

ATTACHMENTS FOR: AGENDA NO. 7/13 Planning and Environment Committee

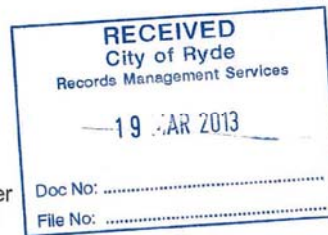
Meeting Date: Tuesday 7 May 2013
Location: Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde
Time: 5.00pm

ATTACHMENTS FOR PLANNING AND ENVIRONMENT COMMITTEE

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ATTACHMENT 2



15 March 2013

The General Manager
City of Ryde Council
Locked Bag 2069
NORTH RYDE NSW 1670

Dear Sir/Madam,

**RE: EXTENSION OF AN EXISTING NURSING HOME TO INCREASE CAPACITY
FROM 50 TO 112 BEDS - DEVELOPMENT APPLICATION NO. LDA2012/0247**

I refer to your letter of notification of amended plans dated 1 March 2013 and my objection letter dated 18 September 2012 for the above development application. I have been appointed by the body corporate of No. 1 Aeolus Avenue, Ryde to prepare a submission to Council in that regard.

As stated previously, No. 1 Aeolus Avenue is the property immediately adjoining the subject site to the east (referred to throughout this submission as "my client's property") and is the only property that immediately adjoins the proposed extension, and such is the property most affected by the proposal.

On behalf of my clients, I raised the following objections to the application in its original form:

1. Unacceptable visual bulk due to excessive height
2. Inadequate provision of landscaping
3. Loss of visual and acoustic privacy
4. Loss of outlook and views
5. Shadow Impact
6. Inappropriate design which maximises impacts upon my client's property
7. Overdevelopment of the site

Unfortunately, the amended plans which I have viewed can only be described as tokenistic at best. The changes proposed include the change of the roof form to a lower version, ignoring the fact that the roof is on top of a building that is 2 storeys over the height limit, the provision of a privacy screen and a minor increase in landscape provision. The minor changes proposed do nothing to address the substantive impacts of this proposal on my client's property and the letter submitted by the applicant comprehensively fails to justify the significant breaches of several controls applicable to the application given the substantive impacts of the proposal, in particular the components of the proposal that breach the controls.

I note that the significant and unacceptable impacts of the proposed development upon my client's property can best be appreciated by carrying out a site inspection from my client's property, and I request that the assessment officer do so.

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In this regard I note the application breaches the numerical height control of 8m applying to the site and no attempt has been made to reduce the excessive extent of non-compliance (50%). The application also breaches the two storey maximum control for buildings adjoining a boundary, by 100% as the proposal is, in part 4 storey, and no attempt has been made to reduce the excessive extent of non-compliance. The proposal also significantly breaches the landscape provision control and only a small change has been proposed in this regard, which not only achieves little to ameliorate the excessive visual bulk impact of the part 4 storey building, but also does not significantly reduce the extent of non-compliance (>15%).

As such the majority of my original concerns with the proposal remain and I reiterate these concerns following.

1. Unacceptable visual bulk due to excessive height

The proposal seeks to extend the existing large nursing home building at the rear of the subject site towards the street, with the height of the proposed extension stepping up towards Aeolus Avenue.

The existing nursing home is constructed over three levels, with the top two being accommodation and the bottom level being for parking. The proposed extension is to be constructed over four levels where it adjoins the rear half of the front building on my client's property and two levels where it adjoins the front half of that building. The central portion of the proposed extension, therefore steps up, rather than down with the topography of the site and as a result has an excessive height of approximately 12m from existing ground level to the ceiling. This represents a 50% non-compliance with the maximum numerical height control of 8m and 100% non-compliance with the storey control of 2 storeys adjacent to a boundary contained in SEPP (Seniors Living), upon which the application relies. When compared to the controls that would otherwise apply to the Low Density Residential zoning of the site the breaches are similarly excessive.

This four storey component cannot be justified using SEPP 1 objections as it has an unacceptable visual bulk as viewed from my client's property, results in the loss of solar access to dwellings which currently only receive approximately 2 hours of solar access at midwinter and has not been appropriately landscaped to ameliorate the excessive bulk and scale. This is clearly a case of a developer simply seeking to overdevelop the site in a manner that has little regard for the impact upon adjoining residents.

As the proposed height is significantly over the 8m control and the two storey at the boundary control, serious consideration needs to be given to whether the additional height results in a development that meets the design principles for neighbourhood amenity and streetscape or the intent of the height control if a SEPP 1 objection is to be supported. In my opinion, the design does not meet those principles, with the fourth floor totally disregarding the topography of the area as it results in the building stepping up from the street when the topography steps down. Even the third floor is inconsistent with the scale of development characteristic of the area, let alone the fourth floor, it being noted that the buildings on my client's property are an anomaly and a remnant of past development decisions and should not form a precedence for development under the current planning regime.

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Further, the excessive height of the development will result in an unacceptable visual bulk impact upon the living areas, balconies and bedrooms of the apartments in the front building (see following photograph).



Outlook from middle level bedroom of apartment within the front building on my client's property

The above photograph shows the existing nursing home building to the far left of the window and it is noted that the proposal is half a storey above the height of the highest ridge of the existing nursing home.

As is obvious from this photograph, such a building will almost completely obscure any outlook to the sky from this apartment. The impact upon the lower level apartments would be even greater. Were the proposal to comply with the height controls, the development would be of similar height to the lower of the two ridges seen in the above photograph and would have an acceptable impact upon my client's property (subject to appropriate landscaping). As such I am of the opinion that the SEPP 1 objection to the height control cannot be well-founded as the breaching element has a number of real impacts that a compliant development would not.

I am of the opinion that the proposed additions are of excessive height and should be lowered such that they comply with the 2 storey height requirement adjacent to a side boundary in order for the development to reasonably relate to its context and to reduce the impacts upon the surrounding development.

The proposed design is flawed, seeking to provide a perimeter building for almost the full length of my client's boundary, with no significant articulation by way of a break in the wall or stepping of the development at the higher levels and with minimal and tokenistic landscaping to assist in softening the extremely excessive visual bulk.

Such a degree of visual bulk would not be acceptable even in a R4 High Density zone due to the length of the wall, the lack of serious articulation and the lack of landscaping, and as such in a R2 Low Density Zone is comprehensively incompatible.

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2. Inadequate provision of landscaping

As has been mentioned above, the proposal provides for only tokenistic landscaping between the excessively long and high wall of the proposed development and my client's property. The landscape strip is located immediately adjacent to the proposed building and is less than 2m wide as scaled from the plans. Such a width of landscaping, particularly when located adjacent to the building, would not enable the provision of appropriate landscaping of a scale that could soften the visual bulk impacts of the development. Given the landscape strip is less than 2m wide and adjacent to the building it would be inappropriate to even attempt to plant 10-12m high trees which would be commensurate with the scale of the building.

The provision of a driveway on a nil setback and then a tokenistic landscape strip in the setback area between the building and my client's property shows an absolute disregard for the impacts of the development upon my client's property. It is considered that the minimal change to the landscaping between my client's property and the proposed building has done nothing to solve this concern. It is further noted that an amended landscape plan has not been provided and as such it cannot be determined what landscaping will be provided and whether it will be of commensurate scale with the proposed building. Maybe this is because even the applicant is aware that no substantive landscaping could be provided in this location that would be commensurate with the scale of the building.

An appropriate degree of landscaping between such an excessively bulky building (even if the bulk were reasonable and it is not) would be a 3m landscaped strip (as is provided on my client's property) which would need to be located adjacent to the boundary, not adjacent to the building. Such a landscaped strip could provide for landscaping incorporating shrubs, small trees and canopy trees, which would assist not only in providing visual relief to my clients but would also assist in providing improved privacy between the developments (discussed further later) and provide for an improved outlook to the users of the facility.

Further, the proposal still provides for no landscaping to the Aeolus Avenue frontage of the site to ameliorate the bulk of the development and provide an appropriate landscape setting commensurate with the streetscape character of Aeolus Avenue. The tokenistic retention of two trees as the only landscaping in a 9.7m setback, with the remainder being occupied by driveways and ramps is comprehensively unacceptable.

The lack of provision of landscaping is evidenced by the fact that the development does not satisfy the landscape requirements of clause 48 of SEPP (Seniors Living), with a significant deficit remaining. The provision of compliant onsite landscaping would go a long way towards providing for a suitable landscaped buffer for the development between it and my client's property and between it and Aeolus Avenue. The landscape provision onsite is clearly inadequate as is evidenced by this deficit and as such the SEPP 1 objection is not well-founded as the landscape provision does not satisfy the intent of the control.

ITEM 2 (continued)

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3. Loss of visual and acoustic privacy

The concerns in relation to the acoustic impacts of the driveway and raised pathway have not been addressed by way of an acoustic report as requested and again a somewhat tokenistic response has been provided. The proposed angled louvres, whilst achieving a reasonable level of visual privacy, will do nothing to ameliorate the acoustic impact of the use of the site and the attempt to suggest that a partially open structure can provide any acoustic benefit is clearly misguided.

The driveway provides access to a loading facility and parking to the rear of the site, with residents of my client's property already experiencing excessive noise from car movements and truck movements, often late at night or early in the morning due to 24 hour staff rostering. The more than doubling of the size of the nursing home will greatly increase that noise impact. It is not accepted that the enclosure of the loading bay will reduce this noise significantly as trucks still need to reverse into the bay and the "beeping" noise of the reversing trucks will be audible from within the apartments of my client's property. It is therefore requested that all loading and garbage collection be limited to between the hours of 8am and 6pm Monday to Friday.

The elevated, external walkway from the loading area to the various service components of the development will still result in excessive noise, particularly as it is likely to be used by a variety of trolleys when truck drivers deliver linen, food and medical supplies and remove garbage. Presumably the walkway has been externalised as the development is at the maximum FSR and to internalise it would breach the control. This is again another example of how the development is an overdevelopment of the site. In order to appropriately address the noise impacts of the use of this walkway it is requested that a condition be placed on any consent requiring the screen to be solid (potentially obscure glazing to allow some light through for the residents) and to be constructed to a minimum height of 1.8m with no gaps (ie the screen would also need to return at the ends to attach to the building to provide an effective acoustic barrier).

The design also provides for a series of internal living spaces (such as communal living rooms and dining rooms) and a series of very large external terraced immediately adjoining the front building on my client's site, with separations from the boundary of as little as 6m. A large communal sitting room is located immediately opposite the balconies of the rear apartments in that building with a separation of only 11m.

Indeed, the design inappropriately concentrates the uses that would generate the largest privacy and acoustic impacts immediately adjacent to Building A. No attempt has been made to ameliorate this impact. It is requested that a condition be placed on any consent requiring the window facing my client's property to the "quiet sitting room" on level 1 to be a highlight window. It is also requested that a condition be placed on any consent requiring that no external terrace areas adjacent to the boundary of my client's property be provided with any lighting and that they only be used between the hours of 8am and 8pm on any day.

4. Loss of outlook and views

A further unacceptable impact of the height and bulk of the development is the comprehensive loss of outlook and views from all apartments on the western side of the front building.

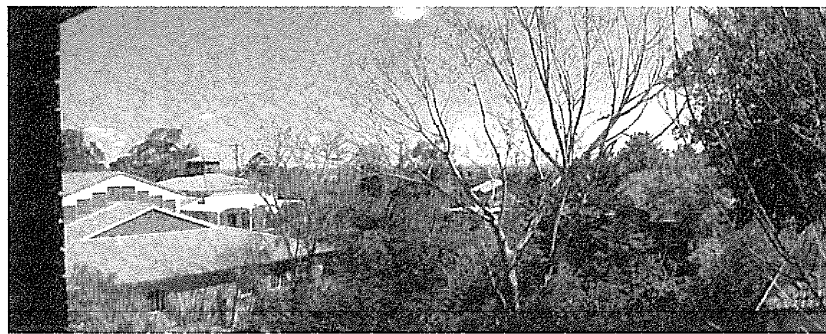
ITEM 2 (continued)

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The following photograph shows the view from the balcony off the living room of an upper level apartment at the rear of the front building, with extensive district views. A development that complied with the height controls, including a maximum of two storeys adjacent to boundaries, would retain large portions of these views.

The current amended development would result in the total loss of the views. As the component of the development that results in the total loss of the view is a non-compliant element, I am of the opinion that the development fails the test set by the Planning Principles of the Land and Environment Court related to view sharing and as such the variation to the height control should not be supported in this instance. The attempt in the applicant's submission to dismiss this concern is indicative of the dismissive attitude the applicant has shown to the adjoining property owners throughout this process.

Similar views are enjoyed from other rooms within this apartment and from other apartments, all of which would be lost as a result of the proposal. Such a view loss could not have been expected by the owners, and is not justifiable, as the proposal is two storeys higher than the control allows at this point. Given this impact the SEPP 1 objection to the height variation is not well-founded.



Current district views from upper level rear apartment in the front building on my client's site

5. Shadow impacts

The amended shadow diagrams show that the proposed development, in particular the non-compliant 4 storey section, will result in additional shadowing of the western façade of front building, in particular the balconies of the lower level apartments. As noted previously these apartment currently only enjoy solar access from approximately 1pm at midwinter and as such any loss of solar access is unacceptable. This is particularly the case as the loss of solar access is directly due to the non-compliance of the development with the height control. To approve such a non-compliant development which reduced solar access to in the order of 4 dwellings to below 2 hours would be inconsistent with the solar access principles set by the Land and Environment Court. This is particularly the case as a compliant building would not result in the loss of any solar access to the apartments on my client's property at midwinter.

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Further, the shadow diagrams show that the proposal will result in the loss of solar access to the north-western façade of the westernmost end of the façade of the rear building on my client's property. As this shadow is also a direct result of the excessive height of the 4 storey component of the development, it cannot be supported for the same reason.

6. Inappropriate design which maximises impacts upon my client's property

The design, which effectively turns its back on my client's property, providing a high, perimeter wall design, with all the landscaping located internally and with the separation distance between the developments used for vehicular access is one that maximises rather than minimised the impacts upon my client's property.

Further, the provision of large communal living, dining and terrace areas and the lack of provision of landscaping along the common boundary also maximise, rather than minimise the impacts upon my client's properties.

From my assessment of the proposal, absolutely no attempt has been made to ameliorate the excessive height, bulk and scale or the visual and acoustic privacy impacts upon my client's property.

7. Overdevelopment of the site

The above detailed assessment shows that the proposal is a substantial overdevelopment of the subject site, which results in unacceptable impacts upon my client's property and upon the streetscape setting of Aeolus Avenue as a direct result of the breaches of the controls applicable to the site. The extensive nature of the overdevelopment is seen in the following facts:

1. The development is at least 4m over the 8m maximum height control (50% breach);
2. The development is two storeys over the maximum two storey height control at the boundaries of the site (100% breach);
3. The streetscape presentation is one storey higher than other development in the area;
4. The permitter building runs almost the entire length of my client's property boundary without any break in the building, without any setback at upper levels and without any substantive or effective landscape buffer;
5. The development provides no landscaped setting for the building as viewed from Aeolus Avenue; and
6. The development is significantly deficient in the provision of landscaping (> 15% breach).

Put simply, the development seeks too much building on the subject site, which is excessively high, poorly designed and not located in a landscaped setting. The development is comprehensively incompatible with the low density nature of the zone and area and fails the neighbourhood amenity and streetscape test set by clause 33 of SEPP (Seniors Living). In this context, I am of the opinion that the application should be refused.

Notwithstanding that this is my position, should the Council be of a mind to grant consent it is requested that the following conditions be placed upon the consent:

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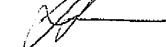
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1. Deferred commencement consent requiring the development to be redesigned to provide a 3m wide landscaped strip adjacent to my client's property which is to include planting of trees 10-12m in height.
2. Deferred commencement consent requiring the deletion of the fourth floor in the central part of the building that adjoins my clients property. This would result in the deletion of 3 x 2 bed and 1 x 2 bed rooms, the quiet sitting room, corridor, sitting room next to the level 2 terrace, nurses station and the level 2 terrace.
3. Condition limiting loading and garbage collection to between the hours of 8am and 6pm Monday to Friday.
4. Condition requiring the privacy screen along the external walkway adjacent to my client's property to be a solid screen, returning at the ends to attach to the building to a height of 1.8m to provide an acoustic barrier.
5. Condition requiring the window facing my client's property to the "quiet sitting room" on level 1 to be a highlight window.
6. Condition requiring that no external terrace areas adjacent to the boundary of my client's property be provided with any lighting and that they only be used between the hours of 8am and 8pm on any day.

It is requested that I be informed of the date of any Council meeting at which this application is to be considered to allow me to address the Councillors on behalf of my clients. Thank you for considering the above concerns of my client. Should you wish to clarify any of the points contained in this submission please do not hesitate to call me.

Yours faithfully

KERRY GORDON PLANNING SERVICES PTY LTD

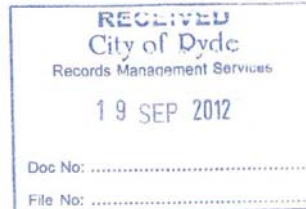


Kerry Gordon
BTP (Hon.), MLE
Director

ITEM 2 (continued)

ATTACHMENT 2

The General Manager
City of Ryde Council
Locked Bag 2069
NORTH RYDE NSW 1670



18 September 2012



Dear Sir/Madam,

**RE: EXTENSION OF AN EXISTING NURSING HOME TO INCREASE CAPACITY
FROM 50 TO 112 BEDS - DEVELOPMENT APPLICATION NO. LDA2012/0247**

I refer to the letter of notification dated 7 August 2012 for the above development application and note the extension of time until 19 September 2012 granted for the lodgement of submissions. I have been appointed by the body corporate of No. 1 Aeolus Avenue, Ryde to prepare a submission to Council in that regard.

No. 1 Aeolus Avenue is the property immediately adjoining the subject site to the east (referred to throughout this submission as "my client's property") and is the only property that immediately adjoins the proposed extension, and such is the property most affected by the proposal.

On behalf of my clients, I raise the following objections to the application:

1. Unacceptable visual bulk due to excessive height
2. Inadequate provision of landscaping
3. Loss of visual and acoustic privacy
4. Loss of outlook and views
5. Shadow impact
6. Inappropriate design which maximises impacts upon my client's property
7. Overdevelopment of the site

I note that the significant and unacceptable impacts of the proposed development upon my client's property can best be appreciated by carrying out a site inspection from my client's property, and I request that the assessment officer do so, however, the following photographs are provided to assist in the initial assessment.

My client's property is developed with two apartment buildings, one located immediately adjacent to the proposed addition, towards the front of the property and one located further to the rear of the property. The property slopes down from the street to the rear of the site and the apartment buildings are constructed over four levels, with three levels of accommodation over one level of above ground parking. The buildings are designed to step down the slope of the property (see first photograph on the following page).

The front apartment building (referred to throughout this submission as "Building A") is a rectangular building, with its long side running parallel to the boundary with the subject site and has a landscaped setback of approximately 3m from the common boundary.

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My client's property (middle) showing the two apartment buildings on the site, with the subject site to the right in the photograph

Building A has two apartments at each level immediately adjacent to the common boundary, with each apartment having bedrooms, kitchen and living area with balcony off it looking towards the subject site. As such six apartments look directly towards the subject site (see following photograph)



Building A showing the relationship of its western façade with the subject site, note the stepping in the building and the centrally located balconies looking towards the subject site

Building B is an irregular "T" shaped building that is built at an angle to the common boundary, with its south-western façade facing the existing nursing home building at the rear of the subject site and its north-western façade facing the proposed addition. The north-west façade contains balconies off living rooms and bedroom windows looking towards the subject site (see photograph on the following page).

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Building B which has a larger separation from the subject site (seen to the right of the photograph) than Building A and is somewhat angled away from the common boundary

1. Unacceptable visual bulk due to excessive height

The proposal seeks to extend the existing large nursing home building at the rear of the subject site (seen in the above photograph) towards the street, with the height of the proposed extension stepping up towards Aeolus Avenue.

The existing nursing home is constructed over three levels, with the top two being accommodation and the bottom level being for parking. The proposed extension is to be constructed over four levels where it adjoins the rear half of Building A on my client's property and two levels where it adjoins the front half of that building. The central portion of the proposed extension, therefore steps up, rather than down with the topography of the site and as a result has an excessive height of up to 12.12m from existing ground level to the ceiling, with an extraordinary height of 14.85m from the ground level to the ridge.

Without even considering the zoning of the subject site or the applicable height control, and simply having regard to the topography of the subject site, it is clear that the proposed extension is of excessive height and that the central portion is at least one storey too high.

When, the zoning of the area and the applicable height controls are also taken into consideration, the degree of the excessive height becomes even more evident. The subject site and surrounding area is zoned Residential R2 Low Density Residential and the objectives of the zone include to provide for housing needs within a low density residential environment, to ensure that the general low density nature of the zone is retained, to maintain on sites with varying topography the two storey pitched roof form character and to ensure development complements or enhances the streetscape.

ITEM 2 (continued)

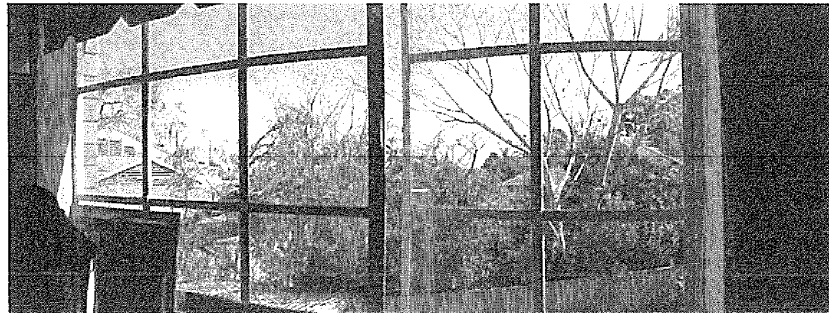
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In my submission, the proposed development fails in relation to these objectives, providing a visually intrusive and bulky streetscape design to both Aeolus Avenue and North Road which are inconsistent with the low density streetscape character of the area and have no regard to the topography of the site.

Further, the application has been made under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) (SEPP (Seniors Living)). SEPP (Seniors Living) at clause 40 provides that a development must be no higher than 8m, must not have a building greater than 2 storeys in height where adjacent to a boundary and must not exceed 1 storey in height in the rear 25% of the site. The SEE argues that there is no clear rear to the site as it has 2 street frontages, but notwithstanding this proposes no single storey component to the development, simply ignoring this control. It is my opinion that the single storey control is applicable to the site and would logically be applied to the eastern boundary as it is the boundary opposite the frontage of the site (ie Blaxland Road). Even, if the single storey control were not applied strictly, the two storey control should and must be applied as the dramatic impacts upon my client's property by the proposed non-compliance are evident for all to see and are detailed in this submission.

As the proposed height is significantly over the 8m control and the two storey at the boundary control, serious consideration needs to be given to whether the additional height results in a development that meets the design principles for neighbourhood amenity and streetscape. In my opinion, the design does not meet those principles, with the fourth floor totally disregarding the topography of the area and being comprehensively inconsistent with the scale of the low density area. Even the third floor is inconsistent with the scale of development characteristic of the area, it being noted that the buildings on my client's property are an anomaly and a remnant of past development decisions and should not form a precedence for development under the current planning regime.

Further, the excessive height of the development will result in an unacceptable visual bulk impact upon the living areas, balconies and bedrooms of the apartments in Building A (see following photograph).



Outlook from middle level bedroom of apartment within Building A

The above photograph shows the existing nursing home building to the far left of the window and it is noted that the proposal is half a storey and a full roof above the height of the highest ridge of the existing nursing home, being approximately 4m higher.

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As is obvious from this photograph, such a building will almost completely obscure any outlook to the sky from this apartment. The impact upon the lower level apartments would be even greater.

I am of the opinion that the proposed additions are of excessive height and should be lowered such that they comply with the 2 storey height requirement adjacent to a side boundary in order for the development to reasonably relate to its context and to reduce the impacts upon the surrounding development.

I also note that there has been no attempt to ameliorate the visual bulk by the provision of either landscaping (addressed following) or by a suitable degree of articulation.

The proposal seeks to provide a perimeter building for almost the full length of my client's boundary, with no significant articulation by way of a break in the wall or stepping of the development at the higher levels and with absolutely no landscaping to assist in softening the extremely excessive visual bulk. Such a degree of visual bulk would not be acceptable even in a R4 High Density zone due to the length of the wall, the lack of serious articulation and the lack of landscaping, and as such in a R2 Low Density Zone is comprehensively incompatible.

2. Inadequate provision of landscaping

As has been mentioned above, the proposal provides for no serious landscaping between the excessively long and high wall of the proposed development and my client's property. The result is an outlook towards a hard built environment with no softening by way of landscaping. Such an approach to treating the setback area between the building and my client's property shows an absolute disregard for the impacts of the development upon my client's property. No attempt has even been made to ameliorate what is an unreasonable and excessive bulk by the use of landscaping in this location.

An appropriate degree of landscaping between such an excessively bulky building (even if the bulk were reasonable and it is not) would be a 3m landscaped strip (as is provided on my client's property). Such a landscaped strip could provide for landscaping incorporating shrubs, small trees and canopy trees, which would assist not only in providing visual relief to my clients but would also assist in providing improved privacy between the developments (discussed further later) and provide for an improved outlook to the users of the facility.

Further, the proposal provides for no landscaping to the Aeolus Avenue frontage of the site to ameliorate the bulk of the development and provide an appropriate landscape setting commensurate with the streetscape character of Aeolus Avenue. The tokenistic retention of two trees as the only landscaping in a 9.7m setback, with the remainder being occupied by driveways and ramps is comprehensively unacceptable.

The lack of provision of landscaping is evidenced by the fact that the development does not satisfy the landscape requirements of clause 48 of SEPP (Seniors Living), with a 428m² deficit. The provision of the additional 428m² onsite would go a long way towards providing for a suitable landscaped buffer for the development between it and my client's property and between it and Aeolus Avenue. The landscape provision onsite is clearly inadequate as is evidenced by this deficit.

ITEM 2 (continued)

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3. Loss of visual and acoustic privacy

To further exacerbate the unacceptable visual impact of the excessively high and long building with no visual break from landscaping, the separation between the building and the boundary is only 6-8m and all of that is taken up by a driveway and or/elevated pedestrian pathway, bringing with it unacceptable acoustic impacts, which are discussed below.

The driveway provides access to a loading facility and parking to the rear of the site, with residents of my client's property already experiencing excessive noise from car movements and truck movements, often late at night or early in the morning due to 24 hour staff rostering. The more than doubling of the size of the nursing home will greatly increase that noise impact.

The design includes an elevated, external walkway from the loading area to the various service components of the development which will result in excessive noise and direct overlooking into Building A, with the separation to the walkway from the building being only in the order of 9m. Presumably the walkway has been externalised as the development is at the maximum FSR and to internalise it would breach the control. It appears a cynical attempt at compliance with at least one control with little regard for the impact upon my client's property.

The design also provides for a series of internal living spaces (such as communal living rooms and dining rooms) and a series of very large external terraced immediately adjoining Building A, with separations from the boundary of as little as 6m. A large communal sitting room is located immediately opposite the balconies of the rear apartments in Building A with a separation of only 11m with no attempt at provision of privacy screening or landscaping to ameliorate the impacts.

Indeed, the design inappropriately concentrates the uses that would generate the largest privacy and acoustic impacts immediately adjacent to Building A.

The acoustic report is silent on the acoustic impact of all of the above concerns and I am of the opinion it is inadequate to appropriately assess the impact of the development on my client's property. As a minimum, the acoustic report should be supplemented by a report that uses a background noise level taken on my client's property (not on the noisier Blaxland Road) and includes an assessment of the impact from:

- truck movements (including the reversing beep noise),
- car movements,
- noise from internal and external living and terrace areas,
- noise from the movement of persons, trolleys and the like along the elevated external walkway,
- loading from the rear of the loading dock along the elevated external walkway to the service components of the development such as the kitchen, garbage area and for the supply of food, linen and the like, and
- noise from activities such as currently occur in the living spaces, such as sing-a-longs.

ITEM 2 (continued)

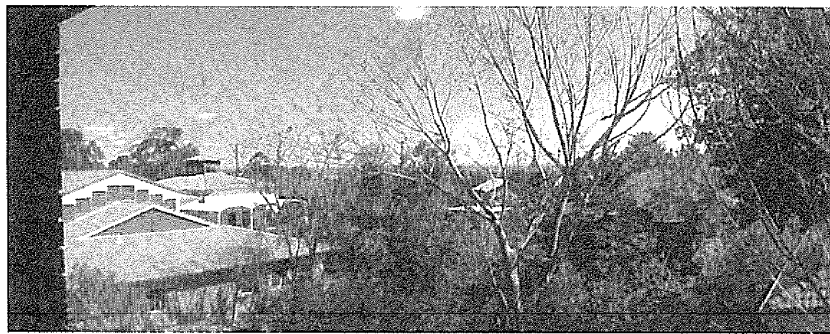
ATTACHMENT 2

4. Loss of outlook and views

A further unacceptable impact of the height and bulk of the development is the comprehensive loss of outlook and views from all apartments on the western side of Building A.

The following photograph shows the view from the balcony off the living room of an upper level apartment at the rear of Building A, with extensive district views. A development that complied with the height controls, including a maximum of two storeys adjacent to boundaries, would retain large portions of these views. The current proposed development would result in the total loss of the views. As the component of the development that results in the total loss of the view is a non-compliant element, I am of the opinion that the development fails the test set by the Planning Principles of the Land and Environment Court related to view sharing and as such the variation to the height control should not be supported in this instance.

Similar views are enjoyed from other rooms within this apartment and from other apartments, all of which would be lost as a result of the proposal.



Current district views from upper level rear apartment in Building A

5. Shadow impacts

The shadow diagrams show that the proposed development will result in additional shadowing of the western façade of Building A, in particular the balconies of the lower level apartments, at 3pm at mid winter. As the western façade of Building A receives no substantive solar access until approximately 1pm at midwinter, the loss of solar access will reduce the level of solar access enjoyed to the only private open space of the two units on the lower level to below 2 hours at midwinter. Such a loss of solar access is unacceptable.

Further, the shadow diagrams show that the proposal will result in the loss of solar access to the north-western façade of the westernmost end of the façade from approximately 2.30pm, with total shadowing of the balconies off the living spaces at 3pm. As this shadow loss is a direct result of the excessive height of the 4 storey component of the development, it cannot be supported.

ITEM 2 (continued)

ATTACHMENT 2

6. Inappropriate design which maximises impacts upon my client's property

The design, which effectively turns its back on my client's property, providing a high, perimeter wall design, with all the landscaping located internally and with the separation distance between the developments used for vehicular access is one that maximises rather than minimised the impacts upon my client's property.

Further, the provision of large communal living, dining and terrace areas and the lack of provision of landscaping along the common boundary also maximise, rather than minimise the impacts upon my client's properties.

From my assessment of the proposal, absolutely no attempt has been made to ameliorate the excessive height, bulk and scale or the visual and acoustic privacy impacts upon my client's property.


7. Overdevelopment of the site

The above detailed assessment shows that the proposal is a substantial overdevelopment of the subject site, which results in unacceptable impacts upon my client's property and upon the streetscape setting of Aeolus Avenue. The extensive nature of the overdevelopment is seen in the following facts:

1. The development is at least 4m over the 8m maximum height control;
2. The development is two storeys over the maximum two storey height control at the boundaries of the site;
3. The streetscape presentation is one storey higher than other development in the area;
4. The permitter building runs almost the entire length of my client's property boundary without any break in the building, without any setback at upper levels and without any landscape buffer;
5. The development provides no landscaped setting for the building as viewed from Aeolus Avenue; and
6. The development is 428m² deficient in the provision of landscaping.

Put simply, the development seeks too much building on the subject site, which is excessively high, poorly designed and not located in a landscaped setting. The development is comprehensively incompatible with the low density nature of the zone and area and fails the neighbourhood amenity and streetscape test set by clause 33 of SEPP (Seniors Living). In this context, I am of the opinion that the application should be refused.

It is requested that I be kept informed of any additional information sought by Council or any amended plans lodged in response to this objection and be given the opportunity of responding to such. Thank you for considering the above concerns of my client. Should you wish to clarify any of the points contained in this submission please do not hesitate to call me.

Yours faithfully
KERRY GORDON PLANNING SERVICES PTY LTD

Kerry Gordon
BTP (Hon.), MLE
Director

ITEM 2 (continued)

ATTACHMENT 3



12 February, 2013

The General Manager
Ryde City Council
Locked Bag 2069
North Ryde NSW 1670

ATTN: Mr. Chris Young

Dear Chris,

RE: **AMENDED PLANS AND ADDITIONAL INFORMATION**
DEVELOPMENT APPLICATION LDA 2012/0247
S'ANTONIO DA PADOVA VILLAGE, 305 BLAXLAND ROAD RYDE

Thank you for meeting with the applicant, Sam Restifa of Restifa and Partners, to discuss issues relevant to Council's assessment of this application. Consistent with the matters we are advised were discussed at that meeting the purpose of this submission is to:

- Provide amended architectural plans;
- Respond to matters raised by Roads and Maritime Services (RMS); and
- Respond to matters raised in public submissions.

Amended architectural plans

Provided for Council's consideration are the following amended plans prepared by Woodhead Architects:

Drawing No	Title	Date
DA-001 Rev 2	Cover sheet	4.2.13
DA-002 Rev 2	Site analysis	5.2.13
DA-101 Rev 2	Plan - site	5.2.13
DA-201 Rev 2	Plan - lower ground	5.2.13
DA-202 Rev 4	Plan - ground	5.2.13
DA-204 Rev 2	Plan- new level 2	5.2.13
DA-205 Rev 2	Plant room floor plan	5.2.13
DA-301 Rev 2	Sections - sheet 1	5.2.13
DA-401 Rev 2	Elevations - sheet 1	4.2.13
DA-501 Rev 2	Shadow diagrams - sheet 1	4.2.13
DA-502 Rev 2	Shadow diagrams - sheet 2	4.2.13
DA-503 Rev 2	Shadow diagrams - sheet 3	4.2.13

Reduced copies of these plans are provided at **Appendix A**.

LEVEL 1, 364 KENT STREET, SYDNEY NSW 2000 TEL 82703500 FAX 82703501 WWW.CITYPLAN.COM.AU
CITY PLAN SERVICES PTY LTD ABN 30 075 223 353
CITY PLAN STRATEGY & DEVELOPMENT PTY LTD ABN 58 133 501 774
CITY PLAN URBAN DESIGN PTY LTD ABN 41 107317 206
CITY PLAN HERITAGE PTY LTD ABN 46 103 185 413

ITEM 2 (continued)

ATTACHMENT 3



The scope of the amendments is:

- A. Modification to the **roof form** over the proposed addition adjacent to the eastern site boundary generally opposite No 1 Aeolus Avenue. The conventional hipped roof has now been replaced with a revised version which has allowed for the ridge of that roof to be moved away from the eastern site boundary, and for the roof pitch to be significantly lowered by 1.41m (i.e. from RL 91.38 to 89.97) to reduce the volume of the that element of the building. The revised roof is generally a flat, metal deck roof with a 3° pitch);
- B. Increase the size (length and width) of the **landscape area along the driveway** adjacent to the eastern elevation of the building. This increases the quantity of landscaping at this part of the site by 48m² which would allow for larger trees to be provided in this location to soften the presentation of the nursing home when viewed from the adjoining residential buildings. A revised planting scheme for this garden bed will be prepared to satisfy any requirements nominated by Council.
- C. The **loading dock roof** has been altered by deleting the roof top planter box and altering the profile of the roof to now comprise a skillion which slopes away from Aeolus Avenue. This reduces volume of the new building at the point where the proposed additions are closest to the neighbouring apartments at No. 1 Aeolus Avenue.
- D. Provision of **louvres to screen the external walkway** along the eastern edge of the ground floor of the proposed additions. The louvres will be prefinished aluminium vertical blades positioned to give privacy to the adjoining neighbours from the walkway whilst allowing natural light into the building. The colour of the louvres has not been selected but will complement the presentation of the nursing home.

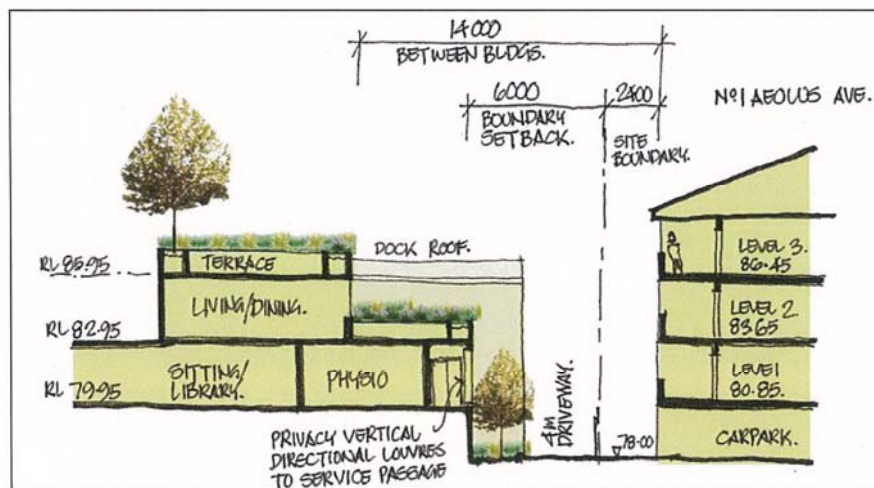


Figure 1: Section showing revised roof to loading dock and relationship with No.1 Aeolus Ave. Louvres to walkway also indicated.

(source: Woodhead Architects)

ITEM 2 (continued)

ATTACHMENT 3



Figure 1 above shows the reduced building volume resulting from the revised roof to the loading dock, louvred screens to the walkway to improve privacy and improved landscaping along the eastern edge of the building arising from the increased landscape supply. Separation from the apartments at No. 1 Aeolus Avenue is also demonstrated.

Please note that the following plans have not been updated as they are not affected by the design modifications:

- Drawing DA 051 (Existing floor plans)
- Drawing DA 052 (Demolition site plan)
- Drawing DA 200 (Basement plan)
- Drawing DA 203 (New level 1 plan)

Response to RMS

Although there is no statutory trigger to warrant referral, Council nevertheless sought advice from RMS on this application, which responded by letter dated 29 August, 2012 raising concerns regards the existing approved driveway to North Road near the intersection with Blaxland Road.

Our client has previously responded to those RMS concerns via:

- A report by Colston Budd Hunt and Kafes dated 21 September 2012; and
- A legal opinion form Addisons Lawyers, dated 10 January 2013.

A meeting between RMS and Colston Budd Hunt Kafes was also held on 11 January 2013, notes from which were forwarded to Council for its records by Restifa Partners in an email dated 14 January 2013. Based upon the investigations and analysis of the project team we note:

- There is no legislative requirement for RMS to give its concurrence or approval to this project before Council can approve the DA and further, Council is not bound to refuse the application based upon the advice RMS has provided;
- The intensity of use of this driveway will decrease as it would only be used for egress, rather than the current ingress/egress;
- Relocation of the driveway further along North Road, away from the intersection at Blaxland Road, is not feasible due to variations in ground levels that would occur between the footpath verge and the car park/driveway.

We consider that sufficient information has been presented to Council to support the application as lodged.

Response to public submissions

Our letter of 2 October 2012 responded to the three public submissions which we understood to be the extent of public interest in this application at that time. However we have since become aware that further

ITEM 2 (continued)

ATTACHMENT 3



submissions were received by Council. All submissions we have been provided copies of are addressed below including those from our letter of 2 October 2012, which have been updated as necessary.

Kerry Gordon Planning Services - for the Owners Corporation, Nos. 1 & 3 Aeolus Avenue, Ryde

Visual bulk and height

- We do not agree the suitability of the proposed building height can only be evaluated by reference to site topography alone - to do so is to ignore a fundamental design consideration which is that the nursing home additions must also integrate, in terms both design and function, with the existing buildings and site facilities. Further, we have provided a detailed objection via State Environmental Planning Policy 1 (SEPP 1) demonstrating why it is reasonable in this instance to vary the building height controls to permit the project as lodged.
- We do not agree that the built form presentation to either Aeolus Avenue or North Road can be described as bulky and visually intrusive. Justification for the built form presentation, heights and setbacks of the project are comprehensively explained within the design statement by Woodhead Architects, section 5.2.2 of our Statement of Environmental Effects (SEE) and supporting SEPP 1 objection. The built form outcome is clearly illustrated on the 3D image on Drawing No DA-001 which demonstrates the extent to which each level of the new building adjacent No. 1 Aeolus Avenue is progressively setback from that street frontage to manage the massing, scale and streetscape presentation of the nursing home at that part of the site.
- It is incorrect to claim that the rear boundary setback in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors Living) has been ignored. This matter is specifically addressed at section 5 of our SEPP 1 objection to the height controls in that instrument.
- It has always been acknowledged this project exceeds the prescribed height controls and is therefore supported by detailed documentation, prepared with due regard to the statutory planning framework, demonstrating why the particular merits of this proposal warrant variation to the height controls in this instance. Those justifications are founded on all relevant matters including the urban design controls for neighbourhood amenity in the Seniors Living SEPP and the zone objectives in Council's Local Environmental Plan 2011 (LEP 2010). Further, our justification for the variations to the height controls has been prepared relative to the accepted 5 part test for the assessment of a SEPP 1 objection established by the NSW Land and Environment Court (*Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46.)
- We do not agree the building lacks significant articulation along its eastern elevation. The existing building is broken into smaller visual elements via a series of recesses. Relief to the new addition is achieved via a combination elements being the void created by the external walkway; repeating the recessed design element from the existing building; creating a prominent recessed step in the line of the eastern elevation at the upper two floors; and finally by the inclusion of landscaped terraces at the northern ends of those floors.
- Further visual interest results from the use of a combination of external materials, colours and finishes.

Whilst we consider that project as lodged has properly addressed the issue of how the overall building will present to the adjoining site, the amended plans accompanying this submission now provide for design

ITEM 2 (continued)

ATTACHMENT 3



amendments as noted at A - C above. We consider these revisions respond to concerns of visual bulk and height by increasing landscaping along the eastern edge of the site and reducing the volume of roof elements.

In terms of the revised roof we note the following objective in Ryde LEP 2010 applies to the R2 zone:

"To maintain on sites with varying topography the two storey pitched roof form character of dwelling houses and dual occupancy (attached) developments"

We consider that objective is not compromised by these design amendments for the following reasons:

- Neither the built form nor the land use pattern of this locality is homogenous, as demonstrated at section 5.2.1 of our SEE. Within that context, a flatter roof element as proposed would not appear as overtly incongruous;
- The flatter roof is limited to a minor element of the overall new building. Due to the generous setbacks that part of the building will generally read as being of two storeys to from Aeolus Avenue; and
- Those generous setbacks ensure the balance of the additions located adjacent to the intersection of Aeolus Avenue and North Road will present as the primary element of the expanded nursing home building within the streetscape of both of those roads. Not only does that primary element of new the building include a pitched roof, it presents as two storeys to both street frontages and is therefore entirely consistent with the suite of applicable planning controls as they relate to streetscape and neighbourhood amenity considerations.

Inadequate landscaping

The shortfall in landscape area, relative to the Seniors Living SEPP controls is comprehensively addressed in the DA documentation. Nevertheless, in reviewing the project the opportunity to increase the supply of landscaping along the eastern edge of the building adjacent the driveway has been identified, as noted at B above.

It must be noted however that this additional landscaping is offset by the landscaping lost as a consequence of the modification to the roof of the dock. That design change is in direct response to neighbour concerns. Overall however, the total landscape supply remains essentially unchanged.

Visual and acoustic privacy

- The eastern terraces at level 1 and 2 are secondary to the north facing terraces as evidenced by their smaller size. The commentary regarding a failure to provide privacy or landscaping to the eastern terraces is also incorrect. All new terraces are framed by planter boxes. Privacy screens are also provided to the eastern edges of the level 1 and 2 terraces opposite the apartments at No. 1 Aeolus Avenue. These details are shown on both the architectural and landscape plans.
- It is not anticipated that residents of the nursing home would use the terraces of a night time;
- The project will actually reduce the intensity of use of the existing driveway for the reasons set out at section 5.2.11 of the SEE. Noise from the use of the driveway will therefore decrease. Noise

ITEM 2 (continued)

ATTACHMENT 3



management will further improve as the present, open, service area will be replaced with an enclosed loading dock at the Aeolus Street frontage.

- The acoustic report already provided to Council includes recommendations for glazing thicknesses and acoustic seals to all rooms within the building, including common rooms. We do not consider it is necessary to revise that report to address noise from the use of the common rooms such as 'sing-a-longs'. We also note the level 1 and 2 common rooms are intentionally located and designed to benefit from both the visual amenity of the new central internal courtyard, and the expansive northerly aspect over Aeolus Avenue.

Whilst we consider that project as lodged has properly addressed these matters we note:

- As set out at D above, to respond to concerns regarding noise from the external walkway the revised plans now provide for fixed louvred screens for the full distance of the walkway. In addition to controlling noise, these screens will also address privacy concerns by preventing views towards the adjoining apartments.
- Any consent which Council may grant will, in addition to any recommendations in the acoustic report, require that noise from the nursing home not exceed 5dB(A) above the L_{90} background noise level at the eastern boundary.

Loss of views

The submission has not provided any analysis to support its contention the project fails the planning principles applying to view impact established by the judgement of the Land & Environment Court in *Tenacity Consulting v Warringah Council [2004]*.

Notwithstanding the amended plans now provide for a flatter roof form over part of the new building and the loading dock, and additional landscaping adjacent to the driveway. These amendments will reduce the bulk and volume of the proposal as viewed from Nos. 1 and 3 Aeolus Avenue, and soften the presentation of the eastern wall of the nursing home. Whilst we do not accept that the original design created any unreasonable or unacceptable view impacts (on *Tenacity* principles) we consider these revisions are a positive response to concerns raised in the submissions.

Shadow impacts

The need to ensure solar access to the adjoining residential site has been a key factor in informing the design of the proposed additions, and is addressed in detail within the design statement by Woodhead Architects, section 5.2.2 of the SEE and the SEPP 1 objection relative to building heights.

Notwithstanding, the design amendments noted at A - C will improve solar access to Nos. 1 and 3 Aeolus Avenue as follows:

- At 2pm there is no longer any shade on the west wall of No. 1 Aeolus Ave and less shade is cast on the north west elevation of No. 3 near the ground floor right hand side window; and
- At 3pm there is less shade to the southern ground floor balcony of No. 1 Aeolus Ave.

ITEM 2 (continued)

ATTACHMENT 3



Revised shadow diagrams accompany this submission.

Inappropriate design

The project design evolved from close consideration of all relevant constraints and opportunities and with input from relevant technical disciplines. In addition, extensive preDA consultation was undertaken with Council. The constraints and opportunities which informed the design of the project are explained in the design statement by Woodhead Architects and Chapter 2 and section 5.2.2 of the SEE. The development application (DA) package addresses all relevant statutory matters and is supported by all required technical reports and plans.

Our client has always had regard for the needs of its neighbours and this is reflected in the design revisions now nominated in the amended architectural and landscape plans.

Mr. S. Sutton - 5/1 Aeolus Avenue Ryde

Traffic and parking

The submission notes a lack of parking and the high demand for street parking but acknowledges these circumstances arise from the operations of the RMS office including learner drivers and the residents of Nos. 1 and 3 Aeolus Avenue themselves. As demonstrated at section 3.5 of the Traffic Report by Colston Budd Hunt Kafes lodged with the DA, the proposal provides for an oversupply of 9 parking spaces relative to the requirements of State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004. Consequently we see no reason why this proposal would increase demands for street parking.

Noise from increased traffic

The nursing home will continue to operate three shifts per day however staffing numbers will increase as set out at section 3.2 of the SEE. However it is to be noted that number of parking spaces within the basement reduces by 1 with all additional parking being located adjacent to the North Road frontage. We do not consider that the increase in parking supply in that location would therefore increase noise for adjoining residents.

Further, noise from service delivery vehicles will be reduced as the current open, loading area will be replaced with an enclosed dock adjacent to the Aeolus Street frontage. Noise from delivery vehicles will be significantly reduced as trucks will now only travel a very short distance over the site and will conduct their activities from within the loading dock.

Overlooking and overshadowing

The additions to the nursing home are not considered to result in a loss of privacy for Nos. 1 and 3 Aeolus Avenue as discussed below in response to the submission by Mr. M Crawford.

ITEM 2 (continued)

ATTACHMENT 3



The revised plans provide for an amended roof design for the loading dock and that part of the new building closest to the eastern site boundary. Those amendments achieve a reduction in building height and volume specifically to respond to concerns regarding overshadowing and access to daylight.

Site planning

The site constraints and operational requirements which dictate the location of the proposed additions are explained in the design statement by Woodhead Architects and Chapter 2 and section 5.2.2 of the SEE.

Construction Noise

Measures to manage such impacts will be addressed through a detailed Construction Management Plan as set out at section 5.2.14 of the SEE.

Mr. D. Pirie - 9/3 Aeolous Avenue Ryde

Issues raised are a summary of those noted in the submission by Kerry Gordon Planning Services (addressed above) other than for the contention that this project directly decreases property values of the apartment at 9/3 Aeolus Avenue. As no evidence has been provided we are unable to respond to that concern.

Ms. K. Smit - 7/1 Aeolous Avenue Ryde

Traffic matters

Concern is raised the proposal will have a serious impact for traffic as the area is already affected by congestion associated with the RMS office and also because of peak hour traffic. This matter is addressed above under the heading 'Response to RMS'.

Overshadowing and privacy

The amended plans provide for a revised roof for the loading dock and that part of the new building closest to the eastern site boundary to reduce building volume and increase solar access to the neighbouring residential site, as previously noted.

The additions to the nursing home are not considered to result in a loss of privacy for Nos. 1 and 3 Aeolus Avenue as discussed below in response to the submission by Mr. M Crawford.

Impacts from construction noise

Measures to manage such impacts will be addressed through a detailed Construction Management Plan as set out at section 5.2.14 of the SEE.

ITEM 2 (continued)

ATTACHMENT 3



Mr. M. Crawford - 21/3 Aeolous Avenue Ryde

Overlooking

Levels 1 and 2 of the proposal each contain 3 windows within the eastern elevation, at the southern end of those floor plates, generally facing towards 21/3 Aeolus Avenue as shown in Figure 2 below. These new windows are the elements of the proposed works closest to the building at No. 3 Aeolus Avenue. Those windows serve bedrooms that will be occupied by high care elderly residents of the nursing home. The size and purpose of those rooms is not considered to be of a type or intensity that would impact upon privacy for any of the Units at No.3 Aeolus Avenue. We further note that these windows are between 14m-20m from No. 3 Aeolus Ave, which is considered to be sufficient separation. By way of comparison, the Residential Flat Design Code (for residential flat buildings) provides a 'rule of thumb' that buildings of up to 4 storeys should be separated by between 6m -12m.



Figure 2: East elevation showing new windows closest to No 3 Aeolus Avenue

Also, as previously noted to respond to concerns regarding noise from the external walkway the revised plans now provide for fixed louvred screens for the full distance of the walkway. In addition to controlling noise, these screens will also significantly limit views towards the adjoining apartments.

Parking

As demonstrated at section 3.5 of the Traffic Report by Colston Budd Hunt Kafes lodged with the development application, the proposal provides for an oversupply of 9 parking spaces relative to the requirements of State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004. Consequently we see no reason why this proposal would increase demands for street parking.

Noise

In terms of noise from the kitchen, we note that at present the kitchen directly adjoins the open service area off the driveway. The direct connection and level of use between those two spaces may create a

ITEM 2 (continued)

ATTACHMENT 3



circumstance that does not allow for noise from staff activities to be minimised. The proposed scheme does not provide the kitchen with any direct external connection, and separates it from the fully enclosed loading dock. Access between the kitchen and the dock is partially within the building, and then along the external walkway, which is now to be enclosed with louvres as noted at D above. This proposed new arrangement is therefore a significant improvement upon the current situation.

Regarding noise from delivery trucks the proposal includes an enclosed loading dock at the Aeolus Street frontage. This fundamental improvement upon current arrangements and will reduce noise for adjoining residents.

Loss of natural light

The amended plans provide for a revised roof for the loading dock and that part of the new building closest to the eastern site boundary to reduce building volume and increase solar access to the neighbouring residential site, as previously noted

Site planning

The constraints and operational requirements which dictate the location of the proposed additions to the nursing home are set out within the Architectural Design Statement and at section 5.2.2 of the SEE as lodged with the DA.

Ms. P. Ogilvie - 2/3 Aeolus Avenue Ryde

Extra demand for street parking

As demonstrated at section 3.5 of the Traffic Report by Colston Budd Hunt Kafes lodged with the development application, the proposal provides for an oversupply of 9 parking spaces relative to the requirements of State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004. Consequently we see no reason why this proposal would increase demands for street parking.

Overshadowing

We understand that unit 2/3 Aeolus Avenue is located at the northeastern corner of that building, facing Aeolus Avenue, and about 25m from the common boundary with the nursing home. It will not be affected by any shade cast by the proposed nursing home extension.

Loss of property values

We are not aware of any documentation provided to Council to support the contentions regarding possible impacts upon property values.

ITEM 2 (continued)

ATTACHMENT 3



Mr. C. Dargin - 16/3 Aeolus Avenue Ryde

Overshadowing and overlooking

We understand that unit 16/3 Aeolus Avenue is located at the northwestern corner of that building, facing Aeolus Avenue, and about 12m from the common boundary with the nursing home. That unit also will not be affected by any shade cast by the proposed nursing home extension.

Overlooking of units within the building at No. 3 Aeolus Avenue is addressed in detail above relative to the submission from Mr. Crawford. In terms unit 16 specifically we understand apartment is setback behind, and is therefore partially shielded by, units at the western end of that building. Additional screening would also result from the large tree located at the rear of No. 1 Aeolus Avenue, adjoining the common boundary with the nursing home site.

Noise from the driveway/Impacts from the kitchen

The use of the driveway along the common boundary with No. 3 Aeolus Avenue will actually decrease for the following reasons:

- The present open service area adjacent to the current kitchen (about midway along the eastern site boundary) will be replaced with a fully enclosed loading dock positioned in proximity to the Aeolus Avenue boundary of the subject site;
- The number of parking spaces within the existing basement is reduced; and
- Garbage bins will no longer be transferred to Aeolus Avenue for collection via the driveway. Instead bins will be moved from internal storage areas for collection from either the kerb, or the loading dock, via internal pathways and a short section of the service corridor along the eastern edge of the building.

The new kitchen will be ventilated via exhausts at the rooftop to comply with the Building Code of Australia.

Inappropriate size/character of the proposal

We do not consider the proposal to be inappropriate for the setting of the locality as discussed above in response to the submission by Kerry Gordon Planning Services.

Ms. P. Keith - 270 Blaxland Road Ryde

Building heights

The applicant is entitled to rely upon SEPP 1 to seek to vary the building height standards within State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004. Our SEPP 1 objection is comprehensive, and properly addresses all relevant matters as established by both the Department of Planning and Infrastructure and the Land and Environment Court.

ITEM 2 (continued)

ATTACHMENT 3



Building setbacks

There are no prescriptive setback controls in the Seniors Housing SEPP, or within any directly applicable Council DCP. We have provided a comprehensive discussion on the suitability of the proposed boundary setbacks at section 5.2.2 of our SEE.

Adequacy of the shadow diagrams

Assessment of shadow impacts is properly limited to the period 9am-3pm at midwinter, consistent with established planning practice and policy documents.

We note Ms. Keith's property is opposite the nursing home on the southern side of Blaxland Road, about 50m distant from the nearest works proposed by this application.

Community need

Data to support the need for the proposed facility is provided at section 5.2.13 of our SEE.

Parking and the use of the nursing home

Our SEE has demonstrated that St Antonio Da Padova Village is a dementia specific facility. Using the relevant parking provisions of State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004 the project achieves an oversupply of 9 spaces. However even if the nursing home was not dementia specific, the required parking supply of 24 is still exceeded by this proposal.

Conclusion

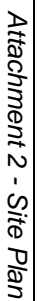
Following evaluation of the neighbours' submissions, a review of the project has identified a number of opportunities to revise the design of the project. These refinements are set out in the accompanying amended plans. We remain satisfied this revised proposal properly responds to all relevant matters for consideration within section 79C of the Environmental Planning and Assessment Act and accompanying Regulation, and therefore warrants consent being granted.

Yours faithfully,

City Plan Strategy and Development Pty Ltd



David Ryan
Executive Director



ITEM 4 (continued)

ATTACHMENT 3

Landmark Hotel

**VENUE
MANAGEMENT PLAN**

20 WEST PARADE, EASTWOOD

Updated January 2013

Signed by Edward Malar 4/2/13


Current licensee /
Director Malcom P/L

ITEM 4 (continued)

ATTACHMENT 3

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Appendices

- A Liquor Promotions Guidelines
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ATTACHMENT 3

Purpose

1. This Plan of Management is to ensure that the hotel is run at all times in a way that is consistent with good management, does not disturb the quiet and good order of the community, considers the community and meets the requirements and intents of the Environmental Planning and Assessment Act, the Liquor Act and the Gaming Machines Act. It provides a clear, concise and practical framework for the safe and proper management of the hotel.

In this plan, "*vicinity of the hotel*" means any public place within 50 metres of any part of the hotel building.

Responsibilities and Requirements

2. The licensee of the hotel is responsible for the implementation of, and adherence to, this plan.
3. A copy of this Plan shall be kept with the hotel's register of certificates of Responsible Service of Alcohol and Responsible Gaming Practices.
4. All staff and security officers employed at the hotel are to be familiar with the contents of this Plan.

Amenity of Neighbourhood

5. At all times the licensee shall consider the amenity of its neighbours and shall take all reasonable measures to ensure that adverse impacts on the surrounding area do not occur.
6. The licensee will take all reasonable measures to ensure that the behaviours of staff, security officers and patrons, when entering or leaving the hotel, do not detrimentally affect the amenity of the community.



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7. The hotel shall be conducted so as not to interfere with, or materially affect, the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, vapour, steam soot, ash, dust, waste water, waste products, grit, oil or otherwise.

Hours of trade

8. This updated Plan of Management has been prepared to accompany applications to Council to extend the current approved trading hours which are 10.00 am to until 12.00 midnight on Mondays to Saturdays and 10.00 am to 10.00 pm on Sundays.
9. The proposed hours of trade of the Hotel are:

Monday to Saturday: 10:00am to 3.00 am on the following day
Sunday: 10:00am to 12.00 midnight.
10. It is proposed that any extension of hours past midnight on Mondays to Saturdays and past 10.00 pm on Sundays, initially be granted for a trial period.
11. Staff or authorised persons may be in the hotel at any time.

Maximum capacity

12. The maximum number of patrons permitted in the hotel at any one time is 200. However, see below in respect of restrictions to apply after midnight.

Sale of liquor for consumption outside the hotel

13. The hotel shall not sell any packaged liquor for consumption away from the hotel.
14. In respect of any authorisation, under Section 15 of the Liquor Act 2007, to sell liquor at a function to be held on premises, other than the hotel, all liquor supplied in closed containers at the function must be opened by staff and the licensee or a



ITEM 4 (continued)

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manager, who is RSA-accredited, must be in attendance for the duration of the function for the purpose of supervising the sale and supply of liquor.

Signage at and in the hotel

15. The hotel's name shall be displayed on the exterior of the hotel building.
16. No signs promoting alcoholic beverages or brands of alcohol shall be displayed on the exterior of the hotel building.
17. The hotel is to display all internal signage required by the Casino, Liquor and Gaming Control Authority and any further signage recommended by the Hotel and Catering Industry Association of NSW, regarding the sale of liquor or the provision of gaming.
18. Signs are to be prominently displayed in the hotel requesting patrons to leave the hotel and the Town Centre quietly, respecting the rights of neighbours and the neighbouring community to quiet and good order.
19. Outside the main entrance to the hotel, a plaque shall display a telephone number to which any complaints about the hotel or its patrons may be made whenever the hotel is trading.
20. At positions, agreed with the Eastwood LAC of the NSW Police Force and Ryde City Council, signs will be displayed on the exterior of the hotel informing the public that its surrounds are under CCTV surveillance.
21. Signs shall be displayed inside the hotel notifying patrons that a CCTV system is operating at all times.



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Footpaths

22. No signs, goods or obstructions (other than waste bins put out for collection) shall be placed on the footpath outside the hotel.
23. The footpath adjoining the hotel is to be swept daily and kept clean and safe for the public.

Noise

24. Activities in or at the hotel while it is open for trade shall not result in an LA10 noise level being emitted the background noise level in any octave band from 31.5Hz to 8000Hz centre frequencies inclusive by more than 5dB at the boundary of the nearest affected residential property.
25. The hotel shall not conduct entertainment, provided by a living person including a living DJ, unless consent from Council has been obtained to do so and the Eastwood LAC has been given adequate notice about the day on which such entertainment is to commence and the duration and nature of the entertainment.
26. Amplified speakers shall not be directed towards any footpath or face any external openings from Hotel boundary walls.

Behaviour of Patrons / Responsible Service of Alcohol / Responsible Conduct of Gaming

27. The business of the hotel shall be conducted in a responsible manner. The licensee must be present at the hotel during all trading hours unless a manager, who has completed an approved licensee course, is on duty.
28. The licensee shall take all reasonable steps to control the behaviour of the patrons in, and as they enter or leave, the hotel.



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29. The licensee shall take all reasonable steps to ensure that there is no loitering in the vicinity of the hotel by persons who have been denied admittance to the hotel or removed from the hotel.
30. The licensee, as far as is reasonably possible, will endeavour to monitor the behaviour of prospective patrons approaching the hotel. Persons observed consuming alcohol in the alcohol-free zone along West Parade, behaving in an anti-social manner or causing excessive noise, will not be permitted to enter the hotel.
31. The licensee shall, after 10.00pm, assign staff or a security officer to ensure that patrons leaving the vicinity of the hotel do so promptly and as quietly as possible.
32. Patrons shall not be permitted to take glasses or other open containers of liquor out of the hotel.
33. Patrons shall not be permitted to drink beverages supplied by the hotel on the footpath outside the hotel.
34. All employees are to be trained to establish good customer relations in order to provide the highest standard of service. Regular meetings and training sessions will be held to maintain these standards.
35. The following operational policies for the responsible service of alcohol shall apply at all times, together with the NSW Office of Liquor, Gaming and Racing's "*Liquor Promotions Guidelines*" and "*Intoxication Guidelines*" which are attached as **Appendix A** and **Appendix B**, respectively.
 - (a) All managers and staff employed at the hotel shall complete an approved course in the Responsible Service of Alcohol unless they have completed one within the last five years.
 - (b) The licensee shall not engage in any liquor promotion that is likely to promote the irresponsible service or consumption of liquor.



ITEM 4 (continued)

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- (c) No person who is intoxicated will be served alcohol in the hotel.
- (d) No person who is already intoxicated will be permitted to enter the hotel.
- (e) The hotel will promote the service of non-alcoholic beverages and food.
- (f) The hotel will not permit intoxication or any indecent, violent nor quarrelsome conduct on the premises.

Any person causing disturbance shall be refused service and asked to leave the hotel. Any patron whose behaviour is either extreme or repeatedly objectionable may be barred from entering the hotel for a period determined by the licensee.

The barring of a patron will taken be at the direction of the licensee or duty manager and will be recorded in an appropriate ledger, detailing the patron's full name, the nature of the incident and the terms of the entry restrictions imposed.

The licensee will establish a schedule of barring penalties so as to maintain a level of consistency appropriate to any incidents that occur.

- (g) No person under the age of 18 shall be served liquor in the hotel.
- (h) No person under the age of 18 years shall be admitted to the hotel unless in the company of a responsible adult and then only into the part of the hotel which is subject to the minors area authorisation.

Production of photographic identification will be required where the age of a person seeking to enter the hotel is an issue. The only acceptable proof of age identification will be:



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Photo driver's license;
Proof of age card (RTA); or
Current passport

- (i) Low-alcohol beer and non-alcoholic beverages will be available at all times when full-strength liquor is available in the hotel.
- (j) Food will be available whenever liquor is available for consumption in the hotel.
- (k) No liquor in the form commonly known as "shots" shall be sold, served or supplied in the hotel.
- (l) No ready-to-drink alcoholic beverages (RTD drinks) with an alcohol content greater than five percent (5%) shall be sold, served or supplied in the hotel.
- (m) Staff will assist patrons in arranging safe transport from the hotel to home and will arrange for a taxi to collect any patron when he or she requests such a service.
- (n) Staff will, on request, escort any patron to their vehicle parked in the vicinity of the hotel.
- (o) The licensee will maintain a register containing copies of each certificate showing the satisfactory completions of the Responsible Service of Alcohol courses undertaken by the licensee or staff that are required to complete the course. That register shall be made available for inspection on request by a NSW Police officer or special inspector.
- (p) All conditions imposed on the hotel's licence shall be met.



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CCTV conditions

36. The licensee shall install and maintain surveillance cameras and recorders to monitor and record activities in:-

- i. the public areas of the hotel including its entrances, bars and gaming areas;
and
- ii. the vicinity of the hotel.

Recordings are to be made continuously, ie, 24 hours a day, 7 days a week.

37. CCTV cameras at doorways must record footage of a nature and quality which can be used to identify any person recorded. All other cameras must record footage of a nature and quality which can be used to recognise a person recorded by the camera or as best achievable with current technology.

38. The time and date must automatically be noted on all recordings. All recordings are to be kept for a period of thirty (30) days before they can be re-used or destroyed. Any recording (or a copy thereof) is to be provided to the Eastwood LAC as soon as possible following a request for it. Notwithstanding this requirement, should any recording exist, regardless of whether or not it falls within the thirty (30) day period, it must be supplied to Police or other regulatory officers upon request.

39. Each camera of the CCTV system is to record at a minimum of 6 frames per second at medium resolution.

40. If requested by Police or any regulatory officer, the licensee is to archive any recording until such time as it is no longer required by that officer or authority.



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41. Recordings are to be made in a common media format such as Windows Media Player or similar, or should be accompanied by applicable viewing software to enable viewing on any Windows computer.
42. The CCTV control system should be located in the office of the hotel and only be accessible to authorised personnel. At all times whilst the hotel is trading, there must be, on the premises, a person with access to the system and the ability to use the system in order to make copies of any recordings requested by Police or any other regulatory officer.
43. The CCTV system shall be maintained by a registered security surveillance company. If, at any time, the CCTV system is not in full operational condition, the licensee is to notify the Eastwood LAC within one (1) hour of the fault being discovered.
44. If the CCTV system is not operational, immediate steps are to be taken by the licensee to ensure that it is returned to a fully operational condition as soon as possible.
45. A colour monitor, with at least a 30cm screen, is to be situated at the main entrance to the hotel so that entering patrons are clearly able to see that they are being recorded by the cameras in the hotel.

Security officers

46.
 - (i) The licensee or a member of staff who is designated by the licensee to be responsible for security shall be on duty at all times the hotel is open for trade.
 - (ii) In addition to that person, the licensee shall arrange for the provision of security officers to be on duty at the hotel at specified times. **Also see the additional requirements to apply on any day that the Hotel trades**



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after midnight set out below (under the heading “Additional Measures to Apply on any Days that the Hotel Trades After Midnight”).

47. Any security officer, other than that referred to in 46(i) working at the hotel shall:-
- (a) Report to the licensee or duty manager before commencing duty to obtain a briefing on any specific duties to be addressed. Those duties may include patrolling in the vicinity of the hotel
 - (b) Request any hotel patron – in or in the vicinity of the hotel – to behave in a quiet and orderly manner and to have regard for nearby residents, if that request is considered necessary or appropriate.
 - (c) Prevent any person detected as intoxicated entering the hotel and bring to the notice of the licensee or duty manager any person in the hotel who might be considered intoxicated.
 - (d) Take all reasonable steps to prevent patrons leaving the hotel with open drinking containers.
 - (e) Record details of any incidents in a log book together with an hourly estimate of the number of patrons in the hotel.
 - (f) At the end of each shift bring any incidents recorded in the log book and the actions taken in response to them to the attention of the licensee or duty manager and ensure they are entered into the hotel’s Incident Register.
 - (g) At closing time, monitor patron behaviour in the vicinity of the hotel until all patrons have left the vicinity of the premises, taking all practical steps to ensure the quiet and orderly departure of patrons.



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- (h) Security officers are to ensure that patrons leaving the premises do not loiter or linger in the area or cause nuisance or annoyance to the neighbourhood.
 - (i) Co-operate with Police and any other private security personnel operating in the vicinity of the hotel.
- 48.
 - (a) The licensee shall arrange for one security officer to be present at the hotel from 7.30pm until 30 minutes after the hotel ceases to trade on each evening of the week.
 - (b) On Friday and Saturday evenings, a second security officer shall be present at the hotel from 8.30pm until 30 minutes after the hotel ceases to trade.
 - (c) Notwithstanding these arrangements, the licensee shall ensure that adequate licensed security officers are employed to supervise the running of the hotel at all times and to patrol, at least, the vicinity of the hotel.
- 49. Patrols of the vicinity of the hotel should include:-
 - i. the bus interchange and the entry tunnel to the Eastwood Railway Station to ensure patrons leaving the premises by public transport do not engage in anti-social behaviour or affect the quiet and good order of the neighbourhood whilst waiting for transport out of the area; and
 - ii. the public garden directly to the south of the hotel.
- 50. Each security officer is to have a communication device to allow communication with any other officer on duty, the licensee or duty manager and the Eastwood LAC if it consents to that and appropriate technology is reasonably available.
- 51. Security officers conducting patrols in the vicinity of the hotel are to wear reflective vests so as to be easily identified as security staff.



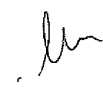
ITEM 4 (continued)

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52. The licensee shall keep an incident register in which all incidents recorded at or in the vicinity of the hotel which involved hotel patrons shall be recorded. The licensee shall make the incident register available to Police, Council officers or New South Wales Office of Liquor, Gaming and Racing (*OLGR*) officers upon receipt of a request to do so and will assist in identifying and resolving any incidents relating to any matters at, or in the vicinity of, the hotel.

Recording and reporting of incidents

53. Maintenance of an effective relationship with the Eastwood LAC is essential to the provision of effective hotel security. That includes keeping the LAC informed of incidents. The licensee shall ensure that the following protocols are observed.
54. In the event of any **serious incident that requires the immediate attendance of Police**, staff or the security officer alerted is to report it, as soon as possible, to the duty manager and, if instructed to do so, to the Police or other emergency service.
55. A **medium-level incident** is one, eg, the administering of first aid or the request for an ambulance response, that **does not require an immediate response by Police**. In the event of such an incident occurring at or in the vicinity of the hotel, the licensee or duty manager is to be advised immediately.
56. The licensee or duty manager is to report the incident to the Police by 10:00am on the day after the incident took place.
57. A **minor or low-level incident is one which does not require the attendance of the Police or any emergency service** but involves physical force resulting in minor injury.
58. In the event of a low-level incident, the security officer is to notify the duty manager.



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59. If a security officer is involved, that officer must record the incident, the actions taken and the outcome in his log book as soon as possible and, subsequently, in the hotel's incident register. If a staff member is involved, those details should be entered into the hotel's incident register as soon as possible.

Additional Measures to Apply when the Hotel Trades After Midnight

60. It is proposed that various additional measures and restrictions will apply on any days that the Hotel trades after midnight to minimise the likelihood of adverse impacts.

Patron Restriction

61. On any morning that the Hotel trades after midnight, no more than 150 patrons are to be in the Hotel at any one time after midnight.

Drink Restrictions/Responsible Service

62. In addition to the various requirements set out above, it is proposed that additional measures and practices will be implemented in this regard and the following restrictions **will apply after midnight when the Hotel is trading**:
- No drinks commonly referred to as shots, slammers or bombs are to be sold or supplied.
 - No drink that contains more than 30 mls of spirits will be sold or supplied.
 - Limit of one drink per person.
 - No alcoholic drink is to be sold or supplied which is mixed with an energy drink.
 - The sale of liquor will cease at 2.30 am on Tuesday to Sunday mornings and at 11.30 pm on Sundays.

Restriction on Entertainment

63. No live entertainment or entertainment provided by a DJ or other performer is to be provided at the Hotel either prior to or after midnight. Music provided at the Hotel is to be limited to background music only.



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Additional Security Requirements

64. As stated above, licensed security officers are presently employed at the Hotel each evening.
65. On any evening that the Hotel trades past midnight, the following additional security requirements are to apply:-
- Two licensed security officers are to be in attendance after midnight and up until half an hour after close or until the last patron has left the immediate vicinity of the Hotel whichever is the later.
 - At least one guard is to regularly patrol the vicinity of the Hotel including the Eastwood train station underpass, the entrance to the railway station on West Street and the bus depot.
 - Management of the Hotel will ensure that a security officer endeavours to check in with Police at least once evening evening the Hotel will be trading after midnight to update Police regarding trading for the night. The Manager on duty will also endeavour to check in with the Police on such evenings.
 - The guards will wear high visibility vests from 9.00 pm each night with the word "security" prominently displayed. As is presently the case the guards will have a communication device to allow communication with other security, the licensee or duty manager of the Hotel as well as Eastwood Police.
 - At closing time, two (2) officers are to be stationed outside the Hotel to assist with the orderly dispersal of patrons and the licensee will liaise with the Police as to the most suitable location for these officers to be stationed from time to time.

Incident Register

66. Prior to commencing exercising the Hotel licence during any extended trading hours, the licensee will implement an incident register at the Hotel and upon the



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commencement of trading the extended hours any required incident will be recorded in that register.

Transport Options

- 67. There are various transport options available.
- 68. The hotel is only metres from Eastwood Railway Station and the main Eastwood Bus Interchange.
- 69. Management will provide a service of contacting taxi companies to collect patrons from the front of the hotel.
- 70. Whilst ever it is a requirement of Council and deemed necessary, a courtesy bus (mini-van) is to be provided particularly during the extended hours.

Maintenance

- 71. The hotel premises shall be kept in a clean and tidy condition and be regularly maintained to the reasonable satisfaction of Council both internally and externally.
- 72. Any graffiti found on the hotel building is to be removed as soon as possible at the hotel's expense.

Fire Safety

- 73. The licensee shall ensure that all exit signs and emergency lights are located in the appropriate places and kept in good order.
- 74. Nominated staff will be trained in Fire Safety and Occupational Health and Safety, and will be given regular training in these matters so as to ensure that the hotel is operated safely and can be safely evacuated in the event of an emergency.



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Staff Safety

75. (a) All staff shall be briefed on the procedures they should adopt in the event of there being an attempt to rob the premises. In these briefings, the NSW Workcover publication "*Armed holdups and cash handling - A guide to protecting people and profits from armed hold-ups*" should be utilised.
- a. Any contact or arrangement entered into with a security provider shall be in accordance with:-
- AS4421 - 1996 "*Guards and Patrols*",
AS3745 - 1995 "*Emergency Control Procedures for Buildings*" and
AS/NZS 4360 - "*Risk Management*".
76. Risk management procedures are to comply with AS/NZS 4360-1999.
77. Telephone numbers of emergency services are to be clearly displayed near any telephone in the hotel.

House Policy

78. The hotel will be conducted in accord with a House Policy approved by the Eastwood LAC.
79. A summary of that house policy relating to:-
- dress code (which is to be smart, neat, clean, casual)
 - the responsible service of alcohol
 - harm minimisation
 - the admission of minors
- shall be displayed at the entry to the premises.



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80. The House policy will be continually updated to reflect legislative requirements and Police, OLGR and industry recommendations.

81. A copy of the house policy will be maintained in the register in which the certificates of completion of responsible service of alcohol course are filed.

Responsible Conduct of Gambling

82. The licensee and staff of the hotel shall comply with any measures specified by any legislation, regulation or code of practice adopted by the Australian Hotels Association, in relation to responsible gambling.

Operational Integrity

83. The licensee will undertake to ensure the integrity of the hotel's operations and compliance with this VMP by arranging for independent, periodic covert surveillance of its operation in the form of a formal surveillance report. Such reports shall be retained and shall be made available upon receipt of a request from an authorised person.

84. The licensee shall join, and be an active member of, the Eastwood Gladesville Local Liquor Accord.

Waste management

85. The licensee shall ensure that solid waste from the hotel is minimised and that as much as is reasonably possible will be recycled. To that end, waste shall be separated into putrescible, cardboard and paper and glass and cans.

86. All wastes shall be stored in the designated waste storage areas until removed for collection from the hotel.



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87. All waste containers and storage areas shall be kept clean.
88. The licensee shall arrange for contractors to collect wastes from the hotel. All collections shall be made before 7am on any day.
89. Putrescible waste (in bins) may be placed on the footpath outside the hotel after the hotel closes but the emptied bins are to be taken inside the hotel before 7am.
90. Bins containing other wastes are to be collected by trucks standing in the hotel's loading dock.
91. Putrescible wastes shall be collected daily.
92. Other wastes shall be collected weekly.

Loading dock management

93. Deliveries to the hotel are to be undertaken as set out below:-
 - (a) the number of deliveries to the hotel is to be limited to 2 per day;
 - (b) the largest truck to service the hotel is to be limited to a 6.4-metre-long small rigid truck;
 - (c) all trucks accessing the site will do so from the north along West Parade and depart to the south;
 - (d) no deliveries are to occur between 8.00am and 9.30am and 2.30pm and 4.00pm; and
 - (e) when reversing into the loading dock from West Parade, pedestrian movements along West Parade will be managed by a traffic controller with appropriate accreditation.



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Amendment to this Plan

94. If, in circumstances where experience shows that it is reasonable or desirable to modify any provision of this plan for the better management of the hotel, that modification shall be made to the plan only after consultation with Eastwood Licensing Police and with the approval of the Police and with the approval of Council's Group Manager, Environment and Planning, which approval shall not be unreasonably withheld.



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8 April 2013

Sanju Reddy
Senior Town Planner
City of Ryde
Locked Bag 2069
North Ryde, NSW 1670

Dear Sanju

**Re: Peer review of Social / community impact reports - 20 West Parade Eastwood
S96 Application for extended trading hours**

Thank you for inviting us to peer review the social / community impacts report prepared for this S96 (1A) Application for extended trading hours at the Landmark Hotel at 20 West Parade, Eastwood. We understand that Council seeks an independent review of information provided to Council by the Applicant, in relation to whether the proposed changes to trading hours would result in an unacceptable level of social impact on the local Eastwood area, or the Ryde community more generally.

This peer review is based on our discussions with you and detailed consideration of the following documents:

- Hatzis Cusack Lawyers, *Community Impact Statement* (Category B form) prepared for the Office of Liquor, Gaming and Racing (OLGR) in respect of an Application for the grant of an extended trading authorisation in respect of premises situated at 20 West Parade, Eastwood and known as The Landmark, dated 1 February 2013
- 'Additional Information' relating to the above application, stamped as having been received by the Independent Liquor and Gaming Authority, dated 6 February 2013
- The Landmark Hotel *Venue Management Plan*, updated January 2013 (the amended VMP), attached to the Additional Information submission
- *Statement of Environmental Effects* – Section 96 Application to Modify Condition 219 of Consent LDA2009/0700 – Landmark Hotel, 20 West Parade, Eastwood, prepared by Hatzis, Cusack Lawyers, undated
- *Applicants [sic] Response to Public Submissions Received for Extended Trading Hours Application Number MOD2012/0203 20 West Parade, Eastwood*, Letter from Edward Malouf (The Applicant) to Sanju Reddy, City of Ryde, 21 February 2013

We have also undertaken limited desktop research to validate the material provided with the S96 Application.

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Background to the application

The Landmark Hotel, at 20 West Parade, began trading in September 2012 following development consent for its construction by the City of Ryde (Development Consent No. 2009/0700) and approval for removal of a hotel liquor licence by the Liquor Authority. The facility is described as a small scale (200 person capacity) modern upmarket hotel, containing a general bar area, TAB, restaurant and gaming room. Condition 219 of the original approval granted by Council was for operating hours of 10.00am to 12.00 midnight on Monday to Saturday and 10.00am to 10.00pm on Sunday.

The premises are operated in accordance with a Venue Management Plan (VMP) and licensed security staff are on duty while the hotel is open.

The Statement of Environmental Effects (SEE) states (para 2.6) that the hotel "has proven to be popular with residents of Eastwood and surrounding areas" and that "the current approved hours of operation have not proven to be adequate to meet the needs, demands and expectations of patrons". It notes that there is a lack of small scale, modern and intimate bar/hotel type facilities in the area that are open later at night.

The Application

The application for an extension to trading hours has been prepared in accordance with the requirements of the NSW Office of Liquor, Gaming and Racing (OLGR - formerly the Casino Liquor & Gaming Control Authority) Community Impact Statement (CIS) process. In parallel, the applicant has lodged a Section 96 Application to the City of Ryde, to modify conditions of consent to the existing Development Consent.

The S96 Application to Council seeks modifications to Condition 219 of the Development Consent to extend trading hours, so that the hotel can also "operate between 12.00 midnight and 3.00am on Tuesday to Sunday mornings and between 10.00pm to 12.00 midnight on Sundays for a trial period of one year". Further, the applicant seeks permission to apply to Council for the extended hours to be made permanent, providing an application is lodged during the trial period. The new conditions proposed in the SEE suggest that "performance of the operator during the trial period" should be taken into account in a future decision to make the proposed operating hours permanent, on the assumption that the hotel can operate "during the extended hours without any undue adverse impact".

The process of applying for an extension to trading hours through the OLGR, and the broad implications of such a change, are summarised in the CIS, lodged on behalf of the applicant in February 2013. Supplementary information is contained in the Additional Information submission. As part of this process, the applicant is required to notify the local council, the NSW Police Local Area Command (LAC) and the local community of their intention to lodge their application with ILGA.

In support of the Section 96 Application to Council, the applicant provided a Statement of Environmental Effects, together with a letter dated 21 February 2013, Applicants [sic] Response to Public Submissions.

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Similar information is contained in each of these various documents. The main points of relevance to a consideration of social impacts from an extension to trading hours are discussed in the remainder of this letter. These relate to:

- Assertion of the 'need' for the proposed extension to trading hours
- Community and stakeholder feedback said to demonstrate 'support' for the proposal
- Crime data for the local and wider Council area
- Evidence from the literature relating to extended trading hours and the prevalence of crime.

'Need' for the proposed extension to trading hours

The applicant refers to the 'need' for the proposal in paragraph 2.6 and paragraphs 4.27-4.32 of the SEE. For example, "the current approved hours of operation have not proven to be adequate to meet the needs, demands and expectations of patrons. Many ... who attend after concluding their shifts, or ... on their way home ... attend to socialise and have drink and/or a meal." This is taken further on p.2 of the Additional Information submission: "The granting of the application will meet the objects of the Act and the extended hours are required to meet the needs, demands and expectations of existing patrons of the Hotel." Section 17 goes further, and asserts that "it would be in the public interest to grant the application".

It is recognised that the applicant sees a need for the extension to trading hours to meet the demands and expectations of customers. Many may live locally, or work late in the area, and wish to visit the hotel for a drink or a meal, including in the hours after midnight. However, use of the term 'need' within the Liquor Act, while not specifically defined, refers to the need to consider the community and the broader public interest, rather than the needs of customers and individual hotel operators. The objects of the Act "regulate and control the sale, supply and consumption of liquor"... to meet the 'needs and aspirations of the community', and to facilitate balanced development in the public interest. Considerations in implementing the Act include the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour), the need to encourage responsible attitudes and practices and the need to not detract from the amenity of community life.

It is therefore not strictly true to claim that the extended hours will meet the objects of the Act, as stated on p. 2 of the Additional Information submission. Nor is it advisable to confuse the private needs of the applicant with the broader public interest.

Evidence of 'support' for the proposal

Community consultation by applicant

The State government's OLGR Community Impact Statement (CIS) process requires that the applicant consult with the local community. Stakeholder issues raised through the consultation process are to be reported in Part 4 of the CIS. The applicant notes that letters were sent to residents and businesses in surrounding neighbourhoods, as well as other stakeholders and special interest groups, seeking comments on the proposed change in trading hours. This resulted in 21 responses.

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The CIS and Additional Information submission set out responses from the community and stakeholders. The CIS notes that responses were received from Police LAC, Department of Health, RMS and Aboriginal Affairs, details of which are provided in the Additional Information submission. The CIS states that no special interest groups or individuals raised issues in relation to the proposal. "However, letters of support were received from some local organisations" (Hatzis Cusack Lawyers, *Community Impact Statement*, question 4.9, page 16).

Details contained in the Additional Information submission, and provided to Council in the letter of 21 February 2013 entitled Applicants Response to Public Submissions, refer to the "relatively small number of submissions ... opposing the application". Information received from Council in email correspondence dated 18 March 2013, indicates that 21 responses to the application were received by the applicant. These include:

- 1 letter of support
- 3 'No objection' letters – although 2 are signed by the same person
- 17 objections.

The letter from the applicant to Council of 21 February stresses that even those submissions which oppose the application do not refer to any instances of problems or disturbance relating to the current operation of the Hotel or the behaviour of patrons. It suggests that the submissions of residents with addresses outside the immediate local area are not particularly relevant, and dismisses the importance of submissions from competitors.

Nine individual and stakeholder submissions were seen in preparation of this peer review, on the basis that the issues raised were said to be typical of all submissions. Issues related to the potential for extended trading hours to result in more drunkenness, violence, hospitalisations, drink driving, alcohol related crime and death. The issue of gambling problems was also raised. Broadly, this relates to concerns about the health, safety and wellbeing of people of Eastwood, and recent community concerns about alcohol misuse and abuse. Several submissions cited evidence that restrictions on alcohol availability resulted in a decline in the level of assaults within the local community. This is discussed further below.

Of the community responses received, it is therefore fair to say that a number of important issues and concerns were raised. The Statement of Environmental Effects does not address community concerns about potential social impacts directly. Instead, it notes that letters of support are being sought. The CIS states that there are no issues raised by the community. The Additional Information submission dismisses the issues raised as being irrelevant or of little importance. The absence of concerns raised about the hotel's current operations is taken as evidence that the establishment is well run. This is perhaps a valid assertion, given the response of the Police LAC (see below) and low crime rates. However, these matters should be addressed more directly.

NSW Health

Matters raised by the Director, Health Promotion, Northern Sydney Local Health District (NSLHD) in their response to the applicant are noted in the Additional Information submission (paragraphs 11.7-11.13), although the submission has not been viewed in preparation of this peer review. The applicant notes that the NSLHD does not support the extension to trading

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hours and raises concerns that this may increase alcohol-related harms. The NSLHD submission reportedly provides evidence that extended trading hours are an important risk factor for assault at licenced premises (particularly between midnight and 3.00am), that assaults are relatively higher in premises with extended trading hours and that there is a link between extended trading hours and driving under the influence of alcohol. The applicant responds to these concerns by pointing to the small scale of the hotel and the additional policies that will be put in place through the amended VMP. As a result of these factors, it concludes that the granting of an extended trading hours application **"is not likely to result in the concerns raised"**.

It is recognised that the Ryde Local Government Area is a low risk area for crime and does not display evidence of alcohol related crime at present. The measures incorporated into the revised VMP will also assist in limiting potential crime and adverse social impacts that would otherwise be associated with the additional trading hours. Nevertheless, it seems unwise for the applicant to dismiss the evidence-based claims of the Department of Health.

NSW Police

A submission received by the applicant from NSW Police Eastwood LAC outlines the process whereby additional conditions were negotiated with the applicant for inclusion in an amended VMP.

Following discussions with the LAC, the applicant updated the current VMP to incorporate additional procedures that would apply on the nights when the hotel trades after midnight, with the aim of minimising the potential for adverse social impacts. These include, but are not limited to, measures such as no entertainment being provided after midnight, limiting the number of patrons after midnight to 150, the presence of two licensed security personnel and restrictions on types of drinks which can be served. The purpose of these measures is to limit potential for adverse social impacts.

The additional conditions included in the amended VMP are:

1. *"The premises must at all times be operated in accordance with the updated Venue Management Plan dated January 2013.*
2. *Any amendments to the Venue Management Plan are only to be made in consultation with, and with the agreement of, the Local Licensing Police for the area.*
3. *A copy of the Venue Management Plan must be kept in the Hotel Incident Register and produced to the Police upon request.*
4. *No live entertainment or entertainment by way of a DJ or performers is to be provided at the Hotel and music provided is to be limited to background music only.*
5. *The maximum number of patrons in the Hotel after midnight is to be restricted to 150. (small and boutique numbers)*
6. *The following drink restrictions are to apply at any time that the Hotel is trading after 12.00 midnight:-*
 - *No drinks commonly referred to as shots, slammers or bombs are to be sold or supplied.*

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- *No drink that contains more than 30 mls of spirits will be sold or supplied.*
 - *Limit of one drink per person.*
 - *No alcoholic drink is to be sold or supplied which is mixed with an energy drink.*
7. *The sale of liquor is to cease by 2.30 am on Tuesdays to Sunday mornings and at 11.30 pm on Sundays.*
8. *A minimum of two uniformed licensed security officers are to be in attendance at the Hotel on any morning that it trades after midnight, and are to remain in attendance until half an hour after closing or until the last patron has left the Hotel and the immediate vicinity of the Hotel, whichever is the later.*
9. *Each night after midnight a security guard will best endeavour to walk to the Eastwood Police Station (located within a minutes' walk) and check in with duty officer to report on the hotel and the immediate area around the hotel. This was organised in conjunction with Eastwood Police."*

Should the application be successful, Police request that a condition of consent be that operation of the business must be in accordance with this amended VMP.

However, the concluding comments of the Police submission are critical to the consideration of potential social impacts. The letter rightly notes that "the premises has only been trading for a short period, approximately five months which limits the opportunities for Police to assess the impact on crime and anti-social behaviour." It recommends a 12 month trial period to enable a thorough assessment of any negative impacts on the local community. Subject to these conditions, the "police do not have any objection to this application".

A discussion with the Police LAC has confirmed that the area's low crime rates and lack of evidence of an increase in criminal activity or anti-social behaviour attributable to the operation of this hotel, mean that there is no basis on which the Police can object to this application. Nevertheless, a lack of evidence is partly a result of the short operating time (as well as the current management policies). The proposed trial period will allow police to review this data over a longer timeframe and consider potential social impacts associated with the extended operating hours.

It is important to note that a response of 'no objection' from NSW Police should not be seen as support for the proposal. In discussion with the LAC, the Police stressed that it is not their position to support this application, and that if it is approved comprehensive conditions should be imposed on the premises in order to maintain the quiet and good order of the neighbourhood. The statement in paragraph 13.3 of the Additional Information submission to the OLGR that the police "support the granting of the application subject to certain conditions"... is inaccurate and misleading.

Summary of consultation by the applicant

In summary, the applicant notes that the local Chamber of Commerce submission supported the proposal for extended trading hours, and that three community submissions (two signed by the same individual) and a submission from NSW Police LAC, did not object to the proposal. The

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remainder of the 17 community submissions and the submission from the NSLHD (NSW Health) presented objections, primarily on the grounds of the potential adverse impacts on public health, safety and wellbeing of excessive alcohol consumption, particularly after midnight in or near licensed premises. Some submissions, cited evidence of studies which have examined the links between extended trading hours, crime and anti-social behaviour.

Crime data

Data relating to crime, violence and anti-social behaviour is presented in the Additional Information submission (section 8) and the SEE (paragraphs 4.18-4.20). It is acknowledged that the Ryde LGA has amongst the lowest crime rates in NSW, as reported on the Bureau of Crime Statistics and Research (BOCSAR) website. The latest BOCSAR data is for the period ending September 2012, prior to opening of the hotel.

Discussions with the NSW Police LAC and a review of the latest BOCSAR data confirms statements in the documents reviewed that local area data relating to particular premises and local crime rates do not show an increase in criminal activity or anti-social behaviour since opening of the hotel. There are nevertheless concerns that the extension of trading hours could see an increase in such activity, based on the experience of other areas.

Literature findings on the social impacts of extended trading hours

The applicant states that because of the low crime rates in the Ryde LGA, the facilities and services provided at the hotel, the strict operating policies contained in the VMP, and its good track record, the extended trading hours will not result in "frequent or undue disturbance to the quiet and good order of the hotel" (relevant to Section 49(8)(b) of the Liquor Act 1997). Additionally, the applicant asserts that the overall social impact of extended trading hours, as requested, will not be detrimental to the wellbeing of the local community or the broader community.

A review of relevant literature relating to the impacts of changes to trading hours¹ has shown that there is overwhelming national and international evidence that increasing the hours during

¹ National Drug Research Institute (2007). Restrictions on the Sale and Supply of Alcohol: Evidence and Outcomes. Perth: National Drug Research Institute. Curtin University of Technology

Evidence and Outcomes. Perth: National Drug Research Institute. Curtin University of Technology. Chikritzhs, T. & Stockwell, T. (2002). The impact of later trading hours for Australian public houses (hotels) on levels of violence. *Journal of Studies on Alcohol*, 63 (5)

Chikritzhs, T. & Stockwell, T. (2006). The impact of later trading hours for hotels on levels of impaired driver road crashes and driver breath alcohol levels. *Addiction* 101, 9. 1254-1264

Chikritzhs, T. & Stockwell, T. (2009). Do relaxed trading hours for bars and clubs mean more relaxed drinking? A review of international research on the impacts of changes to permitted hours of drinking. *Crime Prevention and Community Safety*, 11, 3, 153-170.

Government of South Australia, Office of the Liquor and Gambling Commissioner (July 2010). Discussion Paper – A Safer Night Out.

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which alcohol is sold increases the risk of alcohol-related social problems. Following its extensive review of the literature on this issue, the National Drug Research Institute (NDRI, 2007) reported that virtually all Australian studies that have examined the impact of increased trading hours have concluded that this increases the level of alcohol consumption and related harms. The links between extended trading hours and problems is, for example, clearly evident in terms of the extent and timing of alcohol-related violence (Chikritzhs & Stockwell, 2002) and drink driving crashes (Chikritzhs & Stockwell, 2006).

More recent work in this area has been undertaken by Stockwell and Chikritzhs (2009). These authors reviewed 49 unique studies (of which 29 were peer reviewed) concerning the impact of extended alcohol trading hours on alcohol-related problems in eight countries across four decades. These authors concluded that the balance of reliable evidence from the international literature is that extended late-night trading leads to increased problems such as road crashes, impaired driver offences, emergency department attendances, interpersonal violence and disorderly conduct. These authors also noted that the studies with the strongest methodological design were also those most likely to demonstrate links between extended trading hours and increased alcohol consumption and related harms.

It is also evident that young males and regular, heavy and alcohol-dependent drinkers are especially likely to take advantage of longer trading hours (Smith, 1986; McLaughlin & Harrison-Stewart, 1992; Goddard, 1986; Knight & Wilson, 1980; all as cited in NDRI, 2007).

Not only is there considerable evidence that increasing the availability of alcohol leads to corresponding increases in violence and other anti-social activity, but there is evidence that reducing alcohol trading hours also reduces these problems. In March 2008, for example, in response to alarming levels of alcohol-related violence and other problems and following a complaint under Section 104 of the Liquor Licensing Act, the NSW Liquor Administration Board (LAB) determined to reduce late-trading hours in Newcastle. The closing time of 14 affected premises was brought forward to either 3.00 am or 3.30 am. Previously, 11 of these premises were licensed to trade until 5.00 am. A lockout was also imposed from 1.30 am for all 14 affected hotels. Under this arrangement, patrons who were still on the premises could continue to drink alcohol but no patrons were allowed to enter after the lockout. The licensees were also required to introduce a range of other measures designed to limit irresponsible patterns of alcohol sales and consumption (Jones, Kypri, Moffatt, Borzycki & Price, 2009).

In summary, the Australian and International research on the relationship between extended trading hours, the density of alcohol outlets, and their adverse impact on alcohol-related social harms, is strong. As Chikritzhs et al. (2007) concluded, as a general rule, the greater the physical availability of alcohol, the greater the level of alcohol-related harms that will occur. The critically important point here is that, while inappropriate alcohol service practices contribute significantly to levels of harm, extending trading hours of itself is a major contributor to these problems.

The findings reported here are similar to those put forward by NSW Health in its submission in response to this proposal.

Jones, C., Kypri, K., Moffatt, S., Borzycki, C. & Price, B. (2009). *The Impact of Restricted Alcohol Availability on Alcohol-Related Violence in Newcastle, NSW*. Sydney: New South Wales Bureau of Crime Statistics and Research.

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It is recognised that within Ryde LGA there is currently no evidence of either relatively high crime rates or a high density of liquor outlets. Nevertheless, the expectation, based on the evidence of research, would be that an extension to trading hours would result in an increase in adverse social impacts.

Other issues

Two further issues are relevant to the potential for social impacts, but not discussed in any depth:

- Hotel location – in several sections, the applicant states the location of the hotel is distant from residential properties and is adjacent to Eastwood station – the implication being that there is a low potential for social impacts on the local residential community. While the train station provides regular public transport services during the day and evenings, train services are minimal after 12.30am, particularly in the direction of Sydney CBD. After this time, the NightRider bus service operates from the eastern side of the station, along Railway Parade and East Parade. This requires passengers to cross to the eastern side of the train line and bring them within 100-200 metres of residential properties in Ethel Street.
- Community bus – one submission noted that the community bus did not appear to be in operation. The applicant has confirmed to Council that an 8-seater minibus service is operational and mostly used at night. This community bus will be an important service to alleviate potential problems with late night transport to surrounding areas and help minimise noise and disturbance to other premises.

Conclusion and recommendation

In conclusion, , it is considered that the SEE submitted to Council, and the Additional Information submission provided to the ILGA, seem to overstate the community benefits of the current proposal and minimise consideration of the potential for adverse social impacts to develop over time.

There is a strong body of evidence from national and international health literature which indicates that the proposal to extend trading hours to 3.00am Tuesdays to Sundays, and to midnight on Sunday evening, would be expected to result in an increase in adverse social and health impacts to individuals and the local community near liquor outlets. These would be expected to take the form of an increase in local crimes such as assault, malicious damage and driving offences, as well as some disturbance to local amenity through noise and other forms of anti-social behaviours.

The applicant has incorporated a wide range of pro-active measures to minimise adverse social impacts into the amended VMP (such as drink restrictions, additional security, limits to the number of patrons, availability of food, restrictions on provision of entertainment and community bus service). These will go a long way to minimising the potential for such activities and impacts to adversely affect the local or broader community.

On balance, the extent to which such mitigation measures can prevent the adverse social impacts which have been shown to result from extended trading hours will depend on the continued strict application by the hotel's management of the VMP and enforcement measures

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by the LAC. It may be that the particular characteristics of the Eastwood area and its local crime rates will continue irrespective of the extension of trading hours as proposed.

It is agreed that the updated VMP conditions and a trial period are a good compromise that will enable extended trading to occur while also allowing the Eastwood Police LAC to closely monitor the updated VMP and any changes to the rates of local crime and anti-social behaviour over time.

In planning for a review of the trial, Council should however consider in advance the criteria, or conditions, that would lead to the trial being considered a success, and under which a final approval or refusal would be issued. This may relate to factors such as:

- The perceived success of the VMP to minimise adverse social impacts
- No discernible increase in local crime attributable to the premise
- No increase in drink driving activity attributable to this hotel
- No complaints by residents or businesses within a specified distance relating to actions of patrons.

Subject to agreement in advance of criteria by which the success of the trial period can be measured, **it is recommended that** the extension to trading hours for the trial period be approved, as proposed.

Yours sincerely



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