (i) Collection point identified on plan. (j) Path for wheeling bin collection not less than 14		
2.4 Demolition and Construction		
(a) Demolition must comply with AS and WorkCover (b) Demolition work plan submitted (c) Dedicated area on site for stockpile of materials taking into account environmental factors and amenity impacts. (d) Construction materials to be stored away from the waste materials on site.	Demolition plan provided	Yes
2.5 Residential Developments comprising 1 or 2 Dwellings		
(a) Space inside each dwelling for receptacles for garbage, recycling. (b) Space provided outside the dwellings to store the required garbage, recycling and green waste bins. Screened from street. Easy access to wheel the bins to the kerbside.	Provided Provided	Yes Yes
Part 8: Engineering		
8.1 Construction Activities		
2.1.2 Erosion and Sediment Control Plan		
Erosion and sediment control plan to be submitted.	Erosion and sediment control plan Ref: Dwg No. DA22 Issue J dated 5/05/2023 prepared by ASA Studio Conditions recommended	Yes
Part 8.2 Stormwater and Floodplain Management		
2.0 Stormwater Drainage		
(a) Drainage is to be piped in accordance with Section 2.0 Stormwater Drainage	Stormwater Plan prepared by MBC Engineering ref Job No. 2023115 Sheet No. S1 - S2	Yes

DCP 2014	Proposed	Compliance
Application has been consideration satisfactory by Development Engineering and City Works.	(dated 23/03/2023), S3 – S5 (dated 12/03/2023) Proposal has been considered satisfactory by Council's Development Engineer	
4.0 Flooding and Overland Flow		
4.4.1(a) development that is flood affected has been provided with a Flood Impact Statement. Report prepared in accordance with Section 2.2 of the Stormwater and Flood Plan Management Technical Manual 4.4.5(b) Floor levels of habitable and non habitable areas must comply with the freeboard requirements as stated in Table 2.1 of the Stormwater Technical Manual. 4.4.5(d) development must not divert major overland flows or reduce flood storage such to adversely impact the neighbouring property or surrounding area.	N/A – the site is not affected by overland flow	Yes
Part 8.3 Driveways		
3.0 Existing footway crossings		
3.1(a) Existing footway crossings may only be used when they provide access of max of 2 dwgs, correct location and level and adequate width. In good condition and is not a bridge or piped crossing.	N/A	Yes
3.2(a) disused footway crossing slabs that become redundant are to be removed and footway restored.	Condition recommended regarding reinstatement of redundant crossing.	Yes
4.0 Designing internal access roads and parking spaces		
4.1 (a) the design of all parking spaces, circulation roads and manoeuvring areas on the property must confirm to the minimum requirements of AS2890.1-2004.	No issues raised by Council's Development Engineer	Yes
4.2 Design of Parking Spaces		
(b) Vehicles (85 th percentile) to enter and leave designated parking space in a single 3 point turn manoeuvre. A 99 th percentile vehicle for disabled vehicles.	No issues raised by Council's Development Engineer	Yes
(c) Enter and leave in a forward direction. Waived where the garage is located at the front of a dwelling	No issues raised by Council's Development Engineer	Yes

DCP 2014	Proposed	Compliance
and insufficient space within front setback to provide a turning area.		
S2.0 Design Standards		
S2.2 Vehicular crossing widths		
(a) Min 3.0m and max of 5.0m.	6 metres. A condition has been recommended regarding the width of the crossing. No issues raised by Council's Development Engineer	Yes
(b) Max width of 6m to facilitate accessing two adjacent garages if the distance between the space and the street frontage is less than 5.0m		
Part 9.2 Access for People with Disabilities		
4.1.2 Class 1 Buildings		
Accessible path required from the street to the front door, where the level of land permits.	An accessible path has not been provided. This is considered acceptable given the slope of the site.	Yes
Part 9.3 Parking Controls		
2.2 Residential Lane Uses		
- Dwelling houses up to 2 spaces/dwelling	N/A	Yes
- Dual occupancy 1 space/dwelling	1 space per dwelling	Yes