

Meeting Date: Tuesday 20 November 2012
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 4.00pm

NOTICE OF BUSINESS

Item	Page
1 CONFIRMATION OF MINUTES - Meeting held on 6 November 2012.....	1
2 208-214 BLAXLAND ROAD, RYDE. LOT 1 DP 1135185, Part LOTS 12-13 DP 6046. Application pursuant to Section 96(2) of the Environmental Planning & Assessment Act, 1979, to amend the approved three storey residential flat building. <i>INSPECTION 4.15PM / INTERVIEW 5.15PM</i>	7
3 50 FARNELL STREET, WEST RYDE. LOT 19 DP 30394. Local Development Application for Demolition, construct multi-dwelling housing containing 4 strata titled dwellings. LDA2012/0137. <i>INSPECTION 4.35PM / INTERVIEW 5.25PM</i>	32
4 66A PELLISIER ROAD, PUTNEY. LOT B DP 419543. Local Development Application for new dual occupancy. LDA2012/0106. <i>INSPECTION 4.55PM / INTERVIEW 5.35PM</i>	75
5 64 PELLISIER ROAD, PUTNEY. LOT 102, DP 86680. Local Development Application for alterations and additions to the existing dwelling and new cabana. LDA2011/0493. <i>INSPECTION 5.00PM / INTERVIEW 5.45PM</i>	141

1 CONFIRMATION OF MINUTES - Meeting held on 6 November 2012

Report prepared by: Meeting Support Coordinator**File No.:** CLM/12/1/3/2 - BP12/1326

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 12/12, held on Tuesday 6 November 2012, be confirmed.

ATTACHMENTS

- 1 Minutes - Planning and Environment Committee - 6 November 2012

ITEM 1 (continued)

ATTACHMENT 1

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

Meeting Date: Tuesday 6 November 2012

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

Time: 4.05pm

Councillors Present: Councillors Simon (Chairperson), Pendleton, Salvestro-Martin and Yedelian OAM.

Councillor Salvestro-Martin arrived at 5.27pm and was not present for consideration of Item 1.

Apologies: Councillor Chung.

Absent: Councillor Maggio.

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

DISCLOSURES OF INTEREST

There were no disclosures of interest.

1 CONFIRMATION OF MINUTES - Meeting held on 16 October 2012

RESOLUTION: (Moved by Councillors Yedelian OAM and Pendleton)

That the Minutes of the Planning and Environment Committee 11/12, held on Tuesday 16 October 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 1 (continued)

ATTACHMENT 1

2 29 DEVLIN STREET, RYDE. LOTS 5 & 6 DP 83504. Application under Section 82A of the EP&A Act 1979, to review Council's determination of LDA2011/0521 for construction of a Residential Flat Building (APL2012/0001)

Report: The Committee inspected the property at 29 Devlin Street, Ryde.

Note: A Memorandum from Council's Team Leader – Major Developments, dated 2 November 2012 was tabled in relation to this item and a copy is ON FILE.

Note: Robert Del Pizzo (on behalf of the applicant) addressed the Committee in relation to this Item.

RESOLUTION: (Moved by Councillors Salvestro-Martin and Simon)

- (a) That Section 82A Review No. APL 2012/0001 at 29 Devlin Street, Ryde being Lots 5 & 6 Section E in DP 83504 be approved subject to '**deferred commencement**' in accordance with Section 80(3) of the EP&A Act and subject to the **ATTACHED** conditions (Attachment 3) and the memorandum from Council's Team Leader – Major Developments, dated 2 November 2012.

'Deferred commencement' means the consent will not become operative until the Applicant has satisfied the requirements listed in Schedule 'A' of the consent. All issues shall be satisfactorily resolved within a period of six (6) months from the 'Determination Date', that is shown on the consent. Upon compliance with the issues under Schedule 'A', and written confirmation from Council to that effect, then the consent shall become operative from a "Date of Endorsement" (to be included on the written notification) subject to the conditions listed in Schedule 'B' and any additional conditions arising from the requirement of Schedule 'A'.

- (b) The following deferred commencement conditions will be imposed on the DA:

Part 1

1. The Applicant is to seek new BASIX and ABSA Certificates. The BASIX and ABSA Certificates must satisfy the requirements of these Certificates and Council.
2. A Demolition Plan must be provided for the demolition of the existing building and structures on site to the satisfaction of Council in accordance with:
 - a. Australian Standard AS 2601 – 1991 – The Demolition of Structures; and
 - b. "Demolition Report for an existing Two and Three-Storey building located at 29 Devlin Street, Ryde" (prepared by Architex dated 15th August 2011) submitted as part of Development Application APL 2012/0001.

ITEM 1 (continued)

ATTACHMENT 1

Part 2

3. A detailed site investigation report is prepared and submitted for Council's consideration. The detailed site investigation report must comply with the Guidelines for Consultants reporting on Contaminated Sites (EPA, 1997) and demonstrate that the site is suitable for the proposed use, or that the site can be remediated to the extent necessary for the proposed use. If remediation is required, the report should also set out the remediation options available for the site and whether the work is considered to be category 1 or category 2 remediation works.
Council may require a site audit of the detailed investigation report. If requested by Council, the proponent must submit a site audit summary report from an accredited site auditor under the Contaminated Land Management Act 1997 verifying the information contained in the detailed site investigation.

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

Record of Voting:

For the Motion: Unanimous

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

3 16 PUNT ROAD, GLADESVILLE. LOT 502 DP 732745. Local Development Application for alterations and additions to seniors housing (residential care facility): additional facilities including new office, meeting room, change room, and laundry. LDA2012/0015

Report: The Committee inspected the property at 16 Punt Road, Gladesville.

Note: A document from Geraldine Killalea, dated 6 November 2012 was tabled in relation to this item and a copy is ON FILE.

Note: A document from Brian Hurley, dated 6 November 2012 was tabled in relation to this item and a copy is ON FILE.

Note: Brian Hurley, Warren Bell and Geraldine Killalea (objectors), Margaret Merlin (on behalf of the owner) and Rob Pufflett (applicant) addressed the Committee in relation to this Item.

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

That Local Development Application No. 2012/0015 for 16 Punt Road be deferred for mediation with the Group Manager – Environment & Planning, applicant and objectors in regard to reducing the overshadowing impacts on the adjoining residents to achieve closer compliance with Council's Development Control Plan 2010. That a further report be provided to the Planning & Environment committee within three months.

ITEM 1 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **13 NOVEMBER 2012** as substantive changes were made to the published recommendation.

4 2 OXFORD STREET GLADESVILLE. LOT B DP 359817. Local Development Application for construction of a carport / storeroom at the rear of the property. LDA2012/0200

Report: The Committee inspected the property at 2 Oxford Street, Gladesville.

Note: John Russell (owner and applicant) addressed the Committee in relation to this Item.

RESOLUTION: (Moved by Councillors Salvestro-Martin and Yedelian OAM)

That Local Development Application No. LDA2012/0200 at 2 Oxford Street, Gladesville be approved as a Deferred Commencement Consent subject to the **ATTACHED** conditions (Attachment 2).

Record of Voting:

For the Motion: Unanimous

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

5 33 DICKSON AVENUE WEST RYDE. LOT 215 DP 13292. Local Development Application for construction of a double garage at the rear of the site. LDA2012/0235

Report: The Committee inspected the property at 33 Dickson Avenue, West Ryde.

Note: Peter Hall (on behalf of the applicant) addressed the Committee in relation to this Item.

RESOLUTION: (Moved by Councillors Yedelian OAM and Salvestro-Martin)

That Local Development Application No. LDA2012/0235 at 33 Dickson Avenue West Ryde be approved as a Deferred Commencement Consent subject to the **ATTACHED** conditions (Attachment 2).

Record of Voting:

For the Motion: Unanimous

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

ITEM 1 (continued)

ATTACHMENT 1

The meeting closed at 6.44 pm.

CONFIRMED THIS 20TH DAY OF NOVEMBER 2012.

Chairperson

- 2 208-214 BLAXLAND ROAD, RYDE. LOT 1 DP 1135185, Part LOTS 12-13 DP 6046. Application pursuant to Section 96(2) of the Environmental Planning & Assessment Act, 1979, to amend the approved three storey residential flat building.**

INSPECTION: 4.15pm
INTERVIEW: 5.15pm

Report prepared by: Consultant Town Planner

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

Report dated: 5 November 2012
BP12/1311

File Number: GRP/12/5/5/3 -

1. Report Summary

Applicant: Mackenzie Architects.

Owner: M D R Cornish Investments Pty Ltd.

Date lodged: 29 March 2012.

An application has been received to carry out modifications to the approved three storey residential flat building on the site. The modifications involve altering the solid balustrades of some balconies (including those fronting Blaxland Road) to clear glass, changes to some balconies, new balconies, change from render to brick finish, additional privacy screens and the removal of some privacy screens, changes to highlight windows and roof, change of courtyard fencing from timber to metal and internal changes. The proposed modifications are considered to be substantially the same development in terms of the relevant provisions of the Environmental Planning and Assessment Act, 1979.

The application arose because many of the proposed modifications had been carried out contrary to the approved plans & the private certifier had issued an Order requiring the building to comply with the approved plans. The applicant lodged a building certificate with Council to legitimise the changes but was advised the matters were more appropriately dealt with as a s96 application. Following public notification 1 submission was received from a resident at the rear raising privacy and overlooking issues. The horizontal privacy screens & solid balustrades on the upper level were proposed by the applicant in response to similar concerns raised by the same objector in a previous s96 application. The proposed modifications are mostly internal or are relatively minor in the context of the building. The most significant impacts are the proposal to change solid balustrades to clear glass balustrades and the visual impact these changes cause and the resultant privacy & overlooking impacts raised by the objector.

ITEM 2 (continued)

This report recommends that all changes be agreed to except for the change of solid balustrades to clear glass. Inspection of the site indicates that these changes have occurred and it may be difficult to change the clear glass to solid masonry as originally approved. The recommendation provides the developer with an option of either solid masonry or obscure glass.

Reason for Referral to Planning & Environment Committee: At the request of Councillor Etkmekdjian.

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

Value of works? Original Proposal \$3.84m

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

RECOMMENDATION:

(a) That the application MOD 2012/41 for modification of Local Development Application No. LDA2008/0630 for demolition of the existing buildings and the construction of a three storey residential flat building comprising 24 units, including basement car parking and landscape works at 208 – 214 Blaxland Road Ryde be approved subject to the deletion of condition 1, its replacement with the following, and by the addition of condition 154:

1. Development is to be carried out in accordance with the following:

- (a) Plans No. SK01B to SK08B (inclusive), SK12B, SK14B to SK17B (inclusive) and SK22B dated 18/05/2009, SK09 and SK10, dated 27/08/2008 and SK11A dated 13/03/2009 prepared by Mackenzie Architects, BASIX Certificate number: 238665M dated 19 March 2009, Acoustic Study prepared by Acoustic Logic Consultancy (Report 2008560/0508A/R0/HM) dated 5 August 2008 and support information submitted to Council forming part of the Deferred Commencement Development Consent dated 14 July 2009.
- (b) As amended by:
 - Distinctive edging on plans SK01D dated 26 October 2011, SK02D dated 25 October 2011, SK05C – SK08C dated 11 October 2011, prepared by Mackenzie Architects,
 - Plan SK23C dated 18 October 2011, prepared by Mackenzie Architects,
 - Basix Certificate 388670M dated 25 July 2011,

ITEM 2 (continued)

- Noise Impact Assessment prepared by Acoustic Logic dated 18 October 2011.
And support information submitted to Council as part of MOD2011/103.

- (c) As amended by distinctive colouring on plans WAE01 – WAE04, WAE08 dated 15.02.2012, plans WAE05A – WAE07A dated 28.06.2012 prepared by Mackenzie Architects.

154. All balustrades or parts of balustrades (except balustrades to unit 24) are to be of solid (non see through) material as shown on the approved plans referred to in Condition 1(a) & 1(b) or the solid parts shall be of opaque (non see through) glass.

(b) That the objector be advised of the decision.

(c) That the Manager Environmental Health & Building issue a penalty notice for the breach of the Development Consent.

ATTACHMENTS

- 1 Map
- 2 A4 Plans
- 3 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Don Smith
Consultant Town Planner

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

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

Address	: 208-214 Blaxland Rd Ryde
Site Area	: Frontage: 60.154/39.625m Depth: 49.75/50.19m Area: 2416m ²
Topography and Vegetation	: The site has fall from front (Blaxland Rd) towards the rear with a slight crossfall to the south. No significant trees are on the site.
Existing Buildings	: Residential flat building under construction
Planning Controls	
Zoning	: R4 – High Density Residential
Other	: DCP 2010, Part 3.4 Residential flat buildings (Multi Dwelling Housing (not within the Low Density Residential Zone))

3. Councillor Representations:

Name of Councillor: Councillor Etkmekdjian.

Nature of the representation: Request the application be referred to the Planning & Environment Committee

Date: 11/7/2012

Form of the representation (e.g. via email, meeting, phone call): Email requesting the application be referred to the Planning & Environment Committee for determination.
On behalf of applicant or objectors? Builder

Any other persons (e.g. consultants) involved in or part of the representation: Not known.

4. Political Donations or Gifts

None disclosed

5. Proposal

The proposal involves the modification of Local Development Application No. LDA2008/0630 issued as a Deferred Commencement Consent on 16 July 2009 for demolition of the existing buildings and construction of a three storey residential flat building comprising 24 units, including basement car parking and landscape works.
Note: The consent became operative on 22 December 2009.

ITEM 2 (continued)

The consent was amended by MOD2011/103 dated 7/12/2011 to alter the mix of units and to provide 2 additional units. In addition the modification added condition 153 that required the horizontal privacy screens added to units 24 & 25 (the 2 additional units on the upper level) to be maintained for the life of the development.

The proposed changes are as listed below and are shown coloured on the plans circulated for Councillors information under separate cover.

Drawing: WAE 01 Carpark Basement Level 2 1. The lift and lift lobby have been mirrored around the east/west axis;
Drawing WAE 02 Carpark Basement Level 1 & Lower Ground Floor Plan - 2. Stairs in lift lobby removed; 3. Room for mains electrical in southeast corner of carpark; 4. Planter box in Unit 2 courtyard; 5. Pits moved from to outside of Unit 1 courtyard; 6. Carpet floor finish to entry lobby;
Drawing WAE 03 Upper Ground Floor Plan 7. Duct next to lift amended to include electrical/mechanical riser; 8. Duct next to stairs amended to house the fire hose reel; 9. Roof over west entry removed; 10. Sliding door Unit 9 master bedroom 1 now window; 11. Unit 10 terrace slab moved forward to ease construction; 12. Sliding door Unit 10 bedroom 2 now window; 13. Unit 7 sliding doors to terrace moved forward; 14. Aluminium fins to southeast corner of street elevation removed;
Drawing WAE 04 First Floor Plan . 15. Duct next to lift amended to include electrical/mechanical riser; 16. Duct next to stairs amended to house the fire hose reel; 17. Voids in lift lobby removed; 18. Carpet floor finish to lift lobby; 19. Sliding door Unit 17 master bedroom 1 now window; 20. Unit 18 terrace slab moved forward to ease construction; 21. Sliding door Unit 18 bedroom 2 now window; 22. Solid balustrades on terraces now glass (unit 16 on south side front, unit 11 on north side front, units 12-14 on east side (Blaxland Road frontage); 23. Aluminium fins to southeast corner of street elevation removed; 24. Sliding door Unit 15 bedroom 2 now window; 25. Unit 16 privacy screen on terrace removed (faces blank wall);
Drawing WAE 05 Penthouse Plan . 26. Duct next to lift amended to include electrical/mechanical riser; 27. Duct next to stairs amended to house the fire hose reel; 28. New roof access hatch for maintenance; 29. Voids in lift lobby removed; 30. Carpet floor finish to lift lobby;

ITEM 2 (continued)

31. Unit 26 terrace slab moved forward to ease construction;
32. Sliding door Unit 26 bedroom 2 now window;
33. Solid balustrades on terraces now glass (unit 24 on west side (upper level rear) originally solid now proposed to be opaque glass, unit 19 on north side front, units 20-22 on east side (Blaxland Road frontage));
34. Aluminium fins to southeast corner of street elevation removed;
35. Sliding door Unit 23 bedroom 2 now window;
36. Unit 24 bedroom 2 concrete roof now terrace with privacy screen;
37. Unit 24 bedroom 2 privacy screen on west bedroom window removed;
38. Unit 24 screen on privacy terrace removed (faces blank wall);
39. Unit 25 bedroom 2 privacy screen on west window removed;
40. Unit 25 concrete roof now terrace with privacy screen;

Drawing WAE 06 Roof/Site Plan -

41. Simplified skillion roof pitches;
42. New roof access hatch for maintenance;

Drawing WAE 07 Elevations -

- East Elevation:
 43. Aluminium fins removed;
 44. Solid balustrades on terraces now glass (units 12-14 and 20-22 on the Blaxland Road frontage);
 45. Highlight windows amended;
 46. Window amendments to comply with BCA;
 47. Wall finishes now brickwork;
- North Elevation:
 48. Highlight windows amended;
 49. Solid balustrades on terraces now glass (units 11 & 19);
 50. Unit 25 concrete roof now terrace with privacy screen;
- South Elevation:
 51. Highlight windows amended;
 52. Window amendments to comply with BCA;
 53. Unit 24 bedroom 2 concrete roof now terrace with horizontal privacy screen & glass balustrade to south.
 54. Wall finishes now brickwork;
 55. Timber courtyard fences now metal batten screens;
 56. Solid balustrade on terrace now glass (unit 16);
- West Elevation:
 57. Highlight windows amended;
 58. Window amendments to comply with BCA;
 59. Concrete roof to Unit 24 now terrace with horizontal privacy screen, full length vertical privacy screen to west including balustrade;
 60. Concrete roof to Unit 25 now terrace with horizontal privacy screen & clear glass balustrades;
 61. Wall finishes now brickwork;
 62. Solid balustrades on terraces now glass (units 11 & 19);
 63. Timber courtyard fences now metal batten screens;

ITEM 2 (continued)

Note: Awnings over windows and other openings on all elevations and on all levels that were shown on the original plans are proposed to be changed to sunhoods of the same size.

Drawing WAE 08 Elevations & Sections -

- Street Elevation:
 - 64. Aluminium fins removed;
 - 65. Solid balustrades on terraces now glass;
 - 66. Highlight windows amended;
 - 67. Window amendments to comply with BCA;
 - 68. Wall finishes now brickwork;
- Section AA:
 - 69. Highlight windows amended;
 - 70. Sliding doors amended to windows;
 - 71. Timber courtyard fences now metal batten screens;
- Section BB:
 - 72. Highlight windows amended;
 - 73. Void over main entry removed;
 - 74. Void and roof over west entry removed;
 - 75. Timber courtyard fences now metal batten screens;

6. Background

16/7/2009	Consent LDA2008/0630 was issued as a Deferred Commencement Consent for demolition of the existing buildings and construction of a three storey residential flat building comprising 24 units, including basement car parking and landscape works. Note: Consent became operative on 22 December 2009.
7/12/2011	The consent was amended by MOD2011/103 to alter the mix of units and to provide 2 additional units. In addition the modification added condition 153 that required the horizontal privacy screens added to units 24 & 25 (the 2 additional units on the upper level) to be maintained for the life of the development.
9/2/2012	Notice of Intention to give an Order issued by the private certifier for a range of works that had been carried out contrary to the approved plans. Some of the works identified had been carried out in accordance with the previous s96 consent but for which there was no construction certificate.
15/3/2012	Building certificate BCT2012/8 lodged. Applicant was advised that a s96 application should be lodged as many of the matters could be more appropriately dealt with under the planning legislation.
29/3/2012	Present modification application lodged.
30/4/2012 to 16/5/2012	Notification and advertising, 1 submission received.
22/5/2012	Copy of submission forwarded to applicant for comment.

ITEM 2 (continued)

9/7/2012	Amended plans received addressing objector's concerns.
11/2/2012	Application called up following representation by the builder who raised a number of matters not included in the s96 application - the sun louvres, sun shades and sun hoods on the south west elevation of level 4 be deleted. The reason given is that they will not alleviate privacy issues as the units below share the same view and outlook and these have no such devices and the devices affect the solar amenity of the units below. Also the wind load may affect surrounding residents as the in extreme weather the completed façade substrate may not be sufficient to hold the load from these structures.
12/7/2012	Copy of the builder's submission forwarded to the applicant (architect) for clarification/comment. No reply despite several reminders

7. SUBMISSIONS:

In accordance with DCP 2010 Part 2.1 Notice of Development Applications owners of surrounding properties that included previous objectors were given notice of the application from 30/4/2012 to 16/5/2012. A notice was also placed in the local paper on 2/5/2012. In response one (1) submission was received raising the following concerns:

- The use of clear glass for the balustrade will allow residents to look through onto the property.
- A horizontal privacy screen was supposed to be attached to the balustrade.
- Request the balustrade and privacy screen be reinstated.
- A balcony now proposed on the south west corner further impacts on privacy. Should either be removed or a vertical privacy screen installed.
- Vertical privacy screens are to be removed from windows facing the property. Request they be installed as approved.

Comment

The objector's concerns were forwarded to the applicant who submitted amended plans showing:

- An additional vertical full height (from the balcony floor) privacy screen on top of the balcony rail of the terrace off bedroom 2 as well as maintaining the proposed horizontal privacy screen.

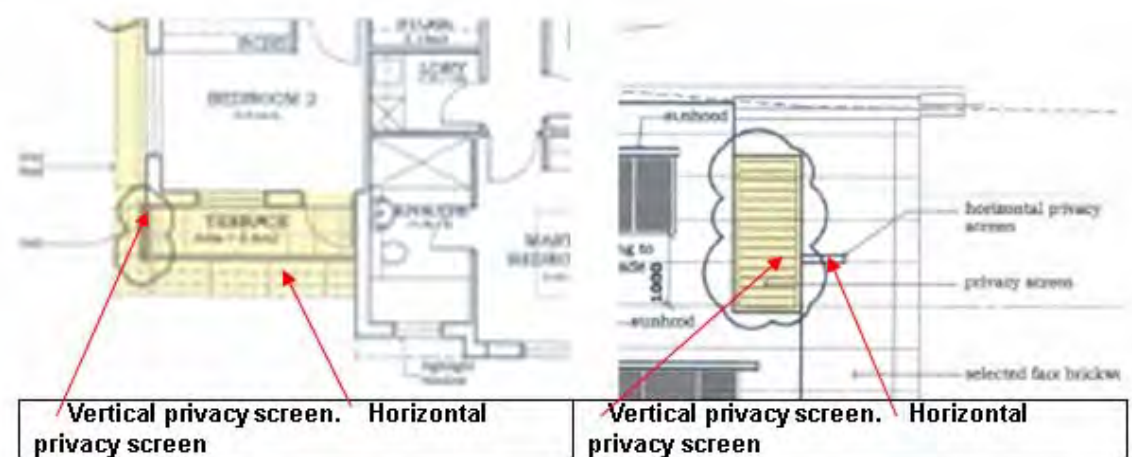
ITEM 2 (continued)



Privacy screens to be installed:

- Vertical
- Horizontal

Balcony as constructed with no privacy screens installed



Vertical privacy screen. Horizontal privacy screen

Vertical privacy screen. Horizontal privacy screen

The applicant does not propose to provide the privacy screens to the west facing bedrooms of units 24 & 25 that were required as part of the previous modification and has not submitted any reasons for their removal. Council's DCP does not require privacy screens to windows in bedrooms as the use of bedrooms is minimal & is mostly at night when blinds & curtains are drawn to prevent persons from looking in. None of the other bedroom windows on the floors below have privacy screens & given they are lower are more likely to allow overlooking than windows from the top floor level. It is considered that the removal of the privacy to both bedrooms screens is acceptable. The diagrams below were provided by the applicant for the previous s96 application and show how the horizontal privacy screens prevent downward vision but allow horizontal views to remain.

ITEM 2 (continued)

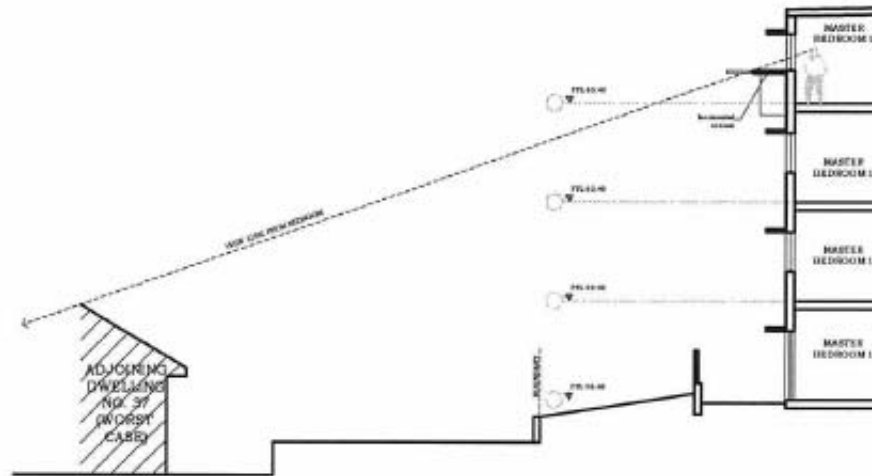


Diagram showing view from bedroom with screen louvres in place



Diagram showing view from balcony with screen louvres in place

- Opaque glass balustrading for the main (west facing) terrace off Unit 24 and a vertical privacy screen on the new terrace (balcony) off the bedroom. The south balustrade of this terrace is proposed to be of clear glass. The applicant does not propose to make any change to the proposed glass balustrade to Unit 25 that is on the northern part of the west elevation. It is noted that both Units 25 & 25 were approved with solid balustrades to the west. Two smaller terraces are now proposed by converting the approved concrete roof to a terrace. Both terraces are proposed to be fitted with horizontal privacy louvres,

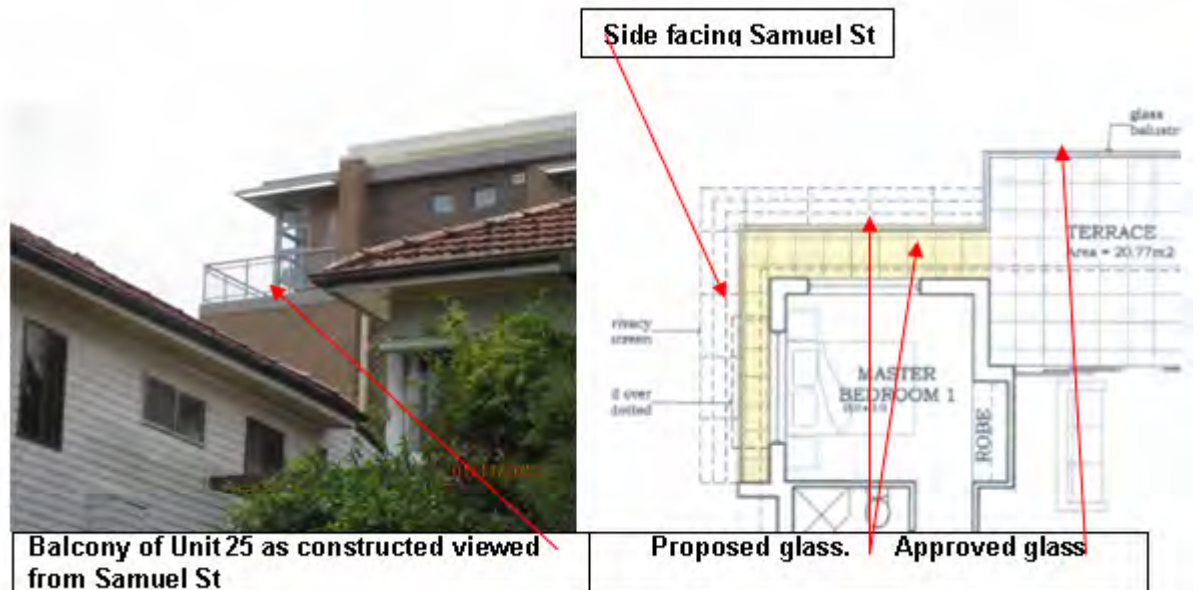
ITEM 2 (continued)

similar to other terraces on this level. The terrace to Unit 24 is off a bedroom & in response to privacy concerns raised by the objector the applicant proposes a full length privacy screen to the west elevation & clear glass balustrade to the south. This faces the rear of the adjoining residential flat building and as it is 3.5m long & 850mm deep allows limited opportunity for use other than from a standing position where privacy has been addressed.



The new terrace off Unit 25 on the uppermost level wraps around the corner of the building. It is 400mm deep to the west elevation & 800mm deep to the north elevation and links a bedroom with the main terrace. Due to its depth it is unlikely to be used and is more of an architectural feature. The proposed privacy screens will restrict view of adjoining properties. Given the main terrace faces north (over the rear of the fire station), that it was approved with a glass balustrade and no submission were received from adjoining residents it is considered that the proposed glass balustrade to the new terrace is acceptable.

ITEM 2 (continued)



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

Not required

9. **Policy Implications**

Relevant Provisions of Environmental Planning Instruments etc:

Ryde LEP 2010

Zoning

The modification of the approved residential flat building is permissible within the R4 – High Density Residential, subject to the approval of Council.

Mandatory Requirements

The following are applicable to this application.

Ryde LEP 2010	Proposal	Compliance
4.3(2) Height <ul style="list-style-type: none"> As shown on the height of Buildings Map = 11.5m 	No change to approved	N/A
4.4 Floor space ratio <ul style="list-style-type: none"> In R4 zone applies to RFB, Dual Occ (attached) & multi dwelling only if part of shop top housing 	Not part of shop top housing	N/A

ITEM 2 (continued)

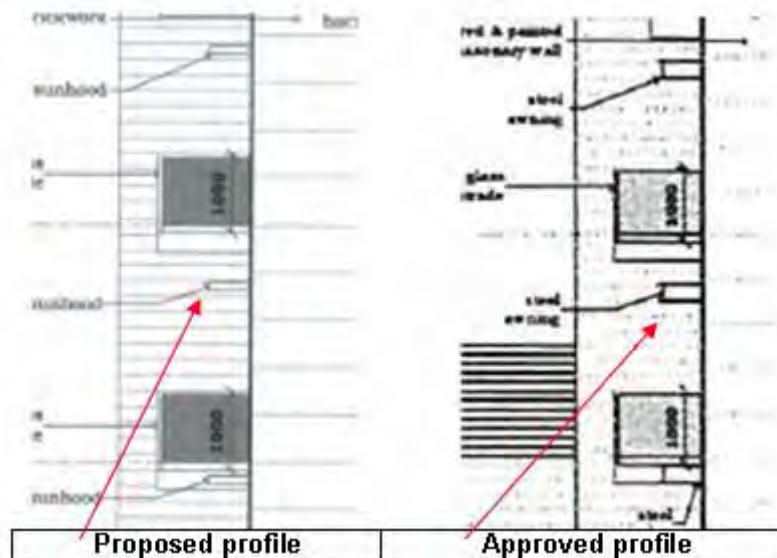
Ryde LEP 2010	Proposal	Compliance
<p>4.5B Density controls for Zone R4</p> <ul style="list-style-type: none"> • The total area of the land is not to be less than the total of the areas shown on the Residential area Density Map (Area 4): <ul style="list-style-type: none"> ○ 1 bed 70m² (3x70) 210m² ○ 2 bed 120m² (23x100) 2300m² ○ 3+ bed 130m² (None) <p>Total site area required 2510m²</p>	<p>No change to that approved</p>	<p>N/A</p>

SEPP 65 – Quality Design of Residential Flat Development

The proposed changes have no impact on the earlier SEPP consideration.

SEPP BASIX

The proposed changes to the awnings/sunhoods over the windows have no impact on Basix as the change is more cosmetic & are more for marketing purposes. They are designed to minimise sun impact onto the glass of the windows to reduce heat build up. Both are of a similar profile with the sunhood being slighter slimmer as shown in the extract below from the same part of the western elevation of the building.



ITEM 2 (continued)



Matters for consideration pursuant to Section 96(2) EPAA:

The provisions of Section 96(2) of the Environmental Planning and Assessment Act, 1979 allow a consent authority to modify the consent where the application meets the following criteria: -

- (a) The development to which the consent as modified relates is substantially the same development.
- (b) Any concurrence authority has been consulted and has not objected.
- (c) The application has been notified in accordance with the regulations.
- (d) Submissions made during the prescribed notification period have been considered.

Under s96 (2) (a) Council must be satisfied that the development as modified is substantially the same as was approved in the original consent. In arriving at this determination there should be no consideration of the merits of the proposal but rather a straight before and after comparison. If it is determined to be substantially the same then the proposed modifications need to be assessed on their merits having regard to submissions received and any relevant council planning controls.

The **current approval** provides for the demolition of the existing buildings and construction of a three storey residential flat building comprising 26 units, including basement car parking and landscape works.

The **proposed modifications** relate to minor changes to the fabric of the building. There will be no discernible change to the height, the building footprint remains the same and none of the key elements are significantly changed.

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

Section 96(2) (b) is not relevant to the current application, as concurrence was not required for the original approval. The proposal meets the requirements of 96(2) (c) and 96(2) (d) listed above, with the submissions received being considered later in this report.

ITEM 2 (continued)

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

(e) Relevant SEPPs

There are none that affect this application

(f) Relevant REPs

There are none that affect this application

(g) 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 is currently on public exhibition. Under this Draft LEP, the zoning of the property is R4 High 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.

(h) Any DCPRyde DCP 2010:

No applicable provisions to this application.

Section 94 Contributions Plan 2007:

The proposed changes have no impact.

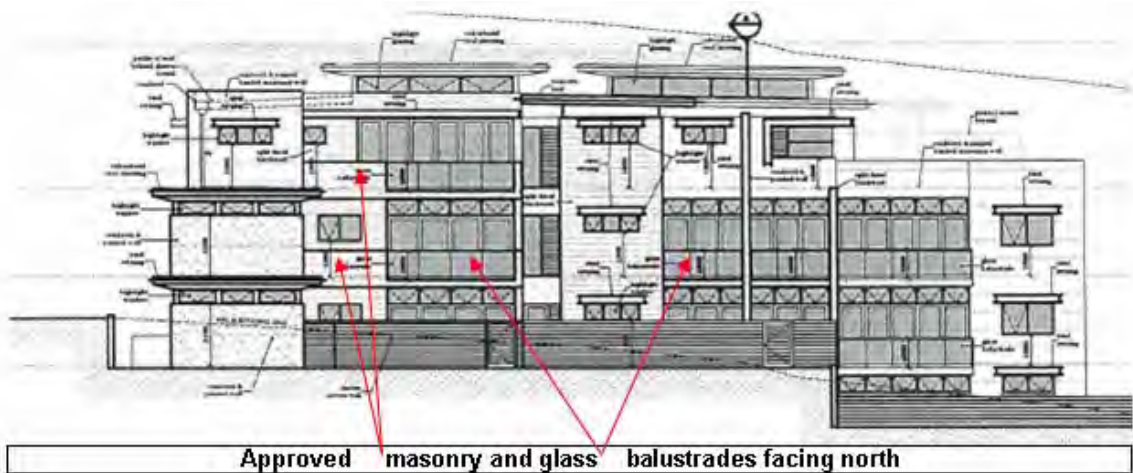
10. Likely impacts of the Development**(a) Built Environment**Proposed Changes

Most of the changes do not have any unacceptable impacts as they are either a rearrangement of existing space or a change in finishes that are acceptable.

ITEM 2 (continued)

However the following comments are made in respect of some of the proposed changes:

- The following photographs show the clear glass balustrading that has been installed on the balustrades facing Victoria Rd and those on the northern elevation and is indicative of the balustrading referred to by then objector. It should be noted that the original plans proposed a mixture of glass & solid masonry balustrades on the south, west and north balustrades with solid masonry on all balustrades facing Blaxland Road.



ITEM 2 (continued)



View of clear balustrades on front (east) façade & north (side) façade



Close up of clear glass facades on Blaxland Rd frontage, all originally approved as solid. **Note:** air conditioning units are visible



Close up of clear glass facades on northern façade facing fire station, about 40% of each approved as solid

ITEM 2 (continued)



View of rear part of south side from walkway between Blaxland Rd & Samuel St



View of south side from Blaxland Rd



View of part of rear (west) from Samuel St



View of part of rear (west) from walkway between Blaxland Rd & Samuel St

The approved plans show all the balustrades on the Blaxland Road (east) frontage as being solid masonry while those on the sides (north and south elevations) and the rear (west elevation) are either glass, solid masonry or a mixture of solid masonry & glass. There is no change to the rear (west) balustrades apart from the upper level that is considered in the "Submissions: heading.

The solid balustrades on the front & sides have now been constructed of clear glass contrary to the approved plans. The clear glass allows future residents to easily look into adjoining properties and is likely to cause privacy impacts particularly at the lower levels. It also allows people external to the building to easily look into the units and will cause privacy impacts. In addition the use of clear glass is likely to make the balconies visually unpleasant and impact on resident's privacy particularly if material, plants and the like are placed or kept on the balconies. This is particularly applicable to the balconies on the Blaxland Rd frontage as it allows any member of the public to look directly into the units. There is some evidence that some units may have air conditioning motors placed on the balcony which will also contribute to visual pollution, especially if they are located

ITEM 2 (continued)

on that part of the balcony that has clear glass. It is considered that those balconies balustrades that were either solid masonry or part solid masonry should be either solid masonry or opaque glass - see condition 154.

- Basement 1 & Lower Level Carpark. The proposed electrical box occupies space previously proposed as a toilet/amenities facility for residents using the external common areas and for persons carrying out maintenance. In response to a query the applicant advises these facilities are now proposed in the area between the stairs and storerooms 4 & 7, although it is not marked as such. The area has been marked in red on the plan.
- Upper Ground Floor. The relocation of the sliding doors of Unit 7 increases the floor area by about 17m² although there is a corresponding reduction in courtyard area. The relocation involves moving the doors 3m so they align with the balcony above. The change is minor and is within the approved built form.
- Moving the slabs of units 10 (upper ground floor), unit 18 (first floor) and unit 26 (top floor) so to make them align with the edge of the adjacent slab for ease of construction. The movement increases the depth terraces of each unit by about 500mm and in itself does not have any unacceptable impacts.
- All other relevant issues regarding impacts of the development are discussed in the Submissions section of this report.

The amended development is considered satisfactory in terms of environmental impacts subject to the recommended changes under issues raised by the objector.

Request by Builder

The issues raised by the builder in the request to have this matter considered by Council require some clarification. They do not form part of the s96 application as the builder is not the applicant or the owner of the land. The builders request is to delete sun louvers, sun shades and sunhoods on the south west elevation of level 4 as they do eliminate privacy impacts due to there being no such measures on the floors below.

It is agreed that the sunhoods/sun shades have no impact on privacy. These were originally proposed and approved as awnings and are located on the top of the window opening and are out of the line of sight when looking out of the windows. It is assumed that the builder is referring to the fixed horizontal privacy louvers that were proposed by the applicant to address privacy concerns raised during consideration of a previous s96 application. This application proposed the removal of this type of privacy screen to 2 bedroom windows only, does not propose the removal of any others and proposes additional horizontal privacy screens for the 3 new balconies. There is no application to remove any of the other horizontal privacy screens. It is

ITEM 2 (continued)

considered that this request by the builder cannot be considered as part of this application as:

1. Their removal does not form part of the application.
2. The builder has not demonstrated any right to act on the development consent as the consent of the owner or the architect (applicant) has not been provided.
3. Any such proposal to remove privacy screens has not been notified to nearby residents as required by the DCP.

(b) Natural Environment

The proposed modifications do not impact on the landscaping and other measures included in the original consent.

11. Suitability of the site for the development

The proposed modification as discussed above is considered minor in the context of the approved development and residential flat buildings are a suitable form of development within the zone.

12. The Public Interest

The public interest has been satisfied by the notification of the proposed changes to adjoining residents and the consideration of the submission received.

13. Consultation – Internal and External

No referrals were necessary.

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

Council can only make a decision of matters that are subject of the application and which are set out in detail under the “Proposal” heading in this report. If other matters are to be considered then the application should be deferred so that these matters can be notified to affected residents.

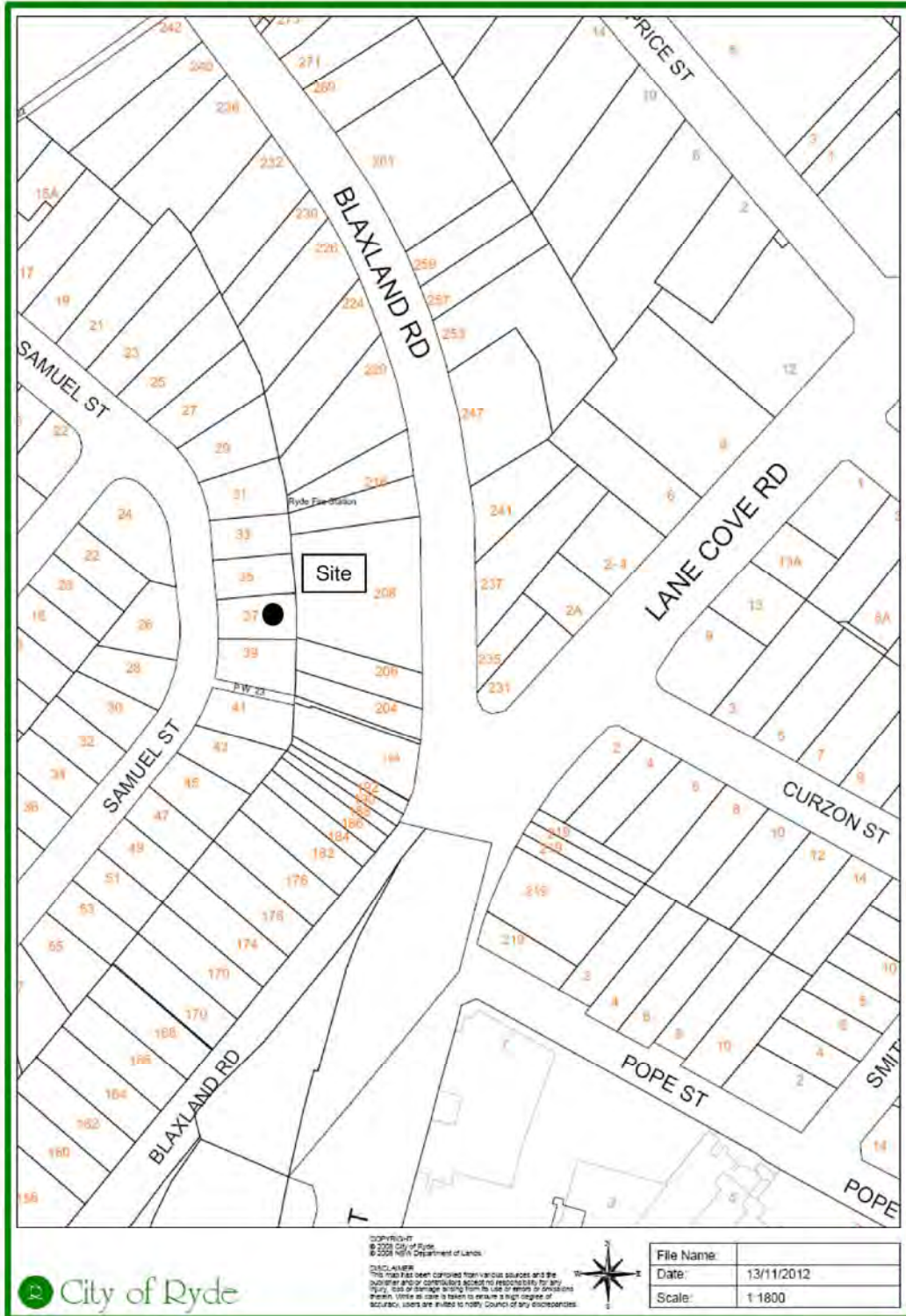
ITEM 2 (continued)**17. Conclusion:**

An application has been made to legitimise a number of changes made to the building without seeking approval. The changes for the most part are minor and will not impact on residents. The two areas of exception are the privacy & overlooking issues raised by the objector and the proposal to alter solid balustrades to clear glass. The applicant has provided amended plans addressing the objector's concerns and the change of solid balustrades to clear glass is seen as having unacceptable visual and amenity impacts and it is recommended that there be no agreement to these changes.

ITEM 2 (continued)

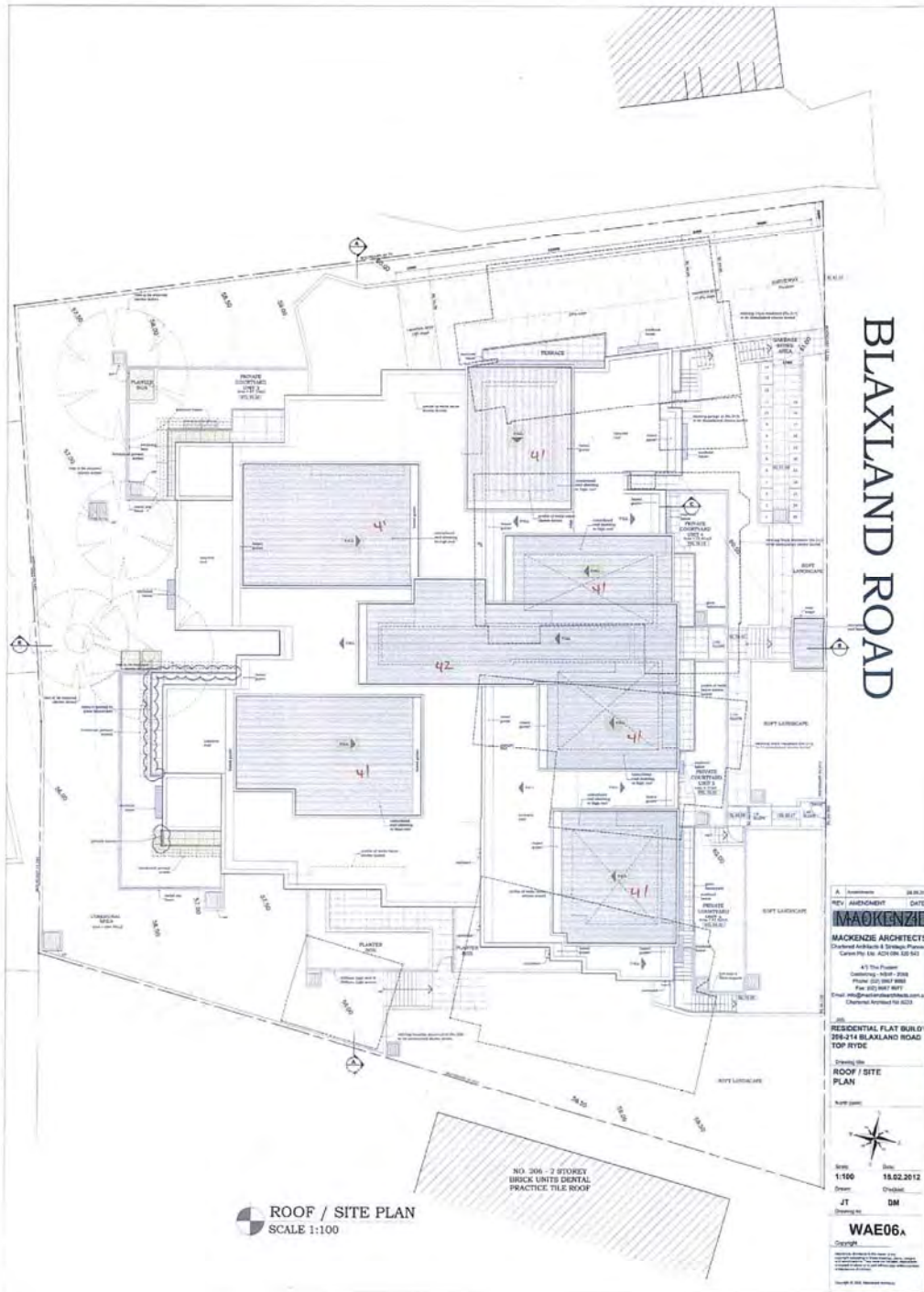
ATTACHMENT 1

● Indicates submission received



ITEM 2 (continued)

ATTACHMENT 2



3 50 FARNELL STREET, WEST RYDE. LOT 19 DP 30394. Local Development Application for Demolition, construct multi-dwelling housing containing 4 strata titled dwellings. LDA2012/0137.

INSPECTION: 4.35pm

INTERVIEW: 5.25pm

Report prepared by: Team Leader - Assessment

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

Report dated: 6 November 2012 **File Number:** grp/12/5/5/3 - BP12/1316

1. Report Summary

Applicant: Earcore Pty Limited.

Owner: C J Williams, F W Williams.

Date lodged: 15 May 2012.

This report considers a proposal to demolish the existing dwelling house and to construct a strata titled multi dwelling housing development consisting of 4 dwellings, 1 x 2 storey at the front and 3 x 1 storey at the rear. A number of non-compliances with DCP2010 were identified and amended plans were received on 28 June 2012 and 13 September 2012 addressing these matters.

There are a number of non-compliances remaining – linear separation, front setback, depth of cut, courtyard levels, front lighting and tree replacement, most of these can be satisfied by conditions of consent. The major issue is linear separation as there is a multi-dwelling development under construction immediately to the south (No. 52 Farnell St) and another existing multi dwelling development 21.5m to the north at No. 46 Farnell St.

As a result of public notification and advertising of the proposal 4 submissions were received objecting to the proposal. The issues raised relate to linear separation, front and rear setback, traffic, noise and privacy and removal of trees. The issue of linear separation was most often raised. The objectors concerns are addressed in the report and it is concluded that there are insufficient negative impacts so to warrant refusal in terms of the design of the development. However the non-compliance with Council's current linear separation controls is impossible to resolve given the proximity of the site to the other nearby multi-dwelling developments. The application is recommended for refusal based on non-compliance with the linear separation controls in DCP 2010. However options in respect of determination of the development application are provided for Council's consideration.

Reason for Referral to Planning and Environment Committee: Non-compliance with the DCP and issues raised by the objectors, in particular linear separation.

Public Submissions: Four submissions were received objecting to the development.

ITEM 3 (continued)

SEPP 1 (or clause 4.6 RLEP 2010) objection required? If yes, percentage variation.
Not required

Value of works? \$720,000.00

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. 2012/137 at No. 50 Farnell Street, West Ryde, being Lot 19 in DP 30394, be refused for the following reasons;
- (i) The proposed development does not comply with the provisions of Ryde DCP 2010 in respect of linear separation.
 - (ii) The proposal will have adverse streetscape impacts as a result of the proliferation of multi dwelling housing developments in Farnell Street, West Ryde.
 - (iii) 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 Proposed Conditions
- 3 Map
- 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 3 (continued)

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

Address : 50 Farnell St, West Ryde

Site Area : 1289m²
Frontage: 23.03m
Depth: 53.955/60.96m

Topography and Vegetation : A fall of about 3.5m from rear to front. Number of trees including a Lemon scented gum at the front

Existing Buildings : Single storey brick & tile dwelling house.

Planning Controls

Zoning : R2 Low Density Residential

Other : DCP 2010:
: Part 3.5 Multi Dwelling Housing
: Part 8.2 Stormwater Management
: Part 8.3 Driveways
: Part 9.6 Tree Preservation



ITEM 3 (continued)**3. Councillor Representations**

Nil.

4. Political Donations or Gifts

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

None were disclosed.

5. Proposal

The application is to demolish the existing buildings on the site and to construct a strata titled multi-dwelling housing development containing 4 dwellings - 1x2 storey 4 bedroom dwelling at the front, 3 single storey 3 bedroom dwellings at the rear. The development is to comprise:

- Dwelling 1 – 2 storeys at the front comprising:
 - Ground floor – kitchen/dining, lounge, WC, laundry, tandem garage, courtyard.
 - First floor – 4 bedrooms (1 with ensuite), bathroom, WC.
- Dwelling 2 – single storey with attic comprising:
 - Ground floor – kitchen/dining, lounge, 2 bedrooms (1 with ensuite), bathroom, laundry, courtyard, tandem garage.
 - Attic – a bedroom, open study/media area.
- Dwelling 3 & 4 - single storey comprising 3 bedrooms (1 with ensuite), kitchen/dining, lounge, laundry, bathroom, single garage with tandem open parking space, courtyards.

A driveway is proposed along the southern side with a visitor parking space at the rear.

A low pier and timber batten fence is proposed along the street frontage with 1.8m high lapped and capped timber fences on the sides and rear. Details of return fencing are not clear.

The development is to be constructed of face brick with tile roof. A schedule of finishes has been submitted.

The following documentation was submitted:

- Architectural plans, including a survey plan
- Landscape plan
- Drainage plans
- Statement of Environmental Effects
- Arboriculture Report

ITEM 3 (continued)

- Basic certificates
- Demolition plan
- Heritage impact statement
- Schedule of finishes.

6. Background

The application was lodged on 15 May 2012. Shortly thereafter it underwent a preliminary assessment, referral to various other officers within Council (Development Engineer, Landscape Architect and Heritage Officer), neighbour notification and advertising, and allocation to the Assessment Officer.

On 31 May 2012, Council sent a “stop the clock” letter to the applicant requesting the following matters and concerns regarding Council’s DCP 2010 to be addressed via additional information (including a written submission) and/or amended plans:

- Linear Separation
- Front setbacks
- Rear/side setbacks
- Type of dwellings (mix of dwellings based on number of bedrooms)
- Alterations to site levels
- Private open space to be generally at natural ground level
- Details of boundary fencing
- Lighting in front of the dwellings (not to adversely affect neighbours)
- BASIX details (including amended BASIX certificates if required)

On 7 June 2012, Council requested additional information from the applicant regarding stormwater disposal and vehicle access (driveway gradients and vehicle manoeuvring). Further to this, on 18 June 2012, Council’s Development Engineer requested additional technical information regarding the driveway gradients, stormwater pit details including levels and orifice sizes.

On 28 June 2012, additional information and amended plans were received regarding Council’s request for information dated 31 May 2012. These amended plans were re-notified to neighbours for a period between 24 July and 15 August 2012.

On 31 July 2012, following the receipt of comments from Council’s Consultant Landscape Architect regarding tree protection zones, Council wrote to the applicant to request further clarification (supplementary advice) from the applicant’s arborist regarding potential impacts on the neighbour’s tree. Also, and more importantly, Council officers raised the issue of Linear Separation and advised the applicant of the following:

ITEM 3 (continued)

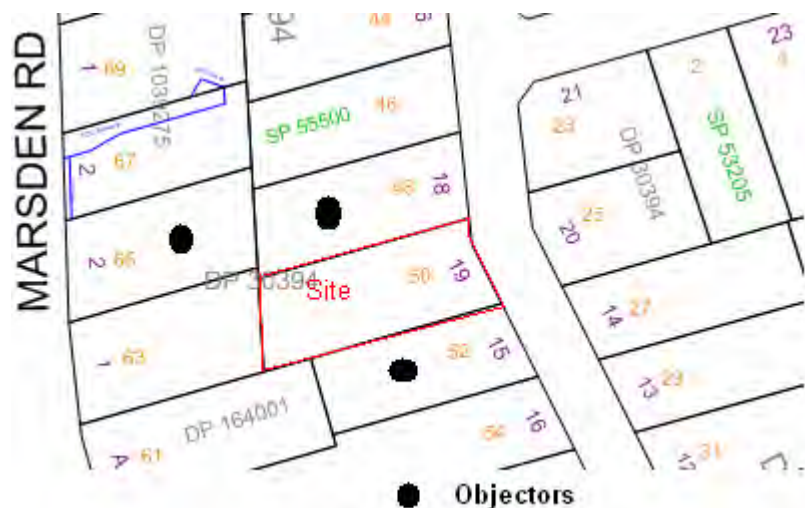
In the draft planning controls (LEP 2011 & DCP 2011) it was proposed to remove the linear separation provisions & replace them with minimum frontage requirements. A report on the submissions received as a result of public exhibition of these draft controls was considered by Council on 24 July 2012. Consideration of these draft planning controls has been deferred pending the Council elections later this year and will be considered by the new Council. Therefore the removal of this control from the City of Ryde's planning policies is no longer certain or imminent and applications will be considered under the present controls that would prohibit your proposal. All applications that involve non compliance with the linear separation controls have to be submitted to council for determination and would likely result in recommendation for refusal.

On 7 August 2012, the applicant's arborist responded to Council's request from 31 July 2012. These were considered by Council's Tree Management Officer as discussed later in this report.

On 28 August 2012, Council again wrote to the applicant to advise that the following information was not satisfactory and would require further clarification regarding back yard levels; levels for the top of retaining walls; and vehicle turning templates.

Amended plans were received on 13 September 2012 regarding these matters, and which were referred to Council's Development Engineer for re-assessment. In response, Council's Development Engineer has advised that the additional detail has resolved the outstanding issues.

7. Submissions



ITEM 3 (continued)

The proposal was advertised and notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. The application was advertised on 25/7/2012. Notification of the proposal was from 24 July 2012 to 15 August 2012 and 4 submissions were received raising the following issues:

Front Setback

- The proposed setback is insufficient. Residents were told when No. 46 was approved on a much reduced setback that it would not occur again.
- Property should be set back 12m as per Council requirements. The setback should be measured from the closest part of the street frontage, not the furthest.

Officer's Comment

The site is within the West Ryde Character area where the setbacks should be consistent with existing setbacks and may be up to 12m to achieve this objective.

The proposal as submitted had a front setback of 7.95 – 9.8m (average 8.875m) which has been increased to 9.245 – 11.389m (average 10.317m) at the sides with part of the building at 8.4m due to the arc in the frontage. The multi dwelling under construction at No. 48 (adjoining to the south) is setback 11.5 – 12.6m (average 12m) while the 2 storey house adjoining to the north is setback 10 – 15.8m (average 12.9m) and was approved in 2007. In terms of setback and streetscape the proposed development should be viewed on the context of the adjoining:

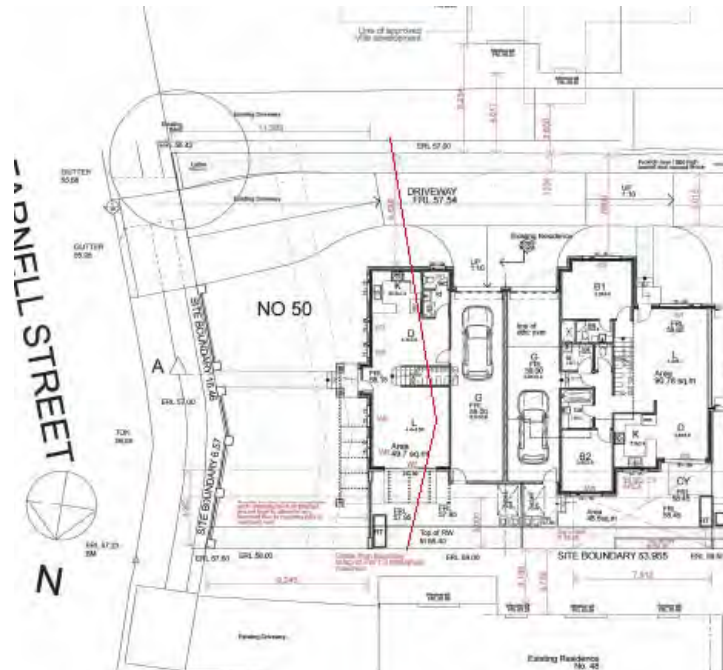
- No 52 (multi dwellings under construction). That part of the building closest to the common boundary is setback 11.5m while the adjacent part of the proposal is setback 11.389m. Both setbacks are therefore similar.
- No 48 (2 storey dwelling house). That part of the building closest to the common boundary is setback 10m while the adjacent part of the proposal is setback 9.246m which is similar.

One of the factors that contribute to the difficulty in achieving a uniform setback is that Farnell Street in this location has a slight curve that results in a curved frontage which means that the central part of the building is within 8m. The sites either side have frontage that is not so curved and therefore fits in with a regular shape of the front part of the building.

There is no issue with the relationship of the setback to the adjoining buildings, however the fact that the main front wall of the building is setback 8.4m from the centre of the arc and the porch is only setback 7m is an area of concern. The DCP does not stipulate a 12m setback but only that the setback be consistent with the existing so to maintain the character of the area. It indicates that setbacks of up to 12m may be required in order to ensure this consistency. The DCP provides a maximum setback rather than a minimum setback. It would be desirable that this

ITEM 3 (continued)

setback be further, however on its own it does not have sufficient impact on the character of the street to sustain a refusal. The impact is reduced by the proposed front fence and the fact that the curve in the road reduces its apparent relationship with the frontage.



Plan of proposed front Setback with 12m building line shown in red

Linear separation

- Is contrary to the linear separation controls. There are villas being constructed next door, a large 2 storey house the other side and villas nearby. This part of the street will look out of place with the rest of the street.
- Approval will result in 3 medium density developments on 4 consecutive blocks which is contrary to the linear separation controls. Will appeal if it is approved.
- The developer should have been aware of the approval next door and therefore should comply with the linear separation controls.

The DCP requires that any adjoining multi dwelling development should be a minimum of double the frontage away from site. The site has a frontage of 23.03m and therefore should be 46.06m from any other multi dwelling development. A similar type of development is under construction immediately to the south (Om) and an existing one is 21.54m to the north.

Applicant's submission: A large free standing residential development separates the two sites which provide a visual break to the villa developments.

ITEM 3 (continued)

The proposed villa development provides a very balanced and recessive form when compared to the bulk of a residential dwelling that typically would extend to within 1000mm of the side boundary. A new villa development approval has been granted on the adjoining site to the south and again the design is such that the villas to the rear are sufficiently disguised so that the streetscape is typically 2 storey residential.

The design of the villas fronting the street has an appearance of a single 2 storey dwelling house which again preserves the streetscape quality and residential character. The proposed villa development provides deep soil landscaping that enhances the residential character of the area.

The front elevation of the proposed development presents as a single residence to the street. The units to the rear are subservient in form and are single storey in height which creates an appropriate scale transition with the adjoining dwellings. The development in its totality will not be readily visible from the street or detract from the low density residential character.

Officer's Comment

The development does not comply with the Linear Separation requirements in Ryde DCP 2010 which states that:

Dual occupancy (attached) buildings in the R2 Low Density Residential zone must be separated from Urban Housing, Multi Dwelling Housing (Attached), Villa Homes, Duplex Dwellings and other Dual Occupancy (attached) buildings in accordance with the following:

i. If an urban housing development, villas, duplex building, multi dwelling housing (attached) or dual occupancy (attached) building has been erected, or is permitted by a development consent, on an allotment with a frontage to a street or road within the R2 Low Density Residential zone, then Council will not consent to a dual occupancy (attached) being erected on another allotment with a frontage to that same street or road and in the same street block, unless the two allotments are separated by a distance of at least:

- *twice the distance of the frontage to the street of the existing or approved villa, multi dwelling housing, duplex, urban housing, dual occupancy (attached) development, or*
- *twice the distance of the frontage to the street of the proposed villa, duplex, urban housing, multi dwelling housing, dual occupancy (attached) development;*

whichever is the greater distance.

ITEM 3 (continued)

There is currently an approved and strata subdivided multi dwelling housing (villa) development at No. 46 Farnell Street (approximately 21m to the north), whilst there is an approved (but not yet constructed) multi dwelling housing development at No 52 Farnell Street (immediately to the south). Therefore, the proposed development does not comply with the Linear Separation controls in Ryde DCP 2010.

The new development controls proposed under Draft Ryde LEP and DCP 2011 were intended to remove the linear separation controls currently in existence. However, Draft Ryde LEP and DCP 2011 has not been adopted by Council. As there are a number of statutory steps that have to be undertaken before LEP 2011 becomes effective, it is reasonable to say that commencement of either LEP 2011 or DCP 2011 is not currently imminent.

On this basis, continued application of the linear separation provisions of DCP 2010 is proposed, with a resulting recommendation of refusal. However, if Council was to form the view that application of the linear separation provisions in respect of the proposed development was not warranted, a set of appropriate conditions of consent are provided as an option for Council in determination of the application.

- Street is narrow and angled in places and is dangerous when vehicles park both sides. If the building was setback in accordance with the controls there would be room to park on site.
- Significant traffic from the kindergarten, primary and high school uses the street, cars park on both sides of the street. Parking also occurs in the street when the school is used as a Sunday School.

Officer's Comment

On site parking is to be provided in accordance with Council requirements. The additional vehicles generated by this development will not significantly impact on the existing street system. According to the Roads and Traffic Authority's *Guidelines for Traffic Generating Development*, the dwelling house would generate an average of 9 vehicle trips per day (0.9 in each peak hour).

Medium density housing developments (of 3 or more bedrooms such as the subject proposal) generate an average of between 5 and 6.5 vehicle trips per dwelling (0.5 – 0.65 in each peak hour), and therefore this development could generate between 20 and 26 trips per day (2 to 2.6 in each peak hour). This development proposal would therefore only generate around 11-17 additional trips per day compared to what a single dwelling would generate (on average, using the RTA Guidelines). Therefore, the proposal would generate only a small increase in traffic compared to the existing situation.

ITEM 3 (continued)

- Concern that the setback from the rear fence will increase noise and privacy impacts.

Officer's Comment

The building is set back 3 – 4.5m as required by the Council controls. The courtyard is to be excavated to provide a level useable area, however the existing ground levels within 1.2m of the boundary will remain. The dwelling is single storey and will be visually lower due to the excavation and will be screened by the proposed 1.8m high lapped and capped fence. The objector's property is adjacent to the rear and is higher up the slope which will also prevent overlooking.

- Concern at the proposed removal of trees, in particular the liquid amber near the rear that absorbs noise.

Officer's Comment

The trees to be removed from within the property include Cocos palm, Tibouchina, Liquid amber and Bush cherry. The arborist reports that most will be impacted by the proposed building works and are not sustainable. The liquid amber was classed as an "undesirable" species that should be removed. Council's Tree Management Officer agrees with the arborist. Suitable replacement species have been included in the landscape plan. If Council decides to approve the development application, then the approved plans will include a landscaping plan that will provide a suitable amount and type of replacement planting.

- The elevational details on the plans appear too high or at least the relativity with the adjoining villa development under construction next door makes it appear the development is too high. Considers it should be at least 500mm lower.

Officer's Comment

The height of the proposed building complies with Council's height controls. The height does not cause any unacceptable overlooking or privacy impacts.

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

If yes, provide details and percentage variation.

Not required.

ITEM 3 (continued)
9. Policy Implications
Relevant Provisions of Environmental Planning Instruments etc:
(a) Ryde Planning Scheme Ordinance
Zoning

R2 Low Density Residential

Mandatory Requirements

Ryde LEP 2010	Proposal	Compliance
4.3(2A) Height <ul style="list-style-type: none"> • 8m fronting the street • 6.5m other 	7.6m 4-4.6m	Yes Yes
4.5A Density <ul style="list-style-type: none"> • 300m² per 1,2,3br dwg (4) Total required = 1200m ²	1289m ²	Yes

(b) Relevant SEPPs & REPs
SREP (Sydney Harbour Catchment) 2005:

From 1 July 2009 this plan is taken to be a State Environmental Planning Policy (see clause 120 of Schedule 6 to the Environmental Planning and Assessment Act. The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above SREP. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The objective of improved water quality is satisfied through compliance with the provisions of section 8.1 (Construction Activities) of DCP 2010 and related conditions of consent. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the SREP.

(d) 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 on public exhibition and a report on the submissions received following the exhibition has been prepared for Council's consideration. 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

ITEM 3 (continued)

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

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

A full assessment of the proposal under DCP 2010 is illustrated in the compliance table at **Attachment 1**. The Non-compliances identified in the table are assessed below.

- Linear Separation
- Front Setbacks

Officer's Comment

The above matters were raised by the objectors and are dealt with under the "Submissions" heading.

- Altering the Levels of the Site:
 - <300mm Cut or Fill allowed outside building envelope. The proposal is for up to 1100mm of cut along the northern side to provide level courtyards and is to within 1.2m of boundary which is to be retained at existing ground level.
 - No basement garages, minimal steps, minimal retaining walls. Proposal has no basement garages, minimal steps, but has up to 1100mm retaining walls on the northern courtyards.
- Private open space to be generally at NGL. The proposed courtyards are to be excavated up to 1.25m to provide a level surface.

Officer's Comment

The cut outside the building is mainly confined to the north side and is to enable the courtyards to be at a comparable level with the floors of the dwelling. The site rises to the north and if it was not cut residents would have to step up to their courtyards. No cut is proposed within 1.2m of the fence thus maintaining the existing ground level which is to be landscaped. The following diagram shows the north elevation with the proposed ground level shown dotted.



North Elevation showing retention of existing ground level at boundary. Proposed courtyard levels beyond shown dotted

ITEM 3 (continued)

The excavation has the effect of lowering the height of the building thus preserving the neighbours views over and providing courtyards at a lower level where the batter and fence mitigate against privacy and overlooking issues. As the cut is to provide level courtyards and is to within 1.2m of the boundary (thus preserving the existing level at the boundary) it can be supported in this instance. The design is considered a good outcome both for the adjoining residents and future residents of the villas.

- Front yard lighting and lighting for the front of dwellings is to be provided
- Location of external lighting must not have adverse effect on adjoining properties.

Comment

The amended plans received 28 June 2012 have a revision notation that lighting is to be provided on the building line and on the front of the dwelling. A perusal has failed to find any details. This matter would be addressed by a condition if Council decides to approve the application.

(f) Section 94 Contributions Plan 2007

Council's current Section 94 Contributions Plan (adopted 19 December 2007 and as amended 16/3/2011) requires a contribution for the provision of various additional services required as a result of increased development density/ floor area. The contribution is based on the number of additional dwellings there are in the development proposal.

The contributions that are payable with respect to the additional dwellings /increased floor areas (being for residential uses outside the Macquarie Park area) are as follows:

Contribution Plan	Contribution Payable
Community and Cultural Facilities	\$10,565.04
Open Space and Recreation Facilities	\$26,008.92
Civic and Urban Improvements	\$8,846.04
Roads and Traffic Management Facilities	\$1,206.57
Transport and Accessibility Facilities	\$0.00
Cycleways	\$753.71
Stormwater Management Facilities	\$2,395.39
Plan administration	\$203.22
TOTAL	\$49,978.90

NOTE:

- The above calculation has been reviewed by the Team Leader Assessment. A copy of rates & calculation spreadsheet is on file.

ITEM 3 (continued)

- A credit has been granted for the existing dwelling house on the site.
- The September 2012 rates have been applied to the development.

10. Likely impacts of the Development

(a) Built Environment

All relevant issues have been considered under the “Submissions” heading and the “DCP” heading

(b) Natural Environment

The arboriculture report submitted with the application assessed the impact the proposal would have on vegetation on the site as well as on the neighbour’s property. The report recommends the removal of:

- 5 trees/shrubs on the site, some of which are undesirable or exotic.
- 3 trees/shrubs on the footpath (2 oleander, and 1 crepe myrtle).
Council’s Tree Management Officer agrees to the removal of the 2 oleander only.

The report also provides conditions to protect adjoining trees. Council’s Tree Management Officer required an additional plan of management to protect the Lemon scented gum on the frontage that is to be retained. The measures in this plan have been included in the recommendation – See Condition 34.



Lemon Scented Gum

11. Suitability of the site for the development

Subject to a satisfactory resolution of the linear separation and setback issues as set out in this report the site is considered to be suitable.

ITEM 3 (continued)**12. The Public Interest**

The public interest has been considered by the notification and advertisement of the proposal and the consideration of issues raised under the "Submissions" heading.

13. Consultation – Internal and ExternalInternal Referrals

Development Engineer: Memo 21/9/2012: The subject site has a steep slope towards the street. Drainage from the development is connected to the street via an underground OSD tank within the driveway. The BASIX report requires a 1000litre water tank with 40m² of roof area connected into it. This has been provided.

The latest amended architectural plans submitted to Council on 12th of September Project No 312 drawing s issue B indicates amended details for the retaining walls. It shows the maximum gradient of the embankment behind the units on northern and western boundaries are 1:3 which is excessive. It is preferable that these be limited to 1:4 for easy maintenance. The grades behind unit 4 is in most areas are in the range of 1:4 and satisfactory. Terraced garden beds with retaining walls have been provided behind units 2 & 3 along the northern boundary. The maximum grade behind units 1 to 3 on the northern side is 1:1

Landscape plan should be amended to show the new kerb alignments proposed adjoining unit 4 garage and the retaining walls

The driveway gradients can be achieved to comply with AS 2890.1. Refer to long section of the driveway plan C01 project No 120408 by Istruct Consulting Engineers. Manoeuvring in and out of the garage of unit 4 is now satisfactory.

No objections are raised to the approval subject to the attached conditions and above.

Officer's Comment

The slope has been discussed with the Development Engineer who is satisfied that the slope is acceptable as the sloped area is to be landscaped with privacy screen planting and as such is not likely to require regular access for maintenance. The area of the landscape strip that is at 1:1 is limited to a small section near units 2&3 where the area to be battered is broken up into 2x600mm wide strips either side of a retaining wall to ensure the part closest to the fence has a medium fall only to accommodate the planting. Condition 1(b) has been included to ensure the boundary levels are not changed & any adjustment required for planting is made to the internal levels only.

ITEM 3 (continued)

Tree Management Officer: Memo 10/10/12: There is no objection to the removal of six trees/shrubs on the site as none are significant and most are exotic (Palm, Liquid amber, Tibouchina, Bush cherry). The significant tree (Lemon scented gum) is to be retained and protected. Due to the proximity of the works and foreseeable need for access within the TPZ between the proposed retaining wall and the site boundary the following condition should be included in the consent – See condition 34 in the draft conditions at Attachment 2.

There is no objection to the removal of the 2 Oleanders on the nature strip, however the Crepe Myrtle should be retained – See condition 61 in the draft conditions at **Attachment 2**.

Heritage Officer: Memo 6/6/2012: Have little or no impact on the heritage item that is within 100m as it is outside the view of the item & will not detract from its significance. Accordingly there are no heritage recommendations.

External Referrals

None were necessary

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

As previously detailed, the application does not comply with the linear separation provisions of DCP 2010. Whilst the Draft Ryde LEP and DCP 2011 were proposing to remove these development controls, Council has not adopted these draft planning instruments, and so the Linear Separation controls remain in Council's current DCP (Ryde DCP 2010). Accordingly the application is recommended for refusal.

If the linear separation provisions were, for the moment, put to one side, the only other remaining areas of non-compliance with DCP 2010 controls are:

- Front setback;
- Altering the levels of the site (excessive cut)
- Private open space to be at natural ground level
- Front yard lighting and location of external lighting in general.

ITEM 3 (continued)

These issues have previously been discussed, and on their own, either singularly or collectively, are considered not to be such as to cause the application to fail.

However, the option of approval of the application is made available to Council, and to this end a draft set of conditions relevant to this option are contained in **Attachment 2**.

17. Conclusion

The report has considered a proposal to construct a new multi-dwelling housing development.

The proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning and Assessment Act, 1979. The proposal has some areas of non-compliance with controls detailed in DCP 2010, namely:

- Linear Separation controls.
- Front setback;
- Altering the levels of the site (excessive cut)
- Private open space to be at natural ground level
- Front yard lighting and location of external lighting in general.

It is noted that the design responds, in a positive manner, to the constraints of the site. It is considered that in the design of the dwellings, the applicant has been mindful of the impact of the development on the adjoining dwellings and has provided appropriate setbacks, building articulation, minimal first floor windows to the sides of the proposed dwellings and appropriate landscaping along side boundaries in order to minimise the perceived and actual impacts of the development.

The proposal was notified to neighbours in accordance with DCP 2010, and **four (4) submissions** were received from the owners of adjoining properties. The main issues raised were non-compliance with Council's Linear Separation controls, front and rear setback, traffic, noise and privacy, and the removal of trees. The issues raised in the submissions have been discussed in the body of the report and relevant comments provided.

Based upon non-compliance with the linear separation provisions of DCP 2010, the application is recommended for refusal. The other variations to the DCP are minor and should not result in any adverse impacts.

Options in respect of determination of the application are provided for Council's consideration.

ITEM 3 (continued)

ATTACHMENT 1

COMPLIANCE TABLE

DCP 2010	Proposed	Compliance
PART 3.5 MULTI DWELLING HOUSING		
2.1 Site Analysis		
<ul style="list-style-type: none"> ○ Must have a SA ○ SA should relate dwgs to surrounds + minimise amenity impacts 	Site analysis submitted	Yes
2.2 Minimum allotment size		
Area: (not <600m ²)	1289m ²	Yes
Primary Frontage: (not <20m)	23.03m	Yes
Not hatchet shaped		
2.3 Non-Preferred Locations		
Is the proposed development within a non-preferred location?	No	Yes
2.4 Linear Separation		
Is there any approved Villa, Duplex or Urban Housing development within double the frontage (or proposed frontage)?	<ul style="list-style-type: none"> • Existing multi dwelling at 46 – 21.54m • Approved multi dwelling at 52 – 0m 	No No
2.5 Retention of Existing Dwellings		
Retention of existing dwg as part of a MDH will not be approved	To be demolished	Yes
2.6 Density		
As per clause 4.5A RLEP2010 – which state: (a) Site Area: ○ 300m ² per 1,2,3br dwg	Complies - see LEP table above	Yes
(b) Each dwg has its own POS and sep access to that space from unbuilt portion of site	Courtyards & separate access provided	Yes
2.7 Number of Dwellings		
Not more than 12 Dwellings	4 proposed	Yes
2.8 Type of Dwellings		
If 4 or more dwellings on site, <75% with same number of bedrooms (rounded down) 4d = 3x3B + 1x4B or 1x2B	1 x 4 bedroom, 3 x 3 bedroom	Yes
3.1 Slope of Site		
At least one dwelling must present to the street	Dwelling 1 faces street	Yes
Slope must be <1:6 either up or down from street frontage	About 1:26	Yes
Cross-fall >1:14	About 1:17	Yes

ITEM 3 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
3.2 Altering the Levels of the Site		
No imported Fill	None shown on plans	Yes
<300mm Cut or Fill outside building envelope.	550 – 1100mm cut along north side of building to provide level courtyard space. I will be battered towards the boundary which is at NGL	No
No basement garages, minimal steps, minimal retaining walls	No basement garages, minimal steps, up to 1100mm retaining walls on northern courtyard, minimal in context of the whole site	Yes
POS generally at NGL.	Excavated up to 1100mm to provide level courtyard surface	No
3.3 Storey and Height		
3.3.1 Storeys		
A MDH must be within single storey bldg. OR	Dwellings 2-4 single storey (attic within roof space of Dwelling 2 does not constitute a storey)	Yes
Dwg with frontage to street can be 2 storeys provided: <ul style="list-style-type: none"> o 2 st dwg not attached to any other 2 st dwg o 2 st dwg is suitable re streetscape 	Dwelling 1 is 2 storey Existing 2 storey house adjoining to north, approved 2 storey multi dwelling to south	Yes
3.3.2 Height		
As per Clause 4.3(2a) – which state the maximum height is:	7.6m	Yes
(a) for dwgs in bldg with no frontage to street – 6.5m		
(b) for dwgs with a frontage to street, if adj lots have dwgs that are <9.5m high – 8m	4-4.6m	Yes
3.4 Site Coverage		
Site coverage < 40%	507.1m ² or 39.34%	Yes
Pervious area > 35%	475.29m ² or 36.81%	Yes
3.5 Setbacks		
3.5.1 Front Setbacks		
<u>Front Setbacks:</u> Similar to adjoining) <ul style="list-style-type: none"> • 48 = 10-15m • 52 = 16.5 -18m (existing house on site when application lodged), approved multi dwelling under 	9.245 north side, 8.4m north of centre, 7m to porch,	No

ITEM 3 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
construction 11.5 - 12.6m. Note: Site also in West Ryde Special Development Area which requires front setback to be consistent with existing setbacks and up to 12m, to achieve this objective.	11.389m south side	
Setback of 1m less than the above std for not more than 50% of the front elevation for interest in the streetscape	1m variation provided, but not applicable to this area due to setback requirements above	NA
Council may vary this requirement if streetscape is likely to change: >7.5m for 50% of frontage, >6.5m for 50% of frontage.	In Special Character Area & streetscape unlikely to change	NA
3.5.4 Side and Rear Setbacks		
Min 4.5m unless vehicular access is included in this area, then min 6m. Allow variation between 3-6m for less than 50% for visual interest	<ul style="list-style-type: none"> • North = 52.7% @ 4.5 & 47.3% @ 3m • South = 6-7.1m • West = about 43.6% <4.5m 	Yes Yes Yes
Must provide appropriate solar access.	Courtyards to north	Yes
Ensure existing substantial trees not within proposed courtyard areas.	Existing trees in courtyards to be removed	Yes
3.5.5 Internal Setbacks		
Habitable room windows don't overlook	No overlooking	Yes
9m separation between facing dwellings habitable room windows?	No facing windows	NA
3.6 Private Outdoor Space		
Min 30m ² for 2B Min 35m ² for 3+B	1 = 36.5m ² 2 & 3 = 48.5m ² 4 = 120m ²	Yes
Min dimension 4m and generally at NGL	All over 4m	Yes
Solar access: 50% for ≥2hrs	All face north	Yes
Do not contain ex'g big trees	2 trees to be removed	Yes
Access to courtyard other than through dwg?	Through garage	Yes
Securely enclosed (not roofed) + visible from liv rms	All comply	Yes
Not within front setback	All comply	Yes

ITEM 3 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
3.7 Landscaping		
Extent of landscaping, existing trees retained in common areas?	Landscape plan submitted, existing tree to be retained in front setback	Yes
If landscaping used for privacy: <ul style="list-style-type: none"> • ≥1.2m landscaped strip • Shrub mature height 3-4m, if possible small trees mature height 5-m in combination with screen planting 	1.2m landscape strip proposed around boundary, not used for privacy purposes	NA
1m strip between driveway and wall of dwgs	>1m proposed	Yes
Nature Strips: Street trees retained and protected?	2 Oleander & 1 Lagerstroemia to be removed & replace with 2 Lemon Scented gums	To be conditioned, see Tree Management Officer referral
3.8 Car Parking, Manoeuvrability and Driveway Crossings		
Car Parking		
Number of Parking Spaces 1 space per 1 or 2 B dwelling 2 spaces per 3+B dwelling 1 visitor space per 4 dwgs (at least 1 space per dwg must be lockable garage) Total No of spaces req'd: 9 8 resident spaces 1 visitor spaces.	2 tandem spaces per dwelling, 1 visitor space	Yes
Garage location: <ul style="list-style-type: none"> - Not between dwelling and street frontage - No tandem parking in front of garage - Conveniently located for occupants - Located so they separate dwellings. 	Design & location of tandem parking complies	Yes
Driveways Suitably paved, extent minimised, to avoid excessive amounts of hard paving.	Driveway complies	Yes
Driveway Crossings Width: <10 spaces, min 4m Driveways <30% of frontage	5.4m 23.4%	Yes Yes

ITEM 3 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
3.9 Overshadowing and Access to Sunlight		
Habitable room windows face courtyard or other outdoor space open to the sky, no closer than 1.5m to facing wall.	Face courtyard or driveway	Yes
Sunlight to at least 50% of each courtyard, and principal ground level open space >2hrs between 9am and 3pm on June 21 or	All face north	Yes
Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight must not be further reduced by more than 20%	Buildings to south down slope & plans do not show impact on approved multi dwelling. shadow impact appears acceptable	Yes
Shadow diagrams must indicate extent of shadowing within development and adjoining properties.	Shadow plans submitted	
3.10 Visual and Acoustic Privacy		
Min 9m separation between facing habitable room windows	No facing habitable windows	NA
No direct views between living area windows or adjacent dwellings (otherwise screening or obscuring necessary)	Living areas at ground level & will be screened by fence	Yes
Direct views from living areas to private open space of other dwellings should be screened or obscured within privacy sensitive zone of 12m radius.	Living areas at ground level & private open space will be screened by fence	Yes
No balconies.	None proposed	Yes
Elevated landings (or similar associated with stairs into courtyard) max 1m wide	None proposed	Yes
Living and sleeping areas protected from high levels of external noise?	Marsden Rd to west of adjoining properties, no unacceptable impacts	Yes
Noise levels of air con pool pumps etc must not exceed background noise level by more than 5dB(A)	None shown on plans	NA
3.11 Accessibility		
3.11.1 Pedestrian Access		
Pedestrian access provided, separate to vehicle access where possible.	Separate access to Dwelling 1, others from driveway	Yes

ITEM 3 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
3.11.2 Access for People with Disabilities – Devts of 6 or more dwellings		
6 or more dwelling developments have min 35% of dwellings provide access to all indoor areas and outdoor living areas for people with disabilities (street, car parking and common areas accessed in one continuous path of travel)	4 dwellings	NA
4.1 Appearance		
Complement streetscape	Design complies	Yes
Includes pitched roof, eaves, vertically oriented windows, verandahs, rendered and face brick	Elements provided	Yes
At least 1 dwg must face street	Dwelling 1 faces street	Yes
4.2 Ceiling Height		
Floor to Ceiling min 2.7m	2.7m	Yes
4.3 Roofscape and Roof Materials		
Pitch 22-30° (35° where 2 nd floor is within roof)	22.5 ⁰	Yes
Min 300mm eaves overhang for roofs & verandas	300mm min proposed	Yes
Gables to street frontage?	Gable provided	Yes
Variation to roof line?	Articulated	Yes
Roof materials consistent with traditional ones in the street?	Tiles	Yes
4.4 Building materials for Walls		
In keeping with the traditional materials for the locality. Detailing to break up large areas of wall adding interest and individuality	Face brick & render detailing proposed	Yes
Proportion of windows and other openings consistent with character of locality. (windows generally 2:1 and 3:1 vertical proportion)	Consistent	Yes
4.5 Fences		
4.5.1 Front fence		
Max ht 1m, and 70% visually permeable	900mm	Yes
Materials compliment dwelling eg wooden pickets, masonry with infill panels, wrought iron or similar etc	Masonry & timber palisade infill panels	Yes
4.5.3 Other boundary fences		
Min ht 1.8m	1.8m lapped & capped	Yes
Lapped and capped timber	1.8m lapped & capped	Yes
4.6 Clotheslines and drying area		
External clotheslines (not visible from adjoining properties or public	In courtyards	Yes

ITEM 3 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
areas)		
Each dwelling must have its own laundry	Separate laundries provided	Yes
4.7 Lighting		
Front yard lighting and lighting for the front of dwellings is to be provided	None shown on plans	Condition 33
Location of external lighting must not have adverse affect on adjoining properties.	None shown on plans	Condition 33
4.8 Garbage bin enclosures		
For developments up to 5 dwellings on sites that are not steeply sloping and which have a wide road frontage: <ul style="list-style-type: none"> - Each dwelling must be provided with a storage area for Council's standard rubbish and recycling bins. - Storage area should be behind the dwelling, not visible from public spaces, common areas and habitable room windows 	In courtyards	Yes
Drainage		
Refer to Part 8.2 Storm water Management DCP 2010	See referral to Development Engineer	Yes
Part 9.6 – Tree Preservation		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway.	Arborist report submitted indicating that 11 trees shrubs affected (3 on footpath & 8 on site). All to be remove except Lemon Scented Gum at front. See referral to Council's Tree Management Officer	Yes

ITEM 3 (continued)

ATTACHMENT 2

PROPOSED CONDITIONS OF CONSENT

GENERAL

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

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

Document Description	Date	Plan No/Reference
Cover Sheet & Basix	26.06.12	0312 Issue A
Site Plan	11.09.12	0312 2 B
Ground Floor Plan	11.09.12	0312 3 B
First Floor Plan	26.06.12	0312 4 A
Site Coverage	26.06.12	0312 5 A
Soft Soil	11.09.12	0312 6 B
Strata Plan	26.06.12	0312 7 A
East, West & Internal Elevations	26.06.12	0312 8 A
North & South Elevations	26.06.12	0312 9 A
Section AA & Driveway Section	26.06.12	0312 10 A
Turning Paths	11.09.12	0312 20 B
Colour Scheme	-	50 Farnell Street, West Ryde
Landscape Plan	28.06.12	12-014B

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

- (a) Show the new kerb alignments proposed adjoining unit 4 garage and the retaining walls as shown on the approved Ground Floor Plan.
- (b) If the battered landscape strip along the northern boundary adjoining units 2 & 3 is too steep to accommodate the planting shown on the landscape then any change shall be made by raising the internal height of the retaining walls. There shall be no change to the levels along the boundary of the site.

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

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificates numbered
 - 427744S_03 dated 28/6/12
 - 428259S dated 14/5/12
 - 428263S_03 dated 26/6/12
 - 428266S_02 dated 26/6/12

ITEM 3 (continued)

ATTACHMENT 2

4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Hoardings.**
 - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
7. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
8. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
9. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
10. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
11. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

General Engineering Conditions

- **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.

ITEM 3 (continued)

ATTACHMENT 2

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

DEMOLITION CONDITIONS

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

A Construction Certificate is not required for Demolition.

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

ITEM 3 (continued)

ATTACHMENT 2

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

19. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.
20. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal docket must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
21. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
22. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.
23. **Imported fill** – No fill shall be imported onto the site as a result of the demolition of the buildings.
24. **Tree Protection.** The tree protection measures set out in condition 34 must be put in place and verified by a qualified arborist prior to the commencement of any demolition.

PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

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

ITEM 3 (continued)

ATTACHMENT 2

25. **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	\$10,565.04
Open Space & Recreation Facilities	\$26,008.92
Civic & Urban Improvements	\$8,846.04
Roads & Traffic Management Facilities	\$1,206.57
Cycleways	\$753.71
Stormwater Management Facilities	\$2,395.39
Plan Administration	\$203.22
The total contribution is	\$49,978.90

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>.

26. **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**.
27. **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**.
28. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation.
29. **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

ITEM 3 (continued)

ATTACHMENT 2

30. **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**.

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

Please refer to the website www.sydneywater.com.au for:

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

Or telephone 13 20 92.

32. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.

33. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.

34. **Tree Protection.** The following trees are to be protected during demolition and construction with details being lodged with the **Construction Certificate**:

- (a) The Lemon scented gum, being tree 4 in the Arboriculture Implication Assessment & Method Statement dated 12 May 2012 by Horticultural Resources Group shall be protected as set out in that report.
- (b) The box elder being tree No. 10 in the report referred to in (a) above shall have ground protection in accordance with (or to the equivalent protection of) Figure 4 of AS4970-2009 – Protection for Trees on Development Sites. The protection is to be provided between the proposed retaining wall and the boundary within a 5m radius of the tree that is located on the adjoining property.

Engineering Conditions to be complied with Prior To Construction Certificate

35. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels issued by Council. The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the **Construction Certificate**.

ITEM 3 (continued)

ATTACHMENT 2

36. Driveway Grades. The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. The driveway design is to incorporate Council's issued footpath and gutter crossing levels where they are required as a condition of consent. A driveway plan, longitudinal section from the centreline of the public road to the garage floor, and any necessary cross-sections clearly demonstrating that the driveway complies with the above details, and that vehicles may safely manoeuvre within the site without scraping shall be submitted with the Construction Certificate application.

37. On-Site Stormwater Detention. Stormwater runoff from all impervious areas shall be collected and piped by gravity flow to a suitable on-site detention system in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management.

Accordingly, revised engineering plans prepared by a qualified engineer shall be submitted with the construction certificate application, addressing, but not be limited to the following:

- (a) The overland flow pipe to capture the flows from upslope properties shall be designed and positioned in such a way to capture the 100 year ARI flow and direct to the street
- (b) All fences between units to have a 100mm gap above proposed ground levels to allow for overland flows to be directed towards the street.

38. Water Tank First Flush. A first flush mechanism is to be designed and constructed with the water tank system. Details of the first flush system are to be submitted with the construction certificate application.

39. Erosion and Sediment Control Plan. An *Erosion and Sediment Control Plan (ESCP)* shall be prepared by a suitably qualified consultant in accordance with the guidelines set out in the manual "*Managing Urban Stormwater, Soils and Construction*" prepared by the Landcom. These devices shall be maintained during the construction works and replaced where considered necessary.

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

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

ITEM 3 (continued)

ATTACHMENT 2

- (m) Details and procedures for dust control.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

40. 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.

41. 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.

42. 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).

ITEM 3 (continued)

ATTACHMENT 2

43. Excavation adjacent to adjoining land

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

44. 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.

45. Tree Protection. The tree protection measures set out in condition 34 must be put in place and verified by a qualified arborist prior to the commencement of any work.

Engineering Conditions to be complied with Prior to Commencement of Construction

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

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

48. Vehicle Footpath Crossings. Concrete footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The location, design and construction shall conform to the requirements of Council. Crossings are to be constructed in plain reinforced concrete and finished levels shall conform with property alignment levels issued by Council's Public Works Division. Kerbs shall not be returned to the alignment line. Bridge and pipe crossings will not be permitted.

DURING CONSTRUCTION

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

ITEM 3 (continued)

ATTACHMENT 2

49. **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*.
50. **Construction noise.** The L₁₀ noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.
51. **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.
52. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
53. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- (c) Fill is allowed under this consent;
 - (d) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (e) the material is reused only to the extent that fill is allowed by the consent.
54. **Construction materials.** All materials associated with construction must be retained within the site.
55. **Site Facilities**
The following facilities must be provided on the site:
- (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
56. **Site maintenance**
The applicant must ensure that:
- (a) approved sediment and erosion control measures are installed and maintained during the construction period;
 - (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
 - (c) the site is clear of waste and debris at the completion of the works.
57. **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".

ITEM 3 (continued)

ATTACHMENT 2

58. **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.
59. **Tree removal.** The trees situated on the site that were identified for removal in the arborist report in Condition 34(a) may be removed, being trees 5 – 9 in that report.
60. **Trees on Footpath.** The Oleander trees on Council's nature strip, being trees 1 & 3 in the arborist report referred to in Condition 34(a) may be removed. The Crepe Myrtle must be retained and be protected during demolition and construction. A replacement tree (Lemon Myrtle) shall be planted near the location of tree 3 that was removed and as shown on the approved landscape plan.
61. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.
62. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
63. **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 and protected on the adjoining site.
64. **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.
65. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

ITEM 3 (continued)

ATTACHMENT 2

66. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered.

- 427744S_03 dated 28/6/12
- 428259S dated 14/5/12
- 428263S_03 dated 26/6/12
- 428266S_02 dated 26/6/12

67. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of the **Occupation Certificate**.

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

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

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

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

Engineering Conditions to be complied with Prior to Occupation Certificate

70. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.

71. **Footpath Paving Construction.** The applicant shall, at no cost to Council, construct any damaged concrete footpath paving across the frontage of the property. Levels of the footpath paving shall conform with levels issued by Council's Engineering Services Division.

72. **On-Site Stormwater Detention System - Marker Plate.** Each on-site detention system basin shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface or access grate. The wording on the marker plate is described in City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. An approved plate may be purchased from Council's Customer Service Centre on presentation of a completed City of Ryde OSD certification form.

ITEM 3 (continued)

ATTACHMENT 2

73. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels **is to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA.
74. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Project No 120408 drawings D01 issue D dated 26/6/12 and D02 issue C dated 26/6/12 prepared by Istruct Consulting Engineers and as amended in red by Council.
75. **Compliance Certificates – Engineering.** Compliance Certificates should be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and **submitted to the PCA:**
- Confirming that all vehicular footway and gutter (layback) crossings are constructed in accordance with the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria – 1999 section 4.*
 - Confirming that the driveway is constructed in accordance with the construction plan requirements and Ryde City Development Control Plan 2010: - Part 8.3; Driveways.
 - Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management
 - Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
 - Confirming that the vehicular crossing has been removed and the kerb and gutter have been constructed in accordance with Council's *Environmental Standards Development Criteria -1999 section 4*
76. **Positive Covenant, OSD.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Stormwater Detention Systems and to the satisfaction of Council.

PRIOR TO SUBDIVISION CERTIFICATE

The following conditions in this Part of the consent apply to the Subdivision component of the development.

All conditions in this Part of the consent must be complied with prior to the issue of a Subdivision Certificate.

77. **Final plan of subdivision.** The submission of a final plan of subdivision plus 3 copies suitable for endorsement by the Authorised Officer of Council.

ITEM 3 (continued)

ATTACHMENT 2


78. **Final plan of subdivision – title details.** The final plan of subdivision shall contain detail all existing and/or proposed easements, positive covenants and restrictions of the use of land.
79. **Section 88B Instrument.** The submission of an Instrument under Section 88B of the Conveyancing Act 1919 plus 3 copies, creating Easements, Positive Covenants and Restrictions on Use. This Instrument shall nominate the City of Ryde as the authority empowered to release, vary or modify the terms of the Instrument.
80. **Occupation Certificate.** A final occupation certificate in relation to this Development Consent must be in force.
81. **Section 73 Certificate.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

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

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of the Subdivision Certificate.

ITEM 3 (continued)

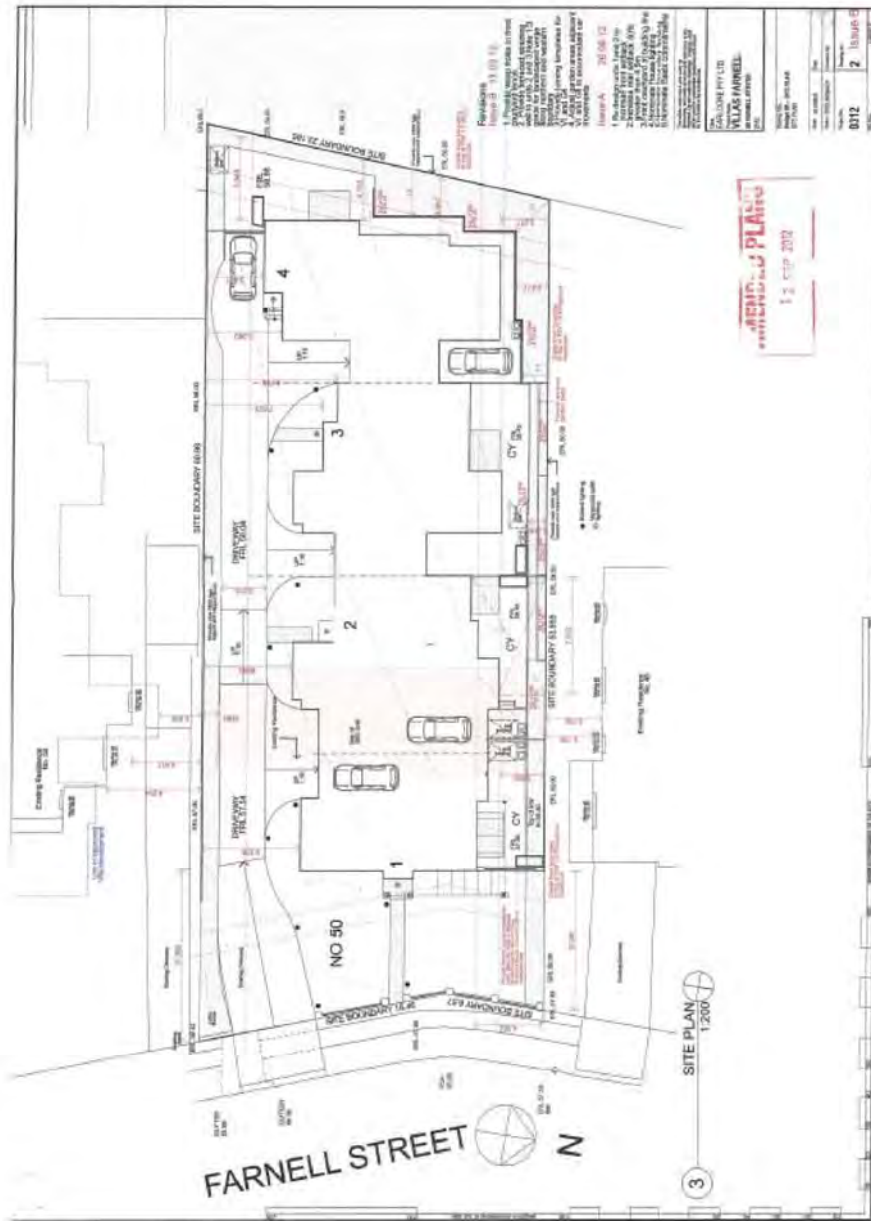
ATTACHMENT 3

 Indicates submissions received



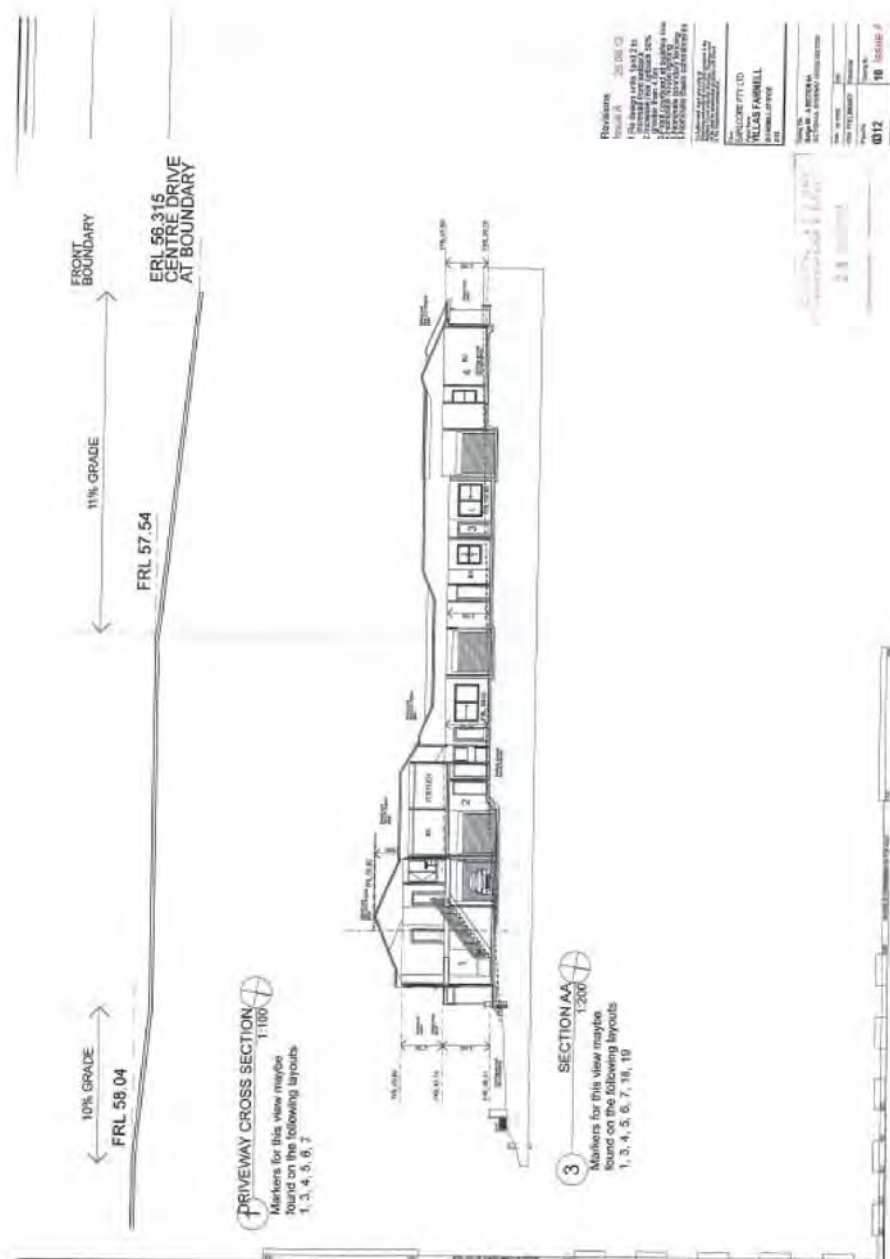
ITEM 3 (continued)

ATTACHMENT 4



ITEM 3 (continued)

ATTACHMENT 4



4 66A PELLISIER ROAD, PUTNEY. LOT B DP 419543. Local Development Application for new dual occupancy. LDA2012/0106.

INSPECTION: 4.55pm

INTERVIEW: 5.35pm

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

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

Report dated: 6 November 2012 **File Number:** grp/12/5/5/3 - BP12/1313

1. Report Summary

Applicant: E Parsons.

Owner: E J Grodzicky.

Date lodged: 5 April 2012

This report considers a proposal to construct a new two storey dual occupancy development (attached).

The proposal does not comply with the minimum site area of 580m² required for dual occupancy development being only 577.4m² (shortfall of 2.6m²) and accordingly the applicant has submitted a written request to vary the standard as required under Clause 4.6 of the RLEP 2010.

Amended plans were received 20 September 2012 which amended the proposal to address areas of non compliance with Part 3.3 (Dwelling Houses and Dual Occupancy (Attached)) of Council's Development Control Plan (DCP) 2010. The amendments include:

- Increasing the rear setback from between 2.8m to 8m to between 6.8m to 9.6m
- Reducing the floor space by deleting the 1st floor study area of Unit 2, to ensure the development does not exceed the maximum floor space ratio of 0.5:1. The new total floor area is 276.1m² with a floor space ratio of 0.48:1
- Amend the kitchen and laundry windows of Unit 2 along the northern elevation to high light windows and
- Stepping down the rear portion of Unit 2 to follow the topography of the site.

The proposal was notified to neighbours in accordance with DCP 2010, and one letter containing 14 signatures was received objecting to the proposal. A submission from a planning consultant was also submitted on behalf of one of the objectors.

Figure 1 of this report indicates the location of the objectors.

ITEM 4 (continued)

The main issues raised were non compliances with Council's requirement with regard to the size of the allotment - the site fails on the minimum site requirement, non compliance with rear setback, overdevelopment of the site, loss of privacy, impact on streetscape, safety concerns, lack of parking, drainage and loss of views and solar access.

The amended plans which addressed the concerns about the rear setback and overlooking was renotified to adjoining properties. One letter containing the same 14 signatures was received still objecting to the proposal reiterating the issues outlined in the original submission.

It is considered that in the amended design of the dwellings, the applicant has been mindful of the impact of the development on the adjoining dwellings and has provided appropriate setbacks, building articulation, minimal first floor windows to the sides of the proposed dwellings and appropriate landscaping along side boundaries in order to minimise the perceived and actual impacts of the development.

The amended development results in substantial compliance with Council's DCP for Dual Occupancies with variations occurring in respect of lot size and rear setback. These variations are considered minor and do not result in a significant material impact to the adjoining property.

The proposal is recommended for approval.

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

Public Submissions: **Two submissions - one containing 14 signatures** and a separate submission from a Planning Consultant on behalf of one of the objectors was received objecting to the original development. Following re-notification of the amended plans one submission containing the same 14 signatures was received reiterating the original issues.

Clause 4.6 RLEP 2010 objection required? Yes – variation to minimum lot size of 580m² under Clause 4.5A (2). The subject site has an area of 577.4m², a shortfall of 2.6m², variation of 0.45%

Value of works? \$500,000

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

ITEM 4 (continued)**RECOMMENDATION:**

- (a) That Local Development Application No. 2012/106 at No. 66a Pellisier Road, Putney, being LOT B DP 419543, 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

Report Prepared By:

Sandra McCarry
Senior Town Planner

Sandra Bailey
Team Leader - Major Development Team

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 4 (continued)**2. Site** (*Refer to attached map.*)

Address	:	66a Pellisier Rd Putney
Site Area	:	577.4m ² Corner Allotment - Frontage: Approximate 13m to Pellisier Road (including splayed corner) and secondary frontage to McGowan Road - 39m.
Topography and Vegetation	:	The site slopes from the front (south- west) corner to the rear (north- eastern) corner, with a gradient of approximately 1:16, which is a relatively gentle slope. There are no significant trees on site. A small tree is located in the rear north eastern corner, which is to be retained.
Existing Buildings	:	Dwelling house – to be demolished under a separate application.
Planning Controls Zoning	:	R2 – Low Density Residential Zone pursuant to the Ryde Local Environmental Plan (LEP) 2010
Other	:	State Environment Planning Policy – Building Sustainability Index: BASIX SEPP No. 55 – Remediation of Land Sydney Environmental Plan (Sydney Harbour Catchment) 2005 Sydney Harbour Foreshore & Waterways Development Control Plan Ryde Development Control Plan (DCP) 2010 Part 3.3 – Dwelling Houses and Duplex Buildings Part 7.2 – Waste Minimisation and Management Part 8.2 – Stormwater Management Part 9.4 – Fencing

ITEM 4 (continued)



Figure 1 – Locality Map. Red dots denotes location of objectors.

3. Councillor Representations

Name of Councillor: The Mayor, Councillor Petch

Nature of the representation: Request the application to be considered by Planning & Environment Committee.

Date: 18 August 2012

Form of the representation (e.g. via email, meeting, phone call): Telephone call to Group Manager.

On behalf of applicant or objectors? Objectors

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

4. Political Donations or Gifts

Any political donations or gifts disclosed? No.

5. Proposal

Erection of a two storey dual occupancy (attached) development. Each dwelling will contain two levels with the following on each floor:

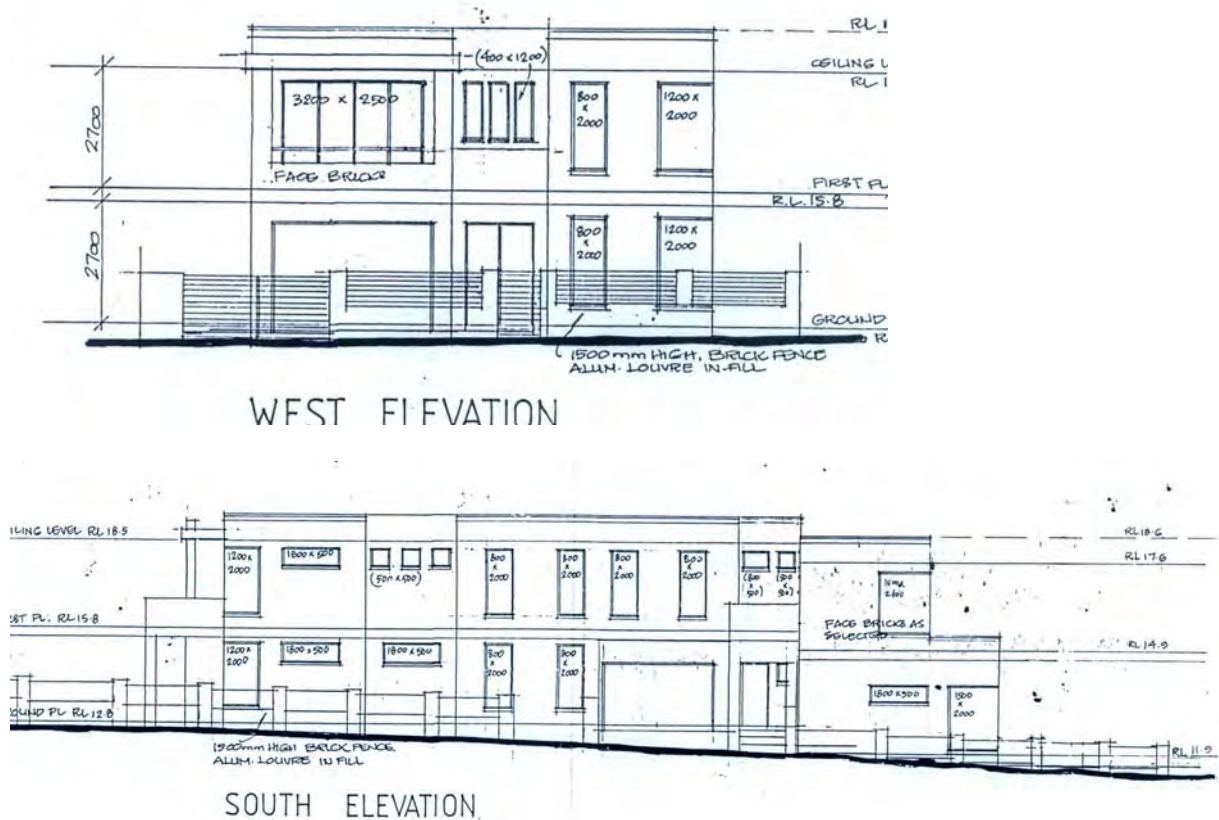
ITEM 4 (continued)

Ground floor: One bathroom, kitchen, laundry, living area and a single car garage for each unit.

First floor: Three bedrooms, bathroom and WC and a family area for Unit 1.

The subject site is a corner allotment with Unit 1 facing Pellisier Road and Unit 2 facing McGowan Street.

The following diagram illustrates the front elevation of the development, showing its presentation to Pellisier Road:



The southern elevation facing McGowan Street is demonstrated in the above diagram.

6. Background

- Local Development Application No 2012/106 lodged with Council on 5 April 2012. Shortly thereafter, referral to other officers within Council and neighbour notification/advertising (18 April 2012, closing date for submissions was 3 May 2012). One submission containing 14 signatures and one submission from a planning consultant on behalf of one of the objectors was received.

ITEM 4 (continued)

- Preliminary assessment of the proposal was carried out and a stop the clock was sent out on 1 May 2012 requesting amendments to drainage plans and to demonstrate that an easement to drain water can/cannot be obtained.
- A letter was sent requesting the following non-compliances be addressed:
 - FSR, proposal over the maximum floor space by 17.7m²
 - Rear setback
 - Insufficient shadow diagrams and landscaping plan
 - Maximum fill
 - Privacy impact to adjoining northern property
 - Garage forward of dwelling
 - Encroachment of front fence onto Council's land.
- Amended plans were received on 20 September 2012 which addresses some of the above issues such as rear setback, floor space ratio, reduced fill and privacy concerns. These issues are discussed further in the report. The amendments were re-notified to surrounding properties owners and one submission containing 14 signatures were received.

7. SubmissionsOriginal Plans:

The proposal was notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. Notification of the proposal was from 18 April 2012 until 3 May 2012.

Two submissions were received. The issues raised in the submissions included:

- *Met with Ryde Council Officers in February 2010 to ask what development was possible on 66A, informed by Council staff that the block at 577.4m² was too small for dual occupancy (villa or town houses) as land had to be a minimum of 600m². It was assumed by most residents in the vicinity that any development would be a family house in keeping with the character of houses in the local area with no adverse effect on the existing streetscape.*

Comment:

In February 2010 the Ryde Planning Scheme Ordinance was the relevant planning control document and Clause 56E (2) of the RPSO restricts erection of duplex building unless the allotment of land upon which it is to be erected has an area of not less than 580m². This is the same as the current control. However there were provisions under State Environmental Planning Policy No. 1 to provide councils with the flexibility to vary the development standard if it can be demonstrated that compliance with the development standard, in the particular circumstances, is unreasonable or unnecessary. The SEPP 1 provision has now changed to Clause 4.6.

ITEM 4 (continued)

Provision of 600m² would have applied to “urban housing” (villas) which required 300m² for each 1, 2 or 3 bedroom dwelling. The current development has been submitted under the RLEP 2010 controls which permits attached dual occupancies on sites with a minimum site area of 580m². The applicant has submitted a written request to consider the variation for shortfall of 2.6m² under Clause 4.6. Council must assess any request under Clause 4.6 on its merits. This is discussed further in the report.

- *The proposed development is an over-development of the site, would be an undesirable precedent. The bulk, scale and design do not complement the existing streetscape and homes in the area. A similar dual occupancy was rejected at 68 Pellisier Road (a bigger block at 828.3m²).*

Comment:

The applicant has amended the proposal to reduce the size of the development to ensure it does not exceed the FSR control of 0.5:1. The bulk and scale have been reduced from 305.9m² (0.53:1) to 276m² (0.48:1), which is below the maximum allowed. The streetscape of the area comprises a mixture of new two storey contemporary homes and the proposed design is considered to be of similar nature to the newer style homes being constructed within the locality.

With regard to the application at 68 Pellisier Road, being DA 429/95, this application was refused by delegated authority on 19 October 1995. The proposal was assessed under the then planning controls being the Ryde Planning Scheme Ordinance. The reasons for refusal were because the development would necessitate the removal of two significant eucalyptus trees and that the bulk and scale of the proposed building would adversely affect the amenity and privacy of adjoining properties. Whilst the proposal complied with the floor space ratio there were concerns about overlooking from proposed elevated balconies and excessive overshadowing to 70 Pellisier Road (adjoining southern property). This is not the case in this application as there will be minimal overshadowing to any adjoining properties and concerns about overlooking have been minimised by the placement of high light windows and a privacy screen. Full discussion of privacy/overlooking is discussed further in report.

- *The site is 577.4m², which is less than 580m² and fails on this control.*

Comment:

Whilst the subject site is short of the required 580m² by 2.6m², the applicant has submitted a written request under Clause 4.6 of RLEP 2010 for Council to consider the variation. Full discussion of the variation is assessed below under Clause 4.6.

ITEM 4 (continued)



The driveway and garage of 2 McGowan Street, adjacent to the common (rear) boundary of subject site.



The common boundary (rear) with existing landscaping on the adjoining property to screen the proposed development.

The variation to the rear setback is not considered to have such an impact to adjoining properties as to warrant refusal or amendment to the proposal.

- *It is an overdevelopment of the site – despite the fact that the FSR is just under 50%. Is the height realistic – the objectives and controls are compromised by this LDA. Also a complete double storey wall along McGowan with only 2 miniscule indentations –it is a straight wall of 7.8m, would extend 25.2m of the boundary edged and is poor and ugly design – will ruin the current harmonious streetscape.*

ITEM 4 (continued)Comment:

The applicant has amended the proposed to reduce the floor space to 0.48:1. The overall maximum height of the building is 8.7m which is under the maximum allowed of 9.5m. The building is not considered to be against the objectives of the height control as the building is proportional to other buildings within the locality and will not have any adverse impact in terms of overshadowing to any adjoining properties.

With regard to the double storey wall along McGowan Street, the subject site is a corner allotment with the secondary and longest frontage facing McGowan Street. The length of the building along McGowan Street is 25m, which is not too dissimilar to other dwellings in Pellisier Road and McGowan Street. Articulations have been provided by indenting the kitchen, garage area and the front entry to Unit 2, to provide some architectural relief. Given that the proposal complies with the side secondary setback control of 2m, is within the floor space ratio and has provided architectural relief along this elevation with sufficient front and rear setbacks, the proposal does not warrant further amendments.

- *Safety of motor vehicle access for unit 2 – with new access in the middle of a narrow and short street, McGowan Street will become unsafe. With each 3 bedroom unit – it would mean 3-4 extra cars and with only 1 car space each unit, there may be up to 6 more cars in our area. There is no off street parking for Unit 2 so it fails objective 1 of Clause 2.10 and the driveway is too small for a parked car.*

Comment:

The proposal complies with the number of parking spaces required for dual occupancy development – 1 space maximum for each dwelling. Dwellings 1 and 2 have been provided with a single garage each, Dwelling 1 has access off Pellisier Road and Dwelling 2 has access off McGowan Street.

Council's Development Engineer has reviewed the proposal and the objector's concerns about Dwelling 2 access to McGowan Street and has advised the following: *The proposed driveway location is about 14m from the eastern boundary of the subject site and even more than this from the corner of McGowan Street. The distances from the driveway to the easterly corner of McGowan Street and to the corner of McGowan Street and Pellisier Road comply with the requirements of Figure 3.1 and Figure 3.3 of Australian Standard AS2890.1. The traffic in this area is low and vehicles coming along McGowan Street from turning south towards the westerly direction has adequate sight distance to see any vehicles reversing from the proposed driveway. There are no objections to the location of this new driveway."*

The proposed location of the second driveway in McGowan Street is considered satisfactory and is not considered to create an unsafe situation.

ITEM 4 (continued)

- *View sharing - view reduction to NE/N, takes away 90° of views, light and winter warmth for 68 Pellisier Road over Morrison Bay/Park from their upstairs family room, meals & kitchen area. Contravenes Section 2.13.4 objective 1.*

Comment:

The north facing areas of 68 Pellisier Road currently enjoys distant north-easterly and eastern views to Morrison Bay, as shown in the photos below.



Red lines denote view lines from 68 Pellisier Road with red hatched area being the subject site.

ITEM 4 (continued)



View from 1st floor balcony area looking north-east to Morrison Bay

The view sharing assessment followed the four step procedure established by the Land and Environment Court (LEC) planning principle on views (Tenacity Consulting v Warringah Council [2004] NSWLEC 140 (2004)).

The view sharing assessment is as follows:

LEC Principle: The first step is the assessment of views to be affected.

Comment: The views are of Morrison Bay located approximately 100m away and can be rated as being valuable.

LEC Principle: The second step is to consider from what part of the property the views are obtained.

Comment: The views are obtained from the first floor side deck area of the dwelling off the family room, looking across the side boundary.

ITEM 4 (continued)

LEC Principle: The third step is to assess the extent of the impact.

Comment: The construction of the building will not completely remove the open outlook enjoyed by 68 Pellisier Road and it is unreasonable to expect that the owners of 66a cannot extend further down their site, subject to general compliance with the rear setback requirement. In this instance the non compliance with the rear setback only occurs on the ground floor with the first floor fully complying. The outlook to Morrison Bay from the balcony area is generally retained as illustrated below by the view lines to Morrison Bay and shown by the photos.



*Blue line denote approximate outline of proposed dwelling at subject site.
Red lines denote view lines from outdoor balcony area of 68 Pellisier Road.
View lights to Morrison Bay are still retained.*

ITEM 4 (continued)



Looking north- east, still able to see Morrison Bay through 2 & 4 McGowan Street



From the balcony area looking east towards the rear through 4A & 6 McGowan Street.

ITEM 4 (continued)

LEC Principle: The fourth step is to assess the reasonableness of the proposal that is causing the impact.

Comment: The proposal complies with Council's requirements in terms of front and side setbacks, height controls and floor space. The rear setback has been increased to 6.8m to 9.6m with the second storey element complying with the 9.6m rear setback requirement.

As acknowledged by the Court, protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries, and is often unrealistic. Some of the objector's "views" are obtained across the side boundary and whilst some northern view will be lost, the views to the north east will be retained. The objector's rear view will not be impacted on.

By applying the four step assessment of the Land and Environment Court planning principles on view loss, it is unrealistic and unreasonable to expect that a reasonably sized two storey building which generally complies with Council's DCP, cannot be erected adjacent to the side boundary (secondary frontage), as such the proposal is considered acceptable.

With regards to the loss of natural light and solar access, the proposal is not considered to greatly reduce natural light or solar access to 68 Pellisier Road as to warrant refusal of the development. The shadow diagrams indicated that the shadow will fall predominantly on McGowan Street. The first floor deck area will still be able to achieve natural lighting and solar access.

- *Solar reduction – 68 Pellisier Road award winning passive home will be impeded both upstairs (family room/kitchen, living/dining area) and downstairs. The family room, meals and kitchen area will have major loss of light due to bulk, scale and height of the proposed development and will make 68 Pellisier Road less energy efficient.*

Comment:

As previously mentioned, the subject site is a corner allotment with McGowan Street and Pellisier Road. The subject development and 68 Pellisier Road are separated by a distance of approximately 12m. The shadow diagrams below illustrate the shadows cast by the development and its impact to 68 Pellisier Street during mid winter. The shadow diagram below illustrated that at 9am, 12noon and 3pm the shadows will be within McGowan Street with minimal impact or no impact to 68 Pellisier Road.

ITEM 4 (continued)



Shadows cast by the proposed development – does not reach 68 Pellissier Road.

- *Sewerage & stormwater drainage from 66a to 66 at the rear, seems that there could be a problem as there is almost 1m drop in levels at rear between the two properties. The properties located to the north (66 Pellissier) and east (2 McGowan) have these drainage issues - drainage problems are exacerbated by allowing more than one dwelling on this small block.*

Comment:

A request was submitted to 2 McGowan Street by the applicant for a stormwater easement through their property. The owners of 2 McGowan have replied advising that “we have not encountered any problems with stormwater runoff from 66a Pellissier and do not consent to the granting of a stormwater easement”. In addition to this comment Council has no records of any drainage concerns with regard to 66 Pellissier Road and 2 McGowan Street. Council’s Development Engineer has reviewed the proposal and has advised that from a drainage perspective, subject to conditions, there are no objections to the proposal.

- *Acoustic privacy is also a concern to the immediate adjacent neighbours as two extra families will create additional noise.*

Comment:

The use is for residential purposes with one additional household to the existing situation. The concern of noise from the proposed dual occupancy is not considered to be an issue that would warrant modification or refusal of the application.

ITEM 4 (continued)

Submission from Plandev P/L (Planning Consultant on behalf of 68 Pellisier Road)

- *The proposed development will result in a solid and bulky wall with a length of approx 25m – nearly 90% of the property boundary along McGowan Street. There has been no regard for stepping the building in response to the topography. McGowan Street is characterised by single dwellings with varied setback. The proposed development has no regard for the streetscape and will have an adverse impact on the character of McGowan Street.*

Comment:

The subject site is a corner allotment with the secondary frontage to McGowan Street. The southern elevation facing McGowan Street has been reduced in length so as to increase the rear setback. However, taken into consideration that McGowan Street is the subject site secondary (side) frontage, it is not unreasonable to have a normal two storey dwelling extend down the side boundary and be 25m in length. The streetscape along this section of McGowan Street comprise of the dwelling opposite (68 Pellisier Road) which is approximately 35m in length with has a high solid 1.8m wall down the side boundary facing McGowan Street. The proposed development is not considered to adversely impact on the streetscape of McGowan Street.



68 Pellisier Road – Streetscape - high solid wall with hedge landscaping along McGowan Street frontage.

ITEM 4 (continued)

- *The proposed development is inconsistent with the desired future character in that: - it does not look similar to a detached dwelling due to its excessive height, bulk and scale and is akin to a multi dwelling. It is poorly designed with no regard to site topography, the design creates a solid wall appearance with little articulation or building modulation to McGowan Street and the garage fronting Pellisier Road is forward of the building line and will dominate the façade having an adverse impact on the streetscape.*

Comment:

The proposed development complies with Council's height, floor space ratio and setback controls, albeit a minor variation to the rear setback. The dwelling, whilst a dual occupancy has the appearance of a two storey dwelling from Pellisier Road and is not considered to be too dissimilar to other dwellings within the locality, as shown by the photos below:



Front elevation – facing Pellisier Road, two storey dwelling with flat roof.



62 & 62A Pellisier Road – contemporary two storey dwellings

ITEM 4 (continued)



38 Pellisier Road – example of flat roof



24 Pellisier Road – flat roof and garage at front.

ITEM 4 (continued)

With regard to the garage being located forward of the building, the proposed garage is 4.8m in width being a single garage with the garage width less than 50% of the front elevation width. Council's DCP requires the garage to be setback behind the dwelling so that garages are not a dominant feature of the streetscape. In this instance, the garage projects forward of the building by 1.2m. The proposed garage design is not considered to dominant the streetscape or the façade of the dwelling and satisfies the intent of the DCP.

- *Visual Privacy – windows on the southern side will allow for direct visibility into the dwelling located at 68 Pellisier Road. In addition there will be a visual privacy issue to 66 Pellisier Road. There will be direct visual access into the terrace and backyard of 66 Pellisier Road. We object to the proposed development due to the adverse visual privacy implication it will cause for the properties immediately adjacent to the subject site.*

Comment:

Concerns were raised by Council in respect to overlooking into the adjoining property's (66 Pellisier Road) side windows, front and rear deck and rear yard area, especially given the elevated nature of the proposed development (worst point elevated by 1.4m to 1.6m).



Side windows & rear deck area of 66 Pellisier Road

ITEM 4 (continued)

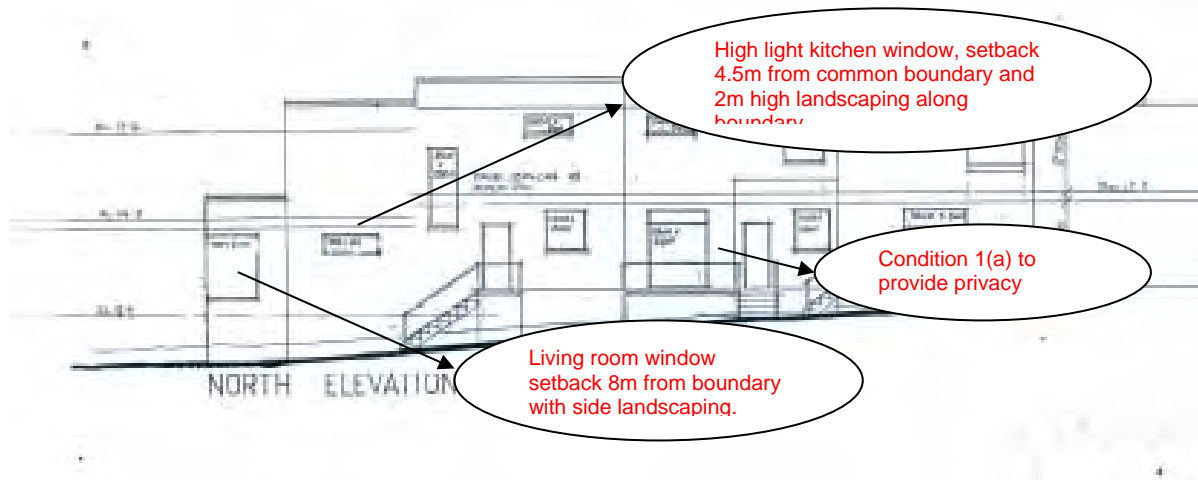


Photo taken from the existing elevated rear deck area of existing dwelling looking into the rear yard area of 66 Pellisier Road.

The applicant has amended the plans to provide high light windows (kitchen and laundry windows) along the northern elevation of Unit 2 which faces the rear section and rear yard of 66 Pellisier Road. The high light window will not affect the amenity of the kitchen as the kitchen contains two other windows.

Unit 2 will be setback 4.5m to 8m from the side common boundary with the rear section of Unit 2 stepped down to lower the finished floor level by 500mm. In addition to this, a 2m high landscaping strip is proposed along the northern boundary to screen and soften the development as viewed from 66 Pellisier Road. The amended proposal will minimise overlooking to 66 Pellisier Road and will result in an improvement to the current situation where the existing dwelling has an elevated rear deck with no side screening and currently overlooks into 66 Pellisier Road's rear yard area. The living room window of Unit 2 is setback 8m from the common boundary and the finished floor level has been lowered to minimise any potential overlooking. This together with the proposed and existing landscaping along the northern boundary will minimise any overlooking to 66 Pellisier Road.

ITEM 4 (continued)



With regard to Unit 1, the side garage window is not considered to pose any overlooking concerns as it is a low use area and set back 2.5m off the common boundary. However, it is proposed to provide a raised deck area off the living area, setback 3.5m off the boundary. 66 Pellisier Road has a ground floor and first floor windows in the vicinity of the raised deck area and insufficient details have been submitted to ascertain what rooms these windows are off. To protect the amenity to these windows, a privacy screen should be provided along the outer edge of the deck area. The screen is to be a fixed privacy screen and is to have a minimum height of 1.6m above the finish floor level and constructed of complimentary materials and shall not allow greater than 50% visible transparency to the adjoining property.

Condition 1 (a) has been imposed requiring this.

- *Streetscape/Design – the streetscape is characterised by single storey and two storey dwellings. The development will have a flat roof and will not be consistent with the streetscape – the development will not be harmonious with the streetscape. The majority of the buildings within Putney have pitched roofs – the subject site has a flat roof, therefore the roof will not be compatible with the surrounding area.*

Comment:

As illustrated by the photos above, the proposed development is not considered to be out of character with the area. The streetscape is not just characterised by the immediate adjoining properties but can encumber the wider area along Pellisier Road. Pellisier Road comprises of a mixture of new two storeys dwellings of modern and contemporary design and older single storey style homes. The proposed design of the building is not out of character with what is being approved and constructed within the Ryde local area. Whilst the proposed roof is not a pitched roof there are examples of flat roofs within the streetscape, as such the proposed design is not inconsistent with what is being constructed within the area.

ITEM 4 (continued)

- *Floorspace ratio – the proposal does not accurately calculate the FSR and is likely to exceed Council's maximum FSR control.*

Comment:

Calculation of the proposed floor space showed that the proposal was over the maximum floor space allowed by 17m². The applicant was advised of the non compliance and requested to amend the proposal. The applicant has reduced the floor area and amended plans were received to Council on 20 September 2012. The amended plans result in the FSR being reduced to 0.48:1 which is less than the maximum permitted of 0.5:1.

- *View loss – the residents at 68 Pellisier Road will lose a portion of their view of Morrison Bay and Morrison Bay Park if the development goes ahead. The design of the development has not adequately addressed the issue of view loss in relation to residents at 68 Pellisier.*

Comment:

See comments above in relation to view loss.

- *Rear Setback – the proposal does not comply with Council's rear setback controls. It is required to be setback 9.6m. The non compliance has an adverse impact on the McGowan Street setback and compound the adverse privacy and visual bulk impacts to 66 Pellisier.*

Comment:

See comments above in relation to rear setback and impact to 66 Pellisier Road.

Amended Plans

Adjoining property owners were renotified of the amended plans and given until 9 October 2012 to make comments. One submission containing the original 14 signatories was submitted outlining their objections to the dual occupancy. The second submission fundamentally raised the same concerns being:

- *Overall size of the block does not conform to Council's requirement of 580m².*

Comment:

See previous comments and Clause 4.6 RLEP 2010 requesting variation to the 2.6m² shortfall in area.

ITEM 4 (continued)

- *Rear setback should be 9.6875m. The rear setback is now 7.150m which is still well short of the 9.6875m. Whilst the new front setback is compliant, the garage for unit 1 is 1m in front and not behind as required by the DCP.*

Comment:

See previous comments regarding the non compliance with rear setback and location of the garage.

- *We still believe that it is an overdevelopment of the site despite FSR at 0.47:1.*

Comment:

See previous comments regarding FSR and bulk and scale. Floor space controls ensure that buildings are compatible with the desirable future character of the area in terms of building bulk and scale and the proposal is fully compliant with the height and FSR for low density zones.

- *Visual privacy at 66 Pellisier Road is still compromised – we fell that Unit 2 will have substantial viewing access from the proposed ground floor areas. The windows on the south side will impede on 68 Pellisier Road visual privacy, particularly as the proposed southern wall bedrooms 1 & 2 for each unit are upstairs.*

Comment:

See previous comments about privacy to the adjoining northern property – 66 Pellisier Road. With regards to overlooking to 68 Pellisier Road (property to the south and separated by McGowan Street, the proposal is not considered to pose any overlooking concerns to 68 Pellisier Road. Whilst the ground floor living areas have windows facing McGowan street there are proposed fencing and an existing solid fence along 68 Pellisier Road which provides visual privacy between the two properties. With regards to the first floor bedrooms windows facing 68 Pellisier Road, these are bedroom windows which are “low use” area, used mainly for sleeping. The concerns about these windows looking into their family/living and balcony areas are offset by the separation between the two properties (McGowan Road) plus setback of the dwellings.

ITEM 4 (continued)



Separation between 68 Pellisier Road and subject site.

- *Whether the overall height are realistic given Council's LEP/DCP for maintaining existing streetscape. Would like clarification on RLs given the building has been shifted westward by 1m. The amended RLs are distinctly different.*

Comment:

The survey plan submitted with original proposal was at Assumed Bench Mark not at Australian Height Datum (AHD) and the applicant was requested to submit survey plan at AHD and to amend plans accordingly.

The original proposal had an overall height of 8.8m. The amended proposal (at AHD) has an overall height of 7.8m & 8.7m. The proposal is under the maximum 9.5m permitted within R2 Low Density zones.

- *The south elevation shows a complete double storey wall along McGowan Street with only two miniscule indentations. We feel it detracts from the streetscape and is poor and ugly design – will compromise the streetscape.*

Comment:

See previous comments above.

ITEM 4 (continued)

- *The issue of safety of motor vehicle access for Unit 2 has not been addressed. The proposed garage is in a dangerous position, being in the middle of a narrow and short street. Council should give strong consideration to making this street one way only if this development is approved.*

Comment:

See previous comments – Council's Development Engineer has reviewed the access to and from Unit 2's garage and has raised no objections to the proposal in terms of traffic and safety concerns. The issue of whether the street should become one way is a separate matter to this Development Application and would be required to be considered by the Council's Traffic Committee if Council was of this view.

- *As this is close to Putney Park and parking is always at a premium. With 3 bedroom units, it mean 3 extra cars each and only 1 car space for each unit – there may be up to 4 more car in our area where there is just not the space. We reiterate that there is no off street parking for Unit 2 so it fails objective 1 under 2.10 of DCP and its driveway is too small for a parked car.*

Comment:

See previous comments with regards to parking. The proposal should not be penalised for its close proximity to a park where street parking may be in demand. Off-street parking has been provided within Putney Park and the proposal complies with the amount of parking required for dual occupancy, being one space per dwelling with no requirement for driveways to be used for parking purposes.

- *The previous issues of view sharing, solar reduction, sewage and stormwater drainage and acoustic privacy are still relevant.*

Comment:

See previous comments.

It is considered that the amended proposal has addressed some of the issues raised above, such as rear setback, floor space and privacy. The other matters such as block size, inappropriate development for the area, streetscape, parking, view sharing and design have also been addressed in the relevant sections of this report.

- 8. Clause 4.6 RLEP 2010 objection required?** Yes – Variation to Clause 4.5A(2) (a) of LEP 2010 which requires the site area for a dual occupancy (attached) to be 580m². The site area is 577.4m², which represents a variation of 2.6m².

ITEM 4 (continued)**9. Policy Implications****Relevant Provisions of Environmental Planning Instruments etc:****(a) Ryde Planning Scheme Ordinance****Zoning**

The subject site is zoned R2 – Low Density Residential under the provisions of the Ryde LEP 2010 and dual occupancy (attached) development is permissible with Council's consent.

The aims and objectives of the R2 Zone are:

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

This locality displays a range of architectural styles and the proposal is considered to be compatible with the character of the streetscape and the desired future character as identified in the general controls contained in the DCP 2010 for the R2 – Low Density Residential Zone.

The proposed development is considered to satisfy the objectives for residential developments. The proposed dwellings are two storeys and comply with Council's maximum height limits. The proposal is not considered to be inconsistent with the low density character of the zone which includes many two storey dwellings within the streetscape.

Mandatory RequirementsClause 4.3 – Height of buildings

The height of a building on the subject site must not exceed 9.5 metres.

The proposed dwelling has a maximum building height of 8.7m.

ITEM 4 (continued)Clause 4.4 – Floor space ratio

The maximum floor space ratio allowable of the site is 0.5:1; the development proposes a maximum floor space ratio of 0.48:1. See compliance table below (i.e. Assessment under DCP 2010) for a more detailed break down of the proposed floor areas.

Clause 4.5A (2) – Density controls for Zone R2 Low Density Residential.

Clause 4.5A (2) of RLEP 2010 states:

The consent authority must not consent to the erection of a dual occupancy (attached) on a lot in zone R2 Low Density Residential unless:

- (a) the lot has an area of not less than 580 square metres and*
- (b) it is satisfied that adequate arrangements have been made for the disposal of sewage and stormwater for each dwelling.*

The proposal has a site area of 577.4m², a shortfall of 2.6m², which is variation of 0.45%. The applicant has submitted a written request under Clause 4.6 to justify the variation. This will be discussed in details below under Clause 4.6.

Clause 4.6 – Exceptions to development standards.

Clause 4.6 of LEP 2010 allows exceptions to development standards. Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. The consent authority must be satisfied that the applicant's written request has satisfied the above criteria and that the proposed development will be in the public interest as it is consistent with the zone objectives as well as the objectives of the particular development standard. In addition, consent cannot be granted unless the concurrence of the Director-General has been obtained. These matters are discussed below.

1. Written request provided by the applicant.

The applicant has provided a written request seeking to justify the variation to the development standard. A revised written submission, submitted 23 October 2012 was lodged seeking variation to the minimum site area.

ITEM 4 (continued)**2. Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case.**

The reasons given by the applicant as to why compliance with the standard is unreasonable or unnecessary are:

- the amount of non compliance with the minimum site area is only 2.6m² being 0.45% (less than 1%)
- the development has been designed to comply with the slightly non compliant site area with the development complying with the relevant planning controls for the smaller site area and
- the development meets the objectives of the R2 Low Density zone. It provides for a choice of housing need for the community, will not restrict the use of adjoining lands to provide facilities or services and is a two storey development which is not uncharacteristic of the area.

The proposed argument that the variation is minor could be supported by Council. The non-compliance being only 2.6m² is very minor and will not adversely contribute to the bulk and scale of the building, as the proposal complies with the floor space ratio and height. The development is also consistent with the zone objectives in that it will provide housing needs of the community and is not considered to significantly alter the character of the area or the streetscape.

In these circumstances, compliance with the development standard would be unreasonable and unnecessary.

3. Environmental grounds to justifying contravening the development standard.

The environmental grounds given by the applicant for the variation is as above and can be summarised as follows:

- *The application proposes to provide a two storey attached dual occupancy which complies with Council's planning objectives and controls - as a replacement development for the existing dwelling house*
- *The surrounding housing consists of mostly 2 storey development and this development will be similar form and scale compatible with the low density housing*
- *The reduced site area will not restrict use of adjoining lands to provide facilities or services to meet the needs of surrounding residents*
- *The site has two street frontages, the visual outcome will be harmonistic with the existing streetscape*
- *The application proposes to continue the use of the site for residential accommodation that will provide 2 smaller dwelling houses that will provide a housing choice for the community.*

ITEM 4 (continued)

The above arguments by the applicant are considered reasonable and can be supported. The proposed dual occupancy has been amended to generally comply with Council's controls and the proposed variation is very minor – only shortfall of 2.6m² a 0.45% variation. Despite the variation in site area the development is not considered to result in unacceptable impacts on the environment. The proposal has demonstrated that a reasonable sized dwelling (attached dual occupancy) can be erected on the subject site with minimal impact to adjoining properties.

4. Consistent with the zone objectives and objectives of the development standard.

The zone objectives have already been identified in an earlier section of the report. As previously concluded, the development complies with the objectives of the zone.

The objectives of the minimum site area is to ensure that sufficient area is available to provide for a development that can comply with Council's requirements together with providing adequate amenity for future residents. The proposed dual occupancy generally complies with Council's requirement with sufficient setbacks and open space area provided for each dwelling.

The development is consistent with the zone objectives as well as the minimum lot size objectives.

5. Concurrence of the Director General.

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-Generals concurrence for exceptions to development standards.

Conclusion

Despite the non-compliance with the minimum lot size, the development satisfies the criteria outlined in clause 4.6 and the variation is considered acceptable and could be supported by Council.

(b) Relevant SEPPs**State Environmental Planning Policy - BASIX:**

A compliant BASIX Certificate No 406110M and ABSA Assessor Certificate have been submitted with the DA. A standard condition has been included in the Draft Consent requiring compliance with this BASIX certificate.

ITEM 4 (continued)

State Environment Planning Policy No. 55 – Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether the site is contaminated and if so, whether it is suitable or will be suitable after remediation for the purpose of the development.

The subject site has historically been used for residential purposes. It is unlikely to be affected by contamination. No further investigation is considered necessary.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the designated hydrological catchment of Sydney Harbour and foreshores and waterways areas. The foreshores and waterways area covers the waterways and its tributaries as well as land within the immediate foreshores and an area generally one street back from the foreshores, which is the case in this instance, as illustrated by the diagram below.

The objectives of the SREP are to provide a set of clear planning principles for land within the Sydney Harbour Catchment. Improved water quality is satisfied through compliance with the provisions of Part 8.2 (Stormwater Management) of DCP 2006 and compliance with the Sydney Harbour Foreshore & Waterways Development Control Plan which support the SEPP. Compliance with this DCP is discussed below under DCP - Sydney Harbour foreshore & Waterways Development Control Plan. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the SREP.



Subject site is within the Foreshores & Tributaries

The Sydney Harbour Foreshore & Waterways Development Control Plan has been prepared to support the SEPP and is discussed further below.

ITEM 4 (continued)

(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 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.

(d) Any DCP

Sydney Harbour Foreshore & Waterways Development Control Plan

The aims of the Development Control Plan are:

- Protecting ecological communities within the area covered by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Ensuring that the scenic quality of the area is protected or enhanced;
- Providing siting and design principles for new buildings and waterside structures within the area; and
- Identifying potential foreshore access locations in the area.

Ecological Assessment:

The subject site is located within Map 3. The ecological communities that have been identified on the site include urban development with scattered trees as well as mudflats. The urban development with scattered trees (terrestrial) has a low conservation status with the mudflats (aquatic) being a medium conservation status.

The relevant performance criteria for terrestrial ecological communities of low conservation value:

Performance Criteria	Proposal
<ul style="list-style-type: none"> • Mature trees containing hollows are preserved where feasible 	No existing trees to be removed.
<ul style="list-style-type: none"> • Natural watercourse and any special natural features such as cliff faces and rock outcrops are protected 	No special features such as cliff faces or rock outcrops.
<ul style="list-style-type: none"> • Incremental & cumulative effects are considered having regard to the above performance criteria 	The new dwelling will be setback over 70m from the waterway, behind existing dwellings fronting the foreshore, as such will not be visible from the waterway.

ITEM 4 (continued)

Performance Criteria	Proposal
<ul style="list-style-type: none"> Fencing to contain domestic pests is provided – this is to minimise predation on native fauna species by domestic pest. 	N/A
<ul style="list-style-type: none"> Measures to minimise soil erosion & siltation during construction & completion of development. Control to prevent pollutants from entering waterway. 	Any approval would be conditioned with appropriate soil and erosion control measures to prevent any soil erosion, water siltation or pollution

The relevant performance criteria for aquatic ecological communities of medium conservation value:

Performance Criteria	Proposal
<ul style="list-style-type: none"> Shading of communities is not increased 	N/A – development behind foreshore building line.
<ul style="list-style-type: none"> Food sources for grazing organisms are protected 	N/A – no impact
<ul style="list-style-type: none"> Light penetration is not reduced 	N/A – development behind foreshore building line.
<ul style="list-style-type: none"> Reclamation mitigation measures are followed – demonstrate will not affect beach formation. 	N/A – no reclamation and dredging.
<ul style="list-style-type: none"> Harmful contaminants will not be disturbed. 	N/A
<ul style="list-style-type: none"> Pollutants are not transferred into the intertidal zone; not increase nutrient levels/any increase in suspended solids is temporary and not exceed the current range of turbidity. 	Any approval would be conditioned with appropriate soil and erosion control measures to prevent any soil erosion, water siltation or pollution. Subject to appropriate conditions of consent to maintain the environment, is unlikely to result in any adverse impacts to the ecology community.

The development is considered to be consistent with the performance criteria for the ecological community.

Landscape Assessment:

The DCP has identified the site within landscape character type 14.

ITEM 4 (continued)

The Statement of Character and Intent for this type is:

Statement of Character and Intent

These areas are mostly developed with detached residential development on the upper slopes and boat shed and wharves along the foreshore. Further development in these areas must consider protecting key visual elements including rock outcrops, native vegetation, vegetation in and around dwellings and maintaining the density and spacing of development.

Any development is required to satisfy the following criteria:

Performance Criteria	Proposal
<ul style="list-style-type: none"> consideration is given to the cumulative and incremental effects of further development along the foreshore and to preserving the remaining special features 	The new development is located over 70m from the foreshore, behind dwellings that adjoin the foreshore. The proposal will not impact the shoreline.
<ul style="list-style-type: none"> development is to avoid substantial impact on the landscape qualities of the foreshore and minimise the removal of natural foreshore vegetation, radical alteration of natural ground levels, the dominance of structures protruding from rock walls or ledges or the erection of sea walls, retaining walls or terraces; 	The proposed development will not impact on any natural foreshore vegetation, being well setback from the foreshore.
<ul style="list-style-type: none"> landscaping is carried out between buildings to soften the built environment; and 	Yes
<ul style="list-style-type: none"> existing ridgeline vegetation and its dominance as the backdrop to the waterway, is retained. 	Yes – no alterations to entrance area to foreshore.

The development can satisfy the above criteria for the landscape character type.

Design Guidelines for Water-Based and Land/Water Interface Developments

The DCP includes controls with the specific purpose of ensuring that development is sympathetic to the natural and cultural qualities of the area covered by Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. These controls are discussed below:

ITEM 4 (continued)
Siting of Building and structures:

Requirement	Proposed
<ul style="list-style-type: none"> where there is existing native vegetation, buildings should be set back from this vegetation to avoid disturbance to the vegetation; 	The development is not located near any vegetation on the foreshore.
<ul style="list-style-type: none"> buildings should address the waterway; 	N/a – site does not front the waterway.
<ul style="list-style-type: none"> buildings should not obstruct views and vistas from public places to the waterway; and 	The development does not obstruct any views from any public place to the waterway.
<ul style="list-style-type: none"> buildings should not obstruct views of landmarks and features identified on the maps accompanying this DCP. 	The development does not obstruct views of any landmarks or special features.

The development is sympathetic to the natural and cultural qualities of the area and satisfies the above criteria for the siting.

Built form:

Requirement	Proposed
<ul style="list-style-type: none"> where buildings would be of a contrasting scale or design to existing buildings, care will be needed to ensure that this contrast would enhance the setting; 	The proposed new building is of a more contemporary style than the existing house. The contrast is not considered to adversely impact on the immediate setting of the area.
<ul style="list-style-type: none"> while no shapes are intrinsically unacceptable, rectangular boxy shapes with flat or skillion roofs usually do not harmonise with their surroundings. It is preferable to break up facades and roof lines into smaller elements and to use pitched roofs; 	The proposed new building has a flat roof however there are other flat roofs within the immediate locality. The roof line has been broken up with modulations in the side elevations.
<ul style="list-style-type: none"> bright lighting and especially floodlighting which reflects on the water, can cause problems with night navigation and should be avoided. External lights should be directed downward, away from the water. Australian Standards 	The development is located away from the waterway with no proposed bright lighting/floodlighting.

ITEM 4 (continued)

Requirement	Proposed
(AS4282–1997) Guidelines for Outdoor Lighting and Pedestrian Area (Category P) Lighting (AS/NZ 1158.3 – 1999) should be observed;	
<ul style="list-style-type: none"> except where otherwise required for navigation purposes, all lights on structures shall be shielded seawards and positioned to avoid disturbance to neighbouring properties; 	No floodlighting is proposed. Any external lighting will be for the deck/terrace area and is not considered to pose any adverse impact to neighbouring properties.
<ul style="list-style-type: none"> use of reflective materials is minimised and the relevant provisions of the Building Code of Australia are satisfied; 	No reflective materials proposed.
<ul style="list-style-type: none"> colours should be sympathetic with their surrounds and consistent with the colour criteria, where specified, for particular landscape character types in Part 3; 	No colour details have been provided at this stage. However, the development site is not a foreshore site, being located behind existing buildings fronting the foreshore. The development is not considered to have any impact on the landscape character within the foreshore.
<ul style="list-style-type: none"> the cumulative visual impact of a number of built elements on a single lot should be mitigated through bands of vegetation and by articulating walls and using smaller elements; and 	Landscaping is extended along the 2 side boundaries, with existing vegetation at the rear of the site being maintained.
<ul style="list-style-type: none"> the cumulative impact of development along the shoreline is considered having regard to preserving views of special natural features, landmarks or heritage items. 	N/A – not along the shoreline.

The built form of the development is considered compatible with the area and can satisfy the above criteria.

ITEM 4 (continued)**(c) Any DCP (e.g. dwelling house, villa)**

DCP 2010 was adopted by Council on 15 June 2009 and became effective on 30 June 2010 (i.e. upon commencement of Ryde LEP 2010). The development's compliance with the relevant clauses of the DCP is illustrated in **Attachment 1**:

Part 3.3 – Dwelling Houses and Duplex Buildings

Part 8.2 – Stormwater Management

Part 9.6 – Tree Preservation

The Non-compliances identified in **Attachment 1** are assessed below.

Rear Setback:

Clause 2.8.2 of the DCP requires a minimum 8m setback or 25% of the site length, whichever the greater. Based on the above, a rear setback of 9.6m is required. A rear setback of 6.8m to 9.6m is proposed. The non-compliance of 6.8m occurs only on the ground floor with the first floor element complying with the setback requirement.

The objectives of this clause are to: *retain and enhance vegetation corridors, provide space for mature tree growth, enable movement of fauna along vegetation corridors, to ensure that each building allotment has a minimum deep soil area* and also to provide privacy between the dwelling house and provide for private outdoor area.

Despite the non-compliance the proposal provides a minimum setback of 8m, which allows for 8m x 8m deep soil area for planting of a large canopy tree, provides sufficient outdoor area for future residences with no loss of amenity to the adjoining rear property. The section of non-compliance is only for a length of 5m and occurs on the ground floor only. The adjoining rear property has their side garage and driveway adjacent to the common rear boundary with existing landscaping to screen the proposed building. The proposal satisfies the objectives of the requirement.

Garage forward of the front façade and wall above garage

Clause 2.10.1 (c) of the DCP states that garages are to be located at least 1m behind the front building elevation. The primary objective of this requirement is to ensure that garages are not prominent/dominant features within the streetscape.

The proposed single garage facing Pellisier Road is integrated with the design of the dwelling, however the garage is 1.2m forward of the front façade of the building, with a first floor balcony above. It is considered that despite the numerical non-compliance the proposal will achieve the objectives as the garage is a single garage being 4.8m in width and is less than 50% of the frontage and front elevation. The garage is not considered to be a dominant feature. This is also consistent with other dwellings in the area.

ITEM 4 (continued)
ISSUES RESOLVED BY CONDITIONS:
Visual Privacy

Clause 2.13.(a) & (c), Section 3.3 – Dwelling Houses and Duplex Buildings, of DCP 2006 stipulates that *windows of the main internal living spaces such as living rooms, dining rooms, kitchen, family rooms and the like, generally to the front or to the rear of allotment. Terraces and balconies are not to overlook neighbours living areas and private open space.* The objective of these requirements is to minimise overlooking.

Along the north elevation there will be a deck area off the living room of Unit 1 and will be 900mm to 1.5m above natural ground level and opposite a window. Despite this deck area being setback 3.5m off the common boundary with 66 Pellisier Road, due to the elevated nature of the deck, potential overlooking will adversely impact on the amenity of the adjoining northern property. **Condition 1(a)** is imposed requiring a 1.6m high obscure screen being provided along the northern elevation of the deck, as marked in red on the plans, to minimise any overlooking concerns.

City of Ryde Section 94 Development Contribution Plan 2007.

The development for an attached dual occupancy will require Section 94 contributions in accordance with Council's current Section 94 Contributions Plan. The proposal comprises of:

Construction of a new 2 storey attached dual occupancy comprising of

- Dwelling 1 with 3 bedrooms plus study capable of being used as a bedroom and
- Dwelling 2 with 3 bedrooms:

Note: A credit will be given for the existing dwelling on site.

A	B
Community & Cultural Facilities	\$3,239.94
Open Space & Recreation Facilities	\$7,976.07
Civic & Urban Improvements	\$2,712.82
Roads & Traffic Management Facilities	\$370.05
Cycleways	\$231.14
Stormwater Management Facilities	\$734.70
Plan Administration	\$62.32
The total contribution is	\$15,327.04

Should the application be approved, a condition will be imposed in the Draft Consent requiring payment of a Section 94 contribution of \$15,327.04 (**Condition 12**).

ITEM 4 (continued)**10. Likely impacts of the Development****(a) Built Environment**

The proposed development involves the construction of a new two storey dual occupancy (attached) development and is not considered to have any adverse impacts on the existing built environment or the amenity of the surrounding area. The proposed development will appear as a two storey dwelling which is consistent with other developments of a similar nature.

(b) Natural Environment

The proposed development will have no significant impacts on the natural environment.

The proposed use is permitted in the zoning and is compatible with the other surrounding uses; therefore the development is considered satisfactory in terms of environmental impacts.

11. Suitability of the site for the development

The site is not classified as a heritage item or subject to any natural constraints such as urban bushland or flooding. The proposed development is therefore considered to be suitable for the site in terms of impact on existing natural and built form environments.

12. The Public Interest

The development generally complies or is justifiably inconsistent with the provisions of Council's DCP for Dwelling Houses. It is considered that approval of the application is in the public interest. Dual occupancy developments are permitted in R2 zones and provide housing choice.

13. Consultation – Internal and ExternalInternal Referrals

Development Engineer: 23 July 2012: Council's Development Engineer has reviewed the proposal and has made the following comments:

The amended drainage plan shows that stormwater line from unit 1 is strapped to the wall to achieve a gravity line to pit P1. The finished floor levels on plans for units have not changed.

A letter from the adjoining neighbour has been submitted indicating that an easement to drain water through No 2 McGowan Road will not be granted.

ITEM 4 (continued)

From drainage perspective, no objections are raised to the approval of the application subject to the attached conditions.

Access:

Proposed new site access for the subject site - The proposed location is about 14m from the eastern boundary of the subject site and even more than this from the corner of McGowen Street (adjoining north eastern corner of No 68 Pellisier Road). The distances from the driveway to the easterly corner of McGowen Street and to the corner of McGowen and Pellisier Road comply with the requirements of Figure 3.1 and Figure 3.3 of Australian Standard AS 2890.1.

The traffic in this area is low and vehicles coming along McGowen Street from south turning towards the westerly direction have adequate sight distance to see any vehicles reversing from the proposed driveway. I do not have any objections for the location of this new driveway.

Heritage Officer: 1 May 2012: Council's Heritage Officer has reviewed the proposal and has made the following comments:

The development application is assessed as having little or no impact on the heritage significance of the Heritage Item that is within the vicinity of the proposal because the development application is outside the view catchment of the heritage Item.

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

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

16. Other Options

None applicable.

17. Conclusion

This report has considered a proposal to construct a new two storey dual occupancy development (attached). The proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning and Assessment Act 1979 and is generally considered satisfactory.

ITEM 4 (continued)

The proposal generally complies with Council's DCP 2010 (Dwelling Houses and Dual Occupancy (Attached)).

The submissions received raised concerns about streetscape, lot size, privacy impacts, rear setback, parking, view loss have been addressed in the report.

In making amendments to the original proposal, the applicant has been mindful of the reduced rear setback and has provided appropriate setbacks, building articulation and windows with highlight windows to the side of the dwelling adjacent to No. 66 Pellisier Road in order to alleviate the neighbours' concerns.


It is not considered that the issues of concern raised by the neighbours are sufficient to warrant further design modifications or refusal of the development application and therefore the proposal is considered satisfactory and is recommended for approval.

ITEM 4 (continued)

ATTACHMENT 1

Table 1: Compliance with the Ryde Development Control Plan 2010

(Amended Plans submitted 20 September 2012)

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.	Yes
Dwelling Houses		
<ul style="list-style-type: none"> - To have a landscaped setting which includes significant deep soil areas at front and rear. - Maximum 2 storeys. - Dwellings to address street - Garage/carports not visually prominent features. 	<p>Front and rear gardens proposed.</p> <p>Two storeys Dwelling 1 faces Pellisier Road Dwelling 2 faces McGowan Street Single garages for each dwelling - not prominent feature.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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? 	<p>No urban housing, multi dwelling, villas or dual occupancies have been approved for 66, 64 64A and 62 & 62A Pellisier Road or 2,2A, 4, 4A, 6 & 8 McGowan Street</p> 	Yes
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. 	<p>Dwelling 1 Front door and windows face Pellisier Road.</p> <p>Dwelling 2 Front door and windows face McGowan Street.</p>	Yes

ITEM 4 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
<ul style="list-style-type: none"> - Articulated street facades. 	Single entrance portico. Articulated street façade.	Yes Yes
<p>Public Views and Vistas -A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views. Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. Fence 70% open where height is >900mm.</p>	No existing view corridor to Morrison Bay	N/a
<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. 	The development will allow for adequate sightlines from both garages.	Yes
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). - Dual occupancy developments only need 1 of 8 x 8m area (doesn't have to be shared equally). 	Permeable (deep soil) area: 279m ² approx (48% of site area). Rear DSA dimensions: 8m x 8m provided at North east corner. Front DSA: 100% permeable area in front yard= 40.7m ² . Hard surface areas have been kept to a minimum in the front yard. 8m x 8m area in rear area of Dwelling 2	Yes Yes Yes Yes
<p>Topography & Excavation Within building footprint:</p> <ul style="list-style-type: none"> - Max cut: 1.2m - Max fill: 900mm 	Within BF Max cut: No cut Max fill: Dwelling 1 – 300mm to 500m	Yes

ITEM 4 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
Habitable rooms to have 2.4m floor to ceiling height (min).	2.7m min room height.	Yes
Setbacks		
SIDE:		
Two storey dwelling <ul style="list-style-type: none"> - 1500mm to wall - Includes balconies etc 	Northern setback: Minimum 2.5m to 8m.	Yes
Side setback to secondary frontage (cnr allotments): 2m to façade and garage/carports	2m to 2.9m from McGowan Street frontage	Yes
Front <ul style="list-style-type: none"> - 6m to façade (generally) - Garage set back 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 garage and 7m to dwelling. Front porch encroaches into front setback by 1.1m. Condition 1(b) has been imposed to locate the porch to the 6m setback. Dwelling 1's garage forward of dwelling Dwelling 1 - Wall above does not align garage – however first floor balcony above	No – condition to comply No – variation acceptable No – variation acceptable. Yes
Rear <ul style="list-style-type: none"> - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. Note: 9.6m is 25% of site length.	6.8m to 9.6m	No
Car Parking & Access		
General <ul style="list-style-type: none"> - Dwelling: 2 spaces max, 1 space min. - Dual Occupancy (attached): 1 space max 	Number/location of car spaces: 2 single garages, one for each dwelling Access from: Pellisier Road and	Yes Yes

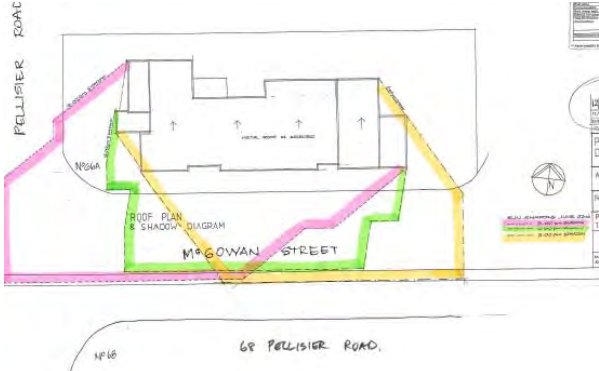
ITEM 4 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
<p>access)</p> <ul style="list-style-type: none"> - 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>of 13m) in front yard.</p> <p>Retain existing vegetation in rear yard – no trees of any height – can condition to provide tree.</p> <p>Rowe of Callistemon citrinus – clipped to 2m along eastern and northern boundaries.</p>	<p>No – however existing tree of 8m in height and proposed tree of 6m proposed</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> - Landscaped front garden, with max 40% hard paving 	<p>Hard Paving: 40%</p>	<p>Yes</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>Dwelling 1 – Living room and deck north facing.</p> <p>Dwelling 2 – Living room and deck faces East – sufficient daylight and sunlight access to the room.</p> <p>8m setback to living/deck area</p>	<p>Yes</p> <p>Yes</p>
<p>Subject Dwelling:</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. 	<p>Dwelling 1: Living area</p> <p>Dwelling 2 – North facing windows are off a laundry, kitchen, living area and 1st floor bedrooms.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21. 	<p>Unit 2 will receive more than 2 hours of sunlight to their private open space.</p> <p>Unit 1 courtyard area will not be able to achieve the required sunlight due to the orientation of the lot being east-west however Open space is available to Unit 1 in the front and southern side setback.</p>	<p>Yes</p> <p>No – variation acceptable.</p>

ITEM 4 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
<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><u>64 Pellisier Road</u> Adjoining property to the north – No overshadowing impact to their north facing windows and POS.</p> <p><u>68 Pellisier Road</u> Property to the south – across the road. Due to the road separation (McGowan Street) the length of the shadow will not hit the dwelling at 68 Pellisier Road, as such minimal impact to their north facing windows or POS.</p> 	<p>Yes</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>Dwelling 1 – Will have an elevated courtyard, setback 3.6m off the common boundary with the adjoining property (64 Pellisier Road) side windows. Condition 1(a) has been imposed to provide obscure privacy screen along the northern side of the courtyard area.</p> <p>Dwelling 2 – the dwelling is elevated, approximately 400mm to 900mm off natural grade at the rear . The dwelling is setback 4.5m off the common boundary with 66 Pellisier Road. A kitchen window, stairwell and laundry window are orientated north facing 64 Pellisier Road. Due to the elevated nature of the building, and the slope of the land, overlooking from the side kitchen window is a concern. Amended plans were submitted which changed the kitchen window to a high light window. The side living area window is setback 8m off the common boundary and with existing and proposed</p>	<p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
	2m high landscaping along the northern boundary, overlooking from this window is not considered to be an issue.	
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.	Dwelling 1 living room wall adjoin the garage of Dwelling 2.	Yes
View Sharing - The siting of development is to provide for view sharing.	The development has a flat roof under the maximum height. Eastern views to Morrison Bay can still be obtained by 68 Pellisier Road. See full discussion above.	Yes
Cross Ventilation - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation.	Cross ventilation are able to be achieved in both dwellings.	Yes
External Building Elements		
Roof - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable terrace. - Skylights to be minimised & placed symmetrically. - Front roof plane is not to have both dormer windows & skylights.	Due to the design/nature of the flat roof, there are no eaves overhang, however the proposal is able to achieve BASIX compliance, with a Pass in Thermal comfort and score of 44 (Target 40) for energy. No trafficable terrace, dormer windows or skylights.	No – variation acceptable. Yes
Fencing		
Front/return: - To reflect design of dwelling. - To reflect character & height of neighbouring fences.	Front fence Description: 1.2 high solid wall with 1.5m high brick piers and aluminium louvre infill in between. At the south-western corner of the site,	No – can condition to comply

ITEM 4 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
<ul style="list-style-type: none"> - 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>part of 66A existing front fence is currently located on Council's land. It is proposed to replace the existing fence with a new fence, however the architectural plans shows that the new fence will still be on Council land.</p> <p>This misalignment of the front fence should be rectify and the new fence should be wholly within their own property – Condition 48</p>	
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.	Council's Development Engineer has raised no objections to the proposal subject to conditions.	Yes
Part 9.2- Access for People with Disabilities		
Accessible path required from the street to the front door, where the level of land permits.	Accessible path to Dwelling 1	Yes
Part 9.6 – Tree Preservation		
<p>Where the removal of tree(s) is associated with the development 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.</p> <p>Note: A site analysis is to be undertaken to identify the site constraints and opportunities including trees</p>	No significant trees on the site.	

ITEM 4 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
<p>located on the site and neighbouring sites. In planning for a development, consideration must be given to building/site design that retains healthy trees, as Council does not normally allow the removal of trees to allow a development to proceed. The site analysis must also describe the impact of the proposed development on neighbouring trees. This is particularly important where neighbouring trees are close to the property boundary. The main issues are potential damage to the roots of neighbouring trees (possibly leading to instability and/or health deterioration), and canopy spread/shade from neighbouring trees that must be taken into account during the landscape design of the new development.</p>		

ITEM 4 (continued)

ATTACHMENT 2

CONDITIONS

GENERAL

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
Floor Plans & West elevation	12/9/12 (submitted 20/09/12)	0411 D01 A1+1
Elevations	12/9/12 (submitted 20/09/12)	0411 D02 A1+1
Section & north elevation	12/9/12 (submitted 20/09/12)	0411 D02 A1+1
Landscaping Plan	10/10/12	L01/1-R16903 Rev A

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

- (a) **Privacy Screen:** To protect the amenity to the adjoining northern property a privacy screen be provided along the outer edge of the raised deck area of Unit 1. The screen is to be a fixed privacy screen to have a minimum height of 1.6m above the finish floor level and constructed of complimentary materials and shall not allow greater than 50% visible transparency to the adjoining property.
- (b) **Front setback.** The front porch is not to encroach within the front 6m setback with the area within the setback being deleted.

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

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate numbered 406110M dated 13 January 2012.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.

ITEM 4 (continued)

ATTACHMENT 2

Protection of Adjoining and Public Land

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. **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.
7. **Fill.** No fill to be provided between the side of building & boundary.

GENERAL ENGINEERING CONDITIONS

8. **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.
9. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
10. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
11. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No drainage work shall be carried out on the footpath without this permit being paid and a copy kept on the site.

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.

ITEM 4 (continued)

ATTACHMENT 2

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

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

12. **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	\$3,239.94
Open Space & Recreation Facilities	\$7,976.07
Civic & Urban Improvements	\$2,712.82
Roads & Traffic Management Facilities	\$370.05
Cycleways	\$231.14
Stormwater Management Facilities	\$734.70
Plan Administration	\$62.32
The total contribution is	\$15,327.04

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>.

13. **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**.

ITEM 4 (continued)

ATTACHMENT 2

14. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (Category: dwelling houses with delivery of bricks or concrete or machine excavation).
15. **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
16. **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**.
17. **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**.
18. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

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

Or telephone 13 20 92.

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

ENGINEERING CONDITIONS TO BE COMPLIED WITH PRIOR TO CONSTRUCTION CERTIFICATE

20. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.

ITEM 4 (continued)

ATTACHMENT 2

21. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. The driveway design is to incorporate Council's issued footpath and gutter crossing levels where they are required as a condition of consent. A driveway plan, longitudinal section from the centreline of the public road to the garage floor, and any necessary cross-sections clearly demonstrating that the driveway complies with the above details, and that vehicles may safely manoeuvre within the site without scraping shall be submitted with the Construction Certificate application.
22. **Control of Stormwater Runoff.** Stormwater runoff from all impervious areas shall be collected and piped by gravity flow to the street gutter, a suitable Council pipeline or other point of discharge acceptable to Council. The minimum capacity of the piped drainage system shall be equivalent to the collected runoff from a 20 year average recurrence interval storm event. Overland flow paths are to be provided to convey runoff when the capacity of the piped drainage system is exceeded for storms up to the 100 year average recurrence interval and direct it to Council's drainage system. Runoff which enters the site from upstream properties must not be redirected in a manner which adversely affects adjoining properties. The design shall ensure that the development, either during construction or upon completion, does not impede or divert natural surface water so as to have an adverse impact upon adjoining properties.
23. **Boundary wall.** The perimeter boundary wall at the corner of Pellisier and McGowan Street shall be reconstructed to be within the property alignment.
24. **Car Parking.** To facilitate safe sight distance in accordance with AS 2890.1-2004 all fencing (including vegetation planted adjacent to it) forward of the building alignment to Pellisier Road are to have a maximum solid height of 900mm. Additionally, a safe sight triangle shall be provided at the driveway entrance to the proposed garage off McGowan Street.
25. **Water Tank First Flush.** A first flush mechanism is to be designed and constructed with the water tank system. Details of the first flush system are to be submitted with the construction certificate application.
26. **Erosion and Sediment Control Plan.** An *Erosion and Sediment Control Plan (ESCP)* shall be prepared by a suitably qualified consultant in accordance with the guidelines set out in the manual "*Managing Urban Stormwater, Soils and Construction*" prepared by the Landcom. These devices shall be maintained during the construction works and replaced where considered necessary.

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

- (a) Existing and final contours
- (b) The location of all earthworks, including roads, areas of cut and fill
- (c) Location of all impervious areas

ITEM 4 (continued)

ATTACHMENT 2

- (d) **Location and design criteria of erosion and sediment control structures,**
- (e) Location and description of existing vegetation
- (f) Site access point/s and means of limiting material leaving the site
- (g) Location of proposed vegetated buffer strips
- (h) Location of critical areas (drainage lines, water bodies and unstable slopes)
- (i) Location of stockpiles
- (j) Means of diversion of uncontaminated upper catchment around disturbed areas
- (k) Procedures for maintenance of erosion and sediment controls
- (l) Details for any staging of works
- (m) Details and procedures for dust control.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

27. Site Sign

- (a) A sign must be erected in a prominent position on site, 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.

28. 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.

29. 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.

ITEM 4 (continued)

ATTACHMENT 2

- (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).

30. Excavation adjacent to adjoining land

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

- 31. 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.

ENGINEERING CONDITIONS TO BE COMPLIED WITH PRIOR TO COMMENCEMENT OF CONSTRUCTION

- 32. Sediment and Erosion Control.** The applicant shall install appropriate sediment control devices in accordance with an approved plan **prior** to any earthworks being carried out on the site. These devices shall be maintained during the construction period and replaced where considered necessary. Suitable erosion control management procedures shall be practiced. This condition is imposed in order to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.
- 33. Compliance Certificate.** A Compliance Certificate should be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and City of Ryde, Development Control Plan 2010: - Part 8.1; Construction Activities

ITEM 4 (continued)

ATTACHMENT 2

34. **Vehicle Footpath Crossings.** Concrete footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The location, design and construction shall conform to the requirements of Council. Crossings are to be constructed in plain reinforced concrete and finished levels shall conform with property alignment levels issued by Council's Public Works Division. Kerbs shall not be returned to the alignment line. Bridge and pipe crossings will not be permitted.

DURING CONSTRUCTION

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

35. **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*.
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:
- (b) Fill is allowed under this consent;
 - (c) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (d) 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:
- (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
40. **Site maintenance**
The applicant must ensure that:
- (e) approved sediment and erosion control measures are installed and maintained during the construction period;
 - (f) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
 - (g) the site is clear of waste and debris at the completion of the works.

ITEM 4 (continued)

ATTACHMENT 2

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. **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.
43. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.
44. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
45. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

46. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate numbered 406110M dated 13 January 2012.
47. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.
48. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed front and side fence shall encroach onto Council's land. Documentary evidence of correction of the misalignment of the front fence is to be submitted to Council prior to Occupation Certificate.

ITEM 4 (continued)

ATTACHMENT 2

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

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

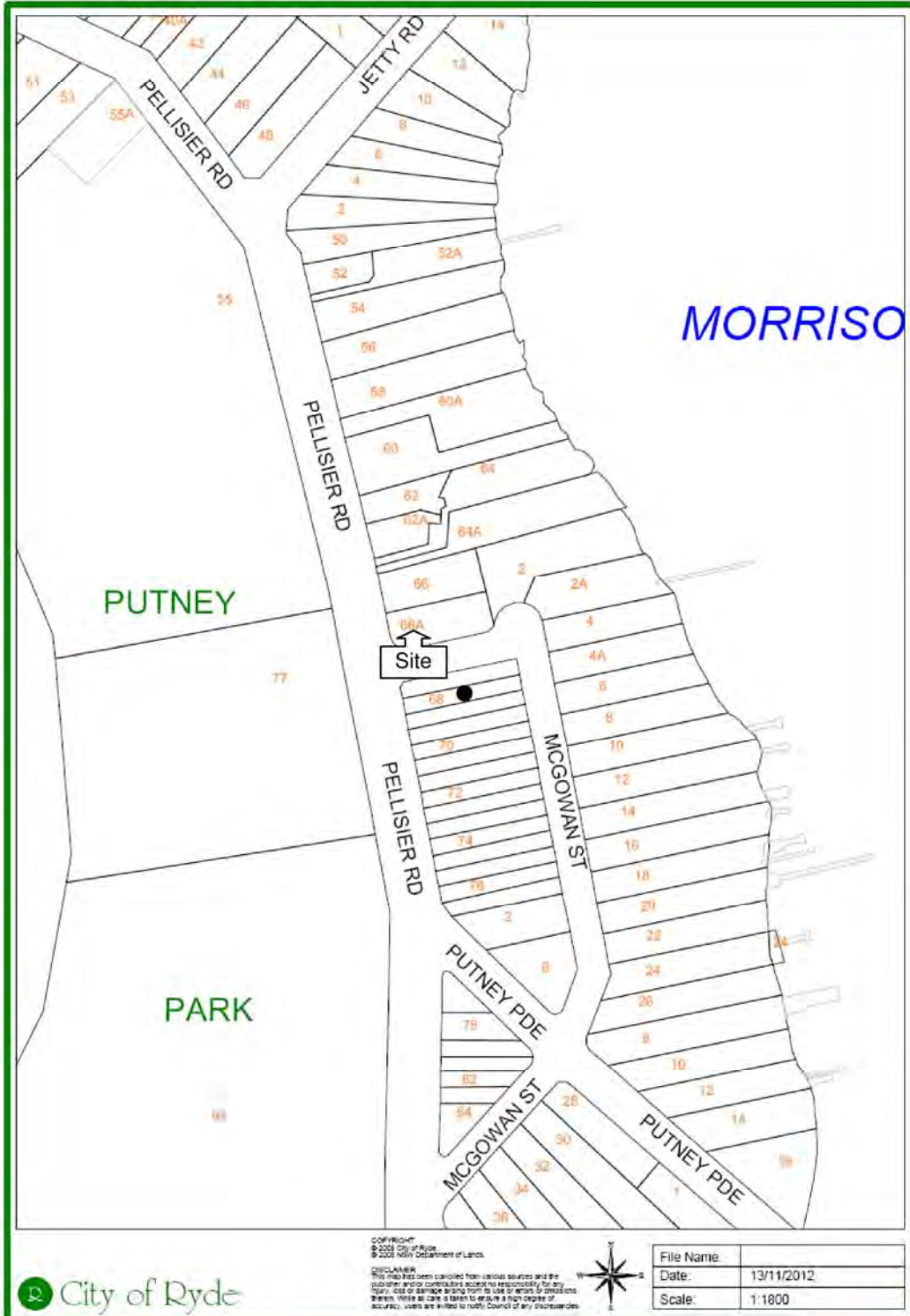
Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Interim/Final Occupation Certificate.

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

ITEM 4 (continued)

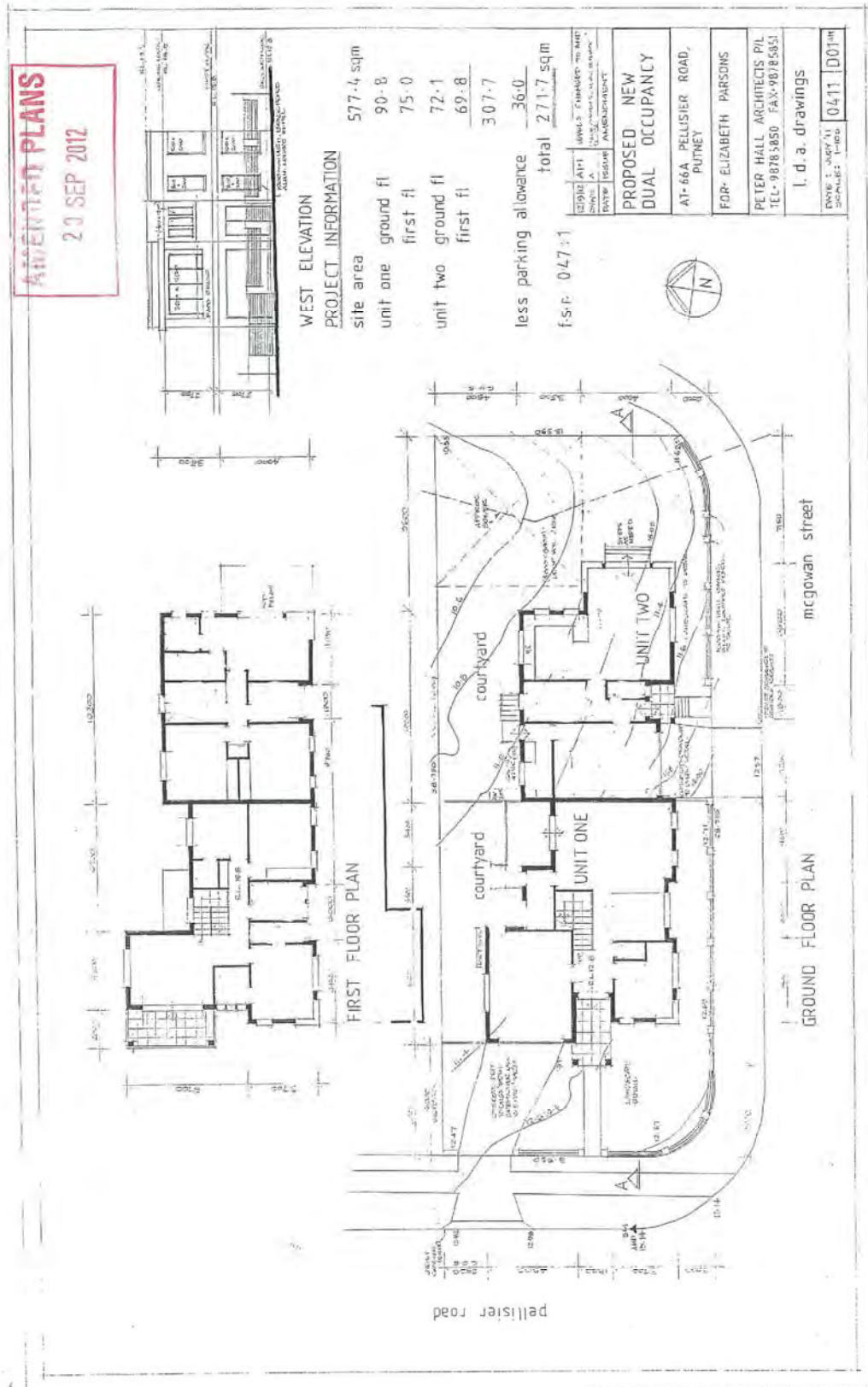
ATTACHMENT 3

● Petitions received c/- 68 Pellisier Road.



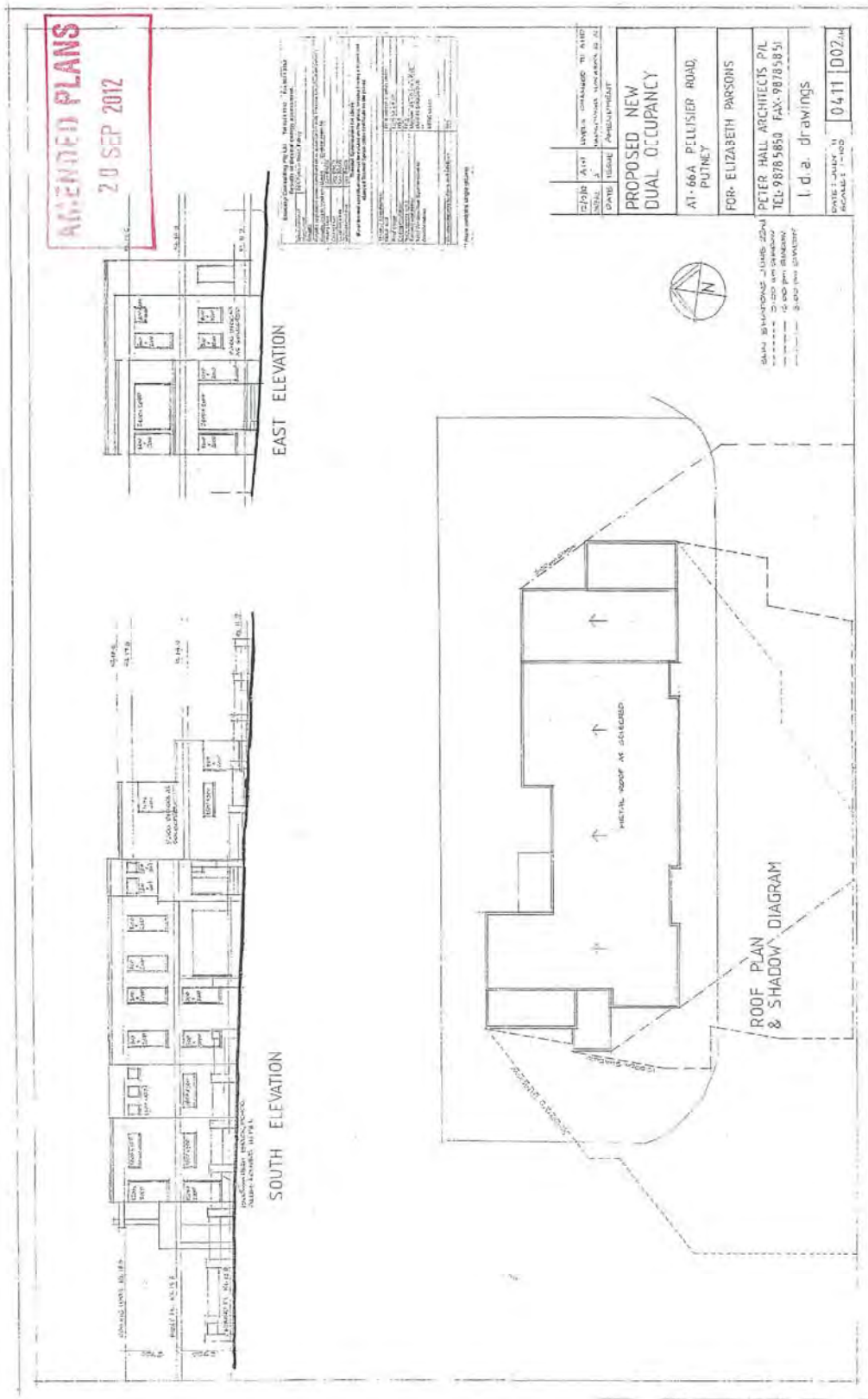
ITEM 4 (continued)

ATTACHMENT 4



ITEM 4 (continued)

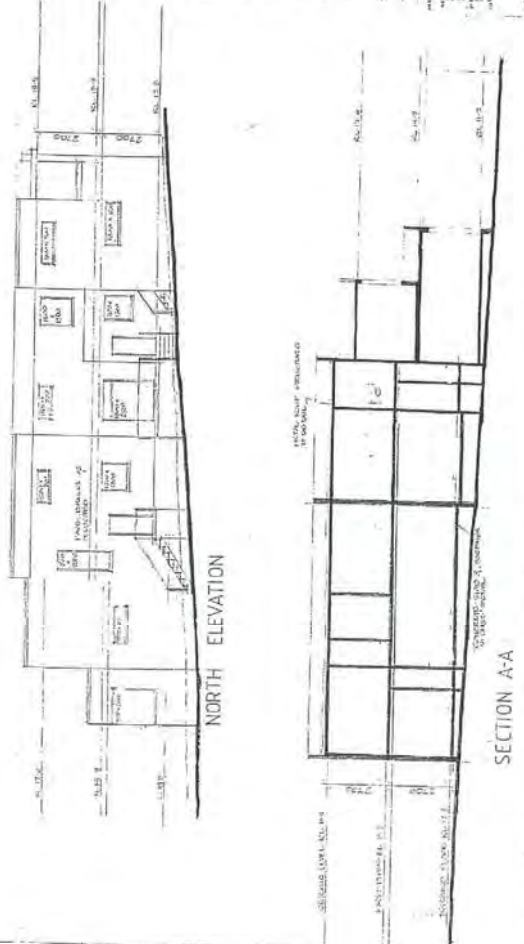
ATTACHMENT 4



ITEM 4 (continued)

ATTACHMENT 4

AMENDED PLAN
20 SEP 2012



NORTH ELEVATION

SECTION A-A

PROPOSED NEW DUAL OCCUPANCY

AT 60A PELLISIER ROAD
PUTNEY

FOR ELIZABETH BARNSONS

PETER HALL ARCHITECTS P/L
TEL: 98785950 FAX: 98785951

J.d. drawings

DATE: JANU'11 10:00 04/11/11 003

1.0 INTRODUCTION

The purpose of this document is to provide a detailed description of the proposed development and to demonstrate its compliance with the relevant planning controls. The development is a dual occupancy consisting of two separate dwellings on a single lot.

2.0 SITE DESCRIPTION

The site is located at 60A Pellisier Road, Putney. It is a rectangular lot with a frontage of approximately 15.0m and a depth of approximately 30.0m. The site is currently vacant and is zoned for residential use.

3.0 PROPOSED DEVELOPMENT

The proposed development consists of two separate dwellings, each with its own entrance and parking space. The dwellings are designed to be visually distinct and to provide a high level of amenity for the occupants. The development is shown in the attached architectural drawings.

4.0 COMPLIANCE WITH PLANNING CONTROLS

The proposed development complies with the relevant planning controls, including the zoning and the Development Control Plan. The development is shown to be within the permitted height and setback requirements, and it is considered to be a desirable development for the area.

- 5 64 PELLISIER ROAD, PUTNEY. LOT 102, DP 86680. Local Development Application for alterations and additions to the existing dwelling and new cabana. LDA2011/0493.**

INSPECTION: 5.00pm

INTERVIEW: 5.45pm

Report prepared by: Manager Assessment

Report approved by: Group Manager - Environment & Planning

Report dated: 5 November 2012

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

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. -
Planning and Environment
Committee - 7 August 2012

File Number: grp/12/5/5/3 - BP12/1306

Report Summary

Applicant: S D Balestriere

Owner: S D Balestriere

Date lodged: 13 September 2011

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

Council at its meeting held 9 October 2012 moved a Notice of Rescission:

That Council rescind the previous resolution in relation to Item 2 (Part 5) – 64 PELLISIER ROAD, PUTNEY, LDA2011/493, passed at the Council Meeting held on 14 August 2012, namely:-

ITEM 5 (continued)

- (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).*
 - 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.*
 - That any proposed pruning of the Fig Tree be limited to 10% of the tree canopy as supervised by an arborist.*
- (b) *Upon submission of satisfactory details to Council regarding the above matters, the Group Manager Environment & Planning be delegated authority to determine the DA by approval subject to appropriate conditions.*
- (c) *That the persons who made submissions be notified of Council's decision.*

ITEM 5 (continued)

The Rescission Motion was carried. The matter was then AT LARGE.

Council then resolved:-

That the matter be referred to the Planning and Environment Committee for further consideration.

Copies of previous reports considered by Planning and Environment Committee at its meetings 7 February 2012 and 7 August 2012 are **ATTACHED** for information.

A full set of the original and amended plans (post mediation) are **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors - subject to copyright provisions.

RECOMMENDATION:

For the consideration of Planning and Environment Committee.

ATTACHMENTS

- 1 Previous report to Planning & Environment Committee - 7 February 2012
- 2 Previous report to Planning & Environment Committee - 7 August 2012
- 3 Original A3 plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER
- 4 Amended A3 plans post mediation - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Liz Coad
Manager Assessment

Report Approved By:

Dominic Johnson
Group Manager - Environment & Planning

ITEM 5 (continued)

ATTACHMENT 1

4. **64 PELLISIER ROAD, PUTNEY. LOT 102 DP 866280. Local Development Application for Alterations and additions to the existing dwelling including an additional new storey and new cabana in the rear yard. LDA2011/493.**

INSPECTION: 4.50pm
INTERVIEW: 5.25pm

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

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

Report dated: 23/01/2012

File Number: GRP/11/3/6/9 - BP12/39

1. Report Summary

Applicant: S D Balestriere.
Owner: S D Balestriere.
Date lodged: 13 September 2011.

This report considers a proposal to carry out alterations and additions to the existing dwelling house, including a new additional floor on top of the existing flat roof of the dwelling and a new cabana at the rear of the site. The subject site is best described as a "battleaxe" allotment and which enjoys direct water front access to the Parramatta River at Morrison Bay.

The proposal is recommended for refusal.

The proposal includes additions to the rear (waterfront) elevation of each level of the dwelling, a new additional floor on top of the existing dwelling and a new detached cabana in the rear yard adjoining the existing swimming pool. The proposal comprises:

- A minor extension to the existing "utility" room adjoining the existing swimming pool and located on the basement level;
- A new balcony adjoining the rumpus room and study on the lower ground floor;
- Internal alterations and minor external additions to the existing ground floor plan, including a widening of the kitchen and main entry towards the side boundaries and an extended rear balcony; and,
- A new residential level on top of the existing flat roof of the dwelling comprising a bedroom (with ensuite and walk-in wardrobe), a study and a media/lounge room, plus open terrace at the rear.

The DA was notified to adjoining owners in accordance with Council's Notification DCP, and 4 submissions were received. The issues raised in the submissions relate to the adverse impact upon existing water views, adverse affects upon the amenity of adjoining properties and potential adverse affect upon the heritage significance of the

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

existing adjoining heritage item (being No. 60 Pellisier Road).

In addition to the assessment of the development proposal against Council's LEP and DCP controls, due to the location of the subject site being along the foreshore of Morrison Bay, the proposal has also been assessed in accordance with the requirements of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* and the accompanying *Sydney Harbour Foreshore & Waterways Development Control Plan*.

Although the development has been determined as being consistent with the character of the area, the additional height and number of storeys of the proposal is an inappropriate level of development for the site due to its significant adverse effect upon the amenity of the surrounding properties by overlooking and impact upon views, and is considered to not comply with the objectives for residential development of the Ryde LEP 2010. Also, the development does not comply with the height and number of storeys controls of Council's DCP and numerous sections of Part 3.3 of the Ryde DCP (as detailed in the report).

The development does not comply with clauses 17, 25 and 26 of the Sydney Harbour Catchment SREP and does not comply with clause 5 of the accompanying Sydney Harbour Foreshore and Waterways DCP.

An assessment of the principles relating to view sharing and view loss has also been undertaken and found that there will be a significant amount of water view loss to most adjoining properties, and, in particular to No. 60 Pellisier Rd where all existing water views will be lost. Council's Team Leader, Strategic Planning has noted that the visual and physical connection from the heritage item to the Bay contributes to its heritage significance.

For the reasons mentioned above and for details provided in this report, the application is recommended for refusal.

Reason for Referral to Planning and Environment Committee: Requested by Councillor O'Donnell.

Public Submissions: Four submissions were received objecting to the development.

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

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.

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

RECOMMENDATION:

- (a) That Local Development Application No. LDA2011/493 for alterations and additions to the existing dwelling and construction of a cabana at No. 64 Pellisier Rd, Putney, be refused for the following reasons:
1. The proposal does not comply with clauses 17, 25 and 26 of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* for the following reasons:
 - (a) Clause 17 (Zoning Objectives). The scale and size of the development is inappropriate to the locality when viewed from the waters in the W8 zone.
 - (b) Clause 25 (Foreshore and Waterways Scenic Quality). The proposal represents an overdevelopment of the land in terms of scale and bulk and will have numerous adverse effects upon adjoining land including overlooking and loss of water views.
 - (c) Clause 26 (Maintenance Protection and Enhancement of Views). The proposal will adversely affect views and vistas from the existing heritage item (60 Pellisier Rd) and will have a detrimental cumulative impact upon views enjoyed by adjoining properties.
 2. The proposal does not comply with clause 5.4 (Built Form) of *Sydney Harbour Foreshore & Waterways Development Control Plan* because: the development does not enhance the existing setting; the shape of the upper floor being 'boxy' does not harmonise with the surroundings; the cumulative visual impact and limited articulation of walls does not reduce its overall bulk; and will adversely affect adjoining views and the existing heritage item.
 3. The development proposal generally does not fulfil the aims and objectives of R2 Low Density Residential requirements of the Ryde LEP 2010 for the following reasons:
 - (a) The additional height and number of storeys of the proposal is an inappropriate level of development for the site due to its significant adverse affect upon the amenity of the surrounding properties by overlooking and impact upon views.
 - (b) Having regard to the topography of the site, the development fails to provide for a predominantly two-storey dwelling and is predominantly a 3-storey dwelling with 4-storeys facing the water.

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

4. The development is inconsistent with the objectives of clause 4.3 and 4.4 of Ryde LEP 2010 by the following:
 - (a) Clause 4.3 (Height of buildings). The development is overbearing in its height and design and does not respond well to the topography of the site.
 - (b) Clause 4.4 (Floor space ratio). The location of the additional floor space and its significant adverse affect upon the amenity of the surrounding properties (including view loss).
5. The proposal will have an adverse affect upon the conservation of views to and from the existing heritage item and upon the heritage significance of the adjoining heritage item (No. 60 Pellisier Rd), which is contrary to the controls and objectives of clause 5.10 (Heritage conservation) of the Ryde LEP 2010.
6. The development does not comply with Part 3.3 of the Ryde DCP 2010, in particular the objectives or controls of: 2.1 – Desired Future Character; 2.2.2 – Alterations and Additions to Dwelling Houses; 2.4 – Public Domain Amenity; 2.4.1 – Streetscape; 2.4.2 – Public Views and Vistas; 2.5 – Site Configuration; 2.5.1 – Deep Soil Areas; 2.5.2 – Topography and Excavation; 2.7 – Height; 2.7.1 – Building Height; 2.9 – Outbuildings; 2.13 – Dwelling Amenity; 2.13.2 – Visual Privacy; and 2.13.4 – View Sharing.
7. Due to non-compliance with the height and number of storeys development standards of the Ryde DCP 2010, the following adverse residential amenity impacts that the proposal would impact upon adjoining properties are considered to be unreasonable:
 - (a) Adverse visual and view impacts upon the adjoining properties being Nos. 60, 62 and 62A Pellisier Rd; and
 - (b) Adverse visual impact upon the adjoining property to the south (No. 64A Pellisier Rd)

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

ATTACHMENTS

- 1 Map
- 2 Plans
- 3 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER
- 4 Sectional View Assessment - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

- 5 Heritage Assessment of 60 Pellisier Road - CIRCULATED UNDER SEPARATE COVER
- 6 Applicant's response to submissions plus copy of submissions - CIRCULATED UNDER SEPARATE COVER - CONFIDENTIAL

Report Prepared By:

George Lloyd
Senior Town Planner

Chris Young
Team Leader - Assessment

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

Agenda of the Planning and Environment Committee Report No. 1/12, dated
Tuesday 7 February 2012.

Agenda of the Planning and Environment Committee Report No. 13/12, dated
Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

2. Site (Refer to attached map.)

The following map identifies the subject site by red hatching.



Address	: 64 Pellisier Rd, Putney
Site Area	: 1016m ² (including the access handle) 14.5m allotment width, Depth 48.57m and 58.21m, plus vehicular access to Pellisier Rd. The site is also affected by a 1m wide drainage easement along its northern side boundary.
Topography and Vegetation	: The site slopes significantly (by approx. 8m) down towards the eastern waterfront boundary. No vegetation is proposed for removal in this application.
Existing Buildings	: Partial three storey dwelling house.
Planning Controls	: R2 – Low Density Residential.
Zoning	: SREPP (Sydney Harbour Catchment) 2005
Other	: Ryde Local Environment Plan 2010 Ryde DCP 2010

Agenda of the Planning and Environment Committee Report No. 1/12, dated
Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

3. Councillor Representations

a. Name of Councillor: Councillor O'Donnell

Nature of the representation: Call up to Planning and Environment Committee.

Date: 31 October 2011

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

On behalf of applicant or objectors: Objector/s.

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

b. Name of Councillor: Councillor Pickering

Nature of the representation: Request to expedite DA and refer to Planning and Environment Committee before the end of 2011.

Date: 10 November 2011

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

On behalf of applicant or objectors: Applicant.

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

c. Name of Councillor: Councillor Yedelian OAM

Nature of the representation: Request to expedite DA and refer to Planning and Environment Committee before the end of 2011.

Date: 9 November 2011

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

On behalf of applicant or objectors: Applicant.

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

4. Political Donations or Gifts

Any political donations or gifts disclosed: No.

5. Proposal

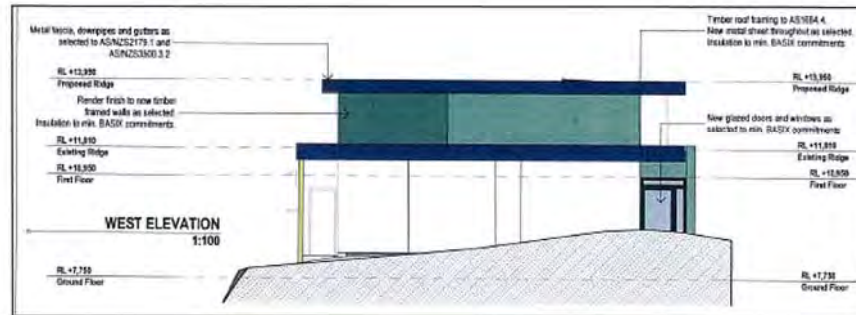
Alterations and additional floor on top of existing dwelling and new cabana. The front, side and rear elevations showing the dwelling's appearance are provided below:

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)



6. Background

The development application was lodged with Council on 13 September 2011 and notified to adjoining property owners from 29 September till 13 October 2011, during which time 4 submissions were received.

A site inspection was carried out by Council's Senior Town Planner on 23 September 2011.

Due to the topography of the site and because the easternmost 20m of the site is identified as being at risk of slope instability, the DA was referred to Council's Consultant Structural Engineers (Cardno). In a submission dated 11 October 2011, Cardno sought additional information regarding the location and method of construction of the proposed cabana.

In a letter dated 12 October 2011, Council forwarded Cardno's concerns to the applicant.

On 17 October, a response from the applicant was received justifying why a detailed geotechnical report was not necessary for the construction of the cabana and which was forwarded to Cardno on 18 October.

On 21 October, a copy of the submissions received by Council in response to the neighbour notification period were forwarded to the applicant with a view to offering them the opportunity to respond to the issues raised therein. The applicants response was received on 27 October 2011.

On 26 October, Cardno recommended that if Council were to approve the cabana, then the approval should be conditioned to require the structure to be supported on piers bearing on the natural rock underlying the site.

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

On 19 October and 11 and 14 November, a site inspection of the neighbouring objectors' properties was undertaken to determine the extent of impact that the development would have particularly in relation to views, which required an inspection of each property.

On 7 November 2011, the applicant wrote an email to the Group Manager Environment and Planning, requesting an update on the status of the DA and requesting that the DA be determined by one of the two remaining Planning and Environment Committee meetings scheduled for the end of last year.

In an email dated 9 November 2011, Council's Team Leader, Development Assessment, responded to the applicant by stating [in part] that due to the complexity of the application and that the assessment the proposal was still on-going and that given the timeframes involved in preparing a Committee report, it was not feasible for the DA to be placed on either of the last two agendas.

On 9 November 2011, the applicant then forwarded a copy of the Team Leaders response to Councillors Yedelian and Pickering with a view to having the matter heard before the end of 2011 (see Councillor Representation earlier in this report).

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 29 September until 13 October 2011.

Four submissions were received from immediately adjoining property owner/s. One of the submissions received from the owner/s of No. 60 Pellisier Rd (which is also identified as a heritage item under Ryde LEP 2010) was accompanied by a number of addendums including a heritage consultant's report and details of previous Land and Environment Court proceedings dated 25 April 2005.

A copy of the objections were forwarded to the applicant who responded to (some of) the issues raised therein. A copy of the applicant's response is **CIRCULATED UNDER SEPARATE COVER - CONFIDENTIAL** as additional information provided to Councillors.

The issues in the submissions and the applicant's response are summarised below. Due to the location and nature of the development (and particularly its adverse affect upon the amenity and existing views enjoyed from neighbouring properties), the property address of those persons who made a submission is provided below with a response to the issues raised therein. This is done in addition to the more detailed assessment of the effect of the development proposal in relation to the extent of existing views and view sharing as set out by principles of the Land and Environment Court (vide *Tenacity Consulting v Warringah Council* [2004]) and which is addressed later in this report (see section 10 – Likely Impacts of the Development).

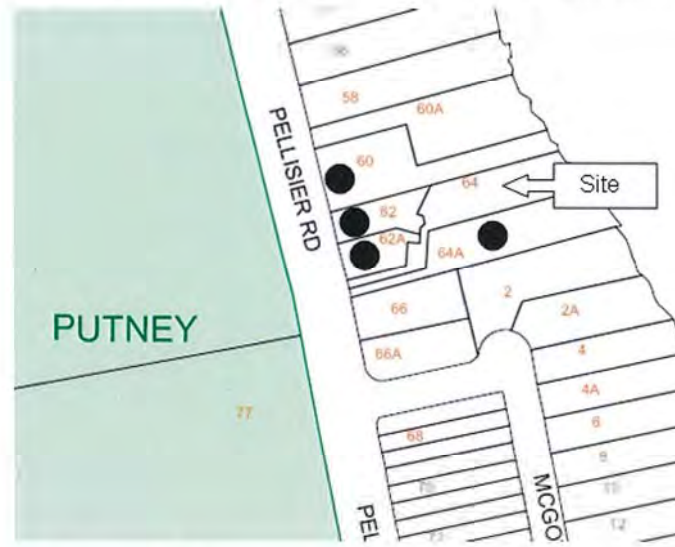
Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

The map below identifies the site and from where the submissions were received:



Issues raised in submission from No. 62A Pellisier Road:

1. *Request for a detailed view analysis/assessment. The view analysis should include a plotting of elevations, maximum height of buildings and ceiling heights.*

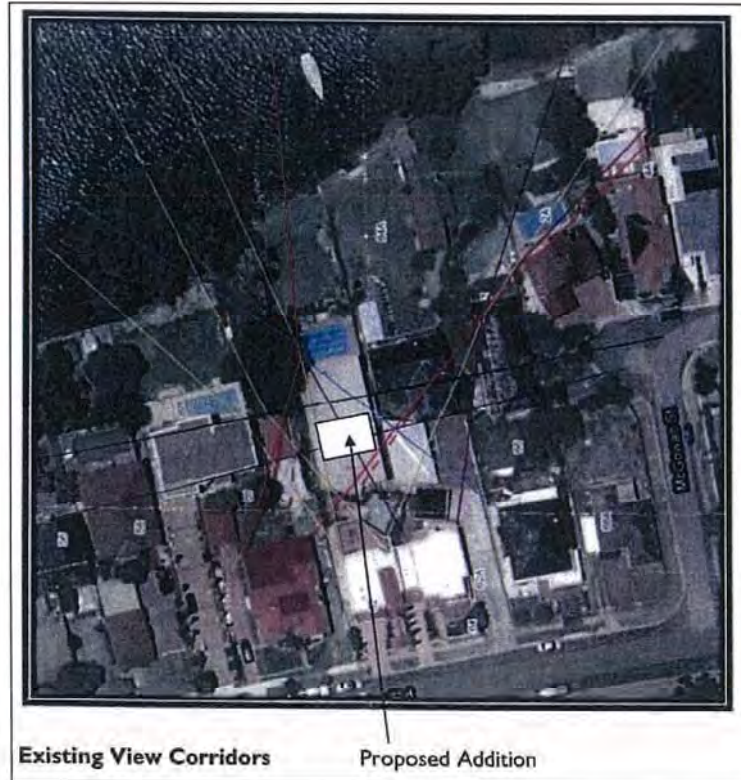
Officers Comments: Objection is raised that the view loss assessment provided by the applicant only takes into account the extent of view loss from No. 62 Pellisier Road.

Part of the applicants' submission included the following aerial. A sectional view assessment is **CIRCULATED UNDER SEPARATE COVER**.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)



The applicant has responded to the loss of views from this property by generally stating that the site (No. 62) will lose a small section of their views while still enjoying other significant views to the water which will not be impaired by the development.

A detailed assessment of view loss is provided later in this report (see section 10). Briefly, the objection is generally concurred with as the view assessment provided by the applicant does not thoroughly determine the extent of view loss for all neighbouring properties.

2. *The development proposal is contrary to the maximum number of storeys as required by Council's DCP.*

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

Agenda of the Planning and Environment Committee Report No. 13/12, dated Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Officers Comments: Agreed. Part of the application proposes to construct an additional storey on top of the dwelling which will in part be 3-storeys and thereby contrary to the maximum number of storeys of Council's DCP controls (being 2-storeys in total). This DCP non-compliance is addressed in greater detail below (see DCP Compliance section of this report).

3. *The DCP requires "that building form and design allow for view sharing where possible are not substantially affected by the bulk and scale of the new development". Our home was purposely designed with bedrooms on the ground floor and living areas on the first floor to take advantage of the view. We understand that view loss is assessed quantitatively, but the proposed additional storey would block our direct view. It is understood that the impact on living areas is of greater importance than loss of views from bedrooms, and the value of a view from a kitchen window is of even greater importance. At present, we have uninterrupted views from our kitchen window and from a seated position at our dining table. The proposed additional fourth storey would obstruct a significant amount of this view. The view sharing objective of the DCP is "to ensure new dwellings endeavour to respect important views from living areas within neighbouring dwellings", however I do not see what effort has been made towards view sharing. Prior to any approval we request that the applicant have a qualified person erect height poles extending the full height, depth and length of the proposed development.*

Officers Comments: Agreed. The extent of existing views and the affect that the proposal will have on them is addressed later in this report. Generally, the proposal does not comply with the objectives or performance criteria of the DCP with respect to view sharing. Also, it does not fulfil the principles relating to view sharing and view loss as established by the Land and Environment Court (also detailed later in this report).

4. *The original design of the properties on 64, 64A, 62 and 62A allowed all properties to share a view of Morrison Bay. Allowing 64 to add a fourth storey would allow 64 to completely monopolise the views across four (4) levels and set a precedent for other three (3) storey waterfront properties.*

Officers Comments: Agreed. A number of properties that face Pellisier Rd currently enjoy their only existing water views over the roof of the subject site. The additional floor level will adversely affect their views to varying degrees. The extent of view affectation/loss is addressed in greater detail later in this report.

5. *The existing home is already of considerable size and we would question whether or not the proposed development would comply with building/land ratio.*

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Officers Comments: A detailed assessment of the development proposal and its compliance with the requirements of the Ryde LEP 2010 and DCP 2010 has been undertaken. The extent of variation and non-compliance with Council's controls is addressed below. In short, it is considered that adequate site area exists for the applicant to increase their floor area without adversely affecting the amenity or view loss of the surrounding properties.

Additional issues raised in submission from No. 64A Pellisier Road:

6. *Location and area of cabana will reduce impervious area and will exceed allowable building area of property. Combined with the previously approved boatshed, the total area for all outbuildings will exceed 20m². The cabana will also affect existing views from lower ground floor windows and amenity.*

Officers Comments: A detailed assessment of the development proposal and its compliance with the requirements of the Ryde LEP 2010 and DCP 2010 has been undertaken and is detailed below. The location of the proposed cabana is not considered to have an adverse effect upon the water views from the lower ground floor windows of 64A Pellisier Road. However, there is a significant degree of 'inter-overlooking' by numerous adjoining properties along this part of Morrison Bay, and the location of the proposed cabana will have an additional adverse impact upon the visual amenity and general (not water) views of No. 64A Pellisier Road.

7. *The proposed building will be imposing and out of character with the surrounding area.*

Officers Comments: This part of Putney is generally characterised by large 2-storey dwelling houses which face the water. The proposed additional floor level on top of the existing dwelling will result in a development which is not considered to be entirely out of character with the existing residences by virtue of its bulk and scale. However, unlike the other 'larger' surrounding residences in this area, the development proposal will result in an adverse affect upon the amenity of the adjoining properties by virtue of their view loss.

8. *The proposed additional floor will result in additional overshadowing and will affect natural light and heat penetration. The proposed terrace will have an adverse affect upon privacy.*

Officers Comments: Immediately adjoining the subject site to the south is the front courtyard of 64A Pellisier Road, which is improved by various plantings and a number of north and west facing windows (see photos below).

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)



Front courtyard of No. 64A Pellisier Road and west facing windows (note adjoining location of No. 64 Pellisier Road)



Northern facing windows of 64A Pellisier Road

Overshadowing diagrams provided by the applicant indicate overshadowing of this part of the adjoining property will not be increased (see plans below). However, it is true to say that the extent of broader light penetration will be adversely affected by the development proposal as will amenity impacts from the additional floor level, especially from the rear proposed 'terrace' area and the cabana.

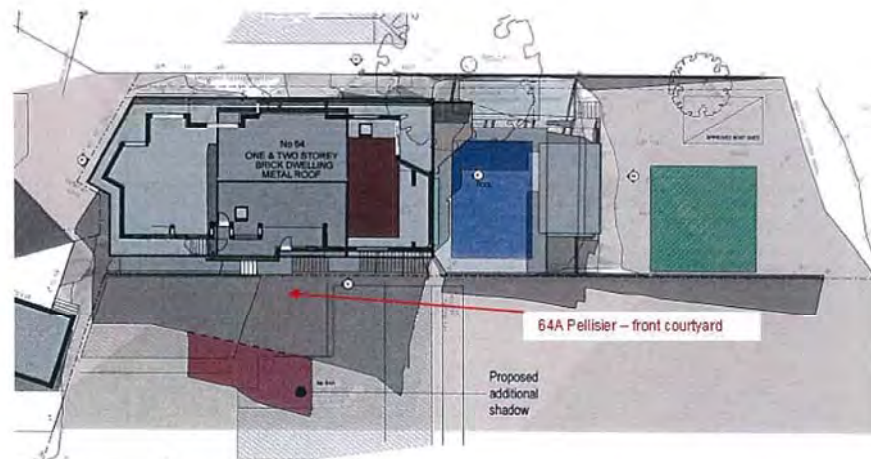
Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

Agenda of the Planning and Environment Committee Report No. 13/12, dated Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)



9. *Concern is raised that the shared common driveway will be impeded by builders vehicles and construction material during the construction phase of the development (if approved).*

Officers Comments: The existing right-of-carriageway can only be use by those having legal vehicular access and in accordance with the terms and conditions of the relevant property title.

Should any resident object to the illegal parking of any vehicle/s along a right-of-carriageway at any time, a complaint would need to be made to the local police who would attend the scene and issue any appropriate infringement notices.

Additional issues raised in submission from No. 62 Pellisier Road:

10. *Request for a complete view analysis report.*

Officers Comments: Agreed. Objection is raised that the view loss assessment provided by the applicant only takes into account the extent of view loss from the balcony of No. 62 and has not considered the extent or effect of view loss from the living, dining and kitchen room windows.

No. 62 Pellisier Rd has bedrooms on the lower floors and habitable rooms located above, which thereby overlook the roof of the subject site to enjoy visual access to the existing water views.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

A more detailed assessment of the extent of view loss is given later in this report. No. 62 will generally be adversely affected in terms of view loss. In addition, due to the proximity of the additional floor level, it is generally agreed that the development will result in a loss of amenity from within the complainants' dwelling and from the adjoining balcony.

11. *The proposal fails to comply with the 8m and 7.5m building height elevations and sections. The development will result in an unacceptable precedence for bulky foreshore developments. Prior to any approval a request is made for the applicant to provide height poles on the subject site which accurately locates the extent of the additional storey.*

Officers Comments: The extent of the buildings compliance with Council's height controls is addressed below. Generally speaking the development does not comply with the maximum height or storeys provisions of Ryde DCP 2010.

The applicant responded to the request for height poles to be constructed on the subject site by stating (in part):

"I will not erect height poles as I cannot make the finished roof any lower and I am 3 metres below the maximum. The direct views for the properties in the rear will be impaired. Measuring them 20 different ways will not change the facts. The building form is minimal as required to meet the Tenacity vs Warringah ruling in the LEC."

12. *The description of the development by the applicant as being (in part) a "first floor addition" is misleading. The proposal when viewed from the waterway would be 4 storeys in appearance.*

Officers Comments: The additional floor on top of the existing dwelling will be 3 storeys in height and section which does not comply with Council's requirements.

13. *The Statement of Environmental Effects erroneously refers to a maximum permissible height of 9.5m, whereas the proposal has a continuous parapet and the maximum 8m height provision applies with a max. 7.5m high wall height.*

Officers Comments: The extent of the proposal's compliance with Council's requirements is addressed later in this report (see compliance tables below). The 9.5m height limit is a requirements of the Ryde LEP 2010, while the wall height and parapet height limits are controls imposed by the Ryde DCP.

14. *The site area of the subject site has been miscalculated and therefore represents an overdevelopment of the site. Also, the setback from the southern elevation is within the minimum 1.5m setback requirement.*

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Officers Comments: Survey plans provided by the applicant confirm the site area as 1016m² (see calculations below). The maximum FSR and setback requirements complies with Council's controls.

The part of the development to which the objector refers is the amended entrance level of the building which is to become wider and which will be set back 1.2m from the southern side boundary (for a lateral distance of 5.5m). Because this part of the dwelling is only single storey (at that point), and does not contain a residential level immediately below that point, the minimum setback requirement of 900mm is compliant.

15. *The bulk, height and scale of the development is an overdevelopment of the site and does not comply with Council's guidelines and DCP in terms of the adverse affect upon the amenity of adjoining properties.*

Officers Comments: Agreed. The proposal is generally considered be an overdevelopment of the site and does not comply with a number of Council's requirements as detailed in this report.

16. *Potential for dwelling to be used as two distinct residences.*

Officers Comments: The internal configuration of the proposed residence does not lend itself to be easily converted into two fully-equipped residences. Were the application to be approved, it could be conditioned to be used as a single residence.

17. *The development should have been advertised as an 'integrated development' being within 40m of the waterway, and therefore the notification period should have been 30 days.*

Officers Comments: 'Integrated development' is development (not being State significant development or complying development) that in order for it to be carried out, requires development consent and approval from a concurring authority. Developments within 40m of a waterway were previously classified as 'Integrated Development', however this legislation has since been amended to exclude such works associated with a dwelling. In this case the development proposal does not require the approval of any concurring authority and does not therefore constitute 'integrated development'.

18. *The proposed development does not specify placement or location of air conditioning units on the roof which may further impact upon view loss.*

Officers Comments: Were the application to be approved by Council, an appropriate condition of consent could be imposed to ensure that such utility structures were not located on the roof.

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Additional issues raised in submission from No. 60 Pellisier Road ('Hazelville'):

19. *The development is adjacent to a Council listed heritage item (being Hazelville) and the impact on the current curtilage/public views from the water and other properties from the other side of Morrison Bay to the heritage property would be significant, in that it would be totally hemmed in and blocked from public view by the development. Hazelville was the original house on the peninsula, given its prominent position and was visible from all around the foreshore areas and has expansive unrestricted views over Morrison Bay prior to all current developments. The proposal would be a significant detriment to the heritage value on Hazelville, which was heritage listed by Ryde Council for the benefit of future generations.*

Officers Comments: The owner/s of No. 60 Pellisier Rd have also submitted (under separate cover) a heritage assessment of their property undertaken by Robert A Moore Pty Ltd (Architects and Conservation Consultants). A copy of this heritage assessment is **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors.

Issues associated with the heritage significance of No. 60 Pellisier Rd, and the detrimental affect that the development proposal may have on that significance has been reviewed by Council's Team Leader, Strategic Planning whose comments are provided in details later in this report (see Referrals section).

Council's Team Leader, Strategic Planning found that the visual and physical connection from the heritage item to Morrison Bay contributes to its significance, but that views from the Bay to the item do not contribute to its significance because the item is not easily viewable and is obscured by recent additions.

20. *Due to the location of the subject site adjoining an existing heritage item, the subject application should be accompanied with a heritage impact report. The information provided within the Statement of Environmental Effects is inadequate and has not been done by a heritage consultant.*

Officers Comments: In accordance with clause 5.10(5) of the Ryde LEP 2010, Council may request a heritage impact statement to be prepared where the development is within the vicinity of a heritage item or conservation area. It is however not a mandatory requirement. An assessment of the impact of the development proposal upon the heritage significance of the adjoining site has been undertaken by Council's Team Leader, Strategic Planning (see Referrals section below).

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Having regard to the nature of the development, the circumstances of the case and the adverse impact that the proposal will have on adjoining and surrounding properties, it was not considered that the submission of a detailed heritage report by the applicant would serve any practical support of the development, particularly when considering the numerous non-compliances with existing state and local controls, and the overall adverse affect upon amenity and view loss of other adjoining properties (including the heritage item).

21. *The proposed upper level addition will completely block our direct views (whether seated or standing) from all living areas (kitchen, dining room and outdoor living area) and further block the current public view from Morrison Bay foreshore towards and of our heritage property. (Refer photos below)*



Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Officers Comments: Although the extent of impact of the proposed development as depicted in the photo above has not been confirmed, a site inspection of No. 60 Pellisier Road has been undertaken and the impact upon the loss of views will be 'severe' to 'devastating' (see detailed assessment of view loss later in this report).

Briefly, the only existing water views enjoyed from No. 60 Pellisier Road is currently enjoyed over the top of the subject site. The development proposal will result in the loss of all existing water views from the rear habitable rooms of the heritage item.

22. *The Council listed Port Jackson fig tree located at the rear of No. 60 Pellisier and immediately adjoining the boundary with the subject site (No. 64 Pellisier) would be significantly impacted by the development and would be likely to be sought to be trimmed and cut by the applicant in the future given the proximity of the canopy to the proposed new verandahs and top deck. The tree has been recently and in the past trimmed by the applicant, changing the shape of the canopy and any proposal should be assessed based on the then existing canopy.*

Officers Comments: The impact of the proposal on the existing fig tree has been assessed by Council's Landscape Architect who has stated that the location of the column, shown on the lower floor plan which is within the structural root zone of the Port Jackson Fig is to be determined subject to the advice of a project arborist who shall ensure the final location [of the column] is free of any significant structural roots and minimises construction impacts. In addition the project arborist shall provide advice for minor canopy pruning to establish building clearances, which should not include the removal of significant woody branches (see Referrals section below).

23. *The development will present a blank 'factory' wall towards our premises which is unsightly and not in line with the visual aesthetics of surrounding waterfront properties.*

Officers Comments: The development proposal from an aesthetic viewpoint (if approved) is otherwise considered to be reasonably consistent with the architectural style of the existing dwelling.

24. *The new balconies and privacy screens along the northern elevations will further block water views from both the living areas and rumpus room.*

Officers Comments: Agreed. The extension of the building envelope at the rear of the development and the location of the new balconies will further inhibit the water views currently enjoyed from the objectors site.

25. *The proposed cabana, together with the existing awning over the pool plus the new boat shed and existing double garage exceed Council's requirements for 'outbuildings'.*

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Officers Comments: The extent of the proposal's compliance with Council's requirements is addressed later in this report. In short, the proposed cabana together with the previously approved boatshed would not comply with Council's requirements regarding the total permissible area of all outbuildings on a site.

26. *The view analysis provided appears to be incorrect and does not show the full extent of the proposed development. This report should include plotting of elevations, maximum heights of building and maximum ceiling height.*

Officers Comments: Agreed. The view assessment submitted with the application is not considered to be detailed or thorough enough to be able to accurately determine the full extent of view loss from all of the neighbouring and adjoining properties.

27. *Privacy impacts of existing (unapproved) structures like the existing awning adjoining the pool and the new wooden fence should be treated as 'new' and not 'existing'.*

Officers Comments: The location of the 'existing' awning immediately adjoining the swimming pool appears to have been constructed without development consent. In accordance with SEPP (Exempt and Complying Development Codes) 2008, a cabana is exempt development provided it has an area of not more than 20m² and is located 900mm from any property boundary which appears would comply in this case.

The detailed assessment of this development proposal has taken into consideration all existing and previously approved buildings (see detailed assessment below).

28. *The SEE states that overall land size is 1016m² with an allotment area (excluding access handle) is 891.7m². DCP calculations show a site area of land suitable for the footprint of a dwelling to be approx. 820m² (excluding garage and driveway). As such, the proposed development does not comply with FSR and site coverage requirements of the DCP.*

Officers Comments: A detailed assessment of the development proposal and its compliance with Council's controls is provided later in this report. In accordance with the requirements of Council's LEP and DCP, floor space and site coverage requirements are calculated as a ratio against the entire site area (inclusive of the access handle).

Notwithstanding the above, the total gross floor area of all building works proposed and approved on the site have a total floor area of 390m² which would be a total FSR of 0.48:1 based on a developable site area of 820m² and which would otherwise comply with Council's requirements regarding FSR (being less than 0.5:1).

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

29. *The plans do not show any stormwater details to comply with Council's current controls.*

Officers Comments: The suitability of the development proposal and its ability to comply with Council's requirements with respect to stormwater drainage is addressed by the comments received from Council's Development Engineers (see Referrals section below).

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

Not required for this application.

9. Policy Implications

Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Local Environmental Plan 2010

Zoning

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

Aims and objectives for residential zones

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

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

It is considered that the development proposal generally does not fulfil the aims and objectives of the LEP for the following reasons:

- The height and number of storeys of the development proposal is generally consistent with the character of the surrounding area but will result in a significant adverse affect upon the amenity of immediately surrounding properties by virtue of overlooking and loss of views.
- Having regard to the topography of the site, the development fails to provide for a predominantly two-storey dwelling and is partly 3-storey in section, and presents as a 4-storey dwelling when viewed from the water.

Mandatory Requirements

Ryde LEP 2010	Proposal	Compliance
4.3(2) Height		
9.5m	9–9.5m (max)	Yes
4.4(2) & 4.4A(1) FSR		
0.5:1	Basement: 40.6m ² Lower Ground: 55.7m ² Entry Level: 196.2m ² Additional floor: 63.45m ² Cabana + boatshed: 34m ² Total (Gross Floor Area): 389.95m ² (0.38:1)	Yes

Clause 4.3 Height of buildings, specifies the height of a building on any land is not to exceed the maximum height shown on the 'Height of Buildings Map'. Objectives of this clause are:

- (a) to maintain desired character and proportions of a street within areas,
- (b) to minimise overshadowing and ensure a desired level of solar access to all properties,
- (c) to enable the built form in denser areas to create spatial systems that relate to human scale and topography,
- (d) to enable focal points to be created that relate to infrastructure such as train stations or large vehicular intersections,
- (e) to reinforce important road frontages in specific centres.

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Due to the site being a 'battleaxe' allotment, objectives (a), (d) and (e) are not applicable in this case.

Although the extent of additional overshadowing provided by the development is within the tolerable requirements of Council's DCP, the additional storey will inhibit access to natural daylight to the immediately adjoining property to the south of the site (No.64A Pellisier). Also, due to the location of the site being on the waterfront, the additional storey will generally create an 'enclosed' feeling to those residents who have frontage to Pellisier Road and who currently enjoy water views over the subject site. Consequently, the development is considered to be overbearing in its height and design and does not respond well to the topography of the site.

Clause 4.4 Floor space ratio specifies the maximum floor space ratio (FSR) for a building on any land is not to exceed the FSR shown on the '*Floor Space Ratio Map*'. Objectives of this clause are:

- (a) *to provide effective control over the bulk of future development,*
- (b) *to allow appropriate levels of development for specific areas,*
- (c) *to enable the consent authority to assess and respond appropriately to future infrastructure needs.*

Despite the proposal's compliance with the numeric FSR requirements, the bulk of the proposed building is considered to be excessive especially when viewed from the waterfront. This bulk is further exacerbated by the partial 3-storey component and wall plate height which does not comply with Council's DCP requirements.

Although the development proposes a bulk and scale which is otherwise reasonably consistent with surrounding dwellings, it is however the location of the additional floor space which results in an inappropriate level of development for the site due to its significant adverse affect upon the amenity of the surrounding properties (including their view loss), and thereby does not adequately fulfil the objectives of this clause.

Clause 5.10 Heritage conservation, lists objectives of heritage conservation which includes not only to conserve the environmental heritage of Ryde, but also "*to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views*"

It is considered that the proposal will have an adverse affect upon the conservation of views to and from the existing heritage item at No. 60 Pellisier Rd, which will in turn have an overall significant detrimental impact upon its heritage significance.

Clause 5.10(5) Heritage impact assessment, specifies that Council may, before granting consent to any development on land within the vicinity of either a heritage item or conservation area, require the preparation and submission of a heritage impact statement that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

conservation area concerned. It is however not a mandatory requirement. While an assessment of the impact of the development proposal upon the heritage significance of the adjoining site has been undertaken by Council's Team Leader, Strategic Planning (see Referrals section below).

Under the heading of "heritage", the Statement of Environmental Effects provided with the application only briefly states "*that the proposed additions will have minimal impact on the views of the existing cottage [being No. 60 Pellisier Rd], as the existing trees and buildings surrounding the area obstruct existing views from the water.*"

The owner/s of the identified heritage item at No. 60 Pellisier Rd, have submitted to Council an assessment undertaken by Robert Moore (Heritage Consultant) which emphasises the significance of the site when viewed from the adjoining waterway.

In his statement dated 21 December 2011, part of the justification of the heritage significance of the site when viewed from the waterway is argued by Mr Moore as follows:

Most importantly, the house bears witness to the early development of the locality in which the relationship with the adjoining limb of Sydney Harbour, Morrison Bay, was of immense practical and symbolic importance. The Harbour was still a principal means of transport to and from the cities of Sydney and Parramatta, and the views to the city afforded connection and no doubt comfort from what was then a "remote" locality. The visual connections of the house to the water, and the views to and from the house in its larger setting are still of heritage significance notwithstanding the intense subdivision that has occurred around it. If anything this lends an added importance to the maintenance of what is left...

The important remnant view from your verandah – where it would be appreciated by most visitors to the home – to the Bay and views of the house from the water and across the Bay, will be eclipsed. This will diminish the heritage significance of your home, in my opinion, which is contrary to the aims and objectives of Ryde Council's planning controls...

In summary, it is my opinion that the heritage value of your home will be adversely affected by the proposal, and that the amenity of the home will also be affected by view loss and the increased intrusive bulk and scale of the proposed new top level to No. 64 in particular...

The heritage opinion presented above is generally concurred with except for the significance of the view to the heritage site from the water, the significance of which is not generally agreed with by Council's Team Leader, Strategic Planning.

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Notwithstanding whether the view of the heritage listed site from the water adds to its heritage significance or not, it is clear that the development proposal will adversely affect the heritage significance of the site and that water views from the site (which will be lost) form part of the heritage significance of the site. Further details of the heritage significance of this site are provided later in this report (see Team Leader, Strategic Planning's comments).

(b) Relevant SEPPs

State and Sydney Regional Environmental Planning Policies

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 applies to the subject site and has been considered in this assessment. [From 1 July 2009 this plan is taken to be a State Environmental Planning Policy (see clause 120 of Schedule 6 to the Environmental Planning and Assessment Act 1979).]

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

Provision	Proposal	Compliance
Foreshores and Waterways Area		
Cl. 17 Zoning Objectives The site is adjacent to W8 – Scenic Water Passive Use zone, and must consider the following objectives: (a) To give preference to unimpeded public access along the intertidal zone, to the visual continuity and significance of the landform and to the ecological value of waters and foreshores, (b) To allow low-lying private water-dependant development close to shore only where it can be demonstrated that the preferences referred to in paragraph (a) are not damaged or impaired in any way, that any proposed structure	Development will not affect access along intertidal zone. Development is restricted to upper part of site away from foreshore.	N/A N/A

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Provision	Proposal	Compliance
conforms closely to the shore, that development maximises open and unobstructed waterways and maintains and enhances views to and from waters in this zone		
(c) To restrict development for permanent boat storage and private landing facilities in unsuitable locations	Boatshed approved under LDA2011/168.	N/A
(d) To allow water-dependent development only where it can be demonstrated that it meets a demonstrated demand and harmonises with the planned character of the locality	Considered under LDA2011/168.	N/A
(e) To ensure that the scale and size of development are appropriate to the locality and protect and improve the natural assets and natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone or areas of public access	When viewed from the waters in the W8 zone, the development is considered will neither improve the natural or cultural scenic quality of the surrounding area due to its bulk, scale and 3-4 storey (visual) height.	No
Matters for Consideration		
<i>Cl. 21 Biodiversity, Ecology and Environmental Protection</i>		
(a) Development should have neutral or beneficial effect on quality of water entering waterways	Neutral effect on water quality.	Yes
(b) Development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, in particular, should avoid physical damage and	Proximity of development from water would not affect existing vegetation in the waterway.	Yes

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Provision	Proposal	Compliance
shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities)		
(c) Development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities)	N/A	N/A
(d) Development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access	No impact. Works will all be above MHW and will not increase access to that which has already been previously approved (ie: boatshed LDA2011/168).	Yes
(e) Development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation	None affected by proposal.	N/A
(f) Development should retain, rehabilitate and restore riparian land	No detrimental impact by proposal.	Yes
(g) Development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetation buffer to protect the wetlands	Development will not affect the ecological integrity of adjoining wetlands.	Yes
(h) The cumulative environmental impact of development	No significant impact	Yes
(i) Whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance	Located above impact zone. Sediments in adjoining waterway will not be disturbed.	Yes

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Provision	Proposal	Compliance
Cl. 22 Public Access to, and Use of, Foreshores and Waterways		
(a) Development should maintain and improve public access to and along the foreshore, without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation	There is no existing public use of this part of the foreshore. Access to public will not be made any worse than existing.	Yes
(b) Development should maintain and improve public access to and from the waterways for recreational purposes (such as swimming, fishing and boating), without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation	Proposal will not impede or alter existing public access to river.	Yes
(c) If foreshore land made available for public access is not in public ownership, development should provide appropriate tenure and management mechanisms to safeguard public access to, and public use of, that land	Land below high water mark remains available for public access (by boat).	N/A
(d) The undesirability of boardwalks as a means of access across or along land below the mean high water mark if adequate alternative public access can otherwise be provided.	None proposed	N/A
(e) The need to minimise disturbance of contaminated sediments	Located on land & will not disturb (any) contaminants in water.	Yes
Cl. 24 Interrelationship of Waterway and Foreshore Uses		
(a) Development should promote equitable use of the	Proposal will not inhibit or prevent equitable use of	Yes

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Provision	Proposal	Compliance
waterway, including use by passive recreation craft (b) Development on foreshore land should minimise any adverse impact on the use of the waterway, including the use of the waterway for commercial and recreational uses	waterway by recreation craft. Private use only	Yes
(c) Development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore	Private use only by owner	Yes
(d) Water-dependent land uses should have propriety over other uses	N/A	N/A
(e) Development should avoid conflict between the various uses in the waterways and along the foreshores	No change to existing use of site & waterway	Yes
Cl. 25 Foreshore and Waterways Scenic Quality		
(a) The scale, form, design and siting of any building should be based on an analysis of:	Scale considered bulky and excessive in context of existing and neighbouring dwellings.	No
(I) the land on which it is to be erected, and	Proposal represents an overdevelopment of the existing land in terms of scale and bulk.	No
(II) the adjoining land, and	Numerous adverse effects upon adjoining land incl. overlooking and loss of existing water views.	No
(III) the likely future character of the locality	No change to existing character.	Yes
(b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries	The visual qualities of the foreshore will be maintained due to location of the proposed development within the residential zoned part of	Yes

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Provision	Proposal	Compliance
(c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores	the site. N/A – the proposal is not 'water-based' development.	N/A
Cl. 26 Maintenance, Protection and Enhancement of Views		
(a) Development should maintain, protect and enhance views (including night views) to and from Sydney Harbour	N/A	N/A
(b) Development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items	The development will significantly adversely affect views & vistas from the adjoining heritage item (No. 60 Pellisier Rd).	No
(c) The cumulative impact of development on views should be minimised	Detrimental cumulative impact upon views enjoyed by adjoining properties.	No
Wetlands Protection Area		
Cl.61 Objectives		
(a) to preserve, protect and encourage the restoration and rehabilitation of wetlands,	The proposal will not affect the existing wetlands by virtue to its location within the existing developable part of the site.	N/A
(b) to maintain and restore the health and viability of wetlands	N/A – for reasons above	N/A
(c) to prevent the fragmentation of wetlands	N/A – for reasons above	N/A
(d) to preserve the scenic qualities of wetlands	The scenic qualities of any remnant wetlands will become restricted from adjoining properties.	N/A
(e) to ensure that wetlands continue to perform their	N/A – for reasons above	N/A

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Provision	Proposal	Compliance
natural ecological functions (such as the provision of wetland habitat, the preservation of water quality, the control of flooding and erosion)		
Cl. 62 Requirement for Development Consent		
(1) Development may be carried out only with development consent	Addressed by this application.	Yes
(2) Development consent is not required by this clause:		
(a) For anything (such as dredging) that is done for the sole purpose of maintaining an existing navigational channel, or	N/A	N/A
(b) For any works that restore or enhance the natural values of wetlands being works:		
(i) that are carried out to rectify damage arising from a contravention of this plan, and	N/A	N/A
(ii) that are not carried out in association with another development, and	N/A	N/A
(iii) that have no significant impact on the environment beyond the site on which they are carried out.	No adverse affect upon broader environment.	Yes
(3) Development consent is not required for any other development if:	Consent required for proposal.	N/A
(a) In the opinion of the consent authority:		
(i) the proposed development is of a minor nature, and		
(ii) the proposed	The development should	Yes

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Provision	Proposal	Compliance
<p>development would not adversely affect the wetland or wetlands protection area, and</p> <p>(b) The proponent has notified the consent authority in writing of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development will comply with this subclause and that development consent is not otherwise required by this plan.</p>	<p>not adversely affect the existing wetland or wetlands protection area.</p> <p>Consent has been sought by the lodgement of the current DA.</p>	<p>Yes</p>
<p>Cl. 63 Matters for Consideration</p> <p>(2) The matters to be taken into consideration are as:</p> <p>(a) The development should have a neutral or beneficial effect on the quality of water entering the waterways,</p> <p>(b) The environmental effects of the development, including effects on:</p> <p>(i) the growth of native plant communities,</p> <p>(ii) the survival of native wildlife populations,</p> <p>(iii) the provision and quality of habitats for both indigenous and migratory species,</p> <p>(iv) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the</p>	<p>Proposal would not result in any additional adverse effect upon water quality.</p> <p>No impact on plant community.</p> <p>None affected by proposal.</p> <p>None affected by proposal.</p> <p>Water drained to site then dispersed through soil</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Provision	Proposal	Compliance
surrounding areas, including salinity and water quality and whether the wetland ecosystems are groundwater dependant,		
(c) Whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment.	Water drained to site then dispersed through soil.	Yes
(d) Whether carrying out the development would be consistent with the principles set out in <i>The NSW Wetlands Management Policy</i> (as published in March 1996 by the then Department of Land and Water Conservation).	Proposal will not adversely affect any wetland areas.	Yes
(e) Whether the development adequately preserves and enhances local native vegetation,	N/A	N/A
(f) Whether the development application adequately demonstrates:		
(i) how the direct and indirect impacts of the development will preserve and enhance wetlands, and	Adjoining and on top of existing dwelling & will not impact on wetlands or sea vegetation.	Yes
(ii) how the development will preserve and enhance the continuity and integrity of the wetlands, and	As above	Yes
(iii) how soil erosion and siltation will be minimised both while the development is being carried out and after it is completed,	Erosion and siltation will not be affected by the DA.	Yes

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

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

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

Sydney Harbour Foreshore & Waterways Development Control Plan:

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

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Provision	Proposal	Compliance
Cl. 2-Ecological Communities and Landscape Characters:		
<ul style="list-style-type: none"> o Urban Development with Scattered Trees (low status): <ul style="list-style-type: none"> - Conserve and enhance vegetation - Minimise risk of predation on native fauna by domestic pets. - Minimise impacts of soil erosion, water siltation and pollution. 	<ul style="list-style-type: none"> Existing vegetation to be conserved on the site. Risk minimised by virtue of limited access to waterway. Proposal would not increase likelihood of soil erosion. 	<ul style="list-style-type: none"> Yes Yes Yes
<ul style="list-style-type: none"> • Aquatic Ecological Community: <ul style="list-style-type: none"> o Mudflats (medium status): <ul style="list-style-type: none"> - To minimise impacts on communities from shading. - To minimise effects from reclamation where it provides the optimum environmental outcome. - To minimise the effects from urban run-off. - To minimise the effects from dredging. 	<ul style="list-style-type: none"> Proposal will not adversely affect mudflats with additional shading. N/A The extent of the proposed development would not increase urban run-off. N/A 	<ul style="list-style-type: none"> Yes N/A Yes N/A
Cl. 3 Landscape Character Type 14		
Performance Criteria: <ul style="list-style-type: none"> • Consideration given to cumulative and incremental effects of further development along foreshore and to preserving the remaining special features. • Development to avoid substantial impact on landscape qualities of foreshore and minimise removal of natural foreshore vegetation, radical alteration of 	<ul style="list-style-type: none"> Existing foreshore features would not be affected by the proposed development. Proposal would not lead to adverse impact on existing natural foreshore vegetation. 	<ul style="list-style-type: none"> Yes Yes

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Provision	Proposal	Compliance
natural ground levels, dominance of structures protruding from rock walls or ledges or the erection of sea walls, retaining walls or terraces. <ul style="list-style-type: none"> • Landscaping between buildings to soften the built environment; • Existing ridgeline vegetation and its dominance as backdrop to waterway, is retained. 	Limited existing landscape to soften building appearance. N/A	N/A N/A
Cl. 4 Water Based and Land/Water Interface Developments	N/A	N/A
Cl. 5 Land Based Developments		
5.2 Foreshore access		
<ul style="list-style-type: none"> • Maintain, encourage and secure public access along foreshore and intertidal zone 	Foreshore access not affected by development proposal. N/A	N/A
<ul style="list-style-type: none"> • If possible provide linkage through streets where foreshore access cannot be achieved 	N/A	N/A
<ul style="list-style-type: none"> • Boardwalks not recommended. May be acceptable in certain circumstances. 	N/A	N/A
5.3 Siting of Building and Structures		
<ul style="list-style-type: none"> • Maintain foreshore building lines and observe the following: <ul style="list-style-type: none"> ○ where there is existing native vegetation, buildings should be set back from this vegetation to avoid disturbing it; ○ buildings should address the waterway; ○ buildings should not obstruct views and vistas from public places to the waterway; ○ buildings should not obstruct 	Proposal to be built on existing building envelop or on land previously developed (ie pool area). Building faces/addresses the waterway. Obstruction of views from existing public places will be limited. N/A – Putney Wharf	N/A N/A Yes N/A

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Provision	Proposal	Compliance
views of landmarks and features identified on the maps accompanying this DCP, o where there are cliffs or steep slopes, buildings should be sited on the top of the cliff or rise rather than on the flat land at the foreshore.	Building works will not take place along foreshore.	Yes
5.4 Built Form		
<ul style="list-style-type: none"> • Buildings and other structures generally be of a sympathetic design to their surroundings; well designed contrasts, considered where they enhance the scene. Following guidelines to reinforce local council requirements: o where buildings of contrasting scale or design to existing buildings, care needed to ensure contrast would enhance setting; o where undeveloped ridgelines occur, buildings should not break these unless a backdrop of trees; o while no shapes are intrinsically unacceptable, rectangular boxy shapes with flat or skillion roofs usually do not harmonise with surroundings. Preferable to break up facades and roof lines into smaller elements and to use pitched roofs. o walls and fences should be kept low enough to allow views of private gardens from waterway; o bright lighting and especially floodlighting which reflects on the water can cause problems with night navigation and 	Development out of scale with surrounding development by virtue of its bulk, scale and height. N/A Rectangular 'boxy' shaped upper floor addition will not harmonise with existing surrounds. N/A N/A	No N/A No N/A N/A

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Provision	Proposal	Compliance
should be avoided. External lights should be directed downward, away from the water.		
o use of reflective materials is minimised and relevant provisions of BCA are satisfied.	N/A (can be conditioned if required)	N/A
o colours to be sympathetic with their surrounds and consistent with the colour criteria, where specified, for particular landscape character types in Part 3 of this DCP;	Colours sympathetic to existing building.	Yes
o cumulative visual impact of a number of built elements on a single lot mitigated through bands of vegetation and by articulating walls and using smaller elements;	Cumulative visual impact cannot be mitigated by vegetation. Articulation of side walls limited and does not reduce overall bulk.	No
o the cumulative impact of development along the foreshore is considered having regard to preserving views of special natural features, landmarks or heritage items.	Cumulative impact will adversely affect adjoining views and existing heritage item identified by Ryde LEP 2010.	No

(c) Any draft LEPs

None applicable.

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

City of Ryde Development Control Plan 2010:

Part 3.3 – Dwelling Houses and Duplex Buildings

Part 7.2 – Waste Minimisation and Management

Part 8.2 – Stormwater Management

Part 9.2 – Access for People with Disabilities

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
Part 3.3 – Dwelling Houses and Duplex Buildings		
Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is generally consistent with the character of the existing residential area.	Yes
Dwelling Houses		
- To have a landscaped setting which includes significant deep soil areas at front and rear.	Landscaped setting provided with existing deep soil landscaping at rear only (due to battleaxe allotment)	Yes
- Maximum 2 storeys.	Partly 3 storeys	No
- Address street, public and private space is to be clearly articulated	N/A	N/A
- Dwelling to respond appropriately to the site's constraints & opportunities as identified in the site analysis.	Development does not respond to existing topography – additional floor area could be added to site with less adverse impact upon surrounding properties.	No
Public Domain Amenity		
Streetscape		
- Site design, setbacks and height are to respect the existing topographic setting.	The dwelling design and height does not accord with existing topography.	No
- The design of front gardens is to complement and enhance streetscape.	N/A – no front garden.	N/A
- Front doors and windows are to face the street. Side entries to be clearly apparent.	N/A – redesigned entry remains on side as existing.	N/A
- Orientation to match existing buildings in streetscape.	Orientation towards water matches existing and adjoining residences.	Yes
Public Views and Vistas		
- A view corridor is to be provided along at least one side allotment boundary	Existing view over the top of the existing dwelling will be removed – no alternate	No

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
where there is an existing/potential view of water. - Landscaping is not to restrict views. Fence 70% open where height is >900mm. - View corridors in battleaxe allotments are to be co-ordinated with the front allotment. - Landscape elements such as ancillary structures, plantings, are not to restrict views. - Garages/ carports and outbuildings are not to be located within view corridor if they obstruct view.	corridor provided Landscaping will not restrict views. Water views of street facing residence/s will be adversely affected – no coordination. Proposed cabana will restrict views from habitable rooms of adjoining property (No. 64A) Existing garage does not obstruct view corridors.	 Yes No No Yes
Site Configuration		
Deep Soil Areas		
- 35% of site area min.	210m ² (20%)	No
- Min 8x8m deep soil area in backyard.	8 m x 8m (+ swimming pool)	Yes
Topography & Excavation	NB: The subject site has a 8.3m fall from the "front" (western) boundary to the "rear" waterfront (eastern) corner.	
Building form and siting are to relate to original topography	Additional storey does not adequately relate to original topography – overall height is not minimised.	No
Cut and fill within and outside building footprint.	N/A – there is no additional cut and fill proposed beyond that which already exists on the site.	N/A
Floor Space Ratio (for both dwellings)		
Basement	40.6m ²	
Lower Ground	55.7m ²	

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
Entry Level	196.2m ²	
New Floor	63.45m ²	
Cabana/boatshed	34m ²	
Garage (< 36m ²) – not included in total GFA or FSR	28.85m ²	
Total (Gross Floor Area)	389.95m ²	
FSR (max 0.5:1) or 508m²	0.384:1	Yes
Height – (Dwelling)		
- 2 storeys maximum	Partly 3 storeys.	No
Wall plate (Ceiling Height) - 7.5m max above FGL or - 8m max to top of parapet <i>NB: TOW = Top of Wall EGL = Existing Ground Level FGL = Finished Ground Level</i>	Upper floor TOW: RL 13.55 (ceiling) FGL/NGL below: RL 5.09 TOW Height (max)= 8.46m Entry level TOW: RL 10.55 (ceiling) FGL/NGL below: RL 2.44 TOW Height (max)= 8.11m	No No
8m Overall Height (for roof with continuous parapet) <i>NB: EGL = Existing Ground Level</i>	Max point of dwg: RL 13.95 EGL below ridge (lowest point): RL 5.09 Overall Height (max): 8.86m	No
Habitable rooms to have 2.4m (min) floor to ceiling height.	2.4m (min)	Yes
Height – (Cabana)		
4.5m (max height for all outbuildings)	Overall Height (max): 2.6m	Yes
Setbacks		
Side		

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
Single storey dwelling - 900mm to wall (includes balconies etc)	1m (to single storey component – southern elevation/entry)	Yes
Two storey dwelling - 1500mm to wall (includes balconies etc)	1.8m (min)	Yes
Rear - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater.	25 – 30m (50 – 52%)	Yes
Outbuildings		
- The use of outbuildings is to be ancillary to the residential use of the dwelling.	Proposed cabana is ancillary to the residential use of the dwelling.	Yes
- The total area for all outbuildings is not to exceed 20m ² .	Cabana + boatshed: 34m ² .	No
- Outbuildings cannot be erected between the street alignment and the front building alignment of the dwelling.	Cabana located in rear yard.	Yes
- The design and materials of outbuildings are to complement the existing dwelling.	Design consistent with dwelling.	Yes
- An outbuilding may contain a toilet, shower and hand basin but cannot contain a bar, sink or any other kitchen facilities.	No internal facilities.	Yes
- An outbuilding may be located on the side or rear boundary so long as the external wall is maintenance free and there is no eaves overhang.	3m (min) setback from side boundary.	Yes
- The windows of outbuildings are to be at	No side windows.	Yes

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
least 900mm away from a boundary. - Outbuildings are not to adversely affect the privacy and/or amenity of neighbours. - Outbuildings are not to be located in view corridors to the water. - An outbuilding is not to be used as a dwelling.	Cabana will not adversely affect the privacy or amenity of any neighbours. Located in partial view corridor/s. No potential for use as dwelling	Yes No Yes
Landscaping		
Trees & Landscaping		
- Major trees retained where practicable - Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL eg. stairs, terraces. - Obstruction-free pathway on one side of dwelling. - Back yard to have at least 1 tree with mature ht of 15m and a spreading canopy. - Hedging or screen planting on boundary mature plants reaching no more than 2.7m.	All existing major trees retained. Physical connection provided at rear. Obstruction free pathway on both sides of dwelling. Back yard: no mature trees. Screen planting provided where site permits.	Yes Yes Yes N/A Yes
Dwelling Amenity		
Daylight and Sunlight Access		
- Living areas to face north where orientation makes this possible. <u>Subject Dwelling:</u> - Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and	Site faces E-W. Dwelling designed to maximise internal light penetration. 3+ hours to north facing windows	Yes Yes

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
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.	POS: receives 3+ hours of sunlight.	Yes
<u>Neighbouring properties are to receive:</u> - 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.	Hours of sunlight to adjoining principal open space: 3+ hrs. <3 hrs sunlight to adjoining <u>northern</u> facing windows. Can be justified due to location of property south of subject site.	Yes N/A – Affected property lies directly south of subject site.
Visual Privacy - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. - Windows of living, dining, family etc. placed so there are no close or direct views to adjoining dwelling or open space. - Terraces, balconies etc not to overlook neighbours. - Side windows offset from adjoining windows.	Living area windows and outdoor areas are orientated to the rear of dwelling. Windows are set back so no close or direct views to adjoining dwellings or private open space. Terrace faces rear – direct views over neighbours. Side windows offset.	Yes Yes No Yes
View Sharing - The siting of development is to provide for view sharing.	The siting of the development will adversely obstruct adjoining neighbour's views.	No
Cross Ventilation - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation.	Plan layout optimises cross-ventilation.	Yes

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

DCP 2010	Proposed	Compliance
External Building Elements		
Roof - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable terrace. - Attic to be within roof space. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights.	Articulated roof form. Flat roof with 500mm eaves. No trafficable roof terrace. No roof attic. No skylights. Front roof plane free of dormer windows and skylights	Yes Yes Yes Yes Yes Yes
Part 7.2 – Waste Minimisation & Management		
Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	The applicant has submitted a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	Yes
Part 8.2 – Stormwater Management		
Stormwater		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	The development proposal was referred to Development Engineers, who raised no objection against the proposal subject to appropriate conditions of consent.	Yes
Part 9.2 – Access for People with Disabilities		
Accessible path required from the street to the front door, where the level of land permits.	Level of land does not permit full accessibility of dwelling. Note: not been made worse.	Yes

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

Agenda of the Planning and Environment Committee Report No. 13/12, dated Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

10. Likely Impacts of the Development

Impact upon existing views from adjoining properties

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

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

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

An assessment of the development proposal and its ability to comply with the above court principles is addressed below.

1. What views will be affected?

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

Comment: Existing water views from the surrounding properties at Nos. 60, 62 and 62A Pellisier Road will be affected by the proposed additional storey on top of the existing dwelling house. Although the water views in this locality do not contain any "iconic" landmarks, the views are distinctive and highly valued.

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

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

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

Comment:

The affected water views from Nos. 60, 62 and 62A Pellisier Road is **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors.

3. What is the extent of the impact?

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

Comment: The extent of water view loss from No 60 Pellisier Road would best be described as either 'severe' or 'devastating'. The only water view currently enjoyed from this site would be totally removed were the roof-top extension approved by Council.

The water view loss from Nos. 62 and 62A Pellisier Road would be best described as 'moderate'.

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

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

Comment: The Court poses two questions in *Tenacity Consulting v Warringah (2004) NSWLEC 140* (paragraphs 23–33). The first question relates to whether a non-compliance with one or more planning controls results in view loss. The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views.

As the view loss is linked to non-compliances with Council's height and maximum number of storeys development standards, even a minor extent of view loss is considered to be unreasonable.

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

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

11. Suitability of the site for the development

A review of Council's Map of Environmentally Sensitive Areas (held on file), identifies the site is as not being classified as a heritage item or subject to any natural constraints such as flooding or subsidence.

The design of the development proposal would need to be radically altered in order to achieve the maximum floor space potential of the site without adversely affecting the amenity and views of surrounding properties and also be able to comply with the maximum height a number of storeys provisions of Council's DCP.

12. The Public Interest

Having regard to the assessment contained in this report and in particular the adverse effect the development will have upon the neighbouring properties, it is considered that approval of the development is not in the public interest.

13. Consultation – Internal and External

Internal Referrals

Team Leader Strategic Planning (16 January 2012): Due to the proximity of the development proposal to an existing heritage item (Item No. 86, being No. 60 Pellisier Road), heritage advice was sought from Council's Team Leader Strategic Planning.

Council's Team Leader, Strategic Planning has recommended that the development not be approved and provided the following comments:

Heritage Listing:

<i>Heritage item:</i>	<i>No</i>
<i>In the vicinity of a heritage item</i>	<i>Yes, no. 86, 60 Pellisier Rd, Federation dwelling</i>
<i>Conservation area:</i>	<i>No</i>

Heritage Controls:

LEP2010 Clause 5.10 Heritage Conservation.

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)



Heritage item at 60 Pellisier Rd –street view

Proposal:

It is proposed to construct a new additional fourth storey on the flat roof.

Documentation:

This comment responds to the submission by the owners of 60 Pellisier Road of a letter authored by Robert Moore who was the court appointed heritage expert in relation to a Development Application for the heritage item some years ago.

Mr Moore has a detailed knowledge of the immediate locale and the heritage item as a consequence of the court case. In relation to this DA proposal Mr Moore argues that:

"...important remnant views from [the] verandahto the bay and views of the house from the water and across the Bay will be eclipsed [by the proposal]. This will diminish the heritage significance of [the] home."

Assessment of Heritage Impact:

On 11 January I visited the heritage item at 60 Pellisier Road and Morrison Bay. The owner gave access to rear the verandah and backyard.

I observed the following:

A fig tree partially blocks views from the house to Morrison Bay. The tree is listed on Council's Significant Tree Register. As a result of the substantial tree the outlook to Morrison Bay from the rear of the heritage item is only available across the existing flat roof of the subject site. Any increase in height on that site will certainly reduce the views from the heritage item to Morrison Bay.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)



Remnant views of Morrison Bay across the roof of the subject site

Are views from the Heritage Item to Morrison Bay significant?

No 60 Pellisier Road was at one time part of a much larger site which connected to the Bay. Though now much reduced, the site runs down to the foreshore and includes a boatshed. There is some architectural evidence that the house may have had a "widow's walk" though this is not conclusive. A widow's walk traditionally functioned as an observation platform usually linked to views of the water. Its purpose was to allow widows access to the open air and views in privacy.

Based on its historic characteristics and links to the bay it is my opinion that the visual and physical connection from the Heritage Item at 60 Pellisier Road to the bay contributes its heritage significance. Due to its significance the existing fig tree may not be removed to afford views to the Bay. As a consequence views from the heritage item to the bay fare only afforded across the subject property at 64 Pellisier Road.

Are views from the Bay to the Heritage Item Significant?

Views from the bay were considered from two vantage points - one at the end of Beach Street and the other from a contemporaneous heritage item at 139 Tennyson Road.

60 Pellisier Road (including the roof) is not visible from either vantage point. Photographs following highlight the location of 60 Pellisier Road in red.

Even if 60 Pellisier Road were visible from vantage points across the bay it would not be possible to appreciate any significant fabric as the rear of the heritage item has been obscured by a recent addition including family areas and a verandah.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)



Views of the rear verandah above



Views from 139 Tennyson Road above and right

Agenda of the Planning and Environment Committee Report No. 1/12, dated
Tuesday 7 February 2012.

Agenda of the Planning and Environment Committee Report No. 13/12, dated
Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)



Views from Beach Street above

Conclusion

The visual and physical connection from the heritage item at 60 Pellisier Road to Morrison Bay contributes to its significance. For this reason the development application is not recommended to proceed.

Views from the Bay to the item do not contribute to its significance as the item is not visible and even if it were, the item would be obscured by recent additions.

Landscape Architect (13 January 2012): Council's Landscape Architect has raised no objection to the application subject to 1 condition, and provided the following comments:

Further to my email advice dated 7 December, 2012, the site was accessed and inspected on the 5 December, 2011. The owner was in attendance at the inspection and explained in detail the nature of the work to be undertaken.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)



*The subject significant tree is a Port Jackson Fig (*Ficus rubiginosa*). The tree occurs on the adjoining property (No. 60 Pellisier Road) and abuts the common boundary of the development site, and is scheduled on council's Significant Tree Register:*

Port Jackson Figs are important remnant endemic canopy trees and this specimen is located approximately 25 metres from the shoreline. There are no implications for this application with respect to the significant tree register, which allows minor pruning, but requires a council resolution for the removal of any tree on the register. This application does not require the removal of the tree and is subject to only some very minor pruning, which can be dealt with as condition a of consent.

It is estimated that nearly 50% of the structural root zone (SRZ) occurs on the subject development site, mostly between the boundary fence and the existing pool. As can be seen from the attached photo almost all of this area is protected by the existing deck, so the tree is not adversely affected by the current use occurring within its SRZ. The use around the base of the tree will remain essentially the same following construction, therefore there are no new impacts to consider in this regard.

The construction impact of the proposal on the ground involves the location of a single post/column within the SRZ and this is seen as an incursion that can reasonably managed subject to appropriate arboricultural supervision.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

The other potential impact is some pruning associated with the establishment of building clearances for the upper storey construction. The tree in the past has been pruned away from the present building envelope, therefore the nature of proposed pruning is relatively minor, and does not entail the removal of significant woody branches, and the current overall form and visual amenity of the tree will be maintained.

Conclusion

No objections to the development subject to the following condition.

Conditions

*The location of the column, shown on Lower Floor Plan 05, within the Structural Root Zone (SRZ) of the Port Jackson Fig (**Ficus rubiginosa**) is to be determined subject to the advice of a project arborist who shall ensure the final location is: 1) free of any significant structural roots; and, 2) minimises construction impacts. In addition the project arborist shall provide advice for minor canopy pruning to establish building clearances, which should not include the removal of significant woody branches.*

Development Engineer (24 October 2011): Council's Development Engineer has raised no objection to the application on drainage grounds subject to 3 conditions of consent.

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

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

16. Other Options

An option available to Council would be to defer consideration of the current proposal and request the applicant submit amended plans that address the concerns of the neighbours and the non-compliance with planning controls.

Also, any amended proposal would be required to be accompanied by a detailed assessment of view loss and heritage impact assessment by a suitably qualified heritage consultant in terms of impact upon the heritage significance of No. 60 Pellisier Road, Putney.

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (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 generally considered unacceptable.

The main issues of concern is that the proposed development will not comply with Council's requirements with respect to the overall height and the maximum number of storeys which exceeds Council's DCP requirements and results in an unacceptable and adverse affect upon the amenity and extent of views currently enjoyed by adjoining properties.

Although the degree of view loss varies, one particular site (No. 60 Pellisier Rd), which also happens to be a heritage item under Council's LEP, will lose all of their existing water views currently enjoyed over the top of the subject site.

Having regard to the nature, location and area of the site, its constraints and opportunities and the extent of the existing development, it is considered feasible that by implementation of an alternate design scheme, alterations and additions to the existing residence could take place which would also fulfil state and local planning requirements without adversely affecting the adjoining properties.

Having regard to the numerous non-compliances of the development proposal as detailed in this report and the overall adverse affect that the proposal will have upon the amenity and impact upon the water views enjoyed by adjoining properties, the development proposal is recommended for refusal for reasons detailed below.

Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

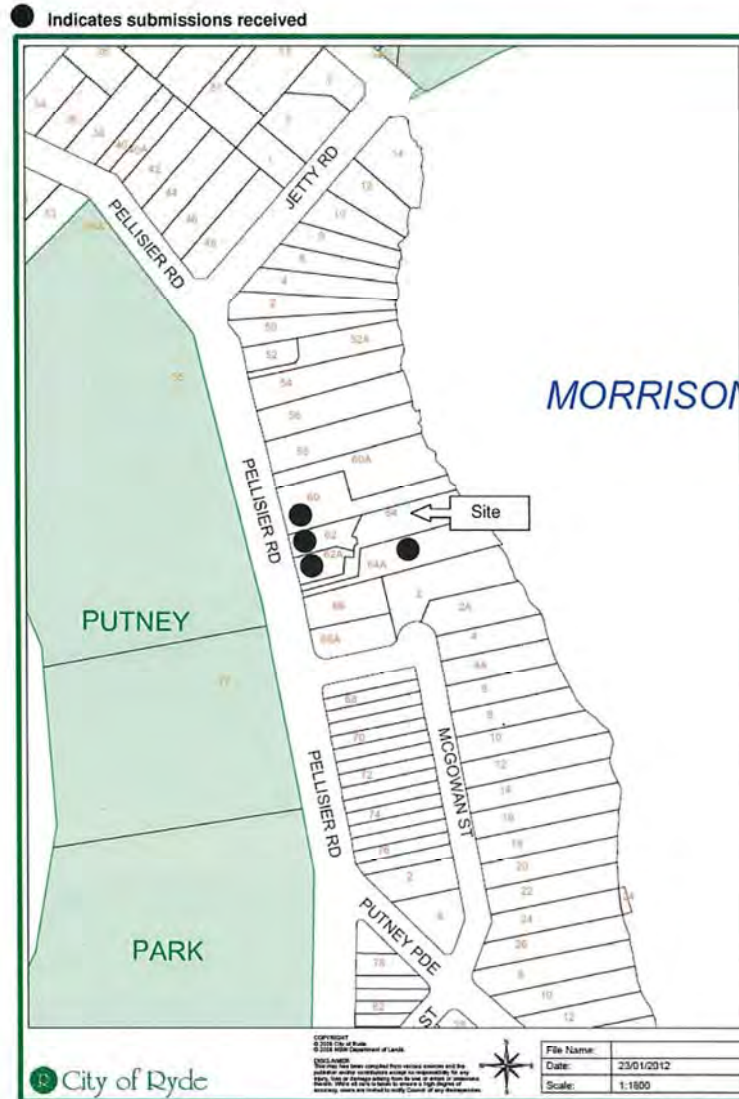
Agenda of the Planning and Environment Committee Report No. 13/12, dated Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

ATTACHMENT 1



Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

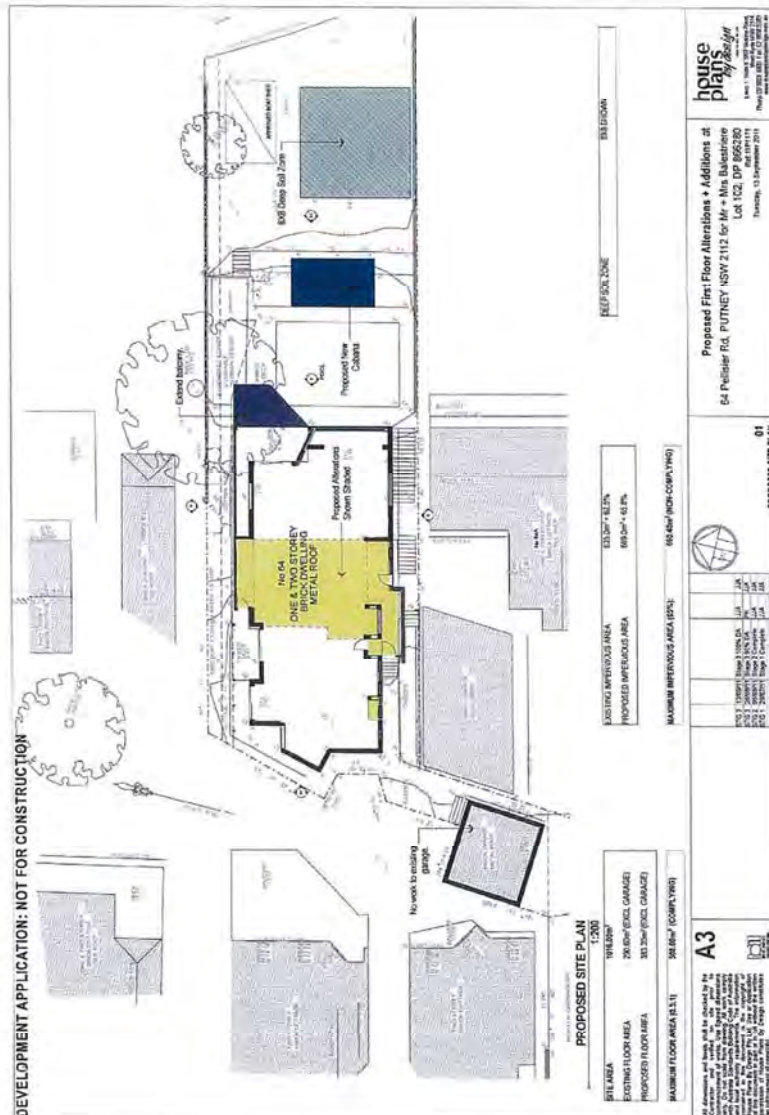
Agenda of the Planning and Environment Committee Report No. 13/12, dated Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 1

ITEM 4 (continued)

ATTACHMENT 2

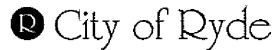


Agenda of the Planning and Environment Committee Report No. 1/12, dated Tuesday 7 February 2012.

Agenda of the Planning and Environment Committee Report No. 13/12, dated Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 2



Lifestyle and opportunity
@ your doorstep

Planning and Environment Committee Page 130

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

INTERVIEW: 5.05pm

Report prepared by: Team Leader - Assessment
Report approved by: Manager Assessment; Group Manager - Environment & Planning
Report dated: 25 July 2012
Previous Items: 4 - 64 PELLISIER ROAD, PUTNEY. LOT 102 DP 866280. Local Development Application for Alterations and additions to the existing dwelling including an additional new storey and new cabana in the rear yard. LDA2011/493. - Planning and Environment Committee - 7 February 2012 **File Number:** grp/12/5/5/3 - BP12/914

1. **Report Summary**

Applicant: S D Balestriere.
Owner: S D Balestriere.
Date lodged: 13 September 2011.

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

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

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

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

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

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

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

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

Public Submissions:

Original Plans: 4 submissions received.

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

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

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

RECOMMENDATION:

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

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

ATTACHMENTS

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

Report Prepared By:

Chris Young
Team Leader - Assessment

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

Agenda of the Planning and Environment Committee Report No. 10/12, dated
Tuesday 7 August 2012.

Agenda of the Planning and Environment Committee Report No. 13/12, dated
Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

Background

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

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

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

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

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

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

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

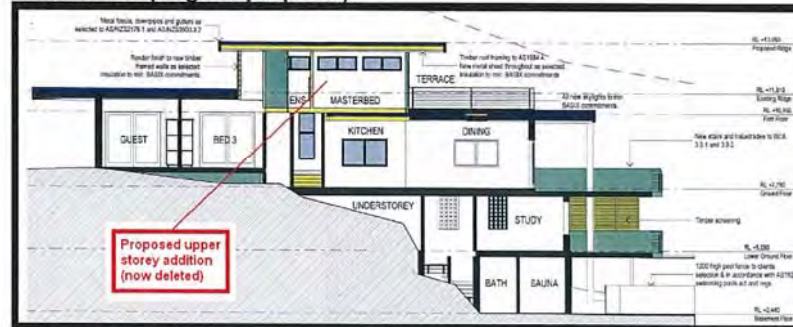
ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

Section A-A (original proposal):



Section A-A (amended proposal):



Submissions – Amended Plans:

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

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

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

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

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

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

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

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

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

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

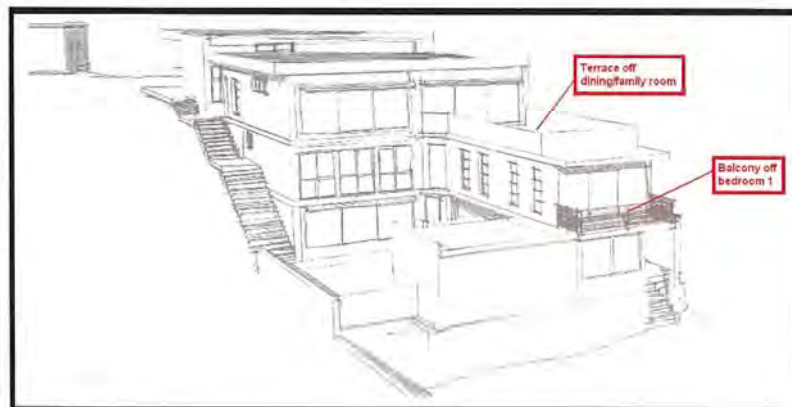
ITEM 5 (continued)

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

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

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

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



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

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

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

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

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

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

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

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

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

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

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

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

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

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

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

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

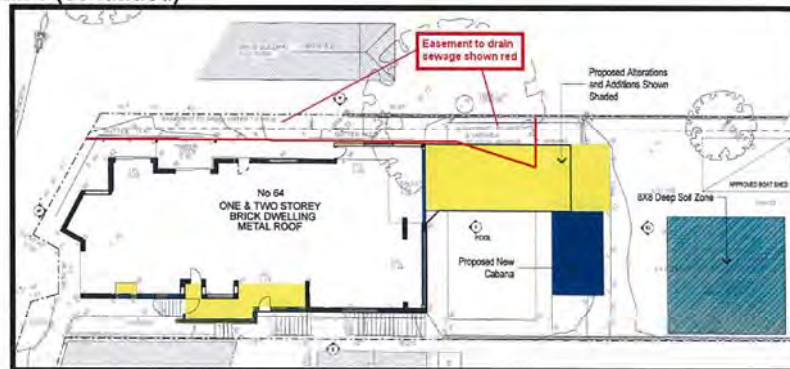
12. Construction over easement. *Concern is raised that the amended plans involve construction over an easement (to drain sewage), and that this will impede access to the easement for any required maintenance/works. Concerns were also raised from the owners of No 62 Pellisier Road that if they did not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

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

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)



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

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

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

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

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

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

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

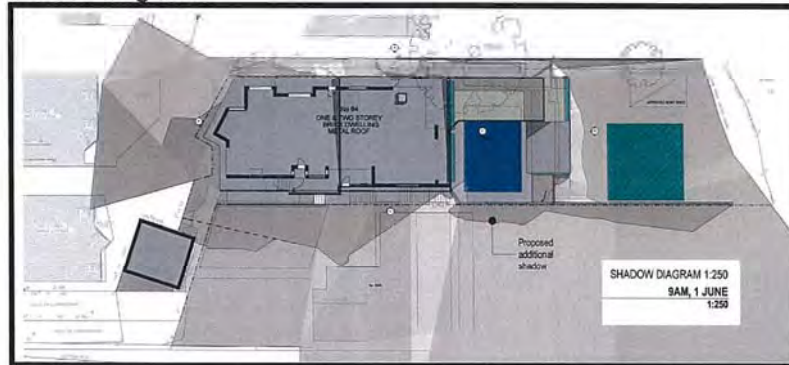
Comment: The objectors have made a detailed submission that the proposal does not comply with Council's DCP provisions. An assessment of compliance with DCP 2010 is made in the DCP Assessment section of this report.

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

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

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

Shadow diagrams:



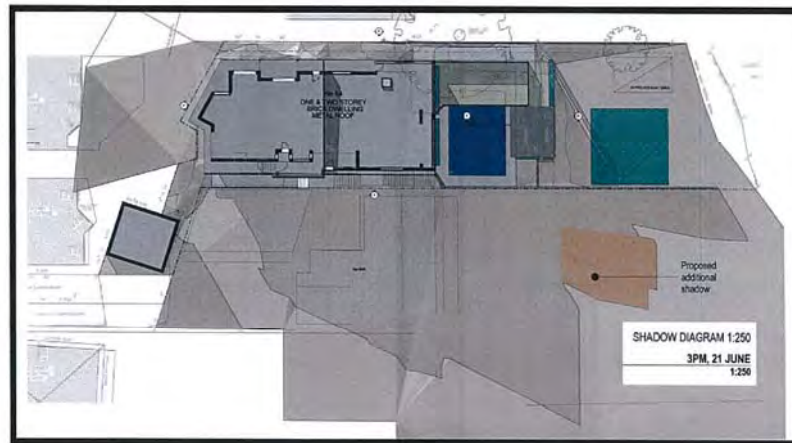
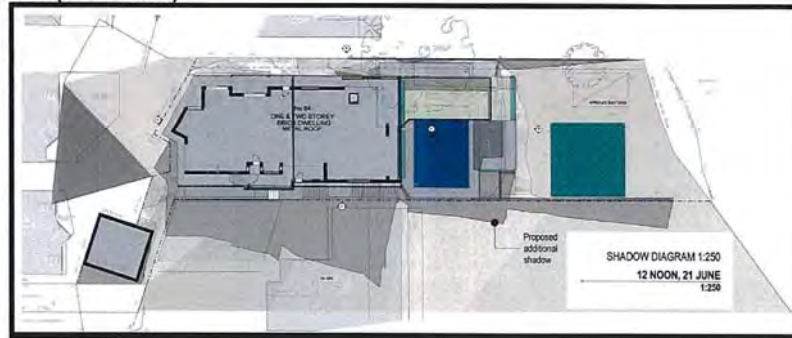
Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

Agenda of the Planning and Environment Committee Report No. 13/12, dated Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)



Air Photo (Nov 2010):



Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

Agenda of the Planning and Environment Committee Report No. 13/12, dated Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

Not required.

9. Policy Implications

Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Local Environmental Plan 2010

Zoning

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

Aims and objectives for residential zones

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

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

Ryde LEP 2010 – Mandatory Requirements

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

Clause 5.10 Heritage conservation

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

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

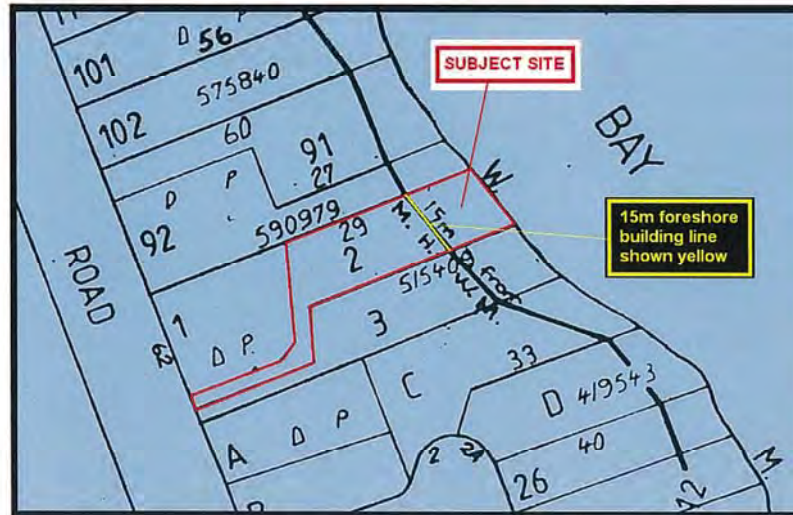
Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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



(b) Relevant SEPPs

State and Sydney Regional Environmental Planning Policies

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

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

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

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

Sydney Harbour Foreshore & Waterways Development Control Plan:

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

Provision	Proposal	Compliance
Cl. 2-Ecological Communities and Landscape Characters:		
o Urban Development with Scattered Trees (low status):		
- Conserve and enhance vegetation	Existing vegetation to be conserved on the site.	Yes
- Minimise risk of predation on native fauna by domestic pets.	Risk minimised by virtue of limited access to waterway.	Yes
- Minimise impacts of soil erosion, water siltation and pollution.	Proposal would not increase likelihood of soil erosion.	Yes
• Aquatic Ecological Community:		

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

Provision	Proposal	Compliance
smaller elements and to use pitched roofs.		
o walls and fences should be kept low enough to allow views of private gardens from waterway;	N/A	N/A
o bright lighting and especially floodlighting which reflects on the water can cause problems with night navigation and should be avoided. External lights should be directed downward, away from the water.	N/A	N/A
o use of reflective materials is minimised and relevant provisions of BCA are satisfied.	Could be resolved via condition.	Yes
o colours to be sympathetic with their surrounds and consistent with the colour criteria, where specified, for particular landscape character types in Part 3 of this DCP;	Colours sympathetic to existing building.	Yes
o cumulative visual impact of a number of built elements on a single lot mitigated through bands of vegetation and by articulating walls and using smaller elements;	Visual impact is not mitigated by vegetation. Relocation of side walls will limit and reduce overall bulk.	Yes
o the cumulative impact of development along the foreshore is considered having regard to preserving views of special natural features, landmarks or heritage items.	Impact of development will not adversely affect adjoining views and existing heritage item.	Yes

(c) Any draft LEPs

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

(d) The provisions of any Development Control Plan applying to the land

Ryde Development Control Plan 2010:

Part 3.3 – Dwelling Houses and Duplex Buildings

Part 7.2 – Waste Minimisation and Management

Part 8.2 – Stormwater Management

Part 9.2 – Access for People with Disabilities

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

DCP 2010	Proposed	Compliance
	residences.	
Public Views and Vistas		
- A view corridor is to be provided along at least one side allotment boundary where there is an existing/potential view of water.	Existing view over the top of the existing dwelling will be maintained – no view corridors affected.	Yes
- Landscaping is not to restrict views. Fence 70% open where height is >900mm.	Landscaping will not restrict views.	Yes
- View corridors in battleaxe allotments are to be co-ordinated with the front allotment.	Water views of street facing residence/s will not be adversely affected.	Yes
- Landscape elements such as ancillary structures, plantings, are not to restrict views.	Proposal will only restrict secondary views from habitable rooms of adjoining property (No. 64A)	Yes
- Garages/ carports and outbuildings are not to be located within view corridor if they obstruct view.	Existing garage does not obstruct view corridors.	Yes
Site Configuration		
Deep Soil Areas		
- 35% of site area min.	210m ² (20%)	No (1)
- Min 8x8m deep soil area in backyard.	8 m x 8m (+ swimming pool)	Yes
Topography & Excavation		
	NB: The subject site has a 8.3m fall from the "front" (western) boundary to the "rear" waterfront (eastern) corner.	
Building form and siting are to relate to original topography	Additional floor area adequately relates to original topography – overall height is minimised.	Yes
Cut and fill within and outside building footprint.	N/A – there is no additional cut and fill proposed beyond that which already exists on the site.	N/A
Floor Space Ratio		

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

DCP 2010	Proposed	Compliance
the length of the site, whichever is greater.		
Landscaping		
Trees & Landscaping		
- Major trees retained where practicable	All exiting major trees retained.	Yes
- Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL eg. stairs, terraces.	Physical connection provided at rear.	Yes
- Obstruction-free pathway on one side of dwelling.	Obstruction free pathway on both sides of dwelling.	Yes
- Back yard to have at least 1 tree with mature ht of 15m and a spreading canopy.	Back yard: no mature trees.	N/A
- Hedging or screen planting on boundary mature plants reaching no more than 2.7m.	Screen planting provided where site permits.	Yes
Dwelling Amenity		
Daylight and Sunlight Access		
- Living areas to face north where orientation makes this possible.	Site faces E-W. Dwelling designed to maximise internal light penetration.	Yes
<u>Subject Dwelling:</u>		
- 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.	3+ hours to north facing windows	Yes
- Private open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21.	POS: receives 3+ hours of sunlight.	Yes
<u>Neighbouring properties are to receive:</u>		
- 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21.	Shadows from proposed additions affect less than 50% of neighbouring properties.	Yes

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

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

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

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

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

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)



Subject site and residences to the south



Subject site and residences to the north

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

10. Likely Impacts of the Development

Impact upon existing views from adjoining properties

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

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

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

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

1. What views will be affected?

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

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

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

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

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

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

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

3. What is the extent of the impact?

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

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

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

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

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

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

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

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

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

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

The following are photos of the views from neighbouring properties:

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



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



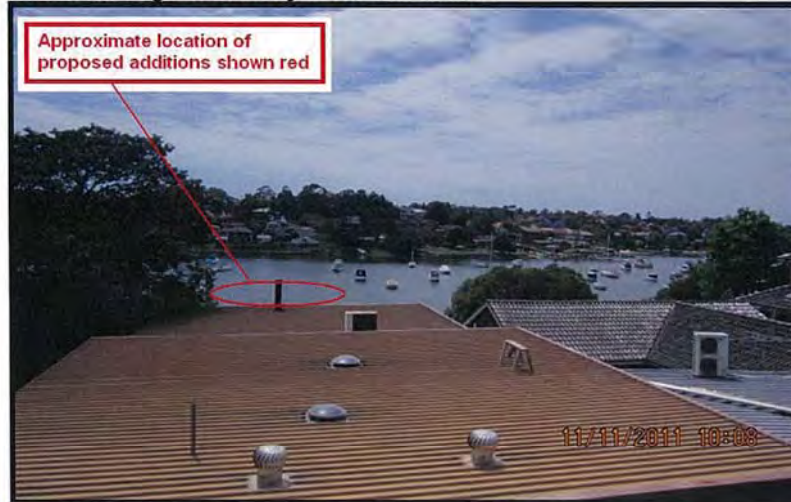
Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

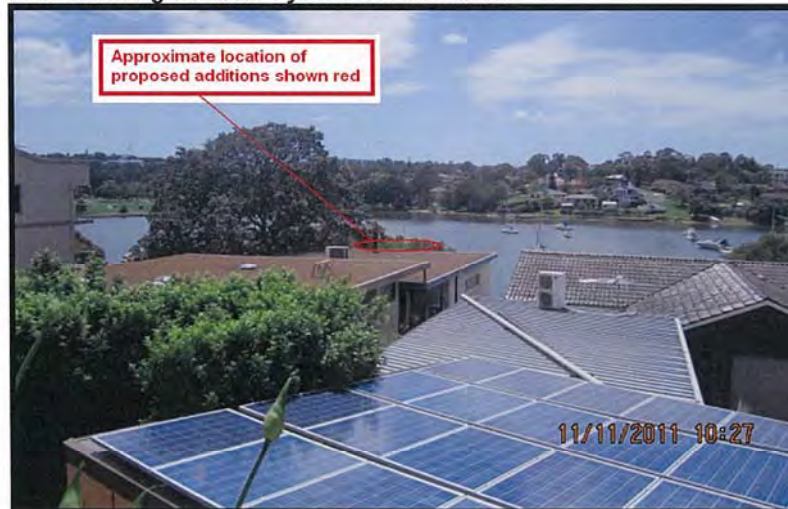
ATTACHMENT 2

ITEM 5 (continued)

View from edge of balcony at No 62 Pellisier:



View from edge of balcony at No 62A Pellisier:



Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

Agenda of the Planning and Environment Committee Report No. 13/12, dated Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

11. Suitability of the site for the development

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

12. The Public Interest

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

13. Consultation – Internal and External

Internal Referrals

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

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

Proposal:

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

Assessment of Heritage Impact:

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

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

Agenda of the Planning and Environment Committee Report No. 13/12, dated Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

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

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

Recommendations:

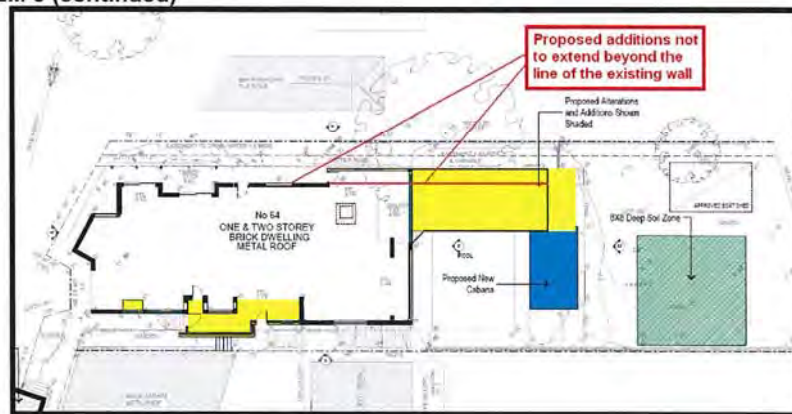
The following heritage recommendation is made: the new development projecting east at the second storey must be stepped back from the northern boundary to be in line with the existing kitchen and dining room side wall (this will equate to a setback of about 1 metre from the northern (side) boundary).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

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

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)



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

Comments

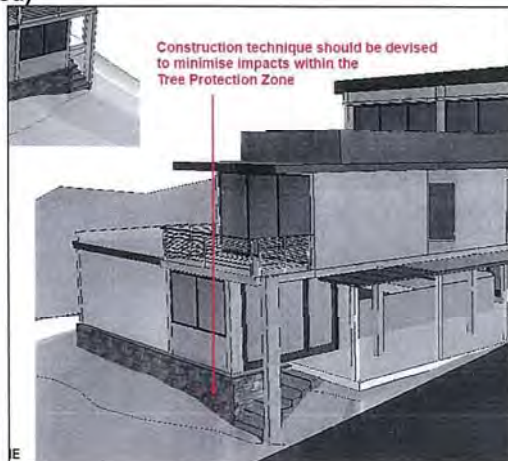
Further to my email advice dated 7th December, 2012 and memo dated 13th January, 2012, I have now reviewed an arborist's report prepared by W Devjak of Vic's Tree Service dated 14th May, 2012. The report itself is quite rudimentary and does not address specific construction management techniques.

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

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)



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



Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

Agenda of the Planning and Environment Committee Report No. 13/12, dated Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

Conclusion

No objections to the development subject to the following condition.

Conditions

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

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

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

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

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

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

16. Other Options

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

A. Deferral:

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

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

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

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

B. Refusal:

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

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

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

C. Approval:

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

17. Conclusion

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

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

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

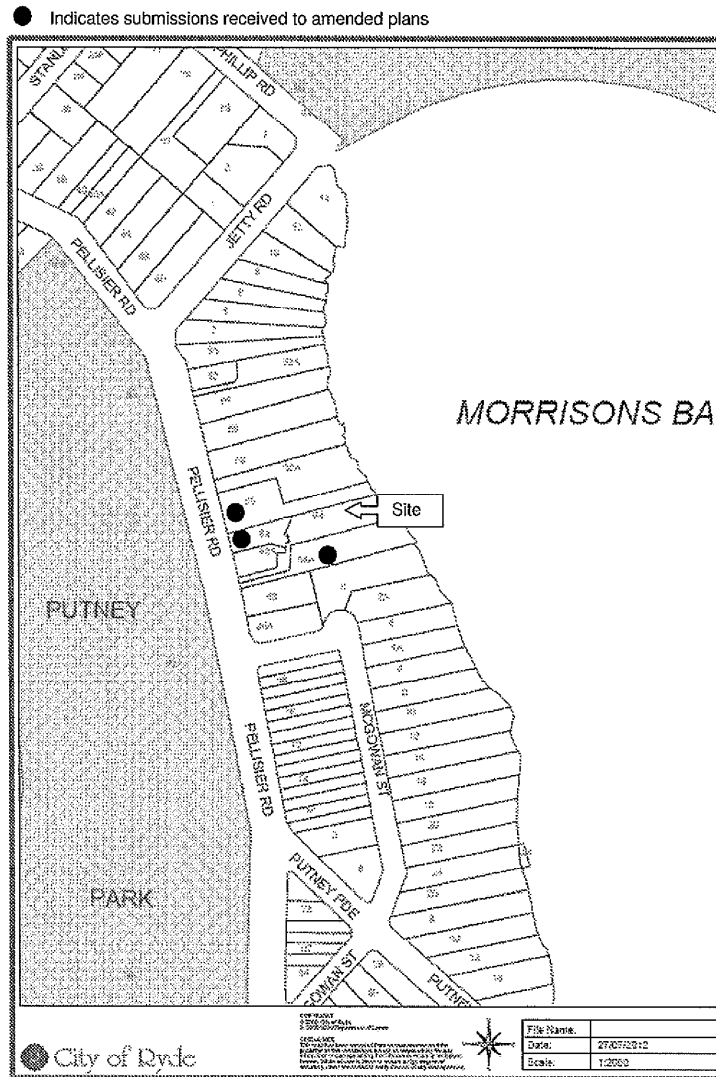
It is recommended that the applicant be requested to submit amended plans addressing these issues, and upon the submission of satisfactory amended plans, that the Group Manager Environment & Planning be delegated authority to issue development consent subject to standard conditions of consent.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

ATTACHMENT 1



Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

Agenda of the Planning and Environment Committee Report No. 13/12, dated Tuesday 20 November 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

ATTACHMENT 2

MEMO

Environment & Planning

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

On 14 February 2012, Council resolved as following:

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

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

Attendees:

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

The meeting was chaired by Dominic Johnson.

Meeting:

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

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

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

Agenda of the Planning and Environment Committee Report No. 10/12, dated Tuesday 7 August 2012.

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

ATTACHMENT 2

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

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

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

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

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

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

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

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

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

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

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

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

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

DJ – Would a rear addition help?

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

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

ITEM 5 (continued)

ATTACHMENT 2

ITEM 5 (continued)

ATTACHMENT 2

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

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

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

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

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

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

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

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

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

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

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

signed

George Lloyd