



## ASSESSMENT REPORT

Local Development Application No: LDA2021/0307

Assessment Officer: Oliver King  
Report to Manager Assessment: 22 December 2021  
Consent Authority functions exercised by: Delegate

### EXECUTIVE SUMMARY

#### Application details

Subject land:	11 Mirool Street West Ryde
Lot and DP Number:	Lot 224 DP 23812
Site Area and dimensions:	Site Area = 682.9m <sup>2</sup>
Proposal:	New dual occupancy (attached) and strata title subdivision.
Applicant:	R.Koncept Architectural Design & Drafting
Owner:	D & M Couwenberg
Date lodged:	7 September 2021
Date clock stopped:	14 October 2021
Date clock started again:	22 December 2021
No. of days on STC:	69 days
Value of Works:	\$977,144.00
Submissions:	Three (3) submissions received objecting to original plans. One (1) submission received objecting to amended plans. Trim Checked on: 22 December 2021
Zoning:	R2 Low Density Residential under RLEP 2014
DCP Non-Compliances:	<ul style="list-style-type: none"><li>• Deep Soil Area.</li><li>• Front Setback.</li></ul>
Clause 4.6 RLEP 2014	No
Councillor Representations	None
<b>Report Recommendation:</b>	Approval

## REPORT

### THE SITE



**Figure 1 - Aerial photograph of site.**

The site is legally described as Lot 224 within DP 23812 and is known as 11 Mirool Street, West Ryde. The site is irregular in shape with a frontage of 24.78m to Mirool Street. The site has an area of 682.9m<sup>2</sup>.

The site presently accommodates a single storey dwelling with detached single garage.



**Figure 2 – Existing dwelling as seen from Mirool Street.**

## THE PROPOSAL

The proposal is for the construction of a new dual occupancy (attached) and strata subdivision at No. 11 Mirool Street, West Ryde.

## HISTORY:

7 September 2021	Application lodged.
8 – 29 September 2021	Application notified. Three (3) submissions received from the following properties: <ul style="list-style-type: none"> <li>• 6 Mirool Street.</li> <li>• 9 Mirool Street.</li> <li>• 13 Mirool Street.</li> </ul>
14 October 2021	A request for information was sent to the applicant requesting amendments to the landscaping and stormwater design. Issue of neighbour objections was raised, particularly in regard to the height of the garage level and impact on Mirool Street streetscape and character.
26 October 2021	Applicant submitted written response in favour of elevated garage level.
29 October 2021	Council response to applicant letter lowering the floor height of garage by 400mm.
3 November 2021	Applicant submits amended architectural, landscape and stormwater plans.
3 – 24 November 2021	Amended plans renotified. One (1) new submission received from nearby neighbour at 10a Mirool Street.

## REFERRALS:

**Development Engineer – 6 December 2021:** Council's Development Engineer has raised no objection to the application subject to 27 conditions of consent.

**Tree Management Officer (TMO) – 1 October 2021:** Council's TMO has raised no objection to the application subject to 5 conditions of consent

**Landscape Architect – 8 December 2021:** Council's Landscape Architect has raised no objection to the application subject to 12 conditions of consent.

## STATUTORY PROVISIONS

### SECTION 4.15 HEADS OF CONSIDERATION

#### (a) The provisions of

##### (i) Any environmental planning instrument:

State and Sydney Regional Environmental Planning Policies

SEPP BASIX: A compliant BASIX Certificate has been submitted with the DA. A standard condition has been included in the Draft Consent requiring compliance with this BASIX certificate.

Ryde LEP 2014: Ryde LEP 2014 commenced on 12 September 2014 as the new environmental planning instrument applicable to the City of Ryde.

Ryde LEP 2014	Proposal	Compliance
<b>4.1A Dual occupancy (attached) subdivisions</b>		
(2) Development consent may only be granted to the strata subdivision of a dual occupancy (attached) on land in Zone R2 Low Density Residential if the land has an area of at least 580 square metres.	Site Area = 682.9m <sup>2</sup>	Yes
<b>4.1B Minimum lot sizes for dual occupancies and multi dwelling housing</b>		
(1) The objective of this clause is to achieve planned residential density in certain zones. (2) Development consent may be granted for development on a lot in Zone R2 Low Density Residential for a purpose shown in Column 1 of the table to this clause if: (a) the area of the lot is equal to or greater than the area specified for that purpose and shown opposite in Column 2 of the table, and	R2 Low Density Residential  Dual Occupancy  Site Area = 682.9m <sup>2</sup>	Yes

Ryde LEP 2014		Proposal	Compliance
(b) the road frontage of the lot is equal to or greater than 20 metres.		Frontage= Dwelling 11a = 8.90m Dwelling 11b = 15.87m	Yes
Column 1	Column 2		
Dual occupancy (attached)	580 square metres		Yes
4.3(2) Height			
9.5m		8.12m	Yes
4.4(2) & 4.4A(1) FSR			
0.5:1		0.49:1	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 proposed development is considered to satisfy the objectives for residential developments.

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

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

#### **(iii) Any development control plan**

##### Ryde DCP 2014:

A full assessment of the proposal under DCP 2014 is illustrated in the compliance table held at **Attachment 1**. There are no non-compliances identified in the table.

- 1. Deep Soil Area.** Council's DCP 2014: Part 3.3 - Dwelling Houses and Dual Occupancy (attached) – Section 2.6.1 'Deep Soil Area' states:

- *Allotments with dual occupancies need only have one 8m x 8m in the back yard.*

Comment: The proposed dual occupancy will result in two (2) dwellings with neither achieving a full 8m x 8m in the rear yard as indicated by Figure 3 below. However, this non-compliance is considered acceptable for the following reasons:

- The proposal results in a compliant total DSA of 48% (331.2m<sup>2</sup>) and provides for ample front and rear yard planting in the deep soil zones;
- Consideration is given to the natural shape of the allotment being an irregular, triangular shaped lot. Given this constraint the applicant has designed a dwelling that mostly complies with the 8m x 8m DSA with a minor portion of the allocated zone being non-compliant (see below Figure 3);
- The objective of the control, being an ample place of landscaped private open space, has been met for both Dwelling A & B.

2. **Rear Setback.** Council's DCP 2014: Part 3.3 - Dwelling Houses and Dual Occupancy (attached) – Section 2.9.3 'Rear setbacks' states:

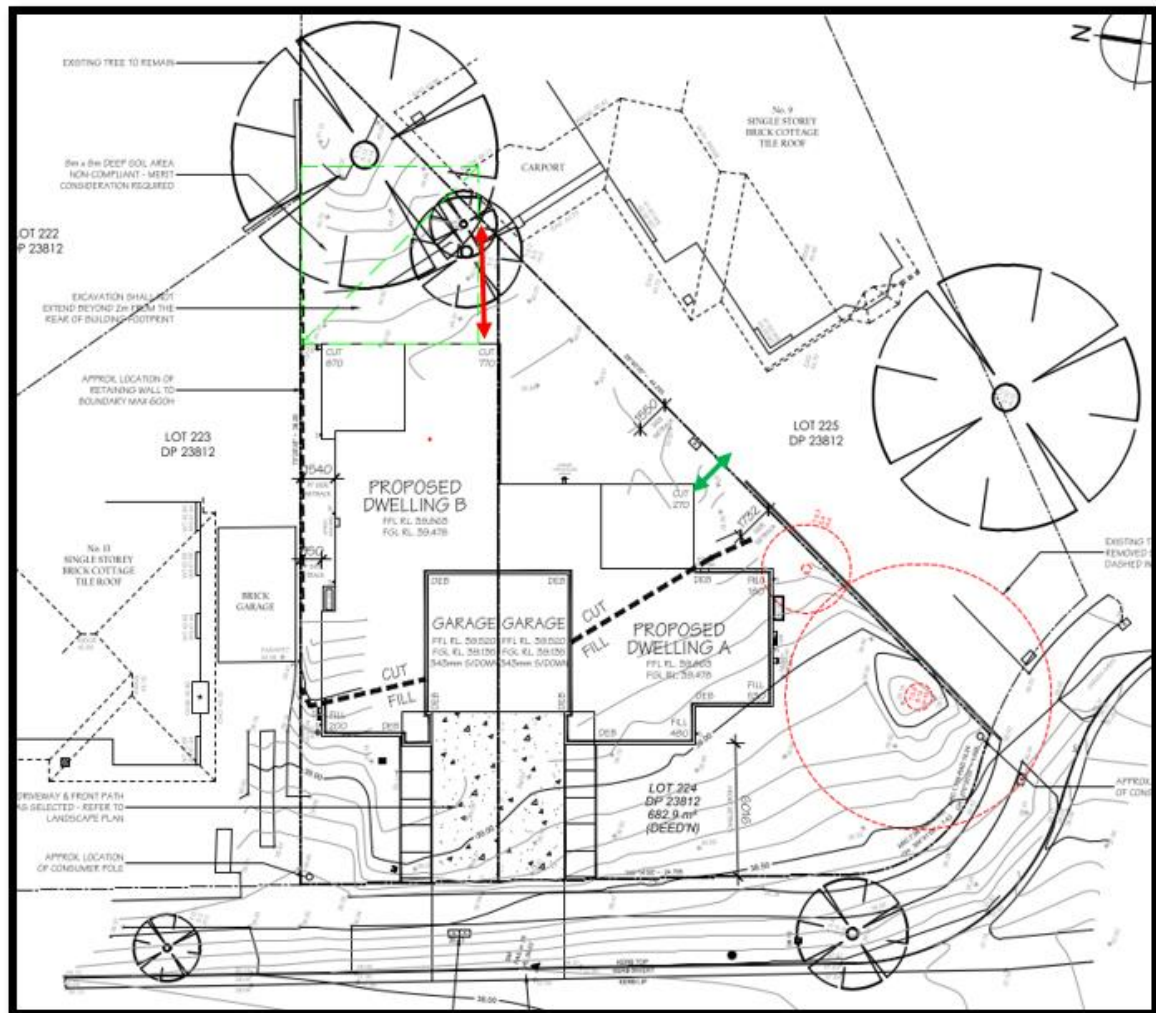
- *The rear of the dwelling is to be set back from the rear boundary a minimum distance of 25% of the length of the site or 8m, whichever is the greater.*

Comment: Due to the irregular shape of the allotment, between Dwelling A and the South-East boundary (Adjoining No. 9 Mirool Street) was considered the side setback with the space between Dwelling B and the Eastern portion of the 9 Mirool Street boundary considered the rear setback.

As such, the proposed 5.06m rear setback as measured from the rear building wall of Dwelling B the shared boundary with No. 9 Mirool Street is non-compliant with the above 8m requirement. However, the non-compliance is considered acceptable for the following reasons:

- A suitable area for private outdoor recreation for both dwellings is provided;
- The portion of non-compliance as indicated in Figure 3 below constitutes the worst point of non-compliance with the rear setback increasing to 12.78m (as measured from the alfresco of Dwelling B);
- There is sufficient area for vegetation and mature trees including the required canopy tree;
- The first-floor portion of Dwelling B that is setback 5.06m is for a voided area. The closest occupants will get from the first floor will be setback approximately 9.2m from the same boundary and therefore the possibility of overlooking to the rear properties is reduced;
- The non-compliance does not result in any adverse amenity impacts to adjoining properties as the proposed and retained tree plantings will obscure most views to the adjoining dwelling at No. 9 Mirool Street. Further to this due to the orientation of No. 9 Mirool Street, the proposal will be mostly non-compliant where the adjoining carport is located and therefore the development will not allow for overlooking to adjoining living areas or POS of No. 9 Mirool Street.





**Figure 3 – Site Plan depicting non-compliant DSA and proposed rear setback (red) and side setback (green).**

#### (iv) **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:

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$6,061.80
Open Space & Recreation Facilities	\$10,438.15
Transport Facilities	\$3,204.48
Plan Administration	\$295.57
<b>The total contribution is</b>	<b>\$20,000.00</b>

A 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**

All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report (see DCP 2014 and Submissions sections). The development is considered satisfactory in terms of environmental impacts.

**(c) The suitability of the site for the development**

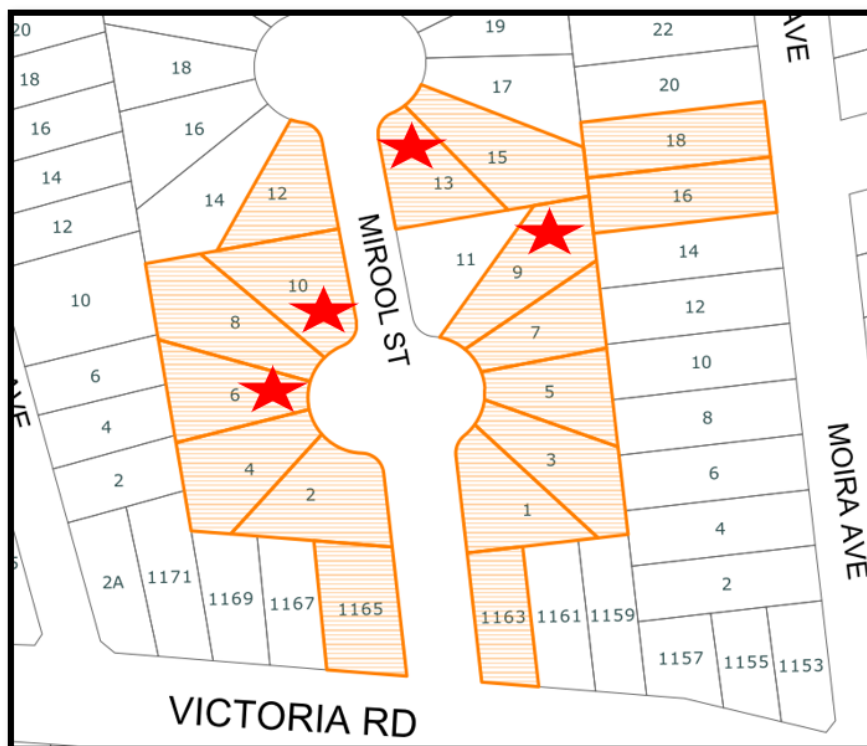
A review of Council's map of Environmentally Sensitive Areas (held on file) identifies the following constraints affecting the subject property:

1 in 100 Year Flood Level: See Development Engineer's referral above.

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

In accordance with the Ryde Community Participation Plan, the owners of surrounding properties were given notice of the application between the 8 – 29 September 2021. As a result, three (3) submissions were received from the following properties (\*objecting to the Original Plans):

- 6 Mirool Street, West Ryde.
- 9 Mirool Street, West Ryde.
- 13 Mirool Street, West Ryde.



**Figure 3 – Map of objecting neighbours as represented with red stars.**

- The first submission from the adjoining neighbour at No. 6 Mirool Street raised the following issues:



*“While we are not opposed to duplex style developments in general, and understand their advantages, we are becoming concerned with the number of such developments in the street.*

*Mirool St (particularly at our end with its half-moon crescents) is a unique and charming little pocket of West Ryde. It is not a heritage area but has its own charm, and is a friendly neighbourhood. We are concerned that as the number of duplexes increases the character of the streetscape will be lost, and that the already crowded parking situation in the street will only deteriorate.*

*We would like you to take this into account in assessing the development proposal above.”*

Comment: Ryde’s Local Environmental Plan (LEP) 2014 requires the following conditions to be met for a dual-occupancy development (with strata subdivision) to be approved:

LEP Requirement	Required	Proposed
Zoning	R2 Low Density Residential	R2 Low Density Residential
Site Area	580m <sup>2</sup>	682.9m <sup>2</sup>
Strata Subdivision Site Area	580m <sup>2</sup>	682.9m <sup>2</sup>

In this regard the proposal meets the basic requirements for being eligible for dual-occupancy developments. Once lodged the application is assessed against Council’s Development Control Plan (DCP) 2014. In this regard the proposal has been found to be compliant with Council’s DCP with respect to the following:

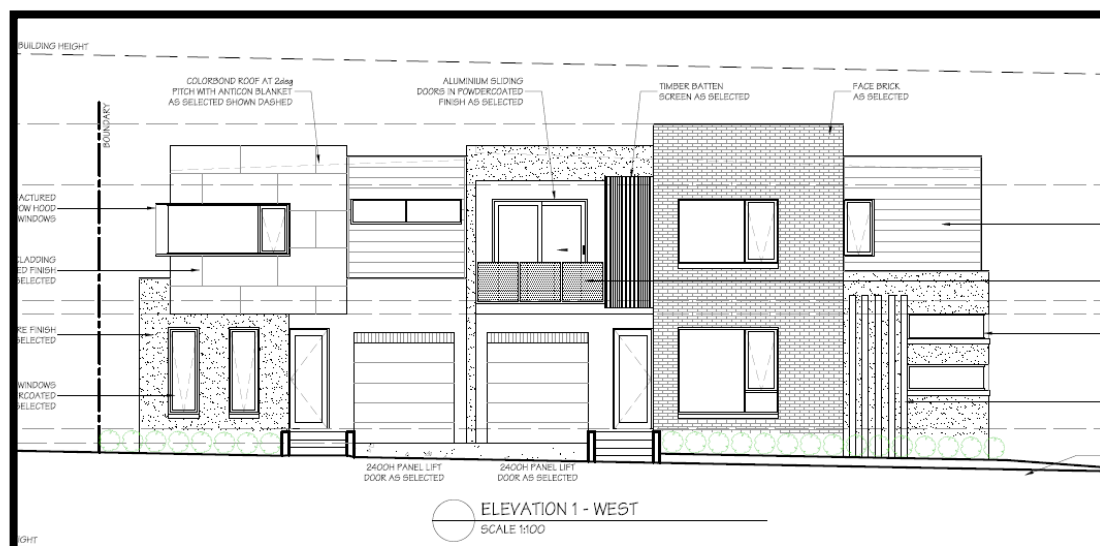
- Floor space ratio
- Building height
- Wall plate height
- Front and side setbacks
- Deep soil area requirements
- Roof form controls

Mirool Street is not located within a Heritage Conservation Area or specific character area. In an effort to reduce the bulk and scale of the streetscape and better harmonise the dwelling with the adjoining dwellings, the proposed height of the garage was reduced by 400mm. The overall height of the dwelling is 8.12m which complies with Council’s maximum height of 9.5m and Floor Space Ratio (FSR) is 0.49:1 which is compliant with Council’s 0.50:1 maximum. As such it is considered that effort has been made to lessen the impact to the existing streetscape.

Furthermore, the proposed front setback is 6m which complies with the 6m minimum and each garage is setback 1m to reduce visual impact. The façade of the dwellings will be composed of a mixture of face brick and timber screening with colorbond roofing which will add visual interest to the streetscape in Mirool Street.

Council cannot impose more onerous requirements than that specified in the planning controls for the site. Furthermore, an assessment of the proposed design considers that the proposal is consistent with the desired future character of the area. For the above

reasons the proposed design was considered acceptable and the application was approved subject to conditions of consent.



**Figure 1 – Proposed development as viewed from Mirool Street.**

The development provides a single garage for both dwellings which meet the requirements of Council’s DCP Part 3.3 ‘Dwelling Houses and Dual Occupancies (attached)’ Section 2.11.1 ‘Car Parking’. Whilst it is noted off-street parking is likely to increase as a result of the development, the irregular shape of the site would not allow for a double garage for both dwellings. As the proposal is compliant with Council’s DCP, the proposal was considered acceptable.

- The second submission from the adjoining neighbour at No. 9 Mirool Street raised the following issues:

## **1. Tree Removal.**

*“We strongly support the arborist's recommendations of retaining trees 2 and 5 (pine and lemon-scented gum). Although there have been suggestions of how to minimise the impact on the removal of these trees, the idea that it would be another 20 years for a similar canopy and animal habitat to form is of a major concern to us. We have enjoyed the 'park-like' feel of the street and these two mature trees are a significant part of that social value. We also believe that mature trees such as these have an economic merit in terms of adding to property values of both our home as well as those in the street.”*

Comment: Council’s Landscape Architect reviewed the original proposed removal of the two significant trees Tree 2 (Pine Tree) and Tree 5 (Lemon Scented Gum) and stated on the 13 October 2021 that he disagreed in the required removal of Tree 5.

After amended architectural and landscaping plans were received 3 November (re-notified to neighbours 3 - 24 November) the applicant had retained the significant rear yard Tree 5 which will help retain the shaded ‘park-like’ character of Mirool Street. Further to this, the dwelling will provide three (3) additional tree plantings.

In regard to the removal of Tree 2, Council’s Landscape Architect agreed with the Arborist Report in that Tree 2 would require removal due to the location of the stormwater pipes

running through the Tree Protection Zone (TPZ) and proximity of the tree to the new dwelling. By allowing the retention of Tree 2 with the proposed stormwater pipes running through the TPZ, the tree in time could become lop-sided and a hazard and as such was considered acceptable for removal. It is noted that two additional replacement trees in this area are proposed, which will add to the streetscape and canopy cover.

## **2. Visual Privacy.**

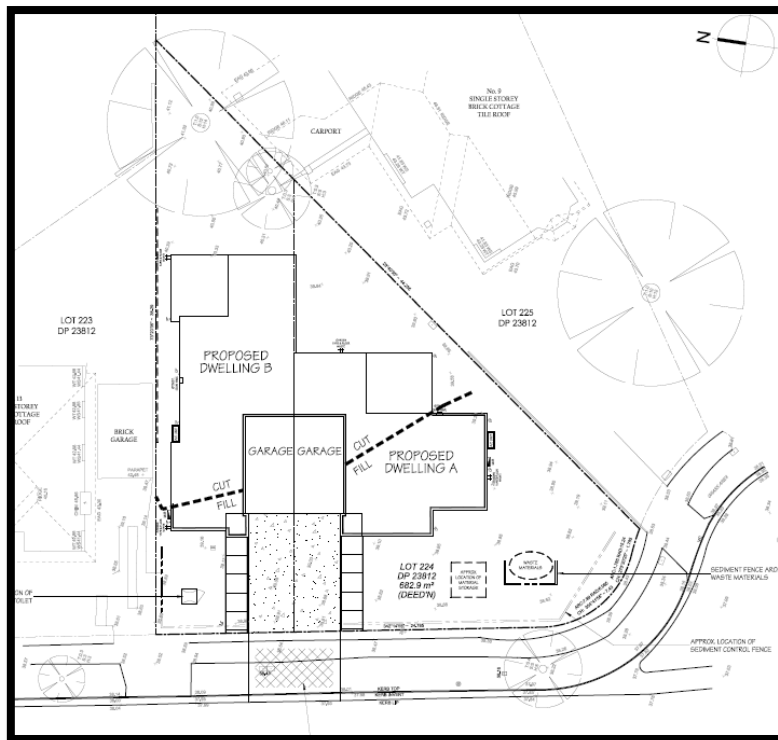
*"We have recently made a second story addition to our own home and in doing so the visual privacy of proposed dwelling (A) may be compromised as windows and doors facing east towards our home will be viewed from a large bay window that sits above our carport. (See elevation 3 - EAST). We fear that perhaps the design of the dwelling has not taken this new extension into account and should be reviewed."*

### Comment:

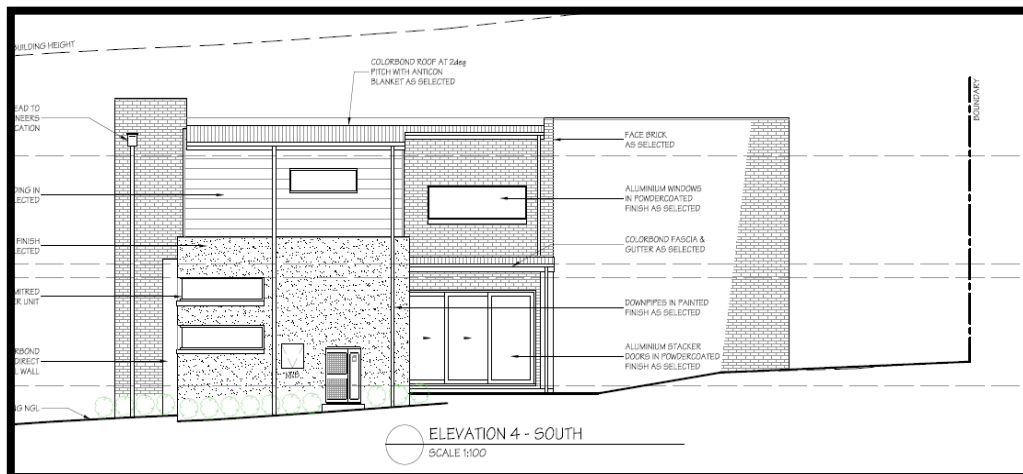
Council's DCP 2014: Part 3.3 - Dwelling Houses and Dual Occupancy (attached) – Section 2.14.2 'Visual Privacy' states:

- *Side windows offset from adjoining windows.*
- *Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space.*
- *Terraces and balconies are not to overlook neighbour's living areas or private open space.*

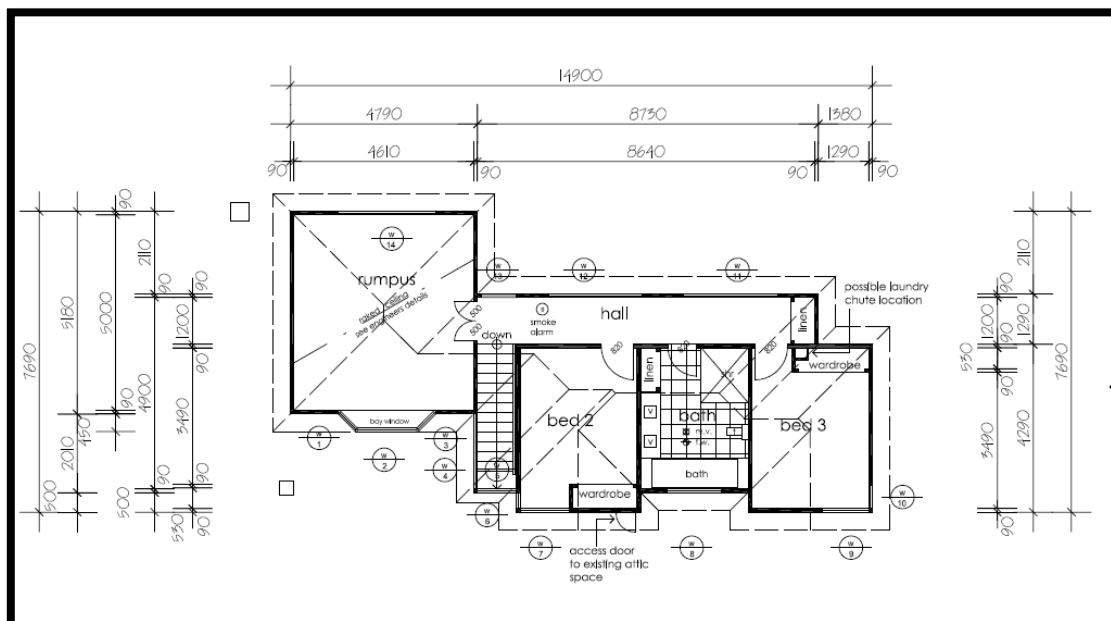
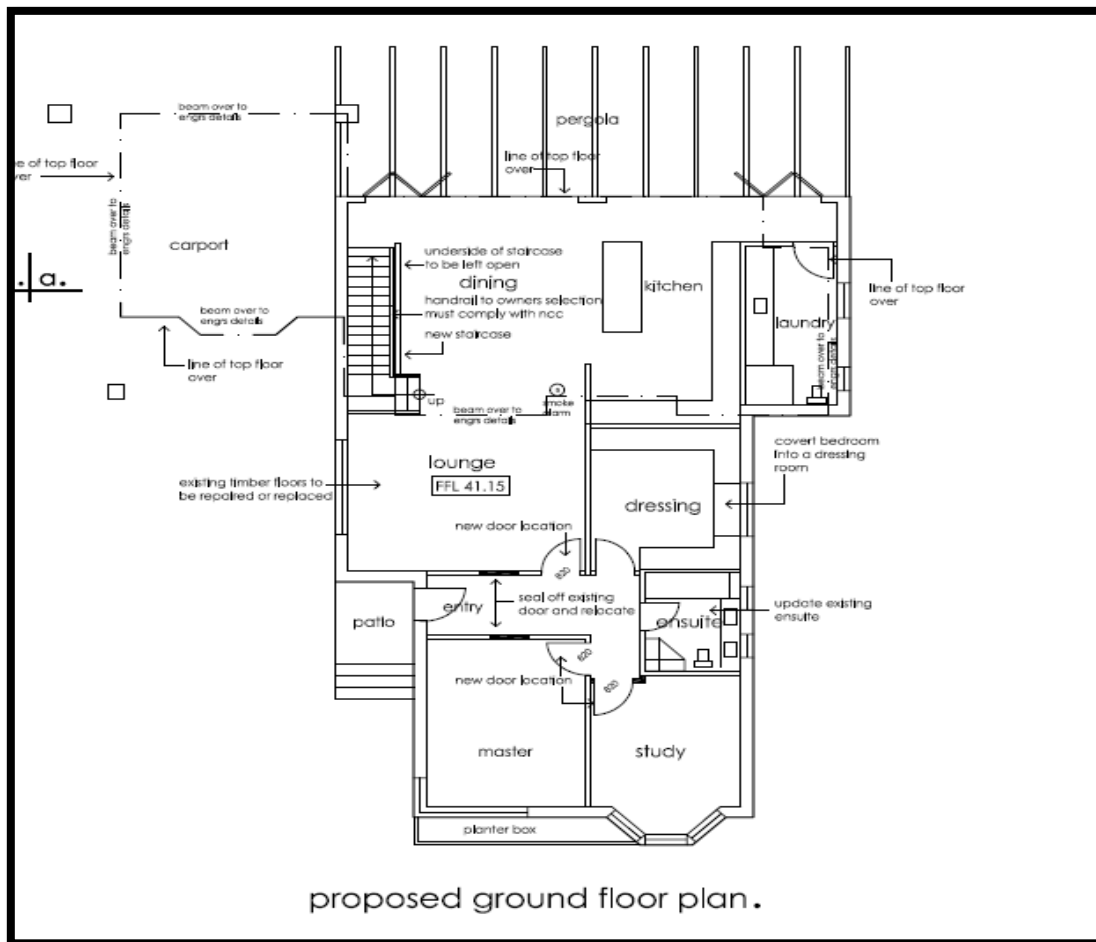
Due to the positioning of the site, the windows of Dwelling A as shown on the South elevation will overlook your front yard and will not pose views into any living room areas or rear private open space. The South-facing elevation of Dwelling B has no windows and will not overlook your private open space, with a small alfresco at ground level orientated away from your dwelling. As such, the proposal complies with the visually privacy controls within the Ryde DCP 2014, and it is considered that there will be minimal overlooking to your private open space or living room windows and the proposal is considered acceptable.



**Figure 2 – Proposed building footprint in relation to your dwelling.**



**Figure 3 – Proposed South elevation opposing your dwelling.**



### 3. Car Parking & Traffic.

*“Over the past 11 years we have noticed a marked increase in the amount of parked cars in Mirool Street, with the majority of these already belonging to existing residents we are very worried that our already narrow and crowded street will become even more congested with a proposed 9 bedroom building that only has two car spaces available for its own occupants. In addition to this, the street design is unique with two pairs of islands that do not allow for cars to be parked around them, therefore residents that are situated around these 'islands' find that any visitors must park on the street, the exact area that the proposed dwelling sits between these two 'islands'. Coupled with these facts, the street is often used as a thoroughfare for commuters driving into Mirool Street from Victoria Avenue; the danger here is that that traffic is already being forced to squeeze between cars parked on both sides of the street and with the suggestion of a dual occupancy only providing two additional car spaces does not seem to take these traffic concerns into account.”*

Comment: The development provides a single garage for both dwellings which meet the requirements of Council's DCP Part 3.3 'Dwelling Houses and Dual Occupancies (attached)' Section 2.11.1 'Car Parking'. As the proposal is compliant with Council's DCP, the proposal was considered acceptable.

### 4. Streetscape.

*“Mirool Street is not situated in a heritage area, however the vast majority of the homes have been able to respect the 1950s post-war development aesthetic and again a number of extensions or improvements (including our own) have been at pains to be sympathetic with the existing architecture. The proposed development is suggesting a colourbond, concealed roof that is not compatible with the existing streetscape. Similarly, the suggested panel cladding and 'featured finish?', along with at least 9 different materials making up the facade of the proposed dual occupancy, is extremely incongruent with the majority of brick/clad homes in the street. Again, the colour-scheme is also out of character with the homes in the street with the use of dark charcoal and grey tones. We have noted that the statement of environmental effect suggests that the design is in line with new developments in the locality, however we feel that this building is so far removed from anything else that currently sits in the street, it is not at all streetscape friendly.”*

Comment: As stated above, Mirool Street is not located within a Heritage Conservation Area. The general type of dwelling in the Mirool Street area is between one and two storey, with a tiled and pitched roof and brickwork.

The proposed design is generally compliant with the relevant controls within the Ryde DCP 2014, including controls around materials and finishes and roof form.

In effort to reduce the bulk and scale of the streetscape and better harmonise the dwelling with the adjoining dwellings, the proposed height of the garage was reduced 400mm. The overall height of the dwelling is 8.12m which complies with Council's maximum height of 9.5m and Floor Space Ratio (FSR) is 0.49:1 which is compliant with Council's 0.50:1 maximum.

The façade of the dwellings will be composed of a mixture of face brick and timber screening with colorbond roofing which will add visual interest to the Mirool streetscape. The face brick and timber cladding elements of the dwellings will enhance the



contemporary design of the dwelling and reflect the future design character of the West Ryde area at large. The rendering to the dwelling will be white with only minor portions of the face brick being a charcoal coloured brick, with stained timber coloured timber to add interest to the façade.

Furthermore the front yard plantings as shown on the Landscaping Plan will also serve to lessen the impact on the streetscape by providing a variety of new plantings that will add significantly more greenery to the site than currently exists.



Figure 1 – Proposed development as viewed from Mirool Street.

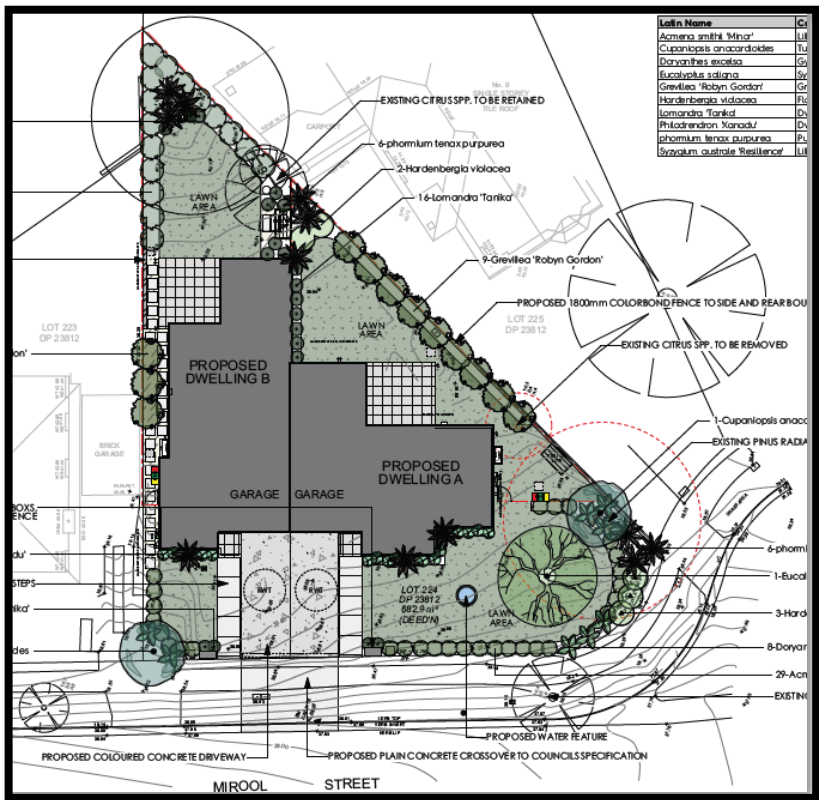


Figure 2 – Proposed Landscape Plan.

## 5. Fencing.

*“Finally, we understand that although fencing is not part of the DA proposal, we would prefer a timber paling fence between our own home and any new development at number 11, as is already suggested in the landscaping document.”*

Comment: The Landscape plan notes a ‘1.8m high colorbond fence to side and rear boundaries’. Council raises no objection to the proposed colorbond fencing or any negotiated timber fencing to a height of 1.8m. All neighbourly negotiations on dividing fences are to be conducted as per the *Dividing Fences Act 1991*.

- The third submission from the adjoining neighbours at No. 13 Mirool Street raised the following issues:

### 1. Trees & Fencing.

*“In the Arborist’s Report - T7 (Jacaranda) is shown on our Lot 223 (No.13) when in fact it is behind our property on Lot 222 (No.15)*

*“We are unsure about whether it is proposed to continue the fencing (behind their existing garage) to the front of our garage. The Statement of Environmental Effects indicates that fencing does not form part of the application while the landscape plan appears to show the extent of fencing proposed. We are comfortable with the fencing as shown on the landscape plan.*

Comment: Despite the Arborist’s incorrect location of T7 – Jacaranda, the development will have minimal impact on the existing tree’s Tree Protection Zone (TPZ) and the works have been considered satisfactory by Council’s Landscape Architect in relation to the retention of Tree 7.

The Landscape plan notes a ‘1.8m high colorbond fence to side and rear boundaries’. Council raises no objection to the proposed colorbond fencing or any negotiated timber fencing to a height of 1.8m. All neighbourly negotiations on dividing fences are to be conducted as per the *Dividing Fences Act 1991*.

### 2. Driveway.

*“At present our driveway **is shared** and we would like to be reassured that any damage to our driveway access will be addressed and that access will be maintained during construction. We are assuming that no modifications to our existing driveway are proposed.*

Comment: Council’s Development Engineer has reviewed the existing and proposed vehicle crossover in regards to your current shared driveway. In response to your concerns, the following two conditions have been placed on the consent:

- **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed, and the kerb and footpath reinstated to the satisfaction of Council. With the removal of the existing crossing, the access driveway to next door No 13 Mirool Street still needs to be maintained. The existing driveway is to be removed from the construction joint location with the driveway of No 13 Mirool Street. The existing driveway to No 13 is to be extended to provide a width of 3.0m at least and to include a 0.5m wing in addition. All works shall be borne by the applicant.

- **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.
- **Vehicle Footpath and Gutter Crossover Approval.** A new vehicle footpath crossing and associated gutter crossover shall be constructed at the approved vehicular access location/s. Where there is an existing vehicle footpath crossing and gutter crossover, the reconstruction of this infrastructure may be required in order that it has a service life consistent with that of the development and ensure it is compliant with current Council's standards and specifications. The location, design and construction shall be in accordance with Council's DCP 2014 Part 8.3 (*Driveways*), Part 8.5 (*Public Civil Works*) and Australian Standard AS2890.1 – 2004 (Off-street Parking).

Prior to the issue of the Construction Certificate, an application shall be made to Council for approval under Section 138 of the Roads Act, 1993, for the construction of the vehicle footpath and gutter crossover. The application shall include engineering design drawings of the proposed vehicle footpath crossing and gutter crossover. The drawings shall be prepared by a suitably qualified Civil Engineer using the standard B85 vehicle profile. The drawings shall show the proposed vehicle footpath crossing width, alignment, and any elements impacting design such as service pits, underground utilities, power poles, signage and/or trees. In addition, a benchmark (to Australian Height Datum) that will not be impacted by the development works shall be included. All grades and transitions shall comply with Australian Standard AS 2890.1-2004 Offstreet Parking and Council's specifications. The new crossing shall be 5.5m. wide, without the splays, and shall be constructed at right angle to the alignment of the kerb and gutter, and located no closer than 1m from any power pole and 3m from any street tree unless otherwise approved by Council.

Fees are payable at the time of the application, in accordance with Council's Schedule of Fees and Charges.

The Council approved design details shall be incorporated into the plans submitted for the application of the Construction Certificate.

**NOTE:** Amended architectural, stormwater and landscaping plans were received 3 November 2021. The amended plans were notified to the nearby neighbours 3 – 24 November 2021. As a result, one (1) submission was received from 10a Mirool Street, West Ryde.

- The fourth submission from the adjoining neighbours at 10a Mirool Street raised the following issues:

#### 1. Streetscape.

*"Our main concern with the current proposed plans is that it fails to fit the character of the street.*

*The homes on Mirool Street were built in the post-war era for returning soldiers, and all of the homes that have been renovated, extended or rebuilt over the last 5 years (including*

*Number 8, 10, 12 and 9 Mirool Street), have taken this into account when completing work on their homes, thus keeping the streets heritage look.*

*To be able to respect the 1950s post-war development aesthetic is important to our street owners and as mentioned above a number of extensions or improvements (including our own home) have been at pains to be sympathetic with the existing architecture. The proposed development is suggesting a facade that is NOT COMPATIBLE with the existing streetscape. This includes the materials used as well as the colour scheme which is why we feel that this building is too far removed from anything else that currently sits in the street.*

*In addition, the homes on the odd number side of Mirool street (5,7,9,11, 13,15, etc), sit higher being elevated on a hill. Therefore, all the double story homes on that side have the double-storey set back from the front of the house (due to the unique semi-circle split road that Mirool Street has), if this goes ahead as is, Number 11 will be the only house on the street that has a double story build directly on the road and towering over all the other homes around it.*

*For this reason, we do not believe that this current proposal has the street's best interests at heart, and we would appreciate Ryde Council taking our concerns into strong consideration in whether to approve this current application or amend it to fit the streets heritage look and feel as all the other residents have."*

Comment: This comment has been addressed in the previous public notification period (see above). The proposal is not inconsistent with the desired future character of the area.

#### **(e) 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.

#### **(f) Objects of EP&A Act**

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

- i) to promote the orderly and economic use and development of land,
- ii) to promote the delivery and maintenance of affordable housing,
- iii) to promote good design and amenity of the built environment,
- iv) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.

The proposal achieves the above objectives.

### **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 in 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 not contrary to the public interest.

**RECOMMENDATION:**

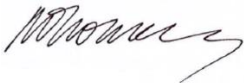
That LDA No. LDA2021/0307 at 11 Mirool Street West Ryde be approved subject to the conditions in the attached draft consent.



**Oliver King**  
**Development Assessment Officer – Town Planner**



**Colin Murphy**  
**Senior Coordinator – Development Assessment**



**Madeline Thomas**  
**Acting Manager – Development Assessment**

**Agreed Application Approved.**

**Date of Consent: 22 December 2021**

## ATTACHMENT – 1

DCP 2014	Proposed	Compliance
<b>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</b>		
<b>Desired Future Character</b>		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is consistent with the desired future character of the low density residential area as detailed further in this table.	Yes
<b>Dwelling Houses</b>		
- To have a landscaped setting which includes significant deep soil areas at front and rear.	Front and rear gardens proposed.	Yes
- Maximum 2 storeys.	Two storeys	Yes
- Dwellings to address street	Dwellings present to Mirool Street	Yes
- Garage/carports not visually prominent features.	Garage not prominent feature as setback in front elevation of building.	Yes
<b>Public Domain Amenity</b>		
<b>Streetscape</b>		
- Front doors and windows are to face the street. Side entries to be clearly apparent.	Front doors and windows face street.	Yes
- Single storey entrance porticos.	Single entrance portico.	Yes
- Articulated street facades.	Articulated street façade.	Yes
<b>Pedestrian &amp; Vehicle Safety</b>		
- Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard.	Car parking is located to accommodate sightlines to footpath and road in accordance with relevant AS	Yes



DCP 2014	Proposed	Compliance
<b>Site Configuration</b>		
<b>Deep Soil Areas</b> <ul style="list-style-type: none"> <li>- 35% of site area min.</li> <li>- Allotments with dual occupancies need only have one 8m x 8m deep soil area for the allotment. The area does not need to be shared equally with each allotment</li> </ul>	<p>DSA = <math>\frac{331.2\text{m}^2}{682.9\text{m}^2}</math> DSA = 48%</p> <p>8m x 8m DSA not achieved due to site shape</p>	<p>Yes</p> <p><b>No (1)</b></p>
<b>Topography &amp; Excavation</b> <p>Within building footprint:</p> <ul style="list-style-type: none"> <li>- Max cut: 1.2m</li> <li>- Max fill: 900mm</li> </ul> <p>Outside building footprint:</p> <ul style="list-style-type: none"> <li>- Max cut: 900mm</li> <li>- Max fill: 500mm</li> <li>- No fill between side of building and boundary or close to rear boundary</li> <li>- Max ht retaining wall 900mm</li> </ul>	<p>Within BF Max cut = &lt;1.2m Max fill = &lt;900mm</p> <p>Outside BF Max cut = 600mm Max fill = Nil</p> <p>No fill between side of building and boundary or close to rear boundary</p> <p>Max height of retaining walls = 600mm</p>	<p>Yes Yes</p> <p>Yes Yes</p> <p>Yes</p> <p>Yes</p>
<b>Floor Space Ratio</b>		
Ground floor	197.06m <sup>2</sup>	Yes
First floor	175.02m <sup>2</sup>	Yes
Less 36m <sup>2</sup> (double) allowance for parking	36m <sup>2</sup>	Yes
Total (Gross Floor Area)	$\frac{336.08\text{m}^2}{682.9\text{m}^2}$	Yes
<b>FSR (max 0.5:1)</b>	<b>0.49:1</b>	<b>Yes</b>
<b>Height</b>		
- 2 storeys maximum	2 storeys maximum	Yes
- 1 storey maximum above attached garage incl semi-basement or at-grade garages.	1 storey maximum above attached garage	Yes

DCP 2014	Proposed	Compliance
Wall plate (Ceiling Height) - 7.5m max above FGL or - 8m max to top of parapet	TOW RL: 45.82 Lowest point RL: 39.19 TOW Height (max)= 6.63m	Yes
9.5m Overall Height	Max of dwelling RL: 47.29 Lowest point RL: 39.17 Overall Height (max)= 8.12m	Yes
Habitable rooms to have 2.4m floor to ceiling height (min).	2.75m min room height.	Yes
<b>Setbacks</b>		
<b>SIDE</b> <b>Two storey dwelling</b> - 1500mm to wall	<u>Ground Floor</u> Northern Side: 950mm Southern Side: 1.55m  <u>First Floor</u> Northern Side: 1.54m Southern Side: 1.73m	Yes Yes  Yes Yes
<b>Front</b> - 6m to façade (generally) - Garage setback 1m from the dwelling façade - Wall above is to align with outside face of garage below. - Front setback free of ancillary elements eg RWT, A/C	6m to front boundary  Garage setback greater than 1m from dwelling façade  Wall above aligns with outside face of garage below  Front setback free of ancillary elements	Yes  Yes  Yes  Yes
<b>Rear</b> - 8m to rear of dwelling <b>OR</b> 25% of the length of the site, whichever is greater.	5.06m as measured from the rear boundary of Dwelling B to slanted rear boundary	<b>No (2)</b>
<b>Car Parking &amp; Access</b>		
<b>General</b> - Dual Occupancy (attached): 1 space max per dwelling. - Max 6m wide or 50% of frontage, whichever is less.	1 space provided maximum  Max 4.82m wide	Yes  Yes

DCP 2014	Proposed	Compliance
- Behind building façade.	Behind building facade	Yes
<b>Garages</b>		
- Garages setback 1m from façade.	Garages setback 1m from dwelling facades	Yes
- Total width of garage doors visible from public space must not exceed 5.7m and be setback not more than 300mm behind the outside face of the building element immediately above.	Door Width = 2.41m Door Setback = >300mm	Yes Yes
- Materials in keeping or complimentary to dwelling.	Materials are in keeping and complimentary to dwelling	Yes
<b>Parking Space Sizes (AS)</b>		
o Single garage: 3m wide (min)	Internal measurements: Width = 3m	Yes
o Internal length: 5.4m (min)	Length = 6.03m	Yes
<b>Driveways</b> Extent of driveways minimised	Extent of driveways minimised	Yes
<b>Landscaping</b>		
<b>Trees &amp; Landscaping</b>		
- Major trees retained where practicable	Major tree to be retained	Yes
- Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL eg. stairs, terraces.	Physical connection has been provided between dwelling and outdoor spaces where the ground floor is elevated above NGL	Yes
- Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access)	Obstruction-free pathway provided to either side of dwelling	Yes
- Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy.	Council's Landscape Architect has raised no objection to the proposed tree planting	Yes
		Yes

DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> <li>- Back yard to have at least 1 tree with mature ht of 15m min and a spreading canopy.</li> <li>- Hedging or screen planting on boundary mature plants reaching no more than 2.7m.</li> <li>- OSD generally not to be located in front setback unless under driveway.</li> </ul>	<p>Council's Landscape Architect has raised no objection to the proposed tree planting</p> <p>Hedge planting species has been considered acceptable by Council's Landscape Architect</p> <p>OSD is located under front driveway</p>	<p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> <li>- Landscaped front garden, with max 40% hard paving</li> </ul>	<p>Hard Paving: Less than 40%</p>	<p>Yes</p>
<b>Dwelling Amenity</b>		
<p><b>Daylight and Sunlight Access</b></p> <p><u>Subject Dwelling:</u></p> <ul style="list-style-type: none"> <li>- Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21.</li> <li>- Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21.</li> </ul> <p><u>Neighbouring properties are to receive:</u></p> <ul style="list-style-type: none"> <li>- 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21.</li> <li>- At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21.</li> </ul>	<p>Subject dwelling north facing windows will receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21.</p> <p>Private Open space of subject dwelling will receive at least 2 hours sunlight between 9am and 3pm on June 21.</p> <p>Neighbouring properties will receive 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21.</p> <p>Neighbouring properties will receive At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

DCP 2014	Proposed	Compliance
	between 9am and 3pm on June 21.	
<b>Visual Privacy</b> <ul style="list-style-type: none"> <li>- Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling.</li> <li>- Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space.</li> <li>- Side windows offset from adjoining windows.</li> <li>- Terraces, balconies etc are not to overlook neighbouring dwellings/private open space.</li> </ul>	<p>Living rooms windows and courtyards are orientated to front and rear where practicable</p> <p>Windows of living and dining rooms will not overlook adjoining properties</p> <p>Side windows are offset from adjoining windows where practicable</p> <p>Courtyards are ground level/below adjoining NGL and will not overlook adjoining dwellings POS</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>External Building Elements</b>		
<b>Roof</b> <ul style="list-style-type: none"> <li>- Articulated.</li> <li>- 450mm eaves overhang minimum.</li> </ul>	<p>Roof is articulated</p> <p>450mm eave overhang not proposed – parapet style roofing</p>	<p>Yes</p> <p>Yes</p>
<b>Part 8.2 - Stormwater Management</b>		
<b>Stormwater &amp; Floodplain Management</b>		
Drainage is to be piped in accordance with Part 8.2 - Stormwater & Floodplain Management.	Drainage is to be piped in accordance with Part 8.2 - Stormwater & Floodplain Management.	Yes
<b>Part 9.5 – Tree Preservation</b>		
(i) <b><i>Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is</i></b>	Major tree to be retained with supplementary planting	Yes

DCP 2014	Proposed	Compliance
<i>required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway.</i>		

BASIX		
<p>All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans (list)</p> <p><b>BASIX Cert 1229354M dated 11 August 2021</b></p> <ul style="list-style-type: none"> <li>• RWT 4000L</li> <li>• Thermal Comfort Commitments – Construction.</li> <li>• TCC – Glazing.</li> <li>• HWS Gas Instantaneous 5 star.</li> <li>• Natural Lighting               <ol style="list-style-type: none"> <li>1. kitchen</li> <li>2. bathrooms ()</li> </ol> </li> </ul>	<p>2000L RWT provided per dwelling shown on plans</p> <p>Shown on plans</p> <p>Shown on plans</p> <p>Shown on plans</p> <p>Shown on plans</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>Water Target 40</p> <p>Energy Target 50</p> <p>Thermal Comfort Pass</p>	<p>Water: 44</p> <p>Energy: 52</p> <p>Thermal Comfort: Pass</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>Correct description of property/proposal on 1<sup>st</sup> page of Certificate.</p>	<p>Correct details shown on plans</p>	<p>Yes</p>