The above Committee will meet on Tuesday, 21 June, 2005 in Committee Room No. 2, Fifth Floor, Civic Centre, Ryde at 4.00pm to discuss the following matters. Any matters not determined at the meeting will be considered by the Council at its meeting to be held on Tuesday, 28 June, 2005.

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<th>Property/Subject</th>
<th>Page</th>
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<td>CONFIRMATION OF COMMITTEE REPORT</td>
<td>1</td>
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<tr>
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<td>18 CONSTITUTION ROAD &amp; 21-23 NANCARROW AVENUE, MEADOWBANK. Lots 1 &amp; 2 in DP810552. Local development application for 6 Strata Titled industrial units. LDA No.1043/00. Applicant: Grace Mastro. INSPECTION 4.30PM &amp; INTERVIEW 4.55PM</td>
<td>2</td>
</tr>
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<td>4</td>
<td>5-7 ROWE STREET EASTWOOD. LOT: 1 DP: 1070718. Local Development Application for Commercial signs. LDA 1164/2004. Applicant: Woolworths Ltd.</td>
<td>75</td>
</tr>
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<td>5</td>
<td>2A HINKLER AVENUE, RYDE. LOT: 5 DP: 16013. Application under Section 96(1A) to change the driveway layout to include two laybacks and delete conditions 4 and 11 which required masonry unit pavers to be provided for the driveway and to provide an accessible path to the front door of one of the dwellings. LDA 598/2003. Applicant: Mr &amp; Mrs Perri.</td>
<td>90</td>
</tr>
<tr>
<td>6</td>
<td>25 SHEPHERD STREET, RYDE 2112. Lot A in DP 327043, Non-Compliance with Council's Order.</td>
<td>103</td>
</tr>
</tbody>
</table>
ITEM 1

CONFIRMATION OF COMMITTEE REPORT

RECOMMENDATION: That the report of the meeting of the Development Committee No. 9/05 held on 7 June 2005, be confirmed.
ITEM 2

18 CONSTITUTION ROAD & 21-23 NANCARROW AVENUE, MEADOWBANK.
Lots 1 & 2 in DP810552. Local development application for 6 Strata Titled industrial units. LDA No.1043/00. Applicant: Grace Mastro.

INSPECTION 4.30PM
INTERVIEW 4.55PM

Manager Environmental Assessment Reports 8 June 2005

FILE NO: LDA 00/1043

EXECUTIVE SUMMARY

This report considers a proposal to construct 6 strata titled industrial units with 59 off-street parking spaces. The application was lodged on 28 November 2000 prior to the gazettal of the Meadowbank LEP & DCP and under clause 80A of the RPSO has to be assessed under the previous General Industrial zoning.

Although it predated the Meadowbank planning controls it was subject to SEPP 56 (Sydney Harbour Foreshores) that required development to be in conformity with a master plan unless the Minister waived compliance. On 31 January 2002 DIPNR advised that the Minister had waived compliance subject to the landscaped strip along the Hamilton Crescent West frontage being increased to 2m.

There were numerous meetings with the architect and owner to resolve a number of issues and as a result amended details and plans were to be supplied. As these were not submitted, a report was considered by the Committee on 3 June 2003 recommending refusal of the application (a copy of the previous report is ATTACHED AT ANNEXURE A). The Committee deferred the application to enable further discussions with the applicant and owner. Following the discussions the Committee resolved on 3 July 2003 to further defer the application to enable the submission of amended plans.

Amended plans were received 23 September 2003 that addressed the outstanding matters including the increased landscaping. A meeting was held with the owner and architect on 6 June 2004 where it was suggested that consideration should be given to the site potential having regard to the Meadowbank planning controls that may realise the full potential of the site. The owner had a study of market demand carried out and advised in December 2004 that there was little demand at present for development with a higher commercial content. Amended plans were submitted that addressed noise issues raised during public notification as well as the appearance of the building. The changed detail resulted in all pedestrian access being denied to Constitution Road, increased setback and landscaping along the Constitution Road frontage, a design that was more readily adaptable to commercial use should the demand arise as well as a treatment to the facades facing the roads to give the building more of a commercial appearance rather than an industrial appearance.
ITEM 2 (Continued)

The proposal has been notified a number of times and a number of objections were received to the earlier proposals. No submissions were received to the most recent plans that addressed earlier concerns by objectors. The proposal complies with the provisions of the RPSO relating to industrial zones.

The application is recommended for approval subject to conditions.

Reason for Referral to Development Committee: History of the application and requested by Councillor Petch.

SITE: (Refer to attached map.)

Address : 18 Constitution Road and 21-23 Nancarrow Avenue, Meadowbank (corner Hamilton Crescent West).

Site Area : 2980.9m²
Frontage: 15m to Constitution Road
Depth: 90.2m to Hamilton Crescent West.

Topography and Vegetation : The site is relatively level as a result of the existing development although there is a slight fall towards Nancarrow Avenue. There is no significant vegetation apart from a Jacaranda tree on the Constitution Road frontage.

Existing Buildings : An older style industrial building is situated on 21-23 Nancarrow Avenue and a dwelling on 18 Constitution Road.

PLANNING CONTROLS:

Zoning : Business (Urban Village) 3(uv) in Ryde Planning Scheme
Other : SEPP 55 - Remediation of Land
DCP 29A – Car parking
DCP 37 – Access for People with Disabilities
DCP 45 – Energy Smart / Water Wise

DEVELOPMENT PROPOSAL SUMMARY:

- Demolition
- 6 industrial units
- 59 parking spaces
- Strata subdivision
ITEM 2 (Continued)

PROPOSAL:

To demolish the dwelling house and industrial buildings on the site and to erect an industrial unit development containing 6 industrial units that have been designed to be adapted for commercial use should the need arise.

<table>
<thead>
<tr>
<th>Unit</th>
<th>Ground Floor m²</th>
<th>First Floor m²</th>
<th>Total m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>357</td>
<td>187</td>
<td>544</td>
</tr>
<tr>
<td>2</td>
<td>292</td>
<td>114</td>
<td>406</td>
</tr>
<tr>
<td>3</td>
<td>292</td>
<td>114</td>
<td>406</td>
</tr>
<tr>
<td>4</td>
<td>315</td>
<td>167</td>
<td>482</td>
</tr>
<tr>
<td>5</td>
<td>167</td>
<td>123</td>
<td>290</td>
</tr>
<tr>
<td>6</td>
<td>230</td>
<td>153</td>
<td>383</td>
</tr>
<tr>
<td>Total</td>
<td>1,653</td>
<td>858</td>
<td>2,511</td>
</tr>
</tbody>
</table>

It is proposed to provide 59 off-street parking spaces (56 in the basement and 3 at ground level, that includes 2 accessible spaces). The building has been designed so that trucks can enter and leave the site in a forward direction via Hamilton Crescent West. A bicycle rack is also provided on Hamilton Crescent West near Nancarrow Avenue.

A 2m landscape strip is provided along Hamilton Crescent West, 11m along Constitution Road with up to 2m along Nancarrow Avenue.

The following documentation was submitted in support of the application:

- Environmental Site Screening report by Environmental Investigations Services (EIS) that indicates:
  - The site is considered to be suitable for the proposed development. Normal good engineering site management practice including control of runoff and dust suppression is recommended during earthworks and construction.
  - In the event underground facilities (tanks etc) are discovered, all work in the vicinity should cease and EIS be contacted.

- Geotechnical Investigations report by Jeffrey and Katauskas that indicates:
  - Earthworks should be carried out within the Code of Excavation Practice.
  - Prior to excavation, detailed dilapidation reports be prepared on neighbouring buildings situated within an area equivalent to the depth of excavation.
  - The use of hydraulic hammers, large excavators and the like during excavation of the fill, clays and upper sandstone should be monitored by vibration monitory specialists to ensure transmitted vibrations do not damage nearby structures.
  - Footings be founded on sandstone bedrock to minimise differential settlement.

- Statement of Environmental Effects including supplementary reports relating to the amended plans.

- Report by Tree Wise Men on the Jacaranda tree
ITEM 2 (Continued)

HISTORY:

Council’s records indicate the following uses for the site (previously known as 21-23 Nancarrow Avenue):

- DA 1324/74 - Steel fabrication and assembly of industrial fans and pumps.
- DA 1813/76 - Manufacture and storage of cork products and joining compounds, assembly of industrial pumps, fans and caretaker’s cottage.
- DA 1617/85 - Storage of motor vehicles.
- DA 4010/89 - Smash repairs.
- DA 1192/92 - Storage yard and industry (storage of timber and the assembly of lattice and garden furniture).

LDA 1043/2000 was lodged on 28 November 2000 to erect 6 strata titled industrial units on the site. As the site is within the Meadowbank Employment Area there was a provision in SEPP56 – Sydney Harbour Foreshores that required development to be in accordance with a master plan unless the Minister waives compliance. At that stage the draft master plan was not expected to be submitted until June 2001 and accordingly the Minister was requested to waive compliance. The main areas of non-compliance were:

- The building setback to Hamilton Crescent West.
- The Landscape area on the Hamilton Crescent West frontage.
- Whether the use of tilt up panels were appropriate.
- No provision of footpath on the street frontage.

There was various correspondences over a long period resulting from requests for further information from the Minister and from Council. DIPNR advised on 31 January 2002 that the Minister had waived the requirement for a master plan subject to the development application being modified to provide a minimum 2m landscaped setback on Hamilton Crescent West.

The applicant was advised of the Minister’s decision on 10 April 2002 and that the following options were available:

- Withdraw the application.
- Submit amended plans complying with the Minister’s requirements.
- Prepare a master plan for the site in accordance with the requirements of SEPP65.
- If none of the above occurs Council has no alternative other than to refuse the application.

A meeting was held with the applicant and the architect on 1 May 2002 to discuss the options. The applicant’s solicitor rang 26 June 2002 and indicated that amended plans would be lodged. There were further meetings with the architect on 5 July 2002 and 6 August 2002 where it was also indicated that amended plans would be lodged.
ITEM 2 (Continued)

Council forwarded letters on 19 June 2002, 17 October 2002 and 10 April 2003 requesting advice on the position of the application, as there had been no reply or contact from the applicant since the meeting of 6 August 2002. In Council’s letter of 10 April 2003 the applicant was advised that the matter had been outstanding for a considerable period and that unless the required information was provided within 14 days (i.e. by 24 April 2003) a report would be submitted recommending the application be refused.

The Development Committee considered a report on 3 June 2003 and whilst the report recommended refusal the Committee, at the request of the applicant, deferred the application for a further report to the first meeting of the Development Committee in July. Telephone discussions were held with the architect to clarify the necessary documentation and information needed to progress the application. A letter was received on 11 June 2003 from the architect confirming that amended plans were being prepared with a view to further discussion with Council staff.

The owner and the architect attended Council on 30 June 2003 to discuss the draft amendments. It was indicated at the meeting that the various planning controls that applied to the Meadowbank area had come into effect on 17 June 2002 and the development would be assessed against their provisions especially DCP 38. It was advised that any inconsistency with those controls would need to be justified in writing when the amended plans were submitted. It was indicated that the amended plans would be submitted towards the end of July or early in August.

Council resolved that the application “be deferred to allow submission of amended plans and that the matter be reported to the Development Committee at the appropriate time”.

Amended plans were received 23 September 2003 that were accompanied by an amended statement of environmental effects. In relation to compliance with Meadowbank DCP38 it was indicated that:

- The DCP allowed 3-4 storeys while the proposal was 2 storey.
- 1:1 FSR was allowed while the development was 0.883:1.
- The landscaping on Hamilton Crescent West had been increased and the building form amended to retain the Jacaranda tree on the corner.
- Precast and aluminium clad blades and lintels were applied to the façade to create an enhanced visual effect and to reduce the impact of the tilt up panels.
- 61 parking spaces were provided that exceeded the 42 spaces required under the DCP.

On 23 November 2003 a meeting was held with the architect, the owner and Group Manager Environmental Planning where it was indicated that:

- The current plans could be processed under the savings provisions at the Meadowbank LEP.
ITEM 2 (Continued)

- Consideration should be given to a development that was more in keeping with the Meadowbank planning controls (e.g., commercial) as they may result in increased development opportunities. Various follow-up letters and telephone calls were made over a 6-month period in an attempt to obtain information whether amended plans would be submitted. The architect advised that the owner was conducting appropriate market research to indicate the market demand.

On 17 December 2004, the architect advised that their research indicated that there was a demand for industrial, there was no foreseeable demand for commercial tenancies and the 150% increase in construction costs for commercial over industrial was not warranted. A feasibility assessment was provided in support of their preferred option to proceed with a "traditional" industrial development of the site. Some amendments were made to the development in response to issues raised by objectors and having regard to the discussion in respect of the Meadowbank Planning Controls:

- The building was altered to provide a solid building form across the northern end (towards Constitution Road) so that the building would act as a noise and visual barrier from vehicles using the loading and unloading facilities.
- The setback to Constitution Road was increased to 11m to ensure the retention of the existing Jacaranda as well to provide for an additional tree.
- The pedestrian access to Constitution Road was deleted so that all access is from Hamilton Crescent West.
- The appearance of the building was altered to provide a façade treatment to Constitution Road and Hamilton Crescent West by the use of aluminium screen elements, glazed wall sections, precast wall sections, ribbed panel sections with vertical and horizontal blade elements to provide depth and articulation to the façade. This will enable the building to more resemble a commercial building rather than an industrial building.

**REFERRALS:**

**Development Engineer:** The proposed development on plans substantially complies with Council’s requirements. The following conditions attached should be placed on any development consent issued. Conditions 61-85 have been included in the recommendation.

**Building Surveyor:** An assessment of the attached application has been made and is satisfactory subject to standard building conditions. Conditions 19-45 have been included in the recommendation.

**Environmental Health Officer:** It is recommended that a deferred commencement approval be issued to enable the site contamination issues to be addressed before any building work commences. The approval should be subject to the following conditions.
ITEM 2 (Continued)

Comment
A deferred commencement consent is not necessary in view of the level of remediation required for industrial development and that much of the remediation work can be carried out under SEPP55 without consent. Conditions 9-18 have been included in the recommendation.

OFFICER’S ASSESSMENT:

The assessment contained in this report is a summary of the matters deemed relevant to this development proposal and matters contained in the Department of Infrastructure, Planning and Natural Resources’ Guide to Section 79C – Potential Matters for Consideration.

1. Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Planning Scheme Ordinance

(i) Zoning

The site is zoned Business (urban village) 3 (UV) under the Ryde Planning Scheme Ordinance, as amended by LEP 120 on 17 June 2002. Clause 80A provides that development applications lodged prior to this date can be assessed as if LEP 120 and the Meadowbank Employment Area DCP had been exhibited but not made or approved. The application was lodged on 27 November 2000 and accordingly has to be assessed under the former General Industrial zone. There is no requirement to assess a draft DCP only a draft LEP.

Clauses 72ZB – 72ZD were proposed in the draft LEP and provided that development had to be consistent with the Meadowbank Employment Area Master Plan. However the Minister waived the requirements relating to the Master Plan subject to the increased landscaping along the Hamilton Crescent West frontage.

(ii) Other Mandatory Requirements

The following are applicable to this application.

<table>
<thead>
<tr>
<th>Ryde PSO</th>
<th>Proposal</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>CL 42. Advertising Signs</td>
<td>To be subject of separate application</td>
<td>NA</td>
</tr>
<tr>
<td>• Consent required</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CL 43. Land used for commercial or industrial purposes</td>
<td>Separate application to be lodged for use</td>
<td>NA</td>
</tr>
<tr>
<td>• No storage, display, sale or advertising on main road frontage without consent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CL 49. Minimum allotment sign</td>
<td>2980m², 90m to Hamilton Crescent West</td>
<td>Yes</td>
</tr>
<tr>
<td>• 1500m² area, 24m area width</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ITEM 2 (Continued)

<table>
<thead>
<tr>
<th>Ryde PSO</th>
<th>Proposal</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>CL 51. Floor Space Ratio</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Zone 4(a) = 1:1</td>
<td>0.843:1</td>
<td>Yes</td>
</tr>
<tr>
<td>CL 72ZB – 72ZD – Meadowbank Employment Area</td>
<td>Minister waived compliance</td>
<td>NA</td>
</tr>
</tbody>
</table>

(b) Relevant SEPPs

SEPP65 – Sydney Harbour Foreshores

Clause 14 provides that development must be in accordance with the master plan unless the Minister waives compliance. On 31 January 2002 DIPNR advised that the Minister has waived compliance subject to the landscaping on Hamilton Crescent West being increased to 2m.

(c) Relevant REP

SREP 22 - Parramatta River

The compliance with the relevant provisions of the above SREP is illustrated in the table below.

<table>
<thead>
<tr>
<th>SREP 22</th>
<th>Proposal</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cl. 13-Industrial &amp; Special Use Zones</td>
<td>Uses to be subject of separate application</td>
<td>NA</td>
</tr>
<tr>
<td>• Certain additional uses permissible</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cl. 20-Matters for Consideration</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Appearance from Water</td>
<td>Not visible</td>
<td>NA</td>
</tr>
<tr>
<td>(b) Pollution or Siltation</td>
<td>Condition 69</td>
<td>Yes</td>
</tr>
<tr>
<td>(c) Impact on Wetlands or Flora &amp; Fauna Habitat</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
<tr>
<td>(d) Noise Generation</td>
<td>Noise during construction subject to conditions 52 &amp; 60, noise associated with use to be considered when application lodged use</td>
<td>Yes</td>
</tr>
<tr>
<td>(e) Impact on Drainage &amp; Foreshore Erosion</td>
<td>Drainage plans submitted</td>
<td>Yes</td>
</tr>
<tr>
<td>(f) Conflicts on Waterway Usage</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
<tr>
<td>(g) Demand for Boat Storage</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
<tr>
<td>(h) Whether Foreshore Location Warranted</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
<tr>
<td>(i) Impact on Views Caused by the Vessel</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
<tr>
<td>(j) Deleted</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
<tr>
<td>(k) AS 3962-1991 Marina Design</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
<tr>
<td>(l) Deleted</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
</tbody>
</table>
ITEM 2 (Continued)

<table>
<thead>
<tr>
<th>SREP 22</th>
<th>Proposal</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>(m) Any Other Relevant Development Control Guidelines</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
<tr>
<td>(n) Heritage impact</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
<tr>
<td>(o) Views of Foreshore Committee</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
<tr>
<td>(p) Impact on Swimming</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
<tr>
<td>(q) Impact on Pedestrian Access</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
<tr>
<td>(r) Type of Access to Foreshore</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
<tr>
<td>(s) Any DCP or Parramatta River Guidelines</td>
<td>Not applicable</td>
<td>NA</td>
</tr>
</tbody>
</table>

Draft Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2004.

The plan will replace SEPP56 (Sydney Harbour Foreshores & Tributaries), SREP 22 (Parramatta River) and SREP 23 (Sydney & Middle Harbours) with a single planning document. The draft plan contains provisions relating to public access to the foreshores and waterways, foreshore scenic quality, boat storage facilities, referral of applications to waterways, heritage provisions, wetland protection and the like.

The proposed development is considered to be consistent with the draft provisions. There are no heritage items listed in the vicinity of the proposed development.

(d) Any draft LEPs

There are none that affect this application other than the consideration of LEP 120 above.

(e) Any DCP

DCP 22A – Car Parking

<table>
<thead>
<tr>
<th>Provision</th>
<th>Proposed</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industry 1 space per 46m² nett</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• 2511m GFA @ 46m² = 54.5</td>
<td>69</td>
<td>Yes</td>
</tr>
<tr>
<td>Assume 50% converted to commercial</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Commercial 1/30m² nett (41.85 spaces)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Industry 1/60m² nett (20.92 spaces)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Total required = 63 spaces</td>
<td>69</td>
<td>Yes</td>
</tr>
</tbody>
</table>

DCP 27 – Waste Minimisation and Management

A waste plan was not submitted with the application as the application predated DCP 27. Condition 3 has been included requiring submission of a waste plan.
ITEM 2 (Continued)

DCP 37 – Access for People with Disabilities

Requires an accessible path from the street to the front door where the level of land permits. An accessible path is available to the front of the development. Disabled parking has been provided adjacent to the front of the building on the Hamilton Crescent West frontage. In addition the amenities are situated on the ground floor and the stairs have been designed to allow the installation of a chair way lift by future tenants should the need arise.

DCP45 – Energy Smart, Water Wise

Conditions 4 & 5 have been included in the recommendation required water efficient devices/appliances.

Meadowbank s94 Contribution

The plan requires contributions for commercial/light industrial development at the rate of $69.06 per m² of additional floor space. The calculation includes an allowance for the existing industrial building and dwelling house situated on the site.

2511m² proposed floor less 160m² existing industrial = 2351m² increase. Existing dwelling = 139m²

<table>
<thead>
<tr>
<th>Works &amp; Services</th>
<th>Industrial Rate</th>
<th>Less Dwelling</th>
<th>$ Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Facilities</td>
<td>2351m² x $7.11</td>
<td>139m² x $15.33</td>
<td>14,584.74</td>
</tr>
<tr>
<td></td>
<td>($16,715.61)</td>
<td>($2,130.87)</td>
<td></td>
</tr>
<tr>
<td>Streetscape Improvements</td>
<td>2351m² x $19.91</td>
<td>139m² x $19.91</td>
<td>44,040.92</td>
</tr>
<tr>
<td></td>
<td>($46,808.41)</td>
<td>($2,767.49)</td>
<td></td>
</tr>
<tr>
<td>Access and Traffic Facilities</td>
<td>2351m² x $19.61</td>
<td>139m² x $19.61</td>
<td>43,377.32</td>
</tr>
<tr>
<td></td>
<td>($46,103.11)</td>
<td>($2,725.79)</td>
<td></td>
</tr>
<tr>
<td>Open Space and Public Domain Improvements</td>
<td>2351m² x $10.12</td>
<td>139m² x $10.12</td>
<td>22,385.44</td>
</tr>
<tr>
<td></td>
<td>($23,792.12)</td>
<td>($1,406.68)</td>
<td></td>
</tr>
<tr>
<td>Stormwater Drainage</td>
<td>2351m² x $9.15</td>
<td>139m² x $9.15</td>
<td>20,239.80</td>
</tr>
<tr>
<td></td>
<td>($21,511.65)</td>
<td>($1,271.85)</td>
<td></td>
</tr>
<tr>
<td>Administration</td>
<td>2351m² x $3.16</td>
<td>139m² x $3.16</td>
<td>6,989.92</td>
</tr>
<tr>
<td></td>
<td>($7,429.16)</td>
<td>($439.24)</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2351m² x $69.06</strong></td>
<td><strong>139m² x $77.28</strong></td>
<td><strong>151,618.14</strong></td>
</tr>
<tr>
<td></td>
<td>(<strong>$162,360.06</strong>)</td>
<td>(<strong>$10,741.92</strong>)</td>
<td></td>
</tr>
</tbody>
</table>

Condition 38 has been included in the recommendation requiring a contribution of $151,618 (see Condition 38).
ITEM 2 (Continued)

2. Likely impacts of the Development

Built Environment

The amended proposal that aims to make the building appear as a commercial building rather than an industrial building is in keeping with the aims of the commercial/industrial precinct controls in the Meadowbank DCP. The building has been designed so that it can be adapted for commercial use should the need arise. It also will allow uses that have a high office component and a low industrial/warehouse component.

Access to the parking area is via Nancarrow Avenue and this with the deleted pedestrian access from Constitution Road should reduce the likelihood of parking in Constitution Road adjacent to the residential area. Condition 6 requires 5 spaces (including the one at ground level) to be marked for visitor parking and that a sign be erected indicating parking access off Nancarrow Avenue. The basement excavation is under part of the site thereby enabling opportunity for further excavation to provide additional parking should the building be converted to commercial at a later stage.

Natural Environment

The only significant vegetation is the existing Jacaranda tree on the Constitution Road frontage. The landscaping plan shows a low reinforced wall (up to 400mm high) on the Constitution Road frontage as well as smaller planter boxes to allow deep soil planting. A second Jacaranda tree is also proposed on the Constitution Road frontage to provide a uniform landscaping theme when viewed from the nearby residential area.

A 2m landscaped strip along Hamilton Crescent West has been provided in accordance with the Minister’s requirements and is to be similarly treated with deep soil planters. At grade landscaping up to 3m wide is proposed on the Nancarrow Avenue frontage.

3. Suitability of the site for the development

The site is within an area that is characterised by older style industrial buildings and uses and as such is suited to the type of redevelopment proposed.

4. Any submissions received

The original plans were notified in accordance with the DCP for Notification between 5 December 2000 and 21 December 2000. As a result of the notification 4 submissions were received from Constitution Road properties. The issues raised were:

- Increase in traffic
- Noise from the loading docks, particularly from large vehicles
- Increase in on street parking
ITEM 2 (Continued)

- Excessive height of the building
- Potential loss of the Jacaranda tree
- Stark bland appearance of the wall of the building
- Noise potential from future users.

The amended plans that were received 23 September 2003 were also notified in accordance with the DCP from 2 October 2003 to 16 October 2003 and included notification to previous objectors. As a result 2 submissions were received, one from Constitution Road and one from the Meadowbank West Ryde Progress Association. The issues raised on the submissions were:

- The proposed development is inappropriate for the surrounding residential and community area, particularly visual impact, traffic noise, increase in heavy vehicles, juxtaposition with the residential area, impact on the Jacaranda tree, fragmentation of control.
- Incongruence with the Meadowbank Master Plan
- Increase in traffic, including trucks, in nearby residential streets.
- The proposal does not offer any benefit to the community.
- Increased traffic noise, particularly from the loading docks.
- Appearance of the development.
- It was suggested that Hamilton Crescent West be closed at Constitution Road and planted with trees.

The most recent amended plans received 17 December 2004 were also notified in accordance with the DCP for Notification between 10 January 2005 and 7 February 2005. All objectors to the two previous plans were notified along with nearby residents. No submissions were received as a result of the notification.

Comment

It seems that the concerns of the residents have been overcome by the amended design:

- The change in configuration of the building creates a solid element across the Constitution Road frontage that will act as a noise and visual barrier and reduce any impact on the residents.
- The increased setback to Constitution Road and the removal of pedestrian access will significantly assist in preserving the existing Jacaranda tree. In addition there is additional landscaping proposed as a result of the increased setback.
- The treatment of the facades facing the street to give the building a “commercial” look as well as the proposed modulation will make the building significantly more attractive than a “normal” industrial approach.

5. The Public Interest

The public interest is served by the redevelopment of the site with a building that is designed to fit into the emerging redevelopment of the Meadowbank area.
ITEM 2 (Continued)

CONCLUSION:

The proposal was originally designed as a normal industrial building but has evolved into a building that has a commercial character in keeping with the objectives of redevelopment in the Meadowbank area. Much attention has been given to the finish and design of the building that addresses issues raised by objectors to earlier proposals. The application was lodged prior to the coming into effect of the Meadowbank controls and accordingly has to be assessed under the previous provisions. It complies in all respects and no submissions were received as a result of notification of the recent plans. The application is recommended for approval subject to conditions.

RECOMMENDATION:

That Local Development Application No. 1043/2000 to demolish the existing buildings and erect 6 strata titled industrial units at 18 Constitution Road and 21-23 Nancarrow Avenue, Meadowbank, being lots 1 and 2 DP 810552, be approved subject to the following conditions:

1. Development is to be carried out in accordance with the Plans No. A001 – A004, A010 – A011 dated 10/12/2004, drainage plans S0009B dated July 20001 and support information submitted to Council.

2. All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.

3. A waste management plan, prepared in accordance with the requirements of DCP 27, shall be submitted prior to issue of the Construction Certificate and shall be approved by the PCA.

4. Any hot water systems installed as part of the development must achieve a minimum 3.5 Star Greenhouse Score. The energy rating of the hot water system should be visible on the product at the place of purchase.

5. Water Efficient Fixtures - Showerheads and toilet cisterns shall be at least AAA rated water efficient. Bathroom and kitchen taps shall be fitted with aerators and water closets shall have a dual flush cistern.

6. Spaces 32 – 36 within the basement and space 57 on the ground floor shall be designated for visitor parking. A sign shall be displayed on the Hamilton Crescent West frontage indicating parking is via Nancarrow Avenue. Details to be shown on the Construction Certificate plans.

7. Prior to commencement of excavation detailed dilapidation reports shall be prepared on adjoining buildings that are situated wholly or partly within an area that is equivalent to the depth of the excavation. Copies of the report shall be provided to the owner of the respective property prior to commencement of excavation.
ITEM 2 (Continued)

8. The use of hydraulic hammers, large excavations and the like during excavation of the fill, clays and upper sandstone should be monitored by vibration monitoring specialists to ensure transmitted vibrations do not damage nearby structures.

Environmental Health Conditions

9. The land must be remediated to the extent necessary for the proposed use and a satisfactory validation report submitted to Council and approved prior to issue of the **Construction Certificate**.

10. All remediation work must be carried out in accordance with the requirements of State Environmental Planning Policy No. 55 – Remediation of Land.

11. All sanitary plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation by a licensed plumber and drainer.

12. Every habitable room, sanitary compartment or other room occupied by a person for any purpose must be provided with adequate natural ventilation or a system of mechanical ventilation.

13. The covered carpark must be provided with an adequate system of permanent natural ventilation or a system of mechanical ventilation complying with AS1688.

14. Details of any proposed mechanical ventilation or air conditioning works must be submitted to Council or an accredited private certifier and a **Construction Certificate** issued for that work before that work is commenced. Such details must include:

   (a) Plans and specifications of the proposed works that must be properly drawn to a suitable scale.

   (b) A plan properly drawn to a suitable scale showing the location of any proposed cooling towers, fresh air intakes and exhaust air discharges on the site, and any existing cooling towers, fresh air intakes, exhaust air discharges and natural ventilation openings on the site and any adjacent buildings.

   (c) A Mechanical Services Design Certificate from an appropriately qualified person which certifies in the form of Attachment M1 that the proposed works comply with the Building Code of Australia and the Public Health Act 1991.

   (d) Documentary evidence in support of any departures from the deemed-to-satisfy provisions of the Building Code of Australia.
ITEM 2 (Continued)

15. Where any mechanical ventilation and air conditioning work has been carried out a Mechanical Services Completion and Performance Certificate must be submitted to the Principal Certifying Authority for consideration before the building is occupied. The Mechanical Services Completion and Performance Certificate must be from an appropriately qualified person and be in the form of Attachment M2.

16. The use of the premises and any plant or equipment installed on the premises must not cause the emission of smoke, dust, solid particles, gases, fumes, vapours, mists, odours or other air impurities that are a nuisance or danger to health.

17. The operation of any plant or equipment installed on the premises must not cause:

(a) A noise level (LA_{eq,T}) that exceeds the background noise level (LA_{90,T}) by more than 5dB(A) when measured in or on any residential or other noise sensitive areas in the vicinity (e.g. schools, hospitals, etc.);

(b) An “offensive noise” as defined in the Protection of the Environment Operations Act 1997); or

(c) The transmission of vibration to any place of different occupancy.

18. A separate development application being submitted to Council for the use of each industrial unit.

General Conditions

19. The occasions on which building work must be inspected are:

(a) at the commencement of the building work, and
(b) prior to covering any stormwater drainage connections, and
(c) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council’s approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the Principal Certifying Authority and be made available to Council officers upon request.

Prior to occupation of the building, an occupation certificate must be obtained. Prior to the issue of the occupation certificate, the mandatory inspections must be carried out.
ITEM 2 (Continued)

20. In addition, to the above stated inspections, Council or an accredited certifier is required to ensure that adequate provisions are made for the following measures at each stage of construction, to ensure compliance with the approval and Council's Development Control Plan 42 for Construction Activities:

   i) Sediment control measures  
   ii) Tree Preservation and protection measures  
   iii) Security fencing  
   iv) Materials or waste containers upon the footway or road.  
   v) PCA and principal contractor (the co-ordinator of the building work) signage and site toilets.

21. In issuing this approval, Council has relied on the information provided by you about the siting of the building/structure on the allotment. If this information is incorrect, it is your responsibility to correct the errors. It may be advisable to undertake a land survey prior to commencing any works.

22. A certificate from a suitably qualified person is to be submitted to the Principal Certifying Authority (and Council if Council is not the PCA) that the method of waterproofing wet areas has been provided in accordance with Part 3.8.1 of the Building Code of Australia and the requirements of the Australian Standard 3740 prior to wall tiling.

23. A Registered Surveyors check survey certificate, or compliance certificate, is to be submitted to the Principal Certifying Authority (and Council if Council is not the PCA) detailing compliance with Council's approval at the following stages:

   a) After excavation work for the footings, but prior to pouring of concrete, showing the land, proposed building and the boundary setbacks and verifying that the proposed building is being constructed to the approved levels  
   b) On completion of the proposed building showing the area of the land, completed building and the boundary setbacks

24. A Fire Safety Certificate/s from a suitably qualified person/s is to be submitted to Council or an accredited certifier (and Council if Council is not Council or an accredited certifier) for all the essential services installed in the building in accordance with Clause 170 and 171 of the Environmental Planning and Assessment Amendment Regulation 2000.

25. All excavated material must be removed from the site. No fill is to be placed above the natural ground level.

26. The applicant is to submit to and have approved by Council or an accredited certifier engineers details for all concrete work and structural steelwork prior to the issue of the Construction Certificate.
ITEM 2 (Continued)

27. Treads, risers and balustrades to comply with the Building Code of Australia Part 3.9.1 and Part 3.9.2. Balustrading is to be a minimum 1.0 metre high and any openings are not to exceed 125mm.

28. Sanitary facilities for people with disabilities shall be provided in accordance with Clause F2.4 Table F2.4 of the BCA and to the standards set out in AS 1428.1.

29. Access for disabled people shall be provided in the building or portion of the building in accordance with Part D3 of the BCA and to the standards set out in AS 1428.1.

30. Materials used in the building including floor coverings, shall comply with the requirements of Clause C1.10 and Specification C1.10 of the BCA, with regard to restrictions concerning early fire hazard properties of materials, spread of smoke and flame.

31. An emergency lighting system shall be installed in the building to:

   i) fire isolated stairways;
   ii) fire isolated ramps;
   iii) fire isolated passageways;
   iv) passageways, corridors, hallways or the like that is part of the path of travel to an exit;
   v) required non-fire isolated stairs;
   vi) all storeys, rooms and spaces having prescribed floor areas; and
   vii) required fire control centre. BCA Clause E4.2.

   Illuminated exit signs shall be installed in the building above or adjacent to:

   i) door providing direct egress from a storey to a required exit;
   ii) door from an enclosed stairway, passageway or ramp at every level of discharge to a road or open space;
   iii) horizontal exit; and
   iv) door serving as, or forming part of a required exit in a storey required to be provided with emergency lighting.

   Design and installation of exit signs shall comply with AS 2293.1 and the following:

   i) Exit signs shall be clearly visible to persons approaching the exit and shall be circuit sensing to the general lighting circuit.
   ii) Exit signs shall be green with white lettering and installed to operate continuously in the event of a power failure. BCA Clause E4.5 and E4.8.

   Additional exit signs shall be installed in appropriate positions in corridors, hallways, lobbies, foyers and the like indicating the direction to a required exit. BCA Clause E4.6 (NSW).
ITEM 2 (Continued)

32. The space below a flight of stairs of a required non-fire isolated stairway (including an external stairway) shall not be enclosed to form a cupboard or enclosed space unless the enclosing walls and ceilings have a Fire Resistance Level of not less than 60/60/60 and any access doorway to the enclosed space is fitted with a self closing 60/60/30 fire door. A certificate detailing and certifying the fire resistance levels provided shall be submitted to the Principal Certifying Authority (and Council if Council is not the PCA) prior to the issue of an Occupation Certificate for the building. BCA Clause D2.8.

33. Portable fire extinguishers shall be installed in the building or portions of the building, compatible to the hazard/s posed by equipment or functions associated with the use of the building.

Installation and maintenance of fire extinguishers shall comply with Australian Standard 2444 BCA Clause E1.6.

34. Hose reels shall be installed in the building located not more than 4m from a required exit on each floor of the building and adjacent to any hydrant required within the building. Hose reels shall not be installed in fire isolated exits or where the fire hose will need to pass through a doorway fitted with fire or smoke doors. The nozzle end of a fully extended hose reel when laid to avoid partitions and other barriers shall reach every part of the floor served by the hose reel on that floor. BCA Clause 1.4, Australian Standard 2441.

35. Hydrants shall be designed and installed in the building/s and or on site in accordance with the BCA Clause E1.3 and Australian Standard 2419.1 and so located that:

i) INTERNAL HYDRANTS:

Internal hydrants shall be located in positions that are accessible to fire fighting personnel as follows:

a) within each required fire-isolated exit;
b) within the tenanted space and within 4m of a require non-fire isolated exit;
c) at a position whereby any point on a floor of a building is within reach of a 10m hose stream issuing from a nozzle at the end of a 30m length of hose connected to the hydrant outlet.

NOTE: After erection, the location of storage racking and stored goods may restrict the passage of hose through areas of the building.

ii) EXTERNAL HYDRANTS:

External hydrants shall be located so that:

a) they are accessible to fire brigade personnel;
ITEM 2 (Continued)

b) they are not less than 10m from a wall of a building, although Council may permit the hydrants to be mounted closer to the wall where site conditions so dictate; and

c) they are not obstructed by parking or loading and unloading of vehicles.

Where necessary, external hydrants shall be protected from mechanical damage.

In any case, hydrants shall not be mounted on external walls, which have a fire resistance rating less than FRL 90/90/90. Where a hydrant is permitted to be mounted on an external wall, the hydrant shall be located so that the FRL 90/90/90 wall extends not less than 2m on each side of the hydrant and whichever is the lesser, 3m from ground level or the height of the wall.

Hydrants that are installed by water supply authorities on street mains may be considered as external hydrants, provided that such hydrants comply with the requirements for flow and pressure given in AS 2419.

36. The means of egress is to comply with the provisions of Part D of the Building Code of Australia.

37. Essential Services - The following nominated essential services must be provided within the development to the requirements of the Building Code of Australia, the Environmental Planning and Assessment Act 1979 (as amended) and Regulations.

On completion of the building work and prior to an Occupation Certificate being issued, the owner of the building must provide to the Consent Authority (i.e. Ryde City Council) a Fire Safety Certificate from a competent person with respect to each essential service nominated in the below schedule.

NOTE: At least once in each period of twelve months after the initial Fire Safety Certification has been provided to the Consent Authority, the owner of the building must provide to Council a further certification with respect to each essential service nominated in the attached schedule.

A list of fire safety measures to be installed in the building to form part of the Notice of Determination for the proposed development.
ITEM 2 (Continued)

Note: Fire Safety Schedule and Final Fire Safety Certificate are to be prominently displayed in the building and a copy submitted to the NSW Fire Brigades by the owner / agent.

<table>
<thead>
<tr>
<th>Proposed</th>
<th>Statutory Fire Safety Measures</th>
<th>Design &amp; Installation</th>
<th>Maintenance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Emergency lighting</td>
<td>E4.2, E4.4 (BCA)</td>
<td>AS2293.2–1995</td>
</tr>
<tr>
<td>2</td>
<td>Exit signs</td>
<td>Part E4.5-4.8 (BCA)</td>
<td>AS2293.2–1995</td>
</tr>
<tr>
<td>3</td>
<td>Fire Hydrant systems</td>
<td>E1.3 (BCA), AS2419.1-1994</td>
<td>AS1851.4-1992</td>
</tr>
<tr>
<td>4</td>
<td>Hose reel systems</td>
<td>E1.4 (BCA)</td>
<td>AS1851.2–1995</td>
</tr>
<tr>
<td>5</td>
<td>Portable fire extinguishers</td>
<td>E1.6 (BCA), AS2444-1995</td>
<td>AS1851.1-1995</td>
</tr>
</tbody>
</table>

38. A contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of the Construction Certificate.

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Facilities</td>
<td>14,584.74</td>
</tr>
<tr>
<td>Streetscape Improvements</td>
<td>44,040.92</td>
</tr>
<tr>
<td>Access and Traffic Facilities</td>
<td>43,377.32</td>
</tr>
<tr>
<td>Open Space and Public Domain Improvements</td>
<td>22,385.44</td>
</tr>
<tr>
<td>Stormwater Drainage</td>
<td>20,239.80</td>
</tr>
<tr>
<td>Administration and Studies</td>
<td>6,989.92</td>
</tr>
</tbody>
</table>

The total contribution is 151,618.00

This contribution is a contribution under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Meadowbank Section 94 Contributions Plan dated December 2001.

The above amount, if not paid within one calendar year of the date of this consent, shall be adjusted for inflation by reference to the "Implicit Price Deflator – Gross Fixed Capital Expenditure – Total Public" index published by the Australian Bureau of Statistics (Catalogue No 5206.0) on an annual basis in accordance until such time as the contribution is paid.
ITEM 2 (Continued)

39. A security deposit is to be paid to Council (Public Facilities and Services Group) being a deposit of $4000 as well as the infrastructure inspection fee in accordance with the requirements of Council’s Management Plan (scheduled fees).

40. **Enforcement levy** is to be paid to Council on lodgement of the **Construction Certificate** application in accordance with the requirements of Council’s Management Plan (scheduled fees).

41. 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 received.

42. Documentary evidence of compliance with Conditions 38-41 to the satisfaction of Council or an accredited certifier is to be submitted to the Council prior to the issuing of the **Construction Certificate**.

43. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then follow the “e-Developer” icon or telephone 13 20 92.**

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

   A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority prior to the **Construction Certificate** being issued.

   The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the linen plan/occupation of the development.

44. Please contact Energy Australia’s Local Customer Service Office to obtain documentary evidence that Energy Australia has been consulted and that their requirements have been met.

Energy Australia
Building No. 2 Bridge Road (near Sherbrook Road) Hornsby
Telephone: 9477 8201
Facsimile: 9477 8295
Postal Address: GPO Box 4009, Sydney NSW 2001
Website Address: [www.energy.com.au](http://www.energy.com.au)
ITEM 2 (Continued)

This information is to be submitted to Council prior to the release of the Subdivision Certificate/Occupation Certificate.

45. The applicant is to apply to Council, pay the required fee, and have issued street alignment levels by Council prior to the issue of the Construction Certificate.

46. Trees that are to remain on site are to be protected against damage during construction. All mature trees to remain shall be clearly marked and a fence erected around their drip line. A qualified arborist shall inspect the tree protection measures and documentary evidence of tree protection measures is to be submitted to Council prior to the issuing of the Construction Certificate.

47. In relation to demolition, all work is to be carried out in accordance with the requirements of AS2601.1991 (The Demolition of Structures).

48. Security fencing shall be provided around the perimeter of the building/demolition site and precautionary measures taken to prevent unauthorized entries of the site at all times during demolition and construction.

49. Signage is to be provided on the site as follows:

   a) During the demolition process notices lettered in accordance with AS1319 displaying the words “DANGER - DEMOLITION IN PROGRESS” or a similar message shall be fixed to the security fencing at appropriate places to warn the public.

   b) During the entire construction phase signage shall be fixed on site identifying the PCA and principal contractor (the coordinator of the building work), and providing phone numbers.

50. Site toilets shall be provided in accordance with the WorkCover Code of Practice entitled “Amenities for Construction Work”.

51. 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 AS1742.3-1996 “Traffic Control Devices for Work on Roads”.

52. All demolition and all construction and associated work is to be restricted to between the hours of 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No work is to be carried out on Sunday or public holidays.

53. No spoil, stockpiles, building or demolition material is to be placed on any public road, footpath, park or Council owned land.
ITEM 2 (Continued)

54. Adequate precautions must be taken to control the emission of dust from the site during demolition and construction work. These precautions could include minimizing soil disturbance, use of water sprays, erecting screens and not carrying out dusty work during windy conditions.

55. All work involving asbestos products and materials, including asbestos-cement sheeting (i.e. fibro) must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.

56. All asbestos wastes including used asbestos-cement sheeting (i.e. fibro), 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 kept by the applicant for at least 3 years and be submitted to Council on request.

57. Adequate arrangements must be made for the storage and disposal of demolition and building waste generated on the premises. In this regard the demolishers and builders are encouraged to maximize the re-use and recycling of materials (e.g. Concrete, bricks, roof tiles, timber, doors, windows, fittings, etc.) by separating these materials from other wastes.

58. Concrete wastes must be collected, stored and treated in accordance with the Concrete Wastes guide published by the Environment Protection Authority and details of compliance must be submitted to Council or an accredited certifier before the issue of the Construction Certificate.

59. Only unpolluted water is to be discharged to Council’s stormwater drainage system.

60. The L_{10} noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB (A) at the nearest affected residential premises.

Engineering Conditions General

61. **Design and Construction Standards.** All engineering plans and work shall be carried out in accordance with the requirements as outlined within Council’s publication Environmental Standards Development Criteria and relevant Development Control Plans except as amended by other conditions.

62. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant’s expense.
ITEM 2 (Continued)

63. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment.

64. **Engineering Compliance Certificates.** Engineering Compliance Certificates must be obtained for the following works at the specified stage (If Council is appointed the PCA then the appropriate inspection fee is to be paid to Council) and submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate:

- Prior to backfilling of pipelines in which Council has an interest.
- Prior to backfilling of drainage connections to pipelines or channels in which Council has an interest.
- Prior to casting of pits and other concrete structures in which Council has an interest including kerb & gutter, accessways, aprons, pathways, vehicular crossings, dish crossings and pathway steps.

**NOTE:** Council has an interest in all pipelines which drain public reserves and public road reserves, and in all structures located within public road reserves.

All Engineering Compliance certificates are to contain the following declarations:

a) *This certificate is supplied in relation to <<address of property>>.*

b) *<<name of engineer and company >> have been responsible for the supervision of all the work nominated in (a) above.*

c) *I have carried out all tests and inspections necessary to declare that the work nominated in (a) above has been carried out in accordance with the approved plans, specifications, and the conditions of the development consent.*

d) *I have kept a signed record of all inspections and tests undertaken during the works, and can supply the Principal Certifying Authority [PCA] with a copy of such records and test results if and when required.*

**Engineering Conditions to be complied with Prior To Construction Certificate**

65. **Kerb and Gutter Works.** The applicant shall, at no cost to Council, construct kerb and gutter, and paved road shoulder where the same does not exist, across the entire frontage of the land adjacent to the development site. **Design plans are to be submitted to, and approved by Ryde City Council.**

66. **Road Pavement Works.** The applicant shall, at no cost to Council, construct half road pavement where the same does not exist or the existing pavement is unsatisfactory, across the entire frontage of the land adjacent to the development site. **Design plans are to be submitted to and approved by Ryde City Council.**
ITEM 2 (Continued)

67. **Driveway** A concrete driveway is to be constructed from the cul-de-sac to the eastern boundary within the Nancarrow Avenue road reserve. The road and drainage works are to comply with Council’s Environmental Standards Development Criteria Series and the design by a qualified Civil Engineer is to be submitted to and approved by Council prior to the issue of the Construction Certificate. All works within the road reserves are to be supervised by Council’s engineer and completed to Council engineer’s satisfaction.

68. **Retaining Wall** A geotechnical report by a qualified Civil Engineer is to be submitted to Council to assess the stability of the elevated section of the driveway within the Nancarrow Avenue road reserve and design a suitable retaining structure. The structure is not to encroach onto the adjacent driveway section on the southern side of Nancarrow Avenue. The geotechnical report and design are to be submitted to and approved by Council prior to the issue of Construction Certificate. All works within the road reserves are to be supervised by Council’s engineer and completed to Council engineer’s satisfaction.

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

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

(a) Existing and final contours  
(b) The location of all earthworks, including roads, areas of cut and fill  
(c) Location of all impervious areas  
(d) Location and design criteria of erosion and sediment control structures  
(e) Location and description of existing vegetation  
(f) Site access point/s and means of limiting material leaving the site  
(g) Location of proposed vegetated buffer strips  
(h) Location of critical areas (drainage lines, water bodies and unstable slopes)  
(i) Location of stockpiles  
(j) Means of diversion of uncontaminated upper catchment around disturbed areas  
(k) Procedures for maintenance of erosion and sediment controls  
(l) Details for any staging of works  
(m) Details and procedures for dust control.
ITEM 2 (Continued)

70. **Traffic Management.** Traffic management procedures and systems must be in place and practised during the construction period to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with **AS 1742.3 2002** and Council’s Development Control Plan for Construction Activities “DCP 42”.

   A plan of traffic management is to be submitted to and approved by the Consent Authority.

**Engineering Conditions to be complied with Prior to Commencement of Construction**

71. **Sediment and Erosion Control.** The applicant shall install appropriate sediment control devices in accordance with an approved plan prior to any earthworks being carried out on the site. These devices shall be maintained during the construction period and replaced where considered necessary. Suitable erosion control management procedures shall be practiced. This condition is imposed in order to protect downstream properties, Council’s drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

72. **Compliance Certificate.** A Compliance Certificate must be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and Ryde City Council’s Development Control Plan for Construction Activities “DCP 42”.

73. If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council. **The Compliance Certificate must be submitted to the Principal Certifying Authority.**

74. **Truck Shaker.** A truck shaker ramp must be provided at the construction exit point. Fences are to be erected to ensure vehicles cannot bypass them. Sediment tracked onto the public roadway by vehicles leaving the subject site is to be swept up immediately.

75. **Temporary Footpath Crossing.** A temporary footpath crossing must be provided at the vehicular access points. It is to be 4 metres wide, made out of sections of hardwood with chamfered ends and strapped with hoop iron, and a temporary gutter crossing must be provided.

**Engineering Conditions to be complied with Prior to Occupation Certificate**

76. **Compliance Certificates – Engineering.** Compliance Certificates must be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and submitted to the PCA:
ITEM 2 (Continued)

- Confirming that all vehicular footway and gutter (layback) crossings are constructed in accordance with the construction plan requirements and Ryde City Council’s Environmental Standards Development Criteria - 1999.
- Confirming that the constructed driveway is constructed in accordance with the construction plan requirements and Ryde City Council’s Environmental Standards Development Criteria - 1999.
- Confirming that the constructed internal car park and associated drainage complies with AS 2890, the construction plan requirements and Ryde City Council’s Environmental Standards Development Criteria - 1999.
- Confirming that the constructed interallotment drainage system complies with the construction plan requirements and Ryde City Council’s Stormwater Management Development Control Plan “DCP 41”
- Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and Ryde City Council’s Stormwater Management Development Control Plan “DCP 41”
- Confirming that the site drainage system servicing the development complies with the construction plan requirements and Ryde City Council’s Stormwater Management Development Control Plan “DCP 41”
- Confirming that the on-site detention system will function hydraulically in accordance with the approved design.
- Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
- Confirming that the connection of the site drainage system to the trunk drainage system complies with Section 4.7 of AS 3500.3 - 1990 (National Plumbing and Drainage Code).
- Confirming that the footings adjacent to the drainage easements have been constructed to below the zone of influence in accordance Council’s Stormwater Management Development Control Plan “DCP 41”
- Confirming that the vehicular crossing has been removed and the kerb and gutter have been constructed in accordance with Council’s Environmental Standards Development Criteria

77. Footpath Works. The applicant shall, at no cost to Council, excavate and/or fill the footpath adjacent to the subject property so the levels of the footpath comply with the levels specified by Council’s Engineering Services Division. All work which is necessary to join the new footpath levels with the levels in front of the adjoining properties in a satisfactory manner shall be carried out by the applicant. The cost of reconstructing footpath paving or adjusting any services that may be affected shall be borne by the applicant.
ITEM 2 (Continued)

78. **Footpath Paving Construction.** The applicant shall, at no cost to Council, construct standard concrete footpath paving across the frontage of the property. Levels of the footpath paving shall conform with levels issued by Council's Engineering Services Division.

79. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.

80. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor (clearly showing the surveyor's name and the date) clearly showing the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels built in accordance with the approved plan is to be submitted to the Principal Certifying Authority (PCA) and to Ryde City Council if Council is not the nominated PCA. If there are proposed interallotment drainage easements on the subject property, a Certificate from a Registered Surveyor is to be submitted to the PCA certifying that the subject drainage line/s and pits servicing those lines lie wholly within the proposed easements.

81. **Car Parking** All carparking areas are to comply with AS2890. Details by a qualified Civil Engineer are to be submitted on the design plans with the Construction Certificate application.

Prior to Subdivision (Strata or Land)

82. **Positive Covenant.** A positive covenant under Section 88B of the Conveyancing Act 1919 shall be executed and registered against the Title, burdening the common property or Lot with the requirement to maintain the on-site stormwater detention facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council.

83. **88B Instrument.** The submission of an instrument under Section 88B of the Conveyancing Act 1919 plus 2 copies, creating any Easements Positive Covenants and restrictions on use, the Ryde City being the authority empowered to release vary or modify the same

84. **Film Plan of Subdivision.** The submission of a Film Plan of Subdivision plus 5 copies suitable for endorsement by the General Manager pursuant to Section 109C of the Act.

85. **Certification of Building Works.** If Council is not the PCA then certification that all building works as detailed in Local Development Consent No 1043/2000 have been completed in accordance with that consent is to be submitted with the application for the Subdivision Certificate.
ITEM 2 (Continued)

ADVISORY CONDITIONS

1. **Compliance with Building Code of Australia**
   1) All building work (other than work relating to the temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date of the application for the relevant construction certificate or complying development certificate was made)
   2) This clause does not apply to the extent to which an exemption is in force under clause 187 or 188, in the Environmental Planning and Assessment Regulations 2000, subject to any terms of any condition or requirement referred to in Clause 187(6) or 188(4).

2. **Excavations and backfilling**
   1) All excavations and backfill associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
   2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

3. **Retaining walls and drainage**
   If the soil conditions require it:
   a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
   b) adequate provision must be made for drainage

4. **Support for neighbouring buildings**
   If the soil conditions require it:
   1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of and, the person causing the excavation to be made:
      a) must preserve and protect the building from damage, and
      b) if necessary, must underpin and support the building in an approved manner, and
      c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
ITEM 2 (Continued)

2) The 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 clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.

3) In this clause, “allotment of land” includes a public road and any other public place.

5. **Protection of Public Places**

1) If the work involved in the erection or demolition of a building:
   a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
   b) building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

4) Any such hoarding, fence or awning is to be removed when the work has been completed.

6. Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Amendment Act, 1997 are to be complied with:

   i. A **Construction Certificate** is to be obtained in accordance with Section 81A (2)(a) of the Act.
   
   ii. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A (2)(b) of the Act and Form 7 of Schedule 1 to the Regulations.
   
   iii. Council is to be notified at least two (2) days prior to the intention to commence building works, in accordance with Section 81A (2)(c) of the Act and Form 7 of Schedule 1 to the Regulations.

7. The applicant may apply to the Council or an accredited certifier for the issuing of a **Construction Certificate** and to Council or an accredited certifier to monitor compliance with the approval and issue any relevant documentary evidence or certificate/s.

   Council Officers can provide these services and further information can be obtained from Council by telephoning 9952 8222 (Customer Service).

8. The applicant is advised that any erection of signs on advertising structures not indicated on the development consent plans requires the submission of a new development application to Council.
ITEM 2 (Continued)

9. Demolition bond of $3000.00 is to be paid Council prior to the issue of the Construction Certificate.

10. Energy Australia

   Underground and overhead electric cables may exist in this area. In your own interest and for safety, telephone Energy Australia on 13 1525 before excavating or erecting structures.

11. Telephone Installations

   Conduits with draw in wires should be laid in concrete floors to the points where telephone services are required. Consult the local Telecommunications Sales Office for advice.

Liz Coad  
Manager Environmental Assessment  

Don J Smith  
Consultant Town Planner
ITEM 2 (Continued)

No submissions received
ITEM 2 (Continued)
ITEM 2 (Continued)

Annexure A

CITY OF RYDE

ITEM 8

18 CONSTITUTION ROAD, MEADOWBANK. Lots 1 & 2 in DP810552. Local development application for 6 Strata Titled Industrial Units. LDA No. 1043/00. Applicant: Grace Mastro.

INTERVIEW 6.05PM

Manager Environmental Assessment reports 14 May 2003

FILE NO: LDA00/1043

EXECUTIVE SUMMARY

The report considers an application to erect 6 industrial units on the site that is affected by SEPP56 - Sydney Harbour Foreshores that requires the preparation of a Master Plan unless the Minister waives the requirement. The proposal did not comply with the Meadowbank Master Plan that was in draft form at that stage and therefore the Minister was requested to waive the requirement. The Minister on 31 January 2002 waived the requirements for a Master Plan subject to amended plans being submitted showing a 2m landscaped area along the Hamilton Crescent frontage. There have been a number of meetings and follow up letters with the applicant, requesting the amended plans, but despite written reminders these have not been received. It is recommended the application be refused for non-compliance with the Minister's requirements.

Reason for Referral to Committee: Nature of the application.

SITE: (Refer to attached map.)

Address:

18 Constitution Road, Meadowbank on the south east corner of Hamilton Crescent West.

Site Details:

The site has an area of 2980.9m², frontages of 15m (to 7m splay) to Constitution Road, 39.7m to Nancarrow Avenue, 90.2m to Hamilton Crescent West and is presently used as a timber yard.

PLANNING CONTROLS:

The site is zoned Business (urban village) 3 (UV) under the Ryde Planning Scheme Ordinance, as amended by LEP 120 on 17 June 2002. Clause 80A provides that development applications lodged prior to this date can be assessed under the former General Industrial zone. The application was lodged 27 November 2000.
ITEM 8 (Continued)

The land is within the Meadowbank Employment Area and is affected by a number of other planning instruments with the most relevant being SEPP65 – Sydney Harbour Foreshores. Clause 14 provides that development must be in accordance with the master plan unless the Minister waives compliance. The draft master plan had not been considered by Council at that stage (November 2000) and as it was not expected to be submitted to Council until June 2001 the Minister was requested to waive compliance. The major areas of non-compliance were:

- The building setback to Hamilton Crescent West
- The landscape area on Hamilton Crescent West frontage
- Use of tilt up panels not appropriate
- Footpaths on the street frontages not provided.

There was various correspondence over a long period resulting from requests for further information from the Minister and from Council. Planning NSW advised on 31 January 2002 that the Minister had waived the requirement for a master plan subject to the development application being modified to provide a minimum 2m landscaped setback on Hamilton Crescent West.

DEVELOPMENT PROPOSAL:

To demolish all buildings on the site and erect 6 industrial units with associated parking. The 6 industrial units are to have service access from Hamilton Crescent West with most of the car parking in a basement on the southern part of the site that has access from Nancarrow Avenue.

HISTORY:

The applicant was advised of the Minister’s decision on 10 April 2002 and that the following options were available –

- Withdraw the application.
- Submit amended plans complying with the Minister’s requirements.
- Prepare a master plan for the site in accordance with the requirements of SEPP65.
- If none of the above occurs Council has no alternative other than to refuse the application.

A meeting was held with the applicant’s son and the architect on 1 May 2002 to discuss the options. The applicant’s solicitor rang 26 June 2002 and indicated amended plans would be lodged. There were further meetings with the architect on 5 July 2002 and 6 August 2002 where it was also indicated that amended plans would be lodged.
ITEM 2 (Continued)

ITEM 8 (Continued)

Council forwarded letters on 19 June 2002, 17 October 2002 and 10 April 2003 requesting advice on the position of the application. There has been no reply or contact from the applicant since the meeting of 6 August 2002. In Council’s letter of 10 April 2003 the applicant was advised that the matter had been outstanding for a considerable period and that unless the required information was provided within 14 days (i.e. by 24 April 2003) a report would be submitted recommending the application be refused.

CONCLUSION:

Clause 14 of SEPP56 provides that Council cannot grant consent unless the development complies with the master plan or the Minister has waived the requirement. In this instance the Minister has waived the requirement subject to amended plans. Despite a number of meetings and letters over a 12 month period amended plans have not been lodged nor has there been any reply to Council’s correspondence since 6 August 2002. The application is recommended for refusal.

RECOMMENDATION:

That Local Development Application No 1043/2000 to erect 6 strata titled industrial units at 18 Constitution Road, Meadowbank be refused for the following reasons:-

1. The proposed development is inconsistent with the Meadowbank Employment Area Master Plan.

2. The proposed development is not in accordance with the terms of the Minister’s decision set out in the letter dated 31 January 2002 from Planning NSW pursuant to clause 14 of SEPP65 waiving the requirements for a Master Plan.

Liz Coad  
Manager Environmental Assessment

Don J Smith  
Consultant Town Planner
ITEM 2 (Continued)

ITEM 8 (Continued)
ITEM 3


INSPECTION 4.45PM
INTERVIEW 5.00PM

Manager Environmental Assessment Reports 7 June 2005

FILE NO: LDA2004/521

EXECUTIVE SUMMARY

This report considers a proposal to demolish the existing structures on the site and construct a new two storey dwelling, swimming pool & fencing.

The proposal, which exceeds the floor space ratio provisions of Council’s Dwelling Houses & Duplex Buildings DCP and does not comply with the provisions of Council’s Fencing DCP, is considered to have a negative impact on the streetscape.

In addition to the above, Council’s Landscape Architect requires further alteration to the proposal in order to minimise impacts of the development on a significant neighbouring tree.

Accordingly, the application is recommended as a deferred commencement approval so that the FSR & fencing issues in conjunction with the requirements of Council’s Landscape Architect are able to be resolved before the consent is activated.

During notification of the proposal, no submissions were received.

The proposal also involves variations to Council’s DCP in relation to the eaves/gutter setbacks & the pool coping height/landscaping which are discussed in detail further in this report. As these variations have no adverse impact, they can be supported by Council.

Reason for Referral to Development Committee: The development proposes non-compliances with Council policy.

SITE: (Refer to attached map.)

Address : 7 Bigland Avenue WEST RYDE

Site Area : 696.74m²
            Frontage 15.24 metres
            Depth 49.105 metres
ITEM 3 (Continued)

Topography and Vegetation: The site has a maximum fall towards the rear of 5.3 metres. Vegetation to the site consist of two small trees to the front yard and three trees (including one 15m high Lemon-scented Gum tree) to the rear yard. There are two small street trees on the nature strip.

Existing Buildings: Two storey brick dwelling, detached garage, carport, covered pergola and shed.

PLANNING CONTROLS:

Zoning: Residential 'A'
Other:
  • Ryde Planning Scheme Ordinance
  • Dwelling Houses & Duplex Buildings Development Control Plan No. 17A
  • Stormwater Management Development Control Plan No. 41
  • Fencing DCP No. 36
  • Waste Minimisation and Management Development Control Plan No. 27

DEVELOPMENT PROPOSAL SUMMARY:

Demolition and construction of a new two storey dwelling, swimming pool and fencing.

The two storey dwelling consists of the following:

Ground Floor: family, living, kitchen, dining, pantry, guest room, games room, piano room, laundry, lounge, bathroom, double garage & elevated patio to the rear.

First Floor: Three bedrooms, study, sewing room, en-suite, three balconies to the rear of the dwelling and one balcony to the front of the dwelling.

The construction of the dwelling consists of cavity brick walls (ground floor), brick veneer walls (first floor), terracotta tile roofing and a render/paint finish.

BACKGROUND:

• On 15 June 2004, LDA No. 521/2004 was lodged with Council.

• On 23 June 2004, a letter from Pre-Assessment Team highlights concerns regarding FSR, the pool coping height, privacy and the removal of a large tree to the rear yard.
ITEM 3 (Continued)


- On 7 July 2004, a letter from Council advises the applicant that after a review of the information submitted to Council, the proposal is still not satisfactory and that amended plans are required in 7 days or the application will be refused.

- On 19 July 2004, a fax from the applicant includes a sketch for Council to consider. That same day Council’s Client Manager rang the applicant to advise that the sketch was an improvement however still does not comply with the DCP.

- On 19 October 2004, a letter from Council advises that amended plans/information as requested by Council are to be submitted within 7 days.

- On 13 January 2005, amended plans/information were submitted to Council along with elevations and shadow diagrams, however, the hydraulic plans were not submitted despite being listed on the letter supporting the amended architectural plans. The applicant was advised by phone of this oversight, and further advised that the application still could not proceed without this information. He was given 7 days to provide the information otherwise the application would proceed to determination and would more than likely be refused in the absence of the outstanding information.

- On 8 February 2005, the application was notified to neighbouring properties for a 14 day period until 22 February 2005. During this period no submissions were received.

- On 23 February 2005, a site inspection was conducted by Council’s Assessment Officer.

- On 23 February 2005, plans were submitted with NatHERS approval.

- On 3 March 2005 & 4 March 2005, letters from Council’s Assessment Officer advise the applicant of issues identified with the application relating to FSR, overshadowing, energy efficiency, fencing, landscaping, pool fencing & drainage. Furthermore, the applicant was advised of the assessment being undertaken by Council’s Landscape Architect.

- On 7 April 2005, a 7 day letter was issued requesting amended plans to be submitted by 15 April 2005.

- On 26 April 2005, final amended plans were submitted to Council.

- On 5 May 2005, a letter to the applicant advises that it is not Council practice to accept an indication on the plan that a drainage easement will be granted though adjoining properties without a level of certainty that the development can occur.
ITEM 3 (Continued)

- On 16 May 2005, a letter was submitted by the applicant indicating that the downstream property owner (9 Hall Street, West Ryde) is willing to grant a drainage easement.

- On 19 May 2005, the amended plans submitted to Council on 26 April 2005, were notified to neighbouring properties for a 14 day period ending 2 June 2005. During this period no submissions were received.

REFERRALS:

Development Engineer, 19 May 2005:
Council’s Development Engineer raises no objections to the proposal subject to conditions 49-66.

Landscape Architect, 7 June 2005:

I have some concerns regarding the subfloor storage areas. Access to these storage areas requires substantial excavation and retaining wall construction, within the rootzone of the neighbour’s Stringybark (Eucalyptus sp) which is estimated to be only 1.5m from the common boundary. I have no doubt that these works would deleteriously affect the tree and that the house should be redesigned so as to require: no changes of level within the rootzone of the tree, and no structures other than the immediate footprint of the house, occurring within the rootzone of the tree. This could possibly be combined with the requirement for a reduction in floor space. As part of deferred commencement an arborist's report should be submitted outlining the management and protection of the Lemon Scented gum tree (rear of subject site) and the neighbouring Stringybark tree during the construction period – see Deferred Commencement conditions 3 & 4.

OFFICER’S ASSESSMENT:

The assessment contained in this report is a summary of the matters deemed relevant to this development proposal and matters contained in the Department of Infrastructure, Planning and Natural Resources’ Guide to Section 79C – Potential Matters for Consideration.

1. Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Planning Scheme Ordinance

   (i) Zoning

   Residential 'A'.
ITEM 3 (Continued)

(ii) Mandatory Requirements

Clause 46 (1)(a) specifies that a dwelling shall not be erected on an allotment that is not hatchet-shaped unless, it has a site area of not less than 580 square metres; a frontage to a public road of not less than 10 metres; and a width of not less than 15 metres at a distance of 7.5 metres from the alignment of the public road.

The subject site has an area of 696.74m$^2$; a frontage of 15.24 metres; a width throughout the length of the site of 15.24 metres and therefore complies with Council’s minimum site requirements.

(b) Dwelling houses & Duplex Buildings DCP 17A

<table>
<thead>
<tr>
<th>Council's Code</th>
<th>Proposed</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Floor Space Ratio</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0.50:1 (348.37m$^2$)</td>
<td>0.527:1 (367.6m$^2$)</td>
<td>No* Refer to below table for comments.</td>
</tr>
<tr>
<td><strong>Setbacks</strong></td>
<td></td>
<td></td>
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<tr>
<td>Front:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Not less than 6m for 50% of the</td>
<td>Garage: 7m to 9.47m</td>
<td>Yes</td>
</tr>
<tr>
<td>frontage and not less than 7.5</td>
<td>Lounge: 6m to 8.3m</td>
<td></td>
</tr>
<tr>
<td>metres for 50% of the frontage,</td>
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<td>when the streetscape is</td>
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<td>changing.</td>
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<tr>
<td>Side/rear:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.5m (Two storey)</td>
<td>1.5 metres (min)</td>
<td>Yes</td>
</tr>
<tr>
<td>900mm (single storey)</td>
<td>900mm</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Eaves/gutters:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1275mm minimum (Two storey)</td>
<td>1.1m approx</td>
<td>No* Refer to below table for comments.</td>
</tr>
<tr>
<td></td>
<td>No specific dimensions are</td>
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<td>indicated on the drawings</td>
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<td>however the eaves/gutters as</td>
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<td>scaled off the drawings are</td>
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<tr>
<td></td>
<td>less than 1275mm from the</td>
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<td></td>
<td>allotment boundary.</td>
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<tr>
<td><strong>Height</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7m (Upper ceiling)</td>
<td>6.88 metres (max)</td>
<td>Yes</td>
</tr>
<tr>
<td>9m (Ridge)</td>
<td>7.824 metres (max)</td>
<td>Yes</td>
</tr>
</tbody>
</table>
ITEM 3 (Continued)

<table>
<thead>
<tr>
<th>Council's Code</th>
<th>Proposed</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Coverage</td>
<td>Two storey element is not to extend beyond the established building zone</td>
<td>The first floor level of the dwelling does not extend beyond the established building zone. Yes</td>
</tr>
<tr>
<td>Parking</td>
<td>2 parking spaces behind the building line</td>
<td>2 car spaces behind the building line (double garage) Yes</td>
</tr>
<tr>
<td>Stormwater</td>
<td>Drainage is to be piped in accordance with DCP No.41 “Stormwater Management”.</td>
<td>Stormwater to easement via an on-site detention system. Yes, subject to engineering conditions of consent.</td>
</tr>
<tr>
<td>Pool Fencing</td>
<td>Isolation fencing in accordance with the Swimming Pools Act 1992 &amp; Council requirements</td>
<td>Pool is isolated from the dwelling. Yes- full compliance through conditions.</td>
</tr>
<tr>
<td>Pool Coping Height</td>
<td>Maximum 500mm above natural ground level</td>
<td>400mm (minimum) to 1.25m (maximum) above the natural ground level No* Refer below the table for comments.</td>
</tr>
<tr>
<td>Pool Coping Setback</td>
<td>The pool coping is to be set back 900mm from the boundary (measured from the outside edge of the pool coping) to allow for amenity screen planting.</td>
<td>The pool coping setback is 900mm however screen landscaping has not been provided. No* Refer below the table for comments.</td>
</tr>
</tbody>
</table>

NON-COMPLIANCES

Floor Space Ratio

The DCP requires a maximum floor space ratio of 0.5:1.
ITEM 3 (Continued)

The applicant proposes an FSR of 0.527:1, which equates to a total of 19.23m² (approx) floor area in excess of the maximum FSR permitted by the DCP.

Given that the streetscape consists of predominantly single storey modest dwellings and all of the main visual bulk of the dwelling is contained above the natural ground level, a reduction in the gross floor area of the proposal is considered warranted. This will ensure new built form that is compatible with the desired future neighbourhood character of the area and will minimise amenity impacts onto neighbours. See Condition 1 in ‘Part 1’ of the ‘Recommendation’ in this report.

Eaves/gutters setback

The DCP requires two storey eaves/gutters to be set back 1275mm (minimum) from the allotment boundary.

The applicant proposes a two storey eaves/gutter set back of 1100mm (minimum) from the side allotment boundary.

The eaves overhang of 250mm and gutter width of (150mm approx) is not considered to have any adverse impacts on the amenity of the adjoining properties or the streetscape. The eaves width proposed is similar to other dwellings within the Council area and provides for a more energy efficient dwelling.

Accordingly, the proposal is considered acceptable notwithstanding the eaves setback non compliance.

Pool coping height/ provision of amenity screen planting between pool & boundary

The DCP requires pool coping to be a maximum of 500mm high above the natural ground level and amenity screen planting to be provided between the pool coping and allotment boundary. This is to ensure that the privacy of adjoining properties is not adversely impacted upon.

The applicant proposes a pool coping height of 1.7m (maximum) above the natural ground level. This is predominantly a result of the topography of the land, which falls towards the rear.

Despite the pool coping height above Council’s maximum and no screen planting provided between the pool coping and allotment boundary, overlooking towards adjoining private open space is minimal due to the following:

- The patio incorporates 1.5 metre high louvres to either side; and
- Persons are only able to stand on the northern side (where louvres are proposed) and western side (where an adequate degree of separation is provided between the pool and adjoining main private open space) of the pool; and
- Existing and proposed screen landscaping located to the rear of the deck.
ITEM 3 (Continued)

Fencing Development Control Plan No. 36

<table>
<thead>
<tr>
<th>Council’s Code</th>
<th>Proposed</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fencing Height</strong></td>
<td></td>
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</tr>
</tbody>
</table>
| Front: Up to 1.8 metres height if 50% transparent. | Piers: 844mm (max)  
Solid portion of fence between piers: 482mm (max) | Yes |
| Return: Up to 1.8 metres height if 50% transparent. | 1.0 metre high maximum | Yes |
| **Fencing Materials** | | |
| Front & return fences are not to be of paling construction. | Front: render/paint finish masonry with black powdercoated aluminium balustrade to the top of the rendered masonry wall.  
Return: As above & part timber paling construction. | Yes |
| | No, however compliance can be achieved through conditions. See Condition 2 in ‘Part 1’ of the ‘Recommendation’ in this report. | |
ITEM 3 (Continued)

Energy Smart, Water Wise Development Control Plan. 45A

<table>
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<tr>
<th>Council’s Code</th>
<th>Proposed</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>NatHERS Certificate</td>
<td>3.5 star NatHERS Certificate with a minimum 3.5 greenhouse score</td>
<td>Yes</td>
</tr>
<tr>
<td>Insulation</td>
<td>Insufficient information submitted on plans.</td>
<td>Yes - compliance through general conditions</td>
</tr>
<tr>
<td>R3.0 or equivalent insulation is to be installed to any additional or replacement ceiling and roof.</td>
<td>R1.5 insulation to brick veneer walls &amp; R1.0 insulation to cavity brick walls in accordance with NatHERS Certificate.</td>
<td>Yes</td>
</tr>
<tr>
<td>R1.5 insulation to walls to cavity brick walls</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hot Water Systems</td>
<td>Location &amp; rating of HSW is shown on ground floor plan.</td>
<td>Yes</td>
</tr>
<tr>
<td>Water Efficient fixtures</td>
<td>Details of compliance noted on drawings.</td>
<td>Yes</td>
</tr>
<tr>
<td>Clothes drying facilities</td>
<td>The location of an external clothes line has been indicated on the Landscape Plan.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
ITEM 3 (Continued)

Stormwater Management Development Control Plan No. 41

The implications of this DCP have been considered with the assessment that has been carried out by Council's Development Engineer.

Waste Minimisation and Management Development Control Plan No. 27

A Waste Management Plan has been submitted with the application in accordance with the above DCP.

2. Likely impacts of the Development

Built Environment

The streetscape within Bigland Avenue is characterised by single storey brick dwellings, with the exception of the subject site (existing two storey dwelling) and No. 17 Bigland Avenue, which contains a modest first floor addition. Accordingly, the bulk & scale of the proposed dwelling is not considered to compliment surrounding development or enhance the streetscape. As such, a deferred commencement condition is considered appropriate in order to reduce the floor space ratio of the dwelling.

The proposed dwelling has been designed in a manner that will maintain an appropriate level of visual privacy to the adjoining properties. In this regard, windows to the rear & side elevations of the first floor have been confined to bedrooms, study, en-suite, bathroom and sewing room (towards the front of dwelling) which are not considered room uses that result in any adverse privacy impacts. The first floor rear balconies have all been provided with privacy screening (1.7 & 1.5 metres in height). Windows to the ground floor living areas have been appropriately offset from adjoining dwelling windows so as not to result in any adverse privacy impacts. Views from the rear elevated patio have been restricted with permanent privacy screening to either side of the patio, proposed/existing landscaping and generous setbacks to parts of the patio with no screening.

The shadow diagrams submitted with the application are indicative of the increased amount of overshadowing to the southern adjoining properties. In summary, the adjoining properties will be afforded more than the minimum sunlight required by the DCP, i.e. not less than 2 hours to 50% to the principal ground level private open space between 9am and 3pm and not less than 3 hours to a portion of the surface of north facing living area windows between 9am and 5pm on June 21.

In summary, the impacts of the development on the streetscape of the area is considered significant. On a balanced consideration of these effects and the rights of the owner to develop the premises, it is considered that the effect on the built environment would only be acceptable with modifications required by deferred commencement conditions. If the applicant does not accept these conditions, the application should be refused.
ITEM 3 (Continued)

Natural Environment

Council’s Landscape Architect raises no objections to the four small trees proposed to be removed from the site, however, as the development presents an adverse impact upon the Stringybark tree that is located to the rear of the adjoining site (No. 5 Bigland Avenue), two deferred commencement conditions will be imposed. Refer to Council’s Landscape Architect comments under the heading ‘REFERRALS’ and Conditions 3 & 4 in ‘Part 1’ of the ‘recommendation’ in this report.

Two street trees are proposed to be removed, however, conditions will be imposed requiring the retention of one of the street trees that is unaffected by the proposed works as well as the replacement of the street tree required to be removed. See Condition 3 in ‘Part 2’ of the ‘recommendation’ in this report.

The Landscape Plan submitted indicates trees proposed to be removed, vegetation proposed to be planted and proposed hard paved areas to the site.

3. Suitability of the site for the development

The site has accommodated a dwelling for many years and is suitable for such a use.

4. Submissions

The proposal was notified in accordance with Council’s Development Control Plan for Notification. Notification of the proposal was for two 14-day periods ending 22 February 2005 and 2 June 2005 (amended plans).

During the above notification periods, no submissions were received.

5. The Public Interest

Subject to compliance with the deferred commencement conditions of approval, the proposal is not considered to adversely impact upon the interest of the public.

CONCLUSION:

The proposed development is considered satisfactory with regards to the provisions of Council’s Dwelling Houses & Duplex Buildings & Fencing Development Control Plans, subject to deferred commencement conditions requiring alteration to the rear of the dwelling to ensure the protection of a neighbouring tree; reduction to the gross floor area of the dwelling and alteration to the material of the return fence to ensure appropriate residential character.

The proposal can be made to comply with Council’s Stormwater Management DCP & the Building Code of Australia, 1996 through general conditions.
ITEM 3 (Continued)

RECOMMENDATION:

(a) That Local Development Application No. 521/2004 at 7 Bigland Ave West Ryde, being LOT: 232 DP: 13438 be approved as a Deferred Commencement Consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act.

This consent does not become operative until the matters referred to in Part 1 have been submitted to and approved by Council and Council has notified you in writing that the consent has become operative.

PART 1 Conditions relating to a Deferred Commencement Consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979.

This consent shall not operate until:

1. The floor space ratio for the proposal is reduced to comply with Council’s Dwelling Houses & Duplex Buildings DCP 17A.

2. The return fence is amended to comply with Council’s Fencing DCP 36, i.e. not of paling construction.

3. The sub floor excavation (to the rear of the main dwelling walls), retaining wall (located along the southwest side boundary) and patio/associated planter box construction are deleted from the proposal so as not to encroach the rootzone of the Stringybark (Eucalyptus sp) tree located to rear of the adjoining site known as 5 Bigland Avenue, West Ryde.

4. An arborist’s report is submitted outlining the management and protection of the Lemon Scented gum tree (located to rear of subject site) and Stringbark tree (located to rear of 5 Bigland Avenue, West Ryde), during the construction period.

5. The plans and documentation relating to conditions 1, 2, 3 & 4 above are to the satisfaction of the Group Manager- Environmental Planning, City of Ryde Council.

Part 2 – General Conditions of Consent.

The following requirements shall apply upon satisfactory completion of the requirements outlined in Part 1 (above).

1. Development is to be carried out in accordance with the Plans (as amended by Part 1 above) and support information submitted to Council.

2. All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.
ITEM 3 (Continued)

3. Landscaping of the development site is to be carried out in accordance with the landscape plan/concept submitted with the development application (Plan No. DA-06/A prepared by ghap DESICON), except as amended by the following conditions:

   a) The street tree that is not affected by the driveway construction shall be retained. Details of compliance are to be reflected on the plans submitted with the Construction Certificate application.

   b) The street tree being removed is to be replaced with a suitable species (as considered appropriate by Council’s Urban Landscapes department) on the nature strip, where the existing driveway is located. Details of compliance are to be reflected on the plans submitted with the Construction Certificate application.

4. Minimum R3.0 or equivalent insulation is to be installed to new ceilings/roofs and wall insulation must have an R1.5 or equivalent rating. Details are to be noted on the plans submitted with the Construction Certificate.

5. A clothes line is to be provided to the rear yard or sheltered well ventilated space.

6. Water Efficient Fixtures - Showerheads and toilet cisterns shall be at least AAA rated water efficient. Bathroom and kitchen taps shall be fitted with aerators and water closets shall have a dual flush cistern. Details are to be noted on the plans submitted with the Construction Certificate.

7. Any hot water system installed as part of the development must achieve a minimum 3.5 Star Greenhouse Score. The energy rating of the hot water system should be visible on the product at the place of purchase. The location and rating of any new hot water system is to be reflected on the plans submitted with the Construction Certificate.

8. The dwelling shall achieve a minimum 3.5 Star NatHERS energy rating of internal thermal comfort.

9. The occasions on which building work must be inspected are:

   i) at the commencement of the building work
   ii) after excavation for, and prior to the placement of, any footings
   iii) prior to pouring any in-situ reinforced concrete building element
   iv) prior to covering of the framework for any floor, wall, roof or other building element
   v) prior to covering waterproofing in any wet areas
   vi) prior to covering any stormwater drainage connections
   vii) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
ITEM 3 (Continued)

Documentary evidence of compliance with Council’s approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the Principal Certifying Authority and be made available to Council officers upon request.

Prior to occupation of the building, an occupation certificate must be obtained. Prior to the issue of the occupation certificate, the mandatory inspections must be carried out.

10. In addition to the mandatory inspections above, the following other stages of construction are to be inspected by the Principal Certifying Authority or another accredited certifier approved by the Principal Certifying Authority:

i) Pool fencing installed prior to pool being filled with water.
ii) Landscaping, water depth markers displayed within the pool, resuscitation poster being within plain sight of pool.

Documentary evidence of compliance with Council’s approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the Principal Certifying Authority and be made available to Council officers upon request.

11. In addition to the above stated inspections, Council or an accredited certifier is required to ensure that adequate provisions are made for the following measures at each stage of construction, to ensure compliance with the approval and Council’s Development Control Plan 42 for “Construction Activities”:

i) Sediment control measures
ii) Tree Preservation and protection measures
iii) Security fencing
iv) Materials or waste containers upon the footway or road.
v) PCA and principal contractor (the coordinator of the building work) signage and site toilets

12. In issuing this approval, Council has relied on the information provided by you about the siting of the building/structure on the allotment. If this information is incorrect, it is your responsibility to correct the errors. It may be advisable to undertake a land survey prior to commencing any works.

13. A certificate from a suitably qualified person is to be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) that the method of Termite Protection has been provided in accordance with Part 3.1.3 of the Building Code of Australia and the requirements of the Australian Standard 3660.1.
ITEM 3 (Continued)

14. A certificate from a suitably qualified person is to be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) that the method of waterproofing wet areas has been provided in accordance with Part 3.8.1 of the Building Code of Australia and the requirements of the Australian Standard 3740 prior to wall tiling.

15. A certificate from a suitably qualified person is to be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) that Fire and Smoke Alarms have been provided in accordance with Part 3.7.2 of the Building Code. Location details are to be submitted and approved by Council or an accredited certifier prior to the release of the Construction Certificate.

16. A Registered Surveyors check survey certificate, or compliance certificate, is to be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) detailing compliance with Council’s approval at the following stages:
   a) Prior to construction of each floor level showing the area of the land, proposed building and the boundary setbacks and verifying that the proposed building is being constructed to the approved levels
   b) On completion of the proposed building showing the area of the land, completed building and the boundary setbacks

17. All excavated material must be removed from the site. No fill is to be placed above the natural ground level.

18. The applicant is to submit to and have approved by Council or an accredited certifier engineer’s details for all concrete work and structural steelwork prior to the issue of the Construction Certificate.

19. The pool pump/filter is to be enclosed in an approved acoustic enclosure, which will ensure that the noise emitted therefrom does not exceed 5dB(A) above the background noise level when measured at the nearest source of annoyance.

20. All excavated material must be removed from the site. No fill is to be placed above the natural ground level.

21. The pool pump is not to be operated between 8pm and 7am Mondays to Fridays and between 8pm and 8am on Saturdays, Sundays and public holidays.

22. A suitable method of water proofing is to be used in the construction of the pool.

23. Lighting if installed is to be arranged in such a manner as not to interfere with the comfort and enjoyment of the neighbourhood.

24. The pool is to be kerbed and/or drained to prevent surface water gaining within and at each end of the swimming pool.
ITEM 3 (Continued)

25. Provide resuscitation chart containing warning “YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL” located in the immediate vicinity of the pool area so as to be visible from all areas of the pool.

26. Water depth markers are to be displayed at a prominent position within and at each end of the swimming pool.

27. The pool fence is to be erected around the perimeter of the swimming pool having an effective height of at least 1.2 metres at any point along its length on the outside of the fencing, fitted with a self-closing and locking gate (the latch of which is to be placed on the inner face in such a position as to be out of reach of small children). The pool fence is to be constructed in accordance with the provisions of the Swimming Pools Act, 1992 and Swimming Pools Regulation 1998, except as amended by Council’s requirements to not have openable windows or doors through which access to the pool area can be gained, forming part of the pool fence. Details of compliance are to be reflected on the plans submitted with the Construction Certificate.

28. Outside edge of pool coping shall be set back a minimum of 900mm from the property boundary to allow sufficient space for amenity screen planting.

29. The swimming pool shall be connected to the Sydney Water sewer for discharge of waste water.

30. A security deposit is to be paid to Council (Public Facilities and Services Group) being a deposit of $1000.00 as well as the infrastructure inspection fee in accordance with the requirements of Council’s Management Plan (scheduled fees).

31. Enforcement levy is to be paid to Council on lodgement of the Construction Certificate application in accordance with the requirements of Council’s Management Plan (scheduled fees).

32. 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 received prior to the issuing of the Construction Certificate.

33. The applicant is to apply to Council, pay the required fee, and have issued street alignment levels by Council prior to the issue of the Construction Certificate.

34. Documentary evidence of compliance with Conditions 30, 31, 32 & 33 to the satisfaction of Council or an accredited certifier is to be submitted to the Council prior to the issuing of the Construction Certificate.
ITEM 3 (Continued)

35. Sydney Water

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the website www.sydneywater.com.au, see Your Business then see Building & Developing then Building & Renovating or telephone 13 20 92.

The consent authority or a private accredited certifier must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before the issue of any Construction Certificate.

36. Trees that are to remain on site are to be protected against damage during construction. All mature trees to remain shall be clearly marked and a fence erected around their drip line. A qualified arborist shall inspect the tree protection measures and documentary evidence of tree protection measures is to be submitted to Council prior to the issuing of the Construction Certificate.

37. In relation to demolition, all work is to be carried out in accordance with the requirements of AS2601.1991 (The Demolition of Structures).

38. Security fencing shall be provided around the perimeter of the building/demolition site and precautionary measures taken to prevent unauthorized entries of the site at all times during demolition and construction.

39. Signage is to be provided on the site as follows:

   a) During the demolition process notices lettered in accordance with AS1319 displaying the words “DANGER - DEMOLITION IN PROGRESS” or a similar message shall be fixed to the security fencing at appropriate places to warn the public.

   b) During the entire construction phase signage shall be fixed on site identifying the PCA and principal contractor (the coordinator of the building work), and providing phone numbers.

40. Site toilets shall be provided in accordance with the WorkCover Code of Practice entitled “Amenities for Construction Work”.

41. All demolition and all construction and associated work is to be restricted to between the hours of 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No work is to be carried out on Sunday or public holidays.

42. No spoil, stockpiles, building or demolition material is to be placed on any public road, footpath, park or Council owned land.
ITEM 3 (Continued)

43. Adequate precautions must be taken to control the emission of dust from the site during demolition and construction work. These precautions could include minimizing soil disturbance, use of water sprays, erecting screens and not carrying out dusty work during windy conditions.

44. All work involving asbestos products and materials, including asbestos-cement sheeting (i.e. fibro) must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.

45. All asbestos wastes including used asbestos-cement sheeting (i.e. fibro), 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 docks must be kept by the applicant for at least 3 years and be submitted to Council on request.

46. Adequate arrangements must be made for the storage and disposal of demolition and building waste generated on the premises. In this regard the demolishers and builders are encouraged to maximize the re-use and recycling of materials (e.g. Concrete, bricks, roof tiles, timber, doors, windows, fittings, etc.) by separating these materials from other wastes.

47. Only unpolluted water is to be discharged to Council’s stormwater drainage system.

48. The $L_{10}$ noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.

General Engineering Conditions

49. Design and Construction Standards. All engineering plans and work shall be carried out in accordance with the requirements as outlined within Council’s publication Environmental Standards Development Criteria and relevant Development Control Plans except as amended by other conditions.

50. Service Alterations. All mains, services, poles, etc., which require alteration shall be altered at the applicant’s expense.

51. Restoration. Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment.
ITEM 3 (Continued)

52. **Engineering Compliance Certificates.** Engineering Compliance Certificates must be obtained for the following works at the specified stage (If Council is appointed the PCA then the appropriate inspection fee is to be paid to Council) and **submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate**:

- Prior to backfilling of pipelines in which Council has an interest.
- Prior to backfilling of drainage connections to pipelines or channels in which Council has an interest.
- Prior to casting of pits and other concrete structures in which Council has an interest including kerb & gutter, accessways, aprons, pathways, vehicular crossings, dish crossings and pathway steps.

**NOTE:** Council has an interest in all pipelines which drain public reserves and public road reserves, and in all structures located within public road reserves.

53. All Engineering Compliance certificates are to contain the following declarations:

a) *This certificate is supplied in relation to <<address of property>>.*

b) <<name of engineer and company >> have been responsible for the supervision of all the work nominated in (a) above.

c) *I have carried out all tests and inspections necessary to declare that the work nominated in (a) above has been carried out in accordance with the approved plans, specifications, and the conditions of the development consent.*

d) *I have kept a signed record of all inspections and tests undertaken during the works, and can supply the Principal Certifying Authority [PCA] with a copy of such records and test results if and when required.*

**Engineering Conditions to be complied with Prior To Construction Certificate**

54. **Driveway Grades** The maximum grade of all internal driveways and vehicular ramps shall be 1 in 5. The maximum change of grade permitted is 1 in 8 and any transition grades shall have a minimum length of 2.5m. The driveway design is to incorporate Council’s issued footpath and gutter crossing levels where they are required as a condition of consent. A driveway plan, longitudinal section from the centreline of the public road to the garage floor, and any necessary cross-sections clearly demonstrating that the driveway complies with the above details, and that vehicles may safely manoeuvre within the site without scraping.

55. **Drainage Plans.** The plans and supporting calculations of the proposed drainage system, including the on-site detention system and details addressing any overland flow from upslope properties are to be submitted with the Construction Certificate application.
ITEM 3 (Continued)

Any drainage pit within a road reserve, a Council easement, or that may be placed under Councils’ control in the future, shall be constructed of caste in situ concrete. Details are to be submitted with the Construction Certificate application.

56. **On-Site Stormwater Detention** Stormwater runoff from all impervious areas shall be collected and piped by gravity flow to a suitable on-site detention system in accordance with Ryde City Council’s Stormwater Management Development Control Plan “DCP 41”. The minimum capacity of the piped drainage system shall be equivalent to the collected runoff from a 20 year average recurrence interval storm event. Overland flow paths are to be provided to convey runoff when the capacity of the piped drainage system is exceeded up to the 100 year average recurrence interval and direct this to the on-site detention system. Runoff which enters the site from upstream properties should not be redirected in a manner which adversely affects adjoining properties.

The on-site detention system shall be designed to ensure peak flowrates at any point within the downstream drainage system do not increase as a result of the development during storms from the 5 year to the 100 year average recurrence interval of all durations. Outflow from the basin shall be piped to a point of discharge in accordance with Councils Stormwater Management Development Control Plan “DCP 41”.

The system is to be cleaned regularly and maintained to the satisfaction of Ryde City Council.

The connection into Councils easement is to be approved by Council before the issue of the construction certificate.

Councils engineer is to supervise the drainage connection into the Council pipe system. The connection work is to be completed to Council’s requirements.

57. **Private Drainage Easements.** An easement to drain stormwater water shall be created over all pipelines which may be constructed within adjoining private properties to enable collected stormwater runoff from the site to be piped to Council’s drainage system by gravity flow. Such easements must be created prior to the issue of the construction certificate.

In conjunction with the above documentation a drainage design by a qualified Civil Engineer is to be submitted with the Construction Certificate application showing the pipe and easement position and sizing and any other relevant detail, in accordance with Council’s Stormwater Management Development Control Plan “DCP 41”.
ITEM 3 (Continued)

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

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

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

**Engineering Conditions to be complied with Prior to Commencement of Construction**

59. **Sediment and Erosion Control.** The applicant shall install appropriate sediment control devices in accordance with an approved plan *prior* to any earthworks being carried out on the site. These devices shall be maintained during the construction period and replaced where considered necessary. Suitable erosion control management procedures shall be practiced. This condition is imposed in order to protect downstream properties, Council’s drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

60. **Compliance Certificate.** A Compliance Certificate must be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and Ryde City Council’s Development Control Plan for Construction Activities “DCP 42”
ITEM 3 (Continued)

Engineering Conditions to be complied with Prior to Occupation Certificate

61. **Compliance Certificates – Engineering.** Compliance Certificates must be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and submitted to the PCA:

   - Confirming that all vehicular footway and gutter (layback) crossings are constructed in accordance with the construction plan requirements and Ryde City Council’s *Environmental Standards Development Criteria - 1999*.
   - Confirming that the constructed driveway is constructed in accordance with the construction plan requirements and Ryde City Council’s *Environmental Standards Development Criteria - 1999*.
   - Confirming that the constructed interallotment drainage system complies with the construction plan requirements and Ryde City Council’s Stormwater Management Development Control Plan “DCP 41”
   - Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and Ryde City Council’s Stormwater Management Development Control Plan “DCP 41”

62. **Vehicle Footpath Crossings.** Concrete footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The location, design and construction shall conform to the requirements of Council. Crossings are to be constructed in plain reinforced concrete and finished levels shall conform with property alignment levels issued by Council’s Engineering Services Division. Kerbs shall not be returned to the alignment line. Bridge and pipe crossings will not be permitted.

63. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.

64. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor’s name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels is to be submitted to the Principal Certifying Authority (PCA) and to Ryde City Council if Council is not the nominated PCA. If there are proposed interallotment drainage easements on the subject property, a Certificate from a Registered Surveyor is to be submitted to the PCA certifying that the subject drainage line/s and pits servicing those lines lie wholly within the proposed easements.
ITEM 3 (Continued)

65. **On-Site Stormwater Detention System - Marker Plate.** Each on-site detention system basin shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface or access grate. The wording on the marker plate is described in Council’s Stormwater Management DCP. An approved plate may be purchased from Council’s Customer Service Centre on presentation of a completed City of Ryde OSD certification form.

66. **Positive Covenant.** The creation of a Positive Covenant under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for Maintenance of Stormwater Detention Systems" and to the satisfaction of Council.

66. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan 1367 prepared by ghap design.

**ADVISORY CONDITIONS**

1. **Compliance with Building Code of Australia**
   1) All building work (other than work relating to the temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date of the application for the relevant construction certificate or complying development certificate was made)

   2) This clause does not apply to the extent to which an exemption is in force under clause 187 or 188, in the Environmental Planning and Assessment Regulations 2000, subject to any terms of any condition or requirement referred to in Clause 187(6) or 188(4).

2. **Residential Building Work**
   1) Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:

      a) in the case of work to be done under the Act:

         i) has been informed in writing of the licensee’s name and contractor licence number, and

         ii) is satisfied that the licensee had complied with the requirements of Part 6 of the Act; or

      b) in the case of work to be done by any other person:

         i) has been informed in writing of the person's name and owner-builder permit number; or
ITEM 3 (Continued)

ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of “owner builder work” in Section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

2) A certificate purporting to be used by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purpose of this clause, sufficient evidence that the person has complied with the requirements of that Part.

3. **Excavations and backfilling**

   1) All excavations and backfill associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

   2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

4. **Retaining walls and drainage**

   If the soil conditions require it:

   a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and

   b) adequate provision must be made for drainage

5. **Protection of Public Places**

   1) If the work involved in the erection or demolition of a building:

      a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or

      b) building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

   2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

   3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

   4) Any such hoarding, fence or awning is to be removed when the work has been completed.
ITEM 3 (Continued)

6. Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Amendment Act, 1997 are to be complied with:

i) A **Construction Certificate** is to be obtained in accordance with Section 81A (2)(a) of the Act.

ii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A (2)(b) of the Act and Form 7 of Schedule 1 to the Regulations. Council is to be notified at least two (2) days prior to the intention to commence building works, in accordance with Section 81A (2)(c) of the Act and Form 7 of Schedule 1 to the Regulations.

7. The applicant may apply to the Council or an accredited certifier for the issuing of a **Construction Certificate** and to Council or an accredited certifier to monitor compliance with the approval and issue any relevant documentary evidence or certificate/s.

Council Officers can provide these services and further information can be obtained from Council by telephoning 9952 8222 (Customer Service).

8. The applicant is advised that the **Construction Certificate** plans and specifications must comply with the provisions of the Building Code of Australia.

9. Demolition bond of $3000.00 is to be paid Council prior to the issue of the **Construction Certificate**.


11. Energy Australia

Underground and overhead electric cables may exist in this area. In your own interest and for safety, telephone Energy Australia on 13 1525 before excavating or erecting structures.

12. Telephone Installations

Conduits with draw in wires should be laid in concrete floors to the points where telephone services are required. Consult the local Telecommunications Sales Office for advice.
ITEM 3 (Continued)

13. Australia Post

Approval for the site and size of proposed household mail boxes must be obtained from Australia Post.

Liz Coad  Amanda Esposito
Manager Environmental Assessment  Environmental Assessment Officer
ITEM 3 (Continued)

No submissions received
ITEM 3 (Continued)
ITEM 3 (Continued)
ITEM 3 (Continued)
ITEM 3 (Continued)

LEGEND

NOTES

AMENDMENTS

CLIENT

Mr. S & Mrs. R. Gerardis

PROJECT

New dwelling at No. 7 Bigland Avenue West Ryde

DRAWING

Shadow diagrams 21st Sept

SCALE

1:100

Date: April 2005

Care: Ed. No: A2

PROJECT No: 03/23
ITEM 3 (Continued)
ITEM 4


Manager Environmental Assessment Reports 7 June 2005

FILE NO: LDA2004/1164

EXECUTIVE SUMMARY

This report considers a development application for the erection of signage associated with the recently approved Dan Murphy’s liquor store on the ground floor of the subject site.

The proposed development has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act 1979 and the advertising controls contained within the Ryde Planning Scheme Ordinance and DCP No.28B – Advertising Signs (DCP28B). No areas of non-compliance would warrant modification or refusal of the application. However, as detailed within the report, a degree of non-compliance is sought.

The signs being sought are the corporate branding used at various locations throughout Sydney.

The application was advertised on 12 January 2005 and, following the submission of revised plans, again on 18 April 2005. No submissions were received.

It is recommended that the subject application be approved, subject to conditions of consent.

Reason for Referral to Development Committee: Non-compliances with DCP28B.

SITE: (Refer to attached map.)

Address : 5-7 Rowe Street EASTWOOD

Site Area : 1,849m²

Frontage: 44 metres (to Blaxland Road)

Depth: 46 metres (to Rowe Street)

Topography and Vegetation : From the south-eastern corner, the site slopes gently down both to the west (Rowe Street) and north (Blaxland Road). No vegetation exists on the site.

Existing Buildings : A part 4, part 5 storey mixed use retail/residential development with basement car parking is currently under construction and will occupy the entire site.
ITEM 4 (Continued)

PLANNING CONTROLS:

Zoning : Business - Urban Village
Other : Ryde Planning Scheme Ordinance 1979
State Environmental Planning Policy No.64 – Advertising and Signage (SEPP64)
Development Control Plan No.28B – Advertising Signs
Development Control Plan No.39 – Eastwood Town Centre

DEVELOPMENT PROPOSAL SUMMARY:

PROPOSAL:

The application seeks consent for the erection of signage as follows:

*Fronting Rowe Street:*

- x1 flush wall sign (4.4m²) containing ‘Dan Murphy’s – Lowest Liquor Prices Guaranteed’ plus logo.
- x1 under awning sign (0.38m²) containing ‘Dan Murphy’s’ plus logo.
- x1 window sign (6.4m²) containing ‘Dan Murphy’s – Lowest Liquor Prices Guaranteed’ plus logo.

*Fronting Blaxland Road:*

- x1 top hamper sign (3.2m²) containing ‘Dan Murphy’s – Lowest Liquor Prices’ plus logo.
- x1 top hamper sign (1.6m²) over entrance containing ‘Dan Murphy’s’ plus logo.
- x1 under awning sign (0.38m²) at southern end containing ‘Dan Murphy’s’ plus logo.
- x1 under awning sign (0.38m²) at northern end containing ‘Dan Murphy Parking at Rear’.
- x1 window sign (6.4m²) containing ‘Dan Murphy’s – Lowest Liquor Prices Guaranteed’, ‘Parking at Rear’ plus logo.

*Fronting Rowe Lane:*

- x1 directional sign (0.38m²) containing ‘Dan Murphy – Parking on Level 1’.

All signs are proposed to be internally illuminated with the exception of the window signs which are proposed to be illuminated by external under awning spotlights.
ITEM 4 (Continued)

HISTORY:

A part 4-5 storey structure containing retail tenancies on the ground floor with 36 residential flat units located above was approved under LDA 621/2003 on 16 September 2003. A 2-level basement parking area, containing 96 parking spaces with access from Rowe Lane, also formed part of the approved development. The approved development is currently under construction.

A Section 96 application for changes to parts of the building height and to swap the position of the approved parking entrance and loading dock was subsequently approved on 2 June 2004. A second Section 96 application for further minor changes to parts of the building height has recently been approved.

A development application (LDA 1090/2004) for the fitout and use of the subject tenancy as a Dan Murphy’s liquor store was approved on 5 April 2005.

With regard to the subject application, a letter from Council was sent to the applicant on 20 January 2005 advising that additional information was required before the proposed development could be adequately assessed. Additional information, including a revised Statement of Environmental Effects was subsequently received on 31 March 2005. The amended application was subsequently renotified for a period of 14 days from 18 April 2005 to 2 May 2005.

Consideration of the amended plans identified a number of non-compliances with the provisions of DCP28B. A letter was sent to the applicant on 12 May 2005 identifying these non-compliances. Following a meeting with Council's Assessment Officer on 30 May 2005, amended plans were received by Council on 6 June 2005. Due to the minor nature of the amendments, further re-notification of the proposal was not required.

REFERRALS:

Roads & Traffic Authority: No objection subject to a condition of consent to control the type and extent of illumination of the proposed signage. (Note: Referral to the RTA was not required under the provisions of SEPP64.)

OFFICER’S ASSESSMENT:

The assessment contained in this report is a summary of the matters deemed relevant to this development proposal and matters contained in the Department of Infrastructure, Planning and Natural Resources’ Guide to Section 79C – Potential Matters for Consideration.
ITEM 4 (Continued)

1. Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Planning Scheme Ordinance

(i) Zoning

The subject site is zoned ‘Business - Urban Village’ under the provisions of the Ryde Planning Scheme Ordinance. The proposed signage is permissible within this zone with Council's consent.

(ii) Mandatory Requirements

Clause 34(1): Consideration of Certain Applications – Requires Council to consider the visual impacts of developments from main roads i.e. such as Blaxland Road.

The subject proposal involves the erection of six (6) advertising/business identification signs directly fronting Blaxland Road or clearly visible from Blaxland Road. Overall it is considered that the level of signage proposed is acceptable given the extent of road frontage occupied by the site and is commensurate with the scale of the building currently under construction on the site. The application therefore complies with this control.

Clause 42: Advertising Signs – Requires Council to consider a number of provisions in the assessment of an application for advertising signs. Following amendments to the original scheme, the revised signage proposal is considered to comply with the relevant provisions as follows:

a) The proposed signs are considered acceptable with regard to the amenity of the locality.
b) The proposed signs will have a neutral impact on the surrounding built environment.
c) The proposed signs are considered necessary and appropriate.
d) The proposed signs are considered consistent with the character of the surrounding locality.
e) No other existing signs are affected by the proposal.
f) The sizes of the proposed signs are considered commensurate with the regard to the size of the subject site and the scale of surrounding buildings.
g) No issues arise with regard to the safety and security of the premises and public areas. In this regard, a number of windows along the Blaxland Road frontage will remain clear glazed thus allowing for sufficient casual surveillance of the interior of the store from the street.

Clause 51A: Development in Certain Urban Villages – Requires Council to consider various planning principles and other objectives when assessing DAs within the Eastwood Urban Village.
ITEM 4 (Continued)

Given the proposed development relates to signage, the application is considered acceptable with regard to the planning principles listed in Schedule 17 of the RPSO and the objectives listed within part 2 (a) of clause 51A.

(b) Relevant State Environmental Planning Policies

State Environmental Planning Policy No.64 – Advertising & Signage (SEPP64)

The proposed signs constitute ‘business identification signs’ and are subject to the provisions of SEPP64.

The proposed signage is considered compatible with the objectives of SEPP64 in that the signage will be compatible with the desired amenity and visual character of an area, will provide effective communication in suitable locations, and will be of a high quality design and finish.

Schedule 1 of SEPP64 considers such matters as the character of the area, special areas, views and vistas, streetscape setting or landscape, site and building, associated devices and logos, illumination, and safety. The proposed signage is considered to be satisfactory with regard to the assessment criteria contained within Schedule 1.

Accordingly, the proposed signage is considered to be acceptable, having regard to the provisions of SEPP64.

(c) Relevant Regional Environmental Plans

None relevant.

(d) Any draft Local Environmental Plans

There are no draft Local Environmental Plans that affect the proposed works or the subject site.

(e) Any Development Control Plan

DCP28B: Advertising Signs

Aims and Objectives

Section 1.4 lists the aims and objectives of the DCP. Relevant aims and objectives are as follows:

- Maintain a balance between established built form and character of the streetscape and the commercial need to advertise goods and services.
- Advertisements do not intrude into and detrimentally affect the visual amenity of the area.
ITEM 4 (Continued)

- Advertisements are compatible with the architectural style and size of the building and the adjoining built environment.
- Prevent visual clutter.

As detailed below, the proposal is considered to comply with the above.

**Number of Signs**

Section 2.3 of DCP28B states that visual clutter through the proliferation of advertisements and advertising structures is not permitted. In this instance, the level of signage proposed is considered commensurate with the level of site frontage and will provide for clear advertising that does not result in visual clutter.

**Illumination**

Section 2.5 of DCP28B states that the hours of illumination must not unreasonably impact on any residential properties adjoining the sign or that are within its locality. In this instance, all the proposed signs are to be illuminated.

Given that the site is located within an ‘urban village’ and that the majority of signs would be visible from residential properties on the opposite side of Blaxland Road or further west along Rowe Street, it is considered reasonable to impose a condition restricting the hours of illumination in order to prevent disturbance to the amenity of these properties. Condition No.2 is therefore recommended which requires illumination of all signs to be extinguished between 11pm and 6am.

In addition, section 2.5 of DCP28B also states that the lighting intensity of an advertising sign must be capable of modification or control after installation. In view of the relative sensitivity of the site within an ‘urban village’ and adjacent to a main highway, this requirement is included as condition No.3.

**Extent of Signage Permitted**

Section 3.2.2 (i) of DCP28B states that for buildings containing three or more storeys, the total area of signs to be erected on the building should not exceed 1.5m² per 1 metre of frontage of the property to the street. The subject site relates to this provision as follows:

- **Rowe Street frontage**: 46m  Total area of signs: 11.2m²  
  = 0.24m² of signage per 1 metre of frontage

- **Blaxland Road frontage**: 44m  Total area of signs: 12m²  
  = 0.27m² of signage per 1 metre of frontage

The proposed level of signage therefore complies with this control.
ITEM 4 (Continued)

Types of Signage

Under the definitions and requirements stated in section 4 of DCP28B, each of the particular types of signage proposed are considered as follows:

Top Hamper Signs – The two proposed top hamper signs comply with the provisions of DCP28B and are acceptable in this regard.

Flush Wall Sign – A flush wall sign (4.4m$^2$) is proposed on the Rowe Street elevation. The sign cannot be considered as a top hamper sign as it is not located above a doorway or display window of the building. Although not technically a top hamper sign, its location is considered appropriate and compatible with the overall signage scheme.

With regard to the specific requirements for flush wall signs, the proposed sign complies in all regards except in terms of being less than 2.6 metres above the ground. In this instance, the height of the sign ranges between 2.5 and 2.3 metres above the ground due to the slope of the street. This minor 100mm to 300mm non-compliance is considered acceptable as the design of the building and awnings restrict an alternative acceptable location and only occurs as a result of not being located above a door or window and thus being able to be defined as a top hamper sign. No minimum height restrictions apply to top hamper signs.

Under Awning Signs – The DCP specifies that this form of signage must at no point be less than 2.6 metres above the ground and shall be no more than 300mm in height. All three proposed under awning signs comply with these size and height provisions.

Part (e) of this provision also states that only one under awning sign is permitted per shopfront but that where a premise has exceptionally wide frontage, more than one under awning sign may be permitted subject to being at least 10 metres apart. The two under awning signs proposed on the Blaxland Road shopfront are located approximately 24 metres apart on a 46 metre wide shopfront. This is considered to comply with the intent of part (e) of the provision and the application is acceptable in this regard.

Directional Sign – The DCP specifies that this form of signage must not exceed 0.3m$^2$ and directs vehicle or pedestrian traffic within the property the sign relates to. A directional sign, 0.3m$^2$ in size, is proposed above the entrance to the car park on Rowe Lane and is set back 4 metres from the boundary with Rowe Lane. The need to locate the proposed directional sign above the car parking entry is accepted and no impacts, visual or otherwise, are considered to occur from the sign.

Window Signs – Two windows signs are proposed on the corner of Rowe Street and Blaxland Road, each occupying the vast majority of the window area. DCP28B however specifies maximum window coverage of 25%. Photographs of similar window signs at the Dan Murphy’s liquor store in Penshurst Street, Willoughby, are available for Councillors to review at Committee.
ITEM 4 (Continued)

With regard to the photographs, it is considered that the proposed form of window signs are linked to a strong corporate identity that does not allow a more ad-hoc form of signage advertising current specials etc. that generally dominate the facades of numerous other liquor store outlets. This is considered a positive outcome particularly as a large number of clear windows would be retained along the Blaxland Road frontage. The proposed non-compliance is therefore considered visually acceptable. However, to ensure that the remaining windows do not become cluttered with further signage, condition No.4 is proposed to specifically restrict additional window signage.

Conclusion

The proposed form of signage does not comply with every provision of DCP28B as follows:

- 100-300mm height non-compliance of the flush wall sign.
- Each of the two window signs covering more than 25% of the respective window areas.

However, the non-compliances, as detailed above, are considered to satisfy the aims and objectives of the DCP and overall, the scheme is considered acceptable.

DCP39: Eastwood Town Centre

Section 3.6 of DCP39 relates to advertising and signage. The dimensional requirements specified are the same as those provided in DCP28B and therefore the same considerations apply. The provisions for signage are also complied with as follows:

- The signage relates to the use of the building on which it is proposed.
- The signage has been designed with consideration to the architectural features of the building.
- The size and proportion of the signage complements the scale of the façade and surrounding buildings and signage.

The proposal is therefore considered acceptable in this regard.

2. Likely impacts of the Development

Built Environment

The proposed signs are considered to be of an appropriate size and design and are visually compatible with the character of the subject site and surrounding area.

Overall, it is considered the proposed signs will not have any adverse impacts on the existing built environment or the amenity of the surrounding area.
ITEM 4 (Continued)

Natural Environment

The proposed development will have no impacts on the Natural Environment.

3. Suitability of the site for the development

The site is not classified as a heritage item or subject to any natural constraints such as flooding or subsidence. Overall there are no constraints affecting the site that would render it unsuitable for the proposed signage.

4. Any submissions received

The proposal was advertised in accordance with Council’s Notification Development Control Plan for a period of 14 days ending on 3 February 2005. During this period no submissions were received objecting to the development. Following the receipt of amended plans and in view of the nature of the amendments, the revised proposal was renotified for a further 14 days ending on 2 May 2005. Again, no submissions were received.

5. The Public Interest

The following matters are listed within the DIPNR Guide to Section 79C as matters for consideration under the Public Interest:

- Federal and State Government policy statements,
- relevant planning studies and strategies,
- management plans, planning guideline or advisory documents
- covenants, easements or agreements affecting the proposal, and
- relevant issues raised in public meetings and inquiries.

Having regard to the above list, the proposed development is acceptable in terms of the public interest.

CONCLUSION:

The proposal is permissible and largely complies with the provisions of DCP28B (Advertising Signs) and DCP39 (Eastwood Town Centre). Where non-compliances are proposed, these are considered acceptable as the visual impact is minor and no other detrimental impacts occur.

Overall the proposal is considered appropriate for approval subject to conditions.

RECOMMENDATION:

(a) That Local Development Application No.1164/2004 at 5-7 Rowe Street EASTWOOD being LOT: 1 DP: 1070718 be approved subject to the following conditions:
ITEM 4 (Continued)

1. Development is to be carried out in accordance with drawings numbered 5G (External Elevations) and 1P (Control Plan), dated 3 June 2005, prepared by KJR Drafting Pty Ltd and received by Council on 6 June 2005, and all support information submitted to Council.

2. The illumination of all signs is to be extinguished between 11pm and 6am.

3. The lighting intensity of all signs must be capable of modification or control after installation.

4. With the exception of the two window signs specifically approved as part of this consent, no other form of window signage or advertisement is to be erected.

5. All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.

6. Certification is to be provided with the Construction Certificate by a Structural Engineer that the proposed method of anchorage of the signs is structurally adequate having regard to their size, type and location.

7. The building works are to be inspected during construction, by Council or the Principal Certifying Authority (or other suitably qualified person on behalf of the applicant), to monitor compliance with Council’s approval and the relevant standards of construction encompassing the following stages of construction:

   a) Finalisation of works

   Documentary evidence of compliance with Council’s approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the Principal Certifying Authority and be made available to Council officers upon request.

   The appointed Principal Certifying Authority has a discretion to determine which, if any, inspections are sufficient to determine compliance or otherwise with relevant codes and standards. This may involve additional inspections.

8. A security deposit is to be paid to Council (Public Facilities and Services Group) being a deposit of $500 as well as the infrastructure inspection fee in accordance with the requirements of Council’s Management Plan (scheduled fees).

9. Enforcement levy is to be paid to Council on lodgement of the Construction Certificate application in accordance with the requirements of Council’s Management Plan (scheduled fees).
ITEM 4 (Continued)

10. 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 received prior to the issuing of the Construction Certificate.

11. Documentary evidence of compliance with Conditions 7, 8 and 9 to the satisfaction of Council or an accredited certifier is to be submitted to the Council prior to the issuing of the Construction Certificate.

12. A copy of the approved certified plans, specifications and documents incorporating conditions of approval shall be kept on site at all times so as to be readily available for viewing by any officer of Council or the PCA.

13. All demolition and all construction and associated work is to be restricted to between the hours of 7.00am and 7.00pm on Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No work is to be carried out on Sunday or public holidays.

14. No spoil, stockpiles, building or demolition material is to be placed on any public road, footpath, park or Council owned land.

ADVISORY CONDITIONS

1. All building work (other than work relating to the temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date of the application for the relevant construction certificate or complying development certificate was made).

2. Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Amendment Act, 1997 are to be complied with:

i) A Construction Certificate is to be obtained in accordance with Section 81A (2)(a) of the Act.

ii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A (2)(b) of the Act and Form 7 of Schedule 1 to the Regulations.

iii) Council is to be notified at least two (2) days prior to the intention to commence building works, in accordance with Section 81A (2)(c) of the Act and Form 7 of Schedule 1 to the Regulations.

3. The applicant may apply to the Council or an accredited certifier for the issuing of a Construction Certificate and to Council or an accredited certifier to monitor compliance with the approval and issue any relevant documentary evidence or certificate/s.

Council Officers can provide these services and further information can be obtained from Council by telephoning 9952 8222 (Customer Service).
ITEM 4 (Continued)

4. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.

5. Council advises that the Building Code of Australia Classification for the proposal is 10b.

6. The applicant is advised that any further erection of signs or advertising structures not indicated on the development consent plans requires the submission of a new development application to Council.

Liz Coad
Manager Environmental Assessment

Andy Nixey
Senior Town Planner
ITEM 4 (Continued)

No submissions received
ITEM 4 (Continued)
ITEM 4 (Continued)
ITEM 5

2A HINKLER AVENUE, RYDE. LOT: 5 DP: 16013. Application under Section 96(1A) to change the driveway layout to include two laybacks and delete conditions 4 and 11 which required masonry unit pavers to be provided for the driveway and to provide an accessible path to the front door of one of the dwellings. LDA 598/2003. Applicant: Mr & Mrs Perri.

Manager Environmental Assessment Reports 26 May 2005

FILE NO: LDA03/598

EXECUTIVE SUMMARY

This report considers an application made pursuant to Section 96 of the Environmental Planning and Assessment Act seeking modifications to a 2-storey duplex.

The proposed amendments involve changing the driveway layout to have two driveways crossings and deletion of conditions 4 and 11. Condition 4 of the consent requires masonry units pavers to be provided for the driveway. Condition 11 requires an accessible path in compliance with AS 1428.2 to be provided to one of the dwellings.

Reason for Referral to Development Committee: Non-compliance with Development Criteria – Section 1 – “Driveways”.

BACKGROUND:

• Local Development Application No. 598/2003 to demolish dwelling house and erect a 2 storey duplex was approved 23 December 2003 by Council under Delegated Authority.
• The subject property contains a large Lemon-scented Gum tree located in the front setback. The original design proposed to remove the tree and Council advised the applicant to retain the tree and an amended driveway layout was submitted.
• The amended plans dated 25 August 2003, retained the Lemon-scented Gum tree with a driveway on either side of the tree.
• Council’s Landscape Architect had reservations in regards to the extent of paving, in particular the dual layback and driveway crossings, which would have a negative impact on the streetscape and also the extent of paving around the rootzone of the tree. A possible layout with only one driveway with more landscaping was suggested to the applicant.
• Amended plans dated 24 October 2003 were received with the amended driveway with the one layback.
ITEM 5 (Continued)

PROPOSED MODIFICATIONS:

The proposed modifications are:

1. Change the driveway to a circular driveway with two laybacks with additional landscaping within the front setback, along the perimeter of the site and around the Lemon-scented Gum tree.
2. Modify Condition No. 4 to change the material of the driveway from masonry unit pavers to stencilled concrete.
3. Deletion of Condition No. 11 which required an accessible path in compliance with AS 1428.2 to be provided to the front door of one of the dwellings.

Referrals:

Development Engineer: 12 May 2005:

“The following comments are made with regard to engineering and stormwater issues.

Stormwater Disposal

The applicant proposes to collect stormwater runoff from the proposed duplex site and discharge to the Onsite Stormwater Detention tank located at the front under the driveway. The applicant has increased the impervious area by increasing the stencilled concrete driveway as indicated on the Site Plan Job No: 1000/05/1/1 submitted on the 3rd May 2005 giving a Site Coverage of 62%, which complies, with Council’s DCP 41. However the plan needs to show enough design levels and submit a drainage plan to show how the driveway is to drain to the on site detention tank.

Site Access

The applicant proposes to have 2 driveway entries to the proposed duplex. The sum of the widths of the access footway crossings exceeds 30% of the total width by about 6% of the property frontage, which does not comply with Council’s Driveway Criteria. Nevertheless, due to the location of the tree in the front yard and the small excess of impervious area, Council’s Engineer has no objection concerning the driveway access locations.

Council’s Landscape Architect should be consulted concerning the driveway location.

Recommendations

The following information is required before the application can be further assessed

1. An amended drainage plan showing the additional paved and driveway areas discharging in accordance with Council’s Development Control Plan 41.”
ITEM 5 (Continued)

Amended plan received 3 June 2005. Council’s Development Engineer advised that the drainage plan is satisfactory.

Landscape Architect: 31/05/05: The proposed dual driveway would be a better arrangement for the tree. I believe in terms of streetscape presentation it does not comply with Council’s policy, however the amended landscape plan would go some way to eventually softening the appearance of the driveway.

Therefore I have no objection to the proposal in terms of its effect upon the existing Lemon-scented Gum.

ASSESSMENT OF MODIFICATION:

Section 96(2) of the Environmental Planning and Assessment Act 1979, states:

“A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

- it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and

- it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.”

In this regard, it is considered that the Section 96 Modification to modify the duplex building by changing the driveway design and material is substantially the same development as that approved by Council. Adjoining properties owners were notified of the modifications and one submission was received. (This will be discussed in detail under ‘Submissions’). The proposal satisfies the requirements of the above provisions.

Section 96(3) requires Council to consider relevant matters referred to in Section 79C(1) in assessing and application for modification of development consent.
ITEM 5 (Continued)

2. Other matters for consideration pursuant to Section 79C EPAA 1997:

a) Environmental Planning Instruments

Ryde Planning Scheme Ordinance (RPSO)

There are no changes to the mandatory requirements which are affected by this application.

b) Relevant Development Control Plan/Council Code against which development has been assessed

Development Control Plan for Dwelling Houses and Duplex Buildings (DCP 17A).

The modifications will not alter any standards stipulated in the DCP, other than the visual presentation with respect to the streetscape. The extent of hard paving and the two laybacks has increased the amount of imperious area within the front setback. However to minimise this impact, an amended landscaping plan, prepared by Landscape Architectural Services, has been submitted detailing a 2.2m and 1.05m widening to 2.7m wide landscaping strip have been provided within the front setback along the south and north boundary, respectively. Furthermore, within the front middle section additional landscaping has been provided around the Lemon-scented Gum tree. The additional landscaping along the sides and front will help to screen the hard paved area and Council’s Landscape Architect has advised that the new design will be better for the tree’s viability.

No alterations are proposed to the front façade of the building, or any increase in height or setback proposed.

Development Criteria, Section 1 – Driveways.

Clause 1.3 of the Standards states that:

“any residential development will be permitted a maximum of two vehicles crossings to any public road frontage provided:

- The minimum separation between footway crossings is 1m, and
- The sum of the widths of all access footway crossings to any street frontage does not represent more than 30% of the total width of the property frontage to that street.”

The proposal does not satisfy the second point in that the street frontage is 14.9m, with a total driveway width of 5.4m (2.7m each driveway). The sum of the widths exceeds the 30% requirement by 6%.

Council’s Development Engineer has advised that, due to the location of the tree in the front yard and the small increase in impervious area, there are no objections to the provided driveway.
ITEM 5 (Continued)

The applicant has submitted a report from “Earthscape Horticultural Service” – Arboricultural, Horticultural and Landscape Consultants, which has concluded that “the proposed development would, in its present form, result in an incursion to the tree’s root zone of greater than 20% of the optimum Tree Protection Zone which may result in an adverse impact…… The proposed driveway layout will have a lesser impact than the approved design in that there is greater clearance from the tree and no excavations is required within the tree’s Critical Root Zone.”

Council’s Landscape Architect has advised that the dual driveway would be a better arrangement for the tree.

c) The likely impacts of the development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality:

Modification of Condition No. 4

Condition No. 4 of the consent states:

“The driveway is to be a masonry unit paver specifically designed to allow permeability into the soil subgrade so as to reduce construction impacts upon the Lemon-scented Gum.”

It is now proposed to modify the condition to allow stencilled concrete instead of the masonry unit pavers.

This condition was imposed as the approved driveway passed close to the subject tree (offset approx 1m from the centre of the trunk). The unit pavers allows permeability to the soil sub-grade, hence helps to maintain the viability of the tree.

However, the proposed driveway will be set further away from the tree (2.7m on the north and 3.5m from the south). This design, according to the Arboricultural Report, will have a lesser impact than that originally approved as the entire driveway is located outside the Critical Root Zone and the reinforced concrete slab will not require any perimeter kerbing or edge retention or excavation for the edge retention.

It is considered that with the proposed amendments, unit pavers are not necessary and stencilled concrete will be satisfactory.

Deletion of Condition No. 11

Condition 11 of the consent states:

“One accessible path in compliance with AS 1428.2 shall be provided to the front door of one of the dwellings with details shown on the Construction Certificate plans.”
ITEM 5 (Continued)

Council’s DCP – Access For People With Disability states that, for a class 1 new development, an accessible path should be provided, if the level of the land permits.

It is considered that in the future, should a person with disabilities require an accessible path to be provided, an accessible path (ramp) can easily be installed, which complies with Australian Standards and as such Council could agree to delete this condition at this time.

Streetscape Presentation

Clause 2.1 of Council’s DCP – Dwelling Houses and Duplex Buildings requires Council to consider the streetscape aspect in terms of the dual driveway.

Dual driveways generally result in an increase in hard paved areas and reduce the amount of area for landscaping. However, in this circumstance, an amended landscaping plan has been submitted detailing an increase in landscaping within the front setback to help soften the impact of the driveway.

A 2.2m and 2.4m down to 1.05m wide landscaping strips have been provided along the southern boundary and northern boundary, respectively. In addition landscaping will be provided between the two driveways, which will help screen and soften the impact of the driveway. Council’s Landscape Architect has advised that the landscaping will eventually soften the driveway.

It is considered that given the need to preserve the tree and that the proposed amended driveway is a better design for the preservation of the tree and that additional landscaping has been provided to minimise the impact of excessive hard paving, the proposed dual driveway is satisfactory.

Submissions:

In accordance with the provisions of Council’s DCP No. 15, notice of the proposed modifications was given to adjoining property owners and residents. One submission was received in response to the above notice. The following issue was raised:

The proposed landscaping around the tree will involve the raising of existing soil levels around the tree, which will ultimately cause the death of the tree. No landscaping should be allowed, other than lawn, the current soil levels around the tree should not be changed. An inspection of the tree should be done to verify the current health before additional work is carried out in relation to the proposed driveway.

The Earthscape Horticultural Services Report submitted with this modification states that the subject tree was inspected on 22 April 2005 and is in good health and condition with a life expectancy of 15-40 years and considered to be worthy of preservation.
ITEM 5 (Continued)

The report states that the proposed driveway layout will have a lesser impact than the approved design in that there is greater clearance from the tree and no excavation is required within the Tree’s Critical Root Zone. The report states that the driveway on the northern side is in approximate alignment and grade of the existing (former) driveway and there is no need for excavation or to raise the level and as such the new driveway should not have any adverse impact on the tree. On the southern side, it is approx. 200-300 above grade. The placement of fill and compaction of the sub-grade may have a moderate adverse impact on the tree and it is recommended all soil fill material recently placed beneath the canopy of the tree should be removed, and a suitable geotextile material be laid.

A condition will be imposed requiring that the recommendations in the report be carried out. See Conditions 73 and 74.

With regards to the landscaping around the tree, it is considered that in order to screen the driveway, planting can be provided at a distance of 1 to 1.5m radius away from the trunk of the tree. This distance is sufficient to protect intrusion from any new plantings from the tree’s critical root zone.

*Raise concerns again about trucks and the issue of parking by TAFE students in Hinkler Ave. Request Council to consider parking restrictions for Hinkler Ave to limited time parking.*

Concerns about the student parking from the nearby TAFE college was considered in the original application. At the time, Council’s Traffic Engineer advised that when TAFE College car park is full there may be some spill over parking around the surrounding streets. However, this was not considered to be such a major problem as to warrant “No Parking” signs along Hinkler Ave. ‘No Stopping’ signs were installed near the corner of Parkes Street and Hinkler Ave. The possibility of limited time parking along Hinkler Ave will be referred to Council’s Traffic Engineer for investigation.

**CONCLUSION:**

This application under Section 96(2) of the Environmental Planning and Assessment Act 1979 has been fully considered within this report. The main change being sought is to alter the driveway configuration from a single entry to a dual entry, circular type driveway. Whilst the proposal does not comply with Council’s Driveway Criteria, in that the sum of the widths of all access footway exceeds the 30% allowed, the dual driveway is considered by Council’s Landscape Architect to be a better arrangement for the tree.

Accordingly, it is recommended that the S96 be approved, condition No. 4 be modified and condition No. 11 be deleted as discussed above and additional conditions, which the applicant has accepted be added to ensure that the additional landscaping proposed takes place.
ITEM 5 (Continued)

RECOMMENDATION:

(a) That pursuant to Section 96 of the Environmental Planning and Assessment Amendment Act 1979, LDA No. 598.2/2003 at 2A Hinkler Street, Ryde be determined as follows:

1. Condition 1 to be amended to read:

   "Development is to be carried out in accordance with Amended Plan No. 63388 1-2 for the dwelling and amended driveway layout, plan no. 1000/05 – 1, submitted 3 May 2005."

2. Condition 4 to be modified to read:

   "The driveway is to be constructed out of stencilled pattern concrete."

3. Condition 11 to be deleted.

4. Condition 72 of the consent to be amended to reflect the new drainage plan and to read:

   "Drainage Construction. The stormwater drainage on the site is to be constructed generally in accordance with plan M9687, amendment C – driveway and proposed grates prepared by Rafeletos Zanuttini Consulting Engineers. The on-site detention tank is to be relocated closer to the building."

5. The following additional conditions to be imposed:

   " 73. The recommendations no. 1-3 contained in the Earthscape Horticultural Services, Development Impact Assessment Report, prepared by Andrew Morton be carried out. Details to be submitted in a new Construction Certificate."

   " 74. The landscaping to be carried in accordance with the Landscape Plan, prepared by Landscape Architectural Services, Drawing No LP 63388/1 C and amended by the following:

   • Plantings should be kept at a minimum distance of 1m to 1.5m radius away from the truck of the Lemon-scented Gum tree so as not to intrude into the tree’s critical root zone. Details to be submitted with the new Construction Certificate."
ITEM 5 (Continued)

(b) That the person who made a submission be advised of Council’s decision.

Liz Coad
Manager Environmental Assessment

Sandra McCarr
Environmental Assessment Officer
ITEM 5 (Continued)

- Indicates submissions received
ITEM 5 (Continued)

S96 Modification — two laybacks.
ITEM 5 (Continued)

Approved driveway

Hinkler Avenue

Plan

DEVELOPMENT DATA TABLE

| LOT No. | 5 |
| UBD REF | 1937-116 |
| SITE AREA | 607.30 m² |
| TOTAL MATTABLE AREA | 252.76 m² |
| FLOOR SPACE RATIO | 0.41 |
| SITE COVERAGE | NA % |

UNIT A - AREA TABLE

| GROUND FLOOR EXCL GARAGE AND BALCONY | 71.80 m² |
| GARAGE | 19.60 m² |
| PAVID | 2.64 m² |
| TOTAL GROUND FLOOR | 93.64 m² |
| FIRST FLOOR EXCLURING BALCONY | 20.59 m² |
| BALCONY | N/A m² |
| TOTAL FIRST FLOOR | 20.59 m² |
Amended landscaping to soften the driveways
ITEM 6

25 SHEPHERD STREET, RYDE 2112. Lot A in DP 327043, Non-Compliance with Council's Order.

FILE NO: P635.25

The Manager Environmental Enforcement Reports 6 June 2005

Ryde Planning Scheme Zoning: Residential 'A'.

OBJECTIVE:

The objective of this report is for Council to consider if any further action should be taken in relation to the enforcement of Council’s Order No. 2 Under Section 121B of the Environmental Planning & Assessment Act in relation to an unauthorised structure in the front setback of 25 Shepherd Street.

HISTORY:

A complaint was received by a Councillor on 14 January 2004 in relation to an unauthorised structure within the front setback at 25 Shepherd Street.

The subject premises was inspected and it was confirmed that a metal-framed cloth clad carport had been erected within the front setback without prior development consent from Council.

Council issued orders on the owners to demolish the carport.

On 25 May 2004, Council considered a report from the Manager Environmental Enforcement for non-compliance with Council’s Orders.

Council resolved that the matter be deferred for the owners to have further discussions with the Group Manager – Environmental Planning who would further report to the Council meeting on 25 May 2004.

At its meeting on 25 May 2004.

Council resolved that:

(i) That if the unauthorised shade structure is not removed within 7 days, the matter will be referred to Council’s solicitors for the institution of legal proceedings against them for non-compliance with Council’s order.

(ii) The owner be advised of Council’s decision and be invited to meet with the Group Manager Environmental Planning to discuss plans to accommodate a minor extension to the garage in the form of an extension to the verandah roof area.
ITEM 6 (Continued)

On 15 July 2004, the owner of 25 Shepherd Street submitted a Development Application for a freestanding carport within the front setback.

On 7 September 2004, the Development Committee considered a report from the Manager Environmental Assessment for the construction of a carport within the front setback.

Council at its meeting on 14 September 2004 resolved that:

(a) Consideration of the application be deferred to allow the applicant to submit amended plans which:

(i) reduce the length of the carport to not more than 5.5 metres measured from the garage door;

(ii) reduce the height of the carport to not more than 3 metres measured from the ridge of the roof; and

(iii) reduce the width of the carport to not more than 3 metres.

(b) The applicant be advised that approval will not be granted to a development application to construct a new carport unless the existing shade structure at the front of the property is removed.

On 3 November 2005, Council wrote to the owner of 25 Shepherd Street advising that if the amended plans were not received within 21 days Council would refuse the application.

On 15 November 2004, the owner of 25 Shepherd Street submitted amended plans.

On 15 February 2005, the Development Committee considered a report from the Manager Environmental Assessment for the amended plans submitted at Council’s request for the construction of a carport within the front set back.

Council, at its meeting on 22 February 2005, resolved that:

(A) Local Development Application No. 632/2004 at 25 Shepherd Street, Ryde, being Lot: A DP: 327043 be refused for the following reasons:

1. The proposed carport does not meet the requirements of the design or carparking provisions of the Dwelling Houses and Duplex Buildings Development Control Plan No. 17A.

2. The siting of the carport is considered to have an adverse impact on the streetscape character of Shepherd Street, and set an undesirable precedent due to its size, height, and minimal setback from the Shepherd Street frontage.
ITEM 6 (Continued)

(B) The person who made a submission be advised of the decision.

(C) Council officers be authorised to take the necessary action to have the existing shade structure in the front of 25 Shepherd Street, West Ryde removed.

On 14 March 2005, a Notice of Intention was issued on the owners of 25 Shepherd Street requiring them to demolish and remove the structure constructed within the front setback.

On 17 March 2005, the owners of 25 Shepherd Street advised Council that they had applied to Council for a section 82A under the Environmental Planning and Assessment Act 1979 to have Council refusal of their application reviewed.

On 3 May 2005, the Committee of the Whole considered a report from the Group Manager Environmental Planning for Council to review its decision to refuse the application for construction of a carport within the front setback.

Committee of the Whole at its meeting on 3 May 2005 resolved that:

Council’s resolution of 22 February 2005 (Min No. 15) to refuse LDA No. 632/2004 be affirmed.

On 29 April 2005, an order was issued on the owners of 25 Shepherd Street requiring them to demolish the structure within the front setback within 30 days.

An inspection by Council's Officers on 3 June 2005 revealed that the structure had not been demolished.

This matter has now been before Council on a number of occasions over the past 18 months and Council has refused the application for an alternate carport structure on each occasion.

The owner of 25 Shepherd Street has not complied with Council's orders and requests to remove the structure over a period of time.

COMMENTS:

Under Section 121ZG of the Environmental Planning and Assessment Act, Council has discretion and may revoke an order at any time. If Council were to use discretion and revoke the order it would need to take a number of factors into consideration such as the seriousness of the breach, the impact on the amenity of the adjoining property and the likely outcome and cost of any legal proceedings.

The only recommendation available to Council's officer at this time is that legal proceedings be instituted against the owners for non-compliance with Council's order. Council Officers have not been able to negotiate an alternate structure that Council has been prepared to support.
ITEM 6 (Continued)

RECOMMENDATION:

a) That the matter be referred to Council’s Solicitor for the institution of legal proceedings against the owner of 25 Shepherd Street for non-compliance with Council’s order.

b) That the owners of 25 Shepherd Street be advised of Council’s decision.

Ken Nagle
Manager Environmental Enforcement