

Meeting Date: Tuesday 4 June 2013
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 5.00pm

NOTICE OF BUSINESS

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1 CONFIRMATION OF MINUTES - Meeting held on 21 May 2013

Report prepared by: Section Manager - Governance
File No.: CLM/13/1/3/2 - BP13/93

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 8/13, held on Tuesday 21 May 2013, be confirmed.

ATTACHMENTS

- 1 Minutes - Planning and Environment Committee - 21 May 2013

ITEM 1 (continued)

ATTACHMENT 1

**Planning and Environment Committee
MINUTES OF MEETING NO. 8/13**

Meeting Date: Tuesday 21 May 2013

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

Time: 5.06pm

Councillors Present: Councillors Pendleton (Chairperson), Chung and Yedelian OAM.

In the absence of Councillor Simon, the Deputy Chairperson – Councillor Pendleton chaired the meeting.

Apologies: Councillors Simon and Maggio.

Absent: Councillor Salvestro-Martin.

Staff Present: Group Manager – Environment and Planning, Service Unit Manager – Assessment, Service Unit Manager – Environmental Health and Building, Business Services Coordinator – Environment and Planning, Team Leader – Assessment, Team Leader – Major Development, Consultant Town Planner (City Plan Services), Consultant Development Engineer (EZE Hydraulic Engineers) and Councillor Support Coordinator.

DISCLOSURES OF INTEREST

There were no disclosures of interest.

1 CONFIRMATION OF MINUTES - Meeting held on 7 May 2013

RESOLUTION: (Moved by Councillors Chung and Yedelian OAM)

That the Minutes of the Planning and Environment Committee 7/13, held on Tuesday 7 May 2013, 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 14-16 SMALL'S ROAD, RYDE. LOTS 1, 2 and 3 DP 30420. Local Development Application for demolition & the construction of a seniors housing development to accommodate a maximum of 15 disabled persons. LDA2013/0007.

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

Note: Correspondence was tabled by Edwin and Samantha Choi (objector) in relation to this Item and a copy is ON FILE.

RESOLUTION: (Moved by Councillors Chung and Yedelian OAM)

- (a) That Local Development Application No. LDA2013/0007 at 14 to 16 Small's Road, Ryde being LOTS 1, 2 and 3 in DP30420 be approved subject to the **ATTACHED** conditions (Attachment 1).
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

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

3 14A ETHEL STREET, EASTWOOD. LOT A DP 381028. Local Development Application for demolition and construction of a boarding house. LDA2012/0332.

Note: Mr Lee and Mr Sung (applicant and owner respectively) addressed the Committee in relation to this Item.

RECOMMENDATION: (Moved by Councillors Chung and Yedelian OAM)

- (a) That Local Development Application No. 2012/0332 at 14A Ethel Street Eastwood, being LOT A DP 381028 be approved as a deferred commencement consent for a drainage solution to be provided by the applicant before the consent becomes operational to the satisfaction of the Group Manager Environment and Planning. The deferred commencement approval with conditions to be provided by the Group Manager Environment and Planning at the Council Meeting on 28 May 2013.
- (b) That Council accepts the payment of \$94 for two carparking spaces which is to be reflected in the conditions of consent required by part a.
- (c) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

ITEM 1 (continued)

ATTACHMENT 1

Note: This matter will be dealt with at the Council Meeting to be held on **28 MAY 2013** as substantive changes were made to the published recommendation

4 958 VICTORIA ROAD, WEST RYDE. LOT 8 DP 819902. Local Development Application for alterations and additions to existing dwelling. LDA2012/47.

RESOLUTION: (Moved by Councillors Chung and Yedelian OAM)

(a) That Local Development Application No. LDA2012/47 at 958 Victoria Road, West Ryde, being LOT 8 DP819902 be approved subject to the conditions contained in **Attachment 1**.

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

Record of Voting:

For the Motion: Unanimous

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

The meeting closed at 5.22pm.

CONFIRMED THIS 4TH DAY OF JUNE 2013.

Chairperson

- 2 29 VIMIERA ROAD, EASTWOOD - LOT 10 DP 4574. Building Certificate Application for unauthorised building works to the existing dwelling, including a first floor addition, extensions to the rear of the dwelling and demolition. BC2013/0003.**

INTERVIEW: 5.00pm

Report prepared by: Creative Planning Solutions

Report approved by: Manager Environmental Health & Building; Group Manager - Environment & Planning

Report dated: 23/05/2013

File Number: grp/09/5/6/2 - BP13/771

1. Report Summary

Applicant: Pyramid Consulting Pty Ltd

Owner: Alramon Pty Ltd - Norm Cerreto

Date lodged: 17 January 2013

This report considers a Building Certificate (application) for unauthorised building works to the existing dwelling at 29 Vimiera Road, Eastwood. The building works include a first floor addition, extensions to the rear of the dwelling and demolition works.

This application was notified and two (2) submissions were received from neighbouring properties raising the following key issues:

- Desired future character
- Visual impact (building height, bulk and scale)
- Privacy impacts
- Overshadowing
- Drainage

The proposal has been assessed against the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979 and Council's DCP 2010.

Although the development has been assessed as complying with the mandatory requirements of the Ryde LEP 2010 and Draft Ryde LEP 2011, specific development controls contained in the Ryde DCP 2010 for desired future character have not been met, particularly those controls in relation to the proposed dwelling's scale, form, integration, massing and proportion.

It is generally considered that the alterations and additions have resulted in a dwelling that creates a significant visual impact to the streetscape, and poor integration with the existing dwelling. The dwelling (with the proposed alterations and additions) is considered to be inconsistent with the desired future character for the R2 Low Density Residential area, and in particular the character of the streetscape in the immediate area. It is therefore recommended that this application be refused.

ITEM 2 (continued)

Reason for Referral to Planning and Environment Committee: Resolution of Council's meeting No.4/13 held on 12 March 2013 required that:

(c) A further report be forwarded to Council for consideration on the merits of the building certificate application for the unauthorised work.

(d) That if the building certificate is not issued then Council note its intent to pursue the demolition of the unapproved structure.

Public Submissions: **Two (2) submissions** were received objecting to the development.

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

Value of works?: \$80,000

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

RECOMMENDATION:

- (a) That BC2013/0003 at 29 Vimiera Road, Eastwood being LOT 10 DP 4574 be refused for the following reasons:
1. The alterations and additions result in a dwelling which is inconsistent with the desired future character for the R2 Low Density Residential zone, and in particular the character of the streetscape in the immediate area.
 2. The alterations and additions create a significant visual impact to the streetscape and public domain with a poor design outcome in terms of form, massing, integration and materiality.
 3. The alterations and additions do not integrate with the form or character of the existing dwelling house on site.
 4. In the circumstances of the case, approval of the development is not in the public interest.
 5. The applicant has not demonstrated full compliance with the requirements of the National Construction Code Series - Building Code of Australia (BCA).

ITEM 2 (continued)

6. The roof water is not suitably discharged into an approved drainage system as required by the BCA. Documentary evidence has not been submitted demonstrating that the proposed drainage system complies with the Council's Development Control Plan 2010 (DCP).
- (b) That Council pursue demolition of the unapproved structure.
- (c) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 A4 Plans - Site Plan
- 2 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER
- 3 Vimiera Road streetscape within the vicinity of No. 29

Report Prepared By:

Ben Tesoriero Planning Consultant
Creative Planning Solutions

Report Approved By:

Scott Cox
Manager Environmental Health & Building

Dominic Johnson
Group Manager - Environment & Planning

ITEM 2 (continued)

2. Site (Refer to attached map)

Address	: 29 Vimiera Road, Eastwood (Lot 10 in Deposited Plan 4574)
Site Area	: 1130m ² (Site survey) Frontage to Vimiera Road of 20.62m (Site survey) North-eastern side boundary of 49.685m (Site survey) South-western side boundary of 50.29m (Site survey) Rear boundary of 16.705m (Site survey)
Topography and Vegetation	: The topography of the local area is relatively flat with the site having a south-easterly aspect. The subject site has a slight slope from Vimiera Road to the north-western rear boundary. No significant vegetation exists on the site.
Existing Buildings	: Dwelling house, pergola structure, attached laundry outbuilding, detached garage and detached metal shed.
Planning Controls	
Zoning	: R2 – Low Density Residential under Ryde LEP 2010 R2 – Low Density Residential under draft Ryde LEP 2011
Other	: Ryde DCP 2010



Figure 1: Site location and objectors plan

ITEM 2 (continued)



Figure 2: Subject site at 29 Vimiera Road and unauthorised building works

3. Councillor Representations

This matter was previously reported to Council's Planning and Environment Committee Meeting held on 5 March 2013 following representations made to Councillors regarding unauthorised building works.

Council's Planning and Environment Committee referred the matter to Council's meeting of 12 March 2013 and Council resolved:

- (a) *That Council prosecute Alramon Pty Limited in the Local Court via a Court Attendance Notice for failing to cease unauthorised construction work at No. 29 Vimiera Road, Eastwood when directed by Council staff.*
- (b) *That Council prosecute Alramon Pty Limited in the Local Court via a Court Attendance Notice for carrying out unauthorised development at No. 29 Vimiera Road, Eastwood; and*

ITEM 2 (continued)

- (c) That a further report be forwarded to Council for consideration on the merits of the building certificate application for the unauthorised work.*
- (d) That if the building certificate is not issued, then Council note its intent to pursue the demolition of the unapproved structure.*

4. Political Donations or Gifts

None disclosed in applicant's building certificate application or in any submission received.

5. Proposal

The following outlines the unauthorised building works already undertaken to the existing dwelling house at 29 Vimiera Road, Eastwood.

- Demolition of the rear portion of the dwelling house, the attached covered area and outbuilding (laundry).
- Demolition of the detached garage to the rear of the site.
- Extension of the dwelling house to the rear by approximately 4 metres to include a new living area.
- Addition of a carport and cantilevered first floor to the north of the site which includes a rumpus room and three (3) bedrooms.

Additionally the following works are understood to yet be completed to the existing dwelling house at 29 Vimiera Road, Eastwood.

- Construction of a rear balcony to service the rumpus room.
- Finishes to the building facades of the additions.
- Installation of gutters and downpipes.
- Connection to an approved stormwater drainage system.

6. Background

The following is a brief overview of the development history relating to the unauthorised works that have taken place on the subject site:

The construction works were commenced without both development consent and construction certificate in December 2012. Despite several directions by Council staff, the works continued.

- A Building Certificate application BC2013/0003 was lodged on 17 January 2013. The building certificate application submitted had inaccurate plans and insufficient documentation. Amended plans and further documentation were requested from the applicant on 7 February 2013.

ITEM 2 (continued)

- Amended plans and further documentation were received by Council on 20 March 2013.

7. Submissions

The original proposal was notified to adjoining property owners in accordance with Development Control Plan 2010 – Part 2.1, Notification of Development Applications for a period from 2 April 2013 to 17 April 2013.

In response, two (2) submissions were received from the owners of neighbouring properties as shown on the aerial photograph earlier in the report. The key issues raised in the submissions are summarised and discussed as follows.

A. Visual impact (design/bulk/scale) – *concerns are raised over the visual impact that will result from the proposed development, in particular the design of the finished building that is inconsistent with surrounding streetscape character*

Comment: Preliminary assessment of the proposed development identified a number of non-compliances that related to the character and design of the finished building. Accordingly, concerns regarding inconsistency of the alterations and additions with the existing dwelling and surrounding streetscape character are considered to be well founded.

The existing dwelling presented a rather modest single storey elevation which created minimal visual impact to the streetscape and was consistent with the character of the architectural style, bulk, and scale of surrounding neighbourhood. As a result of the alterations and additions the visual impact on the streetscape has been significantly intensified, seeing a box-like structure appended to the northern elevation and additions to the rear of the existing dwelling. The form, integration, massing and materiality are all inconsistent with both the existing dwelling and the surrounding residential character. Consequently, the dwelling now presents a significant visual impact to the public domain and detracts considerably from the streetscape.

Furthermore the proposal is not considered to meet the objectives of Ryde DCP 2010 in terms of design of the finished building being consistent with the desired future character of the low density residential areas.

Accordingly, the neighbouring objections in relation to visual impact are concurred with and supported.

B. Privacy Impacts – *concerns are raised that the proposed development will impact the privacy of neighbouring dwellings and allow for overlooking.*

ITEM 2 (continued)

Comment: Privacy concerns were primarily focused towards the bedroom window (W8) on the northern elevation of the alterations and additions providing for overlooking towards the neighbouring allotments at No.31 and No.33 Vimiera Road.

Although the subject window appears as though it allows for overlooking towards the neighbouring allotments to the north, due to the significant screening vegetation that runs along the boundary it is considered that any overlooking and privacy issues would be mitigated.

It is however noted that a balcony extending from the rumpus room on the new upper level of the dwelling may provide for overlooking towards the private open space of No.31 Vimiera Road. Accordingly, if this development were to be approved it is recommended that a condition be imposed to construct a privacy screen to mitigate privacy/overlooking issues to the north.

Given the above it is considered that issues relating to privacy/overlooking have been addressed.

C. Overshadowing – concerns are raised over the proposed development increasing overshadowing to neighbouring dwellings and private open space.

Comment: As demonstrated in the shadow diagrams submitted as part of the development application (see below) the proposed development will see some minor additional overshadowing to the neighbouring allotment at No.27 Vimiera Road as a result of the additions to the western elevation of the dwelling. Although creating a minor increase in overshadowing, it is considered the north facing windows would have previously been overshadowed by the existing dwelling on site due to its position and pitch of roof. Accordingly, the overshadowing to the neighbouring allotment at No.27 Vimiera Road is considered to be acceptable.

In terms of impacts to the neighbouring allotment at No.31 Vimiera Road, no additional shadows will be cast over the dwelling or private open space. It is noted that although the alterations and additions are concentrated to the north of the subject site and some loss of light may be possible, due to the significant existing vegetation along the boundary it is considered that this would have previously obscured daylight to the windows on the southern façade of the dwelling. Additionally it is noted that an increased side setback along the southern boundary of No.31 Vimiera Road would allow for sufficient access to daylight.

Accordingly, neighbouring objections on the grounds of excessive overshadowing are not supported.

ITEM 2 (continued)

D. Drainage – concerns are raised over the increase in hard paved areas and the drainage and runoff issues which may arise as a result.

Comment: The matter was referred to Council's Development Engineer and the following comments were made:

- 1) The current proposal to deal with the stormwater involves directing the new roof area into an existing pit in the rear yard. Insufficient detail is provided to determine whether the existing arrangement complies with the DCP 2010 Part 8.2 Stormwater Management. Further details would need to be provided to Council on this issue in order to determine the size and functionality of the existing system and the potential impacts on adjoining properties.
- 2) The south-western part of the carport (enclosed area) does not have direct access for vehicles from the street. It is unknown how vehicles will enter and exit this area.
- 3) A long section of the access driveway to the carport showing driveway gradients should be submitted to demonstrate that Australian Standards AS 2890.1 can be met.

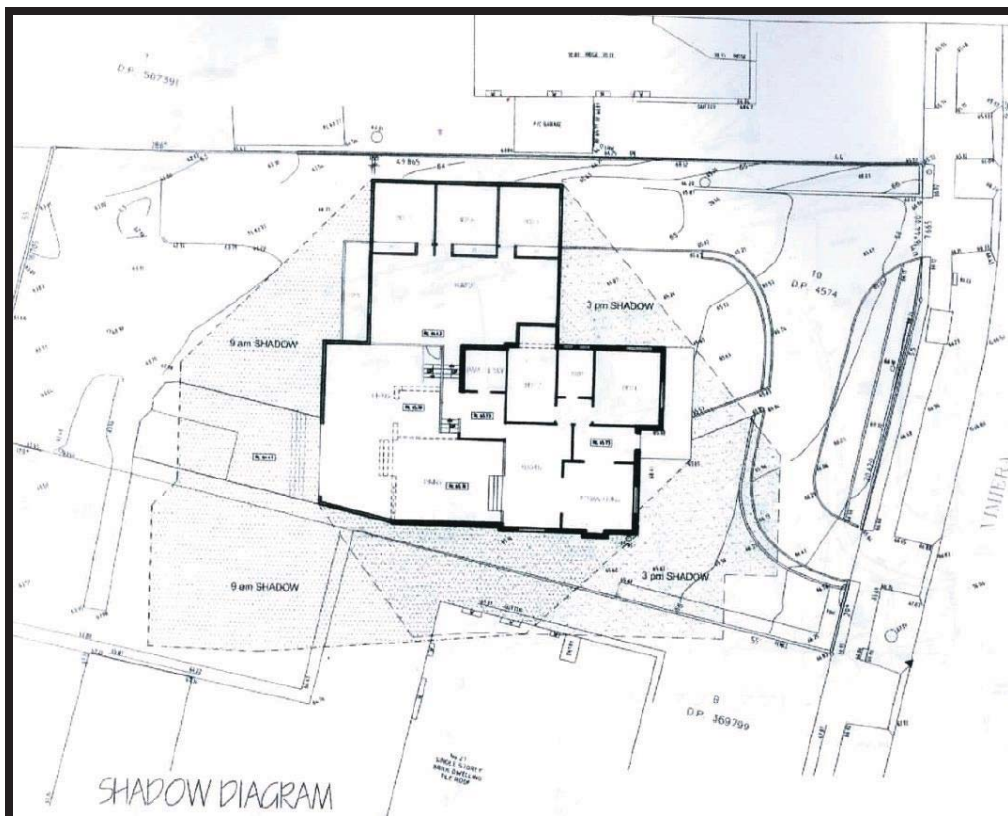


Figure 3 – Shadow diagram of 29 Vimiera Road, Eastwood

ITEM 2 (continued)**8. SEPP1 (or clause 4.6 RLEP 2010) objection required?**

None required.

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

Under the Ryde LEP 2010 the zoning of the subject site is R2 Low Density Residential. The proposed development, being alterations and additions for the purposes of a 'dwelling house' is permissible with consent under this zoning.

Mandatory Requirements

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

Clause 4.3 – Height of buildings. Sub-clause (2) of this clause states that “the height of a building on any land is not to exceed the maximum height for the land shown for the land on the height of buildings map”. In this case, the maximum height is 9.5m. The maximum height of the proposed new dwelling is 6.83m, which complies with Ryde LEP 2010.

Clause 4.4 - Floor Space Ratio. This clause prescribes a maximum floor space ratio (FSR) of 0.5:1. The FSR for the proposed development has been calculated to be 0.25:1, which complies with this clause.

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

A compliant BASIX Certificate has been submitted with the Building Certificate Application. It is unknown whether the requirements of the BASIX certificate have been installed.

(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

ITEM 2 (continued)

13 July 2012. Under this Draft LEP, the zoning of the property is R2 Low Density Residential. It is considered that the proposal is not contrary to the objectives of the Draft LEP or those of the proposed zoning.

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

The proposal has been assessed using the development controls contained in Ryde DCP 2010. The following is an assessment of the development application against the key components of the Ryde DCP 2010 that are considered to apply to the development given the unauthorised works included alterations and additions to the existing dwelling house.

Desired Future Character

Section 2.1 of Part 3.3 of the Ryde DCP 2010 prescribes development controls to ensure development is consistent with the desired future character of the low density residential areas.

It is noted that Ryde DCP 2010 specifies the desired future character of the low density residential areas of the City of Ryde is one that includes:

- streetscapes made up of compatible buildings with regard to form, scale, proportions (including wall plate heights) and materials.

By virtue of the proposal's lack of integration with the existing dwelling, and also with the surrounding streetscape character, it is considered that the proposal fails to result in a development that is consistent with the desired future character of the low density residential areas. This is primarily because the development is not considered to be compatible with those of surrounding buildings, particularly with regard to form, architectural style, scale and proportion.

Design of Finished Building

Section 2.2.2 of Part 3.3 of Ryde DCP 2010 prescribes development controls for alterations and additions. Specifically, that alterations and additions visible from the public domain are to be designed so that the finished building appears as an integrated whole. The control notes that this may require the addition to have a façade and materials consistent with the existing house. As demonstrated by the photographs within the attached Compliance Checklist, the proposed alterations and additions are not sympathetic, nor integrated, with the design of the existing dwelling.

ITEM 2 (continued)

The existing dwelling presents a modest single storey 1920's Federation style bungalow of brick construction with timber accents and a pitched tiled roof. The alterations and additions undertaken result in a box like structure with a flat roof design, no façade articulation and which extends in a linear fashion from the northern side of the existing dwelling. Hence the design of the finished building appears not as an integrated whole but rather two significantly different components to the dwelling that have been haphazardly married together.

Given the poor level of design integration with the existing dwelling it is considered that the alterations and additions do not meet the controls set out in the Ryde DCP 2010 in terms of design of the finished building.

Articulated Street Facades

Section 2.4.1 of Part 3.3 of the Ryde DCP 2010 prescribes development controls for streetscape. Specifically, that facades visible from the public domain are to be well designed by ensuring street facades are articulated to provide visual interest. As demonstrated by the photographs within the attached Compliance Checklist, the proposed alterations and additions do not provide a street front façade with any articulation.

When viewed from the street, the alterations and additions present a large expanse of unarticulated building façade that appears almost as a blank wall. This combined with the flat roof design creates minimal visual interest and a design which does not complement the existing dwelling or surrounding streetscape character.

Given the above, it is considered that the façade articulation of the alterations and additions is not well designed and does not meet the controls of Part 2.4.1 of the Ryde DCP 2010 and is therefore unacceptable.

Sunlight

Section 2.13.1 of Part 3.3 of the Ryde DCP 2010 prescribes development controls for daylight and sunlight access. Specifically, that windows to north-facing living areas of neighbouring dwellings receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their surface, where this can be reasonably maintained given the orientation topography of the subject and neighbouring sites. As demonstrated within the attached Compliance Checklist, two neighbouring north facing windows at No.27 Vimiera Road do not receive the minimum amount of sunlight required as is specified in the Ryde DCP 2010.

ITEM 2 (continued)

Although the abovementioned windows do not receive the minimum sunlight required, this non-compliance is considered to be acceptable as the existing dwelling on site created a significant shadow across the subject windows at No.27 Vimiera Road. It is also noted that due to the orientation of the allotment, it is considered that any additional development on site would create an increase in overshadowing to the dwelling at No. 27 Vimiera Road even if lawfully constructed. Additionally, it is unclear from the site survey and site inspections whether the subject windows are living room windows.

In this regard it is considered that the proposed level of overshadowing across neighbouring allotments is acceptable.

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

A thorough assessment of the impacts of the proposed development on the built environment has been undertaken as part of the completed assessment of the proposed development.

The resultant impacts of the alterations and additions on the built environment are considered to result in a development that is not consistent with the desired character of the low density residential areas, particularly with regard to form, architectural style, proportion and massing.

As a result, the proposed development is not supported on the basis of the negative impacts it will incur on the built environment and the unwelcome precedent it would set in this low density residential context.

(b) Natural Environment

Given the nature of the proposed development being for alterations and additions to an existing dwelling house, it is considered there will be no significant impact upon the natural environment as a result of the proposal subject to the receipt of satisfactory drainage plans.

11. Suitability of the site for the development

A review of Council's map of Environmentally Sensitive Areas (held on file) identifies that there are no constraints affecting the subject property of concern regarding the proposed development.

ITEM 2 (continued)**12. The Public Interest**

It is considered that approval of this Building Certificate would not be in the public interest and would set an unwelcome precedent which detracts from the streetscape of Vimiera Road.

The development does not comply with Council's development controls for desired future character, alterations and additions or streetscape as prescribed by the Ryde DCP 2010.

As a result, the overall form, architectural style, proportions and massing of the new alterations and additions are considered to contradict the objectives and outcomes of the desired future character of the low density residential areas of the City of Ryde.

13. Consultation – Internal and External**Internal Referrals****a) Drainage assessment:**

The matter was referred to Council's Development Engineer and the following comments were made:

- 1) The current proposal to deal with the stormwater involves directing the new roof area into an existing pit in the rear yard. Insufficient detail is provided to determine whether the existing arrangement complies with the DCP 2010 Part 8.2 Stormwater Management. Further details would need to be provided to Council on this issue in order to determine the size and functionality of the existing system.
- 2) The south-western part of the carport (enclosed area) does not have direct access for vehicles from the street. It is unknown how vehicles will enter and exit this area.
- 3) A long section of the access driveway to the carport showing driveway gradients should be submitted to demonstrate that Australian Standards AS 2890.1 can be met.

Comment:

As a result of the above assessment the application cannot be supported.

ITEM 2 (continued)

b) Building Compliance assessment:

The application was assessed against the requirements of Building Code of Australia (BCA) and the following deficiencies were noted:

(i)	Part 3.1.2 Drainage	The roof water to the unauthorised construction has no gutters and down pipes and is not connected to an approved drainage system. Details of the existing drainage system are unknown.
(ii)	Part 3.9 safe movement & access	The threshold to the doorway at the rear and the sliding door to the top storey is greater than the minimum 190 mm as required by the Building Code of Australia. (Note the balcony area has not been completed and the works if approved would need to be modified to meet the requirements of the BCA)
(iii)	Part 3.12 energy efficiency	No confirmation or certificate has been provided to indicate that the construction as built complies with the BASIX Certificate #A153901 and achieves the Energy Efficiency rating required.
(ix)	Part 3.9.2.5 Protection of openable windows	It is understood that the windows to the bedrooms on the first floor are greater than 2m from the finished surface beneath. Compliance with protection of window openings meeting the requirements of the BCA will need to be satisfied.

Comment:

Whilst the above assessment shows that the proposal does not demonstrate full compliance with the Building Code of Australia, these matters could potentially be addressed by the applicant to achieve compliance should an approval be granted.

External Referrals

None.

ITEM 2 (continued)**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 may have a financial impact should the application be appealed in the Land and Environment Court or should Council take action to have the unauthorised works demolished.

16. Other Options

None relevant.

17. Conclusion

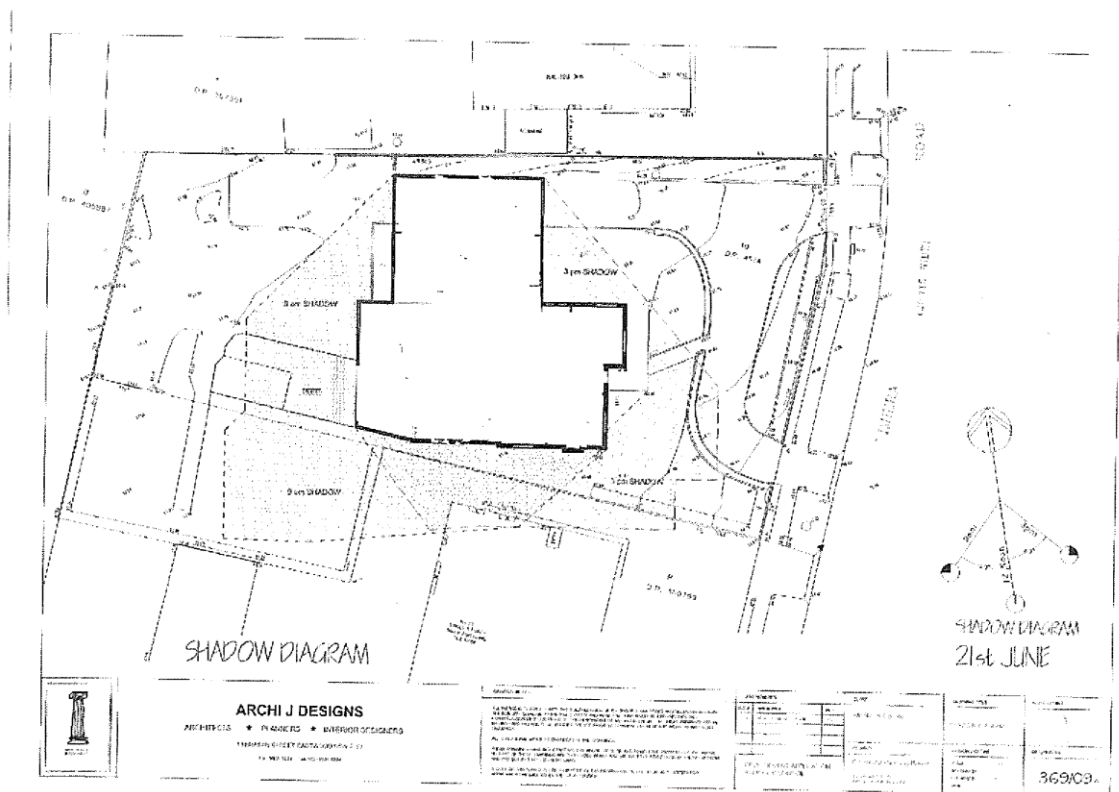
The proposed development has been assessed using the heads of consideration listed in Section 79 of the Environmental Planning & Assessment Act 1979 and is considered not to be satisfactory for approval.

The proposed development does not comply with key development controls of Ryde DCP 2010 relating to the desired future character of the R2 Low Density Residential zones as well as drainage requirements.

On the above basis, it is therefore recommended that BC2013/0003 at 29 Vimiera Road, Eastwood be refused and enforcement action commenced for the demolition of the unauthorised works.

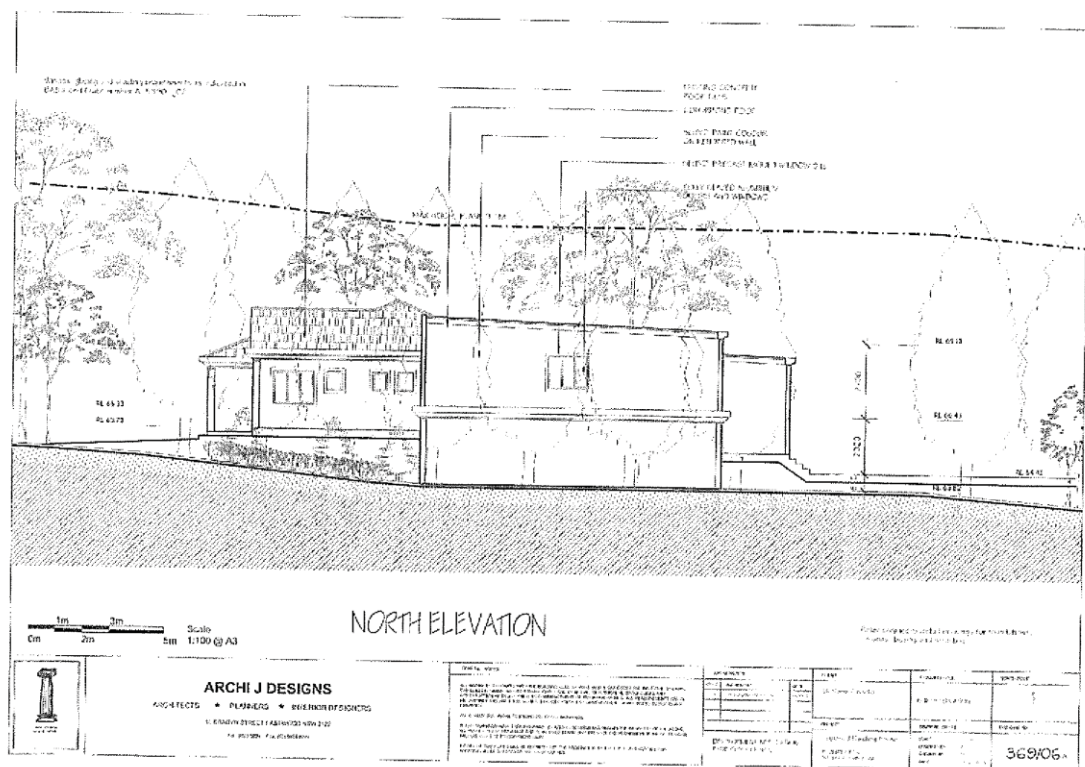
ITEM 2 (continued)

ATTACHMENT 1



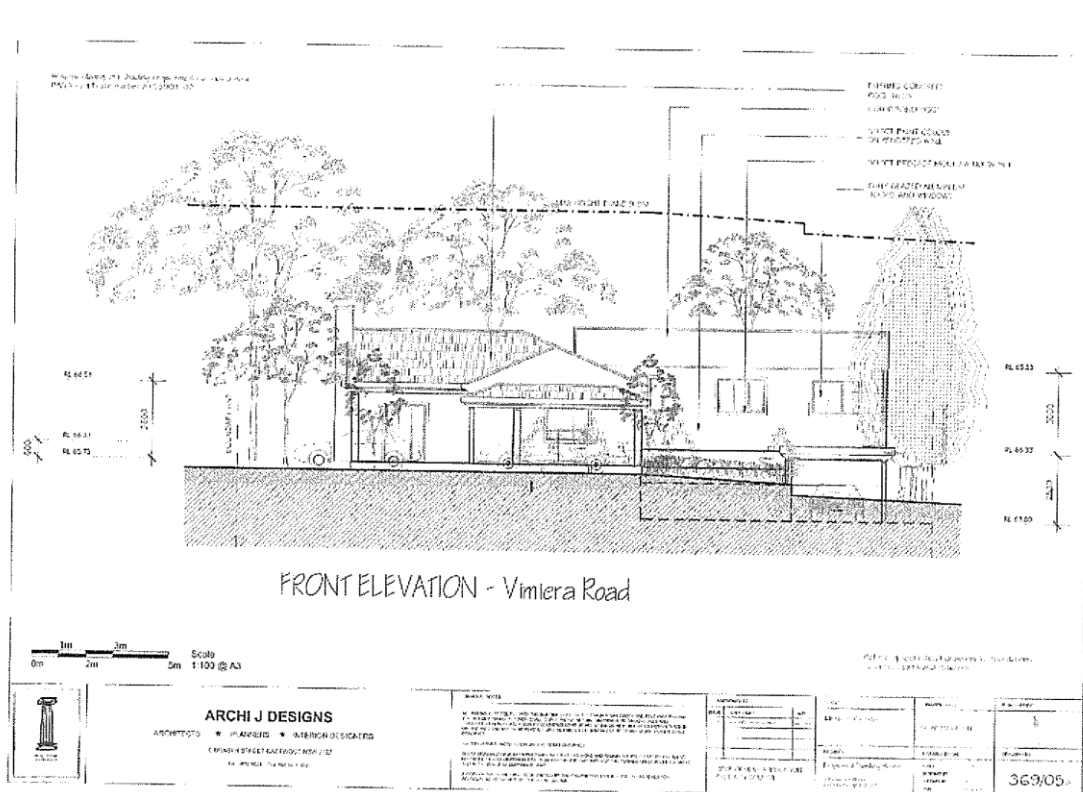
ITEM 2 (continued)

ATTACHMENT 1



ITEM 2 (continued)

ATTACHMENT 1



ATTACHMENT 3

Vimiera Road Streetscape within the vicinity of No. 29



ITEM 2 (continued)

3 52A PELLISIER ROAD, PUTNEY. LOT 2 DP 859984. Development Application for alterations and first floor additions to the existing dwelling, and new swimming pool. LDA2013/0012.

INTERVIEW

Report prepared by: Creative Planning Solutions

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

Report dated: 23/05/2013

File Number: grp/09/5/6/2 - BP13/770

1. Report Summary

Applicant: Pauline Rofail

Owner: Pauline Rofail

Date lodged: 15 January 2013

This report considers a development application for alterations and first floor additions to an existing dwelling house, and a new in-ground swimming pool at the subject property. The proposal involves retention of much of the existing dwelling (a single-storey dwelling located towards the western side of this “battle-axe” shaped allotment) with internal alterations, and additions both to the rear/eastern side and also a first floor addition above the existing dwelling.

The proposal has been assessed in terms of the controls for dwelling houses contained in Ryde DCP 2010 (Part 3.3), and there are some areas of non-compliance in terms of amount of fill (both within and outside the building footprint), pool coping height, retaining wall height, rear boundary setback, deep soil requirements (within the front yard and across the site), and amount of hard-paving within the front yard. However, these non-compliances are considered to be minor in the context of the development as discussed in the body of the report. The development fully complies with the more substantive controls in Council’s DCP including floor space ratio (FSR), dwelling height and number of storeys, and overshadowing of neighbouring properties.

This development application has been notified to neighbours on 3 occasions during the DA process, and 15 submissions were received. The submissions raised the following key issues:

- View Sharing
- Building Height
- Floor Space Ratio
- Setbacks
- Visual impact (building height, bulk and scale),
- Privacy impacts
- Overshadowing
- Proposed works in easements and right of ways.

ITEM 3 (continued)

It is considered that these issues do not warrant refusal of the DA, and can be addressed via conditions of consent.

It is generally considered that although the proposal would result in an increase in height across portions of the building which would have some impact on views enjoyed from neighbouring properties, the dwelling has adhered to the terms of caveats and restrictions on the site in terms of height, easements and right of ways. The existing dwelling is considerably under developed given its location, character of emerging waterfront development in Putney and the wider Ryde local government area, and also having regard to the redevelopment potential afforded by the local planning controls. This development is considered to be a reasonable balance between the concerns raised by the neighbours and also Council's planning controls.

The proposed dwelling is not considered to be inconsistent with the desired future character for the R2 Low Density Residential area, and in particular the character of the streetscape and waterfront in the immediate area. It is therefore recommended that this DA be approved.

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

Public Submissions: A total of 15 submissions were received objecting to the development, including:

- (a) 7 submissions to the original plans (notified from 21 January to 5 February 2013); and
- (b) A further 8 submissions when amended plans were re-notified (from 17 April to 2 May and further amendments notified 2 to 17 May 2013).

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

Value of works?: \$550,000

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

RECOMMENDATION:

- (a) That LDA2013/0012 at 52A Pellisier Road, Putney being LOT 2 DP 859984 be approved subject to the **ATTACHED** conditions (Attachment 1).
- (b) That the persons who made submissions be advised of Council's decision.

ITEM 3 (continued)**ATTACHMENTS**

- 1 Proposed Conditions
- 2 Compliance Table - SREP (SHC) 2005
- 3 Compliance Table - Ryde DCP 2010
- 4 Map
- 5 A4 Plans
- 6 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**Ben Tesoriero Planning Consultant
Creative Planning Solutions**

Report Approved By:

**Liz Coad
Manager Assessment**

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

ITEM 3 (continued)

2. Site (Refer to attached map)

Address	: 52A Pellisier Road, Putney (Lot 2 in Deposited Plan 859984)
Site Area	: 703.9m ² (Deposited Plan) Frontage (access handle) to Pellisier Road 3m (Deposited Plan) Depth including access handle 71.675m (Deposited Plan) Depth excluding access handle APPROX. 47.68m
Topography and Vegetation	: The topography of the local area is relatively steep, with the site having an easterly aspect and being located on the waterfront to Morrisons Bay/Parramatta River. The subject site slopes toward Morrisons Bay from Pellisier Road and does not include any significant vegetation.
Existing Buildings	: Dwelling house, outbuilding (boatshed).
Planning Controls	
Zoning	: R2 – Low Density Residential under Ryde LEP 2010 R2 – Low Density Residential under draft Ryde LEP 2011
Other	: Ryde DCP 2010

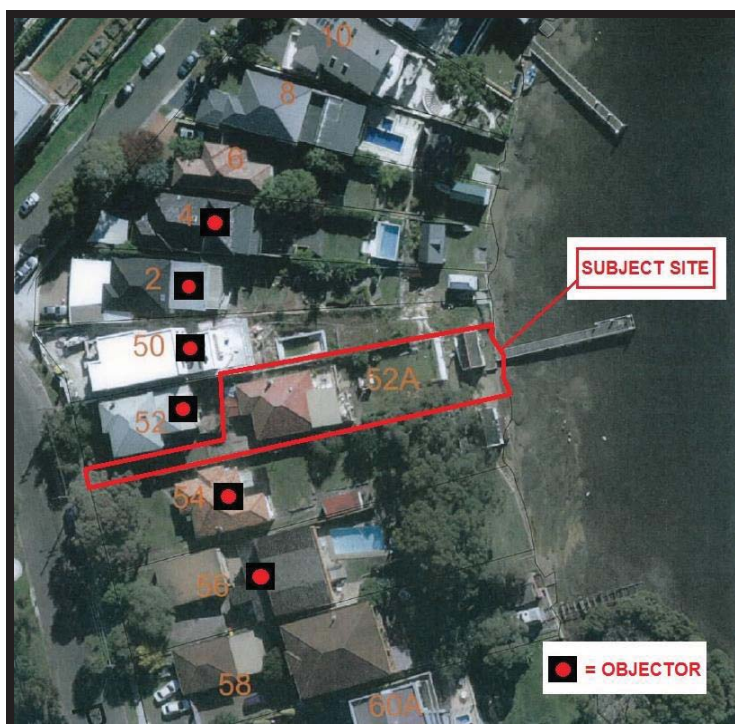


Figure 1 - Aerial Image of subject site, including annotations of those neighbouring properties objecting to the proposed development

ITEM 3 (continued)



Figure 2 – View of subject site from access handle of battle-axe allotment

3. Councillor Representations

Name of Councillor: Councillor Maggio

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

Date: 30 January 2013

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

On behalf of applicant or objectors? Objectors

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

4. Political Donations or Gifts

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

ITEM 3 (continued)**5. Proposal**

The following outlines the scope of works proposed to the existing dwelling house at 52A Pellisier Road, Putney.

Note: The following scope is slightly modified from that outlined within the original Statement of Environmental Effects submitted with the development application due to amended plans for the development application being submitted on 19 April 2013.

Dwelling:

- Construction of a first floor addition which includes a master bedroom with en-suite bathroom and walk in robe and three (3) new bedrooms with en-suite bathrooms.
- Construction of a new rumpus room to the lower ground floor including rear patio
- Reconfiguration of the ground floor of the existing dwelling creating a new single car garage, study, guest bedroom and bathroom.
- Additions to the rear of the ground floor, including a new including kitchen, dining room, living room, bathroom and outdoor alfresco area.

Swimming Pool:

- Construct a new swimming pool on the ground level adjacent to the alfresco area

6. Background

The following is a brief overview of the development history relating to the dwelling house constructed on the subject site:

- LDA2013/0012 was lodged on 15 January 2013. The development application as originally submitted proposed the following:

Dwelling:

- Construction of a first floor which included a master bedroom with en-suite and walk in robe and three (3) new bedrooms with en-suites.
- Construction of a new rumpus room to the lower ground floor including rear patio
- Reconfiguration of the ground floor of the existing dwelling creating a new single car garage, study, guest bedroom and bathroom.
- Additions to the rear of the ground floor new including kitchen, dining room, living room, bathroom and outdoor alfresco area.

Swimming Pool:

- Construct a new swimming pool on the ground level with timber privacy pergola.

ITEM 3 (continued)*Landscape:*

- Construction of new masonry stairs and walls to the rear open space to allow a realigned access to the lower waterfront terrace and jetty.
- On 11 March 2013 Council issued a request for additional information to the applicant based on a preliminary assessment of the subject development application. The issues raised requiring submission of additional information were:
 - *Consideration of easements affecting the subject site.* Plans submitted indicated proposed works were to take place within easements which cannot be released, varied or modified without the consent of the proprietor of Lot 1 in Deposited Plan 859984 (adjoining allotment at No.52 Pellisier Road).
 - *Floor Space Ratio.* When utilising the calculation of floor space ratio and site area provisions contained within clause 4.5 of the RLEP2010, the subject site was assessed as exceeding the maximum permissible floor space ratio with a FSR of 0.53:1.
 - *Consideration of environmental planning instruments and development control plans.* The Statement of Environmental Effects submitted did not satisfactorily consider all of the applicable environmental planning instruments and development control plans applying to the site. Specifically, the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, and Sydney Harbour Foreshores Area Development Control Plan.
 - *Engineering.* The following information was requested regarding Engineering matters:
 - Swept path diagrams were required to demonstrate that vehicles can enter and exit the garage in a forward direction to the street.
 - The encroachment of various parts of the building (over hangs and footings) over the Right of Footway and to the proposed relocation of the Footway required the consent of the owner of Lot 1 DP 859984.
 - Construction of retaining walls over the area marked as G on the DP 859984 which is reserved as an 'Easement for Access and Recreational Use' may restrict the access to this area by the owner of Lot 1. This also required the consent of the owner of Lot 1 DP 859984 at No 52 Pellisier Road.
 - *Landscape*
 - A significant Eucalypt species located near the southern boundary on the adjoining property at No.54 Pellisier Road was identified as potentially being impacted upon by the proposed development. An arboricultural assessment report prepared by a suitably qualified and independent arborist was required to be submitted.

ITEM 3 (continued)

- Due to the extent of landscaping work that would have needed to take place to facilitate the proposed development, a landscape plan was required to be submitted.
- *Submissions*
 - Seven (7) submissions were received during the neighbour notification period for which the applicant was invited to respond to the issues raised – Refer to the Submissions section of this report for further details of the submissions.
- On 12 April 2013 amended plans were submitted to Council. The amendments included:
 - Floor space reduced by 16.30m² in order to comply with the maximum permissible floor space ratio of 0.5:1;
 - Bulk and scale reduced by removing the pergola situated above the swimming pool on the ground floor;
 - Visual privacy impacts reduced on all floors by treating windows with opaque glass, using louvered screens or removing windows completely;
 - All landscape remodelling to the rear of the site in relation to the retaining walls, stairs and footpaths cancelled and existing arrangements to remain.
 - All works within easements under Deposited Plan 859984 modified to avoid any encroachment within easements;
 - Side setback on the ground floor and rear setback corrected to comply with Council requirements and the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, and Sydney Harbour Foreshores Area Development Control Plan;
 - Consideration given to the relevant environmental planning instruments and development control plans applicable to the site;
 - View sharing increased through removal of timber pergola over pool, modification of the front of the dwelling on the first floor to increase viewing angles.
- The amended plans were re-notified to neighbours and previous objectors from 17 April to 2 May 2013.
- On 19 April 2013 further amended plans were submitted to Council which included louvre screens added to windows on the northern elevation of the dwelling. These further amendments were re-notified to neighbours and previous objectors from 2 to 17 May 2013.

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

The original proposal was notified to adjoining property owners in accordance with Development Control Plan 2010 – Part 2.1, Notification of Development Applications for a period from 21 January 2013 to 5 February 2013.

When amended plans were received (as discussed above), these were re-notified for a period from 17 April to 2 May and again from 2 May to 17 May 2013.

In response, a total of 15 submissions were received from the owners of neighbouring properties as shown on the air photograph earlier in this report. The key issues raised in the submissions are summarised and discussed as follows.

A. View sharing – *concerns are raised over the loss of views from neighbouring properties that would result from the proposed increase in bulk and scale of the dwelling house.*

Comment: Concerns have been primarily raised in relation to the view loss from 52 Pellisier Road to Morrison Bay as a result of the proposed development on the subject site.

As a result, a comprehensive view impact assessment (refer **Attachment 2**) has been undertaken which takes into account the potential view loss from 52 Pellisier Road.

The assessment concludes that although there will be a moderate amount of view loss from 52 Pellisier Road to Morrison Bay, the expectation that cross views afforded across neighbouring allotments can be retained is unrealistic. It must be noted that all views afforded by 52 Pellisier Road are cross views, many of which are obscured by the existing development at 52A Pellisier Road or existing stands of mature vegetation on the foreshore. As such the view sharing by the proposed development at 52A Pellisier Road is considered reasonable and view loss acceptable.

It is also noted that amended plans submitted to Council on 12 April 2013 have attempted to mitigate the view loss incurred by 52 Pellisier Road by incorporating a number of design modifications to the dwelling to increase view corridors and viewing angles.

Accordingly, the issue of view sharing by the proposed development is considered to have been addressed, and is deemed satisfactory.

B. Building Height – *concerns are raised over height of the proposed building and that it breaches the caveat restricting the height of any development on the site.*

ITEM 3 (continued)

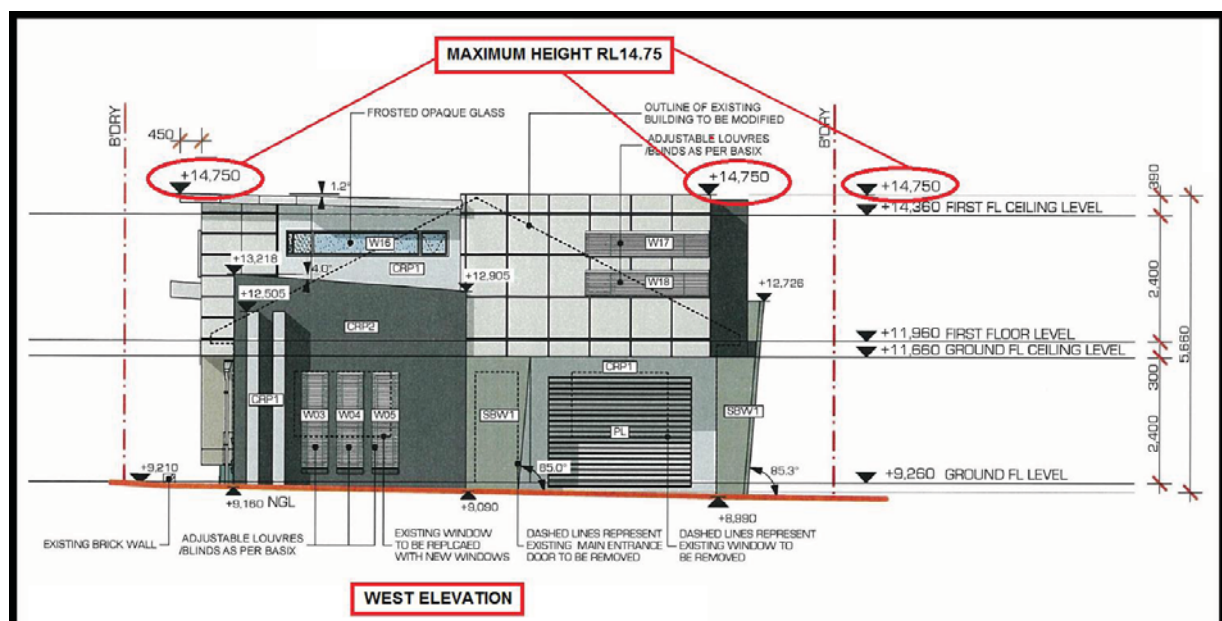
Comment: A caveat on the subject site, being Lot 2 in DP859984, includes a restriction stating the following:

'Not to erect any part of any building structure or erection on Lot 2 such that any part of any such building structure or erection shall exceed reduced level 14.75 Australian Height Datum.'

Accordingly the maximum building height proposed as part of the development application is RL14.75 which occurs on the flat roof of the dwelling and is the same height as the ridgeline of the existing dwelling on the subject site.

The Ryde Local Environmental Plan 2010, Draft Ryde Local Environmental Plan 2011, and Ryde Development Control Plan 2010 prescribe a maximum building height for the subject site of 9.5m. The proposed development has been assessed as having a maximum building height of 8.29m, approximately 1.21m less the general prescribed building height for land within the R2 Low Density Zone such as that of the subject site.

Given the plans submitted with the development application demonstrate the proposed building height does not exceed reduced level 14.75 Australian Height Datum, and the general prescribed building height for development within the R2 zoning of the site, neighbouring objections on the grounds of excessive building height is not supported. This is illustrated in the following drawing (proposed west elevation).



ITEM 3 (continued)

It should be noted that the objector at No 52 Pellisier Road has requested that height poles be installed by the applicant to ensure that a proper assessment can be made of height and resulting impacts (view loss etc) on their property. The assessing officer has reviewed this request and made the following response:

In certain circumstances I understand height poles can be useful to demonstrate the height of new development to help demonstrate or better understand the impacts a proposal may have on neighbouring property, or a view corridor.

However, in my opinion, height poles or joining tapes are not required to aid in our assessment of the proposed development application in this instance for the following reasons:

- *The proposed development's building height is lower than that of the existing dwelling house on the allotment, therefore a visual benchmark of the proposed development's building height and scale can already be established;*
- *A good understanding of the proposed height has already been established from two site inspections, including a site inspection to the objectors property at 52 Pellisier Road Putney, whereby we were provided access to the objectors dwelling house to obtain photographs from seated and standing positions throughout the house to ascertain the impact of the proposed development on the neighbouring development's view loss;*
- *The proposed development's building height is significantly lower than that prescribed by the Ryde Local Environmental Plan 2010, and Draft Ryde Local Environmental Plan 2011; and*
- *The proposed development's building height complies with the maximum building height prescribed by the restriction on the title that was imposed as part of the subdivision of the allotment – noted that this is lower than the maximum building height under the Ryde Local Environmental Plan 2010 and Draft Ryde Local Environmental Plan 2011.*

C. Floor Space Ratio – concerns are raised that the proposed development exceeds the maximum floor space ratio permissible of 0.5:1.

Comment: Preliminary assessment of the proposed development identified floor space ratio non-compliance as an issue. The proposed development was assessed as having a floor space ratio of approximately 0.53:1. Subsequently, this concern was raised and requested to be addressed as part of Council's additional information request dated 11 March 2013.

ITEM 3 (continued)

On 12 April 2013 amended plans were submitted to council that reduced the floor space of the proposed development by 16.30m², thus reducing the floor space ratio of the dwelling to 0.4944:1.

Accordingly, the issue of floor space ratio non-compliance is considered to have been addressed.

D. Visual impact (height/bulk/scale) – concerns are raised over the visual impact that will result from the proposed development, in particular the increase in building bulk that will result from the addition of a first floor extension and additions to the rear of the dwelling.

Comment: Preliminary assessment of the proposed development indicated areas of non-compliance in terms of setbacks and floor space ratio which were requested to be addressed, and has since been undertaken by the applicant.

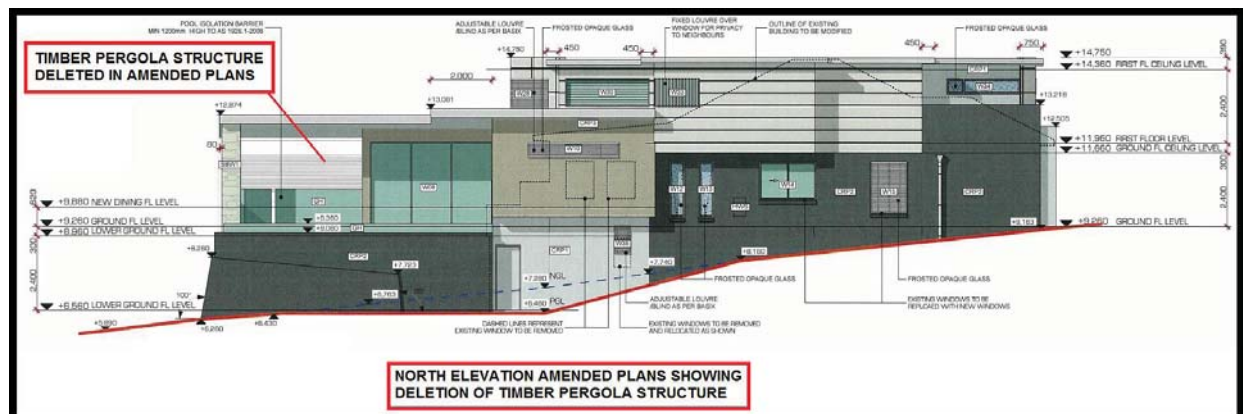
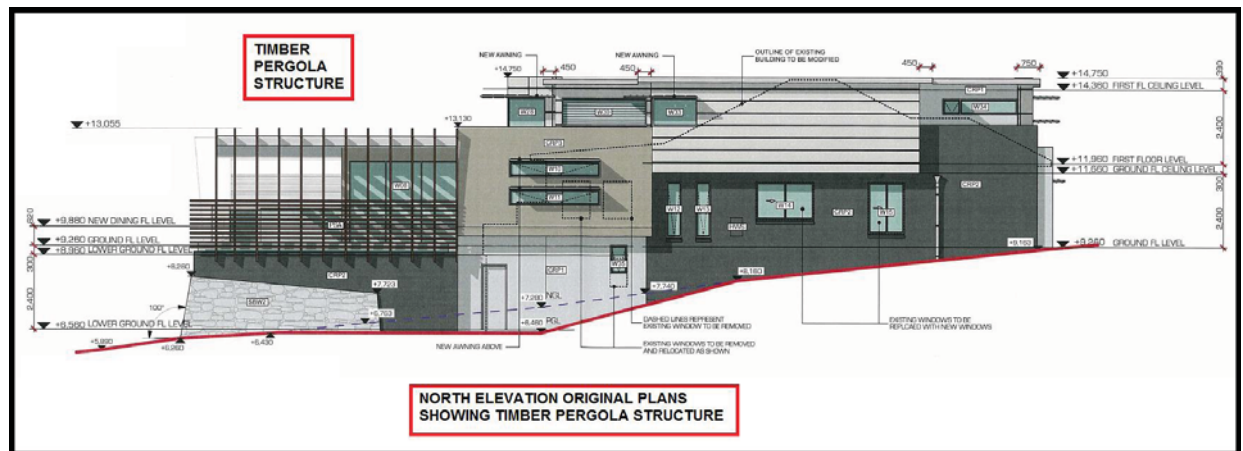
The dwelling presents a rather modest two storey elevation to the street, which is highly obscured by the building in front on the battle-axe allotment (No.52 Pellisier Road). In terms of visual impact on the streetscape, due to the subject site being a battle-axe allotment, the proposed dwelling is primarily not visible from the streetscape or public domain of Pellisier Road. When assessing the visual impact when viewed from the foreshore of Morrisons Bay it is considered to be consistent with the emerging scale of developments on the Putney waterfront, and wider waterfront areas of the Ryde local government area. It is also noted that the development will be highly screened when viewed from the south and Parramatta River due to the extensive stands of mature vegetation along the foreshore of neighbouring allotments.

On 12 April 2013 amended plans were submitted to council that removed the significant timber pergola structure over the swimming pool which added to the bulk and scale of the dwelling. Additionally, minor amendments were made to reduce the width of the dwelling including modifications to the first floor. Overall these amendments are considered to have reduced the overall bulk and scale of the dwelling over that which was originally proposed.

Furthermore the proposal is considered to meet the bulk and scale objectives of the Ryde DCP 2010 by complying with building height, floor space ratio, setbacks and being consistent with the desired future character of the low density residential areas.

Accordingly, the neighbouring objections in relation visual impact are not supported.

The following are the original plans and the amended plans (north elevation) showing the deletion of the timber pergola structure.

ITEM 3 (continued)

E. Setbacks – concerns are raised that the proposed development does not comply with the side and rear setback controls as provided by the Ryde DCP 2010.

Comment: Council's DCP 2010: Part 3.3 Dwelling Houses & Dual Occupancy (attached) – Section 2.8 'Setbacks' states:

- The outside walls of a two storey dwelling are to be setback from the side boundaries not less than 1.5m.
- Dwellings on a battle-axe (hatchet shaped) allotments are to be setback from the rear boundary of the front allotment a minimum of 8m.

In Council's preliminary assessment of the proposed development, the proposed dwelling was calculated as having a minimum side setback of 1.473m and a minimum setback from the rear boundary of the front allotment of 2.9m.

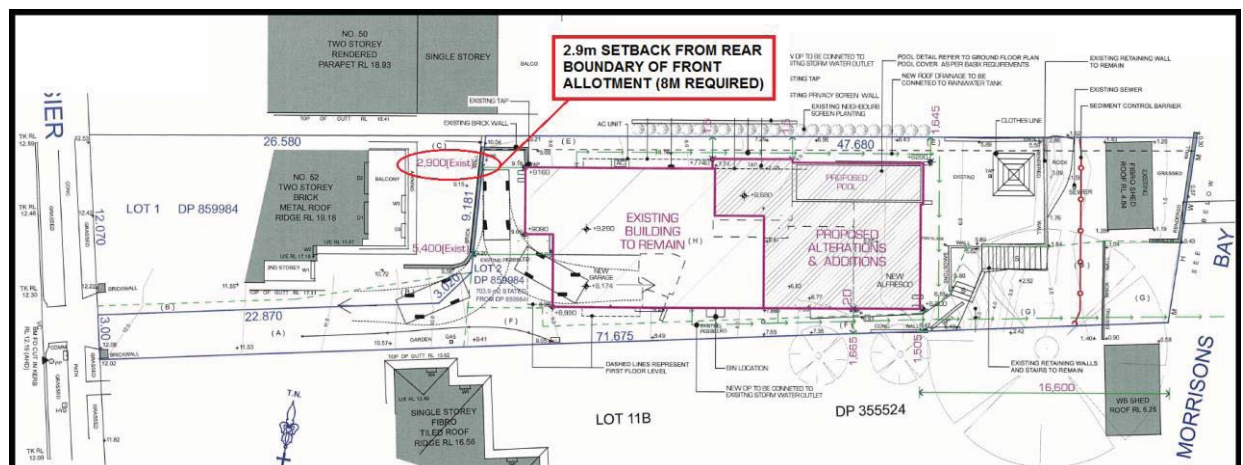
On 12 April 2013 amended plans were submitted to Council that provided an increase to the minimum side setback to 1.505m, thus achieving compliance with Council's controls.

ITEM 3 (continued)

Setbacks from the rear boundary of the front allotment were left unchanged, however it is noted that the existing dwelling on the subject site includes a minimum setback of 2.9m from the rear boundary rather than 8m, which is the current requirement.

The objectives of this control includes maintaining privacy between adjoining dwellings (ie by providing adequate separation). The proposal involves replacing existing living areas at the front (western side) of the existing dwelling with a new garage, and also louvres/blinds will be provided to the front windows of the only remaining living room (a study), and so it is considered that there will be adequate privacy at the front of the dwelling as a result of the proposed alterations and additions.

The following drawing shows the setback from the rear boundary of the front allotment.



F. Privacy Impacts – concerns are raised that the proposed development will impact the privacy of neighbouring dwellings and allow for overlooking.

Comment: Privacy concerns were primarily focused towards the windows on the northern and southern elevation. Although windows were generally offset from adjoining windows concerns were still raised regarding privacy and overlooking.

On 12 April 2013 amended plans were submitted to Council that provided frosted opaque glass to all windows that provided any opportunity for privacy impacts or overlooking to neighbouring properties on the northern and southern elevation. In addition further amended plans were submitted on 19 April 2013 that provided fixed adjustable louvre screens that increased the level of privacy and reduced the impacts for any overlooking issues.

Given the above it is considered that issues relating to privacy/overlooking have been satisfactorily addressed.

ITEM 3 (continued)

G. Overshadowing – concerns are raised over the proposed development increasing overshadowing to neighbouring dwellings and private open space.

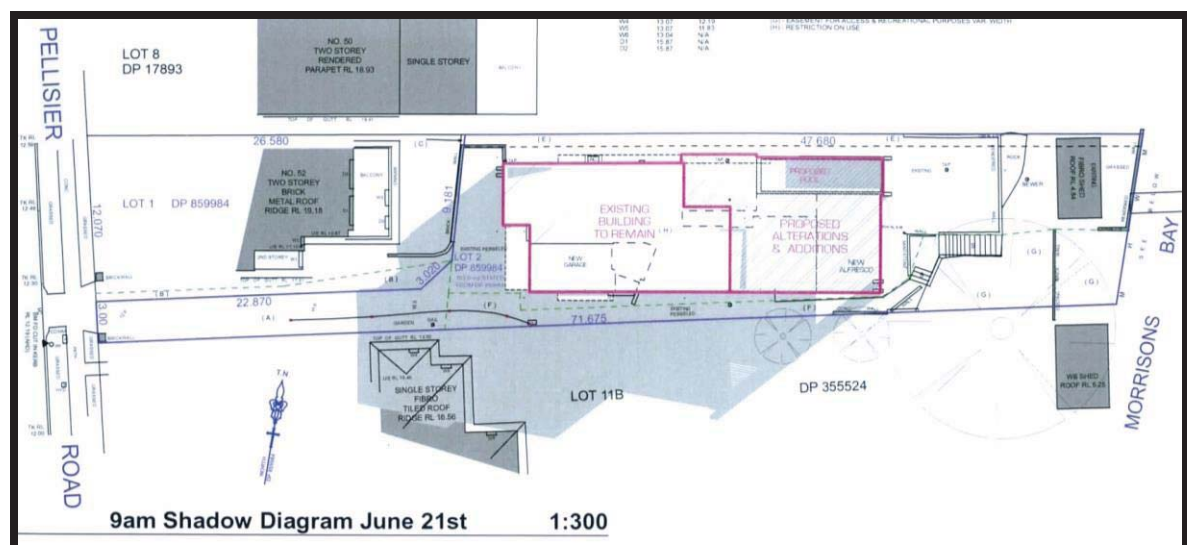
Comment: DCP 2010 prescribes the following requirement for solar access to neighbouring properties:

For neighbouring properties ensure:

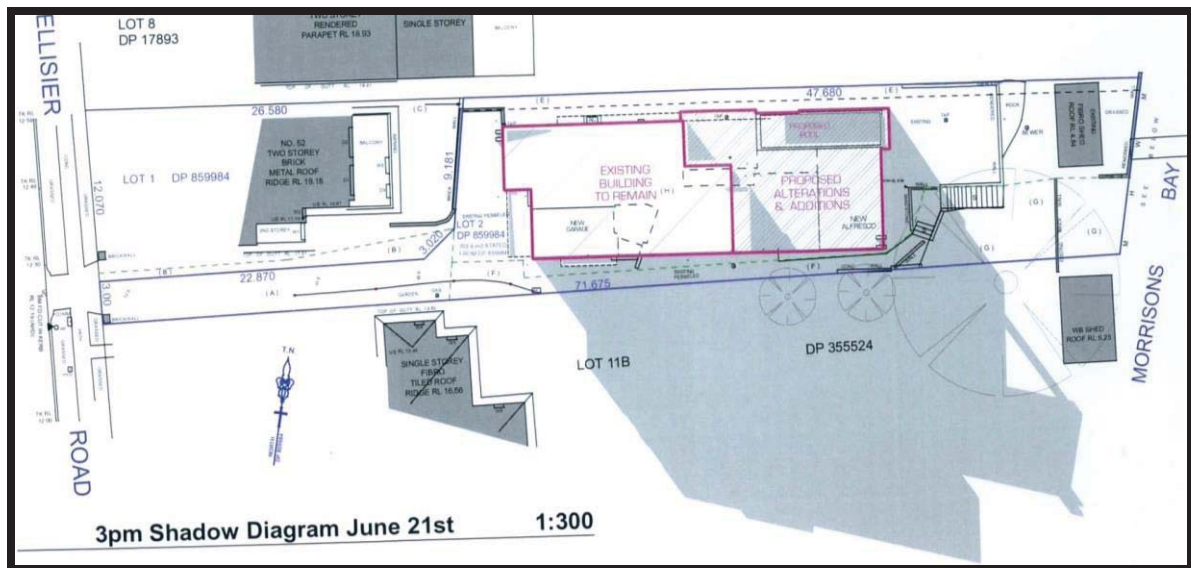
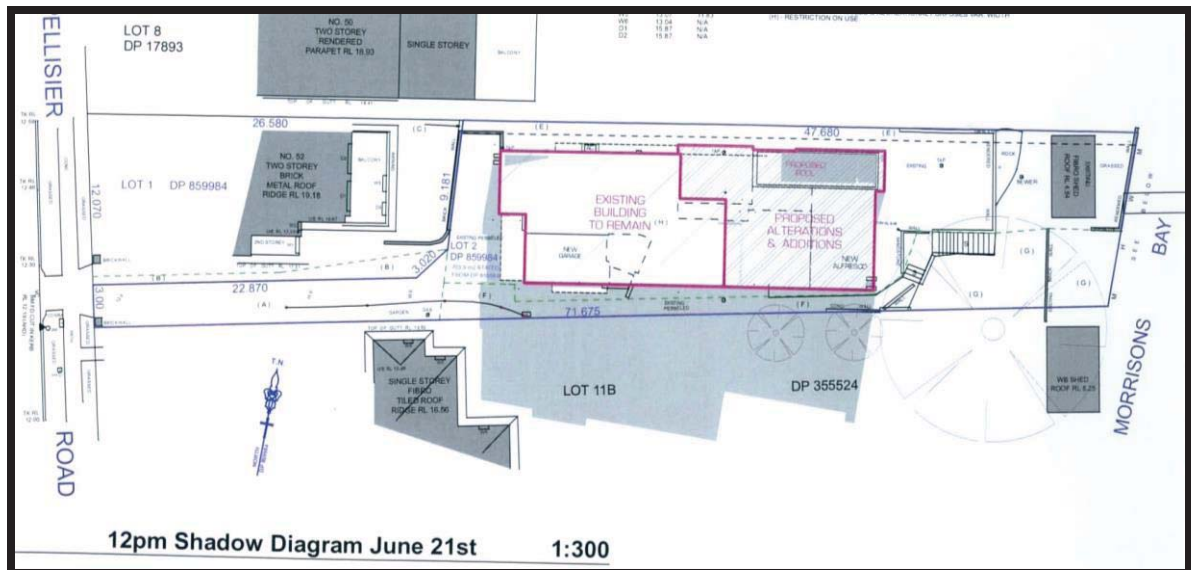
- *sunlight to at least 50% of the principal area of ground level private open space of adjacent properties is not reduced to less than two hours between 9am and 3pm on June 21, and*
- *windows to north-facing living areas of neighbouring dwellings receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their surface, where this can be reasonably maintained given the orientation topography of the subject and neighbouring sites.*

As demonstrated in the shadow diagrams submitted as part of the development application (refer to extracts below), the proposed development is shown to have minimal overshadowing impacts on the neighbouring dwellings. It is acknowledged that there will be some increased overshadowing to the private open space of 50 Pellisier Road however this is primarily due to the orientation of the allotments. It is noted that 50 Pellisier Road will still receive the minimum required amount of sunlight to its private open space (ie sunlight to at least 50% of the principal area of ground level private open space is not reduced to less than 2 hours between 9am and 3pm on June 21) as stipulated by the Ryde Development Control Plan 2010.

Accordingly, neighbouring objections on the grounds of excessive overshadowing are not supported.



ITEM 3 (continued)



H. Easements/Right of ways – concerns are raised over the development proposing works to be undertaken within easements and right of ways. In particular, the adjoining property to the west (Lot 1, No 52 Pellisier Road) benefits from a “right of footway” and an “easement for access and recreational purposes” over the subject land – and concern is raised that the development impacts on these easements.

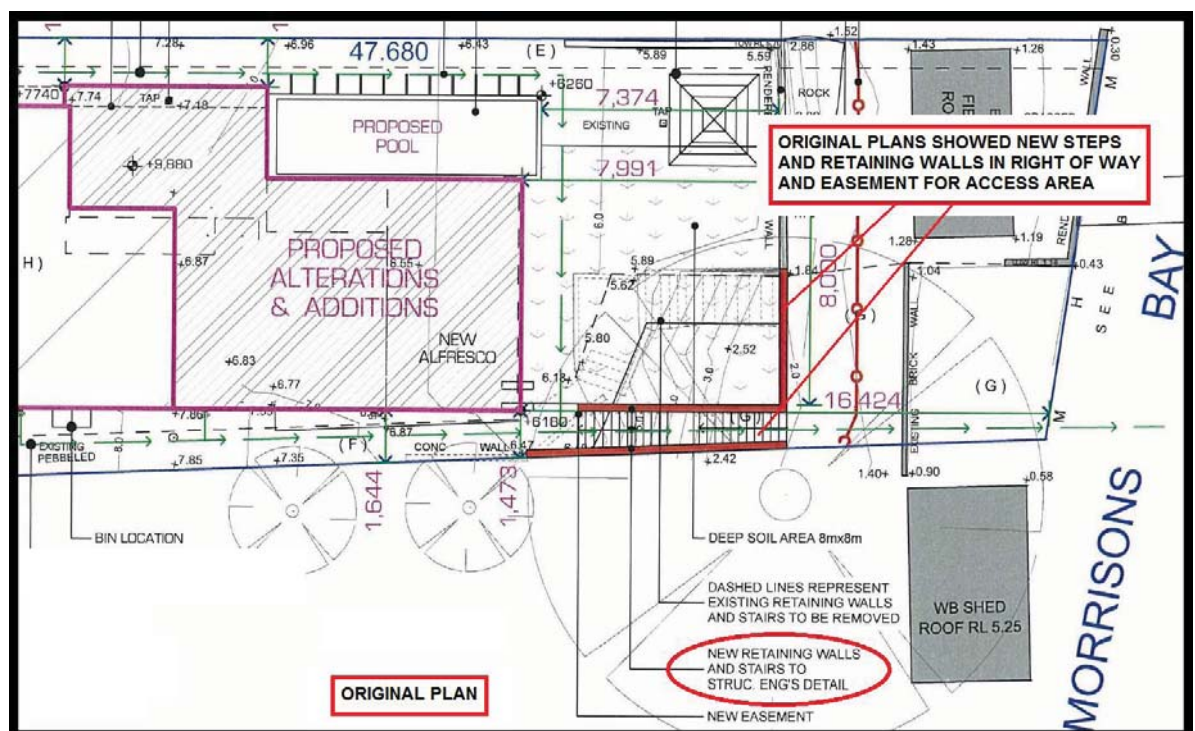
A preliminary assessment of the proposed development identified works being undertaken within easements and right of ways as an issue. This included works within the right of access to the foreshore for No.52 Pellisier Road. Subsequently, this concern was raised and requested to be addressed as part of Council’s additional information request dated 11 March 2013.

ITEM 3 (continued)

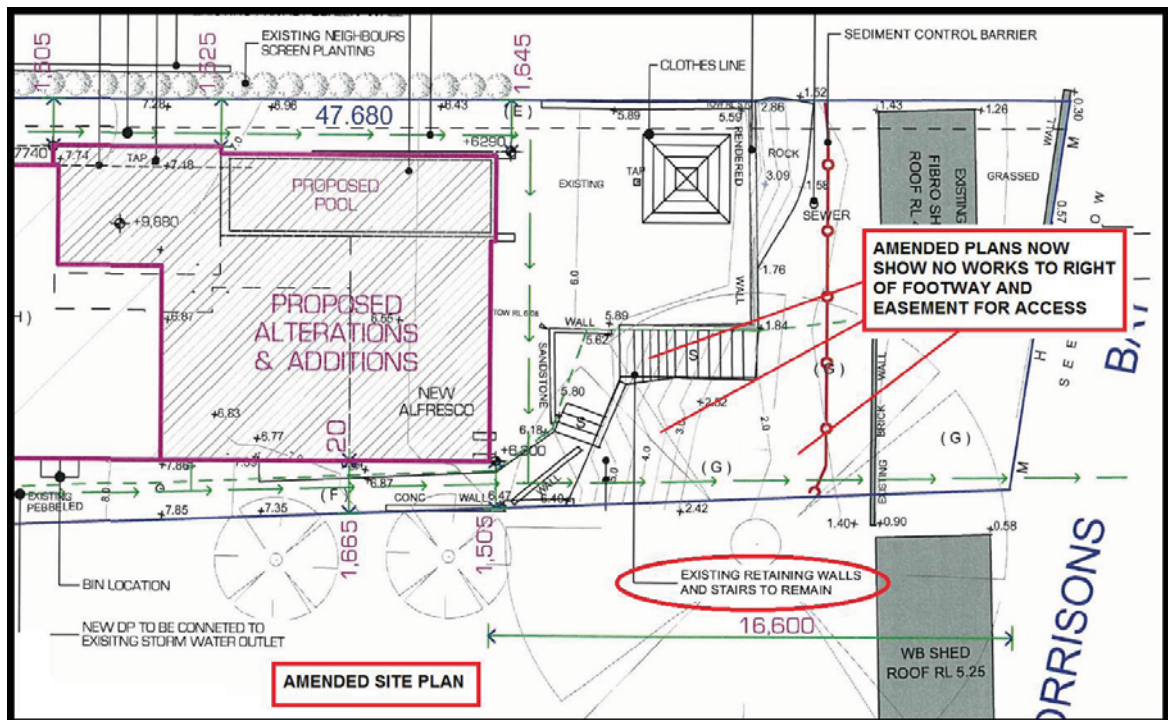
On 12 April 2013 amended plans were submitted to Council that removed all proposed works to be undertaken within the easements and right of ways to avoid any encroachments.

Accordingly, the issue of the proposed works being undertaken within easements is considered to have been addressed.

The following drawings show the location of the relevant right-of way and easements, and the amendments to the plans to address the issue.



ITEM 3 (continued)



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

None required.

9. Policy Implications

Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Local Environmental Plan 2010

Zoning

Under the Ryde LEP 2010 the zoning of the subject site is R2 Low Density Residential. The proposed development, being alterations and additions for the purposes of a 'dwelling house' is permissible with consent under this zoning.

Mandatory Requirements

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

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

ITEM 3 (continued)

The maximum height of the proposed development is 8.29m, which complies with Ryde LEP 2010.

Additionally it is noted that the caveat on the subject site regarding the building height restriction being limited to RL14.75 has also been adhered to.

Clause 4.4 - Floor Space Ratio. This clause prescribes a maximum floor space ratio (FSR) of 0.5:1. The FSR for the proposed development has been calculated to be 0.4944:1, which complies with this clause.

(b) Relevant State Environmental Planning Policies (SEPPs)State and Sydney Regional Environmental Planning PoliciesSydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHCREP):

Consideration has been given to the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 which requires consideration be given to the scale, form, design and siting of any building within the jurisdiction of this SREP.

In this regard, the proposed development is supported on the basis it is consistent with the requirements of SHCREP.

SEPP BASIX:

A compliant BASIX Certificate has been submitted with the DA.

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

Draft LEP 2011 was adopted by Council on 12 March 2013 and is waiting gazettal by the Department of Planning and Infrastructure; as such LEP 2011 can be considered certain and imminent.

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

The proposal has been assessed using the development controls contained in Ryde DCP 2010. The following is an assessment of the development application against the key components of the Ryde DCP 2010 that are considered to apply to the development given the works proposed are for alterations and additions to the existing dwelling house.

Rear Setback

Section 2.8.3 of Part 3.3 of the Ryde DCP 2010 prescribes development controls for the rear setbacks. Specifically, that dwellings on a battle-axe (hatchet shaped) allotments are to be setback from the rear boundary of the front allotment a minimum of 8m. As demonstrated within the attached Compliance Checklist, the proposed development will result in a dwelling house with a rear setback of minimum 2.9m and maximum 5.4m (see drawing in the Submissions section of report (objection E)).

Although the proposed development does not meet the minimum rear setback requirements, the rear setbacks represent no change from the existing approved arrangements on site. That is because the proposed development is for the alterations and additions to the existing dwelling house on the subject site, whereby the existing rear setback arrangements are to remain.

Given the above, the proposed rear setback is considered satisfactory, and justifiable in this instance.

Cut and Fill

Section 2.5.2 of Part 3.3 of the Ryde DCP 2010 prescribes development controls for cut and fill. Specifically, that maximum cut within the building footprint is not to exceed 1.2m and that the maximum fill outside of the building footprint is not to exceed 500mm. As demonstrated within the attached Compliance Checklist, the proposed level of cut within the building footprint has been calculated at 1.3m and the proposed level of fill outside the building footprint has been calculated at 3m.

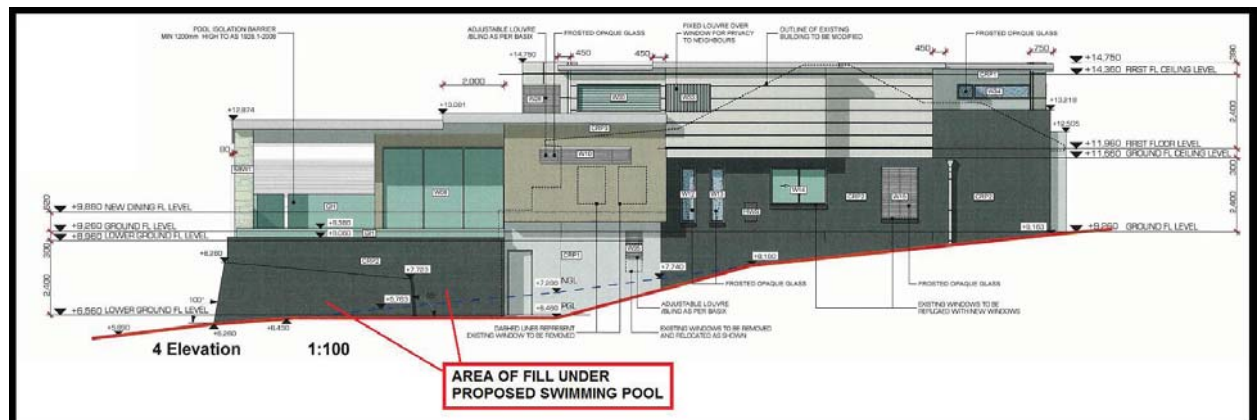
Although breaching the maximum cut levels within the building footprint, the non-compliance is considered to be minor, being only 100mm over the maximum allowable. Given that the level of excavation does not result in any unreasonable loss of privacy or security to neighbours, or for that matter create any inconsistency along the streetscape, this non-compliance is considered to be acceptable.

ITEM 3 (continued)

With regards to the levels of fill outside the building footprint, this non-compliance is largely due to the proposed swimming pool on the ground floor which is elevated above ground level, due to the land sloping steeply down to the foreshore. As such, the fill levels are not true fill in terms of soil but rather an elevated floor level. With this in mind, the primary concerns in terms of meeting Council's DCP objectives are privacy/overlooking impacts to neighbours and streetscape consistency. As the development is occurring on a battle-axe allotment, the areas of proposed fill will not be viewable from the streetscape or public domain. In terms of privacy and overlooking, as the areas of increased fill are situated well forward of the neighbouring dwellings, privacy and overlooking impacts are considered to be mitigated. Additionally it is noted the alfresco areas of the existing dwelling include similar floor levels to that of the proposed development.

Given the above, it is considered that the levels of cut and fill proposed by the development are satisfactory and generally consistent with that required to facilitate a modern dwelling house on waterfront allotments within the Ryde local government area.

The following drawing (north elevation) shows the area of fill under the proposed swimming pool.



Retaining Walls

Section 2.5.2 of Part 3.3 of the Ryde DCP 2010 prescribes development controls for topography and excavation. Specifically, that the height of retaining walls are to be no greater than 900mm. As demonstrated within the attached Compliance Checklist, the proposed retaining walls to the swimming pool have been calculated at 3m.

The retaining walls in question form part the structural system to the proposed pool and do not create any significant privacy or overlooking issues to neighbouring allotments. Additionally it is noted that the proposed retaining walls will be screened from the waterfront to soften the visual impact when viewed from the foreshore.

ITEM 3 (continued)

In this regard it is considered that the proposed retaining walls are acceptable and also generally consistent with that required to facilitate a modern development on waterfront allotments within the Ryde local government area.

Deep Soil

Section 2.5.1 of Part 3.3 of the Ryde DCP 2010 prescribes development controls for deep soil areas. Specifically, that a minimum of 35% of a site must be dedicated to deep soil and that front gardens are to be 100% permeable with the exception of the driveway, pedestrian paths and garden walls. As demonstrated within the attached Compliance Checklist, the proposed deep soil equates to 33.95% of the site area and front garden consists of only 16m² deep soil area.

Although the front garden does not include any deep soil zones it is considered acceptable due to the allotment being a battle-axe arrangement and the need for cars to enter and exit the site in a forward direction. Additionally, the existing front garden incorporates no deep soil therefore representing no change from the existing site arrangements. This is largely the case as the proposed development is for the purposes of alterations and additions to an existing dwelling house rather than a total new development.

In terms of overall deep soil across the site, given the subject site is a battle-axe allotment with minimal area in the front setback to include any deep soil, and the proposed development falls short of the required deep soil area by less than 8m², the amount of deep soil provided is considered to be acceptable. Additionally it is considered this non-compliance does not result in any significant impact to storm water absorption or vegetation growth on site.

In this regard it is considered that the proposed deep soil across the site is acceptable.

Sydney Harbour Foreshores & Waterways Area Development Control Plan For SREP (Sydney Harbour Catchment) 2005

The proposal has been assessed using the development controls contained in the Sydney Harbour Foreshores & Waterways Area Development Control Plan for the SHCREP. As demonstrated in the attached Compliance Checklist for this DCP, it has been determined that the cumulative and incremental effects of further development along the foreshore is satisfactory when assessed against the performance criteria of the Statement of Character and Intent for the Landscape Character Area No. 14 for which the subject site is located under this DCP.

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

A thorough assessment of the impacts of the proposed development on the built environment has been undertaken as part of the completed assessment of the proposed development. This has included a compliance check against all relevant planning controls, a view impact assessment, and detailed assessment report.

The resultant impacts of the alterations and additions to the existing dwelling house are considered to result in a development that is consistent with the desired character of the low density residential areas, and consistent with the nature of modern waterfront development in the Putney and wider Ryde local government area.

As a result, the proposed development is considered to be satisfactory in terms of impacts on the built environment.

(b) Natural Environment

Given the nature of the proposed development being for alterations and additions to an existing dwelling house, it is considered there will be no significant impact upon the natural environment as a result of the proposal.

11. Suitability of the site for the development

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

Acid Sulphate Soils: The proposed development does not involve significant excavation or other site works that would require formal assessment regarding acid sulphate soils.

Slope Instability: The rear (eastern) portion of the site is identified on Council's mapping system as being in an area of moderate slope instability risk. However the proposed alterations/additions to the dwelling are proposed outside this area. Accordingly, it is not necessary to require a formal geotechnical report/assessment at the DA stage. A standard condition of consent will be imposed requiring submission of a geotechnical report prior to approval of the Construction Certificate.

Heritage Items: The site is within 100m of a Heritage Item listed under Ryde LEP 2010 (ie No 64 Pellisier Road). However, as the proposed development does not directly adjoin or have a direct line of sight to or from that heritage item, a formal assessment or referral to Council's Heritage Officer was not necessary for this application.

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

It is considered that approval of this DA would be in the public interest.

The development substantially complies with Council's current development controls, and includes a built form that is in keeping with the existing and desired future character of the low density residential area.

13. Consultation – Internal and ExternalInternal Referrals

Development Engineer: In relation to the original plans, Council's Development Engineer had raised concerns that swept paths should be shown on the DA plans to enter and leave the site in a forward direction; and also concerns regarding the encroachments into the right of footway and easement for access.

The amended plans have addressed these issues – by showing the vehicle swept paths and also by deleting the works previously proposed within the right of footway/easement for access (see drawings previously in this report).

Council's Consultant Development Engineer has advised that the development is satisfactory subject to a condition requiring the construction certificate plans to show vehicle turning areas compliant with AS2890.1 (2004). See condition 32.

External Referrals

None.

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

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

16. Other Options

None relevant.

ITEM 3 (continued)**17. Conclusion**

The proposed development has been assessed using the heads of consideration listed in Section 79 of the Environmental Planning & Assessment Act 1979 and is generally considered to be satisfactory for approval.

The amended plans received for this development have addressed the main issues of concern raised in the submissions. The proposed development complies with the mandatory requirements of the Ryde LEP 2010 and Draft Ryde LEP 2011 for building height and floor space ratio, and meets the development controls of Ryde DCP 2010.

On this basis, the proposal is considered acceptable and is recommended for approval subject to conditions.

ITEM 3 (continued)

ATTACHMENT 1

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
Site Plan	18.04.2013	Job No. 12-27-Rof, Issue F Dwg. No.2
Ground Floor	19.04.2013	Job No. 12-27-Rof, Issue F Dwg. No.3
First Floor	19.04.2013	Job No. 12-27-Rof, Issue F Dwg. No.4
Lower Ground	19.04.2013	Job No. 12-27-Rof, Issue F Dwg. No.5
Elevation 1 & 2	19.04.2013	Job No. 12-27-Rof, Issue F Dwg. No.6
Elevation 3 & 4	19.04.2013	Job No. 12-27-Rof, Issue F Dwg. No.7
Sections	19.04.2013	Job No. 12-27-Rof, Issue F Dwg. No.8
Window Schedule 01	19.04.2013	Job No. 12-27-Rof, Issue F Dwg. No.9
Window Schedule 02	19.04.2013	Job No. 12-27-Rof, Issue F Dwg. No.10
Window Schedule 03	19.04.2013	Job No. 12-27-Rof, Issue F Dwg. No.11
Work Site Management Plan	19.04.2013	Job No. 12-27-Rof, Issue F Dwg. No.15

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 A154520_06, dated 15 April 2013.
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 3 (continued)

ATTACHMENT 1

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. **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. **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.
8. **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.

Works on Public Road

9. **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.
10. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

Engineering Conditions

11. **Stormwater disposal.** Stormwater runoff from all impervious areas of the site is to be collected and piped to the existing or new underground stormwater drainage system in accordance with Council's DCP 2010, Part 8.2 "Stormwater Management".
12. **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 1

13. **Service Alterations.** All mains, services, poles, etc., which require alteration to facilitate the development shall be altered at the applicant's expense. Written approval and signed off at completion from the relevant Public Authority shall be submitted to Council.
14. **Restoration.** To ensure public areas will be safely maintained at all times all disturbed public areas must be restored to Council satisfaction. All restoration of disturbed road, footway areas, kerb and gutters, redundant vehicular crossings etc arising from the proposed development works will be carried out by Council subject to the lodgement of a Road Opening Permit application to Council with payment of fees in accordance with Council's Management Plan, prior to commencement of works.
15. **Road Opening Permit.** To ensure all restoration works within the public road reserve will be completed and restored to Council satisfaction, the applicant shall apply for a Road Opening permit where excavation works are proposed within the road reserve. No works shall be carried out on the road reserve without this permit being paid and a copy kept on the site.
16. **Council's Approval.** To ensure all engineering works within the public road and/or drainage reserve, including Council's parkland will be completed to Council satisfaction, engineering approval and compliance certificates must be obtained from Council for the following works at the specified stage where applicable and **submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.** Fees applicable to the proposed works in accordance with Council's Management Plan are to be paid to Council prior to approval being given by Council.
 - Approval for drainage connection(s) to Council's stormwater drainage systems and inspection of the stormwater connection by council prior to backfilling.
 - Approval shall be obtained for the construction of any structure on Council's road and drainage reserve, including parkland. The inspection(s) for these structures, during construction shall be made by Council e.g. prior to casting & backfilling of Council's pits and other drainage structures including kerb & gutter, access ways, aprons, pathways, vehicular crossings, dish crossings and pathway steps etc.
 - Final inspection by Council after completion of all external works with all disturbed areas satisfactorily restored.

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.

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ATTACHMENT 1

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.

17. **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**.
18. **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**.
19. **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)
20. **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
21. **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**.
22. **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**.
23. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties (including any public place) that may be affected by the construction work namely 52 Pellisier Road, Putney. A copy of the survey is to be submitted to the PCA (*and Council, if Council is not the PCA*) prior to the release of the **Construction Certificate**.

ITEM 3 (continued)

ATTACHMENT 1

24. **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.

25. **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**.
26. **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**.
27. **Slope instability – geotechnical report required.** The subject site is located within an area of slope instability and therefore you are required to obtain a satisfactory Geotechnical Report from a qualified Geotechnical Engineer, which is to be submitted prior to the issue of a **Construction Certificate**.

Engineering Conditions

28. **Site Stormwater Drainage System.** To ensure satisfactory stormwater disposal and minimise downstream stormwater impacts, stormwater runoff from the site shall be collected and piped by gravity flow to the foreshore in accordance with the requirements of DCP 2010: Part 8.2- Stormwater Management. Accordingly, detailed engineering plans with certification indicating compliance with this condition are to be submitted with the Construction Certificate application.
29. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveways, carparking areas, landscaping and stormwater drainage design where applicable to ensure smooth transition.
30. **Driveway Grades.** The driveway access and footpath crossing(s) shall be designed to fully comply with the relevant section of AS 2890.1.-2004 and Council's issued alignment levels. Engineering certification indicating compliance with this condition is to be submitted with the Construction Certificate application.

ITEM 3 (continued)

ATTACHMENT 1

31. **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 crossing(s) are to be constructed in plain reinforced with location, design and construction shall conform to Council requirements. Accordingly, prior to issue of Construction Certificate an application shall be made to Council's Public Works division for driveway crossing alignment levels. These issued levels are to be incorporated into the design of the driveway access and clearly delineate on plans submitted with the Construction Certificate application.
32. **Vehicle turning paths.** Vehicle turning areas compliant with AS2890.1 (2004) shall be provided for vehicles entering and leaving the garage. Details of compliance shall be shown on the plans submitted with the **Construction Certificate**.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

33. **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.
34. **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.
35. **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 3 (continued)

ATTACHMENT 1

- (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).

36. 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.

37. Pre-commencement dilapidation report. The submission of a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties namely 52 Pellisier Road, Putney and public infrastructure (including roads, gutters, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining private properties, prior to the commencement of construction.

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

DURING CONSTRUCTION

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

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

ITEM 3 (continued)

ATTACHMENT 1

40. **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.
41. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
42. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- (a) Fill is allowed under this consent;
 - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (c) the material is reused only to the extent that fill is allowed by the consent.
43. **Construction materials.** All materials associated with construction must be retained within the site.
44. **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.
45. **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.
46. **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".
47. **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.
48. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.

ITEM 3 (continued)

ATTACHMENT 1

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

49. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate numbered A154520_06, dated 15 April 2013.
50. **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**.
51. **Post-construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties, prior to the issue of the **Occupation Certificate**.
52. **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 Requirements

53. **Disused Gutter crossing.** Any disused gutter crossings shall be removed and kerb and gutter including footpath shall be reinstated to Council's satisfaction.
54. **Engineering Certification.** To ensure stormwater drainage works are completed in accordance with approved plans, Certification shall also be obtained from a chartered civil engineer with NPER registration with Engineers Australia, indicating the constructed works complied with DCP 2010. Part 8.2.

ITEM 3 (continued)**ATTACHMENT 1****OPERATIONAL CONDITIONS**

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

55. **Single dwelling only.** The dwelling is not to be used or adapted for use as two separate domiciles or a boarding house.

ITEM 3 (continued)

ATTACHMENT 2

SYDNEY REGIONAL ENVIRONMENTAL PLAN COMPLIANCE TABLE

Provision	Proposal	Compliance
<i>Cl. 21 Biodiversity, Ecology and Environmental Protection</i>		
(a) Development should have neutral or beneficial effect on quality of water entering waterways	The proposed development will see alterations and additions to the existing dwelling house. As there is no change in land-use proposed and works are considered minor in terms of biodiversity, ecology and natural environment impacts it is considered the proposed development will have a neutral effect on the quality of water entering waterways.	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)	With all works associated with the proposed development occurring a minimum 16m from the MWHM it is considered there will be minimal impacts on any terrestrial and aquatic species, populations and ecological communities. Additionally it is noted there is no proposal to remove any existing vegetation on site thus seeing all vegetation retained. The shadow diagrams submitted with the subject development application indicate the proposed development will overshadow land areas only, and not adjacent aquatic areas. Given the above, it is considered the proposed development will protect terrestrial and aquatic vegetation.	Yes

ITEM 3 (continued)

ATTACHMENT 2

Provision	Proposal	Compliance
(c) Development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities)	All works are to be located a minimum 16m from the MHWL. Accordingly, the proposed development is not considered to have a negative impact on ecological connectivity of aquatic vegetation.	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.	All works are to be located a minimum 16m from the MHWL. Accordingly, the proposed development is not considered to have any indirect impact on aquatic vegetation. It is noted that the proposed alterations are considered minor in terms of causing any indirect impacts on the natural environment.	Yes
(e) Development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation	All works are to be located a minimum 16m from the MHWL. Accordingly, the proposed development is considered to protect the natural intertidal foreshore, natural landforms & native vegetation with minimal adverse impacts on the natural environment.	Yes
(f) Development should retain, rehabilitate and restore riparian land	All works are to be located a minimum 16m from the MHWL. Therefore all riparian land is retained and the proposed development is not considered to have any adverse impacts. The proposed development does not aim to rehabilitate or restore riparian land.	N/A
(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	The subject site adjoins a wetlands protection area, however as no works are proposed within 16m of the MHWL an acceptable buffer is considered to be provided to maintain the ecological integrity of the	Yes

ITEM 3 (continued)

ATTACHMENT 2

Provision	Proposal	Compliance
	wetlands.	
(h) The cumulative environmental impact of development	With all works proposed to be located a minimum 16m from the MHW, it is considered the cumulative environmental impact of development to be minimal. Additionally, the alterations and additions propose only changes only to the existing dwelling seeing no change in land use and thus negligible impacts on the natural environment.	Yes
(i) Whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance	Sediments in the adjoining waterway are not proposed to be disturbed during proposed works. Sediments are considered unlikely to be containment due to continued history of residential use on the subject site and the surrounding area.	Yes
<i>Cl. 22 Public Access to, and Use of, Foreshores and Waterways</i>		
(a) Development should maintain and improve public access to and along the foreshore, without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation	There is no existing public use of this part of the foreshore. Access to public will not be restricted any further than existing as result of the proposed alterations and additions. No adverse impacts on watercourses, wetlands, riparian lands or remnant vegetation has been identified due to no works taking place within this zone.	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	The proposal will not impede or alter existing public access to the river.	Yes

ITEM 3 (continued)

ATTACHMENT 2

Provision	Proposal	Compliance
lands or remnant vegetation		
(c) If foreshore land made available for public access is not in public ownership, development should provide appropriate tenure and management mechanisms to safeguard public access to, and public use of, that land	Land below high water mark remains available for public access (by boat) and presents no change from the existing relationship.	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.	Not proposed	N/A
(e) The need to minimise disturbance of contaminated sediments	All works are proposed well above MHW and is considered not to disturb any contaminants in water/sediments. Additionally, sediments are considered unlikely to be containment due to continued history of residential use on the subject site and the surrounding area.	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 passive recreation craft and presents no change from the existing relationship with the waterway.	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	Proposal will not inhibit or prevent equitable use of waterway for commercial or recreational uses and presents no change from the existing relationship with the waterway.	Yes
(c) Development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore	Development does not seek to increase or impede any existing traffic conditions in the waterway or along the foreshore and presents no	Yes

ITEM 3 (continued)

ATTACHMENT 2

Provision	Proposal	Compliance
	change from the existing relationship with the waterway.	
(d) Water-dependent land uses should have propriety over other uses	Not applicable.	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 and waterway as part of the proposed development. It is therefore considered conflicts between various uses in the waterways & along the foreshore will be avoided.	Yes
<i>Cl. 25 Foreshore and Waterways Scenic Quality</i>		
(a) The scale, form, design and siting of any building should be based on an analysis of:		
(I) the land on which it is to be erected, and	The proposal is considered to respect the existing topography, vegetation and foreshore of the subject site and surrounding land.	Yes
(II) the adjoining land, and	No adverse effects identified upon adjoining residential land or adjoining waterway as the proposal adheres to all controls set out in the Ryde DCP 2010 which aim to mitigate any adverse effects resulting from proposed development.	Yes
(III) the likely future character of the locality	The proposal will not adversely affect the likely future character of the locality due to the alterations and additions of the dwelling having a design and character that is consistent and in line with that of the surrounding locality.	Yes
(b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour	Proposed development is considered compatible with surrounding development	Yes

ITEM 3 (continued)

ATTACHMENT 2

Provision	Proposal	Compliance
and its islands, foreshores and tributaries	and is not proposing any design that is inconsistent with the existing foreshore character. It is therefore considered the proposed development will not have any adverse impacts on visual qualities on Sydney Harbour and its islands, foreshores & tributaries.	
(c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores	Proposed development is totally land based and proposes no water based development. It is therefore considered that proposed development does not detract from the character of the waterways and adjoining foreshores.	Yes
<i>Cl. 26 Maintenance, Protection and Enhancement of Views</i> (a) Development should maintain, protect and enhance views (including night views) to and from Sydney Harbour	Views to and from Sydney Harbour will be generally maintained. Some minor views across the subject site may be interrupted due to the proposed 2 storey dwelling replacing a more open rear yard arrangement. This however is considered to be acceptable given the topography of the subject site and the fact that any development proposed on this site will likely have an impact on views across the site.	Yes
(b) Development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items	Views and vistas to and from public places, landmarks and heritage items have generally been maintained through appropriate setbacks, heights and terracing of building form. It is considered that adverse	Yes

ITEM 3 (continued)

ATTACHMENT 2

Provision	Proposal	Compliance
	impacts have been minimised.	
(c) The cumulative impact of development on views should be minimised	The cumulative impact on views is considered to be acceptable as all major views have been maintained through appropriate design of the proposed dwelling.	Yes
<p><i>Cl. 29 Consultation required for certain development applications</i></p> <p>(1) The consent authority must not grant development consent to the carrying out in the Foreshores and Waterways Area of development listed in Schedule 2, unless:</p> <p>(a) it has referred the development application to the Advisory Committee, and</p> <p>(b) it has taken into consideration any submission received from the Advisory Committee within 30 days after the date on which the application was forwarded to the Committee.</p>	<p>(1) It is acknowledged that the subject site is located within the Foreshores and Waterways Area as depicted in Figure 1 on page 13 of this report. The proposed alterations and additions do not include any items included in relation to Schedule 2 of the SREPSHC 2005.</p> <p>(a) As per Cl.29(3) (see below), it is the opinion of the assessment officer working on behalf of the consent authority (Ryde City Council) that the proposed development is minor and does not, to any significant extent, increase the scale, size or intensity of the use of the proposed buildings and works over that of the existing arrangements on site. Accordingly, the development application has not been referred to the Advisory Committee.</p> <p>(b) Noted.</p>	N/A

ITEM 3 (continued)

ATTACHMENT 2

Provision	Proposal	Compliance
(2) In the case of an application to carry out development for more than one purpose, of which one or more is listed in Schedule 2 and one or more is not, the consent authority is only required to refer to the Advisory Committee that part of the application relating to development for a purpose so listed.	(2) Noted.	Noted.
(3) This clause does not apply to development that consists solely of alterations or additions to existing buildings or works and that, in the opinion of the consent authority, is minor and does not, to any significant extent, increase the scale, size or intensity of use of those buildings or works.	(3) As the proposed works are not identified under Schedule 2 of the SHCREP this clause does not apply.	N/A
Part 6 Wetlands protection		
Wetlands Protection Area along Lane Cove / Parramatta River frontage	As depicted on the Wetlands Protection Area Figure 2 the subject site is located within a Wetlands Protection Area. See attached Figure 2.	Yes
Cl. 62 Requirement for Development Consent		
(2) Development may be carried out only with development consent	The proposed development is currently seeking development consent via LDA2013/0012 under assessment with Ryde City Council.	Yes
(3) Development consent is not required by this clause:	Not applicable.	N/A
(a) For anything (such as dredging) that is done for the sole purpose of maintaining an existing navigational channel, or	The proposed development does not include maintenance of an existing navigational channel.	N/A
(b) For any works that restore or enhance the natural values of wetlands being works:	The proposed development does not include any works that aim to restore or	N/A

ITEM 3 (continued)

ATTACHMENT 2

Provision	Proposal	Compliance
(i) that are carried out to rectify damage arising from a contravention of this plan, and (ii) that are not carried out in association with another development, and (iii) that have no significant impact on the environment beyond the site on which they are carried out.	enhance the natural values of wetlands. Not applicable. Not applicable. Not applicable.	N/A N/A N/A
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, (b) The environmental effects of the development, including effects on: (i) the growth of native plant communities, (ii) the survival of native wildlife populations,	The proposed development will see alterations and additions to the existing dwelling. As there is no change in land-use proposed and works are considered minor in terms of biodiversity, ecology and environmental impacts it is considered the proposed development will have a neutral effect on the quality of water entering waterways. No impact on the growth of native plant communities due to all existing vegetation being retained and all proposed works to be located a minimum 16m from the MHW. Wildlife populations are considered to be unharmed as result of the proposed development due to all existing habitats being retained.	Yes Yes Yes

ITEM 3 (continued)

ATTACHMENT 2

Provision	Proposal	Compliance
(iii) the provision and quality of habitats for both indigenous and migratory species,	The quality of habitats for both indigenous and migratory species is fully retained as part of the proposed development.	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,	The proposed development is considered to have no adverse affects on surface and groundwater characteristics of the site and surrounding areas due to there being no significant change to land use and the development being in compliance with the stormwater controls set out in the Ryde DCP 2010.	Yes
(c) Whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment.	Plans submitted as part of the proposal indicate that safeguards have been put in place to ensure all runoff, sedimentation & siltation is controlled so as to protect the environment. Rehabilitation measures are not considered necessary due to no works being undertaken within 16m of the MHWL.	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).	As relevant safeguards will be put in place to ensure no negative impacts on the wetlands and all works are taking place a considerable distance from the foreshore and MWHM it is considered the development is consistent with the <i>NSW Wetlands Management Policy</i> .	Yes
(e) Whether the development adequately preserves and enhances local native vegetation,	The development is considered to adequately preserve the local native vegetation through proposing no works within 16m of the MHWL, therefore retaining all	N/A

ITEM 3 (continued)

ATTACHMENT 2

Provision	Proposal	Compliance
(f) Whether the development application adequately demonstrates: (i) how the direct and indirect impacts of the development will preserve and enhance wetlands, and	existing local native vegetation. The development is considered to adequately preserve the wetlands through proposing no works within 16m of the MHW, therefore retaining all existing wetland protection areas.	Yes
(ii) how the development will preserve and enhance the continuity and integrity of the wetlands, and (iii) how soil erosion and siltation will be minimised both while the development is being carried out and after it is completed, 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	The development is considered to preserve the wetlands through proposing no works within 16m of the MHW, therefore preserving all existing wetland protection areas. No enhancement of wetlands is to occur or is considered necessary. Soil erosion and siltation will be minimised during construction through implementation of sediment fences & sediment traps set up strategically across the site. Following construction all existing stormwater controls will remain unchanged. The plans submitted as part of the proposal indicate sufficient sediment control measures will be put in place to ensure that the intertidal zone is kept free from pollutants arising from the development.	Yes Yes Yes

ITEM 3 (continued)

ATTACHMENT 2

Provision	Proposal	Compliance
(v) that the nutrient levels in the wetlands do not increase as a consequence of the development, and	The development is considered not to result in any increase in nutrient levels in any surrounding wetlands due to all works taking place a minimum 16m from the MHWL. Additionally sediment and soil erosion control measures will be put in place during construction to mitigate any adverse affects as a result of runoff.	Yes
(vi) that stands of vegetation (both terrestrial and aquatic) are protected or rehabilitated, and	No development is proposed within the stands of existing vegetation (both terrestrial and aquatic) therefore protecting them from any adverse impacts.	N/A
(vii) that the development minimises physical damage to aquatic ecological communities, and	The development has aimed to minimise any adverse impacts on the aquatic ecological communities through ensuring no works are undertaken within 16m of the MHWL.	Yes
(viii) that the development does not cause physical damage to aquatic ecological communities,	With all development works being located a minimum 16m from the MHWL, it is considered that no physical damage to aquatic ecological communities will occur as result of the proposed development.	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.	No conditions to be imposed on the development in regards to carrying out works to preserve or enhance the surrounding wetlands.	Yes

ITEM 3 (continued)

ATTACHMENT 2

Attachment 1: Maps

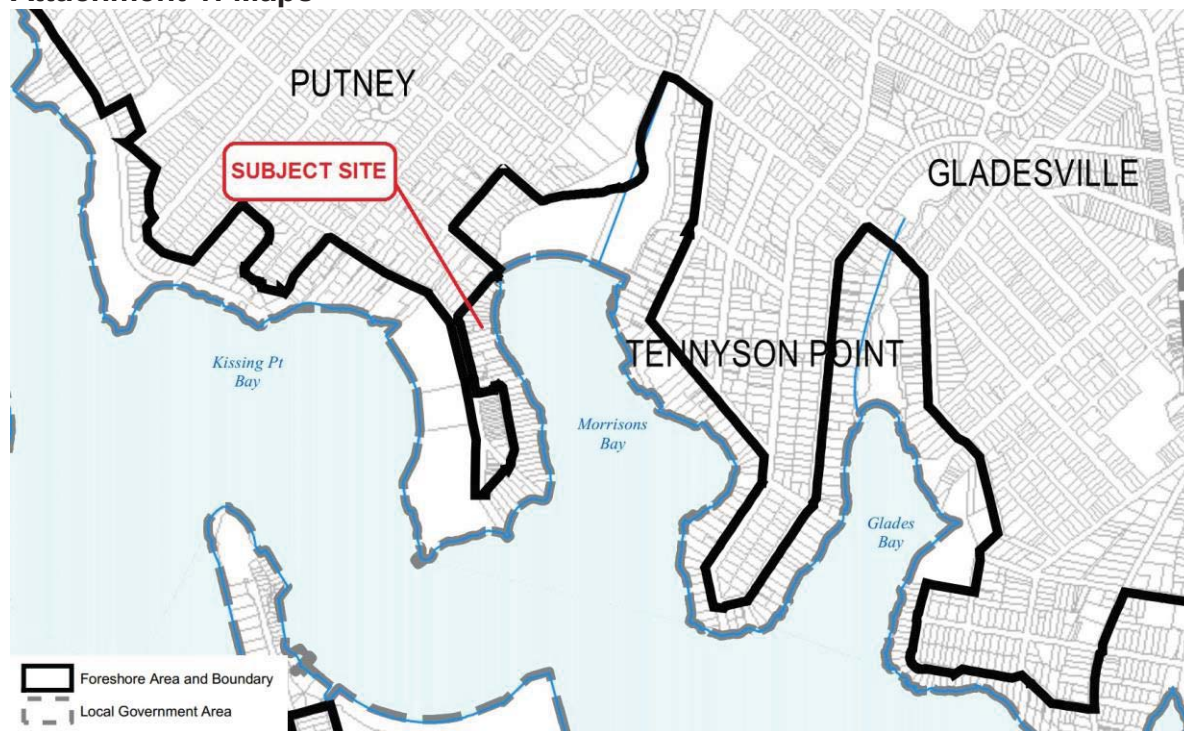


Figure 1: The map above illustrates the subject site at 52A Pellisier Road, Putney lies within catchment boundary that is governed by the Sydney Harbour Catchment REP.



Figure 2: The map above illustrates that according to the Sydney Harbour Foreshore Authority REP the subject site at 52A Pellisier Road is located within a Wetlands Protection Area.

ITEM 3 (continued)

ATTACHMENT 2

**ATTACHMENT 2:
SYDNEY HARBOUR FORESHORES & WATERWAYS AREA
DCP FOR SREP (SYDNEY HARBOUR CATCHMENT) 2005
(SHFWADCP 2005) COMPLIANCE TABLE**

In accordance with Section 3 of the SHFWADCP 2005, the following is an assessment of the proposed development against the performance criteria for the established Landscape Character type attributed to the subject site by the SHFWADCP 2005.

For the purposes of the following assessment, the subject site has been identified as being located with the Landscape Character Type 14, being the low topographic developed areas of the Lane Cove and Parramatta Rivers (Refer to Figure 1 of Attachment 3 on page 19)

Provision	Proposal	Compliance
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.	The proposed development is for the purposes of alterations and additions to the existing dwelling. The proposed development is not considered to impact on any rock outcrops or native vegetation being located a considerable distance from rock outcrops and existing foreshore vegetation. Density and spacing of the development remains unchanged as part of the proposal. Accordingly the proposed development is considered to be consistent with the character and intent for development in the Landscape Character Type 14 area.	Yes
Performance criteria: <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; development is to avoid substantial impact on the landscape qualities of the foreshore and minimise the removal of natural foreshore 	<ul style="list-style-type: none"> Consideration has been given to the cumulative and incremental effects of further development along the foreshore. The proposed development is considered to be consistent with the character and established built form of the waterfront 	Yes

ITEM 3 (continued)

ATTACHMENT 2

Provision	Proposal	Compliance
<p>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;</p> <ul style="list-style-type: none"> ▪ landscaping is carried out between buildings to soften the built environment; and ▪ existing ridgeline vegetation and its dominance as the backdrop to the waterway, is retained. 	<ul style="list-style-type: none"> ▪ It is considered that minimal impacts will result as part of the development, no natural existing foreshore vegetation is proposed to be removed, natural ground levels close to the shoreline have been maintained and no erection of rock walls, sea walls or ledges have been proposed. ▪ Significant vegetation on adjoining allotments allows for sufficient screening of the proposed development. ▪ No existing mature ridgeline vegetation was identified during the site inspection. 	
<p>(c) Development should have neutral or beneficial effect on quality of water entering waterways</p>	<p>The proposed development will see alterations and additions to the existing dwelling. As there is no change in land-use proposed and works are considered minor in terms of biodiversity, ecology and environmental impacts it is considered the proposed development will have a neutral effect on the quality of water entering waterways.</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

Attachment 3: Landscape Character Map



Figure 1: The above map illustrates the subject site at 52A Pellisier Road, Putney has a terrestrial ecological community of urban development with scattered trees with no aquatic ecological communities identified.

ITEM 3 (continued)

ATTACHMENT 3

Quality Certification

Assessment of a Dual Occupancy (attached), Single Dwelling House, Alterations & Additions to a Dwelling House and ancillary development

LDA No:	2013/0012
Date Plans Rec'd	15 January 2013. Amended plans received 12th April 2013. Additional Amended plans received 19th April.
Address:	52A Pellisier Road, Putney
Proposal:	Alterations & Additions to existing dwelling including a first floor extension and new swimming pool
Constraints Identified:	Acid Sulphate Soils, Foreshore Building Line, Slope Instability, Heritage Item

COMPLIANCE CHECK

RYDE LEP 2010	PROPOSAL	COMPLIANCE
4.3(2) Height • 9.5m overall	8.29m	Yes
4.4(2) & 4.4A(1) FSR • 0.5:1	0.4944:1	Yes

DCP 2010	PROPOSED	COMPLIANCE
<i>Part 3.3 – Dwelling Houses and Dual Occupancy (attached)</i>		
Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is consistent with the desired future character of the low density residential area as detailed further in this table. It is noted here for future reference throughout this table that the proposed Alterations & Additions will be located on a Battleaxe allotment.	Yes
Dwelling Houses		
– To have a landscaped setting which includes significant deep soil areas at front and rear.	No Landscape setting to front as the proposal is on a Battleaxe allotment. Deep soil areas retained to rear of dwelling however. Minimal change from existing on site arrangements.	Yes

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Maximum 2 storeys. 	<p>Dwelling proposed is part two storey, part three storey. From the street the dwelling presents as a two storey dwelling and is considered to be consistent with the surrounding neighbourhood character. It is noted that due to the proposed development being on a battle-axe allotment it is largely not visible from the streetscape and therefore does not present a visually dominant bulk or scale to the street.</p>	Yes
<ul style="list-style-type: none"> - Dwellings to address street 	<p>Dwelling presents to Pellisier Road.</p>	Yes
<ul style="list-style-type: none"> - Garage/carports not visually prominent features. 	<p>New single car garage is recessed from the main building line to ensure it is not visually prominent.</p>	Yes
Alterations and Additions		
<ul style="list-style-type: none"> - Design of finished building appears as integrated whole. 	<p>The design of the proposed alterations & additions integrate with existing dwelling.</p>	Yes
<ul style="list-style-type: none"> - Development to improve amenity and liveability of dwelling and site. 	<p>The proposed Alterations & Additions are considered to result in a satisfactory improvement of the amenity and liveability of the dwelling and site.</p>	Yes
Public Domain Amenity		
<ul style="list-style-type: none"> • Streetscape - Front doors and windows are to face the street. Side entries to be clearly apparent. 	<p>Although not directly visible from the street due to the proposed works being on a Battleaxe allotment, front windows face Pellisier Road with the side entry to the dwelling clearly apparent.</p>	Yes
<ul style="list-style-type: none"> - Single storey entrance porticos. 	<p>Single entrance portico proposed.</p>	Yes
<ul style="list-style-type: none"> - Articulated street facades. 	<p>Considerably articulated street façade.</p>	Yes

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> • Public Views and Vistas <ul style="list-style-type: none"> – A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential 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>Existing view corridors towards Morrisons Bay have been satisfactorily maintained along the side allotment boundaries through keeping the alterations and additions to the same width as the existing dwellings. It is noted that revised plans addressed neighbours' concerns of view loss by removing the timber pergola to the pool, modifying the floor plan of the building on the first floor and angling the en-suite window on the first floor to increase the view corridor. No landscaping proposed to restrict views.</p> <p>No garages/carports or outbuildings proposed within view corridors</p> <p>No fence proposed due to proposed alterations and additions occurring on a battleaxe allotment.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p>
<ul style="list-style-type: none"> • Pedestrian & Vehicle Safety <ul style="list-style-type: none"> – Car parking located to accommodate sightlines to footpath & road. – Fencing that blocks sight line is to be splayed. 	<p>Car parking is not considered to be an issue due to it being located a significant distance from roads and footpaths as the proposed Alterations & Additions are located on a battle-axe allotment. It is also noted that swept path diagrams have been submitted as part of the revised plans that demonstrate vehicles can enter and exit the site in a forward direction.</p> <p>No fencing proposed as proposed Alterations & Additions are on a battleaxe allotment.</p>	<p>Yes</p> <p>N/A</p>

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
Site Configuration		
<ul style="list-style-type: none"> Deep Soil Areas - 35% of site area min. 	<p>239m² approx (33.95% of site area). Given the subject site is a battle-axe allotment with minimal area in the front setback to include any deep soil and the proposed development falls short of the required deep soil area by less than 8m², it is considered to be acceptable/. Additionally it is considered this non-compliance does not result in any significant impact to stormwater absorption or vegetation growth on site.</p>	<p>No - Justifiable</p>
<ul style="list-style-type: none"> - Min 8x8m deep soil area in backyard. - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). 	<p>Equivalent area of 8m x 8m provided in the rear yard 100% permeable area in front yard= 16m². Although the front yard consists of only a minimum amount of deep soil, due to the subject site being a battle axe allotment with a narrow width it is considered to. Additionally, it is noted that the proposal creates no change to deep soil within the front setback to existing approved arrangements on site.</p>	<p>Yes No - Justifiable</p>
<ul style="list-style-type: none"> Topography & Excavation Within building footprint: - Max cut: 1.2m 	<p>Max cut: 1.3m Although breaching the maximum cut levels within the building footprint, the non-compliance is considered to be minor being only 100mm over the maximum allowable. Given that the level of excavation does not result in any unreasonable loss of privacy or security to</p>	<p>No - Justifiable</p>

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Max fill: 900mm <p>Outside building footprint:</p> <ul style="list-style-type: none"> - Max cut: 900mm - Max fill: 500mm 	<p>neighbours or create any inconsistency along the streetscape, this non-compliance is considered to be acceptable.</p> <p>Max fill: No fill proposed</p> <p>Max cut: 820mm</p> <p>Max fill: 3m (North eastern corner under proposed pool). This non-compliance is largely due to the elevated ground level as the property slopes steeply away to the foreshore. As such, the fill levels are not true fill in terms of soil but rather an elevated floor level. As the development is occurring on a battle-axe allotment the areas of proposed fill will not be viewable from the streetscape or public domain. In terms of privacy and overlooking, as the areas of increased fill are situated well forward of the neighbouring dwellings, privacy and overlooking impacts are considered to be mitigated. Additionally it is noted the alfresco areas of the existing dwelling included similar floor levels to that of the proposed.</p>	<p>Yes</p> <p>Yes</p> <p>No - Justifiable</p>
<ul style="list-style-type: none"> - No fill between side of building and boundary or close to rear boundary - No fill in overland flow path - Max ht retaining wall 900mm 	<p>No fill proposed between side of building and boundary or close to rear boundary</p> <p>Not in overland flow path</p> <p>Max. retaining wall height proposed 3m. The proposed retaining wall although exceeding the max. 900mm height as set out in the Ryde DCP 2010 forms part of the structural system to the proposed pool. With this in</p>	<p>Yes</p> <p>N/A</p> <p>No - Justifiable</p>

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
	mind it is considered that although the walls constitute a non-compliance with Councils controls they are providing significant structural benefits to be permissible and are not contributing to any significant privacy or overlooking impacts.	
Floor Space Ratio		
<ul style="list-style-type: none"> - Lower Ground Floor - Ground Floor - First floor - Detached car parking structures - Outbuildings (incl covered pergolas, sheds etc) - Total (Gross Floor Area) - Less 18m² (single) allowance for parking FSR (max 0.5:1)	<p>72.55m²</p> <p>165.56²</p> <p>129.64²</p> <p>N/A</p> <p>16.30m²</p> <p>384.05m²</p> <p>348.05m²</p> <p>0.4944:1</p>	Yes
Note: Excludes wall thicknesses, lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas.	Site Area of 703.90m ² based upon DP859984.	
Height		
<ul style="list-style-type: none"> - 2 storeys maximum (storey) incl basement elevated greater than 1.2m above EGL). 	Dwelling proposed is part two storey, part three storey. From the front the dwelling presents as a two storey dwelling and is considered to be consistent with the surrounding neighbourhood character both in terms of design and bulk & scale. Additionally it is noted that the dwelling is on a battleaxe allotment and therefore is not directly visible from the street. Given the above the proposed alterations and additions are considered to be justifiable.	Yes

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - 1 storey maximum above attached garage incl semi-basement or at-grade garages. <p>Wall plate (Ceiling Height)</p> <ul style="list-style-type: none"> - 7.5m max above FGL or - 8m max to top of parapet. <p>NB: TOW = Top of Wall EGL = Existing Ground Level FGL = Finished Ground Level</p> <ul style="list-style-type: none"> - 9.5m Overall Height <p>NB: EGL – Existing ground Level</p>	<p>1 storey proposed above attached garage.</p> <p>TOW RL: 14.36 FGL below (lowest point): RL: 9.25 TOW Height (max)= 5.11m</p> <p>Max point of dwelling RL:14.75 EGL below ridge (lowest point) RL: 6.46 Overall Height (max)= 8.29m</p>	<p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> - Habitable rooms to have 2.4m floor to ceiling height (min). 	<p>2.4m min ceiling height</p>	<p>Yes</p>
Setbacks		
<ul style="list-style-type: none"> • Side <ul style="list-style-type: none"> ○ Two storey dwelling <ul style="list-style-type: none"> - 1500mm to wall, includes balconies etc. • Front <ul style="list-style-type: none"> - 6m to façade (generally) 	<p>To wall min 1505mm</p> <p>Proposed Alterations & Additions are on a Battleaxe allotment. Front setback to rear boundary of the adjoining property is min. 3.20m. Although this does not meet the control set out in the Ryde DCP 2010 of min. setback of 8m for battleaxe allotments the proposed Alterations & Additions make no change from the existing setback and is therefore considered permissible.</p> <p>Garage setback 1m from building façade.</p> <p>Wall above aligns with face of garage below</p> <p>No ancillary elements proposed in the front setback</p>	<p>Yes</p> <p>No - Justifiable</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> - Garage setback 1m from the dwelling facade - Wall above is to align with outside face of garage below. - Front setback free of ancillary elements e.g. RWT,A/C 		

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> Rear <ul style="list-style-type: none"> 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. Note: 11.375m is 25% of site length. Sites wider than they are long 	<p>Min. 16.40m setback to rear of dwelling.</p> <p>Site is not wider than it is long.</p>	<p>Yes</p> <p>N/A</p>
<p>Battle-axe (hatchet shaped)</p> <p>- Setback min 8m from front allotment. A single storey garage or outbuilding may be located within this setback.</p>	<p>Front setback to rear boundary of the adjoining property is min. 3.20m. Although this does not meet the control set out in the Ryde DCP 2010 of min. setback of 8m for battleaxe allotments the proposed Alterations & Additions make no change from the existing setback and is therefore considered permissible.</p>	<p>No - Justifiable</p>
Outbuildings		
	No additional outbuildings proposed as part of the Alterations & Additions.	N/A
Car Parking & Access		
<ul style="list-style-type: none"> General <ul style="list-style-type: none"> Dwelling: 2 spaces max, 1 space min. Where possible access off secondary street frontages or laneways is preferable. Max 6m wide or 50% of frontage, whichever is less. Behind building façade. Garages <ul style="list-style-type: none"> Garages setback 1m from façade. Total width of garage doors visible from public space must not exceed 5.7m and be setback not more than 300mm 	<p>1 space proposed</p> <p>No access available from secondary street frontage or laneway.</p> <p>External width: 4.8m</p> <p>Car parking located behind the building façade.</p> <p>Setback from façade: 1m</p> <p>Width of opening: 2.8m</p> <p>Door setback: 300mm</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
<p>behind the outside face of the building element immediately above.</p> <ul style="list-style-type: none"> Garage windows are to be at least 900mm away from boundary. Solid doors required Materials in keeping or complementary to dwelling. <ul style="list-style-type: none"> Carports <ul style="list-style-type: none"> Sides 1/3 open (definition in BCA) Parking Space Sizes (AS) <ul style="list-style-type: none"> Single garage: 3m w(min) Internal length: 5.4m (min) Driveways <ul style="list-style-type: none"> Extent of driveways minimised 	<p>Windows setback: 2.2m</p> <p>Solid proposed Materials: consistent with new Alterations & Additions</p> <p>No carport proposed as part of Alterations & Additions</p> <p>3.2m 5.4m</p> <p>No change to driveway extent from existing arrangements on site.</p>	<p>Yes</p> <p>Yes Yes</p> <p>N/A</p> <p>Yes Yes</p> <p>Yes</p>
Swimming Pools & Spas		
<ul style="list-style-type: none"> Must comply with all relevant Acts, Regulations and Australian Standards. Must at all times be surrounded by a child resistant barrier and located to separate pool from any residential building and/or outbuildings (excl cabanas) and from adjoining land. No openable windows, door or other openings in a wall that forms part of barrier Pools not to be in front setback <p>Pool coping height</p> <ul style="list-style-type: none"> 500mm maximum above existing round level <p><i>(only if no impact on privacy)</i></p>	<p>Pool referred to Engineers drawings for details. Fencing is considered to comply with all relevant Acts, Regulations and Australian Standards.</p> <p>Pool fence isolates pool area from dwelling and adjoining land.</p> <p>Gate location/swing shown on proposed plans</p> <p>No windows or doors within pool area. It is noted there are sliding doors which open towards the pool area however the plans indicate a solid pool fence to Australian Standards in front of this.</p> <p>Proposed pool at rear. Pool coping RL: 9.26</p> <p>EGL (lowest point below coping): RL: 6.26</p> <p>EGL (highest point below coping): RL: 6.96</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes No - Justifiable</p>

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> • Pool Setback - 900mm min from outside edge of pool coping, deck or surrounds to allow sufficient space for amenity screen planting - Screen planting required for pools located within 1500mm, min bed width of 900mm for the length of the pool. Min ht 2m, min spacing 1m. - Pool setback 3m+ from tree >5m height on subject or adjacent property. - Pool filter located away from neighbouring dwellings, and in an acoustic enclosure. 	<p>Coping Height (min)= 2.3m</p> <p>Coping Height (max)= 3m</p> <p>The proposed maximum coping height is over the 500mm permissible as set out in the Ryde DCP 2010. It is considered that this acceptable however due to the change in levels across the subject site & given there will be no impacts on privacy to adjoining properties.</p> <p>Setback (min): 1500mm</p> <p>Pool setback >1500mm from the boundary</p> <p>No trees >5m on subject or adjacent property.</p> <p>Pool pump and filtration system located under pool and away from neighbouring properties.</p>	<p></p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Landscaping		
<ul style="list-style-type: none"> • 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 e.g. stairs, terraces. - Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access). 	<p>No trees proposed to be removed as part of the Alterations & Additions.</p> <p>Physical connections provided through implementation of steps and terraced paved areas.</p> <p>Obstruction free pathway provided on both sides of the dwelling.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy. Backyard 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. Landscaped front garden, with max 40% hard paving. 	<p>Alterations and additions, tree not required.</p> <p>Alterations and additions, tree not required.</p> <p>No hedging or screen planting proposed to boundaries.</p> <p>OSD not located under the driveway.</p> <p>Hard Paving: 100%</p> <p>Although the front garden does not include any deep soil zones it is considered acceptable due to the allotment being a battle-axe arrangement and the need for cars to enter and exit the site in a forward direction. Additionally, the existing front garden incorporated no deep soil therefore representing minimal change from the existing on site arrangements.</p> <p>No Urban Bushland or Overland Flow constraints.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>No - Justifiable</p> <p>N/A</p>
Dwelling Amenity		
<ul style="list-style-type: none"> Daylight and Sunlight Access Living areas to face north where orientation makes this possible. Increase side setback for side living areas (4m preferred) where north is the side boundary. <p><u>Subject Dwelling:</u></p> <ul style="list-style-type: none"> Subject dwelling north facing windows are to receive at least 3 hrs of sunlight to a portion of 	<p>Living areas are orientated to the north.</p> <p>Side setback has been increased to 5.5m along the northern side of the north facing living areas to allow increased solar access.</p> <p>According to the shadow diagrams submitted , north facing windows will achieve</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
<p>their surface between 9am and 3pm on June 21.</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>minimum 3 hours solar access between 9am and 3pm on June 21</p> <p>According to the shadow diagrams submitted the POS area of dwelling house will achieve at least 2 hours sunlight between 9am and 3pm on June 21</p>	<p>Yes</p>
<p><u>Neighbouring properties are to receive:</u></p>		
<ul style="list-style-type: none"> - 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21. 	<p>The shadow diagrams submitted as part of the proposed Alterations & Additions indicate they will subject the neighbouring property at 54 Pellisier Road to some increased overshadowing of adjoining principal ground level open space between 9am and 3pm on June 21. The adjoining principal ground level open space will still however receive the minimum 2 hours of sunlight to at least 50% of this area between 9am & 3pm on June 21. This is considered to be a sufficient amount of sunlight.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	<p>According to the shadow diagrams submitted as part of the proposal the neighbouring property at 54 Pellisier Road appears to have two windows that will be affected by minor overshadowing by the proposed Alterations & Additions. The shadow diagrams indicate that these windows will be subject to overshadowing in the morning however all shadows will be gone by 12pm seeing them still receive the min. 3hrs of solar access between 9am & 3pm on June 21.</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> • Visual Privacy <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. • View Sharing <ul style="list-style-type: none"> - The siting of development is to provide for view sharing. 	<p>Windows of living areas, balconies & outdoor living areas have primarily been orientated to the front and rear. Living & dining room windows on the northern side of the dwelling have privacy screens fitted to reduce any issues of overlooking.</p> <p>The proposed Alterations & Additions are forward of the neighbouring dwellings and do not offer any direct views to adjoining dwellings or open space. Amended plans have introduced frosted opaque glass and fixed louvered screens to further reduce any privacy impacts.</p> <p>Side windows do not align with any windows of adjoining properties due to the siting of the building set well forward of neighbouring dwellings. Amended plans have introduced frosted opaque glass and fixed louvered screens to further reduce any privacy impacts.</p> <p>Terraces/balconies do not overlook neighbouring dwelling/open space, privacy screening implemented to reduce any chance of overlooking where possible.</p> <p>The siting of the development has aimed to provide for view sharing where possible. The proposed Alterations and Additions may see some whole views lost towards Morrisons Bay from 52 Pellisier Road due to it being situated behind No.52A, adjoining the battleaxe</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
<p>• Cross Ventilation</p> <ul style="list-style-type: none"> Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation. 	<p>allotment. This is considered to make it very difficult to maintain views once a building of any height above that of the existing dwelling house is proposed. It is noted that primary views are maintained where possible by a complying building height, justified side setbacks and complying front & rear setbacks as well as keeping minimum ceiling heights on all levels. Additionally the existing roof ridgeline combined with the existing vegetation in the rear yard of 54 Pellisier Road sees a good portion of the views toward Morisons Bay already obstructed. Some cross views may be interrupted from 50 & 54 Pellisier Road however due to the nature of the existing single storey dwelling any dwelling of an increased height would impact on cross views. It is noted that revised plans have been submitted that address neighbours' concerns of view loss by way of removing the timber pergola to the pool, modifying the floor plan of the building on the first floor and angling the en-suite window on the first floor to increase the view corridor. Given the above, the minor loss of views is considered justifiable in this instance.</p> <p>Opportunities for good cross ventilation are considered to be optimised for prevailing breezes.</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
External Building Elements		
<ul style="list-style-type: none"> Roof - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable Terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights. - Attic to be within roof space 	<p>Roof of proposed dwelling is articulated.</p> <p>Proposed roof design is a flat roof with no overhangs</p> <p>None provided</p> <p>No skylights proposed</p> <p>None proposed</p> <p>No attic proposed</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
Fencing		
<ul style="list-style-type: none"> Front/return: Side/rear fencing: - 1.8m max o/a height. 	<p>No front or return fencing proposed as subject site is a Battleaxe allotment.</p> <p>No side or rear fencing proposed as part of the Alterations & Additions</p>	<p>N/A</p> <p>N/A</p>
Special requirements for Battleaxe Lots		
<ul style="list-style-type: none"> Must be setback from rear boundary of front allotment 8m min (in addition to having an 8m/25% rear setback). Single storey garage or carport may be within setback. 	Setback does not meet the 8m/25% requirements as set out in Ryde DCP 2010. It is noted however that there is no change to the existing setback as part of the proposed Alterations & Additions.	No - Justifiable
<ul style="list-style-type: none"> Must have hard paved area in front setback for turning, so vehicles can enter and exit in a forward direction. 	Hard paved area provided in front setback to allow for vehicles to enter and exit in a forward direction.	Yes
<ul style="list-style-type: none"> View corridor to water co-ordinated with that of front allotment or along access handle. 	View corridor to Morrisons Bay along the access handle is retained.	Yes
Part 7.1 – Energy Smart, Water Wise (only if BASIX not required)		
BASIX Certificate submitted.		
Part 7.2 – Waste Minimisation & Management		
Submission of a Waste Management Plan	The applicant has submitted a Waste Management	Yes

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
Part 8.2 – Stormwater Management		
• Stormwater		
- Drainage is to be piped in accordance with Part 8.2 – Stormwater Management.	No drainage plans submitted. Councils Development Engineer indicated in their referral that this can be conditioned for the applicant to address at CC stage.	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.	Due to the subject site being a battleaxe allotment the only access to the front door is along the proposed driveway access handle.	Yes
Part 9.4 – Fencing		
• Front & Return Fences		
- Front and return fences that exceed 1m in height are to be 50% open.	No front or return fences proposed as part of the Alterations & Additions as the subject site is a Battleaxe allotment.	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. Note: A site analysis is to be undertaken to identify the site constraints and opportunities including trees 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	No trees proposed to be removed or affected on the subject site or neighbouring properties as part of the Alterations & Additions.	

ITEM 3 (continued)

ATTACHMENT 3

DCP 2010	PROPOSED	COMPLIANCE
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.		

BASIX	PROPOSAL	COMPLIANCE
All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans (list) BASIX Cert # A154520_06 dated 15th April 2013	BASIX commitments shown on plans	Yes
• RWT -	OSD exempt	N/A
• Swimming Pool 1. <26kL 2. outdoors	26kL proposed Outdoor pool proposed	Yes Yes
• Thermal Comfort Commitments: - Construction - TCC – Glazing.	To meet specified targets	Yes
• Solar Gas Boosted HWS	Solar Gas Boosted HWS proposed	Yes
• Natural Lighting - kitchen - bathrooms ()	Not shown (alts and adds) Not shown (alts and adds)	N/A N/A
Water Target 40	Not shown (alts and adds)	N/A
Energy Target 40	Not shown (alts and adds)	N/A
Correct description of property/proposal on 1 st page of Certificate.	Correct details shown	Yes

ITEM 3 (continued)

ATTACHMENT 3

DEMOLITION	PROPOSAL	COMPLIANCE
<ul style="list-style-type: none">Plan showing all structures to be removed.	No Structures to be removed	Yes
<ul style="list-style-type: none">Demolition Work Plan	No Demolition proposed	N/A
<ul style="list-style-type: none">Waste Management Plan	Plan submitted	Yes

Summary of Issues/Non compliances:

Non-Compliances - Justifiable

- Fill within the building footprint is over the max. 1.2m allowable by 100mm
- Fill outside the building footprint is over the max. 500mm by 2.5m
- Pool coping height is over the maximum allowable of 500mm above existing ground level
- Maximum retaining wall height of 900mm exceeded
- Setback from rear boundary of front allotment not achieved
- Deep soil in requirements in front yard and across the site not met
- Hard paved area in front yard exceeds maximum 40% permissible

Non-Compliances – resolved via conditions

Nil

Non-Compliances – Not justifiable

Certification

I certify that all of the above issues have been accurately and professionally examined by me.

Name: Ben Tesoriero

Signature:

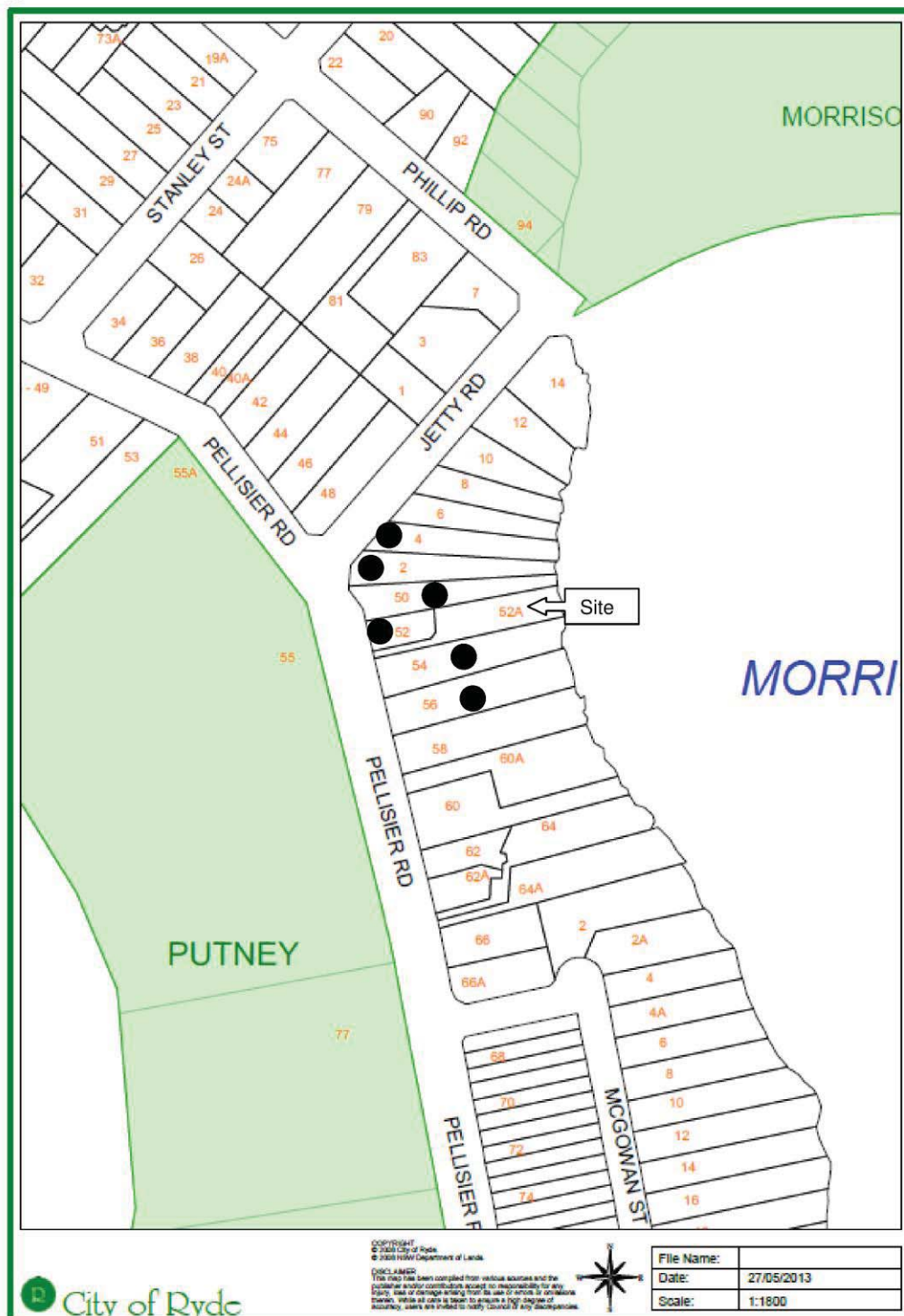


Date: 2 May 2013

ITEM 3 (continued)

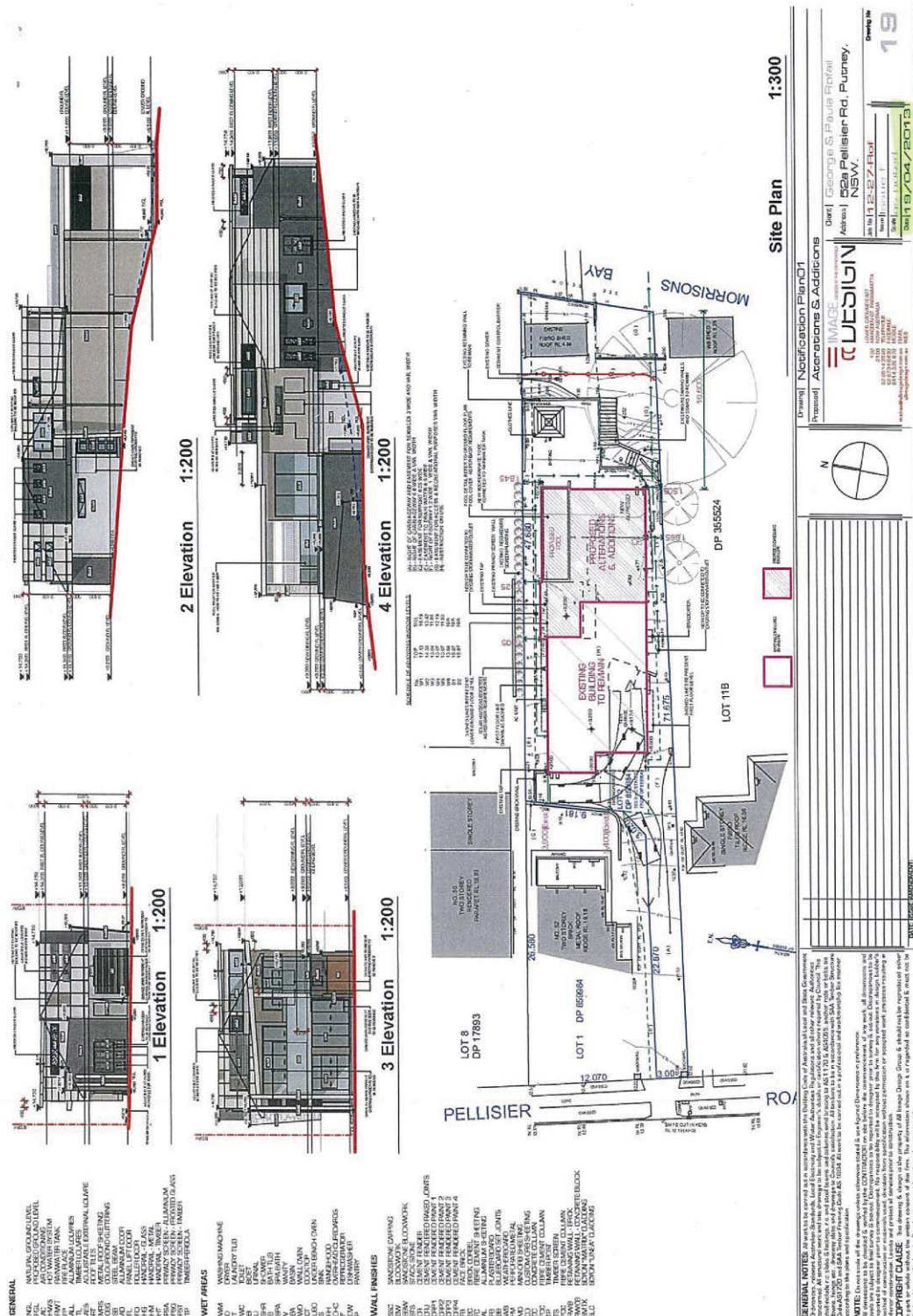
ATTACHMENT 4

● Indicates submissions received



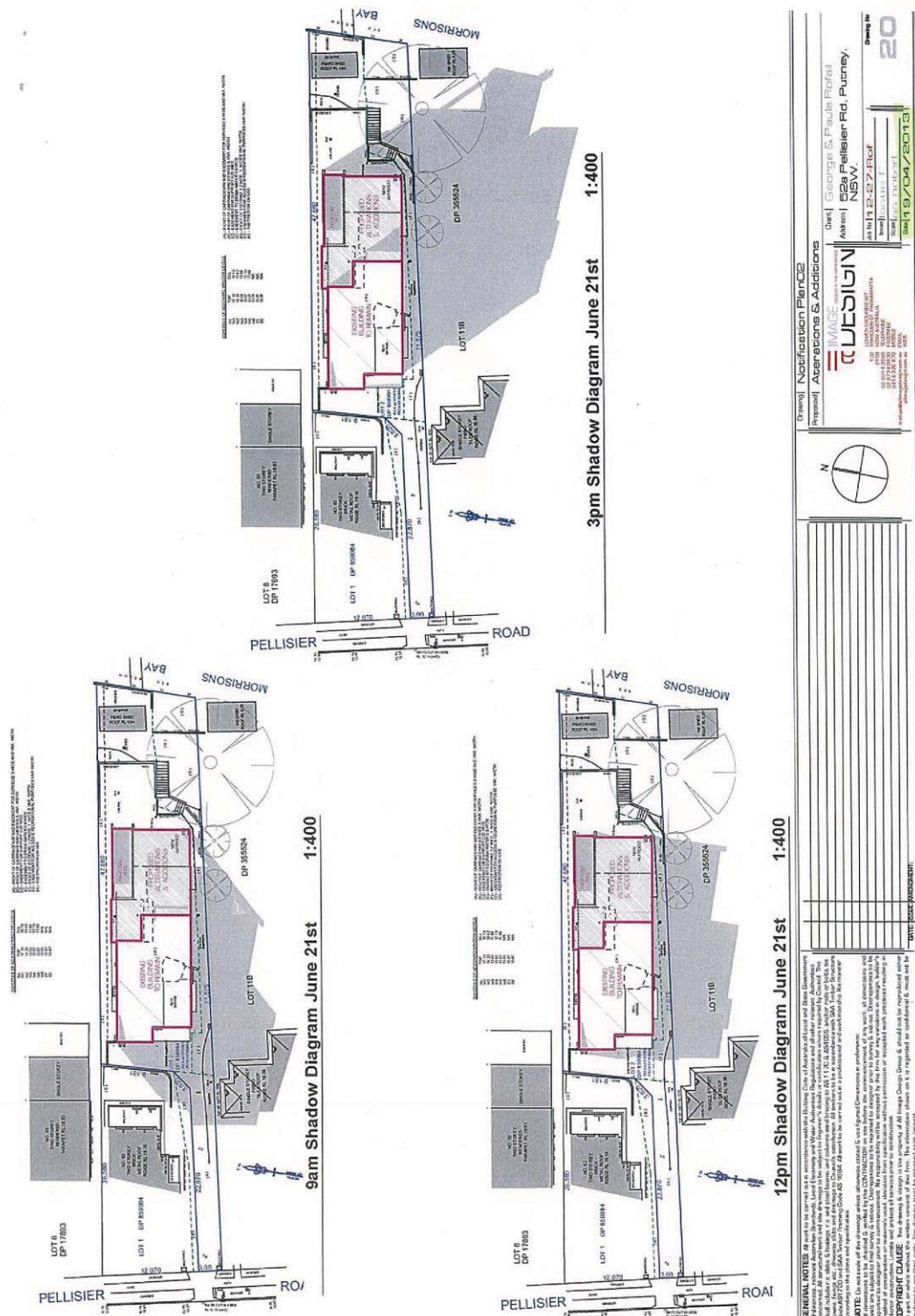
ITEM 3 (continued)

ATTACHMENT 5



ITEM 3 (continued)

ATTACHMENT 5



- 4 52 DARVALL ROAD, EASTWOOD. LOT 10 DP 13514. Local Development Application for the use of existing building as a secondary dwelling and an outbuilding. LDA2013/0100.**

INTERVIEW

Report prepared by: Assessment Officer

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

Report dated: 22/05/2013

File Number: grp/09/5/6/2 - BP13/766

1. Report Summary

Applicant: J Lin.

Owner: W You, J Lin.

Date lodged: 3 April 2013

This report considers a development application (DA) for the use of an existing building at the rear of the subject property as a secondary dwelling and outbuilding/garage.

The subject building was originally approved via a Complying Development Certificate (CDC) by a private certifier (Ace Building Approvals), in May 2012. However it became apparent that the CDC was issued in error – because a CDC cannot be issued for this type of development on allotments less than 15m wide (the allotment is 13.715m wide). Council's Health and Building Compliance Team reported this error to the Building Professionals Board in December 2012.

The property owners have ceased work on the building as requested by Council, upon being made aware of the error of their Private Certifier. To rectify this situation, the property owners have lodged two applications to Council for approval of the construction and use of the building:

1. The subject DA for the use of the building as a secondary dwelling and outbuilding/garage, and for completion of work to the building (and site) still to be undertaken (including stormwater drainage, driveway, retaining walls, privacy screens and landscaping).
2. A separate Building Certificate application for the works undertaken to date (noting that a DA cannot give retrospective approval for building works already undertaken). This application is being processed separately by Council's Health and Building Compliance Team and will be determined after Council has determined the current subject DA for the use of the building.

ITEM 4 (continued)

The proposal has been assessed against the controls for secondary dwellings in State Environmental Planning Policy (Affordable Rental Housing) 2009, and there are two minor areas of non-compliance in terms of allotment width (15m required; 13.715m provided) and rear setback (5m required; 4.98m provided). The actual building has also been assessed according to the controls in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 for the various controls regarding size, height, setbacks etc for “outbuildings”, and the building complies with these controls.

Council’s DCP (Ryde DCP 2010) contains various controls for outbuildings and garages including floor area, height, setbacks etc, and whilst there are some areas of non-compliance as detailed in the report (namely floor area and height), the provisions of the SEPP override the controls in Council’s DCP.

Adjoining owners have been notified of the subject DA in accordance with Part 2.1 DCP 2010 and 4 submissions were received, raising concerns that the development is illegal/does not comply with the Affordable Housing SEPP, privacy impacts, concerns regarding the size of the building, and potential use of the area designated as “outbuilding” as another dwelling. These issues of concern do not warrant refusal of the application and can be addressed via conditions of consent.

It is recommended that the subject DA be approved subject to standard conditions, and specific conditions relating to privacy screens to living room windows, landscape screening, and the outbuilding/garage component not being used or adapted for use as a separate domicile.

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

Public Submissions: 4 submissions were received objecting to the development.

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

Value of works. \$180,000 (original value as constructed)

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. LDA2013/0100 at 52 Darvall Road Eastwood be approved subject to the **ATTACHED** conditions (Attachment 3).
- (b) That the persons who made submissions be advised of Council's decision.

ITEM 4 (continued)**ATTACHMENTS**

- 1** Compliance Table - SEPP (Affordable Rental Housing) 2009
- 2** Compliance Table - Ryde DCP 2010
- 3** Proposed Conditions
- 4** A4 Plans
- 5** Map
- 6** A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Jane Tompsett
Assessment Officer

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 4 (continued)

2. Site (Refer to attached map.)

Address	: 52 Darvall Road, Eastwood
Site Area	: 965.67m ² Frontage 13.715 metres Depth 70.410 metres
Topography and Vegetation	: The site is located on the eastern side of Darvall Road, and has a gentle slope of 2m from the rear boundary to the front boundary. The site also has a cross fall of approximately 1m from the south eastern side boundary to the north western side boundary. There is no significant vegetation on the site
Existing Buildings	: The principal dwelling is single storey. In the rear yard there is a single storey structure containing a secondary dwelling, ancillary storage games room for the principal dwelling and attached garage.
Planning Controls	: State Environmental Planning Policy (Affordable Rental Housing) 2009 Ryde LEP 2010
Zoning	: R2 Low Density Residential
Other	: Ryde DCP 2010 City of Ryde Section 94 Development Contributions Plan 2007

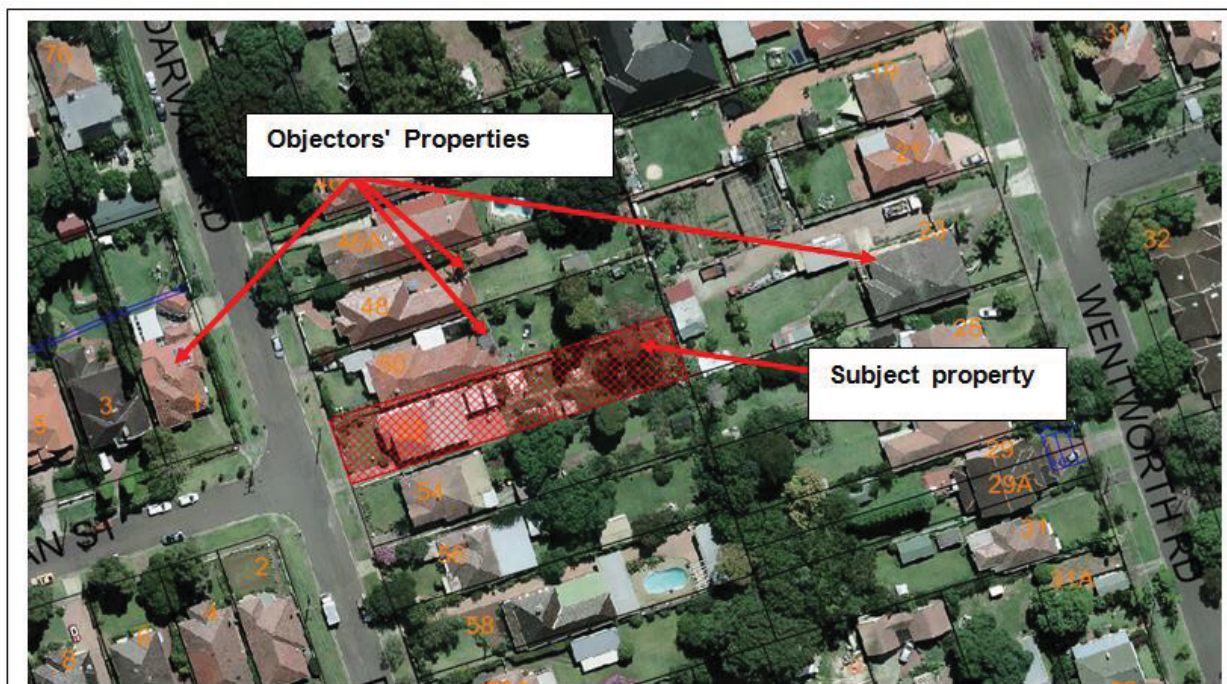


Figure 1: Locality Map

ITEM 4 (continued)**3. Councillor Representations**

Name of Councillor: Councillor Perram

Nature of the representation: Call-up of the Building Certificate application (BC2012/0042) to Planning & Environment Committee, Via and email, to Councillor Help Desk, dated 18 November 2012. (The Building Certificate Application has been deferred pending the outcome of the current DA.)

On behalf of applicant or objectors: On behalf of objectors at No. 50 Darvall Street (adjoining neighbours to the north western side of the subject property).

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

4. Political Donations or Gifts

Any political donations or gifts disclosed? None disclosed in applicant's DA submission or in any submission received.

5. Proposal

The proposal is for the use of existing building in the rear yard, for a secondary dwelling and an outbuilding consisting of storage/family room (ancillary to principal dwelling at the front of the property) and garage. The proposal also involves minor works required for completion of work to the building (and site) , including rainwater tank, stormwater drainage, driveway including turning bay, retaining walls, landscaping and privacy screens.

The subject building, as constructed, has a total floor area of 133.7m², and this DA proposes to use part of the building as a secondary dwelling (53.73m²), and the remainder as an outbuilding/storage area and garage which has a total area of 80.04m².

ITEM 4 (continued)

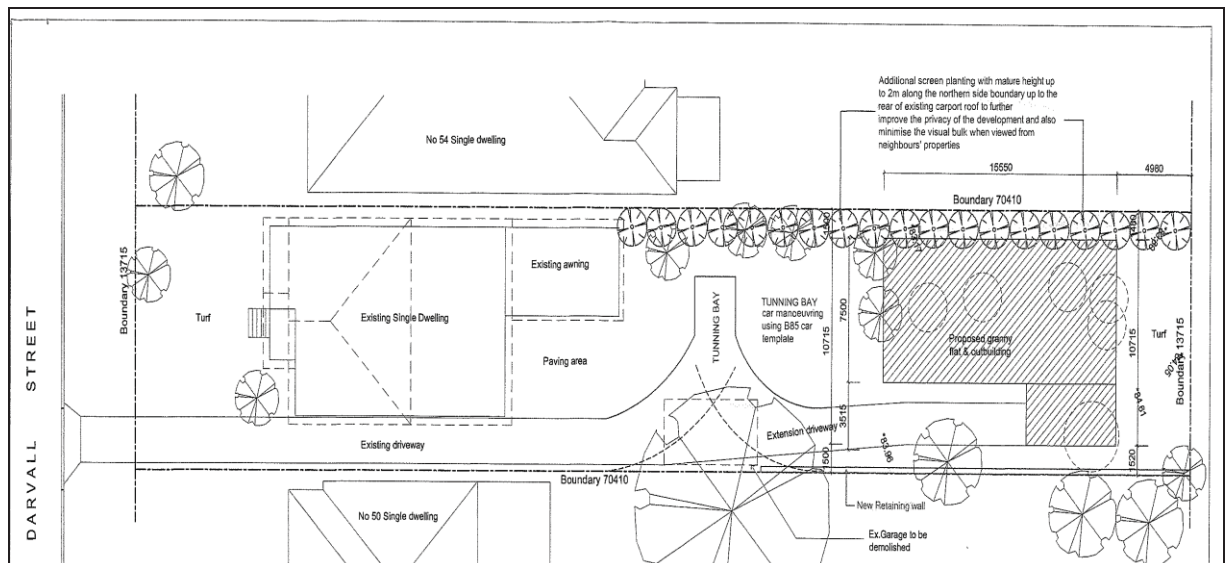


Figure 2 - Site Plan

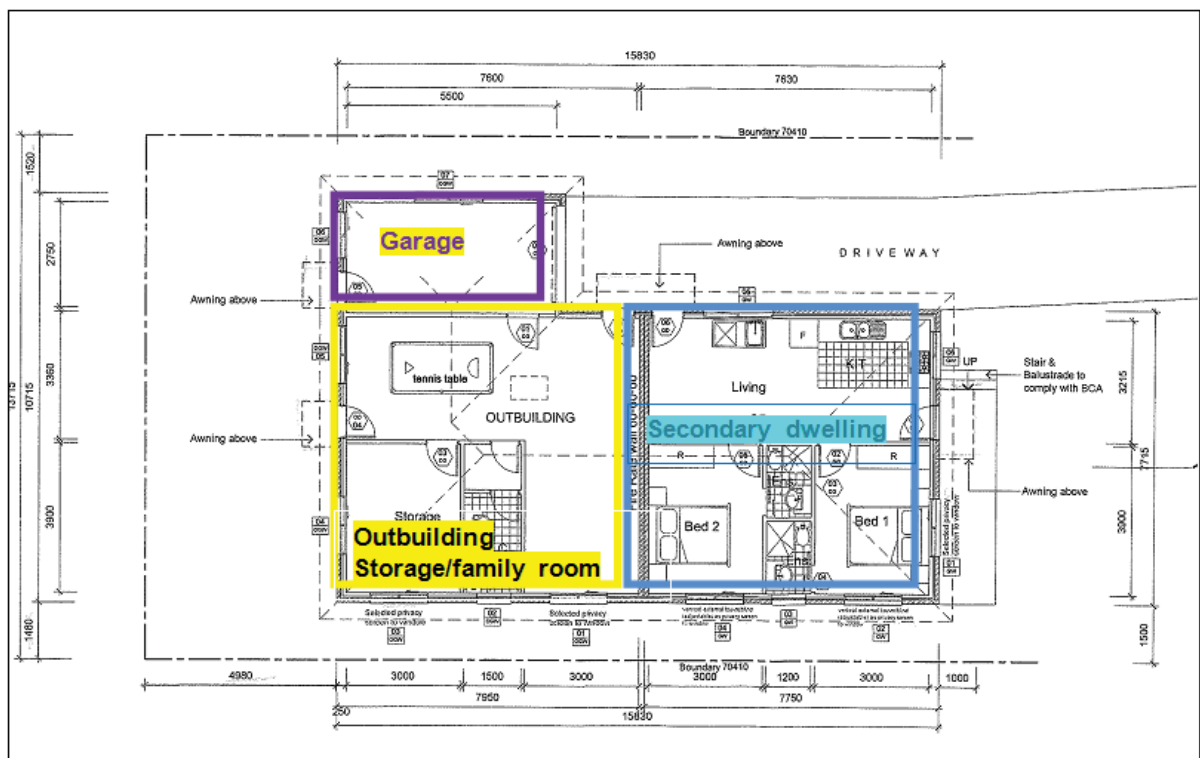


Figure 3 Floor Plan

ITEM 4 (continued)

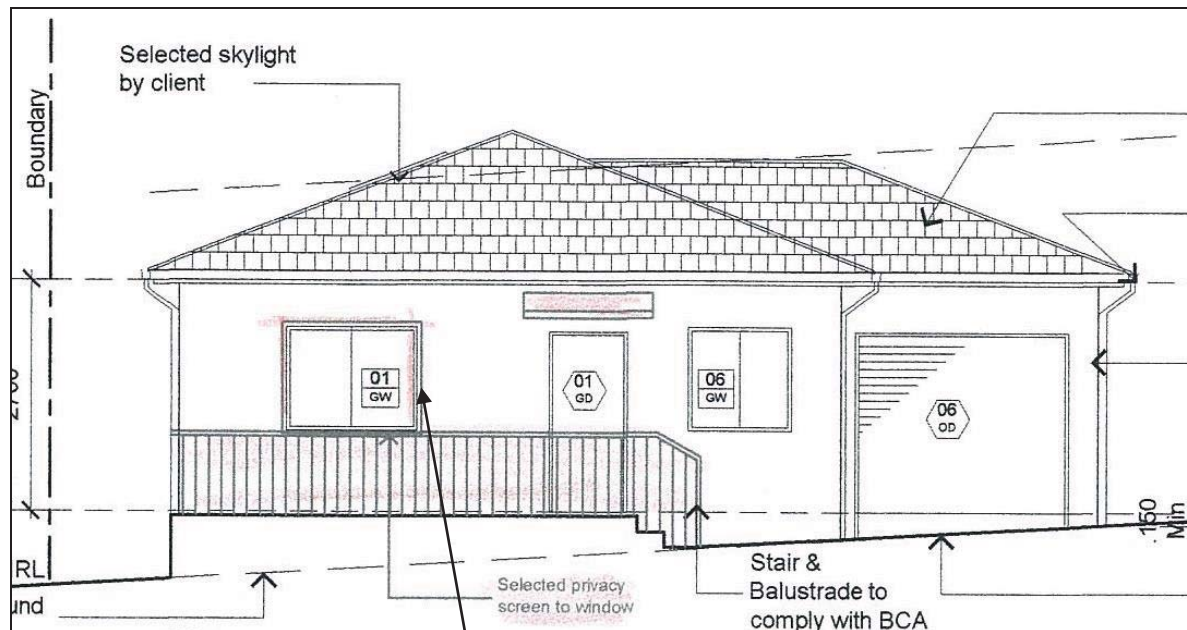


Figure 4 – Eastern (front) Elevation (note Privacy Screen to window 01)



Figure 5 – View looking towards the secondary dwelling outbuilding and garage from the rear of the principal dwelling.

ITEM 4 (continued)**6. Background**Approval of Complying Development Certificate by Private Certifier

On 4 May 2012 a Complying Development Certificate (CDC) was issued by private certifier (Ace Building Approvals) for a granny flat, garage and outbuilding in rear yard. The Section 94 Contributions applicable were paid on 10 May 2012 receipt No. 2081730.

On 29 October 2012 the certifier from Ace Building Approvals advised Council that *“the construction was progressed up to lock-up stage. I realised there was an error in the CDC assessment which the lot has less than 15m width. After discussing with the owners, the owners have stopped work on site and lodged an application for Building Certificate for completed works and Development Application for the remaining works.”*

On 30 October 2012, the owners lodged a Building Certificate (BC) for the works as constructed under the approved CDC. The BC was notified to adjoining neighbours' on 12 November 2012, for a period of fourteen days. Four (4) submissions were received objecting to the Building Certificate.

In addition to the written notification, Council's Building Surveyor Compliance held a meeting with the following adjoining residents.

1. 48 Darvall Road
2. 50 Darvall Road
3. 23 Wentworth Road

Council's Officer at the meeting has made the following notes:

“During the meeting the residents were informed that the submitted Building Certificate Application was for the building works that have been constructed to date, and not for the use of the building. The owner would need to lodge a formal Development Application and seek approval for the use of the building as secondary dwelling.”

The privacy in relation to the windows along the Northern side of the structure was discussed and the residents agreed that the windows should be replaced with obscured glass, or the sill height be raised to 1500mm from the floor level or, screen planting on the side with mature plants that would overcome the privacy issues.”

Council's Health and Building Compliance Team has reported the Private Certifier's error in issuing the CDC to the Building Professionals Board in December 2012.

ITEM 4 (continued)Subject Development – LDA2013/100

In addition to the Building Certificate application noted above, the applicant has lodged a DA for the use of the building as a secondary dwelling, with an adjoining outbuilding/storage area, and garage. The DA was lodged on 3 April 2013.

On 9 April 2013, the DA was notified to adjoining owners (closing date 24 April 2013), and four submissions were received as discussed in the Submissions section of this report (below).

Advice from Council's General Counsel

A question of law arises regarding the status of the Complying Development Certificate (CDC) as issued by Ace Building Approvals for the existing building.

Council's General Counsel has confirmed that the CDC remains valid (and able to be acted upon) until declared invalid by a Court of law (ie normally the Land and Environment Court for building and development matters).

However, as the Private Certifier has stated that the CDC was issued in error and therefore he will not be able to issue an Occupation Certificate for the building. The property owners have subsequently lodged a Building Certificate and Development Application as described above, to seek to rectify this situation.

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 9 April 2013 until 24 April 2013.

Four (4) submissions were received. The issues raised in the submissions were;

- *Non-Compliance with the State Environmental Planning Policies. The neighbours have raised the issue that: the proposal is non-compliant with the State Environmental Planning Policies and therefore is an illegal structure which should not be allowed to remain.*

Officer's Comment:

As noted previously (see Background Section above), construction of this development progressed to substantial completion when it became apparent that the original approval (Complying Development Certificate issued by Ace Building Approvals) was issued in error. The owners have ceased work on the building as requested by Council upon being made aware of the error by their private certifier.

ITEM 4 (continued)

Council's Health and Building Compliance Team has notified the Building Professionals Board of this error by the private certifier.

The subject application is a DA for use of the building as a secondary dwelling with outbuilding and storage, and a separate Building Certificate has also been lodged but deferred pending the outcome of the DA. The provisions of the Environmental Planning and Assessment Act (Section 149A) allow a person to lodge a Building Certificate application for determination in regard to unauthorised works, although it is noted that this is often a source of frustration for neighbours.

In terms of compliance with the relevant State Environmental Planning Policies, the development fully complies with the requirements for "outbuildings" in SEPP (Exempt and Complying Development Codes) 2008, and there are only very minor non-compliances in terms of the requirements for "secondary dwellings" in SEPP (Affordable Rental Housing) 2009. These non-compliances relate to the width of the allotment (15m required, 13.715m provided) and the rear setback (5m required, 4.98m provided), which are considered to be minor in the context of the development.

The development's compliance with the particular controls regarding "outbuildings" under SEPP (Exempt and Complying Development Codes) 2008 are shown as follows:

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 requires an outbuilding:

- (a) To have a maximum floor area of 100m^2 if the lot is $>900\text{m}^2$
Existing floor area for the outbuilding component is 80.04m^2
- (b) Maximum height outbuildings on a lot must not be more than 4.8m above ground level (existing).
Existing height of the outbuilding is maximum of 4.8m
- (c) Setbacks of outbuildings from rear boundaries:
if the lot has an area of at least 900m^2 , but less than 1500m^2 :
 - (i) for any part of the outbuilding with a height of up to 3.8m—**1.5m,**

The rear setback is 4.98m.

ITEM 4 (continued)

- *Privacy: the neighbours at 50 Darvall Road have raised the issue of privacy, and in particular that the windows will allow overlooking into their property.*

Officer's Comment:

Due to the topography of the area 50 Darvall Road is on the low side of the subject property. The privacy in relation to the existing windows along the northern side of the structure was discussed and the residents agreed that the windows should be replaced with obscured glass, or the sill height be raised to 1500mm from the floor level or, screen planting on the side with mature plants would overcome the privacy issues.

The applicants have proposed privacy screens and screen planting 2.7m high to address the neighbour's concerns. The privacy screens are to be in accordance with State Environment Planning Policy controls and the screen planting is to be a maximum of 2.7m in height in accordance Council's DCP 2010 as marked on the plans see below. These additional measures will maintain privacy for 50 Darvall Road and the existing structure.



Figure 4 –
The view looking towards 50 Darvall Road, from the bedroom on the western elevation. A privacy screen and screen planting 2.7m high are proposed.

ITEM 4 (continued)

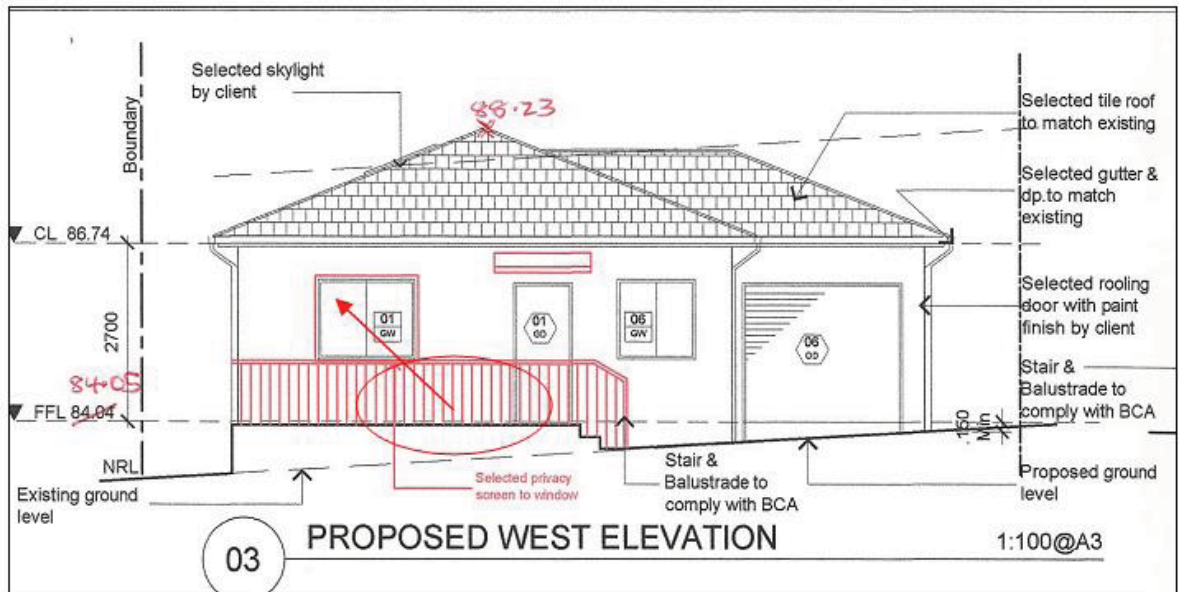


Figure 5 – West Elevation indicates privacy screen

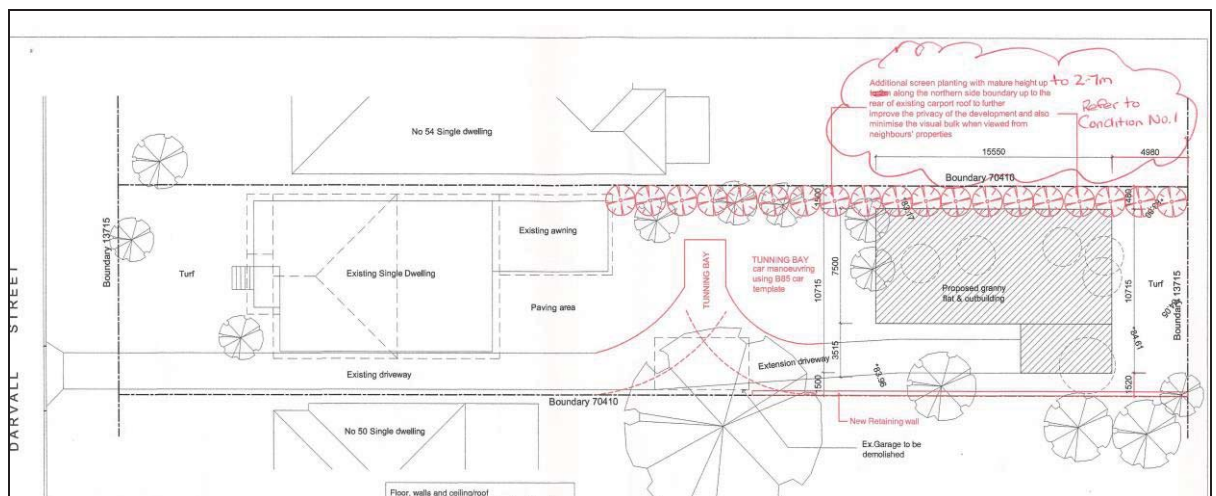


Figure 6 – Proposed screen planting 2.7m high privacy screen

ITEM 4 (continued)



Figure 7 –
The view looking towards 50 & 48 Darvall Road, from the 2nd bedroom on the northern elevation. A privacy screen and screen planting 2.7m high are proposed.



Figure 8 –
The view looking towards 50 & 48 Darvall Road, from the outbuilding on the northern elevation proposes a privacy screen and screen planting 2.7m high.

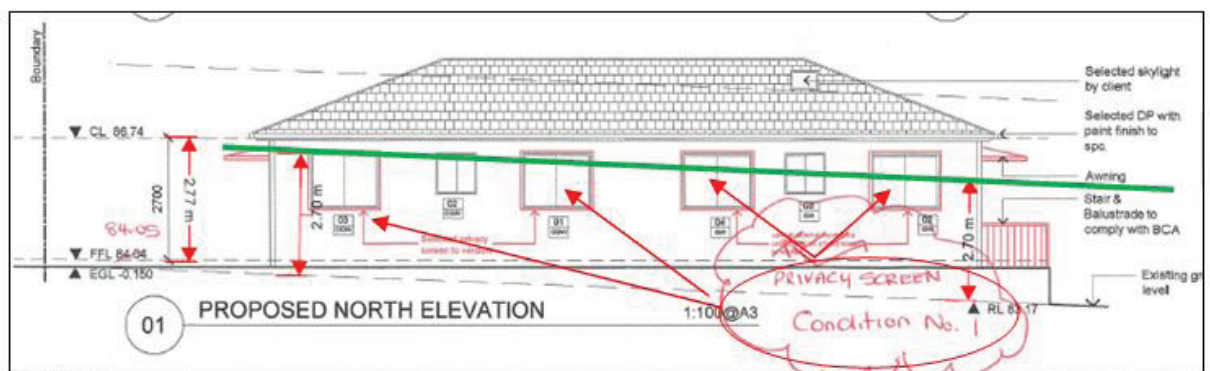
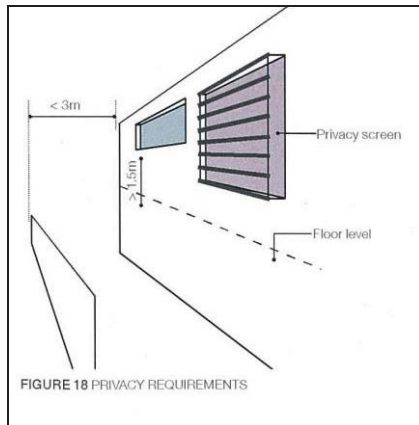


Figure 9 – The Northern Elevation has privacy screens proposed on the four larger windows. The green line is the height of 2.7m screen planting proposed. (See Condition 1).

ITEM 4 (continued)



A privacy screen means a screen that:

- faces the boundary
- is 1.5m in height above floor level
- has no individual opening more than 30mm wide,
- the total area of all openings is less than 30 per cent of the surface area of the screen when viewed in elevation.

Figure 10 - Privacy screens are to be in accordance SEPP Exempt and Complying 2008 as condition of consent. (See Condition 1).

- *Use of the proposed outbuilding. The proposed outbuilding could be used as another dwelling or a boarding house.*

Officer's Comment:

In regard to the outbuilding, the applicant has provided a statement of intended use as follows:

"The proposed outbuilding is designed to be used as an informal family room where family and guests gather for group recreation such as chatting, bible reading, watching movies playing snooker/table tennis and other entertainment activities, as well as providing additional storage space to meet the needs of the multiple family members from three generations residing on the subject property and to compensate for the lack of sufficient living space within the principal dwelling at the front of the site. It should be noted that the proposed outbuilding only contains a bathroom and cannot be occupied as a separate dwelling."

The existing dwelling at the front of the property is single storey and has floor space of only 149.34m². It is not unreasonable for the owners to require additional living area for the extended family. The principal dwelling floor space will be 211.39m² including the floor area of the outbuilding in the rear yard. The overall floor space (FSR) is 0.28:1 which is well below Council's maximum allowable FSR of 0.50:1. The additional floor space is considered satisfactory for the amenity of the occupants.

ITEM 4 (continued)

Council will impose the following condition of consent to ensure that the outbuilding is not used as a separate domicile.

Outbuilding. The outbuilding is an ancillary use for the occupants of the principal dwelling at the front of the property only. The outbuilding is not to be used or adapted for use as separate domicile or a boarding house.
(See Condition 48)

- *Size of the structure. Concern is raised that the structure is too big and does not comply with size, floor area and height requirements,*

Officer's Comment: The existing building complies with the size requirements in the relevant SEPPs, which are summarised as follows:

- **Outbuilding component:** State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 prescribes a maximum area of 100m² for outbuildings on allotments greater than 900m². The Survey Report dated 9 August 2012, confirms the maximum height of the outbuilding is less than 4.8m and the floor level is a minor 10mm higher than the approved plans. The outbuilding component of this building is 80.04m² (including the garage), which complies.
- **Secondary Dwelling component:** State Environmental Planning Policy (Affordable Rental Housing) 2009 prescribes a maximum area of 60m² for secondary dwellings. The secondary dwelling component of this building is 53.73m², which complies.

Council's DCP does also contain requirements for outbuildings (maximum area 20m²) and detached garages (maximum area 36m²) – and the development does not comply with these requirements. However, the provisions of State Environmental Planning Policies over-ride the provisions of Council's DCP.

- *Devaluation of property*

There are concerns that the property values will drop because of the secondary dwelling and outbuilding.

Officer's Comment:

The applicants have a right, under the Act, to the orderly and economic use and development of land, and that possible decreases in surrounding property values do not constitute a reasonable ground for refusal. Secondary dwellings and outbuildings are permissible under State Planning Policies as detailed above.

ITEM 4 (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 LEP 2010

Zoning

R2 Low Density Residential

Mandatory Requirements

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

Clause 4.3 – Height of buildings. Sub-clause (2) of this clause states that “the height of a building on any land is not to exceed the maximum height for the land shown for the land on the height of buildings map”. In this case, the maximum height is 9.5m. The maximum height of the existing buildings on the site, are less than 9.5m and comply with Ryde’s LEP 2010.

Clause 4.4 - Floor Space Ratio. This clause prescribes a maximum floor space ratio (FSR) of 0.5:1. The FSR for the proposed development has been calculated to be 0.28:1, which complies with Ryde’s LEP 2010.

(b) Relevant State Environmental Planning Policies (SEPPs)

State and Sydney Regional Environmental Planning Policies

State Environmental Planning Policy (Affordable Rental Housing) 2009

Mandatory Requirements

The following mandatory provisions under SEPP (Affordable Rental Housing) 2009 apply to the development.

Division 2 Secondary dwellings

Requirements	Proposal	Compliance
cl. 20 - Permissibility <ul style="list-style-type: none"> Applies to land where a dwelling house is permissible 	R2 Low Density Residential in RLEP 2010	Yes

ITEM 4 (continued)

Requirements	Proposal	Compliance
cl. 22 - Development may be carried out with consent		
(2) Must not consent if the development would result in any dwelling other than the principal dwelling and the secondary dwelling.	Principal & secondary only	Yes
(3) Must not consent unless:		
(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument (RLEP 2010), and	The total floor area of both dwelling is 265.12m ² .	Yes
(b) the total floor area of the secondary dwelling is no more than 60m ² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another EPI, that greater floor area.	FSR 0.28:1	
(4) A consent authority must not refuse consent on either of the following grounds:	The proposed floor area of the secondary dwelling portion is 53.73m ² .	Yes
a. site area, if:		
(i) the secondary dwelling is located within, or is attached to, the principal dwelling, or		N/A
(ii) the site area is at least 450m ² .	Site is 965.57m ²	Yes
b. parking, if no additional parking is to be provided on the site.		N/A
cl. 24 - No subdivision		
No consent to a development application that would result in any subdivision of a lot on a secondary dwelling has been carried out.	No application for subdivision	Yes

ITEM 4 (continued)**(a) Discretionary Matters**

There are no prescribed standards applying to secondary dwellings that require development consent. The development standards in the compliance table at **Attachment 1** apply to complying development and are used as a basis to assess whether the proposal is satisfactory in terms of its likely impact. The Non-compliances identified in the table are assessed below.

1. Width of the lot measured at the building line.

SEPP (Affordable Rental Housing) 2009 states:

Development for the purposes of a secondary dwelling may only be carried out on a lot that: if it is not a battle-axe lot, has a boundary with a primary road, measured at the building line, of at least the following: 15m if the lot is 900 – 1500m²

Officers Comment:

The width of the lot measured at the building line is 13.715m which does not comply with this requirement. The purpose of the minimum width requirement is to ensure sufficient space for open space for the amenity of residents, as well as car parking. The DA plans show that these matters are satisfactory despite the numerical non-compliance.

2. Setback from rear boundaries

SEPP (Affordable Rental Housing) 2009 states:

A new building or a new part of an existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building having a setback from a rear boundary of less than the following: 5m if the lot is 900 - 1500m²,

Officers Comment:

The existing setback is 4.98m and is a minor encroachment of 20mm. The rear setback is considered satisfactory for the amenity of the proposal and maintaining the amenity of the rear neighbours as shown in the photos below due to the separation (approximately 43.83m), the slope of the land and the existing dividing fence.

ITEM 4 (continued)

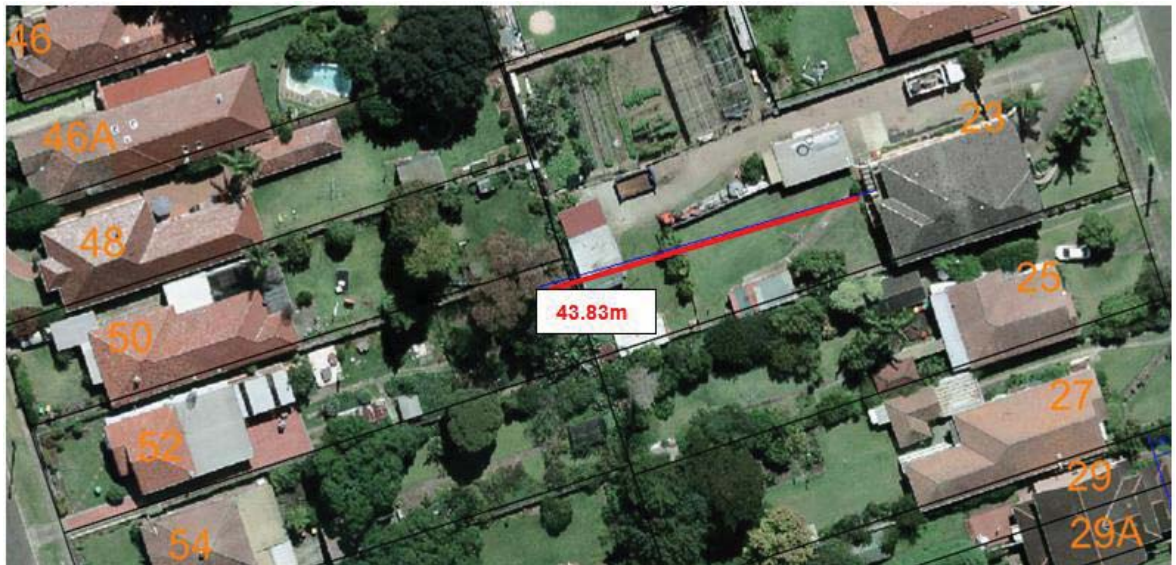


Figure 11 – The distance from the rear wall of the outbuilding at 52 Darvall Road to the rear wall of the dwelling of 23 Wentworth Road is approximately 43.83m



Figure 12 – The view from the rear window in the store room looking towards 23 Wentworth Road.

ITEM 4 (continued)



Figure 13 – The view from the screen door at the rear of the outbuilding.



Figure 14 – The view from the rear window in the garage.

ITEM 4 (continued)**State Environmental Planning Policy Building Sustainability Index: BASIX) 2004**

A compliant BASIX Certificate has been submitted with the DA.

State Environmental Planning Policy No. 55 – Remediation of Land

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

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The following mandatory provisions under SEPP (Exempt and Complying Development Codes) 2008 apply to the development.

Part 3 Division 2 Subdivision 2 Clause 3.11 states:

*3.11 Maximum floor area for outbuildings
(d) **100m²**, if the lot has an area of at least 900m².*

The outbuilding is 80.04m² and complies with the provisions of the SEPP.

Part 3 Division 2 Subdivision 3 Clause 3.13 states:

*3.13 Maximum height of dwelling houses and outbuildings
(2) The height of an outbuilding or the alterations and additions to an existing outbuilding on a lot must not be more than **4.8m** above ground level (existing).*

The outbuilding has a maximum height of 4.8m and complies with the provisions of the SEPP.

Part 3 Division 2 Subdivision 3 Clause 3.18

3.18 Setbacks of outbuildings from rear boundaries

(1) This clause applies to a new outbuilding, or alterations and additions to an existing outbuilding (an outbuilding).

(c) if the lot has an area of at least 900m², but less than 1500m²:

- (i) for any part of the outbuilding with a height of up to 3.8m—**1.5m**, or*
- (ii) for any part of the outbuilding with a height greater than 3.8m—1.5m plus one-quarter of the height of the outbuilding above 3.8m,*

ITEM 4 (continued)

The outbuilding has a rear setback of 4.98m and complies with the SEPP.

(c) Any draft LEPs

A Section 65 Certificate enabling the formal exhibition of Draft Local Environmental Plan 2011 was issued by the Department of Planning and Infrastructure on 23 April 2012. The Draft Plan 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.

Draft LEP 2011 was adopted by Council on 12 March 2013 and is waiting gazettal by the Department of Planning and Infrastructure; as such LEP 2011 can be considered certain and imminent. .

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

Relevant Development Control Plan/Council Code against which development has been assessed:

Ryde Development Control Plan (DCP) 2010.

The proposal has been assessed using the development controls contained in Ryde DCP 2010. The DCP compliance table for this development proposal is held at **Attachment 2**.

The non-compliances identified in the Compliance Table are discussed below:

1. Outbuilding

Council's DCP 2010 Part 3.3 Dwelling House and Dual Occupancy attached states:

- *Outbuildings, including garages and carports are to have a:*
- *Maximum building height 4.5 metres*
- *Maximum wall plate height 2.7 metres*
- *The total area for all outbuildings is not to exceed 20m².*
- *Free standing garages are to have a maximum gross floor area of 36m².*

The floor area for the outbuilding is broken up of as follows: 80.04m² in total (this includes the garage that has a floor area of 16.5m²). The overall height of the existing building is 4.8m.

Council's DCP 2010 states: a maximum floor area for an outbuilding of 20m² and overall height of 4.5m.

ITEM 4 (continued)

Council's DCP 2010 states: a maximum floor area for a detached garage of 36m² and overall height of 4.5m.

Council's DCP permits 56m² for a detached garage and outbuilding. The existing floor area is 24.04m² greater than Council's control for a detached garage and outbuilding. The height is 300mm over Council's control.

The outbuilding was approved under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, which permits a maximum floor of 100m², if the lot has an area of at least 900m² and maximum overall height of 4.8m.

The floor space ratio (FSR) for the site is 0.28:1, this is well below Council's Maximum, for FSR of 0.50:1. The deep soil area requirements are a minimum of 35% of the site and the existing deep soil area is 46% which is greater than required.

City of Ryde Section 94 Contribution Plan 2007

The development for secondary dwelling will require Section 94 contributions in accordance with Council's current Section 94 Contributions Plan. In this instance the Section 94 Contributions were paid 10 May 2012.

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

Issues regarding impacts on the built environment are discussed throughout this report (in particular the sections discussing submissions from neighbours and DCP compliance). In summary, the proposal is considered satisfactory for approval in terms of impacts on the built environment subject to the recommended conditions of consent.

(b) Natural Environment

The proposal for the change of use and minor works will have minimal impact in terms of the natural environment. Matters regarding soil erosion/sediment control etc could be addressed via standard conditions on any consent if Council decides to approve the DA

ITEM 4 (continued)**11. Suitability of the site for the development**

A review of Council's map of Environmentally Sensitive Areas (held on file) identifies that there are no constraints affecting the subject property of concern regarding the proposed development.

12. The Public Interest

The development complies with the relevant State Environmental Planning Policies as discussed earlier in this report. Subject to conditions which address neighbours' concerns regarding privacy impacts, and also a condition which prevents the use of the outbuilding component of the building as a separate domicile, it is considered that approval of the development would be in the public interest. It is acknowledged, however, that the process whereby this situation has occurred is of concern. An application was approved in error by a Private Certifier as a CDC which required a development application and construction certificate before the commencement of work. Following the correct process would have allowed proper and appropriate consultation with neighbours on the design and form of the development before construction and would have prevented the owners of the property from being in this position where they are incurring substantial additional costs and delays.

13. Consultation – Internal and External

Internal Referrals:

Council's Development Engineer, 20 April 2013. Council's Development Engineer has advised that the drainage details submitted are satisfactory subject to minor amendments.

The proposed detention basin is very close to the foundations of the existing dwelling. The excavation works should be carried out with the supervision of a Structural Engineer. All shoring work to support the foundations should be designed by the structural engineer. I have provided conditions in this regard see below. This particular matter is addressed via Condition 22. Other standard conditions provided by Council's Development Engineer are also included in the Draft Conditions at Attachment 3.

Council's Building Surveyor, Council's Building Surveyor involved in processing the Building Certificate application has provided comments on the subject DA. The Building Certificate application includes appropriate certification that the building has been constructed in accordance with the Building Code of Australia, and hence there would be no reason to refuse the Building Certificate on technical grounds. However it is recommended that the Building Certificate be issued after satisfactory compliance with the development consent.

ITEM 4 (continued)External Referrals

None required

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

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

16. Other Options

An alternative would be to impose a demolition order on the structure, however this is not recommended for the following reasons:

- The development complies with the Exempt and Complying Development Codes SEPP which takes precedence over Council's Development Control Plan 2010.
- The existing structure generally complies with Council's floor space ratio, site coverage, setbacks, streetscape and height.
- The owners have an approval granted for a Complying Development prior to commencement.
- Section 94 Contributions were paid to Council.
- The construction was carried out in accordance with the Building Code of Australia.
- The owners have taken the comments of the neighbours on board and satisfactorily addressed the issues of privacy by agreeing to privacy screens and additional landscaping.

17. Conclusion

The proposed development has been assessed using the heads of consideration listed in Section 79 of the Environmental Planning & Assessment Act 1979 and is considered to be satisfactory for approval subject to conditions of consent. Although objections have been received from neighbours regarding the size of the building, potential privacy impacts, and the fact that the original Complying Development Approval was issued in error, these would not form reasonable grounds for refusal. The size of the development complies with the SEPP requirements for outbuildings and the only minor non-compliances relate to the width of the block and rear setback. Concerns regarding privacy are resolved via conditions for privacy screens to the windows and landscaping along the boundary.

ITEM 4 (continued)

ATTACHMENT 1

Compliance Table

State Environmental Planning Policy (Affordable Rental Housing) 2009

Schedule 1 – Development standards for secondary dwellings for Complying Applications.

The following development standards apply to complying development and are used as a basis to assess whether the proposal is satisfactory in terms of its likely impact.

Development standards	Proposal	Satisfied
Part 2 - Site Requirements		
2. Lot requirements		
(1) Development for the purposes of a secondary dwelling may only be carried out on a lot that:		
(a) at the completion of the development will have only one principal dwelling and one secondary dwelling, and	Principal dwelling, one secondary dwelling, ancillary storage and games room and single car garage.	Yes
(b) if it is not a battle-axe lot, has a boundary with a primary road, measured at the building line, of at least the following:		
<ul style="list-style-type: none"> 15m if the lot is 900 – 1500m², 	13.715m Merit based assessment for DA would support this non compliance in accordance with DCP 2010	No(1)
(2) Has lawful access to a public road.		Yes
3. Maximum site coverage of all development		
(1) The site coverage of the principal dwelling, secondary dwelling and all ancillary development on a lot must not be more than the following:		
<ul style="list-style-type: none"> 40% if the lot is 900 - 1500m², 	357.96m ² 37%	Yes
4. Maximum floor area for principal and secondary	53.73m ² .	

ITEM 4 (continued)

ATTACHMENT 1

Development standards	Proposal	Satisfied
dwellings – already calculated under Division 2		Yes
5. Maximum floor area for balconies, decks, patios, pergolas, terraces and verandahs (1) Max for balcony, deck, patio, pergola, terrace or verandah attached to a principal dwelling or secondary dwelling with a floor level of more than 3m above ground level (existing) is 12m ² .		N/A
Part 3 - Building height & Setbacks		
6. Building Height A new building or a new part of an existing building must not be more than 8.5m above existing ground level.	4.8m	Yes
7. Setbacks from roads, other than classified roads (1) The new secondary dwelling or new part of an existing building must be set back from a <u>primary road</u> (frontage of site) at least: (2) The new secondary dwelling or new part of an existing building must be set back from a <u>secondary road</u> (side road if corner site) at least: (3) The new secondary dwelling or new part of an existing building must be set back from a <u>parallel road</u> (not frontage or side road) at least:		N/A N/A N/A
8. Setbacks from classified roads The new building or new part of an existing building must be setback from a boundary with a classified road of:		N/A
9. Setbacks from side boundaries (1) A new building or a new part of an existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or		

ITEM 4 (continued)

ATTACHMENT 1

Development standards	Proposal	Satisfied
<p>verandah that is attached to such a building must be set back</p> <ul style="list-style-type: none"> 1.5m if the lot is 900 - 1500m², <p>(2) A new building or additions to an existing building where the new or existing building will, at the end of the development, have a building height at any part of more than 3.8m, must not result in the new building or any new part of the existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building, having a setback from a side boundary of less than the sum of:</p> <ul style="list-style-type: none"> the amount of the setback specified for the relevant sized lot in subclause (1), and an amount that is equal to one-quarter of the additional building height above 3.8m. 	<p>1.5m Merit based assessment would support side setbacks in accordance with DCP 2010</p> <p>3.5m wall plate height</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>
<p>10. Setback from rear boundaries</p> <p>(1) A new building or a new part of an existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building having a setback from a rear boundary of less than the following:</p> <ul style="list-style-type: none"> 5m if the lot is 900 - 1500m², 	<p>4.98m Merit based assessment would support rear setback for single storey in</p>	<p>No(2)</p> <p>Minor 20mm encroachment</p>

ITEM 4 (continued)

ATTACHMENT 1

Development standards	Proposal	Satisfied
(2) A new building or additions to an existing building where the new or existing building will, at the end of the development, have a building height at any part of more than 3.8m must not result in the new building or any new part of the existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building, having a setback from a rear boundary of less than the sum of: <ul style="list-style-type: none"> • 3m plus an amount that is equal to three times the additional building height above 3.8m, up to a maximum setback of 8m, if the lot is 450 - 900m², or • 5m plus an amount that is equal to three times the additional building height above 3.8m, up to a maximum setback of 12m, if the lot is 900 - 1500m², or (3) Despite subclauses (1) and (2), a dwelling on a lot that has a rear boundary with a laneway may have a building line that abuts that boundary for up to 50% of the length of that boundary.	accordance with DCO 2010 for outbuilding garage 8m setback for ridge required 8.98m provided	Yes N/A
11. Exceptions to side and rear setbacks Despite any other clause:		N/A
12. Calculating setbacks deleted		
13. Articulation zone		N/A
14. Building elements within the articulation zone		N/A
15. Privacy (1) A new window in the principal or secondary dwelling must	Not required see below	

ITEM 4 (continued)

ATTACHMENT 1

Development standards	Proposal	Satisfied
have a privacy screen if: (a) it is a window in a habitable room, other than a bedroom, that has a floor level of more than 1m above ground level (existing), and (b) the wall in which the window is located has a setback of less than 3m from a side or rear boundary, and (c) the window has a sill height of less than 1.5m.	No habitable room >1m	N/A
(2) Development for the purposes of a secondary dwelling must not result in a new or altered balcony, deck, patio, pergola, terrace or verandah without a privacy screen if it: (a) has a setback of less than 3m from a side or rear boundary, and (b) has a floor area more than 3m ² , and (c) has a floor level more than 1m above ground level (existing).		N/A
(3) A new or altered detached deck, patio, pergola or terrace must not have a floor level more than 0.6m above ground level (existing).	Not more than 1m above ground level	Yes
(4) In this clause alter includes making additions to privacy screen means a screen that: (a) faces the boundary identified in subclause (2) (a), and (b) is 1.5m high, measured from the floor level, and (c) has no individual opening more than 30mm wide, and has a total of all openings less than 30% of the surface area of the screen.		N/A

ITEM 4 (continued)

ATTACHMENT 1

Development standards	Proposal	Satisfied
Part 4 - Landscaping		
16. Landscaped area (1) Must have a landscaped area of at least the following: (a) 35% 900 -1500m ² (2) Minimum 50 % must be located behind the building line to the primary road boundary. (3) Must be at least 2.5m wide.	>35%	Yes Yes Yes
17. Principal private open space (1) Minimum 24m ² (2) principal private open space is: (a) an area that is directly accessible from, and adjacent to, a habitable room, other than a bedroom, and (b) is at least 4m wide (c) is not steeper than 1:50 gradient.	Minimum 24m ² Kitchen living area Min 4m <1:50	Yes Yes Yes Yes
Part 5 - Earthworks & Drainage		
18. Excavation of sloping sites (1) Excavation must (a) be not more than 1m below ground level (existing) (b) be constructed using a retaining wall or unprotected embankment that meets the standards of subclause (2) or (3) (2) A retaining wall must not extend more than 1m horizontally beyond the external wall of the principal or secondary dwelling. (3) An unprotected embankment must not extend more than 1m horizontally beyond the external wall of the principal or secondary dwelling.	800mm at the rear of the site Batter back embankment No retaining wall Comply with the BCA	Yes Yes Yes Yes
19. Fill of sloping sites (1) Fill must be contained wholly within the external walls of the principal or secondary dwelling. (2) Despite subclause (1), exposed fill may be constructed using an unprotected embankment if the	Drop edge beam	Yes N/A

ITEM 4 (continued)

ATTACHMENT 1

Development standards	Proposal	Satisfied
<p>principal or secondary dwelling has a setback of more than 2m from a side or rear boundary, if:</p> <ul style="list-style-type: none"> (a) the fill is not more than 600mm above ground level (existing), and (b) the fill (but not the embankment) does not extend more than 1m beyond an external wall of the dwelling, and (c) the toe of the unprotected embankment has a setback of at least 400mm from a side or rear boundary. 		
<p>20. Run-off and erosion controls Must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:</p> <ul style="list-style-type: none"> (a) diverting uncontaminated run-off around cleared or disturbed areas, and (b) erecting a silt fence to prevent debris escaping into drainage systems and waterways, and (c) preventing tracking of sediment by vehicles onto roads, and (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot. 	<p>During CC for the retaining walls</p>	<p>Yes</p>
<p>21. Drainage (1) All stormwater collecting as a result of the development must be conveyed by a gravity fed or charged system to:</p> <ul style="list-style-type: none"> (a) a public drainage system, or (b) an inter-allotment drainage system, or (c) an on-site disposal system. 		<p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 1

Development standards	Proposal	Satisfied
<p>(2) All stormwater drainage systems within a lot and the connection to a public or an inter-allotment drainage system must:</p> <p>(a) if an approval is required under s68 of the <u>LGA 1993</u>, be approved under that Act, or</p> <p>(b) if an approval is not required under s68 of the LGA 1993, comply with any requirements for the disposal of stormwater drainage contained in a DCP that is applicable to the land.</p>	<p>Complies with Ryde DCP 2010 Part 8.2 Stormwater</p>	<p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 2

Compliance Table

Compliance Check - Quality Certification

Assessment of a Dual Occupancy (attached), Single Dwelling House, Alterations & Additions to a Dwelling House and ancillary development.

LDA No:	LDA2013/0100	Date Plans Rec'd: 3 April 2013
Address:	52 Darvall Rd Eastwood	
Proposal:	Use of existing building as a secondary dwelling and an outbuilding.	
Constraints Identified:	None	

COMPLIANCE CHECK

Ryde LEP 2010	Proposal	Compliance
4.3(2) Height		
9.5m	4.8m	Yes
4.4(2) & 4.4A(1) FSR		
0.5:1	0.28:1	Yes

DCP 2010	Proposed	Compliance
<i>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</i>		
Public Domain Amenity		
Streetscape <ul style="list-style-type: none"> - Front doors and windows are to face the street. Side entries to be clearly apparent. - Single storey entrance porticos. - Articulated street facades. 	Existing dwelling unchanged.	Yes
Public Views and Vistas <ul style="list-style-type: none"> - A view corridor is to be provided along at least one side allotment boundary 		N/A

ITEM 4 (continued)
ATTACHMENT 2

DCP 2010	Proposed	Compliance
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.		
Pedestrian & Vehicle Safety <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. 	<ul style="list-style-type: none"> - - - Car parking is located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard. - Fencing does not block sight lines. 	<p>Yes</p> <p>Yes</p>
Site Configuration		
Deep Soil Areas <ul style="list-style-type: none"> - 35% of site area min. - Min 8x8m deep soil area in backyard. - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). 	<p>Permeable (deep soil) area: 452.59m² approx (46% of site area).</p> <p>Rear DSA dimensions: 8m x 8m provided.</p> <p>Existing unchanged</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Topography & Excavation <p>Within building footprint:</p> <ul style="list-style-type: none"> - Max cut: 1.2m - Max fill: 900mm <p>Outside building footprint:</p> <ul style="list-style-type: none"> - Max cut: 900mm - Max fill: 500mm - No fill between side of building and boundary or close to rear boundary - Max ht retaining wall 900mm 	<p>Within BF</p> <p>Max cut: 760mm</p> <p>Max fill: 880mm</p> <p>Outside BF</p> <p>Max cut: 800mm approx</p> <p>Max fill: None</p> <p>No fill</p> <p>800mm</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

ITEM 4 (continued)

ATTACHMENT 2

DCP 2010	Proposed	Compliance
Floor Space Ratio		
Ground floor	149.35m ² existing dwelling	
Detached secondary dwelling	53.73m ²	
Outbuildings including garage	80.04m ²	
Total (Gross Floor Area)	283.12m ²	
Less 36m ² (double) or 18m ² (single) allowance for parking	265.12m ²	
FSR (max 0.5:1) Note: Excludes wall thicknesses; lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas.	0.28:1	Yes
Outbuildings/Garage		
Not within front setback.	In the rear yard	Yes
Max area – 20m ²	Area: 80.04m ² outbuilding and garage area Less 16.5m ² for the garage 63.54m ²	No(1)
Max wall plate (ceiling) height 2.7m	Ceiling height =3.4m for one point of the storage and games room	No(1)
Max O/A height 4.5m – Ridge to EGL	Overall height =4.8m	No(1)
To be single storey.	Single storey	Yes
Windows not less than 900mm from boundary.	Setback: north side 1480mm Rear 4.98mm South side 1500mm	Yes
Concrete dish drain if setback less than 900mm.		N/A
Design to complement new dwelling.	Materials: Brick and tile Roof Design: hip roof	Yes 'Yes
Car Parking & Access		
General - Dwelling: 2 spaces max, 1	Number/location of car	Yes

ITEM 4 (continued)

ATTACHMENT 2

DCP 2010	Proposed	Compliance
space min. - Where possible access off secondary street frontages or laneways is preferable. - Max 6m wide or 50% of frontage, whichever is less. - Behind building façade.	spaces: 1 Access from: Darvall Road External width: <6m Behind building facade	Yes Yes Yes
Garages - Garages setback 1m from façade. - Total width of garage doors visible from public space must not exceed 5.7m and be setback not more than 300mm behind the outside face of the building element immediately above. - Garage windows are to be at least 900mm away from boundary.	Existing Setback from façade: >1m Width of opening: <5.7m Door setback: <300mm Windows: 1 Setback: 1.5m .	Yes Yes Yes Yes Yes
Driveways Extent of driveways minimised	Minimised and turning bay provided	Yes
Part 8.2 - Stormwater Management		
Stormwater		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	Drainage is to be piped in accordance with Part 8.2 - Stormwater Management	Yes
Part 9.4 – Fencing	existing unchanged	
Part 9.6 – Tree Preservation	existing unchanged	

ITEM 4 (continued)

ATTACHMENT 3

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
Architectural Plans	10/10/2012 10/12/2012 21/05/2013 21/05/2013 10/10/2012 21/05/2013 10/12/2012	Drawing No. DA-00, DA-01 (issue 01), DA-02 (issue 04), DA-03 (issue 05), DA-04 (issue 01), DA-05 (Issue 05), DA-06 (issue 01, as amended in red) & DA-07 (issue 01)
Stormwater Concept Plans	4/03/2013	REF: 2012038 S1, Sheet 1 (as amended in red)

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

- (a) The screen planting adjacent to the northern side boundary is to be 2.7m high as amended in red.
- (b) All five privacy screens are to be in accordance with privacy screen detail on Drawing No. DA-06 and as amended in red and meet the following minimum standards. A privacy screen means a screen that
 - (i) Faces the boundary
 - (ii) Is 1.5m in height above floor level
 - (iii) Has no individual opening more than 30mm wide,
 - (iv) The total area of all openings is less than 30 per cent of the surface area of the screen when viewed in elevation.

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

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 418424S_03, dated 24 March 2013.

ITEM 4 (continued)

ATTACHMENT 3

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. **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.
8. **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.
9. **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.
10. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

Engineering Conditions

11. **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 4 (continued)

ATTACHMENT 3

12. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
13. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No drainage work shall be carried out on the footpath without this permit being paid and a copy kept on the site.
14. **Vehicle Manoeuvring Area.** All vehicles enter and exit in a forward direction to the street. The vehicle manoeuvring area within the central court yard area shall not be used as a parking space. This area shall be marked and sign posted as a vehicle manoeuvring area.

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.

15. **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**.
16. **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**.
17. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (dwelling houses with delivery of bricks or concrete or machine excavation)

ITEM 4 (continued)

ATTACHMENT 3

18. **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
19. **Long Service Levy. (If applicable based on the value of cost of works)** 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**.

Engineering Conditions to be complied with Prior To Construction Certificate

20. **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.
21. **On-Site Stormwater Detention.** Stormwater runoff from the existing dwelling at front and the secondary dwelling at rear including all other impervious areas shall be collected and piped by gravity flow to a suitable on-site detention system in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. The minimum capacity of the piped drainage system shall be equivalent to the collected runoff from a 100 year average recurrence interval 5 minutes storm event. Runoff which enters the site from upstream properties should not be redirected in a manner which adversely affects adjoining properties.
22. **Excavations Adjoining Existing Dwelling.** The proposed development will result in substantial excavation that has the potential to affect the foundations of the existing dwelling to the front.

The applicant shall:-

- a) Seek independent advice from a Geotechnical/Structural Engineer on the impact of the proposed excavations on the dwelling*
- b) Detail what measures are to be taken to protect the dwelling during construction*
- c) Provide PCA with a certificate from the engineer on the necessity and adequacy of support for the dwelling.*

The above matters shall be completed prior to the issue of the Construction Certificate.

ITEM 4 (continued)

ATTACHMENT 3

23. **Design of the OSD tank.** The walls of the detention tank adjoining the existing dwelling at front shall be designed to withstand the loads imposed by the adjoining dwelling on to the tank walls. Structural details of the tank designed by a suitably qualified structural Engineer with the certification shall be submitted to the PCA prior to issue of a Construction Certificate.
24. **Permeable Paving.** The manoeuvring area for vehicles within the central courtyard area shall be constructed of permeable paving which is to be strictly in accordance with the manufacturer's specification requirements. Certification shall be provided by the manufacturer stating that the proposed construction of the permeable paving is to their requirements prior to issuing the Construction Certificate.
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
- (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.

ITEM 4 (continued)

ATTACHMENT 3

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. If applicable based on the value of the work.

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.
- (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.

ITEM 4 (continued)

ATTACHMENT 3

- (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. **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.
- 32. **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

DURING CONSTRUCTION

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

- 33. **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*.
- 34. **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.
- 35. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
- 36. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
 - (a) Fill is allowed under this consent;
 - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (c) the material is reused only to the extent that fill is allowed by the consent.
- 37. **Construction materials.** All materials associated with construction must be retained within the site.

ITEM 4 (continued)

ATTACHMENT 3

38. **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.

39. **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.

40. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

41. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s).
42. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.

Engineering Conditions to be complied with Prior to Occupation Certificate

43. **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

ITEM 4 (continued)

ATTACHMENT 3

purchased from Council's Customer Service Centre on presentation of a completed City of Ryde OSD certification form.

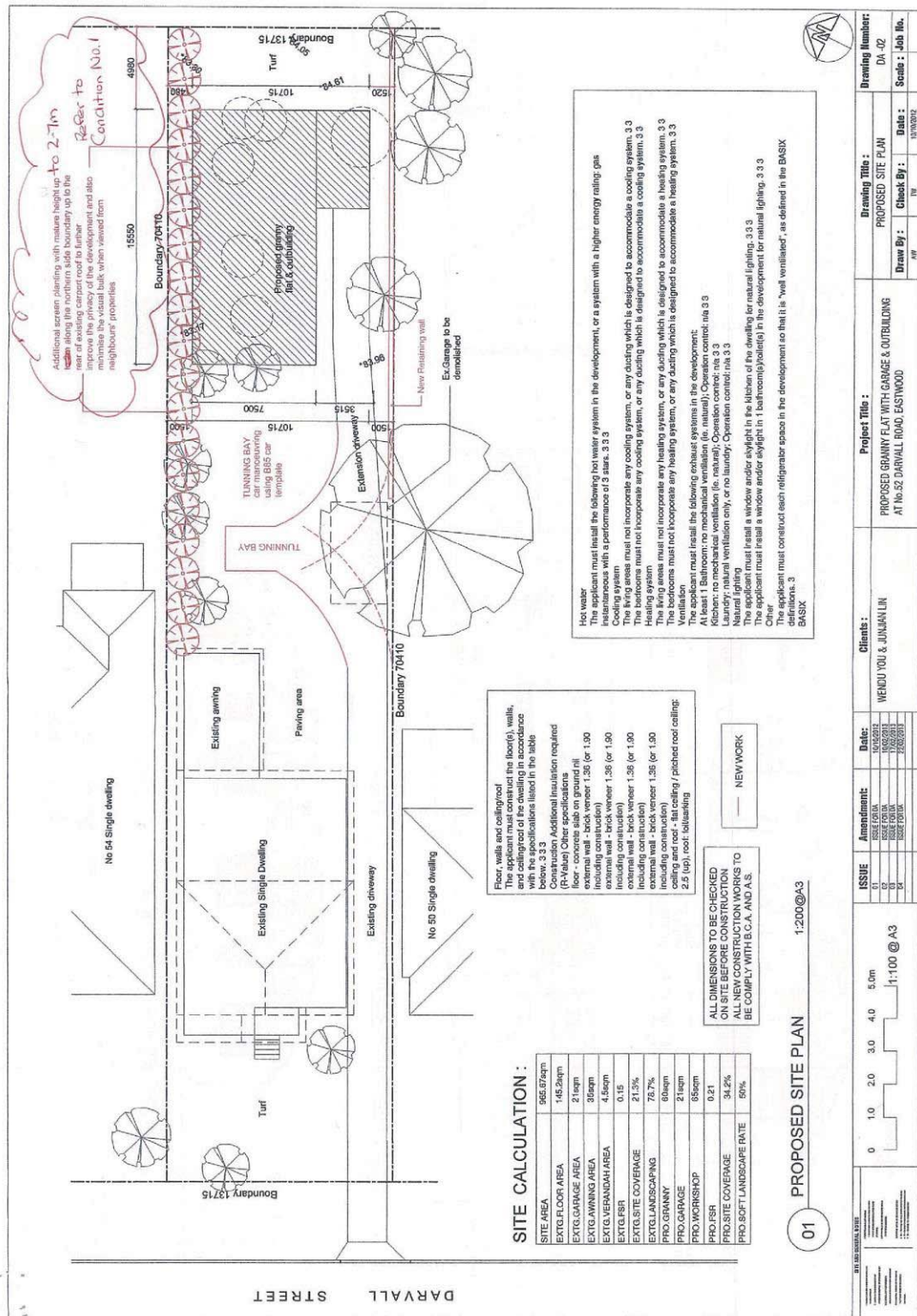
44. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels **is to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA.
45. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of Ref No 2012038 S1Rev D dated 4/3/13 prepared by MBC Engineering Ltd and as amended in red by Council.
46. **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 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.
47. **Positive Covenant, OSD.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Stormwater Detention Systems and to the satisfaction of Council.

OPERATIONAL CONDITIONS

48. **Outbuilding.** The outbuilding is an ancillary use for the occupants of the principal dwelling at the front of the property only. The outbuilding is not to be used or adapted for use as a separate domicile or a boarding house.

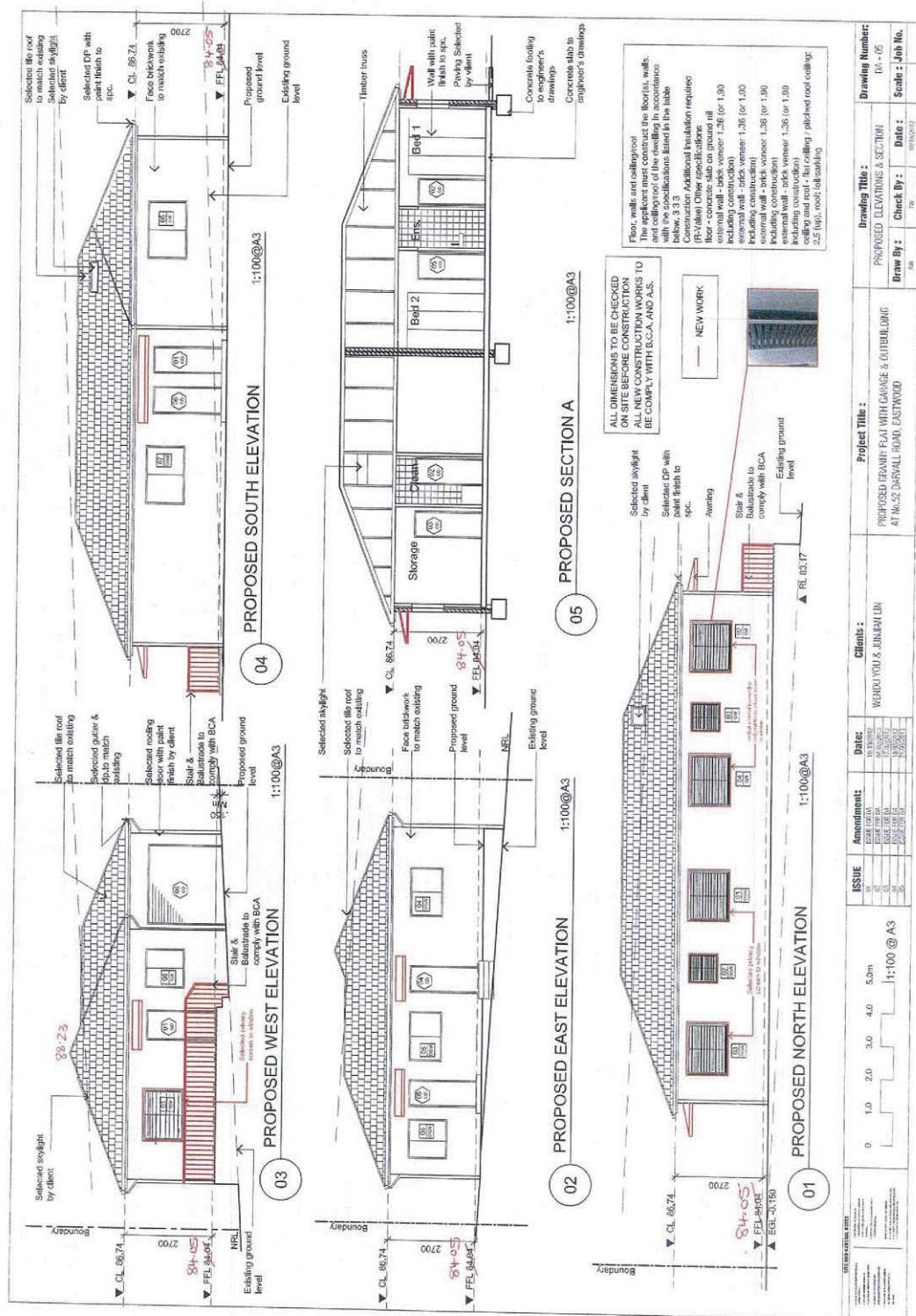
ITEM 4 (continued)

ATTACHMENT 4



ITEM 4 (continued)

ATTACHMENT 4



ITEM 4 (continued)

ATTACHMENT 5

● Indicates submissions received



- 5 3-5 TRELAWNEY STREET, EASTWOOD. Part LOT B & LOT A DP 401296. New mixed use development: a building with six retail/commercial tenancies (534m²); 57 apartments (13X1 bedrooms, 44X2 bedrooms) and basement parking, and strata subdivision. LDA2011/0611.**

INTERVIEW

Report prepared by: Manager Assessment

Report approved by: Group Manager - Environment & Planning

Report dated: 21/05/2013

Previous Items: 2 - 3-5 TRELAWNEY STREET, EASTWOOD. LOTS A & B in DP 401296. Construction and strata subdivision of a mixed use development, consisting of a building with 6 retail /commercial tenancies; 61 units and basement parking for 108 cars. LDA 2011/0611. - Planning and Environment Committee - 17 July 2012
12 - 3-5 TRELAWNEY STREET, EASTWOOD, LOTS A and B in DP 401296. Local Development Application for a mixed use development, containing 6 retail /commercial tenancies, 61 units & basement parking for 108 cars & strata subdivision. LDA 2011/0611. - Council - 27 November 2012

File Number: GRP/09/5/6/2 - BP13/755

1. Report Summary

Applicant: Morris Bray Martin Ollmann.

Owner: N & G Projects Pty Limited.

Date lodged: 28 November 2011.

This report has been prepared to enable Council's further consideration of a development application (DA) for construction and strata subdivision of a mixed use development consisting of a building with six retail / commercial tenancies and residential apartments located at 3-5 Trelawney Street.

The application was previously recommended for refusal based on a number of non-compliances outlined in the original assessment report dated 29 June 2012 (Attachment 2).

ITEM 5 (continued)

The Application was considered by the Planning and Environment Committee on 17 July 2012 and at the Council Meeting held on 24 July 2012. On 24 July 2012 Council resolved that the matter be deferred for the Group Manager – Environment and Planning to negotiate with the applicant with particular regard to addressing the following:

- (a) An increase in the voluntary planning agreement;
- (b) The non-compliances as outlined in the officer's report; and
- (c) Meeting the needs of both the developer and community with regards to amenity.

On 26 October 2012 Council's Group Manager Environment & Planning negotiated an outcome in line with Council's resolution to achieve the following:

- Level 5 units to be deleted, reducing the number of proposed apartments in the development from 61 units to 57 units;
- The VPA offer of cash contribution of \$150,000 to remain with the Section 94 Contribution being amended to reflect the reduced number of apartments;
- It was agreed that the above changes could be effected via a deferred commencement condition that requires plans to be submitted prior to the consent becoming operative.

Accordingly, a report was forwarded to Council at its meeting held on 13 November 2012. This report was for Council's consideration and gave the Council the following three options:

1. Approve the development application in accordance with the conditions included Attachment 1. Council were advised that the VPA offer should also be accepted.
2. Defer the development application pending receipt of the information required by the deferred commencement conditions including amended plans etc and exhibition of this information with a further report to come to Council for consideration in 2013.
3. Refuse the development application for the reasons outlined in the original report.

At its meeting of 13 November 2012, Council resolved to defer consideration of this DA pending receipt of the information required by the deferred commencement conditions including amended plans and exhibition of this information with a further report to Council for consideration in 2013. The recommended deferred commencement condition required the following:

ITEM 5 (continued)

- a) Level 5 units to be deleted and amended plans submitted to Council. The size of the roof terraces and associated structures are not to be increased;
- b) An amended BASIX Certificate is to be submitted which reflects the changes in part a above;
- c) A total of 6 adaptable units are to be provided within the development. The amended plans are to clearly identify the location of these units;
- d) That the applicant shall submit a revised Voluntary Planning Agreement to Council to address the concerns raised by Council staff in relation to Clause 23.2 of the VPA. The wordings of the VPA and the Explanatory Notes must be revised to comply with the Environmental Planning and Assessment Act 1979.

On 21 December 2012, the applicant submitted amended plans, revised BASIX Certificate and VPA in accordance with the Council's resolution. The amended proposal was exhibited in accordance with Council's requirements ending on 1 April 2013. Five submissions were received including two letters of support and three objections.

This report addresses the amended plans as well as the issues raised in the public submissions.

While the report provides options for Council in determining this application, as the applicant has now complied with Council's resolution of 13 November 2012 by making amendments to the height and providing all the additional information requested, the recommendation is to approve the application and accept the VPA.

RECOMMENDATION:

- (a) That Local Development Application No. 2011/0611 for the construction and strata subdivision of a mixed use development consisting of a building with six retail/commercial tenancies, 57 residential apartments and basement parking for 107 cars at 3-5 Trelawney Street, Eastwood be approved subject to the **ATTACHED** conditions (Attachment 1).
- (b) That Council accept the Voluntary Planning Agreement (Reference No. PJAC_100970_017.DOC) made by N & G Projects Pty Ltd in conjunction with the approval of LDA2011/0611.
- (c) That the persons who made submissions be advised of Council's decision.

ITEM 5 (continued)**ATTACHMENTS**

- 1** Proposed Conditions
- 2** Previous Report
- 3** Report on the Voluntary Planning Agreement
- 4** A4 Plans
- 5** Map
- 6** A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Liz Coad
Manager Assessment

Report Approved By:

Dominic Johnson
Group Manager - Environment & Planning

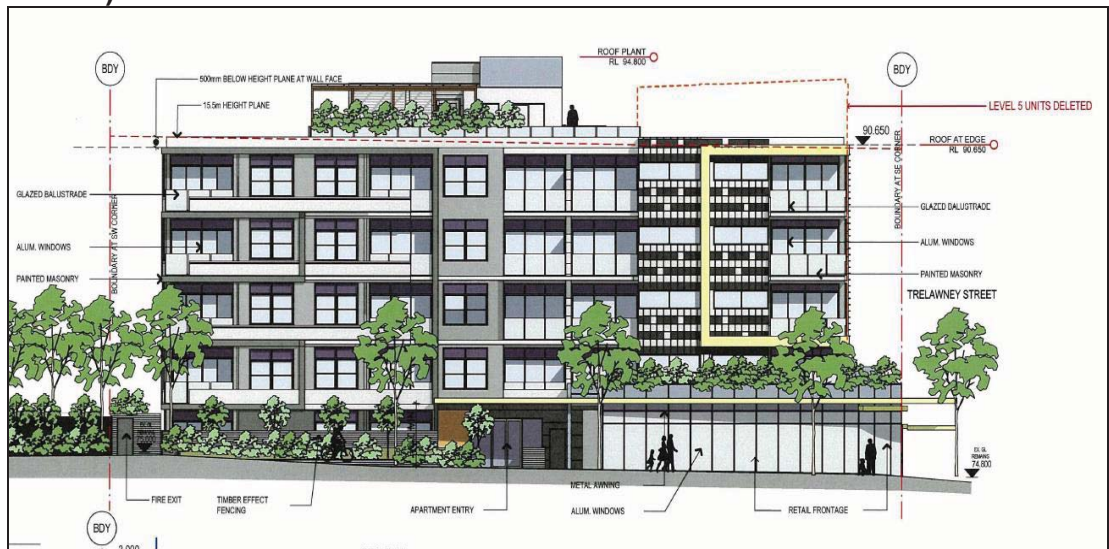
ITEM 5 (continued)

2. Details of Amendments

- a) Amended plans show that the Level 5 apartments have been deleted. The size of the roof terraces and associated structures are the same size as in the original plan as required under Council's resolution.

The amended development includes 57 (13X1 bedroom, 44X2 bedroom) apartments and six retail/commercial tenancies. The plans below show a comparison of the original and amended plan showing Rutledge Street elevation.

AMENDED SOUTH ELEVATION - RUTLEDGE ST (Showing L5 Apartments deleted)



ORIGINAL PROPOSAL SOUTH ELEVATION – RUTLEDGE STREET (with Level 5 Apartments)



ITEM 5 (continued)

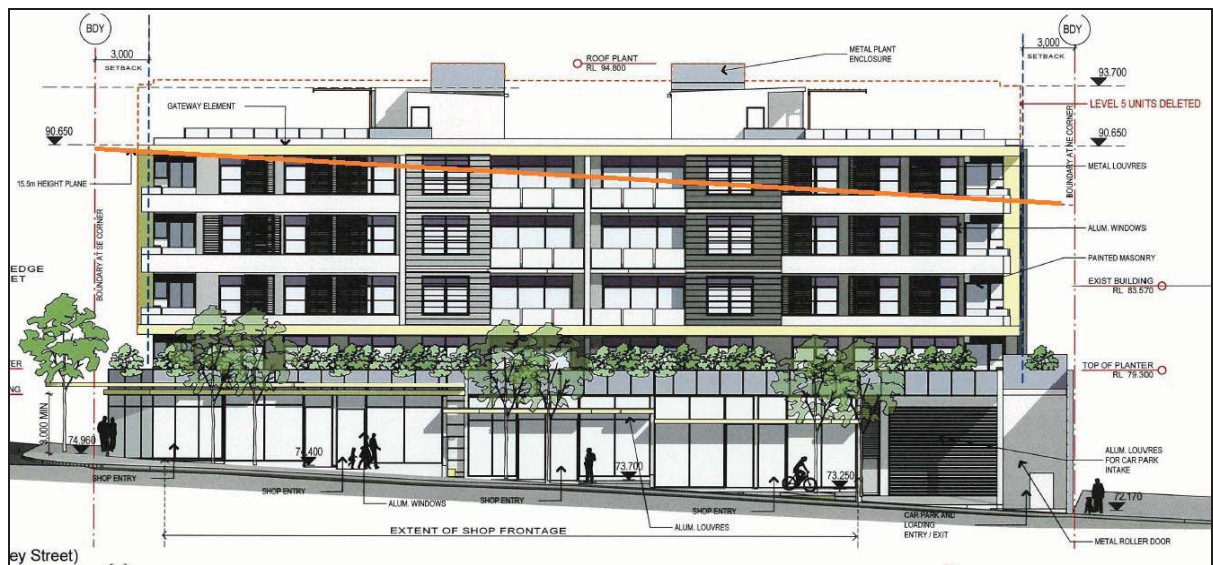
NORTH ELEVATION

Below is the amended north elevation which shows the units deleted (dotted outline). The plan also shows the height limit of 15.5m demarcated by the bold orange line.



EAST ELEVATION (TRELAWNEY STREET)

Through the deletion of Level 5 Units, the extent of height non-compliance on the Trelawney Street elevation is reduced. However, the overall height non-compliance still remains shown by part of the building above the solid orange line in the plan below.



ITEM 5 (continued)

b) Amended BASIX Certificate.

An amended BASIX Certificate No. 385935M_02 has been received reflecting the reduced number of units. The BASIX Certificate identifies that the amended development will achieve a satisfactory target rating.

c) A total of 6 adaptable units.

The revised plan indicates that Unit numbers G01, 111, 112, 212, 312, and 412 will be designed as adaptable units.

d) Revised Voluntary Planning Agreement (VPA).

A revised VPA was received by Council on 6 December 2012 which fully addresses the requirements of the above resolution. The VPA involves the payment to Council of a one off monetary payment of \$150,000 (this is additional to the Section 94 contribution payable on the overall development). A separate report is provided in Attachment 4, which provides more details about the VPA.

e) Bicycle Parking Facilities

On 28 June 2011 Council adopted a Motion requiring that the following matters be considered when conditions of development consent are formulated for bicycle parking requirement:

- *for locations where there will be frequent casual users (such as shopping centres), including conditions requiring the bicycle parking area to be highly visible and easily accessible, preferably at ground level adjacent to a pedestrian access and under cover;*
- *for workplace locations where primarily employees will use bicycle parking, including conditions requiring that bicycle parking be secure;*
- *for any premises, particularly where there will be frequent casual users, including conditions requiring that the development provides for bicycle access separate to vehicle access, for example avoiding the need for bicycles to use a vehicle ramp to an underground car park;*
- *for any premises fronting a main road or busy road, including conditions requiring the developer to provide safe rideable approach to the bicycle parking area extending at least along the frontages of the development and beyond, if reasonable and feasible, to reach safe cycling routes identified in the Ryde Bicycle Strategy and Master plan.*

ITEM 5 (continued)

Council's DCP2010 requires that new development provide bicycle parking equivalent to at least 10% of the required car spaces and part thereof. It is considered that cycling is approximately 10% of the journey to and from work. This control provides for a minimum quantum of bicycle parking to cater for anticipated increase in demand and additional space to meet current cycling rates. A total of 108 car parking spaces are shown on the basement plan as was originally proposed. After the deletion of 4 apartments a total of 100 car parking spaces are required on the site. On this basis sufficient parking area for 10 bicycles is required on the site.

The application indicates that provision for the storage of eight (8) bicycles is provided in the lower ground level. This is short by two bicycle parking spaces. Therefore additional bicycle parking is required in order to comply with the DCP2010 in relation to this matter. It is recommended that if this application were to be approved, a condition be imposed requiring two (2) additional bicycle parking at grade near the residential lobby fronting Rutledge Street (refer to Condition 52(C)).

No bicycle parking is proposed at either grade or within the public domain area for easy access for residents and casual users. It is noted that the deletion of four apartments will result in eight surplus car parking on the site and therefore it would be a good compromise to provide a few additional bicycle parking rails within the public domain area as part of the development. This will be over and above that required under the DCP. This will also be consistent with the intent of the Notice of Motion discussed above and will also meet the objectives of the Part 9.3 of the DCP which is to encourage other modes of transport.

Council's Urban Landscape Architect has advised that provision of an additional three bike parking spaces in front of Retail Tenancy No. 1 on the Trelawney Street frontage would be suitable. It is recommended that if this application were to be approved, a condition be imposed requiring three (3) additional bicycle parking spaces to be provided within the public domain area on Trelawney Street (refer to Condition 52(a) in Attachment 1).

It is also noted that no space has been provided on the site for bulky discarded household items (required under Part 7.2 Waste Minimisation and Management). Out of the eight surplus parking spaces it is recommended that one be converted to a caged area for the storage of bulky discarded items such as furniture and white goods, prior to collection, to prevent illegal dumping in the public domain (refer to Condition 73).

ITEM 5 (continued)

After allowing for the above the development will provide a maximum of 107 car parking spaces and thirteen bicycle parking including eight on the lower ground level, two at grade within the residential lobby area and three on the public domain area along the Trelawney Street frontage as well as storage for discarded household items.

3. Submissions

The amended proposal was exhibited to comply with Council's Resolution. The notification was carried out in accordance with Council's DCP2010 between 23 January 2013 and 20 February 2013. On 18 March 2013 the application was notified again for a period of 14 days ending on 1 April 2013. This was necessary as it was noted that the description of the development in letters sent out during earlier notification was incorrect. In response, five submissions were received including two letters of support and three objections. The issues raised in the submissions are similar to the issues previously raised (considered in the original assessment report to Council). The relevant issues are discussed below:

- a. *Infrastructure in Eastwood will not be able to support such a large development (9 Clanalpine Street);*

Comment:

The submission has not identified what infrastructure is of concern. The current plans show that the Level 5 (4 apartments) have been deleted, resulting in slight reduction in the burden on existing infrastructure. Regardless, it was noted in the original assessment report that the proposed stormwater drainage scheme has been reviewed by Council's Engineer, who has recommended conditions be included in a consent to ensure an acceptable outcome. Conditions are also recommended to ensure that the applicant liaises with the necessary service providers (for gas, water, electricity and telecommunications) and services are installed in accordance with the requirements of the provider. The RMS and Council's Traffic Engineer have reviewed the application. They have not raised any concerns with respect to the existing road infrastructure. Council's Traffic Engineer has advised that the surrounding roads will adequately cater for the development.

- b. *Impact on traffic flow and further traffic congestion in the area;*

Comment:

This matter was considered in detail in the original assessment report. It is noted that Council's Traffic Engineer and the Roads and Maritime Services had reviewed the related traffic impacts of the proposal and did not raise any concerns regarding the traffic impact. Council's Traffic Engineer had advised

ITEM 5 (continued)

that increases in queue lengths and average delays are generally acceptable. Conditions have been recommended to be included in the Consent, including a condition for queuing spaces at the driveway entrance (if the Application were to be approved) by Council (refer Condition 23 in Attachment 1).

- c. *Such a large number of parking spaces located close to a major transport hub at Eastwood Station 500m away is inconsistent with Ryde Council's stated commitments to supporting sustainable transport.*

Comment:

It should be noted that contrary to this submission, a previous submission to the original proposal raised concern that the development did not have adequate parking. A total of 108 parking spaces are being proposed as part of the development within the basement levels which was deemed satisfactory in the original assessment report.

Bicycle parking will be provided within the public domain area, in the lower ground level and at grade on the site if Council chooses to impose the recommended condition (Condition No. 52).

- d. *If the intent of the developer is to provide two car space per bedroom apartment, and one car space per one bedroom apartment, what traffic studies have been undertaken to support such an application? It would appear that the number of planned car spaces for this development is too high and should be reduced.*

Comment:

As part of the original application Council's Traffic Engineer and the Roads and Maritime Services had reviewed the traffic generation on the site, the number of parking spaces and related traffic impacts of the proposal. No concerns were raised for the proposed 108 parking spaces on the site as it would not result in any unacceptable impact to the traffic flow in the locality. Advice from Council's Traffic Engineer included in the original assessment report indicates that increases in queue lengths and average delays are generally acceptable.

As per Council's Resolution dated 13 November 2012, the apartments proposed on Level 5 have been deleted resulting in the removal of four apartments. Council's Resolution did not require any changes to the car parking allocated in the basement. However, a condition has been recommended requiring conversion of one parking space to a caged area for the storage of bulky discarded items such as furniture and white goods, awaiting Council pickup, to prevent illegal dumping in the public domain. Bulky items storage areas would be located adjacent to waste storage areas.

ITEM 5 (continued)

Of the remaining 107 car spaces, a minimum of 22 spaces is required for retail tenancies, 66 spaces for residential and 12 for visitor parking. The remaining seven surplus spaces may be allocated to other tenancies as required by the developer.

The above arrangement is considered satisfactory as extra bicycle parking will also be provided in the public domain area as lockable racks to further meet the objectives of the Council's DCP (refer to Condition 52(a)).

- e. *Excessive building height resulting in impact on neighbourhood privacy (6 Rutledge Street);*

Comment:

No. 6 Rutledge Street is located diagonally on the opposite side of the road. No adverse privacy implications would result given the separation between the existing dwelling house at No. 6 Rutledge Street and the proposed building. The RFDC recommends a building separation of 18m between habitable rooms and balconies from 5 to 8 storeys (25m in height) and 12m up to 4 storeys (12m in height). The building will have a separation of over 24m.

- f. *Letter of support from Korean Chamber of Commerce;*

Comment:

Noted.

- g. *Letter of support from Eastwood Chamber of Commerce;*

Comment:

Noted.

4. Changes to Section 94 Contribution

The previous S94 Contribution of \$737,543.11 was calculated on the basis of 61 units comprising 13 x 1 bedroom, 46 x 2 bedroom, 2 x 3 bedroom and 534m² of retail. This was calculated on the basis of the contribution rates current for June 2012 Consumer Price Index quarter.

ITEM 5 (continued)

With the deletion of the level five units (four apartments deleted), the S94 contribution will change. The amended composition of development will reduce the total number of units to 57 comprising of 13 x 1 bedroom and 44 x 2 bedroom with the retail component unaltered. The new Section 94 contribution of \$698,964.49 has been calculated on the basis of the contribution rates current for the March 2013 quarter.

5. Options for Council:

As was noted in the original assessment report, the development is non-compliant with the applicable height, envelope, setback controls and requirements under SEPP 65. For these reasons the application was recommended for refusal (with additional options for Council). Full details of these matters were included in the original assessment report (included as Attachment 2). In light of the previous amendments required by Council Resolution, the following options are provided for Council's consideration:

1. Refuse the LDA2011/0611 based on the 13 reasons outlined in the original assessment report (assessment report included under Attachment 2).
2. Approve the development application subject to conditions included in Attachment 1. If this option is adopted, Council should also resolve to accept the Voluntary Planning Agreement submitted to Council on 6 December 2012 by N & G Projects Pty Ltd as this represents a public benefit and would provide additional funds to Council for types of works outlined in the VPA Report prepared by Council's Client Manager. The details of the VPA and accompanying report are included as Attachment 3. The VPA must be forwarded to full Council for consideration.
3. Council could also resolve to support the development application; however, resolve to reject the VPA. This option is not supported as Council would not be receiving the additional funding from the developer as proposed in the VPA.