

Meeting Date: Thursday 15 April 2021
Location: Teleconference
Time: 5.00pm

City of Ryde Local Planning Panel Meetings will be recorded on audio tape for minute-taking purposes as authorised by the Local Government Act 1993. City of Ryde Local Planning Panel Meetings will also be webcast.

NOTICE OF BUSINESS

Item	Page
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DECLARATIONS OF INTEREST

DEVELOPMENT APPLICATIONS

2	75 Wharf Road, Gladesville - Substantial alterations and additions to existing part 2/part 3 storey dwelling and demolition of swimming pool - LDA2020/0276	3
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DEVELOPMENT APPLICATION

- 2 75 Wharf Road, Gladesville - Substantial alterations and additions to existing part 2/part 3 storey dwelling and demolition of swimming pool - LDA2020/0276**

Report prepared by: Assessment officer

Report approved by: Senior Coordinator - Development Assessment; Manager - Development Assessment; Director - City Planning and Environment

File Number: GRP/09/6/12/1/2 - BP21/283

**City of Ryde
Local Planning Panel Report**

DA Number	LDA2020/0276
Site Address & Ward	75 Wharf Road, Gladesville East Ward
Zoning	R2 Low Density Residential
Proposal	Substantial alterations and additions to existing part 2/part 3 storey dwelling and demolition of swimming pool.
Property Owner	Yu L Xu
Applicant	Keith Pike Associates
Report Author	Niroshini Stephen – Assessment Officer
Lodgement Date	17 August 2020
No. of Submissions	One (1) submission received

ITEM 1 (continued)

Cost of Works	\$975,000.00
Reason for Referral to LPP	Departure from Development Standard <ul style="list-style-type: none"> The proposed development results in a 16.9% departure from the development standard for height of buildings imposed by Clause 4.3 of RLEP 2014. The proposed development results in a 34.8% departure from the development standard for floor space ratio imposed by Clause 4.4(2) of RLEP 2014.
Recommendation	Approval
Attachments	Attachment 1: Draft Conditions of Consent Attachment 2: DCP Compliance Table Attachment 3: SREP Compliance Table Attachment 4: Clause 4.6 written variation to Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio Attachment 5: Architectural Plans

1. Executive Summary

The following report is an assessment of Local Development Application LDA2020/0276 for substantial alterations and additions to existing part 2/part 3 storey dwelling and demolition of swimming pool at 75 Wharf Road, Gladesville.

This application is reported to the Ryde Local Planning Panel for determination as it proposes a departure from a development standard in excess of 10% in accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 - Directions by the Minister.

The subject site contains an existing part 2/part 3 storey dwelling, with an attached double garage and swimming pool. The proposal involves substantial alterations and additions to the lower ground floor, ground floor and first floor. The proposal also involves the addition of a mezzanine floor. The proposal maintains the number of storeys of the existing dwelling.

The development contravenes Clause 4.3 of Ryde Local Environmental Plan 2014 (RLEP 2014) which establishes the maximum height development standard of 9.5 metres. The proposal results in a height of 11.11 metres, representing a 16.9% departure from the standard.

ITEM 1 (continued)

The proposal is for alterations and additions to an existing dwelling where the established ground levels approved under previous development applications are maintained. The non compliance occurs as a result of the previous altered existing ground level from the natural form of the site. A review of the most recent approved development application on the site shows the existing dwelling contains excavation associated with the lower ground floor level. The height is calculated in relation to the altered existing ground level and results in the height non-compliance.

The development also contravenes Clause 4.4(2) of RLEP 2014, which prescribes a maximum Floor Space Ratio (FSR) of 0.5:1 (i.e. Gross Floor Area (GFA) of 332.65m², based on a site area of 665.3m²). The proposal's GFA of 448.44m² equates to an FSR of 0.674:1, representing a 34.8% contravention of the development standard.

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP & A Act). The proposal would not result in any unacceptable impacts upon the streetscape or the amenity of surrounding properties. The proposal does not raise any issues that would be contrary to the public interest and it is considered to be a suitable form of development for the site.

In accordance with DCP 2014 Part 2: Community Participation Plan, the owners of surrounding properties were given notice of the application between 18 August 2020 and 9 September 2020. One (1) submission was received objecting to the development from the adjoining property at No.75A Wharf Road. The amended plans received on 8 February 2021 were renotified between 10 February 2021 and 3 March 2021. No submissions were received. The submission raised the following concerns:

- Concern is raised that numerous distinctive architectural elements have been duplicated in the proposed development from No.75A Wharf Road.
- Concern is raised the proposed development should be for a new dwelling not alterations and additions.
- The submission raised concern that the proposed is non compliant with height, FSR and encroaches over the Foreshore Building Line (FBL).

The submitted Clause 4.6 written variation request satisfies the pre-conditions for a consent authority to allow a variation to the standard. The development application is recommended for approval subject to the recommended conditions of consent provided in **Attachment 1** of this report.

ITEM 1 (continued)

The development application is recommended for approval.

2. The Site and Locality

The site is legally described as Lot 102 within DP 613388 and is known as 75 Wharf Road, Gladesville. The site is a waterfront property and is located on the western side of Wharf Road and has a total area of 665.3m². The subject site is irregular in shape with a frontage of 3.945 metres to Wharf Road. The northern side boundary has a depth of 56.40 metres and the southern boundary has a depth of 53.26 metres. The rear boundary width is 21.71 metres, and borders the Parramatta River.

The site currently contains a part 2/part 3 storey dwelling, with an attached double garage accessed from Wharf Road. The site also contains a swimming pool in the backyard, within the foreshore building line (**Figure 2 to Figure 7**).



Figure 1 - Aerial photograph of site

ITEM 1 (continued)



Figure 2 - The site as viewed from Wharf Road



Figure 3 – Front entrance of existing dwelling

ITEM 1 (continued)



Figure 4 – View towards the rear boundary from the southern side boundary



Figure 5 – View of the existing swimming pool and rear yard

ITEM 1 (continued)



Figure 6 – Rear elevation of existing dwelling



Figure 7 – View east from the northern side boundary

ITEM 1 (continued)

The general topographical features of the site consist of a slope from the front boundary (RL 7.97) to the rear boundary (RL 2.17) by approximately 5.80 metres.

The site is adjoined to the north by No. 73 Wharf Road. The site presently accommodates the Sydney Grammar School Boat Shed (see **Figure 8**). The site is adjoined to the south by No. 75A Wharf Road. This site presently accommodates a two storey dwelling (see **Figure 9**). Opposite the subject site is No. 78-88 Wharf Road Gladesville, which accommodates the Shore School Boat Shed (see **Figure 10**).



Figure 8 – Adjoining property at 73 Wharf Road

ITEM 1 (continued)



Figure 9 – Adjoining dwelling at 75A Wharf Road



Figure 10 – Adjoining dwelling at 78-88 Wharf Road

ITEM 1 (continued)

Development in the locality is primarily for residential and educational purposes. Residential development in the locality is characterised by relatively large detached dwellings varying diversely in age, scale and architectural style whilst the educational facilities are smaller scaled buildings on larger lots.

Existing surrounding developments to the north and south of the site are similar scale multi-levelled dwelling houses with Parramatta River adjoining the rear boundary.

There are examples of three storey dwellings in the locality such as:

- A three storey dwelling occupies the property at 77 Wharf Road
- A part 2/part 3 dwelling occupies the property at 69 Wharf Road
- A part 2/part 3 dwelling occupies the property at 90 Wharf Road
- A part 2/part 3 dwelling occupies the property at 92 Wharf Road

History of the site

Local Development Application No. LDA2005/0129 is the most recent development application approved on the site. Local Development Application No. LDA2005/0129 for alterations/additions to dwelling was approved on 14 June 2005. The alterations and additions involved the following:

- Lower Ground floor: No changes proposed
- Ground floor: Reconfiguration of kitchen and living areas. Openable external timber privacy shutters proposed to the windows along the southern elevation and northern elevation.
- First floor: Reconfiguration of Bedroom 1, ensuite and walk in robe. Additions to create three (3) bedrooms and associated bathrooms. Addition of deck over part of the existing garage with access from bedrooms 2 and 3.

A height of 11.2 metres and FSR of 0.69:1 was proposed under Local Development Application No. LDA2005/0129.

This application also proposed works on the first floor of the building that was located within the foreshore building line. At the time of determination, development was not permitted within the foreshore building line under Clause 40 of the Ryde Planning Scheme Ordinance. However, the clause is a development standard and the applicant at the time provided an objection under the provisions of State Environmental Planning Policy No. 1. As the existing dwelling already breached the foreshore building line, and the works proposed under LDA2005/0129 would not extend the breach, this aspect of the development was considered satisfactory.

ITEM 1 (continued)

The application was recommended for refusal by Council's Assessment Officer to the Council Meeting on 24 May 2005, with the following reason for refusal:

1. The development exceeds the floor space ratio control as specified within the Dwelling House and Duplex Building Development Control Plan.

The application and report recommending refusal was considered by Council. Council resolved to approve the application at the meeting on 24 May 2005 for the following reasons:

- (i) The irregular size and shape of the allotment;
- (ii) The proposed extension will not alter the footprint of the existing building;
- (iii) The proposed extension will not have an adverse impact on adjoining properties;
- (iv) The proposed extension will not add any bulk to the building when viewed from adjoining residential properties or the street.

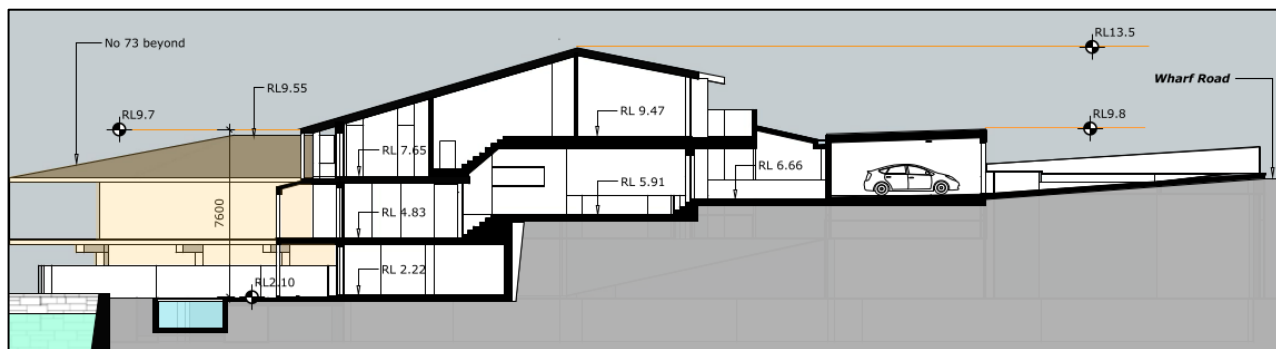


Figure 11 – Section of existing dwelling (as approved via LDA2005/0129)

The approved development under LDA2005/0129 resulted in a dwelling house that significantly exceeded the height and floor space ratio controls. This application is considered to be a legacy application and has impacts for the current proposal in respect to height and floor space.

3. The Proposal

The proposal seeks consent for substantial alterations and additions to existing part 2/part 3 storey dwelling and demolition of the existing inground swimming pool. The proposal consists of five (5) bedrooms. The proposal includes excavation to a depth of 4.5 metres associated with the internal stairs. The proposed works include:

Lower Ground Floor

- Construction of new external walls on the southern elevation
- Reconfiguration of internal walls

ITEM 1 (continued)

- Changes to floor layout including:
 - Relocation and reconfiguration of family room, laundry room, bedroom and bathroom
 - Addition of wet bar and ensuite bathroom
- Additional window opening on the northern elevation associated with the family room. Alterations to the glass sliding doors on the western elevation

Ground Floor

- Construction of new external walls on the northern elevation and southern elevation
- Reconfiguration of internal walls
- Changes to floor layout including:
 - Reconfiguration of double garage
 - Deletion of kitchen and replacement with courtyard
 - Addition of home office
 - Reconfiguration of dining, living, kitchen and bedroom
 - Addition of ensuite to bedroom
 - Deletion of balcony and replacement with two (2) terraces
- Additional windows on the northern elevation and southern elevation. Alterations to the glass sliding door on the western elevation.

Mezzanine Floor

- Addition of mezzanine floor. The mezzanine floor contains a bedroom with ensuite bathroom, internal stairs and terrace

First Floor

- Construction of new external walls on the northern elevation, eastern elevation and southern elevation
- Reconfiguration of internal walls
- Changes to floor layout including:

ITEM 1 (continued)

- Reduction from four (4) bedrooms to two (2) bedrooms. Guest bedroom/ study with ensuite bathroom provided. Master bedroom with ensuite and walk in wardrobe provided.
- Reconfiguration of terrace facing Wharf Road and addition of planter bed
- Deletion of rear facing balcony and two (2) terraces provided

Other proposed alterations and additions

- New front pathway provided
- Southern side pathway and external staircase reinstated
- Reduction in northern side pathway and additional landscaping provided
- Deletion of existing pool and replacement with lawn
- Pathway provided from lower ground floor to rear boundary
- External spiral staircase provided from ground floor to backyard
- Alterations to roof form

Figures 12 to 19 below are the floor plans and elevations of the proposed substantial alterations and additions.

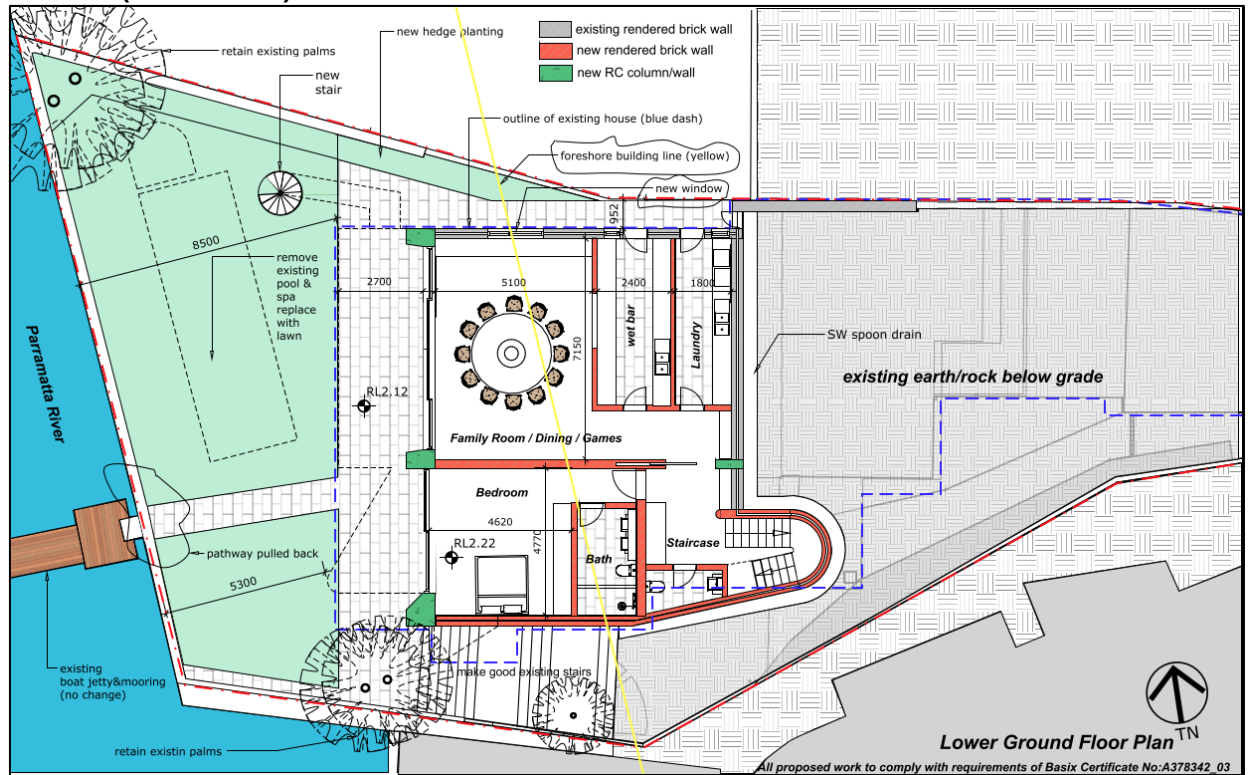
ITEM 1 (continued)

Figure 12 - Proposed Lower Ground Floor Plan

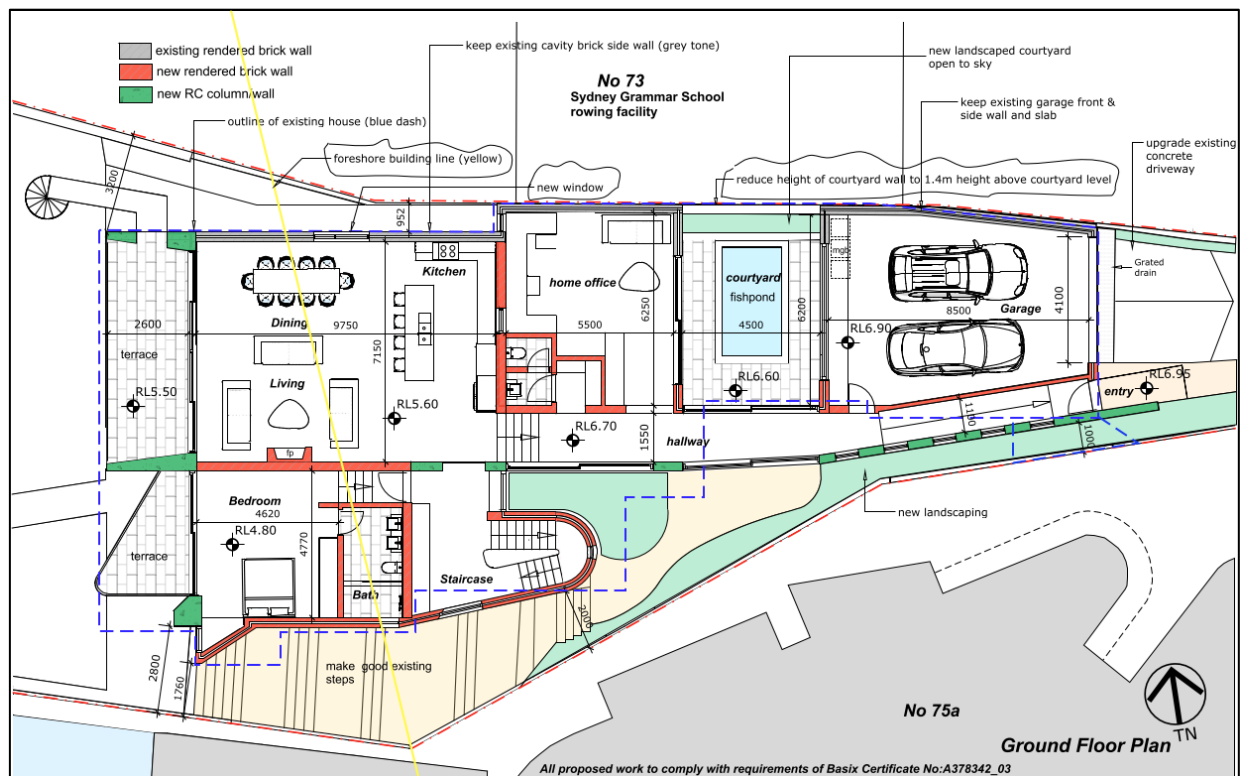


Figure 13 - Proposed Ground Floor Plan

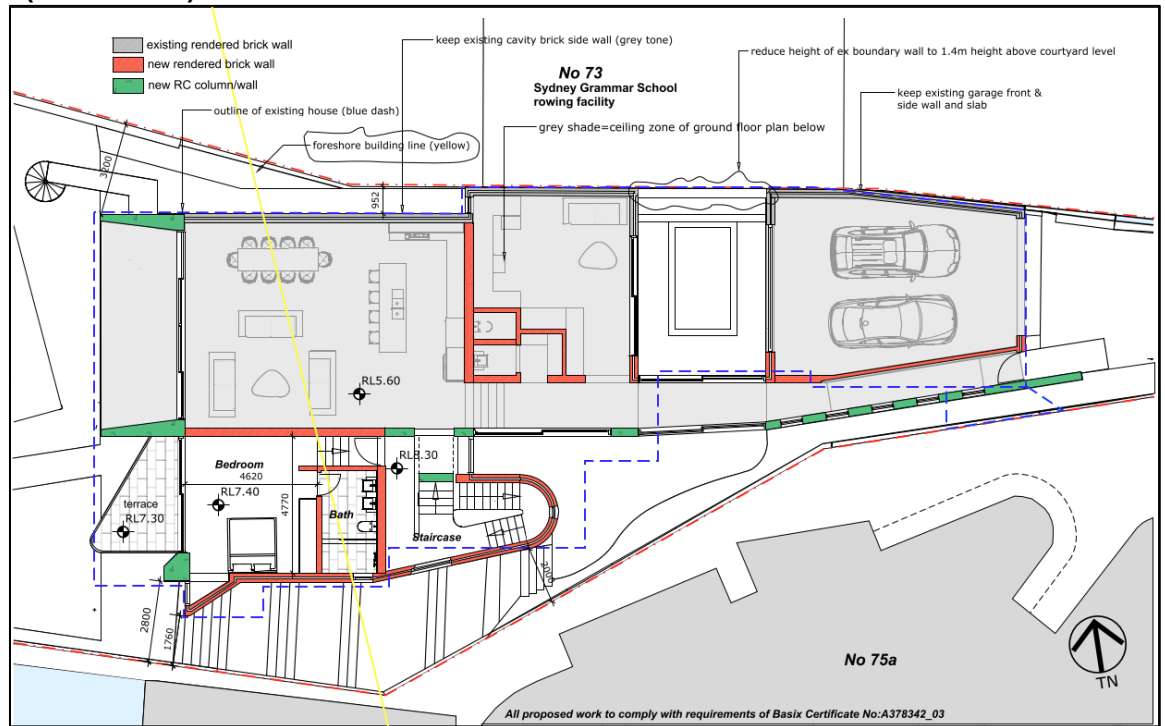
ITEM 1 (continued)

Figure 14 - Proposed Mezzanine Floor Plan

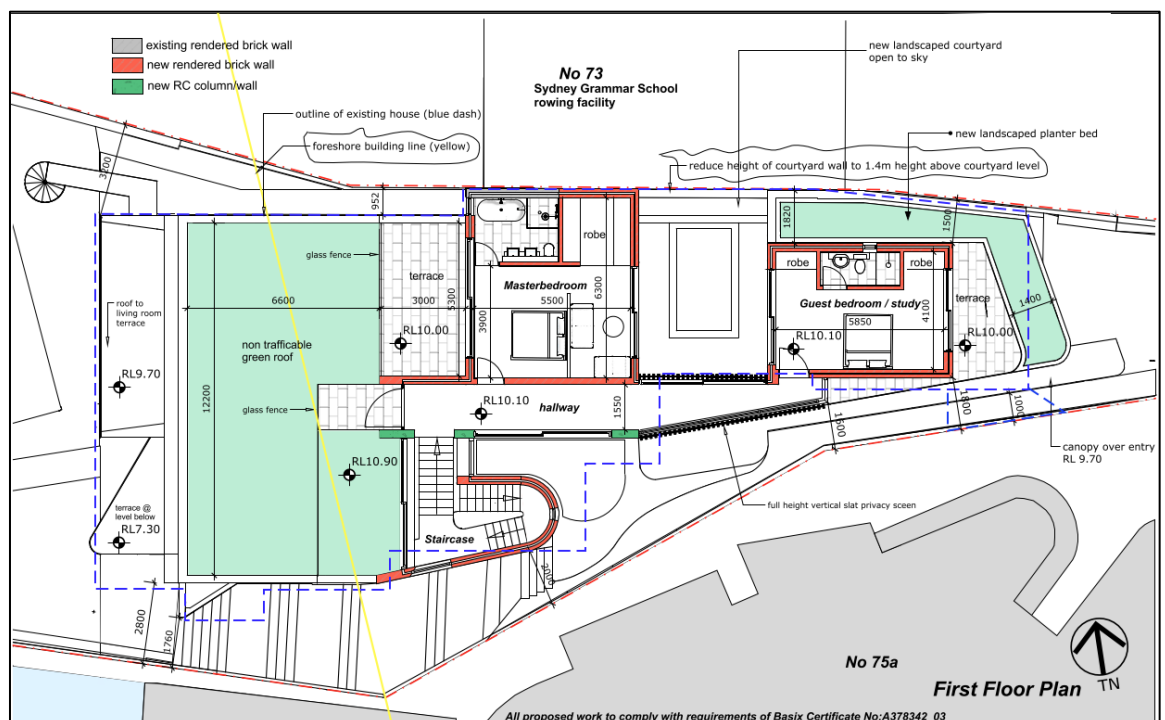


Figure 15 - Proposed First Floor Plan

ITEM 1 (continued)

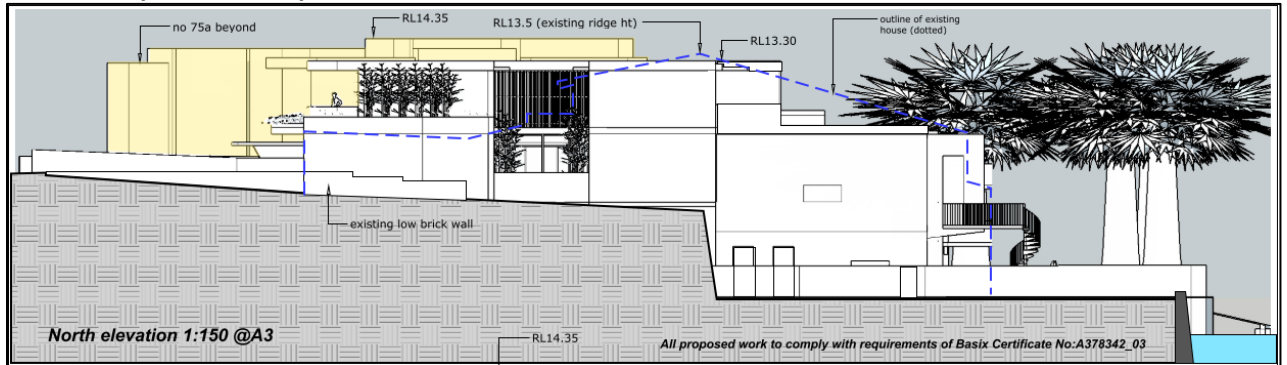


Figure 16 - Proposed North Elevation Plan

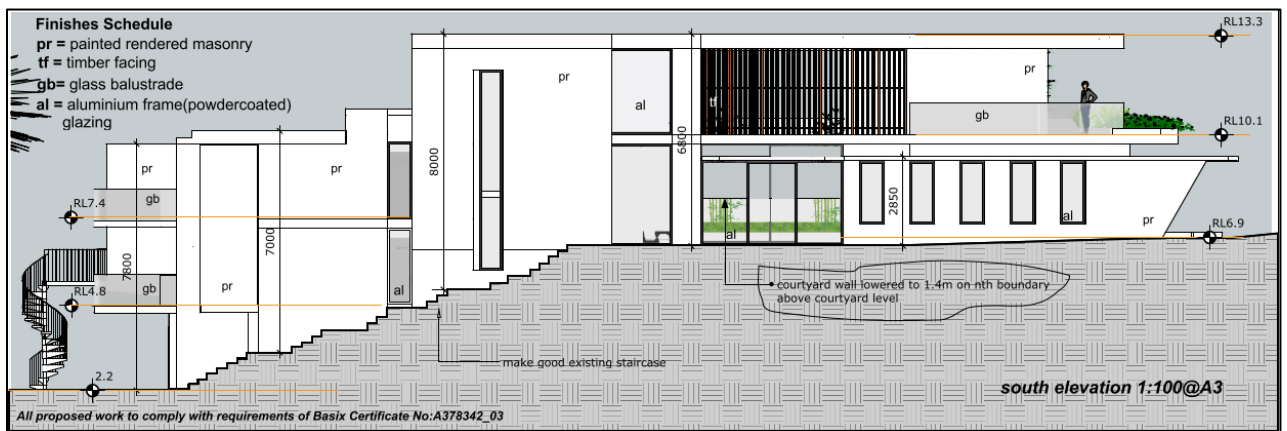


Figure 17 - Proposed South Elevation Plan

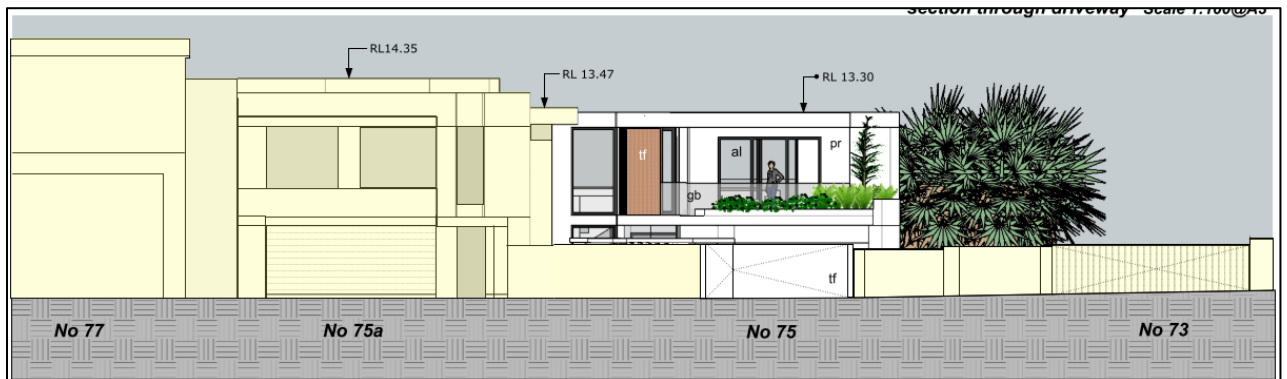


Figure 18 - Proposed East Elevation Plan

ITEM 1 (continued)

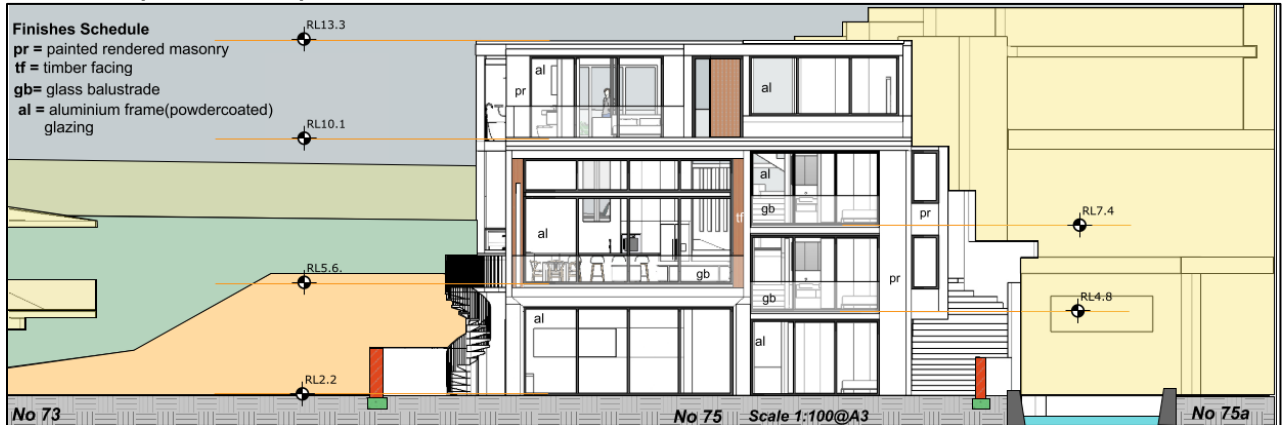


Figure 19 - Proposed West Elevation Plan

4. Background

Application History

17 August 2020	Local Development Application LDA2020/0276 was lodged with Council.
18 August to 9 September 2020	The Application was notified to adjoining property owners. One (1) submission was received.
4 January 2021	<p>A request for further information was sent to the Applicant, requesting:</p> <ul style="list-style-type: none"> - A gross floor area calculation plan; - Clarification if the rear pathway is located below the mean high water mark; - Clarification of the inconsistencies between the approved floor levels and proposed floor levels; - Cut and fill plan; - Updated elevation plans showing the existing ground levels and proposed ground levels; - Floor to ceiling height RL levels accurately notated on the plans; - Removal of encroaching structures; - Reduction in the depth of the fish pond and mesh screening to be provided;

ITEM 1 (continued)

	<ul style="list-style-type: none"> - Window openings to be provided on the northern elevation of the ground floor and lower ground floor of living areas; - Amendments to be made to the north elevation opening to demonstrate compliance with the Building Code of Australia; - Amendments to the external staircase to address accessibility concerns; - Amended Geotechnical Report; and - Plans/documents amendments including foreshore building line to be shown on floor plans, updated schedule of materials and finishes, extent of canopy to be shown clearly, amended plans to scale, deletion of kitchen on lower ground floor, demolition plans to be submitted and photo montage of the proposal when viewed from the water.
8 February 2021	<p>The applicant submits amended plans and further information involving the following:</p> <ul style="list-style-type: none"> - A gross floor area calculation plan submitted; - The northern wall of the ground floor courtyard reduced to 1.4 metres; - Written confirmation of the inconsistencies between the approved floor levels and proposed floor levels provided; - Cut and fill plan submitted; - Updated plans showing the existing ground levels and proposed ground levels; - Floor to ceiling height RL levels accurately notated on the plans; - Demolition plan showing the removal of encroaching structures;

ITEM 1 (continued)

	<ul style="list-style-type: none"> - Window openings provided on the northern elevation of the ground floor and lower ground floor living areas; - North elevation opening removed to demonstrate compliance with the Building Code of Australia; - Amended Geotechnical Report; and - Plans/documents amendments including foreshore building line shown on floor plans, updated schedule of materials and finishes, extent of canopy shown clearly, deletion of kitchen on lower ground floor, demolition plan submitted and photo montage of the proposal when viewed from the water submitted.
10 February to 3 March 2021	The Application was re-notified to adjoining property owners. No submissions received.

5. Planning Assessment

The following planning policies and controls are of relevance to the development:

- State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55);
- State Environmental Planning Policy (Building Sustainability Index BASIX) 2004;
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;
- State Environmental Planning Policy (Coastal Management) 2018;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Ryde Local Environmental Plan 2014; and
- Ryde Development Control Plan 2014:
 - Part 3.3: Dwelling Houses and Dual Occupancy (Attached);
 - Part 7.2: Waste Minimisation and Management; and
 - Part 8.2: Stormwater & Floodplain Management.

5.1 State Environmental Planning Instruments

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The subject site has historically been used for residential purposes. As such, it is unlikely to contain any contamination and given that the proposed additions are to the first floor with no disturbance of the existing ground level, further investigation

Ryde Local Planning Panel Report No. 2/21 - Thursday 15 April 2021

ITEM 1 (continued)

is not warranted in this case.

State Environmental Planning Policy (Building Sustainability Index BASIX) 2004

A BASIX Certificate (see Certificate No. A378342_03 and dated 30 January 2021) has been submitted with the application. The Certificate confirms that the development will meet the NSW government's requirements for sustainability.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The Vegetation SEPP commenced on 25 August 2017 and replaced Clause 5.9 of RLEP 2014, which related to the preservation of trees and vegetation.

The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.

The proposal does not seek to remove any trees. The retention of the trees has been considered acceptable by Council's Landscape Architect. It is considered that the proposed development does not unduly impact upon any existing biodiversity or trees or vegetation on the site.

State Environmental Planning Policy (Coastal Management) 2018

The site is mapped as being within a coastal environment area and coastal use area on the Coastal Management Map.

The proposal is subject to the provisions of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005) and pursuant to Clause 13(3) and Clause 14(2) of the SEPP, as the land is subject to the SREP Sydney Harbour Foreshore (being land within the Foreshore and waterways area) the provisions of these clauses do not apply. An assessment of the proposal pursuant to the SREP and Sydney Harbour Foreshores and Waterways Area DCP 2005 is made below.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 applies to the subject site and has been considered in this assessment.

The site is located within the Foreshores and Waterways Area and subject to consideration under the provisions of the SREP.

The site adjoins an area zoned W8 Scenic Waters Passive Use pursuant to Clause 16 as shown in **Figure 20**.

ITEM 1 (continued)

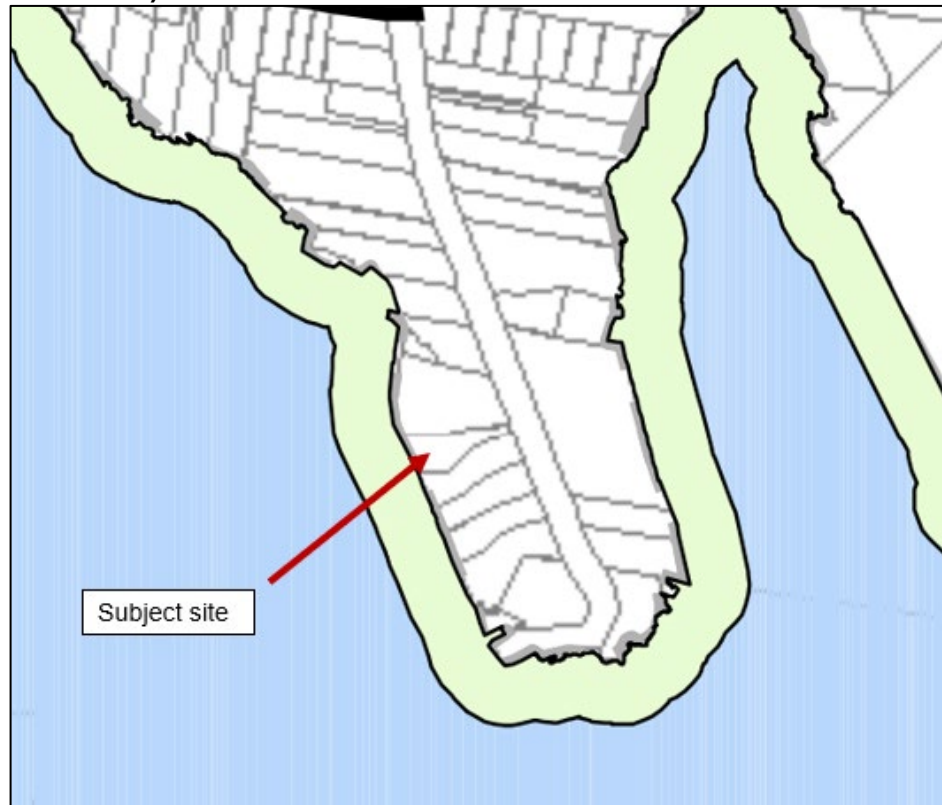


Figure 20 – SREP (Sydney Harbour Catchment) 2005 Zoning Map

The objectives of the W8 Scenic Waters Passive Use pursuant to Clause 17 are as follows—

- (a) to give preference to unimpeded public access along the intertidal zone, to the visual continuity and significance of the landform and to the ecological value of waters and foreshores,
- (b) to allow low-lying private water-dependent development close to shore only where it can be demonstrated that the preferences referred to in paragraph (a) are not damaged or impaired in any way, that any proposed structure conforms closely to the shore, that development maximises open and unobstructed waterways and maintains and enhances views to and from waters in this zone,
- (c) to restrict development for permanent boat storage and private landing facilities in unsuitable locations,
- (d) to allow water-dependent development only where it can be demonstrated that it meets a demonstrated demand and harmonises with the planned character of the locality,
- (e) to ensure that the scale and size of development are appropriate to the locality and protect and improve the natural assets and natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone or areas of public access.

The proposal is consistent with objectives of the zone as the proposal does not impede public access and the proposed works result in an acceptable visual presentation to Ryde Local Planning Panel Report No. 2/21 - Thursday 15 April 2021

ITEM 1 (continued)

the waterway consistent with the scale of adjoining development. The proposal does not include any private water dependant development close to the shore or permanent boat storage or private landing.

Pursuant to Clause 18 the proposed works are not located within the foreshore which is zoned W8.

5.2 Ryde Local Environmental Plan 2014

The subject site is identified as being within the R2 Low Density Residential zone under the provisions of RLEP 2014. The proposal for substantial alterations and additions to existing part 2/part 3 storey dwelling and demolition of swimming pool is permissible with development consent.

Aims and objectives for the low density residential zones:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a variety of housing types.*

The proposal is for substantial alterations and additions to existing part 2/part 3 storey dwelling and demolition of swimming pool. The dwelling house use is consistent with the objectives in providing a variety of housing types to meet the housing needs of the community within a low density residential environment. The second objective is not of relevance to the proposed development. The proposal satisfies the relevant objectives for residential developments.

Clause 4.3 Height of Buildings

The height of buildings map specifies the maximum height of any building on the site must not exceed 9.5m. Building height is defined in this instrument as meaning “the vertical distance between **ground level (existing)** at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like”.

The proposal has a height of 11.11 metres (Roof RL 13.3 – Existing ground level 2.19 RL) and does not comply with the development standard. The applicant has sought variation pursuant to Clause 4.6 of RLEP 2014 and an assessment of the variation request is detailed below.

The proposal is for substantial alterations and additions to an existing dwelling where the established ground levels approved under previous development applications are maintained. The non compliance occurs as a result of the altered existing ground level from the natural form of the site. A review of Local Development Application No. Ryde Local Planning Panel Report No. 2/21 - Thursday 15 April 2021

ITEM 1 (continued)

LDA2005/0129 shows the existing dwelling contains excavation associated with the lower ground floor level. The height is calculated in relation to the altered existing ground level and results in the height non-compliance.

Clause 4.4 Floor Space Ratio

Clause 4.4(2) states the floor space ratio (FSR) of a building is not to exceed the maximum specified on the FSR Map. The FSR Map specifies a maximum FSR of 0.5:1 for the site.

The proposal is subject to a maximum FSR of 0.5:1 (332.65m²). The proposal results in an FSR of 0.674:1 (448.44m²) and does not comply with the development standard. The applicant has sought variation pursuant to Clause 4.6 of RLEP 2014 and an assessment of the variation request is detailed below.

The existing dwelling has a floor space ratio of 0.69:1 approved under Local Development Application No. LDA2005/0129. The proposed floor space ratio of 0.674:1 results in a reduction in gross floor area of 10.62m². The proposal relocates the building bulk from the rear first floor to the front of the dwelling above the garage.

Clause 4.6 Exceptions to development standards

Clause 4.6 of the RLEP 2014 provides flexibility in the application of planning controls by allowing Council to approve a development application that does not comply with a development standard where it can be demonstrated that flexibility in the particular circumstances achieve a better outcome for and from development.

Several key Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions of each of these matters are outlined in the following discussion.

The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure's Guidelines for varying development standards was formulated.

These principles for assessment and determination of applications to vary development standards are relevant and include:

- Is the planning control in question a development standard?
- What is the underlying object or purpose of the standard?
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

ITEM 1 (continued)

- Is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case?; and
- Is the objection well founded?

The decision of Justice Preston in *Wehbe V Pittwater [2007] NSW LEC 827* expanded on the above and established the five part test to determine whether compliance with a development standard is unreasonable or unnecessary considering the following questions:

- Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives?
- Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard unnecessary?
- Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable?
- Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable?
- Is the “*zoning of particular land*” unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land? Consequently compliance with that development standard is unnecessary and unreasonable.

In the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, it was found that an application under clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater [2007] NSW LEC 827* and demonstrate the following:

- Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP; and
- That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);
- That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs.

The applicant has submitted a written request to vary the height and FSR control. The applicant has advised that the written request has been set out in accordance with the relevant principles set out by the court, as follows:

ITEM 1 (continued)

Clause 4.3 - Height of buildings

The development contravenes Clause 4.3 of RLEP 2014 which establishes the maximum height development standard of 9.5 metres. The proposal results in a maximum height of 11.11 metres and does not comply with the development standard. The proposal results in a 16.9% departure from the standard.

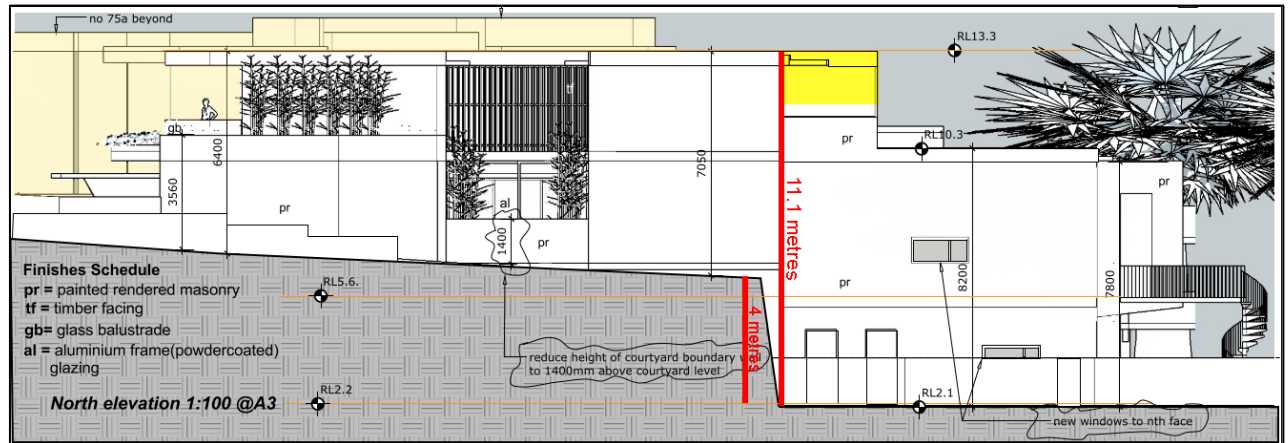


Figure 21 - Building Height non-compliance shown in red. The area shaded in yellow shows the section of the dwelling which is non compliant with height as a direct result of the topography.

The proposal has been supported by amended plans (received 8 February 2021) and a Clause 4.6 written request prepared by Kim Burrell – Town Planning Consultant to vary the development standard.

An assessment of the relevant provisions of Clause 4.6 is as follows:

Whether compliance with the standard is unreasonable and unnecessary in the circumstances of the case

The submission relies upon the common ways to demonstrate compliance with a development standard is unreasonable or unnecessary in accordance with *Wehbe v Pittwater Council (2007)*. The submission relies upon the objectives of the standard being achieved notwithstanding the non-compliance with the standard.

The justification in the applicant's request and Assessment Officer's comments are below:

The objectives of the height of buildings standard are set out in clause 4.3 as follows:

- (a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,*
- (b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,*

ITEM 1 (continued)

- (c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,*
- (d) to minimise the impact of development on the amenity of surrounding properties,*
- (e) to emphasise road frontages along road corridors.*

To ensure that street frontages of development are in proportion with and in keeping with the character of nearby development:

This objective is not precisely clear in its meaning and how it is relevant to building height. A street frontage means the distance along which a lot line adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street. Corner lots have at least two street frontages.

The proposal does not involve the subdivision of land to create a new lot. It does not alter the lot width. The existing street frontage of the site is narrow by comparison with neighbouring lots, however this situation cannot be changed.

Should the objective mean that buildings should be in proportion to neighbouring buildings in terms of width and height then this objective is not particularly relevant because the existing lot is significantly narrower at the street front compared to others. The proposal cannot alter this situation, however, it provides a first floor addition to it.

A two-storey dwelling is considered to provide an acceptable scale and form and it is in keeping with the character of the streetscape. It is noted that the existing dwelling is generally not visible in the street elevation other than its pitched roof form because the ground floor is largely obscured by the tall front fence/gate (see photo earlier in this statement). The new first floor addition will be visible, however, it is a recessive form set back 11.7-metres from the front property line and less visually prominent than the new dwelling currently under construction at No. 75A Wharf Road (see Dwg. No A13) for reasons discussed above.

Assessment Officer's Comments: The proposal maintains the existing street frontage and proposes to undertake substantial alterations and additions to the existing dwelling which are consistent with the character of nearby development. The existing ground level has been altered from the natural form of the site. The dwelling presents as two storeys from Wharf Road and is consistent with the streetscape which consists of two storey dwellings. The first floor alterations and additions are setback 11.7 metres from the frontage and will not be prominent in the streetscape. The dwelling presents as three storeys from the rear and is consistent with existing part 2/part 3 storey dwellings in the streetscape.

ITEM 1 (continued)

To minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area:

The proposal acceptably minimises shading of adjoining property and complies with Councils shading/solar access controls. The shading from the proposal has the potential to only impact one adjoining neighbour, No. 75A Wharf Road.

The proposal will cast some additional shading of the neighbour's northern side wall as confirmed in the architect's shadow diagrams prepared in plan and 3D low oblique. This wall actually comprises a series of walls. Only the rear or western end wall which is largely blank (see photos below) will be shaded marginally more on June 21 and the impact will be minimal.

The proposal will not have any unreasonable impact on the neighbour's west elevation windows, which serve the main living rooms and are orientated for the fine Parramatta River. The shading of the side wall is not unreasonable in view of the commensurate wall heights and the shallower northern side setback of No. 75A in comparison with the proposal (which generally remained unchanged).

The proposal is compatible with the character of the area. It is also considered to improve it. The new dwelling currently under construction at No. 75A is an exemplar for the proposal. It replaces the existing dwelling's pitched roof with a parapet to match No. 75A and repeats its curved form in the front first floor terrace and roof garden for the guest bedroom/study as well as the new three level staircase on the southern side and rear bedroom balcony terraces. The curved elements in the proposal as well as in the new neighbouring dwelling are common in the locality and include the appropriately overturned boat hull roofs of the Shore School boatshed (see photo below).

Assessment Officer's Comments: The additional overshadowing from the proposal has the potential to only impact one adjoining neighbour, No. 75A Wharf Road. The submitted shadow diagrams show the neighbouring dwelling's private open space area receives adequate solar access from 12pm to 3pm. The proposal will cast some additional shadowing of the neighbouring dwelling's northern side wall. This is considered acceptable as the northern wall does not contain any living area windows. The living area windows orientate to the western elevation and receive adequate solar access between 12pm and 3pm. The proposal replaces the existing roof with a parapet roof which is compatible with dwelling's in the streetscape.

ITEM 1 (continued)

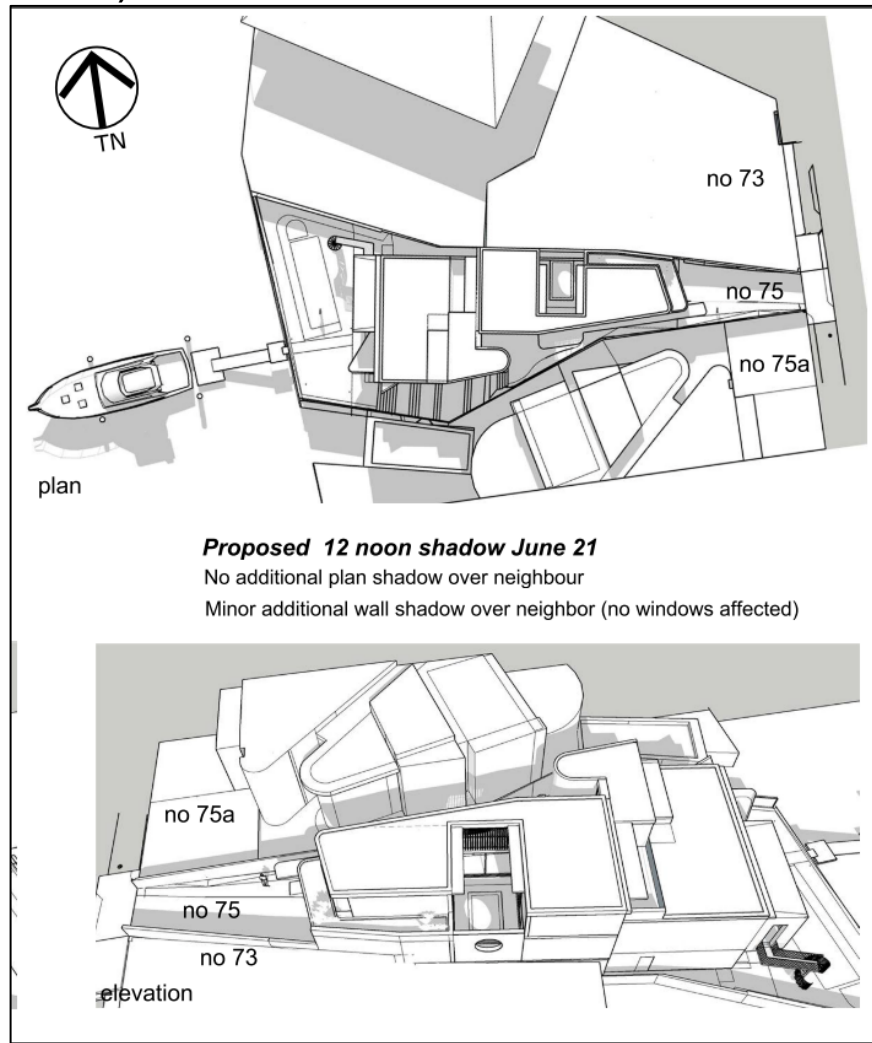


Figure 22 – Proposed shadow cast at 12pm onto neighbouring property at 75A Wharf Road

ITEM 1 (continued)

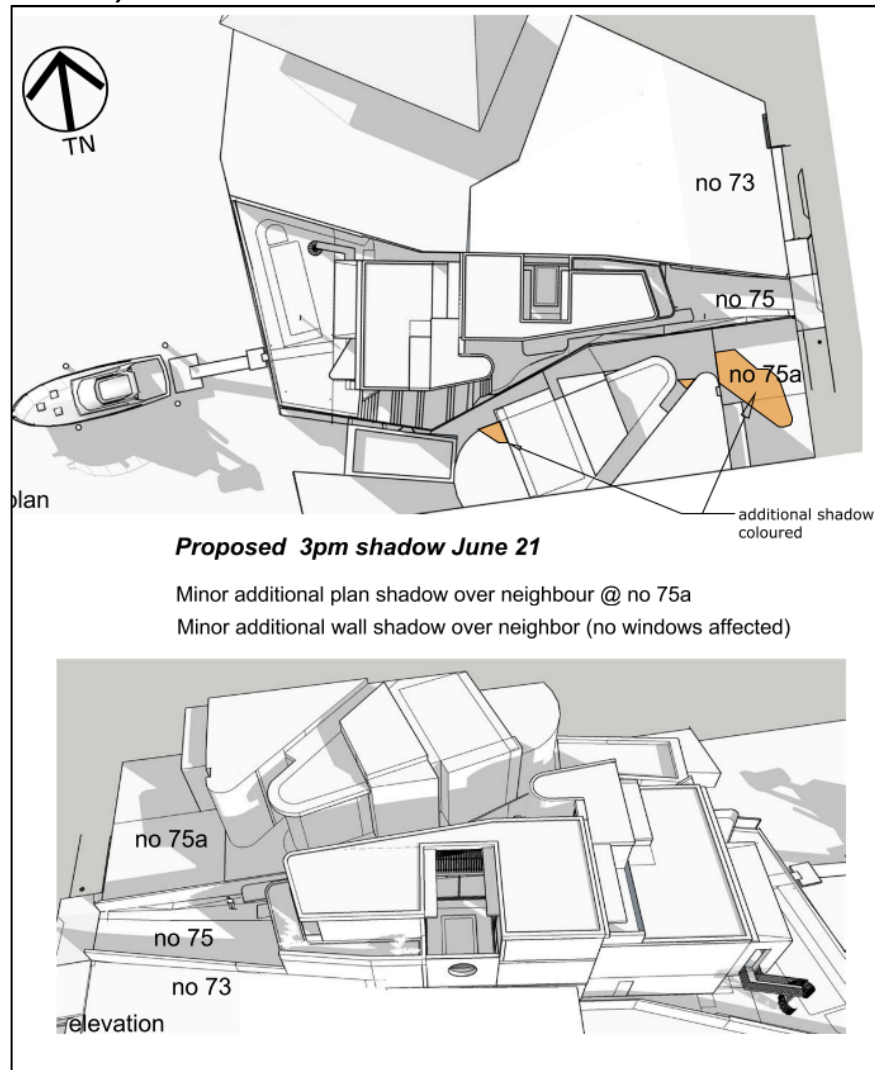


Figure 23 – Proposed shadow cast at 3pm onto neighbouring property at 75A Wharf Road

To encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure:

This objective is not relevant to the proposal.

Assessment Officer's Comments: It is agreed this objective is not relevant to the proposal. The site is not located in the vicinity of key public transport infrastructure and the land use is consistent with that of the low density area.

To minimise the impact of development on the amenity of surrounding properties:

The immediate surrounding properties include No. 75A Wharf Road and the Sydney Grammar School rowing facilities. Therefore, development in the locality is primarily for residential and educational purposes. Residential

ITEM 1 (continued)

development in the locality is characterised by relatively large single detached dwellings of diverse architectural styles whilst the educational facilities are smaller scaled buildings on larger lots. The proposal results in a built form and envelope that is consistent with residential development and it is appropriate in the local context. It will not have any unreasonable impact on the amenity of surrounding properties.

Assessment Officer's Comments: The immediate surrounding properties include No. 75A Wharf Road and the Sydney Grammar Boatshed. Development in the locality is primarily for residential and educational purposes. Residential development in the locality is characterised by relatively large single detached dwellings of diverse architectural styles whilst the educational facilities are smaller scaled buildings on larger lots. The proposal results in a built form and envelope that is consistent with residential development in the streetscape and is appropriate in the local context. The proposal does not result in any unreasonable impact on the amenity of surrounding properties. The proposal does not result in any unreasonable privacy impacts upon neighbouring dwellings. The proposal maintains views from adjoining properties and the streetscape.

To emphasise road frontages along road corridors:

This objective is not considered to be relevant to the proposal.

Assessment Officer's Comments: It is agreed this objective is not relevant to the proposal. The proposal has no impact upon the road corridor.

The submission has demonstrated that the objectives of the development standard Clause 4.3(1) are achieved, despite the non-compliance and the proposal satisfies Clause 4.6(3)(a) and 4.6(4)(a)(i).

Environmental planning grounds to justify contravening the development standard

The submitted request provides the following in response to addressing what the environmental planning grounds are for the variation.

Are there sufficient environmental planning grounds to justify contravening the development standard?

The cases referred to above have established that the environmental planning grounds must be particular to the circumstances of the proposed development on its site. The following environmental planning grounds are relevant:

- The existing dwelling currently does not comply and the proposal marginally reduces the non-compliance.*

ITEM 1 (continued)

- *Currently, the ridge height of the existing dwelling currently complies with the standard with a height of approximately 7.4-metres above existing ground level, however it falls into non-compliance behind the existing ridge. The noncompliance is a result of the abrupt 3-metre fall behind the existing ridge with a significant proportion of the pitched roof behind the ridge not complying with the standard. The proposal does not comply for exactly the same reasons, however, the volume of non-compliance has been significantly reduced as a result of replacing a pitched roof form with a parapet.*
- *The site's significant crossfall from south to north also contributes to the noncompliance and it is notable that whilst the northern elevation of the existing house does not comply with the standard the southern elevation does.*
- *Therefore, the existing site conditions and the character of the existing house result in the non-compliance with the standard. In addition, the non-compliance is limited to one elevation of the building.*
- *The proposal remains non-compliant with the standard, however, the alterations at the rear of the house, in particular, the replacement of the pitched roof component (which contributes to building volume) with a complying parapet roof significantly reduces the non-compliance and, as a result, the only part of the proposal not complying is in section (the middle of the building) rather than in elevation.*
- *The non-compliance in the middle of the building is immaterial because it not visible from casual observation outside the site.*
- *The proposed alterations and additions to the existing building result in a significantly improved standard of architecture for the existing building and it will not result in any unreasonable impact on local residential amenity of the visual significance of the building and the locality as it is viewed from Parramatta River.*

Assessment Officer's Comments: The submission has established there are sufficient environmental planning grounds to justify contravening the standard in accordance with (Clause 4.6(3)(b) and 4.6(4)(a)(i)). The sufficient environmental planning grounds include:

- The proposal is for alterations and additions to an existing dwelling where the established ground levels approved under previous development applications are maintained. The non compliance occurs as a result of the altered existing ground level from the natural form of the site. A review of LDA2005/0129 shows the existing dwelling contains excavation associated with the lower ground floor level. The height is calculated in relation to the altered existing ground level and results in the height non-compliance.

ITEM 1 (continued)

- The replacement of the pitched roof component with a parapet roof reduces the bulk of the development.
- The non-compliance is in the middle of the building and is not visible from casual observation outside the site.

Public interest – Development consistent with the zone objectives and objectives of the development standard

Clause 4.6 (4)(a)(ii) requires that the consent authority is satisfied that the development is in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone.

As detailed in the discussion of whether compliance with the standard is unreasonable or unnecessary, the development is consistent with the objectives of the standard and this has been demonstrated in the submitted variation request. Council is satisfied that the development is consistent with the objectives of the development standard Clause 4.3(1).

The development must also be consistent with the objectives of the zone. In the case of R2 Low Density Residential in RLEP 2014, the objectives of the zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a variety of housing types.*

The proposal is for substantial alterations and additions to existing part 2/part 3 storey dwelling and demolition of swimming pool. The dwelling house use is consistent with the objectives in providing a variety of housing types to meet the housing needs of the community within a low density residential environment. The second objective is not of relevance to the proposed development. The proposal satisfies the relevant objectives for residential developments.

Council is satisfied that the development is consistent with the objectives of the *R2 Low Density Residential* zone.

Therefore, the proposal is considered to be in the public interest. The development has demonstrated consistency with Clause 4.6(4)(a)(ii).

Matters required to be taken into consideration by the Director-General before granting the concurrence

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

ITEM 1 (continued)**Conclusion**

The applicant has adequately addressed why compliance with the development standard is unreasonable or unnecessary under Clause 4.6(3)(a) of RLEP 2014. It is considered that the non-compliance with the building height can be supported in the circumstance of the case, as there are sufficient environmental planning grounds for contravening the development standard. The proposal is for alterations and additions to an existing dwelling where the established ground levels approved under previous development applications are maintained. The non compliance occurs as a result of the previous altered existing ground level from the natural form of the site. A review of the most recent approved development application on the site shows the existing dwelling contains excavation associated with the lower ground floor level. The height is calculated in relation to the altered existing ground level and results in the height non-compliance. The variation is limited to a small part of the dwelling. The proposal is consistent with the objectives of the development standard and the R2 Low Density Residential zone.

Accordingly, development consent may be granted to the proposal, despite the contravention of the height of buildings development standard.

Floor Space Ratio

The development contravenes Clause 4.4(2) of RLEP 2014, which prescribes a maximum FSR of 0.5:1 (i.e. GFA of 332.65m², based on a site area of 665.3m²). The proposal's GFA of 448.44m² equates to an FSR of 0.674:1, representing a 34.8% or 115.79m² contravention of the development standard.

The proposal has been supported by amended plans (dated 4 February 2021) and a Clause 4.6 written request prepared by Kim Burrell – Town Planning Consultant to vary the development standard.

An assessment of the relevant provisions of Clause 4.6 is as follows:

Whether compliance with the standard is unreasonable and unnecessary in the circumstances of the case

The submission relies upon the common ways to demonstrate compliance with a development standard is unreasonable or unnecessary in accordance with *Wehbe v Pittwater Council (2007)*. The submission relies upon the objectives of the standard being achieved notwithstanding the non-compliance with the standard.

The justification in the applicant's request and Assessment Officer's comments are below:

The objectives of the floor space ratio standard are set out in clause 4.4 as follows:

- (a) to provide effective control over the bulk of future development,*
- (b) to allow appropriate levels of development for specific areas,*

ITEM 1 (continued)

(c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.

Effective control over Bulk - Despite the 0.5:1 standard applying to the land, some nearby buildings appear to have FSRs similar to or greater than the proposal and the proposed development will be compatible in that context.

The existing dwelling currently has a 0.69:1 FSR and the proposal will reduce it to 0.674:1 which also does not comply. The reduction in floor space is equivalent to 14.56m². Therefore, in comparative terms the bulk of the proposal is generally consistent with the existing dwelling albeit by a reduction in floor space by the equivalent of one large room.

The proposal, however, effectively relocates building bulk from the rear first floor of the building to the front, in particular, over the garage of the existing dwelling. As a result, the proposal fills in the visual gap at first floor level in the streetscape and provides an appropriate alignment of building mass and form with respect to the adjoining dwelling at No.75A. The proposal provides an acceptable visual relationship of the two dwellings in terms of floor and parapet levels as well as general dwelling width in the street elevation. As a result, the proposal provides an effective balance of building bulk in the streetscape.

The visual bulk of the house will appropriately and acceptably diminish in the rear elevation – as it is viewed from Parramatta River as a result of the proposed alterations and additions.

Currently, the existing dwelling appears as a relatively flat layered three-storey form when viewed from the water. The proposal, however, provides a significantly more visually appealing building than the existing as it stepped in long section (for the full building depth) as well as in cross section or in rear elevation by providing two distinct visual components i.e. a three-bedroom floors adjoining two floors of main living area with the same overall building height. The visual appeal of the building in the Parramatta River elevation is created by the vertical emphasis of the bedroom component which is distinct from the main living room floor component.

Assessment Officer's Comments: The proposal relocates the building bulk from the rear first floor to the front of the dwelling above the garage. The relocation of building bulk from the rear to above the garage on the first floor creates a built form which is consistent with the neighbouring dwelling to the south, No. 75A Wharf Road and two storey dwellings in the streetscape. The existing dwelling appears as a relatively flat three-storey form when viewed from the water. The relocation of building bulk to the front of the dwelling above the garage creates a step in the rear façade and reduces the bulk and scale of the dwelling when viewed from Parramatta River. The existing dwelling has a floor space ratio of 0.69:1 approved under Local Development Ryde Local Planning Panel Report No. 2/21 - Thursday 15 April 2021

ITEM 1 (continued)

Application No. LDA2005/0129. The proposal reduces the existing floor space ratio by 10.62m².

Allow appropriate levels of development for specific areas – The Ryde LEP does not

specify what a specific area is. However, it is considered that the level of development as proposed is appropriate in the local context.

Assessment Officer's Comments: The design of the proposed development is appropriate for the site. The scale, materials and design of the building is consistent with the existing and desired character of the area. The proposal will also not have unreasonable and inappropriate impacts on this specific area of Ryde.

In relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure – the site is not located in a centre and therefore this objective is not relevant to the proposal.

Assessment Officer's Comments: It is agreed this objective is not relevant as the site is not land identified as forming part of a Centre on the Centres Map within RLEP 2014.

The submission has demonstrated that the objectives of the development standard Clause 4.4(1) are achieved, despite the non-compliance and the proposal satisfies Clause 4.6(3)(a) and 4.6(4)(a)(i).

Environmental planning grounds to justify contravening the development standard

The submitted request provides the following in response to addressing what the environmental planning grounds are for the variation.

Are there sufficient environmental planning grounds to justify contravening the development standard?

The cases referred to above have established that the environmental planning grounds must be particular to the circumstances of the proposed development on its site.

The following environmental planning grounds are relevant:

- In order to avoid duplication, reference is made to the environmental planning grounds ventilated in relation to whether the proposal achieves the objectives to the standard, particularly in relation to the bulk, form and scale.*
- A requirement to comply with the standard would require a 130m² reduction in the floor area of the existing dwelling which is impractical, unfeasible and unrealistic. A reduction in floor area of the building would*

ITEM 1 (continued)

result in a building form that would be significantly smaller in scale and not comparable with dwellings in the immediate vicinity.

- *The proposal has resulted in a 14.56m² reduction in gross floor area and a 3.1% reduction in FSR which is not only numerically significant but generally reductions in FSR are not common.*
- *The reduction in FSR is accompanied by an improvement in the architecture of the building as well as a significant reduction in the visual bulk and scale as a result of the removal of significant building volume at the rear of the house. The proposal however provides additional floor space in the form of a first-floor addition above the existing garage however, the two-storey scale in the street elevation provides a form and style which is characteristic of and in harmony with the streetscape.*
- *The proposal does not result in any unreasonable amenity impacts on adjoining and nearby residential properties in terms of loss of privacy, shading or visual scale and bulk.*
- *The removal of building volume at the rear of the house as well as improving the architectural appearance of the building will potentially improve the outlook from adjoining properties across the site as well as enhancing the setting of the site and its contribution to visual significance of Parramatta River and Sydney harbour generally.*

Assessment Officer's Comments: The submission has established there are sufficient environmental planning grounds to justify contravening the standard in accordance with (Clause 4.6(3)(b) and 4.6(4)(a)(i)). The sufficient environmental planning grounds include:

- The narrow frontage, length of the site and topography of the site which slopes to the rear requires the floor area to be distributed over three (3) floor levels within the building height already established.
- The proposal relocates the building bulk from the rear first floor to the front of the dwelling above the garage. The relocation of building bulk from the rear to above the garage on the first floor creates a built form which is consistent with the neighbouring dwelling to the south, No. 75A Wharf Road and two storey dwellings in the streetscape.
- The redistribution of the bulk assists in maintaining views for adjoining properties.
- The relocation of building bulk to the front of the dwelling above the garage creates a step in the rear façade and reduces the bulk and scale of the dwelling when viewed from Parramatta River.
- The proposal does not result in unreasonable amenity and visual impacts on neighbouring properties. The additional overshadowing from the proposal has the potential to only impact one adjoining neighbour, No. 75A Wharf Road. The

ITEM 1 (continued)

submitted shadow diagrams show the neighbouring dwelling's private open space area receives adequate solar access from 12pm to 3pm. The proposal will cast some additional shadowing of the neighbouring dwelling's northern side wall. This is considered acceptable as the northern wall does not contain any living area windows. The living area windows orientate to the western elevation and receive adequate solar access between 12pm and 3pm.

- The existing dwelling has a floor space ratio of 0.69:1 approved under Local Development Application No. LDA2005/0129. The proposed floor space ratio of 0.674:1 results in a reduction in gross floor area of 10.62m².

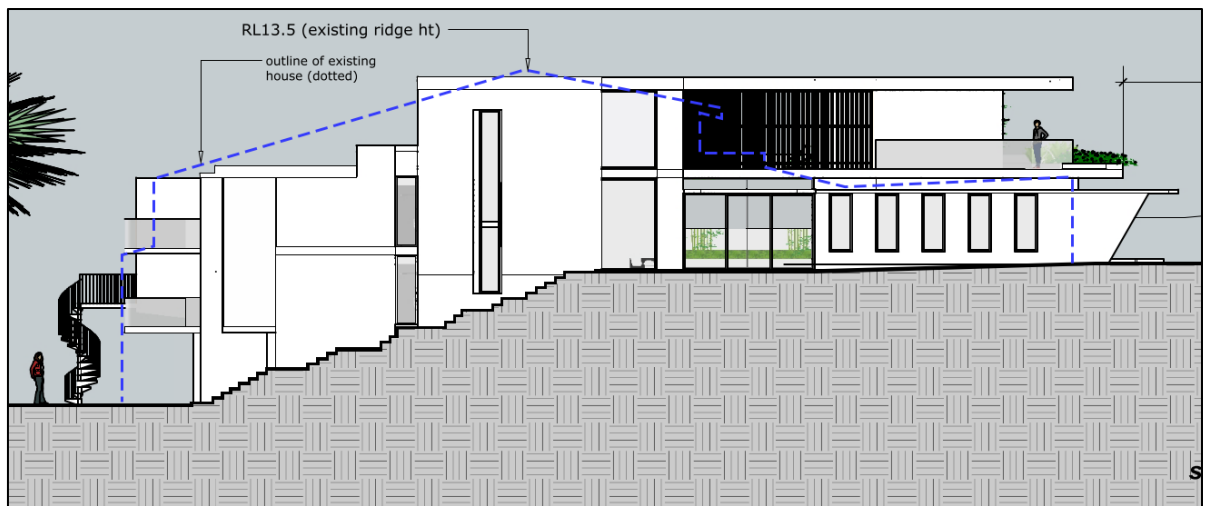


Figure 24 – South elevation plan showing relocation of bulk from the rear first floor to the front of the dwelling above the garage (existing dwelling shown in blue dotted line)

Public interest – Development consistent with the zone objectives and objectives of the development standard

Clause 4.6 (4)(a)(ii) requires that the consent authority is satisfied that the development is in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone.

As detailed in the discussion of whether compliance with the standard is unreasonable or unnecessary, the development is consistent with the objectives of the standard and this has been demonstrated in the submitted variation request. Council is satisfied that the development is consistent with the objectives of the development standard Clause 4.4(1).

The development must also be consistent with the objectives of the zone. As already discussed in this report, the development is consistent with the R2 Low Density Residential zone objectives.

Therefore, the proposal is considered to be in the public interest. The development has

ITEM 1 (continued)

demonstrated consistency with Clause 4.6(4)(a)(ii).

Matters required to be taken into consideration by the Director-General before granting the concurrence

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

Conclusion

The applicant has adequately addressed why compliance with the development standard is unreasonable or unnecessary under Clause 4.6(3)(a) of RLEP 2014. It is considered that the non-compliance with the FSR can be supported in the circumstance of the case, as there are sufficient environmental planning grounds for contravening the development standard. The development is compatible in terms of the bulk and scale of adjoining developments. The breach occurs due to the allotment size and subdivision pattern. The proposal is consistent with the objectives of the development standard and the R2 Low Density Residential zone.

Accordingly, development consent may be granted to the proposal, despite the contravention of the FSR development standard.

Clause 6.5 Limited development on foreshore area

The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.

The site is subject to the foreshore building line which is located approximately 39.6 metres from the front boundary.

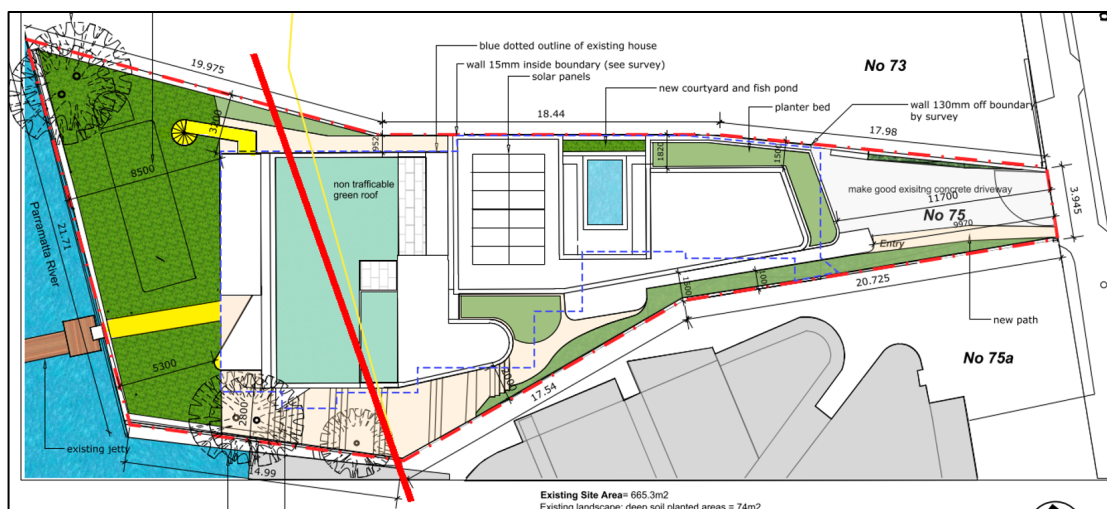


Figure 25 – Proposal in relation to foreshore building line (red line represents foreshore building line). Yellow sections show additional works within the foreshore building line.

ITEM 1 (continued)

Clause 6.5(2) states the following:

(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes—

(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,

(b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,

(c) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).

The proposed alterations and additions to the existing building are located partly within the foreshore building line as permitted in accordance with Clause 6.5(2)(a).

The proposal is not considered to impact upon natural foreshore processes or affect the significance or amenity of the foreshore area as the proposal does not result in excessive overshadowing of the foreshore and does not result in significant structures outside of the existing building envelope. The appearance of the proposal from the waterway and adjacent foreshore areas will be compatible with the surrounding area. The proposal is considered to be consistent with the objectives of the Clause. The proposal is satisfactory and not antipathetic with the requirements under Clause 6.5(3).

Local Development Application No. LDA2005/0129 approved works within the foreshore building line, with a similar setback to the proposed development. It should be noted that the existing dwelling house already exceeded the foreshore building line and the works in LDA2005/0129 did not result in a greater breach of the foreshore building line. This application was approved pursuant to Ryde Planning Scheme Ordinance. Clause 40 Foreshore Building Line of the Ryde Planning Scheme Ordinance prohibited buildings being erected within the foreshore building line except for retaining walls and swimming pools.

The proposal was considered acceptable by the determining authority following review of a SEPP No 1 objection justification. The assessment considered that the proposed works located within the foreshore building line would not alter the bulk or scale of the building and met the objectives of the foreshore building line.

The proposed alterations and additions are largely contained within the existing building footprint except for the rear pathway, external staircase and minor section of the bedroom terraces on the ground floor and mezzanine floor (**Figure 25**).

ITEM 1 (continued)

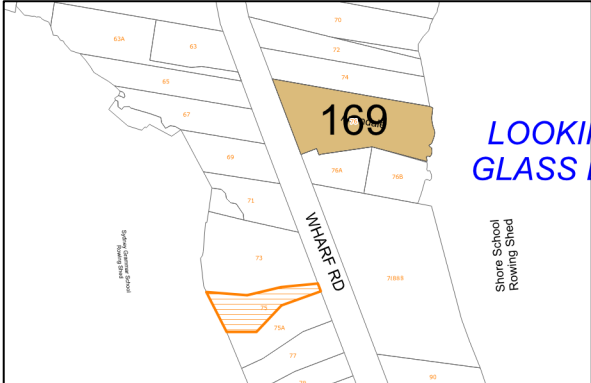


Figure 26 – Photo montage showing proposal in relation to adjoining properties

Other relevant Clauses of RLEP 2014

5.10 Heritage Conservation		
<p>(1) Objectives The objectives of this clause are as follows—</p> <p>(a) to conserve the environmental heritage of Ryde,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance</p>	<p>The site is located within 100m of one (1) heritage item being:</p> <ul style="list-style-type: none"> Item name: House; Address: 76 Wharf Road <p>The item is of local significance, as outline in Schedule 5 of RLEP 2014. The location of the subject site from the heritage item is shown in Figure 27 below. Despite being within 100m of the heritage item, the proposal is considered to satisfy the objectives of Clause 5.10 of RLEP 2014 by conserving the heritage significance of the heritage items, including associated fabric, settings and views. The proposal does not result in any significant adverse impacts upon the environmental heritage of Ryde.</p>	<p>Yes</p>

ITEM 1 (continued)

	 <p>Figure 27 – Location of the subject site from the heritage item</p>	
6.1 Acid Sulfate Soils		
<p>(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p>	<p>The subject site is mapped as containing Class 5 acid sulfate soils, being land within 500m of actual acid sulphate soils. The extent of works is such that it is not considered to come into contact with or affect the profile of any area containing actual acid sulphate soils.</p>	<p>Yes</p>
6.2 Earthworks		
<p>(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p>	<p>The proposal includes excavation to a depth of 4.5 metres associated with the internal stairs.</p> <p>The proposed excavation is not considered to result in any adverse detrimental impacts upon environmental functions and processed or neighbouring uses.</p> <p>The proposal has been considered acceptable by Council's Consultant Structural Engineer subject to conditions of consent (see Condition 18 and Condition 66). The proposal does not adversely impact the amenity of adjoining properties and is considered to be consistent with the provisions of Clause 6.2(3).</p>	<p>Yes</p>
6.4 Stormwater Management		
<p>(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.</p>	<p>The development permits a direct discharge to Parramatta River via an existing discharge outlet. The proposal has been considered satisfactory by Council's Senior Development Engineer subject to conditions of consent (see Conditions 14, 15, 16, 17, 36, 37, 38, 39, 58, 59, 60 and 65). The proposal is consistent with the provisions of Clause 6.4(3). The proposal is consistent with objectives of Clause 6.4(1).</p>	<p>Yes</p>

ITEM 1 (continued)**5.3 Draft Environmental Planning Instruments****Draft Remediation of Land State Environmental Planning Policy**

The Draft SEPP is a relevant matter for consideration as it is an Environmental Planning Instrument that has been placed on exhibition. The explanation of Intended Effects accompanying the draft SEPP advises:

As part of the review of SEPP 55, preliminary stakeholder consultation was undertaken with Councils and industry. A key finding of this preliminary consultation was that although the provisions of SEPP 55 are generally effective, greater clarity is required on the circumstances when development consent is required for remediation work.

The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of development applications. The subject site has been historically used for residential purposes. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

Draft Environment SEPP

The draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways and urban bushland areas. Changes proposed include consolidating a number of SEPPs, which include:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal is not inconsistent with the provisions of the draft SEPP.

5.4 Development Control Plans**Sydney Harbour Foreshores and Waterways Area DCP 2005**

As the site falls within the Foreshores and Waterways Area of the SREP 2005, the Sydney Harbour Foreshores and Waterways Area DCP 2005 is relevant to this assessment.

A full assessment of the proposal under the Sydney Harbour Foreshores and Waterways Area DCP 2005 is illustrated in the compliance table at **Attachment 3**.

The proposal is compliant with the controls within the Sydney Harbour Foreshores and Waterways Area DCP 2005.

ITEM 1 (continued)

Ryde Development Control Plan 2014 (RDCP 2014)

The proposal is subject to the provisions of the following parts of RDCP 2014:

- Part 3.3: Dwelling Houses and Dual Occupancy (Attached);
- Part 7.2: Waste Minimisation and Management; and
- Part 8.2: Stormwater & Floodplain Management.

An assessment of the relevant controls is provided in **Attachment 2 - Compliance Table**. Specific controls relevant to this application are also discussed below.

Part 3.3: Dwelling Houses and Dual Occupancy (Attached)

Section 2.1 – Desired Future Character

The objective of Section 2.1 is to ensure that development is consistent with the desired future character of the low density residential areas. Control 2.1(a) requires consistency with the desired future character and Part 2.1 details the fourteen means of achieving consistency with the desired future character.

The proposal results in a three storey building. The third storey component is limited to the rear of the dwelling and is not visible from Wharf Road. The proposal is considered acceptable given the dwelling appears as a two storey development when viewed from the streetscape and a consistent scale with adjoining development from the water. It is noted the existing dwelling is a part 2/part 3 storey dwelling with the third storey component limited to the rear of the dwelling.

The proposed excavation is associated with the new staircase and results in 4.5 metres of cut. This is not visible from the street or water. The application was referred to Council's Consultant Structural Engineer who raised no objection to the proposed excavation. The proposed cut is considered acceptable in that the extent of cut does not create inconsistency of built form when viewed from the streetscape and does not result in an unreasonable loss of privacy or security for neighbours.

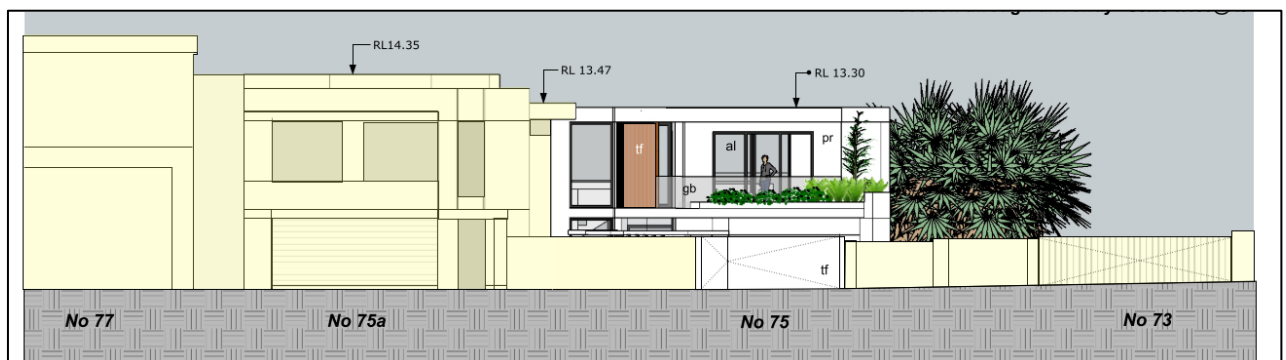


Figure 28 – Front elevation showing proposal in relation to adjoining properties

ITEM 1 (continued)

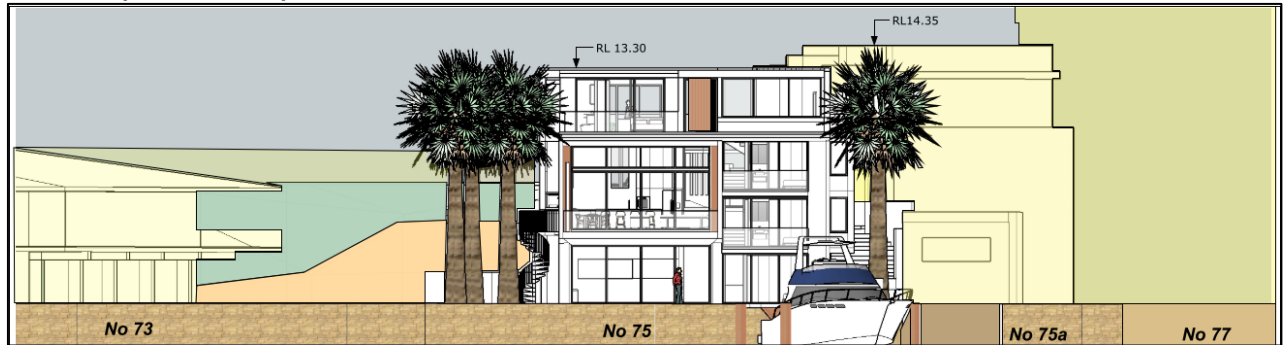


Figure 29 – Rear elevation showing proposal in relation to adjoining properties

2.2 Dwelling Houses

2.2.2 Alterations and Additions to Dwelling Houses

Control 2.2.2(c) requires that alterations and additions are to meet the controls for dwelling houses set out in section 2.2.1 *New Dwelling Houses*. The proposed alterations and additions result in the dwelling being part three storeys in height, which is inconsistent with Control 2.2.1(b) that states that residential dwellings are to be a maximum of two storeys in height. The proposed three storeys is considered acceptable as discussed above under Section 2.1 – Desired Future Character.

2.5 Public Domain Amenity

2.5.1 Streetscape

The location of the existing garage is unchanged. Control 2.5.1(d)(ii) requires garages visible from the public street to be setback behind the dwelling's front elevation. The garage aligns with the dwelling's front façade. The proposal is considered acceptable given the first floor planter bed is cantilevered and extends up to 1.6 metres forwards of the garage which prevents the garage being a prominent feature. The front elevation is appropriately articulated and achieves the desired presentation to the streetscape.

2.6 Site Configuration

2.6.1 Deep soil areas

Control 2.6.1(a) requires sites to have a deep soil area that is at least 35% of the area of the allotment. The proposed development results in a deep soil area of 174m² (26%) and does not comply with Control 2.6.1(a). The proposal is considered acceptable as the existing site does not have a deep soil area that is 35% of the area of the allotment. The proposal seeks to replace the existing swimming pool and hard paved areas with lawn and results in an increase in deep soil area by 71.9m². The non compliance is considered acceptable.

Control 2.6.1(b)(i) requires the deep soil area to include an area with minimum dimensions of 8m x 8m in the backyard. The proposal provides a deep soil area with a

ITEM 1 (continued)

length ranging from 6.3 metres to 10.5 metres and width ranging from 11.5 metres to 15.1 metres. The proposal does not provide a deep soil area with minimum dimensions of 8m x 8m in the backyard and does not comply with Control 2.6.1(b)(i).

Whilst the minimum dimensions of 8m x 8m deep soil area is not met, it is considered that the proposal is consistent with the objectives of the control in that the site will retain its ability to absorb rain water so as to reduce stormwater runoff and to increase the moisture level of the soil for the use of trees and other vegetation. The proposal retains and enhances vegetation corridors and provides space for mature tree growth and other vegetation. The non compliance is considered acceptable.

2.6.1 Topography and Excavation

Control 2.6.2(b)(ii) states the area under the dwelling footprint may be excavated so long as the depth of excavation is limited to 1.2 metres maximum.

The proposal involves approximately 4.5 metres of excavation under the dwelling footprint and does not comply with Control 2.6.2(b)(ii). The proposed cut is associated with the internal stairs. The application was referred to Council's Consultant Structural Engineer who raised no objection to the proposed excavation. Council's Consultant Structural Engineer's referral states the amended geotechnical report complies with Council's requirements for geotechnical reports for works on sites affected by slope instability. It is recommended all design works and all construction works shall be undertaken in full compliance with all of the recommendations contained in the revised ESWNMAN geotechnical report dated 8 February 2021 (**Condition 18**). The proposed cut is considered acceptable as it meets the objectives of the control in that the extent of cut does not create inconsistency of built form when viewed from the streetscape and does not result in an unreasonable loss of privacy or security for neighbours.

2.7 Floor Space Ratio (FSR)

Control 2.7.1(a) requires the floor space ratio must not be greater than 0.5:1 as per Ryde Local Environmental Plan 2014 Floor Space Ratio Map.

The issue of floor space ratio has already been discussed in detail earlier in the report and is considered acceptable

2.8 Height

Control 2.8.1(a) requires that buildings are to be a maximum of 9.5 metres in height.

The issue of the maximum height has already been discussed in detail earlier in the report and is considered acceptable.

Control 2.8.1(a) states a maximum wall plate height of 8 metres for a roof which has a continuous parapet. The proposed wall plate height is 11.11 metres and does not comply. The proposal is considered acceptable for the following reasons:

ITEM 1 (continued)

- The extent of non compliance extends for a length of 0.6 metres on the northern elevation;
- The proposal has been designed in response to the site's topography, with the lowest natural ground level (NGL) coinciding with the highest point of the building;
- The building height does not result in any adverse amenity impacts to adjoining properties; and
- The proposal is consistent with the desired future character of the locality and is consistent with the objectives of the control.

2.9 Setbacks***2.9.1 Front Setbacks***

Control 2.9.1(c) requires garages to be setback a minimum of 1 metre from the dwelling's front façade. The garage aligns with the dwelling's front façade. The proposal is considered acceptable as discussed above under 2.5.1 Streetscape.

Control 2.9.1(f) requires the outside face of a wall built above a garage which faces the street to align with the outside face of the garage wall below.

The wall of the guest bedroom/study located above the garage is setback 2.4 metres behind the face of the wall of the garage and does not comply with Control 2.9.1(f). The proposal is considered acceptable as the first floor planter bed is cantilevered and extend up to 1.6 metres forwards of the garage wall below. The cantilevered first floor planter bed provides for articulation of the built form, is compliant with the required front setback and provides for visual amenity within the streetscape presentation. The design response ensures the garage is not a prominent feature. The front elevation is appropriately articulated and achieves the desired presentation to the streetscape. The non compliance is considered acceptable.

2.9.2 Side Setbacks

Given the application is for alterations and additions, and some sections of the existing house are already existing, only the setbacks of the new walls are tested for compliance under the RDCP 2014.

The proposal includes the following side setbacks:

Lower ground floor

- Setback 952mm from the northern boundary (existing wall)
- Setback 2.0 metres from the southern boundary

ITEM 1 (continued)

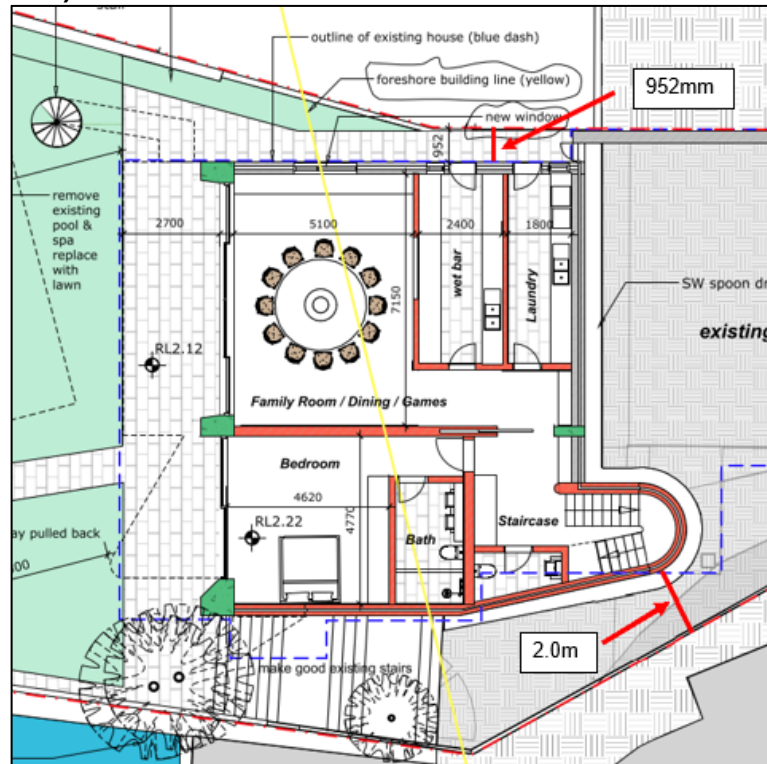


Figure 30 – Side setbacks notated on lower ground floor plan (blue dotted line shows outline of existing house)

Ground floor

- Setback ranging from 0mm- 952mm from the northern boundary (existing wall)
- Setback 1.0 metre from the southern boundary

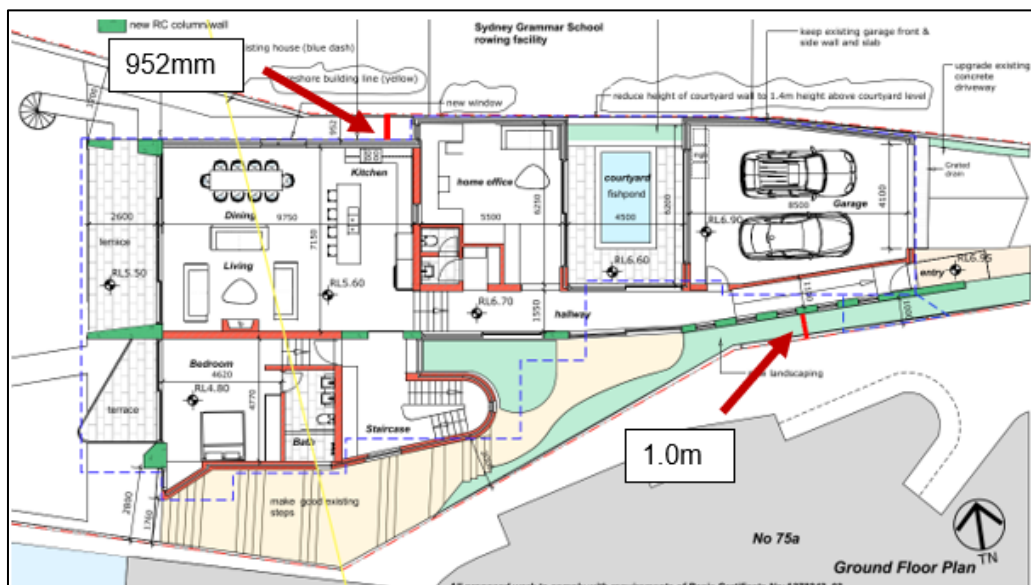


Figure 31 – Side setbacks notated on ground floor plan (blue dotted line shows outline of existing house)

ITEM 1 (continued)

Mezzanine floor

- Setback 1.76 metres from the southern boundary

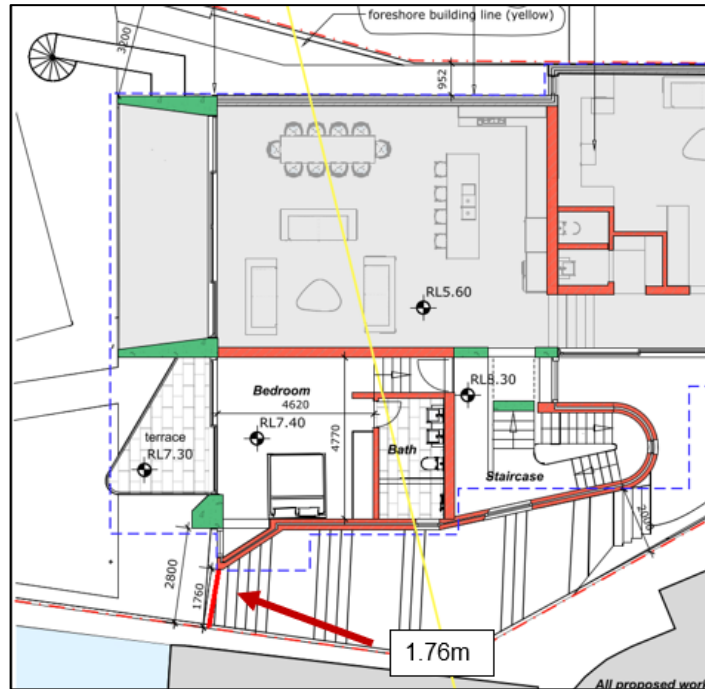


Figure 32 – Side setbacks notated on mezzanine floor plan (blue dotted line shows outline of existing house)

First floor

- Setback ranging from 0mm-952mm from the northern boundary (existing wall)
- Setback 1.6 metres from the southern boundary

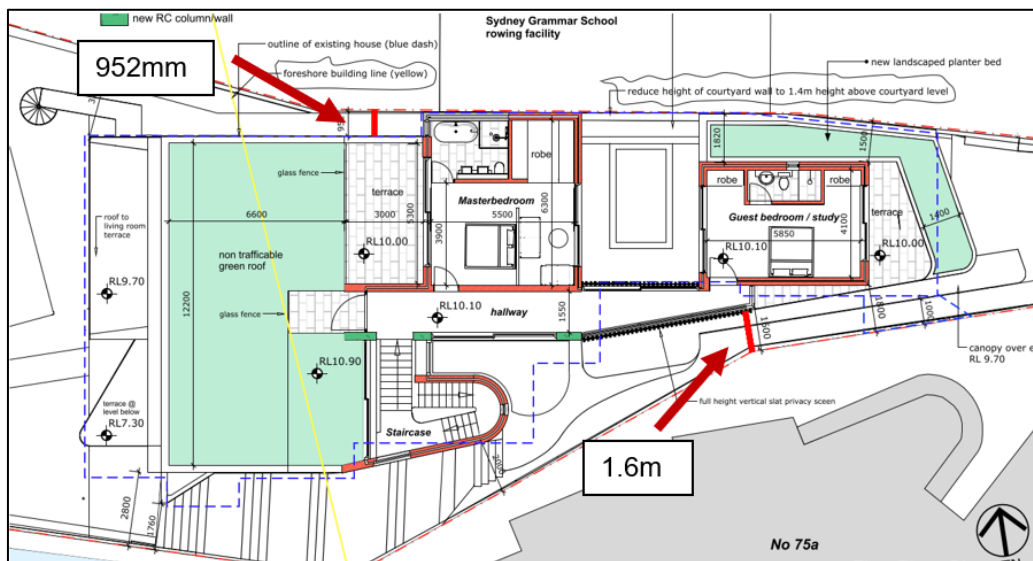


Figure 33 – Side setbacks notated on first floor plan (blue dotted line shows outline of existing house)

ITEM 1 (continued)

Control 2.9.2(b) requires the outside walls of a two storey dwelling to be set back from side boundaries not less than 1.5 m. The proposed ground floor southern side setback of 1.0 metre is non compliant with Control 2.9.2(b).

The 1.0 metre side setback is associated with the entrance hallway and extends for a length of 11.2 metres. The setback of the entrance hallway is considered acceptable as the hallway has five (5) vertically portioned windows with a width of 600mm which restricts loss of privacy to the adjoining property. The reduced setback does not result in any impacts to the neighbouring property and the non compliance is considered acceptable.

It is noted a boundary identification survey was submitted which confirms the existing wall located on the northern side boundary is located within the property boundary.

2.9.3 Rear Setbacks

Control 2.9.3(a) requires the rear of the dwelling is to be set back from the rear boundary a minimum distance of 25% of the length of the site or 8 m, whichever is the greater. The rear setback required is 13.71 metres being 25% of the average site length. The rear setback is 5.3 metres and does not meet the rear setback requirement of 13.71m. The proposal does not comply with Control 2.9.3(a). The proposal is considered acceptable for the following reasons:

- A suitable area for private outdoor recreation is provided;
- The site is irregular in shape;
- The site has a narrow frontage which results in the built form needing to be sited deeper into the site;
- There is sufficient area for vegetation and mature trees including the required canopy tree;
- Contiguous landscaping is provided along the rear of the site; and
- The non compliance does not result in any adverse amenity impacts to adjoining properties.

2.11 Car Parking and Access**2.11.1 Car Parking**

Control 2.11.1(c) and (p) require garages to be located at least 1 metre behind the front elevation. The garage aligns with the dwelling's front façade. The proposal is considered acceptable as discussed above under 2.5.1 Streetscape.

Control 2.11.1(i) requires garages facing the public street to have a maximum width of 6 m or 50% of the frontage, whichever is less. The subject site has a frontage of 3.945 metres, meaning that 50% of the frontage is 1.97 metres. Therefore the maximum width of the garage is required to be 1.97 metres.

ITEM 1 (continued)

The proposed garage has a width of 5.1m, which does not meet the control requirement. The non compliance is considered acceptable for the following reasons:

- Given the irregular shape of the subject site which has a narrow frontage and splays towards the rear compliance with Control 2.11.1(i) is unreasonable;
- The first floor planter bed is cantilevered and extend up to 1.6 metres forwards of the garage wall. The articulation of the front façade ensures the garage is not a prominent feature;
- The garage door is 4.1 metres in width and complies with control 2.11.1(j); and
- The width of the garage has not resulted in an excessively wide driveway. The driveway has been kept to a minimum width.

2.13 Landscaping

Control 2.13(e) requires hard paved areas are to be minimised, and at a maximum, are to be no more than 40% of the front garden areas. The proposed hard paved area is 81% of the front garden area. The proposal does not comply with Control 2.13(e).

This is considered acceptable given the irregular shape of the subject site which has a narrow frontage and splays towards the rear. Additionally Control 2.6.1 (b)(ii) requires a front garden to be completely permeable with the exception of the driveway, pedestrian path and garden walls. The proposed hard paved area is associated with the proposed driveway and pedestrian path which complies with Control 2.6.1 (b)(ii). As such, the non compliance is considered acceptable.

Control 2.13(k) requires hedge planting on boundaries to consist of plant species with a mature height no greater than 2.7 metres. The landscape plan shows screen planting with a mature height of 3 metres is proposed on the northern side boundary and does not comply with Control 2.13(k). The proposal is considered acceptable as the non compliance extends for a total length of 15.7 metres on the northern side boundary that adjoins the Sydney Grammar School Boat Shed. The 3.0 metre high screen planting will not impact the adjacent property as the screen planting does not result in overshadowing and maintains existing views. As such, the non compliance is considered acceptable.

2.14 Dwelling Amenity***2.14.1 Daylight and Sunlight Access***

Control 2.14.1(a) requires living areas to be located predominantly to the north where the orientation of the allotment makes this possible.

The living areas associated with the dining/living room on the ground floor and family/dining/games room on the lower ground floor predominantly orientate to the west. The shadow diagrams show adequate solar access to the living room areas are

ITEM 1 (continued)

achieved by a combination of the windows and glass sliding doors to the north and west between 12pm and 3pm.

The northern wall of the proposal has a side setback of 0 metres. The northern wall is existing and approved under previous development applications. Control 2.14.1(b) requires dwellings on allotments which have a side boundary with a northerly aspect are to be designed to maximise sunlight access to internal living areas by increasing the setback of these areas. In these cases a minimum side setback of 4 m is preferred. This proposal is considered acceptable as the north and west facing windows and glass sliding doors on the ground floor receive adequate solar access.

2.14.2 Visual Privacy

Control 2.14.2(a) requires windows of the main living spaces such as living rooms, dining rooms, kitchens, family rooms and the like, generally to be orientated to the front or to the rear of allotments.

The following living area windows orientate to the northern side elevation and do not comply with Control 2.14.2(a):

Windows located within the northern side elevation:

- Window (W33) of the dining room on the ground floor
- Window (W32) of the family room/dining/games room on the lower ground floor

Window (W33) of the dining room and Window (W32) of the family/dining/games room are considered acceptable as they orientate to the Sydney Grammar School Boat Shed which is not a residential use and will have no adverse impacts upon the visual privacy of the adjoining property. The non compliance is considered acceptable.

Control 2.14.2(b) requires terraces, balconies and outdoor living areas to be orientated to either the front or the rear of allotments, and not to the side boundaries. Control 2.14.2(c) requires terraces and balconies are not to overlook neighbour's living areas and private open space.

The following terraces orientate to the side boundaries and overlook neighbouring properties and do not comply with Control 2.14.2(b) and Control 2.14.2(c):

- Terrace associated with the bedroom on the ground floor orientates to the southern side boundary
- Terrace associated with the bedroom on the mezzanine floor orientates to the southern side boundary
- Terrace associated with the guest bedroom on the first floor orientates to the southern side boundary
- Landing on the first floor orientates to the northern and southern side boundary

ITEM 1 (continued)

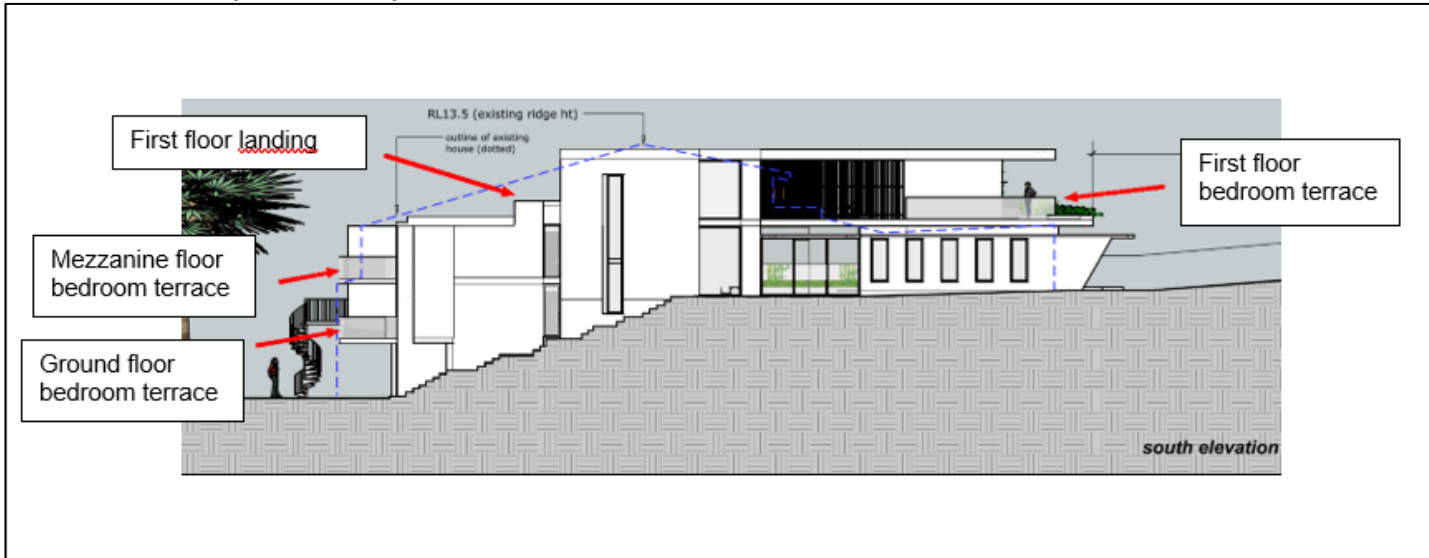


Figure 34 – Southern side setback showing terraces and landing

The terraces associated with the bedrooms on the ground floor and mezzanine floor are located approximately 8.5 metres from the neighbouring dwelling's private open space area. The 8.5 metre separation and existing trees on the side boundary restrict direct views into the neighbouring dwelling.

The terrace associated with the guest bedroom on the first floor aligns with the neighbouring properties internal staircase and will not result in any significant adverse impacts upon the visual privacy of the adjoining property.

The dimensions of the landing on the first floor are 1.6 metres (w) x 2.9 metres (l) and given the dimensions is not considered to be an area which will be extensively used for prolonged periods and will not result in any significant adverse impacts upon the visual privacy of the adjoining properties. As such, the non compliance with Control 2.14.2(b) and Control 2.14.2(c) is considered acceptable.

Control 2.14.2(e) states side windows are to be offset by distances sufficient to avoid visual connection between windows of the subject dwelling and those of the neighbouring dwelling. The following side windows are not offset from windows of the neighbouring dwelling and do not comply with Control 2.14.2 (e):

Windows located within the southern side elevation:

- Window (W4) of the hallway
- Window (W9) of the staircase

The Window (W4) of the hallway aligns with an opening on the northern side elevation of the neighbouring property at 75A Wharf Road. The window only allows views from the entrance hallway which is not an area expected to be used for prolonged periods of time. The window is vertically proportioned with a width of 600mm which further

ITEM 1 (continued)

restricts loss of privacy to the adjoining property. The window will have no adverse impact on the adjoining property and is considered acceptable.

The Window (W9) of the staircase aligns with an opening on the northern side elevation of 75A Wharf Road. The window only allows views from the stairs which is not an area expected to be used for prolonged periods of time. The window is vertically proportioned which further restricts loss of privacy to the adjoining property. The window will have no adverse impact on the adjoining property and is considered acceptable.

6. The likely impacts of the development

The likely impacts of the development have been considered within this report and the assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment in general due to the nature of the development. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report (see DCP 2014). The development is considered satisfactory in terms of environmental impacts.

7. Suitability of the site for the development

The site is zoned R2 Low Density Residential. The proposal seeks consent for substantial alterations and additions to existing part 2/part 3 storey dwelling and demolition of swimming pool.

The site is mapped as containing Class 5 acid sulfate soils, being land within 500m of actual acid sulfate soils. The extent of works is such that it is not considered to come into contact with or affect the profile of any area containing actual acid sulphate soils.

The site is located within 100m of one (1) heritage item being:

- Item name: House; Address: 76 Wharf Road

The item is of local significance, as outlined in Schedule 5 of RLEP 2014. Despite being within 100m of the item, the proposal is considered to satisfy the objectives of Clause 5.10 of RLEP 2014 by conserving the heritage significance of the heritage item, including associated fabric, settings and views.

The site is subject to the foreshore building line which is located approximately 39.6 metres from the front boundary. The proposed alterations and additions to the existing building are located partly within the foreshore building line as permitted in accordance with Clause 6.5(2)(a). The proposal is not considered to impact upon natural foreshore processes or affect the significance or amenity of the foreshore area as the proposal does not result in excessive overshadowing of the foreshore and does not result in significant structures outside of the existing building envelope. The proposal is

ITEM 1 (continued)

considered to be consistent with the objectives of the Clause. The proposal is satisfactory and not antipathetic with the requirements under Clause 6.5(3).

Council's maps indicate the site as being at risk of slope instability. Council's Consultant Structural Engineer has raised no objection to the proposal subject to all design works and all construction works being undertaken in full compliance with all of the recommendations contained in the revised ESWNMAN geotechnical report dated 8 February 2021 (**Condition 18**). The land is not identified as being affected by any other environmental constraints.

The proposal exceeds the floor space ratio and height development standard. The submitted Clause 4.6 variation to Clause 4.3 and Clause 4.4 has met the jurisdiction prerequisites to enable the consent authority to support the proposed departure from the development standard. The proposal is an appropriate development and this has been demonstrated in this report. The proposal is considered to be suitable for the site.

8. The Public Interest

The public interest is best served by the consistent application of the requirements of relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised.

The proposal has been assessed against the relevant planning instruments and is considered to be acceptable. The proposal is non-compliant with Clause 4.3 Height of buildings and Clause 4.4 Floor Space Ratio, but has been supported by a satisfactory Clause 4.6 variation request.

The proposal does not result in any unacceptable impacts upon adjoining properties or the streetscape. On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

9. Submissions

In accordance with DCP 2014 Part 2: Community Participation Plan and Procedure, the owners of surrounding properties were given notice of the application between 18 August 2020 and 9 September 2020. One (1) submission was received objecting to the development from the adjoining property at No.75A Wharf Road.

The amended plans received on 8 February 2021 were renotified between 10 February 2021 and 3 March 2021. No submissions were received.

The submission raised the following concerns:

ITEM 1 (continued)*1. Copyright*

Comment: Concern is raised that numerous distinctive architectural elements have been duplicated in the proposed development from No. 75A Wharf Road. Concern is raised the staircase structure, canopy over the entry walkway and external colours and finishes are a duplication of the objector's home design. The submission states that a formal complaint with the NSW Board of Architects will be lodged. The submission requests Council to hold any determination until the NSW Board of Architects comes to a decision regarding the complaint. Council's General Counsel provided verbal confirmation that the application can be determined before the NSW Board of Architects comes to a decision as the issue is a civil matter and not a planning consideration. The matters relating to copyright do not form a valid reason for refusal.

2. Nature of the application (New Dwelling not alterations and additions)

Comment: Concern is raised the proposed development application should be for a new dwelling not alterations and additions. The submission raises the significant change in appearance of the dwelling, extent of demolition, level of numerical non-compliance, extent of alteration to the existing landform and the proportion of the retained building to the new development are reasons the proposal should be characterised as a new development, rather than an alterations and additions.

The development description has been amended to "Substantial alterations and additions to existing part 2/part 3 storey dwelling and demolition of swimming pool". The application was renotified between 10 February 2021 and 3 March 2021 with the amended development description and amended plans.

The established planning principle for what constitutes alterations and additions in *Coorey v Hunters Hill Council* [2013] NSWLEC1187 requires, as a first step, an analysis of the purpose for which the enquiry is being made. The application proposes to continue the residential use of the dwelling and maintains the existing northern external wall and location of the garage.

The Court noted a need to undertake a qualitative and quantitative analysis of what is proposed compared to what is in existence. A qualitative and quantitative analysis and Assessment Officer comments are provided below:

Qualitative issues

- How is the appearance of the existing building to be changed when viewed from public places?

Assessment Officer's Comments: The dwelling will continue to appear as two storeys when viewed from the street and three storeys when viewed from Parramatta River.

ITEM 1 (continued)

- To what extent, if any, will existing landscaping be removed and how will that affect the setting of the building when viewed from public places?

Assessment Officer's Comments: The proposal increases the extent of landscaping by removing the existing swimming pool and providing landscaping. The increase in landscaping will not adversely affect the setting of the building when viewed from public places.

- To what extent, if any, will the proposal impact on a heritage item, the curtilage of a heritage item or a heritage conservation area?

Assessment Officer's Comments: The proposal is located within 100 metres of one (1) heritage item of local significance. The proposal is considered to satisfy the objectives of Clause 5.10 of RLEP 2014 by conserving the heritage significance of the heritage item, including associated fabric, settings and views. The proposal will have no adverse impact on the heritage item.

- What additional structures, if any, in the curtilage of the existing building will be demolished or altered if the proposal is approved?

Assessment Officer's Comments: The existing swimming pool will be demolished and replaced with landscaping. The proposal increases the landscaped area on the site.

- What is the extent, if any, of any proposed change to the use of the building?

Assessment Officer's Comments: The existing residential use is unchanged.

- To what extent, if any, will the proposed development result in any change to the streetscape in which the building is located?

Assessment Officer's Comments: The existing dwelling presents as two storeys from Wharf Road. The proposal will also present as two storeys from Wharf Road and is consistent with two storeys dwellings in the streetscape. The proposal results in minimal change to the streetscape.

- To what extent, if any, are the existing access arrangements for the building proposed to be altered?

Assessment Officer's Comments: The access arrangements are not proposed to be altered.

- To what extent, if any, will the outlook from within the existing building be altered as a consequence the proposed development?

Assessment Officer's Comments: The amenity for future occupants is maintained. The proposal maintains views from the living areas to the rear of the site towards Parramatta River.

ITEM 1 (continued)

- Is the proposed demolition so extensive to cause that which remains to lose the characteristics of the form of the existing structure?

Assessment Officer's Comments: The proposal maintains the northern side wall and the location of the garage is unchanged. The proposed demolition is not considered to cause what remains to lose the characteristics of the form of the existing structure.

Quantitative issues

- To what extent is the site coverage proposed to be changed?

Assessment Officer's Comments: The changes to the site coverage are considered to be minimal. The alterations and additions largely occur within the existing building footprint.

- To what extent are any existing non-compliances with numerical controls either increased or diminished by the proposal?

Assessment Officer's Comments: The proposal reduces the height and floor space ratio of the existing dwelling approved on the site. The existing dwelling has an approved height of 11.2 metres and FSR of 0.69:1. This application proposed a height of 11.11 metres and FSR of 0.674.

- To what extent is the building envelope proposed to be changed?

Assessment Officer's Comments: The proposal maintains the northern side wall and the location of the garage is unchanged. The alterations and additions largely occur within the existing building footprint. The proposal relocates the building bulk from the rear first floor to the front of the dwelling above the garage. Although the building envelope is changing it is considered acceptable as there is minimal impact.

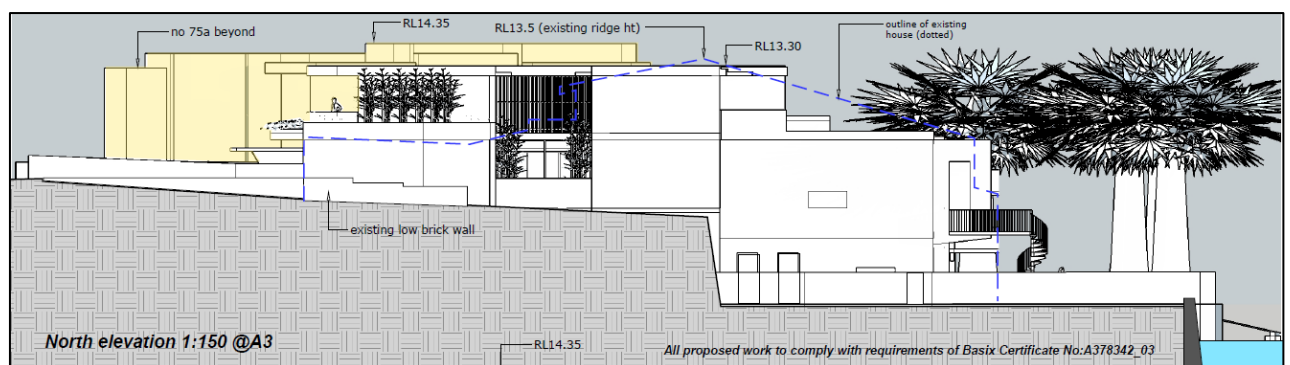


Figure 35 – Northern elevation of proposal (existing dwelling shown in blue dotted line)

ITEM 1 (continued)

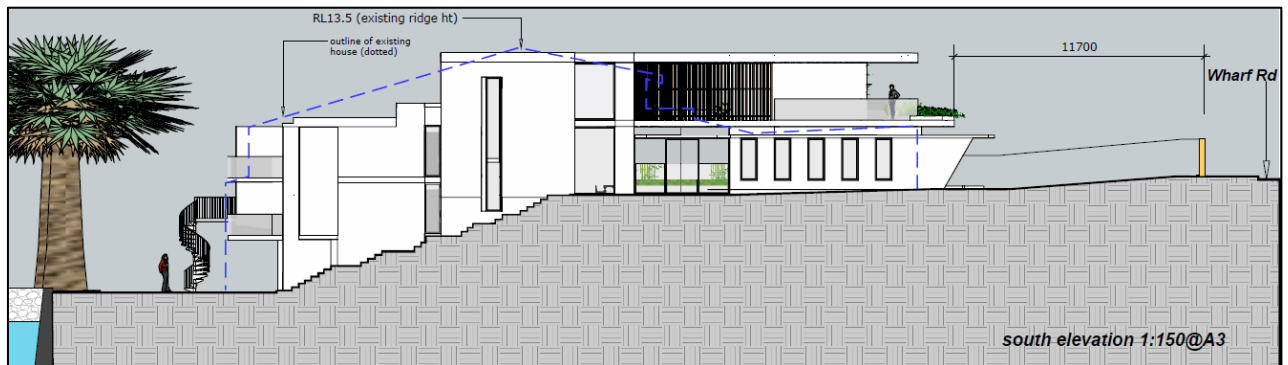


Figure 36 – Southern elevation of proposal (existing dwelling shown in blue dotted line)

- To what extent are boundary setbacks proposed to be changed?

Assessment Officer's Comments: The proposal maintains the northern side setback. The proposal increases the southern side setback. The proposal results in minor changes to the front and rear setback.

- To what extent will the present numerical degree of landscaping on the site be changed?

Assessment Officer's Comments: The proposal increases the landscaping on the site by removing the swimming pool and providing landscaping.

- To what extent will the existing floor space ratio be altered?

Assessment Officer's Comments: The proposal reduces the floor space ratio of the existing dwelling by approximately 10.62m².

- To what extent will there be changes in the roof form?

Assessment Officer's Comments: The replacement of the pitched roof component with a parapet roof reduces the bulk of the development.

- To what extent will there be alterations to car parking/garaging on the site and/or within the building?

Assessment Officer's Comments: The location of the garage is unchanged. The size of the garage is slightly reduced. The garage still accommodates two (2) parking space.

- To what extent is the existing landform proposed to be changed by cut and/or fill to give effect to the proposed development?

Assessment Officer's Comments: The proposal includes minor excavation associated with the internal stairs. The excavation will not be visible from the street or from Parramatta River.

ITEM 1 (continued)

- What relationship does the proportion of the retained building bear to the proposed new development?

Assessment Officer's Comments: The proposal maintains the northern side wall and the location of the garage is unchanged. The alterations and additions largely occur within the existing building footprint.

Conclusion

The proposal will have minimal change to the streetscape, increases the extent of landscaping, does not impact the heritage significance of the heritage item located within 100 metres, retains the existing residential use and retains the access arrangement. The proposal maintains the northern side wall and the location of the garage is unchanged.

The proposal reduces the height and floor space ratio of the existing dwelling approved on the site. The alterations and additions largely occur within the existing building footprint and the changes to the setbacks and site coverage are considered minimal. The proposal increases the landscaping on the site and reduces the size of the garage structure while maintaining two parking spaces within the garage. The extent of excavation is limited to the internal stairs and is not visible from the street or water. The replacement of the pitched roof component with a parapet roof reduces the bulk of the development. The proposal maintains the northern side wall and the location of the garage is unchanged.

The qualitative and quantitative analysis confirms the proposal is for alterations and additions.

3. *Non compliant Height, non compliance FSR and encroachment over the foreshore building line*

Comment: The submission raised concern that the proposed is non compliant with the Height of Buildings development standard and should comply with the LEP. The applicant has submitted a Clause 4.6 written request that seeks to justify contravention of the development standard Clause 4.3 Height of Buildings. The applicant has adequately addressed why compliance with the development standard is unreasonable or unnecessary under Clause 4.6(3)(a) of RLEP 2014. The applicant has also demonstrated sufficient environmental planning ground to justify contravention of the height of buildings development standard, as required by Clause 4.6(3)(b). It has been demonstrated the proposed development is consistent with the objectives of both the development standard and the R2 zone. For these reasons, the development will be in the public interest. Accordingly, development consent is granted to the proposal, despite the contravention of the height of buildings development standard.

Concern is raised the proposal is non compliant with Floor Space Ratio development standard and should be amended to comply with the LEP. The applicant has adequately addressed why compliance with the development standard is unreasonable

Ryde Local Planning Panel Report No. 2/21 - Thursday 15 April 2021

ITEM 1 (continued)

or unnecessary under Clause 4.6(3)(a) of RLEP 2014. The applicant has also demonstrated sufficient environmental planning ground to justify contravention of the height of buildings development standard, as required by Clause 4.6(3)(b). It has been demonstrated the proposed development is consistent with the objectives of both the development standard and the R2 zone. For these reasons, the development will be in the public interest. Accordingly, development consent is granted to the proposal, despite the contravention of the floor space ratio development standard.

The submission also raised concern that the proposal encroaches over the foreshore building line. Concern is raised the proposal is increasing the building envelope within the foreshore building area and the external stairs is considered inappropriate given the significant foreshore exposure. Concern is raised the proposal significantly alters the aesthetic appearance of the foreshore. The proposed substantial alterations and additions are located partly within the foreshore building line as permitted in accordance with Clause 6.5(2)(a). The alterations and additions to the dwelling do not extend further into the foreshore building line except for the external staircase structure. The external staircase is not an enclosed structure and does not add to the bulk of the proposal. The schedule of materials and finishes and photo montages submitted demonstrate the proposal is consistent with adjacent properties and does not alter the aesthetic appearance of the foreshore.

10. Referrals**Senior Development Engineer**

The application was referred to Council's Senior Development Engineer who provided the following comments:

"Stormwater Management"

The development permits a direct discharge to Parramatta River via an existing discharge outlet. It is noted that the design has incorporated a soil arrestor control pit prior to the point of discharge. All surface levels are bunded such that errant surface runoff is directed to the point of discharge. Standard conditions concerning stormwater management are advised.

Public Domain

Due to the scale of the development and the sole access to the site from the 3.9m frontage, it is warranted that the development reconstruct the driveway and footpath area fronting the site at the completion of works. This is addressed by condition of consent.

Vehicle Access and Parking

A double garage is provided within the development. Due to the odd site footprint, the proposed entrance width is not totally compliant with AS 2890.1 for a double

ITEM 1 (continued)

garage however the internal dimensions are sufficient as the garage widens as it extends deeper into the site. The proposed parking arrangement is therefore considered acceptable.

It is noted that the site frontage is only some 3.9m wide and does not permit the implementation of sight distance splays. The arrangement is considered acceptable given the circumstances of the site frontage and the very low number of pedestrian traffic in the area (the site is some 200m from the end of Wharf Road).

Recommendation

There are no objections to the proposed development with respect to the engineering components, subject to the application of the following conditions being applied to any development consent being issued for the proposed development.”

Conditions of consent have been imposed by Council’s Senior Development Engineer (see **Conditions 14, 15, 16, 17, 36, 37, 38, 39, 58, 59, 60 and 65**).

Landscape Architect

The application was referred to Council’s Landscape Architect who has raised no objection to the proposed development subject to the following condition (**Condition 56**):

“Excavation within TPZ. Any excavation or grading/re-grading within the identified TPZs of trees to be retained shall be carried out by hand using manual, non-motorised hand tools. Roots greater than 25mm are not to be damaged or severed.”

Consultant Structural Engineer

The application was referred to Cardno (Council’s Consultant Structural Engineer) who provided the following comments:

“1. The revised ESWNMAN geotechnical report ESWN-PR-2020-634 Rev A dated 8

February 2021 has been reviewed and we confirm that the revised report now complies with Council’s normal requirements for geotechnical reports submitted in relation to development on sites indicated on Council’s maps as being at risk of slope instability.

2. Should Council’s officers decide to approve this application then Cardno recommends that the approval be conditioned requiring that all design works and all construction works be undertaken in full compliance with all of the recommendations on the revised ESWNMAN geotechnical report dated 8 February 2021.”

ITEM 1 (continued)

Assessing Officer comment's: **Condition 18** and **Condition 66** are recommended to ensure works are carried out in compliance with the recommendations of the revised geotechnical report.

11. Conclusion

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is suitable for the subject site and is not contrary to the public interest. The reasons for the decision are as follows:

1. The proposal is consistent with the objectives for R2 zoned land.
2. The proposal complies with the statutory provisions set out in the Environmental Planning and Assessment Act 1979.
3. The proposal is considered to be of low impact to adjoining properties and the surrounding environment.
4. The proposal has been supported by a satisfactory Clause 4.6 variation request which demonstrates that compliance with Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio is unreasonable and unnecessary in the circumstances and there are sufficient environmental planning grounds to justify contravening the development standards.
5. The proposal is not contrary to the public interest.
6. The submissions received in response to this DA have been considered and addressed in this report. None of the issues raised warrant the refusal of the subject DA.

12. Recommendation

That the Ryde Local Planning Panel, as the consent authority, grant consent to LDA2020/0276 for substantial alterations and additions to existing part 2/part 3 storey dwelling and demolition of swimming pool at 75 Wharf Road Gladesville, subject to the draft conditions contained in Attachment 1.

ITEM 1 (continued)**ATTACHMENTS**

- 1** Draft Conditions of Consent
- 2** DCP Compliance Table
- 3** SREP Compliance Table
- 4** Clause 4.6 written variation
- 5** Architectural Plans - subject to copyright provisions

Report Prepared By:

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Report Approved By:

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Sandra Bailey
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Director - City Planning and Environment

ITEM 1 (continued)
ATTACHMENT 1 – DRAFT CONDITIONS OF CONSENT
75 WHARF ROAD, GLADESVILLE – LDA2020/0276

ATTACHMENT 1

GENERAL

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

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

Plan no.	Drawn by	Dated
Architectural Plans		
Cover sheet	Keith Pike Associates Pty Ltd	Received: 08/02/2021
BASIX Commitments Dwg No. A00a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
Proposed site plan/site data Dwg No. A05a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
Proposed floor plans Dwg No. A06a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
Proposed ground floor plan Dwg No. A07a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
Proposed 1 st Floor Plan data Dwg No. A08a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
Proposed Lower Ground Floor Plan Dwg No. A09a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
Proposed Mezzanine floor Plan Dwg No. A10a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
North Elevation Dwg No. A11a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
South Elevation Dwg No. A12a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
East Elevation Dwg No. A13a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
West Elevation Dwg No. A14a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
Section 1 Dwg No. A15a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
Section 2 Dwg No. A16a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
Section 3, 4 & 5 Dwg No. A17a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
Section 6 & 7 Dwg No. A18a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021

ITEM 1 (continued)

ATTACHMENT 1

Demolition report/plan Dwg No. A00a Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
Proposed cut & fill plan Dwg No. A25 Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
Finishes Schedule Dwg No. A23 FS Revision No. 1	Keith Pike Associates Pty Ltd	Received: 08/02/2021
Landscape Plans		
Cover Page Dwg No. L/00 of 4	A Total Concept Landscape Architects & Swimming Pool Designers	17/06/2020
Proposed Ground Floor Landscape Plan Dwg No. L/01 of 4	A Total Concept Landscape Architects & Swimming Pool Designers	17/06/2020
Proposed First Floor Landscape Plan Dwg No. L/02 of 4	A Total Concept Landscape Architects & Swimming Pool Designers	17/06/2020
Landscape Planting Details Dwg No. L/03 of 4	A Total Concept Landscape Architects & Swimming Pool Designers	16/06/2020
Stormwater Management Plans		
Stormwater services cover sheet Project No.20121 Dwg No.DA1.01 Revision No. 2	Sparks and Partners	03/06/2020
Stormwater services erosion control plan Project No.20121 Dwg No.DA2.01 Revision No. 2	Sparks and Partners	03/06/2020
Stormwater services ground & lower ground floor drainage layout Project No.20121 Dwg No.DA4.01 Revision No. 2	Sparks and Partners	03/06/2020
Stormwater services first floor & roof drainage layout Project No.20121 Dwg No.DA4.02 Revision No. 2	Sparks and Partners	03/06/2020
Stormwater services mezzanine plan & details Project No.20121 Dwg No.DA4.03 Revision No. 2	Sparks and Partners	03/06/2020

Document(s)	Dated
Site Waste Minimisation and Management Plan prepared by Keith Pike Associates Pty Ltd	22/06/2020
Geotechnical Assessment Report prepared by ESWNMAN Pty Ltd	08/02/2021

Reason: To ensure that the development is in accordance with the determination.

ITEM 1 (continued)

ATTACHMENT 1

2. **Inconsistency between documents.** In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

Reason: To ensure that the development is in accordance with the determination.

3. **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.

Reason: Statutory requirement.

4. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered A378342_03, dated 30 January 2021.

Reason: Statutory requirement.

5. **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.

Reason: To ensure the structural protection of adjoining properties.

6. **Site Maintenance.** For the period the site remains vacant of any development the subject of this consent, the site is to be regularly maintained in a tidy manner such that it does not become overgrown with weeds or become a repository for the leaving or dumping of waste.

Reason: To ensure the site is maintained when vacant.

7. **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.

Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties

8. **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 1 (continued)

ATTACHMENT 1

Reason: To ensure public safety.

9. **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.

Reason: To ensure public safety.

10. **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.

Reason: To ensure development occurs within the site boundaries.

11. **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.

Reason: To ensure public spaces are unobstructed during construction.

12. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.

Reason: Access to public utilities.

13. **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.

Reason: To ensure compliance with the requirements of Roads Act 1993.

14. **Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's DCP Part 8.5 (*Public Civil Works*) and Part 8.2 (*Stormwater and Floodplain Management*), except otherwise as amended by conditions of this consent.

Reason: To ensure compliance Australian Standards and Council's DCP Part 8.2.

15. **Service Alterations.** All services or utilities required to be altered in order to complete the development works are to be undertaken in accordance with the

ITEM 1 (continued)

ATTACHMENT 1

requirements of the relevant service provider (eg Telstra, Jemena, Ausgrid, etc), with all costs associated with this alteration to be borne by the applicant.

Reason: To ensure access to public utilities.

16. **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, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with Council's standards and specifications, and DCP Part 8.5 (*Public Civil Works*), to the satisfaction of Council.

Reason: To maintain public infrastructure.

17. **Road Opening Permit.** In accordance with the requirements of the Roads Act, the applicant must obtain consent (*Road opening Permit*) from Council prior to any excavation being undertaken in the road reserve (this includes verge and public footpath areas). No works shall be carried out in the road reserve without this permit being paid and a copy kept on the site.

Reason: Statutory requirement (Roads Act 1993 Section 138) and to maintain the integrity of Council's infrastructure.

18. **Geotechnical report.** All design works and all construction works shall be undertaken in full compliance with all of the recommendations contained in the revised ESWNMAN geotechnical report dated 8 February 2021.

Reason: To ensure works are carried out in compliance with the recommendations of the Geotechnical report.

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.

19. **Retention of existing walls.** Prior to commencement of demolition a report shall be provided from a structural engineer which confirms that demolition can occur and the walls that are to remain will not be affected by the demolition. The report shall include the works required to be undertaken to retain the existing walls. Any works to retain the walls should occur prior to any demolition works occurring.

Reason: To ensure walls to be retained will not be affected by demolition.

20. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:

ITEM 1 (continued)

ATTACHMENT 1

- (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.

Reason: To ensure adjoining properties are notified before works commence.

21. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).

Reason: Statutory requirement.

22. 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.
- (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with Safework NSW 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.

Reason: To ensure the safety and protection of property.

23. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by Safework NSW.

Reason: To ensure public safety

24. **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.

Reason: To ensure public safety

25. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.

Reason: To ensure appropriate management of construction waste.

ITEM 1 (continued)

ATTACHMENT 1

26. **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.

Reason: To ensure appropriate management of construction waste.

27. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.

Reason: To ensure the type of imported fill is appropriate.

28. **Filling of the Swimming Pool.**

- (i) To achieve soft landscaping that will reasonably thrive in most climatic conditions, a minimum 300 mm of soil cover should be provided over any concrete of the pool copings and pool walls. The surface levels are not to be raised (ie. no fill above natural ground adjacent to boundaries and existing pool coping), then the top 300 mm of the pool coping and pool walls will have to be demolished.
- (ii) To provide drainage through the base of the pool, 20 mm drainage holes should be provided at 1.2 m maximum centres in both directions through the base of the pool, and into the underlying gravel drainage layer. A drainage blanket of Bidim A4 should be provided over the entire base of the pool and should be covered with a minimum of 100 mm of clean sand. The Bidum will prevent sand from infiltrating the gravel beneath the pool and will ensure that water percolating through the remainder of the fill in the pool can discharge into the gravel.
- (iii) If demolished concrete from the pool coping and shell is to be used as part of the backfill materials it should be broken into small pieces (150 mm maximum) and any voids between pieces of concrete should be infilled with sand or other suitable materials.
- (iv) Clays should not be used for backfilling of the pool shell, as they are difficult to adequately compact, and hence prevent future consolidation and settlements.
- (v) Ideally readily compatible granular fill should be utilised.

WHEN TURF IS THE FINISHED SURFACE

- (vi) A minimum of 300 mm of topsoil should be provided over the general fill materials within the pool and for a nominal 0.5m all around the pool.

Reason: To ensure filling of the swimming pool is satisfactory.

PRIOR TO CONSTRUCTION CERTIFICATE

ITEM 1 (continued)

ATTACHMENT 1

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.

29. **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 Certifying Authority prior to the issue of the **Construction Certificate**.

Reason: To ensure compliance with the Australian Standards.

30. **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**.

Reason: To ensure the structure integrity and compliance with relevant standards.

31. **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)

Reason: Statutory requirement.

32. **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

Reason: Statutory requirement.

33. **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 Certifying Authority prior to the issuing of the **Construction Certificate**.

ITEM 1 (continued)

ATTACHMENT 1

Reason: Statutory requirement.

34. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to www.sydneywater.com.au/tapin to apply.

Reason: Statutory requirement.

35. **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 Certifying Authority prior to the release of the **Construction Certificate**.

Reason: To ensure the use of appropriate roofing material to minimise reflectivity and impacts upon amenity.

Reason: To ensure existing trees are protected.

36. **Vehicle Access & Parking.** All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Offstreet Parking standards).

Reason: To ensure the development complies with AS 2890.

37. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to Parramatta River generally in accordance with the plans by Sparks + Partners Consulting Engineers (Refer to Project No, 20121 Dwgs DA1.01, DA4.01 DA4.03 Rev 2 dated 3 June 2020).

The detailed plans, documentation and certification of the drainage system must be submitted with the application for a Construction Certificate and prepared by a suitably qualified Civil Engineer and comply with the following;

- The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures.
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.
- The direct discharge to Sydney Harbour must be in accordance with the requirements of NSW Maritime. Any new discharge points will require the the applicant obtain and comply with any written approval required by this authority.

ITEM 1 (continued)

ATTACHMENT 1

Reason: To ensure effective management of stormwater.

38. **Vehicle Footpath and Gutter Crossover Approval.** A new vehicle footpath crossing and associated gutter crossover shall be constructed at the approved vehicular access location/s. Where there is an existing vehicle footpath crossing and gutter crossover, the reconstruction of this infrastructure may be required in order that it has a service life consistent with that of the development and ensure it is compliant with current Council's standards and specifications. The location, design and construction shall be in accordance with Council's DCP 2014 Part 8.3 (*Driveways*), Part 8.5 (*Public Civil Works*) and Australian Standard AS2890.1 – 2004 (*Offstreet Parking*).

Prior to the issue of the Construction Certificate, an application shall be made to Council for approval under Section 138 of the Roads Act, 1993, for the construction of the vehicle footpath and gutter crossover. The application shall include engineering design drawings of the proposed vehicle footpath crossing and gutter crossover. The drawings shall be prepared by a suitably qualified Civil Engineer using the standard B85 vehicle profile. The drawings shall show the proposed vehicle footpath crossing width, alignment, and any elements impacting design such as service pits, underground utilities, power poles, signage and/or trees. In addition, a benchmark (to Australian Height Datum) that will not be impacted by the development works shall be included. All grades and transitions shall comply with Australian Standard AS 2890.1-2004 Offstreet Parking and Council's specifications. The new crossing shall be 3.5 m. wide, without the splays, and shall be constructed at right angle to the alignment of the kerb and gutter, and located no closer than 1m from any power pole and 3m from any street tree unless otherwise approved by Council.

Fees are payable at the time of the application, in accordance with Council's Schedule of Fees and Charges.

The Council approved design details shall be incorporated into the plans submitted for the application of the Construction Certificate.

Reason: To ensure the vehicle footpath and gutter crossover is satisfactory.

39. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties that may be affected by the construction work. As a minimum, the scope of the report is to include;

- 75A Wharf Road

A copy of the dilapidation survey is to be submitted to the Accredited Certifier and Council prior to the issue of the Construction Certificate.

Reason: To ensure neighbouring properties are not affected.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

ITEM 1 (continued)

ATTACHMENT 1

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.

40. 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.

Reason: Statutory requirement.

41. **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.

Reason: Statutory requirement.

42. **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 1 (continued)

ATTACHMENT 1

Reason: Statutory requirement.

43. 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.

Reason: To ensure notice to given to adjoining owners prior to excavation works.

44. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with Safework NSW requirements and be a minimum of 1.8m in height.

Reason: To ensure to site is safely secured.

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.

45. **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*.

Reason: Statutory requirement.

46. **Noise from construction and demolition work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from demolition and construction work.

Reason: To protect the amenity of surrounding residents during construction.

47. **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.

ITEM 1 (continued)

ATTACHMENT 1

Reason: To ensure the position of external walls in relation to the boundaries of the allotment are accurate.

48. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.

Reason: To protect the environment and the amenity of surrounding properties.

49. **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.

Reason: To protect the environment.

50. **Construction materials.** All materials associated with construction must be retained within the site.

Reason: To ensure safety and amenity of the area.

51. Site Facilities

The following facilities must be provided on the site:

- (a) toilet facilities in accordance with Safework 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.

Reason: Statutory requirement.

52. 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.

Reason: To ensure the site is appropriately maintained.

53. **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".

Reason: To ensure works do not disrupt pedestrians and vehicular traffic.

ITEM 1 (continued)

ATTACHMENT 1

54. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or identified as approved for removal on the stamped plans.

Reason: To ensure no unauthorised removal of trees.

55. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.

Reason: To ensure trees to be retained are protected.

56. **Excavation within TPZ.** Any excavation or grading/re-grading within the identified TPZs of trees to be retained shall be carried out by hand using manual, non-motorised hand tools. Roots greater than 25mm are not to be damaged or severed.

Reason: To ensure existing trees are protected.

57. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

Reason: To ensure perimeters of slabs are not visible.

58. **Traffic Management.** Any traffic management procedures and systems must be in accordance with AS 1742.3 1996 and City of Ryde, Development Control Plan 2014: - Part 8.1; Construction Activities. This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

59. **Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by Sparks + Partners Consulting Engineers (Refer to Project No, 20121 Dwgs DA1.01, DA4.01 DA4.03 Rev 2 dated 3 June 2020) submitted in compliance to the condition labelled "Stormwater Management." and the requirements of Council in relation to the connection to the public drainage system.

Reason: To ensure that the development is in accordance with the determination.

60. **Erosion and Sediment Control Plan - Implementation.** The applicant shall install erosion and sediment control measures in accordance with the Construction Certificate approved Soil Erosion and Sediment Control (ESCP) plan at the commencement of works on the site. Erosion control management procedures in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.

Reason: To preserve and enhance the natural environment.

ITEM 1 (continued)

ATTACHMENT 1

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

61. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered A378342_03, dated 30 January 2021.

Reason: Statutory requirement.

62. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of any **Occupation Certificate**.

Reason: To ensure that the landscape works are consistent with the Development Consent.

63. **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 any **Occupation Certificate**.

Reason: To ensure neighbouring properties are not affected.

64. **Letterboxes and street/house numbering display.** All letterboxes are to be designed and constructed in accordance with Australia Post requirements and the house/unit numbering displayed shall be in accordance with the official property addressing allocated by Council's Land Information Section. The display of the street address shall be of a sufficient size and clarity to be easily visible from the street. Where a development contains multiple properties, signage is required to be clearly displayed on all unit door entrances. Directional signage is to be erected on site at driveway entry points and on buildings. Unit numbering signage is also required on stairway access doors and lobby entry doors. It is essential that all numbering

ITEM 1 (continued)

ATTACHMENT 1

signage throughout a development is clear to assist emergency service providers locate a destination with ease and speed, in the event of an emergency.

Reason: To ensure consistency with Council's requirements for street numbering.

65. **Engineering Compliance Certificates.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.
- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls).
 - b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
 - c) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual *"Managing Urban Stormwater: Soils and Construction"* by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).
 - d) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.

Reason: To ensure appropriate stormwater and flood management has been undertaken in accordance with the development consent

66. **Geotechnical report.** Written confirmation shall be provided the works have been undertaken in full compliance with all of the recommendations contained in the revised ESWNMAN geotechnical report dated 8 February 2021.

Reason: To ensure works are carried out in compliance with the recommendations of the Geotechnical report.

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.

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

Reason: To ensure the dwelling is only used as a single dwelling.

ITEM 1 (continued)

ATTACHMENT 1

End of consent

ITEM 1 (continued)

ATTACHMENT 2

ATTACHMENT 2

Compliance Check - Quality Certification

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

LDA No: LDA2020/0276	Date Plans: Amended plans received 8 February 2021
Address: 76 Wharf Road Gladesville	
Proposal: Substantial alterations and additions to existing part 2/ part 3 storey dwelling and demolition of swimming pool	
Constraints Identified: The site is located within 100 metre of a heritage item, the site is affected by Class 5 acid sulfate soils and the site is subject to the foreshore building line	

COMPLIANCE CHECK

Ryde LEP 2014	Proposal	Compliance
4.1B(2)(a) & (b) Minimum lot sizes for dual occupancies and multi dwelling housing		
580m ²	N/A	Yes
20m frontage	N/A	Yes
4.3(2) Height		
9.5m	Roof RL (highest): 13.3RL EGL (lowest) under: 2.19RL Height of Building = 11.11m	No Clause 4.6 variation provided
4.4(2) & 4.4A(1) FSR		
0.5:1 (m ²)	Lower Ground Floor: 120.13m ² Ground Floor: 237.59m ² Mezzanine: 46.82 m ² First Floor: 79.9m ² Total GFA: 484.44m ² Minus 36: 448.44 FSR =: 448.44/665.3 0.674:1	No Clause 4.6 variation provided

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
Part 3.3 - Dwelling Houses and Dual Occupancy (attached)		
Section 1.0 Introduction		
Part 1.6 Site Analysis		
Site analysis to be submitted.	Site Analysis 1 and Site Analysis 2 prepared by Keith Pike Associates	Yes
Section 2.0 General Controls		
2.1 Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	The dwelling is three storeys	No (justifiable – see assessment report)
2.2 Dwelling Houses		
(a) Landscape setting which includes significant deep soil areas at the front and rear	Landscape setting includes significant deep soil area to the front and rear	Yes
(b) Maximum two storeys high	The proposal consists of three storeys. It is noted the existing dwelling is three storeys	Yes
(c) Dwellings address the street	Dwelling addresses the street	Yes
(d) Boundary between public and private space is clearly articulated	Boundary between public and private space is clearly defined	Yes
(e) Garages and carports are not to be visually prominent features	The garage is not a visually prominent feature	Yes
(f) Dwellings are to respond appropriately to the site analysis	Dwelling responds appropriately to the site analysis	Yes
2.2.2 Alterations and additions to Dwelling Houses		
(a) Alterations and additions visible from the public domain are to be designed so that the finished building appears as an integrated whole. This may require the addition to have a façade and materials consistent with the existing house.	Façade and materials consistent with the existing house	Yes
(b) Alterations and additions are to improve the amenity and liveability of dwellings and sites, including practical and useable external spaces	Alterations and additions improved the amenity and liveability	Yes
(c) Alterations and additions are to meet the controls for		

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
dwelling houses set out in section 2.2.1.		
2.5 Public Domain Amenity		
2.5.1 Streetscape		
(a) Site design, building setbacks and level changes respect the existing topography	Site design, building setbacks and levels changes respect existing topography	Yes
(b) Front gardens to complement and enhance streetscape character	Front garden complements and enhances the streetscape	Yes
(c) Dwelling design is to enhance the safety and amenity of the streetscape	Dwellings design enhances the safety and amenity of the streetscape	Yes
(d) Carports and garages visible from the public street are to:	Garage is compatible with the building design	Yes
(i) Be compatible with the building design	The garage is not setback behind the dwelling's front elevation. It is noted the location of the existing garage is unchanged.	
(ii) Be setback behind the dwelling's front elevation		
(e) Driveways and hard stand areas are to be minimised .	Existing is maintained	Yes
(f) Dwellings, garages and carports are to be orientated to match the prevailing orientation of such buildings in the streetscape	Dwellings and garages orientated to match dwelling and garages in the streetscape	Yes
(g) Facades from the public domain are to be well designed.	Facades are well designed	Yes
2.5.2 Public Views and Vistas		
(a) 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. Fence 70% open where height is >900mm.	N/A – no existing views from the side boundary 78-88 Wharf Road is located opposite the subject site. The site presently accommodates Shore School Boatshed The views for 78-88 Wharf Road are primarily to Looking Glass Bay	Yes
(b) Garages/carports and outbuildings are not to be located within view corridor if they obstruct view.	The proposal allows for view sharing for surrounding residential properties.	
2.5.2 Pedestrian & Vehicle Safety		

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
(a) Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard. (b) Fencing that blocks sight lines is to be splayed. (c) Refer to relevant AS when designed driveways	No issues raised by Council's Senior Development Engineer. Front fence is not proposed	Yes
2.6 Site Configuration		
2.6.1 Deep Soil Areas		
(a) 35% of site area min. (b) Deep soil area must include: (i) Min 8x8m deep soil area in backyard. (ii) Front garden area to be completely permeable (exception driveway, pedestrian path and garden walls). (c) Dual occupancies need only one 8m x 8m in back yard (d) Deep soil areas to have soft landscaping (e) Deep soil areas to be 100% permeable. Not covered by structures, paving or the like, or have below surface structures such as stormwater detention elements.	26% (174m ²) 8mx8m not provided Completely permeable except for existing driveway and pedestrian path N/A Deep soil areas have soft landscaping. Achieved	No (justifiable – see assessment report) No (justifiable – see assessment report) Yes Yes Yes Yes
2.6.2 Topography & Excavation		
(a) Building form and siting relates to the original topography of the land and of the streetscape. (b) The area under the building footprint may be excavated or filled so long as: (i) the topography of the site requires cut and/or fill in order to reasonably accommodate a dwelling	Building form and siting relates to the original topography of the land and of the streetscape The topography of the site requires cut and fill in order to reasonably accommodate a dwelling	Yes Yes

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<p>(ii) the depth of excavation is limited to 1.2m maximum</p> <p>(iii) the maximum height of fill is 900mm</p> <p>(c) Areas outside the dwelling footprint may be excavation and/or filled so long as:</p> <p>(i) the maximum height of retaining walls is not >900mm</p> <p>(ii) the depth of excavation is not >900mm</p> <p>(iii) the height of fill is not >500mm</p> <p>(iv) the excavation and filled areas do not have an adverse impact on the privacy of neighbours</p> <p>(v) the filled areas do not have an adverse impact on the privacy of neighbours</p> <p>(vi) the area between the adjacent side wall of the house and the side boundary is not filled</p> <p>(vii) the filled areas are not adjacent to side or rear boundaries</p> <p>(d) Fill is not allowed in areas of overland flow. Refer to Part 8.2 stormwater management</p> <p>(e) Generally the existing topography is to be retained.</p>	<p>4.5 metres</p> <p>N/A – fill is not proposed</p> <p>N/A – retaining walls are not proposed</p> <p>N/A – no changes proposed</p> <p>N/A – no changes proposed</p> <p>N/A – no changes proposed</p> <p>N/A – no changes proposed</p> <p>N/A – no changes proposed</p> <p>N/A – no changes proposed</p> <p>N/A – the site is not affected by overland flow</p> <p>Generally the existing topography is retained</p>	<p>No (justifiable – see assessment report) Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
2.7 Floor Space Ratio (FSR)		
<p>(a) FSR is 0.5:1 in accordance Clause 4.4</p> <p>(b) A floor area of 36m² maybe excluded when this area accommodates 2 car space. An area of 18m²</p>	<p>0.674:1</p>	<p>No (justifiable – see assessment report)</p>

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
may be excluded when the area accommodates 1 parking space.		
2.8 Height		
2.8.1 Building height		
(a) Building heights are to be as follows: <ul style="list-style-type: none"> - Maximum height of 9.5 metres for dwellings and dual occupancy. - Outbuildings including garages and carports maximum height 4.5 metres. 	Roof RL (highest): 13.3RL EGL (lowest) under: 2.19RL Height of Building = 11.11m	No (justifiable – see assessment report)
<u>Maximum wall plate</u> <ul style="list-style-type: none"> - 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> <ul style="list-style-type: none"> - FGL = Finished Ground Level 	Roof RL (highest): 13.3RL EGL (lowest) under: 2.19RL Height of Building = 11.1m	No (justifiable – see assessment report)
<u>Maximum number of storeys:</u> <ul style="list-style-type: none"> - 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL). - 1 storey maximum above attached garage incl semi-basement or at-grade garages 	The proposal is 3 storeys. It is noted the existing dwelling is 3 storeys, and the alterations and additions do not increase the number of storeys One storey above garage	Yes Yes
2.8.2 Ceiling Height		
(a) Habitable rooms to have 2.4m floor to ceiling height (min).	2.4m minimum room height.	Yes
2.9 Setbacks		
2.9.1 Front setbacks		
(a) Dwellings are generally to be set back 6m from street front boundary	11.7 metres	Yes

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
(b) On corner sites, the setback secondary frontage minimum 2m	N/A	Yes
(c) Garages and carports, including semi-basement garages and attached garages, set back min 1m from façade	The garage is not setback 1 metre from the façade. It is noted the location of the existing garage is unchanged.	Yes
(d) The front setback free of structures. The exception is car parking structures which comply with 2.11.	Front setback is free of structures	Yes
(e) Attached garages, including semi-basement garages on secondary frontages not to protrude forward of the façade. The exception is garages located on battle axe allotments. These garages do not need to be setback.	N/A	Yes
(f) The outside face of wall built above a garage aligns with the outside face of the garage wall below.	Existing non compliance	Yes
2.9.2 Side Setbacks		
(a) One storey dwellings setback 900mm	N/A	Yes
(b) Two storey dwellings setback 1.5m	<p>Lower ground floor– northern setback 952mm (existing). southern setback 2 metres</p> <p>Ground floor- northern setback 0mm-952mm (existing). Southern setback 1 metre</p> <p>Mezzanine – southern setback 1.76 metres</p> <p>First floor – northern setback 0mm-952mm(existing). Southern 1.6 metres.</p>	No (justifiable – see assessment report)
(c) The second storey addition to a single storey dwelling are to be set back 1.5m	N/A	Yes
	N/A	Yes

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
(d) Allotments wider than they are long, one side setback a min of 20% of the width of the lot or 8m, whichever is greater.		
2.9.3 Rear Setbacks		
(a) The rear setback min 25% of the site length or 8m, whichever is greater. (b) Allotments wider than they are long, min setback of 4m (c) Dwelling on battle axe allotment are to be setback the rear boundary of the front lot min of 8m. Single storey garage or outbuilding can be within setback.	13.7m required Proposed rear setback is 5.3 metres	No (justifiable – see assessment report)
2.11 Car Parking and Access		
2.11.1 Car Parking		
(a) Dwellings 2 spaces. Dual occ 1 space/dwg	Two spaces proposed	Yes
(b) Spaces can be enclosed or roofed.	Enclosed and roofed	Yes
(c) Garages setback 1m behind front elevation.	The garage is not setback 1 metre behind the front elevation. It is noted no changes are proposed to the location of the existing garage.	Yes
(d) Located forward of existing dwelling if: (i) there is no other suitable position (ii) no vehicular access to the rear of side of the site (iii) it is preferred that it is single car width.	N/A	Yes
(e) Garages doors solid. No expanded mesh doors.	Garage door is solid	Yes
(f) Preference located off laneways, secondary street frontages.	N/A	Yes
(g) Driveway widths minimised. Driveways single car width except where needed to be widen to double garage access.	Existing maintained. Existing is minimised	Yes
(h) Driveways not roofed.	Driveway is not roofed	Yes

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
(i) Min width 6m or 50% of the frontage whichever is less	1.9 metres is 50% of the frontage. Proposed is 5.1 metres.	No (justifiable – see assessment report)
(j) Total width garage doors not be >5.7m	Garage door width is 4.1 metres	Yes
(k) Driveways for battle axe enable vehicles to enter and leave in forward direction	N/A	Yes
(l) Garage doors not be recessed more than 300mm	Complies	Yes
(m) Garage windows >900mm from boundaries		
(n) Free standing garages max GFA 36m ²	N/A – garage does not have any windows	Yes
(o) Design and materials to complement dwelling	N/A	Yes
(p) Setback at least 1m from façade	Design and materials complement the dwelling	Yes
	The garage is not setback 1 metre behind the front elevation.	Yes
	It is noted no changes are proposed to the location of the existing garage.	
(q) Carports not enclosed.	N/A	Yes
2.12 Swimming Pools and Spas		
(a) Swimming pools, fencing, gates and spas must comply with all relevant Acts. Regulations and Australian Standards.	N/A – existing pool being removed	Yes
2.13 Landscaping		
(a) Major trees to be retained where practical	No issues raised by Council's landscape Architect	Yes
(b) Lots adjoining bushland, protect and retain indigenous native vegetation and use native indigenous plant spaces for a distance of 10m	N/A – the site is not affected by urban bushland	Yes
(c) Provide useful outdoor spaces	Useful outdoor spaces provided	Yes
(d) Physical connection between dwelling and external ground level	Physical connection provided between dwelling and external ground level 81% hard paved.	Yes

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
(e) Provide landscape front garden. Hard paved areas no more than 40%.	Pathway provided	No (justifiable – see assessment report) Yes
(f) Pathway along one side boundary connecting front to rear. Not to be blocked by ancillary structures. Not required where there is rear lane access or corner allotment.	Complies	Yes
(g) Landscape elements in front garden to be compatible with scale of dwelling.	The existing Plane Tree on the adjoining property completed covers the front yard.	Yes
(h) Front garden at least 1 canopy tree at least 10m in height	The existing Palms are to be retained.	Yes
(i) Mature tree at least 15m in rear garden with the DSA.	Screen planting provided on side boundaries	Yes
(j) Locate and design landscaping to increase privacy between dwellings.	Northern boundary 3.0 metre high planting proposed.	Yes
(k) Hedge planting on boundary no greater than 2.7m	Complies	No (justifiable – see assessment report) Yes
(l) Retaining walls and other landscape elements not to obstruct stormwater overland flow.	No issues raised by Senior Development Engineer	Yes
(m) OSD not to be located within front setback unless it is underneath driveway	Landscaping includes POS	Yes
(n) Landscaping to include POS	Achieved	Yes
(o) Designed to improve energy efficient of building and micro climate of external living areas.		Yes
2.14 Dwelling Amenity		
2.14.1 Daylight and Sunlight Access		
(a) Living areas are to be predominantly located to the north where possible	Living area windows predominately orientate west	No (justifiable – see assessment report) Yes
(b) Sites with northern side boundary to have increased setback of 4 metres is preferred.	Existing northern side setback is unchanged	
<u>Subject Dwelling</u>		

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<p>(c) Windows to north facing living areas of subject dwellings are to receive at least 3 hours of sunlight between 9am to 3pm on June 21.</p> <p>(d) Private open space is to receive at least 2 hours sunlight between 9am to 3pm on June 21.</p> <p><u>Neighbouring properties:</u></p> <p>(e) For neighbouring properties:</p> <p>(i) sunlight to 50% of principal areas of ground level POS is not reduced to less than 2 hours between 9am to 3pm on 21 June</p> <p>(ii) windows to north facing living areas to receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of surface, where can be reasonably maintained given orientation and topography.</p>	<p>North facing living area windows receives 3 hours of sunlight</p> <p>Private open space receives 2 hours of sunlight between 12pm and 3pm</p> <p>Private open space receives 50% between 1pm and 3pm</p> <p>Neighbouring property does not have any north facing living area window. West facing living area openings receives adequate solar access between 12pm and 3pm.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
2.14.2 Visual Privacy		
<p>(a) Orientate the windows of main living spaces (living room, dining, kitchen, family etc) to the front and rear</p> <p>(b) Orientate terraces, balconies and outdoor living areas to front or rear and not side boundary</p> <p>(c) Terraces and balconies are not to overlook neighbour's living areas and POS</p>	<p>Two living area windows orientate to the side (W32) and (W33)</p> <p>Ground floor – bedroom terrace orientates to the southern side Mezzanine – bedroom terrace orientates to the southern side First floor – bedroom terrace and landing orientate to the southern side</p> <p>Ground floor – bedroom terrace orientates to the southern side Mezzanine – bedroom terrace orientates to the southern side</p>	<p>No (justifiable – see assessment report)</p> <p>No (justifiable – see assessment report)</p> <p>No (justifiable – see assessment report)</p>

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
(d) Living and kitchen windows, terraces and balconies are not to allow direct view into neighbouring dwelling or POS	First floor – terrace and landing orientate to the southern side Living and kitchen windows and terraces do not allow direct view into neighbouring dwelling and private open space	Yes
(e) Side windows are to be offset by sufficient distance to avoid visual connection between dwellings.	Ground floor – corridor window aligns (W4) Ground floor, mezzanine and first floor stairs window aligns (W9)	No(justifiable – see assessment report)
(f) Splayed walls with windows are not to be located above ground level where the windows provide views into adjoining property.	N/A	Yes
2.14.3 Acoustic Privacy		
(a) Noise of mechanical equipment not exceed 5dB(A) above background noise measured in or on any premises in vicinity of the item.	N/A – not proposed	Yes
(b) Dwellings on arterial roads double glazed windows fronting road.	N/A	Yes
(c) Dwellings on arterial roads acoustic seal on the front door.	N/A	Yes
(d) Dual occupancies are to be designed to reduce noise transmission between dwellings.	N/A	Yes
2.14.4 View Sharing		
(a) The siting of development is to provide for view sharing.	The siting of development provides for view sharing	Yes
2.14.5 Cross Ventilation		
(a) Designed to optimise access to prevailing	Achieved	Yes

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
breezes and provide for cross ventilation.		
2.15 External Building Elements		
2.15.1 Roofs		
(a) Relate roof design to the desired built form by: (i)articulating the roof (ii)roof is consistent with the architectural character of dwelling (iii)eaves minimum 450mm overhang on pitched roofs (iv)compatible roof form, slope, material and colour to adjacent buildings (v)roof height is in proportion to the wall height of the building	An articulated roof is proposed. Roof is consistent with the architectural character of the dwelling. No eaves, parapet roof. Compatible roof form, slope, materials and colour to adjacent buildings. Roof height is in proportion to the wall height	Yes
(b) The main roof not trafficable terrace.	Main roof is not a trafficable terrace	Yes
(c) Proposed attic contained within the volume of the roof space.	N/A – no attic proposed	Yes
(d) Skylights to be minimised on roof planes visible from the public domain. Skylights are to be symmetrical.	No skylights proposed	Yes
(e) The front roof plane is not to contain both dormer and skylight. Dormers are preferred.	No dormer windows and skylights proposed	Yes
(f) Balconies and terraces are not to be set into roofs.	Balconies and terraces not set into roofs	Yes
(g) Scale of the roof is to be in proportion with the scale of the wall below.	Scale of roof is in proportion with the scale of wall below	Yes
(h) Attics may be located in the garage roofs if the garage is located next to the dwelling. Garages located within front or rear setbacks are not to have attics.	N/A – no attic proposed	Yes
2.16 Fences		
2.16.1 Front and return Fences and Walls		
(a) Reflect the design of the dwelling	N/A – no front fence proposed	Yes
(b) Materials compatible with the house and other fences in streetscape		

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
(c) Solid fence or wall max 900mm. Open light weight fence (timber picket) 1m. (d) Return fence is to be no higher than front fence (e) Fences max 1.8m if 50% open with solid base max 900mm (f) Fences arterial road solid and 1.8m max (g) No Colorbond or timber paling. (h) Retaining walls max 900mm (i) Overland flow - fencing open not impede flow of water (j) Fence piers max 350mm.		
2.16.2 Side and Rear Fences and Walls		
(a) 1.8m Max side and rear fence (b) Overland flow - fencing to be open not impede flow of water (c) No Barbed wire, broken glass or other dangerous elements. (d) Fencing forward of the foreshore building line open and permeable.	No fencing proposed	Yes
Part 7: Environment		
7.1: Energy Smart, Water Wise		
3.0 The information Guide		
3.2 Required information		
(a) Energy efficiency performance report (b) Site analysis	BASIX Certificate: A378342_03 and dated 30 January 2021 Plans consistent with Certificate	Yes
Part 7.2 Waste Minimisation and Management		
2.3 All developments		
(a) Developments must provide space for onsite waste containers	Submitted in accordance with Part 7.2	Yes

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
(b) Compliant size of storage areas and number of storage containers. (c) Space to be provided for bulk waste where appropriate. (d) Storage of green waste provided (e) Stored within the boundaries of the site. (f) Site Waste Minimisation and Management Plan (SWMMP) to be submitted. (g) Located to provide easy, direct and convenient access. (h) No incineration devices. (i) Collection point identified on plan. (j) Path for wheeling bin collection not less than 14:		
2.4 Demolition and Construction		
(a) Demolition must comply with AS and WorkCover (b) Demolition work plan submitted (c) Dedicated area on site for stockpile of materials taking into account environmental factors and amenity impacts. (d) Construction materials to be stored away from the waste materials on site.	Standard demolition conditions recommended	Yes
2.5 Residential Developments comprising 1 or 2 Dwellings		
(a) Space inside each dwelling for receptacles for garbage, recycling. (b) Space provided outside the dwellings to store the required garbage, recycling and green waste bins. Screened from street. Easy access to wheel the bins to the kerbside.	Provided	Yes
Part 8: Engineering		
8.1 Construction Activities		
2.1.2 Erosion and Sediment Control Plan		

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
Erosion and sediment control plan to be submitted.	Erosion and sediment control plan Ref: Project No.20121 Dwg No. DA2.01 Rev 2 prepared by Sparks and Partners and dated May 2020	Yes
Part 8.2 Stormwater and Floodplain Management		
2.0 Stormwater Drainage		
(a) Drainage is to be piped in accordance with Section 2.0 Stormwater Drainage Application has been consideration satisfactory by Development Engineering and City Works.	Project No.20121 Dwg No. DA1.01, DA2.01, DA4.01, DA4.02, DA4.03 Rev 2 prepared by Sparks and Partners and dated May 2020 Proposal has been considered satisfactory by Council's Senior Development Engineer	Yes
4.0 Flooding and Overland Flow		
4.4.1(a) development that is flood affected has been provided with a Flood Impact Statement. Report prepared in accordance with Section 2.2 of the Stormwater and Flood Plan Management Technical Manual	N/A	Yes
4.4.5(b) Floor levels of habitable and non habitable areas must comply with the freeboard requirements as stated in Table 2.1 of the Stormwater Technical Manual.	N/A	Yes
4.4.5(d) development must not divert major overland flows or reduce flood storage such to adversely impact the neighbouring property or surrounding area.	N/A	Yes
Part 8.3 Driveways		
3.0 Existing footway crossings		
3.1(a) Existing footway crossings may only be used when they provide access of max of 2 dwgs, correct location and level and adequate width. In good condition and is not a bridge or piped crossing.	Condition 38 recommended requiring a new vehicle footpath crossing and associated gutter crossover shall be constructed at the approved vehicular access location/s.	Yes
3.2(a) disused footway crossing slabs that become redundant are	N/A	Yes

ITEM 1 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
to be removed and footway restored.		
4.0 Designing internal access roads and parking spaces		
4.1 (a) the design of all parking spaces, circulation roads and manoeuvring areas on the property must confirm to the minimum requirements of AS2890.1-2004.	No issues raised by Council's Senior Development Engineer	Yes
4.2 Design of Parking Spaces		
(b) Vehicles (85 th percentile) to enter and leave designated parking space in a single 3 point turn manoeuvre. A 99 th percentile vehicle for disabled vehicles. (c) Enter and leave in a forward direction. Waived where the garage is located at the front of a dwelling and insufficient space within front setback to provide a turning area.	No issues raised by Council's Senior Development Engineer	Yes
S2.0 Design Standards		
S2.2 Vehicular crossing widths		
(a) Min 3.0m and max of 5.0m. (b) Max width of 6m to facilitate accessing two adjacent garages if the distance between the space and the street frontage is less than 5.0m	Condition 38 recommended Proposal is considered acceptable by Council's Development Engineer	Yes
Part 9.2 Access for People with Disabilities		
4.1.2 Class 1 Buildings		
Accessible path required from the street to the front door, where the level of land permits.	Accessible path is provided	Yes
Part 9.3 Parking Controls		
2.2 Residential Lane Uses		
- Dwelling houses up to 2 spaces/dwelling	2 spaces provided	Yes
- Dual occupancy 1 space/dwelling	N/A	Yes

ITEM 1 (continued)

ATTACHMENT 2

ITEM 1 (continued)

ATTACHMENT 3

ATTACHMENT 3 – SYDNEY REGIONAL ENVIRONMENTAL PLAN COMPLIANCE TABLE

Provision	Proposal	Compliance
<i>Cl. 21 Biodiversity, Ecology and Environmental Protection</i>		
(a) Development should have neutral or beneficial effect on quality of water entering waterways	As there is no change in land-use proposed and the size of the existing dwelling is not significantly increased, it is considered the proposed development will have a neutral effect on the quality of water entering waterways. No issues have been raised by Council's Senior Development Engineer in relation to the proposed stormwater system.	Yes
(b) Development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, in particular, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities)	<p>With all works associated with the proposed development occurring well above the Mean High Water Mark MHWL it is considered there will be minimal impacts on any terrestrial and aquatic species, populations and ecological communities.</p> <p>The proposal is unlikely to cause any adverse overshadowing impact on adjacent aquatic areas.</p> <p>Given the above, it is considered the proposed development will protect terrestrial and aquatic vegetation.</p>	Yes
(c) Development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities)	All works associated with the proposed development will occur above the MHWL. No removal of vegetation within the foreshore building area is proposed.	Yes

ITEM 1 (continued)

ATTACHMENT 3

Provision	Proposal	Compliance
	Accordingly, the proposed development is not considered to have a negative impact on ecological connectivity of aquatic vegetation.	
(d) Development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access	<p>All works associated with the proposed development will occur above the MWHM.</p> <p>Accordingly, the proposed development is not considered to have any indirect impact on aquatic vegetation.</p>	Yes
(e) Development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation	<p>All works associated with the proposed development will occur above the MWHM. No tree removal in the foreshore building area will occur.</p> <p>Accordingly, the proposed development is considered to protect the natural intertidal foreshore, natural landforms & native vegetation with minimal adverse impacts on the natural environment.</p>	Yes
(f) Development should retain, rehabilitate and restore riparian land	All works associated with the proposed development will occur above the MWHM. The removal of the pool in the foreshore building line will result in the reinstatement of the natural landform in the foreshore area. The proportion of the building additions within the foreshore building line will be located within the existing building envelope in a reconfigured form, and will	Yes

ITEM 1 (continued)

ATTACHMENT 3

Provision	Proposal	Compliance
	<p>not result in an adverse impact on the riparian land.</p> <p>The proposed development is not considered to have any adverse impacts. The proposed development does not aim to rehabilitate or restore riparian land.</p>	
(g) Development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetation buffer to protect the wetlands	<p>All works associated with the proposed development will occur above the MHWL.</p> <p>An acceptable buffer is considered to be provided to maintain all ecological integrity.</p>	Yes
(h) The cumulative environmental impact of development	<p>All works associated with the proposed development will occur above the MHWL. It is considered the cumulative environmental impact of development to be minimal.</p> <p>Additionally, the proposal does not involve any change in land use and retains the existing residential use. Thus negligible impacts on the natural environment.</p>	Yes
(i) Whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance	<p>Sediments in the adjoining waterway are not proposed to be disturbed during proposed works. Sediments are considered unlikely to be contained due to continued history of residential use on the subject site and the surrounding area.</p>	Yes
<i>Cl. 22 Public Access to, and Use of, Foreshores and Waterways</i>		

ITEM 1 (continued)

ATTACHMENT 3

Provision	Proposal	Compliance
(a) Development should maintain and improve public access to and along the foreshore, without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation	There is no existing public use of this part of the foreshore. Access to public will not be restricted any further than existing as result of the proposed development. No adverse impacts on watercourses, wetlands, riparian lands or remnant vegetation has been identified.	Yes
(b) Development should maintain and improve public access to and from the waterways for recreational purposes (such as swimming, fishing and boating), without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation	The proposal will not impede or alter existing public access to the river.	Yes
(c) If foreshore land made available for public access is not in public ownership, development should provide appropriate tenure and management mechanisms to safeguard public access to, and public use of, that land	Land below high water mark remains available for public access (by boat) and presents no change from the existing relationship.	N/A
(d) The undesirability of boardwalks as a means of access across or along land below the mean high water mark if adequate alternative public access can otherwise be provided.	Not proposed	N/A
(e) The need to minimise disturbance of contaminated sediments	<p>All works associated with the proposed development will occur above the MWHM.</p> <p>The proposal is considered not to disturb any contaminants in water/sediments.</p> <p>Additionally, sediments are considered unlikely to be containment due to continued history of</p>	Yes

ITEM 1 (continued)

ATTACHMENT 3

Provision	Proposal	Compliance
	residential use on the subject site and the surrounding area.	
Cl. 24 Interrelationship of Waterway and Foreshore Uses		
(a) Development should promote equitable use of the waterway, including use by passive recreation craft	The proposal will not inhibit or prevent equitable use of waterway by passive recreation craft and presents no change from the existing relationship with the waterway.	Yes
(b) Development on foreshore land should minimise any adverse impact on the use of the waterway, including the use of the waterway for commercial and recreational uses	Proposal will not inhibit or prevent equitable use of waterway for commercial or recreational uses and presents no change from the existing relationship with the waterway.	Yes
(c) Development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore	Development does not seek to increase or impede any existing traffic conditions in the waterway or along the foreshore and presents no change from the existing relationship with the waterway.	Yes
(d) Water-dependent land uses should have propriety over other uses	Not applicable.	N/A
(e) Development should avoid conflict between the various uses in the waterways and along the foreshores	No change to existing use of site and waterway as part of the proposed development. It is therefore considered conflicts between various uses in the waterways & along the foreshore will be avoided.	Yes
Cl. 25 Foreshore and Waterways Scenic Quality		
(a) The scale, form, design and siting of any building should be based on an analysis of:		
(i) the land on which it is to be erected, and	The proposal is considered to respect the existing	Yes

ITEM 1 (continued)

ATTACHMENT 3

Provision	Proposal	Compliance
	<p>topography, vegetation and foreshore of the subject site and surrounding land.</p> <p>The development will be viewable from the water. The scale of the proposed development is considered appropriate in this instance.</p>	
(II) the adjoining land, and	The proposed development creates minor overshadowing impacts upon the southern adjoining property which is unavoidable due to the east-west orientation. However the overall bulk and scale of the proposed building is considered acceptable and is supported for the reasons detailed in the assessment report. The proposed building will be consistent with neighbouring properties.	Yes
(III) the likely future character of the locality	The proposed development is consistent with the current and likely future character of the locality.	Yes
(b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries	The proposed development will not create adverse impacts on the visual qualities of Sydney Harbour.	Yes
(c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores	Proposed development is totally land based and proposes no water based development. It is therefore considered that proposed development does not detract from the character of the waterways and adjoining foreshores.	N/A
Cl. 26 Maintenance, Protection and Enhancement of Views		

ITEM 1 (continued)

ATTACHMENT 3

Provision	Proposal	Compliance
(a) Development should maintain, protect and enhance views (including night views) to and from Sydney Harbour	Views to and from Sydney Harbour will be generally maintained.	Yes
(b) Development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items	Views and vistas to and from public places, landmarks and heritage items have generally been unchanged as a result of the proposed development. It is considered that adverse impacts have been minimised.	Yes
(c) The cumulative impact of development on views should be minimised	The cumulative impact on views from the harbour is considered to be minimal as a result of the proposed development.	Yes
<i>Cl. 29 Consultation required for certain development applications</i> (1) The consent authority must not grant development consent to the carrying out in the Foreshores and Waterways Area of development listed in Schedule 2, unless: (a) it has referred the development application to the Advisory Committee, and (b) it has taken into consideration any submission received from the Advisory Committee within 30 days after the date on which the application was forwarded to the Committee.	(1) It is acknowledged that the subject site is located within the Foreshores and Waterways Area (Figure 1). (a) As per Cl.29(3) (see below), it is the opinion of the Assessment Officer that the proposed alterations and additions are generally within the existing building footprint within the foreshore and waterways area on the site, and as such, there is no significant increase to the scale, size or intensity of the use of the existing residential dwelling..	N/A

ITEM 1 (continued)

ATTACHMENT 3

Provision	Proposal	Compliance
	Accordingly, the development application has not been referred to the Advisory Committee. (b) Noted.	
(2) In the case of an application to carry out development for more than one purpose, of which one or more is listed in Schedule 2 and one or more is not, the consent authority is only required to refer to the Advisory Committee that part of the application relating to development for a purpose so listed.	(2) Noted.	Noted.
(3) This clause does not apply to development that consists solely of alterations or additions to existing buildings or works and that, in the opinion of the consent authority, is minor and does not, to any significant extent, increase the scale, size or intensity of use of those buildings or works.	(3) The proposal is for substantial alterations and additions. It is considered the works do not significantly increase the scale, size or intensity of use of the existing residential dwelling	Yes
Wetlands Protection Area along Lane Cove / Parramatta River frontage	Subject site is located in closer proximity to the wetlands protection area along Parramatta River (Figure 2)	Yes
Cl. 62 Requirement for Development Consent (2) Development may be carried out only with development consent	The proposed development is currently seeking development consent via LDA2020/0276 under assessment with Ryde City Council.	Yes

ITEM 1 (continued)

ATTACHMENT 3

Provision	Proposal	Compliance
(3) Development consent is not required by this clause:	Not applicable.	N/A
(a) For anything (such as dredging) that is done for the sole purpose of maintaining an existing navigational channel, or	The proposed development does not include maintenance of an existing navigational channel.	N/A
(b) For any works that restore or enhance the natural values of wetlands being works:	The proposed development does not include any works that aim to restore or enhance the natural values of wetlands.	N/A
(i) that are carried out to rectify damage arising from a contravention of this plan, and	Not applicable.	N/A
(ii) that are not carried out in association with another development, and	Not applicable.	N/A
(iii) that have no significant impact on the environment beyond the site on which they are carried out.	Not applicable.	N/A
Cl. 63 Matters for Consideration		
(2) The matters to be taken into consideration are as:		
(a) The development should have a neutral or beneficial effect on the quality of water entering the waterways,	The proposed development is for substantial alterations and additions to an existing residential dwelling. As there is no change in land-use proposed and works are considered minor in terms of biodiversity, ecology and environmental impacts it is considered the proposed development will have a neutral effect on the quality of water entering waterways.	Yes

ITEM 1 (continued)

ATTACHMENT 3

Provision	Proposal	Compliance
(b) The environmental effects of the development, including effects on:		
(i) the growth of native plant communities,	No impact on the growth of native plant communities due to all existing vegetation being retained.	Yes
(ii) the survival of native wildlife populations,	Wildlife populations are considered to be unharmed as a result of the proposed development as there are no impacts to any known habitats.	Yes
(iii) the provision and quality of habitats for both indigenous and migratory species,	The quality of habitats for both indigenous and migratory species is fully retained as part of the proposed development.	Yes
(iv) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding areas, including salinity and water quality and whether the wetland ecosystems are groundwater dependant,	The proposed development is considered to have no adverse affects on surface and groundwater characteristics of the site and surrounding areas due to there being no significant change to land use and the development being in compliance with the stormwater controls set out in the Ryde DCP 2014.	Yes
(c) Whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment.	Council's standard conditions will be imposed to ensure all runoff, sedimentation & siltation is controlled so as to protect the environment.	Yes
(d) Whether carrying out the development would be consistent with the principles set out in <i>The NSW Wetlands Management Policy</i> (as published in March 1996	The proposal is located in close proximity to the wetlands protection area and is considered to be consistent with principles	Yes

ITEM 1 (continued)

ATTACHMENT 3

Provision	Proposal	Compliance
by the then Department of Land and Water Conservation).	set out in <i>The NSW Wetlands Management Policy</i> .	
(e) Whether the development adequately preserves and enhances local native vegetation,	The development is considered to adequately preserve the local native vegetation by proposed works being above the MHWM.	N/A
(f) Whether the development application adequately demonstrates:		
(i) how the direct and indirect impacts of the development will preserve and enhance wetlands, and	The development is identified as being within proximity to a wetland protection area. The works are above the MHWM. As such, it is considered that the proposed development is unlikely to have any direct or indirect impacts on the wetland. The development will not enhance the wetlands.	Yes
(ii) how the development will preserve and enhance the continuity and integrity of the wetlands, and	The works are above the MHWM. It is considered that the proposed development is unlikely to adversely impact the continuity and integrity of the wetlands.	Yes
(iii) how soil erosion and siltation will be minimised both while the development is being carried out and after it is completed, and	Conditions are recommended for erosion and sediment control measures to be implemented during construction to ensure there is no adverse impact on waterway.	Yes

ITEM 1 (continued)

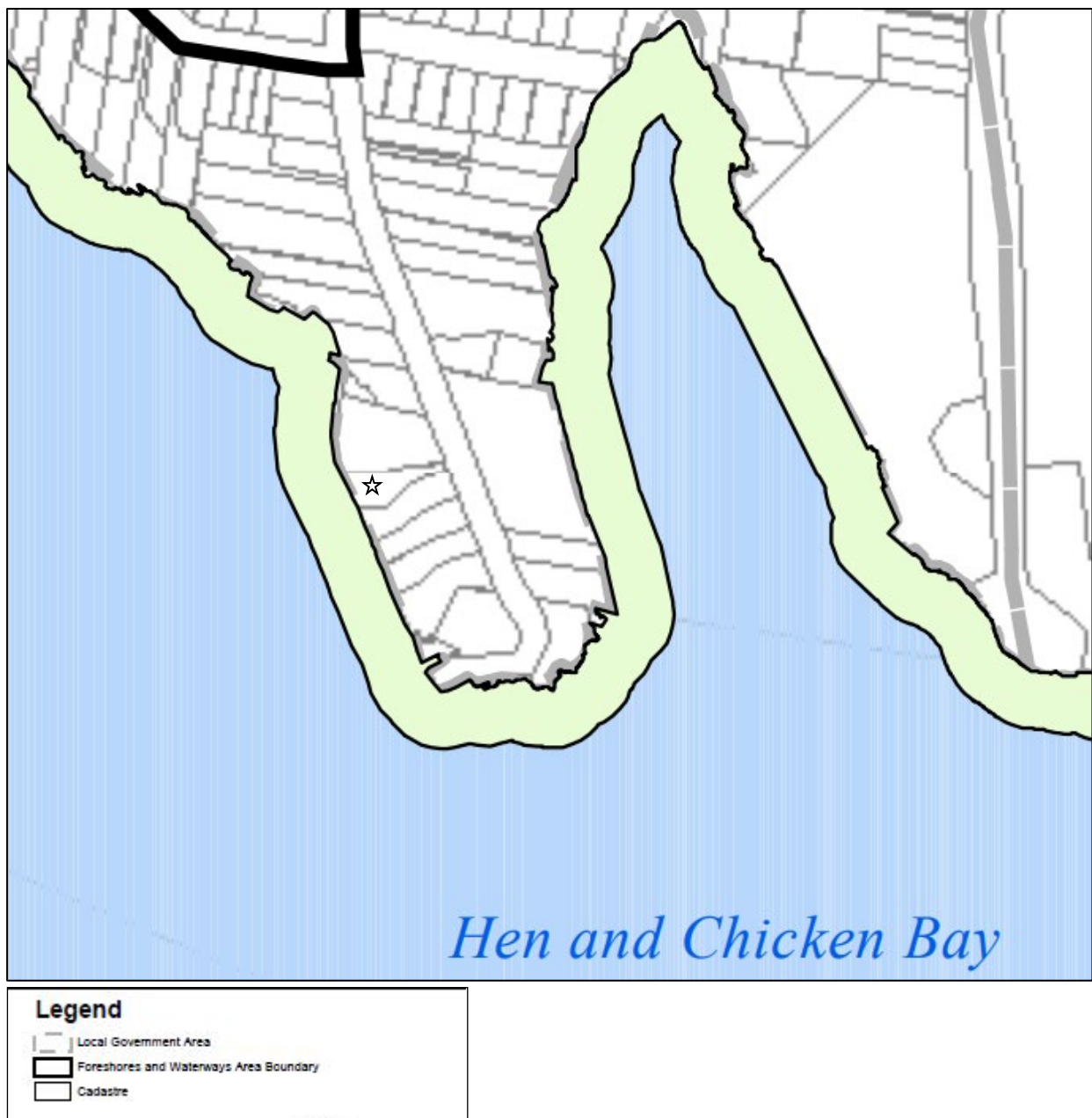
ATTACHMENT 3

Provision	Proposal	Compliance
(iv) how appropriate on-site measures are to be implemented to ensure that the intertidal zone is kept free from pollutants arising from the development, and	The standard conditions of consent will provide sufficient sediment control measures to ensure that the intertidal zone is kept free from pollutants arising from the development.	Yes
(v) that the nutrient levels in the wetlands do not increase as a consequence of the development, and	The development is considered not to result in any increase in nutrient levels in any surrounding wetlands due to the works being above the MHWL. Additionally sediment and soil erosion control measures will be put in place during construction to mitigate any adverse affects as a result of runoff.	Yes
(vi) that stands of vegetation (both terrestrial and aquatic) are protected or rehabilitated, and	No development is proposed within the stands of existing vegetation (both terrestrial and aquatic) therefore protecting them from any adverse impacts.	N/A
(vii) that the development minimises physical damage to aquatic ecological communities, and	The development has aimed to minimise any adverse impacts on the aquatic ecological communities as the works are above the MHWL.	Yes
(viii) that the development does not cause physical damage to aquatic ecological communities,	The works are above the MHWL. It is considered that no physical damage to aquatic ecological communities will occur as result of the proposed development.	Yes

ITEM 1 (continued)

ATTACHMENT 3

Provision	Proposal	Compliance
(g) Whether conditions should be imposed on the carrying out of the development requiring the carrying out of works to preserve or enhance the value of any surrounding wetlands.	No conditions to be imposed on the development in regards to carrying out works to preserve or enhance the surrounding wetlands.	Yes



ITEM 1 (continued)

ATTACHMENT 3

Figure 1: The map above illustrates the subject site at 75 Wharf Road Gladesville lies within catchment boundary that is governed by the Sydney Harbour Catchment REP (marked with ☆).

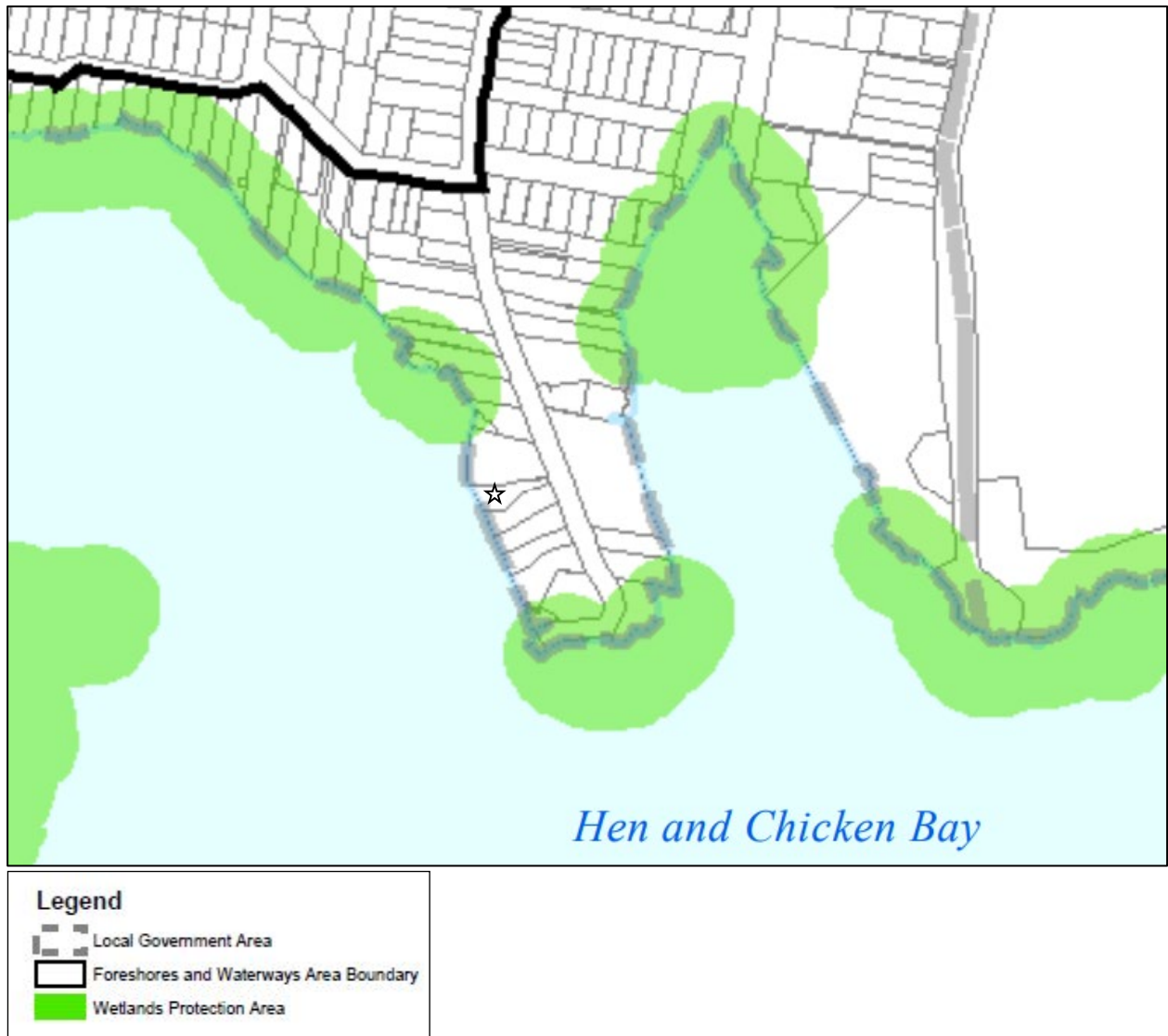


Figure 2: The map above illustrates that according to the Sydney Harbour Foreshore Authority REP the subject site at 75 Wharf Road Gladesville is located in close proximity to a Wetlands Protection Area (marked with ☆).

ITEM 1 (continued)

ATTACHMENT 3

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

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

For the purposes of the following assessment, the subject site has been identified as being located with the Landscape Character Type 14, being the low topographic developed areas of Parramatta River (Refer to Figure 3)

Provision	Proposal	Compliance
Statement of Character and Intent: These areas are mostly developed with detached residential development on the upper slopes and boat shed and wharves along the foreshore. Further development in these areas must consider protecting key visual elements including rock outcrops, native vegetation, vegetation in and around dwellings and maintaining the density and spacing of development.	The proposed development is for the purposes of substantial alterations and additions to existing dwelling. The proposed development is not considered to impact on any rock outcrops or native vegetation being located a considerable distance from rock outcrops and existing foreshore vegetation. Accordingly the proposed development is considered to be consistent with the character and intent for development in the Landscape Character Type 14 area.	Yes
Performance criteria: <ul style="list-style-type: none"> consideration is given to the cumulative and incremental effects of further development along the foreshore and to preserving the remaining special features; 	<ul style="list-style-type: none"> Consideration has been given to the cumulative and incremental effects of further development along the foreshore. The proposed development is 	Yes

ITEM 1 (continued)

ATTACHMENT 3

Provision	Proposal	Compliance
<ul style="list-style-type: none"> development is to avoid substantial impact on the landscape qualities of the foreshore and minimise the removal of natural foreshore vegetation, radical alteration of natural ground levels, the dominance of structures protruding from rock walls or ledges or the erection of sea walls, retaining walls or terraces; landscaping is carried out between buildings to soften the built environment; and existing ridgeline vegetation and its dominance as the backdrop to the waterway, is retained. 	<p>consistent with surrounding development in terms of design, and bulk and scale.</p> <ul style="list-style-type: none"> It is considered that minimal impacts will result as part of the development, no natural existing foreshore vegetation is proposed to be removed, natural ground levels close to the shoreline have been maintained and no erection of rock walls, sea walls or ledges have been proposed. Minor additional landscaping provided on side boundaries No existing mature ridgeline vegetation was identified during the site inspection. 	
(c) Development should have neutral or beneficial effect on quality of water entering waterways	<p>The proposed development is for substantial alterations and additions to dwelling. As there is no change in land-use proposed and works are considered minor in terms of biodiversity, ecology and environmental impacts it is considered the proposed development will have a neutral effect on the quality of water entering waterways.</p>	Yes

ITEM 1 (continued)

ATTACHMENT 3

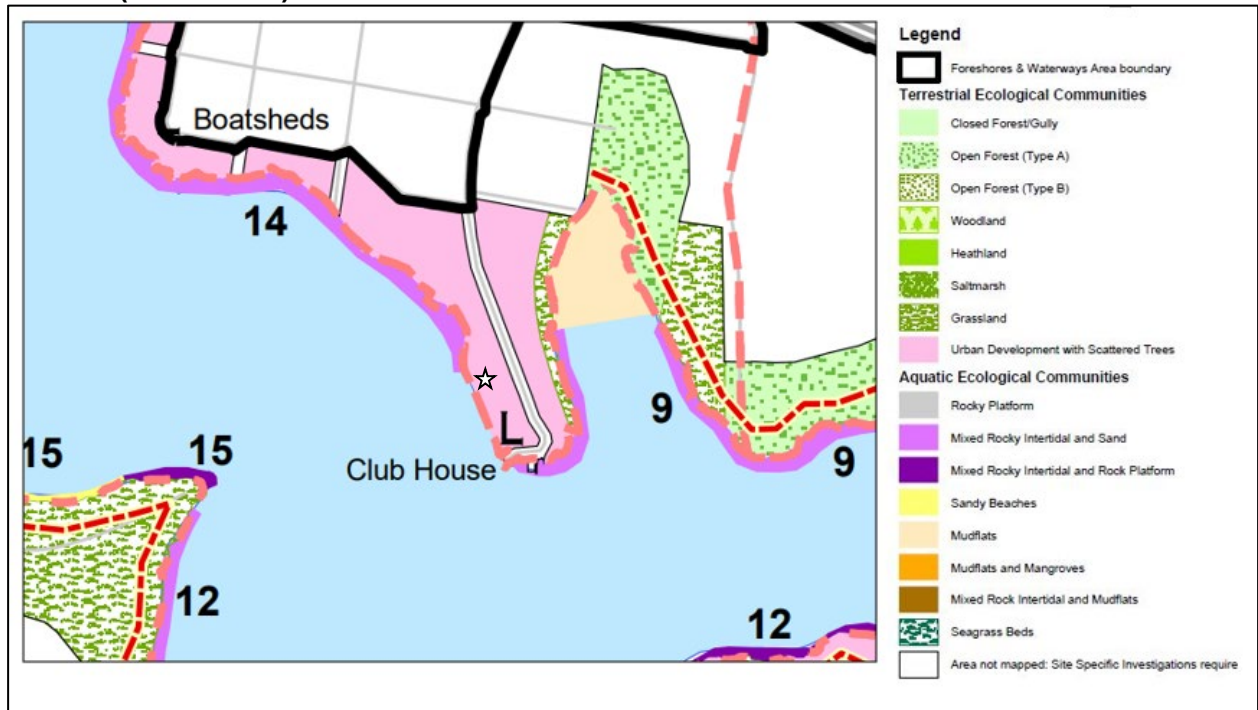


Figure 3: The above map illustrates the subject site at 75 Wharf Road Gladesville has a terrestrial ecological community of urban development with scattered trees with no aquatic ecological communities identified (marked with ☆).

ITEM 1 (continued)

ATTACHMENT 4

CLAUSE 4.6 SUBMISSIONS – MAXIMUM BUILDING HEIGHT AND FLOOR SPACE RATIO

Clause 4.3, Height of buildings, provides objectives and a standard for height of buildings. The objectives are as follows:

- (a) *to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,*
- (b) *to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,*
- (c) *to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,*
- (d) *to minimise the impact of development on the amenity of surrounding properties,*
- (e) *to emphasise road frontages along road corridors.*

The site is subject to a maximum height limit of 9.5m from existing ground level to the highest point of the building. The architect has calculated that the existing building has a maximum height of 11.41m (RL13.5 – RL2.19) which does not comply with the standard. The proposal replaces the existing pitched roof with a parapet resulting in a reduction in the building height of 0.2m (RL13.30 - RL2.19). The proposal therefore remains non-compliant and a submission pursuant to clause 4.6 follows below.

Clause 4.4, Floor space ratio, provides an objective and standard for floor space ratio. The objectives are as follows:

- (a) *to provide effective control over the bulk of future development,*
- (b) *to allow appropriate levels of development for specific areas,*
- (c) *in relation to land identified as a Centre on the [Centres Map](#)—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*

The site is subject to a maximum floor space ratio (FSR) of 0.5:1. The architect has calculated that the existing dwelling has a gross floor area of 463m² on a site 665.3m² in size, which is equivalent to a 0.69:1 FSR and it does not comply with the standard.

The architect has calculated that the proposed alterations and additions to the dwelling reduces the current gross floor area by some 14.56m² or 448.44m² which results in a 0.674:1 FSR. Therefore, the proposal remains non-compliant and a submission pursuant to clause 4.6 follows below.

Clause 4.6, Exceptions to development standards, states:

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
 - (b) *to achieve better planning outcomes for and from development by allowing flexibility in particular circumstances*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

ITEM 1 (continued)

ATTACHMENT 4

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *there are sufficient environmental planning grounds to justify contravening the development standard [and]*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

Clause 4.3, Height of Buildings and Clause 4.4, Floor Space Ratio are development standards not subject to any of the specified exclusions from the operation of clause 4.6.

In accordance with the guidelines provided by decisions of the Land and Environment Court and in particular the judgments in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009, *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Micaul Holdings Pty Ltd v Randwick City Council* [2015] NSWLEC 1386 and *Moskovich v Waverley Council* [2016] NSWLEC 1015 and *Initial Action v Woollahra Municipal Council* [2018] NSWLEC118, the submission addresses the requirements of clause 4.6 in turn.

HEIGHT OF BUILDINGS

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The judgment in *Wehbe v Pittwater Council* [2007] NSWLEC 827 identified five criteria of establishing under *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1) that compliance is unreasonable or unnecessary. The subsequent cases referred to above have confirmed that these criteria are equally applicable under the clause 4.6 regime.

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

As set out below, the proposed development will achieve objective (a) of the standard notwithstanding numerical non-compliance.

The objectives of the height of buildings standard are set out in clause 4.3 as follows:

ITEM 1 (continued)

ATTACHMENT 4

- (a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,
- (b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,
- (c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,
- (d) to minimise the impact of development on the amenity of surrounding properties,
- (e) to emphasise road frontages along road corridors.

To ensure that street frontages of development are in proportion with and in keeping with the character of nearby development:

This objective is not precisely clear in its meaning and how it is relevant to building height. A street frontage means *the distance along which a lot line adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street. Corner lots have at least two street frontages.*

The proposal does not involve the subdivision of land to create a new lot. It does not alter the lot width. The existing street frontage of the site is narrow by comparison with neighbouring lots, however this situation cannot be changed.

Should the objective mean that buildings should be in proportion to neighbouring buildings in terms of width and height then this objective is not particularly relevant because the existing lot is significantly narrower at the street front compared to others. The proposal cannot alter this situation, however, it provides a first floor addition to it.

A two-storey dwelling is considered to provide an acceptable scale and form and it is in keeping with the character of the streetscape. It is noted that the existing dwelling is generally not visible in the street elevation other than its pitched roof form because the ground floor is largely obscured by the tall front fence/gate (see photo earlier in this statement). The new first floor addition will be visible, however, it is a recessive form set back 11.7-metres from the front property line and less visually prominent than the new dwelling currently under construction at No. 75A Wharf Road (see Dwg. No A13) for reasons discussed above.

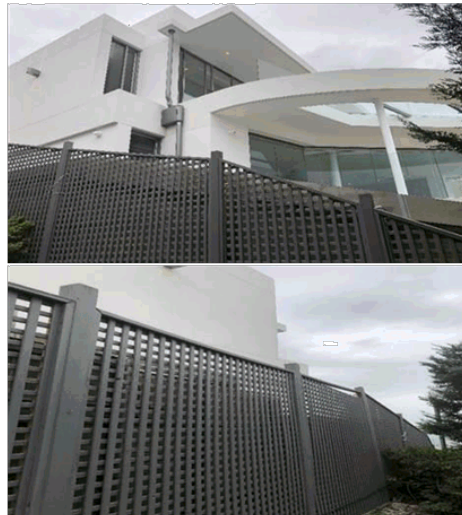
To minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area:

The proposal acceptably minimises shading of adjoining property and complies with Councils shading/solar access controls. The shading from the proposal has the potential to only impact one adjoining neighbour, No. 75A Wharf Road.

The proposal will cast some additional shading of the neighbour's northern side wall as confirmed in the architect's shadow diagrams prepared in plan and 3D low oblique. This wall actually comprises a series of walls. Only the rear or western end wall which is largely blank (see photos below) will be shaded marginally more on June 21 and the impact will be minimal.

ITEM 1 (continued)

ATTACHMENT 4



Photos – northern side wall of No. 75A from southern side of subject site.

The proposal will not have any unreasonable impact on the neighbour's west elevation windows, which serve the main living rooms and are orientated for the fine Parramatta River. The shading of the side wall is not unreasonable in view of the commensurate wall heights and the shallower northern side setback of No. 75A in comparison with the proposal (which generally remained unchanged).

The proposal is compatible with the character of the area. It is also considered to improve it. The new dwelling currently under construction at No. 75A is an exemplar for the proposal. It replaces the existing dwelling's pitched roof with a parapet to match No. 75A and repeats its curved form in the front first floor terrace and roof garden for the guest bedroom/study as well as the new three level staircase on the southern side and rear bedroom balcony terraces. The curved elements in the proposal as well as in the new neighbouring dwelling are common in the locality and include the appropriately overturned boat hull roofs of the Shore School boatshed (see photo below).



ITEM 1 (continued)

ATTACHMENT 4

Photo - Eric Russell Sinclair Memorial Boatshed with curved roof form, short distance to the south and on the opposite (eastern side of Wharf Road).

To encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure:

This objective is not relevant to the proposal.

To minimise the impact of development on the amenity of surrounding properties:

The immediate surrounding properties include No. 75A Wharf Road and the Sydney Grammar School rowing facilities. Therefore, development in the locality is primarily for residential and educational purposes. Residential development in the locality is characterised by relatively large single detached dwellings of diverse architectural styles whilst the educational facilities are smaller scaled buildings on larger lots. The proposal results in a built form and envelope that is consistent with residential development and it is appropriate in the local context. It will not have any unreasonable impact on the amenity of surrounding properties.

To emphasise road frontages along road corridors:

This objective is not considered to be relevant to the proposal.

2. *The objective is not relevant to the development.*

Objective (c) and (e) are not considered to be relevant to the development.

3. *The objective would be defeated or thwarted if compliance was required.*

This criteria is not applicable to the proposal.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard.*

This criteria is not applicable to the proposal.

5. *The zoning of the land is unreasonable or inappropriate.*

This criteria is not applicable to the proposal.

Compliance with the development standard is unreasonable or unnecessary in the circumstances because the arguments set out above under 1. show that the proposed development will achieve the relevant objectives of the development standard and strict compliance with the development standard is therefore unnecessary and unreasonable.

Are there sufficient environmental planning grounds to justify contravening the development standard?

The cases referred to above have established that the environmental planning grounds must be particular to the circumstances of the proposed development on its site. The following environmental planning grounds are relevant:

ITEM 1 (continued)

ATTACHMENT 4

- The existing dwelling currently does not comply and the proposal marginally reduces the non-compliance.
- Currently, the ridge height of the existing dwelling currently complies with the standard with a height of approximately 7.4-metres above existing ground level, however it falls into non-compliance behind the existing ridge. The non-compliance is a result of the abrupt 3-metre fall behind the existing ridge with a significant proportion of the pitched roof behind the ridge not complying with the standard. The proposal does not comply for exactly the same reasons, however, the volume of non-compliance has been significantly reduced as a result of replacing a pitched roof form with a parapet.
- The site's significant crossfall from south to north also contributes to the non-compliance and it is notable that whilst the northern elevation of the existing house does not comply with the standard the southern elevation does.
- Therefore, the existing site conditions and the character of the existing house result in the non-compliance with the standard. In addition, the non-compliance is limited to one elevation of the building.
- The proposal remains non-compliant with the standard, however, the alterations at the rear of the house, in particular, the replacement of the pitched roof component (which contributes to building volume) with a complying parapet roof significantly reduces the non-compliance and, as a result, the only part of the proposal not complying is in section (the middle of the building) rather than in elevation.
- The non-compliance in the middle of the building is immaterial because it not visible from casual observation outside the site.
- The proposed alterations and additions to the existing building result in a significantly improved standard of architecture for the existing building and it will not result in any unreasonable impact on local residential amenity of the visual significance of the building and the locality as it is viewed from Parramatta River.

Will the proposed development be in the public interest because it is consistent with the objectives of the development standard?

This criteria has been adequately addressed earlier in this submission.

Will the proposed development be in the public interest because it is consistent with the objectives of the zone?

In relation to the objectives of the R2 zone:

- *to provide for the housing needs of the community within a low density residential environment.*

The proposal will contribute towards meeting the demand for housing in the locality.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal provides a residential land use permitted under the zoning of the land.

- *to provide for a variety of housing types and densities*

The proposal will contribute towards the variety of available housing types and densities.

ITEM 1 (continued)

ATTACHMENT 4

FLOOR SPACE RATIO

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The judgment in *Wehbe v Pittwater Council* [2007] NSWLEC 827 identified five ways of establishing under *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1) that compliance is unreasonable or unnecessary. The subsequent cases referred to above have confirmed that these ways are equally applicable under the clause 4.6 regime.

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

As set out below, the proposed development will achieve objective (a) of the standard notwithstanding numerical non-compliance.

The objectives of the floor space ratio standard are set out in clause 4.4 as follows:

- (a) *to provide effective control over the bulk of future development,*
- (b) *to allow appropriate levels of development for specific areas,*
- (c) *in relation to land identified as a Centre on the [Centres Map](#)—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*

Effective control over Bulk - Despite the 0.5:1 standard applying to the land, some nearby buildings appear to have FSRs similar to or greater than the proposal and the proposed development will be compatible in that context.

The existing dwelling currently has a 0.69:1 FSR and the proposal will reduce it to 0.674:1 which also does not comply. The reduction in floor space is equivalent to 14.56m². Therefore, in comparative terms the bulk of the proposal is generally consistent with the existing dwelling albeit by a reduction in floor space by the equivalent of one large room.

The proposal, however, effectively relocates building bulk from the rear first floor of the building to the front, in particular, over the garage of the existing dwelling. As a result, the proposal fills in the visual gap at first floor level in the streetscape and provides an appropriate alignment of building mass and form with respect to the adjoining dwelling at No.75A. The proposal provides an acceptable visual relationship of the two dwellings in terms of floor and parapet levels as well as general dwelling width in the street elevation. As a result, the proposal provides an effective balance of building bulk in the streetscape.

The visual bulk of the house will appropriately and acceptably diminish in the rear elevation – as it is viewed from Parramatta River as a result of the proposed alterations and additions.

Currently, the existing dwelling appears as a relatively flat layered three-storey form when viewed from the water. The proposal, however, provides a significantly more visually appealing building than the existing as it stepped in long section (for the full building depth) as well as in cross section or in rear elevation by providing two distinct visual components i.e. a three-bedroom floors adjoining two floors of main living area with the same overall building height. The visual appeal of the building in the Parramatta River elevation is created by the

ITEM 1 (continued)

ATTACHMENT 4

vertical emphasis of the bedroom component which is distinct from the main living room floor component.

Allow appropriate levels of development for specific areas – The Ryde LEP does not specify what a specific area is. However, it is considered that the level of development as proposed is appropriate in the local context.

In relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure – the site is not located in a centre and therefore this objective is not relevant to the proposal.

2. *The objective is not relevant to the development.*

Objective (c) of the development standard, relating to non-residential accommodation, is not relevant to the proposal.

3. *The objective would be defeated or thwarted if compliance was required.*

These criteria is not applicable to the proposal.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard.*

This criteria is not applicable to the proposal.

5. *The zoning of the land is unreasonable or inappropriate.*

This criteria is not applicable to the proposal.

Are there sufficient environmental planning grounds to justify contravening the development standard?

The cases referred to above have established that the environmental planning grounds must be particular to the circumstances of the proposed development on its site.

The following environmental planning grounds are relevant:

- In order to avoid duplication, reference is made to the environmental planning grounds ventilated in relation to whether the proposal achieves the objectives to the standard, particularly in relation to the bulk, form and scale.
- A requirement to comply with the standard would require a 130m² reduction in the floor area of the existing dwelling which is impractical, unfeasible and unrealistic. A reduction in floor area of the building would result in a building form that would be significantly smaller in scale and not comparable with dwellings in the immediate vicinity.
- The proposal has resulted in a 14.56m² reduction in gross floor area and a 3.1% reduction in FSR which is not only numerically significant but generally reductions in FSR are not common.
- The reduction in FSR is accompanied by an improvement in the architecture of the building as well as a significant reduction in the visual bulk and scale as a result of the removal of significant building volume at the rear of the house. The proposal however provides additional floor space in the form of a first-floor addition above the existing

ITEM 1 (continued)

ATTACHMENT 4

garage however, the two-storey scale in the street elevation provides a form and style which is characteristic of and in harmony with the streetscape.

- The proposal does not result in any unreasonable amenity impacts on adjoining and nearby residential properties in terms of loss of privacy, shading or visual scale and bulk.
- The removal of building volume at the rear of the house as well as improving the architectural appearance of the building will potentially improve the outlook from adjoining from adjoining properties across the site as well as enhancing the setting of the site and its contribution to visual significance of Parramatta River and Sydney harbour generally.

For the reasons set out above, the proposal will achieve a better planning outcome than a compliant development of the site.

Will the proposed development be in the public interest because it is consistent with the objectives of the zone?

In relation to the objectives of the R1 zone:

- *to provide for the housing needs of the community*

The proposal provides an improved standard of accommodation which will assist to provide for the housing needs of the community.

- *to provide for a variety of housing types and densities*

The proposal provides for a detached dwelling in a manner that is consistent with the prevailing character and density of the locality.

- *to enable other land uses that provide facilities or services to meet the day to day needs of residents*

This objective is not relevant, as the proposal is not for a non-residential use.

- *to improve opportunities to work from home*

The proposed dwelling additions may improve opportunities for the future occupants to work from home.

- *to provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas*

The proposal provides a dwelling on the land with a significantly improved appearance that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes and landscaped areas as discussed earlier in this submission.

- *to provide landscaped areas for the use and enjoyment of existing and future residents*

See discussion with respect to the objectives of the standard and in particular the objective relating to a balance between landscaped area and built form.

ITEM 1 (continued)**ATTACHMENT 4**

- *to ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area*

This objective is not relevant, as the proposal does not involve subdivision.

- *to protect and enhance the amenity of existing and future residents and the neighbourhood*

The proposal provides a dwelling on the land with significantly improved amenity for the occupants. The proposed additions to the dwelling are sited in a manner that is generally consistent with the prevailing pattern in the locality. It also has a building envelope which is generally consistent with the neighbouring buildings and, as a result, the externalities of a proposal such as visual scale and bulk, shading, overlooking and loss of privacy are minimised, thereby the amenity of existing and future residents and the neighbourhood will be protected and enhanced.

Concurrence of the Secretary

The concurrence of the Secretary may be assumed by Council. The implications of a development application involving alterations and additions to a dwelling on the land not complying with the maximum building height and FSR development standards of the Ryde LEP is local in its scope and raise no matters of significance for State or regional environmental planning.

The circumstances of the case should be balanced against the usual presumption of public benefit in maintaining a development standard. The maximum building height and floor space ratio of the proposed development is justified as set out above. The variation sought will enhance the utility of the existing development without significant adverse impacts on neighbouring amenity or the public domain.

Conclusion

This submission shows that, in the circumstances of the case, compliance with the development standards are unreasonable or unnecessary, that there are sufficient environmental planning grounds to justify contravening the development standards and that the proposed development will be in the public interest because it is consistent with the objectives of the development standards and with those of the R2 Low Density Residential zone.