

CITY OF RYDE

GENERAL MANAGER'S REPORT NO. 22/07

Council Meeting – 11 December 2007

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CITY OF RYDE

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PRECIS OF CORRESPONDENCE

- 1 From: Sydney Airport Corporation Limited
Dated: 27 November 2007
RE: Sydney Airport Runway Safety Enhancement Project**
- 2 From: Legislative Council
Dated: 27 November 2007
RE: Inquiry into Electoral and Political party Funding**

NOTICES OF MOTION

There are no Notices of Motion.

NOTICES OF RESCISSION

- 1 Notice of Rescission in the name of Councillors Tagg, Ryan and Netterfield
re: 826 Victoria Road, Ryde, LDA No.293/2007.**

GENERAL MANAGER'S REPORT NO. 22/07

7 December 2007

The Mayor and Councillors

ITEM 1

WEST RYDE URBAN VILLAGE DEVELOPMENT APPLICATIONS – LDA 07/559

E-File

Report Summary

This report considers the development application for the proposed development of the West Ryde Urban Village. It also considers the applicant's offer to enter into a Planning Agreement with the City of Ryde under which it is proposed to provide certain infrastructure that will provide material public benefit in lieu of Section 94 contributions.

The assessment of the application has been undertaken by independent consultants Architectus P/L and their report and the submissions on the DA have been reviewed by the Independent Hearing and Assessment Panel (IHAP).

It is the conclusion of the assessment consultants that the applications be approved subject to the suggested conditions of consent. The IHAP has recommended that the design be refined and further traffic studies be undertaken. These issues have been reviewed and draft conditions prepared to address these concerns.

It is recommended that VPA be accepted and the application be approved subject to conditions of consent.

The independent assessor's report, including their draft conditions of consent, has previously been circulated to the Councillors. The report prepared by IHAP is **CIRCULATED UNDER SEPARATE COVER.**

Background

The local development application had been the subject of pre-lodgement meetings with Council staff and consideration by the Council's design review panel prior to lodgement.

REMO West Ryde Pty Limited lodged the development application with Council on 12 September 2007.

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General Manager

Chairperson

ITEM 1 (continued)

The application has been referred to the Roads and Traffic Authority, the State Transit Authority of NSW, Sydney Water, Energy Australia and NSW Police for comment and advice and to satisfy statutory referral requirements.

On 26 November 2007, the assessment report, undertaken by Architectus P/L on the DA was provided to the Councillors and placed on the Council's web site.

The IHAP was conducted at the City of Ryde Civic Centre on 28 November 2007. The process of the IHAP was considered by the Committee of Whole on Tuesday 4 December 2007.

Development Site

The land on which this Development Application is proposed to be carried out is:

- Small lot on northern edge of 7 Chatham Road, West Ryde - Lot 1, DP 1072082
- 9-19 Chatham Road, West Ryde - Lots 149-154, DP 11208
- 7A & 7B Chatham Road, West Ryde - Lots A & B, DP 398801
- 5 & 5A Anthony Road, West Ryde - Lots 1 & 2, DP 590509
- 3 Anthony Road, West Ryde - Lot B, DP 414394
- 10 Anthony Road, West Ryde - Lot 2, DP 1072079
- Part of Anthony Road, West Ryde
- Part of Chatham Road, West Ryde

Please note that in the assessment report by Architectus P/L reference is made to Lot 2 of DP 1072082, this lot **does not** form part of the development site and is not owned by the City of Ryde.

The development site consists of two groups of land parcels termed as 'Site 1' and 'Site 2' for the purpose of this report. **Site 1** is the land currently being used as a car park and is located adjacent to Woolworths development and is bounded by Chatham Road to the west, Anthony Road to the east, residential properties and a heritage listed park to the north and Woolworths development on the south.

Site 2 is an amalgamation of three lots and is located on the north-eastern corner of Reserve Road and Anthony Road intersection.

The Proposal

The applicant for this development is REMO West Ryde Pty Limited.

The Development Application seeks approval for the erection of a 7 storey mixed use development on Site 1 consisting of 145 residential units in 5 levels of residential apartments over 2 levels of commercial component and 5 basement levels.

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ITEM 1 (continued)

It is also proposed to construct a 4 storey building above 2 basement car parking levels on Site 2 to contain a community facility and retail uses. The proposal also involves the construction of a public plaza and associated road works.

The details of the proposal are included in the assessment report prepared by Architectus P/L which was circulated to the Councillors on 26 and 27 November 2007. It was also published on the Council website on 24 November 2007.

As part of the development application, the applicant has also lodged a draft Voluntary Planning Agreement (VPA), proposing to the City of Ryde, to provide infrastructure that will provide material public benefits in lieu of contributions towards the provision of amenities and services and contributions in accordance with Section 94, 94A and 94EF of the Environmental Planning and Assessment Act 1979.

Notification and Exhibition of the Application

An extensive notification and exhibition of the application was undertaken from 15 August 2007 to 27 September 2007. Notification and exhibition of amended plans was undertaken from 23 October 2007 to 8 November 2007.

The notification process included:

- Letters to approximately 4,300 residential and business property owners and occupiers within an approximate radius of 500 metres around the subject site
- Ryde City View circulated via local newspaper on 15 August 2007.
- Development Application signs on the land.
- Display of all items submitted with the LDA (with the exceptions identified below) at three Council locations, being City of Ryde Civic Centre, City of Ryde Library and West Ryde Library.
- All plans, reports and application details associated with the LDA placed on Council's Website. This information can still be accessed from the website. A few documents which were too large for the website were identified and were available for inspection at each of the exhibition venues.
- The draft Voluntary Planning Agreement between the applicant and Council was placed on the website to accompany the LDA.
- A visual display of perspective drawings was displayed at the Civic Centre.
- A model was displayed in the Civic Centre and remains there at present.

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ITEM 1 (continued)

The advice placed on Council's website and in the notification also included the following:

*"The proposed Voluntary Planning Agreement, the development application, the full set of plans, supporting reports and details of the proposed developments, including a three dimensional model and a computerised 3D animated presentation, can be viewed at the Customer Service Centre, Ground Floor, Civic Centre, 1 Devlin Street, Ryde between 8.30am and 4.30pm Mondays to Fridays until 4.30pm on **Thursday 27 September 2007**; or at Ryde Library or West Ryde Library during normal opening hours.*

**Ryde Library, Civic Centre,
Devlin Street, Ryde**
Monday-Friday 10am-9pm,
Saturday 9.30am-5pm,
Sunday 2pm-5pm.

**West Ryde Library, 2 Graf Avenue,
West Ryde**
Monday/Wednesday/Friday 10am-5pm,
Tuesday/Thursday 10am-8pm,
Saturday 9.30am-5pm, Sunday 12pm-4pm

*Details can also be viewed on www.ryde.nsw.gov.au until 4.30pm on **Thursday, 27 September 2007**.*

*Anyone may make a submission on the development application and the proposed Voluntary Planning Agreement. Submissions must be in writing and can be made up to **Thursday, 27 September 2007**.*

As land involved in this development proposal is owned by the City of Ryde and the applicant has submitted a proposed Voluntary Planning Agreement, the development application will be assessed by an independent group of consultants who will report to a panel of experts. This panel will conduct a meeting to hear any verbal submissions and will then report to the Council making a recommendation as to whether the application should be approved. The elected Councillors will then decide if the application should be approved.

Please see attached advice about how to make a submission on local development applications. Enclosed are A4 reduced plans providing a representation of the proposed activity.

If Council receives amended plans for a development application, notification of such plans will only be given where Council is of the opinion that the nature of the proposed change warrants such notification. This may include a significant change to height and external configuration of the proposal.

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ITEM 1 (continued)

If you have any enquiries please contact Customer Service on 9952 8222, between 8:30am and 4:30pm Monday to Friday. All correspondence should be addressed to the General Manager."

Re-notification of the DA occurred on 4 October 2007 to 8 November 2007 as a result of the applicant providing additional information and modifying the design of the development. This included a notice in the City View on 7 November 2007.

The West Ryde proposal has included a large community information and consultation process over the past year and a half prior to DA lodgement, including: two letter box drops to nearby residents and businesses; individual discussions with nearby businesses; a number of public displays in West Ryde; distribution of 3 newsletters, inclusion of information in Ryde City View and on Council's website; presentations to groups; and through the public exhibition period. Furthermore, detailed consultation has occurred over many years with the four community service providers to be located within the community facility.

Submissions

The notification and public exhibition of the development application resulted in 51 submissions, 7 of which were in support of the proposal. All submissions received were acknowledged in writing, and forwarded to the independent assessment team, Architectus P/L.

During the first notification period, 32 submissions were received and one of these was in support of the development, and during the second notification period 19 submissions were received, with 6 of these in support of the development.

The assessment report prepared by Architectus examined all submissions and a response to each submission is included in their report.

Assessment Process of the Application

The works proposed under the development application affect land in Council ownership. In order to alleviate any potential issues relating to probity in handling of the applications and to provide a fully independent assessment, Council has appointed an Independent Assessment Team (IAT) to undertake that task.

The IAT is led by Architectus P/L, a firm of consultants with expertise in architecture, planning and urban design. Also engaged to cover particular areas of expertise are:

- Patterson Britton and Partners P/L (Geotechnical, Civil Engineering, Drainage and Stormwater)
- Parsons Brinckerhoff Australia Pty Ltd (Traffic and Transport), and
- Macroplan Australia Pty Ltd (Economic Impact)

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ITEM 1 (continued)

Any advice received from referral authorities has been passed to the IAT along with a copy of all written submissions received by Council.

The IAT has completed the assessment of the development application and has submitted the Planning Assessment Report (Report) to Council on 23 November 2007. The report has been circulated to all Councillors, placed on Council's website and a copy provided to members of the Independent Hearing and Assessment Panel – a separate group established by Council to review the Planning Assessment Report and the assessment process prior to formal consideration by Council.

The conclusion of the IAT in their assessment of the LDA was:

“7 Conclusion

This report has been prepared by Architectus Sydney for the City of Ryde Council. The report provides an independent assessment of the submitted application covering two precincts, Precinct 1 of which is for a mixed use retail/ commercial and residential building of 7 storeys above 5 basement levels, and an open village square related to the redevelopment of the West Ryde Urban Village, while Precinct 2 is for a new community facility with some retail and office space; it is to be constructed as 4 storeys above 2 basements levels of carparking. The application is referred to as Development Application No. DA- 59/2007.

This report provides an assessment of the proposed development against the relevant planning instruments, referred to earlier in Sections 3 and 4, and based on an assessment of the likely environmental impacts and the satisfactory resolution of issues raised in submissions, we recommend that the concept proposal be approved by the City of Ryde Council subject to the recommended conditions given in Appendix A of this report. It is concluded that Architectus Sydney recommends approval of DA- 559/2007 subject to the recommended conditions given in Appendix A of this report.”

The recommended draft conditions are **.ATTACHED.** (Note: the Deferred Commencement condition is now resolved.)

Independent Hearing and Assessment Panel (IHAP)

In the interests of probity and full and fair consideration of all relevant matters for an application that involves City of Ryde as a participatory landowner, the Council established an Independent Hearing and Assessment Panel (IHAP) to provide it with expert advice as the Consent Authority on the veracity of the assessment process and the Planning Assessment Report. This included a meeting to enable any member of the community to present their views to the Panel.

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ITEM 1 (continued)

The members of the IHAP are:

Ms Mary-Lynne Taylor (Lawyer) – Chair
Mr Chris Hallam (Traffic Engineer)
Mr Brett Newbold (Town Planner)

Notice of invitation to the persons who made a written submission was sent and a notice was published on the City of Ryde's website indicating date, time and the place of the meeting of the IHAP.

The meeting of the IHAP was held on 28 November 2007 at 2pm at the Civic Centre. The persons attending the meeting were given the opportunity to address the IHAP. Four (4) persons highlighted their concerns and 2 persons expressed their support for the proposed development.

The applicant and the applicant's representatives were given the opportunity to provide clarifications of the points raised by the persons who addressed the panel and also of the matters raised by the members of the panel.

Following consideration of the report by the IAT and assisted by the comments in writing and spoken at the hearing by the submitters, and clarifications provided by the IAT and applicant's consultants, the IHAP unanimously concluded further design resolution was required and traffic modelling was needed to be certain of the traffic impacts. The Panel was satisfied that the drainage, stormwater/flooding, economic impacts, and land ownership issues had been adequately addressed.

The 3 key issues raised by the IHAP are, stormwater/flooding, traffic and urban design. These issues are addressed more fully in the following section.

Stormwater

The Panel considered the submissions on stormwater and asked questions of Council officers, the applicant's stormwater consultant and the stormwater engineer who was part of the IAT. The Panel concluded that they were satisfied that neither stormwater nor flooding were issues of concern but they did comment that:

The Panel is advised by the independent stormwater engineer assessor, that what is proposed by the applicant is not totally sufficient and conditions that would be satisfactory for the Council are:-

- 1. Floodgates to the basement entrances;*
- 2. 300mm freeboard; and*
- 3. The preparation and implementation of a Flood Emergency Response Plan.*

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ITEM 1 (continued)

This work has not yet been done and the Panel suggests it be done and presented to Council prior to approval of the construction certificate.

Conditions of consent prepared can address these concerns, however Flood Emergency Response Plans are required by draft condition 157 (c).

At the Hearing the Panel considered a submission by Mr Kirk that the floodgates system would not work if cars were allowed to park on them and accordingly the Panel suggests **a condition** that the floodgates must be designed in such a way that this cannot occur.

At the Hearing the Panel was advised that the deferred commencement conditions proposed by Architectus had been satisfied. This requirement can therefore be removed from the conditions.

The Group Manager Public Works also feels that draft condition 157(h) as recommended by Architectus should be amended to ensure that there is certification that the work carried out around the Tunnel meets the requirements of the condition.

Traffic

The Panel raised concerns about the traffic issues associated with this development and questioned whether the proposed access arrangements to the basement carpark of the mixed use building are adequate and whether the roundabouts at Chatham Road will work. It was a recommendation of the Panel that further traffic modelling be undertaken, prior to the Council determining the application. It should be noted that the traffic impacts of this development were assessed by consultants engaged by the applicant and the IAT, and also by the RTA. All of which consider that the traffic impacts are acceptable.

Discussion with the Panel indicate that the key concern is that with only one ingress and one egress lane for the basement of the mixed use building there may be unacceptable queuing at the roundabouts. An option would be 2 ingress and egress lanes from the basement. The following condition has been prepared to address this concern:

Prior to the issue of a construction certificate, Council is to be submitted with one of the following documents:

- (a) ***Amended Plan(s) providing for access and egress to/from the retail and commercial car parking areas within the development at the New Betts Street; or***

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ITEM 1 (continued)

- (b) *Documentation from a suitably qualified traffic engineer that, via the use of **traffic simulation** modelling, satisfies Council that the requirement for amended plans as described in condition ##(a) is unnecessary as the current configuration of the **Chatham Road entry/exit point** is sufficient to support **the non-residential** traffic generated by the development and prevent excessive vehicle queuing.*

In addition it is recommended that traffic in West Ryde continue to be monitored to ensure the effective operation of the traffic control devices and the need for appropriate on-street parking controls (loading zones)

The Panel also commented on the community building and stated:

The layout of the basement one (1) car parking to be used by parents setting down children for the childcare centre should be altered to provide four to five spaces adjacent to the lifts with a footpath leading from behind these spaces to the lifts. This will require changes to the current layout.

The Panel have suggested that the Woolworths Market Place carpark and the carpark of the mixed use building be connected. This can not however be imposed on the applicant without the consent of the owners of the Market Place and can not therefore be a condition of this development. The current design does permit this to happen at a later date.

The Panel have also suggested the following conditions:

Expansion of draft condition 162 – Parking Scheme

A Carpark Management Plan is to be submitted to Council. This plan should address parking fee structures, in particular a period of free parking and the hours of operation. The hours of operation should take into account not only the operating hours of the subject development but also the hours of operation of other nearby businesses in West Ryde. [This plan might, but not necessarily, provide a higher level of access to the Council's 172 parking spaces.]

Draft Condition 146 on Childcare Centres

*Replace the current draft with – **The number of children in the childcare centre is limited to a maximum of 50.***

(it should be noted that the current facility is suitable for 19 children)

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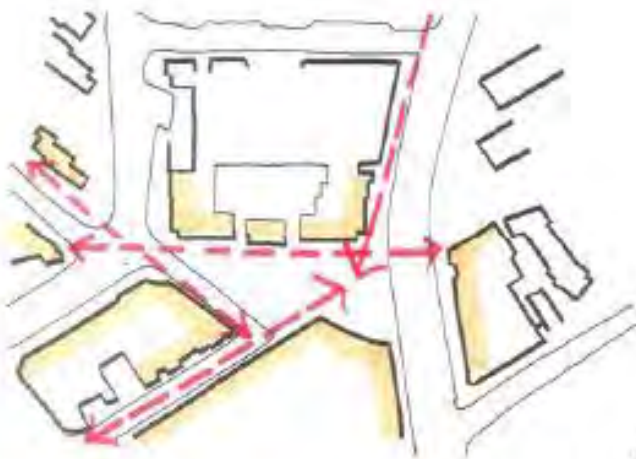
ITEM 1 (continued)*Draft Condition 150 – Traffic*

Add a new point (g) – In designing the junctions of new Betts Street with Chatham Road and Anthony Road, the layouts should take into account the location of nearby residential driveways.

Urban Design

The Panel have recommended some design changes. These have been discussed with the applicant and investigated further by Council officers and advice has also been received from other urban designers.

A key issue for the Panel was how the mixed use building (site 1) related to the square and the future functioning of the square as an active public space. As a consequence the applicant was asked to comment on the Panel's comments and detailed comments were also sought from Mr Michael Harrison, the senior urban designer and Mr Andrew Frost an urban designer who had provided advice to the Council in the concept development for the subject site, prior to the call for Expressions of Interest. Refer to documents **CIRCULATED UNDER SEPARATE COVER**. These comments acknowledge the views of the Panel, but support the current design on the basis of its capacity to integrate all of West Ryde, including the Library, the shops in Graf Ave, and the businesses/shops in Chatham Road. The current design creates view lines to the square from various locations in West Ryde. This is demonstrated by the extract from Mr Frost's comments.



Sightlines binds precinct together.

Council may recall that there was some objection from businesses in Graf Ave when the Woolworths Market Place development was under consideration due to concerns about the way that that development appeared to turn its back onto Graf Ave

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ITEM 1 (continued)

The proposal by the Panel to enclose the square would mean that all of West Ryde south of new Market Street, would be isolated from the square and the new community facilities.

In relation to the Community Building, the Panel expressed the view that the design of the building could be modified so that its frontage or edge were more active, which would also improve the activation of the square and create a focal point for square. While these ideas have merit some of the changes suggested may not meet the needs of the community groups that will occupy the building. Recommended conditions of consent have been included to modify the building where this will not impact upon the community use of the building.

The Panel commented in relation to the residential component of the mixed use building that:

.....the Panel is concerned that the level of amenity achieved by these apartments does not fully satisfy the SEPP 65 design parameters, particularly in relation to 70% of apartments that should receive adequate sunlight during midwinter. Furthermore, there are concerns in relation to the mutual privacy of apartments facing each other at the internal corners of the courtyard configured developments. The panel believes there could be conditions applied to these buildings to achieve greater amenity.

A condition is included in the recommendation to address this concern.

The Panel have recommended that the matter be referred to an urban designer for further consideration of the design issues. As discussed earlier in this report the application and the comments of the applicant have been referred to other urban designers who support the current design. Therefore the requirements of the Panel have been met.

Voluntary Planning Agreement

The applicant has proposed the Voluntary Planning Agreement (VPA) which has been exhibited in accordance with requirements of the Act with the proposed development. The detail of the VPA was included with the LDA on the Council's website. A copy of the VPA is **ATTACHED**.

Remo West Ryde Pty Ltd has offered to enter into a planning agreement with the City of Ryde under which it is proposed to provide certain infrastructure that will provide material public benefit in lieu of Section 94 contributions.

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ITEM 1 (continued)

If the proposed planning agreement is entered into between the applicant and Council, the applicant will be required to provide the following public benefits:

Community Facility

Design, construct and commissioning to the Council of the stratum lot comprising of a 4- storey Community Facility Building, located on the corner of Anthony Road and Reserve Street and a total Gross Floor Space (GFA) of approximately 3500 square metres in the estimated amount of \$17,544,720. The new childcare centre will have capacity for 50 children compared to the allowable 19 places at the existing centre.

Village Square

Design, construct and commissioning of a 1,500 m² village square to the Council, which will include an electronic vision board for broadcasts, natural landscaping and streetscaping in the estimated amount of \$3,671,400

Council Car Park

Design, construct and commissioning of the stratum lot of 172 car spaces (an additional 38 carspaces on the existing 134 car spaces) underground NRMA Security Compliant Car Parking Spaces in the estimated amount of \$1,253,318

Community art and construction of a heritage wall along New Betts Street and Darvall Park in the estimated amount of \$231,765

The Voluntary Planning Agreement has been reviewed by VPA Review Technical Committee, chaired Council's General Counsel, who has made the following comments:

"The public benefit arising from the VPA as described therein is considered to be reasonably accurate save for the failure to delete from the calculated value the value of the land that Council is transferring to Remo as part of the transaction."

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ITEM 1 (continued)

In summary, the public benefit arising from the VPA is considered to be in the vicinity of \$13,000,000 - \$15,000,000 which is far in excess of the \$2,000,000 otherwise payable through s.94 contributions.

The terms and conditions of the VPA are also considered to be acceptable as they provide a contractually secure mechanism for the public benefit described in the VPA to be delivered."

The VPA was circulated to the Councillors with the IAT report on 26 November 2007 and at its meeting on 4 December 2007, the Council resolved to accept the VPA.

Management Plan Linkages

Appropriate handling of all applications including assessment turnaround times and compliance with statutory requirements are key performance indicators in the Council's Management Plan 2006/09.

Relationship to Key Outcome AreasPeople

This project meets the key outcomes for by facilitating movement towards a vibrant city that is healthy, physically attractive, economically strong and engages the community through cultural and social activity and a city that plans for people by identifying their diverse needs and involving them in decision making to improve their quality of life.

Assets

This project meets the key outcomes for Assets by encouraging well designed streets and paths where motorists, cyclists and pedestrians feel safe and places and spaces where people can interact.

Environment

This project meets the key outcomes for Environment seeking to provide attractive streets, public places and buildings through better planning and design which is responsive to community expectations and our local environments. The project also meets the strategy objective to manage development of the city in a just an equitable manner and to enhance the quality of life of the existing and future community.

Governance

This project meets key outcomes for Governance (set out on page 53 of the Management Plan 2006-2009) in providing for improved communication and engagement with the community and increased awareness and understanding of Council's decisions by the community. In addition, it provides an efficient and effective regulatory environment and compliance with all legislative requirements and statutory obligations.

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ITEM 1 (continued)**Policy Implications**

A key initiative of the Management Plan (under Governance) is to establish an independent review panel for development applications. This IHAP will act as a model for ongoing independent assessment and review of applications where appropriate.

Critical Dates

Nil

Financial Impact

The process of assessment and review has been generally funded through the fees paid for the development applications.

Conclusion

The assessment of this DA has been similar to that used for the Top Ryde DA, which has recently been recognised as best practice by the Planning Institute of Australia (NSW Division).

The development application for the proposed development of the West Ryde Urban Village and the Community Centre has been subject to a very thorough independent assessment. The conclusion of IAT is that the development application should be approved subject to conditions of consent. The IHAP support the scale of development, but have suggested that the Council consider minor amendments to the design of the development to improve the activation of the public spaces, in particular the public square and that additional traffic modelling be undertaken to ensure that traffic impacts, including access to the carpark is acceptable.

Council officers have investigated these issues with the applicant, other advisors and the Chair of the IHAP. It is recommended that the application, subject to amendments be approved and that the VPA be accepted.

RECOMMENDATION:

- (a) That LDA 07/559, West Ryde Urban Village, be approved, subject to conditions of consent recommended by Architectus P/L in their report and the following additional conditions and amendments:

That the deferred commencement conditions be deleted.

Design for the mixed use building to be amended to the satisfaction of the Council prior to the issue of the first construction certificate that floodgates to the basement entrance of the mixed use building are designed so that vehicles can not park on them and that 300mm freeboard is provided.

This is page no. 14 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)Condition 157

Condition 157 (h) be amended to read: **Prior to the issue of an occupation certificate for that component of the approved development involving the car park, certification that there has been compliance as required by this condition must be submitted to and approved by Council from an engineer with suitable qualifications in the geotechnical and structural evaluation of tunnels.**

Expansion of draft condition 162 – Parking Scheme

A Carpark Management Plan is to be submitted to Council. This plan should address parking fee structures, in particular a period of free parking and the hours of operation. The hours of operation should take into account not only the operating hours of the subject development but also the hours of operation of other nearby businesses in West Ryde. [This plan might, but not necessarily, provide a higher level of access to the Council's 172 parking spaces.]

Draft Condition 146 on Childcare Centres

Replace the current draft with – **The number of children in the childcare centre is limited to a maximum of 50.**

Draft Condition 150 – Traffic

Add a new point (g) – **In designing the junctions of new Betts Street with Chatham Road and Anthony Road, the layouts should take into account the location of nearby residential driveways.**

Additional Conditions

Prior to the issue of the first construction certificate for the mixed use building plans shall be prepared to the satisfaction of the Council that provide for:

- Redesign of the apartment layout in order to reduce the number of apartments facing only the central courtyard, and to increase the level of sunlight available for units to a level that would satisfy SEPP 65 design parameters;
- Redesign of apartments to minimise opportunities for cross-viewing between balconies and windows that are located closer than 12 metres from one another;

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ITEM 1 (continued)

- Redesign of maisonette units (apartments with two levels) to promote natural cross ventilation by setting the mezzanine level back from the window line in order to create voids that stimulate ventilation by convection.

Prior to the issue of the first construction certificate for the community building plans shall be prepared to the satisfaction of the Council that provide for:

Exposure of above ground childcare classrooms and activity areas to the square including redesign of the proposed video screen to allow extensive windows between those activity rooms and the square, consolidation of retail spaces, including deletion of the planter box at the corner of Reserve Street and Anthony Road and relocation of the toilets of the community hall away from the Anthony Road Frontage;

Prior to the issue of a construction certificate, Council is to be submitted with one of the following documents:

- (a) Amended Plan(s) providing **for access and egress to/from the retail and commercial car parking areas within the development at the New Betts Street**; or
- (b) Documentation from a suitably qualified traffic engineer that, via the use of **traffic simulation** modelling, satisfies Council that the requirement for amended plans as described in condition **##(a)** is unnecessary as the current configuration of the **Chatham Road entry/exit point** is sufficient to support **the non-residential** traffic generated by the development and prevent excessive vehicle queuing.

The layout of the basement one (1) of the community building car parking to be used by parents setting down children for the childcare centre should be altered to provide four to five spaces adjacent to the lifts with a footpath leading from behind these spaces to the lifts. This will require changes to the current layout.

- (b) That the Council accepts the draft Voluntary Planning Agreement and Council as offered by REMO West Ryde Limited and enter into this agreement and authorise the General Manager to undertake all actions necessary to give effect to this decision.
- (c) That persons who have made submissions be advised of these decisions and be thanked for their contribution to the process.

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SECTION 1: DEFERRED COMMENCEMENT

The following conditions are Deferred Commencement conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979.

1. The consent shall not operate until the SKM flood study titled "West Ryde Flood Study" (Final), 22 October 2007, has been amended to incorporate the following:
 - Revised hydrological modelling, incorporating an impervious fraction for roads of at least 85% (current study adopts 10%), at least 5% for parks of (current study adopts 0%), at least 65% for residential land use of (current study adopts 55%) and at least 10% for rail corridors (current study adopts 0%);
 - A comparison of the resultant hydrological results to at least two ARR87 approved alternative hydrological methods;
 - A sensitivity analysis;
 - Revised hydraulic modelling to reflect any change in hydrological conditions and the raising of the Anthony Street sag 250mm and not 400mm;
 - Incorporation and modelling of flood amelioration measure that demonstrate nil impact as a result of the proposed development (ie. no rise of more than 25mm in flood level in the 100 yr ARI event); and
 - Tables comparing existing and post development peak flows and flood levels at critical locations for all storm events and durations.

SECTION 2: GENERAL**Approved Plans**

1. Development is to be carried out in accordance with the following plans and support information as submitted to Council, except where amended by these conditions of consent:

Document	Author	Date
Architectural		
DA 01B – Master Plan Roof	Jack Taylor Architects Pty Ltd	22.10.07
DA 02B – Master Plan Ground Floor	Jack Taylor Architects Pty Ltd	22.10.07
DA 201B – Basement 1A	Jack Taylor Architects Pty Ltd	22.10.07
DA 202B – Basement 1B	Jack Taylor Architects Pty Ltd	22.10.07
DA 203B – Basement 2	Jack Taylor Architects Pty Ltd	22.10.07
DA 204B – Basement 3	Jack Taylor Architects Pty Ltd	22.10.07
DA 205B – Basement 4	Jack Taylor Architects Pty Ltd	22.10.07
DA 210B – Ground floor	Jack Taylor Architects Pty Ltd	22.10.07
DA 211B – Level 1	Jack Taylor Architects Pty Ltd	22.10.07
DA 212B – Level 2	Jack Taylor Architects Pty Ltd	22.10.07
DA 213B – Level 3	Jack Taylor Architects Pty Ltd	22.10.07
DA 214B – Level 4	Jack Taylor Architects Pty Ltd	22.10.07
DA 215B – Level 5	Jack Taylor Architects Pty Ltd	22.10.07
DA 216B – Level 6	Jack Taylor Architects Pty Ltd	22.10.07
DA 301B – Elevations	Jack Taylor Architects Pty Ltd	22.10.07
DA 302B – Elevations	Jack Taylor Architects Pty Ltd	22.10.07
DA 303B – Section	Jack Taylor Architects Pty Ltd	22.10.07
DA 304B – Section	Jack Taylor Architects Pty Ltd	22.10.07
DA 305B – Section	Jack Taylor Architects Pty Ltd	22.10.07
DA 401B – Typical units	Jack Taylor Architects Pty Ltd	22.10.07
DA 402B – Typical units	Jack Taylor Architects Pty Ltd	22.10.07
DA B – Perspectives	Jack Taylor Architects Pty Ltd	22.10.07
DA B – Perspectives	Jack Taylor Architects Pty Ltd	22.10.07
DA B – Perspectives	Jack Taylor Architects Pty Ltd	22.10.07
DA 101B – West Ryde Urban Village	Jack Taylor Architects Pty Ltd	22.10.07

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Document	Author	Date
DA 102B – West Ryde Urban Village	Jack Taylor Architects Pty Ltd	22.10.07
DA 103B – West Ryde Urban Village	Jack Taylor Architects Pty Ltd	22.10.07
DA 104B – Level 1	Jack Taylor Architects Pty Ltd	22.10.07
DA 105B – Level 2	Jack Taylor Architects Pty Ltd	22.10.07
DA 106B – Level 3	Jack Taylor Architects Pty Ltd	22.10.07
DA 107B – Roof plan	Jack Taylor Architects Pty Ltd	22.10.07
DA 110B – Sections	Jack Taylor Architects Pty Ltd	22.10.07
DA 111B – Sections	Jack Taylor Architects Pty Ltd	22.10.07
DA 112B – Elevations	Jack Taylor Architects Pty Ltd	22.10.07
DA 113B – Elevations	Jack Taylor Architects Pty Ltd	22.10.07
DA 114B – Community centre	Jack Taylor Architects Pty Ltd	22.10.07
Civil Services		
VC00 – Cover sheet, drawing index and locality plan	Buckton Lysenko Consulting Engineers	25.07.07
VC01 – General notes and Legend	Buckton Lysenko Consulting Engineers	25.07.07
VC02 – Soil and Water Management Plan, Notes and Details	Buckton Lysenko Consulting Engineers	31.07.07
VC03 – Stormwater – Basement 4 Floor Plan	Buckton Lysenko Consulting Engineers	31.07.07
VC04 – Stormwater – Basement 3 Floor Plan	Buckton Lysenko Consulting Engineers	31.07.07
VC05 – Stormwater – Basement 2 Floor Plan	Buckton Lysenko Consulting Engineers	31.07.07
VC06 – Stormwater – Basement 1B Floor Plan	Buckton Lysenko Consulting Engineers	31.07.07
VC07 – Stormwater – Basement 1A Floor Plan	Buckton Lysenko Consulting Engineers	31.07.07
VC08 – Stormwater – Ground Floor Plan	Buckton Lysenko Consulting Engineers	22.10.07
VC09 – Stormwater – Level 1 Floor Plan	Buckton Lysenko Consulting Engineers	22.10.07
VC10 – Stormwater – Level 2 Floor Plan	Buckton Lysenko Consulting Engineers	22.10.07
VC11 – Stormwater – Level 3 Floor Plan	Buckton Lysenko Consulting Engineers	22.10.07
VC12 – Stormwater – Level 4 Floor Plan	Buckton Lysenko Consulting Engineers	22.10.07
VC13 – Stormwater – Level 5 Floor Plan	Buckton Lysenko Consulting Engineers	22.10.07
VC14 – Stormwater – Level 6 Floor Plan	Buckton Lysenko Consulting Engineers	22.10.07
VC15 – Stormwater – Roof Plan	Buckton Lysenko Consulting Engineers	25.07.07
Landscaping		
LS1 – Landscape Concept Plan	Jack Taylor Architects Pty Ltd	25.07.07
LS2 – Podium Landscape Concept	Jack Taylor Architects Pty Ltd	25.07.07
LS3 – Concept Details	Jack Taylor Architects Pty Ltd	25.07.07
Civil Services – Community Building		
CC00 – Community – Cover Sheet, Drawing Index, and Locality Plan	Buckton Lysenko Consulting Engineers	25.7.07
CC01 – Community – General Notes and Legend	Buckton Lysenko Consulting Engineers	25.7.07
CC02 – Community – Soil and Water Management Plan, Notes and Details	Buckton Lysenko Consulting Engineers	31.7.07
CC03 – Community – Stormwater – Basement 1 and Basement 2	Buckton Lysenko Consulting Engineers	31.7.07
CC04 – Community – Stormwater – Ground Floor & Level 1	Buckton Lysenko Consulting Engineers	31.7.07
CC05 – Community – Stormwater – Level 2 & Level 3	Buckton Lysenko Consulting Engineers	31.7.07
CC06 – Community – Stormwater – Roof Plan	Buckton Lysenko Consulting Engineers	31.7.07
Road Design		
RD01 – Cover Sheet, Drawing Index, and Locality Plan	Buckton Lysenko Consulting Engineers	25.7.07
RD02 – General Notes, and Legend	Buckton Lysenko Consulting Engineers	25.7.07
RD03 – Sediment and Erosion Control Plan	Buckton Lysenko Consulting Engineers	25.7.07
RD04 – Proposed Intersections, Stormwater Drainage	Buckton Lysenko Consulting Engineers	22.7.07
RD05 – MC01 – Anthony Road and Longitudinal Section	Buckton Lysenko Consulting Engineers	Undated
RD06 – MC02 – Reserve Street and Longitudinal Section	Buckton Lysenko Consulting Engineers	25.7.07
RD07 – MC03 – New Betts Street and Longitudinal Section	Buckton Lysenko Consulting Engineers	25.7.07
RD08 – MC01 – Anthony Road Cross Sections, Sheet 1 of 2	Buckton Lysenko Consulting Engineers	25.7.07
RD09 – MC01 – Anthony Road Cross Sections, Sheet 2 of 2	Buckton Lysenko Consulting Engineers	25.7.07
RD010 – MC02 – Reserve Street Cross Sections	Buckton Lysenko Consulting Engineers	25.7.07
RD011 – MC03 – New Betts Street Cross Sections	Buckton Lysenko Consulting Engineers	25.7.07
RD012 – Kerb Returns	Buckton Lysenko Consulting Engineers	25.7.07

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Document	Author	Date
RD013 – Stormwater Longsections	Buckton Lysenko Consulting Engineers	22.7.07

Conditions to ensure compliance with the approval

- The term of this Consent is limited to a period of five (5) years from the date of approval. The consent will lapse if the development does not commence within this time.

Utilities

- Utility installations must not be located above ground. The installation of utilities will occur to the satisfaction of the relevant authority (eg. Energy Australia) prior to the occupation of the development. All works are to be at the applicant's/ developer's expense.

Signage

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

Materials, Colours and Finishes Schedule

- The development materials, colours and finishes must be in accordance with the Issue A, Schedule of External Finishes for Remo Properties dated 27 July 2007, except for the public domain, whereby the paving materials and colour, any street furniture, seating including all private restaurant seating, bins and bollards, lighting details and any public art within the public domain shall be installed to the satisfaction of Council. The details of such elements within the public domain shall be submitted with the application for a Construction Certificate, and the applicant shall liaise with Council prior to the installation of these elements.
 - The applicant shall, at no cost to Council, construct full width granite footpath paving, new 'SA' kerb and gutter and driveway laybacks across the full frontage of the property. The Village Square shall be constructed granite paving. The levels of the footpath paving and kerbing shall conform with levels issued by Council's Public Works Division.
 - Granite footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The location, design and construction shall conform to the requirements of Council. Finished levels shall conform with property alignment levels issued by Council's Public Works Division. Kerbs shall not be returned to the alignment line. Bridge and pipe crossings will not be permitted.
 - All hard landscaping, paving, soft landscaping including species selection, street furniture and the like for the public domain, including the Village Square shall be carried out in accordance with approved landscape plans and full details including samples, schedules and plans shall be submitted to and approved by the Council prior to the construction of the development. Where soft landscaping is proposed including species selection, the applicant must ensure that the species health is guaranteed for a minimum of 2 years to ensure the character and appearance of the streetscape is maintained and established. Any species that die within two years of planting must be replaced by the applicant with a species of a similar size and maturity.
 - A Public Arts Strategy shall be developed and implemented to the satisfaction of the Council. The strategy shall be developed in conjunction with the City of Ryde and will include a management and action plan, identify the exact locations of proposed public art installations and detailed design of any proposed public art installations. The applicant shall be responsible for the costs of preparing the strategy and action plans and the implementation of these plans prior to the issue of a final Occupation Certificate.

Hours of work

- All demolition and all construction and associated work is to be restricted to between the hours of 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday.

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No work is to be carried out on Sunday or public holidays. No change is to be made to these hours without the prior written approval of Council.

Payment of Council fees and charges

7. The applicant must pay all applicable fees and charges as set out in Council's Management Plan, except where payment has been waived by Council as set out in the Voluntary Planning Agreement.

Energy Efficiency

8. The development must be in accordance with the City of Ryde's Energy Smart and Water Wise DCP and the following:
- Each new dwelling must achieve a minimum 3.5 Star NatHERS energy rating of internal thermal comfort.
 - Where a hot water system is of domestic/ residential scale it must achieve a minimum 3.5 Star Greenhouse Score. The energy rating of the hot water system should be visible on the product at the place of purchase.
 - Ceiling/ roof and walls must be fitted with insulations. Ceiling/ roof insulation must be rated R3.0 or equivalent, and wall insulation must have an R1.5 or equivalent rating. Insulation of cavity brick walls is not required.
 - Where electric clothes dryers are to be installed as a part of a development, each dryer must have a minimum Greenhouse Score of 3.5.
 - The total anticipated energy consumption for the base building is no greater than 450 Mega Joules/ annum/ metre square (MJ/am²) for commercial uses and 900MJ/am² for retail uses.
 - The use of electrical appliances such as dishwashers, refrigerators, freezers and washing machines with a minimum Energy Star Rating of 3.5 Stars is encouraged.
 - The installation of energy efficient lighting, motion detectors and dimmers is encouraged.
 - AAA or AAAA rated fittings and fixtures will be used to ensure high levels of water efficiency. Where fittings cannot be AAA or AAAA, self-regulating flow restrictors will be provided on the supplies to limit the discharges to levels equivalent to AAA ratings.
 - A BASIX Certificate must be provided to the satisfaction of Council prior to the issue of a Construction Certificate.

Parking General

9. The layout of the proposed carparking areas associated with the subject development (including driveways, queuing areas, grades, turn paths, sign distance requirements, aisle widths, and parking bay dimensions) should be in accordance with AS2890.1 – 2004 and AS2890.2 – 2002 for heavy vehicle usage.

Heritage

10. The boundary fence of Darvall Park must be re-instated to its original condition, to the satisfaction of Council.

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SECTION 3: PRIOR TO CONSTRUCTION CERTIFICATES**Tree Planting Scheme**

11. A tree planting scheme for the village square must be submitted to Council for approval prior to the issue of the Construction Certificate.

Note: The trees around the village square should be evergreen and densely foliating to ensure their effectiveness for wind mitigation throughout the year.

Construction Schedule

12. A Construction Schedule must be submitted and approved by Council prior to the issue of the Construction Certificate.

Civil Engineering, Utility Services and Water Management

13. Prior to release of the relevant Construction Certificate, design drawings and certification is to be provided to Council by a suitably qualified Engineer showing all details of the proposed excavation shoring and confirming that all shoring has been designed for a maximum lateral movement at the shoring face of no more than 25mm.
14. The applicant is to submit and have approved by the certifying authority, engineer's details for all concrete work and structural steelwork prior to the issue of the relevant Construction Certificate.
15. Detailed design drawings of all works to be undertaken in the public road reserve are required to be submitted and approved by Council or the relevant certifying authority prior to the issuing of the relevant Construction Certificate.

- a. Structural Drawing/s prepared by an appropriately qualified practising Structural Engineer; corresponding with and attached to a Structural Certificate (*see (c)*);

- b. A Structural Certificate for Design, confirming compliance with:

- i) The relevant clauses of the Building Code of Australia (BCA);
 ii) The relevant conditions of Development Consent;
 iii) The Architectural Plans incorporated with the Construction Certificate; and
 iv) The relevant Australian Standards listed in the BCA (*Specification A1.3*).

The structural drawings and design certificate must cover the following elements:

- Footings;
- Reinforced concrete slabs, beams and columns;
- Stairs;
- Retaining walls;
- Stabilisation structures (*ie. works required to stabilise both the excavation and surrounding structures*);
- All structural steel work;
- Tunnels;
- Bridges; and
- Any other critical structural elements.

- c. Prior to the issue of a Construction Certificate for that component of the approved development involving the carpark, the Council must be provided with and approve a report by an engineer with suitable qualifications in geotechnical and structural evaluation of tunnels which report confirms that the approved development will not adversely impact upon the structure of the West Ryde Stormwater Tunnel ("**Tunnel**"). This report must include the following details:

- i) Survey and sectional drawings of the Tunnel and the zone of influence surrounding the Tunnel ("**Zone**");

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- ii) Geotechnical details of the Tunnel and the Zone;
 - iii) A construction plan showing the details of construction within the Zone together with a monitoring plan for the construction process; and
 - iv) A contingency plan to address any adverse impacts upon the Tunnel structure during the construction process.
- d. In carrying out the development, all aspects of the report approved by Council in accordance with Condition No. 15 c), including any of the details provided in accordance with Condition No. 15 c) i) – iv), must be complied with.
- e. Where the construction of the development will involve works within the Zone, the Council shall, prior to the commencement of such work, be provided with security in accordance with section 80A of the *Environmental Planning and Assessment Act 1979* for the sum of \$2million to cover the cost of making good any damage caused to the Tunnel as a consequence of the works.
16. Road pavements are to be designed by a Professional Civil Engineer in accordance with Council's requirements and based upon soil tests performed by a registered N.A.T.A. Soils Laboratory. The pavement design and design traffic loading are to be submitted to and approved by Ryde City Council prior to issue of the relevant Construction Certificate.
17. The developer shall roto-mill and asphalt resheet (AC14) the full width of roadway to a minimum depth of 40mm for the following roads:
- Chatham Road from 10 metres north of New Betts Street to 10 meters south of Dickson Ave;
 - Anthony Road from 10 metres north of New Betts Street to 10 meters east of Reserve Street;
 - Reserve Street from Anthony Road to 10 metres north of the development sites northern boundary.
18. The maximum grade of all internal driveways and vehicular ramps shall be 1 in 4 and in accordance with the relevant section of AS 2890.1. The maximum change of grade permitted is 1 in 8 (12.5%) for summit grade changes and 1 in 6.7 (15%) for sag grade changes. Any transition grades shall have a minimum length of 2.0m. The driveway design is to incorporate Council's issued footpath and gutter crossing levels where they are required as a condition of consent. The information required includes a driveway plan, longitudinal section from the centreline of the public road to the garage floor, and any necessary cross-sections clearly demonstrating that the driveway complies with the above details and that vehicles may safely manoeuvre within the site without scraping. All information required is to be submitted to, and approved by Council prior to issue of the relevant Construction Certificate.

Sydney Water

19. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building, Development and Plumbing section of the website at www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance. Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, as it may take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design. A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority prior to the Construction Certificate being issued. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development.
20. **Mechanical ventilation details** – Details of all proposed mechanical ventilation systems, and alterations to any existing systems, must be submitted to Council or an accredited private certifier for approval with the application for the Construction Certificate. Such details must include:
- (a) Certified plans of the proposed work, with any alterations coloured to distinguish between new and existing work;
 - (b) A site survey plan showing the location of all proposed air intakes and exhaust outlets on the site, and any existing cooling towers, air intakes, exhaust outlets and natural ventilation openings in the vicinity;

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- (c) A completed Mechanical Services Design Certificate (Form M1), together with a copy of the certifier's curriculum vitae; and
- (d) Documentary evidence in support of any departures from the deemed-to-satisfy provisions of the Building Code of Australia.

Traffic Management Plan

- 21. a) A Traffic and Parking Management Plan shall be prepared and submitted to the RTA and Council for approval prior to the issue of the relevant construction certificate. This Plan should address such issues as management of localised traffic congestion associated with the development, recommend strategies for dealing with traffic and parking management during Peak Trading Periods (eg. Christmas/ Easter).
- b) To minimise traffic impacts, the developer will construct two traffic calming devices in Dixon Avenue between Chatham Road and Bellevue Avenue. The type and design of the devices will be developed in conjunction with the affected residents and to the satisfaction of the City of Ryde.

Dilapidation Survey

- 22. A dilapidation survey is to be undertaken for all properties adjoining and facing the site. The dilapidation survey shall be carried out prior to any work commencing on the site. A copy of the survey (and if applicable any evidence of the refusal of property owners to grant access for the purposes of conducting the survey) shall be submitted to Council. The applicant shall, at their own cost, rectify any damage caused to other properties during construction of the proposal. In this regard, the applicant is to submit to Council, prior to the Construction Certificate being issued, a copy of an insurance policy that covers the cost of any rectification works. The insurance cover shall be a minimum of \$20 million.

Conditions to ensure appropriate construction site management practices

- 23. A site works plan must be prepared and submitted with the relevant Construction Certificate for all demolition, earthworks or building works indicating methods of sediment and pollution control in accordance with Council's DCP 2006, Part 8.1 – Construction Activities.
- 24. A site works plan indicating compliance with Council's DCP 2006, Part 8.1, 'Construction Activities', is to be submitted to the satisfaction of Council or the PCA with the relevant Construction Certificate in relation to:
 - a) Sedimentation and pollution controls;
 - b) Security fencing;
 - c) Builder's identification signage and demolition in progress signage; and
 - d) Provision of site toilets.

1100 'Dial Before You Dig'

- 25. Underground pipes and cables may exist in the area. In your own interest and for safety, telephone 1100 before excavating or erecting structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300-652-077 or through the following website www.dialbeforeyoudig.com.au. If alterations are required to the configuration, size, form or design of the development, upon contacting the Dial Before You Dig service, an amendment to the Development Consent (or a new Development Application) may be necessary. Council's Assessment Officer should be consulted prior to the lodgment of an application for a **Construction Certificate** if this is the case.

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SECTION 4: PRIOR TO COMMENCEMENT OF CONSTRUCTION**Conditions to improve the development by minimising its environmental impact**

26. Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Amendment Act, 1979 are to be complied with:
- A Construction Certificate is to be obtained in accordance with Section 81A (2)(a) of the Act for the relevant works.
 - A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A (2)(b) of the Act and Form 7 of Schedule 1 to the Regulations.
 - Council is to be notified at least two (2) days prior to the intention to commence building works, in accordance with Section 81A (2)(c) of the Act and Form 7 of Schedule 1 to the Regulations.
27. The applicant may apply to the Council or an accredited certifier for the issuing of separate Construction Certificates and Occupation Certificates for the different elements of the development to Council or an accredited certifier to monitor compliance with the approval, and to issue any relevant documentary evidence or certificate/s – Council Officers can provide these services and further information can be obtained from Council by telephoning 9952-8222 (Customer Service).

Damage Deposit

28. A damage deposit for potential damage to Council's infrastructure is to be paid to Council prior to the commencement of any construction works on the site, in accordance with Council fees and charges, and evidence of such a deposit shall be submitted to the Principal Certifying Authority prior to any work commencing.

Road Works

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

Retaining Walls

30. Details of all retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided to the Certifying Authority for approval prior to commencement of construction. Adequate provision must be made for drainage. All proposed retaining walls must be designed and certified by a qualified Structural Engineer.
31. Signage outlining the applicant's required erosion and sediment control commitments must be displayed at five prominent positions on the construction site, visible to both the street and site workers. The signs shall be erected prior to commencement of works and shall be displayed throughout the full duration of construction.
32. Erosion and sediment control measures are to be implemented prior to commencement of any works on the site. The controls are to be maintained in effective working order during the full construction period.

Note: The applicant may be liable to prosecution under the Environmental Planning and Assessment Act 1979 for breach of an approved condition, or under the Protection of the Environment Operations Act 1997, if its employees, agents or sub contractors allow sediment, including soil, excavated material, building materials or other material to be pumped, drained or allowed to flow to the street, stormwater pipes or waterways. The applicant shall ensure that its employees, agents or sub contractors understand and maintain erosion and sediment control measures.

Construction Traffic Management Plan

33. A Construction Traffic Management Plan (CTMP) prepared by a suitably qualified traffic consultant is required to be submitted for approval by Council prior to the commencement of any site works. The plan must discuss the following:
- Quantity of material to be transported;

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- b. Proposed truck movements per day;
- c. Proposed hours of operation; and
- d. Proposed traffic routes.

Consultation with Energy Australia

- 34. Consultation with Energy Australia is essential prior to commencement of work. Failure to notify Energy Australia may involve unnecessary expense.
- 35. Where clearances to any existing overhead power lines are affected, the builder shall make arrangements with Energy Australia for any necessary modification to the electrical network in question. These works shall be at the applicant's expense.
- 36. A registered surveyor's check survey certificate or compliance certificate shall be forwarded to the Certifying Authority detailing compliance with Council's approval at the following stages of construction:
 - a. After excavation work for the footings, but prior to pouring of concrete showing the area of the land, building and boundary setbacks;
 - b. Prior to construction of each floor level showing the area of land, building and boundary setbacks and verifying that the building is being constructed at the appropriate levels;
 - c. Prior to fixing roof cladding;
 - d. On completion of the building works; and
 - e. On completion of all drainage works.

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SECTION 5: DURING DEMOLITION

37. In relation to demolition, all work is to be carried out in accordance with the requirements of AS 2601-2001 (*The Demolition of Structures*).

Where the site adjoins a public thoroughfare with a footpath alongside the common boundary, the footpath must be provided with overhead protection in accordance with the requirements of Australian Standard AS 2601-1991 *The Demolition of Structures*, unless:

- a. The vertical height of the structure being demolished is less than 4 metres above the footpath; or
 - b. The horizontal distance between the boundary and the structure being demolished is more than half the height of the structure.
38. Before work commences the location of any underground services (*eg. gas, water, electricity, telecommunications cables*) must be identified and appropriate measures taken to protect those services. Any required protection works and or reinstating of disturbed underground services shall be at the applicant's expense.
39. All loading and unloading in relation to the construction works is to take place wholly within the property.
40. The delivery/ pick-up of any large equipment/ materials/ containers transported by an 'Over Size' vehicle to/ from the site is not to occur between 11.00pm and 5.00am in order to protect the amenity of local residents.
41. Appropriate measures must be taken to control the generation of dust during demolition work:

Any existing accumulations of dust (*eg. in ceiling voids and wall cavities*) must be removed using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter.

Any materials that are likely to generate dust during demolition or removal must be wetted down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system.

All stockpiles of materials that are likely to generate dust must be kept damp or covered.

Demolition work must not be carried out during high winds, which may cause dust to spread beyond the boundaries of the site unless dust control measures approved by Council are in place.

42. All potentially contaminated soil excavated during demolition work must be stockpiled in a secure area and be assessed and classified in accordance with the *Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes* (EPA, 1999) before being transported from the site.
43. Demolition wastes must not be placed on public roads, footpaths or reserves, or be allowed to enter any street gutter, stormwater drain or waterway.
44. The burning of demolition waste is prohibited under the *Protection of the Environment (Control of Burning) Regulation 2000*.
45. All wastes must be transported in an environmentally safe manner to a facility or place that can lawfully be used as a waste facility for those wastes. Copies of the disposal docket must be kept by the applicant for at least 3 years and be submitted to Council on request.
46. All vehicles transporting demolition materials from the site must have their loads covered.
47. All practicable measures must be taken to ensure that vehicles leaving the site do not deposit mud or debris on the road.
48. Any mud or debris deposited on the road must be cleaned up immediately in a manner that does not pollute waters (*ie. by sweeping or vacuuming*).
49. A truck shaker grid with a minimum length of 6 metres must be provided at the construction exit point. Fences are to be erected to ensure vehicles cannot bypass them. Sediment tracked onto the public roadway by vehicles leaving the subject site is to be swept up immediately.

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Conditions to ensure appropriate construction site management practices

50. Excavations and backfilling
- a) All excavations and backfill associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
 - b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
51. Retaining walls and drainage
- If the soil conditions require it:
- a) Retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided.
 - b) Adequate provision must be made for drainage.
52. Support for neighbouring buildings
- If the soil conditions require it:
- a) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - i) Must preserve and protect the building from damage, and
 - ii) If necessary, must underpin and support the building in an approved manner, and
 - iii) Must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - b) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.
 - c) In this clause, "allotment of land" includes a public road and any other public place.
53. Protection of Public Places:
- a) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.
 - b) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - c) All public spaces adjoining the work site are to be lit between sunset and sunrise.
 - d) Any such hoarding, fence or awning is to be removed when the work has been completed.
54. Telephone Installations
- Conduits with draw in wires should be laid in concrete floors to the points where telephone services are required. Consult the local Telecommunications Sales Office for advice.
55. Any new information discovered during remediation, demolition, excavation or construction works which has the potential to alter previous conclusions about site contamination and remediation, shall be notified to Council in accordance with SEPP55.
56. Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works unless in accordance with agreement reached with adjoining owners. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.
57. Security fencing shall be provided around the perimeter of the building/demolition site and precautionary measures taken to prevent unauthorized entries of the site at all times during demolition and construction.

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

During the demolition process notices lettered in accordance with AS1319 displaying the words **"DANGER – DEMOLITION IN PROGRESS"** or a similar message shall be fixed to the security fencing at appropriate places to warn the public. In addition, during the entire construction phase signage shall be fixed on site identifying the PCA and principal contractor (the coordinator of the building work), and providing phone numbers.

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

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

61. All asbestos wastes including used asbestos-cement sheeting (i.e. fibro), must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be kept by the applicant for at least 3 years and be submitted to Council on request.

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

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SECTION 6: DURING CONSTRUCTION**BCA and Construction Certificates**

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

Pedestrian Traffic – During Construction

64. Appropriate pedestrian fencing details must be submitted to the satisfaction of Council.

Certificates Demonstrating Compliance

65. Certificates demonstrating compliance with the approved design are to be submitted to Council during construction in accordance with Section 8.2 of the City of Ryde DCP 2006.

Street Trees – General

66. For all street trees outside the development site, pruning or removal of street trees is not permitted. Prior written consent from Council is required for any additional pruning or removal of street trees.
67. Where a street tree outside the development site sustains damage during the construction process, Council must be notified within five (5) working days. Such notification can be made by contacting the Customer Service Centre on 9952 8222 between 8:30am and 4:30pm Monday to Friday.

Conditions for inspections

68. Class 5, 6, 7, 8, 9 or 10 Buildings & Structures:

The occasions on which building work must be inspected are:

- a. At the commencement of the building work;
- b. After excavation for, and prior to the placement of, any footings;
- c. Prior to pouring any in-situ reinforced concrete building element;
- d. Prior to covering of the framework for any floor, wall, roof or other building element;
- e. Prior to covering any stormwater drainage connections; and
- f. After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

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

All Classes – Inspections and Survey Check

69. In addition to the above stated inspections, the Principal Certifying Authority is required to ensure that adequate provisions are made for the following measures at each stage of construction, to ensure compliance with the approval and City of Ryde's DCP 2006, Part 8.1 – '*Construction Activities*':
- a. Sediment control measures.
 - b. Tree Preservation and protection measures.
 - c. Security fencing.
 - d. Materials or waste containers upon the footway or road.
 - e. PCA and principal contractor (the coordinator of the building work) signage and site toilets.

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70. Council recommends that a Registered Surveyors check survey certificate be submitted to the Principal Certifying Authority (*and Council, if Council is not the PCA*) detailing compliance with Council's approval at the following stages:
- After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, proposed building and boundary setbacks.
 - At damp course level showing the area of the land, proposed building and the boundary setbacks.
 - Prior to construction of the first completed floor/ floor slab showing the area of the land, proposed building and the boundary setbacks.
 - Prior to construction of the first completed floor/ floor slab showing the area of the land, proposed building and the boundary setbacks and verifying that the proposed building is being constructed to the approved levels.
 - Prior to construction of each floor level showing the area of the land, proposed building and the boundary setbacks and verifying that the proposed building is being constructed to the approved levels.
 - On completion of the proposed building showing the area of the land, completed building and the boundary setbacks.

Conditions to improve the development by minimising its environmental impact

- Concrete wastes must be collected, stored and treated in accordance with the *Concrete Wastes* guide published by the Environment Protection Authority.
- Only unpolluted water is to be discharged to Council's stormwater drainage system.
- The L₁₀ noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.
- No spoil, stockpiles, building or demolition material is to be placed on any public road, footpath, park or Council owned land.
- Site toilets shall be provided in accordance with the WorkCover Code of Practice entitled "Amenities for Construction Work".
- At all times work is being undertaken within a public road adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in AS1742.3-1996 "Traffic Control Devices for Work on Roads".

Civil Engineering, Utility Services and Water Management

- All engineering design and construction shall be carried out in accordance with the approved plans.
- All mains, services, poles, etc., which require alteration as part of the proposed development shall be carried out to the satisfaction of Council and the relevant service authorities at the applicant's expense.
- Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas will be carried out to the satisfaction of Council at the applicant's expense.
- All stormwater management systems on the site must be designed and constructed in accordance with Section 8.2 of DCP2006.
- Erosion and sediment control measures are to be implemented for the full duration of the construction works in accordance with Sections 8.1 and 8.2 of DCP2006.
- Water generated onsite during the excavation works may be discharged to Councils drainage system during dry weather conditions only (*ie. after 24 hours of no preceding rainfall*). All water proposed to be discharged into Councils surrounding drainage systems must be free of pollutants. All water must be delivered to Councils drainage system at an existing pit (*ie. not at the kerb*). As a minimum, any water proposed to be discharged must be tested to achieve a Total Suspended Solids (TSS) concentration of less than 50mg/L. NATA registered test compliance certificates must be submitted to Council for approval prior to any proposed discharge into Councils surrounding drainage systems. Initial and ongoing monthly testing of any proposed dewatering discharge is also required to be carried out for pH, temperature, turbidity, conductivity, salinity, total nitrogen, total phosphorous, faecal coliforms, metals and

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hydrocarbons. NATA registered test certificates outlining the results for the above parameters must be submitted to Council on a monthly basis for the duration of the construction works.

83. Essential services must be provided within the development to the requirements of the Building Code of Australia, the Environmental Planning and Assessment Act 1979 (*as amended*) and Regulations.
84. The applicant must undertake all practical measures to minimise disruption to the supply of existing utility services (*ie. gas, power, sewer, water and telecommunications*) to adjoining properties as a result of the development, for example by scheduling disruptions outside of business hours where feasible. Affected residents, property and business owners and occupiers must be notified of any likely disruptions to services and where possible an alternative supply source of equivalent capacity shall be provided. Council must also be notified of all proposed disruptions to the supply of existing utility services.

Essential Services

85. Essential services must be provided within the development to the requirements of the Building Code of Australia, the Environmental Planning and Assessment Act 1979 (*as amended*) and Regulations.

No Obstruction of the Public Way

86. The footpath and adjacent roadway is to be kept free of obstruction by building materials and/ or plant. All concrete trucks, pumps and associated plant are to be kept wholly within construction.

All Building Classes

87. Doors and fixed panels which are located such that they maybe perceived as a doorway in a path of unimpeded travel may be provided with a Grade "A" Safety Glazing in accordance with AS 2008, Safety Glazing Materials for use in buildings (Human Impact Consideration) where it is perceived a danger exists. All other glazing shall be installed in accordance with Table 1A Appendix "A" of AS 1288 Glass Installation Code.
88. Panels and doors in paths of travel shall be provided with a midrail, motifs or other approved permanent means of making the panels clearly distinguishable. Safety glass installations that are not carrying permanent safety glass markings in accordance with AS 2208, Safety Glazing Materials for Use in Buildings, shall be either legibly labelled, or a certificate furnished to Council or an accredited certifier and in each case the following information shall be given:
- Distributor's or installer's name.
 - Details of the original panel from which the piece was cut.

CLASS 5, 6, 7, 8, 9 or 10 BUILDINGS & STRUCTURES:

89. Treads, risers and balustrades must comply with the Building Code of Australia Part 3.9.1 and Part 3.9.2. Ballustrading is to be a minimum 1.0 metres high and any openings are not to exceed 125mm.
90. All steel framing is to comply with Part 3.4.2 – Steel Framing of the Building Code of Australia.
91. Roofwater is to be disposed of to the approved/existing stormwater drainage system.
92. The building shall be constructed to comply with Part F5 of the Building Code of Australia (Noise Transmission and Insulation).
93. Continuous balustrades shall be provided along the side/s of any stairway or ramp, any corridor, hallway, balcony, access bridge or the like, any path of access to a building if:
- It is not bounded by a wall; and
 - The change in level is more than one (1) metre, or five (5) risers in the case of a stairway, from the floor or ground surface beneath except where specific exemptions are provided in the BCA.
94. Balustrades shall prevent as far as practicable:
- Children climbing over or through it;
 - Persons accidentally falling from the floor; and
 - Objects which might strike a person at a lower level falling from the floor surface.

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- ⇒ Balustrade heights and designs are to comply with the BCA Clause D2.16, AS 1170 Part 1. Height above nosings of stair treads, landing, corridors and the like shall generally be not less than 865mm, except in the case of particular locations and specific classes of buildings. The applicant shall check building regulations and ensure compliance.
95. Suitable handrails shall be provided where necessary to assist and provide stability to persons using the ramp or stairways, located and designed in accordance with the BCA Clause D2.17.
96. Bollards/ approved barriers shall be provided adjacent to egress doors and paths of travel that are likely to be obstructed by vehicles, plant or equipment associated with the use of the premises. BCA Clause D1.10.
97. Sanitary facilities for people with disabilities shall be provided in accordance with Clause F2.4 Table F2.4 of the BCA and to the standards set out in AS 1428.1.
98. Access for disabled people shall be provided in the building or portion of the building in accordance with Part D.3 of the BCA and to the standards set out in AS 1428.1.
99. Materials used in the building including floor coverings, shall comply with the requirements of Part C1 of the BCA, with regard to restrictions concerning early fire hazard properties of materials, spread of smoke and flame.
100. An emergency lighting system shall be installed in the building to:
- Fire isolated stairways;
 - Fire isolated ramps;
 - Fire isolated passageways;
 - Passageways, corridors, hallways or the like that is part of the path of travel to an exit;
 - Required non-fire isolated stairs;
 - All storeys, rooms and spaces having prescribed floor areas; and
 - Required fire control centre. BCA Clause E4.2.

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

- Door providing direct egress from a storey to a required exit;
- Door from an enclosed stairway, passageway or ramp at every level of discharge to a road or open space;
- Horizontal exit; and
- Door serving as, or forming part of a required exit in a storey required to be provided with emergency lighting.

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

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

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

101. Design and installation of emergency lighting system and illuminated exit signs shall comply with AS 2293.1 and clauses E4.2 and E4.5 of the Building Code of Australia.
102. A warning sign stating "DO NOT USE LIFTS IF THERE IS A FIRE" conforming with the details and dimensions of Figure E3.3 of the BCA shall be displayed in a conspicuous position near every call button for all lifts throughout the building. Such warning sign shall consist of:
- Incised, inlaid or embossed letters on a metal, wood, plastic or similar plate securely and permanently attached to the wall; or
 - Letter incised or inlaid directly into the surface of the material forming the wall. BCA Clause E3.3, Figure E3.3.

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103. A notice shall be displayed in a conspicuous position adjacent to each doorway providing access to:

- a) Fire - isolated stairway.
- b) Fire - isolated passageway.
- c) Fire - isolated ramp.

as or forming part of a required exit in or to the effect as follows:

OFFENCES RELATING TO FIRE EXITS

By virtue of the regulations under the Environmental Planning and Assessment Act 1979, it is an offence:

- a) To place anything in this exit that may impede the free passage of persons, or
- b) To interfere with, or cause obstruction or impediment to, the operation of the doors providing access to this exit, or
- c) To remove, damage or otherwise interfere with this notice.

NOTE: The words "OFFENCE RELATING TO FIRE EXITS" should be in letters of a height of 8mm or more. The remaining words in the notice should be in letters and figures of a height of 2.5mm or more.

By virtue of Clause 183 of the Environmental Planning and Assessment Regulation 2000, it is an offence:

- a) To place anything in this exit which may impede the free passage of persons;
- b) To interface with our cause, obstruction or impediment to the normal operation of the doors providing access to this exit; or
- c) To remove, damage or otherwise interfere with this notice.

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

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

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

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

a) **INTERNAL HYDRANTS:**

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

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

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

b) **EXTERNAL HYDRANTS:**

External hydrants shall be located so that:

- i) They are accessible to fire brigade personnel;
- ii) They are not less than 10m from a wall of a building, although Council may permit the hydrants to be mounted closer to the wall where site conditions so dictate; and
- iii) They are not obstructed by parking or loading and unloading of vehicles.

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

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

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

107. An electrical, electronic, plumbing, mechanical ventilation, air conditioning or other service that penetrates a building element (other than an external wall or roof) that is required to have a Fire Resistance Level or a resistance to the incipient spread of fire, shall be installed so that the fire resistance performance of the building element is not impaired. BCA Clause C3.14 and C3.15.
108. The means of egress is to comply with the provisions of Part D of the Building Code of Australia.

Imported fill

109. All imported fill must be validated by an experienced environmental consultant to ensure that the material is virgin excavated natural material (eg. clay, gravel, sand, soil and rock) that is not mixed with any other waste and:
 - a) Has been excavated from areas that are not contaminated, as a result of industrial, commercial, mining or agricultural activities, with manufactured chemicals and that does not contain sulphidic ores or soils; or
 - b) Consists of excavated natural materials that meet such criteria as may be approved by the NSW Environment Protection Authority.

Each load of imported fill must be accompanied by a delivery docket from the supplier including the description and source of the fill. A responsible person must be on site to receive each load of imported fill and must examine the delivery docket and load to ensure that only virgin excavated natural material that has been validated for use on the site is accepted. The delivery dockets must be forwarded to the Principal Certifying Authority within seven (7) days of receipt of the fill and must be produced to any authorised officer who demands to see them.

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SECTION 7: PRIOR TO OCCUPATION CERTIFICATE**Conditions to improve the development by minimising its environmental impact**

110. Prior to the issue of the Occupation Certificate, the Principal Certifying Authority is to ensure that the BASIX commitments have been implemented in accordance with the approved BASIX Certificate. **NOTE:** Certificates from suitably qualified persons are to be submitted to the Principal Certifying Authority (*if Council is the PCA*) verifying that all BASIX commitments listed have been fulfilled in accordance with the BASIX Certificate.
111. All construction in the public road reserve must be undertaken by a contractor approved by Council.
112. An **Occupation Certificate** must be obtained from the Principal Certifying Authority (PCA) and a copy furnished to Council in accordance with Clause 151 of the Environmental Planning and Assessment Regulation 2000 prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.
113. The developer shall submit to Council a letter from Telstra and Optus confirming that satisfactory arrangements have been made to allow all existing and future telephone service around the entire perimeter, of the construction site to be placed underground. This information must be submitted to the Principal Certifying Authority prior release of the Final Occupation Certificate.
114. The developer shall submit to Council documentary evidence that Energy Australia has been consulted and that their requirements have been satisfactorily met prior to the release of the Final Occupation Certificate. Where an electricity substation is required by Energy Australia, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Energy Australia over the location of the proposed substation. The substation must be located within the boundary of the development site to which the DA relates, or within the building, subject to compliance with the BCA.
115. A maintenance period is to apply to all civil works, including road works, the village square, street trees and footpaths that are to be dedicated to Council or which will require ongoing maintenance by Council. The maintenance period will apply for twelve (12) months after the issue of the relevant Occupation Certificate. In that period the applicant will be liable for any part of the works which fail to perform in the manner required by the relevant certifications, or would reasonably be expected under the design conditions.
116. Work as executed (WAE) drawings and an accompanying survey certificate prepared by a registered surveyor must be submitted to the Principal Certifying Authority prior to release of the Final Occupation Certificate, showing the following:
- a) Details of the main 100yr ARI drainage system traversing the site (ie. pipes and overflow channel);
 - b) Details of all onsite detention systems;
 - c) Details of all rainwater collection and reuse systems; and
 - d) Details of all works carried out within the public road reserve.
- e) The survey certificate must confirm that all works have been constructed at both the level and alignment/ location of the approved design.
117. Engineering Compliance Certificates from a Chartered Professional Engineer must be submitted to the Principal Certifying Authority in accordance with Section 8.1/2.2 of DCP 2006 prior to release of the relevant Occupation Certificate.
118. Compliance Certificates from a Chartered Professional Engineer must be submitted to the Principal Certifying Authority prior to release of the relevant Occupation Certificate confirming that all stormwater management works have been constructed in accordance with the Building Code of Australia and the relevant Australian Standards.
119. Prior to issue of an Final Occupation Certificate photographic evidence of the condition of the road reserve area adjoining the site after the completion of all construction, must be submitted showing that no damage has been done and if damage has been done that it has been fully remediated. The photographs shall be accompanied by a statement that no damage has been done (*or where damage has been remediated that Council has approved that work*). In this regard Council's written agreement that all restorations have been completed satisfactorily must be obtained.

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120. Inspection footage of all stormwater drainage systems larger than 150mm diameter constructed as part of the development is to be submitted to Council prior to release of the Final Occupation Certificate.
121. Prior to release of the Final Occupation Certificate all required drainage easements shall be created in favour of Ryde City Council for the main stormwater drainage system (*ie. the 100yr ARI pipes and emergency overland flow channel*) traversing the site. Evidence that the required easements have been registered with the Land Titles Office must be submitted to Council for approval.
122. Prior to issue of the relevant Occupation Certificate, documentary evidence shall be provided to the Principal Certifying Authority that compliance with the requirements of the NSW WorkCover Authority have been met.

Essential fire services

123. A **Fire Safety Certificate**, (EP and A Regulation 2000) must be furnished to the Principal Certifying Authority (PCA) for all of the items listed in the Fire Safety Schedule forming part of this approval prior to any consent for occupancy/ partial occupancy being granted.
124. A Fire Safety Certificate/s from a suitably qualified person/s is to be submitted to Council or the PCA (*and Council, if Council is not the PCA or an accredited certifier*) for all the essential services installed in the building in accordance with Clauses 170 and 171 of the Environmental Planning and Assessment Regulation 2000.
125. On completion of the building work and **prior to a relevant Occupation Certificate being issued**, the owner of the building must provide to the Consent Authority a Fire Safety Certificate from a competent person with respect to each essential service nominated in the schedule.
126. An annual Fire Safety Statement (EP&A regulation 2000) must be given to Council and NSW Fire Brigade commencing within 6 months after the date on which Council receives the initial Fire Safety Certificate.

Standard NSW Police Conditions – Crime Prevention

127. A plan for internal directional signage is to be prepared and implemented prior to the occupation of the development. This signage is to be clear and concise such that persons attending the complex can not unknowingly enter non-public areas, should inform visitors to the site about the location of the carpark entries and exits, the entrance to each building, visitors parking and the like. The plan is to provide an indicative location for all directional signage that will be erected within the site. The Plan is to be submitted to Council prior to occupation of the development for consultation with NSW Police.
128. The details of any future on-site site security service and monitoring are to be submitted to Council prior to the occupation of the development for consultation with the NSW Police.
129. For publicly accessible areas which are not otherwise permanently lit, sensor security lighting should be provided. Details of any such lighting are to be submitted to Council prior to occupation of the development for consultation with NSW Police.
130. Fire/ service doors that open onto public spaces are to have shields fitted over the lock area to prevent them from being forced open.
131. Any surveillance equipment installed is to utilise digital or video technology to record images from the cameras. Cameras are to be installed in and around the business to maximise surveillance opportunities. Any surveillance system should be manufactured and installed by a qualified/reputable installer and regularly function tested. If surveillance equipment is installed, it should meet the requirements of the Privacy legislation.
132. All ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place is to be removed immediately.

Waste Management Plan

133. The Waste Management Plan prepared by Remo Properties dated July 2007 must be complied with.

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Certification of mechanical ventilation

134. Prior to issue of a relevant Occupation Certificate under Environmental Planning and Assessment Act 1979 and following the completion, installation, and testing of all the mechanical ventilation systems covered by the approval, a **Mechanical Ventilation Certificate of Completion and Performance** in the form of **Attachment M2** must be submitted to the Principal Certifying Authority (PCA), with a set of the certified drawings.
- a) **Prior to issue of a relevant Occupation Certificate** and/ or use of the premises, a **Structural Inspection Certificate in the form of Attachment S1C** must be submitted to the satisfaction of the Principal Certifying Authority with a set of the final certified drawings **after**:
- i) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and
 - ii) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.
- b) **Notes:**
- i) An appropriately qualified practicing structural engineer certifying by completing **Attachment S1** must have:
 - Appropriate tertiary qualifications in Civil or Structural Engineering; AND
 - Corporate membership of the Institution of Engineers Australia or equivalent; AND
 - Evidence of relevant experience in the form of a CV/Resume;
 - Appropriate current professional indemnity insurance.
 - ii) **Certification of Inspection/s** is also required prior to issue of the Occupation Certificate, and/ or prior to use. See Schedule 1E Conditions.
 - iii) Council **reserves** the right to randomly audit any structural documentation.

CLASS 5, 6, 7, 8, 9 or 10 BUILDINGS & STRUCTURES:

135. The applicant is to submit to the Principal Certifying Authority (and Council if Council is not the PCA) upon completion of the building and before the issue of an **Occupation Certificate**, a certificate from an accredited person certifying compliance with the requirements of Part C1 of the BCA.
136. The space below a flight of stairs of a required fire isolated stairway (including an external stairway) shall not be enclosed to form a cupboard or enclosed space unless the enclosing walls and ceilings have a Fire Resistance Level of not less than 60/60/60 and any access doorway to the enclosed space is fitted with a self closing -/60/30 fire door. A certificate detailing and certifying the fire resistance levels provided shall be submitted to the Principal Certifying Authority (and Council if Council is not the PCA) prior to the issue of an **Occupation Certificate** for the building. BCA Clause D2.8.
137. Any electrical, electronic, plumbing, mechanical ventilation, air conditioning or other service that penetrates a building element (other than an external wall or roof) that is required to have a Fire Resistance Level or a resistance to the incipient spread of fire, shall be installed so that the fire resistance performance of the building element is not impaired. BCA Clause C3.14 and C3.15.
- On completion of the building and prior to the issue of an **Occupation Certificate**, details and certification of the system/s provided in maintaining the fire resistance, performance of the building elements shall be submitted to the Principal Certifying Authority (and Council if Council is not the PCA).
138. The applicant is required to install an emergency warning and intercommunication system in accordance with Part E4.9 of the Building Code of Australia and submit documentary evidence to the Principal Certifying Authority (and Council if Council is not the PCA) that the system is operational prior to an **Occupation Certificate** being issued.
139. The applicant is to provide and submit documentary evidence to the Principal Certifying Authority (and Council if Council is not the PCA) that an inspection from the NSW Fire Brigade has been carried out prior to the issue of an **Occupation Certificate**.

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140. The lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads. All existing and proposed lights shall comply with the Australian Standard AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting.

Hours of Operation Precinct 1

141. The hours of operation of the retail/ commercial elements of Precinct 1 are 7:00am to 12:00pm Monday to Saturday and 7:00am to 10:00pm on Sunday.

Hours of Operation Precinct 2

142. The elements of Precinct 2 are restricted to the following hours of operation:

- a. The childcare centre is restricted to operation between 7.00am and 6:00pm Monday to Friday.
- b. The retail and commercial elements of Precinct 2, not including the childcare centre, are restricted to between 7.00am and 10.00pm, Monday to Friday.
- c. The ground floor of the Precinct 2 development, excluding the childcare centre, is approved for usage during the hours given above in (a), in addition to 7.00am Friday to 1.00am the following day, any extension to which will require the prior written consent of Council.

Hours of Operation – Rubbish Removal

143. Once the development is completed the hours of operation for rubbish collection are restricted to 7:00am to 8:00pm, 7 days a week.

Vehicle Access facilities

144. Vehicle access facilities are to be provided in accordance with the standards contained in the RTA document 'Guide to Traffic Generating Developments'.

Deliveries/Loading Hours of Operation

145. The hours of operation of the loading docks are 7:00am to 8:00pm, 7 days a week. Furthermore, deliveries by semi trailers must occur within the abovementioned hours and must not take place between the hours of 9:30am and 3:30pm or 6:30pm and 8:00pm.

Childcare Centre

146. The number of employees to work at the childcare centre is limited to a maximum of 24.

Loading Dock

147. The following restrictions and works apply to the loading dock:

- a. Noise generated by the loading dock must comply with the EPA Industrial Noise Policy requirements, or create an offensive noise as defined in the Protection of the Environment Operations Act 1997.
- b. Truck engines must be turned off during loading and unloading.
- c. Vehicles must enter and exit the loading dock in a forward direction.
- d. Signage requesting that staff and visitors minimise noise within the area at all times must be installed in the loading dock and maintained thereafter.
- e. All loading and unloading in relation to the use of the premises shall take place wholly within the property.
- f. Loading areas are to be used for the loading and unloading of goods and materials, waste collection and general servicing access only and for no other purpose.
- g. B-Double trucks are not permitted to access the loading dock.
- h. The gates on the loading dock are to be configured to allow access to the waste storage areas shown on Plan No. 210-DAB, 60717, Ground Floor, dated 22 October 2007.

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Lighting – Operation

148. All lights, notwithstanding security lighting, within the retail and commercial elements shall be turned off outside of normal operating hours (*with the exception of solar powered lighting*).

Roller Door – Maintenance

149. All roller shutter doors erected within the development site over the life of the development shall be maintained within the manufacturer's acoustic specifications to ensure their continued quiet operation.

SECTION 9: SPECIAL CONDITIONS**Traffic – Construction of New Intersections**

150. The new intersections and modifications to the streets surrounding the development must be constructed as follows:
- The Chatham Road / New Betts Street intersection must be a roundabout with two northbound lanes.
 - The Chatham Road / new retail car park access intersection must be a roundabout with two northbound lanes.
 - The Chatham Road / Dickson Avenue must be a Roundabout with two northbound lanes.
 - The New Betts Street / residential car park access intersection must only allow cars to access the site via a left turn only.
 - A design must be developed for the pedestrian crossing point across the northern section of Anthony Road and New Betts Street. (eg. pram ramps and refuge island).
 - Clear cycle warning signs, cycle routes signage for cyclist links and pavement markings must be provided to warn vehicles of the cycle route in accordance with the RTA's NSW Bicycle Guidelines, Austroads Part 14 and AS1742.9.

Design Modifications to Surrounding Streets

151. The developer is required to provide the following modifications to effectively manage the traffic network surrounding the development:
- The length of the right turn bay from Victoria Road into Chatham Road must be extended to provide 130m of storage;
- Note:** This will result in the loss of the bus bay along the southern side of Victoria Road.
- Provide changes to the lane designations within the Chatham Road approach to Victoria Road so 1 lane is left only and the other a through road; and
 - To improve safety and to minimise delays for the egress of vehicles, the right turn movement out of the driveway onto new Betts Street should be banned. These movements can be accommodated at the proposed roundabout at Chatham Road/ New Betts Street.

RTA Requirements

152. The proposed right turn bay extension at Victoria Road/ Chatham Road (including associated civil/ signal works to facilitate the extension) shall be designed to meet the RTA's requirements, and endorsed by a suitably qualified and chartered Engineer (ie. registered with the Institute of Engineers, Australia). The design requirements shall be in accordance with the RTA's Road Design Guide and other Australian Codes of Practice. The certified copies of the civil/ traffic signal design plans shall be submitted to the RTA for consideration and approval prior to the release of Construction Certificate by Council and commencement of road works.

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153. The RTA fees for administration, plan checking, civil/signal works inspections and project management shall be paid by the developer prior to the commencement of works.

Note: The developer may be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that that the Works Authorisation Deed (WAD) will need to be executed prior to the RTA's assessment of the detailed civil/ signal design plans.

154. The developer shall be responsible for all public utility adjustment/ relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

155. All works/ regulatory signposting associated with the proposed development shall be at no cost to the RTA.

Drainage and Stormwater**156. Prescribed conditions**

- a) Design and Construction Standards – All engineering design and construction shall be carried out in accordance with the requirements of Ryde City Council, in particular with reference to DCP 2006 and RCC "Environmental Standards – Development Criteria Section 4 Public Civil Works" (Draft).
- b) Stormwater Management – All stormwater Management systems on the site and within the immediate surroundings must be designed and constructed in accordance with the Buckton Lysenko DA Drawings and the letter titled "Proposed Development of the West Ryde Precinct", 21 November 2007.
- c) Floor Levels above the flood levels – All habitable and non habitable floor levels of the proposed development are to be sited a minimum of 300mm above the critical 100yr ARI flood level. The minimum ground floor level for the community centre component of the development is to be RL 19.25AHD.
- d) Basement Entry Levels above Flood Levels – All basement driveway entry crests for the proposed development are to be sited a minimum of 300mm above the critical 100yr ARI flood level. Any openings that lead to the basement areas are to also comply with the above requirement.
- e) Additional Basement Entry Crest Requirement for Community Centre – In addition to compliance with Condition 156(d), the basement entry point to prevent inundation of the basement areas with floodwaters for all events up to and including the PMF. The Self Closing Waterdam (SCW) is to be fully operational in the event of a power blackout and must be regularly maintained and tested to ensure its readiness in the event of a flood.
- f) Floor Warning System – There is to be no connection between the existing Woolworths basement car park and the proposed basement carparking facilities that would allow the passage of floodwaters.
- g) Raising Anthony Road sag – The proposed raising of the Anthony Road sag point must be restricted to a maximum of 250mm.
- h) Chatham Road drainage – The existing piped drainage system in Chatham Road along the development frontage is to be upgraded to a minimum of 20yr ARI capacity.
- i) Reserve Road Drainage – The existing piped drainage system in Reserve Road is to be upgraded to a minimum of 100yr ARI capacity.
- j) Sustainability – The development must incorporate the water related sustainability measures as described in the Bunkton Lysenko letter titled "Proposed Development of the West Ryde Precinct", 21 November 2007. In addition, the development must achieve a minimum "4 Green Star Certified Rating" in accordance with the "Green Star Shopping Centre Design Pilot", Green Building Council of Australia for the proposed commercial component of the development.
- k) Public Roadworks – All public road works must be approved by Council based on the provisions of Section 138 of the Roads Act 1993.
- l) Stormwater pipes – all stormwater pipes within the public road reserve shall be reinforced concrete.
- m) Emergency overland flow path – An unobstructed emergency overland flow path is to be maintained between the Anthony Road sag and Market Street with a maximum finished surface of RL 19m AHD

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and a capacity to convey 100yr ARI flows with a depth of less than 250mm in the event that the Anthony Road sag inlets are fully blocked.

Matters to be incorporated into the development and maintained over the life of the development

- n) Sustainability Audit – A sustainability audit shall be carried out by the proposed shopping centre and community centre management teams on an ongoing 5 year frequency to assess the performance of sustainability measures and the availability of new technologies that will enable more sustainable practices to be implemented in the future. The results of each sustainability audit shall be submitted to Council for information.
- o) Rainwater tanks – Rainwater tanks are to be installed as part of the development and the collected water re-used in accordance with the Buckton Lysenko report titled "Proposed Development of the West Ryde Precinct", 21 November 2007 and the following.

A first flush device shall be fitted to the system to divert the first 5mm of runoff from the total roof area so as to drain away from the storage tank (e.g. 0.5 litre per square metre);

Adequate provisions shall be made to prevent mosquitoes breeding in the reservoirs. This should include suitable screening to prevent eggs being laid within the tank;

All tanks shall be structurally sound;

Overflow from the tank shall be piped to an approved stormwater system;

Dual submersible pumps are to be installed and maintained so as to prevent cross connection with the potable water supply;

A "topping up" decider (from potable water supply) shall be provided to ensure continuous supply once the tank is emptied;

A "backflow prevention device" shall be installed;

All rainwater services shall be clearly labelled "Non Potable Water" with appropriate hazard identification; and

Pipe work used for rainwater services shall be coloured purple in accordance with AS 1319.

157. Matters to be satisfied prior to the issue of a construction certificate

- a) Detailed Design Drawings – Detailed design drawings of all road/drainage works to be undertaken in the public road reserve are required to be submitted and approved by Council prior to the issuing of the Construction Certificate.
- b) Integrated Water Management Report – An Integrated Water Management Report (IWMR) is to be submitted to Council for approval prior to issue of the Construction Certificate incorporating the following:
- Incorporation of proposed stormwater quantity, quality, flooding, conveyance, WSUD and sustainability/reuse components of the development into a single report;
 - A description, including detailed drawings, of all stormwater management components of the proposal updated to include all requirements of the conditions of development consent;
 - Updating of all drainage models as a result of the detailed design process;
 - Complete a detailed daily water balance modelling over an historic period of 5 years (ie containing wet, average and dry rainfall years) so as to confirm the achievement of the 30% reduction in potable water demand. Both "traditional" and "water saving" scenarios are to be modelled; and
 - A quantitative assessment of the water quality benefit provided by the proposed stormwater treatment measures.

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- c) Flood emergency response plan – Detailed Flood Emergency Response Plans (FERP) are to be developed for both the proposed mixed use development and community centre. Both plans shall consider floods up to and including the Probable Maximum Flood (PMF). Implementation and maintenance of the FERPs are to become the responsibility of the body corporate/shopping centre management and the community centre management. All residents, owners and tenants of the shopping centre and community centre must be made aware of the relevant FERP. Details of each FERP are to be submitted to Council for approval prior to issue of the Construction Certificate.
- d) Sustainability – Water efficient fixtures and water recycling systems must be implemented as part of the development to achieve a total reduction in potable water demand of no less than 30% compared with the traditional water use of similar commercial/retail applications (ie compared with pre year 2000 applications). Details are to be noted on the plans submitted with the Construction Certificate. In addition, a detailed assessment by a suitably qualified engineer/scientist demonstrating compliance with the above 30% target including water balance calculations, is to be submitted prior to issue of a Construction Certificate.

Protection of the West Ryde Stormwater Tunnel (WRST)

- e) Prior to the issue of the Construction Certificate, confirmation from a registered surveyor of the exact location of the WRST within the proximity of the proposed development site is required to be submitted to Council. A report prepared by an engineer with suitable qualifications
- f) Prior to the issue of the Construction Certificate a report prepared by an engineer with suitable qualifications in geotechnical and structural evaluation of tunnels must be submitted to Council for approval which confirms that the proposed development will not adversely impact on the structure of the WRST.
- g) The report referred to in condition 157(f) must include the following details:
- Survey and sectional drawings of the WRST and the zone of influence ('zone') surrounding the tunnel;
 - Geotechnical details of the WRST and the Zone;
 - A design report for the development as it relates to the Tunnel containing all calculations and test data;
 - Design report for the development as it related to the WRST containing all calculations and test data;
 - A construction plan showing the details of construction within the Zone, together with a monitoring plan for the construction period; and
 - A contingency plan to address any adverse impacts upon the WRST structure during the construction process.
- h) In carrying out the development, all aspects of the report approved by Council in accordance with Conditions 157 (f) (including any details provided in accordance with 157(g)) must be complied with.
- i) Where the construction of the development will involve works the Zone, the Council shall, prior to the commencement of such work, be provided with the security in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 for the sum of \$2 million to cover the cost of making good any damage cause to the WRST as a consequence of the works.
- j) Existing 1500mm dia. Line Downstream of the Anthony Road sag – The proposed method of excavation and any associated protection/support measures within the vicinity of the existing 1500mm dia. line located downstream of the Anthony Road sag is to be submitted to Council for approval prior to the issue of the Construction Certificate.

Matters to be satisfied prior to commencement of works and maintained during the works

158. All construction in the public road reserve must be undertaken by a Council authorised contractor.

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- a) Erosion and sediment control measures are to be implemented for the full duration of the construction works in accordance with Sections 8.1 and 8.2 of the Ryde DCP 2006 and the Buckton Lysenko Erosion and Sediment control drawings.
- b) Water generated onsite during the excavation works may be discharged to Council's drainage system during dry weather conditions only (ie. after 24 hours of no preceding rainfall). All water proposed to be discharged into Council's surrounding drainage systems must be free of excessive pollutants. As a minimum, any water proposed to be discharged must be tested to achieve a Total Suspended Solids (TSS) concentration of less than 50mg/L. NATA registered test compliance certificates must be submitted to Council for approval prior to any proposed discharge into Council's surrounding drainage systems. Initial and ongoing monthly testing of any proposed de-watering discharge is also required to be carried out for pH, temperature, turbidity, conductivity, salinity, total nitrogen, total phosphorous, faecal coliforms, metals and hydrocarbons. NATA registered test certificates outlining the results for the above parameters must be submitted to Council on a monthly basis for the duration of the construction works. All water must be delivered to Council's drainage system at an existing pit (ie. not at the kerb).

Matters to be satisfied prior to issue of the Occupation Certificate

- c) A maintenance period is to apply to all civil engineering works to be dedicated to Council that will require ongoing maintenance by Council. The maintenance period will apply for twelve (12) months after the issue of the Occupation Certificate. In that period the applicant will be liable for any part of the works which fail to perform in the manner required by the relevant certifications, or would reasonably be expected under the design conditions.
- d) The Survey Certificate must confirm that all works have been constructed at both the level and alignment/ location of the approved design.
- e) Engineering Compliance Certificates from a Chartered Professional Engineer must be submitted to the certifying authority in accordance with Section 8.1, Part 2.2 of the DCP prior to release of the Occupation Certificate. These Compliance Certificates must confirm that all stormwater management works have been constructed in accordance with the relevant conditions of this consent.
- f) CCTV footage of all stormwater drainage systems larger than 150mm diameter constructed as part of the development is to be submitted to Council prior to the release of the Occupation Certificate showing that no damage has been done, and if damage has been done, that it has been fully remediated. The photographs shall be accompanied by a statement that no damage has been done (or where damage has been done, that it has been remediated and that Council has approved that work). In this regard Council's written agreement that all restorations have been completed satisfactorily must be obtained.
- g) Prior to release of the Occupation Certificate all required drainage easements shall be created in favour of Ryde City Council. Evidence that the required easements have been registered with the Land Titles Office must be submitted to Council for approval.

Relocation of Pedestrian Crossing

159. The proposed pedestrian crossing shown on the approved plans located at the southern end of New Betts Street must be relocated to the northern end of New Betts Street, this will require the northernmost car parking space on New Betts to be deleted. Subsequently the development will have a total of 686 car parking spaces. Prior to the final occupation of the development full details which include a breakdown of the allocation of parking to each land use shall be submitted to, and approved by, Council.

Traffic Engineering

160. All designated disabled parking spaces shown on the approved plans shall be provided and maintained, and are to be identified by the international access symbol. All disabled access carparking spaces are to be designed as wide bay spaces in accordance with the Ryde DCP 2006.

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Lighting Systems

161. a) Full details of all the proposed street lighting systems including their location, type and luminance level must be submitted to the Council for approval prior to the occupation of the site.
- b) The applicant shall, at no cost to Council, install "smartpole" lighting within the public domain surrounding the development site and the village square. Full details including design, levels of luminance and location of lighting within the public domain, on the approved buildings and the surrounds of the site are to be submitted to and approved by Council prior to installation and be in accordance with Australian Standard AS/NZS 1158.3.1:2005: Road Lighting – Pedestrian area (Category P) lighting – Performance. The light levels shall meet Category V5 for all Streets and Category P2 for all footpath areas.

Parking Scheme

162. Any paid parking schemes adopted for the development site must be appropriately managed to minimise on-street parking in the local area to the satisfaction of the Council and RTA.

Wind Mitigation

163. 1.2m high impermeable balustrades around the corner balconies of the main building must be installed to ensure residential amenity is not negatively affected by intense wind.

Roller Shutters

164. The shop front may only incorporate see-through grilles or translucent barriers to ensure maximum light is transmitted to footpath areas. Metal or roller shutter doors are not permitted. Development consent is required for any security grilles or translucent barriers.

Window and Door Locks

165. Window and door locks must be made of metal.

Signage

166. All advertising signs are to be displayed in the English language, but may include a translation into another language using letters or characters that are no larger than the English language letters or characters. Any translated message must be accurate and complete.
167. Any community information signage to be erected at a future date shall be subject of the approval of the Council and must be agreed in writing by the Council in accordance with the provisions of Part 4.4, Section B, Part 3.6 (3) of the Ryde DCP 2006.

Landscaping

168. All hard landscaping, paving, soft landscaping including species selection, street furniture and the like for the applicant's land shall be carried out in accordance with approved landscape plans. Where soft landscaping is proposed including species selection, the applicant must ensure that the species health is guaranteed for a minimum of 2 years to ensure the character and appearance of the streetscape is maintained and established. Any species that die within two years of planting must be replaced by the applicant with a species of a similar size and maturity. All street furniture is to be installed following the installation methods of Council (or Group Manager) and is to comply with AS 1428.2 – ie. street furniture is not to be situated so that it causes a hazard to people with disabilities. Items such as seats, tables, drinking fountains and planter boxes will be positioned at least 500mm from any accessible path of travel. All seating should have armrests at a height of 210 to 300mm above the seat, and have a seat height of 450mm, unless a high proportion of elderly people are likely to use the seating, in which case at least some of the seats are to have a seat height of 520mm, which enables people to stand up from the seat more easily (AS 1428.2).

Disabled Access

169. Disabled access is to be provided to and within the development. Prior to occupation of the development, a suitably qualified access consultant is to certify that the development complies with Australian Standard 1428.1 and the Building Code of Australia.

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170. Accessible toilets are provided, but will need to be amended to comply with Australian Standard 1428, in addition, an accessible toilet is to be provided on the ground floor of the retail/ commercial aspect of Precinct 1, and accessible toilets needs to be provided on levels 2 and 3 of the Precinct 2 building, and an accessible toilet provided at ground level that is compliant with AS 1428.2. Washbasins, which allow a wheelchair user to sit front-on to the basin with room under it for clearance over the person's knees are to be provided. Provision should also be made for an area which allows for the easy placement of such things as hair brushes (AS 1428.2). Taps are to be either level type, capstan type or sensor plate controlled, or the like. Hot water will be provided through a mixer valve (AS 1428.1).

Access and Mobility

171. The development must comply with City of Ryde's Pedestrian Circulation Strategy and the Accessibility review prepared by Remo Projects. In particular the development must comply with the following:
- a. The width of paths must comply with Australian Standard 1428.2.
 - b. To comply with AS 1428.1 the 1:20 gradient walkways leading from Anthony Road and Chatham Road to the two automatic entry doors are to have 1200mm landings at 15m intervals, and the village square steps will require handrails in accordance with AS 1428.1, and tactile ground indicators in accordance with AS 1428.4.
 - c. Tactile indicators must be provided in accordance with AS 1428.4.
 - d. Information in lifts must be provided in tactical, aural and visual formats. Visual information must be able to be read by a person with visual impairment.
 - e. Lifts must be able to be operated independently by people with disabilities. There must be sufficient room for a wheelchair user to turn around in the lift car and control buttons are to be within reach of a wheelchair user. Hand rails are to be provided.
 - f. Stairs may have a rise of 150 to 165 mm and a tread of 275 to 300mm. However, where possible, the rise should be 95 to 105 mm with a tread of 575 to 600mm which suits people using assistive devices such as walking frames.
 - g. Stairways are to have dual handrails on both sides of the stairway. The top rail is to be 865 to 900mm from the top of a step and the lower rail is to be 665 to 700mm from the top of the step. Railings are to be a minimum of 30mm and a maximum of 50mm in diameter (AS 1428.2).
 - h. The maintenance illumination levels should be 150 lux for paths of travel, corridors and stairs to ensure all lighting levels comply with AS 1680.
 - i. Gateways and checkouts suitable for people with disabilities are to be identified by the international symbol for access. Turnstiles are not appropriate for people with disabilities. An opening of at least 850mm is required, and any coin device or ticket machine is to be located at a height of between 800 and 900mm to enable wheelchair users to use it. Any barrier must be at least 1200mm past the ticket or coin feed point to allow a wheelchair user access. (AS 1428.2)
 - j. Basement accessible car bays are to have a vertical clearance of 2.5m, compliant with AS 2890.1
 - k. Where boom gates are used, a ticket machine is to be within reach of a driver seated within a car, and an intercom system provided that can be operated from the driver's seat for drivers who cannot operate the ticket machine. (AS 1428.2 and AS 2890.1)
 - l. On-street parking bays for people with disabilities are to be a minimum of 3.2m wide and 5.5m long if the bay is at the end of a the parking area, and 6.7m long in other circumstances.
 - m. Kerb ramps are to be provided at each end of the parking bay.
 - n. The number of parking bays for people with disabilities is to comply with Table 1 of Clause 16 (AS 2890.5).
 - o. Emergency exits need to be accessible to people with disabilities. Where egress is required from upper levels, the use of fire rated lifts or other means may be required. There is no Australian Standard dealing with this issue, however, the Human Rights and Equal Opportunity Commission's Advisory Notes on Access to Premises provide advice (HREOC Advisory Notes on Access to Premises, Section 5.21).
 - p. Full details including sectional drawings and detailed plans of all lifts, ramps and hand rails within the proposed development shall be submitted to and approved by Council prior to the occupation of the development and shall be installed in accordance with the submitted plans.
 - q. All paths must have a clearance overhead of at least 2000mm to ensure that people with a visual impairment are provided with suitable access free from obstacles.

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- r. All floor surfaces within the development must be slip resistant so as not to be a hazard to people with disabilities. Where carpet is used it must provide a firm surface and be attached so that there is no changes in level greater than 3mm between the carpet and any other surface. The ground surface of parking bays is to be smooth, but non-slip and have a slope in any direction not exceeding 1:40.
- s. All public entrances and employee entrances are to be accessible to people with disabilities. Thresholds are to be avoided but where they are essential, they must be no higher than 56mm and be ramped using a threshold ramp with a gradient of no more than 1:8.
- t. Clear door openings of at least 960mm to enable equitable access shall be provided throughout the development for people who use wheelchairs and people using other mobility aids. Sufficient circulation space at doors to allow people with disabilities to open and close the doors independently is also to be provided.
- u. The lighting of pedestrian pathways within the development shall be designed, installed and maintained to Australian Standard AS1158.3.1 – 1999: Road Lighting Pedestrian Area (Category P) Performance and Installation Design Requirements. Areas besides thoroughfares should be evenly lit to avoid concealment or entrapment opportunities. The same is applicable to public clotheslines, communal courtyards and letterbox areas.
- v. Emergency warning systems need to include both visual and audible alarms so that as many people as possible can be alerted to any emergency. Signs that warn of danger are to be placed sufficiently ahead of the hazard to allow avoidance (AS 1428.2).

Cycle Parking

172. An additional five (5) bicycle racks are to be provided at street level within the village square.

Security Lighting

173. Where security lighting is provided within the development, it should not illuminate observers or vantage points. Light should be projected outwards towards pathways and gates, not towards windows and doors.
174. All car park lighting is to be designed, installed and maintained to Australian Standard AS1680.2.1 – 1993: Interior Lighting Circulation Spaces and Other General Areas. To this effect, ceilings, columns and other vertical structures (including columns and pipes) should be painted white

Acoustic Report

175. The development must be in accordance with the recommendations of the West Ryde Village Acoustic Assessment prepared by Environmental Resources Management Australia Pty Ltd dated July 2007.
176. All external noise levels generated mechanically shall not exceed the levels given in Australian Standard 1055.

Street Trees

177. The following requirements apply to all street trees:
- a. Street trees at the time of planting shall have a minimum container size of 50 litres, and a minimum height of 3.5 metres, subject to species availability.
 - b. Tree sites in the footpath shall be 1.2m by 1.2m, filled with approved gravel located 200mm from the back of the kerb line.
 - c. All trees shall be protected by a tree grate of a type that meets Council's specifications.
 - d. Street trees are to be provided at the cost of the developer.

Rain Water Tanks

178. Where Rainwater tanks are to be installed as part of the development and the collected water re-used in accordance with the following:
- a. A first flush device shall be fitted to the system to divert the first 5mm of runoff from the total roof area so as to drain away from the storage tank (eg. 0.5 litres per square metre).

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ITEM 1 (continued)**ATTACHMENT**

Recommended Conditions DA 559/2007

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- b. Adequate provisions shall be made to prevent mosquitoes breeding in the reservoir. This should include suitable screening to prevent eggs being laid within the tank.
- c. All tanks shall be structurally sound.
- d. Overflow from the tank shall be piped directly to an approved stormwater system.
- e. Dual submersible pumps are to be installed within the rainwater tanks to allow for delivery of collected water to reuse sources.
- f. All rainwater tanks should be installed and maintained so as to prevent cross connection with the potable water supply.
- g. A "topping up" device (*from the potable water supply*) shall be provided to ensure continuous supply once the tank is emptied;
- h. A "backflow prevention device" shall be installed.
- i. All rainwater services shall be clearly labelled "Non Potable Water" with appropriate hazard identification, and
- j. Pipework used for rainwater services shall be coloured purple in accordance with AS1345. All valves and apertures shall be clearly and permanently labelled with safety signs to comply with AS 1319.

Road, Pavement and Associated Works

- 179. All redundant vehicular crossings shall be removed and replaced with kerb and gutter and footpath at full cost to the applicant.
- 180. All bulk earthworks, road and pavement construction, footpath construction and drainage construction to be undertaken in the road reserve shall be carried out in accordance with the requirements of Council's DCP 2006 and AUSSPEC. Where any conflict between the two above documents exists, Council's DCP 2006 shall take precedence.

Telecommunications

- 181. All existing above ground power (*high and low voltage*) and telecommunication services along the street frontages of the proposed development site must be placed below ground to the satisfaction of the relevant service authorities requirements and at the applicant's expense.

Sewer Connections

- 182. Any discharge to the sewer from the subject premises shall be in accordance with the requirements of Sydney Water.

Shopping Trolleys

- 183. A mechanism, to the satisfaction of the Council, must be installed and maintained at all times, to prevent shopping trolleys being taken from the site.

Service Access

- 184. Service access is to be provided for the tenancy marked Fresh Fruit Retail on Plan No. 202-DAB, 60717, Basement 1B, stamped 22 October 2007. The precise layout of the retail tenancies is to be provided and approved by the certifying authority prior to release of the Construction Certificate.

Voluntary Planning Agreement

- 185. Prior to the issue of any Construction Certificate for works to which this consent relates, the applicant shall enter in to a Voluntary Planning Agreement (VPA) with Council in the terms of the offer made by the applicant in connection with the subject Development Application, and all works shall be carried out in accordance with the applicable VPA.
- 186. Prior to the issue of any Construction Certificate the applicant/developer must register the VPA on the relevant folios of the Torrens Title Register held by the NSW Office of Land and Property Information pertaining to the land.

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ITEM 1 (continued)

Recommended Conditions DA 559/2007

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187. The construction of the mixed use component of the proposed development shall not commence until the construction of the community facilities building is completed to the satisfaction of Council.

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ITEM 1 (continued)

Recommended Conditions DA 559/2007

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SECTION 10: ADVICE

1. You are advised to consult with your utility service providers (eg. *Energy Australia, Telstra*) in order to fully understand their requirements before the commencement of any work.
2. Failure to comply with the relevant provisions of the Environmental Planning and Assessment Act, 1979 (*as amended*) and/ or the conditions of this Development Consent may result in the serving of penalty notices (*on-the-spot fines*) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
3. The water from any rainwater tanks shall not be used for drinking purposes. Sydney Water shall be advised of all rainwater tank and/ or water recycling systems proposed to be used in the development.
4. The issue of on-street parking within Chatham Road should be reviewed through Council Local Traffic Committee with the view to removing any on-street parking during the traffic peaks in order to improve traffic flow.
5. To facilitate the improved parking utilisation in the area, it is recommended that consideration be given to the linking of the parking areas between this development and the Woolworths development, subject to flooding considerations.
6. With the Council ownership of the property to the north west of the Dickson Avenue and Chatham Road intersection there is the potential to solve the existing alignment level issues at the roundabout.
7. The right turn bay from Victoria Road into Chatham Road should be extended beyond the length given in Condition No. 151 if a beneficial solution can be agreed to between Council, STA and RTA.

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ITEM 1 (continued)

ATTACHMENT

Voluntary Planning Agreement

Parties

Ryde City Council (Council)
ABN 81 621 292 610

and

Remo West Ryde Pty Limited (Developer)
ABN 72 119 722 128

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ITEM 1 (continued)**ATTACHMENT****Planning Agreement** dated

Parties City of Ryde ABN 81 621 292 610
of 1 Devlin Street, Ryde, NSW
(Council)

Remo West Ryde Pty Limited ABN 72 119 722 128
Of 10 Regatta Road Five Dock 2046
(Developer)

Background

- A. On 31 July 2007 the Developer made the Development Application to the Council seeking Development Consent to carry out the Development on the Land.
- B. The Development Application was accompanied by an offer by the Developer to enter into this Agreement to make various Contributions and provide public facilities and amenities if Development Consent in respect of the Development Application was granted and the Development Consent activated.

Operative provisions**1 Definitions and Interpretation**

1.1 In this Agreement the following definitions apply:

- (1) **Act** means the *Environmental Planning and Assessment Act 1979 (NSW)*.
- (2) **Commencement Date** means the day that Development Consent is granted for the Development.
- (3) **Community Facility** means the facility described in Schedule 4 that is designed, constructed and commissioned.
- (4) **Construction Certificate** means a construction certificate issued pursuant to the *Environmental Planning & Assessment Act* authorising construction works in respect of the Development Consent.
- (5) **Contribution Item** means any single item of the Contributions listed in Schedule 3.
- (6) **Contributions** means the combination of the money payable by the Developer to the Council pursuant to this Agreement to provide public amenities and facilities, the land to be dedicated by the Developer to the Council pursuant to this Agreement and the other material public benefits to be provided by the Developer pursuant to this Agreement, as listed in Table 2 in schedule 2.
- (7) **Dedicated Land** means the land set out at Item 4 of Schedule 1.
- (8) **Defects Liability Period** means 12 months from practical completion of all public infrastructure provided under this Plan of Agreement.
- (9) **Development** means the development described at Item 1 of Schedule 1.
- (10) **Development Application** means the Developer's application or applications, including subsequent applications (including applications for Section 96 Modifications), to Council that fall within the comprehensive development application No LDA 559/07 in respect of the Development.

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ITEM 1 (continued)**ATTACHMENT**

- (11) **Development Consent** has the same meaning as in the Act.
 - (12) **GST** has the same meaning as the GST Law.
 - (13) **GST Law** has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.
 - (14) **Implementation Terms** means the terms set out in schedule 7.
 - (15) **Land** means the land on which the Development will be undertaken, as described in the Development Application.
 - (16) **Licence Agreement** means the licence agreement to be entered into between the parties pursuant to clause 7.2.
 - (17) **Management Statement** means a building management statement or strata management statement, which details the extent of the Council's liabilities in respect of the Community Facility to be registered by the Developer in respect of the building comprising the Development and regulating the use of, and sharing of costs for, shared facilities and services in the Building and related matters.
 - (18) **Occupation Certificate** has the same meaning as in the Act.
 - (19) **Party** means a party to this Agreement, including their successors and assigns.
 - (20) **Public Domain Works** means any work on road reserves or dedicated lands as shown in Schedules 4 and 5.
 - (21) **Regulations** mean the *Environmental Planning and Assessment Regulation 2000*.
 - (22) **Section 96 Modification** means any modification pursuant to section 96 of the Act to the Development Consent granted in respect of the Development Application.
 - (23) **Village Square** means those works as indicated in Schedule 5.
- 1.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:
- (1) Headings are inserted for convenience only and do not affect the interpretation of this Agreement
 - (2) A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
 - (3) If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.
 - (4) A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
 - (5) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or reenactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
 - (6) A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
 - (7) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.

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ITEM 1 (continued)**ATTACHMENT**

- (8) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
 - (9) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
 - (10) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
 - (11) References to the word 'include' or 'including' are to be construed without limitation.
 - (12) A reference to this Agreement includes the agreement recorded in this Agreement.
 - (13) A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
 - (14) Any schedules and attachments form part of this Agreement.
- 2 Planning Agreement under the Act**
- 2.1 The Parties agree that this Agreement is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the Act.
- 3 Application of this Agreement**
- 3.1 This Agreement is made in respect of the Development Application and applies to the Land.
- 4 Commencement**
- 4.1 This Agreement is effective on and from the Commencement Date.
- 5 Development Contributions to be made under this Agreement**
- 5.1 The Developer must provide the Contributions in accordance with clause 6.
- 6 Provision of the Contributions**
- 6.1 The Developer will carry out and deliver the Contributions by the time or times and in the manner set out in Schedule 3.
- 7 Application of s94 and s94A of the Act to the Development**
- 7.1 This Agreement excludes the operation of Section 94 and 94A of the Act to any Development Consent that is granted in respect of the Development Application.
- 7.2 Section 94(6) of the Act does not apply to the Contributions provided pursuant to this Agreement in respect of any other development for which Development Consent is sought by the Developer in relation to development not contemplated by the Development Application or the Development Consent.
- 8 Council fees and charges**
- 8.1 In recognition of the public benefits/ contributions, the Council will waive payment of the following construction related fees for works subject of the Development Consent granted to the Development Application:
- (1) "Footpath Rental Fee (Anthony Road / Chatham Road)"

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ITEM 1 (continued)**ATTACHMENT**

- (2) "Footpath Rental Fee (Anthony Road / Reserve Street)"
- (3) "Council Reserve Land Rental Fee (New Betts Street)"
- (4) "Footpath Hoarding Erection Permit – B Type Hoardings (Anthony Road / Chatham Road / New Betts Street)";
- (5) "Roadway Construction Parking Zone Permit Fee (Anthony Road)"

8.2 Both parties agree to negotiate the variations incurred with the Council's Community Building Gross Floor Area and the fitout costs associated with the same building. The Developer will table to Council a schedule of variation costs to be approved by the Council staff and Council will negotiate with the Developer a variation offset against the proposed fitout of the community building.

9 Review of this Agreement

9.1 This Agreement may be varied or amended only by the express written approval of both parties and in compliance with the Act.

10 Dispute Resolution

10.1 Dispute or difference

If a dispute or difference arises under this Agreement the Parties or a Party may refer it for determination by an Expert under this clause 10.

10.2 Notice of dispute

A Party which seeks to refer a dispute or difference for determination under this clause must do so by giving a notice to the other Parties (first referral notice) in which:

- (a) it states the name, address and occupation of the person it nominates to determine the dispute or difference (nominated expert);
- (b) it nominates one of the classes of expert specified in the left hand column of the schedule at the end of this clause 10 whose expertise must correspond to the matter in dispute or the difference; and
- (c) it states the matter or matters which constitute the dispute or difference it wishes to refer for determination.

10.3 Procedure

Within 5 business days of receipt of the first referral notice the other Party must give a notice (second referral notice) to the Party which gave the first referral notice in which it states:

- (a) that it accepts or rejects the nominated expert; and
- (b) that it accepts or rejects the nomination of the class of expert,

identified in the first referral notice.

10.4 No second referral notice given

If no second referral notice or an incomplete second referral notice is given the nominated expert must determine the dispute or difference under this clause 10.

10.5 Acceptance of nominated referral

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ITEM 1 (continued)**ATTACHMENT**

If the second referral notice accepts the nominated expert that person must determine the dispute or difference under this clause 10.

10.6 Acceptance of Expert

If the second referral notice rejects the nominated expert but accepts the nomination of class of expert, the nomination of an Expert may be referred by a Party to the person whose name appears in the right hand column of the schedule at the end of this clause 10 and the Expert nominated by that person must determine the dispute or difference under this clause 10.

10.7 Rejection of Nominated Expert

If the second referral notice rejects the Nominated Expert and the nomination of the class of expert, the nomination of the class of expert may be referred at the request any Party to the President for the time being of the Law Society of New South Wales. When making this request the Party doing so must ask the President for the time being of the Law Society of New South Wales to request the principal officer of the body governing the relevant class of expert to nominate the person who is act as the Expert for the purposes of the particular dispute or difference that has been referred for determination under this clause 10.

10.8 Reference to an Expert

When a dispute or difference is referred to an Expert for determination under this clause 10 each of the Parties must use its best endeavours to make available to the Expert details of all facts and circumstances which the Expert may need to know in order to determine the dispute or difference and must ensure that its employees, agents and consultants are available to appear at any hearing or enquiry called for by the Expert. The process of determination shall be at the discretion and direction of the Expert. If a Party makes a written submission to the Expert it must provide copies of the submission to the other Party at the same time as it provides the submission to the Expert.

10.9 Time for determination

The determination of the Expert must be made and delivered to the parties within 15 business days from the date of submission of the dispute or difference for determination or within such other period as the Expert determines.

10.10 Costs

The costs relating to the appointment and determination of the Expert will be borne equally between the Parties in dispute unless the Expert otherwise specifies in which case the cost must be borne as the Expert specifies.

10.11 Expert not an arbitrator

Any Expert appointed under this clause must, in deciding any issue under this clause 10, decide as an expert and not an arbitrator and the parties agree that the Expert's decision will be final and binding on the Parties.

10.12 Development to proceed

If any dispute or difference is referred for the decision by the Expert if it is reasonably practicable so to do the Development will proceed pending such decision.

10.13 Reasonable endeavours to settle

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ITEM 1 (continued)**ATTACHMENT**

If a dispute arises the parties undertake in good faith to use all reasonable endeavours to settle the dispute expeditiously.

Schedule setting out Classes of Experts

Architect: President for the time being of the Royal Australian Institute of Architects, New South Wales Division.

Accountant: President for the time being of the Institute of Chartered Accountants in Australia, New South Wales Division.

Quantity
Surveyor: President for the time being of the Association of Consulting Surveyors of New South Wales Division.

11 Performance Bond

11.1 Before transfer to the Developer of the Developer Lot (as defined in the Implementation Terms), the Developer must deliver to the Council a \$2 million Performance Bond. The Performance Bond will be dealt with in accordance to the Implementation Terms.

12 Registration on Title

12.1 Prior to the issue of the first Construction Certificate for the Development, the Developer must register or procure registration of this Agreement on the relevant folios of the Torrens title register held by the New South Wales Office of Land and Property Information pertaining to the Land. The Developer shall be responsible for obtaining the consent of any mortgagee or other person with an interest in the Land to such registration.

12.2 Upon full satisfaction of the Developer's obligations under this Agreement the Council agrees to provide a release and discharge of this Agreement with respect to the Land or any lot, including a strata lot, created on subdivision of the Land, within 10 business days of receiving a request from the Developer and to do all things reasonably necessary, including execute any necessary document, to enable the Developer to remove the notation of this Agreement on the relevant folios of the Torrens title register held by the New South Wales Office of Land and Property Information pertaining to the Land.

13 Termination

13.1 This Agreement terminates on the happening of any of the following events:

- (1) the lapse of the Development Consent; or
- (2) a declaration by a Court of competent jurisdiction that the Development Consent is invalid.

14 Escalation

14.1 Despite any other provision of this Agreement, Section 94 and 94A of the Act will apply to a Section 96 Modification or a subsequent Development Application in respect of the Development Consent granted in respect of the Development Application if:

- (1) the effect of the Section 96 Modification is that the net usable floor area of the Development exceeds the net usable floor area applied for in the Development Application or the number of apartments in the residential component of the Development exceeds the number applied for in the Development Application; and

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- (2) where the total monetary value of the Contributions for the Development calculated in accordance with Council's Section 94 Contribution Plan exceeds \$1,917,360.

15 Notices

- 15.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- (1) Delivered or posted to that Party at its address set out below.
 (2) Faxed to that Party at its fax number set out below.
 (3) Emailed to that Party at its email address set out below.

Council

Attention: General Manager

Address: 1 Devlin Street, Ryde, NSW

Fax Number: 9952 8070

Email: mwhittaker@ryde.nsw.gov.au and copy to cityofryde@ryde.nsw.gov.au

Developer

Attention: Craig Pickering

Address: 10 Regatta Road Five Dock 2046

Fax Number: 02 9747 4934

Email: craig@remogroup.com

- 15.2 If a Party gives the other Party 5 business days notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.

- 15.3 Any notice, consent, information, application or request is to be treated as given or made at the following time:

- (1) If it is delivered, when it is left at the relevant address.
 (2) If it is sent by post, 2 business days after it is posted.
 (3) If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.

- 15.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

16 Approvals and consent

- 16.1 Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

17 Assignment and Dealings

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ITEM 1 (continued)**ATTACHMENT**

- 17.1 The Developer must not sell, transfer, assign or novate or similarly deal with (“**Dealing**”) its right, title or interest in the Land (if any) or its rights or obligations under this Agreement unless, prior to any such sale, transfer, assignment, charge, encumbrance or novation, the Developer:
- (1) gives the Council no less than 10 business days notice in writing of the proposed Dealing; and
 - (2) procures that the transferee, assignee or novatee executes and delivers to the Council prior to any such Dealing taking effect, a deed in favour of the Council in form and substance acceptable to the Council (acting reasonably) whereby:
 - a. the transferee, assignee or novatee becomes contractually bound with the Council to perform all of the Developer's obligations (including obligations which may have arisen before the transfer, assignment or novation takes effect); and
 - b. the Developer is released from any obligations under or by virtue of this Agreement which at the time of any proposed assignment or novation contemplated by this clause are required to be performed or satisfied by the Developer at any time from or after the date on which that assignment or novation takes effect under this Agreement.
- 18 Costs - delete**
- 19 Entire agreement**
- 19.1 This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.
- 20 Further acts**
- 20.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.
- 21 Governing law and jurisdiction**
- 21.1 This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.
- 22 Joint and individual liability and benefits**
- 22.1 Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.
- 23 No fetter**
- 23.1 Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.
- 24 Representations and warranties**
- 24.1 The Parties represent and warrant that they have power to enter into this Agreement

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ITEM 1 (continued)**ATTACHMENT**

and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

25 Severability

- 25.1 If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

26 Modification

- 26.1 No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

27 Waiver

- 27.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given it is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

28 GST

- 28.1 If any Party reasonably decides that it is liable to pay GST on a supply made to the other Party under this Agreement and the supply was not priced to include GST, then the recipient of the supply must pay an additional amount equal to the GST on that supply.
- 28.2 Subject to clause 29.3, if the transfer of the Community Facility is a taxable supply, Council will be liable for the payment of GST on that supply.
- 28.3 Council cannot be required to pay GST to Remo earlier than 14 days before Remo must remit the GST to the ATO.

29 Force majeure

- 29.1 If a Party is unable by reason of force majeure to carry out wholly or in part its obligations under this deed (other than an obligation to transfer land or make a payment), it must:
- (1) give to the other Party prompt notice of the force majeure with reasonably full particulars; and
 - (2) suggest an alternative method, if any, of satisfying its obligation under this deed.
- 29.2 If a Party is unable to satisfy its obligations under this deed by an alternative method, the obligations of the Parties, and any time periods, so far as they are affected by the force majeure are then suspended during continuance of the force majeure and any further period as may be reasonable in the circumstances.
- 29.3 The Party giving such notice under this clause must use all reasonable efforts and diligence to remove the force majeure or ameliorate its effects as quickly as practicable.
- 29.4 The Parties agree that any costs associated in ameliorating a force majeure event will be apportioned, if necessary, in such manner as may be fair and reasonable.
- 29.5 The Parties agree that this force majeure provision does not apply to an obligation of a

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- Party to transfer land or to pay money.
- 29.6 If the Parties are unable to agree on the existence of an event of force majeure or the period during which the obligations of the Parties, and any time periods, are suspended during the continuance of the force majeure, that dispute must be referred for determination under clause 11.
- 29.7 The Parties agree that a force majeure includes the actual commencement of any legal proceedings by any person challenging the validity of the Development Consent or any provision of this Agreement.
- 29.8 If a force majeure event cannot be resolved to the mutual satisfaction of Council and the Developer and as a result of a force majeure event the Developer, in its sole discretion, determines that it is unable to undertake the Development, the Developer may terminate this agreement by notice to Council in which event neither Party will have any claim against the other under this Agreement.
- 30 Compliance with laws**
- 30.1 If a Law is changed or a new Law comes into force (both referred to as **New Law**) and the Developer is obliged by the New Law to do something or pay an amount which it is already contractually obliged to do or pay under this Agreement then, to the extent only that the relevant obligation is required under both the New Law and this Agreement, compliance with this Agreement will constitute compliance with the New Law.
- 31 Confidentiality**
- 31.1 The parties agree that the terms of this planning agreement are not confidential and this planning agreement may be treated as a public document and exhibited or reported without restriction by any party.
- 32 Implementation Terms**
- 32.1 The Implementation Terms have effect.
- 33 Inconsistency**
- 33.1 Where the terms of this Deed and the terms of any other agreement between Council and the Developer deal expressly with the same subject matter and the terms of this Deed contradict those of the other agreement, the terms of this Deed prevail to the extent of the contradiction.

ITEM 1 (continued)**ATTACHMENT****Schedule 1– Reference Schedule**

Item	Name	Description
1.	Development	The development of the Land in accordance with the Development Consent granted pursuant to the Development Application, as modified or amended.
2.	Dedicated Land	As stratum lot, created on subdivision of the Land, comprising the Village Square and 134 Car Parking Spaces.
3.	Public Benefits	As described in Schedule 2

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ITEM 1 (continued)

ATTACHMENT

Schedule 2 – Public Benefits Offer verses Section 94 Contributions

Table 1 - Section 94 Contributions

Table 1 identifies the Section 94 Contribution payable in respect of the proposed West Ryde Village development, calculated in accordance with the City of Ryde - Section 94 Contribution Plan No 1 - 2003 and identifies the construction fees payable in respect of the redevelopment of the West Ryde Village development

Proposed Spatial Type Area	Area (GFA)	S94 Parking	S94 Public Space	S94 Stormwater	S94 Administration	Project Total
Mixed Use Facility						
Commercial Office Space	5,383		\$30 x 5383 \$161,490	\$39 x 5383 \$209,937	\$3 x 5383 \$16,149	\$387,576
Retail	7,292		\$14 x 7292 \$102,088	\$17 x 7292 \$123,964	\$2 x 7292 \$14,584	\$240,636
Residential (no of apartments)	145		\$7,319 x 145 \$1,061,255	\$1,455 x 145 \$210,975	\$77 x 145 \$11,165	\$1,283,395
Community Facility						
Ground Floor – Retail	201		\$14 x 201 \$2,814	\$17 x 201 \$3,417	\$2 x 201 \$402	\$6,633
Ground Floor – Commercial / Civic Space (hall)	1077		\$30 x 1077 \$32,310	\$39 x 1077 \$42,003	\$3 x 1077 \$3,231	\$77,544
First Floor – Commercial	951		\$30 x 951 \$28,530	\$39 x 951 \$37,089	\$3 x 951 \$2,853	\$68,472
Second Floor – Commercial	745		\$30 x 745 \$22,350	\$39 x 745 \$29,055	\$3 x 745 \$2,235	\$53,640
Third Floor – Commercial	558		\$30 x 558 \$16,740	\$39 x 558 \$21,762	\$3 x 558 \$1,674	\$40,176
Total Section 94 Contributions (A)						\$2,158,072

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ITEM 1 (continued)

ATTACHMENT

Construction Fees	Rate	Unit	Quantity	Months	Project Total
Footpath Rental Fee (Anthony Road / Chatham Road)	\$40	sqm/mth	315	15	\$189,000
Footpath Rental Fee (Anthony Road / Reserve Street)	\$40	sqm/mth	150	10	\$60,000
Council Reserve Land Rental Fee (New Betts Street)	\$40	sqm/mth	165	10	\$66,000
Footpath Hoarding Erection Permit – B Type (Anthony Road / Chatham Road / New Betts Street)	\$35	m/mth	300	15	\$157,500
Roadway Construction Parking Zone Permit Fee (Anthony Road)	\$23	m/mth	70	18	\$28,980
Total Construction Fees (B)					\$501,480

Total Estimated Contributions and Fees Payable [(C)=(A)+(B)]	2,659,552
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Table 2 – Voluntary Planning Agreement Offer – Public Benefits

Table 2 identifies the public benefits offered under the Voluntary Planning Agreement between Remo West Ryde Pty Ltd and City of Ryde in lieu of monetary contributions otherwise payable under City of Ryde's Section 94 Contributions Plan and Construction Fees otherwise payable as outlined above.

Public Benefits offered under the Voluntary Planning Agreement	Offer Value (exc GST)
Community Facility Design, Construct and Commissioning to the Council of the stratum lot comprising of a 4-storey Community Facility Building, located on the corner of Anthony Road and reserve Street and a total GFA of approximately 3100 square metres.	\$17,544,720
Village Square Design, Construct and Commissioning of a 1,500 square metre village square to the Council, which will include an electronic vision board for broadcasts, natural landscaping and streetscaping	\$3,671,400
Council Car Park Design, Construct and Commissioning of the stratum lot of an additional 38 underground NRMA Security Compliant Car Parking Spaces	\$1,253,318
Community art and construction of a heritage wall along New Betts Street and Darvall Park	\$231,765
Total Public Benefit under Voluntary Planning Agreement (D)	\$22,701,203

VPA Offer in Excess of Developer Obligations (Net Public Benefit of this Development) [E=(D)-(C)]	\$20,041,651
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This is page no. 64 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)**ATTACHMENT****Table 3 – Other Public Infrastructure provided as part of this Development but not included under this Planning Agreement**

<i>Other Public Infrastructure Provided as part of the Development</i>	
Drainage and overland flows including adjustments of existing sewers in and around Anthony Road / Reserve Street	\$566,035
Public domain works / public infrastructure including provision of a new substation, traffic management, cycle-ways and footpaths, raising Anthony Road, relocation of Betts Street	\$1,905,651
Design, Construct and Commissioning of the stratum lot of 134 underground NRMA Security Compliant Car Parking Spaces for the Council	\$4,070,800
Total Other Public Infrastructure Benefits offered as part of the Development (F)	\$6,542,486
Total Public Benefits offered as part of the Development [(G)=(D)+(F)]	\$29,243,689

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ITEM 1 (continued)

ATTACHMENT**Schedule 3– Developer's Works**

Development Stage	Item of Owner's Work	Relevant Standards	Extent of Design Refinement	Relevant Occupation Certificate	Relevant Drawing Nos.
Stage 1 component of the development. Anticipated completion date as per Schedule 7.	Community Facility – Design, Construction & Commissioning of the Community Facility Building	Standards set out in the original council tender documents, schedule 7 and as otherwise agreed with the developer.	The applicant with owners consent may submit a further Development Application in order to reflect detailed design of these areas.	On issue of the final Occupation Certificate for Stage 1 component of the development.	101DA B 102DA B 103DA B 104DA B 105DA B 106DA B 107DA B 110DA B 111DA B
Stage 2 component of the development. Anticipated completion date as per Schedule 7.	Village Square: – Design and Construction of the Public Domain Enhancements.	Standards set out in the original council tender documents, schedule 7 and as otherwise agreed with the developer.	The applicant with owners consent may submit a further Development Application in order to reflect detailed design of these areas.	On issue of the final Occupation Certificate for Stage 2 component of the development.	210DA B
Stage 2 component of the development. Anticipated completion date as per Schedule 7.	Underground Car Park: – Design and Construction of the Underground Car Park, including the Council's car parking spaces	Standards set out in the original council tender documents, schedule 7 and as otherwise agreed with the developer.	The applicant with owners consent may submit a further Development Application in order to reflect detailed design of these areas.	On issue of the final Occupation Certificate for Stage 2 component of the development.	210DA B 204DA B

ITEM 1 (continued)

ATTACHMENT

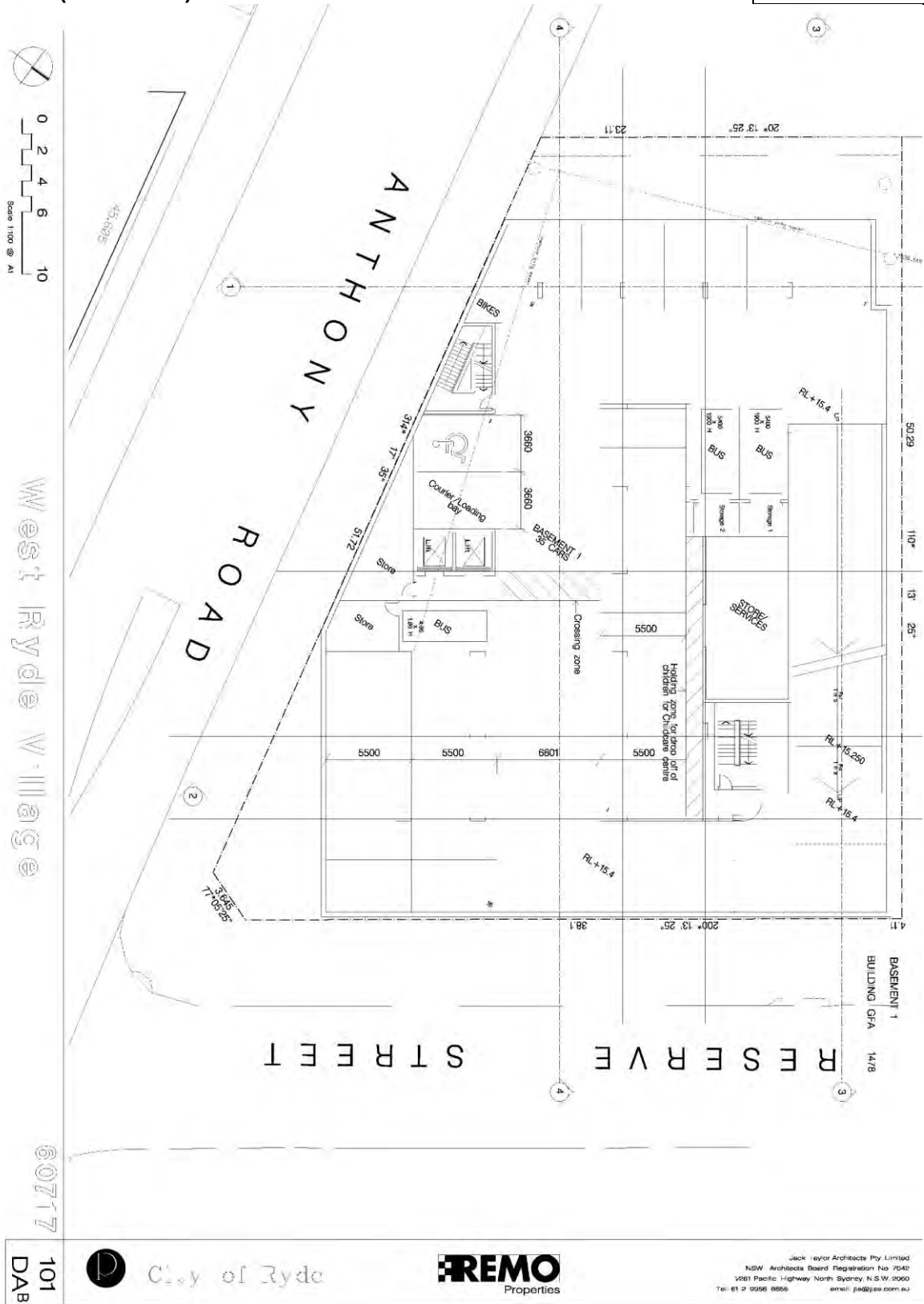
Schedule 4 – Community Facility Scope of Works

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This is page no. 67 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)

ATTACHMENT



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ITEM 1 (continued)

ATTACHMENT



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DAB



Jack Taylor Architects Pty Limited
 NSW Architects Board Registration No 7042
 1261 Pacific Highway North Sydney, N.S.W. 2060
 Tel: 61 2 9556 8856 email: jta@jta.com.au

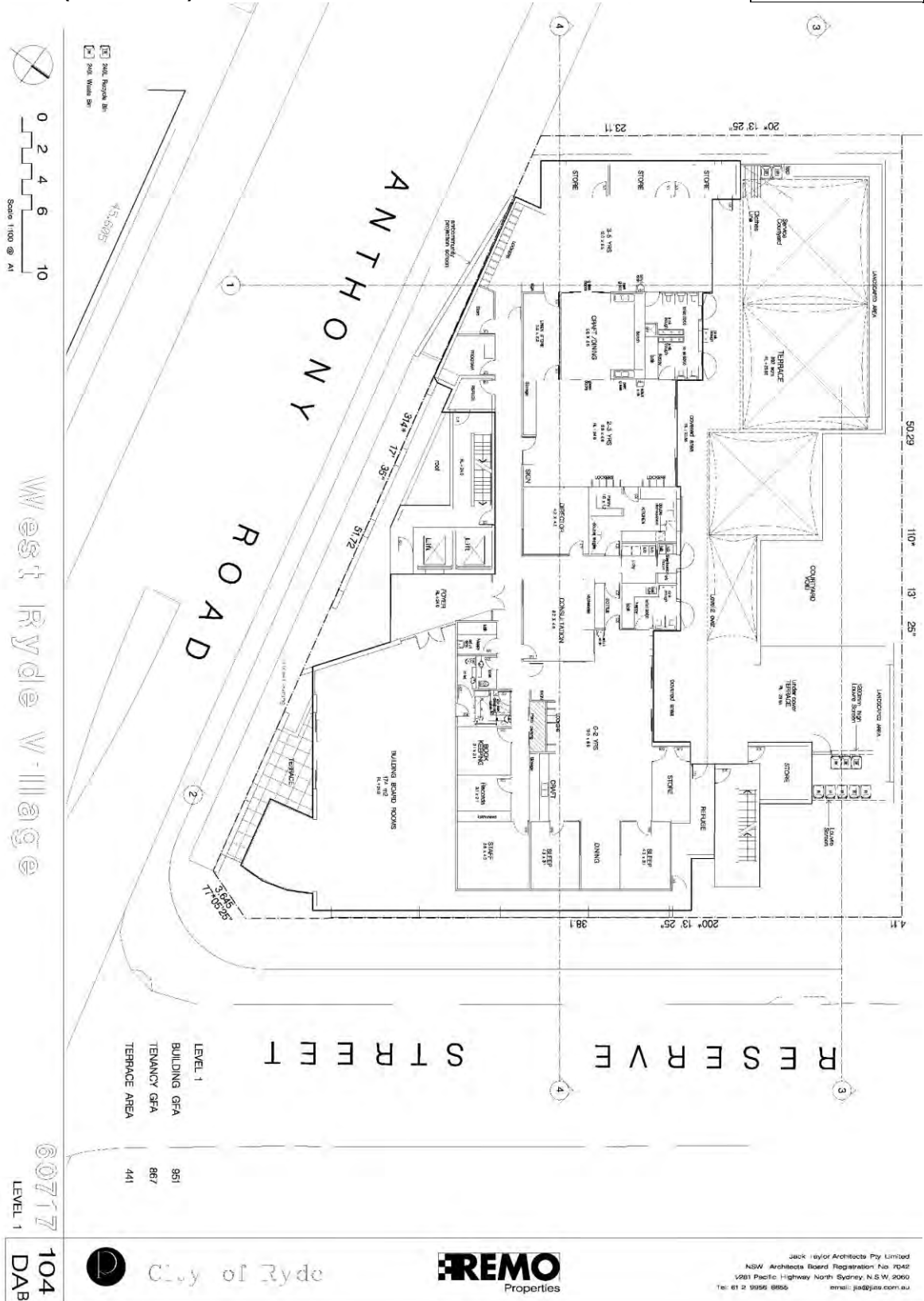
This is page no. 69 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

General Manager

Chairperson

ITEM 1 (continued)

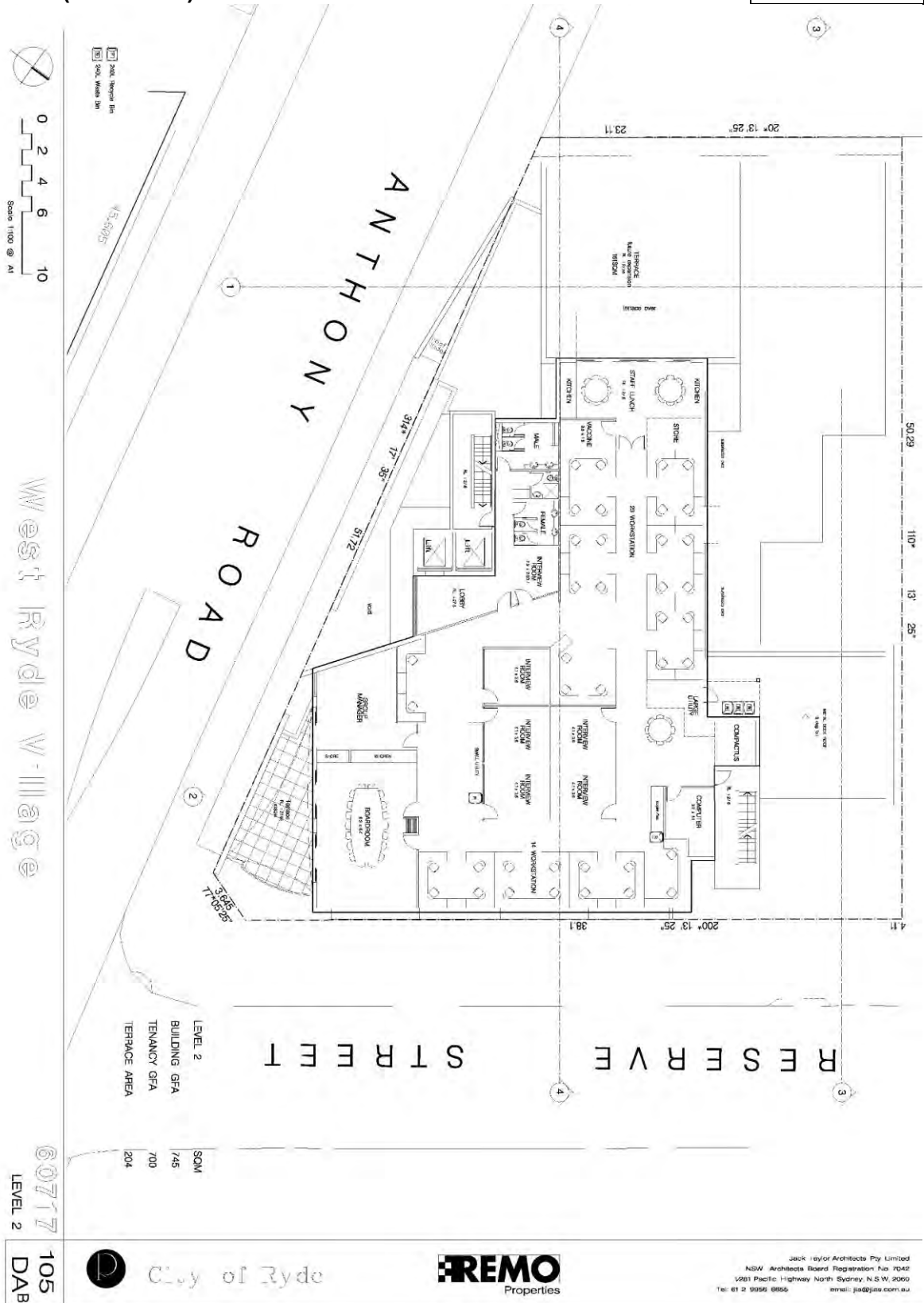
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This is page no. 71 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)

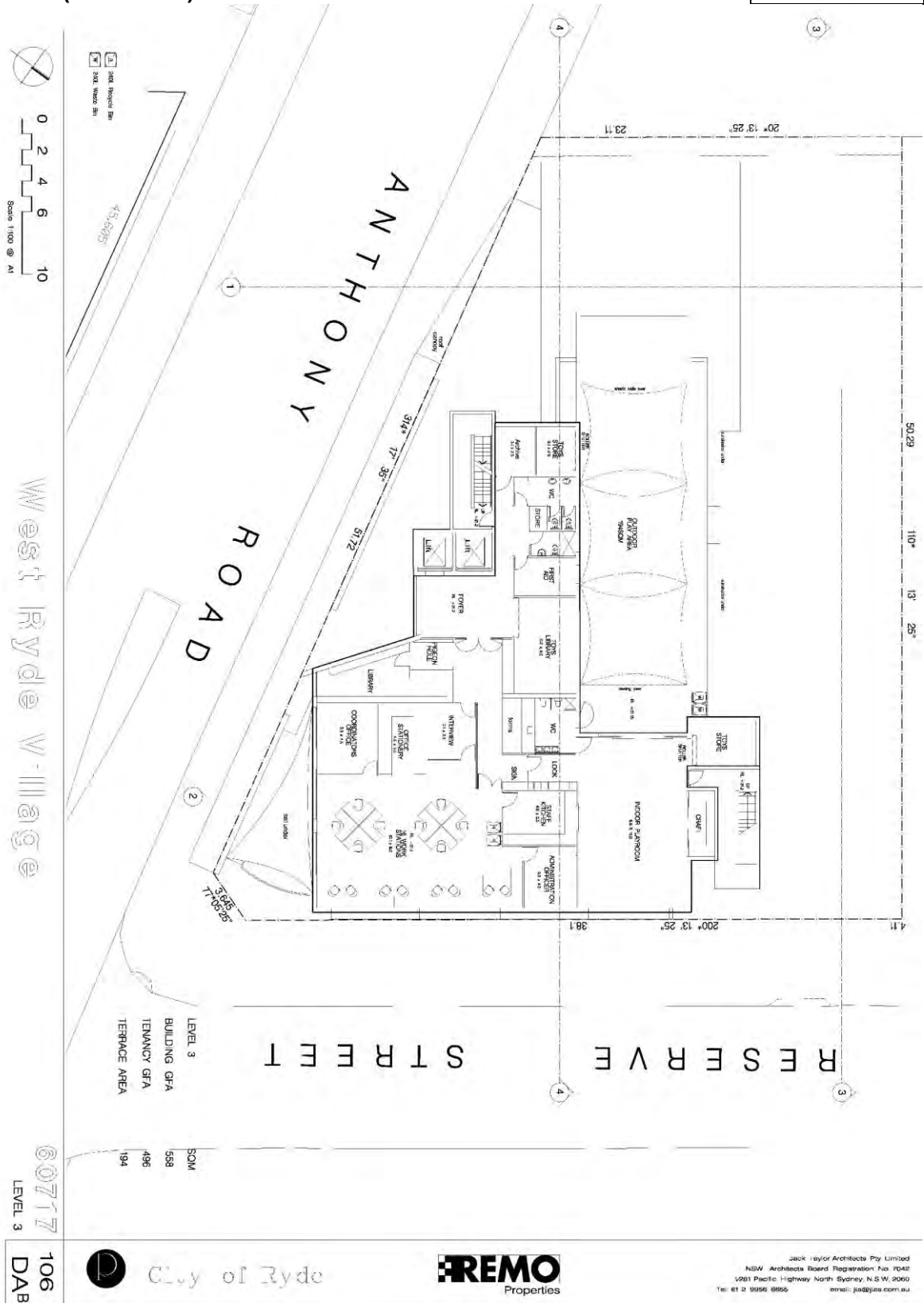
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This is page no. 72 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)

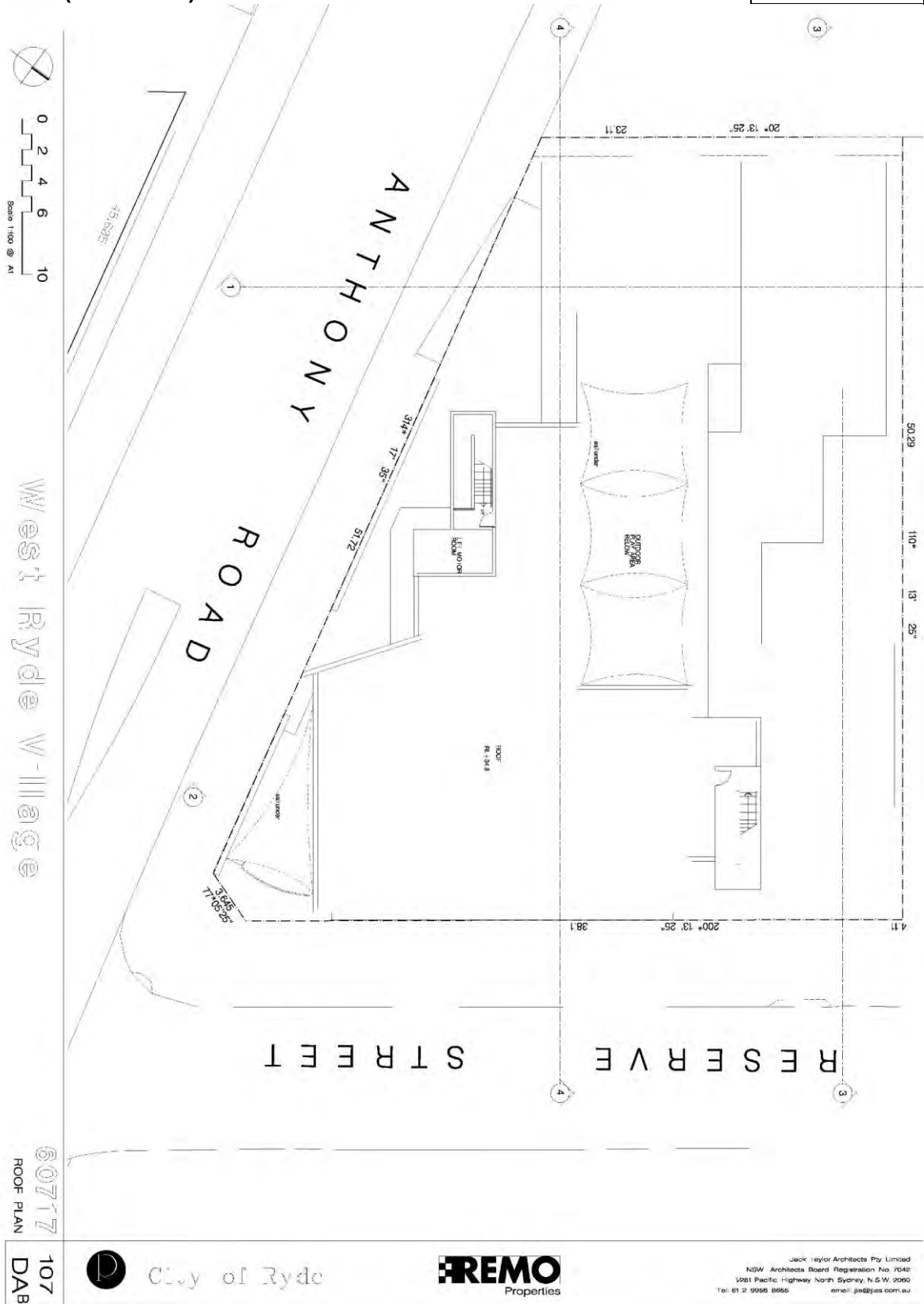
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This is page no. 73 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)

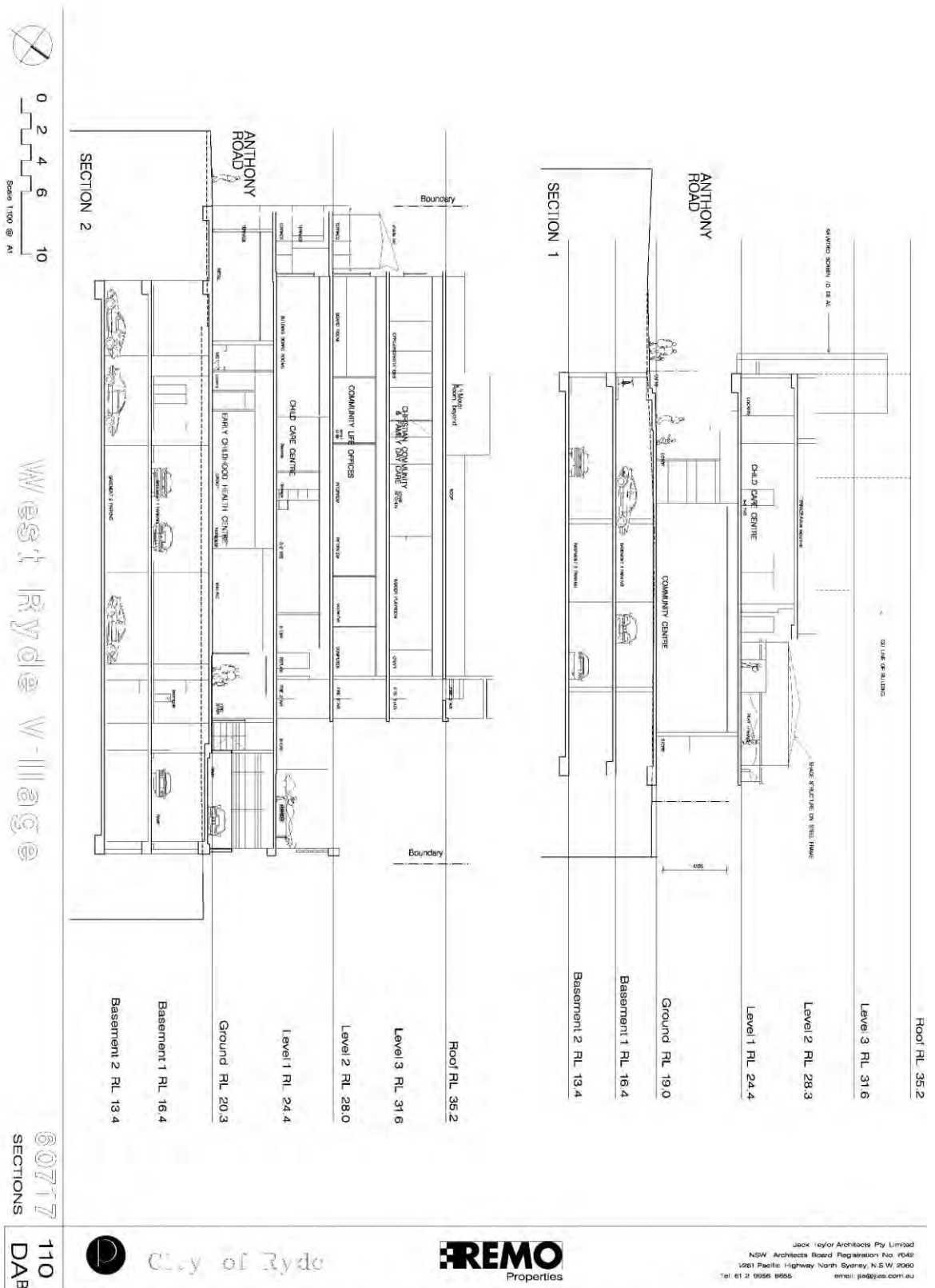
ATTACHMENT



This is page no. 74 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)

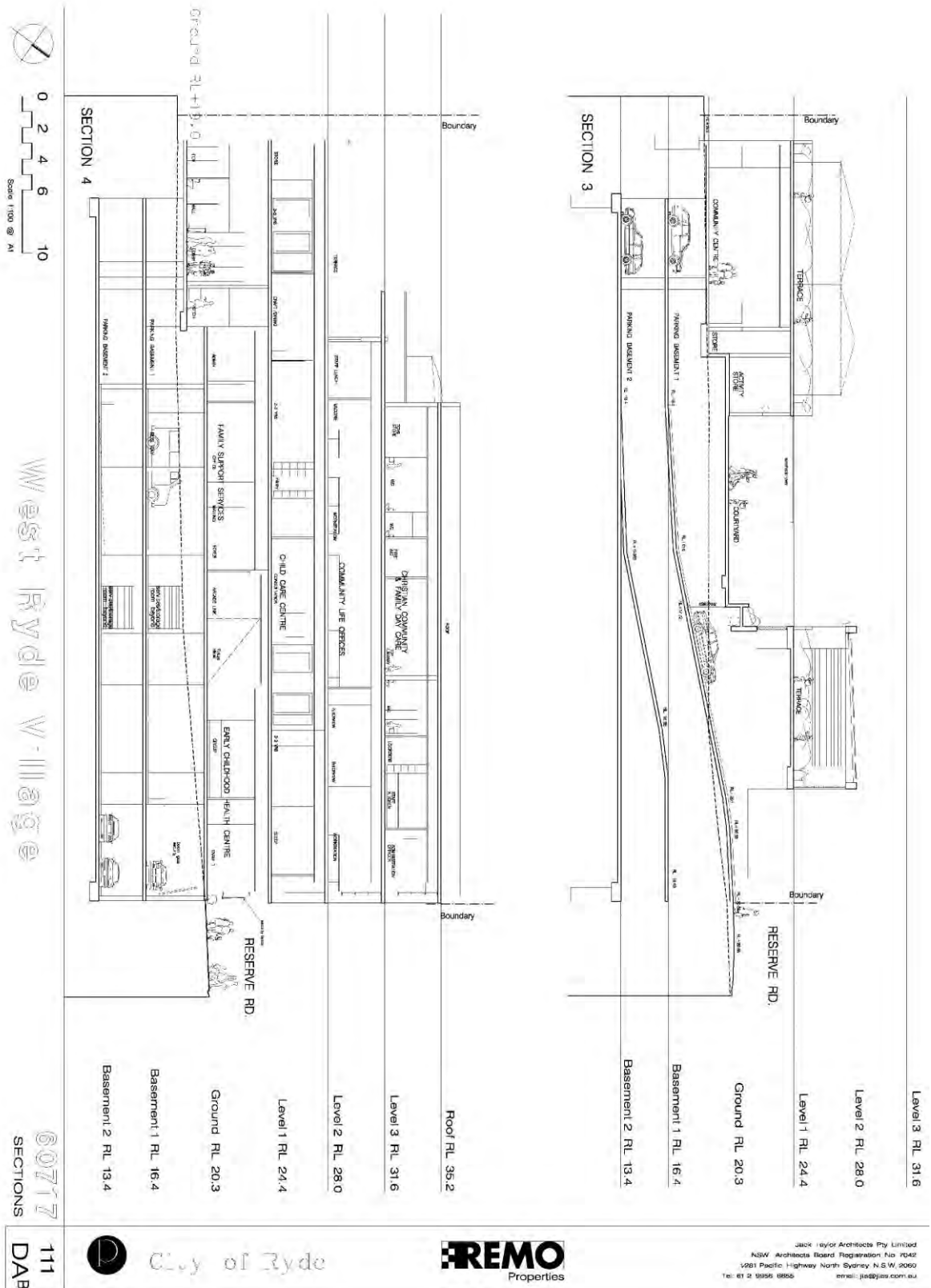
ATTACHMENT



This is page no. 75 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)

ATTACHMENT



This is page no. 76 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)

ATTACHMENT

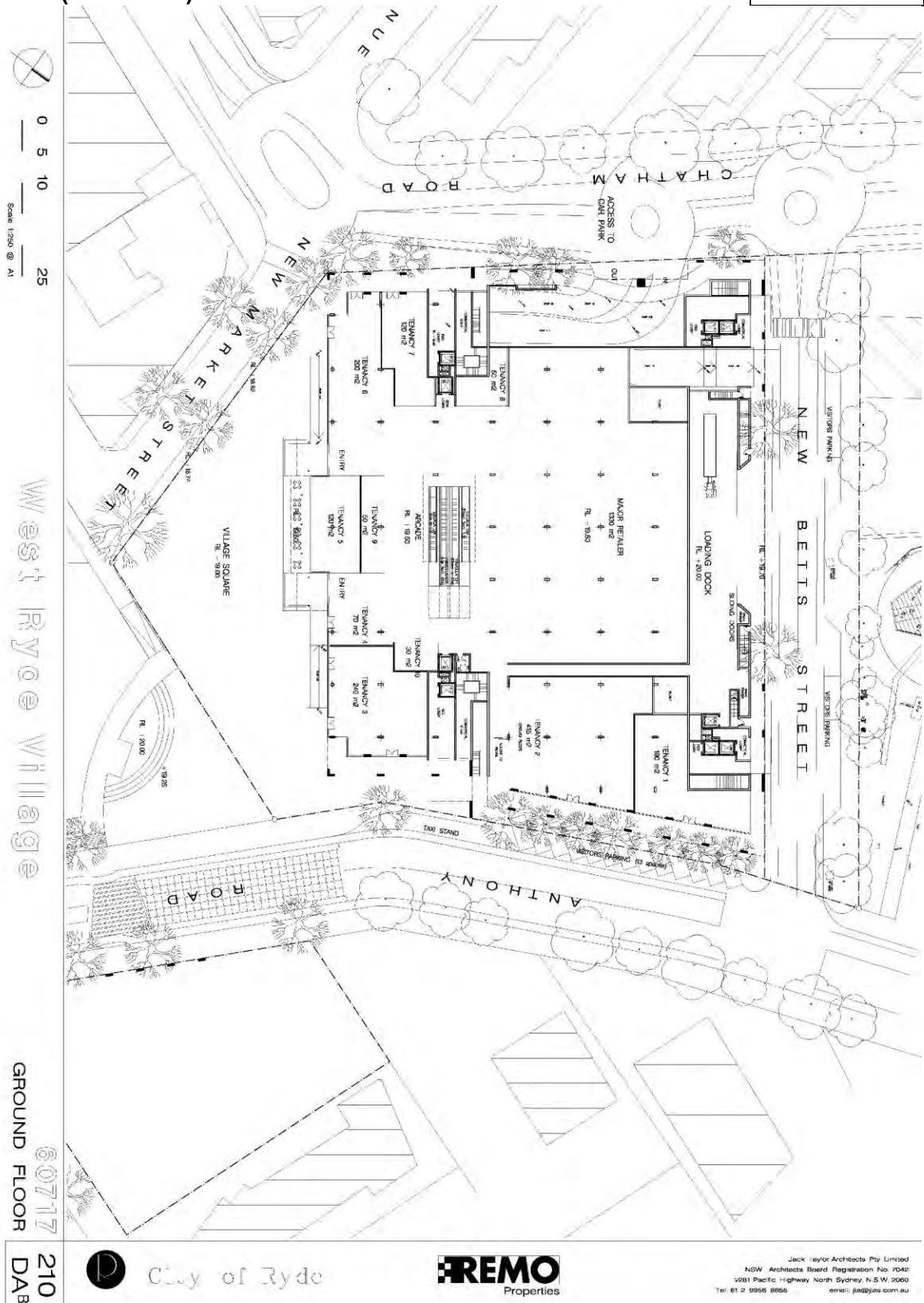
Schedule 5 – City of Ryde Village Square Scope of Works

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This is page no. 77 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)

ATTACHMENT



This is page no. 78 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)

ATTACHMENT

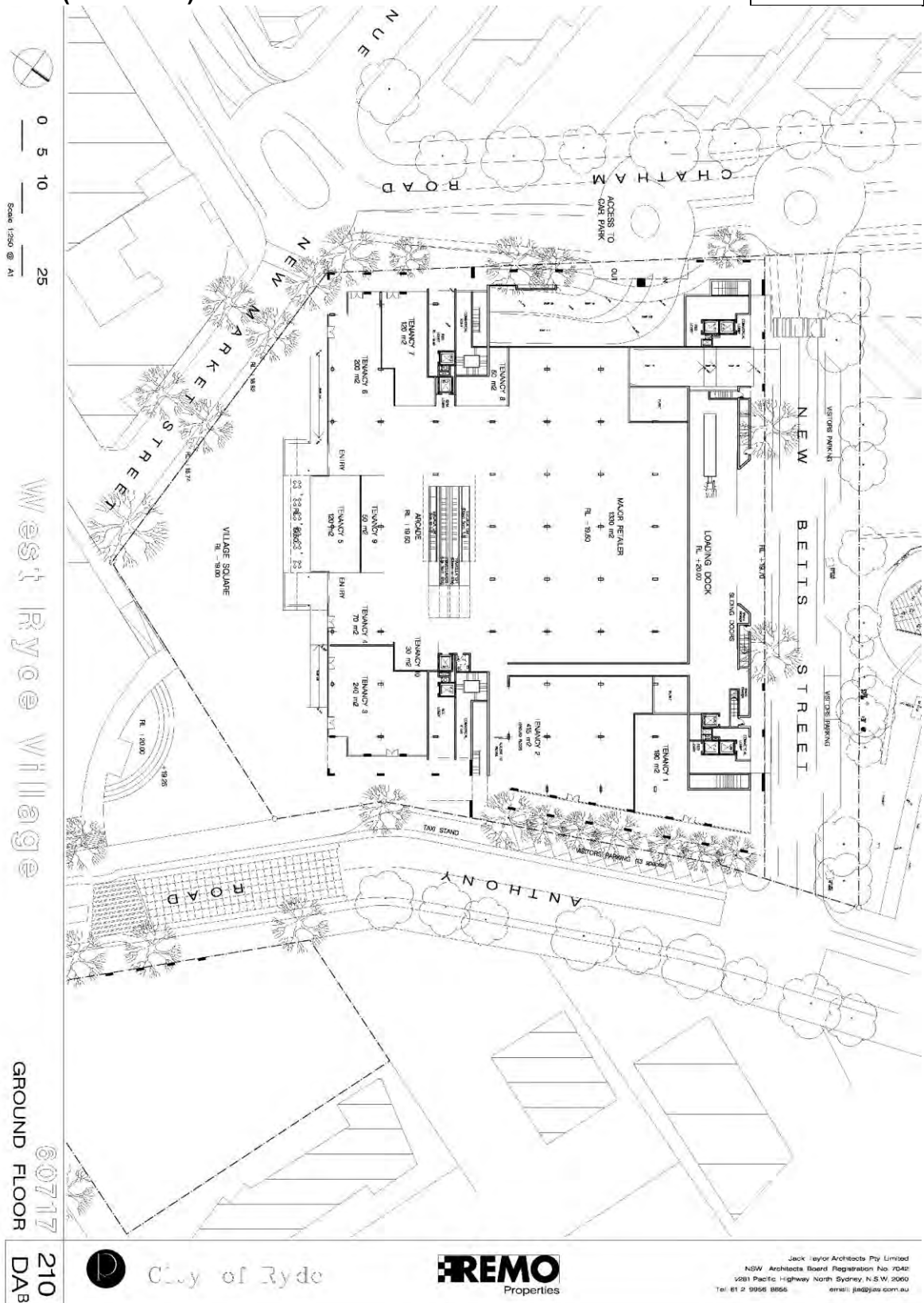
Schedule 6 – City of Ryde Car Park Scope of Works

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This is page no. 79 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)

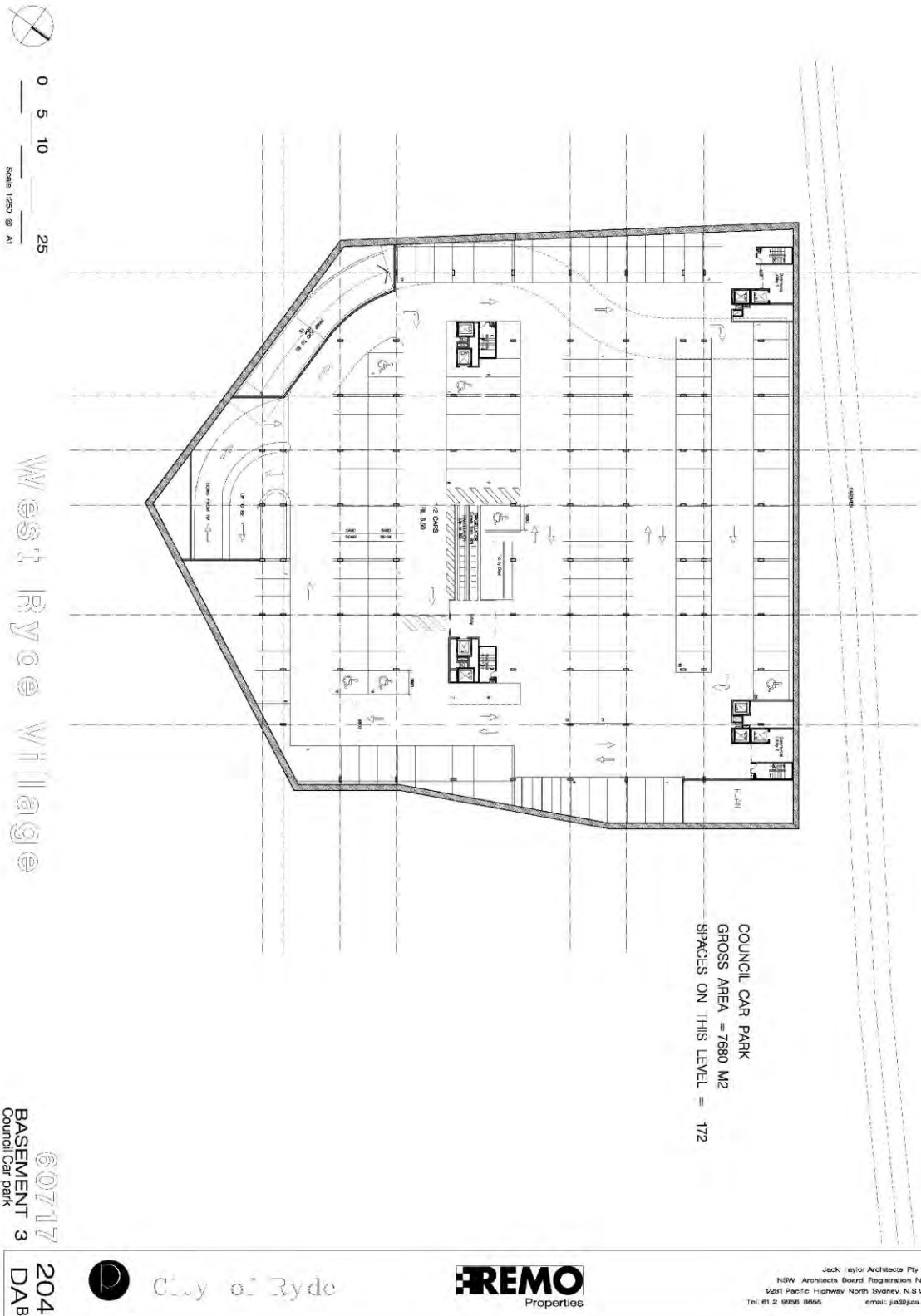
ATTACHMENT



This is page no. 80 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)

ATTACHMENT



This is page no. 81 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)**ATTACHMENT****Schedule 7 – Implementation Terms****1. DEFINITIONS**

Adjoining Land means any land adjoining, adjacent to or in the vicinity of the Development Site.

Anthony Road Site (ARS) means the properties known as 3, 5 & 5A Anthony Road, West Ryde comprised of the following land parcels:

- (a) lots 1 and 2 deposited plan 590509; and
- (b) lot B deposited plan 414394.

Anthony Road Site Works means the building works required to carry out that part of the Project relating to the Anthony Road Site.

ARS Works Completion Standard means that stage in the execution of the Anthony Road Site Works when:

- (a) they (apart from minor omissions and defects):
 - (i) have been carried out in a proper and workmanlike manner and in accordance with good construction techniques using new and good quality or appropriate materials;
 - (ii) are fit for purpose and there is no legal or practical impediment to them being used but for any fit out that an occupier or user of the Anthony Road Site (or any part of it) may need to carry out;
 - (iii) are in accordance with the Satisfactory Development Consent, the Final Plans and Specifications and all Authorisations relating to the Anthony Road Site Works (including, without limitation, the Construction Certificate for those works); and
- (b) the Independent Certifier gives a certification that agreed qualitative standards for the Anthony Road Site Works have been met;
- (c) the Independent Certifier gives a certification that the qualitative standard of the Anthony Road Site Works is not less than the qualitative standard attributable to the West Ryde Library Building; and
- (d) a Compliance Certificate has been issued for the Anthony Road Site Works.

Application means each application for an Authorisation to be lodged with a governmental agency.

Authorisation means any authorisation, approval, consent, licence, permit, permission, filing, registration, resolution, direction, declaration or exemption relating to the Project.

Compliance Certificate means has the meaning given to that term in the EPAA.

Construction Certificate has the same meaning as in section 109C(1)(b) of the EPAA.

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This is page no. 82 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)**ATTACHMENT**

Construction Works means the Anthony Road Site Works and the Carpark Site Works.

Carpark Site means the properties located at Chatham Road, Anthony Road and Betts Street, West Ryde comprised of the following land parcels:

- (a) lots 1 and 2 deposited plan 1072082;
- (b) lots 149 – 154 (inclusive) deposited plan 11208; and
- (c) lots A and B deposited plan 398801.

Carpark Site Works means the Developer Lot Works and the Village Square Lot Works.

Cost Apportionment Principles means in order of priority:

- (a) if the shared facility is in the nature of a utility service and its consumption is capable of measurement; actual use of a shared facility measured by meter or sub-meter (which on the basis of capital cost for those shared facilities has regard to historical meter readings for a period of up to 3 years);
- (b) where practical, having regard to the proportion of benefit and use which a party through the ownership or occupation of its lot will derive from the shared facility;
- (c) with regard to the fact that the Public Car Park is for public use and benefit and by virtue of such public use and benefit any cost apportionment should impose minimal financial obligations on the public;
- (d) the proportion of the respective gross floor area of the lots or areas which have the benefit or use of a shared facility;
- (e) the public must not directly or indirectly provide a subsidy to private owners or users of lots or areas who enjoy the benefit of the shared facility;
- (f) the public must not directly or indirectly provide a subsidy to private owners or users of lots or areas in respect of shared costs.

Defects Liability Period means:

- (a) in respect of the Anthony Road Site Works, the period of 12 months after date on which those works reach the ARS Works Completion Standard; and
- (b) in respect of the Village Square Lot Works the period of 12 months after date of on which those works reach the VSL Works Completion Standard.

Developer Lot (DL) means land agreed to be transferred by Ryde to the Developer.

Developer Lot Works means the building works required to carry out that part of the Project relating to the Developer Lot.

Development Application means the application (or any amended application) lodged or to be lodged under the EPAA in respect of the Project by or on behalf of the Developer.

Development Consent means a development consent granted under the EPAA or a determination under the EPAA (as the case may be) from the Consent Authority in response to the Development Application.

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This is page no. 83 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)**ATTACHMENT**

Development Sites means each of the Anthony Road Site and the Carpark Site.

Easement Instrument means any instrument under section 88B of the Conveyancing Act 1919 containing easements, covenants and restrictions benefiting or burdening the Development Site.

EOT Event means each of the following extension of time events and circumstances which causes the Developer actual delay carrying out the Project being:

- (a) any civil commotion, combination of workmen strikes or lock-outs affecting the progress of the Construction Works or affecting the manufacture or supply of materials to be used in the Construction of the Works or any action by the community which adversely affects the progress of the Construction Works;
- (b) latent conditions;
- (c) any delay in obtaining any Authorisation from Ryde (in its capacity as a governmental agency) other than its determination of the Development Consent, being a delay caused solely by any act or omission by Ryde;
- (d) vandalism, accidental or unintended damage or destruction to the Construction Works;
- (e) wet or inclement weather conditions;
- (f) Court proceedings or orders that delay the conduct of the Project; and
- (g) force majeure event.

EPAA means the Environmental Planning & Assessment Act, 1979 (NSW).

Final Plans and Specifications means the means the Plans and Specifications together with all other relevant documents that are referred to in the Satisfactory Development Consent and any amendments to them agreed between the Ryde and the Developer from time to time or arising under any Authorisations that are required to implement the Satisfactory Development Consent.

Independent Certifier means Richmond Consulting Pty Limited or such other person appointed by Ryde from time to time.

Material Variation means any variation to the Final Plans and Specifications which is not a Minor Variation.

Minor Variation means a variation to the Final Plans and Specifications that:

- (a) does not in any way affect the Ryde's interest in the Development Sites; or
- (b) does not affect the quality, scope or integrity of the Project; or
- (c) does not change the areas, volumes, mix of uses or types of uses of the Project or any of the components or elements making up the Project; or
- (d) does not materially enhance the position of the Developer or the Developer financially; or
- (e) comprises an alteration which is within any one or more of the following criteria before the application of normal building tolerances:
 - does not change the position any external wall within the boundary of the Development Site;

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This is page no. 84 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)**ATTACHMENT**

- changes the position of any wall other than an external wall, including a wall dividing a stratum, by less than +/- 100 mm;
- changes the roof height by less than +/- 200 millimetres;
- changes to the building facades that continue to utilise the agreed materials included on sample boards. However it is acknowledged by both parties that particular materials may become unavailable at the time of construction. Replacement materials of equivalent quality in all respects and colour will be subject of agreement by the Parties;
- changes the appearance of building facades by altering the design treatment but in a manner that is of equivalent quality to that described in the Final Plans and Specifications (as the case may be);
- changes the appearance of public areas but utilises finishes, treatments, quality or extent of materials used of equivalent quality to that described in the Final Plans and Specifications (as the case may be); or
- substitutes one material for another of inferior quality (but recognising the need to find alternative products where a product is discontinued or not available).

Performance Bond means an unconditional and irrevocable bank guarantee(s) or an unconditional and irrevocable insurance bond(s) for the amount of \$2,000,000 issued by a financial institution with a credit or claims paying rating of A or better (determined by a recognised rating agency) approved by Ryde (acting reasonably).

Plans and Specifications means the drawings, specifications and other documents that describe the Project, the Project's design and construction in every iteration and includes (as the context requires) those referred to in or forming part of the Request for Tender, the Tender Proposal, the Development Application, all Applications, all Authorisations and the Satisfactory Development Consent.

Project means the development of the Development Sites.

Public Car Park means the public car park of consisting of no less than 134 car spaces that precise location and configuration of which will be determined under this Deed and the Satisfactory Development Consent.

Request for Tender means the request for tender CS – PD – 01 / 06 and supporting documents prepared and issued by Ryde for the West Ryde Precinct Project and includes each addenda in respect of the Request for Tender issued by Ryde.

Satisfactory Development Consent (SDC) means a Development Consent (including all terms and conditions that form part of it) which as a single document or set of documents comprises a development consent under the EPAA or a determination under the EPAA (as the case may be) from the Consent Authority for the Project, and agreed to be satisfactory.

Stratum Plan means a stratum plan of subdivision of the Developer Lot to be prepared by the Developer and which, if required by Ryde, must be completed and registered by the Developer.

Strata Management Statement means a strata management statement to be prepared by the Developer and which, if required by Ryde, must be completed and registered by the Developer.

Tender Proposal means the response to the Request for Tender prepared by the Developer and delivered to Ryde.

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This is page no. 85 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)**ATTACHMENT**

Village Square Lot (VSL) means that part of the Carpark Site identified as the Village Square Lot.

Village Square Lot Works means the building works required to carry out that part of the Project relating to the Village Square Lot (and includes construction of the Public Car Park).

VSL Works Completion Standard means that stage in the execution of the Village Square Lot Works when:

- (a) they (apart from minor omissions and defects):
 - (i) have been carried out in a proper and workmanlike manner and in accordance with good construction techniques using new and good quality or appropriate materials;
 - (ii) are fit for purpose (including the Public Car Park being ready to open for use) and there is no legal or practical impediment to them being used;
 - (iii) are in accordance with the Satisfactory Development Consent, the Final Plans and Specifications and all Authorisations relating to the Village Square Lot Works (including, without limitation, the Construction Certificate for those works); and
- (b) the Independent Certifier gives a certification that agreed qualitative standards for the Village Square Lot Works have been met; and
- (c) a Compliance Certificate has been issued for the Village Square Lot Works.

2. KEY DATES TIMETABLE

Description	Date
SDC Date	The date on which the Developer and Ryde agree that the Development Consent is satisfactory.
ARS Works Commencement Date	No later than 4 months after the SDC Date
VSL Works Commencement Date	No later than 7 years after the SDC Date.
DL Works Commencement Date	No later than 7 years after the SDC Date
ARS Works Completion Date	19 months after the SDC Date
VSL Works Completion Date	36 months after the VSL Works Commencement Date

2.1 Developer to achieve

- (a) The Developer must use its best endeavours to achieve key events described in the Key Dates Timetable no later than the dates stated, or within the period of time allowed for, in the Key Dates Timetable.
- (b) The Parties acknowledge that the Key Dates Timetable sets out the dates by which the Developer is aiming to achieve each key event described in the Key Dates Timetable.

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This is page no. 86 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)**ATTACHMENT****2.2 Extensions of time**

- (a) The Developer may ask Ryde for an extension of time in respect of one or more Key Dates by which it must comply with its obligations under this Agreement if an EOT Event has occurred.
- (b) The Developer is not entitled to an extension of time for any causes of delay that are not an EOT Event.
- (c) Where more than one EOT Event causes concurrent delays, then to the extent that the delays are concurrent, the Developer is not entitled to an extension of time.
- (d) The Developer is not entitled to an extension of time for the DA Lodgement Date or the Estimated Date for DC otherwise than as permitted under this Agreement.

2.3 Duration of time extension

- (a) The Developer must give Ryde a notice advising Ryde when an EOT Event occurs and it proposes to rely on that EOT Event in connection with a time extension claim.
- (b) After the conclusion of an EOT Event identified in a notice given by the Developer under paragraph (a) the Developer must give Ryde a notice setting out:
 - (i) reasonable details of the relevant EOT Event;
 - (ii) details of the duration of the time extension sought because of the relevant EOT Event; and
 - (iii) reasons why the relevant EOT Event justifies the time extension claim.
- (c) Ryde must consider the notice given by the Developer under paragraph (b) and provide a response no later 15 business days after receipt of the notice either approving the time extension claim, disapproving the time extension claim or requesting further information and material about the relevant time extension claim.
- (d) If Ryde approves a time extension claim the Key Dates Timetable is to be adjusted to reflect the approval of the relevant time extension claim.
- (e) Any dispute between the Parties regarding a time extension claim must be referred to dispute resolution.

3. CONSTRUCTION WORKS**3.1 Dilapidation report**

Before commencing the Construction Works, the Developer must:

- (a) engage the services of an appropriately qualified person to undertake a comprehensive dilapidation report of the Development Sites and all Adjoining Land in accordance with the requirements of the Satisfactory Development Consent and/or any construction certificate relating to the Development Consent; and
- (b) deliver to Ryde the report referred to in paragraph (a).

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This is page no. 87 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)**ATTACHMENT****3.2 Commencement**

The Developer must cause:

- (a) the Anthony Road Site Works to be substantially commenced no later than the ARS Works Commencement Date;
- (b) the Village Square Lot Works to be substantially commenced no later than the VSL Works Commencement Date;
- (c) the Developer Lot Works to be substantially commenced no later than the DL Works Commencement Date

3.3 Developer to conduct

- (a) The Developer must (at its cost) cause the Construction Works:
 - (i) to be carried out:
 - (A) in a proper and workmanlike manner; and
 - (B) in accordance with the Final Plans and Specifications; and
 - (C) in accordance with all applicable laws and requirements of any relevant governmental agency; and
 - (D) in accordance with the Satisfactory Development Consent, the Construction Certificate in respect of the Construction Works and all Authorisations; and
 - with all due expedition;
 - (ii) in respect of the Anthony Road Site Works, to reach the ARS Works Completion Standard no later than the ARS Works Completion Date; and
 - (iii) in respect of the Village Square Lot Works, to reach the VSL Works Completion Standard no later than the VSL Works Completion Date.
- (b) Despite anything else stated in this Agreement, the Developer must use its best endeavours to cause the Anthony Road Site Works to reach the ARS Works Completion Standard no later than 30 June 2009. Ryde is not entitled to make any claim or exercise any entitlements under this Agreement in relation to the date on which the Anthony Road Site Works reach the ARS Works Completion Standard until after the ARS Works Completion Date.

3.4 Construction Works variations

- (a) The parties agree that a critical element of the Project is for the Project to be carried out strictly in accordance with the Final Plans and Specifications.
- (b) The Developer must before making or implementing any Minor Variation provide Ryde with reasonable details of the proposed Minor Variation and have regard to any comments Ryde may furnish the Developer in respect of any such Minor Variation.

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This is page no. 88 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)**ATTACHMENT**

- (c) The Developer must not make any Material Variation without Ryde's prior approval. Subject to paragraph (d), Ryde's prior approval is not required to any Minor Variation.
- (d) The Developer acknowledges and agrees that any proposed departure or variation which by itself would constitute a Minor Variation (thereby not requiring the Ryde's prior approval under this Agreement) but when considered with any previous departure or variation becomes a Material Variation then that departure or variation will be taken to no longer be a Minor Variation and is to be treated as a Material Variation (requiring the prior approval of the Ryde).

3.5 Defects Liability Period

The Developer must (at its own) cost promptly make good or cause to be made good any defects or other faults which appear in the Construction Works before the expiration of the Defects Liability Period.

3.6 Notification of defects and faults

- (a) At any time during the conduct of the Construction Works and the Defects Liability Period, Ryde may notify the Developer of any defects, faults or other problems in respect of the Construction Works (if any) which in the opinion of Ryde are required to be made good. Any such defects, faults or other problems may include, without limitation, faults in design, workmanship, construction, materials or non-compliance with any Authorisations.
- (b) If the Developer disputes a notice given by Ryde under paragraph (a), it must within 10 business days of receipt of the notice refer the matter for dispute resolution, otherwise the Developer will be deemed to have accepted the contents of Ryde's notice.
- (c) The Developer must:
 - (i) promptly make good any defects and faults within a reasonable time of receipt of Ryde's notice given under paragraph (a) (which notice must state the time in which the defects and faults may reasonably be made good);
 - (ii) give notice to Ryde when, in the Developer's opinion, all defects and faults referred to in the Ryde's notice have been made good. Within 10 business days after the receipt of the Developer's notice under this paragraph (c), Ryde must give notice to the Developer of any defects or faults (if any) which in Ryde's opinion still remain to be made good, in respect of which the provisions of this clause 3.6 will reapply.

3.7 Ryde to make good

- (a) Ryde may make good the defects and faults identified in the notice given by the Ryde under clause 3.6, if the Developer fails to make good those defects and faults to the reasonable satisfaction of Ryde within the period stated in Ryde notice.
- (b) All costs incurred by Ryde (including, without limitation, costs of Ryde's consultants in respect of identifying the need for the work to be performed as well as the actual performance of that work) will be recoverable from the Developer by Ryde as a debt and the Developer must pay Ryde the amount of the costs so incurred within 10 business days of demand from Ryde.

4. INSURANCE AND INDEMNITIES**4.1 Insurance policies**

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This is page no. 89 of the General Manager's Report No. 22/07, dated 7 December 2007, submitted to Council on 11 December 2007.

ITEM 1 (continued)**ATTACHMENT**

From the date of commencement of the Construction Works until the date on which the ARS Works Completion Standard and the VSL Works Completion Standard (respectively) have been reached the Developer must:

- (a) maintain with reputable insurers, public liability insurance in respect of the Development Sites for not less than \$20 million (or such higher amount as the Ryde may require, acting reasonably); and
- (b) maintain or procure the constructions contractor engaged by the Developer to maintain a contractors all risk policy or other form of contract works insurance reasonably acceptable to Ryde which must cover, including, without limitation:
 - (i) insurance in respect of the Construction Works for the full replacement value of the Construction Works from time to time against loss or damage by fire, lightning, storm, tempest, flood, riots, malicious damage, damage caused by aircraft or other aerial devices or other disabling cause and against any other loss or damage of any kind whatsoever including the cost of removal of all debris; and
 - (ii) other insurances in connection with the Construction Works which, in the reasonable opinion of Ryde, a prudent developer developing a property comparable to the Development Sites would take out; and
 - (iii) all associated temporary works (including material incorporated or to be incorporated into the Construction Works);
- (c) maintain, or procure any consultants or contractors engaged by the Developer to maintain, with insurers (who are respectable, reputable and financially sound) professional indemnity insurance policy with a total aggregate cover of not less than \$5,000,000 for each and every claim which extends to any liability the Developer may have to Ryde under this Agreement as a result of any failure by the Developer or any consultant or contractor engaged by the Developer to exercise due skill and care;
- (d) maintain, or procure that its contractors maintain, insurances which are required by law including insurance under any relevant legislation for the compensation of workers for an employer's full liability under law;
- (e) in respect of the insurances required by this clause 4:
 - (i) pay each premium on the due date and, when asked by Ryde, produce receipts for payments; and
 - (ii) immediately rectify anything which might prejudice any insurance and reinstate the insurance if it lapses; and
 - (iii) notify Ryde immediately when:
 - (A) an event occurs in respect of the Project which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
 - (B) any policy of insurance is cancelled and
 - (iv) at the request of Ryde, provide Ryde with certificates of currency (or such other evidence as the Ryde reasonably requires) in respect of the insurance required by this clause 4; and

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ITEM 1 (continued)**ATTACHMENT**

- (v) cause the insurance to be in the joint names of the Developer and Ryde for their respective interests or note the interest of Ryde.

4.2 Insurance during Defects Liability Period

The Developer must during the Defects Liability Period maintain any insurances reasonably required by Ryde in respect of defect rectification.

4.3 Releases

The Developer may occupy and use the Anthony Road Site and the Village Square Lot (respectively) at the risk of the Developer and releases to the full extent permitted by law Ryde and its contractors and consultants from all claims and demands of every kind resulting from any accident, action, damage, death or injury however caused and whether to property or persons arising directly or indirectly from the use or occupation by the Developer and its officers, servants, agents or contractors except to the extent of any negligence by Ryde and persons under its control.

4.4 Indemnities

The Developer must indemnify and keep indemnified Ryde against all actions, claims, loss, expenses and demands of any nature which Ryde may suffer or incur or for which Ryde may become liable in respect of or arising out of:

- (a) any negligent act or omission or use or misuse by the Developer of or in respect of the Construction Works;
- (b) any accident or damage to property or injury or death suffered by any person caused or contributed to by the use or occupation of the Anthony Road Site and the Village Square Lot under the Construction Licence or the carrying out of the Construction Works arising wholly or in part by reason of any act or omission by the Developer its agents, employees or contractors; and
- (c) any design, construction or engineering default.

5. PROJECT COMPLETION**5.1 Independent Certifier appointment**

- (a) Ryde will engage and appoint the Independent Certifier. At any time, Ryde may terminate the appointment of the Independent Certifier. Ryde must consult with the Developer in connection with the appointment of an Independent Certifier.
- (b) The costs and expenses of the Independent Certifier are a Project Cost for the purposes of this Agreement and are payable by the Developer.

5.2 Independent Certifier role

The Parties agree that the primary functions of the Independent Certifier are:

- (a) to monitor the carrying out of the Project in order to determine when the ARS Works Completion Standard and the VSL Works Completion Standard are reached;
- (b) to certify that the ARS Works Completion Standard and the VSL Works Completion Standard have been reached;

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- (c) to certify extensions of time.

5.3 Procedure to determine

- (a) Ryde, the Developer and the Independent Certifier will carry out a joint inspection of the progress of the Project once in every month during the carrying out of the Construction Works.
- (b) The Developer must notify Ryde and the Independent Certifier no less than 20 business days prior to the anticipated date on which the Anthony Road Site Works and the Village Square Lot Works (respectively) will reach the ARS Works Completion Standard and the VSL Works Completion Standard..
- (c) The notification to be given under paragraph (b) must:
- (i) include a schedule listing the works that are still to be carried out prior to the relevant completion standard being reached;
 - (ii) include an agreed time in each case within the following 5 business days from the date of the notice for the initial inspection to take place.
- (d) The Independent Certifier, a Ryde representative and a representative of the Developer must attend each of the inspections.
- (e) Within 5 business days of undertaking the initial inspection for the purposes of ascertaining whether the relevant completion standard has been reached, Ryde must issue the Independent Certifier and the Developer with a notice listing the works that Ryde considers are still to be carried out for the relevant completion standard to be reached.
- (f) Within 10 business days of the initial inspection referred to in paragraph (d), the Independent Certifier must consult with the Developer and Ryde about the works the Independent Certifier deems necessary to be carried out in order for the relevant completion standard to be reached.
- (g) Subsequent to the consultations referred to in paragraph (f), the Developer, Ryde and the Independent Certifier must cooperate in carrying out such further inspections and consultations as may be necessary to enable the Independent Certifier to certify that the relevant completion standard has been reached.
- (h) Once the Independent Certifier determines that the relevant completion standard has been reached, the Independent Certifier must, within 2 business days of such determination, issue to Ryde and the Developer a certificate stating that the relevant completion standard has been reached.

5.4 Developer to procure "as built" plans

As soon as practicable but in any event within 40 business days after the date on which the relevant completion standard has been reached, the Developer must deliver to Ryde copies of "as built" drawings, specifications, relevant operation and service manuals and all necessary certificates, consents and approvals as required for the carrying out, construction of, occupancy of or use of the Construction Works.

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ITEM 1 (continued)**ATTACHMENT****6. SUBDIVISION****6.1 Context**

This clause 6 applies if it is determined by Council in its discretion after consulting in good faith with the Developer that creation of the Public Car Park involves the stratum subdivision of the Developer Lot.

6.2 Draft plans and instruments

Ryde and the Developer agree that, (acting in utmost good faith towards each other), they will as soon as possible agree on the form of:

- (a) the Stratum Plan;
- (b) the Strata Management Statement; and
- (c) the Easement Instrument.

6.3 Allocation of the cost of Shared Facilities under the Strata Management Statement

- (a) The Developer and Ryde must in the future finalise the identification of shared facilities under any Strata Management Statement and appropriate proportions for the costs of the shared facilities to be allocated between the owners of the various lots in any Stratum Plan.
- (b) The Developer and Ryde agree to apply the Cost Apportionment Principles in finalising the appropriate proportions for the costs of the shared facilities, it being the intention of the Developer and Ryde that each party to the extent that it is appropriate will be responsible for the cost of the shared facilities according to their usage of those facilities.

6.4 Negotiation of instruments

- (a) Ryde and the Developer will conduct negotiations in good faith in connection with the Stratum Plan, Strata Management Statement and / or the Easement Instrument. Any such negotiations must have regard to:
 - (i) the location of structures on the Car Park Site;
 - (ii) alterations required to reflect conditions imposed under any Authorisation;
 - (iii) any further design development in respect of the improvements to be erected on the Car Park Site;
 - (iv) what is reasonably required to give effect to the subdivision of the Developer Lot into different components consistently with this Agreement and the Satisfactory Development Consent and to grant all reasonable or necessary access, enjoyment, easements and rights to permit part of the Developer Lot to form part of the Public Car Park or provide access to the Public Car Park;
 - (v) all of the structure comprising the improvements (for the purposes of division 2B of the Strata Schemes (Freehold Development) Act 1973) must be comprised in a current plan lot in the LPI register including those structures within any public road (with the intent that the plan defining the current plan lot is required for identification purposes only and does not involve road closure) and the inclusion

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of all of those structures (and the areas they enclose) as shared facilities under the Strata Management Statement;

- (vi) usual commercial practice adopted in the development of mixed use developments involving stratum and strata subdivision but recognising the public use of the Public Car Park and the public interest in use of it.
- (b) The Developer must for the purposes of registration in the future complete the Strata Management Statement, the Easement Instrument, the Stratum Plan and any other plans or instruments in accordance with this Agreement. The Developer agrees to forward updated forms of all such documents punctually to Ryde and to review and negotiate such concerns as Ryde may express.
- (c) The final form of the documents referred to in paragraph (b) must be approved by Ryde before the Developer takes any steps to procure their registration.
- (d) Prior to registration of the Stratum Plan, the Developer must serve on Ryde a copy of those plans and the documents which the Developer proposes to register with them containing the amendments proposed by the Developer. Ryde must inform the Developer within 20 business days after the service of the plan and documents if it accepts the amendments to them.
- (e) If Ryde disputes amendments proposed by the Developer under paragraph (d), and the Developer and Ryde cannot reach agreement in relation to the matters in dispute within 10 business days of Ryde informing the Developer of that dispute, then either Party may refer the matter to dispute resolution.

6.5 Executing documents

The Parties agree to execute the Stratum Plan, the Easement Instrument and Strata Management Statement (and procure the execution of them by persons holding registered interest in their land) within 10 business days (or such longer period as the Parties may agree) after Village Square Lot Works have reached the VSL Works Completion Standard for the purpose of registering them at LPI (NSW) and to promptly produce at LPI (NSW) the certificates of title for their land to allow registration of those plans and documents.

6.6 Management arrangements before registration of Strata Management Statement

If all or part of the Public Car Park is occupied by Ryde before registration of the Strata Management Statement, the Strata Management Statement will be deemed to operate as though Ryde were already registered in respect of the stratum lot to be transferred to Ryde.

6.7 Procure registration

Ryde and the Developer must act co-operatively and do all things reasonably necessary to procure the registration of the Stratum Plan, the Strata Management Statement, the Easement Instrument and other documents, plans and instruments that are reasonably necessary to carry out the Development.

6.8 Registration costs

The Developer must pay all costs and expenses in connection with the registration of title documents under this Agreement.

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ITEM 1 (continued)**ATTACHMENT****7. PROJECT CONTROL GROUP****7.1 Project Control Group**

A Project Control Group must be formed. Each Party must nominate its representatives in writing to the other Parties within the 20 business day period and must notify each other thereafter in the event of any change in nominees from time to time.

7.2 Constitution of the Project Control Group

- (a) The Project Control Group must consist of:
 - (i) 1 representative from the Developer; and
 - (ii) 1 representative from Ryde.
- (b) Any member of the Project Control Group may appoint a person to be that member's alternate for a meeting of the Project Control Group.
- (c) Each Party will bear the cost of attendance of its own representatives.
- (d) Members of the Project Control Group must be empowered by their respective appointing Parties to participate meaningfully and effectively to achieve the objectives and functions of the Project Control Group.
- (e) The Parties may from time to time agree to the appointment of additional participants to the Project Control Group.

7.3 Functions of the Project Control Group

The functions of the Project Control Group will be to facilitate communications between the Developer and Ryde in relation to issues relating to the coordination of the Development with the carrying out of the Construction Works.

7.4 Project Control Group meetings

- (a) The Project Control Group must meet at regular monthly intervals (and may meet more frequently if considered appropriate by the Ryde) or such other interval as may be agreed by the Parties acting reasonably.
- (b) The Developer will produce at each Project Control Group Meeting all relevant plans, specifications, approvals consents and reports pertaining to the business of that meeting and the Ryde can require the Developer to produce any other plans, other documentation or a report on specific issues whenever it reasonably considers appropriate to ensure it is fully informed on the progress of the Development.
- (c) Ryde may (acting reasonably) and on giving reasonable notice, require that the Developer's contractors, consultants or advisers attend any meeting of the Project Control Group.

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ITEM 1 (continued)**ATTACHMENT**

- (d) Ryde and the Developer are each entitled, on giving prior reasonable notice, to have their respective consultants or advisers as it considers necessary to attend any meeting of the Project Control Group.

8. BOND**8.1 Identity of Performance Bond provider**

The Developer must do all things reasonably necessary to obtain Ryde's approval to the identity of the provider of the Performance Bond before the Developer is obliged to deliver the Performance Bond to Ryde

8.2 Amount of Performance Bond

The Developer must deliver to Ryde the Performance Bond no later than the date of actual completion of the title transfer to the Developer of the Village Square Lot.

8.3 Enforceable Performance Bond

The Developer must at all times up to the expiry of the Defects Liability Period ensure that the Performance Bond is kept current and enforceable.

8.4 Demand under Performance Bond

- (a) The rights of Ryde under this clause 8 do not derogate from other rights and remedies available to Ryde under this Agreement, at law and in equity in relation to any breach of any of the Developer's obligations.
- (b) If the Village Square Lot Works do not reach the VSL Works Completion Standard on or before the VSL Works Completion Date, Ryde may:
- (i) take all steps reasonably necessary to cause the Village Square Lot Works to be completed (including, without limitation, taking possession of the Carpark Site for such purposes); and
 - (ii) at any time and from time to time, have recourse to the Performance Bond in order to reimburse Ryde for all costs and expenses it may incur in causing the Village Square Lot Works to reach the VSL Works Completion Standard.

9. DEVELOPER LOT CARPARKING**9.1 Basement level 3 spaces**

Developer Lot basement level 3 is designed to include 172 spaces, all of which are owned by the Developer, 134 of which must be made available for public short term parking and 38 of which ("38 spaces") could, subject to development consent, be occupied as the Developer wished.

9.2 Lease to Ryde

The Developer agrees to lease the 38 spaces to Ryde for a period of 20 years from practical completion of the building on the Developer Lot. Under this lease, the rent is \$1 per annum if demanded and the permitted use is short term parking for the public (including invitees of persons occupying the building on the Developer Lot).

9.3 Development consent condition

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Where the Developer is required as a condition of development consent to provide car spaces for short term visitor and/or public car parking, Ryde agrees that the 38 spaces are to be included in its calculation of the number of car spaces provided in satisfaction of that condition.

9.4 Operation

This clause 9 has no effect if Council determines under clause 6 that creation of the Public Car Park involves a stratum subdivision of the Developer Lot that includes the 38 spaces.

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