

14 MARCH 2013

NOTICE OF MEETING

You are advised of the following meeting:

TUESDAY 19 MARCH 2013.

Planning and Environment Committee Meeting No. 4/13

Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde - 4.00pm

Meeting Date: Tuesday 19 March 2013
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 4.00pm

NOTICE OF BUSINESS

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1 CONFIRMATION OF MINUTES - Meeting held on 5 March 2013

Report prepared by: Section Manager - Governance
File No.: CLM/13/1/3/2 - BP13/88

REPORT SUMMARY

In accordance with Council's Code of Meeting Practice, a motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.

RECOMMENDATION:

That the Minutes of the Planning and Environment Committee 3/13, held on Tuesday 5 March 2013, be confirmed.

ATTACHMENTS

- 1 Minutes - Planning and Environment Committee - 5 March 2013

ITEM 1 (continued)

ATTACHMENT 1

**Planning and Environment Committee
MINUTES OF MEETING NO. 3/13**

Meeting Date: Tuesday 5 March 2013

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

Time: 5.20 pm

Councillors Present: Councillors Pendleton, Chung, Maggio and Yedelian OAM.

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

Apologies: Councillor Salvestro-Martin.

Leave of Absence: Councillor Simon.

Staff Present: Group Manager – Environment and Planning, Service Unit Manager – Assessment, Service Unit Manager – Environmental Health and Building, Team Leader – Assessment, Team Leader – Fast Track Team, Team Leader – Building Compliance, Service Unit Manager – Governance, Business Support Coordinator – Environment and Planning, and Meeting Support Coordinator.

DISCLOSURES OF INTEREST

Councillor Maggio disclosed a Less than Significant Non-Pecuniary Interest in Item 5 – Unauthorised Development 29 Vimiera Road Eastwood for the reason that he is aware of the applicant through his Charity Contribution in the community and through the partnership with Council/Cox's Road Masterplan.

1 CONFIRMATION OF MINUTES - Meeting held on 19 February 2013

RESOLUTION: (Moved by Councillors Maggio and Chung)

That the Minutes of the Planning and Environment Committee 2/13, held on Tuesday 19 February 2013, be confirmed.

Record of Voting:

For the Motion: Unanimous

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

ITEM 1 (continued)

ATTACHMENT 1

2 21 WILDING STREET, MARSFIELD. Lot 25 DP 235821. Local Development Application for a new two storey dwelling. LDA2012/0379.

Note: Denise (Yuan Yuan) Wang (objector) addressed the Committee in relation to this Item.

RESOLUTION: (Moved by Councillors Yedelian OAM and Chung)

- (a) That Local Development Application No. LDA2012/0379 at 21 Wilding Street, Marsfield be approved subject to the conditions in **Attachment 2**.
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

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

3 21 GLADSTONE AVENUE, RYDE - LOT 54 DP 30343. Section 96 Application for modifications to approved two storey dwelling for changes to the roof terrace access. MOD2012/0150.

Note: Sergio Mantellato (objectors) addressed the Committee in relation to this Item.

Note: A series of documents from Sergio Mantellato dated 5 March 2013 was tabled in relation to this Item and a copy is ON FILE.

RESOLUTION: (Moved by Councillors Yedelian OAM and Chung)

- (a) That the Section 96 Application Number MOD2012/0150 at 21 Gladstone Avenue being Lot 54 DP 30343 be approved and Consent Number LDA2004/16 be modified in the following manner:

- **Condition 1** amended by adding the following Plans to the list of Approved Plans for this development:

Document Description	Date	Plan No/Reference
Roof Terrace Plan	25/11/10	10.29/DA03
Elevations (of Roof Terrace)	25/11/10	10.29/DA04

NOTE: These plans referenced above relate only to the additional approved works relating to the roof terrace. For full and further details of the approved plans for this development overall, refer to the original consent (LDA2004/16 dated 2 June 2004, as amended).

- **ALL** other conditions remain unaltered and must be complied with.

ITEM 1 (continued)

ATTACHMENT 1

- (b) That the persons who made submissions be advised of Council's decision.
- (c) That the matters raised in relation to possible non-compliance with the consent be investigated by the Manager Environment Health and Building in liaison with the Private Certifier and should any matters arise as a result of the investigations that they be dealt with under delegation of the Group Manager Environment and Planning.

Record of Voting:

For the Motion: Unanimous

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

4 77 WHARF ROAD, GLADESVILLE - LOT 2 DP 536882. Development Application for alterations to the existing dwelling, including a new front fence, and gates. LDA2012/0272.

Note: Eugene Sarich and Christian Farrell (on behalf of the applicant) addressed the Committee in relation to this Item.

Note: A series of documents from Eugene Sarich and Christian Farrell (on behalf of the applicant) dated 5 March 2013 was tabled in relation to this Item and a copy is ON FILE.

RECOMMENDATION: (Moved by Councillors Yedelian OAM and Maggio)

- (a) That LDA2012/272 at 77 Wharf Road, Gladesville being Lot 2 DP 536882 be deferred for a mediation meeting to be undertaken by the Group Manager Environment and Planning with the applicant and the objectors to address issues relating to bulk, scale, habitable areas and streetscape presentation. That a further report be referred to Planning and Environment Committee within three months.
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **12 MARCH 2013** as substantive changes were made to the published recommendation.

ITEM 1 (continued)

ATTACHMENT 1

CLOSED SESSION

ITEM 5 - UNAUTHORISED DEVELOPMENT 29 VIMIERA ROAD EASTWOOD

Confidential

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

RESOLUTION: (Moved by Councillors Yedelian OAM and Chung)

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

Record of Voting:

For the Motion: Unanimous

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

5 UNAUTHORISED DEVELOPMENT 29 VIMIERA ROAD EASTWOOD

Note: Councillor Maggio disclosed a Less than Significant Non-Pecuniary Interest in relation to this item for the reason that he is aware of the applicant through his Charity Contribution in the community and through the partnership with Council/Cox's Road Masterplan.

RECOMMENDATION: (Moved by Councillors Yedelian OAM and Chung)

That this matter be deferred to the Council Meeting of 12 March 2013 to consider the four options as presented in the report.

Record of Voting:

For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **12 MARCH 2013** as substantive changes were made to the published recommendation.

ITEM 1 (continued)

ATTACHMENT 1

OPEN SESSION

RESOLUTION: (Moved by Councillors Yedelian OAM and Chung)

That the Committee resolve itself into open session.

Record of Voting:

For the Motion: Unanimous

Note: Open session resumed at 6.39 pm.

RESOLUTION: (Moved by Councillors Yedelian OAM and Chung)

That the recommendations of Items considered in Closed Session be received and adopted as recommendations of the Committee without any alteration or amendment thereto.

Record of Voting:

For the Motion: Unanimous

The meeting closed at 6.39pm.

CONFIRMED THIS 19TH DAY OF MARCH 2013.

Chairperson

2 6 GANORA STREET, GLADESVILLE. LOT 6 DP 27608. Local Development Application for alterations and first floor addition to dwelling. LDA2012/0426.

INTERVIEW: 5.00pm

Report prepared by: Assessment Officer

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

Report dated: 1/03/2013

File Number: grp/09/5/6/2 - BP13/318

1. Report Summary

Applicant: S J Walls.

Owner: S J Walls.

Date lodged: 14 November 2012

This report considers a proposal for first floor additions consisting of three bedrooms, two bathrooms and alterations to the existing ground floor. The site is an irregular shaped lot at the end of the cul-de-sac. The proposed first floor additions are over the existing the footprint.

The proposal has been assessed against the controls in Ryde Development Control Plan (DCP) 2010. There are two non-compliances regarding a three storey element and wall plate height. Due to the topography of the site the existing dwelling has a lower ground floor, containing a garage, water closet, laundry and storeroom, and the proposed additions would result in the dwelling becoming partly three storeys. However the overall maximum ridge height ranges from 8.011m to 9.5m and complies with Council's control. The wall plate height ranges in height from 6.691m to a maximum of 8.18m on the western elevation, which slightly exceeds the DCP control (maximum 8m).

The amenity for the neighbours regarding overshadowing also complies with Council's control. The DA has been notified to neighbours with 1 submission being received from the adjoining property owners at 7 Ganora Street. The main concerns raised being overshadowing and loss of sunlight to two rooms at 7 Ganora Street and the side setback proposed.

The concerns raised in the submission have been addressed in the report. In particular, due to the orientation of the site and the positioning of the neighbours dwelling, the proposed additions would only begin to cause overshadowing to the neighbour's house after 12 noon, which means that it would receive more than the required 3 hours of sunlight prescribed in Council's DCP. Overall, the proposal is considered satisfactory for approval subject to conditions.

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

Public Submissions: One submission received.

ITEM 2 (continued)

Clause 4.6 RLEP 2010 (objection required): None required.

Value of works: \$300,000

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

RECOMMENDATION:

- (a) That Local Development Application No. LDA2012/0426 at 6 Ganora Street Gladesville be approved subject to the conditions in **Attachment 2**.
- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

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

Report Prepared By:

Jane Tompsett
Assessment Officer

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

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

Address	: 6 Ganora Street, Gladesville
Site Area	: Irregular shaped lot 897.9m ² Frontage Arc 12.19 metres Depth 31.745 metres and 34.49 metres
Topography and Vegetation	: The site is an irregular shaped lot located at the end of the cul-de-sac. The site is burdened by two stormwater easements. One easement is adjacent to the side boundary on the driveway side. The second easement is 3 metres wide and goes through the centre of the lot from the south eastern corner to the western side of the lot. The site has a fall of approximately 1.5m from east to west.
Existing Buildings	: One/two storey dwelling and detached garage/shed.
Planning Controls Zoning	: Ryde LEP 2010 R2 Low Density Residential.
Other	: Ryde DCP 2010

ITEM 2 (continued)



Figure 1: Locality Map

3. Councillor Representations

Name of Councillor: Councillor Maggio

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

Date: 8 January 2013

Form of the representation (e.g. via email, meeting, phone call): Email to Acting Group Manager Environment and Planning

On behalf of the objectors.

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

4. Political Donations or Gifts

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

ITEM 2 (continued)**5. Proposal**

The proposal is for first floor additions consisting of three bedrooms, two bathrooms and alterations to the existing ground floor.

6. Background

- On 14 November 2012 DA was lodged with Council.
- On 19 November 2012 notification to neighbours commenced.
- On 22 November 2012 a site inspection was carried out.
- On 12 December 2012 the neighbour at 7 Ganora Street emailed a submission.
- On 20 January 2013 amended plans were received reducing the overall height to 9.5m and additional elevational shadow drawings to demonstrate there will be no overshadowing from the proposal at 3pm on 21st December, March and September through out the year.
- On 22 January 2013 Council's Officers met the objectors on site at 7 Ganora Street and discussed the issues raised. Council Officers left a copy of the amended plans with the objectors and advised there was a further 7 days (due 29 January 2013) to submit any further submissions regarding the proposal and the amended plans.

7. Submissions

The proposal was notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. Notification of the proposal was from 19 November 2012 until 4 December 2012. An extension of time for submissions was granted until 11 December 2012.

One submission was received. The issues raised in the submission were;

(i) Overshadowing

"We are concerned the current plans will resolve in no natural light in two rooms of our house."

Council Officer's Comment:

Council's DCP 2010 Part 3.3 Dwelling Houses and Dual Occupancy (attached) states:

For neighbouring properties ensure:

i. sunlight to at least 50% of the principal area of ground level private open space of adjacent properties is not reduced to less than two hours between 9am and 3pm on June 21, and

ITEM 2 (continued)

ii. windows to north-facing living areas of neighbouring dwellings receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their surface, where this can be reasonably maintained given the orientation topography of the subject and neighbouring sites.

The proposed development permits sunlight to the adjoining property for a minimum of 3 hours between 9am - 12 noon on 21 June to 50% of private open space and over a portion of the north facing living areas (see below). In this instance the proposal complies with Council's controls and is considered satisfactory.

The shadow diagrams show that the shadows from the proposed first floor addition only begin to affect the neighbour's dwelling after 12 noon (on 21 June), and therefore it would receive more than the required 3 hours of sunlight to the north-facing living rooms in mid-winter.

The applicant has also supplied elevational shadow diagrams showing the impact on the neighbour's property at other times of the year (ie March/September and December – see below). These show that at these other times of the year, the north-facing windows would be mostly unaffected before 3pm.

It is also noted that the existing setbacks of the neighbour's dwelling (over 5m to the boundary of the subject property) help to ensure that solar access is maximised.

Overall, it is considered that the proposal allows a good amount of solar access in a residential environment, which more than complies with Council's DCP requirement.

ITEM 2 (continued)

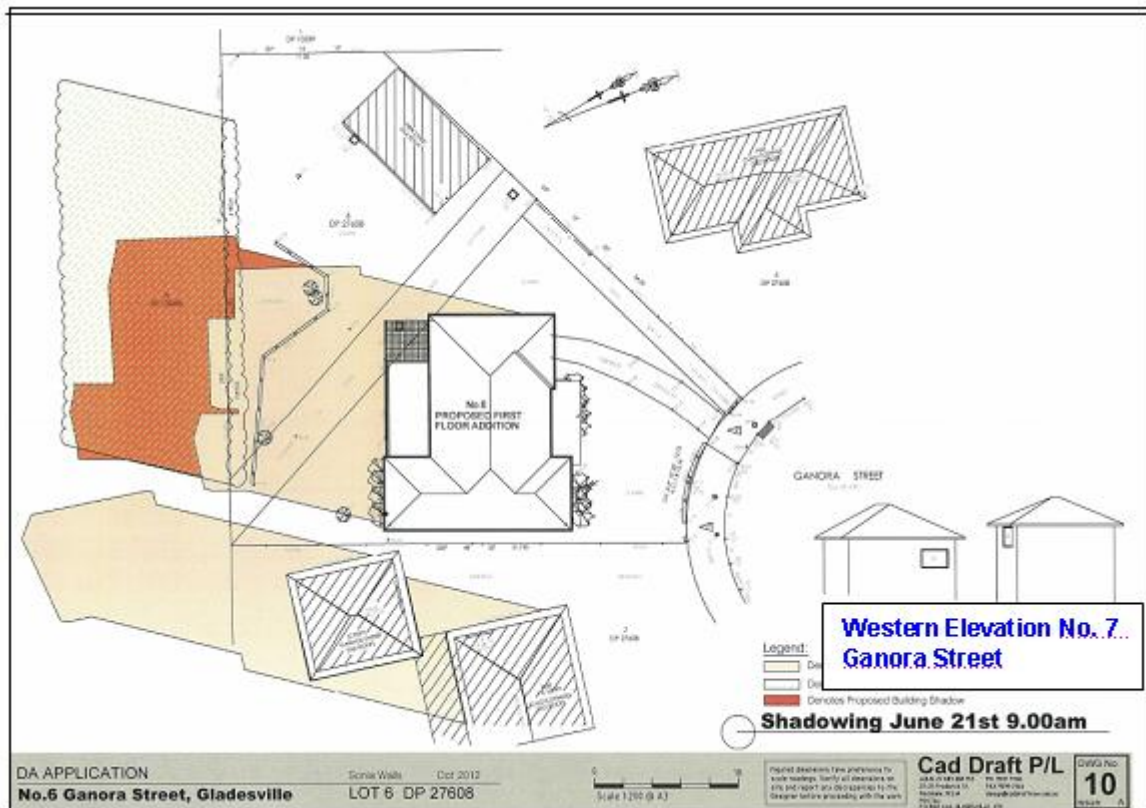


Figure 2: Proposed shadow at 9:00am 21 June (no shadow cast on 7 Ganora Street)

ITEM 2 (continued)

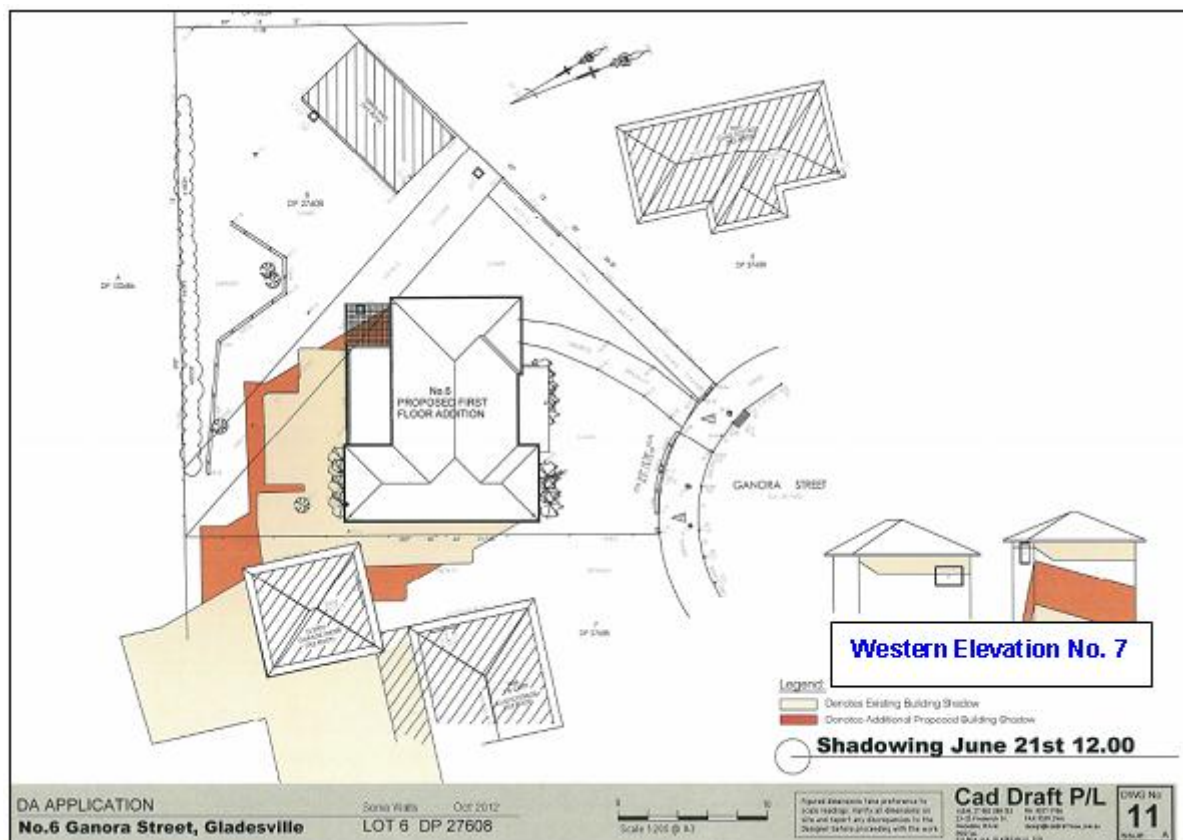


Figure 3 Proposed shadow at 12:00 noon 21 June (no shadow cast on northern or western windows at 7 Ganora Street)

ITEM 2 (continued)

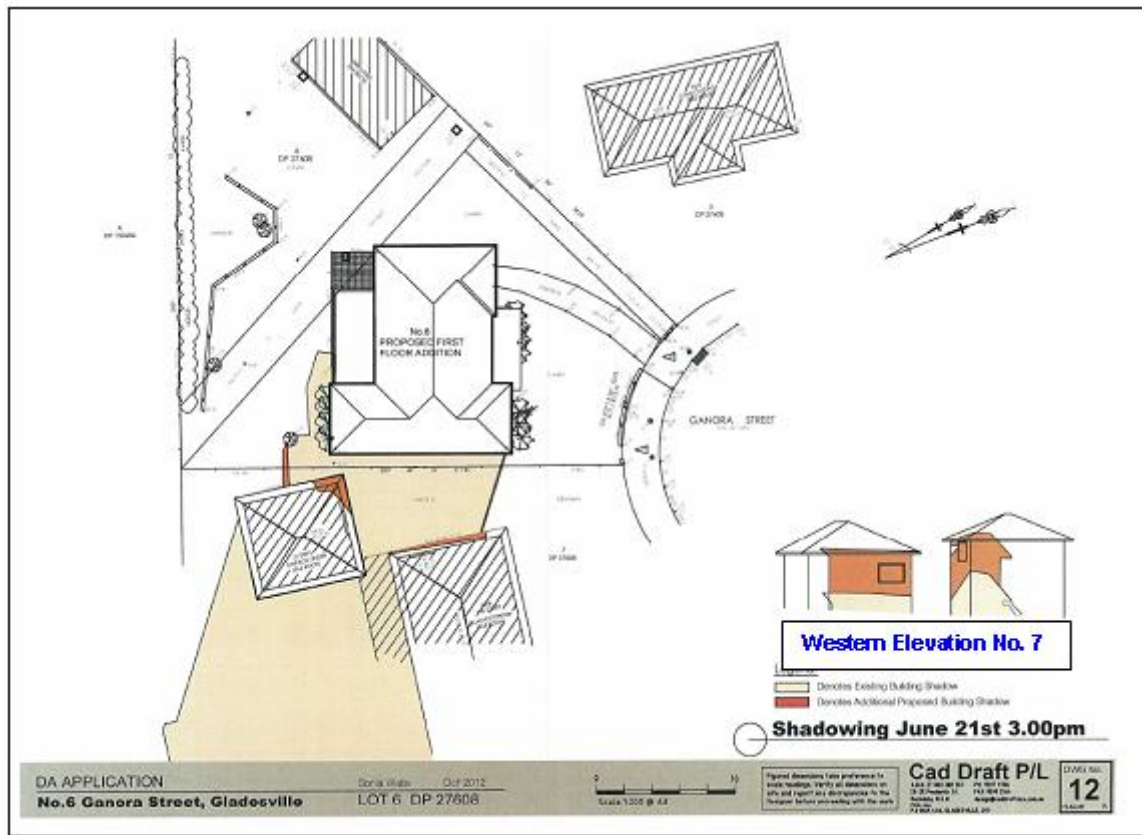


Figure 4: Proposed shadow at 3pm 21 June (shadow cast on northern or western windows at 7 Ganora Street)

ITEM 2 (continued)

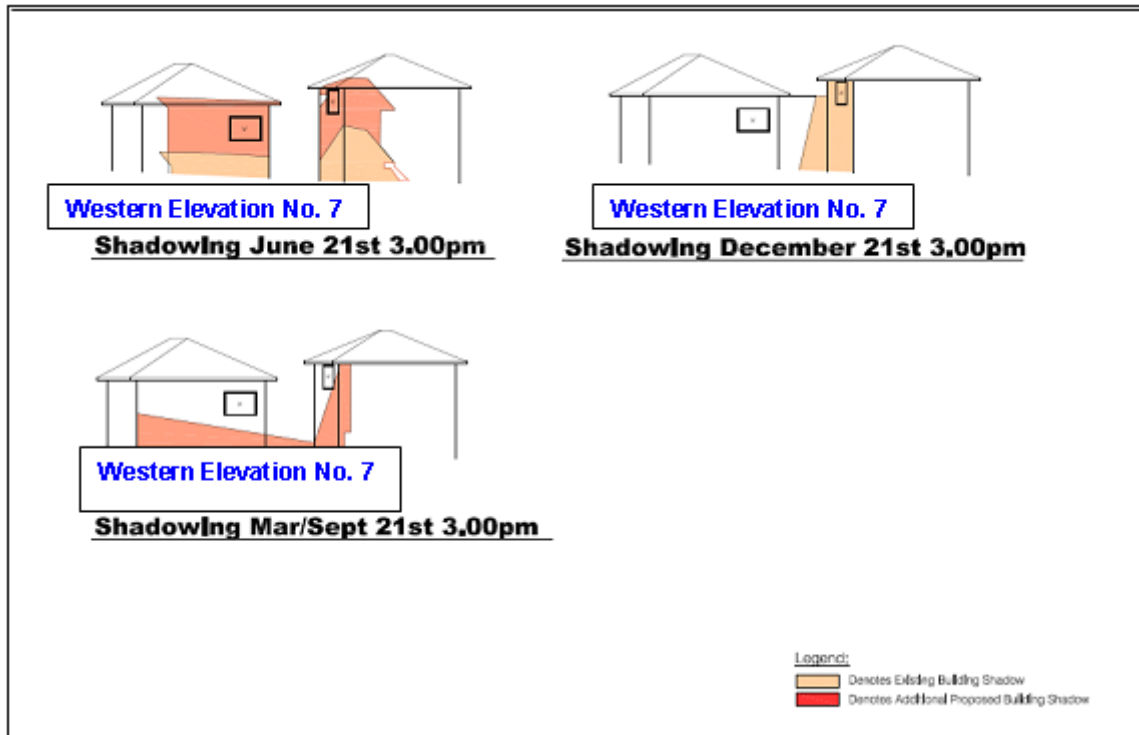


Figure 5: Proposed Shadow on 7 Ganora Street Western Elevation windows only overshadowed on June 21st at 3pm, not affected by the proposal on 21st March, September and December at 3pm

(ii) Side Setback

"It is our understanding there is no set back (sic) for the second storey."

Council Officer's Comment:

Council's DCP 2010 Part 3.3 Dwelling Houses and Dual Occupancy (attached) states:

The outside walls of a second storey addition to a single storey dwelling are to be set back not less than 1.5 metres from the side boundaries.

The first floor addition has a side setback of 1.5m from the eastern boundary adjoining 7 Ganora Street. The Northern Elevation below demonstrates compliance with Council's control (see below).

ITEM 2 (continued)

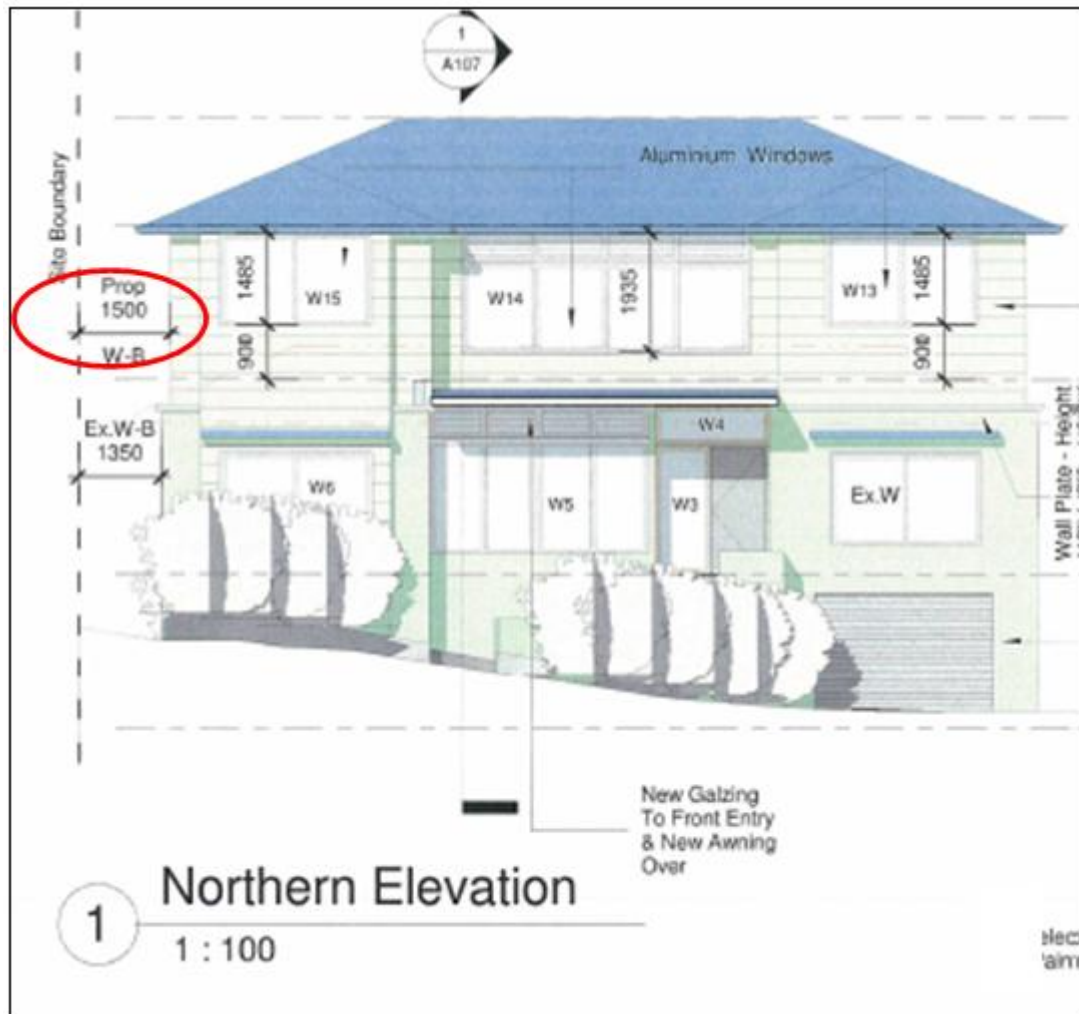


Figure 6: Northern Elevation showing the first floor side setback of 1500mm.

8. Clause 4.6 RLEP 2010 objection required?

No objection required.

9. Policy Implications

Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Planning Scheme Ordinance

Zoning

The subject property is zoned R2 Low Density Residential. The proposal is permissible with Council's development consent.

ITEM 2 (continued)**Mandatory Requirements**

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

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

Clause 4.4 - Floor Space Ratio. This clause prescribes a maximum floor space ratio (FSR) of 0.5:1. The FSR for the proposed development has been calculated to be 0.34:1, which complies with Ryde LEP 2010.

(b) Relevant SEPPsState and Sydney Regional Environmental Planning PoliciesSEPP BASIX:

A compliant BASIX Certificate has been submitted with the DA.

State Environmental Planning Policy No. 55 – Remediation of Land

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

(d) Any draft LEPs

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

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

The proposal has been assessed using the development controls contained in Ryde DCP 2010. The DCP compliance table for this development proposal is held at **Attachment 1**.

ITEM 2 (continued)

There are two non-compliances identified in the Compliance Table, which are discussed below:

Non-Compliances:

(i) Three Storeys

Council's DCP 2010 Part 3.3 Dwelling Houses and Dual Occupancy (attached) states:

Residential dwellings are to be a maximum of two storeys high.

The existing dwelling has a lower ground floor containing a garage, laundry and storage area. The site has a fall of 1.5m from the front eastern corner of the dwelling RL30.80 to RL29.30 on the rear western corner of the dwelling. The three storey portion of the western side elevation is 7.712m in length (see below). The side setback to the adjoining neighbour at 5 Ganora Street is 5m at the front of the dwelling and 15m at the rear of the dwelling. The three storey element has a rear setback of 14m. There is no adverse overshadowing to the adjoining neighbours. The maximum overall height of the dwelling is 9.5m and complies with Council's control. In this instance the three storey element is considered satisfactory due to the topography of the site and the substantial setbacks from the adjoining neighbours.



Figure 7: Lower Ground on western elevation

ITEM 2 (continued)

(ii) Wall Plate Height

Council's DCP 2010 Part 3.3 Dwelling Houses and Dual Occupancy (attached) states:

Maximum wall plate height (ceiling height) 7.5 metres or 8 metres for a roof which has a continuous parapet

The proposed maximum ceiling height is 8.18m. Due to the existing lower ground floor the maximum ceiling height is 680mm (9%) over Council's control for a portion of the dwelling on the southern and western elevations.

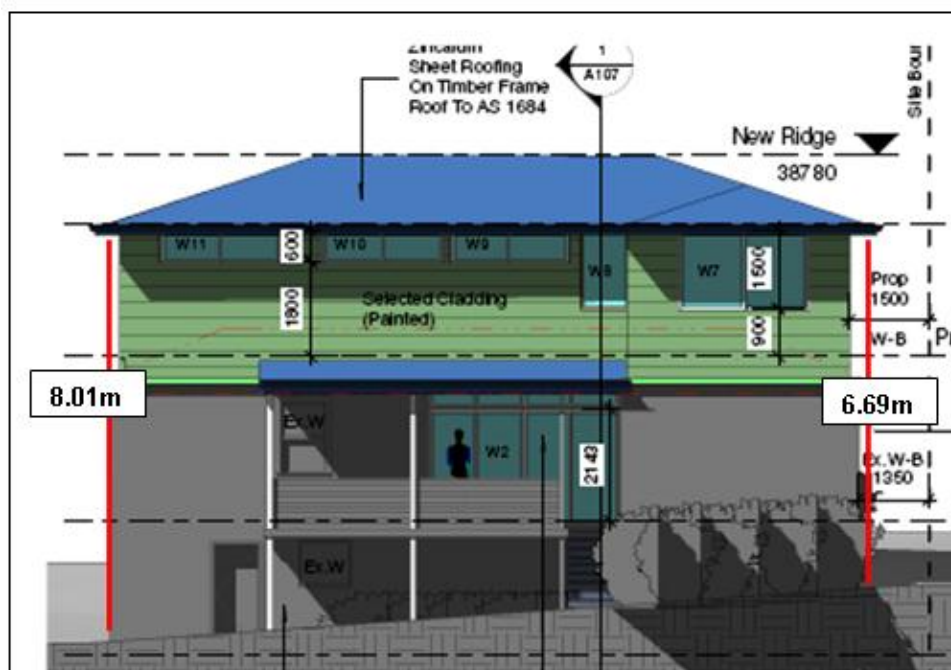


Figure 8: Southern elevation - Wall plate height ranges from 6.69m to maximum of 8.01m.

ITEM 2 (continued)

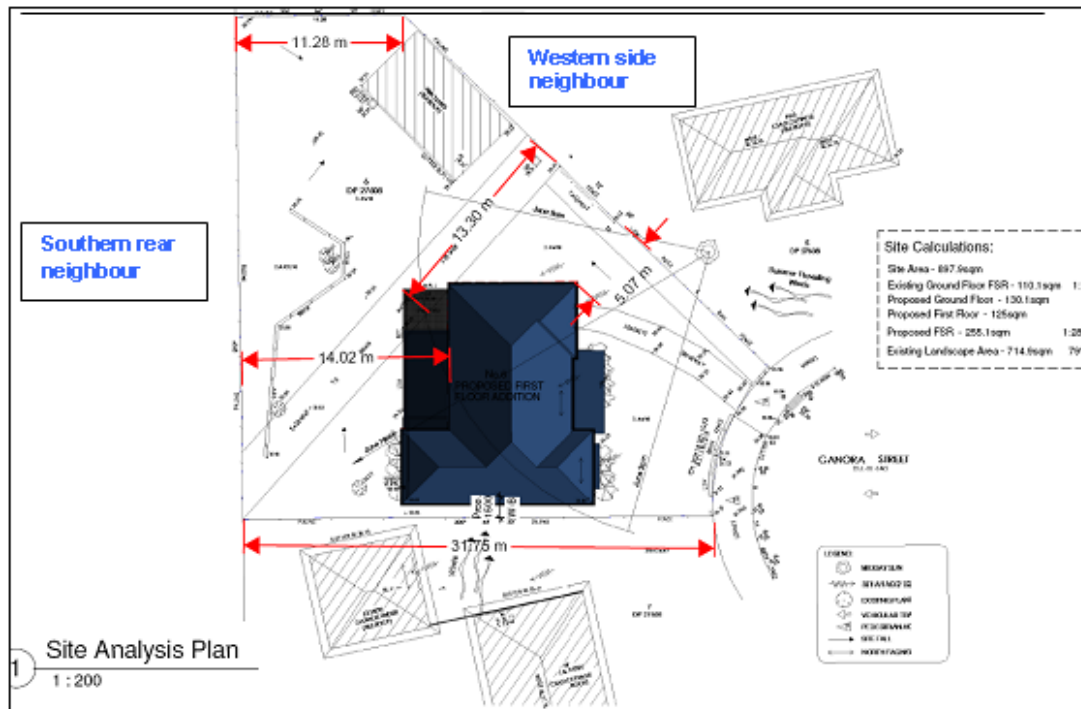


Figure 9: Site Plan – Three storey element and wall plate height distance to the western side neighbour ranges from approximately 5.07m to 13.30m and approximately 14.02m to the southern rear neighbour.

There are no adverse affects to the adjoining neighbours regarding privacy and overshadowing. The overall maximum height of the proposal is 9.5m and complies with Council's control and in this instance the maximum wall plate (ceiling height) is considered satisfactory.

10. Likely impacts of the Development

(a) Built Environment

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

(b) Natural Environment

The proposal would have minimal impact in terms of the natural environment. The proposal involves the removal of existing vegetation (none of which is significant), whilst matters regarding soil erosion/sediment control etc could be addressed via standard conditions on any consent if Council decides to approve the DA.

ITEM 2 (continued)**11. Suitability of the site for the development**

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

Overland Flow: The proposal is for first floor additions above the existing dwelling and is considered satisfactory regarding the overland flow.

Acid Sulphate Soil Class 5 – 500m buffer: There is no excavation proposed for the first floor additions and the proposal is considered satisfactory regarding Acid Sulphate Soil.

12. The Public Interest

Having regard to the assessment contained in this report, it is considered that approval of the development is in the public interest. The application substantially complies with Council's DCP and allows for improved residential accommodation for the existing owners.

13. Consultation – Internal and External

Internal and External Referrals - No internal referrals required with this application.

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

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

16. Other Options

No other relevant options.

17. Conclusion

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

There are two non-compliances with DCP 2010: Part 3.3 Dwelling Houses and Dual Occupancy (attached), relating to the three storey element and the wall plate height in the three storey element. There is considerable distance from the three storey portion of the dwelling from adjoining neighbours on the western side and the southern rear neighbours. The eastern side of the dwelling is a maximum of two storeys and the wall plate height is a maximum of 6.85m and complies with Council's control. The overshadowing complies with Council's control for all of the adjoining

ITEM 2 (continued)

neighbours. The overall maximum height, floor space ratio and setbacks comply with Council's controls. The bulk and scale of the dwelling is in keeping with Council's DCP. In this regard the partial non-compliances are considered satisfactory.

The proposal was notified to neighbouring properties with 1 submission being received (from the adjoining property owners at 7 Ganora Street to the east), raising concerns including overshadowing and side setback. The applicant has demonstrated compliance with Council's controls for overshadowing and side setbacks.

Therefore, it is recommended for approval subject to conditions of consent.

ITEM 2 (continued)

ATTACHMENT 1

Compliance Check - Quality Certification

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

LDA No:	LDA2012/0426	Date Plans Rec'd: 14/11/2012
Address:	6 Ganora St Gladesville	
Proposal:	Alterations and first floor additions to dwelling.	
Constraints Identified:	Flood Prone, Acid Sulphate Class 5 – 500m buffer	

COMPLIANCE CHECK

Ryde LEP 2010	Proposal	Compliance
4.3(2) Height		
9.5m	9.5m	Yes
4.4(2) & 4.4A(1) FSR		
0.5:1	0.34:1	Yes

DCP 2010	Proposed	Compliance
<i>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</i>		
Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is consistent with the desired future character of the low density residential area as detailed further in this table.	Yes
Dwelling Houses		
- To have a landscaped setting which includes significant deep soil areas at front and rear.	Front and rear gardens proposed.	Yes
- Maximum 2 storeys.	Two/three storeys	No(1)
- Dwellings to address street	Dwelling presents to Ganora Street	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
- Garage/carports not visually prominent features.	Garage not prominent feature as setback in front elevation of building.	Yes
Alterations and Additions		
- Design of finished building appears as integrated whole.	Design of finished building appears as integrated whole.	Yes
- Development to improve amenity and liveability of dwelling and site.	Development to improve amenity and liveability of dwelling and site.	Yes
Public Domain Amenity		
Streetscape		
- Front doors and windows are to face the street. Side entries to be clearly apparent.	Front doors and windows face street.	Yes
- Single storey entrance porticos.	Single entrance portico.	Yes
- Articulated street facades.	Articulated street façade.	Yes
Public Views and Vistas		
- A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views. Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. Fence 70% open where height is >900mm.	Existing unchanged	Yes
Pedestrian & Vehicle Safety		
- Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard.	Existing unchanged	Yes
- Fencing that blocks sight lines is to be splayed.		

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
Site Configuration		
Deep Soil Areas <ul style="list-style-type: none"> - 35% of site area min. - Min 8x8m deep soil area in backyard. - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). 	Permeable (deep soil) area: 621.35m ² approx (69% of site area).	Yes
	Rear DSA dimensions:>8m x 8m provided.	Yes
	Front DSA: existing unchanged	Yes
Topography & Excavation		
Within building footprint: <ul style="list-style-type: none"> - Max cut: 1.2m - Max fill: 900mm 	Within BF Max cut: None Max fill: None	Yes
		Yes
Outside building footprint: <ul style="list-style-type: none"> - Max cut: 900mm - Max fill: 500mm - No fill between side of building and boundary or close to rear boundary - Max ht retaining wall 900mm 	Outside BF Max cut: None Max fill: None	Yes
		Yes
Floor Space Ratio		
Lower Ground	51.83m ²	
Ground floor	112.19m ²	
First floor	113.3m ²	
Outbuildings (incl covered pergolas, sheds etc)	45.5m ²	
Total (Gross Floor Area)	322.82m ²	
Less 36m ² (double) or 18m ² (single) allowance for parking	304.82m ²	
FSR (max 0.5:1) Note: Excludes wall thicknesses; lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas.	0.34:1	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
Height		
- 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL).	Height of any basement ceiling (above EGL) that is located below two storeys above: Part three storeys	No(1)
- 1 storey maximum above attached garage incl semi-basement or at-grade garages.	Two storey above garage	No(1)
Wall plate (Ceiling Height) - 7.5m max above FGL or - 8m max to top of parapet <i>NB:</i> <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> <i>FGL = Finished Ground Level</i>	TOW RL: 37.460 FGL below (highest point) 30.769 TOW Height (min) 6.691m FGL below (lowest point): RL:29.280 TOW Height (max)= 8.18m	No(2)
9.5m Overall Height <i>NB:</i> <i>EGL = Existing Ground Level</i>	Max point of dwelling RL: 38780 EGL below ridge (lowest point): RL:29280 EGL below ridge (highest point): RL: 30.769 Overall Height (min)= 8.011m Overall Height (max)= 9.5m	Yes
Habitable rooms to have 2.4m floor to ceiling height (min).	2.4m min room height.	Yes
Setbacks		
SIDE First floor addition - 1500mm to wall - Includes balconies etc	To wall min East 1.5m West Existing unchanged >1.5m	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
Side setback to secondary frontage (cnr allotments): 2m to façade and garage/carports		
Front <ul style="list-style-type: none"> - 6m to façade (generally) - Garage set back 1m from the dwelling façade - Wall above is to align with outside face of garage below. - Front setback free of ancillary elements eg RWT, A/C 	Existing unchanged (7m) Existing unchanged Existing unchanged Front setback free of ancillary elements	Yes Yes Yes Yes
Rear <ul style="list-style-type: none"> - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. Note: Xm is 25% of site length.	10 Existing unchanged	Yes
Car Parking & Access	Existing unchanged	
Landscaping	Existing unchanged	
Dwelling Amenity		
Daylight and Sunlight Access <ul style="list-style-type: none"> - Living areas to face north where orientation makes this possible. - 4m side setback for side living areas where north is to the side allotment boundary. 	Living areas face	
	Existing unchanged	Yes
<u>Subject Dwelling:</u> <ul style="list-style-type: none"> - Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21. 	N facing windows:	
	Existing unchanged	Yes
<ul style="list-style-type: none"> - Private Open space of subject dwelling is to receive at least 2 hours 	POS:	
	Existing unchanged	Yes

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
<p>sunlight between 9am and 3pm on June 21.</p> <p><u>Neighbouring properties are to receive:</u></p> <ul style="list-style-type: none"> - 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21. - At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	<p>Hours of sunlight to adjoining principal open space:</p> <p>The proposal does not shadow the neighbour's private open space until after 12 giving the morning min of 3 hours.</p> <p>Hours of sunlight to adjoining living area windows: north facing window on first floor of garage is not overshadowed by the proposal for the morning between 9am and midday complies with 3 hours</p>	<p>Yes</p> <p>Yes</p>
<p>Visual Privacy</p> <ul style="list-style-type: none"> - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. - Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space. - Side windows offset from adjoining windows. - Terraces, balconies etc are not to overlook neighbouring dwellings/private open space. 	<p>Orientation of windows of living areas, balconies and outdoor living areas to the front and rear of dwelling.</p> <p>Windows of living, dining, family etc are placed so there are no close or direct views to adjoining dwelling or open space.</p> <p>Side windows are offset from adjoining windows.</p> <p>No Terraces, balconies etc overlook neighbouring dwellings/private open space.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>View Sharing</p> <ul style="list-style-type: none"> - The siting of development is to provide for view sharing. 	<p>Existing unchanged</p>	<p>Yes</p>
<p>Cross Ventilation</p> <ul style="list-style-type: none"> - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation. 	<p>Basix certificate complies</p>	<p>Yes</p>

ITEM 2 (continued)

ATTACHMENT 1

DCP 2010	Proposed	Compliance
External Building Elements		
Roof <ul style="list-style-type: none"> - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable Terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights.permitted. 	Articulated. 450mm eaves overhang minimum. No trafficable No Skylights. No dormers	Yes
Fencing Existing unchanged		
Part 7.2- Waste Minimisation & Management		
Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	The applicant has submitted a Waste Management Plan in accordance with Part 7.2 of DCP 2010.	Yes
Part 8.2 - Stormwater Management		
Stormwater		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	Yes
Part 9.2- Access for People with Disabilities Existing unchanged		
Part 9.6 – Tree Preservation Existing unchanged		
BASIX		
All ticked “DA plans” commitments on the BASIX Certificate are to be shown on plans (list) BASIX Cert A150468 dated 13 November 2012 <ul style="list-style-type: none"> • Thermal Comfort Commitments – Construction. • TCC – Glazing. HWS Gas Instantaneous. 	Shown on plans Shown on plans Shown on plans	Yes Yes Yes
Correct description of property/proposal on 1 st page of Certificate.	Correct details: -	Yes

ITEM 2 (continued)

ATTACHMENT 2

GENERAL

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

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

Document Description	Date	Plan No/Reference
Architectural Plans	21/6/2012 October 2012 20/01/2013	Project No. 1023-12 Sheet A00, Dwg No. 08, 09 (issue A) Sheet A00, A101, A102, A103, A104, A105, A106, A107,

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered A150468, dated 13 November 2012.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Hoardings.**
 - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

ITEM 2 (continued)

ATTACHMENT 2

7. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
8. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
9. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
10. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.
11. **Stormwater disposal.** Stormwater runoff from all impervious areas of the site is to be collected and piped to the existing or new underground stormwater drainage system in accordance with Council's DCP 2010, Part 8.2 "Stormwater Management".

DEMOLITION CONDITIONS

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

A Construction Certificate is not required for Demolition.

12. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
13. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.
14. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
15. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
16. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.

ITEM 2 (continued)

ATTACHMENT 2

PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

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

17. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
18. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. dwelling houses with delivery of bricks or concrete or machine excavation)
19. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
20. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
21. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.

ITEM 2 (continued)

ATTACHMENT 2

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

22. Site Sign

- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

23. Residential building work – insurance. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

24. Residential building work – provision of information. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA has given the Council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor; and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act.
- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder; and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If any of the above arrangements are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates has given the Council written notice of the updated information (if Council is not the PCA).

ITEM 2 (continued)

ATTACHMENT 2

DURING CONSTRUCTION

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

25. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
26. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
27. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
28. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
 - (a) Fill is allowed under this consent;
 - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (c) the material is reused only to the extent that fill is allowed by the consent.
29. **Construction materials.** All materials associated with construction must be retained within the site.
30. **Site Facilities**

The following facilities must be provided on the site:

 - (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
31. **Site maintenance**

The applicant must ensure that:

 - (a) approved sediment and erosion control measures are installed and maintained during the construction period;
 - (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
 - (c) the site is clear of waste and debris at the completion of the works.
32. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

ITEM 2 (continued)

ATTACHMENT 2

33. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or otherwise necessary as a result of construction works approved by this consent.

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

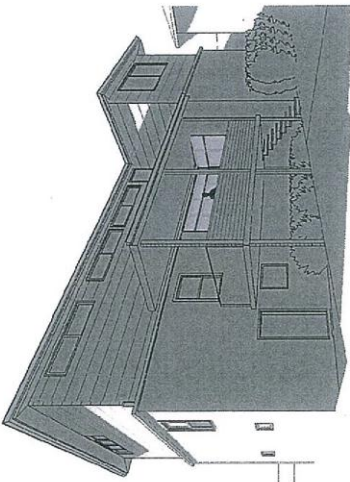
34. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s).

ITEM 2 (continued)

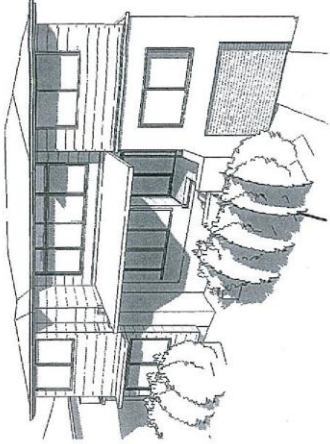
ATTACHMENT 3

6 Ganora Street, Gladesville
First Floor Additions & Alterations
Lot 6 DP 27608

AMENDED PLANS
20 JAN 2013



1 3D View Rear



2 3D View Front

No.	Description	Date

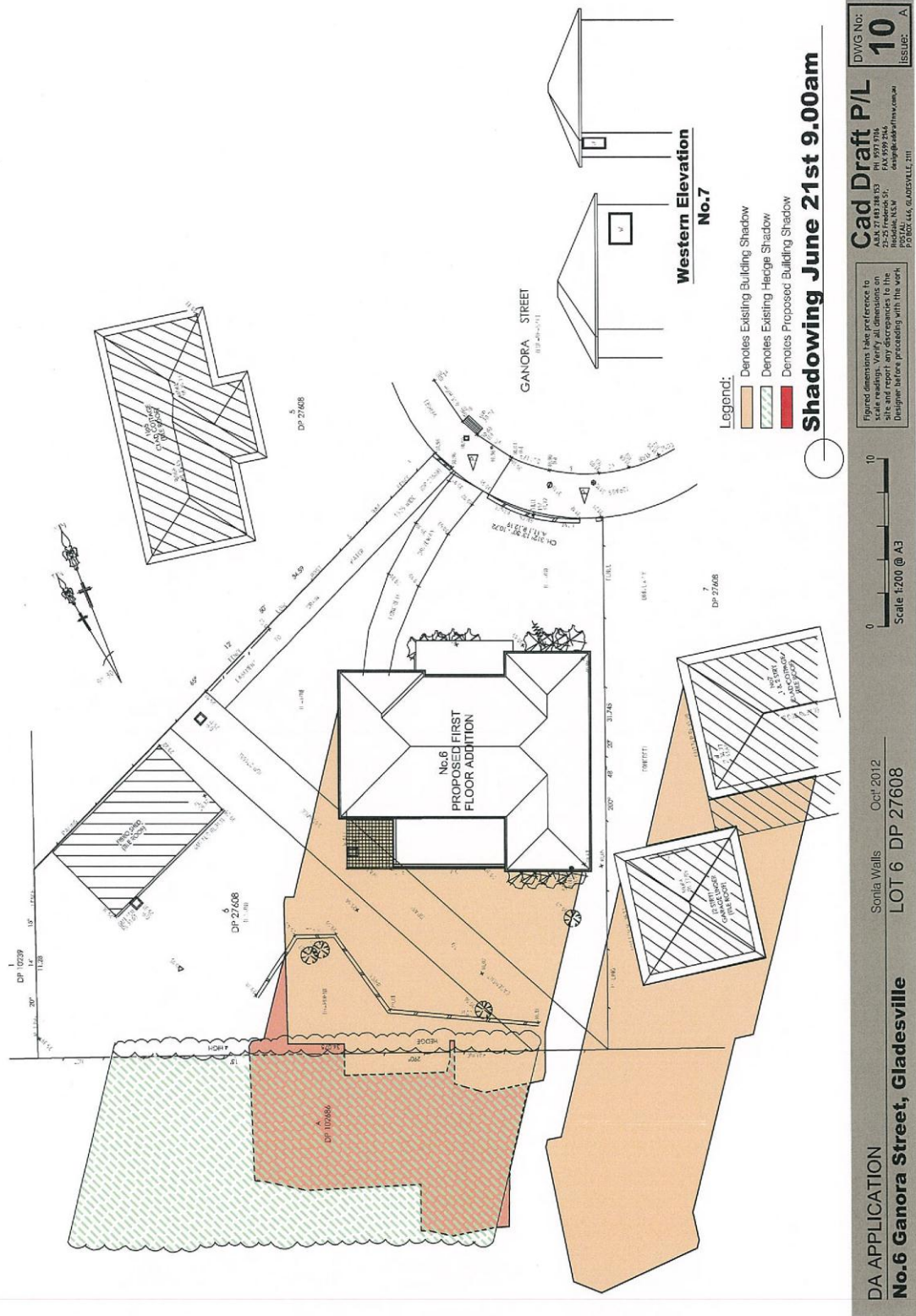
Cad Draft P/L
Design Consultants
A/14/2/002/308/153
P/L 0009/506
Proprietor: S. Paul (aka) 1687 2215
s.paul@cadraft.com.au
P.O. BOX 445, GLADESVILLE, 2111

6 Ganora St, Gladesville
Client: Sonia Walls

Cover Sheet
Project number: 1025-12
Date: 21-12-12
Drawn by: Author
Checked by: Client
Scale: A00

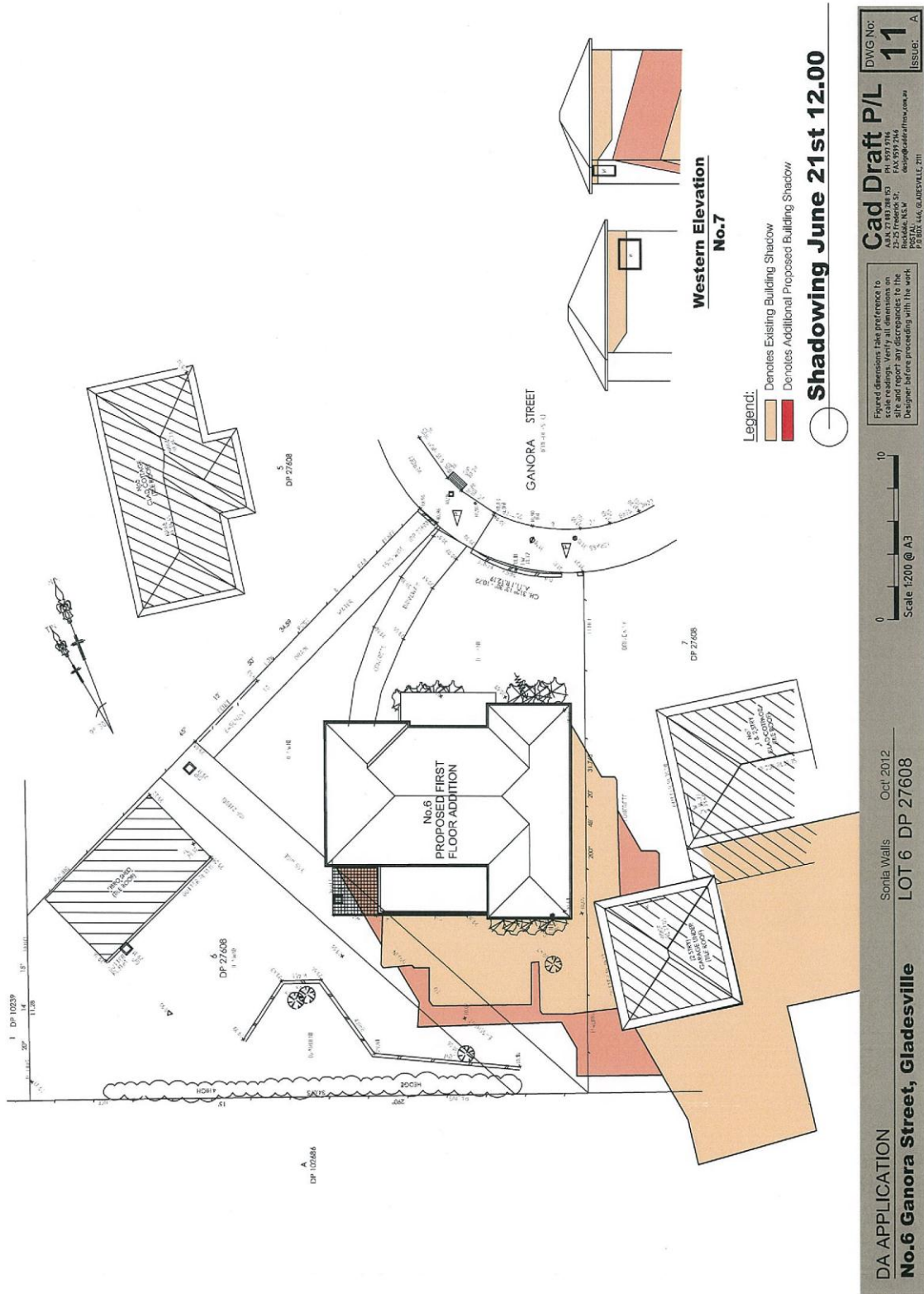
ITEM 2 (continued)

ATTACHMENT 4



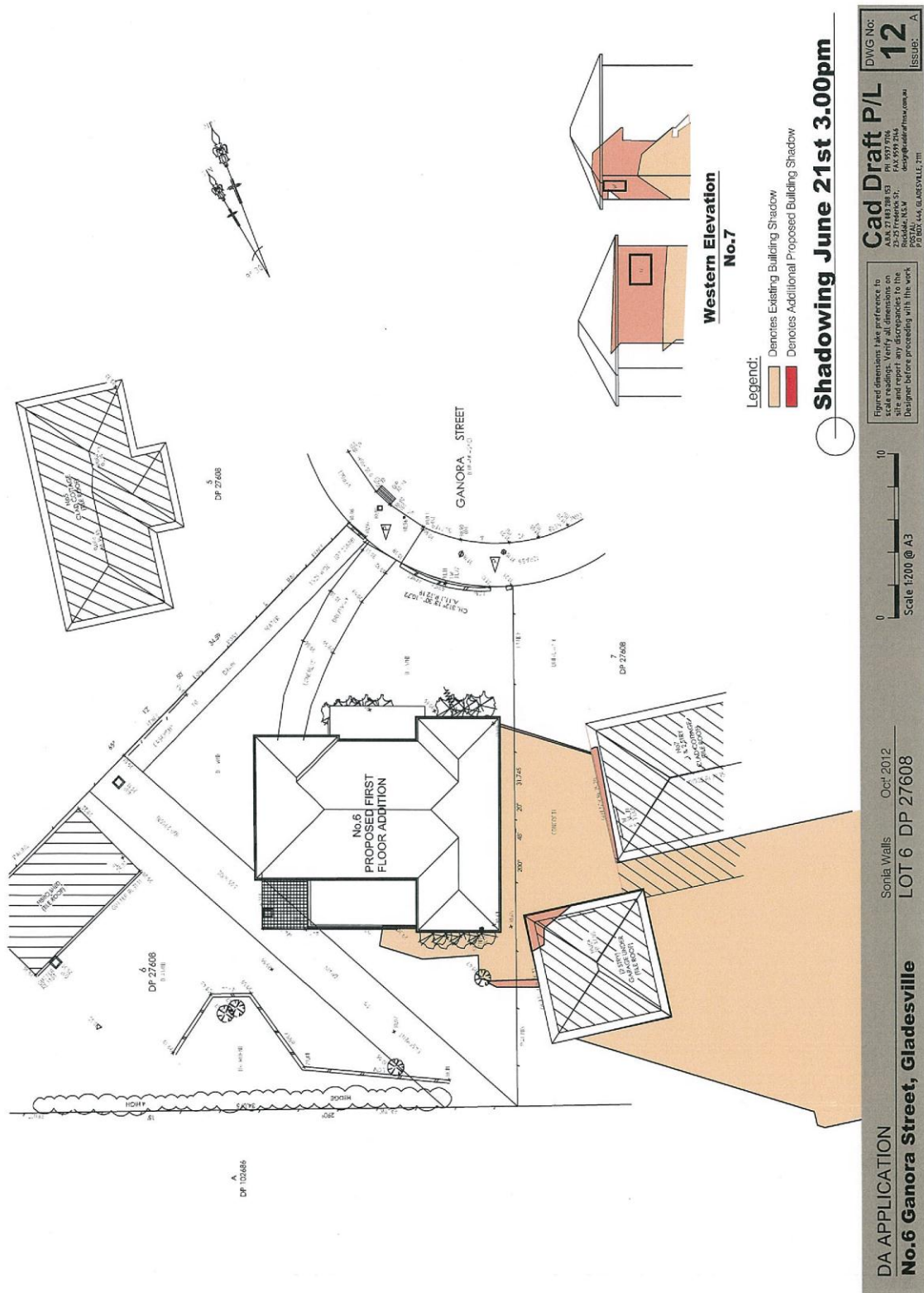
ITEM 2 (continued)

ATTACHMENT 4



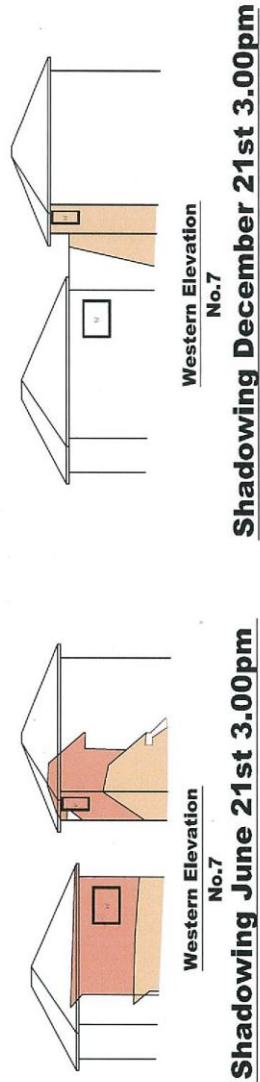
ITEM 2 (continued)

ATTACHMENT 4



ITEM 2 (continued)

ATTACHMENT 4



Legend:

- Denotes Existing Building Shadow
- Denotes Additional Proposed Building Shadow

DA APPLICATION
No.6 Ganora Street, Gladesville

Figured dimensions take preference to scale readings. Verify all dimensions on site before construction. Designers before proceeding with the work.

Scale 1:200 @ A3

10
0 5

Cad Draft P/L

DWG No: **13**
ISSUE: **A**

ANK 27 83 28 103 PM 19971784
25/01/2013
Ryde, NSW
P.O. BOX 144, GLADESVILLE, 2111

ITEM 2 (continued)

ATTACHMENT 5

● Indicates submission received



3 20 BEATRICE STREET, NORTH RYDE. LOT 73, DP 36618. Local Development Application for a new two storey dwelling. LDA2012/0408.

INTERVIEW: 5.05pm

Report prepared by: Team Leader - Fast Track Team

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

Report dated: 1/03/2013

File Number: grp/09/5/6/2 - BP13/319

1. Report Summary

Applicant: Provincial Homes P/L

Owner: B Ramamurthy & S Rajaram

Date lodged: 31 October 2012

This report considers a development application for the construction of a new two storey dwelling at the subject property. The dwelling consists of 4 bedrooms (main with ensuite and walk-in-robe), 2 bathrooms, sitting room, home theatre, family/meals room, lounge room, family / dining room, kitchen, laundry, alfresco and double garage.

The proposal has been assessed against the controls in Ryde's Development Control Plan (DCP) 2010: Part 3.3 - Dwelling Houses and Dual Occupancy (attached). There are three (3) non-compliances:

- Topography and Excavation – The maximum allowable fill within the building footprint is 0.9m. (The proposed fill at the front corner on the south-eastern side is 1.09m).
- Front Setback – The wall above the garage facing the street is to align with outside face of the garage below. (The proposed wall above the garage that faces the street is set back 1.5m)
- Daylight and Sunlight Access - At least 3 hours of sunlight to a portion of the surface of north facing living area windows of the neighbouring dwelling is to be provided between 9am and 3pm on June 21. (The submitted shadow diagrams indicate that less than 3 hours of sunlight will be provided to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21).

The DA has been notified to neighbours with 1 submission being received from the adjoining property owners at 22 Beatrice Street. The main concerns raised being:

- Loss of views to the CBD skyline.
- Loss of privacy specifically the windows on the first floor of the 'North-West Elevation'

ITEM 3 (continued)

All of the concerns raised in the submission have been addressed in the report. Also, the DCP non-compliances are relatively minor and do not warrant refusal of this application or design amendments. Overall, the proposal is considered acceptable for approval subject to conditions.

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

Public Submissions: One submission was received objecting to the development.

Clause 4.6 - RLEP 2010 (objection required). None required.

Value of works: \$391,010.00

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

RECOMMENDATION:

- (a) That Local Development Application No. LDA2012/0408 at 20 Beatrice Street North Ryde be approved subject to the conditions in **Attachment 2**.
- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

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

Report Prepared By:

Colin Murphy
Team Leader - Fast Track Team

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 3 (continued)

2. Site (Refer to attached locality map.)

Address	:	20 Beatrice Street, North Ryde.
Site Area	:	578.3m ² Frontage – 19.81m Depth – 33.02m/33.295m Rear – 15.24m
Topography and Vegetation	:	The site has a fall of approximately 3m from the rear to the front boundary and contains no significant vegetation with the exception of 1 tree to be retained at the front of this site.
Existing Buildings	:	Single storey dwelling with detached garage.
Planning Controls		
Zoning	:	Ryde LEP 2010 R2 Low Density Residential.
Other	:	Ryde DCP 2010

ITEM 3 (continued)



Figure 1: Locality Map

ITEM 3 (continued)



Figure 2: *Existing Dwelling (Front Elevation)*

3. Councillor Representations

Name of Councillor: Councillor Etmekdjian.

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

Date: 18 December 2012.

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

On behalf of applicant or objectors: On behalf of objectors at No. 22 Beatrice Street (adjoining neighbours to the southern side of the subject property).

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

4. Political Donations or Gifts

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

ITEM 3 (continued)

5. Proposal

The development proposes the construction of a new two storey dwelling at the subject property and is on the south-western side of Beatrice Street (close to the intersection with Amelia Street).

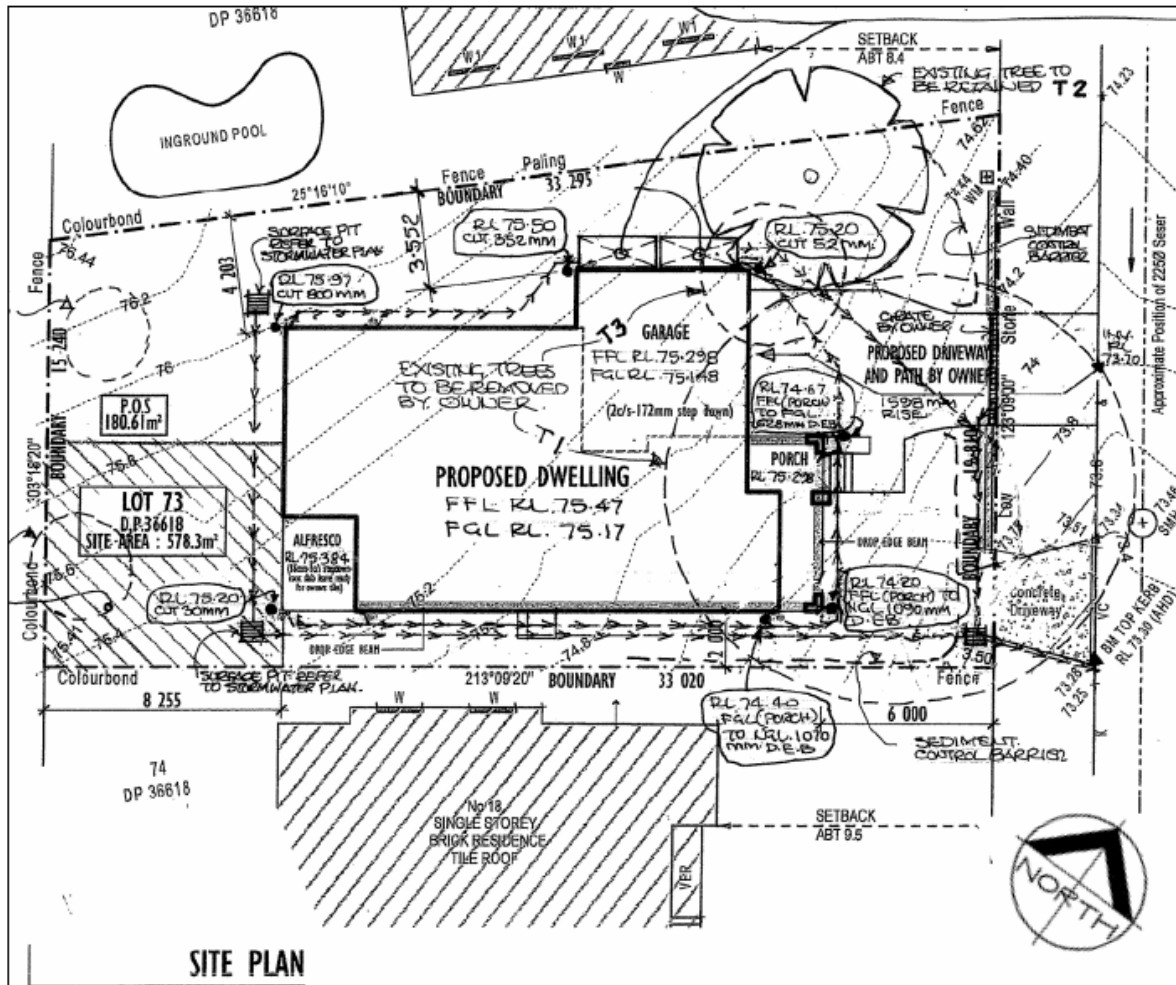


Figure 3:

Site Plan

ITEM 3 (continued)

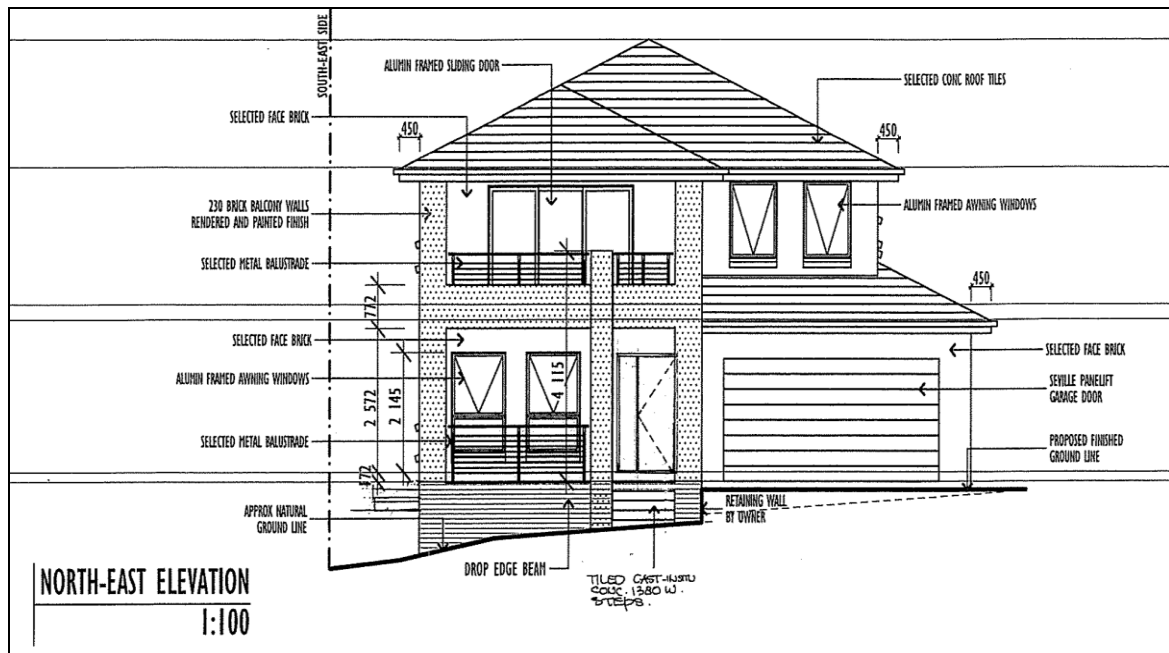


Figure 4: ***Proposed New Dwelling (Front Elevation)***

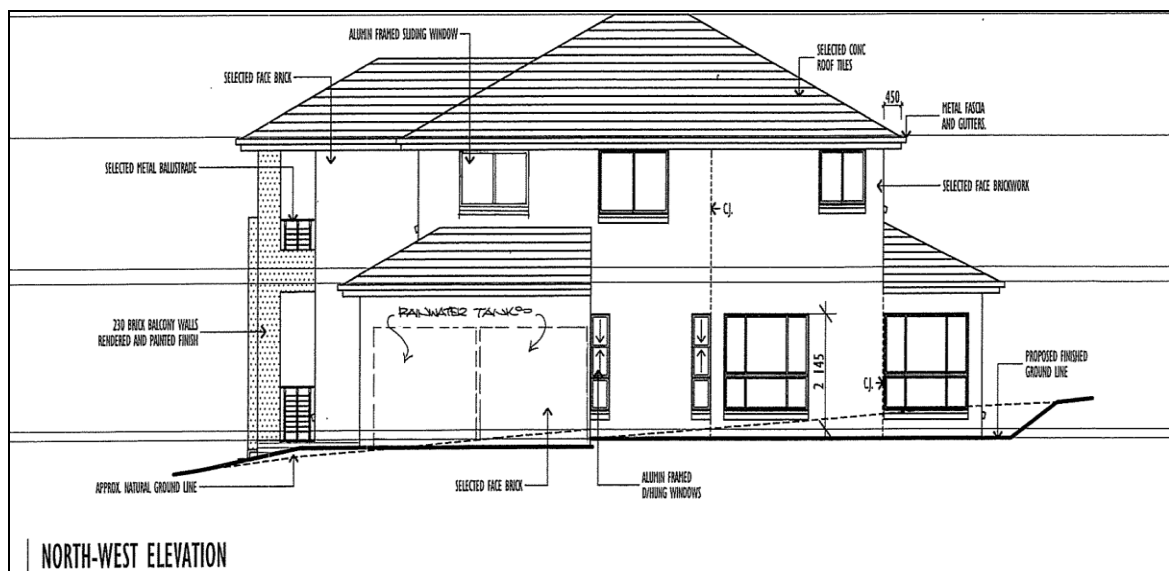


Figure 5: ***Proposed New Dwelling (North-Western Side Elevation)***

ITEM 3 (continued)**6. Background**

- On 31 October 2012 the application was submitted to Council.
- On 5 November 2012 neighbour notification commenced. (closing date for submissions – 20 November 2012)
- On 8 November 2012 a site inspection was carried out and photographs were taken.
- On 16 November 2012 a submission was received from the adjoining property owners at 22 Beatrice Street.
- On 26 November 2012 a meeting was held at Council with the owner of the subject property to discuss the concerns raised in the submission.
- On 18 December 2012 the application was called up to the Planning and Environment Committee by the Deputy Mayor - Councillor Etmekdjian.
- On 22 January 2013 a site meeting was held with the objecting neighbours to discuss their concerns listed in the submission detailed below.

7. Submissions

The proposal was notified to adjoining property owners in accordance with Development Control Plan 2010 – Part 2.1, Notification of Development Applications from 5 November 2012 to 20 November 2012. During this period 1 submission was received from the adjoining property owners at 22 Beatrice Street.

The main concerns raised being:

- **Loss of Views;**

Views of the CBD skyline (including clear views of the Sydney Harbour Bridge and Sydney Tower) which we currently enjoy from our living area will be completely lost as a result of the 2 storey dwelling proposed. I understand that the City of Ryde DCP 2010 (Clause 2.13.4 View Sharing) seeks "to ensure new dwellings endeavour to respect important views from living areas with neighbouring dwellings". I also am aware that the Land and Environment Court of NSW has its own 'Planning Principles' regarding view loss under 'Tenacity Consulting v Warringah'. In accordance with this case, the CBD skyline constitutes an 'Iconic view' and the applicant in this case shall ensure that the most 'skilful design' is made, to ensure we still retain our view of the

ITEM 3 (continued)

CBD skyline. In this regard we ask Council to request amended plans which lower the height of the new dwelling such as lowering the finished floor levels (i.e. excavate into the ground), lowering the pitch of the roof or incorporating a flat roof, and also moving the dwelling closer to the street. This will ensure that our current iconic views are retained and shared. The current proposed 2 storey dwelling does not constitute 'view sharing' as it will completely block our view of the Sydney Harbour Bridge and the city skyline. According to the "Tenacity Consulting v Warringah" case "taking it all away cannot be called view sharing".

Officer's Comment: Council's DCP 2010: Part 3.3 Dwelling Houses & Dual Occupancy (attached) – Section 2.13.4 'View Sharing' states:

- View sharing is where development is designed so as to retain the private views enjoyed from existing dwellings on neighbouring sites. However the equitable sharing of views is desired and existing dwellings will not always be able to retain existing views across neighbouring allotments.

Due to the topography of the site, the dwelling will be excavated to a maximum of 800mm at the rear of the north-western side. This effectively lowers the overall height of the dwelling which has an overall height of 8.45m (1m below the maximum allowable height). The depth of the allotment is only 33m, therefore the front setback of 6m and rear setback of 8.255m cannot be adjusted as they are in accordance with Council's DCP requirements.

The Land and Environment Court has established "planning principles" in relation to impacts on views from neighbouring properties. In **Tenacity Consulting P/L v Warringah Council** (2004) NSWLEC 140 Roseth SC, states that "the notion of view sharing is involved when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment".

(Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable). In deciding whether or not view sharing is reasonable, Commissioner Roseth set out a 4 step assessment in regards to 'reasonable sharing of view'. The steps are as follows:-

1. *Description of views enjoyed by adjoining property.*
2. *Consider from what part of the property the views are obtained. Ascertain whether view expectations are realistic.*
3. *Assess the extent of the impact for the whole property. The impact should be qualified on a scale from negligible to devastating.*
4. *Consider the reasonableness of the proposed view loss taking into account any non-compliance that is causing the view loss. (A development that complies with all planning controls would be more reasonable than one that breaches them).*

ITEM 3 (continued)

In this instance, the views currently enjoyed by 22 Beatrice Street can be assessed as follows:

Principles of view sharing: the impact on neighbours

Step 1

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Officer's Comment: Distant views towards the east (the CBD skyline) and also North Sydney / St Leonards etc. are currently enjoyed by 22 Beatrice Street from the first floor windows on the southern-eastern side of the dwelling. Photographs taken from the first floor windows on the southern-eastern side of the dwelling indicate that the views from these windows will be lost by the construction of the proposed development. A height pole was used to estimate the ridge line of the proposed new dwelling. (see photos below)



Figure 6: *View to the east (with Height Pole showing proposed
ridgeline of new dwelling at the front of the dwelling)*

ITEM 3 (continued)



Figure 7: *View to the east over existing single storey roof line*



Figure 8: *View to the east over existing single storey roof line*

ITEM 3 (continued)

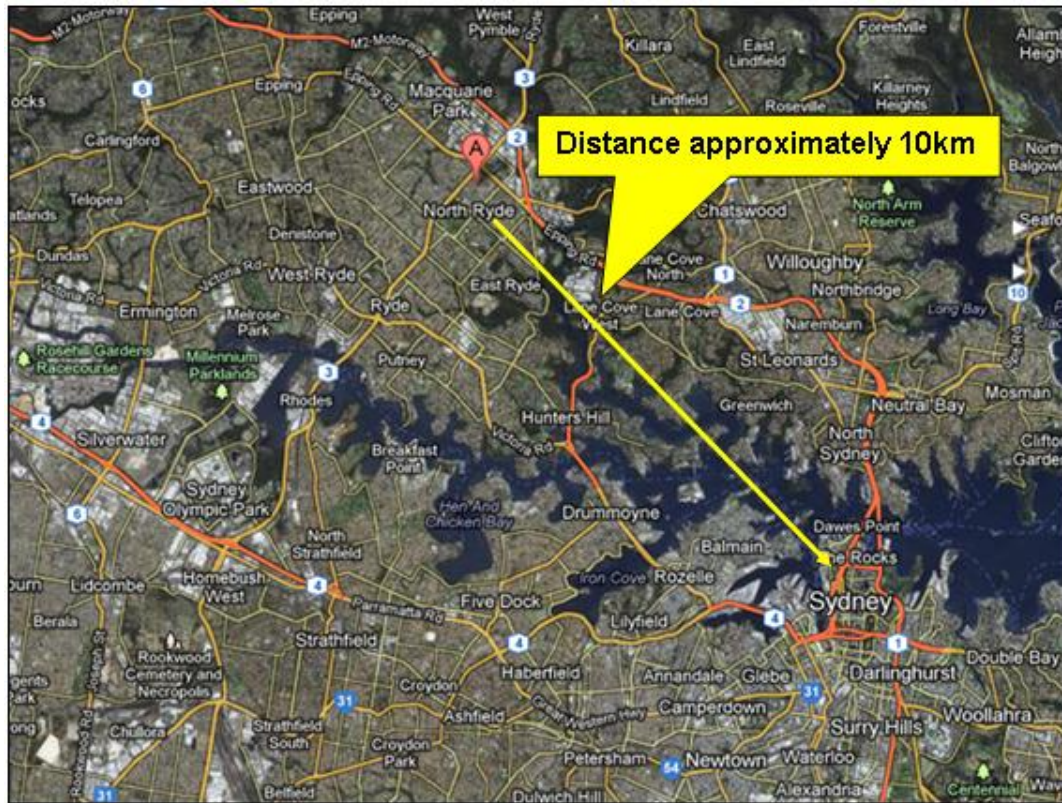


Figure 9: *Direction of CBD Views from 22 Beatrice Street*

ITEM 3 (continued)**Step 2**

The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Officer's Comment: An inspection of the objector's property (No 22 Beatrice Street) shows that the views are available from only the first floor level across the subject property (No 20 Beatrice). At the first floor level, these views are available to three of the bedrooms and a lounge room on the eastern side of the first floor level. The sill heights of these windows (approx 1.2m above the floor level) means that the views are only available from a standing position.

There are no views available to the rooms at the ground floor level of the neighbour's house, as these are blocked by the existing dwelling (at No 20) and boundary fencing.

It is important to note that the views currently enjoyed by the neighbouring property are side views across the subject site, which is recognised as being more difficult to protect.

It should also be noted that the views currently enjoyed by the neighbour are only available because the existing house on the site is single storey. Given that two storey dwellings are permissible under Council's planning controls, it is unreasonable to expect this view to be retained indefinitely.

Step 3

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them).

The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

ITEM 3 (continued)

Officer's Comment: The existing view is from the first floor level of the neighbour's house (views are not available from the ground floor level). The views available in this location are broad views to the east/south-east, and although the proposed dwelling will block the views towards the CBD, there will still be views available from the first floor lounge room at the front of the neighbour's house towards North Sydney/St Leonards across the front of the subject property.

Two storey dwellings are permissible to be built on the site, and also the subject dwelling is to be built in the only practical location for a new dwelling at this site. Given that the proposed dwelling will still allow some views for the neighbour (across the front of the subject site), it is considered that the extent of impact can be assessed as moderate.

Step 4

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Officer's Comment: The proposal complies with Council's controls with regard to height, setbacks and bulk and scale. The CBD skyline view (approximately 10 kilometres away) is a side view across 20 Beatrice Street and given that the site could at some stage be redeveloped it is considered an unrealistic expectation to retain it.

- **Loss of Privacy:**

I also wish to object on the grounds of privacy. According to the City of Ryde DCP 2010 (Clause 2.13.2 Visual Privacy) "appropriate levels of visual privacy to internal living spaces and external private open space" needs to be provided. The large windows of the proposed dwelling, specifically the windows on the first floor of the 'North-West Elevation' will look directly down into our rear yard/swimming pool. The occupants will also be able to view straight into our house on the ground floor. We ask Council to ensure that any windows on this side elevation are designed in a manner which minimises overlooking.

ITEM 3 (continued)

Officer's Comment: Council's DCP 2010: Part 3.3 Dwelling Houses & Dual Occupancy (attached) – Section 2.13.2 '*Visual Privacy*' states:

- Overlooking from bedroom windows is less of a concern than overlooking from the windows of other habitable rooms.

The dividing fence will restrict any loss of privacy from the ground floor level windows. There are three windows at first floor level on the north-western elevation of the proposed new dwelling facing the objector's property. Two of these windows are for bedrooms and the third is for an ensuite. Overlooking from first floor bedrooms does not cause privacy concerns as the occupancy hours of bedrooms are generally at night and when people are asleep. The ensuite window is also considered to have minimal impact. It should be noted that the north-western elevation is set back a minimum distance of 4.2m from the side boundary adjoining 22 Beatrice Street.

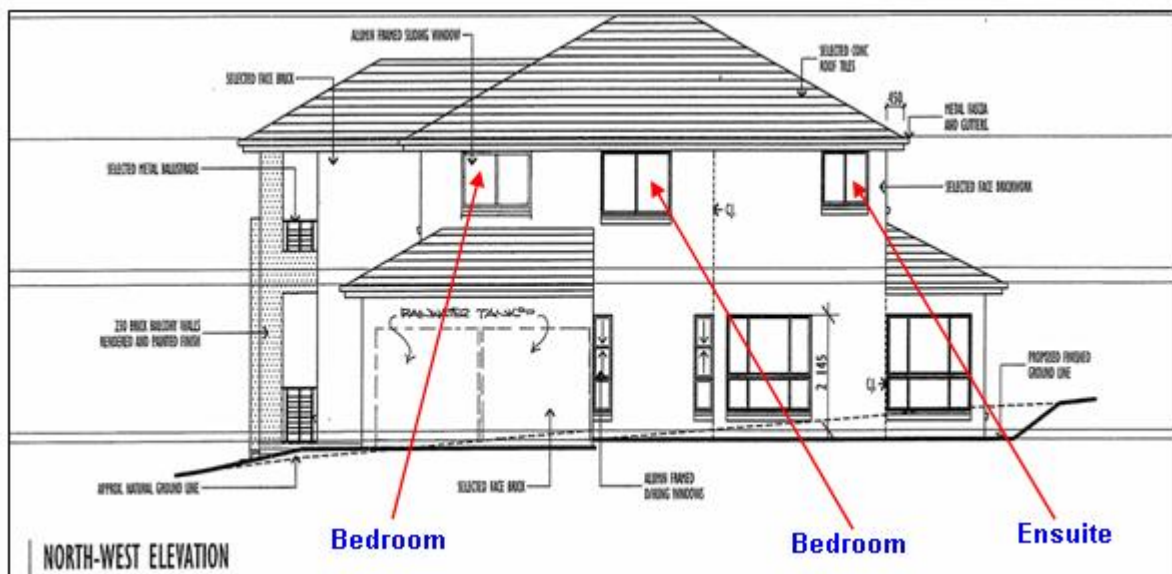


Figure 10: Window Openings on the North-Western Elevation

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

None required.

ITEM 3 (continued)**9. Policy Implications****Relevant Provisions of Environmental Planning Instruments etc:****(a) Ryde Local Environmental Plan 2010****Zoning**

The subject property is zoned R2 Low Density Residential. The proposal is permissible with Council's development consent.

Mandatory Requirements

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

Clause 4.3 – Height of buildings. Sub-clause (2) of this clause states that “the height of a building on any land is not to exceed the maximum height for the land shown for the land on the height of buildings map”. In this case, the maximum height is 9.5m. The maximum height of the proposed new dwelling is 8.45m, which complies with Ryde's LEP 2010.

Clause 4.4 - Floor Space Ratio. This clause prescribes a maximum floor space ratio (FSR) of 0.5:1. The FSR for the proposed development has been calculated to be 0.47:1, which complies with Ryde's LEP 2010.

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

A compliant BASIX Certificate has been submitted with the DA.

State Environmental Planning Policy No. 55 – Remediation of Land

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

ITEM 3 (continued)**(c) Any draft LEPs**

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

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

The proposal has been assessed using the development controls contained in Ryde DCP 2010. The DCP compliance table for this development proposal is held at **Attachment 1**.

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

- **Topography and Excavation** – Council’s DCP 2010; Part 3.3 - Dwelling Houses & Dual Occupancy (attached) - Section 2.5.2 *‘Topography and Excavation’* states:
 - The area under the dwelling footprint may be excavated or filled so long as maximum height of fill is 0.9m.

The proposed fill at the front corner on the south-eastern side is 1.09m. The increase in fill of 190mm is due to the topography of the site and has no impact on the overall development. This minor non-compliance is considered satisfactory. (see diagram - *proposed fill at front of property*)

ITEM 3 (continued)

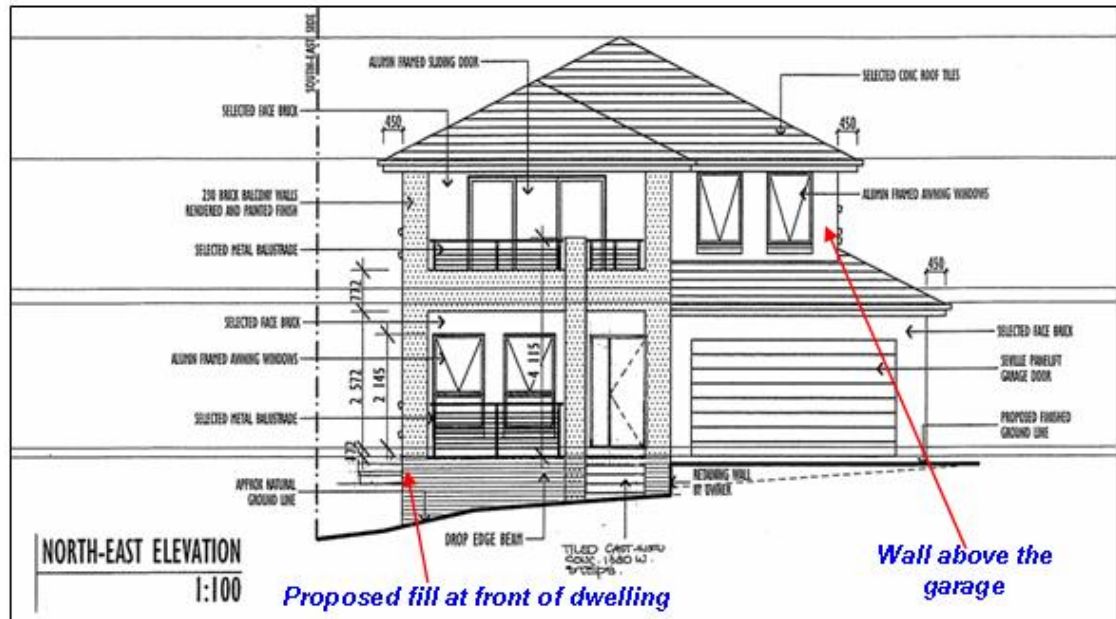


Figure 11:

Non - Compliances

- **Front Setback** – Council’s DCP 2010; Part 3.3 - Dwelling Houses & Dual Occupancy (attached) – Section 2.8.1 ‘Front Setbacks’ states:
 - The outside face of a wall built above a garage which faces the street, is to align with outside face of the garage wall below.

The proposed wall above the garage is set back 1.5m. The wall is setback further in this situation for design purposes. The irregular front elevation is considered to add interest to the streetscape and considered satisfactory.
(*see diagram above – *wall above the garage*)
- **Daylight and Sunlight Access** – Council’s DCP 2010; Part 3.3 - Dwelling Houses & Dual Occupancy (attached) – Section 2.13.1 ‘Daylight and Sunlight Access’ states:
 - For neighbouring properties ensure that windows to north-facing living areas of neighbouring dwellings receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their surface, where this can be reasonably maintained given the topography of the subject and neighbouring sites.

ITEM 3 (continued)

The submitted shadow diagrams indicate that the windows of the north-west facing living areas of the neighbouring dwelling at No.18 Beatrice Street will receive slightly less than 3 hours of sunlight between 9am and 3pm on June 21 over a portion of the surface. Given the orientation of the sites and that the proposed two storey dwelling is at a higher level than the adjoining single level dual occupancy, overshadowing in this situation cannot be avoided. It should be noted that no submissions have been received from the owners of 18 Beatrice Street in relation to the development as proposed.

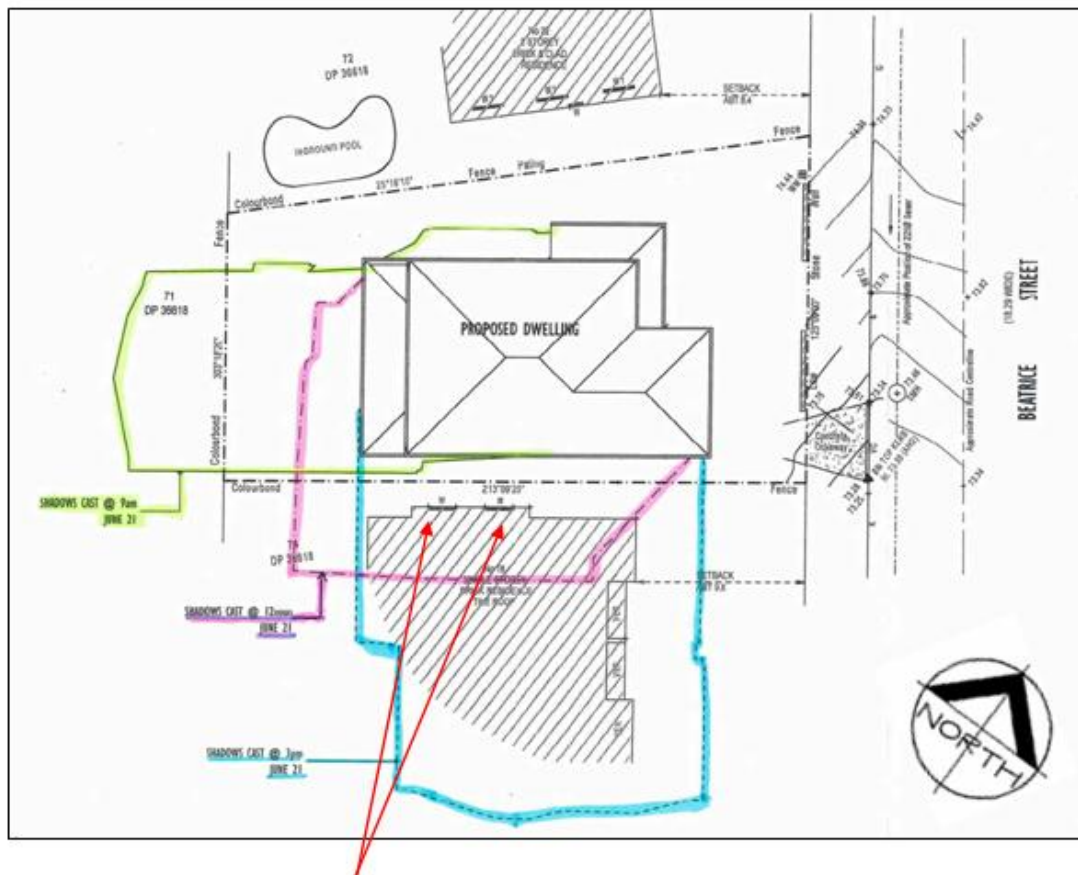


Figure 12: *North-west facing windows at No. 18 Beatrice Street*

10. Likely impacts of the Development

(a) Built Environment

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

ITEM 3 (continued)**(b) Natural Environment**

The proposal would have minimal impact in terms of the natural environment. The proposal involves the removal of existing vegetation (none of which is significant), whilst matters regarding soil erosion/sediment control etc could be addressed via standard conditions on any consent if Council decides to approve the DA.

11. Suitability of the site for the development

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

12. The Public Interest

It is considered that approval of this DA would be in the public interest. The application substantially complies with Council's DCP and allows renewal of existing older housing stock.

13. Consultation – Internal and External**Internal Referrals:**

Landscape Architect – 7 December 2012: Council's Consulting Landscape Architect has commented the following:

Five (5) onsite trees and three (3) offsite, neighbouring trees were assessed as part of the Arboricultural Impact Assessment (AIA). One (1) onsite tree, a mature Japanese Maple (*Acer palmatum*), is recommended for retention. Four (4) onsite trees were recommended for removal. The three (3) neighbouring trees were recommended for retention.

It is considered acceptable that the trees nominated for removal be removed provided the replacement tree planting indicated on the landscape plan are installed.

Trees recommended for retention are to be protected in accordance with Section 7 (Tree Protection Measures) of the AIA.

Tree Protection Zones (TPZ) and Structural Root Zones (SRZ) are nominated in the Tree Schedules (Appendix A) however a Tree Protection Plan has not been provided. A mark-up of the landscape plan is provided as part of this referral indicating approximate locations of the TPZ, SRZ and tree protection fencing (Refer to Figure 1). Additionally, Section 7.0 of the AIA is to be referenced in the drafting of any special conditions of consent.

ITEM 3 (continued)Recommendations:

- That the Water Gum (*Tristania laurina*) nominated for the front yard be offset a minimum of 3 metres from the front and side boundaries.
- That the Melaleuca Decora (*White Feather Honeymyrtle*) nominated for the rear yard be offset a minimum of 3 metres from the side and rear boundaries.
- Retaining walls are to be provided adjacent to the rear and north-western sides of the dwelling. (i.e. where the site is to be excavated)
- Cultivation should not be undertaken within the Tree Protection Zone (TPZ - 3.6m Radius) and Structural Root Zone (SRZ – 2.25m Radius) of Tree 2 (Acer Palmatum). Spot excavate only for planting.

The recommendations have been included in the proposed conditions of consent - see condition 1(a).

Survey Assistants – 20 November 2012: Council's Survey Assistants have commented that the proposed finished floor level of the garage is satisfactory as access from the street meets Council's driveway grade requirements.

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

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

16. Other Options

Mediation could be considered by Council as an option, however the site is constrained by its size and length (the front setback is 6m and rear setback is 8m which currently complies with Council's DCP). The dwelling has been lowered and it is already excavated up to 800mm in the south-western corner. To improve the view sharing in terms of the neighbour's expectations you may need to consider restricting the development on this site to single storey. This is not recommended as Council policy supports two storey development in R2 zones.

17. Conclusion

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

ITEM 3 (continued)

There are three (3) non-compliances with Council's DCP 2010: Part 3.3 Dwelling Houses and Dual Occupancy (attached), relating to fill within the building footprint, wall above the garage and overshadowing of the adjoining neighbours north facing windows. However, these issues are considered minor in the context of this development and does not warrant refusal or design amendments.

The proposal was notified to neighbouring properties with 1 submission being received from the adjoining property owners at 22 Beatrice Street, raising concerns about loss of views and privacy impacts. It is also considered that these issues do not warrant refusal of the application or design amendments, and can be addressed via standard DA conditions of consent.

The DA is recommended for approval subject to conditions.

ITEM 3 (continued)

ATTACHMENT 1

COMPLIANCE TABLE

RYDE LEP 2010	PROPOSAL	COMPLIANCE
4.3(2) Height • 9.5m overall	8.45m	Yes
4.4(2) & 4.4A(1) FSR • 0.5:1	0.47:1	Yes

DCP 2010	PROPOSED	COMPLIANCE
<i>Part 3.3 – Dwelling Houses and Dual Occupancy (attached)</i>		
Desired Future Character		
- Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is consistent with the desired future character of the low density residential area.	Yes
Dwelling Houses		
- To have a landscaped setting which includes significant deep soil areas at front and rear.	Front and rear gardens proposed.	Yes
- Maximum 2 storeys.	Two storeys	Yes
- Dwellings to address street	Dwelling adequately presents to main street frontage	Yes
- Garage/carports not visually prominent features.	Double garage is recessed from the main building line to ensure it is not visually prominent	Yes
Public Domain Amenity		
• Streetscape		
- Front doors and windows are to face the street. Side entries to be clearly apparent.	Front doors and windows face street	Yes
- Single storey entrance porticos.	Although the front portico extends two storeys, the upper component of the portico features a balcony and is therefore not considered to be part of the actual portico entrance itself.	Yes
- Articulated street facades.	Articulated street facades	Yes
- Corner buildings to address both frontages	Subject site is not located on a corner allotment	Yes

ITEM 3 (continued)

ATTACHMENT 1

DCP 2010	PROPOSED	COMPLIANCE
Public Views and Vistas		
<ul style="list-style-type: none"> - A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views. 	No water views available from the street, however, there are city skyline views. The proposed development maintains a compliant building envelope.	Yes
<ul style="list-style-type: none"> - Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. 	The proposed double garage is integrated with the proposed house and will not obstruct any view corridors.	Yes
<ul style="list-style-type: none"> - Fence 70% open where height is >900mm 	Existing front fence/retaining wall is to be retained	N/A
Pedestrian & Vehicle Safety		
<ul style="list-style-type: none"> - Car parking located to accommodate sightlines to footpath & road. 	The location of the new double garage is considered to accommodate satisfactory sightlines to the footpath and road.	Yes
<ul style="list-style-type: none"> - Fencing that blocks sight line is to be splayed. 	Existing front fence/retaining wall is to be retained	Yes
Site Configuration		
• Deep Soil Areas		
<ul style="list-style-type: none"> - 35% of site area min. 	Greater than 35% if the site area capable of deep soil planting	Yes
<ul style="list-style-type: none"> - Min 8x8m deep soil area in backyard. 	8m x 8m capable of being achieved in the rear yard.	Yes
<ul style="list-style-type: none"> - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). 	The front yard has available deep soil area.	Yes
Topography & Excavation		
Within building footprint:		
<ul style="list-style-type: none"> - Max cut: 1.2m 	Max cut: 800mm (rear corner on north-western side)	Yes
<ul style="list-style-type: none"> - Max fill: 900mm (0.9m) 	Max fill: 1.09m (front corner on south-eastern side)	No (1)
Outside building footprint:		
<ul style="list-style-type: none"> - Max cut: 900mm 	Max cut: 800mm (to be retained adjacent to south-eastern side and south-	Yes

ITEM 3 (continued)

ATTACHMENT 1

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> Max fill: 500mm No fill between side of building and boundary or close to rear boundary No fill in overland flow path Max ht retaining wall 900mm 	western side of dwelling) Max fill: No fill external to building footprint No fill proposed between side of building and boundary or close to rear boundary. Not in overland flow path 800mm	Yes Yes Yes Yes
Floor Space Ratio		
Ground floor	135.23m ²	Yes
First floor	<u>138.84m²</u>	
Total (Gross Floor Area)	<u>274.07m²</u>	
Less 36m ² (double) or 18m ² (single) allowance for parking	31.35m ² (not included)	Yes
Total area	<u>274.07m²</u>	Yes
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.	$\frac{274.07}{578.30} = 0.47:1$ FSR = 0.47:1	Yes
Height		
2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL).	2 storeys	Yes
Wall plate (Ceiling Height) - 7.5m max above FGL or - 8m max to top of parapet.	TOW RL: 80.90 FGL below (lowest point): RL: 74.40 TOW Height (max)= 6.5m	Yes
NB: <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> <i>FGL = Finished Ground Level</i> - 9.5m Overall Height	Ridge RL: 83.152 Lowest EGL RL: 75.20 Overall Height (max) = 7.95m	Yes
NB: <i>EGL – Existing ground Level</i> - Habitable rooms to have 2.4m floor to ceiling height (min).	2.43m min floor to ceiling height	Yes

ITEM 3 (continued)

ATTACHMENT 1

DCP 2010	PROPOSED	COMPLIANCE
Setbacks		
<ul style="list-style-type: none"> Side Two storey dwelling <ul style="list-style-type: none"> 1500mm to wall, includes balconies etc. Front <ul style="list-style-type: none"> 6m to façade (generally) Garage setback 1m from the dwelling facade Wall above is to align with outside face of garage below. Front setback free of ancillary elements e.g. RWT,A/C Rear <ul style="list-style-type: none"> 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. Note: 8.255m is 25% of max. site length. 	South-eastern side – 2m North-western side – 3.552m 6m to front porch Garage setback 2.665m from main dwelling facade Wall above garage is set back 1.5m Front setback is free of ancillary elements 8.255m	Yes Yes Yes No (2) Yes Yes
Car Parking & Access		
<ul style="list-style-type: none"> General <ul style="list-style-type: none"> Dwelling: 2 spaces max, 1 space min. Where possible access off secondary street frontages or laneways is preferable. Garage or carport may be in front If no other suitable position, no vehicular access to side or rear Max 6m wide or 50% of frontage, whichever is less. Behind building façade. Garages <ul style="list-style-type: none"> Garages setback 1m from façade. Total width of garage doors visible from public space must not exceed 5.7m and be setback not more than 300mm behind the outside face of the building element immediately above. 	2 spaces Subject site does not have a secondary street frontage Garage not located in front of dwelling house External width: 5.95m Behind facade Setback from façade: 2.665m from main building facade Width of opening: 4.8m Door setback: 0mm	Yes N/A Yes Yes Yes Yes Yes Yes

ITEM 3 (continued)

ATTACHMENT 1

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Garage windows are to be at least 900mm away from boundary. • Parking Space Sizes (AS) <ul style="list-style-type: none"> Double garages: 5.4m w (min) - Internal length: 5.4m (min) • Driveways <ul style="list-style-type: none"> - Extent of driveways minimised 	<p>No garage windows proposed</p> <p>5.7m 5.5m</p> <p>Driveway minimised</p>	<p>Yes</p> <p>Yes Yes</p> <p>Yes</p>
Landscaping		
<ul style="list-style-type: none"> • Trees & Landscaping <ul style="list-style-type: none"> - Major trees retained where practicable. - Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL e.g. stairs, terraces. - Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access). - Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy. - Backyard to have at least 1 tree with mature ht of 15m min and a spreading canopy. - Hedging or screen planting on boundary mature plants reaching no more than 2.7m. - OSD generally not to be located in front setback unless under driveway. - Landscaped front garden, with max 40% hard paving. 	<p>1 existing tree in the front setback area is to be retained and protected</p> <p>There is a physical connection between dwelling NGL.</p> <p>Obstruction free pathways are provided along the sides of dwelling</p> <p>1 x 10m tree provided</p> <p>1 8-15m high tree provided</p> <p>Hedge Planting proposed along the boundaries has a mature height of not more than 2m.</p> <p>No OSD in front setback</p> <p>Hard Paving: <40%</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Dwelling Amenity		
<ul style="list-style-type: none"> • Daylight and Sunlight Access <ul style="list-style-type: none"> - Living areas to face north where orientation makes this possible. 	<p>Living areas are generally orientated northward where possible</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 1

DCP 2010	PROPOSED	COMPLIANCE
Subject Dwelling: <ul style="list-style-type: none"> - Subject dwelling north facing windows are to receive at least 3 hrs of sunlight to a portion of their surface between 9am and 3pm on June 21. - Private open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21. 	<p>North facing windows will achieve minimum 3 hours solar access between 9am and 3pm on June 21</p> <p>Private open space of dwelling house will achieve at least 2 hours sunlight between 9am and 3pm on June 21</p>	<p>Yes</p> <p>Yes</p>
Neighbouring properties are to receive: <ul style="list-style-type: none"> - 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21. - At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	<p>The submitted shadow diagrams indicate that 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21 is provided.</p> <p>The submitted shadow diagrams indicate that less than 3 hours of sunlight will be achieved to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21.</p>	<p>Yes</p> <p>No (3)</p>
Visual Privacy <ul style="list-style-type: none"> - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. - Windows of living, dining, family etc. placed so there are no close or direct views to adjoining dwelling or open space. - Side windows offset from adjoining windows. - Terraces, balconies etc. are not to overlook neighbouring dwellings/private open space. 	<p>Windows to the sides of the dwelling are limited. A small balcony is situated at the front of the dwelling.</p> <p>Windows have been placed so there are no close or direct views to adjoining dwellings or open space.</p> <p>Windows are generally offset from the adjoining windows.</p> <p>The balcony at first floor level is at the front of the dwelling</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
View Sharing <ul style="list-style-type: none"> - The siting of development is to provide for view sharing. 	<p>The city skyline views from the adjoining property at 22</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 1

DCP 2010	PROPOSED	COMPLIANCE
Existing dwellings will not always be able to retain existing views across neighbouring allotments	Beatrice Street will be restricted with the construction of this development. However the view from 22 Beatrice Street is across the subject property	
Cross Ventilation <ul style="list-style-type: none"> Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation. 	The plan layout optimises access for prevailing breezes and cross ventilation.	Yes
External Building Elements		
<ul style="list-style-type: none"> Roof <ul style="list-style-type: none"> - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights. 	<ul style="list-style-type: none"> Articulated 450mm overhang minimum achieved None provided No skylights proposed None proposed 	<ul style="list-style-type: none"> Yes Yes Yes Yes Yes
Fencing		
<ul style="list-style-type: none"> Front/return: <ul style="list-style-type: none"> - To reflect design of dwelling. - To reflect character and 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 building max 900mm. - No colourbond or paling - Max pier width 350mm. Side/rear fencing: 	<ul style="list-style-type: none"> No front fencing proposed No proposed changes to the existing boundary fences 	<ul style="list-style-type: none"> N/A N/A
Part 7.2 – Waste Minimisation & Management		
Submission of a Waste Management Plan	The applicant has submitted a Waste Management Plan	Yes

ITEM 3 (continued)

ATTACHMENT 1

DCP 2010	PROPOSED	COMPLIANCE
Part 8.2 – Stormwater Management		
<ul style="list-style-type: none"> Stormwater 		
- Drainage is to be piped in accordance with Part 8.2 – Stormwater Management.	Drainage is to be piped to the street kerb in accordance with Part 8.2 – Stormwater Management.	Yes
Part 9.6 – Tree Preservation		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway.	No major trees are located on the subject site.	Yes

BASIX	PROPOSAL	COMPLIANCE
All ticked “DA plans” commitments on the BASIX Certificate are to be shown on plans (list) BASIX Cert 444642S dated 25 September 2012.		
<ul style="list-style-type: none"> RWT 3000L 	2 x 5,000 tanks	Yes
<ul style="list-style-type: none"> Thermal Comfort 	Passed	Yes
<ul style="list-style-type: none"> Hot water – Gas instantaneous 5 star 	Shown on plans	Yes
<ul style="list-style-type: none"> Natural lighting - kitchen - 4 bathrooms/WC 	Shown on plans	Yes
Water Target 40	Water: 42	Yes
Energy Target 40	Energy: 49	Yes
Correct description of property/proposal on 1 st page of Certificate.	Correct details shown	Yes

ITEM 3 (continued)

ATTACHMENT 2

CONDITIONS OF CONSENT

GENERAL

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

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

Document Description	Job No.	Sheet No.	Dated
• Ground Floor Plan	12027	Sheet 1 of 9	Issue C - 26.10.2012
• First Floor Plan	12027	Sheet 2 of 9	Issue C - 26.10.2012
• Elevations	12027	Sheet 3 of 9	Issue C - 26.10.2012
• Elevations	12027	Sheet 4 of 9	Issue C - 26.10.2012
• Section	12027	Sheet 5 of 9	Issue C - 26.10.2012
• Site Plan	12027	Sheet 6 of 9	Issue C - 26.10.2012
• Roof Plan	12027	Sheet 7 of 9	Issue C - 26.10.2012
• BASIX Commitments	12027	Sheet 8 of 9	Issue A - 26.10.2012
• Landscape Plan	-	Dwg No.L01/1-K17411 (as amended in red)	Revision A - 29.10.2012

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

- (a) The landscape plan is to be amended to reflect the amendments as marked in red which show:
 - a. That the Water Gum (*Tristanopsis laurina*) nominated for the front yard be offset a minimum of 3 metres from the front and side boundaries.
 - b. That the Melaleuca Decora (*White Feather Honeymyrtle*) nominated for the rear yard be offset a minimum of 3 metres from the side and rear boundaries.
 - c. Retaining walls are to be provided adjacent to the rear and north-western sides of the dwelling. (i.e. where the site is to be excavated)
 - d. Cultivation should not be undertaken within the Tree Protection Zone (TPZ – 3.6m Radius) and Structural Root Zone (SRZ – 2.25m Radius) of Tree 2 (*Acer Palmatum*). Spot excavate only for planting.

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

ITEM 3 (continued)

ATTACHMENT 2

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate numbered 444642S dated 25 September 2012.
4. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
5. **Hoardings.**
 - a. A hoarding or fence must be erected between the work site and any adjoining public place.
 - b. Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
6. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
7. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
8. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
9. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
10. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

PRIOR TO CONSTRUCTION CERTIFICATE

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

ITEM 3 (continued)

ATTACHMENT 2

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

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

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

11. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
12. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
13. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: dwelling houses with delivery of bricks or concrete or machine excavation)
14. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
 - a. Infrastructure Restoration and Administration Fee
 - b. Enforcement Levy
15. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.
16. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
17. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

ITEM 3 (continued)

ATTACHMENT 2

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

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

Or telephone 13 20 92.

Engineering Conditions Prior to Construction Certificate

18. **Site Stormwater System.** To ensure satisfactory stormwater disposal and minimise downstream stormwater impacts, stormwater runoff from of the site shall be collected and piped by gravity flow to public road via an **On-site detention** system designed in accordance with DCP 2010 Part 8.2, Stormwater Management. Accordingly, detailed engineering plans prepared by a chartered civil engineer with NPER registration with Engineers Australia together with certification indicating compliance with this condition are to be submitted with the Construction Certificate application.
19. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveways, carparking areas, landscaping and stormwater drainage design where applicable to ensure smooth transition.
20. **Driveway Grades.** The driveway access and footpath crossing(s) shall be designed to fully comply with the relevant section of AS 2890.1.-2004 and Council's issued alignment levels. Engineering certification indicating compliance with this condition is to be submitted with the Construction Certificate application.
21. **Vehicle Footpath Crossings.** Concrete footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The crossing(s) are to be constructed in plain reinforced concrete with location, design and construction shall conform to Council requirements. Accordingly, prior to issue of Construction Certificate an application shall be made to Council's Public Works division for driveway crossing alignment levels. These issued levels are to be incorporated into the design of the driveway access and clearly delineate on plans submitted with the Construction Certificate application

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

22. **Site Sign**
 - a. A sign must be erected in a prominent position on site, prior to the commencement of construction:

ITEM 3 (continued)

ATTACHMENT 2

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- b. Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

23. **Residential building work – insurance.** In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
24. **Residential building work – provision of information.** Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA has given the Council written notice of the following information:
- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor; and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act.
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder; and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If any of the above arrangements are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates has given the Council written notice of the updated information (if Council is not the PCA).

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

DURING CONSTRUCTION

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

ITEM 3 (continued)

ATTACHMENT 2

26. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
27. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
28. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
29. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
 - c. Fill is allowed under this consent;
 - d. The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - e. the material is reused only to the extent that fill is allowed by the consent.
30. **Construction materials.** All materials associated with construction must be retained within the site.
31. **Site Facilities**
The following facilities must be provided on the site:
 - (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
32. **Site maintenance**
The applicant must ensure that:
 - f. approved sediment and erosion control measures are installed and maintained during the construction period;
 - g. building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
 - h. the site is clear of waste and debris at the completion of the works.
33. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".
34. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

ITEM 3 (continued)

ATTACHMENT 2

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

35. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate numbered 446908S dated 13 September 2012.
36. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.
37. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of the **Occupation Certificate**.
38. **Letterboxes and street/house numbering.** All letterboxes and house numbering are to be designed and constructed to be accessible from the public way. Council must be contacted in relation to any specific requirements for street numbering.

Engineering Conditions Prior to Occupation Certificate

39. **Disused Gutter Crossing.** Any disused gutter crossings shall be removed and kerb and gutter reinstated and footpath restored to Council's satisfaction.
40. **Work-as-Executed Plan.** To ensure stormwater drainage works are completed in accordance with approved plans, a Work-as-Executed plan of the constructed site drainage system certified by a registered surveyor is to be submitted to the Principal certifying Authority and Council (If Council is not the appointed PCA) prior to issue of Occupation Certificate

ITEM 3 (continued)

ATTACHMENT 2

The W.A.E plans is to note all departures clearly in red on a copy of the approved Construction Certificate plans and certification shall also be obtained from a chartered civil engineer with NPER registration with Engineers Australia, indicating the constructed works complied with DCP 2010. Part 8.2.

41. **On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. The plate may be purchased from Council's Customer Service Centre at Civic Centre, Devlin Street, RYDE.
42. **Positive Covenant, OSD.** To ensure the constructed On-site detention system will be maintained in operable condition a Positive Covenant under Section 88 E of the Conveyancing Act 1919, shall be created and registered on the subject land requiring the proprietor of the land to maintain the constructed stormwater detention system.

The terms of the 88 E instruments are to be generally in accordance with the Council's draft terms for Maintenance of Stormwater Detention Systems as specified in City of Ryde, Development Control Plan 2010: - Part 8.4; Title Encumbrances, Section 7 and to the satisfaction of Council.

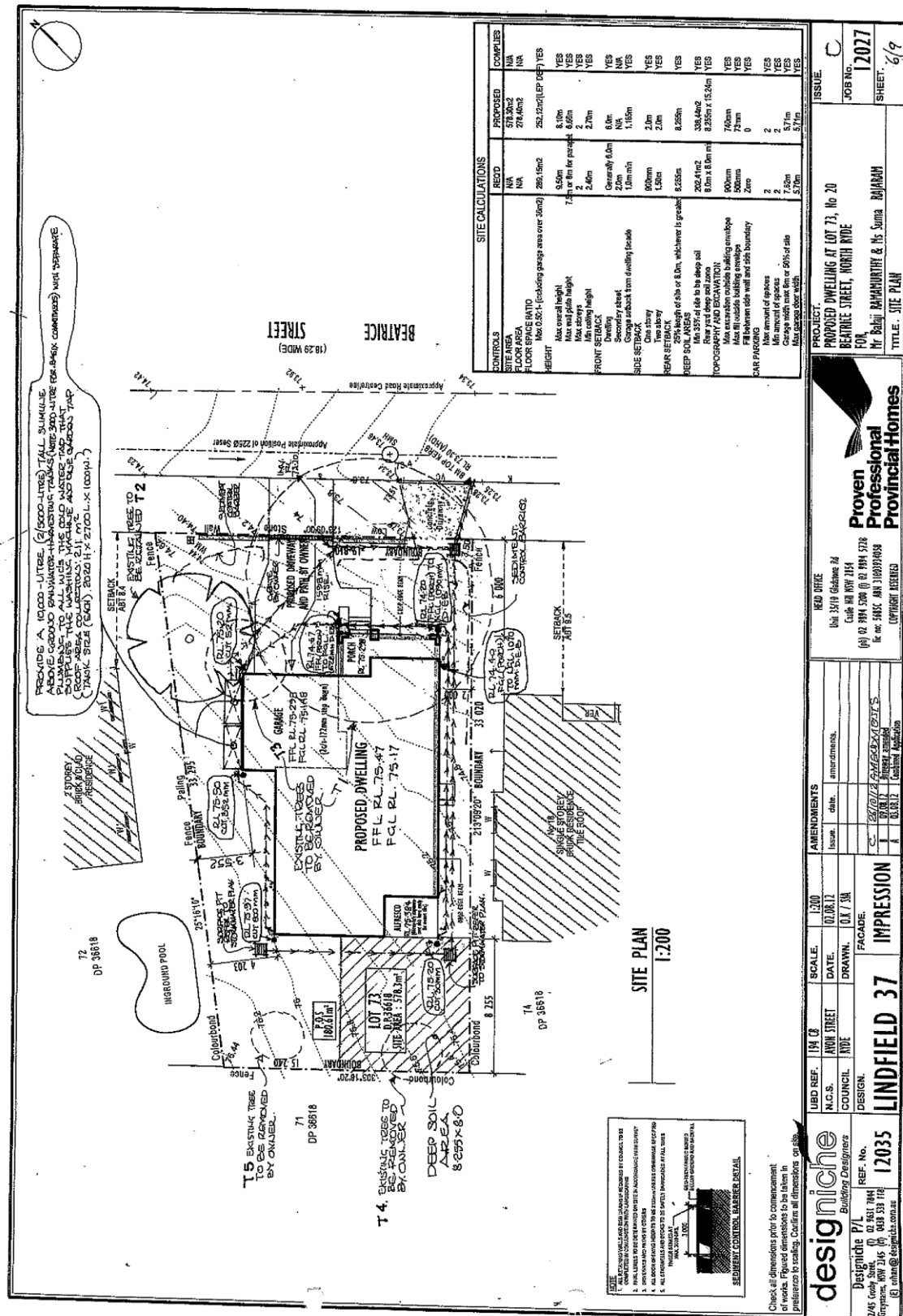
OPERATIONAL CONDITIONS

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

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

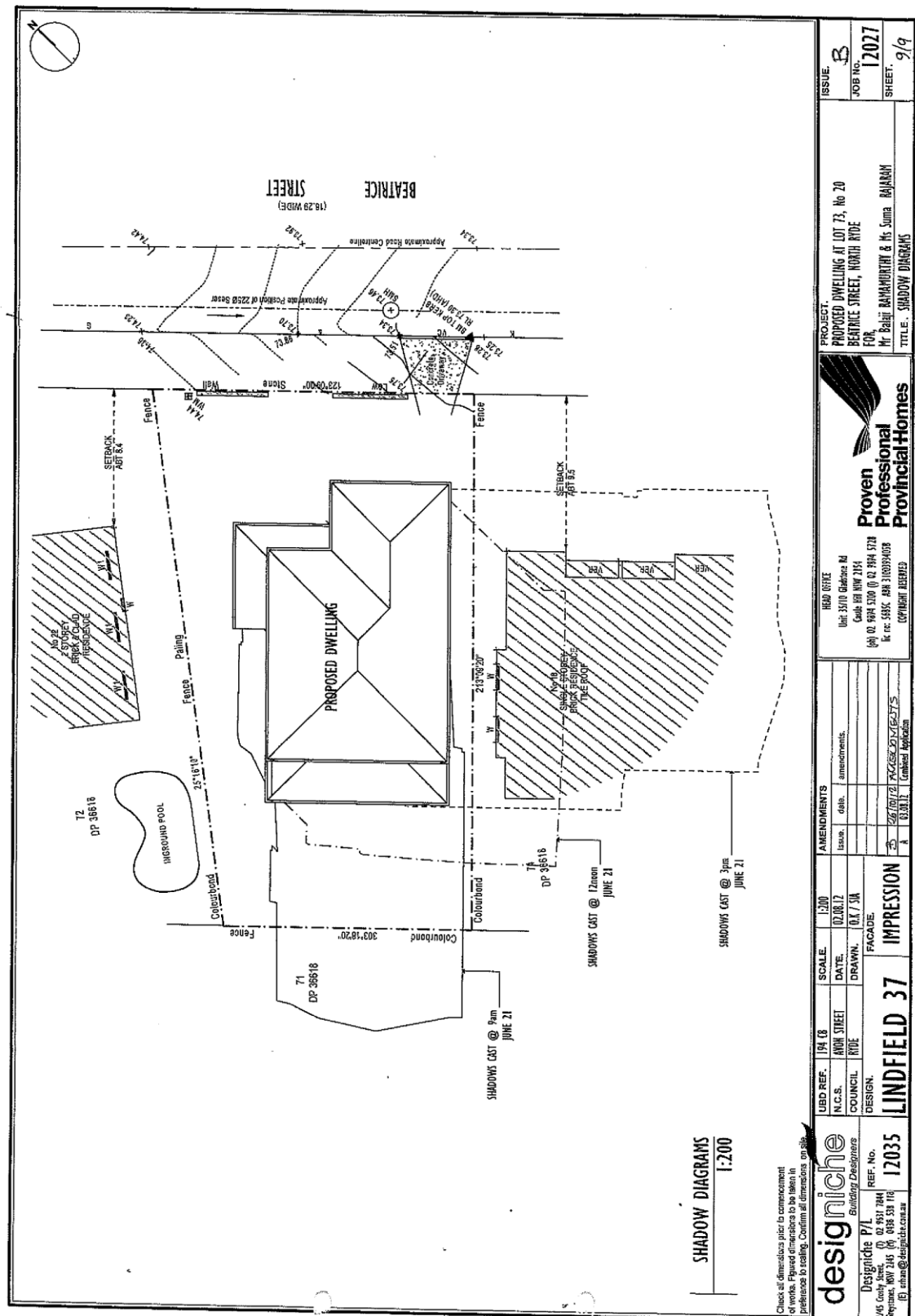
ITEM 3 (continued)

ATTACHMENT 3



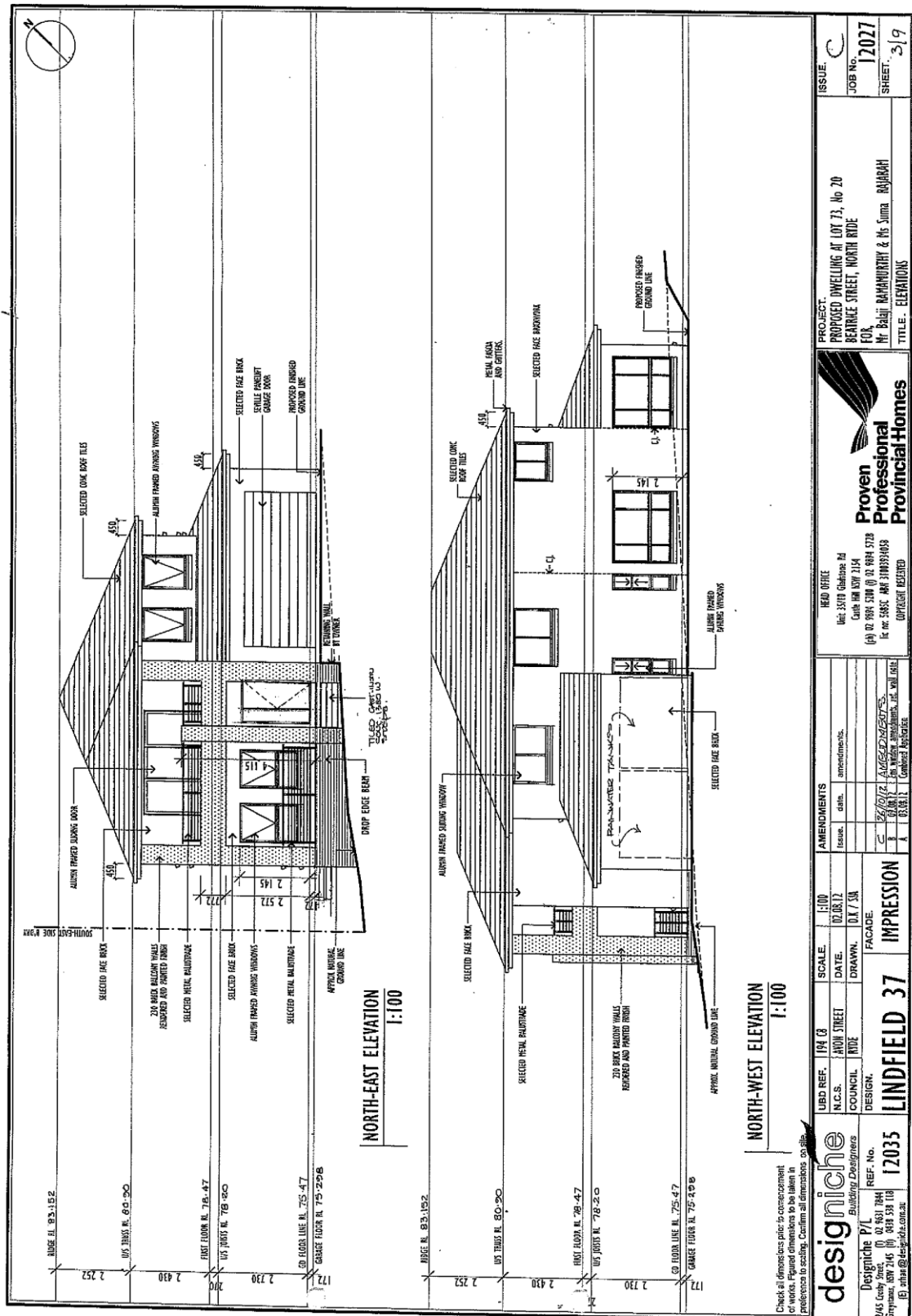
ITEM 3 (continued)

ATTACHMENT 3



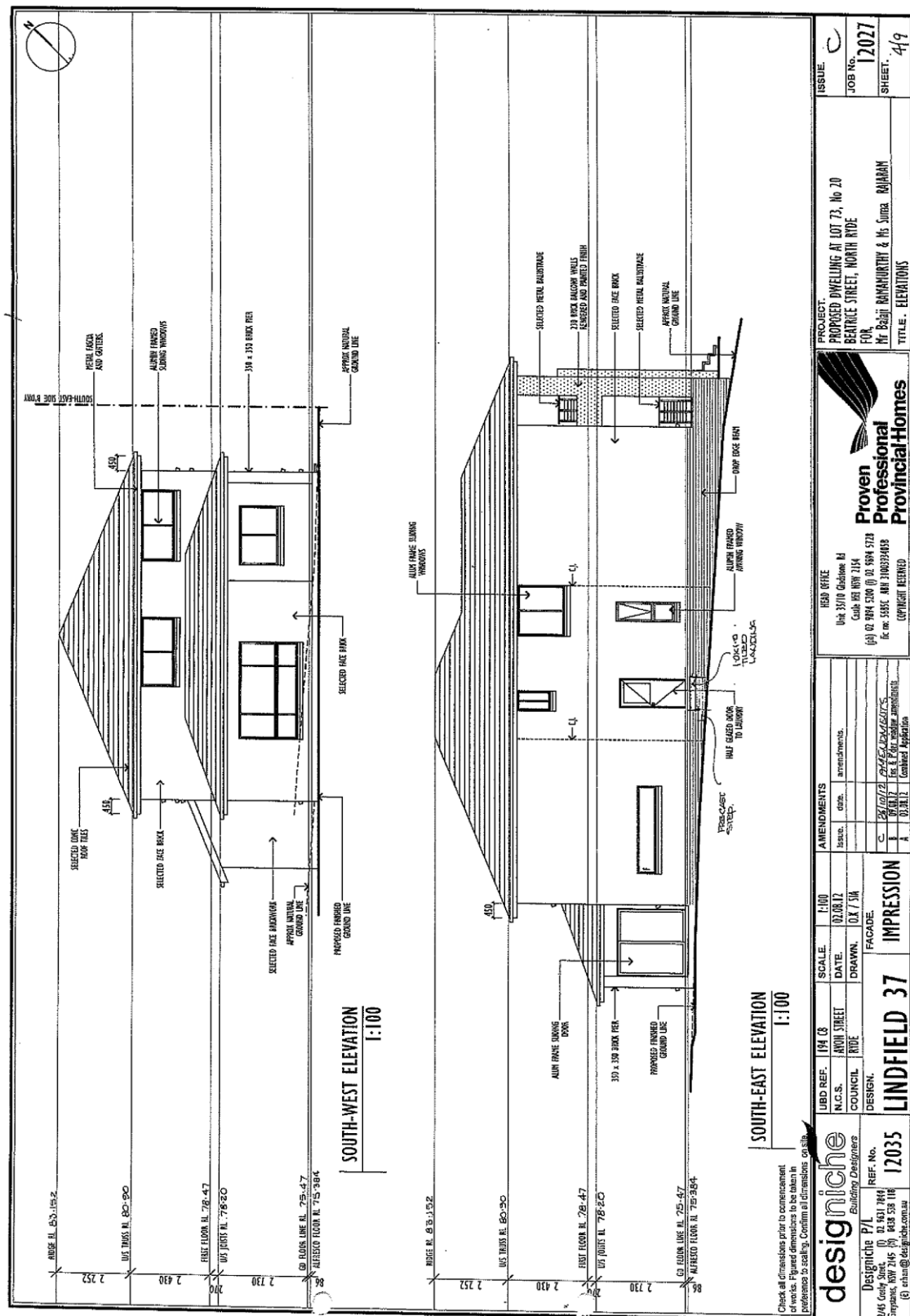
ITEM 3 (continued)

ATTACHMENT 3



ITEM 3 (continued)

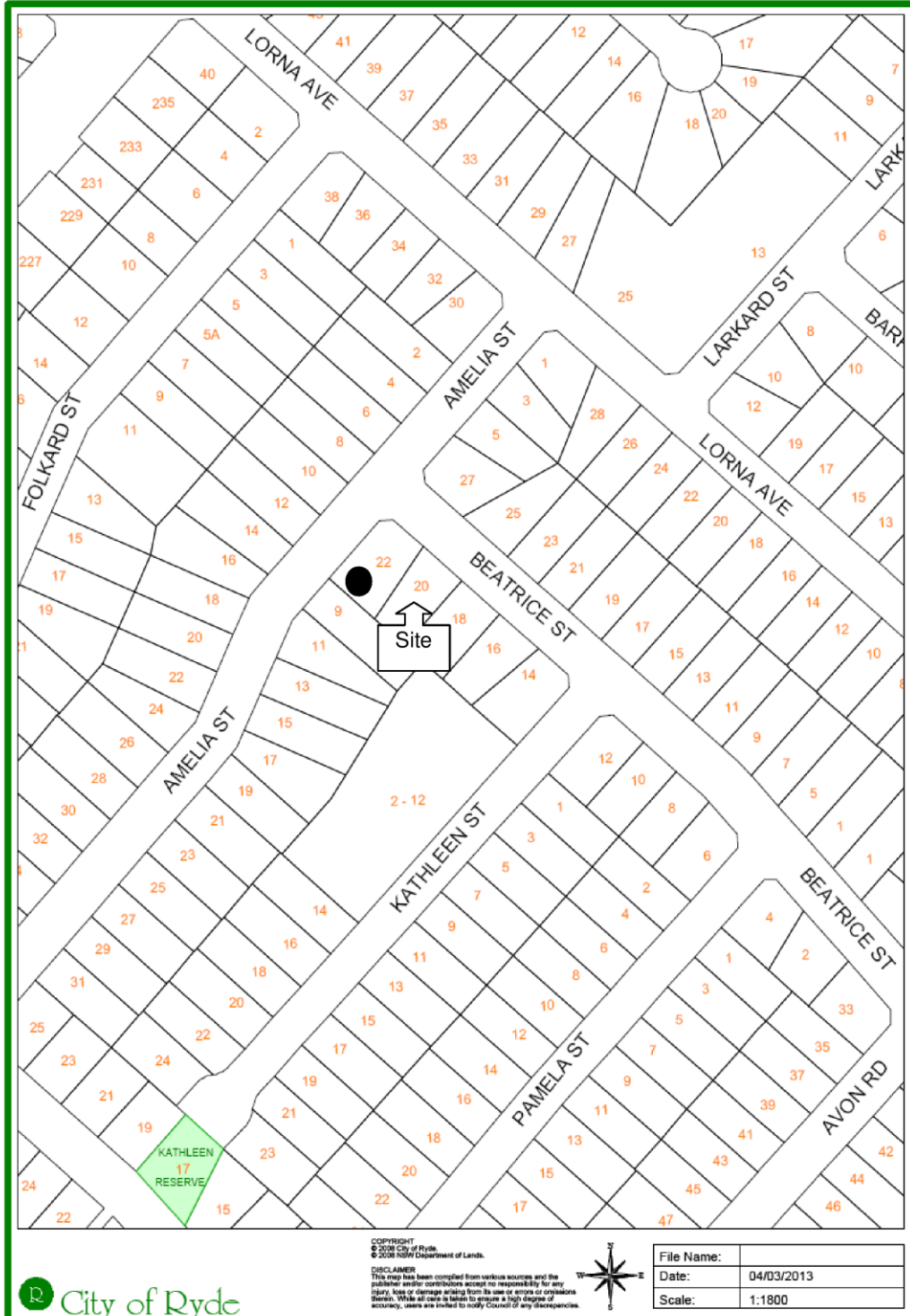
ATTACHMENT 3



ITEM 3 (continued)

ATTACHMENT 4

 Indicates submission received



4 62 DARVALL ROAD EASTWOOD. LOT 11 DP 6247. Local Development Application for demolition of the existing dwelling and erection of an attached dual occupancy. LDA2011/380.

INTERVIEW: 5.10pm

Report prepared by: Team Leader - Assessment

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

Report dated: 5/03/2013

Previous Items: 4 - 62 DARVALL ROAD,
EASTWOOD. LOT 11 DP 6247.
Local Development Application
for demolition of existing dwelling
and erection of a attached dual
occupancy. LDA2011/380. -
Planning and Environment
Committee - 16 October 2012

File Number: grp/09/5/6/2 - BP13/346

1. Report Summary

Applicant: Residential Logistics Pty Ltd

Owner: Mr H Chua and Ms T Diep

Date lodged: 19 July 2011

This report has been prepared to enable Council's further consideration of a development application (DA) for a two storey dual occupancy development at the subject property.

At the Council's Ordinary Meeting of 23 October 2012, it was resolved to defer consideration of this DA for a mediation between the applicant, objectors and the Group Manager Environment & Planning.

The mediation meeting was held on 21 November 2012 at the Ryde Planning & Business Centre to discuss the issues of concern. Subsequently, on 22 January 2013, amended plans were received which include the following design changes:

- Reduction in the first floor footprint (rear of proposed building is now single storey)
- Increase in floor space at ground floor level (towards the rear)
- Reduction in the maximum ridge height from RL89.843 to RL89.655 in the latest plans, as part of an overall change to the roof design.

These amended plans were re-notified to the neighbours between 25 January and 12 February 2013, and one further submission was received, from the owners of No 60 Darvall Road (to the north).

ITEM 4 (continued)

The applicant's amended plans have substantially addressed the major issue of concern with this application – which was the impacts on the views from the objector's property. It is considered that the changes proposed by the applicant (to relocate the floor space from the first floor level to ground floor level) would result in a significant improvement in the views available for the neighbour, and therefore it is considered to be a reasonable design outcome to preserve views.

Reason for Referral to Planning and Environment Committee: Previously considered by the Committee; and requested by Councillor Perram and (former) Councillor Butterworth.

Public Submissions:

Original Plans: Six (6) submissions were received objecting to the development.
Amended Plans (following mediation): One (1) further submission received.

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

Value of works? \$568,000

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. LDA2011/0380 at 62 Darvall Road, Eastwood, being LOT 11 DP 6247 be approved subject to the conditions contained in **Attachment 1**.
- (b) That the persons who made submissions be advised of Council's decision.

ATTACHMENTS

- 1 Proposed Conditions
- 2 Mediation Meeting Notes
- 3 Compliance Table
- 4 A4 Plan
- 5 Previous Report
- 6 A3 Plans - subject to copyright provisions - **CIRCULATED UNDER SEPARATE COVER**

ITEM 4 (continued)

Report Prepared By:

Chris Young
Team Leader - Assessment

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 4 (continued)**2. Background**

The previous report to Planning & Environment Committee 16 October 2012 contains an assessment of the proposal as originally submitted, and details of the background to the development application up until that point in time.

At that meeting, the Committee recommended that this DA be deferred for a mediation to be undertaken between the applicant, objectors and the Group Manager Environment & Planning. This recommendation was considered and adopted at Council's Ordinary Meeting on 23 October 2012.

Following this resolution, a mediation meeting was held on 21 November 2012 at the Ryde Planning & Business Centre, attended by the applicant and their representatives, the objector (No 60 Darvall) and Council's Group Manager Environment & Planning and Team Leader – Assessment. The notes of the Mediation Meeting, including details of the persons attending and the summary of discussions, are held at Attachment 2 to this report.

3. Proposal – Amended Plans

At the Mediation Meeting, the applicant had produced amended plans (not formally tabled/lodged) which relocated a large amount of floor space from the rear of the first floor level to the ground floor. In response, Council officers advised that such changes would go a long way towards addressing the issues of concern. The neighbour advised that they still had concerns regarding impacts on their property.

In addition, it was suggested that further changes should be considered, including lowering the roof pitch of the rear single-storey portion; relocate/realign the rear wall of the first floor of the Dwelling A to match Dwelling B; and consider a rear balcony at first floor level which may provide a more open structure at the rear instead of a solid wall.

On 22 January 2013, the applicant submitted formal amended plans for this DA. The amendments included:

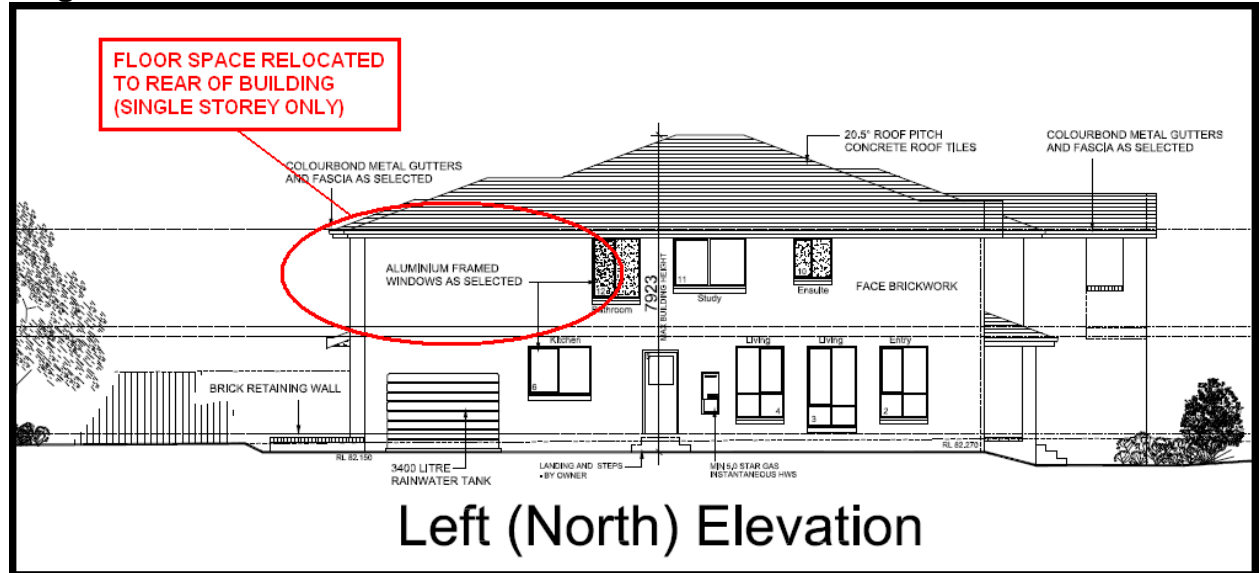
- Reduction in the first floor footprint (rear of proposed building is now single storey)
- Increase in floor space at ground floor level (towards the rear)
- Reduction in the maximum ridge height from RL89.843 to RL89.655 in the latest plans, as part of an overall change to the roof design.

The “suggested amendments” (as above) were not included in the formal amended plans, as they were only offered by Council staff (without obligation) as further design suggestions in addition to the substantial design changes already made by the applicant.

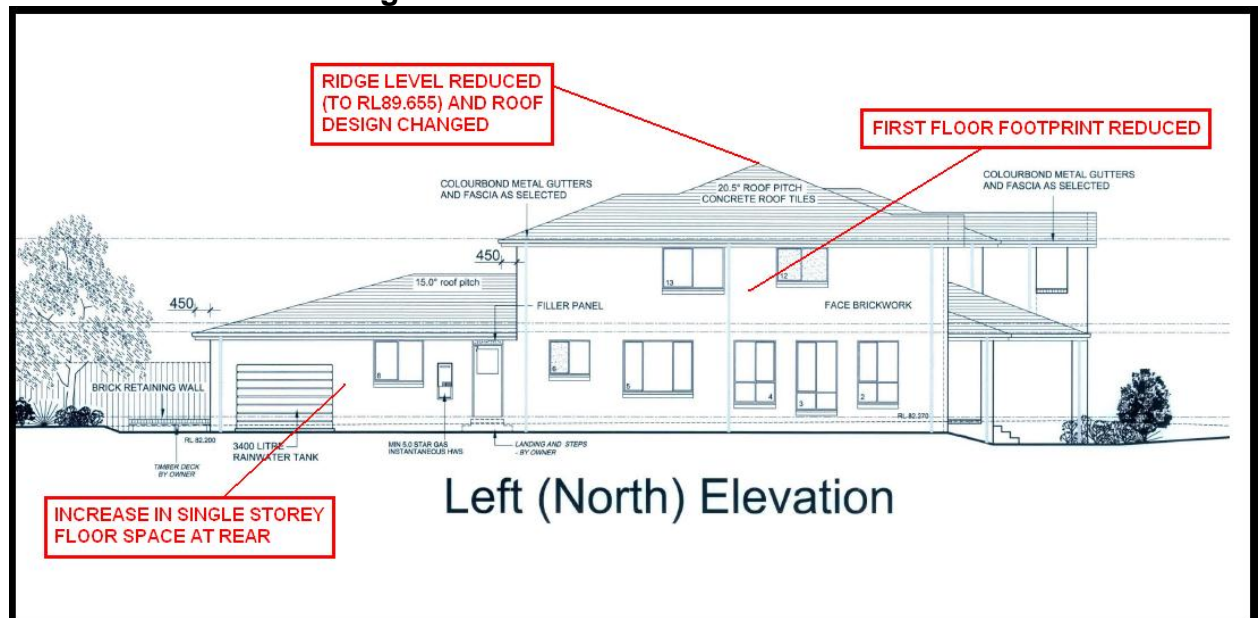
ITEM 4 (continued)

The following drawings compare the current amendments to the original/previous proposal for this development.

Original Plans – North Elevation:



Amended Plans following Mediation – North Elevation:



4. Submissions

The amended plans were notified to adjoining owners and previous objectors, in accordance with Development Control Plan 2010 – Part 2.1, Notification of Development Applications, for a period between 25 January and 12 February 2013.

ITEM 4 (continued)

In response to this process, one (1) further submission was received, from the owners of No 60 Darvall Road to the north.

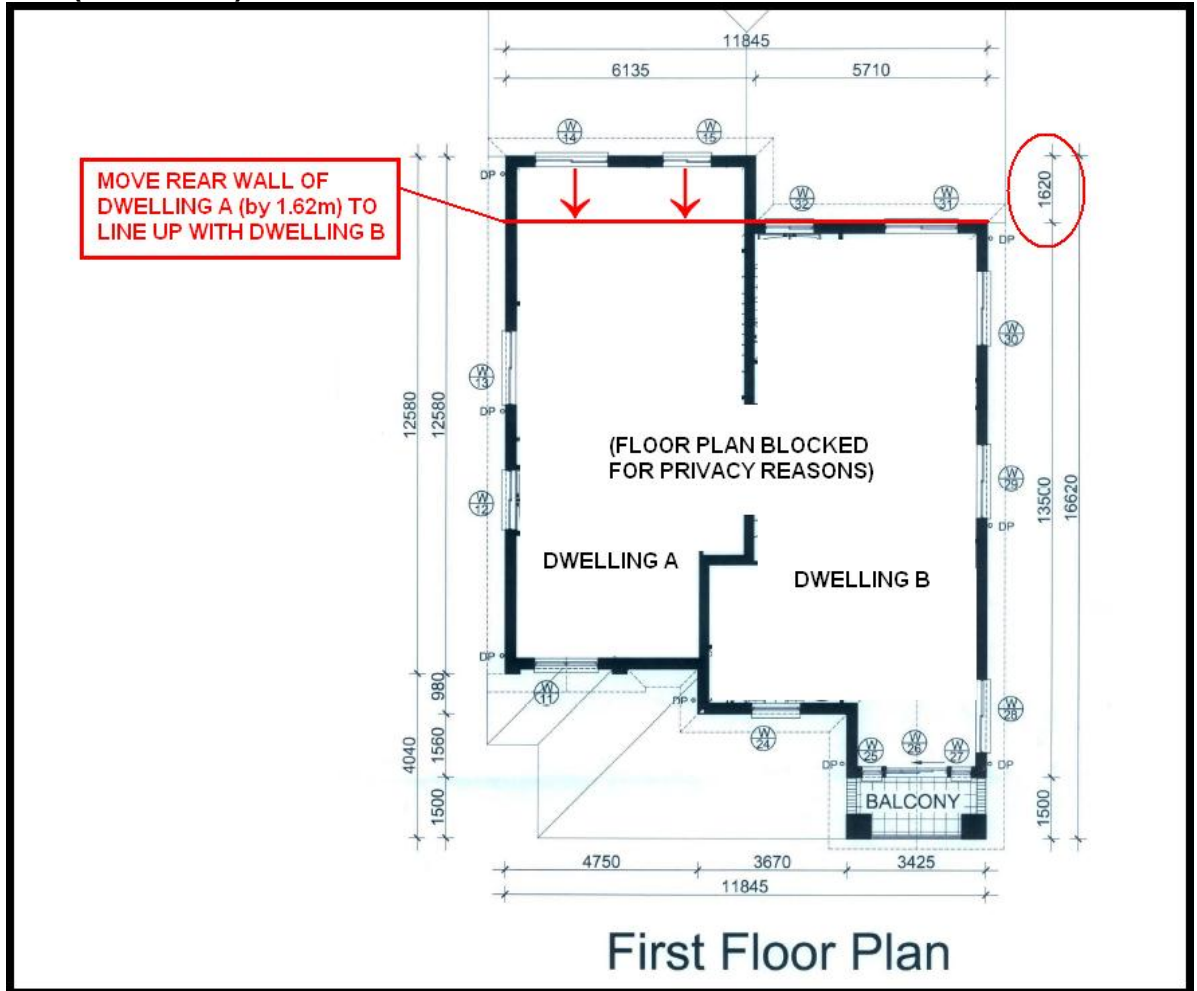
The issues of concern in the additional submission are summarised and discussed as follows:

A. Mediation design changes. *The neighbour is concerned that the applicant has not included all of the suggested design changes as included in the Mediation Meeting minutes – in particular the suggestion to move the first floor of Dwelling A to match Dwelling B – and therefore they are not prepared to remove their objection to the development.*

Comment: As noted in “Background” above, at the Mediation Meeting, the applicant offered to make substantial design changes including reducing the floor space at the first floor level by some 36m² (compared to the original plans) and relocating this to now be at the ground floor level (current plans).

The further design change in question involves moving the first floor of Dwelling A by some 1.62m to match Dwelling B, so that the rear wall lines up (as shown in the following drawing).

ITEM 4 (continued)

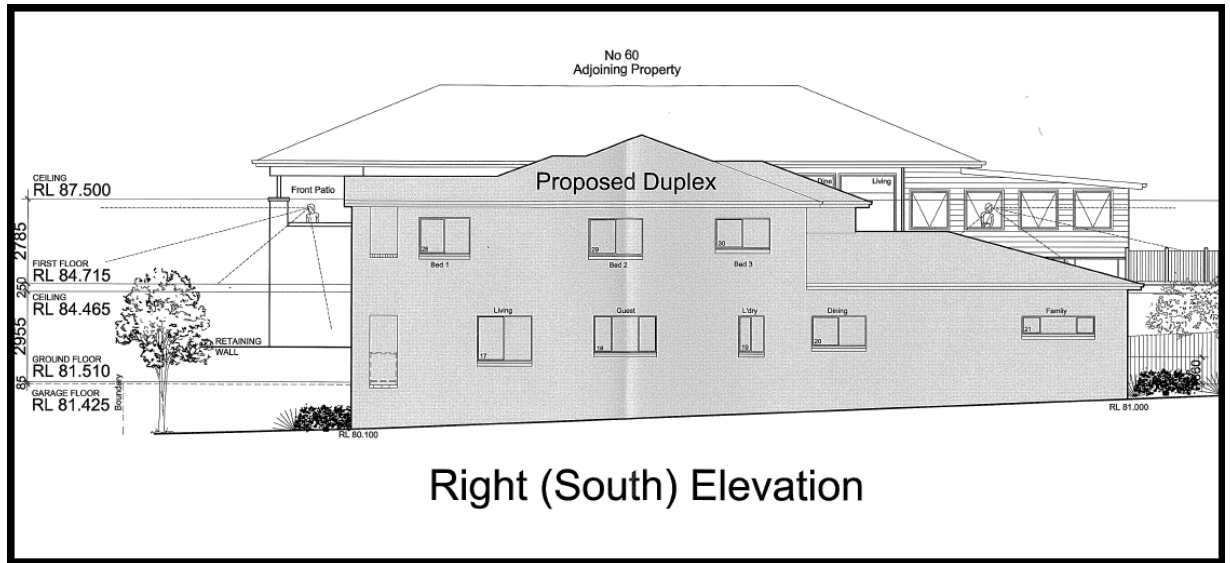


This suggestion was made by Council staff during the Mediation discussions (without obligation) in addition to the changes already made by the applicant. It was not indicated/implied that making these changes was necessary for Council staff to support the amendments.

It is considered that the changes proposed by the applicant (to relocate the floor space from the first floor level to ground floor level) would result in a significant improvement in the views available for the neighbour, and therefore it is considered to be a reasonable design outcome to preserve views for the neighbour. Moving the rear first floor wall of Dwelling A to forward to line up with Dwelling B would only result in a slight improvement compared to the amendments already proposed by the applicant. If Council is mindful to require this further amendment, it could be required as a condition of consent.

ITEM 4 (continued)

The following drawing is the South Elevation of the proposal with the neighbour's dwelling included (background), and it shows that the views out over the rear (single storey) portion of the dual occupancy are maintained for the rear part of the neighbour's dwelling (former rear verandah now enclosed to be a rumpus room, and also living room).



B. Privacy Impacts. *The neighbour at No 60 has requested that privacy screens be provided to the 3rd and 4th bedroom of Dwelling A and the 3rd bedroom of Dwelling B, to prevent direct viewing into their living areas.*

Comment: This request would appear to be excessive given that the rooms in question are bedrooms, which are not the primary living areas and are recognised as not causing significant privacy impacts as they are mostly used when people are asleep.

C. Excavation Impacts. *The neighbour is concerned that the excavation for the proposed dual occupancy will occur below the base footings of their home, and they are concerned about impacts on their property.*

Comment: This matter was fully addressed in the previous report to the Planning & Environment Committee. In summary, it is considered that these concerns can be addressed via conditions of consent as follows:

- Condition 4 – support for neighbouring dwellings
- Condition 18 – excavation during demolition
- Condition 36 – geotechnical certification (drainage plans)
- Condition 42 – excavation adjacent to adjoining land
- Condition 43 – pre-commencement dilapidation report
- Condition 61 – post-construction dilapidation report.

ITEM 4 (continued)**5. Policy Implications****Relevant Provisions of Environmental Planning Instruments etc:****(a) Ryde Local Environmental Plan 2010**Zoning

Under Ryde LEP 2010, the property is zoned R2 Low Density Residential. The proposal is permissible with consent within this zoning.

Mandatory Requirements

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

Clause 4.3 – Height of buildings. Sub-clause (2) of this clause states that “the height of a building on any land is not to exceed the maximum height for the land shown for the land on the height of buildings map”. In this case, the maximum height is 9.5m. The maximum height of the proposed new dwelling is 8.502m, which complies with Ryde LEP 2010.

Clause 4.4 - Floor Space Ratio. This clause prescribes a maximum floor space ratio (FSR) of 0.5:1. The FSR for the proposed development has been calculated to be 0.499:1, which complies with Ryde LEP 2010.

(b) Relevant SEPPs**State Environmental Planning Policy (BASIX) 2009**

A compliant BASIX certificate for the amended plans has been submitted with the DA. A standard condition requiring compliance with this BASIX certificate has been included in the recommended conditions of consent (see Condition 3).

(c) Any draft LEPsDraft Local Environmental Plan 2011

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.

ITEM 4 (continued)**(d) The provisions of any Development Control Plan applying to the land**Development Control Plan 2010

An assessment of the amended plans appears in the Compliance Table attached to this report (see Attachment 3).

There are some areas of non-compliance with DCP 2010 which are discussed as follows:

1. Topography and Excavation (Height of Retaining Walls): Ryde DCP 2010 prescribes a maximum retaining wall height of 900mm. The proposal involves retaining walls of up to 1.4m along the northern boundary which does not comply.

Comment: in relation to topography and excavation, the objectives of the DCP are:

1. *To retain natural ground levels and existing landform.*
2. *To create consistency along streetscapes.*
3. *To minimise the extent of excavation and fill.*
4. *To ensure that excavation & fill does not result in an unreasonable loss of privacy or security for neighbours.*

Given the significant slope at this site, it is difficult to ensure full compliance with the numerical requirements, however it is considered that the above objectives have been achieved. It is also considered that the issues resulting from the excavation along the northern boundary can be resolved via conditions of consent, in particular the need to address possible impacts on the structural integrity of the neighbour's property (No 60 Darvall Road).

2. Garage Setback: DCP 2010 requires that garages must be setback 1m behind the front building elevation. The proposal has the garages forward of the front entry by 3.59m (Dwelling A), but 450mm behind the structure of the front patio for Dwelling B, and does not comply with the DCP.

Comment: The objective for this control is to ensure that car parking structures and garage doors are not prominent features in the streetscape. The front elevation of the development has a range of design features including the patio and balcony for dwelling B, and a staggered front wall at the 1st floor level. It is considered that the design of the development would be acceptable in terms of streetscape presentation despite this numerical non-compliance in terms of garage setback.

ITEM 4 (continued)

3. Garage Width: DCP 2010 states that garages and carports facing the public street are to have a maximum width of 6 metres or 50% of the frontage, whichever is less. The total width of the garages in this proposal is 7.17m which does not comply.

Comment: As with the garage setback, the objective for this control is also to ensure that car parking structures and garage doors are not prominent features in the streetscape. The proposed driveway width has been designed to assist vehicle manoeuvring, to ensure cars can enter and leave the site in a forward direction. The extent of the non-compliance is numerically minor, and the visual impact is lessened by provision of 2 x single width garage doors.

4. Hard-Paving within Front Garden Area: DCP 2010 prescribes a maximum 40% hard-paved area within the front garden area. The development proposes approximately 56.5% hard-paved area which does not comply.

Comment: This non-compliance is caused by the provision of a vehicle turning area within the front setback (in addition to the normal driveway width) to ensure safe vehicle egress. There is sufficient space between the raised vehicle turning area and the front boundary to provide landscaping to soften the visual impact. Provided this is done, it is considered that this would be an acceptable design outcome in terms of streetscape, given the need to provide safe vehicle egress.

5. Solar Access (for neighbouring properties): DCP 2010 states that for neighbouring properties, the windows to north-facing living areas of neighbouring properties must receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their surface, where this can be reasonably maintained given the orientation and topography of the subject and neighbouring sites.

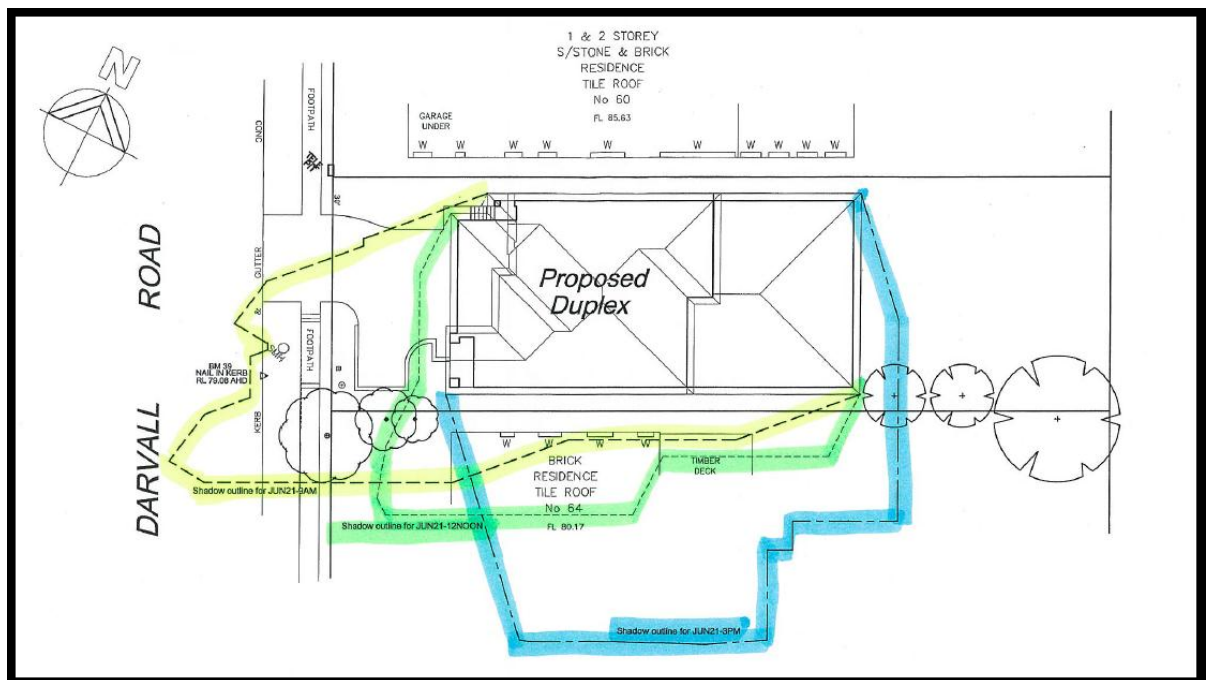
The proposed development would result in less than three (3) hours sunlight being available for the north-facing living room windows at No 64 Darvall Road and therefore does not comply with this requirement.

Comment: As noted in the previous report to the Planning & Environment Committee, solar access is difficult to protect for No 64 Darvall (which is both due south and down hill from the subject site).

ITEM 4 (continued)

The amendments that have been made to the proposal (ie reducing the first floor footprint so that the rear of the proposed building is now single storey) would also have the effect of slightly improving solar access available for No 64 Darvall. Although it still does not comply with the DCP requirement, it is a significant improvement on the original proposal, and is considered to be a reasonable outcome in terms of overshadowing given the orientation and topography of this location.

The following are the amended shadow diagrams for this development:



Section 94 Contributions Plan 2007

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

ITEM 4 (continued)

The contributions that are payable with respect to this development are as follows:

Contribution Plan	Contribution Payable
Community and Cultural Facilities	\$4,088.87
Open Space and Recreation Facilities	\$10,065.95
Civic and Urban Improvements	\$3,423.52
Roads and Traffic Management Facilities	\$466.90
Transport and Accessibility Facilities	\$0.00
Cycleways	\$291.70
Stormwater Management Facilities	\$926.84
Plan administration	\$78.65
Total:	\$19,342.43

NOTE:

The above calculation has been reviewed by the two Assessment Officers. A copy of rates and calculation spreadsheet is on file.

Conclusion

The proposal has been assessed using the heads of consideration listed in Section 79C of the Environmental Planning & Assessment Act 1979.

The amended plans following the Mediation Meeting for this development have substantially resolved the main issue of concern with this proposal, which was the impact on views available from the neighbouring property (No 60 Darvall Road). It is considered that the changes proposed by the applicant (to relocate the floor space from the first floor level to ground floor level) would result in a significant improvement in the views available for the neighbour, and therefore it is considered to be a reasonable design outcome to preserve views.

Accordingly this DA is presented back to the Planning & Environment Committee for consideration and determination. Approval is recommended subject to the conditions in Attachment 1.

ITEM 4 (continued)

ATTACHMENT 1

DRAFT CONDITIONS OF CONSENT

**62 DARVALL ROAD, EASTWOOD
LDA2011/380**

GENERAL

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

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

Document Description	Drawing / Sheet No.	Dated
Site Plan & Floor Plans	JOB RL1706 Sheet 1 of 2	Revision H dated 21 Dec 2012
Elevations, Sections and BASIX Commitments	JOB RL1706 Sheet 2 of 2	Revision H dated 21 Dec 2012

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate numbered 356947S_03 dated 21 January 2013.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.

Protection of Adjoining and Public Land

5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.

ITEM 4 (continued)

ATTACHMENT 1

6. **Hoardings.**
 - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
7. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
8. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
9. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

Works on Public Road

10. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
11. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

Engineering Conditions

12. **Design and Construction Standards.** All engineering plans and work shall be carried out in accordance with the requirements as outlined within Council's publication *Environmental Standards Development Criteria 1999 and City of Ryde Development Control Plan 2010 Section 8* except as amended by other conditions.
13. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
14. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees.

ITEM 4 (continued)

ATTACHMENT 1

Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.

15. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No drainage work shall be carried out on the footpath without this permit being paid and a copy kept on the site.

DEMOLITION CONDITIONS

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

A Construction Certificate is not required for Demolition.

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

ITEM 4 (continued)

ATTACHMENT 1

- (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with the Work Cover Authority, in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.
19. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.
20. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
21. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
22. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.
23. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.

PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

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

ITEM 4 (continued)

ATTACHMENT 1

24. **Section 94.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of any **Construction Certificate**:

Contribution Plan	Contribution Payable
Community and Cultural Facilities	\$4,088.87
Open Space and Recreation Facilities	\$10,065.95
Civic and Urban Improvements	\$3,423.52
Roads and Traffic Management Facilities	\$466.90
Transport and Accessibility Facilities	\$0.00
Cycleways	\$291.70
Stormwater Management Facilities	\$926.84
Plan administration	\$78.65
Total:	\$19,342.43

These are contributions under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 16 March 2011.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

A copy of the Section 94 Development Contributions Plan may be inspected at the Ryde Planning and Business Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

25. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
26. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.

ITEM 4 (continued)

ATTACHMENT 1

27. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation)
28. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
- (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
29. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.
30. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
31. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

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

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

Or telephone 13 20 92.

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

ITEM 4 (continued)

ATTACHMENT 1

Engineering Conditions

33. **Boundary Levels.** The amended site specific levels for the internal driveway and the street alignment levels shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.
34. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. The driveway design is to incorporate Council's issued footpath and gutter crossing levels where they are required as a condition of consent. A driveway plan, longitudinal section from the centreline of the public road to the garage floor, and any necessary cross-sections clearly demonstrating that the driveway complies with the above details, and that vehicles may safely manoeuvre within the site without scraping shall be submitted with the Construction Certificate application.
35. **On-Site Stormwater Detention.** Stormwater runoff from all impervious areas shall be collected and piped by gravity flow to Darvall Road via rainwater tanks and on-site detention system in accordance with BASIX and City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management.

Accordingly, an OSD tank with minimum internal depth of 600mm or an Atlantis cell on-site detention system shall be designed to have a minimum storage and PSD of 9.0m³ and 6.0 L/S respectively. All gutters, downpipes and pipeline conveying runoff to the OSD tank are to be designed for the 1 in 100 year, 5 minute duration storm.

Amended engineering plans with the new layout including certification indicating compliance with this condition are to be submitted with the construction certificate application.

36. **Geo-technical Certification.** Prior to issue of the Construction Certificate a certification from a suitably qualified geotechnical engineer shall be submitted certifying that the engineer has sighted the drainage plan prepared for the development and the details on the plan comply Council's requirements for sites potentially at risk of slope instability.
37. **Water Tank First Flush.** A first flush mechanism is to be designed and constructed with the water tank system. Details of the first flush system are to be submitted with the construction certificate application.

ITEM 4 (continued)

ATTACHMENT 1

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

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

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

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

39. **Site Sign**

- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

ITEM 4 (continued)

ATTACHMENT 1

- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- 40. **Residential building work – insurance.** In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 41. **Residential building work – provision of information.** Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA has given the Council written notice of the following information:
 - (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor; and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act.
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder; and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If any of the above arrangements are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates has given the Council written notice of the updated information (if Council is not the PCA).
- 42. **Excavation adjacent to adjoining land**
 - (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
 - (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
 - (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

ITEM 4 (continued)

ATTACHMENT 1

43. **Pre-commencement dilapidation report.** The submission of a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties namely No 60 Darvall Road, and public infrastructure (including roads, gutters, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining private properties, prior to the commencement of construction.
44. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

Engineering Conditions

45. **Sediment and Erosion Control.** The applicant shall install appropriate sediment control devices in accordance with an approved plan **prior** to any earthworks being carried out on the site. These devices shall be maintained during the construction period and replaced where considered necessary. Suitable erosion control management procedures shall be practiced. This condition is imposed in order to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.
46. **Compliance Certificate.** A Compliance Certificate should be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and City of Ryde, Development Control Plan 2010: - Part 8.1; Construction Activities.
47. **Vehicle Footpath Crossings.** Concrete footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The location, design and construction shall conform to the requirements of Council. Crossings are to be constructed in plain reinforced concrete and finished levels shall conform with property alignment levels issued by Council's Public Works Division. Kerbs shall not be returned to the alignment line. Bridge and pipe crossings will not be permitted.
48. **Footpath Works.** The applicant shall, at no cost to Council, excavate and/or fill the footpath adjacent to the subject property so the levels of the footpath comply with the levels specified by Council's Engineering Public Works. This is to ensure vehicular access to the property can be satisfactorily achieved whilst maintaining safe passage for pedestrian traffic. All work which is necessary to join the new footpath levels with the levels in front of the adjoining properties in a satisfactory manner shall be carried out by the applicant. The cost of reconstructing footpath

ITEM 4 (continued)

ATTACHMENT 1

paving or adjusting any structures and services that may be affected shall be borne by the applicant.

DURING CONSTRUCTION

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

49. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
50. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
51. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
52. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
 - (a) Fill is allowed under this consent;
 - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (c) the material is reused only to the extent that fill is allowed by the consent.
53. **Construction materials.** All materials associated with construction must be retained within the site.
54. **Site Facilities**

The following facilities must be provided on the site:

 - (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
55. **Site maintenance**

The applicant must ensure that:

 - (a) approved sediment and erosion control measures are installed and maintained during the construction period;

ITEM 4 (continued)

ATTACHMENT 1

- (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
 - (c) the site is clear of waste and debris at the completion of the works.
56. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".
57. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or otherwise necessary as a result of construction works approved by this consent.

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

58. **BASIX.** The submission of documentary evidence of compliance with the approved BASIX Certificate referenced in Condition 3.
59. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

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

ITEM 4 (continued)

ATTACHMENT 1

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

60. **Letterboxes and street/house numbering.** All letterboxes and house numbering are to be designed and constructed to be accessible from the public way. Council must be contacted in relation to any specific requirements for street numbering.
61. **Post-construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties, prior to the issue of the **Occupation Certificate**.

Engineering Conditions

62. **Disused Gutter Crossing.** All disused gutter and footpath crossings in Twin Road shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
63. **On-Site Stormwater Detention System - Marker Plate.** Each on-site detention system basin shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface or access grate. The wording on the marker plate is described in City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. An approved plate may be purchased from Council's Customer Service Centre on presentation of a completed City of Ryde OSD certification form.
64. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels **is to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA.
65. **Compliance Certificates – Engineering.** Compliance Certificates should be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and **submitted to the PCA**:

ITEM 4 (continued)

ATTACHMENT 1

- Confirming that all vehicular footway and gutter (layback) crossings are constructed in accordance with the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria – 1999 section 4*.
 - Confirming that the driveway is constructed in accordance with the construction plan requirements and Ryde City Development Control Plan 2010: - Part 8.3; Driveways.
 - Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management
 - Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
 - Confirming that the vehicular crossing has been removed and the kerb and gutter have been constructed in accordance with Council's *Environmental Standards Development Criteria -1999 section 4*
66. **Positive Covenant, OSD.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Stormwater Detention Systems and to the satisfaction of Council.

ITEM 4 (continued)
Mediation Meeting Notes

ATTACHMENT 2

62 Darvall Road, Eastwood. Proposed 2 Storey Duplex. (LDA2011/380)

Wednesday 21 November 2012, 4.00pm.

Ground Floor Meeting Room, Ryde Planning and Business Centre

In attendance:

Council Officers: DJ = Dominic Johnson: Group Manager Environment & Planning (Chair);
CY = Chris Young: Team Leader – Assessment;

Applicant: HC = Hock Chua (owner)
AD = Alex Dounis of Residential Logistics (applicant)
DB = David Bobinac (D-Plan Urban Planning Consultants)
SR = Susan Robinson (of Susan Robinson Consulting)

Neighbours: JB = Jeff Brown of No 60 Darvall Road to the north

Absent: Mr Ping Ping Chen of 64 Darvall Road to the south, and Sofia Serrao and Adam Wharfe of 40 Clanwilliam Street to the west.
Note: Both of these neighbours did not attend despite being contacted by mail.

SUMMARY OF DISCUSSIONS:

DJ Opened the meeting and introduced those attending from Council. Explained the “rules” to be followed in the meeting including providing opportunities for both parties to speak and explain their point of view, mutual respect for each other’s position, and an expectation that all parties will work together to reach a solution.

Also noted that Hock Chua, Alex Dounis (applicants) and Jeff Brown (neighbour) attended the Planning & Environment Committee (PEC) meeting on 16 October 2012.

DJ Quoted the Council resolution which in summary requires mediation between the applicant, objectors and the Group Manager Environment and Planning. Normally such resolution specifies the particular issues to be mediated, however the resolution for this DA is not specific.

Both sides would be able to state their concerns and issues, and see if we could find some middle ground.

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- (General discussion) There was general discussion between the participants – both before the meeting officially started and after – regarding the status of recent building work to the rear verandah at JB’s property, much of which was about whether such work was lawful, and if it was approved as Complying Development, then were the legislative requirements followed (including notification of neighbours of commencement of work, site signage etc). The applicants queried whether or not the changes (from a verandah to habitable space) require re-consideration of the view impacts using the Tenacity Planning Principle.
- DJ If the meeting gets “heated”, it will be stopped and a report will be presented back to the PEC recommending refusal based on the latest plans.
- JB The building works were approved under a Complying Development Certificate issued by a Private Certifier and that he believed that the legal requirements were followed, a sign was placed on the site but must have been removed. The room is now a “multi-purpose” (eg rumpus) room.
- (General discussion) There was general discussion regarding the ability of JB to represent/speak for the other neighbours who did not attend the mediation. JB felt that it was appropriate but it was noted that he did not have any express (eg written) authority regarding representation.
- DJ noted it is not appropriate for JB to speak for other neighbours without such authority, and noted that less weight would be given to the concerns from Ping Chen of No 64, as they were absent from the mediation meeting.
- AD/SR/HC The applicants disagreed with the Council officer’s report regarding view loss. Also noted that the views are “side views” which are harder to protect, and also that they are not “iconic” or water views. It was also questioned whether they are of the same significance whether or not they are now from habitable space (when previously the views were from a verandah).
- CY The view was still the same whether or not it is from a verandah or a rumpus room, so the nature of the space taking the views is irrelevant. Also noted that some views were already blocked by trees to the south, and that the development as currently presented would completely remove the remaining views currently enjoyed.
- DJ The mediation shouldn’t be a debate between the applicants and Council’s assessment officer (CY) regarding the Tenacity Planning Principle.
- DJ Asked the applicants what changes they had made to the proposal during the processing of this DA.
- AD Various changes including finished floor levels (ie creating a “split-level” design with associated changes to ceiling and overall roof heights), and also there were driveway changes (at the front) to address vehicle turning/safety issues – and the front setback had been amended as a result. Also the plans were corrected regarding the position of the neighbour’s rear deck relative to the

ITEM 4 (continued)

ATTACHMENT 2

proposed building – as this was based on an original survey done before the current position of the deck.

- SR Questioned whether the neighbour's rear deck/now rumpus room was a good design outcome given issues regarding overlooking of the subject property (No 60). Also noted that when the rear deck was approved, screening was required along the side to prevent overlooking however this was never provided and therefore No 60 is affected by overlooking.
- DJ Advised that such comments are out of order, inflammatory and will be ruled out. Requested that discussions remain on the issues of concern with the proposal.
- SR/HC Asked the Assessment Officer (CY) why he thought the proposal was unacceptable in terms of the *Tenacity* Planning Principle if the views in question are side views and there are no water views. Also stated that a new view assessment would be required given that the rear deck is now a rumpus room.
- CY Stated that whilst he is happy to answer the question, the purpose of the Mediation is to discuss possible design changes to address issues of concern, not cross-examine him regarding the comments in his Assessment Report.
- Stated that the views are extensive district views out over Sydney Olympic Park and beyond, which are highly valued at this site and in this part of Eastwood generally – and hence they are considered very significant. Also stated that the proposal as submitted would completely remove these views – hence the impact would be described as “Devastating”.
- HC Also stated that it is irrelevant that the rear deck has now been converted to a habitable (rumpus) room when assessing view impact. The proposal has gone through 4 sets of amended plans and in Council's letter (8 Dec 2011), views were not raised as an issue of concern during the DA assessment.
- DJ In resolving to seek Mediation, the Councillors are expecting design changes to address the issues of concern. Haranguing the Assessing Officer (CY) will not achieve this outcome.
- SR Then asked whether the trees (on properties to the south of the site) were on Council's reserve or on private property.
- DJ Stated that this was not relevant.
- JB Asked the applicants have they considered a re-design. Noted that the Assessment Report states that a project design is not acceptable at this site.

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ATTACHMENT 2

- CY Stated that this was not quite what the Assessment report says. Drew the Meeting's attention to page 55 of the Report which states that Council could consider and approve a "standard" design if such design was acceptable in terms of impact. The inference that a standard design is not acceptable appears to have come from the submissions received.
- HC Design changes unreasonably add to costs, and that he feels that the development is acceptable in terms of view impacts.
- SR The works done to the rear deck (No 60) have created a privacy impact that wasn't there previously, and that the style of windows installed (awning windows opening from the bottom) cannot be ensure privacy.
- JB The windows could be treated with stick-on glazing to prevent overlooking.
- DJ There will be no further discussion regarding works done at JB's property, let's talk about the issue at hand which is what design changes can address the issues of concern.
- HC We have started exploring options, looking at cost issues. Draft plans have been prepared for the meeting.
- DJ Asked if they were prepared to show such plans, on a "without prejudice" basis.
- AD Then produced draft amended plans (not formally tabled or lodged). In summary, these relocated a significant portion of floorspace from the rear of the first floor level to the ground floor. The rear portion would be single storey and the 1st floor level now has much less floorspace which is at the front of the building.
- DJ These amendments go a long way towards addressing the concerns. Asked if it would be possible to lower the roof pitch of the single storey section to improve views for the neighbour.
- AD The roof pitch could be lowered, but roof sarking would be required. The rear portion could be provided with a flat roof but this would cheapen the design and make it very noisy inside (eg rain).
- JB Would still object to the amended proposal in terms of view impacts.
- DJ Asked if it is possible to move the 1st floor portion further towards the front, and if the amount of floorspace could be further reduced.
- HC We have made numerous changes over the process of this DA and we have reached our end point.
- SR Asked if the vehicle turning area at the front was negotiable and if the building could be moved forward.

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- CY The vehicle turning area is required by our Development Engineers to ensure vehicle safety given this location (steep hill, limited sight distances).
- AD Suggested it could be possible to relocate/re-align the 1st floor of dwelling A to match that of dwelling B (which would move dwelling A slightly forward at 1st floor level).
- DJ **Outcomes**
Acknowledged the amended plans were a significant change which went a long way towards addressing the concerns. Stated the possible further amendments which should be considered, including:
- Lower the roof pitch of the rear single storey portion
 - Relocate/re-align the 1st floor of dwelling A to match dwelling B as above.
 - Consider a rear balcony at first floor level, which may provide a more open structure at the rear instead of a solid wall.
- DJ The next step is to formally submit amended plans incorporating the above changes. These will be re-notified to the neighbours – and it was noted that the notification period may be extended (depending on when they were lodged) due to the December/January provisions in Council's DCP.
- DJ Closed the meeting at 5.30pm, thanked everyone for their attendance and positive contribution in the discussions.

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ATTACHMENT 3

DCP COMPLIANCE TABLE

FOR AMENDED PLANS FOLLOWING MEDIATION MEETING (22 JANUARY 2013)

62 DARVALL ROAD, EASTWOOD

City of Ryde Development Control Plan 2010:

Part 3.3 – Dwelling Houses and Dual Occupancy (Attached)

Part 7.1 – Energy Smart, Waterwise

Part 7.2 – Waste Minimisation and Management

Part 8.2 – Stormwater Management

Part 9.4 – Fencing

Compliance with the above part/s of DCP 2010 is illustrated by the development standards below.

DCP 2010	Proposed	Compliance
<i>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</i>		
Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is consistent with the desired future character of the low density residential area as detailed further in this table.	Y
Dwelling Houses		
- To have a landscaped setting which includes significant deep soil areas at front and rear.	Front and rear gardens proposed.	Y
- Maximum 2 storeys.	Two storeys	Y
- Dwellings to address street	Dwelling presents to Darvall Street.	Y
- Garage/carports not visually prominent features.	Garage not prominent feature as setback in front elevation of building.	Y
Dual Occupancy – Linear Separation		
- 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?	None within 2x frontage of either existing or proposed multi-dwelling sites	Y

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DCP 2010	Proposed	Compliance
Public Domain Amenity		
Streetscape <ul style="list-style-type: none"> - Front doors and windows are to face the street. Side entries to be clearly apparent. - Single storey entrance porticos. - Articulated street facades. 	<p>Front doors and windows face street.</p> <p>Dwelling B entrance portico has balcony to 1st floor level above – therefore is single storey.</p> <p>Articulated street façade.</p>	<p>Y</p> <p>Y</p> <p>Y</p>
Public Views and Vistas <ul style="list-style-type: none"> - A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views. 	<p>This part of the DCP relates to views to the Parramatta and Lane Cove Rivers through side boundary setbacks. Such views don't exist at this site.</p>	<p>Y</p>
Pedestrian & Vehicle Safety <ul style="list-style-type: none"> - Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard. - Fencing that blocks sight lines is to be splayed. 	<p>Complies, assessed as satisfactory by Council's Development Engineer.</p> <p>No front fencing proposed.</p>	<p>Y</p> <p>N/A</p>
Site Configuration		
Deep Soil Areas <ul style="list-style-type: none"> - 35% of site area min. - Min 8x8m deep soil area in backyard. Dual occupancy developments only need 1 of 8 x 8m area (doesn't have to be shared equally). - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). 	<p>Permeable (deep soil) area: 363.27m² approx (49.5% of site area).</p> <p>Rear DSA dimensions: 8m x 8m provided.</p> <p>Front DSA: Hard surface areas have been kept to a minimum in the front yard, except for the required driveway, turning area and path.</p>	<p>Y</p> <p>Y</p> <p>Y</p>

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ATTACHMENT 3

DCP 2010	Proposed	Compliance
Topography & Excavation		
Within building footprint: - Max cut: 1.2m - Max fill: 900mm	Within BF Max cut: 1.1m Max fill: Nil	Y N/A
Outside building footprint: - Max cut: 900mm - Max fill: 500mm - No fill between side of building and boundary or close to rear boundary - Max ht retaining wall 900mm	Outside BF Max cut: 900mm Max fill: Nil None proposed. Wall at rear = 1.3m. Wall at front = 1.4m.	Y N/A N/A N (variation supported)
Floor Space Ratio		
Ground floor	268.29m ²	
First floor	133.8m ²	
Detached car parking structures	N/A	
Outbuildings (incl covered pergolas, sheds etc)	N/A	
Total (Gross Floor Area)	402.09m ²	
Less 36m ² (double) or 18m ² (single) allowance for parking	366.09m ²	
FSR (max 0.5:1) Note: Excludes wall thicknesses; lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas.	0.499:1	Y
Height		
- 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL).	Two storeys maximum.	Y
- 1 storey maximum above attached garage incl semi-basement or at-grade garages.	1 storey maximum (over a small portion of the garage).	Y
Wall plate (Ceiling Height) - 7.5m max above FGL or - 8m max to top of parapet NB: TOW = Top of Wall	Northern Side: TOW RL: 87.50 FGL blw (lwst pnt) RL: 82.27 TOW Hgt (max) = 5.23m	Y

ITEM 4 (continued)

ATTACHMENT 3

DCP 2010	Proposed	Compliance
<i>EGL = Existing Ground Level</i> <i>FGL = Finished Ground Level</i>	Southern Side: TOW RL: 87.50 FGL blw (lwst pnt) RL:80.1 TOW Hgt (max)= 7.4m	
- 9.5m Overall Height (ridge) <i>NB:</i> <i>EGL = Existing Ground Level</i>	Max pnt of dwlng RL: 89.655 EGL blw (lwst pnt): RL: 81.73 Overall Hgt (max)= 7.925m	Y
Habitable rooms to have 2.4m floor to ceiling height (min).	2.44m min room height.	Y
Setbacks		
SIDE Single storey dwelling - 900mm to wall - Includes balconies etc	=1500mm	Y
SIDE Two storey dwelling - 1500mm to wall - Includes balconies etc	=1500mm	Y
Front - 6m to façade (generally) - Garage setback 1m from the dwelling façade - Wall above is to align with outside face of garage below. - Front setback free of ancillary elements eg RWT, A/C	=7.5m In front of dwelling A front entry by 3.59m, setback from front porch (dwelling B) 450mm. Wall above the garage generally aligns with face of wall below. Complies.	Y N (variation supported) Y Y
Rear - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. Note: 12.35m is 25% of site length.	16.27m to the rear deck	Y
Car Parking & Access		
General - Dual Occupancy (attached): 1 space max per dwelling. - Where possible access off secondary street frontages or laneways is preferable. - Max 6m wide or 50% of frontage, whichever is less.	1 space per dwelling within an enclosed garage. Access from Darvall Road. External width = 7.17m.	Y Y N (variation supported)

ITEM 4 (continued)

ATTACHMENT 3

DCP 2010	Proposed	Compliance
- Behind building façade.		
Garages - Garages setback 1m from façade. - Total width of garage doors visible from public space must not exceed 5.7m and be setback not more than 300mm behind the outside face of the building element immediately above. - Garage windows are to be at least 900mm away from boundary.	In front of dwelling A front entry by 3.59m, setback from front porch (dwelling B) 450mm. Width of openings = 2.5m each and doors are each setback 300mm behind the outside face of the building element immediately above. None proposed.	N (variation supported) Y N/A
Parking Space Sizes (AS) o Single garage: 3m w(min) o Internal length: 5.4m (min)	Maximum internal measurements: 3.2m x 6.1m	Y
Driveways Extent of driveways minimised	Extent of driveway considered necessary for the proposed development.	Y
Landscaping		
Trees & Landscaping - Major trees retained where practicable - Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL eg. stairs, terraces. - Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access) - Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy. - Back yard to have at least 1 tree with mature ht of 15m min and a spreading canopy. - Hedging or screen planting on boundary mature plants reaching no more than	No significant trees located on the site. Complies. Complies. Complies. Complies. Complies.	N/A Y Y Y Y Y

ITEM 4 (continued)

ATTACHMENT 3

DCP 2010	Proposed	Compliance
2.7m. - OSD generally not to be located in front setback unless under driveway.	To be provided beneath the driveway/turning area	Y
- Landscaped front garden, with max 40% hard paving	Hard Paving: 56.5%	N (variation supported)
Landscaping for lots with Urban Bushland or Overland Flow constraints - Where lot is adjoining bushland protect, retain and use only native indigenous vegetation for distance of 10m from bdy adjoining bushland. - No fill allowed in overland flow areas. - Fences in Overland Flow areas must be of open construction so it doesn't impede the flow of water.	The site does not adjoin bushland. No fill proposed. Existing side fencing.	N/A N/A N/A
Dwelling Amenity		
Daylight and Sunlight Access - Living areas to face north where orientation makes this possible. - 4m side setback for side living areas where north is to the side allotment boundary.	Living areas face north for Dwelling A but unable to be achieved for Dwelling B Unable to be achieved.	Y N/A
<u>Subject Dwelling:</u> - Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21. - Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21.	Complies. Greater than 3hrs of sunlight achieved to all north facing windows between 9am and 3pm on June 21. Complies. Greater than 2 hours of sunlight achieved to the private open space area between 9am and 3pm on June 21.	Y Y

ITEM 4 (continued)

ATTACHMENT 3

DCP 2010	Proposed	Compliance
<u>Neighbouring properties are to receive:</u> <ul style="list-style-type: none"> - 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21. - At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	<p>Complies. Greater than 2 hours of sunlight achieved to more than 50% of the private open space area of adjoining dwelling between 9am and 3pm on June 21.</p> <p>Unable to comply. See discussion in report.</p>	<p>Y</p> <p>N (variation supported)</p>
Visual Privacy <ul style="list-style-type: none"> - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. - Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space. - Side windows offset from adjoining windows. - Terraces, balconies etc are not to overlook neighbouring dwellings/private open space. 	<p>Complies.</p> <p>Complies.</p> <p>Generally complies.</p> <p>Complies.</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p>
Acoustic Privacy Layout of rooms in dual occupancies (attached) are to minimise noise impacts between dwellings eg: place adjoining living areas near each other and adjoining bedrooms near each other.	Complies.	Y
View Sharing <ul style="list-style-type: none"> - The siting of development is to provide for view sharing. 	Complies.	Y
Cross Ventilation <ul style="list-style-type: none"> - Plan layout is to optimise access to prevailing 	Complies.	Y

ITEM 4 (continued)

ATTACHMENT 3

DCP 2010	Proposed	Compliance
breezes and to provide for cross ventilation.		
External Building Elements		
Roof		
- Articulated.	Complies.	Y
- 450mm eaves overhang minimum.	Complies.	Y
- Not to be trafficable Terrace.	Complies.	Y
- Skylights to be minimised and placed symmetrically.	None proposed.	N/A
- Front roof plane is not to have both dormer windows and skylights.	None proposed.	N/A
Attic Dormer Windows	Not proposed.	N/A
Fencing		
Front/return:		
- To reflect design of dwelling.	Front fencing is not proposed.	N/A
- 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.		
Side/rear fencing:		
- 1.8m max o/a height.	Condition to comply with the DCP requirements.	N/A
Part 7.1 - Energy Smart, Water Wise		
As per submitted BASIX Certificate.		Y
External Clothes Drying Area		
External yard space or sheltered ventilated space for clothes drying	Complies.	Y
Part 7.2- Waste Minimisation & Management		
Submission of a Waste Management Plan in accordance with Part 7.2	The applicant has submitted a Waste Management Plan in accordance with Part 7.2	Y

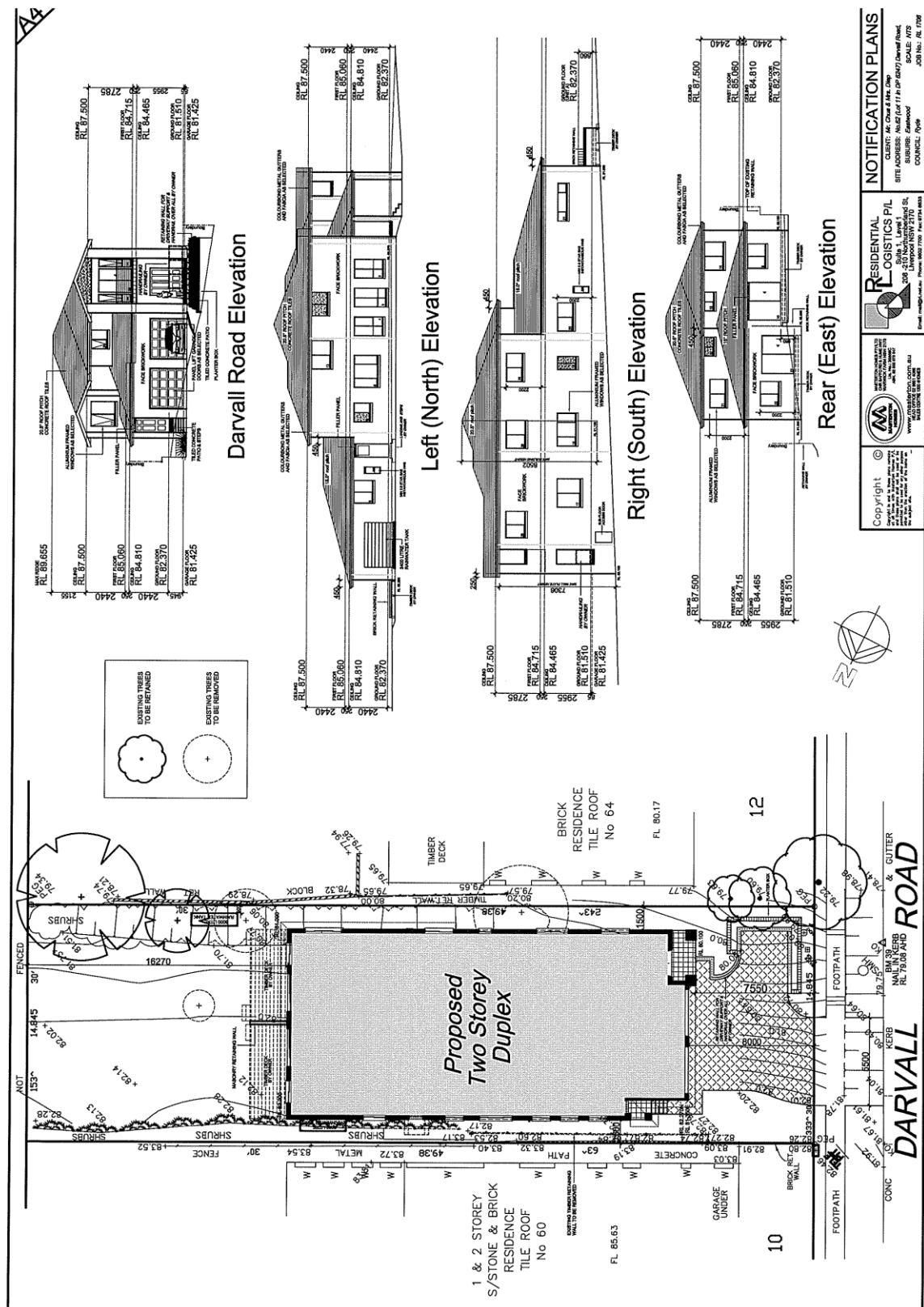
ITEM 4 (continued)

ATTACHMENT 3

DCP 2010	Proposed	Compliance
Part 8.2 - Stormwater Management		
Stormwater		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	To Development Engineer requirements	Y
Part 9.4 – Fencing		
Front & return fences		
Front and return fences that exceed 1m in height are to be 50% open	None proposed.	N/A
Part 9.6 – Tree Preservation		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway.	No significant trees are proposed to be removed. The site will be appropriately landscaped as part of the proposed development.	Y

ITEM 4 (continued)

ATTACHMENT 4



ITEM 4 (continued)

ATTACHMENT 5

- 4 62 DARVALL ROAD, EASTWOOD. LOT 11 DP 6247. Local Development Application for demolition of existing dwelling and erection of a attached dual occupancy. LDA2011/380.**

INSPECTION: 4.35pm

INTERVIEW: 5.15pm

Report prepared by: Team Leader - Assessment

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

Report dated: 2/10/2012

File Number: grp/12/5/5/3 - BP12/1117

1. Report Summary

Applicant: Residential Logistics Pty Ltd

Owner: Mr H Chua and Ms T Diep

Date lodged: 19 July 2011

This report considers a development application (DA) for demolition of the existing dwelling and erection of a new 2 storey attached dual occupancy at the subject property.

The proposal has been assessed against the controls in Development Control Plan 2010 (DCP 2010), and there are a number of areas of non-compliance in terms of topography and excavation (height of retaining walls), garage setback, garage width, hard paving within the front setback, and solar access for neighbouring properties. Apart from the issue of solar access, these issues are generally acceptable in the circumstances (as discussed in detail in the body of the report) and would not justify refusal for these reasons.

The main issue of concern is the impacts of the development upon views currently enjoyed from the property to the north (No 60 Darvall Road), which currently has extensive district views to the south and south-west (eg across Sydney Olympic Park and beyond). The proposed development would have an unreasonable impact on these views currently enjoyed from the adjoining property. A full assessment of view impacts using the Land and Environment Court Planning Principle (*Tenacity vs Warringah Council 2004*) is made in the body of this report. In summary, it is considered that the development's impacts on views from No 60 Darvall Road is unacceptable, because the bulk and scale of the development would totally remove the views currently enjoyed, and it is considered that a more appropriate design could be chosen to ensure the views are maintained to a reasonable extent – for example the amount of floor space at 1st floor level could be reduced at the rear of the building (and added to the rear of the ground floor level) to ensure views across the ground floor roof.

Also of concern is the extent of overshadowing on the neighbouring property to the south (No 64 Darvall) which does not comply with DCP 2010. Whilst it is noted that this adjoining property would be vulnerable to overshadowing from any development

ITEM 4 (continued)

ATTACHMENT 5

of this property (given that it is both due south and also at a much lower level due to existing topography), it is considered that a more sympathetic design could at least minimise overshadowing impacts on No 64 to a reasonable level. However the design as currently submitted would cause severe overshadowing as well as general impacts of bulk, scale and massing and is unacceptable.

The DA has been notified to neighbours and **6 submissions** have been received, from 3 properties and a planning consultant on behalf of 'residents of Darvall Road'. Issues raised include impacts on views (enjoyed from No 60 Darvall Road), privacy impacts, overshadowing (of No 64 Darvall Road to the south), height, bulk and scale and streetscape impacts.

The DA is recommended for refusal due to unacceptable impacts on views from No 60 Darvall Road, as well as overshadowing/solar access impacts for No 64 Darvall Road. Attempts have been made to negotiate a suitable outcome with the applicant (via requests for amended plans and meetings to discuss the proposed development), however they have declined. Council has received written submissions from the applicant to justify their current design, but they have indicated that they are not willing to provide any further design amendments.

Reason for Referral to Planning and Environment Committee: Requested by Councillor Perram and (former) Councillor Butterworth.

Public Submissions: **Six (6) submissions** (from 3 properties and a planning consultant on behalf of 'residents of Darvall Road') were received objecting to the development.

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

Value of works? \$568,000

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

RECOMMENDATION:

- (a) That Local Development Application No. 2011/380 at 62 Darvall Road, Eastwood being Lot 11 DP 6247 be refused for the following reasons:
1. The proposal as presented in this application would have unacceptable impacts on the views currently enjoyed from the neighbouring property to the north (No 60 Darvall Road).
 2. The proposal would cause unacceptable overshadowing onto the neighbouring property to the south (No 64 Darvall Road).
 3. In the circumstances of the case, approval of the application would not be in the public interest.

ITEM 4 (continued)

ATTACHMENT 5

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

ATTACHMENTS

- 1** Compliance table
- 2** Map
- 3** Letter from Group Manager Environment & Planning
- 4** A4 plans
- 5** A3 plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Chris Young
Team Leader - Assessment

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 4 (continued)

ATTACHMENT 5

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

Address : 62 Darvall Road, Eastwood

Site Area : 733m²
Frontage 14.485m
Depth 49.38m

Topography and Vegetation : The prevailing topography in this location is a very steep slope from north to south, however this site (in the vicinity of the existing house and rear yard) is relatively flat, likely to be the result of previous filling.

Existing Buildings : Existing single storey dwelling house.

Planning Controls
Zoning : Ryde LEP 2010
R2 Low Density Residential.

Other : Ryde DCP 2010



ITEM 4 (continued)

ATTACHMENT 5



3. Councillor Representations

Name of Councillor: (former) Councillor Butterworth

Nature of the representation: Request for update on DA; and to call-up to Planning & Environment Committee

Date: 20 October 2011

Form of the representation (e.g. via email, meeting, phone call): Phone call to Group Manager Environment & Planning

On behalf of applicant or objectors? Unknown

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

ITEM 4 (continued)

ATTACHMENT 5

Name of Councillor: Councillor Perram

Nature of the representation: To forward concerns from a neighbour (and to call-up the DA if not already done)

Date: 26 October 2011

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

On behalf of applicant or objectors? Objectors at No 62 Darvall Road

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

Name of Councillor: Councillor Perram

Nature of the representation: Request for concerns from applicant re DA processing (timeframes and requests for information) to be considered – and for DA to be expedited if possible.

Date: 14 March 2012

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

On behalf of applicant or objectors? Applicant

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

Name of Councillor: (former) Councillor Butterworth

Nature of the representation: Further call-up to Planning & Environment Committee (following receipt of amended plans).

Date: 10 July 2012

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

On behalf of applicant or objectors? Unknown

ITEM 4 (continued)

ATTACHMENT 5

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

4. Political Donations or Gifts

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

5. Proposal

The development proposes demolition of the existing dwelling, and erection of a new 2 storey dual occupancy building.

6. Background

The DA was lodged on 19 July 2011, and shortly thereafter (22 July 2011) it underwent a preliminary assessment and was assigned to an assessment officer, referred to internal and external officers (Council's Development Engineer and Consultant Structural Engineers), and advertised/notified to neighbours with a notification period closing 1 September 2011. Further details of these processes are discussed later in this report.

The applicant was provided with copies of the 4 submissions received (at the time) following the original notification process. On 28 September 2011 a meeting was held at the Ryde Planning Business Centre between the applicant and the property owner, and Council staff (Assessment Officer and the Team Leader – Assessment) to discuss the issues of concern in the submissions. At that meeting, it was indicated that the issues of concern raised by the neighbours are valid (in particular the issues regarding impacts on views from No 60 Darvall Road to the north), and the proposal should be amended to resolve the issues.

On 10 October 2011, a response was received from the applicant to the submissions, in which the applicant provided a written response to justify the proposal in terms of view sharing (including their assessment of the Land and Environment Court Planning Principle *Tenacity vs Warringah Council*). This letter also included a revised survey drawing confirming the size and location of the rear verandah (at No 60 Darvall Road), and revised architectural plans showing the siting of the proposed dual occupancy relative to the neighbour's rear verandah, however there was no amendment to the submitted design of the development at this stage.

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On 8 December 2011, a formal letter was sent to the applicant to request the following matters to be addressed:

1. *Geotechnical report – an updated report was requested because the original report submitted with the DA was prepared in 2006 and site conditions could have changed since that time.*
2. *Amended design re vehicle manoeuvring within the front setback – to ensure vehicles could enter/leave the site in a forward direction.*
3. *Non-Compliance with DCP 2010 – in particular:*
 - *Single storey entry portico (unit B was 2 storey).*
 - *Topography/excavation – details were requested of cut and fill within and outside the building envelope, and of the retaining walls throughout the site.*
 - *Front setbacks – ie the garages are required to be setback 1m from the front façade of the dwelling.*
 - *Garage width (6.5m) – which exceeded the maximum 6m.*
 - *Hard-paving within the front setback, and proposed location of on-site detention (OSD) within the front setback.*
 - *Visual privacy – a mixture of highlight and frosted windows where appropriate was requested to ensure privacy for neighbours could be achieved.*
4. *Shadow diagrams – it was requested to provide shadow diagrams of the existing building to enable a comparison assessment to be made.*
5. *Amended landscaping plan – to include details of the above amendments*
6. *Amended BASIX Certificate.*

A further meeting between the property owner, the applicant and their town planning representative was held at the Ryde Planning & Business Centre on 28 February 2012 to discuss the proposal and to clarify the nature of the additional information requested. A follow-up letter was sent on 23 March 2012, as the required information and amended details had not been submitted following the meeting in February. A further follow-up letter was sent on 22 May 2012, and on 1 June 2012, the applicant responded by requesting additional time (until 29 June 2012) to submit the requested information.

On 22 June 2012, the applicant submitted amended plans which incorporated the following:

- Proposed dual occupancy building moved forward by 2000mm to achieve a front building alignment of 7.55m;
- Overall width of garage increased by 600mm to achieve garage door openings of 3000mm each (as advised by Council) in order to assist with vehicle manoeuvring in accordance with AS 2890;

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- Width of Dwelling B living room, first floor balcony & the front portion of the main bedroom reduced by 600mm as a consequence of the garage increases noted above;
- Brick planter box & associated retaining walls now introduced to the front & side of the proposed turning bay;
- The finished floor level of both floors of Dwelling B lowered by 345mm, reducing the subfloor area under Dwelling B;
- The resultant maximum wall plate height reduced to 7306mm; and
- The rainwater tank proposed for Dwelling B positioned 500mm from the southern boundary.

These amended plans were re-notified from 25 June to 10 July 2012.

On 24 July 2012, following verbal discussions between the applicant and Council's Assessment Officer, the applicant advised that the owners are not prepared to make any further design changes to the development proposal.

On 1 August 2012, the applicant's Town Planning Consultants wrote to Council's Group Manager Environment & Planning to express concerns about the DA process and concerns that it was not possible to advise when the DA would be considered by Council. On 14 August 2012, Council's Group Manager Environment & Planning responded to confirm that because Council was in recess at that stage (due to the Local Government Elections), it was not possible to advise of a date when the DA would be considered but that it would be presented to the first available Planning & Environment Committee meeting. The concerns regarding the proposal (particularly the impacts on views from No 60 Darvall Road) were also re-iterated, and the applicant was requested to make substantial design changes to address this issue.

A copy of the letter sent by the Group Manager Environment & Planning is **ATTACHED** for the information of Councillors.

Further emails were sent to the applicant from Council's Team Leader – Assessment (on 30 August and 13 September 2012) to request a response to the letter from Council's Group Manager Environment & Planning of 14 August 2012, however no response has been received. The DA is therefore presented to the Planning & Environment Committee for determination on the basis of the latest amended plans received by Council (dated 22 June 2012).

7. Submissions

The proposal was advertised in the Ryde City View and notified to adjoining property owners in accordance with Development Control Plan 2010 – Part 2.1, Notification of Development Applications for a period from 9 August to 1 September 2011.

The amended plans (as discussed in Background above) were re-notified from 25 June to 10 July 2012.

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In response, a total of **6 submissions** were received. These include a letter from a Town Planning Consultant (Planning Direction Pty Ltd) on behalf of the residents at No 60 and 64 Darvall Road and 40 Clanwilliam Street, and also individual letters from those residents, some of which attached and added to the letter by Planning Direction.

The issues raised in the submissions are summarised and discussed as follows:

1. **Site excavation/works.** *Significant concerns are raised that the development would result in excessive site excavation in a designated land-slip area. These works could de-stabilise the existing retaining walls on the boundary with No 60 Darvall (to the north) and also the dwelling on that property. A dilapidation survey should be required for this development.*

Particular concerns have been raised from the owner of No 60 regarding the age of the geotechnical report submitted with the DA (2006), and the ability of the existing retaining walls to cope with the demands of this development – both the likely impacts of excavation on these retaining walls and also the type of development proposed.

Comment: It is agreed that these are significant issues in the context of this site, however they could be resolved via standard conditions of consent if Council decides to approve this DA. Such conditions include provision of protection support for neighbouring premises from possible damage during construction/excavation works, and underpinning of the adjoining premises to prevent any damage (in accordance with Australian Standards). Also, Council can require the applicant to submit pre- and post-construction dilapidation reports in relation to the existing dwelling and retaining walls on the boundary, and make good any damage caused during construction. Re-constructed retaining walls would be required to ensure that the structural integrity of the neighbouring dwelling at No 60 Darvall is maintained.

The concerns from the neighbour were forwarded to Council's Consultant Structural Engineers (Cardno Pty Ltd) to consider their particular circumstances. Cardno have advised the following:

Because decisions about the adequacy of the retention systems along the No. 60/No. 62 common boundary and decisions about new retaining walls in this area will not be made until after site clearing, demolition, and some bulk excavation, the current unknowns give rise to above average risks with respect to No. 60.

To adequately safeguard the rights of the owner of No. 60, Cardno is of the opinion that a dilapidation survey of the southern wall and immediate return walls of that property should be undertaken prior to the commencement of the works on No. 62, and in the circumstances recommends that Council conditions any approval accordingly.

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As noted above, it is considered that this matter could be resolved via conditions of consent.

- 2. *Site-specific design required.*** *This is a difficult site with a very steep cross-slope and issues of view sharing, and it is inappropriate to undertake a “project-home” design. A site specific design is required to respond to the site constraints and ensure consistency with streetscape. The DA plans and support documents demonstrates scant appreciation of site circumstances*

Comment: It is agreed that this is a “difficult” site in terms of topography, however this by itself would not prevent Council from considering and approving a “standard” design if such design was acceptable in terms of impact. However the design presented in this DA is considered unacceptable in terms of impacts on views from No 60 Darvall Road and overshadowing and height, bulk, scale and massing impacts on No 64, and therefore is recommended for refusal.

- 3. *View impacts.*** *The proposal will have unacceptable impacts on views currently enjoyed from No 60 Darvall Road to the north. A more sensitive design should be chosen, which would enable some views to be preserved, in keeping with the principles of view sharing.*

Comment: This is considered to be the main issue of concern regarding the proposed development.

The Land and Environment Court has considered view sharing/view impacts in development proposals and has established a *Planning Principle* to assist in the consideration and assessment of these issues. This is known as the *Tenacity* principle following the Court’s consideration of *Tenacity vs Warringah Council* (2004).

The following is an assessment of the subject proposal using the 4 *Planning Principles* laid down in *Tenacity*:

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, I have adopted a four-step assessment.

*The **first step** is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

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Assessment Officer's Comment: The properties to the north of this site (mostly No 60 Darvall but also to a lesser extent No 38 Clanwilliam) enjoy extensive district views towards the south, of Sydney Olympic Park and beyond. Although these are "land" views not "water" views (except for a "glimpse" of the Parramatta River), they are still highly valued by property owners in this location, and as such careful consideration should be given in development proposals to ensure that these views are preserved as much as possible.

An example of the views (taken from the rear verandah of No 60 Darvall Road) is shown in the following photo. Existing trees on No 66 Darvall Road (and Warrawong Reserve) to the south obscure some of the views, however extensive district views are currently available to the south/south-west:



*The **second step** is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

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Assessment Officer's Comment: The views at No 60 Darvall are obtained from the dining room, kitchen and rear verandah of this dwelling, and are currently available from a standing position (in the dining room and kitchen) and from both a standing or sitting position (on the rear verandah). These views are available across the side (southern) boundary between No 60 and No 62 Darvall, which are noted in *Tenacity* as being more difficult/unrealistic to protect, however this is the only direction in which the views are available at this site. The following is a photo showing the view from the family room of No 62 Darvall Road (see also photo on previous page, showing views from rear verandah).



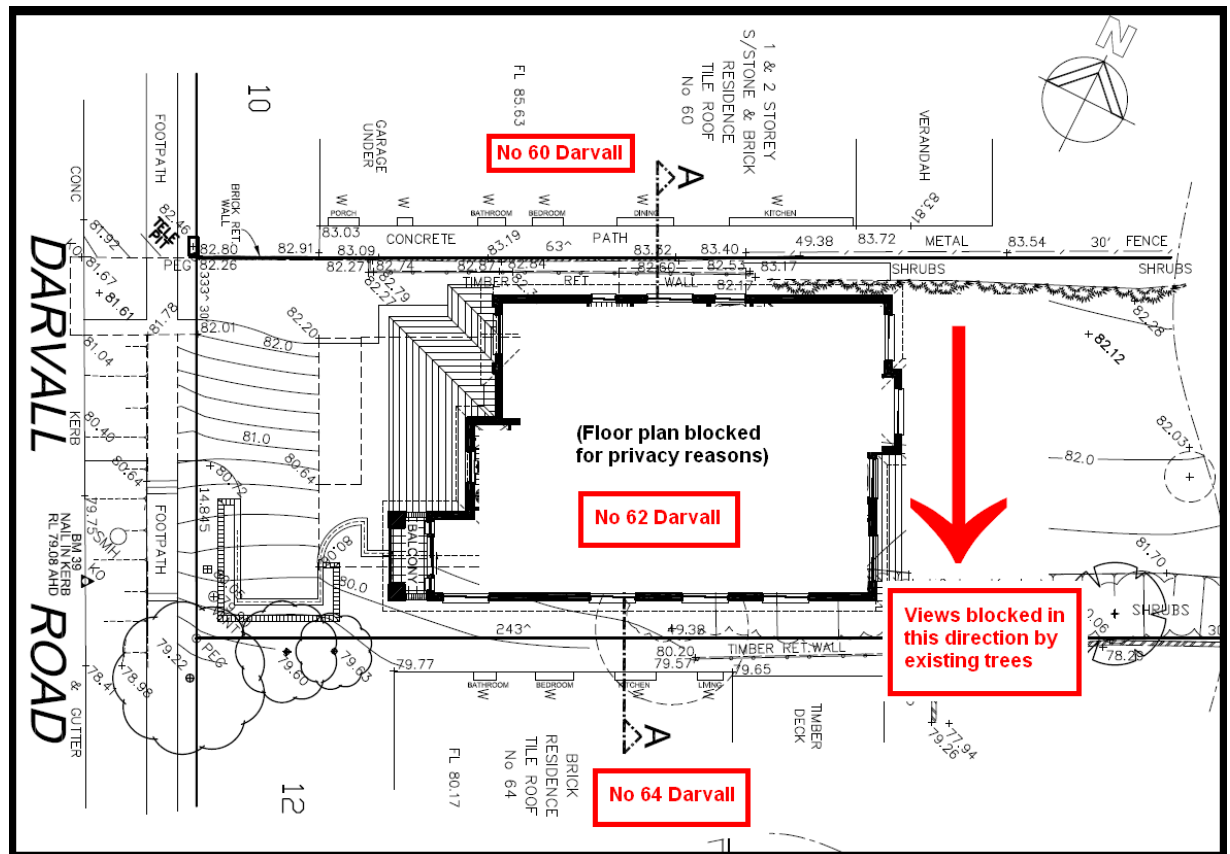
*The **third step** is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

Assessment Officer's Comment: The extent of the impact on views from the kitchen and rear verandah of No 60 Darvall, from the design as currently proposed, would be an almost complete removal of the view or a “devastating” impact to use the terms referred to in *Tenacity*. The development would still preserve the view from the front porch of No 60, however this is not linked to the main living rooms of that house, and so the views from this location are not

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considered the primary views. Remembering the existing trees block some of the views from No 60 Darvall (see photo above), it is considered that the proposal would effectively remove the remainder of the available view. The following is a plan showing the siting of the proposed dual occupancy relative to the dining room, kitchen and rear verandah of No 60 Darvall:



*The **fourth step** is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

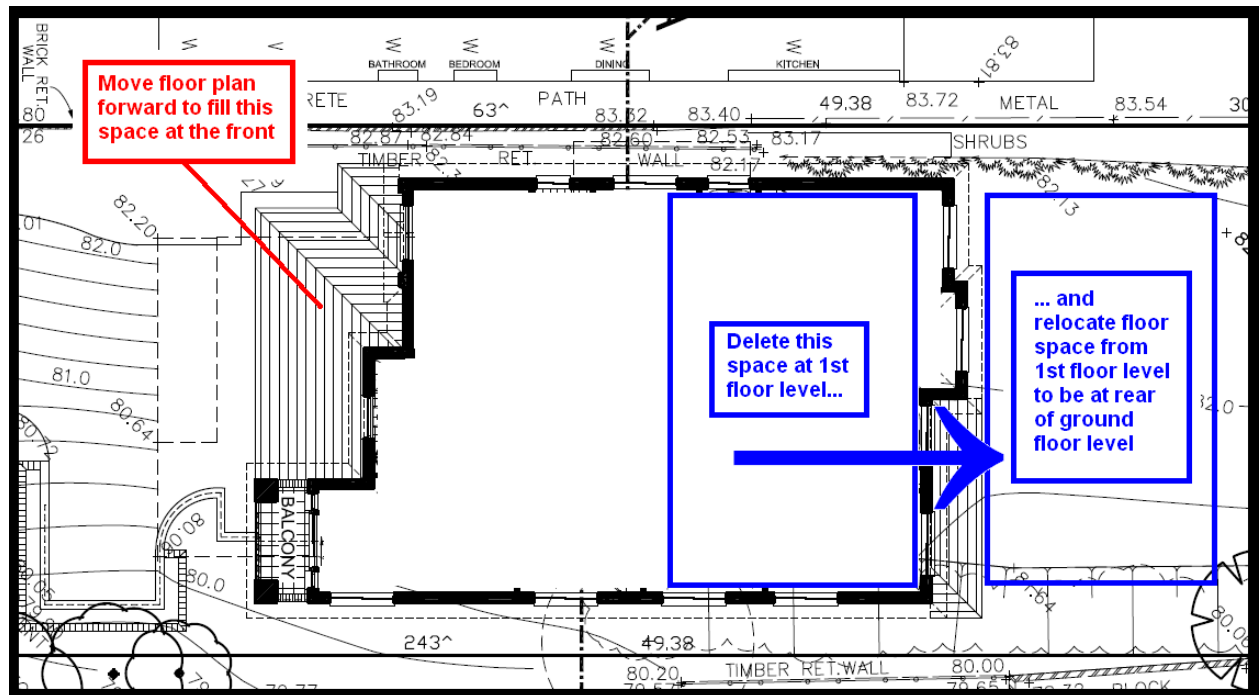
Assessment Officer's Comment: The proposal causing the impact is "reasonable" only in the sense that it complies with the numerical planning controls in Council's DCP where such controls relate to the adjoining property (eg it has a wall plate height of 5.23m when measured on the northern side facing No 60, whereas the DCP maximum wall plate height is 7.5m). Where the design is unreasonable is that a more skilful design could clearly be achieved for this development – which would provide the applicant with the same or similar development potential whilst reducing view impacts for the neighbours. Some of the possible design solutions

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for this development are summarised below and shown in the marked-up plan below:

- Re-design the 1st floor level to move the floor plan forward to “fill” the space at the front of the dwelling; and/or
- Remove the rear portion of the 1st floor and/or extend the ground floor level towards the rear.



These design solutions have been suggested to the applicant on several occasions in meetings with Council officers during the processing of the application, but they have declined to make the requested amendments. The applicant has indicated that this is a “standard” design obtained from the housing company and any variations would incur a financial cost, and instead of amending the design to accommodate view sharing, the applicant has chosen only to justify the current design via a written submission.

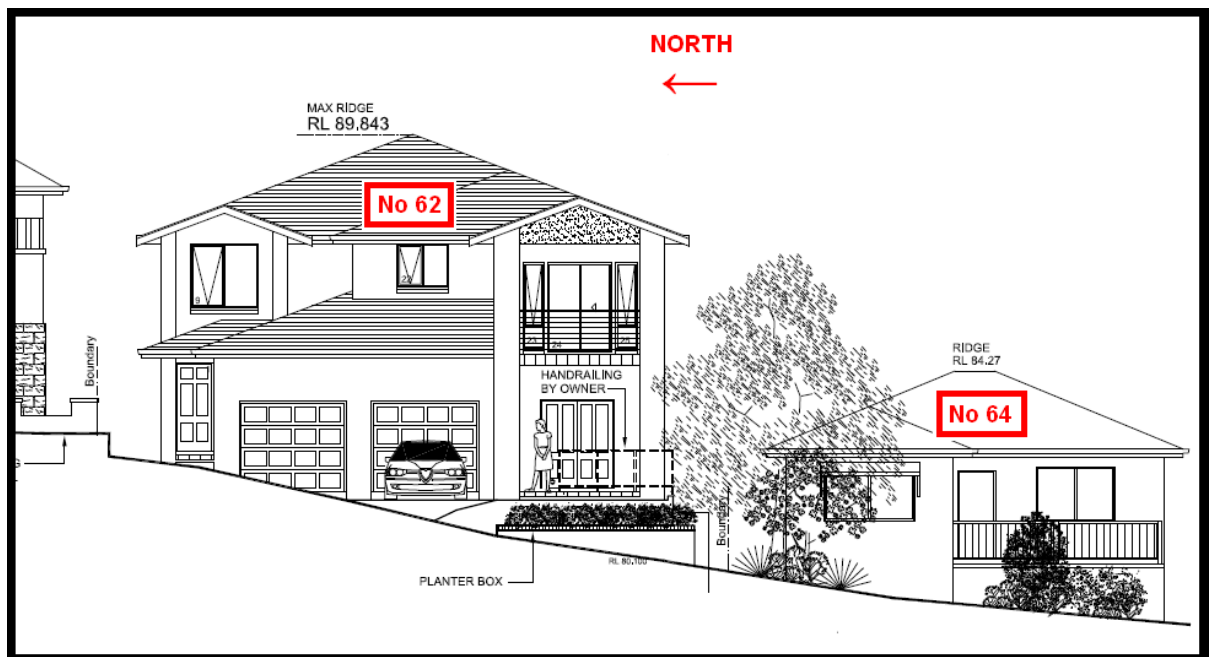
Conclusion re View Impacts: The view impacts of the current design are considered unacceptable. Although the views are land views not water views, and contain no iconic features, and are across a side boundary which are recognised as being more difficult to protect, they are still highly valued by property owners in this location, and the design as proposed would result in an almost complete removal of the views currently enjoyed from No 60 Darvall. Most importantly, there are design solutions which could easily be undertaken which would preserve the views at least to a reasonable level. These solutions have been requested however the applicant has not been prepared to amend the design. Accordingly, the current proposal is presented to the Planning & Environment Committee for determination. On balance, the view impact is considered unacceptable and is considered to be a valid reason for refusal.

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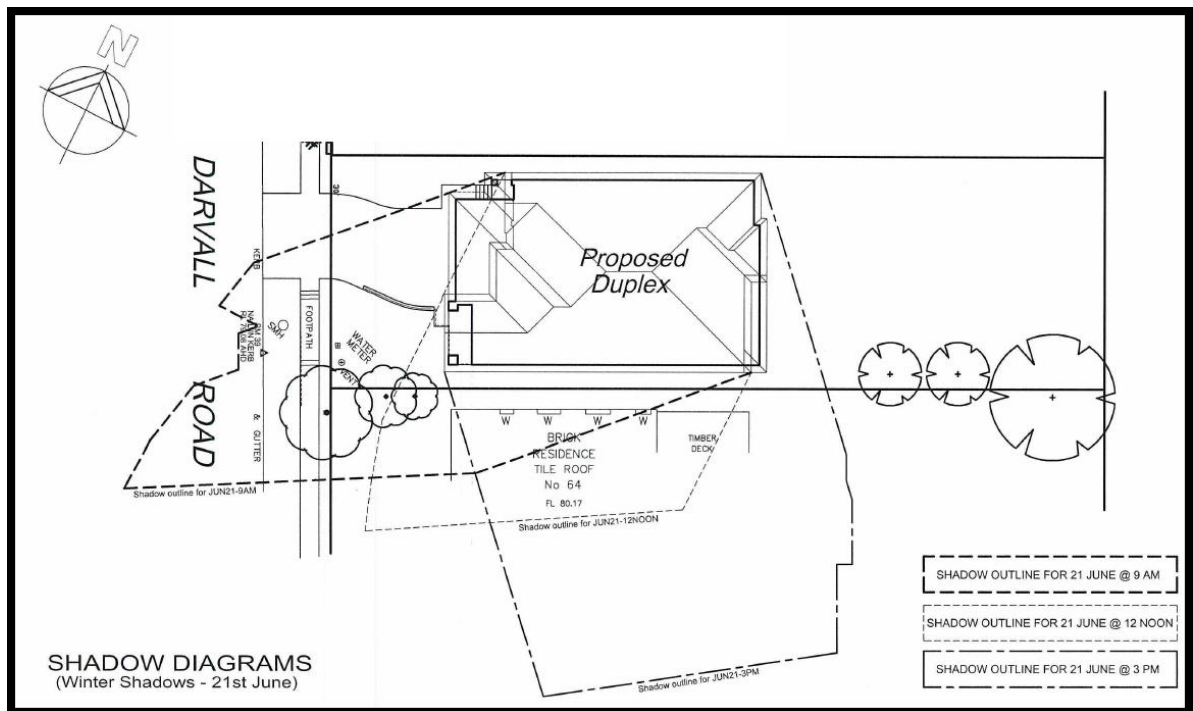
- 4. Overshadowing of No 64 Darvall Road.** *Concern is raised that the proposal would have excessive overshadowing impacts on this adjoining property. A more sensitive design should be chosen which would improve solar access.*

Comment: It is considered that the topography and orientation of the subject and neighbouring sites means that any development (even a single storey dwelling) would cause significant overshadowing on No 64 Darvall – which is both due south and significantly lower than No 62. However, these impacts are exacerbated by the design proposed in this application, which is a full-length 2 storey building. As with issues regarding view impacts, it is agreed that a more sympathetic design could at least minimise overshadowing impacts on No 64 to a reasonable level, however the design chosen in this application would cause severe overshadowing as well as general impacts of bulk, scale and massing and is unacceptable. The following is a streetscape drawing showing the proposed development relative to No 64 to the south, as well as the shadow diagrams submitted for this DA:



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5. **Vehicle egress/traffic safety.** *The site is close to the crest of a very steep hill, which severely limits sight distances for drivers, and is inappropriate for a dual occupancy development which has more traffic than a normal dwelling. It is dangerous for cars to have to reverse out onto Darvall Road at this site.*

Comment: The applicant has proposed amended plans which provide a vehicle turning area within the front setback area, to ensure that vehicles can enter/leave the site in a forward direction, which has been assessed as satisfactory by Council's Development Engineers. In terms of traffic generation, according to the (former) Roads and Traffic Authority's *Guidelines for Traffic Generating Development*, a dual occupancy development (ie 2 separate dwellings) would generate an average of 18 daily vehicle trips (1.8 in peak periods) which is only a minor increase compared to a single dwelling (9 daily vehicle trips or 0.9 in peak periods).

It is considered, given the relatively low traffic generation of the proposed development compared to a single dwelling and the provision of a vehicle turning area, that the proposal is acceptable in terms of vehicle egress and traffic safety.

6. **Streetscape impacts.** *The proposed garages will visually dominate the front elevation of the proposed building, contrary to the Council's DCP requirement. Also, the provision of a raised vehicle turning area is unacceptable in the street.*

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Comment: The streetscape presentation of the proposal is shown above. Although the width of the garages (combined width 7.17m) exceeds the DCP maximum (6m or 50% of the frontage), the extent of the non-compliance is numerically minor, and the visual impact is lessened by provision of 2 x single width garage doors. The proposed garage doors are therefore considered acceptable in terms of streetscape impacts and will have a similar appearance to a standard residential development.

The provision of a driveway and turning area creates an additional element to the front setback area not normally required in residential developments (in particular the turning area would be elevated out of the ground by approximately 1.2m at the southern end due to the slope of the site and to be supported by retaining walls), however this is necessary at this site to ensure safe vehicle egress. There is sufficient space between the raised vehicle turning area and the front boundary to provide landscaping to soften the visual impact. Provided this is done, it is considered that this would be a satisfactory design outcome in terms of streetscape, given the need to provide safe vehicle egress.

7. Privacy. *The proposal would cause adverse privacy and overlooking of both neighbouring properties at No 60 and 64 Darvall Road.*

Comment: Privacy impacts should be considered in terms of both of the two adjoining properties (No 60 and 64 Darvall Road) either side of this site.

Firstly, in terms of No 60 to the north, there is only one window at first floor level in the proposed development (to a study room) which faces No 60. Although the study room window lines up with the dining room window of No 60, the study would be a relatively low-use room and not a primary living room, so the privacy impacts would be relatively minor. This could be readily resolved via provision of a highlight (eg 1.5m sill height) window to the study room, which could be addressed via a condition of consent if Council decides to approve the DA. The ground floor level of the proposal would be lower than the level of a 1.8m high boundary fence, which would ensure adequate privacy between this level and the No 60. It is noted that the lower level of No 60 is also mostly sub-floor level. Overall, the proposal would be acceptable in terms of privacy impacts on No 60.

In regard to No 64 to the south, although the finished floor levels of the proposal are to be kept as close as possible to the existing ground level (maximum 150mm above natural ground level at the rear), given the prevailing topography in this location the finished floor levels (ground floor RL81.51) are some 1.86m higher than the existing ground levels of the neighbouring property at No 64 (which is RL79.65 on the neighbour's side of the boundary). It is considered that the ground floor family room and timber deck (of dwelling B) in particular would need to have privacy screens or similar solutions to ensure privacy to the neighbour can be maintained to a reasonable level.

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- 8. Design character.** *The proposal will result in loss of the existing dwelling and will create a new large duplex which is out of character with surrounding developments.*

Comment: The existing dwelling is an older style, somewhat “run down” single storey dwelling with tile roof, which is not considered significant from a streetscape point of view. In a general sense, the development of a new dual occupancy style of development would not be considered unacceptable in terms of streetscape. The design of the development as presented in this application is unacceptable for other reasons of view impacts and overshadowing as discussed throughout this report.

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

None required.

9. Policy Implications

Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Local Environmental Plan 2010

Zoning

The subject property is zoned R2 Low Density Residential. The proposed dual occupancy is permissible with Council’s development consent.

Mandatory Requirements

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

Clause 4.3 – Height of buildings. Sub-clause (2) of this clause states that “the height of a building on any land is not to exceed the maximum height for the land shown for the land on the height of buildings map”. In this case, the maximum height is 9.5m. The maximum height of the proposed additions is 8.21m, which complies with Ryde LEP 2010.

Clause 4.4 Floor Space Ratio. This clause prescribes a maximum floor space ratio (FSR) of 0.5:1. The FSR for the proposed development has been calculated to be 0.45:1, which complies with this clause.

(b) Relevant State Environmental Planning Policies (SEPPs)

State and Sydney Regional Environmental Planning Policies

SEPP BASIX:

A compliant BASIX Certificate has been submitted with the DA.

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State Environmental Planning Policy No. 55 – Remediation of Land

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

(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 was placed on public exhibition between 30 May 2012 and 13 July 2012. Under this Draft LEP, the zoning of the property is R2 Low Density Residential. It is considered that the proposal is not contrary to the objectives of the Draft LEP or those of the proposed zoning.

(e) The provisions of any development control plan applying to the land

Ryde Development Control Plan (DCP) 2010.

The proposal has been assessed using the development controls contained in Ryde DCP 2010. The DCP compliance table for this development proposal is held at **Attachment 1**.

There are a number of areas of non-compliance identified in the Compliance Table, which are discussed as follows:

1. Topography and Excavation (Height of Retaining Walls): Ryde DCP 2010 prescribes a maximum retaining wall height of 900mm. The proposal involves retaining walls of up to 1.4m along the northern boundary which does not comply.

Comment: in relation to topography and excavation, the objectives of the DCP are:

1. *To retain natural ground levels and existing landform.*
2. *To create consistency along streetscapes.*
3. *To minimise the extent of excavation and fill.*
4. *To ensure that excavation & fill does not result in an unreasonable loss of privacy or security for neighbours.*

Given the significant slope at this site, it is difficult to ensure full compliance with the numerical requirements, however it is considered that the above objectives have been achieved. It is also considered that the issues resulting from the excavation along the northern boundary can be resolved via conditions of consent, as discussed in the Submissions section of this report.

2. Garage Setback: DCP 2010 requires that garages must be set back 1m behind the front building elevation. The proposal has the garages forward of the front entry by 3.59m (dwelling A), but 450mm behind the structure of the front patio for dwelling B, and this does not comply with the DCP.

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Comment: The objective for this control is to ensure that car parking structures and garage doors are not prominent features in the streetscape. The front elevation of the development has a range of design features including the patio and balcony for dwelling B, and a staggered front wall at the 1st floor level. It is considered that the design of the development would be acceptable in terms of streetscape presentation despite this numerical non-compliance in terms of garage setback.

3. Garage Width: DCP 2010 states that garages and carports facing the public street are to have a maximum width of 6 metres or 50% of the frontage, whichever is less. The total width of the garages in this proposal is 7.17m which does not comply.

Comment: As with the garage setback, the objective for this control is also to ensure that car parking structures and garage doors are not prominent features in the streetscape. The proposed driveway width has been designed to assist vehicle manoeuvring, to ensure cars can enter and leave the site in a forward direction. The extent of the non-compliance is numerically minor, and the visual impact is lessened by provision of 2 x single width garage doors.

4. Hard-Paving within Front Garden Area: DCP 2010 prescribes a maximum 40% hard-paved area within the front garden area. The development proposes approximately 56.5% hard-paved area which does not comply.

Comment: This non-compliance is caused by the provision of a vehicle turning area within the front setback (in addition to the normal driveway width) to ensure safe vehicle egress. There is sufficient space between the raised vehicle turning area and the front boundary to provide landscaping to soften the visual impact. Provided this is done, it is considered that this would be an acceptable design outcome in terms of streetscape, given the need to provide safe vehicle egress.

5. Solar Access (for neighbouring properties): DCP 2010 states that for neighbouring properties, the windows to north-facing living areas of neighbouring properties must receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their surface, where this can be reasonably maintained given the orientation and topography of the subject and neighbouring sites.

Comment: As shown in the shadow diagrams for this development proposal (see earlier in this report), the development does not comply with this requirement. Shadows from the development would affect the north-facing living rooms of No 64 Darvall (ie kitchen and living rooms) so that the minimum 3 hours is not achieved as required by Council's DCP.

Whilst it is noted that solar access is difficult to protect for No 64 Darvall (which is both due south and downhill from the subject site), these impacts are exacerbated by the design proposed in this application, which is a full-length 2 storey building. A more sympathetic design could help to minimise overshadowing impacts on No 64, such as making the rear portion of the development single storey in height.

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10. Likely impacts of the Development

(a) Built Environment

Issues regarding impacts on the built environment are discussed throughout this report (in particular impacts on the heritage significance of the building, and also DCP compliance). In summary, the proposal as currently presented is considered unacceptable in terms of impacts on views from No 60 Darvall Road, and also overshadowing and bulk, scale and massing when viewed from No 64 Darvall.

(b) Natural Environment

The proposal would have minimal impact in terms of the natural environment. The proposal involves no removal of existing vegetation, whilst matters regarding soil erosion/sediment control etc could be addressed via standard conditions on any consent if Council decides to approve the DA.

11. Suitability of the site for the development

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

Slope Instability: Refer to the "Referrals" section of this report for comments from Council's Consultant Structural Engineer.

12. The Public Interest

Having regard to the concerns in relation to this DA, as discussed throughout this report, it is considered that approval of this DA would not be in the public interest.

13. Consultation – Internal and External

Internal Referrals

Development Engineer: Council's Development Engineer considered the applicant's amended plans received on 22 June 2012 and provided the following comments:

The subject site has a steep fall across the footpath and also there are some services within the footpath. Currently the footpath paving exists in front of the property with steps at some locations.

The amended plans now show lower garage levels and a lower floor level for dwelling B.

Due to the steep road alignment and the nearby intersection and the road crest Council has requested that applicant addresses the safety of vehicles reversing to the street from the development site. The applicant is proposing a turning bay for vehicles to manoeuvre within the site and exit in a forward direction to the

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street. Vehicles leaving the garage of dwelling A can reverse into the bay proposed using a three point turn and exit to the street in a forward direction. However a vehicle from the garage of dwelling B has to do more than a three point turn to reverse and exit to the street in a forward direction. This is a variation from Council's DCP requirement.

The height of the planter box at front is about 950mm above natural ground levels at south-western corner of the site. If the planter box is pushed back towards the southern boundary to increase the length of the turning bay, the area between the planter box and the front porch of dwelling B will be a trapped low point. This will divert surface runoff towards the adjoining property.

Council has previously issued site specific levels for the driveway. These levels have to be amended to reflect the new garage levels. The driveway gradients can be achieved to comply with AS 2890.1. There will be additional works within the footpath which should be carried out by the applicant to achieve the driveway gradients.

The drainage plan has not been amended to reflect the new layout at front for the development. However the OSD tank can be located under the driveway and the tank volume can be achieved. There is adequate slope towards the street to direct the outlet pipe from the OSD tank to the kerb. I have provided a condition for applicant to amend plans prior to issue of a CC. i.e. No plans have been stamped at this stage.

All works shall be carried out in accordance with the recommendations in the Geotechnical Report prepared by Davis Geotechnical Consulting Engineers dated 11 August 2006 and as advised by Council's Structural Engineer.

External Referrals

Consultant Structural Engineer: Given that the site is within an area of Slope Instability (according to Council's mapping system), this DA was referred to Council's Consultant Structural Engineers (Cardno Pty Ltd). The following comments have been provided (2 August 2011):

As requested the documentation provided in relation to this matter has been reviewed and we advise as follows:

- 1. The subject site is indicated on Council's maps as being at risk of slope instability, and Council's normal policy for development on such blocks is to require the applicant to provide a geotechnical report that assesses slope instability risks both pre and post development, and that recommends construction procedures to appropriately minimise the identified risks.*
- 2. A geotechnical report dated 11 August 2006 prepared by Davies Geotechnical has been provided, together with a letter dated 4 May 2011 from the same company. The letter advises that the currently proposed development does not change their original assessment with regard to risks of*

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slope instability. These documents are assessed by Cardno as meeting Council's requirements for sites potentially at risk of slope instability.

3. *Should Council decide to approve this application then Cardno recommends that this approval be conditioned on all works being carried out in strict compliance with the recommendations as contained in the Davies Geotechnical report.*

In addition to the above, specific concerns were raised from the adjoining owner of No 60 Darvall Road (to the north) regarding potential impacts from the development (ie including the ability of the aged retaining wall to accommodate the proposed development, the amount of excavation proposed, as well as potential impacts on the structural integrity of their home, and the fact that the original assessment was prepared in 2006 and so the site conditions could have changed). It was considered appropriate for these concerns to be referred separately to Council's Consultant Structural Engineer. In response, the following further comments have been received (20 October 2011):

As requested in your email today, I have reviewed the proposed works at No. 62 to ascertain the probable risks to No. 60 and advise as follows:

1. *The survey drawing shows an existing brick retaining wall on the common boundary with No. 60, extending 18 m into the site from the street boundary.*

In front of the brick retaining wall is a timber retaining wall which starts 7m in from the street boundary, and extends 3 m past the eastern end of the brick wall.

From where the timber wall finishes to the back of No. 60, (i.e. approximately back of the new houses on No. 62) the survey indicates a level difference of 1.2 to 1.6 m between the properties but does not show a retaining wall in this region.

In the Davies Geotechnical report is the following statement "The cut on the uphill side against the boundary with No. 60 varies in depth from about 1.0 m at the front to about 1.5m at the rear. The cut is supported by brick and timber walls and appears to be faced with stone and brick at the rear, but is heavily overgrown with creepers in that area."

The rear elevation of the proposed attached dual occupancy dwellings shows an existing near boundary retaining wall approximately 1.6m in height. The lack of a retaining wall at this location on the survey plan and the description of a brick/stone faced batter on the Davies Geotechnical report brings into question exactly what is at present supporting the ground on the No. 60 side of the boundary adjacent to the rear corner of No. 60.

2. *In relation to boundary retaining walls the Davies Geotechnical report advises "Excavation to achieve the proposed site levels must be restricted to the minimum required i.e. about 0.3 m along the northern side of the building*

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footprint. At all times during the building work, the stability and integrity of the existing retaining wall on the No. 60 boundary, and the land and footings supporting the dwelling structure on No. 60, must be maintained, with propping or other measures if necessary”.

As the approval of No. 62 was conditioned on full compliance with the recommendations in the Davies Geotechnical report, maintenance of No. 60 and the prevention of damage thereto is required.

- 3. Whether removal of the timber retaining wall will destabilise the adjacent brick retaining wall is yet to be determined. As access is required along the north side of No. 62 and as a rainwater storage tank is to be provided at the western end of the north wall, some new form of retaining wall will be required if there is a brick/stone faced batter at present supporting the change in level between the properties.*
- 4. The house on No. 60 has stone foundation walls supporting brickwork above. Conventionally with stone foundation walls, the stone is founded only nominally below original surface level. Accordingly such walls are at risk from any excavation that is in the near proximity.*

By scale off the architectural drawings, the south wall of No. 60 is approximately 1.1 m inside the No 60/No. 62 common boundary.

If a new retaining wall is required, excavation up to about 1.8 m in depth will be required on the common boundary. Given the close proximity of the south wall of No. 60 and the likelihood that this wall is founded at shallow depth, construction of a new boundary retaining wall could pose significant risks to No. 60.

- 5. Because decisions about the adequacy of the retention systems along the No. 60/No. 62 common boundary and decisions about new retaining walls in this area will not be made until after site clearing, demolition, and some bulk excavation, the current unknowns give rise to above average risks with respect to No. 60.*

To adequately safeguard the rights of the owner of No. 60, Cardno is of the opinion that a dilapidation survey of the southern wall and immediate return walls of that property should be undertaken prior to the commencement of the works on No. 62, and in the circumstances recommends that Council conditions any approval accordingly.

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

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

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16. Other Options

None relevant.

17. Conclusion

The proposed development has been assessed using the heads of consideration listed in Section 79 of the Environmental Planning & Assessment Act 1979. It is considered that the development as proposed in this application is unsatisfactory because of its adverse impacts on the views from No 60 Darvall Road, and also in terms of overshadowing of the neighbouring property to the south (No 64 Darvall Road).

Attempts have been made to negotiate a suitable outcome with the applicant over a considerable period of time (via requests for amended plans and meetings to discuss the proposed development), however they have declined. Council has received written submissions from the applicant to justify their current design, but they have indicated that they are not willing to provide any further design amendments.

The DA is therefore presented to the Planning & Environment Committee for determination on the basis of the plans currently submitted, it is recommended that the application not be held in abeyance any longer and should be refused.

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DCP COMPLIANCE TABLE - 62 Darvall Road, Eastwood.

City of Ryde Development Control Plan 2010:

Part 3.3 – Dwelling Houses and Dual Occupancy (Attached)

Part 7.1 – Energy Smart, Waterwise

Part 7.2 – Waste Minimisation and Management

Part 8.2 – Stormwater Management

Part 9.4 – Fencing

Compliance with the above part/s of DCP 2010 is illustrated by the development standards below.

DCP 2010	Proposed	Compliance
<i>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</i>		
Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is consistent with the desired future character of the low density residential area as detailed further in this table.	Y
Dwelling Houses		
- To have a landscaped setting which includes significant deep soil areas at front and rear.	Front and rear gardens proposed.	Y
- Maximum 2 storeys.	Two storeys	Y
- Dwellings to address street	Dwelling presents to Darvall Street.	Y
- Garage/carports not visually prominent features.	Garage not prominent feature as setback in front elevation of building.	Y
Dual Occupancy – Linear Separation		
- 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?	None within 2x frontage of either existing or proposed multi-dwelling sites	Y
Public Domain Amenity		
Streetscape		
- Front doors and windows are to face the street. Side entries to be clearly	Front doors and windows face street.	Y

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DCP 2010	Proposed	Compliance
<p>apparent.</p> <ul style="list-style-type: none"> - Single storey entrance porticos. - Articulated street facades. 	<p>Dwelling B entrance portico has balcony to 1st floor level above – therefore is single storey.</p> <p>Articulated street façade.</p>	<p>Y</p> <p>Y</p>
<p>Public Views and Vistas</p> <ul style="list-style-type: none"> - A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views. 	<p>This part of the DCP relates to views to the Parramatta and Lane Cove Rivers through side boundary setbacks. Such views don't exist at this site.</p>	<p>Y</p>
<p>Pedestrian & Vehicle Safety</p> <ul style="list-style-type: none"> - Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard. - Fencing that blocks sight lines is to be splayed. 	<p>Complies, assessed as satisfactory by Council's Development Engineer.</p> <p>No front fencing proposed.</p>	<p>Y</p> <p>N/A</p>
Site Configuration		
<p>Deep Soil Areas</p> <ul style="list-style-type: none"> - 35% of site area min. - Min 8x8m deep soil area in backyard. Dual occupancy developments only need 1 of 8 x 8m area (doesn't have to be shared equally). - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). 	<p>Permeable (deep soil) area: 418.49m² approx (57% of site area).</p> <p>Rear DSA dimensions: 8m x 8m provided.</p> <p>Front DSA: Hard surface areas have been kept to a minimum in the front yard, except for the required driveway, turning area and path.</p>	<p>Y</p> <p>Y</p> <p>Y</p>
<p>Topography & Excavation</p> <p>Within building footprint:</p> <ul style="list-style-type: none"> - Max cut: 1.2m - Max fill: 900mm 	<p>Within BF</p> <p>Max cut: 1.1m</p> <p>Max fill: Nil</p>	<p>Y</p> <p>N/A</p>

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DCP 2010	Proposed	Compliance
Outside building footprint: - Max cut: 900mm - Max fill: 500mm - No fill between side of building and boundary or close to rear boundary - Max ht retaining wall 900mm	Outside BF Max cut: 900mm Max fill: Nil None proposed. Wall at rear = 1.3m. Wall at front = 1.4m.	Y N/A N/A N (variation supported)
Floor Space Ratio		
Ground floor	198.29m ²	
First floor	170.55m ²	
Detached car parking structures	N/A	
Outbuildings (incl covered pergolas, sheds etc)	N/A	
Total (Gross Floor Area)	368.84m ²	
Less 36m ² (double) or 18m ² (single) allowance for parking	332.84m ²	
FSR (max 0.5:1) Note: Excludes wall thicknesses; lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas.	0.45:1	Y
Height		
- 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL).	Two storeys maximum.	Y
- 1 storey maximum above attached garage incl semi-basement or at-grade garages.	1 storey maximum (over a small portion of the garage).	Y
Wall plate (Ceiling Height) - 7.5m max above FGL <i>or</i> - 8m max to top of parapet NB: <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> <i>FGL = Finished Ground Level</i>	Northern Side: TOW RL: 87.50 FGL blw (lwst pnt) RL: 80 TOW Hgt (max) = 5.23m Southern Side: TOW RL: 87.50 FGL blw (lwst pnt) RL: 80.1 TOW Hgt (max)= 7.4m	Y
- 9.5m Overall Height (ridge) NB:	Max pnt of dwing RL: 89.84 EGL blw (lwst pnt): RL: 81.73	

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DCP 2010	Proposed	Compliance
<i>EGL = Existing Ground Level</i>	Overall Hgt (max)= 8.21m	Y
Habitable rooms to have 2.4m floor to ceiling height (min).	2.44m min room height.	Y
Setbacks		
SIDE Single storey dwelling <ul style="list-style-type: none"> - 900mm to wall - Includes balconies etc 	=1500mm	Y
SIDE Two storey dwelling <ul style="list-style-type: none"> - 1500mm to wall - Includes balconies etc 	=1500mm	Y
Front <ul style="list-style-type: none"> - 6m to façade (generally) - Garage setback 1m from the dwelling façade - Wall above is to align with outside face of garage below. - Front setback free of ancillary elements eg RWT, A/C 	=7.5m In front of dwelling A front entry by 3.59m, setback from front porch (dwelling B) 450mm. Wall above the garage generally aligns with face of wall below. Complies.	Y N (variation supported) Y Y
Rear <ul style="list-style-type: none"> - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. Note: 12.35m is 25% of site length.	<20m to the rear deck	Y
Car Parking & Access		
General <ul style="list-style-type: none"> - Dual Occupancy (attached): 1 space max per dwelling. - Where possible access off secondary street frontages or laneways is preferable. - Max 6m wide or 50% of frontage, whichever is less. - Behind building façade. 	1 space per dwelling within an enclosed garage. Access from Darvall Road. External width = 7.17m.	Y Y N (variation supported)
Garages <ul style="list-style-type: none"> - Garages setback 1m from façade. - Total width of garage doors visible from public space 	In front of dwelling A front entry by 3.59m, setback from front porch (dwelling B) 450mm.	N (variation supported) Y

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DCP 2010	Proposed	Compliance
<p>must not exceed 5.7m and be setback not more than 300mm behind the outside face of the building element immediately above.</p> <ul style="list-style-type: none"> - Garage windows are to be at least 900mm away from boundary. 	<p>Width of openings = 2.5m each and doors are each setback 300mm behind the outside face of the building element immediately above.</p> <p>None proposed.</p>	N/A
<p>Parking Space Sizes (AS)</p> <ul style="list-style-type: none"> o Single garage: 3m w(min) o Internal length: 5.4m (min) 	Maximum internal measurements: 3.2m x 6.1m	Y
<p>Driveways</p> <p>Extent of driveways minimised</p>	Extent of driveway considered necessary for the proposed development.	Y
Landscaping		
<p>Trees & Landscaping</p> <ul style="list-style-type: none"> - Major trees retained where practicable - Physical connection to be provided between dwelling and outdoor spaces where the ground floor is elevated above NGL eg. stairs, terraces. - Obstruction-free pathway on one side of dwelling (excl cnr allotments or rear lane access) - Front yard to have at least 1 tree with mature ht of 10m min and a spreading canopy. - Back yard to have at least 1 tree with mature ht of 15m min and a spreading canopy. - Hedging or screen planting on boundary mature plants reaching no more than 2.7m. - OSD generally not to be located in front setback unless under driveway. 	<p>No significant trees located on the site.</p> <p>Complies.</p> <p>Complies.</p> <p>Complies.</p> <p>Complies.</p> <p>Complies.</p> <p>To be provided beneath the driveway/turning area</p>	<p>N/A</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p>

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DCP 2010	Proposed	Compliance
<ul style="list-style-type: none"> - Landscaped front garden, with max 40% hard paving 	Hard Paving: 56.5%	N (variation supported)
Landscaping for lots with Urban Bushland or Overland Flow constraints <ul style="list-style-type: none"> - Where lot is adjoining bushland protect, retain and use only native indigenous vegetation for distance of 10m from bdy adjoining bushland. - No fill allowed in overland flow areas. - Fences in Overland Flow areas must be of open construction so it doesn't impede the flow of water. 	<p>The site does not adjoin bushland.</p> <p>No fill proposed.</p> <p>Existing side fencing.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>
Dwelling Amenity		
Daylight and Sunlight Access <ul style="list-style-type: none"> - Living areas to face north where orientation makes this possible. - 4m side setback for side living areas where north is to the side allotment boundary. 	<p>Living areas face north for Dwelling A but unable to be achieved for Dwelling B</p> <p>Unable to be achieved.</p>	<p>Y</p> <p>N/A</p>
<u>Subject Dwelling:</u> <ul style="list-style-type: none"> - Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21. - Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21. 	<p>Complies. Greater than 3hrs of sunlight achieved to all north facing windows between 9am and 3pm on June 21.</p> <p>Complies. Greater than 2 hours of sunlight achieved to the private open space area between 9am and 3pm on June 21.</p>	<p>Y</p> <p>Y</p>
<u>Neighbouring properties are to receive:</u> <ul style="list-style-type: none"> - 2 hours sunlight to at least 50% of adjoining principal ground level open space 	<p>Complies. Greater than 2 hours of sunlight achieved to more than 50% of the private</p>	<p>Y</p>

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DCP 2010	Proposed	Compliance
between 9am and 3pm on June 21. - At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21.	open space area of adjoining dwelling between 9am and 3pm on June 21. Unable to comply. See discussion in report.	N (unacceptable)
Visual Privacy - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. - Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space. - Side windows offset from adjoining windows. - Terraces, balconies etc are not to overlook neighbouring dwellings/private open space.	Complies. Complies. Generally complies. Complies.	Y Y Y Y
Acoustic Privacy Layout of rooms in dual occupancies (attached) are to minimise noise impacts between dwellings eg: place adjoining living areas near each other and adjoining bedrooms near each other.	Complies.	Y
View Sharing - The siting of development is to provide for view sharing.	Complies.	Y
Cross Ventilation - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation.	Complies.	Y

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DCP 2010	Proposed	Compliance
External Building Elements		
Roof - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable Terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights.	Complies. Complies. Complies. None proposed. None proposed.	Y Y Y N/A N/A
Attic Dormer Windows	Not proposed.	N/A
Fencing		
Front/return: - 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.	Front fencing is not proposed.	N/A
Side/rear fencing: - 1.8m max o/a height.	Condition to comply with the DCP requirements.	N/A
Part 7.1 - Energy Smart, Water Wise		
As per submitted BASIX Certificate.		Y
External Clothes Drying Area		
External yard space or sheltered ventilated space for clothes drying	Complies.	Y
Part 7.2- Waste Minimisation & Management		
Submission of a Waste Management Plan in accordance with Part 7.2	The applicant has submitted a Waste Management Plan in accordance with Part 7.2	Y

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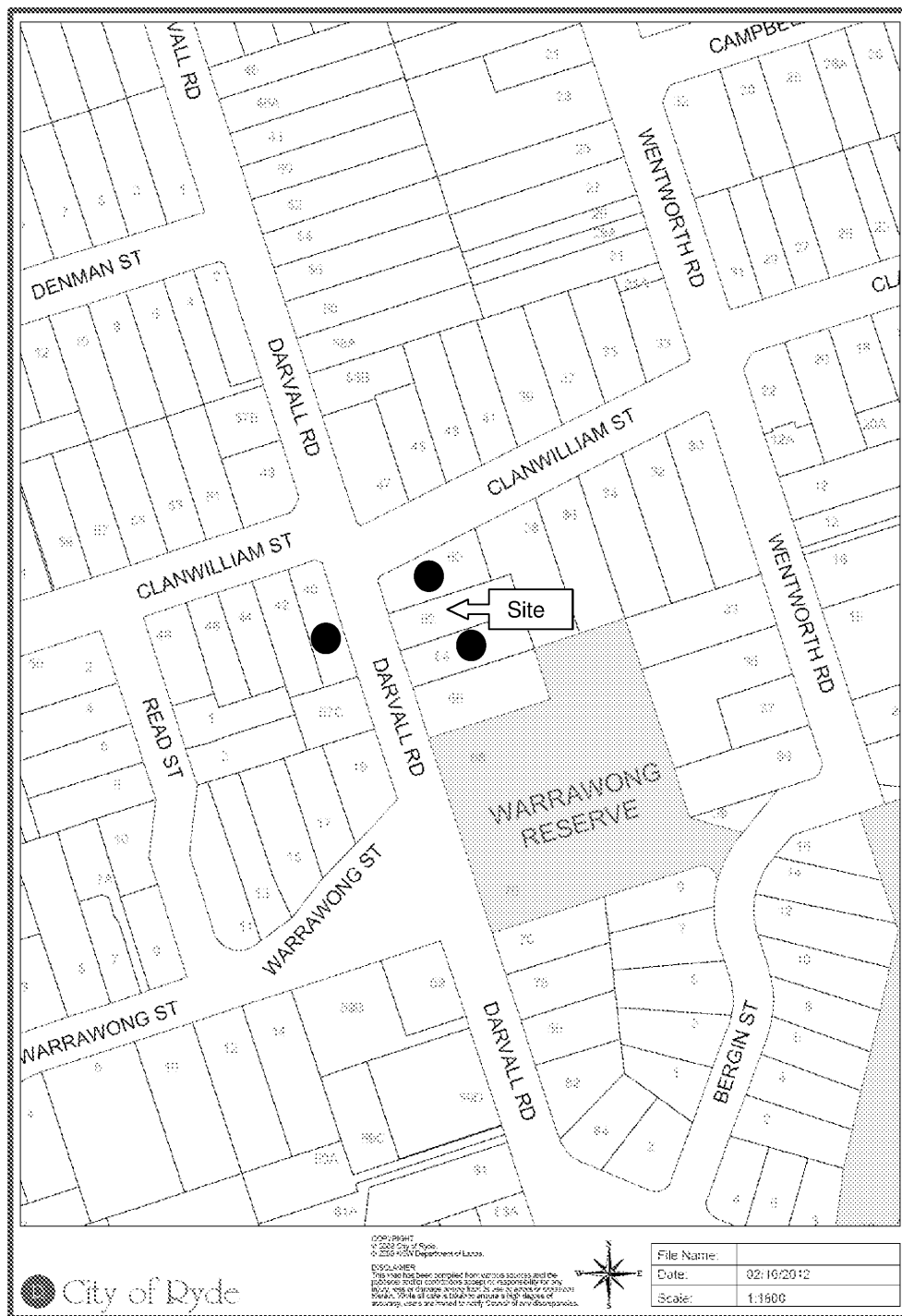
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DCP 2010	Proposed	Compliance
Part 8.2 - Stormwater Management		
Stormwater		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	To Development Engineer requirements	Y
Part 9.4 – Fencing		
Front & return fences		
Front and return fences that exceed 1m in height are to be 50% open	None proposed.	N/A
Part 9.6 – Tree Preservation		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway.	No significant trees are proposed to be removed. The site will be appropriately landscaped as part of the proposed development.	Y

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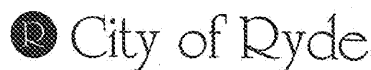
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● Indicates submissions received
(one submission also received from a planning consultant)



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Lifestyle and opportunity @ your doorstep

FILE COPY

Susan Robinson Consulting Pty Ltd
1306/183 Kent Street
SYDNEY NSW 2000

14 August 2012

Dear Susan,

Re: Proposed Dual Occupancy Development – 62 Darvall Road, Eastwood
Our Ref: LDA2011/380

Thank you for your letter dated 1 August 2012 in which you raise a number of concerns about your client's dual occupancy development application (DA) at the subject property.

I have considered your concerns in your letter (with chronology attached), and I can provide further clarification regarding how your client's DA will be determined by Council and the issues regarding the proposed development, as raised in your letter.

In terms of timeframe, I wish to confirm that the DA has been "called-up" to a Planning & Environment Committee meeting by a Councillor, which means that it cannot be determined under staff delegation. Although the assessment of the DA is continuing, at this point in time, there are now no Planning & Environment Committee meetings scheduled until after the Council elections, and therefore it is not possible at this stage to advise of the meeting date when the DA will be considered.

Your client (Mr Hock Chua) has been advised of this situation regarding timeframe by Council's Team Leader – Assessment, Mr Chris Young.

In terms of the issues of concern regarding the development itself, these are mainly impacts on the views enjoyed from the property to the north (No 60 Darvall Road), and also vehicle access from Darvall Road. Vehicle access has now been resolved through amended plans to the satisfaction of Council's Development Engineer.

In terms of view impacts, as noted in your chronology, Council officers have raised these issues on several occasions throughout the assessment of your client's DA (eg meeting 28 September 2011 and in letter dated 23 March 2012). Although the DA plans have been amended by your client, these have mostly been minor changes, or additional plans clarifying the position of windows and verandah on the adjoining property, and a written submission from the project architect (dated 6 October 2011) stating why the proposal should be supported. However your client has declined to make the substantial changes to the plans.

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D12/63440

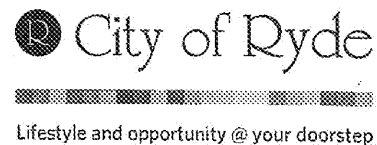
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that have been requested to address this issue and protect the views from the adjoining property.

As you have noted, a 2-storey dwelling has been approved on this property (LDA2006/554, approved 12 January 2007). However, that development had a much lesser impact on views than the current proposal does, because the dwelling was designed to be single storey at the rear (ie the upper storey was set in by some 4.255m from the rear wall of the single storey portion below), and so it would have preserved the views from the rear living areas (and verandah) of the adjoining dwelling. The current proposal involves a 2 storey portion in line with the rear wall of the single storey portion below, and so it would have a more significant impact on views than the previous approval.

In the circumstances, a report is being prepared to the first possible Planning & Environment Committee (after the Council election) with a likely recommendation of refusal. It is considered that the rear section of the proposed dual occupancy should be single-storey (similar to the previously-approved dwelling), or the design should be otherwise modified in order to reasonably preserve the views from the neighbouring property.

It would appear that your client has the following options available in terms of Council's consideration of this DA:

1. Make significant changes to the design of the dual occupancy, as previously requested (ie the rear portion should be single storey to preserve views from the property to the north). In this regard it should be noted that whilst this option may receive Council officer's support, the final decision in this DA will still lie with the Planning & Environment Committee.
2. If your client is not prepared to make any further changes, then the current plans will be referred to the first possible Planning & Environment Committee with a likely recommendation of refusal.
3. Withdraw the DA within 14 days of the date of this letter, in which case, Council will refund a portion of the DA fees paid by your client.

I hope that this information clarifies the situation for you. Can you please confirm with Mr Chris Young Team Leader - Assessment on 9952 8237 or by email cyoung@ryde.nsw.gov.au of your preferred option (as above) in relation to this DA.

Yours faithfully



Dominic Johnson
Group Manager Environment & Planning

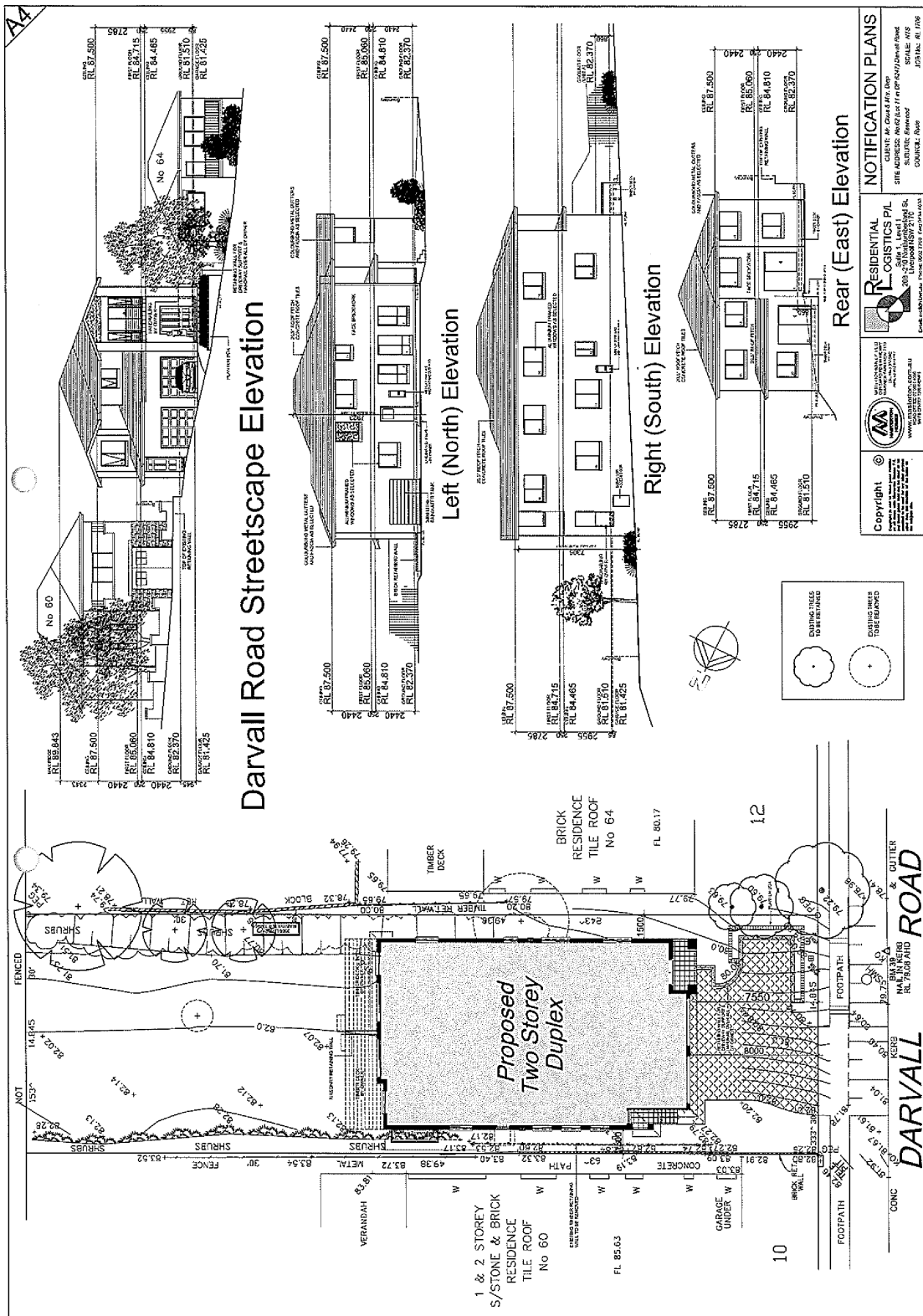
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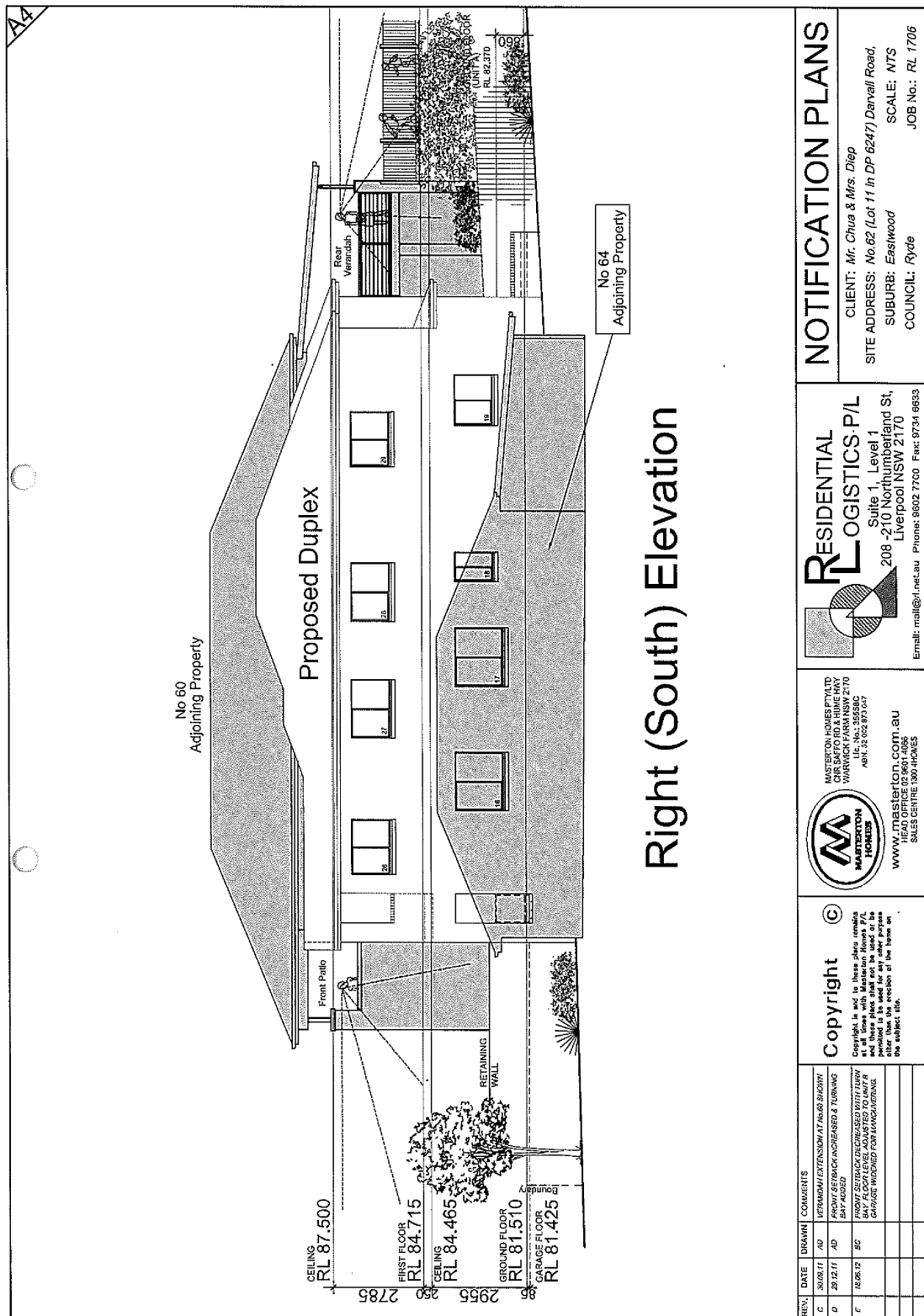
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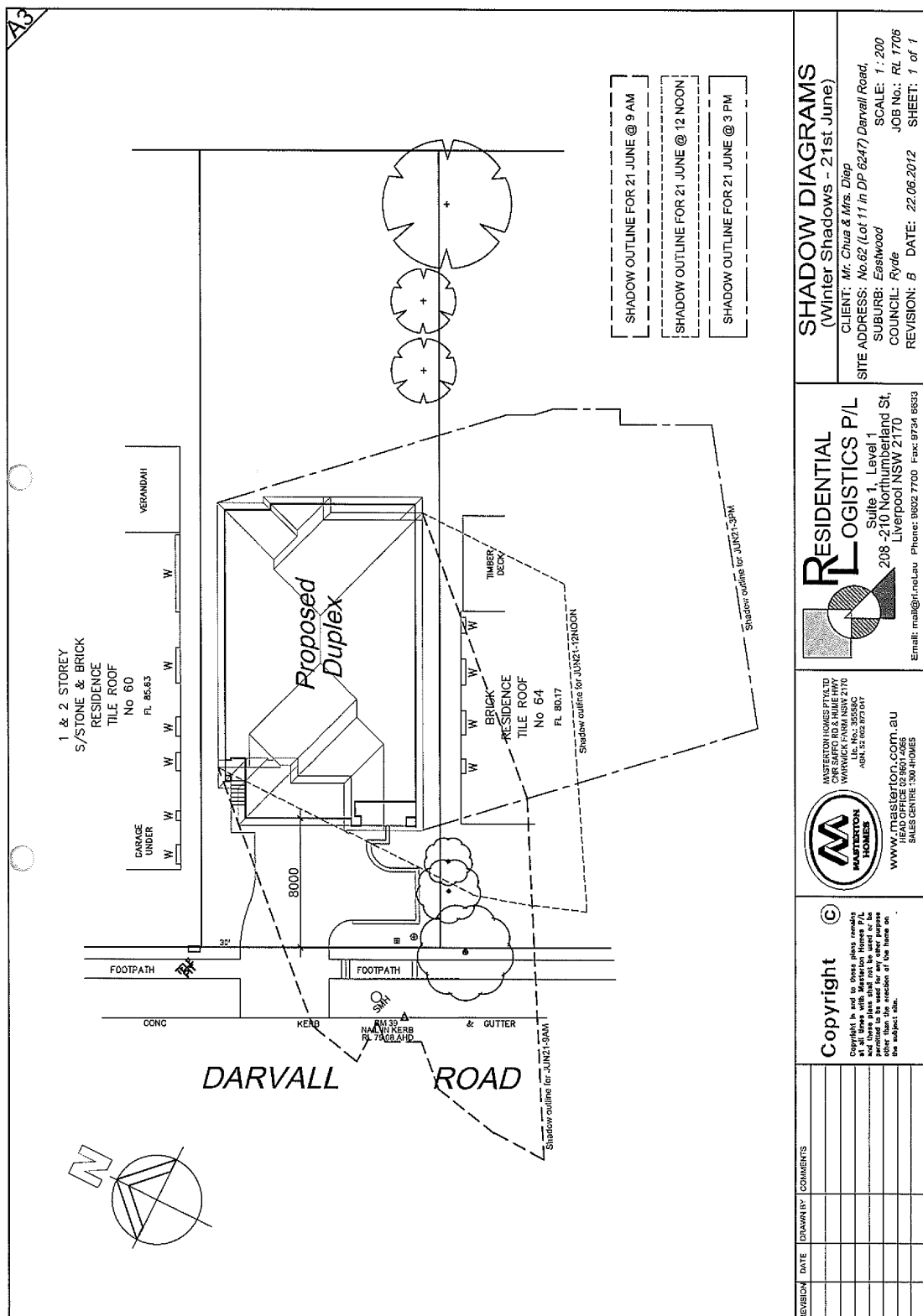
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ITEM 4 (continued)

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