

Meeting Date: Tuesday 16 October 2012
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 4.00pm

NOTICE OF BUSINESS

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1 ELECTION OF CHAIRPERSON AND DEPUTY CHAIRPERSON

Report prepared by: Meeting Support Coordinator**File No.:** CLM/12/1/3/2 - BP12/1131

REPORT SUMMARY

The Chairperson and Deputy Chairperson of the Planning and Environment Committee are elected for a one (1) year term and the following procedures are to be followed for the election process:

- (a) Determination of method of voting (ordinary ballot, preferential ballot or open voting).
- (b) Announcement of nominations.
- (c) Conduct of election.

RECOMMENDATION:

- (a) That the Committee determine the method of voting for the election of the Chair and Deputy Chair.
- (b) That the General Manager or his delegate, as Returning Officer, undertake the election of the Chair and Deputy Chair for the ensuing twelve (12) months by announcing the nominations and then conducting the election.

ATTACHMENTS

There are no attachments for this report.

Report Prepared By:

Amanda Janvrin
Meeting Support Coordinator

Report Approved By:

Shane Sullivan
Manager - Governance**Roy Newsome**
Group Manager - Corporate Services

2 CONFIRMATION OF MINUTES - Meeting held on 7 August 2012

Report prepared by: Meeting Support Coordinator

Report dated: 7 August 2012

File No.: CLM/12/1/3/2 - BP12/957

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 10/12, held on Tuesday 7 August 2012, be confirmed.

ATTACHMENTS

- 1 Minutes - Planning and Environment Committee - 7 August 2012

ITEM 2 (continued)

ATTACHMENT 1

Planning and Environment Committee
MINUTES OF MEETING NO. 10/12

Meeting Date: Tuesday 7 August 2012

Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde

Time: 4.00pm

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

Councillor Yedelian OAM arrived at 4.02pm and was not present for consideration of Item 1. Councillor Yedelian OAM left the meeting at 5.34pm and did not return. He was not present for Items 3, 4 and 5.

Councillor Salvestro-Martin arrived at 4.45pm and was not present for consideration of Item 1 or inspections.

Apologies: Nil.

Staff Present: Group Manager – Environment & Planning, Service Unit Manager – Assessment, Service Unit Manager – Environmental Health & Building, Business Support Coordinator – Environment & Planning, Assessment Officer – Town Planner, Team Leader – Fast Track Team, Senior Town Planner, Consultant Town Planner, Team Leader – Assessment, Team Leader – Development Engineers, Meeting Support Coordinator and Councillor Support Coordinator.

DISCLOSURES OF INTEREST

There were no disclosures of interest.

1 CONFIRMATION OF MINUTES - Meeting held on 17 July 2012

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

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

Record of Voting:

For the Motion: Unanimous

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

ITEM 2 (continued)

ATTACHMENT 1

2 2 GREGORY STREET, 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.

Report: The Committee inspected the property at 2 Gregory Street, Putney.

Note: A letter from Mr Peter and Mrs Narelle Camroux dated 3 August 2012 was tabled in relation to this Item and a copy is ON FILE.

Note: A letter from Mr Stephen and Mrs Ann-Maree Lawrence dated 7 August 2012 was tabled in relation to this Item and a copy is ON FILE.

Note: Mr Stephen and Mrs Ann-Maree Lawrence (objectors), Ms Hanna Blogg (owner) and Mr Eddie Rached (applicant) addressed the Committee in relation to this Item.

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

- (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.

Record of Voting:

For the Motion: Unanimous

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

3 498 BLAXLAND ROAD, 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.

Report: The Committee inspected the property at 498 Blaxland Road, Denistone.

Note: A Memorandum from Mr Dominic Johnson, Group Manager – Environment and Planning dated 1 August 2012 was tabled in relation to this Item and a copy is ON FILE.

Note: Mr Rainer Ratinac (objector) and Mr Graham McKee (on behalf of the applicant) addressed the Committee in relation to this Item.

Note: Councillor Yedelian OAM left the meeting at 5.34pm and was not present for consideration of this Item.

ITEM 2 (continued)

ATTACHMENT 1

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

(a) That Local Development Application No. 2011/0257 for 498 Blaxland Road, Denistone that was determined by way of refusal on 7 February 2011 be now approved, subject to **ATTACHED** conditions (Attachment 2) with condition number 21 to read as follows:-

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 | \$7,339.49 |
| Open Space & Recreation Facilities | \$18,068.29 |
| Civic & Urban Improvements | \$6,145.50 |
| Roads & Traffic Management Facilities | \$838.40 |
| Cycleways | \$523.61 |
| Stormwater Management Facilities | \$1,664.68 |
| Plan Administration | \$141.18 |
| The total contribution is | \$34,721.14 |

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>.

(b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Councillors O'Donnell

Against the Motion: Councillors Butterworth, Pickering, Salvestro-Martin

Note: As the voting on the matter was one (1) For and three (3) Against, the Motion was LOST and the matter was AT LARGE. A further Motion was then moved.

ITEM 2 (continued)

ATTACHMENT 1

RECOMMENDATION: (Moved by Councillors Butterworth and Salvestro-Martin)

- (a) That Local Development Application No. 2011/0257 for 498 Blaxland Road, Denistone be refused for the following reasons:-
1. The development as proposed will be detrimental to the character of the area having regard to the proposed density in terms of number of units as it is inconsistent with the multi-dwelling housing density provisions under Clause 4.5B of the LEP 2010.
 2. The proposed two storeys for the front two dwellings is inconsistent with the character of the locality and contrary to the height control for multi-housing developments contained under Council's DCP 2010.
 3. The form of proposed development contradicts Council's Policy on the design, character and density of multi-dwelling housing.
 4. The development is an overdevelopment of the site and provides insufficient parking including no parking for visitors to the site especially given the location of the site on Blaxland Road.
 5. The development is not in the public interest as evident by the submissions made.
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Councillors Butterworth, Pickering and Salvestro-Martin

Against the Motion: Councillors O'Donnell

Note: This matter will be dealt with at the Council Meeting to be held on **14 AUGUST 2012** as dissenting votes were recorded and substantive changes were made to the published recommendation

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

Note: A Memorandum from Mr Dominic Johnson, Group Manager – Environment and Planning dated 1 August 2012 was tabled in relation to this Item and a copy is ON FILE.

Note: Documentation from Mr Hancox was tabled in relation to this Item and a copy is ON FILE.

ITEM 2 (continued)

ATTACHMENT 1

Note: Mr Greg Hancox (objector) and Mr Nick Juradowitch (on behalf of the owner) addressed the Committee in relation to this Item.

Note: Councillor Yedelian OAM was not present for consideration of this Item.

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

(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** with condition number 23 to read as follows:-

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 | \$4,015.95 |
| Open Space & Recreation Facilities | \$9,886.42 |
| Civic & Urban Improvements | \$3,362.46 |
| Roads & Traffic Management Facilities | \$458.57 |
| Cycleways | \$286.50 |
| Stormwater Management Facilities | \$910.31 |
| Plan Administration | \$77.25 |
| The total contribution is | \$18,997.45 |

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>.

(b) That the person who made a submission be advised of Council's decision.

ITEM 2 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: Councillors O'Donnell and Pickering

Against the Motion: Councillors Butterworth and Salvestro-Martin

Note: This matter will be dealt with at the Council Meeting to be held on **14 AUGUST 2012** as dissenting votes were recorded

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.

Note: A photograph from Mr Joshua Allen was tabled in relation to this Item and a copy is ON FILE.

Note: A diagram from Mr Mark Wakeham was tabled in relation to this Item and a copy is ON FILE.

Note: Photographs from Mr Grodzicky were tabled in relation to this Item and a copy is ON FILE.

Note: Mr Mark Wakeham (objector), Mr Mark Grodzicky (objector) and Mr Joshua Allen (on behalf of the applicant) addressed the Committee in relation to this Item.

Note: Councillor Yedelian OAM was not present for consideration of this Item.

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

(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 Road, Putney. The amended plans and supporting information shall incorporate the following details:

- i. **Reduction of balcony/terrace.** The Ground Floor balcony/terrace immediately adjoining the family and dining room shall be reduced by a minimum of 4 metres from the rear and the surplus area be replaced with roofing material to the lower ground floor level below and is not to be accessible.
- 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).

ITEM 2 (continued)

ATTACHMENT 1

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.

Record of Voting:

For the Motion: Councillors O'Donnell and Pickering

Against the Motion: Councillors Butterworth and Salvestro-Martin

Note: This matter will be dealt with at the Council Meeting to be held on **14 AUGUST 2012** as dissenting votes were recorded

The meeting closed at 7.05pm.

CONFIRMED THIS 16TH DAY OF OCTOBER 2012.

Chairperson

3 958 VICTORIA ROAD, WEST RYDE. LOT 8 DP 819902. Local Development Application for alterations and additions to existing dwelling. LDA2012/0047.

INSPECTION: 4.20pm

INTERVIEW: 5.10pm

Report prepared by: Team Leader - Assessment

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

Report dated: 24/09/2012

File Number: grp/12/5/5/3 - BP12/1089

1. Report Summary

Applicant: C J E Dental Pty Ltd.

Owner: C J E Dental Pty Ltd.

Date lodged: 15 February 2012

This report considers a development application (DA) for alterations and additions to the existing dwelling at the subject property. The form of the proposal comprises a 2-storey addition to the rear of the existing dwelling (with a projection on the western side which makes the additions visible from the front), with a flat (nominal slope) skillion metal roof and a small rear balcony at the first floor level.

The existing dwelling is listed as a Heritage Item under Ryde Local Environmental Plan (LEP) 2010, and the site also immediately adjoins another listed Heritage Item (being the Ryde Pumping Station at No 948 Victoria Road to the east). Therefore the DA was referred to Council's Heritage Officer for comment and assessment in terms of the Heritage Conservation controls in Ryde LEP 2010 (clause 5.10). Council's Heritage Officer has advised that the proposal would adversely impact on the heritage significance of the subject dwelling (and the immediately adjoining Ryde Pumping Station) because:

- 19th century dwellings are rare in the City of Ryde, constituting approximately 22 of 174 Heritage Items (13%);
- The Building is significant for its associations with the Ryde Pumping Station, which is an item of State Heritage Significance;
- The fabric from the 1890s period is associated with now demolished buildings from the Pumping Station complex making the extant surviving 1890s fabric rare and highly significant;
- The house is a rare example of workers' housing in NSW and illustrates labour history in NSW; and
- Some potential for archaeological resources exist.

The proposal has been assessed against the requirements for alterations and additions contained in Ryde Development Control Plan (DCP) 2010 (Part 3.3 Dwelling Houses and Dual Occupancy (Attached)), and there are minor areas of non-compliance in terms of rear setback and deep soil area (within the rear yard). These

ITEM 3 (continued)

are considered to be minor issues of concern, and would not (by themselves) warrant refusal of the application.

The DA has been notified to adjoining owners in accordance with Ryde DCP 2010 (Part 2.1 Notification of Development Applications), and **one submission** was received from a local resident. The submission raises a number of issues of concern regarding the demolition of part of the existing dwelling and also the form of the proposed additions. The issues of concern are considered to be valid.

The DA is recommended for refusal because of adverse impacts on the heritage significance of the subject dwelling and adjoining building (the Ryde Pumping Station). The applicant has been advised of Council's issues of concern and been given the opportunity to address them, however has not done so, and therefore the DA is referred to Planning & Environment Committee for determination.

Reason for Referral to Planning and Environment Committee: Requested by Councillor Petch.

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

SEPP 1 (or clause 4.6 RLEP 2010) objection required? None required.

Value of works? \$200,000

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

RECOMMENDATION:

- (a) That Local Development Application No. 2012/47 at 958 Victoria Road, West Ryde being Lot 8 DP 819902 be refused for the following reasons:
1. The proposal is unsatisfactory because of its adverse impacts on the heritage significance of the existing dwelling and the adjoining Ryde Pumping Station buildings, which are both listed as Items of Environmental Heritage under Ryde LEP 2010. In particular, the proposal is considered unsatisfactory for the following reasons:
 - *19th century dwellings are rare in the City of Ryde constituting approximately 22 of 174 Heritage Items (13%);*
 - *The Building is significant for its associations with the Ryde Pumping Station an item of State Heritage Significance;*
 - *The fabric from the 1890s period is associated with now demolished buildings from the Pumping Station complex making the extant surviving 1890s fabric rare and highly significant;*

ITEM 3 (continued)

- *The house is a rare example of worker's housing in NSW and illustrates Labour history in NSW; and*
 - *Some potential for archaeological resources exist.*
2. in the circumstances of the case, approval of the application would not be in the public interest.
- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Compliance table
- 2 Map
- 3 A4 plans
- 4 Addendum report dated 3/10/12 from Council's Heritage Officer
- 5 A3 plans - subject to copyright provisions - 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 3 (continued)

2. Site (Refer to attached map.)

Address : 958 Victoria Rd West Ryde

Site Area : 1217m²
Frontage 23.84m
Depth 44.23m (average)

Topography and Vegetation : The site is generally flat, with a slight cross-fall from west to east. The site contains a number of trees and shrubs to the eastern side and southern rear boundary, though none is affected by this application.

Existing Buildings : Existing 2 storey dwelling house.

Planning Controls Zoning : SP1 – Special Activities (Water Supply System) under Ryde LEP 2010

Other : Ryde DCP 2010



ITEM 3 (continued)

3. Councillor Representations

Name of Councillor: Councillor Petch

Nature of the representation: Enquiry regarding status of DA.

Date: 18 June 2012

Form of the representation (e.g. via email, meeting, phone call): Phone call to Group Manager Environment & Planning

On behalf of applicant or objectors? Unknown

Any other persons (e.g. consultants) involved in or part of the representation: Unknown.

Name of Councillor: Councillor Petch

Nature of the representation: Request for further update (and Call up to Planning & Environment Committee unless DA is to be approved).

Date: 13 July 2012

Form of the representation (e.g. via email, meeting, phone call): Phone call to Group Manager Environment & Planning

On behalf of applicant or objectors? Unknown

Any other persons (e.g. consultants) involved in or part of the representation: Unknown

4. Political Donations or Gifts

None disclosed in applicant's DA submission or in any submission received.

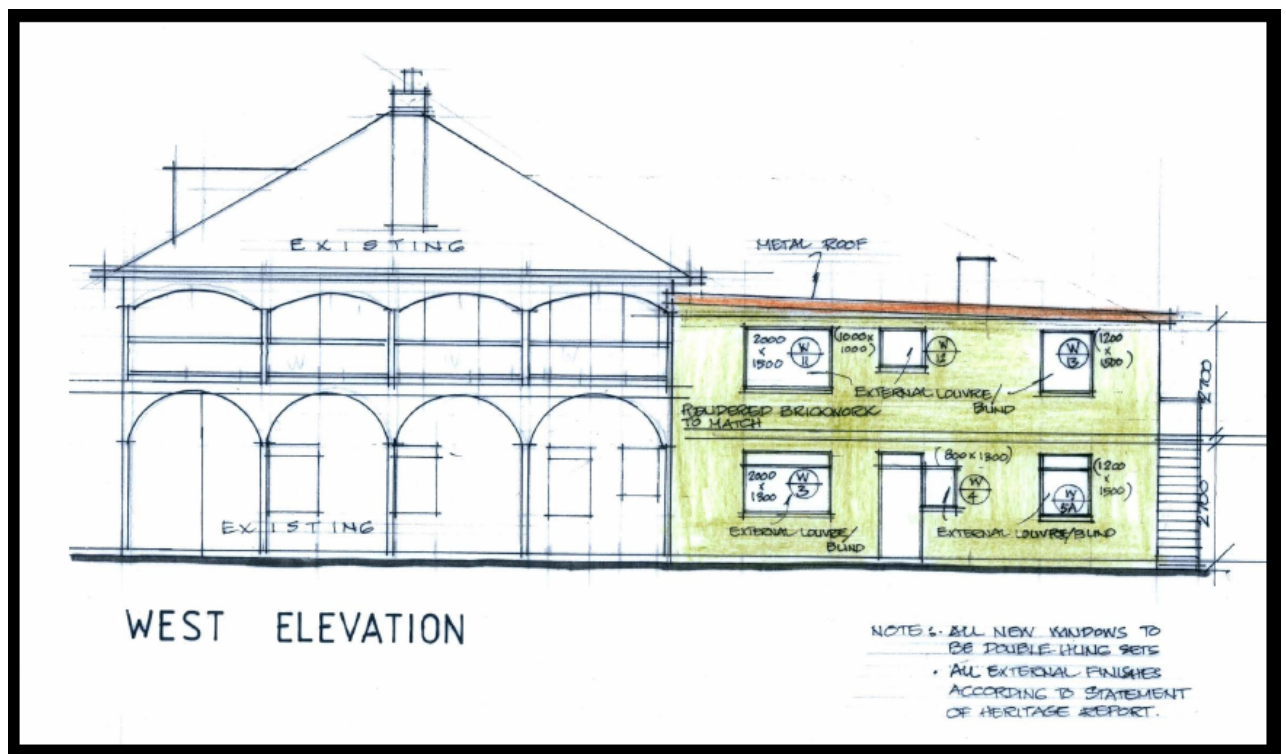
5. Proposal

The development proposes alterations and additions to the rear of the existing dwelling, including demolition of the two rear wings of the existing dwelling, minor internal alterations (being an ensuite bathroom in the ground floor guest bedroom and in bedroom 1 on the first floor) and the construction of a 2 storey addition to the rear (southern side), and new portico and external stairs to the rear of the dwelling.

ITEM 3 (continued)

The subject dwelling is listed as a Heritage Item under Ryde LEP 2010. Full details of the history of the dwelling appears in the comments from Council's Heritage Officer (later in this report), but in summary, the dwelling was constructed in 1892 to house the "engineer in charge" of the first Ryde Pumping Station building (constructed in 1891) adjacent to this site.

The elevations of the proposal appear below:



ITEM 3 (continued)



6. Background

The DA was lodged on 15 February 2012, and shortly thereafter (21 February 2012) it was assigned to an assessment officer, referred to internal officers (Council's Heritage Officer), and notified to neighbours for 14 days until 7 March 2012. Further details of these processes are discussed later in this report.

On 7 March 2012, a 'Stop the Clock' letter was sent to the applicant requiring further information – the proposal involves extensive modifications to the existing dwelling which was not adequately addressed in the DA documentation (Statement of Environmental Effects and Heritage reports). An updated Statement of Heritage Impact and amended Architectural Plans were requested. The letter also suggested a meeting with Council Officers to discuss issues of concern regarding the application.

On 2 April 2012, a meeting was held between Council's Assessment Officer and Heritage Officer, and the applicant and their Heritage Advisor. At this meeting, it was agreed that the applicant would submit an amended Heritage Impact Statement and amended Architectural Plans.

On 3 April 2012, a submission was received from a local resident who was a member of the (former) City of Ryde Heritage Advisory Committee objecting to the proposal.

ITEM 3 (continued)

On 23 April 2012, a final letter was sent to the applicant to provide information requested in the letter dated 7 March 2012. Then on 24 April 2012, the applicant provided a pest report showing that the building is affected by termites, but no amended Architectural Plans as per Council's previous request. Subsequently, on 25 June 2012, a Conservation Management Plan was submitted by the applicant and referred to Council's Heritage Officer, but no amended Architectural Plans.

7. Submissions

The proposal was notified to adjoining property owners in accordance with Development Control Plan 2010 – Part 2.1, Notification of Development Applications. Notification of the proposal was from 21 February until 7 March 2012.

In response, **one (1) submission** was received from a local resident who was a member of the (former) Ryde Heritage Advisory Committee. The issues raised in the submission is summarised and discussed as follows:

- 1. Demolition of existing structures.** *Strong concerns are raised regarding the proposed demolition of structures on the western rear elevation – as these are integral to the building when it was first built as a single storey dwelling in c. 1890. These should not be demolished but incorporated into the design of the proposed modern extension.*

Comment: These concerns are considered to be valid and are supported. They are discussed in more detail in the comments from Council's Heritage Officer (later in this report).

- 2. Skillion Roof.** *The proposed skillion roof is out of character with the original concept of the house. If a roof were to be designed as planned, consideration should be given to a hipped roof that is compatible with the pyramidal-styled roof of the two-storey building.*

Comment: Agreed, these concerns have also been supported by Council's Heritage Officer as noted later in this report.

- 3. Window design.** *The windows of the proposed new extension would differ in style to those already present in the original front section of the house. The shape and configuration of the windows should render the proposed new extension compatible with the old.*

Comment: These concerns are also considered to be valid and are supported. These issues of concern could be resolved via submission of amended plans, however the design as currently presented is unacceptable.

ITEM 3 (continued)

- 4. *Modification of original fabric.*** *The provision of 2 ensuite bathrooms (at ground and first floor) would significantly modify the fabric of the original building.*

Comment: Agreed, the 2 ensuite bathrooms would involve significant internal modifications to existing floors and ceilings to the detriment to the original building fabric.

- 5. *Concerns regarding subsequent uses.*** *Concerns are raised regarding the number of bedrooms (7) – and queries are raised that the dwelling could be used for purposes other than a dwelling.*

Comment: The applicant's DA is for alterations and additions to a dwelling, and on the face of the documentation presented in this DA, there is nothing to suggest that the application is intended to be used for any other purpose. Future alternative landuses can be addressed either by submission of another DA (if consent is required for such use, and/or if the use is permissible), or if Council becomes aware of any illegal or unauthorised use, then Council has enforcement powers to take the necessary action under the Environmental Planning & Assessment Act 1979.

- 8. SEPP1 (or clause 4.6 RLEP 2010) objection required?**

None required.

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

The subject property is zoned SP1 – Special Activities (Water Supply System) under Ryde LEP 2010. Within this zoning, development that is permitted with consent includes “the purpose shown on the land zoning map (i.e. in this case – a water supply system), including any development that is ordinarily incidental or ancillary to development for that purpose”.

As noted throughout this report, the existing dwelling was constructed in 1892 for the engineer in charge of the Ryde Pumping Station. The dwelling originated as a development ancillary for the purpose on the present zoning map, and the building has been used continuously as a dwelling since that time, and hence it benefits from “existing use rights” provisions of the Environmental Planning & Assessment Act 1979. Therefore Council is able to consider a DA for alterations and additions to the dwelling.

ITEM 3 (continued)**Mandatory Requirements**

The following mandatory provisions under Ryde LEP 2010 apply to the development.

Clause 4.3 – Height of buildings. Sub-clause (2) of this clause states that “the height of a building on any land is not to exceed the maximum height for the land shown for the land on the height of buildings map”. In this case, the maximum height is 9.5m.

The maximum height of the proposed additions is 6.3m, which complies with Ryde LEP 2010. The highest point of the existing building is some 10.8m, however this is part of the existing structure and is not affected by the current application.

Clause 4.4 Floor Space Ratio. This clause prescribes a maximum floor space ratio (FSR) of 0.5:1. The FSR for the proposed development has been calculated to be 0.38:1, which complies with this clause.

Clause 5.10 – Heritage Conservation. This clause requires development consent for altering a heritage item such as the subject building, and also for an assessment of the proposed development on the heritage significance of the heritage item. Refer to the comments from Council’s Heritage Officer (see “Referrals” section of this report).

(b) Relevant State Environmental Planning Policies (SEPPs)State and Sydney Regional Environmental Planning PoliciesSEPP BASIX:

A compliant BASIX Certificate has been submitted with the DA.

State Environmental Planning Policy No. 55 – Remediation of Land

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

(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 been placed on public exhibition between 30 May 2012 and 13 July 2012. Under this Draft LEP, the zoning of the property is SP1 – Special Activities (Water Supply System). As mentioned above, the proposed development is permissible with consent within this zoning due to existing use rights however it is considered that the proposal is not contrary to the objectives of the Draft LEP or those of the proposed zoning.

ITEM 3 (continued)**(e) The provisions of any development control plan applying to the land**Ryde Development Control Plan (DCP) 2010.

The proposal has been assessed using the development controls contained in Ryde DCP 2010. The DCP compliance table for this development proposal is held at **Attachment 1**.

There are 2 minor areas of non-compliance identified in the Compliance Table, which are discussed as follows:

1. Rear Deep Soil Area: Ryde DCP 2010 requires the provision of a deep soil area with minimum dimensions of 8m x 8m to be provided in the back yard. The development proposes a deep soil area of some 5.8m x 10.7m, adjacent to the 2 open car parking spaces at the rear, which is not included in consideration of deep soil area.

Comment: The objectives of the deep soil area control are as follows:

1. *To ensure that land retains its ability to absorb rain water so as to reduce stormwater runoff and to increase the moisture level of the soil for the use of trees and other vegetation.*
2. *To ensure that each building allotment has a minimum deep soil area.*
3. *To retain and enhance vegetation corridors.*
4. *To provide space for mature tree growth and other vegetation.*
5. *To generally retain existing mature trees and vegetation.*
6. *To enable movement of fauna along vegetation corridors.*

Despite the non-compliance with the numerical control in a DCP, it is considered that the objectives of the control would still be achieved. The deep soil area proposed in this development is still reasonably sizeable at some 62.06m², and there are also significant areas available to the west of the proposed building (over 150m²) because of the large side setbacks to the western boundary.

Overall, it is considered that the development is satisfactory in terms of deep soil area, despite the fact that an 8m x 8m area cannot be provided. This issue (by itself) would not justify refusal of the application.

2. Rear Setback: Ryde DCP 2010 requires a rear setback of 8m or 25% of the length of the allotment, whichever is the greater. At this site, a rear setback of 10.71m would be required (as the site has a length along the western boundary of 42.885m). The development proposes a rear setback of 7.6m at the closest point, which does not comply with the numerical control.

ITEM 3 (continued)

Comment: The objectives of the rear setback control are:

1. *To provide an area for private outdoor recreation and relaxation.*
2. *To allow space for vegetation, mature trees and deep soil zones.*
3. *To separate dwellings to achieve privacy.*
4. *To enable contiguous vegetation corridors across blocks.*

Although the proposal does not comply with the numerical control, it is considered that it meets the above objectives. In particular, it is noted that this property does not adjoin any other residential allotment, so there are no privacy issues as there would be in a normal residential environment. Also, there are generous setbacks to the side boundaries which would enable sufficient space for vegetation corridors, and it is noted that the development proposes to maintain existing vegetation.

Overall, it is considered that the development is satisfactory in terms of rear setbacks, despite the non-compliance with the numerical controls. This issue (by itself) would not justify refusal of the application.

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

Issues regarding impacts on the built environment are discussed throughout this report (in particular impacts on the heritage significance of the building, and also DCP compliance). In summary, the proposal as currently presented is considered unacceptable in terms of heritage issues, and hence the DA is recommended for refusal.

(b) Natural Environment

The proposal would have minimal impact in terms of the natural environment. The proposal involves no removal of existing vegetation, whilst matters regarding soil erosion/sediment control etc could be addressed via standard conditions on any consent if Council decides to approve the DA.

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:

Urban Bushland (non-conservation): The site has been identified to contain urban bushland (non-conservation) however the proposal does not involve any removal of existing vegetation.

ITEM 3 (continued)

Heritage Item: Refer to the “Referrals” section of this report for Heritage Officer’s comments.

12. The Public Interest

Having regard to the concerns in relation to this DA, as discussed throughout this report, it is considered that approval of this DA would not be in the public interest.

13. Consultation – Internal and ExternalInternal Referrals

Heritage Officer: As the site is listed in Ryde LEP 2010 as an Item of Environmental Heritage in Schedule 5, the DA was referred to Council’s Heritage Officer for comment and for an assessment in terms of Clause 5.10 of Ryde LEP 2010.

The following comments have been provided:

Heritage Controls:*Ryde LEP 2010 Clause 5.10 Heritage Conservation****“(2) Requirement for consent***

Development consent is required for any of the following:

(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,”

Background:

The subject of this referral is the development application for the site 958 Victoria Road, herewith known as ‘the subject site’. This referral considers the original submitted architectural plans and the Heritage Impact Statement and the Conservation Management Plan, both prepared by Archnex Designs.

A Development Application (LDA2012/47) was lodged with Council in February 2012. Following a desk top review of the submitted documentation, a site visit was conducted on March 7 2012. Attending the site meeting from Council was the Assessing Officer, Team Leader Urban Planning and Council’s Heritage Advisor.

Subsequent to the site visit, a meeting was arranged and held on Monday 2 April 2012. The meeting was held between Council’s assessing officer, heritage advisor and urban planning’s team leader, the applicant and the applicant’s heritage consultant to discuss the site visit and the submitted Statement of Heritage Impact (‘HIS’). During the meeting the applicant was requested to revise

ITEM 3 (continued)

the proposal and to prepare and submit a Conservation Management Plan ('CMP') for the subject site. The applicants submitted a CMP to Council on 22 May 2012; however, the applicant nominated not to submit an amended proposal.

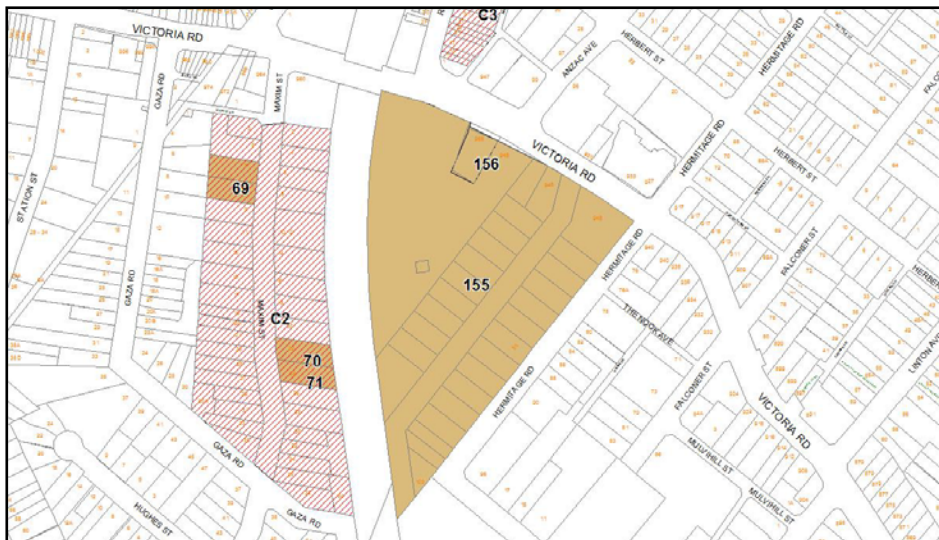
Proposal:

The proposal is for extensive alterations and additions at the rear of the dwelling. The alterations and additions include demolition of the two rear wings and the construction of a ground and second storey, new portico and external stairs to the rear of the dwelling oriented south.

Existing Conditions:

The subject site contains a large two storey house, located at the crest of a hill between the Ryde Pumping Station (Item 155 pursuant to Schedule 5 RLEP 2010) and Victoria Road. The dwelling on the subject site is the pumping station's engineer-in-charge house built in 1892 for the Engineer in charge of the Ryde Pumping station (then known as Ryde Pumping Station No 1).

An extract from the Ryde LEP 2010 Heritage Map identifies the subject site in relation to the Ryde Pumping Station. The subject site is listed as 156 and the Ryde Pumping Station as 155.



The subject site has associations with some of the earliest European occupation in Ryde Local Government Area. The subject site, and the land occupied by the Ryde Pumping station, is part of a 100 acre grant to William Kent in 1797. It was transferred to John Gregory Blaxland and Frederick Blaxland in 1887. Then in 1888, part of the land was resumed by the Department of Public Works and adjoining land was resumed by The Commissioner for Railways.

ITEM 3 (continued)

The Ryde Pumping Station was constructed on the portion of the land resumed by the Department of Public Works and was constructed in numerous stages. The first water pumping station was built on the site in 1891 demonstrating an early and significant phase in the expansion of the Sydney water supply delivery. The Engineer-in-charge house is associated with this significant period in the history of the Pumping Station. The engineer-in-charge residence was constructed by 1892 (first stage completed in 1892), shortly after the opening of the pumping station' (Architectus, 2004). In 1907 it was necessary to enlarge the residence to accommodate the growing family. Plans are attached of the 1907 second story addition to the residence.

The subsequent development of the Pumping Station complex, which includes the building of a second, larger station and the eventual demolition of the initial pumping station (the engineer-in-charge residence was not demolished), reflects growing water demands and development of the region. The second steam powered pumping station was completed in 1921. At the time of its conversion to electricity by 1982 it was described as the largest steam powered water station in the Southern Hemisphere.

The subject site was disposed from the land containing Ryde Pumping station in the mid-20th century as reflected in the Ryde LEP 2010 map extract. According to the CMP for the Pumping Station the act of subdividing the site, 'placed one of the most important surviving elements from its past outside Sydney Water's management' (Architectus, 2004:98). The CMP prepared for the Ryde Pumping Station describes the Engineer's residence as follows:

"There is a two-storey residence built in 1892, with visible characteristics of the Federation period. These include a return veranda across the east and west elevations on both levels. The veranda features timber posts and decorative brackets. The walls are made of blond bricks with decorative arches above the windows. The arches and sills have been painted. The front (north) elevation is symmetrical with the entrance door in the centre and double hung windows on either side. On the upper level double hung French doors open to the veranda. The original slate roof of the drawings has been replaced with terracotta tiles. There is a subsidiary gable at the front. At the rear of the house are two single storey wings with corrugated iron roofing."

(The Architectus report referenced in the Heritage Officer's comments is held on the DA file and is available for Councillor's perusal if required.)

ITEM 3 (continued)**Statement of Significance**

The Ryde Pumping Station is considered to have state significance for the following:

An item is important in the course, or pattern, of NSW's cultural or natural history or the cultural or natural history of the local area

- Ryde Water Pumping Station Complex is highly significant as an integral component of the water supply system that serviced much of the Sydney area to the north of Parramatta River from 1891 until today. This presents a notable historical continuity of water pumping operations at the site.*
- When completed, and for many years that followed, the Ryde Water Pumping Station was considered the most important water pumping station in the Sydney Water system and the only one warranting appointment of a Grade 1 Pumping Engineer-in-Charge.*
- Ryde Water Pumping Station and its tangible historical components present evidence of former work practices on a scale that is rare for its type of operation in the Sydney Water system. Surviving vegetation on the site contributes to this evidence reflecting distinct phases of the site's history*

The Architectus CMP goes on to identify significant elements of the complex and rate them. The Engineer-in-charge' residence was assessed as being highly significant and contributing to its significance. Conservation policies recommend that the significance of the site will be conserved by maintaining the significant fabric.

Assessment of Heritage Impact:

The Ryde Pumping Station has State Heritage Significance. The Architectus CMP documents a schedule of significant elements at the pumping stations and associated infrastructure. Classifications of exceptional and high significance (making VITAL or CONSIDERABLE contributions to the overall significance of the item) were identified as those contributing to the recognition of the State level of significance of the whole site (refer Appendix A). The Engineer's residence (while outside the current site boundaries of the pumping station) is classified as high significance and is 'important for associations with Pumping Station No. 1 building...' (Architectus, 2004:118).

The Archnex HIS and CMP submitted for the subject site neglect to document the association of the Engineer's residence with the Ryde Pumping Station, in particular the pumping station known as No. 1 constructed in 1891. The significance of the relationship of the between the two buildings must be taken into consideration when assessing the potential impacts of the proposal on the significance of the Engineer's residence and should guide the proposed development accordingly. For example the Archnex CMP focuses on the Engineer's residence as merely an example of the thematic history "Housing" failing to recognise its unique history.

ITEM 3 (continued)

By comparison, the Architectus CMP lists the thematic histories which the complex illustrates. These include a number which are relevant to the Engineer's Residence, such as (2004:58, refer to Appendix A):

- **Labour history** – Living and working on site, Engineer's House, Worker's Housing
- **Utilities** - Promotion of urban growth through the provision of essential services
- **Technology, commerce, industry**
- **Environment** – cultural landscape

The Architectus CMP identifies areas of the site that are potentially archaeologically significant. The CMP documents that archaeological evidence may exist within the ... discrete area of the Engineers residence (a plan is included in Appendix A). The potential for an archaeological resource is not documented in the Archnex HIS and the CMP for the subject site, nor do these documents include recommended management guidelines for the construction period should an item of significance be uncovered.

The submitted architectural plans demonstrate that the proposal will result in the demolition of the rear wings and significant 19th Century (original) fabric. A review of the current and past architectural plans indicates that the existing ground floor plan, matches the ground floor plan of the engineer's residence in 1907 (refer Appendix A). A review of these plans indicates that little to no alteration has taken place to the main form and features of the ground floor and rear wings since the original modifications took place in 1907. A site visit conducted 7 March 2012 confirmed the findings of the desktop review of the architectural plans.

The Archnex HIS and CMP submitted for the subject site fails to adequately address the extent of the proposed work to the Engineer's residence and the potential impact of these works. The Archnex HIS and CMP document the alterations and additions to the dwelling at the rear without adequately demonstrating the physical extent of the 'alterations and additions', what impact these alterations and additions will have on the fabric of the Engineer's residence, and consequently on the heritage significance of the item and its ability to illustrate labour history and the history of the Pumping Station. Notwithstanding the fact that the building has been subdivided from the Pumping Station site, the historical associations still exist between the two sites.

Conclusion

It is considered that the proposal to demolish the two 19th century rear wings of the Engineer in Charge residence and replace these with a new two storey rear addition will impact adversely on the heritage significance of the item because:

- 19th century dwellings are rare in the City of Ryde constituting approximately 22 of 174 Heritage Items (13%);
- The Building is significant for its associations with the Ryde Pumping Station an item of State Heritage Significance;

ITEM 3 (continued)

- *The fabric from the 1890s period is associated with now demolished buildings from the Pumping Station complex making the extant surviving 1890s fabric rare and highly significant;*
- *The house is a rare example of worker's housing in NSW and illustrates Labour history in NSW; and*
- *Some potential for archaeological resources exist.*

Recommendations:

Based on the reasons outlined above it is considered that the proposal will have an adverse impact on the heritage significance of the item. Thus, the application is not supported and recommended for refusal. Moreover, it is not recommended that redesign is pursued as demolition of the rear wings will not be supported.

Addendum Report 3 October 2012

In addition to the above, Council's Heritage Officer has provided further comments regarding development options for this building. In particular:

- a) Details of whether there would be any circumstances in which the rear wings could be demolished; and
- b) Additional comment on the architectural merit of the proposal in the context of the dwelling and the subject site;
- c) Recommendations on an alternative design and specifications for what should be designed by a heritage architect.

These additional comments are provided in full at **ATTACHMENT 4** to this report.

External Referrals

Sydney Water: The DA was referred to Sydney Water as the site was previously part of the West Ryde Pumping Station, which Sydney Water has listed as a "critical site".

In response, Sydney Water advised that the development poses no adverse effects to their facilities, and has requested (if the DA is to be approved) that Council includes a condition requiring the approved plans to be submitted to a "Quick Check" agent to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements can be met.

A standard condition could be imposed to address this matter, if Council decides to approve the DA.

14. Critical Dates

There are no critical dates or deadlines to be met.

ITEM 3 (continued)**15. Financial Impact**

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

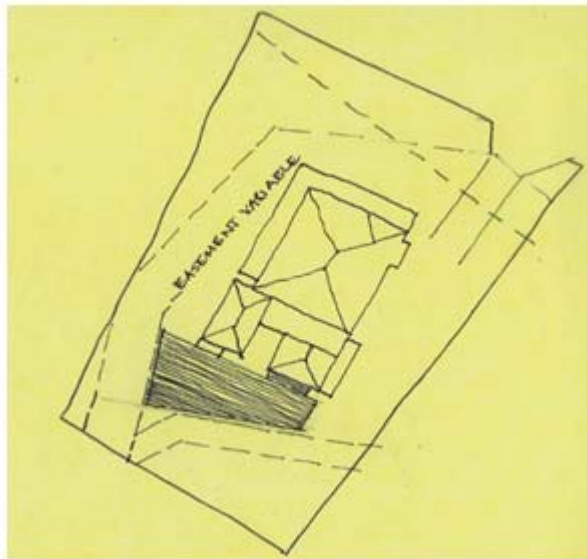
16. Other Options

On the basis of the proposal as currently presented, the recommendation of this report is for refusal of the application.

Alternatively, if Council is mindful to allow further amendments to the proposal, then such modifications are to be undertaken strictly in accordance with the following parameters:

1. Amended plans are to be prepared by an architect with qualifications and experience in heritage conservation
2. Under no circumstances would demolition of the rear wings be considered – as these are considered to be highly significant to the history of this heritage item and its heritage values.
3. Internal modifications of the rear wings may be considered, however the rear wing external walls, verandah and external fabric, including roof form must remain intact, be retained and conserved as part of any redesign.
4. A new rear addition may be constructed in the identified zone (see below) for development and attached to the existing building, but must include the following features:
 - Gable or hipped roof in order to be sympathetic to the original built form
 - Retention of the two existing Victorian rear wings and their roof forms
 - The courtyard form to be retained and the relationship between the significant Victorian rear wings retained
 - Possible projection to the west beyond the alignment of the existing building (but only if the form and scale is considered by the heritage architect to be sympathetic)
 - Material quality (wall and roofing materials) to be sympathetic to the existing heritage item
 - Fenestration and external architectural detailing including the fire stairs to be designed to be sympathetic with the existing heritage item.
 - Demolition of the existing unsympathetic rear stair will be favourably considered. To facilitate access to the second level of the dwelling, the wall closing off the existing internal stair at the ground floor could be opened up.

ITEM 3 (continued)



17. Conclusion

The proposed development has been assessed using the heads of consideration listed in Section 79 of the Environmental Planning & Assessment Act 1979. It is considered that the development as proposed in this application is unsatisfactory because of its adverse impacts on the heritage significance of the existing dwelling and the adjoining Ryde Pumping Station buildings, which are both listed as Items of Environmental Heritage under Ryde LEP 2010.

ITEM 3 (continued)

ATTACHMENT 1

DCP Compliance Table.

| DCP 2010 | Proposed | Compliance |
|---|---|-------------------|
| Part 3.3 - Dwelling Houses and Dual Occupancy (attached) | | |
| Dwelling Houses | | |
| - To have a landscaped setting which includes significant deep soil areas at front and rear. | Front and rear gardens to remain. | Yes |
| - Maximum 2 storeys. | Two storeys | Yes |
| - Dwellings to address street | Dwelling presents to Victoria Road. | Yes |
| - Garage/carports not visually prominent features. | No garages within the front façade. | N/A |
| Alterations and Additions | | |
| - Design of finished building appears as integrated whole. | Complies. | Yes |
| - Development to improve amenity and liveability of dwelling and site. | Complies. | Yes |
| Public Domain Amenity | | |
| Streetscape | | |
| - Front doors and windows are to face the street. Side entries to be clearly apparent. | Front doors and windows face street. | Yes |
| - Single storey entrance porticos. | Single entrance portico. | Yes |
| - Articulated street facades. | Articulated street façade. | Yes |
| 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. | No significant views to/from the site. | N/A |
| Pedestrian & Vehicle Safety | | |
| - Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard. | Car parking is to be located at the rear of the site on existing hard paved area. | Yes |
| - Fencing that blocks sight lines is to be splayed. | Existing front fencing. | N/A |

ITEM 3 (continued)

ATTACHMENT 1

| DCP 2010 | Proposed | Compliance |
|---|--|---|
| Site Configuration | | |
| <p>Deep Soil Areas</p> <ul style="list-style-type: none"> - 35% of site area min. - Min 8x8m deep soil area in backyard. - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). | <p>Permeable (deep soil) area: 711.98m² approx (59% of site area).</p> <p>Rear DSA dimensions: 5.8m x 10.7m provided.</p> <p>Front DSA: 100% permeable area in front yard= 340.64m². Hard surface areas have been kept to a minimum in the front yard.</p> | <p>Yes</p> <p>No Yes</p> |
| Topography & Excavation | | |
| <p>Within building footprint:</p> <ul style="list-style-type: none"> - Max cut: 1.2m - Max fill: 900mm | <p>Within BF</p> <p>Max cut: nil</p> <p>Max fill: nil</p> | <p>N/A</p> <p>N/A</p> |
| <p>Outside building footprint:</p> <ul style="list-style-type: none"> - Max cut: 900mm - Max fill: 500mm - No fill between side of building and boundary or close to rear boundary - Max ht retaining wall 900mm | <p>Outside BF</p> <p>Max cut: nil</p> <p>Max fill: nil</p> <p>Not proposed.</p> <p>Not proposed.</p> | <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> |
| Floor Space Ratio | | |
| Ground floor | 230.87m ² | |
| First floor | 230.09m ² | |
| Total (Gross Floor Area) | 460.96m ² | |
| <p>FSR (max 0.5:1)</p> <p>Note: Excludes wall thicknesses; lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas.</p> | <p>0.38:1</p> | <p>Yes</p> |
| Height | | |
| <ul style="list-style-type: none"> - 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL). | <p>2 storeys maximum.</p> | <p>Yes</p> |
| <ul style="list-style-type: none"> - 1 storey maximum above attached garage incl semi-basement or at-grade garages. | <p>Not applicable to the proposed development.</p> | <p>N/A</p> |

ITEM 3 (continued)

ATTACHMENT 1

| DCP 2010 | Proposed | Compliance |
|---|---|--------------------|
| Wall plate (Ceiling Height) - 7.5m max above FGL or - 8m max to top of parapet <i>NB:</i> TOW = Top of Wall EGL = Existing Ground Level FGL = Finished Ground Level | TOW RL: 29.36 FGL/EGL blw RL: 23.66 TOW Hgt (max)= 5.7m | Yes |
| - 9.5m Overall Height <i>NB:</i> EGL = Existing Ground Level | Max pnt of dwlng RL: 29.66 FGL/EGL blw RL: 23.66 Overall Hgt (max)= 6m | Yes |
| Habitable rooms to have 2.4m floor to ceiling height (min). | 2.7m min room height | |
| Setbacks | | |
| SIDE Single storey dwelling - 900mm to wall - Includes balconies etc | Approximately 5.5m to wall min | Yes |
| SIDE First floor addition - 1500mm to wall - Includes balconies etc | Approximately 5.5m to wall min | Yes |
| Front - 6m to façade (generally) | Existing 11.5m. | Yes |
| Rear - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. Note: between 10.71m and 11.4m is 25% of site length. | Between 7.6m and 13m provided. | No |
| Car Parking & Access | | |
| General - Dwelling: 2 spaces max, 1 space min. - Behind building façade. - Where possible access off secondary street frontages or laneways is preferable. - | Two car parking spaces provided at the rear of the site on existing hard paving. Uncovered. Existing vehicular access off Victoria Road. | Yes N/A |
| Garages | Two proposed spaces to be provided at the rear of the site on the existing hard paving and uncovered by any structures. | N/A |

ITEM 3 (continued)

ATTACHMENT 1

| DCP 2010 | Proposed | Compliance |
|---|---|-------------------|
| Carports | Not proposed. | N/A |
| Driveways - Extent of driveways minimised | Existing driveway. | N/A |
| Landscaping | | |
| Trees & Landscaping - Major trees retained where practicable | The application does not propose to alter any existing vegetation on the site. Complies. | Yes |
| - Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL eg. stairs, terraces. | Complies. | Yes |
| - Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access) | Complies. | Yes |
| - Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy. | Existing vegetation throughout the site is considered satisfactory. | N/A |
| - Back yard to have at least 1 tree with mature ht of 15m min and a spreading canopy. | Existing vegetation throughout the site is considered satisfactory. | N/A |
| - Hedging or screen planting on boundary mature plants reaching no more than 2.7m. | Not proposed. | N/A |
| - OSD generally not to be located in front setback unless under driveway. | Not proposed. | N/A |
| - Landscaped front garden, with max 40% hard paving | Existing hard paving: 18% | N/A |
| Landscaping for lots with Urban Bushland - Where lot is adjoining bushland protect, retain and use only native indigenous vegetation for distance of 10m from bdy adjoining bushland. | Existing vegetation on the site. No vegetation is proposed for removal/replacement. | N/A |
| Dwelling Amenity | | |
| Daylight and Sunlight | | |

ITEM 3 (continued)

ATTACHMENT 1

| DCP 2010 | Proposed | Compliance |
|--|---|--|
| <p>Access</p> <ul style="list-style-type: none"> - Living areas to face north where orientation makes this possible. - 4m side setback for side living areas where north is to the side allotment boundary. <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. - 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. | <p>Living areas face north.</p> <p>Not applicable.</p> <p>North facing windows will receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21.</p> <p>Private open space will receive at least 2 hours sunlight between 9am and 3pm on June 21.</p> <p>There are no adjoining residential dwellings.</p> | <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> |
| <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. - Side windows offset from adjoining windows. - Terraces, balconies etc are | <p>Complies.</p> <p>Complies.</p> <p>Complies.</p> <p>Complies.</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |

ITEM 3 (continued)

ATTACHMENT 1

| DCP 2010 | Proposed | Compliance |
|---|--|----------------------------------|
| not to overlook neighbouring dwellings/private open space. | | |
| View Sharing - The siting of development is to provide for view sharing. | No significant views to/from the site. | N/A |
| Cross Ventilation - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation. | Complies. | Yes |
| External Building Elements | | |
| Roof - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights. | Flat roof will not be visible from the street. Complies. Not proposed. None proposed. | N/A Yes N/A N/A |
| Attic Dormer Windows | Not proposed. | N/A |
| Fencing | | |
| Front/return: | Existing front fence. | N/A |
| Side/rear fencing: | Existing side fencing. | N/A |
| Part 7.1 - Energy Smart, Water Wise | | |
| As per submitted BAISX Certificate | | Yes |
| External Clothes Drying Area | | |
| External yard space or sheltered ventilated space for clothes drying | Complies. | Yes |
| Part 7.2- Waste Minimisation & Management | | |
| Submission of a Waste Management Plan in accordance with Part 7.2 | The applicant has submitted a Waste Management Plan in accordance with Part 7.2 | Yes |
| Part 8.2 - Stormwater Management | | |
| Stormwater | | |
| Drainage is to be piped in accordance with Part 8.2 - Stormwater Management. | Satisfactory drainage concept plan submitted. | Yes |
| Part 9.6 – Tree Preservation | | |
| Where the removal of tree(s) is associated with the redevelopment of a site, or a | No existing landscaping to be removed as part of this proposal. | N/A |

ITEM 3 (continued)

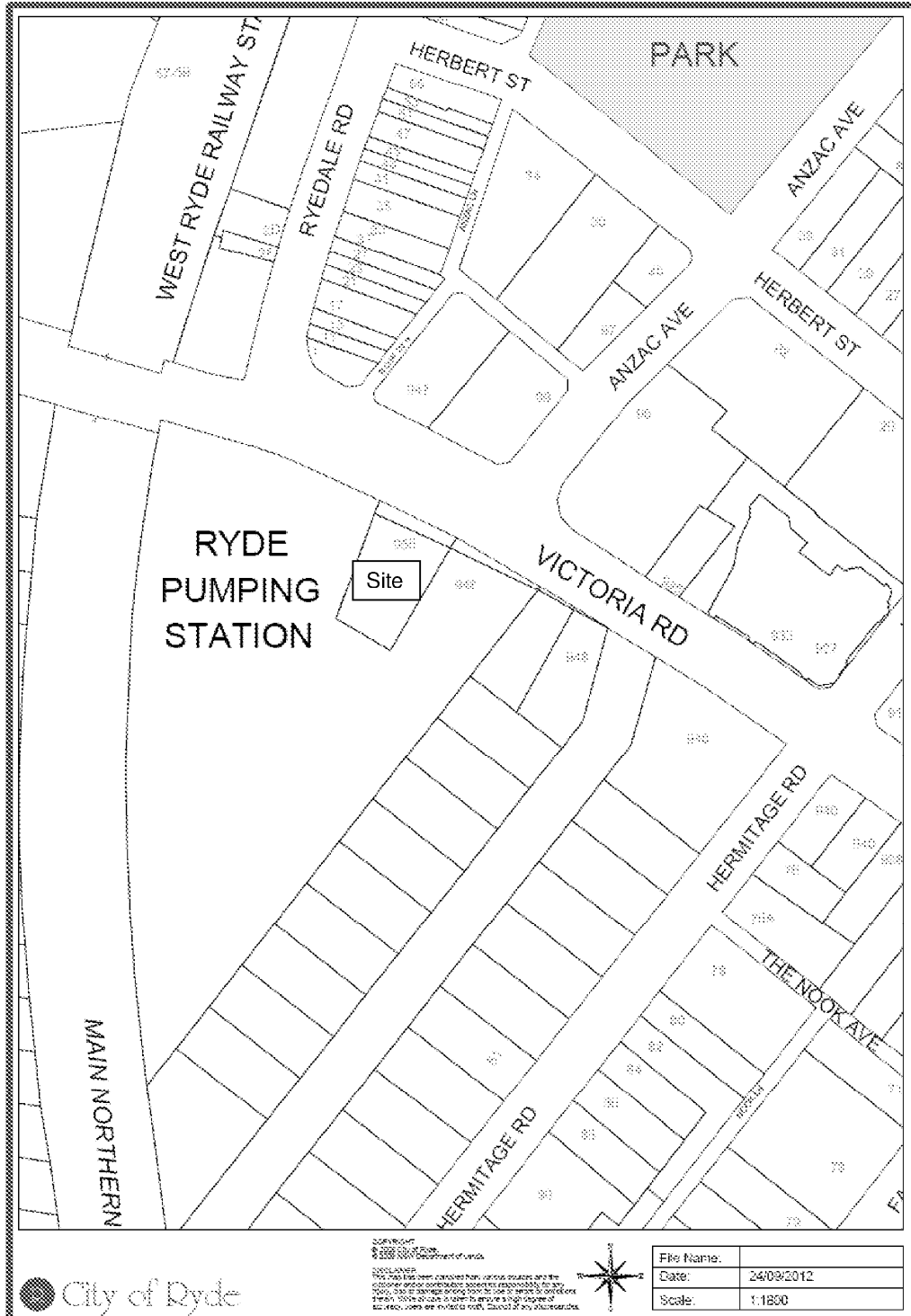
ATTACHMENT 1

| DCP 2010 | Proposed | Compliance |
|--|-----------------|-------------------|
| neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway. | | |

ITEM 3 (continued)

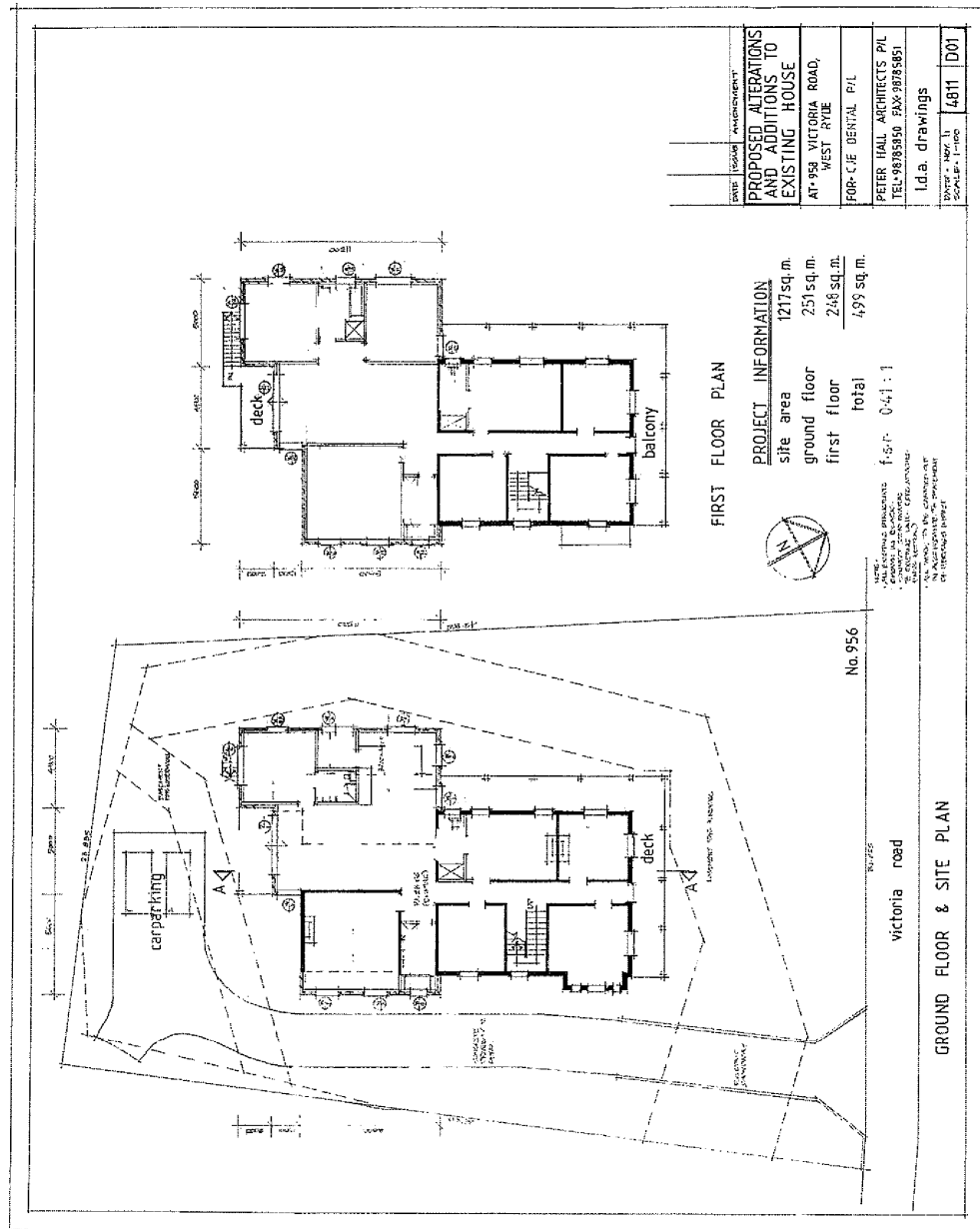
ATTACHMENT 2

Submission received from member of the (former) City of Ryde Heritage Advisory Committee



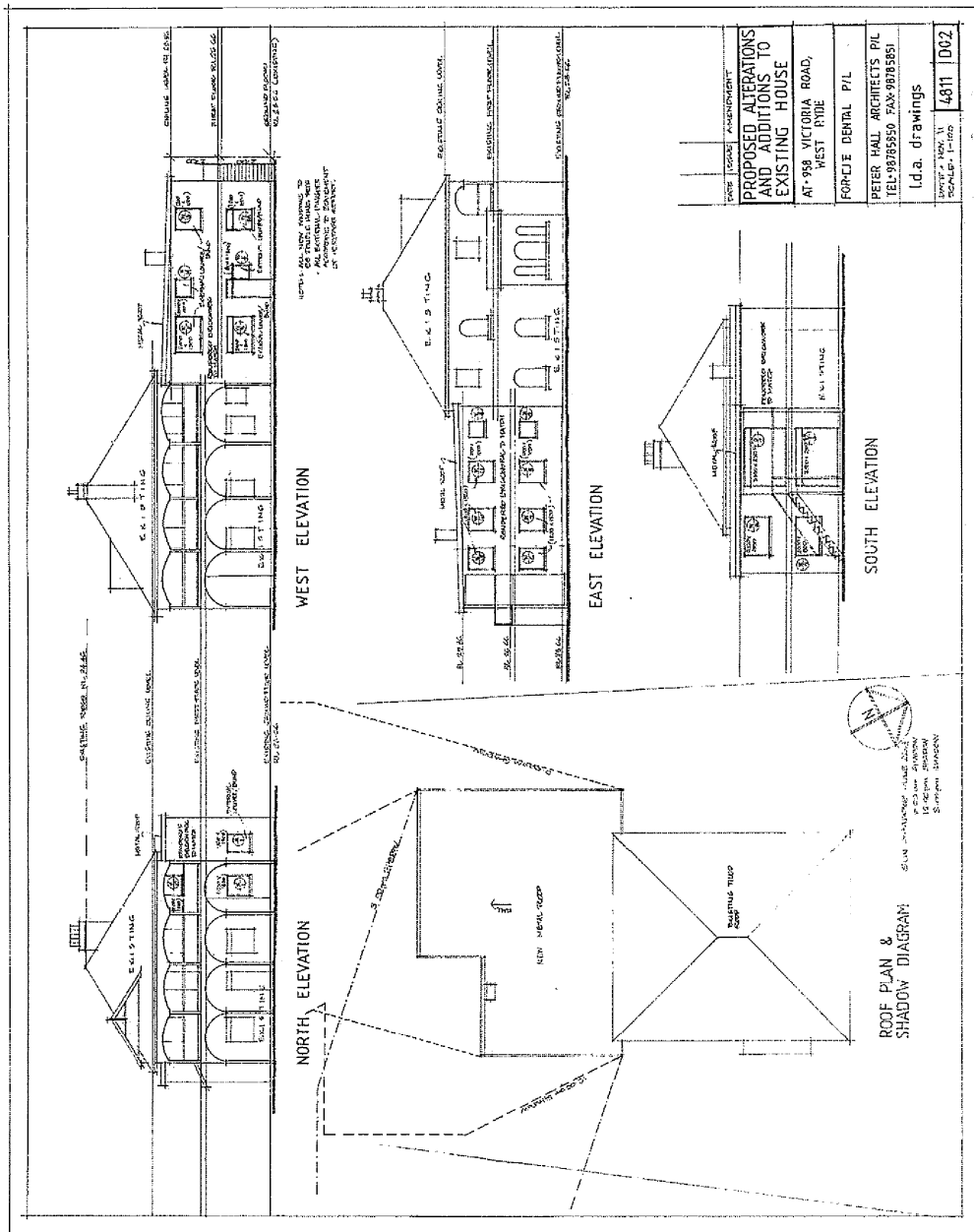
ITEM 3 (continued)

ATTACHMENT 3



ITEM 3 (continued)

ATTACHMENT 3



ITEM 3 (continued)

ATTACHMENT 4

Development Application Comments In Relation to Heritage Impact:

| | | | |
|--------------------------------------|---|--------------|----------------|
| To: | Chris Young | Date: | 3 October 2012 |
| From: | Renee Walmsley Heritage/Strategic Planner | | |
| Trim Ref And Address: | LAD2012/0047 958 Victoria Road WEST RYDE 2114 | | |

Heritage Listing:

| | |
|------------------------------------|--|
| Heritage item: | Yes: Item 156 (Local) |
| In the vicinity of a heritage item | Yes: Item 155 (Local – however, the item is to be listed as an item of state significance pursuant to the Draft Ryde LEP 2011) |
| Conservation area: | Yes – C3 and C2, however the subject site is outside the visual catchment of the heritage conservation areas |
| Character area (DCP 2010): | No. |

Heritage Controls:

Ryde LEP 2010 Clause 5.10 Heritage Conservation

“(2) Requirement for consent

Development consent is required for any of the following:

(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,”

Background:

A referral was prepared for the assessing officer by Council's heritage advisor and submitted to the assessing officer on 6 July 2012. Following, the Development Application was called up to the Planning and Environment Committee for determination in October 2012. A request for further information was made by the Manager of Assessment as follows:

- a) Details of whether there would be any circumstances in which the rear wings could be demolished; and
- b) Additional comment on the architectural merit of the proposal in the context of the dwelling and subject site;
- c) Recommendations on an alternative design and specifications for what should be designed by a heritage architect.

The following comments are provided in response to this request and should be read as an addendum to, and not in replace of, the original referral dated 6 July 2012.

Additional Heritage Comments:

a) Circumstances to demolish the rear wings

The proposal is for extensive alterations and additions at the rear of a heritage item. The heritage item was constructed in three stages. The first two stages are Victorian in style and character while the third stage is twentieth century and Edwardian in style. The proposed alterations and additions include demolition of the two original Victorian rear wings

ITEM 3 (continued)

ATTACHMENT 4

The rear wings comprise 19 century Victorian (original) fabric, and are considered to be highly significant to the history of the item and its heritage values. Victorian buildings are rare in the City of Ryde. Under no circumstances would demolition of the rear wings be considered.

A proposal for the internal modification of the rear wings may be considered; however the rear wing external walls, verandah and external fabric, including roof form must remain intact, be retained and conserved as part of any redesign. Conservation measures of the item could include restoration and maintenance works such as fixing leaking roofs, mortar joints and the like. A full photo archival recording of the rear wings (internal and external) must be completed and submitted to Council for review and approval prior to the commencement of any building works. It is likely this requirement would also apply to any building works to the dwelling.

b) Architectural merit of the proposal

The alterations and additions to the dwelling include demolition of the two original Victorian rear wings and the construction of a ground and second storey addition with a skillion roof and external stairs to the rear of the dwelling. The completed proposal will include 8 bedrooms, 3 ensuites, 3 bathrooms, 3 living areas, a gymnasium, an external “fire” stair and other facilities.

The design of the proposed ground and second storey at the rear of the dwelling is not sympathetic to the architectural styles of the heritage item or to its heritage significance. The proposed rear addition is a brick box with few design features and little architectural character. The bulk and scale of the proposed addition is not subservient to the existing building and will be clearly visible from the west and from the street. The appearance of this bulk is considered to alter the visual continuity of the heritage item. It is determined that the proposed rear addition is not considered to be sympathetic to the heritage item.

It is noted that the architectural plans have not been prepared by a recognized heritage architect.

c) Recommendations on an alternative design

An amended design was requested by Council’s assessing officer and Heritage advisor, in addition to a request that a Conservation Management Plan (CMP) be prepared for the subject site to accompany the submitted Statement of Heritage impact. The applicant submitted the requested CMP but did not submit an amended design. This is documented in the original heritage referral dated 6 July 2012.

A desk top review of the survey plan was undertaken to determine the potential of an area on the subject site with the potential to support development. The review took into account the easements on the subject site and the required retention of the single storey rear wings. The below image identifies a ‘zone’ for potential development at the rear of the subject site identified by cross-hatching. The identified zone is to the rear of the existing rear wings and within an area defined by easements. It is recommended that the location of the easements is researched (in particular the “easement of variable width”) and more accurately plotted in consultation with the relevant authorities.

ITEM 3 (continued)

ATTACHMENT 4

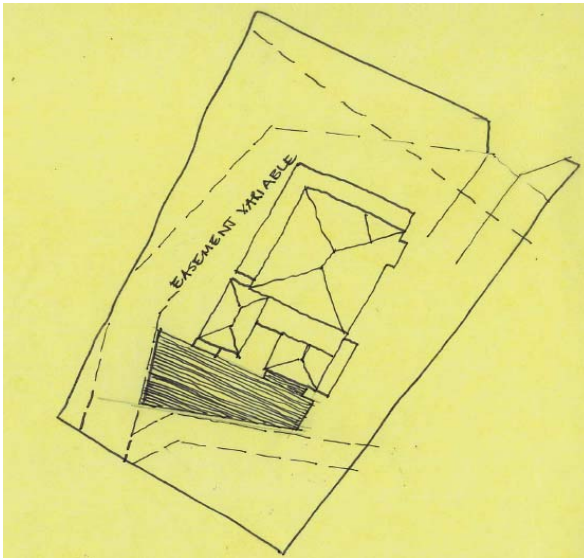


Figure 1: Subject site with zone for development indicated by cross-hatching

A new rear addition may be constructed in the identified zone for development and attached to the existing building, but must include the following features:

- Gable or hipped roof in order to be sympathetic to the original built form
- Retention of the two existing Victorian rear wings and their roof forms
- The courtyard form to be retained and the relationship between the significant Victorian rear wings retained
- Possible projection to the west beyond the alignment of the existing building (but only if the form and scale is considered by the heritage architect to be sympathetic)
- Material quality (wall and roofing materials) to be sympathetic to the existing heritage item
- Fenestration and external architectural detailing including the fire stairs to be designed to be sympathetic with the existing heritage item.
- Demolition of the existing unsympathetic rear stair will be favorably considered. To facilitate access to the second level of the dwelling, the wall closing off the existing internal stair at the ground floor could be opened up.

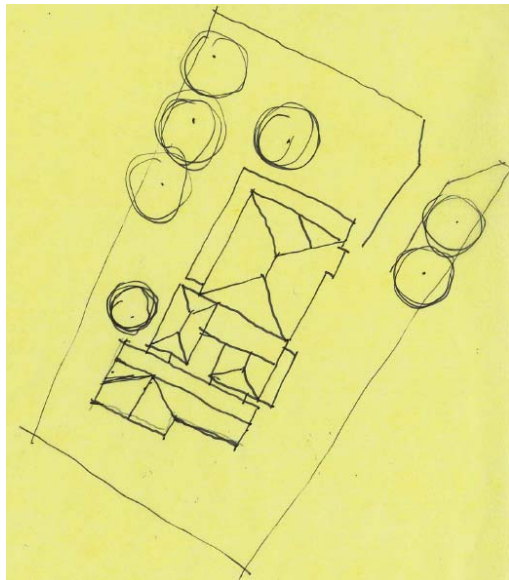


Figure 2: Indicative potential form and roofline of a rear addition, constructed within the identified zone for development

ITEM 3 (continued)

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It is noted that Figure 2 is only indicative of any development, and any design should be carried out and works supervised by a suitably qualified heritage architect.

A redesign that facilitates conservation of the item may take into consideration to the heritage incentives clause in Ryde LEP 2010, Clause 5.10.

Heritage Advisor
3 October 2012

Reviewed and approved by: Team Leader Strategic Planning (3 October 2012)

- 4 **62 DARVALL ROAD, EASTWOOD. LOT 11 DP 6247. Local Development Application for demolition of existing dwelling and erection of a attached dual occupancy. LDA2011/380.**

INSPECTION: 4.35pm

INTERVIEW: 5.15pm

Report prepared by: Team Leader - Assessment

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

Report dated: 2/10/2012

File Number: grp/12/5/5/3 - BP12/1117

1. Report Summary

Applicant: Residential Logistics Pty Ltd

Owner: Mr H Chua and Ms T Diep

Date lodged: 19 July 2011

This report considers a development application (DA) for demolition of the existing dwelling and erection of a new 2 storey attached dual occupancy at the subject property.

The proposal has been assessed against the controls in Development Control Plan 2010 (DCP 2010), and there are a number of areas of non-compliance in terms of topography and excavation (height of retaining walls), garage setback, garage width, hard paving within the front setback, and solar access for neighbouring properties. Apart from the issue of solar access, these issues are generally acceptable in the circumstances (as discussed in detail in the body of the report) and would not justify refusal for these reasons.

The main issue of concern is the impacts of the development upon views currently enjoyed from the property to the north (No 60 Darvall Road), which currently has extensive district views to the south and south-west (eg across Sydney Olympic Park and beyond). The proposed development would have an unreasonable impact on these views currently enjoyed from the adjoining property. A full assessment of view impacts using the Land and Environment Court Planning Principle (*Tenacity vs Warringah Council 2004*) is made in the body of this report. In summary, it is considered that the development's impacts on views from No 60 Darvall Road is unacceptable, because the bulk and scale of the development would totally remove the views currently enjoyed, and it is considered that a more appropriate design could be chosen to ensure the views are maintained to a reasonable extent – for example the amount of floor space at 1st floor level could be reduced at the rear of the building (and added to the rear of the ground floor level) to ensure views across the ground floor roof.

ITEM 4 (continued)

Also of concern is the extent of overshadowing on the neighbouring property to the south (No 64 Darvall) which does not comply with DCP 2010. Whilst it is noted that this adjoining property would be vulnerable to overshadowing from any development of this property (given that it is both due south and also at a much lower level due to existing topography), it is considered that a more sympathetic design could at least minimise overshadowing impacts on No 64 to a reasonable level. However the design as currently submitted would cause severe overshadowing as well as general impacts of bulk, scale and massing and is unacceptable.

The DA has been notified to neighbours and **6 submissions** have been received, from 3 properties and a planning consultant on behalf of 'residents of Darvall Road'. Issues raised include impacts on views (enjoyed from No 60 Darvall Road), privacy impacts, overshadowing (of No 64 Darvall Road to the south), height, bulk and scale and streetscape impacts.

The DA is recommended for refusal due to unacceptable impacts on views from No 60 Darvall Road, as well as overshadowing/solar access impacts for No 64 Darvall Road. Attempts have been made to negotiate a suitable outcome with the applicant (via requests for amended plans and meetings to discuss the proposed development), however they have declined. Council has received written submissions from the applicant to justify their current design, but they have indicated that they are not willing to provide any further design amendments.

Reason for Referral to Planning and Environment Committee: Requested by Councillor Perram and (former) Councillor Butterworth.

Public Submissions: **Six (6) submissions** (from 3 properties and a planning consultant on behalf of 'residents of Darvall Road') were received objecting to the development.

SEPP 1 (or clause 4.6 RLEP 2010) objection required? None required.

Value of works? \$568,000

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

RECOMMENDATION:

- (a) That Local Development Application No. 2011/380 at 62 Darvall Road, Eastwood being Lot 11 DP 6247 be refused for the following reasons:
1. The proposal as presented in this application would have unacceptable impacts on the views currently enjoyed from the neighbouring property to the north (No 60 Darvall Road).

ITEM 4 (continued)

2. The proposal would cause unacceptable overshadowing onto the neighbouring property to the south (No 64 Darvall Road).
3. In the circumstances of the case, approval of the application would not be in the public interest.

(b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Compliance table
- 2 Map
- 3 Letter from Group Manager Environment & Planning
- 4 A4 plans
- 5 A3 plans - subject to copyright provisions - 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 4 (continued)

2. Site (Refer to attached map.)

Address : 62 Darvall Road, Eastwood

Site Area : 733m²
Frontage 14.485m
Depth 49.38m

Topography and Vegetation : The prevailing topography in this location is a very steep slope from north to south, however this site (in the vicinity of the existing house and rear yard) is relatively flat, likely to be the result of previous filling.

Existing Buildings : Existing single storey dwelling house.

Planning Controls
Zoning : Ryde LEP 2010
R2 Low Density Residential.

Other : Ryde DCP 2010



ITEM 4 (continued)



3. Councillor Representations

Name of Councillor: (former) Councillor Butterworth

Nature of the representation: Request for update on DA; and to call-up to Planning & Environment Committee

Date: 20 October 2011

Form of the representation (e.g. via email, meeting, phone call): Phone call to Group Manager Environment & Planning

On behalf of applicant or objectors? Unknown

Any other persons (e.g. consultants) involved in or part of the representation: Unknown.

ITEM 4 (continued)

Name of Councillor: Councillor Perram

Nature of the representation: To forward concerns from a neighbour (and to call-up the DA if not already done)

Date: 26 October 2011

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

On behalf of applicant or objectors? Objectors at No 62 Darvall Road

Any other persons (e.g. consultants) involved in or part of the representation: Unknown

Name of Councillor: Councillor Perram

Nature of the representation: Request for concerns from applicant re DA processing (timeframes and requests for information) to be considered – and for DA to be expedited if possible.

Date: 14 March 2012

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

On behalf of applicant or objectors? Applicant

Any other persons (e.g. consultants) involved in or part of the representation: Unknown.

Name of Councillor: (former) Councillor Butterworth

Nature of the representation: Further call-up to Planning & Environment Committee (following receipt of amended plans).

Date: 10 July 2012

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

ITEM 4 (continued)

On behalf of applicant or objectors? Unknown

Any other persons (e.g. consultants) involved in or part of the representation:
Unknown

4. Political Donations or Gifts

None disclosed in applicant's DA submission or in any submission received.

5. Proposal

The development proposes demolition of the existing dwelling, and erection of a new 2 storey dual occupancy building.

6. Background

The DA was lodged on 19 July 2011, and shortly thereafter (22 July 2011) it underwent a preliminary assessment and was assigned to an assessment officer, referred to internal and external officers (Council's Development Engineer and Consultant Structural Engineers), and advertised/notified to neighbours with a notification period closing 1 September 2011. Further details of these processes are discussed later in this report.

The applicant was provided with copies of the 4 submissions received (at the time) following the original notification process. On 28 September 2011 a meeting was held at the Ryde Planning Business Centre between the applicant and the property owner, and Council staff (Assessment Officer and the Team Leader – Assessment) to discuss the issues of concern in the submissions. At that meeting, it was indicated that the issues of concern raised by the neighbours are valid (in particular the issues regarding impacts on views from No 60 Darvall Road to the north), and the proposal should be amended to resolve the issues.

On 10 October 2011, a response was received from the applicant to the submissions, in which the applicant provided a written response to justify the proposal in terms of view sharing (including their assessment of the Land and Environment Court Planning Principle *Tenacity vs Warringah Council*). This letter also included a revised survey drawing confirming the size and location of the rear verandah (at No 60 Darvall Road), and revised architectural plans showing the siting of the proposed dual occupancy relative to the neighbour's rear verandah, however there was no amendment to the submitted design of the development at this stage.

ITEM 4 (continued)

On 8 December 2011, a formal letter was sent to the applicant to request the following matters to be addressed:

1. *Geotechnical report – an updated report was requested because the original report submitted with the DA was prepared in 2006 and site conditions could have changed since that time.*
2. *Amended design re vehicle manoeuvring within the front setback – to ensure vehicles could enter/leave the site in a forward direction.*
3. *Non-Compliance with DCP 2010 – in particular:*
 - *Single storey entry portico (unit B was 2 storey).*
 - *Topography/excavation – details were requested of cut and fill within and outside the building envelope, and of the retaining walls throughout the site.*
 - *Front setbacks – ie the garages are required to be setback 1m from the front façade of the dwelling.*
 - *Garage width (6.5m) – which exceeded the maximum 6m.*
 - *Hard-paving within the front setback, and proposed location of on-site detention (OSD) within the front setback.*
 - *Visual privacy – a mixture of highlight and frosted windows where appropriate was requested to ensure privacy for neighbours could be achieved.*
4. *Shadow diagrams – it was requested to provide shadow diagrams of the existing building to enable a comparison assessment to be made.*
5. *Amended landscaping plan – to include details of the above amendments*
6. *Amended BASIX Certificate.*

A further meeting between the property owner, the applicant and their town planning representative was held at the Ryde Planning & Business Centre on 28 February 2012 to discuss the proposal and to clarify the nature of the additional information requested. A follow-up letter was sent on 23 March 2012, as the required information and amended details had not been submitted following the meeting in February. A further follow-up letter was sent on 22 May 2012, and on 1 June 2012, the applicant responded by requesting additional time (until 29 June 2012) to submit the requested information.

On 22 June 2012, the applicant submitted amended plans which incorporated the following:

- Proposed dual occupancy building moved forward by 2000mm to achieve a front building alignment of 7.55m;

ITEM 4 (continued)

- Overall width of garage increased by 600mm to achieve garage door openings of 3000mm each (as advised by Council) in order to assist with vehicle manoeuvring in accordance with AS 2890;
- Width of Dwelling B living room, first floor balcony & the front portion of the main bedroom reduced by 600mm as a consequence of the garage increases noted above;
- Brick planter box & associated retaining walls now introduced to the front & side of the proposed turning bay;
- The finished floor level of both floors of Dwelling B lowered by 345mm, reducing the subfloor area under Dwelling B;
- The resultant maximum wall plate height reduced to 7306mm; and
- The rainwater tank proposed for Dwelling B positioned 500mm from the southern boundary.

These amended plans were re-notified from 25 June to 10 July 2012.

On 24 July 2012, following verbal discussions between the applicant and Council's Assessment Officer, the applicant advised that the owners are not prepared to make any further design changes to the development proposal.

On 1 August 2012, the applicant's Town Planning Consultants wrote to Council's Group Manager Environment & Planning to express concerns about the DA process and concerns that it was not possible to advise when the DA would be considered by Council. On 14 August 2012, Council's Group Manager Environment & Planning responded to confirm that because Council was in recess at that stage (due to the Local Government Elections), it was not possible to advise of a date when the DA would be considered but that it would be presented to the first available Planning & Environment Committee meeting. The concerns regarding the proposal (particularly the impacts on views from No 60 Darvall Road) were also re-iterated, and the applicant was requested to make substantial design changes to address this issue.

A copy of the letter sent by the Group Manager Environment & Planning is **ATTACHED** for the information of Councillors.

Further emails were sent to the applicant from Council's Team Leader – Assessment (on 30 August and 13 September 2012) to request a response to the letter from Council's Group Manager Environment & Planning of 14 August 2012, however no response has been received. The DA is therefore presented to the Planning & Environment Committee for determination on the basis of the latest amended plans received by Council (dated 22 June 2012).

ITEM 4 (continued)**7. Submissions**

The proposal was advertised in the Ryde City View and notified to adjoining property owners in accordance with Development Control Plan 2010 – Part 2.1, Notification of Development Applications for a period from 9 August to 1 September 2011.

The amended plans (as discussed in Background above) were re-notified from 25 June to 10 July 2012.

In response, a total of **6 submissions** were received. These include a letter from a Town Planning Consultant (Planning Direction Pty Ltd) on behalf of the residents at No 60 and 64 Darvall Road and 40 Clanwilliam Street, and also individual letters from those residents, some of which attached and added to the letter by Planning Direction.

The issues raised in the submissions are summarised and discussed as follows:

- 1. Site excavation/works.** *Significant concerns are raised that the development would result in excessive site excavation in a designated land-slip area. These works could de-stabilise the existing retaining walls on the boundary with No 60 Darvall (to the north) and also the dwelling on that property. A dilapidation survey should be required for this development.*

Particular concerns have been raised from the owner of No 60 regarding the age of the geotechnical report submitted with the DA (2006), and the ability of the existing retaining walls to cope with the demands of this development – both the likely impacts of excavation on these retaining walls and also the type of development proposed.

Comment: It is agreed that these are significant issues in the context of this site, however they could be resolved via standard conditions of consent if Council decides to approve this DA. Such conditions include provision of protection support for neighbouring premises from possible damage during construction/excavation works, and underpinning of the adjoining premises to prevent any damage (in accordance with Australian Standards). Also, Council can require the applicant to submit pre- and post-construction dilapidation reports in relation to the existing dwelling and retaining walls on the boundary, and make good any damage caused during construction. Re-constructed retaining walls would be required to ensure that the structural integrity of the neighbouring dwelling at No 60 Darvall is maintained.

ITEM 4 (continued)

The concerns from the neighbour were forwarded to Council's Consultant Structural Engineers (Cardno Pty Ltd) to consider their particular circumstances. Cardno have advised the following:

Because decisions about the adequacy of the retention systems along the No. 60/No. 62 common boundary and decisions about new retaining walls in this area will not be made until after site clearing, demolition, and some bulk excavation, the current unknowns give rise to above average risks with respect to No. 60.

To adequately safeguard the rights of the owner of No. 60, Cardno is of the opinion that a dilapidation survey of the southern wall and immediate return walls of that property should be undertaken prior to the commencement of the works on No. 62, and in the circumstances recommends that Council conditions any approval accordingly.

As noted above, it is considered that this matter could be resolved via conditions of consent.

- 2. Site-specific design required.** *This is a difficult site with a very steep cross-slope and issues of view sharing, and it is inappropriate to undertake a "project-home" design. A site specific design is required to respond to the site constraints and ensure consistency with streetscape. The DA plans and support documents demonstrates scant appreciation of site circumstances*

Comment: It is agreed that this is a "difficult" site in terms of topography, however this by itself would not prevent Council from considering and approving a "standard" design if such design was acceptable in terms of impact. However the design presented in this DA is considered unacceptable in terms of impacts on views from No 60 Darvall Road and overshadowing and height, bulk, scale and massing impacts on No 64, and therefore is recommended for refusal.

- 3. View impacts.** *The proposal will have unacceptable impacts on views currently enjoyed from No 60 Darvall Road to the north. A more sensitive design should be chosen, which would enable some views to be preserved, in keeping with the principles of view sharing.*

Comment: This is considered to be the main issue of concern regarding the proposed development.

The Land and Environment Court has considered view sharing/view impacts in development proposals and has established a *Planning Principle* to assist in the consideration and assessment of these issues. This is known as the *Tenacity* principle following the Court's consideration of *Tenacity vs Warringah Council (2004)*.

ITEM 4 (continued)

The following is an assessment of the subject proposal using the 4 *Planning Principles* laid down in *Tenacity*:

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, I have adopted a four-step assessment.

*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.*

Assessment Officer's Comment: The properties to the north of this site (mostly No 60 Darvall but also to a lesser extent No 38 Clanwilliam) enjoy extensive district views towards the south, of Sydney Olympic Park and beyond. Although these are "land" views not "water" views (except for a "glimpse" of the Parramatta River), they are still highly valued by property owners in this location, and as such careful consideration should be given in development proposals to ensure that these views are preserved as much as possible.

An example of the views (taken from the rear verandah of No 60 Darvall Road) is shown in the following photo. Existing trees on No 66 Darvall Road (and Warrawong Reserve) to the south obscure some of the views, however extensive district views are currently available to the south/south-west:

ITEM 4 (continued)



*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.*

Assessment Officer's Comment: The views at No 60 Darvall are obtained from the dining room, kitchen and rear verandah of this dwelling, and are currently available from a standing position (in the dining room and kitchen) and from both a standing or sitting position (on the rear verandah). These views are available across the side (southern) boundary between No 60 and No 62 Darvall, which are noted in *Tenacity* as being more difficult/unrealistic to protect, however this is the only direction in which the views are available at this site. The following is a photo showing the view from the family room of No 62 Darvall Road (see also photo on previous page, showing views from rear verandah).

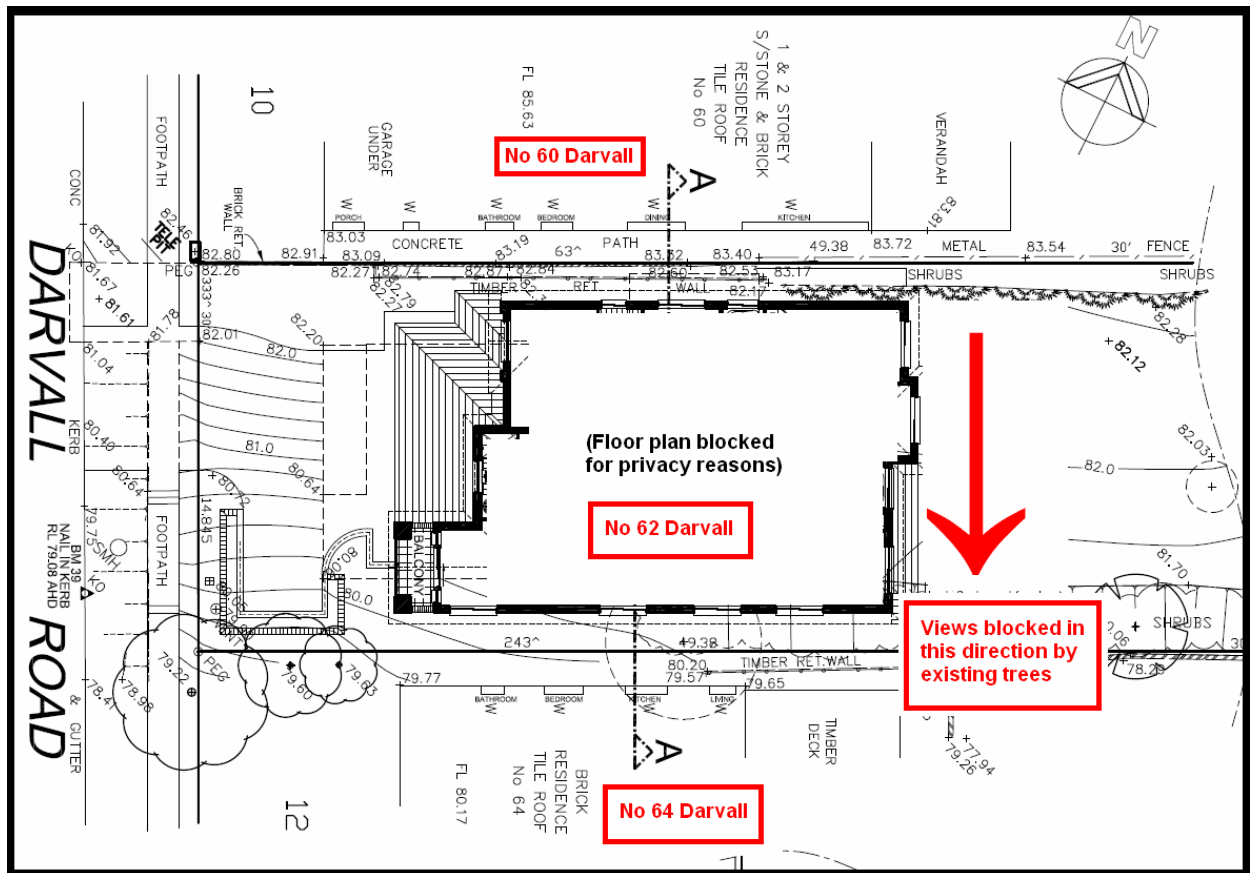
ITEM 4 (continued)



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.

Assessment Officer's Comment: The extent of the impact on views from the kitchen and rear verandah of No 60 Darvall, from the design as currently proposed, would be an almost complete removal of the view or a "devastating" impact to use the terms referred to in *Tenacity*. The development would still preserve the view from the front porch of No 60, however this is not linked to the main living rooms of that house, and so the views from this location are not considered the primary views. Remembering the existing trees block some of the views from No 60 Darvall (see photo above), it is considered that the proposal would effectively remove the remainder of the available view. The following is a plan showing the siting of the proposed dual occupancy relative to the dining room, kitchen and rear verandah of No 60 Darvall:

ITEM 4 (continued)



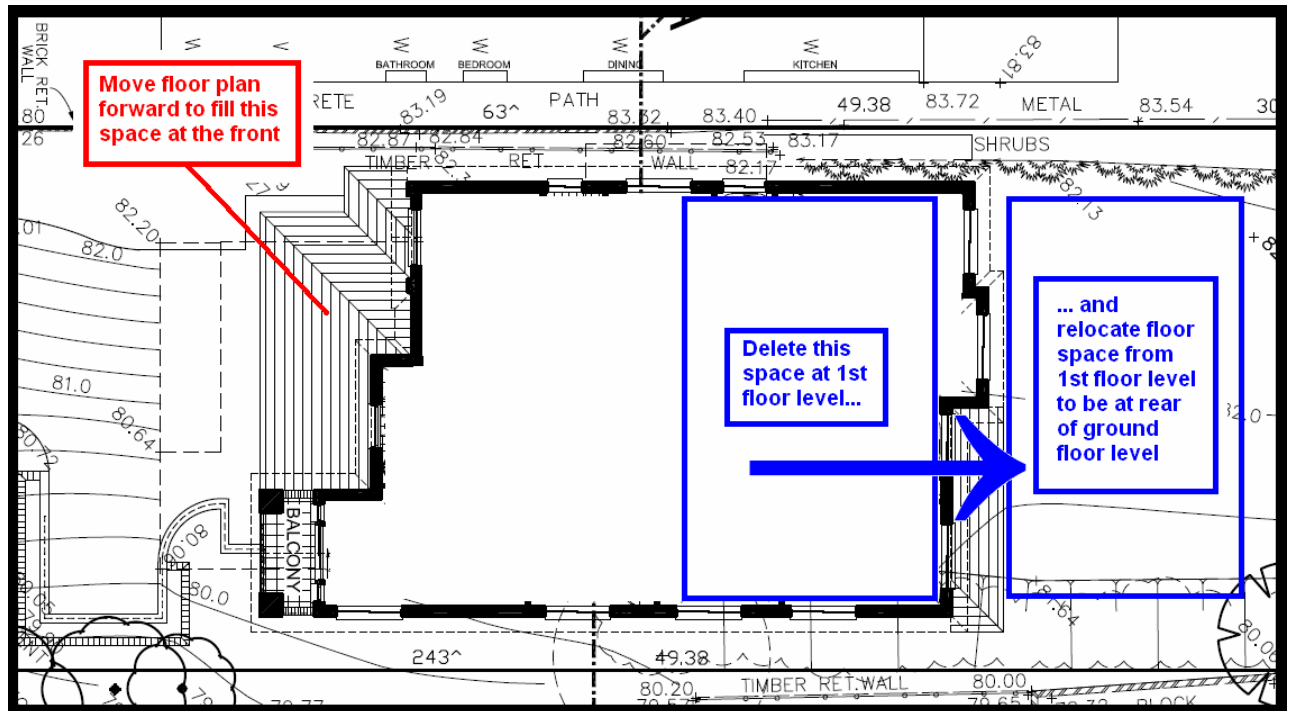
The **fourth step** is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning 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.

Assessment Officer's Comment: The proposal causing the impact is "reasonable" only in the sense that it complies with the numerical planning controls in Council's DCP where such controls relate to the adjoining property (eg it has a wall plate height of 5.23m when measured on the northern side facing No 60, whereas the DCP maximum wall plate height is 7.5m). Where the design is unreasonable is that a more skilful design could clearly be achieved for this development – which would provide the applicant with the same or similar development potential whilst reducing view impacts for the neighbours. Some of the possible design solutions

ITEM 4 (continued)

for this development are summarised below and shown in the marked-up plan below:

- Re-design the 1st floor level to move the floor plan forward to “fill” the space at the front of the dwelling; and/or
- Remove the rear portion of the 1st floor and/or extend the ground floor level towards the rear.



These design solutions have been suggested to the applicant on several occasions in meetings with Council officers during the processing of the application, but they have declined to make the requested amendments. The applicant has indicated that this is a “standard” design obtained from the housing company and any variations would incur a financial cost, and instead of amending the design to accommodate view sharing, the applicant has chosen only to justify the current design via a written submission.

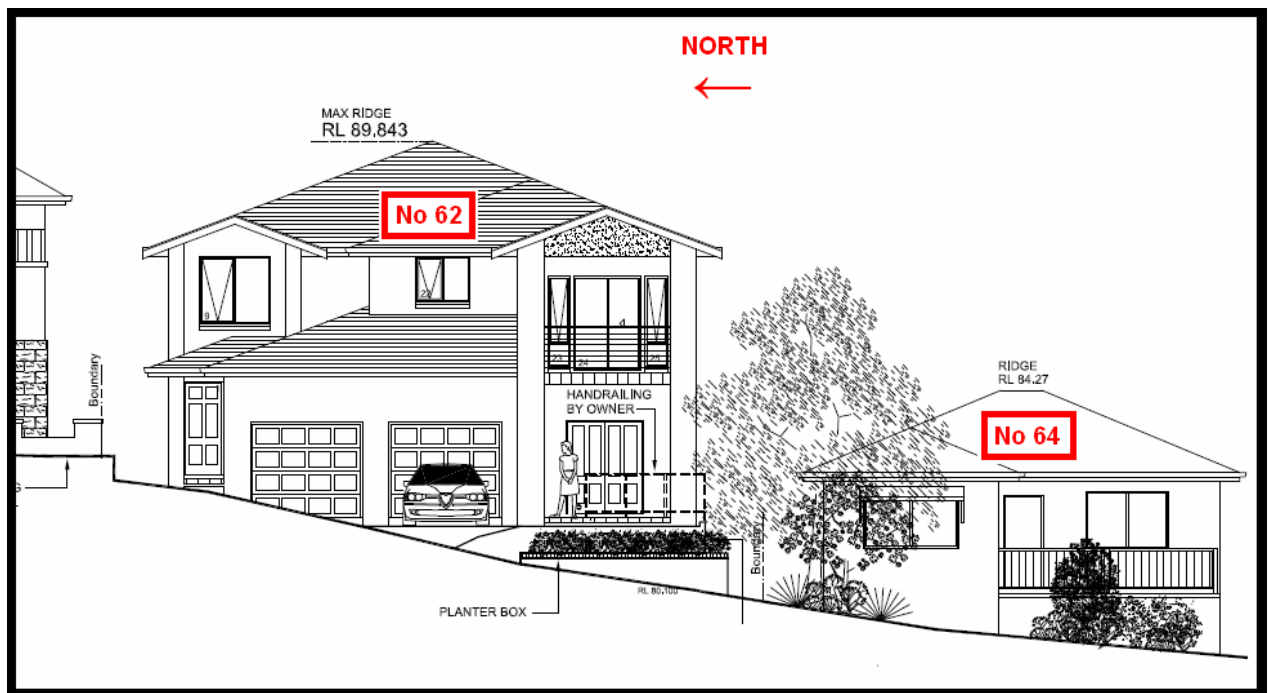
Conclusion re View Impacts: The view impacts of the current design are considered unacceptable. Although the views are land views not water views, and contain no iconic features, and are across a side boundary which are recognised as being more difficult to protect, they are still highly valued by property owners in this location, and the design as proposed would result in an almost complete removal of the views currently enjoyed from No 60 Darvall. Most importantly, there are design solutions which could easily be undertaken which would preserve the views at least to a reasonable level. These solutions have been requested however the applicant has not been prepared to amend the design. Accordingly, the current proposal is presented to the Planning & Environment Committee for

ITEM 4 (continued)

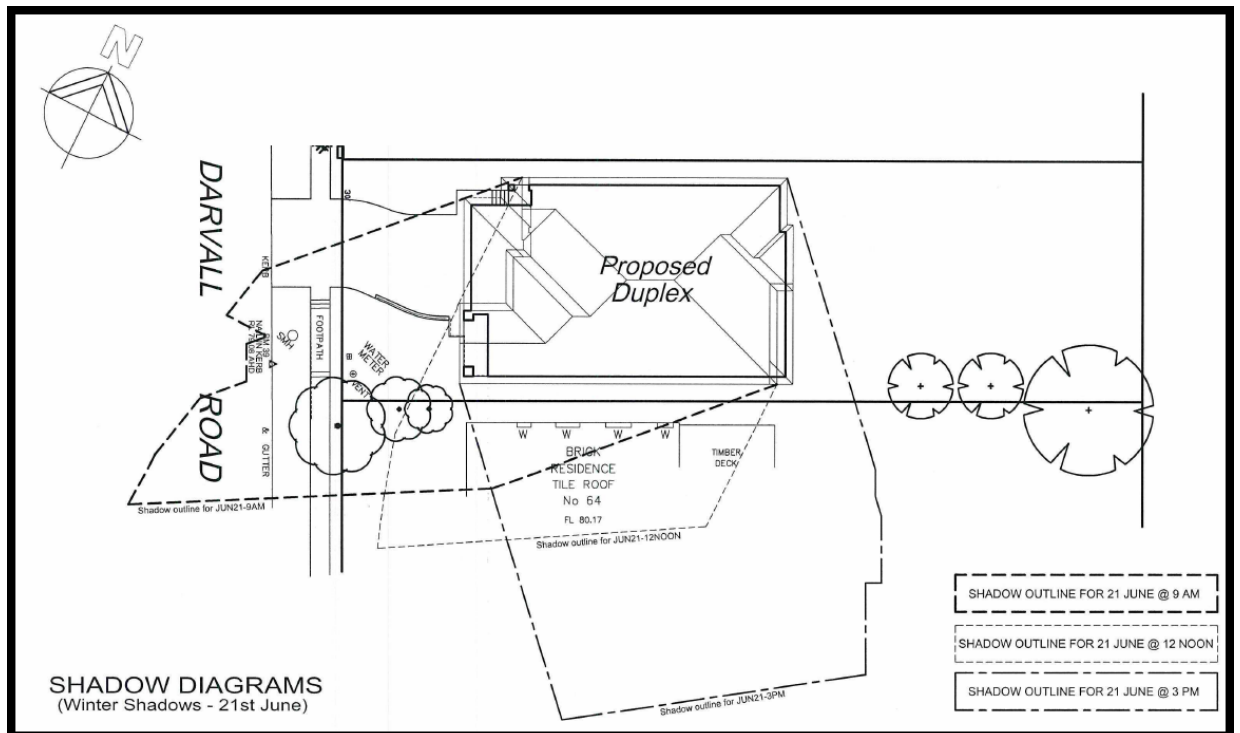
determination. On balance, the view impact is considered unacceptable and is considered to be a valid reason for refusal.

- 4. Overshadowing of No 64 Darvall Road.** Concern is raised that the proposal would have excessive overshadowing impacts on this adjoining property. A more sensitive design should be chosen which would improve solar access.

Comment: It is considered that the topography and orientation of the subject and neighbouring sites means that any development (even a single storey dwelling) would cause significant overshadowing on No 64 Darvall – which is both due south and significantly lower than No 62. However, these impacts are exacerbated by the design proposed in this application, which is a full-length 2 storey building. As with issues regarding view impacts, it is agreed that a more sympathetic design could at least minimise overshadowing impacts on No 64 to a reasonable level, however the design chosen in this application would cause severe overshadowing as well as general impacts of bulk, scale and massing and is unacceptable. The following is a streetscape drawing showing the proposed development relative to No 64 to the south, as well as the shadow diagrams submitted for this DA:



ITEM 4 (continued)



- 5. Vehicle egress/traffic safety.** *The site is close to the crest of a very steep hill, which severely limits sight distances for drivers, and is inappropriate for a dual occupancy development which has more traffic than a normal dwelling. It is dangerous for cars to have to reverse out onto Darvall Road at this site.*

Comment: The applicant has proposed amended plans which provide a vehicle turning area within the front setback area, to ensure that vehicles can enter/leave the site in a forward direction, which has been assessed as satisfactory by Council's Development Engineers. In terms of traffic generation, according to the (former) Roads and Traffic Authority's *Guidelines for Traffic Generating Development*, a dual occupancy development (ie 2 separate dwellings) would generate an average of 18 daily vehicle trips (1.8 in peak periods) which is only a minor increase compared to a single dwelling (9 daily vehicle trips or 0.9 in peak periods).

It is considered, given the relatively low traffic generation of the proposed development compared to a single dwelling and the provision of a vehicle turning area, that the proposal is acceptable in terms of vehicle egress and traffic safety.

- 6. Streetscape impacts.** *The proposed garages will visually dominate the front elevation of the proposed building, contrary to the Council's DCP requirement. Also, the provision of a raised vehicle turning area is unacceptable in the street.*

ITEM 4 (continued)

Comment: The streetscape presentation of the proposal is shown above. Although the width of the garages (combined width 7.17m) exceeds the DCP maximum (6m or 50% of the frontage), the extent of the non-compliance is numerically minor, and the visual impact is lessened by provision of 2 x single width garage doors. The proposed garage doors are therefore considered acceptable in terms of streetscape impacts and will have a similar appearance to a standard residential development.

The provision of a driveway and turning area creates an additional element to the front setback area not normally required in residential developments (in particular the turning area would be elevated out of the ground by approximately 1.2m at the southern end due to the slope of the site and to be supported by retaining walls), however this is necessary at this site to ensure safe vehicle egress. There is sufficient space between the raised vehicle turning area and the front boundary to provide landscaping to soften the visual impact. Provided this is done, it is considered that this would be a satisfactory design outcome in terms of streetscape, given the need to provide safe vehicle egress.

7. *Privacy.* *The proposal would cause adverse privacy and overlooking of both neighbouring properties at No 60 and 64 Darvall Road.*

Comment: Privacy impacts should be considered in terms of both of the two adjoining properties (No 60 and 64 Darvall Road) either side of this site.

Firstly, in terms of No 60 to the north, there is only one window at first floor level in the proposed development (to a study room) which faces No 60. Although the study room window lines up with the dining room window of No 60, the study would be a relatively low-use room and not a primary living room, so the privacy impacts would be relatively minor. This could be readily resolved via provision of a highlight (eg 1.5m sill height) window to the study room, which could be addressed via a condition of consent if Council decides to approve the DA. The ground floor level of the proposal would be lower than the level of a 1.8m high boundary fence, which would ensure adequate privacy between this level and the No 60. It is noted that the lower level of No 60 is also mostly sub-floor level. Overall, the proposal would be acceptable in terms of privacy impacts on No 60.

In regard to No 64 to the south, although the finished floor levels of the proposal are to be kept as close as possible to the existing ground level (maximum 150mm above natural ground level at the rear), given the prevailing topography in this location the finished floor levels (ground floor RL81.51) are some 1.86m higher than the existing ground levels of the neighbouring property at No 64 (which is RL79.65 on the neighbour's side of the boundary). It is considered that the ground floor family room and timber deck (of dwelling B) in particular would need to have privacy screens or similar solutions to ensure privacy to the neighbour can be maintained to a reasonable level.

ITEM 4 (continued)

- 8. *Design character.*** *The proposal will result in loss of the existing dwelling and will create a new large duplex which is out of character with surrounding developments.*

Comment: The existing dwelling is an older style, somewhat “run down” single storey dwelling with tile roof, which is not considered significant from a streetscape point of view. In a general sense, the development of a new dual occupancy style of development would not be considered unacceptable in terms of streetscape. The design of the development as presented in this application is unacceptable for other reasons of view impacts and overshadowing as discussed throughout this report.

8. SEPP1 (or clause 4.6 RLEP 2010) objection required?

None required.

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

The subject property is zoned R2 Low Density Residential. The proposed dual occupancy is permissible with Council’s development consent.

Mandatory Requirements

The following mandatory provisions under Ryde LEP 2010 apply to the development.

Clause 4.3 – Height of buildings. Sub-clause (2) of this clause states that “the height of a building on any land is not to exceed the maximum height for the land shown for the land on the height of buildings map”. In this case, the maximum height is 9.5m. The maximum height of the proposed additions is 8.21m, which complies with Ryde LEP 2010.

Clause 4.4 Floor Space Ratio. This clause prescribes a maximum floor space ratio (FSR) of 0.5:1. The FSR for the proposed development has been calculated to be 0.45:1, which complies with this clause.

ITEM 4 (continued)**(b) Relevant State Environmental Planning Policies (SEPPs)**State and Sydney Regional Environmental Planning PoliciesSEPP BASIX:

A compliant BASIX Certificate has been submitted with the DA.

State Environmental Planning Policy No. 55 – Remediation of Land

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

(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 was placed on public exhibition between 30 May 2012 and 13 July 2012. Under this Draft LEP, the zoning of the property is R2 Low Density Residential. It is considered that the proposal is not contrary to the objectives of the Draft LEP or those of the proposed zoning.

(e) The provisions of any development control plan applying to the landRyde Development Control Plan (DCP) 2010.

The proposal has been assessed using the development controls contained in Ryde DCP 2010. The DCP compliance table for this development proposal is held at **Attachment 1**.

There are a number of areas of non-compliance identified in the Compliance Table, which are discussed as follows:

1. Topography and Excavation (Height of Retaining Walls): Ryde DCP 2010 prescribes a maximum retaining wall height of 900mm. The proposal involves retaining walls of up to 1.4m along the northern boundary which does not comply.

Comment: in relation to topography and excavation, the objectives of the DCP are:

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

ITEM 4 (continued)

Given the significant slope at this site, it is difficult to ensure full compliance with the numerical requirements, however it is considered that the above objectives have been achieved. It is also considered that the issues resulting from the excavation along the northern boundary can be resolved via conditions of consent, as discussed in the Submissions section of this report.

2. Garage Setback: DCP 2010 requires that garages must be set back 1m behind the front building elevation. The proposal has the garages forward of the front entry by 3.59m (dwelling A), but 450mm behind the structure of the front patio for dwelling B, and this does not comply with the DCP.

Comment: The objective for this control is to ensure that car parking structures and garage doors are not prominent features in the streetscape. The front elevation of the development has a range of design features including the patio and balcony for dwelling B, and a staggered front wall at the 1st floor level. It is considered that the design of the development would be acceptable in terms of streetscape presentation despite this numerical non-compliance in terms of garage setback.

3. Garage Width: DCP 2010 states that garages and carports facing the public street are to have a maximum width of 6 metres or 50% of the frontage, whichever is less. The total width of the garages in this proposal is 7.17m which does not comply.

Comment: As with the garage setback, the objective for this control is also to ensure that car parking structures and garage doors are not prominent features in the streetscape. The proposed driveway width has been designed to assist vehicle manoeuvring, to ensure cars can enter and leave the site in a forward direction. The extent of the non-compliance is numerically minor, and the visual impact is lessened by provision of 2 x single width garage doors.

4. Hard-Paving within Front Garden Area: DCP 2010 prescribes a maximum 40% hard-paved area within the front garden area. The development proposes approximately 56.5% hard-paved area which does not comply.

Comment: This non-compliance is caused by the provision of a vehicle turning area within the front setback (in addition to the normal driveway width) to ensure safe vehicle egress. There is sufficient space between the raised vehicle turning area and the front boundary to provide landscaping to soften the visual impact. Provided this is done, it is considered that this would be an acceptable design outcome in terms of streetscape, given the need to provide safe vehicle egress.

ITEM 4 (continued)

5. Solar Access (for neighbouring properties): DCP 2010 states that for neighbouring properties, the windows to north-facing living areas of neighbouring properties must 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 and topography of the subject and neighbouring sites.

Comment: As shown in the shadow diagrams for this development proposal (see earlier in this report), the development does not comply with this requirement. Shadows from the development would affect the north-facing living rooms of No 64 Darvall (ie kitchen and living rooms) so that the minimum 3 hours is not achieved as required by Council's DCP.

Whilst it is noted that solar access is difficult to protect for No 64 Darvall (which is both due south and downhill from the subject site), these impacts are exacerbated by the design proposed in this application, which is a full-length 2 storey building. A more sympathetic design could help to minimise overshadowing impacts on No 64, such as making the rear portion of the development single storey in height.

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

Issues regarding impacts on the built environment are discussed throughout this report (in particular impacts on the heritage significance of the building, and also DCP compliance). In summary, the proposal as currently presented is considered unacceptable in terms of impacts on views from No 60 Darvall Road, and also overshadowing and bulk, scale and massing when viewed from No 64 Darvall.

(b) Natural Environment

The proposal would have minimal impact in terms of the natural environment. The proposal involves no removal of existing vegetation, whilst matters regarding soil erosion/sediment control etc could be addressed via standard conditions on any consent if Council decides to approve the DA.

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:

Slope Instability: Refer to the "Referrals" section of this report for comments from Council's Consultant Structural Engineer.

ITEM 4 (continued)**12. The Public Interest**

Having regard to the concerns in relation to this DA, as discussed throughout this report, it is considered that approval of this DA would not be in the public interest.

13. Consultation – Internal and ExternalInternal Referrals

Development Engineer: Council's Development Engineer considered the applicant's amended plans received on 22 June 2012 and provided the following comments:

The subject site has a steep fall across the footpath and also there are some services within the footpath. Currently the footpath paving exists in front of the property with steps at some locations.

The amended plans now show lower garage levels and a lower floor level for dwelling B.

Due to the steep road alignment and the nearby intersection and the road crest Council has requested that applicant addresses the safety of vehicles reversing to the street from the development site. The applicant is proposing a turning bay for vehicles to manoeuvre within the site and exit in a forward direction to the street. Vehicles leaving the garage of dwelling A can reverse into the bay proposed using a three point turn and exit to the street in a forward direction. However a vehicle from the garage of dwelling B has to do more than a three point turn to reverse and exit to the street in a forward direction. This is a variation from Council's DCP requirement.

The height of the planter box at front is about 950mm above natural ground levels at south-western corner of the site. If the planter box is pushed back towards the southern boundary to increase the length of the turning bay, the area between the planter box and the front porch of dwelling B will be a trapped low point. This will divert surface runoff towards the adjoining property.

Council has previously issued site specific levels for the driveway. These levels have to be amended to reflect the new garage levels. The driveway gradients can be achieved to comply with AS 2890.1. There will be additional works within the footpath which should be carried out by the applicant to achieve the driveway gradients.

The drainage plan has not been amended to reflect the new layout at front for the development. However the OSD tank can be located under the driveway and the tank volume can be achieved. There is adequate slope towards the street to direct the outlet pipe from the OSD tank to the kerb. I have provided a condition

ITEM 4 (continued)

for applicant to amend plans prior to issue of a CC. i.e. No plans have been stamped at this stage.

All works shall be carried out in accordance with the recommendations in the Geotechnical Report prepared by Davis Geotechnical Consulting Engineers dated 11 August 2006 and as advised by Council's Structural Engineer.

External Referrals

Consultant Structural Engineer: Given that the site is within an area of Slope Instability (according to Council's mapping system), this DA was referred to Council's Consultant Structural Engineers (Cardno Pty Ltd). The following comments have been provided (2 August 2011):

As requested the documentation provided in relation to this matter has been reviewed and we advise as follows:

- 1. The subject site is indicated on Council's maps as being at risk of slope instability, and Council's normal policy for development on such blocks is to require the applicant to provide a geotechnical report that assesses slope instability risks both pre and post development, and that recommends construction procedures to appropriately minimise the identified risks.*
- 2. A geotechnical report dated 11 August 2006 prepared by Davies Geotechnical has been provided, together with a letter dated 4 May 2011 from the same company. The letter advises that the currently proposed development does not change their original assessment with regard to risks of slope instability. These documents are assessed by Cardno as meeting Council's requirements for sites potentially at risk of slope instability.*
- 3. Should Council decide to approve this application then Cardno recommends that this approval be conditioned on all works being carried out in strict compliance with the recommendations as contained in the Davies Geotechnical report.*

In addition to the above, specific concerns were raised from the adjoining owner of No 60 Darvall Road (to the north) regarding potential impacts from the development (ie including the ability of the aged retaining wall to accommodate the proposed development, the amount of excavation proposed, as well as potential impacts on the structural integrity of their home, and the fact that the original assessment was prepared in 2006 and so the site conditions could have changed). It was considered appropriate for these concerns to be referred separately to Council's Consultant Structural Engineer. In response, the following further comments have been received (20 October 2011):

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As requested in your email today, I have reviewed the proposed works at No. 62 to ascertain the probable risks to No. 60 and advise as follows:

- 1. The survey drawing shows an existing brick retaining wall on the common boundary with No. 60, extending 18 m into the site from the street boundary.*

In front of the brick retaining wall is a timber retaining wall which starts 7m in from the street boundary, and extends 3 m past the eastern end of the brick wall.

From where the timber wall finishes to the back of No. 60, (i.e. approximately back of the new houses on No. 62) the survey indicates a level difference of 1.2 to 1.6 m between the properties but does not show a retaining wall in this region.

In the Davies Geotechnical report is the following statement “The cut on the uphill side against the boundary with No. 60 varies in depth from about 1.0 m at the front to about 1.5m at the rear. The cut is supported by brick and timber walls and appears to be faced with stone and brick at the rear, but is heavily overgrown with creepers in that area.”

The rear elevation of the proposed attached dual occupancy dwellings shows an existing near boundary retaining wall approximately 1.6m in height. The lack of a retaining wall at this location on the survey plan and the description of a brick/stone faced batter on the Davies Geotechnical report brings into question exactly what is at present supporting the ground on the No. 60 side of the boundary adjacent to the rear corner of No. 60.

- 2. In relation to boundary retaining walls the Davies Geotechnical report advises “Excavation to achieve the proposed site levels must be restricted to the minimum required i.e. about 0.3 m along the northern side of the building footprint. At all times during the building work, the stability and integrity of the existing retaining wall on the No. 60 boundary, and the land and footings supporting the dwelling structure on No. 60, must be maintained, with propping or other measures if necessary”.*

As the approval of No. 62 was conditioned on full compliance with the recommendations in the Davies Geotechnical report, maintenance of No. 60 and the prevention of damage thereto is required.

- 3. Whether removal of the timber retaining wall will destabilise the adjacent brick retaining wall is yet to be determined. As access is required along the north side of No. 62 and as a rainwater storage tank is to be provided at the western end of the north wall, some new form of retaining wall will be required if there*

ITEM 4 (continued)

is a brick/stone faced batter at present supporting the change in level between the properties.

- 4. The house on No. 60 has stone foundation walls supporting brickwork above. Conventionally with stone foundation walls, the stone is founded only nominally below original surface level. Accordingly such walls are at risk from any excavation that is in the near proximity.*

By scale off the architectural drawings, the south wall of No. 60 is approximately 1.1 m inside the No 60/No. 62 common boundary.

If a new retaining wall is required, excavation up to about 1.8 m in depth will be required on the common boundary. Given the close proximity of the south wall of No. 60 and the likelihood that this wall is founded at shallow depth, construction of a new boundary retaining wall could pose significant risks to No. 60.

- 5. Because decisions about the adequacy of the retention systems along the No. 60/No. 62 common boundary and decisions about new retaining walls in this area will not be made until after site clearing, demolition, and some bulk excavation, the current unknowns give rise to above average risks with respect to No. 60.*

To adequately safeguard the rights of the owner of No. 60, Cardno is of the opinion that a dilapidation survey of the southern wall and immediate return walls of that property should be undertaken prior to the commencement of the works on No. 62, and in the circumstances recommends that Council conditions any approval accordingly.

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

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

16. Other Options

None relevant.

ITEM 4 (continued)**17. Conclusion**

The proposed development has been assessed using the heads of consideration listed in Section 79 of the Environmental Planning & Assessment Act 1979. It is considered that the development as proposed in this application is unsatisfactory because of its adverse impacts on the views from No 60 Darvall Road, and also in terms of overshadowing of the neighbouring property to the south (No 64 Darvall Road).

Attempts have been made to negotiate a suitable outcome with the applicant over a considerable period of time (via requests for amended plans and meetings to discuss the proposed development), however they have declined. Council has received written submissions from the applicant to justify their current design, but they have indicated that they are not willing to provide any further design amendments.

The DA is therefore presented to the Planning & Environment Committee for determination on the basis of the plans currently submitted, it is recommended that the application not be held in abeyance any longer and should be refused.

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DCP COMPLIANCE TABLE - 62 Darvall Road, Eastwood.

City of Ryde Development Control Plan 2010:

Part 3.3 – Dwelling Houses and Dual Occupancy (Attached)

Part 7.1 – Energy Smart, Waterwise

Part 7.2 – Waste Minimisation and Management

Part 8.2 – Stormwater Management

Part 9.4 – Fencing

Compliance with the above part/s of DCP 2010 is illustrated by the development standards below.

| DCP 2010 | Proposed | Compliance |
|---|---|------------|
| <i>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</i> | | |
| Desired Future Character | | |
| Development is to be consistent with the desired future character of the low density residential areas. | The proposed development is consistent with the desired future character of the low density residential area as detailed further in this table. | Y |
| Dwelling Houses | | |
| - To have a landscaped setting which includes significant deep soil areas at front and rear. | Front and rear gardens proposed. | Y |
| - Maximum 2 storeys. | Two storeys | Y |
| - Dwellings to address street | Dwelling presents to Darvall Street. | Y |
| - Garage/carports not visually prominent features. | Garage not prominent feature as setback in front elevation of building. | Y |
| Dual Occupancy – Linear Separation | | |
| - Any urban housing, multi dwelling (attached), villa homes, duplex, dual occupancy (attached) within double the main frontage of the subject site or existing villa/dual occupancy site? | None within 2x frontage of either existing or proposed multi-dwelling sites | Y |
| Public Domain Amenity | | |
| Streetscape | | |
| - Front doors and windows are to face the street. Side entries to be clearly | Front doors and windows face street. | Y |

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| DCP 2010 | Proposed | Compliance |
|---|---|--------------------------------|
| <p>apparent.</p> <ul style="list-style-type: none"> - Single storey entrance porticos. - Articulated street facades. | <p>Dwelling B entrance portico has balcony to 1st floor level above – therefore is single storey.</p> <p>Articulated street façade.</p> | <p>Y Y</p> |
| <p>Public Views and Vistas</p> <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 or potential view to the water from the street. Landscaping is not to restrict views. | <p>This part of the DCP relates to views to the Parramatta and Lane Cove Rivers through side boundary setbacks. Such views don't exist at this site.</p> | <p>Y</p> |
| <p>Pedestrian & Vehicle Safety</p> <ul style="list-style-type: none"> - Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard. - Fencing that blocks sight lines is to be splayed. | <p>Complies, assessed as satisfactory by Council's Development Engineer.</p> <p>No front fencing proposed.</p> | <p>Y N/A</p> |
| Site Configuration | | |
| <p>Deep Soil Areas</p> <ul style="list-style-type: none"> - 35% of site area min. - Min 8x8m deep soil area in backyard. Dual occupancy developments only need 1 of 8 x 8m area (doesn't have to be shared equally). - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). | <p>Permeable (deep soil) area: 418.49m² approx (57% of site area). Rear DSA dimensions: 8m x 8m provided.</p> <p>Front DSA: Hard surface areas have been kept to a minimum in the front yard, except for the required driveway, turning area and path.</p> | <p>Y Y Y</p> |
| <p>Topography & Excavation</p> <p>Within building footprint:</p> <ul style="list-style-type: none"> - Max cut: 1.2m - Max fill: 900mm | <p>Within BF Max cut: 1.1m Max fill: Nil</p> | <p>Y N/A</p> |

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| DCP 2010 | Proposed | Compliance |
|---|---|--|
| Outside building footprint: - Max cut: 900mm - Max fill: 500mm - No fill between side of building and boundary or close to rear boundary - Max ht retaining wall 900mm | Outside BF Max cut: 900mm Max fill: Nil None proposed. Wall at rear = 1.3m. Wall at front = 1.4m. | Y N/A N/A N (variation supported) |
| Floor Space Ratio | | |
| Ground floor | 198.29m ² | |
| First floor | 170.55m ² | |
| Detached car parking structures | N/A | |
| Outbuildings (incl covered pergolas, sheds etc) | N/A | |
| Total (Gross Floor Area) | 368.84m ² | |
| Less 36m ² (double) or 18m ² (single) allowance for parking | 332.84m ² | |
| FSR (max 0.5:1) Note: Excludes wall thicknesses; lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas. | 0.45:1 | Y |
| Height | | |
| - 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL). | Two storeys maximum. | Y |
| - 1 storey maximum above attached garage incl semi-basement or at-grade garages. | 1 storey maximum (over a small portion of the garage). | Y |
| Wall plate (Ceiling Height) - 7.5m max above FGL <i>or</i> - 8m max to top of parapet NB: TOW = Top of Wall EGL = Existing Ground Level FGL = Finished Ground Level | Northern Side: TOW RL: 87.50 FGL blw (lwst pnt) RL: 80 TOW Hgt (max) = 5.23m Southern Side: TOW RL: 87.50 FGL blw (lwst pnt) RL:80.1 TOW Hgt (max)= 7.4m | Y |
| - 9.5m Overall Height (ridge) NB: | Max pnt of dwing RL: 89.84 EGL blw (lwst pnt): RL: 81.73 | |

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| DCP 2010 | Proposed | Compliance |
|--|--|---|
| <i>EGL = Existing Ground Level</i> | Overall Hgt (max)= 8.21m | Y |
| Habitable rooms to have 2.4m floor to ceiling height (min). | 2.44m min room height. | Y |
| Setbacks | | |
| SIDE Single storey dwelling - 900mm to wall - Includes balconies etc | =1500mm | Y |
| SIDE Two storey dwelling - 1500mm to wall - Includes balconies etc | =1500mm | Y |
| 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 | =7.5m In front of dwelling A front entry by 3.59m, setback from front porch (dwelling B) 450mm. Wall above the garage generally aligns with face of wall below. Complies. | Y N (variation supported) Y Y |
| Rear - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. Note: 12.35m is 25% of site length. | <20m to the rear deck | Y |
| Car Parking & Access | | |
| General - Dual Occupancy (attached): 1 space max per dwelling. - Where possible access off secondary street frontages or laneways is preferable. - Max 6m wide or 50% of frontage, whichever is less. - Behind building façade. | 1 space per dwelling within an enclosed garage. Access from Darvall Road. External width = 7.17m. | Y Y N (variation supported) |
| Garages - Garages setback 1m from façade. - Total width of garage doors visible from public space | In front of dwelling A front entry by 3.59m, setback from front porch (dwelling B) 450mm. | N (variation supported) Y |

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| DCP 2010 | Proposed | Compliance |
|---|---|--|
| <ul style="list-style-type: none"> - must not exceed 5.7m and be setback not more than 300mm behind the outside face of the building element immediately above. - Garage windows are to be at least 900mm away from boundary. | <p>Width of openings = 2.5m each and doors are each setback 300mm behind the outside face of the building element immediately above.</p> <p>None proposed.</p> | <p>N/A</p> |
| <p>Parking Space Sizes (AS)</p> <ul style="list-style-type: none"> o Single garage: 3m w(min) o Internal length: 5.4m (min) | <p>Maximum internal measurements: 3.2m x 6.1m</p> | <p>Y</p> |
| <p>Driveways Extent of driveways minimised</p> | <p>Extent of driveway considered necessary for the proposed development.</p> | <p>Y</p> |
| <p>Landscaping</p> | | |
| <p>Trees & Landscaping</p> <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 (excl cnr allotments or rear lane access) - Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy. - Back yard to have at least 1 tree with mature ht of 15m min and a spreading canopy. - Hedging or screen planting on boundary mature plants reaching no more than 2.7m. - OSD generally not to be located in front setback unless under driveway. | <p>No significant trees located on the site.</p> <p>Complies.</p> <p>Complies.</p> <p>Complies.</p> <p>Complies.</p> <p>Complies.</p> <p>To be provided beneath the driveway/turning area</p> | <p>N/A</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> |
| <ul style="list-style-type: none"> - Landscaped front garden, | <p>Hard Paving: 56.5%</p> | <p>N (variation</p> |

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ATTACHMENT 1

| DCP 2010 | Proposed | Compliance supported) |
|--|---|--|
| with max 40% hard paving | | |
| <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 bdy 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 site does not adjoin bushland.</p> <p>No fill proposed.</p> <p>Existing side fencing.</p> | <p>N/A</p> <p>N/A</p> <p>N/A</p> |
| Dwelling Amenity | | |
| <p>Daylight and Sunlight Access</p> <ul style="list-style-type: none"> - Living areas to face north where orientation makes this possible. - 4m side setback for side living areas where north is to the side allotment boundary. <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 | <p>Living areas face north for Dwelling A but unable to be achieved for Dwelling B Unable to be achieved.</p> <p>Complies. Greater than 3hrs of sunlight achieved to all north facing windows between 9am and 3pm on June 21.</p> <p>Complies. Greater than 2 hours of sunlight achieved to the private open space area between 9am and 3pm on June 21.</p> <p>Complies. Greater than 2 hours of sunlight achieved to more than 50% of the private open space area of adjoining</p> | <p>Y</p> <p>N/A</p> <p>Y</p> <p>Y</p> <p>Y</p> |

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ATTACHMENT 1

| DCP 2010 | Proposed | Compliance |
|---|--|-------------------------------------|
| <p>June 21.</p> <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. | <p>dwelling between 9am and 3pm on June 21.</p> <p>Unable to comply. See discussion in report.</p> | <p>N (unacceptable)</p> |
| <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. - Side windows offset from adjoining windows. - Terraces, balconies etc are not to overlook neighbouring dwellings/private open space. | <p>Complies.</p> <p>Complies.</p> <p>Generally complies.</p> <p>Complies.</p> | <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> |
| <p>Acoustic Privacy Layout of rooms in dual occupancies (attached) are to minimise noise impacts between dwellings eg: place adjoining living areas near each other and adjoining bedrooms near each other.</p> | <p>Complies.</p> | <p>Y</p> |
| <p>View Sharing</p> <ul style="list-style-type: none"> - The siting of development is to provide for view sharing. | <p>Complies.</p> | <p>Y</p> |
| <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. | <p>Complies.</p> | <p>Y</p> |
| <p>External Building Elements</p> | | |
| <p>Roof</p> <ul style="list-style-type: none"> - Articulated. | <p>Complies.</p> | <p>Y</p> |

ITEM 4 (continued)

ATTACHMENT 1

| DCP 2010 | Proposed | Compliance |
|--|---|-------------------|
| - 450mm eaves overhang minimum. | Complies. | Y |
| - Not to be trafficable Terrace. | Complies. | Y |
| - Skylights to be minimised and placed symmetrically. | None proposed. | N/A |
| - Front roof plane is not to have both dormer windows and skylights. | None proposed. | N/A |
| Attic Dormer Windows | Not proposed. | N/A |
| Fencing | | |
| Front/return: - To reflect design of dwelling. - To reflect character & height of neighbouring fences. - Max 900mm high for solid (picket can be 1m). - Max 1.8m high if 50% open (any solid base max 900mm). - Retaining walls on front bdy max 900mm. - No colorbond or paling Max width of piers 350mm. | Front fencing is not proposed. | N/A |
| Side/rear fencing: - 1.8m max o/a height. | Condition to comply with the DCP requirements. | N/A |
| Part 7.1 - Energy Smart, Water Wise | | |
| As per submitted BASIX Certificate. | | Y |
| External Clothes Drying Area | | |
| External yard space or sheltered ventilated space for clothes drying | Complies. | Y |
| Part 7.2- Waste Minimisation & Management | | |
| Submission of a Waste Management Plan in accordance with Part 7.2 | The applicant has submitted a Waste Management Plan in accordance with Part 7.2 | Y |
| Part 8.2 - Stormwater Management | | |
| Stormwater | | |
| Drainage is to be piped in accordance with Part 8.2 - Stormwater Management. | To Development Engineer requirements | Y |


ITEM 4 (continued)

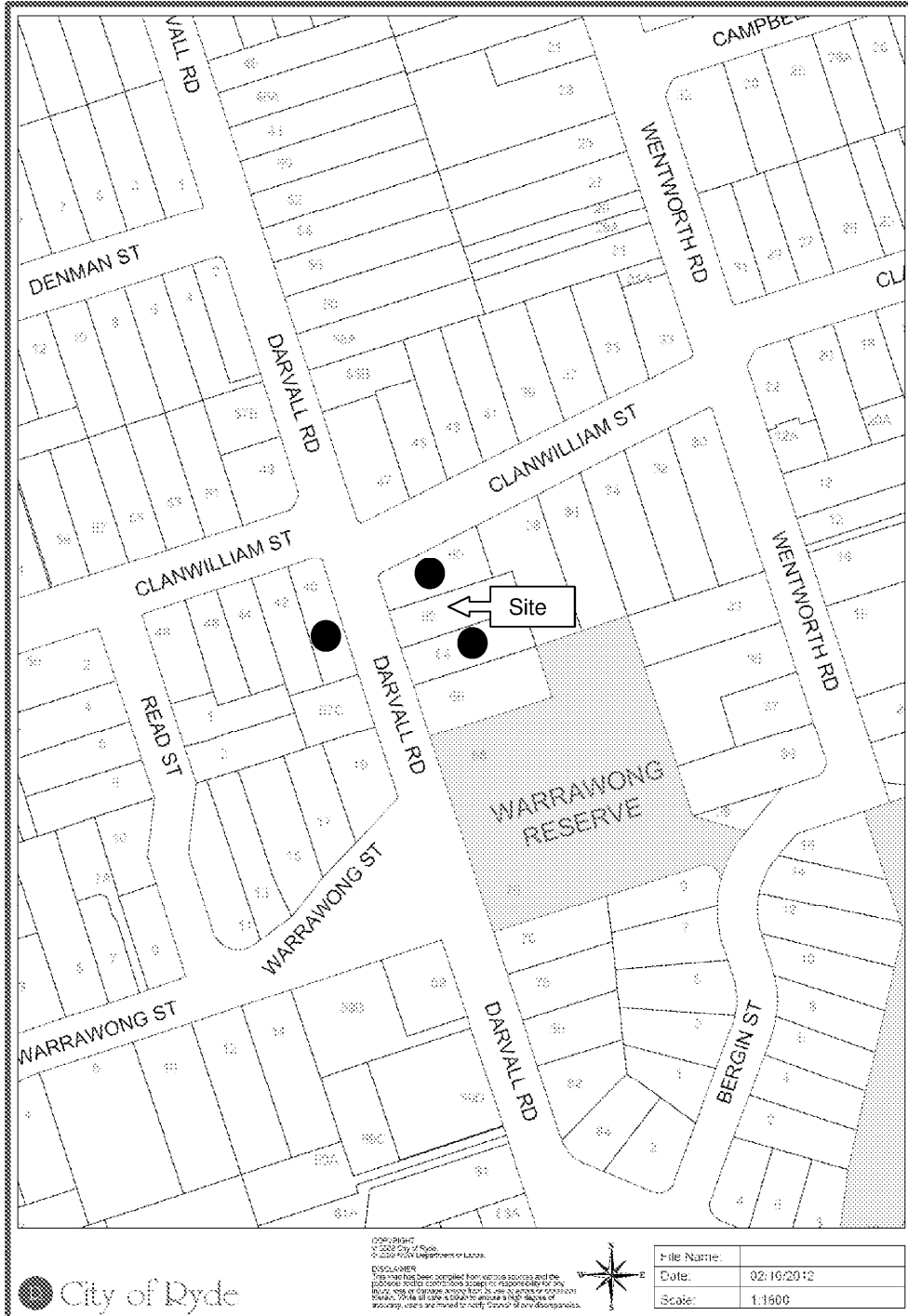
ATTACHMENT 1

| DCP 2010 | Proposed | Compliance |
|--|---|------------|
| Part 9.4 – Fencing | | |
| Front & return fences | | |
| Front and return fences that exceed 1m in height are to be 50% open | None proposed. | N/A |
| 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) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway. | No significant trees are proposed to be removed. The site will be appropriately landscaped as part of the proposed development. | Y |

ITEM 4 (continued)

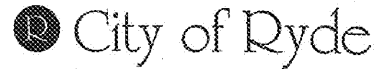
ATTACHMENT 2

 Indicates submissions received
(one submission also received from a planning consultant)



ITEM 4 (continued)

ATTACHMENT 3



Lifestyle and opportunity @ your doorstep

FILE COPY

Susan Robinson Consulting Pty Ltd
1306/183 Kent Street
SYDNEY NSW 2000

14 August 2012

Dear Susan,

**Re: Proposed Dual Occupancy Development – 62 Darvall Road, Eastwood
Our Ref: LDA2011/380**

Thank you for your letter dated 1 August 2012 in which you raise a number of concerns about your client's dual occupancy development application (DA) at the subject property.

I have considered your concerns in your letter (with chronology attached), and I can provide further clarification regarding how your client's DA will be determined by Council and the issues regarding the proposed development, as raised in your letter.

In terms of timeframe, I wish to confirm that the DA has been "called-up" to a Planning & Environment Committee meeting by a Councillor, which means that it cannot be determined under staff delegation. Although the assessment of the DA is continuing, at this point in time, there are now no Planning & Environment Committee meetings scheduled until after the Council elections, and therefore it is not possible at this stage to advise of the meeting date when the DA will be considered.

Your client (Mr Hock Chua) has been advised of this situation regarding timeframe by Council's Team Leader – Assessment, Mr Chris Young.

In terms of the issues of concern regarding the development itself, these are mainly impacts on the views enjoyed from the property to the north (No 60 Darvall Road), and also vehicle access from Darvall Road. Vehicle access has now been resolved through amended plans to the satisfaction of Council's Development Engineer.

In terms of view impacts, as noted in your chronology, Council officers have raised these issues on several occasions throughout the assessment of your client's DA (eg meeting 28 September 2011 and in letter dated 23 March 2012). Although the DA plans have been amended by your client, these have mostly been minor changes, or additional plans clarifying the position of windows and verandah on the adjoining property, and a written submission from the project architect (dated 6 October 2011) stating why the proposal should be supported. However your client has declined to make the substantial changes to the plans

D12/62185
D12/63440

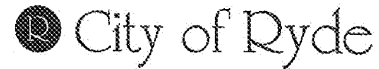
Civic Centre 1 Devlin Street, Ryde NSW
Ryde Planning and Business Centre
1 Pope Street, Ryde (Below Ryde Library)

Post Locked Bag 2059, North Ryde NSW 1670
Email cityofryde@ryde.nsw.gov.au
www.ryde.nsw.gov.au

Customer Service (02) 9952 8222
TTY (02) 9952 8470 Fax (02) 9952 8070
Translating and Interpreting Service 131 450

ITEM 4 (continued)

ATTACHMENT 3



Lifestyle and opportunity @ your doorstep

that have been requested to address this issue and protect the views from the adjoining property.

As you have noted, a 2-storey dwelling has been approved on this property (LDA2006/554, approved 12 January 2007). However, that development had a much lesser impact on views than the current proposal does, because the dwelling was designed to be single storey at the rear (ie the upper storey was set in by some 4.255m from the rear wall of the single storey portion below), and so it would have preserved the views from the rear living areas (and verandah) of the adjoining dwelling. The current proposal involves a 2 storey portion in line with the rear wall of the single storey portion below, and so it would have a more significant impact on views than the previous approval.

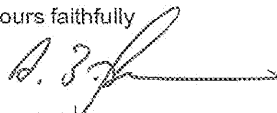
In the circumstances, a report is being prepared to the first possible Planning & Environment Committee (after the Council election) with a likely recommendation of refusal. It is considered that the rear section of the proposed dual occupancy should be single-storey (similar to the previously-approved dwelling), or the design should be otherwise modified in order to reasonably preserve the views from the neighbouring property.

It would appear that your client has the following options available in terms of Council's consideration of this DA:

1. Make significant changes to the design of the dual occupancy, as previously requested (ie the rear portion should be single storey to preserve views from the property to the north). In this regard it should be noted that whilst this option may receive Council officer's support, the final decision in this DA will still lie with the Planning & Environment Committee.
2. If your client is not prepared to make any further changes, then the current plans will be referred to the first possible Planning & Environment Committee with a likely recommendation of refusal.
3. Withdraw the DA within 14 days of the date of this letter, in which case, Council will refund a portion of the DA fees paid by your client.

I hope that this information clarifies the situation for you. Can you please confirm with Mr Chris Young Team Leader - Assessment on 9952 8237 or by email cyoung@ryde.nsw.gov.au of your preferred option (as above) in relation to this DA.

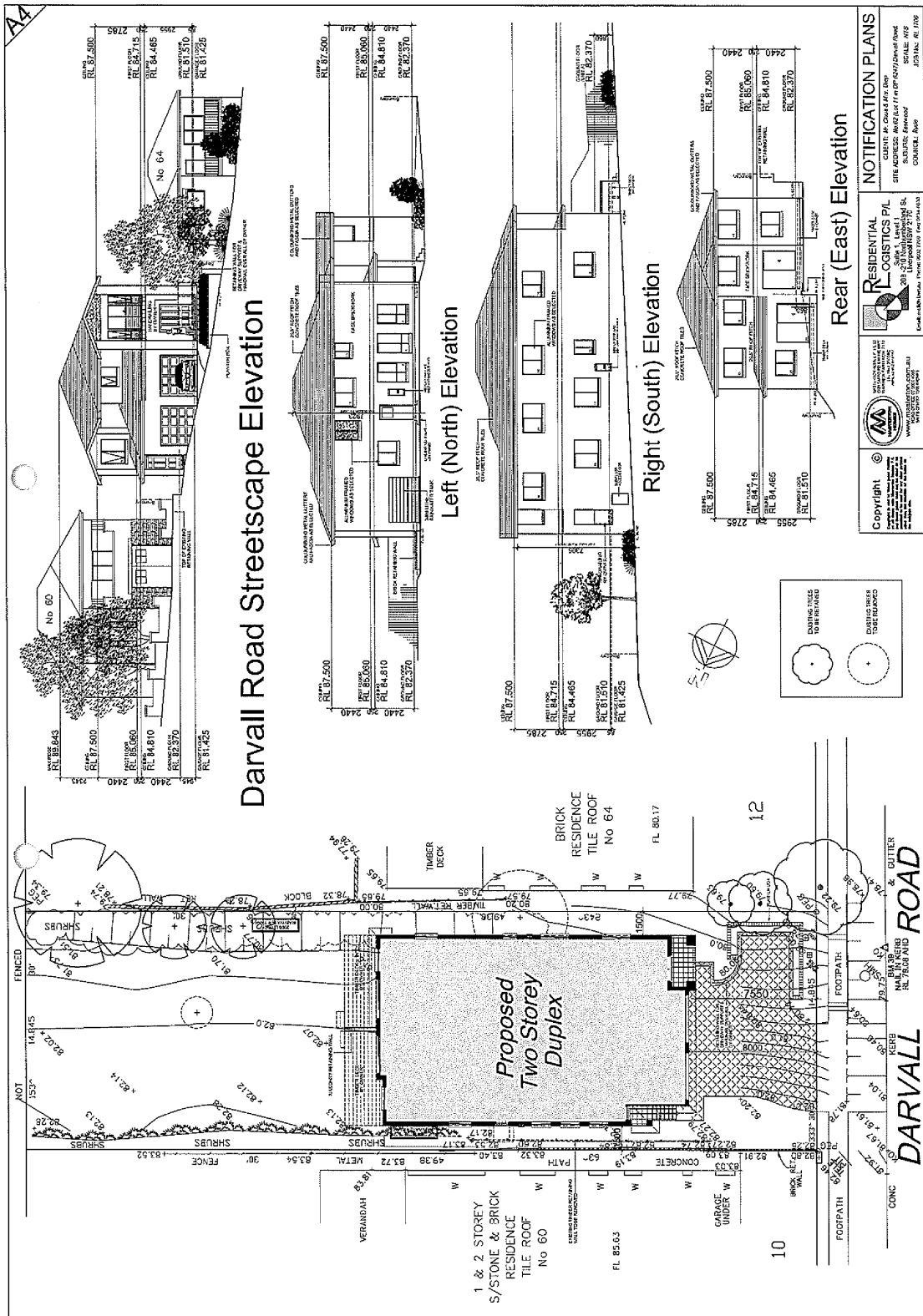
Yours faithfully



Dominic Johnson
Group Manager Environment & Planning

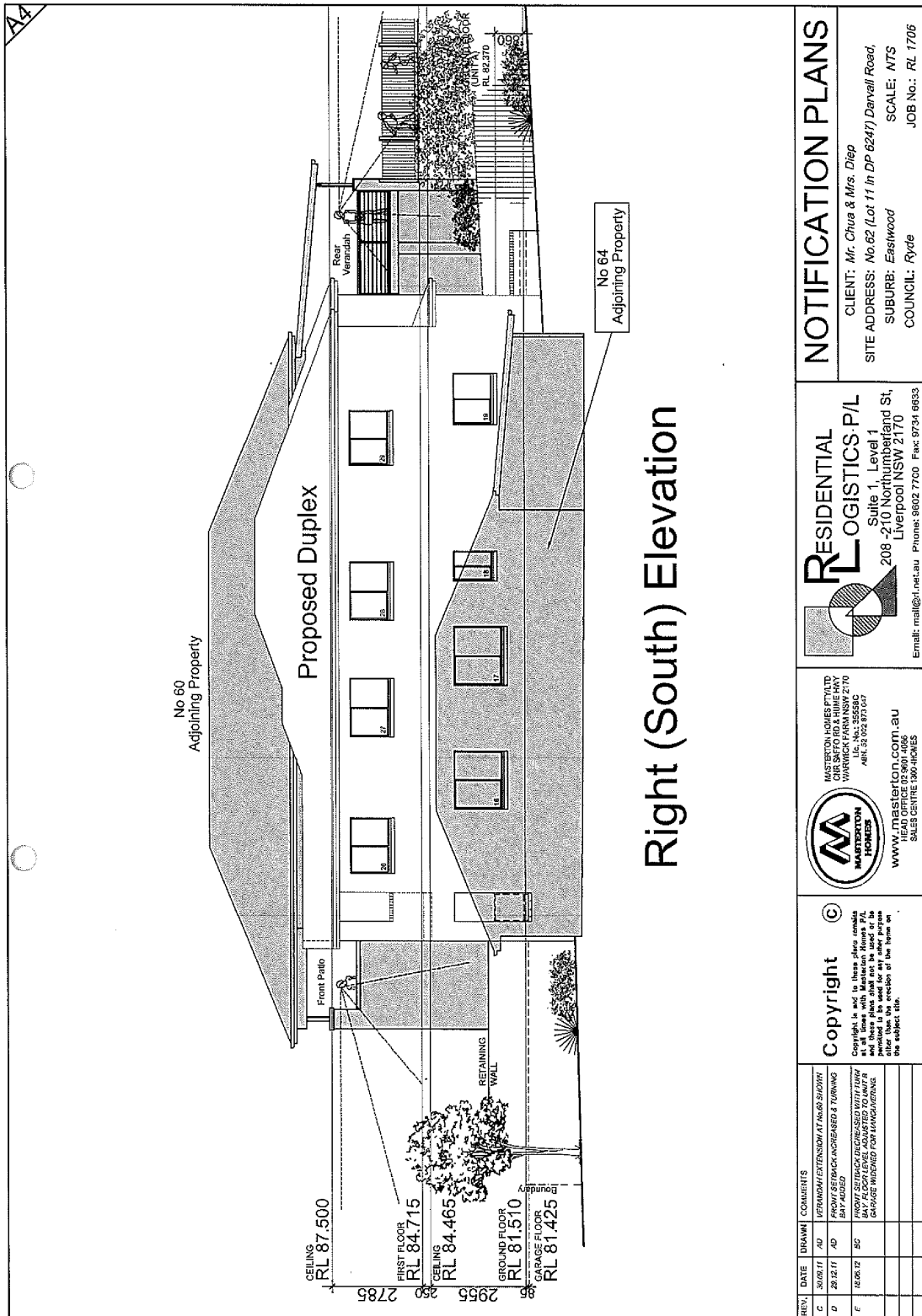
ITEM 4 (continued)

ATTACHMENT 4



ITEM 4 (continued)

ATTACHMENT 4



NOTIFICATION PLANS
 CLIENT: Mr. Chua & Mrs. Diep
 SITE ADDRESS: No.62 (Lot 11 In DP 6247) Darvall Road,
 SUBURB: Eastwood
 SCALE: A7S
 COUNCIL: Ryde
 JOB No.: RL 1706

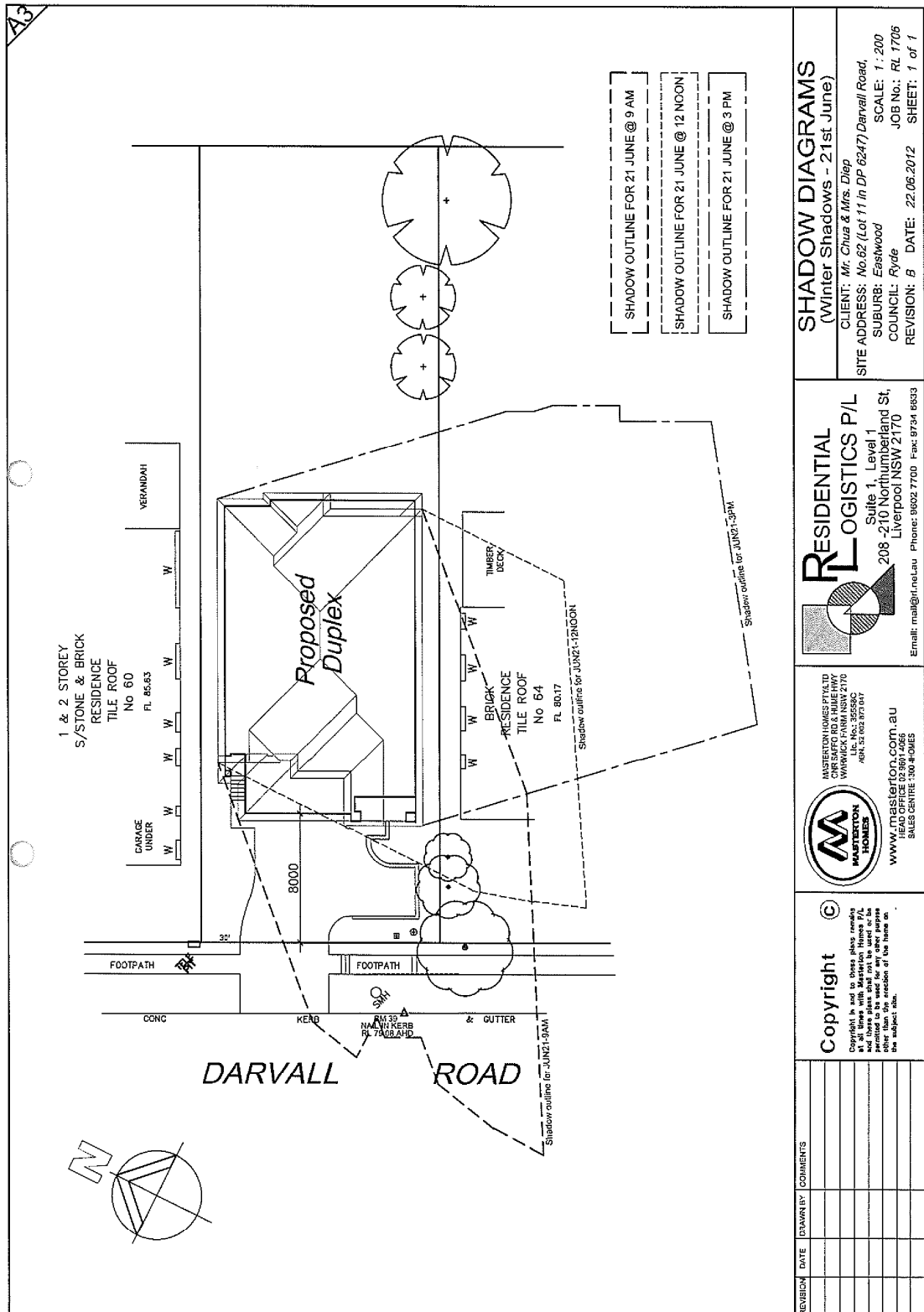
RESIDENTIAL LOGISTICS P/L
 Suite 1, Level 1
 208-210 Northumberland St,
 Liverpool NSW 2170
 Email: mail@rl.net.au Phone: 9602 7700 Fax: 9731 6933

MAUNDERTON PROPERTIES
 WWW.MAUNDERTON.COM.AU
 HEAD OFFICE: 02 9601 4066
 SALES CENTRE: 1300-HOMES

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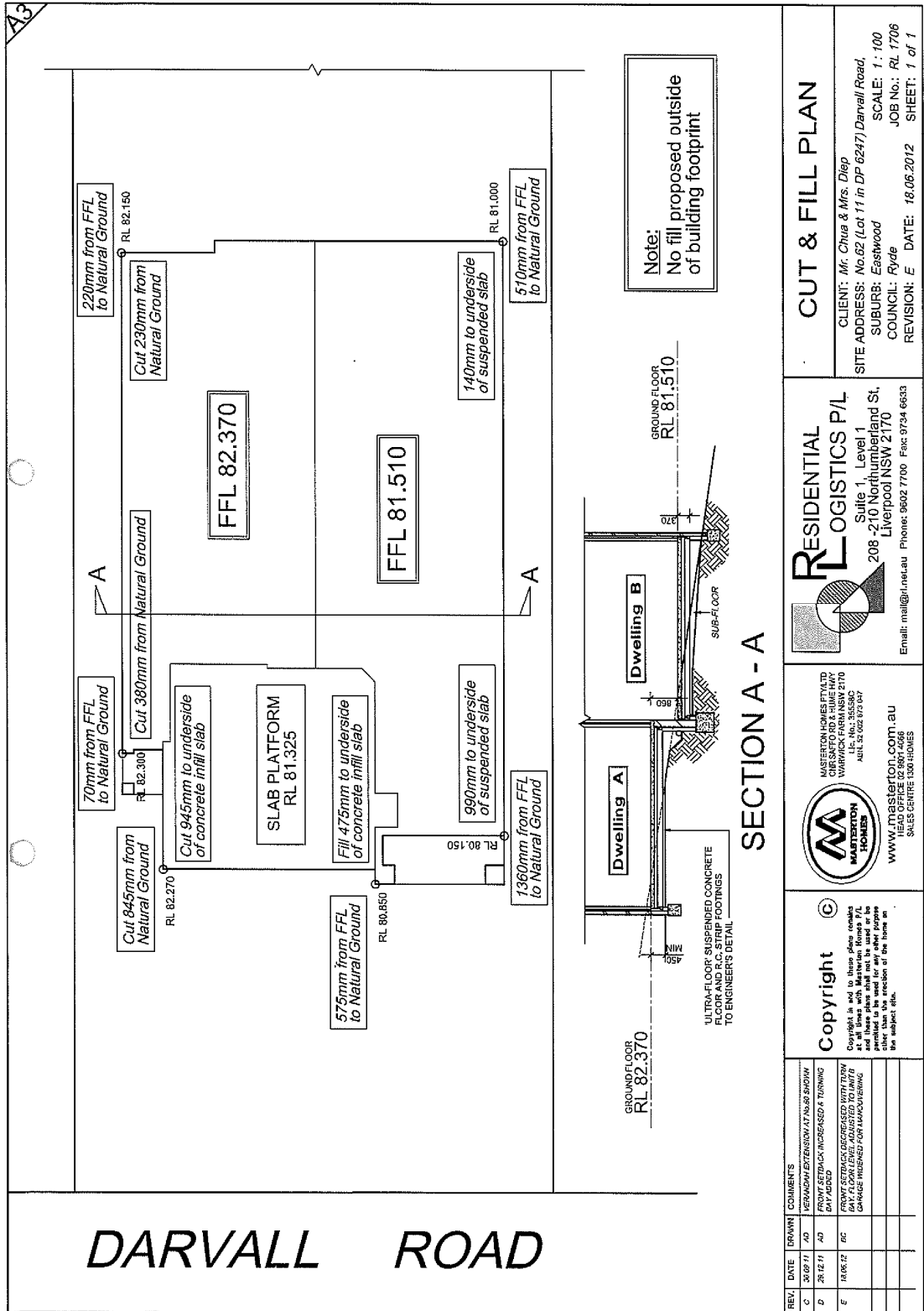
ITEM 4 (continued)

ATTACHMENT 4



ITEM 4 (continued)

ATTACHMENT 4



| REV | DATE | DRAWN | COMMENTS |
|-----|----------|-------|---|
| C | 30.09.11 | AD | KERAVAN EXTENSION AT N/SR SHOWING DAY AROUND |
| D | 28.12.11 | AD | FROM SETBACK DECREASED WITH TURN FROM SETBACK DECREASED WITH TURN FROM SETBACK DECREASED WITH TURN GARAGE INCREASED FOR MANOUEVRING |
| E | 18.06.12 | EC | |
| | | | |
| | | | |

| | | | |
|--|--|---|--|
| Copyright Copyright is held in these plans. Details at all times with Masterplan Homes P/L and these plans shall not be used or reproduced in any form without the written consent other than the execution of the home in the subject site. | | RESIDENTIAL LOGISTICS P/L Suite 1, Level 1 208-210 Northumberland St, Liverpool NSW 2170 Email: mail@reslog.com.au Phone: 9802 7700 Fax: 9734 6633 | |
| | | <p>Masterplan Homes Pty Ltd 208-210 Northumberland St Liverpool NSW 2170 AUSTRALIA TEL: 9802 7700</p> <p>WWW.MASTERPLAN.COM.AU HEAD OFFICE: 02 9801 4000 SALES CENTRE: 1300-HOMES</p> | |

| | |
|---|------------------|
| CUT & FILL PLAN | |
| CLIENT: Mr. Chua & Mrs. Diep | |
| SITE ADDRESS: No.62 (Lot 11 in DP 6247) Darvall Road, | |
| SUBURB: Eastwood | SCALE: 1 : 100 |
| COUNCIL: Ryde | JOB NO.: RL 1706 |
| REVISION: E | DATE: 18.06.2012 |
| | SHEET: 1 of 1 |

5 59 WHARF ROAD, GLADESVILLE. LOT D DP 342402. Local Development Application to erect a new two storey dwelling, in-ground swimming pool and front fence. LDA2012/0071.

INSPECTION: 4.50pm

INTERVIEW: 5.25pm

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

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

Report dated: 3 October 2012 **File Number:** grp/12/5/5/3 - BP12/1128

1. Report Summary

Applicant: K Souk.

Owner: C Koromilas, E T Nguyen.

Date lodged: 2 March 2012.

This report considers a proposal to erect a new two storey dwelling house with attached garage, in-ground swimming pool at the rear and a new front boundary fence.

The development application (DA) has been assessed against the provisions of DCP 2010 (Part 3.3 Dwelling Houses and Dual Occupancy (Attached)). There are minor areas of non-compliance in terms of excavation (amount of fill within and outside the building footprint, and adjacent to boundaries), wall plate height (at south-western corner), front setback, garage width, and amount of hard paving to the front setback. These areas of non-compliance are minor and acceptable in the context of the proposed development.

The main issue of concern with this DA is the impacts on views of the Parramatta River from the property to the north (57 Wharf Road). A full assessment of view impacts, using the Land and Environment Court Planning Principle regarding view sharing/view impacts (*Tenacity vs Warringah Council*) appears in the body of this report. In summary, it is concluded that whilst the proposal will have a significant impact on the views presently enjoyed from this adjoining property, the views in question are across a side boundary (which are recognised as being more difficult to protect), and the design would still allow a substantial amount of the view to be retained. Views across the subject site will also be greatly improved (compared to the existing situation) by the applicant's proposed removal of a large *Camphor laurel* tree at the rear of the site. On balance, it is considered that the development is reasonable in terms of impacts on views from the property to the north (57 Wharf Road).

ITEM 5 (continued)

The DA has been notified to neighbours in accordance with DCP 2010, and 3 objections have been received from the neighbours to the north (No 57 Wharf), raising concerns about view impacts, privacy impacts (if the *Camphor laurel* tree is to be removed), and property devaluation. There has also been 1 submission in support of the removal of the *Camphor laurel* tree from the owner of the property closest to that tree (No 2 Pile Street, to the west).

The proposal is recommended for approval subject to conditions.

Reason for Referral to Planning and Environment Committee: Called up by (former) Councillor O'Donnell.

Public Submissions: Three (3) submissions were received from the owner of No. 57 Wharf Road objecting to the development. Also, one (1) submission was received from another neighbour at No. 2 Pile Street in support of the proposed removal of the *Camphor Laurel* tree at the rear of the property.

SEPP 1 (or clause 4.6 RLEP 2010) objection required? No.

Value of works? \$500,000

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

RECOMMENDATION:

- (a) That Local Development Application No. 2012/71 at 59 Wharf Road, Gladesville being Lot D DP 342402 be approved subject to the **ATTACHED** conditions (Attachment 2).
- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

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

ITEM 5 (continued)

Report Prepared By:

Martin Southwell
Assessment Officer - Town Planner

Chris Young
Team Leader - Assessment

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 5 (continued)

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

Address : 59 Wharf Rd Gladesville

Site Area : 727.1m² by survey.
Frontage width of 21.725 metres.
Northern side boundary length of 32.135 metres and
southern side boundary length of 38.52 metres.

Topography and Vegetation : The site is effectively split into two levels (northern level and southern level) by a 1 metre high (approximate) stone retaining wall dividing the two levels. Both levels are relatively flat.

The south-eastern corner of the site is affected by Urban Bushland. There is an existing large Sydney Blue Gum tree (30 metres high by survey) located at the south eastern corner of the site, intersecting the southern side boundary.

There is a large *Camphor Laurel* tree in the north western corner of the site (20 metre surveyed height).

Existing Buildings : Existing dwelling and detached brick garage and carport structure, both to be demolished.

Planning Controls : Ryde Local Environmental 2010
Zoning : R2 Low Density Residential pursuant to the
Other : Ryde Development Control Plan 2010

ITEM 5 (continued)



Locality map

3. Councillor Representations

Name of Councillor: (former) Councillor O'Donnell

Nature of the representation: Call-up to Planning & Environment Committee

Date: 19 July 2012

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

On behalf of applicant or objectors? Objectors at 57 Wharf Road

Any other persons (e.g. consultants) involved in or part of the representation: None.

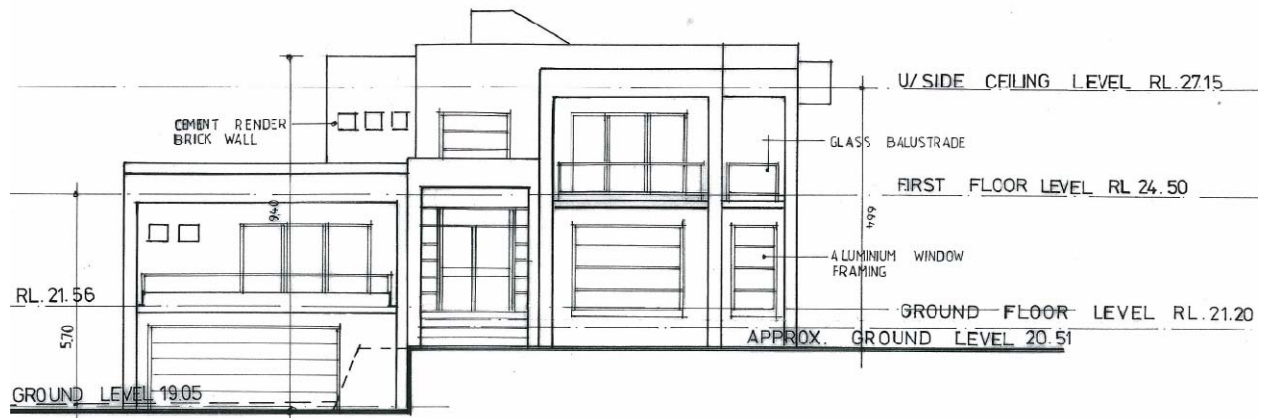
4. Political Donations or Gifts

Nil.

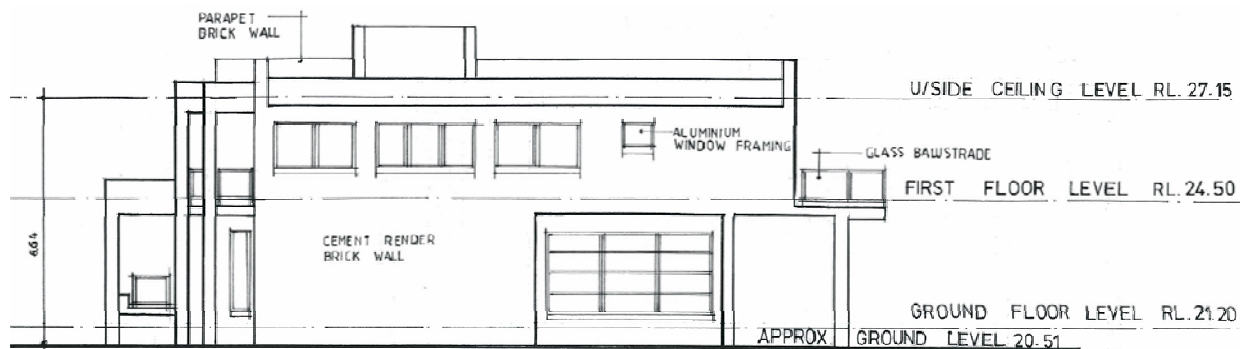
ITEM 5 (continued)

5. Proposal

The application proposes the construction of a new two storey dwelling with attached garage, in-ground swimming pool at the rear and a new front boundary fence.



Proposed front elevation



Proposed northern elevation (facing the objector's property)

6. Background

The DA was lodged to Council on 2 March 2012.

27 March 2012 – Council's Assessment Officer wrote to the applicant via a 'stop the clock' letter requesting additional information including an Arborist's report, demolition plan and elevations of the proposed front fence. Also, the applicant was requested to address a number of LEP and DCP non-compliances, namely building height, deep soil area, extent of fill, front setback, swimming pool coping height and extent of hard paving within the front yard. Amended plans were received by Council on 10 April 2012.

ITEM 5 (continued)

12 April 2012 – The amended DA plans were notified for a period of 14 days from 12 to 26 April 2012. One submission was received from the owner of the adjoining property to the north at No. 57 Wharf Road on the grounds of loss of existing water views.

14 May 2012 – Council's Assessment Officer wrote to the applicant to request a detailed surveyed site plan and elevations (including a view impact statement) that clearly shows what impact the proposed development would have upon the views from the objector's first floor.

23 May 2012 – The applicant responded to Council via the submission of view loss diagram (including cover letter) showing the extent of views that would be maintained following development of the subject site and amended plans in which the rear setback of the dwelling house had been increased by 500mm (achieved by reducing the front setback and the length of the dwelling house). The applicant declined to relocate the dwelling house any further to the east on the basis that the proposed front setback was now at the minimum of 6 metres as required by the Ryde DCP 2010. The applicant also noted that an existing Camphor Laurel tree located at the north-west corner of the subject site is proposed to be removed, which would open up views from the objector's property.

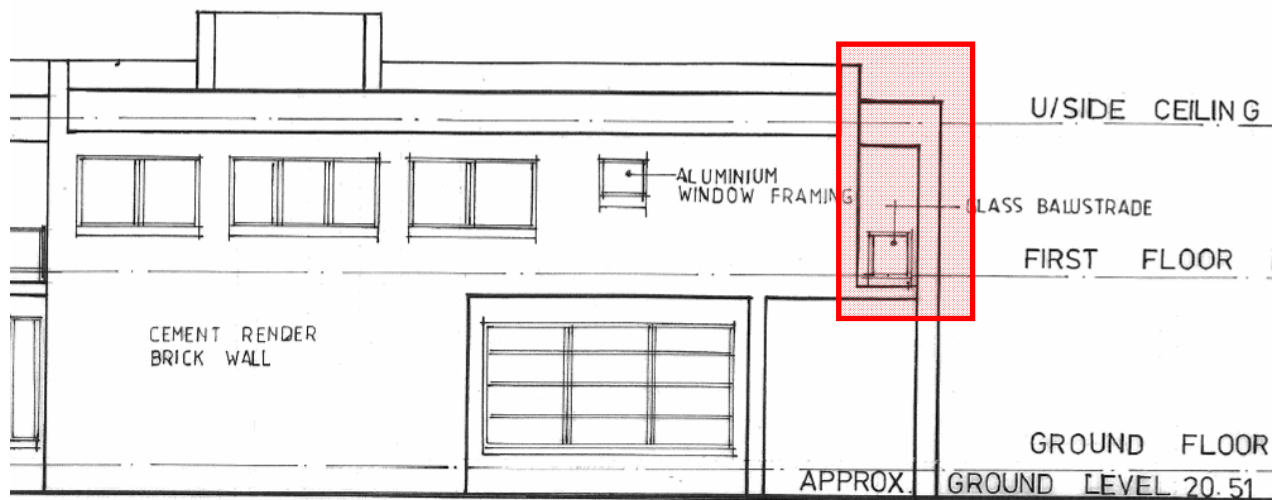
25 May 2012 – Council's Assessment Officer advised the objector and included the amended plans and cover letter received from the applicant on 23 May 2012, explaining that the objector had relocated the dwelling house to the east by 500mm.

8 June 2012 – The objector wrote a second submission to Council, identifying that the extent of the protruding built form over the rear balcony had not been taken into consideration in the applicant's view loss diagram, and claiming that the removal of the Camphor Laurel tree would result in only a marginal improvement in views, if at all, and any additional views obtained would be to the properties located at 61B Wharf Road, Gladesville and 2 Pile Street, Gladesville. Furthermore, the objector stated that the removal of the tree would result in a loss of privacy as it presently forms a visual barrier between the objector's property and the aforementioned properties.

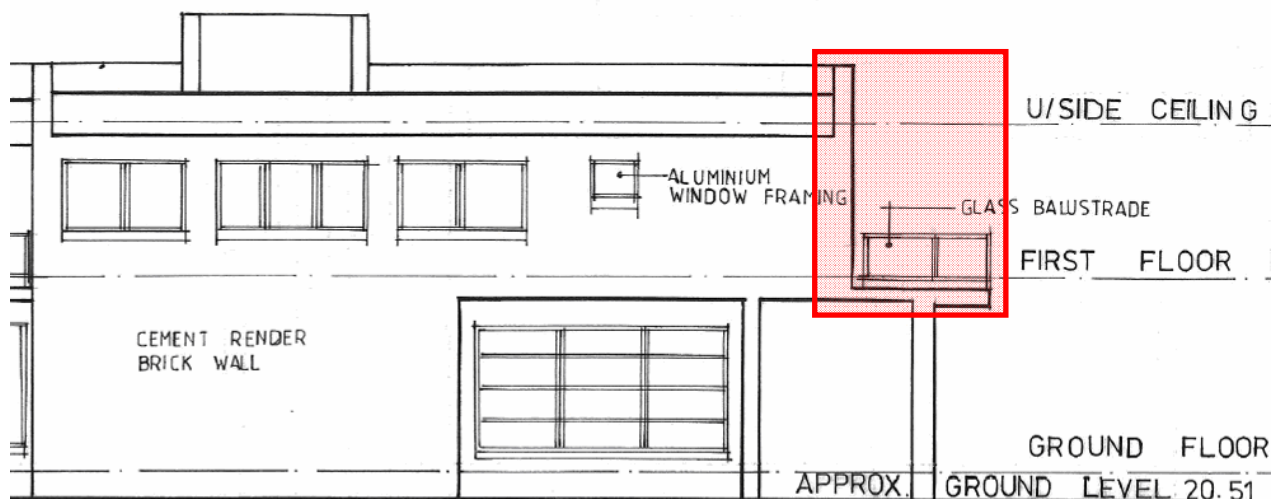
18 June 2012 – Council's Assessment Officer wrote a further letter to the applicant requesting that surveyed levels of the objector's windows be provided and suggesting that the protruding built form over the rear balcony be removed and that the height of the parapets be reduced. It is noted, however, that the survey plan originally lodged with the DA (John K Wicks & Associates, dated 3/05/11) includes the surveyed sill and head heights of the objector's windows.

29 June 2012 – Further amended plans were submitted by the applicant to Council, in which the protruding built form over the rear balcony was deleted.

ITEM 5 (continued)



North elevation showing the *original* design of the rear balcony with protruding built form over.



North elevation showing the *revised* design of the rear balcony with protruding built form deleted.

3 July 2012 – The amended plans received on 29 June 2012 were renotified for a period of 7 days until 10 July 2012.

11 July 2012 – The objector wrote a third submission to Council, providing a background of the proceedings to date and reaffirming his position that his concerns had not been adequately addressed by the applicant.

19 July 2012 – The DA was called up to the Planning and Environment Committee by (former) Councillor O'Donnell on behalf of the objector.

ITEM 5 (continued)

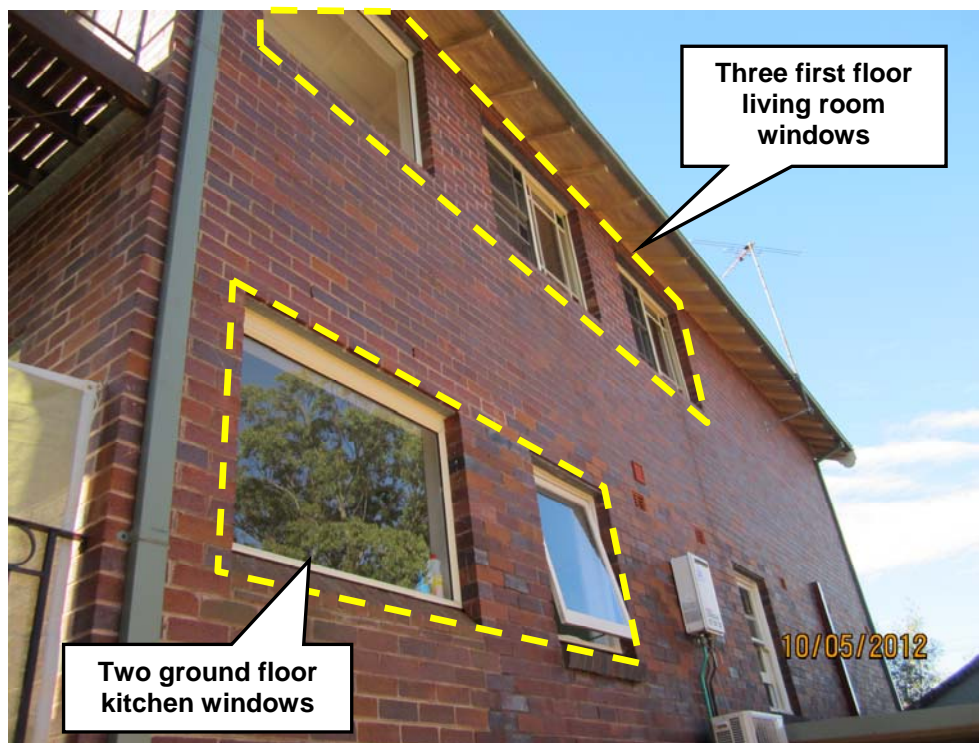
7. Submissions

The proposal was notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. Notification of the proposal was from 12 April 2012 to 26 April 2012.

One submission was received during the formal notification period (two further written submissions were received from the same objector during the assessment of the DA when the applicant submitted amended plans, raising the same matters). The issues raised in the original submission were:

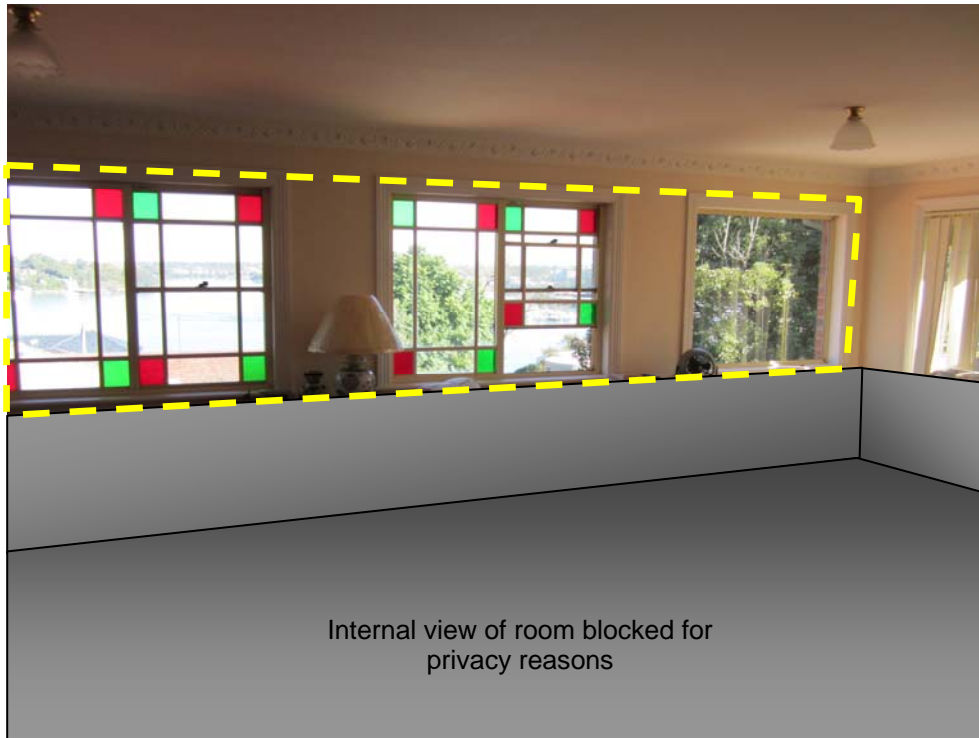
1. **View impacts.** *The proposed development will “significantly impair the views of the Parramatta River and surrounding areas that can be seen” from the objector’s property at No. 57 Wharf Road.*

Comment: The existing water views to Parramatta River from the objector’s property at No. 57 Wharf Road are obtained from three south-facing side windows of the first floor living room and from two south-facing windows of the ground floor kitchen of the objector’s property. Refer to the following photos:

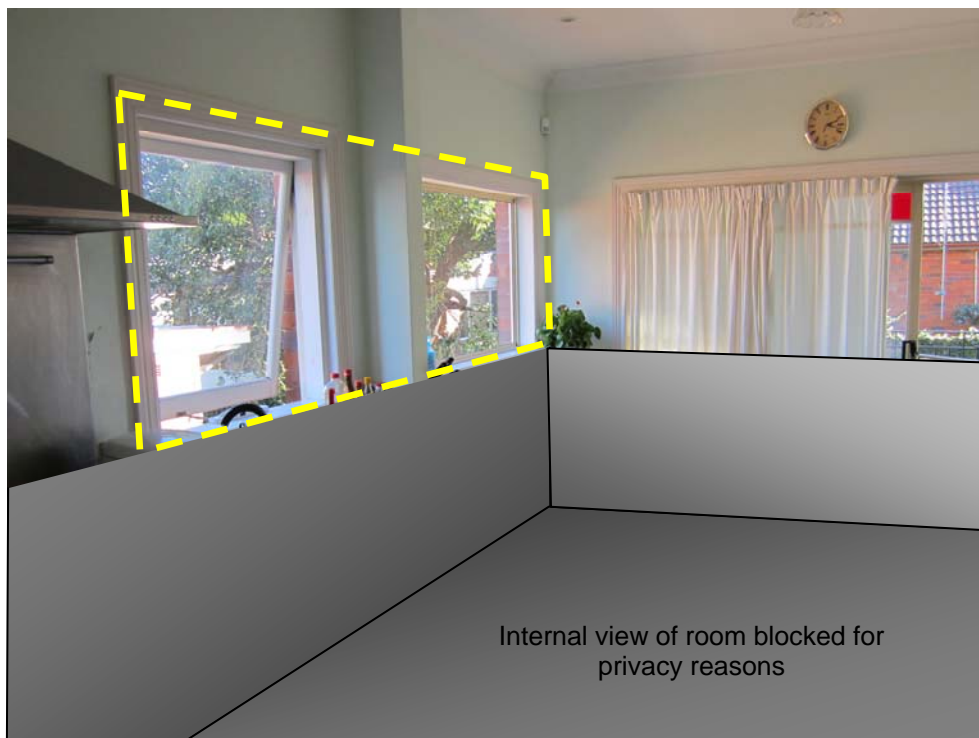


The existing south-facing windows of the objector’s property.

ITEM 5 (continued)



Internal view of the three south-facing living room windows on the first floor of the objector's property.



Internal view of the two south-facing kitchen windows on the ground floor of the objector's property.

ITEM 5 (continued)

It is an objective of the Ryde DCP 2010 to “ensure new dwellings endeavour to respect important views from living areas within neighbouring dwellings”. The supporting control states that the siting of (new) development is to provide for view sharing.

The matter of view loss has been addressed within a NSW Land and Environment Court Planning Principle, in which Commissioner Roseth SC established four steps by which the view loss impacts of a development may be assessed. An assessment of the proposed development and its impacts to the objector’s property (No. 57 Wharf Road) in this instance has been undertaken against the Planning Principle below:

Tenacity Consulting v Warringah Council [2004] NSWLEC 140

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, I have adopted a four-step assessment.

*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.*

Assessment Officer’s Comment: The existing views from the three windows within the first floor living room are considered to be valuable and significant on the basis that they comprise views of the interface between land and water on the southern shore of Parramatta River. Both whole views and partial views are obtained to the river and the suburbs on the opposite side of the river, and include the interface between land and water.

These views are obtained to some degree when standing in most quarters of the living room. The objector has specifically identified to Council’s Assessment Officer that the views are appreciated the most when walking from the first floor bedroom to the staircase (to descend to the ground floor) on a daily basis.

ITEM 5 (continued)



The existing view to Parramatta River from the westernmost first floor living room window, which are assessed as being valuable.

The existing views from the two windows within the ground floor kitchen, however, are assessed as being insignificant on the basis that the views are partial views to the water only, obtained over the existing skillion roof form of the existing dwelling house on the subject site (see photo below). It is considered to be an unreasonable expectation that these views will be retained.



The existing views to Parramatta River from the westernmost ground floor kitchen window, which are assessed as being insignificant.

ITEM 5 (continued)

*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.*

Assessment Officer's Comment: All existing views detailed above are obtained over the southern side boundary of No. 57 Wharf Road, and moreover, are obtained over the side boundaries of six additional residential properties to the south (known as Nos. 59, 61, 61A, 63, 65 and 67 Wharf Road and excluding rear battle axe allotments) that are sited between the objector's property and the Parramatta River.

It is critical to note that the views are obtained over the roof form of the existing single storey dwelling house presently situated on the southern site. Two storey dwelling houses are permitted within the City of Ryde.

The existing views from the objector's property are standing views only – it was observed at a site visit to the objector's property that the existing views would be unavailable to a person of average height sitting on any of the lounge chairs that presently occupy the living room. Therefore, the objector seeks to retain standing views.

*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.*

Assessment Officer's Comment: The existing views from the ground floor kitchen windows that have been previously assessed as being insignificant may be improved as a result of the proposed development, to the extent that views in the direction of Parramatta River that are presently obstructed by the existing single storey dwelling house on the subject site will now be available beneath the balcony. However, existing built form and significant vegetation beyond the subject site may still partially obscure this view towards the water from the objector's kitchen windows.

The proposed development will obliterate the views presently obtained from the easternmost and central windows of the first floor living room of the objector's property to the land / water interface of the Parramatta River and suburbs beyond. However, the applicant has provided a view loss diagram that identifies that views will

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be retained from the easternmost and central windows at angles of 67 degrees and 48 degrees, respectively, in the direction of Cabarita Point.

It is considered that the development will have a moderate impact to the existing views from the westernmost window of the first floor living room when standing approximately central to the window, as the proposed development will obscure existing views to the land / water interface of the River and suburbs beyond, but will not impede views to the land / water interface of Hen and Chicken Bay. Refer to the photo below.



The approximate extent of view loss that will occur to the westernmost window as a result of the proposed development, when standing central to the window and approximately 2 metres from the window.

However, existing partial water views towards the south-west will not be impacted by the proposal. In fact, as a result of the proposed removal of the existing Camphor Laurel tree located in the north-western corner of the subject site, views from the westernmost living room window will improve and now be obtained over the roof of the dwelling house at No. 61B Wharf Road, located to the south-west of the subject site. Therefore, views to the south-west of the marina at Cabarita Point on the opposite side of Parramatta River will be opened up from the first floor living room window of 57 Wharf Road, as shown in the following photos.

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The approximate extent of view loss that will occur to the westernmost window as a result of the proposed development when standing at an oblique angle to, and approximately 2 metres from, the window. Partial water views to the south west toward Cabarita Point Marina will be retained.

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The approximate extent of views that will be improved as a result of the removal of the existing Camphor Laurel tree from the subject site. Partial water views to Cabarita Point Marina from the western most first floor living room window will be improved.

In accordance with the third step of the Planning Principle, it also critical to note that the objector's property has an existing view from the rear first floor balcony of the dwelling house. Significant existing views will be maintained from the balcony.

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The existing first floor balcony at the rear of the objector's property.

*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.*

Assessment Officer's Comment: The view loss will not arise as a result of any non-compliance with planning controls. The proposed dwelling house is considered to be a reasonable development in consideration of the following design specifics:

- The height of the dwelling house immediately adjacent to the objector's property is approximately 7.5 metres measured from existing ground level, which is 2 metres lower than the maximum allowable height of 9.5 metres at any point on the site.
- The FSR of the dwelling house is 0.45:1, which equates to approximately 36.36m² below the maximum allowable gross floor area on the site.

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- The rear setback to the first floor (excluding rear balcony) is approximately 11 metres, which is substantially greater than the minimum DCP requirement of 8.03 metres (25% of the northern side boundary length of 32.135 in this instance) and noting that a rear setback of 8.03 metres to the first floor of the dwelling house would obliterate the views from all three first floor windows of the objector's property.

The applicant has removed the roof structure over the rear first floor balcony (as previously shown in the original DA plans), which will ensure water views will not be impacted by the balcony structure.

The question of whether a more skilful design could be applied to the proposed development is subjective. Notwithstanding, in consideration of the fact that the existing views are obtained over a side boundary and over the roof form of an existing single storey dwelling house, and the fact that existing partial water views toward the south west will be improved, the proposed development is deemed to be a reasonable development scheme and is consistent with the principle of view sharing.

- 2. Privacy impacts.** *The objector is concerned that proposed removal of the Camphor laurel tree from the subject site will cause adverse privacy impacts on their property.*

Comment: These concerns are not supported. The objector's property is at a higher level than the subject property (given the topography in this location), and therefore the subject (and neighbouring) properties would be more likely to be affected by overlooking from the objector's property. As noted previously, the removal of the *Camphor laurel* is beneficial to the issue of view sharing/view impacts, and this would outweigh any adverse impacts on privacy. It is also noted that the removal of this type of tree would be permissible without Council approval being required, as it is "exempt" under Council's Tree Preservation Order.

- 3. Devaluing of adjoining property.** *As a result of its view impacts, the proposed development will "considerably reduce" the premium that significantly contributes to the objector's property value.*

Comment: Development Application applicants have a right, under the provisions of the Environmental Planning and Assessment Act, 1979, to apply for developments that achieve the aim of orderly and economic use and development of land. Concerns about possible decreases in surrounding property values do not constitute a valid town planning consideration. This position has been reinforced by planning and development decisions in the Land and Environment Court.

8. SEPP1 (or clause 4.6 RLEP 2010) objection required?

No.

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

The site is zoned R2 Low Density Residential under the Ryde Local Environmental Plan 2010 (Ryde LEP 2010). Dwelling houses are permitted within the R2 Low Density Residential zone with development consent.

Mandatory Requirements

| Ryde LEP 2010 | Proposal | Compliance |
|---|--|------------|
| Clause 4.3(2) – Maximum Building Height | | |
| 9.5 metres above existing ground level | 9.4 metres (maximum) | Yes |
| Clauses 4.4(2) & 4.4A(1) – Maximum Floor Space Ratio (FSR) | | |
| 0.5:1 | Lower ground floor: 35.52m ² Ground floor: 177.61m ² First floor: 149.16m ² Total (GFA): 362.29m ² Less 36m ² (double) allowance for parking: 326.29m ² Site area: 727.1m ² FSR = 0.45:1 | Yes |

Cl. 5.10 Heritage Conservation – The site is within the vicinity of a local and state-listed heritage item at No. 55 Wharf Road, to the north of the site. The site is separated from the heritage item by both Pile Street and No. 57 Wharf Road.

Comment: Council’s Heritage Officer has assessed the impacts of the proposed development on the significance of the heritage item. Views to the Parramatta River are considered to be integral to the significance of the heritage item and are obtained across the rear setback of the site and that of No. 57 Wharf Road. The proposed development has a rear setback of approximately 8.5 metres to the first floor balcony at the rear of the dwelling house, and therefore maintains the view corridor down the rear boundary from the heritage item.

Council’s Heritage Officer originally advised that the proposed development will have “little or no impact on the significance of the heritage item”, but recommended that a condition of consent be imposed stating that any tree or shrub plantings along the

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north (side) or western (rear) boundary of the subject site be capable of growing to a mature height of not more than 1.5 metres, so as to prevent plants in the back garden from obscuring the view corridor to Parramatta River from the heritage item.

The applicant proposes to plant an unknown variety of Lilly Pilly plants as screen planting along the rear boundary of the site (14 plants, evenly spaced) to improve privacy between the subject site and No. 2 Pile Street to the rear (west) of the subject site (privacy is addressed in further detail within the DCP section of this report). Lilly Pilly plants can grow to heights of over 5 metres, depending on the variety. It is noted that Council's Consultant Landscape Architect has recommended that this Lilly Pilly screen planting along the rear boundary have a maximum mature height of 3 metres, which conflicts with the Heritage Officer's recommendation.

Upon further consideration and an additional site inspection with Council's Assessment Officer, Council's Heritage Officer provided further advice on 2 October 2012 stating that a height of 2 – 3 metres for the proposed Lilly Pilly screen planting would provide some privacy to No. 2 Pile Street whilst having a negligible impact on the view corridor from the heritage item at No. 55 Wharf Road. In particular, the Heritage Officer noted that the existing *Camphor Laurel* tree at the rear of the site is proposed to be removed, which will open up views along the view corridor from the heritage item.

In consideration of the above recommendations of Council's Heritage Officer and Consultant Landscape Architect, and also of the view loss assessment undertaken previously within this report, it is considered that a maximum mature height of 2.7 metres for the Lilly Pilly trees (which is also in accordance with the maximum height of boundary planting stipulated within Section 2.12 of Part 3.3 of the Ryde DCP 2010) will afford some privacy to No. 2 Pile Street to the rear of the subject site, will not further impede views from the objector's property at No. 57 Wharf Road and will ensure that the view corridor from the heritage item at No. 55 Wharf Road to Parramatta River is not obstructed. An appropriate condition of consent is included within Attachment 2 to reflect this.

The Heritage Officer's original comments in relation to planting along the northern side boundary within the rear setback remain unchanged (*i.e.* maximum height of 1.5 metres). The applicant proposes to plant *Philadelphus Coronarius* (Sweet Mook Orange) along the northern side boundary within the rear setback. This species of plant is capable of reaching a mature height of approximately 3.8 metres and therefore a condition of consent is recommended stipulating that the plants be maintained at a maximum height of 1.5 metres in accordance with advice received from Council's Heritage Officer.

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(b) Relevant SEPPs
SEPP BASIX

A compliant BASIX Certificate has been submitted with the application. A standard condition is included within the Draft Consent requiring compliance with the submitted BASIX Certificate.

SEPP No. 55 – Remediation of Land

The provisions of SEPP 55 require Council to consider the likelihood for a site to be contaminated. The subject site has a history of ongoing residential use and therefore it is unlikely that the site is contaminated. Further investigation is not warranted in this case.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 applies to the subject site and has been considered in this assessment. The site is located within the Foreshores and Waterways Area. Particular attention is drawn to the following relevant Clauses of the SREP:

| Provision | Proposal | Compliance |
|--|--|------------|
| <p>Clause 25 – Foreshore and waterways scenic quality</p> <p>The matters to be taken into consideration in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways are as follows:</p> <p>(a) the scale, form, design and siting of any building should be based on an analysis of:</p> <p>(i) the land on which it is to be erected, and</p> <p>(ii) the adjoining land, and</p> <p>(iii) the likely future character of the locality,</p> <p>(b) development should maintain, protect and enhance the unique visual qualities of Sydney</p> | <p>The scale, form, design and siting of the proposed development has been assessed in the context of the proposed development and is found to be acceptable, on the basis that it will have no adverse impacts on the visual qualities of Parramatta River.</p> | <p>Yes</p> |

ITEM 5 (continued)

| Provision | Proposal | Compliance |
|---|--|------------|
| Harbour and its islands, foreshores and tributaries, (c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores. | | |
| Clause 26 – Maintenance, protection and enhancement of views The matters to be taken into consideration in relation to the maintenance, protection and enhancement of views are as follows: (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. | View impacts of the proposed development have been considered previously within this report, and are found to be acceptable. | |

The proposed development has been assessed against all Matters for Consideration under Part 3, Division 2 of the SREP and is found to be generally consistent with the objectives and provisions of the SEPP.

(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 was placed on public exhibition between 30 May 2012 and 13 July 2012. 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.

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

Ryde Development Control Plan 2010

The Ryde DCP 2010 was adopted by Council on 15 June 2009 and became effective on 30 June 2010 (i.e. upon commencement of the Ryde LEP 2010). The proposed development is affected by the following relevant DCP Parts:

Part 3.3 – Dwelling Houses and Duplex Buildings

Part 7.2 – Waste Minimisation and Management

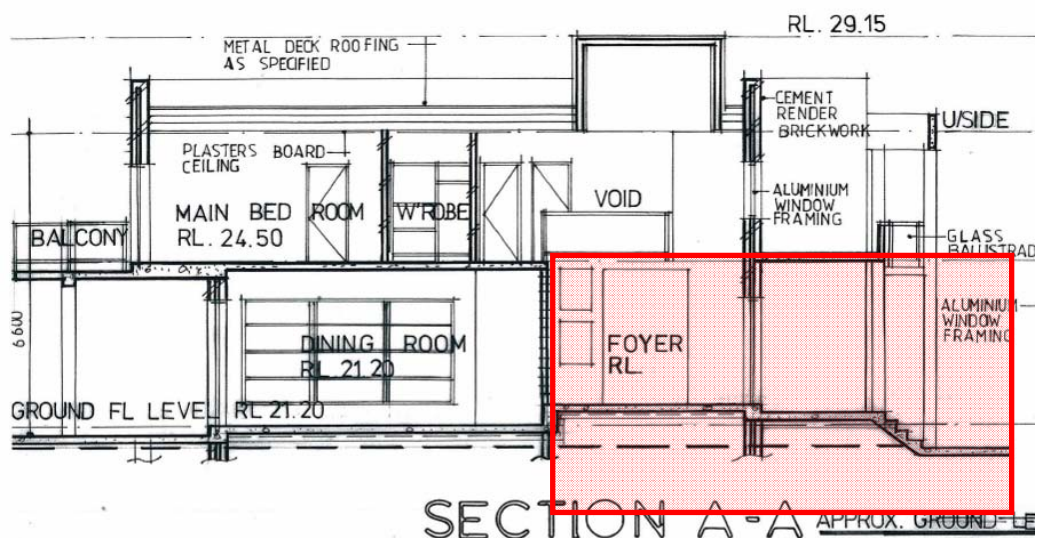
Part 8.2 – Stormwater Management

Part 9.2 – Access for People with Disabilities

A full assessment of the extent of compliance of the proposed development against the above listed relevant Parts of DCP 2010 is held in table format **ATTACHED** to this report. A summary of the non-compliances is undertaken below:

DCP Non-Compliances:

- (i) *Maximum fill within the building footprint* – the proposed development will require 940mm of fill above ground level within the building footprint below the front door, which exceeds the maximum extent of fill by 40mm. This is considered to be a negligible non-compliance and it is important to note that the non-compliance is limited to the front entry portico and internal entry foyer only. From the foyer, steps will lead down into the living and dining rooms on the northern side of the dwelling house on the ground floor level.



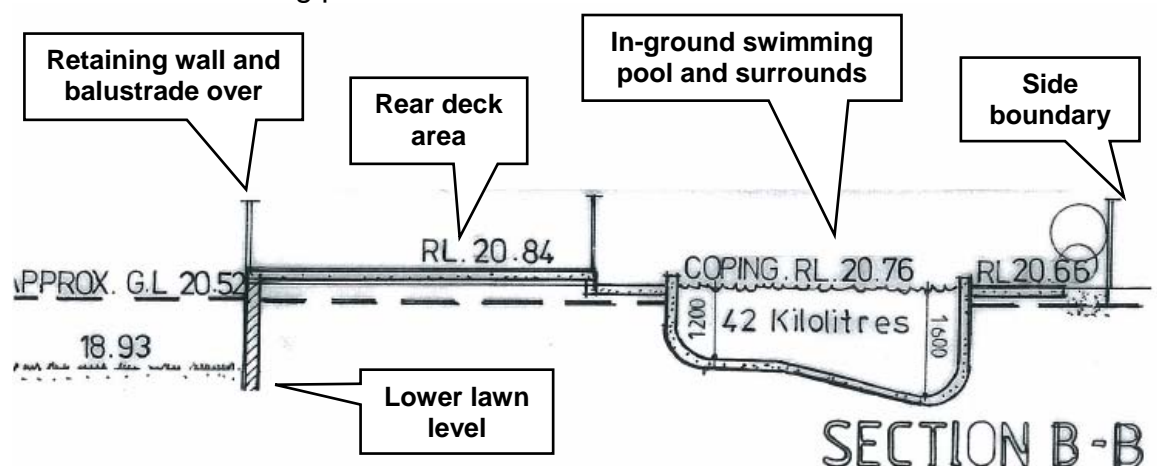
Proposed east / west section through the dwelling house showing the elevated front steps and internal entry foyer.

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- (ii) *Maximum fill outside the building footprint and maximum height of retaining wall* – the applicant proposes to relocate the existing retaining wall that runs the length of the site by approximately 1 metre to the south, and to fill behind it. This will result in new fill of up to 1410mm at the rear lawn for a narrow strip of approximately 1 metre width behind the new retaining wall.

The southern lawn level is proposed to be cut by approximately 300mm to provide for a level area, which will result in the retaining wall having a height of up to 1.91 metres behind the dwelling house. In addition, the applicant proposes to increase the level of the existing rear lawn area, with the new lawn level being 300mm higher than the existing lawn and the new concrete area immediately outside the dining room being up to 750mm above the existing lawn level. The DCP permits up to 500mm of fill provided that the filled areas “do not have an adverse impact on the privacy of neighbours”.

Refer to the following plan section.



Proposed section through the backyard including retaining wall, rear deck and swimming pool area.

In this instance, it is considered that the proposed increases to existing ground levels in the rear yard will further exacerbate an existing undesirable situation whereby the existing levels within the backyard allow overlooking into the rear private open space of the adjoining property to the rear (No. 2 Pile Street). Refer to photos below. Therefore, it is recommended that a condition of consent be imposed restricting the rear private open space areas and the proposed new retaining wall to no higher than RL 20.45. This will still provide for a flat lawn area at the rear whilst minimising further privacy impacts to the rear.

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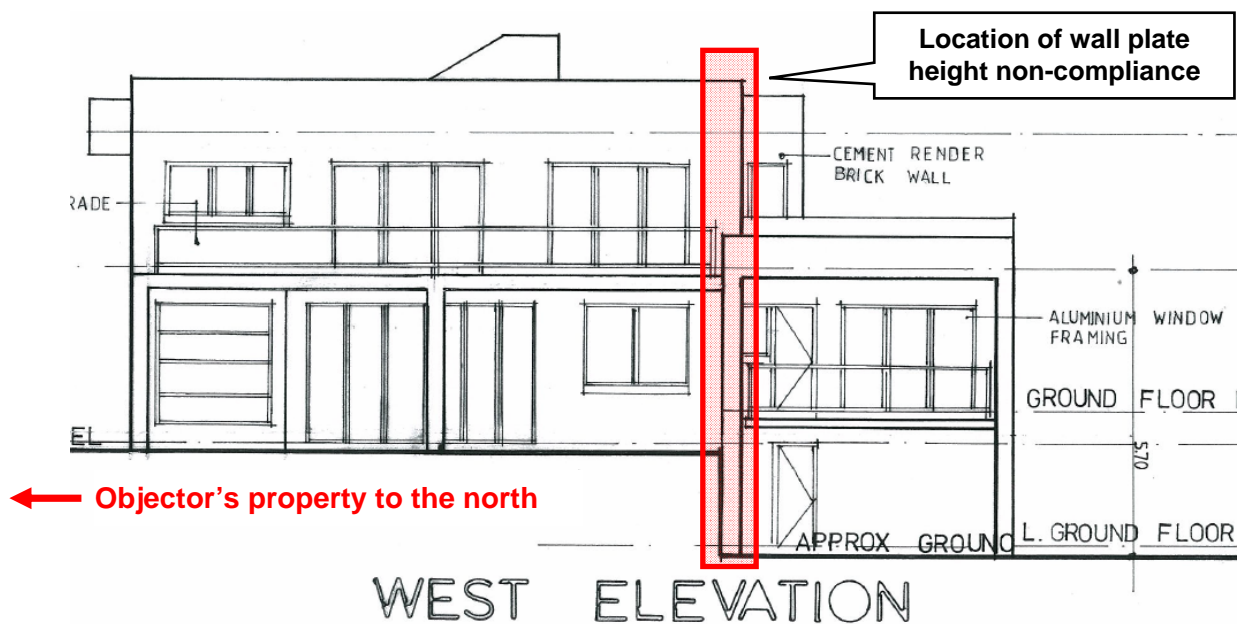
Existing backyard of the subject site.



Overlooking from the back yard of the subject site into the private open space of No. 2 Pile Street, from adjacent to the existing garage.

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- (iii) *Fill adjacent to side or rear boundaries* – In addition to the abovementioned increases to existing ground level within the back yard of the site, the applicant proposes to fill along the rear boundary, an area with a width of approximately 1.5 metres that is currently at or close to natural ground level. An appropriate condition of consent is recommended that stipulates that there is to be no fill or retaining walls within 1.25 metres of the rear boundary.
- (iv) *Wall Plate Height* – The maximum wall plate height of the proposed dwelling house is 9.15 metres at the south-western corner of the house due to the topography and split level nature of the site (refer to the figure below). This exceeds the maximum allowable wall height by 1.15 metres for a small portion of the house only. The massing of the external wall is effectively broken up by a large balcony area immediately adjacent to the ground floor office and laundry and on this basis is considered to be acceptable.



Location of wall plate height non-compliance at the south-western corner of the dwelling house due to the topography and split level nature of the site.

- (v) *Front setback* – The proposed dwelling house has a front setback of 6 metres to the external wall of the house and 4.6 metres minimum to the front balconies, which is non-compliant (6 metres required minimum to the front balconies). It is noted that the development originally had a setback of 4.88 metres to the front balcony, which did not comply; however, the applicant relocated the house by 280mm closer to the front boundary so as to improve views to the objector's property. Though non-compliant, the front setback to the house is considered to be acceptable on the basis that

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the proposed dwelling house will be aligned with the dwelling house approved at No. 61 Wharf Road under LDA2010/406, and the proposed front setback will maximise views to the Parramatta River from the objector's property at No. 57 Wharf Road.



Approximate siting of approved and proposed built form at Nos. 59 & 61 Wharf Road.

- (vi) *Garage width* – The proposed garage has a width of 6.7 metres, which exceeds the maximum permissible width of 6 metres. This is deemed acceptable on the basis that the front wall of the garage is recessed approximately 4 metres behind the balcony over, thus the garage will be visually recessive and not a prominent design feature.
- (vii) *Hard paving to front setback* – 41.75% of the front setback area of the proposed dwelling house comprises hard paving, which exceeds the maximum allowable hard paved extent of 40%. This is considered acceptable on the basis that the non-compliance of 1.75% equates to an excess of just 2.83m² of hard paved area, which is considered to be negligible. A significant portion of the front setback will comprise soft landscaping.

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10. Likely impacts of the Development

(a) Built Environment

Subject to the imposition of appropriate conditions of consent, the proposed development will have acceptable impacts to the built environment.

A deck is proposed at ground floor level immediately adjacent to the laundry and office, with a setback of 1.5 from the southern side boundary. Due to the topography of the site, the deck is elevated approximately 2.5 metres above the existing ground level of the lower level of the site. However, the proposed deck will not result in overlooking of the adjoining property to the south known as No. 61 Wharf Road due to substantial dense hedge screening along the boundary of the adjoining site, with a height of approximately 4 – 5 metres (see photo below).



Substantial hedge screening on the adjoining property to the south (No. 61 Wharf Road) prevents overlooking.

(b) Natural Environment

The proposed development will have acceptable impacts on the natural environment subject to the imposition of appropriate conditions of consent as outlined within this report.

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

It is considered that the site is suitable for the proposed development on the basis that it will accommodate a two storey detached dwelling house with acceptable environmental impacts.

12. The Public Interest

Approval of the development is in the public interest.

13. Consultation – Internal and ExternalInternal Referrals

Landscape Architect: Council's Consultant Landscape Architect reviewed the Arboricultural Impact Assessment submitted by the applicant (prepared by *Bluegum Tree Care and Consultancy* dated April 2012). The consultant outlined a number of concerns that should be rectified prior to the issue of DA consent or with CC documentation. Appropriate conditions of consent are included within the Recommendation to address the matters raised.

A recommendation of the consultant Landscape Architect is that a tree capable of reaching a minimum height at maturity of 15 metres is to be planted in the backyard. However, on the basis that such a tree would adversely impact views from the objector's property, it is considered unreasonable to impose this condition in this instance.

Heritage Officer: Comments provided by Council's Heritage Officer concerning the state listed heritage item have been reproduced previously within this report, particularly with respect to the maximum height of planting within the view corridor along the rear setback of the subject site.

External Referrals

None required.

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

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

16. Other Options

None relevant.

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

The proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning & Assessment Act 1979 and is considered satisfactory for approval subject to conditions of consent.

The main issue of concern with this proposal is the impacts on views from the neighbouring property to the north (No 57 Wharf Road). Overall, whilst the proposal would have significant impacts on these views, they are not unreasonable in the context of the proposal, because the views in question are views from the side (which are recognized as being harder to protect), and the design would still allow a substantial amount of the view to be retained. During the assessment process, the applicant made amendments to their design to improve view retention, including varying the front setback and deleting a balcony structure. Views across the subject site will also be greatly improved (compared to the existing situation) by the applicant's proposed removal of a large *Camphor laurel* tree at the rear of the site. On balance, it is considered that the development is reasonable in terms of impacts on views from the property to the north.

There are some minor areas of non-compliance with DCP 2010 in terms of excavation (amount of fill within and outside the building footprint, and adjacent to boundaries), wall plate height (at south-western corner), front setback, garage width, and amount of hard paving to the front setback, however these areas of non-compliance are minor and acceptable in the context of the proposed development.

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DCP Compliance Table - 2012/71 – 59 Wharf Road, Gladesville

| 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. | The proposed development is consistent with the desired future character of the low density residential area as detailed further in this table. | - |
| Dwelling Houses | | |
| <ul style="list-style-type: none"> - To have a landscaped setting that includes significant deep soil areas at the front and rear. - Maximum 2 storeys. - Dwellings to address street - Garage/carports not visually prominent features. | Front and rear gardens are proposed, with appropriate areas for deep soil planting. Two storeys. Dwelling presents to Wharf Road. The garage is not a prominent feature as it is on the lower level and is recessed from the front façade. | Y Y Y Y |
| Alterations and Additions | | |
| <ul style="list-style-type: none"> - Design of finished building appears as integrated whole. - Development to improve amenity and liveability of dwelling and site. | N/A – new dwelling proposed | N/A |
| Dual Occupancy – Linear Separation | | |
| <ul style="list-style-type: none"> - Any urban housing, multi dwelling (attached), villa homes, duplex, dual occupancy (attached) within double the main frontage of the subject site or existing villa/dual occupancy site? | N/A – single dwelling only | N/A |
| Public Domain Amenity | | |
| Streetscape | | |
| <ul style="list-style-type: none"> - Front doors and windows are to face the street. Side entries to be clearly apparent. - Single storey entrance porticos. - Articulated street facades. | Front doors and windows face Wharf Road. Entrance portico is single storey only. Articulated street façade provided. | Y Y Y |
| 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 or potential | The proposed development will provide a view corridor along the rear boundary from Pile Street and from the state listed heritage | Y |

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| DCP 2010 | Proposed | Compliance |
|---|--|---|
| view to the water from the street. - Landscaping is not to restrict views. - Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. Fence 70% open where height is >900mm. | item at No. 55 Wharf Road. No mature tree will be required within the rear yard to preserve this view corridor. The proposed development involves the removal of a substantial Camphor Laurel tree (20 metre height, 12 metre canopy spread radius) that is located adjacent to the rear boundary, which will further improve views to the water from Pile Street, across the rear setback of the subject site. | |
| Pedestrian & Vehicle Safety - Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard. - Fencing that blocks sight lines is to be splayed. | The garage is appropriately setback approximately 10 metres (minimum) from the front boundary, and the front fence is solid to a height of 500mm only (transparent over, up to a height of 1.5 metres). | <p style="text-align: center;">Y</p> |
| Site Configuration | | |
| Deep Soil Areas - 35% of site area min. - Min 8 x 8m deep soil area in backyard. - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). - Dual occupancy developments only need one 8 x 8m area (doesn't have to be shared equally between dwellings). | Permeable (deep soil) area: 278.45m ² approx (38% of site area). Rear DSA dimensions: 8m x 8m provided. Front DSA: 100% permeable area in front yard= 94.26m ² . Hard surface areas have been kept to an appropriate extent within the front yard. | <p style="text-align: center;">Y</p> <p style="text-align: center;">Y</p> |
| Topography & Excavation Within building footprint (BF): - Max cut: 1.2m - Max fill: 900mm Outside building footprint: - Max cut: 900mm - Max fill: 500mm - No fill between side of building | Within BF Max cut: <1.2m Max fill: 940mm at front door Outside BF Max cut: 290mm in rear yard Max fill: 750mm - 1410mm Fill is proposed adjacent to the | <p style="text-align: center;">Y</p> <p style="text-align: center;">N (variation supported)</p> <p style="text-align: center;">Y</p> <p style="text-align: center;">N (variation supported)</p> |

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| DCP 2010 | Proposed | Compliance |
|--|--|-----------------------------|
| and boundary or close to rear boundary | rear boundary. | N (variation not supported) |
| - Max height of retaining wall 900mm | 1910mm max. | N (variation not supported) |
| Floor Space Ratio | | |
| Lower Ground floor | 35.52m ² | |
| Ground floor | 177.61m ² | |
| First floor | 149.16m ² | |
| Detached car parking structures | N/A | |
| Outbuildings (incl covered pergolas, sheds etc) | N/A | |
| Total (Gross Floor Area) | 362.29m ² | |
| Less 36m ² (double) or 18m ² (single) allowance for parking | 35.52m ² | |
| FSR (max 0.5:1) Note: Excludes wall thicknesses; lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas. | 0.45:1 | Y |
| Height | | |
| - 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL). | Two storeys, no basement proposed. | Y |
| - 1 storey maximum above attached garage incl semi-basement or at-grade garages. | 1 storey above garage only | Y |
| Wall plate (Ceiling Height) - 7.5m max above FGL or - 8m max to top of parapet <i>NB:</i> <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> <i>FGL = Finished Ground Level</i> | TOW RL: 28.05 FGL below lowest point: RL: 20.36 approx. FGL below highest point: RL: 18.90 (southern wall of first floor sitting room) TOW Height (min)= 7.69m TOW Height (max)= 9.15m | N (variation supported) |
| 9.5m Overall Height <i>NB:</i> <i>EGL = Existing Ground Level</i> | Max point of dwelling: RL: 28.05 above garage, 29.15 to top of rooftop lightwell | Y |

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| DCP 2010 | Proposed | Compliance |
|---|--|--|
| | structure. EGL below lowest point: RL 20.50 approx EGL below highest point (above garage): RL 19m Overall Height (min)= 8.65 Overall Height (max)= 9.05 | |
| Habitable rooms to have 2.4m floor to ceiling height (min). | 2.65m min room height. | Y |
| Setbacks | | |
| SIDE Ground floor - 900mm to wall - Includes balconies etc | To wall min. 1500mm | Y |
| SIDE First floor - 1500mm to wall - Includes balconies etc | To wall min. 1500mm | Y |
| Side setback to secondary frontage (corner allotments): 2m to façade and garage/carports | N/A | N/A |
| 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 | 6m to the wall, 4.6m minimum to the front balconies. Garage setback >1m from dwelling façade. Wall above garage does not align with outside face of garage below, but is visually recessive as a result. Front setback is free of ancillary elements. | N (variation supported) Y N (variation supported) Y |
| Rear - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. Note: 8.03m min. is 25% of site length. | 8.5m to rear first floor balcony, and approximately 11m to rear external wall of dwelling house. | Y |
| Sites wider than they are long - One side setback of 8m or | N/A | N/A |

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| 20% of allotment width, whichever is greater. - Rear setback 4m min (in addition to 8m side setback). <i>NB: Side setback on irregular allotments can be measured at the centre line of the site. (must have 8x8m DSA)</i> | | |
| Outbuildings | | |
| <ul style="list-style-type: none"> - Not within front setback. - Max area – 20m² - Max wall plate (ceiling) height 2.7m - Max O/A height 4.5m – Ridge to EGL - To be single storey. - Windows not less than 900mm from boundary. - Concrete dish drain if setback less than 900mm. - Design to complement new dwelling. | N/A – No outbuildings proposed | N/A |
| Car Parking & Access | | |
| General <ul style="list-style-type: none"> - Dwelling: 2 spaces max, 1 space min. - Dual Occupancy (attached): 1 space max per dwelling. - Where possible access off secondary street frontages or laneways is preferable. - Max 6m wide or 50% of frontage, whichever is less. - Behind building façade. | Number/location of car spaces: 2 Access from: Wharf Road (no secondary frontage available) External width: 6.7m Garage setback behind building façade. | Y Y N (variation supported) Y |
| Garages <ul style="list-style-type: none"> - Garages setback 1m from façade. - Total width of garage doors visible from public space must not exceed 5.7m and be setback not more than 300mm behind the outside face of the building element immediately above. - Garage windows are to be at | Setback from façade: 1m Width of opening: 5m approx. Door setback: 4m approx. from front balcony, which results in a visually recessive garage. Windows setback: 1.5m | Y Y N (variation supported) Y |

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| least 900mm away from boundary. - Free standing garages are to have a max GFA of 36m ² - Materials in keeping or complimentary to dwelling. | N/A – Attached garage proposed. Materials: consistent with new dwelling. | N/A Y |
| Carports - Sides 1/3 open (definition in BCA) - Design & materials compatible with dwelling. | N/A – No carport proposed | N/A |
| Parking Space Sizes (AS) - Double garage: 5.4m wide (min) - Single garage: 3m w(min) - Internal length: 5.4m (min) | Internal measurements: >3m width per parking space 5.7m length | Y |
| Driveways Extent of driveways minimised | Driveway narrows to close to single car width to minimise the extent of the driveway. | Y |
| Semi-basement Car Parking - Ramps must start 2m from the boundary (not on public land). - Walls are not to extend beyond walls of dwelling above. | N/A – Garage is above ground | Y |
| Swimming Pools & Spas | | |
| - Must comply with all relevant Acts, Regulations and Australian Standards. - Must at all times be surrounded by a child resistant barrier and located to separate pool from any residential building and/or outbuildings (excl cabanas) and from adjoining land. - No openable windows, doors or other openings in a wall that forms part of barrier. - Spa to have lockable lid. - Pools not to be in front setback. | Does fence isolate pool area from dwelling and outbuildings? Is gate location/swing shown? Are there any windows/doors within pool area? N/A Pool is located within the backyard. | Y – Standard conditions of consent pertaining to swimming pools will be imposed. |
| Pool coping height - 500mm maximum above existing ground level (<i>only if no impact on privacy</i>) | Pool coping RL: EGL (lowest point below coping): RL: 20.40m approx. | Y |

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| DCP 2010 | Proposed | Compliance |
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| | EGL (highest point below coping): RL: 20.76m Coping Height (min)= 240mm Coping Height (max)= 310mm | |
| <p>Pool Setback</p> <ul style="list-style-type: none"> - 900mm min from outside edge of pool coping, deck or surrounds to allow sufficient space for amenity screen planting - Screen planting required along the length of the pool, with min. bed width of 900mm, min. height of 2m and min. plant spacing of 1m. - Pool setback 3m+ from tree >5m height on subject or adjacent property - Pool filter located away from neighbouring dwellings, and in an acoustic enclosure | <p>Setback (min): 2 metres to side boundary, 4.4 metres to rear boundary</p> <p>As the pool is located within the view corridor to the water from the adjoining site at No. 57 Wharf Road, it is recommended that no screen planting be required in this instance.</p> <p>Sufficiently setback from trees.</p> <p>Pool filter and pump are located towards the centre of the yard, 4m from the rear boundary and 7.2m from the southern side boundary.</p> | <p style="text-align: center;">Y</p> <p style="text-align: center;">Y</p> <p style="text-align: center;">Y</p> <p style="text-align: center;">Y</p> |
| Landscaping | | |
| <p>Trees & Landscaping</p> <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 (excl cnr allotments or rear lane access) - Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy. - Back yard to have at least 1 tree with mature ht of 15m min and a spreading canopy. - Hedging or screen planting on boundary mature plants reaching no more than 2.7m. | <p>No major trees of significance on the site. The existing Sydney Blue Gum tree on the adjoining site will be retained and protected during construction via appropriate conditions of consent.</p> <p>A physical connection is provided between the ground floor of the dwelling house and the rear outdoor private open space.</p> <p>An obstruction free pathway is provided along the southern side of the dwelling.</p> <p>The Arborist report requires a replacement mid-storey tree to be located in the front garden, which is reinforced via condition of consent.</p> <p>Not required in this instance on</p> | <p style="text-align: center;">Y</p> |

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| DCP 2010 | Proposed | Compliance |
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| <ul style="list-style-type: none"> - OSD generally not to be located in front setback unless under driveway. | <p>the basis that such a tree would obstruct views. Height of plants to be restricted via condition of consent.</p> <p>OSD not provided – site is located in the OSD exempt zone.</p> | |
| <ul style="list-style-type: none"> - Landscaped front garden, with max 40% hard paving | <p>Hard Paving: 41.75%</p> | <p>N (variation supported)</p> |
| <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 bdy 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>Type of plants to be restricted via condition of consent.</p> <p>N/A – site is not in an overland flow area.</p> | <p>Y</p> <p>N/A</p> |
| <p>Dwelling Amenity</p> | | |
| <p>Daylight and Sunlight Access</p> <ul style="list-style-type: none"> - Living areas to face north where orientation makes this possible. - 4m side setback for side living areas where north is to the side allotment boundary. <p><u>Subject Dwelling:</u></p> <ul style="list-style-type: none"> - Subject dwelling north facing windows of living areas 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>Proposed dining room is oriented to both the north and west (north facing windows are set back 5 metres from the side boundary, west facing windows address the rear private open space of the subject site).</p> <p>N facing living area windows: > 3hrs.</p> <p>POS: Lower level will receive a minimum of 2 hours of sunlight.</p> | <p>Y</p> <p>Y</p> <p>Y</p> |

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| DCP 2010 | Proposed | Compliance |
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| <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. - 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. | <p>Hours of sunlight to adjoining principal open space: > 3 hrs</p> <p>Hours of sunlight to adjoining living area windows: N/A – the adjoining house at No. 61 Wharf Road has very few north facing living areas – most living area windows are to the south and west.</p> | <p>Y</p> <p>Y</p> |
| <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. - Side windows offset from adjoining windows. - Terraces, balconies etc are not to overlook neighbouring dwellings/private open space. | <p>Windows of living areas, balconies and outdoor living areas are generally orientated to the front and rear of the dwelling. Overlooking from the ground floor level is prevented by substantial existing screen hedging on the adjoining property. Windows of the first floor area adequately setback from the side boundary. Side windows are adequately offset from adjoining windows. Ground floor balcony on southern elevation will not overlook the rear private open space of No. 61 Wharf Road due to substantial boundary hedging on the adjoining property.</p> | <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> |
| <p>Acoustic Privacy</p> <p>Layout of rooms in dual occupancies (attached) are to minimise noise impacts between dwellings eg: place adjoining living areas near each other and adjoining bedrooms near each other.</p> | <p>N/A – single dwelling proposed.</p> | <p>N/A</p> |
| <p>View Sharing</p> <ul style="list-style-type: none"> - The siting of development is to provide for view sharing. | <p>View sharing has been addressed previously within this report and is found to be acceptable.</p> | <p>Y</p> |
| <p>Cross Ventilation</p> <ul style="list-style-type: none"> - Plan layout is to optimise access to prevailing breezes | <p>Layout optimised for cross ventilation.</p> | <p>Y</p> |

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| DCP 2010 | Proposed | Compliance |
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| and to provide for cross ventilation. | | |
| External Building Elements | | |
| <p>Roof</p> <ul style="list-style-type: none"> - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable Terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights. <p>Attic Dormer Windows</p> <ul style="list-style-type: none"> - Max 2 dormer windows with a max total width of 3m. - Highest point to be 500mm min below roof ridge and 1m min above the top of gutter. - Total roof area of attic dormer: 8m² - Front face to be setback 1m min back from external face of wall below. - Balconies set into roof not permitted. | <p>The roof form is articulated. N/A – flat roof is proposed.</p> <p>No trafficable areas proposed. No skylights proposed, but would be obscured from view due to the flat roof.</p> <p>N/A – No attic dormers proposed.</p> | <p>Y Y Y Y N/A</p> |
| Fencing | | |
| <p>Front/return:</p> <ul style="list-style-type: none"> - To reflect design of dwelling. - To reflect character & height of neighbouring fences. - Max 900mm high for solid (picket can be 1m). - Max 1.8m high if 50% open (any solid base max 900mm). - Retaining walls on front bdy max 900mm. - No colorbond or paling - Max width of piers 350mm. | <p><u>Front fence</u> Description: Cement rendered brick base and pylons with open style aluminium horizontal fence over.</p> <p><u>Return fence</u> Description: None proposed.</p> | <p>Y</p> |
| <p>Side/rear fencing:</p> <ul style="list-style-type: none"> - 1.8m max o/a height. | <p>No details provided – subject to future arrangement with adjoining landowners.</p> | <p>Y</p> |
| Special requirements for Battleaxe Lots | | |
| <p>Must be setback from rear boundary of front allotment 8m</p> | <p>N/A</p> | <p>N/A</p> |

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| min (in addition to having an 8m/25% rear setback). Single storey garage or carport may be within setback. | | |
| Must have hard paved area in front setback for turning, so vehicles can enter & exit in a forward direction. | | |
| View corridor to water coordinated with that of front allotment or along access handle. | | |
| 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. | Y |
| Part 8.2 - Stormwater Management | | |
| Stormwater | | |
| Drainage is to be piped in accordance with Part 8.2 - Stormwater Management. | Standard conditions of consent will be imposed. The site is located within the designated OSD exclusion zone. | Y |
| Part 9.2- Access for People with Disabilities | | |
| Accessible path required from the street to the front door, where the level of land permits. | The split level nature of the site requires an elevated front door level. | Y |
| Part 9.4 – Fencing | | |
| Front & return fences | | |
| Front and return fences that exceed 1m in height are to be 50% open | Proposed front fence is a minimum of 50% open. | Y |
| 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) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway. | Are trees (including neighbouring trees) addressed in SEE or in a report prepared by a suitably qualified person (where necessary)? | Y |

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Conditions - 2012/71 – 59 Wharf Road, Gladesville

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 | Date | Plan No/Reference |
|---|-------------------|---|
| Lower Ground Floor Plan | Received 10/04/12 | 20122a |
| Ground Floor Plan | Received 17/09/12 | 20122b |
| First Floor Plan | Received 29/06/12 | 20122c |
| Elevation from Wharf Road, West Elevation | Received 29/06/12 | 20122d |
| North Elevation, South Elevation | Received 29/06/12 | 20122e |
| Sections | Received 17/09/12 | 20122f |
| Landscaping Plan and Site Plan | Received 10/04/12 | 20122h |
| Waste Management Plan, Swimming Pool Plan & Sections | Received 10/04/12 | 20122i |
| Demolition Plan | Received 10/04/12 | 20122j |
| Front Fence Elevation from Wharf Road | Received 10/04/12 | 20122k |
| Arborist Report and Tree Protection Plan prepared by Bluegum Tree Care and Consultancy | April 2012 | "Arboricultural Impact Assessment of Residential Development 59 Wharf Road, Gladesville" |

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

- (a) The proposed planter box (shown on Dwg No. 20122h) located in the south-eastern corner of the site is to be deleted and replaced with soft landscaping at existing ground level. In accordance with the recommendations of the submitted Arborist Report, excavation, fill and other construction activity shall be limited or avoided in this location within the Tree Protection Zone of the existing Sydney Blue Gum tree on the adjoining site.
- (b) The retaining wall within the back garden of the site, and the rear private open space areas comprising of both lawn and tiles to the northern side of the wall (accessed from the dining room), are to have a maximum height of RL 20.45 so as to minimise privacy impacts to adjoining properties.
- (c) There is to be no fill (above existing ground levels) or new retaining walls within 1.25 metres of the rear (western) boundary of the site.

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- (d) Tree Protection Fencing as recommended by Bluegum Tree Care and Consultancy (Arborist Report and Tree Protection Plan, dated April 2012) is to be shown on the architectural plans.
- (e) The two *Magnolia grandiflora* 'Alta' proposed to be planted in the front garden are to be replaced with a locally indigenous tree reaching a mature height of 10 metres and located within the front garden. The tree is to be setback a minimum of three metres from adjoining sites and is not to be located within the Structural Root Zone (SRZ) of the existing Sydney Blue Gum at No. 61 Wharf Road.
- (f) The Lilly Pilly selected cultivar for the proposed screen planting along the rear boundary of the site is to have a maximum mature height of 2.7 metres.

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

2. **Maximum height of planting.** All planting along the northern side boundary within the rear setback of the site is to be maintained at a maximum height of 1.5 metres measured from ground level.
3. **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.
4. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 417183S, dated 27 February 2012.
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. **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.
7. **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.
8. **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.
9. **Road Opening Permit.** To ensure all restoration works within the public road reserve will be completed and restored to Council satisfaction, the applicant shall apply for a Road Opening permit where excavation works are proposed within the

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road reserve. No works shall be carried out on the road reserve without this permit being paid and a copy kept on the site.

10. **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.
11. **Pool filter – noise.** The pool/spa pump/filter must be enclosed in a suitable ventilated acoustic enclosure to ensure the noise emitted therefrom does not exceed 5dB(A) above the background noise level when measured at any affected residence.
12. **Depth markers.** Water depth markers are to be displayed at a prominent position within and at each end of the swimming pool.
13. **Wastewater discharge.** The spa/pool shall be connected to the Sydney Water sewer for discharge of wastewater.
14. **Resuscitation Chart.** A resuscitation chart containing warning “YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL” must be provided in the immediate vicinity of the pool area so as to be visible from all areas of the pool.
15. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.
16. **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.
17. **Service Alterations.** All mains, services, poles, etc., which require alteration to facilitate the development shall be altered at the applicant’s expense. Written approval and signed of at completion from the relevant Public Authority shall be submitted to Council.

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.

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

18. **Sediment Control Fence.** The proposed sediment control fence along the southern boundary of the site is to be installed only where it does not require trenching within the Structural Root Zone of the existing Sydney Blue Gum on the adjoining site.
19. **Site Stormwater Drainage System.** To ensure satisfactory stormwater disposal and minimise downstream stormwater impacts, stormwater runoff from the site shall be collected and piped by gravity flow to the public road in accordance with the requirements of DCP 2010: Part 8.2- Stormwater Management. Accordingly, detailed engineering plans with certification indicating compliance with this condition are to be submitted with the Construction Certificate application.
20. **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**.
21. **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**.
22. **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)
23. **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
24. **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**.
25. **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**.
26. **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.

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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.

27. **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**.
28. **Pool fencing.** The pool fence is to be erected in accordance with the approved plans and conform with the provisions of the *Swimming Pools Act 1992* and *Swimming Pools Regulation 2008*. Details of compliance are to be reflected on the plans submitted with the **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.

29. **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.

30. **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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31. **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).

32. **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.

33. **Incursion of stormwater drainage into the Structural Root Zone.** Stormwater drainage pipes shown on the Ground Floor Plan (Drawing No. 20122b) will result in an incursion into the Structural Root Zone (SRZ) of the existing Sydney Blue Gum tree on the adjoining site. The stormwater drainage pipes should be relocated outside the SRZ of the tree and installed under the supervision (and in accordance with the recommendations) of the Project Arborist.

34. **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*.

35. **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.

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36. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
37. **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.
38. **Construction materials.** All materials associated with construction must be retained within the site.
39. **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.
40. **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.
41. **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".
42. **Construction of front fence – Arborist supervision.** A Consultant Arborist must be appointed to oversee all construction works for the proposed front masonry fence, and to ensure that construction is undertaken with minimal excavation within the Structural Root Zone (SRZ) of the Sydney Blue Gum on the adjoining site. If necessary to achieve minimal excavation within the SRZ, an alternative style of fencing in accordance with the Ryde DCP 2010 is to be erected.
43. **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.
44. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.

ITEM 5 (continued)

ATTACHMENT 2

45. **Tree works – Compliance with submitted Arborist Report and Tree Protection Plan.** All construction on the site is to take place in accordance with the recommendations of the Arborist Report & Tree Protection Plan prepared by Bluegum Tree Care and Consultancy (April 2012).
46. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
47. **Tree works – arborist supervision.** A Consultant Arborist must be appointed to oversee all works, including demolition and construction, in relation to the trees identified for retention on the site.
48. **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.

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.

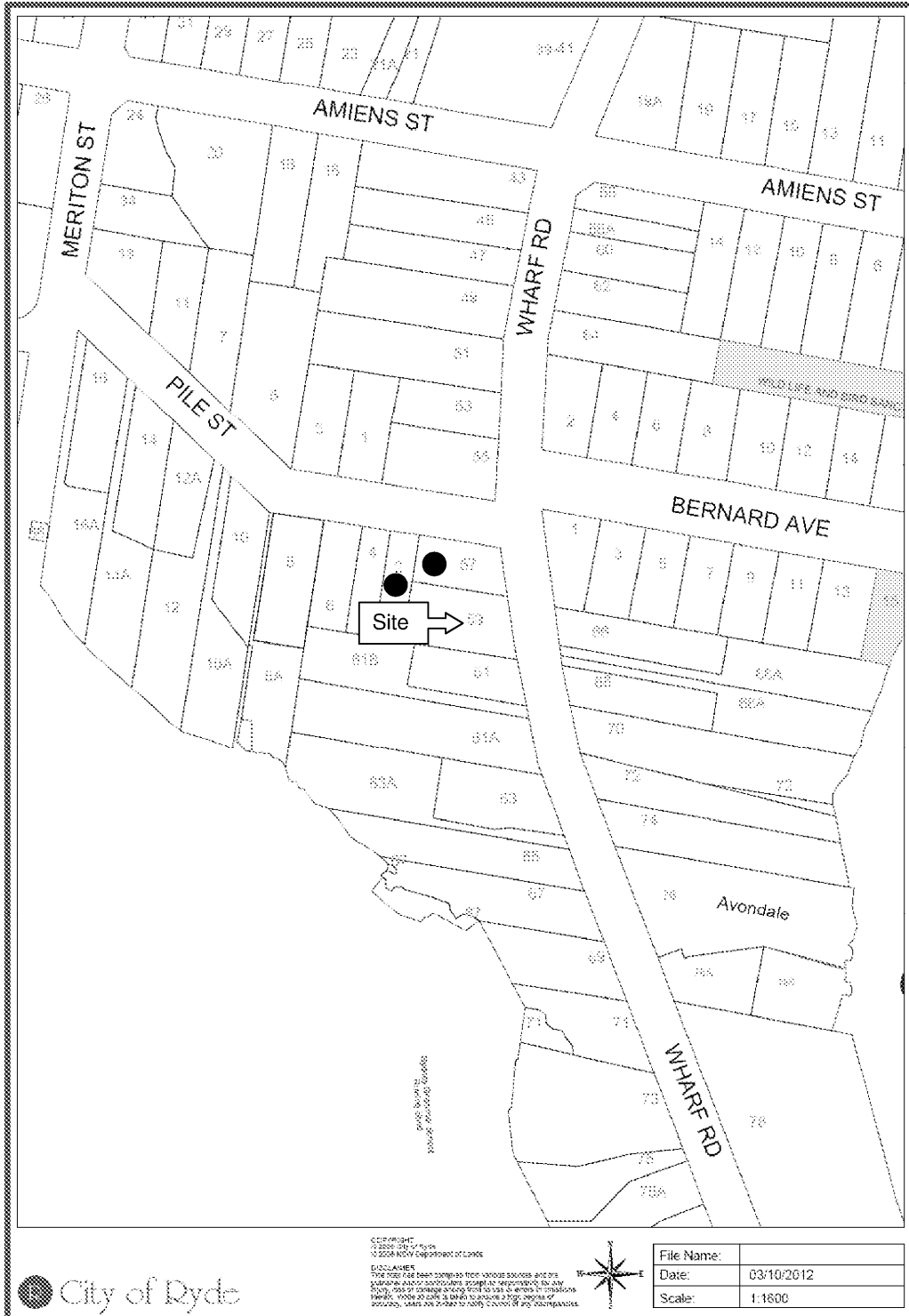
49. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 417183S, dated 27 February 2012.
50. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.
51. **Engineering Certification.** To ensure stormwater drainage works are completed in accordance with approved plans, Certification shall also be obtained from a chartered civil engineer with NPER registration with Engineers Australia, indicating the constructed works complied with DCP 2010. Part 8.2.

End of consent

ITEM 5 (continued)

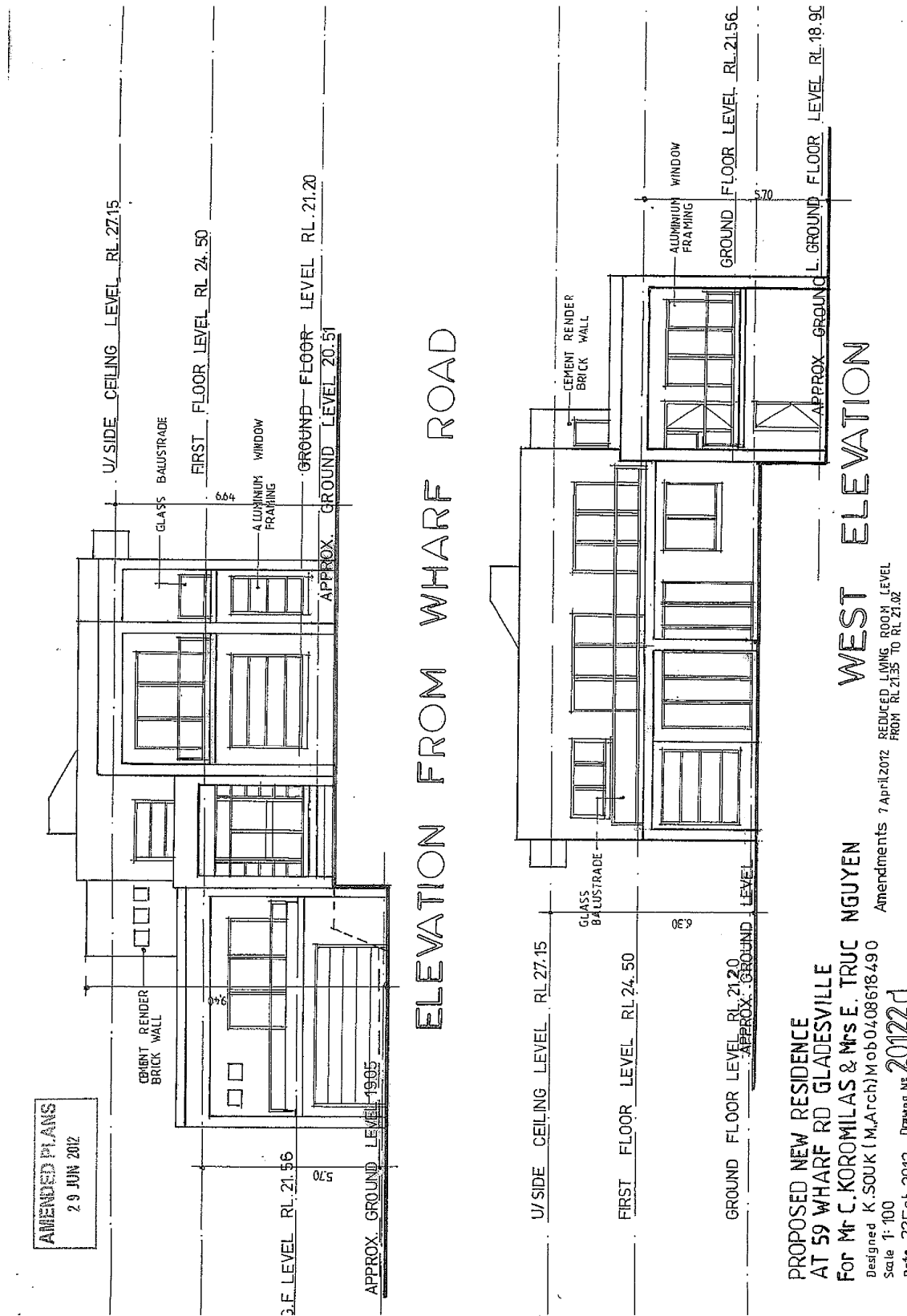
ATTACHMENT 3

● Indicates submissions received



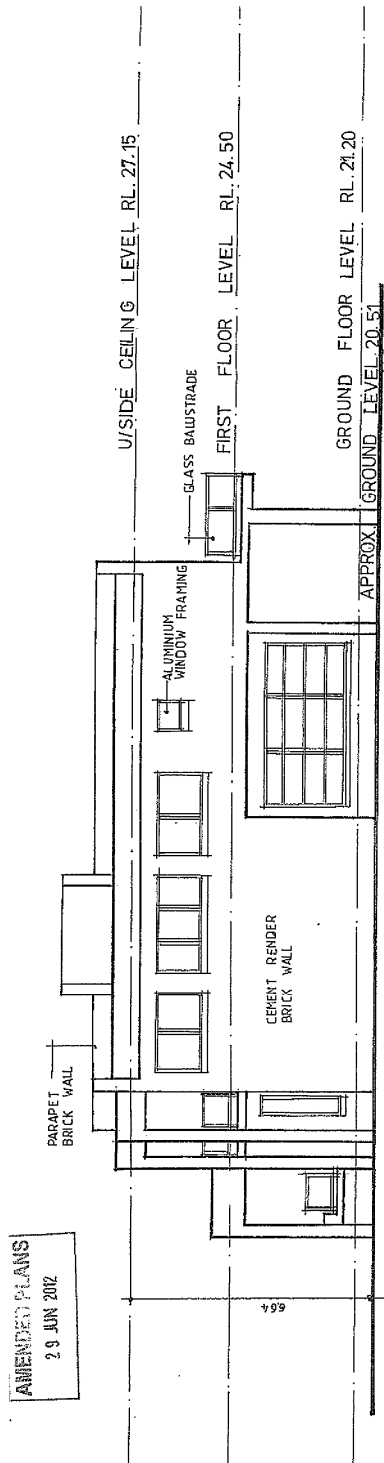
ITEM 5 (continued)

ATTACHMENT 4

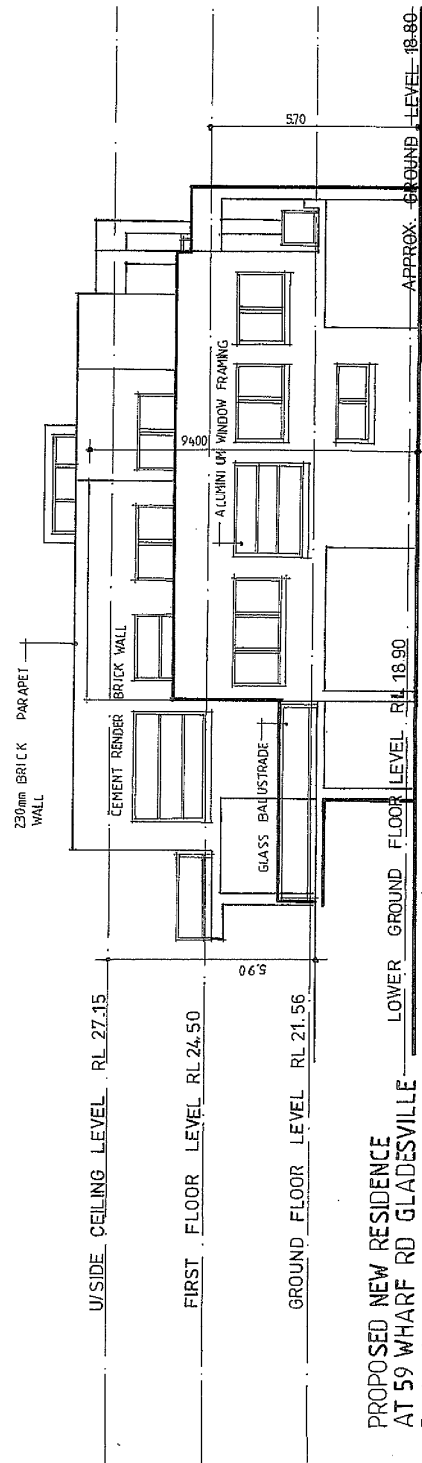


ITEM 5 (continued)

ATTACHMENT 4



NORTH ELEVATION



SOUTH ELEVATION

PROPOSED NEW RESIDENCE
AT 59 WHARF RD GLADESVILLE
FOR Mr C. KOROMILAS & Mrs E. TRUC NGUYEN
Designed: K. SOUK (M. Arch) Mob 04.08618.490
Scale 1:100
Date 23 Feb 2012 Drawing No 20122e

Amendments 7 April 2012
REDUCED LIVING ROOM LEVEL
FROM RL 21.35 TO RL 21.02