

Meeting Date: Tuesday 7 May 2013
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 5.00pm

Councillors Present: Councillors Pendleton (Chairperson), Chung, Maggio, Salvestro-Martin, Yedelian OAM and The Mayor, Councillor Petch.

Note: The Mayor, Councillor Petch arrived at the meeting at 5.23pm and was present for consideration for Items 2, 3, 4 and 5 only.

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

Apologies: Nil.

Absent: Councillor Simon.

Staff Present: Group Manager – Environment and Planning, Service Unit Manager – Assessment, Service Unit Manager – Environmental Health and Building, Executive Officer – Assessment, Team Leader – Assessment, Senior Town Planner, 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 16 April 2013

Note: The Mayor, Councillor Petch was not present for consideration of this Item.

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

That the Minutes of the Planning and Environment Committee 6/13, held on Tuesday 16 April 2013, be confirmed, subject to an amendment to Item 4 – 66A Pellisier Road, Putney – LDA2012/0106 to read as follows:-

MOTION: (Moved by Councillors Pendleton and Simon)

- (a) That Local Development Application No. 2012/0106 for 66a Pellisier Road 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: Councillors Pendleton and Simon

Against the Motion: Councillors Maggio, Salvestro-Martin and Yedelian OAM

Note: As a result of the voting, this Matter is AT LARGE.

Record of Voting:

For the Motion: Unanimous

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

- 2 305 BLAXLAND ROAD & 5-7 NORTH ROAD, RYDE. LOT 1 DP1069680 & LOT A&B DP 414322. Local Development Application for alterations and additions to San Antonio da Padova Nursing Home. LDA2012/247.**

Note: This matter was dealt with later in the Meeting as detailed in these Minutes.

- 3 58 - 60 FALCONER STREET, WEST RYDE. LOT 1 DP 953646 and LOT 2 DP102049. Development Application for demolition , and construction of 10 strata titled town houses under the Affordable Housing State Environmental Planning Policy. LDA2012/0124.**

Note: Peter Kerrison (objector on behalf of Mrs Elaine Cooke), Marina Kerrison (objector) and Tony Jreige (applicant) addressed the Committee in relation to this Item.

MOTION: (Moved by Councillors Salvestro-Martin and Maggio)

- (a) That Local Development Application No. 2012/0124 at 58 - 60 Falconer Street, West Ryde, being LOT 1 of Deposited Plan 953646 and LOT 2 of Deposited Plan 102049 be REFUSED for the following reasons:
1. The proposal is contrary to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to meet the objectives of the R2 Low Density Residential Zone in the Ryde Local Environmental Plan 2010.

Particulars

- a) The proposal does not ensure that *"the general low density nature of the zone is retained and that development for the purposes of dual occupancy (attached) and multi dwelling housing (attached) do not significantly alter the character of a location or neighbourhood"*.
- b) The proposal does not ensure that *"new development complements or enhances the local streetscape."*

2. The proposal is contrary to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it is inconsistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009.

Particulars

- a) The proposal is contrary to Clause 14(1) Deep soil zones.
 - b) The proposal is contrary to Clause 16A in that it is incompatible with the streetscape and character of the local area in terms of established pattern of development, setbacks, building width and landscaping.
 - c) The proposal is inconsistent with Clause 15(1) in terms of compliance with the provisions of the Department of Planning “*Seniors Living Policy: Urban Design guidelines for infill development*” in relation to responding to the context of the local area, site planning and design, impacts on streetscape, impacts on neighbours and internal site amenity.
3. The proposal is contrary to Section 79C(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the provisions of the Draft Ryde Local Environmental Plan 2011.

Particulars

- a) The proposal is contrary to Clause 4.3(2C) Height of Buildings in Zone R2
4. The proposal is contrary to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the requirements of the Ryde Development Control Plan 2010.

Particulars

- a) The proposal is contrary to the objectives of Part 3.5 - Multi Dwelling Housing (attached) within the Low Density Residential Zone of the RDCP as it will:
 - Not complement existing development and streetscape
 - Result in a housing development that is not designed to a high aesthetic standard
 - Adversely affect the amenity of occupants of adjoining land and
 - Result in a multi dwelling housing (attached) development of a scale that is not related to the character of the area
- b) The proposal does not comply with the minimum floor to ceiling height requirement of Part 3.5 of the RDCP.
- c) The proposal does not comply with the side and rear setback and second street frontage setback requirements of Part 3.5 of the RDCP.
- d) The proposal does not comply with the minimum private open space area requirements of Part 3.5 of the RDCP.
- e) The garage and car parking layout dominates the development and is contrary to the provisions of Part 3.5 of the RDCP.

- f) The proposal does not comply with the car parking manoeuvrability or the driveway requirements of Part 3.5 of the RDCP.
 - g) The proposal is unsatisfactory with regard to the overshadowing and access to sunlight requirements in Part 3.5 of the RDCP.
 - h) The proposal has not demonstrated compliance with the accessibility requirements of Parts 3.5 or 9.2 of the RDCP.
 - i) The proposal is unsatisfactory with regard to the Building Form requirements of Part 3.5 of the RDCP.
 - j) The proposal does not comply with the fencing requirements of Part 3.5 of the RDCP.
 - k) The proposed stormwater disposal method for the site does not meet the requirements of Part 8.2 of the RDCP.
5. Pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development, fails to comply with requirements of Australian Standard AS2890.1-2004 with regard to the driveway width at the entrance to the development, driveway gradients, manoeuvrability in and out of garages and sightline requirements for pedestrians. The proposal would result in conflict between pedestrian and vehicular traffic and would give rise to a traffic hazard.
6. Pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, the cumulative impacts of the proposed development's failure to comply with the provisions and requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009, Ryde LEP 2010 and Ryde DCP 2010 will result in a development whose scale, form, density and design is inconsistent with existing development in the area and detract from the character and the amenity of the locality.
7. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not in the public interest as the development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site.
8. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not in the public interest, pertaining to the number of objections that have been received in relation to the proposal.
- (b) That the persons who made submissions be advised of Council's decision.

AMENDMENT: (Moved by Councillors Chung and Yedelian OAM)

- (a) That Local Development Application No. 2012/0124 at 58-60 Falconer Street, West Ryde be deferred for amended plans to be submitted to address all issues as identified in the assessment officers report and raised by objectors including consideration being given to reducing the overall number and size of units and addressing non-compliances with Council's Planning Controls.

- (b) That the amended plans are renotified to the community including all persons who made submissions and that following this process a further report be presented to Planning and Environment Committee.

Record of Voting:

For the Amendment: Councillors Chung, Pendleton and Yedelian OAM

Against the Amendment: The Mayor, Councillor Petch and Councillors Maggio and Salvestro-Martin.

Note: As a result of the voting, this Matter is AT LARGE.

Note: This matter will be dealt with at the Council Meeting to be held on **14 MAY 2013** as the matter is AT LARGE.

4 20 WEST PARADE, EASTWOOD. LOT 2 DP 808844. Application pursuant to Section 96(1A) of the Environmental Planning and Assessment Act, 1979 to amend the trading hours for Landmark Hotel. LDA No. LDA2009/0700. Section 96 Application No. MOD2012/0203.

Note: Joel Cronan care of BBC Consulting Planners (objector on behalf of Redcape Hotel Group), Edward Malouf and Grant Cusack (applicants) addressed the Committee in relation to this Item.

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

- (a) That the Section 96 application to modify Local Development Application No. MOD2012/0203 at 20 West Parade, Eastwood being LOT 2 DP 808844 be approved and the Consent to be modified in the following manner:

1. That Condition No. 1 of the Consent be amended to read as follows:

1. Development is to be carried out in accordance with the following plans and support information submitted to Council except as amended by other conditions of consent:

Plan and Documents	Description	Issue	Date
DA1501	Site Analysis & Demolition Plan	3	26/11/2010
DA1511	Floor space details	4	26/11/2010
DA2101	Basement Level – Proposed	8	19/01/2011
DA2102	Ground Floor – Proposed	6	26/11/2010
DA2104	Roof Plan	4	26/11/2010
DA2105	Showing Internal Dimensions	1	26/11/2010
DA2202	Landscaping	1	26/11/2010
DA2601	Sections	2	24/1/2011
DA3101	Elevations	4	26/11/2010
DA3301	Sections	3	26/11/2010
DA5101	Schedule of Finishes – Page 1	3	26/11/2010

DA5102	Schedule of Finishes – Page 2	1	26/11/2010
-	Waste management Plan	-	
-	Venue Management Plan	-	January 2013
-	Security Management Plan	-	March 2010

2. That Condition Numbers 219 be modified to read as follows:

Existing Condition:

219. *The hours of operation of the proposal are restricted to 10:00am to 12:00 midnight Monday to Saturday and 10:00am to 10:00pm on Sundays.*

Recommended Condition:

219. The Hotel shall only operate within the hours specified under this condition:

- (a) The hours of operation of the proposal are restricted to 10:00am to 12:00 midnight Monday to Saturday and 10:00am to 10:00pm on Sundays.
- (b) Notwithstanding (a) above, the premises may operate until 3:00am on Monday to Saturday and until midnight on Sundays for a trial period of twelve months commencing from the date of the grant of an extended trading authorisation by the NSW Independent Liquor and Gaming Authority. The applicant shall as soon as reasonably possible, furnish Council with documents to confirm commencement of the trial period.
- (c) That the extended hours of operation are permitted to continue during the trial period and until a Section 96 application has been assessed and determined by Council as required by part (d) below.
- (d) The operator may seek a review of the opening hours through a separate Section 96 Application being made to Council prior to the expiry of the trial period. A decision to make the hours permanent may include (but not limited to) factors such as:
 - Any justified complaints received and investigated by the Police and or the Council;
 - Comments and advice received from the Eastwood Police as a result of the new Section 96 Application being referred to them;
 - The performance of the operator during the trial period with respect to compliance with the Venue Management Plan;

- Verified data submitted by the applicant in relation to the use of the courtesy bus service by the patrons during the extended opening hours. In relation to this matter an independent survey company (Quality System Certified – ISO9000/ISO9001) shall undertake progressive surveys (at the operator's costs) of the number of patrons utilizing the free bus service during the extended hours of operation.

2. That the following additional condition be imposed:

223. That the operation of the hotel must be carried out in accordance with the approved Venue Management Plan updated in January 2013.

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

Record of Voting:

For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **14 MAY 2013** as Councillor **PERRAM** requested that the matter be referred to the next Council Meeting

2 305 BLAXLAND ROAD & 5-7 NORTH ROAD, RYDE. LOT 1 DP1069680 & LOT A&B DP 414322. Local Development Application for alterations and additions to San Antonio da Padova Nursing Home. LDA2012/247.

Note: Steve Sutton (objector speaking on behalf of 1 and 3 Aeolus Avenue Strata Committees and other residents/owners), Blake Shave (objector) and David Ryan (applicant from City Plan Services) addressed the Committee in relation to this Item.

Note: A series of documents were tabled by Steve Sutton (objector) in relation to this Item and copies are ON FILE.

Note: A document was tabled by David Ryan (applicant) in relation to this Item and a copy is ON FILE.

MOTION: (Moved by Councillors Yedelian OAM and Chung)

(a) That Council defer consideration of Local Development Application No 2012/247 at 305 Blaxland Road and 5-7 North Road being LOT 1 DP1069680 & LOT A&B DP 414322 to enable the applicant to submit amended plans and details addressing the issues of concern regarding the current design of the development. The specific issues of concern are:

1. Vehicle access (driveway on North Road), in particular the issues of concern raised by Roads and Maritime Services (RMS) – which are that the driveway interferes with signal operation (as traffic leaving this driveway would obstruct traffic approaching this signal), the driveway is not suitable for emergency vehicle access (as the driveway would be blocked with only one or two vehicles stopping at the North Road signal approach), and the driveway also fails to satisfy AS2890.1:2004 Figure 3.3 *Minimum Sight Lines for Pedestrian Safety*;
 2. The height of the proposed building on the eastern side (addition to existing building) is excessive – both in terms of the number of storeys and height measured in metres, and should be amended to ensure compliance with the height requirements of the SHSEPP;
 3. The landscaped area is inadequate, and should be increased in particular to at least ensure compliance with the minimum amount of landscaped area required by the SHSEPP, and that more of a buffer is provided to the adjoining properties to the east – to improve concerns regarding privacy, visual amenity and bulk;
 4. The setback and architectural modulation of the proposed building on the western side (to North Road) is unacceptable, and the setbacks and architectural modulation should be increased to address issues of concern regarding visual bulk when viewed from that Road.
- (b) That the amended plans and additional information referenced in (a) above shall be re-notified to the neighbouring properties and previous submitters to the original DA.
- (c) A further report will be prepared to the Planning & Environment Committee after the completion of this process.

AMENDMENT (Moved by Councillors Maggio and The Mayor, Councillor Petch)

That the application be deferred and the Group Manager Environment and Planning undertake a mediation with the applicant and the objectors to address the non-compliances identified in the Council officer's report and that a further report be forwarded to Planning and Environment Committee.

On being put to the Meeting, the voting on the Amendment was two (2) votes For and four (4) votes Against. The Amendment was LOST. The Motion was then put.

Record of Voting:

For the Amendment: The Mayor, Councillor Petch and Councillor Maggio

Against the Amendment: Councillors Chung, Pendleton, Salvestro-Martin and Yedelian OAM

RECOMMENDATION: (Moved by Councillors Yedelian OAM and Chung)

(a) That Council defer consideration of Local Development Application No 2012/247 at 305 Blaxland Road and 5-7 North Road being LOT 1 DP1069680 & LOT A&B DP 414322 to enable the applicant to submit amended plans and details addressing the issues of concern regarding the current design of the development. The specific issues of concern are:

1. Vehicle access (driveway on North Road), in particular the issues of concern raised by Roads and Maritime Services (RMS) – which are that the driveway interferes with signal operation (as traffic leaving this driveway would obstruct traffic approaching this signal), the driveway is not suitable for emergency vehicle access (as the driveway would be blocked with only one or two vehicles stopping at the North Road signal approach), and the driveway also fails to satisfy AS2890.1:2004 Figure 3.3 *Minimum Sight Lines for Pedestrian Safety*;
2. The height of the proposed building on the eastern side (addition to existing building) is excessive – both in terms of the number of storeys and height measured in metres, and should be amended to ensure compliance with the height requirements of the SHSEPP;
3. The landscaped area is inadequate, and should be increased in particular to at least ensure compliance with the minimum amount of landscaped area required by the SHSEPP, and that more of a buffer is provided to the adjoining properties to the east – to improve concerns regarding privacy, visual amenity and bulk;
4. The setback and architectural modulation of the proposed building on the western side (to North Road) is unacceptable, and the setbacks and architectural modulation should be increased to address issues of concern regarding visual bulk when viewed from that Road.

- (b) That the amended plans and additional information referenced in (a) above shall be re-notified to the neighbouring properties and previous submitters to the original DA.
- (c) A further report will be prepared to the Planning & Environment Committee after the completion of this process.

Record of Voting:

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

Against the Motion: The Mayor, Councillor Petch and Councillor Maggio

Note: This matter will be dealt with at the Council Meeting to be held on **14 MAY 2013** as dissenting votes were recorded and The Mayor, Councillor **PETCH** requested that the matter be referred to the next Council Meeting

CLOSED SESSION

ITEM 5 – PART 3A – SHEPHERDS BAY – LEGAL ADVICE

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (g) advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

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

That the Committee resolve into Closed Session to consider the above matter.

Record of Voting:

For the Motion: Unanimous

Note: The Committee closed the meeting at 6.18pm. The public and media left the chamber.

LATE ITEM

5 PART 3A - SHEPHERDS BAY - LEGAL ADVICE

Note: A Confidential Document was tabled in relation to this Item and a copy is ON FILE.

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

That Council consider the attached report and advice from Jason Lazarus at the next available Council meeting.

Record of Voting:

For the Motion: Unanimous

OPEN SESSION

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

That the Committee resolve itself into open session.

Record of Voting:

For the Motion: Unanimous

Note: Open session resumed at 6.36pm.

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

That the recommendation of the Item considered in Closed Session be received and adopted as a Resolution of the Council without any alteration or amendment thereto in accordance with the Committee's delegated powers.

Record of Voting:

For the Motion: Unanimous

The meeting closed at 6.37pm.

CONFIRMED THIS 21ST DAY OF MAY 2013.

Chairperson