

## ATTACHMENTS FOR: AGENDA NO. 6/13 Planning and Environment Committee

**Meeting Date:** Tuesday 16 April 2013  
**Location:** Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde  
**Time:** 5.00pm

### ATTACHMENTS FOR PLANNING AND ENVIRONMENT COMMITTEE

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<b>66A PELLISIER RD, PUTNEY. LOT B DP 419543. Local Development Application for new dual occupancy. LDA2012/0106.</b>	
Attachment 5	Original report to Planning and Environment Committee - 20 November 2012.....1

**ITEM 4 (continued)**

**ATTACHMENT 5**

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

**INSPECTION: 4.55pm**

**INTERVIEW: 5.35pm**

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

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

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

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**1. Report Summary**

**Applicant: E Parsons.**

**Owner: E J Grodzicky.**

**Date lodged: 5 April 2012**

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

The proposal does not comply with the minimum site area of 580m<sup>2</sup> required for dual occupancy development being only 577.4m<sup>2</sup> (shortfall of 2.6m<sup>2</sup>) and accordingly the applicant has submitted a written request to vary the standard as required under Clause 4.6 of the RLEP 2010.

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

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

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

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

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

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

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

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

The proposal is recommended for approval.

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

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

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

Value of works? \$500,000

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

### RECOMMENDATION:

- (a) That Local Development Application No. 2012/106 at No. 66a Pellisier Road, Putney, being LOT B DP 419543, be approved subject to the **ATTACHED** conditions (Attachment 2).
- (b) That the persons who made submissions be advised of Council's decision.

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**ATTACHMENTS**

- 1** Compliance Table
- 2** Proposed Conditions
- 3** Map
- 4** A4 Plans
- 5** A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**Sandra McCarry**  
**Senior Town Planner**

**Sandra Bailey**  
**Team Leader - Major Development Team**

Report Approved By:

**Liz Coad**  
**Manager Assessment**

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

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

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



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

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### 3. Councillor Representations

Name of Councillor: The Mayor, Councillor Petch

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

Date: 18 August 2012

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

On behalf of applicant or objectors? Objectors

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

### 4. Political Donations or Gifts

Any political donations or gifts disclosed? No.

### 5. Proposal

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

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

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

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

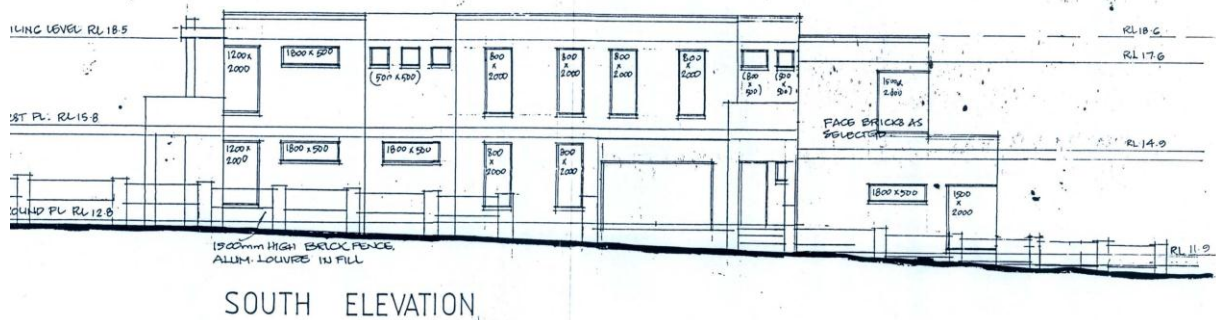
The following diagram illustrates the front elevation of the development, showing its presentation to Pellisier Road:





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

### 6. Background

- Local Development Application No 2012/106 lodged with Council on 5 April 2012. Shortly thereafter, referral to other officers within Council and neighbour notification/advertising (18 April 2012, closing date for submissions was 3 May 2012). One submission containing 14 signatures and one submission from a planning consultant on behalf of one of the objectors was received.
- Preliminary assessment of the proposal was carried out and a stop the clock was sent out on 1 May 2012 requesting amendments to drainage plans and to demonstrate that an easement to drain water can/cannot be obtained.
- A letter was sent requesting the following non-compliances be addressed:
  - FSR, proposal over the maximum floor space by 17.7m<sup>2</sup>
  - Rear setback
  - Insufficient shadow diagrams and landscaping plan
  - Maximum fill
  - Privacy impact to adjoining northern property
  - Garage forward of dwelling
  - Encroachment of front fence onto Council's land.
- Amended plans were received on 20 September 2012 which addresses some of the above issues such as rear setback, floor space ratio, reduced fill and privacy concerns. These issues are discussed further in the report. The amendments were re-notified to surrounding properties owners and one submission containing 14 signatures were received.

### 7. Submissions

#### Original Plans:

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

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

- *Met with Ryde Council Officers in February 2010 to ask what development was possible on 66A, informed by Council staff that the block at 577.4m<sup>2</sup> was too small for dual occupancy (villa or town houses) as land had to be a minimum of 600m<sup>2</sup>. It was assumed by most residents in the vicinity that any development would be a family house in keeping with the character of houses in the local area with no adverse effect on the existing streetscape.*

### Comment:

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

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

- *The proposed development is an over-development of the site, would be an undesirable precedent. The bulk, scale and design do not complement the existing streetscape and homes in the area. A similar dual occupancy was rejected at 68 Pellisier Road (a bigger block at 828.3m<sup>2</sup>).*

### Comment:

The applicant has amended the proposal to reduce the size of the development to ensure it does not exceed the FSR control of 0.5:1. The bulk and scale have been reduced from 305.9m<sup>2</sup> (0.53:1) to 276m<sup>2</sup> (0.48:1), which is below the maximum allowed. The streetscape of the area comprises a mixture of new two storey contemporary homes and the proposed design is considered to be of similar nature to the newer style homes being constructed within the locality.

With regard to the application at 68 Pellisier Road, being DA 429/95, this application was refused by delegated authority on 19 October 1995. The proposal was assessed under the then planning controls being the Ryde Planning Scheme Ordinance. The reasons for refusal were because the development would necessitate the removal of two significant eucalyptus trees and that the bulk and scale of the proposed building would adversely affect the amenity and privacy of adjoining properties. Whilst the proposal complied with the floor space ratio there were concerns about overlooking from proposed elevated balconies and excessive overshadowing to 70 Pellisier Road



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(adjoining southern property). This is not the case in this application as there will be minimal overshadowing to any adjoining properties and concerns about overlooking have been minimised by the placement of high light windows and a privacy screen. Full discussion of privacy/overlooking is discussed further in report.

- *The site is 577.4m<sup>2</sup>, which is less than 580m<sup>2</sup> and fails on this control.*

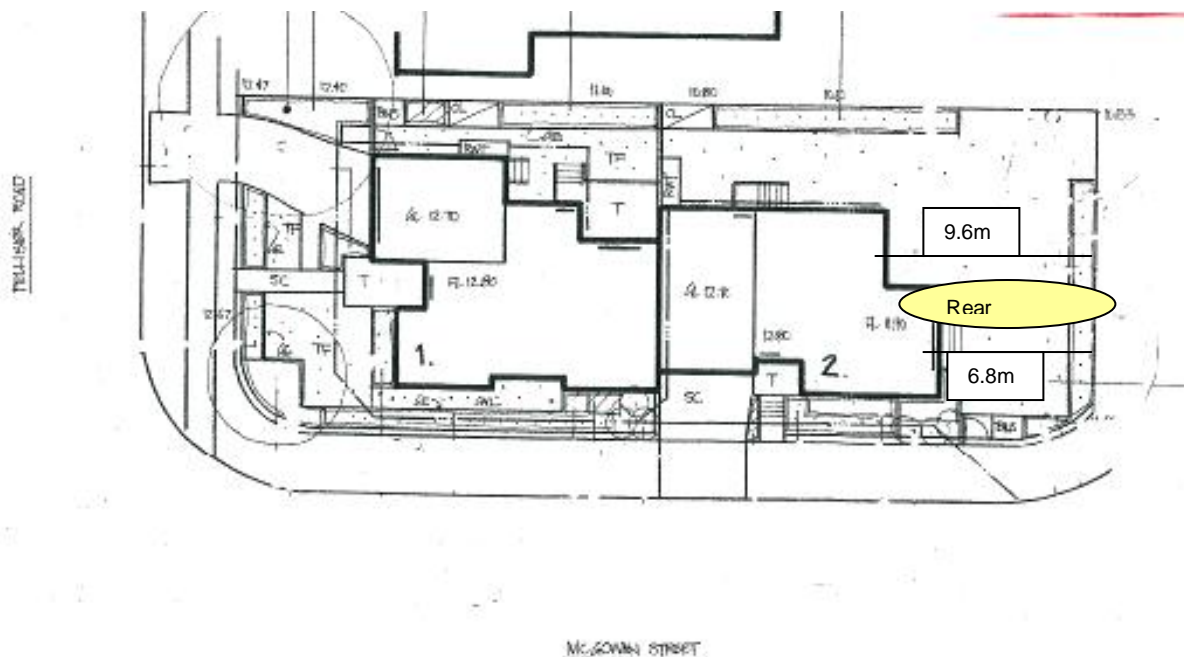
##### Comment:

Whilst the subject site is short of the required 580m<sup>2</sup> by 2.6m<sup>2</sup>, the applicant has submitted a written request under Clause 4.6 of RLEP 2010 for Council to consider the variation. Full discussion of the variation is assessed below under Clause 4.6.

- *Setbacks – the rear setback should be 9.6m not the current 2.9m.*

##### Comment:

The subject site is a corner allotment with primary frontage to Pellissier Road and secondary frontage to McGowan Street. As Pellissier Road is the primary frontage the rear setback is taken from the eastern boundary, the common boundary with 2 McGowan Street. The diagram below illustrate the location of the rear setback.



The applicant has amended the proposed to increase the rear setback from between 2.8m to 8m to between 6.8m to 9.6m. The section that is setback 6.8m is only for a length of 5m with the rest of the dwelling setback 9.6m. The non compliance only occurs on the ground floor with the two storey element setback 9.6m, as required by the DCP.

Notwithstanding the non-compliance, the objectives of the rear setback are achieved. Sufficient private outdoor recreation area is provided at the rear and side (over 100m<sup>2</sup>). Privacy will be maintained to the adjoining rear property (2 McGowan Street) as existing and proposed landscaping on the subject site and on the adjoining property currently screen 2 McGowan Street. In addition, the driveway and garage of 2 McGowan Street is adjacent to the rear common boundary. Adequate visual privacy is maintained, as illustrated by the photos below.

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



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

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

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

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### Comment:

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

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

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

### Comment:

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

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

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

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



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Comment:

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



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

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*View from 1<sup>st</sup> floor balcony area looking north-east to Morrison Bay*

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

The view sharing assessment is as follows:

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

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

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

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

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

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



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



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



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

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

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

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

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

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

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

Comment:

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



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

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

Comment:

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

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

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Comment:

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

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

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

Comment:

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

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

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

Comment:

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



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



*62 & 62A Pellisier Road – contemporary two storey dwellings*

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*38 Pellisier Road – example of flat roof*



*24 Pellisier Road – flat roof and garage at front.*



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

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

Comment:

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



*Side windows & rear deck area of 66 Pellisier Road*

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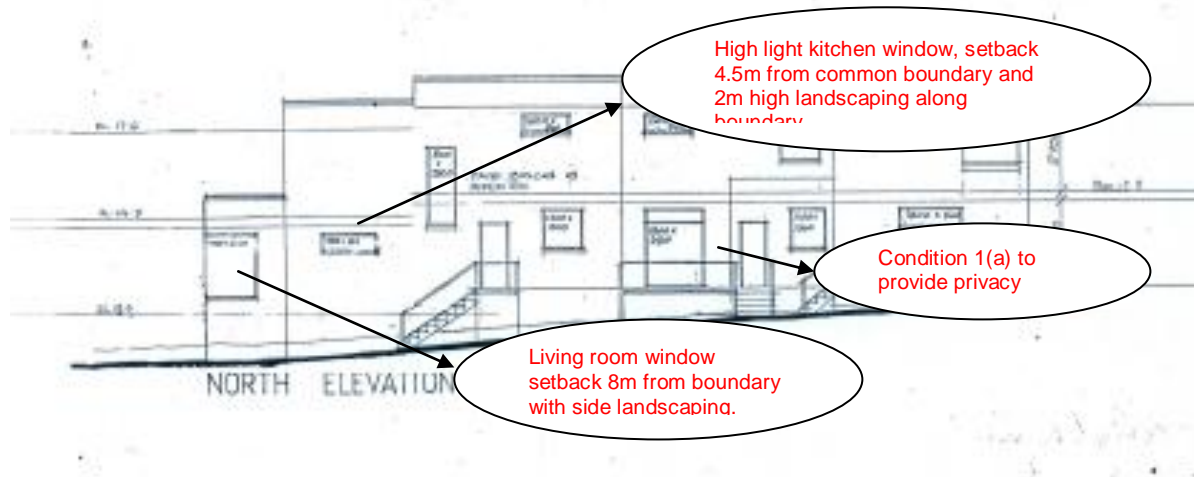
*Photo taken from the existing elevated rear deck area of existing dwelling looking into the rear yard area of 66 Pellisier Road.*

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

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

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

**Condition 1 (a)** has been imposed requiring this.

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

Comment:

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

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

Comment:

Calculation of the proposed floor space showed that the proposal was over the maximum floor space allowed by 17m<sup>2</sup>. The applicant was advised of the non compliance and requested to amend the proposal. The applicant has reduced the

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floor area and amended plans were received to Council on 20 September 2012. The amended plans result in the FSR being reduced to 0.48:1 which is less than the maximum permitted of 0.5:1.

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

Comment:

See comments above in relation to view loss.

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

Comment:

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

#### Amended Plans

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

- *Overall size of the block does not conform to Council's requirement of 580m<sup>2</sup>.*

Comment:

See previous comments and Clause 4.6 RLEP 2010 requesting variation to the 2.6m<sup>2</sup> shortfall in area.

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

Comment:

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

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

Comment:

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



**ITEM 4 (continued)**

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

Comment:

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



*Separation between 68 Pellisier Road and subject site.*

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

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### Comment:

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

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

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

### Comment:

See previous comments above.

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

### Comment:

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

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

### Comment:

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

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

### Comment:

See previous comments.



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

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

## 9. Policy Implications

### Relevant Provisions of Environmental Planning Instruments etc:

#### (a) Ryde Planning Scheme Ordinance

##### Zoning

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

The aims and objectives of the R2 Zone are:

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

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

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

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### Mandatory Requirements

#### Clause 4.3 – Height of buildings

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

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

#### Clause 4.4 – Floor space ratio

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

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

Clause 4.5A (2) of RLEP 2010 states:

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

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

The proposal has a site area of 577.4m<sup>2</sup>, a shortfall of 2.6m<sup>2</sup>, which is variation of 0.45%. The applicant has submitted a written request under Clause 4.6 to justify the variation. This will be discussed in details below under Clause 4.6.

#### Clause 4.6 – Exceptions to development standards.

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

#### **1. Written request provided by the applicant.**

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

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**2. Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case.**

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

- the amount of non compliance with the minimum site area is only 2.6m<sup>2</sup> being 0.45% (less than 1%)
- the development has been designed to comply with the slightly non compliant site area with the development complying with the relevant planning controls for the smaller site area and
- the development meets the objectives of the R2 Low Density zone. It provides for a choice of housing need for the community, will not restrict the use of adjoining lands to provide facilities or services and is a two storey development which is not uncharacteristic of the area.

The proposed argument that the variation is minor could be supported by Council. The non-compliance being only 2.6m<sup>2</sup> is very minor and will not adversely contribute to the bulk and scale of the building, as the proposal complies with the floor space ratio and height. The development is also consistent with the zone objectives in that it will provide housing needs of the community and is not considered to significantly alter the character of the area or the streetscape.

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

**3. Environmental grounds to justifying contravening the development standard.**

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

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

## ITEM 4 (continued)

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The above arguments by the applicant are considered reasonable and can be supported. The proposed dual occupancy has been amended to generally comply with Council's controls and the proposed variation is very minor – only shortfall of 2.6m<sup>2</sup> a 0.45% variation. Despite the variation in site area the development is not considered to result in unacceptable impacts on the environment. The proposal has demonstrated that a reasonable sized dwelling (attached dual occupancy) can be erected on the subject site with minimal impact to adjoining properties.

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

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

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

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

### 5. Concurrence of the Director General.

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

### Conclusion

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

### (b) Relevant SEPPs

#### State Environmental Planning Policy - BASIX:

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

#### State Environment Planning Policy No. 55 – Remediation of Land

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

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

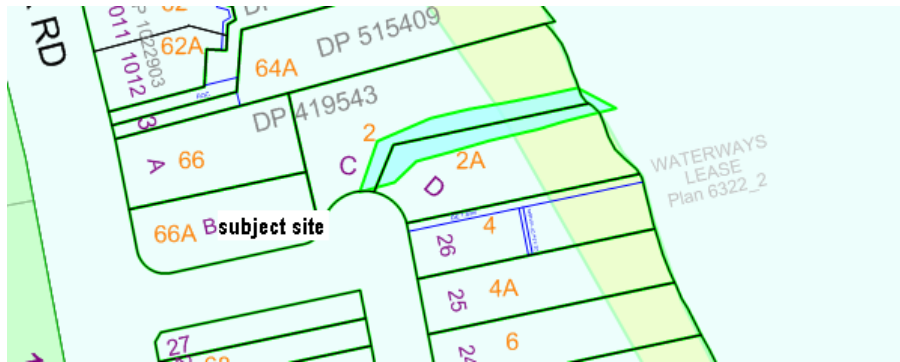
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### Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

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



Subject site is within the Foreshores & Tributaries

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

#### (c) Any draft LEPs

A Section 65 Certificate enabling the formal exhibition of Draft Local Environmental Plan 2011 was issued by the Department of Planning and Infrastructure on 23 April 2012. The Draft Plan has been placed on public exhibition between 30 May 2012 and 13 July 2012. Under this Draft LEP, the zoning of the property is R2 Low Density Residential. The proposed development is permissible with consent within this zoning under the Draft LEP, and it is considered that the proposal is not contrary to the objectives of the Draft LEP or those of the proposed zoning.

#### (d) Any DCP

### Sydney Harbour Foreshore & Waterways Development Control Plan

The aims of the Development Control Plan are:

- Protecting ecological communities within the area covered by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;

## ITEM 4 (continued)

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- Ensuring that the scenic quality of the area is protected or enhanced;
- Providing siting and design principles for new buildings and waterside structures within the area; and
- Identifying potential foreshore access locations in the area.

### **Ecological Assessment:**

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

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

Performance Criteria	Proposal
<ul style="list-style-type: none"> <li>• Mature trees containing hollows are preserved where feasible</li> </ul>	No existing trees to be removed.
<ul style="list-style-type: none"> <li>• Natural watercourse and any special natural features such as cliff faces and rock outcrops are protected</li> </ul>	No special features such as cliff faces or rock outcrops.
<ul style="list-style-type: none"> <li>• Incremental &amp; cumulative effects are considered having regard to the above performance criteria</li> </ul>	The new dwelling will be setback over 70m from the waterway, behind existing dwellings fronting the foreshore, as such will not be visible from the waterway.
<ul style="list-style-type: none"> <li>• Fencing to contain domestic pests is provided – this is to minimise predation on native fauna species by domestic pest.</li> </ul>	N/a
<ul style="list-style-type: none"> <li>• Measures to minimise soil erosion &amp; siltation during construction &amp; completion of development. Control to prevent pollutants from entering waterway.</li> </ul>	Any approval would be conditioned with appropriate soil and erosion control measures to prevent any soil erosion, water siltation or pollution

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

Performance Criteria	Proposal
<ul style="list-style-type: none"> <li>• Shading of communities is not increased</li> </ul>	N/A – development behind foreshore building line.
<ul style="list-style-type: none"> <li>• Food sources for grazing organisms are protected</li> </ul>	N/A – no impact
<ul style="list-style-type: none"> <li>• Light penetration is not reduced</li> </ul>	N/A – development behind foreshore building line.



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

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

**Landscape Assessment:**

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

The Statement of Character and Intent for this type is:

***Statement of Character and Intent***

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

Any development is required to satisfy the following criteria:

Performance Criteria	Proposal
<ul style="list-style-type: none"> <li>consideration is given to the cumulative and incremental effects of further development along the foreshore and to preserving the remaining special features</li> </ul>	The new development is located over 70m from the foreshore, behind dwellings that adjoin the foreshore. The proposal will not impact the shoreline.
<ul style="list-style-type: none"> <li>development is to avoid substantial impact on the landscape qualities of the foreshore and minimise the removal of natural foreshore vegetation, radical alteration of natural ground levels, the dominance of structures protruding from rock walls or ledges or the erection of sea walls, retaining walls or terraces;</li> </ul>	The proposed development will not impact on any natural foreshore vegetation, being well setback from the foreshore.

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Performance Criteria	Proposal
<ul style="list-style-type: none"> <li>landscaping is carried out between buildings to soften the built environment; and</li> </ul>	Yes
<ul style="list-style-type: none"> <li>existing ridgeline vegetation and its dominance as the backdrop to the waterway, is retained.</li> </ul>	Yes – no alterations to entrance area to foreshore.

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

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

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

**Siting of Building and structures:**

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

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

**Built form:**

Requirement	Proposed
<ul style="list-style-type: none"> <li>where buildings would be of a contrasting scale or design to existing buildings, care will be needed to ensure that this contrast would enhance the setting;</li> </ul>	The proposed new building is of a more contemporary style than the existing house. The contrast is not considered to adversely impact on the immediate setting of the area.
<ul style="list-style-type: none"> <li>while no shapes are intrinsically unacceptable, rectangular boxy shapes with flat or skillion roofs usually do not harmonise with their</li> </ul>	The proposed new building has a flat roof however there are other flat roofs within the immediate locality. The roof line has been broken up with modulations in the

**ITEM 4 (continued)**

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

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

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

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

Part 3.3 – Dwelling Houses and Duplex Buildings  
Part 8.2 – Stormwater Management  
Part 9.6 – Tree Preservation

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

#### Rear Setback:

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

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

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

#### Garage forward of the front façade and wall above garage

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

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



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**ISSUES RESOLVED BY CONDITIONS:**

Visual Privacy

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

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

**City of Ryde Section 94 Development Contribution Plan 2007.**

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

Construction of a new 2 storey attached dual occupancy comprising of

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

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

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

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

**10. Likely impacts of the Development**

**(a) Built Environment**

The proposed development involves the construction of a new two storey dual occupancy (attached) development and is not considered to have any adverse impacts on the existing built environment or the amenity of the surrounding area. The

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proposed development will appear as a two storey dwelling which is consistent with other developments of a similar nature.

#### **(b) Natural Environment**

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

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

#### **11. Suitability of the site for the development**

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

#### **12. The Public Interest**

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

#### **13. Consultation – Internal and External**

##### Internal Referrals

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

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

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

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

**Access:**

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

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

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

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

### 14. Critical Dates

There are no critical dates or deadlines to be met.

### 15. Financial Impact

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

### 16. Other Options

None applicable.

### 17. Conclusion

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

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

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

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


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

**ITEM 4 (continued)**

**ATTACHMENT 5**

**Table 1:** Compliance with the Ryde Development Control Plan 2010

(Amended Plans submitted 20 September 2012)

DCP 2010	Proposed	Compliance
<b>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</b>		
<b>Desired Future Character</b>		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is consistent with the desired future character of the low density residential area as detailed further in this table.	Yes
<b>Dwelling Houses</b>		
<ul style="list-style-type: none"> <li>- To have a landscaped setting which includes significant deep soil areas at front and rear.</li> <li>- Maximum 2 storeys.</li> <li>- Dwellings to address street</li> <li>- Garage/carports not visually prominent features.</li> </ul>	<p>Front and rear gardens proposed.</p> <p>Two storeys Dwelling 1 faces Pellisier Road Dwelling 2 faces McGowan Street Single garages for each dwelling - not prominent feature.</p>	<p>Yes</p> <p>Yes Yes Yes</p>
<b>Dual Occupancy – Linear Separation</b>		
<ul style="list-style-type: none"> <li>- Any urban housing, multi dwelling (attached), villa homes, duplex, dual occupancy (attached) within double the main frontage of the subject site or existing villa/dual occupancy site?</li> </ul>	<p>No urban housing, multi dwelling, villas or dual occupancies have been approved for 66, 64 64A and 62 &amp; 62A Pellisier Road or 2,2A, 4, 4A, 6 &amp; 8 McGowan Street</p> 	Yes
<b>Public Domain Amenity</b>		
<b>Streetscape</b>		
<ul style="list-style-type: none"> <li>- Front doors and windows are to face the street. Side entries to be clearly apparent.</li> <li>- Single storey entrance porticos.</li> <li>- Articulated street facades.</li> </ul>	<p>Dwelling 1 Front door and windows face Pellisier Road. Dwelling 2 Front door and windows face McGowan Street.</p> <p>Single entrance portico.</p>	<p>Yes</p> <p>Yes</p>



**ITEM 4 (continued)**

**ATTACHMENT 5**

DCP 2010	Proposed	Compliance
	Articulated street façade.	Yes
<b>Public Views and Vistas</b> -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.	No existing view corridor to Morrison Bay	N/a
<b>Pedestrian &amp; Vehicle Safety</b> - Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard. - Fencing that blocks sight lines is to be splayed.	The development will allow for adequate sightlines from both garages.	Yes
<b>Site Configuration</b>		
<b>Deep Soil Areas</b> - 35% of site area min. - Min 8x8m deep soil area in backyard. - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). - Dual occupancy developments only need 1 of 8 x 8m area (doesn't have to be shared equally).	Permeable (deep soil) area: 279m <sup>2</sup> approx (48% of site area).	Yes
	Rear DSA dimensions: 8m x 8m provided at North east corner.	Yes
	Front DSA: 100% permeable area in front yard= 40.7m <sup>2</sup> . Hard surface areas have been kept to a minimum in the front yard.	Yes
	8m x 8m area in rear area of Dwelling 2	Yes
<b>Topography &amp; Excavation</b> Within building footprint: - Max cut: 1.2m - Max fill: 900mm  Outside building footprint: - Max cut: 900mm - Max fill: 500mm	Within BF Max cut: No cut Max fill: Dwelling 1 – 300mm to 500mm Dwelling 2 – 400mm to 900mm  Outside BF	Yes     Yes Yes

**ITEM 4 (continued)**

**ATTACHMENT 5**

DCP 2010	Proposed	Compliance
<ul style="list-style-type: none"> <li>No fill between side of building and boundary or close to rear boundary</li> <li>Max height of retaining wall 900mm</li> </ul>	Max cut: Max fill: To be conditioned that no fill be provide between the side of building and boundary.	Insufficient Details <b>Condition 7</b> imposed stating no fill to be provided between the side of building & boundary.
<b>Floor Space Ratio</b>		
Ground floor	164.9m <sup>2</sup>	
First floor	147.1m <sup>2</sup>	
Total (Gross Floor Area)	312.1m <sup>2</sup>	
Less 36m <sup>2</sup> (double) or 18m <sup>2</sup> (single) allowance for parking	36m <sup>2</sup>	
Total	276.1/577.4m <sup>2</sup>	
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.	0.48:1	Yes
<b>Height</b>		
<ul style="list-style-type: none"> <li>2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL).</li> </ul>	2 storey	Yes
<ul style="list-style-type: none"> <li>1 storey maximum above attached garage incl semi-basement or at-grade garages.</li> </ul>	1 storey max	Yes
9.5m Overall Height <i>EGL = Existing Ground Level</i>	Finished Floor Level – Worst Ground Level + Height  11.9 – 10.8 + 6.7 = 7.8m & 12.8 -10.82 + 6.7 = 8.7m.	Yes
Habitable rooms to have 2.4m floor to ceiling height (min).	2.7m min room height.	Yes

**ITEM 4 (continued)**

**ATTACHMENT 5**

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

**ITEM 4 (continued)**

## ATTACHMENT 5

DCP 2010	Proposed	Compliance
<ul style="list-style-type: none"> <li>- Max 6m wide or 50% of frontage, whichever is less.</li> </ul>	Dwelling 1 – 4.9m Dwelling 2 -4.3m	Yes
<b>Garages</b> <ul style="list-style-type: none"> <li>- Garages setback 1m from façade.</li> <li>- Total width of garage doors visible from public space must not exceed 5.7m and be set back not more than 300mm behind the outside face of the building element immediately above.</li> <li>- Garage windows are to be at least 900mm away from boundary.</li> </ul>	Setback from façade: Dwelling 1 – forward by 1.2m Width of opening: Dwelling 1 – 3.5m Dwelling 2 – 3.4m  Door setback: Dwelling 1 – in line with the outside face of the building element. Dwelling 2 – setback 800mm behind the outside wall of the 1 storey above.  Dwelling 1 – northern garage window set back 2.5m	No Yes Yes No Yes
<b>Parking Space Sizes (AS)</b> <ul style="list-style-type: none"> <li>- Double garage: 5.4m wide (min)</li> <li>- Single garage: 3m w(min)</li> <li>- Internal length: 5.4m (min)</li> </ul>	Both garages are 4.4m x 5.7m. The width and length complies with the minimum required.	Yes
<b>Driveways</b> Extent of driveways minimised	Dwelling 2 driveway can be reduced to 3.5m	Yes
<b>Landscaping</b>		
<b>Trees &amp; Landscaping</b> <ul style="list-style-type: none"> <li>- Major trees retained where practicable</li> <li>- Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL eg. stairs, terraces.</li> <li>- Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access)</li> <li>- Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy.</li> <li>- Back yard to have at least 1 tree with mature</li> </ul>	No significant trees on site.  Stairs shown on the architectural plans – not shown on landscaping plan   1 x symcarpia glomalifera (mature height of 13m) in front yard.  Retain existing vegetation in rear yard – no trees of any height – can condition to provide tree.	Yes Yes Yes Yes No – however existing tree



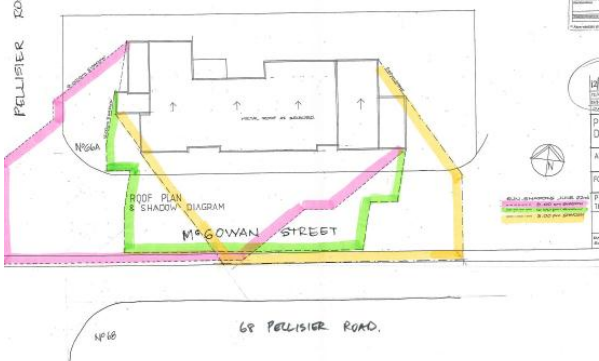
**ITEM 4 (continued)**

**ATTACHMENT 5**

DCP 2010	Proposed	Compliance
<p>ht of 15m min and a spreading canopy.</p> <ul style="list-style-type: none"> <li>- Hedging or screen planting on boundary mature plants reaching no more than 2.7m.</li> <li>- OSD generally not to be located in front setback unless under driveway.</li> </ul>	<p>Rowe of Callistemon citrinus – clipped to 2m along eastern and northern boundaries.</p>	<p>of 8m in height and proposed tree of 6m proposed</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> <li>- Landscaped front garden, with max 40% hard paving</li> </ul>	<p>Hard Paving: 40%</p>	<p>Yes</p>
<b>Dwelling Amenity</b>		
<p><b>Daylight and Sunlight Access</b></p> <ul style="list-style-type: none"> <li>- Living areas to face north where orientation makes this possible.</li> <li>- 4m side setback for side living areas where north is to the side allotment boundary.</li> </ul> <p><u>Subject Dwelling:</u></p> <ul style="list-style-type: none"> <li>- Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21.</li> <li>- Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21.</li> </ul>	<p>Dwelling 1 – Living room and deck north facing.</p> <p>Dwelling 2 – Living room and deck faces East – sufficient daylight and sunlight access to the room.</p> <p>8m setback to living/deck area</p> <p>Dwelling 1: Living area</p> <p>Dwelling 2 – North facing windows are off a laundry, kitchen, living area and 1<sup>st</sup> floor bedrooms.</p> <p>Unit 2 will receive more than 2 hours of sunlight to their private open space.</p> <p>Unit 1 courtyard area will not be able to achieve the required sunlight due to the orientation of the lot being east-west however Open space is available to Unit 1 in the front and southern side setback.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No – variation acceptable.</p>
<p><u>Neighbouring properties are to receive:</u></p> <ul style="list-style-type: none"> <li>- 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June</li> </ul>	<p><u>64 Pellisier Road</u></p> <p>Adjoining property to the north – No overshadowing impact to their north facing windows and POS.</p> <p><u>68 Pelliser Road</u></p> <p>Property to the south – across the road.</p>	<p>Yes</p>

**ITEM 4 (continued)**

**ATTACHMENT 5**

DCP 2010	Proposed	Compliance
<p>21.</p> <ul style="list-style-type: none"> <li>- 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.</li> </ul>	<p>Due to the road separation (McGowan Street) the length of the shadow will not hit the dwelling at 68 Pellisier Road, as such minimal impact to their north facing windows or POS.</p> 	
<p><b>Visual Privacy</b></p> <ul style="list-style-type: none"> <li>- Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling.</li> <li>- Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space.</li> <li>- Side windows offset from adjoining windows.</li> <li>- Terraces, balconies etc are not to overlook neighbouring dwellings/private open space.</li> </ul>	<p>Dwelling 1 – Will have an elevated courtyard, setback 3.6m off the common boundary with the adjoining property (64 Pellisier Road) side windows. <b>Condition 1(a)</b> has been imposed to provide obscure privacy screen along the northern side of the courtyard area.</p> <p>Dwelling 2 – the dwelling is elevated, approximately 400mm to 900mm off natural grade at the rear . The dwelling is setback 4.5m off the common boundary with 66 Pellisier Road. A kitchen window, stairwell and laundry window are orientated north facing 64 Pellisier Road. Due to the elevated nature of the building, and the slope of the land, overlooking from the side kitchen window is a concern. Amended plans were submitted which changed the kitchen window to a high light window. The side living area window is setback 8m off the common boundary and with existing and proposed 2m high landscaping along the northern boundary, overlooking from this window is not considered to be an issue.</p>	Yes
<p><b>Acoustic Privacy</b></p> <p>Layout of rooms in dual occupancies (attached) are to minimise noise impacts between dwellings eg: place adjoining living areas</p>	<p>Dwelling 1 living room wall adjoin the garage of Dwelling 2.</p>	Yes

**ITEM 4 (continued)**

**ATTACHMENT 5**

DCP 2010	Proposed	Compliance
near each other and adjoining bedrooms near each other.		
<b>View Sharing</b> - The siting of development is to provide for view sharing.	The development has a flat roof under the maximum height. Eastern views to Morrison Bay can still be obtained by 68 Pellisier Road. See full discussion above.	Yes
<b>Cross Ventilation</b> - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation.	Cross ventilation are able to be achieved in both dwellings.	Yes
<b>External Building Elements</b>		
<b>Roof</b> - Articulated. - 450mm eaves overhang minimum.  - Not to be trafficable terrace. - Skylights to be minimised & placed symmetrically. - Front roof plane is not to have both dormer windows & skylights.	Due to the design/nature of the flat roof, there are no eaves overhang, however the proposal is able to achieve BASIX compliance, with a Pass in Thermal comfort and score of 44 (Target 40) for energy.  No trafficable terrace, dormer windows or skylights.	No – variation acceptable.  Yes
<b>Fencing</b>		
<b>Front/return:</b> - To reflect design of dwelling. - To reflect character & height of neighbouring fences. - Max 900mm high for solid (picket can be 1m). - Max 1.8m high if 50% open (any solid base max 900mm). - Retaining walls on front bdy max 900mm. - No colorbond or paling Max width of piers 350mm.	<u>Front fence</u> Description: 1.2 high solid wall with 1.5m high brick piers and aluminium louvre infill in between.  At the south-western corner of the site, part of 66A existing front fence is currently located on Council's land. It is proposed to replace the existing fence with a new fence, however the architectural plans shows that the new fence will still be on Council land.  This misalignment of the front fence should be rectify and the new fence should be wholly within their own property – <b>Condition 48</b>	No – can condition to comply

**ITEM 4 (continued)**

**ATTACHMENT 5**

DCP 2010	Proposed	Compliance
<b>Part 7.2- Waste Minimisation &amp; Management</b>		
Submission of a Waste Management Plan in accordance with Part 7.2	The applicant has submitted a Waste Management Plan in accordance with Part 7.2	Yes
<b>Part 8.2 - Stormwater Management</b>		
<b>Stormwater</b>		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	Council's Development Engineer has raised no objections to the proposal subject to conditions.	Yes
<b>Part 9.2- Access for People with Disabilities</b>		
Accessible path required from the street to the front door, where the level of land permits.	Accessible path to Dwelling 1	Yes
<b>Part 9.6 – Tree Preservation</b>		
<p>Where the removal of tree(s) is associated with the development of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway.</p> <p>Note: A site analysis is to be undertaken to identify the site constraints and opportunities including trees located on the site and neighbouring sites. In planning for a development, consideration must be given to building/site design that retains healthy trees, as Council does not normally allow the removal of trees to allow a development to proceed. The site analysis must also describe the impact of the proposed development on</p>	No significant trees on the site.	



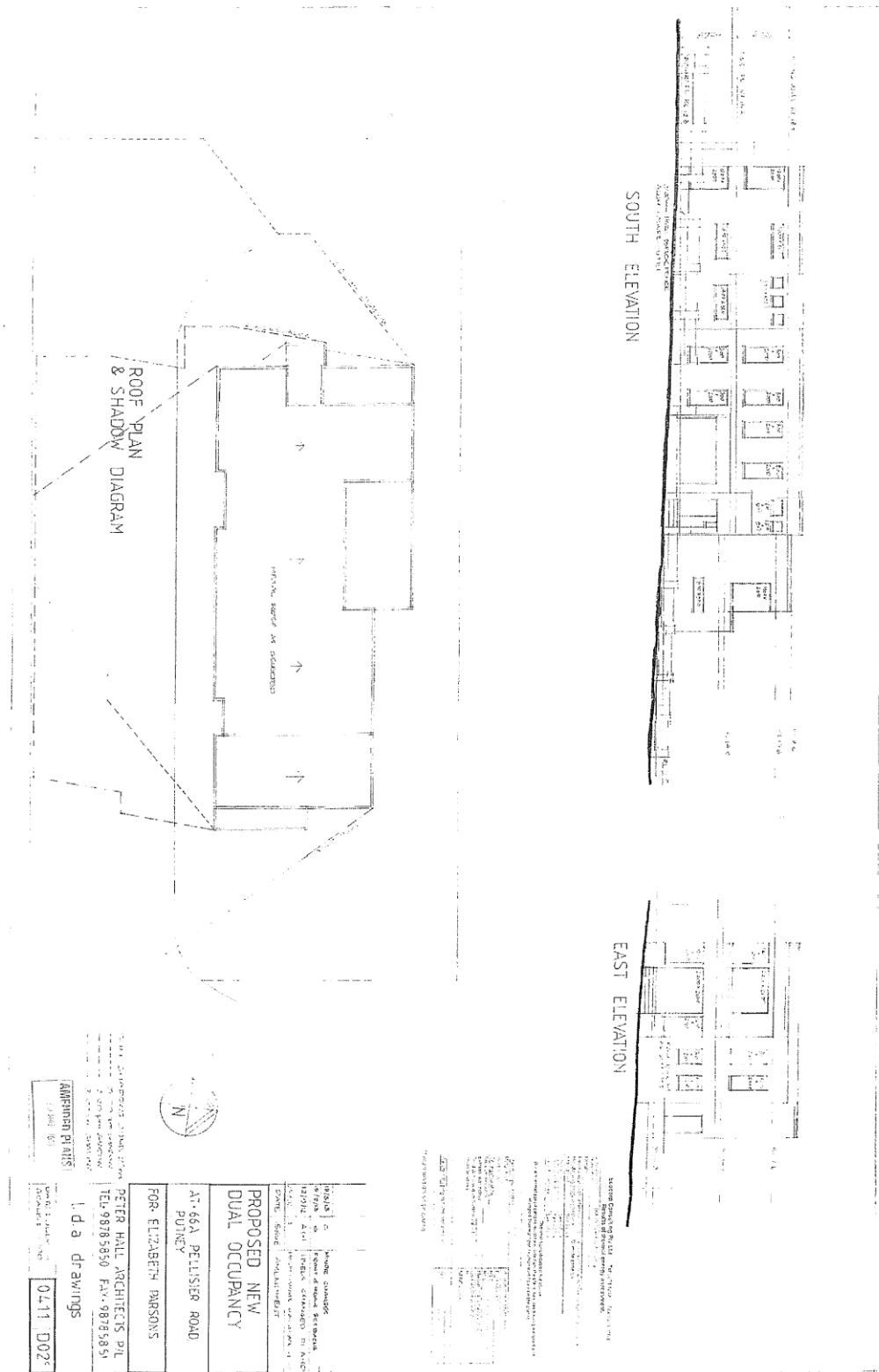
**ITEM 4 (continued)**

**ATTACHMENT 5**

DCP 2010	Proposed	Compliance
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.		

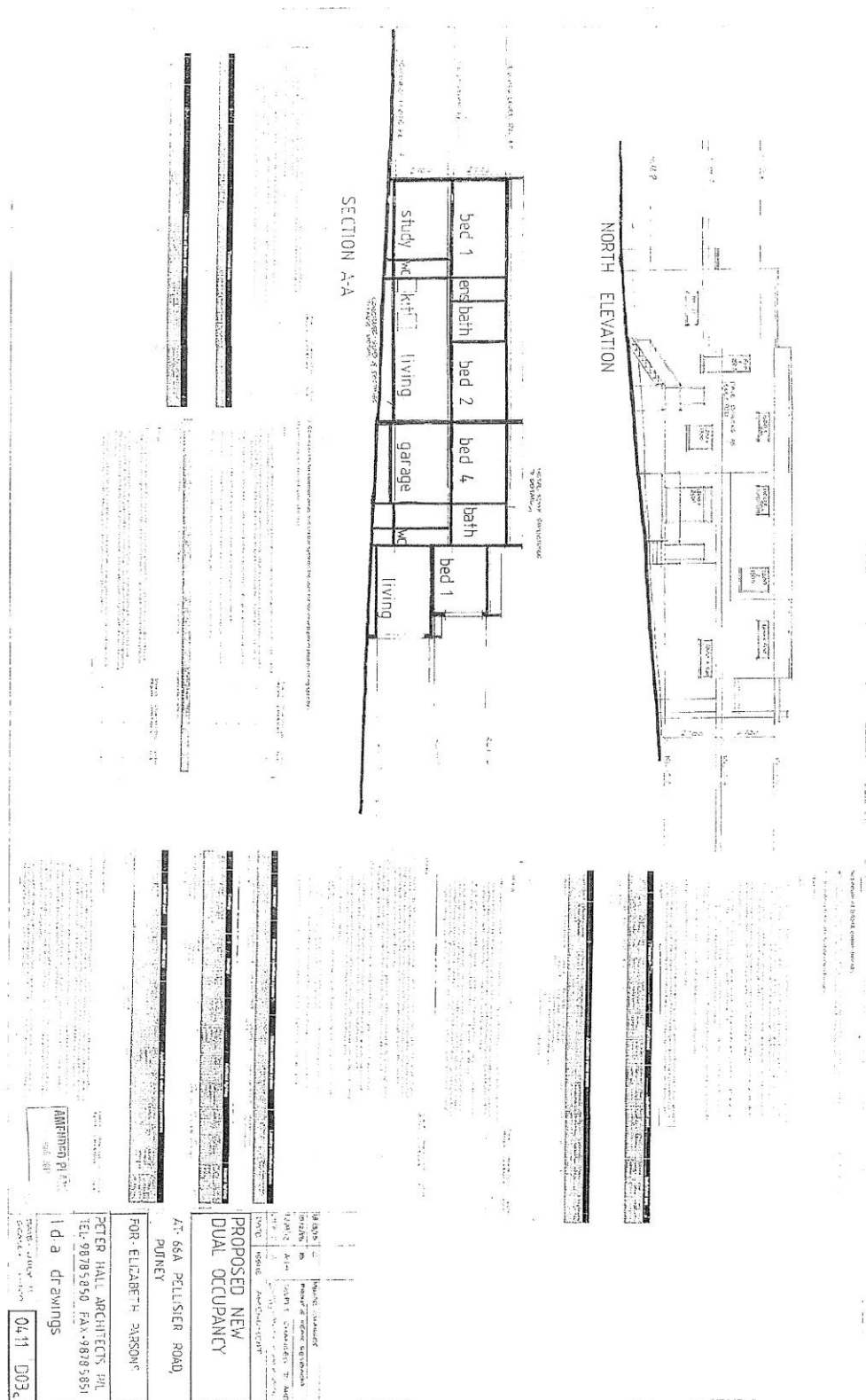
**ITEM 4 (continued)**

**ATTACHMENT 6**



**ITEM 4 (continued)**

**ATTACHMENT 6**



**ITEM 4 (continued)**

**ATTACHMENT 6**

