

Meeting Date: Tuesday 7 August 2012
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 4.00pm

NOTICE OF BUSINESS

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2	2 GREGORY ST, PUTNEY. LOT 1 DP 27720. Local Development Application for Demolition of carport and construction of a new double garage to side of dwelling - LDA2012/0041. <i>INSPECTION 4.20PM / INTERVIEW 4.50PM</i>	6
3	498 BLAXLAND RD, DENISTONE. Application under Section 82A of the EP&A Act, 1979, to review Council's determination of LDA2011/0257 for construction of affordable rental housing (under the Affordable Rental Housing SEPP) on the site. APL2012/0002. <i>INSPECTION 4.35PM / INTERVIEW 4.55PM</i>	37
4	252 QUARRY ROAD RYDE. LOT 2 DP 701738. Local Development Application for Demolition and Erection of an Attached Dual Occupancy. LDA2010/439. <i>INTERVIEW 5.00PM</i>	90
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1 CONFIRMATION OF MINUTES - Meeting held on 17 July 2012

Report prepared by: Meeting Support Coordinator**Report dated:** 28/06/2012**File No.:** CLM/12/1/3/2 - BP12/771

REPORT SUMMARY

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

RECOMMENDATION:

That the Minutes of the Planning and Environment Committee 9/12, held on Tuesday 17 July 2012, be confirmed.

ATTACHMENTS

- 1 Minutes - Planning and Environment Committee - 17 July 2012

ITEM 1 (continued)

ATTACHMENT 1

Planning and Environment Committee
MINUTES OF MEETING NO. 9/12

Meeting Date: Tuesday 17 July 2012
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 4.03pm

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

Councillor Salvestro-Martin arrived during inspections and apologised for his late arrival.

Apologies: Nil.

Staff Present: Group Manager – Environment & Planning, Service Unit Manager Assessment, Service Unit Manager Environmental Health & Building, Business Support Coordinator – Environment & Planning, Team Leader – Development Engineer, Team Leader – Assessment, Assessment Officer, Service Unit Manager Governance and Councillor Support Coordinator.

Stuart Harding and Anna Michal from Willana Associates (Consultants) were present on behalf of Council for Items 2 and 3.

DISCLOSURES OF INTEREST

There were no disclosures of interest.

1 CONFIRMATION OF MINUTES - Meeting held on 19 June 2012

RESOLUTION: (Moved by Councillors O'Donnell and Pickering)

That the Minutes of the Planning and Environment Committee 8/12, held on Tuesday 19 June 2012, be confirmed.

Record of Voting:

For the Motion: Unanimous

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

**2 3-5 TRELAWNEY STREET, EASTWOOD. LOTS A & B in DP 401296.
Construction and strata subdivision of a mixed use development,
consisting of a building with 6 retail /commercial tenancies; 61 units and**

ITEM 1 (continued)

ATTACHMENT 1

basement parking for 108 cars. LDA 2011/0611.

Report: The Committee inspected the property at 3-5 Trelawney Street, Eastwood.

Note: Mr Terry Morris, Mr Andy Ludvik and Mr Peter Sullivan (on behalf of the applicant) addressed the Committee in relation to this Item.

Note: Correspondence from John Goubran (owner) was provided to Councillors in relation to this item and a copy is ON FILE.

RECOMMENDATION: (Moved by Councillors Salvestro-Martin and Yedelian OAM

- (a) That Local Development Application No. 2011/0611 at 3-5 Trelawney Street, Eastwood, being Lots A and B in DP 401296 be approved subject to specific conditions of approval being provided by the Group Manager Environment and Planning at the Council Meeting to be held 24 July 2012.
- (b) That the Voluntary Planning Agreement also be approved and that the Group Manager Environment and Planning be delegated to finalise the Voluntary Planning Agreement with N & G Projects Pty Ltd in accordance with the submitted Voluntary Planning Agreement and the applicable legal requirements under the *Environmental Planning and Assessment Act 1979* for a one-off monetary contribution of \$150,000.
- (c) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Councillors Pickering, Salvestro-Martin and Yedelian OAM

Against the Motion: Councillors Butterworth and O'Donnell

Note: This matter will be dealt with at the Council Meeting to be held on **24 JULY 2012** as substantive changes were made to the published recommendation and dissenting votes were recorded

3 7-9 RUTLEDGE STREET, EASTWOOD, LOT 23 DP 4231, LOT 24 DP 653568. Construction and strata subdivision of a mixed use building with 6 retail / commercial tenancies, 79 units and associated basement parking for 155 cars. LDA 2011/0612.

Report: The Committee inspected the property at 7-9 Rutledge Street, Eastwood.

Note: Mr Terry Morris and Mr Andy Ludvik (on behalf of the applicant) and Mr Bruce Lyon (on behalf of the owner) addressed the Committee in relation to this Item.

Note: Correspondence from John Goubran (adjoining owner) was provided to Councillors in relation to this item and a copy is ON FILE.

ITEM 1 (continued)

ATTACHMENT 1

RECOMMENDATION: (Moved by Councillors Salvestro-Martin and Yedelian OAM

- (a) That Local Development Application No. 2011/0612 at 7-9 Rutledge Street, Eastwood, being Lot 23 DP 4231 and Lot 24 DP 653568 be approved subject to specific conditions of approval being provided by the Group Manager Environment and Planning at the Council Meeting to be held 24 July 2012.
- (b) That the Voluntary Planning Agreement submitted by Rutledge Street Pty Ltd dated 8 June 2012 also be approved for a one-off monetary contribution of \$205,315.
- (c) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Councillors Pickering, Salvestro-Martin and Yedelian OAM

Against the Motion: Councillors Butterworth and O'Donnell

Note: This matter will be dealt with at the Council Meeting to be held on **24 JULY 2012** as substantive changes were made to the published recommendation and dissenting votes were recorded

4 28 GERARD STREET, GLADESVILLE. LOT 40 DP 10598. Local Development Application for the erection of a 2 storey dual occupancy (attached). LDA2011/328.

Note: An email from Mr Stephen Latham (objector) was tabled in relation to this Item and a copy is ON FILE.

Note: Mr Andrew Lau (applicant) addressed the Committee in relation to this Item.

RESOLUTION: (Moved by Councillors O'Donnell and Butterworth)

- (a) That Local Development Application No. 2011/0328 at 28 Gerard Street, Gladesville, being Lot 40, DP 10598 be approved subject to the **ATTACHED** conditions (Attachment 1).
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

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

ITEM 1 (continued)

ATTACHMENT 1

5 78 HERMITAGE ROAD, WEST RYDE. Lot 8 DP 24562. Local Development Application for Change of use to manufacturing and warehousing of pool/spa products and advertising signs. LDA2011/0022.

Note: An email from Mr Leigh Smart (objector) was tabled in relation to this Item and a copy is ON FILE.

Note: Mr Razmik Aghajanian (applicant) addressed the Committee in relation to this Item.

RESOLUTION: (Moved by Councillors Yedelian OAM and Butterworth)

- (a) That Local Development Application No 2011/22 at 78 Hermitage Road, West Ryde, being Lot 8 DP 24562, be approved subject to the conditions of consent in Attachment 1.
- (b) That the person who made a submission be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

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

The meeting closed at 6.29pm.

CONFIRMED THIS 7TH DAY OF AUGUST 2012.

Chairperson

**2 2 GREGORY ST, PUTNEY. LOT 1 DP 27720. Local Development
Application for Demolition of carport and construction of a new double
garage to side of dwelling - LDA2012/0041.**

INSPECTION: 4.20pm

INTERVIEW: 4.50pm

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

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

Report dated: 25/07/2012

File Number: grp/12/5/5/3 - BP12/913

1. Report Summary

Applicant: E Rached.
Owner: H Blogg.
Date lodged: 10 February 2012.

This report considers a development application (DA) for demolition of carport and construction of a new double garage to the northern side of the existing dwelling.

The proposed new double garage will have a minimum front setback of 2.55m from Gregory Street which does not comply with Council's requirements. This non-compliance is supported as the proposed double garage will have no potential detrimental visual impact on the streetscape of the locality and will not obstruct sightlines to pedestrians. The proposed garage is to be in a similar position on the site to the existing carport which is to be demolished.

The original plans were notified to neighbouring properties in accordance with Council's DCP 2010 (Part 2.1 – Notification of Development Applications). Two (2) submissions were received objecting to the proposal.



The above photos show the existing dwelling and single carport on the subject site

ITEM 2 (continued)

The applicant was advised to amend the roof design of the proposed garage and to comply with several concerns raised by Council's Development Engineer. As a result amended plans were received and re-notified to neighbours.

Two (2) further submissions were received objecting to the proposal and four (4) submissions were received supporting the proposal.

Council's Development Engineer and Consulting Landscape Architect have both raised no objections to the proposal subject to conditions of consent.

The report recommends approval.

Reason for Referral to Planning and Environment Committee: At request of Councillor Ivan Petch.

Public Submissions: *Original Plans:* Two (2) submissions - from the property owners at 141 Morrison Road, Putney were received objecting to the development.

Amended Plans: Two (2) submissions - from the property owners at 141 Morrison Road, Putney were received objecting to the proposal. Letters of support for the proposal were also received from the property owners at No. 1, 3, 4 & 5 Gregory Street.

Clause 4.6 RLEP 2010 request for variation not required.

Value of works: \$21,000.00

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

ITEM 2 (continued)**RECOMMENDATION:**

- (a) That Local Development Application No. LDA2012/0041, at 2 Gregory Street, Putney be approved subject to the **ATTACHED** conditions (Attachment 1).
- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Compliance table.
- 2 Proposed conditions.
- 3 A4 plans.
- 4 Map.
- 5 A3 plans – CIRCULATED UNDER SEPARATE COVER – subject to copyright

Report Prepared By:

Farideh Derakhshan
Assessment Officer - Town Planner
Colin Murphy
Team Leader - Fast Track Team

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 2 (continued)**2. Site** (*Refer to attached map.*)

Address	: 2 Gregory St Putney
Site Area	: 657.6m ² , irregular allotment (3 sides). Front (arc) = 46.255m & rear = 32m, depth = 30.48m
Topography and Vegetation	: The site generally slopes from north-west to south-east. The front and rear yards are landscaped with trees and vegetation to various heights.
Existing Buildings	: Dwelling House & carport
Planning Controls	Ryde LEP 2010
Zoning	: R2 - Low Density Residential
Other	: DCP 2010

3. Councillor Representations**Name of Councillor:** Councillor Petch**Nature of the representation:** Call-up to Planning & Environment Committee**Date:** 3 April 2012**Form of the representation:** Email via Councillors' Help Desk**On behalf of objectors:** The property owners at No. 141 Morrison Road (to the south)**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.

5. Proposal

The development proposes to demolish carport and construct a new double garage to the northern side of the dwelling.

ITEM 2 (continued)**6. Background**

- 10 February 2012 - Development Application submitted.
- 22 February 2012 – Development Application notified to neighbours (2 submissions received from 1 property)
- 6 March 2012 – Letter forwarded to applicant (Issues to be addressed)
- 12 March 2012 – Meeting with applicant to discuss issues.
- 27 March 2012 – Amended plans received.
- 29 March 2012 – Re-notification to neighbours (6 submissions received; 2 objecting to the proposal from 1 property and 4 in support of the development)
- 3 April 2012 – Call up to Planning & Environment Committee
- 26 April 2012 – Amended plans received, showing the intention to remove tree in the front yard. These plans were not re-notified as the adjoining property owners were aware of the possible tree removal.
- 8 June 2012 – Applicant requested deferment of the Development Application to Planning and Environment Committee (to a date after 20 July 2012)

7. SubmissionsOriginal Plans

The proposal was notified in accordance with Council's DCP 2010: Part 2.1- Notification of Development Applications for a 14 day period ending on 8 March 2012. During this period two submissions were received from the property owners at No. 141 Morrison Road, objecting to the development and raising the following issues:

• Removal of trees

- *The removal of established trees over six metres high and shrubs and grass areas that assist with the natural absorption of water.*

Comment:

The development proposes to remove a Brushbox tree located in the front yard. The proposal was referred to Council's Consulting Landscape Architect who advised that this tree is only in a fair condition and is compromised by existing conditions including its proximity to the dwelling and driveway / pathways. Council's Consulting Landscape Architect raises no objection to removal of this tree and replacement with a new tree in suitable location. [See Conditions No. 21 & 36].

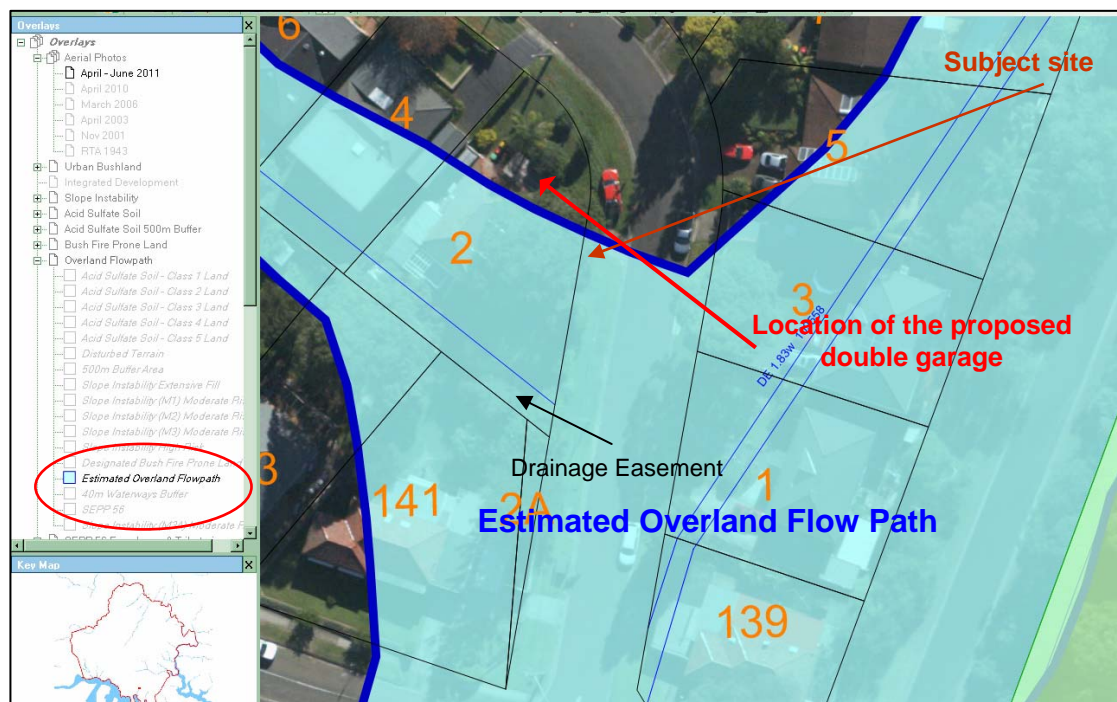
ITEM 2 (continued)

- **Overland Flow and Drainage**

- *the drainage of water from the proposed development*
- *the path taken by overland flow during storm events where capacity of the drainage system is exceeded or blocked given this property is subject to a flood zone area*
- *water run off from new hard surfaces, including driveway and other such surfaces*

Comment:

The subject site is identified as within a flood prone area. The proposal was referred to Council's Development Engineer who raised no objections to the proposed development subject to two conditions of consent. In particular Council's Development Engineer has advised that according to Council flood maps, the proposed garage appears to be located away from the overland flow area affecting this site and the increase in the hard surface (roof) area is not significant. Also the garage is in a similar location to the existing carport to be demolished. [See Conditions No. 10 & 11]



The above aerial photos show the location of the proposed garage being outside the Estimated Overland Flowpath

ITEM 2 (continued)**• Streetscape – Front Setback**

- *the change to the current streetscape*
- *the significant reduction in the primary and secondary setbacks*
- *This development does not fit into the streetscape because all the other houses have setbacks of 6-8 metres.*

Comment:

Council's DCP 2010, Part 3.3 Dwelling Houses and Dwelling Occupancy (attached) (section 2.8) requires *that dwellings are to be located at least 6 metres from the street front boundary.*

The subject site is an irregular/triangular shaped allotment having only three boundaries with its front boundary to Gregory Street being the longest. The existing dwelling house on the site maintains the front setback of 5.10m from Gregory Street.

On the southern side of the dwelling there is an existing single carport which will be replaced by a new double garage.

Council's DCP 2010, Part 3.3 Dwelling Houses and Dwelling Occupancy (attached) (section 2.4.1 - Streetscape) requires that: *"Garages to be oriented to match the prevailing orientation of such buildings in the streetscape and also integrating the design of architectural features including entries to garages with the overall façade design".*

Accordingly, Council advised the applicant to comply with this requirement. As a result the amended drawings show the new double garage with a roof pitch and design that are in keeping with the existing dwelling.

ITEM 2 (continued)



The above diagram shows the design of the proposed double garage will be in harmony with the existing dwelling.

The new garage will have a front setback of 2.55m to 5.51m. Given the irregular shape of the site and that there is no alternative location, Council considers that the reduced front setback will have no detrimental visual impacts on the streetscape of the locality.

Amended plans

Amended plans were received on 27 March 2012 and were re-notified to the surrounding neighbour. Six submissions were received of which four submissions were in support of the proposal. The other two submissions were received from the property owners at No. 141 Morrison Road, objecting to the development and raising the following issues:

- **Original Driveway**

- *The driveway originally ran parallel to the fence of 141 Morrison Road and the single garage was under the house. Previous owners moved driveway and renovated garage into a rumpus room. Ryde Council would only allow an open sided single carport because of setback, streetscape and safety.*

Comment:

Although a former garage may have been converted into living space, Council is required to consider the current proposal on its merits. As discussed throughout this report the garage as proposed is acceptable in terms of the issues affecting this site (including streetscape, tree removal and overland flow), and so this Development Application is recommended for approval. A condition of consent requires that the disused gutter crossing be removed. [See Condition No. 11]

ITEM 2 (continued)

- **Sightlines and safety**

- *The development application if approved would cause a blind spot for car vision driving up and down the street as well as an increased risk to pedestrian safety. We recommend that the Roads and Maritime Services, formerly the RTA, access the associated risks and provide a report.*
- *The local community including the elderly and children are at serious risk of injury or death as they walk or ride on the road as there are no footpaths. Many people walk up and down this street as there is access to Tyagarah Park, Carlile Swimming Pool, Ryde Aquatic Leisure Centre, Tennis courts, schools and pedestrian access to Victoria Road.*

Comment:

Gregory Street is a local road and is administered by Council. Although there are no concrete footpaths on either side of the road there is sufficient room for pedestrian access. Concerns regarding sightlines were considered by Council's Development Engineer who has raised no objection to the proposal subject to the following [Condition No. 20] of consent:

- **Safe Sight Distance.** To facilitate safe pedestrian sight distance the existing landscaping within the front setback shall be adjusted and retaining walls shall be limited to a maximum height of 900 mm. Plans indicating compliance are to be submitted with the Construction Certificate application.



ITEM 2 (continued)

The above aerial photos shows location of Gregory and Sandra Streets and the existing dwellings in the locality

It is also noted that the immediate area is relatively low traffic environment with no through traffic given that Gregory Street (and Sandra Street) is a cul-de-sac.

- **Height and Roof Pitch**

- *Overall height is not specified on plans received as well as additional plans held by council.*
- *We have tried to measure the sketch (plans), however they are not drawn to scale and we are unable to determine overall height. The roof pitch shows 1 cm, which would indicate the roof, is 1 metre high. That's hard to believe as the existing roof is in excess of that height.*
- *The amended plans also indicate a change in wall height (from 2.1m to ceiling to 3.0m to ceiling) and the width has also changed. (from 6.0m to 6.110m).*
- *The roof pitch of the proposed addition will not match existing roof pitch as indicated by sketch drawing (plan).*
- *The pitched roof is going to create an increase of roof surface area that will subsequently increase the storm water and create greater surface water run off. This will compound the existing water issues previously addressed.*

Comment:

Council's DCP 2010, Part 3.3 Dwelling Houses and Dwelling Occupancy (attached) (Section 2.7 – Height) state that: *Dwellings to have maximum ridge height of 9.5m.* The development proposes an attached double garage with a maximum ridge height of 4.66m which is lower than the 6.82m ridge height of the existing dwelling. The height of the proposed double garage is in harmony with the existing height of the dwelling and also the height of the existing dwellings in the locality. The proposed increase in roof area is not significant and will not substantially alter the existing drainage system.

- **Plans Scale**

- *We are very concerned over a number of issues highlighted in our previous two letters, but find it very misleading when new plans are received for an amended roof design when in fact is more than a change to the roof and the plans are not even drawn to scale.*

Comment:

The original and amended plans have been checked and appear to be drawn to the correct scale as indicated.

ITEM 2 (continued)**• Concrete Slab**

- *The amended plans indicate the wall has a reinforced concrete slab with F72 mesh and Y10 bars. This seems a little excessive for what supposed to be a double garage.*

Comment:

Structural details are not considered in the assessment of the development application and are subject to construction requirements that will be checked prior to issue of a Construction Certificate.

• Other potential unauthorised work

- *In addition to the above it also should be noted that builders have been at the site for over 6 months. They have changed foundations/structures to the house without council approval. Digging and burrowing and removing dirt, concrete and possibly asbestos from under the existing house and dumping it in the backyard. They have also changed the pitch and eaves of the roof without council approval.*

Comment:

These issues are outside the scope of assessment of this Development Application.

8. Clause 4.6 RLEP 2010) objection:

Not required.

9. Policy Implications**Relevant Provisions of Environmental Planning Instruments etc:****(a) Ryde Environmental Plan 2010****Zoning**

R2 - Low Density Residential

Objectives of Zone (R2 – Low Density Residential):

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

ITEM 2 (continued)

- To ensure that the general low density nature of the zone is retained and that development for the purposes of dual occupancy (attached) and multi dwelling housing (attached) do not significantly alter the character of a location or neighbourhood.
- To ensure that new development complements or enhances the local streetscape.
- To maintain on sites with varying topography the two storey pitched roof form character of dwelling houses and dual occupancy (attached) developments.
- To ensure that land uses are compatible with the character of the area and responsive to community needs.

The development proposes the demolition of a carport and construction of a new double garage to the side of the dwelling is permissible in the above zone. The proposed development is considered to satisfy the objectives of the above zone as prescribed in Ryde LEP 2010. In addition, the proposed development complies with the provisions of the Ryde LEP 2010, such as floor space ratio and height limit.

Ryde LEP 2010	Proposal	Compliance
Height - Cl. 4.3(2)		
9.5m	Existing, unchanged.	Yes
Floor Space Ratio - Cl's. 4.4(2) & 4.4A(1)		
0.5:1	0.13:1	Yes

Mandatory Requirements

There are no mandatory requirements pertaining to this proposal.

(b) Relevant SEPPs

There are no applicable SEPPs to this proposal.

(c) Relevant REPs

There are no applicable REPs to this proposal.

(d) Draft LEPS

A Section 65 Certificate enabling the formal exhibition of Draft Local Environmental Plan 2011 was issued by the Department of Planning and Infrastructure on 23 April 2012. The Draft Plan has been public exhibited. Under this Draft LEP, the zoning of the property is R2 Low Density Residential. The proposed development is permissible with consent within this zoning under the Draft LEP, and it is considered

ITEM 2 (continued)

that the proposal is not contrary to the objectives of the Draft LEP or those of the proposed zoning.

(e) Ryde Development Control Plan (DCP) 2010

Compliance with the relevant parts of Council's DCP 2010 is illustrated by the development standards in Attachment 2 of this report. The Non-Compliances identified in the above table are assessed below:

Non-Compliances:**1. FRONT SETBACK**

Council's DCP 2012, Part 3.3 – Dwelling Houses and Dual Occupancy (attached), Section, 2.8.1 (a) – *Front Setbacks* – states: *Dwellings are generally to be set back 6 metres from the street front boundary.* The development proposes to replace the existing carport located on the northern side of dwelling with a new attached double garage having a front setback ranging from 2.55m to 5.51m.

The subject site has a curved frontage which results in a triangular shape of land. Consequently the subject site has only three boundaries. As the garage is considered to have minimal impact on the streetscape the reduced front setback is supported.

Council's Development Engineer has assessed the location of the proposed garage and has made the following comments:

The access to the proposed garage is via an existing driveway. This located more than 6.0m from the tangent point of the northern side of the boundary. The garage has a minimum setback of 2.55m to the front boundary and does not create any sightline problems for pedestrians and vehicles.

The following condition has been included among the conditions of the consent:

- **Safe Sight Distance.** *To facilitate safe pedestrian sight distance the existing landscaping within the front setback shall be adjusted and retaining walls shall be limited to a maximum height of 900mm. Plans including compliance shall be submitted with the Construction Certificate Applications. [See Condition 20].*

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

The proposed development involving construction of a new double garage will not have any adverse impacts on the existing built environment or the amenity of the surrounding area. The development is consistent with other developments of a similar nature.

ITEM 2 (continued)**(b) Natural Environment**

The proposed development will have no significant impacts on the natural environment of the locality. The proposed development is permissible in the prescribed zone of Ryde LEP 2010 and is compatible with the existing surrounding developments in the locality being dwelling houses. Therefore the development is considered satisfactory in terms of environmental impacts.

11. Suitability of the site for the development

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

Acid Sulfate Soil

The subject site is identified within class 5 of Acid Sulphate Soils and within 500m buffer zone of a higher class Acid Sulphate Soil environment. Department of Land and Water conservation in its "*Guidelines for the Use of Acid Sulfate Soil Risk Maps*", states that: "...in general, landforms above 10m AHD were classed as having No Known Occurrence of Acid Sulphate Soil". The subject site is located between 2m and 6m of Australian Height Datum (AHD) and the development is proposed to construct a new double garage on the side of dwelling. The development does not propose any major excavation. Accordingly, it is considered that the proposed development will have no potential environmental impacts such as lowering the water tables of the adjoining lands and is supported.

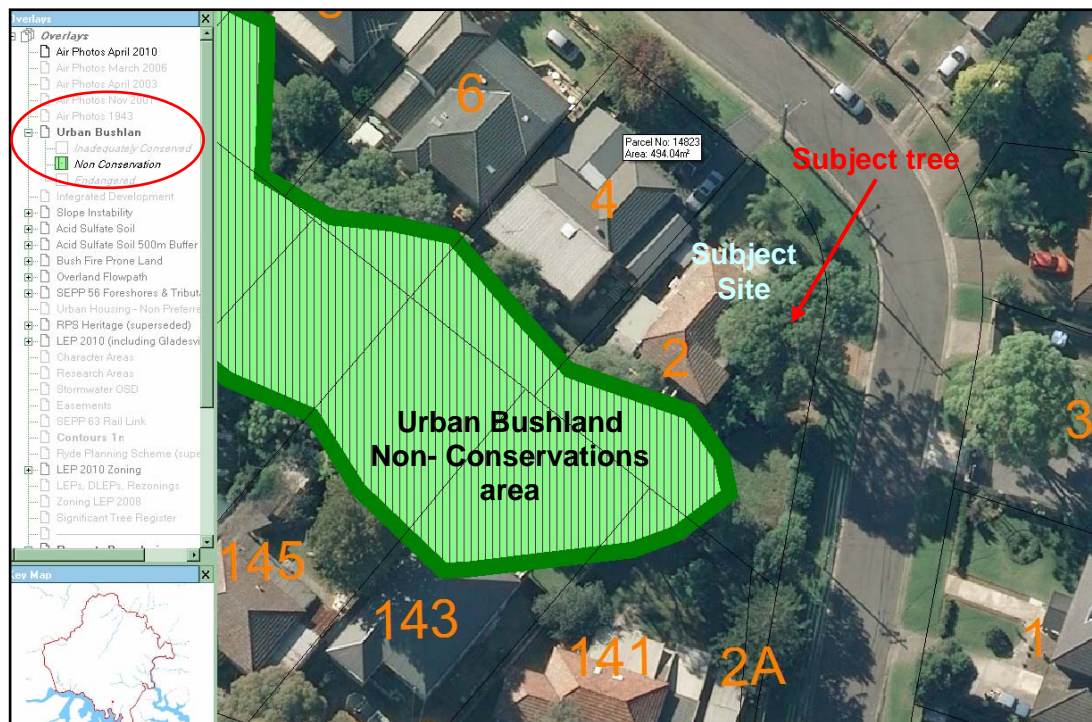
Flood Prone Land

Although the subject site is identified as flood prone area, Council's Development Engineer has raised no objections to proposed development. Accordingly the proposed development will have no detrimental environmental impacts on the locality and is supported.

Urban Bushland (non-conservation)

The subject site is identified within *Urban Bushland – Non-Conservation* area. The development proposes to remove a tree from front of the subject site, and so the Development Application was referred to Council's Landscape Architect (See "Referrals" below).

ITEM 2 (continued)



The above aerial photo shows the location of the subject tree being outside the Urban Bushland (Non-Conservations) area.

12. The Public Interest

Having regard to the assessment contained in this report, it is considered that approval of the development is in the public interest.

13. Consultation – Internal and External

Internal Referrals

Development Engineer: 11 April 2012, Council's Development Engineer has raised no objections to the application subject to 2 conditions of consent. [See Conditions No. 10, 11 & 20].

Consulting Landscape Architect: 22 May 2012, Council's Consulting Landscape Architect made the following comment:

*The site was accessed and inspected on the 17th May 2012. The subject tree is a Queensland Brushbox (*Lophostemon confertus*). The tree is only a moderate example of the species and is in only fair condition. The tree has a number of*



The above photo shows the close proximity of Brushbox tree paved areas (including driveway)

ITEM 2 (continued)

pre existing site conditions which appear to be negatively impacting upon the tree, including: the driveway to the north of the trunk; a pedestrian path to the south; and, the proximity of the dwelling house itself.

It should be noted that even the construction of an “at grade” driveway would entail severe impacts within the root zone of the tree. Under the circumstances any further impacts are likely to see the tree’s condition decline, therefore rather than expending effort to save a moderate tree, a program of removal and replacement would be a better option.

Furthermore, the Consulting Landscape Architect raised no objections to remove the Brushbox tree subject to replacement tree through the following condition of consent: [See Conditions No. 21 & 36].

- *Removal of the Queensland Brushbox (*Lophostemon confertus*) is subject to its replacement with a canopy tree equivalent to Turpentine (*Syncarpia glomulifera*), Rough bark Apple (*Angophora floribunda*) or Cheese Tree (*Glochidion ferdinandi*). The tree is to be located in the front setback, and is to be a minimum 35 litre bag size at the time of planting. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.*

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

After consideration of the development against section 79C of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is suitable for the site and is in the public interest. The issues raised in the objection do not warrant either refusal or modification of the proposal. Therefore, it is recommended that the application be approved.

ITEM 2 (continued)

ATTACHMENT 1

COMPLIANCE TABLE

DCP 2010	Proposed	Compliance
Part 3.3 - Dwelling Houses and Dual Occupancy (attached)		
Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	Development will be consistent with the desired future character of the low density residential areas.	Yes
Alterations and Additions		
– Design of finished building appears as integrated whole.	Design of finished building appears to be integrated whole.	Yes
– Development to improve amenity and liveability of dwelling and site.	Development will improve amenity and liveability of dwelling and site.	Yes
Public Domain Amenity		
Streetscape		
– Front doors and windows are to face the street. Side entries to be clearly apparent.	Front door and windows are faced toward street.	Yes
– Single storey entrance porticos.	Single storey entrance.	Yes
– Articulated street facades.	Street facades are articulated	Yes
Public Views and Vistas		
- A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views.	There is no view to water from the street. The development maintains the existing view corridors; therefore there will be no obstruction to views.	Yes
Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. Fence 70% open where height is >900mm.	The proposed development will not be located within any view corridors.	Yes
Pedestrian & Vehicle Safety		
- Car parking located to accommodate sightlines to footpath & road in accordance	Location of the new garage will accommodate sightlines to footpath and road in accordance with	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
with relevant Australian Standard. - Fencing that blocks sight lines is to be splayed.	relevant Australian Standard. No fencing has been proposed.	Yes
Site Configuration		
Deep Soil Areas	Existing, unchanged.	Yes
Topography & Excavation <u>Within building footprint:</u> - Max cut: 1.2m - Max fill: 900mm <u>Outside building footprint:</u> - Max cut: 900mm - Max fill: 500mm - No fill between side of building and boundary or close to rear boundary - Max ht retaining wall 900mm	Max cut (existing) = 800mm No fill has been proposed. No cut has been proposed. No fill has been proposed. No fill between side of building and boundary has been proposed. Height of retaining walls = 800mm	Yes Yes Yes Yes Yes Yes
Floor Space Ratio		
Ground floor	124.65m ²	
Total (Gross Floor Area)	124.65m ²	
Less 36m ² (double) or 18m ² (single) allowance for parking	(- 33.3m ²) = 91.35 m ²	
FSR (max 0.5:1)	0.13:1	Yes
Height – Existing single storey dwelling – unchanged.		
Setbacks		
Side Single storey dwelling (attached double garage) - 900mm to wall - Includes balconies etc	Setback 1 (North) – Garage To wall min – 4.3m To wall max – 4.3m	Yes Yes
	Setback 2 (West) – Dwelling - existing To wall min – 1.1m To wall max – 3.03m	Yes Yes
Front - 6m to façade (generally) - Garage setback 1m from the dwelling façade – wall above is to align with outside face of garage below. - Front setback free of ancillary elements eg RWT, A/C	Existing: 5.51m Proposed: 2.55m to 5.51m Garage is setback 1m behind dwelling façade	Yes No (1) Yes
	Front setback is free of ancillary elements	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
<p>Rear</p> <ul style="list-style-type: none"> - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. 	<p>Existing, unchanged</p> <p>1.1m (dwelling)</p> <p>4.2m (garage)</p>	<p>Yes</p> <p>Yes</p>
Double Garage		
<ul style="list-style-type: none"> - Floor area 	<p>Area: 33.3m²</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Max wall plate (ceiling) height 2.7m 	<p>Ceiling height = 3</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Max O/A height 4.5m – Ridge to EGL 	<p>Overall height = 4.66m</p>	<p>Yes</p>
<ul style="list-style-type: none"> - To be single storey. 	<p>Single storey garage</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Windows not less than 900mm from boundary. 	<p>Setback: 2.55m.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Concrete dish drain if setback less than 900mm. 	<p>Not required due large setbacks.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Design to complement dwelling. 	<p>Roof design and materials will complement the dwelling.</p>	<p>Yes</p>
Car Parking & Access		
<p>General</p> <ul style="list-style-type: none"> - Dwelling: 2 spaces max, 1 space min. - Where possible access off secondary street frontages or laneways is preferable. - Max 6m wide or 50% of frontage, whichever is less. 	<p>Number/location of car spaces: Double garage – 2 spaces</p> <p>Access from: Gregory Street</p> <p>External width: 6.1m</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>Garages</p> <ul style="list-style-type: none"> - Total width of garage door visible from public space must not exceed 5.7m and be setback not more than 300mm behind face of garage wall above. - Garage windows are to be at least 900mm away from boundary. 	<p>Width of opening: 4.8m</p> <p>Door setback: 300mm</p> <p>Highlight window set back 4.4m</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>Parking Space Sizes (AS)</p> <ul style="list-style-type: none"> - Double garage: 5.4m wide (min) - Internal length: 5.4m (min) 	<p>Internal measurements: Width: 5.73m</p> <p>Length: 5.75m</p>	<p>Yes</p> <p>Yes</p>
<p>Driveways</p> <p>Extent of driveways minimised</p>	<p>Existing, unchanged.</p>	<p>Yes</p>

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
Landscaping – Existing, unchanged.		
<p>Landscaping for lots with Urban Bushland or Overland Flow constraints</p> <ul style="list-style-type: none"> - Where lot is adjoining bushland protect, retain and use only native indigenous vegetation for distance of 10m from boundary adjoining bushland. - No fill allowed in overland flow areas. - Fences in Overland Flow areas must be of open construction so it doesn't impede the flow of water. 	<p>The subject site is identified as <u>flood prone</u> land and as such the proposed development was referred to Council's Structural Engineer who did not raise any objection to the proposed development.</p> <p>The development does not include any fill. No changes to existing fences.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Dwelling Amenity – Single storey dwelling – existing, unchanged.		
External Building Elements – Single storey dwelling – existing, unchanged.		
Part 7.2- Waste Minimisation & Management		
Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	The applicant has submitted a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	Yes
Part 8.2 - Stormwater Management		
Stormwater		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	Drainage is to be piped into the existing stormwater drainage system in accordance with Part 8.2 - Stormwater Management and the conditions of the development consent.	Yes
Part 9.6 – Tree Preservation		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s)	The application proposes to remove a tree from the front yard. The existing tree is to be removed and replaced with a new tree in the front yard as a Condition of consent.	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway.		

ITEM 2 (continued)

ATTACHMENT 2

CONDITIONS OF CONSENT

GENERAL

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

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

Document Description	Drawing No.	Dated
• Site Plan	1 of 4	15/1/12
• Floor Plan	2 of 4	15/1/12
• Elevations Plan	3 of 4	15/1/12
• Typical Footing Details	4 of 4	15/1/12

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **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.
4. **Hoardings.**
 - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - (b) An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - (c) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
5. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
6. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

ITEM 2 (continued)

ATTACHMENT 2

7. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
8. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.
9. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.
10. **Stormwater Runoff.** The down-pipes from the proposed garage shall be connected to the existing belowground piped drainage system in accordance with the requirements of City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management
11. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
12. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.
13. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.

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.

ITEM 2 (continued)

ATTACHMENT 2

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

14. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
15. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
16. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: dwelling houses with delivery of bricks or concrete or machine excavation)
17. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
18. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
19. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website 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.

ITEM 2 (continued)

ATTACHMENT 2

Or telephone 13 20 92.

20. **Safe Sight Distance.** To facilitate safe pedestrian sight distance the existing landscaping within the front setback shall be adjusted and retaining walls shall be limited to a maximum height of 900 mm. Plans indicating compliance are to be submitted with the **Construction Certificate** application.

Tree Removal and Replacement

21. Removal of the Queensland Brushbox (**Lophostemon confertus**) is subject to its replacement with a canopy tree equivalent to Turpentine (**Syncarpia glomulifera**), Rough bark Apple (**Angophora floribunda**) or Cheese Tree (**Glochidion ferdinandi**). The tree is to be located in the front setback, and is to be a minimum 35 litre bag size at the time of planting. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

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.

22. Site Sign

- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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

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

ITEM 2 (continued)

ATTACHMENT 2

- (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).

25. Excavation adjacent to adjoining land

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
- (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

26. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

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.

27. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.

ITEM 2 (continued)

ATTACHMENT 2

28. **Noise and vibration.** 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.
29. **Construction noise.** The L_{10} 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.
30. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
31. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- Fill is allowed under this consent;
 - The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - the material is reused only to the extent that fill is allowed by the consent.
32. **Construction materials.** All materials associated with construction must be retained within the site.
33. **Site Facilities**
The following facilities must be provided on the site:
- toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - a garbage receptacle for food scraps and papers, with a tight fitting lid.
34. **Site maintenance**
The applicant must ensure that:
- approved sediment and erosion control measures are installed and maintained during the construction period;
 - building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
 - the site is clear of waste and debris at the completion of the works.
35. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

PRIOR TO OCCUPATION CERTIFICATE

ITEM 2 (continued)

ATTACHMENT 2

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.

36. **Tree Replacement.** Tree replacement as approved by condition 21 is to be completed prior to the issue of the final **Occupation Certificate**.

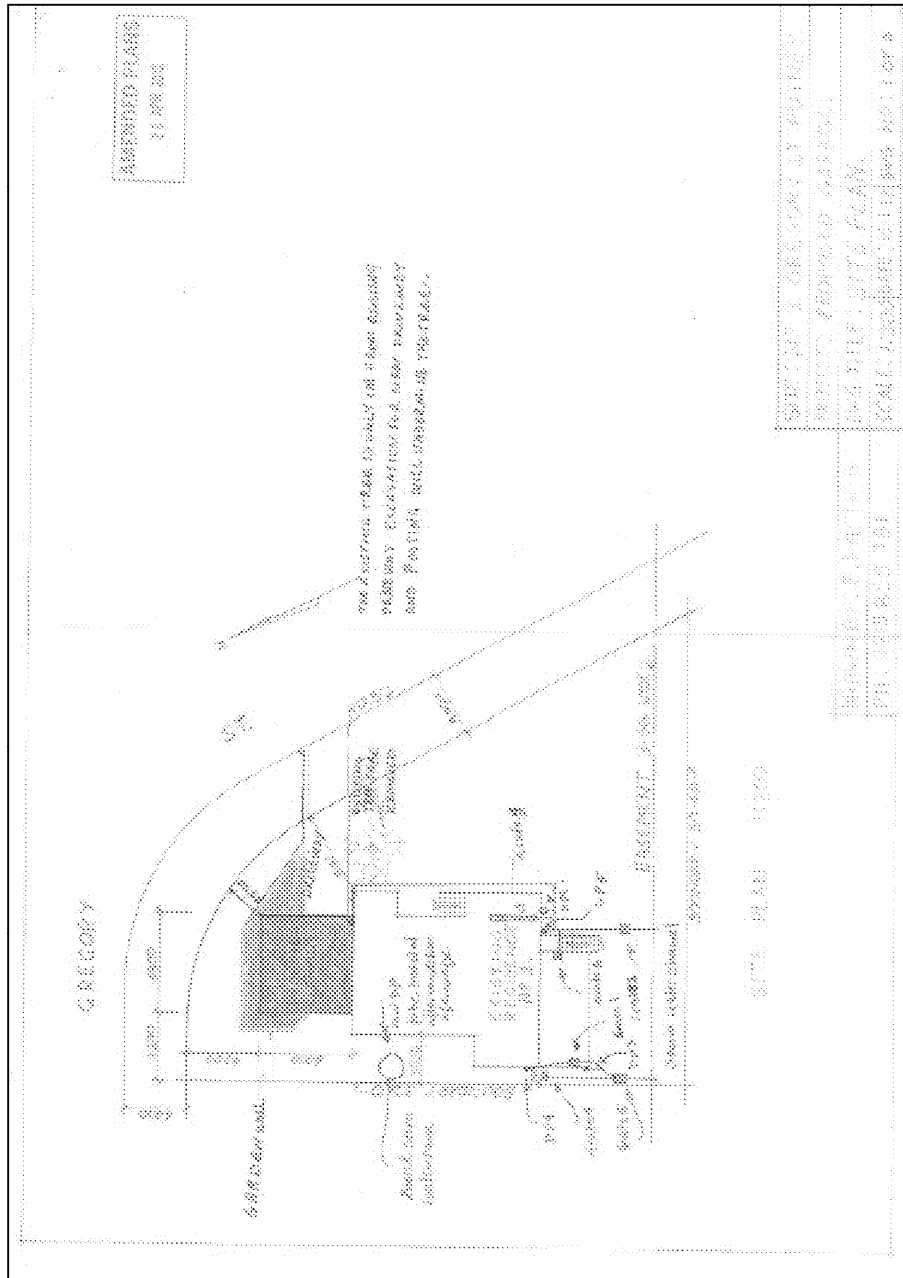
End of Consent

ITEM 2 (continued)

ATTACHMENT 3

ATTACHMENT 3

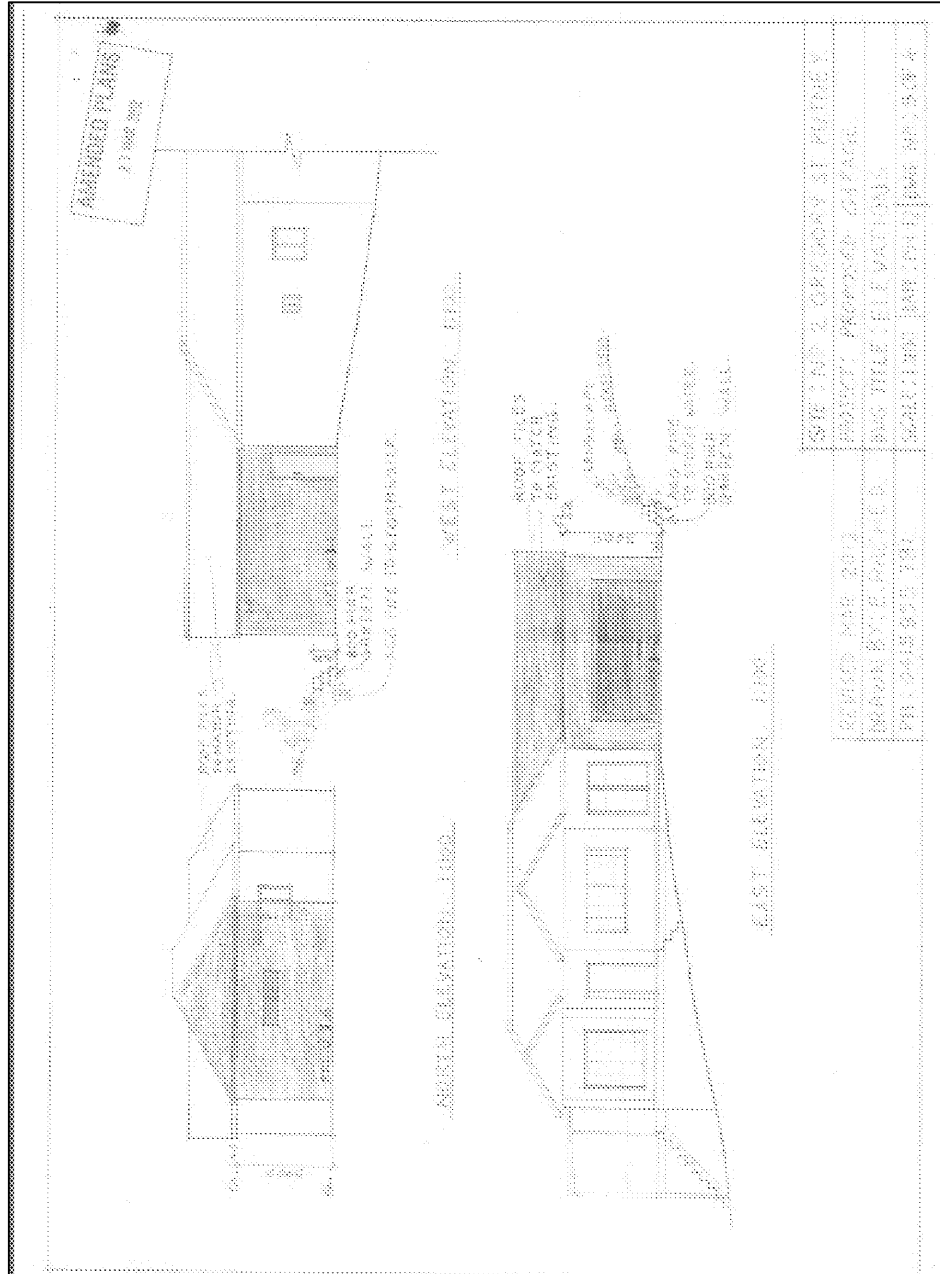
A4 Plans
 Site Plan



ITEM 2 (continued)



ATTACHMENT 3

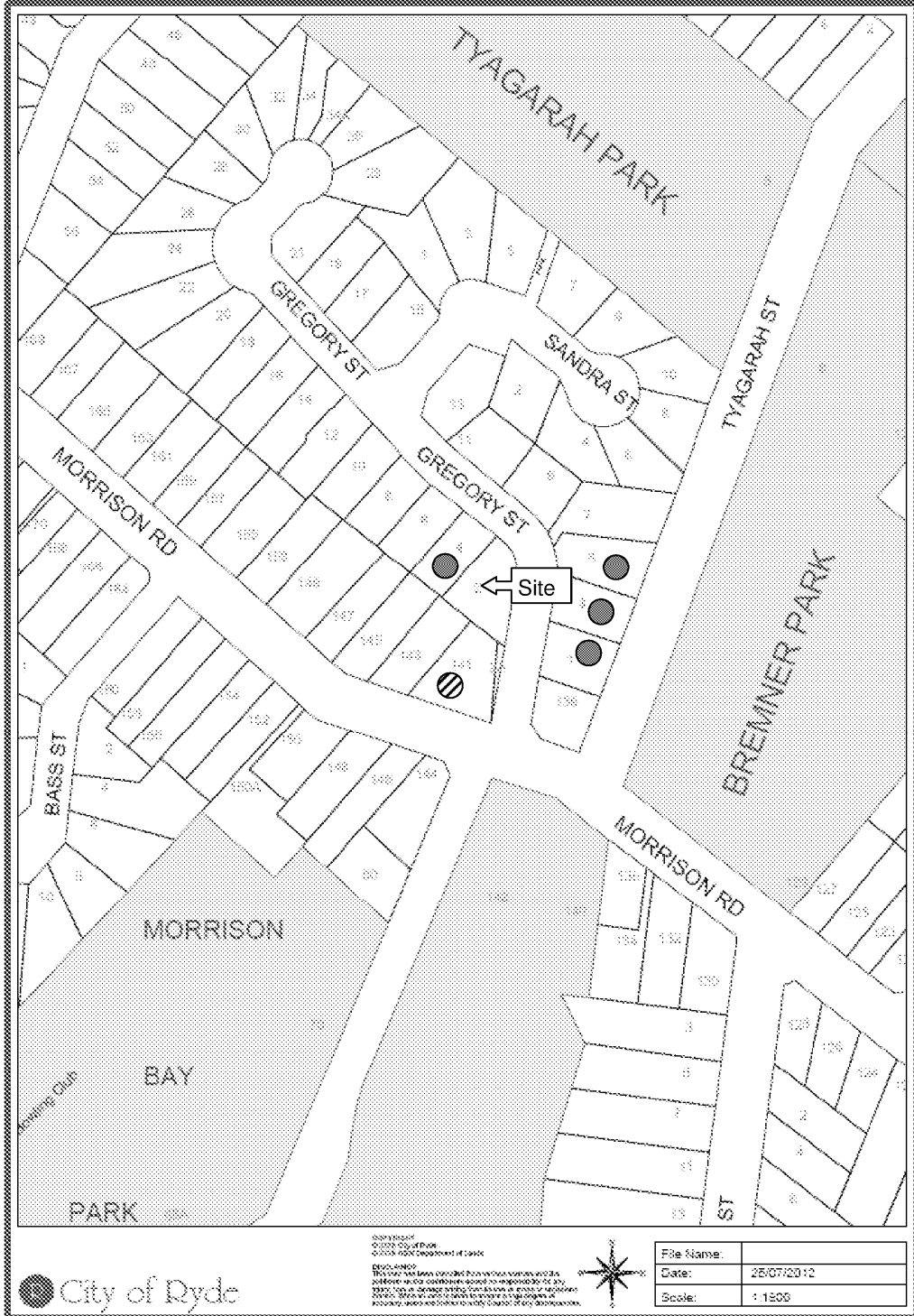
Elevations Plan



ITEM 2 (continued)

ATTACHMENT 4

-  Indicates submissions received opposing amended plans
-  Indicates submissions received in support of amended plans



- 3 498 BLAXLAND RD, DENISTONE. Application under Section 82A of the EP&A Act, 1979, to review Council's determination of LDA2011/0257 for construction of affordable rental housing (under the Affordable Rental Housing SEPP) on the site. APL2012/0002.**

INSPECTION: 4.35pm

INTERVIEW: 4.55pm

Report prepared by: Senior Town Planner

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

Report dated: 23/07/2012

Previous Items: 2 - 498 BLAXLAND ROAD,
DENISTONE. LOT 39 DP 7997.
Local Development Application
for Affordable rental housing
(under the Affordable Housing
State Environmental Planning
Policy) comprising 5x2 storey
dwellings on one property.
LDA2011/0257. - Planning and
Environment Committee - 7
February 2012

File Number: grp/12/5/5/3 - BP12/899

1. Report Summary

Applicant: C B Chan.

Owner: C W Archer, G A Daniels.

Date lodged: 15 March 2012.

This report considers a request by the applicant under Section 82A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) seeking a review of Council's determination to refuse LDA2011/0257. The Application was refused based on a number of reasons as indicated in the Notice of Determination (refer to **Attachment 3**).

The application sought to address the issues raised in Council's Determination Notice and included additional documentation in support of the application. The proposal has been amended in the following manner:

- A reduction in the number of dwellings from five to four;
- Provision of four dwellings within two separate buildings instead of five dwellings in three buildings;
- Reduction of height of the two rear dwellings from two storey to single storey;
- Reconfiguration of driveway; and
- Landscaping.

ITEM 3 (continued)

This report is based on the proposal incorporating the above amendments and supporting document prepared by Glendinning Minto & Associates Pty Ltd. The revised proposal is substantially the same development for the purposes of Section 82A of the EP&A Act.

The application was submitted as infill affordable housing under State Environmental Planning Policy (Affordable Rental Housing) 2009.

Reason for Referral to Planning and Environment Committee: The original application was determined by the Planning & Environment Committee on 7 February 2012. Section 82A of the EP& A Act requires that if the matter was determined by Council, then the review must be undertaken by the Council as well. In addition the application has been called up to Planning & Environment Committee by Councillor O'Donnell.

Public Submissions: Three (3) submissions were received including a written petition in relation to the revised proposal.

Note: Seven (7) individual submissions plus one petition were received during the assessment of the original DA.

Clause 4.6 RLEP 2010 objection required? No variation sought that would be subject to Clause 4.6 of the LEP2010.

Value of works? \$998,000 (original value of works).

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. 2011/0257 for 498 Blaxland Road that was determined by way of refusal on 7 February 2011 be now approved, subject to **ATTACHED** conditions (Attachment 1).
- (b) That the persons who made submissions be advised of Council's decision.

ITEM 3 (continued)

ATTACHMENTS

- 1 Compliance table.
- 2 Proposed conditions.
- 3 Notice of refusal.
- 4 Previous report - CIRCULATED UNDER SEPARATE COVER.
- 5 A4 plans
- 6 Map
- 7 A3 plans – CIRCULATED UNDER SEPARATE COVER – subject to copyright

Report Prepared By:

Sanju Reddy
Senior Town Planner

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 3 (continued)

2. Site (Refer to attached map.)



Address	:	498 Blaxland Rd Denistone
Site Area	:	1012m ² Frontage: 20.115metres Depth: 50.31metres
Topography and Vegetation	:	The site is relatively level with a slight fall towards Blaxland Road and the rear of the site with a slight cross fall from south to north. The site contains three trees – 2 x Crepe Myrtles and 1 x Golden Cypress, all of which have limited amenity value.
Existing Buildings	:	The site currently contains a single storey brick and tiled roof dwelling with detached garage.
Planning Controls	:	
Zoning	:	R2 – Low Density Residential
Other	:	Ryde Local Environmental Plan 2010 State Environmental Planning Policy (Affordable Rental

ITEM 3 (continued)

Housing) 2009
State Environmental Planning Policy (Affordable Rental Housing) Amendment 2011
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
Deemed State Environmental Planning Policy Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
Development Control Plan 2010
Draft Ryde LEP2011

3. Councillor Representations

Name of Councillor: Councillor O'Donnell

Nature of the representation: Called up to Planning and Development Committee.

Date: 4 June 2012.

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

On behalf of applicant or objectors? Objectors

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? None disclosed.

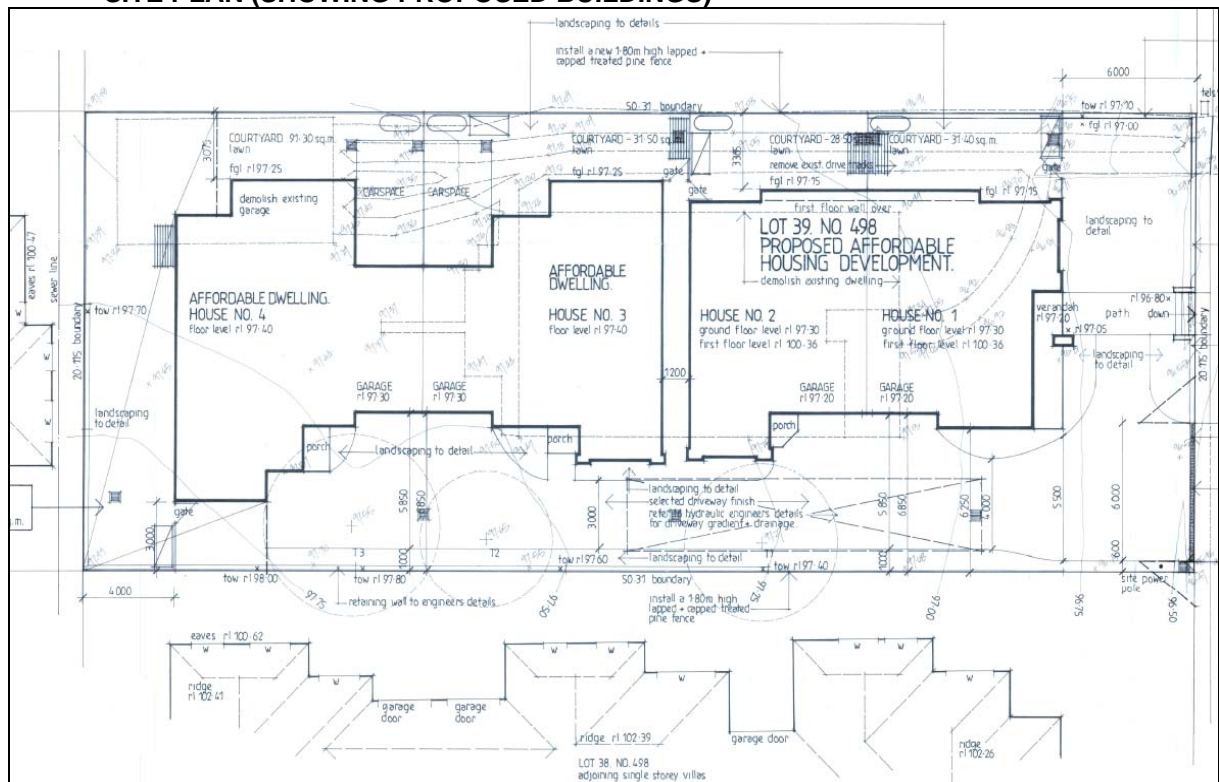
5. Proposal

The applicant has submitted a Section 82A Review of Determination in respect of the refused development application for multi-dwelling affordable housing under the State Environmental Planning Policy (Affordable Rental Housing) Amendment 2011. The original application involved the demolition of all structures and the construction of five attached two storey townhouses.

The revised proposal includes the following:

- Demolition and construction of a multi-dwelling infill affordable housing under State Environmental Planning Policy (Affordable Rental Housing) Amendment 2011 containing four dwellings (2 X 2 bedroom, 2 X 3 bedroom) within two buildings. The building facing the street will be two storeys in height. The rear building will be single storey.

ITEM 3 (continued)
SITE PLAN (SHOWING PROPOSED BUILDINGS)



6. Background

The original development application was lodged on 11 May 2011 under the provisions of SEPP (ARH) 2009. On 20 May 2011 the SEPP (ARH) was amended. The amendment introduced in part the requirement that the development must be compatible with the character of the area. The applicant was advised on 19 September 2011 that the application would be assessed under the amended SEPP. In this respect the development was considered to be inconsistent with the character of the area and failed to comply with the new car parking requirement. The applicant was requested to withdraw the application. The DA was not withdrawn and a report recommending refusal was considered by Planning & Environment Committee on 7 February 2012 where the development application was refused. A copy of the Assessment Officer's report is **CIRCULATED UNDER SEPARATE COVER**.

Relevant History

- On 16 March 2012 the application for Section 82A Review was received.
- The Application was advertised in the Northern District Times on 16 May 2012. The notification period ended on 30 May 2012. Three submissions (including one signed petition) were received.
- On 4 June 2012, the applicant submitted additional information including shadow diagrams and a plan showing vehicular turning area on the site. The

ITEM 3 (continued)

amended site plan and shadow diagrams were re-notified up to 21 June 2012. Two submissions (including one petition) were received.

7. Submissions

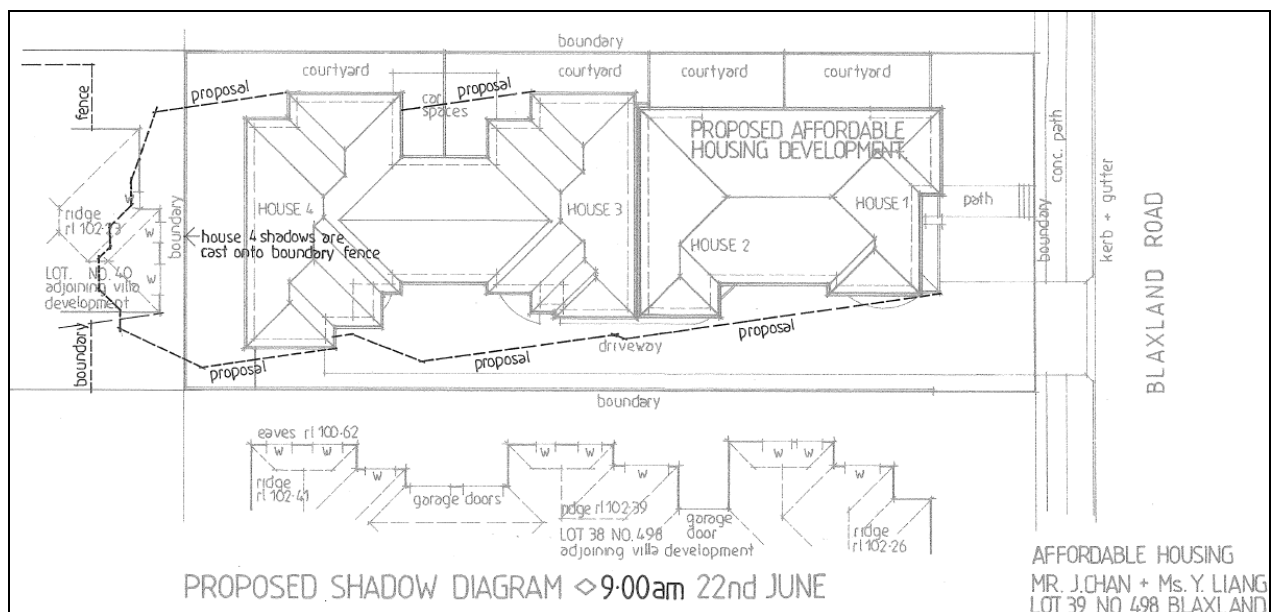
The proposal was advertised and notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. The application was advertised on 16 May 2012. Notification of the proposal ended on 30 May 2012. Two (2) submissions and one (1) petition with 25 signatures were received. The applicant submitted additional information including shadow diagrams and a site plan showing vehicular turning area on the site. The amended plans were re-notified up to 21 June 2012. Two submissions (including one petition) were received.

The issues raised in the submissions are discussed below:

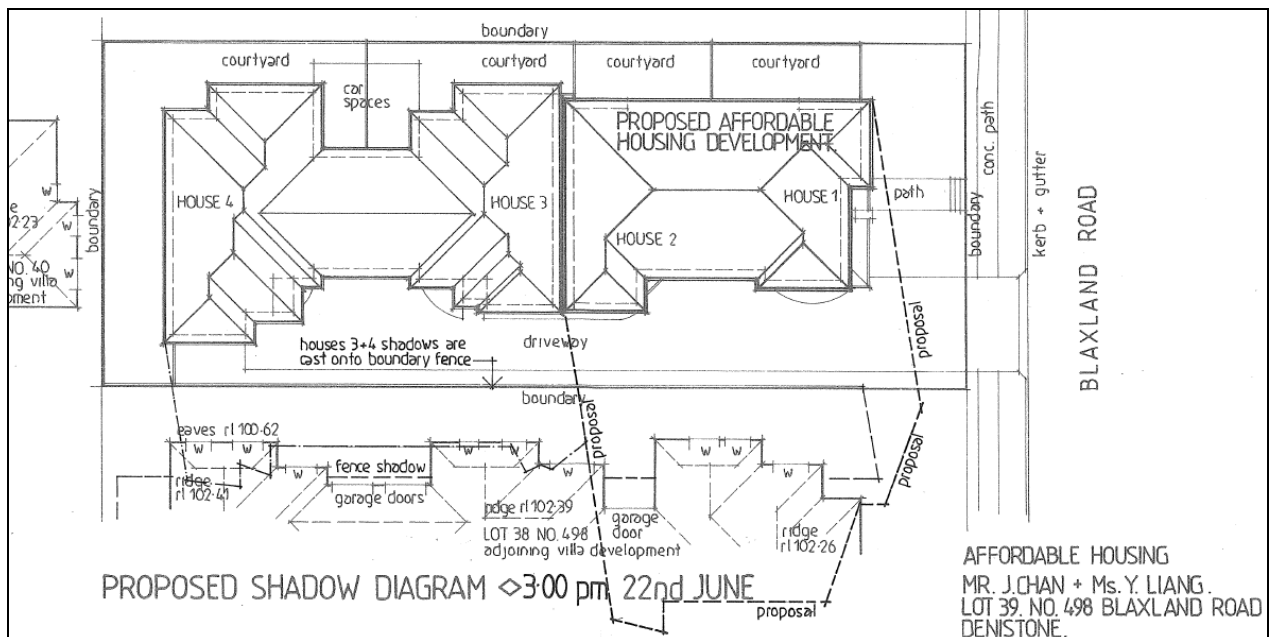
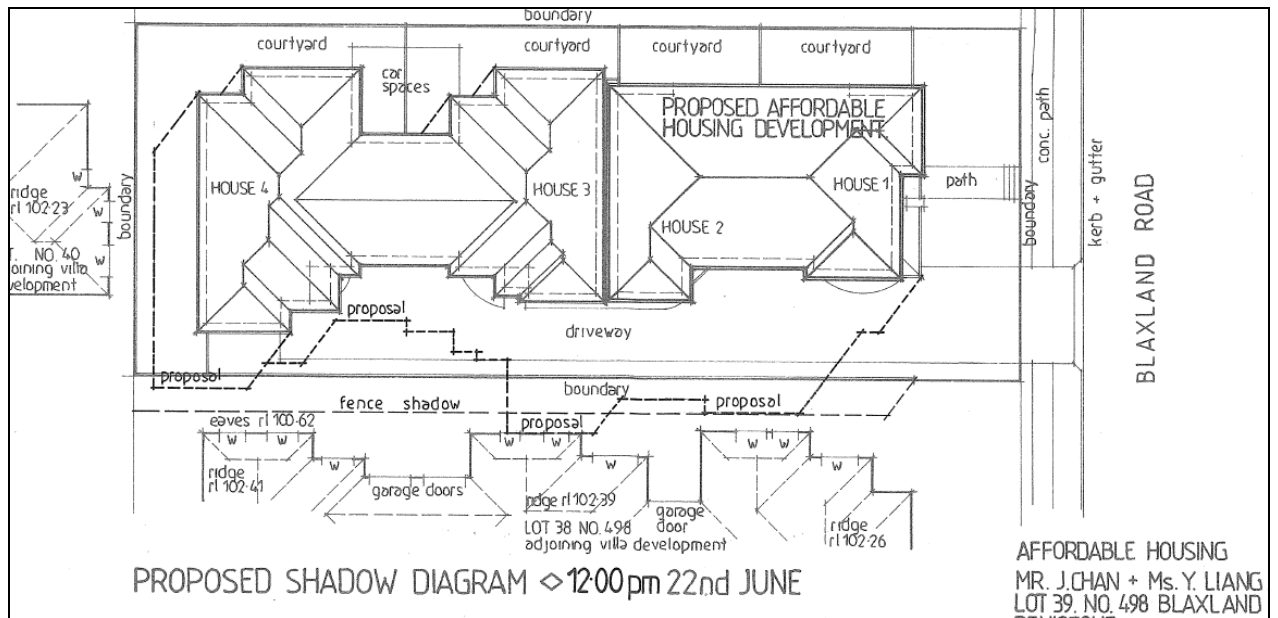
- a) *The two-storey front townhouses will cause the house at 40 Denistone Road to lose a substantial amount of morning sunlight into the rear yard.*

Assessment Officer's Comments:

The amended design has reduced the potential overshadowing impact on the adjoining properties as demonstrated in the diagram below. The submitted shadow diagrams indicate that the rear yard of the property at 40 Denistone Road, will not be affected by over shadowing from the proposed development from 11:00am to late afternoon on 22 June. This is more than 3 hours of sunlight available on the winter solstice and is considered reasonable.



ITEM 3 (continued)

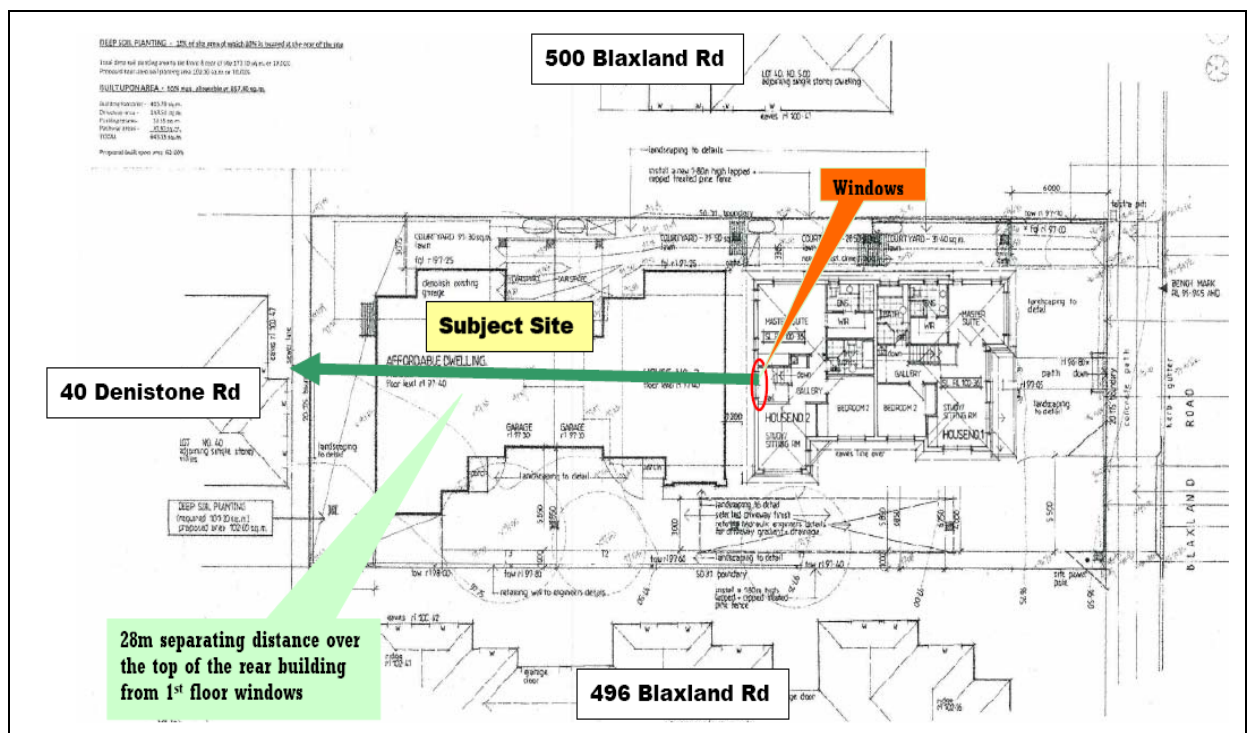


b) The rear windows of the two-storey front townhouses will look down into the rear backyard of 40 Denistone Road dwelling and impact on privacy.

ITEM 3 (continued)

Assessment Officer's Comments:

The windows in question and the two storey part of the development is located some 28m away from the rear window of No. 40 Denistone Road. This separation distance is considered sufficient given that the respective windows are from the internal staircase and bedroom. Overlooking from the rear windows (shown circled in the diagram below) to the rear yard of the existing villa development at 40 Denistone is not considered to be an issue, given the above.



- c) We would also note that the amended plans still do not have any dedicated off-street parking for visitors and additional residents' vehicles. The two car spaces at the rear of houses 3 and 4 are only accessible through the garages and therefore do not constitute extra off-street parking.

Assessment Officer's Comments:

Car parking requirement for this form of development (that is, affordable housing) is determined by Clause 14 of the *State Environmental Planning Policy (Affordable Rental Housing) 2009 (Amendment 2011)* as discussed later in this report. Clause 14 prescribes standards based on which Council cannot refuse the application. Under clause 14(2) no visitor parking is required. The application cannot be refused based on the reason that no extra parking has been provided.

ITEM 3 (continued)

Notwithstanding the above, the plans have been amended to widen the driveway at the layback crossing and include a turning area extending from the internal driveway adjacent to the front dwelling. Additional turning area will be provided at the rear adjacent to the garage of dwelling No. 4 (see Condition 37).

The parking and traffic arrangement on the site complies with the requirements of the SEPP and the Roads and Maritime Services and is considered satisfactory in this case.

- d) *We believe that the amended plans once again constitute too high a density on the block of land and should be amended to three X single-story villas only, with the appropriate amount of off-street parking.*

Assessment Officer's Comments:

The amended proposal shows a reduction in the number of dwellings from five to four. The proposed floor space ratio of all dwellings on the site equates to 0.47:1. Given that Council's Local Environmental Plan 2010 permits a FSR of 0.5:1 on the site and that the design generally accords with the design provisions of the SEPP, it is considered that the bulk & size of the development is acceptable.

- e) *The walls of this garage are constructed of asbestos cement sheeting. Concern regarding asbestos dust ending up on to adjoining resident's garden and yard during demolition work. Request that a requirement be imposed on the owners/builders that this garage be demolished by only a certified asbestos removalist.*

Assessment Officer's Comments:

The recommended conditions of consent will ensure any asbestos is appropriately dealt with in accordance with Workcover New South Wales Guidelines (refer to Condition No. 18 & 19).

- f) *Blaxland Road is listed and is shown in the council map as a 'RED LINE' which indicates NO Developments to be undertaken at all.*

Assessment Officer's Comments:

The above assertion is not correct as the 'RED LINE' does not preclude the site from further development.

The red line indicates that the road is a classified road and requires concurrence of the Roads and Maritime Services (RMS) for any vehicular

ITEM 3 (continued)

access proposed from Blaxland Road. In this instance the Roads and Maritime Services has granted concurrence to the proposal subject to a number of requirements which have been included in Condition 29.

- g) Accommodating four families on such a very limited parcel of land will have its toll on the environment and add huge pressure to the council facilities resulted from consistent use of four Kitchens, number of toilets, bathrooms and other amenities.*

Assessment Officer's Comments:

The four dwellings can be accommodated on the site within the permissible floor space ratio applicable to the site. The approval will be subject to a condition requiring review by Sydney Water in terms of water and sewer connection (refer to Condition 62). Council's Traffic Engineer has raised no issues in relation to any impact on the adjoining road as a result of the proposed development.

Additional demand imposed on other infrastructure and amenities will be compensated through monetary contribution based on Council's Section 94 Development Contributions Plan detailed later in this report.

- h) On permanent basis there will be a minimum of 8 vehicles using the next door driveway (average 2 vehicles per family) beside any visitor which expose our young children to extreme risk, make it almost impossible to find a car space even in the nearby side streets and impacts on privacy.*

Assessment Officer's Comments:

A total of six car parking spaces will be provided on the site as required under the State Policy. Adequate parking, manoeuvring area, sightlines and access provision will be made on the site to ensure safety for all. This will minimise any potential risk to road users and children in the area.

- i) The area consists of single storey dwellings. The proposed 2 storey 8m high building will overshadow the outdoor living space on the adjoining house (No. 500 Blaxland Road).*

Assessment Officer's Comments:

The dwelling No. 500 Blaxland Road is located on the north western side of the development side. The shadow diagrams indicate that the shadows will fall in the opposite direction and will not affect the submitter's site (refer to the shadow diagrams included above in this report).

ITEM 3 (continued)

- j) *Our house will lose the views and outlook to existing plants and skyscape. The planned two buildings are very close to our fence, will negatively impact on us at 500 Blaxland Road.*

Assessment Officer's Comments:

500 Blaxland Road is located on the north western side of the subject site and shares a common side boundary with the subject site. The development provides a 3m – 3.5m setback from the common side boundary. The combined building separation distance between the proposed development and the existing dwelling at 500 Blaxland Road will be approximately 8m to 9m which is considered a reasonable separation. This allows sufficient view corridors on the sides of the properties. Notwithstanding this, given the location of the sites, no significant views could be identified that would be affected by the proposed development.

- k) *The property value of the house located at 500 Blaxland Road may be significantly reduced as a result of the proposed development.*

Assessment Officer's Comments:

Impact on property value is not a planning consideration under S79C of the *Environmental Planning and Assessment Act, 1979*. The applicant has a right, under the Act, to the orderly and economic use and development of land, any possible decreases in surrounding property values do not constitute a reasonable ground for refusal of the application.

- l) *Density and compatibility: Denistone is a beautiful suburb, which mainly consists of one level houses, it belongs to low density residential area. If the application is approved, there will be a big increase in the number of dwellings, resulting from the transformation of a lovely one federation house into four crowded dwellings, and it will not be compatible with the character of Denistone.*

Assessment Officer's Comments:

The area comprises of majority single dwellings with various multi dwelling houses. Examples of such multi dwellings are located at 496 Blaxland Road, 502 Blaxland Road, 40 Denistone Road, 48 Denistone Road and 50 Denistone Road. These multi-dwelling housing are all single storey buildings reflecting the planning controls applicable at the time of their approval.

Council's Local Environmental Plan 2010 permits 2 storey dwellings, dual occupancies and detached multi-dwelling housing up to a maximum height of 9.5m in the locality. The proposal is not inconsistent with this requirement.

ITEM 3 (continued)

The Affordable Housing SEPP permits two storey developments provided the development is consistent with the character of the locality. The issue of character and compatibility is discussed in detail later in this report. The assessment has concluded that the development is consistent with the character of the area.

8. Review of Amended Proposal

The application was refused on a number of grounds as indicated in the Notice of Determination (refer to **Attachment 1**). As part of the Section 82A Review Application, the applicant has provided responses to each of the reasons of refusal either via amended plans or by submission of additional information in support of the application.

An assessment of the revised plans and additional information is summarised and discussed below:

Reason for Refusal

- 1). *The proposed development is inconsistent with the amended State Environmental Planning Policy (Affordable Rental Housing) 2009 and Amendment 2011, failing to satisfy clauses 15 and 16A of the SEPP.*

Particulars:

- a) *The proposal does not satisfy parts 1,2, 3 & 4 of the Seniors Living Policy: Urban Design Guidelines for Infill Development as required by clause 15 (1) of the SEPP.*

Assessment Officer's Comments:

Clause 15 requires that a consent authority must not consent to development unless it has taken into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the Department of Planning.

In consideration of the matter, the weight to be given to either Council's DCP or the Seniors Living Policy has been discussed in *Moscaritolo v Ryde City Council [2011] LEC-10945* where at paragraphs 28 to 31 the Commissioner agrees that the Affordable Rental Housing SEPP, was designed to provide a type of development that is not necessarily the same as those anticipated by Council's controls, as long as the proposed development was *compatible* (can co-exist in harmony) in the locality. The Court has further defined compatibility as being the ability of the development to co-exist with other existing developments in the locality.

ITEM 3 (continued)

Notwithstanding the above, Parts 1-4 of the Urban Design Guideline relate to appropriate design measures that should be considered in order to minimise adverse impact in the locality. A review of the amended plans have indicated that the proposal generally complies with the key design criteria in relation to character of development (discussed later in detail), impact on streetscape, impact on adjoining neighbours and amenity for the residents. A compliance table against the Urban Design Guidelines is included under **Attachment 2**.

- b) *The proposal is out of character of the local area due to the building being 2 storey for the whole length of the development, resulting in a much greater scale and massing than what is existing within the immediate area.*

Assessment Officer's Comments:

Clause 16A of the SEPP requires that a consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area. The reason for refusal indicated that the development was out of character due to the building being "2 storey for the whole length of the development". In response the applicant has amended the proposal to delete the first floor from the rear building. The amended proposal now has the two storey component restricted to the front section of the site which generally aligns with the position of the dwelling on the adjoining northern site. The adjoining development to the south comprises a multi-dwelling development spread generally over the entire lot.

In addition the Seniors Living Policy requires generally the rear 25% of the site to have single storey building. The amended proposal provides single storey building over the rear 54% of the site.

It is therefore considered that Reason 1 of Council's Notice of Determination has been satisfied by this submission of the amended proposal.

- 2). *The proposed development is inconsistent with the objectives of the R2 Low Density Residential Zone as contained in Ryde Local Environmental Plan 2010.*

Particulars:

- a) *Due to the 2 storey nature for the whole length of the building, the proposal is not consistent with the low density residential environment of the locality.*

ITEM 3 (continued)Assessment Officer's Comment:

The proposal has been amended to delete the two storey section of the rear building. The rear dwellings are now only single storey in height and therefore the above reason for refusal has been satisfactorily addressed

- b) *The bulk, scale and massing of the development is inconsistent with the established character of the area as well as what would be expected in a low density residential area.*

Assessment Officer's Comment:

The general character of the area comprises of residential developments with a range of single and multi-dwelling housing developments. The houses have pitch roof with brick & fibro construction. Most of the allotments within the locality have front garden setting along the Blaxland Road frontage. Council's planning controls envisage a one to two storey residential developments with a maximum height of 9.5m in the locality.

The amended proposal has demonstrated that the design is generally consistent with the existing character of the adjoining residential developments and the character of the locality envisaged under Council's planning control as follows:

- The proposed development has articulated front façade, pitch roof and varied roof form with bulk and scale that would be normally expected in the area.
- Proposal provides for a landscape setting in the front yard similar to the other sites in the vicinity.
- The two storey height is restricted to the front building only which is generally consistent with the intent of Council's planning control for multi-dwelling housing.
- The proposed height is consistent with the general building height permitted for dwelling houses, dual occupancies and multi-dwelling housing on the site and the immediate locality.
- The maximum height permitted on the site is 9.5m under Council's LEP. The development proposes a maximum height of 8.16 metres for the front building. The rear dwellings are single storey with maximum height of 5.3 metres.

The issue of *character* and *compatibility* has been the subject of numerous recent appeals to the Land & Environment Court of NSW (including *Pembroke Street Holding Company P/L v Ashfield Council*, *Moscaritolo v Ryde City Council* [2011] and *Project Ventures Developments P/L v Pittwater Council* [2005] NSWLEC 191. In these cases, the Court has held that compatibility is different from sameness and in an urban design

ITEM 3 (continued)

context relates to the ability for buildings to be capable of existing together in harmony.

In determining compatibility the Court identified two key tests which need to be satisfied, being:

- 1. Are the proposal's physical impacts on surrounding development acceptable?*
- 2. Is the proposal appearance in harmony with the buildings around it and the character of the street?*

In relation to the physical impacts test the following key attributes are noted regarding the revised proposal (as submitted by the applicant):

- The proposal will not result in any unreasonable overshadowing of the adjoining properties by virtue of the rear two dwellings now being single storey in height. The proposal ensures that all adjoining properties receive at least three hours of solar access on the winter solstice.
- The proposal is unlikely to result in any unreasonable loss of privacy to any adjoining properties. In this respect the proposal has been amended such that the first floor of the front building contains bedrooms. Rear windows typically provide views over the roof of the adjoining rear property. Such an outcome is considered to be consistent with a low to medium density residential environment.
- The revised proposal will not unreasonably impact upon the views or outlook currently enjoyed by any of the adjoining properties.

In terms of the proposal's harmony with the local area, the following key aspects of the proposal are noted regarding the revised proposal:

- The proposal is for multi-dwelling housing which is generally similar in design features and high quality construction that would be expected in the R2 zones. The proposed articulated façade with the landscaped front garden setting will enable the proposed development to blend in with the character of the existing residential development in the locality.
- The development site has sufficient area of 1012m², width of 20.12m and depth of 50.31m to enable the proposed form of development to be constructed without causing any unacceptable impact on the adjoining sites.
- The proposal now provides for a development which is compatible with the character of the local area, can co-exist and will not deter from the existing characteristics of the area.
- The surrounding multi-unit housing developments comprise of mainly single storey 'villa' developments reflecting the planning controls of

ITEM 3 (continued)

the past. More recent planning controls allow up to 2 storeys for the front units in certain circumstances.

Based on the above, it is unlikely that there will be any unreasonable physical impacts associated with the proposal and the proposal will not limit the development potential of the adjoining properties.

The above reasons for refusal have been satisfactorily addressed.

- c) *The scale and bulk of the development will have an adverse impact in terms of amenity of the adjoining properties due to the bulk and scale, privacy and increased overshadowing.*

Assessment Officer's Comment:

The amended proposal does not result in any adverse impact on the adjoining properties by way of overshadowing or overlooking. The bulk and scale of the development has been reduced by the deletion of the second storey of the rear building. It is now under the maximum floor space allowed. As such, the bulk and scale is now considered acceptable.

- 3). *The proposed development fails to comply with the parking requirements in Clause 14(2) of State Environmental Planning Policy (Affordable Rental Housing) 2011.*

Assessment Officer's Comment:

The amended proposal now satisfies the parking requirement. Clause 14(2) requires parking at a rate of 0.5 parking space for each one bedroom unit, one parking space for each two bedroom unit and at least 1.5 parking spaces for each three bedroom unit.

The development proposes 2 X 2 bedroom and 2 X 3 bedroom dwellings. Based on the above rate a total of 5 parking spaces will be required. The development application proposes a total of 6 parking spaces and therefore complies with the SEPP.

In the event that consent is granted, appropriate conditions of consent will require provision of car parking spaces and turning area on the site (refer to conditions 29, 30 & 37).

- 4). *The proposed development fails to satisfy the height requirements in Clause 4.3 of Ryde Local Environmental Plan 2010 and no variation has been sought under Clause 4.6 of Ryde Local Environmental Plan 2010.*

ITEM 3 (continued)Assessment Officer's Comment:

Clause 4.3(2) requires that the height of any building (other than attached multi-dwelling housing) on the site is not to exceed 9.5m. The LEP defines attached multi-dwelling housing as having *3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building*. As the development contains two separate buildings each containing 2 dwellings, it is defined as multi-dwelling (detached).

Accordingly, this development can have a height of 9.5 metres. The development proposes a maximum height of 5.3m to 8.16m which is well below the maximum 9.5m permitted on the site. The proposal is not inconsistent with height restrictions included in Council's LEP2010.

- 5). *The proposed development is inconsistent with the requirements of Part 3.5 Multi Dwelling Housing (for Low Density Residential Zone) of Development Control Plan 2010 in regard to height, storeys, type of dwellings, front setbacks, side and rear setbacks, private open space, landscaping, insufficient car parking and driveway width.*

Assessment Officer's Comment:

The above matters are discussed in detail below:

Height:

Council's planning control can only be applied to the development in so far as it is not inconsistent with the Affordable Housing SEPP as provided for under Clause 8 of the SEPP. As discussed above, the proposal complies with the maximum 9.5m height requirement prescribed under Council's LEP2010. The proposal also complies with the *Seniors Living Policy: Urban Design Guidelines for Infill Developments* with respect to single storey height required towards the rear of the site.

Front Setback:

The front setback complies with Council's DCP as the setback is the same as the adjoining building to the south.

Dwelling Types:

The objective of Council's DCP Part 3.4 in relation to this matter is to ensure multi dwelling housing developments contain a mix of dwelling sizes to meet the needs of different household groups. The application proposes 2X2 bedroom and 2X3 bedroom dwellings with floor area greater than 84m² for each of the dwellings. The dwelling types generally accord with the requirements under Council's DCP.

ITEM 3 (continued)*Side and Rear Setback:*

Council's DCP requires rear and side setback of 3m to 4.5m to allow for solar access, private courtyard and landscaping areas. The proposed development provides a setback of between 3.5m to 6.5m. The setback is considered acceptable.

Landscaping, car parking and driveway width:

The relevant standards for these aspects of the development are contained under the Affordable Housing SEPP and therefore the criteria included under Council's DCP do not apply. Given that the proposal generally complies with the design criteria prescribed under the SEPP and the Seniors Living policy in relation to the height, character test, landscaping and car parking, the Council's DCP provisions that specify inconsistent requirement in relation to these matters cannot be applied to the proposal. Council's Development Engineer has reviewed the parking and driveway arrangement and has advised that it is satisfactory. A comprehensive landscaping of the site is also proposed with a number of replacement trees to be planted on the site.

- 6). *The development is an overdevelopment of the site.*

Assessment Officer's Comment:

The proposal has been amended in the following ways in order to reduce the density, bulk and scale of the development:

- Number of dwellings has been reduced from five (5) to four (4).
- Significant reduction in height (first floor deleted for Dwellings 3 & 4).
- Consequential reduction in the floor space ratio from 0.64:1 to 0.47:1 that is, a reduction in floor space from 633m² (originally proposed) to 476.5m² (proposed as per amended). It should be noted that the Affordable Housing SEPP allows a maximum FSR of 0.75:1.

It is considered the revised proposal has addressed the concerns raised under this reason for refusal.

- 7). *The development is not in the public interest.*

Assessment Officer's Comment:

The proposal has been amended to address the possible adverse impact on the locality. The amendments also bring the proposal more in compliance with the envisaged density and character for the locality under Council's planning controls. The proposal complies with the Affordable Housing SEPP and will contribute to the supply of affordable housing in Ryde. Given the above, it is considered that the proposal will be in the public interest.

ITEM 3 (continued)

- 8). *The development will affect the amenity of the adjoining properties due to it not being consistent with the character of the area and insufficient car parking being provided to cater for the needs of the development.*

Assessment Officer's Comment:

As demonstrated above, the revised proposal is consistent with the character of the locality and can exist in harmony with other existing and future developments envisaged under Council's planning controls.

In addition the proposal fully complies with the number of car parking spaces required for the development under the Affordable Housing SEPP and could not be refused based on this reason.

9. Contribution under Section 94 of the EP& A Act.
Section 94 Development Contributions Plan 2007 (2010 Amendment)

The contributions that are payable with respect to the increased housing density on the subject site (being for residential development outside Macquarie Park area) are calculated as follows:

CONTRIBUTION PLAN	TOTALS
Community & Cultural Facilities	\$7,294.61
Open Space & Recreation Facilities	\$17,957.81
Civic & Urban Improvements	\$6,107.93
Roads and Traffic Management Facilities	\$833.27
Cycleways	\$520.41
Stormwater Management	\$1,654.51
Plan Administration	\$140.31
CONTRIBUTION TOTAL	\$34,508.84

NOTE:

1. A credit/allowance for existing building on the site has been allowed.

Condition 21 requiring the payment of a Section 94 contribution has been included in the recommendation of this report which will further be indexed at the time of payment if not paid in the same quarter.

ITEM 3 (continued)**10. Statutory Procedures under Section 82A of the Environmental Planning and Assessment Act 1979.****The relevant Sections are discussed below:**

- (1) *If the consent authority is a council, an applicant may request the council to review a determination of the applicant's application, other than:*
- (a) *a determination to issue or refuse to issue a complying development certificate, or*
 - (b) *a determination in respect of designated development, or*
 - (c) *a determination in respect of integrated development, or*
 - (d) *a determination made by the council under section 116E in respect of an application by the Crown.*

Assessment Officers Comment:

The subject application constitutes a Local Development Application which does not fall into any of the exempted categories under Section 82A(1) above and therefore can be reviewed by Council under the provisions of the Act.

- (2) *A Council must, on a request made in accordance with this section, conduct a review.*
- (2A) *A determination cannot be reviewed:*
- (a) *after the time limited for the making of an appeal under section 97 expires, if no such appeal is made against the determination, or*
 - (b) *after an appeal under section 97 against the determination is disposed of by the Court, if such an appeal is made against the determination.*

Assessment Officers Comment:

As the original application was refused by Council and the applicant was advised on the 10 February 2012, the application made under this Section should be determined by Council on or before 11 August 2012. The application cannot be determined after this date unless an appeal is lodged to the L&E Court by the applicant before this date.

- (4) *The council may review the determination if:*
- (a) *it has notified the request for review in accordance with:*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the council has made a development control plan that requires the notification or advertising of requests for the review of its determinations, and*

ITEM 3 (continued)

- (b) *it has considered any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan, as the case may be, and*
- (c) *in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same development as the development described in the original application.*

Assessment Officers Comments:

The revised proposal submitted to Council for the Section 82A review was notified in accordance with Council's Notification Policy under the DCP2010. Submissions have been discussed earlier in this report.

- (6) *If the council reviews the determination, the review must be made by:*
 - (a) *if the determination was made by a delegate of the council—the council or another delegate of the council who is not subordinate to the delegate who made the determination, or*
 - (b) *if the determination was made by the council—the council.*

Assessment Officer's Comments:

The application was refused by the Planning & Environment Committee. Therefore it is being referred for determination by Council.

10. Consultation – Internal and External

Internal Referrals

Development Engineer, 14 June 2012:

The following comments were received:

The amended architectural plan now addresses the turning area and the increased driveway width at the front boundary. The drainage plans have not been amended by the applicant to show this. However the drainage plans were amended in red and the application was conditioned for these plans to be amended at CC stage.

Stormwater detention system has been provided as an underground Atlantis cell tank. The BASIX report requires 2000 litre individual tanks for each unit with 60m² of roof area directed into each. These have been incorporated onto the drainage plan.

ITEM 3 (continued)

The rear turning bay adjoining unit 4 has not been shown on the amended architectural plan and this was marked in red. The long section of the driveway on DW3 prepared by Storm Civil is not to be stamped as this plan shows different levels to what is shown on the drainage plan. However, the driveway gradients can be achieved to comply with AS 2890.1.

No objections are raised to the approval of the application subject to conditions (refer to Conditions 10-14, 34-41, 47-49, 66-70).

Traffic Engineer, 6 June 2012:

The garden edge strip must be reduced from 1000mm to 750mm in width to provide a 250mm clear buffer for the reverse turn hold point manoeuvre from the enclosed garage space (refer to Condition 28).

External Referrals**Roads and Maritime Services, 25 May 2012:**

In accordance with Section 138(2) of the Roads Act 1993, the proposal was referred to the Roads and Maritime Services for concurrence as it is proposed to relocate the driveway which fronts on to Blaxland Road.

The RMS replied by letter dated 1 June 2011 advising:

RMS has reviewed the development application and reiterates the comments provided in the former RMS letter dated 10 June 2011 (attached) associated with the previous development application for the subject site are still applicable to this determination.

Under the previous comment, the RMS agreed to grant concurrence to the proposed vehicular crossing on Blaxland Road under section 138(2) of the Roads Act 1993, subject to recommended conditions (refer to Conditions 29).

14. Critical Dates

The statutory period for determination of Section 82A review ends on 11 August 2012. Under the provisions of the EP&A Act, the application cannot be determined after this date unless the applicant lodges an appeal before this date.

15. Financial Impact

Not Applicable

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

Not Applicable

17. Conclusion

As a consequence of the proposed modifications it is considered that the proposal now provides for a development outcome which is compatible with the character of the local area and addresses all the reasons based on which the application was previously refused by Council.

The changes made to the proposal results in the proposal being consistent in relation to articulation, height, bulk and scale which is in keeping with surrounding development.

ITEM 3 (continued)

ATTACHMENT 1

498 BLAXLAND ROAD (APL2012/0002 - LDA2011/257)

COMPLIANCE TABLE

State Environmental Planning Policy (Affordable Rental Housing) 2009

Part 2: Affordable Rental Housing

Division 1: In-fill Affordable Housing

REQUIREMENT	PROPOSED	COMPLY
CI.10 In Fill affordable housing		
(1) Applies to Dual occupancies, multi dwelling residential or RFB is permitted under another EPI (LEP), and, Development is not on heritage item (2) Site must be within an accessible area: <ul style="list-style-type: none"> • 800m of railway station/ ferry, or • 400m to light rail platform, or • 400m to a bus stop with at least 1 bus per hour service 6am-6pm (Mondays to Fridays) and 8am -6pm Saturdays & Sundays. 	Site is R2 zone and multi dwelling housing is permitted. Not a heritage item. A bus stop is located approximately 360m from the site. Bus Route 515 to Eastwood station. The development meets the criteria for at least one bus per hour between 6am to 9pm weekdays, between 8am to 6pm Saturdays and Sundays. The development complies with the above, as such is permitted as infill affordable housing under the SEPP.	Yes Yes Yes
CI.11 & CI.12 Applicable development Note: repealed		
CI. 13 Floor space ratios (1) This bonus FSR provision applies if the percentage of the gross floor area to be used for the purposes of affordable housing is at least 20%.	If unit 3 allocated as affordable housing – it equates to 17% of floor area and therefore the bonus FSR provision does not apply. Bonus FSR is not being claimed. The proposed FSR is 0.47:1.	N/A

ITEM 3 (continued)

ATTACHMENT 1

REQUIREMENT	PROPOSED	COMPLY
<p>(2) The maximum FSR for the development to which this clause applies is the existing maximum FSR permitted on the land, plus:</p> <ul style="list-style-type: none"> • if the existing max floor space ratio is 2.5:1 or less and percentage AH is 50% or higher, then bonus 0.5 FSR applies. • if the existing max floor space ratio is 2.5:1 or less and percentage AH is less than 50%, then bonus FSR = %AH ÷ 100. • If existing FSR greater than 2.5:1 then refer to SEPP for details 	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
<p>Cl. 14 Standards that cannot be used to refuse consent</p>		
<p>(a) Now repealed</p>	<p>N/A</p>	<p>N/A</p>
<p>(b) Site Area: Must be at least 450m².</p>	<p>1012m²</p>	<p>Yes</p>
<p>(c) Landscape Area: If proposed by social housing provider then min 35m² per dwelling, or, Private developer needs to provide 30% of the site.</p>	<p>Front: 70.2m² Courtyards etc: 190.45m² Rear: 92.5m² Total: 353.1m² or 34.8%</p>	<p>Yes</p>
<p>(d) Deep Soil Zone: At least 15% of site, each area 3m min dimensions, if practicable 2/3 at rear of site</p>	<p>162.7m² = 16%</p>	<p>Yes</p>
<p>(e) Solar Access: Living rooms & private open space of at least 70% of dwellings should receive min 3hrs direct sunlight between 9am and 3pm.</p>	<p>100% of the dwellings will receive sunlight as required.</p>	<p>Yes</p>
<p>(f) Parking:</p> <ul style="list-style-type: none"> ○ If a social housing provider on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms, or ○ in any other case at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 	<p>2X2bed = 2 2X3bed = 3 Required = 5 Proposed = 6</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 1

REQUIREMENT	PROPOSED	COMPLY
<p>parking spaces are provided for each dwelling containing 3 or more bedrooms.</p> <p>(g) Dwelling size – if each dwelling has GFA:</p> <ul style="list-style-type: none"> ○ 35m² for studio ○ 50m² for 1 bed dwelling ○ 70m² for 2 bed dwelling ○ 95m² for 3 bed dwelling <p>(h) Note: Council may consent whether or not the development complies with the standards set out above</p>	<p>H1: 3 bed = 141.4m² H2: 3 bed = 149.9m² H3: 2 bed = 84.6m² H4: 2 bed = 100.65m²</p>	<p>Yes</p>
<p>CI.15 Design Requirements</p> <p>(1) Not consent unless the Seniors Living Policy: Urban Design Guidelines for Infill Development have been considered to the extent they are consistent with the SEPP</p> <p>(2) Clause not apply if SEPP 65 applies</p>	<p>See separate table in this report demonstrating compliance against the Guidelines</p>	<p>Yes</p>
<p>CI 16A Character of local area</p> <ul style="list-style-type: none"> • Council must not consent unless it has taken into consideration whether the design of the development is compatible with the character of the local area. <p><u>Existing Character</u> The locality comprises of single & multi dwelling housing of mostly single storey heights.</p> <p>There are various examples of multi dwelling housing however these are single storey in height probably reflecting the planning controls applicable at the time they were approved.</p> <p>Council’s current multi-dwelling controls permit the dwelling facing the street to be of maximum of 2 storeys. Council’s LEP2010 prescribed a maximum height of 9.5m for the site.</p>	<p>It is considered that the proposed development is compatible with the local area as the proposed form of development (being multi-dwelling housing with 2 storey to the front and single storey to the rear of the lot) is capable of existing together in harmony with the forms of development in the locality.</p> <p>The proposed built form ensures that the presentation to the street is consistent with other dwelling types located in the street. The front façade includes a highly articulated roof and wall porch and gable end to address the street as a single dwelling.</p> <p>This is consistent with the Planning Principles</p>	<p>Yes</p>

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ATTACHMENT 1

REQUIREMENT	PROPOSED	COMPLY
	established by the Land & Environment Court in the matter of <i>Moscaritolo v Ryde City Council</i> [2012] and <i>Project Venture Developments Pty Ltd v Pittwater Council</i> .	
<p>Cl.17. Must be used for affordable housing for 10 years</p> <p>(1) Conditions must be imposed that the building to be used for affordable housing for 10 years from the date of Occupation Certificate:</p> <ul style="list-style-type: none"> • That the dwellings proposed as affordable housing will be used for affordable housing • Affordable housing to be managed by registered community housing provider. <p>(2) Must be registered, prior to issue of the occupation certificate, against the title as 88E instrument prior that the requirements of (1) will be met</p> <p>(3) This requirement does not apply if subject land owned by Land & Housing Corporation or if application made by public authority.</p>	<p>Condition</p> <p>Condition</p> <p>Condition</p> <p>N/A</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
<p>Cl.18 Subdivision</p> <ul style="list-style-type: none"> • The developed land may be subdivided subject to Consent 	<p>Not proposed</p>	<p>N/A</p>

ITEM 3 (continued)

ATTACHMENT 1

COMPLIANCE TABLE

SENIORS LIVING POLICY: Urban design guidelines for infill development

Requirement	Proposed	Compliance
1. Context		
<ul style="list-style-type: none"> • New development to contribute to overall character of area per existing buildings, style, topography, street function, vegetation etc. Built form to be consistent with existing – size & shape of buildings, scale & massing, rhythm of spaces, pattern of driveways. 	<p>The area has predominantly low density residential developments with various single storey multi-dwelling housing located within close proximity of the subject site.</p> <p>The proposed built form ensures that the presentation to the street is consistent with other dwelling types located in the street. The front façade includes a highly articulated roof and wall porch and gable end to address the street as a single dwelling.</p>	Yes
2. Design		
<ul style="list-style-type: none"> • Provide a mix of dwellings 	Proposed 2X2 bed & 2 X 3 bed units. This is considered appropriate given that the proposal includes only 4 dwellings.	Yes
<ul style="list-style-type: none"> • Locate bulk of development towards front to maximise number of dwellings facing the street. 	Only a single dwelling can face the street given the existing streetscape and width of the lot.	Yes
<ul style="list-style-type: none"> • Parts of the development to the rear should be more modest in scale to limit impacts on adjoining 	The rear 2 dwellings are now 2 storeys in height.	Yes
<ul style="list-style-type: none"> • Orientation to maximise solar access and minimise noise impact. 	Family rooms and kitchen areas orientated north, family rooms have direct access to private open space. Reasonable solar access is achieved.	Yes
<ul style="list-style-type: none"> • Maintain existing character of gardens & trees 	Gardens will be provided and landscaping carried out.	Yes
<ul style="list-style-type: none"> • Retain trees or provide replacements if not possible 	No significant trees on site worthy of retention. New landscaping will be carried out.	N/A
<ul style="list-style-type: none"> • Provide landscaping & deep soil zone, preferably in single area at rear of site. May be suitable at front if consistent 	Landscaping area provided at the rear & front yard.	Yes

ITEM 3 (continued)	ATTACHMENT 1	
Requirement	Proposed	Compliance
<p>with the pattern of the neighbourhood</p> <ul style="list-style-type: none"> • Improve amenity by increasing proportion of the site that is landscaped– wider landscaping area between driveway and fence/ dwelling, provide pedestrian paths, reduce width of driveway, provide communal space & increase setbacks. <p>Parking, garaging and vehicular circulation:</p> <ul style="list-style-type: none"> - Consider centralised parking in car courts to reduce the amount of space occupied by driveways, garages and approaches to garages. - Where possible maintain existing crossings and driveway locations on the street. <p>Rules of Thumb</p> <ul style="list-style-type: none"> • The proportion of the site given to landscaped area and deep soil should be increased in less urban areas, on large lots, and in areas already characterised by a high proportion of open space and planting. 	<p>A 1.0m wide landscaping buffer is proposed along the side of the driveway adjacent to the side boundary.</p> <p>Individual garages via a side driveway.</p> <p>The existing driveway/crossing will be relocated and is considered satisfactory.</p> <p>The site is located in urban area.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
3. Streetscape		
<ul style="list-style-type: none"> • Minimise impact on streetscape: <ul style="list-style-type: none"> ○ Front setback must relate to existing streetscape: ○ Use variation in materials, colour & articulation, break massing ○ Set back the upper levels behind building façade ○ If streetscape allows, locate 	<p>6m – 7m proposed and is generally consistent with adjoining setbacks. Acceptable Variations & articulations used</p> <p>Dwelling 1 has a verandah on ground floor and the first floor component is setback to the edge of the verandah.</p> <p>Dwellings are generally single or</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>

ITEM 3 (continued)		ATTACHMENT 1
Requirement	Proposed	Compliance
<p>second storey in the roof space.</p> <ul style="list-style-type: none"> ○ Roof pitch sympathetic to existing building. ● Residential Amenity ○ Need to optimise internal amenity and minimise impacts on neighbours. ○ Separation ○ Minimise overlooking ○ Location of courtyard ○ Clearly design open space in front setback as either private or communal, define and address level changes ○ Front dwelling to address street ○ Address public domain interface ○ Provide garbage storage area that has minimal impact on streetscape. <p>Parking</p> <ul style="list-style-type: none"> ○ Avoid visually dominant driveways ○ Avoid driveways running the length of the site. ○ Use design elements to soften/screen the impact of driveways and parking space 	<p>double storey.</p> <p>Proposed pitch roof</p> <p>Amenity is maximised by provision of individual courtyards & landscaping, setbacks & building separation. There are no balconies on first floor to allow overlooking.</p> <p>Sufficient landscaping in the front yard proposed as communal landscaping.</p> <p>Fronts the street.</p> <p>Adequate landscaping is proposed with new crossing. The redundant crossing will be removed and footpath constructed. Can be required via condition of consent if the application was approved.</p> <p>Separate storage areas provided adjacent to courtyards and can easily be wheeled to the street on collection days.</p> <p>Driveway width complies with Council's requirement.</p> <p>Runs along the site & terminates at the last garage.</p> <p>Landscaping proposed to provide screening buffer.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
4. Impact on Neighbours		
<p>Protect amenity:</p> <ul style="list-style-type: none"> ● Relate design to existing residential character in street. ● Reduce roof bulk by breaking into smaller elements. ● Design 2nd storey to reduce overlooking e.g. offset 	<p>The design in terms of articulation, materials, roof form, setback etc conforms to the adjoining except for the two storey element. However, the LEP provides for a maximum 9.5m height.</p> <p>Roof is articulated.</p> <p>First floor bedrooms and adequate setback ensures minimal</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)		ATTACHMENT 1
Requirement	Proposed	Compliance
<ul style="list-style-type: none"> windows, use dormer windows and setback • Provide adequate separation to ensure sun and ventilation to adjoining properties. • Proposed must not overlook into the private open space of adjoining residence • Provide screening vegetation along side boundary between the driveway and the side fence. • Where side setback is less than 1.2m, a max of 50% of development should be built to this alignment • Unrelieved walls not to exceed 8m • Living rooms of neighbouring dwelling should receive a min of 3 hours direct sunlight between 9am – 3pm in mid winter. • Solar access to private open space of neighbouring dwellings should not be unreasonably reduced. • SEPP Cl 38(4)(C): In zones where RFB are not permitted, development on rear 25% of site must not exceed one storey. 	<p>overlooking. The ensuite windows can be frosted glass. Adequate sunlight available</p> <p>First floor mainly bedrooms</p> <p>Low height shrubs and screening proposed.</p> <p>Setbacks are greater than 1.2m.</p> <p>Rear wall which is 12.6m is articulated with three windows and is single storey in height.</p> <p>This can be achieved as per shadow diagrams. Adjoining northern property – 500 Blaxland, minimal impact. Southern property – 496 Blaxland will received morning and mid day sun. Rear property 40 Denistone will receive midday and afternoon sun.</p> <p>Not unreasonably reduced.</p> <p>N/A</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
5. Site Amenity		
<ul style="list-style-type: none"> • For town houses & villas provide dwellings with a sense of identity through building articulation & architectural elements & landscaping. Should not look directly into other dwellings • Place garage away from bedrooms, single garages 	<p>All dwellings have a sense of identity through design of entry area.</p> <p>Garages are away from bedrooms Single garages proposed for each</p>	<p>Yes</p> <p>Yes</p>

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Requirement	Proposed	Compliance
rather than double, and some dwellings without parking. Separation of 1.2m should be achieved between habitable rooms and driveway or car parks.	unit. 1.2m separation achieved.	
Crime Prevention		
<ul style="list-style-type: none"> • Adequate surveillance of street and the site must be provided through design. 	Adequate surveillance provided	Yes
Accessibility:		
<ul style="list-style-type: none"> • Provide safe and attractive pedestrian links from site to access public transport. 	Safe pedestrian links are provided through the proposed driveway.	Yes

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DRAFT CONDITIONS OF CONSENT

GENERAL

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

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

Document Description	Plan No/Reference	Date	Issue
Site Plan	1002/11-1-3	28.5.12	-
Floor Plan & Elevations – Dwelling 1 & 2	1002/11-2-3	20.1.12	-
Floor Plans & Elevations – Dwellings 3 & 4	1002/11-2-3	25.1.12	-
Landscape Concept Plan	L001 Sheet 1	14.2.12	A
Stormwater/ Rainwater Tank	106223-C1	13.2.12	A
Stormwater Management (Amended in RED)	106223-C2	13.2.12	A
Stormwater Management	106223-C3	13.2.12	A
Stormwater Management	106223-C4	13.2.12	A

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

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 373358M, dated 29 April 2011.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and

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- (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **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.
6. **Hoardings.**
- (a) A hoarding or fence must be erected between the work site and any adjoining public place.
- (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
7. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
8. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
9. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
10. **Design and Construction Standards.** All engineering plans and work shall be carried out in accordance with the requirements as outlined within Council's publication *Environmental Standards Development Criteria 1999 and City of Ryde Development Control Plan 2010 Section 8* except as amended by other conditions.
11. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
12. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
13. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No drainage work shall be carried out on the footpath without this permit being paid and a copy kept on the site.

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14. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.

DEMOLITION CONDITIONS

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

A Construction Certificate is not required for Demolition.

Note: Conditions in the “General”, “Prior to Commencement of Work” and “During Construction” sections may also apply to demolition.

15. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:
- (a) Council must be notified of the following particulars:
 - (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - (ii) The date the work is due to commence and the expected completion date
 - (b) A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.
16. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
17. **Excavation**
- (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.
 - (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with the Work Cover Authority, in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.
18. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales. 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.

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19. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
20. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.

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.

21. **Section 94.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of any **Construction Certificate**:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$7,294.61
Open Space & Recreation Facilities	\$17,957.81
Civic & Urban Improvements	\$6,107.93
Roads & Traffic Management Facilities	\$833.27
Cycleways	\$520.41
Stormwater Management Facilities	\$1,654.51
Plan Administration	\$140.31
The total contribution is	\$34,508.84

These are contributions under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 16 March 2011.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

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A copy of the Section 94 Development Contributions Plan may be inspected at the Ryde Planning and Business Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

22. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
23. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
24. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (dwelling houses with delivery of bricks or concrete or machine excavation).
25. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
26. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.
27. **Landscaping:** Landscaping works must be carried out as indicated on the approved Landscape Plan Ref L001 Issue A subject to the following:
 - (a) Two (2) replacement trees to be planted within the rear yard must be setback at least 2m from the common rear or side boundary.
 - (b) The retaining wall proposed along part of the rear and side boundary must not be higher than the existing natural ground level at the common boundary.
 - (c) The height of the side boundary fence must not exceed 1.8m.
28. **Garden Edge:** The garden edge strip must be reduced from 1000mm to 750mm in width to provide a 250mm clear buffer for the reverse turn hold point manoeuvre from the enclosed garage space.
29. **Roads & Maritime – Traffic Safety Conditions:** The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements and parking bay dimensions) should be in accordance with AS 2890.1- 2004. The following additional conditions must be complied with:

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- (a) The required sight lines to pedestrians or other vehicles in or around the car park or entrances are not to be compromised by landscaping, signage, fencing or display materials.
 - (b) The existing driveway on the Northern side of the property shall be removed and replaced with kerb and gutter to match existing.
 - (c) The design and construction of the kerb and gutter crossings off Blaxland Road shall be in accordance with RTA requirements. Details of these requirements should be obtained from RMS's Project Services Manager, Traffic Projects Section, Parramatta 8849 2496. Detailed design plans of the proposed kerb and gutter works are to be submitted to the RTA for approval prior to the issue of the Construction Certificate and commencement of any road works. It should be noted that a plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by the RTA.
 - (d) All demolition and construction vehicles should be contained wholly within the site and vehicles must enter the site before stopping. If this is not possible for all construction activities, the applicant will be required to obtain a Road Occupancy Licence. To assess the impact of the proposed work on traffic flow and road safety along the RTA road the applicant shall contact the RMS's Transport Management Centre on telephone 8396 1513 or fax 8396 1530 ten working days prior to the commencement of work.
 - (e) The proposed development should be designed such that road traffic noise from Blaxland Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 subdivision 3 of State Environmental Planning Policy (Infrastructure) 2007.
30. **Vehicle to exit in Forward Direction:** All vehicles shall enter and leave the site in a forward direction. A vehicular turning area must be provided adjacent to the front dwelling extending from the internal driveway. The turning area must be paved with grass cell. All vehicles shall be wholly contained on site before being required to stop.
31. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
32. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.
33. **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**.
34. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking

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areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.

35. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. The driveway design is to incorporate Council's issued footpath and gutter crossing levels where they are required as a condition of consent. A driveway plan, longitudinal section from the centreline of the public road to the garage floor, and any necessary cross-sections clearly demonstrating that the driveway complies with the above details, and that vehicles may safely manoeuvre within the site without scraping shall be submitted with the Construction Certificate application.
36. **Driveway Width.** The driveway shall be widened to 6.0m at the boundary narrowing to 5.5m at a distance of 6.0m into the property from the front boundary as shown on the site analysis plan Job No 1002/11-1-3 dated 28 May 2012 prepared by G+A Draftline and as amended by Council to provide a passing bay in accordance with AS 2890.1 and Council's DCP for driveways. **Prior to issue of a construction certificate, all architectural, drainage and landscape plans shall be amended to show the amended driveway details as shown on this plan.**
37. **Parking & Turning Area.** A total of 6 parking spaces is to be provided on the site. Plans shall be amended to provide a turning area at front and to extend the turning area adjoining garage of unit 4 as shown on the site analysis plan Job No 1002/11-1-3 dated 28 May 2012 prepared by G+A Draftline and as amended in red by Council.
38. **Power Pole.** The proposed power pole on the site adjoining the internal driveway shall be located clear off the proposed driveway at the front of the site to provide a clear driveway with of 6.0m.
39. **On-Site Stormwater Detention.** Stormwater runoff from all impervious areas shall be collected and piped by gravity flow to a suitable on-site detention system in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. The minimum capacity of the piped drainage system shall be equivalent to the collected runoff from a 20 year average recurrence interval storm event. Overland flow paths are to be provided to convey runoff when the capacity of the piped drainage system is exceeded up to the 100 year average recurrence interval and direct this to the on-site detention system. Runoff which enters the site from upstream properties should not be redirected in a manner which adversely affects adjoining properties.
40. **Water Tank First Flush.** A first flush mechanism is to be designed and constructed with the water tank system. Details of the first flush system are to be submitted with the construction certificate application.
41. **Erosion and Sediment Control Plan.** An *Erosion and Sediment Control Plan (ESCP)* shall be prepared by a suitably qualified consultant in accordance with the

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guidelines set out in the manual “*Managing Urban Stormwater, Soils and Construction*” prepared by the Landcom. These devices shall be maintained during the construction works and replaced where considered necessary.

The following details are to be included in drawings accompanying the *Erosion and Sediment Control Plan*

- Existing and final contours;
- The location of all earthworks, including roads, areas of cut and fill;
- Location of all impervious areas;
- **Location and design criteria of erosion and sediment control structures;**
- Location and description of existing vegetation;
- Site access point/s and means of limiting material leaving the site;
- Location of proposed vegetated buffer strips;
- Location of critical areas (drainage lines, water bodies and unstable slopes);
- Location of stockpiles;
- Means of diversion of uncontaminated upper catchment around disturbed areas;
- Procedures for maintenance of erosion and sediment controls;
- Details for any staging of works;
- Details and procedures for dust control;

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.

42. Site Sign

- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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

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

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

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

45. **Excavation adjacent to adjoining land**

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
- (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

46. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

47. **Sediment and Erosion Control.** The applicant shall install appropriate sediment control devices in accordance with an approved plan **prior** to any earthworks being carried out on the site. These devices shall be maintained during the construction period and replaced where considered necessary. Suitable erosion control management procedures shall be practiced. This condition is imposed in order to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

48. **Compliance Certificate.** A Compliance Certificate should be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and City of Ryde, Development Control Plan 2010: - Part 8.1; Construction Activities.

ITEM 3 (continued)

ATTACHMENT 2

49. **Vehicle Footpath Crossings.** Concrete footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The location, 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.

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.

50. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
51. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
52. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- (a) Fill is allowed under this consent;
 - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (c) the material is reused only to the extent that fill is allowed by the consent.
53. **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.
54. **Site maintenance**
The applicant must ensure that:
- (a) approved sediment and erosion control measures are installed and maintained during the construction period;
 - (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
 - (c) the site is clear of waste and debris at the completion of the works.
55. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards

ITEM 3 (continued)

ATTACHMENT 2

outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

56. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
57. **Drop-edge beams.** 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.

58. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 373358M, dated 29 April 2011.
59. **Affordable Housing:** Dwelling Must be used for affordable Housing for 10 years: The following conditions must be complied with in relation to Affordable Housing:
- (a) Dwelling No 3 (shown on the approved plan) must be used for the purposes of affordable housing for a continuous period of 10 years from the date of the issue of any Occupation Certificate;
 - (b) All accommodation that is used for affordable housing will be managed by a registered community housing provider;
 - (c) A restriction must be registered, before the date of the issue of the occupation certificate, against the title of the subject property, in accordance with Section 88E of the Conveyancing Act 1919, that will ensure that the requirements of this condition are met.
60. **Landscaping.** All landscaping works approved by condition 1 & condition 27 are to be completed prior to the issue of the final **Occupation Certificate**. Replacement trees
61. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of the **Occupation Certificate**.

ITEM 3 (continued)

ATTACHMENT 2

62. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Interim/Final Occupation Certificate.

63. **Letterboxes and street/house numbering.** All letterboxes and house numbering are to be designed and constructed to be accessible from the public way. Council must be contacted in relation to any specific requirements for street numbering.
64. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
65. **Vehicle Entry/Exit.** All vehicles enter and exit the site in a forward direction. The turning bays proposed within the site for this purpose shall be made available for vehicle manoeuvring all the time. These bays are marked and signposted accordingly.
66. **On-Site Stormwater Detention System - Marker Plate.** Each on-site detention system basin shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface or access grate. The wording on the marker plate is described in City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. An approved plate may be purchased from Council's Customer Service Centre on presentation of a completed City of Ryde OSD certification form.
67. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels **is to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA.
68. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Job No 106223 sheets C1 to C4 issue A dated 13/2/12 prepared by Storm Civil Engineering Solutions and as amended in red by Council.

ITEM 3 (continued)

ATTACHMENT 2

69. **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:**
- (a) 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*.
 - (b) Confirming that the driveway is constructed in accordance with the construction plan requirements and Ryde City Development Control Plan 2010: - Part 8.3; Driveways.
 - (c) Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management.
 - (d) 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.
 - (e) 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*
70. **Positive Covenant, OSD.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Stormwater Detention Systems and to the satisfaction of Council.

OPERATIONAL CONDITIONS

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

71. **Offensive noise.** The use of the premises must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.
72. **Waste storage/disposal – containers.** An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste.
73. **Waste storage/disposal – recycling.** Wastes for recycling should be the stored in separate bins or containers and transported to a facility where the wastes will be recycled or re-used.

ITEM 3 (continued)

ATTACHMENT 3

COPY

City of Ryde
Civic Centre, Devlin Street
PO Box 23, Ryde NSW 2112
Facsimile 9952 8070
Telephone 9952 8222



Development Application - Notice of Refusal

Applicant: C Chi Bong
C/- Glendinning Minto & Associates P/L
PO Box 225
Thornleigh NSW 2120

LDA No: LDA2011/0257

Property: 498 Blaxland Rd Denistone Lot 39 DP 7997

Development: Affordable rental housing (under the Affordable Housing State Environmental Planning Policy) comprising 5x2 storey dwellings in one property.

Local Development Application No 2011/0257 at 498 Blaxland Rd Denistone is refused for the following reasons:

1. The proposed development is inconsistent with the amended State Environmental Planning Policy (Affordable Rental Housing) 2009 and Amendment 2011, failing to satisfy clauses 15 and 16A of the SEPP.

Particulars:

- a) The proposal does not satisfy parts 1,2, 3 & 4 of the Seniors Living Policy: Urban Design Guidelines for Infill Development as required by clause 15 (1) of the SEPP.
- b) The proposal is out of character of the local area due to the building being 2 storey for the whole length of the development, resulting in a much greater scale and massing than what is existing within the immediate area.

2. The proposed development is inconsistent with the objectives of the R2 Low Density Residential Zone as contained in Ryde Local Environmental Plan 2010.

Particulars:

- a) Due to the 2 storey nature for the whole length of the building, the proposal is not consistent with the low density residential environment of the locality.
- b) The bulk, scale and massing of the development is inconsistent with the established character of the area as well as what would be expected in a low density residential area.
- c) The scale and bulk of the development will have an adverse impact in terms of amenity of the adjoining properties due to the bulk and scale, privacy and increased overshadowing.

ITEM 3 (continued)

ATTACHMENT 3

3. The proposed development fails to comply with the parking requirements in Clause 14(2) of State Environmental Planning Policy (Affordable Rental Housing) 2011.
4. The proposed development fails to satisfy the height requirements in Clause 4.3 of Ryde Local Environmental Plan 2010 and no variation has been sought under Clause 4.6 of Ryde Local Environmental Plan 2010.
5. The proposed development is inconsistent with the requirements of Part 3.5 Multi Dwelling Housing (for Low Density Residential Zone) of Development Control Plan 2010 in regard to height, storeys, type of dwellings, front setbacks, side and rear setbacks, private open space, landscaping, insufficient car parking and driveway width.
6. The development is an overdevelopment of the site.
7. The development is not in the public interest.
8. The development will affect the amenity of the adjoining properties due to it not being consistent with the character of the area and insufficient car parking being provided to cater for the needs of the development.

You are advised of your right of appeal to the Land and Environment Court under Section 97 of the Environmental Planning & Assessment Act and your right to request a review of the determination to Council under Section 82A of the Environmental Planning & Assessment Act within 6 months after you have received the Notice of Refusal.

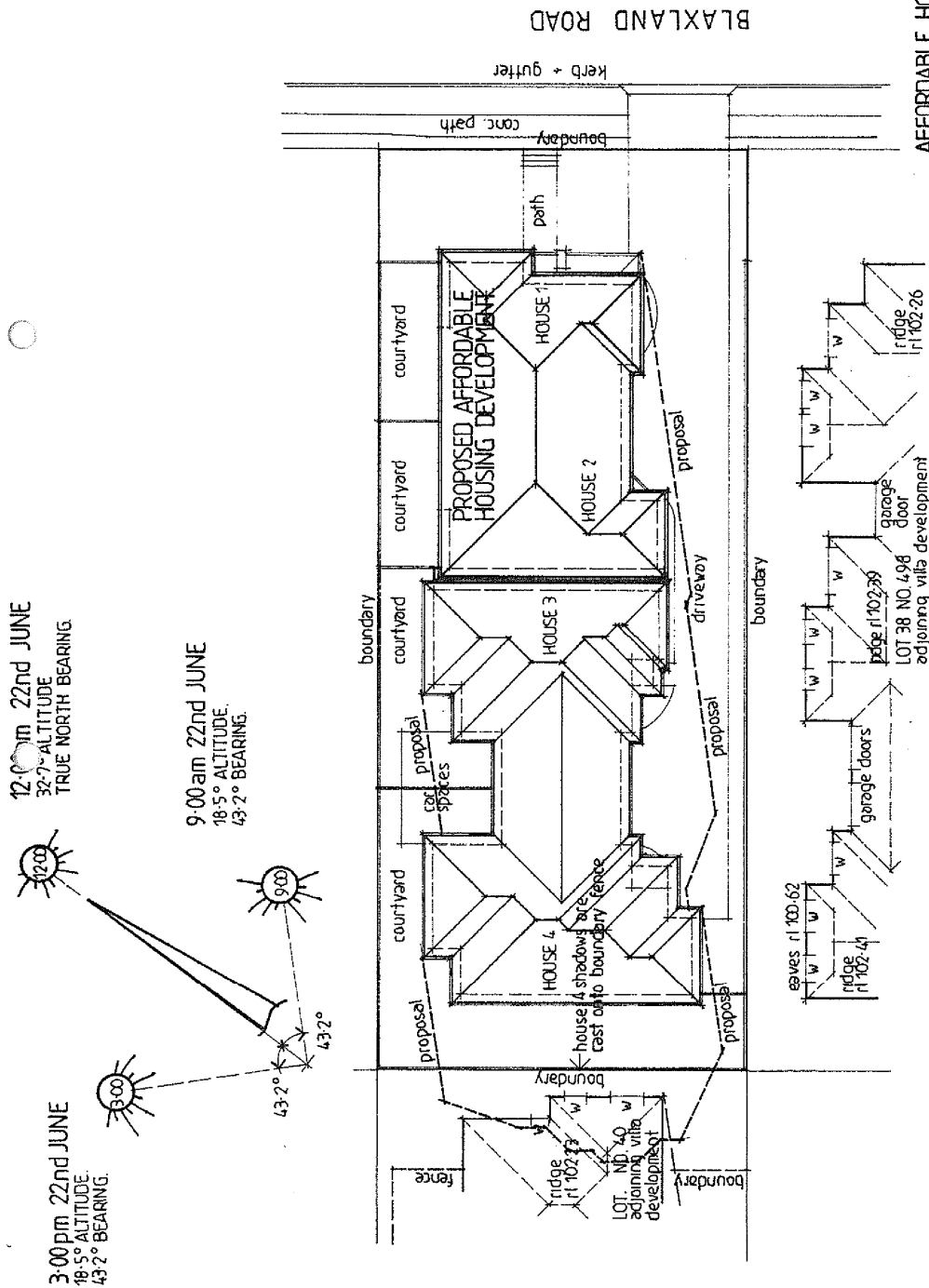


Sandra McCarry
Assessment Officer

Date: 7 February 2012

ITEM 3 (continued)

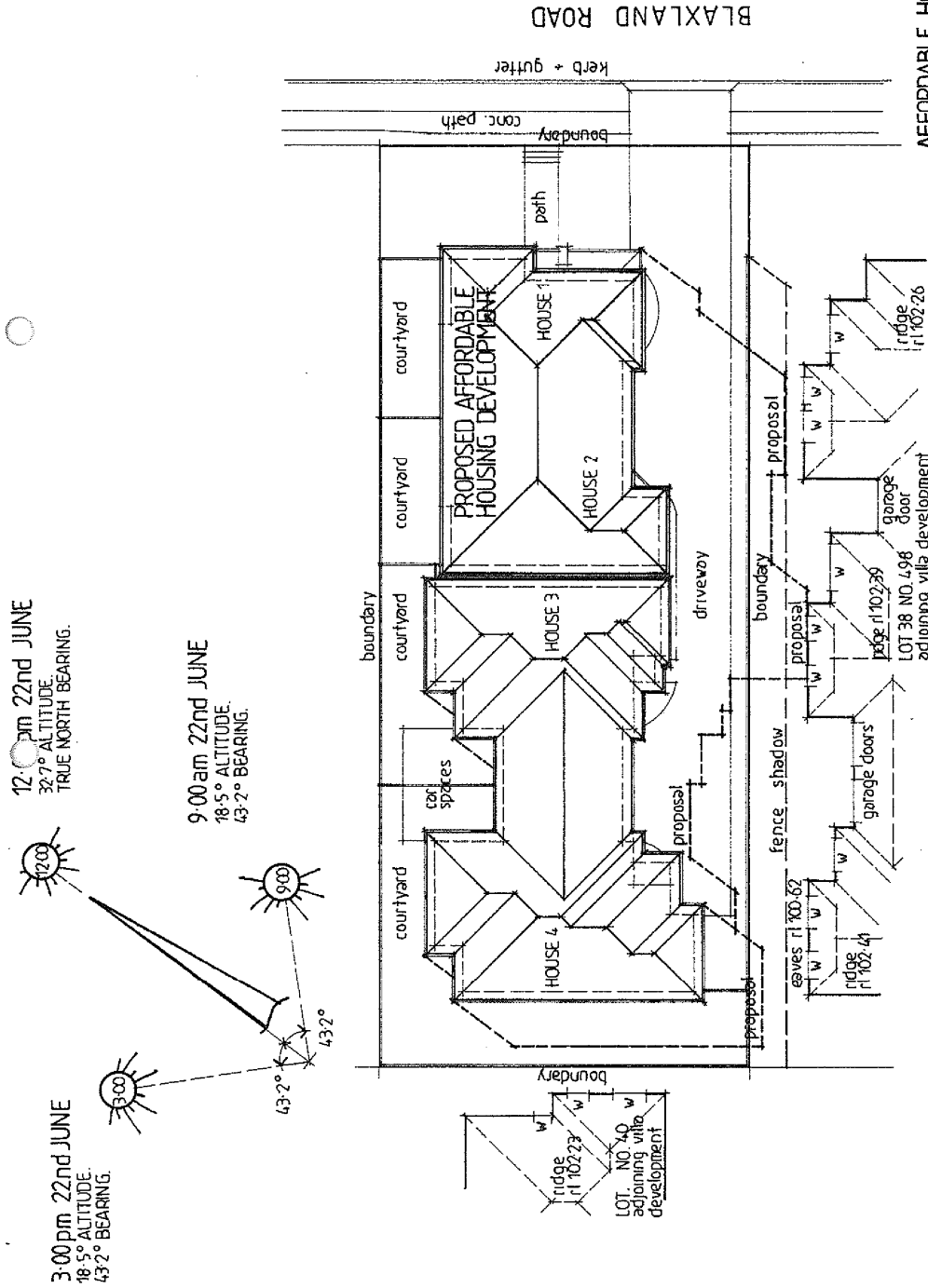
ATTACHMENT 5



AFFORDABLE HOUSING
MR. J. CHAN + Ms. Y. LIANG,
LOT 39, NO. 498 BLAXLAND ROAD
DENISTONE.
scale 1:200 date 25.may'12 job no 1002/11-1-3

ITEM 3 (continued)

ATTACHMENT 5



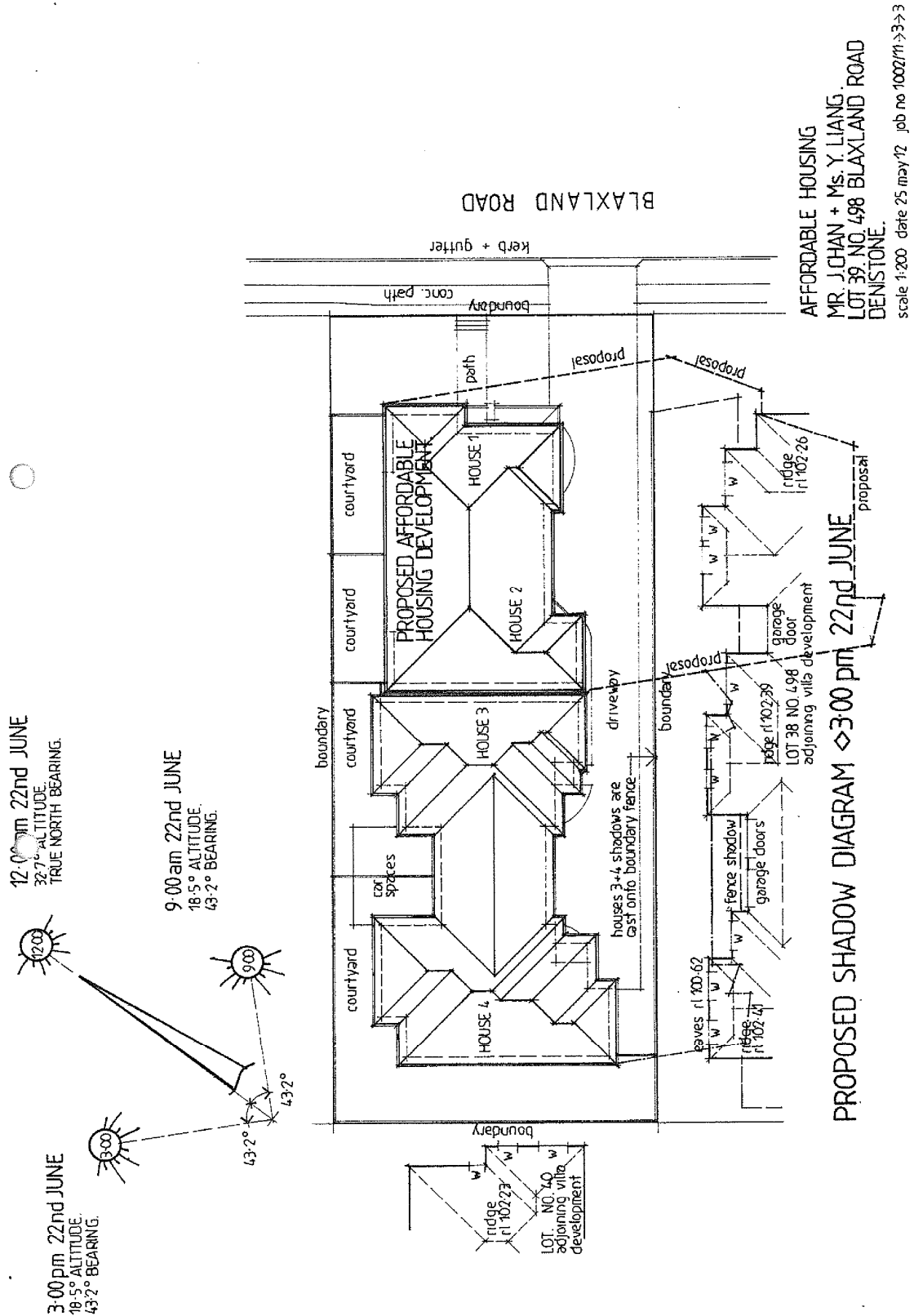
PROPOSED SHADOW DIAGRAM ◊ 12:00 pm 22nd JUNE

AFFORDABLE HOUSING
MR. J.CHAN + Ms. Y. LIANG.
LOT 39 NO. 498 BLAXLAND ROAD
DENISTONE.

scale 1:200 date 25.may'12 job no 1002/m1-2>3

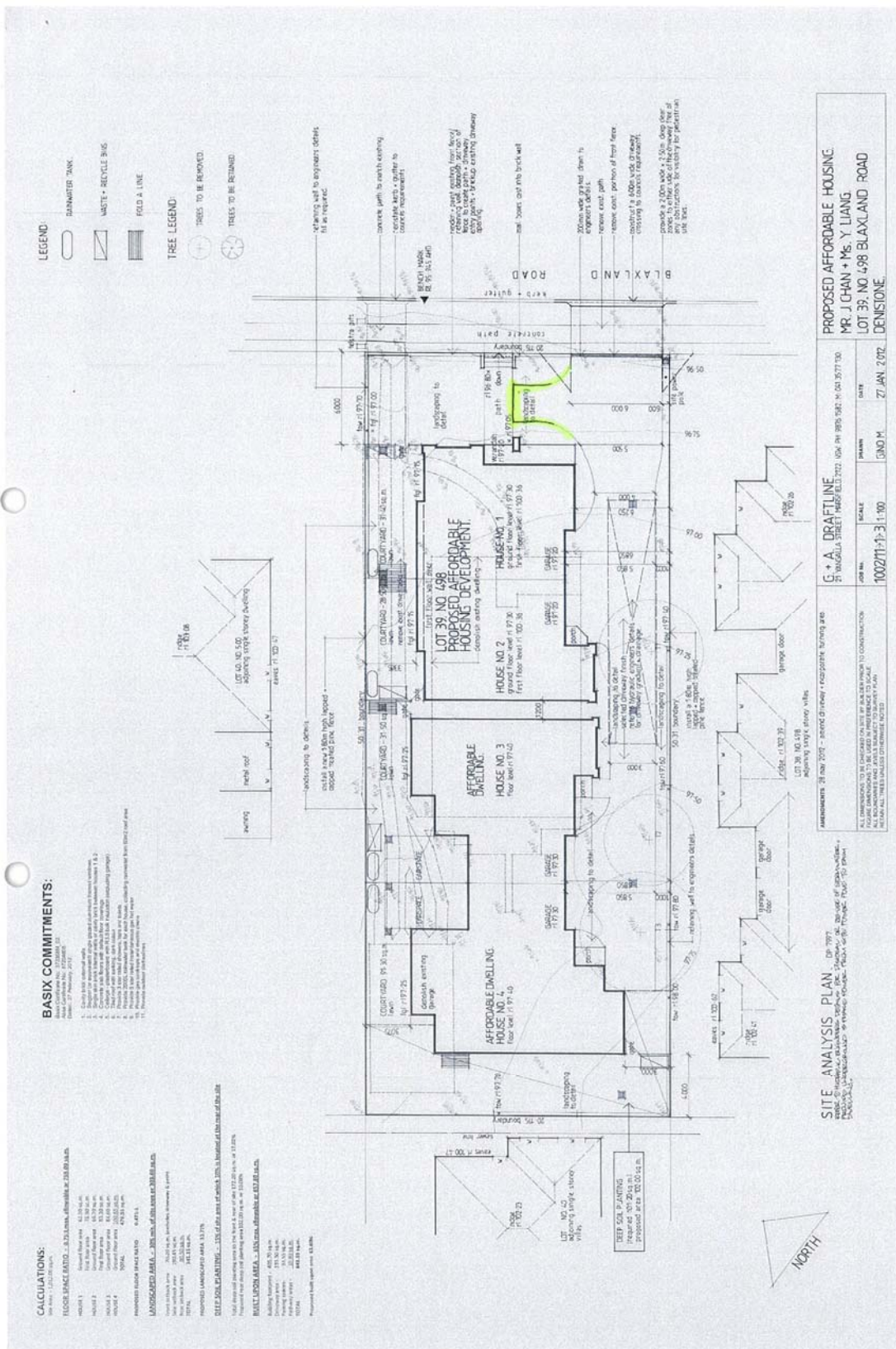
ITEM 3 (continued)

ATTACHMENT 5



ITEM 3 (continued)

ATTACHMENT 5



ITEM 3 (continued)

ATTACHMENT 6

 Indicates submissions received



4 252 QUARRY ROAD RYDE. LOT 2 DP 701738. Local Development Application for Demolition and Erection of an Attached Dual Occupancy. LDA2010/439.

INTERVIEW: 5.00pm

Report prepared by: Consultant Town Planner
Report dated: 23 July 2012
Previous Items: 2 - 252 QUARRY ROAD, RYDE.
LOT 2 DP 701738. Local Development Application for demolition and erection of an attached dual occupancy. LDA 2010/439. - Planning and Environment Committee - 15 November 2011 **File No.:** GRP/12/5/5/3 - BP12/897

Report Summary

This report is prepared to enable Council's further consideration of a proposal to demolish the existing dwelling house and erect an attached dual occupancy on the site.

At Council's ordinary meeting on 22 November 2011 it was resolved - *That this matter be deferred to allow the Group Manager, Environment and Planning to undertake mediation to address the issues of overshadowing, privacy and unacceptable non compliances and that a further report be provided to Council following the conduct of this mediation.*

Attempts were made to hold the mediation on 24 January 2012, 22 February 2012 and 5 March 2012 but were not suitable to all parties. The mediation was eventually held on 21 March 2012 where a number of alternatives were discussed. The agreed outcome of the mediation was that the applicant would submit amended plans that improved solar amenity to the study/home office window. The applicant indicated this would be achieved by relocating the building a minimum of 1m further away from the objector's property.

Amended plans were received on 30 March 2012 but did not include amended shadow plans that adequately demonstrated overshadowing impacts. The applicant was requested to provide elevational and longitudinal overshadowing plans that were received on 27 April 2012.

The amended plans were notified to the objector on 4 May 2012 and a two week period was provided (closing 21 May 2012) to make further comments. Despite the outcomes agreed at the mediation meeting, a further submission was received from the objector indicating that the overshadowing was still unacceptable and that the proposed duplex should be moved a further 1.5m from the common boundary. The

ITEM 4 (continued)

amended plans increase the side setback from 1.5m to 2.5m and the objector wants this increased to 4m. An analysis from the applicants' planning consultant on the amended shadow plans concludes that the amended plans are in excess of the minimum sunlight requirements and now provide a minor increase in sunlight to the study/home office window over the present position.

This report recommends the application be approved subject to the conditions in **ATTACHMENT 1**.

RECOMMENDATION:

- (a) That Local Development Application No 2010/439 to demolish the existing dwelling house and to erect a 2 storey attached duplex at 252 Quarry Road, Ryde, being Lot 2 DP701738, be approved subject to the conditions in **ATTACHMENT 1**.
- (b) That the person who made a submission be advised of Council's decision.

ATTACHMENTS

- 1 Proposed conditions.
- 2 Minutes of the mediation meeting.
- 3 Shadow plans and report.
- 4 Map.
- 5 A4 plans.
- 6 Previous report. 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 4 (continued)**Report****Background**

At its meeting on 15 November 2011, the Planning and Environment Committee considered a report regarding the proposed duplex development at 252 Quarry Road, Ryde and recommended that this DA be refused for the following reasons:

1. *The proposal causes excessive overshadowing onto the windows and private open space of the adjoining property at 250 Quarry Road.*
2. *The proposal causes unacceptable amenity impacts on the residents of the adjoining property at 250 Quarry Road.*
3. *The proposal has the following unacceptable non compliances with Part 3.3 of DCP 2010:-*
 - (i) *The garages are not set back 1m from the façade of the dwellings as required in clauses 2.8.1 and 2.10.1.*
 - (ii) *The width of the garage doors exceeds the 6m width required in clause 2.10.1.*
 - (iii) *The height of the return fencing exceeds the height as required in clause 2.15.1.*

The recommendation of the Planning & Environment Committee was then considered at Council's Ordinary Meeting on 22 November 2011, where it was resolved:

“That this matter be deferred to allow the Group Manager, Environment and Planning to undertake mediation to address the issues of overshadowing, privacy and unacceptable non compliances and that a further report be provided to Council following the conduct of this mediation.”

The previous report to Planning and Environment Committee on 22 November 2011 is **CIRCULATED UNDER SEPARATE COVER.**

ITEM 4 (continued)
Mediation

Mediation meetings were arranged for 24 January 2012 and 22 February 2012 but these dates were cancelled because they were unacceptable to the objector. A third date 5 March 2012 was arranged, however the applicant did not attend on the day. The mediation was eventually held on 21 March 2012 where the following was discussed:

- Privacy. The applicant indicated acceptance of the proposed conditions requiring obscure glass for privacy reasons. The objector indicated there were no concerns with privacy.
- Non-compliances. The relationship of the garage to the front wall and the front and return fencing was discussed. The garage relationship was acceptable as discussed in the original assessment report and the conditions relating to the fencing were also acceptable.
- Overshadowing. This was identified as the main area of concern. The objector was concerned about the impact of loss of sunlight to the critical parts of his backyard closest to the house and the windows (study/home office, laundry, sunroom) on the northern side of his dwelling house.

A range of matters were discussed that included:

- Reducing the size of the first floor so to move this element further from the boundary and/or to reduce the first floor bulk adjacent to the study window.
- Moving the dwelling further from the boundary.

The outcome of the meeting was:

- Amended plans be submitted that involved relocating the dwelling further away from the objector's boundary,
- Notify the amended plans to the objector for a minimum of 7 days.

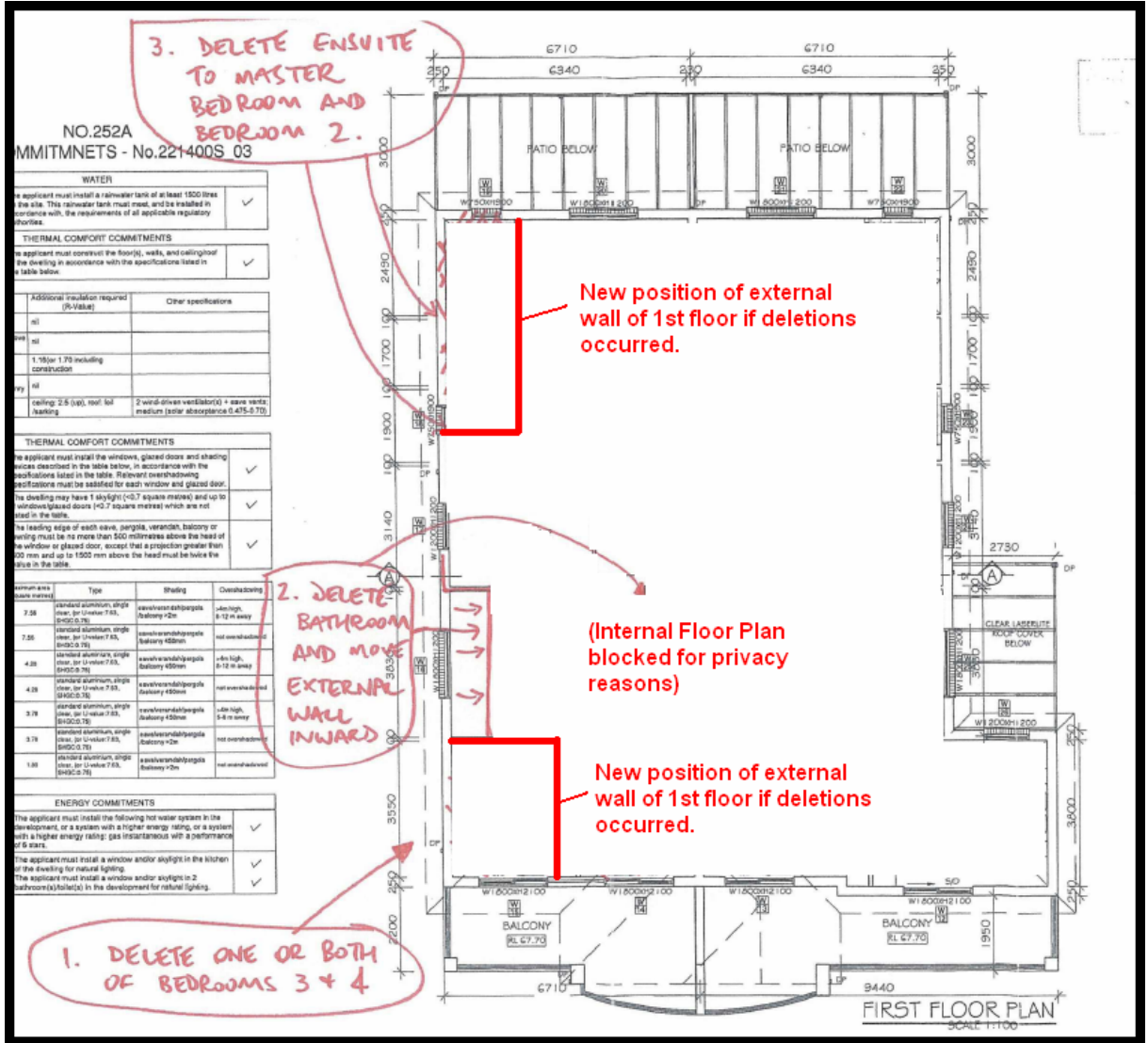
Minutes of the meeting that were provided to all parties are at **ATTACHMENT 2** and in addition it was decided to provide some guidance to the applicant on the measures discussed that involved consideration of alteration to the first floor.

These measures were:

1. Delete one or both bedrooms 3 & 4 (or at least bedroom 3).
2. Delete the bathroom in the upstairs sitting room and move the external wall forward.
3. Delete the ensuite to the master bedroom and bedroom 2.

ITEM 4 (continued)

The following is the first floor plan showing the effect of the changes above:



Amended plans were received on 30 March 2012 and showed an additional 1m setback to the common boundary by changing the setback from 1.5m to 2.5m. While amended shadow plans were submitted they were inaccurately drawn and did not show elevational shadows. Amended detailed plans were requested and were received on 27 April 2012 that included:

- Advice from the owners that they were unwilling to make further changes, including those suggested by Council following the mediation.
- Certification of the shadow plans from a qualified shadow consultant.
- A planning report from a town planning consultant indicating that the overshadowing complies with Council’s DCP and slightly reduces overshadowing from that presently existing, i.e. more sunlight will be available to the objector’s study/home office window than presently exists.

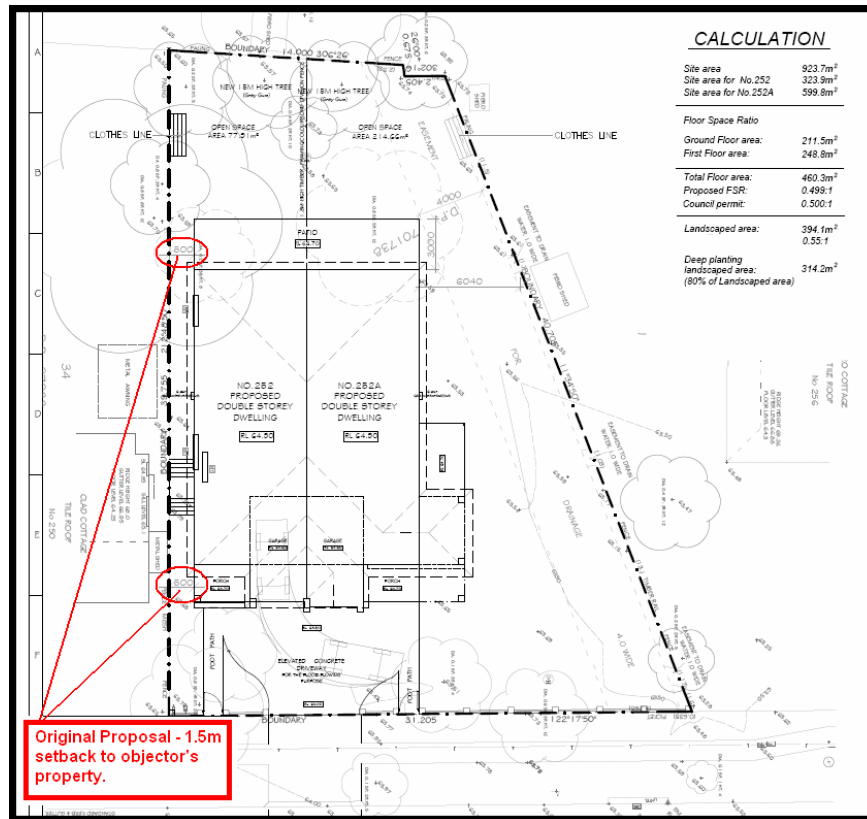
ITEM 4 (continued)

The amended plans show a 1m reduction in the western end of the rear patio and patio roof to ensure it does not encroach on the drainage easement as a result of the building being moved 1m to the west to increase the setback with the objector's property. It was pointed out to the applicant that while the site plan was amended the floor plans were not. The applicant has declined to provide amended plans and requests the change be shown in red on any approved plans.

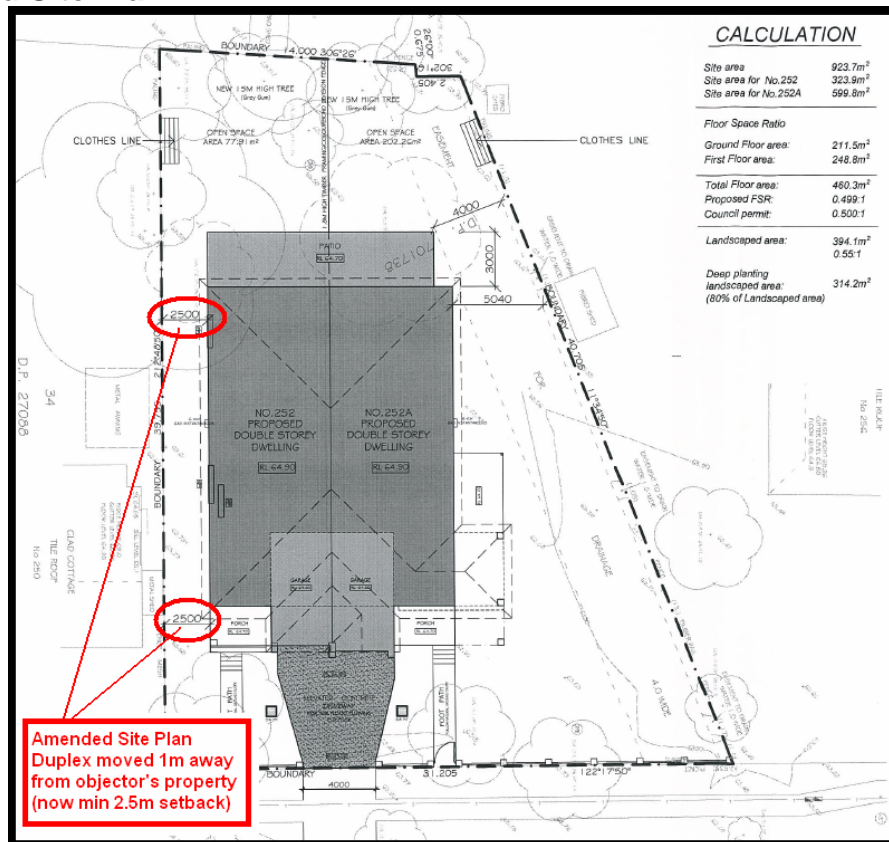
The change does not affect the rear and side walls of the dwelling and only requires a 1m reduction in the width of the rear patio to accommodate the change to the setback. The plans have been marked accordingly.

A full set of the amended plans are **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors - subject to copyright provisions. The following drawings show a comparison between the site plan of both the original and amended proposals:

Original Site Plan:



ITEM 4 (continued)
Amended Site Plan:



Submissions

The amended plans were notified to the objector on 4 May 2012, and a two week period was provided (closing 21 May 2012) to make further comments. A submission was received from the objector at 250 Quarry Road (immediately to the east). The issues raised in the submission are summarised and discussed as follows:

- **Overshadowing:** The duplex should be moved a further 1.5m to provide a 4m setback from the fence. This would alleviate our overshadowing concerns and allow some of our backyard to receive sunlight.

Comment: This issue was discussed fully in terms of “DCP Compliance” in the original assessment report to the Planning and Environment Committee where it was indicated that the overshadowing complied with the DCP. The applicant has provided detailed overshadowing plans from a shadow consultant as well as a planning assessment from a consultant town planner.

A copy of the elevational plans showing the difference between the existing and proposed shadow, as well as the town planning consultant’s report, is at **ATTACHMENT 3**. The report assesses the overshadowing impact in the context of Council’s DCP and the Planning Principles issued by the Land & Environment

ITEM 4 (continued)

Court. The report is considered to adequately address these matters and they do not require further assessment.

The report at paragraphs 4 – 6 on page 6 indicates the following:

Currently approximately 60% of study room window receives solar access at 10am, increasing to almost 90% by 11am. After 10.45am the existing dwelling on the development site begins to overshadow the study room window, with 60% in shadow by 12 noon and by 12.45pm the existing dwelling on the development site fully overshadows the study room window.

The proposed development does not begin to reduce solar access (compared to existing solar access) until after 12.15pm. From 11.30am until 12.15pm (45 minutes), the proposed development actually increases solar access to the subject window. The reduction in solar access between existing and proposed is confined to the period 12.20pm until 12.50pm, a period of just 30 minutes.

A study room is not considered to be a high use room, nor a room where solar access is considered critical. Natural light is a more relevant factor and due to the 2500mm side setback proposed, an ample amount of natural light will be maintained to the subject window.

It will be seen that the increased setback results in a slight increase in sunlight accessibility to the study/home office window over that presently cast by the existing dwelling house.

Conclusion

The amended shadow plans show that access to sunlight to the study/home office window is slightly better than presently exists. This is a slight improvement over that on the original DA plans for this development. The access to sunlight exceeds the minimum requirements under the DCP. Whilst the objector is seeking further changes to increase the setback by another 1.5m, the applicant is not prepared to make any further amendments.

Section 94 Contributions Plan 2007

Council's current Section 94 Contributions Plan (as amended on 16 March 2011) requires a contribution for the provision of various additional services required as a result of new developments. Condition 23 requires payment of Section 94 contributions for this development.

It should be noted that these Section 94 figures were calculated using the most recent quarterly updated (March 2012 quarter) CPI figures from the Australian Bureau of Statistics (ABS). Updated figures for the June 2012 quarter are expected to be issued from the ABS around 27 July 2012, however the timeframes for preparing this report prevents these figures from being used in this report. An

ITEM 4 (continued)

updated Section 94 condition will be distributed at the Planning & Environment Committee meeting on 7 August 2012 when this DA will be considered.

OPTIONS:

The following options are available to Council in the consideration of this DA:

1. Approval of the application.

If Council considers that the proposal is worthy of support, then approval may be granted subject to conditions. A set of conditions that would be applicable to this development is provided in **Attachment 1** if Council decides to approve this DA. It should be noted that the conditions have been amended to reflect the current format for conditions.

2. Refusal of the application.

If Council decides that the application should be refused, then the reasons would have to be supplied. As indicated in this report the access to sunlight (overshadowing) exceeds the minimum requirements of the DCP and satisfies the Planning Principles established by the Land & Environmental Court. The privacy concerns can be satisfied by conditions of consent and other non-compliances are either minor or satisfied by the proposed conditions.

ITEM 4 (continued)

**ATTACHMENT 1
CONDITIONS**

GENERAL

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

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

PLAN	ISSUE	DESCRIPTION	DATE
2933-1	H	Site Plan	26-03-12
2933-2	F	Ground Floor Plan,	28-03-11
2933-3	F	First Floor Plan,	28-03-11
2933-4	G	North & South Elevations, as amended in red	17-05-11
2933-5	G	East & West Elevations	17-05-11
2933-6	A	Section, Front Fence Detail	20-06-10
2933-10	A	Erosion & Sediment Control Plan, Demolition Plan	20-06-10
1279LAN1	E	Landscape Concept Plan	2-06-11
MO1	D	Flood Mitigation Plan	-
MO2	D	Flood Mitigation Details	-
MO3	D	Flood Mitigation Details	-

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

- (a) The rear patio and the roof over shall be reduced by 1m in width so to reflect the layout shown on the site plan
- (b) The windows marked "o/s" shall be of obscure glass where shown by the use of stipple. The window to the foyer shown in the east elevation shall be of obscure glass to the same height as the windows to the lounge room and family room on the same elevation.

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

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 221403S_02 and No. 2214005_02, both dated 6/8/2010.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the

ITEM 4 (continued)

ATTACHMENT 1

person having the benefit of the development consent must, at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **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.
6. **Hoardings.**
- (a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
7. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
8. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
9. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
10. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
11. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

General Engineering Conditions

12. **Design and Construction Standards.** All engineering plans and work shall be carried out in accordance with the requirements as outlined within Council's

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publication *Environmental Standards Development Criteria 1999 and City of Ryde Development Control Plan 2010 Section 8* except as amended by other conditions.

13. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
14. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
15. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No drainage work shall be carried out on the footpath without this permit being paid and a copy kept on the site.

DEMOLITION CONDITIONS

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

A Construction Certificate is not required for Demolition.

16. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:
 - (a) Council must be notified of the following particulars:
 - (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - (ii) The date the work is due to commence and the expected completion date
 - (b) A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.
17. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
18. **Excavation**
 - (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities

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from being dangerous to life or property and, in accordance with the design of a structural engineer.

- (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with the Work Cover Authority, in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.

19. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.
20. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
21. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
22. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.

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 (e.g. 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.

23. **Section 94.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of any **Construction Certificate:**

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	3991.39
Open Space & Recreation Facilities	9825.97

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Civic & Urban Improvements	3341.90
Roads & Traffic Management Facilities	455.76
Cycleways	284.75
Stormwater Management Facilities	904.74
Plan Administration	76.78
The total contribution is	18,881.29

These are contributions under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 16 March 2011.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

A copy of the Section 94 Development Contributions Plan may be inspected at the Ryde Planning and Business Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

24. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
25. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
26. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (Category: Demolition; Other buildings with delivery of bricks or concrete or machine excavation.)
27. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
28. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service

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Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.

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

Please refer to the website 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.

30. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.
31. **Fencing.** Fencing is to be in accordance with that shown on approved plan MOD 2 Issue D as amended by this condition and details of compliance are to be provided in the plans for the **Construction Certificate**.
- (a) The side and rear fence shall be 1.8m high lapped and capped paling with a 500mm gap underneath.
 - (b) The 500mm gap is to be of pool type fencing.
 - (c) The return fence (from the street to the building alignment) shall be not more than 900mm high and be constricted of materials as set out in (a) & (b) above or may be wholly of pool type fencing, only with the written agreement of the adjoining owner.
 - (d) The timber materials of the side, rear and return fence may be altered to colourbond only with the written consent of the adjoining owner.
32. The pedestrian access to path No 252 is to be deleted in favour of soft landscaping, to minimize construction impacts on the structural root zone of the adjoining tree. Details to be shown on the **Construction Certificate** plans.
33. A retaining wall about 7m in length is to be constructed along the front section of the eastern side boundary. The applicant should limit the height of the retaining wall to the existing ground level of No. 250 Quarry Road and provide permeable fencing with 500mm gap underside of fence to allow the free passage of overland flow through the property. Details to be shown on the **Construction Certificate** plans

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34. All proposed building structures are to have flood compatible materials up to the level of RL 64.90m. Details to be shown on the **Construction Certificate** plans
35. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.

Engineering Conditions to be complied with Prior To Construction Certificate

36. **Council Inspections.** A Council engineer must inspect the stormwater connection to the existing Council stormwater pipeline. Council shall be notified when the collar connection has been made to the pipe and an inspection must be made **before** the property service line is connected to the collar. The property service line must not be connected directly to Council's pipeline. An inspection fee of \$140 shall be paid to Council prior to the issue of the Construction Certificate
37. **Boundary Levels.** 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.
38. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. The driveway design is to incorporate Council's issued footpath and gutter crossing levels where they are required as a condition of consent.
39. **Control of Stormwater Runoff.** Stormwater runoff from roof impervious areas shall be collected and piped by gravity flow to Council's existing stormwater pit located in Quarry Road via rainwater tanks designed in accordance with BASIX and DCP 2010 Part 8.2. Due to flooding impacts OSD will not be required for the site however, each unit is required to provide a rainwater tank volume of at least 5000 litres, plus any additional volume that may be required under BASIX. The rainwater tanks shall be connected for internal reuse at a minimum for toilet flushing, washing machines and garden irrigation. Additionally, to minimise flooding impacts, all rainwater tanks are to be located underground.

Amended stormwater drainage plan including engineering certification indicating compliance with this condition are to be submitted with the **Construction Certificate** application.

40. **Water Tank First Flush.** A first flush mechanism is to be designed and constructed with the water tank system. Details of the first flush system are to be submitted with the **Construction Certificate** application.

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41. **Overland Flow path.** No filling, alteration to the surface levels or other obstructions within the overland flow path across the site shall be made without prior approval of Council.
42. **Structural Design** Prior to the issue of **Construction Certificate**, a suitably qualified structural engineer shall certify that the building and elevated footpath/driveway structures are able to withstand the forces of floodwaters having regard to hydrostatic pressure, hydrodynamic pressure, the impact of debris and buoyancy forces up to the Probable Maximum Flood (PMF) event.
43. **Fencing.** Fencing in condition 31 is to be constructed in a manner that does not affect the flow of flood waters so as to detrimentally change flood behaviour or increase flood levels on surrounding land. A certificate indicating compliance shall be provided to the PCA from a suitably qualified engineer prior to the issue of the **Construction Certificate**.
44. **Erosion and Sediment Control Plan.** An *Erosion and Sediment Control Plan (ESCP)* shall be prepared by a suitably qualified consultant in accordance with the guidelines set out in the manual "*Managing Urban Stormwater, Soils and Construction*" prepared by the Landcom. These devices shall be maintained during the construction works and replaced where considered necessary.

The following details are to be included in drawings accompanying the *Erosion and Sediment Control Plan*

- (a) Existing and final contours
 - (b) The location of all earthworks, including roads, areas of cut and fill
 - (c) Location of all impervious areas
 - (d) **Location and design criteria of erosion and sediment control structures,**
 - (e) Location and description of existing vegetation
 - (f) Site access point/s and means of limiting material leaving the site
 - (g) Location of proposed vegetated buffer strips
 - (h) Location of critical areas (drainage lines, water bodies and unstable slopes)
 - (i) Location of stockpiles
 - (j) Means of diversion of uncontaminated upper catchment around disturbed areas
 - (k) Procedures for maintenance of erosion and sediment controls
 - (l) Details for any staging of works
 - (m) Details and procedures for dust control.
45. Prior to the issue of the **Construction Certificate**, a suitably qualified floodplain engineer shall certify that all structures, storage areas and utility services below the 100 year ARI flood event plus 0.5m freeboard are designed to be flood compatible in accordance with Schedule 1, Appendix D of Draft Floodplain Management DCP Provisions in the Eastwood & Terrys Creek Floodplain Risk Management Study & Plan dated October 2009.
 46. The garage doors shall be of a similar colour to the colour of the face bricks to minimise their impact on the streetscape. Details shall be submitted with the **Construction Certificate**.

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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.

47. Site Sign

- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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

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

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

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

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50. Excavation adjacent to adjoining land

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
- (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

51. Safety fencing. The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

52. Tree Protection. A tree protection zone is to be established around the root zone of the Norfolk Island Pine (*Araucaria heterophylla*) located on the Quarry Rd frontage and the Mugga Ironbark (*Eucalyptus leucoxylon*) growing on the neighbouring property, 250 Quarry Rd. Tree protection is to be equivalent to temporary chain wire panelling, and installed **prior to the commencement of demolition and shall be retained during construction.**

53. Arborist to be Appointed. A project arborist is to be appointed to supervise the installation of all tree protection zones, and shall supervise the hand excavation of the front wall footings and the south eastern corner of the rear patio. The severing of any significant structural roots is to be carried out in accordance with accepted arboricultural practices.

Engineering Conditions to be complied with Prior to Commencement of Construction

54. Sediment and Erosion Control. The applicant shall install appropriate sediment control devices in accordance with an approved plan **prior** to any earthworks being carried out on the site. These devices shall be maintained during the construction period and replaced where considered necessary. Suitable erosion control management procedures shall be practiced. This condition is imposed in order to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

55. Compliance Certificate. A Compliance Certificate should be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and City of Ryde, Development Control Plan 2010: - Part 8.1; Construction Activities

56. Vehicle Footpath Crossings. Concrete footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The location, design and construction shall conform to the

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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.

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.

57. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
58. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
59. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
60. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
 - (c) Fill is allowed under this consent;
 - (d) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (e) the material is reused only to the extent that fill is allowed by the consent.
61. **Construction materials.** All materials associated with construction must be retained within the site.
62. **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.
63. **Site maintenance**

The applicant must ensure that:

 - (f) approved sediment and erosion control measures are installed and maintained during the construction period;
 - (g) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;

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- (h) the site is clear of waste and debris at the completion of the works.
64. **Work within public road.** At all times work is being undertaken within a public te precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".
65. **Tree protection – no unauthorised removal.** 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.
66. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.
67. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
68. **Tree works – provision of arborist details.** Council is to be notified, in writing, of the name, contact details and qualifications of the Consultant Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.
69. **Drop-edge beams.** 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 (e.g. 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.

70. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificates numbered 221403S_02 and No. 2214005_02, both dated 6/8/2010.

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71. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.
72. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of the **Occupation Certificate**.
73. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Interim/Final Occupation Certificate.

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

Engineering Conditions to be complied with Prior to Occupation Certificate

75. **Fencing.** Fencing in condition 31 is to be constructed in a manner that does not affect the flow of flood waters so as to detrimentally change flood behaviour or increase flood levels on surrounding land. A certificate indicating compliance shall be provided to the PCA from a suitably qualified engineer prior to the issue of the **Occupation Certificate**.
76. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
77. **Compliance Certificates – Engineering.** Compliance Certificates should be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and **submitted to the PCA**:
- Confirming that 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*.

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- 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.
 - Confirming that the connection of the site drainage system to the trunk drainage system complies with Section 4.7 of AS 3500.3 - 1990 (National Plumbing and Drainage Code).
 - Confirming that the development shall be carried out in accordance with the Flood Impact Assessment Report dated 8 November 2010 prepared by Khh Consulting Engineers Pty Ltd.
78. **Restriction as to User, Floodway.** A restriction as to user is to be placed on the property title to prevent the alteration of the ground surface and maintenance within the 100 year Average Recurrence Interval flow path and also not to have any structure placed inside without Council permission. The terms of the restriction shall be generally in accordance with Council's draft terms for provision for overland flow and to the satisfaction of Council.
79. **Driveway.** Prior to the issue of the Occupation Certificate, a certificate shall be provided to the PCA confirming the driveway has been constructed as a suspended slab, and allows the free passage of overland flow.
80. **Ground Levels.** Prior to the issue of the Occupation Certificate, a licensed surveyor shall certify that the ground levels have been modified as per the plan "Drawing No. M01 Revision D" prepared by KHH Consulting Engineers Pty Ltd.

End of Conditions

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MEDIATION MEETING NOTES

Notes from Mediation Meeting	
252 Quarry Road, Ryde. Proposed 2 Storey Duplex. (LDA2010/439)	
Wednesday 21 March 2012, 3.30pm.	
Ground Floor Meeting Room, Ryde Planning and Business Centre	
In attendance:	
<u>Council Officers:</u>	Dominic Johnson: Group Manager Environment & Planning (Chair); Chris Young: Team Leader – Assessment; Don Smith, Consultant Town Planner
<u>Applicant:</u>	Mr James Fu (JF Building Consultants); Mr Zhi Gang (Ken) Lun and Mrs Xiao Feng Chun (owners)
<u>Neighbours:</u>	Mr Greg Hancox (250 Quarry Road); Mr John Peters (245 Quarry Road)
SUMMARY OF DISCUSSIONS:	
Dominic Johnson (DJ)	Opened the meeting, introduced those attending from Council, re-iterated the Council resolution and emphasised the main issues regarding the development – namely privacy, and overshadowing.
DJ	Also indicated that a further report to Council (Planning & Environment Committee (PEC)) will be required following completion of mediation/submission of amended plans. The likely outcomes of this process are: <ul style="list-style-type: none"> • Submission of revised plans (either new DA or amended plans on current DA) which will be re-notified to neighbours. • If no accord is reached at mediation, a report will be prepared to PEC advising of such, with the same recommendation as previous. • However it was indicated that the issues of concern (esp overshadowing) for Councillors are such that the likely outcome (resolution from PEC) would be that the DA is refused.
DJ	In terms of the resolution of PEC – the non-compliances with the DCP were discussed as follows: <ul style="list-style-type: none"> • Overshadowing – the main issue of concern, see discussion throughout meeting notes. • Garage not 1m behind building wall – minor design issue/acceptable as discussed in assessment report.

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	<ul style="list-style-type: none"> Fencing (front and return fencing) – minor issue/acceptable subject to condition as discussed in assessment report.
DJ	Asked the neighbours what their main issues of concern are.
Mr Hancox	Privacy and overshadowing. In terms of privacy, there will be several windows directly opposite his home office and also overlooking his rear yard.
Don Smith (DS)	<p>As the assessing officer, he provided additional clarity on the windows in question along the side facing Mr Hancox property. These are:</p> <ul style="list-style-type: none"> Foyer – no privacy treatment proposed. Condition 28 in PEC report requires obscure glass to the same height as the windows to the lounge room and family room on the same elevation. Lounge room – to be provided with obscure glass to a height of 1.6m (as shown on DA plans). Kitchen – no privacy treatment Family/dining – obscure to height of 1.6m (as shown on DA plans).
DS	Advised that condition 28 of the report requires the use of obscure glass to the foyer, lounge, laundry and family/dining rooms.
Mr James Fu	Advised that they are agreeable to such a condition.
DJ	Asked Mr Hancox if there were any privacy concerns regarding the 1 st floor rooms, and Mr Hancox said there were none.
DJ	Asked if there were any other privacy issues regarding the development overall, and Mr Hancox said there were none. On this basis and as discussed in the PEC report – it was advised that the privacy issues of the development were satisfactorily resolved.
DJ	Introduced discussion about overshadowing as the main issue of concern in this application. It was noted that both the applicant and the neighbours had submitted shadow diagrams to show impacts as part of the DA processing. DJ invited Mr Hancox to comment on what he feels will be the shadow impacts on his property.
Mr Hancox	Advised that the whole of his backyard will be overshadowed – firstly by his own house and then by the proposed duplex.
Mr Fu	Advised that the development complies with the DCP requirement re overshadowing of the rear yard area (i.e. sunlight to 50% of private open space for 3 hours between 9 am – 3 pm on June 21).
DJ	Asked what we could do to improve the overshadowing impacts.
Mr Fu	Advised that the development does not affect the rear part of the

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ATTACHMENT 2

	<p>neighbour's backyard, and that a review of the shadows throughout the day shows that at least 50% of the private open space receives 3 hours of sunlight.</p>
Mr Hancox	<p>Advised that the rear part of the backyard are not the critical areas – the mostly used parts of the backyard are closer to the dwelling and these are the areas that will be most affected.</p> <p>He also advised that the DCP controls do not consider existing overshadowing or overshadowing from structures within a neighbouring site.</p>
DJ	<p>Confirmed that these are not relevant considerations under the DCP in terms of overshadowing.</p> <p>In conclusion, solar access to the rear yard area is provided to at least 50% for 3 hours and thus the development technically complies with the DCP.</p>
Mr Hancox	<p>Does not agree with this position. He is concerned that the critical parts of the backyard close to his house will not receive sufficient sunlight and will be in darkness for most of the winter.</p>
DJ	<p>Then turned the discussion to be about impacts on “living room” windows. The DCP controls relate to impacts on windows to north-facing living rooms, not all north-facing windows.</p>
Mr Hancox	<p>Identified the rooms on the northern side of his dwelling – a study/home office, a laundry, and a sunroom (at the rear).</p>
DJ	<p>Discussed what the DCP means by “living rooms” – these are occupied by multiple people for longer periods of time during the day. In this regard, the study/home office would not be classed as a living room and would not have been designed for such purpose.</p>
DJ	<p>Made it clear that the Councillors would be expecting some improvements to the situation regarding overshadowing.</p>
Mr Fu	<p>Advises that they feel the development complies with the DCP requirements for overshadowing.</p>
DJ	<p>Advised that despite this contention, the expectation is that there will be some design changes (re reduce roof pitch etc) to improve solar access as much as possible for the neighbour.</p>
Mr Fu	<p>Suggested it might be possible to move the whole house by 1m away from the boundary with Mr Hancox property – for example by reducing the size of the patio.</p> <p>(Mr Fu was advised it would be necessary to ensure that this arrangement would be acceptable having regard to the site's affectation by flooding.)</p>

ITEM 4 (continued)

ATTACHMENT 2

DJ	Advised that it would be necessary for the study/home office to receive 3 hours sunlight to the whole window, and that there be an improvement if possible to the sunroom window, in order to be considered acceptable and receive Council officer's support.
Mr Fu	Feels that this should be able to be achieved relatively easily. Mr Fu was advised that we would need amended plans and shadow diagrams, which would be re-notified to Mr Hancox. One week would be provided for any further comments on the amended plans.
DJ	Closed the meeting at 4.50pm, thanked everyone for their attendance and positive contribution in progressing this matter and reducing the outstanding issue down to just the solar access to the windows of the neighbour's house.

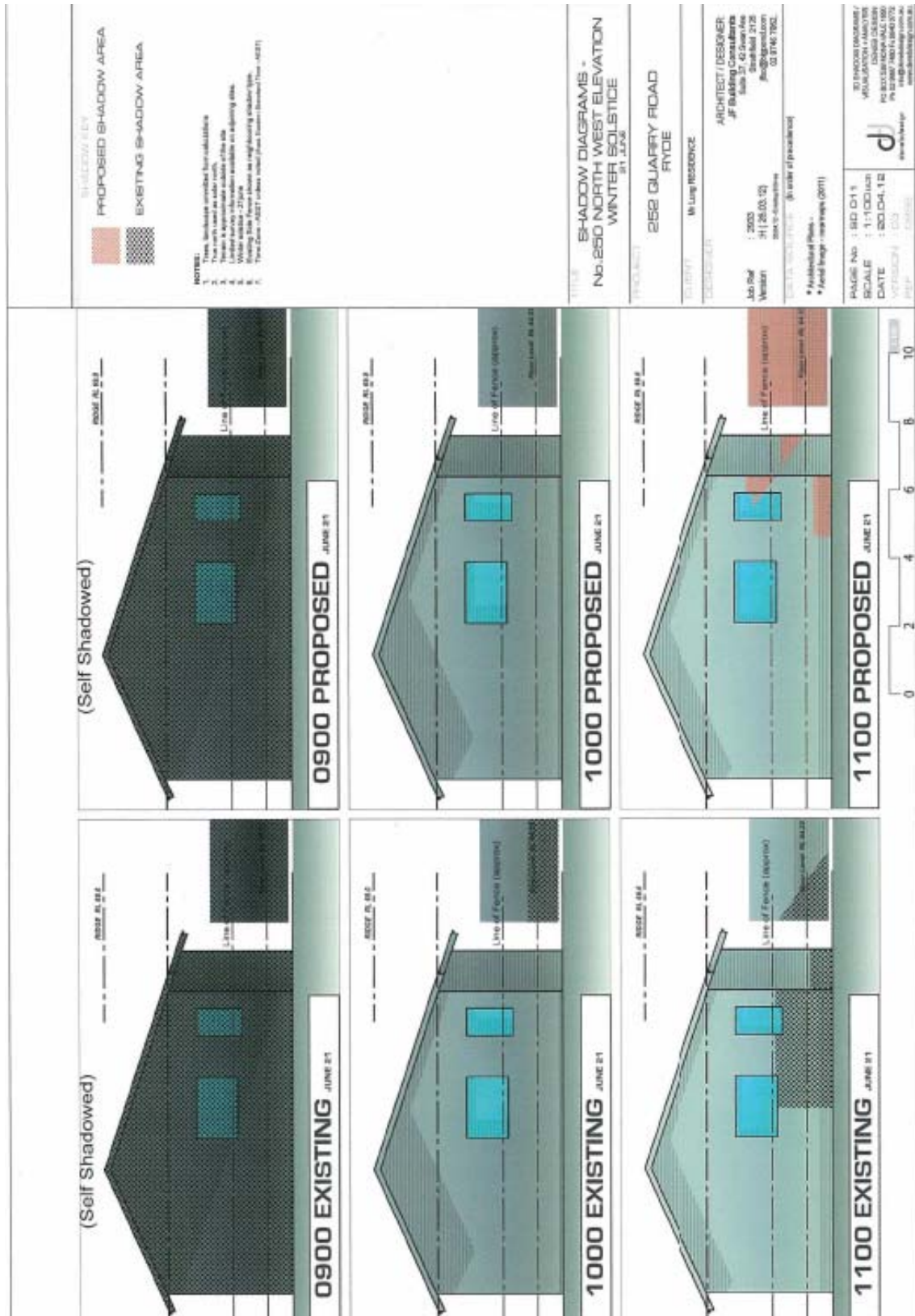
OUTCOMES:

- Amended plans to be submitted by applicant, which involve relocating the dual occupancy building a minimum 1m away from the boundary with No 250 (Mr Hancox property).
- Amended plans to be re-notified to Mr Hancox for a minimum 7 days.

ITEM 4 (continued)

ATTACHMENT 3

SHADOW PLANS AND REPORT



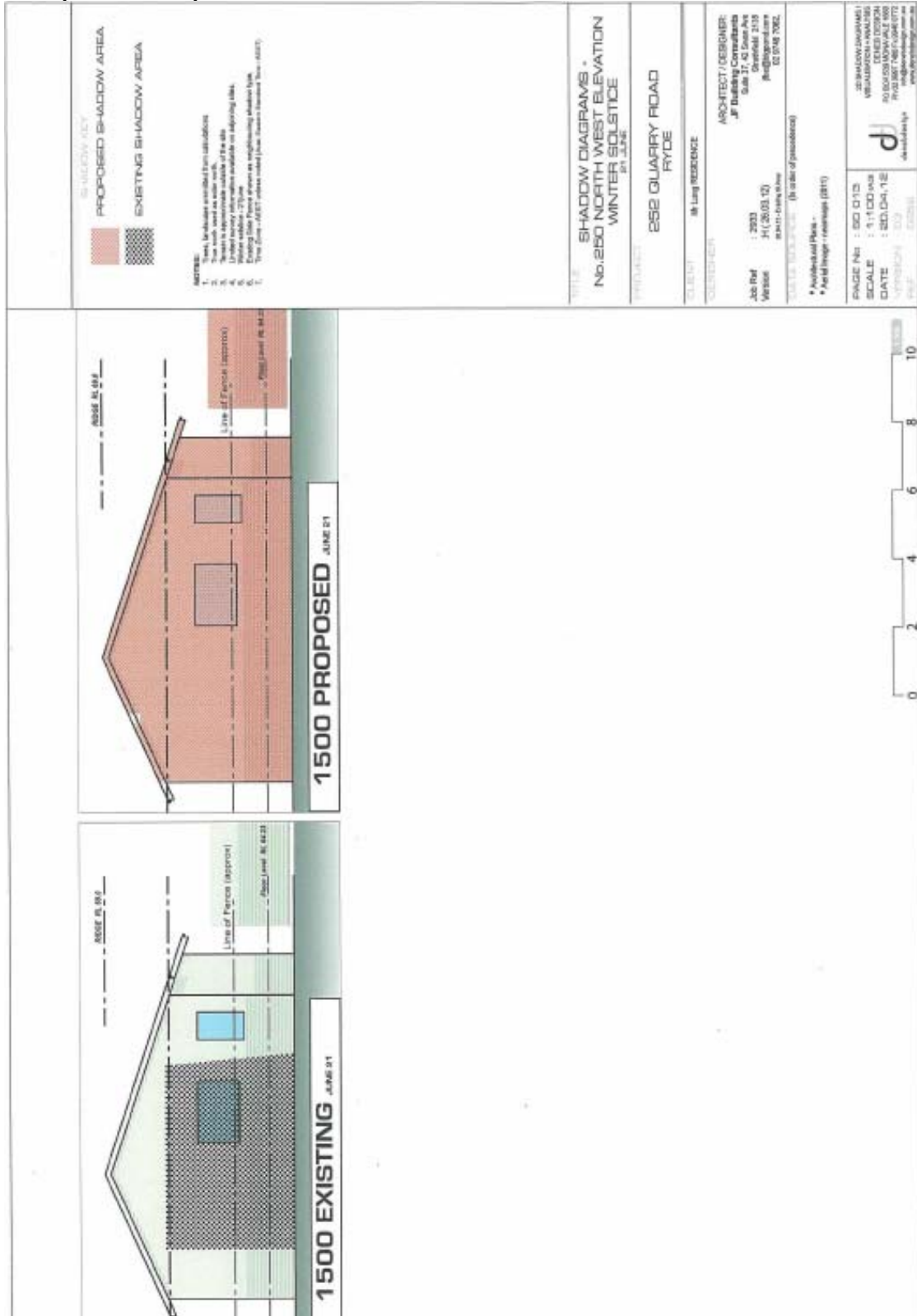
ITEM 4 (continued)

ATTACHMENT 3



ITEM 4 (continued)

ATTACHMENT 3



ITEM 4 (continued)

ATTACHMENT 3



Our Ref: 02048

24th April 2012

The General Manager
Ryde Council
Locked Bag 2069
NORTH RYDE NSW 1670

ATTENTION Mr Chris Young

Dear Sir

RE: LDA 2010/439 – Proposed 2 Storey Duplex at 252 Quarry Road, Ryde

We act for Mr Zhi Gang Lun and Mrs Xiao Feng Chen of 252 Quarry Road, Ryde. Our clients have lodged a Development Application (LDA 2010/439) to construct a 2 storey duplex on this property located on the southwest side of Quarry Road.

We have been requested by Mr. Zhi and Mrs Xiao to review their development proposal and issues that Council has raised in relation to impacts on solar access to the neighbouring dwelling at No. 250 Quarry Road, Ryde. Ingham Planning Pty Ltd has not previously been involved, nor had any input into the Development Application for 252 Quarry Road, Ryde.

We have viewed the site and examined the plans for the above Development Application, the relevant planning controls and Council correspondence and related documentation concerning overshadowing of the neighbouring property at 250 Quarry Road. We have also considered established town planning practice with respect to the assessment of shadow impacts and the solar access planning principles established by the Land and Environment Court.

In our opinion, the proposed development, with an increase in side setback to 2500mm, as now proposed in the amended plans, results in an acceptable impact on solar access to the neighbouring property. The proposed development represents an appropriate balance between our clients' reasonable rights to develop their property in accordance with the applicable planning controls and the maintenance of acceptable amenity to neighbouring residential properties. The following assessment is provided in support of this conclusion.

ITEM 4 (continued)

ATTACHMENT 3

Ryde Development Control Plan 2010 Part 3.3 – Dwelling Houses and Dual Occupancy (attached)

Council's controls in relation to daylight and sunlight access for dwellings and attached dual occupancy are detailed in Section 2.13.1 of Part 3.3 of Ryde DCP 2010. The controls in relation to sunlight and daylight access seek to maximize such access, encourage use of passive solar design and ensure that new development maintains appropriate solar access to neighbouring dwellings and neighbouring private open space. The DCP sets out a number of development controls designed to achieve the nominated objectives relating to access to sunlight and daylight.

- (a) *Living areas are to be located predominantly to the north where the orientation of the allotment makes this possible.*

Both the subject land No. 252 Quarry Road and the neighbouring land 250 Quarry Road are orientated northeast-southwest and have their primary living rooms orientated to the northeast. Private open space is located at the rear with a southwest aspect. This is unavoidable due to the orientation of the allotments.

- (b) *Dwellings on allotments which have a side boundary setback with a northerly aspect are to be designed to maximize sunlight access to internal living areas by increasing the setback of these areas. In these cases a minimum side setback of 4 metres is preferred.*

The relevant side boundary to No. 250 Quarry Road has a southeast aspect, therefore Control (b) is not applicable. It should also be noted that the recommended 4 metre side setback in Control (b) is limited to the situation where the side elevation of a neighbouring dwelling contains an internal living area with a northerly aspect. Solar access to the existing northeast facing living room of No. 250 Quarry Road is unaffected. Shadow impacts are limited to the window of a study in the northwest side elevation.

- (c) *Windows to north-facing living areas of the subject dwelling are to receive at least 3 hours sunlight between 9am and 3pm on 21 June over a portion of their surface.*

Control (c) relates to the proposed dwelling. Solar access impacts to neighbouring dwellings are addressed under Control (e). The proposed dual occupancy achieves the required level of solar access.

- (d) *Private open space of the subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21.*

The rear portions of private open space of the proposed dual occupancy receive the required 2 hours solar access. In the case of the existing dwelling at No. 250 Quarry Road, the private open space immediately adjoins the rear of this dwelling and is significantly shadowed by this existing dwelling. However, a substantial portion of the rear yard receives 2 hours mid-winter solar access and will continue to receive in excess of 2 hours mid-winter solar access, upon construction of the proposed dual occupancy.

ITEM 4 (continued)

ATTACHMENT 3

The proposed dual occupancy will result in a reduction in solar access to a narrow band of private open space on the northeast side of the rear yard of No. 250 Quarry Road, however ample area of the rear yard will continue to receive 2 hours mid-winter solar access. We understand that Council has acknowledged that the rear yard of No. 250 Quarry Road will continue to receive adequate solar access.

(e) *For neighbouring properties ensure:*

- (i) *Sunlight to at least 50% of the principle 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 of the subject and neighbouring sites.*

Mid-winter shadow diagrams at hourly intervals between 9am and 3pm have been submitted that demonstrate that at least 50% of the rear private open space at No. 250 Quarry Road will continue to receive at least 2 hours mid-winter solar access and north-facing living areas of this property will continue to receive at least 3 hours sunlight between 9am and 3pm in mid-winter.

The DCP does not include specific standards in relation to access to daylight. Access to daylight is effectively governed by the level of sunlight access, as prescribed in Control (e), above and building setback, as prescribed in Section 2.8 of the DCP, dealing with setback controls for buildings.

Where new development achieves complying setbacks and does not reduce a neighbour's access to sunlight below the minimum standards prescribed in Control (e) above, a satisfactory level of daylight access is achieved to neighbouring properties. As noted above, the proposed development does not reduce neighbour solar access below the minimum required and achieves a side setback of 2500mm, some 66% greater than the minimum 1500mm required. Accordingly the extent of daylight access retained for No. 250 Quarry Road, is in excess of the minimum requirements of Council's development controls.

The proposed development complies with Council's daylight and solar access with respect to neighbouring properties. We understand that notwithstanding this compliance, Council is concerned with the impact of the proposed development on existing solar access to the northwest facing study room window of No. 250 Quarry Road.

Maintenance of the existing level of solar access to the neighbouring study room window is not required under Council's development controls and is therefore solely a merit, rather than compliance issue. This requires a consideration of the location and significance of the affected window and the reasonable expectation of solar access to this window in the circumstances, balanced against the reasonable development rights on the development site.

ITEM 4 (continued)**ATTACHMENT 3****Achieving an Appropriate Balance - Reasonable Development Rights and Neighbour Solar Access.**

As a general rule it is accepted town planning practice that where a proposed development complies with the specified development controls, as is the case with the proposed development, it would not usually be reasonable to refuse a Development Application in these circumstances. There are some exceptions to this, where for instance a non-complying development is proposed or special circumstances apply.

Where a development is non-complying, for example in terms of building height or setback, such non-compliant portions of the building should not result in any loss of amenity to the affected neighbor. For example a building that extends above the height limit could cast additional shadow. It is accepted town planning practice that such additional shadow should not diminish neighbor solar access to areas where solar access is desirable.

The proposed development is fully compliant with Council's development controls in relation to building height, setback, gross floor area and any other controls that may impact on neighbor solar access. There are no non-compliant portions of the building that cause a reduction in shadow, daylight or other item of neighbour amenity, such as views or outlook.

In some situations special circumstances may apply. For example an existing neighbour's dwelling may be specifically designed to achieve solar access to an important area of the dwelling or private open space. In this case, the design of any new development on adjoining land should where possible, have regard to maintaining reasonable solar access to this facility, even though solar access controls are not relevant to the particular space or are not numerically breached.

It is apparent that the owner of No. 250 Quarry Road and the Council, have formed the opinion that maintenance of existing solar access to the northwest facing study room window of No. 250 Quarry Road is of such importance to warrant substantial changes to the design of the southeast dual occupancy dwelling proposed at No. 252 Quarry Road.

We note that the Applicant has increased southeast side setback from the 1500mm minimum required, to a more generous 2500mm. Notwithstanding an increase in side setback, Council is seeking a substantial reduction in the extent of floor space at first floor level on the eastern side of the dual occupancy dwelling.

The Land and Environment Court has provided useful planning principles for merit assessment of solar access impacts in proceedings 10225 of 2004 *Parsonage v Ku-ring-gai* (2004). The writer was involved in this case, as the planner for the objector, and is familiar with the circumstances and findings of the Court in relation to solar access impact. This case and the associated solar access planning principles are considered in relation to the proposed development at 252 Quarry Road, Ryde in the following discussion.

ITEM 4 (continued)

ATTACHMENT 3

Land and Environment Court Planning Principle – Impact on Solar Access of Neighbours.

The Land and Environment Court has considered the merit assessment of solar access impacts on neighbours in proceedings 10225 of 2004 *Parsonage v Kuring-gai (2004)*. This appeal, heard by Senior Commissioner (SC) Roseth, related to a proposed new dwelling on an east-west orientated allotment that would reduce solar access to the neighbouring property, also orientated east-west and located to the south of the development site.

The neighbouring affected dwelling extends east-west along the allotment, but included a substantial setback to the north-facing side boundary (the southern side boundary of the development site). The affected internal floor space comprised a kitchen, breakfast bar and casual living area, specifically designed to have a lengthy period of mid-winter sunlight access, achieved by way of a generous setback to the northern side boundary of the land.

Quite rightly, SC Roseth noted that *“numerical guidelines should be applied with a great deal of judgment”* and *“the impact of on a neighbour’s sunlight must be assessed in the context of the reasonable development expectations of the proposal and the constraints imposed by topography and subdivision pattern.”* SC Roseth noted that whilst the proposed development did not reduce solar access to less than accepted standards, he expressed *“a lingering doubt in my mind whether the impact could be mitigated without significant detriment to the proposal”*.

SC Roseth formed the view on merit that whilst the proposed development did not reduce solar access to the neighbouring dwelling to less than required by the relevant standards, some modest changes to the design were justified, in the circumstances, to reduce the extent of shadowing. SC Roseth did not require an increase in side setback, as sought by the objector, but agreed that a lowering of the roof pitch to 22 degrees was desirable.

The judgment seeks to achieve a suitable balance between solar access and development rights, by establishing assessment principles to guide informed assessment and decision-making. The planning principles espoused by SC Roseth are identified and considered with respect to the solar access impacts on the study window of No. 250 Quarry Road, in the following analysis.

- (a) *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are site 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. In areas undergoing change, the impact of what is likely to be built on adjoining sites should be considered as well as existing development.*

ITEM 4 (continued)**ATTACHMENT 3**

The subject properties are in a low density residential area and hence there is a legitimate expectation that the existing level of solar access should be substantially maintained. However, the subject locality is undergoing change, whereby 2 storey development is becoming the norm, either in the form of new 2 storey dwellings, or by way of first floor additions to existing dwellings.

The increase in density from predominantly single storey, to a much greater proportion of two storey development, needs to be acknowledged in terms of solar access rights to ground floor level windows. The extent of solar access available to properties, which are adjoined by single storey development, is higher than for properties adjoining two storey development, notwithstanding some increased side setback required for second storeys.

The northeast-southwest orientation of the subject allotments makes it extremely difficult to maintain solar access to ground floor level southeast or northwest facing windows, unless such windows provide a substantial side setback. The subject ground floor study room window is modest in size and located only 900mm from the side boundary with the development site. The existing dwelling at No. 250 Quarry Road shadows its study room window at least until mid-morning in mid-winter. After mid-morning the existing dwelling on the development site begins to over-shadow the subject study room window for much of the day.

Currently approximately 60% of study room window receives solar access at 10am, increasing to almost 90% by 11am. After 10.45am the existing dwelling on the development site begins to overshadow the study room window, with 60% in shadow by 12 noon and by 12.45pm the existing dwelling on the development site fully overshadows the study room window.

The proposed development does not begin to reduce solar access (compared to existing solar access) until after 12.15pm. From 11.30am until 12.15pm (45 minutes), the proposed development actually increases solar access to the subject window. The reduction in solar access between existing and proposed is confined to the period 12.20pm until 12.50pm, a period of just 30 minutes.

A study room is not considered to be a high use room, nor a room where solar access is considered critical. Natural light is a more relevant factor and due to the 2500mm side setback proposed, an ample amount of natural light will be maintained to the subject window.

Maintenance of at least 2 hours solar access to approximately 60% of the study window surface in mid-winter is considered reasonable in the circumstances. These circumstances include the vulnerable side elevations of a northwest-southeast orientation, the minimal side setback of the window, its location at ground floor level behind the front rooms and the significant additional southeast side setback that is provided for the proposed dual occupancy.

- (b) *The amount of sunlight lost should be taken into account as well as the amount of sunlight retained and the proportion of glazed area receiving sunlight and size of the glazed area.*

ITEM 4 (continued)

ATTACHMENT 3

As noted above, the existing west facing study room window is substantially overshadowed in mid-winter by the existing dwelling itself on 250 Quarry Road and the existing dwelling on the development site. It is not a sunny room, being provided with a modest sized window (approximately 2.5m²) that is in full shade for most of the day in mid-winter.

Good solar access to the study room window (i.e. at least 60% of window area) is limited to 2 hours between 10am and 12 noon. The window receives some further more limited solar access (at least 20% of window area), for about half an hour before 10am and half an hour after 12 noon.

The proposed development will maintain a minimum of 2.25 hours solar access to at least 60% of the study room window. This represents a minor improvement on the existing situation and there is an improvement in solar access to the subject window, between 11.45am and 12.15pm, which effectively counter-balances reduced solar access between 12.15pm and 12.50pm. There is minimal net change to overall solar access to the subject study room window.

(c) 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 costs, while reducing the impact on neighbours.

The proposed development is compliant with all numerical controls, apart from a minor concession that has been granted to front setback for the garaging in relation to the dwelling façade. This minor variation to allow the garage to align with the front porch, has no relevance to amenity impacts on neighbouring dwellings.

The proposed design is an acceptable response to the site's constraints, opportunities and context. The design is relatively conservative in nature and is consistent in form, with a number of other attached dual occupancies that have been approved in the area, under the same or similar planning controls. In our opinion the proposed development could not be characterized as being of poor design.

The original plans for the development proposed a 1500mm side setback to the southeast side boundary. Whilst this complies with Council's requirements, where there is more limited building articulation, a greater side setback is in our opinion desirable for two storey buildings, in order to provide additional space for landscaping to moderate building bulk.

The Applicant has submitted amended plans that increase southeast side setback to 2500mm. We consider this to be a very positive design change that not only reduces shadow impact to the southeast, but facilitates increased building separation and more generous side boundary landscaped area.

ITEM 4 (continued)

ATTACHMENT 3

During the mediation process Council suggested a number of design changes to the first floor level of the eastern dual occupancy dwelling, including a significant reduction in the area of the first floor level of the eastern dwelling. The changes suggested by Council would be at substantial cost to the Applicant in terms of reduced floor area and amenity of the proposed dual occupancy dwelling. In our opinion they represent in the circumstances, an unreasonable and unnecessary impost on the Applicant, for no material benefit to the neighbouring property at No. 250 Quarry Road, if the dual occupancy provides a 2500mm setback to the common side boundary between the two properties.

The proposed development has a gross floor area less than the maximum permitted and as demonstrated by our analysis, has minimal impact on solar access to the subject study room window, if the building provides a 2500mm southeast side setback.

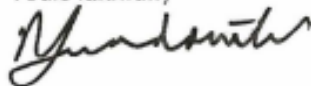
Conclusions

Our assessment of the proposed development, as amended with a 2500mm southeast side setback, results in an acceptable impact on solar access to the neighbouring property. The development, as amended, is of acceptable design and maintains adequate solar access to the private open space and northwest facing study room window of No. 250 Quarry Road, Ryde. There is no material reduction in mid-winter solar access to the neighbour's study.

The proposed development represents an appropriate balance between our clients' reasonable rights to develop their property in accordance with the applicable planning controls and the maintenance of acceptable amenity to neighbouring residential properties. The proposed development is appropriate for approval, subject to provision of a minimum southeast side setback of 2500mm and small trees and some shrubs being provided, within a soft landscaping area at least 1200mm wide along the eastern side boundary of the site, for the length of the dual occupancy building.

Should you require further information, please contact the undersigned.

Yours faithfully



Nick Juradowitch
Director
INGHAM PLANNING PTY LTD

ITEM 4 (continued)

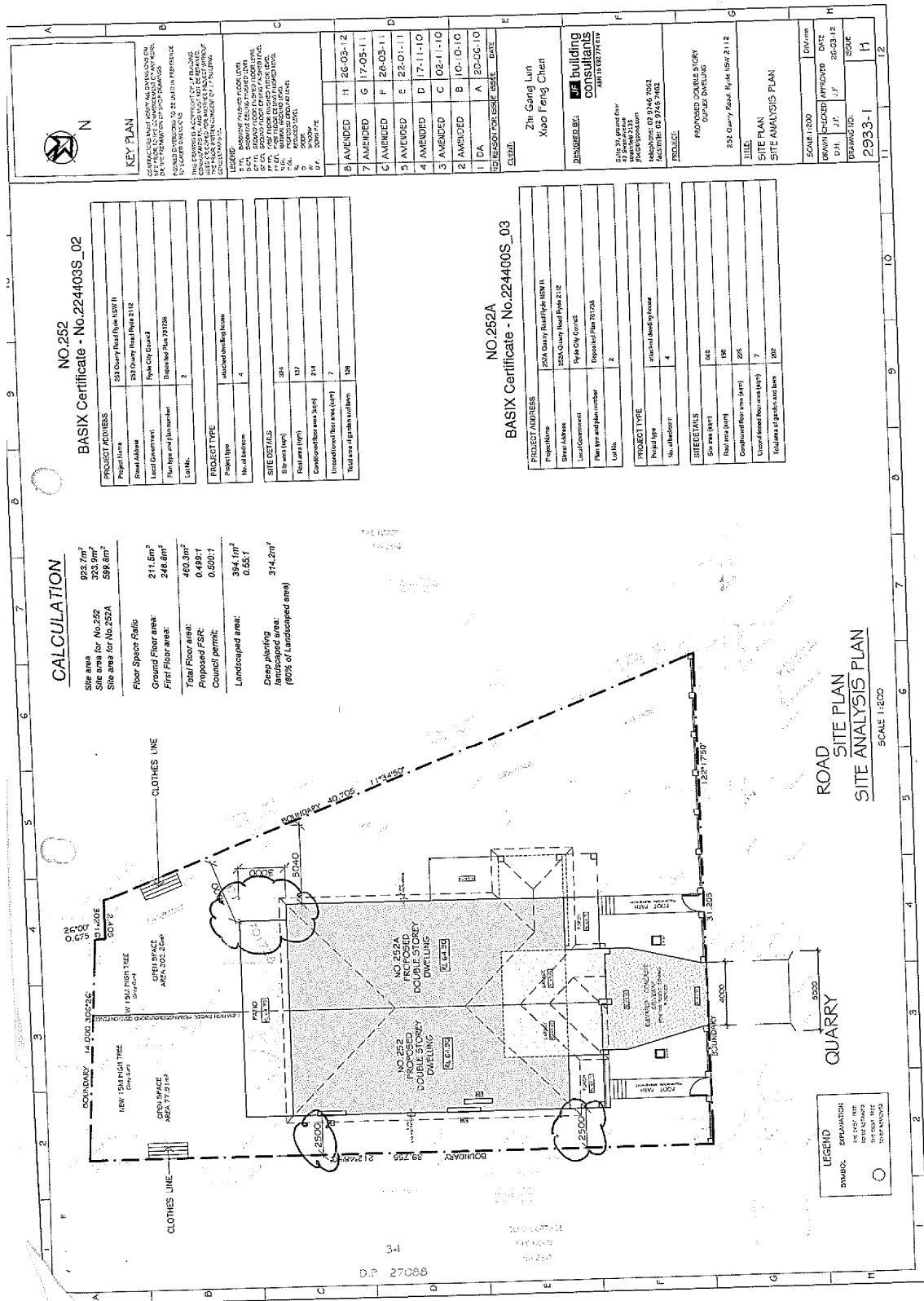
ATTACHMENT 4

● Indicates submission received to amended plans



ITEM 4 (continued)

ATTACHMENT 5



- 5 64 PELLISIER ROAD, PUTNEY. LOT 102 DP 866280. Local Development Application for alterations and additions to the existing dwelling and new cabana. LDA2011/493.**

INTERVIEW: 5.05pm

Report prepared by: Team Leader - Assessment

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

Report dated: 25 July 2012

Previous Items: 4 - 64 PELLISIER ROAD, PUTNEY. LOT 102 DP 866280. Local Development Application for Alterations and additions to the existing dwelling including an additional new storey and new cabana in the rear yard. LDA2011/493. - Planning and Environment Committee - 7 February 2012

File Number: grp/12/5/5/3 - BP12/914

1. Report Summary

Applicant: S D Balestriere.

Owner: S D Balestriere.

Date lodged: 13 September 2011.

This report has been prepared to enable Council's further consideration of a development application (DA) for alterations and additions to the existing dwelling at the subject property.

Council at its Ordinary Meeting on 14 February 2012 resolved to defer consideration of this DA to enable mediation to occur between the applicant and the objectors to determine a possible solution to this matter, and then be reported back to the Planning & Environment Committee.

The mediation meeting was held on 15 March 2012 at Council offices to discuss the issues of concern – in particular impacts on views from neighbouring properties, as well as height of the proposed additions. At the mediation meeting, the applicant proposed to change the form of the dwelling additions to be a 2-storey addition towards the rear (east/Morrison's Bay) – instead of a second storey addition on top of the dwelling (western side) in the original proposal (comparison plans are shown in the body of the report).

Amended plans were received on 18 April 2012, and were re-notified to neighbouring properties and all previous objectors. Three objections were received to the re-notification, as well as a further submission from the neighbour to the north raising

ITEM 5 (continued)

concerns regarding past unauthorised works at the site. These submissions are discussed in this report.

Although the amended plans submitted following the mediation process have addressed many of the neighbours' concerns and suggested reasons for refusal regarding the original plans, the amended plans have themselves resulted in other issues of concern and they cannot be supported in their current form. The issues of concern are:

- Privacy and noise impacts from the balcony/terrace (adjoining the existing dining room);
- Heritage issues – preservation of visual and physical connection from the heritage item (No 60) to Morrison Bay;
- Impacts on the adjoining fig tree.

It is recommended that the applicant be requested to submit amended plans addressing these issues, and upon the submission of satisfactory amended plans, that the Group Manager Environment & Planning be delegated authority to issue development consent subject to appropriate conditions of consent.

Reason for referral to Planning & Environment Committee: Requested by Councillor O'Donnell (and previously considered by the Committee).

Public Submissions:

Original Plans: 4 submissions received.

Amended Plans: 3 submissions received (plus one further submission from neighbour to the north raising concerns regarding past unauthorised works at the site).

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

ITEM 5 (continued)**RECOMMENDATION:**

- (a) That Council resolve to seek amended plans in relation to Local Development Application No. LDA2011/493 for alterations and additions to the existing dwelling and construction of a cabana at No. 64 Pellisier Rd, Putney. The amended plans and supporting information shall incorporate the following details:
- i. **Deletion of balcony/terrace.** The Ground Floor balcony/terrace immediately adjoining the family and dining room shall be deleted and replaced with roofing material to the lower ground floor level below. The external windows (D4) shall be deleted and replaced with suitable windows which prevent physical access onto this roof.
 - ii. **Setback of proposed additions from northern boundary.** The proposed additions must be stepped back to be in line with the existing kitchen and dining room side wall (this will equate to a setback of about 1 metre from the northern (side) boundary).
 - iii. **Tree Management Plan – adjoining Fig Tree:**
The submission of a report and plans from a suitably qualified practicing Arborist which provides details of management of impacts on the adjoining Fig Tree. The report shall include details of the following matters:
 - Details (including a site plan and photographs) regarding investigation to determine the location of the structural roots of the adjoining Fig Tree.
 - Structural Plans of columns of the proposed additions in relation to the structural roots of the adjoining Fig Tree (based on the investigations above) – which minimises construction impacts on the Fig Tree.
 - Structural Plans – cabana: The cabana is to be constructed with pier and beam or other construction methods which minimises impacts within the Tree Protection Zone of the Fig Tree. Subfloor infill walling is not acceptable.
 - Proposed physical management of the Fig Tree before, during and post construction, to ensure its longevity.
- (b) Upon submission of satisfactory details to Council regarding the above matters, the Group Manager Environment & Planning be delegated authority to determine the DA by approval subject to appropriate conditions.
- (c) That the persons who made submissions be notified of Council's decision.

ITEM 5 (continued)

ATTACHMENTS

- 1 Map.
- 2 Minutes of the mediation meeting.
- 3 A3 plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER.
- 4 Previous report - CIRCULATED UNDER SEPARATE COVER.

Report Prepared By:

Chris Young
Team Leader - Assessment

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 5 (continued)

Background

The previous report to the Planning & Environment Committee on 7 February 2012 contains an assessment of the proposal as originally submitted, and details of the background to the development application up until that point in time.

At that meeting, the Committee recommended that this DA be refused for the following reasons (summarised – see previous report for full reasons for refusal):

- Impacts on views from neighbouring properties – particularly No 60, 62 and 62A Pellisier Road to the west;
- Adverse impacts on heritage item (No 60 to the west), especially conservation of views which is a major part of its significance.
- Height of proposed additions;
- Size, bulk and scale of development;
- Visual impacts when viewed from neighbouring properties;
- Lack of integration with existing building (“boxy” appearance).

As the Planning & Environment Committee recommendation was not unanimous (dissenting votes were recorded), the DA was referred to the Council Meeting on 14 February 2012. At that meeting, it was resolved *that the Group Manager Environment and Planning undertake a mediation session with the applicant and objectors to determine a possible solution to this matter and then be reported back to the Planning and Environment Committee for consideration within two months.*

On 15 March 2012, a mediation meeting was held at Council offices, chaired by the Group Manager Environment & Planning, and attended by Council’s assessment staff, the applicant and their project architect, and all the objectors. Notes from the mediation meeting are held at Attachment 2 to this report. In summary, the applicant undertook to remove the upper floor addition to the proposal and replace this floor space with a rear elevated extension over the existing swimming pool.

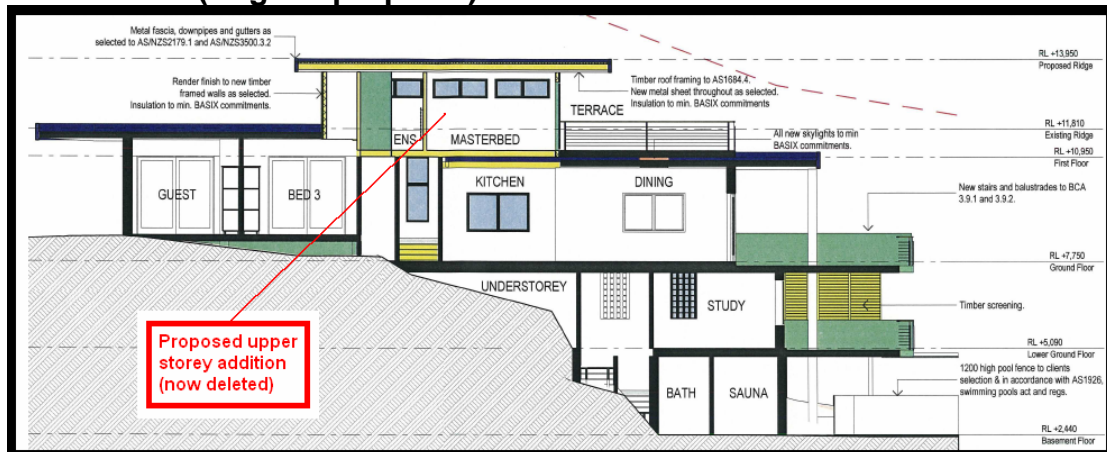
Amended plans were received on 18 April 2012, which propose the following changes:

- Minor extension to the existing “utility” room located on the basement level;
- New elevated extension adjoining the existing stairs along the northern side of the existing lower ground floor;
- Internal alterations and external additions to the existing ground floor plan, including a widening of the kitchen and main entry towards the side boundaries and an extended rear balcony; and
- A new balcony on top of the proposed lower-ground floor extension accessible from the existing family/dining room.

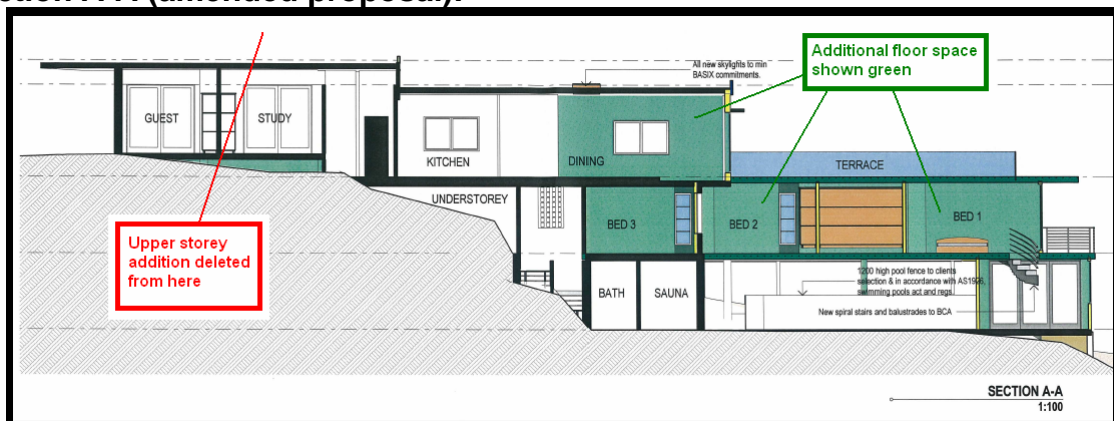
ITEM 5 (continued)

The following drawings (Section A-A) are enable comparison between the original proposal and amended proposal. A full set of plans is **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors - subject to copyright provisions.

Section A-A (original proposal):



Section A-A (amended proposal):



Submissions – Amended Plans:

The amended proposal was notified to adjoining owners and objectors to the original proposal in accordance with Development Control Plan 2010 - *Part 2.1, Notification of Development Applications*. Notification of the amended proposal was from 19 April until 4 May 2012.

As a result, 3 submissions received (plus one further submission from the neighbour to the north raising concerns regarding past unauthorised works at the site). The issues raised in the submission are summarised and discussed as follows:

ITEM 5 (continued)

- 1. *Unauthorised development.*** *The proposed additions are to be constructed on approximately 1.7m of unauthorised fill, where there is an unauthorised swimming pool, and timber/shadecloth cabana. Due to this fill, No 60 receives stormwater runoff from the subject site near the significant fig tree. No-one from Council has been able to confirm any details of approval of the pool, fill and existing cabana structures.*

Comment: The existing swimming pool was approved in 1973 (BA793/73), and the building application plans for the pool show that fill was to be imported to form a level terrace surrounding the pool, which has resulted in the site levels which exist today. Approval details for the timber/shadecloth cabana structure have not been able to be located, however it is noted that as this structure is located in the position of the proposed additions, it would be removed if this development proceeds.

- 2. *DCP non-compliances.*** *The extent of the non-compliances of the previously considered proposal still apply to the same extent with the revised proposal.*

Comment: The revised proposal complies much more closely with the requirements of Council's LEP and DCP and relevant State policies, as discussed in more detail throughout this report. In particular, the main issue of concern which was the upper storey extension at the western end, has been deleted from the proposal.

- 3. *Lack of updated documentation.*** *The amended plans were not accompanied by any updated Statement of Environmental Effects, or arborists report, or heritage impact report or geotechnical report.*

Comment: The amended plans did not require an amended Statement of Environmental Effects having regard to the requirement to assess the development proposal in accordance with the requirements of the controls and objectives of the relevant State and local planning requirements.

An arborists report was subsequently submitted with the amended development proposal and which was assessed and determined by Council's Independent Landscape Architect as being acceptable for the proposed development.

Council's Heritage Officer has assessed the revised development proposal having regard to its impact upon the heritage significance of the adjoining heritage item (No 60 Pellisier Road) and has recommended certain design amendments, namely stepping back the proposed additions to be in line with the existing kitchen and dining room side wall (this will equate to a setback of about 1 metre from the northern (side) boundary).

It is considered that the applicant should be requested to provide amended plans incorporating these amendments and other matters as discussed in the recommendation. Upon submission of such plans to the satisfaction of Council's

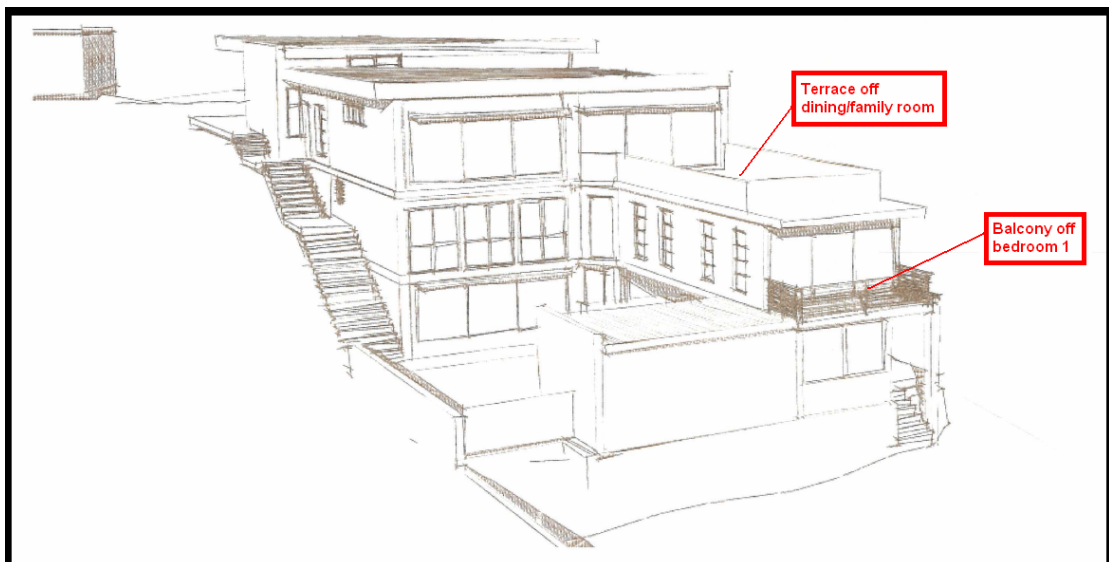
ITEM 5 (continued)

Heritage Officer, it is considered that the development would be satisfactory for approval subject to conditions.

A revised geotechnical report was not sought from the applicant having regard to the previously received advice which required that the structure is to be supported on piers bearing on the natural rock underlying the site and such being imposed as an appropriate condition of consent to be resolved at the construction certificate stage, should the application be approved.

4. Privacy Impacts. *Concern is raised regarding privacy and overlooking from the proposed balconies at ground floor level and also lower ground levels.*

Comment: The location of these balconies (ie roof terrace off the family/dining room and also balcony off bedroom 1) are shown in the “perspective” drawing below:



The concerns regarding the balcony/terrace off the dining/family room are supported – this would be a high-use area given that it is off the main living rooms of the house, and it would give rise to significant privacy and noise impacts for neighbouring properties given its location close to the northern boundary. It is recommended that the proposal be amended before any consent is granted for this development – this could be achieved by deletion of the balcony/terrace and replacement of the family/dining room sliding door with windows that prevent access onto this area.

The balcony off bedroom 1 is less of a concern. This is not off a main living area and its small size (approximately 7.5m²) would mean that it is likely to be a low-use area. Privacy impacts from this balcony would be relatively minor and no objection is raised to this balcony being retained.

ITEM 5 (continued)

- 5. FSR calculation – use of area below the foreshore building line.** *The area between the foreshore building line and mean high water mark should not be included as part of the overall site area for purposes of determining the maximum FSR for the site.*

Comment: The development controls in the Ryde LEP regarding the foreshore building line only aim to ensure that development in the foreshore area will not impact on the significance or amenity of the area, but this area is not excluded in terms of “site area” when calculating FSR.

- 6. Excessive floor space.** *The amended proposal would create a large 7-8 bedroom house and would exceed the FSR prescribed in Council’s planning controls.*

Comment: As discussed later in this report (assessment re Ryde LEP and DCP 2010), the amended proposal complies with the FSR requirement in Council’s planning controls.

- 7. Increase in impervious area.** *There is no evidence in Council’s previous report upon what basis the calculation has been made.*

Comment: The part of the site on which the amended development proposal is to be constructed is an existing elevated hard paved area comprising the swimming pool and deck surrounds.

- 8. “Crowding” of neighbours.** *The development will result in a ‘crowding in’ of the rear yard of neighbouring properties and reduce enjoyment of the rear yard of the adjoining properties.*

Comment: The proposed amendments have been submitted as a “compromise” solution following the mediation session for this development proposal. The amendments result in additions towards the rear (towards Morrison’s Bay) and will adjoin the lower part of the neighbour’s property which is not used as intensely as the upper level (containing the dwelling and swimming pool).

Subject to further minor amendments (as discussed throughout this report), the proposed amendments are considered to be a reasonable solution considering both the impacts on neighbouring properties as well as the rights of the owners to develop their land in accordance with Council’s development controls.

- 9. View Impacts.** *The proposal will have adverse impacts on views from neighbouring properties in a number of ways, in particular from the property at No 60 (once the significant tree is no longer there); from the “false parapet” on top of the proposed additions; from the roof top terrace.*

ITEM 5 (continued)

Comment: View impacts are discussed in more detail later in this report. In short, the primary views over the roof of the subject site will be maintained by surrounding property owners. The views through the existing significant tree from No. 60 are regarded as secondary views which will be impacted upon with the proposed development, but which will be lessened in terms of its impact by the relocation of the proposed development to be in line with the envelope of the existing dwelling.

10. *Impacts on significant tree. The proposed amendments will impact on the significant Port Jackson fig tree*

Comment: The impact of the proposal on the existing fig tree has been considered by Council's Landscape Architect who has advised that the location of the column, shown on the lower floor plan which is within the structural root zone of the neighbour's tree. Accordingly, the location of the column should be determined subject to the advice of a project arborist who shall ensure the final location of the column is free of any significant structural roots to minimise construction impacts. In addition, the project arborist shall provide advice for minor canopy pruning to establish building clearances, which should not include the removal of significant woody branches. These matters could be dealt with via appropriate conditions of consent should the application be approved.

It is recommended that amended plans be submitted which will re-locate the proposed additions further away from the neighbour's fig tree, which will help to address this and other issues of concern regarding the current amendments.

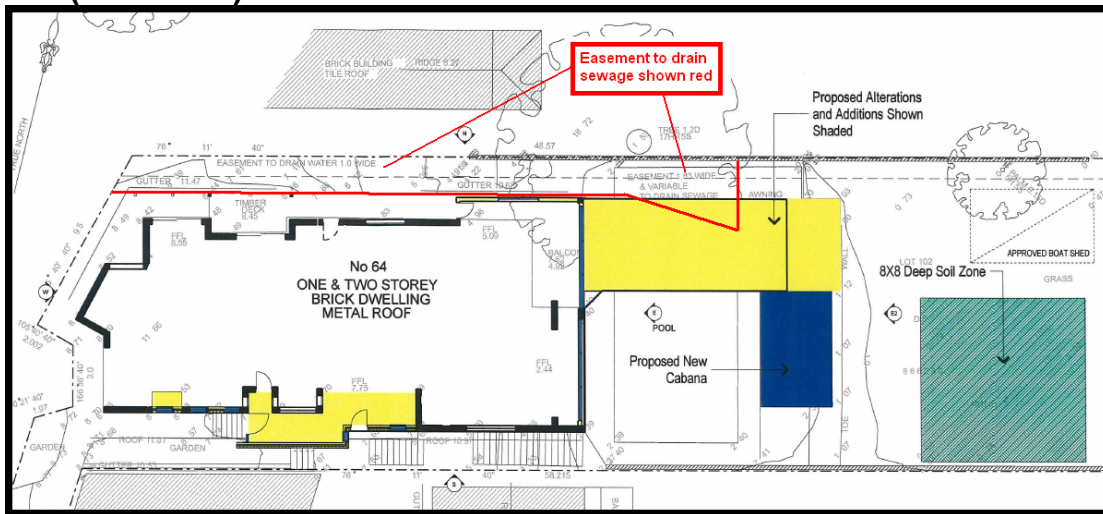
11. *Rear building lines. The proposal is contrary to the established rear building lines along Morrison Bay.*

Comment: The only development controls relating to a rear building setback are the foreshore building line (under the Ryde LEP 2010) and the rear setback controls in DCP 2010. The development complies with both of these controls and is satisfactory.

12. *Construction over easement. Concern is raised that the amended plans involve construction over an easement (to drain sewage), and that this will impede access to the easement for any required maintenance/works. Concerns were also raised from the owners of No 62 Pellisier Road that if they did not agree to the encroachment of the easement (which their property has benefits from), the owners would revert back to the original proposal.*

Comment: The plan below shows the position of the proposed additions (coloured yellow) relative to the easement (coloured red). The proposed additions would partly encroach into the portion of the easement which "juts" out to be approx 2.5m wide at the widest point.

ITEM 5 (continued)



Advice regarding Council's ability to approve the development given its encroachment onto the easement has been sought and provided by Council's General Counsel, who advises that this matter can be resolved by requiring a covenant (eg Restrictive or Public Positive Covenant pursuant to subsections 88(2) and (3) of the Conveyancing Act 1919) to be placed on the property title. This matter could be resolved via conditions of consent should the application be approved. Such an agreement would not require the consent/permission or agreement from the adjoining owners who benefit from the easement.

13. Potential Dual Occupancy. *Concern is raised that the development could potentially be used as a dual occupancy*

Comment: The applicant has (verbally) indicated that the development is intended to meet the needs of his family and there is generally no reason to suspect that this development would be likely to be converted into a dual occupancy development. A condition of consent could be imposed to ensure that the future use of the building is as a single residence only should the application be approved.

14. Impacts on sunlight and sea breezes/air flow.

Comment: The proposal's compliance regarding overshadowing and access to daylight is discussed in the DCP compliance section of this report.

The impact of the development proposal on sea breezes and air flow to the neighbouring sites would be limited because the proposal is open at basement level (where it is to be constructed elevated over the existing swimming pool).

15. DCP Compliance. *Concerns are raised that the proposal does not comply with the 'desired future character' objectives of the Council's DCP, FSR provisions and will result in a loss of solar access. Multiple non-compliances with DCP*

ITEM 5 (continued)

controls relating to visual and acoustic privacy, view sharing and impervious areas.

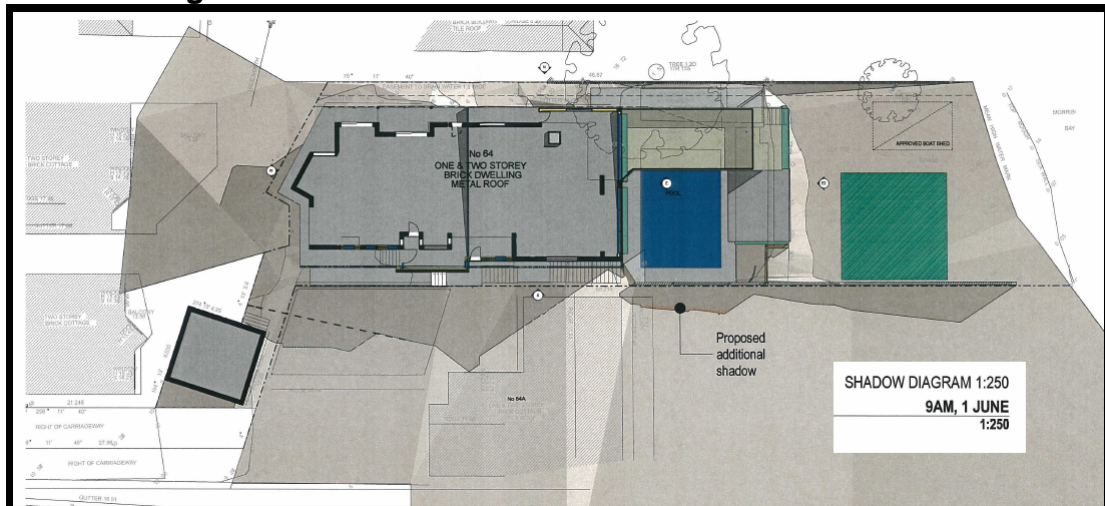
Comment: The objectors have made a detailed submission that the proposal does not comply with Council's DCP provisions. An assessment of compliance with DCP 2010 is made in the DCP Assessment section of this report.

- 16. Solar access/overshadowing.** *Concern is raised that the development would cause additional and unacceptable overshadowing onto the swimming pool and outdoor area of No 64A Pellisier Road.*

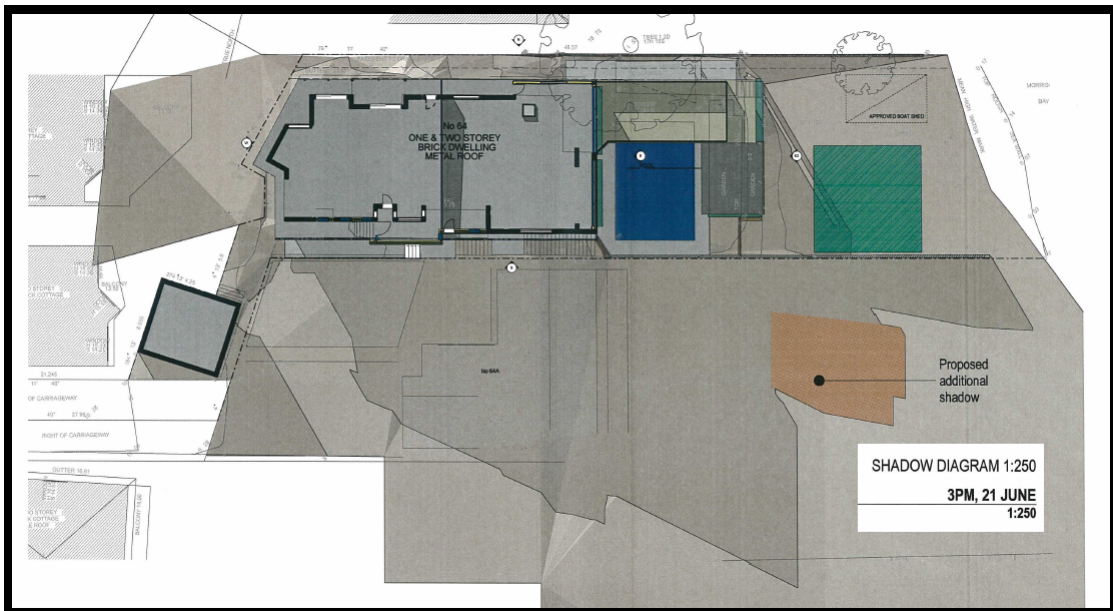
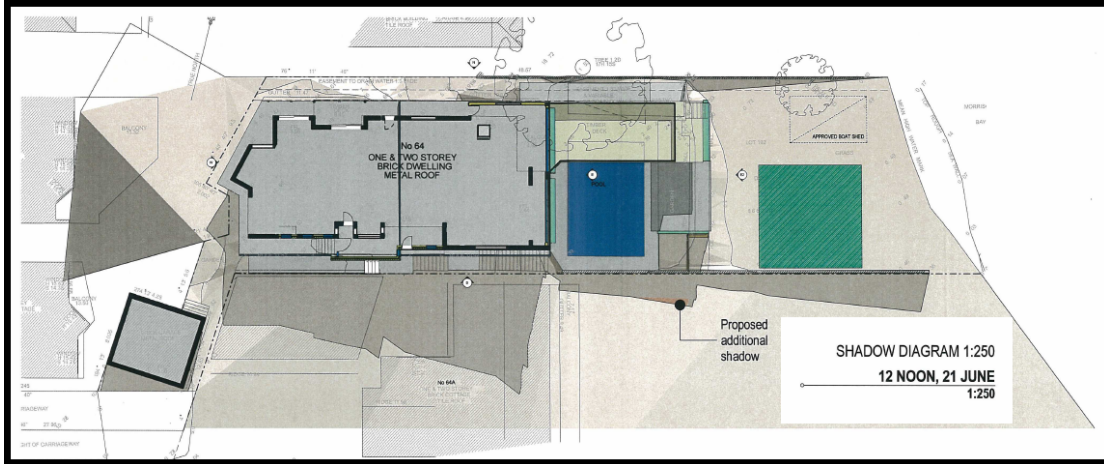
Comment: The shadow diagrams for the development are provided below, for 9am, 12noon and 3pm at the winter solstice (21 June). These shadow diagrams show that the development will cause a small amount of additional shadows compared to the existing situation. Given the location of the proposed additions (towards the northern boundary of the site), most of the shadows will fall within the subject property itself, with minimal impact on the neighbour's property.

Also provided below is an air photo of the immediate vicinity, showing in particular the location of the pool on No 64A, and also the shadows cast by the fig tree on No 60. The proposed additions are significantly lower than the height of the fig tree.

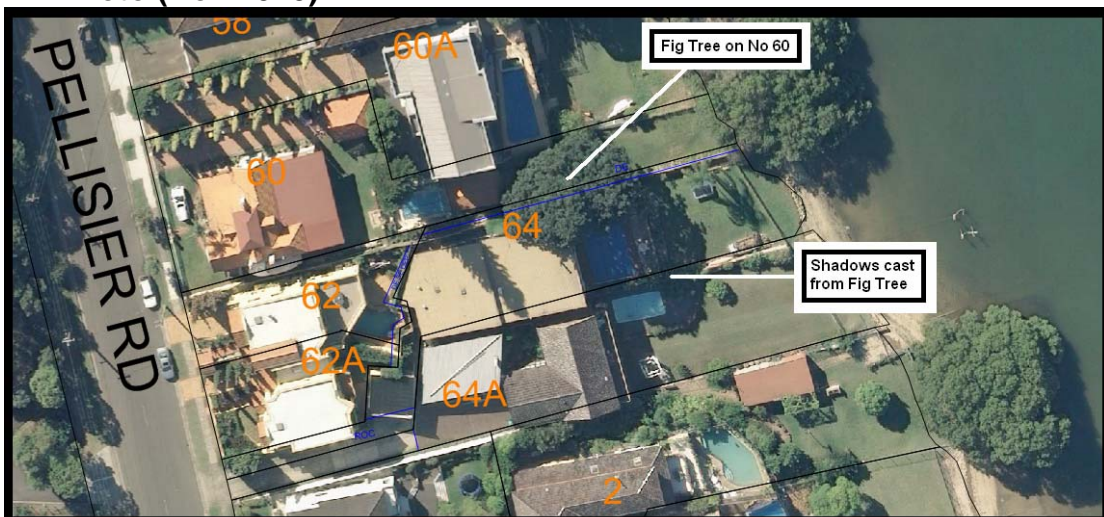
Shadow diagrams:



ITEM 5 (continued)



Air Photo (Nov 2010):



ITEM 5 (continued)**8. SEPP1 (or clause 4.6 RLEP 2010) objection required?**

Not required.

9. Policy Implications**Relevant Provisions of Environmental Planning Instruments etc:****(a) Ryde Local Environmental Plan 2010****Zoning**

The subject site is zoned *R2 – Low Density Residential* under the provisions of the Ryde LEP 2010. The proposed works are permissible with the consent of Council.

Aims and objectives for residential zones

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*
- *To ensure that the general low density nature of the zone is retained and that development for the purposes of dual occupancy (attached) and multi dwelling housing (attached) do not significantly alter the character of a location or neighbourhood.*
- *To ensure that new development complements or enhances the local streetscape.*
- *To maintain on sites with varying topography the two storey pitched roof form character of dwelling houses and dual occupancy (attached) developments.*
- *To ensure that land uses are compatible with the character of the area and responsive to community needs.*

It is considered that the development proposal generally fulfils the aims and objectives of the LEP.

ITEM 5 (continued)
Ryde LEP 2010 – Mandatory Requirements

Ryde LEP 2010	Proposal	Compliance
4.3(2) Height		
9.5m	6m (max) above existing NGL	Yes
4.4(2) & 4.4A(1) FSR		
0.5:1	Basement: 40.6m ² Lower Ground: 55.7m ² Entry Level: 196.2m ² Additional floor: 67.2m ² Cabana + boatshed: 34m ² Total (Gross Floor Area): 393.7m ² Site Area: 1016m ² FSR = 0.39:1	Yes

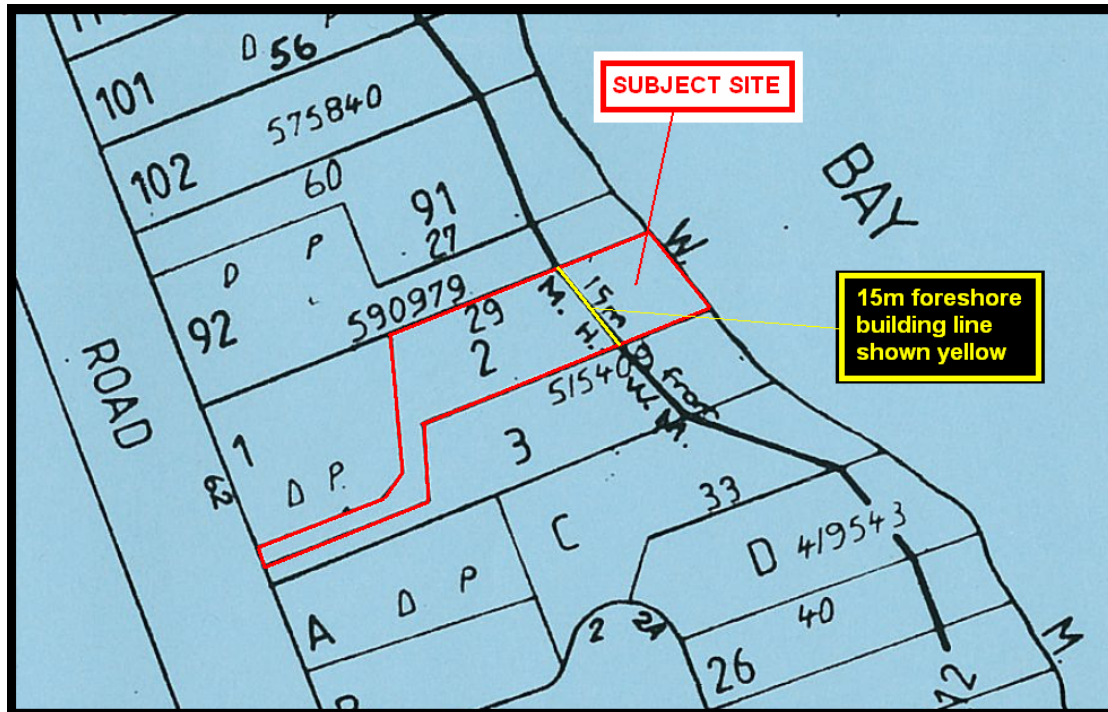
Clause 5.10 Heritage conservation

Assessment is required in terms of this Clause in Ryde LEP 2010, given that the site adjoins a Heritage Item (No 60 Pellisier Road) – see comments from Council's Heritage Officer (see "Referrals" section of this report).

Clause 6.3 Foreshore building line, limits the type of building works to waterfront properties that are affected by a foreshore building line. In this particular case the subject site is affected by a 15m FBL extending from the mean high water mark into the property. The proposal complies with the foreshore building line and is satisfactory.

ITEM 5 (continued)

The foreshore building line at the subject property is shown in the following diagram:



(b) Relevant SEPPs

State and Sydney Regional Environmental Planning Policies

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

The site is within the Foreshores and Waterways Area. Compliance with the relevant provisions is provided in the table below.

Provision	Proposal	Compliance
Foreshores and Waterways Area		
Cl. 17 Zoning Objectives		
<p>The site is adjacent to W8 – Scenic Water Passive Use zone, and must consider the following objectives:</p> <p>(a) To give preference to unimpeded public access along the intertidal zone, to the visual continuity and significance of the landform and to the ecological value of waters and foreshores,</p>	<p>Development will not affect access along intertidal zone.</p>	<p>N/A</p>

ITEM 5 (continued)

Provision	Proposal	Compliance
(b) To allow low-lying private water-dependant development close to shore only where it can be demonstrated that the preferences referred to in paragraph (a) are not damaged or impaired in any way, that any proposed structure conforms closely to the shore, that development maximises open and unobstructed waterways and maintains and enhances views to and from waters in this zone	Development is restricted to the part of site away from foreshore.	N/A
(c) To restrict development for permanent boat storage and private landing facilities in unsuitable locations	Boatshed approved under LDA2011/168.	N/A
(d) To allow water-dependent development only where it can be demonstrated that it meets a demonstrated demand and harmonises with the planned character of the locality	Considered under LDA2011/168.	N/A
(e) To ensure that the scale and size of development are appropriate to the locality and protect and improve the natural assets and natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone or areas of public access	When viewed from the waters in the W8 zone, the development is considered to be compatible with the natural or cultural scenic quality of the surrounding area.	Yes
Matters for Consideration		
<i>Cl. 21 Biodiversity, Ecology and Environmental Protection</i>		
(a) Development should have neutral or beneficial effect on quality of water entering waterways	Neutral effect on water quality.	Yes
(b) Development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, in particular, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities)	Proximity of development from water would not affect existing vegetation in the waterway.	Yes
(c) Development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove	N/A	N/A

ITEM 5 (continued)

Provision	Proposal	Compliance
communities) (d) Development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access (e) Development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation (f) Development should retain, rehabilitate and restore riparian land (g) Development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetation buffer to protect the wetlands (h) The cumulative environmental impact of development (i) Whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance	No impact. Works will all be above MHW and will not increase access to that which has already been previously approved (ie: boatshed LDA2011/168). None affected by proposal. No detrimental impact by proposal. Development will not affect the ecological integrity of adjoining wetlands. No significant impact Located above impact zone. Sediments in adjoining waterway will not be disturbed.	Yes N/A Yes Yes Yes Yes
<i>Cl. 22 Public Access to, and Use of, Foreshores and Waterways</i> (a) Development should maintain and improve public access to and along the foreshore, without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation (b) Development should maintain and improve public access to and from the waterways for recreational purposes (such as swimming, fishing and boating), without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation (c) If foreshore land made available for public access is not in public ownership, development should provide appropriate tenure and management mechanisms to safeguard public access to, and public use of, that land	There is no existing public use of this part of the foreshore. Access to public will not be made any worse than existing. Proposal will not impede or alter existing public access to river. Land below high water mark remains available for public access (by boat).	Yes Yes N/A

ITEM 5 (continued)

Provision	Proposal	Compliance
(d) The undesirability of boardwalks as a means of access across or along land below the mean high water mark if adequate alternative public access can otherwise be provided.	None proposed	N/A
(e) The need to minimise disturbance of contaminated sediments	Located on land & will not disturb (any) contaminants in water.	Yes
<i>Cl. 24 Interrelationship of Waterway and Foreshore Uses</i> (a) Development should promote equitable use of the waterway, including use by passive recreation craft (b) Development on foreshore land should minimise any adverse impact on the use of the waterway, including the use of the waterway for commercial and recreational uses (c) Development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore (d) Water-dependent land uses should have propriety over other uses (e) Development should avoid conflict between the various uses in the waterways and along the foreshores	Proposal will not inhibit or prevent equitable use of waterway by recreation craft. Private use only Private use only by owner N/A No change to existing use of site & waterway	Yes Yes Yes N/A Yes
<i>Cl. 25 Foreshore and Waterways Scenic Quality</i> (a) The scale, form, design and siting of any building should be based on an analysis of: (I) the land on which it is to be erected, and (II) the adjoining land, and (III) the likely future character of the locality	Scale considered consistent with neighbouring dwellings. Proposal represents an acceptable form of development in terms of scale and bulk. Minor relocation of rear extension away from boundary will limit any adverse affect upon adjoining properties. No change to existing character.	Yes Yes Yes Yes

ITEM 5 (continued)

Provision	Proposal	Compliance
(b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries	The visual qualities of the foreshore will be maintained due to location of the proposed development within the residential zoned part of the site.	Yes
(c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores	N/A – the proposal is not ‘water-based’ development.	N/A
Cl. 26 Maintenance, Protection and Enhancement of Views (a) Development should maintain, protect and enhance views (including night views) to and from Sydney Harbour (b) Development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items (c) The cumulative impact of development on views should be minimised	N/A See “Referrals” section of this report for more detail Cumulative impact upon views minimised.	N/A Yes Yes
Wetlands Protection Area		
Cl.61 Objectives (b) to preserve, protect and encourage the restoration and rehabilitation of wetlands, (c) to maintain and restore the health and viability of wetlands (d) to prevent the fragmentation of wetlands (e) to preserve the scenic qualities of wetlands (f) to ensure that wetlands continue to perform their natural ecological functions (such as the provision of wetland habitat, the preservation of water quality, the control of flooding and erosion)	The proposal will not affect the existing wetlands by virtue to its location within the existing developable part of the site. N/A – for reasons above N/A – for reasons above The scenic qualities of the wetlands will not be restricted from adjoining properties. N/A – for reasons above	N/A N/A N/A Yes N/A
Cl. 62 Requirement for Development		

ITEM 5 (continued)

Provision	Proposal	Compliance
Consent (1) Development may be carried out only with development consent	Addressed by this application.	Yes
(2) Development consent is not required by this clause: (a) For anything (such as dredging) that is done for the sole purpose of maintaining an existing navigational channel, or (b) For any works that restore or enhance the natural values of wetlands being works: (i) that are carried out to rectify damage arising from a contravention of this plan, and (ii) that are not carried out in association with another development, and (iii) that have no significant impact on the environment beyond the site on which they are carried out.	N/A N/A N/A N/A No adverse affect upon broader environment.	N/A N/A N/A Yes
(3) Development consent is not required for any other development if: (a) In the opinion of the consent authority: (i) the proposed development is of a minor nature, and (ii) the proposed development would not adversely affect the wetland or wetlands protection area, and (b) The proponent has notified the consent authority in writing of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development will comply with this subclause and that development consent is not otherwise required by this plan.	Consent required for proposal. The development should not adversely affect the existing wetland or wetlands protection area. Consent has been sought by the lodgement of the current (amended) DA.	N/A Yes Yes
Cl. 63 Matters for Consideration (2) The matters to be taken into consideration are as: (a) The development should have a neutral or beneficial effect on the quality of water entering the waterways,	Proposal would not result in any additional adverse affect upon water quality.	Yes

ITEM 5 (continued)

Provision	Proposal	Compliance
(b) The environmental effects of the development, including effects on: <ul style="list-style-type: none"> (i) the growth of native plant communities, (ii) the survival of native wildlife populations, (iii) the provision and quality of habitats for both indigenous and migratory species, (iv) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding areas, including salinity and water quality and whether the wetland ecosystems are groundwater dependant, 	No impact on plant community. None affected by proposal. None affected by proposal. Water drained to site then dispersed through soil	Yes Yes Yes Yes
(c) Whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment.	Safeguards to be used during construction phase.	Yes
(d) Whether carrying out the development would be consistent with the principles set out in <i>The NSW Wetlands Management Policy</i> (as published in March 1996 by the then Department of Land and Water Conservation).	Proposal will not adversely affect any wetland areas.	Yes
(e) Whether the development adequately preserves and enhances local native vegetation,	N/A	N/A
(f) Whether the development application adequately demonstrates:		
(i) how the direct and indirect impacts of the development will preserve and enhance wetlands, and	Adjoining at rear of existing dwelling & will not impact on wetlands or sea vegetation.	Yes
(ii) how the development will preserve and enhance the continuity and integrity of the wetlands, and	As above	Yes
(iii) how soil erosion and siltation will be minimised both while the development is being carried out and after it is completed, and	Erosion and siltation will not be affected by the proposal.	Yes
(iv) how appropriate on-site measures are to be implemented to ensure that	N/A	N/A

ITEM 5 (continued)

Provision	Proposal	Compliance
the intertidal zone is kept free from pollutants arising from the development, and		
(v) that the nutrient levels in the wetlands do not increase as a consequence of the development, and	The development will not result in an increase in nutrient levels in any surrounding wetlands.	Yes
(vi) that stands of vegetation (both terrestrial and aquatic) are protected or rehabilitated, and	N/A	N/A
(vii) that the development minimises physical damage to aquatic ecological communities, and	The proposal should not adversely affect any existing ecological communities.	Yes
(viii) that the development does not cause physical damage to aquatic ecological communities,	See above	Yes
(g) Whether conditions should be imposed on the carrying out of the development requiring the carrying out of works to preserve or enhance the value of any surrounding wetlands.	N/A.	N/A

A Development Control Plan has been prepared to support the REP (see below).

Sydney Harbour Foreshore & Waterways Development Control Plan:

Compliance with the relevant provisions is illustrated in the table below.

Provision	Proposal	Compliance
<i>Cl. 2-Ecological Communities and Landscape Characters:</i>		
<ul style="list-style-type: none"> o Urban Development with Scattered Trees (low status): <ul style="list-style-type: none"> - Conserve and enhance vegetation - Minimise risk of predation on native fauna by domestic pets. - Minimise impacts of soil erosion, water siltation and pollution. 	Existing vegetation to be conserved on the site. Risk minimised by virtue of limited access to waterway. Proposal would not increase likelihood of soil erosion.	Yes Yes Yes
<ul style="list-style-type: none"> • Aquatic Ecological Community: 		

ITEM 5 (continued)

Provision	Proposal	Compliance
<ul style="list-style-type: none"> ○ Mudflats (medium status): - To minimise impacts on communities from shading. - To minimise effects from reclamation where it provides the optimum environmental outcome. - To minimise the effects from urban run-off. - To minimise the effects from dredging. 	<p>Proposal will not adversely affect mudflats with additional shading. N/A</p> <p>The extent of the proposed development would not increase urban run-off. N/A</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>N/A</p>
Cl. 3 Landscape Character Type 14		
<p>Performance Criteria:</p> <ul style="list-style-type: none"> • Consideration given to cumulative and incremental effects of further development along foreshore and to preserving the remaining special features. • Development to avoid substantial impact on landscape qualities of foreshore and minimise removal of natural foreshore vegetation, radical alteration of natural ground levels, dominance of structures protruding from rock walls or ledges or the erection of sea walls, retaining walls or terraces. • Landscaping between buildings to soften the built environment; • Existing ridgeline vegetation and its dominance as backdrop to waterway, is retained. 	<p>Existing foreshore features would not be affected by the proposed development.</p> <p>Proposal would not lead to adverse impact on existing natural foreshore vegetation.</p> <p>Limited existing landscape to soften building appearance. N/A</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>
Cl. 4 Water Based and Land/Water Interface Developments	N/A	N/A
Cl. 5 Land Based Developments		
5.2 Foreshore access <ul style="list-style-type: none"> • Maintain, encourage and secure public access along foreshore and intertidal zone • If possible provide linkage through streets where foreshore access cannot 	<p>Foreshore access not affected by development proposal. N/A</p>	<p>N/A</p> <p>N/A</p>

ITEM 5 (continued)

Provision	Proposal	Compliance
be achieved <ul style="list-style-type: none"> • Boardwalks not recommended. May be acceptable in certain circumstances. 	N/A	N/A
5.3 Siting of Building and Structures <ul style="list-style-type: none"> • Maintain foreshore building lines and observe the following: <ul style="list-style-type: none"> ○ where there is existing native vegetation, buildings should be set back from this vegetation to avoid disturbing it; ○ buildings should address the waterway; ○ buildings should not obstruct views and vistas from public places to the waterway; ○ buildings should not obstruct views of landmarks and features identified on the maps accompanying this DCP, ○ where there are cliffs or steep slopes, buildings should be sited on the top of the cliff or rise rather than on the flat land at the foreshore. 	Proposal to be built on existing building envelope or on land previously developed (ie pool area). Building faces/addresses the waterway. Obstruction of views from existing public places will be limited. N/A – Putney Wharf Building works will not take place along foreshore.	N/A N/A Yes N/A Yes
5.4 Built Form <ul style="list-style-type: none"> • Buildings and other structures generally be of a sympathetic design to their surroundings; well designed contrasts, considered where they enhance the scene. Following guidelines to reinforce local council requirements: <ul style="list-style-type: none"> ○ where buildings of contrasting scale or design to existing buildings, care needed to ensure contrast would enhance setting; ○ where undeveloped ridgelines occur, buildings should not break these unless a backdrop of trees; ○ while no shapes are intrinsically unacceptable, rectangular boxy shapes with flat or skillion roofs usually do not harmonise with surroundings. Preferable to break up facades and roof lines into 	Development generally consistent with surrounding development in terms of its bulk, scale and height. N/A Height and location of proposal will not impact upon the existing facades or rooflines.	Yes N/A Yes

ITEM 5 (continued)

Provision	Proposal	Compliance
smaller elements and to use pitched roofs.		
<ul style="list-style-type: none"> ○ walls and fences should be kept low enough to allow views of private gardens from waterway; 	N/A	N/A
<ul style="list-style-type: none"> ○ bright lighting and especially floodlighting which reflects on the water can cause problems with night navigation and should be avoided. External lights should be directed downward, away from the water. 	N/A	N/A
<ul style="list-style-type: none"> ○ use of reflective materials is minimised and relevant provisions of BCA are satisfied. 	Could be resolved via condition.	Yes
<ul style="list-style-type: none"> ○ colours to be sympathetic with their surrounds and consistent with the colour criteria, where specified, for particular landscape character types in Part 3 of this DCP; 	Colours sympathetic to existing building.	Yes
<ul style="list-style-type: none"> ○ cumulative visual impact of a number of built elements on a single lot mitigated through bands of vegetation and by articulating walls and using smaller elements; 	Visual impact is not mitigated by vegetation. Relocation of side walls will limit and reduce overall bulk.	Yes
<ul style="list-style-type: none"> ○ the cumulative impact of development along the foreshore is considered having regard to preserving views of special natural features, landmarks or heritage items. 	Impact of development will not adversely affect adjoining views and existing heritage item.	Yes

(c) Any draft LEPs

A Section 65 Certificate enabling the formal exhibition of Draft Local Environmental Plan 2011 was issued by the Department of Planning and Infrastructure on 23 April 2012. The Draft Plan has recently been publicly exhibited. Under this Draft LEP, the zoning of the property is *R2 - Low Density Residential*. The proposed development is permissible with consent within this zoning under the Draft LEP and it is considered that the proposal is not contrary to the objectives of the Draft LEP or those of the proposed zoning.

ITEM 5 (continued)
(d) The provisions of any Development Control Plan applying to the land
Ryde Development Control Plan 2010:
Part 3.3 – Dwelling Houses and Duplex Buildings
Part 7.2 – Waste Minimisation and Management
Part 8.2 – Stormwater Management
Part 9.2 – Access for People with Disabilities

DCP 2010	Proposed	Compliance
<i>Part 3.3 – Dwelling Houses and Duplex Buildings</i>		
Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is generally consistent with the character of the existing residential area.	Yes
Dwelling Houses		
- To have a landscaped setting which includes significant deep soil areas at front and rear.	Landscaped setting provided with existing deep soil landscaping at rear only (due to battleaxe allotment)	Yes
- Maximum 2 storeys.	2 storeys	Yes
- Address street, public and private space is to be clearly articulated	N/A	N/A
- Dwelling to respond appropriately to the site's constraints & opportunities as identified in the site analysis.	Development responds to existing topography.	Yes
Public Domain Amenity		
Streetscape		
- Site design, setbacks and height are to respect the existing topographic setting.	The dwelling design and height accords with existing topography.	Yes
- The design of front gardens is to complement and enhance streetscape.	N/A – no front garden.	N/A
- Front doors and windows are to face the street. Side entries to be clearly apparent.	N/A – redesigned entry remains on side as existing.	N/A
- Orientation to match existing buildings in streetscape.	Orientation towards water matches existing and adjoining	Yes

ITEM 5 (continued)

DCP 2010	Proposed	Compliance
	residences.	
Public Views and Vistas <ul style="list-style-type: none"> - A view corridor is to be provided along at least one side allotment boundary where there is an existing/potential view of water. - Landscaping is not to restrict views. Fence 70% open where height is >900mm. - View corridors in battleaxe allotments are to be co-ordinated with the front allotment. - Landscape elements such as ancillary structures, plantings, are not to restrict views. - Garages/ carports and outbuildings are not to be located within view corridor if they obstruct view. 	<p>Existing view over the top of the existing dwelling will be maintained – no view corridors affected.</p> <p>Landscaping will not restrict views.</p> <p>Water views of street facing residence/s will not be adversely affected.</p> <p>Proposal will only restrict secondary views from habitable rooms of adjoining property (No. 64A)</p> <p>Existing garage does not obstruct view corridors.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Site Configuration		
Deep Soil Areas <ul style="list-style-type: none"> - 35% of site area min. - Min 8x8m deep soil area in backyard. 	210m ² (20%) 8 m x 8m (+ swimming pool)	<p>No (1)</p> <p>Yes</p>
Topography & Excavation <p>Building form and siting are to relate to original topography</p> <p>Cut and fill within and outside building footprint.</p>	<p>NB: The subject site has a 8.3m fall from the “front” (western) boundary to the “rear” waterfront (eastern) corner.</p> <p>Additional floor area adequately relates to original topography – overall height is minimised.</p> <p>N/A – there is no additional cut and fill proposed beyond that which already exists on the site.</p>	<p>Yes</p> <p>N/A</p>
Floor Space Ratio		

ITEM 5 (continued)

DCP 2010	Proposed	Compliance
Basement	40.6m ²	
Lower Ground	55.7m ²	
Entry Level	196.2m ²	
New Floor	67.2m ²	
Cabana/boatshed	34m ²	
Garage (< 36m ²) – not included in total GFA or FSR	28.85m ²	
Total (Gross Floor Area)	393.7m ²	
FSR (max 0.5:1) or 508m²	0.39:1	Yes
Height – (Dwelling)		
- 2 storeys maximum	2 storeys	Yes
Wall plate (Ceiling Height) - 7.5m max above FGL <i>or</i> - 8m max to top of parapet <i>NB:</i> <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> <i>FGL = Finished Ground Level</i>	Proposal TOW: RL 7.75 (ceiling) FGL/NGL below: RL 2.44 TOW Height (max)= 5.31m	Yes
8m Overall Height (for roof with continuous parapet) <i>NB:</i> <i>EGL = Existing Ground Level</i>	Max point of proposal: RL 7.75 EGL below ridge (lowest point): RL 1.94 Overall Height (max): 5.81m	Yes
Habitable rooms to have 2.4m (min) floor to ceiling height.	2.4m (min)	Yes
Setbacks		
Side Two storey dwelling - 1500mm to wall (includes balconies etc)	Min 2.068m (northern boundary) Min 3m (to southern boundary) from cabana	Yes
Rear - 8m to <u>rear of dwelling</u> OR 25% of	15m (min)(30%)	Yes

ITEM 5 (continued)

DCP 2010	Proposed	Compliance
the length of the site, whichever is greater.		
Landscaping		
Trees & Landscaping <ul style="list-style-type: none"> - Major trees retained where practicable - Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL eg. stairs, terraces. - Obstruction-free pathway on one side of dwelling. - Back yard to have at least 1 tree with mature ht of 15m and a spreading canopy. - Hedging or screen planting on boundary mature plants reaching no more than 2.7m. 	<p>All exiting major trees retained.</p> <p>Physical connection provided at rear.</p> <p>Obstruction free pathway on both sides of dwelling.</p> <p>Back yard: no mature trees.</p> <p>Screen planting provided where site permits.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>
Dwelling Amenity		
Daylight and Sunlight Access <ul style="list-style-type: none"> - Living areas to face north where orientation makes this possible. <p><u>Subject Dwelling:</u></p> <ul style="list-style-type: none"> - Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21. - Private open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21. <p><u>Neighbouring properties are to receive:</u></p> <ul style="list-style-type: none"> - 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21. 	<p>Site faces E-W. Dwelling designed to maximise internal light penetration.</p> <p>3+ hours to north facing windows</p> <p>POS: receives 3⁺ hours of sunlight.</p> <p>Shadows from proposed additions affect less than 50% of neighbouring properties.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 5 (continued)

DCP 2010	Proposed	Compliance
<ul style="list-style-type: none"> - At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	Existing development has significant impact on the neighbour at No 64A. The proposed additions (itself) do not affect the adjoining living area windows of No 64A	Yes
<p>Visual Privacy</p> <ul style="list-style-type: none"> - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. - Windows of living, dining, family etc. placed so there are no close or direct views to adjoining dwelling or open space. - Terraces, balconies etc not to overlook neighbours. - Side windows offset from adjoining windows. 	Living area windows and outdoor areas are orientated to the rear of dwelling. Windows are setback so no close or direct views to adjoining dwellings or private open space. Terrace faces rear & side – direct views over neighbours. Side windows offset.	Yes Yes No (2) Yes
<p>View Sharing</p> <ul style="list-style-type: none"> - The siting of development is to provide for view sharing. 	The siting of the development will not adversely obstruct adjoining neighbour's principle views.	Yes
<p>Cross Ventilation</p> <ul style="list-style-type: none"> - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation. 	Plan layout optimises cross-ventilation.	Yes
External Building Elements		
<p>Roof</p> <ul style="list-style-type: none"> - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable terrace. - Attic to be within roof space. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights. 	Articulated roof form. Flat roof with 500mm eaves. Non- trafficable roof. No roof attic. No skylights. Front roof plane free of dormer windows and skylights	Yes Yes Yes Yes Yes Yes
Part 7.2 – Waste Minimisation & Management		

ITEM 5 (continued)

DCP 2010	Proposed	Compliance
Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	The applicant has submitted a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	Yes
Part 8.2 – Stormwater Management		
Stormwater		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	The development proposal was referred to Development Engineers, who raised no objection against the proposal subject to appropriate conditions of consent.	Yes
Part 9.2 – Access for People with Disabilities		
Accessible path required from the street to the front door, where the level of land permits.	Level of land does not permit full accessibility of dwelling. Note: not been made worse.	Yes

The non-compliances identified in the table are assessed below.

- (1) Deep soil area:** In accordance with *Section 2.5.1 – Deep Soil Areas*, control ‘a’ and requires sites are to have a deep soil area that is at least 35% of the area of the allotment.

Officer’s Comment: In terms of deep soil area, the development generally involves construction over the existing swimming pool and deck surrounding. Having regard to this location, deep soil area is already minimal given the existing extent of building construction on the site. No objections are raised in terms of deep soil area.

- (2) Visual privacy:** In accordance with *Section 2.13.2 – Visual Privacy*, control ‘c’ requires terraces and balconies not to overlook neighbours living areas and private open space.

Officer’s Comment: Having regard to the location of the subject site and the size and proximity of adjoining dwellings to each other, there is a high potential for overlooking from one site to another (see photos below)

ITEM 5 (continued)



Subject site and residences to the south



Subject site and residences to the north

The amended plans propose 2 balconies/terraces – one off a dining family room, and another smaller balcony off bedroom 1. Concerns are raised regarding the balcony/terrace off the dining/family room – this would be a high-use area given that it is off the main living rooms of the house, and it would give rise to significant privacy impacts for neighbouring properties given its location close to the northern boundary. It is recommended that the proposal be amended before any consent is granted for this development – this could be achieved by deletion of the balcony/terrace and replacement of the family/dining room sliding door with windows that prevent access onto this area.

ITEM 5 (continued)

The balcony off bedroom 1 is less of a concern. This is not off a main living area and its small size (approximately 7.5m²) would mean that it is likely to be a low-use area. Privacy impacts from this balcony would be relatively minor.

10. Likely Impacts of the DevelopmentImpact upon existing views from adjoining properties

The DCP requires building form and design to allow for view sharing where possible. Given the subjectivity of the issue, and having regard to the extent of previous and current objections made against the potential loss of views that may arise as a result of the amended proposal, it is appropriate that assessment of this matter should follow the four-step procedure established by the Land & Environment Court Planning Principle on View Loss (*Tenacity Consulting v Warringah Council [2004] NSWLEC 140 pars 23–33*).

The court adopted the following four step assessment of view sharing:

1. *The assessment of the views affected;*
2. *Consideration from what part of the property views are obtained;*
3. *The extent of the impact; and*
4. *The reasonableness of the proposal that is causing the impact.*

An assessment of the amended proposal in terms of the above principles is addressed below – and photos are provided at the end of this assessment to assist in giving consideration to this matter.

1. What views will be affected?

The Court said: “*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*”

Comment: The properties at No 60, 62 and 62A Pellisier Road enjoy direct water views over the roof of the existing house on the subject site. A major issue of concern regarding the original proposal was the impacts on the views from these adjoining properties, however this has been addressed in the amended proposal.

The amended proposal will have an impact on views available from neighbouring properties through the lower part of the site. Although the impact would be more minor because these are more indirect/“glimpse” views (through the existing Fig Tree and other existing landscaping on the neighbours’ properties), they are still of some significance – in particular for the heritage significance of No 60. Therefore it is

ITEM 5 (continued)

recommended that the proposed additions be relocated away from the northern boundary as discussed in the comments from Council's Heritage Officer (see "Referrals" section of this report and the recommendation below).

2. From what part of the property are views obtained?

The Court said: "*The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*"

Comment: The views most significantly affected by the amended proposal are obtained from the rear balcony of the neighbouring residence (No. 60) and they are through the existing fig tree at the rear of the objectors' property and across the side boundary at the rear of the subject site.

Having regard to the limited nature of the existing views that will be compromised, that they are across a side boundary and because the main water views over the top of the existing building will be maintained, the development proposal is considered to adequately fulfil this 'view loss' principle.

3. What is the extent of the impact?

The Court said: "*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*"

Comment: The extent of water view loss from No 60 Pellisier Rd would best be described as either 'minor' or 'moderate'. The major existing significant water view currently enjoyed from this site (which are over the top of the existing dwelling) will remain as it currently exists, now that the previous proposed upward addition at the western end of the dwelling has been deleted. There will be some indirect ("glimpse") water views from No. 60 Pellisier Rd that will be affected, however, these views are significantly obscured by the existing significant Fig tree (Fig Tree).

ITEM 5 (continued)

The water view loss from No. 64A Pellisier Rd would be best described as 'minor'. The major existing views from this property (which are towards the east) will be maintained. The views from No 64A across the subject property (towards the north) would be affected, however these views are not the major views from No 64A, and also such views are also already obscured by the existing Fig Tree.

4. What is the reasonableness of the proposal that is causing the impact?

The Court said: "The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

Comment: The Court poses two questions in *Tenacity*. The first question relates to whether a non-compliance with one or more planning controls results in view loss. The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views.

The amended development proposal proposes only minor variations to Council's DCP, which in themselves or cumulatively would not warrant refusal of the application.

The amended proposal is a much more "reasonable" proposal than the original proposal, which was considered unacceptable in terms of view impacts.

Accordingly, the amended proposal is considered to be acceptable with regard to the objectives and performance criteria under Part 3.3 of the Ryde DCP 2010 and which will result in a minor loss of views consistent with the principles established by the Land and Environment Court.

ITEM 5 (continued)

The following are photos of the views from neighbouring properties:

View from verandah of No 60 Pellisier (proposed additions are to left of photo):



View from verandah of No 60 Pellisier showing approximate position of proposed additions:



ITEM 5 (continued)

View from edge of balcony at No 62 Pellisier:



View from edge of balcony at No 62A Pellisier:



ITEM 5 (continued)**11. Suitability of the site for the development**

A review of Council's Map of Environmentally Sensitive Areas (held on file), identifies the site is as not being classified as a heritage item or subject to any natural constraints such as flooding or subsidence. In this regard, the site is considered to be suitable for future development in terms of the impact on both the existing natural and built environments.

12. The Public Interest

Having regard to the assessment contained in this report and in particular the minor adverse effect the development will have upon the neighbouring properties, it is considered that approval of the development would not be contrary to the public interest, subject to some further amendments as detailed in the recommendations of this report.

13. Consultation – Internal and ExternalInternal Referrals

Heritage Officer (23 July 2012): Due to the proximity of the development proposal to an existing heritage item (Item No. 86, being No. 60 Pellisier Rd), advice regarding the impact that the development proposal will have on the heritage significance of the adjoining site was sought from Council's Heritage Officer.

Council's Heritage Officer has provided the following comments – in regard to the amended plans:

Proposal:

Amended plans were submitted to Council on 18 April 2012. The proposal includes a rear extension to the second floor level, new cabana and other alterations and additions to the existing dwelling. The second floor addition will extend east from the dwelling, running parallel to the northern boundary and be suspended over the pool. An internal stair case will connect the second floor addition to the new cabana at ground floor providing access to the cabana and pool. The fourth floor addition has been deleted from the proposal.

Assessment of Heritage Impact:

On 2 May 2012 I visited the heritage item at 60 Pellisier Road. The owner gave access to the rear of the item, the verandah and backyard.

I observed: A fig tree partially blocks views from the house to Morrison Bay. The tree is listed on Council's Significant Tree Register. Due to its significance, the existing fig tree may not be removed. As a result of the substantial tree, the outlook

ITEM 5 (continued)

to Morrison Bay from the rear of the heritage item is only available across the existing flat roof of the dwelling at 64 Pellisier Road.

No 60 Pellisier Road was at one time part of a much larger site which connected to the Bay. Though now much reduced, the site runs down to the foreshore and includes a boatshed. Access is gained to the foreshore along a path down the side of the house and boatshed. The dwelling at 64 Pellisier Road and the fig tree partially blocks views to Morrison Bay from these locations. As a result, only glimpses of Morrison Bay are afforded from the item to the water between the existing dwelling and the fig tree. It was observed during the site visit that the glimpses of the water are achieved from the ground floor of the heritage item, at the level of the pool and from along the walkway running parallel the western boundary of the site down to Morrison Bay.

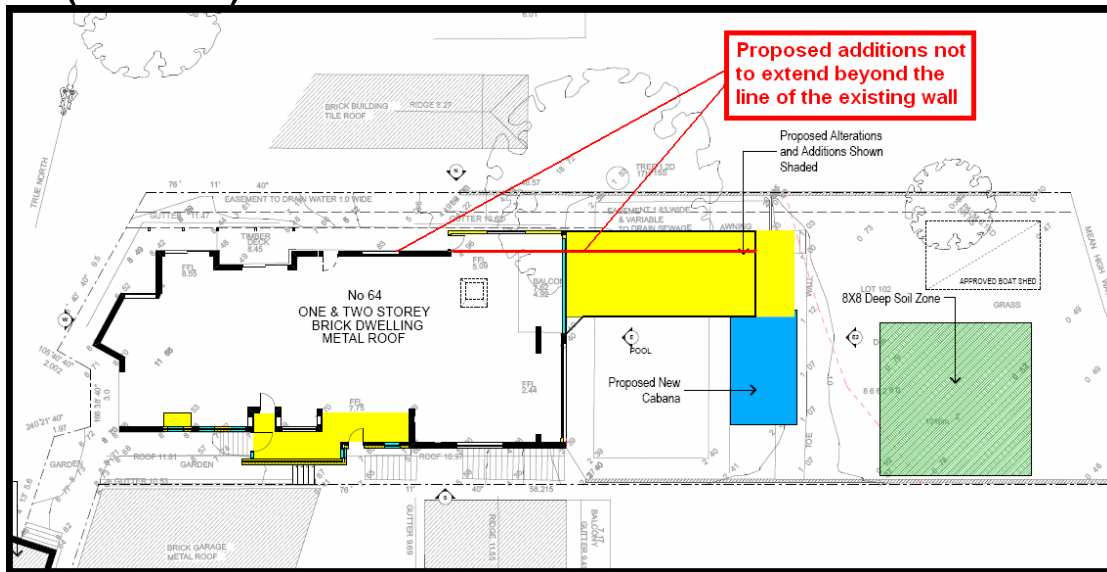
As a result of the deletion of the fourth floor addition, the amended proposal will retain views from the item to Morrison Bay over 64 Pellisier. However, the second flood addition suspended over the pool will result in the obstruction of the glimpses achieved at various locations from the item and the site through the significant tree to Morrison Bay. These glimpses of the water provide a connection to Morrison Bay, in addition to those achieved over 64 Pellisier. The views contribute to the items heritage significance and should be retained.

Recommendations:

The following heritage recommendation is made: the new development projecting east at the second storey must be stepped back from the northern boundary to be in line with the existing kitchen and dining room side wall (this will equate to a setback of about 1 metre from the northern (side) boundary). Amended plans are to be submitted to Council for review and consideration.

Comment: These issues raised by Council's Heritage Officer are supported, and it is recommended that amended plans be requested which satisfy the recommendation above. The required changes are shown on the drawing below:

ITEM 5 (continued)



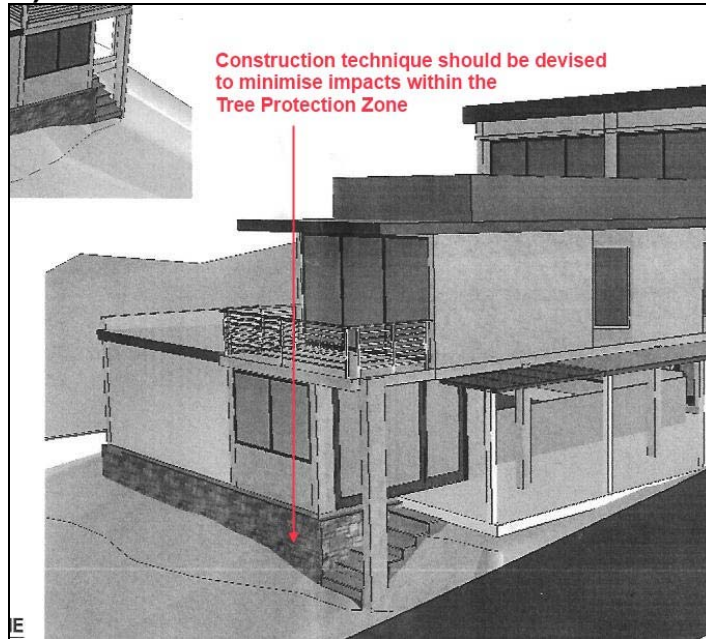
Landscape Architect (31 May 2012): Council's Landscape Architect has raised no objection to the application subject to 3 conditions, and provided the following comments:

Comments

Further to my email advice dated 7th December, 2012 and memo dated 13th January, 2012, I have now reviewed an arborist's report prepared by W Devjak of Vic's Tree Service dated 14th May, 2012. The report itself is quite rudimentary and does not address specific construction management techniques.

Impacts include the location of 3 columns: 1 within the Structural Root Zone (SRZ) of the tree and 2 within the Tree Protection Zone (TPZ). Additional to the previous application a Cabana and associated footings are now located within the TPZ of the tree. The construction of the Cabana should be pier and beam or an equivalent technique that minimises impacts within the TPZ of the tree (estimated to be in the order of 10-12m radius). The subfloor walling as shown below should be deleted in favour of a lighter construction method.

ITEM 5 (continued)



With regard to pruning the fig to establish building clearances. The photo below establishes that much of the lower canopy has been previously removed and that the required pruning will be relatively minor with the overall amenity of the tree being maintained.



ITEM 5 (continued)**Conclusion**

No objections to the development subject to the following condition.

Conditions

*Tree protection and construction management is to be in accordance with the arborist's report prepared by W Devjak of Vic's Tree Service dated 14th May, 2012. In this regard the location of the columns shown on Proposed Basement Plan 06, within the Structural Root Zone (SRZ) and Tree Protection Zone (TPZ) of the Port Jackson Fig (*Ficus rubiginosa*) are to be determined subject to the advice of a project arborist who shall ensure the final location is: 1) free of any significant structural roots; and, 2) minimises construction impacts.*

The cabana is to be equivalent to pier and beam or other construction which minimises impacts within the TPZ of the Fig. Subfloor infill walling in this regard should be deleted in favour of lighter construction methods. The project arborist shall supervise all construction activity within the TPZ of the Fig.

Any canopy pruning required to establish building clearances is to be supervised by the project arborist and be in accordance with AS 4373 Pruning of Amenity Trees. No significant woody limbs should be removed and the overall shape and form of the tree is to be maintained.

Comment: It is recommended that the amended plans to be requested for this development (which address the recommendation of Council's Heritage Officer) should also include details of construction methods and location of the columns within the structural root zone and tree protection zone.

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

It is considered that there are 3 options available in the consideration and determination of this application:

A. Deferral:

The preferred option is to defer consideration of this DA to enable the applicant to submit amended plans. Although the amended plans submitted following the mediation process have addressed many of the neighbours' concerns and suggested reasons for refusal regarding the

ITEM 5 (continued)

original plans, the amended plans have themselves resulted in other issues of concern and they cannot be supported in their current form. The issues of concern are:

- Privacy and noise impacts from the balcony/terrace (adjoining the existing dining room);
- Heritage issues – preservation of visual and physical connection from the heritage item (No 60) to Morrison Bay;
- Impacts on the adjoining fig tree.

It is recommended that the applicant be requested to submit amended plans addressing these issues, and upon the submission of satisfactory amended plans, that the Group Manager Environment & Planning be delegated authority to issue development consent subject to appropriate conditions of consent.

B. Refusal:

If it is decided to formally determine the DA at this stage, it is recommended that the DA be refused because of the issues of concern with the current design as discussed throughout this report.

If the DA is to be refused, then the following are suggested as reasons for refusal:

1. The proposal would have unacceptable privacy and noise impacts from the balcony/terrace (adjoining the dining room).
2. The proposal would have unacceptable impacts on the heritage significance of the adjoining heritage item (No 60 Pellisier Road), in terms of visual and physical connection from this property to Morrison Bay.
3. The proposal would have unacceptable impacts on the adjoining Fig Tree, a tree listed in Council's Significant Tree Register. Insufficient information has been submitted with the DA to enable an assessment of the development's impacts on this Tree.
4. In the circumstances of the case, approval of the development is not in the public interest.

C. Approval:

The option of approving the DA is available, however not recommended because of the issues of concern with the current design as discussed throughout this report.

ITEM 5 (continued)**17. Conclusion**

The amended proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning & Assessment Act 1979 and is generally considered acceptable.

The original plans for this DA were considered unacceptable and recommended for refusal. The amended plans submitted following the mediation process have addressed many of the concerns and suggested reasons for refusal regarding the original plans, however the amended plans have themselves resulted in other issues of concern and they cannot be supported in their current form. The issues of concern are:

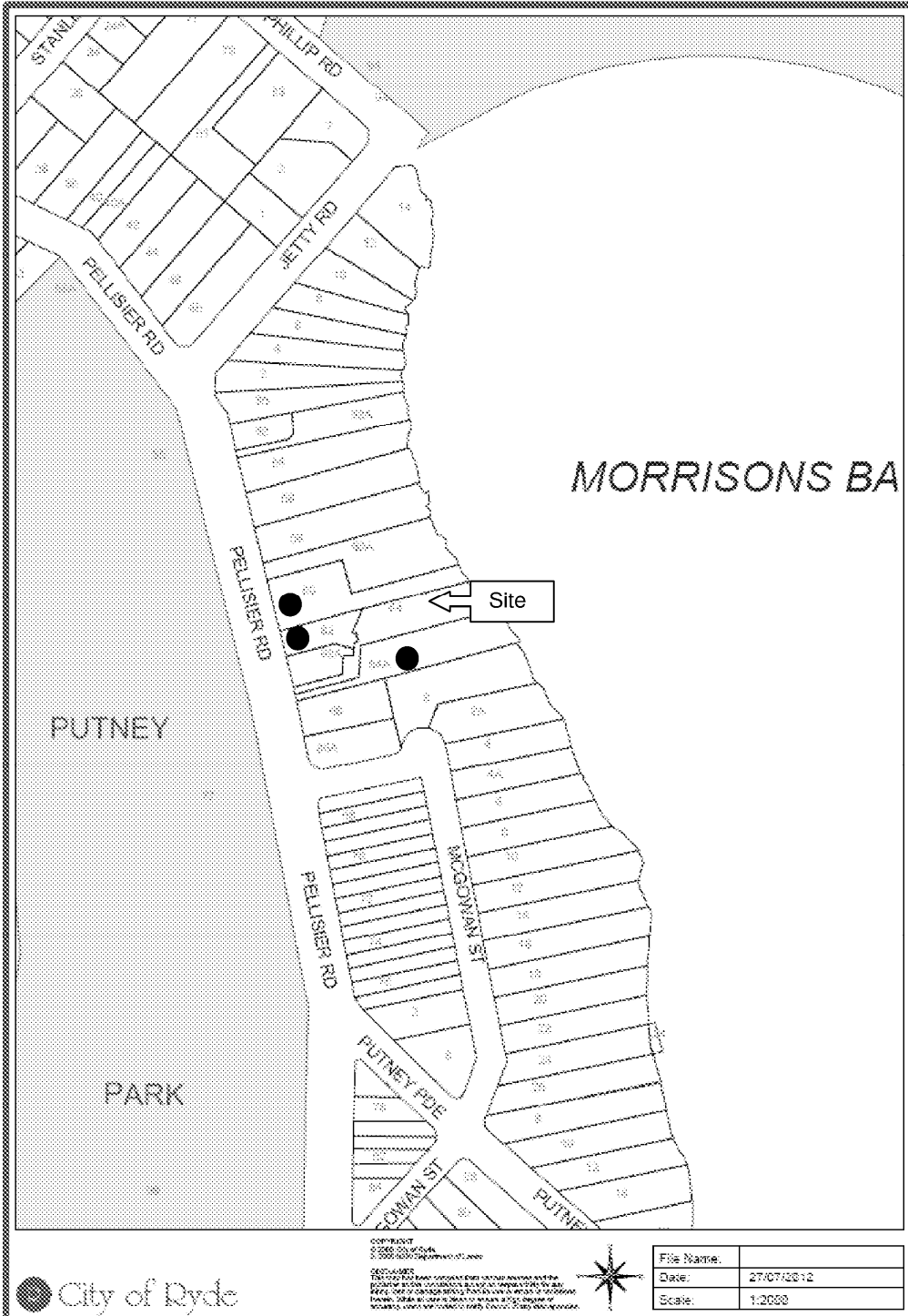
- Privacy impacts from the balcony/terrace (adjoining the existing dining room);
- Heritage issues – preservation of visual and physical connection from the heritage item (No 60) to Morrison Bay;
- Impacts on the adjoining fig tree.

It is recommended that the applicant be requested to submit amended plans addressing these issues, and upon the submission of satisfactory amended plans, that the Group Manager Environment & Planning be delegated authority to issue development consent subject to standard conditions of consent.

ITEM 5 (continued)

ATTACHMENT 1

● Indicates submissions received to amended plans



ITEM 5 (continued)

ATTACHMENT 2

MEMO

Environment & Planning

To : File (LDA2011/493)
From : George Lloyd
Date : **15 March 2012**
SUBJECT : Mediation meeting 15 March 2012

On 14 February 2012, Council resolved as following:

That the Group Manager Environment and Planning undertake a mediation session with the applicant and objectors to determine a possible solution to this matter and then be reported back to the Planning and Environment Committee for consideration within two months.

In accordance with the above resolution a mediation meeting took place today commencing at 9:00am, which was attended by Council's senior staff, all the objectors, the applicant and the applicants architect. Minutes of the meeting follow:

Attendees:

Dominic Johnson – Group Manager, Environment & Planning (DJ)
Chris Young – Team Leader, Assessments (CY)
George Lloyd – Senior Town Planner (GL)
James Balestriere (Applicant)
Josh Allen – Architect (Architect)
Mark Grodzicky (60 Pellisier Rd)
Mr and Mrs Wakeham (64A Pellisier Rd)
Brendan Tam (62A Pellisier Rd)
Mr and Mrs Pirrottina (62 Pellisier Rd)

The meeting was chaired by Dominic Johnson.

Meeting:

DJ – Provided a welcome and brief introduction noting the Council resolution, the expected timeframe for further consideration by PEC and set ground rules for the meeting.

DJ – Asked for amended plans which were understood to have been provided by the applicant.

Architect – Presented amended proposal which reduced the overall height of the development proposal by 300 – 500mm and brought part of the northern side elevation away from the side

ITEM 5 (continued)

ATTACHMENT 2

of the dwg beneath ('chamfer' the corners) to open up views obtainable from surrounding properties whilst resulting in an overall reduction in floor space of about 10%.

DJ – Anything else to reduce the height and > views?

Architect – Reduction in eave width (subject to BASIX compliance). All had been done to fulfil the objection and needs of the client.

DJ – Asked each of the objectors to provide an initial comment in response to the amended plans.

62 (Pirrottina) – Does not change their opinion about view loss or help address their previous concerns. Would need to reduce height by at least 2m to improve views. Amendments are not substantial enough, Was told it would be an addition over the pool at the back of the house.

GL – Confirmed discussions with the applicant in arranging the mediation meeting wherein the applicant would present a range of options. Development over the pool at the back of the house was to be explored.

DJ/Architect/Applicant – Discussion of no. of storeys and whether it complies with the DCP.

DJ – Stated resulting impact upon surrounding properties was also an important consideration.

62A (Tam) – Debate over DCP non-compliance is not the point. Addition causes view impact that is unacceptable. Minor 'tweaking' won't help.

62 (Pirrottina) – 62 and 62A have been specifically designed to locate bedrooms on lower floors and lounge/kitchen/dining/living rooms on upper floors to take advantage of views. A rear extension could also cause view loss (Mrs Pirrottina).

64A (Wakeham) – An addition at rear could cause could cause impact upon their pool and rear yard with respect to overshadowing.

DJ – Impact of existing tree upon view loss. Rear 'building line' issues discussed.

60 (Grodzicky) – Presented sight poles with superimposed pictures showing proposed building envelope. Heritage requirements would not be fulfilled and views will be still be affected.

DJ – Would a rear addition help?

60 (Grodzicky) – Existing cabana unauthorised. Potential loss of sunlight and overlooking into rear yard.

Architect – Presented photos of proposed development with building envelope superimposed.

ITEM 5 (continued)

ATTACHMENT 2

DJ – Sums up what has been presented with response from neighbours being enough not to support this amended proposal. If this is the only suggestion, then Council will be informed that: mediation took place, objectors didn't like it and that some Councillors had already indicated that they needed to see a profound change to the design of the proposal.

Architect/Applicant – Present a 2nd option, which is an elevated rear addition to the dwg. And which extends over part of the swimming pool and cabana. There is a marginal increase in impervious area (which should be tolerable because the site already doesn't comply with DSA). Protection of the existing tree could be ensured by limiting excavation by hand for supporting poles to elevated floor level.

DJ – The rear addition is a preferable option but would require further architectural details and information relating to overshadowing and view impacts.

62 & 62A – Agree view loss would be minimal.

64A (Wakeham) – Generally agrees subject to shadow diagrams and architecturals. What if it wasn't elevated?

Architect/Applicant – Building at ground level causes the following problems: impact upon the root zone; wall would abut the swimming pool and require reconstruction of the pool; possible flooding issues; and, internal amenity is maintained with all bedrooms being located together.

60 (Grodzicky) – Addition to rear of building is better than the existing proposal or secondary option. Privacy issues at rear, loss of views from boatshed/patio and would need to see detailed plans before making a definitive response.

DJ – Summarises that the 2nd option is the most feasible option subject to greater details, shadowing impacts and view corridor assessment. Asks architect how long details would take to produce:

Architect – 2 weeks to provide further details and would also need consent to build over existing easements (water and sewer).

DJ – If permission over easement could not be obtained Council could still issue a deferred commencement.

Formal plans to follow within the next 2 weeks and then re-notified to adjoining owner/s followed by a revised report to Council.

signed

George Lloyd