

**Meeting Date:** Tuesday 6 March 2012  
**Location:** Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde  
**Time:** 4.00pm

**NOTICE OF BUSINESS**

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**1 CONFIRMATION OF MINUTES - Meeting held on 21 February 2012**

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**Report prepared by:** Meeting Support Coordinator**Report dated:** 21/02/2012**File No.:** CLM/12/1/3/2 - BP12/157

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**REPORT SUMMARY**

In accordance with Clause 3.4.4 of Council's Code of Meeting Practice, a motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.

**RECOMMENDATION:**

That the Minutes of the Planning and Environment Committee 2/12, held on Tuesday 21 February 2012, be confirmed.

**ATTACHMENTS**

- 1 Minutes - Planning and Environment Committee - 21 February 2012

**ITEM 1 (continued)**

**ATTACHMENT 1**

Planning and Environment Committee  
**MINUTES OF MEETING NO. 2/12**

**Meeting Date:** Tuesday 21 February 2012  
**Location:** Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde  
**Time:** 4.03pm

**Councillors Present:** Councillors Pickering (Chairperson), Butterworth, O'Donnell, and Yedelian OAM.

**Apologies:** Councillor Salvestro-Martin

**Staff Present:** Group Manager – Environment & Planning, Manager Assessment, Manager Environmental Health & Building, Business Support Coordinator – Environment & Planning, Team Leader – Assessment, Team Leader – Development Engineers and Councillor Support Coordinator.

**DISCLOSURES OF INTEREST**

There were no disclosures of interest.

**1 CONFIRMATION OF MINUTES - Meeting held on 7 February 2012**

**RESOLUTION:** (Moved by Councillors Yedelian OAM and O'Donnell)

That the Minutes of the Planning and Environment Committee 1/12, held on Tuesday 7 February 2012, be confirmed.

**Record of Voting:**

For the Motion: Unanimous

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

**2 7 DAYMAN PLACE, MARSFIELD. LOT 3 DP623320. Local Development Application for demolition of existing dwelling and erection of a new 3 storey boarding house containing 77 boarding rooms, 1 manager's residence and communal facilities. LDA2011/375.**

Report: The Committee inspected the property at 7 Dayman Place, Marsfield.

Note: Mrs Jan Foulcher (on behalf of Leisure Lea Gardens Retirement Village), Mr and Mrs Macris, Ms Kerry Gordon and Ms Natasha Wells (objectors) and Mr James Phillips (on behalf of the applicant) addressed the Committee in relation to this Item.

**ITEM 1 (continued)**

**ATTACHMENT 1**

Note: A letter from Ms Hazel Myers dated 18 February 2012 was tabled in relation to this item.

**RESOLUTION:** (Moved by Councillors O'Donnell and Yedelian OAM)

- (a) That Council defer consideration of Local Development Application No. 2011/375 at 7 Dayman Place Marsfield being LOT 3 DP623320 to enable the applicant to submit amended plans and details addressing the issues of concern regarding the current design of the development. The specific issues of concern are:
1. insufficient/unsatisfactory details regarding stormwater drainage;
  2. insufficient/unsatisfactory details regarding vehicular access;
  3. front, side and rear setbacks of the building;
  4. privacy/overlooking issues particularly from the "roof garden"/terrace on the 3<sup>rd</sup> floor of the building;
  5. garbage bin storage arrangements;
  6. the height of the building could also become an issue of concern if any design amendments addressing the concerns about stormwater drainage (such as raising floor levels) results in increase to the building height.
  7. the position of the Australia Post box, which would need to be relocated in accordance with the requirements of Australia Post as part of any design amendments.
  8. a revised Plan of Management needs to be provided that has regard for the specific location of the proposal within a residential zone; not on Macquarie University land.
- (b) That the amended plans and additional information referenced in (a) above shall be re-notified to the neighbouring properties and previous submitters to the original DA.
- (c) That a further report be prepared for the Planning & Environment Committee within two (2) months of the receipt of the information required in recommendation (a).

**Record of Voting:**

For the Motion: Unanimous

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

**ITEM 1 (continued)**

**ATTACHMENT 1**

**3 35 BUENA VISTA AVENUE, DENISTONE. LOT 79 DP 16433. Local Development Application for Alterations and additions to dwelling including new inground swimming pool. LDA2011/0337.**

Report: The Committee inspected the property at 35 Buena Vista Avenue, Denistone.

Note: Mr Michael Nasr (applicant) addressed the Committee in relation to this Item.

**RESOLUTION:** (Moved by Councillors Yedelian OAM and O'Donnell)

- (a) That Local Development Application No. 2011/337 at 35 Buena Vista Ave, Denistone being Lot 79 DP 16433 be approved subject to the **ATTACHED** conditions.
- (b) That the persons who made submissions be advised of Council's decision.

**Record of Voting:**

For the Motion: Unanimous

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

The meeting closed at 6.05pm.

CONFIRMED THIS 6TH DAY OF MARCH 2012.

Chairperson

**2 83 CHAMPION ROAD, TENNYSON POINT. LOT D DP 18203. Local Development Application for alterations and additions to existing dwelling and swimming pool. LDA2011/0444.**

**INSPECTION: 4.20pm**

**INTERVIEW: 4.50pm**

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**Report prepared by:** Senior Town Planner; Team Leader - Major Development Team

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

**Report dated:** 20 February 2012 **File Number:** grp/12/5/5/3 - BP12/143

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### 1. Report Summary

**Applicant: Mariclad Design.**

**Owner: J I Koprivnjak.**

**Date lodged: 23 August 2011.**

This report considers a proposal for alterations and additions to the existing two storey dwelling. It is proposed to enlarge the existing first floor rear bedrooms with a rear first floor balcony off the bedrooms, enlarge the front first floor balconies and construct an additional bedroom at the front of the dwelling. On the ground floor it is proposed to open up the rear section by installing bi-fold doors and construct an open deck area off the living/kitchen area. A raised wrapped around swimming pool is to be provided around the proposed new deck area.

The report recommends approval.

There are non compliances with the planning controls, such as elevated swimming pool, minor departure from first floor side setback, front sight line and three storey elements. However the variations can be supported as the variations do not materially affect the sunlight access to the adjoining property's north facing windows and the development complies with the objectives of the development standards.

The site adjoins a heritage item – 85 Champion Road, which is a single storey late Victoria style cottage. The Heritage Officer's concerns of overlooking, noise and overshadowing have all been addressed by amendments which included installation of a full height privacy screen (2.5m high) adjacent to the pool area to minimise overlooking from the raised deck area. Elevation shadow diagrams were submitted which illustrated the impact of the addition to the adjoining southern property and these diagrams demonstrated that the proposed addition complies with Council's solar access requirements to adjoining properties.

The proposal was notified and one submission was received raising concerns about loss of solar access and privacy.

**ITEM 2 (continued)**

**Reason for Referral to Planning and Environment Committee:** At the request of Councillor Butterworth, Councillor Campbell and Councillor Tagg.

Public Submissions: One submission was received objecting to the development.

Clause 4.6 RLEP 2010 objection required? No

Value of works? \$120,000

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

**RECOMMENDATION:**

- (a) That Local Development Application No.2011/444 at 83 Champion Road, Tennyson Point being LOT D DP 18203 be approved subject to the **ATTACHED** conditions (Attachment 1).
- (b) That the persons who made submissions be advised of Council's decision.

**ATTACHMENTS**

- 1 Proposed Conditions
- 2 Map
- 3 Photo from living room of 85 Champion Road - subject to copyright provisions - **CIRCULATED UNDER SEPARATE COVER**

Report Prepared By:

**Sandra McCarry**  
**Senior Town Planner**

**Sandra Bailey**  
**Team Leader - Major Development Team**

Report Approved By:

**Liz Coad**  
**Manager Assessment**

**Dominic Johnson**  
**Group Manager - Environment & Planning**

**ITEM 2 (continued)**

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



<b>Address</b>	: 83 Champion Rd Tennyson Point
<b>Site Area</b>	: 510.9m <sup>2</sup> Frontage 13.4metres Depth 38.1metres
<b>Topography and Vegetation</b>	: The site has a slight fall from rear to front with a section at the rear of the dwelling raised, resulting in a difference in ground levels of approximately 1.2m from the side of the dwelling to side boundaries. No significant vegetation on site.
<b>Existing Buildings</b>	: A part 2/part 3 storey dwelling with double garage on lower ground floor. A detached outbuilding is located in the southwest corner.
<b>Planning Controls</b>	: R2 – Low Density Residential
<b>Zoning</b>	: Development Control Plan 2010:
<b>Other</b>	: - 3.3 Dwelling Houses & Dual Occupancy (attached) - 7.2 Waste Minimisation & management - 8.1 Construction Activities - 8.2 Stormwater Management - SEPP BASIX - SEPP 55 Remediation of Land - SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.



## **ITEM 2 (continued)**

### **3. Councillor Representations**

Name of Councillor: Councillor Butterworth

Nature of the representation: Requested the application be referred to the Planning & Environment Committee for determination.

Date: 17 October 2011.

Form of the representation (e.g. via email, meeting, phone call): Email, HelpDesk.

On behalf of applicant or objectors?: Objector.

Any other persons (e.g. consultants) involved in or part of the representation: No

Name of Councillor: Councillor Campbell

Nature of the representation: Requested the application be referred to the Planning & Environment Committee for determination.

Date: 20 October 2011.

Form of the representation (e.g. via email, meeting, phone call): Email, HelpDesk.

On behalf of applicant or objectors?: Objector.

Any other persons (e.g. consultants) involved in or part of the representation: No

Name of Councillor: Councillor Tagg

Nature of the representation: Requested the application be referred to the Planning & Environment Committee for determination.

Date: 23 October 2011.

Form of the representation (e.g. via email, meeting, phone call): Email, HelpDesk.

On behalf of applicant or objectors?: Objector.

Any other persons (e.g. consultants) involved in or part of the representation: No

### **4. Political Donations or Gifts**

Any political donations or gifts disclosed? No.

**ITEM 2 (continued)****5. Proposal**

Alterations and additions to existing dwelling comprising:

Lower Ground Floor:

- Remove existing garage doors and install new electric panel lift garage door.
- New masonry columns to replace existing posts.
- 1.5m high brick and piers front fence with electronic sliding gate.

Ground Floor:

- Internal alterations including the relocation of the kitchen, removal of rear door to provide for large bi-fold door leading out to a new open deck area.
- Construction of a new 6.3m x 7.5m deck immediately off the rear kitchen/dining area. The deck will be at the same level as the existing finish floor level, which is 1.2m off the natural ground.
- A raised swimming pool is also proposed, which will be wrapped around the deck. The pool will be 2.6m wide x 7.3m long adjacent to the southern end of the deck and 1m x 9m long adjacent to the western end of the deck. The pool will be 1.2m off natural ground and set back 900mm off the southern boundary. The pool will have a louvred roof above.
- Replacement of new bi-fold doors at the front of the dwelling.

First floor:

- Extend the rear section of the dwelling by 1.4m to enlarge bedrooms 4 & 5 and bathroom.
- Construct 7.7m x 5.1m rear balcony off the bedrooms.
- Extend front balconies by 900mm
- Extend front by additional 6.5m to provide an additional bedroom and ensuite. The extension will be over the existing ground floor living/front balcony and lower garage.

The total floor space ratio for the site (including the rear outbuilding) is 0.49:1.

**6. History:**

- LDA 2010/179 was issued as a deferred commencement for a secondary dwelling and storage shed within the rear yard on 22 June 2010. The proposal had a floor space ratio of 0.43:1. The deferred commencement had until 22 June 2011 to comply with the deferred commencement condition. No action was taken and the deferred commencement consent for the secondary dwelling has since lapsed.
- Building Certificate 2011/115 issued on 15 May 2011 for cubby house and shed (outbuilding).

## ITEM 2 (continued)

### Background

- DA was lodged on 23 August 2011.
- The application was notified between the period of 16 September 2011 and 1 October 2011, then re-notified between 31 October 2011 and 15 November 2011. One submission was received during each notification period from the owners of 85 Champion Road.
- Council's letter dated 26 September 2011 raised concerns about the location and height of the proposed swimming pool and requested additional information.
- Meeting with applicant (Mariclad Design) and owner on 13 October 2011 to discuss issues in respect of the raised deck and swimming pool and overshadowing to the adjoining property to the south. Applicant advised that they will submit elevation shadow diagrams to illustrate that the overshadowing is acceptable and advised that they will install glass pool fence to minimise noise.
- Amended elevation shadow diagram and plans were submitted on 1 December 2011 and 13 December 2011, respectively. The amended plans included changes to front façade and a full height frosted glass panel or perspex fixed to outside of pool wall for privacy and to minimise noise impact.
- A copy of the amended plan detailing the privacy screen and shadow diagram was emailed through to the objector on 16 December 2011 and 22 December 2011, respectively. On 23 December 2011 the objector replied via email, stating that they are still concerned about their study room being in shade all day. Full discussion of the overshadowing impact is detailed below.

## 7. Submissions

The proposal was notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. Notification of the proposal was from 16 September 2011 to 1 October 2011. This notification period had the description as "alterations and additions to existing dwelling" and did not include the swimming pool as part of the proposal. After confirmation with the owner that the swimming pool is part of the proposal, the proposal was re-notified with the amendment to the description for: "alterations and additions to existing dwelling plus swimming pool". This notification period was from 31 October 2011 to 15 November 2011.

One submission was received for both notifications from the same objectors – the residents of 85 Champion Road, which is the adjoining southern property. The following concerns were raised:

*Our residence is depicted as a 2 storey house – our dwelling is a single storey with local heritage listing. Due to the proximity of the development and the extension into the western aspect of the property, the development will cut out the sun entering the main living area of our house for all of the daylight hours in winter. The proposed dwelling will cast shadow onto the northern aspect of our house for all the daylight hours in winter.*

**ITEM 2 (continued)**

Comment:

Council's DCP 2010 for daylight and sunlight access, clause 2.13.1(e) states:

- e. For neighbouring properties ensure:*
- i. sunlight to at least 50% of the principal area of ground level private open space of adjacent properties is not reduced to less than two hours between 9am and 3pm on June 21 and*
  - ii. windows to north-facing living areas of neighbouring dwellings receive at least 3 hours of sunlight between 9am and 3pm 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 orientation of the subject site is east - west, with the objector's site being the adjoining southern property with their north facing windows facing the subject site. The windows of concern are two north facing windows - the study/sunroom room window, which is the window closest to the common boundary, and the main living area window, which is set back 3.2m off the boundary.

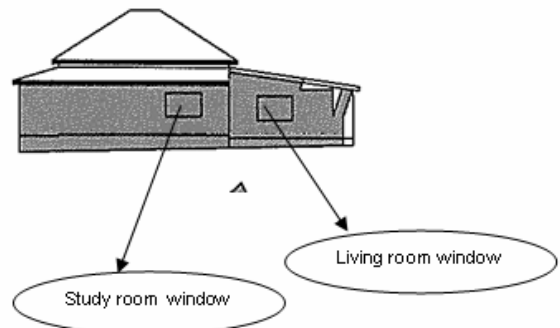
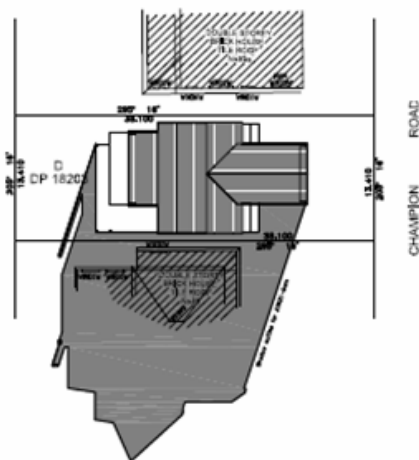


A view from inside No. 85 Champion Road showing the living room window is **CIRCULATED UNDER SEPARATE COVER.**

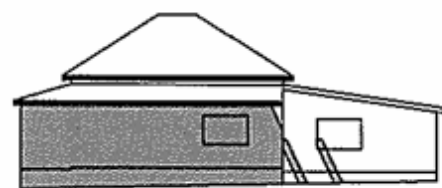
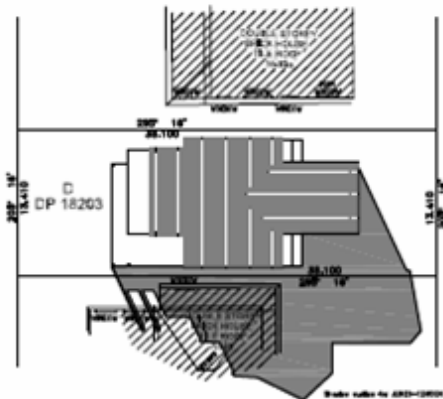
**ITEM 2 (continued)**

Along the southern elevation, adjacent to 85 Champion Road, the southern wall is to be extended by 1.4m on the first floor and 1m on the ground floor, resulting in the end of the building in line with the middle of the study room window of the adjoining property. The raised pool will be parallel to the 2 windows.

The applicant has submitted a shadow diagram (1 December 2011) illustrating the overshadowing impact to the adjoining southern property. The diagrams demonstrate compliance with Council's DCP in terms of overshadowing.

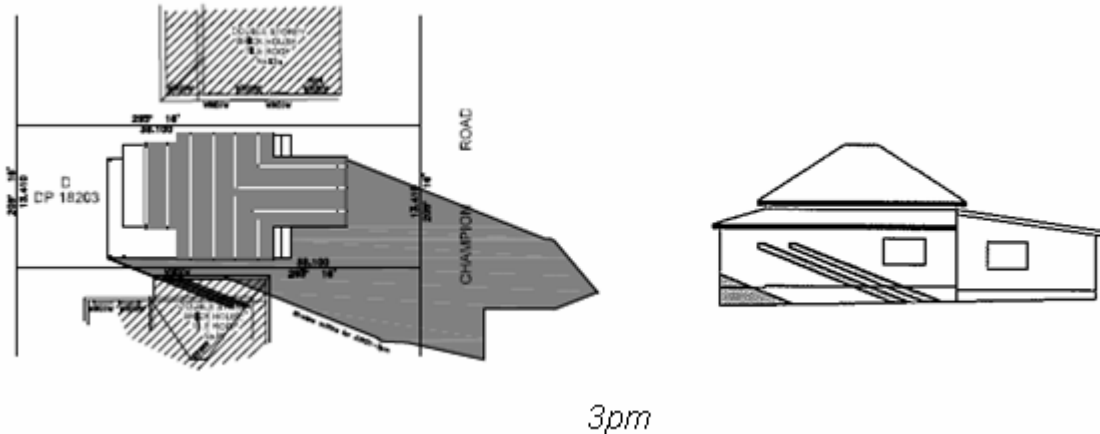


*9am 21 June*



*12 noon*

**ITEM 2 (continued)**



An examination of the impact in the elevation diagrams indicates:

9.00am: All windows affected by the proposed shadow,

12 noon: The study room window will be in shade with the majority of the main living area window receiving solar access.

3.00pm: All north facing windows in full sunlight.

The objector's study room window will receive sunlight from approximately 1pm onwards, receiving about 2 hours of sunlight between 9am and 3pm on 21 June, which does not comply with Council's requirements. However, this room is the objector's study room (office area) and is not a main living area. The main living area is located in the next room which has a north facing window and opens up to a western pergola area.

The proposal will cast a shadow over the entire dwelling at 9am; however, by 12 noon the living room north facing window will receive sunlight for a relatively large portion of the window and by 3pm the window will receive full sun. This main living area window will receive the required 3 hours of solar access between 9am and 3pm, therefore the proposal is considered satisfactory. It should be noted that the single storey rear outbuilding has not been included in the shadow diagrams. This building is only single storey and as the objector's living room window is set back 3m from the boundary, the length of the shadow cast from this outbuilding will be below the window sill, thereby the window will receive sunlight at 12 noon.

The Land & Environment Court has established the following planning principle for assessing shadow impact:

## ITEM 2 (continued)

- *Where guidelines dealing with the hours of sunlight on a window or open space leave open the question what proportion of the window or open space should be in sunlight, and whether the sunlight should be measured at floor, table or a standing person's eye level, assessment of the adequacy of solar access should be undertaken with the following principles in mind, where relevant: The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed). At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: While this is a low density area, the east west orientation of the site means the objector's site and building are highly vulnerable to being overshadowed, although from noon onwards the adjoining property's living room window will retain most of its existing sunlight, thereby complying with Council's DCP controls. The proposal will have minimal overshadowing to the adjoining property's private open space area.

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained*

Comment: At present the objector main living room window will have access to sunlight for most of the day and the proposal will reduce result in loss of sunlight in the morning (9am). However, from full sun from 12 noon to 3pm - three (3) hours sunlight will be maintained to this window.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

Comment: The dwelling house is currently two storeys. It is proposed to extend the two storey element to provide larger bedroom areas by an additional 1.4m at the rear and new room at the front. The design of the building is in keeping/in line with the existing building and the additional 1.4m at the rear does not extend past the study room window. The first floor balcony is set back 3.6m off the side southern boundary.

The overall height complies with the height controls and is within the floor space ratio requirements with the side setback governed by the existing dwelling. The overshadowing impact on the neighbours, as demonstrated by the submitted shadow diagrams, is considered acceptable given the orientation of the site and that the main living room window will receive the required 3 hours solar access.

**ITEM 2 (continued)**

Conclusion – overshadowing impact: While there is a loss of sunlight caused by the proposal to the study room, in the main living area window there is still a reasonable amount of sunlight to the window and private open space. It is considered that given the need to enlarge the existing small bedrooms, the proposed second storey extension at the rear is minimal (additional 1.4m for the building itself) with the bulk of the two storey being the rear balcony, which is set back 3.7m off the southern boundary.

The proposal complies with Council's DCP in terms of solar access to neighbouring properties, and the loss of sunlight to the study room is insufficient to substantiate a refusal of the application.

The elevation shadow diagrams were emailed to the objectors and on 23 December 2011 the objectors made the following comments:

*The new development puts our study in shade the whole day. This room opens via double doors to our lounge room and in the winter lets light into the lounge room. This will be completely blocked by the development. The "cubby house" casts a significant winter shadow into our outdoor amenity. I don't know why the shadow diagrams weren't included. Moreover, this structure was finished shortly before the most recent plans were submitted and was the subject of an objection by us due to the proximity to our outdoor area. In total, the proposed development of the house and the cubby house abuts most of the southern boundary of our property and if submitted as a single proposal would likely not be approved by council.*

Comment:

As previously stated, there is a loss of sunlight caused by the proposal to the study room, however the main living area has a large north facing window and west facing rear panel doors which will still receive a reasonable amount of sunlight on 21 June (worst case scenario).

The single storey cubby house was approved under Building Certificate 2011/115 issued on 15 May 2011. Under the Building Certificate application it was assessed that the structure would have fallen under the requirements of the State Environmental Planning Policy (Exempt and Complying Code 2008) except for a minor 3m<sup>2</sup> departure in area. The height of the structure is consistent with the requirements of the SEPP (Exempt & Complying) which permits a structure of this nature provided it is not higher than 3m above ground.

The structure is set back 900mm from the northern boundary and the window within this wall is glazed with obscure glass. The objector's concerns about sunlight and privacy were considered; however, given the nature of the structure, the proposed structure was considered satisfactory.



## ITEM 2 (continued)

*Outdoor extension is elevated and occupants will have clear vision through our north facing windows such that if they are utilising the outdoor area we will have to close off the windows. This has a major deleterious impact on our privacy. The swimming pool is adjacent to our main living area which appears to be elevated. The pool is adjacent to our fence and looks directly into our living room.*

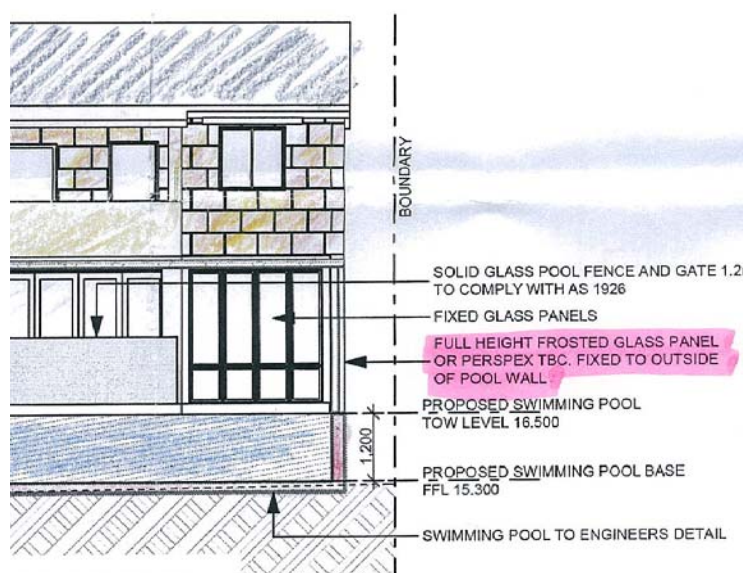
### Comment:

The deck and swimming pool will be elevated (1.2m off natural grade), being the same floor level as the existing finished floor level.

For an elevated terrace/deck area, side privacy screens are usually required to be provided to minimise overlooking.

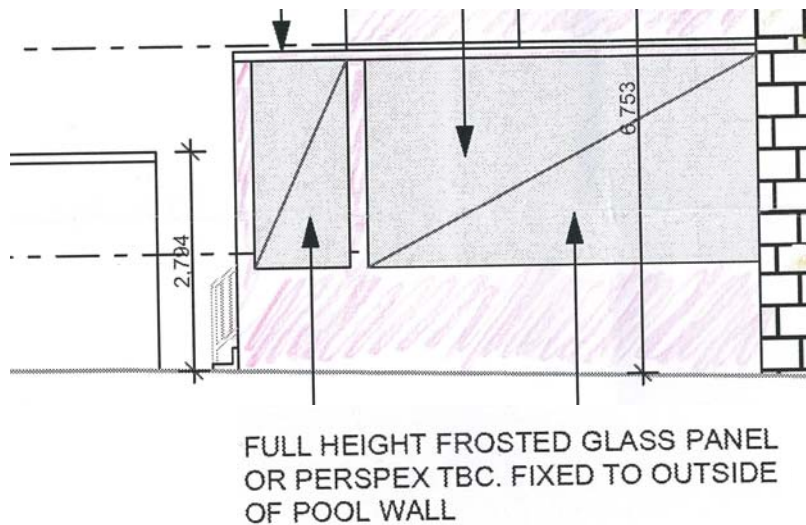
The applicant proposes to provide “*high planting as selected to increase privacy*” within the 900mm wide side setback area between the swimming pool and common boundary. However, it is considered that the setback is insufficient to provide dense tall canopy shrubs to screen the elevated deck area. Furthermore, even if sufficient area is available for screen planting, the planting will need to be greater than 3m to be effective in providing any screening to the side windows.

The applicant has amended the proposal and now proposes to provided a 2.5m high frosted glass panel (full height) or perspex fixed to outside of pool wall, as shown below.



Rear elevation – pink high light show location of the 2.5m high glass panel

**ITEM 2 (continued)**



*Side elevation of the frosted glass panel screen*

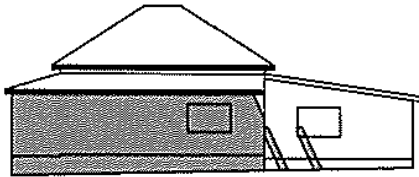
It is noted that no coping/deck area is proposed adjacent to the southern side of the pool therefore there is minimum overlooking from the pool itself, however as stated above, the deck, whilst set back 3.7m from the side boundary, is elevated and has the potential for overlooking from the deck area.

Council's DCP states that swimming pools can be located anywhere in the rear yard albeit 3m away from any trees and outside the 8m x 8m deep soil area. The swimming pool is located at the rear and side of the dwelling, 900mm off the side boundary. Council's Environmental Health Officer has verbally advised that the imposition of the glass panel rather than perspex will help minimise noise impact to the adjoining neighbour.

It is considered that with the imposition of a full height frosted glass panel and landscaping along the southern boundary, the issues of overlooking from the deck area and noise from the pool is addressed. **Conditions 1(b) & (c)** have been included in the recommendation requiring the panel to be frosted glass (not perspex) and landscaping to be provided, therefore impact from the proposed deck and pool will be minimised. The elevated deck and pool can be supported.

With regard to overshadowing and sunlight from the proposed glass, the elevation shadows diagrams illustrate the extent of overshadowing and shows two columns along the side elevation. The glass panel will be inserted between the columns and the end wall. The elevation shadow shows that the columns reaches the underside of the window sill to adjoining property therefore the imposition of the glass panel itself will not affect solar access to the adjoining property's main living room window.

**ITEM 2 (continued)**

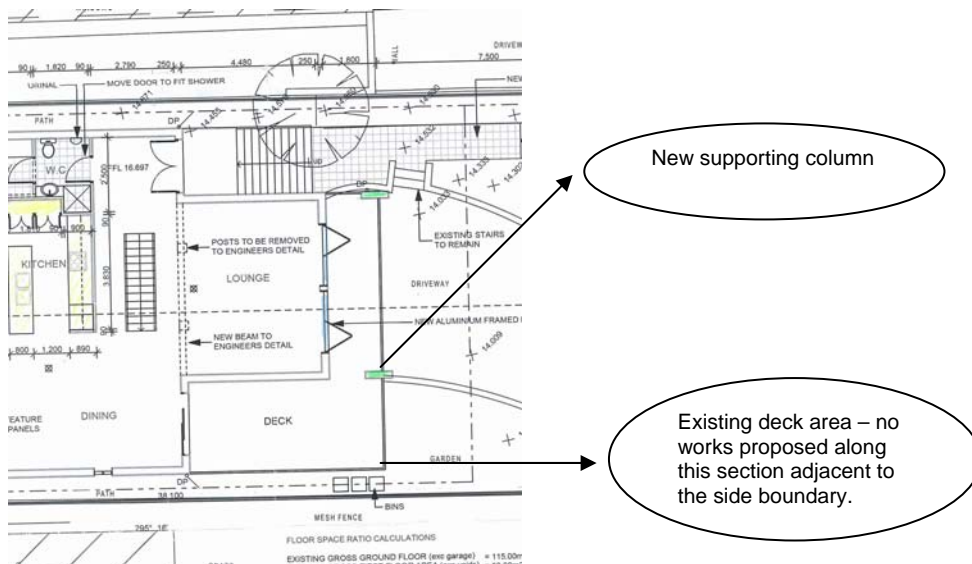


*Extent of overshadowing at 12 noon – the two columns shown helps illustrate that the installation of the glass panel between the two columns will not affect solar access.*

*The front deck on the ground floor has direct visual access into our bedroom. The plans depict alterations to this deck to allow for the insertion of a supporting column. We request that a privacy screen be installed.*

**Comment:**

The front deck is existing with no alteration proposed to the size or height of the front deck, other than new columns for support for the first floor. The columns are not near the side of the deck and an inspection of the property, reveal that the side of the deck is currently screened by landscaping along the side boundary (see photo below). Under the Newbury Principles, conditions can only be imposed if, inter alia, “it fairly and reasonably relate to the development for which permission is being given”. No works are proposed along this section of the dwelling/deck area. Council cannot impose a condition requiring a privacy screen to be installed along the side of the deck area. Notwithstanding this, Council has approached the owner to ascertain if they are willing to provide a privacy screen along the deck area, as requested by the objector. The owner has advised that they are not willing to provide the screen.



*No works proposed to the front deck area other than new support columns and new doors to the deck. The deck itself is not altered.*

**ITEM 2 (continued)**



*Existing planting along the side of the front deck area which helps screen the front deck area.*

The objector may seek to screen this area by additional landscaping along the side of their boundary.

After the second notification period, the residents of 85 Champion Road lodged another submission reiterating the point about loss of sunlight, loss of privacy from the elevated rear deck and the front deck. The objector also made enquiry about the heritage listing of their property via the Councillor helpdesk, requesting removal of the property from the heritage schedule. Council's officers have recommended that this property remain on the heritage list. This matter is a separate matter to the assessment of the current development application.

**8. Clause 4.6 RLEP 2010) objection required?**

No.

**9. Policy Implications**

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

**(a) Ryde Planning Scheme Ordinance**

**Zoning**

R2 – Low Density Residential.

**ITEM 2 (continued)****Mandatory Requirements****RYDE LEP 2010**Clause 4.3 Height of buildings:

The maximum height allowed with R2 zone is 9.5m. The proposal complies with the standard, having a maximum height of 9.3m

Clause 4.4 Floor Space ratio:

The maximum floor space ratio allowed within R2 zone is 0.5:1. The proposal will have a maximum floor space of 0.492:1 (including the outbuilding).

Clause 6.1 Acid Sulphate Soil:

The City of Ryde has been advised by the New South Wales Government that certain properties within the City may be subjected to Acid Sulphate soil. The subject site is included as Class 5 land. This class of land is not mapped as having a probability of containing acid sulphate but rather because activities carried out on the land may have the potential to alter groundwater in adjacent Class 1 to 4 land, in particular if major excavation works are proposed. In general the use of Class 5 land for normal residential occupation and the proposed works (no excavation proposed as part of this application) will not be affected by the possibility of acid sulphate soil.

**(b) Relevant SEPPs****SEPP BASIX:**

A compliant BASIX Certificate (No A112970) has been submitted with the DA. A standard condition has been included in the draft conditions as **ATTACHMENT 1** requiring compliance with the BASIX certificates.

**Deemed SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

Deemed SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 applies to the subject site and has been considered in this assessment.

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above planning instrument. However, the site is not located on the foreshore or adjacent to the waterway and it is not a heritage item and therefore, with the exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the proposed development. The objective of improved water quality is satisfied through compliance with the provisions of Part 8.2 of DCP 2010. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the planning instrument.

**ITEM 2 (continued)****SEPP 55 Remediation of Land:**

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The subject site has a history of residential use and as such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

**(c) Any draft LEPs**

None applicable.

**(e) Any DCP (e.g. dwelling house, villa)**

Ryde DCP 2010; A full assessment of the proposal under DCP 2010 is illustrated in the compliance table held at ATTACHMENT 2. The non-compliances identified in the table are assessed below.

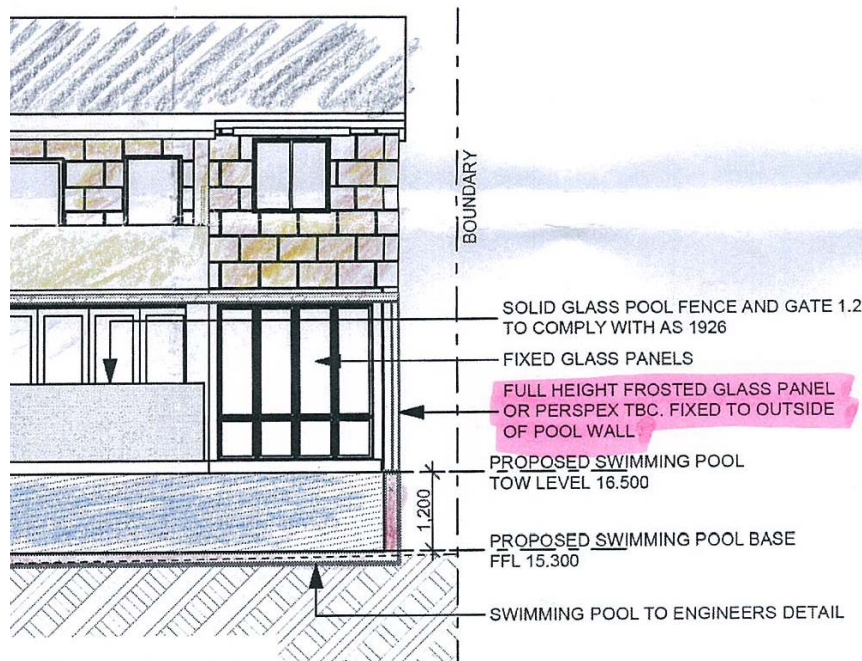
Elevated pool and deck area:

Clause 2.11(f) of Section 3.3, Dwelling Houses and Duplex Building, Development Control Plan 2006 states that *the finished coping level of the pool must not be higher than 500mm above the adjacent existing ground level. This maximum height can only be achieved where it will not result in an unreasonably adverse impact on the privacy of neighbours.* The intent of this clause is to ensure privacy between dwellings.

It is proposed to construct a deck area at the rear of the dwelling, leading off the rear kitchen/living area. The deck will be at the same level as the existing finished floor level of the ground floor, which is approximately 1.2m above natural grade. A raised swimming pool is proposed, wrapped around the deck area. The pool will be elevated (1.2m) and set back 900mm off the side southern boundary. No coping \* is proposed around the pool area. It is not possible to stand around the pool area, however due to the elevated deck, overlooking from the deck area and the noise from the close proximity of the pool to the neighbour side windows have the potential to adversely impact on the amenity of the adjoining properties owners.

The applicant has amended the proposal to provide a side full height (2.5m) frosted glass panel or perspex fitted to outside of the pool southern wall. It is considered that a glass panel will be a better option as glass is a better sound insulator which will help minimise noise impact from the pool area.

**ITEM 2 (continued)**

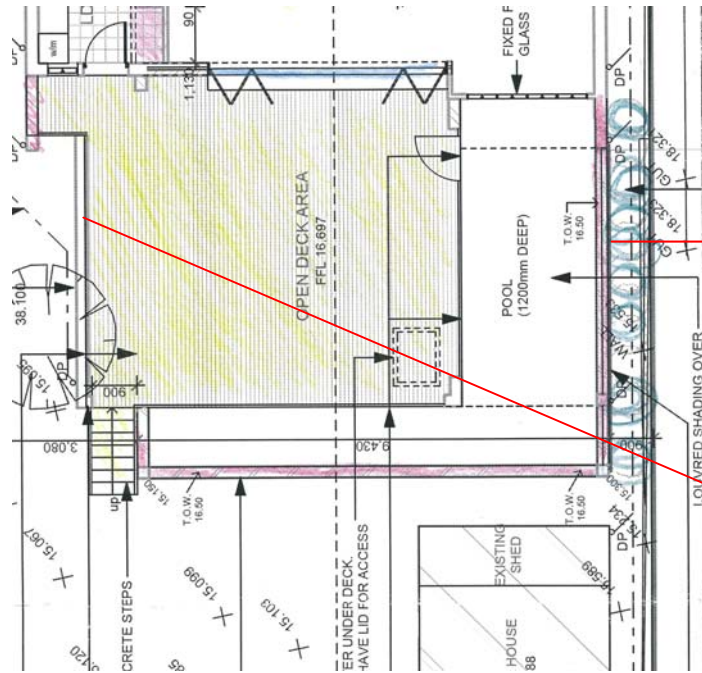


*Location of the proposed frosted glass high lighted in pink.*

The installation of the frosted glass panel will minimise adverse impacts to the adjoining southern property in terms of overlooking and noise. A condition (**Condition 1(b)**) has been recommended to provide side privacy screen of minimum 1.6m high along the northern side elevation of the deck area, to protect amenity to the northern property. The required privacy screen is to be constructed of complimentary materials and shall not allow greater than 50% visible transparency. With the installation of the 2.5m high frosted glass panel, condition to provide privacy screen to the northern elevation, together with the at grade landscaping, the impacts from the elevated decks and pool area to the adjoining properties have been minimised and in the opinion of Council Officers does not warrant refusal of the application or further modification of the proposal.

\* No coping around the pool area – under the Swimming Pool Act, an area is required to be provided adjacent to the side of the pool for rescue purposes. It is possible to provide this area adjacent to the deck area and as it is proposed to provide a frosted glass panel adjacent to the pool southern wall, amenities (privacy and noise) is maintained even with a coping area adjacent to the deck area.

**ITEM 2 (continued)**



Installation of frosted glass panel to screen deck area.

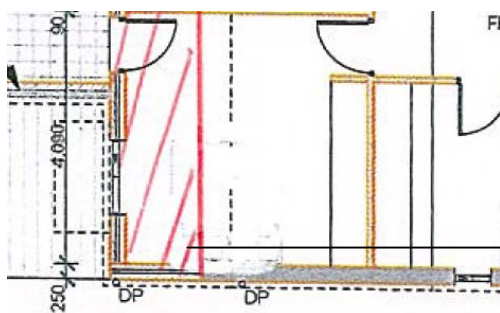
Condition to provide 1.6m high privacy screen along the northern elevation of the deck.

Location of the privacy screen.

**Southern side setback 900mm**

Clause 2.8.2 (b), Section 3.3 – Dwelling Houses and Dual Occupancy of DCP 2010 requires the outside walls of a 2 storey dwelling to be set back from side boundaries not less than 1.5m. The objectives of this requirement are to enable building siting to be compatible with the streetscape, to provide access to the rear of the allotment, provide separation between dwellings for fire safety, privacy, light and air.

The proposed rear first floor addition is set back 900mm from the southern boundary. This setback is in line with the existing dwelling and is for an additional 1.4m in length to the existing southern elevation. No windows are proposed along this new section with the setback in line with the rest of the house. The new addition is only for a relatively short distance – 1.4m with the first floor balcony indented in and setback 3.7m from the southern boundary.



Additional 1.4m in length to southern wall – currently set back 900mm.



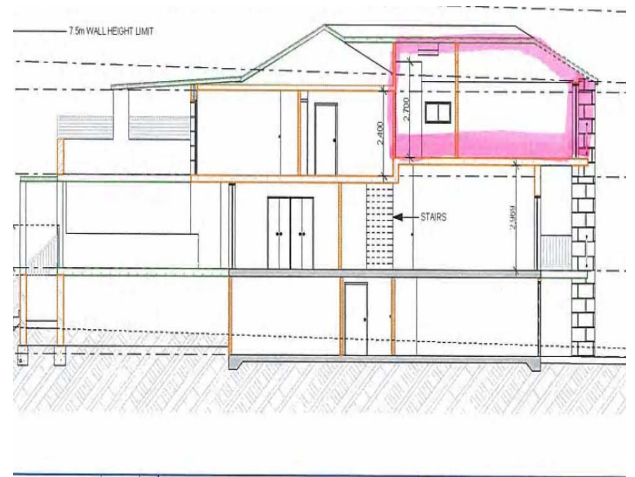
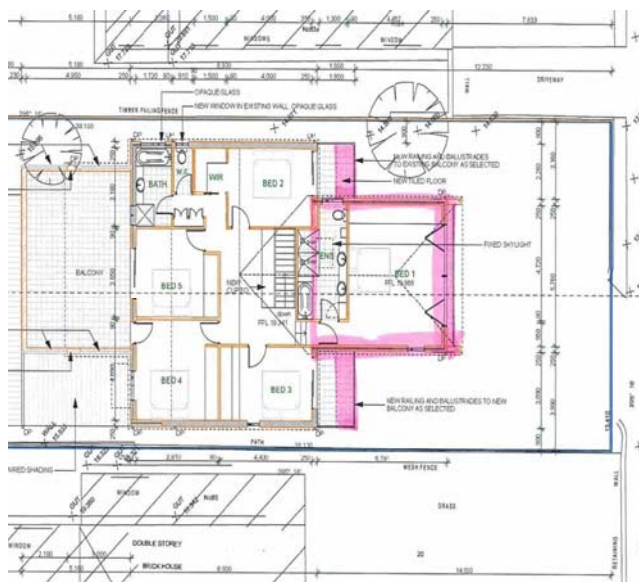
## ITEM 2 (continued)

The proposed variation is not considered to have any adverse impact to the adjoining southern property, as there will be no overlooking. The existing building currently overshadows the adjoining southern property side study window at 9am, however by 12 noon, the additional 1.4m side wall does not impact the side study window, with the overshadowing impact from the deck and balcony area (see full discussion with regards to overshadowing above). It is considered that as the first floor side addition is relatively minor (1.4m in length), is in keeping with the existing side setback, complies with the Building Code of Australia and will have minimal impact to the adjoining southern property, the proposed variation can be supported.

### Three storeys component:

Clause 2.7 (a), Section 3.3 of DCP 2010 limits the maximum number of storeys to two. This is to ensure that the height of development is consistent with the desired future character of the area and is compatible with the streetscape.

The subject site falls from the rear to the front with a fall of 1.2m across the length of the site. Currently existing on site is a part two/part three storey dwelling comprising of a lower garage level with a double garage, stairwell and sub-floor area (first level). The ground floor consists of lounge area, kitchen, dining, laundry and WC (second level) with the bedrooms on the first floor level (third level). The first floor level is indented in from the front and it is now proposed to extend the front section of the first floor to be in line over the ground and lower garage levels, hence resulting in this area being three storeys.



*Area outlined in pink is the additional first floor extension, resulting in the front element being three storeys.*

**ITEM 2 (continued)**



*Proposed front elevation.*

The existing building is already part three storeys and it is proposed to extend this area to be over the garage area. The addition is relatively small being 6.1m x 6.2m comprising a new bedroom and ensuite area. The three storey element is within the maximum height and wall plate height controls, therefore complies with the numeric height requirements and will not have any undue adverse impacts in terms of overlooking, solar or visual. The applicant has amended the design of the gable roof to a hipped roof which reduces the scale of the roof line and in keeping with the rest of the roof. Furthermore, Council's Heritage Officer has commented on the proposal and has no objections to the proposed front addition.

Given that the existing dwelling is already a part two/part three storey dwelling, the height and scale is not too dissimilar to the immediate adjoining property to the north. The proposed addition complies within the maximum height and wall plate height with other examples of part two/part three storey dwellings within the streetscape (87 Champion Road), the proposed addition is considered satisfactory.



87 Champion Road – two storey above the garage.

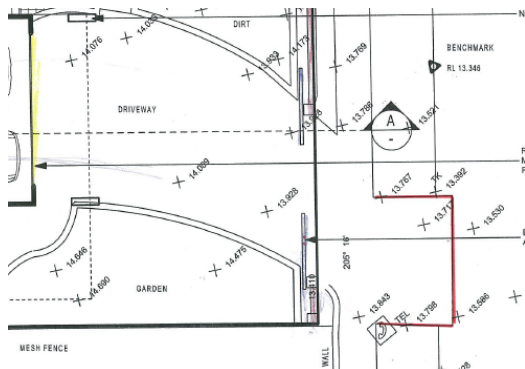


81 Champion Road

## ITEM 2 (continued)

### Sightline:

The existing driveway in front of the garage is curved as the driveway crossing is not directly in line with the garage but is located south of the garage. This is an existing situation, however it is proposed to install a 1.5m high front brick and pier fence with an electronic sliding gate across the driveway. The southern side of the sliding gate cannot be opened fully and encroaches about 1.5m on to the existing driveway opening making reversing out of the driveway difficult and unsafe. **Condition 1(a)** has been recommended requiring either the existing driveway crossing being relocated to be in line with the garage or alternatively amend the sliding gate so as not to obstruct the driveway width when opened.



*Existing driveway with location of the driveway crossing (marked red) located south of the garage.*

## 10. Likely impacts of the Development

### (a) Built Environment

#### Privacy:

The issue of privacy from the raised deck and swimming pool area have been discussed above. However, it is also proposed to provide a rear first floor balcony off the bedrooms. This first floor balcony will be set back 3.7m from the southern boundary, 1.8m off the northern boundary and 10m off the rear boundary. A 1.6m high louvred privacy screen is to be provided along both the side elevations, which will provide screening to the adjoining side properties. With regards to the adjoining rear property, the site has tall landscaping along its rear boundary which will screen any potential overlooking from the rear balcony. The proposed first floor balcony is considered satisfactory

## ITEM 2 (continued)



*Photo of rear yard taken from 1<sup>st</sup> floor rear window.*

### **(b) Natural Environment**

The proposed development will have no significant impacts on the natural environment. The proposed use is permitted in the zoning and is compatible with the other surrounding uses; therefore the development is considered satisfactory in terms of environmental impacts.

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

A review of Council's Information and mapping system indicates that the land is subject to the following constraints:

Next to Heritage Item: The proposal was referred to Council's Heritage Officer who raised concerns about the proposed deck and swimming pool area in terms of adverse impact to the adjoining heritage property.

The issues of noise and overlooking impact from the raised deck and pool have been addressed by the installation of a full frosted glass panel along the side elevation. (please see **Condition 1(b)** in the recommendation). The issue of overshadowing has also been discussed above and the proposal is considered compliant in this aspect.

### **12. The Public Interest**

The development generally complies with the provisions of Council's DCP for Dwelling Houses. There are a few variations however these variations are considered justifiable. It is considered that approval of the application is in the public interest, subject to the conditions as recommended in Attachment 1.

## ITEM 2 (continued)

### 13. Consultation – Internal and External

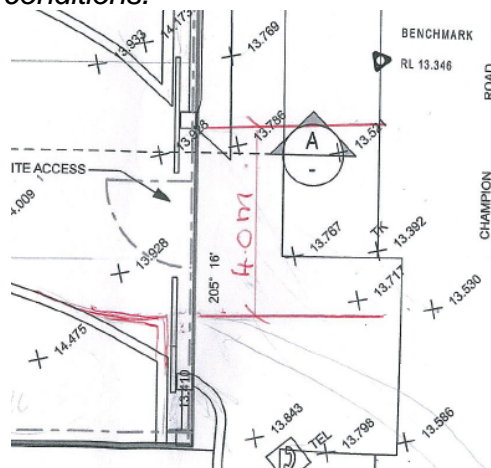
#### Internal Referrals

#### **Development Engineer: 30 September 2011:**

*The subject site is located in an area where OSD is exempt. Drainage from the development can be connected to the existing system and to the street.*

*The existing driveway appears to be in an angle and appears to be unsafe. As such I have conditioned that they relocate the driveway as marked on the plan (see below diagram). Note the southern side of the sliding gate cannot be opened fully and encroaches about 1.5m on to the existing driveway.*

*No objections to the approval of the application subject to the above and the following conditions.*



*Relocation of the driveway and layback.*

The driveway layback is located south of the driveway and as the gate, when open, will partially block the driveway, Council's Development Engineer has advised that this is unsafe and recommended the driveway layback be relocated to be line with the driveway. However the layback and driveway is existing with the design of the gate not complying. A condition has been imposed requiring the layback to be reposition so that the layback is in line with the driveway or alternatively the sliding gate amended so that it does not block the driveway. Please see **Condition 1(a)** in the recommendation.

#### **Heritage Officer: 12 October 2011.**

#### **Existing Conditions:**

*A small scale single storey cottage of the late Victorian style. The house is set in a mature garden on a wide allotment, located on the high side of the street. The front boundary fence is screened by vegetation, and a side driveway accesses a carport and garage along the southern boundary.*

**ITEM 2 (continued)**

*The cottage is a simple basically symmetrical form constructed of brick with a front and side verandah. Brickwork is painted to the side and tuckpointed to the street facade. The roof is hipped and clad in corrugated sheet metal. The verandah features turned timber posts. The central entry door features leadlight panels and side / fan lights.*

**Proposal:**

*It is proposed to:*

- *Extend the raised ground floor rear section of the house including a substantial raised pool within the rear deck;*
- *New first floor balcony and gable addressing the street; and*
- *Construct a new extension/deck at the first floor at the rear of the house.*

**Assessment of Heritage Impact:**

*There are two windows along the northern elevation of the heritage listed property that are proposed to suffer from restricted light and overshadowing in midwinter due to the proposed development located at the rear of the property. There is a minimum 900 mm setback from this shared boundary.*

*The plans submitted depict substantial changes to the existing dwelling to a maximum FSR of 0.49:1 across the subject site (it is not sure if this includes the existing outbuilding located at the rear of the property).*

*The raised deck and associated pool is proposed to be approximately 1.2m above the existing natural ground level and would be set back approximately 900 mm from the shared boundary fence.*

*The raised rear ground floor extension is proposed to be setback 900 m from the shared boundary with the neighbouring heritage listed property.*

*The plans as submitted would have an adverse impact on the setting, privacy and liveability of the neighbouring heritage listed property.*

*The submitted SEE and plans do not clearly identify how the proposed impacts will be mitigated on the heritage listed property. It appears that the proposed works at the rear do not comply with the Ryde DCP (dwelling Houses and Dual Occupancies) on the following items:*

- *Part a) Section 2.8.3 'Site setbacks' where 1.5 m setback is required for two storey extensions;*
- *Part f) Section 2.11 'Swimming pools and Spas' where the finished coping level of the pool must not be higher than 500 mm above the adjacent existing ground level; where this maximum height may only be appropriate if it does not adversely impact on the privacy and setting of the neighbouring property;*

**ITEM 2 (continued)**

- *Parts g) & h) Section 2.11 'Swimming pools and Spas' where pools must be setback a minimum 900 mm from the shared boundary, Council may require further setbacks to establish screening where considered suitable. In this instance due to the raised nature of the deck, the proposed screen planting behind a 1.5 m wall in a narrow (900 mm) south facing patch would not provide sufficient width and light for mature screening to grow to the proposed 5.054 m height. Furthermore the 1.2 m high solid glass fencing along the boundary would not provide sufficient screening or mitigate privacy and the travel of noise to the adjacent heritage listed property.*

*\*Note: Figures are an approximate as plans are difficult to interpret and clear levels/figures are not provided.*

**Recommendations:**

*It is recommended that the rear extension be sympathetic to the adjacent heritage listed property and comply with Council's DCP controls. The following items should be revised*

- *The setback should be increased to increase plant screening and light (in midwinter) to the northern windows of the adjacent property; to reduce privacy impacts and to mitigate the travel of noise associated with the proposed pool;*
- *The pool must not be located above the stipulated 500 mm above natural ground level;*
- *Adequate fencing/ screening must be provided along this rear shared boundary;*
- *The screening and planting schedule should include landscaping details to ensure privacy is maintained.*

The concerns about the noise and overlooking from the raised deck and pool area are addressed by the proposed installation of the frosted glass panel along the side of the pool area. The glass panel will be frosted to prevent overlooking and Council's Health Officer has advised that glass is a good sound insulator, as such any impact from this area is mitigated by the proposed glass.

Overshadowing from the proposed rear addition has been discussed above and the proposal, whilst will result in some additional overshadowing to the northern windows, main north facing window and private outdoor area will receive the required solar access, as such can be supported by Council.

These matters have been discussed with Council's Team Leader Strategic Planner/Acting Heritage Officer who has now raised no objections to the development given that the bulk and scale of the roof has been reduced which improves its streetscape appearance. The above issues of noise and privacy have now been addressed.

**ITEM 2 (continued)**External Referral:

None required.

**14. Critical Dates**

There are no critical dates or deadlines to be met.

**15. Financial Impact**

Adoption of the option outlined in this report will have no financial impact.

**16. Other Options**

None relevant.

**17. Conclusion**

The proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning and Assessment Act 1979 and is considered satisfactory. The proposal has some areas of non-compliance with Council's DCP 2010 (Dwelling House and Dual Occupancy) - i.e. 3 storey, raised pool and side setback. These non-compliances have been discussed and amendments made to provide frost glass panel along the side of the pool area which will mitigate overlooking and noise concerns. The proposed variations are acceptable in the context of the application.

One submission was received from the neighbour to the south (No. 85 Champion Road), raising concerns about privacy and overshadowing. The privacy issues are addressed by the use of frosted glass adjacent to the pool area. The overshadowing to the adjoining property is compliant with Council's DCP and it is noted that the site faces north south and some form of overshadowing is inevitable. It should be noted that the rear addition is only for a length of 1.4m with the rest of the work being the deck and pool area. The overshadowing implications have been assessed against the relevant Planning Principles issued by the Land & Environment Court and it is considered that refusal on overshadowing grounds would be difficult to substantiate.

The issues raised by the neighbour are not considered sufficient to warrant refusal of the development application. Amended plans have been received which have provided a full height glass panel fixed to outside of pool wall to address privacy and noise. On balance, the proposal is considered satisfactory and is recommended for approval.



**ITEM 2 (continued)**

**ATTACHMENT 1**

**RECOMMENDED CONDITIONS OF CONSENT**

**GENERAL**

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

**Approved Plans**

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

<b>Document Description</b>	<b>Date</b>	<b>Plan No/Reference</b>
Ground Floor & 1 <sup>st</sup> Floor Plan	08/09/10	1106-01 Revision A
Garage Plan & Demolition Plan	08/09/10	1106-02
Elevations Section AA	08/09/10	1106-03 Revision A
Soil & Water Management Plan, Site Plan, Site Analysis Plan	08/09/10	1106-04
Demolition Plans	08/09/10	1106-05

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

- (a) The front driveway sliding gate to be amended so that when the gate is opened the driveway width is not obstructed. Or alternatively the existing driveway shall be relocated as amended in red on architectural plan sheet 4. The location of concrete footpath crossing, design and construction shall conform to the requirements of Council. Crossings are to be constructed in plain reinforced concrete and finished levels shall conform with property alignment levels issued by Council's Public Works Division. Kerbs shall not be returned to the alignment line. Bridge and pipe crossings will not be permitted. Details of the amendment are to be submitted to the Principal Certifying Authority. If it is proposed to relocate the driveway, all disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
- (b) To ensure privacy to the adjoining properties, a side privacy screen is to be provided along the northern side elevation of the rear alfresco deck area. The fixed privacy screen is to have a minimum height of 1.6m above the deck level, as shown in red on the approved plans. The required privacy screen shall be constructed of complimentary materials and shall not allow greater than 50% visible transparency to the adjoining northern property.

Along the southern south elevation the full height privacy screen on the pool wall is to be of translucent glass up to a minimum height of 2.5m from pool level. Details of the privacy screen and glass screen shall be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

- (c) Details of the landscaping along the southern side of the pool wall is to be submitted to the PCA prior to the release of the Construction Certificate. The landscaping is to consist of a hedge type plant species which have a mature height of no greater than 2m.

## ITEM 2 (continued)

## ATTACHMENT 1

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

2. All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. Compliance with all commitments listed in BASIX Certificate numbered A112970, dated 16 June 2011.

### Protection of Adjoining and Public Land

4. Hours of work  
Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.

### Swimming Pools/Spas

5. A pool fence is to be erected in accordance with the approved plans and conform with the provisions of the *Swimming Pools Act 1992* and *Swimming Pools Regulation 2008*. Details of compliance with the *Swimming Pools Act 1992* and *Swimming Pools Regulation 2008* are to be reflected on the plans submitted with the **Construction Certificate**.
6. The pool/spa pump/filter must be enclosed in a suitable ventilated acoustic enclosure to ensure the noise emitted therefrom does not exceed 5dB(A) above the background noise level when measured at any affected residence.
7. Water depth markers are to be displayed at a prominent position within and at each end of the swimming pool.
8. The spa/pool shall be connected to the Sydney Water sewer for discharge of wastewater.

### DEMOLITION CONDITIONS

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

9. All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
10. Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.

**ITEM 2 (continued)**

**ATTACHMENT 1**

11. All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
12. Demolition material must be managed in accordance with the approved waste management plan.
13. All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.
14. All imported fill must be supported by a validation from a qualified environmental consultant that the fill constitutes Virgin Excavated Natural Material. Records of the validation must be provided upon request by the Council.
15. Each load of imported fill must be accompanied by a delivery docket from the supplier including the description and source of the fill.
16. A responsible person must be on site to receive each load of imported fill and must examine the delivery docket and load to ensure that only Virgin Excavated Natural Material that has been validated for use on the site is accepted.
17. The delivery dockets must be forwarded to the Principal Certifying Authority within seven (7) days of receipt of the fill and must be produced to any authorised officer who demands to see them.

**PRIOR TO CONSTRUCTION CERTIFICATE**

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

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

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

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

18. The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**Structural certification**

19. The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements.
20. The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan (**category: dwelling houses with delivery of bricks or concrete or machine excavation**)
21. The following fees must be paid to Council in accordance with Council's Management Plan:
  - (a) Infrastructure Restoration and Administration Fee
  - (b) Enforcement Levy
22. Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
23. **Sydney Water**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

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

- Quick Check agents details - see Building, Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water assets - see Building, Development and Plumbing then Building and Renovating.

Or telephone 13 20 92.

24. **Fencing**

Fencing is to be in accordance with Council's Development Control Plan and details of compliance are to be provided in the plans for the **Construction Certificate**.

25. **Stormwater Runoff.** The down-pipes from the proposed additions shall be connected to the existing or proposed belowground piped drainage system and to Champion Street in accordance with the requirements of City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management
26. **Boundary Levels.** Should the driveway be relocated, the levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

**27. Site Sign**

(a) A sign must be erected in a prominent position on site:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
- (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

(b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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

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

(a) in the case of work for which a principal contractor is required to be appointed:

- (i) the name and licence number of the principal contractor; and
- (ii) the name of the insurer by which the work is insured under Part 6 of that Act.

(b) in the case of work to be done by an owner-builder:

- (i) the name of the owner-builder; and
- (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

**ITEM 2 (continued)**

**ATTACHMENT 1**

**DURING CONSTRUCTION**

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

**Critical stage inspections**

30. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*:
- (c) after excavation for, and prior to the placement of, any footings, and
  - (d) prior to pouring any in-situ reinforced concrete building element, and
  - (e) prior to covering of the framework for any floor, wall, roof or other building element, and
  - (f) prior to covering waterproofing in any wet areas, and
  - (g) prior to covering any stormwater drainage connections, and
  - (h) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

**Noise and vibration**

31. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations.
32. The L<sub>10</sub> noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.
33. No sediment, dust, soil or similar material shall leave the site during construction work.
34. Excavated material must not be reused on the property except as follows:
- (i) Fill is allowed under this consent;
  - (j) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
  - (k) the material is reused only to the extent that fill is allowed by the consent.
35. All materials associated with construction must be retained within the site.
36. **Site Facilities**  
The following facilities must be provided on the site:
- (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
  - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.

## ITEM 2 (continued)

## ATTACHMENT 1

### 37. **Site maintenance**

The applicant must ensure that:

- (l) approved sediment and erosion control measures are installed and maintained during the construction period;
- (m) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
- (n) the site is clear of waste and debris at the completion of the works.

### **Tree Protection**

- 38. This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or otherwise necessary as a result of construction works approved by this consent.
- 39. Trees that are shown on the approved plans as being retained must be protected against damage during construction.

### **Drop-edge Beams**

- 40. Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

## **PRIOR TO OCCUPATION CERTIFICATE**

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

- 41. The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered A112970, dated 16 June 2011.
- 42. **Compliance Certificates – Engineering.** Compliance Certificates should be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and **submitted to the PCA**:
  - (If applicable) Confirming that all vehicular footway and gutter (layback) crossings are constructed in accordance with the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria – 1999 section 4*.

**ITEM 2 (continued)**

**ATTACHMENT 1**

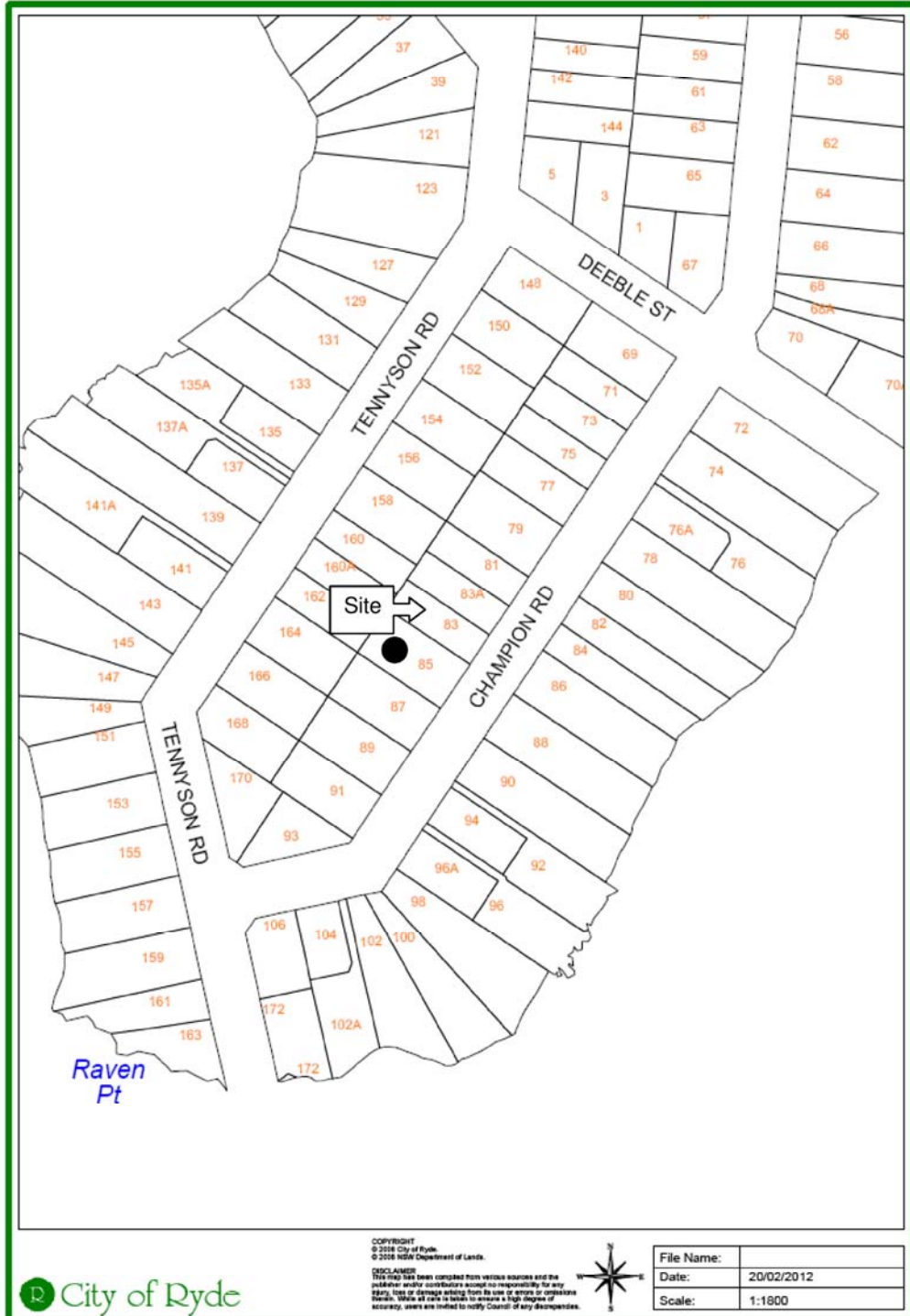
- (If applicable) Confirming that the driveway is constructed in accordance with the construction plan requirements and Ryde City Development Control Plan 2010: - Part 8.3; Driveways.
- Confirming that the site drainage system servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management
- Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
- (If applicable) Confirming that the vehicular crossing has been removed and the kerb and gutter have been constructed in accordance with Council's *Environmental Standards Development Criteria - 1999 section 4*.



ITEM 2 (continued)

ATTACHMENT 2

● Indicates submission received



- 3 51-75 BUFFALO ROAD & 43A HIGGINBOTHAM ROAD, GLADESVILLE.  
LOT 12 DP83596. Section 96 application under the Environmental  
Planning & Assessment Act, 1979, to amend the secondary access  
arrangements to the Ryde Bus Depot. LDA2006/335. MOD2011/143.**

**INSPECTION: 4.35pm**

**INTERVIEW: 5.00pm**

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**Report prepared by:** Consultant Town Planner

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

**Report dated:** 21/02/2012

**File Number:** GRP/12/5/5/3 - BP12/159

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### 1. Report Summary

**Applicant:** State Transit Authority of NSW.

**Owner:** State Transit Authority of NSW.

**Date lodged:** 4 October 2011.

A Section 96 has been received which is recommended for approval, to remove part of a garden and to reinstate the driveway to allow access to the lower parking area and to erect internal fencing at the Ryde Bus Depot. The works that are the subject of the application have already been undertaken, except for the fence, in conjunction with other approved work to improve the bus circulation and storage facilities on the site. A separate access and new internal fencing is required for the lower carpark to ensure separation of bus and car movements within the depot and to ensure that other vehicles use the main entrance and do not use the Buffalo Road entrance. The proposed modifications are considered to be substantially the same development in terms of the relevant provisions of the Environmental Planning and Assessment Act, 1979.

The proposed modifications are mainly internal and will not significantly alter the impact on the privacy and amenity of the adjoining properties.

The applicant is the State Transit Authority of NSW (STA) which is a "Crown Authority" under the Environmental Planning & Assessment Act. Therefore Council cannot refuse the application or impose conditions without the written concurrence of the applicant.

**Reason for Referral to Planning and Environment Committee:** Nature of the development & number of submissions received.

Public Submissions: 7 submissions were received.

SEPP 1 (or clause 4.6 RLEP 2010) objection required? Not required.

**ITEM 3 (continued)****RECOMMENDATION:**

- (a) That the Section 96 application MOD2011/143 to modify Local Development Application No. 2006/335 relating to the Ryde Bus Depot at 43A Higginbotham Road and 51-75 Buffalo Road, Ryde, being Lot 12 in DP 83596, be approved and the consent be amended by replacing condition 1 with the following:
1. Development is to be carried out in accordance with the Plans No. DA02 (Rev B) as amended by plan DA02 A1 Issue C dated 21/9/11, TDA02 (Rev C), DA03 (Rev B), TDA03 (Rev C), DA04 (Rev B), TDA04 (Rev B), DA05 (Rev B) and TDA05 (Rev B), LA 01-02 and support information submitted to Council
- (b) That the persons who made submissions be advised of Council's decision.

**ATTACHMENTS**

- 1 Map
- 2 Plan
- 3 Letter from STA
- 4 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**Don Smith**  
**Consultant Town Planner**

Report Approved By:

**Liz Coad**  
**Manager Assessment**

**Dominic Johnson**  
**Group Manager - Environment & Planning**

**ITEM 3 (continued)**

- Address** : 43A Higginbotham Road Gladesville
- Site Area** :
  - Area :4.386ha or 43860m<sup>2</sup>
  - Frontage: 201m to Buffalo Road & 205.6m to Higginbotham Road
  - Depth: 213.82m (NW) and 202.19m (SW)
- Topography and Vegetation** : The original topography has been significantly altered. The site generally slopes from Buffalo Road to Higginbotham Road with 2 distinct levels in the location of bus manoeuvring areas. Site is mostly hard paved with some trees and shrubs in the carpark, adjacent to buildings and along the Higginbotham Road frontage.
- Existing Buildings** : Various – used for staff offices, amenities, bus maintenance, workshop and bus washing.
- Planning Controls**  
**Zoning** : SP2 Bus Depot  
**Other** : None relevant to this application



Arrow shows location of entrance from Higginbotham Road

**ITEM 3 (continued)**

**3. Councillor Representations:**

Nil.

**4. Political Donations or Gifts**

Any political donations or gifts disclosed? If yes, provide details.

None disclosed

**5. Proposal**

Modification pursuant to Section 96 (1A) of the Environmental Planning and Assessment Act, 1979 of the approved landscaping of the Bus Depot. The proposal involves the following modifications: -

- Removal of a small piece of internal garden and reinstatement of the driveway to facilitate access from the lower parking area to Higginbotham Road (works already undertaken).
- The construction of 1.8m high spear fencing within the Bus Depot to physically prevent trucks and buses from being able to access Higginbotham Road. This restricts the access to the 38 staff parking spaces located on the lower level.

	
<p><b>View of existing access from Higginbotham Rd showing reinstated driveway</b></p>	<p><b>Plan showing location of landscaping to be removed, reinstated driveway &amp; fencing</b></p>

The following submission was made in support of the application:

*Due to burst sewerage main on the 30/11/09 the Facilities Manager contracted a local tradesman to conduct repairs to the sewerage system. Upon starting work it was noticed that the garden bed had to be excavated to ensure the sewerage system was to Australian standard, once the work was started it was noticed that a pre-existing road was located under the garden wall. STA had no knowledge that there was any*

**ITEM 3 (continued)**

*restriction on the garden wall, so after discussions with the Depot staff and the STA safety unit, the wall was not replaced at the end of the sewerage excavation.*

*STA have ensured that **NO Buses or delivery trucks** enter or exit out the 43A Higginbotham Road gate, by fencing off the access from the bus parking area to the 43A Higginbotham Road car park, thus restricting the 38 car spaces to STA employee's cars.*

*STA has recently received complaints from a resident in Higginbotham Road, and have acted to locate the noise and remove the source of the noise.*

*The method used was for 2 weeks: the Facilities Manager would arrive at the depot at 4.30am and monitor the situation of noise at the 43A Higginbotham Road entry. The results and action are as follows:*

A copy of the STA letter that accompanied the application is **ATTACHED** and sets out the above details. In summary the STA carried out surveillance of the Higginbotham Road entrance each day between 9 -11 June 2011 and advised:

- Only 4 cars entered the site between 5.30am – 6pm. The gates are not opened until 5.30am.
- A number of trucks/vehicles accessed the industrial sites next door at 39 & 41 Higginbotham Road between 5.30am and 5.45am, some with loud radios.
- Staff have been instructed to turn their radios down when entering the site.
- Staff with modified exhausts have been asked not to enter the site until after 8am.
- Roller doors to the workshop are to be kept closed before 8am to contain any noise within the workshops.
- An external alarm has been removed and replaced with a back to base alarm without sound.

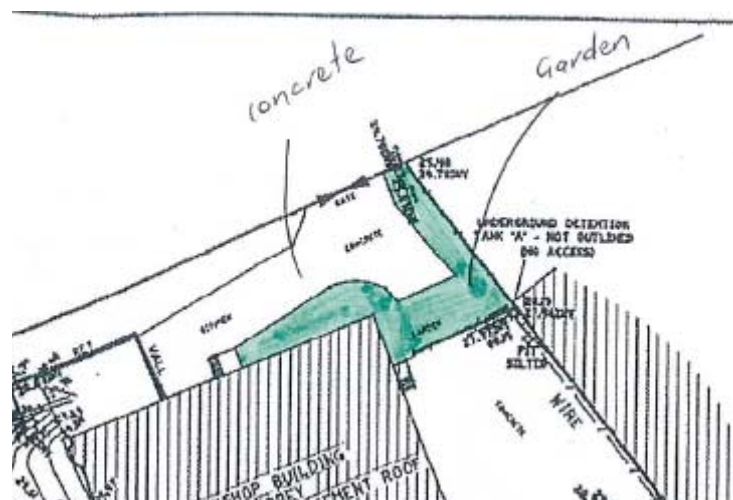
**6. Background**

Consent to DA139/93 was issued on 14 July 1993 to commence a Bus Depot on the site subject to a number of conditions. The following are relevant to this application:

9. A plan for the landscaping of the site, prepared by a qualified Landscape Architect, being submitted to and approved by Council prior to the release of building approval; details as to all existing landscape features, including trees which are proposed to be removed, shall be given. Particular attention being given to the provision of appropriate screen planting around the perimeter of the site.
10. The landscaping of the site being carried out in accordance with the approved plan and being maintained at all times to Council's satisfaction.
15. All bus and fuel tanker access to the site being restricted to the Buffalo Road entry.

**ITEM 3 (continued)**

17. The hours of operation being restricted to between the hours of 3.30am and 11.30pm Mondays to Fridays; 5.15am and 9.30pm Saturdays and 5.15am and 8pm Sundays.
32. No vehicular access for buses or fuel tankers be permitted to or from the site from Higginbotham Road and an appropriate permanent landscape barrier be established and maintained to prohibit such access.



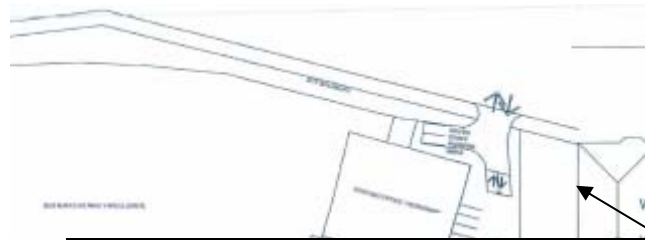
Landscaping shown on approved landscaping plan.

While there have been a number of subsequent applications for work associated with the Bus Depot, the following are relevant in relation to this application.

LDA 2006/335 was approved on 28/8/08 for “Alterations to the Ryde Bus Depot”, including consolidation and expansion of existing on-site staff parking areas, creation of a new internal bus driveway route and permanent closure of the Holly Avenue access point. The matter was first considered by Council on 15/8/2006 and the proposed conditions were submitted to the State Transit Authority (STA) for approval. The STA required amendment to these conditions requiring renotification to all adjoining residents. Many of the changes related to internal measures to reduce bus noise, increase in hard paving to reduce manoeuvring noise and increased landscaping along the boundary. Council further considered the matter on 29/6/2008 and again on 1/7/2008 when it resolved to seek agreement to amended conditions of consent. Following agreement from the STA the consent was issued on 28/8/2008.

The approved landscape plan showed altered arrangements for the Higginbotham Road frontage.

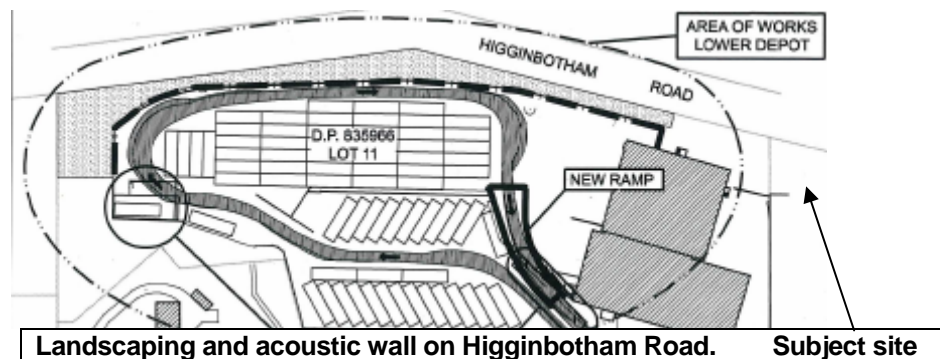
**ITEM 3 (continued)**



**Extract of approved landscape plan showing deletion of garden area & replacement with ramp.**

LDA 2007/779 was approved on 30/7/2008 for “Demolition, erection of a bus ramp and acoustic wall, landscaping and removal of underground storage tanks”. The acoustic wall and landscaping included the Higginbotham Road frontage of the site but did not affect the subject site. The following conditions are relevant:

2. Development is to be carried out in accordance with the Plans No. DA02 (Rev B), TDA02 (Rev C), DA03 (Rev B), TDA03 (Rev C), DA04 (Rev B), TDA04 (Rev B), DA05 (Rev B) and TDA05 (Rev B), LA 01-02 and support information submitted to Council.
4. Access shall be provided for 4 visitor spaces associated with the office (with access off Higginbotham Road), generally in accordance with the approved Plan No TDA02 Revision C (see condition 1 above).



**Landscaping and acoustic wall on Higginbotham Road. Subject site**

On 8 June 2011, following complaints from residents, Council wrote to the State Transit Authority advising that a concrete barrier and landscaping had been removed and that Council could not locate any record of approval to remove it. The STA was supplied with an extract of the original landscape plan and were requested to arrange a meeting to discuss the matter. Their response was to submit the present S96 application to amend the consent to LDA 2005/600 that related to internal amenities and alterations, although the copy of the approved plans that accompanied the S96 application related to LDA 2006/335.



**ITEM 3 (continued)****7. Submissions:**

The proposal was notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications from 31 October 2011 until 14 November 2011 and while 7 submissions were received (from 5 properties) 2 of the submissions requested advice whether there would be more than 40 car spaces able to exit onto Higginbotham Road and whether the multi storey carpark (on Buffalo Road frontage) could exit to Higginbotham Road. They were advised that 38 spaces for employees had access to Higginbotham Road and that the spear fencing would not allow access from the multi storey carpark to Higginbotham Road. No further submission was received.

The issues raised in the other 5 submissions were:

- Proposal contravenes the original approval that buses or work vehicles could not access Higginbotham Road.
- The shrubbery has been removed.
- Vehicles enter from Higginbotham Road as early as 4am and accelerate up the driveway thus creating noise. The noise is compounded when vehicles manoeuvre into their parking space, and when loud music is playing within their vehicle.
- Request Council to consider the following:
  - Refusing the application and requiring the reinstatement of the shrubbery.
  - If not refusal, prohibit access before 7am weekdays and 8am weekends.
  - Prohibiting bus access from Higginbotham Road.
  - Undertaking random noise monitoring (not on public holidays or other times when traffic could be expected to be abnormally low).
- Enclosing a copy of their 2007 submission objecting to the reopening of the Higginbotham Road access. These concerns about the increase in traffic on Higginbotham Road are still valid.
- If Council is unwilling or unable to have the entrance closed; the green (noise) barrier should be extended to the driveway entrance to shield the noise from office air conditioners.
- Impact of headlights shining onto houses at night especially between 11 pm – 1 am that causes dog to bark. Problem did not exist before the shrubbery was removed and the area used for parking.

**ITEM 3 (continued)**Comment

The original consent for the Bus Depot that was granted in 1993 allows the site to be used from 3.30am Mondays to Fridays and 5.15am on weekends. It prohibits the use of the Higginbotham Road access for buses and fuel tankers but allows its use for other vehicles. The landscaping was originally installed to physically prevent fuel tankers and buses from using the Higginbotham Rd access to get to other parts of the site.

In 2008, following consultation with residents, Council issued consent to two (2) development applications that included measures to facilitate the operation of the depot and to improve the amenity of nearby residents. These measures included an acoustic wall along the Higginbotham Road frontage and part of the western boundary, increased landscaping particularly on the Higginbotham Road frontage, rationalisation and separation of bus parking, manoeuvring and servicing areas, increased parking on the Buffalo Road frontage of the site and the closure of the Holly Avenue access. The measures also included the rationalisation of internal driveways to restrict the number of vehicles that are able to use Higginbotham Road to 38 spaces. The plans indicated that the removal of the landscaping was necessary to implement these measures.

The landscaping was originally required to ensure that fuel trucks and buses could not physically get access from Higginbotham Road. It did not restrict other vehicles (cars, service vehicles, etc) from accessing the site. Subsequent consents have rationalised the access by vehicles to the site and Higginbotham Road is now used as for access to 38 parking spaces. To ensure the number of vehicles parking spaces that have access from Higginbotham Road is maintained it is proposed to install 1.8m high spear fencing within the site to physically separate this lower parking area from the rest of the site. This fencing provides similar physical restrictions that the landscaping did, albeit it is now located in a different part of the site.

Council cannot alter or amend matters (hours of operation, extension of the acoustic barrier and the like) that are not subject of the modification application. Buses have been prohibited from using Higginbotham Road since the consent was issued in 1993.

The STA carried out surveillance of the Higginbotham Road entrance each day between 9-11 June 2011 and advised:

- Only 4 cars entered the site between 5.30am – 6pm. The gates are not opened until 5.30am.
- A number of trucks/vehicles accessed the industrial sites next door at 39 & 41 Higginbotham Road between 5.30am and 5.45am, some with loud radios.
- Staff have been instructed to turn their radios down when entering the site.
- Staff with modified exhausts have been asked not to enter the site until after 8am.
- Roller doors to the workshop are to be kept closed before 8am to contain any noise within the workshops.
- An external alarm has been removed and replaced with a back to base alarm.

**ITEM 3 (continued)**

**8. SEPP1 Objection received?** If yes, provide details and percentage variation.

Not required

**9. Policy Implications****Relevant Provisions of Environmental Planning Instruments etc:****LEP 2010****Zoning**

The modification of the approved landscaping of the Bus Depot is permissible within the SP2 zone, subject to the approval of Council.

**Mandatory Requirements**

The proposal is not affected by any provisions of the Ryde LEP 2010 other than any matters that are discussed elsewhere within the body of this report.

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

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

- (a) The modification is of minimal environmental impact.
- (b) The development to which the consent as modified relates is substantially the same development as the development that was consented to originally.
- (c) The application has been notified in accordance with the regulations, if the regulations so require.
- (d) Submissions made during the prescribed notification period have been considered.

The **current approval** provides for a Bus Depot.

The **proposed modifications** require removal of landscaping and the installation of a 1.8m high internal spear fence. There will be no discernible change to the height, the building footprint remains the same and none of the key elements are changed.

It is the opinion of Council's Consultant Town Planner that the modified development is substantially the same as the original, there will be minimal environmental impact and therefore the application can be considered on its merits.

Section 96(1A) (c) - the application was notified and the matters are dealt with under the "Submissions" heading elsewhere in this report.

**ITEM 3 (continued)**

In *Windy Dropdown Pty Ltd V Warringah Council* the Land & Environment Court considered whether retrospective approval could be given to work already carried out. The Court made a distinction between section 76 that required consent for development and s96 that relates to the modification of an existing Consent. The Court concluded at para 33 *"It follows from the foregoing analysis and reasoning that in my view an application that relates to development which has already been carried out can be made pursuant to s96"*. This application can then be considered on its merits even though the landscaping has been removed.

**Crown Developments**

Section 116C of the Act provides that a consent authority, in respect of a development application made by or on behalf of the Crown, must not:

- (a) refuse its consent to the application, except with the written approval of the Minister, or
- (b) impose a condition of its consent, except with the written approval of the Minister or the applicant.

Circular D6 from the Department of Planning indicates that it is not necessary to obtain the Ministers written approval where the applicant agrees to the conditions.

**Comment**

It is not proposed to require any additional conditions as there are numerous consents that have conditions that adequately regulate the use of the site.

**Relevant REPs or SEPPs**

There are none that affect this application

**Any draft LEPs**

There are none that affect this application

**Any DCP****Ryde DCP 2010**

There is no part of Ryde DCP 2010 that is relevant to this application.

**ITEM 3 (continued)****10. Likely impacts of the Development****(a) Built Environment**

This matter has mostly been dealt with under issues raised by the objectors. There are existing conditions that relate to hours of operation and use of the Higginbotham Road entry that have been in place since consent was granted in 1993. The proposal does not erode these conditions and the installation of the spear fencing within the site will physically restrict the number of vehicles able to access Higginbotham Road.

**(b) Natural Environment**

The proposed modifications do not significantly impact on the landscaping and other measures included in the original consent. This landscaping was originally required as a means of physically preventing access rather than as a means of improving the appearance of the site. The removal of this small landscaped area originally provided within the site is more than compensated by the increase in landscaping by subsequent consents.

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

The suitability of the site was considered when the original application was approved and is not affected by this application.

**12. The Public Interest**

The maintenance of a Bus Depot on the site by the State Transit Authority is in the public interest. The proposed modifications do not detrimentally affect the public interest of this use of this site for a depot for public transport.

**13. Consultation – Internal and External**

None were required.

**14. Critical Dates**

There are no critical dates or deadlines to be met.

**15. Financial Impact**

Adoption of the option(s) outlined in this report will have no financial impact.

**ITEM 3 (continued)****16. Other Options**

No other options were considered as the removal of the landscaping does not alter the approved access arrangements to the Bus Depot. There have been a number of consents issued that address parking, access and separation of uses within the depot that minimise the likelihood that heavy vehicles will use the Higginbotham Road access. To ensure this will not happen it is proposed to install internal spear fencing between the upper and lower parts of the depot to physically prevent this from occurring. The STA has carried out a survey and has instigated measures to minimise impact on nearby residents.

The STA is a Crown Authority and as such Council cannot impose conditions or consider any other option without the written consent of the STA.

**17. Conclusion:**

The application is to remove part of a garden and to reinstate the driveway to allow access to the lower parking area and to erect internal fencing at the Ryde Bus Depot. The landscaping was originally required to ensure that fuel trucks and buses could not physically get access from Higginbotham Road. It did not restrict other vehicles (cars, service vehicles, etc) from accessing the site. Subsequent consents have rationalised the access by vehicles to the site and Higginbotham Road is now used for access to 38 parking spaces.

To ensure the number of vehicles parking spaces that have access from Higginbotham Road is maintained, it is proposed to install 1.8m high spear fencing within the site to physically separate this lower parking area from the rest of the site. This fencing provides similar physical restrictions that the landscaping did, albeit it is now located in a different part of the site.

Some of the 5 submissions that were received raised a number of issues that are not subject to this application but were considered in the assessment of earlier applications. In relation to the other matters, the STA surveyed the use of the entrance over a number of days & found that while some of the noise was associated with adjoining industrial uses, some was associated with the use of the Depot.

The STA has subsequently put measures in place to reduce the likelihood of noise impacting on nearby residents. These are set out in detail at Attachment 1. In summary the STA carried out surveillance of the Higginbotham Road entrance each day between 9-11 June 2011 and advised:

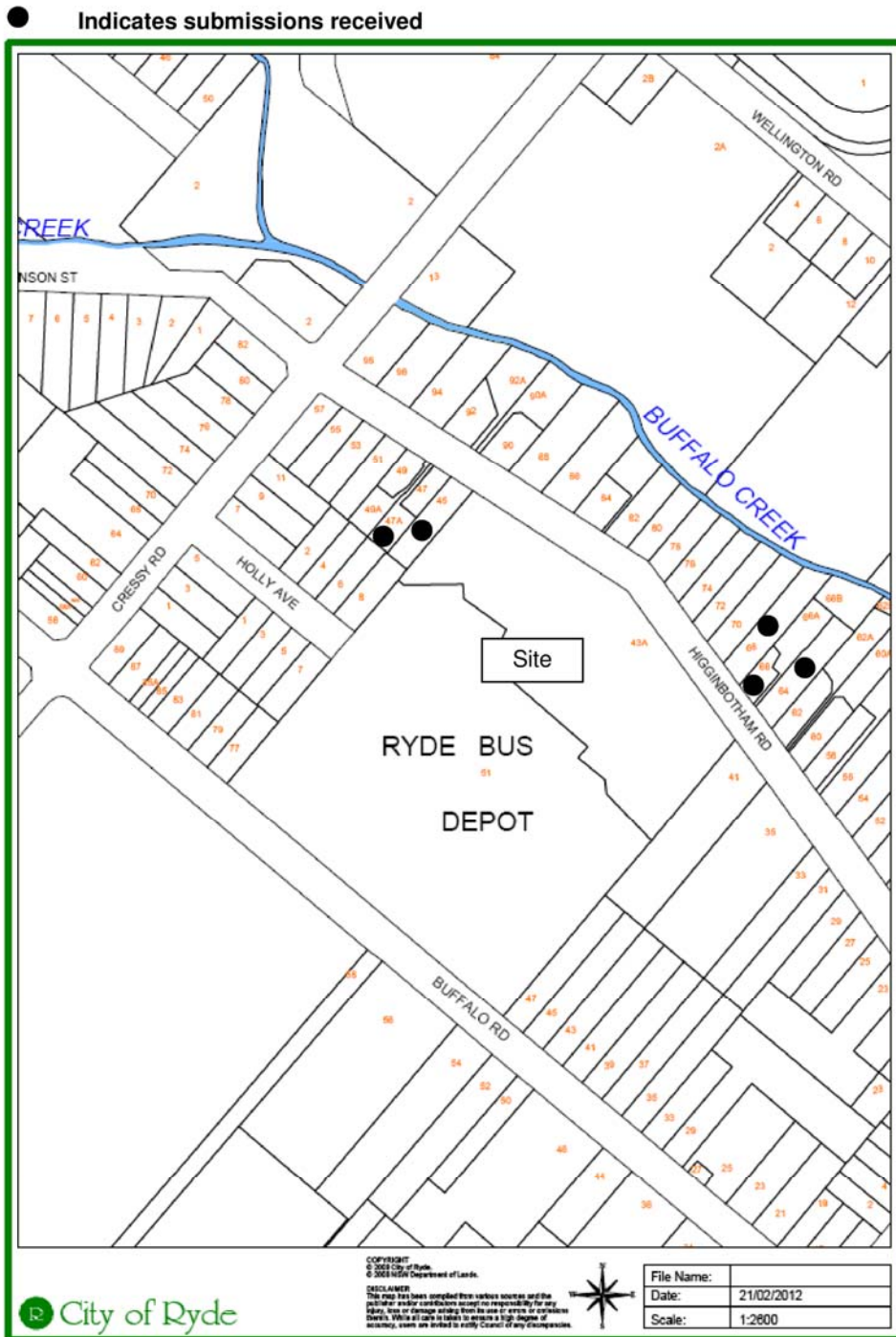
- Only 4 cars entered the site between 5.30am – 6pm. The gates are not opened until 5.30am.
- A number of trucks/vehicles accessed the industrial sites next door at 39 & 41 Higginbotham Road between 5.30am and 5.45am, some with loud radios.

**ITEM 3 (continued)**

- Staff have been instructed to turn their radios down when entering the site.
- Staff with modified exhausts have been asked not to enter the site until after 8am.
- Roller doors to the workshop are to be kept closed before 8am to contain any noise within the workshops.
- An external alarm has been removed and replaced with a back to base alarm.

ITEM 3 (continued)

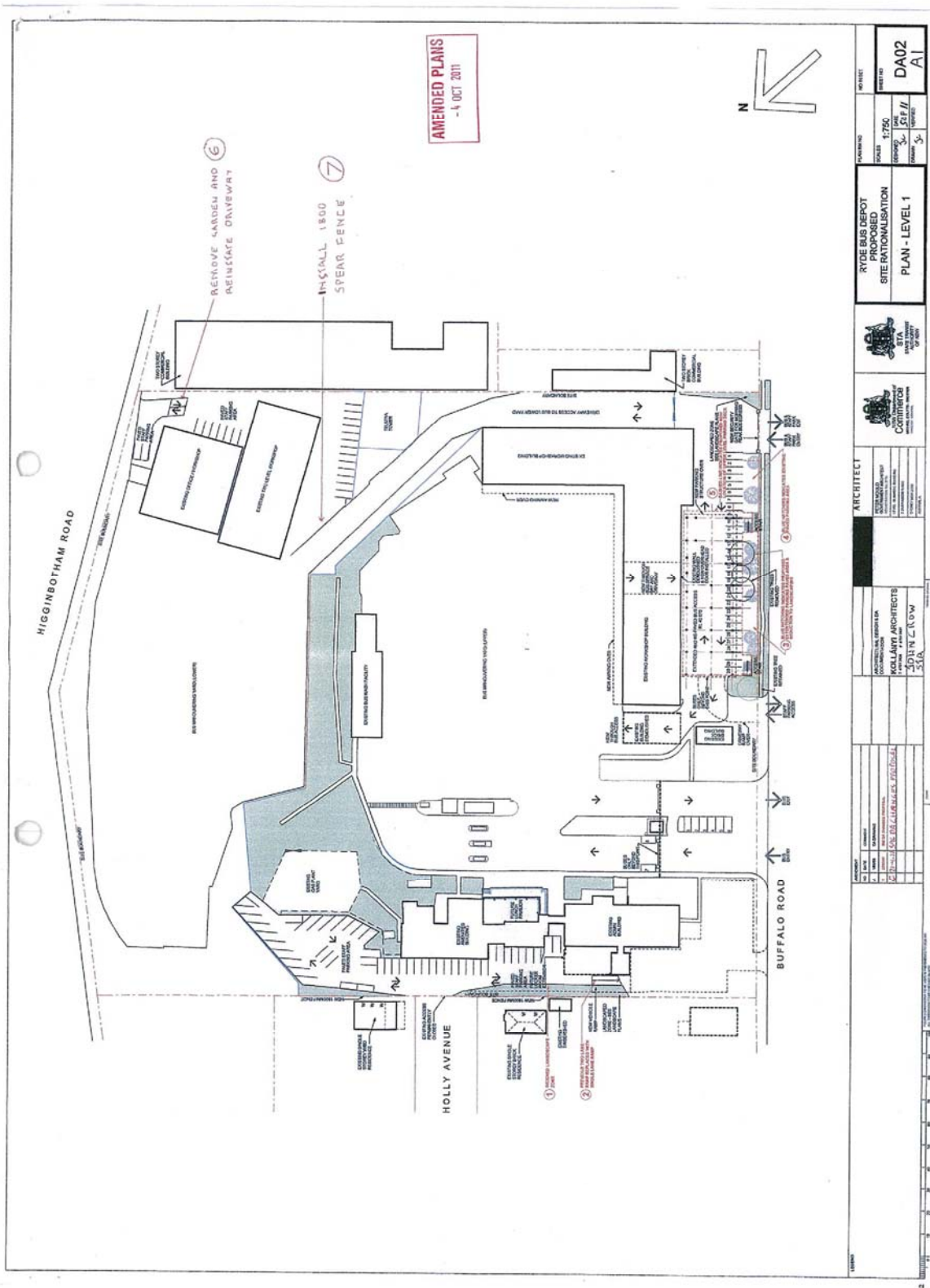
ATTACHMENT 1





ITEM 3 (continued)

ATTACHMENT 2



**ITEM 3 (continued)**

**ATTACHMENT 3**



STA application Section 96 Application to Modify Development Consent  
Consent Number 600/2005 DA Number 335/2006

28/09/2011

General Manager  
City of Ryde  
Ryde Council  
Locked Mail Bag 2069  
North Ryde NSW 1670

Dear General Manager

Section 96 Modification 43a Higginbotham road

Dear Sir

This letter is forwarded in conjunction with the section 96 application to modify development consent for Sydney Buses located at 43 A Higginbotham Road Ryde.

The application is directed at the removal of the garden bed, which is restricting access to the staff cars entering the 43 A Higginbotham road car parking area. The access gained from Higginbotham road reduces the risk of vehicle collision with buses, which was the case when staff and visitors cars would enter the 43A Higginbotham road car park, from the buffalo road entrance

The STA safety unit has conducted an extensive risk assessment on the traffic flow in the Ryde Depot, as the result of the 10 million dollar upgrade to the Depot facilities and hard-stands. The risk assessment has highlighted the fact the staff cars and visitors should not to enter the area frequented by buses.

Due to burst sewerage main on the 30/11/09 the Facilities manager contracted a local tradesman, to conduct repairs to the sewerage system. Upon starting work it was noticed that the garden bed had to be excavated to ensure the sewerage system was to Australian standard, once the work was started it was notice that a pre-existing road was located under the garden wall. STA had no Knowledge that there was any restriction on the garden wall, so after discussions with the Depot staff and the STA safety unit, the wall was not replaced at the end of the sewerage excavation.

STA have ensured that **NO Buses or delivery trucks** enter or exit out the 43A Higginbotham road gate, by fencing of the access from the bus parking area to the 43A Higginbotham road car park, thus restricting the 38 car spaces to STA employee's cars.

STA has recently received complaints from a resident in Higginbotham road, and have acted to locate the noise and remove the source of the noise.

The method used was for 2 weeks the Facilities manager would arrive at the depot at 430am and monitor the situation of noise at the 43A Higginbotham road entry  
The results and action are as followed.

State Transit Authority of New South Wales - Level 1 219-241 Cleveland Street Strawberry Hills NSW 2010  
PO Box 2557 Strawberry Hills NSW 2012 - Phone (02) 9508 2900 - www.statetransit.info - ABN 51 750 635 629



**ITEM 3 (continued)**

**ATTACHMENT 3**

1. **Finding** Number of cars entering between 5,30am and 6,00am would only be 4 cars

**Action** (This has Video proof)

2. **Finding**

Gate needs to be open at 5, 30 to allow for continuity

**Action**

John Crow to ask Peter May to extend opening time

- 3 **Finding**

A number of Depot staff had to be asked to turn their radios off when entering 43A Higginbotham road

**Action**

Depot to instruct all staff when entering 43A Higginbotham road

Depot, in out of office hours, to please turn their radios off, as the slightest sound reverberates.

- 4 **Finding**

A number of depot staff has modified exhausts

**Action**

Depot staff that have modified exhaust, have been asked not to enter depot before 8,00am, their is parking on Higginbotham road until 8,00am, which they are able to stay until 9,00am, staff can then move their cars in to the depot at that time.

- 5 **Finding**

On Two days a week RTA start at 6.30 am, and work shop noise may sound like a Compressor is running

**Action**

Region has placed signs not to open roller door prior to 8am, which will contain any noise from workshop

- 6 **Finding**

On occasion the 43A Higginbotham office alarm would sound off for no apparent reason.

**Action**

STA has remove the alarm siren, and the system uses back to base alert with out sound

**Factors, which STA don't contribute to noise on the 9/6/11**

- White Hilux entered 41 Higginbotham road at 5,33am with radio noise
- Pantec Truck tyre noise at 5,40am
- WRX at 540am noise reverberated along the length of Higginbotham road
- Garbage truck entered 39 Higginbotham road at 5,50am
- 6,30am motor bike entered ramp at 41 Higginbotham road with at load exhaust
- Alarm from 41 or 39 Higginbotham road at 6,14am
- Traffic noise starts to build at 5,45am along Higginbotham road

**ITEM 3 (continued)**

**ATTACHMENT 3**

**Factors which STA don't contribute to noise on the 10/6/11**

- 5.22am Viola Garbage truck noise
- White Hilux entered 41 Higginbotham road at 5,40am with radio noise
- Holden Ute passed by load exhaust 5,45Am
- 5.58 aeroplane noise
- Traffic noise starts to build at 5,45am along Higginbotham road

**Factors which STA don't contribute to noise on the 11/6/11**

- 5.09am White car from directly across the road door closing noise and start up and idle noise
- 5.15am Council garbage truck picked up garbage noise from 15,15am to 15,19am
- 5.57 aeroplane noise
- 6.00 truck road noise
- 6.19am 2<sup>nd</sup> truck garbage noise coming the other direct
- Traffic noise starts to build at 5,45am along Higginbotham road

STA reacted when the first complaint was received and conducted an in-depth investigation to find the source of the noise, and put in place a strategy to reduce any noise, which may affect any of the residents

Of recent times, STA has spent an estimated 10 million dollars on improving the Ryde Depot, the utmost focus was noise reduction. The key fact with the Higginbotham road site was the noise reduction which has been reduced due,

- 99% of buses are driven out of their overnight parking location, which has removed the reversing buzzer and the need to sound the horn 3 times when buses are reverse (STA safety Directive)
- Smooth road surface which has reduced suspension noise
- Installation of a \$ 200,000 noise wall which stretches the length of the Depot
- Engaged Hibbs and associate at a cost of \$6000 for noise testing, which results show that 43a Higginbotham entrance does not impact on the noise on Higginbotham road.

In conclusion STA is committed to working with the community, on impact which affects the resident, STA is mind full of the fact that staff safety is of the utmost importance.

I have include with the section 96 Modification  
3 copies of drawing DA 02 A1.  
3 copies of drawing TDA 02 A1.  
3 copies Ryde Depot Rationalisation Review of Vehicle Movements.  
3 copies of STA Safety Risk Assessment form 102.

Look forward to your reply

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