

**Council Meeting****SUPPLEMENTARY AGENDA NO. 7/11**

**Meeting Date:** Tuesday 24 May 2011  
**Location:** Council Chambers, Level 6  
**Time:** 7.30pm

**Note:** *This meeting will be recorded on audio tape for minute-taking purposes as authorised by the Local Government Act 1993.*

**SUPPLEMENTARY ITEMS**

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- 12 144 WICKS ROAD & 16-18 WATERLOO ROAD MACQUARIE PARK. Local Development Application for construction of a commercial building containing 27340m<sup>2</sup> of floor space. A Voluntary Planning Agreement has also been submitted. LDA2008/0531.**

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**Report prepared by:** Team Leader Major Developments

**Report approved by:** Manager Assessment; Group Manager Environment & Planning

**Report dated:** 20 May 2011

**File Number:** GRP/11/6/3/4 - BP11/401

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## **1. Report Summary**

**Applicant:** Dexus Funds Management Limited.

**Owner:** Perpetual Trustee Company Limited, Dexus Property Group.

**Date lodged:** 6 August 2008.

This report considers a proposal to construct a commercial office building containing 27340m<sup>2</sup> of floor space and 309 on site car parking spaces. The proposal also includes the construction of 1 road and part construction of 2 other roads that have been identified in the Macquarie Park planning controls. These roads are proposed to be dedicated to Council as part of a Voluntary Planning Agreement (VPA) **(ATTACHMENT 4)** submitted with the development application.

The development application has been assessed under the provisions of the Ryde Planning Scheme Ordinance. The development results in a 3.9% variation of the permitted floor space ratio as well as resulting in a variation to the storeys control. Both of these variations have been justified with a SEPP 1 objection which has demonstrated that compliance with the control is unreasonable and unnecessary.

The VPA proposes the construction of the roads on the site, the dedication of the roads to Council as well as a monetary contribution. The VPA has been assessed by Council's VPA Panel as being in the public benefit.

During the original advertising period in September 2008, Council received one (1) submission. This submission was not an objection, however raised concerns with respect to the current lease for the existing child care centre on the site. The development application and VPA were readvertised in September 2010 and during this period Council received no submissions.

The development application is recommended for approval subject to conditions of consent.

**Reason for Referral to Committee of the Whole:** VPA submitted with the development application and called up by Councillor Butterworth.

**Public Submissions:** 1 submission was received during the original advertising period on 2008. During the second advertising period between 16 September 2010 and 28 October 2010, Council received no submissions.



**ITEM 12 (continued)**

SEPP1 Objection received? Two SEPP 1 objections have been submitted. The first is for the floor space ratio which proposes a variation of 3.9%. The second is for height. The control is 6 storeys and the development ranges from 6 to 9 storeys.

The plans are **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors – subject to copyright provisions.

Value of works? \$97,851,449

**RECOMMENDATION:**

- (a) That Local Development Application No. 2008/531 at 144 Wicks Road, Macquarie Park being lot 21 DP1101233 and lot 4 DP1046090 be approved subject to the **ATTACHED** conditions (**ATTACHMENT 1**).
- (b) That Council support the Voluntary Planning Agreement Offer made by Dexus Funds Management Limited as part of the development application LDA2008/531 at 144 Wicks Road, Macquarie Park.

**ATTACHMENTS**

- 1 Conditions of Consent
- 2 Map
- 3 Plans
- 4 Voluntary Planning Agreement
- 5 A3 Plans - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**Sandra Bailey**  
**Team Leader Major Developments**

Report Approved By:

**Liz Coad**  
**Manager Assessment**

**Dominic Johnson**  
**Group Manager Environment & Planning**



**ITEM 12 (continued)****2. Site** (Refer to attached map.)

**Address** : 144 Wicks Road, Macquarie Park.  
Lot 21 DP 1101233 and Lot 4 DP1046090.

**Site Area** : 18,031m<sup>2</sup>  
Frontage 183 metres to Epping Road  
69 metres to Waterloo Road  
111 metres to Wicks Road.

**Topography and Vegetation** : The entire site is generally undulating and includes large areas of cut and fill. The site includes stands of native vegetation predominantly concentrated around the perimeter of the site. These stands have been identified as having been planted during the construction of the school. Two species (*Wallangarra White Gum* and the *Narrow-Leaf Black Peppermint*) have been found to be identified as 'vulnerable' under the terms of the *Environmental Protection and Biodiversity Conservation Act 1999*. The site does not contain any Blue Gum High Forest or Sydney Turpentine – Ironbark Forest.



**ITEM 12 (continued)**

**Existing Buildings:** There are no buildings on the site. The site was previously used for educational purposes which was known as "Peter Board High School".

**Planning Controls**

**Zoning:** Part B3 Commercial Core and part B7 Business Park under LEP 2010.

**Other:** Ryde Planning Scheme Ordinance.  
Environmental Planning and Assessment Act, 1979.  
State Environmental Planning Policy No. 1.  
State Environmental Planning Policy (Infrastructure) 2007.  
State Environmental Planning Policy No. 55.  
Deemed State Environmental Planning Policy Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.  
Draft State Environmental Planning Policy No. 66.  
Development Control Plan 2010.  
Ryde Local Environmental Plan 2010.

**3. Councillor Representations:**

Name of Councillor: Councillor Butterworth.

Nature of the representation: Not stated.

Date: 14 October 2009.

Form of the representation (e.g. via email, meeting, phone call): Advised Group Manager Environment and Planning.

On behalf of applicant or objectors? Not stated.

Any other persons (e.g. consultants) involved in or part of the representation: Not stated.

**4. Political Donations or Gifts**

Any political donations or gifts disclosed? No.

**5. Proposal**

Consent is sought for the construction of a 6 to 9 storey commercial office building (includes the plant room and car parking). The building will contain 27340m<sup>2</sup> of floor space and 309 on site car parking spaces. The building has been designed to create three horizontal elements consisting of:

- A podium element located at the ground level at the western end of the building. The height of this podium varies from less than 1 storey to 2 storeys and includes 2 retail spaces on the ground floor, car parking, services and public spaces.



**ITEM 12 (continued)**

- A single storey recessed level which is intended to provide a visual separation between the podium and upper levels of the building. This floor will be used for commercial office space.
- 5 commercial upper floors. The façade of this part of the building will comprise fully glazed curtain wall constructed of clear glass panels. The upper levels will be separated by a full height atrium space.

The development also proposes the construction of public domain. This includes the construction of one full road and part construction of 2 other roads identified in the Macquarie Park Structure Plan.

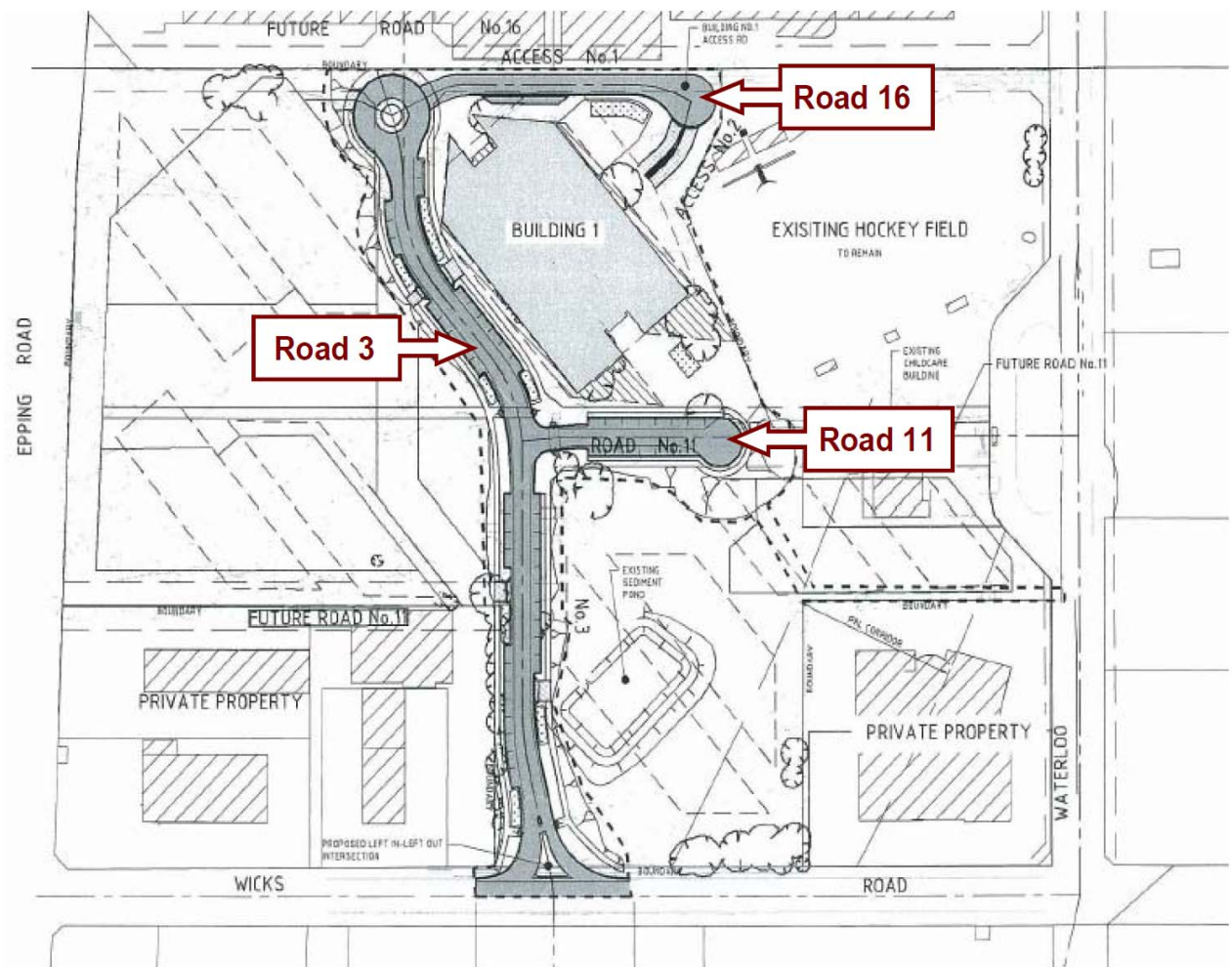
A Voluntary Planning Agreement has also been submitted. Under Section 93F of the Environmental Planning and Assessment Act, developers may contribute works or money to the local community as part of their development. The Voluntary Planning Agreement has identified the following works:

- A monetary contribution of approximately \$513,898.80.
- Construction and dedication of Road 3 between Wicks Road and the northern boundary of the land to a width of 20.4 metres.
- Construction and dedication of Road 11 from the junction of Road 3 to approximately the corner of the hockey fields.
- Construction and dedication of part of Road 16 from the corner of the junction of Road 3 to the corner of the hockey fields.
- Construction of a new roundabout at the intersection of Road 3 and Road 16 and the turning circle at the end of Road 16.



**ITEM 12 (continued)**

These roads are demonstrated in the following plan.

**6. Background**

The development application was lodged on 6 August 2008.

Following a preliminary assessment of the DA a letter was sent to the applicant on 28 October 2008. This letter raised the following issues in respect of the development:

- Clarification was requested in respect to the floor space ratio and car parking requirements.
- The Statement of Environmental Effects failed to provide adequate information in respect of numerous matters identified in Part 4.5 of DCP 2006 and the applicant was asked to address each of the outstanding matters.
- The applicant was advised that the RTA did not support the Masterplan development as the additional traffic could not be adequately accommodated within the existing road and intersection layouts. The RTA requested that the DA not be determined until a satisfactory resolution can be reached which addresses how the Masterplan proposal would contribute to / or physically provide



**ITEM 12 (continued)**

appropriate road based infrastructure within the local precinct. The RTA also advised that traffic lights would not be supported at the intersection of the new roads with Waterloo Road and Wicks Road and that these intersections should be left-in and left-out only.

- Concerns were raised that the proposed development failed to comply with the access arrangements in respect of an uninterrupted path of travel or internal movements.
- An Urban Design Review was undertaken in respect of the Masterplan development. This review identified various design changes that would improve the urban design outcomes of the Masterplan. The applicant was requested to incorporate the design changes identified.
- Further information was requested in respect to Water Sensitive Urban Design and a stormwater drainage report was requested.
- Concerns were raised by Council's Engineers in respect of the road design and layout of the proposed roads. The applicant was requested to amend the design and location of the roads to ensure that it complies with the DCP requirements.
- Further information was requested from the applicant in terms of specific ESD initiatives to be incorporated into the building.

As a response to the above issues, the applicant submitted additional information on 27 February 2009.

A meeting was held with the applicant on 10 March 2009 to discuss the issues raised in Council's letter. In particular this meeting focused on the issue of the Masterplan and whether this should be incorporated into the development application and the issue of the road network and its non-compliances with the DCP.

A further meeting was held with the applicant on 19 May 2009 to focus on the road network. In this meeting it was agreed that the City of Ryde could support the internal road network. It was also agreed that a Voluntary Planning Agreement would be the most appropriate instrument within which to include any land dedications to Council (such as the internal road network and any traffic measures).

The applicant submitted a VPA to Council on 21 October 2009. This VPA contemplated a Masterplan for the subject site, however the Masterplan was not formally part of the development application being considered by Council and this raised difficulties in assessing the overall merits of the VPA. Numerous other issues were also raised in terms of the VPA by Council's VPA Panel. The applicant was advised of these issues on 19 November 2009.

Following discussions in respect of the issues raised by Council, the applicant submitted a revised VPA on 26 July 2010.

Additional information and amended plans which deleted all reference to the Masterplan and requested development consent for the entire part of Road 3, part of



**ITEM 12 (continued)**

Road 11 and one building located behind the hockey field was submitted to Council on 25 August 2010. These plans and the VPA were advertised from 16 September 2010 till 28 October 2010 as well as being referred to the RTA.

A letter was sent to the applicant on 19 September 2010 advising of outstanding matters with the VPA.

The RTA advised on 22 November 2010 that they were not willing to support a roundabout at the intersection of Wicks Road and Road 3 as this would adversely affect the operation of Lane Cove Road and Wicks Road. A meeting was held between the RTA, Council and the applicant on 2 December 2010 where it was resolved that the RTA would only support left in and left out at the intersection of Wicks Road and Road 3. As a consequence of this change, the applicant was required to prepare amended plans.

These amended plans and the revised VPA was submitted to Council on 14 February 2011. Further corrections were required to the VPA and the final version of the VPA was submitted on 9 May 2011. This report deals with these plans and this VPA.

Full copies of these plans and the VPA are circulated to the Councillors under separate cover.

**7. Submissions**

The proposal was advertised and notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications on 2 occasions. The first advertising period was from 3 September 2008 until 18 September 2008. During this period Council received 1 submission. The issues raised will be discussed below. The second advertising period was from 16 September 2010 till 28 October 2010. The advertising period included the amended plans as well as the VPA. During this second advertising period, no submissions were received.

The submission received was from the Management Committee of Nought to Five Early Childhood Centre. The submission was not an objection to the development. The submission was advising Council that the child care centre has an existing lease with Dexu until 2028. Although discussions had occurred with Dexu about relocating the child care centre, no agreement had been reached.

The original plans submitted demonstrated a road through the child care centre connecting from Road 3 to Waterloo Road. The applicant was aware of this issue and the amended plans have ceased the construction of this new road in the vicinity of the hockey field resulting in the existing child care centre being retained on site.

**8. Policy Implications****Relevant Provisions of Environmental Planning Instruments etc:****Section 5A of the Environmental Planning and Assessment Act 1979 – Significant Effect on Threatened Species, Populations or Ecological Communities or Their Habitats**



**ITEM 12 (continued)**

For the purposes of this section of the Act, three species have been listed as threatened under NSW and / Commonwealth threatened species legislation. The applicant has completed a Threatened Species Impact Assessment including a seven part test under this section of the Act. The threatened species include the following:

- The Grey-headed Flying fox. This species is listed as vulnerable under the NSW Threatened Species Conservation Act 1995 (TSC Act) and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The species was identified foraging in an exotic tree species at the site being Cottonwoods. The site does not contain a roosting colony of this species. The proposed development will result in the loss of several non-indigenous trees that are used for foraging, however there is significant alternative habitat located in the Lane Cove National Park. The development is unlikely to have an adverse effect on the life cycle of this species.
- Wallangarra White Gum. This species is listed as endangered under the NSW TSC Act and vulnerable under the Commonwealth EPBC Act. This species occurs around the Tenterfield region of the north of NSW and it appears to have been planted widely as a landscaping tree. A total of 7 trees appear on the site. The provision of these trees does not constitute a viable local population and the proposed development is unlikely to be a threat to the species.
- Narrow-leafed Black Peppermint. This species is listed as vulnerable under both the TSC Act and the EPBC Act. It occurs naturally on the New England tablelands and does not occur naturally in the Sydney region. A total of 3 trees have been planted as landscaping trees on the site. The provision of these trees does not constitute a viable local population and the proposed development is unlikely to be a threat to the species.

As the site contains several species that are part of the Blue Gum High Forest which is listed as a critically endangered ecological community, the applicant was also requested by Council's Officers to undertake an assessment of significance for the Blue Gum High Forest. This assessment revealed that while there are a number of species recorded across the site that are known to be part of the Blue Gum High Forest, the canopy species and understorey species have been planted during the landscaping of the school grounds and none of the site constitutes intact or semi-intact communities which could be described as Blue Gum High Forest. For this reason, the development will have no impacts on any Blue Gum High Forest.

The Threatened Species Impact Assessment has been reviewed and supported by Council's Consultant Landscaped Architect. The threatened species identified on the site are unlikely to be significantly impacted by the proposed redevelopment and the development will not hinder the attainment of the objectives specified in section 5(a)(i) and (ii) of the Act.

**(a) Local Environmental Plan 2010**

Ryde LEP 2010 was published and commenced on 30 June 2010. Under this planning instrument the site is zoned part B3 Commercial Core and part B7 Business



**ITEM 12 (continued)**

Park. This planning instrument contains a saving provision (clause 1.8A) which states:

*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies, and the application has not been finally determined before the commencement, the application must be determined as if this Plan had not commenced.*

This development application was lodged on 6 August 2008, before the commencement of this Plan and so the DA must be determined as if Ryde LEP 2010 had not commenced.

In this respect, the development is permissible with consent within the above zoning and the development is not contrary to any of the objectives in draft LEP 2010.

**(b) Ryde Planning Scheme Ordinance****Zoning**

The site is zoned part Business Special (Employment) 3(g) and part Business Special (Research and Development) 3(f) under the RPSO. The proposed development is permitted in both of these zones with the consent of Council.

**Mandatory Requirements**Clause 34(2) – Traffic Impacts

This clause of the Ordinance applies to developments that are likely to cause increased vehicular traffic on roads in the vicinity of the site. The clause requires Council to take the following matters into consideration:

- a. *Whether adequate vehicular entrances to and exits from the site have been provided so that vehicles using those entrances and exits will not endanger persons and vehicles using those roads.*

**Comment:** The development includes the construction of part of the road network required in Macquarie Park. A new intersection will be created where Road 3 joins Wicks Road. In accordance with the RTA requirements this road will be left in and left out. The road design is supported by the RTA.

Vehicular entrances to and from the building will be created from Road 3 as well as a driveway from future Road 16. Council's engineers have reviewed the plans which are considered to be acceptable subject to a minor change and will not endanger persons or vehicles using these roads. (See condition number 60).

- b. *The provision of space on the site of the building or development or on land adjoining the site, other than a public road, for the parking and standing of such vehicles as the responsible authority may determine.*



**ITEM 12 (continued)**

**Comment:** The development will provide a satisfactory amount of on site car parking and will be consistent with the car parking requirements specified in Clause 98 of the RPSO. Parking spaces for disabled persons as well as bicycle parking areas for 63 bikes including shower and change facilities will also be provided within the development. The layout of the on site car parking has been designed in accordance with AS2890.1-2004 which sets out the minimum requirements for the design of off street car parking facilities.

- c. Whether adequate space has been provided within the site of the building or development for the loading, unloading and fuelling of vehicles and for the picking up and setting down of passengers.*

**Comment:** The development proposes a loading dock on car parking level 2. This loading will be accessed via new Road 3 and Road 16. The loading area has been designed to accommodate medium rigid trucks. Adequate space has been provided to accommodate the future likely needs of the development.

**Clause 42 – Advertising Signs**

This clause of the Ordinance applies to the erection and display of advertising signs.

The current application does not propose any signage. Separate applications will be made to Council for business identification signage associated with future occupants of the development. The Development Control Plan provides appropriate design guidelines for business identification signs and any such application will be subject of a separate application. (See condition number 5).

**Clause 93 – How will development be controlled?**

This clause of the Ordinance requires Council to consider the following matters:

1. The planning principles and objectives for the corridor set out in Schedule 18 and clause 94.
2. The objectives and the development standards for floor space ratios set out in Clause 96.
3. The objectives and the development standards for building height set out in Clause 97.
4. The objectives and the development standards for off-street parking set out in Clause 98.

The planning principles are considered in the table below:

<b>Planning Principles</b>	<b>Comment</b>	<b>Compliance</b>
<b><i>1. Environmental Principles</i></b>		
To strongly define the public domain and active street frontages in the	The site is not located in the immediate vicinity of the railway station. The development will have frontage to three	Yes



**ITEM 12 (continued)**

<b>Planning Principles</b>	<b>Comment</b>	<b>Compliance</b>
areas surrounding the proposed railway stations, by close alignment of buildings to the street edge and selection of appropriate street-front uses.	streets that have been identified in the road network for Macquarie Park. Although the site is not required to provide active uses on any of the street frontages, it has incorporated active frontages on two of the three frontages. This will ensure that the development addresses the two streets and assist in providing an active street frontage. The building will also be appropriately setback from the new roads.	
To ensure a transition between the Corridor development and surrounding areas.	Part of the site forms the edge of the corridor along Epping Road. However, the development is located away from the edge of the corridor being setback a minimum of 140m from Epping Road. This distance, combined with the development complying with the intent of the height controls and floor space ratio, will ensure that there is unlikely to be an unacceptable impact on the surrounding areas. At some stage in the future there will be another building between this development and Epping Road. The footprint of this building will be critical to maintain the transition between the Corridor and the surrounding areas.	Yes
To ensure higher use of public transport (both rail and bus) by providing safe direct pedestrian and cycle links to bus stops and proposed station entries.	The development is proposing much of the road network that affects the entire site. There will be other opportunities to provide more of the road network as other parts of the site are redeveloped. As more of the site and adjoining properties are developed there will be improved pedestrian links between the building and the station entries and bus stops. The development does provide bicycle parking and rider amenities. In addition, the development provides less car parking than the maximum required by the planning controls which will also encourage the use of public transport.	Yes
To provide landscape and street details to unify areas within the Corridor and, where appropriate, integrate with the	As part of the development it is proposed to construct several streets. This work will be done as part of the VPA between Council and the applicant. These streets will be required to be constructed in	Yes



**ITEM 12 (continued)**

<b>Planning Principles</b>	<b>Comment</b>	<b>Compliance</b>
surrounding natural and built environments.	accordance with the requirements of the Macquarie Park Public Domain Technical Manual.	
To develop innovative, ecologically sustainable, flexible buildings and open spaces.	The proposed buildings will be targeting to achieve 5 Star Green Star rating and a report has been submitted to demonstrate how this can be achieved. A condition of consent has also been imposed to ensure that the development achieves this rating. (See condition number 39).	Yes
To pay special attention to the important interface between new buildings and open spaces, particularly the National Park and existing creek areas.	The site is not located in the vicinity of the National Park, any open spaces areas or existing creek areas.	Yes
To establish a permeable street pattern that provides several links to the surrounding street system and provides an internal grid system.	The Macquarie Park Corridor proposed access network map identifies several new roads on this site. As part of the VPA, it is proposed to construct Road 3 between Wicks Road and the northern boundary of the site, part of Road 11 which extends from Road 3 towards Waterloo Road and half road construction of Road 16 which extends from Road 3 to the rear of the hockey field. Due to the size of the site these are not the only roads required. As the site is further developed, the applicant intends to construct more of the road network. What is proposed to be constructed with this development, however, represents a major portion of the road network for the entire site.	Yes
To provide efficient layout of parking and loading facilities, screened from view of streets.	The parking and loading facilities will be required to comply with AS2890.1. All parking is located within the basement levels. However due to the slope of the land, these basement levels will extend beyond natural ground level and will be visible from proposed Road 3. The design has provided two retail outlets on the lower ground which will provide an active frontage as well as screening some of the carpark from view. The rest	Yes



**ITEM 12 (continued)**

<b>Planning Principles</b>	<b>Comment</b>	<b>Compliance</b>
	of the carpark wall that will be visible from Road 3 will be treated with stone tiling to the wall and slotted sandstone wall. These features will contribute to the building providing a clear base to the building as well as effective screening.	
To take advantage of northerly aspect to create pleasant outdoor public and semi-public spaces.	The development has proposed semi public open space areas to the north of the site on top of the podium above the carpark. In addition, public spaces will be created adjacent to the lower ground floor retail spaces.	Yes
To minimise overshadowing of open spaces	The site is not adjacent to any open space areas.	Yes
To provide a central public space that contributes to the vitality and sustainability of the Corridor.	Not applicable in this instance – as this principle refers to the Civic Heart to be located near the intersection of Waterloo & Lane Cove Roads.	Yes
To incorporate ecological sustainable development measures into the design of new developments in the areas of energy conservation, waste management, water conservation, and ecological enhancement.	The proposed development is acceptable. An ESD report has been submitted as part of the application outlining measures that will be put in place to maximise energy, water & ecological sustainability. The design aims to achieve a 5 Star Green Star rating. It is also proposed to include a condition on the consent requiring a further report to be provided following construction to verify that the development achieves a minimum 5 Star Green Star rating. (See condition number 39).	Yes
To minimise the impact of traffic noise on the occupants of future developments.	A condition of consent will be imposed requiring that the development comply with the requirements of AS/NZS 2107:2000 Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors. Such a condition will ensure the occupants of the future buildings are not adversely affected by traffic noise. (See condition number 42).	Yes



**ITEM 12 (continued)**

<b>Planning Principles</b>	<b>Comment</b>	<b>Compliance</b>
<b>2. Social Principles</b>		
To incorporate the principles of 'Safer by Design' into the design of all new buildings and open space areas.	The proposed development has been assessed against the CPTED principles and has been reviewed by NSW Police. Subject to appropriate conditions of consent as recommended by NSW Police in respect to lighting and signage to clearly identify service roads, the development is considered satisfactory. Specific conditions have been recommended (see condition numbers 52, 53, 54, 55 and 56).	Yes
To provide easy pedestrian and cycle access for both able-bodied and mobility impaired people, throughout the Corridor in the public domain and within private developments.	The roads to be constructed as part of the development are to be to Council's requirements and will allow for pedestrian and cycle access. The development will also provide an accessible path of travel through the building.	Yes
To improve pedestrian and cycle connections between the Corridor and surrounding residential areas and minimise environmental impacts on the locality generally.	The development will incorporate the construction of new roads that will be dedicated to Council. These streets will meet the Council's objectives in terms of providing improved pedestrian and cycleway paths which will enable a more permeable and amenable public domain.	Yes
To provide buildings that are designed to accommodate the needs of people with disabilities.	The development has been designed to incorporate the needs of people with disabilities. Appropriate conditions of consent will ensure that this occurs. (See conditions number 49 to 51).	Yes
To encourage the creation of common spaces within private developments that promotes social interaction.	The development proposal incorporates designated space for a future café. This space will be available for use by building occupants as well as the general public. In addition to this space, there is also proposed a commercial terrace along the northern elevation of the building that will be accessed from the 1 <sup>st</sup> floor of commercial floor space. This space will also promote social interaction.	Yes
To ensure that all buildings have easy, safe vehicular access and	By incorporating active frontages in the development it will help the building in having a street address. All vehicular	Yes



**ITEM 12 (continued)**

<b>Planning Principles</b>	<b>Comment</b>	<b>Compliance</b>
street address.	access will be required to comply with AS2890.1-2004 which will ensure safe vehicular access.	
To provide open space, located in a manner appropriate to interface with adjacent areas and provide recreation opportunities for workers.	The site is not required to provide any open space as identified in the LEP. The development does take advantage of being adjacent to the hockey field by half of the building being orientated towards the open space. The design has also included an outdoor terrace area on the carpark podium that will take advantage of the outlook of the hockey field.	Yes
To promote the notion of a viable and vibrant employment area with a central civic space in the vicinity of Macquarie Park Station, that provides a focus for community and government activities.	Not applicable in this instance as the central civic space will not be located on the subject site nor is the site in the immediate vicinity of the Macquarie Park Station.	Yes
To provide 24-hour access for authorised emergency vehicles in accordance with the relevant Australian Standards.	The proposal has been designed to comply with the BCA and it is required that access for emergency vehicles will be provided where relevant.	Yes
To provide buildings that is designed with well-defined and accessible entrances.	The proposal involves building entrances that satisfy this requirement.	Yes
<b>3. Economic Principles</b>		
To provide flexible buildings that are adaptable to the changing floor plate and layout needs of commercial and high-tech industries over time and also to suit a range of businesses.	<p>The proposal complies with this objective. The building has been designed as two wings with a full height and full length glazed atrium linking each wing. Each commercial floor of the wings will be approximately 2000m<sup>2</sup>. Although these floors are separated by the atrium, they are connected by a central bridge link that is located adjacent to the lift cores.</p> <p>A variety of different retail/commercial uses can also be provided on the ground floor level.</p>	Yes



**ITEM 12 (continued)**

<b>Planning Principles</b>	<b>Comment</b>	<b>Compliance</b>
To promote a central location for civic and government activities.	Not applicable to this site as it is not earmarked for such uses.	NA
To facilitate the continuance of “non conforming” uses in the short term.	Not applicable as the new building and uses therein will be subject to the current statutory controls.	NA
To permit limited residential uses in appropriate identified areas provided they do not undermine the economic viability.	Not applicable to this site.	NA

**Clause 94 – Objectives for the Macquarie Park Corridor**

This clause of the Ordinance provides a list of objectives applying to the Macquarie Park Corridor. The objectives are:

- (a) *To promote Macquarie Park Corridor as a premium location for globally competitive businesses with strong links to the university and research institutions and an enhanced sense of identity, and*
- (b) *To implement the State Government’s strategic objectives of integrating land use and transport, reducing car dependency and creating opportunities for employment in areas supported by public transport, and*
- (c) *To guide the quality of future development in the Corridor, and*
- (d) *To ensure that the Corridor is characterised by a high-quality, well designed and safe environment that reflects the natural setting, with three accessible and vibrant railway station areas providing focal points, and*
- (e) *To ensure that residential and business areas are better integrated and an improved lifestyle is created for all those who live, work and study in the area.*

The development will result in a new building that will have a contemporary appearance and a high standard of ecological sustainability and amenity which would allow for a variety of competitive businesses. The building will contribute to promoting Macquarie Park as a premium location for businesses. To take advantage of the close proximity to public transport, the development has incorporated pedestrian access through the site as well as not exceeding the maximum number of car parking spaces. As detailed further in the report, the development generally conforms to the planning controls adopted for Macquarie Park in respect to the planning principles, car parking and floor space. There is a larger variation in respect to height. This is a storeys control and due to changes in the definition of storeys now includes plant rooms and car parking that is 1.2 metre above natural ground level as a storey. Despite a variation to the numeric control, the development complies with the objectives of the height control and will result in a development that will have a bulk and scale that will be compatible with the locality.



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The development complies with the objectives of the Macquarie Park Corridor.

**Clause 96 – Floor Space Ratio (FSR)**

The subject site has a floor space ratio of 1:1 as indicated on the “Ryde Local Environmental Plan No 137 – Macquarie Park Corridor - Floor Space Ratio Restrictions” Map (FSR Map) that accompanies the LEP. Where land is identified on this map as containing part of the proposed access network, additional floor space can be provided equivalent to the site area provided as access network.

The site area of this particular development consists of 18,031m<sup>2</sup>. Combining this with the bonus for the road network results in a maximum permitted floor space of 26,311.9m<sup>2</sup>.

The development has proposed a gross floor area of 27,340m<sup>2</sup>. This exceeds the control by 1,028.1m<sup>2</sup> or by 3.9% of the total permitted floor space.

The applicant has submitted a SEPP 1 in respect of the non-compliance.

In assessing the SEPP 1 objection, consideration should be given to the three part tests as set out by Chief Justice Preston in *Wehbe v Pittwater Council* [2007] NSW LEC 827. These tests are summarised as follows:

1. The applicant must satisfy the consent authority that the objection is well founded, and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
2. The consent authority must be of the opinion that granting consent to the development application would be consistent with aim of the SEPP (Clause 3) of providing flexibility pursuant to in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979; and
3. It is also important to consider:
  - (a) Whether non-compliance with the development standard raises any matter of significance for State or regional planning; and
  - (b) The public benefit of maintaining the planning controls adopted by the environmental planning instrument.

**Test 1 – Is the Objection well founded?**

SEPP 1 provides that a development standard may be varied if it satisfies the underlying planning objectives behind that development standard. In this instance, the objectives of the floor space ratio requirements are as follows:

- to achieve a consolidation of development around railway stations, with the highest floor space ratios at the station nodes,
- to allow feasible development of the sites around railway stations and facilitate focal points at the station areas,
- to ensure that the peripheral locations of the corridor reflect the landscape needs and building setting requirements of the corporate building,



**ITEM 12 (continued)**

- to reinforce the importance and function of the central spine (Waterloo Road and Riverside Main Street) with suitable built form,
- to encourage the provision of a new street network,
- to provide incentives for redevelopment in return for the provision of the proposed access network as a public benefit.

The applicant has provided the following justification for the non-compliance:

- *The scale of the building is comparably lower in appearance to that of the adjoining buildings located to the northwest of the site, one of which is nine storeys in height. This difference in height is further exaggerated by the fact these adjoining sites are well elevated above the subject site. (See the following figure).*



Figure 1 – Eastern elevation of proposed building showing the scale and bulk of existing buildings north west of the site

- *The proposed cantilevered built form over the entries to the building, gives the building a light and refined appearance. This elevated design reduces the bulk of the building and provides architectural interest than if the building were to be developed over the same extent of the buildings footprint for every floor of the building.*
- *The building is less than 5 minutes walk to the newly opened Macquarie Park train station, such that it will encourage occupants of the building to use this new service as an alternative means of transport.*
- *The development will deliver a high level of amenity for workers through the provision of an extensive landscape setting and large useable public spaces, which is afforded in part due to cantilevering of the building's upper floor plates over the proposed courtyard space to the east of the building.*
- *The undeveloped hockey field site to the north allows for direct views of the building from Waterloo Road, such that the development will help to compensate for the scale and bulk of development comparable to that sought along Waterloo*



**ITEM 12 (continued)**

*Road until such time the hockey site is developed. Particularly given that there is an FSR of 2:1 under Ryde LEP 2010 applying to the hockey site.*

- *The development will deliver a significant proportion of the road network sought by LEP 137 that will support and encourage the future redevelopment of the broader former Peter Board High School site.*

The variation to the floor space ratio from the permitted control is 1,028.1m<sup>2</sup> or 3.9%. The increased bulk and scale will not be noticeable as the development is viewed in context with the other buildings in the immediate locality. The applicant's SEPP 1 has adequately addressed the objectives of the standard. For these reasons, the above comments from the applicant are supported and in this instance, the variation is considered to be well founded and compliance with the control is unreasonable and unnecessary in the circumstances of the case.

**Test 2 – Is granting consent to the development application consistent with the aim of the policy as set out in Clause 3 and Section 5(a)(i) and (ii) of the Act?**

Clause 3 of SEPP 1 includes the aim of the planning instrument which is to provide flexibility to development standards so as not to hinder the attainment of the objectives specified in S5(a)(i) and (ii) of the EP&A Act 1979.

The objectives of S5(a)(i) and (ii) of the EP&A Act 1979 are:

(a) *To encourage:*

- (i) *The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purposes of promoting the social and economic welfare of the community and a better environment;*
- (ii) *The promotion and co-ordination of the orderly and economic use and development of land.*

The applicant has provided the following comments:

*The objects of the Act as specified in Section 5(a) (i) and (ii) are in our opinion achieved by the proposed development in that it:*

- *Constitutes “proper management, development and conservation of natural and man-made resources”. In particular the proposed non-compliances with the standards for maximum building height and FSR will result in better internal efficiencies within the proposed building than if strict compliance were observed.*
- *Promotes “the social and economic welfare of the community and a better environment” by better utilising the existing resources and infrastructure of the community. Specifically, the proposal will generally be consistent with the desired future character of the area and will promote the use of public transport by those travelling to and from the proposed building, thereby reducing traffic and air quality impacts; and*
- *Will result in “the promotion and co-ordination of the orderly and economic use and development of land” by supporting the commercial function of the Macquarie Park centre and providing an appropriate mix of uses on the site.*



**ITEM 12 (continued)**

The above comments are supported. The reasons for the variation are considered to be well founded and in these circumstances, the objectives of the Act are considered to be achieved.

**Test 3b – What is the public benefit of maintaining the planning controls adopted by the environmental planning instrument?**

As demonstrated above, the variation as proposed will encourage the promotion and co-ordination of the orderly and economic use and development of the site as well as maintaining the objectives of the development standard. The public benefit of maintaining the planning controls is to ensure that development is consistent with the objectives of the Act. As demonstrated, despite not complying with the control, the development will still be consistent with the objective of the Act.

**Conclusion**

In these circumstances, the SEPP 1 objection is considered to be well founded and can be supported by Council.

**Clause 97 – Height of Buildings**

This clause of the Ordinance states that the height of a building on land within the Macquarie Park Corridor must not exceed the height shown for the land on the map marked “Ryde Local Environmental Plan No 137 – Macquarie Park Corridor – Height Restrictions” deposited in the office of the Council.

The LEP height map allows for a maximum height of 6 storeys.

The definition of storey in the RPSO means the space within a building situated between one floor level and the floor level next above or, if there is no floor above, the ceiling or roof above, but does not include a part of a building (such as basement) that does not extend more than 1.2 metres above natural ground level. This definition was amended pursuant to LEP 129 and now includes plant rooms and car parking levels that are more than 1.2 metres above natural ground level as a storey.

Due to the above definition of storey, the building will range from 6 storeys to 9 storeys. The development will contain 6 commercial levels. Due to the slope of the land the eastern end of the building will be 8 storeys due to the provision of car parking and retail areas that are located above natural ground level. The plant room will result in an overall maximum of 9 storeys. The western end of the building will be 6 storeys.

This building will not be readily visible from the existing street network. As part of the development however it is proposed to construct new infrastructure that will become part of the street network that Council is trying to introduce for Macquarie Park. The southern elevation of the building will have the greatest street frontage to proposed Road 3. From this street, the podium and the 6 commercial floors will be visible. As the plant room is setback, it will not be visible from the street. At the western end of the building, the podium will not be visible. However, as the building extends to the



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eastern elevation, the podium will become more visible. This is demonstrated in the following diagram.



This figure demonstrates the southern elevation of the building. The orange line represents the developments compliance with the 30 metre height limit that is permitted under LEP 2010.

The applicant has submitted a SEPP 1 objection in respect of the variation. In assessing the SEPP 1, consideration will be given to the same three part tests as discussed under the floor space ratio part of this report.

**Test 1 – Is the Objection well founded?**

The non-compliance with the numerical requirement of this development standard is considered on its merits. SEPP 1 provides that development standards may be varied if it satisfies the underlying planning objective behind that development standard. In this instance, the objectives of the height requirement are as follows:

- To provide effective control over the scale and bulk of future development; and
- To concentrate building heights around the stations; and
- To provide focal nodes that clearly highlight the role of the stations; and
- To reinforce the important road frontages of Waterloo Road and Lane Cove Road.

The applicant has provided the following justification for the non-compliance:

- *The additional height and bulk for the development will not overshadow any neighbouring development (most notably the child care centre or the hockey field to the north) during the winter solstice between the hours of 9am and 3pm.*
- *When viewed in close proximity the building's plant room will not be visible to then add any apparent additional height or bulk to the building.*
- *The apparent bulk and scale of the development is less than the existing development to the north west of the site, given these adjoining buildings are of the same or greater height and are elevated well above the subject site.*
- *The development reinforces Council's objectives to locate the tallest buildings within Macquarie Park adjacent and in close proximity to the railway stations, with a gradual reduction in the scale of buildings as the distance from the station increases.*
- *The departure from the standard is deemed to be not as relevant given that the anticipated future height of development for the site is now 30 metres, and the*



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*proposal marginally exceeds this height limit by 4 metres at its highest point at the roof top plant element of the building and 2.25 metres for the building itself.*

- *The cantilevered built forms over the eastern entry to the building, gives the building a light and refined appearance. This elevated design reduces the bulk of the building and provides architectural interest, than if the building were to be developed over the same extent of the buildings footprint to the height limit set by the development.*
- *The building will be of a scale to that of the adjoining buildings to the north west of the site that are closer proximity to the rail station, which will assist in Council's objective to reinforce the station's urban location and importance.*
- *The hockey field site to the north will provide direct views of the building from Waterloo Road, such that the development will help to compensate for the scale and bulk of development comparable to that sought along Waterloo Road until such time the hockey site is developed. Particularly given that there is a building height limit of 37 metres under LEP 2010 applying to the hockey field.*

The above comments are supported. Due to the timing of when this DA was submitted, it must be considered under the provisions of the RPSO which is based on a storeys control. This results in the development having a maximum variation of up to 3 storeys. However the current planning control (LEP 2010) permits a development with a maximum height of 30 metres. As demonstrated by the orange line on the above diagram, the height of the building will exceed this control in respect to the plant room and a small portion of the building towards the eastern elevation. As the plant room is setback from the elevations of the building, it will not be readily visible from the adjoining streets. As already discussed the variation to this control is numerically minor and is unlikely to result in any adverse material impact to the adjoining properties. In these circumstances, more weight should be given to the RLEP 2010 control rather than the storeys requirement of the RPSO.

In this instance, the applicant's SEPP 1 objection has demonstrated that compliance with the height control would be unreasonable and unnecessary. Also the SEPP 1 is considered to be well founded.

**Test 2 – Is granting consent to the development application consistent with the aim of the policy as set out in Clause 3 and Section 5(a)(i) and (ii) of the Act?**

Clause 3 of SEPP 1 includes the aim of the planning instrument which is to provide flexibility to development standards so as not to hinder the attainment of the objectives specified in S5(a)(i) and (ii) of the EP&A Act 1979.

The objectives of S5(a)(i) and (ii) of the EP&A Act 1979 are:

(b) To encourage:

- (iii) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purposes of promoting the social and economic welfare of the community and a better environment;
- (iv) The promotion and co-ordination of the orderly and economic use and development of land.



**ITEM 12 (continued)**

The applicant has provided the following comments:

*The objects of the Act as specified in Section 5(a) (i) and (ii) are in our opinion achieved by the proposed development in that it:*

- *Constitutes “proper management, development and conservation of natural and man-made resources”. In particular the proposed non-compliances with the standards for maximum building height and FSR will result in better internal efficiencies within the proposed building than if strict compliance were observed.*
- *Promotes “the social and economic welfare of the community and a better environment” by better utilising the existing resources and infrastructure of the community. Specifically, the proposal will generally be consistent with the desired future character of the area and will promote the use of public transport by those travelling to and from the proposed building, thereby reducing traffic and air quality impacts; and*
- *Will result in “the promotion and co-ordination of the orderly and economic use and development of land” by supporting the commercial function of the Macquarie Park centre and providing an appropriate mix of uses on the site.*

The above comments are supported. The reasons for the variation are considered to be well founded and in these circumstances, the objectives of the Act are considered to be achieved.

**Test 3 – What is the public benefit of maintaining the planning controls adopted by the environmental planning instrument and does the non-compliance raise any matter of significance for State or regional planning?**

The public benefit of maintaining the planning controls is to ensure that development is consistent with the objectives of the Act. As demonstrated above, the variation as proposed will encourage the promotion and co-ordination of the orderly and economic use and development of the site. In addition, the majority of the building complies with the height requirement as identified in LEP 2010. The numeric variation to the height control in LEP 2010 is small and the development will provide an acceptable urban design outcome with minimal impacts to the adjoining properties. Further, the non-compliance is not inconsistent with any State planning policies or regional plan.

**Conclusion**

In these circumstances, the SEPP 1 objection is considered to be well founded and can be supported by Council.

**Clause 98 – Off-street Parking Restrictions**

The objectives of the off street parking controls are as follows:

- To acknowledge accessibility by foot, bicycle and public transport;
- To support the management and supply of parking as the primary means to influence travel behaviour of employees; and
- To provide greater reliance on public transport; and



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- To assist in the management of increased car usage and traffic congestion in the Corridor; and
- To ensure a greater mode shift to public transport.

This clause of the Ordinance states the off-street parking requirements for commercial and industrial development on land within Macquarie Park Corridor must not exceed the rate shown within Macquarie Park Corridor – Parking Restrictions” deposited in the office of the Council.

The LEP map indicates that the maximum rate of car parking applicable to this part of the site is in part 1 space per 46m<sup>2</sup> of Nett Useable Floor Area (NUFA) and in part 1 space per 70m<sup>2</sup> of NUFA.

The following table demonstrates the maximum car parking rates for this development.

Net Useable Floor Area (m <sup>2</sup> )	Parking Rate	Maximum Parking Required
9,537m <sup>2</sup>	1 space per 46m <sup>2</sup> of NUFA	207
14,882m <sup>2</sup>	1 space per 70m <sup>2</sup> of NUFA	213
<b>Total maximum number of car parking spaces - 420</b>		

The development may provide 420 car parking spaces. This control is a maximum control rather than a minimum control with the intent of the control to increase the use of public transport. The development will result in the provision of 309 car parking spaces within the new building.

The development will not exceed the maximum car parking rate specified under the LEP. As the site is well served by existing bus routes and is within easy walking distance to Macquarie Park railway station, the development will satisfy the objectives of the control as well.

**(c) Relevant SEPPs****State Environmental Planning Policy (Infrastructure) 2007**

The proposed development was identified within Schedule 3 of this SEPP and in accordance with Clause 104 was referred to the Roads and Traffic Authority for comment. The matter was considered by the Sydney Regional Development Advisory Committee on numerous occasions. On the final occasion, the following comments were provided to Council. (The RTA comments are in *italics* and any comment by Council's Officer has been identified in regular font).

1. *The RTA supports the proposed left-in left-out arrangements with a splitter island on Wicks Road. Council should ensure that the intersection design will deter right turn in and out movements from Road 3 and cater for the turn paths of the largest expected vehicle to service the Masterplan area.*

**Comment:** A condition of consent will require the applicant to submit detailed road plans which are to comply with various standards. These plans will be required to



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demonstrate the RTA's requirements to Council's satisfaction. (See condition number 59).

2. *The RTA maintains its previous position regarding sight distance at the carpark access to new Road 3. The RTA recommends that sight distance be in accordance with AS2890.1 clause 3.2.4. If this cannot be achieved the RTA recommends that this access be closed and all traffic use the other access at the roundabout end of cul-de-sac.*

**Comment:** A condition of consent will be included to require the access to be relocated so that it does not adjoin the curve in Road 3. This will involve some minor redesign to the basement prior to this issue of a Construction Certificate. (See condition Number 60).

3. *The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS2890.1-2004 and AS2890.2-2002 for heavy vehicle usage.*

**Comment:** This will be imposed as a condition of consent. (See condition number 63).

4. *Consideration should also be given to providing bicycle parking facilities either within the development or close to it, as well as end trip facilities such as showers, changing rooms, etc. to encourage bicycle use for travelling to and from the development.*

**Comment:** The development has incorporated at least 63 bicycle racks and lockers as well as end of trip facilities including lockers and showers for cyclists on carpark level 2. These facilities satisfies the RTA requirements. (See condition number 9).

5. *The applicant should be required to prepare a work place travel plan (WPTP) to encourage the use of alternative modes of transport. Furthermore the WPTP should ensure that any future tenants of the site are encouraged to stagger the start and finish times of employees as well as introducing car pooling and teleworking to minimise the impact on the road system.*

**Comment:** At this stage the development is for the erection of the building only as future possible tenant is not known. A detailed and effective WPTP needs to be tailored to the requirements of the specific workforce. For this reason it is proposed to include this as a condition of consent to be submitted with any development application for the occupation of the building. (See condition number 10).

**State Environmental Planning Policy no. 55 – Remediation of Land**

The objective of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land. In particular, the Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment by:



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- (a) Specifying when consent is required, and when it is not required, for a remediation work, and
- (b) Specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and
- (c) Requiring that remediation work meets certain standards and notification requirements.

The site has been continuously used as an educational facility (Peter Board High School) since 1961 until its closure in 1998 and subsequent demolition in 2007. Prior to this the site was used primarily for farming and orchards.

A site contamination report has been prepared by GHD (dated May 2008) which includes a review of the previous contamination reports that were prepared between 1999 and 2006. This report addresses the entire site of Peter Board High School. The GHD report has concluded that the site does not appear to have been subject to any potentially contaminating activities that may render the site unsuitable for the proposed development. The report does recommend some additional soil sampling be undertaken towards the site boundary with Wicks Road as there has been no analysis undertaken in this area. This area however is excluded from the site area of the development and will be required to be addressed in subsequent development applications for the site.

Council's Environmental Health Officer has reviewed the report and development application and has raised no objections to the proposed development.

**Deemed State Environmental Planning Policy Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

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

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above planning instrument. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of this planning instrument are not applicable to the proposed development. The objective of improved water quality is satisfied through compliance with the provisions of Part 8.2 of DCP 2006. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the planning instrument.

**Draft State Environmental Planning Policy No. 66 – Integration of Land Use and Transport**

Draft State Environmental Planning Policy No 66 ("DSEPP 66") was placed on exhibition by the Department of Planning in 2001. The Policy aims to ensure that land use planning decisions are coordinated with transport service provision and specifically, the provision of public transport.



**ITEM 12 (continued)**

The proposed development is considered to be consistent with the objectives of this policy as it is located within one of the centres identified in the State Government's Metropolitan Strategy for Sydney (released in December 2005).

Macquarie Park is categorised as a specialised centre expecting a 70% increase in its workforce between 2001 and 2031 (32,000 to 55,000) making it the 4<sup>th</sup> largest employment centres in the State behind the Sydney CBD, Parramatta and North Sydney.

The improvements in public transport expected with the completion of the Epping to Chatswood railway line will provide the necessary improvements in public transport capacity to allow for the future growth of this important employment centre.

**(d) Relevant REPs**

There are no relevant Regional Environmental Plans applicable to this development.

**(e) Any draft LEPs****Local Environmental Plan 2010**

As discussed earlier in the report, LEP 2010 contains a saving provision which requires the DA to be assessed under the RPSO and that LEP 2010 has the status of a draft planning instrument.

Under this draft planning instrument the site would be zoned part B3 Commercial Core and B7 Business Park. The development is permissible with the consent of Council. The LEP also contains controls in respect to height, floor space ratio, off street parking and objectives. Other than height, these controls are the same as what is contained in the RPSO. The height control has changed from storeys to metres. As a consequence of this change, there is only a small portion of the building which does not comply with the height control. The proposed development is considered satisfactory in respect of the provisions of draft LEP 2010.

**(f) Any DCP****Part 4.5 of DCP 2006 – Macquarie Park Corridor**

Control	Comments
<b>s3.0 – Structure Plan</b>	
<b>Street Network</b> Provide new public streets as shown in the Street Network Structure Plan.	As already discussed the development will provide for all of Road 3, part of Road 11 and the dedication of land for Road 16. The layout of these roads is consistent with the intent of the DCP.
<b>Open Space Network</b> Provide public open space as shown in	The site is not required to provide part of the open space network.



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<b>Control</b>	<b>Comments</b>
Figure 4.5.06 Open Space Network.	
<b>s5.0 – Public Domain</b>	
<b>5.3 – General Public Domain Controls</b>	
<b>Cycle Strategy</b> 1. Provide dedicated cycle access in accordance with Ryde Bicycle Strategy & Master Plan 2007. 2. Provide lockable bicycle storage and end-of-trip facilities at train stations and within development.	The development will not impact on any of the cycle accesses proposed in Macquarie Park. Bicycle parking for a minimum of 63 bikes and shower and change rooms are provided on carpark level 2. (See condition number 9).
<b>Street Furniture, Paving and Street Lighting</b> 2. Utilise paving materials, furniture and lighting standards as identified in the Macquarie Park Public Domain Technical Manual.	The site has a street frontage to 3 proposed roads. As part of the development application, landscaping plans have been submitted to Council in respect of the roads which will form part of the road network for Macquarie Park. These plans have been considered by Council's City Landscaped Architect and comply with the public domain manual for Macquarie Park.
<b>Street Tree &amp; Front Setback Tree Planting</b> 1. Street trees and front setback must be provided in accordance with the Street Tree Key Plan in the Macquarie Park Public Domain Technical Manual, and their health guaranteed for a minimum of 5 years.	The applicant has proposed landscaped plans that demonstrate street trees that are consistent with the species identified in the Macquarie Park Public Domain. Council's City Landscape Architect has advised the street trees proposed along Road 16 should be changed to <i>Glochidion ferdinandii</i> (Cheese tree) and <i>Lophostemon confertus</i> (Brushbox). It is proposed to include a condition on the consent that will reflect this requirement as well as guarantee the health of these trees for 5 years. (See condition numbers 66 and 67).
<b>Community Facilities</b> 1. Community facilities are to be provided as required by the Ryde City Council's Section 94 Plan.	As part of the VPA, Section 94 contributions cannot be imposed. The value of the works proposed in the VPA combined with the monetary contributions is equivalent to the Section 94 that would be generated as part of this development application.
<b>Public Art</b> 1. Public art must be included in all new development on sites over 15,000sqm. 2. A site specific Arts Plan is to be included in a Stage 1 DA or Master	The applicant has not provided a public art plan and has indicated that they would be happy to provide the plan prior to the issue of an Occupation Certificate. This timing was suggested so that the public art respects and complements the final



**ITEM 12 (continued)**

Control	Comments
Plan and submitted together with the DA.	building designs. The objective of requiring public art within the Macquarie Park Corridor is to develop iconic points of reference or focal points that promote identity and add to the character and enjoyment of the area. This could be completed prior to Occupation Certificate. A condition of consent will be imposed advising that the art work must be in accordance with the objectives and strategy of clause 5.3.5 of Part 4.5 of DCP 2010. The public art plan would be required to be approved by Council and constructed prior to the issue of an Occupation Certificate. (See condition number 98).
<b>s6.0 – Site &amp; Building Design</b>	
<b>6.1 – General Built Form Controls</b>	
<b>Height Controls</b> <ol style="list-style-type: none"> <li>1. Building heights are to comply with the RPSO and Ryde LEP 2010 Amendment 1.</li> <li>2. Council may consider a variation to the building height controls where the development is providing a public benefit such as detailed in the LEP 2010 Access Network or Environmental Excellence Provisions.</li> </ol>	This issue has already been addressed in the report.
<b>Floor Space Ratio Controls</b> <ol style="list-style-type: none"> <li>1. Floor space ratios are to comply with the RPSO and Ryde LEP 2010, Amendment 1.</li> <li>2. Council may consider a variation to the floor space ratio control where the development is providing a public benefit.</li> </ol>	This issue has already been addressed in the report.
<b>Site Planning &amp; Staging</b> <ol style="list-style-type: none"> <li>1. Sites are to be planned to allow for the future provision of new streets and open spaces in accordance with Ryde LEP 2008 Amendment 1 – Access Network.</li> <li>2. Buildings are to be sited to address existing and new frontages in the following order of precedence: <ol style="list-style-type: none"> <li>a) Primary frontages: These are located along existing streets</li> </ol> </li> </ol>	The development will allow for the future roads to be provided. Both Roads 11 and 3 have been identified as secondary frontages and Road 16 as a staged development frontage. The development has proposed two pedestrian entries. One of these pedestrian entries faces new Road 11. This entry proposes retail uses adjacent to the entry which will help to activate the street frontage. The second entry is off Road 16 and this entry

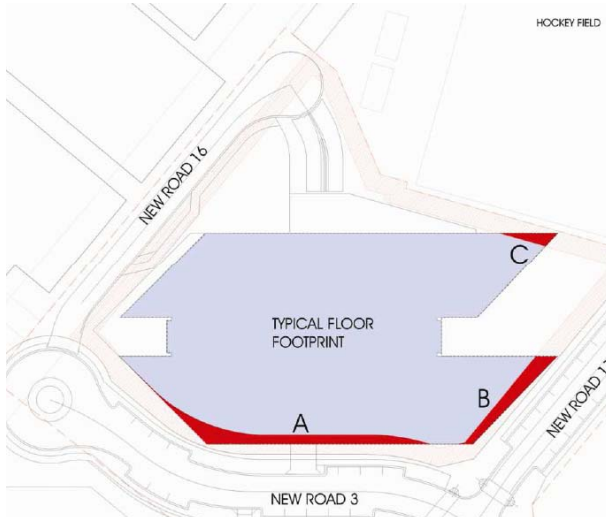


**ITEM 12 (continued)**

Control	Comments
<p>(typically Type 1 or 2 streets).</p> <p>b) Secondary frontages: these are generally existing, or new Type 2 or 3 streets.</p> <p>3. Front door and street address is to be located on the primary frontage. Loading docks, vehicular access is not permitted to be located on the primary frontage unless it can be demonstrated that there is no alternative.</p> <p>4. Staged development frontages: these are new streets which may take a longer time to deliver due to the number of sites they traverse, and provide limited access and frontage opportunities in the short term.</p>	<p>is likely to be used by pedestrians as it is located closest to the train station. Car parking access is located off Road 3 as well as Road 16. The development complies with the requirements of this clause.</p>
<p><b>Street Setbacks &amp; Built-To Lines</b></p> <p>1. The development is to provide a minimum setback of 5 metres to Roads 11, 3 and 16.</p> <p>2. Underground parking is not permitted to encroach into the setback areas unless it can be demonstrated that the basement is designed to support significant mature trees and deep root planting.</p> <p>3. Awnings, canopies, balconies, sun shading and screening elements can project forward of the street setback line.</p> <p>4. <u>5m setbacks</u> 60% of the street setback area is to be soft landscaping. Existing mature trees are to be retained where possible. Paved areas are to relate to the materials and finishes of the adjacent streetscape. At grade car parking must not be located within this setback.</p>	<p>The development is required to be setback 5 metres from Roads 11, 3 and 16. The development has been broken up into distinct forms, being a podium base at ground floor and two separate wings of office accommodation above. These wings extend beyond the podium. The podium level of the building complies with the required setbacks, however the wings result in areas of non-compliance. It should be noted that the development fully complies with the required setbacks for Road 16 and the breaches occur for Roads 3 and 11.</p> <p>In respect of Road 3, the majority of the upper 5 levels of the building are setback 3.8 metres. Where the road curves, the building is setback a minimum of 0.5 metres and the other part of the building has a maximum setback of 6 metres.</p> <p>In respect of Road 11, the breach in setbacks occurs for the southern wing of the building. This part of the building is setback between 2.4 metres and 4.9 metres.</p>



**ITEM 12 (continued)**

Control	Comments
	<p>These non-compliances for the upper levels of the building are demonstrated on the following diagram.</p>  <p>The objectives of the setback control is to enhance the existing character of streets within the Corridor, to create new streets which contribute to the character and identity of the corridor, to increase pedestrian amenity, provide sight lines to the train stations and retain and reinforce the green character of setbacks. Roads 11 and 3 will not provide sight lines to the train station nor do they contribute to the green character of setbacks. As a result of the podium and level 1 of the building complying with the required setback, the development will create pedestrian amenity at the street level as well as defining the street layout.</p> <p>The variation to street setbacks is considered acceptable.</p>
<p><b>Side &amp; Rear Setbacks</b></p> <ol style="list-style-type: none"> <li>1. On other sites, buildings are to be setback 10m from a rear and 5m from a side site boundary.</li> <li>2. Awnings, canopies, balconies, sun shading and screening elements can project into the side or rear setback zones.</li> <li>3. Basement carpark structures should not encroach into the minimum required side or rear setback zone unless the structure can be designed</li> </ol>	<p>The development requires a 5 metre setback to the hockey field. The podium has been setback 6 metres however part of the northern commercial wing proposes a zero setback. The upper floors of this commercial wing range from the zero setback to 12 metres. The non-compliance with the 5 metre control occurs for a distance equivalent to 19 metres. Given that the entire setback is varied and the podium complies with the setback control, this variation is likely to</p>



**ITEM 12 (continued)**

<b>Control</b>	<b>Comments</b>
<p>to support mature trees and deep root planting.</p> <p>4. Natural ground level is to be retained throughout the side and rear setbacks, where possible.</p>	<p>add visual interest to the building as viewed from the hockey field. It is also unlikely that the non-compliance would affect the amenity of the hockey field. In these circumstances, no objection is raised to the variation.</p>
<p><b>Building Separation</b></p> <p>1. Provide a minimum 20m separation between buildings facing each other within a site.</p> <p>2. Provide a minimum 10m separation between buildings perpendicular to each other within a site. This reduced building separation control only applies where the width of the facing facades do not exceed 20m.</p>	<p>There are no other buildings on this site other than the child care centre located adjacent to Waterloo Road. These two buildings are separated by a distance greater than 20 metres. The proposed building will have no adverse impacts on the child care centre.</p> <p>The proposed development is located at least 20 metres from the buildings on the adjoining sites.</p>
<p><b>Building Bulk</b></p> <p>1. All buildings must comply with Section 6.1.15 of the DCP (Environmental Performance).</p> <p>2. The preferred distance of any point on a habited floor from a source of natural daylight is 12m.</p> <p>3. Atria and courtyards are encouraged to promote access to natural light, pedestrian links and slender building forms.</p>	<p>The development will comply with section 6.1.15 of the DCP. The development has incorporated an atrium on the ground floor and the atrium void extends through the centre of the building with the two commercial wings located off the atrium. The provision of the atrium will ensure that each habitable floor is located at least 12 metres from natural daylight.</p>
<p><b>Site Coverage &amp; Deep Soil Areas</b></p> <p>1. A minimum 20% of a site must be provided as deep soil area.</p> <p>2. Deep soil must be at least 2m deep.</p>	<p>The site will provide approximately 20% as deep soil area. The development complies with the requirements of this clause.</p>
<p><b>Building Articulation</b></p> <p>1. Facades are to be composed with an appropriate scale, rhythm and proportion, which responds to the building use and the desired character by:</p> <p style="padding-left: 20px;">a) Facades are to be composed with an appropriate scale, rhythm and proportion, which respond to the building use and the desired character.</p> <p>2. Façade design is to reflect and respond to the orientation of the site using elements such as sun shading and environmental controls where appropriate.</p>	<p>The building design is contemporary and it has incorporated a base, middle and top. The scale, rhythm and proportions will contribute to the various uses within the building as well as contributing to a building that will add visual interest to the area.</p> <p>The provision of the two wings results in the visual prominence of the corners of the building as viewed from both Roads 11 and 16.</p> <p>A condition of consent will be imposed to</p>



**ITEM 12 (continued)**

<b>Control</b>	<b>Comments</b>
<p>3. Important corners are to be expressed by giving visual prominence to parts of the façade (ie a change in building articulation, material or colour, or roof expression).</p> <p>4. Building services such as roof plant and parking ventilation are to be coordinated and integrated with the overall façade and building design, and screened from view. Roof forms, building services and screening elements are to occur within the overall height control.</p>	<p>require the provision of services to be incorporated into the building. (See condition number 41).</p>
<p><b>Ceiling Heights</b></p> <p>1. Maximum ceiling heights are to be provided as follows: Minimum dimensions are measured from finished floor level to finished ceiling level:</p> <ul style="list-style-type: none"> <li>• Ground level – 3.6m</li> <li>• Upper levels – 2.7m</li> </ul>	<p>The upper floors of the development have a floor to ceiling height of 2.7 metres. Due to the slope of the site, there are two ground floors. The ground floor on the eastern end of the building proposes a café or other retail use. The floor to ceiling height of this part of the building is 4.7 metres. At the western end of the building, the use of the ground floor is commercial with a floor to ceiling height of 2.7m. This is not the main entry to the building and the use of this floor is unlikely to be anything other than commercial. No objection is raised to the floor to ceiling height.</p>
<p><b>Active Frontages</b></p> <p>1. Continuous ground level active uses must be provided where primary active frontages are shown in figure 4.5.94 of the DCP.</p> <p>2. Active uses are defined as one or a combination of the following:</p> <ul style="list-style-type: none"> <li>a. shop fronts.</li> <li>b. Retail/service facilities with a street entrance.</li> <li>c. Café or restaurants with street entrance.</li> <li>d. Community and civic uses with a street entrance.</li> <li>e. Recreation and leisure facilities with a street entrance.</li> <li>f. Commercial or residential</li> </ul>	<p>The site does not contain any primary or secondary active edges for the purposes of the DCP. For this reason, this clause is not applicable to the development. Regardless of this, the development has incorporated active uses on the ground level of the building which will front the intersection of Roads 3 and 11. These active uses consists of two retail shopfronts, 1 of which may possibly be a café and the commercial entry to the building.</p>



**ITEM 12 (continued)**

Control	Comments
lobbies with a street entrance.	
<b>Awnings &amp; Canopies</b> <ol style="list-style-type: none"> <li>1. Continuous awnings must be provided where primary active frontages are shown in Figure 4.5.94 of the DCP. Entry canopies and discontinuous awnings and entry canopies are permitted elsewhere in the corridor.</li> <li>2. Entry canopies and discontinuous awnings may be provided to building entries not located along active frontages.</li> <li>3. Entry canopies may be glazed or solid, and are to be coordinated with the overall façade design.</li> <li>4. Provide canopies with a soffit height of 3.6m – 4.2m.</li> </ol>	<p>The site is not required to provide an awning or canopy.</p> <p>The design of the development on the eastern elevation provides for a entry canopy. The upper part of the building will extend over the ground floor which will assist in defining the entry to the building. The development complies with the requirements of this clause.</p>
<b>Topography &amp; Building Interface</b> <ol style="list-style-type: none"> <li>1. Level changes across sites are to be resolved within the building footprint.</li> <li>2. Where buildings are setback from the street boundary, entries are to be provided at street level wherever possible.</li> <li>3. An accessible path of travel is to be provided from the street through the main entry door of all buildings.</li> <li>4. Where necessary, stairs and ramps are to be integrated with the landscape design of front setbacks.</li> </ol>	<p>The development has incorporated level changes within the footprint of the building. Due to the slope of the site the development has incorporated two pedestrian entries to the building as well as providing an accessible path of travel.</p>
<b>Advertising Signage</b> <ol style="list-style-type: none"> <li>1. Signage shall comply with Part 9.1 of the DCP.</li> </ol>	<p>Signage would be the subject of a future development application. A condition of consent has been included advising that no approval has been granted for any signage. (See condition number 5).</p>
<b>Environmental Performance</b> <ol style="list-style-type: none"> <li>1. Commercial development is required to achieve a 4 Star Green Star Certified Rating.</li> </ol>	<p>A condition of consent will be imposed to ensure that the development achieves a minimum 5 Star Green Star Design rating. (See condition 39).</p>
<b>Wind Impact</b> <ol style="list-style-type: none"> <li>1. Buildings shall not create uncomfortable or unsafe wind conditions in the public domain which exceeds the Acceptable Criteria for</li> </ol>	<p>The application has been accompanied by a wind environment statement. This report has concluded that the proposed development will not have any adverse effects to the wind conditions to the local surrounding streets and pedestrian</p>



**ITEM 12 (continued)**

<b>Control</b>	<b>Comments</b>
<p>Environmental Wind conditions.</p> <p>2. All applications for buildings over 5 storeys in height shall be accompanied with a wind environment statement.</p>	<p>footpaths and thoroughfares.</p>
<p><b>Noise &amp; Vibration</b></p> <p>1. An Acoustic Impact Assessment report prepared by a suitably qualified acoustic consultant is required to be submitted with all development applications for commercial, industrial, retail and community buildings, with the exception of applications minor building alterations.</p>	<p>The applicant has submitted an acoustic report in respect of the development. Appropriate conditions of consent will be imposed to ensure that the development complies with the recommendations in this report. (See condition number 42).</p>
<b>6.2 – Private &amp; Communal Open Space</b>	
<p><b>Landscaping &amp; Communal Courtyards</b></p> <p>1. A minimum 30% of the developable area of the site is to be provided as Landscaped Area.</p> <p>2. Solar access to communal open spaces is to be maximised. Communal courtyards must receive a minimum of 3 hours direct sunlight between 9am and 3pm on 21 June.</p>	<p>The site has provided approximately 20% of the site area as landscaped area. All of this space plus the terrace area located on the northern part of the building will provide communal areas. These areas will receive adequate daylight. As the area of this site is significantly limited due to the location of the roads, the extent of landscaping and communal open areas is considered satisfactory.</p>
<p><b>Pedestrian Through-Site Links</b></p> <p>1. Pedestrian through site links must be provided in accordance with the Pedestrian Access Corridors as shown in the Ryde LEP 2008 Amendment 1 – Access Plan or as required by Council.</p> <p>2. Provide access in accordance with Part 9.2 of DCP 2010 – Access for People with Disabilities.</p>	<p>The site is not required to provide any pedestrian through site links.</p> <p>The development has incorporated access in accordance with Part 9.2 of DCP 2010 – Access for People with Disabilities.</p>
<p><b>Planting on Structures</b></p> <p>1. Where planting is proposed on structures, adequate irrigation and drainage is to be provided.</p>	<p>Raised planter boxes are to be provided on the podium. The depth of these planter boxes will be adequate to allow planting.</p>
<b>6.3 – Services &amp; Site Management</b>	
<p><b>Floodplain Management</b></p> <p>1. All stormwater leaving the site, at any time, up to a 1-in-20 year stormwater event, is treated/filtered in accordance with ANZECC Guidelines</p>	<p>The development application has been assessed by Council's Engineers and has been found to be satisfactory.</p>



**ITEM 12 (continued)**

Control	Comments
<p>for Urban Stormwater management.</p> <p>2. Development must not increase peak stormwater flows for rainfall events of up to 1-in-2 year storm.</p>	
<p><b>Stormwater Drainage</b></p> <p>1. Development shall comply with the requirements outlined in the Stormwater Drainage Section of the DCP and is to provide a stormwater drainage system in accordance with the “major/minor” system concept set out in Australian Rainfall and Runoff.</p>	<p>The development application has been assessed by Council’s Engineers and has been found to be satisfactory.</p>
<p><b>Waste Management</b></p> <p>1. All applications for demolition and development must be accompanied by a Waste Management Plan that specifies the type of waste to be produced and the proposed arrangements for ongoing waste management, collection and disposal.</p>	<p>The DA was accompanied by a Waste Management Plan. Given that the development has been amended slightly since the original waste management plan was submitted, a condition will be imposed requiring a new waste management plan to be submitted with the Construction Certificate. (See condition number 48).</p>
<p><b>Soil Management</b></p> <p>1. Development is to be designed and constructed to integrate with the natural topography of the site to minimum the need for excessive sediment disturbance and prevent soil loss. Effective soil management and maintenance practices are to be followed to prevent soil loss.</p>	<p>The development has been conditioned to ensure that appropriate sediment and erosion control measures will be implemented. (See condition number 64).</p>
<p><b>Site Contamination</b></p> <p>1. Prior to the submission of subdivision and development applications, a suitably qualified environmental engineer on behalf of the applicant is to assess whether the subject land is contaminated.</p>	<p>The application has been accompanied by a contamination report. This report has concluded that the site does not appear to have been subject to any potentially contaminating activities (past or present) that may render the site unsuitable from a contamination perspective for the intended development. This report has been supported by Council’s Environmental Health Officer.</p>
<p><b>Site Facilities</b></p> <p>1. Vehicular access to loading facilities is to be provided from secondary and tertiary streets where possible.</p> <p>2. Rubbish and recycling areas must be provided in accordance with the DCP.</p>	<p>Vehicular access is proposed from proposed Road 3 and 16. As these are both tertiary streets, the development satisfies the DCP requirement.</p>



**ITEM 12 (continued)**

Control	Comments
<b>Vehicular Access</b> <ol style="list-style-type: none"> <li>1. Vehicle access is to be from secondary streets and not active frontages.</li> <li>2. Potential pedestrian/vehicle conflict is to be minimised.</li> </ol>	<p>The location of the vehicular access complies with the DCP requirements.</p>
<b>On-Site Parking</b> <ol style="list-style-type: none"> <li>1. Safe and secure 24 hour access to car parking areas is to be provided for building users.</li> <li>2. Provide safe and direct access from parking areas to building entry points.</li> <li>3. Basement parking areas should be located directly under building footprints to maximise opportunities for deep soil areas unless the structure can be designed to support mature plants and deep root plants.</li> <li>4. Basement parking should be contained wholly beneath ground level along public streets. Where this cannot be achieved due to topography, the parking level must protrude no more than 1.2m above ground level for no more than 60% of the building frontage along the public street.</li> <li>5. Ventilation grills or screening devices of carpark openings are to be integrated into the overall façade and landscape design of the development.</li> <li>6. Along all street frontages, above ground parking levels are to be laminated with another use for a minimum depth of 10m.</li> </ol>	<p>As previously advised the basement carpark does exceed 1.2 metres above natural ground level. For the car parking that exceeds natural ground level the design has incorporated a sandstone wall which in part will also be a slotted sandstone wall. This will ensure an acceptable design solution as viewed from the adjoining street.</p> <p>The development has incorporated safe and direct access from the basement car parking areas to the building entry points as well as providing 24 hour access to the car parking areas.</p>
<b>Work Place Travel Plan (WPTP)</b> <ol style="list-style-type: none"> <li>1. A WPTP is required for all developments that exceed 15,000sqm floor space or 300 employees.</li> <li>2. Large sites shall employ a suitably qualified workplace travel coordinator to implement the objectives and strategies of a WPTP.</li> </ol>	<p>At this stage, the number of employees is not known as there is no tenant for the building. Accordingly, a WPTP has not been submitted with the DA. The DA will include a condition on the consent to require the submission of the WPTP with the future tenant DA. (See condition number 10).</p>



**ITEM 12 (continued)****Part 7.2 – Waste Minimisation & Management**

A concept waste management plan has been submitted with the development application. Given that the precise nature of future tenants of the buildings is not known at this stage, much of the detail related to the waste management requirements cannot be determined. For this reason, it is necessary to impose conditions that require the submission of detail at a later date.

It is also expected that when tenants become known, separate development applications will be lodged for use/internal fit-out. It is at that time that much of the detail concerning waste management will be finalised. In the meantime, appropriate conditions of consent have been incorporated into the recommendation to ensure compliance with the general objectives of the DCP (see condition number 48).

**Part 8.1 – Construction Activities**

This part of the DCP replaces DCP 42 – Construction Activities. The main construction issues relevant to this proposal will be managing water quality by preventing soil erosion, the management of construction traffic and parking of builder's vehicles, construction noise, dust and the like.

These matters have been addressed by way of appropriate conditions of consent.

**Part 8.2 – Stormwater Management**

Council's Development Engineer has reviewed the proposed development and advised that the stormwater design complies with the requirements of Part 8.2 of DCP 2006.

**Part 9.2 – Access for People with Disabilities**

The requirements of Part 9.2 of the DCP apply to the proposed office development. The accessibility requirements of the proposal are that the ground floor and all subsequent floors must be accessible to all people with disabilities, via the provision of a continuous accessible path of travel to and through the entrance, with door and doorways of appropriate design to be used by people with a disability, and appropriate tactile ground surface indicators, furniture, and sanitary facilities.

The applicant has provided an Access Review completed by Morris-Goding Accessibility Consulting which demonstrates that the development complies with the access arrangements and provides appropriate recommendations. Due to the complexity of this proposal and the importance of ensuring an appropriate level of disabled access is provided, Council engaged the services of Elton Consulting to undertake a review of the development proposal. This review has identified the following issues:

*“The scale and lack of detail on the drawings are such that they do not conclusively demonstrate compliance with requirements for uninterrupted paths of travel or internal movement. More information is needed on building drawings to demonstrate*



**ITEM 12 (continued)**

*what the level changes are and whether level differences have been appropriately addressed to provide a continuous accessible path of travel, particularly with regard to:*

- *Building entry two to the west of the development.*
- *The southern retail tenancies and adjacent perimeter footpath leading to the building entry forecourt.*
- *Access and change in levels between interior commercial floor 1 and exterior terrace.*

*It may be sufficient to address identified issues by way of conditions of consent requiring compliance, as it appears that the site and the general building layout is capable of meeting the relevant standards.'*

The first two issues raised by Elton Consulting have been addressed in the applicant's Access report and it demonstrates that the development will comply with the appropriate access recommendations. The report fails to address the change in levels between the commercial floor 1 and the exterior terrace. It is intended to impose two conditions on the consent. The first condition will require the development to comply with the recommendations of the access report and the second condition will require the applicant to demonstrate that appropriate disabled access can be achieved to the terrace. This is likely to be achieved with the provision of a ramp. (See condition numbers 50 and 51).

**Any Planning Agreement that has been entered into under Section 93F, or any Draft Planning Agreement that a Developer has offered to enter into under Section 93F**

A Voluntary Planning Agreement (VPA) was submitted with the development application and has been notified together with the development application, in accordance with Council's Development Control Plan 2006.

The requirements for VPA's under the Environmental Planning and Assessment Act 1979 are detailed in Section 93F. A VPA is a voluntary agreement between a planning authority and developer where the developer makes an offer to Council to provide a public benefit which is used for or applied towards a public purpose. In this instance the VPA has made the following offer:

- A monetary contribution of approximately \$513,898.80.
- Construction and dedication of Road 3 between Wicks Road and the northern boundary of the land to a width of 20.4 metres.
- Construction and dedication of Road 11 from the junction of Road 3 to approximately the corner of the hockey fields.
- Construction and dedication of part of Road 16 from the corner of the junction of Road 3 to the corner of the hockey fields.
- Construction of a new roundabout at the intersection of Road 3 and Road 16 and the turning circle at the end of Road 16.



**ITEM 12 (continued)**

For the purposes of the Act, the above offer satisfies the definition of a public purpose. The VPA also identifies the obligations of the Developer and the Council should the planning agreement be entered into by the parties.

The merits of the planning agreement are as follows:

- (a) The benefits and their estimated value under the proposed planning agreement are outlined in Table 1 below:

<b>Agreement offer</b>	<b>Estimated offer value (excluding GST)</b>
Construction and dedication of a new Road 3 between Wicks Road and the northern boundary of the land to a width of 20.4 metres including reserve to align road at Wicks Road.	\$1,820,069
Construction and dedication of a new Road 11 from the junction of Road 3 to the corner of the hockey field.	\$400,696
Construction and dedication of part of Road 16 from the junction of Road 3 to the corner of the hockey field.	\$415,219
Construction of a new roundabout at the intersection of Road 3 and Road 16 and the turning circle at the end of Road 16.	These costs have been included in the above figures.
A monetary contribution towards essential capital Council works. Note: This amount would be subject to CPI increases in accordance with Council's Section 94 Contribution Plan.	\$528,331.15
<b>Total</b>	<b>\$3,164,315.00</b>

- (b) At the time that the VPA was considered by the VPA Panel in February 2011, the Section 94 that would be required to be paid was equivalent to \$3,164,315.00. The total value of the public benefits as identified above are equivalent to the contributions that would be applicable if S94 applied to the development. This will satisfy the community benefit test.
- (c) The creation of a roadway in accordance with the Macquarie Park Structure Plan to facilitate traffic flow and movement in the area.
- (d) Increase the pedestrian networks available in the area.

The merits of the VPA have been assessed by Council's internal VPA Panel. This was chaired by Council's Group Manager Environment and Planning and included the General Counsel, Access Manager, Traffic Engineer, Landscape City Architect and a Client Manager. The VPA Panel initially raised various issues with the VPA.



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The VPA was subsequently amended and has been considered satisfactory by the Chair of the VPA Panel as well as Council's General Counsel and Access Manager.

A condition of consent has been included to ensure that the VPA is registered on the title of the land by the applicant prior to the issue of a Construction Certificate for the development. (See condition number 2). Conditions have also been imposed to ensure the public domain work is completed and the monetary contribution paid prior to the issue of an Occupation Certificate. (See condition numbers 100 and 101).

If Council is of the view not to agree with the VPA, it would be necessary to include a condition on the consent requiring the payment of Section 94 Contributions which reflect the current quarter.

**9. Likely impacts of the Development****Vegetation**

The site includes approximately 360 trees. These trees are mostly located around the perimeter of the site and most appear to have been planted during the construction of the school. The development involves the removal of 193 trees from the site. Of these trees, 13 have been identified as dead and 20 as exempt species from Council's Tree Preservation Order. The remaining 160 trees are located within or have significant incursions with their critical root zone by the construction of the proposed development. The following table identifies the species of trees to be removed as well as the number of that species to be removed.

<b>Number of trees of a particular species to be removed</b>	<b>Species name</b>
1	Sydney green wattle; Scarlet bottlebrush; Port Jackson fig; Hoop pine; Fan palm; Jacaranda; Italian cypress; Red mahogany; Prickly leaved paperbark; Forest red gum; Peppercorn; Red ironbark; Lombardy poplar; London flame tree; False acacia; Illawarra flame tree; Bhutan cypress; Port Jackson cypress; Sydney peppermint; Pinus.
2	Spotted gum; River sheoak; Camellia; Cottonwood; Parramatta river gum; Ironbark; Chinese elm; Bottlebrush; Broad leaved paperbark; River peppermint; Magenta lillypilly.
3	Narrow leaved peppermint; Grey ironbark; Blackbutt; Willow bottlebrush.
4	Sydney blue gum; Turpentine.
5	Ash; Bracelet honeymyrtle.
6	Swamp mahogany.
7	Lemon scented gum; Wallangara white gum.
8	Grey gum.
9	Swamp mahogany.
10	Tallowwood.
17	Unidentified Eucalypt species.
24	Brushbox.



**ITEM 12 (continued)**

Of these trees only the Wallangarra White Gums and Narrow-leafed Black Peppermint trees are identified as either endangered or vulnerable under the NSW Threatened Species Conservation Act or the Commonwealth Environment Protection and Biodiversity Conservation Act. This matter has already been discussed earlier in the report where it has been concluded that although the trees will be removed it will be unlikely to be a threat to the species.

The site does not contain any Blum Gum High Forest despite having some species that belong to the endangered community as these trees are not remnant trees.

As a result of the development there will be some replacement tree planting. This will mostly be located in the public domain areas as well as the setbacks of the buildings. This planting will contribute to replacing some of the loss amenity as a result of the removal of the trees.

Council's Consultant Landscape Architect has raised no objections to the development.

**10. Suitability of the site for the development**

The site is not classified as a heritage item or subject to any natural constraints such as flooding or subsidence. In this regard, the proposal is considered to be suitable for the site in terms of the impact on both the existing natural and built environments.

**11. The Public Interest**

The proposal is considered to be in the public interest as it will provide for increased employment opportunities within the Macquarie Park employment area as well as being consistent with the objectives of the planning instruments.

**12. Consultation – Internal and External**Internal Referrals

**Development Engineer:** No objections have been raised to the proposed development subject to appropriate conditions of consent.

**Consultant Landscape Architect:** The removal and construction management of trees for Stage 1 is considered satisfactory, however further detailed assessment of trees in later stages will be required. In this regard the retention of Scribbly Gums and a naturalistic edge along the Wicks Road frontage should be considered and significant groupings of Tallow Woods and Turpentines in the south-eastern portion of the site should be considered for retention in any new proposal.

Landscaping plans for stage 1 appear to be satisfactory in terms of providing a unified concept that adequately addresses replacing the amenity of trees to be removed.



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**City Landscape Architect:** The landscape plans fully comply with the public domain manual for Macquarie Park. However, I would like a change in the street tree species along the road marked as "Assess No. 1" to *Glochidion ferdinandii* (Cheese Tree) and *Lophostemon confertus* (Brushbox). (This has been incorporated into condition number 66).

**Environmental Health Officer:** No objections have been raised to the proposed development subject to appropriate conditions of consent.

**Traffic Engineer:** Council's Traffic Engineer has requested that the applicant provide a turning path analysis along Road 3 and Road 11 to determine the medium/heavy rigid vehicle turning path and if there is any overlaps into the proposed cycle lane. If there is overlap, this would be required to be mitigated. Council's Traffic Engineer has advised that this matter can be addressed as a condition of consent. (See condition number 61).

**Stormwater and Park Assets:** No objections have been raised to the development subject to appropriate conditions of consent.

External Referrals

**NSW Police:** The following conditions are recommended for development approval:

- *Service roads from the public street to be clearly identified and signage.*
- *Lighting from the development area should meet the minimum Australian and New Zealand lighting Standards for public streets, carparks and pedestrian thoroughfares, AS1158. External security lighting should be considered and should not illuminate observers or vantage points. Lights should be projected outwards towards pathways, driveways and landscape areas surrounding the building, not towards windows and doors.*

(See condition numbers 53 and 54).

**13. Conclusion:**

This development application represents the first stage of the development of this site. It will allow for the construction and dedication of various roads that have been identified in the Macquarie Park planning controls as well as providing a contemporary building which will respond to the desired character of the locality.

The development results in a minor variation to the floor space ratio. This increase in floor space would not be noticeable as the building is will be compatible with the bulk and scale of surrounding buildings. The building fails to comply with the storeys control. This is due to the slope of the land as well as the definition of storey. It should be noted that the development only results in a minor variation to the height control in LEP 2010 which is a numeric control rather than a storeys control. The variation is acceptable given the minimal impacts as a result of the height and that the building is compatible with adjoining developments. The development also results in some minor variations to the setback requirements. These variations however will not result in any adverse impacts to the new public domain areas or adjoining developments.



**ITEM 12 (continued)**

Despite the minor variations, the development application and the VPA is recommended for approval.



**ITEM 12 (continued)****ATTACHMENT 1****ATTACHMENT 1 CONDITIONS OF CONSENT  
GENERAL**

1. **Approved Plans.** Development is to be carried out in accordance with the following plans and support information submitted to Council.

<b>Plan Number</b>	<b>Title</b>	<b>Drawn By</b>
DA02 Rev B	Site Plan	Fitzpatrick and Partners
DA03 Rev A	Concept Analysis	Fitzpatrick and Partners
DA04 Rev B	Lower Ground	Fitzpatrick and Partners
DA05 Rev B	Carpark 1	Fitzpatrick and Partners
DA06 Rev B	Carpark 2	Fitzpatrick and Partners
DA07 Rev B	Carpark 3	Fitzpatrick and Partners
DA08 Rev B	Level 1	Fitzpatrick and Partners
DA09 Rev B	Level 2 to 6	Fitzpatrick and Partners
DA10 Rev B	Roof	Fitzpatrick and Partners
DA12 Rev A	Section A/B	Fitzpatrick and Partners
DA13 Rev B	South/East Elevation	Fitzpatrick and Partners
DA14 Rev B	North/West Elevation	Fitzpatrick and Partners
DA15 Rev A	Detail South/West Elevation	Fitzpatrick and Partners
DA16 Rev B	Photomontage – East	Fitzpatrick and Partners
DA17 Rev B	Photomontage – South	Fitzpatrick and Partners
DA18 Rev B	Façade Details	Fitzpatrick and Partners
DA19 Rev B	Façade Section and Elevation	Fitzpatrick and Partners
21-16200-C101 Rev B	Cover Sheet	GHD
21-16200-C104 Rev C	Proposed Site Layout	GHD
21-16200-C111 Rev D	External Roads and Drainage Plan	GHD
21-16200-C113 Rev D	Internal Road and Drainage Plan	GHD
21-16200-C121 Rev C	Longitudinal and Typical Sections Road 3 and 11	GHD
21-16200-C122 Rev C	Longitudinal Section Road 11	GHD
21-16200-C123 Rev C	Longitudinal and Typical Sections Future Road 16 and Access 1 & 2	GHD
21-16200-C124 Rev D	Longitudinal and Typical Sections Wicks Road	GHD
21-16200-C131 Rev C	Bulk Earthworks Plan	GHD
21-16200-C132 Rev B	Building 1 – Bulk Earthworks Cross Sections - BLD1-A	GHD
21-16200-C133 Rev B	Building 1 – Bulk Earthworks Cross Sections - BLD1-B	GHD
21-16200-C141 Rev D	Stormwater Drainage Catchment Plan	GHD

Note: The access to Wicks Road is to be constructed in accordance with the plans prepared by GHD or any other condition which amends these plans rather than the Site Plan on DA02 Rev. B.



**ITEM 12 (continued)****ATTACHMENT 1**

2. **Voluntary Planning Agreement** - Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act 1979, the Voluntary Planning Agreement between the City of Ryde and Dexu Funds Management Limited that relates to the development application the subject of this consent, must be registered on the title of the property prior to the lodgement of any application for a certificate under section 109C of the Environmental Planning and Assessment Act 1979.
3. **Building Code of Australia.** All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.
4. **Construction Certificate Required.** Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Amendment Act, 1997 are to be complied with:
  - a) A **Construction Certificate** is to be obtained in accordance with Section 81A (2)(a) of the Act.
  - b) 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.
  - c) 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.
5. **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 new development application to Council.
6. **Telephone Installations.** Advice should be obtained from your local telecommunications office regarding any telephone lines required to be installed in concrete floors.
7. **Australia Post.** Approval for the site and size of proposed household mailboxes must be obtained from Australia Post.
8. **External Glazing.** All external glazing is to have a maximum reflectivity of 20%.
9. **Bicycle Parking.** A minimum of 63 bicycle parking rails or lockers designed and installed in accordance with Australian Standard AS2890.3, must be provided in a suitable location for the convenience of employees and visitors to the site. Suitable shower and change facilities for cyclists must also be provided within the development.
10. **Workplace Travel Plan.** A Workplace Travel Plan (WTP) must be submitted to Council for approval with any development application to commence a use within the building and prior to occupation of the building. The WTP must include, but will not be limited to strategies to encourage public transport use, the encouragement to stagger start and finish times for employees, car pooling and teleworking to minimise the impact on the road system.
11. **Costs.** All works / regulatory signposting associated with the proposed development shall be at no cost to the RTA.



**ITEM 12 (continued)****ATTACHMENT 1**

12. **Sight Distances.** The required sight lines to pedestrians or other vehicles in or around the carpark or entrances are not to be compromised by landscaping, signage, fencing or display material.
13. **Public Utilities.** 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.
14. **Roof Material.** The roof material is to be non-reflective.
15. **External Finishes and Colours.** The external finishes and colours of the development is to be in accordance with the Materials Sample Board dated June 10 prepared by Fitzpatrick + Partners.
16. **'Dial 1100 Before You Dig.'** 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](http://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.

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

Energy Australia  
Building No. 2 Bridge Road (near Sherbrook Road) Hornsby  
Telephone: 9477 8201  
Facsimile: 9477 8295  
Postal Address: GPO Box 4009, Sydney NSW 2001  
Email Address: [HornsbyDA@energy.com.au](mailto:HornsbyDA@energy.com.au)

This information is to be submitted to Council prior to the release of the Construction Certificate.

18. **Proposed food premises** - A separate development application must be submitted to Council to fitout and use any proposed food premises.
19. **Commercial tenancies** - A separate development application must be submitted to Council to fitout and use the proposed commercial tenancies.
20. **New underground petroleum storage systems** - Any new underground petroleum storage systems must be designed, constructed and installed in accordance with the requirements of the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008.



**ITEM 12 (continued)****ATTACHMENT 1**

21. **Bundling of above ground storage tanks** - Any above ground liquid storage tanks must be bundled to prevent the escape of spills or leaks.
22. **Construction of tank bunds** - All tank bunds must be designed and constructed in accordance with the following requirements:
- a) The bund must have a capacity of at least 110% of the largest tank plus the volume displaced by any additional tanks within the bundled area.
  - b) The walls and floor of the bund must be constructed of materials impervious to the contents of any container within the bund and be structurally adequate to contain any liquid spilled within the bund.
  - c) A collection sump must be provided in the floor of the bund to facilitate the removal of liquids and the floor of the bund graded to the sump.
  - d) Drain valves must not be provided in the bund.
  - e) Pipework from the enclosed tanks and any associated pumps must pass over the bund walls.
  - f) Hose couplings for tanks enclosed within the bund must be located so that leaks or spills are contained within the bund.
  - g) The bund must be roofed where practicable to prevent the entry of rainwater.
23. **Construction of garbage rooms** - All garbage rooms must be constructed in accordance with the following requirements:
- (a) The room must be of adequate dimensions to accommodate all waste containers, and any compaction equipment installed, and allow easy access to the containers and equipment for users and servicing purposes;
  - (b) The floor must be constructed of concrete finished to a smooth even surface, coved to a 25mm radius at the intersections with the walls and any exposed plinths, and graded to a floor waste connected to the sewerage system;
  - (c) The floor waste must be provided with a fixed screen in accordance with the requirements of Sydney Water Corporation;
  - (d) The walls must be constructed of brick, concrete blocks or similar solid material cement rendered to a smooth even surface and painted with a light coloured washable paint;
  - (e) The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with a light coloured washable paint;
  - (f) The doors must be of adequate dimensions to allow easy access for servicing purposes and must be finished on the internal face with a smooth-faced impervious material;
  - (g) Any fixed equipment must be located clear of the walls and supported on a concrete plinth at least 75mm high or non-corrosive metal legs at least 150mm high;
  - (h) The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation;
  - (i) The room must be provided with adequate artificial lighting; and



## ITEM 12 (continued)

## ATTACHMENT 1

- (j) A hose cock must be provided in or adjacent to the room to facilitate cleaning.
24. **Ventilation of rooms** - Every habitable room, sanitary compartment or other room occupied by a person for any purpose must be provided with adequate natural ventilation or an approved system of mechanical ventilation.
25. **Ventilation of carpark** - The basement carpark must be provided with an adequate system of permanent natural ventilation or an approved system of mechanical ventilation.
26. **Provision for installation of kitchen exhaust systems** - Adequate provision must be made for the installation of kitchen exhaust systems to any future food premises.
27. **Plumbing and drainage work** - All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation.
28. **Installation of grease trap** - A grease trap must be installed if required by Sydney Water Corporation. The grease trap must be located outside the building or in a specially constructed grease trap room and be readily accessible for servicing. Access through areas where exposed food is handled or stored or food contact equipment or packaging materials are handled or stored is not permitted.
29. **Noise and vibration from plant and equipment** - Unless otherwise provided in this consent, the operation of any plant or equipment installed on the premises must not cause:
- (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).
  - (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
  - (c) The transmission of vibration to any place of different occupancy.
30. **Design and Construction Standards.** All engineering plans and work shall be carried out in accordance with the requirements as outlined within Council's publication *Environmental Standards Development Criteria* and relevant Development Control Plans except as amended by other conditions.
31. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
32. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any



**ITEM 12 (continued)****ATTACHMENT 1**

disused gutter crossings will be carried out by Council following receipt of the relevant payment.

33. **Engineering Compliance Certificates.** To ensure all engineering works within the existing and proposed public road reserve to be dedicated including Council's drainage easement will be completed satisfactorily, Engineering Compliance Certificates must be obtained from Council for the following works at the specified stage where applicable and submitted to the Principal Certifying Authority & Council where Council is not the PCA prior to the issue of any Occupation Certificate. All Inspections fee are to be paid to Council in accordance with Management Plan prior to inspection being undertaken by Council.

- Prior to backfilling of Council's stormwater pipelines.
- Prior to backfilling of drainage connections to Council's stormwater drainage systems.
- After trimming and compaction of sub-grade.
- After placement and compaction of the applicable sub-base course
- Prior to casting of Council's pits and other drainage structures including kerb & gutter, access ways, aprons, pathways, vehicular crossings, dish crossings and pathway steps.
- After completion of all works with all disturbed areas satisfactorily restored

**PRIOR TO CONSTRUCTION CERTIFICATE**

34. **Security Deposit.** A security deposit (category: other buildings with delivery of bricks or concrete or machine excavation) is to be paid to Council (Public Works and Services Group) as well as the Infrastructure Restoration and Administration Fee. Please refer to Council's Management Plan for the current fee amounts.
35. **Enforcement Levy.** An Enforcement levy is to be paid to Council on lodgement of the Construction Certificate application in accordance with the requirements of Council's Management Plan (scheduled fees).
36. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be received prior to the issuing of the Construction Certificate.
37. **Street Alignment Fees.** The applicant is to apply to Council, pay the required fee, and have issued street alignment levels by Council prior to the issue of the Construction Certificate.
38. **Payment of Council's Fees and Charges.** Documentary evidence of compliance with Conditions 34, 35, 36, 37 and 62 to the satisfaction of Council or an accredited certifier is to be submitted to the Council prior to the issuing of the Construction Certificate.
39. **Energy Efficiency.** Prior to the issue of a Construction Certificate, plans and specifications must be provided to the Principal Certifying Authority (PCA) that detail how the development will achieve a minimum 5 Star Green Star Design rating. This rating is to be achieved with no changes to the external façade. If any changes to the external façade are required, it will be necessary to submit a Section 96 application for modification to Council. Certification that the building will achieve the prediction of this



**ITEM 12 (continued)****ATTACHMENT 1**

evaluation must also be submitted to the PCA by a suitably qualified consultant prior to the issue of a Construction Certificate.

Certification of the energy efficiency performance of the building must also be submitted to the PCA by a suitably qualified consultant prior to the Final Occupation Certificate being issued. This certification must demonstrate that the building achieves a minimum 5 Star Green Star Design rating.

40. **Section 73 Certificate.** 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](http://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 / release of the plan of subdivision.

41. **Location of Service Infrastructure and Facilities.** All service infrastructure/utilities including electrical substations, fire hydrants, gas meters and the like shall be located within the building envelope. Where this is not possible and subject to Council approval such infrastructure shall be located on the subject site and appropriately screened from view. Details of all service infrastructure/utilities are to be approved prior to issue of the Construction Certificate.
42. **Internal Noise Levels.** The internal noise levels within the building are to be in accordance with the requirements of AS/NZS 2107:2000 Acoustic – Recommended Design Sound Levels and Reverberation Times for Building Interiors. The development is to comply with all of the recommendations contained in the environmental noise impact assessment report by Wilkinson Murray Pty Ltd dated July 2008.
43. **Layout of the Carpark.** The layout of the car parking areas associated with the commercial building (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) are to be in accordance with AS2890.1-2004 and AS2890.2-2002 for heavy vehicle usage.
44. **Garbage room details** - Details of the proposed garbage room must be submitted to Council or an accredited private certifier for approval with the application for the Construction Certificate. Such details must include:
- (a) the specifications and layout of all proposed waste containers and equipment; and
  - (b) the access to the collection point.



**ITEM 12 (continued)****ATTACHMENT 1**

45. **Carpark ventilation details** - Details of the proposed method of ventilating the basement carpark must be submitted to Council or an accredited private certifier for approval with the application for the Construction Certificate.
46. **Mechanical ventilation details** - Details of all proposed mechanical ventilation 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;
  - (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;
  - (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*.
47. **Grease trap room details** - Details of any proposed grease trap room must be submitted to Council or an accredited private certifier for approval with the application for the Construction Certificate.
48. **Waste management plan** - Prior to work commencing a waste management plan must be submitted to and approved by Council. The plan must include the types and estimated volumes of waste materials that will be generated; the proposed method of reuse, recycling or disposal; and the name and address of the recycling facility or landfill site if the waste is to be recycled or disposed of off site. Reuse and recycling must be maximised.
49. **Disabled Access.** Access for disabled people shall be provided in the building in accordance with Part D.3 of the BCA and to the standards set out in AS 1428.1.
50. **Disabled Access:** Disabled access is to be provided to and within the development in accordance with the recommendations contained within the Access Review prepared by Morris-Goding Accessibility Consulting dated 22<sup>nd</sup> July 2008. Details indicating compliance with these recommendations are to be submitted to the Principal Certifying Authority (PCA) prior to the construction certificate being issued. Prior to occupation of the development, a suitably qualified access consultant is to certify that the development complies with Australian Standard 1428 and the Building Code of Australia.
51. **Disabled Access from Building to the Terrace.** Disabled access from the building to the commercial terrace area on level 1 is to be provided in accordance with Part 9.2 of DCP 2010. If the change of level between the interior of the building and the exterior terrace area exceeds 3mm, it will be necessary to provide a ramp or an alternative access means. Details are to be submitted on the Construction Certificate plans.
52. **Carpark Lighting.** All carpark lighting is to be designed, installed and maintained to Australian Standard AS1680.2.1 - 1993: Interior Lighting Circulation Spaces and Other General Areas.



**ITEM 12 (continued)****ATTACHMENT 1**

53. **Lighting of Pedestrian Pathways.** 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.
54. **Security Lighting.** 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. Passing motorists, police and pedestrians will be the likely observers.
55. **Surveillance Equipment.** Surveillance equipment is to be installed within and around the basement carpark areas and around the toilet / change room areas. The surveillance equipment is to utilise digital or video technology to record images from the cameras. Any surveillance system should be manufactured and installed by a qualified/reputable installer and regularly function tested. The surveillance equipment should meet the requirements of the Privacy legislation.
56. **Anti-Graffiti Coating.** 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.
57. **Fire Safety Schedule.** A “fire safety schedule” specifying the fire safety measures proposed or required to be implemented in the building premises as required by Clause 168 – Environmental Planning and Assessment Regulation 2000 are to be submitted and approved prior to the issue of the Construction Certificate.
58. **Controlled Access to the Carpark.** Access control is to be provided to the entry / exit points to the car parking to limit access to employees and visitors to the site only. Details are to be submitted on the Construction Certificate drawings to demonstrate how this is to be achieved.
59. **Road and Drainage Works.** To facilitate stormwater disposal and satisfactory access to and from the proposed development, the applicant shall, at no cost to Council fully construct the works within both the existing public road reserve and proposed public road to be dedicated to Council generally as shown on Plan No. 21-16200-C104 & C105 Rev C, C106 Rev B, C111 & C113 Rev D, C121, C122, C123 Rev C, C124 Rev D, C131 Rev C, C132 & 133 Rev B and C 141 Rev D Prepared by GHD . The road formation, design and construction shall be consistent with the Council’s Macquarie Park Master Corridor Development Control Plan and The Macquarie Park Technical Public Domain Manual.

Detailed engineering plans including specification prepared by a chartered and experienced civil engineer in accordance with Austroads and Ryde City Council Environmental Standards - Development Criteria Section 4 - Public Civil Works are to be submitted to, and approved by Ryde City Council prior to issue of Construction Certificate.

The design and plans submitted shall incorporate, but not be limited to the following:

- a. Kerb inlet pits (sag and on grade) shall be cast-in-situ and conforming to Council’s standard drainage pit details.



**ITEM 12 (continued)****ATTACHMENT 1**

- b. Drainage pipelines shall be minimum Pipe Class 3, Rubber Ring Jointed, Reinforced Concrete with Type HS2 bedding Support and conforming to AS 4058.
- c. Drainage pipelines shall be designed to have a minimum longitudinal gradient of 1.0%
- d. A drainage system and road layout plan including WSUD details shall be drawn at a scale of 1:100, 1:200 or 1:250 and shall show drainage pipe & pts locations, number and road centerline chainages, size of opening and any other information necessary for the design assessment and also construction of the drainage system.
- e. Drainage system and road longitudinal sections including all kerb returns shall be drawn at a scale of 1:100 or 1:200 horizontally and 1:10 or 1:20 vertically and shall show pipe size, class, materials and pipe support type in accordance with AS 3725 or AS 2032 as appropriate, pipeline road chainages, grades, hydraulic grade line including design flow rates and any other information necessary for the design assessment and construction of the drainage system .
- f. Special details including non-standard pits, pit benching and transitions shall be provided on the drawings at scales appropriate to the type and complexity of the detail being shown.
- g. The drainage system layout plan shall be documented on a detailed features survey base that describes all structures, utility services, vegetation and other relevant features.
- h. The western edge of proposed road 16 is to be flush with the boundary of the adjoining site.
- i. The plans for the left in-left out arrangement on Wicks Road is to be designed so that it will deter right turn in and out movements from road 3 as well as catering for the turn path of the largest expected vehicle to service the area.

Engineering plans assessment and inspections fee during construction including any other applicable fee in accordance with Council's Management Plan are payable at the time of approval being given by Council for the proposed road and drainage works

- 60. **Safe Sight Distance** . To improve sight distance for vehicles exiting the proposed driveway access located on the southern side of proposed building 1, the proposed driveway access shall be relocated to a point 35m west of the southeast corner of the proposed building 1. Revised architectural and engineering plans indicating compliance are to be submitted with the Construction certificate application
- 61. **Cycle Lanes**. Prior to the issue of any construction certificate, it will be necessary to provide to Council a turning path analysis along Road 3 and Road 11 which demonstrates that the medium / heavy rigid vehicle turning path does not overlap into the proposed on-road cycle lane.
- 62. **Maintenance Bond**. To ensure satisfactory performance of the completed road and drainage works to be dedicated to Council, a maintenance period of six (6) months shall apply to all these engineering works. The performance period shall commence from the date of acceptance of these works by Council.

The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification. A bond in the form of a cash deposit or Bank Guarantee of \$100,000 shall be lodged with City of Ryde prior to issue of the Construction Certificate to guarantee this requirement will be met.



**ITEM 12 (continued)****ATTACHMENT 1**

The bond will only be refunded when the works are determined to be satisfactory to Council after the expiry of the six (6) months maintenance period.

63. **Car Parking and Access.** To ensure safe and satisfactory access to and from the proposed development all internal driveways, vehicle turning areas, parking spaces dimensions, headroom clearance and gradients etc shall be designed and constructed in accordance with Australian Standards AS 2890.1-2004 & AS 2890.2-2002. The design shall ensure all vehicles using the site can enter and exit in a forward direction.

Detailed architectural plans together with engineering certification indicating compliance with this condition are to be submitted with the Construction Certificate application.

64. **Stormwater Drainage.** To facilitate safe stormwater disposal from the development site containing building 1, stormwater runoff from all impervious areas of the site shall be collected and piped by gravity flow to Council's underground drainage system via an On-site detention system in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management.

The on site detention shall be designed to restrict the post development flows from the site to that of predevelopment level for all storms and durations up to and inclusive of the 1 in 100 year ARI storm event. The predevelopment flows from the site is to be calculated assuming the site is 100% pervious.

Detailed engineering plans and computer modelling calculations prepared by a chartered civil engineer together with engineering certification demonstrating compliance with the above requirements are to be submitted with the Construction Certificate application

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

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

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



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66. **Landscaping Plan.** A detailed landscape plan for the site and the required area of the public domain is to be submitted and approved by Council prior to the construction of the development. The landscape plan is to include details of plant selections as well as details of all hard surfaces. The design and documentation of the landscape plan is to be completed by a qualified landscape architect. All of the landscaping is to be compatible with the Council's Macquarie Park Public Domain Technical Manual and Part 4.5 of Development Control Plan 2006. Any trees proposed adjacent to road 16 *Glochidion ferinandii* (Cheese Tree) and *Lophostemon confertus* (Brushbox).
67. **Macquarie Park Public Domain Technical Manual.** All hard landscaping, paving, soft landscaping including species selection, street furniture and the like shall be in accordance with the Macquarie Park Public Domain Technical Manual. Full details, including samples, schedules and plans are to be submitted and approved by Council prior to the construction of the development.

Where soft landscaping is proposed, including species selection, the applicant must ensure that species health is guaranteed for a minimum of 5 years to ensure the character and appearance of the streetscape is established and maintained. Any species that die within five years of planting must be replaced by the applicant with a specimen of a similar size and maturity.

**PRIOR TO COMMENCEMENT**

68. **Signage.** Signage is to be provided on the site as follows:
- a) During the demolition process notices lettered in accordance with AS1319 displaying the words “**DANGER - DEMOLITION IN PROGRESS**” or a similar message shall be fixed to the security fencing at appropriate places to warn the public.
  - b) During the entire construction phase signage shall be fixed on site identifying the PCA and principal contractor (the coordinator of the building work), and providing phone numbers.
69. **Dilapidation Report.** To determine the extent of restoration works that may required, the applicant shall submit to Council a pre and post construction dilapidation report on the status of existing public infrastructures in the vicinity of the proposed development. The report is to include photographic records, description and location of any existing observable defects of the following infrastructure and others where applicable
- a) Road pavement
  - b) Kerb and gutter
  - c) Constructed footpath.
  - d) Drainage pits.
  - e) Traffic signs
  - f) Any other relevant infrastructure.

The report shall be submitted to Ryde City Council development engineers, one prior to commencement of Construction and one prior to issue of Occupation Certificate. The report shall be used by Council as Roads Authority under the Roads Act to assess whether restoration works are required prior to the issue of the Occupation Certificate.



**ITEM 12 (continued)****ATTACHMENT 1**

All restoration works deemed necessary by Council's development engineer are to be completed to Council satisfaction prior to the issue of Occupation Certificate

70. **Traffic Management Plan.** To ensure safe construction traffic flow on site a Traffic Management Plan (TMP) and report shall be prepared by an RTA accredited person shall submitted to and approved by the Principal Certifying Authority.

The TMP shall be prepared in accordance with applicable section of AS 1742.3 1985 and the RTA's Manual – "Traffic Control at Work Sites". The TMP is to address but not be limited to the loss of on-street parking, construction vehicles travel routes, safety of the public, materials storage, handling and deliveries including construction traffic parking.

Additionally, all traffic controllers on site must be RTA accredited traffic controllers and a minimum of seven (7) days notice shall be given to residents should their access will be affected by proposed construction activities.

71. **Sediment and Erosion Control.** The applicant shall install appropriate sediment control devices in accordance with an approved plan prior to any earthworks being carried out on the site. These devices shall be maintained during the construction period and replaced where considered necessary. Suitable erosion control management procedures shall be practiced. This condition is imposed in order to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.
72. **Compliance Certificate.** A Compliance Certificate should be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and City of Ryde, Development Control Plan 2010: - Part 8.1; Construction Activities

**DURING DEMOLITION AND CONSTRUCTION**

73. **Demolition in Accordance with Australian Standard.** In relation to demolition, all work is to be carried out in accordance with the requirements of AS 2601 (*The Demolition of Structures*).
74. **Security Fencing.** 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.
75. **Demolition and Construction Hours.** All demolition and all construction and associated work is to be restricted to between the hours of 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No work is to be carried out on Sunday or public holidays.
76. **Control of Dust.** 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.



**ITEM 12 (continued)****ATTACHMENT 1**

77. **Work with Asbestos.** 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.
78. **Asbestos Wastes.** 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.
79. **Demolition and Building Wastes.** Adequate arrangements must be made for the storage and disposal of demolition and building waste generated on the premises. In this regard the demolishers and builders are encouraged to maximize the re-use and recycling of materials (e.g. Concrete, bricks, roof tiles, timber, doors, windows, fittings, etc.) by separating these materials from other wastes.
80. **Site Inspections.** The occasions on which building work must be inspected are:
- a) at the commencement of the building work, and
  - b) prior to covering any stormwater drainage connections, and
  - c) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

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

81. **Additional Inspections.** In addition to the abovestated 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.
82. **Surveyor Check of the Building.** 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:



**ITEM 12 (continued)****ATTACHMENT 1**

- a) 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 these are in accordance with the setbacks and levels on the approved drawings.
  - b) On completion of the proposed building showing the area of the land, completed building and the boundary setbacks and verifying that these are in accordance with the setbacks and levels on the approved drawings.
83. **Water into Council's Stormwater Drainage System.** Only unpolluted water is to be discharged to Council's stormwater drainage system.
84. **Noise Levels during Construction.** The L<sub>10</sub> 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.
85. **Excavated Material to be removed from the Site.** All excavated material must be removed from the site. No fill is to be placed above the natural ground level.
86. **Council Owned Land.** No spoil, stockpiles, building or demolition material is to be placed on any public road, footpath, park or Council owned land.
87. **Site Toilets.** Site toilets shall be provided in accordance with the WorkCover Code of Practice entitled "Amenities for Construction Work".
88. **Work in a Public Road.** At all times work is being undertaken within a public road adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in AS1742.3-1996 "Traffic Control Devices for Work on Roads".
89. **Disposal of Construction Wastes.** All construction waste is to be disposed of in accordance with the approved Waste Management Plan.
90. **Hoardings** - Where the site adjoins a public thoroughfare the common boundary must be fenced with a hoarding, unless the horizontal distance between the boundary and the structure being demolished is more than twice the height of the structure. All hoardings must be constructed of solid materials and be at least 1.8 metres high.
91. **Protection of underground services** - Before work commences the location of any underground services (eg. gas, water, electricity, telecommunications cables, etc.) must be identified and appropriate measures taken to protect those services.
92. **Mud and debris from vehicles** - All practicable measures must be taken to ensure that vehicles leaving the site do not deposit mud or debris on the road.
93. **Removal of mud and debris from roadway** - 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).
94. **Council Inspections.** To ensure engineering works will be completed satisfactorily, the construction of all external road and drainage works including proposed public road and drainage works to be dedicated to Council must be inspected by Council's



**ITEM 12 (continued)****ATTACHMENT 1**

engineer. A pre-construction meeting shall be arranged with Council's engineer, prior to commencement of works to ensure all the necessary inspections at specified constructions stages are conducted by Council throughout the construction process.

Engineering inspections are payable to Council in accordance with Council Management Plan.

**BEFORE ISSUE OF OCCUPATION CERTIFICATE**

95. **Occupation Certificate Required.** 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.
96. **Maintenance Policy to be Prepared.** To ensure that the site is appropriately maintained which will maximise community safety, a maintenance policy needs to be established. A graffiti management plans needs to be incorporated into the maintenance policy. This is to be provided prior to the issue of an Occupation Certificate.
97. **Fire Safety Certificates.** A Fire Safety Certificate/s from a suitably qualified person/s is to be submitted to Council or an accredited certifier (*and Council, if Council is not 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.
98. **Public Arts Plan Required.** A public art plan is to be submitted and approved by Council prior to the issue of any Occupation Certificate. The plan is to achieve the objectives and the strategy for public art as outlined in Clause 5.3.5 of Part 4.5 of DCP 2010. The public art is to be constructed prior to the issue of any Occupation Certificate.
99. **Certification of mechanical ventilation work -** A Mechanical Services Completion and Performance Certificate (Form M2) must be submitted to the Principal Certifying Authority on completion and commissioning of all mechanical ventilation work approved under this consent and before the issue of an Occupation Certificate.
100. **Inspection of fitout work by Council -** Council's Environmental Health Officer must inspect the completed fitout before the issue of an Occupation Certificate.  
  
Inspections may be arranged by calling Council's Customer Service Centre on Tel. 9952 8222 at least 48 hours before the inspection is required.
101. **Documentary Evidence of Payment Required by VPA.** Documentary evidence of payment of the monetary contribution as identified in the Voluntary Planning Agreement is to be provided to the PCA prior to the issue of any Occupation Certificate or any Subdivision Certificate.
102. **Public Domain Works to be Completed.** Prior to the issue of any Occupation Certificate, all of the public domain works roads and public domain works roundabout as defined in the Voluntary Planning Agreement is to be completed.



**ITEM 12 (continued)****ATTACHMENT 1**

103. **Compliance Certificates – Engineering.** To ensure the development will be completed in accordance with approved plans, current specifications and applicable Australian and Council's standards the Principal Certifying Authority shall ensure the following will be met.
- Compliance Certificate should be obtained from an accredited certifier confirming that the constructed internal carpark and associated drainage complies with AS 2890.1-2004 & AS 2890.2-2002, the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria - 1999*.
  - Compliance Certificate should be obtained from an accredited certifier confirming that the site drainage system including rainwater collection/reuse and water quality control device servicing the development comply with the construction plan requirements and City of Ryde, Development Control Plan 2006: - Part 8.2; Stormwater Management
  - Compliance Certificate should be obtained to confirm that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
  - Compliance Certificate shall be obtained from Council confirming that all vehicular footway and gutter (layback) crossings are constructed in accordance with the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria - 1999*.
  - Compliance Certificate shall be obtained from Council confirming that all works within the existing and proposed public road reserve to be dedicated including all restoration works have been completed to Council's satisfaction
  - Compliance Certificate shall be obtained from Council confirming that all redundant vehicular crossings have been removed and replaced with concrete footpath and kerb and gutter with disturbed areas grassed where required to Council's satisfaction
- Please be advised that all Compliance Certificates issued by Council is subject to the payment of an inspection fee in accordance with Council's Management Plan
104. **Dedication of Land to Council for Public Road 7 Drainage.** The dedication of land to Council for public road as indicated on plan No. 21-16200-C111 & C113 Revision D dated 19/1/11 prepared by GHD including the creation of all necessary drainage easements in favour of council over all drainage pipelines proposed to be dedicated to Council which are located on private land.
105. **Work-as-Executed Plan for Site Drainage.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and date, the site stormwater drainage, including constructed invert and finished ground and floor levels is to be submitted to the Principal Certifying Authority (PCA) and to Ryde City Council. If there are proposed interallotment drainage easements on the subject property, a Certificate from a Registered Surveyor is to be submitted to the PCA certifying that the subject drainage line/s and pits servicing those lines lie wholly within the proposed easements.



**ITEM 12 (continued)****ATTACHMENT 1**

106. **Work-as-Executed Plan for Public Road and Drainage Works.** To ensure works completed within both the existing and proposed the public road reserve to be dedicated to Council have been constructed in accordance with approved plans a Work-as-Executed Plan for these works is to be submitted to Council for approval. The submission shall also include certification from a registered surveyor confirming that all structures are located within their legal boundaries and all pipelines are centrally located within the applicable drainage easements created.
107. **Close Circuit Television (CCTV) Report.** Submission to Council an electronic closed circuit television report (CCTV report) prepared by an accredited operator that assesses the condition of the newly constructed drainage network on public roads, and any defects in the drainage network identified in the report shall be rectified to Council's satisfaction. An additional report is to be submitted to Council at the expiry of the 6 months maintenance period.
108. **Positive Covenant, OSD.** The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to maintain the stormwater detention system on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88E instrument for Maintenance of Stormwater Detention Systems and to the satisfaction of Council.

**BEFORE OCCUPATION OR SITE OPERATIONS COMMENCE**

109. **Registration of premises** - The operator of the food business (childcare centre) must register the premises with Council's Environmental Health Unit before trading commences.
- Registration forms may be obtained from Council's Customer Service Centre on Tel. 9952 8222.
110. **Notification of business details** - The operator of the food business (childcare centre) must notify their business details to the NSW Food Authority before trading commences. Written notifications may be lodged with Council, together with the approved fee. Alternatively, notifications may be lodged free of charge via the Internet at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au).
- Notification forms may be obtained from Council's Customer Service Centre on Tel. 9952 8222.

**OPERATIONAL REQUIREMENTS**

111. **Loading and Unloading.** All loading and unloading in relation to the use of the premises taking place wholly within the property.
112. **Use of Loading Areas.** Loading areas are to be used for the loading and unloading of goods, materials etc only and no other purpose.
113. **Activity not to Affect the Amenity of the Locality.** All activity being conducted so that it causes no interference to the existing and future amenity of the adjoining occupants and the neighbourhood in general.



**ITEM 12 (continued)****ATTACHMENT 1**

114. **Lighting of the Premises.** 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 AS4282-1997: Control of the Obtrusive Effects of Outdoor lighting.
115. **Storage and disposal of wastes** - All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.
116. **Air pollution** - The use of the premises, including any plant or equipment installed on the premises, must not cause the emission of smoke, soot, dust, solid particles, gases, fumes, vapours, mists, odours or other air impurities that are a nuisance or danger to health.
117. **Offensive noise** - The use of the premises must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.
118. **Clean water only to stormwater system** - Only clean unpolluted water is permitted to enter Council's stormwater drainage system.
119. **Operation and maintenance of plant and equipment** - The occupier must ensure that all plant and equipment installed on the premises is:
- (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.
120. **Duty to notify pollution incidents** - Pollution incidents causing or threatening harm to the environment must be reported to Council as soon as practicable on Tel. 9952 8222.
121. **Health inspections** - Council officers may carry out periodic inspections of the food business (childcare centre) to ensure compliance with relevant environmental health standards and Council may charge an approved fee for this service in accordance with Section 608 of the *Local Government Act 1993*.

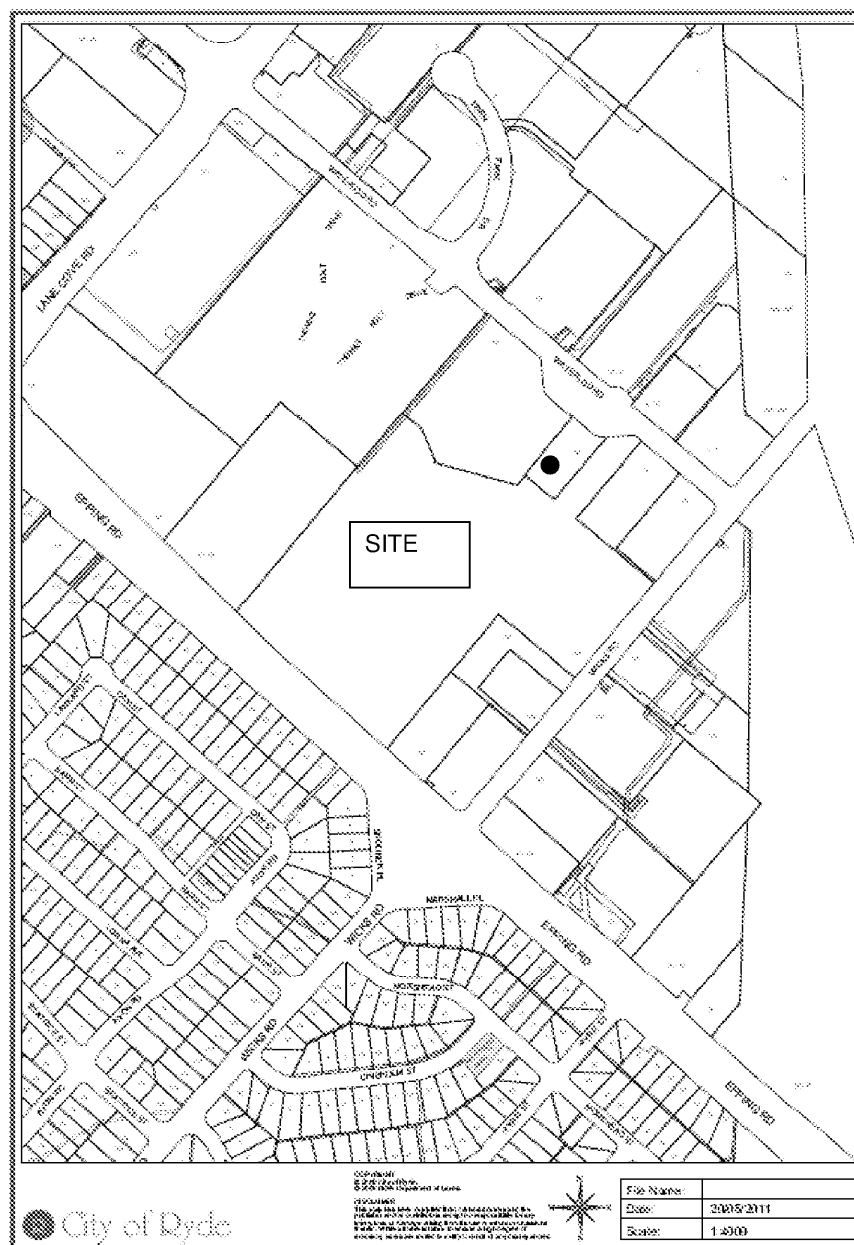
The approved fees are contained in Council's Management Plan and may be viewed or downloaded at [www.ryde.nsw.gov.au](http://www.ryde.nsw.gov.au).



**ITEM 12 (continued)**

## ATTACHMENT 2

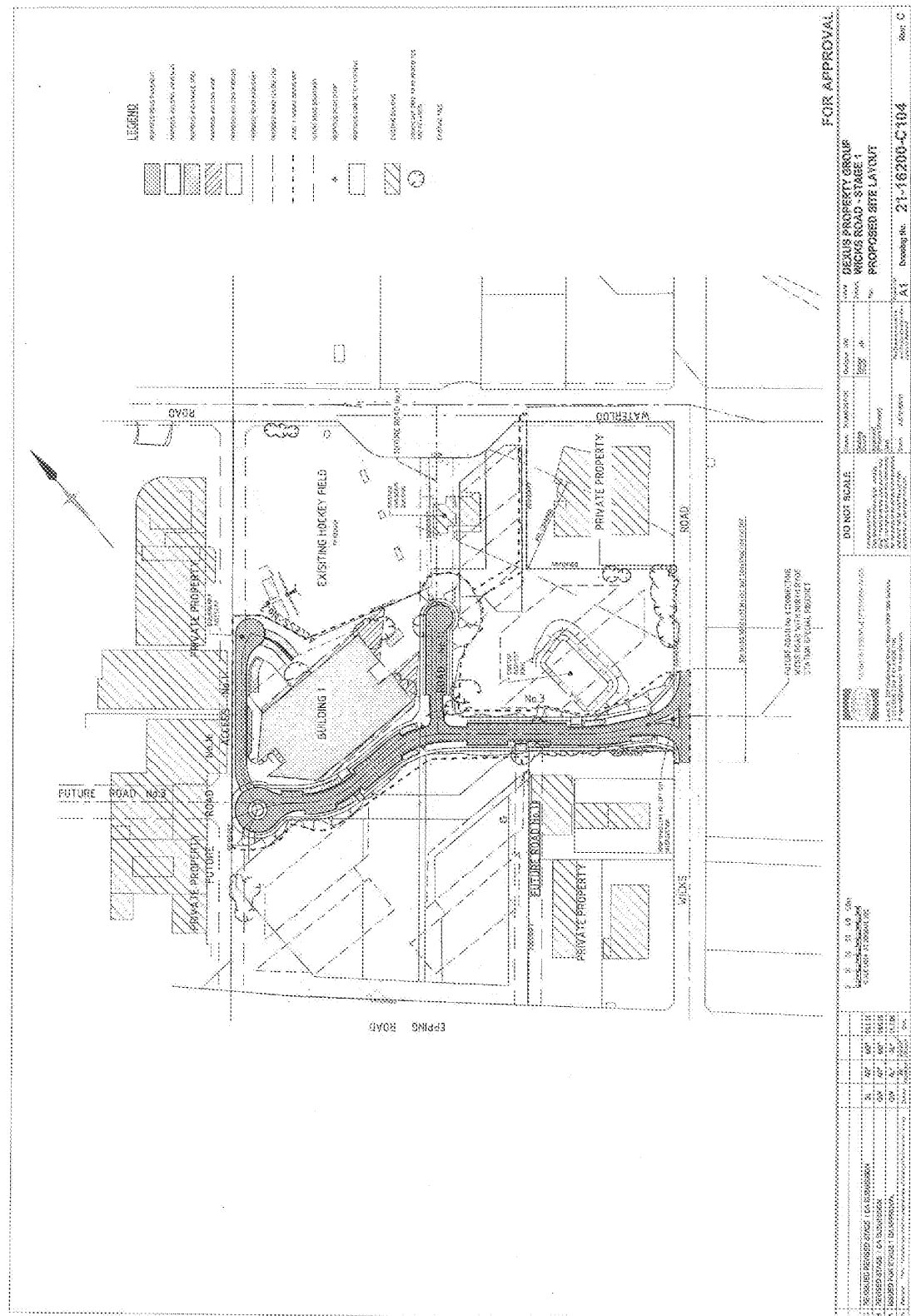
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## ITEM 12 (continued)

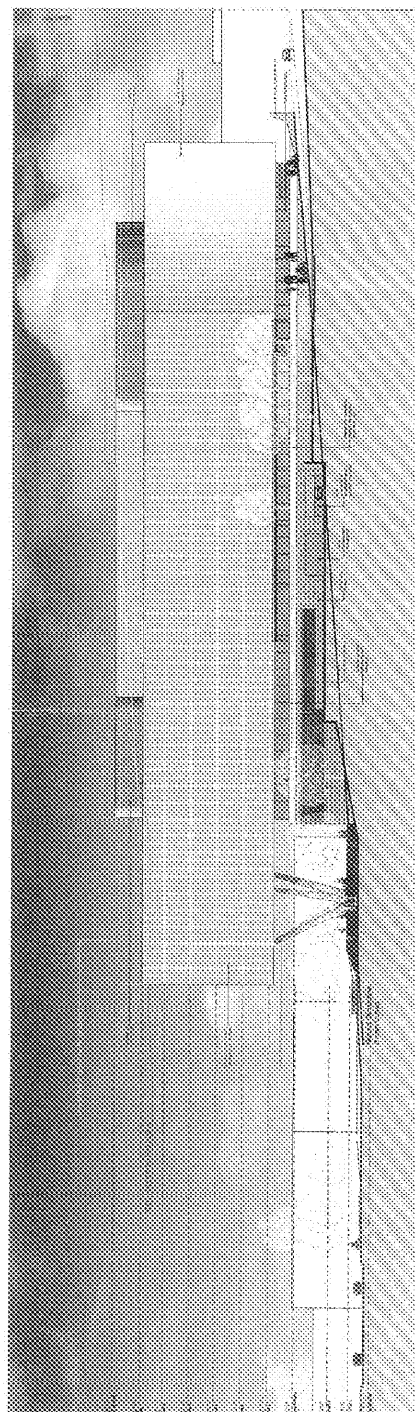
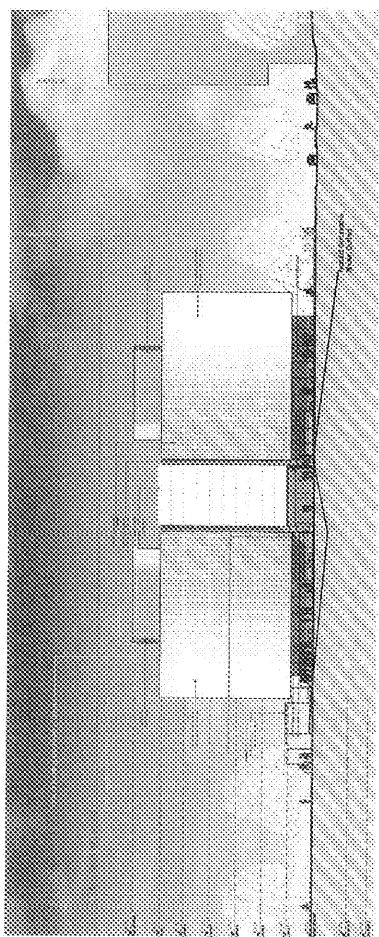
## ATTACHMENT 3





ITEM 12 (continued)

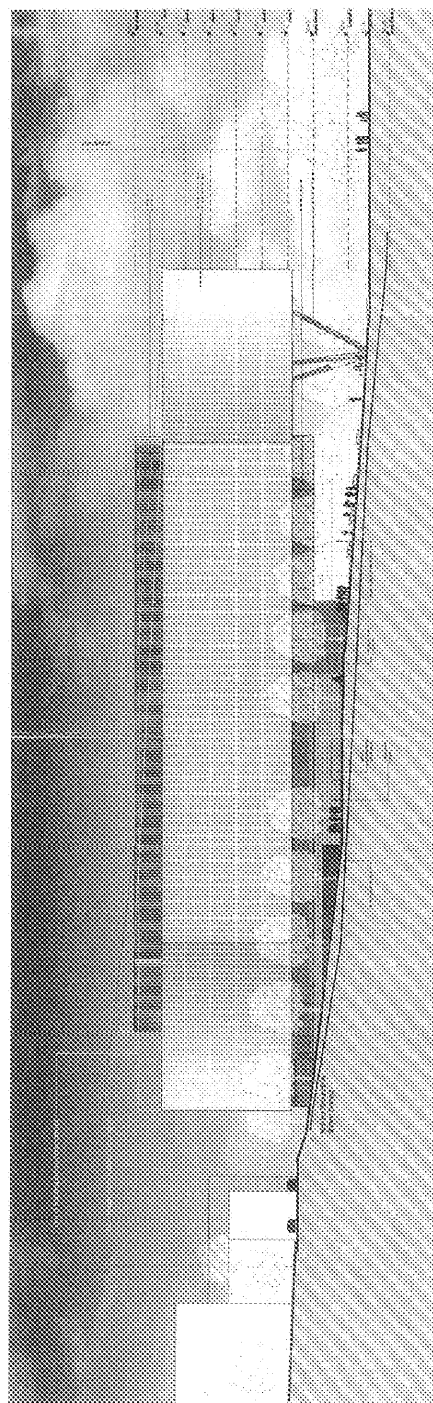
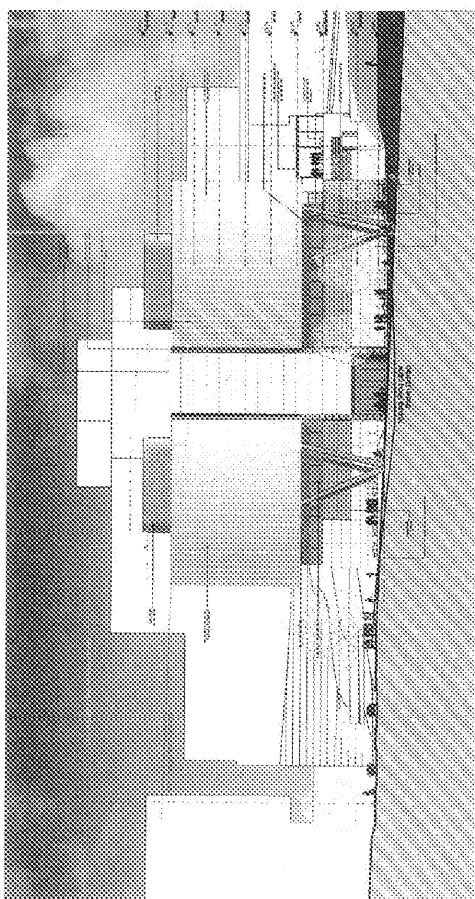
ATTACHMENT 3





ITEM 12 (continued)

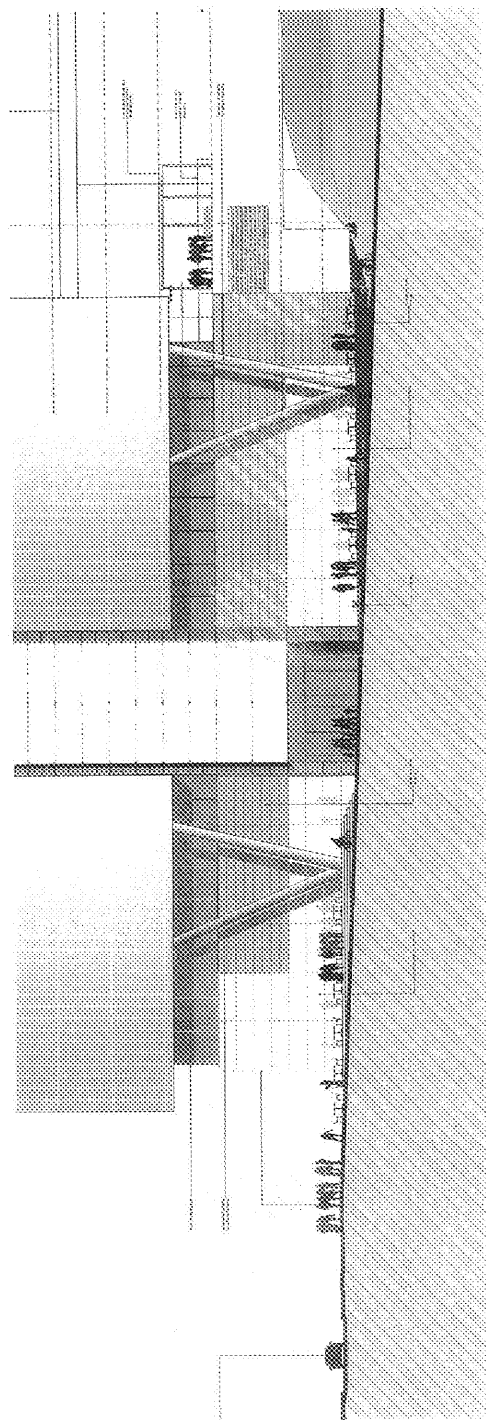
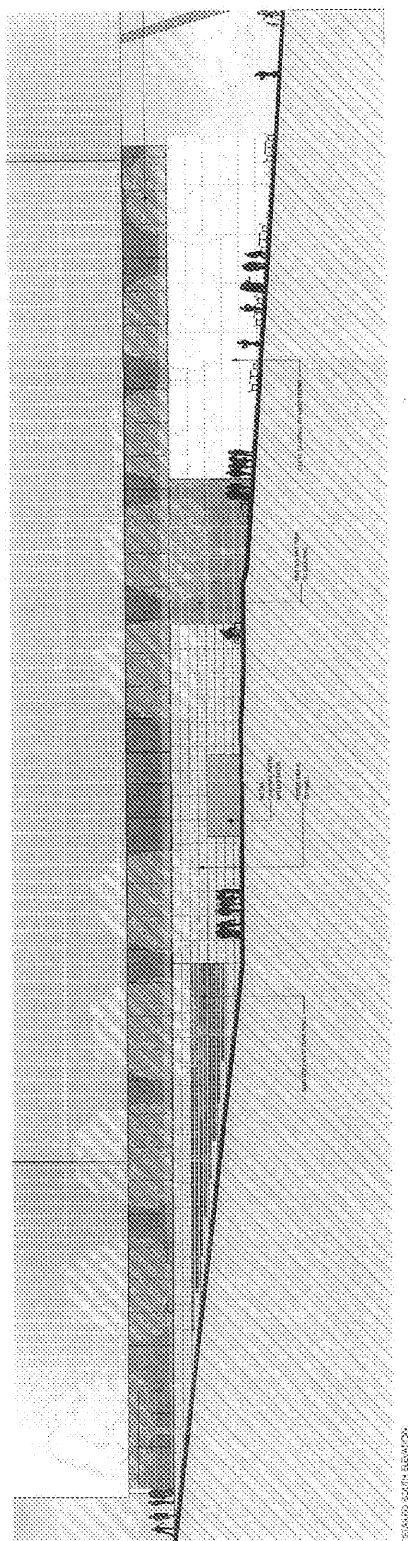
ATTACHMENT 3





ITEM 12 (continued)

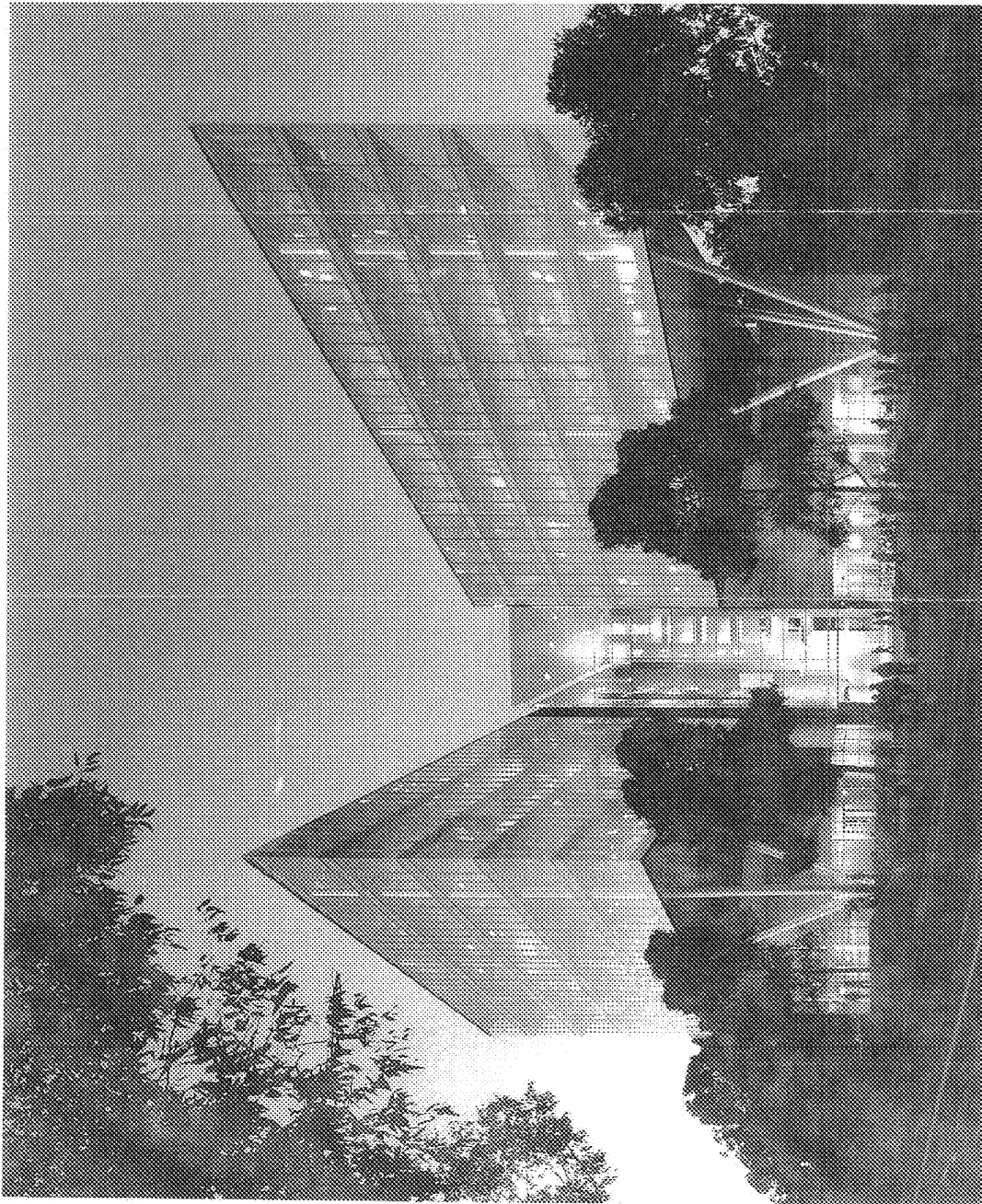
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**ITEM 12 (continued)**

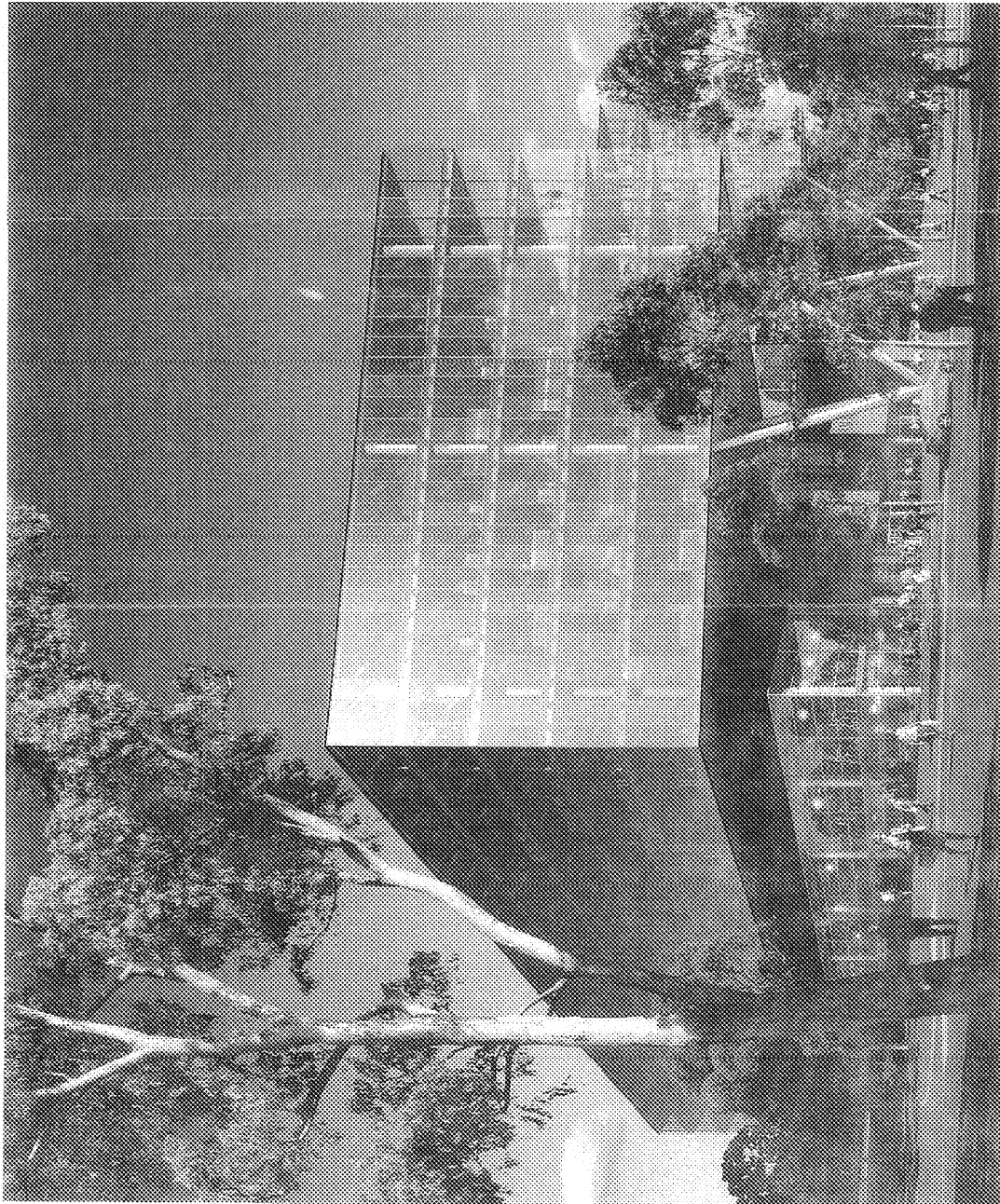
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**ITEM 12 (continued)**

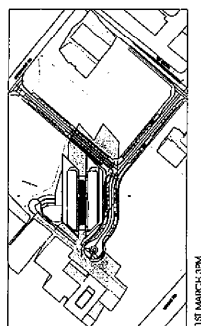
**ATTACHMENT 3**



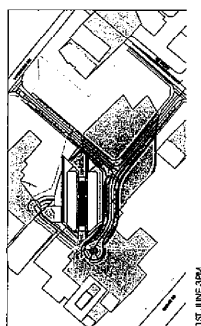


ITEM 12 (continued)

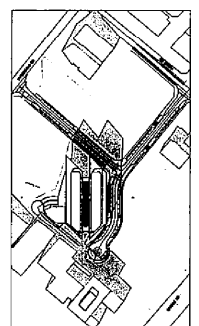
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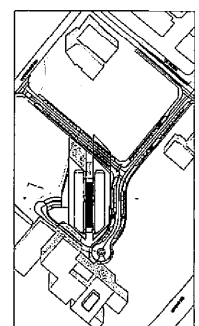
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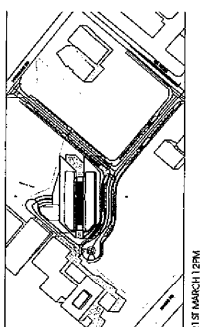
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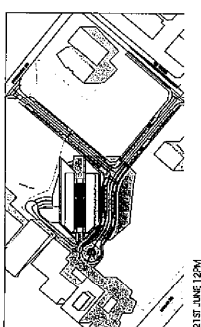
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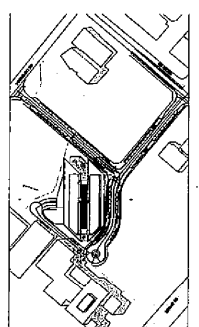
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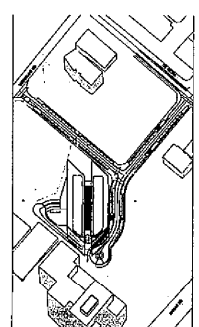
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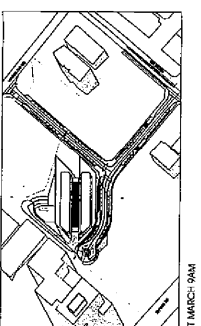
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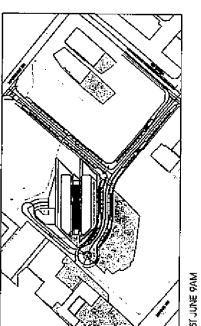
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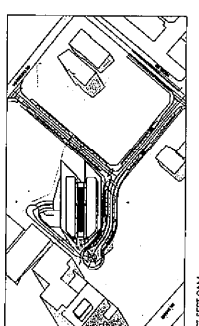
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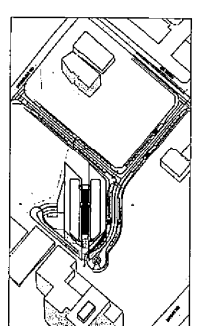
21ST MARCH 9AM



21ST JUNE 9AM



21ST SEP 9AM



21ST DEC 9AM



ITEM 12 (continued)

ATTACHMENT 4



HENRY DAVIS YORK  
LAWYERS

Voluntary Planning Agreement

Ryde City Council  
ABN 81 621 292 610

DEXUS Funds Management Limited as trustee for the Wicks Road Trust  
and DEXUS Wholesale Property Limited as responsible entity for the  
DEXUS Wholesale Property Fund  
ABN 24 060 920 783

HENRY DAVIS YORK 44 MARTIN PLACE SYDNEY NSW 2000 AUSTRALIA  
T +61 2 9947 6000 F +61 2 9947 6999 DX 173 SYDNEY HDY@HDY.COM.AU WWW.HDY.COM.AU



## ITEM 12 (continued)

## ATTACHMENT 4

Voluntary Planning Agreement

HENRY DAVIS YORK

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BACKGROUND	2	
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8 Implementation Deed	6	Deleted: 7
9 The Public Domain Works	6	Deleted: 7
10 Special Provisions in relation to Road 16	7	Deleted: 8
11 Application of s94 and s94A of the Act to the Development	7	Deleted: 8
12 Section 94 Sum	8	Deleted: 9
13 Dispute Resolution	8	Deleted: 9
14 Guarantees	10	Deleted: 11
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16 Termination	12	Deleted: 13
17 Notices	13	Deleted: 14
18 Approvals and Consent	14	Deleted: 15
19 Entire Agreement	14	Deleted: 15
20 Further Acts	14	Deleted: 15
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## ITEM 12 (continued)

## ATTACHMENT 4

Voluntary Planning Agreement

HENRY DAVIS YORK

22	Joint and Individual Liability and Benefits	15	Deleted:
23	No Fetter	15	Deleted:
24	Representations and Warranties	15	Deleted:
25	Severability	15	Deleted:
26	Variation	15	Deleted:
27	Waiver	15	Deleted:
28	GST	16	Deleted:
29	Force Majeure	16	Deleted:
30	Compliance with Laws	17	Deleted:
31	Confidentiality	17	Deleted:
EXECUTION		18	Deleted:
Schedule 1: Reference Schedule		19	Deleted:
Schedule 2: The Land		20	Deleted:
Schedule 3: Contributions		21	Deleted:
Schedule 4: Implementation Deed		22	Deleted:
Schedule 5: Dedicated Land		23	Deleted:



## ITEM 12 (continued)

## ATTACHMENT 4

Voluntary Planning Agreement

HENRY DAVIS YORK

## KEY DETAILS

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1	Date	See Execution page
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2	Parties
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	<b>Council</b>
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	Name
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	Ryde City Council ABN 81 621 292 610
--	---

	Address
--	---------

	1 Devlin Street, Ryde, NSW
--	----------------------------

	<b>Developer</b>
--	------------------

	Name
--	------

	DEXUS Funds Management Limited as trustee for the Wicks Road Trust and DEXUS Wholesale Property Limited as responsible entity for the DEXUS Wholesale Property Fund ABN 24 060 920 783
--	---

	Address
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	Level 9, 343 George Street, Sydney, NSW
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## ITEM 12 (continued)

## ATTACHMENT 4

Voluntary Planning Agreement

HENRY DAVIS YORK

## BACKGROUND

- A. On or about 27 November 2007, the Council gave consent for the Preliminary Development.
- B. In August 2008 the Developer lodged the Development Application with the Council seeking Development Consent to carry out the Development on the Land.
- C. Further and separate development applications for the construction of other development on or adjacent to the Land may be made in the future by the Developer.
- D. The Developer has made an offer to the Council to enter into this Agreement under which it proposes to make various Contributions to the Council.

## OPERATIVE PROVISIONS

**1 Definitions and interpretation****1.1** In this Agreement the following definitions apply:

- (a) **Act** means the *Environmental Planning and Assessment Act 1979* (NSW).
- (b) **Authority** means any Commonwealth, state or local government department, body or instrumentality or any other authority or statutory body which has jurisdiction over the Development (including Council) or with whose system the Development is or will be connected.
- (c) **Business Day** means any day which is not a Saturday, Sunday, State wide public holiday in New South Wales or 27, 28, 29, 30 and 31 December.
- (d) **Claim** includes any claim for an increase in Contributions, payment of money (including damages)
  - (i) under, arising out of, or in any way in connection with this Agreement or the Development, including any direction of the Project Certifier;
  - (ii) arising out of or in connection with the Development or either party's conduct; or
  - (iii) otherwise at law or in equity including:
    - (A) by statute
    - (B) in tort for negligence or otherwise, including negligent misrepresentation; or



## ITEM 12 (continued)

## ATTACHMENT 4

Voluntary Planning Agreement

HENRY DAVIS YORK

- (C) for restitution.
- (e) **Commencement Date** means the day that Development Consent is granted for the Development Application.
- (f) **Construction Certificate** means a construction certificate issued pursuant to the Act in respect of the Development or parts of the Development.
- (g) **Contribution Item** means any single item of the Contributions listed in Schedule 3.
- (h) **Contributions** means all of:
- (i) the payment of the Section 94 Sum to the Council by the Developer;
  - (ii) the dedication of the Dedicated Land by the Developer to the Council; and
  - (iii) the completion of the Public Domain Works by the Developer.
- (i) **Dedicated Land** means the land identified as the Dedicated Land in the plan in Schedule 5.
- (j) **Defects Liability Period** has the same meaning as in the Implementation Deed.
- (k) **Development** means the development described at Item 1 of Schedule 1.
- (l) **Development Application** means the Developer's development application assigned by the Council reference DA2008/53, including subsequent applications (including applications for Section 96 Modifications), in respect of the Development.
- (m) **Development Consent** has the same meaning as in the Act.
- (n) **Guarantees** means insurance bonds from QBE or a similar AA rated insurer or an unconditional bank guarantees issued by an institution or bank registered under the Commonwealth Banking Act 1913 and approved by Council (or other form of security acceptable to the Council acting reasonably) which are to be procured by the Developer in favour of the Council as security for the obligations of the Developer under this Agreement, in the amounts set out in Clause 14.
- (o) **Implementation Deed** means the separate agreement between the parties, on the terms of the Implementation Deed in Schedule 4, to be executed in accordance with clause 8.2 of this Agreement pursuant to which that part of the Contributions relating to the Public Domain Works will be performed.
- (p) **Land** means the land on which the Development will be undertaken as shown in the plan in Schedule 2.
- (q) **Law** means any applicable law including any present or future law of the



## ITEM 12 (continued)

## ATTACHMENT 4

Voluntary Planning Agreement

HENRY DAVIS YORK

Commonwealth of Australia or any State or Territory including statute, common law and equity.

- (r) **Occupation Certificate** has the same meaning as in the Act.
- (s) **Party or Parties** means a party or parties to this Agreement (as the context requires), and includes their successors and assigns.
- (t) **Practical Completion** has the same meaning as in the Implementation Deed.
- (u) **Preliminary Development** means the development described at Item 2 of Schedule 1.
- (v) **Project Certifier** has the same meaning as in the Implementation Deed.
- (w) **Public Domain Works** means:
  - (i) the Public Domain Works Roads, and
  - (ii) the Public Domain Works Roundabout.
- (x) **Public Domain Works Roads** means the works described as such in Schedule 3.
- (y) **Public Domain Works Roundabout** means the works described as such in Schedule 3.
- (z) **Road 16** means the area of land so identified on the plan in Schedule 5 and as shown on the plan showing Public Domain Works Roads referred to in Schedule 3.
- (aa) **Regulations** mean the *Environmental Planning and Assessment Regulation 2000*.
- (bb) **Section 94 Sum** means the amount that would, but for this Agreement, be otherwise payable by the Developer to the Council under section 94 of the Act less the estimated cost of the Public Domain Works and is as set out clause 12.3.
- (cc) **Section 96 Modification** means any modification pursuant to section 96 of the Act to a Development Consent granted in respect of the Development.
- (dd) **Stage Inspection** means an inspection undertaken by the Project Certifier during construction of the Public Domain Works.

1.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement.



## ITEM 12 (continued)

## ATTACHMENT 4

Voluntary Planning Agreement

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- (b) 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.
- (c) A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
- (d) 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.
- (e) A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (f) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
- (g) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (h) 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.
- (i) 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.
- (j) References to the word 'include' or 'including' are to be construed without limitation.
- (k) A reference to this Agreement includes the agreement recorded in this Agreement.
- (l) 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.
- (m) 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.



**ITEM 12 (continued)****ATTACHMENT 4**

Voluntary Planning Agreement

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**3 Application of this Agreement**

- 3.1 This Agreement is made in respect of the Development on the Land and applies to the Land in that regard.

**4 Commencement**

- 4.1 This Agreement is effective on and from the Commencement Date, notwithstanding any delay in execution of this Agreement.
- 4.2 The Parties must execute this Agreement as soon as possible after the Commencement Date.

**5 Development Application**

- 5.1 The Parties acknowledge and agree that the Developer has lodged the Development Application with the Council seeking Development Consent for:
- (a) construction of a building with a gross floor area of 27,340m<sup>2</sup>;
  - (b) a building floor plate in the order of approximately 2,000 m<sup>2</sup>;
  - (c) construction of 324 car-parking spaces;
  - (d) constructions of roads; and
  - (e) a building height of 6 storeys (measured from the highest point on the Land).

**6 Development Contributions to be made under this Agreement**

- 6.1 The Developer must provide the Contributions in accordance with this Agreement and the Implementation Deed.
- 6.2 The parties may vary the timing for the provision of the Contributions but only in writing.



**ITEM 12 (continued)****ATTACHMENT 4**

Voluntary Planning Agreement

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**7 Provision of the Contributions**

- 7.1 The Developer must dedicate, by way of transfer and at no cost to Council, the Dedicated Land within three months of the Public Domain Works reaching Practical Completion.
- 7.2 The Developer must commence the construction of the Public Domain Works Roads no later than 28 Business Days after receiving a Construction Certificate for the Public Domain Works Roads.
- 7.3 The Developer must commence the construction of the Public Domain Works Roundabout no later than 28 Business Days after receiving a Construction Certificate for the Public Domain Works Roundabout.
- 7.4 The Developer must complete the Public Domain Works as soon as reasonably practical and no later than 5 years from the date of the issue of the Construction Certificate
- 7.5 The Developer must pay the Section 94 Sum to Council in accordance with Clause 12.
- 7.6 The Parties acknowledge and agree that other than the Contributions, no further contributions or levies under sections 94 or 94A of the Act will be payable by or on behalf of the Developer arising out of or in connection with the Development or the Land and to the extent permitted by law, the Developer will not be liable upon any Claim by any Authority (including the Council) for any contribution or levy under sections 94 or 94A of the Act (other than the Contributions) arising out of or in any way in connection with the Development or the Land.

**8 Implementation Deed**

- 8.1 The Developer must design, construct and commission the Public Domain Works in accordance with the Implementation Deed.
- 8.2 The parties must execute this Agreement and the Implementation Deed (in the form set out in Schedule 4 to this Agreement) as soon as reasonably practical after the Commencement Date. For the avoidance of doubt, the parties acknowledge that this Agreement and the Implementation Deed take effect from the Commencement Date notwithstanding any delay in execution.

**9 The Public Domain Works**

- 9.1 The Developer must pay all development costs associated with the Public Domain Works.
- 9.2 The Council acknowledges and agrees that from the date of transfer of the Dedicated Land to the Council, all risk in the Public Domain Works will lie with Council and



## ITEM 12 (continued)

## ATTACHMENT 4

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Council will be fully responsible for the care, maintenance and insurance of the Public Domain Works.

**10 Special Provisions in relation to Road 16**

- 10.1 The parties acknowledge and agree that Road 16 forms part of a proposed road linking Epping Road and Waterloo Road that Council proposes to construct in the future (the **Future Road**).
- 10.2 The parties acknowledge and agree that Road 16 forms part of the Dedicated land.
- 10.3 Council acknowledges that it will need to incorporate Road 16 into the Future Road which may require the modification of Road 16.
- 10.4 Council acknowledges and agrees that the modification of Road 16 to facilitate the incorporation of Road 16 into the Future Road will be carried out at Council's cost.
- 10.5 Council acknowledges that the modification of Road 16 and the construction of the Future Road will impact on vehicular and pedestrian access to the basement of the building proposed as part of the Development (the **Basement Access**).
- 10.6 Council agrees to design and construct the intersection of the Future Road and the Basement Access in a manner satisfactory to the Developer, acting reasonably.
- 10.7 During the construction of the Future Road, Council agrees to maintain at all times vehicular and pedestrian access to the basement of the building proposed as part of the Development.
- 10.8 Any parts of Road 16 that do not form part of the roadway of the Future Road but will be dedicated to Council in accordance with this Agreement (such as those parts of the turning circle adjacent to the Basement Access) must be landscaped by Council as part of the construction of the Future Road (the **Future Landscaped Areas**).
- 10.9 Council agrees to maintain the Future Landscaped Areas.
- 10.10 For the avoidance of doubt, Council agrees and acknowledges that the Developer will have no liability:
- (a) in relation to Road 16 once Road 16 has been dedicated to Council pursuant to this Agreement; and
  - (b) in relation to the Future Road; and
  - (c) for the Future Landscaped Areas.



## ITEM 12 (continued)

## ATTACHMENT 4

Voluntary Planning Agreement

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**11 Application of s94 and s94A of the Act to the Development**

- 11.1 This Agreement excludes the operation of Sections 94 and 94A of the Act to any Development Consent that is granted in respect of the Development.
- 11.2 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 any Development Application for the Development.

**12 Section 94 Sum**

- 12.1 Council acknowledges and agrees that as at the date of this Agreement, the total contribution payable pursuant to section 94 of the Act that, but for this Agreement, would be payable by the Developer in connection with the Development is \$3,164,315.15.
- 12.2 Council acknowledges and agrees that the Developer must complete the Public Domain Works, the estimated cost of which is \$2,635,984 (excluding GST).
- 12.3 Subject to clauses 12.5 and 12.6, the Section 94 Sum is the amount set out in clause 12.1 less the amount set out in clause 12.2, being \$528,331.15 (excluding GST).
- 12.4 Subject to clauses 12.5 and 12.6, the Developer is to pay the Section 94 Sum prior to the issue of the Occupation Certificate for the Development.
- 12.5 The amounts in clauses 12.1 and 12.2 shall be indexed to the consumer price index in accordance with the applicable provisions of the relevant Section 94 Contributions Plan applying at the relevant date.
- 12.6 Notwithstanding any provision of this Agreement, if the Council (or the Land and Environment Court on appeal) grants Development Consent for the Development or grants consent to an application to modify the Development Consent for the Development under section 96 of the Act with conditions that increase or decrease the gross floor area of the Development compared to the gross floor area set out in the Development Application, then the amount in clause 12.1 and therefore the Section 94 Sum is to be increased or decreased by an amount (calculated in accordance with the section 94 contributions plan in force at that time) which reflects the actual amount of gross floor space permitted by the Development Consent or modified Development Consent for the Development.
- 12.7 Notwithstanding any provision in this Agreement, if the Developer does not obtain a Occupation Certificate within 5 years after the date of the grant of the relevant Construction Certificate, the amount payable under this clause shall be that amount that is payable pursuant to Council's section 94 contributions plan that applies at the expiry of the 5 year period less the cost of the Public Domain Works set out in clause 12.2.



## ITEM 12 (continued)

## ATTACHMENT 4

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**13 Dispute Resolution****13.1 Notice of Dispute**

If a party claims that a dispute has arisen under this Agreement (Claimant), it must give written notice to the other party (**Respondent**) stating the matters in dispute and designating as its representative a person to negotiate the dispute (**Claim Notice**). No party may start court proceedings (except for proceedings seeking interlocutory relief) in respect of a dispute unless it has first complied with this clause 13.

**13.2 Response to Notice**

Within 10 Business Days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative to negotiate the dispute.

**13.3 Negotiation**

The nominated representatives must:

- (i) meet to discuss the matter in good faith within 5 Business Days after service by the Respondent of notice of its representative, and
- (ii) use reasonable endeavours to settle or resolve the dispute within 15 Business Days after they have met.

**13.4 Further Notice if dispute not settled**

If the dispute is not resolved within 15 Business Days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (Dispute Notice) by mediation under clause 13.5 or by expert determination under clause 13.6.

**13.5 Mediation**

If a party gives a Dispute Notice calling for the dispute to be mediated:

- (a) the parties must agree the terms of reference of the mediation within 5 Business Days of the receipt of the Dispute Notice (the terms shall include a requirement that the mediation rules of The Institute of Arbitrators & Mediators Australia (NSW Chapter) apply);
- (b) the mediator will be agreed between the parties, or failing agreement within 5 Business Days of receipt of the Dispute Notice, either party may request the Chair of the institute of Arbitrators & Mediators Australia (NSW Chapter) to appoint a mediator (the Mediator);
- (c) the Mediator appointed pursuant to this clause 13.5 must:
  - (i) have reasonable qualifications and practical experience in the area of the dispute; and



## ITEM 12 (continued)

## ATTACHMENT 4

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- (ii) have no interest or duty which conflicts or may conflict with his function as mediator, he or she being required to fully disclose any such interest or duty before his appointment;
- (d) the Mediator shall be required to undertake to keep confidential all matters coming to his or her knowledge by reason of his or her appointment and performance of his or her duties;
- (e) the parties must within 5 Business Days of receipt of the Dispute Notice notify each other of their representatives who will be involved in the mediation;
- (f) the parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement;
- (g) in relation to costs and expenses:
  - (i) each party will bear their own professional and expert costs incurred in connection with the mediation; and
  - (ii) the costs of the Mediator will be shared equally by the parties unless the Mediator determines a party has engaged in vexatious or unconscionable behaviour in which case the Mediator may require the full costs of the mediation to be borne by that party.

**13.6 Expert determination**

If the dispute is not resolved under clause 13.3 or 13.5, the dispute may, by agreement between the parties, both acting reasonably having regard to the nature of the dispute, be resolved by expert determination, in which event:

- (a) the dispute must be determined by an independent expert in the relevant field:
  - (i) agreed upon and appointed jointly by the Council and the Developer; or
  - (ii) in the event that no agreement is reached or appointment made within 30 Business Days after the parties agree in writing to expert determination, appointed on application of a party by the Chair of the Institute of Arbitrators & Mediators Australia (NSW Chapter);
- (b) the expert must be appointed in writing and the terms of appointment must not be inconsistent with this clause;
- (c) the determination of the dispute by such expert will be made as an expert and not as an arbitrator and will be in writing and contain the reasons for the determination;
- (d) the expert will determine the rules for the conduct of the process but must conduct the process in accordance with the rules of natural justice;



## ITEM 12 (continued)

## ATTACHMENT 4

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- (e) each party will bear its own costs in connection with the process and the determination by the expert together with an equal proportion of the expert's fees and costs; and
- (f) any determination made by an expert pursuant to this clause is final and binding upon the parties except where the determination is in respect of or relates to termination or purported termination of this Agreement by any party, in which event the expert is deemed to be giving a non-binding appraisal and any party may commence litigation in relation to the dispute if it has not been resolved within 20 Business Days of the expert giving his or her decision.

**13.7 Litigation**

If the dispute is not finally resolved in accordance with this clause 13 either party is at liberty to litigate the dispute.

**13.8 Continue to perform obligations**

Each party must continue to perform its obligations under this Agreement, notwithstanding the existence of a dispute.

**14 Guarantees**

- 14.1 Prior to obtaining the Construction Certificate for the Development, the Developer must deliver to Council two Guarantees for the following amounts in respect of the following items:

- (a) Public Domain Works - \$2,570,087.33 (97.5% of the construction costs in clause 12.2); and
- (b) Retention sum in respect of defects - \$65,899.60 (2.5% of the construction costs in clause 12.2).

- 14.2 Each Guarantee will be for a period that does not exceed 5 years after the date on which the Guarantees are provided under clause 14.1.

- 14.3 If following a Stage Inspection, the Project Certifier is satisfied that the works up to the relevant Stage Inspection are completed, the Developer may reduce the amount of the Guarantee referred to in clause 14.1(a) by an amount approximate to the costs of the works undertaken up to that Stage Inspection.

- 14.4 Without limiting clause 14.2, if:

- (a) the Development Consent for the Development lapses; and
- (b) the Developer has not commenced any part of the Public Domain Works,

then the Council must return the Guarantees to the Developer within 20 Business Days of the Developer providing a written request to the Council to return the Guarantees.



## ITEM 12 (continued)

## ATTACHMENT 4

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- 14.5 If the Developer does not provide the Contributions in accordance with this Agreement or the Implementation Deed then, without limiting any other remedies available to the Council, the Council may call on the Guarantees in respect of the Public Domain Works without notice to the Developer.
- 14.6 Within 20 Business Days after the Project Certifier certifies that the Public Domain Works have reached Practical Completion, Council must (if it has not called on it) return the Guarantee referred to in clause 14.1(a) (or any remaining balance of it) to the Developer or as the Developer directs.
- 14.7 Within 20 Business Days after the Defects Liability Period has expired Council must (if it has not called on it) return the Guarantee referred to in clause 14.1(b) (or any remaining balance of it) to the Developer or as the Developer directs.
- 14.8 If during the Defects Liability Period, the Council notifies the Developer of a defect and if at the expiration of the Defects Liability Period that defect has not been rectified by the Developer to the Council's satisfaction (acting reasonably), then:
- (a) the Council need not deliver the Guarantee referred to in clause 14.1(b) (or any remaining balance of it) until that defect has been rectified; and
  - (b) the Council may call upon the Guarantee in order to rectify that defect; and
  - (c) if there is any surplus amount following completion of the rectification of the defect by the Council, the Council must return that amount promptly to the Developer.
- 14.9 Any request for return of a Guarantee must be made in writing and be accompanied by appropriate certification by the Project Certifier acceptable to both parties (acting reasonably).

**15 Registration on Title**

- 15.1 Prior to the issue of the 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 Land and Property Management Authority 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.
- 15.2 Upon full satisfaction of the Developer's obligations under this Agreement, or if for any reason the Development Consent for the Development should be deemed invalid or otherwise lapse, 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 written request from the Developer and to do all things reasonably necessary, including to 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 Land and Property Management Authority pertaining to the Land.



## ITEM 12 (continued)

## ATTACHMENT 4

Voluntary Planning Agreement

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**16 Termination****16.1 General**

If a party to this Agreement fails to comply with the terms and conditions of this Agreement, the non-defaulting party may, if the default is capable of remedy, serve notice on the defaulting party to remedy the default by a date that is not less than a date 5 Business Days from the date of the notice.

**16.2 If:**

- (a) the Development Consent for the Development lapses;
- (b) there is a declaration by a Court of competent jurisdiction that the Development Consent is invalid;
- (c) the defaulting party does not remedy the breach by the date specified in the notice;
- (d) the breach of the Agreement is not capable of remedy,
- (e) the Developer surrenders the Development Consent for the Development on the Land prior to physical commencement (as defined in the Act),

then:

- (i) either party may in the circumstances described in clause 16.2(a) and 16.2(b); or
- (ii) the non-defaulting party may in the circumstances described in clauses 16.2(c) and 16.2(d))
- (iii) the Developer may in the circumstances described in clauses 16.2(e)

terminate this Agreement by no less than 10 Business Days' notice in writing to the other party.

**16.3 Effect of termination**

- (a) If this Agreement is validly terminated for any reason:
  - (i) the provisions of this Agreement will cease to have effect other than those obligations which expressly or by their nature survive termination; and
  - (ii) except as provided otherwise, each party retains the rights it has against any other party in respect of any breach of or unperformed obligation under this Agreement.

**16.4 Rights and Obligations**

The termination of this Agreement pursuant to this clause shall be without prejudice to the rights of a party and shall not affect or determine the obligations of a party that



## ITEM 12 (continued)

## ATTACHMENT 4

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have accrued under this Agreement or the relevant provision prior to the effective date of such termination.

**17 Notices**

17.1 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:

- (a) delivered or posted to that Party at its address set out below.
- (b) faxed to that Party at its fax number set out below.
- (c) emailed to that Party at its email address set out below.

(d) Council:

(i) Attention: General Manager

(ii) Address: 1 Devlin Street, Ryde, NSW

(iii) Fax Number: [#]

(iv) Email: [#]

(v) and copy to [cityofryde@ryde.nsw.gov.au](mailto:cityofryde@ryde.nsw.gov.au)

(e) Developer

(i) Attention: [#]

(ii) Address: [#]

(iii) Fax Number: [#]

(iv) Email: [#]

17.2 If a Party gives the other Party no less than 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.

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

- (a) if it is hand delivered, when it is left at the relevant address.
- (b) if it is sent by post, 2 Business Days after it is posted.
- (c) 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.



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- 17.4 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.
- 17.5 A notice sent or delivered in a manner provided by clause 17.1 must, subject to clauses 17.2 - 17.4, be treated as validly given to and received by the Party to which it is addressed even if:
- (a) the addressee has been liquidated or deregistered or is absent from the place at which the notice is delivered or to which it is sent; or
  - (b) the notice is returned unclaimed.

**18 Approvals and Consent**

- 18.1 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.

**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.



## ITEM 12 (continued)

## ATTACHMENT 4

Voluntary Planning Agreement

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**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 or the Implementation Deed 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 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 Variation**

- 26.1 No variation of this Agreement have any force or be of any effect unless it is in writing and signed by both 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



## ITEM 12 (continued)

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relation to any other occasion.

**28 GST****28.1 Meanings**

In this clause:

- (a) GST means GST as defined in the A New Tax System (Goods and Services) Tax Act 1999 as amended from time to time (GST Act) or any replacement or other relevant legislation and regulations;
- (b) words used in this clause which have a particular meaning in the GST law (as defined in the GST Act, and also including any applicable legislative determinations and Australian Taxation Office public rulings) have the same meaning, unless the context otherwise requires;
- (c) any reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member; and
- (d) if the GST law treats part of a supply as a separate supply for the purpose of determining whether GST is payable on that part of the supply or for the purpose of determining the tax period to which that part of the supply is attributable, such part of the supply is to be treated as a separate supply.

28.2 Unless GST is expressly included, the consideration expressed to be payable under any other clause of this Deed for any supply made under or in connection with this Deed or any other value expressed in this Deed does not include GST.

28.3 Subject to clause 28.6, to the extent that any supply made under or in connection with this Deed is a taxable supply, the GST exclusive consideration otherwise payable for that supply is increased by an amount equal to that consideration multiplied by the rate at which GST is imposed in respect of the supply, and is payable at the same time.

28.4 Each party agrees to do all things, including providing tax invoices and other documentation, that may be necessary or desirable to enable or assist the other party to claim any input tax credit, adjustment or refund in relation to any amount of GST paid or payable in respect of any supply made under or in connection with this Deed.

28.5 If a payment to a party under this Deed is a payment by way of reimbursement or indemnity and is calculated by reference to the GST inclusive amount of a loss, cost or expense incurred by that party, then the payment is to be reduced by the amount of any input tax credit to which that party is entitled in respect of that loss, cost or expense before any adjustment is made for GST pursuant to clause 28.3.

28.6 Where as a result of the operation of clause 28 the Council is required to pay GST to the Developer, the Developer shall not require the Council to remit such GST to the Developer until 5 Business Days after receiving an input tax credit for that GST



## ITEM 12 (continued)

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amount. On receipt of a tax invoice from the Developer, the Council must apply for the input tax credit as soon as practicable.

**29 Force Majeure**

- 29.1 Subject to clause 29.6, if a Party is unable by reason of force majeure to carry out wholly or in part its obligations under this Agreement, it must:
- (a) give to the other Party prompt notice of the force majeure with reasonably full particulars; and
  - (b) suggest an alternative method, if any, of satisfying its obligations under this Agreement.
- 29.2 The Parties agree that force majeure includes the commencement of any legal proceedings by any person challenging the validity of the Development Consent or any provision of this Agreement.
- 29.3 If a Party is unable to satisfy its obligations under this Agreement 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.
- 29.4 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.
- 29.5 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.
- 29.6 The Parties agree that this force majeure provision does not apply to an obligation of a Party to transfer and or to pay money.
- 29.7 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 13.
- 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



## ITEM 12 (continued)

## ATTACHMENT 4

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Voluntary Planning AgreementHENRY DAVIS YORK

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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.

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**31 Confidentiality**

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- 31.1 The parties agree that the terms of this Agreement are not confidential and this Agreement may be treated as a public document and exhibited or reported without restriction by any party.

**DRAFT**



## ITEM 12 (continued)

## ATTACHMENT 4

Voluntary Planning Agreement

HENRY DAVIS YORK

## EXECUTION

Executed as an Agreement on

2011

Signed by [#] as attorney for Ryde City  
Council under power of attorney  
registered in book [#].

\_\_\_\_\_  
Signature of witness  
Name of witness  
(BLOCK LETTERS)

\_\_\_\_\_  
Name

Executed by [#] in accordance  
with section 127 of the *Corporations  
Act 2001*:

\_\_\_\_\_  
Signature of Company Director/Secretary  
Name of company Director/Secretary  
(BLOCK LETTERS)

\_\_\_\_\_  
Signature of Director  
Name of Director  
(BLOCK LETTERS)



## ITEM 12 (continued)

## ATTACHMENT 4

Voluntary Planning Agreement

HENRY DAVIS YORK

## Schedule 1: Reference Schedule

Item	Name	Description
1	Development	The construction of a 6 storey commercial building with a gross floor area of 27,340m <sup>2</sup> and associated road works.
2	Preliminary Development	DA LDA 807/2007 The demolition of the existing school buildings on the Land, preliminary erosion and sediment control works, perimeter fencing and associated signage.



**ITEM 12 (continued)**

**ATTACHMENT 4**

Voluntary Planning Agreement

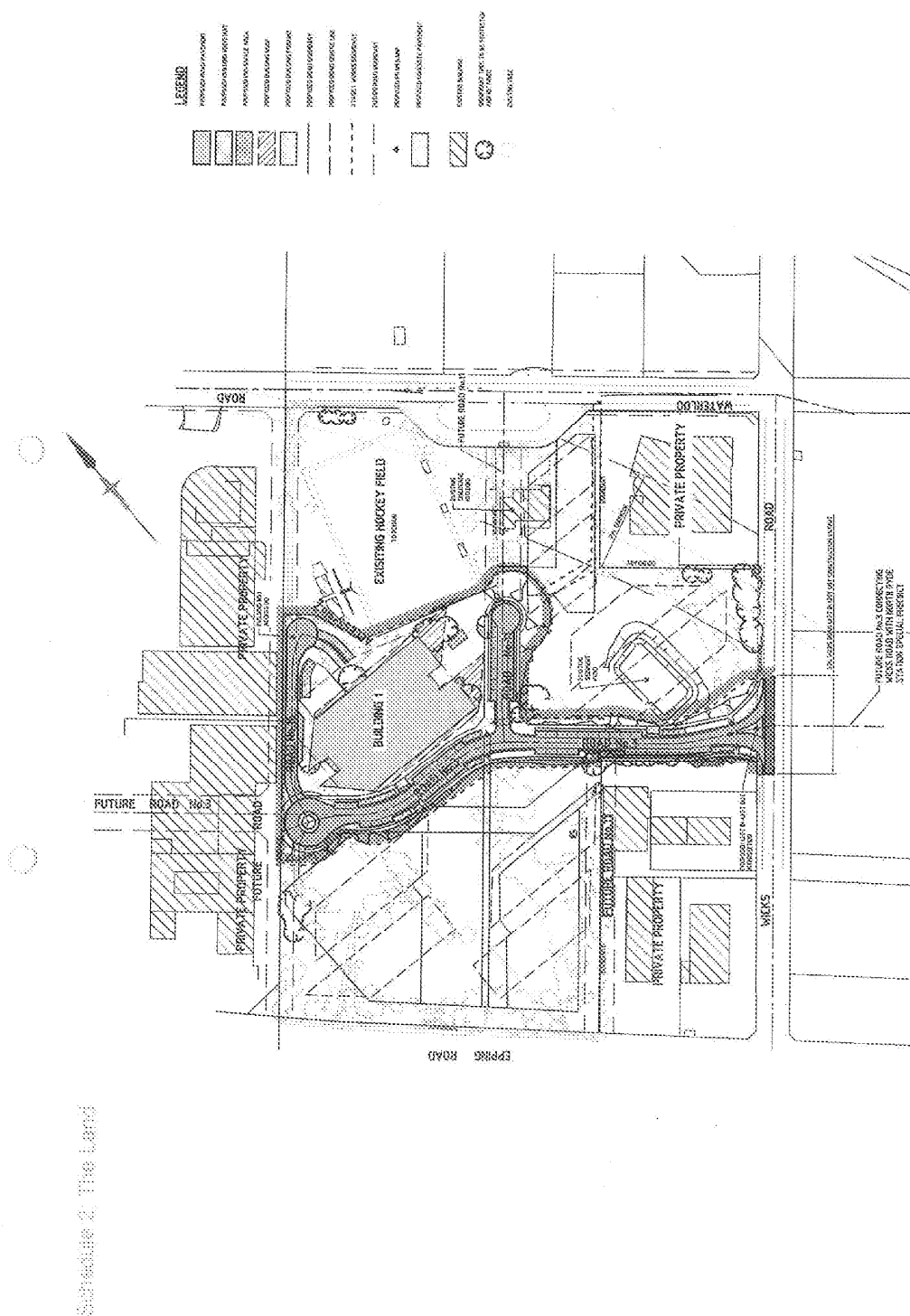
HENRY DAVIS YORK

**Schedule 2: The Land**



**ITEM 12 (continued)**

## ATTACHMENT 4





## ITEM 12 (continued)

## ATTACHMENT 4

Voluntary Planning Agreement

HENRY DAVIS YORK

## Schedule 3: Contributions

Item	Description
<b>Section 94 Sum</b>	\$513,898.80 or an alternative amount determined in accordance with clause 12.
<b>Public Domain Works Roads</b>	Construction of: <ul style="list-style-type: none"> <li>(a) Road 3 between Wicks Road and the northern boundary of the Land to a width of 20.4 metres – including reserve to realign road at Wicks Road as shown in Plan A below;</li> <li>(b) Road 16 as shown in Plan A below;</li> <li>(c) Part Road 11 as shown in Plan A below, <u>to the specifications contained in "Environmental Standards Development Criteria – Public Civil Works" issued by Ryde City Council.</u></li> </ul>
<b>Public Domain Works Roundabout</b>	The roundabout intersection at the intersection of Road 3 and Road 16 and the turning circle at the end of Road 16 as shown in Plan B below.
<b>Dedicated Land</b>	The land to be dedicated by the Developer to the Council as shown in the plan in Schedule 5

PLAN A

[Insert GHD Plan 21-16200-C104 Rev C]

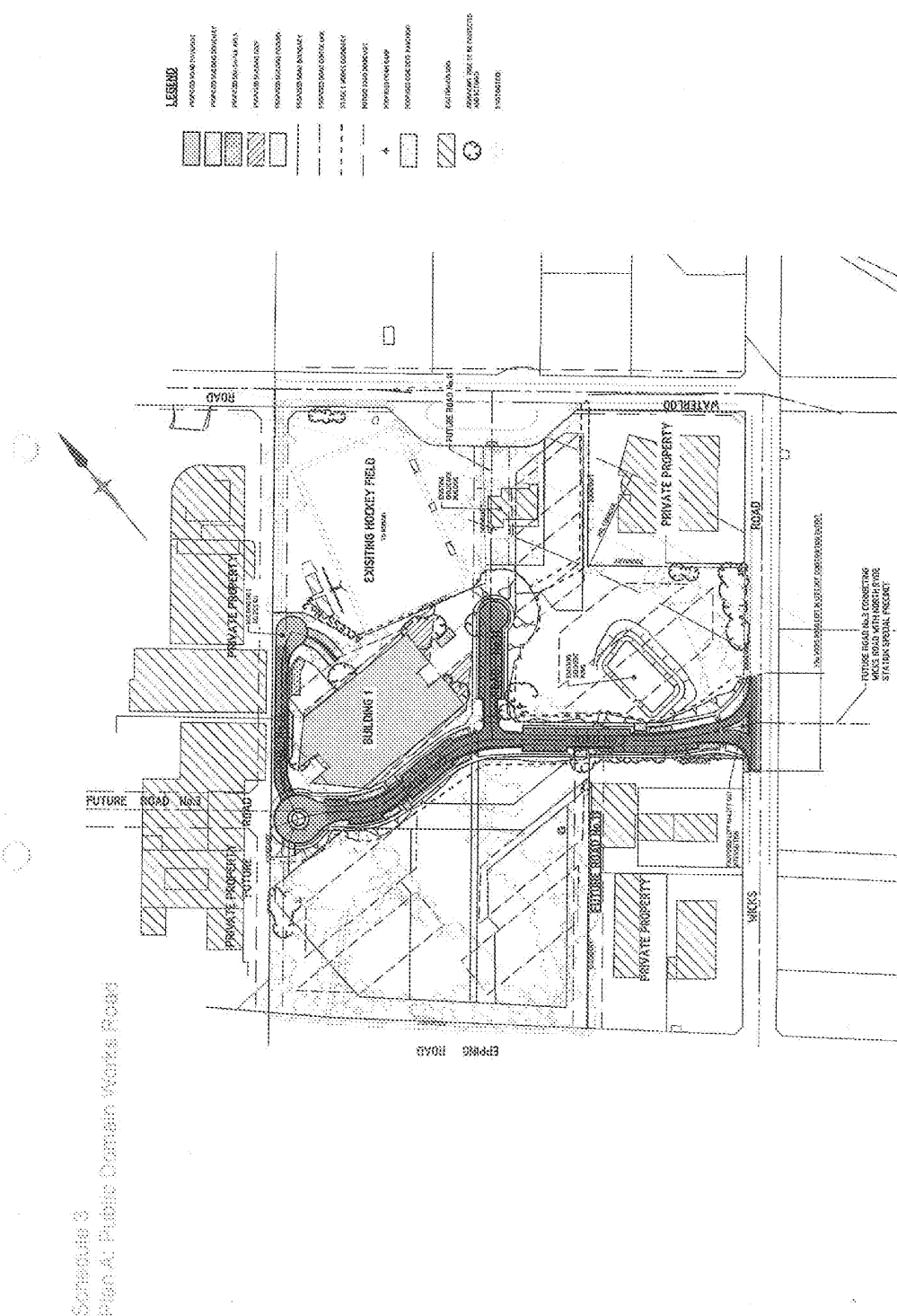
PLAN B

[Insert GHD Plan 21-16200-C104 Rev C]



**ITEM 12 (continued)**

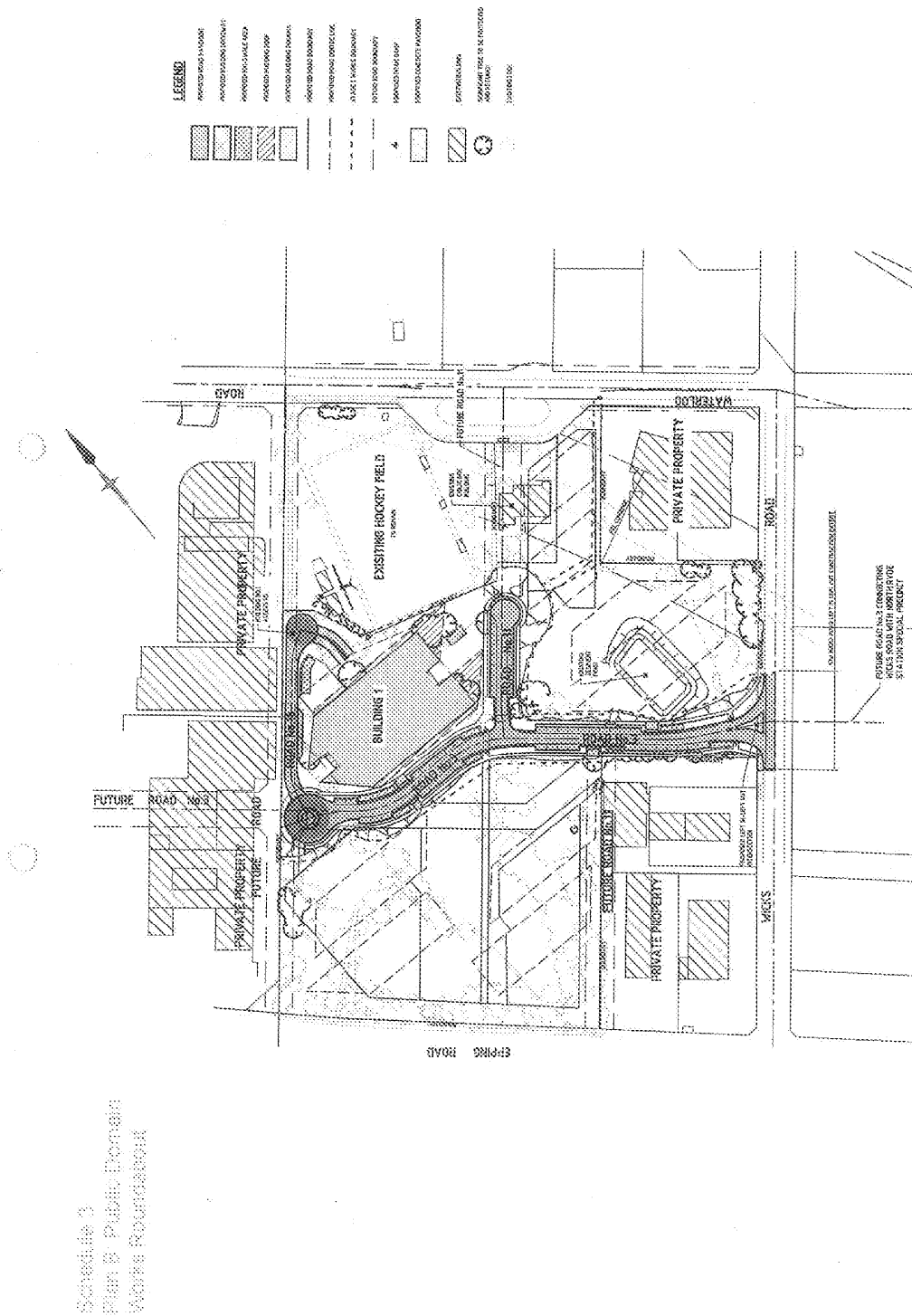
## ATTACHMENT 4





ITEM 12 (continued)

ATTACHMENT 4





**ITEM 12 (continued)**

**ATTACHMENT 4**

Voluntary Planning Agreement

HENRY DAVIS YORK

**Schedule 4: Implementation Deed**



**ITEM 12 (continued)**

**ATTACHMENT 4**

Voluntary Planning Agreement

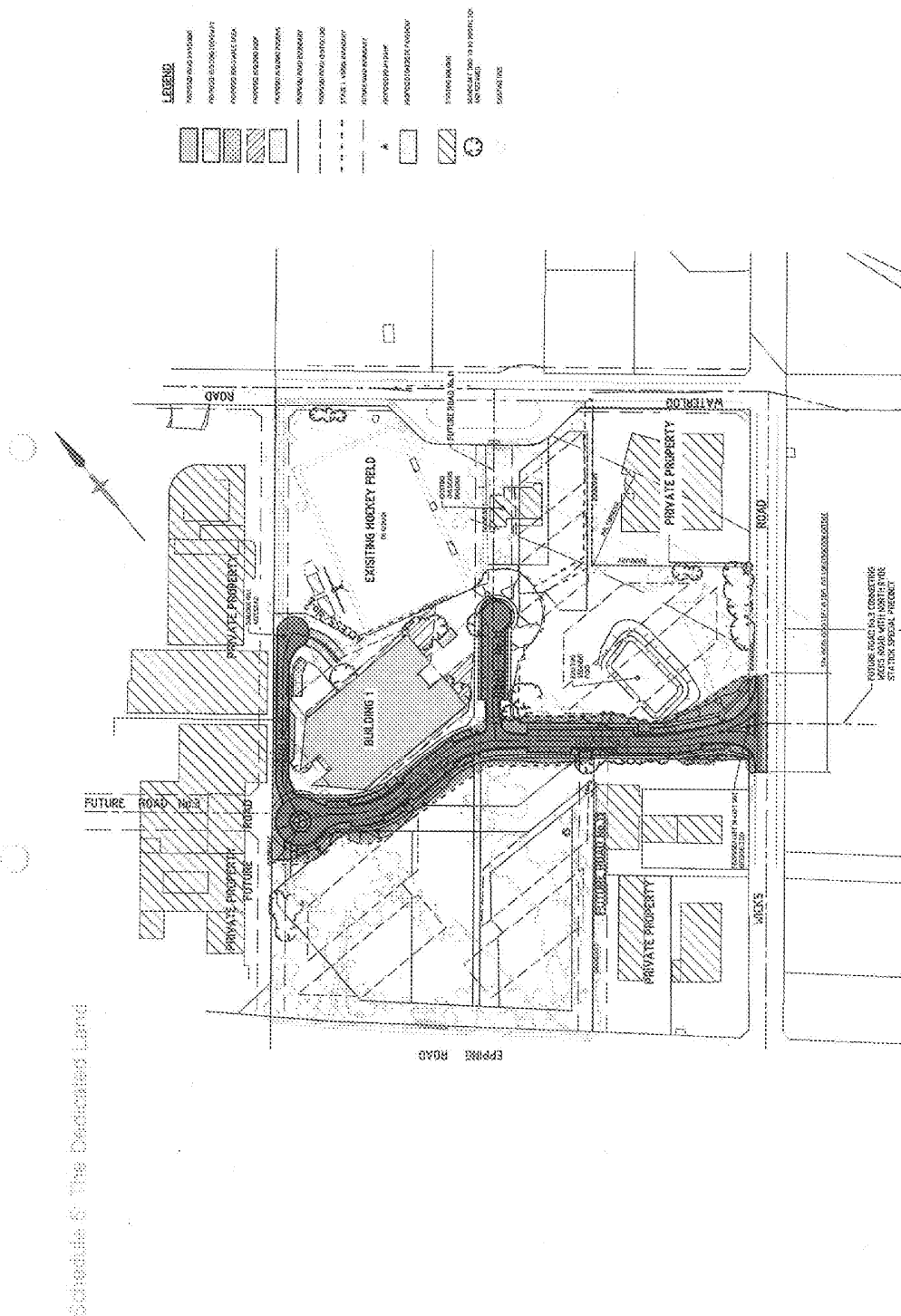
HENRY DAVIS YORK

**Schedule 5: Dedicated Land**



## ITEM 12 (continued)

## ATTACHMENT 4





## ITEM 12 (continued)

## ATTACHMENT 4

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Voluntary Planning Agreement

HENRY DAVIS YORK

PROJECT: VOLUNTARY PLANNING TERMS

COUNCIL: RYDE CITY COUNCIL (ABN 81 621 292 610)

DEVELOPER: DEXUS Funds Management Limited as trustee for the Wicks Road  
Trust and DEXUS Wholesale Property Limited as responsible entity for  
the DEXUS Wholesale Property Fund  
(ABN 24 060 920 783)

## EXHIBIT 1 TO THE VOLUNTARY PLANNING AGREEMENT

Signed by [#] as attorney for Ryde City  
Council under power of attorney  
registered in book [#].

---

Signature of witness  
Name of witness  
(BLOCK LETTERS)

---

Name

Executed by [#] in accordance  
with section 127 of the *Corporations  
Act 2001*:

---

Signature of Company Director/Secretary  
Name of company Director/Secretary  
(BLOCK LETTERS)

---

Signature of Director  
Name of Director  
(BLOCK LETTERS)



ITEM 12 (continued)

ATTACHMENT 4



HENRY DAVIS YORK  
LAWYERS

Implementation Deed

**DRAFT**

Ryde City Council  
ABN 81 621 292 610

DEXUS Funds Management Limited as trustee for the Wicks Road Trust  
and DEXUS Wholesale Property Limited as responsible entity for the  
DEXUS Wholesale Property Fund  
ABN 24 060 920 783

HENRY DAVIS YORK 44 MARTIN PLACE SYDNEY NSW 2000 AUSTRALIA  
T +61 2 9947 6000 F +61 2 9947 6999 DX 173 SYDNEY HDY@HDY.COM.AU WWW.HDY.COM.AU



## ITEM 12 (continued)

## ATTACHMENT 4

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KEY DETAILS	2	
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OPERATIVE PROVISIONS	3	
1 Definitions and Interpretation	3	
2 The Public Domain Works	5	Deleted
3 Development of the Detailed Design	6	
4 Council Right to Inspect	7	Deleted
5 Completion	7	Deleted
6 Dispute Resolution	9	Deleted
7 Insurance	9	Deleted
8 Notices	10	Deleted
9 Goods and Services Tax	10	Deleted
10 Termination	10	Deleted
11 Intellectual Property Rights	10	Deleted
12 Entire Agreement	10	Deleted
13 Variation	10	Deleted
14 Building Contract	11	Deleted
ANNEXURE A	13	Deleted



## ITEM 12 (continued)

## ATTACHMENT 4

## KEY DETAILS

1	<b>Date</b>	See Execution page
2	<b>Parties</b>	
	<b>Council</b>	
	<b>Name</b>	Ryde City Council ABN 81 621 292 610
	<b>Address</b>	1 Devlin Street, Ryde, NSW
	<b>Developer</b>	
	<b>Name</b>	DEXUS Funds Management Limited as trustee for the Wicks Road Trust and DEXUS Wholesale Property Limited as responsible entity for the DEXUS Wholesale Property Fund ABN 24 060 920 783
	<b>Address</b>	Level 9, 343 George Street, Sydney, NSW

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## ITEM 12 (continued)

## ATTACHMENT 4

**BACKGROUND**

- A The Developer intends to redevelop the Land for commercial use with associated car parking.
- B The parties have entered into the Voluntary Planning Agreement pursuant to which, among other things, the Developer is to provide the Public Domain Works to Council.
- C The parties now wish to set out the process for finalising the design of the Public Domain Works and the terms by which the delivery of Public Domain Works will be implemented.

**OPERATIVE PROVISIONS****1 Definitions and interpretation****1.1 In this Deed:**

- (a) **Annexure** means an annexure to this Deed.
- (b) **Agreed Amount** means the estimated cost of the Public Domain Works as set out in clause 12.2 of the VPA.
- (c) **Approval** means any approval by Authorities with respect to the Development.
- (d) **Builder** means the building contractor awarded the Building Contract.
- (e) **Building Contract** means the contract to carry out the Public Domain Works.
- (f) **Certificate of Practical Completion** means a certificate issued by the Project Certifier that the Public Domain Works have achieved Practical Completion.
- (g) **Condition** means a condition of Development Consent for the Development and conditions of any other Approval.
- (h) **Council's Representative** means the General Manager of Council or such other person who the General Manager of the Council notifies the Developer is the Council's representative from time to time.
- (i) **Date for Practical Completion** means the date for practical completion under the Building Contract for the Public Domain Works.
- (j) **Defects Liability Period** means in respect of the Public Domain Works the period of 12 months from the date on which the Dedicated Land is dedicated to Council.



## ITEM 12 (continued)

## ATTACHMENT 4

- (k) **Detailed Design** means the final specifications and finishes for the Public Domain Works prepared in accordance with clause 3.
- (l) **Practical Completion** means in respect of the Public Domain Works, that stage in the construction of the Public Domain Works when construction of the Public Domain Works is complete except for minor omissions and minor defects:
- (i) which do not prevent the Public Domain Works from being reasonably capable of being used for its intended purpose; and
  - (ii) rectification of which will not prejudice the convenient use of the Public Domain Works.
- (m) **Project Certifier** means the person engaged under the Building Contract to certify Practical Completion of the Public Domain Works.
- (n) **Public Domain Works Standards** means the standards set out in Annexure B.
- (o) **Requirement** means any requirement, notice, order or direction given by any Authorities.
- (p) **Services** means all water, gas, electricity, television, drainage, sewerage, cable TV, data communications, telecommunications and other services which are required under a Development Consent or an Approval and which are necessary or desirable for the construction, operation or occupation of the Public Domain Works.
- (q) **Variation Costs** means the variation costs over and above the Agreed Amount which arise because of a written request by the Council's Representative for a change to the Public Domain Works that is not contemplated in the Development Application.
- (r) **Voluntary Planning Agreement** means the agreement entered into by the parties on or about the date of this Deed in respect of the Development.
- 1.2 A term which has a defined meaning in the Voluntary Planning Agreement has the same meaning when used in this Deed unless it is expressly defined in this Deed, in which case the meaning given to it in this Deed will prevail.
- 1.3 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:
- (a) Headings are inserted for convenience only and do not affect the interpretation of this Deed.
  - (b) If the day on which any act, matter or thing is to be done under this Deed is not a Business Day, the act, matter or thing must be done on the next Business Day.
  - (c) A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.



## ITEM 12 (continued)

## ATTACHMENT 4

- (d) A reference in this Deed 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.
- (e) A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (f) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
- (g) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (h) 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.
- (i) 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.
- (j) References to the word 'include' or 'including' are to be construed without limitation.
- (k) A reference to this Deed includes the agreement recorded in this Deed.
- (l) A reference to a party to this Deed includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- (m) Any schedules and attachments form part of this Deed.

**1.4 No Partnership**

- (a) Nothing in this Deed:
  - (i) creates between the parties either the relationship of partnership or that of principal and agent;
  - (ii) constitutes the parties as parties to a joint venture; or
  - (iii) imposes on the parties any joint or joint and several liability.

**1.5 Proper law and submission to jurisdiction**

- (a) The validity, interpretation, and performance of this Deed is governed by the laws of New South Wales.
- (b) All parties are subject to the jurisdiction of the Supreme Court of New South Wales and the courts of the Commonwealth of Australia.



## ITEM 12 (continued)

## ATTACHMENT 4

**2 The Public Domain Works**

- 2.1 The Developer agrees to procure and carry out the construction of the Public Domain Works as contemplated in this Deed.
- 2.2 The Developer must ensure that the Public Domain Works are carried out in accordance with:
- (a) the Public Domain Works Standards in Annexure A;
  - (b) the Development Consent for the Development and all other Approvals and the requirements of all laws.
- 2.3 All costs, other than Variation Costs, of the construction of the Public Domain Works must be borne by the Developer.

**3 Development of the Detailed Design****3.1 Co-operation with Council**

- (a) From the date the Developer notifies the Council in writing that it wishes to commence the detailed design of the Public Domain Works, Council and the Developer must:
- (i) work in consultation with each other to prepare and agree the Detailed Design; and
  - (ii) try to agree a date by which the Detailed Design must be prepared and agreed;
  - (iii) prepare the Detailed Design in accordance with the Macquarie Park Corridor Public Domain Technical Manual and the AUSTROADS Pavement Design Manual "A Guide to the Structural Design of Road Pavements" (1992).
- (b) Council and the Developer must both act reasonably and with due expedition in their consultations with each other.

**3.2 Costs**

- (a) Subject to clause 3.3, in preparing the Detailed Design, Council and the Developer must use reasonable endeavours to ensure that the cost of delivery of the Public Domain Works does not exceed the Agreed Amount.
- (b) Subject to clause 3.2(c), where the cost of the Public Domain Works is greater than the Agreed Amount, the Developer shall be obliged to accept that cost.
- (c) If the Council makes a written request to change the Detailed Design which a qualified Quantity Surveyor certifies will cause the Agreed Amount to increase by more than 5%, the Council must pay the Variation Costs to the Developer within 10 Business Days after delivery by the Developer to



**ITEM 12 (continued)****ATTACHMENT 4**

Council of a tax invoice for the payment together with reasonable details of the Claim for the additional cost payment.

**3.3 Council Variations**

- (a) Despite any other provision in clause 3, Council is not entitled to propose and the Developer has no obligation to consider or agree to any inclusion in respect of the Detailed Design which:
  - (i) exceeds the specifications set out in the Public Domain Works Standards in Annexure A;
  - (ii) does not comply with the conditions of Development Consent or any Approval for the Development;
  - (iii) would or may require the Developer to obtain new, additional or modified Development Consents or Approvals; or
  - (iv) would or may adversely affect the structural integrity, quality, efficiency, functionality or architectural or aesthetic design of any element of the Development or the Public Domain Works.

**3.4 Developer Variations**

- (a) The Developer may make a variation to the Detailed Design of Public Domain Works:
  - (i) to comply with the conditions of Development Consent, any Approval, laws and any Requirements;
  - (ii) which does not affect the structural integrity of the Development;
  - (iii) which does not impact adversely on the Services; and
  - (iv) which does not materially and adversely impact upon the Council's use of the Public Domain Works when they are completed.
- (b) The Developer may substitute alternative but not inferior finishes to those described in the Detailed Design and notify the Council of such substitution, subject to the Council's written agreement to such alternative finish (which agreement shall not be unreasonably withheld).
- (c) The Developer must pay the additional costs resulting from any variation under this clause.

**3.5 Good faith**

The parties must act promptly and in good faith to consult and agree in relation to the Detailed Design.



## ITEM 12 (continued)

## ATTACHMENT 4

**4 Council Right to Inspect****4.1 Council's Representative may, subject to:**

- (a) the terms of the Building Contract (save for any clause of the Building Contract which prevents the Council from accessing the Site);
- (b) giving reasonable notice to the Developer, the Builder and the Project Certifier;
- (c) complying with all reasonable directions of the Developer, the Builder and the Project Certifier;
- (d) exercising its rights under this clause entirely at its own risk in all respects; and
- (e) being accompanied by the Project Certifier or its nominee, or as otherwise agreed,

enter the Site at reasonable times to inspect the progress of the Public Domain Works.

**5 Completion****5.1 Practical Completion**

- (a) The Developer must ensure that the Project Certifier gives to the Council and the Developer not less than 10 Business Days prior written notice of the anticipated date on which Practical Completion of the Public Domain Works will be achieved.
- (b) The Developer must arrange for the Developer, the Project Certifier and the Council to inspect the Public Domain Works after the notice in clause 5.1(a) is issued and before a Certificate of Practical Completion is issued.
- (c) Within 5 Business Days after the inspection the Developer, the Project Certifier and the Council must prepare and agree a list of works to be completed before the Public Domain Works has achieved Practical Completion (**Completion Works**).
- (d) If:
  - (i) the parties agree that there are no Completion Works required to be carried out before Practical Completion of the Public Domain Works is achieved, then the Project Certifier may issue a Certificate of Practical Completion for the Public Domain Works;
  - (ii) the parties agree a list of Completion Works for the Public Domain Works, then the Developer must ensure that the Completion Works are carried out and completed and the Project Certifier may issue a Certificate of Practical Completion for the Public Domain Works once those Completion Works have been completed; and



## ITEM 12 (continued)

## ATTACHMENT 4

- (iii) the parties cannot agree a list of Completion Works for the Public Domain Works then:
  - (A) Subject to the concurrence of Council, the Project Certifier may issue a Certificate of Practical Completion for the Public Domain Works when it considers that Practical Completion of the Public Domain Works has been achieved; and
  - (B) any dispute will be referred to an expert for determination under clause 6 and the expert must be requested to determine what further works, if any, are required to be completed before Practical Completion of the Public Domain Works has been achieved for the purposes of this Deed; and
  - (C) the Developer must, if, under clause 6, the expert determines further works are required to be carried out to achieve Practical Completion of the Public Domain Works, expeditiously carry out and complete those further works.

## 5.2 Defects and omission

- (a) The Council may notify the Developer of defects and omissions in any part of the Public Domain Works during the relevant Defects Liability Period.
- (b) The Developer must promptly upon receipt of a defects notice from the Council:
  - (i) procure the performance of the work required to rectify the defect; and
  - (ii) keep the Council reasonably informed of the action to be taken to rectify the defect.
- (c) If the Developer does not promptly procure the rectification of the defect, Council may carry out the rectification.
- (d) The Council must give the Developer and its contractors access to carry out the rectification works.
- (e) The Developer must meet all costs of and incidental to rectification of defects under this clause 5.2.

## 5.3 Delivery of documents

- (a) The Developer must as soon as practicable, and no later than 25 Business Days after the date on which the Certificate of Practical Completion is issued in respect of the Public Domain Works:
  - (i) deliver to the Council, complete copies of:
    - (A) all "as built" drawings, specifications and operation and service manuals relevant to the Public Domain Works;
    - (B) all necessary certificates including the certificates of any



## ITEM 12 (continued)

## ATTACHMENT 4

consultants of the Developer that the Council may reasonably require and which are relevant to the Public Domain Works; and

- (C) consents and approvals of any Authority whose consent or approval is required for the occupation or use of the Public Domain Works, and
- (ii) provide the Council with a tour of the Public Domain Works and provide reasonable instructions on the operation and use of the Services within the Public Domain Works.

#### 5.4 Warranties

- (a) The Developer must assign (as beneficial owner) or cause to be assigned to Council the benefit of any warranties and guarantees obtained by the Developer and the Builder (and capable of assignment) with respect to any material or goods incorporated in or forming part of the Public Domain Works.
- (b) To the extent that any such warranties or guarantees cannot be assigned, the Developer must at the request of Council do anything reasonably required by Council including enforcing such warranties or guarantees for the benefit of Council.

#### 6 Dispute Resolution

A dispute under this Deed is to be dealt with using the dispute resolution mechanisms contained in clause 14 of the Voluntary Planning Agreement.

#### 7 Insurance

- 7.1 Promptly after the issue of a Construction Certificate for the Public Domain Works, the Developer must ensure that the Builder effects the following insurances issued by an insurer approved by the Council and in a form approved by the Council (acting reasonably):
  - (a) construction works insurance for the value of the Public Domain Works;
  - (b) public risk insurance for at least \$20 million;
  - (c) workers compensation insurance for personnel in respect of whom the Builder has an obligation at law to effect that insurance.



**ITEM 12 (continued)****ATTACHMENT 4**

- 7.2 The Developer must, throughout the term of this Deed and upon request of the Council, provide evidence of the currency of the insurance required by clause 7.1.

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**8 Notices**

- 8.1 Notices under this Deed are to be given in accordance with clause 18 of the Voluntary Planning Agreement.

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**9 Goods and Services Tax**

- 9.1 Goods and Services Tax is to be treated in accordance with clause 29 of the Voluntary Planning Agreement.

---

**10 Termination**

- 10.1 If the Voluntary Planning Agreement is terminated for any reason permitted under clause 17 of the Voluntary Planning Agreement, this Deed is taken to be terminated at the same time.

---

**11 Intellectual Property Rights**

- 11.1 The Council acknowledges that the Developer or its contractors holds all rights to copyright and any intellectual property which may exist in any document arising out of the Public Domain Works. To the extent the Developer has or receives intellectual property rights in any document arising out of the Public Domain Works, the Developer shall, at the request of the Council, grant Council a licence to use those rights for any purpose connected to the Public Domain Works.

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**12 Entire Agreement**

- 12.1 With the exception of the agreement contained in the Voluntary Planning Agreement, this Deed:
- (a) is the entire agreement and understanding between the parties on everything connected with the subject matter of this Deed; and
  - (b) supersedes any prior agreement or understanding on anything connected with that subject matter.



**ITEM 12 (continued)****ATTACHMENT 4****13 Variation**

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An amendment or variation to this Deed is not effective unless it is in writing and signed by the parties.

**14 Building Contract**

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The Developer shall, upon request, allow Council access to view a copy of the Building Contract.

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ITEM 12 (continued)

ATTACHMENT 4

Implementation Deed

HENRY DAVIS YORK

DRAFT



## ITEM 12 (continued)

## ATTACHMENT 4

Implementation Deed

HENRY DAVIS YORK

## ANNEXURE A

## Public Domain Works Standards

## ROAD 3:

- (a) Road 3 will be a Type 2 Public Street (secondary road) in accordance with the Macquarie Park Corridor Public Domain Technical Manual.
- (b) Total length 270m.
- (c) Road reserve will be 20.4m in general with a widening up to 22.6m along the bends to accommodate 8.8m medium rigid trucks.
- (d) Road bends and turning circles along Road 3 to accommodate 8.8m medium rigid trucks.
- (e) Lane width to be 3.5m (transitioning to 4.1m at bends) plus 1.2m provision for a cycle lane (total minimum lane width = 4.7m).
- (f) Provision will be made for 40 parallel car parking spaces. Spaces to be 6m in length and 2.5m in depth;
- (g) The roundabout at the western end (Future Road 16 Roundabout) of the road is sized to accommodate 8.8m long rigid trucks.
- (h) The left-in-left-out treatment at the eastern end of Road 3 (at the intersection with Wicks Road) is sized to accommodate 19m long articulated trucks.
- (i) Bio-swale areas are to be provided at regular intervals along the road in locations where the road grading allows stormwater to be collected in the bio-swales.
- (j) Road surface to be flexible bitumen pavement designed to the AUSTROADS Pavement Design Manual "A Guide to the Structural Design of Road Pavements" (1992).
- (k) A 2m wide stone paved footpath will be provided adjacent to the property boundary. Footpath to be Pavement Type B, G684 Black Fuding (dark grey) granite pavers or approved equivalent, in accordance with Macquarie Park Public Domain Technical Manual, Section 3.2.
- (l) In-situ concrete kerb and gutter to be provided along the length of the road in accordance with Macquarie Park Public Domain Technical Manual, Section 3.5.
- (m) Tactile indicators will be provided at all pedestrian ramps in accordance with Macquarie Park Public Domain Technical Manual,



## ITEM 12 (continued)

## ATTACHMENT 4

Implementation Deed

HENRY DAVIS YORK

## Section 3.6.

## ROAD 11

- (n) Road 11 will be a Type 2 Public Street (secondary road) in accordance with the Macquarie Park Corridor Street Network Structure Plan and the Environmental Standards Design Criteria – Public Civil Works document issues by Ryde City Council.
- (o) Total length to be 80m;
- (p) Road reserve will be 20.4m.
- (q) Termination roundabout at the end of Road 11 was designed to accommodate standard cars only.
- (r) Lane width to be 3.5m plus 1.2m provision for a cycle lane (total minimum lane width = 4.7m);
- (s) Provision will be made for 12 parallel car parking spaces. Spaces to be 6m in length and 2.5m in depth;
- (t) A pedestrian ramp and crossing to be provided at the intersection with Road 3.
- (u) Bio-swale areas are provided at regular intervals along the road in locations where the road grading allows stormwater to be collected in the bio-swales.
- (v) Road surface to be flexible bitumen pavement designed to the AUSTRROADS Pavement Design Manual "A Guide to the Structural Design of Road Pavements" (1992)
- (w) A 2m wide stone paved footpath will be provided adjacent to the property boundary. Footpath to be Pavement Type B, G684 Black Fuding (dark grey) granite pavers or approved equivalent, in accordance with Macquarie Park Public Domain Technical Manual, Section 3.2.
- (x) In-situ concrete kerb and gutter to be provided along the length of the road in accordance with Macquarie Park Public Domain Technical Manual, Section 3.5.
- (y) Tactile indicators will be provided at all pedestrian ramps in accordance with Macquarie Park Public Domain Technical Manual, Section 3.6.

## ROAD 16/ACCESS ROAD NO. 1

Access No.1 proposed in the Development Application will provide access to the northern parking entrance to Building 1 under Stage 1. This road is referred to in the Voluntary



## ITEM 12 (continued)

## ATTACHMENT 4

Implementation Deed

HENRY DAVIS YORK

Planning Agreement as "Road 16" as it forms part of a future road, a Type 3 Public Street (tertiary road) between Waterloo and Epping Roads, under the Macquarie Park Corridor Street Network Structure Plan

- (z) Total length to be 98m;
- (aa) Road reserve to be 7.75m.
- (bb) Road bends and turning circles along Access No.1 to be designed to accommodate 8.8m medium rigid trucks.
- (cc) Lane width to be 3.5m.
- (dd) Provision will be made for a 24m long, 3m deep loading zone.
- (ee) No provision will be made for pedestrian access along this access road.
- (ff) A bio-swale area will be provided at the northern end of the access where the road grading allows stormwater to be collected into the bio-swales.
- (gg) Road surface to be flexible bitumen pavement designed to the AUSTROADS Pavement Design Manual "A Guide to the Structural Design of Road Pavements" (1992)
- (hh) In-situ concrete kerb and gutter to be provided along the length of the road in accordance with Macquarie Park Public Domain Technical Manual, Section 3.5.



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**13 ADDITIONAL INFORMATION FOR PLANNING PROPOSAL - 283-289  
BLAXLAND ROAD RYDE**

---

**Report prepared by:** Client Manager**Report dated:** 11 May 2011**File No.:** GRP/11/6/3/3 - BP11/386

---

**Report Summary**

A Planning Proposal at 283-289 Blaxland Road, Ryde was considered by Council at a Committee of the Whole meeting held on 3 May 2011. At this meeting, the matter was deferred in order for additional information to be provided on the subject property and the intent of the proponents. Additional information has been provided by the proponent on their intent, and is contained within this report.

Following the provision of this additional information, it is still considered that the subject site is suitable for an increased level of density due to its location and context. It is recommended that Council support the Planning Proposal for the rezoning of the site to R4 High Density Residential and a maximum building height of 11.5m. It is also recommended that Council seek to apply a maximum Floor Space Ratio of 1.0:1 on the site and that site specific provisions be developed as an amendment to the *Development Control Plan 2010* following endorsement of the Planning Proposal by Council and the Department of Infrastructure and Planning.

**RECOMMENDATION:**

- (a) That Council note that the property owners of the subject site are Wattle Aged Living Pty Ltd and the self stated intentions for the site are as detailed within this report.
- (b) That the Planning Proposal be forwarded to the Department of Infrastructure and Planning for Gateway Determination, subject to a FSR of 1.0:1 being applied to the subject site and a site specific addition to the Development Control Plan 2010 being prepared prior to community consultation occurring.
- (c) That, in the event of a gateway determination being issued pursuant to section 56 of the *Environmental Planning and Assessment Act 1979*, Council will be advised of the terms of the determination and next steps.

**ATTACHMENTS****1 PLANNING PROPOSAL - 283-289 BLAXLAND ROAD RYDE**

Report Prepared By:

**Adrian Melo**  
**Client Manager**

Report Approved By:

**Meryl Bishop**  
**Manager - Urban Planning****Dominic Johnson**  
**Group Manager Environment & Planning**



**ITEM 13 (continued)****Background**

Council previously considered a Planning Proposal at 283-289 Blaxland Road, Ryde (legally known as Lot 20 in DP 565527) a Committee of the Whole meeting held 3<sup>rd</sup> May 2011. At this meeting, the matter was deferred in order for additional information to be provided on the subject property and the intent of the property owners. This information has been provided and is included within this report.

**Report**

Following Council's consideration of the Planning Proposal at the Committee of the Whole meeting held on 3 May 2011, the proponent provided to Council a summary of the background of the owners of the subject site and their intentions for its development, should the planning proposal be approved.

The subject site is owned by Wattle Aged Living Pty Ltd and the proponents have provided the following regarding the property owners and their intention for the subject site:

*Wattle Aged Living Pty Ltd is a family business with interests in providing housing for the elderly with plans and strategies in place to eventually expand into providing Aged Care services. Wattle Aged Living Pty Ltd is currently registered as an Approved Provider with the Department of Health and Ageing and is currently working towards securing places under the scheme (Aust Govt Approved provider Ref NAPS2971).*

*Whilst, this development is not specifically for Residential Aged Care it is an important step in the applicant's strategy to achieve its goal as an Aged Care Provider.*

*It is the Applicant's intention to develop this site. The applicant will hold some of the development stock for capital purposes so to achieve its longer term objectives. The stock held by the applicant will be appropriately designed so to be adaptable (in the future) for housing for persons over the age of 55. As part of the overall feasibility Wattle Aged Living Pty Ltd has also undertaken preliminary discussions with the Cordon Bleu Academy regarding standing arrangements for the lease of some of the properties as housing for faculty and students attending that college.*

*To further demonstrate Wattle Aged Living's commitment to this development we are pleased to advise that an agreement is currently afoot (pending approval of this planning proposal and DA) with Brodyn Pty Ltd (the Construction Contractor) to undertake the construction of the development at 283-289 Blaxland Road, Ryde.*

*The Contractor engaged to undertake the construction is also a family business (both companies have common shareholders) that has been trading continuously and successfully for twenty five years. Brodyn Pty Ltd undertakes primarily NSW government contracts and is an*



**ITEM 13 (continued)**

*accredited Best Practice Contractor with the NSW Government Department of Finance and Services; it is also accredited by The Australian Government Federal Safety Commissioner. This means Brodyn Pty Ltd is required to, and does comply with the National Code of Practice for the Construction Industry.*

*This development is part of a long term strategy and Wattle Aged Living Pty Ltd and its Directors can assure the Councillors that subject to the Planning Proposal being approved together with the Development Application the development will be built generally as approved / indicated within the Planning Proposal now before Council.*

It should be noted that the overall development of the site will be subject to the planning controls identified within the previous attached Council Report (**SEE ATTACHMENT 1**) and any forthcoming site specific addition to the Development Control Plan. This previous report that was considered by Council on 3 May 2011 detailed the extent of the Planning Proposal and the general requirements to which is adhered.

The previous Council Report identified that it is considered that the subject site is suitable for increased development as a result of its context, size and location. Accordingly, given that the additional information requested has been provided and that the subject site is still considered suitable for an increased level of density due to its location and context, it is recommended that Council support the Planning Proposal for the rezoning of the site to R4 High Density Residential and a maximum building height of 11.5m.

It is also recommended that Council seek to apply a maximum Floor Space Ratio of 1.0:1 on the site and that site specific provisions be developed as an amendment to the *Development Control Plan 2010* following endorsement of the Planning Proposal by Council and the Department of Infrastructure and Planning.

**Consultation**

Under the gateway plan-making process, a gateway determination is required before community consultation (formerly known as public exhibition) on the planning proposal takes place. The consultation process will be determined by the Minister but implemented by Council.

The Department of Infrastructure and Planning's guidelines stipulate at least 28 days community consultation for a major plan, and at least 14 days for a low impact plan. The Department has advised that low impact proposals are generally those which are consistent with the current predominant zoning, and do not cover a significant area. At this stage, it is not known whether this proposal is a major plan or a low impact plan as this is determined by the Minister. Consultation will include exhibition, notification, and a review of submissions.

**Critical Dates**

There are no critical dates or deadlines to be met at this stage of the process. Time periods for preparation of amending LEPs apply upon issue of the Gateway Determinations by the Minister.



**ITEM 13 (continued)**

Adoption of the option(s) outlined in this report will have no financial impact. Council should note that the lodgement of the planning proposal has been subject to Council's Fees and Charges Schedule to amend Local Environmental Plans.

**Policy Implications**

There are no policy implications through adoption of the recommendation.

**Next Steps**

Should Council resolve to support this planning proposal for the purposes of community consultation and a gateway determination, the next step is to forward the planning proposal to the Department of Infrastructure and Planning. Gateway determinations are issued by the Minister for Planning or delegate and are required before community consultation (public exhibition) on the planning proposal takes place.

**Other Options**

At this stage of the process, Council has the option to decide to proceed with the planning proposal to the next stage (gateway determination and community consultation) or to decide not to proceed.

Should the Minister for Infrastructure and Planning determine that the planning proposal can proceed to community consultation, Council has another opportunity to decide whether to proceed, vary or reject the proposal following community consultation.

**Conclusion**

The planning proposal to rezone 283-289 Blaxland Road, Ryde to R4 High Density Residential from R2 Low Density Residential under RLEP 2010 is considered appropriate to proceed to the Minister for Infrastructure and Planning for a gateway determination as to whether it should proceed to the consultation stage. It is considered that adequate additional information on the property owners and their intentions have been provided within this report as requested previously by Council.

The proposed zone and the development achievable under it, is consider appropriate for the site given its size, context and location. This is subject to the inclusion of a 1.0:1 FSR on the subject site and a site specific addition to the Development Control Plan 2010 prior to undertaking community consultation.

It is therefore recommended that Council forward the subject planning proposal to the Department of Infrastructure and Planning for Gateway Determination.



**ITEM 13 (continued)****ATTACHMENT 1****3 PLANNING PROPOSAL - 283-289 BLAXLAND ROAD RYDE**

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**Report prepared by:** Client Manager**Report dated:** 9/03/2011**File No.:** GRP/11/6/3/3 - BP11/208

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**Report Summary**

The purpose of this report is to seek support from Council for a Planning Proposal for the rezoning of land at 283-289 Blaxland Road, Ryde. The owner of the site has requested the rezoning of the land to R4 High Density Residential to enable appropriate redevelopment of the site. The subject land is currently zoned R2 Low Density Residential and has a maximum building height of 9.5m.

The proponents are seeking a rezoning of the site to R4 High Density Residential and a building height of 11.5m. The proponents have not stipulated a Floor Space Ratio (FSR) for the site, however upon consideration of the site and other R4 High Density Zonings within the Local Government Area, a FSR of 1.0:1 is recommended. It has also been recommended that a site specific provisions be developed as an amendment to the *Development Control Plan 2010* be prepared following endorsement of the Planning Proposal by Council and the Department of Planning. This will assist in guiding suitable development outcomes and ensure that a greater degree of amenity is preserved for adjoining and adjacent properties, should the site be redeveloped in future.

Generally it is considered that the subject site is suitable for an increased level of density due to its location and context.

**Background**

On 1 April 2010, a pre-lodgement meeting was held between Council Staff and the proponents for the construction of 7 attached dwellings on the subject site. The proposal failed to achieve compliance with the requirements of Council's planning controls due to the extent and nature of the proposed development. The proponents were advised that the proposal would be unlikely to be supported in its current form due to the extent of proposed non-compliances.

During the meeting the possibility of a Planning Proposal or rezoning for the subject site was raised, given the size of the site and its context. Following the pre-lodgement meeting, several meetings were held with the proponents regarding the planning proposal process and the documentation to be submitted to Council.

The Planning Proposal was lodged with Council on 19 January 2011 and is the subject of this report.

**Report**

Council has received a Planning Proposal for 283-289 Blaxland Road, Ryde, legally known as Lot 20 in DP 565527 (see **ATTACHMENT 1**). The owner of the site is requesting rezoning of the land to R4 High Density Residential and associated amendments to the applicable planning controls. The subject land is currently zoned R2 Low Density Residential. Whilst the proponents have provided details of indicative development (**ATTACHMENT 4**) to occur as a result of the planning proposal, the proposal is for the rezoning of the site only. Any development of the site would be subject to a future development application.



**ITEM 13 (continued)****ATTACHMENT 1**

The site is bounded by Kulgoa Avenue to the south, Blaxland Road to the west and low density residential properties to the north and east. Opposite the site on Blaxland Road is Ryde College which is zoned SP2 Technical College. Opposite the site on Kulgoa Avenue, are residential flat buildings which are zoned R4 High Density Residential. The land to the north and east of the subject site is currently zoned R2 Low Density Residential.

According to section 55 of the *Environmental Planning and Assessment Act 1979*, a Planning Proposal must include:

- A **statement** of objectives and intended outcomes of the proposal
- An **explanation** of the provisions of the proposal
- A **justification** of the objectives, outcomes and provisions including the process for implementation
- **Maps where relevant**, containing the appropriate detail are to be submitted, including land use zones
- Details of the **community consultation** that will be undertaken.

In addition to the above, the Department of Planning have also released *A Guide to Preparing Planning Proposals*. It is generally considered that the Planning Proposal prepared by the proponents complies with these guidelines.

Council is the relevant planning authority for this proposal which has been prepared by a consultant planner on behalf of the proponent. The proposal has been assessed by Council staff in respect of the information required to be included in a Planning Proposal. This report provides an overview of the proposal and considers its appropriateness and merits.

The assessment of the potential impacts forms the basis of a recommendation to forward the proposal to the Minister for Planning for a determination under the Gateway Process.

**The Site**

The subject site is legally described as Lot 20 in DP 565527 and is known as 283-289 Blaxland Road, Ryde. The site is approximately 1960m<sup>2</sup> in area and is irregular in size with a frontage of approximately 61m to Blaxland Road and 50m to Kulgoa Avenue.

A map showing the location of the site and the surrounding area is attached (**ATTACHMENT 1**). Also attached is a map showing the zoning of the site and surrounds under RLEP 2010 (**ATTACHMENT 2**).

The subject site is currently vacant and was previously used as a petrol station.

**Site Context**

Surrounding properties consist of a variety of development, including educational establishments, residential flat buildings, housing stock owned by the Department of Housing and detached single dwellings.



**ITEM 13 (continued)****ATTACHMENT 1**

The property immediately to the north of the site is housing stock owned by the Department of Housing. To the east of the site are two detached dwellings houses on separate allotments in a battleaxe configuration. It should be noted that the Department of Housing land has a secondary frontage to Kulgoa Avenue located approximately 80m from the subject site. This creates a small separated section of low density residential development addressing Kulgoa Avenue that is bounded by the subject site, the Department of Housing owned land and Kulgoa Avenue. Within this area is an 'urban housing' development. The Department of Housing owned land consists primarily of 'townhouse' style development that is generally 1-2 storeys in height.

Opposite the site addressing Blaxland Road is Ryde College which includes the Ryde TAFE and the 'Le Cordon Bleu' cooking school. Extending south along Blaxland Road and opposite the site on Kulgoa Avenue are a series of residential flat buildings that are generally 3-4 storeys in height.

The map attached (refer **ATTACHMENT 2**) shows the zoning of the site and the surrounding properties under RLEP 2010.

**Proposed Amendment**Statement of Objective and Intended Outcome

The objective of this Planning Proposal is to amend the current zoning restrictions and associated planning controls that apply to 283-289 Blaxland Road, Ryde. This includes changing the zoning from R2 Low Density Residential to R4 High Density Residential. The intent of this rezoning is to take advantage of the unique size, location and context of the subject site.

The proposal would require a change to the relevant Land Zoning Map under RLEP 2010 and an associated amendment to the following maps to apply development standards applicable to the R4 High Density Residential zone:

- the Height of Buildings Map to indicate a Maximum Building Height – L 11.5m to apply to the land on Sheet HOB-1 06.

It should be noted that the proponents have not specified a FSR for the subject site, however it is recommended that a FSR of 1.0:1 be applied. This would ensure development standards would comply with the provisions of the Draft RLEP 2011

A comparison of the development standards applicable to the proposed zone and current zone is provided later in this report under Planning Appraisal.

Justification

An extract from planning proposal covering the justification and the need for the proposal is provided at **ATTACHMENT 3** titled Extract from Planning Proposal – Justification.

In summary, the proponent submits that the primary reason for the Planning Proposal is to ensure that future development of the site responds to its context by providing a transition from surrounding development. It is considered by Council Staff that the proposed rezoning supports the aims of the *Environmental Planning and Assessment Act 1979* by promoting the orderly and economic use and development of the land. It



**ITEM 13 (continued)****ATTACHMENT 1**

is considered that given the size, scope and location / context of the subject site, it is better suited to high density development rather than low density development.

The current zoning of R2 Low Density Residential under RLEP 2010 (and under draft RLEP 2011 as adopted 2 November 2010) provides for the following uses with Council consent:

*Bed and breakfast accommodation; Boarding houses; Business identification signs; Child care centres; Community facilities; Dual occupancies (attached); Dwelling houses; Educational establishments; Group homes; Health consulting rooms; Hospitals; Multi dwelling housing (attached); Places of public worship; Recreation areas; Residential care facilities; Roads*

[Note: under draft RLEP 2011 (adopted 2 November 2011), permitted uses also include *Environmental protection works*, and *multi-dwelling housing* ("attached" removed).

Under the current zoning of the site, the highest form of density permissible is multi-dwelling housing (attached).

**Planning Appraisal**Existing and Proposed Zones and Related Controls

Under RLEP 2010 (gazetted 30 June 2010), the subject site is zoned R2 Low Density Residential.

There are principal development standards applying to development in the R2 Low Density Residential and R4 High Density zone under RLEP 2010. A comparison of these is provided in the table below.

Development Standard	Current	Proposed
Zone	R2 Low Density Residential	R4 High Density Residential
Height	9.5m	11.5m
FSR	0.5:1	No FSR proposed by proponents however it is recommended that a FSR of 1.0:1 be applied. See discussion below under <i>Built Form Controls</i> for further information.
Density	<p>For multi-dwelling housing (attached) minimum building site areas per dwelling are:</p> <ul style="list-style-type: none"> <li>• 300m<sup>2</sup> 1,2 or 3 bedroom dwellings,</li> <li>• 365 m<sup>2</sup> for 4 or more bedroom dwellings.</li> </ul> <p>A minimum site area of 580m<sup>2</sup> is required for dual occupancy (attached) development.</p>	<p>For residential flat buildings or multi dwelling housing (attached), the most applicable controls pertaining to density are those under Area 4 (located immediately south of the subject site) of the RLEP 2010. This control provides a minimum site area for the above types of development, dependant on the ratio and number of bedrooms / dwellings proposed. This is as follows:</p> <ul style="list-style-type: none"> <li>– 1 bedroom, 70m<sup>2</sup></li> <li>– 2 bedroom, 100m<sup>2</sup></li> <li>– 3 or more bedroom, 130m<sup>2</sup></li> </ul>



**ITEM 13 (continued)****ATTACHMENT 1**

Subdivision	<p>Clause 4.1A provides a minimum subdivision requirement for both zones as follows:</p> <ul style="list-style-type: none"> <li>– each regular lot must have: <ul style="list-style-type: none"> <li>(i) an area of not less than 580m<sup>2</sup>, and</li> <li>(ii) a frontage to a road of not less than 10 metres, and</li> <li>(iii) a width of not less than 15 metres at a distance of 7.5 metres from the frontage of the lot.</li> </ul> </li> <li>– each hatched shaped lot has: <ul style="list-style-type: none"> <li>(i) an area of not less than 740m<sup>2</sup> (not including the access corridor and any part of the lot that is intended for access to other lots), and</li> <li>(ii) a frontage to a road of not less than 3 metres, and</li> <li>(iii) an access corridor not less than 3 metres wide.</li> </ul> </li> </ul> <p>No changes to these controls are proposed under Draft RLEP 2011.</p>
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Consideration of the appropriateness of the above identified controls and their proposed amendments is dependant on:

- the suitability of the potential development outcomes achieved under the current controls and
- the resulting built form outcomes of a R4 High Density Residential Zoning.

Potential development outcomes of current controls

As provided by Section 5(a)(ii) of the *Environmental Planning and Assessment Act 1979*, an object of the Act is to encourage ‘...the promotion and co-ordination of the orderly and economic use and development of land...’. A key method through which this is achieved is for land to be zoned to ensure its best and most appropriate use. As discussed previously within this report, the subject site is of a substantial size and surrounded by a range of different uses including single residential dwellings, Ryde College, Department of Housing land and residential flat buildings. On this basis it is questionable whether limiting the uses of the site to R2 Low Density Housing constitutes orderly and economic use and development of land.

Under the current zoning, the most likely outcomes for the site are primarily limited to a single detached dwelling, a dual-occupancy (attached), multi-dwelling housing (attached) or subdivision of the site. Given the scope of density surrounding the site, its size and the potential built form outcomes of these types of development on the site, it is not considered that these uses represent orderly and economic use and development of the land. This is detailed below.

Development Outcome	Consideration
Single Detached Dwelling or Dual Occupancy	<p>A key concern with these uses is the size of the site which is 1960m<sup>2</sup>. Under a FSR of 0.5:1 this allows a building with a floor space of 980m<sup>2</sup>. Given the context and surrounds, it can be seen that this would result in a dwelling of excessive size or would result in a dwelling that is a substantial underdevelopment of the site.</p> <p>In addition to the above, the site could also be subdivided for dwelling houses or dual occupancies. However, this also is not considered a positive outcome for the site as the RLEP 2010 provides:</p> <ul style="list-style-type: none"> <li>– <b>Regular allotment:</b> a minimum frontage of 10m, a minimum width of 15m at 7.5m from the front boundary and a minimum size of 580m<sup>2</sup></li> </ul>



**ITEM 13 (continued)****ATTACHMENT 1**

	<p>– <b>Hatchet shaped allotments:</b> a frontage of 3m, an access corridor of 3m and a minimum size of 740m<sup>2</sup> (not including access ways).</p> <p>The above controls when combined with the irregular shape of the allotment and its existing topography ensure that any future subdivisions of the subject site would result in development and dwellings not in keeping with that of adjoining and adjacent properties.</p> <p>It should also be noted that it is not considered appropriate for additional vehicular access points to be provided along Blaxland Road.</p>
Multi dwelling housing (attached)	<p>This is not currently permissible on the subject site due to being located within the minimum linear separation distance of 6 Kulgoa Avenue, Ryde which currently contains Urban Housing (LDA2007/0358).</p> <p>Notwithstanding the above, due to the configuration, topography and orientation of the site, it is unlikely that multi dwelling housing in accordance with the requirements of <i>Part 3.5 Multi Dwelling Housing (attached) (for Low Density Residential Zone)</i> of <i>Development Control Plan 2010</i> would result in a good urban form outcome. Of particular concern in this respect, are the limitations on excavation and fill, maximum height and storey requirements and adequate vehicular and pedestrian access to the site.</p>

Given the above, it can be clearly seen that the application of the R2 Low Density Residential Zoning to the subject site will not result in the best outcome for the subject site. As such, given that an R4 High Density Residential Zoning may be the most appropriate, careful consideration as to the applicable built form outcomes must be undertaken. This is detailed below.

**Built form outcomes**

The primary built form controls that would apply to the subject site under Ryde Local Environmental Plan 2010 are Height and FSR. In this respect, the proponents have sought an increase in height from 9.5m to 11.5m. The primary concerns resulting from this increase are overshadowing, privacy and streetscape. It should be noted that should the Planning Proposal be supported by Council and the Department of Planning, a site specific controls placed into the Development Control Plan 2010 will be prepared prior to undertaking any community consultation.

**Overshadowing**

With respect to overshadowing, the proponents have prepared an indicative development outcome that demonstrates the potential development that could result from the amendments to the RLEP 2010. This includes a shadow diagram that clearly shows that the shadows to result from the proposed development due to the orientation of the site would fall primarily on Kulgoa Avenue and Blaxland Road, having negligible amenity impacts on adjoining and adjacent residences. These indicative plans, including the shadow diagrams, have been attached (**ATTACHMENT 4**).

**Privacy**

The potential loss of privacy for adjoining residences that may result from the proposal would be subject to the location of windows and balconies. These elements would be subject to further detailing by the proponents as part of any forthcoming Development Application for the site. Consideration of privacy of adjoining dwellings would be required in any forthcoming development application by *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat*



**ITEM 13 (continued)****ATTACHMENT 1**

*Development.* Notwithstanding this, the indicative development outcomes (**ATTACHMENT 4**) has indicated that sufficient separation from any future buildings and existing residences could be achieved that would ensure privacy.

*Streetscape*

The potential outcomes to result from the development with respect to streetscape are considered acceptable given the range of development and built form styles of adjoining and adjacent properties. In considering streetscape, it must be noted that on the eastern side of Blaxland Road, there are currently 3 storey residential flat buildings located to the south of the subject site. Furthermore, directly opposite the site is Ryde College which is 3 storeys in height.

*Floor-Space-Ratio*

With regards to FSR, the proponents have not proposed a FSR for the subject site on the basis that Clause 4.5B from RLEP 2010 will provide a maximum density for the subject site, dependant on the number of bedrooms for each unit to result from the amended controls.

In this respect, between the proponents commencing initial discussions with Council and lodging the Planning Proposal, the Draft RLEP 2011 has undergone substantial development and has been adopted by Council for submission to the Department of Planning. The Draft RLEP 2011 includes the deletion of Clause 4.5B and the inclusion of FSR within the R4 Zone. As such, it is considered that a FSR apply to the subject, ensuring an appropriate FSR is achieved for the subject site given its zoning and potential future development.

The Draft RLEP 2011 provides a maximum FSR of 1.0:1 for all R4 High Density zones within the Ryde LGA. As such, given the size of the subject sites and its proposed zoning, a FSR of 1.0:1 should apply to the site. It must be noted that this FSR is a maximum only. The total floor space area to be achieved on the subject site would also be dependant on compliance with other applicable planning controls including and not limited to setbacks, height, building separation, overshadowing and privacy. These planning controls would include those applicable under the RLEP 2010 or Draft RLEP 2011, *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development* and a site specific part of *Development Control Plan 2010*.

Policy and Strategic Context

Many of the key matters applicable on a Policy and Strategic basis have been considered by the proponent within their Planning Proposal. In this respect, only the major issues have been detailed below.

*Draft Inner North Subregional Strategy*

In July 2007, the NSW State Government released the Inner North Subregion: Draft Subregional Strategy (Draft Subregional Strategy) covering the City of Ryde LGA. The Draft Subregional Strategy set targets for housing (dwellings) and employment (jobs) for the subregion to be reached by 2031, including a dwelling target for the City of Ryde of 12,000.

The planning proposal has no adverse impacts on the aims and strategies of the Draft Subregional Strategy. The dwelling target for City of Ryde can be met without the additional potential dwellings which would result from the proposed rezoning.



**ITEM 13 (continued)****ATTACHMENT 1***State Environmental Planning Policies*

The proponents have included within their Planning Proposal consideration of the applicable State Environmental Planning Policies, including *State Environmental Planning Policy No. 55 – Remediation of Land*. It must be noted that the proponents have included a Site Contamination Audit Report, given that the subject site was previously used as a Petrol Station. The Site Contamination Audit Report provides that the subject site is suitable for residential purposes.

*RLEP 2010*

The proposed rezoning from R2 Low Density Residential to R4 High Density Residential under RLEP 2010 is considered suitable due to the location of the subject site and its context.

*Development Control Plan 2010*

The planning proposal seeks the amendment of the RLEP 2010 and does not seek the redevelopment of the site. Any future redevelopment would be subject to a future development application. However, notwithstanding the above, the proponents have provided indicative plans of the type of development that could be achieved under the proposed controls.

Council's current *Development Control Plan 2010* does not have controls that adequately address the uniqueness of the subject site due to its frontage to Blaxland Road, existing surrounding development and the size of the subject site. As such, in order to ensure that the future development of the subject site provides a reasonable built form outcome and a level of amenity for future and existing residents, a site specific addition to the *Development Control Plan 2010* must be prepared. It is envisaged that such planning controls would include but not be limited to matters such as setbacks, solar access and privacy and would be located with *Part 6 Specific Sites* of the *Development Control Plan 2010*.

The preparation of a site specific addition to the *Development Control Plan 2010* would occur once the Planning Proposal has been firstly adopted by Council and subsequently considered by the Department of Planning. Should the Department of Planning support the Planning Proposal, the site specific addition to the DCP 2010 would be prepared prior to any community consultation taking place. This has been included in the recommendations of this report.

*Local Planning Study*

The City of Ryde Local Planning Study (adopted 7 December 2010) has been prepared as Council's local planning response to the Draft Subregional Strategy. The proposed rezoning does not conflict with the strategies adopted under the Local Planning Study.

*Draft RLEP 2011*

There are minor changes between the R4 High Density Residential zone under RLEP 2010 and RLEP 2011. These changes are:

- The deletion of 2 objectives from the R4 High Density Residential Land Use Table,
- The deletion of clause 4.5B which provides maximum density controls for the development of Residential Flat Buildings within the R4 High Density Zoning, and the introduction of FSRs to the R4 Zone.



**ITEM 13 (continued)****ATTACHMENT 1**

It is considered that the proposed changes from the RLEP 2010 and the Draft RLEP2011 are relatively minor. The proposed changes have been adopted for submission to the Department of Planning by Council on the 2 November 2010.

**Consultation**

Under the gateway plan-making process, a gateway determination is required before community consultation (formerly known as public exhibition) on the planning proposal takes place. The consultation process will be determined by the Minister but implemented by Council.

The Department of Planning's guidelines stipulate at least 28 days community consultation for a major plan, and at least 14 days for a low impact plan. The Department has advised that low impact proposals are generally those which are consistent with the current predominant zoning, and do not cover a significant area. At this stage, it is not known whether this proposal is a major plan or a low impact plan as this is determined by the Minister. Consultation will include exhibition, notification, and a review of submissions.

**Critical Dates**

There are no critical dates or deadlines to be met at this stage of the process. Time periods for preparation of amending LEPs apply upon issue of the Gateway Determinations by the Minister.

**Financial Impact**

Adoption of the option(s) outlined in this report will have no financial impact. Council should note that the lodgement of the planning proposal has been subject to Council's Fees and Charges Schedule to amend Local Environmental Plans.

**Policy Implications**

There are no policy implications through adoption of the recommendation.

**Next Steps**

Should Council resolve to support this planning proposal for the purposes of community consultation and a gateway determination, the next step is to forward the planning proposal to the Department of Planning. Gateway determinations are issued by the Minister for Planning or delegate and are required before community consultation (public exhibition) on the planning proposal takes place.

**Other Options**

At this stage of the process, Council has the option to decide to proceed with the planning proposal to the next stage (gateway determination and community consultation) or to decide not to proceed.

Should the Minister for Planning determine that the planning proposal can proceed to community consultation, Council has another opportunity to decide whether to proceed, vary or reject the proposal following community consultation.

**Conclusion**

The planning proposal to rezone 283-289 Blaxland Road, Ryde to R4 High Density Residential from R2 Low Density Residential under RLEP 2010 is considered appropriate to proceed to the Minister for Planning for a gateway determination as to



**ITEM 13 (continued)****ATTACHMENT 1**

whether it should proceed to the consultation stage. The proposed zone and the development achievable under it, is consider appropriate for the site given its size, context and location. This is subject to the inclusion of a 1.0:1 FSR on the subject site and a site specific addition to the Development Control Plan 2010 prior to undertaking community consultation.

It is therefore recommended that Council forward the subject planning proposal to the Department of Planning for Gateway Determination.

**RECOMMENDATION:**

- (a) That the Planning Proposal be forwarded to the Department of Planning for Gateway Determination, subject to a FSR of 1.0:1 being applied to the subject site and a site specific addition to the Development Control Plan 2010 being prepared prior to community consultation occurring.
- (b) That, in the event of a gateway determination being issued pursuant to section 56 of the *Environmental Planning and Assessment Act 1979*, Council will be advised of the terms of the determination and next steps.

**ATTACHMENTS**

The following attachments are CIRCULATED UNDER SEPARATE COVER

- 1 Attachment 1 - 283-289 Blaxland Rd - Site Plan
- 2 Attachment 2 - 283-289 Blaxland Rd - Current Zoning
- 3 Attachment 3 - Extract from Planning Proposal – Justification
- 4 Attachment 4 - Indicative Development Outcomes

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## **14 DRAFT VOLUNTARY PLANNING AGREEMENTS POLICY AND PROCEDURES**

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**Report prepared by:** Client Advisor

**Report dated:** 18 May 2011

**File No.:** GRP/11/6/3/3 - BP11/391

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### **Report Summary**

A Voluntary Planning Agreement (VPA) is an agreement between two parties (usually the developer and Council) where the developer makes a contribution towards a public purpose. This contribution is linked to a Planning Proposal or Local Development Application. This agreement can involve a monetary payment or the provision of public works such as infrastructure or community facilities. A Voluntary Planning Agreements Policy has been prepared to establish a transparent and accountable framework for the development of planning agreements. This Policy sets out the process and procedures guiding the negotiation and implementation of planning agreements. This will provide the community with an understanding and information on planning agreements and the provision of public benefits. The VPA Policy was presented to Committee of the Whole on 7 December 2010.

This report provides information on the outcomes of the public exhibition and outlines the amendments to the policy as a result of legal opinion dated 9 February 2011.

It is recommended that the draft policy and procedures amended in accordance with legal advice be adopted by Council.

### **RECOMMENDATION:**

That the draft Voluntary Planning Agreements Policy and Procedures amended as a result of Council resolutions and legal advice dated 9 February 2011 be adopted and a notice be published in a local newspaper in accordance with the requirements of the Regulation to the Environmental Planning and Assessment Act so as to bring the Policy and Procedures into effect.

### **ATTACHMENTS**

- 1** Legal Advice
- 2** Voluntary Planning Agreement (VPA) Policy
- 3** Voluntary Planning Agreement (VPA) Policy - Internal Procedures
- 4** Voluntary Planning Agreement (VPA) Policy - Explanatory Note Template
- 5** Voluntary Planning Agreements Policy - Template
- 6** Voluntary Planning Agreements Policy - Potential Planning Obligation Benefits
- 7** Voluntary Planning Agreements Policy - Potential Planning Obligation Benefits – Macquarie Park
- 8** Voluntary Planning Agreements Policy – Implementation Plan
- 9** Voluntary Planning Agreements Policy – Procedure for proponents
- 10** Voluntary Planning Agreements - Dictionary

Report Prepared By:

**Catharine Noble**  
**Client Advisor**



**ITEM 14 (continued)**

Report Approved By:

**Meryl Bishop**  
**Manager - Urban Planning**

**Dominic Johnson**  
**Group Manager Environment & Planning**



**ITEM 14 (continued)****Background**

Council, at its meeting of 7 December 2010, considered a report detailing an overview of the draft Policy as well as a draft Procedures Manual which will enable staff to negotiate a successful outcome where Council and a developer agree to proceed with a VPA.

Section 93F of the Environmental Planning and Assessment Act (EP&A Act) provides the framework and details of VPAs. Currently, Council has entered into 9 negotiated agreements.

It was also requested at the Council meeting in December 2010 that benefits received by the developers as part of these negotiated VPAs be identified in any future report. The following table lists information on the 9 agreements and sets out the benefits received by both Council and the developers:

Address	Application Number	Developer benefit	Council benefit
84-92 Talavera Rd, Macquarie Park	LDA07/377 – Approved COW – 4/12/2007	FSR bonus of 3,925m <sup>2</sup> of additional floor space	An agreement to transfer the land adjacent to Shrimpton's Creek, with an area of 4,600 square metres to Council free of cost for public park purposes; <ul style="list-style-type: none"> <li>• The payment of a cash contribution as required under Section 94 of the Act;</li> <li>• The embellishment of the land to be dedicated including the carrying out of stormwater and drainage works; and</li> <li>• A maintenance agreement over the park for the applicant to undertake all works for 10 years.</li> </ul>
11 Bay Drive, Meadowbank	LDA06/710 – Approved: COW – 5/12/06	An additional residential floor for buildings 5B and 5C comprising 16 additional units	Monetary contribution of \$1,475,000.00
Top Ryde Shopping Centre	LDA06/671 & LDA06/672	Transfer of Council land for traffic management solutions . Additional height and floor space was negotiated with the preparation of the LEP	Public benefits in lieu of s94 contributions: City of Ryde Centre, \$250,000 contribution toward the upgrade of Ryde Park, \$100,000 contribution toward relocation of the Cenotaph in Devlin St to Ryde Park, \$5,000 to Council to assist with consultants' costs
15-19 Angas St, Meadowbank	LDA06/487 – COW 19/6/2007	RFB – An additional floor comprising 11 units	Monetary contribution of \$2,000,000
15-17 Angas St, Meadowbank	LDA2008/235 – Council Meeting 12/8/2008	Change from mixed use to residential only. Additional floors comprising additional 42 units	Monetary contribution of \$1,000,000



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Eastwood Centre	LDA2007/936	Increased height for residential towers	Public benefits and monetary contribution valued at \$3,400,000
146 Bowden St, Meadowbank	LDA2008/729 – COW 21/4/2009	One additional storey on each of the 3 residential blocks resulting in an additional 14 residential units	Public benefits and monetary contribution valued at \$3,391,000
82-84 Belmore St, Meadowbank	LDA2008/731 – COW 15/9/2009	One additional storey providing an additional 44 residential units	Monetary contribution of \$500,000 (in addition to s94 contributions)
West Ryde Development	LDA2007/559	4 additional storeys, an increase of fsr from 1.25:1 to 2.34:1	Public domain works valued at \$32,979,099
20- 22 Ball Avenue Eastwood	LDA2008/243	Height - additional 1storey	Dedication of land
2-4 Porter Street Meadowbank	LDA 2010/331	Height - additional 2 storeys	Monetary contribution of \$600,000 and right of way 4 m wide

**Report**

Subsequent to this draft Policy being reported to Council on 7 December 2010 the following information was received:

- The Department of Planning and Infrastructure, on 18 February 2011, advised of legislative changes to VPAs that require Explanatory Notes to advise if the proposed benefits are to be provided before a construction, occupation or subdivision certificate is issued. Any future Explanatory Notes will be checked to ensure that the Note provides this information if applicable. The template has been revised to reflect this requirement.
- Legal advice was sought and received and this information is contained within this Report.
- Council, at the COW meeting of 19 April 2011 resolved to include affordable housing as a potential planning obligation in the draft VPA Policy and the appropriate documents have been amended to reflect this change.
- A s94/VPA calculator has been devised and implemented by Council's Business Solutions Manager which allows the tracking of VPA payments and delivery of public benefits.

**Consultation**

The draft Policy and attachments were circulated to staff for comment and the drafts were presented at a workshop for Group Managers and senior staff. Comments were received back from staff and incorporated in the final versions.

External Public consultation included:

- The draft Policy and attachments were exhibited for 31 days between 2 February 2011 and 1 March 2011. The exhibition process involved a public notice in the City View and the draft being available for viewing on Council's website and at all Council libraries.



**ITEM 14 (continued)**

- The draft Policy and attachments were referred to Council's General Counsel who referred it to an external legal consultant for comment.

Comments

- No submissions were received in response to the public exhibition.

**Legal opinion**

Comments from Planning Law Solutions dated 9 February 2011 are attached (**Attachment 1**). The main issues raised by this legal opinion were:

- **General wording** corrections to bring the documents in line with the Department of Infrastructure and Planning's Practice Note for VPAs;
- **Provision of security** under a Planning Agreement. The Draft Policy, in the *Procedures for Proponents*, stated that Council '**may**' require security to cover developer obligations. Legal opinion advised that this is mandatory. The wording has been changed to reflect this requirement.
- **Valuing public benefits**. It is suggested that where the benefit under a planning agreement is the provision of land for a public purpose, Council is to value this land at market value rather than under the *Land Acquisition (Just Terms Compensation) Act 1991*. Legal advice suggests that land could be overvalued if valuations are undertaken under the *Land Acquisition Act*. This market value is to be provided by the proponent and independently valued. The *Procedure for Proponents* has been adjusted accordingly.
- **Compliance with the Act**. The draft Policy and Procedures have been amended to incorporate additional information or reporting requirements to ensure compliance with the Act and Regulations.

**Overview of the Policy and Attachments – details of amendments resulting from legal opinion****1. Voluntary Planning Agreements Policy (Attachment 2)**

The policy and supporting information provides a framework to assist in ensuring a transparent and accountable process is in place to govern the use of planning agreements. The attachments to the policy are listed as follow:

- Procedure – Internal
- Draft Explanatory Note Template
- Planning Agreement Template
- Potential Planning Obligation Benefits City of Ryde and Macquarie Park
- Draft Implementation Plan
- Procedure – External
- Dictionary

Legal Advice: No changes were required to be made to the Draft Policy as a result of legal opinion



**ITEM 14 (continued)****2. Procedure – Internal (Attachment 3)**

The information in this attachment provides the Procedures to be followed by Council staff when negotiating a VPA and the administrative processes for tracking monetary payments and/or public works that form the basis of the VPA. The internal procedures comprise four stages

*Stage 1 – Prelodgement/Negotiations*

These steps involved in the negotiation process are outlined in the following points:

1. Preliminary plans and offer of a VPA – discussion on the development/ planning proposal and the preliminary offer would be made as part of the prelodgement process or at an informal meeting.
2. Executive Team – Endorsement of the Proposal - The Group Manager, Environment and Planning reports the proposal and suggested deliverables to the Executive Team for endorsement.
3. Discussions by VPA Panel – Review of the Proposal – the proposed development and VPA would be discussed by an internal panel known as the VPA Panel, to assess the merits of the proposals and determine whether the offer would be supported. This Panel comprises Group Managers, General Counsel (Chair), senior staff, client managers and other staff as required.
4. Response to Proponent on Preliminary VPA – Discussions with the proponents to confirm the public benefits, timing and procedures of the VPA process..
5. Prelodgement Plans and draft VPA lodged by Proponent – The proponent submits the draft proposal and VPA for discussion at a formal prelodgement meeting and for review by the VPA Panel.
6. Prelodgement Panel – assessment of the proposed design/development by B+DAS and issues identified.
7. VPA Review Panel – Comprehensive Review of the Detailed Proposal – chaired by General Counsel and comprising Group Manager, Environment and Planning, Client Managers, Client Advisor, other staff as required. This Panel reviews the documentation and determines if the draft VPA is acceptable.
8. Council responds to the proponent - the proponent is provided with the minutes of the prelodgement meeting, the determination of the VPA Review Panel and information required supporting the VPA.
9. Signing of the Explanatory Note – The proponent lodges the Explanatory Note with Council for signing by the Chair of the VPA Panel.
10. Lodgement of LDA/Planning Proposal, draft VPA and Explanatory Note – The draft VPA is lodged with Council as part of a Local Development Application or Planning Proposal.

Legal advice: no amendments were to Stage 1 as a result of legal advice.

*Stage 2 – Notification and Exhibition, Assessment and Determination*

The draft VPA is lodged with the Local Development Application /Planning Proposal with the Explanatory Note and these are exhibited for a period of 28 days.

The Draft VPA and the proposal are assessed and determined, taking into account any submissions received. The VPA is formalised as conditions of consent or Council resolution linked to a planning proposal.



**ITEM 14 (continued)**

Legal advice: the following amendments were made to this stage:

- Text amended to state the exhibition of the VPA is undertaken in accordance with the EP&A Act and Regulations;
- Text is amended to include a statement that indicates that a planning consultant should assess a development application where Council has an interest in the agreement.

*Stage 3 – Post Approval*

Three areas are covered by this Stage include:

- notification of the relevant Groups of the signing of the VPA,
- the provision of public works/community benefits to Council
- monetary contributions and details for payment.

Legal advice: the following amendments were made to this stage:

- Text amended to state that the signed VPA is sent to the relevant Minister.

*Stage 4 – Administration*

This Stage outlines the Department/Team responsible for the various steps relating to administering the VPA process, these steps include:.

- VPA Register – the Register is held and updated as required.
- Tracking: relating to the payment of monetary contributions and the provision of the public works/community benefit
- Reporting on the VPA - monthly audit and quarterly reporting. Tracking of any VPA benefits and monetary contributions aided by the s94/VPA Calculator.

Legal advice: the following amendments were made to this stage:

- Text amended to state the VPA register is to include the Explanatory Notes and be available for public inspection free of charge.
- Information on the requirements that the details on signed VPAs are to be reported in Council's Annual Report.
- Text introduced indicating that land and money received as a result of a VPA must be made available/implemented within a reasonable time frame. This is a requirement of the EP&A Act [s93E(1) and (3)].

**3. Draft Explanatory Note Template (Attachment 4)** which must accompany any VPA and be exhibited with a development application or planning proposal. Any Explanatory Note will be checked to ensure that advice regarding benefits are due and/or payable prior to the issue of any certificates.

Legal advice: the following amendments were made to this stage:

- The inclusion of a note that requires the timing of the delivery of benefits, that is, prior to the issue of a construction, occupation or subdivision certificate to be stated.
- How the Draft Planning Agreement promotes the public interest and Council's Mission Statement.



**ITEM 14 (continued)**

**4. Planning Agreement Template (Attachment 5)** to be used for any VPA lodged with Council. This Template sets out any monetary contributions and/or public works to be provided by a developer. It also includes a comparison of the VPA offer with s94 contribution payments, which would have to be paid for a development if no VPA was to be entered into.

Legal advice: the following amendments were made to this stage:

- The inclusion of a note relating to Explanatory Notes stating  
*This Explanatory Note providing details on this Agreement may not be used to assist in construing this agreement.*

**5. Potential Planning Obligation Benefits City of Ryde and Macquarie Park, (Attachments 6 & 7)** outline examples of public benefits that developers may provide in lieu of, or in addition to, s94 contributions. These may comprise:

- Infrastructure such as roads, drainage, open space, improvements to existing transport and access ways.
- Facilities e.g. child care centres, youth and leisure facilities, civic spaces, car parks, affordable housing.
- Public domain improvements e.g. paving, street planting, public art, street furniture.
- Cash contributions, land dedication, other benefits in line with Council plans and strategies.

As a result of a Council Resolution affordable housing has been added to the list of possible planning obligations for both Macquarie Park and the City of Ryde.

**6. Draft Implementation Plan** – to assist proponents in specifying how and when public works would be delivered. The legal opinion did not suggest any changes for this Plan. **(Attachment 8)**

**7. Procedure – External – (Attachment 9)** the procedures to assist proponents in negotiating a VPA with Council.

Legal advice: the following amendments were made to this stage:

- Advising proponents of the possibility of pooling of contributions;
- Provision of security under a planning agreement;
- Valuing public benefits;
- Notation addressing s94(6) of the EP&A Act.

**8. Dictionary – (Attachment 10)** a dictionary of terminology applicable to VPAs. No changes were proposed by legal opinion.

The Policy and relevant attachments are attached. The amendment to the policy and attachments are in red text.

**Critical Dates**

There are no critical dates or deadlines to be met.



**ITEM 14 (continued)****Financial Impact**

The exhibition of the draft Policy, its completion and implementation will be funded through the operational budget of the Urban Planning Unit.

**Policy Implications**

There are no policy implications through adoption of the recommendation.

**Conclusion**

Changes to the Draft Policy and Procedures have been undertaken in line with legislative, legal and Council requirements subsequent to the Report presented to Council on 7 December 2010 and are noted in red. These changes enhance the documents and ensure the VPA process that will be put in place when Council negotiates an Agreement with developers will be fully transparent and robust.



## ITEM 14 (continued)

## ATTACHMENT 1



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The General Manager  
Ryde City Council  
PO Box 2069  
NORTH RYDE BC NSW 1670

Our Ref: MM-09035  
Your Ref: Bruce McCann

9 February 2011

Dear Sir

**Advice on Draft VPA Policy and Procedures**

1. I refer to Mr McCann's email dated 21 January 2011.
2. I have been requested by Ryde City Council to review and comment on the following suite of draft policies and procedures relating to Voluntary Planning Agreements (VPA) in the Ryde Local Government Area:

VPA Policy - Procedures for Proponents

VPA Policy - Procedures - Internal Use

VPA Policy - VPA Template

VPA Policy - Explanatory Note Template

VPA Policy - Potential Planning Obligation Benefits - Macquarie Park

VPA Policy - Potential Planning Obligations Benefits - City of Ryde

VPA Policy- Draft Implementation Plan

**Statutory and Non-statutory Requirements**

3. I have reviewed the draft Policies and Procedures listed above against the following statutory and non-statutory requirements and guidelines:

Part 4, Division 6, Subdivisions 1 and 2 (ss 93C to 93L) of the *Environmental Planning and Assessment Act 1979* (EP & A Act)

Liability limited by a scheme approved under professional standards legislation. Solicitors employed by Planning Law Solutions Pty Ltd (ACN 59 190 914 773) are members of that scheme.



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Part 4, Division 1A (cls 25A to 38) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation)

Section 55 the *Local Government Act 1993* (LG Act 1993) relating to tendering

"Development Contributions Practice Notes", prepared by the Department of Infrastructure, Planning and Natural Resources (DIPNR) dated July 2005

"Corruption Risks in NSW Development Approval Process", prepared by the Independent Commission Against Corruption (ICAC) dated September 2007

"Guidelines for Managing Risks in Direct Negotiations", prepared by ICAC dated May 2006

4. I have also considered a number of VPAs prepared for development in other local government areas that have recently been placed on public exhibition.

#### General Comments

5. The results of my review of the draft Policies and Procedures against the relevant statutory requirements of the EP&A Act and EP&A Regulation are set out in the compliance table attached to this advice. The first and second columns in the table identify those provisions which impose an obligation or limitation on Council's power to enter into a VPA. Other provisions that do not impose obligations or limitations on Council are not included. The third column in the table identifies the particular draft Policy or Procedure which addresses, or ought to address, the particular requirement.
6. The fourth column in the compliance table contains my assessment as to whether or not the draft Policy or Procedure: (a) complies with, (b) does not comply with, or (c) is silent in respect of the particular requirement. In most instances, where I have described compliance as "silent" it will be a matter for Council to determine whether or not to address the requirement. However there are a number of items in this category that are of such significance that they should be addressed in the draft policy. I have identified these items by underlining the word silent.

#### Probity considerations

7. I have considered the ICAC documents in my review because they are directly relevant to negotiations associated with VPAs. In its publication titled "Corruption Risks in New South Wales Development Approval Process" (September 2007), the ICAC describes the VPA negotiation/approval process as a "realistic corruption risk". This ICAC publication makes specific recommendations relating to the VPA negotiation/approval process. In particular it recommends that the following anti-corruption measures be considered by councils:



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- 7.1. Council's should prepare and publicly exhibit a policy to clarify the processes they will follow in relation to planning agreements, and in doing so adopt the best practice guidelines outlined in the 2005 Practice Note issued by DIPNR; and
- 7.2. negotiations over planning agreements should not be undertaken by the assessing officer responsible for the development to which it relates.
8. In my assessment the draft Policies and Procedures proposed by Council embody most of the suggestions in the 2005 DIPNR practice note. Some minor differences are noted, which are addressed by recommendations later in this advice.
9. In relation to the second anti-corruption measure, the proposed formation of a VPA Panel is a good way of separating VPA negotiations/approval from the assessment of the related development proposal. However, the distinction between assessment of a VPA and assessment of the related development proposal could be further improved by:
- 9.1. confining the step described as "Discussions by VPA Panel " in stage 1 of the negotiation process to discussion of the proposed VPA only (the procedure suggests that the VPA Panel will also assess the proposed development); and
- 9.2. confining discussion at the DA pre-lodgement meeting to the development proposal only.
10. Direct negotiations involving public authorities and private individuals are also identified by the ICAC as a corruption risk because they create an environment in which corrupt conduct might occur, or might be perceived as occurring. Negotiation in connection with a VPA is a form of direct negotiation to which ICAC is referring. The ICAC publication titled "Guidelines for Managing Risks in Direct Negotiations" (May 2006) makes several recommendations designed to ensure that direct negotiations adhere to public sector values such as impartiality, objectivity, transparency and accountability. The draft Policies have been assessed against, and generally comply with these recommendations. Some minor areas of improvement have been identified, which are outlined more detail later in this advice.

**Local Government Act 1993**

11. For completeness, I note that a VPA is exempt from Chapter 12, Part 6 of the LG Act 1993, which imposes obligations on councils in respect to public-private partnerships.<sup>1</sup>
12. A VPA is not expressly excluded from the types of contracts for which a council must invite tenders under section 55 of the LG Act. A VPA is potentially a contract at common law and is potentially a contract for which a council must invite tenders. As far as I can ascertain there is no guidance on this issue in the 2005 DIPNR practice note or in any Department of Local Government guideline.

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<sup>1</sup> Clause 408 of the *Local Government (General) Regulation 2005*



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13. In order to be satisfied that a VPA may be entered into without first inviting tenders for the works proposed in the VPA, I recommend that Council make its own enquiries of the Department of Local Government, or instruct me to obtain advice from counsel.

14. I have set out below my specific comments in relation to each of the draft Policies and Procedures.

VPA Policy - Procedures for Proponents

15. The draft VPA Policy - Procedures for Proponents adopts most of the fundamental principles advanced in the 2005 DIPNR practice note. However, the following two principles contained in the practice note do not appear in the principles listed in the draft Policy:

*planning authorities should ensure that their bargaining power is not compromised or the decision-making freedom is not fettered through a planning agreement*

*planning authorities should avoid, wherever possible, being party to planning agreements where they also have a stake in the development the subject of the agreements.*

16. There appears to be no reason why these two principles have not been adopted and I recommend that they be included at the end of the principles listed in the Policy. I also recommend specific measures be incorporated into the draft Policy which are designed to give effect to those principles. I have identified these recommendations later in this advice.

17. The 2005 DIPNR practice note recommends that if a proponent is not the owner of the land to be developed, the owner should be an additional party to a VPA which is proposed in connection with the proposed development. No doubt one of the reasons for this recommendation is to facilitate registration of the agreement on the title to land, which may be a problem if the owner is not fully aware of the obligations imposed under the VPA. Council should consider amending its draft Policy so as to require the owner of the land to be a party to any VPA and to require the owner or owner's representative to attend at least the initial meeting with Council officers at which the proposed VPA will be discussed.

18. The draft Policy refers to the pooling of development contributions. The wording of the draft Policy implies that a VPA must in terms provide the basis for pooling of money paid under different VPAs. This is not strictly correct, section 93E(2) of the EP&A Act provides a general power for a council to pool monetary contributions collected under different VPAs regardless of the terms of those VPAs. The 2005 DIPNR practice note recommends that a council disclose the possible pooling of contributions to developers in a VPA, which is different to seeking a developers consent for the pooling of contributions. Council might consider rewording the draft Policy in relation to pooling to be in the form of a disclosure rather than an enabling provision.



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19. The statement in the draft Policy relating to the application of other development contributions is silent on the limitation imposed by section 93F(6) of the EP&A Act. Section 93F(5) of the EP&A Act provides that:
- ".. if a planning agreement excludes benefits under a planning agreement from being taken into consideration under section 94 in its application to the development, section 94(6) does not apply to any such benefit."*
20. Section 94(6) of the EP&A Act provides that an applicant is entitled to a concession on contributions required under section 94(1) or section 94(3) of the EP&A Act if the applicant has dedicated land, paid money or given a material public benefit elsewhere within the local government area. I recommend Council consider including a statement in the draft Policy reflecting the limitations under section 93F(6) of the EP&A Act.
21. As an additional probity measure, I recommend that Council consider requiring proponents to disclose, at the time of the initial offer of a VPA, any political donations made by the proponent or a person associated with the proponent. The same procedure that currently applies to disclosure of donations at the development application stage could be adopted for this purpose.
22. Section 93F(3)(g) of the EP&A Act suggests that a VPA must include a means of enforcing the obligations under the agreement. The requirement is expressed as mandatory, rather than discretionary. The draft Policy states that Council will *generally* require security to cover the developer's obligations under a VPA. This statement implies that there will be instances when Council will not provide for a means of enforcing obligations under a VPA. I recommend that Council consider amending the draft Policy to require every VPA to include an obligation on the proponent to provide security, or some other means of enforcement, to cover the developer's obligations under the VPA.
23. Council may wish to reconsider the basis on which it will value land dedicated to Council under a VPA. The draft Policy states that land value will be determined on the basis of the amount of compensation to which a developer would be entitled under the *Land Acquisition (Just Terms Compensation) Act 1991*. The amount of compensation determined under that Act is often more than the market value of the land because it includes, among other things, special value to the owner and any increase in the value of any other land owned by the person.
24. Council could potentially be overvaluing land dedicated to it under a VPA if it uses the compensation regime under the *Land Acquisition (Just Terms Compensation) Act 1991*. I recommend that Council consider changing the basis for valuing land dedicated to Council under a VPA to the market value of the land.



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VPA Policy - Procedures for Internal Use

25. If the proponent of a VPA is not the land owner, the land owner or owner's representative should be involved in, or at the very least be aware of, discussions with the VPA Panel about a draft VPA, for the reasons discussed above.
26. There is a risk that a development consent issued by Council in connection with a VPA, in circumstances where the VPA contains benefits that are wholly unrelated to the subject matter of the application, could be successfully challenged under section 123 of the EP&A Act on the basis of either apprehended bias or consideration of an irrelevant matter. There are precedents (see *Gwandalan Summerland Point Action Group Inc v Minister for Planning* [2009] NSWLEC 140).
27. The following simple measures could be implemented in order to minimise the risk of a challenge to the validity of a consent associated with a VPA:
- 27.1. the information placed before the VPA Panel when it decides whether or not to support a draft VPA could distinguish between those benefits conferred under the VPA that are related to (have a nexus with) the proposed development and those that are wholly unrelated to the proposed development;
  - 27.2. the same information should be included in the report to Council on the draft VPA;
  - 27.3. the report to Council on the draft VPA should also contain a statement that Council officers have not given any weight in formulating their recommendation to those benefits in the VPA that are wholly unrelated to the proposed development.
28. The measures listed also give effect to one of the fundamental principle advanced in the 2005 DIPNR practice note, being that planning authorities should not take into consideration VPAs that are wholly unrelated to the subject matter of the accompanying development application, nor should they attribute disproportionate weight to a planning agreement.
29. I recommend that Council consider incorporating the following additional measures in the draft Policy in order to improve the probity of the VPA negotiation/approval process:
- 29.1. the decision to support a VPA in principle (step 4 in stage 1 of the negotiation process) be made by Council's General Manager, or at a meeting of the elected representatives, and the reasons for the decision be recorded;
  - 29.2. a probity adviser be engaged to prepare a probity plan and negotiation protocol for significant VPAs and VPAs where Council has a stake in the development the subject of the agreement;



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- 29.3. a planning consultant be engaged to assess development applications that are accompanied by a significant VPA or a VPA where Council has a stake in the development the subject of the agreement.
30. The administration stage of the VPA process in the draft Policy should be modified to incorporate measures designed to ensure that:
- 30.1. Council does not breach its obligations under sections 93E(1) and 93E(3) of the EP&A Act in respect of monetary contributions obtained, or land dedicated under a VPA;
- 30.2. Council complies with its obligation to include particulars of compliance with all VPAs in its annual report in accordance with section 93G(5) of the EP&A Act.
31. I note that the draft Policy does not state whether or not signed VPAs will be made available for public inspection in accordance with clause 25F(3) of the EP&A Regulation. This requirement may be covered by other Council procedures, however for completeness I recommend that a statement be included in the proposed VPA procedure that the VPA register will be made available for public inspection.

**Draft VPA Template**

32. The draft VPA template closely follows the example VPA contained in the 2005 DIPNR practice note. There are 2 clauses in the draft VPA template where clarification or further particulars are necessary. These clauses and the further particulars required are:
- 32.1. clause 2: specify the land to which the agreement applies and the development to which it applies;
- 32.2. clause 7: specify whether, if section 94 is not excluded, benefits under the VPA are, or are not, to be taken into consideration in determining a development contribution under section 94.
33. Clause 25E(7) of the EP&A Regulation gives parties to the agreement the option to include a clause in a VPA stating that the parties agree that the explanatory note is to be used to assist in construing the VPA. I note that the example VPA in the 2005 DIPNR practice note does not include such a statement, nor do the other VPAs I have considered as part of my review. The advantages and disadvantages of including such a clause in a VPA include:
- 33.1. the explanatory note contains statements about the public interest, impact on the public and objectives of the VPA that are not contained in the VPA itself and which could assist in discerning the true intention of a VPA in the event of an ambiguity; and



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- 33.2. the explanatory note is not part of the negotiated agreement and its terms might only reflect the intentions of one of the parties to the agreement, which could produce an interpretation to the detriment of Council.
34. On balance, I consider that there is more to gain than lose by allowing the explanatory statement to be used to assist in construing the VPA. It is appropriate in my opinion for Council's initial policy position to be that all VPAs should include a statement that the parties agree that the explanatory note is to be used to assist in construing the VPA. However, if the other party to a draft VPA objects to the clause, and convinces Council that the clause is not appropriate, then Council should agree to delete the clause.
35. One of the other VPAs considered as part of my review contained a schedule comprising a checklist which cross-referenced particular clauses in the VPA to relevant statutory requirements in the EP&A Act. I have prepared the attached example checklist that Council might consider attaching to its draft VPA template.
- VPA Policy - Explanatory Note Template**
36. The proposed explanatory note template closely follows the example explanatory note contained in the 2005 DIPNR practice note. However there are a number of minor differences between the practice note and Council's draft template in respect of the following requirements of the EP&A Regulation:
- 36.1. clause 25E(2)(d) which requires the explanatory note to identify how the VPA promotes one or more of the elements of Council's Charter; and
- 36.2. clause 25E(2)(e) which requires the explanatory note to contain an assessment of whether the VPA provides for a reasonable means of achieving its planning purpose.
37. An aspect of the proposed procedure for preparing the draft explanatory note that Council may wish to reconsider is the requirement that the proponent prepare the draft explanatory note for signing by Council. Although this procedure probably complies with clause 25E(3) of the EP&A Regulation (which requires the explanatory note to be prepared jointly between the parties) Council is in a better position to prepare those parts of the explanatory note relating to:
- 37.1. the assessment of the merits of the VPA;
- 37.2. how the VPA promotes the public interest and the impact of the VPA on the public;
- 37.3. how the VPA promotes the elements of Council's Charter;
- 37.4. how the VPA conforms with Council's capital works program.



## ITEM 14 (continued)

## ATTACHMENT 1

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38. Council may wish to consider preparing those parts of the VPA and requiring the proponent to prepare the other parts.

VPA Policy - Potential Planning Obligation Benefits - Macquarie Park and City of Ryde

39. The list of facilities and services contained in these documents is a good way of conveying the practical outcomes sought to be achieved by Council in any VPA. All of the public facilities and services listed as potential planning benefits appear to meet the description of "public purpose" in section 93F(2) of the EP&A Act.

40. Council may wish to consider adding to the list the monitoring of planning impacts of development as an additional planning obligation benefit sought by Council.

VPA Policy- Draft Implementation Plan

41. I have no specific comments in relation to the draft implementation plan, other than to support its purpose as a practical means of monitoring compliance with the obligations under a VPA.
42. Please let you know whether or not you require any further advice or if you wish to discuss my recommendations in conference.

Yours faithfully  
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## ITEM 14 (continued)

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Review of Ryde City Council's Proposed Policy and Procedures for Voluntary Planning Agreements February 2012			
Section/Clause of Act/Reg <sup>1</sup>	Description of requirement	Proposed Council policy/procedure	Compliance
Environmental Planning and Assessment Act 1979			
Section 83E	Obligations relating to use of money and land		
93E(2)	Monetary contributions must be held and used by Council for the identified purpose within a reasonable time	Procedures for internal use - stage 4	Silent
93E(2)	Monetary contributions may be pooled and applied progressively	Procedures for Propponents under the heading "Pooling or development contributions"	Yes <sup>2</sup>
93E(3)	Land which is dedicated must be made available for the identified purpose within a reasonable time	Procedures for internal use - stage 4	Silent
Section 93F	Planning agreements (VPA) generally		
93F(1)	Nature and scope of VPAs	All policies and procedures considered	Yes
93F(2)	Meaning of "public purpose"	Procedures for propponents under the heading "purposes of planning agreements"	Yes
		Potential Planning Obligations - City of Ryde	
		Potential Planning Obligations - Macquarie Park	
93F(3)(a)	VPA must describe land to which it applies	VPA template - paragraph 1.4 in "background"	NO <sup>3</sup>

<sup>1</sup> Table only includes provisions that impose an obligation, or limitation on Council's powers in respect of VPAs.

<sup>2</sup> The draft Policy implies that pooling of contributions is authorised by a provision in a VPA. However, the power to pool contributions comes from section 93E(2) of the EPA Act and is automatic. The DIPNR practice note suggests that planning authorities should disclose to developers that money paid under different VPAs are to be pooled.

<sup>3</sup> The VPA template only identifies the land to which the development proposal relates, which may or may not be the same as the land to which the VPA relates.

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## ITEM 14 (continued)

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93F(3)(b)(i)	VPA must describe proposed change to EPI	VPA template - paragraph A in "background"	Yes
93F(3)(b)(ii)	VPA must describe proposed development	VPA template - Paragraph A in "background"	Yes
93F(3)(c)	VPA must identify nature and extent of VPA obligations, the time and manner by which provision will be made	VPA template - clause 6	Yes
93F(3)(d)	Exclusion or not of ss4, ss4A or ss4EE	Procedures for proponents under the heading "Do other development contributions apply"	Yes
93F(3)(e)	Relationship between benefits under VPA and ss4	VPA template - clause 7	No <sup>4</sup>
93F(3)(f)	VPA must include dispute resolution measures	Procedures for proponents under the heading "Do other development contributions apply"	Yes
93F(3)(g)	VPA must include means of enforcement	VPA template - clause 7	No
93F(3)(h)	VPA must include dispute resolution measures	VPA template - clause 10	Yes
93F(3)(i)	VPA must include means of enforcement	Procedures for proponents under the heading "provision of security under a planning agreement"	Yes <sup>5</sup>
93F(3)(j)	VPA must include dispute resolution measures	VPA template - clause 11	Yes
93F(3A)	Consent authority must agree to exclusion of ss4 or ss4A	Procedures for proponents under the heading "Do other development contributions apply"	Yes
93F(5)	Limitation on imposition of conditions under ss4 or ss4A	VPA template - clause 7	Yes
93F(5A)	Limitation on excluding ss4EE	VPA Template	Yes
93F(6)	ss4(6) not to apply if ss4 excluded	Procedures for Proponents	Silent
93F(7)	VPA may apply to land outside LGA	Procedure for Proponents	Silent
93F(9)	VPA not to require approval of DA or proposed EPI	Procedure for Internal use	Silent
93F(10)	VPA not to require or allow breach of EP&A Act, EPI or development consent	VPA template - clause 13	Yes
93F(10)	EPI or development consent	Procedures for Internal use - stage 1	Silent
Section 93A	Information about VPAs		

<sup>4</sup> The template does not state whether or not contributions under section 94EE are excluded.

<sup>5</sup> Section 93F(3)(g) appears to suggest that a means of enforcement of a VPA is mandatory and not at the discretion of the parties to the agreement. If it means of enforcement is mandatory, then the procedures for proponents and VPA template do not comply with the EP&A Act.



## ITEM 14 (continued)

## ATTACHMENT 1

33G(1)	Public notice must be given of draft PA for not less than 28 days	Procedures for internal use – stage 2	Yes
33G(3)	Copy of VPA must be given to Minister	Procedures for internal use – stage 3	Silent
33G(3)	Particulars of compliance with all VPAs to be included in annual report	Procedures for internal use – stage 4	Silent
Section 33H	Registered VPA to run with land		
33H(1)	Limitation on registration	Procedures for proponents under the heading "registration of planning agreements"	Yes
		Procedures for internal use – stage 2	Yes <sup>a</sup>
Section 33I	Limitations on making of a VPA		
33I(1)(a)	EP cannot require VPA	Procedures for internal use	Silent
33I(1)(b)	EP cannot prevent the granting of consent	Procedures for internal use	Silent
33I(2)	DA cannot be refused if no VPA	Procedures for internal use – stage 2	Silent
33I(3)	DA can be condition to require VPA	Procedures for internal use – stage 1/2	Silent
Section 33K	Minister's directions		
33K(6) – (c)	Minister may determine or direct councils on procedures or requirements	N/A - no determinations or directions have been given	N/A
<b>Environmental Planning and Assessment Regulation 2000</b>			
Clause 25B	Form and subject matter of a VPA		
25B(1)(a)	VPA must be in writing	VPA template	Yes
25B(1)(b)	VPA must be signed by the parties	Procedures for internal use – stage 3	Yes
25B(2)	DE may issue practice notes	All proposed notices and procedures	Yes
Clause 25C	Making, amendment and revocation		
25C(1)	VPA not entered into until signed	Procedures for proponents under the heading when is a VPA required	Yes

<sup>a</sup> The procedures for proponents suggest that registration will be at the discretion of Council whereas the procedures for internal use suggest that registration is mandatory. If registration is mandatory Council must ensure that each person who has an estate or interest in the land agrees to the registration.

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### ITEM 14 (continued)

## ATTACHMENT 1

25C(2)(a)	VPA takes effect (EPI)	to be entered into	Procedures for proponents under the heading "when will planning obligations arise"	Silent
25C(2)(b)	VPA takes effect (DA)		Procedures for proponents under the heading "when will planning obligations arise"	Yes
25C(3)	VPA may be amended or revoked		Procedure for proponents	Silent
Clause 25D	Public notice of a VPA			
25D(1)(a)-(i)	Public notice of VPA contemporaneous with proposed DA, if practical	Procedures for internal use - stage 2		Yes
25D(1)(ii)-(iv)	Public notice of VPA as soon as possible after notice of DA, if not contemporaneously	Procedures for internal use - stage 2		Silent
25D(1A)	Public notice of VPA contemporaneous with proposed EPI	Procedures for internal use - stage 2		Silent
25D(2A)	Public notice of VPA as soon as possible after notice of proposed EPI, if not contemporaneously	Procedures for internal use - stage 2		Silent
25D(3)	Contents of public notice	Procedures for internal use - stage 2		Silent
Clause 25E	Explanatory note			
25E(1)(a)	Exp note to summarise the objectives and nature and effect of VPA	Explanatory note template		Yes
25E(1)(b)	Exp note to contain an assessment of the merits of the VPA, including public impact	Explanatory note template		Yes
25E(2)(a)	Exp note to identify how VPA promotes the public interest and objects of the EP&A Act	Explanatory note template		Yes
25E(2)(d)	Exp note to identify how VPA promotes Council's charter	Explanatory note template		No
25E(2)(e)	Exp note to identify planning purpose served by VPA and an assessment of the means of achieving that purpose	Explanatory note template		No
25E(2)(f)	Exp note to identify conformance of VPA with	Explanatory note template		No

<sup>2</sup> The draft tentative identifies the planning purpose but does not contain an assessment of whether the YPA is a reasonable means of achieving that purpose.

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## ITEM 14 (continued)

## ATTACHMENT 1

	Council's capital works program		
25E(3)	Exp note to be prepared jointly	Procedures for internal use - stage 1	Yes
25E(4)	Procedure for joint Council VPAs	Procedures for internal use - stage 1	Silent
25E(5)	Public notice of Exp note	Procedures for internal use - stage 2	Yes
25E(7)	Use of Exp note in constructing VPA	VPA template	Silent
Clause 25F	Public inspection of VPAs		
25F(1)	Requirement to keep VPA register	Procedures for internal use - stage 4	Yes
25F(2)	Contents of VPA register	Procedures for internal use - stage 4	Yes
25F(3)	Documents available for public inspection	Procedures for internal use - stage 4	Silent

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## ITEM 14 (continued)

## ATTACHMENT 1

## SCHEDULE 1 - REQUIREMENTS UNDER SECTION 93F

The parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of this Planning Agreement complying with the Act.

Requirement under the Act	This Planning Agreement
<p>Planning instrument and/or development application – (section 93F(1))</p> <p>The Developer has:</p> <p>(a) sought a change to an environmental planning instrument.</p> <p>(b) made, or proposes to make, a development/project application</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies</p>	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>
Description of land to which this Deed applies – (section 93F(3)(a))	See clause #
Description of change to the environmental planning instrument to which this Deed applies – (section 93F(3)(b))	Not applicable
The scope, timing and manner of delivery of contribution required by this Deed – (section 93F(3)(c))	See clause #
Applicability of section 94 of the Act – (section 93F(3)(d))	Excluded/Not Excluded
Applicability of section 94A of the Act – (section 93F(3)(d))	Excluded/Not Excluded
Applicability of section 94EF of the Act – (section 93F(3)(d))	Excluded/Not Excluded
Consideration of benefits under this Deed if section 94 applies – (section 93F(3)(e))	Yes/No
Mechanism for Dispute Resolution – (Section 93F(3)(f))	See clause #



**ITEM 14 (continued)****ATTACHMENT 1**

Enforcement of this Deed – (section 93F(3)(g))	See clause #
No obligation to grant consent or exercise functions – (section 93F(9))	See clause #



## ITEM 14 (continued)

## ATTACHMENT 2



## Voluntary Planning Agreements Policy

### Scope

This Policy is known as the City of Ryde Council Policy on Planning Agreements ("Policy"). It sets out City of Ryde Council's policy and procedures relating to planning agreements under the Environmental Planning and Assessment Act 1979.

This planning agreements policy applies to the land and development within the local government area of City of Ryde Council.

### Objectives

The objectives of this policy are:

- a) to establish a fair, transparent and accountable framework governing the use of planning agreements by the Council;
- b) to enhance the range and extent of development contributions made by development towards public facilities in the Council's area;
- c) to set out the Council's specific policies and procedures relating to the use of planning agreements within the Council's area;
- d) to give all stakeholders in development greater involvement in determining the type, standard and location of public facilities and other public benefits; and
- e) to facilitate public participation and to allow the community to gain an understanding of the benefits of appropriate planning agreements for the provision of public benefits.

This Policy and the outcomes negotiated through the Voluntary Planning Agreement process will be undertaken in the context of delivering the 7 key outcome areas of the City:

- A City of well being;
- A City of liveable neighbourhoods;
- A City of prosperity;
- A City of progressive leadership;
- A City of environmental sensitivity;
- A City of connections;
- A City of harmony and culture

### Guidelines / Procedures

There are four stages involved in the VPA process:

#### I. Prelodgement/Negotiations.

1. Preliminary plans and offer of VPA.
2. Discussions by VPA Panel – review of the proposal.
3. Presented to ET – endorsement of proposal.
4. Response to the proponent on the preliminary VPA.
5. Prelodgement plans and draft VPA lodged by the proponent.
6. Prelodgement Panel reviews proposed plans.
7. VPA Panel undertakes a comprehensive review of the detailed proposal.

Voluntary Planning Agreements Policy		
Owner: Urban Planning	Accountability: Manager Urban Planning	Policy Number: #
Trim Reference: D10/91716	Review date:	Provided by Governance
		Endorsed: Date and Authority



## ITEM 14 (continued)

## ATTACHMENT 2



## Voluntary Planning Agreements Policy

8. Council responds to the proponent with the outcomes of the Prelodgement and VPA Panels.
9. Signing of the Explanatory Note.
10. Lodgement of LDA, draft VPA and Explanatory Note.

### II. Notification, assessment and consideration/determination.

1. The proposal and drafts are publicly exhibited.
2. Assessment is undertaken and reported to Council.
3. Tracking of developer contributions or public works begins on approval.

### III. Implementation of planning obligations – post approval.

1. Public Works and Community Life are notified once the VPA has been signed.
2. Handover of public domain works to the City of Ryde.
3. Administrative tasks associated with implementation and tracking of VPA.

### IV. Administration – tracking payment and completion of works.

The VPA Register will be updated and maintained by the Client Advisor and monetary contributions and/or public domain works will be tracked by the relevant Groups and officers.

### References - Legislation

The current legal and procedural framework for planning obligations is set by the Environmental Planning and Assessment Act 1979 No 203, Part 4 Division 6 Subdivision 2, providing for a statutory system of planning agreements. Council is also bound by the provisions of Division 1A of Part 4 of the *Environmental Planning and Assessment Regulation 2000*.

### Review Process and Endorsement

This Policy should be reviewed annually and endorsed by ET.

### Attachments

Number	Title	Trim Reference
1.	Procedure - Internal	
2.	Explanatory Note Template	
3.	Voluntary Planning Agreement Template	
4.	Potential Planning Obligation Benefits – City of Ryde	
5.	Potential Planning Obligation Benefits – Macquarie Park	
6.	Draft Implementation Plan	
7.	Procedure - External	
8.	Dictionary	

Voluntary Planning Agreements Policy		
Owner: Urban Planning	Accountability: Manager Urban Planning	Policy Number: # <i>Provided by Governance</i>
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## ITEM 14 (continued)

## ATTACHMENT 3



## Voluntary Planning Agreements Policy – Procedures – Internal only

### Related Policy

This Procedure relates to the Voluntary Planning Agreements Policy to assist/guide the proponent through the VPA process with Council.

### Procedure

#### FOUR STAGES OF THE VOLUNTARY PLANNING AGREEMENT PROCESS

This section outlines the stages of the Planning Agreement process in line with Figure 1.

##### ***Stage 1: Negotiation and Pre-lodgement***

The negotiation process for planning agreements aims to be efficient, transparent and accountable.

The draft final negotiated agreement should run in parallel with an application/proposal to amend an instrument or a development application.

The negotiation process will generally involve the following steps:

##### 1. Preliminary plans and offer of VPA

Preliminary plans of the development proposal and offer of a negotiated planning agreement are lodged with Council as part of the pre-lodgement process. The proposal/offer could occur at preliminary meetings or an informal pre-lodgement process.

It is anticipated that detailed negotiations would occur between Council and the proponent at Step 3 and Step 4.

This negotiation process may involve a number of meetings with the proponent and meetings of the VPA Panel, in order to reach a solution on the draft planning agreement.

##### 2. Executive Team - Endorsement of the Proposal

The Group Manager, Environment and Planning reports the proposal and suggested deliverables to the Executive Team for consideration and endorsement.

The Executive Team will determine whether to continue to negotiate a planning agreement with the developer and the deliverables of the negotiation process.

Name of Procedure		
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## ITEM 14 (continued)

## ATTACHMENT 3



## Voluntary Planning Agreements Policy – Procedures – Internal only

### 3. Discussions by VPA Panel - Review of the Proposal.

Assessments of the proposed development and planning agreement are discussed by an internal panel, the VPA Panel, to determine:

- (a) The development proposal;
- (b) Rationale/justification of the VPA;
- (c) Public/community/infrastructure benefits.

The VPA Panel may comprise the following staff members such as:

- (d) Group Manager, Environment and Planning
- (e) Group Manager, Public Works or representatives
- (f) Group Manager, Community Life or representatives
- (g) General Counsel (Chair)
- (h) B+DAS Team Leader and/or Client Managers
- (i) Client Advisor (secretariat)
- (j) Urban Planning
- (k) Assessment Team

Note: The membership of the panel will be determined by the Chair and will vary depending on the proposal.

### 4. Response to Proponent on Preliminary VPA.

The Group Manager, Environment and Planning, and Client Managers discuss the proposed VPA with the proponent to confirm:

- (a) Justification/rationale of the VPA;
- (b) Public benefits being negotiated;
- (c) Early estimation of costings of the material/public benefits;
- (d) An early understanding of the relationship between the costing of public benefit and the requirements of the s94 contributions;
- (e) Timing of the delivery of the public benefits.

If the proposed planning agreement is supported in principle the proponent will be advised of their requirements to progress the negotiation process. Such requirements will include the preparation of draft VPA in accordance with the Policy. The proponent will be required to:

- Draft VPA (as per Template).
- Agrees to fund an independent assessment of the costings of the public benefits by a Quantity Surveyor (QS) or other relevant professional. (Based on the Fees and Charges provisions in the Management Plan)
- Prepare a VPA explanatory note (template).
- Submit a draft development proposal/planning proposal.

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## ITEM 14 (continued)

## ATTACHMENT 3



## Voluntary Planning Agreements Policy – Procedures – Internal only

The proponent is informed in writing of the stages/steps involved in progressing the proposed planning agreement.

The letter is prepared by the B+DAS team.

5. Pre-lodgement plans and draft VPA lodged by proponent.

Pre-lodgement assessment of the development proposal and draft VPA.

The proponent submits the proposed development and draft VPA to Council for discussion at:

- Pre-lodgement meeting: proposed development;
- VPA Panel draft VPA.

6. Pre-lodgement Panel – assessment of the proposed design by B+DAS and issues identified. An Urban Design Review Panel assessment would also be carried out at this step if required.

7. VPA Panel – Comprehensive Review of the Detailed Proposal: This Panel discusses:

- Draft VPA – proposal
- Determined criteria for assessment
- Explanatory notes
- Independent assessment of costing of the public benefits
- Reviews documents –

The Panel determines whether the draft VPA will be accepted.

Where the proposed VPA is not supported the proponent is notified and offered the opportunity to amend or reconsider the proposal. If the proponent chooses to amend the VPA the amended document would proceed to Step 3 for evaluation. Refer to Figure 1 Box No 10.

If the proponent decides not to amend the VPA the application/planning proposal may be lodged and s94 contributions would apply. The application/planning proposal would then proceed through the assessment process for determination (Figure 1 Box No 11).

8. Council responds to the proponent and provides the proponent with:

- The minutes of the Prelodgement meeting;
- Minutes of the UDRP meeting if applicable;
- The determination of the VPA Review Panel. This determination will include whether the draft VPA can proceed to lodgement with the relevant application.

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## ITEM 14 (continued)

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## Voluntary Planning Agreements Policy – Procedures – Internal only

- Information to be included as part of the VPA to allow a comprehensive assessment. Such documentation will include:
  - VPA explanatory note;
  - Assessment of public benefit against s94;
  - Independent assessment of costings of public benefit
  - Requirement of a draft Implementation Plan for the delivery of the material/public benefit. Draft Implementation Plan, is (Attachment 6) and would include:
    - Timetable for the delivery of the works and/or cash;
    - Design and technical specifications of the works;
    - Inspection of works and sign off by Council – stages/timeframes, fee schedule/payment to Council;
    - Process for handing over the works to Council.
    - Any other information as required by the Assessment Team.

The Client Manager is responsible for co-ordinating Council's response and ensuring the relevant information is provided to the proponent.

9. Signing of the Explanatory Note (Attachment 2)

The proponent lodges the explanatory note with Council for signing by the Chair of the VPA Panel.

10. Lodgement of LDA, draft VPA and Explanatory Note. The draft VPA is lodged with Council as part of a Local Development Application or with a planning proposal. A formal lodgement interview would be held by B+DAS to check completeness of the documentation submitted.

**Stage 2: Notification and Exhibition, Assessment and Determination**

- I. The draft VPA is lodged with Council as part of a:

- Local Development Application;
- Planning Proposal.

The draft VPA is publicly exhibited for a minimum of 28 days in accordance with the Environmental Planning & Assessment Act, **Regulations** and Council's DCP2.1 -*Notification of Development Applications*.

The assessing officer of the Development Application/Planning Proposal is responsible to ensure that the material/documentation placed on public exhibition as part of the development proposal will include

- Draft VPA including
- Explanatory Note in accordance with clause 25E(1) of the Regulations, and
- Implementation Plan

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## ITEM 14 (continued)

## ATTACHMENT 3



## Voluntary Planning Agreements Policy – Procedures – Internal only

- II. The draft VPA is assessed and reported to Council with the application. The information reported to Council will include:
- VPA Panel's comments the draft VPA;
  - Issues raised in submissions and comment;
  - Comparison to s94 payment;
  - Overview of findings of the QS assessment;
  - Details of the Implementation Plan of works/payments schedule. This schedule should outline key deliverables and timing eg '...prior to issuing of the construction certificate.'

Note: the assessing officer should discuss and seek comments on the Implementation Plan from Public Works or Community Life.

It is usual practice that a planning consultant will be engaged to assess a development application where Council has an interest in the Agreement.

The LDA/Planning Proposal incorporates conditions of consent or approval requirements regarding the implementation of the VPA and associated works. The conditions of consent or the planning approval would include the following:

- VPA to be registered on the title of the land;
- Implemented in accordance with requirements of the VPA.

The standard condition of consent reads as follows:

*Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act 1979, the Voluntary Planning Agreement between the City of Ryde and ##### that relates to the development application the subject of this consent, must be registered on the title of the property prior to the lodgement of any application for a certificate under section 109C of the Environmental Planning and Assessment Act 1979. and,*

*All conditions and requirements of the Voluntary Planning Agreement entered into between the City of Ryde and the applicant must be complied with.*

Note: A fact sheet will accompany the approval suggesting the applicant/developer contact Council to discuss the implementation issues of providing the works in kind or monetary contribution to ensure compliance with the VPA.

- III. In registering the LDA approval or planning proposal approval in TRIM the assessing officer / relevant officer is to identify via the tick box if a developer contribution (whether a VPA and/or s94) applies to the property.

Note: this mechanism is to assist in the tracking of monetary contribution payments.

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## ITEM 14 (continued)

## ATTACHMENT 3



## Voluntary Planning Agreements Policy – Procedures – Internal only

### ***Stage 3 – Post Approval***

The post approval process relates to 3 areas:

- Notifying Public Works and Community Life once the VPA has been signed
- Public domain, infrastructure and buildings; and
- Monetary contributions.

#### On the Signing of the VPA

Once the VPA has been signed the Client Advisor/ Client Manager notifies Public Work and/ or Community Life that the LDA or planning proposal with an accompanying VPA has been granted and provides the Group with the TRIM link to the Implementation Plan and VPA in which schedule 2 contains the Schedule of Works. The plan and schedule provide details on:

- Design and technical standards of the work – including drawing or plan numbers.
- Development stage and timing when the works will be constructed.
- Development stage and timing of when the final inspection of the works and delivery is to occur

Through a fact sheet attached to the consent/ approval - the developer/applicant will be encouraged to contact the Assessing Officer or Client Manager (who will refer them to the relevant officer in Public works or Community Life) during the preparation of the construction certificate to discuss the works, technical standards and implementation requirements.

The Client Advisor sends a copy of the signed VPA to the relevant Minister in compliance with S93G(3) of the EP&A Act within 14 days of the date it was signed.

#### Provision of Works in Kind – Public Art, Public domain, infrastructure and buildings

Where the developer has contacted Council during the preparation of the construction certificate or when the works are being constructed, the relevant officer in Public Work or Community Life will work with the developer to determine and expand upon the requirements or actions that are to be undertaken to ensure the works are constructed and delivered in accordance with Council's standards and the VPA. This process may include the identification of dates for regular inspections to the site.

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## ITEM 14 (continued)

## ATTACHMENT 3



## Voluntary Planning Agreements Policy – Procedures – Internal only

On the completion the works the following steps are to be undertaken:

- Council staff ensure that all works conform with the provisions of the VPA;
- Final inspection of the works;
- Group Manager of Public Works or Community Life issues a letter of works acceptance to the developer/applicant;
- Transfer of the facility, building or land to Council through a subdivision plan or mechanism identified in the implementation plan;
- Certified/approved subdivision plan is registered with the Land Titles Office.

Note: the land or facility is required to be registered prior to the issue of the Construction Certificate.

The steps outlined above need to occur to enable the issue of the Occupation Certificate.

Administrative Tasks – The officer from Public Works or Community Life project managing the delivery of the facility or infrastructure will also undertake the following relevant administrative tasks:

- Finance advised of the value of the asset
- Asset data based updated
- Property register updated
- Operations team advised regarding the item and a scheduling maintenance schedule;
- Insurance assessed and arranged

### Monetary Contributions

An Implementation Plan, where a monetary contribution is to occur, will outline the payment schedule, providing details of amounts and payment dates.

To track the payment process the following mechanism is proposed and being explored for implementation:

- The construction certificate is lodged with Council by the Principal Certifying Authority (PCA)
- The Certificate is registered in TRIM by the Records team
- If in TRIM the s94 or VPA box is ticked in relation to the LDA/ planning proposal – the Records team work flow the matter to the relevant unit :
  - Assessment for S94
  - Urban Planning for VPA
- The Client Advisor in Urban Planning will review Tech 1 to determine whether the monetary contribution has been paid
- If the funds have been paid the VPA Register is updated and the VPA process is finalised

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## ITEM 14 (continued)

## ATTACHMENT 3



## Voluntary Planning Agreements Policy – Procedures – Internal only

- If the funds have not been paid the Client Advisor:
  - refers the matter to the Finance Unit to issue an invoice for the payment of the outstanding funds
  - prepare a letter to be sent with the invoice that these funds are outstanding and if they are not paid within the 14 days ( or period set by the Finance team) that Council may commence proceeding to overturn the construction certificate.

### Stage 4 – Administration

#### The Register:

A VPA Register will be held by the Client Advisor, Urban Planning, for public inspection. This Register will contain:

- Copies of Draft VPAs.
- Copies of approved and signed VPAs
- A Schedule of payments for each VPA if applicable.
- **Copy of Explanatory Notes**

Council's General Counsel will oversee the signing of the VPA by all relevant parties. General Counsel advises the Client Advisor of the signing of the VPA and the relevant record number in Trim.

The Client Advisor will undertake a monthly electronic check to ensure all approved and signed VPAs are captured for inclusion in the Register.

**The Register will be available for public inspection free of charge (s25F(3) of the Regulations).**

#### Tracking:

- **Pre- lodgement:** B+DAS monitors the process prior to lodgement of the application for exhibition and assessment.
- **Monetary contributions:** Tracking process established in TRIM and workflowed by the Records team to the Urban Planning team – Client Advisor to review and actions;
- **Public works/ Community Life:** The Implementation Plan will set out when public works are to be inspected by Council. This Plan will have been negotiated between the proponent and Public Works/ Community Life. The relevant Council Officer from these Groups would have been nominated for contact by the proponent to arrange any inspections.
- **Monthly Audit:** The Client Advisor will undertake a monthly audit of outstanding VPAs to track the receipt of monetary contributions, construction certificates and occupation certificates. Receipt of this information will be forwarded to the relevant officers/Groups for action. This

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## ITEM 14 (continued)

## ATTACHMENT 3



## Voluntary Planning Agreements Policy – Procedures – Internal only

monthly audit will be reported to the Manager Urban Planning for inclusion in the Quarterly Report.

- **Quarterly Reporting:** A report to be submitted as part of the quarterly reporting process on the status of the Voluntary Planning Agreements including Agreements being negotiated and on delivery of the works, facilities and/or cash contribution as required by 'finalised' Agreements.

The reporting process will include:

- Details of the Agreement;
- Status of Agreement – ongoing update reflecting the progress of the Agreement through the negotiation process, assessment and determination;
- The negotiated deliverables – these would comprise monetary contributions, community facilities and/or public works;
- Agreed timeframe/stages of the deliverables, either prior to issue of construction certificate or occupation certificate;
- Status of deliverables – an ongoing update with regard to preliminary planning, construction progress and handover.
- **Annual Reporting** – in compliance with s93G(5) of the EP&A Act, details of signed VPAs are outlined in Council's Annual Report. This Report includes details of the agreements and whether the requirements have been met.
- **Funds and Lands** – in accordance with s93E(1) and (3) of the EP&A Act
  - any monetary contributions will be used by Council for the purpose identified in the VPA and implemented within a reasonable time frame.
  - The land that is dedicated will be made available for the purpose identified in the VPA within a reasonable time frame.

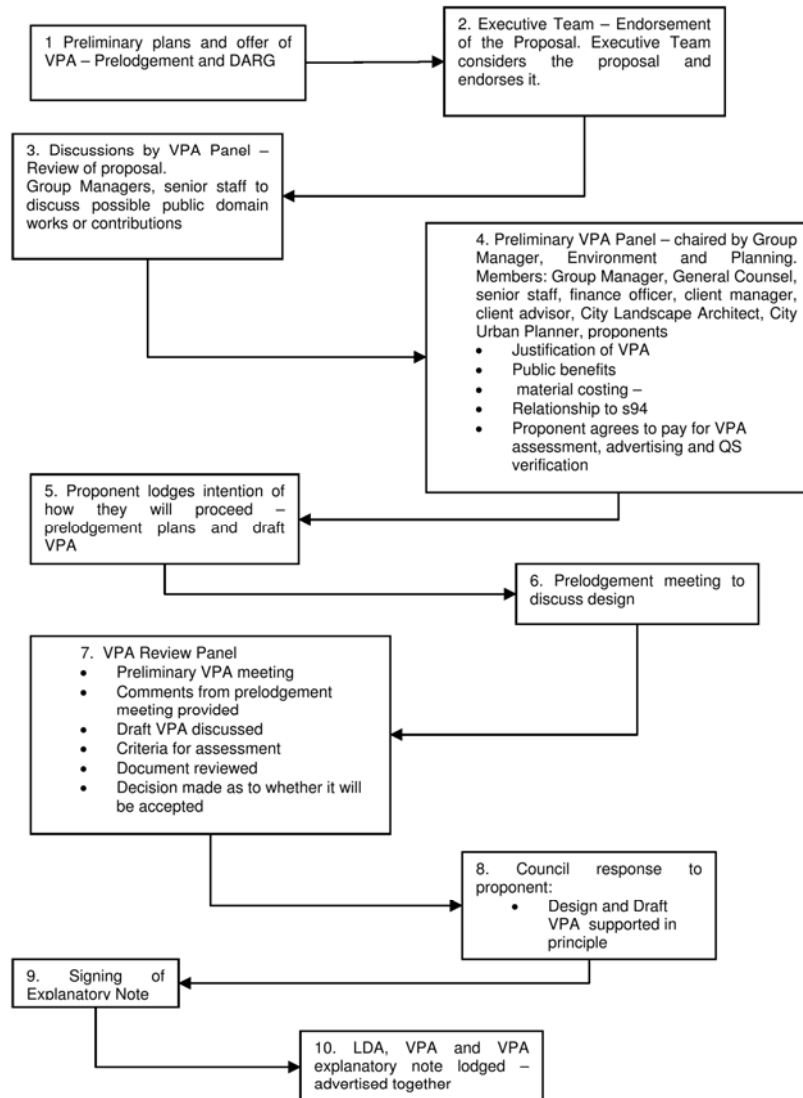
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## ATTACHMENT 3

## **Voluntary Planning Agreements Policy – Procedures – Internal only**



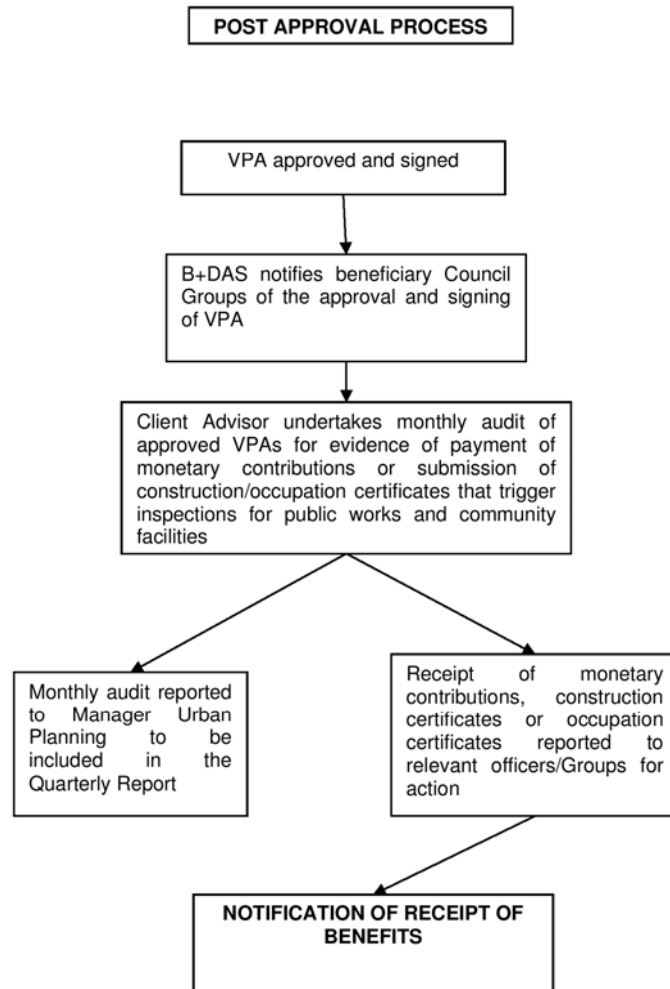
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**Voluntary Planning Agreements  
Policy – Procedures – Internal only**



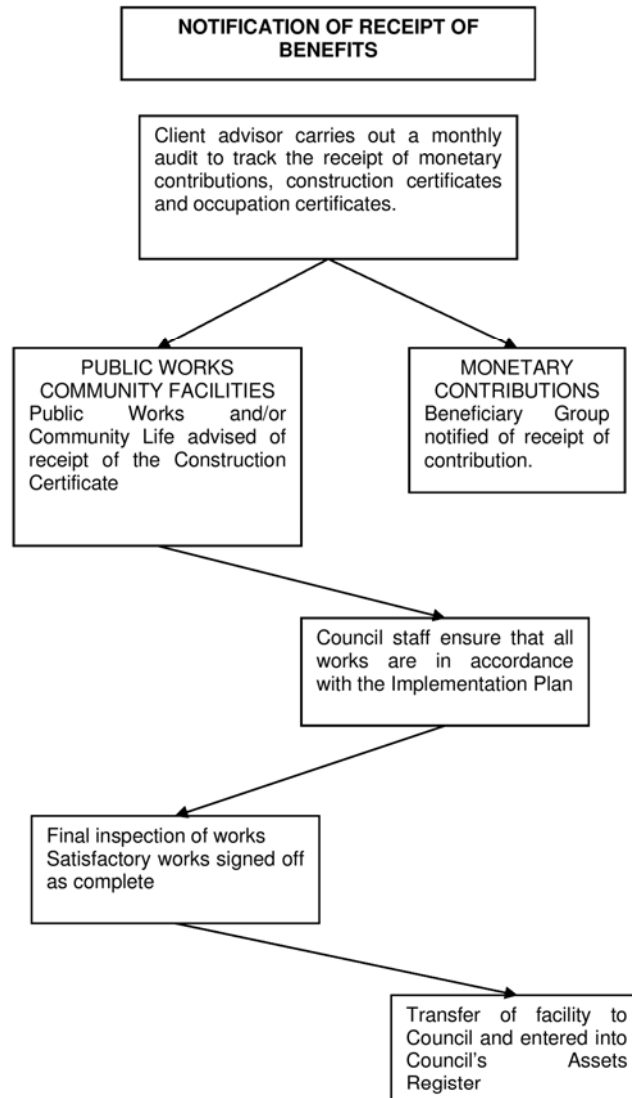
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**Voluntary Planning Agreements  
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## Attachments

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## ITEM 14 (continued)

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## Voluntary Planning Agreements Policy – Procedures – Internal only

<i>Number</i>	<i>Title</i>	<i>Trim Reference</i>
1.	Explanatory Note Template	
2.	Voluntary Planning Agreement Template	
3.	Potential Planning Obligation Benefits – City of Ryde	
5.	Potential Planning Obligation Benefits – Macquarie Park	
5.	Draft Implementation Plan	
6.	Dictionary	

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## ITEM 14 (continued)

## ATTACHMENT 4

**Voluntary Planning Agreements  
Policy – Explanatory Note Template**

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**Related Policy**

This Explanatory Note relates to the Voluntary Planning Agreement Policy

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Environmental Planning and Assessment Regulation 2000

(Clause 25E)

**Explanatory Note****Draft Planning Agreement**

Under s93F of the Environmental Planning and Assessment Act 1979

**1 Parties**

## (*Planning Authority*)

## (*Developer*)

**2 Description of Subject Land****3 Description of Proposed Change to Environmental Planning  
Instrument/Development Application****4 Summary of Objectives, Nature and Effect of the Draft  
Planning Agreement**

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## ITEM 14 (continued)

## ATTACHMENT 4



## Voluntary Planning Agreements Policy – Explanatory Note Template

### 5 Timing of Delivery of the Public Community Benefit.

Note: Information is to be provided on the timing of delivery of the proposed benefits in relation to the issuing of construction, occupation or subdivision certificates.

### 6 The Relationship of the Negotiated Planning Agreement Outcomes and the Development Contributions under Section 94.

### 7 Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement.

Issues to be considered include:

- How the draft planning agreement promotes the objects of the environmental planning and assessment act 1979
- How the draft planning agreement promotes the public interest
- development corporations – how the draft planning agreement promotes its statutory responsibilities
- How the draft planning agreement promotes the objects (if any) of the Act under which it is constituted
- How the draft planning agreement promotes the elements of the Council's mission statement
- Whether the draft planning agreement conforms with the Council's capital works program

### 8 How the Draft Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979

### 9 How the Draft Planning Agreement Promotes the Public Interest

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## ITEM 14 (continued)

## ATTACHMENT 4

**Voluntary Planning Agreements  
Policy – Explanatory Note Template**

10 The Impact of the Draft Planning Agreement on the Public or  
Any Section of the Public

11 Other Matters

**Signed and Dated by All Parties**

.

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## ITEM 14 (continued)

## ATTACHMENT 5



## Voluntary Planning Agreements Policy - Voluntary Planning Agreement Template

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### Related Policy

This Voluntary Planning Agreement Template is related to the Voluntary Planning Agreements Policy.

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## PLANNING AGREEMENT

### PARTIES

City of Ryde Council, 1 Devlin Street, Ryde (**Council**)

And

## of ##, (**Developer**)

### BACKGROUND

*(For Development applications)*

- A. On, ##, the Developer made a Development Application to the Council for Development Consent to carry out the Development on the Land.
- B. That Development Application was accompanied by an offer by the Developer to enter into this Agreement to make Development Contributions towards the Public Facilities if that Development consent was granted.

*(for changes to Environmental Planning Instruments)*

- A. On, ##, The Developer made an application to the Council for the Instrument Change for the purpose of making a Development Application to the Council for Development Consent to carry out the Development on the Land.
- B. The Instrument Change application was accompanied by an offer by the Developer to enter into this Agreement to make Development Contributions towards the Public Facilities that Development Consent was granted.
- C. The Instrument Change was published in NSW Government Gazette No. ## on ## and took effect on ##.

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## ITEM 14 (continued)

## ATTACHMENT 5



## Voluntary Planning Agreements Policy - Voluntary Planning Agreement Template

- D. On, ##, the Developer made a Development Application to the Council for Development Consent to carry out the Development on the Land.

### OPERATIVE PROVISIONS

#### 1. Planning agreement under the Act

The Parties agree that this Agreement is a planning agreement governed by Subdivision 2 of division 6 of Part 4 of the Act.

#### 2. Application of this Agreement

*(Specify when the Agreement takes effect and when the Parties must execute the Agreement)*

#### 3. Operation of this Agreement

*(Specify when the Agreement takes effect and when the Parties must execute the Agreement)*

#### 4. Definitions and interpretation

4.1 In this Agreement the following definitions apply:

**Act** means the *Environmental Planning and Assessment Act 1979* (NSW).

**Dealing**, in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.

**Development** means ##.

**Development Application** has the same meaning as in the Act.

**Development Consent** has the same meaning as in the Act.

**Development Contribution** means a monetary contribution, the dedication of land free of cost or the provision of a material public benefit.

**GST** has the same meaning as in the GST Law.

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## ITEM 14 (continued)

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## Voluntary Planning Agreements Policy - Voluntary Planning Agreement Template

**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.

**Instrument Change** means ## Local Environmental Plan ##.

**Land** means Lot ## DP ##, known as ##.

**Party** means a party to this agreement, including their successors and assigns.

**Public Facilities** means ##.

**Regulation** means the *Environmental Planning and Assessment Regulation 2000*.

4.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
- (b) 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.
- (c) 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.
- (d) A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
- (e) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (f) A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.

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## ITEM 14 (continued)

## ATTACHMENT 5



## Voluntary Planning Agreements Policy - Voluntary Planning Agreement Template

- (g) a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
- (h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (i) 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.
- (j) 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.
- (k) References to the word 'include' or 'including' are to be construed without limitation.
- (l) A reference to this Agreement includes the agreement recorded in this Agreement.
- (m) 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.
- (n) Any schedules and attachments form part of this Agreement.

### 5. Development Contributions to be made under this Agreement

#### SCHEDULE 1 – REFERENCE SCHEDULE

Specify the development contributions to be made under the agreement; when they are to be made; and the manner in which they are to be made.

Item	Name	Description
1	Advanced Payments	
2	Contributions	
3	Dedicated land	
4	Public Benefits	

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## ITEM 14 (continued)

## ATTACHMENT 5



## Voluntary Planning Agreements Policy - Voluntary Planning Agreement Template

### 6. Application of the Development Contributions

#### SCHEDULE 2 – DEVELOPER'S WORK

Specify the times at which, the manner in which and the public purposes for which development contributions are to be applied.

Item of work	Development Stage	Final Stage	Inspection	Relevant Numbers	Drawing

### 7. Application of s94 and s94A of the Act to the Development

#### SCHEDULE 3 – PUBLIC BENEFITS

Public Benefits Offer versus section 94 Contributions

**Table 1** identifies the Section 94 Contributions payable in respect of the proposal calculated in accordance with City of Ryde Section 94 Contribution Plan.

Non-residential Development				Residential Development
	Commercial office R&D per m <sup>2</sup> GFA	Retail per m <sup>2</sup> GFA	Industrial per m <sup>2</sup> GFA	
Community facilities				
Open space				
Civic & urban improvements				
Roads & traffic management				
Transport				
Cycleways				
Stormwater management				
Administration				
Total				

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## ITEM 14 (continued)

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## Voluntary Planning Agreements Policy - Voluntary Planning Agreement Template

**Table 2** identifies the Public Benefits offered under the Voluntary Planning Agreement between ## (*Developer*) and City of Ryde Council in lieu of monetary contributions otherwise payable under City of Ryde's Section 94 Contribution Plan as outlined above.

Voluntary Planning Agreement Offer – Public Benefits	Offer Value
SUBTOTAL VPA OFFER (EXCLUDING DEVELOPMENT COSTS)	
VPA OFFER IN EXCESS OF DEVELOPER OBLIGATIONS	

*(Specify whether and to what extent s94 and s94A apply to development the subject of this Agreement)*

### 8. Registration of this Agreement

*(Specify whether the Agreement is to be registered as provided for in s93H of the Act)*

### 9. Review of this Agreement

*(Specify whether the Agreement is to be registered as provided for in s93H of the Act)*

### 10. Dispute Resolution

#### 10.1 Notice of Dispute

If a party claims that a dispute has arisen under this Agreement (**Claimant**), it must give written notice to the other party (**Respondent**) stating the matters in dispute and designating as its representative a person to negotiate the dispute (**Claim Notice**). No party may start court proceedings (except for proceedings seeking interlocutory relief) in respect of a dispute unless it has first complied with this clause 10.

#### 10.2 Response to Notice

Within 10 business days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative to negotiate the dispute

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## Voluntary Planning Agreements Policy - Voluntary Planning Agreement Template

### 10.3 Negotiation

The nominated representative must:

- (1) meet to discuss the matter in good faith within 5 business days after service by the Respondent of notice of its representative;
- (2) use reasonable endeavours to settle or resolve the dispute within 15 business days after they have met.

### 10.4 Further Notice if Not Settled

If the dispute is not resolved within 15 business days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (**Dispute Notice**) by mediation under clause 10.5 or by expert determination under clause 10.6.\*

### 10.5 Mediation

If a party gives a dispute Notice calling for the dispute to be mediated:

- (1) the parties must agree to the terms of reference of the mediation within 5 business days of the receipt of the Dispute Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (2) the Mediator will be agreed between the parties, or failing agreement within 5 business days of receipt of the Dispute Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- (3) the Mediator appointed pursuant to this clause 10.5 must:
  - (a) have reasonable qualifications and practical experience in the area of the dispute; and
  - (b) have no interest or duty which conflicts or may conflict with his function as mediator, he being required to fully disclose any such interest or duty before his appointment;

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## ITEM 14 (continued)

## ATTACHMENT 5



## Voluntary Planning Agreements Policy - Voluntary Planning Agreement Template

- (4) the Mediator shall be required to undertake to keep confidential all matters coming to his knowledge by reason of his appointment and performance of his duties;
- (5) the parties must within 5 business days of receipt of the Dispute Notice notify each other of their representatives who will be involved in the mediation;
- (6) the parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement;
- (7) in relation to costs and expenses:
  - (a) each party will bear their own professional and expert costs incurred in connection with the mediation; and
  - (b) the costs of the Mediator will be shared equally by the parties unless the Mediator determines a party has engaged in vexatious or unconscionable behaviour in which case the Mediator may require the full costs of the mediation to be borne by that party.

### 10.6 Expert Determination

If the dispute is not resolved under clause 10.3 or 10.5, the dispute may, by agreement between the parties, both acting reasonably having regard to the nature of the dispute, be resolved by expert determination, in which event:

- (1) the dispute must be determined by an independent expert in the relevant field:
  - (a) agreed upon and appointed jointly by the Council and the Developer; or
  - (b) in the event that no agreement is reached or appointment made within 30 business days, appointed on application of a party by the then current President of the Law Society of New South Wales;
- (2) the expert must be appointed in writing and the terms of appointment must not be inconsistent with this clause;

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## ITEM 14 (continued)

## ATTACHMENT 5



## Voluntary Planning Agreements Policy - Voluntary Planning Agreement Template

- (3) the determination of the dispute by such expert will be made as an expert and not as an arbitrator and will be in writing and contain the reasons for the determination;
- (4) the expert will determine the rules for the conduct of the process but must conduct the process in accordance with the rules of natural justice;
- (5) each party will bear its own costs in connection with the process and the determination by the expert together with an equal proportion of the expert's fees and costs; and
- (6) any determination made by an expert pursuant to the clause is final and binding upon the parties except where the determination is in respect of, or relates to, termination or purported termination of this agreement by any party, in which event the expert is deemed to be giving a non-binding appraisal and any party may commence litigation in relation to the dispute if it has not been resolved within 20 business days of the expert giving his or her decision.

### 10.7 Litigation

If the dispute is not finally resolved in accordance with this clause 10 of either party is at liberty to litigate the dispute.

### 10.8 Continue to perform obligations

Each party must continue to perform its obligations under this Agreement, notwithstanding the existence of a dispute.

## 11. Enforcement

*(Specify the means of enforcing the Agreement)*

## 12. Notices

12.1 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:

- (a) Delivered or posted to that Party at its address set out below.
- (b) Faxed to that Party at its fax number set out below.

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## ITEM 14 (continued)

## ATTACHMENT 5



## Voluntary Planning Agreements Policy - Voluntary Planning Agreement Template

- (c) Emailed to that Party at its email address set out below.

### **Council**

Attention: General Manager  
 Address: 1 Devlin Street, Ryde  
 Fax Number: 9952 8070  
 Email:

### **Developer**

Attention:  
 Address:  
 Fax Number:  
 Email:

12.2 If a Party gives the other Party 3 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.

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

- (a) If it is delivered, when it is left at the relevant address.
- (b) If it is sent by post, 2 business days after it is posted.
- (c) 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

12.4 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.

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## ITEM 14 (continued)

## ATTACHMENT 5



## Voluntary Planning Agreements Policy - Voluntary Planning Agreement Template

### 13 Approvals and consent

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.

### 14 Assignment and Dealings

*(Specify any restrictions on the Developer's dealings in the land to which the Agreement applies and the period during which those restrictions apply)*

### 15 Costs

*(Specify how the costs of negotiating, preparing, executing, stamping and registering the Agreement are to be borne by the Parties)*

### 16 Entire Agreement

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.

### 17 Further acts

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.

### 18 Governing law and jurisdiction

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.

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## ITEM 14 (continued)

## ATTACHMENT 5



## Voluntary Planning Agreements Policy - Voluntary Planning Agreement Template

### 19 Joint and individual liability and benefits

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.

### 20 No fetter

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.

### 21 Representations and warranties

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

### 22 Severability

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.

### 23 Modification

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.

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## ITEM 14 (continued)

## ATTACHMENT 5

**Voluntary Planning Agreements  
Policy - Voluntary Planning  
Agreement Template****24 Waiver**

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.

**25 GST**

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 recipient of the supply must pay an additional amount equal to the GST on that supply.

**Execution**

**Dated:**

**Executed as an Agreement:**

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Note: this explanatory note providing details on this Agreement may not be used to assist in construing this Agreement.

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## ITEM 14 (continued)

## ATTACHMENT 6



## Voluntary Planning Agreements Policy - Potential Planning Obligation Benefits – City of Ryde

### Related Policy

These potential planning obligation benefits are related to the Voluntary Planning Agreement Policy.

### POTENTIAL PLANNING OBLIGATION BENEFITS

#### Possible requirements:

The following is a list of possible requirements that Council may have for planning agreements. They are not exhaustive and developers are encouraged to discuss these or other requirements that may be included in a planning agreement. Planning agreements may involve monetary contributions, partial or full construction of new facilities, expansion, upgrades, augmentations, embellishments, fit-outs and resourcing of existing facilities or any other public benefit as agreed to by the Council:

Infrastructure	Accessibility improvements – accessible parking, kerb ramps, modifications to public buildings or areas Roads – design and construction Open space – parks, public places, embellishment Drainage and storm water controls Traffic measures Transport outcomes Pedestrian and cycleways linkages and footpaths Telecommunication networks Power, water, gas Communications and information technology such as WIFI public space Bridges (vehicular and pedestrian)
Facilities	Community services – eg meeting rooms, halls, libraries Child care and family health care centres Public toilets Youth spaces Public leisure facilities Performance spaces Civic spaces Public car parking areas and commuter parking Bus shelters Family care facilities Sport, recreation and activity centres Business, research and creative industries incubator space and ancillary uses <span style="color: red;">Affordable Housing</span>

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## ITEM 14 (continued)

## ATTACHMENT 6



## Voluntary Planning Agreements Policy - Potential Planning Obligation Benefits – City of Ryde

Public domain improvements	<p>Paving – paths, streets and open space areas</p> <p>Plantings – streets and open space areas</p> <p>Furniture – seats, bins</p> <p>Banners</p> <p>Public art in streets, open space and other public domain space</p> <p>Kerbs and gutters</p> <p>Treatment and/or features in public places</p> <p>Facilities such as kiosk in parks and open spaces</p> <p>Turf</p> <p>Public leisure, sport and recreation facilities</p> <p>Environmental management improvements such as water and energy minimising devices</p> <p>Water quality devices</p> <p>Water bubblers, lockers and other amenities</p> <p>Signage including suburb identification, way finding, parking, interpretation and information signs for pedestrians, cyclists and vehicular users</p>
Other	<p>Cash contributions</p> <p>Land such as dedications for parks, facilities, pedestrian connectivity and new roads</p> <p>Contributions for the development of community facilities plans and cultural facilities plans</p> <p>Aboriginal site protection</p> <p>Other benefits in line with Council plans and strategies - including plans of management, flood plan management plans, traffic and transport plans, masterplans, development controls plans, local environmental plans and the management plan</p>

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## ITEM 14 (continued)

## ATTACHMENT 7



## Voluntary Planning Agreements Policy - Potential Planning Obligation Benefits – Macquarie Park

### Related Policy

These potential planning obligation benefits relate to the Voluntary Planning Agreements Policy.

### POTENTIAL PLANNING OBLIGATION BENEFITS MACQUARIE PARK

#### Possible requirements:

The following is a list of possible requirements that Council may have for planning agreements. They are not exhaustive and developers are encouraged to discuss these or other requirements that may be included in a planning agreement. Planning agreements may involve monetary contributions, partial or full construction of new facilities, expansion, upgrades, augmentations, embellishments, fit-outs and resourcing of existing facilities or any other public benefit as agreed to by the Council:

Infrastructure	Roads – design and construction Open space – parks, public places, embellishment Drainage and storm water controls Traffic measures Transport outcomes Pedestrian linkages and footpaths - identified in the Pedestrian Movement Study 2010. Telecommunication networks Power, water, gas Communications and information technology such as WIFI public space Bridges (vehicular and pedestrian) Pedestrian and cycle bridges over the M2
Facilities	Community services – eg meeting rooms, halls, libraries Child care and family health care centres Public toilets Youth spaces Public leisure facilities Performance spaces Civic spaces Public car parking areas and commuter parking Bus shelters Family care facilities Sport, recreation and activity centres Business, research and creative industries incubator space and ancillary uses <b>Affordable Housing</b>

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## ITEM 14 (continued)

## ATTACHMENT 7



## Voluntary Planning Agreements Policy - Potential Planning Obligation Benefits – Macquarie Park

Public domain improvements	Paving – paths, streets and open space areas Plantings – streets and open space areas Furniture – seats, bins Banners Public art in streets, open space and other public domain space Kerbs and gutters Treatment and/or features in public places Facilities such as kiosk in parks and open spaces Turf Public leisure, sport and recreation facilities Environmental management improvements such as water and energy minimising devices Water quality devices Water bubblers, lockers and other amenities Signage including suburb identification, way finding, parking, interpretation and information signs for pedestrians, cyclists and vehicular users
Other	Cash contributions Land such as dedications for parks, pedestrian connectivity and new roads Contributions for the development of community facilities plans and cultural facilities plans Aboriginal site protection Other benefits in line with Council plans and strategies -including plans of management, flood plan management plans, traffic and transport plans, masterplans, development controls plans, local environmental plans and the management plan

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## ITEM 14 (continued)

## ATTACHMENT 8

**Voluntary Planning Agreements  
Policy – Implementation Plan**

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**Related Policy**

This Implementation Plan is related to the Voluntary Planning Agreements Policy.

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**IMPLEMENTATION PLAN**

Specify the times at which, the manner in which and the public purposes for which development contributions are to be applied.

Item of work	Development Stage	Final Stage	Inspection	Relevant Numbers	Drawing

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## ITEM 14 (continued)

## ATTACHMENT 9



## Voluntary Planning Agreements Policy – Procedure for proponents

### Related Policy

This procedure relate to the Voluntary Planning Agreements Policy to assist/guide proponents through the VPA process with Council.

### Procedure

This procedure sets out the City of Ryde Council approach to the use of planning agreements through negotiation when considering rezoning or planning applications for development in the City of Ryde area. It complements the policy approach set out in the Department of Planning's Practice Note titled Planning Agreements (19 July 2005).

In particular, this procedure sets out

- the circumstances in which the City of Ryde Council would ordinarily consider entering into a planning agreement,
- the matters ordinarily covered by a planning agreement,
- the form of development contributions ordinarily sought under a planning agreement,
- the kinds of public benefits ordinarily sought and, in relation to each kind of benefit, whether it involves a planning benefit,
- the method for determining the value of public benefits and whether that method involves standard charging,
- whether money paid under different planning agreements is to be pooled and progressively applied towards the provision of public benefits to which the different agreements relate,
- when, how and where public benefits will be provided,
- the procedures for negotiating and entering into planning agreements the Council's policies on other matters relating to planning agreements, such as their review and modification, the discharging of the developer's obligations under agreements, the circumstances, if any, in which refunds may be given, dispute resolution and enforcement mechanisms, and the payment of costs relating to the preparation, negotiation, execution, monitoring and other administration of agreements.

### Legal Policy Context

The current legal and procedural framework for planning obligations is set by the Environmental Planning and Assessment Act 1979 No 203, Part 4 Division 6 Subdivision 2, providing for a statutory system of planning agreements. Council is also bound by the provisions of Division 1A of Part 4 of the *Environmental Planning and Assessment Regulation 2000*.

The Practice Note issued by the Department of Planning sets out several tests for assessing whether planning obligations are appropriate. These include an acceptability test to ensure that planning agreements:

- are directed towards proper or legitimate planning purposes, ordinarily ascertainable from the statutory planning controls and other adopted planning policies applying to development,

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## ITEM 14 (continued)

## ATTACHMENT 9



## Voluntary Planning Agreements Policy – Procedure for proponents

- provide for public benefits that bear a relationship to development that are not wholly unrelated to the development,
- produce outcomes that meet the general values and expectations of the public and protect the overall public interest,
- provide for a reasonable means of achieving the relevant purposes and outcomes and securing the benefits, and
- protect the community against planning harm. ‘

### What are the mandatory requirements of a planning agreement?

Section 93F(3) of the Act requires planning agreements to include provisions specifying:

- (a) a description of the land to which the agreement applies,
- (b) a description of:
  - i. the change to the environmental planning instrument to which the agreement applies: or
  - ii. the development to which the agreement applies,
- (c) the nature and extent of the provision to be made by the developer under the agreement, the time or times by which the provision is to be made and the manner by which the provision is to be made,
- (d) in the case of development, whether the agreement excludes (wholly or in part) or does not exclude the application of section 94 or 94A to the development,
- (e) if the agreement does not exclude the application of section 94 to the development, whether benefits under the agreement are or are not to be taken into consideration in determining a development contribution under section 94,
- (f) a mechanism for the resolution of disputes under the agreement,
- (g) the enforcement of the agreement by a suitable means, such as the provision of a bond or guarantee, in the event of a breach of the agreement by the developer

The Act does not preclude a planning agreement containing other provisions that may be necessary or desirable in particular cases, except as provided by law. However, Council has prepared a template agreement that will form the basis for a planning agreement and this will be used as the basis for any agreement. This is attached as *Voluntary Planning Agreement Template*.

Clause 25E(1) of the Regulation requires that an explanatory note must accompany a planning agreement that:

- summarises the objectives, nature and effect of the proposed agreement, amendment or revocation, and
- contains an assessment of the merits of the proposed agreement, an amendment or revocation including the impact (positive or negative) on the public or any relevant section of the public.

Council has prepared a template explanatory note which is attached as *Explanatory Note Template*.

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## ITEM 14 (continued)

## ATTACHMENT 9



## Voluntary Planning Agreements Policy – Procedure for proponents

### Purposes of planning agreements

Section 93F(1) of the Act provides that a planning agreement is a voluntary agreement or other arrangement between one or more planning authorities and a developer under which the developer agrees to make development contributions towards a public purpose.

The Council's approach to the negotiation of planning agreements is based on the planning purpose of furthering the Council's planning vision for the City as set out in the City of Ryde Management Plan (as amended from time to time) and The City of Ryde Development Control Plan, Master plan, plans of management and other key Council documents.

The Management Plan's values and corporate philosophy has several elements: the enhancement of the quality of life of the community and the environment; a strong economy, a sustainable future and opportunities for all. A diverse range of benefits may be sought through negotiation planning obligations in order to make a contribution to the achievement of one or more elements of the Council's vision. When negotiation planning obligations the Council will adopt a flexible approach, taking into account the vision and strategic aims of the Management Plan, the Management Plan's general priorities set out in the programs to that Plan, the site circumstances and also the obligation preferences of the developer.

The Council may negotiate a planning agreement with a developer in connection with any proposed application by the developer for an instrument change (eg. rezoning application) or for development consent relating to any land in the Council's area. The Council may also negotiate a planning agreement in association with another Council or another authority where relevant. The negotiation of a planning agreement is at the absolute discretion of the Council.

### Principles underlying the use of planning agreements

The Council's use of planning agreements will be governed by the following principles:

- (a) Planning decisions will not be bought or sold through planning agreements.
- (b) The council will not allow planning agreements to improperly fetter the exercise of its functions under the act, regulation or any other act or law.
- (c) The council will not use planning agreements for any purpose other than a proper planning purpose.
- (d) Development that is unacceptable on planning grounds will not be permitted because of planning benefits offered by developers that do not make the development acceptable in planning terms.
- (e) The council will not seek benefits under a planning agreement that is wholly unrelated to particular development.
- (f) The council will not take into consideration planning agreements that are wholly unrelated to an application, nor will the council give undue weight to a planning agreement.
- (g) The council will not allow the interests of individuals or interest groups to outweigh the public interest when considering a proposed planning agreement.
- (h) The Council will not improperly rely on its position in order to extract unreasonable public benefits from developers under planning agreements.

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## ATTACHMENT 9



## Voluntary Planning Agreements Policy – Procedure for proponents

### What matters will the Council consider?

The matters that the Council may consider in any such negotiation may include, but not be limited to, the following:

- (a) Whether the planning agreement(s) meets the demands created by the development for new public infrastructure, amenities and services.
- (b) If inclusions in the development meet specific planning objectives of the Council.
- (c) If compensation is required for the loss of, or damage to, a public amenity, service, resource or asset caused by the development through its replacement, substitution, repair or regeneration.
- (d) Rectification of an existing deficiency in the existing provision of public facilities in the Council's area is made,
- (e) Whether recurrent funding of public facilities is required or provided.
- (f) The extent to which the Council needs to monitor the planning impacts of development.
- (g) Whether planning benefits for the wider community accrue from the planning agreement.

Development that is unacceptable on planning grounds will not be given consent because of unrelated benefits offered by a developer. The most important factor in deciding what planning obligations might be required is likely to be the size of the development, but other factors such as the location or type of development may be relevant. These will establish core information such as likely increase in population and demand for particular public services.

This information will help the Council to determine the application and to prepare the planning agreement.

### What will Council require to be provided under planning agreements?

Existing growth levels place strain on existing infrastructure which cannot be met by S94 contributions and Council has identified a range of infrastructure which either requires substantial upgrade or provision. The programs identified in Section 3 of the City of Ryde Management Plan, the City of Ryde Development Control Plan, Master plan, plans of management and other key Council documents details the key strategies to address these infrastructure requirements.

The Department of Planning *Practice Note* on Planning Agreements sets out the acceptability tests for assessing whether planning obligations are appropriate in planning terms (refer clause 1.3 above). These matters have been taken into account when compiling the range of planning obligations which might be sought which is set out in the table below.

While the Council will endeavour to standardize development contributions sought under planning agreements, this will not always be possible. However, the Council considers that it is helpful for developers to know the Council's general priorities for planning obligation negotiations. Therefore the table indicates the main types of benefits that the Council will be seeking and their relative importance. Council prefers the collection of funding through a planning agreement as it provides additional funding and allows greater flexibility for the allocation of the spending of the funds.

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## ITEM 14 (continued)

## ATTACHMENT 9



## Voluntary Planning Agreements Policy – Procedure for proponents

An outline of the potential planning obligation benefits for the City of Ryde (Potential Planning Obligation Benefits – City of Ryde – Attachment 3) and for Macquarie Park (Potential Planning Obligation Benefits – Macquarie Park – Attachment 4) are attached and Council will maintain a list of suitable projects which could benefit. It is also recognised that the planning obligation benefits actually sought may differ from the facilities in the Planning Obligation Benefits attached because negotiations for each proposed development will reflect the circumstances of each case and the needs created by the scale of proposed change.

Therefore, other benefits which are not identified specifically above may also be relevant. Consequently, the lists do not prevent public benefits being negotiated on a case by case basis, particularly where planning benefits are also involved.

### Recurrent changes

The Council may request developers, through a planning agreement, to make development contributions towards the recurrent costs of public facilities. Where the public facility primarily serves the development to which the planning agreement relates or neighbouring development, the arrangement for recurrent funding may be in perpetuity.

Where the public facility or public benefit is intended to serve the wider community, the planning agreement may only require the developer to make contributions towards the recurrent costs of the facility for a set period which will be negotiated according to the impact of the development.

### Pooling of development contributions

Where a proposed planning agreement provides for a monetary contribution by the developer, the Council may **disclose to developers that** money paid under the agreement **may** be pooled with money paid under other planning agreements and applied progressively for the different purposes under those agreements.

Pooling may be appropriate to allow public benefits, particularly essential infrastructure, to be provided in a fair and equitable way.

### Do other development contributions apply?

The Council has no general policy on whether a planning agreement should exclude the application of s94 or s94A of the Act to development to which the agreement relates. This is a matter for negotiation between the Council and a developer having regard to the particular circumstances of the case.

However, where the application of s94 of the Act to development is not excluded by a planning agreement, the Council will generally not agree to a provision allowing benefits under the agreement to be taken into consideration in determining a development contribution under section 94.

**Where a planning agreement excludes benefits from being taken into consideration under a s94 plan, the provisions of section 94(6) of the EP&A Act does not apply to the benefit. Refer to section 93F(6) of the EP&A Act.**

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## ITEM 14 (continued)

## ATTACHMENT 9



## Voluntary Planning Agreements Policy – Procedure for proponents

### Negotiation, Procedure and Probity

The Council's negotiation system for planning agreements aims to be efficient, predictable, transparent and accountable. Council will seek to ensure that the final negotiation of planning agreements runs in parallel with applications for instrument changes or development applications so as not to unduly delay the approval.

The Council is required to ensure that a planning agreement is publicly notified in the same manner and at the same time as the application for the instrument change or the development application to which it relates.

Council's preference is therefore to have the planning agreement negotiated and documented before it is publicly notified as required by the Act and Regulation. It is also preferable that a planning agreement is negotiated before lodgement of the relevant application and that it accompanies the application on lodgement.

### Steps in the negotiation process

The negotiation of a planning agreement will generally involve the following key steps:

1. Prior to the lodgement of the relevant application by the developer, an offer of a VPA will be made to Council.
2. Senior Council staff meet to discuss possible public domain works or contributions.
3. VPA Negotiation Team discusses proposed VPA with proponent.
4. Proponent lodges prelodgement plans and draft VPA.
5. Prelodgement meeting with B+DAS and proponent to discuss the design.
6. VPA Review Panel discusses the draft VPA in conjunction with the prelodgement outcomes.
7. Council responds in writing to the proponent as to the whether Council will support the lodgement of the proposal and draft VPA. If supported the proponent is provided with actions to allow for a formal assessment of the proposal.
8. Development application/planning proposal, draft VPA (*Attachment 2*), Explanatory Note (*Attachment 1*) and other documentation lodged by the proponent with Council.
9. Assessment process and determination.

The Council may approve the application and set out the conditions for the agreement or, if an agreement has been executed, set out in the consent the terms of the agreement.

The parties may be required to undertake further negotiations and, hence, a number of the above steps may need to be repeated as a result of the public notification process or its formal consideration by the Council in connection with the relevant application.

10. The Council will publicly exhibit the planning agreement and application in accordance with the Act and Ryde Development Control Plan 2010 – 2.1 – Notification of Development Applications.

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## Voluntary Planning Agreements Policy – Procedure for proponents

If the proposal is not supported steps 10 and 11 provide for the proponent to either amend the VPA and have it reconsidered or decide to proceed with a VPA and elect to pay s94 contributions.

### Probity

Public probity is important to City of Ryde Council and it will ensure that the negotiation of any planning agreements is fair, transparent and is directed at achieving public benefits in an appropriate manner free of corruption.

In this regard, Council will:

- Inform any applicant about Council values and business ethics – specifically, about ethical behaviour appropriate to business dealings.
- Ensure that its communities understand the system and the Council's role – specifically, how the planning agreements system operates and how Council will deal with developments objectively.
- Notify planning agreements to ensure they are open and transparent – specifically, achieving maximum public awareness of the matters contained in a planning agreement(s) and the potential benefits of an agreement.
- Ensure appropriate delegations and separation of responsibilities in considering development applications that involve planning agreements – specifically, the need to ensure processes adequately address the level of risk of corruption of a process while at the same time being appropriate to the likely level of risk.
- Ensure that modifications to approved development should be subject to the same scrutiny as the original development application.
- Ensure that Councillors and Council staff understand their varied roles, some of which have potential to conflict.
- Take every step to ensure that conflicts of interest are ameliorated to the greater extent possible – specifically, independent assessment by third parties where Council has an interest and not entering into any contractual arrangement which purport to guarantee outcomes that are subject to separate regulatory processes.

The procedures that will be implemented to address these matters may include, but not be limited by, the following procedures:

- (a) The Councillors will not be involved in the face to face negotiation of the agreement but will ultimately approve the planning agreement as part of their duties as Councillors.
- (b) A Council officer with appropriate delegated authority will negotiate a planning agreement on behalf of the Council in accordance with this Policy.
- (c) The Council will, in all cases, ensure that Council staff with key responsibility for providing advice on approvals, approving applications or ensuring compliance, do not have a role in the assessment of the commercial aspects of the agreement nor on the conditions of the planning agreement except where advice is required on matters relating to the conditions of consent for a particular proposal.

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## ATTACHMENT 9



## Voluntary Planning Agreements Policy – Procedure for proponents

- (d) The Council may involve an independent person(s) to facilitate or otherwise participate in the negotiations or aspects of it, particularly where this will lead to a better planning outcome.
- (e) The Council will ensure that all negotiations with a developer and their consultants are sufficiently separated and documented.
- (f) Where the Council has a commercial stake in development the subject of an agreement, it will take appropriate steps to ensure that it avoids a conflict of interest between its role as a planning authority and its commercial interest in the development.

### Public notification of planning agreements

In accordance with the Act, a planning agreement must be publicly notified and available for public inspection for a minimum period of 28 days. The Council may decide to notify a planning agreement for a longer period or shorter period as permitted by the Act.

The Council will also notify the application to which a planning agreement relates in accordance with and Ryde Development Control Plan 2010 – 2.1 - Notification of Development Applications.

### Renotification

The Council will publicly re-notify and make available for public inspection a proposed planning agreement and the application to which it relates if, in the Council's opinion, a material change is made to the terms of the agreement or the application after it has been previously publicly notified and inspected. Such a change may arise as a consequence of public submissions made in respect of the previous public notification and inspection of the agreement or the application, or their formal consideration by the Council, or for any other reason.

### Public comment on planning agreements

The Council encourages the public to make submissions on planning agreements. This will allow the Council to better understand local needs and permit fine tuning of the planning obligations set out in any planning agreement.

Public submissions to planning agreements notifications will be assessed by the Council in accordance with its Notification Policy.

### Preparation of the planning agreement

The developer/relevant party will prepare a planning agreement relating to a particular application for an instrument change or development application. The developer/relevant party uses a standard form of planning agreement on which every planning agreement is based which reflects the policies and procedures set out in this document (refer *Voluntary Planning Agreement Template – Attachment 2*). This planning agreement will include an explanatory note prepared in plain English (refer *Explanatory Note Template – Attachment 1*).

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## ATTACHMENT 9



## Voluntary Planning Agreements Policy – Procedure for proponents

The Council will require a planning agreement to make provision for payment by the developer of the Council's costs of and incidental to negotiating, preparing and entering into the agreement as well as administering and enforcing the agreement. Cost may include the payment of a Quantity Surveyor to establish the cost of the key items of the negotiated agreement.

### When is a planning agreement required to be entered into?

A planning agreement is entered into when it is signed by all of the parties. The Council will usually require a planning agreement to be entered into as a condition of granting development consent to the development to which the agreement relates. However, a planning agreement can be entered into at any time after the agreement is publicly notified in accordance with the Act and Regulation.

### When will planning obligations arise?

The Council will generally require a planning agreement to provide that the developer's obligations under the agreement take effect when the first development consent operates in respect of development that is the subject of the agreement and on gazettal of an Environmental Planning Instrument.

### Implementation agreements

The Council may require an implementation plan (*Draft Implementation Plan – Attachment 5*) that provides for matters such as:

- (a) The timetable for provision of planning obligations under the planning agreement.
- (b) The design, technical specification and standard of any work required by the planning agreement to be undertaken by the developer.
- (c) The manner in which a work is to be handed over to the council.
- (d) The manner in which a material public benefit is to be made available for its public purpose in accordance with the planning agreement.
- (e) A warranty period for materials and buildings that form part of any public benefit. These warranties would be for at least 12 months for materials and services such as electrical works and 15 years for buildings.

### Monitoring and review of a planning agreement

The Council will continuously monitor the performance of the developer's obligations under a planning agreement and report them in accordance with the Act.

Council will require the planning agreement to contain a provision establishing a mechanism under which the planning agreement is periodically reviewed with the involvement of all parties. This will include a review of the developer's performance under the agreement.

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## ATTACHMENT 9



## Voluntary Planning Agreements Policy – Procedure for proponents

### Modification or discharge of obligations

The Council may agree to a provision in a planning agreement permitting the developer's obligations under the agreement to be modified or discharged in the following circumstances:

- (a) The developer's obligations have been fully carried out in accordance with the agreement, or
- (b) The development consent to which the agreement relates has lapsed, or
- (c) The development consent to which the agreement relates has been modified to such an extent that the planning obligations may not be appropriate, or
- (d) The performance of the planning agreement has been frustrated by an event or events beyond the reasonable control of the parties, or
- (e) The developer has fully and completely assigned the developer's interest under the agreement in accordance with its terms, or
- (f) Other material changes affecting the operation of the planning agreement have occurred, or
- (g) The council and the developer otherwise agree to the modification or discharge of the agreement.

Such a provision will require the modification or revocation of the planning agreement in accordance with the Act and Regulation.

### Assignment and dealings by the developer

The Council will not permit the assignment of any or all of the developer's rights or obligations under the agreement, nor will the Council permit any dealing in relation to any part or the whole of the land the subject of the agreement unless:

- (a) The developer has, at no cost to the Council, first procured the execution by the person with whom it is dealing of all necessary documents in favour of the Council by which that person agrees to be bound by the agreement as if they were a party to the original agreement, and
- (b) If the proposed dealing involves a mortgage, charge or other encumbrance in relation to the party's right, title and interest in the land, such documents provide for an agreement by the person to the effect that they, and any receiver appointed by them, will not enjoy rights greater than those of that party, and
- (c) The party is not in breach of this Agreement.

This does not affect the operation of any of other requirements of the agreement.

### Provision of security under a planning agreement

The Council will require a planning agreement to make provision for security to cover the Developer's obligation under the agreement. The form of security will generally be an unconditional bank guarantee from an Australian Bank in favour of the Council to the full value of the developer's obligation under the Agreement and on terms otherwise acceptable to the Council.

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## ATTACHMENT 9



## Voluntary Planning Agreements Policy – Procedure for proponents

### Notations on Certificates under S149(5) of the Act

The Council will generally require a planning agreement to contain an acknowledgement by the developer that the Council will make a notation under S149(5) of the Act about a planning agreement on any certificate issued under s149(2) of the Act relating to the land the subject of the agreement or any other land.

### Registration of planning agreements

The Council may require a planning agreement to contain a provision requiring the developer to agree to registration of the agreement pursuant to s93H of the Act if the requirements of that section are satisfied.

### Dispute resolution

The Council will require a planning agreement to provide for mediation of disputes between the parties to the agreement before the parties may exercise any other legal rights in relation to the dispute.

### Will Council allow the application of SEPP 1/Clause 4.6 of City of Ryde LEP 2010?

Variation to applicable development standards under State Environmental Planning Policy No.1 – Development Standards (SEPP 1) and City of Ryde LEP 2010 as part of a planning agreement or application will not be permitted unless the Council is of the opinion that the tests within SEPP1 are satisfied and the proposed planning agreement addresses the matters specifically required to be addressed under SEPP1 in relation to the dispensation sought.

### How will the Council value public benefits under a planning agreement?

If the benefit under a planning agreement is the provision of land for a public purpose, the Council will generally seek to value the benefit on the basis of the **market value of the land. This market value is to be provided by the proponent and independently valued.**

If the benefit under a planning agreement is the carrying out of works for a public purpose, the Council will generally seek to value the benefit on the basis of the estimated value of the completed works on the basis of a cost estimate prepared by a registered quantity surveyor.

In either instance, the costs of the valuation of the benefits are to be at no cost to the Council.

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## ATTACHMENT 9



## Voluntary Planning Agreements Policy – Procedure for proponents

**Attachments**

<i>Number</i>	<i>Title</i>	<i>Trim Reference</i>
1.	Explanatory Note Template	
2.	Voluntary Planning Agreement Template	
3.	Potential Planning Obligation Benefits – City of Ryde	
4.	Potential Planning Obligation Benefits – Macquarie Park	
5.	Draft Implementation Plan	

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## ITEM 14 (continued)

## ATTACHMENT 10



## Voluntary Planning Agreements - Dictionary

### Related Policy

This Dictionary applies to the Voluntary Planning Agreements Policy.

### Terms and definitions used in this Policy

In this Policy, the following terminology is used:

**Act** means the Environmental Planning and Assessment Act 1979,

**B+DAS** means Building and Development Advisory Service.

**Council** means the Council of the City of Ryde,

**developer** is a person who has sought a change to an environmental planning instrument (which includes the making, amendment or repeal of an instrument (s93F(11)), or who has made or proposes to make a development application, or who has entered into an agreement with or is otherwise associated with such a person,

**development application** has the same meaning as in the Act,

**development contribution** means the kind of provision made by a developer under a planning agreement, being a monetary contribution, the dedication of all free of cost or the provision of a material public benefit.

**explanatory note** means a written statement that provides details of the objectives, nature, effect and merits of a planning agreement, or an amendment to or revocation of a planning agreement,

**instrument change** means a change to an environmental planning instrument to facilitate a development the subject of a planning agreement,

**planning benefit** means a development contribution that confers a net public benefit, that is , a benefit that exceeds the benefit derived from measures that would address the impacts of particular development on surrounding land or the wider community,

**public facilities** means public infrastructure, facilities, amenities and services,

**planning obligation** means an obligation imposed by a planning agreement on a developer requiring the developer to make a development contribution,

**Practice Note** means the Practice Note on Planning Agreements published by the Department of Infrastructure Planning and Natural Resources (July 2005)

**public** includes a section of the public,

Name – Voluntary Planning Agreements Policy		
Owner: Urban Planning	Accountability: Manager Urban Planning	Policy Number: # Provided by Governance
Trim Reference: D10/91717	Review date:	Endorsed: Date and Authority



## ITEM 14 (continued)

## ATTACHMENT 10



## Voluntary Planning Agreements - Dictionary

**public benefit** is the benefit enjoyed by the public as a consequence of a development contribution,

**Regulation** means the *Environmental Planning and Assessment Regulation 2000*.

**Surplus value** means the value of the developer's provision under a planning agreement less the sum of the value of public works required to be carried out by the developer under a condition imposed under s80A(1) of the Act and the value of development contributions that are or could have been required to be made under s94 or s94A of the Act in respect of the development the subject of the agreement.

Name – Voluntary Planning Agreements Policy		
Owner: Urban Planning	Accountability: Manager Urban Planning	Policy Number: # <i>Provided by Governance</i>
Trim Reference: D10/91717	Review date:	Endorsed: Date and Authority



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**15 YAMBLE RESERVE ALL ABILITIES PLAYGROUND**

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**Report prepared by:** Open Space Planner**Report dated:** 18 May 2011**File No.:** GRP/11/4/3 - BP11/395

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**Report Summary**

Council, in partnership with the Touched by Olivia Foundation proposes that Yamble Reserve (Quarry Road, Ryde) will become destination parkland for children and carers with special needs. The design of the Reserve and playground aspires to offer a parkland experience that will be fully integrated, universally accessible environment for people of all ages and abilities.

The aim of the play area is to enable children with and without disabilities to have opportunities to play together, encouraging all children to explore, imagine, create, learn and just have fun playing with friends. The focus of the design of the playground and the wider parkland areas is to allow children with disabilities to participate and join in and no longer be segregated and watch from the sidelines as other kids have fun.

This report provides further information on the progress of the project, details on the concept plan for the Reserve and to seek Council endorsement to place the concept plan on public exhibition.

**RECOMMENDATION:**

- (a) That the concept plan for the Yamble Reserve all abilities playground be place on public exhibition under the Your City Your Voice Engagement Framework.
- (b) That a subsequent report be provided to Council on the outcomes of the public exhibition process together with the final concept plan for endorsement.

**ATTACHMENTS**

- 1 Yamble Reserve Playground Concept Plan May 2011 for public exhibition, 31 May 2011

Report Prepared By:

**Fiona Morrison**  
**Open Space Planner**

Report Approved By:

**Simone Schwarz**  
**Group Manager - Community Life**



**ITEM 15 (continued)****Background**

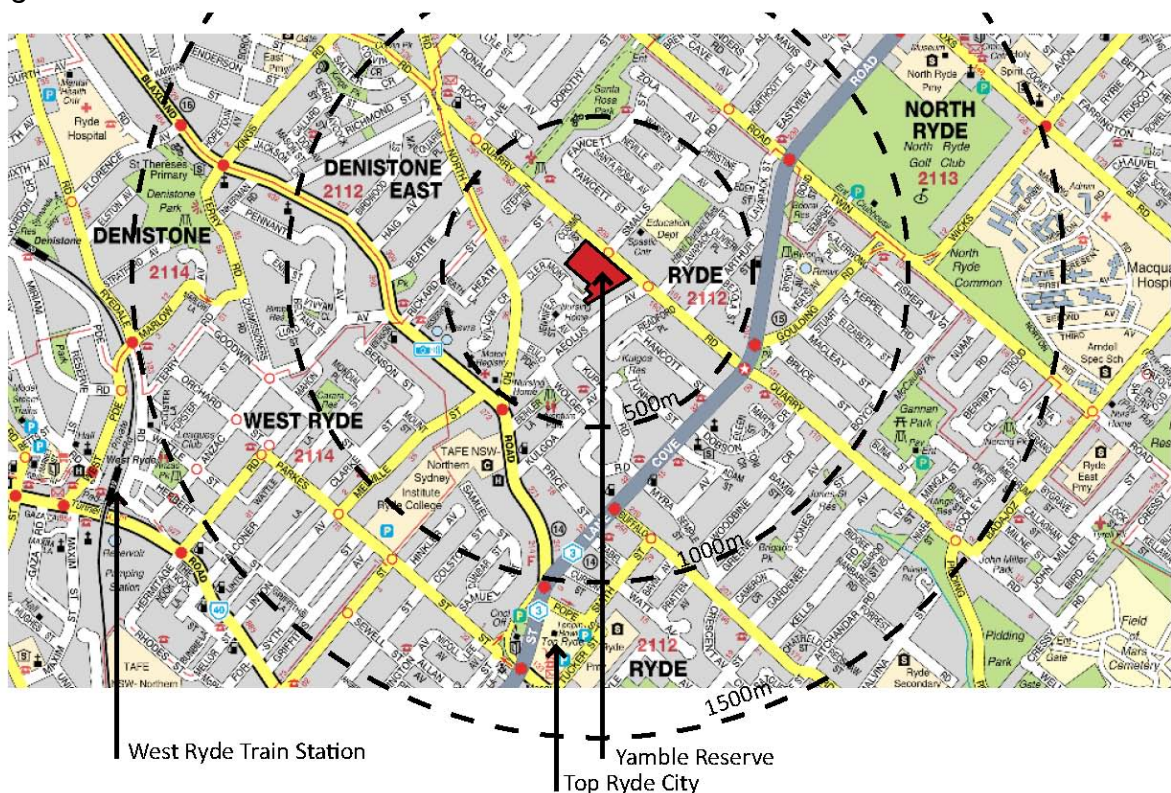
The Touched by Olivia Foundation is a group that focuses on bringing happiness to children and their families through the local community supporting children and families with public play facilities providing equal access for all, irrespective of ability, enabling children and families from all calls of life to socialise together and enjoy the freedom of the outdoors, in a safe, friendly environment. The Foundation brings together community, business and government to form partnerships that will create places for children of all abilities to play in an integrated way with each other.

A partnership was formed between Council and the Foundation to create an all abilities playground at Yamble Reserve.

Yamble Reserve is located in the suburb of Ryde and is close to the geographic centre of the Ryde Local Government Area. The Reserve is approximately 2.4 hectares in size and is bounded by Quarry Road in the north and residential properties to the south, west and east. The Reserve is within 260 metres of Santa Rosa Park to the west and 460 metres from Lane Cove Road in the east. (Please refer to Figure 1 on the following page).

The Reserve's established access and facilities are significant features for both the users from the immediate neighbourhood of the Reserve as well as those users in the greater City of Ryde. The Reserve is well used on a regular daily basis for informal recreation as well as patronised for special events ranging from private social gatherings to larger community events and it is highly valued as an oasis in the urban setting.

*Figure 1: Location of Yamble Reserve*





**ITEM 15 (continued)****Report**

In alignment with the Yamble Reserve Plan of Management (adopted October 2010), Yamble Reserve was selected as a suitable location for the development of an all abilities playground. The focus for this project is to engage with the community and stakeholders to inform the design and construction of a playground. The key deliverable for the project is an all abilities playground that combines traditional play equipment and purpose built play and landscape elements that offer inclusive play opportunities for the Ryde Community.

***Why and all abilities playground within the City of Ryde?***

Approximately 15.4 per cent of the population in the City of Ryde has a disability or impairment. The City of Ryde is committed to providing facilities and services in an equitable and dignified way to ensure social inclusion. People with a disability do not live in isolation; they have sons and daughters, partners, parents, etc: therefore approximately 31 per cent of the population is directly affected by the environmental and attitudinal barriers that people with disabilities encounter every day.

Consultation with stakeholders for the Yamble Reserve project includes members from the City of Ryde Access Committee, Autism Spectrum Australia, Minimbah Challenge, Northcott Disability Services and the Touched by Olivia Foundation. The project will achieve accessible and positive community outcomes by recognizing both the Access and Equity Policy (2003) and the Disability Action Plan 2006-2008 which advocate the provision of inclusive, equitable and accessible facilities and services in Ryde for people of all abilities. The Disability Action Plan states that open spaces and facilities throughout the City are intended to be accessible wherever possible and achievable within the landform.

***The Yamble Reserve All Abilities Playground***

The Touched by Olivia Foundation approached the City of Ryde with an interest to support the funding, design and construction of the playground. Since the initial discussions, a concept design for an all abilities playground has been developed.

The concept plan is **ATTACHMENT 1**.

The total budget for the project includes the design and construction of the playground and all necessary modifications to Yamble Reserve to ensure equal access (including the modifications to the amenity building, pathways and car park areas). The concept plan is currently estimated at \$1,200,000 to construct.

***Design Statement***

As an all abilities playground the intention of the playground is to provide play opportunities for a range of physical, intellectual and emotional abilities that allow for participation, inclusion, accessibility and an overall equity and dignity in respect to providing facilities that allow for fun activities and a sense of belonging to the community. We understand that not every item will be entirely able to be used by all children with disabilities, however; we are aiming to have a range of play opportunities that cover a broad range of physical, social and sensory elements.



**ITEM 15 (continued)**

The development of the playground involved researching guidelines such as Sport and Recreation Victoria's '*Good Play Space Guide: I can play too*' which outlines a framework for the development of an All Abilities Playground. This research also included:

- Observation of play at special needs organisations.
- Consulting directly with special needs organisations to determine play elements that were beneficial to specific needs and abilities.
- Consulting with a stakeholder panel formed from presenting the proposal to the Access Committee, an Expression of Interest (EOI) to the local community, and presentation made at a 'Children At Play' forum held at Ryde Rehabilitation Centre that had one of its aims being to specifically attracting special needs groups for this project.
- Contacting the designers of other All Abilities Playgrounds in the Sydney and Central Coast area.
- Speaking with the Playground Advisory Unit at Kidsafe, Westmead Hospital.

The theme for the playground aims to relate to the landscape values of the park identified in the Yamble Reserve Plan of Management as a 'green oasis in suburbia' as well as providing for the play opportunities previously mentioned. The playground will be broken down into areas of play that stimulates (an active play zone), play that calms (a quiet zone) and play that provides sensory interest. These zones are important for children with autism as this allows for social interaction that recognises different emotional needs. As the playground is closely located to the Cerebral Palsy Association, there has been a consideration of play that allows for an outdoor form of therapy for children with cerebral palsy (hopefully at all levels of cerebral palsy) as this was something identified in consultation with this organisation.

The active zone aims to include exciting play items such as a modified flying fox, swings, a large spring sea-saw and spinning play items. The quiet zone aims to include calming hammock style swings and play items that allow for children to roll, crawl and use their entire bodies. The imagination play zone will include a maze path with sensory art and planting and will be surrounded by a planted arbour to allow for a sensory tunnel-like experience. There would be play items in this zone that have elements or realism such as pretend animals or objects with faces. It is intended that there will be elements of artwork that are interactive as these are also important elements for stimulating response. There is also a sand play area included which also allows for wheelchair access.

Accessibility to and through the playground is a priority with this design. Part of the path network will include a 'roly poly' path through the active play zone. The path will be gently undulating and twisting with small rubber softfall slopes running off from the path into the play area. The aim of this path is to increase balance and mobility skills in a fun manner and to allow for children in wheelchairs such as those with level 5 cerebral palsy to experience the fun of going down slopes.

Throughout these spaces will be seating opportunities and picnic facilities. The amenities block currently within the park will be updated to allow for two accessible toilets (currently there is one accessible toilet). It is proposed that a bus drop off



**ITEM 15 (continued)**

zone will be constructed at the Clermont Avenue car park entry to the park due to the close proximity of this car park to the playground (an important requirement for an All Abilities Playground). The Quarry Road car park will also be updated to allow for bus parking facilities and access to the park from this car park will be improved to comply with Australian Standards for equal access.

***The next steps***

The next step towards the realisation of the playground at Yamble Reserve is to place the concept plan on public exhibition and provide opportunities for the community to offer comments on the design of the playground and the surrounding parkland setting.

As a part of this exhibition, notification will be sent to the local residential community as well as to local agencies in the disability services sector.

The comments received during the public exhibition of the concept plan will be forwarded to the designers of the playground for consideration.

**Consultation**

Internal Council business units consulted included:-

- Public Works
- Community Life

Internal Workshops held:-

- Not applicable

City of Ryde Advisory Committees consulted included:-

- Access Committee

External public consultation included:-

- Kid Safe
- Cerebral Palsy Alliance
- Touched by Olivia Foundation
- Community stakeholder panel (including local residents and people within the local disability services sector)

**Comments**

It is proposed that the public exhibition of the playground design will include local notifications and in Reserve notifications.

**Critical Dates**

There are no critical dates or deadlines to be met.

**Financial Impact**

The funds for this project are partially provided for in the proposed budget for 2011/12 under the cluster project group for playground upgrades.



**ITEM 15 (continued)**

The estimated cost for the construction of the playground and all ancillary park elements are \$1.2million. The following table provides a breakdown of the funding as at the time of the preparation of this report.

<b>Source</b>	<b>Amount</b>	<b>Total</b>
<b>Confirmed Funds</b>		
Federal Grant - Confirmed	\$147,000	<b>\$147,000</b>
<b>Unconfirmed Funds</b>		
City of Ryde 4 year Delivery Plan	\$350,000	<b>(\$350,000)</b>
<b>Current Grant Applications – Not Confirmed</b>		
*Metropolitan Green Space Grant	\$200,000	
*NSW Sport and Recreation Grant	\$200,000	
*Australian Government – Accessible Communities Grant Program	\$200,000	
*CDSE Grant Application	\$200,000	<b>(\$800,000)</b>

(Note: Those grant applications marked with a \* in the above table have been submitted for consideration. There is no guarantee that the City of Ryde will be successful in being awarded these grants.)

A partnership arrangement has been formed between the Touched by Oliva Foundation and Bovis Lend Lease that supports the design and project management of the project. This contribution however does not reduce the monetary commitment that is required for the construction of the playground.

Another partnership discussion is underway between the City of Ryde and Communities for Communities however at this stage there is no commitment of funds to support the construction of the playground. This partnership will engage with local business and the chambers of commerce to seek community contributions to the cost of the playground construction.

Finally, discussions have been underway with the local State Member of Parliament, Mr Victor Dominello to seek state government support for this project. While there has been no financial commitment made specifically to the Yamble Reserve playground, Council's discussions with the State Government seeking support will continue.

**Policy Implications**

There are no policy implications through adoption of the recommendation

**Other Options**

Other alternatives may include the following:

- Re design of the playground and / or surrounding parkland setting
- Change of location for the all abilities playground
- Not to progress to the public exhibition phase



**ITEM 15 (continued)****Conclusion**

A summary of the key points regarding this project are as follows:

- The aim of the project is to create an environment that will be openly accessible for all children to play together, whether they have a disability or not.
- In addition to the recreational and physical benefits of the playground, Yamble Reserve will become a space that will assist in breaking down perceptions and fears that can arise in the community about people with disabilities.
- With so few fully accessible playgrounds provided in our community, Yamble Reserve will be a regionally significant space for the community.
- This playground will be used and enjoyed. The similar playground at Timberall Park has over 1500 visitors per week and it is anticipated that the Yamble Reserve playground will achieve the same, if not more enjoyment from the community.
- Yamble Reserve will become a centrepiece for the Ryde community and will benefit children and families, with special needs across the Sydney metropolitan area.
- With construction of the playground scheduled to commence in December 2011, the City of Ryde is seeking the views of the community to help shape the playground and the surrounding parklands so as to achieve the full potential of this wonderful and unique project.

The next step towards the realisation of this project is to place the concept plan on public exhibition and to continue the conversation with the wider community about this unique project.



## ITEM 15 (continued)

## ATTACHMENT 1



## Yamble Reserve All abilities Playground

*It is the City of Ryde's intention that Yamble Reserve will become a destination parkland for children and carers with special needs. The park and playground will become a fully integrated, universally accessible environment for people of all ages and abilities.*

*The aim of the play area is to enable children with and without disabilities to have opportunities to play together, encouraging all children to explore, imagine, create, learn and just have fun playing with friends.*

*The focus of the design of the playground areas is to allow children with disabilities to participate and join in and no longer be segregated and watch from the sidelines as other kids have fun.*

*For more information please contact  
Fiona Morrison, Open Space Planner  
Phone: 9952 8222*



## ITEM 15 (continued)

## ATTACHMENT 1

## About Yamble Reserve

Yamble Reserve is located in the suburb of Ryde and is close to the geographic centre of the Ryde Local Government Area. The Reserve is approximately 2.4 hectares in size and is bounded by Quarry Road in the north and residential properties to the south, west and east. The Reserve is within 260 metres of Santa Rosa Park to the west and 460 metres from Lane Cove Road in the east.

The Reserve's established access and facilities are significant features for both the users from the immediate neighbourhood of the Reserve as well as those users in the greater City of Ryde. The Reserve is well used on a regular daily basis for informal recreation as well as patronised for special events ranging from private social gatherings to larger community events and it is highly valued as an oasis in the urban setting.

For more information on Yamble Reserve go to <http://www.ryde.nsw.gov.au/yamble>

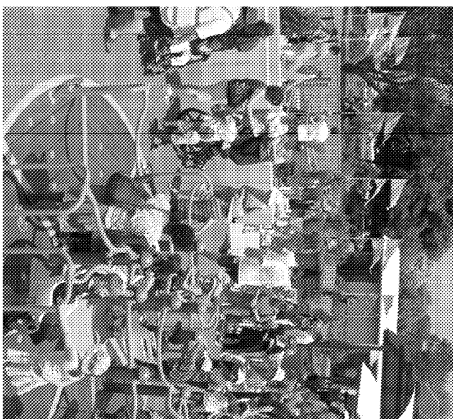
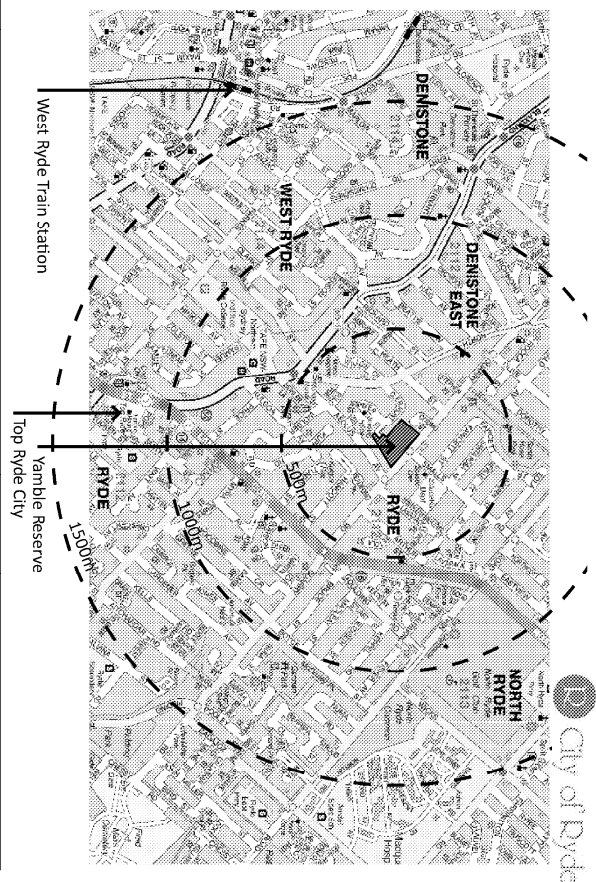
## Why an all abilities playground for the City of Ryde?

Approximately 15.4 per cent of the population in the City of Ryde has a disability or impairment. The City of Ryde is committed to providing facilities and services in an equitable and dignified way to ensure social inclusion. People with a disability do not live in isolation; they have sons and daughters, partners, parents, etc; therefore approximately 31 per cent of the population is directly affected by the environmental and attitudinal barriers that people with disabilities encounter every day.

Consultation with Stakeholders for the Yamble Reserve project includes members from the City of Ryde Access Committee, Autism Spectrum Australia, Mimbah Challenge, Northcott Disability Services and the Touched by Olivia Foundation.

The project will achieve accessible and positive community outcomes by recognizing both the Access and Equity Policy (2003) and the Disability Action Plan 2006-2008 which advocate the provision of inclusive, equitable and accessible facilities and services in Ryde for people of all abilities. The Disability Action Plan states that open spaces and facilities throughout the City are intended to be accessible wherever possible and achievable within the landform.

Parks Promotion is an ongoing focus for the City and the promotion of Yamble Reserve will be through the Council newsletter and website, to disability service providers, children's and families inter-agencies, Council's Vacation Care (catering for special needs children), disability and access inter-agencies and multicultural and youth inter-agencies.



Photograph above: Luv's Playground at Five Dock. This is a playground provided in partnership with the Touched by Olivia Foundation and Canada Bay Council.



## ITEM 15 (continued)

## ATTACHMENT 1

**Project Details:**

In alignment with the Yamble Reserve Plan of Management (adopted October 2010), Yamble Reserve has been selected as a suitable location for the development of an all abilities playground. The focus for this project is to engage with the community and stakeholders to inform the design and construction of a playground. The key deliverable for the project is an all abilities playground that combines traditional play equipment and purpose built play and landscape elements that offer inclusive play opportunities for the Ryde Community.

The Touched by Olivia Foundation has an interest in the funding, design and construction of the playground and it is essential that the Yamble Reserve playground be designed and constructed to meet the objectives and criteria of the Touched by Olivia Foundation.

The total budget for the project includes the design and construction of the playground and all necessary modifications to Yamble Reserve to ensure equal access (including the modifications to the amenity building, pathways and car park areas). The project is estimated at \$1,200,000.

Our partnership with the Touched by Olivia foundation will engage the local community and local business in fund raising for the project and we will be working with the Foundation to promote awareness in the local community.

**Design Statement:**

The intention of the playground is to provide play opportunities for a range of physical, intellectual and emotional abilities that allow for participation, inclusion, accessibility and an overall equity and dignity in respect to providing facilities that allow for fun activities and a sense of belonging to the community. We understand that not every item will be entirely able to be used by all children with disabilities, however, we are aiming to have a range of play opportunities that cover a broad range of physical, social and sensory elements.

The theme for the playground aims to relate to the landscape values of the park identified in the Yamble Reserve Plan of Management as a 'green oasis in suburbia' as well as providing for the play opportunities previously mentioned. The playground will be broken down into areas of play that stimulates (an active play zone), play that calms (a quiet zone) and play that provides sensory interest. These zones are important for children with autism as this allows for social interaction that recognises different emotional needs. As the playground is closely located to the Cerebral Palsy Association, there has been a consideration of play that allows for an outdoor form of therapy for children with cerebral palsy (hopefully at all levels of cerebral palsy) as this was something identified in consultation with this organisation.

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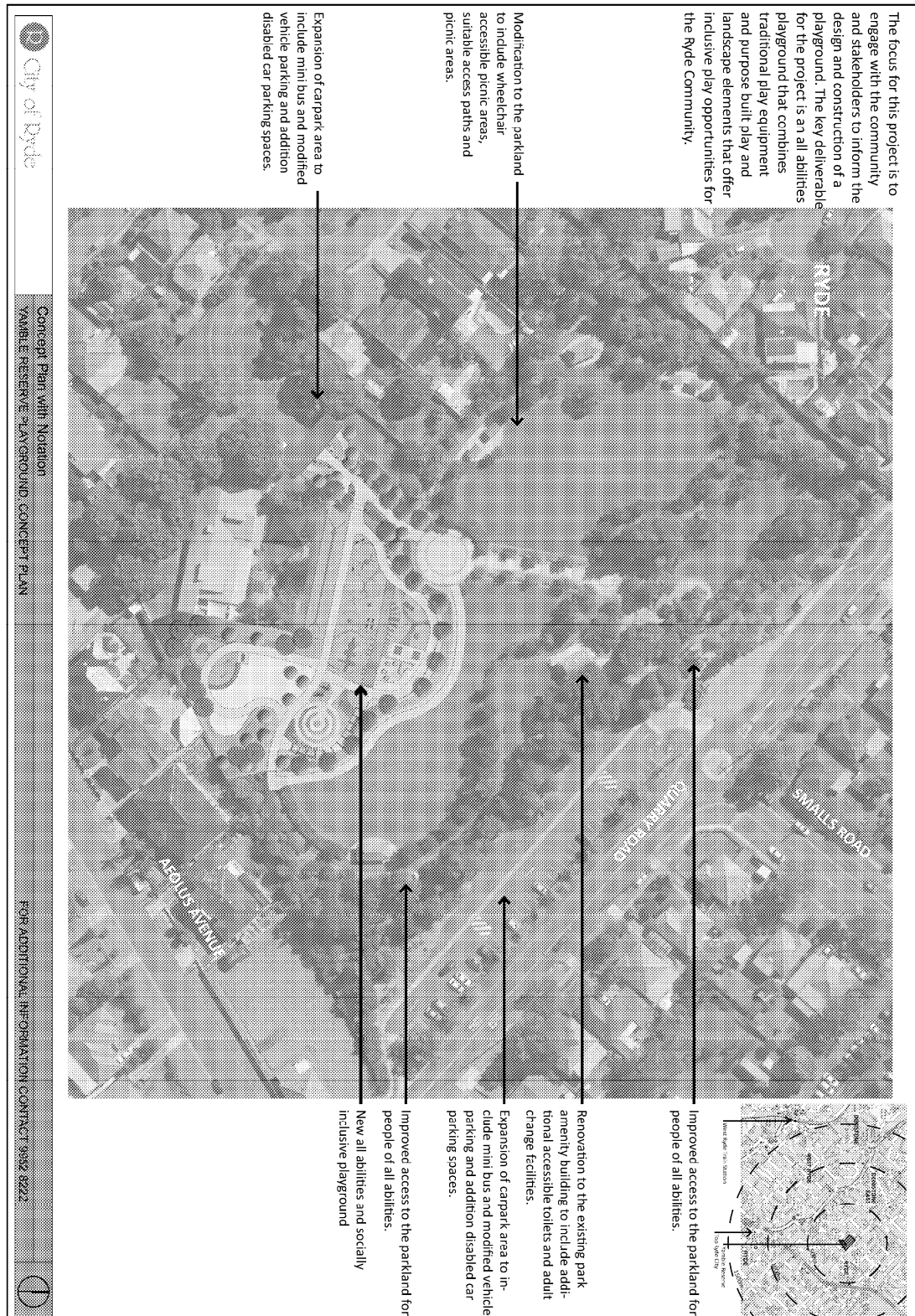
Accessibility to and through the playground is a priority with this design. Part of the path network will include a 'roly polly' path through the active play zone. The path will be gently undulating and twisting with small rubber softfall slopes running off from the path into the play area. The aim of this path is to increase balance and mobility skills in a fun manner and to allow for children in wheelchairs such as those with level 5 cerebral palsy to experience the fun of going down slopes. Throughout these spaces will be seating opportunities and picnic facilities. The amenities block currently within the park will be updated to allow for two accessible toilets (currently there is one accessible toilet). It is proposed that a bus drop off zone will be constructed at the Clermont Avenue car park entry to the park due to the close proximity of this car park to the playground (an important requirement for an All Abilities Playground). The Quarry Road car park will also be updated to allow for bus parking facilities and access to the park from this car park will be improved to comply with Australian Standards for equal access.





## ITEM 15 (continued)

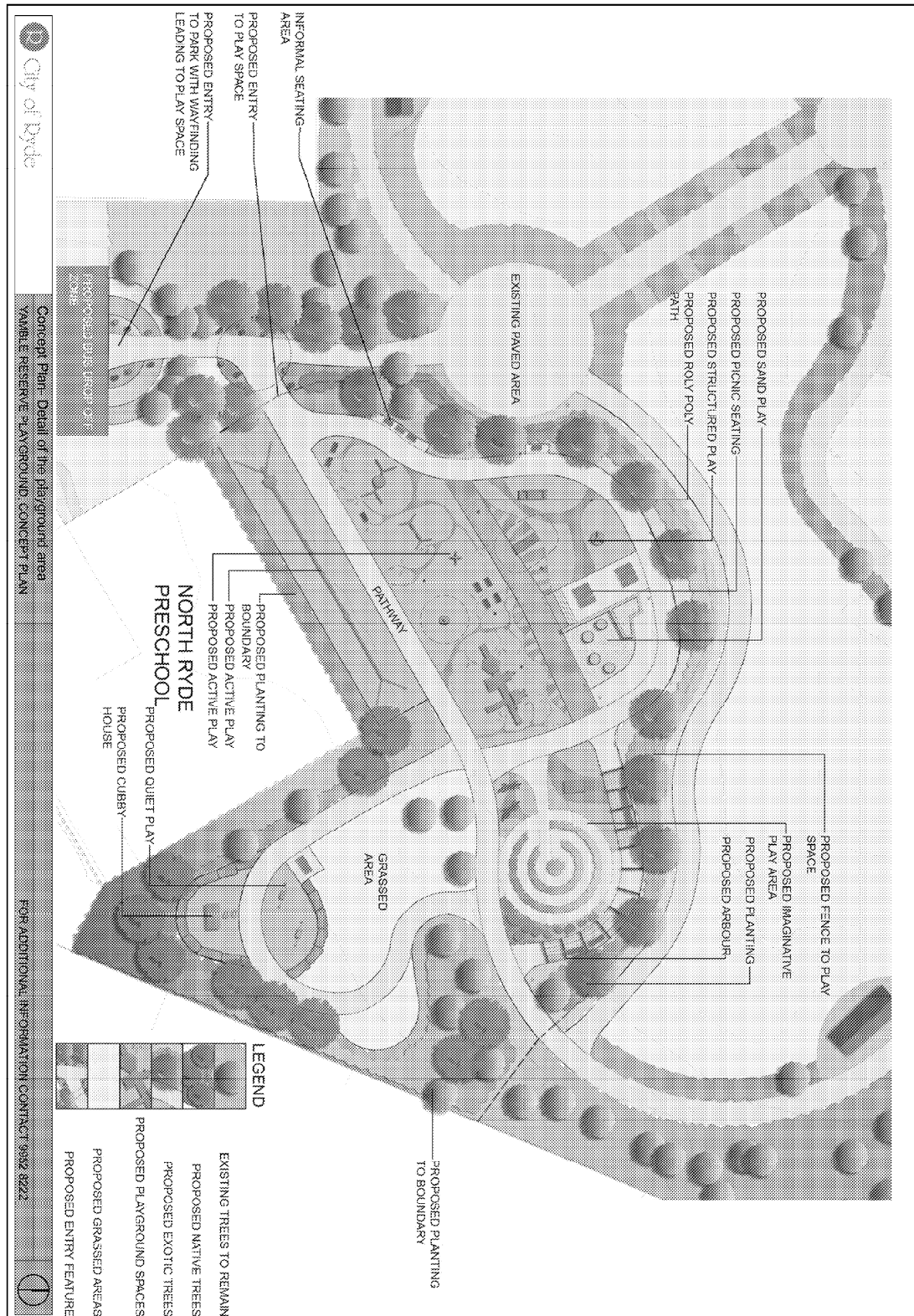
## ATTACHMENT 1





## ITEM 15 (continued)

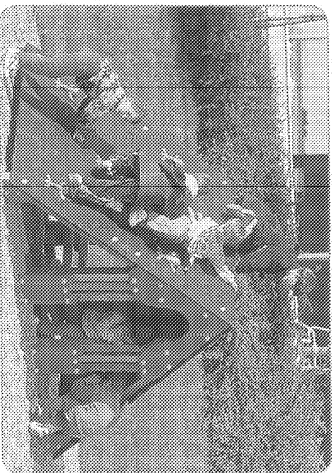
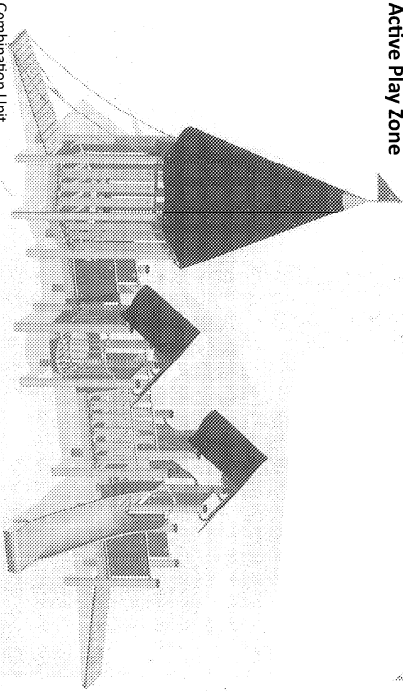
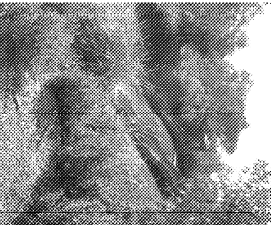
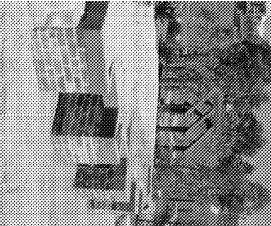
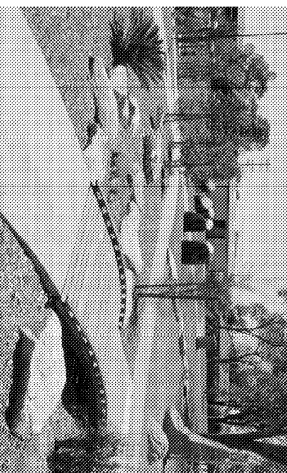
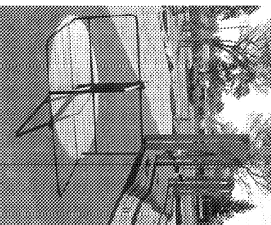
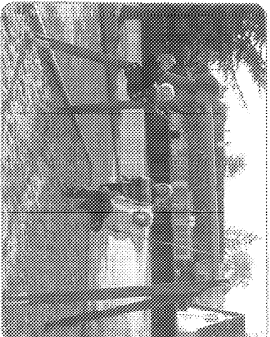
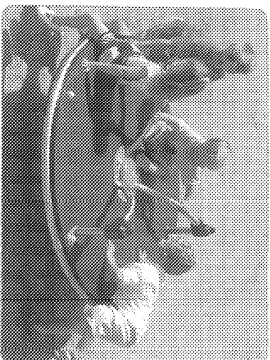
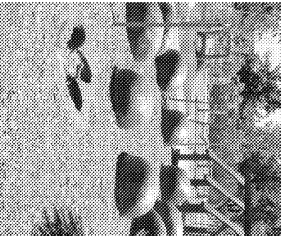

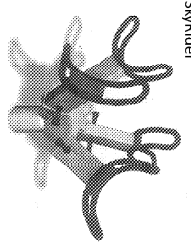
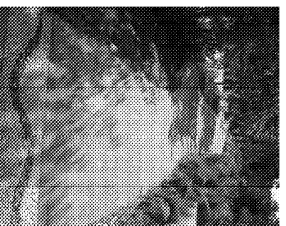
## ATTACHMENT 1






ITEM 15 (continued)

ATTACHMENT 1

Quiet Play Zone		Active Play Zone	
 <p>Cubby House</p>	 <p>Combination Unit</p>	 <p>Hill Slides</p>	 <p>Sand play area</p>
 <p>Bridges and pathways</p>	 <p>Spinners</p>	 <p>Swing</p>	 <p>Spinner</p>
 <p>Quiet play areas</p>	 <p>SkyRider</p>	 <p>4 seat swing</p>	
 <p>Pathways</p>			




City of Ryde

Playground Palette - As a guide only

YAMBLE RESERVE PLAYGROUND CONCEPT PLAN

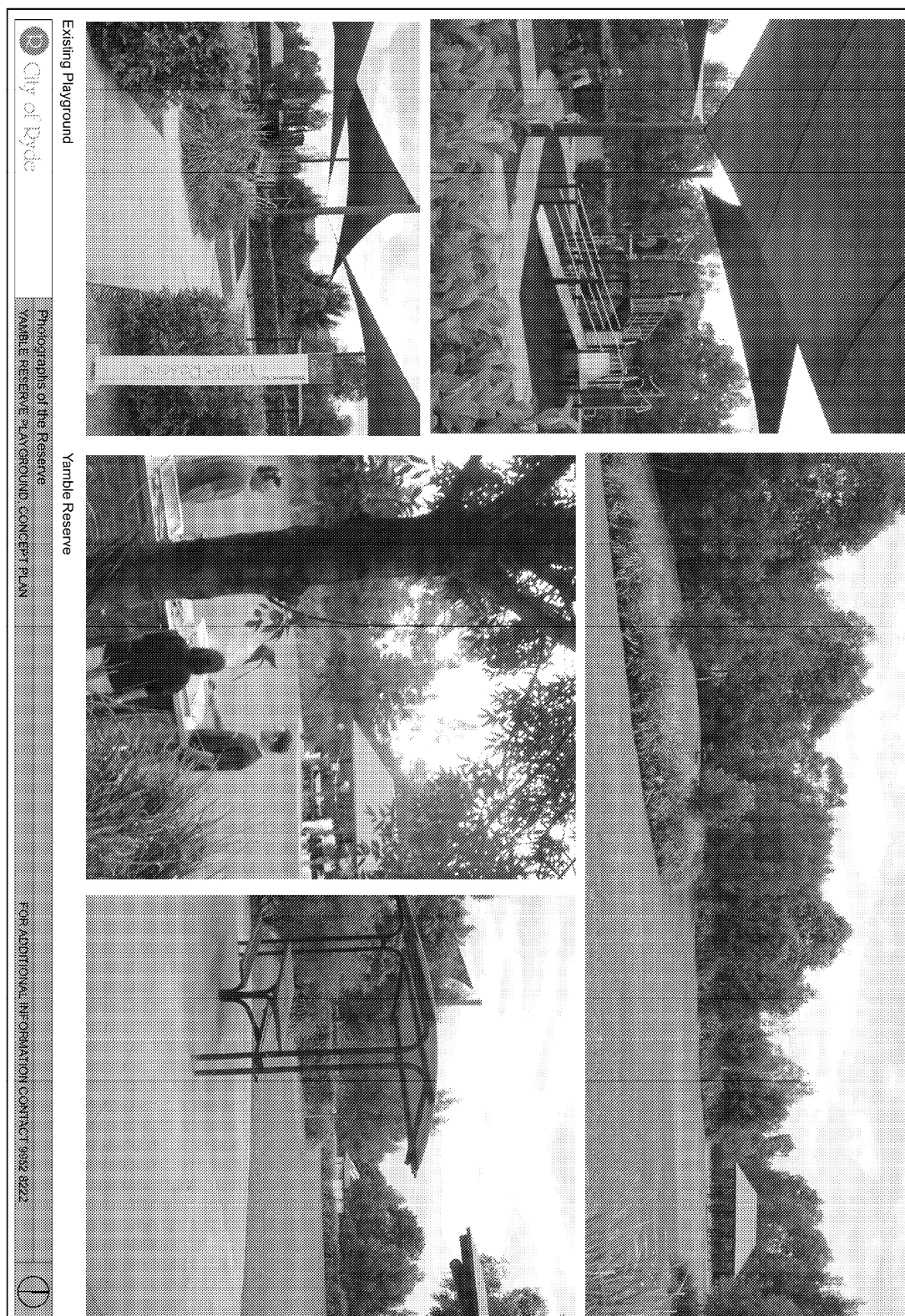
FOR ADDITIONAL INFORMATION CONTACT 0952 8222





ITEM 15 (continued)

ATTACHMENT 1





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**16 DRAFT PUTNEY PARK PLAN OF MANAGEMENT - Permission to place on Public Exhibition**

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**Report prepared by:** Open Space Planner**Report dated:** 18/05/2011**File No.:** GRP/11/4/3 - BP11/396

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**Report Summary**

To request permission to commence the public exhibition of the draft Putney Park Plan of Management.

**RECOMMENDATION:**

- (a) That the draft Putney Park Plan of Management be placed on Public Exhibition for a period of 28 days.
- (b) That submissions be received for a further 14 days after the completion of the exhibition period.
- (c) That a report be brought back to Council with the results of the public exhibition, recommending further action.

**ATTACHMENTS**

- 1 Putney Park - Draft Plan of Management - For Public Exhibition, May 2011 - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**Fiona Morrison**  
**Open Space Planner**

Report Approved By:

**Simone Schwarz**  
**Group Manager - Community Life**



**ITEM 16 (continued)****Background**

In accordance with the Local Government Act 1993 and the Crown Lands Act 1989, a draft Plan of Management has been prepared for Putney Park what will provide the direction for the future management of the Park for the life of the Plan, approximately 5 – 10 years. The draft Plan of Management has been **CIRCULATED UNDER SEPARATE COVER**. As prescribed in the Local Government Act 1993 and the Crown Lands Act 1989, a public exhibition period is required for all plans of management prepared for Community and Crown Land.

**Report**

As a part of the ongoing strategic planning for all of Council's open spaces, the Putney Park Plan of Management has been prepared to guide the future development and management of the Park in response to the needs and values of the Ryde community and the users of the Park. When adopted by Council the Plan of Management will replace the current generic plan applicable to Putney Park.

The local community have been asked to provide their opinions on the use and management of the Park and their feedback has been used to prepare this draft Plan of Management.

The period for the public exhibition is 28 days with a further 14 days for comment to be received. At the end of this period, the submissions will be reviewed. If the submissions are of a minor nature, then changes will be made and the draft Plan returned to Council for adoption. If there are major issues, a facilitated public meeting will held to resolve them before the document is returned to Council.

If Council resolves to place the draft Plan of Management on Public Exhibition, the following program is proposed;

22 June 2011	Draft Plan of Management placed on Web site, Libraries and Customer Service areas, notices to be placed in the Park and advertised in the Ryde City View.
22 June 2011	Notification flyer distributed to all homes within 400m of Putney Park informing them of the public exhibition period.
5 August 2011	Plan removed from public exhibition and final submissions received
September 2011	Review completed and reported to Council for adoption or for a public meeting.

**Key Issues in the Plan of Management**

As a result of the community and internal stakeholder consultation, a number of key issues are address in the Plan of Management. This includes the following:

- A review of the bushland areas within the Park and recommendations provided on future environmental protection zoning
- The provision of a food and beverage outlet within the Park



**ITEM 16 (continued)**

- Improvements to the pathway network within the Park to enhance accessibility and to create a loop path
- Preparation of a Masterplan for the Park that will guide the future embellishment of the Park.

Full discussion of these items is contained in Section 5 of the draft Plan of Management.

**Consultation**

Internal Council business units consulted included:-

- Public Works
- Planning and Environment

Internal Workshops held:-

- Two internal workshops were held to gather the views of Council's internal stakeholders and to review the draft Plan of Management.

City of Ryde Advisory Committees consulted included:-

- All Advisory Committees will be forwarded a copy of the draft Plan of Management for comment during the exhibition period.

External public consultation included:-

- NSW Land and Property Management Authority
- Community consultation program, July – September 2009

**Comments**

The feedback from these groups has been incorporated into the draft Plan of Management through the distillation of the values for the Park, preparation of the Masterplan and management actions.

**Critical Dates**

There are no critical dates or deadlines to be met.

**Financial Impact**

Adoption of the option(s) outlined in this report will have no financial impact.

**Policy Implications**

There are no policy implications through adoption of the recommendation.

**Other Options**

Council may ask for the Plan of Management to be redrafted.

**Conclusion**

The drafting of the Putney Park Plan of Management has followed the required process to establish the values the stakeholders have for the Park. It is appropriate for the wider community to have the opportunity to have input into the development and management of the park.



**ITEM 16 (continued)**

The draft Plan of Management provides a strategic planning and sustainable management framework to conserve the Parks natural, cultural and indigenous resources; and to promote public recreation, leisure and tourism. Management actions are recommended within the Plan to meet current and future demands of Park users and aim to improve the quality of the park, respond to the needs of the community, satisfy management objectives and reinforce the values of the Park.



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**17 REVIEW OF PART 3.3 DWELLINGS HOUSES AND DUAL OCCUPANCY OF DEVELOPMENT CONTROL PLAN 2010**

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**Report prepared by:** Client Manager**Report dated:** 10 May 2011**File No.:** GRP/11/6/3/3 - BP11/378

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**Report Summary**

This report relates to a review of *Part 3.3 Dwelling Houses and Dual Occupancy* of Council's *Development Control Plan 2010*.

The review process for the above sections would address the following:

- Recent new legislation,
- Current changes to the planning framework as a result of the Ryde Draft Comprehensive Local Environmental Plan 2011,
- Issues arising from the development applications assessment process,
- A need to simplify and rationalise Council's planning controls relating to low density residential housing, and
- Issues raised as part of the Best Value Review of Council's Assessment Unit.

This report seeks Council's endorsement for the review of the above identified Part of Development Control Plan 2010 (DCP 2010).

**RECOMMENDATION:**

- (a) That a review of *Part 3.3 Dwelling Houses and Dual Occupancy* of City of Ryde's *Development Control Plan 2010* and associated process be undertaken to address the issues raised in this report.
- (b) That a further report be provided to Council once the review process is completed.

**ATTACHMENTS**

There are no attachments for this report.

Report Prepared By:

**Adrian Melo**  
**Client Manager**

Report Approved By:

**Meryl Bishop**  
**Manager - Urban Planning**

**Dominic Johnson**  
**Group Manager Environment & Planning**



**ITEM 17 (continued)****Background**

The city wide DCP 2010 contains more than 30 parts which provide a range of planning controls in relation to various types of development such as Dwelling House and Dual Occupancy, Multi Dwelling Housing(attached), Notice of Development Applications, Child Care Centres, Stormwater Management etc. It also contains place based controls for character areas and the Town Centres such as West Ryde, Top Ryde, Eastwood, Meadowbank and Macquarie Park Town Centres.

DCP 2010 is subject to a review program which is consequential to the preparation of the Ryde Draft Comprehensive Local Environmental Plan 2011. This review program includes a review of *Part 3.3 – Dwelling Houses and Dual Occupancy*.

**Report**

The current City of Ryde Development Control Plan, being DCP 2010, was adopted by Council on 16 June 2009 and came into effect on the day of gazettal of *Ryde Local Environmental Plan 2010*. The following is a brief summary of the parts to be reviewed:

**Part 3.3 Dwelling Houses and Dual Occupancy,**

Part 3.3 of the DCP 2010 provides a set of minimum standards and requirements that the community and Council believe all new dwellings and dual occupancies should adhere to. Accordingly, this document provides a standard framework against which the majority of low density residential development is assessed, with the exception of those subject to *Part 5.1 Coronation Avenue and Trelawney Street, Eastwood Character Area* and *Part 5.3 Tyrell Street, Gladesville, Character Area* of DCP 2010.

The review of the above identified part of DCP 2010 has been initiated for the following reasons:

- To provide an appropriate framework for the assessment of development applications for dwelling houses and dual occupancies,
- To ensure consistencies with the recent introduction of State Policies particularly involving changes to exempt and complying development provisions and secondary dwellings,
- To fulfil the requirements of the *Environmental Planning and Assessment Act 1979* for a regular and periodic review of the local planning instruments (such as DCPs), and
- The DCP was comprehensively reviewed 2006-2007. Minor amendments occurred to the plan as part of the preparation of the Citywide DCP 2010. The Citywide DCP 2010 is subject to a program of a review which involves the review of a number of parts in response to the preparation of the draft LEP 2011 and the recommendations of the Local Planning Study. The review of the above sections is included in the program.



**ITEM 17 (continued)**

- To rationalise and simplify the extent and number of Council policies applying to low density residential development within the City of Ryde.
- To address issues raised as part of the Best Value Review of Council's Assessment Unit.

The review process will identify where changes are required to be made and propose changes to be adopted by Council.

The review process will:

- be undertaken in-house
- respond to legislative framework,
- be based on issues arising from the assessment process,
- undertake consultation and workshops with internal stakeholders,
- undertake public consultation,
- be presented to Council for adoption with the recommendations arising from the review, and
- create a comprehensive set of controls that apply to low density residential development.

**Consultation**

Internal Workshops held:-

Consultation with key service units such as Assessment, Environmental Health and Building, and internal workshops would be undertaken as part of the review process.

External public consultation include:-

Public consultation will be undertaken by way of letter notification and notification in the local news paper in accordance with the requirements contained in the *Environmental Planning and Assessment Regulation 2000*. However, a further report will be submitted to Council at the conclusion of the review outlining the changes made and seeking support for public exhibition.

Advisory Committees:-

The review of DCP 2010 and will be presented and discussed with the Heritage Advisory Committee.

**Critical Dates**

There are no critical dates or deadlines to be met, however, it is anticipated that the process will be completed by October 2011.



**ITEM 17 (continued)****Financial Impact**

The costs for the review of Part 3.3 of the DCP 2010, public exhibition and graphics are to be covered by the operational budget of the Urban Planning Unit.

**Policy Implications**

At this time, there is no policy implications through the adoption of the recommendation of this report as it is seeking a review of the identified sections of the DCP only.

**Other Options**

To not review Part 3.3 of the DCP 2010 at this time.

**Conclusion**

This report proposes a review to be undertaken of *Part 3.3 Dwelling Houses and Dual Occupancy* of *Ryde Development Control Plan 2010*. It recommends that an appropriately conducted public consultation process be completed as required by the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulations 2000*.



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**18 RESULTS OF THE DOG OFF LEASH AREA TRIAL**

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**Report prepared by:** Open Space Planner**Report dated:** 25 February 2011**File No.:** GRP/11/4/3/3 - BP11/127

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**Report Summary**

This report provides a summary and analysis of the results of the six month dog off leash trial of 16 parks across the City of Ryde. The Trial commenced on October 27 2010 concluded on 27 April 2011. The purpose of this report is to present the community response to the Trial and to offer appropriate recommendations on how to provide for off leash dog exercising areas for the City of Ryde that are consistent with the results of the Trial.

**RECOMMENDATION:**

- (a) That the exercising of dogs off leash is prohibited at the following parks:
  - Carara Reserve, West Ryde
  - Waterloo Park, Marsfield
  - Cudal Reserve, Ryde
  - Putney Park, Putney
  - Santa Rosa Park, Ryde
  - Forrester Park, Eastwood
  - Fontenoy Park, Macquarie Park
- (b) That future budget allocations are provided for enclosed dog off leash areas ELS Hall Park, Denistone Park and Olympic Park. In the intervening time, these parks are to be managed as dog off leash areas.
- (c) That North Ryde Common and Kotara Park are managed as free running off leash areas and a future budget allocation provided for additional infrastructure.
- (d) That the following sportsgrounds offer opportunities for off leash dog exercising when not used for organised sport:
  - Peel Park, Gladesville
  - Brush Farm Park, Eastwood
  - Darvall Park, Denistone
  - Pidding Park, Ryde
- (e) That the community is notified of Council's decision and all parks under the Trial are signposted in accordance with Council decision.

**ATTACHMENTS**

- 1 Report on the provision of recreation spaces for Dogs, July 2010
- 2 Submission from the Gladesville Ravens
- 3 Submission from Community Reps on the Companion Animals Committee regarding Trial of Leash free Areas, Judy Willis
- 4 Bushland Management Working Group Submission for Off Leash Areas - March 2011



**ITEM 18 (continued)**

Report Prepared By:

**Fiona Morrison**  
**Open Space Planner**

Report Approved By:

**Simone Schwarz**  
**Group Manager - Community Life**



**ITEM 18 (continued)****Background**

There has been ongoing planning and presentations on the provision of areas where the Ryde Community can exercise their dogs off leash. This has included:

- Council resolution to create the off leash area at Blenheim Park (1 November 2005),
- Council resolution to trial Meadowbank Park as a timed leash free area for one year (11 November 2005) and a subsequent decision to make the leash free area permanent (2 May 2006), and
- Council reports have suggested possible locations that have included Darvall Park, West Denistone Park, Glades Bay Reserve, Gannan Park, McCauley Park, Forrester Park and ELS Hall Park (various reports from 2001 – 2010).
- Council resolution regarding the status of the Meadowbank Park off leash area remaining unchanged, 6 October 2009
- A request by Councillors for a review of what other local government areas provide for dog recreation and further consideration for the provision of these facilities within the City of Ryde (Works and Community, 2 February 2010).
- In response to the last dot point, a *The Study on the Provision of Recreation Areas for Dogs 2010* (Refer to **ATTACHMENT 1**). was completed and presented to the Committee of the Whole, 20 July 2011. At this meeting, Council resolved the following:

*That Council trial allowing off leash areas within suitable times in the following suitable parks in the City of Ryde:*

- *Kotara Park, North Ryde*
- *Carara Park, Ryde*
- *North Ryde Common, North Ryde*
- *Cudal Reserve, Ryde*
- *Waterloo Park, Marsfield*
- *Denistone Park, Denistone East*
- *ELS Hall Park, North Ryde*
- *Olympic Park, Ryde*
- *Putney Park, Putney*
- *Brush Park, Eastwood*
- *Darvall Park, Denistone West*
- *Forrester Park, Eastwood*
- *Santa Rosa Park, North Ryde*
- *Fontenoy Park, Macquarie Park*
- *Pidding Park, Ryde*
- *Peel Park, Gladesville*

Subsequent to this, at the Council Meeting, 27 July 2010, further debate on the provision of off leash areas was conducted and the following resolution was made by Council:

*That within 6 months of the commencement of the trial off-leash areas for dogs, approved by Council on 20 July 2010, the General Manager submit a report to Council considering:*



**ITEM 18 (continued)**

- (a) *the outcome of the trial; and if satisfactory*
- (b) *the possibility of extending off-leash areas to all parks in Ryde other than specific parks which are nominated by exception.*
- (c) *That dog owners in the City of Ryde receive educational material that provides information on their responsibilities as a dog owner*

This report provides the detail on Trial was that conducted in accordance with the above Resolution and the subsequent response from the Community and responds to (a) and (b) of the above resolution. Point (c) will be actioned by Council's Regulatory Team as a part of the Companion Animals Management Plan.

**Report**

In accordance with the Council resolutions from 20 July and 27 July, 2010, a trial of off leash areas was conducted. A summary of the Trial is provided below.

Date Commenced: Wednesday 27 October 2010

Schedule End: Wednesday 27 April 2011

*Park's subject to the dog off leash Trial:*

- Carara Reserve - Goodwin Street, Ryde
- Kotara Park - Abuklea Road, Marsfield
- Waterloo Park - Vimiera Road, Marsfield
- ELS Hall Park - Kent Road, North Ryde
- North Ryde Common - Twin Road, North Ryde
- Denistone Park - Terry Road, Denistone
- Olympic Park - Potts Street, Ryde
- Cudal Reserve - Henry Street, Ryde
- Putney Park - Pellisier Road, Putney

*Sportsground subject to the dog off leash Trial* (Please note, the following sportsgrounds were trialled as dog off leash areas when organised sport was not occurring.)

- Peel Park - Morrison Road, Gladesville
- Santa Rose Park - Quarry Road, North Ryde
- Forrester Park - Vimiera Road, Eastwood
- Brush Farm Park - Lawson Street, Eastwood
- Fontenoy Park - Fontenoy Road, Macquarie Park
- Darvall Park - Chatham Road, Denistone
- Pidding Park - Cressy Road, Ryde

Please note: Blenheim Park and Meadowbank Park continued to provide areas off leash dog activity and were not a part of the Trial.

*Onsite park management of the off leash area*

- Each park in the Trial was line marked to show where dogs were permitted to run off leash. In all areas outside of the line marked areas, dogs were not permitted to be off a leash. (It should be noted that some of the parks were trialled as free running off leash areas when *The Study on the Provision of Recreation Areas for Dogs 2010* recommended enclosed off leash areas.)



**ITEM 18 (continued)**

- Signs were erected in all parks under the Trial, with details of how the community could comment on the trial.
- Dog waste bins were placed at all parks and sportsgrounds in the Trial.
- Dog waste bag dispensers were also provided at each trial location

*The community was notified in the following ways:*

- Over 5,500 letters were sent to all homes within 150m – 200m of each park in the Trial, informing residents of the Trial and how they can have their say.
- Each letter was accompanied by a colour aerial photograph of the parks that identified the trial off leash area in red hatching.
- Council's web page provide locations, maps and information for each of the off leash trial areas.

*How the community had their say about the Trial*

A number of options were provided to the community to provide their feedback to Council.

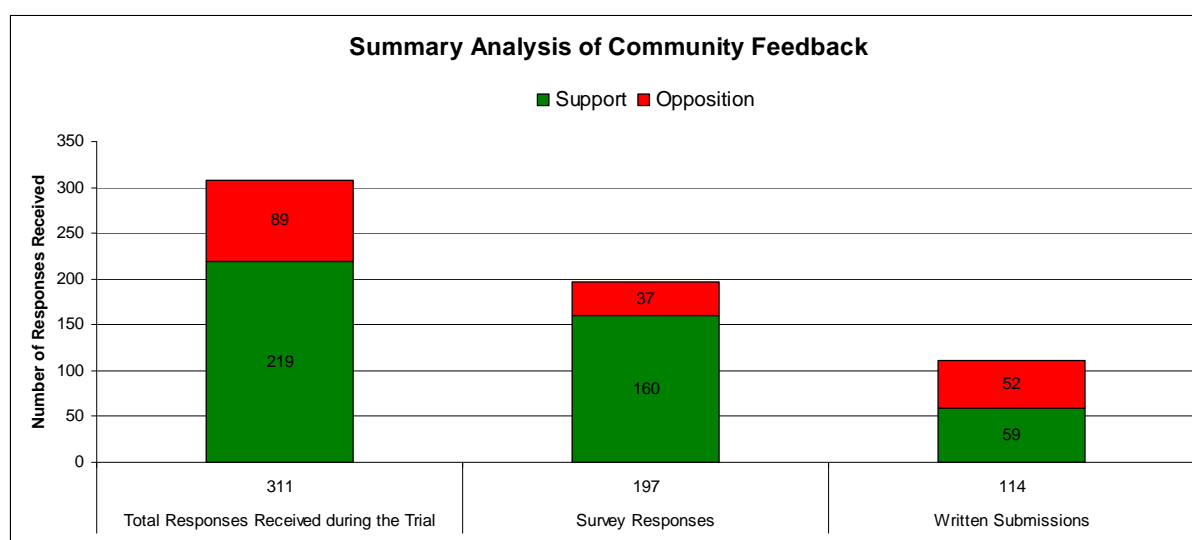
- Complete an online submission at [www.ryde.nsw.gov.au](http://www.ryde.nsw.gov.au)
- Write a submission and send via email or post to the City of Ryde.

**Results of the Trial**

At the conclusion of the Trial the City of Ryde had received a total of 312 responses to the Trial. This included

- 114 written submissions
- 1 petition with 17 signatures supporting the use of Darvall Park as off leash area,
- 197 completed surveys.

The results of the community feedback is summarised on Table 1.



**Table 1: Analysis of the Community Feedback**

Further analysis was conducted on the results of each park and whether the community was in support or opposed the use of individual parks as an off leash exercise area for dogs. The results shown on Table 2 combine both the written submissions received from the community and the results from the online survey.



## ITEM 18 (continued)

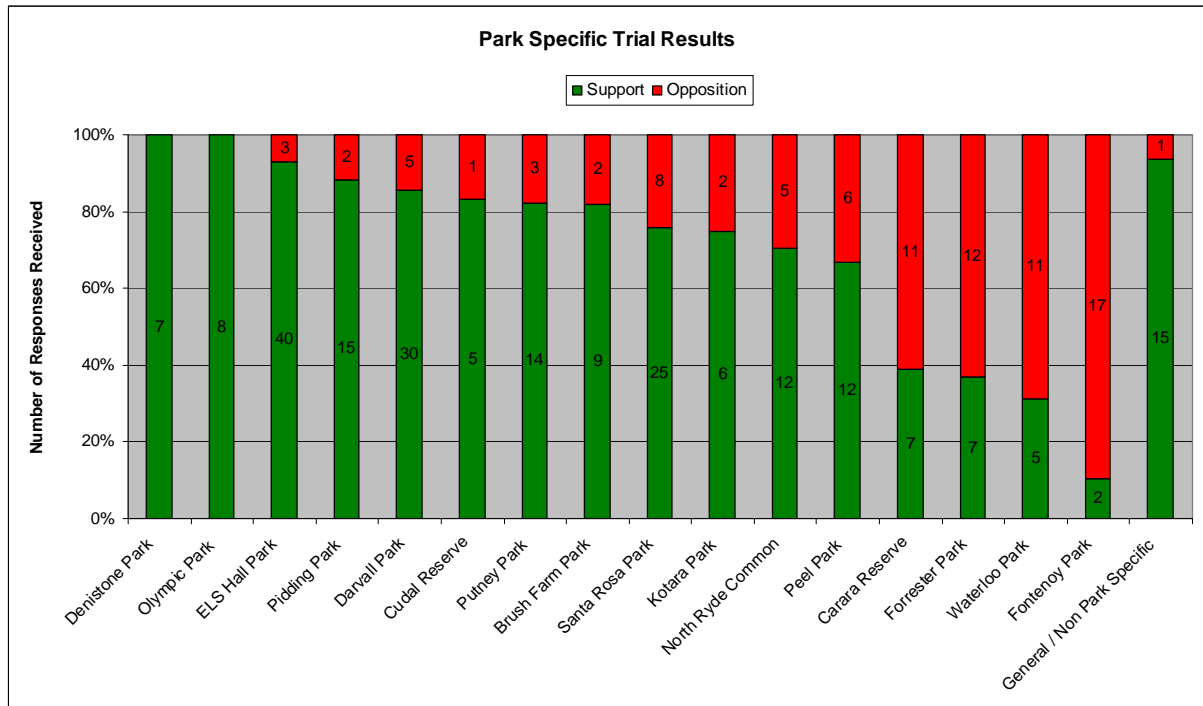
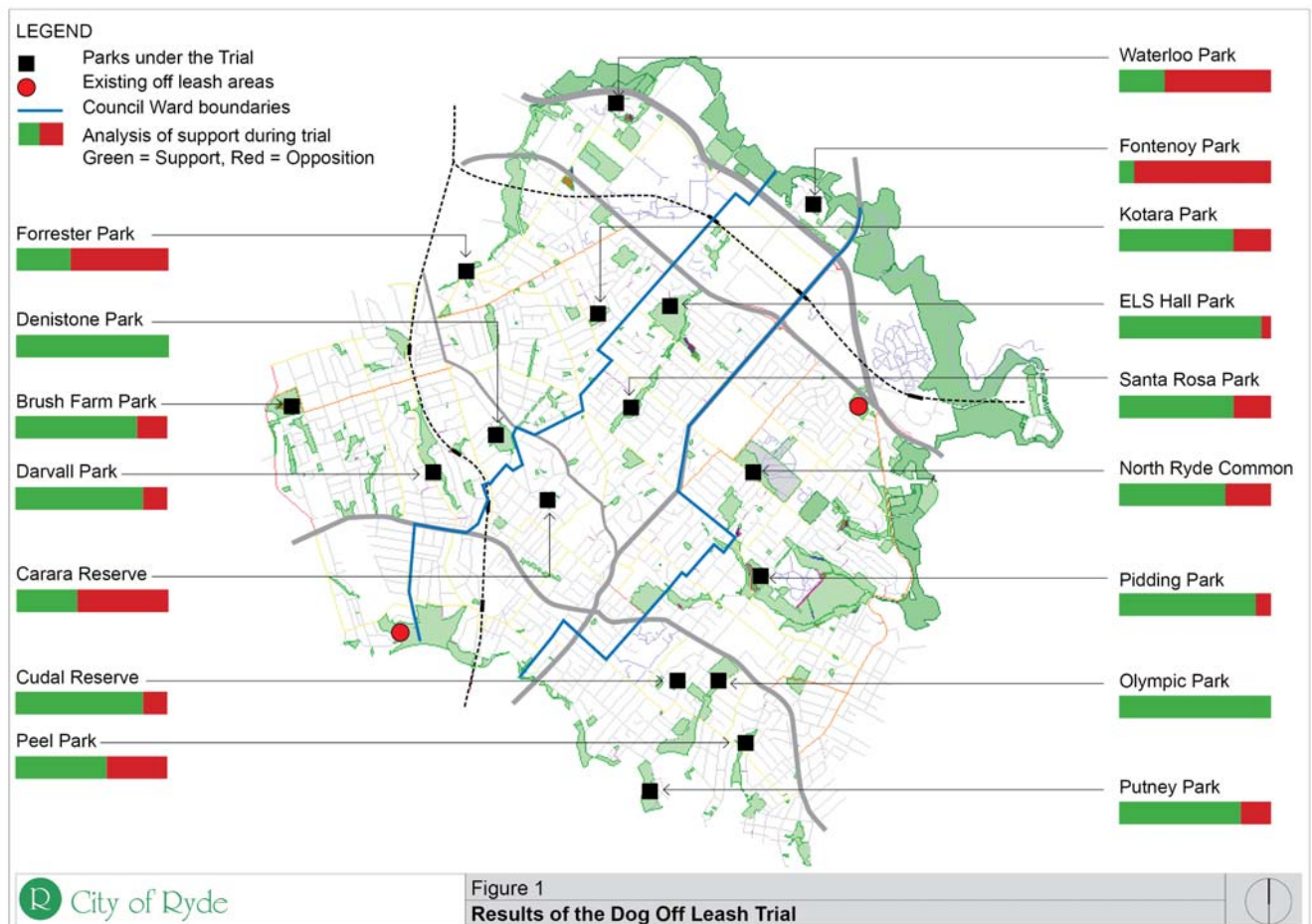


Table 2: Park specific analysis of the Community Feedback

Please also refer to **Figure 1** for further analysis of the results.





**ITEM 18 (continued)**

In addition to the community being asked whether they supported the use of a park as a dog off leash recreation area, the community was also invited to provide Council with general feedback on the provision of off leash areas. Three common themes were established by the community during the Trial. These themes and issues have been taken into consideration in the determination of the recommendations contained in this report.

*a. Lack of Community consultation prior to the commencement of the Trial*

Prior to and at the commencement of the Trial in October 2010, Council received many submissions that expressed anger with the lack of community consultation prior to the commencement of the Trial.

An assessment of these community submissions indicated that many people who were angered about the process, had both opposing and or supportive views of the use of the parks in the Trial a place for off leash dog exercising.

*b. Lack of supporting infrastructure for the off leash areas*

Complaints were received from the community about the lack of supporting infrastructure that was provided during the trial, such as fencing, seating, shade and water access. These complaints were received from supporters and opposers of the parks use as an off leash exercise area for dogs.

The most frequent request received was for the use of fencing to enclose the off leash areas (in a similar way to the off leash area provided at Blenheim Park). From the opponents' point of view, the fencing would allow them to continue to use the park without fear or concern of unwanted interaction with dogs. From the supporters' perspective, fencing was requested as it would provide a safer environment for their dogs to run.

Other arguments for the use of fencing included:

- Safety
- Protection of bushland areas and waterways
- To remove conflict with other park activities, such as playgrounds
- Control of dogs off leash into a specific area within a Park

The opposing view to the use of fencing is the creation of a section of the park that will only be used for one purpose.

As outlined in the *Study on the Provision of Recreation Areas for Dogs* (July 2010) it is considered appropriate to fence some spaces to provide a variety of recreation areas across the City. These sites were Olympic Park, Denistone Park, Putney Park, Waterloo Park and ELS Hall Park.

A review of the submissions and feedback Council received expressed the clear message that any future permanent off leash areas should be established with suitable seating, shade provision and access to water.



**ITEM 18 (continued)***c. Control of dogs and community safety*

The community raised concerns over the control of dogs when they are off leash. Community education is an important part of ensuring the safe management of off leash areas and the City of Ryde should continue to provide education on dog owner responsibilities when taking their dogs out into the public domain.

**Park Specific Comments and Recommendations**

The following table provides a summary of the community feedback received on each park in the Trial. Included is a recommendation that includes not only community feedback and the results of the Trial, but also the desire to have city wide approach to the provision of dog of leash areas that responds to geography and a providing choice for the community of recreation area types.

<u>Summary of the Community's Feedback</u>	<u>Recommendation</u>
<b>Carara Reserve - Goodwin Street, Ryde</b>	
<ul style="list-style-type: none"> <li>The local community has been very outspoken about the off leash trial in Carara Reserve with the majority of the community opposed to the use of the Reserve as an off leash area.</li> <li>The bin within the Reserve was moved twice during the <i>Trial</i> due to complaints from the local residents.</li> </ul>	<p><i>At the conclusion of the Trial, <b>Carara Reserve ceases to be a dog off leash area.</b> Temporary signs are to be erected in the Reserve to alert the community that dogs off leash are no longer permitted and notification sent to the local community. The temporary signs are to be removed after 6 months.</i></p>
<b>Kotara Park - Abuklea Road, Marsfield</b>	
<ul style="list-style-type: none"> <li>The community showed a moderate to high level of support for off leash use of the Park.</li> <li>There were many requests for additional infrastructure within the Park to improve the amenity for people with their dogs.</li> <li>Concerns were raised about the need for fencing and need for additional dog waste bins</li> </ul>	<p><i>At the conclusion of the Trial, <b>Kotara Park to be formalised as a free running off leash area.</b> Additional seating, dog waste bins and modified signage to be installed (subject to funding).</i></p>
<b>Waterloo Park - Vimiera Road, Marsfield</b>	
<ul style="list-style-type: none"> <li>The majority of the local community surrounding Waterloo Park were opposed to its use as an off leash area.</li> <li>There was confusion during the trial of the location of the off leash area and many dog owners were using the wrong location thus creating conflicts with other park users.</li> </ul>	<p><i>At the conclusion of the Trial, <b>Waterloo Park ceases to be a dog off leash area.</b> Temporary signs are to be erected in the Park to alert the community that dogs off leash are no longer permitted and notification sent to the local community. The temporary signs are to be removed after 6 months.</i></p>



**ITEM 18 (continued)**

Summary of the Community's Feedback	Recommendation
<b>ELS Hall Park - Kent Road, North Ryde</b>	
<ul style="list-style-type: none"> <li>▪ Significant support for the provision of an off leash area at ELS Hall Park was received during the Trial.</li> <li>▪ This is further supported by the Masterplan and Plan of Management for ELS Hall Park where a fenced dog off leash area was designated for the Park.</li> <li>▪ There were some community concerns outlining the conflict between users of the Park and the off leash dogs, however this could be overcome with the use of fencing.</li> </ul>	<p><i>Recommendation for ELS Hall Park:</i>  <i>At the conclusion of the Trial, <b>ELS Hall Park to be formalised as an enclosed off leash area</b> with a perimeter fence, additional seating, dog waste bins and modified signage to be installed (subject to funding).</i>  <i>Way finding signage is also recommended to inform the community as to where the off leash activities can occur.</i></p>
<b>North Ryde Common - Twin Road, North Ryde</b>	
<ul style="list-style-type: none"> <li>▪ The community showed a moderate to high level of support for off leash use of the Park.</li> <li>▪ There is potential for conflict with the use of North Ryde Common for special events, EG Australia Day.</li> <li>▪ The community indicated that the one bin installed in the Park was insufficient due to the size of North Ryde Common and should it become a permanent off leash area, additional bins and signs are required.</li> </ul>	<p><i>At the conclusion of the Trial, <b>North Ryde Common to be formalised as a free running off leash area</b> with the exception of organised events days such as the Australia Day celebrations. Additional seating, dog waste bins and modified signage to be installed (subject to funding).</i></p>
<b>Denistone Park - Terry Road, Denistone</b>	
<ul style="list-style-type: none"> <li>▪ A high level of support for the provision of an off leash area at Denistone Park was received during the Trial. Suggestions were received from the community including the provision of fencing to remove possible conflicts with the children's playground and other parks users.</li> </ul>	<p><i>At the conclusion of the Trial, <b>Denistone Park to be formalised as an enclosed off leash area</b> with a perimeter fence, additional seating, dog waste bins and modified signage to be installed (subject to funding).</i></p>
<b>Olympic Park - Potts Street, Ryde</b>	
<ul style="list-style-type: none"> <li>▪ A high level of support for the provision of an off leash area at Denistone Park was received during the Trial.</li> <li>▪ Suggestions were received from the community including the provision of fencing to remove possible conflicts with the children's playground, other parks users and due to the close proximity of the adjoining roads.</li> </ul>	<p><i>At the conclusion of the Trial, <b>Olympic Park to be formalised as an enclosed off leash area</b> with a perimeter fence, additional seating, dog waste bins and modified signage to be installed.</i></p>



**ITEM 18 (continued)**

Summary of the Community's Feedback	Recommendation
<b>Cudal Reserve - Henry Street, Ryde</b>	
<ul style="list-style-type: none"> <li>The community showed a moderate level of support for off leash use of the Reserve.</li> </ul>	<p><i>The results of the Trial indicated a higher level of community support for the Olympic Park site than Cudal Reserve. Due to the close proximity of Cudal Reserve to Olympic Park, it is recommended that at the conclusion of the Trial, <b>Cudal Reserve ceases to be a dog off leash area.</b> Temporary signs are to be erected in the Reserve to alert the community that dogs off leash are no longer permitted and notification sent to the local community. The temporary signs are to be removed after 6 months.</i></p>
<b>Putney Park - Pellisier Road, Putney</b>	
<ul style="list-style-type: none"> <li>The community showed a moderate level of support for off leash use of Putney Park.</li> </ul>	<p><i>While the results of the Trial indicated a moderate level of support for the Trial, the potential for ongoing conflicts with other park users remains very high without providing an enclosed off leash area. With the proximity of Olympic Park and Peel Park recommended as an off leash area, it is recommended that at the conclusion of the Trial, <b>Putney Park ceases to be a dog off leash area.</b> Temporary signs are to be erected in the Park to alert the community that dogs off leash are no longer permitted and notification sent to the local community. The temporary signs are to be removed after 6 months.</i></p>
<b>Peel Park - Morrison Road, Gladesville</b>	
<ul style="list-style-type: none"> <li>The community showed a moderate level of support for off leash use of Peel Park.</li> </ul> <p>Council received one submission from a sports club during the Trial. This submission was from Gladesville Ravens in opposition to the use of Peel Park as an off leash area. The submission was received prior to the Trial commencing (Refer to <b>ATTACHMENT 2</b>).</p>	<p><i>While the results of the Trial indicated a moderate level of support for the use of Peel Park as an off leash recreation area, the development of an off leash site at this location would require minimal additional infrastructure. Therefore it is recommended that at the conclusion of the trial, <b>Peel Park continues to be a dog off leash area when not being used by organised sports.</b></i></p>



**ITEM 18 (continued)**

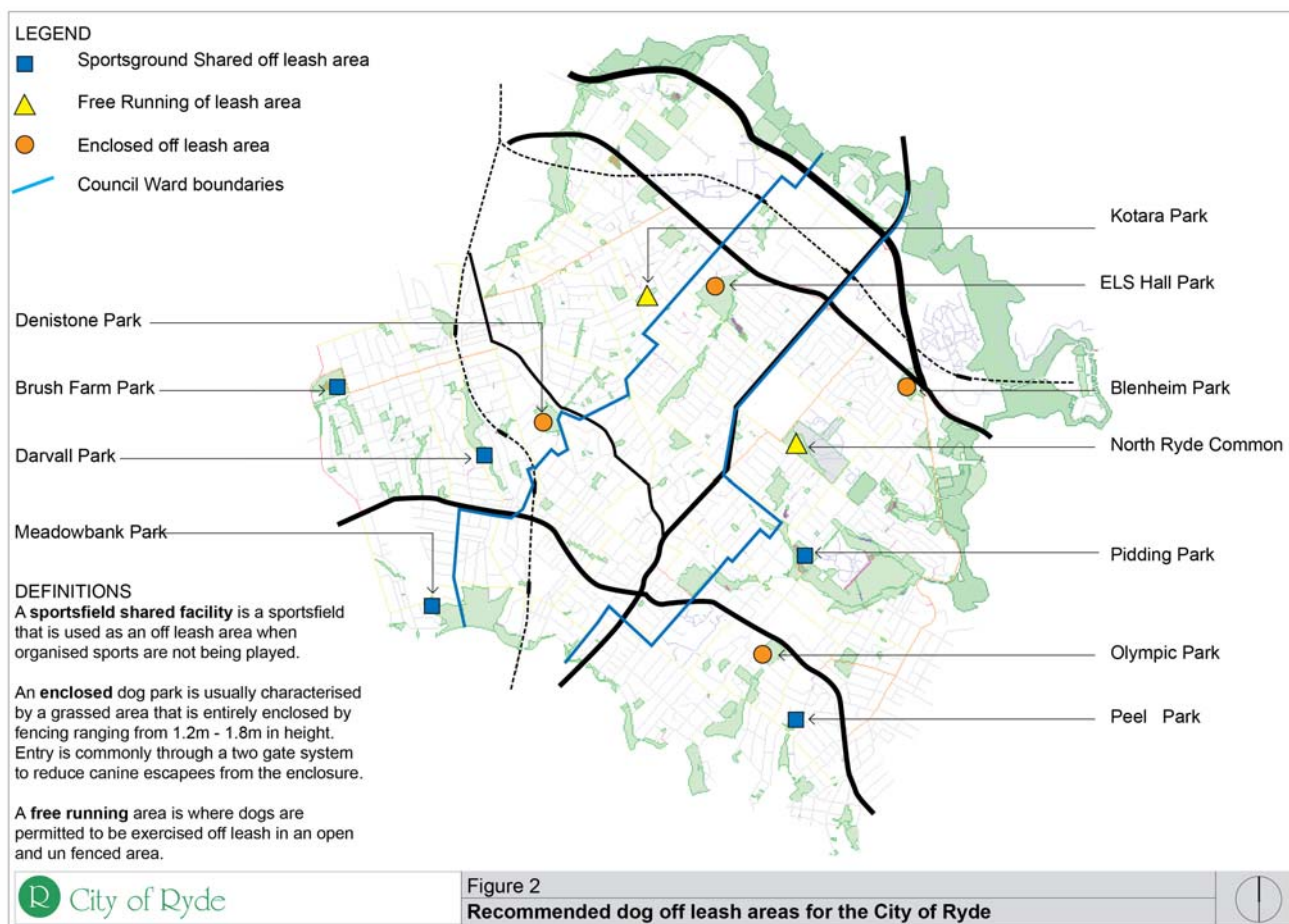
<u>Summary of the Community's Feedback</u>	<u>Recommendation</u>
<b>Santa Rosa Park - Quarry Road, North Ryde</b>	
<ul style="list-style-type: none"> <li>The community showed a moderate level of support for off leash use of Santa Rosa Park.</li> <li>The community raised concerns about the protection of the creek that passes through the Park if dogs are allowed to run off leash.</li> <li>Council received a number of requests that the off leash area at Santa Rosa be enclosed with a fence.</li> </ul>	<p><i>Results of the Trial indicated a moderate to high level of community support for the Santa Rosa Park however due to the close proximity of Santa Rosa Park to ELS Hall park, it is recommended that at the conclusion of the Trial, <b>Santa Rosa Park ceases to be a dog off leash area.</b> Temporary signs are to be erected in the Park to alert the community that dogs off leash are no longer permitted and notification sent to the local community. The temporary signs are to be removed after 6 months.</i></p>
<b>Forrester Park - Vimiera Road, Eastwood</b>	
<ul style="list-style-type: none"> <li>The community showed very little support for off leash use of Forrester Park.</li> <li>There were many submission received that outlined the impact the off leash activity would have on the surrounding Bushland.</li> <li>A submission was received from Hornsby Shire Council expressing their concerns with the use of Forrester Park as an off leash area and the impact on the neighbouring Bushland areas.</li> </ul>	<p><i>At the conclusion of the Trial, <b>Forrester Park ceases to be a dog off leash area.</b> Temporary signs are to be erected in the Park to alert the community that dogs off leash are no longer permitted and notification sent to the local community. The temporary signs are to be removed after 6 months.</i></p>
<b>Brush Farm Park - Lawson Street, Eastwood</b>	
<ul style="list-style-type: none"> <li>The community indicated a high level of support for the use of the Park as an off leash area.</li> <li>The Heritage Advisory Committee has expressed their opposition to the use of the Park as an off leash area.</li> <li>There is a need to provide additional infrastructure to the park to provide further protection to the Bushland areas.</li> </ul>	<p><i>At the conclusion of the Trial, <b>Brush Farm Park continues to be a dog off leash area</b> when not being used by organised sports. This is further supported by the existing use of the Park by the Brush Farm Dog Club. Additional fencing will be required to provide protection to the bushland areas within the Park (subject to funding).</i></p>
<b>Fontenoy Park - Fontenoy Road, Macquarie Park</b>	
<ul style="list-style-type: none"> <li>The community indicated a very low of support for the use of the Park as an off leash area.</li> <li>The community express concerns about the conflicts with the existing uses of the park.</li> </ul>	<p><i>At the conclusion of the Trial, <b>Fontenoy Park ceases to be a dog off leash area.</b> Temporary signs are to be erected in the Park to alert the community that dogs off leash are no longer permitted and notification sent to the local community. The temporary signs are to be removed after 6 months.</i></p>



**ITEM 18 (continued)**

Summary of the Community's Feedback	Recommendation
<b>Darvall Park - Chatham Road, Denistone</b>	
<ul style="list-style-type: none"> <li>The community showed a high level of support for off leash use of the Park.</li> <li>The community had some concerns about the proximity of the children's playground to the off leash area.</li> <li>There are areas of bushland surrounding the Park and consideration will be needed to the addition of fencing to provide additional protection of the bushland.</li> </ul>	<p><i>At the conclusion of the Trial, <b>Darvall Park continues to be a dog off leash area when not being used by organised sports.</b> Additional fencing will be required to provide protection to the bushland areas and childrens playground within the Park (subject to funding).</i></p>
<b>Pidding Park - Cressy Road, Ryde</b>	
<ul style="list-style-type: none"> <li>The community showed a high level of support for off leash use of the Park.</li> <li>The community supported the shared use of the Pidding Park.</li> </ul>	<p><i>At the conclusion of the trial, <b>Pidding Park continues to be a dog off leash area when not being used by organised sports.</b></i></p>

Please refer to **Figure 2** for a map of the recommended off leash areas as identified above.





**ITEM 18 (continued)*****Moving Forward from the Trial***

In accordance with the Council Resolution from the Committee of the Whole, May 3 2011, the trial conditions for each park were extended to allow for the calculation and analysis of the Trial results. The following processes are proposed in response to the resolution of this matter.

1. Parks that will cease to be off leash areas.
  - A notification letter to be sent to all residents within 150m – 200m of the park notifying them of Council's decision.
  - Signage to be erected to notify the community that dogs off leash are no longer permitted in the Park. This sign will specify where the closest off leash area is located and are to be removed after 6 months.
  - Update on the Council webpage.
  - Notification in the Ryde City View.
  - Council's Regulatory team will be notified and a grace period of 4 weeks to be offered to the community to support transition following the conclusion of the Trial.
  - All dog waste bins will be removed and reused in other suitable locations.
2. Parks to become permanent off leash areas.
  - A notification letter to be sent to all residents within 150m – 200m of the park notifying them of Council's decision.
  - Modified signage to detail the requirements of dog owners when using the park for off leash activities.
  - Update on the Council webpage.
  - Notification in the Ryde City View.
  - As recommended in the *The Study on the Provision of Recreation Areas for Dogs* 2010 and in alignment with the feedback from the community, some parks will require additional infrastructure, such as seating, waste bins, fencing, shade etc. the sites must be prioritised and when funding becomes available, improvements made. In the meantime, the management of the sites should continue as under the Trial.
3. Notification of the Trial Results
  - A notification will be sent to all members of the community who made a submission on the off leash Trial advising them of Council's resolution.
  - All relevant Advisory Committees will be notified of the resolution and the process of transition from Trial to permanent arrangements.
  - Results and updates on the conclusion of the Trial will be uploaded on Council's Webpage.
  - Notification of Council's resolution will be advertised in the Ryde City View.

**Consultation**

Internal Council business units consulted included:-

- Regulatory Services
- Public Works

Internal Workshops held:-

- Not Applicable



**ITEM 18 (continued)**

City of Ryde Advisory Committees consulted included:-

- Companion Animals Advisory Committee  
Staff attended a Companion Animal Advisory Committee Meeting on 6 September 2010. At this meeting, the roll out of the Trial was discussed and members of the Advisory Committee were encouraged to forward a submission on the Trial. The community representatives of the Companion Animal Advisory Committee submitted a joint letter in support of dog off leash areas (Refer to **ATTACHMENT 3**).

During the Trial, information on the progress of the Trial was reported to the Companion Animal Advisory Committee via the City of Ryde's Committee Coordinator.

- Sport and Recreation Advisory Committee  
Staff attended three Sport and Recreation Advisory Committee meetings during the preparation for and management of the Trial. At each of these meetings, the sports community were invited to provide feedback and comments on the trial, especially the sportsfields that were being trialled.
- Bushland Working Group  
Staff attended one Working Group Meeting to discuss the dog off leash trial. At the meeting, the Working Group was encouraged to forward a submission on the Trial (Refer to **ATTACHMENT 4**).

External public consultation included:-

- Over 5,500 letters were sent to all homes within 150m – 200m of each park under the Trial, informing residents of the off leash trial and how they can could provide their feedback to Council.
- Each letter was accompanied by an aerial photograph of the parks that identified the trial off leash area in red hatching.
- Council's web page provide locations, maps and information for each of the off leash trial areas.
- A number of options were provided to the community to provide their feedback to Council. These were Complete an online submission via email or post
- A notification was sent out at the end of the Trial advising the community of the temporary arrangement prior to a decision being made by Council on the future of off leash areas across the City. This notification was sent to all homes within 150m of all parks under the Trial.

**Comments**

All submissions received from the community have been stored in Councils document management system.

**Critical Dates**

There are no critical dates or deadlines to be met.



**ITEM 18 (continued)****Financial Impact**

The implementation of the Trial recommendations will require capital funding however this project is not provided for in the current 2010/11 budget nor the 2011/12 budget.

The following estimations have been calculated on the cost for establishing off leash areas that those parks recommended as a result of the Trial:

<b><i>Recommended Parks</i></b>	<b><i>Infrastructure Required</i></b>	<b><i>Estimated Capital Cost</i></b>
<b><u>Enclosed off leash areas (similar to Blenheim Park)</u></b>		
<ul style="list-style-type: none"> <li>▪ ELS Hall Park</li> <li>▪ Denistone Park</li> <li>▪ Olympic Park</li> </ul>	Perimeter fencing and gates Seating and shade Bins Signs Landscaping and pathways Access to water and drainage	\$70,000 per park
<b><u>Free Running areas</u></b>		
<ul style="list-style-type: none"> <li>▪ North Ryde Common</li> <li>▪ Kotara Park</li> </ul>	Bins Signs Seating and shade Landscaping and pathways Access to water and drainage	\$40,000 per park
<b><u>Shared Sportsfield areas</u></b>		
<ul style="list-style-type: none"> <li>▪ Peel Park</li> <li>▪ Brush Farm Park</li> <li>▪ Darvall Park</li> <li>▪ Pidding Park</li> </ul>	Additional seating and shade Bins Signs Fencing to protect bushland areas (where required) Landscaping and pathways Access to water and drainage	\$50,000 per park

There will be an on-going cost of maintaining this dog off leash areas and should be included in future operation budgets.

**Policy Implications**

There are no policy implications through adoption of the recommendation.

**Other Options**

Other alternatives that were considered in the preparation of this report were:

- Extension of the Trial for all or some of the parks
- All parks rejected or accepted as off leash areas
- Additional parks to be tested as off leash areas



**ITEM 18 (continued)****Conclusion**

At the completion of the six month dog off leash area Trial, the Ryde community has provided to Council 314 letters and survey responses that expressed their opinions and suggestions on the Trial. The responses received are reflective of the polarising nature of the provision of off leash areas within the urban landscape and support arguments against all parks within the City of Ryde becoming an off leash destination.

Exercising companion animals is a legitimate recreational activity and a means to community and neighbourhood building. With over 9,000 dogs registered in the Ryde local government area, there is an identified need for additional off leash areas that are accessible across the City.

The community has indicated a general support for the provision of additional off leash areas across the City. With this being said, the community has also quite clearly rejected some parks for ongoing use as a place of off leash dog recreation.

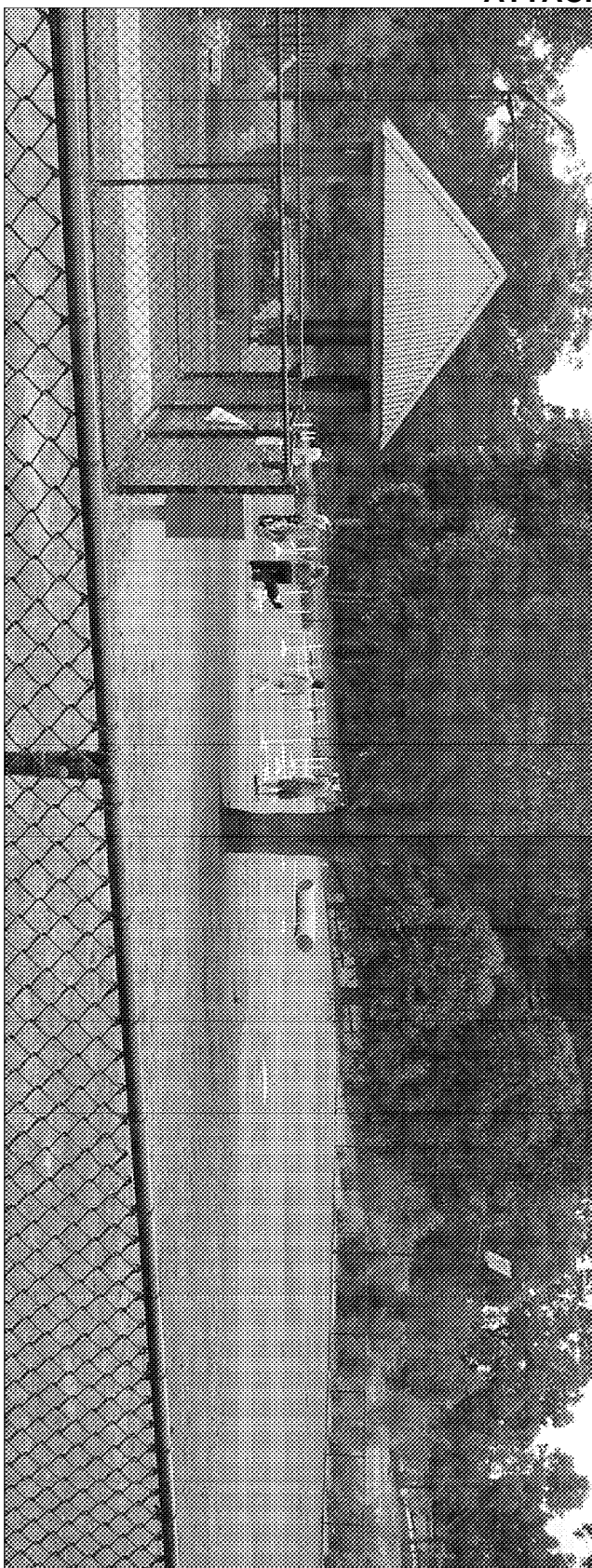
The desired outcome of the Trial and this report is to establish a City wide approach to the provision of dog off leash areas as was presented in *The Study on the Provision of Recreation Areas for Dogs 2010*. The following recommendations consider the opinions and concerns of the Ryde community, the geography of the City and meeting the needs of dog owners when exercising their dogs.

Ongoing education of dog owners of their responsibilities is an important component of creating a landscape that the whole community can enjoy.



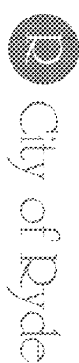
ITEM 18 (continued)

ATTACHMENT 1



***A study on the provision of recreation  
areas for dogs in the City of Ryde***

Prepared by: Open Space, Community Life  
July 2010





## ITEM 18 (continued)

## ATTACHMENT 1

CITY OF RYDE

PROVISION OF DOG RECREATION AREAS REPORT

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## CITY OF RYDE

## PROVISION OF DOG RECREATION AREAS REPORT

## PART ONE: INTRODUCTION

Companion animals have come to play an important part in the lives of many people. The majority of homes in Australia have at least one companion animal and pets are a wonderful source of companionship and pleasure for many people.

The Australian Companion Animal Council states that pet ownership in Australia is one of the highest in the world, with an estimated 63% of Australia's 6.6 million households owning some kind of pet (53% owning a cat or dog). It was estimated that in 2007, 37.1 million pets were owned throughout Australia, including 3.7 million dogs and 2.2 million cats.

The national average of dog ownership has remained steady at 18 dogs per 100 people.

The City of Ryde has approximately 9000 registered dogs however it is estimated that 10% of the Ryde population owns a dog, potentially lifting the population of dogs to 10100. Based on this data, it can be further deduced that within the Ryde community there is a dog living in every 3.9 houses.

Providing suitable recreation areas for dogs is an important role of Local Government and the City of Ryde has two designated dog off leash recreation areas, Meadowbank Park and Blenheim Park, refer to Figure 1.

The provision of open spaces that accommodates recreation activities with dogs is not only important for the physical and mental well being of the animal, but also for the physical and mental well being of the pet owner.

Council understands that companion animals promote the health and happiness of their owners. Most pet owners are responsible and endeavour to do the right thing when in public places. But sometimes, some pet owners, and pets, do not behave responsibly causing

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significant distress to others.

Dog owners are a substantial group of park and open space users and planning and management of spaces within the City for dog recreation must incorporate both urban animal management and open space and recreation planning.

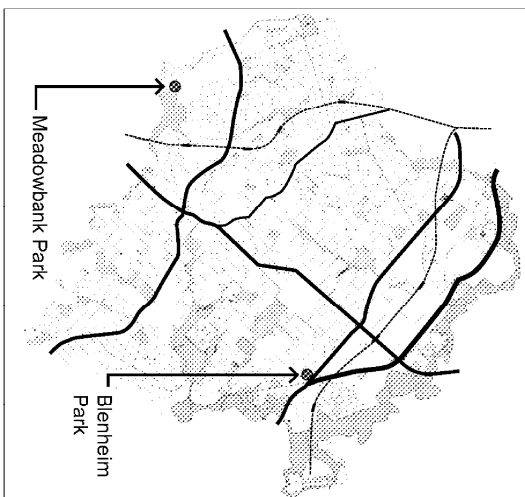


Figure 1: Existing designated dog recreation areas

### Aims of this Study

This Report aims to:-

- Provide a snapshot of the need for recreation areas of the community who own a dog.
- Review what the surrounding local government

areas provide as dog recreation areas for their community,

- Review what the current trends are in the provision of dog recreation areas in public open spaces,
- Conduct a suitability assessment of Council's open space as potential locations as a dog recreation area, and
- Provide recommendations on where to have additional off leash areas for consideration.

The City of Ryde needs to take a strategic management approach to dog management in public reserves and investigate options for areas and/or time share for off leash activities.

### Structure of this Study

The structure of this Study is in 4 parts.

Part	Content
ONE	An introduction to the City of Ryde, the companion animal population and what the City is currently offering as designated dog recreation areas.
TWO	An assessment of the current trends in the provision for dog recreation areas and a summary of what the surrounding local government areas are offering their communities.
	A discussion on the types of dog recreation areas that can be provided.
THREE	An assessment of all open spaces within the City of Ryde for suitability as a place for a dog recreation area.
FOUR	A discussion on options and recommendations.

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## ITEM 18 (continued)

## ATTACHMENT 1

## PROVISION OF DOG RECREATION AREAS REPORT

## CITY OF RYDE

**Demand for designated dog recreation and off leash areas**

Recent engagement with the Ryde Community has expressed clearly that spaces where the community and their dogs can go for recreation is a high priority. This has included the following:

*Ryde 2030 Community Strategic Plan - Consultation Outcomes Report (18 August 2009)*

- A hope for community facilities and infrastructure where there are "facilities where dogs can run without a leash".

*Leisure and Recreation Needs - Community Consultation Report (April 2009)*

- Off leash dog areas were identified as the **second** highest community facility that is lacking, inadequate or is required.
- Off leash dog areas were identified as the eighth highest priority for open space and recreation facilities in the City over the next 5 - 10 years.
- There is a strong current and future demand for informal leisure and recreation facilities or settings including dog-exercise areas, and
- Report Recommendation : "That Council progressively provide additional informal leisure and recreation facilities or settings – notably parks and open space (of varying types), bike paths, walking paths and tracks, dog-exercise areas, and youth facilities (including skateparks)".

**A short history of the provision of dog recreation areas in the City of Ryde**

Over the past five years, there have been numerous reports and plans presented to Council with recommendations on the possible location and provision of off leash areas within the City. This has

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included

- Council resolution to create the off leash area at Blenheim Park (1 November 2005),
- Council resolution to trial Meadowbank Park as a timed leash free area for one year (11 November 2005) and a subsequent decision to make the leash free area permanent (2 May 2006), and
- Council reports have suggested possible locations that have included the following parks:
  - Darvall Park,
  - West Denistone Park,
  - Glades Bay Reserve,
  - Gannan Park,
  - McCauley Park,
  - Forrester Park and
  - ELS Hall Park.

Council staff have previously undertaken community consultation on some of these options while other have been rejected by the Councillors.

The most recent decision made by Council on the issue of dog recreation areas was with specific reference to the lengthening of hours at Meadowbank Park, Committee of the Whole, 6 October 2009, where the resolution was as follows:

1. That the report of the Manager - Open Space, dated 4/08/2009 on **RESULT OF PUBLIC EXHIBITION - Extension of Dog Off Leash Area Times at Meadowbank Park**, be received and noted.
2. That there be no change to the current off leash area times at Meadowbank Park.
3. That the General Manager prepare a report to Council detailing suitable alternate locations within Meadowbank Park with the intention to extend the dog off leash hours.

Point three of the above Council Resolution is the subject of this report.



*Parks previously suggested as places for dog recreation Left: West Denistone Park, Right: Glades Bay Park enclosed dog off leash area*



## ITEM 18 (continued)

## ATTACHMENT 1

CITY OF RYDE

PROVISION OF DOG RECREATION AREAS REPORT

***Possible conflicts surrounding provision of dog recreation areas***

There are many demands placed on the public open spaces and parks across the City and accordingly, the management of the open space needs to be flexible and able to respond to the changing recreation needs of the community.

Conflicts in the use of open space are not restricted to the provision of space for dog recreation. Conflicts can occur between activities, behaviours, uses and with the impacts on surrounding neighbours. One of the major challenges in the planning and management of urban open spaces in the weighing up of these conflicts and finding ways to manage the conflicts rather than attempting to totally eliminate the conflicts.

The planning for dog recreation should be approached in the same way.

Some of the common conflicts that impact the creation of dog recreation areas include:

- Adjoining neighbours, such as noise and odours from the dog park, traffic generation etc.,
- Inappropriate behaviour of the dogs and their owners, such as not picking up dog waste, lack of supervision their dogs and barking,
- Aggressive dogs and safety,
- Non compliance with local regulations, such as leash controls, and
- Clashes between uses of a park.

It will not be possible to eliminate all of these conflicts in the placement and design of a dog recreation area, however it is the goal to minimise these conflicts.

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## ITEM 18 (continued)

## ATTACHMENT 1

CITY OF RYDE

PROVISION OF DOG RECREATION AREAS REPORT

## PART 2: CURRENT TRENDS IN DOG RECREATION

## Types of Dog Recreation Areas

Across Sydney there are many different types of areas where dog are permitted to freely run off a leash. As a part of this report, a study has been completed that investigates at each of the six main types of dog recreation areas that are used in Ryde's neighbouring LGAs and across Sydney. Many Councils are using a combination of types of these facilities across their LGAs to give the community a choice of location and type of facility to visit.

**It is a combination of each of the types of dog recreation areas that is recommended for implementation in the City of Ryde.**

However it is essential that consideration is given to the characteristics of each of the recreation area types, the characteristics of a specific locations and the manner in which the suggested location is currently used by the community.

Over the next few pages, five of the key types of recreation areas are detailed, including examples and locations.

The Table below offers a snapshot summary of the major characteristics of the recreation areas. (Further detail on each can be obtained in the subsequent pages).

## Regional Context

A review has been conducted and data gathered on the provision of dog recreation areas in the Local Government Areas (LGAs) adjoining the City of Ryde. This has included:

- Lane Cove,
- Willoughby,
- Canada Bay,
- Parramatta,
- Kur-Ring-Gai,
- Hornsby and
- Hunters Hill.

Each of the LGAs were inspected and the dog recreation areas observed where divided into six main

categories. These are:

1. Sportsfield Shared Facility,
2. Enclosed Free Running,
3. Free Running
4. Walking Trails
5. Dog water holes and
6. Timed.

A summary of the provision within each LGA is in Table 2

Each of these facility types, with the exception of the timed facility, represents a current trend in the management of public open space for the purposes of providing spaces for dogs to be able to run off leash. Over the next few pages, a discussion that includes characteristics, locations and images of each type of facility is provided.

Table 1: Types and characteristics of dog recreation areas

Type of Facility	Some of the major characteristics													
	Fully enclosed area	Area partially enclosed	Access to drinking water	Access to water	Owner seating	Combination of on and off leash	Times vary for on and off leash	Dog litter bins	Dog waste bags provided	Regulatory signage	Availability, 24 hours 7 days			
Sportsfield Shared Facility		✓			✓		✓	✓	✓	✓				
Enclosed Free Running	✓		✓		✓			✓	✓	✓	✓			
Free Running					✓			✓	✓	✓	✓			
Walking Trails			✓	✓	✓	✓		✓	✓	✓	✓			
Water Holes				✓	✓			✓	✓	✓	✓			

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## ITEM 18 (continued)

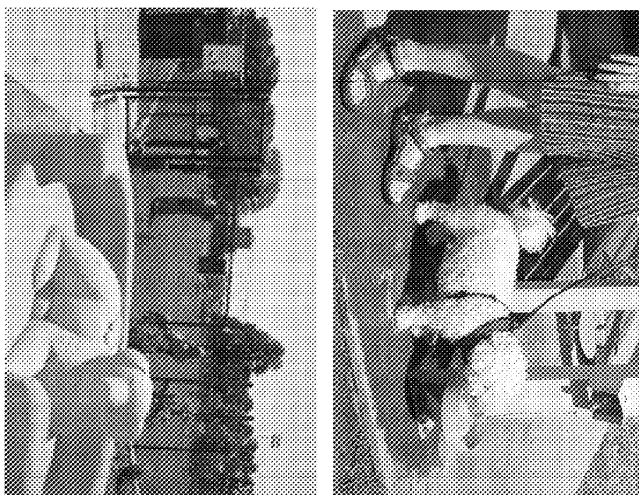
## ATTACHMENT 1

## PROVISION OF DOG RECREATION AREAS REPORT

CITY OF RYDE

Table 2: Provision of dog recreations areas in the LGAs surrounding the City of Ryde as at February 2010.

LGA	Sportsfield Share Facility	Enclosed Free Running	Free Running	Timed	TOTAL	Notes
City of Ryde	1	1	0	0	2	2 free running areas have access to water
Lane Cove	6	0	11	0	17	1 Walking Trail: Shell Park - Manns Point Walk
Willoughby	6	0	6	1	13	2 areas with access to water (one is timed)
Canada Bay	0	0	11	4	15	2 Walking Trail: Iron Cove Bay Walk and Hen and Chicken Bay Walk
Parramatta	2	0	3	0	5	
Kur-Ring-Gai	9	4	7	0	20	Dog training facilities are connected to St Ives Showground
Hornsby	2	6	0	0	8	
Hunters Hill	0	0	0	3	3	



LEFT: Dog water bowls along the Ryde River Walk and RIGHT: Sculptural elements used in other LGAs

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**ITEM 18 (continued)**

## ATTACHMENT 1

## CITY OF RYDE

**Sportsfield Shared Facility**

A sportsfield shared facility is a sportsfield that is used as an off leash area when **organised** sports are not being played. These areas are often very large and can accommodate many dogs off leash simultaneously.

Some of the most common features of this type of area include:

- The sportsfield is enclosed with a fence, (such as the fence shown on the image to the right)
- The facilities surrounding the park are directed at meeting the needs of the organised sports (such as kiosks, car parking, floodlighting), with the addition of dog waste bags, bins and signage.

### Local Examples:

- Epping Oval, Epping
- Artarmon Oval, Artarmon
- Warrimoo Oval, St. Ives

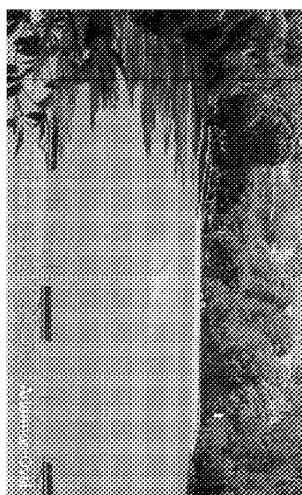
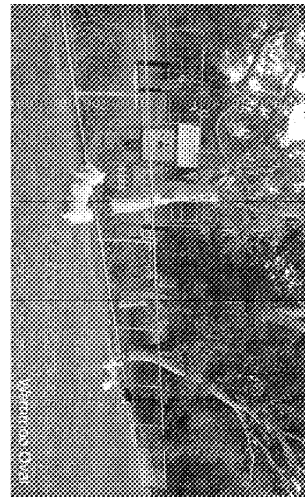
Some of the benefits of this type of facility include:

- Dogs can be enclosed and cannot run onto surrounding roads and parkland areas
- Large expanses of grass that allows many dogs to use the area at the same time
- Less chance of an owner to loose sight of their dog

Some negatives of this type of facility include:

- Potential for conflict between dog owners and sports users
- Dog waste left on sportsfield

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## ITEM 18 (continued)

## ATTACHMENT 1

## PROVISION OF DOG RECREATION AREAS REPORT

CITY OF RYDE

**Enclosed Free Running**

An enclosed free running dog park is usually characterised by a grassed area that is entirely enclosed by fencing ranging from 1.2m - 1.8m in height. Entry is commonly through a two gate system to reduce canine escapes from the enclosure.

Amenities within these enclosures for dog owners can include seating, picnic tables, landscaping, trees and shade.

Amenities for the dog can include water bowls.

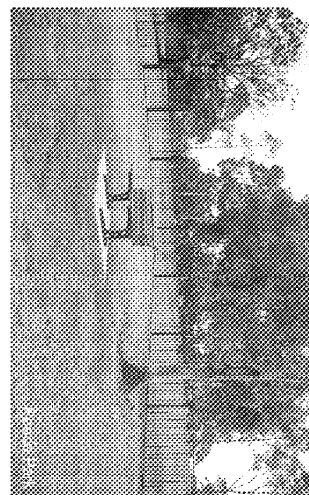
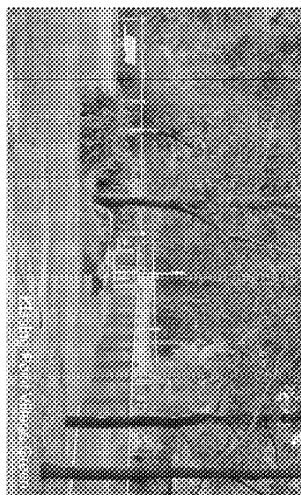
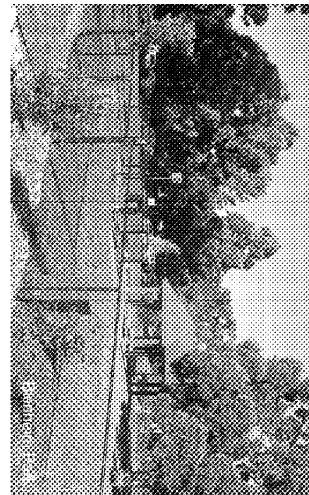
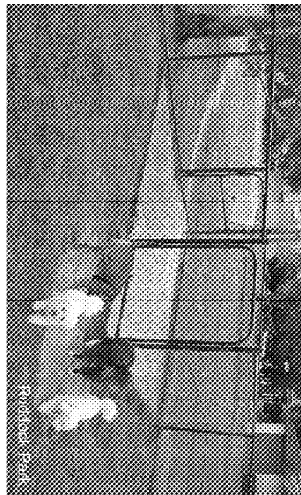
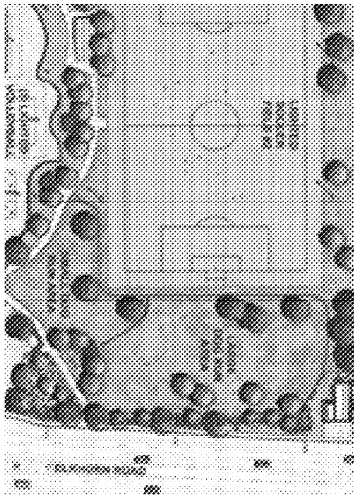
In the USA, there are trends to towards the provision of small dog and large dog facilities collocated within the same park (as shown in the images at the bottom).

**Local Examples:**

- Blenheim Park, North Ryde
- Sydney Olympic Park, Homebush Bay (SOPA)
- Ruddock Park, Westleigh (Hornsby)
- Bicentennial Park, Pymble, (Kur-ring-gai)
- Peace Park, Ashbury (Canterbury)

Some of the benefits of this type of facility include:

- Dogs are enclosed and cannot run onto surrounding roads
  - Park users are separated from the dogs
  - Less chance of an owner to loose sight of their dog
- Some negatives of this type of facility include:
- Concentration of dogs in one area
  - Odour can be an issue if the area is extensively used
  - Owners can be less actively engaged with the control of their dog



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## ITEM 18 (continued)

## ATTACHMENT 1

CITY OF RYDE

PROVISION OF DOG RECREATION AREAS REPORT

**Free Running Areas**

A free running area is where dogs are permitted to be exercised off leash in an open and unfenced area. Often these locations are pieces of parkland that are not used by the community and/or have very little existing recreation value. Examples of this can include road reserves and public authority reserves and easements.

These areas should be large so as to provide ample room for recreation with suitable distances from roads.

Amenities within these areas for dog owners can include seating, landscaping, trees and shade.

Amenities for the dog can include water bowls.

Local Examples:

- Yarralumla Avenue Reserve, St Ives, (Kur-ring-gai)

Some of the benefits of this type of facility include:

- Large open areas for running and recreation
- Can provide a recreational benefit to some of the unused pieces of parkland across the City.

Some negatives of this type of facility include:

- Can exclude other activities within the reserve or parkland
- Chance of an owner to lose sight of their dog
- Owners must be actively engaged with the control of their dog

**Dog Water Holes and Beaches**

Many dogs enjoy swimming and playing in water. There are many LGAs across Sydney that provide a designated dog beach area where dogs are allowed to be off leash and play / run into water.

Dog water holes / beaches are often co-located in parks and open spaces that offer other activities, such as boat ramps, picnic areas, cycleways and playgrounds.

Sydney examples of dog water holes / beaches:

- Halliday Park, Five Dock (Canada Bay LGA)
- Lysaght Park, Drummoyne (Canada Bay LGA)
- Rowland Reserve, Bayview (Pittwater LGA)
- Clarkes Point Reserve, Woolwich (Hunters Hill LGA)

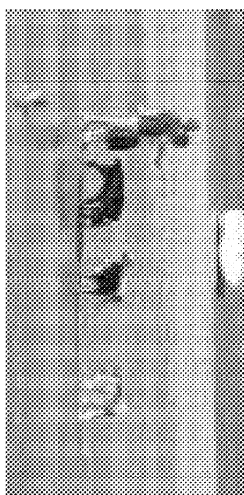
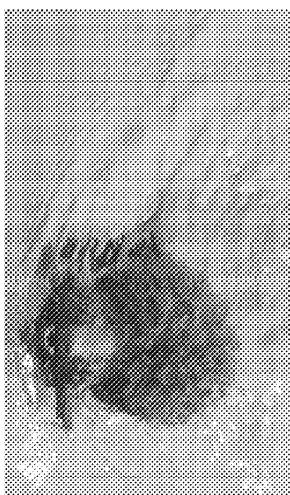
There are examples across Sydney where the access to the beach is time controlled.

Some of the benefits of this type of facility include:

- A place where dogs can swim and cool off especially in the summer months
- Alternative exercise opportunities for dogs and dog owners

Some negatives of this type of facility include:

- Concentration of dogs in one area
- Potential contamination of the waterway with dog faeces
- Owners can be less actively engaged with the control of their dog
- Potential conflict with other park users.



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## ITEM 18 (continued)

## ATTACHMENT 1

## PROVISION OF DOG RECREATION AREAS REPORT

CITY OF RYDE

**Dog Walking Trails**

A dog walking trail are becoming increasingly popular as the community becomes more aware of living a healthy life style and are often used for physical fitness. Often these trails include sections that are on leash and areas where dogs can be removed from leashes and can run freely.

Ryde River Walk is a local example of a dog walking trail with off leash opportunities at Meadowbank Park and on leash walking along the shared pathway from Meadowbank to Putney.

Other Trail examples are:

- Lake Parramatta Walk, (Parramatta City)
- Hen and Chicken Bay Walk, (Canada Bay)
- Shell Park to Manns Point Walk, (Lane Cove)
- Tunks Park to Flat Rock Creek (Willoughby)
- Iron Cove Bay Walk (Canada Bay and Leichhardt)

Most of these types of trails link many different recreation areas, such as water holes, free running and on leash areas. The benefits of these areas can include:

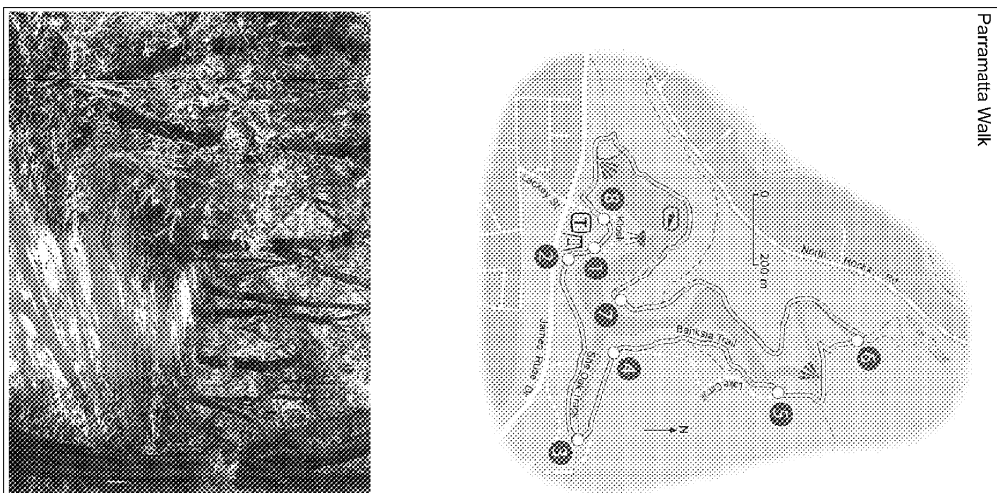
- Encouraging a healthy lifestyle of the people who own dogs
  - Spreads the concentration of dogs across a large area
  - Encourages the use of walking trails and the river foreshore
- Some negatives of this type of facility include:
- Potential conflicts with other trail users
  - Contamination of river foreshore if owners do not clean up after their dog

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Hen and Chicken Bay Walk



Parramatta Walk



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## ITEM 18 (continued)

## ATTACHMENT 1

CITY OF RYDE

PROVISION OF DOG RECREATION AREAS REPORT

## PART 3: ASSESSMENT OF RYDE PARKS FOR SUITABILITY AS A PLACE FOR DOG RECREATION

An assessment has been conducted to determine the suitability of the parks within the City of Ryde to provide a space for dog owners to recreate and exercise with their dogs off leash.

The assessment of all 207 parks and reserves has been conducted using a combination of elimination, constraining and complimentary factors. Each park or reserve has been either eliminated or given a score on their suitability. The process taken for the assessment of the parks was as follows:

### The Assessment Process:

#### Step 1: Elimination Questions

Six elimination questions were considered during the assessment. These were:

1. Is the entire park / reserve categorised as Natural Area under Generic Plan of Management?
  2. Does the entire park / reserve abut or adjacent to Lane Cove National Park?
  3. Are dogs specifically banned, such as a Wildlife Refuge?
  4. Is the park / reserve too small with there being no space due to existing facilities and or landscape?
  5. Is the park / reserve located within a commercial area?
  6. Is the park / reserve considered to have cultural or natural heritage significance?
- If a park or reserve answered yes to any of the above questions, it was considered inappropriate as a place for off leash dog recreation.

**It must be noted that while the park or reserve may have been eliminated in this assessment process, it does not exclude the used of the facility for walking dogs on leads, with the exception of those areas designated as a National Park or a Wildlife Refuge.**

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#### Step 2: Constraining Factor Analysis

All parks and reserves that were not eliminated in Step One were then scored on the impact of the following five constraining factors:

1. Sportsground
2. Bushland
3. Playground
4. Café / Restaurant
5. Access Points

These factors score the elements that can restrict the use of an area for the recreation of dogs. Some of these constraining factors are also outlined in the Companion Animals Act, including playgrounds, cafe and bushland.

The higher the score, the less constraining factors that would restrict the use of the park for dog recreation. The scoring of the constraining factors is shown in Table 3 over the page.

The total for each park was then combined with the parks complimentary factor score, as outlined in Step 3 of the assessment.

#### Step 3: Complimentary Factor Analysis

Before assessing the complimentary factors of a park, it was necessary to assign a type of dog recreation facility to each park. This assignment was based on the topography, location, design and exiting use of the park or reserve.

Accordingly, each park was assigned one of the following that was then used to score the park.

1. Shared Facility
2. Free running
3. Enclosed Free Running

The complimentary factors considered in this assessment were (and as shown in Table 4)

1. Does the sports ground have an existing circumference fence?
2. Is there off Street car parking?
3. Is on street car parking available?
4. Are existing toilet facilities located in the Park?
5. What is the considered potential impact on neighbouring residences?
6. What is the frequency of potential conflicts with other uses / users?



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## ITEM 18 (continued)

## ATTACHMENT 1

## PROVISION OF DOG RECREATION AREAS REPORT

CITY OF RYDE

Table 3: Constraining Factors Scoring Table

Constraining Factors Scoring Table									
Sportsground	Bushland			Playground		Café		Access	
5 points	No Sportfields	5 points	No bushland	5 points	No Playground	5 points	No Café	5 points	Local Road
4 points	Low / No use weekends and weekdays W/S	4 points	Bushland is fenced	4 points	Playground is enclosed	4 points	Café is enclosed		
3 points	High use weekend / Low use weekdays W/S	3 points	Bushland can be easily enclosed / fenced	3 points	Playground can be separated with a minor park redesign	3 points	Café can be separated with minor park redesign	3 points	Collector Road
2 points	Low use weekend / High use weekdays W/S	2 points	Bushland on all faces of the park with no fencing	2 points	Playground can be separated with significant park redesign	2 points	Café can be separated with significant park redesign	2 points	Sub Arterial
1 point	High use weekend and weekdays W/S	1 point	Bushland of high value and to be protected / heavily vegetated	1 point	Playground unable to be fenced and separated from the park	1 point	Café is unable to be enclosed or separated from the park	1 point	Motorway / Arterial

Table 4: Complimentary Factors Scoring Table

Complimentary Factors Scoring Table									
Sports ground has an existing circumference fence	Off Street car parking		On street car parking		Existing toilet facilities		Impact on neighbouring residences		Potential conflicts with other uses / users
5 points	Yes	5 points	Yes	5 points	Parking lane available on both sides	5 points	Yes	5 points	Low
0 points	No	0 points	No	3 points	Parking lane available on one side only	0 points	No	3 points	Medium
				0 points	No on street parking			0 points	High

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## ATTACHMENT 1

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PROVISION OF DOG RECREATION AREAS REPORT

## Assessment Results: Parks considered unsuitable

**Elimination Factor 1: Bushland and Natural Areas.**

Parks within the City of Ryde that are categorised entirely as a natural area under the Generic Plan of management.

These parks are not considered suitable due to the core objectives of the Local Government Act and the Companion Animals Act.

SUBURB	PARK NAME	SUBURB	PARK NAME
Chatswood West	Quebec Reserve	North Ryde	Bancoo Reserve
	River Avenue		Boobajool Reserve
Dennistone	Miriam Park		Bundara Reserve
			Greenwood Park
East Ryde	Kitty Creek Reserve		Magdala Park
	Pryor Park		Martin Reserve
	Rafferty Reserve		Myall Reserve
Eastwood	Forsyth Park		Nundah Reserve
	Outlook Park		Pindari Park
	Rokeva Reserve		Portius Park
			Umarra Park
	Yarramar Reserve		Wicks Park
Gladesville	Looking Glass Bay Park	Ryde	Atchandar Park
	Mallee Reserve		Barton Park
	Westminster Road - Unnamed Park		Burrows Park
Macquarie Park	Alston Park		Laurel Park
	Caldew Reserve		Minga Reserve
		West Ryde	Lambert Park
Marsfield	Berrigum Reserve		
	Booth Reserve		
	Busco Road - Unnamed Park		
	Ivanhoe Reserve		
	Lucknow Park		
	Pentbroke Park		
	Somerset Park		
	Waterloo Reserve		

**Elimination Factor 2: Proximity to a National Park.**

The following parks have been eliminated as they are located adjacent to Lane Cove National Park

SUBURB	PARK NAME	SUBURB	PARK NAME
Chatswood West	Kobaba Park	North Ryde	Yinnell Reserve
Macquarie Park	Christie Park		
	Dunholme Reserve		

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## ATTACHMENT 1

## PROVISION OF DOG RECREATION AREAS REPORT

## CITY OF RYDE

**Elimination Factor 3: Size and existing landscape of the Park.**

Parks within the City of Ryde that are considered to be either too small or the existing landscape and or park elements occupy majority of the parkland space.

SUBURB	PARK NAME	SUBURB	PARK NAME
Chatswood West	Mulhall Place	Macquarie Park	Lane Cover Road Un-named Park
Dennistone	Bimbi Reserve Cooper Reserve	Marsfield	Porters Park Catherine Reserve Kenneth Park
Dennistone East	Colvin Park Jackson Reserve Kings Park Richmond Park Rutherford Park Salter Park	Meadowbank	Liberty Park Wharf Road Boat Ramp
Dennistone West	Allars Street Un-named Park	Melrose Park	Melrose Park
	Cecil Park Driver Park Hibble Park Lonsdale Park Lynn Park	North Ryde	Sindel Reserve Booral Reserve Flinders Park Gwandalan Reserve Kathleen Reserve Nimbin Reserve
Eastwood	Braemar Park Gwendale Park Irene Park Lynelle Park Rotary Park Valerie Park	Putney	Donnelly Park Benson Place Kulgoa Reserve Lavack Street - Un-named Park Nerang Park Salemwong Reserve Watts Park
Gladesville	Balun Reserve Boyla Reserve Darr Reserve Glades Bay Reserve Koonadan Reserve Yarluk Reserve	Ryde	Griffiths Avenue Un-named Park Korpie Reserve Linton Avenue Un-named Park Linton Park Patience Park
		West Ryde	

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PROVISION OF DOG RECREATION AREAS REPORT

***Elimination Factor 4: Dogs are specifically prohibited.***

Parks within the City of Ryde that are considered to be either too small or the existing landscape and or park elements occupy majority of the parkland space.

SUBURB	PARK NAME
North Ryde	Field of Mars Reserve

***Elimination Factor 5: Located within a predominantly commercial area.***

Parks within the City of Ryde that are considered to be either too small or the existing landscape and or park elements occupy majority of the parkland space.

SUBURB	PARK NAME
Dennistone East	Community Park
	Jacaranda Reserve
East Ryde	Healy Reserve
Eastwood	Glen Reserve
Gladesville	Trim Reserve

***Elimination Factor 6: The Park has cultural significance***

Parks within the City of Ryde that are considered to be either too small or the existing landscape and or park elements occupy majority of the parkland space.

SUBURB	PARK NAME
Meadowbank	Anderson Park
Puney	Bennelong Park

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## PROVISION OF DOG RECREATION AREAS REPORT

CITY OF RYDE

*Assessment Results: Parks considered suitable: Constraining Factors + Complimentary Factors*

Steps Two and Three of the assessment scored each park in accordance with Tables 3 and 4. The purpose of this was to select the most suitable parks for consideration for use as dog recreation areas.

93 parks and open spaces were scored on constraining factors and complimentary factors and the results used to short list the following parks for consideration as a place where the community can exercise their dogs off leash.

*Sportsfield Shared Facility*

PARK NAME	WARD
Brush Park	West
Darvall Park	West
Forrester Park	West
Santa Rosa Park	Central
Fontenoy Park	Central
Pidding Park	East
Peel Park	East

*Enclosed Free Running Area*

PARK NAME	WARD
Waterloo Park (North)	West
Denistone Park	West
Meadowbank Park (Modification)	West
ELS Hall Park	Central
Blenheim Park (Existing)	East
Olympic Park	East
Putney Park	East

*Dog Walking Trail*

PARK NAME	WARD
Ryde River Walk	All
Shrimptons Creek Trail	Central

*Note: The existing dog off leash areas at Meadowbank Park is to be reviewed during the preparation of the Meadowbank Park Masterplan and this could result in a change of location within the Park*

*Dog Water Hole*

PARK NAME	WARD
Kissing Point Park	East

*Free Running Area*

PARK NAME	WARD
Kotara Park	West
Carara Park	Central
North Ryde Common	East
Cudal Reserve	East

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CITY OF RYDE

PROVISION OF DOG RECREATION AREAS REPORT

**PART 4: OPTIONS AND RECOMMENDATIONS**

The six recommendations of this study are as follows:

Recommendation 1: Application of a City Wide Approach to the provision of on and off leash dog recreation areas

Recommendation 2: Create enclosed free running areas across the City at the following locations:

- Olympic Park,
- Denistone Park,
- Putney Park
- Waterloo Park,
- ELS Hall Park,
- Blenheim Park and
- Meadowbank Park

Recommendation 3: Create free running areas across the City at the following locations:

- Kotara Park,
- North Ryde Common,
- Carara Park and
- Cudal Reserve

Recommendation 4: Create shared sportsfield dog facilities across the City at the following locations:-

- Pidding Park,
- Peel Park,
- Darvall Park,
- Santa Rosa Park,
- Fontenoy Park and
- Brush Farm Park.

Recommendation 5: Create a dog water hole at Kissing Point Park.

Recommendation 6: Create dog walking trails along the Ryde River Walk and Shrimptons Creek.

Each of the recommendations are discussed and outlined in more detail on the following pages.

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## ATTACHMENT 1

## PROVISION OF DOG RECREATION AREAS REPORT

CITY OF RYDE

**Recommendation 1: A City Wide Approach to the provision of on and off leash dog recreation areas**

That Council applies a strategic approach to the provision of recreation areas for dogs and their owners that is considered on a comprehensive Council wide basis rather than a piecemeal park by park approach.

A variety of recreation area types is also recommended as one type of facility does not fit all recreation needs.

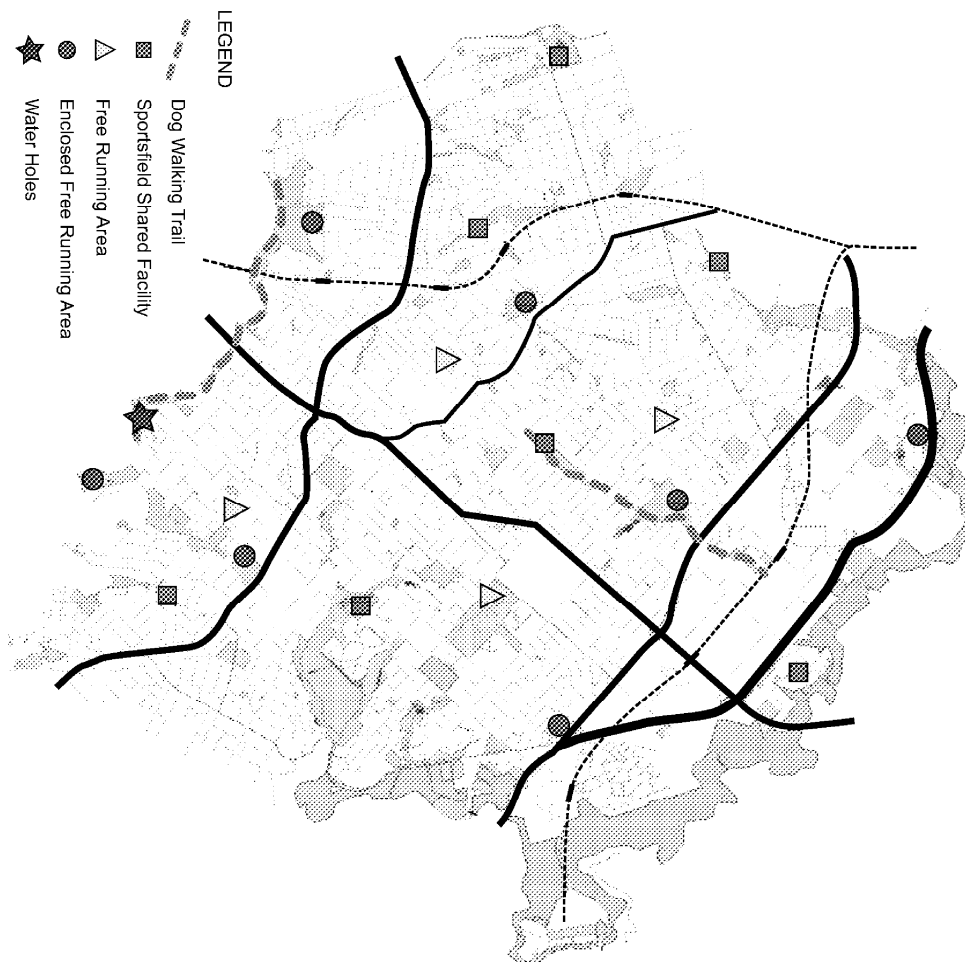
The assessment outlined earlier in this document is a city wide approach to the provision of dog recreation areas for the City of Ryde. The results of this assessment are shown on the diagram to the right. Each of the parks that scored well and offer the post potential as a dog recreation area has been plotted across the City with the aim of providing places that are accessible to most residents of the City.

The parks identified to the right are as follows.

- Brush Park
- Darvall Park
- Meadowbank Park (existing)
- West Dennistone Park
- Kissing Point Park
- Putney Park
- Olympic Park
- Peel Park
- Cudal Reserve
- Pidding Park
- Macquarie Common
- Blenheim Park (existing)
- Santa Rosa Park
- Forrester Park
- Waterloo Park
- Fontenoy Park
- ELS Hall Park
- Kotara Park
- Carrar Reserve

Each of the recommended parks are discussion in more details on the following pages.

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## ITEM 18 (continued)

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## CITY OF RYDE

## PROVISION OF DOG RECREATION AREAS REPORT

### Recommendation 2: Enclosed Free Running Areas - Olympic Park, Denistone Park, Putney Park, Waterloo Park, ELS Hall Park, Blenheim Park and Meadowbank Park

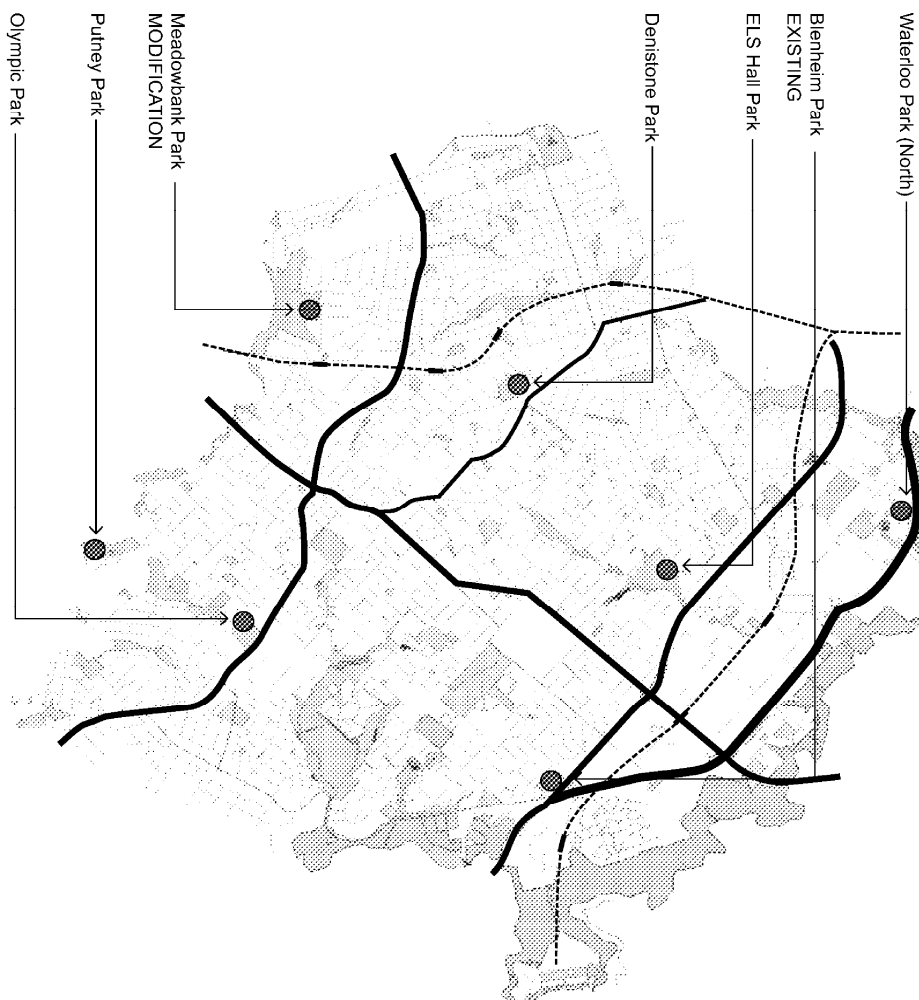
The City of Ryde has one existing enclosed free running dog off leash park located at Blenheim Park. This area is characterised by a fully enclosed fenced area where dogs are able to run freely within a confined area.

This type of facility is very popular and the diagram to the right proposes and additional 5 enclosed free running areas across the City. The selection of each of the proposed sites was as a result of the park assessment previously outlined in this report. The proposed locations are well distributed across the City.

The locations proposed are each discussed below.

The development of enclosed free running areas would require capital investment that could include the following:

- Perimeter fencing and entry gates,
- Seating,
- Landscaping (for amenity and screening purposes),
- Dog waste bins and bags and
- Water access for dogs.



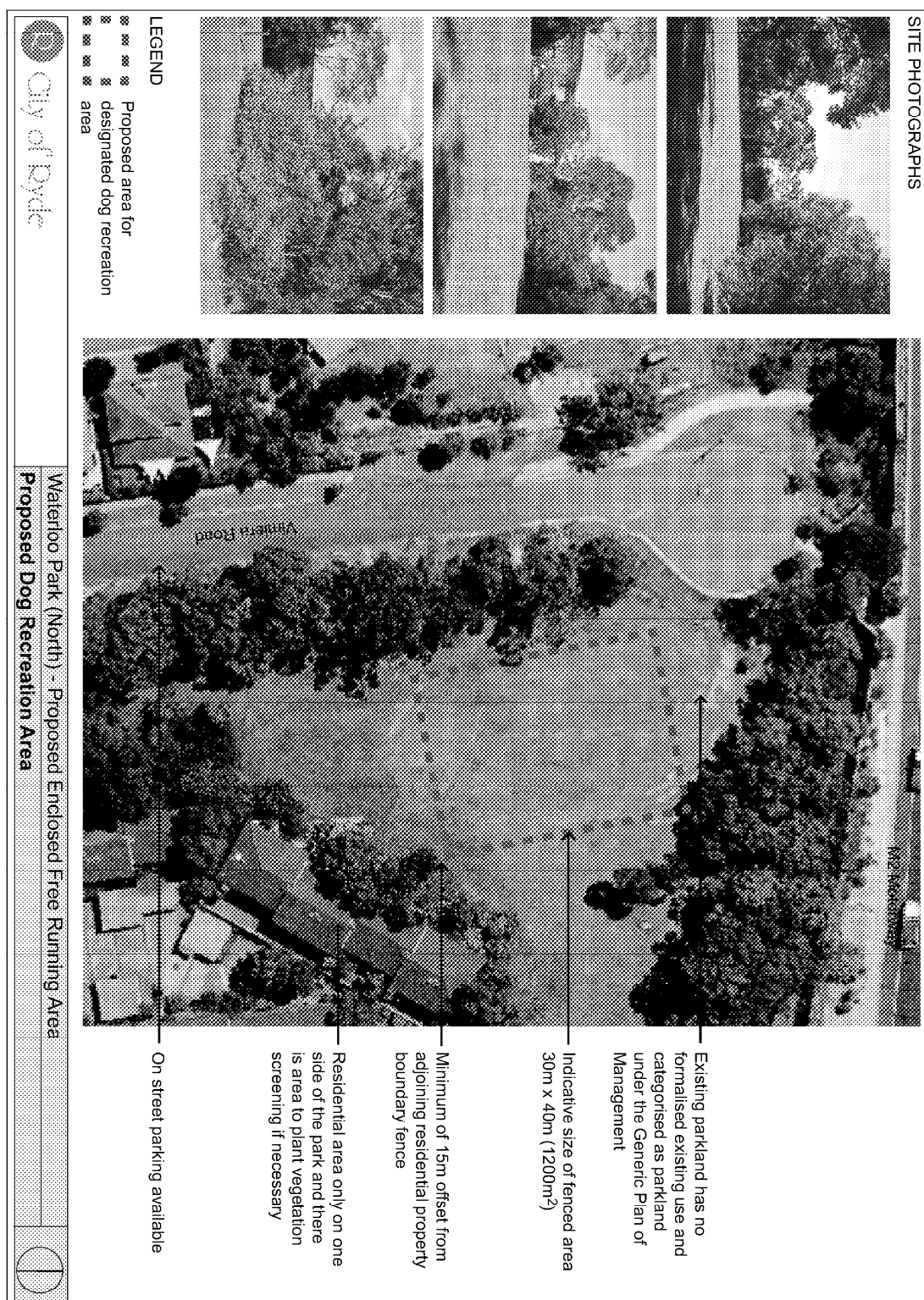
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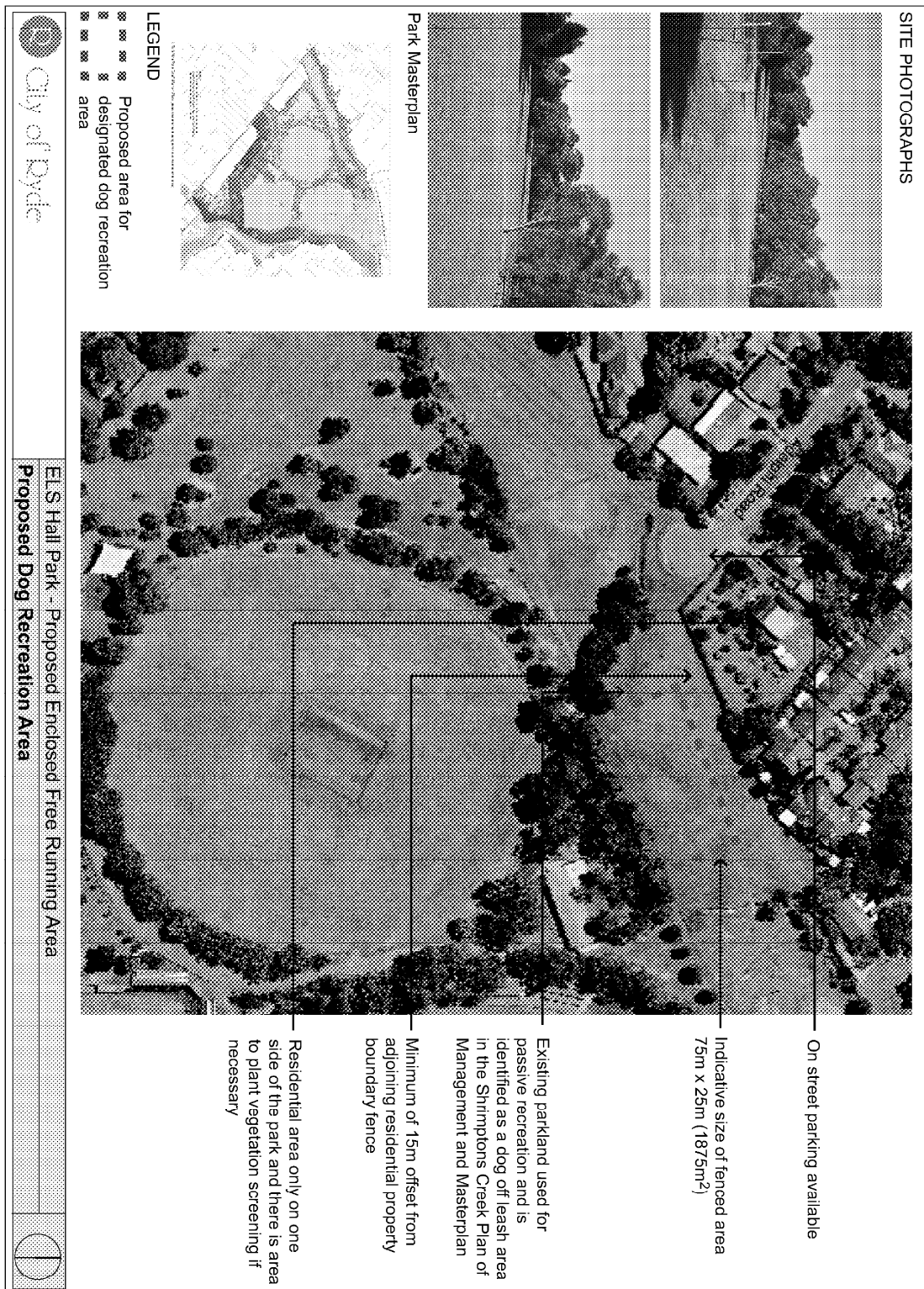
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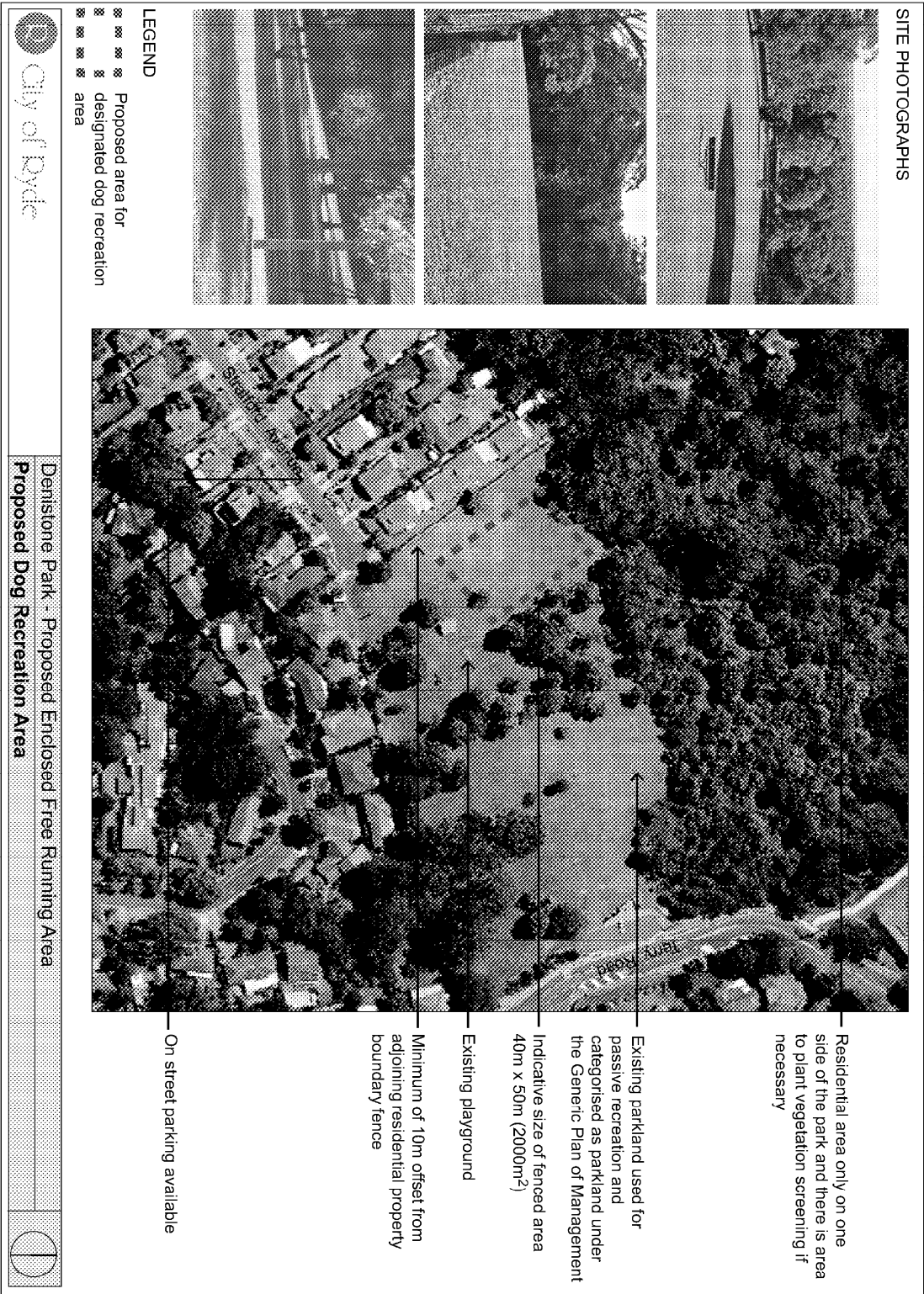
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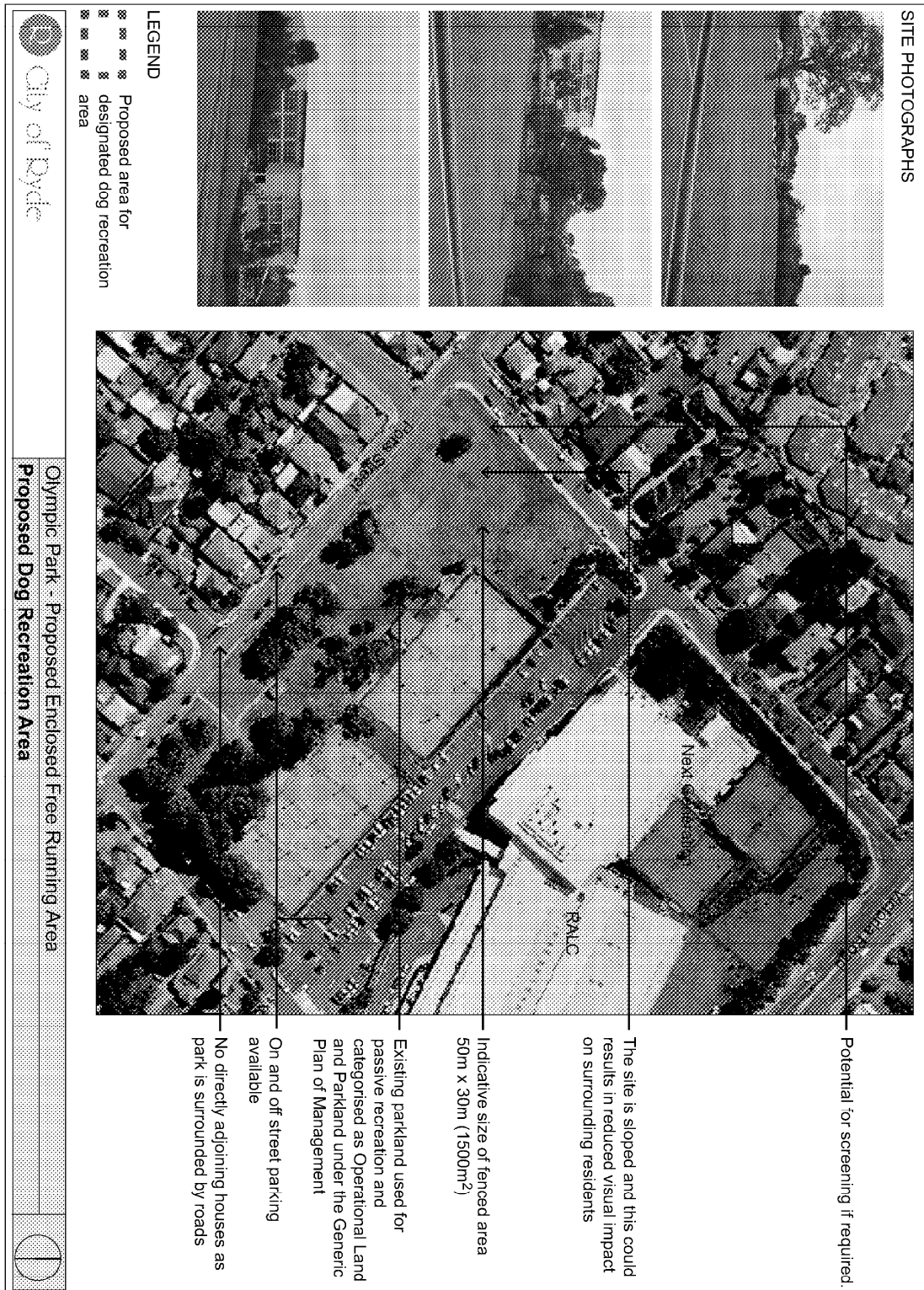
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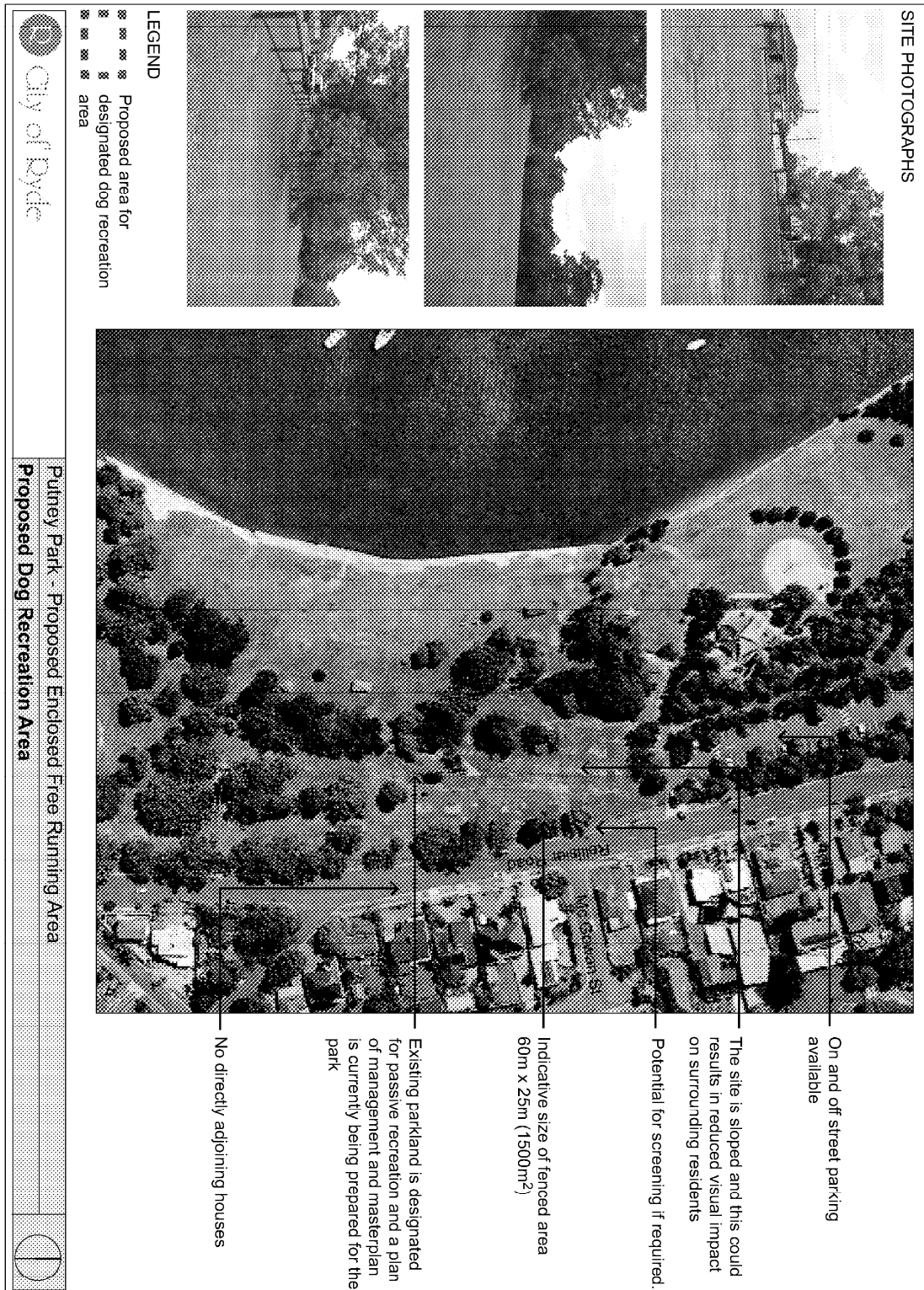
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## ATTACHMENT 1





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## CITY OF RYDE

## PROVISION OF DOG RECREATION AREAS REPORT

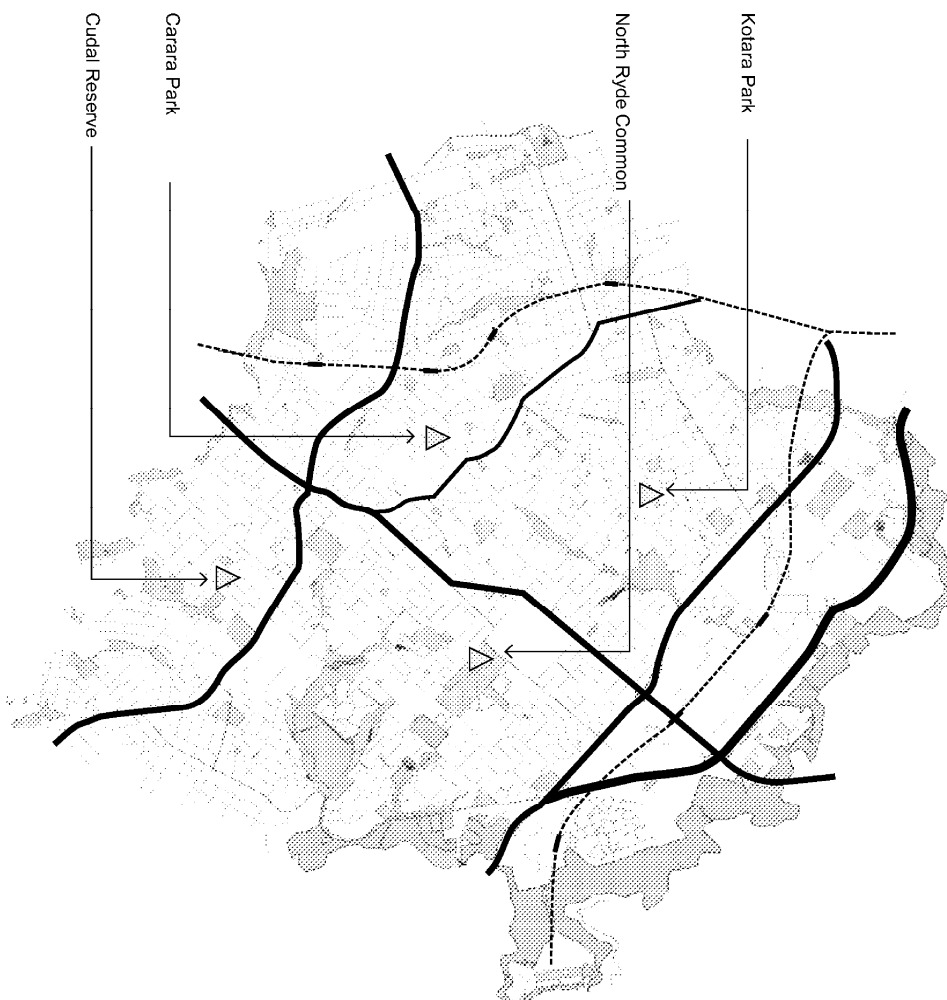
**Recommendation 3: Free Running Areas - Kotara Park, North Ryde Common, Carara Park and Cudal Reserve**

Free running areas are widely used in neighbouring LGAs and they offer a larger area for dogs and their owners to recreate.

It is proposed that four free running area be located across the City of Ryde. These areas are open spaces that are able to offer more to community as a destination for recreation.

The infrastructure needed to transform these parks into free running dog recreation areas may include the following:

- Signage that promotes responsible management of dogs off leash in public spaces,
- Seating,
- Landscaping (for amenity and screening purposes),
- Dog waste bins and bags
- Fencing may be needed along any interface with bushland areas and or road (if applicable) and
- Water access for dogs.



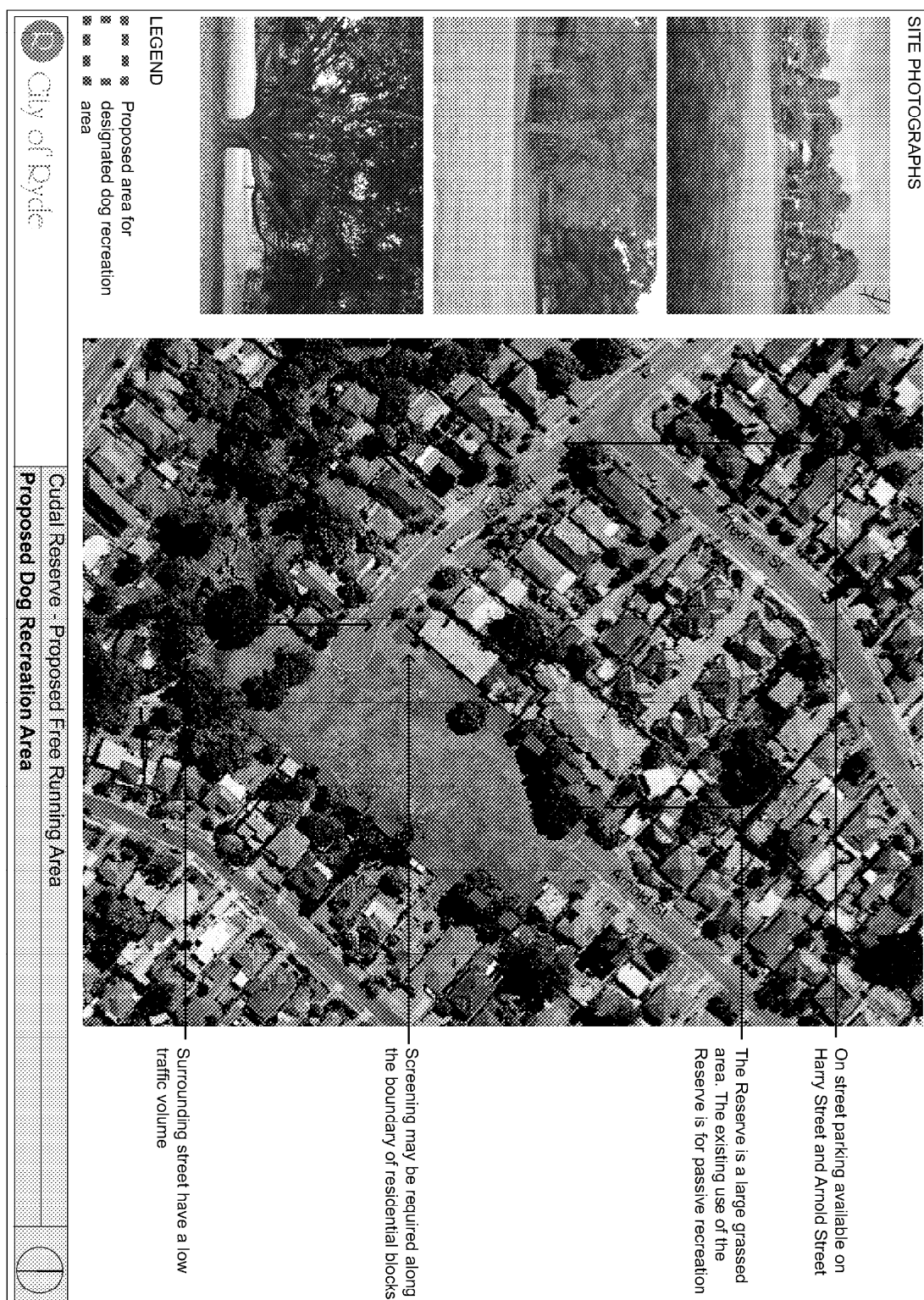
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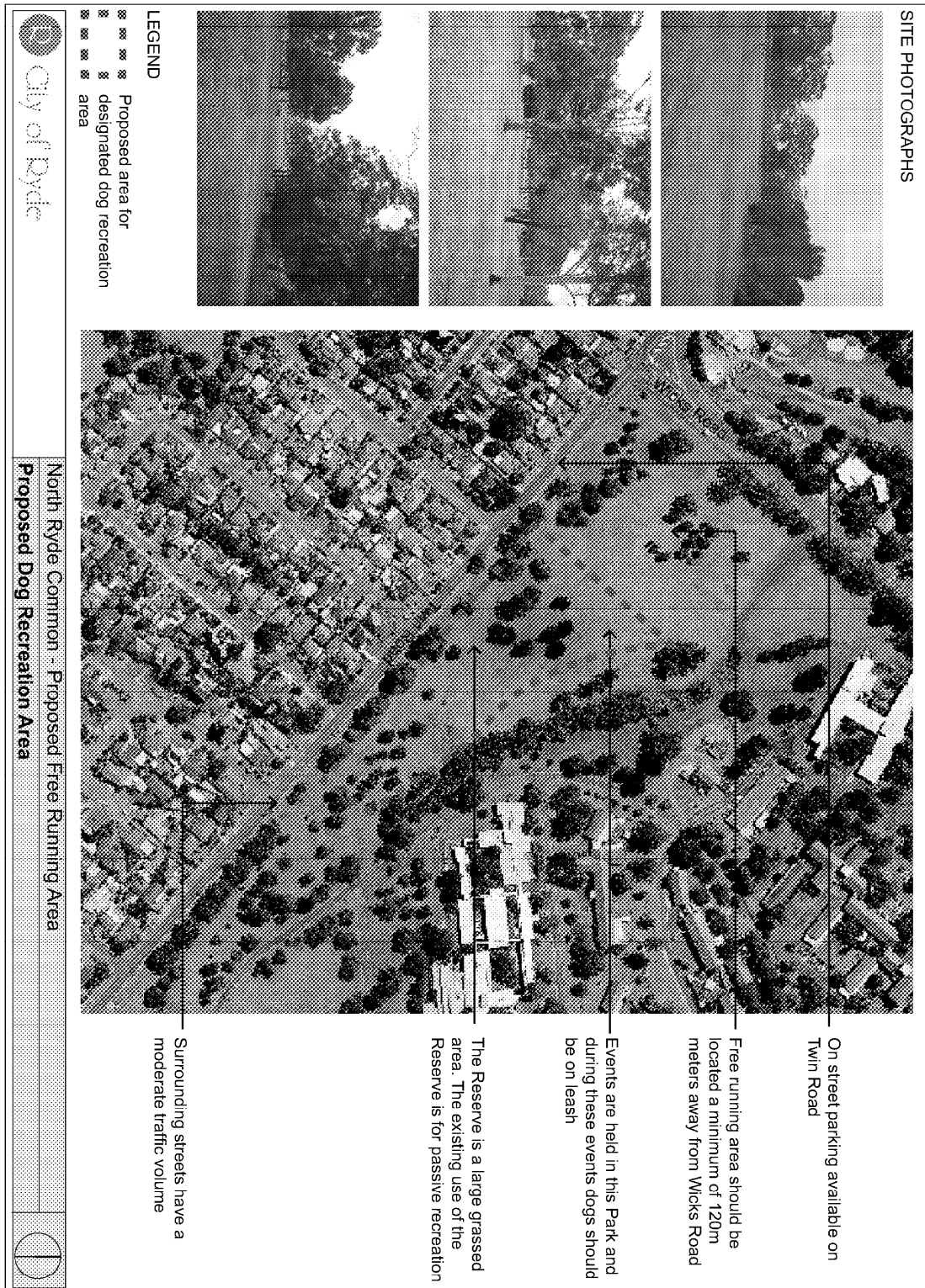
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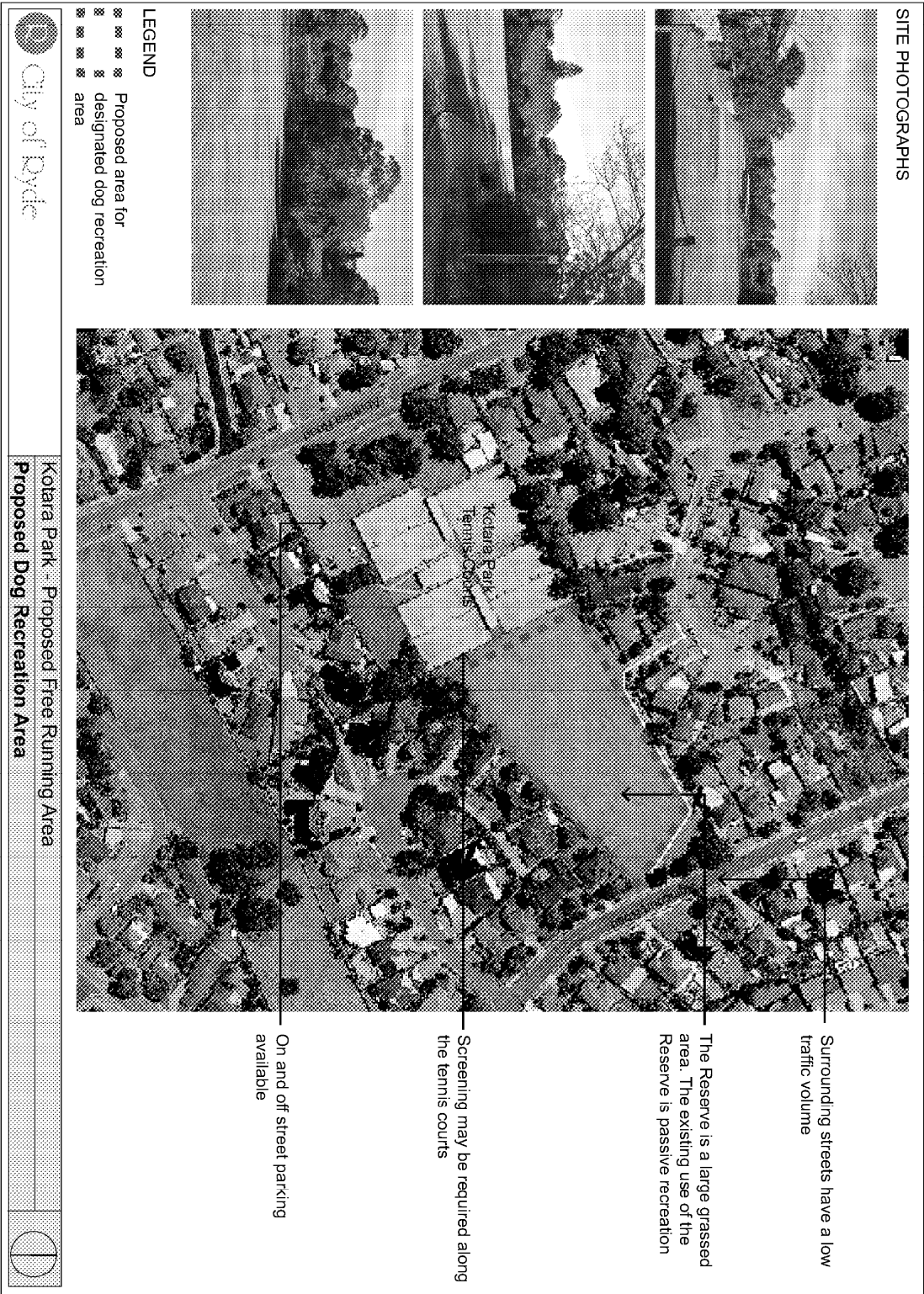
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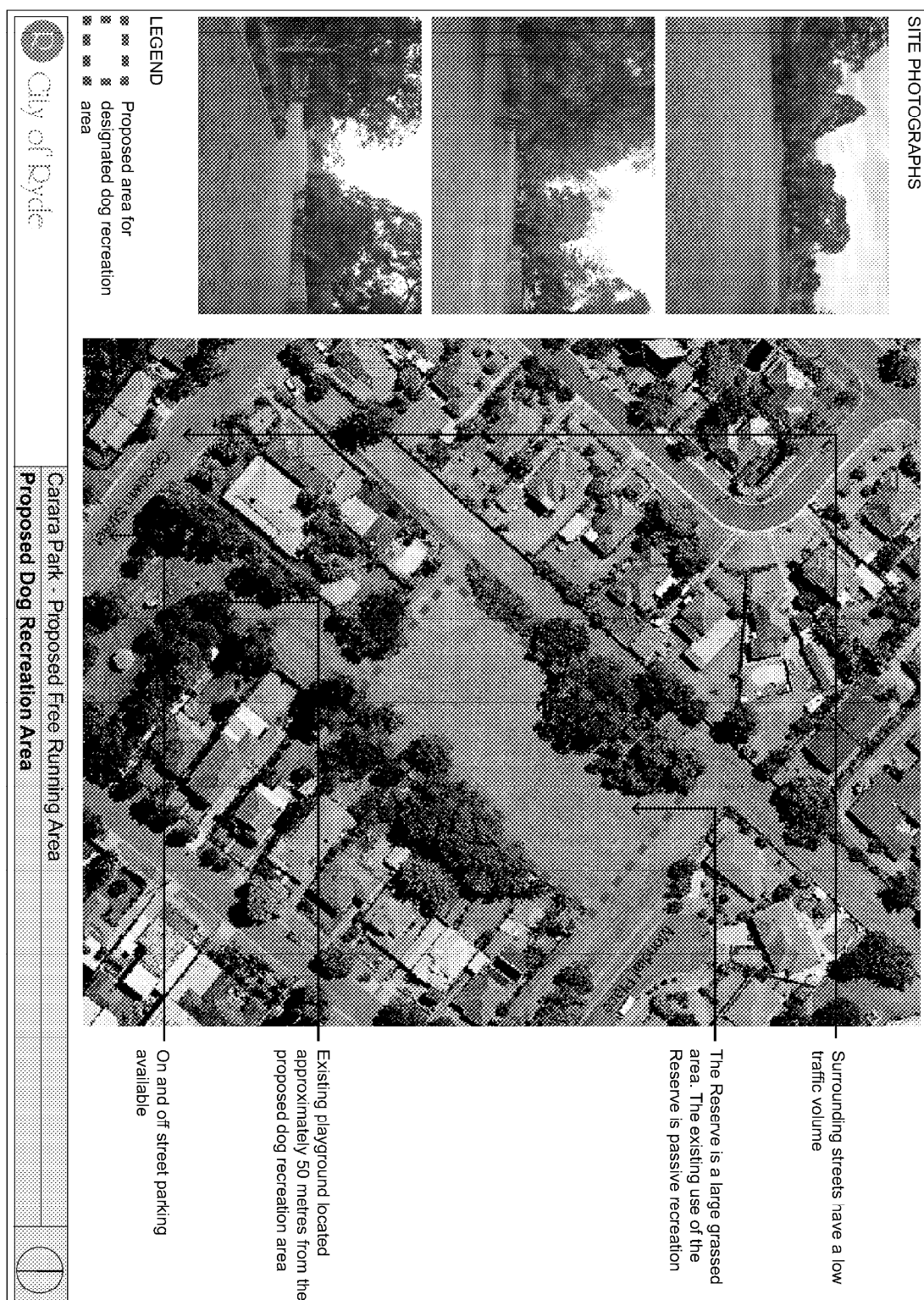
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## PROVISION OF DOG RECREATION AREAS REPORT

CITY OF RYDE

**Recommendation 4: Sportsfield Shared Facility - Pidding Park, Peel Park, Darvall Park, Santa Rosa Park, Fontenoy Park and Brush Park.**

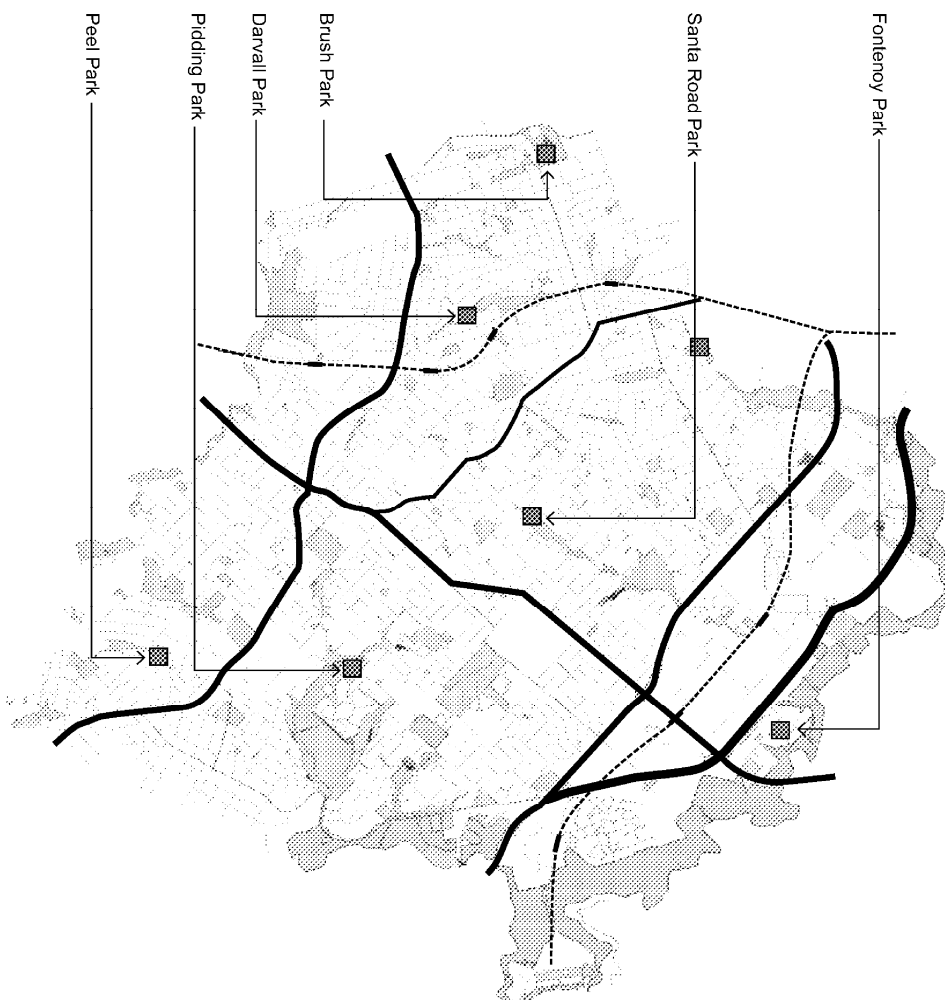
Shared facilities are commonly used through the neighbouring Council areas and the offer a way to promote multi-use of a sportsfield.

The availability of these area as an off leash area is limited to those time then organised sporting activity is not occurring. For the purposes of this Study, organised sporting activity is defined as any sports activity that has been booked through Council's Recreation Coordinator. This include both seasonal and casual sports hire of sportsfields.

This Study recommends the creation of seven sportsfield shared facilities across the City. These sportsfields have been selected because they have a lower organised sporting usage.

The infrastructure needed to transform these parks into shared sportsfield dog recreation areas may include the following:

- Signage that promotes responsible management of dogs off leash in public spaces and outlines that use of the area for off leash dog activities is only when organised sports is not occurring,
- Seating,
- Dog waste bins and bags
- Fencing may be needed along any interface with bushland areas and or road (if applicable) and
- Water access for dogs.



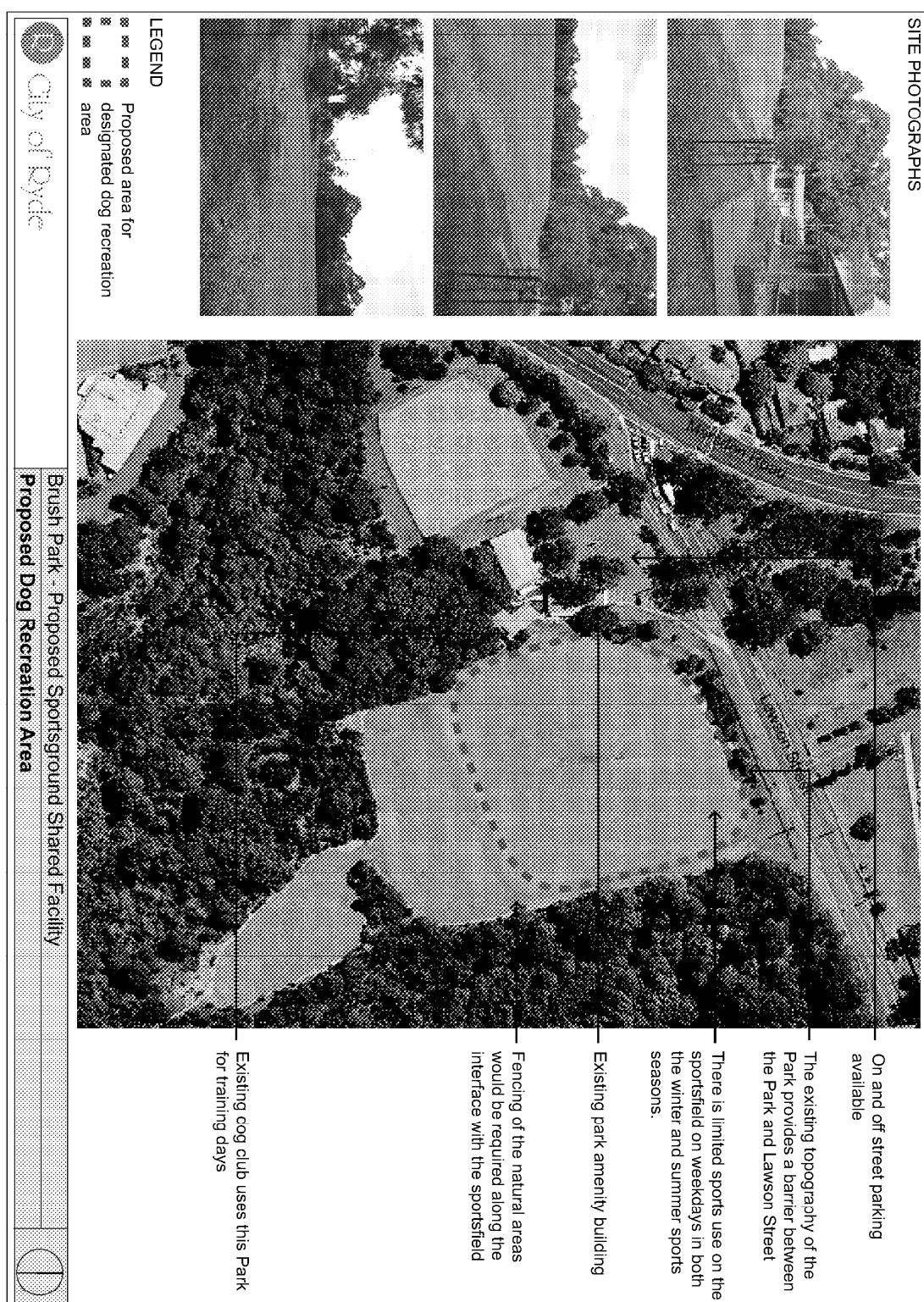
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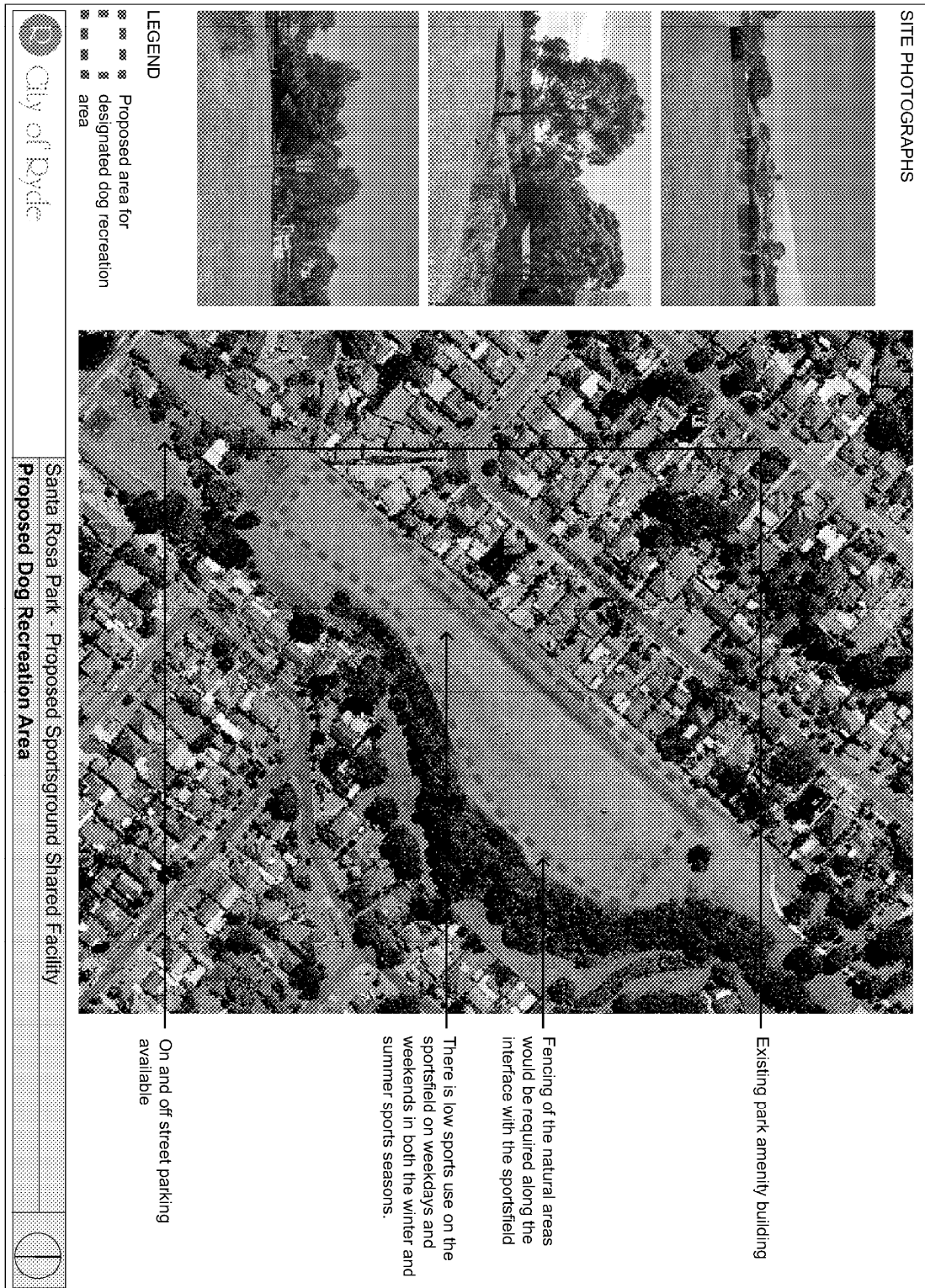
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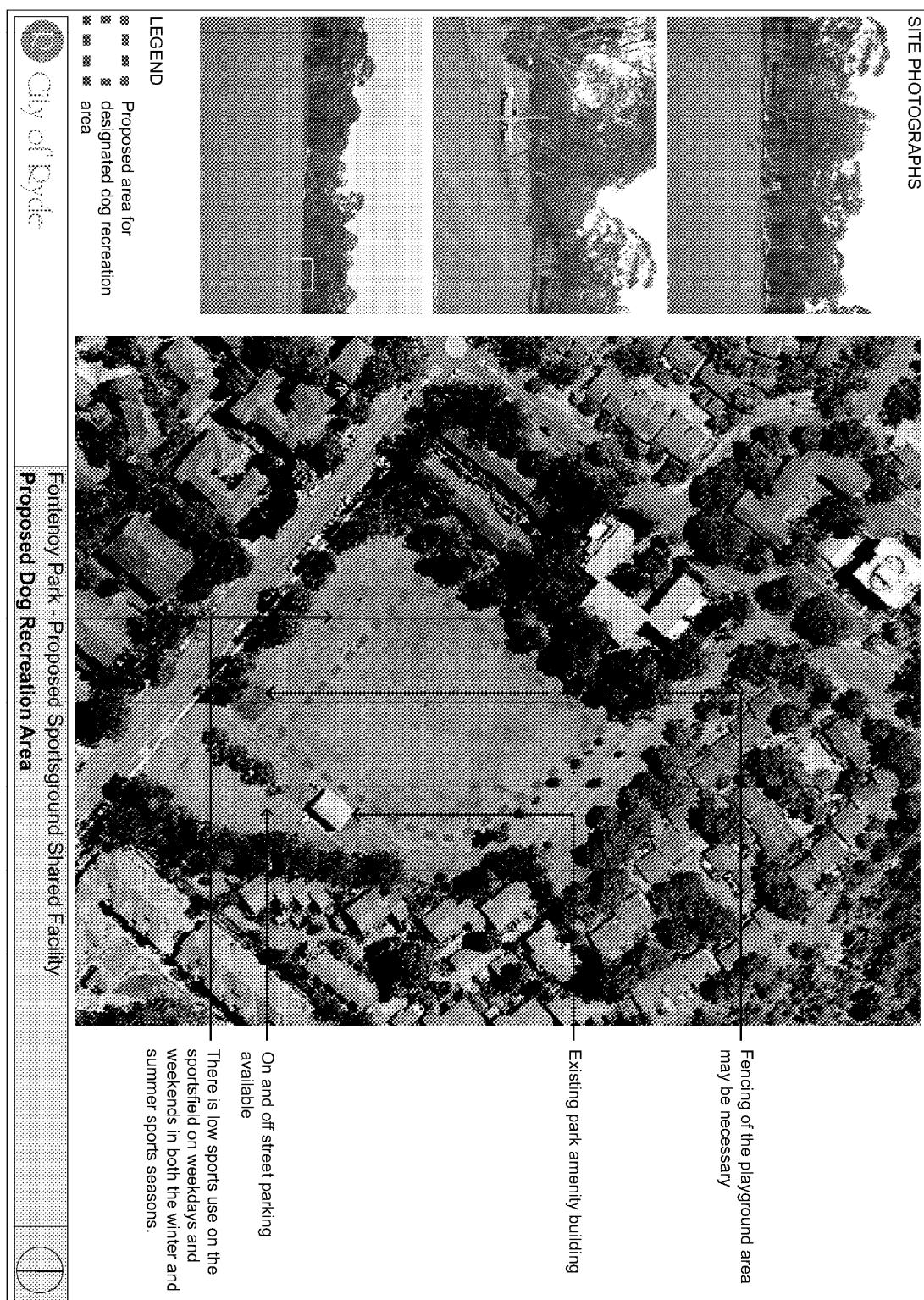
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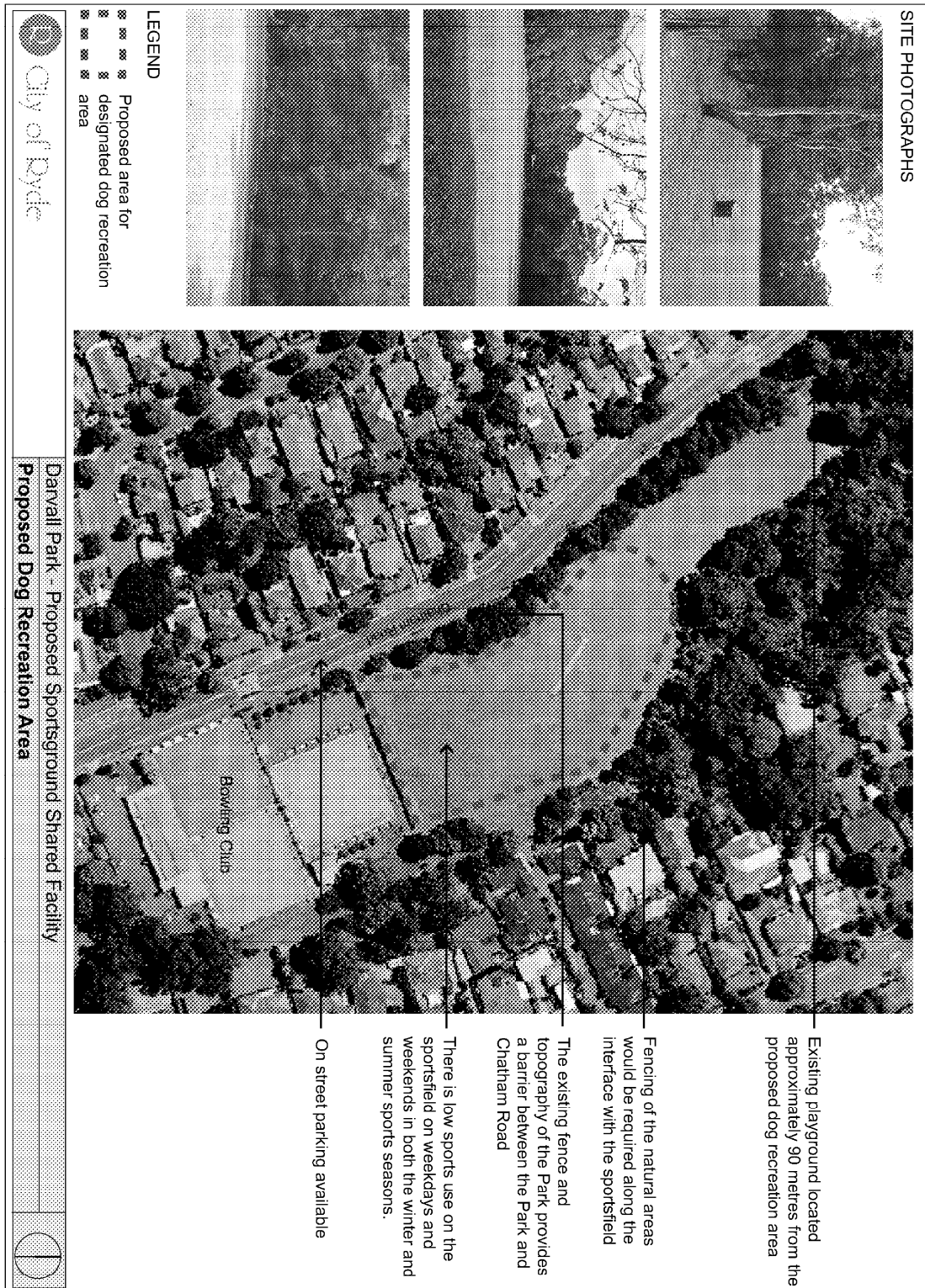
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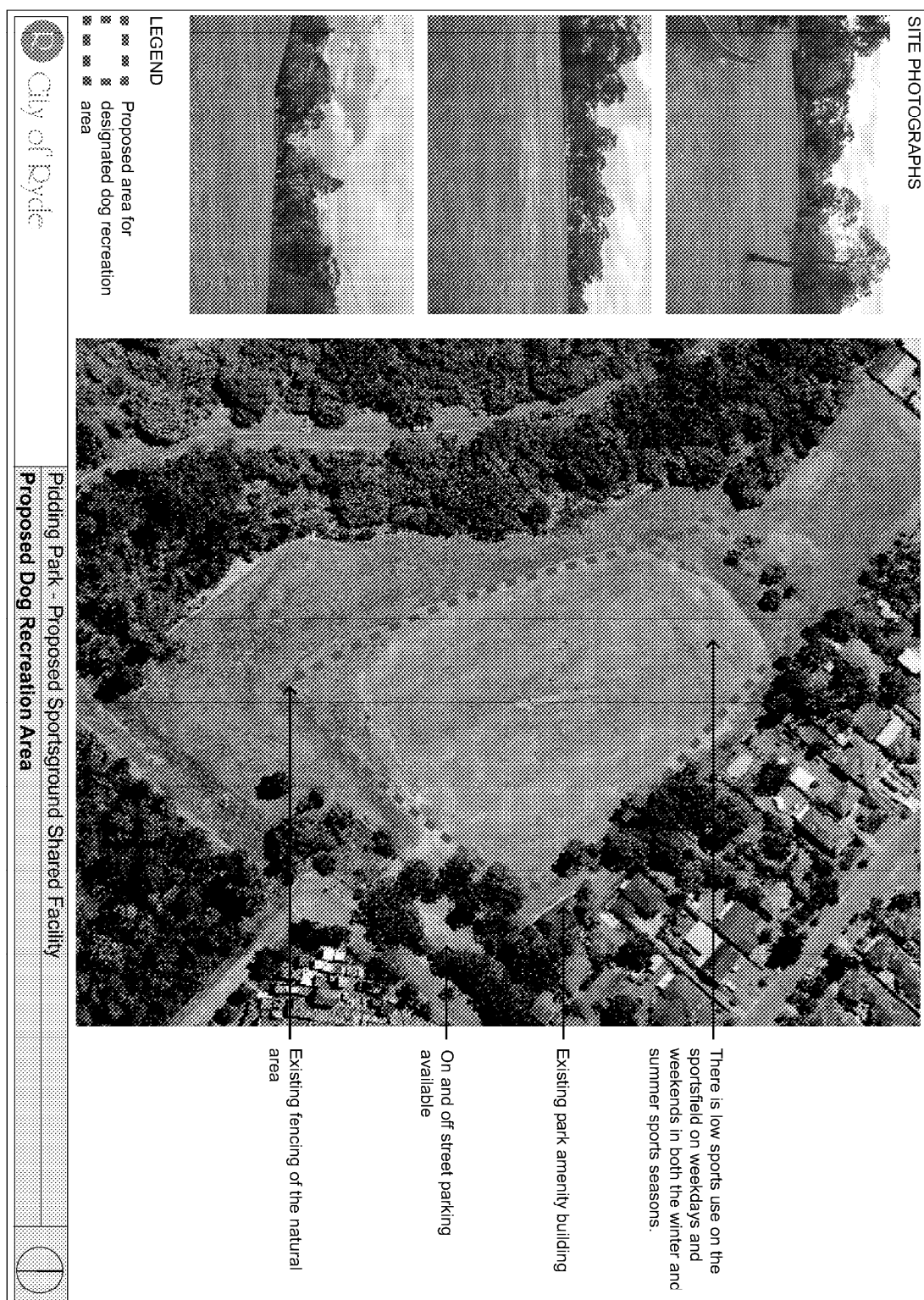
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
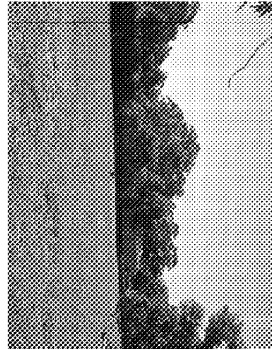
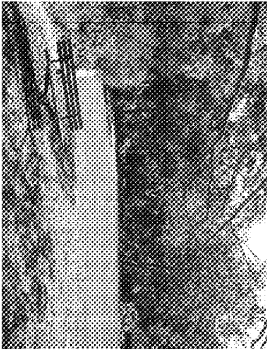
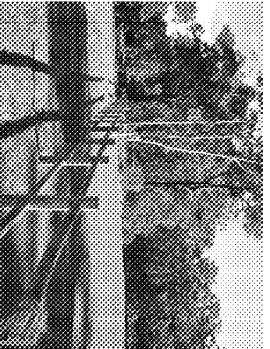

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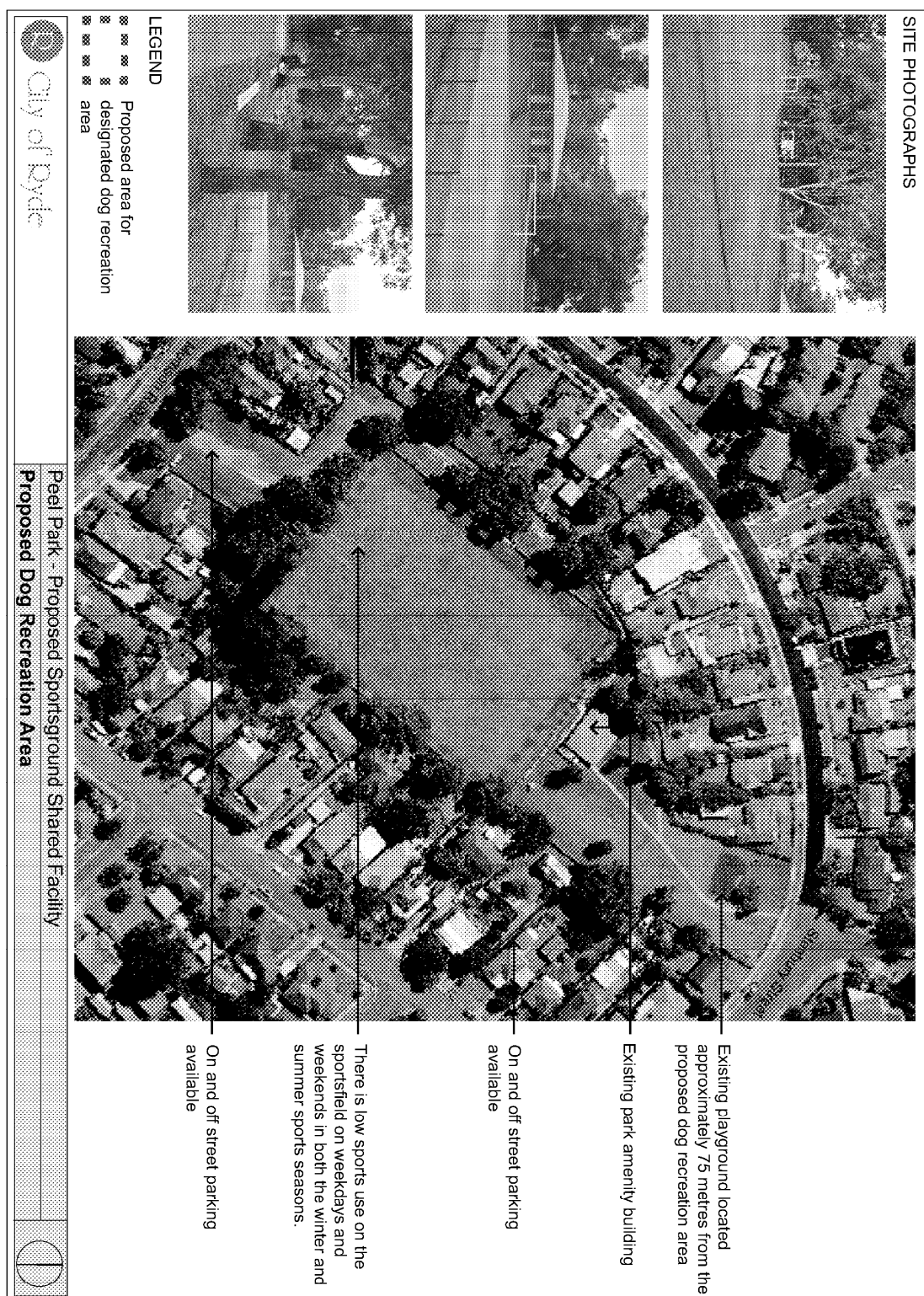
ATTACHMENT 1

 <p>City of Ryde</p>	<p><b>LEGEND</b></p> <p>  Proposed area for   designated dog recreation   area                 </p>				<p>SITE PHOTOGRAPHS</p>
<p>Forrester Park - Proposed Sportsground Shared Facility Proposed Dog Recreation Area</p>					<p>                     Fencing of the natural areas would be required along the interface with the sportsfield                       There is low sports use on the sportsfield on weekdays and weekends in both the winter and summer sports seasons.                       Existing playground located adjacent and fencing would be recommended                       On and off street parking available                 </p>



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## ATTACHMENT 1

## PROVISION OF DOG RECREATION AREAS REPORT

CITY OF RYDE

## Recommendation 5: Dog Water Hole - Kissing Point Park

Areas where the community can take their dogs for a swim are growing across Sydney with areas located in Canada Bay, Lane Cove and Pittwater to name only a few. These areas are extremely popular especially in the summer months.


Swimming is an excellent exercise for dogs and the provision of areas where dogs are permitted to swim also provides a destination for dog owners to picnic and enjoy the outdoors.

Kissing Point Park offers a unique location as a water hole. On the eastern side of the Park, there is a large sand bar that creates a large area of shallows that is ideal as a dog swimming area.

As this recommendation is a new type of facility to be provided in the City of Ryde, an education program is also recommended that will encourage dog owners to manage their dogs correctly and ensure a clean waterway is maintained.

The infrastructure needed to transform this area of Kissing Point Park into a dog water hole may include the following:

- Signage that promotes responsible management of dogs off leash in public spaces,
- Seating,
- Dog waste bins and bags,
- Fencing may be needed along any interface with the road and
- Water access to allow the dog owners to rinse their dogs after swimming.

**LEGEND**  
 Proposed area for designated dog water hole

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On and off street parking available

The adjoining grass area should also be an off leash area  
 Sand area suitable for swimming

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PROVISION OF DOG RECREATION AREAS REPORT

**Recommendation 6: Dog Walking Trail - Ryde River Walk and Shrimptons Creek**

Provision of dog recreation areas should not only extend to areas where dogs are permitted to be off leash. Encouragement of the use of **on leash recreation areas** is also very important.

As outlined earlier in this report, a dog walking trail is an identified path where the community is encouraged to walk their dog on a leash. Ideally, these trails connect to a variety of off leash recreation areas and are supported with waste bins / bags and water bowls along the trail.

Two trails are identified as having potential as a dog walking trail:

- Ryde River Walk
- Shrimptons Creek Trail

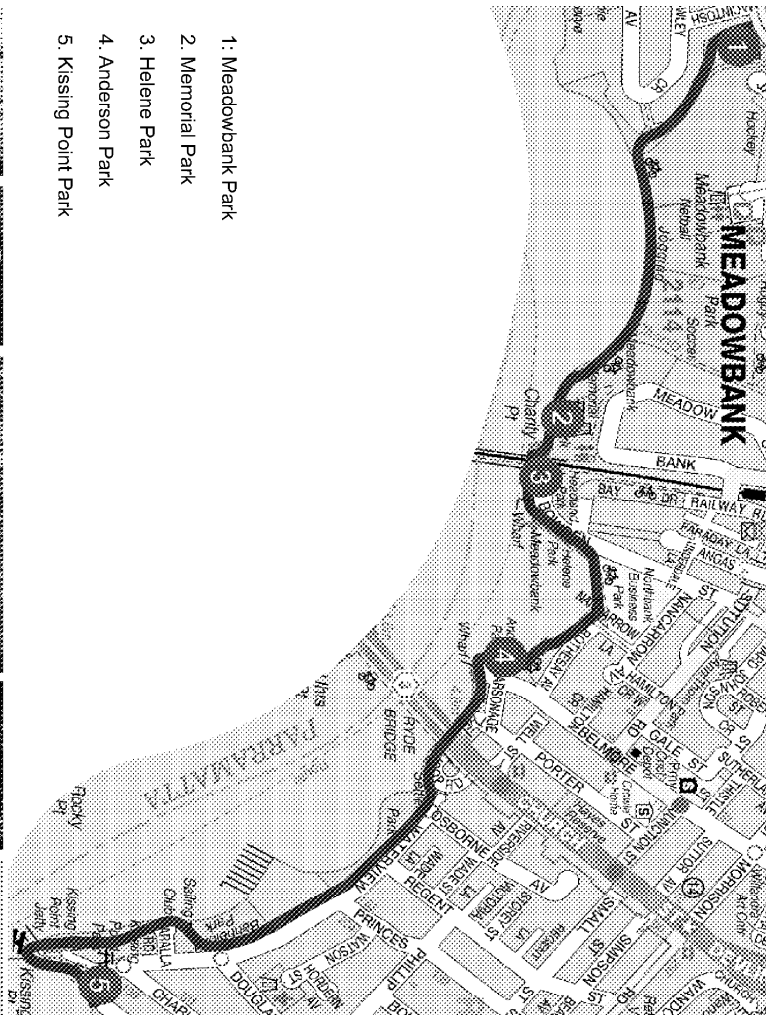
**Ryde River Walk**

The Ryde River Walk is a 3.3km path that connects Meadowbank Park and Kissing Point Park. The Walk currently offers some of the elements of a dog trail, including a variety of park and landscape areas, dog drinking bowls and connection to the existing off leash area at Meadowbank Park.

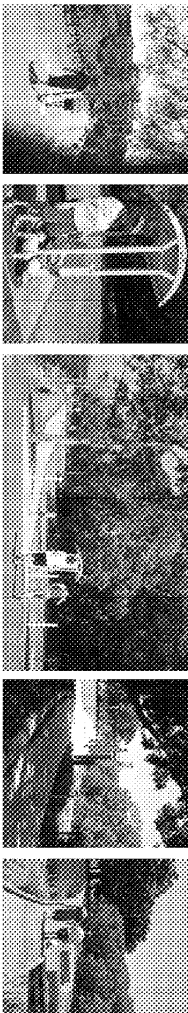
Formalisation of the Trail is recommended to include the following elements, and as shown on the image to the right:

- Additional dog water bowls along the length of the Trail as existing at Memorial Park and Ryde River Wharf Reserve
- On leash access to the River at Memorial Park
- Dog water hole at Kissing Point Park

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- 1: Meadowbank Park
- 2: Memorial Park
- 3: Helene Park
- 4: Anderson Park
- 5: Kissing Point Park



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## ITEM 18 (continued)

## ATTACHMENT 1

## PROVISION OF DOG RECREATION AREAS REPORT

CITY OF RYDE

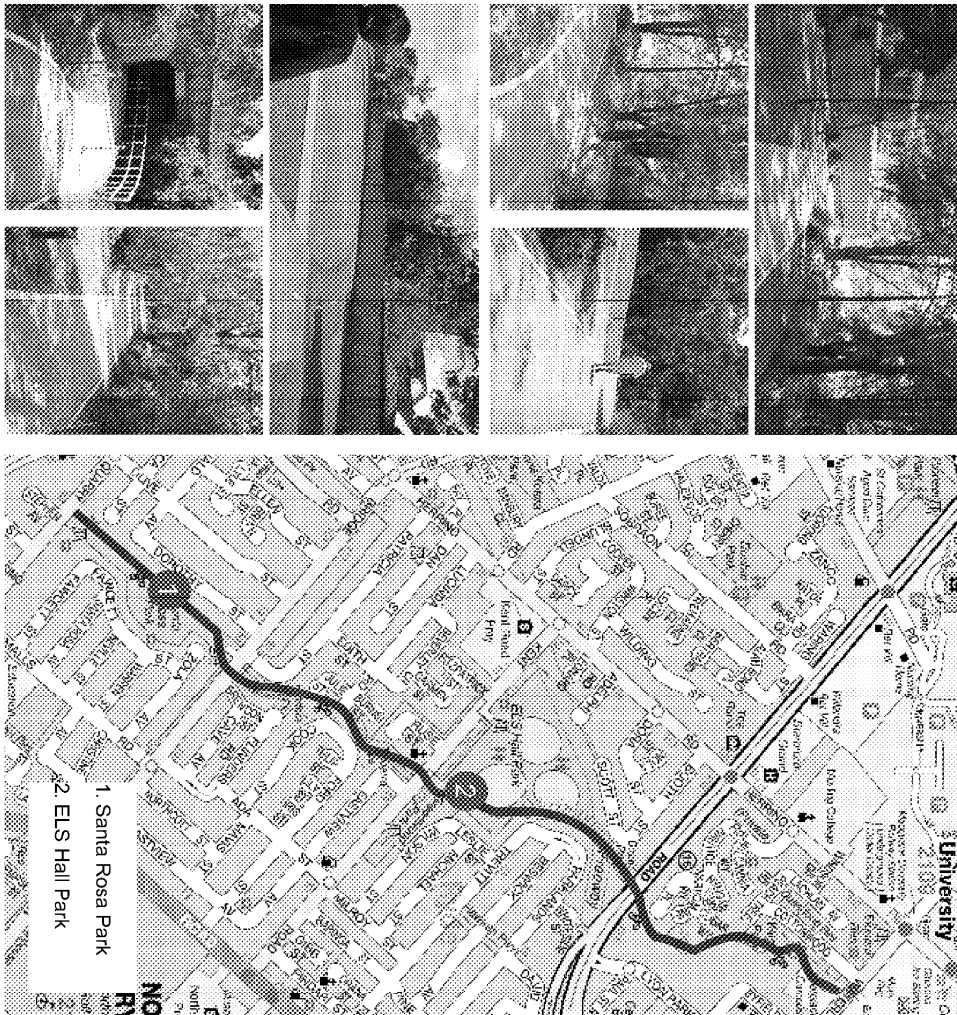
**Shrimptons Creek**

Shrimptons Creek Pathways offers to the community a 2.5km trail through North Ryde. There is opportunity to connect the proposed off leash areas of Santa Rosa park and ELS Hall Park along an on leash trail through a variety of parklands and landscape settings.

The development of a dog Trail along Shrimpton Creek would require the placement of dog waste bins / bags, signage and water bowls along the existing pathway and the possible additional of connection pathways between the proposed off leash areas.

*The development of Dog Trails is a low cost option in the provision of recreation areas for dogs and their owners. One of the significant benefits of the type of facility is that it encourages the dog owner to exercise with their dog and thus promoting a healthy lifestyle opportunity for the Ryde Community.*

*As this proposal is an on leash option, to be successful, these Trails should Interconnect with off leash recreation areas.*



JULY 2010

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## ITEM 18 (continued)

## ATTACHMENT 2

Page 1 of 2

## E-mail Message

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**From:** Karen Brennan [SMTP:brennank@themediastore.com.au]  
**To:** Peter Montague [EX:/O=COREX/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FFC226CB-6FD9D0BC-CA2571CE-21E2DD], City of Ryde [EX:/O=COREX/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B10238AD-EA5F1DA7-CA256F68-7740E2], 14rocher@tpg.com.au [SMTP:14rocher@tpg.com.au]  
**Cc:**  
**Sent:** 25/10/2010 at 5:40 PM  
**Received:** 25/10/2010 at 5:43 PM  
**Subject:** FW: Trial Dog Off Leash Area at PEEL PARK - Ryde Council !

---

**Attachments:** 001.jpg  
002.jpg

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Hi Peter & Fiona Morrison

A local resident and mother of a child playing for Ravens has forwarded the letter advising Peel Park is an off leash area trial for 6 months and also attached is the off leash area with is the playing surface of Peel Park

Can some from council confirm what is to happen when Ravens have hired the ground for women's football trials in October/November and grading/trials for teams in February next year - do the dogs take over the park?

There will be '\*\*\*\*' all over the field. It is there every time we play even through it isn't an off leash area.

The parents pick it up before the kids take the field.

It will be worse when you encourage people to let their dogs run free over the park.

Is council going to enclose Peel's playing surface?

There is children's play equipment at the Stanbury Street end of the park.

There will be dogs that will leave the playing surface and 'roam around the rest of the grassed area'.

If not I hope no one gets bitten.

It would have been nice to have been given a heads up on the change to the park. Ravens have been a regular season hirer of Peel Park since 1962 for the winter soccer/football season. I'm sure we would be listed somewhere on the council records for the last 48 years. Our club is also represented at the Sports Council Meetings every month - no word about this at all.

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**ITEM 18 (continued)****ATTACHMENT 2**

Page 2 of 2

I am not opposed to the off leash area, I have 2 dogs of my own and take them to North Ryde off leash area regularly. But the North Ryde park is completely fenced/enclosed for every ones safety including the dogs.

Karen Brennan

Treasurer & Board Member of Gladesville Ravens

From: ruth gosbell [mailto:ruthyg1@yahoo.com]  
Sent: Monday, 25 October 2010 6:27 PM  
To: Jock Cunningham; bruno7@optusnet.com.au; Karen Brennan; koussas@bigpond.com  
Subject: Re: Trial Dog Off Leash Area at PEEL PARK - Ryde Council !

Hi Jock, Bruno and Karen, Mark,

I received a City of Ryde Letter today:

"Trial Dog Off Leash Area at Peel Park".

Dated: 22 October 2010 REF: D10/49759,

Thought someone from Ravens should know.

Trial commences 27th October 2010.

Regards,

Ruth Gosbell

2 scanned documents attached.

file://C:\Documents and Settings\FionaM\Local Settings\Application Data\TOWER So... 7/04/2011



**ITEM 18 (continued)**

**ATTACHMENT 3**

March 2011

Community Representatives from the  
Companion Animals Committee

Jan Aiello, Helen Johnstone, Nora Alexanian & Judy Willis

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## Submission

In support of the Extension of trial of 17 Leash  
free areas in Ryde City Council



**ITEM 18 (continued)****ATTACHMENT 3****Contents**

1.	Background	3
2.	Introduction	3
3.	Social benefits of companion animals	3
4.	Health benefits of companion animals	4
5.	Community demand for designated dog recreation and off leash areas	4
6.	Why dogs need access to public open spaces?	5
7.	City wide approach solution	5
8.	Expected benefits from increased access to leash-free parks	6
5.	Conclusion	8



**ITEM 18 (continued)****ATTACHMENT 3****1. Background**

The Community Representatives of the Ryde Council Companion Animals Advisory Committee (CAAC) have been working for the last two and a half years to improve access to leash free areas for the residents of Ryde.

In 2009 The CAAC requested that Council consider an extension of the leash free hours at Meadowbank Park Leash free area to be more user friendly for dog owners. While this request was defeated at Council, one outcome was the need to look at a more city wide approach to leash free areas and a study was undertaken and in July 2010 it was agreed by Council that a trial of additional leash free areas be established for a period of 6 months.

**2. Introduction**

- There are around 10,000 registered dogs in the Ryde City Council. That represents approximately one dog owned for every 10 people who live in the municipality (estimated population in June 2008 was 103,597- source community Atlas).
- The trial of additional leash free areas was passed at Council on 20 July 2011 following the submission of the report *A study on the provision of recreation areas for dogs in the City of Ryde undertaken by Open Spaces at Ryde Council*.
- The report recognized that the provision of open spaces that accommodates recreation activities with dogs is not only important for the physical and mental well being of the animal, but also for the physical and mental well being of the pet owner.
- The literature widely supports that companion animals promote the health and happiness of their owners. Most pet owners are responsible and endeavour to do the right thing when in public places. But sometimes, some pet owners, and pets, do not behave responsibly causing distress to others.
- Dog owners are a substantial group of park and open space users and planning and management of spaces within the City for dog recreation must incorporate both urban animal management and open space and recreation planning.

**3. Social benefits of Companion Animals**

- Companion animals deliver proven physical, psychological and health benefits for pet owners and have important benefits for society as a whole. Modern lifestyles can create loneliness, isolation and a sense of vulnerability. Dog ownership provides companionship, gives immense pleasure and reduces stress levels, without the demands of human relationships.
- Growing up with a dog assists in the social development of children by improving social skills and self-esteem. Children can learn responsibility, empathy and respect by living with and caring for a dog.



**ITEM 18 (continued)****ATTACHMENT 3**

- Dogs also help to build social networks within the community, creating opportunities for greater social interaction. A shared interest in dogs brings together people from all walks of life. Dogs can help to initiate conversations between strangers in public places, or be the basis more structured social activities such as dog showing and dog obedience classes.

**4. Health benefits of Companion Animals**

- Since the 1960's a plethora of research has arisen proving the value of dogs in various therapeutic settings. Dogs provide a wide range benefits to the sick and disabled, and assist those in need of greater independence e.g. guide dogs for the blind, assistance dogs for the disabled. Dogs are widely used for therapy in hospitals, prisons, psychiatric institutions, nursing homes and schools.
- Several Australian studies have shown quantifiable links between pets and better health. Owning a dog is associated with better cardiovascular health and lower levels of stress and depression.
- Research conducted in Australia and Germany has shown that pet ownership is associated with better human health. Dog and cat owners use the health system less than non-owners; they make fewer annual doctor visits and spend less time in hospital.
- Dogs enhance preventative health measures in the community through companionship, stress reduction, exercise and assistance to those who may otherwise depend on Government funded assistance. The long term health benefits of owning pets lead to savings in national health expenditure.

**5. Community demand for designated dog recreation and off leash areas**

*A study on the provision of recreation areas for dogs in the City of Ryde undertaken by Open Spaces at Ryde Council identifies a clear demand for leash free areas from the following community consultation reports:*

- *Ryde 2030 Community Strategic Plan - Consultation Outcomes Report (18 August 2009)*
- A hope for community facilities and infrastructure where there are "facilities where dogs can run without a leash".
- *Leisure and Recreation Needs - Community Consultation Report (April 2009)*
- Off leash dog areas were identified as the **second** highest community facility that is lacking, inadequate or is required,
- Off leash dog areas were identified as the eighth highest priority for open space and recreation facilities in the City over the next 5 - 10 years,
- There is a strong current and future demand for informal leisure and recreation facilities or settings including dog-exercise areas, and
- Report Recommendation : "*That Council progressively provide additional informal leisure and recreation facilities or settings – notably parks and open space (of varying types), bike paths, walking paths and tracks, dog-exercise areas, and youth facilities (including skate parks)*".



**ITEM 18 (continued)****ATTACHMENT 3****6. Why dogs need access to public open spaces?**

- The most obvious reason why dogs need access to public open space is because of their popularity. Dog owners are a substantial group of park users.
- The second reason has to do with its links with promoting acceptable behavior from dogs. Dogs need to be properly socialised in appropriate behaviour. They also need regular outings to reduce boredom and pent-up energy at home. Access to a park close to home is the safest and most effective way to ensure owners socialise their dogs and provide them with on-going experiences in the outside world. This not only benefits the dog and its owner but also neighbours who are affected by unacceptable behaviour at home, other park and street users and authorities responsible for urban animal management.
- The third reason why dogs need access to public open space is for the positive effects it can have on their owners. Owning a dog encourages people to exercise and visit their local park. Taking a dog out has also been found to stimulate social interaction with other humans.

*“Dog owners are a substantial group of park users.”*

- All of these reasons are likely to be magnified in the future as a consequence of the government's urban consolidation policies (i.e. a higher incidence of smaller homes and back gardens). As more people live in compact types of housing it will place greater demands on public open space both for humans and as an outlet for dogs; a fourth reason to provide for dogs' access to public open space.

**7. City Wide Approach Solution**

- A city wide approach should aim for integration of dogs with other park users. While separation is warranted in some instances, it should not be a philosophy upon which to base an area-wide strategy for dogs.
- Councils should apply a strategic approach that considers access on a comprehensive municipal wide basis rather than on a piecemeal park by park basis. The latter is reactive and problem-oriented. It fails to adequately address needs.
- A city wide approach, which is not time restricted, spreads the load across the city and means that usage will be staggered across the day according to residents needs and commitments.
- An education campaign for dog owners regarding their responsibilities under the Companion Animals Act is also essential when a city wide approach is taken. This can be in the form of feature articles in the Ryde City View Magazine, information for new pet owners on registration of new animals, information in the new resident packs and information sent with quarterly rate notices.



**ITEM 18 (continued)****ATTACHMENT 3**

- A city wide approach will allow residents to walk to a leash free area rather than have to drive to the currently restricted number of Leash free areas
- The following parks were subject to the trial:

**Park off-leash areas**

Specific areas within the following parks will be trialled as dog off leash areas.

- Carara Reserve - *Goodwin Street, Ryde*
- Kotara Park - *Abuklea Road, Marsfield*
- Waterloo Park - *Vimiera Road, Marsfield*
- ELS Hall Park - *Kent Road, North Ryde*
- North Ryde Common - *Twin Road, North Ryde*
- Denistone Park - *Terry Road, Denistone*
- Olympic Park - *Potts Street, Ryde*
- Cudal Reserve - *Henry Street, Ryde*
- Putney Park - *Pellisier Road, Putney*

**Sportsground Off Leash Areas**

The following sportsgrounds were also be trialled as dog off-leash areas when organised sport is not occurring. Maps of off-leash areas are available via the links below:

- Peel Park - *Morrison Road, Gladesville*
- Santa Rose Park - *Quarry Road, North Ryde*
- Forrester Park - *Vimiera Road, Eastwood*
- Brush Farm Park - *Lawson Street, Eastwood*
- Fontenoy Park - *Fontenoy Road, Macquarie Park*
- Darvall Park - *Chatham Road, Denistone*
- Pidding Park - *Cressy Road, Ryde*

**8. Expected benefits from increased access to leash-free parks****1. Benefits for Dogs**

It is widely recognised that dogs benefit greatly from a chance to run freely and socialise with other dogs as it reduces boredom, pent-up energy, barking and other nuisance behaviour.

The dog park is neutral territory for dogs and the likelihood of nuisance or aggressive behavior is significantly reduced.



**ITEM 18 (continued)****ATTACHMENT 3****2. Benefits for Dog Owners**

Dog owners are a substantial group of park users.

Greater access to more leash free areas means that dog owners can choose the most appropriate exercise time for their dog depending on work and family commitments

**3. Benefits for Nearby Residents**

Unrestricted hours will ensure that the number of dogs in the area will be staggered across the day not concentrated into restrictive time limited periods (as is the case presently at Meadowbank LFA). Perceived problems regarding additional traffic and too many dogs at one time should be negated if attendance at leash free areas is staggered.

The use of leash free areas and the presence of dogs and their owners deters antisocial behavior such as vandalism and graffiti.

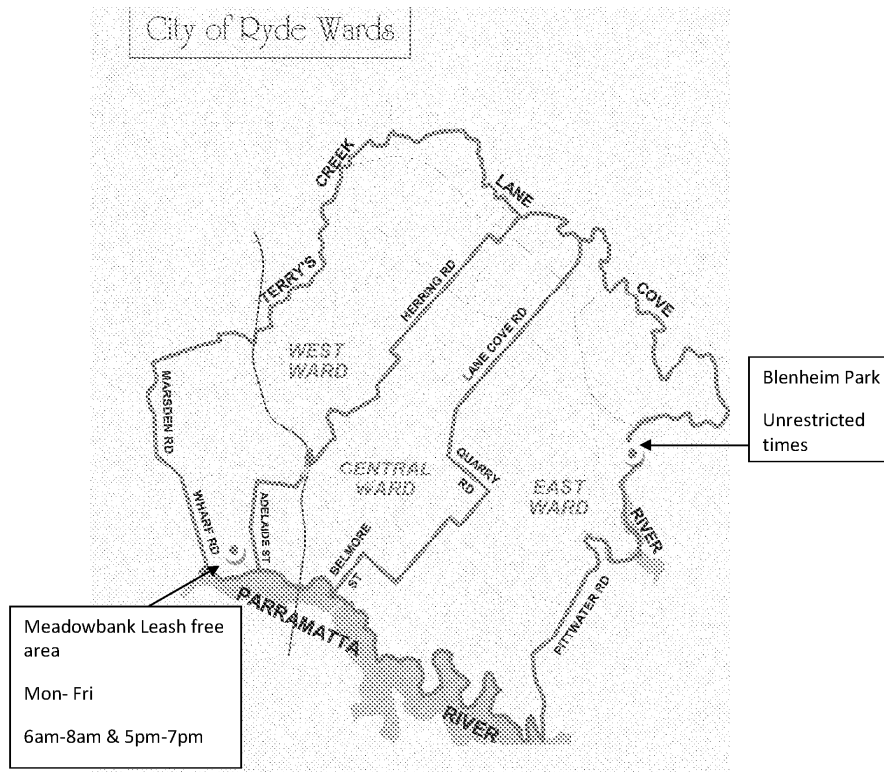
**4. Benefits for Ryde City Council**

Ryde Council has the opportunity to provide the dog owners of Ryde with more reasonable access to leash-free areas. Ryde Council is one of the few Sydney Metropolitan Councils that has the least number of leash-free areas, with just one full-time leash-free area at Blenheim Park and 20 hours a week (Mon- Fri only) at Meadowbank.



**ITEM 18 (continued)****ATTACHMENT 3****Current leash free areas – Ryde City Council**

The current established leash free areas are illustrated on the following map.

**5. Conclusion**

Leash free areas are an essential cornerstone in the overall framework for the promotion of responsible pet ownership and in reducing nuisance behavior in dogs.

The Community Representatives of the Ryde Council Companion Animals Committee whole heartedly support the expansion of trial leash free areas to become permanent leash free areas in Ryde City Council.



**ITEM 18 (continued)****ATTACHMENT 4**

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

9 March 2011

Dear Mr Neish

**City of Ryde Bushland Management Working Group - Submission on the Trial Dog Off Leash Areas**

The members of the City of Ryde Bushland Management Working Group would like to submit their concerns over the current trial Dog Off Leash areas. It is felt, by all members, there is a lack of protection to Bushland areas and habitat corridors abutting some of the Dog Off Leash areas included in the trial. The Parks considered to be of significance are;

- Brush Farm Park
- Darvall Park
- Denistone Park
- Forrester Park
- Santa Rosa Park
- Waterloo Park

It is unanimously agreed by the Committee the criteria and recommendations set out in Part 4 of "*A Study on the Provision of Recreation Areas for Dogs in the City of Ryde*" and submitted to Council's Committee of the Whole on 20 July 2010 be adopted and followed.

All Dog Off Leash areas abutting Bushland and Habitat Corridors should be fenced at a distance of 5 Metres from these areas to minimise the chances of dogs running into those areas and negatively impacting on the flora and fauna contained within. Also where access to Dog Off Leash areas is via Bushland tracks, the necessary controls for dogs (E.g. dog required to be on a leash) must be clearly stated.

In light of the increasing frequency of dog attacks on children and adults the Committee also asks Council to possibly consider the fencing of Dog Off Leash areas as part of the review of the trial.

We look forward to the City of Ryde undertaking the review of the trial and considering our submission.

Yours sincerely

The members of the City of Ryde Bushland Management Working Group



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**19 CODE OF CONDUCT COMPLAINT AGAINST COUNCILLOR TAGG**

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**Report prepared by:** General Manager**Report dated:** 31 May 2011**File No.:** GRP/10/5/001/6 - BP11/415

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**Report Summary**

This report responds to a Code of Conduct complaint by Councillor Yedelian OAM against Councillor Tagg, as it relates to displaying election corflutes on telegraph poles and speaking to the media.

Following an investigation, this report is provided for Council's determination on the most appropriate course of action to take against Councillor Tagg for his admitted breach.

**RECOMMENDATION:**

1. That Council determines that Councillor Tagg has breached Clause 1.1 General Conduct of Councils Code of Conduct; specifically as it relates to acting in a way that *'contravenes the Act, associated regulations, council's relevant administrative requirements and policies'*
2. That Council determines whether to:-
  - a) censure Councillor Tagg for misbehaviour  
and/or
  - b) require Councillor Tagg to make a public apology for breaching Council's Code of Conduct , related policies and Council resolutions  
and/or
  - c) counsel Councillor Tagg on the requirements of Council's Code of Conduct and Council's Media policy  
or
  - d) receive and note the report and take no further action

**ATTACHMENTS**

- 1 Councillor Tagg Apology Letter

Report Prepared By:

**John Neish**  
**General Manager**



**ITEM 19 (continued)****Background**

On 28 March 2011 Councillor Yedelian OAM lodged a Code of Conduct complaint against Councillor Tagg alleging that Councillor Tagg breached Council policies as follows;

1. Despite knowing Council's policy on talking to the media, Councillor Tagg represented Council to the print, radio and television media without requesting permission to do so from the Mayor.
2. Despite knowing Council's resolution relating to posting election corflutes on telegraph poles, Councillor Tagg as a candidate for the state seat of Ryde and a Councillor of the City of Ryde, posted election posters on telegraph poles leading up to the election.

On Sunday 20 March 2011, Councillor Tagg spoke to the media (both radio and television) on the possible whereabouts of Bennelong's grave. On 23 March 2011 Councillor Tagg appeared in The Weekly Times on the same issue. Enquiries indicated that Councillor Tagg was not nominated by the Mayor as Council's spokesperson in accordance with Council's media policy for any of these interviews.

Councillor Tagg had caused to be erected, his state election corflutes in and around the week commencing 14 March 2011. Councillor Tagg was requested by Group Manager, Environment and Planning, Dominic Johnson, to remove them on 15 March 2011 and by me on 17 March 2011. Councillor Tagg advised that this could not be done for one week due to the absence of his niece's husband. These corflutes were subsequently removed by Council staff at rate payers expense.

In accordance with the procedures outlined in Council's Code of Conduct, Councillor Yedelian OAM's complaints were raised with Councillor Tagg on 31 March 2011. In response, Councillor Tagg sent email correspondence on the 27 April 2011 (see attached) in which he admitted to having corflutes placed by his niece's husband, and to speaking to the media. In doing so, Councillor Tagg gave his reasons as to why it occurred and apologised for breaching any clauses of the Code of Conduct.

Given that Councillor Tagg admitted to his breaches, I determined that it would not be appropriate to refer this matter to an external conduct reviewer/panel and to instead report this matter directly to Council. In accordance with clause 9(b) of the complaint handling procedure, I believe this to be an appropriate strategy given the circumstances. Councillors Yedelian OAM and Tagg agreed with this approach.

**Report**

Council's Code of Conduct establishes general conduct obligations for Councillors and council staff to follow in conducting their duties. Specifically the relevant clauses relating to the nature of this complaint are;



**ITEM 19 (continued)***General Conduct*

- 1.1. *You must not conduct yourself in carrying out your functions in a manner that is likely to bring the council or holders of civic office into disrepute. Specifically, you must not act in a way that:*
  - a) *contravenes the Act, associated regulations, council's relevant administrative requirements and policies.....*
- 1.2. *You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (section 439)*

*And*

- 1.4. *Where you are a councillor and have been found in breach of the code of conduct, you must comply with any council resolution requiring you to take action as a result of that breach.*

Clause 1.1 therefore requires Councillors to uphold Council's policies. The policies and resolutions which are relevant to the complaints by Councillor Yedelian OAM are as follows.

**1. Complaint relating to Council's Media Policy**

Clause 4.9 *Relationships of Council Officials* in Council's Code of Conduct states;

*The Mayor or General Manager will generally be the spokesperson on Council business or matters before the Council. Only staff with specific delegations are authorised to make public comment about Council business or matters before Council. Any comment is to be made in accordance with Council's associated Policies, including Media Policy when adopted.*

Council's media policy states under Roles and Responsibilities that;

1. *The Mayor and the General Manager are Council's official spokespersons on all matters.*
2. *The General Manager may nominate other staff to act as spokespeople for the Council.*
3. *The Mayor may nominate another Councillor to speak on a particular matter.*

This policy was reviewed by Council on October 2010 when Councillor Tagg was a member of Council. Councillor Tagg's attached email admits speaking to the media and outlines his reasons for speaking to the media.

The matter of the possible location of Bennelong's grave was a matter that was before Council as contained in the minutes of the Heritage Advisory Committee.



**ITEM 19 (continued)****2. Complaint Relating to a Council Policy/Resolution**

On 9 October 2007, Council resolved as follows;

Item 9 - PLACEMENT OF ILLEGAL POLITICAL ADVERTISING MATERIAL WITHIN THE CITY OF RYDE

- (a) That at the on-set of each election (Federal, State or Local Government) the General Manager writes to the registered officer / deputy registered officer of each political party represented within the City of Ryde seeking their cooperation by not affixing political advertising posters to electricity poles/fences or on any public land.
- (b) That within 24 hours of notification all political advertising on electricity poles/fences or on public land shall be removed.
- (c) That political "A" frame signage be permitted provided it is secure, supervised and does not create a hazard or obstruction to pedestrians or traffic.

Councillor Tagg was present at that meeting.

During the last state election, Councillor Tagg was a candidate for the state seat of Ryde. Council staff received numerous complaints that election corflutes promoting Councillor Tagg as a candidate for the state seat of Ryde were being placed on telegraph poles in various locations around the city in contravention of the above Council resolution.

Council staff spoke to Councillor Tagg and requested that the corflutes be removed within 24 hours. When this was not done, Council staff started to remove Councillor Tagg's (and other illegally placed) corflutes at rate payers' expense.

As can be seen in Councillor Tagg's attached email, he has admitted to having knowledge that his niece's husband placed corflutes illegally but could not have them removed for one week. Councillor Tagg indicates that he had only requested that they be placed in peoples properties in Ryde to put up in their front yards.

Given that Councillor Tagg has admitted and offered an apology for any 'breaches' that he may have committed I determined that the matter be reported directly to Council.

Clause 7 of the Complaint Handling Procedures and Sanctions contained in the Code of Conduct states;

- 7. *Sanctions for delegates and/or members of council committees depend on the severity, scale and importance of the breach and may include:*
  - a) *censure*
  - b) *requiring the person to apologise to any person adversely affected by the breach*
  - c) *counselling*



**ITEM 19 (continued)**

- d) *prosecution for any breach of the law*
- e) *removing or restricting the person's delegation*
- f) *removing the person from membership of the relevant council committee*
- g) *revising any of council's policies, procedures and/or the code of conduct.*

The relevant clause of the Code of Conduct as they relate to sanctions are as follows;

***Sanctions***

- 24. *Before a council can impose a sanction it must make a determination that a councillor or the general manager has breached the code of conduct.*
- 25. *Where the council finds that a councillor or general manager has breached the code, it may decide by resolution to:*
  - a) *censure the councillor for misbehaviour in accordance with section 440G of the Act*
  - b) *require the councillor or general manager to apologise to any person adversely affected by the breach*
  - c) *counsel the councillor or general manager*
  - d) *make public findings of inappropriate conduct*
  - e) *prosecute for any breach of law.*

Option (e) does not appear to be relevant to this matter. However Council may also resolve to receive and note this report, effectively taking no further action on this matter. The recommendations to this report are framed accordingly.

**Consultation**

Consultation on this matter was undertaken with Councillor Yedelian OAM, Councillor Tagg, The Mayor, Councillor Etmekdjian, Group Manager, Environment and Planning, Dominic Johnson and the Group Manager, Public Works, Terry Dodds.

This consultation was used to ascertain facts and prepare this report to Council.

**Critical Dates**

There are no critical dates or deadlines to be met.

**Financial Impact**

Adoption of the option(s) outlined in this report will have no financial impact.

**Policy Implications**

All policies relating to this report have been referenced.

**Other Options**

All options have been canvassed in this report and have been placed before Council for determination.



**ITEM 19 (continued)****Conclusion**

Councillor Tagg has admitted to the breaches of Council's Code of Conduct as raised by Councillor Yedelian OAM. He has apologised if relevant clauses of the Code of Conduct occurred. Consequently I have determined not to send this matter to a conduct reviewer/committee and it is now for Council to determine an appropriate response to Councillor Tagg's admitted breaches.



**ITEM 19 (continued)****ATTACHMENT 1**

## Code of conduct

Dear General Manager,

I am responding to the allegation of a breach of our code of conduct, brought against me by councillor Yedelian.

The last two weeks of the election. As you know I had been in hospital and had a catheter in with a bag. I was limited to my mobility. I contacted my niece's husband (Robert) to help take my corflutes to properties in Ryde to put up in their front yards.

I had been informed by Dominic Johnson that they were up on electricity poles and had to be removed.

I contacted Robert, he said he had seen Mr Anthony Roberts ( Liberal) Corflutes on poles in Ryde and thought what a great idea, so he put corflutes up as well, he did not think he was breaking any law.

I asked could he take them down he said not for a week. Council staff was informed and they came down within two days of being erected.

On the matter of speaking to the media. I received a call Sunday morning from the ABC about Bennelong's grave in Putney. They informed me that they tried to contact the Mayor and the general manager. I said I believed the mayor may be in New Zealand or at a Rotary conference.

They asked for my comment I said I could not add much to what Professor Mitchell had said in the Sunday Herald.

I believe that staff had been working closely with Professor Mitchell and the heritage committee. I believed that it should be kept confidential about the address until it had been confirmed with the aboriginal elders of the area and Ryde council. The ABC said they had a camera crew at Putney.

I drove there and said not to print the street and respect the residents and houses as well as the elders of the Aboriginal group in the area.

I then rang the General Manager to inform him of what happened; he said he would contact the ABC.

If I breached any clauses I am sorry. My comments were my response to their questions.

Regards  
Vic Tagg



**NOTICES OF MOTION****2      INGRESS / EGRESS OFF VICTORIA ROAD - Councillor Bill Pickering****File Number:** CLM/11/1/5/6 - BP11/410

---

**Motion:**

That the City of Ryde Council write to the Member for Lane Cove, Anthony Roberts, in support of an ingress/egress off Victoria Road into the residential development at the Royal Rehabilitation Centre – Sydney site that was approved under Part 3A legislation by the previous State Government. It should request that Mr Roberts take up this matter with the appropriate Ministers in the new NSW Government.

The letter should outline the following:

- a. The historical opposition to the density of this development by the Council and the community.
- b. The significant concerns about traffic on local roads in the Putney area – highlighting that vehicular traffic on Morrison Road alone is already 300 percent above RTA guidelines.
- c. The community's major concerns about the traffic and safety impacts on the local school, businesses and residences adjacent to the RRC-S site.
- d. That the developer appears prepared to support this option if approved by the State Government.

**3      BOARDING HOUSES / SOCIAL HOUSING - Councillor Bill Pickering****File Number:** CLM/11/1/5/6 - BP11/411

---

**Motion:**

That the City of Ryde Council immediately engage with the local community to obtain their involvement in establishing a planning framework suitable to our community related to boarding houses and social housing. This framework should reflect elements of 'character' of existing dwellings, and the suitability/controls on boarding/social housing developments in low-density R2 zones, high density zones and industrial/commercial areas.



**4 TIDY SUBURBS IN RYDE CAMPAIGN - Councillor Justin Li****File Number:** CLM/11/1/5/6 - BP11/417

---

**Motion:**

That the General Manager prepares a report to Council recommending initiatives to encourage and enforce acceptable standards on maintenance of front yards, nature strips, and public areas in order to promote the health, safety and well being of all residents in Ryde. The report is to include information on resources required by staff to effectively implement this campaign.



**PRECIS OF CORRESPONDENCE**

- 1 CITY OF RYDE WINNING AN AWARD IN THE 2011 NATIONAL AWARDS FOR LOCAL GOVERNMENT IN THE CATEGORY OF WOMEN IN LOCAL GOVERNMENT**

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<b>Report dated:</b>	26 May 2011	<b>File No.:</b> CLM/11/1/5/11 - BP11/406
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**Correspondence:**

Submitting correspondence from The Hon Don Page MP, regarding the City of Ryde winning an award at the 2011 National Awards for Local Government in the category of Women in Local Government.

**RECOMMENDATION**

That the correspondence be received.

**ATTACHMENTS**

- 1 Letter from The Hon Don Page MP congratulating the City of Ryde for winning an Award in the 2011 National Awards for Local Government in the category of Women in Local Government.**



## Precis of Correspondence

## ATTACHMENT 1



**Office of the Hon Don Page MP**  
Minister for Local Government  
Minister for the North Coast

Mayor Artin Etmekdjian  
Ryde City Council  
Locked Bag 2069  
North Ryde NSW 1670

Dear Cr Etmekdjian

I would like to extend my congratulations to you, the General Manager, your fellow Councillors and all of the staff at Ryde City Council on recently winning the *2011 National Awards for Local Government Award* in the category of *Women in Local Government*.

It is especially rewarding considering that this year, the award marks its 25th anniversary of recognising excellence in the resourcefulness and innovation of Australia's finest and hardworking councils whose dedication is focused on improving services to their communities.

It certainly is fulfilling to see Ryde City Council in New South Wales leading the way in such innovation. This demonstrates some of the innovative ways that councils are approaching the issues facing local government.

I encourage you to continue to work with other councils so that you can share industries best practice to improve everyone's capacity to find innovative solutions for common local problems.

Once again, congratulations on a wonderful project submission and best wishes for the future.

Yours sincerely

**The Hon Don Page MP**  
Minister  
DP/db



**QUESTIONS BY COUNCILLORS AS PER POLICY****1 QUESTIONS WITH NOTICE - Councillor Bill Pickering****File Number:** GRP/09/6/1/7 - BP11/409**SPORTS LIGHTING**

1. Why has the City of Ryde failed to deliver on the program on lighting for our sports fields as per the resolution of Council more than two-and-half years ago?
2. How much of the \$1million set aside for the lighting program has been spent to date? How many installations are complete?
3. How much of the \$1million is it projected will be spent by the conclusion of this four-year term of Council?
4. Why are sporting organisations that have raised their own contributions towards the lighting of sports fields complaining about the delays and lack of action by Council in having lighting installed?
5. What action does the General Manager intend to take to rectify this situation?

**RATE PAYMENTS**

1. What actions have been taken in relation to an assessment of a possible discounted up-front payment of the total rate bill by ratepayers, as requested some months ago?
2. Why has this not been reported back to Council, given the new rates period for 2011/12 is about to commence?