

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

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

**Apologies:** Nil.

**Leave of Absence:** Councillor Chung.

**Staff Present:** Group Manager – Environment and Planning, Service Unit Manager – Assessment, Service Unit Manager – Environmental Health and Building, Team Leader – Assessment, Senior Town Planner, Business Support Coordinator – Environment and Planning, Section Manager - Governance and Councillor Support Coordinator.

### **DISCLOSURES OF INTEREST**

There were no disclosures of interest.

#### **1 CONFIRMATION OF MINUTES - Meeting held on 2 April 2013**

**RESOLUTION:** (Moved by Councillors Yedelian OAM and Pendleton)

That the Minutes of the Planning and Environment Committee 5/13, held on Tuesday 2 April 2013, be confirmed.

#### **Record of Voting:**

For the Motion: Unanimous

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

#### **2 22 MONS AVENUE, WEST RYDE. LOT 23, Section C, DP 2322. Local Development Application for demolition, construction of a residential flat building with six (6) apartments and basement car parking for eight (8) cars. LDA2012/0454.**

Note: Sinisa Lazarevic (applicant) addressed the Committee in relation to this Item.

Note: A plan was tabled by the applicant in relation to this Item and a copy is ON FILE.

**MOTION:** (Moved by Councillor Pendleton)

- (a) That Local Development Application No. 2012/0454 at 22 Mons Avenue, West Ryde, being LOT 23, Section C, in Deposited Plan 2322 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 R4 High Density Residential Zone in the Ryde Local Environmental Plan 2010.
    - a) The proposal does not ensure that *"the building design does not adversely affect the amenity of the locality"*.
  2. The proposal is contrary to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to meet the minimum site area requirement under Clause 4.5B of the Ryde Local Environmental Plan 2010.
    - a) Based on the unit mix proposed, the site area has a shortfall of 17.7m<sup>2</sup>.
    - b) The development does not satisfy the criteria outlined in Clause 4.6 of the RLEP.
  3. 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 No. 65 – Design Quality for Residential Flat Development.
    - a) The proposal is contrary to Clause 9 Principle 1: Context
    - b) The proposal is contrary to Clause 10 Principle 2: Scale
    - c) The proposal is contrary to Clause 11 Principle 3: Built form
    - d) The proposal is contrary to Clause 12 Principle 4: Density
    - e) The proposal is contrary to Clause 14 Principle 6: Landscape
    - f) The proposal is contrary to Clause 15 Principle 7: Amenity
    - g) The proposal is contrary to Clause 18 Principle 10: Aesthetics
    - h) The proposal is inconsistent with the provisions of the Department of Planning *"Residential Flat Design Code"* in relation to building height, building separation, setbacks, landscape design, open space, orientation, visual privacy, building entries, vehicle access, storage, daylight access and facades.
  4. The proposal is contrary to Section 79C(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the objectives of the Draft Ryde Local Environmental Plan 2011.
    - a) The proposal is of a type and density that does not:
      - accord with urban consolidation principles;
      - promote compatibility with the existing environmental character of the locality;

- have a sympathetic and harmonious relationship with adjoining development; and
  - enhance the amenity and characteristics of established residential areas.
- b) The proposal does not preserve or improve the existing character, amenity and environmental quality of the land.
5. 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.
- a) The proposal is contrary to the objectives of Part 3.4 - Residential Flat Buildings and Multi Dwelling Housing (not within the Low Density Residential Zone) of the RDCP as it will:
- Not encourage a high architectural and landscape standard;
  - Will not preserve and enhance the existing residential amenity of the site and surrounding area;
  - Will not regulate the physical characteristics of residential flat development in order to preserve the character of the area; and
  - Does not ensure maximum privacy, sunlight and air, both within and without the site.
- b) The proposal does not comply with the maximum building height prescribed in "storeys" in Part 3.4 of the RDCP.
- c) The proposal does not comply with the front, site and rear setback requirements of Part 3.4 of the RDCP.
- d) The proposal does not comply with the internal setback requirements of Part 3.4 of the RDCP.
- e) The proposal does not comply with the minimum landscaped area requirements of Part 3.4 of the RDCP.
- f) The materials and finishes for the development are not appropriate and contribute to the visual dominance of the development and are therefore contrary to Part 3.4 of the RDCP.
- g) The proposal is unsatisfactory with regard to the retaining wall requirements in Part 3.4 of the RDCP.
- h) The location and design of the waste storage area is unsatisfactory with regard to the requirements of Part 7.2 of the RDCP.
- i) The proposed driveway does not comply with the maximum width requirements in Part 8.3 of the RDCP.
- j) The proposed stormwater disposal method for the site does not meet the requirements of Clause 2.1.1 of Part 8.4 of the RDCP as consent has not been granted by the property owner(s) at No. 23-25 Station Street with regard to the easement for drainage across the site.
- k) The proposal does not meet the access and mobility requirements of Part 9.2 of the RDCP in relation to disabled access provision to the outdoor common area.
- l) The proposed visitor space does not comply with the minimum width requirement in Part 9.2 of the RDCP.

- m) The proposal is unsatisfactory with regard to the fencing requirements in Part 9.4 of the RDCP as inadequate information has been submitted to confirm details of the proposed fencing.
  - 6. Pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposal is likely to have an adverse impact upon the built environment in that the bulk and scale of the development will create an unreasonable sense of enclosure to the neighbouring properties and will adversely impact on the visual amenity of the Mons Avenue streetscape. Furthermore, the proposal is likely to result in the isolation of the adjoining property at No. 20 Mons Avenue, West Ryde and the possible isolation of No. 24 Mons Avenue, West Ryde.
  - 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.
  - 9. The proposal is contrary to Section 5(a)(ii) of the *Environmental Planning and Assessment Act 1979* in that it will not encourage the "promotion and co-ordination of the orderly and economic use and development of land" as the development application will result in the likely isolation and potential "sterilisation" of No. 20 and 24 Mons Avenue, West Ryde.
    - a) The Applicant has not acted in accordance with the process and requirements of the NSW Land and Environment Court Planning Principles for site isolation.
    - b) The Applicant has failed to adequately demonstrate that No.'s 20 and 24 Mons Avenue, West Ryde, will not be isolated and sterilised as a result of the proposed development.
    - c) The development application, in this regard, will likely result in the isolation of sites, fragmentation of the Mons Avenue Streetscape and will set a precedent for future undesirable overdevelopment of small lots.
- (b) That the persons who made submissions be advised of Council's decision.

Note: The above Motion LAPSED for want of a seconder.

**RECOMMENDATION:** (Moved by Councillors Maggio and Salvestro-Martin)

- (a) That Local Development Application No. 2012/0454 at 22 Mons Avenue, West Ryde, being LOT 23, Section C, in Deposited Plan 2322 be deferred to give the applicant the opportunity to address the reasons for refusal in the Council

Officer's report by exploring the possibilities of site amalgamation and to reduce some of the non-compliances.

- (b) That a further report be presented to Planning and Environment Committee within six months.
- (c) 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 **23 APRIL 2013** as substantive changes were made to the published recommendation.

**3 93-95 VIMIERA ROAD, EASTWOOD. LOT 9 SP 68723. Section 96 application to delete condition of consent requiring compliance with (former) State Environmental Planning Policy No 5 - Housing for Older People or People with Disabilities. MOD2012/122.**

Note: Dr Agnes Lau (objector) and Mr Zheng Liu (applicant) addressed the Committee in relation to this Item.

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

- (a) That the Section 96 application MOD2012/0122 to modify Local Development Application No. LDA1999/1609 at 93-95 Vimiera Road Eastwood being LOT 9 SP 68723 be refused for the following reasons;
  - 1. Deletion of the subject condition of consent (condition 2) would lead to a reduction in the amount of housing specifically designed and approved for older people/people with a disability.
  - 2. The proposed modification is not substantially the same development as the development for which consent was originally granted, and so Council does not have the power to approve the proposed modification.
  - 3. In the circumstances of the case, approval of the Section 96 application would not be in the public interest.
- (b) That the persons who made submissions be advised of Council's decision.
- (c) That the Manager Health and Building be requested to re-commence enforcement action that will ensure compliance with Condition 2 of Consent No 1999/1609, and that the owners of the property be required to either vacate the premises or take action to ensure that the premises are being occupied in accordance with State Environmental Planning Policy No. 5 within 24 months.
- (d) That the applicant's Section 96 application fee be refunded.

**Record of Voting:**

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

Against the Motion: Councillor Maggio

Note: This matter will be dealt with at the Council Meeting to be held on **23 APRIL 2013** as dissenting votes were recorded and substantive changes were made to the published recommendation.

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

Note: Janet Bailey (objector), Don Bailey (objector on behalf of neighbouring residents) and Peter Hall (applicant) addressed the Committee in relation to this Item.

Note: A document was tabled by Don Bailey (objector) in relation to this Item and a copy is ON FILE.

**RECOMMENDATION:** (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: This matter will be dealt with at the Council Meeting to be held on **23 APRIL 2013** as dissenting votes were recorded.

The meeting closed at 6.21 pm.

CONFIRMED THIS 7TH DAY OF MAY 2013.

Chairperson