

DOCUMENTS FOR TENDER – BRUCE MCCANN

Description	Page
Letter from Ross Woodward, Chief Executive, Division of Local Government, Department of Premier and Cabinet to Bruce McCann, General Counsel at Ryde City Council dated 8 August 2012 in respect of the rescission motion regarding the Council's 23 July 2013 decision to terminate the General Manager's contract during the caretaker period	662-663
Attachment to Ryde Council Planning and Environment Committee meeting on 4 June 2013 in respect of unauthorized works at 29 Vimiera Road, Eastwood	2299-2308
Extract of minutes of the Ryde Council Planning and Environment Committee meeting on 4 June 2013 re 29 Vimiera Road, Eastwood	2309-2312
Minutes of Council meeting held on 11 June 2013,	2357-2364

NSW ICAC
EXHIBIT



Premier & Cabinet
Division of Local Government

5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541

Our Reference: A291989
Your Reference:
Contact: Doug Friend
Phone: 02 4428 4201

Mr Bruce McCann
General Counsel
Ryde City Council
Locked Bag 2069
NORTH RYDE NSW 1670

THIS AND THE FOLLOWING 1 PAGES IS
THE ANNEXURE MARKED "A" REFERRED
TO IN THE AFFIDAVIT OF
MICHAEL LIM
BEFORE ME THIS 10
AUGUST 2012

SWORN
DAY OF

[Signature]
JUSTICE OF THE PEACE
SOLICITOR OF THE SUPREME COURT OF N.S.W.

Dear Mr McCann

Thank you for your email of 2 August 2012 seeking the Division's guidance on the ability of Council to consider a rescission motion relating to its decision of 23 July 2012 to terminate the General Manager's contract during the caretaker period.

As you are aware, clause 393B(1)(c) of the Local Government (General) Regulation 2005 prevents a council from removing a General Manager from their position.

The application of clause 393B(1)(c) to the rescission motion is unclear. In the event that Council was to resolve to rescind its previous decision, the General Manager's employment would continue unaffected. Such a decision may be permissible during the caretaker period under clause 393B(1)(c).

However, in the event Council was to resolve not to rescind its earlier decision, there are two possible views:

- That the decision to terminate the General Manager's contract was made on 23 July 2012, outside of the caretaker period and that the decision not to rescind the earlier decision in effect simply allows that earlier decision to stand. On such a view the resolution not to rescind the earlier decision may be one that is permissible during the caretaker period under clause 393B(1)(c).
- That the implementation of the earlier decision is deferred pending consideration of the rescission motion and that the practical effect of a decision not to rescind the earlier decision will be to allow the termination of the General Manager's contract to take effect on the day of the later decision. On such a view, the decision may be one that is not permissible during the caretaker period under clause 393B(1)(c).

In the circumstances, Council may need to seek and be guided by its own legal advice in relation to this question.

Irrespective of the legal position, the Division has concerns about decisions of this nature being made at this stage of the electoral cycle. Such decisions require



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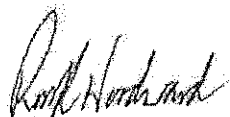
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careful and proper consideration. The often politically charged climate that prevails at this stage of the electoral cycle does not always lend itself to such consideration.

In the circumstances, Council may wish to consider whether it may be both prudent and appropriate for it to defer further consideration of this matter until after the Council elections in September.

I hope this information will assist Council's consideration of this matter.

Yours sincerely

 8/8/12

Ross Woodward
Chief Executive, Local Government
A Division of the Department of Premier and Cabinet

Quality Certification

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

BC No:	BC2013/0003
Date Plans Rec'd	17 January 2013
Address:	29 Vimiera Road, Eastwood
Proposal:	Building Certificate for unauthorised building works to existing dwelling including a first floor addition, extensions to the rear of the dwelling and demolition.
Constraints Identified:	Nil

COMPLIANCE CHECK

RYDE LEP 2010	PROPOSAL	COMPLIANCE
4.3(2) Height • 9.5m overall	6.83m	Yes
4.4(2) & 4.4A(1) FSR • 0.5:1	0.25:1	Yes

DCP 2010	PROPOSED	COMPLIANCE
Part 3.3 – Dwelling Houses and Dual Occupancy (attached)		
Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is considered not to be consistent with the desired future character of the low density residential area due to the design and siting of the alterations and additions, particularly the box shaped first floor addition extending towards the northern boundary.	No
Dwelling Houses		
<ul style="list-style-type: none"> - To have a landscaped setting which includes significant deep soil areas at front and rear. - Maximum 2 storeys. - Dwellings to address street 	<p>No change proposed to front or rear gardens.</p> <p>Part 1, part 2 storeys. Original dwelling is considered to present to Vimiera Street. New building works are orientated towards Vimiera Street however present a significant bulk and</p>	<p>Yes</p> <p>Yes Yes/No</p>

Environment & Planning

NSW ICAC EXHIBIT

DCP 2010	PROPOSED	COMPLIANCE
- Garage/carports not visually prominent features.	scale to the streetscape. Existing detached garage demolished. New carport created as a result of the raised floor added as part of the building works.	Yes
Alterations and Additions		
- Design of finished building appears as integrated whole.	Design of the alterations and additions/building works do not appear as an integrated whole and do not compliment the original dwelling. Design, form, scale and materiality are all considered to inappropriate given the design style of the existing dwelling house.	No
- Development to improve amenity and liveability of dwelling and site.	The alterations and additions/building works will improve the liability and amenity of the site through increasing the floor space and	Yes
Public Domain Amenity		
<ul style="list-style-type: none"> • Streetscape - Front doors and windows are to face the street. Side entries to be clearly apparent. - Single storey entrance porticos. - Articulated street facades. - Corner buildings to address both frontages 	<p>No change proposed to front doors. New windows have been installed as part of the building works which face the street.</p> <p>No change proposed to the entrance portico</p> <p>The building works present a new street façade that has no articulation. It is considered this adds significantly to the overall bulk and scale of the dwelling and creates an inconsistent streetscape character. See Photograph 1 in Attachment attached to this report.</p> <p>Not on corner</p>	<p>Yes</p> <p>Yes</p> <p>No</p> <p>N/A</p>
<ul style="list-style-type: none"> • Public Views and Vistas - A view corridor is to be provided along at least one side allotment boundary where 	No water views	N/A

Environment³ & Planning

NSW ICAC EXHIBIT

DCP 2010	PROPOSED	COMPLIANCE
<p>there is an existing or potential view to the water from the street. Landscaping is not to restrict views.</p> <ul style="list-style-type: none"> - Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. - Fence 70% open where height is >900mm 		
<ul style="list-style-type: none"> • Pedestrian & Vehicle Safety - Car parking located to accommodate sightlines to footpath & road. - Fencing that blocks sight line is to be splayed. 	<p>New car parking spaces are considered to allow for sightlines to the footpath and road.</p> <p>No change proposed to front fencing.</p>	<p>Yes</p> <p>N/A</p>
Site Configuration		
<ul style="list-style-type: none"> • Deep Soil Areas - 35% of site area min. - Min 8x8m deep soil area in backyard. - Front yard to have deep soil area (only hard paved area to be driveway, pedestrian path and garden walls). 	<p>No change to deep soil areas.</p> <p>As above.</p> <p>As above.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> • Topography & Excavation Within building footprint: <ul style="list-style-type: none"> - Max cut: 1.2m - Max fill: 900mm Outside building footprint: <ul style="list-style-type: none"> - Max cut: 900mm - Max fill: 500mm - No fill between side of building and boundary or close to rear boundary - Max ht retaining wall 900mm 	<p>No cut or fill undertaken as part of the alterations and additions.</p> <p>As above.</p> <p>No retaining walls as part of the alterations and additions.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Floor Space Ratio		
<ul style="list-style-type: none"> - Ground floor - First floor - Outbuildings (incl covered pergolas, sheds etc) - Total (Gross Floor Area) - Less 36m² (double) or 18m² 	<p>165.24m²</p> <p>87.12m²</p> <p>9m²</p> <p>291.36m²</p> <p>255.36m²</p>	

DCP 2010	PROPOSED	COMPLIANCE
(single) allowance for parking FSR (max 0.5:1) Note: Excludes wall thicknesses, lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls <1.4m; void areas.	0.25:1	Yes
Height		
- 2 storeys maximum (storey) incl basement elevated greater than 1.2m above EGL).		Yes
- 1 storey maximum above attached garage incl semi-basement or at-grade garages.		Yes
Wall plate (Ceiling Height) - 7.5m max above FGL or - 8m max to top of parapet. NB: TOW = Top of Wall EGL = Existing Ground Level FGL = Finished Ground Level - 9.5m Overall Height NB: EGL – Existing ground Level	TOW RL: 69.33 FGL below (lowest point): RL:65.73 TOW Height (max)= 3.6 Max point of dwelling RL:70.63 EGL below ridge (lowest point) RL: 63.80 Overall Height (max)= 6.83m	Yes
- Habitable rooms to have 2.4m floor to ceiling height (min).	2.8m min room height	Yes
Setbacks		
<ul style="list-style-type: none"> • Side <ul style="list-style-type: none"> ○ Single storey dwelling <ul style="list-style-type: none"> - 900mm to wall, includes balconies etc. ○ First floor addition <ul style="list-style-type: none"> - 1500mm to wall, includes balconies etc. 	<p>Council has advised that site inspections revealed the side setbacks comply with relevant DCP controls.</p> <p>Council has advised that site inspections revealed the side setbacks comply with relevant DCP controls.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> • Front <ul style="list-style-type: none"> - 6m to façade (generally) 	The building works are setback from the boundary	Yes

DCP 2010	PROPOSED	COMPLIANCE
- Garage setback 1m from the dwelling facade	approximately 9.5m Existing garage demolished. No garage proposed as part of the building works.	Yes
- Wall above is to align with outside face of garage below.	As above.	Yes
- Front setback free of ancillary elements e.g. RWT,A/C	No ancillary elements as part of the building works.	Yes
• Rear		
- 8m to rear of dwelling OR 25% of the length of the site, whichever is greater.	Building works are setback a minimum 8.5m from the rear boundary.	Yes
Car Parking & Access		
• General		
- Dwelling: 2 spaces max, 1 space min.	1 space proposed.	Yes
- Where possible access off secondary street frontages or laneways is preferable.	No change to access.	N/A
- Max 6m wide or 50% of frontage, whichever is less.	Width of entry to the carport is calculated at 3.5m.	Yes
- Behind building façade.	Behind facade	Yes
• Garages	Existing garage demolished as part of the building works.	N/A
• Carports		
- Sides 1/3 open (definition in BCA)	All sides of the new carport are open with the exception of the side adjoining the dwelling.	Yes
- Design and materials compatible with dwelling.	Description: New carport has been created as result of the raised first floor wing to the north eastern side of the dwelling. See photograph 1 in Attachment below.	Yes
• Parking Space Sizes (AS)		
- Double garages: 5.4m w (min)	9.2m	Yes
- Internal length: 5.4m (min)	10.72m	Yes
• Driveways		
- Extent of driveways minimised	No change to driveway hardstand area as part of the building works.	N/A
Landscaping		
• Trees & Landscaping	No changes to any trees or landscaping as part of the building works	N/A

Environment⁶ & Planning NSW ICAC EXHIBIT

DCP 2010	PROPOSED	COMPLIANCE
Dwelling Amenity		
<ul style="list-style-type: none"> • Daylight and Sunlight Access - Living areas to face north where orientation makes this possible. - Increase side setback for side living areas (4m preferred) where north is the side boundary. 	<p>New rumpus and living rooms created as part of the building works have a northerly orientation.</p> <p>Northern side setback has been reduced from approximately 10.5m to 1.5m as result of the building works.</p>	<p>Yes</p> <p>No</p>
<p><u>Subject Dwelling:</u></p> <ul style="list-style-type: none"> - Subject dwelling north facing windows are to receive at least 3 hrs of sunlight to a portion of their surface between 9am and 3pm on June 21. - Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21. 	<p>According to the shadow diagrams submitted the subject dwelling will receive at least 3hrs of sunlight to a portion of their surface between 9am and 3pm on June 21.</p> <p>According to the shadow diagrams submitted the subject dwellings private open space will receive at least 2 hours sunlight between 9am and 3pm on June 21.</p>	<p>Yes</p> <p>Yes</p>
<p><u>Neighbouring properties are to receive:</u></p> <ul style="list-style-type: none"> - 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21. - At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21. 	<p>According to the shadow diagrams submitted, the neighbouring properties adjoining principal ground level open space will receive as least 2 hours sunlight to at least 50% of its area between 9am and 3pm on June 21.</p> <p>According to the shadow diagrams submitted, the neighbouring property at 27 Vimiera Road will not receive the minimum 3 hours sunlight to a portion of their adjoining north facing windows between 9am and 3pm on June 21. It is unclear from the survey whether these are living room windows however</p>	<p>Yes</p> <p>No</p>

DCP 2010	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> • Visual Privacy <ul style="list-style-type: none"> - Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling. - Windows of living, dining, family etc. placed so there are no close or direct views to adjoining dwelling or open space. - Side windows offset from adjoining windows. - Terraces, balconies etc. are not to overlook neighbouring dwellings/private open space. • View Sharing <ul style="list-style-type: none"> - The siting of development is to provide for view sharing. • Cross Ventilation <ul style="list-style-type: none"> - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation. 	<p>it is noted that the building works are considered not to impact these windows in terms of overshadowing due to the pitch of the existing dwelling already significantly overshadowing the subject windows.</p> <p>Windows of living areas, balconies and outdoor living areas have generally been orientated to the front and rear of dwelling.</p> <p>Windows have been generally placed so as not to allow any close or direct views to the adjoining dwellings and private open space.</p> <p>Side windows have been offset from adjoining windows.</p> <p>Balcony to the rear of the upper floor addition is not considered to overlook neighbouring dwellings /private open space.</p> <p>No views identified.</p> <p>Design layout of new building works is considered to allow for satisfactory cross ventilation.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>Yes</p>
External Building Elements		
<ul style="list-style-type: none"> • Roof <ul style="list-style-type: none"> - Articulated. - 450mm eaves overhang minimum. - Not to be trafficable Terrace. - Skylights to be minimised and placed symmetrically. - Front roof plane is not to have both dormer windows and skylights. 	<p>Flat roof proposed.</p> <p>0mm overhang, flat roof proposed.</p> <p>None provided</p> <p>None proposed.</p> <p>None proposed</p>	<p>N/A</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Fencing		

DCP 2010	PROPOSED	COMPLIANCE
• Front/return:	No fencing undertaken as part of the building works.	N/A
Part 7.2 – Waste Minimisation & Management		
Submission of a Waste Management Plan	The applicant has not submitted a Waste Management	No
Part 8.2 – Stormwater Management		
• Stormwater		
- Drainage is to be piped in accordance with Part 8.2 – Stormwater Management.	Drainage plans submitted and referred to Development Engineer for comment.	Yes
Part 9.2 – Access for People with Disabilities		
Accessible path required from the street to the front door, where the level of land permits.	No change to accessibility.	N/A
Part 9.4 – Fencing		
• Front & Return Fences		
- Front and return fences that exceed 1m in height are to be 50% open.	No front or return fencing undertaken as part of the building works.	Yes
Part 9.6 – Tree Preservation		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway.	No changes to any trees or landscaping as part of the building works	N/A

BASIX	PROPOSAL	COMPLIANCE
All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans (list) BASIX Cert A153901_02 dated 13 February 2013		Yes
• RWT 5000L	N/A	N/A
• Swimming Pool	None proposed	N/A
• Thermal Comfort Commitments: - Construction - TCC – Glazing.	To comply	Yes Yes
• HWS Gas Instantaneous 5 star.	N/A	N/A
• Natural Lighting	No bathroom or kitchen work undertaken as part of building	N/A

BASIX	PROPOSAL	COMPLIANCE
- kitchen - bathrooms ()	works.	
Water Target 40	N/A	N/A
Energy Target 40	N/A	N/A
Correct description of property/proposal on 1 st page of Certificate.	Correct details shown	Yes

DEMOLITION	PROPOSAL	COMPLIANCE
• Plan showing all structures to be removed.	Plan submitted	Yes
• Demolition Work Plan	No plan submitted	No
• Waste Management Plan	No plan submitted	No

Summary of Issues/Non compliances:

Non-Compliances – Justified

- Neighbouring adjoining windows do not receive the minimum amount of required sunlight.

Non-Compliances - Not justified

- Development not considered to be consistent with the desired future character of the low density residential areas.
- Design of the finished building does not appear as an integrated whole.
- New front building façade presents no articulation to the street.
- No waste management/minimisation plan submitted.

Certification

I certify that all of the above issues have been accurately and professionally examined by me.

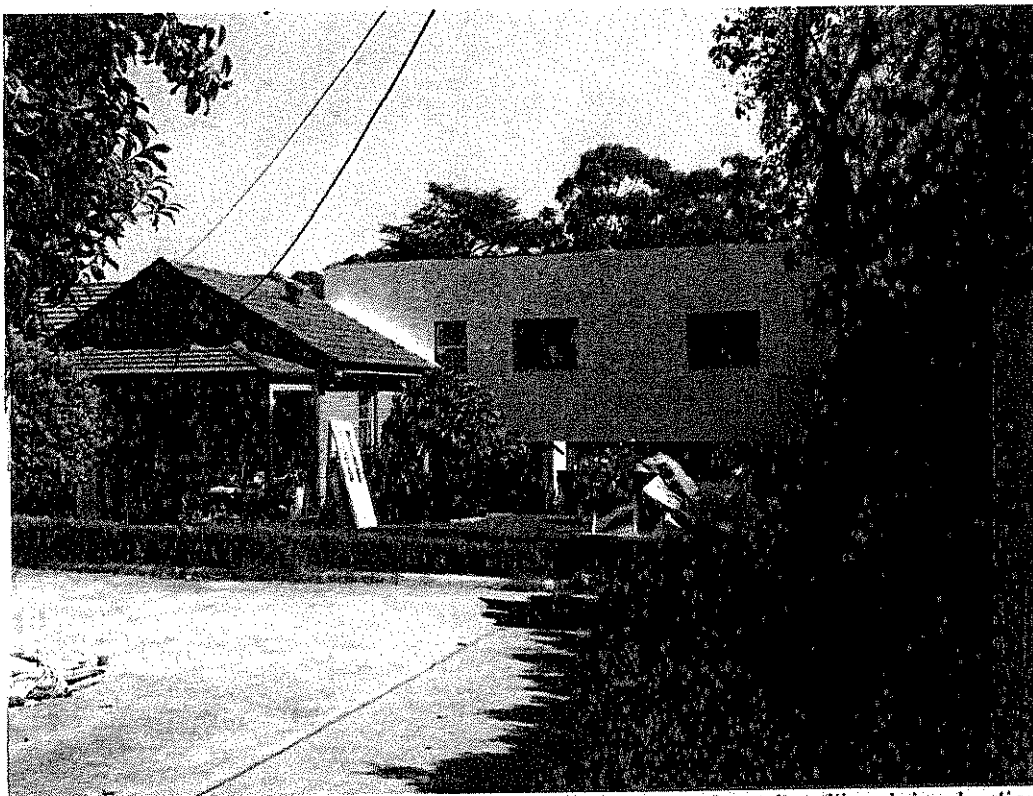
Name: Ben Tesoriero

Signature:



Date: 15 April 2013

ATTACHMENT 1 – Site Photos



Photograph 2 – Subject dwelling showing new street façade with minimal articulation.

Meeting Date: Tuesday 4 June 2013

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

Time: 5.05pm

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

Note: The Mayor, Councillor Petch arrived at the meeting at 5.39pm and was present for consideration for Item 2 only. He left the meeting at 5.47pm and did not return.

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

Apologies: Councillor Maggio.

Leave of Absence: Councillors Simon and Yedelian OAM.

Staff Present: Group Manager – Environment and Planning, Service Unit Manager – Assessment, Service Unit Manager – Environmental Health and Building, Team Leader – Fast Track Team, Executive Officer – Assessment, Team Leader – Fast Track Team, Assessment Officer, Consultant Town Planner (Creative Planning Solutions), Team Leader – Building Compliance, Section Manager - Governance and Councillor Support Coordinator.

DISCLOSURES OF INTEREST

Councillor Chung disclosed a Less than Significant Non-Pecuniary interest in Item 3 - 52A Pellisier Road, Putney - LDA2013/0012, for the reason that he is familiar with an objector.

Councillor Salvestro-Martin disclosed a Less than Significant Non-Pecuniary Interest in Item 3 - 52A Pellisier Road, Putney - LDA2013/0012, for the reason that a speaker on the matter is known to him.

The Mayor, Councillor Petch disclosed a Significant Non-Pecuniary interest in Item 3 - 52A Pellisier Road, Putney - LDA2013/0012, for the reason that he is a neighbour and knows both the applicant and objector in the matter.

1 CONFIRMATION OF MINUTES - Meeting held on 21 May 2013

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

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

That the Minutes of the Planning and Environment Committee 8/13, held on Tuesday 21 May 2013, be confirmed.

Record of Voting:

For the Motion: Unanimous

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

2 29 VIMIERA ROAD, EASTWOOD - LOT 10 DP 4574. Building Certificate Application for unauthorised building works to the existing dwelling, including a first floor addition, extensions to the rear of the dwelling and demolition. BC2013/0003.

Note: Ian Mooney (objector), George Raymond (objector on behalf of himself and Derek and Lina Raymond), Lachlan Roots (objector) and Stefano Laface (applicant on behalf of Pyramid Consulting) addressed the Committee in relation to this Item.

Note: Correspondence was tabled by George Raymond and a copy is ON FILE.

ADJOURNMENT

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

That the Planning and Environment Committee Meeting adjourn for five (5) minutes, the time being 5.42pm.

Record of Voting:

For the Motion: Unanimous

In accordance with Clause 4.2.5 of the Code of Meeting Practice, The Chairperson, Councillor Pendleton adjourned the meeting to Tuesday, 4 June 2013, to reconvene at 5.47pm in Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde, the time being 5.42pm.

The following Councillors were present:

The Mayor, Councillor Petch and Councillors Pendleton, Chung and Salvestro-Martin.

MEETING RECONVENED

The Meeting reconvened at 5.47pm on Tuesday, 4 June 2013 in Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde.

The following Councillors were present:

The Mayor, Councillor Petch and Councillors Pendleton, Chung and Salvestro-Martin.

Apologies: Councillor Maggio.

Leave of Absence: Councillors Simon and Yedelian OAM.

Staff Present: Group Manager – Environment and Planning, Service Unit Manager – Assessment, Service Unit Manager – Environmental Health and Building, Team Leader – Fast Track Team, Executive Officer – Assessment, Team Leader – Fast Track Team, Assessment Officer, Consultant Town Planner (Creative Planning Solutions), Team Leader – Building Compliance, Section Manager - Governance and Councillor Support Coordinator.

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

- (a) That BC2013/0003 at 29 Vimiera Road, Eastwood being LOT 10 DP 4574 be refused for the following reasons:
1. The alterations and additions result in a dwelling which is inconsistent with the desired future character for the R2 Low Density Residential zone, and in particular the character of the streetscape in the immediate area.
 2. The alterations and additions create a significant visual impact to the streetscape and public domain with a poor design outcome in terms of form, massing, integration and materiality.
 3. The alterations and additions do not integrate with the form or character of the existing dwelling house on site.
 4. In the circumstances of the case, approval of the development is not in the public interest.
 5. The applicant has not demonstrated full compliance with the requirements of the National Construction Code Series - Building Code of Australia (BCA).
 6. The roof water is not suitably discharged into an approved drainage system as required by the BCA. Documentary evidence has not been submitted demonstrating that the proposed drainage system complies with the Council's Development Control Plan 2010 (DCP).

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

Record of Voting:

For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **11 JUNE 2013** as substantive changes were made to the published recommendation

3 52A PELLISIER ROAD, PUTNEY. LOT 2 DP 859984. Development Application for alterations and first floor additions to the existing dwelling, and new swimming pool. LDA2013/0012.

Note: Kylie and Tony Gillies (objectors), Norm Fletcher (objector on behalf of Annette Marsh), Annette Marsh (objector), Gary Dilles (objector), Stewart Macpherson (objector), George Rofail (applicant) and Michael Yousef (on behalf of the applicant) addressed the Committee in relation to this Item.

Note: Councillor Chung disclosed a Less than Significant Non-Pecuniary Interest in this Item for the reason that he is familiar with an objector.

Note: Councillor Salvestro-Martin disclosed a Less than Significant Non-Pecuniary Interest in this Item for the reason that a speaker on the matter is known to him.

Note: The Mayor, Councillor Petch disclosed a Significant Non-Pecuniary interest in this Item for the reason that he is a neighbour and knows both the applicant and objector in the matter. He left the meeting at 5.47pm and was not present for consideration or voting on this Item.

Note: Photographs provided by Annette Marsh were tabled and a copy is ON FILE.

Note: Correspondence provided by George Rofail was tabled and a copy is ON FILE.

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

- (a) That LDA2013/0012 at 52A Pellisier Road, Putney be deferred to enable the applicant to submit amended plans that provide a more skilful design that improves view sharing opportunities for neighbours and relocates the pool further away from the dwelling and lowers the pool coping height.
- (b) That upon receipt of the amended plans required in part A, the plans are renotified to neighbours and all previous objectors.
If no further objections are received, then the application can be determined by the Group Manager Environment and Planning. If further objections are received, then a further report will be prepared for the consideration of the Planning and Environment Committee.
- (c) That the people who made submissions be advised of Council's decision.

Meeting Date: Tuesday 11 June 2013

Location: Council Chambers, Level 6, Civic Centre, 1 Devlin Street, Ryde

Time: 7.30pm

Councillors Present: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Laxale, Li, Pendleton, Perram, Pickering, Salvestro-Martin, Simon and Yedelian OAM.

Note: Councillor Yedelian OAM left the meeting at 11.12pm during the consideration of Item 10 – Renewal of Contract - Community of Interest Network (My Place).

Note: Councillor Pickering left the meeting at 11.12pm during the consideration of Item 10 – Renewal of Contract - Community of Interest Network (My Place).

Apologies: Nil.

Absent: Councillor Maggio.

Staff Present: Acting General Manager, Acting Group Manager – Community Life, Group Manager - Corporate Services, Group Manager – Environment & Planning, Acting Group Manager - Public Works, General Counsel, Section Manager – Community Engagement & Social Media, Manager – Customer Service and Governance and Councillor Support Coordinator.

PRAYER

Reverend Mal York of the West Ryde Anglican Church was present and offered prayer prior to the commencement of the meeting.

LEAVE OF ABSENCE

Councillor Etmekdjian requested a Leave of Absence for the period of 1 July 2013 to 29 July 2013.

Councillor Li requested a Leave of Absence for 18 June 2013.

Councillor Yedelian OAM requested a Leave of Absence for 18 June 2013.

RESOLUTION: (Moved by Councillors Simon and Li)

That Council approve Councillor Etmekdjian's Leave of Absence for the period of 1 July 2013 to 29 July 2013, Councillor Li's Leave of Absence for 18 June 2013 and Councillor Yedelian's Leave of Absence for 18 June 2013.

Record of Voting:

For the Motion: Unanimous

Minutes of the Council Meeting No. 12/13, dated 11 June 2013.

DISCLOSURES OF INTEREST

Councillor Perram declared a Less than Significant Non-Pecuniary Interest in Item 2(2) of the Report of the Planning and Environment Committee Meeting 9/13 held on 4 June 2013 – 29 Vimiera Road, Eastwood - LOT 10 DP 4574 for the reason that he understands that the Applicant's Lawyer is the same Lawyer that he has been using for another matter.

The Mayor, Councillor Petch declared a Significant Non-Pecuniary Interest in Item 2(2) of the Report of the Planning and Environment Committee Meeting 9/13 held on 4 June 2013 – 29 Vimiera Road, Eastwood - LOT 10 DP 4574 for the reason that the Applicants and Objectors are known to him. He did not participate in consideration of this Item.

The Mayor, Councillor Petch declared a Significant Non-Pecuniary Interest in Item 2(3) of the Report of the Planning and Environment Committee Meeting 9/13 held on 4 June 2013 – 52a Pellisier Road, Putney – LOT 2 DP 859984 for the reason that the Applicants and Objectors are known to him. He did not participate in consideration of this Item.

Councillor Li declared a Significant Non-Pecuniary Interest in Item 2(2) of the Report of the Planning and Environment Committee Meeting 9/13 held on 4 June 2013 – 29 Vimiera Road, Eastwood - LOT 10 DP 4574 for the reason that on 4 June 2013, he became aware that the applicant is represented by the same Solicitor who is also representing defendant Councillors in unrelated Supreme Court Proceedings. He did not participate in consideration of this Item.

Councillor Salvestro-Martin declared a Less than Significant Non-Pecuniary Interest in Item 2(2) of the Report of the Planning and Environment Committee Meeting 9/13 held on 4 June 2013 – 29 Vimiera Road, Eastwood - LOT 10 DP 4574 for the reason that the party is known to him. He did not participate in consideration of this Item.

Councillor Chung declared a Less than Significant Non-Pecuniary Interest in Item 2(3) of the Report of the Planning and Environment Committee Meeting 9/13 held on 4 June 2013 – 52a Pellisier Road, Putney – LOT 2 DP 859984 for the reason that he is familiar with an objector.

ELECTION OF CHAIRPERSON

As a result of the Mayor, Councillor Petch declaring a Significant Non-Pecuniary Interest in Item 2(2) - 29 Vimiera Road, Eastwood and Item 2(3) - 52a Pellisier Road, Putney and the Deputy Mayor, Councillor Li declaring a Significant Non-Pecuniary Interest in, and being absent for, Item 2(2) – 29 Vimiera Road, Eastwood of the Report of the Planning and Environment Committee Meeting 9/13, Council was required to undertake an election of a Chairperson for when these matters were considered by Council.

RESOLUTION: (Moved by The Mayor, Councillor Petch and Councillor Pendleton)

That Councillor Perram assume the Chair for Item 2(2) – 29 Vimiera Road, Eastwood - LOT 10 DP 4574 and Item 2(3) - 52a Pellisier Road, Putney – LOT 2 DP 859984.

Record of Voting:

For the Motion: Unanimous

Minutes of the Council Meeting No. 12/13, dated 11 June 2013.

PUBLIC PARTICIPATION ON ITEMS LISTED ON THE AGENDA

No addresses were made to Council on Items listed on the Agenda.

PUBLIC PARTICIPATION ON ITEMS NOT LISTED ON THE AGENDA

The following persons addressed the Council on Items not listed on the Agenda:

Rodney Stern	"To present documents that clearly show that a parking ticket (and court fine) were improperly administered."
Peter Peplow	City of Ryde Enforcement

MATTER OF URGENCY

Councillor Salvestro-Martin advised that he wished to raise a Matter of Urgency regarding parking fines incurred by Mr Stern and Mr Peplow.

The Mayor, Councillor Petch accepted this Item as an Urgent Item.

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

That Council consider a Matter of Urgency regarding parking fines incurred by Mr Stern and Mr Peplow, the time being 7.51pm.

Record of Voting:

For the Motion: Unanimous

MATTER OF URGENCY – INVESTIGATION OF FINES

RESOLUTION: (Councillors Salvestro-Martin and Etmekdjian)

- (a) That the City of Ryde independently investigate the fines incurred by Mr Stern and Mr Peplow as detailed at tonight's meeting.
- (b) That Council makes representations to the State Debt Recovery Office to hold the fines in abeyance whilst Council's investigation is undertaken.
- (c) That the result of the investigation be reported back to Council.

Record of Voting:

For the Motion: Unanimous

MAYORAL MINUTES

**MM17/13 SELECTION AND APPOINTMENT OF RECRUITER - GENERAL
MANAGER'S POSITION**

MOTION: (Moved by The Mayor, Councillor Petch and Councillor Salvestro-Martin)

That the selection committee to manage the recruitment process for the position of General Manager and determine the preferred candidate comprise the Mayor, Deputy Mayor and the Chairs of both the Planning and Environment Committee and the Works Committee.

That the top three recruitment providers address the newly formed committee on 13th June 2013.

AMENDMENT: (Moved by Councillors Chung and Pickering)

That the selection committee to manage the recruitment process for the position of General Manager and determine the preferred candidate comprise the Mayor and all Councillors.

That the top three recruitment providers address the newly formed committee on 13th June 2013.

On being put to the Meeting, the voting on the Amendment was four (4) votes For and seven (7) votes Against. The Amendment was LOST. A further Amendment was then put.

Record of Voting:

For the Amendment: Councillors Chung, Etmekdjian, Pickering and Yedelian OAM.

Against the Amendment: The Mayor, Councillor Petch and Councillors Laxale, Li, Pendleton, Perram, Salvestro-Martin and Simon.

FURTHER AMENDMENT: (Moved by Councillors Etmekdjian and Pickering)

That the selection committee to manage the recruitment process for the position of General Manager and determine the preferred candidate comprise the Mayor and at least the six (6) Councillors that completed the scoring of submissions.

That the top three recruitment providers address the newly formed committee on 13th June 2013.

On being put to the meeting, the voting on the Amendment was four (4) votes For and seven (7) votes Against. The Amendment was LOST. The Motion was then put and CARRIED.

Record of Voting:

For the Amendment: Councillors Chung, Etmekdjian, Pickering and Yedelian OAM.

Against the Amendment: The Mayor, Councillor Petch and Councillors Laxale, Li, Pendleton, Perram, Salvestro-Martin and Simon.

RESOLUTION: (Moved by The Mayor, Councillor Petch and Councillor Salvestro-Martin)

That the selection committee to manage the recruitment process for the position of General Manager and determine the preferred candidate comprise the Mayor, Deputy Mayor and the Chairs of both the Planning and Environment Committee and the Works Committee.

That the top three recruitment providers address the newly formed committee on 13th June 2013.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Etmekdjian, Laxale, Li, Pendleton, Perram, Salvestro-Martin and Simon

Against the Motion: Councillors Chung, Pickering and Yedelian OAM

MATTER OF URGENCY

Councillor Perram advised that he wished to raise a Matter of Urgency regarding the May Capital Works Update report to be reported at the next meeting of the Works and Community Committee.

The Mayor, Councillor Petch accepted this Item as an Urgent Item.

RESOLUTION: (Moved by Councillors Perram and Laxale)

That Council consider a Matter of Urgency regarding the May Capital Works Update report to be reported at the next meeting of the Works and Community Committee, the time being 8.34pm.

Record of Voting:

For the Motion: Unanimous

MATTER OF URGENCY – MAY CAPITAL WORKS UPDATE

RESOLUTION: (Moved by Councillors Perram and Laxale)

That the May Capital Works Update report be reported at the next meeting of the Works and Community Committee.

Record of Voting:

For the Motion: Unanimous

COUNCIL REPORTS

1 CONFIRMATION OF MINUTES - Council Meeting held on 28 May 2013

RESOLUTION: (Moved by Councillors Simon and Yedelian OAM)

That the Minutes of the Council Meeting 11/13, held on 28 May 2013 be confirmed.

Record of Voting:

For the Motion: Unanimous

2 REPORT OF THE PLANNING AND ENVIRONMENT COMMITTEE MEETING 9/13 held on 4 June 2013

Note: Councillor Salvestro-Martin raised an issue in relation to the Report of the Planning and Environment Committee Meeting 9/13 held on 4 June 2013 on page 38, which incorrectly indicates that he had disclosed a Less than Significant Non-pecuniary Interest in Item 2(3) of the Report of the Planning and Environment Committee Meeting 9/13 held on 4 June 2013 – 52a Pellisier Road, Putney – LOT 2 DP 859984, when in fact it was disclosed in relation to Item 2(2) – 29 Vimiera Road, Eastwood - LOT 10 DP 4574. The minutes of the Planning and Environment Committee Meeting 9/13 will be amended to reflect this change.

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

That Council determine Items 2, 3, 4 and 5 of the Planning and Environment Committee report, noting that Item 1 was dealt with by the Committee within its delegated powers.

Record of Voting:

For the Motion: Unanimous

2 29 VIMIERA ROAD, EASTWOOD - LOT 10 DP 4574. Building Certificate Application for unauthorised building works to the existing dwelling, including a first floor addition, extensions to the rear of the dwelling and demolition. BC2013/0003.

Note: The Mayor, Councillor Petch declared a Significant Non-Pecuniary Interest in this Item for the reason that the Applicants and Objectors are known to him and did not participate in consideration of this matter.

Note: Councillor Salvestro-Martin declared a Less than Significant Non-Pecuniary Interest in this Item for the reason that the party is known to him and did not participate in consideration of this matter.

Note: Councillor Li declared a Significant Non-Pecuniary Interest in this Item for the reason that on 4 June 2013, he became aware that the Applicant is represented by the same Solicitor that is also representing defendant Councillor's in unrelated Supreme Court Proceedings and did not participate in consideration of this matter.

Note: Councillor Perram declared a Less than Significant Non-Pecuniary Interest in this Item for the reason that he understands that the applicant's lawyer is the same lawyer that he has been using for another matter.

Note: The Mayor, Councillor Petch and Councillors Li and Salvestro-Martin left the meeting at 8.42pm and were not present for consideration or voting on this Item.

CHAIRPERSON

Councillor Perram assumed the Chair in accordance with Council's resolution earlier in the meeting as detailed in these minutes.

RESOLUTION: (Moved by Councillors Laxale and Pickering)

- (a) That BC2013/0003 at 29 Vimiera Road, Eastwood being LOT 10 DP 4574 be refused for the following reasons:
1. The alterations and additions result in a dwelling which is inconsistent with the desired future character for the R2 Low Density Residential zone, and in particular the character of the streetscape in the immediate area.
 2. The alterations and additions create a significant visual impact to the streetscape and public domain with a poor design outcome in terms of form, massing, integration and materiality.
 3. The alterations and additions do not integrate with the form or character of the existing dwelling house on site.
 4. In the circumstances of the case, approval of the development is not in the public interest.
 5. The applicant has not demonstrated full compliance with the requirements of the National Construction Code Series - Building Code of Australia (BCA).
 6. The roof water is not suitably discharged into an approved drainage system as required by the BCA. Documentary evidence has not been submitted demonstrating that the proposed drainage system complies with the Council's Development Control Plan 2010 (DCP).

- (b) In light of the Building Certificate application being refused in Part (a) above, the applicant is encouraged to demolish parts of the unauthorised structure (namely the area containing bedrooms 3,4, and 5 and rumpus room) that are visible from Vimiera Road. A building certificate may be issued on the single storey portion of the unauthorised development that comprises the living area subject to a new building application being lodged together with a development application being lodged (and approved) for additions and alterations to the existing dwelling that are consistent with the immediate character of Vimiera Road and integrates with the existing dwelling.
- (c) That Council pursue demolition of the unapproved structure.
- (d) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Unanimous

Note: Councillors Li and Salvestro-Martin returned to the meeting at 9.02pm.

3 52A PELLISIER ROAD, PUTNEY. LOT 2 DP 859984. Development Application for alterations and first floor additions to the existing dwelling, and new swimming pool. LDA2013/0012.

Note: The Mayor, Councillor Petch declared a Significant Non-Pecuniary Interest in this Item for the reason that the applicants and objectors are known to him and did not participate in consideration of this Item.

Note: Councillor Chung declared a Less than Significant Non-Pecuniary Interest in this Item for the reason that he is familiar with an objector.

MOTION: (Moved by Councillors Pendleton and Chung)

- (a) That LDA2013/0012 at 52A Pellisier Road, Putney be deferred to enable the applicant to submit amended plans that provide a more skilful design that improves view sharing opportunities for neighbours and relocates the pool further away from the dwelling and lowers the pool coping height.
- (b) That upon receipt of the amended plans required in part A, the plans are renotified to neighbours and all previous objectors.
If no further objections are received, then the application can be determined by the Group Manager Environment and Planning. If further objections are received, then a further report will be prepared for the consideration of the Planning and Environment Committee.
- (c) That the people who made submissions be advised of Council's decision.

On being put to the meeting the motion was LOST there being four (4) votes for and six (6) votes against.