

**New dual occupancy (attached), swimming pool and Torrens title subdivision of proposed Lot 1 under LDA2021/0148: Section 4.55(2) Modification Application (LDA2021/0362)**

6 & 10 Clermont Avenue, Ryde



Statement of Environmental Effects to  
City of Ryde Council

Prepared on behalf of Clermont Holdings Pty Ltd

4 July 2022 | 20097

## Contents

<b>1.0 Introduction</b>	<b>1</b>
<b>2.0 Lot 1 dual occupancy consent (LD2021/0362)</b>	<b>3</b>
<b>3.0 Proposed modifications</b>	<b>4</b>
3.1 Overview	4
3.2 Gross Floor Area (GFA) and Floor Space Ratio (FSR)	8
3.3 Proposed modifications to conditions of consent	9
<b>4.0 Section 4.55(2) considerations</b>	<b>12</b>
4.1 Substantially the same development	12
4.2 Assessment of environmental effects	14
<b>5.0 Conclusion</b>	<b>18</b>

## Figures

1	Proposed Basement Floor Plan	5
2	Comparison of approved and proposed Section A-A	6
3	Comparison of approved and proposed North Elevation to Jennifer Street	7

## Tables

1	Comparison of the approved and proposed GFA and FSR	8
2	Comparison of the Original Consent and Section 4.55(2) proposal	13
3	FSR comparison: Original Consent and Section 4.55(2) proposal	14

## 1.0 Introduction

This Statement of Environmental Effects (SEE) is submitted to the City of Ryde Council (the **Council**). It describes a Section 4.55(2) application that proposes modification of the development consent for LDA2021/0362 (the **Lot 1 dual occupancy consent**, approved on 2 June 2022) which approved the following development at 6 & 10 Clermont Avenue, Ryde (the **site**):

*New dual occupancy (attached), swimming pools and Torrens title subdivision of proposed Lot 1 under LDA2021/0148*

Upon completion of the approved LDA2021/0148 subdivision, the site is to be known as 10 Jennifer Street, Ryde.

This SEE has been prepared by Robinson Urban Planning Pty Ltd (**RUP**) on behalf of the landowner and developer, Clermont Holdings Pty Ltd.

The Section 4.55(2) proposal described in this SEE proposes the following modifications to the Lot 1 dual occupancy consent:

1. Minor changes to the *dual occupancy (attached)* building comprising the following:
  - (a) New basement level accommodating storage, plant/equipment and laundry
  - (b) Extension of lift to new basement to promote aging in place
  - (c) Minor changes to the First Floor Plan and Roof Plan including:
    - (i) Glass blocks to windows W19, W20 & W22.
    - (ii) New skylight to Bedroom 2 (for ventilation).
    - (iii) Window W21 min 900mm from boundary to comply with BCA without providing glass block windows.

These modification enable deletion of Council's amendments in red on Drawing 782DA\_A 06.
2. Deletion of the footpath along Jennifer Street (consistent with the consents granted for Lots 2 and 3 (LDA2021/0363 and LDA2021/0364))
3. Modification of the landscape plan to align with the modified architectural plans including adoption of Council's changes in red
4. Modification of the stormwater management plan to align with the modified architectural plans including adoption of Council's changes in red
5. Modification of the following conditions of consent:
  - (a) Condition 40 to refer to stormwater drainage to Jennifer Street instead of Clermont Avenue (correction of an error)
  - (b) Condition 64 to:
    - (i) Permit removal of Tree 20 to align the consent with TMA2022/0098
    - (ii) Permit tree removal prior to the issue of a construction certificate (consistent with the consents granted for Lots 2 and 3 (LDA2021/0363 and LDA2021/0364).

The SEE is accompanied by the following plans and information:

1. Application form including landowner's consent
2. Modified Architectural Plans, by Studio\_BD Architecture & Interiors (dated 20/6/22):
  - 782DA\_A\_01 Cover Sheet
  - 782DA\_A\_04 Basement Plan (Revision E)

- 782DA\_A\_05 Ground Floor Plan (Revision G)
  - 782DA\_A\_06 First Floor Plan (Revision G)
  - 782DA\_A\_07 Roof Plan (Revision F)
  - 782DA\_A\_09 Elevations (Part 1) (Revision E)
  - 782DA\_A\_10 Elevations (Part 2) (Revision E)
  - 782DA\_A\_11 Elevations (Part 3) (Revision E)
  - 782DA\_A\_12 Elevations (Part 4) (Revision E)
  - 782DA\_A\_13 Sections - 1 (Revision D)
  - 782DA\_A\_14 Sections - 2 (Revision D)
  - 782DA\_A\_15 Sections - 3 (Revision D)
  - 782DA\_A\_16 Shadow Diagrams (Revision C)
  - 782DA\_A\_18 Area Schedule (Revision C)
  - 782DA\_A\_19 Notification Plans (Revision B)
3. Modified Landscape Design Drawings, by MHLA (LP20 - LP25 Issue C, dated 28 June 2022)
  4. Modified Stormwater Management Plan, by NY Civil Engineering (Drawing No. D1 - D4, Issue C dated 22.06.2022)
  5. Report on Geotechnical Desktop Assessment, by Douglas Partners (July 2022)
  6. Addendum Urban Design Report by Audax Urban (1 July 2022)
  7. BASIX Certificate (No. 1319320M dated 4 July 2022)
  8. Construction Impact Statement, by TQM Design and Construct Pty Ltd (1 July 2022).

## **2.0 Lot 1 dual occupancy consent (LD2021/0362)**

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Application No	LDA2021/0362
Approved	2 June 2022
Applicant:	Robinson Urban Planning Pty Ltd
Consent Authority:	City of Ryde
Land	6 & 10 Clermont Avenue, Ryde, Lots X & Y DP 418160 (upon completion of the approved LDA2021/0148 subdivision, the site is to be known as 10 Jennifer Street, Ryde)
Development	New dual occupancy (attached), swimming pools and Torrens title subdivision of proposed Lot 1 under LDA2021/0148

### 3.0 Proposed modifications

#### 3.1 Overview

The s. 4.55(2) proposal comprises the following modifications to the Lot 1 dual occupancy consent:

1. Minor changes to the *dual occupancy (attached)* building comprising the following:
  - (a) New basement level accommodating storage, plant/equipment and laundry
  - (b) Extension of lift to new basement to promote aging in place
  - (c) Minor changes to the First Floor Plan and Roof Plan including:
    - (i) Glass blocks to windows W19, W20 & W22.
    - (ii) New skylight to Bedroom 2 (for ventilation).
    - (iii) Window W21 min 900mm from boundary to comply with BCA without providing glass block windows.

These modification enable deletion of Council's amendments in red on Drawing 782DA\_A 06.
2. Deletion of the footpath along Jennifer Street (consistent with the consents granted for Lots 2 and 3 (LDA2021/0363 and LDA2021/0364))
3. Modification of the landscape plan to align with the modified architectural plans including adoption of Council's changes in red
4. Modification of the stormwater management plan to align with the modified architectural plans including adoption of Council's changes in red
5. Modification of the following conditions of consent:
  - (a) Condition 40 to refer to stormwater drainage to Jennifer Street instead of Clermont Avenue (correction of an error)
  - (b) Condition 64 to:
    - (i) Permit removal of Tree 20 to align the consent with TMA2022/0098
    - (ii) Permit tree removal prior to the issue of a construction certificate (consistent with the consents granted for Lots 2 and 3 (LDA2021/0363 and LDA2021/0364)).

**Figures 1 to 3** show extracts from the approved and modified Architectural Plans (the modified plans show changes in red cloud). The proposed changes to the conditions are described at Section 3.3.

More details follow.

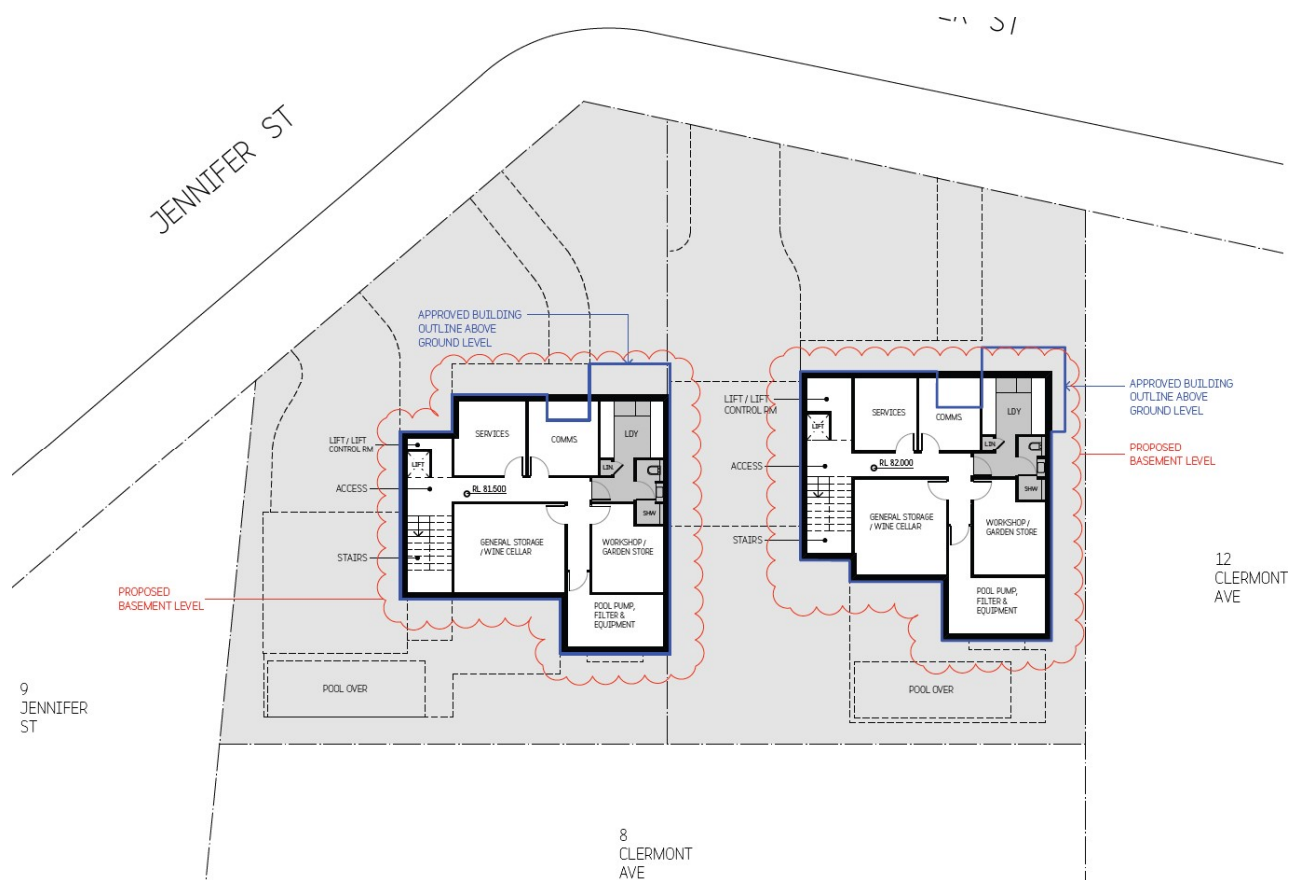
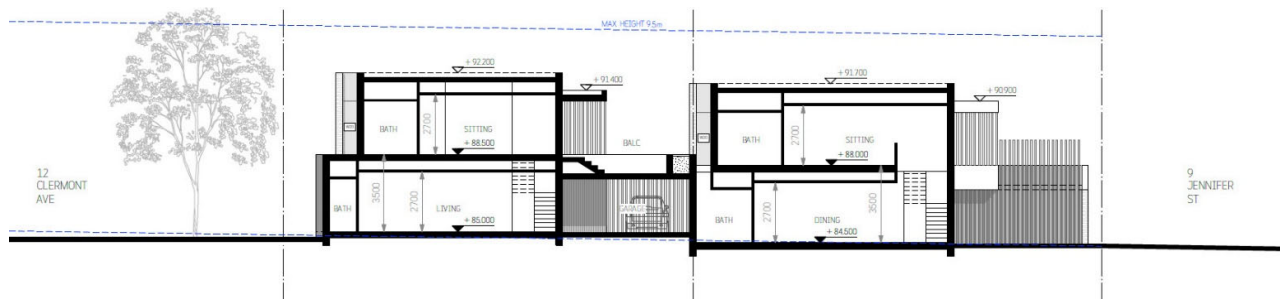


Figure 1 – Proposed Basement Floor Plan (Source: Drawing 782DA\_A\_04 Revision E, by Studio\_BD)

Approved (Drawing 782DA\_A\_09 Revision C)



Proposed modification (Drawing 782DA\_A\_09 Revision D)

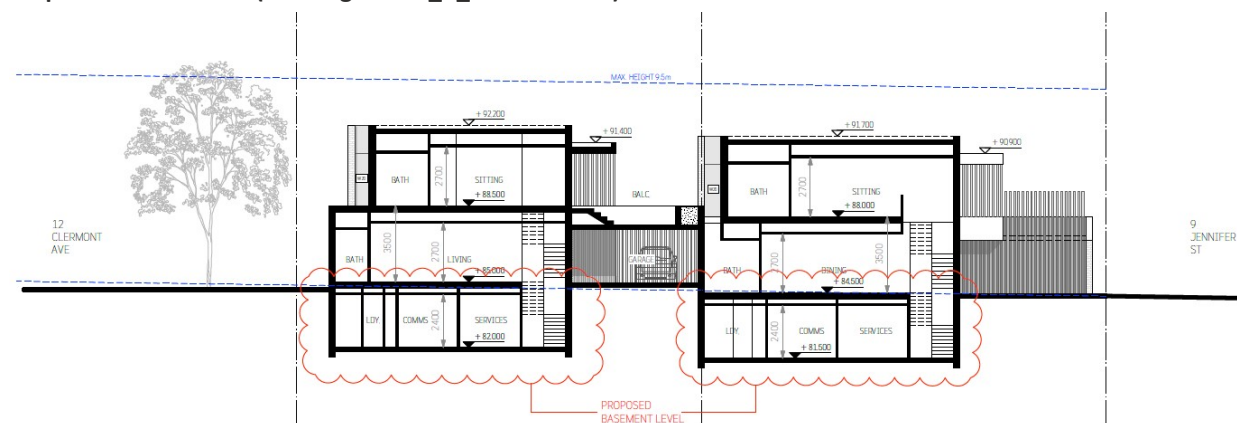
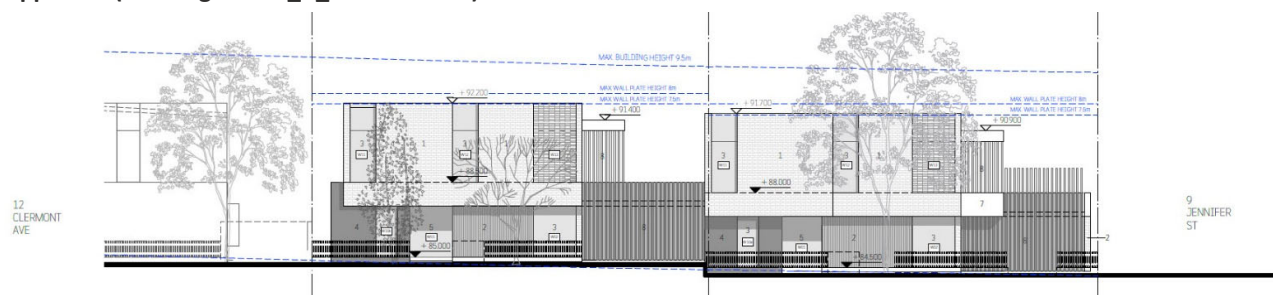


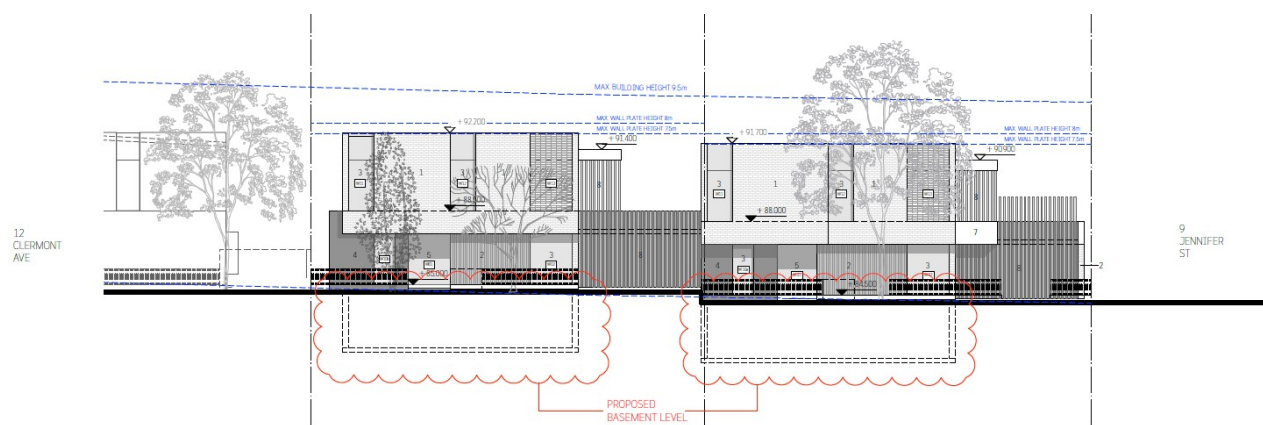
Figure 2 – Comparison of approved and proposed Section A-A (Source: Studio\_BD)



Approved (Drawing 782DA\_A\_11 Revision D)



Proposed modification (Drawing 782DA\_A\_11 Revision E)



**Figure 3 – Comparison of approved and proposed North Elevation to Jennifer Street – NO CHANGE** (Source: Studio\_BD)

### 3.2 Gross Floor Area (GFA) and Floor Space Ratio (FSR)

As calculated by Studio\_BD, the proposed total GFA<sup>1</sup> is 509.5m<sup>2</sup> an increase of 50m<sup>2</sup> (459.5m<sup>2</sup> approved) which equates to a floor space ratio (FSR) of 0.549:1 (compared with 0.495:1 approved).

All of the proposed additional GFA is located with the new basement level and there is no change to the approved building envelope above ground level.

Table 1 compares the existing and proposed GFA/FSR and shows that a GFA/FSR increase of 11% is proposed.

**Table 1 – Comparison of the approved and proposed GFA and FSR**

Site Area: 927.4m <sup>2</sup>	LOT A	LOT B	Total
<b>GFA (m<sup>2</sup>)</b>			
• Approved	223	237	459.5
• Proposed	247	262.5	509.5
• Change	+24	+25.5	50
<b>FSR</b>			
• Approved			0.495:1
• Proposed			0.549:1
• Change			+11%

<sup>1</sup> Pursuant to Ryde LEP 2014:

**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
  - (b) habitable rooms in a basement or an attic, and
  - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes:
- (d) any area for common vertical circulation, such as lifts and stairs, and
  - (e) any basement:
    - (i) storage, and
    - (ii) vehicular access, loading areas, garbage and services, and

- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

### 3.3 Proposed modifications to conditions of consent

The following modifications are proposed to the conditions of the Lot 1 dual occupancy consent. New words shown in **red** and deleted words in ~~strike through~~.

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

Document Description	Date	Plan No/Reference
Cover Sheet	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 1
Location Plan/Site Analysis	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 2, Revision <del>E</del> <b>F</b>
Subdivision Plan	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 8, Revision <del>B</del> <b>C</b>
Basement Floor Plan	20/6/22	783DA_A_, Drawing No. 5, Revision <b>E</b>
Ground Floor Plan ( <del>as amended in red</del> )	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 5, Revision <del>F</del> <b>G</b>
First Floor Plan	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 6, Revision <del>F</del> <b>G</b>
Roof Plan	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 7, Revision <del>E</del> <b>F</b>
East Elevation	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 9, Revision <del>D</del> <b>E</b>
South Elevation	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 10, Revision <del>D</del> <b>E</b>
West Elevation	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 11, Revision <del>D</del> <b>E</b>
North Elevation	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 12, Revision <del>D</del> <b>E</b>
Sections - 1	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 13, Revision <del>E</del> <b>D</b>
Sections - 2	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 14, Revision <del>E</del> <b>D</b>
Sections - 3	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 15, Revision <del>E</del> <b>D</b>
Shadow Diagrams - 21st June	<del>28.01.22</del> 20/06/22	783DA_A_, Drawing No. 16, Revision <del>B</del> <b>C</b>
External Finishes Schedule	28.01.22	783DA_A_, Drawing No. 17, Revision <b>D</b>
Area Schedule	<del>28.01.22</del> 20/06/22	782DA_A_, Drawing No. 18, Revision <del>B</del> <b>C</b>
Context Plan: Landscaping ( <del>as amended in red</del> )	<del>03.02.22</del> 28.06.22	21898, LP30, Issue <del>B</del> <b>C</b>
Landscape Plan ( <del>as amended in red</del> )	<del>03.02.22</del> 28.06.22	21898, LP31, Issue <del>B</del> <b>C</b>
Schedule + Materials	<del>03.02.22</del> 28.06.22	21898, LP32, Issue <del>B</del> <b>C</b>
Section A	<del>03.02.22</del> 28.06.22	21898, LP33, Issue <del>B</del> <b>C</b>
Level 1 Balcony	<del>03.02.22</del> 28.06.22	21898, LP34, Issue <del>B</del> <b>C</b>
Calculations Diagram	<del>03.02.22</del> 28.06.22	21898, LP35, Issue <del>B</del> <b>C</b>

Stormwater Management Plan: Details, Notes & Legend	<del>29.09.21</del> 22.06.2022	E210095, D1, Issue A C
Stormwater Management Plan <del>(as amended in red)</del>	<del>29.09.21</del> 22.06.2022	E210095, D2, Issue A C
Stormwater Management First Floor	<del>29.09.21</del> 22.06.2022	E210095, D3, Issue A C
Stormwater Management Roof Plan	<del>29.09.21</del> 22.06.2022	E210095, D4, Issue A C
Stormwater Details	<del>29.09.21</del> 22.06.2022	E210095, D5, Issue A C
Stormwater Details <del>(as amended in red)</del>	<del>29.09.21</del> 22.06.2022	E210095, D6, Issue A C
Stormwater Details <del>(as amended in red)</del>	<del>29.09.21</del> 22.06.2022	E210095, D7, Issue A C
Sediment Control Plan	<del>29.09.21</del> 22.06.2022	E210095, D8, Issue A C
Sediment Control Details	<del>29.09.21</del> 22.06.2022	E210095, D9, Issue A C

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

*(a) Amendments to the Stormwater Management Plan to provide 5.0m<sup>3</sup> rainwater tanks for each dwelling as required by the BASIX Certificate, provide minimum two grated inlet pits for each tank, provide defined failure mode for surcharges from the pits in the rear courtyards towards the front, provide a driveway perpendicular to the kerb for Proposed Dwelling 2 and provide stepping stones for pedestrian access to reduce hard surface areas.*

*(b) Amendment to the Landscape Plan to show the planting of 4 Grey Myrtle (Backhousia myrtifolia) in the road reserve.*

*(c) Amendment to the First Floor Plan requiring Windows W19, W20, W21 and W22 which are within 900mm of the proposed dividing boundary to be fire rated glass blocks in accordance with the requirements of the Building Code of Australia.*

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

*(Reason: To ensure the development is carried out in accordance with the determination).*

4. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered ~~1244517M~~, dated ~~7 October 2021~~ **1319320M dated 4 July 2022.**

*(Reason: Statutory requirement).*

40. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to ~~Clermont Avenue~~ **Jennifer Street**, generally in accordance with the plans by NY Civil Engineering Project No E210095 Sheet D1 to D7 dated 1/2/22 subject to any variations marked in red on the approved plans or noted as follows:

- A defined failure mode (overland flow path) must be provided, directing any surcharge or surface flow from the rear yards (being the lowest point of the development) towards the front of the dwellings. To comply with this, any walls over the flowpath must accommodate perforations at the base to permit the conveyance of flows through the area or a secondary outlet pipe should be provided.
- Provide minimum of two grates for each OSD tank.

- Adjust levels of pit SP4 to achieve gravity flow pipes.
- Provide correct BASIX volume as required in the BASIX report which is 5.0m<sup>3</sup> for each unit. This will be in addition to the OSD volume.
- Provide stepping stones for pedestrian access areas to reduce paved areas bypassing the OSD tank.

....

64. **Tree Removal.** As identified in the Arboricultural Impact Assessment (AIA) prepared by Naturally Tree dated 8/10/2021. The following trees on site are to be removed:

Tree No.	Species "Common name"
20	Jacaranda Mimosifolia (Jacaranda)
23	Cedrus deodara, (Himalayan Cedar)
26	Cedrus deodara, (Himalayan Cedar)
34	Photinia glabra (Small Leaf Photinia)
35	Photinia glabra (Small Leaf Photinia)

*The removal of these trees is permitted to be undertaken prior to the issue of a construction certificate.*

*(Reason: To ensure that approval is provided for the removal of any trees on site).*

67. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered ~~1244517M, dated 7 October 2021~~ **1319320M dated 4 July 2022.**  
*(Reason: Statutory requirement).*

## 4.0 Section 4.55(2) considerations

Section 4.55(2) of the EP&A Act states

- (2) **Other modifications** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—
- (a) it is satisfied that the development to which the consent as modified relates is **substantially the same development** as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
  - (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
  - (c) it has **notified the application** in accordance with—
    - (i) the regulations, if the regulations so require, or
    - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
  - (d) it has **considered any submissions** made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.
- Subsections (1) and (1A) do not apply to such a modification.
- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the **matters referred to in section 4.15(1)** as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

An assessment of the Section 4.55(2) proposal in accordance with these tests follows:

### 4.1 Substantially the same development

The modified development would be substantially the same as “the development for which consent was originally granted and before that consent as originally granted was modified” as the Section 4.55(2) proposal proposes new basements and minor other changes that will not appreciably alter the external appearance of the approved building or landscaping.

Other modifications are administrative (incorporating amendments to plans to address conditions and Council’s changes in red, modification of the conditions to correct errors and/or align them with the approved tree management strategy for the site).

As shown by **Table 2**, the Section 4.55(2) proposal does not change the number of dwellings, allotment size, height, deep soil zone, number or arrangement of parking spaces. The only change relates to GFA/FSR noting that all of the additional GFA is located below ground level in the new basement. As shown by **Figure 3**, the external appearance of the approved development is retained.

Given this, the form and content of the development for which consent was originally granted will be retained.

**Table 2 – Comparison of the Original Consent and Section 4.55(2) proposal**

	Original Consent	Section 4.55 proposal
<b>Site area (m<sup>2</sup>)</b>		
• Lot A	445.703	No change
• Lot B	481.701	No change
• Total	927.404	No change
<b>GFA (m<sup>2</sup>)</b>		
• Lot A	223	247
• Lot B	237	262.5
Total	459.5	509.5 (+50)
<b>FSR</b>	0.495:1	0.549:1 (+11%)
<b>Height</b>		
• Storeys	2 storeys	No change
• Maximum height (m)	7.7	No change
• Maximum wall plate height (m)	7.55	No change
<b>Deep soil zone</b>		
• Area (m <sup>2</sup> )	324.6 (8 x 8m deep soil area on Lot A)	No change
• % site area	35% site area	No change
<b>Car parking spaces</b>	2 spaces per dwelling	No change

## 4.2 Assessment of environmental effects

An assessment of the Section 4.55(2) proposal, using the considerations at section 4.15(1) of the EP&A Act, follows.

### 4.2.1 S.4.15(1)(a) State, regional and local plans

The following legislation, environmental planning instruments and development control plan are relevant to the Section 4.55(2) proposal:

- SEPP Resilience and Hazards SEPP
- SEPP (Biodiversity and Conservation) 2021
- Ryde LEP 2014
- Ryde DCP 2014.

The Section 4.55(2) proposal does not alter the compliance of the approved development with these SEPPs

An assessment of the modified compliance with Ryde LEP 2014 and Ryde DCP 2014 follows

#### Ryde LEP 2014

As set out in **Table 3**:

- Ryde LEP 2014 cl. 4.4 prescribes FSR standard of 0.5:1 for the site
- With a FSR of 0.495:1, the Original Consent complied with the FSR standard
- With a FSR of 0.549:1, the Section 4.55(2) proposal contravenes the standard by 45.78m<sup>2</sup> or 9.87%.

**Table 3 – FSR comparison: Original Consent and Section 4.55(2) proposal**

	Ryde LEP 2014 FSR standard	Approved/proposed FSR	Compliance
<b>Original Consent</b>			
• FSR	0.5:1	0.495:1	✓
• GFA (m <sup>2</sup> )	463.72	459.5	
<b>Section 4.55(2) proposal</b>			
• FSR	0.5:1	0.549:1	×
• GFA (m <sup>2</sup> )	463.72	509.5	(Contravention of 45.78m <sup>2</sup> , 9.87%)

A Section 4.55(2) application is not a development application and does not need to be accompanied by a clause 4.6 written request to contravene a standard. Notwithstanding, the proposed non-compliance with the FSR standard is reasonable in the circumstances as:

1. The contravention is small (equating to just 23m<sup>2</sup> for each dwelling and less than 10% for the overall development).
2. The additional GFA/FSR is located in below ground basements. Above *ground level (existing)*, there would be no change to the approved external appearance of the development.
3. The proposed basements will provide much-needed storage for bulky goods, heating and cooling equipment that can be associated with noise and visual impacts to neighbours. Accommodating all Heating, Ventilation and Air Conditioning (HVAC) and pool equipment in



the proposed basements (potential sources of noise emissions for neighbours) to the new basements will improve amenity for adjoining residents.

4. The proposed basements will have an indirect positive urban design outcome as noted in the Urban Design Addendum Report by Audax Urban which states:

*Introducing basement storage ensures an aesthetically pleasing elevation whether the garage doors are closed or open. During the brief moments when the garage doors are open, these areas often disclose the natural accumulation of bulky goods and other accoutrements that accumulate due to the complexity of family life. It is not uncommon that this burdensome accumulation usually takes over garages as the default family storage pushing vehicle parking onto the streets. The provision of basement storage reduces any opportunity for vehicles to be relegated to on-street parking, which assists in alleviating the endemic lack of on-street parking in our communities.*

5. The proposed basements will not alter the natural ground levels or landform around the approved dual occupancy.
6. There would be no change to the approved deep soil area and the provision of adequate basement storage would reduce the potential need for residents to install external prefabricated garden sheds that would reduce deep soil, landscaping and usable open space on the site.
7. There is no change to the driveway or car parking arrangement (importantly, there is no excavated driveway or garage that can detract from the streetscape).
8. The proposed basements will not alter the streetscape along Jennifer Street or Clermont Avenue.
9. Excavation is proposed beneath the footprint of the approved dual occupancy building/paved areas.
10. The proposed basements do not result in an any loss of privacy or security for neighbours.
11. The design allows for uniform bearing of the basement and structure above. Douglas Partners has provided a Geotechnical Report that assesses the subsurface conditions at the site and likely opportunities and constraints in relation to geotechnical issues on the site, including preliminary advice on design and construction.

#### **Ryde DCP 2014**

Ryde DCP 2014, s 2.6.2 Topography and Excavation is relevant to the Section 4.55(2) proposal. It states

##### **2.6.2 Topography and Excavation**

###### **Objectives**

1. To retain natural ground levels and existing landform.
2. To create consistency along streetscapes.
3. To minimise the extent of excavation and fill.
4. To ensure that excavation and fill does not result in an unreasonable loss of privacy or security for neighbours.

###### **Controls**

- a. Building form and siting are to relate to the original topography of the land and of the streetscape.
- b. The area under the dwelling footprint may be excavated or filled so long as:
  - i. the topography of the site requires cut and/or fill in order to reasonably accommodate a dwelling;
  - ii. **the depth of excavation is limited to 1.2 m maximum;** and
  - iii. the maximum height of fill is 900 mm.

- c. Areas outside the dwelling footprint may be excavated and/or filled so long as:
  - iv. the maximum height of retaining walls is no greater than 900 mm;
  - v. the depth of excavation is not more than 900 mm;
  - vi. the height of fill is not more than 500 mm;
  - vii. the excavated and filled areas do not have an adverse impact on the streetscape;
  - viii. the filled areas do not have an adverse impact on the privacy of neighbours;
  - ix. the area between the adjacent side wall of the house and the side boundary is not filled; and
  - x. the filled areas are not adjacent to side or rear boundaries.
- d. Fill is not allowed in areas of overland flow.
- e. Generally the existing topography is to be retained. The areas of excavation and fill are to be minimised.

The proposed excavation is contained within the dwelling footprint, but it exceeds the depth of excavation control (shown in **bold** above) as noted below:

- Depth of excavation control: 1.2m
- Proposed depth of excavation: 3.0m.

This non-compliance is reasonable in the circumstances as the Section 4.55(2) proposal is consistent with the objectives of the control, as noted above in the Ryde LEP 2014 assessment.

#### 4.2.2 S.4.15(1)(b) Impact on the environment

##### Urban design

The Urban Design Report Addendum by Audax Urban considers the streetscape, acoustic amenity, liveability and landscape merits of the proposed new basements. Audax Urban concludes that:

*The proposed amendments to 10 Jennifer Street, Ryde will be imperceptible from the surrounding context, thus retaining the approved building type and appearance from the street. In addition, the provision of generous areas for storage has potential benefits to the streetscape and locality in terms of acoustic attenuation and visual relief of noise-generating equipment from the rear backyards of the approved dual occupancy units.*

*The proposed outline of the basements sits strictly within the outline of the approved building, ensuring the same levels of open space and landscape areas as the approval.*

*Adding storage within a basement would contribute to the quality of the streetscape in that it can potentially prevent visibility of domestic clutter, which is evidence of the complexity of contemporary family life, i.e. sporting gear, HVAC, pool and gardening equipment. Finally, the benefits of adding lift access to all levels throughout the dwellings is inclusive and accommodates two often neglected sectors of the population in terms of quality housing stock: the differently abled and those wishing to age in place.*

*For the reasons outlined above the proposed modifications are recommend for approval.*

##### Construction

The Construction Impact Report by TQM Design and Construct Pty Ltd compares the construction impacts of the development approved by the original consent and the Section 4.55(2) proposal. It concludes that:

- Both the original consent and Section 4.55(2) proposal require excavation of clay and shale (according to Douglas Partners geotechnical investigations) and 100% of the material will be reused/recycled.
- A 5 tonne excavator would be used for the development approved by the original consent (six day excavation period) whereas a 30 tonne excavator would be used for the Section 4.55(2) proposal (two day excavation period). Use of a larger machine for the Section 4.55(2)

proposal would reduce the construction program by four days which decreasing the adverse impact of construction for nearby residents.

- Based on the geotechnical investigations of Douglas Partners, excavation is unlikely to include the use of hydraulic rock breakers. In the unlikely event that rock breaking is required, this activity would be limited to the following hours to limit noise impacts for nearby residents:
  - Monday – Friday: 8am to 3pm
  - Saturday & Sunday: No rock breaking.

Other potential environmental impacts of the Section 4.55(2) proposal have been addressed above.

#### 4.2.3 S.4.15(1)(c) Suitability of the site

As detailed throughout this SEE, the site is suitable to accommodate the Section 4.55(2) proposal (in the same way that it is suitable for the development approved by the original consent).

#### 4.2.4 S.4.15(1)(d) Any submissions made in accordance with the Act or Regulations and S.4.15(1)(e) The public interest

As the relevant trees have been approved for removal, there should be no need to notify or advertise/notify Section 4.55(2) application.

## 5.0 Conclusion

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Given the merits of the Section 4.55(2) proposal and the absence of any significantly adverse environmental effects, the Section 4.55(2) proposal is considered worthy of consent as:

- The form and content of the Section 4.55(2) proposal is substantially the same as the development approved by the original consent for LDA2021/0362
- The Section 4.55(2) proposal will have a minimal, positive and satisfactory impact upon the environment.

As the Section 4.55(2) proposal satisfies the tests listed at Section 4.55(2) of the EP&A Act, it is worthy of consent.